



College Station, TX

Meeting Agenda City Council - Amended

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#

September 14, 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. City of College Station v. 47 Oaks, LLC, Cause No. 626-CC, in the County Court at Law No. 2 of Brazos County, Texas.
- e. SOAH Docket No. 473-22-2464 and PUC Docket No. 52728 – Application of the City of College Station to Change Rates for Wholesale Transmission Services.

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

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

a. Property generally located west of Texas State Highway 6 and in between Harvey Road and Holleman Drive.

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

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

- a. City 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 proclaiming September 17th through 23rd as Constitution Week.

Sponsors: Tanya Smith

Attachments: 1. 23 Constitution Week

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:

- August 24, 2023 Council Meeting

Sponsors: Tanya Smith

Attachments: 1. CCM082423 DRAFT Minutes

- 7.2. Presentation, discussion, and possible action on a construction contract with Elliot Construction, Inc. in the amount of \$1,495,800 for the Carter Lake Lagoon Decommissioning, plus the City's contingency amount of \$149,580 for a total appropriation of \$1,645,380 for this 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. Carter Lake Decommissioning Location Map
2. Carter Lake Decommissioning Vendor Signed Contract

- 7.3. Presentation, discussion, and possible action on a Professional Services Contract with Binkley & Barfield | DCCM, Inc. in the amount of \$709,136 for professional services for the Marion Pugh Rehabilitation Project - Luther Street to George Bush Drive.

Sponsors: Jennifer Cain

Attachments: 1. Marion Pugh Design Vendor Signed Contract
2. Marion Pugh Project Location Map

- 7.4. Presentation, discussion, and possible action on a resolution approving the City's investment policy, reviewing and recording changes to such policy and strategy, approving a collateral policy, and designating investment officers for the fiscal year ending September 30, 2024, stating that the City Council has reviewed and approved the City's investment policy, broker-dealer list and investment strategy.

Sponsors: Mary Ellen Leonard

Attachments: 1. Resolution adopting Investment Policy Strategy FY 24

- 7.5. Presentation, discussion, and possible action regarding the purchase of a new fire engine from Siddons-Martin Emergency Group, LLC for \$1,348,975.

Sponsors: Richard Mann

Attachments: 1. College Station Engine 7 Proposal

- 7.6. Presentation, discussion, and possible action regarding an Interlocal Agreement with Brazos County and the City of Bryan for the 2023 Byrne Justice Assistance Grant (JAG) Program in which the City of College Station has been allocated \$17,329 for supporting law enforcement programs.

Sponsors: Rodney Sigler

Attachments: 1. 23300759 ILA 2023 Byrne Justice Assistance Grant (JAG)

8. Workshop Agenda.

- 8.1. Presentation, discussion, and possible action regarding a City Hall room use policy.

Sponsors: Bryan Woods

Attachments: None

- 8.2. Presentation, discussion, and possible action related to a Parks and Recreation Department annual update.

Sponsors: Jennifer Prochazka

Attachments: None

9. Regular Agenda.

- 9.1. Public Hearing, presentation, discussion, and possible action on Budget Amendment 3 amending Ordinance No. 2022-4383 that amends the 2022-2023 Fiscal Year Budget in the amount of \$1,593,153.

Sponsors: Mary Ellen Leonard

Attachments: 1. FY23 Budget Amendment #3 Ordinance 9-14-23

- 9.2. Public Hearing, presentation, discussion, and possible action regarding an ordinance amending Appendix A, Unified Development Ordinance, Article 4, "Zoning Districts," Section 4.2 "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas by changing the zoning district boundary from BPI Business Park Industrial to PDD Planned Development District on approximately 7.37 acres of land being Tract 38.4 of the Crawford Burnett Survey Abstract 7, generally located at 2900 North Graham Road.

Sponsors: Robin Macias

Attachments:

1. Ordinance
2. Vicinity, Aerial, and Small Area Map
3. Background Information
4. Applicant's Supporting Information
5. Rezoning Map
6. Future Land Use Map
7. Concept Plan
8. Bulk Variances Letter

- 9.3. Public Hearing, presentation, discussion, and possible action regarding an ordinance amending Appendix A, Unified Development Ordinance, Article 4, "Zoning Districts," Section 4.2 "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas, by changing the zoning district boundary for approximately 0.35 acres from D Duplex to MF Multi-Family of Lincoln Place Subdivision Tract 2, Block C, Lot 22, generally located at 710 Vassar Court.

Sponsors: Jesse Dimeolo

Attachments:

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

- 9.4. Public Hearing, presentation, discussion, and possible action regarding an ordinance amending Appendix A, Unified Development Ordinance, Article 4, "Zoning Districts," Section 4.2 "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas, by changing the zoning district boundary from GS General Suburban to GS General Suburban and ROO Restricted Occupancy Overlay on approximately 48.31 acres of land, being 103 lots within Southwood Subdivision Sections 1, 2, 2A, 6, 7, 9, and 10 and Camelot Addition Section 2 Subdivision, generally located between Southwest Parkway and Guadalupe Drive.

Sponsors: Gabriel Schrum

Attachments:

1. Ordinance
2. Vicinity, Aerial, and Small Area Map
3. Rezoning Map
4. Background Information
5. Future Land Use Map
6. Original Subdivision Plats
7. Applicant's Supporting Information
8. Petition Committee Members
9. Neighborhood Meeting Materials
10. Petition Signatures

- 9.5. Public Hearing, presentation, discussion, and possible action regarding an ordinance amending Appendix A, Unified Development Ordinance, Article 5.2 “Residential Dimensional Standards,” Article 7.3 “Off-Street Parking Standards,” and Article 7.4 “Access Management and Circulation,” of the Code of Ordinances of the City of College Station, Texas, regarding parking and access standards for developments in the MH Middle Housing zoning district.

Sponsors: Michael Ostrowski

- Attachments:
1. Ordinance
 2. Sec. 5.2. Residential Zoning District Dimensional Standards redlines
 3. Sec. 7.3. Off-Street Parking Standards redlines
 4. Sec. 7.4. Access Management and Circulation redlines

- 9.6. Public Hearing, presentation, discussion, and possible action regarding an ordinance amending Appendix A, Unified Development Ordinance, Section 1.10 “Transitional Provisions,” Section 4.1 “Establishment of Districts,” Section 5.10 “Overlay Districts,” and Section 6.3 “Types of Use” of the Code of Ordinances of the City of College Station, Texas, for the creation of the HOO High Occupancy Overlay.

Sponsors: Michael Ostrowski

- Attachments:
1. Ordinance
 2. Section 1.10 Transitional Provisions redlines
 3. Section 4.1 Establishment of Districts redlines
 4. Section 5.10 Overlay Districts redlines
 5. Section 6.3 Types of Use redlines

- 9.7. Presentation, discussion, and possible action regarding a resolution appointing members to the Project Steering Committee for the Comprehensive Safety Action Plan being developed by the Bryan/College Station Metropolitan Planning Organization.

Sponsors: Jason Schubert

- Attachments:
1. Resolution

- 9.8. Presentation, discussion, and possible action regarding a HOME-American Rescue Plan funding agreement in the amount of \$1,479,223 with Twin City Mission for Supportive Services to be provided to College Station residents eligible under the grant requirements.

Sponsors: Raney Whitwell

- Attachments:
1. HOME-ARP Plan Development Process Summary
 2. Proposed HOME-ARP Budget
 3. 23300728 HOME-ARP Supportive Services Agreement

- 9.9. Presentation, discussion, and possible action regarding a HOME-American Rescue Plan funding agreement in the amount of \$174,026 with Twin City Mission to increase capacity for and operate the Family Support Services program for College Station residents eligible under the grant requirements.

Sponsors: Raney Whitwell

- Attachments:
1. 23300745 HOME-ARP - Nonprofit Operating and Capacity Building

10. Council Calendar - Council May Discuss Upcoming Events.

11. Items of Community Interest.

The Council may receive reports from a Council Member or City Staff about items of community interest for which notice has not been given, including: expressions of thanks, congratulations or condolence; information regarding holiday schedules; honorary or salutary recognitions of a public official, public employee, or other citizen; reminders of upcoming events organized or sponsored by the City of College

Station; information about a social, ceremonial or community event organized or sponsored by an entity other than the City of College Station that is scheduled to be attended by a Council Member, another city official or staff of the City of College Station; and announcements involving an imminent threat to the public health and safety of people in the City of College Station that has arisen after the posting of the agenda.

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

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

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

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

14. Adjourn.

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

I certify that the above Notice of Meeting was posted on the website and at College Station City Hall, 1101 Texas Avenue, College Station, Texas, on September 11, 2023 at 3:45 p.m.



City Secretary

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

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

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

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

"Conforme a la Seccion 30.07 del codigo penal (traspasar portando armas de mano al aire libre con licencia), personas con licencia bajo del Sub-Capitulo H, Capitulo 411,

Codigo de Gobierno (Ley de licencias de arma de mano), no deben entrar a esta propiedad portando arma de mano al aire libre.”

September 14, 2023

Item No. 5.1.

Proclaiming September 17th through 23rd as Constitution Week

Sponsor: Tanya Smith, City Secretary

Reviewed By CBC: City Council

Agenda Caption: Presentation proclaiming September 17th through 23rd as Constitution Week.

Relationship to Strategic Goals:

- Good Governance

Recommendation(s): Receive the proclamation.

Summary: The United States Constitution, America's most important document, stands as a testament to the tenacity of Americans throughout history to maintain their liberties, freedoms and inalienable rights. And, Constitution Week is celebrated annually during the week of September 17-23 to commemorate its history, importance, and bring attention to how it still serves today.

This celebration of the Constitution was started by the Daughters of the American Revolution. In 1955, DAR petitioned Congress to set aside September 17-23 annually to be dedicated for the observance of Constitution Week. The resolution was later adopted by the U.S. Congress and signed into public law on August 2, 1956, by President Dwight D. Eisenhower.

The DAR has also erected a structure that is built in tribute to the Constitution of the United States. DAR Constitution Hall, which is a performing arts center, opened in 1929.

The aims of the Constitution Week celebration are to:

- Emphasize citizens' responsibilities for protecting and defending the Constitution.
- Inform people that the Constitution is the basis for America's great heritage and the foundation for our way of life.
- Encourage the study of the historical events which led to the framing of the Constitution in September 1787.

Budget & Financial Summary: None.

Attachments:

1. 23 Constitution Week



Proclamation

Whereas: September 17, 2023, marks the two hundred and thirty-sixth anniversary of the drafting of the Constitution of the United States of America by the Constitutional Convention; and

Whereas: It is fitting and proper to accord official recognition to this magnificent document and its memorable anniversary; and to the patriotic celebrations which will commemorate the occasion; and

Whereas: Public Law 915 guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17 through 23 as Constitution Week,

NOW, THEREFORE I, John P. Nichols, by virtue of the authority vested in me as Mayor of College Station, Texas do hereby proclaim the week of September 17 through 23 as

“CONSTITUTION WEEK”

and ask our citizens to reaffirm the ideals of the Framers of the constitution had in 1787 by vigilantly protecting the freedoms guaranteed to us through this guardian of our liberties, remembering that lost rights may never be regained.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of College Station, Texas to be affixed this 14th day of September of the year of our Lord two thousand twenty-three.

John P. Nichols
Mayor

Attest:

Tanya Smith
City Secretary

September 14, 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:

- August 24, 2023 Council Meeting

Relationship to Strategic Goals:

- Good Governance

Recommendation(s): Recommends Approval.

Summary: N/A

Budget & Financial Summary: None

Attachments:

1. CCM082423 DRAFT Minutes

MINUTES OF THE CITY COUNCIL MEETING
IN-PERSON WITH TELECONFERENCE PARTICIPATION
CITY OF COLLEGE STATION
AUGUST 24, 2023

STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

Present:

John Nichols, Mayor

Council:

Mark Smith
William Wright
Linda Harvell
Elizabeth Cunha – arrived late.
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 August 24, 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, §551.072-Real Estate, and §551.074-Personnel, the College Station City Council convened into Executive Session at 4:00 p.m. on August 24, 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

- City of College Station v. 47 Oaks, LLC, Cause No. 626-CC, in the County Court at Law No. 2 of 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
- Legal advice regarding Texas Independence Ball Park.

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

- Approximately 28 acres of land generally located at Midtown Drive and Corporate Pkwy in the Midtown Business Park.

2.3. 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 6:08 p.m. No action was taken.

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

Invocation was given by Dr. Peter Tarlow.

5. Hear Visitors Comments.

Ed Udell, College Station, came before Council representing the College Station Senior Advisory Group, updating Council on their activities and desire to help with the senior events and programing.

Cari Bullington, College Station, came before Council to give a brief overview of the Brazos Valley YMCA Initiative. Ms. Bullington explained that today, over 60% of the YMCAs built in the US are accomplished through a partnership with a municipality, hospital, school district, and/or developer, often multiple entities collaborate.

Jennifer Weber, Bryan, came before Council to state her concerns with the boring through Rosemary. Ms. Weber explained different areas that were affected by past boring on N. Harvey Mitchell Pkwy. She believes there is damage 20 years after construction which include wallowing and heaving in the right of way.

6. 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 6.2, 6.3, 6.4, 6.5, 6.6 and 6.10 were pulled from Consent for clarification.

(6.2) Emily Fisher, Public Works Director, explained that the agreement, approved in September of 2021, specifies TAMU's participation as the lesser of either one-half of the deployment costs per year or a not to exceed amount of \$57,000 per year. The city invoices TAMU after the final home football

game each season. Since the total amount of this year's contract is \$122,535, TAMU's portion will be \$57,000, assuming the full amount is utilized. The interlocal agreement has a five (5) year term, expiring in 2026.

(6.3) Jennifer Cain, Capital Projects Director, stated that this project will widen Rock Prairie East from Town Lake Drive to William D. Fitch Parkway, transforming the two-lane asphalt roadway into a four-lane concrete roadway with separated bike lanes and sidewalks along each side. In addition, the project will include storm sewer, street lighting, and a traffic signal at Town Lake.

(6.4) Jennifer Cain, Capital Projects Director, explained the difference between the received bids and why staff did not select a lower bid. This project includes the reconstruction of Rock Prairie Road from approximately State Highway 6 to Town Lake. The existing asphalt road will be replaced with a concrete roadway including curb, gutter, underground storm sewer, bike paths, and sidewalks. The City of College Station received three (3) Competitive Sealed Proposals (CSP). After evaluating the proposals, Brazos Paving, Inc. was selected as the most qualified firm. The project is proposed to begin in Fall of 2023 and is contracted to take 600 calendar days to complete.

(6.5) Ross Brady, Assistant to the City Manager, explained the impact of the settlement on average residential rates is an increase of \$6.47 monthly, or 7.31%. The increase for average commercial usage will be \$24.72 or 5.19%. Atmos provided bill impact comparisons containing these figures. Application of the standards set forth in ACSC's RRM Tariff reduces the Company's rate request from \$165.9 million to \$156.1 million, \$113.8 million of which would be applicable to ACSC members.

(6.6) Mary Ellen Leonard, Finance Director, explained that every fiscal year there are a number of expenditures incorporated in the approved budget that are not subject to competitive bidding or proposals. These expenditures are for sole source purchases; expenditures for personal, professional, or planning services; capital replacement parts for equipment, and other exemptions more fully described in LGC 252.022 and other expenditures for interlocal contracts or fees mandated by state law. The intent of this item is for Council to authorize the expenditure(s) which will provide the ability to conduct daily affairs of the city which involve numerous decisions of a routine nature.

(6.10) Mary Ellen Leonard, Finance Director, explained on August 11, 2023, the Governor of the State of Texas declared a state of disaster pursuant to Texas Government Code based on the wildfire conditions posing an imminent threat of widespread or severe damage, injury or loss of life or property throughout the State of Texas, including Brazos County, and such declaration is effective to date Texas Tax Code § 26.042 provides the governing body of a taxing unit located in an area declared to be a disaster area by the Governor or by the President of the United States may direct the designated officer of the City to calculate the voter-approval tax rate in the manner provided for a special taxing unit (8 percent). Staff will continually evaluate the known and projected impacts of wildfires on the FY24 proposed budget as well as the strategic five-year financial plan thru FY26. The Proposed FY25 Budget will not be prepared and presented to the Council until July 2024.

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

- **August 10, 2023 Council Meeting**

6.2. Presentation, discussion, and possible action regarding a general services contract with Buyers Barricades Houston, LLC in a not to exceed amount of \$122,535 for the 2023 TAMU Football Post Game Day Traffic Control.

6.3. Presentation, discussion, and possible action on a contract with Binkley & Barfield | DCCM, Inc. in the amount of \$1,404,740.50 for professional services for the Rock Prairie East Widening Project (Town Lake Dr. to William D. Fitch Pkwy) as part of the 2022 Bond Program.

6.4. Presentation, discussion, and possible action on a construction contract with Brazos Paving, Inc. in the amount of \$7,840,856.15 for construction services for the Rock Prairie East Widening Project (Hwy. 6 to Town Lake Dr.), plus the City's contingency in the amount of \$392,000 for a total appropriation of \$8,232,856.15. Approval of this item grants authority for the City Manager to authorize expenditures up to the City's contingency amount.

6.5. Presentation, discussion, and possible action on the Atmos Mid-Tex 2023 Rate Review Mechanism (RRM) Ordinance No. 2023-4456.

6.6. Presentation, discussion, and possible action to authorize expenditure of funds for Fiscal Year 2024 for items exempt from competitive bidding as described more fully in Texas Local Government Code, Chapter 252.022 and other expenditures for interlocal contracts or fees mandated by state law that are greater than \$100,000; and to authorize the City Manager to approve contracts and expenditures that are on the exemption list.

6.7. Presentation, discussion, and possible action on the fourth renewal of an annual contract for Professional Auditing Services with FORVIS, LLP (formerly BKD, LLP) for an amount not to exceed \$150,000.

6.8. Presentation, discussion, and possible action on an Interlocal Agreement between the City of College Station and Brazos County Emergency Service District 4 for the transfer of a surplus vehicle.

6.9. Presentation, discussion, and possible action regarding an amendment to the Funding Agreement for Payment and Use of Hotel Tax with the Arts Council of the Brazos Valley for FY23.

6.10. Presentation, discussion, and possible action regarding Resolution No. 08-24-23-6.10 directing the Brazos County Tax Office to calculate the FY25 voter-approved rate in the manner provided for a special taxing unit affected by a disaster declaration. The Proposed FY25 Budget will not be prepared and presented to the City Council until July 2024.

6.11. Presentation, discussion, and possible action on a contract with Elliott Construction, LLC, not to exceed \$116,900 for the repair of an existing 8-inch wastewater line at Montclair Avenue and Park Place, plus \$35,000 in contingencies for a total appropriation of \$151,900. Approval of this item grants authority for the City Manager to authorize expenditures up to the City's contingency amount.

MOTION: Upon a motion made by Councilmember Smith and a second by Councilmember Wright, the City Council voted seven (7) for and none (0) opposed, to approve the Consent Items, except for Item 6.10. The motion carried unanimously.

(6.10) MOTION: Upon a motion made by Councilmember Wright and a second by Councilmember Smith, the City Council voted six (6) for and one (1) opposed, with Councilmember Cunha voting against, to approve the Consent Item 6.10, Resolution No. 08-24-23-6.10 directing the Brazos County Tax Office to calculate the FY25 voter-approved rate in the manner provided for a special taxing unit

affected by a disaster declaration. The Proposed FY25 Budget will not be prepared and presented to the City Council until July 2024. The motion carried.

7. WORKSHOP ITEMS

7.1. Presentation, discussion, and possible action regarding the Texas Independence Ballpark Project.

Jennifer Cain, Director Capital Projects, gave a brief overview of the Texas Independence Ballpark Project including a brief history of its current milestones.

Gravity Sewer Line Project

- Cost (work in park):
 - \$1.4 million
- Timeline (work in park):
 - May-September 2022
- Carter Creek Gravity Main
- Soil Boring Location for Gravity Main

Project Budget Information

- Project Budget: \$23,100,000 (\$6.8 million from HOT funds) *
 - Budget Encumbered (thru 8/18/23): \$13,374,253.31
 - Budget Spent (thru 8/18/23): \$4,749,998.48
 - ✓ Design Contract: \$1,344,796
 - Design Contract Spent (thru 8/18/23): \$1,171,865
 - Design Contract Remaining/Encumbered (thru 8/18/23): \$172,931.83
- Construction Contract: \$16,692,170.48
 - Construction Contract Spent (thru 8/18/23): \$3,490,849
 - Construction Contract Remaining/Encumbered (thru 8/18/23): \$13,201,321.48
- Geotechnical Report: 26 Boring Locations
- Subgrade Soils
- Additional Testing

Options for Consideration

- Continue forward with Texas Independence Ballpark
 - Remove and Replace with Select Fill
 - Remove, mix with lime, compact in lifts
 - Remove, Mix, compact in lifts
 - ✓ Recommended course of action from the geotechnical engineer
 - Estimated cost range for these options: \$10 million to \$16.1 million
- Discontinue Project
 - Return property to a stabilized site
 - Utilize existing infrastructure for a community/passive park
 - Identify potential alternate location(s) for baseball fields

Council directed staff to discontinue project: return property to a stabilized site, utilize existing infrastructure for a community and passive park, engage the Parks and Recreation Committee on best future uses, and identify potential alternate location(s) for baseball fields.

8. REGULAR ITEMS

8.1. Public Hearing, presentation, discussion, and possible action on the City of College Station 2024 advertised ad valorem tax rate of \$0.513086 per \$100 valuation, resulting in an increase in tax revenues.

Mary Ellen Leonard, Finance Director, stated that this public hearing is on a rate of \$0.513086 per \$100 assessed valuation, which is a decrease in the tax rate from the 2023 tax rate of \$0.011527. The notice of this public hearing was placed in the Eagle, as well as on the City's internet site, and the City's television channel. The City Council will vote on the tax rate at this August 24 meeting at 6:00 pm. The public hearing tax rate of \$0.513086 per \$100 assessed valuation will generate \$70,457,181 in taxes. The property taxes are used to fund the general debt service of the City as well as a portion of the operations and maintenance costs of the General Fund.

	FY23 Rate	Proposed Change	Rate Called FY24
Proposed Debt Service Fund	21.1441	0.0001	21.1442
Proposed General Fund	31.3172	(1.1528)	30.1644
Total Proposed Tax Rate	52.4613	(1.1527)	51.3086
No New Revenue Rate	47.5470		45.5159
Voter Approval Rate	53.7996		51.3086

At approximately 7:44 p.m., Mayor Nichols opened the Public Hearing.

Craig Regan, College Station, came to Council to implore them to be creative, more cost effective, and use creative governance when forming the budget.

Lloyd Davis, College Station, came to Council to discuss the financial future of the city because he believes that the debt service portion of the budget will hit 50% in a few years if corrective action is not taken.

There being no further comments, the Public Hearing was closed at 7:54 p.m.

8.2. Presentation, discussion, and possible action on Ordinance No. 2023-4457 adopting the City of College Station 2023-2024 Budget; and presentation, discussion, and possible action ratifying the property tax revenue increase reflected in the budget.

Mary Ellen Leonard, Finance Director, stated that there are two actions requested of Council in this agenda item.

First is the consideration of the 2023 - 2024 proposed budget. The City Council received the proposed budget on July 11, 2023 and held budget workshops on July 17th and July 18th. The City Council held a public hearing on the proposed budget on July 27th. The charter requires that the City Council adopt

a budget no later than September 27th. The City Council will need to include any proposed revisions to the budget in the motion to adopt the budget.

FY24 Net Budget Summary				
	FY24 Proposed Net Budget	Changes	FY24 Approved Net Budget	
Governmental Funds	\$ 146,837,897	\$ 28,997	\$ 146,866,894	
Enterprise Funds	186,847,052		186,847,052	
Special Revenue Funds	23,383,406		23,383,406	
Subtotal O&M	\$ 357,068,355	\$ 28,997	\$ 357,097,352	
Cash used for Capital Projects	9,500,000		9,500,000	
Capital Projects	125,455,416		125,455,416	
Subtotal Capital	\$ 134,955,416	\$ -	\$ 134,955,416	
Total Net Budget	\$ 492,023,771	\$ 28,997	\$ 492,052,768	

The second action is ratification of the property tax revenue increase reflected in the budget. This action is required due to recently enacted legislation. House Bill 3195 amends the local government code to say the following: "(c) Adoption of a budget that will require raising more revenue from property taxes than in the previous year requires a separate vote of the governing body to ratify the property tax increase reflected in the budget. A vote under this subsection is in addition to and separate from the vote to adopt the budget or a vote to set the tax rate as required by Chapter 26, Tax Code, or other law."

The proposed budget will result in additional property tax revenues over last year of approximately \$9,791,870. The proposed tax rate is \$0.513086 per \$100 assessed valuation, which is a (\$0.011527) decrease from the FY23 tax rate. The following is an overall summary of the proposed budget with workshop revisions. Subtotal Operation and Maintenance: \$357,068,355 Subtotal Capital: 134,945,416 Total Proposed Budget: \$492,013,771

MOTION: Upon a motion made by Councilmember Yancy and a second by Councilmember Maloney, the City Council voted six (6) for and one (1) opposed, with Councilmember Cunha voting against, to adopt Ordinance No. 2023-4457, the proposed FY24 budget for the City of College Station including proposed revisions of an increase of \$28,997 for a total proposed budget with revisions of \$492,052,768." The motion carried.

MOTION: Upon a motion made by Councilmember Wright and a second by Councilmember Smith, the City Council voted seven (7) for and none (0) opposed, to ratify the property tax increase reflected in the FY24 budget." The motion carried unanimously.

8.3 Presentation, discussion, and possible action on Ordinance No. 2023-4458 adopting the City of College Station 2023-2024 ad valorem tax rate of \$0.513086 per \$100 assessed valuation, the debt service portion being \$0.211442 per \$100 assessed valuation and the operations and maintenance portion being \$0.301644 per \$100 assessed valuation.

Mary Ellen Leonard, Finance Director, stated that on August 10th, the City Council discussed the tax rate and called a public hearing on a tax rate of \$0.513086. This rate is a \$(0.011527) decrease

compared to the current tax rate. The tax rate must be adopted as two separate components – one for Operations and Maintenance and one for Debt Service.

\$0.301644 O&M
\$0.211442 Debt Service
\$0.513086 Total Tax Rate

This is the tax rate that was used to prepare the proposed budget. If the City Council adopts a tax rate lower than the proposed rate, the budget will have to be amended and reduced.

Current Tax Rate: \$0.524613
No New Revenue Tax Rate: \$0.455159
Voter Approved Tax Rate: \$0.513086
Proposed Tax Rate: \$0.513086

	FY23 Rate	Proposed Change	Rate Called FY24
Proposed Debt Service Fund	21.1441	0.0001	21.1442
Proposed General Fund	31.3172	(1.1528)	30.1644
Recommended Tax Rate	52.4613	(1.1527)	51.3086
No New Revenue Rate	47.5470		45.5159
Voter Approval Rate	53.7996		51.3086

MOTION: Upon a motion made by Councilmember Maloney and a second by Councilmember Smith, the City Council voted seven (7) for and none (0) opposed, to adopt Ordinance No. 2023-4458, the property tax rate be increased by the adoption of a tax rate of 51.3086 cents per \$100 assessed valuation, which is effectively a 12.73 percent increase in the tax rate,” and the Maintenance and Operations rate be 30.1644 cents per \$100 assessed valuation; and the Debt Service rate be 21.1442 cents per \$100 assessed valuation.” The motion carried unanimously.

8.4. Presentation, discussion, and possible action on Resolution No. 08-24-23-8.4 adopting fees, rates and charges as provided by Chapter 2 “Administration”, Article V “Finance”, Division 2 “Fees, Rates and Charges” of the Code of Ordinances, City of College Station, Texas.

Mary Ellen Leonard, Finance Director, stated that all fees, rates and charges in the Code of Ordinances are adopted by resolution of the City Council as provided in Sec. 2-117 of the Code. Each year with the budget the Council adopts a new resolution to keep the fees, rates, and charges current.

- Rates tied to the CPI-U index – 6%
 - Planning and Development Services
 - Chapter 2
 - Chapter 14
 - Chapter 34
 - Community Development – Agree with website
 - Chapter 103 – Short Term Rentals
- Utilities (Chapter 40)
 - Electric – TDA increase \$0.0166 to \$0.0175
 - Public Works tied to the CPI-U index – 6%
 - Sec 40.4 – Roadway Maintenance Fee
 - Sec 40-389 to 497 – Solid Waste
 - Sec 40-524 - Drainage
 - Water Services – debt requirement – 6%
 - Sec 40-65 - Sewage

MOTION: Upon a motion made by Councilmember Maloney and a second by Councilmember Wright, the City Council voted seven (7) for and none (0) opposed, to approve Resolution No. 08-24-23-8.4, adopting fees, rates and charges as provided by Chapter 2 “Administration”, Article V “Finance”, Division 2 “Fees, Rates and Charges” of the Code of Ordinances, City of College Station, Texas. The motion carried unanimously.

8.5. Public Hearing, presentation, discussion, and possible action regarding Ordinance No. 2023-4459 amending Appendix A, Unified Development Ordinance, Article 4, “Zoning Districts,” Section 4.2 “Official Zoning Map,” of the Code of Ordinances of the City of College Station, Texas, by amending the concept plan on approximately 33 acres PDD Planned Development District located at 5900 Rock Prairie Road.”

Jesse Dimeolo, Planning and Development, stated that this portion of Midtown Reserve Subdivision was added to its master plan when the original PDD zoning, adopted in 2017, was amended in June 2020. In November 2022, the applicant requested the multi-use path that goes through the property be removed from the Comprehensive Plan. After receiving recommendations for denial from City Staff, the Bicycle Pedestrian and Greenways Board, and the Planning and Zoning Commission, the applicant decided to withdraw the request before going to City Council. This alternative request is considered a concept plan amendment, not a comprehensive plan amendment since the current proposal is to keep the path in the same general area and not remove it completely.

Mr. Dimeolo explained that the plan is to move the multi-use path from the east side of the Natural Area Protected in Phase 115 of Midtown Reserve to the west side of the natural area. A portion of the path is proposed to be located on the adjacent Rock Prairie Baptist Church property and connect to Rock Prairie Road. A public access easement that covers the proposed multi-use path location across the church and subject properties has been signed by both landowners, reviewed by city staff, and filed at the county courthouse. As this request modifies the location of the planned multi-use path on the PDD concept plan, it is required to go before the Planning and Zoning Commission for recommendation and the City Council for final adoption. The Planning and Zoning Commission heard this item at their August 17th meeting and voted to recommend approval of the concept plan amendment.

Staff recommends approval of the Concept Plan amendment, with the following conditions that must be met prior to the amended Concept Plan becoming effective: 1. That a public access easement for a pedestrian path and landscaping, meeting City specifications, located on the adjacent Rock Prairie Baptist Church property (5000 Rock Prairie Road) is approved by the City and recorded with Brazos County. 2. That the pedestrian path and landscaping is constructed and maintained by the Rock Prairie Municipal Management District Number 2. The Bicycle, Pedestrian, and Greenways Advisory Board heard this item at their 8/14/23 meeting and unanimously recommended to approve the request. The Planning and Zoning Commission heard this item at their 8/17/23 meeting and voted 5-0 to recommend approval.

- Public access easement for multi-use path and landscaping meeting City specifications be approved and recorded at the County.
- The path be constructed and maintained by the Rock Prairie Municipal Management District Number 2.

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

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

MOTION: Upon a motion made by Councilmember Maloney and a second by Councilmember Yancy, the City Council voted seven (7) for and none (0) opposed, to adopt Ordinance No. 2023-4459, amending Appendix A, Unified Development Ordinance, Article 4, “Zoning Districts,” Section 4.2 “Official Zoning Map,” of the Code of Ordinances of the City of College Station, Texas, by amending the concept plan on approximately 33 acres PDD Planned Development District located at 5900 Rock Prairie Road, with conditions as staff presented.” The motion carried unanimously.

8.6. Public Hearing, presentation, discussion, and possible action regarding Ordinance No. 2023-4460 amending Appendix A, Unified Development Ordinance, Article 4, “Zoning Districts,” Section 4.2 “Official Zoning Map,” of the Code of Ordinances of the City of College Station, Texas, by changing the zoning district boundary from GC General Commercial to GS General Suburban for approximately 0.356 acres, being a portion of Lot 1R-2 Holleman Place Subdivision, generally located at 217 Richards Street.

Jesse Dimeolo, Planning and Development, stated that this request is to rezone approximately 0.356 acres of land generally located at 217 Richards Street from GC General Commercial to GS General Suburban. The subject property was reserved for a future office building but is currently undeveloped. It is the applicant’s intent to replat the property into three residential lots.

Staff recommends approval of this rezoning request as it is in line with the Comprehensive Plan and compatible with the surrounding area. This item was heard at the August 3rd Planning and Zoning Commission meeting where the Commission voted 5-1 to recommend approval.

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

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

MOTION: Upon a motion made by Councilmember Wright and a second by Councilmember Smith, the City Council voted seven (7) for and none (0) opposed, to adopt Ordinance No. 2023-4460, amending Appendix A, Unified Development Ordinance, Article 4, “Zoning Districts,” Section 4.2

“Official Zoning Map,” of the Code of Ordinances of the City of College Station, Texas, by changing the zoning district boundary from GC General Commercial to GS General Suburban for approximately 0.356 acres, being a portion of Lot 1R-2 Holleman Place Subdivision, generally located at 217 Richards Street. The motion carried unanimously.

8.7. Public Hearing, presentation, discussion, and possible action regarding Ordinance No. 2023-4461 amending Appendix A, Unified Development Ordinance, Article 4 “Zoning Districts,” Section 4.2 “Official Zoning Map,” of the Code of Ordinances of the City of College Station, Texas, by changing the zoning district boundary from GC General Commercial to WPC Wolf Pen Creek for approximately 0.092 Acres at 213 Holleman Drive East, generally located at the intersection of Holleman Drive East and George Bush Drive East.

Items 8.7 and 8.8 were presented together.

8.8. Public Hearing, presentation, discussion, and possible action regarding Ordinance No. 2023-4462 to consider a Conditional Use Permit for ground floor multifamily in the WPC Wolf Pen Creek zoning district on approximately 1.02 acres located at 213-219 Holleman Drive East, generally located at the intersection of George Bush Drive East and Holleman Drive East.

Gabriel Schrum, Planning and Development, stated that this request is to rezone approximately 0.092 acres of land generally located at the intersection of Holleman Drive East and George Bush Drive East from GC General Commercial to WPC Wolf Pen Creek. The lot proposed to be rezoned consists of a singular portion of the undeveloped strip of land in front of The Arbors apartments. The property was originally zoned R Rural upon annexation to the City in 1958. This property was rezoned to WPC Wolf Pen Creek in 1988 when the Wolf Pen Creek Plan was adopted but rezoned to C-1 General Commercial (now GC General Commercial) in 1996. This zoning request is to provide a feasible development opportunity for the property and be consistent with the rest of the block which is zoned WPC Wolf Pen Creek. This item was heard at the August 17th Planning and Zoning meeting. The applicant states that in this Neighborhood Center area, there is no possibility of marketing the site without a larger development. The individual lot is currently zoned GC General Commercial which is not consistent with the rest of the block that is zoned WPC Wolf Pen Creek. Rezoning the property to WPC Wolf Pen Creek will make the property more marketable in the future since it will be part of a contiguous development. Staff recommends approval of this rezoning request as it is in line with the Comprehensive Plan and compatible with the surrounding area.

Mr. Schrum stated also that this request is for a Conditional Use Permit to allow the use of multi-family on the ground floor of the undeveloped lots on the corner of George Bush Drive East and Holleman Drive East, known as 213-219 Holleman Drive East. This is a step in the entitlement process to have this proposed use on the property, and the accompanied rezoning (Case #REZ2023-000008) must be adopted for the project to be eligible within this CUP request. The applicant is proposing a multi-family development to these subject lots with the submittal of a site plan (SP2022-000069). The proposed 30-unit apartment building is 3-stories with rear parking, keeping the site plan and circulation harmonious with the surrounding area’s urban character. The site limits access to the surrounding streets by gating the side closest to George Bush Dr E.

Staff recommends approval of the Conditional Use Permit request with the following conditions:

1. No public access shall be allowed onto George Bush Drive East, but rather the installation of Grasscrete, and a gate with Knox Box for Fire access.

2. The buildings shall have a reduced building setback on Holleman Drive East, with pedestrian access from the units to existing sidewalks to be in-line with the intended urban form of the zoning district.
3. The development shall conform to the attached site and landscape plans.

The Planning and Zoning Commission heard both items at their 8/17/23 meeting and voted 5-0 to recommend approval.

At approximately 8:50 p.m., Mayor Nichols opened the Public Hearings.

There being no further comments, the Public Hearings were closed at 8:50 p.m.

(8.7) MOTION: Upon a motion made by Councilmember Maloney and a second by Councilmember Harvell, the City Council voted seven (7) for and none (0) opposed, to adopt Ordinance No. 2023-4461, amending Appendix A, Unified Development Ordinance, Article 4 “Zoning Districts,” Section 4.2 “Official Zoning Map,” of the Code of Ordinances of the City of College Station, Texas, by changing the zoning district boundary from GC General Commercial to WPC Wolf Pen Creek for approximately 0.092 Acres at 213 Holleman Drive East, generally located at the intersection of Holleman Drive East and George Bush Drive East. The motion carried unanimously.

(8.8) MOTION: Upon a motion made by Councilmember Maloney and a second by Councilmember Wright, the City Council voted seven (7) for and none (0) opposed, to adopt Ordinance No. 2023-4462, to consider a Conditional Use Permit for ground floor multifamily in the WPC Wolf Pen Creek zoning district on approximately 1.02 acres located at 213-219 Holleman Drive East, generally located at the intersection of George Bush Drive East and Holleman Drive East. The motion carried unanimously.

9. Council Calendar

Council reviewed the calendar.

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

Councilmember Smith recognized BVSWMA for their approval from TCEQ for bio-research on cutting edge waste disposal.

Mayor Nichols recognized Debbie Eller and Dan Garcia for their services to the city. He also recognized Bailey Brown, The Eagle, as she will be moving from the newspaper to another career opportunity.

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

Nothing to report at this time.

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

No future items at this time.

13. Adjournment.

There being no further business, Mayor Nichols adjourned the meeting of the City Council at 9:02 p.m. on Thursday, August 24, 2023.

John P. Nichols, Mayor

ATTEST:

Tanya Smith, City Secretary

September 14, 2023
Item No. 7.2.
Carter Lake Decommissioning Project

Sponsor: Jennifer Cain, Director Capital Projects

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action on a construction contract with Elliot Construction, Inc. in the amount of \$1,495,800 for the Carter Lake Lagoon Decommissioning, plus the City's contingency amount of \$149,580 for a total appropriation of \$1,645,380 for this 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

Recommendation(s): Staff recommends approval.

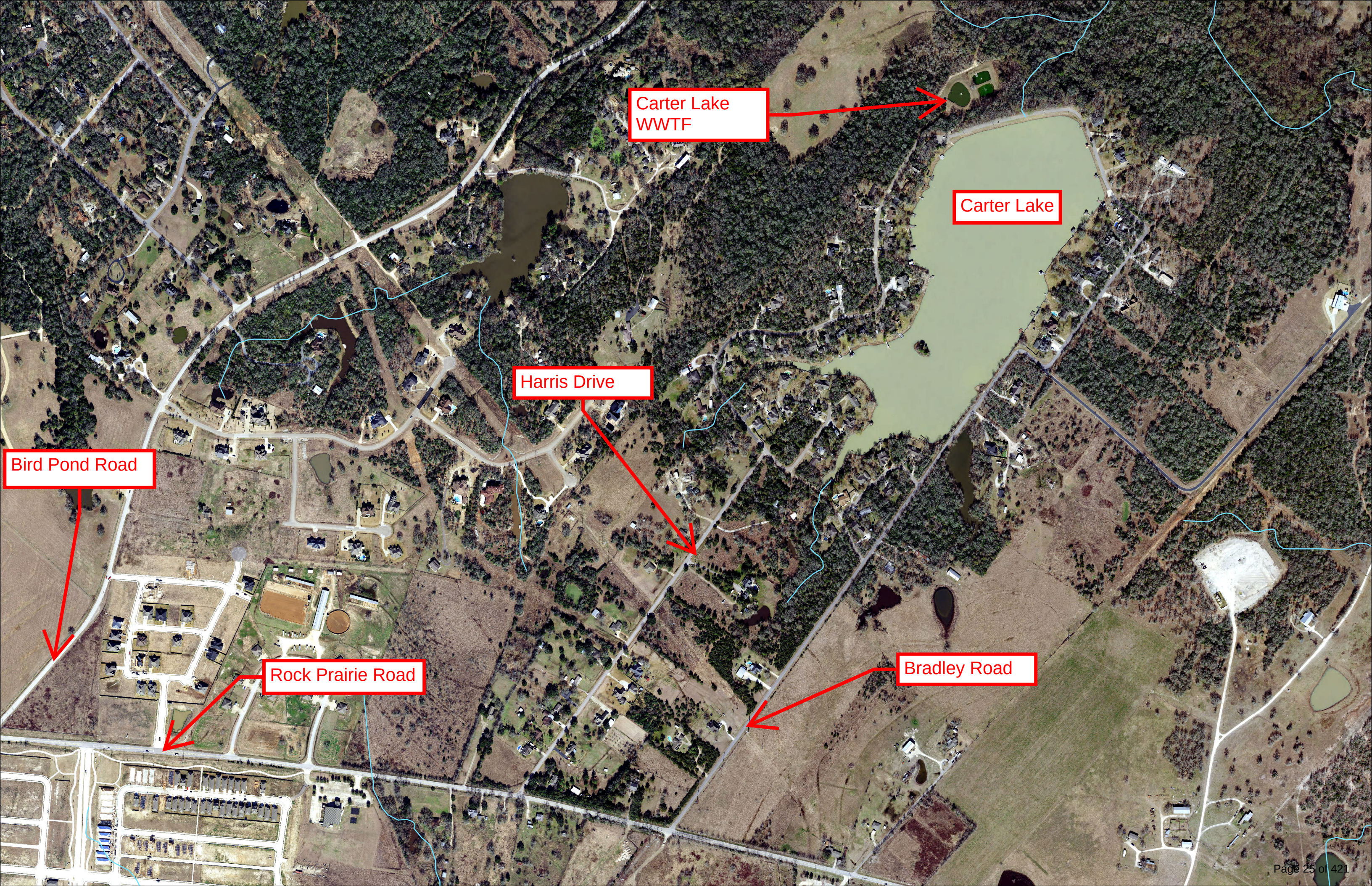
Summary: This project will take the existing lagoon treatment system at Carter Lake offline and pump existing flow via lift station and force main to the Carter Creek gravity trunkline. The project will install a small lift station at the site along with associated electrical equipment to capture existing flows. The flows will be pumped via 2-inch force main to an existing trunkline south of Carter Lake. The project will also drain, fill, and grade the existing lagoons. This will simplify wastewater crews' operations at Carter Lake.

Budget & Financial Summary:

Budget in the amount of \$1,670,000 is included for this project in the Wastewater Capital Improvement Projects Fund. A total of \$5,903 has been expended or committed to date, leaving a balance of \$1,664,097 for this contract and future expenses.

Attachments:

1. Carter Lake Decommissioning Location Map
2. Carter Lake Decommissioning Vendor Signed Contract



Carter Lake
WWTF

Carter Lake

Harris Drive

Bird Pond Road

Rock Prairie Road

Bradley Road



CONTRACT#: 23300693 PROJECT#: WW2002 BID/RFP/RFP#: N/A

Decommission Carter Lake WWTF and install lift station and force main

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

This Agreement is entered into by and between the City of College Station, a Texas home-rule municipal corporation (the "City") and ELLIOTT CONSTRUCTION, LLC (the "Contractor") for the construction and/or installation of the following:
as described in 23-075 Carter Lake Decommissioning.

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: One Hundred Forty-Nine Thousand Five Hundred Eighty and NO /100 Dollars (\$ 149,580.00).

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 Million Four Hundred Ninety-Five Eight Hundred and NO /100 Dollars (\$ 1,495,800.00).

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 Two Hundred and NO /100 DOLLARS (\$ 200.00) for each and every calendar day that the Contractor shall be in default after the time stipulated for Substantial Completion and/or Final Completion, not as a penalty, but as liquidated damages for the breach of this Agreement. It being specifically understood that the assessment of liquidated damages may be made for any failure to meet either or both of the deadlines specified for Substantial Completion and/or Final Completion.

24. CHARGES FOR INJURY OR REPAIR

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

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

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

25. WARRANTY

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

The Contractor warrants that all materials provided to the City under this Agreement shall be new unless otherwise approved in advance by City's Representative, and all work will be of good quality, free from faults and defects (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

ELLIOTT CONSTRUCTION, LLC

By: Ben Elliott

Printed Name: Ben Elliott

Title: Member

Date: 8/21/2023

CITY OF COLLEGE STATION

By: _____

City Manager

Date: _____

APPROVED:

John R. Haislet

City Attorney

Date: 8/22/2023

Jim Enos

Assistant City Manager/CFO

Date: 8/21/2023

EXHIBIT A
DAVIS BACON WAGE RATES

Superseded General Decision Number: TX20220007

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 \$16.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2023.
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 \$12.15 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 2023.

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

Modification Number Publication Date
0 01/06/2023

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 SIGNALIZATION:

Traffic Signal Installation

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.

=====

** Workers in this classification may be entitled to a higher
 minimum wage under Executive Order 14026 (\$16.20) or 13658
 (\$12.15). Please see the Note at the top of the wage
 determination for more information.

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
<https://www.dol.gov/agencies/whd/government-contracts>.

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 National Office because National Office has responsibility for the Davis-Bacon survey program. 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 DECISIO"

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. 1089189

THE STATE OF TEXAS

§

KNOW ALL MEN BY THESE PRESENTS:

THE COUNTY OF BRAZOS

§

§

THAT WE, Elliott Construction, LLC, as Principal, hereinafter called "Contractor" and the other subscriber hereto The Hanover 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 Million Four Hundred Ninety-Five Eight Hundred and NO /100 Dollars (\$ 1,495,800.00) for the payment of which sum, well and truly to be made to the City of College Station and its successors, the said Contractor and Surety do bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:

WHEREAS, the Contractor has on or about this day executed a Contract in writing with the City of College Station for as described in 23-075 Carter Lake Decommissioning

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. 1089189

FOR THE CONTRACTOR:

ELLIOTT CONSTRUCTION, LLC

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

(Name of Contractor)

By: Bethany A. Pepper

By: S. Ben Elliott

Name: Bethany A. Pepper

Name: S. Ben Elliott

Title: Bookkeeper

Title: Member

Date: September 14, 2023

Date: September 14, 2023

FOR THE SURETY:

ATTEST/WITNESS (SEAL)

The Hanover Insurance Company
(Full Name of Surety)

By: Haevyn Knobloch

440 Lincoln Street

Name: Haevyn Knobloch

Worcester, MA 01653

Title: Surety Account Representative

(Address of Surety for Notice)

Date: September 14, 2023

By: Tina McLelland

Name: Tina McLelland

Title: Attorney-in-Fact

Date: September 14, 2023

FOR THE CITY:

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

REVIEWED:

John A. Haislet 8/22/2023
City Attorney

City Manager

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

THE HANOVER INSURANCE COMPANY
MASSACHUSETTS BAY INSURANCE COMPANY
CITIZENS INSURANCE COMPANY OF AMERICA

POWER OF ATTORNEY

THIS Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

KNOW ALL PERSONS BY THESE PRESENTS:

That THE HANOVER INSURANCE COMPANY and MASSACHUSETTS BAY INSURANCE COMPANY, both being corporations organized and existing under the laws of the State of New Hampshire, and CITIZENS INSURANCE COMPANY OF AMERICA, a corporation organized and existing under the laws of the State of Michigan, (hereinafter individually and collectively the "Company") does hereby constitute and appoint,

Tina McLelland, Robbie Martin, Josh Andrajack, and/or Haevyn Knobloch

Of **Boley Featherston Huffman & Deal Co. of Wichita Falls, TX** each individually, if there be more than one named, as its true and lawful attorney(s)-in-fact to sign, execute, seal, acknowledge and deliver for, and on its behalf, and as its act and deed any place within the United States, any and all surety bonds, recognizances, undertakings, or other surety obligations. The execution of such surety bonds, recognizances, undertakings or surety obligations, in pursuance of these presents, shall be as binding upon the Company as if they had been duly signed by the president and attested by the secretary of the Company, in their own proper persons. Provided however, that this power of attorney limits the acts of those named herein; and they have no authority to bind the Company except in the manner stated and to the extent of any limitation stated below:

Any such obligations in the United States, not to exceed Thirty Million and No/100 (\$30,000,000) in any single instance

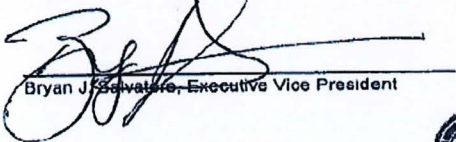
That this power is made and executed pursuant to the authority of the following Resolutions passed by the Board of Directors of said Company, and said Resolutions remain in full force and effect:

RESOLVED: That the President or any Vice President, in conjunction with any Vice President, be and they hereby are authorized and empowered to appoint Attorneys-in-fact of the Company, in its name and as it acts, to execute and acknowledge for and on its behalf as surety, any and all bonds, recognizances, contracts of indemnity, waivers of citation and all other writings obligatory in the nature thereof, with power to attach thereto the seal of the Company. 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 in their own proper persons.

RESOLVED: That any and all Powers of Attorney and Certified Copies of such Powers of Attorney and certification in respect thereto, granted and executed by the President or Vice President in conjunction with any Vice President of the Company, shall be binding on the Company to the same extent as if all signatures therein were manually affixed, even though one or more of any such signatures thereon may be facsimile. (Adopted October 7, 1981 – The Hanover Insurance Company; Adopted April 14, 1982 – Massachusetts Bay Insurance Company; Adopted September 7, 2001 – Citizens Insurance Company of America and affirmed by each Company on March 24, 2014)

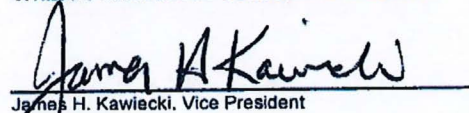
IN WITNESS WHEREOF, THE HANOVER INSURANCE COMPANY, MASSACHUSETTS BAY INSURANCE COMPANY and CITIZENS INSURANCE COMPANY OF AMERICA have caused these presents to be sealed with their respective corporate seals, duly attested by two Vice Presidents, this 14th day of September, 2021.

THE HANOVER INSURANCE COMPANY
MASSACHUSETTS BAY INSURANCE COMPANY
CITIZENS INSURANCE COMPANY OF AMERICA


Bryan J. Salvatore, Executive Vice President



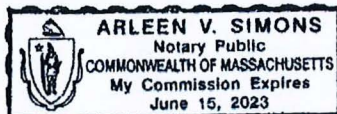
THE HANOVER INSURANCE COMPANY
MASSACHUSETTS BAY INSURANCE COMPANY
CITIZENS INSURANCE COMPANY OF AMERICA


James H. Kawiecki, Vice President



THE COMMONWEALTH OF MASSACHUSETTS)
COUNTY OF WORCESTER) ss.

On this 14th day of September, 2021 before me came the above named Executive Vice President and Vice President of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America, to me personally known to be the individuals and officers described herein, and acknowledged that the seals affixed to the preceding instrument are the corporate seals of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America, respectively, and that the said corporate seals and their signatures as officers were duly affixed and subscribed to said instrument by the authority and direction of said Corporations.




Arleen V. Simons, Notary Public
My Commission Expires June 15, 2023

I, the undersigned Vice President of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America, hereby certify that the above and foregoing is a full, true and correct copy of the Original Power of Attorney issued by said Companies, and do hereby further certify that the said Powers of Attorney are still in force and effect.

GIVEN under my hand and the seals of said Companies, at Worcester, Massachusetts, this 14th day of September, 2023

CERTIFIED COPY

THE HANOVER INSURANCE COMPANY
MASSACHUSETTS BAY INSURANCE COMPANY
CITIZENS INSURANCE COMPANY OF AMERICA

John A. Rowedder, Vice President

TEXAS STATUTORY PAYMENT BOND

Bond No. 1089189

THE STATE OF TEXAS

§

KNOW ALL MEN BY THESE PRESENTS:

THE COUNTY OF BRAZOS

§

§

THAT WE, a Elliott Construction, LLC, as Principal, hereinafter called "Principal" and the other subscriber hereto The Hanover Insurance Company, a corporation organized and existing under the laws of the State of New Hampshire, 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 Million Four Hundred Ninety-Five Eight Hundred and NO /100 Dollars (\$1,495,800.00) for payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns jointly and severally.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:

WHEREAS, Principal has entered into a certain contract with the City of College Station, dated the 14th day of September, 2023, for as described in 23-075 Carter Lake Decommissioning, 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. 1089189

FOR THE CONTRACTOR:

ELLIOTT CONSTRUCTION, LLC

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

(Name of Contractor)

By: Bethany A. Pepper
Name: Bethany A. Pepper
Title: Bookkeeper
Date: September 14, 2023

By: [Signature]
Name: S. Ben Elliott
Title: Member
Date: September 14, 2023

FOR THE SURETY:

ATTEST/WITNESS (SEAL)

The Hanover Insurance Company
(Full Name of Surety)

By: Haevyn Knobloch
Name: Haevyn Knobloch
Title: Surety Account Representative
Date: September 14, 2023

440 Lincoln Street
Worcester, MA 01653
(Address of Surety for Notice)

By: [Signature]
Name: Tina McLelland
Title: Attorney-in-Fact
Date: September 14, 2023

FOR THE CITY:

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

REVIEWED:

John A. Haislet 8/22/2023
City Attorney

City Manager

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

THE HANOVER INSURANCE COMPANY
MASSACHUSETTS BAY INSURANCE COMPANY
CITIZENS INSURANCE COMPANY OF AMERICA

POWER OF ATTORNEY

THIS Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

KNOW ALL PERSONS BY THESE PRESENTS:

That THE HANOVER INSURANCE COMPANY and MASSACHUSETTS BAY INSURANCE COMPANY, both being corporations organized and existing under the laws of the State of New Hampshire, and CITIZENS INSURANCE COMPANY OF AMERICA, a corporation organized and existing under the laws of the State of Michigan, (hereinafter individually and collectively the "Company") does hereby constitute and appoint,

Tina McLelland, Robbie Martin, Josh Andrajack, and/or Haevyn Knobloch

Of **Boley Featherston Huffman & Deal Co. of Wichita Falls, TX** each individually, if there be more than one named, as its true and lawful attorney(s)-in-fact to sign, execute, seal, acknowledge and deliver for, and on its behalf, and as its act and deed any place within the United States, any and all surety bonds, recognizances, undertakings, or other surety obligations. The execution of such surety bonds, recognizances, undertakings or surety obligations, in pursuance of these presents, shall be as binding upon the Company as if they had been duly signed by the president and attested by the secretary of the Company, in their own proper persons. Provided however, that this power of attorney limits the acts of those named herein; and they have no authority to bind the Company except in the manner stated and to the extent of any limitation stated below:

Any such obligations in the United States, not to exceed Thirty Million and No/100 (\$30,000,000) in any single instance

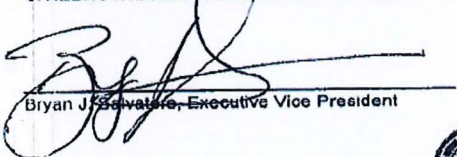
That this power is made and executed pursuant to the authority of the following Resolutions passed by the Board of Directors of said Company, and said Resolutions remain in full force and effect:

RESOLVED: That the President or any Vice President, in conjunction with any Vice President, be and they hereby are authorized and empowered to appoint Attorneys-in-fact of the Company, in its name and as it acts, to execute and acknowledge for and on its behalf as surety, any and all bonds, recognizances, contracts of indemnity, waivers of citation and all other writings obligatory in the nature thereof, with power to attach thereto the seal of the Company. 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 in their own proper persons.

RESOLVED: That any and all Powers of Attorney and Certified Copies of such Powers of Attorney and certification in respect thereto, granted and executed by the President or Vice President in conjunction with any Vice President of the Company, shall be binding on the Company to the same extent as if all signatures therein were manually affixed, even though one or more of any such signatures thereon may be facsimile. (Adopted October 7, 1981 – The Hanover Insurance Company; Adopted April 14, 1982 – Massachusetts Bay Insurance Company; Adopted September 7, 2001 – Citizens Insurance Company of America and affirmed by each Company on March 24, 2014)

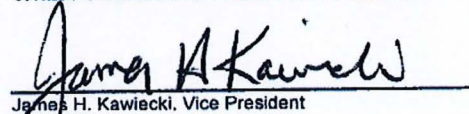
IN WITNESS WHEREOF, THE HANOVER INSURANCE COMPANY, MASSACHUSETTS BAY INSURANCE COMPANY and CITIZENS INSURANCE COMPANY OF AMERICA have caused these presents to be sealed with their respective corporate seals, duly attested by two Vice Presidents, this 14th day of September, 2021.

THE HANOVER INSURANCE COMPANY
MASSACHUSETTS BAY INSURANCE COMPANY
CITIZENS INSURANCE COMPANY OF AMERICA


Bryan J. Salvatore, Executive Vice President



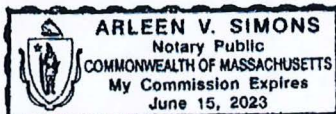
THE HANOVER INSURANCE COMPANY
MASSACHUSETTS BAY INSURANCE COMPANY
CITIZENS INSURANCE COMPANY OF AMERICA


James H. Kawiecki, Vice President



THE COMMONWEALTH OF MASSACHUSETTS)
COUNTY OF WORCESTER) ss.

On this 14th day of September, 2021 before me came the above named Executive Vice President and Vice President of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America, to me personally known to be the individuals and officers described herein, and acknowledged that the seals affixed to the preceding instrument are the corporate seals of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America, respectively, and that the said corporate seals and their signatures as officers were duly affixed and subscribed to said instrument by the authority and direction of said Corporations.




Arleen V. Simons, Notary Public
My Commission Expires June 15, 2023

I, the undersigned Vice President of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America, hereby certify that the above and foregoing is a full, true and correct copy of the Original Power of Attorney issued by said Companies, and do hereby further certify that the said Powers of Attorney are still in force and effect.

GIVEN under my hand and the seals of said Companies, at Worcester, Massachusetts, this 14th day of September, 2023

CERTIFIED COPY

THE HANOVER INSURANCE COMPANY
MASSACHUSETTS BAY INSURANCE COMPANY
CITIZENS INSURANCE COMPANY OF AMERICA


John A. Rowedder, Vice President

Texas Complaint Notice

Commercial Lines

IMPORTANT NOTICE

To obtain information or make a complaint:

You may call The Hanover Insurance Company/
Citizens Insurance Company of America's toll-free
telephone number for information or to make a
complaint at:

1-800-343-6044

You may also write to The Hanover Insurance Company/
Citizens Insurance Company of America at:

440 Lincoln Street
Worcester, MA 01653

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.texas.gov>
E-mail: ConsumerProtection@tdi.texas.gov

PREMIUM OR CLAIM DISPUTES:

Should you have a dispute concerning your premium
or about a claim you should contact the agent or the
company 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.

AVISO IMPORTANTE

Para obtener informacion o para someter una queja:

Usted puede llamar al numero de telefono gratis de
The Hanover Insurance Company/Citizens Insurance
Company of America's para informacion o para
someter una queja al:

1-800-343-6044

Usted tambien puede escribir a The Hanover Insurance
Company/Citizens Insurance Company of America al:

440 Lincoln Street
Worcester, MA 01653

Puede comunicarse con el Departamento de Seguros
de Texas para obtener informacion acerca de
compa  as, coberturas, derechos o quejas al:

1-800-252-3439

Puede escribir al Departamento de Seguros de Texas:

P. O. Box 149104
Austin, TX 78714-9104
Fax: (512) 475-1771
Web: <http://www.tdi.texas.gov>
E-mail: ConsumerProtection@tdi.texas.gov

DISPUTAS SOBRE PRIMAS O RECLAMOS:

Si tiene una disputa concerniente a su prima o a un
reclamo, debe comunicarse con el agente o la com-
pan  a primero. Si no se resuelve la disputa, puede
entonces comunicarse con el departamento (TDI).

UNA ESTE AVISO A SU POLIZA: Este aviso es solo
para proposito de informacion y no se convierte en
parte o condicion del documento adjunto.

EXHIBIT C
CERTIFICATES OF INSURANCE AND ENDORSEMENTS



ELLICON-02

ECALLEN

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

8/9/2023

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

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PROJECT ☒ LOC ☐ OTHER:			CPP100058266-03	7/1/2023	7/1/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY			CA100058267-03	7/1/2023	7/1/2024	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 \$ 10,000			UMB100058268-03	7/1/2023	7/1/2024	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000
A	☒ WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) ☒ Y / ☒ N If yes, describe under DESCRIPTION OF OPERATIONS below		N / A	WC0100058269-03	7/1/2023	7/1/2024	☒ 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 / Build			CPP100058266-03	7/1/2023	7/1/2024	Installation Floater 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
23-075 Carter Lake Decommissioning

CERTIFICATE HOLDER

CANCELLATION

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



ADDITIONAL REMARKS SCHEDULE

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

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: ACORD 25 FORM TITLE: Certificate of Liability Insurance

Additional Information

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

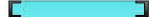
The General Liability policy includes a blanket additional insured endorsement that provides additional insured status in regard to completed operations to any person or organization when there is a written contract that require such status.

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

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

EXHIBIT D
PLANS AND SPECIFICATIONS

EXHIBIT E
CONSTRUCTION SCHEDULE

ID		Task	Task Name	Duration	Start	Finish	October	Novemb	Decembe	January	Februar	March	April	May
1			MOBILIZATION	5 days	Mon 10/2/23	Fri 10/6/23								
2			CLEARING	10 days	Mon 10/9/23	Fri 10/20/23								
3			SWPP	2 days	Mon 10/23/23	Tue 10/24/23								
4			2" FORCE MAIN	30 days	Wed 10/25/23	Tue 12/5/23								
5			LIFT STATION SITE WORK	5 days	Wed 12/6/23	Tue 12/12/23								
6			LIFT STATION	40 days	Wed 12/13/23	Tue 2/6/24								
7			DECOMMISSION LAKE AND FILL	38 days	Wed 2/7/24	Fri 3/29/24								
8			4" CONDUIT	30 days	Mon 4/1/24	Fri 5/10/24								
9			CLEAN UP AND HYDROMULCH	14 days	Mon 5/13/24	Thu 5/30/24								

Project: CARTER LAKE DECOMMIS
Date: Wed 7/12/23

Task		External Milestone		Manual Summary Rollup	
Split		Inactive Task		Manual Summary	
Milestone		Inactive Milestone		Start-only	
Summary		Inactive Summary		Finish-only	
Project Summary		Manual Task		Deadline	
External Tasks		Duration-only		Progress	

EXHIBIT F
SCHEDULE OF VALUES

PROPOSAL FORM

Date: July 11, 2023

PROPOSAL FROM: Elliott Construction, LLC

PROPOSAL TO: City Of College Station
1101 Texas Ave.
College Station, TX 77842

The Undersigned proposes to furnish all labor, services, materials, tools and necessary equipment for the construction of the Carter Lake Decommissioning Project and to perform the work required for the construction of said Carter Lake Decommissioning Project at the location set out by the Plans and Specifications, in strict accordance with the Contract Documents.

Please type or write legibly in blue or black ink. A unit price is required for all bid items. If there are discrepancies between unit prices and totals, the unit price will prevail. Please initial all corrections and do not round totals.

In submitting this Proposal, it is understood that this Proposal may not be altered or withdrawn for ninety (90) days, and that the Owner has reserved the right to reject any and all Proposals.

The Undersigned certifies that this Proposal is made in good faith, without collusion or connection with any other person, persons, partnership, company, firm, association, or corporation offering Proposals on this work, for the following sum or prices to wit:

BASE PROPOSAL: Stipulated Total Bid of: (\$ 1,495,800.00)

CALENDAR DAYS: Total number of calendar days to substantial completion is 210 days.

RECEIPT OF ADDENDA

I hereby acknowledge receipt of the following Addenda: _____

CONTRACTOR NAME: J. Ben Elliott

CONTRACTOR SIGNATURE: 

City of College Station
RFP (CSP) 23-075
Cater Lake Decommissioning
RFP (CSP) Opening July 12, 2023 at 2:00 pm CT

BASE BID ITEMS					
Item No.	Description	Unit	Estimated Quantity	Unit Price	Extended Amount
Carters Lake Lift Station and Force Main					
1	Mobilization	LS	1	\$ 69,500.00	\$ 69,500.00
2	Site Work	LS	1	\$ 56,300.00	\$ 56,300.00
3	Lift Station	LS	1	\$ 548,325.00	\$ 548,325.00
4	Electrical Improvements	LS	1	\$ 55,200.00	\$ 55,200.00
5	Clearing and Grubbing	AC	3	\$ 8,800.00	\$ 26,400.00
6	Hydromulch Seeding	AC	3	\$ 2,600.00	\$ 7,800.00
7	Connect to Transition Structure	LS	1	\$ 3,800.00	\$ 3,800.00
8	Hydrostatic Testing	LF	3395	\$ 1.00	\$ 3,395.00
9	Tree Protection	LS	1	\$ 10,000.00	\$ 10,000.00
10	Erosion and Sediment Control	LS	1	\$ 15,000.00	\$ 15,000.00
11	Trench Safety	LF	6,490	\$ 1.00	\$ 6,490.00
12	2" Force Main Pipe By Open Cut	LF	3245	\$ 34.00	\$ 110,330.00
13	2" Force Main Pipe By Trenchless Technology	LF	150	\$ 50.00	\$ 7,500.00
14	1" Combination Air Release & Vacuum Valve	EA	5	\$ 4,600.00	\$ 23,000.00
15	2" Plug Valves	EA	5	\$ 3,180.00	\$ 15,900.00
16	4" Fiber Optic Conduit By Open Cut	LF	3245	\$ 48.00	\$ 155,760.00
17	4" Fiber Optic Conduit By Trenchless Technology	LF	150	\$ 60.00	\$ 9,000.00
18	Fiber Optic Pull Box	EA	10	\$ 4,800.00	\$ 48,000.00
19	Carter Lake Demolition	LS	1	\$ 142,000.00	\$ 142,000.00
20	Carter Lake Lagoon Fill and Grading	LS	1	\$ 182,100.00	\$ 182,100.00
Total Bid					\$ 1,495,800.00
Construction Time (Calendar Days)					210

September 14, 2023
Item No. 7.3.
Marion Pugh Design Contract - Luther St. to George Bush Dr.

Sponsor: Jennifer Cain, Director Capital Projects

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action on a Professional Services Contract with Binkley & Barfield | DCCM, Inc. in the amount of \$709,136 for professional services for the Marion Pugh Rehabilitation Project - Luther Street to George Bush Drive.

Relationship to Strategic Goals:

Core Services and Infrastructure

Recommendation(s): Staff recommends approval.

Summary:

The project scope includes rehabilitating Marion Pugh Drive from George Bush Drive to 300' south of Luther Street West and replacing the existing 18" water main from George Bush Drive to the interconnect south of Holleman Drive West.

The City received six (6) Statements of Qualifications (SOQ). Following the review process, Binkley & Barfield|DCCM was selected as the most qualified firm for the project.

Budget & Financial Summary:

Funds in the amount of \$1,280,000 are currently budgeted for this project in the Streets Capital Improvement Projects and Water Services Fund. A total of \$1,309 has been expended or committed to date, leaving a balance of \$1,278,691 for this design contract and remaining project expenses.

Attachments:

1. Marion Pugh Design Vendor Signed Contract
2. Marion Pugh Project Location Map



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

CONTRACT & AGREEMENT ROUTING FORM

CONTRACT#: 23300449 PROJECT#: ST1902 WA2301 BID/RFP/RFQ#: 23-055

Project Name / Contract Description: Marion Pugh Rehabilitation - Luther St. to George Bush Dr.

Name of Contractor: Binkley & Barfield, Inc. | DCCM

CONTRACT TOTAL VALUE: \$ 709,136.00 Grant Funded Yes ☐ No ☒
If yes, what is the grant number:

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

☒ NEW CONTRACT ☐ RENEWAL # 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)

Six (6) Statements of Qualifications (SOQ) were submitted.

Combined Funds in the amount of \$1,280,000 are currently budgeted for this project in the Streets and Water Capital Improvement Projects Fund.

A total of \$1,309 has been expended or committed to date, leaving a balance of \$1,278,691 for this design contract and remaining project expenses.

(If required)*
CRC Approval Date*: N/A Council Approval Date*: 9/14/2023 Agenda Item No*: TBD

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

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

SIGNATURES RECOMMENDING APPROVAL

Jennifer Cain
DEPARTMENT DIRECTOR/ADMINISTERING CONTRACT

8/14/2023
DATE

Jim Costa
ASST CITY MGR – CFO

8/14/2023
DATE

John D. Haislet
LEGAL DEPARTMENT

8/14/2023
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
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 **Binkley & Barfield, Inc. | DCCM**, 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”):

RFQ-23-055 Marion Pugh Rehab

**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 Seven Hundred Nine Thousand One Hundred Thirty-Six and 00 /100 Dollars (\$709,136.00).

**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: 180 calendar days after the authorization to commence planning.
- (b) Preliminary Design: 105 calendar days after authorization to commence PPD.
- (c) Final Design: 140 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):

September 30th, 2026.

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 \$6,450,000.00. 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."

11.01 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

Binkley & Barfield, Inc. | DCCM

Attn: Raquel Gonzales

Attn: Brandon Boatcallie

PO BOX 9960

1701 Southwest Parkway

1101 Texas Ave

Suite 111

College Station, TX 77842

College Station, TX 77840

rgonzales@cstx.gov

bmb@binkleybarfield.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

BINKLEY & BARFIELD, INC. | DCCM

CITY OF COLLEGE STATION

By: Brandon M. Boatcallie

Printed Name: Brandon M. Boatcallie

Title: Corporate Vice President

Date: 8/14/2023

By: _____

City Manager

Date: _____

APPROVED:

John R. Haislet

City Attorney

Date: 8/14/2023

Jim Foster

Assistant City Manager/CFO

Date: 8/14/2023

EXHIBIT A
SCOPE OF SERVICES

August 3, 2023

Via: E-Mail

Raquel Gonzales, PE, CFM
Project Manager
City of College Station
300 Krenek Tap Road
College Station, TX 77840

RE: Proposal for Professional Services – Marion Pugh Drive Rehabilitation Project

Dear Raquel:

Binkley & Barfield, Inc. (BBI) is pleased to submit this proposal to The City of College Station (City) for engineering and surveying services in connection with the Marion Pugh Rehabilitation Project. We are excited that you have selected us for this assignment. It is our understanding the project scope includes rehabilitating Marion Pugh Drive from George Bush Drive to 300' south of Luther Street West (approx. 2,550 LF) and replacing the existing 18" water main from George Bush Drive to the interconnect south of Holleman Drive West (3,800 LF) and generally includes topographic and right-of-way surveying, geotechnical engineering, utility coordination, tree services, project management, engineering design, traffic engineering, public engagement, ADA registration/plan review/site inspection, construction materials testing, and bidding and construction phase services.

A. Services to be provided by BBI:

BBI will provide utility coordination, project management, engineering design, traffic engineering, public engagement, and bidding and construction phase services.

Utility Coordination

BBI will assist the City with utility coordination efforts by developing and updating a utility conflict matrix, attending utility field and coordination meeting (12 hours), and reviewing utility owner relocation plans (24 hours - 6 utilities, 4 hours each).

Project Management

BBI will provide project management services including arranging and attending meetings, production management, sub consultant management, monthly project invoicing, and QA/QC efforts for the project.

Engineering Design

BBI will prepare engineering design plans for the Marion Pugh Drive Rehabilitation project. The plans will be prepared in accordance with the City of College Station B/CS Unified Standard Specifications. BBI will attend the project kickoff meeting and prepare meeting minutes.

The design plans will include the following tasks and deliverables:

1. General plan sheets including the Title Sheet, Project Layout/Alignment Data Sheets, General Construction Notes, and Quantity Summary Sheets. (7 sheets total)
2. Three-phase Traffic Control Plan including Phase Overviews, Phase Detour Layouts, and Phase TCP Layouts. (21 sheets total)
3. Removal layouts including identification of existing features to be removed (including pavement, sidewalks, structures, trees, etc.). (4 sheets total)
4. Roadway Design including Existing and Proposed Typical Section Sheets, Roadway Plan and Profile sheets, & Intersection Layouts. (10 sheets total)
5. Roadway Contour Layouts (4 sheets total)

6. Drainage plan and profile sheets, lateral profiles, drainage area maps, and hydrologic and hydraulic calculations. (11 sheets total)
7. Water plan and profile sheets and lateral profiles. (14 sheets total)
8. Sewer lateral profiles. (1 sheet total)
9. Illumination Layout sheets. (3 sheets total)
10. Signing and Striping Layouts including proposed pavement and tie-ins at existing intersections. (3 sheets total)
11. Storm Water Pollution Prevention Sheets including design of pollution prevention measures (silt fence, construction entrance, rock filter dams, etc. as required). (3 sheets total)
12. Tree Data Sheets (To include tree inventory summary, trees identified for removal and structural/critical root zone determination). (3 sheets total)
13. Miscellaneous detail sheets as required (To include roadway, drainage, water, tree protection, etc.) (5 sheets total)
14. Design standards (to include TCP, Roadway, Drainage, Utilities, Lighting, Traffic, SW3P, and Tree Protection). (40 sheets total)
15. Opinion of probable construction costs (to be submitted with 30%, 60%, 90%, and 100% submittals).

BBI will submit design plans for City review at 30%, 60% and 90% completion and will attend meetings with City staff to discuss any comments. Final deliverables will include all electronic MicroStation DGN and Adobe PDF project files.

Traffic Engineering

BBI will provide the following traffic engineering services:

1. Coordination
 - a. BBI will coordinate with TxDOT and the City's Traffic Engineering staff on the overall scope of the Traffic Impact Analysis to ensure that any issues or concerns are covered in the report.
2. Data Collection / Traffic Counts
 - a. BBI will coordinate collection and review of traffic count data.
 - b. BBI will collect weekday AM and PM peak hour turning movement counts (7 AM - 7 PM) at the following study intersections:
 - i. Gorge Bush Drive at Marion Pugh Road
 - ii. Luther W Street at Marion Pugh Road
 - c. BBI will collect 24-hour bi-directional volume counts with classification for the following roadways:
 - i. Marion Pugh Road (between George Bush and Luther Street)
 - d. BBI will review the traffic data and report by TxDOT in conjunction with the improvements along George Bush Drive.
3. Traffic Impact Study
 - a. Study Assumptions
 - i. Analysis Time Periods
 1. Weekday AM Peak Hour (between 7am-9am)
 2. Weekday PM Peak Hour (between 4pm-6pm)
 - ii. Analysis Scenarios
 1. Opening Year (2025)
 2. 20-year (2045)
 3. 30-year (2055)

- iii. Study Intersections
 - 1. The study intersections will include the counted intersections described above.
- b. Analysis
 - i. Traffic Forecasts
 - 1. Traffic forecasts will be prepared for each of the study intersections based on the analysis time periods for each analysis scenario, each as described above.
 - ii. Crash Analysis
 - 1. BBI will conduct a crash analysis for each of the study intersections for five years, each as described above.
 - 2. BBI will conduct a crash analysis for the roadway segments between intersections.
 - iii. Intersection Capacity Analysis
 - 1. BBI will conduct the level of service analysis for each of the study intersections based on the analysis time periods for each analysis scenario, each as described above.
 - iv. Turn Lane Analysis
 - 1. BBI will evaluate the need for dual right turn lanes at the intersection of Gorge Bush Drive at Marion Pugh Road
 - 2. BBI will evaluate the operations of the proposed turn lanes to ensure no issues are anticipated.
 - v. All Way Stop and Traffic Signal Warrant Analysis
 - 1. BBI will evaluate peak hour warrant, as presented in the latest edition of the TxMUTCD, for the installation of an all-way stop control and a traffic signal based on the analysis time periods for each analysis scenario, as described above at the following study intersections:
 - a. Luther W Street at Marion Pugh Road
- c. Report
 - i. BBI will prepare a report summarizing the work tasks and findings of this study as well as any geometric and/or traffic control improvements that may be recommended. The final report will be submitted to the city review unless otherwise requested.
- 4. Deliverable
 - a. Final Report – Electronic Format

Public Engagement

BBI will present at public meetings where the public is notified of the proposed project and will prepare meeting materials including sign in sheets, handouts, and exhibits. The project scope includes preparation for, and attendance at, up to two (2) public meetings and twenty-four (24) hours of one-on-one meetings.

BBI will assist the City with coordinating with TxDOT representatives for the Bush Wellborn Interchange project (CSJ 3138-01-020). The project scope includes preparation for, and attendance at, up to four (4) coordination meetings, and incorporating the TxDOT design into the plans including tie point for roadway, sidewalks, drainage, and other infrastructure as designed by TxDOT (50 hours).

Bidding and Construction Phase Services

BBI will assist the City during the bidding process by attending the pre-bid meeting and assisting in the opening and tabulation of bids for construction of the project. BBI will provide engineering support services during construction to include attending the preconstruction conference, reviewing of shop drawings and resolution of contractor's request for information (RFI's), if required. A total of twenty-six (26) site visits/progress meetings (bi-weekly construction meetings for 12 months) are included in this scope and will be provided as requested by the City for review of the contractor's general conformance

with the construction documents. If a site visit is requested and completed, BBI's representative will prepare notes of the visit for distribution to all required parties. BBI will provide monthly 360 GoPro videos (12 total) as part of the progress meeting deliverable. Videos are provided for reference only to assist the City in processing monthly pay apps. (Note: This is not to be considered onsite Construction Observation.) BBI will also prepare record drawings (based on the contractor's redlines) and provide them in 24x36 mylar (utility sheets only), Microstation DGN, and Adobe PDF formats.

B. Services to be provided by Baseline Corporation (BL):

BL will provide topographic and right-of-way surveying services per *Attachment A: Baseline Corporation Proposal for Surveying Services dated June 30, 2023*.

C. Services to be provided by Terracon:

Terracon will provide geotechnical engineering and construction materials testing services per *Attachment B: Terracon Proposal for Geotechnical Engineering Services dated July 7, 2023*, and *Attachment C: Terracon Proposal for Construction Materials Testing Services June 30, 2023*.

D. Services to be provided by Plant People, LLC (PPL):

PPL will provide tree services per *Attachment D: Plant People, LLC, Proposal for Tree Services dated July 5, 2023*.

E. Services to be provided by Eddie Hare Accessibility Specialist (EHAS):

EHAS will provide ADA registration, plan review, and site inspection services per *Attachment E: Eddie Hare Accessibility Specialist Standard Services and Fees*.

F. To Be Provided by the City:

- The City will facilitate the provision of existing data (including copies of plats, utility plans, property boundary data, as-built plans, traffic studies, etc.) and any other available project related documentation, which would assist in the completion of the project.
- The City will review and coordinate a TxDOT review of the 30%, 60%, and 90% plan submittals and will provide comments to BBI as part of the City's internal review process. BBI will respond to the City and TxDOT comments as part of the review process.
- The City will be primarily responsible for coordinating with private utility providers with support from BBI staff as outlined above.
- The City will advertise and bid the project per the City's current procurement process.
- The City will provide construction inspection services.
- The City will issue public meeting press releases and notices.

G. Schedule:

Upon receiving the Notice to Proceed (NTP) from the City of College Station, BBI will provide 30% conceptual design plans for review within 180 calendar days (60 calendar days for data collection and 120 calendar days for conceptual design), 60% design plans within 105 calendar days, 90% design plans within 105 calendar days, and 100% plans within 35 calendar days.

H. Assumptions:

- A Storm Water Quality Management Plan is not included in the work scope.
- A Preliminary Engineering Report (PER) is not required.
- A formal drainage report / study and off-stie detention analysis and design is not required.

- Private utility design services are not included in the scope of services and will be the responsibility of the respective utility companies.
- Luminaires will be added to existing power poles per College Station Utility direction. Pole loading and lighting calcs are not included in the scope of services.
- The water interconnect design on TAMU property is not included in the scope of work.
- City review time is not included in the schedule.

I. Reimbursable Expenses:

Reimbursable expenses including mileage, reproduction, and delivery services are included within the lump sum fee.

J. Compensation:

We propose to provide the specific services described above as follows (*water services portion is roughly 20-33% of various items since the water line rehabilitation does not fall within the roadway footprint but extends beyond*):

Design

Utility Coordination (Lump Sum)	\$ 17,652.00
Project Management & Engineering Design Services (Lump Sum)	\$ 406,912.00
Traffic Engineering Services (Traffic Study) (Lump Sum)	\$ 21,107.50
Public Engagement Services (Lump Sum)	\$ 28,960.00
Topographic Surveying Services (Lump Sum)	\$ 45,000.00
Misc. Topographic Surveying Services (Hourly)	\$ 8,000.00
ROW/Easement Surveys (Hourly)	\$ 12,990.00
Geotechnical Engineering Services (Estimated NTE)	\$ 25,000.00
Tree Inventory and Design Services (Lump Sum)	\$ 11,940.00
ADA Registration, Plan Review, Site Inspection (Estimated NTE)	\$ 2,500.00
Design Subtotal	\$ 580,061.50

Water Services Design Portion (included above) \$154,738.00

Water Engineering \$149,363.00

Sewer Engineering \$ 5,375.00

Bidding and Construction

Bidding and Construction Phase Services (Lump Sum)	\$ 48,542.00
Construction Materials Testing Services (Unit Rate)	\$ 65,842.50
Tree Construction Phase Services (Hourly)	\$ 14,690.00
Bidding and Construction Subtotal	\$ 129,074.50

Water Services Bidding and Construction Portion
(included above) \$28,761.50

Total Project Fee **\$ 709,136.00**

Water Services Portion \$183,499.50

All work to be completed on a unit rate basis will be in accordance with their respective rate sheets provided within this proposal. Please note that our fees are based on the project being implemented based on the assumptions of this proposal with regards to its scope, without major changes or unforeseen conditions. In the event the scope of work requires additional hours to be spent above the budgeted amount, we will discuss this with the Client prior to exceeding the budget amount stated above.

K. Additional Services:

We have made our best effort to prepare a thorough and complete proposal to successfully complete this project. However, there may be additional services we are not currently aware of that may be required or

that the Client may desire we provide. Should such a situation occur, a separate proposal would be submitted to the Client for approval prior to our beginning the additional services.

Please call should you have any questions. Thank you again for selecting Binkley & Barfield for this assignment and we look forward to working with the City of College Station.

Sincerely,
Binkley & Barfield



Brandon M. Boatcallie, P.E.
Project Principal
bmb@binkleybarfield.com



Binkley & Barfield, Inc. 2023 Billable Rates by Classification

Classification	Unit	Billable Rate
Principal	Hour	\$318.00
Sr. Project Manager	Hour	\$290.00
Project Manager	Hour	\$225.00
Structural Engineer	Hour	\$225.00
Construction Manager	Hour	\$225.00
Sr. Project Engineer	Hour	\$190.00
Project Engineer	Hour	\$161.00
Field Engineer	Hour	\$175.00
Electrical & Instrumentation Engineer	Hour	\$190.00
Engineer Technician	Hour	\$158.00
EIT II	Hour	\$145.00
Graduate Engineer/EIT I	Hour	\$127.00
Structural Inspector	Hour	\$145.00
Construction Observer/Sr. Inspector III	Hour	\$145.00
Construction Observer/Inspector II	Hour	\$135.00
Construction Observer/Inspector I	Hour	\$110.00
Sr. Designator	Hour	\$122.00
Designator	Hour	\$105.00
Sr. Utility Coordinator	Hour	\$176.00
Utility Coordinator	Hour	\$154.00
Production Manager	Hour	\$237.00
Production Technician	Hour	\$99.00
Sr. Electrical Designer	Hour	\$165.00
Sr. CADD/Designer	Hour	\$157.00
CADD/Designer	Hour	\$142.00
CADD Technician	Hour	\$117.00
GIS Manager	Hour	\$150.00
GIS Analyst	Hour	\$107.00
Sr. Clerical/Administrator/Document Specialist/Recordkeeper	Hour	\$100.00
Clerical/Administrator	Hour	\$92.00
3D Modeling	Day	\$955.00

**These rates are subject to a Consumer Price Index (CPI) adjustment.*

Direct Expenses

1. Subconsultant, reproduction, delivery, and other associated expenses shall be reimbursed at cost plus 10%.
2. Mileage shall be reimbursed at the current federal rate as published by the IRS.

Revised: 1/11/2023

Attachment A

Baseline Corporation Proposal for Surveying Services

June 30, 2023

Eleanor Rivera, PE
Binkley & Barfield – Brazos Valley Region
1701 Southwest Pkwy, Suite 111
College Station, Texas 77840

**Re: Fee Proposal for Professional Services
Topographic & Easement Surveying – Marion Pugh Drive in College Station, Texas**

Baseline (BL) appreciates the opportunity to provide this Scope and Fee Proposal for Topographic and R.O.W./Easement surveying services to Binkley & Barfield (Client), the prime contractor on this City of College Station (City) project, for the design of street and reconstruction and utility relocations on Marion Pugh Drive, generally between George Bush Drive and W. Luther Street, but extending to W. Holleman Drive for some utilities (Project Route).

Survey Scope:

Topographic survey w/ SUE surveying and LiDAR scan

Utilizing new and previous field and record data, BL will prepare a comprehensive Topographic survey of the Project Route. All pertinent surface and utility and drainage features within the public rights-of-way and adjacent easements will be located. Trees and upstream and downstream utilities and drainage structures pertinent to the project or specifically requested by Client, will be included. Depths of utilities (including storm drains) in manholes and potholes will be measured. Project control and benchmarks will be established through the Project Route and referenced to the City's GPS Control monuments and their current datums (NAD83 & NAVD88). BL will coordinate with any Subsurface Engineering designators and/or arborists contracted by Client, as well as City of College Station, Wellborn SUD and Texas 8-1-1 utility locators, to survey their buried utility marks, potholes and associated buried utility features, as needed and requested by the Client.

Miscellaneous Surveying throughout duration of project design

Upon requests of Client, BL will locate additional utility features, surface features, trees, etc... which are discovered or constructed by others as the project design phase progresses. These may include offsite topographic and utility features that were not included in the initial Topographic Survey scope and deliverable or features and utilities that are later installed by others within or adjacent to the Project Route (i.e. utilities installed for the TXDOT project).

Right-of-Way (R.O.W.) Parcel & Easement Surveys

BL will prepare requested R.O.W. Parcel and Easement Surveys for the project. It is currently estimated by Client that 3 such surveys may be requested.

Deliverables:

BL will create and maintain CAD files in AutoCAD Civil 3d software, with deliverables being .dwg .dgn .xml and .txt exported files. Existing R.O.W., property and easement lines will be best-fitted in the Topographic survey deliverables to an accuracy of 0.5 ft. or better. Where R.O.W. Parcel or Easement Surveys are requested, the property and easement lines will be determined accurately and any proposed R.O.W.'s will be monumented. R.O.W. and Easement Survey deliverables will comply with City requirements and be delivered as .pdf 'prints', first as drafts for

City review. Final versions will bear the signature and seal of a Texas Registered Professional Land Surveyor (RPLS).

Compensation:

TOPO with SUE, LiDAR and Trees: the topographic scope of work detailed above will be invoiced on a by-the-hour basis per the attached Rate Sheet.

The total fee shall not exceed **\$ 45,000**.

Misc. Surveying: the miscellaneous scope of work detail above will be invoiced on a by-the-hour basis per the attached Rate Sheet. The total fee shall not exceed **\$ 8,000**.

R.O.W./Esmt.Surveys: the scope of work detail above will be invoiced on a by-the-hour basis per the attached Rate Sheet. The total fee shall not exceed **\$ 12,000 plus 8.25% tax**, unless more than four separate surveys (unique landowners) are requested. The Client will be notified if their requests are going beyond the scope included in this proposal.

Sales tax is not collected on topographic surveying. As the job progresses, monthly invoices for the percentage of work completed will be invoiced to the Client.

Schedule:

BL will deliver the Topo survey files within 60 days of receiving a Notice to Proceed. Interim deliverables of high-priority areas, historic topo files, LiDAR data, etc... can be delivered before the comprehensive Topo files are finished.

BL will coordinate the surveying schedule with the Client and its other contractors to locate utilities and other features in a timely manner. At least 1 day of notice is required to ensure that BL will be able to locate utilities that will be exposed only on a specific date. Typically, BL will perform location fieldwork within 3 work days of the Client's request.

BL will deliver draft R.O.W./Easement surveys within four weeks of being requested. Final deliverables will be delivered within two weeks after being provided with review comments.

Client Provided Services:

The Client shall provide Baseline the following, if necessary for completion of survey:

- A signed copy of this proposal or other contract including the agreed scope and fees.
- Any documentation available, such as existing utility plans and maps, which will aid Baseline in completing the Scope of Services.
- Title Reports for R.O.W. / Easement Surveys, if the City requires them.

The attached Terms and Conditions apply to this proposal and/or contracts which reference it.

Any questions, comments or concerns shall be directed to Henry Mayo, RPLS at (979) 693-2777, (979) 777-1426 (cell), or by email at hmayo@baselinesurveyors.net.

Sincerely,

Henry P Mayo

Accepted,

Date: June 30, 2023

Date:

Baseline Corporation 2023 Billable Rates by Classification

Classification	Unit	Billable Rate
Field Personnel		
One (1) Member Survey Crew	Hour	\$110.00
Two (2) Member Survey Crew	Hour	\$175.00
Three (3) Member Survey Crew	Hour	\$215.00
Office Personnel		
Principal (PE and/or RPLS)	Hour	\$250.00
Professional LSLS/CFedS	Hour	\$250.00
Sr. GIS Manager	Hour	\$140.00
Sr. Project Manager (RPLS)	Hour	\$175.00
Project Manager (RPLS)	Hour	\$160.00
Project Surveyor	Hour	\$140.00
Sr. Survey Technician	Hour	\$115.00
Survey Technician	Hour	\$100.00
Administrative Assistant	Hour	\$80.00
Expert Consultant/Witness		
Expert Witness and Testimony	Hour (8 hours min.)	\$300.00
Other Direct/Indirect Expenses		
Mileage	Hour	Current federal rate
Terrestrial Laser Scanner	Hour	\$80.00
UAS-Drone LiDAR	Hour	\$600.00
Boat with Motor	Day	\$160.00
All-Terrain Vehicle	Day	\$120.00
Professional Abstractor/Deeds, Plats	--	At cost plus 10%
Outside Copies/Mailing/Deliveries/Materials	--	At cost plus 10%
Lodging	Night	\$125.00 per person
Meals (for overnight stays only)	Day	\$46.00 per person

**These rates are subject to a Consumer Price Index (CPI) adjustment.*

Direct Expenses

1. Field personnel rates include standard surveying equipment and other standard materials such as stakes, iron rods, flagging, and paint.
2. Mileage is not charged for survey field crews unless specifically specified within agreements.
3. Cost for lodging is subject to change dependent on the geographic location of the work.
4. Reimbursable (out-of-pocket) expenses are charged at cost plus 10%.

Terms and Conditions

The following Terms and Conditions shall apply to this proposal (Agreement).

1. Authorization for Work to Proceed

Signing of this Agreement shall be authorization by the Client for Baseline to proceed with the work.

2. Standard of Care

Services performed by Baseline under this Agreement will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. No other representation, expressed or implied, and no warranty or guarantee is included or intended in this Agreement, or in any report, opinion, document or otherwise.

3. Billing and Payment

The Client shall pay Baseline for services performed in accordance with the rates and charges set forth herein. Invoices will be submitted by Baseline on a monthly basis and shall be due upon receipt. If payment is not received within thirty (30) calendar days from the date of the invoice, Baseline reserves the right to charge one-and-one-half percent (1.5%) interest (or the maximum percentage allowed by law, whichever is lower) in addition to the invoiced amount. If Client fails to pay an invoice within sixty (60) calendar days of the invoice date, Baseline reserves the right to suspend work on the project until invoices are paid. In the event any invoice or portion thereof is disputed by the Client, the Client shall notify Baseline within ten (10) calendar days of receipt of the invoice in question. The Client and Baseline shall work together to resolve the matter within forty-five (45) days of its being called to Baselines' attention.

4. Consequential Damages

The Client shall not be liable to Baseline and Baseline shall not be liable to the Client for any consequential damages incurred by either due to the fault of the other, regardless of the nature of the fault, or whether it was committed by the Client or Baseline, their employees, agents or subcontractors. Consequential damages include, but are not limited to, loss of use and loss of profit.

5. Termination

If termination becomes necessary, the Client or Baseline shall so notify the other party in writing and termination will become effective upon receipt of the termination notice. Regardless which party requests termination or the cause of termination, the Client shall pay Baseline within thirty (30) calendar days of termination for services rendered and costs incurred up to the effective time of termination.

6. Governing Law

The laws of the State of Texas will govern the validity of this Agreement, its interpretation and performance. Any litigation arising in any way from this Agreement shall be brought to the courts of that State.

7. Hazardous Materials – Suspension of Services

As used in this Agreement, the term hazardous materials shall mean any substances, including without limitation asbestos, toxic or hazardous waste, PCBs, combustible gases and materials, petroleum or radioactive materials (as each of these is defined in applicable federal statutes) or any other substances under any conditions and in such quantities as would pose a substantial danger to persons or property exposed to such substances at or near the Project site. Both parties acknowledge that Baseline's scope of services does not include any

services related to the presence of any hazardous or toxic materials. In the event Baseline or any other party encounters any hazardous or toxic materials, or should it become known to Baseline that such materials may be present on or near the project site that may affect the performance of Baseline's services, Baseline may, at its sole option and without liability for consequential or other damages, suspend performance of the services within this Agreement until the Client retains appropriate consultants or contractors to identify and abate or remove the hazardous or toxic materials and warrants that the jobsite is in full compliance with all applicable laws and regulations.

8. Right to Rely on Client-Provided Information

Baseline may rely upon the accuracy and completeness of all instructions, reports, data, and other information furnished by Client or any of its consultants if a reasonably prudent surveyor would rely on the same. Baseline may use such instructions, reports, data, plans and information in performing or furnishing services under this Agreement.

9. Severability

Any term or provision of this Agreement found to be invalid under any applicable statute or rule of law shall be deemed omitted and the remainder of this Agreement shall remain in full force and effect.

10. Assignment

Neither party to this Agreement shall transfer, sublet or assign any rights or duties under or interest in this Agreement, including but not limited to payments that are due or payments that may be due, without the prior written consent of the other party.

Attachment B

Terracon Proposal for Geotechnical Engineering Services



6198 Imperial Loop Drive
College Station, Texas 77845
P (979) 846-3767
Terracon.com

July 7, 2023

Binkley & Barfield
1701 Southwest Parkway, Suite 111
College Station, Texas 77840

Attn: Ms. Eleanor Rivera, P.E., ENV SP
P: (979) 703-1809 ext. 1608
E: erivera@binkleybarfield.com

RE: Cost Estimate for Geotechnical Engineering Services
Marion Pugh Drive Reconstruction
Marion Pugh Drive from George Bush Drive to Holleman Drive
College Station, Texas
Terracon Document No. PA1235052.Revision1

Dear Ms. Rivera:

Terracon Consultants, Inc. (Terracon) understands that we have been selected based on our qualifications to provide Geotechnical Engineering services for the above referenced project. This document outlines our understanding of the scope of services to be performed by Terracon for this project and provides an estimate of the cost of our services. The following are exhibits to the attached MSA Task Order.

Exhibit A	Project Understanding
Exhibit B	Scope of Services
Exhibit C	Compensation and Project Schedule
Exhibit D	Site Location
Exhibit E	Anticipated Exploration Plan

Our base fee to perform the Scope of Services described in this document is \$25,000. Exhibit C includes details of our fees and consideration of additional services as well as a general breakdown of our anticipated schedule.

Your authorization for Terracon to proceed in accordance with this document can be issued by signing and returning a copy of the attached MSA Task Order to our office. The Task Order refers to the previously signed Master Services Agreement between Terracon and Binkley & Barfield dated July 29, 2021.

Sincerely,

Terracon

(Terracon Firm Registration No.: F-3272)



Stephanie D. Lowry
Project Manager – College Station



David G. Haynes, P.E.
Department Manager – College Station



Kierstyn M. Burrell, P.E.
Geotech Services Manager - Houston

MASTER SERVICES AGREEMENT**TASK ORDER**

This **TASK ORDER** is issued under the **MASTER SERVICES AGREEMENT** dated 07/29/2021 between Binkley & Barfield ("Client") and Terracon Consultants, Inc. ("Consultant") for Services to be provided by Consultant for Client on the Marion Pugh Drive Rehabilitation project ("Project"), as described in the Project Information section of the Consultant's Task Order Proposal dated 07/07/2023 ("Task Order Proposal") unless the Project is otherwise described below or in Exhibit A to this Task Order (which section or Exhibit are incorporated into this Task Order). This Task Order is incorporated into and part of the Master Services Agreement.

1. Project Information

See Proposal No. PA1235052.Revision1, dated July 7, 2023

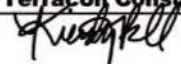
2. Scope of Services The scope of Services to be provided under this Task Order are described in the Scope of Services section of the Consultant's Task Order Proposal, unless Services are otherwise described below or in Exhibit B to this Task Order.

See Proposal No. PA1235052.Revision, dated July 7, 2023

3. Compensation Client shall pay compensation for the Services performed at the fees stated in the Task Order Proposal unless fees are otherwise stated below or in Exhibit C to this Task Order.

See Proposal No. PA1235052.Revision1, dated July 7, 2023

All terms and conditions of the **Master Services Agreement** shall continue in full force and effect. This Task Order is accepted and Consultant is authorized to proceed.

Consultant: **Terracon Consultants, Inc.**
By:  Date: **7/7/2023**
Name/Title: **Kierstyn M. Burrell, P.E. / Office Manager**
Address: **6198 Imperial Loop**
College Station, TX 77845-5765
Phone: **(979) 846-3767** Fax: **(979) 846-7604**
Email: **Kierstyn.Burrell@terracon.com**

Client: **Binkley & Barfield**
By: _____ Date: _____
Name/Title: _____
Address: _____
Phone: _____ Fax: _____
Email: _____

Exhibit A – Project Understanding

Our Scope of Services is based on our understanding of the project as described by Binkley & Barfield and the expected subsurface conditions as described below. We have not visited the project site to confirm the information provided. Aspects of the project, undefined or assumed, are highlighted as shown below. We request Binkley & Barfield and/or the design team verify all information prior to our initiation of field exploration activities.

Planned Construction

Item	Description
Information Provided	An email request for proposal was provided by Ms. Eleanor Rivera, P.E., ENV SP on June 22, 2023. The request included a site map as well as an outline of the requested scope.
Project Description	The project involves the proposed reconstruction of approximately 2,500 linear feet of the existing Marion Pugh Drive (From George Bush Drive to about 270 feet south of Luther Street). New waterline installations are planned to run parallel to Marion Pugh Drive, with roadway and driveway crossings. A sanitary sewer crossing, and storm sewer replacement are also planned.
Proposed improvements	■ Replacement of approximately 2,500 linear feet of existing roadway ■ Waterline, sanitary sewer, and storm sewer installation ○ We understand both trenchless and open-cut methods are being considered
Pavements	We understand jointed reinforced and conventionally reinforced rigid (concrete) pavement sections are being considered for the proposed roadway reconstruction. We request the proposed pavement section or anticipated traffic counts be provided to us. We assume the roadway is classified as a major collector and that traffic is planned to consist of a combination of passenger vehicles, light duty trucks, tractor-trailers, and delivery trucks. 20-year and 30-year pavement section life spans are being considered.

Site Location and Anticipated Conditions

Item	Description
Parcel Information	The project is located along Marion Pugh Drive from its intersection with George Bush Drive to its intersection with Holleman Drive in College Station, Texas. The roadway reconstruction portion of the project begins and George Bush Drive and ends 270 feet south of the Marion Pugh Drive and Luther Hill Road intersection. The apron of Luther Hill Drive is also included in the planned roadway improvements. Marion Pugh Drive roadway improvements extend approximately ½ mile. The waterline installation extends approximately ¾ mile. (See Exhibit D)
Existing Improvements	The roadway to be replaced is currently paved with asphaltic concrete with concrete curbs and sidewalks on both sides. Overhead powerlines run along a major portion of the west side of Marion Pugh Drive. We understand underground utilities are in the area for the entire length of Marion Pugh Drive.
Current Ground Cover	Asphalt and concrete pavement, with concrete sidewalks, grass, trees and weeds along each side of the roadway.
Existing Topography	Relatively level. Marion Pugh Drive gently slopes downwards to the southeast from its intersection with George Bush Drive to its intersection with Holleman Drive.
Site Access	We expect the site, and all exploration locations, are accessible with our truck-mounted drilling equipment. Traffic Control services will be necessary as part of our site access.
Expected Subsurface Conditions	Our experience in the vicinity of the proposed development indicates subsurface conditions consist of layered clays and sands with varying silt content.

Exhibit B - Scope of Services

Our proposed Scope of Services consists of field exploration, laboratory testing, and engineering/project delivery. These services are described in the following sections.

Field Exploration

The proposed field program consists of the following boring depths and locations:

Number of Borings	Planned Boring Depth (feet) ¹	Planned Location ^{2,3}
8	15 (B-1 through B-8)	Proposed roadway reconstruction and utility installation area
8	120	TOTAL

1. Although not anticipated based on the geology in the vicinity of the project site, borings would be terminated at shallower depths if refusal is encountered.
2. Borings B-1 through B-5 will be drilled through the existing asphalt roadway. We will record the pavement and base thicknesses on our field logs.
3. The planned boring locations are shown on the attached **Anticipated Exploration Plan**.

Boring Layout and Elevations: We will use handheld GPS equipment to locate borings with an estimated horizontal accuracy of +/-20 feet. Field measurements from existing site features may be utilized. If available, approximate elevations will be obtained by interpolation from a site specific, surveyed topographic map. We can alternatively coordinate with your Project Surveyor to include locations and surface elevations in project information if so requested.

Subsurface Exploration Procedures: We will advance borings with a truck-mounted drill rig using continuous flight augers and/or rotary wash boring techniques. Samples will be obtained continuously to the termination depth of each boring. Soil sampling is typically performed using open tube and/or split-barrel sampling procedures. The split-barrel samplers are driven in accordance with the standard penetration test (SPT). The samples will be placed in appropriate containers, taken to our soil laboratory for testing, and classified by a Geotechnical Engineer. In addition, we will observe and record groundwater levels during drilling and sampling.

Our exploration team will prepare field boring logs as part of standard drilling operations including sampling depths, penetration distances, and other relevant sampling information. Field logs include visual classifications of materials observed during drilling and our interpretation of subsurface conditions between samples. Final boring logs,

prepared from field logs, represent the Geotechnical Engineer's interpretation and include modifications based on observations and laboratory tests.

Property Disturbance: Terracon will take reasonable efforts to reduce damage to the property. However, it should be understood that in the normal course of our work some disturbance could occur including rutting of the ground surface and damage to landscaping.

The existing asphaltic concrete will be augered and removed to access the underlying subgrade. We will backfill borings with auger cuttings and cap them with cold mix asphalt patch upon completion. Our services do not include repair of the site beyond backfilling our boreholes. Excess auger cuttings will be dispersed in the general vicinity of the borehole. Because backfill material often settles below the surface after a period, we recommend boreholes to be periodically checked and backfilled, if necessary. We can provide this service or grout the boreholes for additional fees at your request.

Safety

Terracon is not aware of environmental concerns at this project site that would create health or safety hazards associated with our exploration program; thus, our Scope considers standard OSHA Level D Personal Protection Equipment (PPE) appropriate. Our Scope of Services does not include environmental site assessment services, but identification of unusual or unnatural materials observed while drilling will be noted on our logs.

Exploration efforts require borings into the subsurface, therefore Terracon will comply with local regulations to request a utility location service through Texas 811. We will consult with the landowner/client regarding potential utilities or other unmarked underground hazards. Based upon the results of this consultation, we will consider the need for alternative subsurface exploration methods as the safety of our field crew is a priority.

Private utilities should be marked by the owner/client prior to commencement of field exploration. Terracon will not be responsible for damage to private utilities not disclosed to us.

Due to the presence of nearby structures, Terracon proposes to subcontract with a private utility locating service. Fees associated with this service are included in our Scope of Services.

The detection of underground utilities is dependent upon the composition and construction of the utility line; some utilities are comprised of non-electrically conductive materials and may not be readily detected. The use of a private utility locate service

would not relieve the landowner/client of their responsibilities in identifying private underground utilities.

Site Access: Terracon must be granted access to the site by the property owner. Without information to the contrary, we consider acceptance of this proposal as authorization to access the property for conducting field exploration in accordance with the Scope of Services. Our proposed fees do not include time to negotiate and coordinate access with landowners or tenants. Terracon will conduct field services during normal business hours (Monday through Friday between 7:00am and 5:00pm).

For the work scope of this cost estimate, we have budgeted for subcontracting traffic control services (signage and flagman) during our drilling and private utility location activities, which is anticipated to take up to three days total. This proposal is based on the assumption that one traffic lane can be closed temporarily within a hundred feet (+/-) of our drill rig during our drilling activities. Alternatively, others could provide all required traffic control as a cost savings measure.

Laboratory Testing

The project engineer will review field data and assign laboratory tests to understand the engineering properties of various soil strata. Exact types and number of tests cannot be defined until completion of fieldwork, but we anticipate the following laboratory testing may be performed:

- Water content
- Unit dry weight
- Atterberg limits
- Percent finer than No. 200 sieve
- Unconfined compressive strength
- Water-soluble sulfate content

Our laboratory testing program often includes examination of soil samples by an engineer. Based on the results of our field and laboratory programs, we will describe and classify soil samples in accordance with the Unified Soil Classification System (USCS).

Engineering and Project Delivery

The results of our field and laboratory programs will be evaluated, and a geotechnical engineering report will be prepared under the supervision of a licensed professional engineer. The geotechnical engineering report will provide the following:

- Boring logs with field and laboratory data
- Stratification based on visual soil classification
- Groundwater levels observed during drilling
- Site Location and Exploration Plans
- Subsurface exploration procedures
- Description of subsurface conditions
- Site and subgrade preparation
- Open-cut construction considerations for utilities
- Excavation considerations and temporary groundwater control
- Lateral and uplift pressures for the utilities
- Utility bedding and backfill considerations
- Trenchless utility construction considerations
- Recommended pavement options and design parameters

In addition to an emailed report, your project will also be delivered using our **Client Portal**. Upon initiation, we provide you and your design team the necessary link and password to access the website (if not previously registered). Each project includes a calendar to track the schedule, an interactive site map, a listing of team members, access to the project documents as they are uploaded to the site, and a collaboration portal. We welcome the opportunity to have project kickoff conversations with the team to discuss key elements of the project and demonstrate features of the portal. The typical delivery process includes the following:

- Project Planning – Cost estimate information, schedule and anticipated exploration plan
- Site Characterization – Findings of the site exploration and laboratory results
- Geotechnical Engineering Report

When services are complete, we upload a printable version of our completed Geotechnical Engineering report, including the professional engineer's seal and signature, which documents our services. Previous submittals, collaboration, and the report are maintained in our system. This allows future reference and integration into subsequent aspects of our services as the project goes through final design and construction.

Exhibit C - Compensation and Project Schedule

Compensation

Based upon our understanding of the site, the project as summarized in Exhibit A, and our planned Scope of Services outlined in Exhibit B, our base fee is shown in the following table:

Geotechnical Services	Lump Sum Fee ¹
Subsurface Exploration ² , Laboratory Testing, Geotechnical Consulting and Reporting	\$15,400
Traffic Control for up to 3 days at \$2,700 per day	\$8,100
Private Utility Location Services per site visit. ³	\$1,500
TOTAL	\$25,000

1. Proposed fees noted above are effective for 90 days from the date of the proposal.
2. The lump sum fee considers one drill rig mobilization and no unexpected onsite delays. If additional drill rig mobilizations are required, an additional fee of \$1,250 would be invoiced per mobilization. A drill crew standby rate of \$275 per hour would be invoiced for unexpected delays. We anticipate the proposed field program to take approximately one day.
3. Private utility location services are estimated to be completed in a single site visit. If an additional site visit is needed to complete all utility locations, the visits will be billed according to the rate listed above.

Our Scope of Services does not include services associated with site clearing, wet ground conditions, matting, or repair of/damage to existing landscape. If such services are desired by the owner/client, we should be notified so we can adjust our Scope of Services.

Unless instructed otherwise, we will submit our invoice(s) to the address shown at the beginning of this proposal. If conditions are encountered that require Scope of Services revisions and/or result in higher fees, we will contact you for approval, prior to initiating services. A supplemental proposal stating the modified Scope of Services as well as its effect on our fee will be prepared. We will not proceed without your authorization.

Project Schedule

We developed a schedule to complete the Scope of Services based upon our existing availability and understanding of your project schedule. However, our schedule does not account for delays in field exploration beyond our control, such as weather conditions, delays resulting from utility clearance, or lack of permission to access the boring locations. In the event the schedule provided is inconsistent with your needs, please contact us so we may consider alternatives.

Delivery on Client Portal	Schedule ^{1, 2}
Kickoff Call with Client	5 business days after notice to proceed
Field Work Mobilization	7 to 10 business days after notice to proceed
Site Characterization	12 business days after completion of field program
Geotechnical Engineering	20 business days after completion of field program
1. Upon receipt of your notice to proceed we will activate the schedule component on Client Portal with specific, anticipated dates for the delivery points noted above as well as other pertinent events. 2. Standard workdays. We will maintain an activities calendar within on Client Portal. The schedule will be updated to maintain a current awareness of our plans for delivery.	

Exhibit D – Site Location

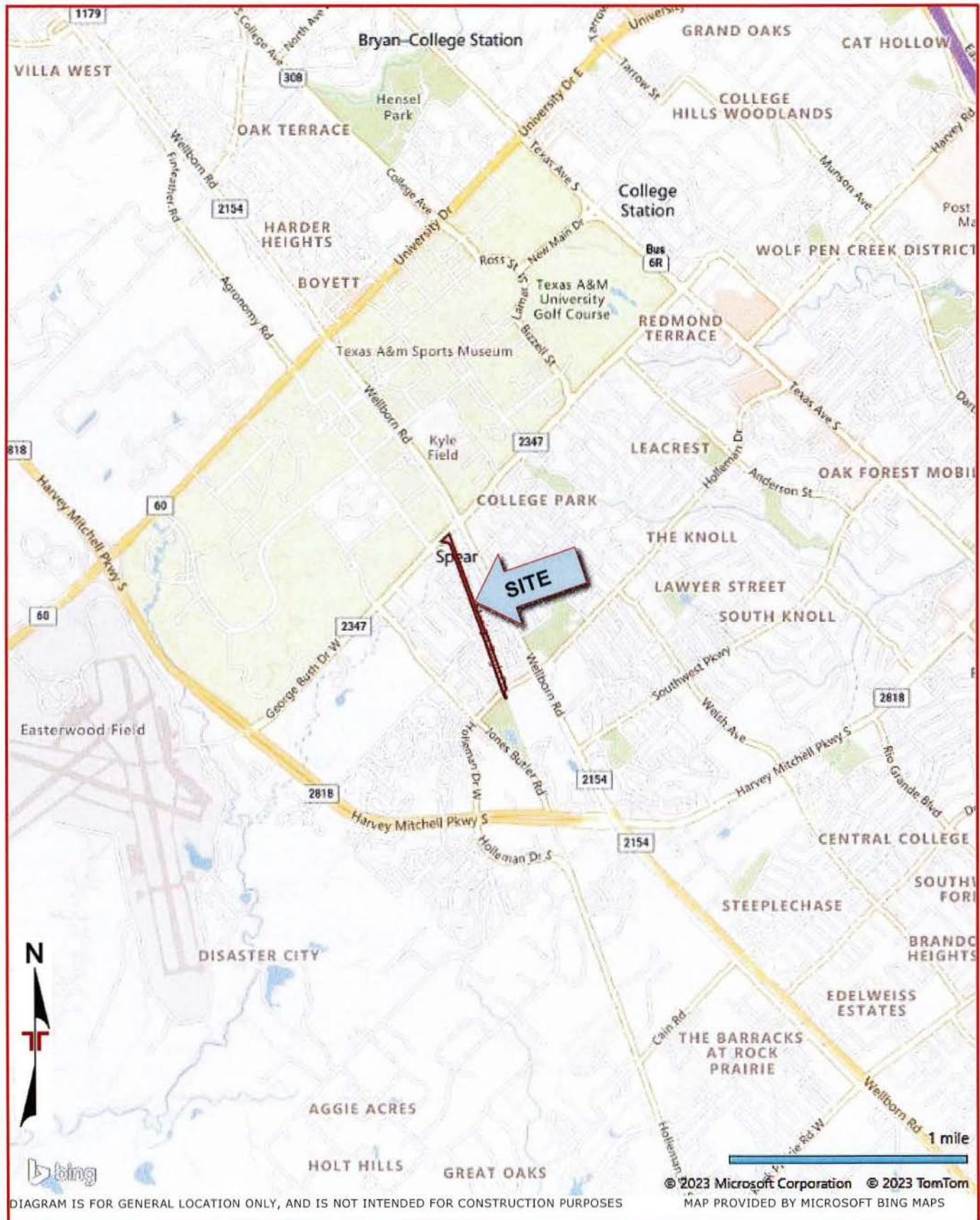
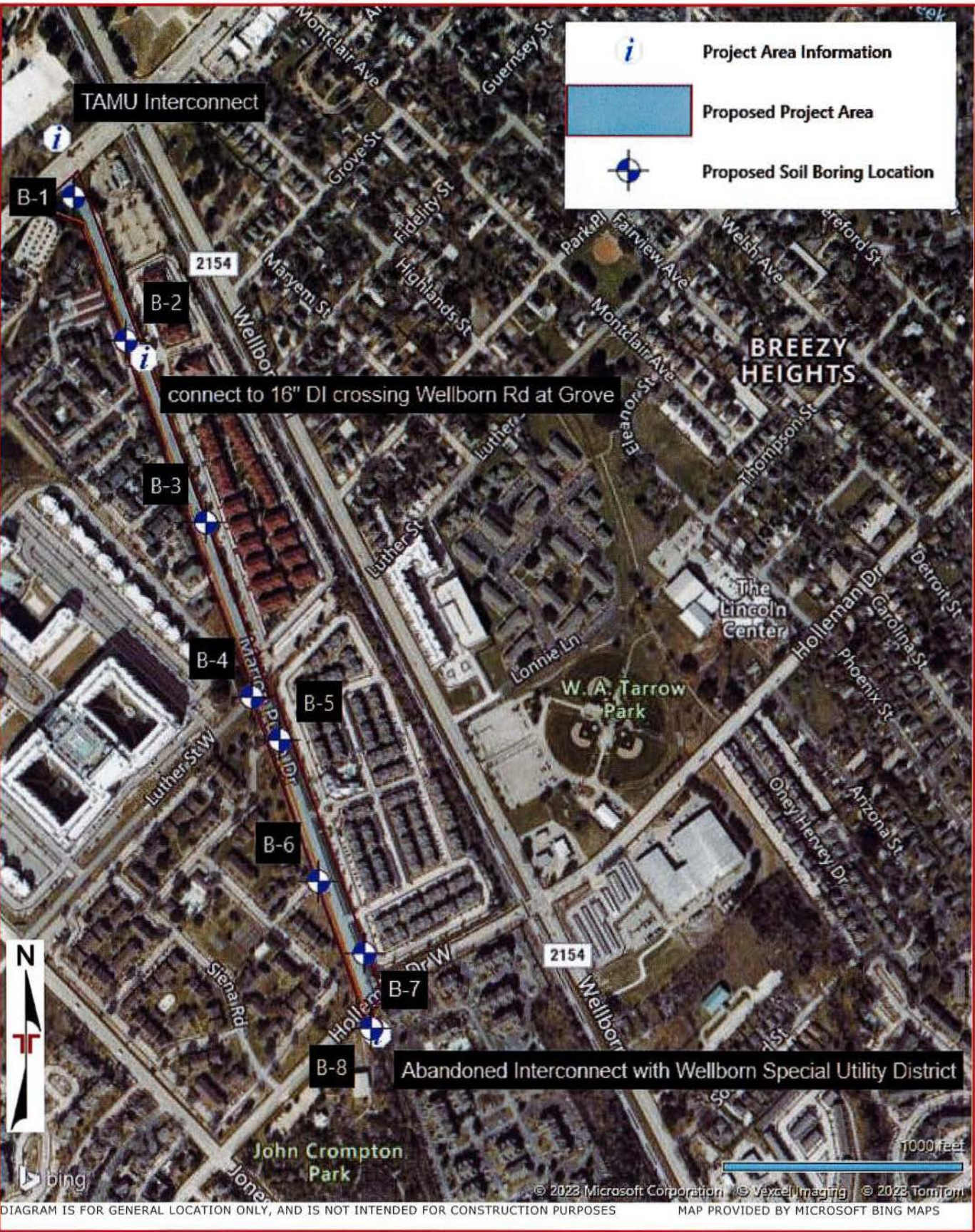


Exhibit E – Anticipated Exploration Plan



Attachment C

Terracon Proposal for Construction Materials Testing Services

Fee Estimate

Materials Services

Marion Pugh Rehab

Terracon Proposal No. PA1231079

DESCRIPTION	RATE	QUANTITY	UNITS	TRIPS	TOTAL QUANTITY	TOTAL
Utilities Density Testing						
NICET/Sr. Engineering Technician	\$ 85.00	4.00	hours	20	80.00	\$6,800.00
Project Manager	\$ 150.00	0.25	hours	20	5.00	\$750.00
Nuclear Gauge (Equipment)	\$ 75.00	1.00	days	20	20.00	\$1,500.00
Vehicle Trip Charge	\$ 45.00	1.00	day	20	20.00	\$900.00
Sub Total						\$9,950.00
Utilities Sample Pickup						
ACI Field I Technician	\$ 75.00	2.00	hours	5	10.00	\$750.00
Project Manager	\$ 150.00	0.25	hours	5	1.25	\$187.50
Standard Proctor	\$ 150.00	1.00	tests	5	5.00	\$750.00
Atterberg Limits Determination (3 I	\$ 60.00	1.00	tests	5	5.00	\$300.00
Sieve Analysis (Washed over #200 :	\$ 35.00	1.00	tests	5	5.00	\$175.00
Unconfined Compressive Strength	\$ 300.00	1.00	tests	5	5.00	\$1,500.00
Vehicle Trip Charge	\$ 45.00	1.00	day	5	5.00	\$225.00
Sub Total						\$3,887.50
Proof Rolling						
NICET/Sr. Engineering Technician	\$ 85.00	3.00	hours	6	18.00	\$1,530.00
Project Manager	\$ 150.00	0.25	hours	6	1.50	\$225.00
Vehicle Trip Charge	\$ 45.00	1.00	day	6	6.00	\$270.00
Sub Total						\$2,025.00
Lime-Treated Subgrade Density Testi						
NICET/Sr. Engineering Technician	\$ 85.00	4.00	hours	6	24.00	\$2,040.00
Project Manager	\$ 150.00	0.25	hours	6	1.50	\$225.00
Standard Proctor	\$ -	0.00	tests	1	0.00	\$0.00
Nuclear Gauge (Equipment)	\$ 75.00	1.00	days	6	6.00	\$450.00
Lime Treated Subgrade Depth Chec	\$ 30.00	26.00	each	1	26.00	\$780.00
Vehicle Trip Charge	\$ 45.00	1.00	day	6	6.00	\$270.00
Sub Total						\$3,765.00
Lime-Treated Subgrade Gradations &						
ACI Field I Technician	\$ 75.00	4.00	hours	6	24.00	\$1,800.00
Project Manager	\$ 150.00	0.25	hours	6	1.50	\$225.00
Standard Proctor	\$ 150.00	26.00	tests	1	26.00	\$3,900.00
Atterberg Limits Determination (3 I	\$ 60.00	26.00	tests	1	26.00	\$1,560.00
Lime Series	\$ 150.00	2.00	tests	1	2.00	\$300.00
pH Testing	\$ 35.00	26.00	tests	1	26.00	\$910.00
Sieve/Gradation	\$ 30.00	26.00	tests	1	26.00	\$780.00
Vehicle Trip Charge	\$ 45.00	1.00	day	6	6.00	\$270.00
Sub Total						\$9,745.00

Fee Estimate

Materials Services

Marion Pugh Rehab

Terracon Proposal No. PA1231079

DESCRIPTION	RATE	QUANTITY	UNITS	TRIPS	TOTAL QUANTITY	TOTAL
Sidewalk Subgrade Density Testing						
NICET/Sr. Engineering Technician	\$ 85.00	3.00	hours	10	30.00	\$2,550.00
Project Manager	\$ 150.00	0.25	hours	10	2.50	\$375.00
Nuclear Gauge (Equipment)	\$ 75.00	1.00	days	10	10.00	\$750.00
Vehicle Trip Charge	\$ 45.00	1.00	day	10	10.00	\$450.00
Sub Total						\$4,125.00
Sidewalk Subgrade Sample Pickup						
ACI Field I Technician	\$ 75.00	2.00	hours	2	4.00	\$300.00
Project Manager	\$ 150.00	0.25	hours	2	0.50	\$75.00
Standard Proctor	\$ 150.00	2.00	tests	2	4.00	\$600.00
Atterberg Limits Determination (3 I	\$ 60.00	2.00	tests	2	4.00	\$240.00
Sieve Analysis (Washed over #200 :	\$ 35.00	2.00	tests	2	4.00	\$140.00
Vehicle Trip Charge	\$ 45.00	1.00	day	2	2.00	\$90.00
Sub Total						\$1,445.00
Site & Paving Concrete Testing						
NICET/Sr. Engineering Technician	\$ 85.00	4.00	hours	30	120.00	\$10,200.00
Project Manager	\$ 150.00	0.25	hours	30	7.50	\$1,125.00
Compressive Strength of 4" x 8" Cyl	\$ 75.00	70.00	tests	1	70.00	\$5,250.00
Vehicle Trip Charge	\$ 45.00	1.00	day	30	30.00	\$1,350.00
Sub Total						\$17,925.00
Site & Paving Concrete Sample Picku						
ACI Field I Technician	\$ 75.00	2.00	hours	30	60.00	\$4,500.00
Project Manager	\$ 150.00	0.25	hours	30	7.50	\$1,125.00
Vehicle Trip Charge	\$ 45.00	1.00	day	30	30.00	\$1,350.00
Sub Total						\$6,975.00
Proposal, Project Setup & Onsite Me						
Project Manager	\$ 150.00	40.00	hours	1	40.00	\$6,000.00
Sub Total						\$6,000.00
Total						\$65,842.50

Attachment D

Plant People LLC, Proposal for Tree Services

Marion Pugh Rehab Project

PREPARED FOR:

Binkley & Barfield | DCCM
1701 Southwest Parkway, Suite 111
College Station, TX 77840
Phone: 979-703-1809

July 5, 2023

PREPARED BY:

Jeffrey N. Lehde, M.S., BCMA
ISA Board-Certified Master Arborist #TX-1113B
Plant People, LLC
P.O. Box 30
Wellborn, TX 77881
(Off.) 979-224-3916



PLANT PEOPLE, LLC

P.O. Box 9662 College Station, TX 77842 – Office 979.224.3916 – Fax 979.693.3740

Summary of Proposals

Client:	Binkley & Barfield	Date:	July 5, 2023
Mailing Address:	1701 Southwest Parkway Suite 111 College Station, TX 77840	Arborist:	Jeff Lehde
Contact #:	Eleanor R. Rivera (979) 703-1809	License #:	TX1113B
			erivera@binkleybarfield.com

Work Location: Marion Pugh Street, College Station, TX

Proposal Summary

Tree Inventory	\$ 1,800.00
Design Phase	\$10,140.00
Construction Phase	\$14,690.00

Total \$ 26,630.00*

Owner's Approval

Arborist Signature

*Prices do not include tax. Sales tax will be added where applicable. Prices quoted are valid for thirty days.
All accounts are net payable upon receipt of invoice.



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Proposal

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Mailing Address:	1701 Southwest Parkway Suite 111 College Station, TX 77840	Arborist: License #:	Jeff Lehde TX1113B
Contact #:	Eleanor R. Rivera (979) 703-1809	erivera@binkleybarfield.com	

Work Location: Marion Pugh Street, College Station, TX

Tree Inventory

Collect tree data for approximately 100 trees that may be impacted by construction. Data collection will include tree diameter, species, and other descriptive attributes to help determine tree preservation requirements. Each tree will be tagged with a unique numerical identification marker for the surveyor to locate. The tree data will be submitted electronically in spreadsheet format. It is assumed that right of entry to access trees on private property will be provided by the project owner.

\$ 1,800.00

Work not included in the scope of this proposal or required as a result of a change order will require an additional proposal.

Total \$ 1,800.00*

Owner's Approval

Arborist Signature

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Proposal

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		License #:	TX1113B
Contact #:	Eleanor R. Rivera (979) 703-1809	erivera@binkleybarfield.com	

Work Location: Marion Pugh Street, College Station, TX

Design Phase Work Scope

Public Meetings – Attend two public meetings, provide advice regarding tree impacts, and submit written recommendations to the design firm to address the tree related concerns from each meeting. (Billed hourly assuming 2 meetings)	\$ 1,040.00
PS&E – Review initial alignment plans and attend on site meetings to discuss installation impacts and tree preservation requirements.	\$ 2,080.00
60% Design Review – Review tree survey and alignment plans to identify impacted trees. Make onsite inspections to confirm conflicts and provide tree protection/treatment recommendations for individual trees impacted.	\$ 3,120.00
90% Project Review – Attend on site meetings to discuss recommendations in 60% design review and resolve any conflicts related to tree protection recommendations.	\$1,040.00
Technical Drawings & Specifications – Provide tree protection treatment drawings and specifications for this project. (Binkley & Barfield will format drawings for the plans).	\$ 1,560.00
Budget Estimate – Provide budget estimates for tree protection/treatment recommendations.	\$ 650.00
Final Review – Review any City comments and provide finalized tree protection measures, special specifications, and cost estimates.	\$ 650.00

Work not included in the scope of this proposal or required as a result of a change order will require an additional proposal.

Total \$ 10,140.00*

Owner's Approval

Arborist Signature

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Proposal

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Contact #:	Eleanor R. Rivera (979) 703-1809	erivera@binkleybarfield.com	

Work Location: Marion Pugh Street, College Station, TX

Construction Phase Work Scope

Attend Pre-Bid Meeting.	\$ 520.00
Attend Pre-Construction Meeting.	\$ 520.00
Submittal Review – Review tree protection submittals from Contractor and provide feedback to Design firm.	\$ 650.00
Site Consultation – Meet with contractor during the construction phase monthly, or as requested to address construction conflicts with tree preservation requirements.	\$ 6,240.00
Weekly Site Inspections – Provide 26 bi-weekly site inspections for compliance with required tree preservation measures.	\$ 6,760.00

Work not included in the scope of this proposal or required as a result of a change order will require an additional proposal.

Total \$ 14,690.00*

Owner's Approval

Arborist Signature

*Prices do not include tax. Sales tax will be added where applicable. Prices quoted are valid for thirty days.
All accounts are net payable upon receipt of invoice.

Attachment E

Eddie Hare Accessibility Specialist Standard Services and Fees

EDDIE HARE-ACCESSIBILITY SPECIALIST
TDLR/TAS Registered Accessibility Specialist #0008
5855 Foster Road * Bryan, Texas 77807
ehare@eddiehare.com
(979) 775-6850 office * (979) 820-0149 cell

REVISED

January 2022

What and How to Submit a Project for Registration and/or Review

- I.** Any project with an estimated cost of \$50,000.00 or more is required to be registered, reviewed, and inspected to ensure compliance with the Architectural Barrier Free Act.
Texas Department of Licensing and Regulation under the authority of Texas Government Code, Chapter 469.
- II.** A complete submittal consists of the following:
- Complete set of construction documents (Architectural/Civils/Mechanical/Specifications), all in electronic pdf content, less than 30mb per submittal.
 - A check made out to EDDIE HARE-ACCESSIBILITY SPECIALIST (see the fee schedule below) ** or use the credit card payment option. (Ask for a credit card authorization form).
 - Please submit project registration or the completed registration form for us to register for you, owners designated form and proof of submission, see the TDLR website to download or email us for the forms needed for your project.
 - Forms and copies of the TAS Standards and/or Administrated Rules can be downloaded from the TDLR web site @ <https://www.tdlr.texas.gov>

III. Fee schedule is as follows:

Cost of Project	Registration fee	Plan Review	Inspection (100 total miles included)
\$50,000.00-199,999.00	\$175.00	\$350.00	\$400.00
\$200,000.00-499,999.00	\$175.00	\$450.00	\$450.00
\$500,000.00-999,999.00	\$175.00	\$500.00	\$500.00
\$1,000,000.00-4,999,999.00	\$175.00	\$600.00	\$600.00
\$5,000,000.00-9,999,999.00	\$175.00	\$650.00	\$650.00
\$10,000,000.00-14,999,999.00	\$175.00	\$750.00	\$750.00
\$15,000,000.00-24,999,999.00	\$175.00	\$850.00	\$850.00
Over \$25,000,000.00	\$175.00	\$950.00	\$950.00

(the registration fee is paid to TDLR and is not refundable)

Inspection service fees include a 50-mile radius of the Bryan/College Station area in excess of the 100-mile round trip is per quote. Upon request, re-inspection of a Disapproved project is \$175.00 an hour-2-hours min., plus expenses. Preliminary Plan Review or an Accessibility Survey or a Plan Revision Review is also \$175.00 an hour-2-hour min., plus expenses and/or travel.

If urgent attention is needed, please call my mobile# 979-820-0149. You may reach us via e-mail at:
ehare@eddiehare.com or jhare@eddiehare.com

THE TEXAS DEPARTMENT OF LICENSING AND REGULATION CAN BE REACHED AT THE FOLLOWING:

P.O. Box 12157 Austin, Texas 78711 or 512-463-6599 * 800-803-9202 or at the TDLR Web-site
<https://www.tdlr.texas.gov> or email techinfo@tdlr.texas.gov

THE REVIEW OF DOCUMENTS AS CONTRACT DOCUMENTS AND FIELD INSPECTIONS, BY THIS REGISTERED ACCESSIBILITY SPECIALIST, EDDIE HARE, FOR THE TEXAS DEPARTMENT OF LICENSING AND REGULATION (TDLR), AUSTIN, TEXAS, IS BASED ON BEST EFFORTS ENDEAVOR FOLLOWING INSTRUCTION AND CERTIFICATION BY BOTH TDLR AND ICBO. PLAN REVIEW AND INSPECTION IN NO WAY WARRANTS COMPLETE COMPLIANCE TO THE TEXAS ACCESSIBILITY STANDARDS. THIS BUSINESS, THE PROFESSIONAL, HIS EMPLOYEES, AND CLIENT FOR WHOM THE REVIEW OR INSPECTION IS MADE AGREES TO HOLD HARMLESS AND INDEMNIFY THE REGISTERED ACCESSIBILITY SPECIALIST, EDDIE HARE, AND THE TDLR FROM AND AGAINST ANY LIABILITY ARISING FROM THE PERFORMANCE OF THE WORK

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:

Total Project Fee per attached proposal...\$ 709,136.00

EXHIBIT C
CERTIFICATE(S) OF INSURANCE

ACORD™

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

8/01/2023

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		CONTACT NAME: Kellie Hogan	
Propel Insurance		PHONE (A/C, No, Ext): 800 499-0933	FAX (A/C, No): 866 577-1326
1201 Pacific Avenue; Suite 1000		E-MAIL ADDRESS: kellie.hogan@propelinsurance.com	
COM Middle Market		INSURER(S) AFFORDING COVERAGE	
Tacoma, WA 98402-4321		INSURER A : American Guarantee and Liability Ins.Co	
		INSURER B : Zurich American Insurance Company	
		INSURER C : Evanston Insurance Company	
		INSURER D :	
		INSURER E :	
		INSURER F :	
INSURED		NAIC #	
Binkley & Barfield Inc.		26247	
DCCM LLC		16535	
1710 Seamist Dr.		35378	
Houston, TX 77008			

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 INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ BI/PD Ded:2,000 GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☒ PRO-JECT ☐ LOC OTHER:			GLO872027300	06/30/2023	06/30/2024	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$100,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
B	AUTOMOBILE LIABILITY ☒ ANY AUTO OWNED AUTOS ONLY ☒ HIRED AUTOS ONLY ☐ SCHEDULED AUTOS NON-OWNED AUTOS ONLY			BAP872024400	06/30/2023	06/30/2024	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 \$			SXS808437600	06/30/2023	06/30/2024	EACH OCCURRENCE \$10,000,000 AGGREGATE \$10,000,000 \$
B	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	WC872027200	06/30/2023	06/30/2024	☒ 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
C	Professional, Pol			MKLV7PL0006013	08/06/2023	06/30/2024	\$5,000,000 CLM \$10,000,000 Agg.

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

RE: Marion Pugh Rehab City of College Station Additional Insured Status applies per attached form(s).

Primary non-contributory applies per attached form(s). Waiver of Subrogation applies per attached form(s).

CERTIFICATE HOLDER

CANCELLATION

City of College Station
PO 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

Matthew A. [Signature]

This page has been left blank intentionally.



Additional Insured – Owners, Lessees Or Contractors – Completed Operations

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Policy No. GLO872027300

Effective Date: 06.30.2023

This endorsement modifies insurance provided under the:

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, OTHER THAN AN ARCHITECT, ENGINEER OR SURVEYOR, WHOM YOU ARE REQUIRED TO ADD AS AN ADDITIONAL INSURED UNDER THIS POLICY UNDER A WRITTEN CONTRACT OR WRITTEN AGREEMENT EXECUTED PRIOR TO LOSS.	ANY LOCATION OR PROJECT, OTHER THAN A WRAP-UP OR OTHER CONSOLIDATED INSURANCE PROGRAM LOCATION OR PROJECT FOR WHICH INSURANCE IS OTHERWISE SEPARATELY PROVIDED TO YOU BY A WRAP-UP OR OTHER CONSOLIDATED INSURANCE PROGRAM

Section II – **Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule of this endorsement, 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 such Schedule, performed for that additional insured and included in the "products-completed operations hazard".

All other terms, conditions, provisions and exclusions of this policy remain the same.



Additional Insured – Owners, Lessees Or Contractors – Scheduled Person Or Organization

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Policy No. GLO872027300

Effective Date: 06.30.2023

This endorsement modifies insurance provided under the:

Commercial General Liability Coverage Part

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location(s) Of Covered Operations
ANY PERSON OR ORGANIZATION, OTHER THAN AN ARCHITECT, ENGINEER OR SURVEYOR, WHOM YOU ARE REQUIRED TO ADD AS AN ADDITIONAL INSURED UNDER THIS POLICY UNDER A WRITTEN CONTRACT OR WRITTEN AGREEMENT EXECUTED PRIOR TO LOSS.	ANY LOCATION OR PROJECT, OTHER THAN A WRAP-UP OR OTHER CONSOLIDATED INSURANCE PROGRAM LOCATION OR PROJECT FOR WHICH INSURANCE IS OTHERWISE SEPARATELY PROVIDED TO YOU BY A WRAP-UP OR OTHER CONSOLIDATED INSURANCE PROGRAM

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 of this endorsement, 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 in such Schedule.

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.

All other terms, conditions, provisions and exclusions of this policy remain the same.

Other Insurance Amendment – Primary And Non-Contributory



Policy No.	Eff. Date of Pol.	Exp. Date of Pol.	Eff. Date of End.	Producer No.	Add'l. Prem	Return Prem.
GLO872027300	6.30.2023	6.30.2024	6.30.2023			

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Named Insured:

Address (including ZIP Code):

This endorsement modifies insurance provided under the:

Commercial General Liability Coverage Part

1. The following paragraph is added to the Other Insurance Condition of Section IV – Commercial General Liability Conditions:

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

- a. The additional insured is a Named Insured under such other insurance; and
- b. You are required by a written contract or written agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

2. The following paragraph is added to Paragraph 4.b. of the Other Insurance Condition of Section IV – Commercial General Liability Conditions:

This insurance is excess over:

Any of the other insurance, whether primary, excess, contingent or on any other basis, available to an additional insured, in which the additional insured on our policy is also covered as an additional insured on another policy providing coverage for the same "occurrence", offense, claim or "suit". This provision does not apply to any policy in which the additional insured is a Named Insured on such other policy and where our policy is required by written contract or written agreement to provide coverage to the additional insured on a primary and non-contributory basis.

All other terms and conditions of this policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**WAIVER OF TRANSFER OF RIGHTS OF RECOVERY
AGAINST OTHERS TO US (WAIVER OF SUBROGATION) –
AUTOMATIC**

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

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 any person or organization, because of any payment we make under this Coverage Part, to whom the insured has waived its right of recovery in a written contract or agreement. Such waiver by us applies only to the extent that the insured has waived its right of recovery against such person or organization prior to loss.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DESIGNATED CONSTRUCTION PROJECT(S) GENERAL AGGREGATE LIMIT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Designated Construction Project(s):

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

- A.** For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under Section **I** – Coverage **A**, and for all medical expenses caused by accidents under Section **I** – Coverage **C**, which can be attributed only to ongoing operations at a single designated construction project shown in the Schedule above:
- 1.** A separate Designated Construction Project General Aggregate Limit applies to each designated construction project, and that limit is equal to the amount of the General Aggregate Limit shown in the Declarations.
 - 2.** The Designated Construction Project General Aggregate Limit is the most we will pay for the sum of all damages under Coverage **A**, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard", and for medical expenses under Coverage **C** regardless of the number of:
 - a.** Insureds;
 - b.** Claims made or "suits" brought; or
 - c.** Persons or organizations making claims or bringing "suits".
 - 3.** Any payments made under Coverage **A** for damages or under Coverage **C** for medical expenses shall reduce the Designated Construction Project General Aggregate Limit for that designated construction project. Such payments shall not reduce the General Aggregate Limit shown in the Declarations nor shall they reduce any other Designated Construction Project General Aggregate Limit for any other designated construction project shown in the Schedule above.
 - 4.** The limits shown in the Declarations for Each Occurrence, Damage To Premises Rented To You and Medical Expense continue to apply. However, instead of being subject to the General Aggregate Limit shown in the Declarations, such limits will be subject to the applicable Designated Construction Project General Aggregate Limit.

- B.** For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under Section I – Coverage **A**, and for all medical expenses caused by accidents under Section I – Coverage **C**, which cannot be attributed only to ongoing operations at a single designated construction project shown in the Schedule above:
- 1.** Any payments made under Coverage **A** for damages or under Coverage **C** for medical expenses shall reduce the amount available under the General Aggregate Limit or the Products-completed Operations Aggregate Limit, whichever is applicable; and
 - 2.** Such payments shall not reduce any Designated Construction Project General Aggregate Limit.
- C.** When coverage for liability arising out of the "products-completed operations hazard" is provided, any payments for damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard" will reduce the Products-completed Operations Aggregate Limit, and not reduce the General Aggregate Limit nor the Designated Construction Project General Aggregate Limit.
- D.** If the applicable designated construction project has been abandoned, delayed, or abandoned and then restarted, or if the authorized contracting parties deviate from plans, blueprints, designs, specifications or timetables, the project will still be deemed to be the same construction project.
- E.** The provisions of Section III – Limits Of Insurance not otherwise modified by this endorsement shall continue to apply as stipulated.



Coverage Extension Endorsement

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Policy No. BAP872027400

Effective Date: 6.30.2023

This endorsement modifies insurance provided under the:

Business Auto Coverage Form
Motor Carrier Coverage Form

A. Amended Who Is An Insured

1. The following is added to the **Who Is An Insured** Provision in **Section II – Covered Autos Liability Coverage**:

The following are also "insureds":

- Any "employee" of yours is an "insured" while using a covered "auto" you don't own, hire or borrow for acts performed within the scope of employment by you. Any "employee" of yours is also an "insured" while operating an "auto" hired or rented under a contract or agreement in an "employee's" name, with your permission, while performing duties related to the conduct of your business.
- Anyone volunteering services to you is an "insured" while using a covered "auto" you don't own, hire or borrow to transport your clients or other persons in activities necessary to your business.
- Anyone else who furnishes an "auto" referenced in Paragraphs **A.1.a.** and **A.1.b.** in this endorsement.
- Where and to the extent permitted by law, any person(s) or organization(s) where required by written contract or written agreement with you executed prior to any "accident", including those person(s) or organization(s) directing your work pursuant to such written contract or written agreement with you, provided the "accident" arises out of operations governed by such contract or agreement and only up to the limits required in the written contract or written agreement, or the Limits of Insurance shown in the Declarations, whichever is less.

2. The following is added to the **Other Insurance** Condition in the Business Auto Coverage Form and the **Other Insurance – Primary and Excess Insurance Provisions Condition** in the Motor Carrier Coverage Form:

Coverage for any person(s) or organization(s), where required by written contract or written agreement with you executed prior to any "accident", will apply on a primary and non-contributory basis and any insurance maintained by the additional "insured" will apply on an excess basis. However, in no event will this coverage extend beyond the terms and conditions of the Coverage Form.

B. Amendment – Supplementary Payments

Paragraphs **a.(2)** and **a.(4)** of the **Coverage Extensions** Provision in **Section II – Covered Autos Liability Coverage** are replaced by the following:

- Up to \$5,000 for the cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.
- All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$500 a day because of time off from work.

C. Fellow Employee Coverage

The **Fellow Employee** Exclusion contained in **Section II – Covered Autos Liability Coverage** does not apply.

D. Driver Safety Program Liability and Physical Damage Coverage

1. The following is added to the **Racing** Exclusion in **Section II – Covered Autos Liability Coverage**:

This exclusion does not apply to covered "autos" participating in a driver safety program event, such as, but not limited to, auto or truck rodeos and other auto or truck agility demonstrations.

2. The following is added to Paragraph 2. in **B. Exclusions** of **Section III – Physical Damage Coverage** of the Business Auto Coverage Form and Paragraph 2.b. in **B. Exclusions** of **Section IV – Physical Damage Coverage** of the Motor Carrier Coverage Form:

This exclusion does not apply to covered "autos" participating in a driver safety program event, such as, but not limited to, auto or truck rodeos and other auto or truck agility demonstrations.

E. Lease or Loan Gap Coverage

The following is added to the **Coverage** Provision of the **Physical Damage Coverage** Section:

Lease Or Loan Gap Coverage

In the event of a total "loss" to a covered "auto", we will pay any unpaid amount due on the lease or loan for a covered "auto", less:

- a. Any amount paid under the **Physical Damage Coverage** Section of the Coverage Form; and
- b. Any:
 - (1) Overdue lease or 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 leases or loans.

F. Towing and Labor

Paragraph **A.2.** of the **Physical Damage Coverage** Section is replaced by the following:

We will pay up to \$75 for towing and labor costs incurred each time a covered "auto" that is a "private passenger type", light truck or medium truck is disabled. However, the labor must be performed at the place of disablement.

As used in this provision, "private passenger type" means a private passenger or station wagon type "auto" and includes an "auto" of the pickup or van type if not used for business purposes.

G. Extended Glass Coverage

The following is added to Paragraph **A.3.a.** of the **Physical Damage Coverage** Section:

If glass must be replaced, the deductible shown in the Declarations will apply. However, if glass can be repaired and is actually repaired rather than replaced, the deductible will be waived. You have the option of having the glass repaired rather than replaced.

H. Hired Auto Physical Damage – Increased Loss of Use Expenses

The **Coverage Extension** for **Loss Of Use Expenses** in the **Physical Damage Coverage** Section is replaced by the following:

Loss Of Use Expenses

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

- (1) Other than collision only if the Declarations indicate that Comprehensive Coverage is provided for any covered "auto";

- (2) Specified Causes Of Loss only if the Declarations indicate that Specified Causes Of Loss Coverage is provided for any covered "auto"; or
 - (3) Collision only if the Declarations indicate that Collision Coverage is provided for any covered "auto".
- However, the most we will pay for any expenses for loss of use is \$100 per day, to a maximum of \$3000.

I. Personal Effects Coverage

The following is added to the **Coverage** Provision of the **Physical Damage Coverage** Section:

Personal Effects Coverage

- a. We will pay up to \$750 for "loss" to personal effects which are:
 - (1) Personal property owned by an "insured"; and
 - (2) In or on a covered "auto".
- b. Subject to Paragraph a. above, the amount to be paid for "loss" to personal effects will be based on the lesser of:
 - (1) The reasonable cost to replace; or
 - (2) The actual cash value.
- c. The coverage provided in Paragraphs a. and b. above, only applies in the event of a total theft of a covered "auto". No deductible applies to this coverage. However, we will not pay for "loss" to personal effects of any of the following:
 - (1) Accounts, bills, currency, deeds, evidence of debt, money, notes, securities, or commercial paper or other documents of value.
 - (2) Bullion, gold, silver, platinum, or other precious alloys or metals; furs or fur garments; jewelry, watches, precious or semi-precious stones.
 - (3) Paintings, statuary and other works of art.
 - (4) Contraband or property in the course of illegal transportation or trade.
 - (5) Tapes, records, discs or other similar devices used with audio, visual or data electronic equipment.

Any coverage provided by this Provision is excess over any other insurance coverage available for the same "loss".

J. Tapes, Records and Discs Coverage

- 1. The Exclusion in Paragraph B.4.a. of **Section III – Physical Damage Coverage** in the Business Auto Coverage Form and the Exclusion in Paragraph B.2.c. of **Section IV – Physical Damage Coverage** in the Motor Carrier Coverage Form does not apply.
- 2. The following is added to Paragraph 1.a. **Comprehensive Coverage** under the **Coverage** Provision of the **Physical Damage Coverage** Section:

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

- (a) Are the property of an "insured"; and
- (b) Are in a covered "auto" at the time of "loss".

The most we will pay for such "loss" to tapes, records, discs or other similar devices is \$500. The **Physical Damage Coverage Deductible** Provision does not apply to such "loss".

K. Airbag Coverage

The Exclusion in Paragraph B.3.a. of **Section III – Physical Damage Coverage** in the Business Auto Coverage Form and the Exclusion in Paragraph B.4.a. of **Section IV – Physical Damage Coverage** in the Motor Carrier Coverage Form does not apply to the accidental discharge of an airbag.

L. Two or More Deductibles

The following is added to the **Deductible** Provision of the **Physical Damage Coverage** Section:

If an accident is covered both by this policy or Coverage Form and by another policy or Coverage Form issued to you by us, the following applies for each covered "auto" on a per vehicle basis:

1. If the deductible on this policy or Coverage Form is the smaller (or smallest) deductible, it will be waived; or
2. If the deductible on this policy or Coverage Form is not the smaller (or smallest) deductible, it will be reduced by the amount of the smaller (or smallest) deductible.

M. Temporary Substitute Autos – Physical Damage

1. The following is added to **Section I – Covered Autos**:

Temporary Substitute Autos – Physical Damage

If Physical Damage Coverage is provided by this Coverage Form on your owned covered "autos", the following types of vehicles are also covered "autos" for Physical Damage Coverage:

Any "auto" you do not own when used with the permission of its owner as a temporary substitute for a covered "auto" you do own but is out of service because of its:

1. Breakdown;
 2. Repair;
 3. Servicing;
 4. "Loss"; or
 5. Destruction.
2. The following is added to the Paragraph **A. Coverage** Provision of the **Physical Damage Coverage** Section:

Temporary Substitute Autos – Physical Damage

We will pay the owner for "loss" to the temporary substitute "auto" unless the "loss" results from fraudulent acts or omissions on your part. If we make any payment to the owner, we will obtain the owner's rights against any other party.

The deductible for the temporary substitute "auto" will be the same as the deductible for the covered "auto" it replaces.

N. Amended Duties In The Event Of Accident, Claim, Suit Or Loss

Paragraph **a.** of the **Duties In The Event Of Accident, Claim, Suit Or Loss** Condition is replaced by the following:

- a. In the event of "accident", claim, "suit" or "loss", you must give us or our authorized representative prompt notice of the "accident", claim, "suit" or "loss". However, these duties only apply when the "accident", claim, "suit" or "loss" is known to you (if you are an individual), a partner (if you are a partnership), a member (if you are a limited liability company) or an executive officer or insurance manager (if you are a corporation). The failure of any agent, servant or employee of the "insured" to notify us of any "accident", claim, "suit" or "loss" shall not invalidate the insurance afforded by this policy.

Include, as soon as practicable:

- (1) How, when and where the "accident" or "loss" occurred and if a claim is made or "suit" is brought, written notice of the claim or "suit" including, but not limited to, the date and details of such claim or "suit";
- (2) The "insured's" name and address; and
- (3) To the extent possible, the names and addresses of any injured persons and witnesses.

If you report an "accident", claim, "suit" or "loss" to another insurer when you should have reported to us, your failure to report to us will not be seen as a violation of these amended duties provided you give us notice as soon as practicable after the fact of the delay becomes known to you.

O. Waiver of Transfer Of Rights Of Recovery Against Others To Us

The following is added to the **Transfer Of Rights Of Recovery Against Others To Us** Condition:

This Condition does not apply to the extent required of you by a written contract, executed prior to any "accident" or "loss", provided that the "accident" or "loss" arises out of operations contemplated by such contract. This waiver only applies to the person or organization designated in the contract.

P. Employee Hired Autos – Physical Damage

Paragraph **b.** of the **Other Insurance** Condition in the Business Auto Coverage Form and Paragraph **f.** of the **Other Insurance – Primary and Excess Insurance Provisions** Condition in the Motor Carrier Coverage Form are replaced by the following:

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

- (1) Any covered "auto" you lease, hire, rent or borrow; and
- (2) Any covered "auto" hired or rented under a written contract or written agreement entered into by an "employee" or elected or appointed official with your permission while being operated within the course and scope of that "employee's" employment by you or that elected or appointed official's duties as respect their obligations to you.

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

Q. Unintentional Failure to Disclose Hazards

The following is added to the **Concealment, Misrepresentation Or Fraud** Condition:

However, we will not deny coverage under this Coverage Form if you unintentionally:

- (1) Fail to disclose any hazards existing at the inception date of this Coverage Form; or
- (2) Make an error, omission, improper description of "autos" or other misstatement of information.

You must notify us as soon as possible after the discovery of any hazards or any other information that was not provided to us prior to the acceptance of this policy.

R. Hired Auto – World Wide Coverage

Paragraph **7.b.(5)** of the **Policy Period, Coverage Territory** Condition is replaced by the following:

- (5) Anywhere else in the world if a covered "auto" is leased, hired, rented or borrowed for a period of 60 days or less,

S. Bodily Injury Redefined

The definition of "bodily injury" in the **Definitions** Section is replaced by the following:

"Bodily injury" means bodily injury, sickness or disease, sustained by a person including death or mental anguish, resulting from any of these at any time. Mental anguish means any type of mental or emotional illness or disease.

T. Expected Or Intended Injury

The **Expected Or Intended Injury** Exclusion in Paragraph **B. Exclusions** under **Section II – Covered Auto Liability Coverage** is replaced by the following:

Expected Or Intended Injury

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

U. Physical Damage – Additional Temporary Transportation Expense Coverage

Paragraph **A.4.a.** of **Section III – Physical Damage Coverage** is replaced by the following:

4. Coverage Extensions

a. Transportation Expenses

We will pay up to \$50 per day to a maximum of \$1,000 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type. We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Causes of Loss Coverage. We will pay for temporary transportation expenses incurred during the period beginning 48 hours after the theft and ending, regardless of the policy's expiration, when the covered "auto" is returned to use or we pay for its "loss".

V. Replacement of a Private Passenger Auto with a Hybrid or Alternative Fuel Source Auto

The following is added to Paragraph **A. Coverage** of the **Physical Damage Coverage** Section:

In the event of a total "loss" to a covered "auto" of the private passenger type that is replaced with a hybrid "auto" or "auto" powered by an alternative fuel source of the private passenger type, we will pay an additional 10% of the cost of the replacement "auto", excluding tax, title, license, other fees and any aftermarket vehicle upgrades, up to a maximum of \$2500. The covered "auto" must be replaced by a hybrid "auto" or an "auto" powered by an alternative fuel source within 60 calendar days of the payment of the "loss" and evidenced by a bill of sale or new vehicle lease agreement.

To qualify as a hybrid "auto", the "auto" must be powered by a conventional gasoline engine and another source of propulsion power. The other source of propulsion power must be electric, hydrogen, propane, solar or natural gas, either compressed or liquefied. To qualify as an "auto" powered by an alternative fuel source, the "auto" must be powered by a source of propulsion power other than a conventional gasoline engine. An "auto" solely propelled by biofuel, gasoline or diesel fuel or any blend thereof is not an "auto" powered by an alternative fuel source.

W. Return of Stolen Automobile

The following is added to the **Coverage Extension** Provision of the **Physical Damage Coverage** Section:

If a covered "auto" is stolen and recovered, we will pay the cost of transport to return the "auto" to you. We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Causes of Loss Coverage.

All other terms, conditions, provisions and exclusions of this policy remain the same.



Blanket Notification To Others Of Cancellation

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Policy No. GLO872027300

Effective Date: 06.30.2023

This endorsement modifies insurance provided under the:

Commercial General Liability Coverage Part

- A.** If we cancel this Coverage Part by written notice to the first Named Insured for any reason other than nonpayment of premium, we will deliver electronic notification that such Coverage Part has been cancelled to each person or organization shown in a Schedule provided to us by the First Named Insured. Such Schedule:
1. Must be initially provided to us within 15 days:
 - a. After the beginning of the policy period shown in the Declarations; or
 - b. After this endorsement has been added to policy;
 2. Must contain the names and e-mail addresses of only the persons or organizations requiring notification that such Coverage Part has been cancelled;
 3. Must be in an electronic format that is acceptable to us; and
 4. Must be accurate.
- Such Schedule may be updated and provided to us by the First Named Insured during the policy period. Such updated Schedule must comply with Paragraphs **2.** **3.** and **4.** above.
- B.** Our delivery of the electronic notification as described in Paragraph **A.** of this endorsement will be based on the most recent Schedule in our records as of the date the notice of cancellation is mailed or delivered to the first Named Insured. Delivery of the notification as described in Paragraph **A.** of this endorsement will be completed as soon as practicable after the effective date of cancellation to the first Named Insured.
- C.** Proof of e-mailing the electronic notification will be sufficient proof that we have complied with Paragraphs **A.** and **B.** of this endorsement.
- D.** Our delivery of electronic notification described in Paragraphs **A.** and **B.** of this endorsement is intended as a courtesy only. Our failure to provide such delivery of electronic notification will not:
1. Extend the Coverage Part cancellation date;
 2. Negate the cancellation; or
 3. Provide any additional insurance that would not have been provided in the absence of this endorsement.
- E.** We are not responsible for the accuracy, integrity, timeliness and validity of information contained in the Schedule provided to us as described in Paragraphs **A.** and **B.** of this endorsement.

All other terms, conditions, provisions and exclusions of this policy remain the same.

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

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 anyone not named in the Schedule.

Schedule

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement

Effective Policy No. WC872027200

Endorsement No.

Insured DCCM LLC

Premium \$

Insurance Company

Countersigned by _____

Zurich American Insurance Company

WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE POLICY

WC 04 03 06 (Ed. 4-84)

**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT—
CALIFORNIA**

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 06.30.2023 (DATE) at 12:01 A.M. standard time, forms a part of

Policy No.WC872027200

Endorsement No.

of the Zurich American Insurance Company

(NAME OF INSURANCE COMPANY)

issued to DCCM LLC

Premium (if any) \$

Authorized Representative

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.)

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

The additional premium for this endorsement shall be % of the California workers' compensation premium otherwise due on such remuneration.

Schedule

Person or Organization

Blanket Waiver of Subrogation

Job Description

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:

3. Premium:

The premium charge for this endorsement shall be _____ 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:

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective 06.30.2023
Insured

Policy No. WC872027200

Endorsement No.
Premium

Insurance Company

Countersigned by _____

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Project Location Map

Marion Pugh

Luther St to George Bush Dr

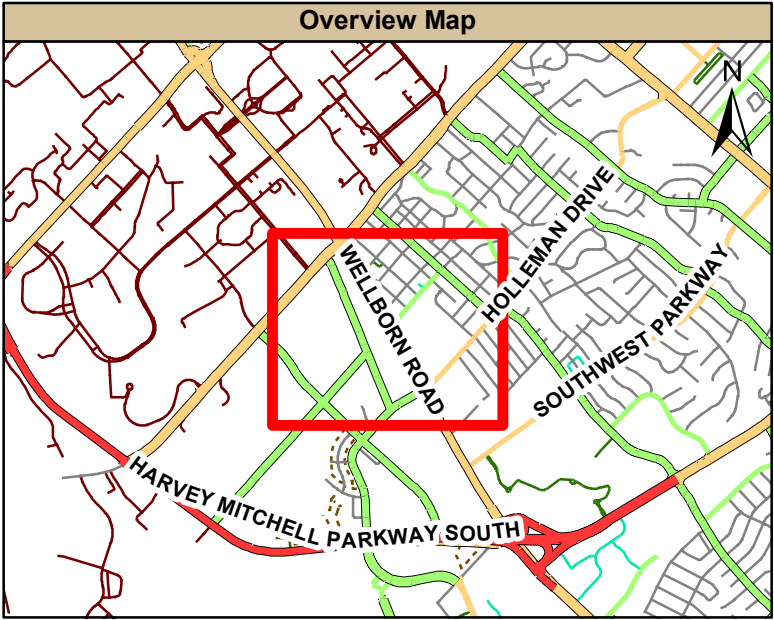
ST1902 WA2301

Legend

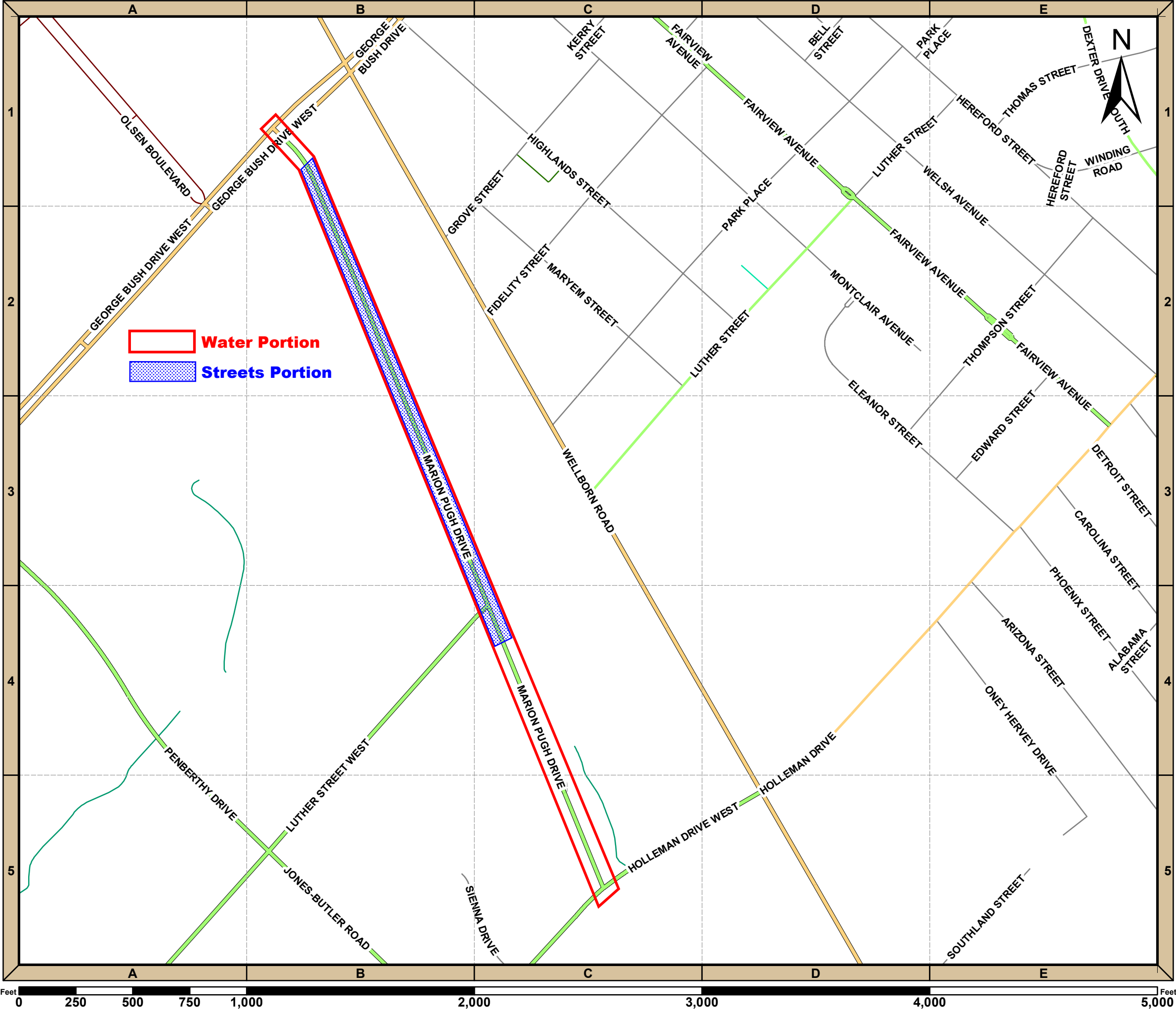
Streets

Functional Classification

- MAJOR ARTERIAL
- MAJOR COLLECTOR
- MINOR ARTERIAL
- MINOR COLLECTOR
- LOCAL STREET
- PRIVATE STREET
- TAMU
- ACCESS ROADS
- Trail



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September 14, 2023

Item No. 7.4.

Investment Policy/Broker-Dealer List/Strategy Resolution Fiscal Year 2024

Sponsor: Mary Ellen Leonard, Director of Fiscal Services

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action on a resolution approving the City's investment policy, reviewing and recording changes to such policy and strategy, approving a collateral policy, and designating investment officers for the fiscal year ending September 30, 2024, stating that the City Council has reviewed and approved the City's investment policy, broker-dealer list and investment strategy.

Relationship to Strategic Goals:

Good Governance

Financial Sustainability

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

Summary: The Public Funds Investment Act requires an annual review and approval of the City's investment policy and investment strategies. The Act further requires the following:

(1) that the governing body adopt a written instrument by rule, order, ordinance, or resolution stating that it has reviewed the investment policy and investment strategies, and

(2) that the written instrument so adopted records any changes to either the investment policy or investment strategies.

The City of College Station's investment policy is recommended with the following changes from the previous year:

(1) Addition of Texas Class/Texas Class Govt as an authorized local government investment pool.

The proposed list of Broker/Dealers/Advisors for the City to do business with are:

- o FHN Financial
- o Hilltop Securities, Inc.
- o Cantor Fitzgerald & Company
- o Truist Securities
- o American Momentum (CD's only)

The proposed list of depository banks for the City to do business with are:

- o Truist Bank
- o JPMorgan Chase Bank, N.A.

As part of the City's Investment Policy, the Council is to review, approve and adopt any modifications to the list.

Budget & Financial Summary: None

Attachments:

1. Resolution adopting Investment Policy Strategy FY 24

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, APPROVING THE CITY'S INVESTMENT POLICY; THE CITY'S INVESTMENT STRATEGY; REVIEWING AND RECORDING CHANGES TO SUCH POLICY AND STRATEGY; APPROVING A COLLATERAL POLICY; AND DESIGNATING INVESTMENT OFFICERS FOR FISCAL YEAR ENDING SEPTEMBER 30, 2024; AND CONTAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER.

WHEREAS, it is a paramount goal of the City of College Station, Texas ("City") to ensure the financial integrity of the City and to meet all legal requirements associated with the safekeeping and investing of its funds; and

WHEREAS, in accordance with the Public Funds Investment Act, Chapter 2256, Texas Government Code, the City council must adopt an investment policy and investment strategies; and

WHEREAS, Section 2256.005, Texas Government Code requires the City Council to review the investment policies and investment strategies not less than annually and to adopt a resolution or order stating the review has been completed and recording any changes made to either the investment policies or investment strategies; and

WHEREAS, the Investment Policy for Fiscal Year 2024 designates the Assistant City Manager or his Designee(s) as the Investment Officer of the City and authorizes the Investment Officer to carry out the responsibilities of investing the City's funds; and

WHEREAS, the Investment Policy for Fiscal Year 2024 contains the City's Collateral Policy which is required pursuant to Chapter 2257, Texas Government Code; now therefore

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

- PART 1:** That the facts and recitations set forth in the preamble of this Resolution are hereby declared true and correct.
- PART 2:** That the City Council hereby approves the City's Investment Policy, the City's Collateral Policy, the City's Broker/Dealer List and the City's Investment Strategy for Fiscal year 2024, all of which is attached hereto as Exhibit "A"
- PART 3:** That the City Council of the City has completed its review of the investment policy and investment strategies, and any changes made to either the investment policy or investment strategy are recorded in Exhibit "B" hereto.
- PART 4:** That the City Council hereby approves the designation of the Assistant City Manager or his Designee(s) as the Investment Officer of the City and authorizes the Investment Officer to carry out the responsibilities of investing the City's funds consistent with the City's Investment Policy.

PART 5: That this Resolution shall take effect immediately from and after its passage.

ADOPTED this 14th day of September, A.D. 2023.

ATTEST:

APPROVED:

City Secretary

Mayor

APPROVED:

City Attorney

EXHIBIT A

**CITY'S INVESTMENT POLICY, THE CITY'S COLLATERAL POLICY,
THE CITY'S BROKER/DEALER LIST AND THE CITY'S INVESTMENT STRATEGY
FOR FISCAL YEAR 2024**



Investment Strategy and Policy

2024

Approved by Council

September 14, 2023

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INVESTMENT STRATEGY

The City of College Station will pursue a passive investment strategy. Investments will be purchased with the intent of holding to maturity and will only be sold early under exceptional circumstances. In purchasing investments, the investment officer will attempt to follow a ladder strategy to ensure that the portfolio will have at least one investment maturing every month. Investment priorities are as follows:

1. **Suitability** - Any investment allowed under the Investment Policy is suitable.
2. **Preservation and Safety of Principal** - Investments of the City shall be undertaken in a manner that seeks to insure the preservation of capital in the overall portfolio.
3. **Liquidity** - The City's investment portfolio will remain sufficiently liquid to enable the City to meet all operational requirements that might reasonably be anticipated.
4. **Marketability** - Investments should have an active and efficient secondary market to enable the City to liquidate investments prior to the maturity if the need should arise.
5. **Diversification** - The Investment Officer will attempt to maintain a diversified portfolio with regard to security type, financial institution providing the security, and maturity.
6. **Yield** - The City's investment portfolio shall be designed with the objective of attaining the maximum rate of return throughout budgetary and economic cycles, taking into account the City's risk constraints and the cash flow characteristics of the portfolio.

The City of College Station also has an irrevocable trust relating to its Other Post Employment Benefits (OPEB) obligations. The investment strategy for this trust will be dictated by the City's Investment Committee. This trust does not fall under the Texas Public Funds Investment Act. The current investment guideline is attached to this policy as Exhibit A. The future funding of the OPEB liability and trust are attached to this policy as Exhibit B.

CITY OF COLLEGE STATION

INVESTMENT POLICY

The Public Funds Investment Act, Chapter 2256, Texas Government Code, as Amended ("PFIA" herein), requires each city to adopt rules governing its investment practices and to define the authority of the investment officer. The following Investment Policy addresses the methods, procedures, and practices that must be exercised to ensure effective and judicious fiscal management of the City of College Station funds.

I. POLICY

It is the policy of the City of College Station, Texas ("City") to invest public funds in a manner, which will provide the highest investment return with the maximum security while meeting the daily cash flow demands of the City and conforming to all federal, state and local statutes governing the investment of public funds.

II. SCOPE

This investment policy applies to all the financial assets held by the City. These funds are defined in the City's Comprehensive Annual Financial Report (CAFR) and include:

General Fund	Special Revenue Funds
Debt Service Fund	Capital Projects Funds
Enterprise Funds	Internal Service Funds

Any new funds created by the City will be subject to this policy unless specifically exempted by the City Council. To maximize the effective investment of assets, all funds mentioned above will pool their cash balances for investment purposes. The income derived from investing activities will be distributed to the various funds based on calculation of their average balances.

III. INVESTMENT OBJECTIVES

The City of College Station shall manage and invest its cash with three primary objectives, listed in order of priority: **safety, liquidity and yield**. The safety of the principal invested always remains the primary objective.

Safety

Safety of Principal is the foremost objective of the City. Investments of the City shall be undertaken in a manner that seeks to insure the preservation of capital in the overall portfolio.

Liquidity

The City's investment portfolio will remain liquid to enable the City to meet all operational requirements that might reasonably be anticipated.

Yield

The City shall invest funds in investments that earn a competitive market yield consistent with stated objectives. For bond proceeds to which arbitrage restrictions apply, the primary objectives shall be to obtain a fair market yield and to minimize the costs associated with the investment of such funds within the constraints of the investment policy and applicable bond covenants.

IV. RESPONSIBILITY AND CONTROL

Delegation of Authority

The Assistant City Manager or his Designee is designated the City's Investment Officer. The Investment Officer shall be responsible for the investment of funds consistent with this Policy, and shall have the authority necessary to carry out such responsibilities. An investment committee consisting of the Investment Officer and at least two other staff members designated by the City Manager will also be formed. This committee will be responsible for selecting eligible broker/dealers, reviewing, and updating the investment policy annually. All participants in the investment process shall seek to act responsibly as custodians of the public trust.

The Investment Officer shall establish written procedures for the operation of the investment program consistent with this investment policy. No person may engage in an investment transaction except as provided under the terms of this policy and the procedures established by the Investment Officer. The Investment Officer shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinate officials.

Cash Flow Analysis

Supplemental to the financial and budgetary systems, the Investment Officer will maintain a cash flow forecasting process designed to monitor and forecast cash positions for investment purposes. Cash flow analysis will include the historical researching and monitoring of specific cash flow items, payables and receivables as well as overall cash position and patterns.

Training Requirement

In order to ensure the quality and capability of investment management, the Assistant City Manager and the Investment Officer shall:

- attend at least one training session within 12 months of assuming duties *and* containing not less than 10 hours of instruction from an independent source approved by the governing board or a designated investment committee;
- receive training which includes education in investment controls, security risks, strategy risks, market risks, *diversification of the investment portfolio*, and compliance with the PFIA; and
- attend a training session not less than once each state fiscal biennium (beginning on the first day of the fiscal year and consisting of two consecutive fiscal years after that date) and receive not less than 8 hours of training from an independent source approved by the governing board or a designated investment committee.

Internal Controls

The Investment Officer shall establish an annual process of independent review by an external auditor. This review will provide internal control by assuring compliance with policies and procedures. Annually, the City's independent auditors will review quarterly reports for the fiscal year.

Prudence

Investments shall be made with the judgment and care which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

The standard of prudence to be used by investment officials shall be the "prudent person" standard and shall be applied in the context of managing an overall portfolio. Investment officers acting in accordance with written procedures and the investment policy and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes provided deviations from expectations are reported in a timely fashion and appropriate action is taken to control adverse developments.

Ethics and Conflicts of Interest

All participants in the investment process shall seek to act responsibly as custodians of the public trust. Investment officers shall avoid any transactions that might impair public confidence in the City's ability to govern effectively.

Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions. Employees and investment officials shall disclose to the City Manager any material financial interest in financial institutions that conduct business within this jurisdiction, and they shall further disclose any large personal financial/investment positions that could be related to the performance of the City, particularly with regard to the time of purchases and sales. Investment officials will disclose if the Official is related

with the second degree by affinity or consanguinity, as determined under Chapter 573 of the Texas Government Code. Employees and investment officials shall refrain from undertaking personal investment transactions with the same individual with which business is conducted on behalf of the City.

On an annual basis, the Investment officials shall sign a statement acknowledging that they are in compliance with Section 2256.005 (i) of the Public Funds Investment Act.

V. SUITABLE AND AUTHORIZED INVESTMENTS

Portfolio Management

The City currently has a “buy and hold” portfolio strategy. Maturity dates are matched with cash flow requirements and investments are purchased with the intent to be held until maturity.

Investments

Acceptable investments under this policy shall be limited to certain instruments as described by the Government Code; Chapter 2256, Sections 2256.009 through 2256.011 and Sections 2256.013 through 2256.016 of the Public Funds Investment Act. Investment of funds in any instrument or security not authorized for investment under the Act is prohibited.

- **Authorized**

1. Interest bearing bank deposits insured by the FDIC or the National Credit Union Share Insurance Fund.
2. Direct obligations of the United States government: U.S. Treasury Bills, U.S. Treasury Notes, and U.S. Treasury Bonds as well as Bonds or other interest bearing obligations for which the principal and interest are guaranteed by the full faith and credit of the United States government and rated not less than A or its equivalent by at least one nationally recognized investment rating firm.
3. Federal Agencies and Instrumentalities including but not limited to, discount notes, callables and debentures of the Federal National Mortgage Association (FNMA), the Federal Home Loan Bank (FHLB), the Federal Farm Credit Bank (FFCB), and the Federal Home Loan Mortgage Corporation (FHLMC).
4. Time Certificates of Deposit, insured by the Federal Deposit Insurance Corporation (FDIC) or its successor, or the National Credit Union Share Insurance Fund or its successor, in state or national banks. Any deposits exceeding FDIC insurance limits shall be collateralized at 102% of the face amount of the Certificate of Deposit by securities listed in 1 - 2 above and held by the City's custodial bank or the custodial bank of the institution the CD's are held. Bids for Certificates of Deposit may be solicited orally, in writing, electronically or using any combination of these methods.

5. Repurchase Agreements with a defined termination date of 90 days or less collateralized by a combination of cash and securities listed in 1 - 2 above. Collateral must have a minimum market value of 102% of the repurchase agreement, and must be held by the custodian bank or other independent third-party custodian contracted by the City. Bond proceeds may be invested in flexible repurchase agreements with maturity dates not exceeding the expected final project expenditure if a formal bidding process is followed and properly documented for IRS purposes.
6. AAA-rated No-Load Money Market Mutual Funds registered with the Securities and Exchange Commission and comply with SEC Rule 2a-7 .
7. AAA-rated Investment Pools organized under the Texas Interlocal Cooperation Act that follow the requirements in the Public Funds Investment Act and which have been specifically approved by the City.

- **Not Authorized**

The following security types are not permitted:

1. Obligations whose payment represents the coupon payments of the underlying mortgage-backed security collateral and pays no principal (IO's);
2. Obligations whose payment represents the principal stream from the underlying mortgage-backed security collateral and bears no interest (PO's);
3. Collateralized Mortgage Obligations (CMO's) that have a stated final maturity date of greater than 10 years; and
4. Any security, the interest rate of which is determined by an index that adjusts opposite to the changes in the Market index (inverse floaters).

Exemption for Existing Investments

Any investment, which was authorized at the time of purchase, shall not be required to be liquidated.

Loss of Required Rating

If any security that requires a minimum investment rating is downgraded below that minimum rating subsequent to purchase, it will no longer be considered an authorized investment. As a result, the City shall take all prudent measures to liquidate the security in effort to preclude or reduce principal loss. The City will select a different approved broker/dealer each quarter to verify the ratings of securities held. Local Government Pools ratings will be verified quarterly by checking their websites.

VI. INVESTMENT PARAMETERS

Maximum Maturities

To the extent possible, the City will attempt to match its investments with anticipated cash flow requirements. Unless matched to a specific cash flow, the City will not directly invest in securities maturing more than five years from the date of purchase. Additionally, the City will maintain a dollar-weighted average maturity of two years or less.

Diversification

It is the intent of the City to diversify the investment instruments within the portfolio to avoid incurring unreasonable risks inherent in over-investing in specific instruments, individual financial institutions or maturities. The asset allocation in the portfolio should be flexible depending upon the outlook for the economy and the securities markets. If conditions warrant, the guidelines below may be exceeded by approval of the Investment Committee.

With the exception of U.S. Treasury securities, authorized pools, and the City's depository accounts, the City may not invest more than 30% of the City's investment portfolio with a single financial institution. In addition, the following maximum limits, by instrument, are established for the City's total portfolio:

1. U.S. Treasury Securities	100%
2. Agencies and Instrumentalities	70%
3. Certificates of Deposits	40%
4. Money Market Mutual Funds	30%
5. Repurchase Agreements	20%
7. Authorized Pools	70%

VII. FINANCIAL INSTITUTIONS AND DEALERS

Depository

At least every three to five years a Depository shall be selected through the City's banking services procurement process, which shall include a formal request for application (RFA). The selection of a depository will be determined by competitive bid and evaluation of bids will be based on the following selection criteria:

- The ability to qualify as a depository for public funds in accordance with state and local laws.
- The ability to provide requested information or financial statements for the period specified.
- The ability to meet all requirements in the banking RFA.

- Complete response to all required items on the bid form.
- Lowest net banking service cost, consistent with the ability to provide an appropriate level of service.
- The credit worthiness and financial stability of the bank.

The bank depository contract is subject to Council approval. During the term of the contract, additional accounts may be established. The City may open a cash money market account with its approved depository bank. Accounts held by the approved bank are to be collateralized at no less than 105%. Two authorized signers on the City's accounts must approve the establishment of new accounts.

Authorized Brokers/Dealers

The Investment Officer shall maintain a list of financial institutions authorized to provide investment services. In addition, a list will also be maintained of approved security broker/dealers selected by credit worthiness who are authorized to provide investment services in the State of Texas. These may include "primary" or regional dealers that qualify under SEC rule 15C3-1. No public deposit shall be made except in a qualified public depository as established by state laws.

All financial institutions and broker/dealers who desire to become qualified bidders for investment transactions must supply the Investment Officer with a completed Broker/Dealer Questionnaire and Certification, which shall include the following:

- An audited financial statement for the most recent period.
- Proof of certification by the Financial Industry Regulatory Authority (FINRA).
- Proof of current registration with the State Securities Commission.

Financial institutions eligible to transact investment business with the City shall be presented a written copy of this Investment Policy.

Additionally, the qualified representative of the business organization seeking to transact investment business shall execute a written instrument substantially to the effect that the qualified representative has received and reviewed this Investment Policy, and acknowledged that the organization has implemented reasonable procedures and controls in an effort to preclude imprudent investment activities with the City.

The City will not enter into an investment transaction with a Broker/Dealer prior to receiving the written agreement described above and current audited financial statements.

Annually, the Investment Committee shall review and revise the list as needed. The Committee will consider any new firms that have submitted the required documentation and review the performance of the previously approved firms. Any modifications to the list will be submitted to Council for their review, approval and adoption.

Competitive Bids

Securities will be purchased or sold after three (3) offers/bids are taken to verify that the City is receiving fair market value/price for the investment. Security transactions that may be purchased without competitive offers include: a) transactions with money market mutual funds b) local government investment pools and c) new securities still in syndicate and priced at par.

Delivery vs. Payment

All securities transaction, including collateral for repurchased agreements, shall be purchased using the delivery vs., payment method with the exception of investment pools and mutual funds. Funds will be released after notification that the purchased security has been received.

VIII. SAFEKEEPING OF SECURITIES

Safekeeping Agreement

The City shall contract with a bank or banks for the safekeeping of securities either owned by the City as part of its investment portfolio or held as collateral to secure demand or time deposits.

Safekeeping and Custody

Safekeeping and custody of securities and collateral shall be in accordance with state law. Securities and collateral will be held by a third party custodian designated by the Investment Officer and held in the City's name as evidenced by safekeeping receipts of the institution with which the securities are deposited. Original safekeeping receipts shall be obtained.

Collateralization

Consistent with the requirements of the Public Funds Collateral Act, it is the policy of the City to require full collateralization of all investments and uninsured balances plus accrued interest on deposit with a depository bank, other than investments, which are obligations of the U.S. government, its agencies and instrumentalities, and government sponsored enterprises. In order to anticipate market changes and provide a level of security for all funds, the collateralization level will be 102% of market value of principal and accrued interest on deposits or investments less than an amount insured by the FDIC. The collateralization level of the City's depository accounts will be no less than 105%.

Collateral will always be held by an independent third party with whom the City has a current custodial agreement. A clearly marked evidence of ownership (safekeeping receipt) must be supplied to the City and retained.

The right of collateral substitution is granted and the City's Investment Officers reserve the right to accept or reject any form of collateral or enhancement at their sole discretion.

IX. PERFORMANCE STANDARDS

Performance Standards

The investment portfolio shall be designed with the objective of obtaining a rate of return throughout budgetary and economic cycles, commensurate with the investment risk constraints and cash flow needs.

Performance Benchmark

Given the passive investment strategy of the City, the benchmark to be used by the Investment Officer to determine whether market yields are being achieved shall be the average closing yield during the reporting period comparable to the portfolios dollar-weighted average maturity in days.

X. REPORTING

Methods

Not less than quarterly and within a reasonable time after the end of the period reported, the Investment Officer should prepare and submit to the City Council a written report of the investment transactions for all funds of the City for the preceding reporting period. The report must:

- describe in detail the investment position of the City on the date of the report,
- be prepared jointly by all the Investment Officers if the City appoints more than one,
- be signed by all Investment Officials,
- contain a summary statement of each pooled fund group that states the beginning market value for the reporting period,
- state the book value and the market value of each separately invested asset at the end of the reporting period by the type of asset and fund type invested,
- state the maturity date of each separately invested asset that has a maturity date,
- state the fund for which each individual investment was acquired,
- state all accrued interest payable; and
- state the compliance of the investment portfolio as it relates to this Policy and Investment Act.

Marking to Market

The market values of the City's investments shall be obtained from a reliable outside source, which has access to investment market values. Marking to Market will be done at least quarterly.

XI. INVESTMENT POLICY ADOPTION

The City's investment policy and investment strategies must be adopted annually by resolution of the City Council even if there are no changes. The City Council shall review the policy annually and they must approve any changes or modifications made thereto.

QUALIFIED BROKERS/DEALERS/ADVISORS

FHN Financial

Buddy Saragusa, Shay Hisle
920 Memorial City Way, 11th Floor
Houston, TX 77024
Phone: (713) 435-4351

Cantor Fitzgerald & Company

1700 Post Oak Boulevard
2 BLVD Place, Suite 250
Houston, TX 77056
Phone: (713) 599-5192

Hilltop Securities, Inc.

Gilbert Ramon
7000 N. MoPac Expressway, #400
Austin, TX 78731
Phone: (512) 340-1841

Truist Securities

901 East Byrd Street, Suite 300
Richmond, VA 23219
Phone: (804) 649-3976

American Momentum Bank (CD's only)

Frank Varisco
Five Momentum Blvd.
College Station, TX 77845
Phone: (979) 599-9349

INVESTMENT POOLS

TexPool / TexPool Prime

1001 Texas Ave., Suite 1400
Houston, TX 77002
Phone: (866)839-7665

TexSTAR

1201 Elm Street, Suite 3500
Dallas, TX 75270
Phone: (800)839-7827

Texas CLASS / Texas CLASS Govt.

6907 Shavelson St.
Houston, TX 77055
Phone: (800)707-6242

LOGIC

1201 Elm Street, Suite 3500
Dallas, TX 75270
Phone: (800)895-6442

DEPOSITORY BANKS

Truist Bank

2717 Texas Avenue South
College Station, Texas 77840
(979)260-1482

JPMorgan Chase Bank, NA.

One Chase Manhattan Plaza
New York, New York 10005-1401

GLOSSARY OF COMMON TREASURY TERMINOLOGY

Accrued Interest - The accumulated interest due on a bond as of the last interest payment made by the issuer.

Agency - A debt security issued by a federal or federally sponsored agency. Federal agencies are backed by the full faith and credit of the U.S. Government. Federally sponsored agencies (FSAs) are backed by each particular agency with a market perception that there is an implicit government guarantee. An example of federal agency is the Government National Mortgage Association (GNMA). An example of a FSA is the Federal National Mortgage Association (FNMA).

Amortization - The systematic reduction of the amount owed on a debt issue through periodic payments of principal.

Asked - The price at which securities are offered.

Average Life - The average length of time that an issue of serial bonds and/or term bonds with a mandatory sinking fund feature is expected to be outstanding.

Basis Point - A unit of measurement used in the valuation of fixed-income securities equal to 1/100 of 1 percent of yield, e.g., "1/4" of 1 percent is equal to 25 basis points.

Bid - The indicated price at which a buyer is willing to purchase a security or commodity.

Book Value - The value at which a security is carried on the inventory lists or other financial records of an investor. The book value may differ significantly from the security's current value in the market.

Broker - A broker brings buyers and sellers together for a commission paid by the initiator of the transaction or by both sides; he does not position. In the money market, brokers are active in markets in which banks buy and sell money and in interdealer markets.

Callable Bond - A bond issue in which all or part of its outstanding principal amount may be redeemed before maturity by the issuer under specified conditions.

Call Price - The price at which an issuer may redeem a bond prior to maturity. The price is usually at a slight premium to the bond's original issue price to compensate the holder for loss of income and ownership.

Call Risk - The risk to a bondholder that a bond may be redeemed prior to maturity.

Cash Sale/Purchase - A transaction that calls for delivery and payment of securities on the same day that the transaction is initiated.

Certificate of Deposit (CD) – A time deposit with a specific maturity evidenced by a certificate. Large-denomination CD's are typically negotiable.

Collateralization - Process by which a borrower pledges securities, property, or other deposits for the purpose of securing the repayment of a loan and/or security.

Commercial Paper - An unsecured short-term promissory note issued by corporations, with maturities ranging from 2 to 270 days.

Comprehensive Annual Financial Report (CAFR) – The official annual report for the City of College Station. It includes combined statements and basic financial statements for each individual fund and account group prepared in conformity with GAAP. It also includes supporting schedules necessary to demonstrate compliance with finance-related legal and contractual provision, extensive introductory material, and a detailed statistical section.

Coupon Rate - The annual rate of interest received by an investor from the issuer of certain types of fixed-income securities. It is also known as the interest rate.

Credit Quality - The measurement of the financial strength of a bond issuer. This measurement helps an investor to understand an issuer's ability to make timely interest payments and repay the loan principal upon maturity. Generally, the higher the credit quality of a bond issuer, the lower the interest rate paid by the issuer because the risk of default is lower. Credit quality ratings are provided by nationally recognized rating agencies.

Credit Risk - The risk to an investor that an issuer will default in the payment of interest and/or principal on a security.

Current Yield (Current Return) - A yield calculation determined by dividing the annual interest received on a security by the current market price of that security.

Dealer – A dealer, as opposed to a broker, acts as a principal in all transactions, buying and selling for his own account.

Delivery Versus Payment (DVP) - A type of securities transaction in which the purchaser pays for the securities when they are delivered either to the purchaser or his/her custodian.

Discount - The amount by which the par value of a security exceeds the price paid for the security.

Discount Security – Non-interest bearing money market instruments that are issued at a discount and redeemed at maturity for full face value, e.g. U.S. Treasury Bills.

Diversification - A process of investing assets among a range of security types by sector, maturity, and quality rating.

Duration - A measure of the timing of the cash flows, such as the interest payments and the principal repayment, to be received from a given fixed-income security. This calculation is based on three variables: term to maturity, coupon rate, and yield to maturity. The duration of a security is a useful indicator of its price volatility for given changes in interest rates.

Fair Value - The amount at which an investment could be exchanged in a current transaction between willing parties, other than in a forced or liquidation sale.

Federal Funds (Fed Funds) - Funds placed in Federal Reserve banks by depository institutions in excess of current reserve requirements. These depository institutions may lend fed funds to each other overnight or on a longer basis. They may also transfer funds among each other on a same-day basis through the Federal Reserve banking system. Fed funds are considered immediately available funds.

Federal Funds Rate - Interest rate charged by one institution lending federal funds to the other.

Federal Credit Agencies – Agencies of the Federal Government set up to supply credit to various classes of institutions and individuals, e.g. S&L's small business firms, students, farmers, farm cooperatives, and exporters.

Federal Deposit Insurance Corporation (FDIC) – A federal agency that insures bank deposits, currently up to \$250,000 per depository account through December 31, 2013. On January 1, 2014, the standard insurance amount will return to \$100,000.

Federal Home Loan banks (FHLB) – The institutions that regulate and lend to savings and loan associations. The Federal Home Loan Banks play a role similar to that played by the Federal Reserve Bank versus member commercial banks.

Federal National Mortgage Association (FNMA) – A government –sponsored enterprise (GSE) that was created in 1938 to expand the flow of mortgage money by creating a secondary mortgage market. Fannie Mae is a publicly traded company which operates under a congressional charter that directs Fannie Mae to channel its efforts into increasing the availability and affordability of homeownership for low-, moderate-, and middle-income Americans.

Federal Open Market Committee (FOMC) – Consists of seven members of the Federal Reserve Board and five of the twelve Federal Reserve Bank Presidents. The President of the New York Federal Reserve Bank is a permanent member while the other Presidents serve on a rotating basis. The Committee periodically meets to set Federal Reserve guidelines regarding purchases and sales of Government Securities in the open market as a means of influencing the volume of bank credit and money.

Federal Reserve System – The central bank of the United States created by Congress and consisting of a seven member Board of Governors in Washington, D.C., 12 regional banks and about 5,700 commercial banks that are members of the system.

Financial Industry Regulatory Authority (FINRA) - A self-regulatory organization (SRO) of brokers and dealers in the over-the-counter securities business. Its regulatory mandate includes authority over firms that distribute mutual fund shares as well as other securities.

Government Securities - An obligation of the U.S. government, backed by the full faith and credit of the government. These securities are regarded as the highest quality of investment securities available in the U.S. securities market. See "Treasury Bills, Notes, and Bonds."

Interest Rate - See "Coupon Rate."

Interest Rate Risk - The risk associated with declines or rises in interest rates which cause an investment in a fixed-income security to increase or decrease in value.

Internal Controls - An internal control structure designed to ensure that the assets of the entity are protected from loss, theft, or misuse. The internal control structure is designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that 1) the cost of a control should not exceed the benefits likely to be derived and 2) the valuation of costs and benefits requires estimates and judgments by management. Internal controls should address the following points:

- **Control of collusion** - Collusion is a situation where two or more employees are working in conjunction to defraud their employer.
- **Separation of transaction authority from accounting and record keeping** - By separating the person who authorizes or performs the transaction from the people who record or otherwise account for the transaction, a separation of duties is achieved.
- **Custodial safekeeping** - Securities purchased from any bank or dealer including appropriate collateral (as defined by state law) shall be placed with an independent third party for custodial safekeeping.

Inverted Yield Curve - A chart formation that illustrates long-term securities having lower yields than short-term securities. This configuration usually occurs during periods of high inflation coupled with low levels of confidence in the economy and a restrictive monetary policy.

Investment Policy - A concise and clear statement of the objectives and parameters formulated by an investor or investment manager for a portfolio of investment securities.

Liquidity - An asset that can be converted easily and quickly into cash.

Local Government Investment Pool (LGIP) - An investment by local governments in which their money is pooled as a method for managing local funds.

Mark-to-market - The process whereby the book value or collateral value of a security is adjusted to reflect its current market value.

Market Risk - The risk that the value of a security will rise or decline as a result of changes in market conditions.

Market Value - Current market price of a security.

Maturity - The date on which payment of a financial obligation is due. The final stated maturity is the date on which the issuer must retire a bond and pay the face value to the bondholder. See "Weighted Average Maturity."

Money Market – The market in which short-term debt instruments (bills, commercial paper, bankers' acceptances, etc.) are issued and traded.

Money Market Mutual Fund - Mutual funds that invest solely in money market instruments (short-term debt instruments, such as Treasury bills, commercial paper, bankers' acceptances, repos and federal funds).

Mutual Fund - An investment company that pools money and can invest in a variety of securities, including fixed-income securities and money market instruments. Mutual funds are regulated by the Investment Company Act of 1940.

Net Asset Value - The market value of one share of an investment company, such as a mutual fund. This figure is calculated by totaling a fund's assets that includes securities, cash, and any accrued earnings, subtracting this from the fund's liabilities and dividing this total by the number of shares outstanding. This is calculated once a day based on the closing price for each security in the fund's portfolio. (See below.) $[(\text{Total assets}) - (\text{Liabilities})] / (\text{Number of shares outstanding})$

Nominal Yield - The stated rate of interest that a bond pays its current owner, based on par value of the security. It is also known as the "coupon," "coupon rate," or "interest rate."

Offer - An indicated price at which market participants are willing to sell a security or commodity. Also referred to as the "Ask price."

Par - Face value or principal value of a bond, typically \$1,000 per bond.

Portfolio – Collection of securities held by an investor.

Positive Yield Curve - A chart formation that illustrates short-term securities having lower yields than long-term securities.

Premium - The amount by which the price paid for a security exceeds the security's par value.

Prime Rate - A preferred interest rate charged by commercial banks to their most creditworthy customers. Many interest rates are keyed to this rate.

Principal - The face value or par value of a debt instrument. Also may refer to the amount of capital invested in a given security.

Prospectus - A legal document that must be provided to any prospective purchaser of a new securities offering registered with the SEC. This can include information on the issuer, the issuer's business, the proposed use of proceeds, the experience of the issuer's management, and certain certified financial statements.

Prudent Person Rule - An investment standard outlining the fiduciary responsibilities of public funds investors relating to investment practices.

Rate of Return – The yield obtainable on a security based on its purchase price or its current market price. This may be the amortized yield to maturity on a bond or the current income return.

Reinvestment Risk - The risk that a fixed-income investor will be unable to reinvest income proceeds from a security holding at the same rate of return currently generated by that holding.

Repurchase Agreement (repo or RP) - An agreement of one party to sell securities at a specified price to a second party and a simultaneous agreement of the first party to repurchase the securities at a specified price or at a specified later date.

Reverse Repurchase Agreement (Reverse Repo) - An agreement of one party to purchase securities at a specified price from a second party and a simultaneous agreement by the first party to resell the securities at a specified price to the second party on demand or at a specified date.

Rule 2a-7 of the Investment Company Act - Applies to all money market mutual funds and mandates such funds to maintain certain standards, including a 13- month maturity limit and a 90-day average maturity on investments, to help maintain a constant net asset value of one dollar (\$1.00).

Safekeeping - Holding of assets (e.g., securities) by a financial institution.

Secondary Market – A market made for the purchase and sale of outstanding issues following the initial distribution.

Securities & Exchange Commission – Agency created by Congress to protect investors in securities transactions by administering securities legislation.

Serial Bond - A bond issue, usually of a municipality, with various maturity dates scheduled at regular intervals until the entire issue is retired.

Sinking Fund - Money accumulated on a regular basis in a separate custodial account that is used to redeem debt securities or preferred stock issues.

Swap - Trading one asset for another.

Term Bond - Bonds comprising a large part or all of a particular issue which come due in a single maturity. The issuer usually agrees to make periodic payments into a sinking fund for mandatory redemption of term bonds before maturity.

Total Return - The sum of all investment income plus changes in the capital value of the portfolio. For mutual funds, return on an investment is composed of share price appreciation plus any realized dividends or capital gains. This is calculated by taking the following components during a certain time period. $(\text{Price Appreciation}) + (\text{Dividends paid}) + (\text{Capital gains}) = \text{Total Return}$

Treasury Bills - Short-term U.S. government non-interest bearing debt securities with maturities of no longer than one year and issued in minimum denominations of \$10,000. Auctions of three- and six-month bills are weekly, while auctions of one-year bills are monthly. The yields on these bills are monitored closely in the money markets for signs of interest rate trends.

Treasury Bonds – Marketable, fixed-interest U.S. government debt securities with maturities of more than ten years and issued in minimum denominations of \$1,000. Treasury bonds make interest payments semi-annually and the income that holders received is only taxed at the federal level.

Treasury Notes - Marketable U.S. government debt securities with fixed interest rates and maturities between 1 to 10 years. Treasury notes can be bought either directly from the U.S. government or through banks.

Uniform Net Capital Rule - SEC Rule 15C3-1 – Securities and Exchange Commission requirement that member firms as well as nonmember broker-dealers in securities maintain a maximum ratio of indebtedness to liquid capital of 15 to 1: also called net capital rule and net capital ratio. Indebtedness covers all money owed to a firm, including margin loans and commitments to purchase securities. This is one reason new public issues are spread among members of underwriting syndicates. Liquid capital includes cash and assets easily converted into cash.

Volatility - A degree of fluctuation in the price and valuation of securities.

Volatility Risk Rating - A rating system to clearly indicate the level of volatility and other non-credit risks associated with securities and certain bond funds. The ratings for bond funds range from those that have extremely low sensitivity to changing market conditions and offer the greatest stability of the returns ("aaa" by S&P; "V-1" by Fitch) to those that are highly sensitive with currently identifiable market volatility risk ("ccc-" by S&P, "V-10" by Fitch).

Weighted Average Maturity (WAM) - The average maturity of all the securities that comprise a portfolio. According to SEC rule 2a-7, the WAM for SEC registered money market mutual funds may not exceed 90 days and no one security may have a maturity that exceeds 397 days.

Yield - The current rate of return on an investment security generally expressed as a percentage of the security's current price.

Yield-to-call (YTC) - The rate of return an investor earns from a bond assuming the bond is redeemed (called) prior to its nominal maturity date. **Yield Curve** - A graphic representation that depicts the relationship at a given point in time between yields and maturity for bonds that are identical in every way except maturity. A normal yield curve may be alternatively referred to as a positive yield curve.

Yield-to-maturity - The rate of return yielded by a debt security held to maturity when both interest payments and the investor's potential capital gain or loss are included in the calculation of return.

Zero-coupon Securities - Security that is issued at a discount and makes no periodic interest payments. The rate of return consists of a gradual accretion of the principal of the security and is payable at par upon maturity.

**EXHIBIT A
PARS OBEB TRUST
INVESTMENT GUIDELINE**



Investment Guidelines Document

City of College Station, Texas

115 Irrevocable Exclusive Benefit Trust

August 2017

Investment Guidelines Document

Scope and Purpose

The purpose of this Investment Guidelines Document is to:

- Facilitate the process of ongoing communication between the Plan Sponsor and its plan fiduciaries;
- Confirm the Plan's investment goals and objectives and management policies applicable to the investment portfolio identified below and obtained from the Plan Sponsor;
- Provide a framework to construct a well-diversified asset mix that can potentially be expected to meet the account's short- and long-term needs that is consistent with the account's investment objectives, liquidity considerations and risk tolerance;
- Identify any unique considerations that may restrict or limit the investment discretion of its designated investment managers;
- Help maintain a long-term perspective when market volatility is caused by short-term market movements.

Key Plan Sponsor Account Information as of August 2017

Plan Sponsor:	City of College Station
Governance:	City Council for the City of College Station
Plan Name ("Plan")	City of College Station Other Post-Employment Benefits Plan
Trustee:	US Bank Contact: Susan Hughes, 949-224-7209 susan.hughes@usbank.com
Type of Account:	GASB 45/Other Post-Employment Benefits Trust
ERISA Status:	Not subject to ERISA
Market Value of Account:	est. \$1,000,000
Investment Manager:	US Bank, as discretionary trustee, has delegated investment management responsibilities to HighMark Capital Management, Inc. ("Investment Manager"), an SEC-registered investment adviser Contact: Andrew Brown, CFA, 415-705-7605 Andrew.brown@highmarkcapital.com

Investment Authority: Except as otherwise noted, the Trustee, US Bank, has delegated investment authority to HighMark Capital Management, an SEC-registered investment adviser. Investment Manager has full investment discretion over the managed assets in the account. Investment Manager is authorized to purchase, sell, exchange, invest, reinvest and manage the designated assets held in the account, all in accordance with account's investment objectives, without prior approval or subsequent approval of any other party(ies).

Investment Objectives and Constraints

The goal of the Plan's investment program is to generate adequate long-term returns that, when combined with contributions, will result in sufficient assets to pay the present and future obligations of the Plan. The following objectives are intended to assist in achieving this goal:

- The Plan should earn, on a long-term average basis, a rate of return equal to or in excess of the targeted rate of return in the actuarial valuation.
- The Plan should seek to earn a return in excess of its policy benchmark over the long-term.
- The Plan's assets will be managed on a total return basis which takes into consideration both investment income and capital appreciation. While the Plan Sponsor recognizes the importance of preservation of capital, it also adheres to the principle that varying degrees of investment risk are generally rewarded with compensating returns. To achieve these objectives, the Plan Sponsor allocates its assets (asset allocation) with a strategic, long-term perspective of the capital markets.

Investment Time Horizon: Long-term

Anticipated Cash Flows: Distributions are expected to be low in the early years of the Plan.

Investment Objective: The primary objective is to maximize total Plan return, subject to the risk and quality constraints set forth herein. The investment objective the Plan Sponsor has selected is the Balanced Objective, which has a dual goal to seek growth of income and principal.

Risk Tolerance: *Balanced*
The account's risk tolerance has been rated balanced, which demonstrates that the account can accept price fluctuations to pursue its investment objectives.

Strategic Asset Allocation: The asset allocation ranges for this objective are listed below:

<i>Strategic Asset Allocation Ranges</i>		
Cash	Fixed Income	Equity
0-20%	30%-50%	50%-70%
Policy: 5%	Policy: 35%	Policy: 60%

Market conditions may cause the account's asset allocation to vary from the stated range from time to time. The Investment Manager will rebalance the portfolio no less than quarterly and/or when the actual weighting differs substantially from the strategic range, if appropriate and consistent with your objectives.

Security Guidelines:

Equities

With the exception of limitations and constraints described above, Investment Manager may allocate assets of the equity portion of the account among various market capitalizations (large, mid, small) and investment styles (value, growth). Further, Investment Manager may allocate assets among domestic, international developed and emerging market equity securities.

Total Equities	50%-70%
<i>Equity Style</i>	<i>Range</i>
Domestic Large Cap Equity	20%-50%
Domestic Mid Cap Equity	0%-15%
Domestic Small Cap Equity	0%-20%
International Equity (incl. Emerging Markets)	0%-20%
Real Estate Investment Trust (REIT)	0%-10%

Fixed Income

In the fixed income portion of the account, Investment Manager may allocate assets among various sectors and industries, as well as varying maturities and credit quality that are consistent with the overall goals and objectives of the portfolio.

Total Fixed Income	30%-50%
<i>Fixed Income Style</i>	<i>Range</i>
Long-term bonds (maturities >7 years)	0%-20%
Intermediate-term bonds (maturities 3-7 years)	15%-50%
Short-Term bonds (maturities <3 years)	0%-15%
High Yield bonds	0%-8%

Performance Benchmarks:

The performance of the total Plan shall be measured over a three and five-year periods. These periods are considered sufficient to accommodate the market cycles experienced with investments. The performance shall be compared to the return of the total portfolio blended benchmark shown below.

Total Portfolio Blended Benchmark

32.00%	S&P500 Index
6.00%	Russell Mid Cap Index
9.00%	Russell 2000 Index
4.00%	MSCI Emerging Market Index
7.00%	MSCI EAFE Index
2.00%	Wilshire REIT Index
27.00%	Bloomberg Barclays Capital Aggregate Index
6.75%ML	1-3 Year US Corp/Gov't
1.25%	US High Yield Master II
5.00%	Citi 1Mth T-Bill

Asset Class/Style Benchmarks

Over a market cycle, the long-term objective for each investment strategy is to add value to a market benchmark. The following are the benchmarks used to monitor each investment strategy:

Large Cap Equity	S&P 500 Index
Growth	S&P 500 Growth Index
Value	S&P 500 Value Index
Mid Cap Equity	Russell Mid Cap Index
Growth	Russell Mid Cap Growth Index
Value	Russell Mid Cap Value Index
Small Cap Equity	Russell 2000 Index
Growth	Russell 2000 Growth Index
Value	Russell 2000 Value Index
REITs	Wilshire REIT
International Equity	MSCI EAFE Index
Investment Grade Bonds	Bloomberg Barclays Capital Aggregate Index
High Yield	US High Yield Master II

Security Selection

Investment Manager may utilize a full range of investment vehicles when constructing the investment portfolio, including but not limited to individual securities, mutual funds, and exchange-traded funds. In addition, to the extent permissible, Investment Manager is authorized to invest in shares of mutual funds in which the Investment Manager serves as advisor or subadvisor.

Investment Limitations:

The following investment transactions are prohibited:

- Direct investments in precious metals (precious metals mutual funds and exchange-traded funds are permissible).
- Venture Capital
- Short sales*
- Purchases of Letter Stock, Private Placements, or direct payments
- Leveraged Transactions*
- Commodities Transactions Puts, calls, straddles, or other option strategies*
- Purchases of real estate, with the exception of REITs
- Derivatives, with exception of ETFs*

**Permissible in diversified mutual funds and exchange-traded funds*

Duties and Responsibilities

Responsibilities of Plan Sponsor

The Investment Committee of the City of College Station is responsible for:

- Confirming the accuracy of this Investment Guidelines Document, in writing.
- Advising Trustee and Investment Manager of any change in the plan/account's financial situation, funding status, or cash flows, which could possibly necessitate a change to the account's overall risk tolerance, time horizon or liquidity requirements; and thus would dictate a change to the overall investment objective and goals for the account.
- Monitoring and supervising all service vendors and investment options, including investment managers.
- Avoiding prohibited transactions and conflicts of interest.

Responsibilities of Trustee

The plan Trustee is responsible for:

- Valuing the holdings.
- Collecting all income and dividends owed to the Plan.
- Settling all transactions (buy-sell orders).

Responsibilities of Investment Manager

The Investment Manager is responsible for:

- Assisting the Investment Committee with the development and maintenance of this Investment Policy Guideline document annually.
- Meeting with Investment Committee annually to review portfolio structure, holdings, and performance.
- Designing, recommending and implementing an appropriate asset allocation consistent with the investment objectives, time horizon, risk profile, guidelines and constraints outlined in this statement.
- Researching and monitoring investment advisers and investment vehicles.
- Purchasing, selling, and reinvesting in securities held in the account.
- Monitoring the performance of all selected assets.
- Voting proxies, if applicable.
- Recommending changes to any of the above.

- Periodically reviewing the suitability of the investments, being available to meet with the committee at least once each year, and being available at such other times within reason at your request.
- Preparing and presenting appropriate reports.
- Informing the committee if changes occur in personnel that are responsible for portfolio management or research.

Acknowledgement and Acceptance

I/We being the Plan Sponsor with responsibility for the account(s) held on behalf of the Plan Sponsor specified below, designate Investment Manager as having the investment discretion and management responsibility indicated in relation to all assets of the Plan or specified Account. If such designation is set forth in the Plan/trust, I/We hereby confirm such designation as Investment Manager.

I have read the Investment Guidelines Document, and confirm the accuracy of it, including the terms and conditions under which the assets in this account are to be held, managed, and disposed of by Investment Manager. This Investment Guidelines Document supersedes all previous versions of an Investment Guidelines Document or investment objective instructions that may have been executed for this account.


 Plan Sponsor: City of College Station Date: 9-19-17


 Investment Manager: Andrew Brown, CFA, Senior Portfolio Manager, (415) 705-7605 Date: 9/21/17

EXHIBIT B
OPEB Funding Policy



**CITY OF COLLEGE STATION
POSTRETIREMENT MEDICAL, DENTAL
AND LIFE INSURANCE BENEFITS PROGRAM**

FUNDING POLICY

EFFECTIVE FOR FISCAL YEARS BEGINNING

ON AND AFTER OCTOBER 1, 2021

Adopted: _____, 20__

**FUNDING POLICY FOR THE
CITY OF COLLEGE STATION
POSTRETIREMENT MEDICAL, DENTAL
AND LIFE INSURANCE BENEFITS PROGRAM**

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A. Purpose of Funding Policy

Adoption of a formal policy defining priorities and guidelines for the funding of pension benefits and Other Post-Employment Benefits (OPEB) has become a best practice for public retirement systems. Governing boards and plan sponsors can use a formal funding policy to communicate funding goals and to provide a plan actuary with guidance in determining the requisite contribution rates to meet those goals.

For the City of College Station (the City), the adoption of this policy is intended to:

- Define the goals and objectives of funding the City of College Station Postretirement Medical, Dental and Life Insurance Program (the OPEB Plan),
- Ensure the funding objectives consider the current recommendations of the Government Finance Officers Association (GFOA) and the Conference of Consulting Actuaries Public Plans Community (CCA PPC)¹,
- Review those objectives against the Texas Pension Review Board (the PRB) funding requirements and Texas Government Code §802.2011, even though such requirements only apply to Public Retirement (Pension) Systems²,
- Enhance communications to plan members and retirees regarding the City's funding strategy, and
- Provide funding policy guidance to current and future City managers.

B. Primary Funding Objective

The primary objective of the funding policy is to fully fund the long-term cost of benefits provided under the terms of the OPEB Plan through disciplined and timely accumulation of contributions and prudent investment of assets, where such investments are governed by the guidelines of a separate Investment Policy Statement.

C. Funding Priorities and Guidelines

The following priorities and guidelines seek to achieve the Primary Funding Objective:

- **100% Payment of Benefits** – Contributions and current plan assets must be sufficient to pay for all benefits expected to be paid to members and their beneficiaries when due.

¹ The GFOA recommendations are written for both Public Pension Plans and Public OPEB Plans. The CCA PPC recommendations are written for Public Pension Plans, but the CCA PPC white paper states that the general policy objectives presented are applicable to funding OPEB plans with consideration given to distinctive features applicable to OPEB Plans. Accordingly, these GFOA and CCA PPC recommendations are useful guidelines for funding OPEB Plans.

² Although the PRB requirements do not apply to OPEB plans, they are useful in comparing to the GFOA and CCA recommendations.

- **Target a Funded Ratio of 100%** – The funded ratio shall be determined based on the ratio of:
 - the Plan Assets (which may be determined using a smoothing methodology discussed below) to
 - the Actuarial Accrued Liability (determined using the selected actuarial Cost Method as discussed below and all other funding valuation assumptions).
- **Contribution Stability and Sound Financing of Benefits** – The financing of benefits should be based on sound actuarial principles. The City desires to minimize year-to-year employer contribution volatility to the extent reasonably possible while understanding that a sound funding policy may require employer contribution fluctuations from year-to-year in order to achieve and maintain the sound actuarial financing of benefits.
- **Intergenerational Equity** – Whenever possible, the costs of benefits are managed such that future taxpayers are not burdened with costs associated with a previous generation of City employees' service, and such costs are managed in a manner consistent with the principle to pay all benefits when due and without reduction.
- **Benefit Enhancements** – Amendments to the OPEB Plan that improve plan benefits shall not be permitted unless the plan remains above 90% funded following the amendment. However, if the employer funds the full amount of the benefit enhancement at the time the enhancement is adopted, then the 90% funding threshold requirement shall be waived.

D. City's OPEB Funding Policy

The Funding Policy determines the manner in which plan liabilities and assets are measured for purposes of determining the annual contributions to the OPEB Plan. Typically, funding policies require the annual Normal Cost (i.e., the present value of the current year benefit accruals) plus a portion of the Unfunded Accrued Liability (UAL) (i.e., the excess of Actuarial Accrued Liability over Plan Assets) to be funded via an amortization payment.

In establishing this Funding Policy, the City considered published guidance from the Texas Pension Review Board, the Conference of Consulting Actuaries Public Plans Community and the Government Finance Officers Association. A detailed summary of this guidance, including many of the terms and concepts utilized in the Funding Policy below, is located in the Appendix of this document.

Effective with the fiscal year beginning October 1, 2021, the City will use the following Funding Policy based on the results of the preceding GASB No 74 valuation (e.g., the January 1, 2021 valuation for the fiscal year beginning October 1, 2021):

1. Methods – The City shall use the following methods.

a. **Recommended Contribution** – The City shall determine the annual contribution using the **Actuarially Determined Contribution (ADC) Method**.

- i. **Funded Ratio Less Than 95%** – If the ratio of Plan Assets to the Actuarial Accrued Liability is less than 95%, the ADC shall be determined as the sum of the Normal Cost plus an amortization of the Unfunded Accrued Liability (UAL) as further discussed below.

In addition, OPEB benefit payments will be paid directly by the City, and the City will not receive reimbursement from the OPEB Prefunding Trust.

- ii. **Funded Ratio Between 95% and 100%** – If the ratio of Plan Assets to the Actuarial Accrued Liability is at least 95% and less than 100%, then:

1. if there is any portion of the amortization period of the UAL from the prior valuation (i.e., one or two years remaining), then the ADC shall be determined as the sum of the Normal Cost plus an amortization of the UAL; or
2. if there is no amortization of the UAL remaining from the prior valuation (i.e., there are zero years remaining), then the ADC shall be equal to sum of the Normal Cost plus interest on the UAL at the valuation interest rate.

In addition, OPEB benefit payments will be paid directly by the City, but the City will receive reimbursement from the OPEB Prefunding Trust.

- iii. **Funded Ratio 100% or Greater** – If the ratio of Plan Assets to the Actuarial Accrued Liability is at least 100%, the ADC shall be equal to the Normal Cost and there shall not be an adjustment for the amortization of the UAL. Furthermore, the amount of the Normal Cost shall be offset by Plan Assets in excess of the Actuarial Accrued Liability, but such offset shall not result in an ADC of less than \$0.

In addition, OPEB benefit payments will be paid directly by the City, but the City will receive reimbursement from the OPEB Prefunding Trust.

Each fiscal year, the City budgets a contribution for the OPEB Prefunding Trust (e.g., at the date of adoption of this Funding Policy, the City has budgeted approximately \$1,332,000 for FY22). To the extent that the budgeted OPEB contribution exceeds the ADC described under any of the above scenarios, then

the contribution to the OPEB Prefunding Trust shall exceed the ADC but not in excess of the amount required to achieve a Funded Ratio of 100% plus the amount of the Normal Cost. *In this event, any remaining portion of the budgeted contribution shall be contributed to the Texas Municipal Retirement System to fund the City's pension benefits.*

- b. **Cost Method** – The actuarial cost method shall continue to be the Entry Age Normal Level Percent of Pay method.
- c. **Asset Method** – The City shall use the Market Value of Assets rather than a smoothed value of assets.

Market Value of Assets as of the valuation date equals Fair Value plus any receivable contributions made or to be made for a prior plan year. The Plan Assets shall be set equal to the Market Value of Assets.

- d. **Amortization Method** – The amortization method shall be determined as follows:

Amortization Method	City's Method
Closed Period vs. Open Period	Closed Period
Level Dollar vs. Level Percent	Level Dollar
Single vs. Layered	Single
Amortization Period	3 years

2. Other Considerations

- a. **Actuarial Experience Studies** - The City participates in to the Texas Municipal Retirement System (TMRS) which already performs actuarial experience studies at least once every five (5) years. Such experience studies examine the Retirement System's actual experience relative to the expected experience based on the actuarial assumptions in effect. The OPEB plan will incorporate any new demographic assumptions and economic assumptions applicable to the OPEB Plan that are adopted by TMRS as a result of an experience study. The OPEB Plan's investment return assumption (i.e., the discount rate) shall be reevaluated at the same time as each TMRS experience study, and the City shall adopt a new investment return assumption, if warranted at such time.
- b. **Risk-Sharing** – If the ADC exceeds the amount of the budgeted OPEB contribution or if the ADC becomes otherwise untenable, then the City reserves the right to examine any combination of the following approaches to adjust the ADC or otherwise restore the ADC to a sustainable level:

- i. adjusting the funding policy (e.g., use longer amortization periods that remain within the recommended ranges) while still meeting the Primary Funding Objectives,
- ii. increasing the retirees' cost-sharing contributions to the OPEB Plan for medical and dental coverage to restore the ADC to a sustainable level,
- iii. reducing future benefits to restore the ADC to a sustainable level, and/or
- iv. limiting the contribution to the amount of the budgeted OPEB contribution.

The City reserves the right to amend, modify or replace this Funding Policy.

Glossary of Actuarial Terms

Actuarial Accrued Liability or Accrued Liability (AAL)	This is computed differently under different actuarial cost methods. Generally, the Actuarial Accrued Liability or Accrued Liability represents the portion of the Present Value of Future Benefits attributed to periods of service preceding the valuation date.
Actuarial Gain (Loss)	A measure of the difference between actual experience and that expected based on the actuarial assumptions during the period between two actuarial valuation dates, as determined in accordance with the particular actuarial cost method used.
Actuarial Value of Assets (AVA)	The value of assets used by an actuary for an actuarial valuation. The AVA can be set equal to the Market Value of Assets, or the AVA can be set equal to a smoothed value of assets that is designed to smooth volatility in the Market Value of Assets over a period of years (e.g., a three to ten year period).
Entry Age Normal Actuarial Cost Method	An actuarial cost method under which the Present Value of Future Benefits of each individual included in an actuarial valuation is allocated on a level basis over the earnings or service of the individual between entry age and assumed exit ages. The portion of this actuarial present value allocated to the year of service during the valuation year is called the Normal Cost. The portion of this present value not provided for at a valuation date by the Present Value of Future Normal Costs is called the Accrued Liability.
Market Value of Assets	Market Value of Assets as of a valuation date equals Fair Value plus any receivable contributions made or to be made for a prior plan year.
Normal Cost	Computed differently under different actuarial cost methods, the Normal Cost generally represents the portion of the actuarial Present Value of Future Benefits attributed to the current year of service for active employees.
OPEB Plan	An OPEB Plan or Other Post-Employment Benefit Plan is a plan that provides post-retirement benefits other than pension benefits. Such plans typically provide post-retirement medical coverage, including prescription drug coverage, dental coverage and life insurance benefits.
Plan Assets	Used interchangeably with Actuarial Value of Assets. See definition of Actuarial Value of Assets above.

Present Value of Future Benefits

Future benefits include all benefits estimated to be payable to plan members (retirees and beneficiaries, terminated employees entitled to benefits but not yet receiving them, and current active members) as a result of their service through the valuation date and their expected future service. The actuarial Present Value of Future Benefits as of the valuation date is the present value of the cost to finance benefits payable in the future, discounted to reflect the expected effects of the time value (present value) of money and the probabilities of payment.

Present Value of Future Normal Costs

The difference between the Present Value of Future Benefits and the Actuarial Accrued Liability under a given actuarial cost method.

Unfunded Accrued Liability (UAL)

The excess, if any, of the Actuarial Accrued Liability over the Actuarial Value of Assets.

Appendix

Published Guidance on Key Elements of a Funding Policy

The Funding Policy determines the manner in which plan liabilities and assets are measured for purposes of determining the annual contributions to the OPEB Plan. Typically, funding policies require the annual Normal Cost (i.e., the present value of the current year benefit accruals) plus a portion of the Unfunded Accrued Liability (UAL) (i.e., the excess of Actuarial Accrued Liability over Plan Assets) to be funded via an amortization payment.

Published guidance by the following entities has been considered in developing the Funding Policy:

1. **Texas PRB’s “Guidance for Developing a Funding Policy” adopted on October 17, 2019** – This guidance is intended to assist public entities in Texas in developing a policy that meets the requirements of Texas Government Code §802.2011 **which does not apply to OPEB plans**, but is useful to consider when establishing a funding policy for a OPEB plan;
2. **Conference of Consulting Actuaries Public Plans Community (CCA PPC) “Actuarial Funding Policies and Practices for Public Pension Plans” published in October 2014** – This publication is a “white paper” that develops principal elements and parameters of actuarial funding policy for U.S. public pension plans. The white paper states, “While this white paper develops guidance primarily for pension plans, we believe the general policy objectives presented here are applicable to the funding of OPEB plans as well.” The guidance offered in the white paper “is not intended to supplant or replace the applicable Actuarial Standards of Practice (ASOPs)” and is “nonbinding and advisory only”, but is intended as advice to actuaries and retirement boards in setting funding policy. The white paper develops a Level Cost Allocation Model that recommends actuarial funding methods for measuring both plan liabilities and plan assets, as well as recommends amortization periods for funding the UAL. These recommendations are discussed further below; and
3. **Government Finance Officers Association’s Best Practice “Sustainable Funding Practices for Defined Benefit Pensions and Other Postemployment Benefits” approved by the GFOA’s Executive Board in January 2016** – This paper includes recommendations for best practices for adopting a funding policy for Pension and OPEB plans and incorporates by reference the GFOAs’ Best Practice “Core Elements of Funding Policy” published in 2013 which also recommends parameters for a funding policy.

All three sources of published guidance discuss the following key elements of a funding policy.

- **Recommended Contribution** – There are two methods used to determine recommended employer contributions to retirement plans:

- **Fixed Rate Method** – The Fixed Rate method determines the annual employer contribution as a constant percentage (i.e., a fixed rate) of payroll. This method is used to minimize volatility in the contribution amount and does not vary from year-to-year unless certain conditions are met.
- **Actuarially Determined Contribution (ADC) Method** – The ADC is determined as the sum of the Normal Cost plus an amortization of the UAL. The ADC changes each year as the Normal Cost and UAL fluctuate. This volatility permits the plan funding to be adjusted as needed in order to continue funding towards 100% over a set period of time.

As discussed below, the Normal Cost and Actuarial Accrued Liability are determined based upon the actuarial Cost Method that is selected, and the Plan Assets can either be determined using Market Value or a smoothed Actuarial Value of Assets. Lastly, the period(s) over which the UAL is amortized as well as the methods of setting the period(s) (open period vs. closed period and level dollar amortization vs. level percent of pay amortization) are also key components in the determination of the ADC.

The Texas PRB and GFOA recommend using the ADC method. The CCA PPC white paper is written solely in the context of the ADC method; however, the white paper indicates that plans that use the Fixed Rate method should also develop an ADC rate for comparison. Similarly, the Texas PRB recommends that if a Fixed Rate method is used, then an ADC rate should be used as a benchmark for determining if the Fixed Rate is reasonable, as well as to identify conditions in which the Fixed Rate should be changed to move towards the ADC rate either via changes to the rate or benefit reductions.

- **Cost Method** – The actuarial cost method is used to allocate the Present Value of Future Benefits to past, current and future service periods.
 - **Actuarial Accrued Liability** – This is the portion of the Present Value of Future Benefits assigned to past service (i.e., service before the actuarial valuation date).
 - **Normal Cost** – This is the portion of the Present Value of Future Benefits that is assigned to the current year of service (i.e., it is the present value of the current year's accruals).
 - **Present Value of Future Normal Costs** – This is the portion the Present Value of Future Benefits that is assigned to future service after the valuation year (i.e., it represents the present value of future years' accruals).

The PRB, the CCA PPC and the GFOA all recommend that plan liabilities be determined using the Entry Age Normal Level Percent actuarial cost method for plans with pay-related benefits. Although the City's OPEB Plan benefits are not pay-related, GASB Nos. 74/75 require the use of the Entry Age Normal Level Percent actuarial

cost method. This method funds each individual's benefits over their career as a level percent of pay.

- **Asset Method** – Rather than use the Market Value of Assets in each annual valuation as the measure of Plan Assets, an Actuarial Value of Assets (AVA) can be used to smooth investment gains and losses and thus reduce year-to-year volatility in developing a funding policy contribution. Some AVA methods also place a corridor around the Market Value of Assets to limit the maximum amount of the smoothing during periods in which the market has been very volatile.

The PRB, the CCA PPC and the GFOA have various recommended ranges for the length of the period over which assets can be smoothed, but all three entities indicate that a 5-year smoothing period is reasonable, with the GFOA stating that a period of 5 years or less is “ideal”. Furthermore, the CCA PPC and GFOA neither recommend nor discourage a corridor for a 5-year smoothing period (but they do recommend corridors for smoothing periods in excess of 5 years), while the PRB does not state a position on this matter.

- **Amortization Method** – The amortization method determines the manner and period over which the Unfunded Accrued Liability (UAL) is amortized.

➤ **Level Dollar vs. Level Percent** – The UAL can be amortized as a:

- Level Dollar amount, where the amortization installment is fixed each year, or
- Level Percent amount, where the amortization installment increases each year as payroll increases, but this can sometimes result in negative amortization.

➤ **Open Period vs. Closed Period** – The UAL can be amortized over an:

- Open Period, whereby the amortization period is the same each year (e.g., a 5-year Open Period amortization would use a 5-year amortization for the January 1, 2021 valuation, followed by another 5-year open period on January 1, 2022 and so on without the 5-year period ever changing), or
- Closed Period, whereby the amortization period reduces each successive period (e.g., a 5-year Closed Period amortization would use a 5-year amortization for the January 1, 2021 valuation, followed by a 4-year Closed Period on January 1, 2022 and so on until the final year of the amortization is reached in the 5th year).

➤ **Single Amortization vs. Layered Amortization** – The UAL can be amortized using:

- **Single Amortization** – Under the Single Amortization method, the full amount of the UAL is amortized over a single period each year.
- **Layered Amortization** – Under the Layered Amortization method, different amortization layers of the UAL are established at each actuarial valuation, and the sum of the layers is equal to the full UAL. In addition, within a single valuation, multiple layers of UAL can be established for different sources of changes in the UAL. The Layered Amortization method requires that a new amortization base (or layer) be created each year for Actuarial Experience Gains/Losses that occur during the year. In addition, new amortization layers are created in years in which actuarial assumptions or methods are changed and in years in which plan amendments are enacted.

Creating a new amortization layer for each year reduces the volatility of the amortization of the UAL relative to the Single Amortization method, particularly as the Closed Period becomes shorter if a Closed Period amortization method is used. In addition, different amortization periods can be used for different types of layers created in years in which actuarial assumptions or methods are changed and in years in which plan amendments are enacted. This allows the funding of each layer to be better aligned with an appropriate amortization period.

As shown in the tables below, the Texas PRB, CCA PPC and GFOA all recommend a Layered Amortization approach with Closed Periods but with different amortization periods and different recommendations for Level Dollar versus Level Percent.

Method	Amortization Methodology		
	Texas PRB	CCA PPC	GFOA
Closed Period vs. Open Period	Closed Period	Closed Period	Closed Period
Level Dollar vs. Level Percent	Level Dollar ¹	Level Percent ²	Either
Single vs. Layered	Layered	Layered	Layered

Source of Amortization Layers	Amortization Period		
	Texas PRB ¹	CCA PPC ²	GFOA
Actuarial Experience Gain/Loss	10 to 25 years	15 to 20 years	15 to 25 years ⁵
Assumption and Method Changes	10 to 25 years	15 to 25 years	15 to 25 years ⁵
Plan Amendments	10 to 25 years	10 to 15 years ³	15 to 25 years ⁵
Transition to New Policy	Not discussed	Up to 30 years ⁴	Not discussed

¹ The Texas PRB indicates that “level dollar amounts are preferable unless payroll is expected to decrease in the future”. The Texas PRB also states that 10 to 25 years is the preferable range, and while it indicates that a layered approach is acceptable, it does not provide separate preferred ranges for each of the layers.

² The white paper indicates that “level dollar could be appropriate for sponsors and plans that are particularly averse to future cost increases, e.g., utilities setting rates for current rate payers.” Furthermore, the white paper states “level dollar is generally faster amortization than level percent of pay so longer periods may be reasonable.”

³ The white paper recommends that Plan Amendments be amortized over the actual remaining active future service for amendments affecting active members (where 15 years can be used as an approximation) or over actual remaining retiree life expectancy for amendments affecting inactive members (where 10 years can be used as an approximation).

⁴ The white paper indicates that transition policies would allow current fixed period amortization layers with periods not to exceed 30 years to continue with new amortization layers subject to recommended guidelines.

⁵ GFOA states that amortization periods should “ideally fall in the 15-20 year range” but “never exceed 25 years”.

- **Other Considerations** – The Texas PRB, CCA PPC and GFOA each recommend other considerations to manage growth in plan liabilities and mitigate other risks.

- **Actuarial Experience Studies** - An actuarial experience study examines a Retirement Plan’s actual demographic and economic experience relative to the expected experience based on the actuarial assumptions used in an actuarial valuation. Adjustments should be made to the actuarial assumptions whenever actual plan experience deviates materially from the assumptions in order to produce the best long-term estimate and to better align the contributions with the long-term expected cost of the plan.

The GFOA recommends an actuarial experience study be conducted at least once every five years; the Texas PRB indicates that the frequency of actuarial experience studies can be included in the funding policy; and the CCA PPC does not address assumption selection in its white paper.

- **Risk Mitigation Strategies** – Other strategies can be implemented to mitigate risks, such as the risk of large contribution increases year-to-year, sharing risks with employees via increased employee contributions or benefit reductions in certain scenarios. Managing growth in plan liabilities via restrictions on plan amendments should also be considered.

The Texas PRB, CCA PPC and GFOA all suggest various strategies for mitigating risks and managing growth in plan liabilities, and the referenced publications for each of these bodies suggest incorporating some risk mitigation strategies into a plan's funding policy.

EXHIBIT B

**RECORDED CHANGES TO INVESTMENT POLICY
OR INVESTMENT STRATEGIES**

The following changes to the Investment Policy or Investment Strategies are as set forth below:

Texas Class/Texas Class Govt. was added to the authorized Local Government Investment pool.

September 14, 2023
Item No. 7.5.
Fire Station #7 – New Engine Purchase

Sponsor: Richard Mann, Chief of Fire and Emergency Services

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding the purchase of a new fire engine from Siddons-Martin Emergency Group, LLC for \$1,348,975.

Relationship to Strategic Goals:

Core Services and Infrastructure: The city will plan for, maintain, and invest in the infrastructure, facilities, services, personnel, and equipment needed to meet projected needs and opportunities.

Recommendation(s): Staff recommends approval of the purchase with Siddons-Martin Emergency Group, LLC for the purchase of a new fire engine for Station #7.

Summary: The City of College Station Fire Department has strived to maintain a reliable and consistent fire apparatus fleet to serve the College Station citizens. This purchase will continue that plan and is similar to the recent fleet replacements ordered for the fire engines at Fire Stations #2, #5, and #6. Current delivery is estimated within 46-49 months from the order date, and the debt will not be incurred until acceptance of the vehicle at that time. The contract price is good through September 15, 2023, after which there would be an additional 1.2% price increase.

Budget & Financial Summary: This item will be on a future budget amendment to appropriate the funds for this purchase. Funding for Fire Station #7 was approved in the November 2022 bond election.

Attachments:

1. College Station Engine 7 Proposal

Siddons Martin Emergency Group, LLC
3500 Shelby Lane
Denton, TX 76207
GDN P115891
TXDOT MVD No. A115890

June 13, 2023

Richard Mann, Fire Chief
COLLEGE STATION FIRE DEPARTMENT
300 KRENEK TAP RD
COLLEGE STATION, TX 77840



Proposal For: 2023 College Station Engine 7

Siddons-Martin Emergency Group, LLC is pleased to provide the following proposal to COLLEGE STATION FIRE DEPARTMENT. Unit will comply with all specifications attached and made a part of this proposal. Total price includes delivery FOB COLLEGE STATION FIRE DEPARTMENT and training on operation and use of the apparatus.

Description	Amount
Qty. 1 - 1135 - Pierce-Custom Velocity Pumper, PUC (Unit Price - \$1,270,569.00)	
Delivery within 46-49 months of order date	
QUOTE # - SMEG-0005305-3	
	Vehicle Price \$1,270,569.00
	Engine Equipment \$76,406.00
	1135 - UNIT TOTAL \$1,346,975.00
	SUB TOTAL \$1,346,975.00
	HGAC FS12-19 (FIRE) \$2,000.00
	TOTAL \$1,348,975.00

Price guaranteed until 9/15/2023

Additional:

'NOTE: Due to global supply chain constraints, any delivery date contained herein is a good faith estimate as of the date of this order/contract, and merely an approximation based on current information. Delivery updates will be made available, and a final firm delivery date will be provided as soon as possible.'

The pricing, terms, and conditions of the HGAC contract FS 12-19, to the extent such terms are in conflict with the provisions of this letter, the terms and conditions of FS 12-19 shall prevail.

Taxes: Tax is not included in this proposal. In the event that the purchasing organization is not exempt from sales tax or any other applicable taxes and/or the proposed apparatus does not qualify for exempt status, it is the duty of the purchasing organization to pay any and all taxes due. Balance of sale price is due upon acceptance of the apparatus at the factory.

Late Fee: Customer agrees to pay in accordance with the Texas Prompt Payment Act - Texas Government Code Chapter 2251.

Cancellation: In the event this proposal is accepted and a purchase order is issued then cancelled or terminated by Customer before completion, Siddons-Martin Emergency Group may charge a cancellation fee. The following charge schedule based on costs incurred may be applied:

- (A) 10% of the Purchase Price after order is accepted and entered by Manufacturer;
- (B) 20% of the Purchase Price after completion of the approval drawings;
- (C) 30% of the Purchase Price upon any material requisition.

The cancellation fee will increase accordingly as costs are incurred as the order progresses through engineering and into manufacturing. Siddons-Martin Emergency Group endeavors to mitigate any such costs through the sale of such product to another purchaser; however, the customer shall remain liable for the difference between the purchase price and, if applicable, the sale price obtained by Siddons-Martin Emergency Group upon sale of the product to another purchaser, plus any costs incurred by Siddons-Martin to conduct such sale.

Acceptance: In an effort to ensure the above stated terms and conditions are understood and adhered to, Siddons-Martin Emergency Group, LLC requires an authorized individual from the purchasing organization sign and date this proposal and include it with any purchase order. Upon signing of this proposal, the terms and conditions stated herein will be considered binding and accepted by both the Customer and Siddons-Martin Emergency Group, LLC. The terms and acceptance of this proposal will be governed by the laws of the state of Texas. No additional terms or conditions will be binding upon Siddons-Martin Emergency Group, LLC unless agreed to in writing and signed by a duly authorized officer of Siddons-Martin Emergency Group, LLC. Notwithstanding anything to the contrary, there shall be no adjustment of the purchase price after acceptance of this proposal, without a signed approval by the customer.

Sincerely,



Chris Carrero

I, _____, the authorized representative of COLLEGE STATION FIRE DEPARTMENT, agree to purchase the proposed and agree to the terms of this proposal and the specifications attached hereto.

Signature & Date

September 14, 2023
Item No. 7.6.
Justice Assistance Grant (JAG) Program Interlocal Agreement

Sponsor: Rodney Sigler

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding an Interlocal Agreement with Brazos County and the City of Bryan for the 2023 Byrne Justice Assistance Grant (JAG) Program in which the City of College Station has been allocated \$17,329 for supporting law enforcement programs.

Relationship to Strategic Goals:

Financial Sustainability

Recommendation(s): Staff recommends council approve this item to receive the grant.

Summary: The Edward Byrne Memorial Justice Assistance Grant (JAG) Program is the primary provider of federal criminal justice funding to state and local jurisdictions and funds all components of the criminal justice system. JAG funded projects may address crime even through the provision of services directly to individuals and/or communities by improving the effectiveness and efficiency of criminal justice systems, processes and procedures.

College Station Police Department intends to utilize this funding for the purpose of supporting local initiatives, technical assistance, training, equipment, supplies, or information technology projects that will improve or enhance law enforcement programs.

Budget & Financial Summary: The 2023 JAG allocation for Brazos County is \$52,576. The amount is based on a statutory JAG formula that considers the jurisdiction's share of the state population and reported Part 1 violent crime statistics. The grant has no match requirement. Individual recommended allocations designated by the Department of Justice are: Brazos County: \$0.00, Bryan: \$32,189 and College Station: \$20,387 for a total of \$52,576. Brazos County has been certified as a disparate jurisdiction. As such, all jurisdictions must enter into an Interlocal Agreement to specify an award distribution to each unit of local government in a manner that will address disparity and furthermore, must apply for funding jointly.

College Station and Bryan Police Departments have agreed to provide 15% of their recommended funding to Brazos County Sheriff's Office in an effort to address the disparity. After providing 15% to the Brazos County Sheriff's Office, the allocations are as follows: Brazos County: \$7,886, Bryan: \$27,361 and College Station: \$17,329 for a total of \$52,576. College Station Police Department will serve as the administering agency.

Attachments:

1. 23300759 ILA 2023 Byrne Justice Assistance Grant (JAG)



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

CONTRACT & AGREEMENT ROUTING FORM

CONTRACT#: 23300759 PROJECT#: N/A BID/RFP/RFQ#: N/A

Project Name / Contract Description: ILA 2023 Byrne Justice Assistance Grant (JAG)

Name of Contractor: Brazos County and City of Bryan

CONTRACT TOTAL VALUE: \$ 52,576 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

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

Joint grant funding between City of College Station (lead), City of Bryan, and Brazos County. College Station's portion of grant is \$17,329, City of Bryan's portion is \$27,361, and Brazos County's portion is \$7,886 for the purpose of supporting local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, information technology, research and evaluation activities that will improve or enhance law enforcement programs.

(If required)*
CRC Approval Date*: N/A Council Approval Date*: 9/14/23 Agenda Item No*:

--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

DEPARTMENT DIRECTOR/ADMINISTERING CONTRACT 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

**INTERLOCAL AGREEMENT BETWEEN BRAZOS COUNTY, THE CITY OF COLLEGE
STATION, AND THE CITY OF BRYAN FOR THE 2023 BYRNE JUSTICE ASSISTANCE
GRANT (JAG) PROGRAM AWARD**

This Agreement is made and entered into by and between Brazos County, Texas (hereinafter referred to as the “County”), acting through its Commissioners’ Court, the City of College Station (hereinafter referred to as “College Station”), a Texas Home Rule Municipal Corporation, acting through its City Council; and the City of Bryan, Texas (hereinafter referred to as “Bryan”), a Texas Home Rule Municipal Corporation, acting through its City Council.

WHEREAS, the County, College Station, and Bryan wish to submit a joint application for grant funds under the U.S. Department of Justice’s 2023 Edward Byrne Memorial Justice Assistance Grant (JAG) Program; and

WHEREAS, as a condition precedent to receiving a JAG award, the County, College Station, and Bryan are required to enter into an inter-local agreement designating one joint applicant to serve as the applicant/fiscal agent for the joint funds; and

WHEREAS, College Station will serve as the applicant/fiscal agent; and

WHEREAS, Chapter 791 of the Texas Government Code, also known as the Interlocal Cooperation Act, authorizes all local governments to contract with each other to perform governmental functions or services; and

WHEREAS, the parties represent that each is independently authorized to perform the functions or services contemplated by this Agreement; and

WHEREAS, each governing body, in performing governmental functions or in paying for the performance of governmental functions hereunder, shall make that performance or those payments from current revenues legally available to that party; and

WHEREAS, each governing body finds that the performance of this Agreement is in the best interests of all parties, that the undertaking will benefit the public, and that the division of costs fairly compensates the performing party for the services or functions under this Agreement; and

WHEREAS, College Station agrees to provide the County \$7,886 from the JAG award for the purpose of supporting local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, information technology, research and evaluation activities that will improve or enhance law enforcement programs; and

WHEREAS, College Station agrees to provide Bryan \$27,361 from the JAG award for the purpose of supporting local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, information technology, research and evaluation activities that will improve or enhance law enforcement programs; and

WHEREAS, College Station shall use their \$17,329 from the JAG award for the purpose of supporting local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, information technology, research and evaluation activities that will improve or enhance law enforcement programs; and

WHEREAS, Bryan, College Station and the County believe it to be in their best interest to reallocate the JAG funds as described above,

NOW, THEREFORE, the parties hereto, in consideration of the mutual covenants and conditions contained herein, promise and agree as follows:

1. College Station agrees to pay the County a total of \$7,886 of JAG funds.
2. The County agrees to use the \$7,886 for the purpose of supporting local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, information technology, research and evaluation activities that will improve or enhance law enforcement programs.
3. College Station agrees to pay Bryan a total of \$27,361 of JAG funds.
4. Bryan agrees to use the \$27,361 for the purpose of supporting local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, information technology, research and evaluation activities that will improve or enhance law enforcement programs.
5. College Station agrees to retain a total of \$17,329 of the JAG funds.
6. College Station agrees to use \$17,329 for the purpose of supporting local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, information technology, research and evaluation activities that will improve or enhance law enforcement programs.
7. The parties to this Agreement do not intend for any third party to obtain a right by virtue of this Agreement.
8. By entering into this Agreement, the parties do not intend to create any obligations express or implied other than those set out herein; further, this Agreement shall not create any rights in any party not a signatory hereto.
9. No party shall have the right to direct or control the conduct of the other parties with respect to the duties and obligations of each party under the terms of this Agreement.
10. Each entity shall ensure that all applicable laws and ordinances have been satisfied.
11. **Effective Date and Term.** This Agreement shall be effective when signed by the last party who's signing makes the Agreement fully executed and will remain in full force and effect until September 30, 2026.
12. **Indemnification** Subject to the limitations as to damages and liability under the Texas Tort Claims Act, and without waiving its governmental immunity, each party to this Agreement agrees to hold harmless each other, its governing board, officers, agents and employees for any liability, loss, damages, claims or causes of action caused, or asserted to be caused, directly or indirectly by any other party to this Agreement, or any of its officers, agents or employees as a result of its performance under this Agreement.
13. **Consent to Suit.** Nothing in this Agreement will be construed as a waiver or relinquishment by any party of its right to claim such exemptions, privileges and immunities as may be provided by law.

14. **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.
15. **Written Notice.** Unless otherwise specified, written notice shall be deemed to have been duly served if delivered in person or sent by certified mail to the business address as listed herein.

CITY OF BRYAN:

City Manager
City of Bryan
300 South Texas Ave.
Bryan, Texas 77803

CITY OF COLLEGE STATION:

City Manager
City of College Station
P. O. Box 9960
College Station, Texas 77842

BRAZOS COUNTY:

County Judge
Brazos County
200 South Texas Ave., Ste. 332
Bryan, Texas 77803

16. **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. Nor oral understandings, statements, promises, or inducements contrary to the terms of this Agreement exist. This Agreement cannot be changed or terminated orally. No verbal agreement or conversation with any officer, agent, or employee of any party before or after the execution of this Agreement shall affect or modify any of the terms or obligations hereunder.
17. **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 all parties.
18. **Texas Law.** This Agreement has been made under and shall be governed by the laws of the State of Texas.
19. **Place of Performance.** Performance and all matters related thereto shall be in Brazos County, Texas, United States of America.
20. **Authority to Enter 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.
21. **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 anyway affect the validity of this Agreement, any part hereof, or the right of either party thereafter to enforce each and every provision hereof. No term of this Agreement shall be deemed waived or breach excused unless the waiver shall be in writing and signed by the party claimed to have waived. Furthermore, any consent to or waiver of a breach will not constitute consent to or waiver of or excuse any other different or subsequent breach.
22. **Agreement Read.** The parties acknowledge that they have read, understand and intend to be bound by the terms and conditions of this Agreement.

23. **Assignment.** This Agreement and the rights and obligations contained herein may not be assigned by any party without the prior written approval of the other parties to this Agreement.
24. **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.

EXECUTED this the _____ day of _____, 2023 by **CITY OF BRYAN**.

CITY OF BRYAN

By: _____
Mayor

ATTEST:

APPROVED AS TO FORM:

City Secretary

City Attorney

EXECUTED this the _____ day of _____, 2023 by **CITY OF COLLEGE STATION**.

CITY OF COLLEGE STATION

By: _____
Mayor

ATTEST:

APPROVED AS TO FORM:

City Secretary

City Manager

City Attorney

Assistant City Attorney/CFO

EXECUTED this the _____ day of _____, 2023 by **BRAZOS COUNTY**.

COUNTY OF BRAZOS

By: _____
County Judge

ATTEST:

APPROVED AS TO FORM:

County Clerk

Counsel for Brazos County

September 14, 2023
Item No. 8.1.
City Hall room use policy

Sponsor: Bryan Woods, City Manager

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding a City Hall room use policy.

Relationship to Strategic Goals:

Good Governance

Recommendation(s): Staff recommends council adopt this policy to determine uses by the public for city hall meeting facilities.

Summary: City Hall currently has meeting rooms that can be used by the public. They are the Bush 4141 Community Room and the Heart of Aggieland Multipurpose Room. A policy needs to be adopted similar to the policies of other city meeting facilities. This policy will determine the terms of use and guidelines for potential users.

Budget & Financial Summary: N/A

Attachments:

None

September 14, 2023
Item No. 8.2.

Sponsor: Jennifer Prochazka, Assistant City Manager

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action related to a Parks and Recreation Department annual update.

Relationship to Strategic Goals:

Recommendation(s):

Summary:

Budget & Financial Summary:

Attachments:

None

September 14, 2023
Item No. 9.1.
FY23 Budget Amendment #3

Sponsor: Mary Ellen Leonard, Director of Fiscal Services

Reviewed By CBC: City Council

Agenda Caption: Public Hearing, presentation, discussion, and possible action on Budget Amendment 3 amending Ordinance No. 2022-4383 that amends the 2022-2023 Fiscal Year Budget in the amount of \$1,593,153.

Relationship to Strategic Goals:

Good Governance

Financially Sustainable City

Core Services and Infrastructure

Recommendation(s): Staff recommends the City Council approve Budget Amendment #3.

Summary: The charter of the City of College Station provides for the City Council to amend the annual budget in the event there are revenues available to cover expenditures and after holding a public hearing on such budget amendment. The proposed budget amendment is to increase the FY23 budget appropriations by \$1,593,153 primarily because of additional street maintenance, water repair supplies, an intergovernmental rescue vehicle and technology replacement costs. Attached is a summary with a complete description of the items included on the proposed budget amendment.

Budget & Financial Summary: The City has resources or can reasonably expect resources to cover the appropriations in this budget amendment. The attached summary has the complete description of the items included on the proposed budget amendment. If approved, the net revised 2022-2023 budget appropriations will be \$505,665,121.

Attachments:

1. FY23 Budget Amendment #3 Ordinance 9-14-23

ORDINANCE NO. _____

AN ORDINANCE AMENDING ORDINANCE NO. 2022-4383 AS BUDGET AMENDMENT NUMBER 2 AMENDING THE BUDGET FOR THE 2022-2023 FISCAL YEAR AND AUTHORIZING AMENDED EXPENDITURES AS PROVIDED IN THIS ORDINANCE.

WHEREAS, on August 25, 2022, the City Council of the City of College Station, Texas, adopted Ordinance No. 2022-4383 approving its Budget for the 2022-2023 Fiscal Year; and

WHEREAS, on November 11, 2022, the City Council of the City of College Station, Texas, adopted Ordinance No. 2022-4383 amending its Budget for the 2022-2023 Fiscal Year in Budget Amendment Number 1; and

WHEREAS, on February 3, 2023, the City Council of the City of College Station, Texas, adopted Ordinance No. 2022-4383 amending its Budget for the 2022-2023 Fiscal Year in Budget Amendment Number 2; and

WHEREAS, this Budget Amendment Number 3 was prepared and presented to the City Council and a public hearing held as prescribed by law and the College Station City Charter, after notice of the hearing having been first duly given; now, therefore;

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

PART 1: That Ordinance No. 2022-4383 is hereby amended by amending the adopted 2022-2023 Budget by a net amount of **\$1,593,153** as further detailed in **Exhibit A**.

PART 2: That this Budget Amendment Number 3 shall be attached to and made a part of the 2022-2023 Budget.

PART 3: That except as amended hereby, Ordinance No, 2022-4383 shall remain in effect in accordance with its terms.

PART 4: That this ordinance shall become effective immediately after passage and approval.

PASSED and APPROVED this 14th day of September 2023.

ATTEST:

APPROVED:

City Secretary

Mayor

APPROVED:

City Attorney

EXHIBIT A – FY23 BUDGET AMENDMENT NUMBER 3 DETAIL LISTING

1. **Rescue Vehicle - \$350,000 (Budget Amendment).** The tactical armored vehicle for special operations units and tactical teams to use for responding to active shooter scenarios, barricaded suspects, response and rescue, and high-risk warrant service. This item is an interlocal agreement with the City of College Station, City of Bryan, Texas A&M University, and Brazos County. The City of College Station will procure, maintain, operate, and store the Rescue Vehicle. The Parties to the initial purchase will each pay an amount equal to one-quarter of the total cost of purchasing the Rescue Vehicle.
2. **Fun For All Enhancements \$20,000 expenditure \$170,000 revenue (Budget Amendment).** The Fun For All Committee has requested for the Parks Department to build enhancements that include benches, tables and sunshades to the playground totaling under \$20,000. The Committee also has sent the City most of their fund balance from fundraising in the amount of \$170,000. This has been added to the fund balance and will be used for future enhancements in FY24 and FY25.
3. **Law Enforcement Officer Standards and Education (LEOSE) Funds - \$8,153 (Budget Amendment).** This item provides additional training budget to meet State of Texas compliance requirements. The City of College Station received LEOSE funds and must show a corresponding budget for use of those funds.
4. **Planning & Development Grant – GIS Training \$20,000 (Budget Amendment).** Planning and Development received a grant from the SUGA Board for GIS Pro Training for their GIS employees in the amount of \$20,000. There are no required matching funds for this grant.
5. **Street Maintenance Contract Labor \$400,000 (Budget Amendment).** This item will increase the contracted labor budget for streets maintenance. Funding increase will allow the completion of current repairs and maintenance in FY23. There is available fund balance to cover the budget increase.
6. **Water Work Order and Chemical Supplies - \$350,000 (Budget Amendment).** This item will increase the supply budget to continue utility operations. Chemical expenses increased due to higher volumes of water pumped and product price increases. Work order expenses increased due to additional maintenance caused by current weather conditions. This increase in budget will be offset by Water revenues coming in higher than budgeted.
7. **Property Casualty Premiums - \$165,000 (Budget Amendment).** The growth of the City's fleet and the insured value of City facilities have caused premiums paid for insurance coverage to increase more than 100% since FY18. FY23 premiums paid were 30% more than the FY22 premiums. Funding will come from Property Casualty Fund working capital.
8. **Water Transfer to Risk Mitigation - \$300,000 (Interfund Transfer).** Increased transfer between the Water Operating and Risk Mitigation Funds. Water received more industrial

revenue than previously projected. As a result, this item will increase the budgeted transfer by \$300,000. Revenue will be held in the Water Risk Mitigation Fund.

9. **Electric Risk Mitigation Transfer - \$2,000,000 (Interfund Transfer).** This item will budget a transfer between the Electric Operating and Risk Mitigation Funds. This was not originally budgeted in FY23 due to projected fund balance. However, FY23 Electric operating revenues are higher than originally anticipated. As a result, additional revenues are available to transfer to the Risk Mitigation Fund.
10. **IT Replacements \$230,000 (Budget Amendment and Interfund Transfer).** Transfer between IT Replacement Fund and General Fund to reconcile previously planned purchases. Prior year supply chain issues caused a backlog of IT related purchases which have recently been delivered. This transfer will align prior year budgeted items with current year shipments. Appropriate funding was allocated to and is available in the IT Replacement Fund to cover the current year expenses.
11. **Fleet Replacements \$50,000 (Budget Amendment and Interfund Transfer).** Transfer between Fleet Replacement Fund and General Fund for replacement of generator at Fire Station #2. Appropriate funding was allocated and is available in the Fleet Replacement Fund to reconcile this transfer.

September 14, 2023
Item No. 9.2.
2900 North Graham Road Rezoning

Sponsor: Robin Macias

Reviewed By CBC: Planning & Zoning Commission

Agenda Caption: Public Hearing, presentation, discussion, and possible action regarding an ordinance amending Appendix A, Unified Development Ordinance, Article 4, "Zoning Districts," Section 4.2 "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas by changing the zoning district boundary from BPI Business Park Industrial to PDD Planned Development District on approximately 7.37 acres of land being Tract 38.4 of the Crawford Burnett Survey Abstract 7, generally located at 2900 North Graham Road.

Relationship to Strategic Goals:

Diverse and Growing Economy

Recommendation(s): Staff recommends approval of the rezoning and associated Concept Plan as it is in line with the Comprehensive Plan and is compatible with the surrounding area.

The Planning and Zoning Commission heard this item on August 17, 2023 and recommended approval (5-0).

Summary: This request is to rezone the subject property from BPI Business Park Industrial to PDD Planned Development District with a base zoning of BPI Business Park Industrial. The proposed Concept Plan shows a general area for self-storage, office, and outdoor storage areas. It will remove cross access and substitute a masonry wall for wooden fence, increase the buffer area, and remove allowed uses.

REZONING REVIEW CRITERIA

1. Whether the proposal is consistent with the Comprehensive Plan:

The Comprehensive Plan Future Land Use and Character Map designates the subject property as Business Center. The Comprehensive Plan generally describes the Business Center land use designation as areas that include office, research, or industrial uses that may be planned and developed as a unified project.

The intent of the district is to:

- Accommodate a variety of large footprint buildings
- Provide buffering through landscaping and building placement where large-scale employment sites are adjacent to residential areas

The zoning districts that are generally appropriate within this land use include: BP Business Park, BPI Business Park Industrial, and CI Commercial Industrial.

The proposed zoning district of PDD Planned Development District with a base zoning of BPI Business Park Industrial is in line with the Comprehensive Plan.

2. Whether the uses permitted by the proposed zoning district will be appropriate in the context of the surrounding area:

The property has frontage to North Graham Road. Adjacent properties are zoned R Rural to the north and west and PDD Planned Development District and CI Commercial Industrial to the east. The property to the south of the subject property across North Graham Road is zoned R Rural.

The BPI Business Park Industrial zoning district is intended to provide land for manufacturing and industrial nuisance characteristics greater than activities permitted in the BP Business Park district. These permitted uses are generally not compatible with residential uses or lower intensity commercial uses. Developments in this zoning district should be offset from adjacent properties by using the BP Business Park district development standards to screen and buffer the uses.

Properties to the north are mostly undeveloped. There is a veterinary clinic to the northeast at the corner of Rock Prairie Road West and Old Wellborn Road. The adjacent lots to the east are developed as retail sales and service, warehousing, and fabrication uses. The adjacent lot to the west is developed as a residential home. The area is slowly transitioning away from rural and residential uses.

The proposed zoning district is appropriate for the surrounding area as it is designated as Business Park on the Comprehensive Plan, which would allow for future zoning districts that are compatible with BPI Business Park Industrial. The proposed zoning district would allow for similar developments that are currently adjacent to and nearby the subject property.

3. Whether the property to be rezoned is physically suitable for the proposed zoning district:

The size and location of the subject property is suitable for developments allowed within this proposed zoning district. The site has adequate space to meet the minimal dimensional standards for the base zoning district of BPI Business Park Industrial as set forth in the PDD.

4. Whether there is available water, wastewater, stormwater, and transportation facilities generally suitable and adequate for uses permitted by the proposed zoning district:

The existing water and wastewater infrastructure is adequate to support the needs of this development. Drainage and any other infrastructure required with the site development shall be designed and constructed in accordance with the BCS Unified Design Guidelines. The subject property has frontage to North Graham Road, a future major collector on the Thoroughfare Plan. The site will take access off of General Parkway, which will be constructed with the final plat as proposed on the Thoroughfare Plan. A traffic impact analysis was not required for the proposed request as the anticipated traffic volume falls below the threshold of 150 trips in the peak hour that would require a TIA to be performed.

5. The marketability of the property:

The applicant has stated that the adjacent developments have increased development opportunities for this area making it more marketable as a commercial development.

REVIEW OF CONCEPT PLAN

The concept plan provides an illustration of the general layout of the proposed building areas as well as other site related features. In proposing a PDD, an applicant may also request variations to the general platting and site development standards provided that those variations are outweighed by

demonstrated community benefits of the proposed development. This proposed concept plan allows for a fence to be installed instead of a wall in the buffer area as well as removes the requirement to provide cross access to adjacent properties and offers several meritorious modifications to mitigate impacts the development may have on the adjacent residential development. The Unified Development Ordinance provides the following review criteria as the basis for reviewing PDD concept plans:

1. The proposal will constitute an environment of sustained stability and will be in harmony with the character of the surrounding area;
2. The proposal is in conformity with the policies, goals, and objectives of the Comprehensive Plan, and any subsequently adopted Plans, and will be consistent with the intent and purpose of this Section;
3. The proposal is compatible with existing or permitted uses on abutting sites and will not adversely affect adjacent development;
4. Every dwelling unit need not front on a public street but shall have access to a public street directly or via a court, walkway, public area, or area owned by a homeowners association;
5. The development includes provision of adequate public improvements, including, but not limited to, parks, schools, and other public facilities;
6. The development will not be detrimental to the public health, safety, welfare, or materially injurious to properties or improvements in the vicinity; and
7. The development will not adversely affect the safety and convenience of vehicular, bicycle, or pedestrian circulation in the vicinity, including traffic reasonably expected to be generated by the proposed use and other uses reasonably anticipated in the area considering existing zoning and land uses in the area.

Purpose and Intent:

The Planned Development District for this property outlines the purpose, intent, and community benefit of the proposed development, which is to provide office, self-storage spaces, and an outdoor storage area. The proposed concept plan shows the layout of these uses with a buffer area adjacent to the residential home to the west of the property that has been increased from 50 to 100 feet.

Base Zoning and Meritorious Modifications:

The Planned Development District has a base zoning of BPI Business Park Industrial.

At the time of site plan, the project will need to meet all applicable site development standards and platting requirements of the Unified Development Ordinance for the base zoning district, except where meritorious modifications are granted with the PDD zoning. The applicant is requesting the following meritorious modification:

- Substitute a 6-ft masonry wall with a 6-ft wooden fence along the western property line as required in Section 7.7.F of the UDO, while providing the double plantings and doubled area as is required by the Unified Development Ordinance instead of quadruple the landscaping.
- Remove cross access to abutting properties as required in Section 7.4.B.2 of the UDO.

The Unified Development Ordinance allows for developments to substitute a 6-ft masonry wall with a 6-ft wooden fence if the buffer yard and landscaping is doubled, but the BPI Business Park Industrial zoning district is already required to provide double the landscaping plantings.

Community Benefits:

The applicant is proposing the following community benefits:

- Remove more intense industrial uses such as: bulk storage tanks, heavy industrial, recycling facility and salvage yard. Removing these more intense uses allows for the development to be more compatible with the surrounding area as the adjacent properties are either used as residential, undeveloped or, are a more light industrial use.

The list of permitted uses and uses with specific use standards for this property is as follows:

Permitted Uses

- Educational Facility, Primary & Secondary
- Educational Facility, Vocational/Trade
- Government Facilities
- Parks
- Place of Worship
- Office
- Printing/Copy Shop
- Radio I TV Stations/ Studios
- Shooting Range, Indoor
- Retail Sales, Manufactured Homes
- Storage, Self Service
- Vehicular Sales, Rental, Repair and Service
- Wholesales I Services
- Micro - Industrial
- Industrial, Light
- Scientific Testing I Research Laboratory
- Storage, Outdoor - Equipment or Materials
- Warehousing I Distribution
- Wireless Telecommunication Facilities - Intermediate
- Wireless Telecommunication Facilities - Major
- Wireless Telecommunication Facilities - Unregulated

Permitted with Specific Use Standards:

- Commercial Garden/ Greenhouse I Landscape Maintenance

Budget & Financial Summary: N/A

Attachments:

1. Ordinance
2. Vicinity, Aerial, and Small Area Map
3. Background Information
4. Applicant's Supporting Information
5. Rezoning Map
6. Future Land Use Map
7. Concept Plan
8. Bulk Variances Letter

ORDINANCE NO. _____

AN ORDINANCE AMENDING APPENDIX A “UNIFIED DEVELOPMENT ORDINANCE,” ARTICLE 4 “ZONING DISTRICTS,” SECTION 4.2, “OFFICIAL ZONING MAP” OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY CHANGING THE ZONING DISTRICT BOUNDARIES FROM BPI BUSINESS PARK INDUSTRIAL TO PDD PLANNED DEVELOPMENT DISTRICT AFFECTING APPROXIMATELY 7.37 ACRES OF LAND BEING TRACT 38.4 OF THE CRAWFORD BURNETT LEAGUE ABSTRACT 7 SURVEY, GENERALLY LOCATED AT 2900 N GRAHAM RD CERTAIN PROPERTIES AS DESCRIBED BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

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

- PART 1:** That Appendix A “Unified Development Ordinance,” Article 4 “Zoning Districts,” Section 4.2 “Official Zoning Map” of the Code of Ordinances of the City of College Station, Texas, be amended as set out in **Exhibit “A”, Exhibit “B”, Exhibit “C” and Exhibit “D”** attached hereto and made a part of this Ordinance for all purposes.
- PART 2:** If any provision of this Ordinance or its application to any person or circumstances is held invalid or unconstitutional, the invalidity or unconstitutionality does not affect other provisions or application of this Ordinance or the Code of Ordinances of the City of College Station, Texas, that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this Ordinance are severable.
- PART 3:** That any person, corporation, organization, government, governmental subdivision or agency, business trust, estate, trust, partnership, association and any other legal entity violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not less than twenty five dollars (\$25.00) and not more than five hundred dollars (\$500.00) or more than two thousand dollars (\$2,000) for a violation of fire safety, zoning, or public health and sanitation ordinances, other than the dumping of refuse. Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.
- PART 4:** This Ordinance is a penal ordinance and becomes effective ten (10) days after its date of passage by the City Council, as provided by City of College Station Charter Section 35.

PASSED, ADOPTED, and APPROVED this 14th day of September, 2023.

ATTEST:

APPROVED:

City Secretary

Mayor

APPROVED:

City Attorney

Exhibit A

That Appendix A “Unified Development Ordinance,” Article 4 “Zoning Districts,” Section 4.2, “Official Zoning Map” of the Code of Ordinances of the City of College Station, Texas, is hereby amended as follows:

The following property is rezoned from BPI Business Park Industrial to PDD Planned Development District:



FIELD NOTES DESCRIPTION
OF A
7.365 ACRE TRACT
CRAWFORD BURNETT LEAGUE SURVEY, ABSTRACT 7
COLLEGE STATION, BRAZOS COUNTY, TEXAS

A FIELD NOTES DESCRIPTION OF 7.365 ACRES IN THE CRAWFORD BURNETT LEAGUE SURVEY, ABSTRACT 7, IN COLLEGE STATION, BRAZOS COUNTY, TEXAS, BEING ALL OF A CALLED 7.366, CONVEYED TO ARTWIN INVESTMENTS, LLC. IN VOLUME 18218, PAGE 17 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS (OPRBCT); SAID 7.365 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 5/8 inch iron rod found in the northwest line of N. Graham Road (right-of-way appears to be prescriptive in nature), for the south corner of Lot 10, Block 1, of the Rock Prairie West Business Park recorded in Volume 4966, Page 66 (OPRBCT) and being the east corner of said 7.366 acres and the east corner hereof;

THENCE, along the northwest line of N. Graham Road and with the southeast line of said 7.366 acres, **S 42° 27' 23" W**, for a distance of **617.07 feet** to a 1/2 inch iron rod with a blue plastic cap stamped “KERR SURVEYING” set for the east corner of a called 5.00 acre tract of land conveyed to Robert K. Strawn and Charlene S. Strawn in Volume 3720, Page 257 (OPRBCT) and being the south corner of said 7.366 acres and the south corner hereof;

THENCE, with the common line of said 5.00 acres and said 7.366 acres, **N 47° 40' 53" W**, passing at a distance of 4.24 feet, a 1/2 inch iron rod found and continuing for a total distance of **517.10 feet** to a 3/8 inch iron rod found for the common corner of Lot 3 and Lot 4, Block 1, of said Rock Prairie West Business Park, Phase 1, and being the north corner of said 5.00 acres and the west corner of said 7.366 acres and the west corner hereof, from which the City of College Station Monument CS94-117 bears S 57° 15' 55" W, a distance of 2,289.11 feet;

THENCE, with the common line of said Block 1 and said 7.366 acres for the following two (2) courses and distances:

- 1) **N 42° 25' 15" E**, passing at a distance of 207.78 feet, a 1/2 inch iron rod with a plastic cap stamped “MDO RPLS 1852” and passing at an additional distance of 207.78 feet, another 1/2 inch iron rod with a plastic

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1 | Page

cap stamped "MDO RPLS 1852" and continuing for a total distance of **623.26 feet** to a 1/2 inch iron rod found;

- 2) **S 46° 59' 45" E**, for a distance of **517.51 feet** to the **POINT OF BEGINNING** hereof and containing **7.365 acres**, more or less.

Surveyed on the ground April 2023 under my supervision. See plat prepared April 2023 for other information. The bearing basis for this survey is based on the Texas State Plane Coordinate System of 1983 (NAD83), Central Zone, Grid North as established from GPS observation using the Leica Smartnet NAD83 (NA2011) Epoch 2010 Multi-year CORS Solution 2 (MYCS2). Distances described herein are surface distances. To obtain grid distances (not grid areas) divide by a combined scale factor of 1.00010046038250 (calculated using GEOID12B). Reference drawing: 23-378-BOUNDARY.


4/14/23
Nathan Paul Kerr
Registered Professional Land Surveyor No. 6834



KERR SURVEYING

Kerr Surveying, LLC | 409 N. Texas Ave. Bryan, TX 77803

Office: (979) 268-3195 | Web: www.kerrlandsurveying.com

Surveys@kerrsurveying.net | TBPELS Firm No. 10018500

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2 | Page

Exhibit B

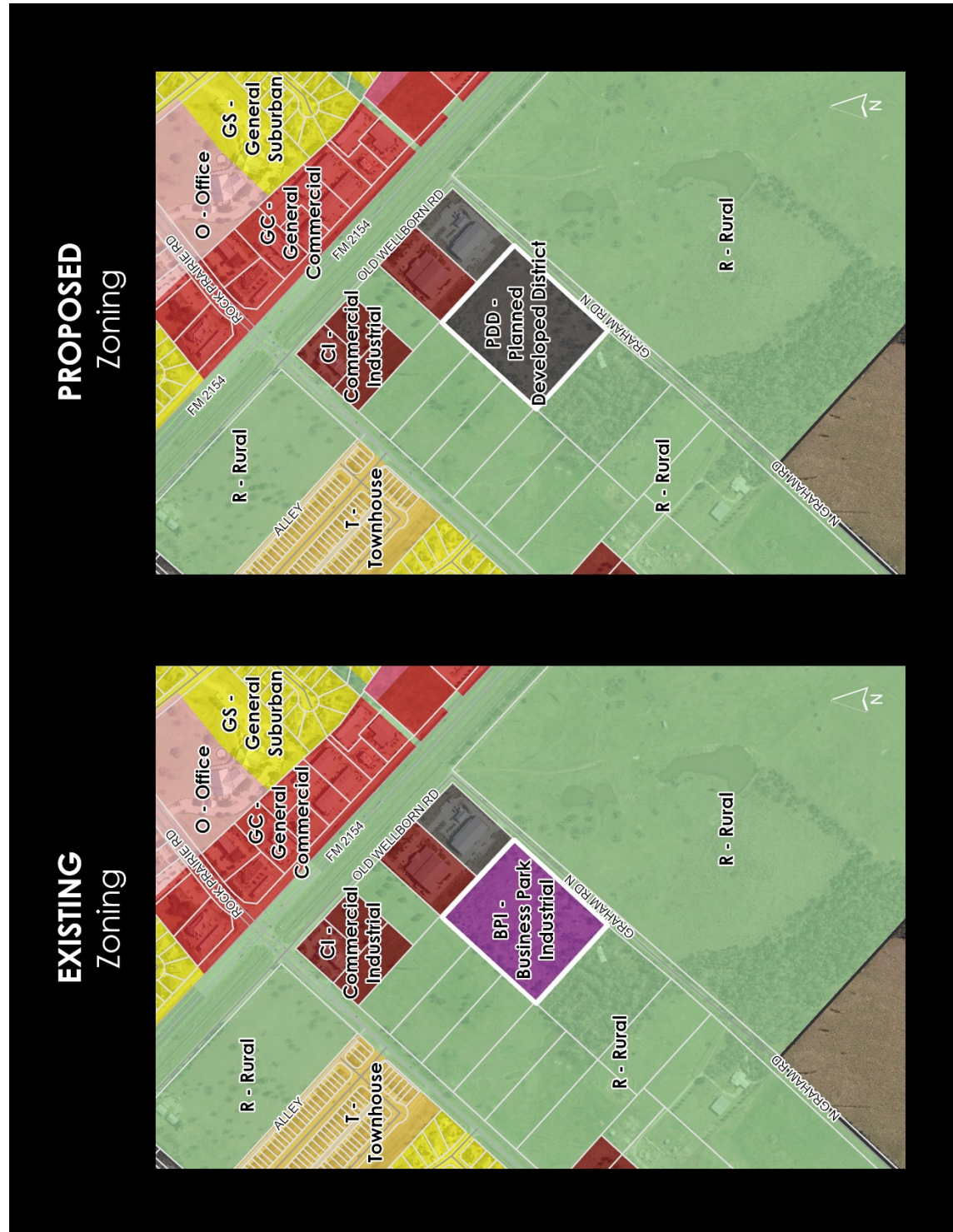


Exhibit C

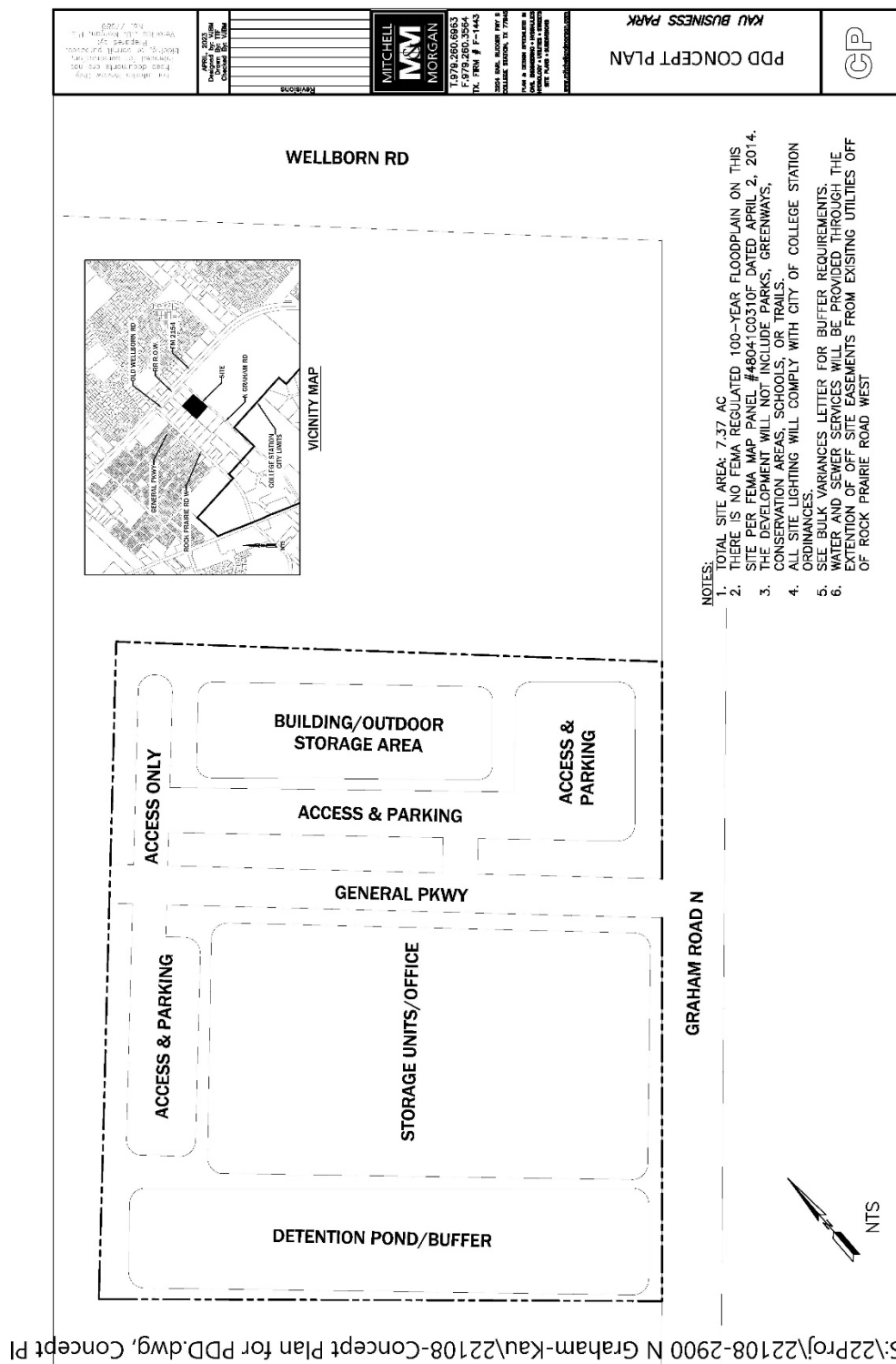


Exhibit D

Base Zoning and Meritorious Modifications:

The Planned Development District has a base zoning of BPI Business Park Industrial.

At the time of site plan, the project will need to meet all applicable site development standards and platting requirements of the Unified Development Ordinance for the base zoning district, except where meritorious modifications are granted with the PDD zoning. The applicant is requesting the following meritorious modifications:

- Substitute a 6-ft masonry wall with a 6-ft wooden fence along the western property line as required in section 7.7.F of the UDO with doubling the total buffer area but without quadruple the plantings
- Remove cross access to abutting properties as required in section 7.4.B.2 of the UDO

Community Benefits:

The applicant is proposing the following community benefits:

- Remove more intense industrial uses such as: bulk storage tanks, heavy industrial, recycling facility and salvage yard. Removing these more intense uses allows for the development to be more compatible with the surrounding area as the adjacent properties are either used as residential, undeveloped or are a more light industrial use.

The list of permitted uses and uses with specific use standards for this property is as follows:

Permitted Uses

- Educational Facility, Primary & Secondary
- Educational Facility, Vocational/Trade
- Government Facilities
- Parks
- Place of Worship
- Office
- Printing/Copy Shop
- Radio I TV Stations/ Studios
- Shooting Range, Indoor
- Retail Sales, Manufactured Homes
- Storage, Self Service
- Vehicular Sales, Rental, Repair and Service
- Wholesales I Services
- Micro - Industrial
- Industrial, Light
- Scientific Testing I Research Laboratory
- Storage, Outdoor - Equipment or Materials
- Warehousing I Distribution
- Wireless Telecommunication Facilities - Intermediate
- Wireless Telecommunication Facilities - Major
- Wireless Telecommunication Facilities - Unregulated

Permitted with Specific Use Standards:

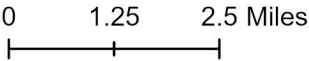
- Commercial Garden/ Greenhouse I Landscape Maintenance

VICINITY MAP

2900 N. GRAHAM ROAD REZONING
REZ2023-000009

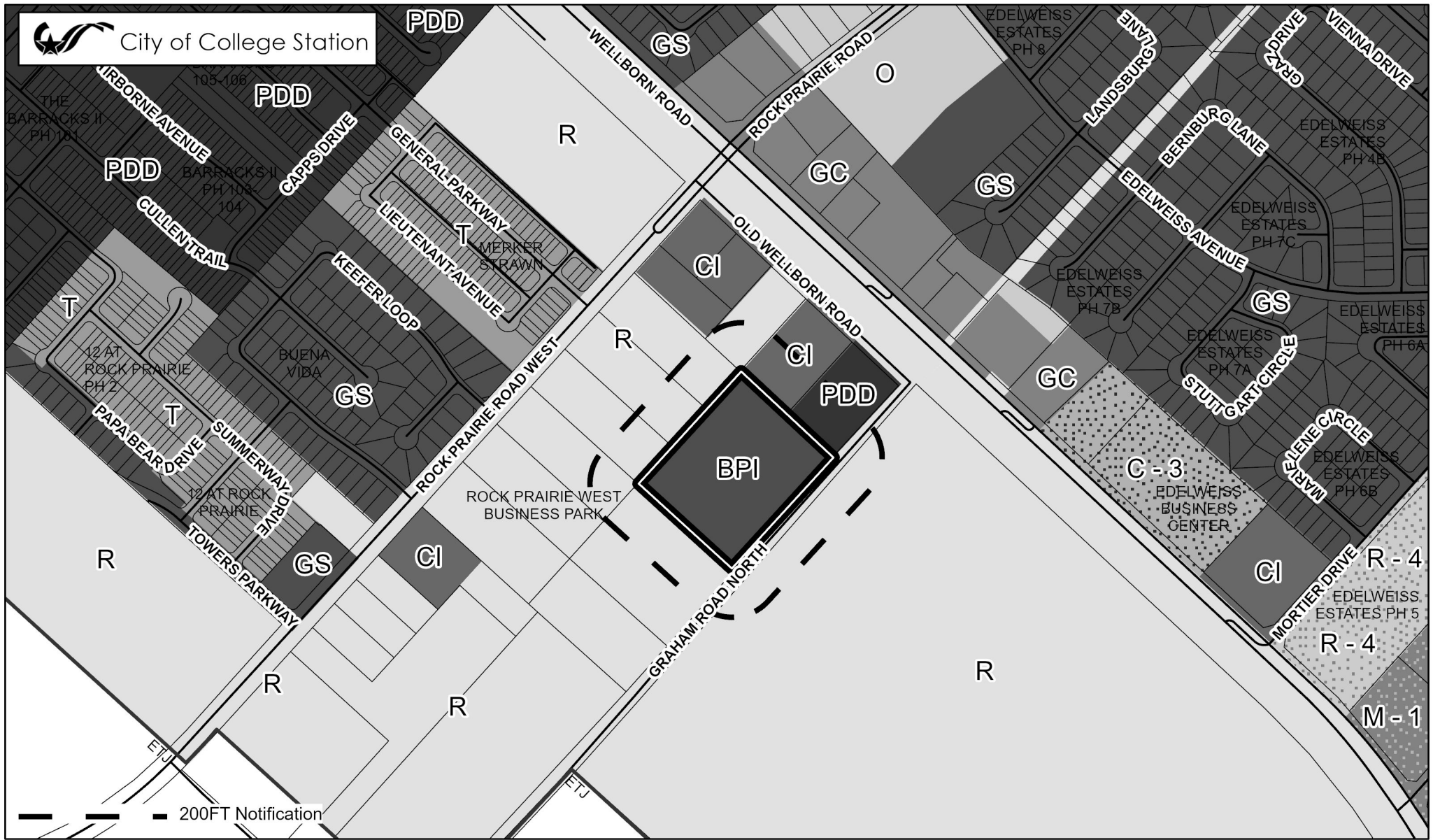
Legend

- City Limits
- 5 mile Extra Territorial Jurisdiction





REZONING



ZONING DISTRICTS (In Grayscale)

<u>Residential</u>	MH	Middle Housing
R Rural	MF	Multi-Family
WE Wellborn Estate	MU	Mixed-Use
E Estate	MHP	Manufactured Home Pk.
WRS Wellborn Restricted Suburban		
RS Restricted Suburban		
GS General Suburban		
D Duplex		
T Townhome		

Non-Residential

NAP	Natural Area Protected
O	Office
SC	Suburban Commercial
WC	Wellborn Commercial
GC	General Commercial
CI	Commercial Industrial
BP	Business Park
BPI	Business Park Industrial
C-U	College and University

Planned Districts

P-MUD	Planned Mixed-Use Dist.
PDD	Planned Develop. Dist.

Design Districts

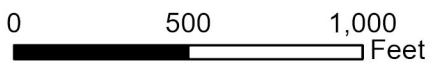
WPC	Wolf Pen Creek Dev. Cor.
NG-1	Core Northgate
NG-2	Transitional Northgate
NG-3	Residential Northgate

Overlay Districts

OV	Corridor Ovr.
RDD	Redevelopment District
ROO	Restricted Occupancy Ovr.
NPO	Nbrhd. Prevailing Ovr.
NCO	Nbrhd. Conservation Ovr.
HP	Historic Preservation Ovr.

Retired Districts

R-1B	Single Family Residential
R-4	Multi-Family
R-6	High Density Multi-Family
C-3	Light Commercial
RD	Research and Dev.
M-1	Light Industrial
M-2	Heavy Industrial



2900 N. GRAHAM ROAD REZONING

Case:
REZ2023-000009

REZONING

BACKGROUND INFORMATION

NOTIFICATIONS

Advertised Commission Hearing Date: August 17, 2023
Advertised Council Hearing Date: September 14, 2023

The following neighborhood organizations that are registered with the City of College Station's Neighborhood Services have received a courtesy letter of notification of this public hearing:

None

Property owner notices mailed: 8

Contacts in support: None at the time of this report
Contacts in opposition: None at the time of this report
Inquiry contacts: None at the time of this report

ADJACENT LAND USES

Direction	Comprehensive Plan	Zoning	Land Use
North	Business Center	R Rural	Undeveloped
South	Business Center	R Rural	N Graham Rd (2-lane major collector)
East	General Commercial	CI Commercial Industrial and PDD Planned Development District	Commercial sales and service, manufacturing, wholesale
West	Business Center	R Rural	Residential

DEVELOPMENT HISTORY

Annexed: October 2002
Zoning: A-O Agricultural Open (upon annexation 2002)
PDD Planned Development District (2011)
BPI Business Park Industrial (2013)
Final Plat: Unplatted
Site Development: Undeveloped



REZONING PDD APPLICATION SUPPORTING INFORMATION

Name of Project: 2900 N. GRAHAM ROAD REZONING (REZ2023-000009)

Address: 2900 GRAHAM RD N

Legal Description: A000701, CRAWFORD BURNETT (ICL), TRACT 38.4, 7.366 ACRES

Total Acreage: 7.37

Applicant: MITCHELL & MORGAN

Property Owner: ARTWIN INVESTMENTS LLC

List the changed or changing conditions in the area or in the City which make this zone change necessary.

As residential development continues to increase in west College Station, the need for office space and storage units also increases. The Comprehensive Plan has designated land on this side of College Station for this type of uses under the Business Park land use designation. Further, this property is zoned R Rural, the holding zone placed on property upon annexation, and requires rezoning the property for business park development.

Indicate whether or not this zone change is in accordance with the Comprehensive Plan. If it is not, explain why the Plan is incorrect.

The Comprehensive Plan designates this property for Business Center. The request to rezone the property to Business Park Industrial is in compliance with the Future Land Use & Character Plan.

How will this zone change be compatible with the present zoning and conforming uses of nearby property and with the character of the neighborhood?

The existing R Rural zoning district is not suitable for the property as it is not compatible with the Comprehensive Plan designation not just for this property, but all surrounding properties as well. As growth and development pressures continue to move through this area of College Station, R Rural and agricultural uses will no longer be suitable for these properties.

Explain the suitability of the property for uses permitted by the rezoning district requested.

This property is ideal for Business Park Industrial uses, there are utility service challenges, specifically with wastewater availability. The proposed uses for a self-storage facility and an office building are low wastewater users that can be accommodated with the available capacity.

Further, the permitted uses under the proposed zoning district are low traffic generators that will not add high traffic volumes to the growing area of College Station that is experiencing significant growth.

Explain the suitability of the property for uses permitted by the current zoning district.

This property is ideal for Business Park Industrial uses, there are utility service challenges, specifically with

wastewater availability. The proposed uses for a self-storage facility and an office building are low wastewater users that can be accommodated with the available capacity.

Further, the permitted uses under the proposed zoning district are low traffic generators that will not add high traffic volumes to the growing area of College Station that is experiencing significant growth.

Explain the marketability of the property for uses permitted by the current zoning district.

Rural and agricultural uses for this property are not marketable. In addition to the two commercial/industrial properties that have developed adjacent to this property, medium density residential development in the vicinity have increased development opportunities for this area of College Station.

List any other reasons to support this zone change.

N/A

Maximum Building Height.

N/A

Proposed Drainage.

Drainage will be served by a large detention pond on the western property line that will also act as a buffer between this property and the adjacent undeveloped property.

Variations Sought.

See attached bulk variances letter.

Community Benefits.

See attached bulk variances letter.

Sustained Stability.

Self-storage and office uses are not only compatible but will be supportive to a growing population in this section of College Station. Having these services and office space nearby will offer convenience and more opportunities for nearby employment to the growing population in the vicinity. As future developments come on-line, these opportunities will only increase and contribute not only to the local economy, but to the sustained stability of the surrounding area.

Conformity.

According to the Comprehensive Plan, the intent of the Business Center land use designation is to accommodate a variety of large footprint buildings, to accommodate business and services within the Business Centers, accommodate multi-modal transportation, and to provide buffering through landscaping and building placement where adjacent to residential areas. The proposed business center and concept plan conforms to the goals and objectives as well as contributes to the local economy, which is one of the main goals of the Economic Development Master Plan within the Comprehensive Plan.

Compatibility with use.

This proposed development is compatible to the adjacent commercial/industrial uses to the east of the subject property. The Unified Development Ordinance does not require industrial uses to buffer against agricultural uses, which are found on the three properties against the north property line. Regardless, self-storage and office uses are low-intensity uses that will be good neighbors to any adjacent property, including the mobile home on the property to the west. To ensure minimal impacts to this property, a large buffer yard, which will also serve as the detention pond, has been planned between the self-storage units and the western property line. This extra buffer yard will further reduce any impacts from the activities of the self-storage facility.

Access to Streets.

N/A

Public Improvements.

This development will provide all necessary infrastructure to the site and required right-of-way dedication for future roadway improvements.

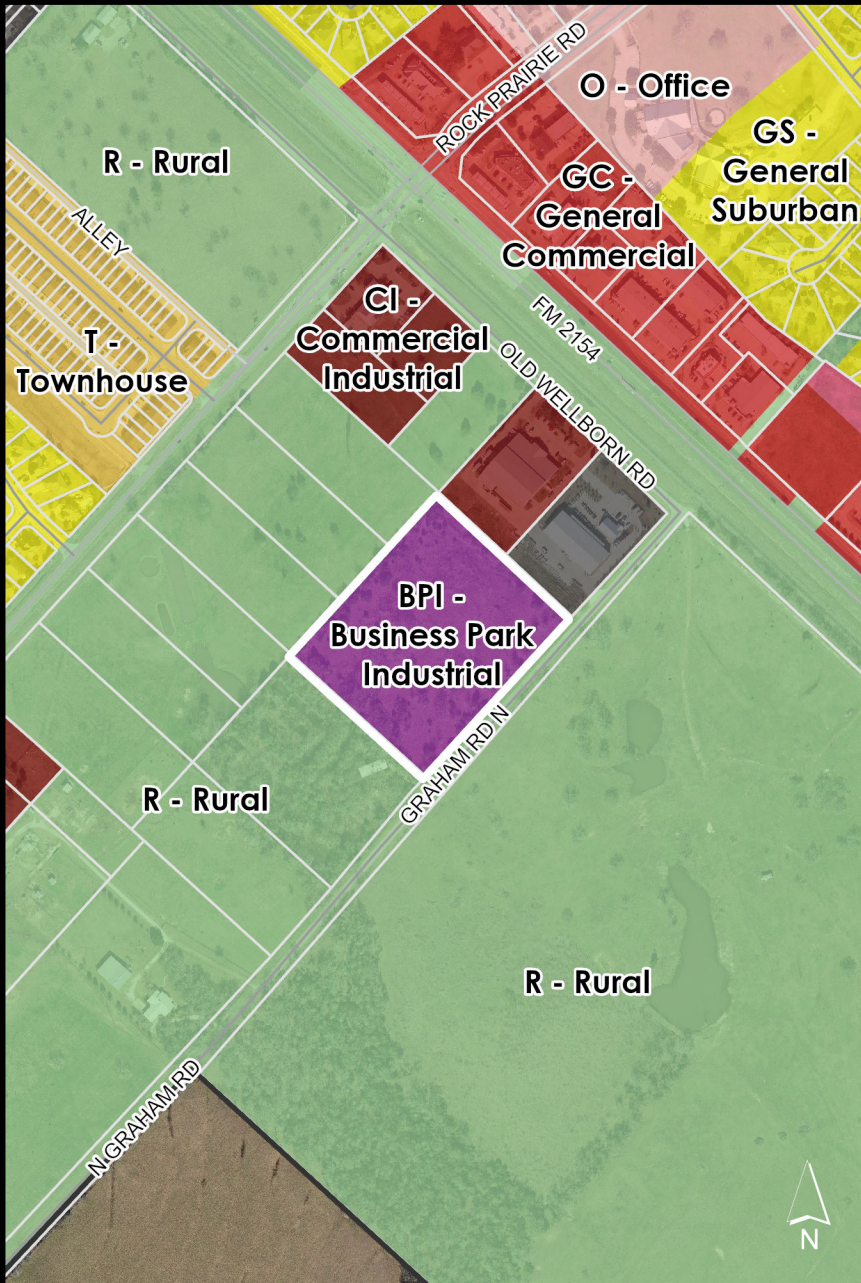
Public Health.

The owner and developer of the property has taken consideration of the surrounding properties, particularly the mobile home to the west, in the design of the concept plan. In order to reduce impacts to the concept plan is laid out such that a large buffer yard will further enhance the health, safety and welfare of the neighboring property. Additionally, the proposed uses are compatible to nearby residential uses and will be a good neighbor to the large neighborhood in College Station.

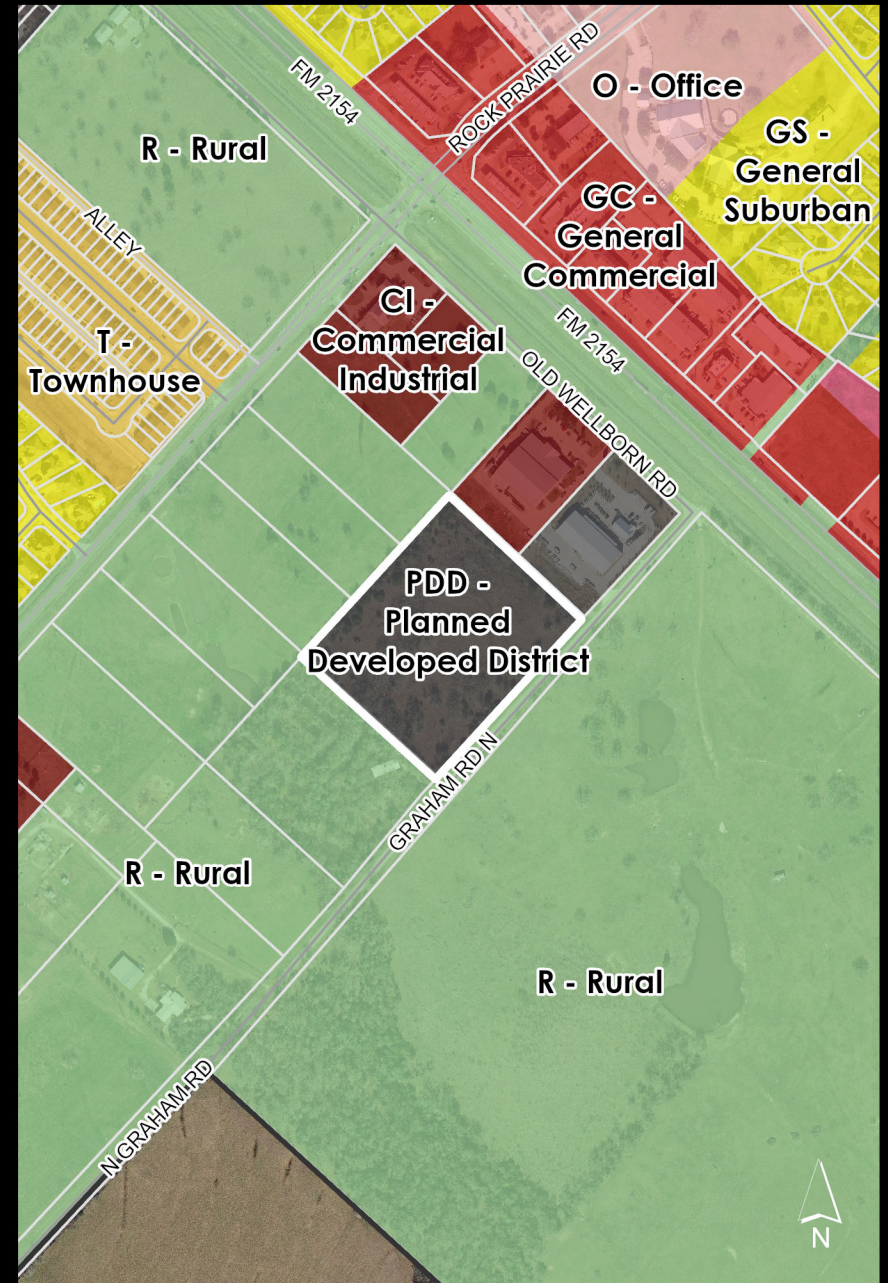
Safety.

As a part of this development, we are required to build a portion of General Parkway, which is planned on this tract, according to the Thoroughfare Plan. Extending General Parkway to N. Graham Road will further promote connectivity and offer relief from existing thoroughfares that experience high volumes of traffic.

EXISTING Zoning

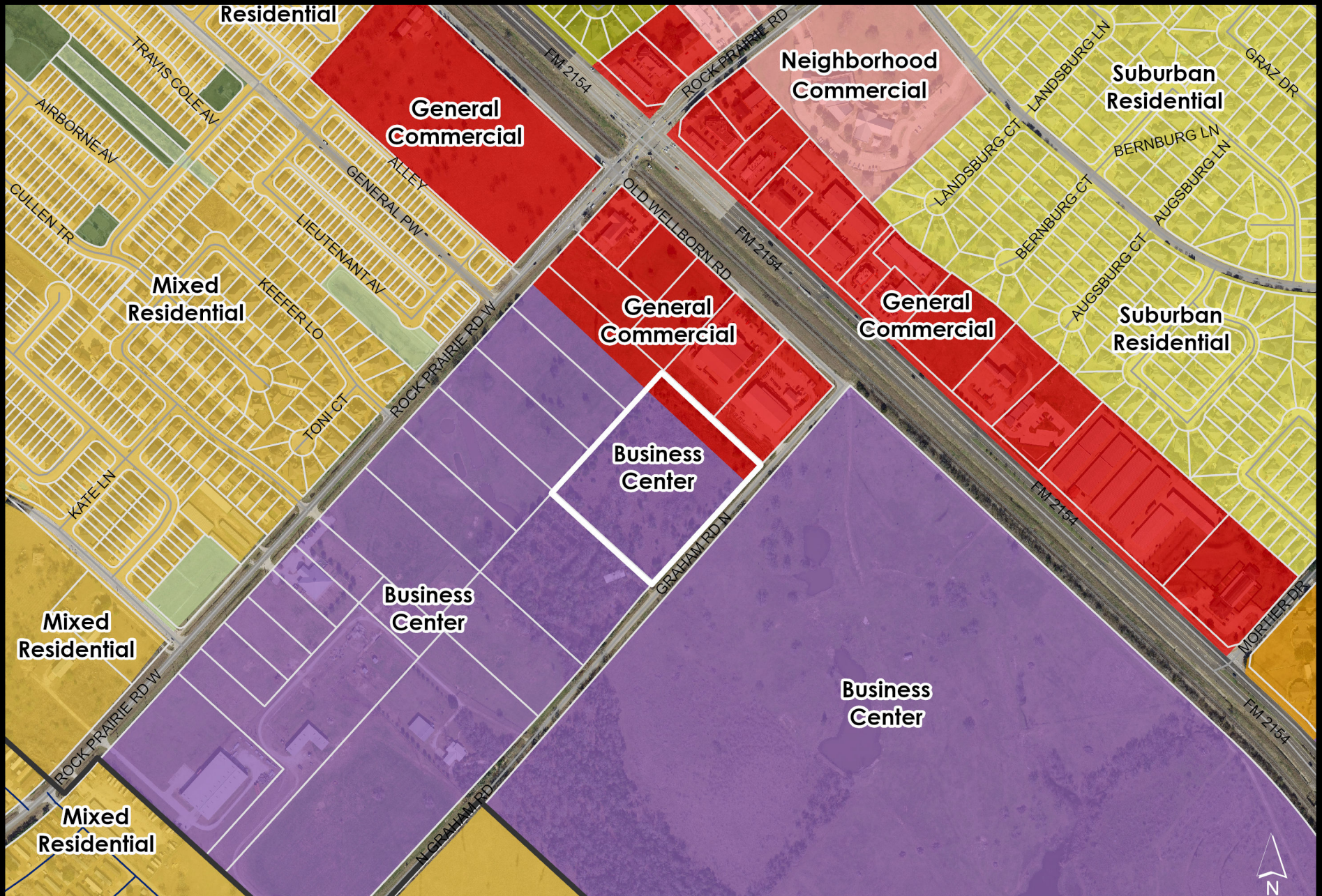


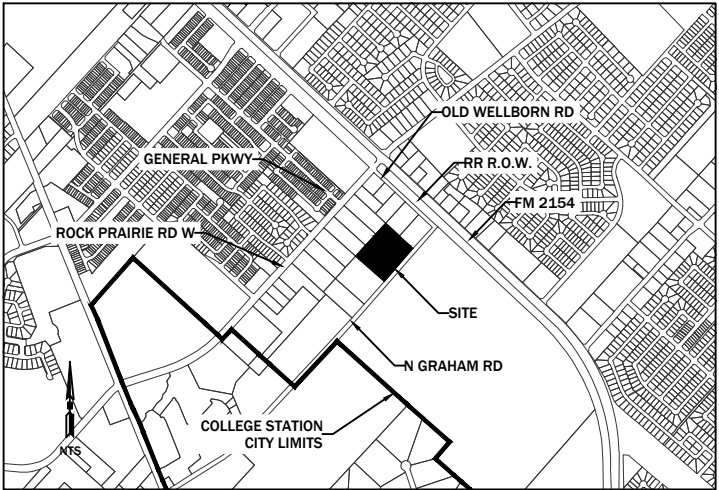
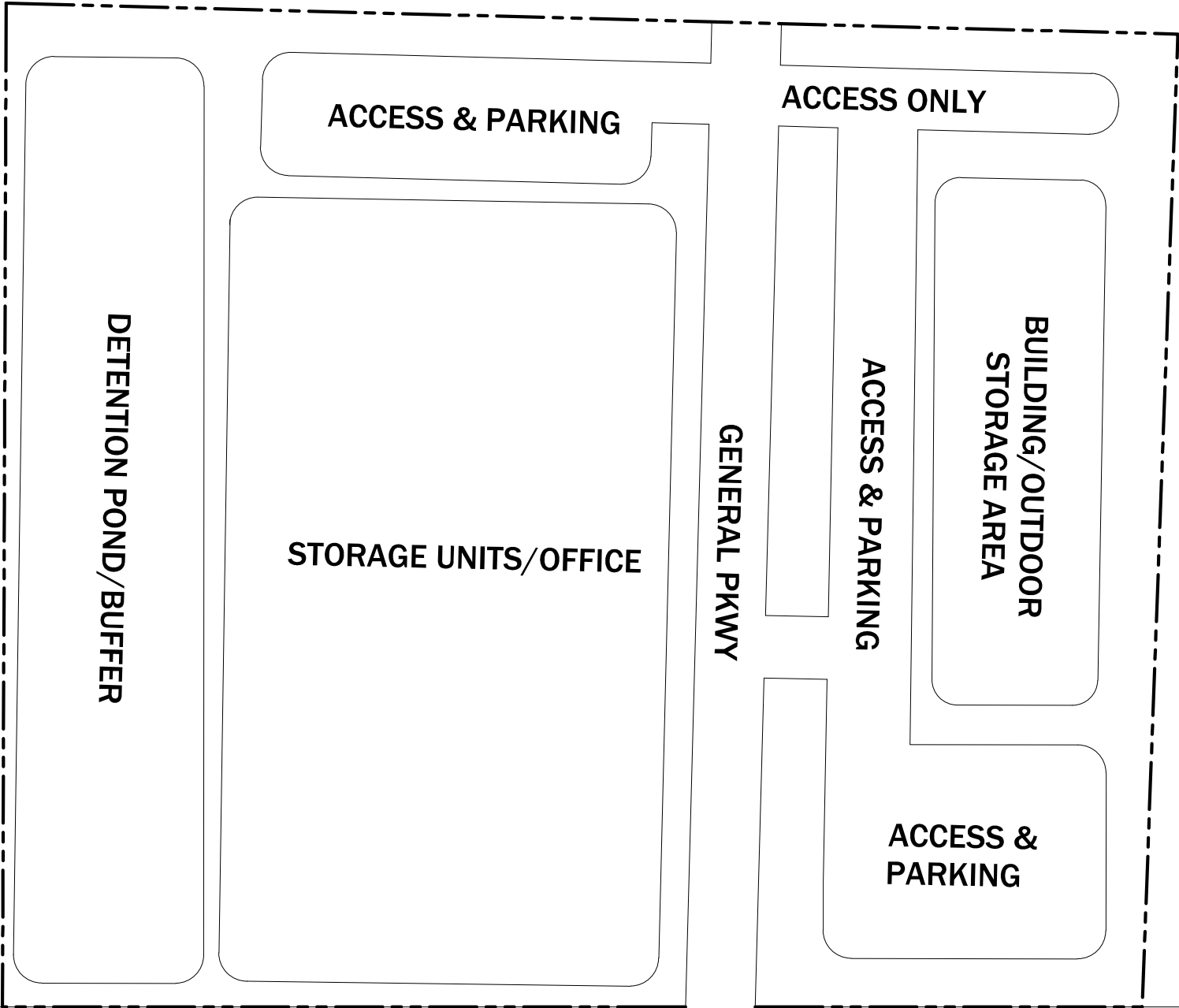
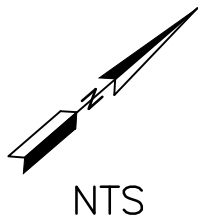
PROPOSED Zoning



EXISTING

Future Land Use





VICINITY MAP

WELLBORN RD

- NOTES:
1. TOTAL SITE AREA: 7.37 AC
 2. THERE IS NO FEMA REGULATED 100-YEAR FLOODPLAIN ON THIS SITE PER FEMA MAP PANEL #48041C0310F DATED APRIL 2, 2014.
 3. THE DEVELOPMENT WILL NOT INCLUDE PARKS, GREENWAYS, CONSERVATION AREAS, SCHOOLS, OR TRAILS.
 4. ALL SITE LIGHTING WILL COMPLY WITH CITY OF COLLEGE STATION ORDINANCES.
 5. SEE BULK VARIANCES LETTER FOR BUFFER REQUIREMENTS.
 6. WATER AND SEWER SERVICES WILL BE PROVIDED THROUGH THE EXTENTION OF OFF SITE EASEMENTS FROM EXISITNG UTILITIES OFF OF ROCK PRAIRIE ROAD WEST

Revisions

MITCHELL
M&M
MORGAN

T.979.260.6963
F.979.260.3564
TX. FIRM # F-1443

3204 EARL RUDDER FWY S
COLLEGE STATION, TX 77845

PLAN & DESIGN SPECIALISTS IN
CIVIL ENGINEERING • HYDRAULICS
HYDROLOGY • UTILITIES • STREETS
SITE PLANS • SUBDIVISIONS

www.mitchellandmorgan.com

PDD CONCEPT PLAN

KAU BUSINESS PARK

CP

For Interim Review Only
These documents are not
intended for construction,
bidding, or permit purposes.
Prepared by:
Veronica J.B. Morgan, P.E.
No. 77689

APRIL, 2023
Designed by: VJBM
Drawn By: TTF
Checked By: VJBM



Robin Macias
Staff Planner
Planning & Development Services
P.O. Box 9960
College Station, TX 77842

July 10, 2023

Re: 2900 N. Graham Road Self-Storage and Office Development (PDD Rezoning)

Dear Robin,

Understanding that we must choose a base zoning district for the self-storage and office development upon which we base all variance requests, we have chosen BPI Business Park Industrial. We request the following bulk variances to the BPI Business Park Industrial development standards:

1. Waiver from Section 7.7.F Minimum Buffer Standards

We request the ability to substitute a masonry wall with a 6' wooden fence along the western property line. The adjacent property to the west is zoned R Rural and has a single-family use on the property.

2. Waiver from Section 7.4.B.2 Cross-Access Easements

We request a waiver to extending an access easement to all abutting properties. The property to the east constructed a detention pond along the shared property line that prohibits the use of a functional cross-access drive.

As indicated on the concept plan, the lot to the west of General Parkway is being planned for self-storage units that will be gated for security purposes. Projecting a cross-access easement to the lot to the west and north of this lot will not be feasible with the security gate. Additionally, we will be able to extend the buffer along the entire length of the western property line to N. Graham Road rather than having shorten the buffer yard to allow room for the cross-access drive.

Lastly, a security gate is also being planned for the lot to the east of General Parkway. This lot is expected to provide both office space and the outdoor storage of materials and/or equipment that will need to be securely stored by a gate. We request a waiver to the cross-access easement requirement to ensure the security of these businesses.

As stated in the UDO, the purpose of the Planned Development district is to promote and encourage innovative development that is sensitive to surrounding land uses and to the natural environment. A PDD may be used to permit new or innovative concepts in land utilization not permitted by other zoning districts. Finally, the PD District allows development to vary from certain

development standards so long as there are community benefits which outweigh the requested modifications. We believe that this project offers a desired development opportunity and its community benefits outweigh modifications being requested. These community benefits are as follows:

1. The Unified Development Ordinance requires Business Park Industrial uses to be buffered against single-family residential uses with a 50' buffer yard and a minimum 6' masonry wall. We've requested a waiver to construct a 6' wooden fence in lieu of a masonry wall. To compensate for this waiver, an additional 50' of buffer yard is planned between the self-storage units and the adjacent property, for a total of a 100' buffer yard. We believe this buffer yard will heartily mitigate any impacts from the self-storage units. The buffer yard will also be planted with double buffer plantings, as required by ordinance.
2. Understanding much of the area planned for industrial uses is undeveloped or developed as residential, we are offering to eliminate some of the more intense industrial uses so that this development will be more compatible with residential areas that are not ready for development at this time.

The list of permitted uses and uses with specific use standards for this property is as follows:

Permitted Uses

- Educational Facility, Primary & Secondary
- Educational Facility, Vocational/Trade
- Government Facilities
- Parks
- Place of Worship
- Office
- Printing/Copy Shop
- Radio / TV Stations/ Studios
- Shooting Range, Indoor
- Retail Sales, Manufactured Homes
- Storage, Self Service
- Vehicular Sales, Rental, Repair and Service
- Wholesales / Services
- Micro – Industrial
- Industrial, Light
- Scientific Testing / Research Laboratory
- Storage, Outdoor – Equipment or Materials
- Warehousing / Distribution
- Wireless Telecommunication Facilities – Intermediate
- Wireless Telecommunication Facilities - Major
- Wireless Telecommunication Facilities - Unregulated

Permitted with Specific Use Standards:

- Commercial Garden/ Greenhouse / Landscape Maintenance

We believe we are offering a development that is both compatible and sensitive to the surrounding area in use and design. The proposed uses for this development are friendly uses to any adjacent property, including the residence to the west and will bring many long-term benefits to this growing area of College Station and to the city as a whole.

Thank you very much. If you have any questions, please do not hesitate to call.

Sincerely,

A handwritten signature in black ink, appearing to read "Crissy Hart". The signature is fluid and cursive, with a large, stylized "C" and "H".

Crissy Hart, AICP
Staff Planner

Cc: File

95

September 14, 2023
Item No. 9.3.
710 Vassar Court Rezoning

Sponsor: Jesse Dimeolo

Reviewed By CBC: Planning & Zoning Commission

Agenda Caption: Public Hearing, presentation, discussion, and possible action regarding an ordinance amending Appendix A, Unified Development Ordinance, Article 4, "Zoning Districts," Section 4.2 "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas, by changing the zoning district boundary for approximately 0.35 acres from D Duplex to MF Multi-Family of Lincoln Place Subdivision Tract 2, Block C, Lot 22, generally located at 710 Vassar Court.

Relationship to Strategic Goals:

- Neighborhood Integrity
- Diverse & Growing Economy

Recommendation(s): Staff recommends approval of this rezoning request as it is in line with the Comprehensive Plan and compatible with the surrounding area. This item was heard at the September 7th Planning and Zoning Commission meeting where the Commission voted to recommend approval.

Summary: This request is to rezone approximately 0.35 acres of land generally located at 710 Vassar Court from D Duplex to MF Multi-Family. It is the applicant's intent to construct a multifamily product resembling townhomes on the property. Rather than have individually platted lots, the applicant intends to have the future townhomes on a single multifamily lot, allowing for higher density and more cost-effective living options in the area.

REZONING REVIEW CRITERIA

1. Whether the proposal is consistent with the Comprehensive Plan:

The subject tract is designated on the Comprehensive Plan Future Land Use & Character Map as Urban Residential. For the Urban Residential land use, the Comprehensive Plan provides the following:

Areas that are appropriate for a range of high-density multifamily and attached residential development in various forms including townhomes, apartment buildings, mixed-use buildings, and limited non-residential uses that are compatible with the surrounding area.

The intent of the district is to:

- Accommodate a wide range of attractive multifamily housing for a diverse population.
- Buildings may be clustered and grouped. Building setback from street varies but is generally consistent within a development.
- Provide vehicular and pedestrian connectivity between developments.
- Accommodate streetscape features such as sidewalks, street trees, and lighting.

The zoning districts that are generally appropriate within this land use include: multifamily, townhouse, mixed-use, and limited suburban commercial zoning. This rezoning request aligns with the Comprehensive Plan.

2. Whether the uses permitted by the proposed zoning district will be appropriate in the context of the surrounding area:

The Lincoln Place subdivision is a well-defined residential area that is bounded by public rights-of-ways on three sides and a general commercial area to the northwest. An undeveloped commercial area to the northeast, that is within walking distance, will provide additional commercial opportunities for residents in this subdivision. Increased density in this area is beneficial and in line with the future land use designation.

The proposed zoning district is appropriate for the surrounding area as it will allow for additional residential in the area that is identified for higher density residential. Starting at the eastern edge of the Lincoln Place subdivision, the subject property shares a rear property line with single-family residences along Lincoln Avenue. The subject property also shares property side lot lines with duplexes along Vassar Court. The existing duplex uses are not consistent with the future land use and will continue to see redevelopment as more multifamily projects come in to meet the vision for urban residential land uses in the area. Across Vassar Court, density is a little higher with multifamily structures (fourplexes) to the north and northwest.

3. Whether the property to be rezoned is physically suitable for the proposed zoning district:

While this area is slated for higher density residential, due to the smaller size of the lot being rezoned, only a small-scale multifamily product would be able to be constructed here. The smaller size would not create a conflict with the adjacent properties, but rather provide a good transition. The site has adequate space to meet the minimal dimensional standards as set forth in the Unified Development Ordinance and the minimum and maximum dwelling units per acre requirement.

4. Whether there is available water, wastewater, stormwater, and transportation facilities generally suitable and adequate for uses permitted by the proposed zoning district:

The existing water and wastewater infrastructure is adequate to support the needs of this development. Drainage and any other infrastructure required with the site development shall be designed and constructed in accordance with the BCS Unified Design Guidelines. Overall, peak runoff cannot exceed current site conditions after development. The subject property fronts Vassar Court, but access to the property will be from the alley to the rear.

5. The marketability of the property:

With its proximity to Texas A&M University, the property is marketable. The applicant states that there is a strong demand for multifamily units that can provide cost-effective living options in the area.

Budget & Financial Summary: N/A

Attachments:

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

ORDINANCE NO. _____

AN ORDINANCE AMENDING APPENDIX A “UNIFIED DEVELOPMENT ORDINANCE,” ARTICLE 4 “ZONING DISTRICTS,” SECTION 4.2, “OFFICIAL ZONING MAP” OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY CHANGING THE ZONING DISTRICT BOUNDARIES FOR APPROXIMATELY .35 ACRES FROM D DUPLEX TO MF MULTI-FAMILY BEING LOT 22 BLOCK C OF THE LINCOLN PLACE SUBDIVISION TRACT TWO, RECORDED IN VOLUME 371, PAGE 481 OF THE DEED RECORDS OF BRAZOS COUNTY TEXAS, GENERALLY LOCATED AT 710 VASSAR COURT AS DESCRIBED BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

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

PART 1: That Appendix A “Unified Development Ordinance,” Article 4 “Zoning Districts,” Section 4.2 “Official Zoning Map” of the Code of Ordinances of the City of College Station, Texas, be amended as set out in **Exhibit “A” and Exhibit “B”** attached hereto and made a part of this Ordinance for all purposes.

PART 2: If any provision of this Ordinance or its application to any person or circumstances is held invalid or unconstitutional, the invalidity or unconstitutionality does not affect other provisions or application of this Ordinance or the Code of Ordinances of the City of College Station, Texas, that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this Ordinance are severable.

PART 3: That any person, corporation, organization, government, governmental subdivision or agency, business trust, estate, trust, partnership, association and any other legal entity violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not less than twenty five dollars (\$25.00) and not more than five hundred dollars (\$500.00) or more than two thousand dollars (\$2,000) for a violation of fire safety, zoning, or public health and sanitation ordinances, other than the dumping of refuse. Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PART 4: This Ordinance is a penal ordinance and becomes effective ten (10) days after its date of passage by the City Council, as provided by City of College Station Charter Section 35.

PASSED, ADOPTED, and APPROVED this 14th day of September, 2023.

ATTEST:

APPROVED:

City Secretary

Mayor

APPROVED:

City Attorney

Exhibit A

That Appendix A “Unified Development Ordinance,” Article 4 “Zoning Districts,” Section 4.2, “Official Zoning Map” of the Code of Ordinances of the City of College Station, Texas, is hereby amended as follows:

The following property is rezoned from D Duplex to MF Multi-Family:

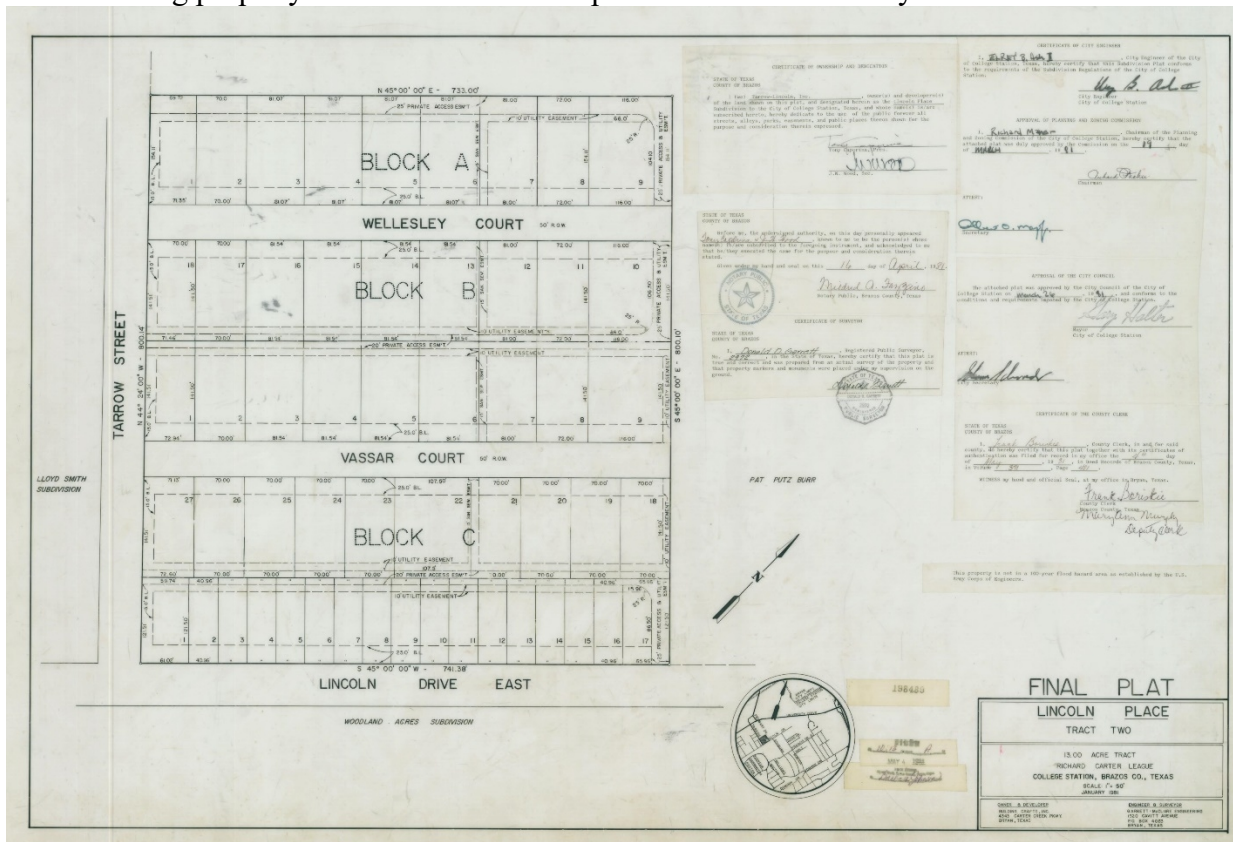
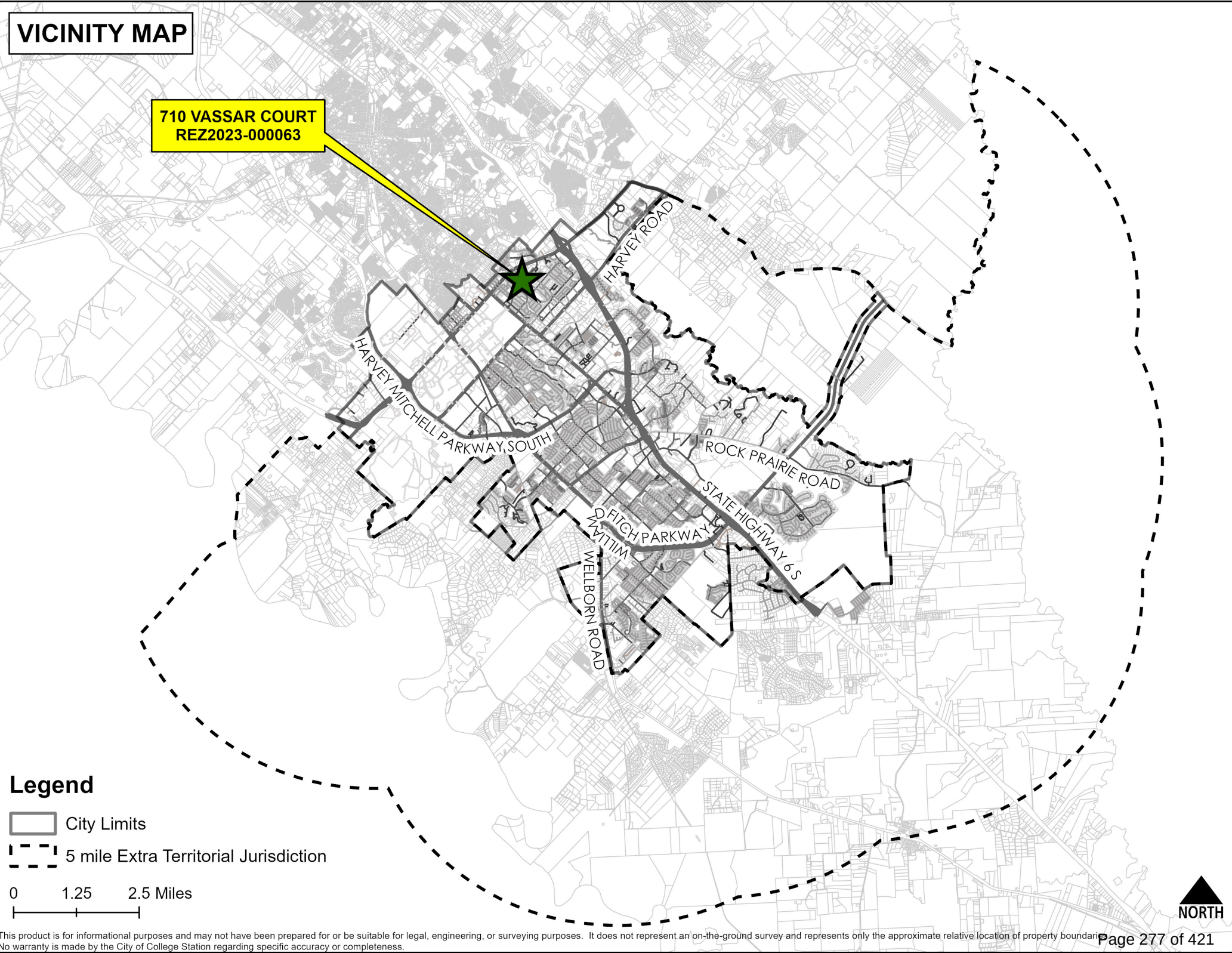


Exhibit B



VICINITY MAP

710 VASSAR COURT
REZ2023-000063



Legend

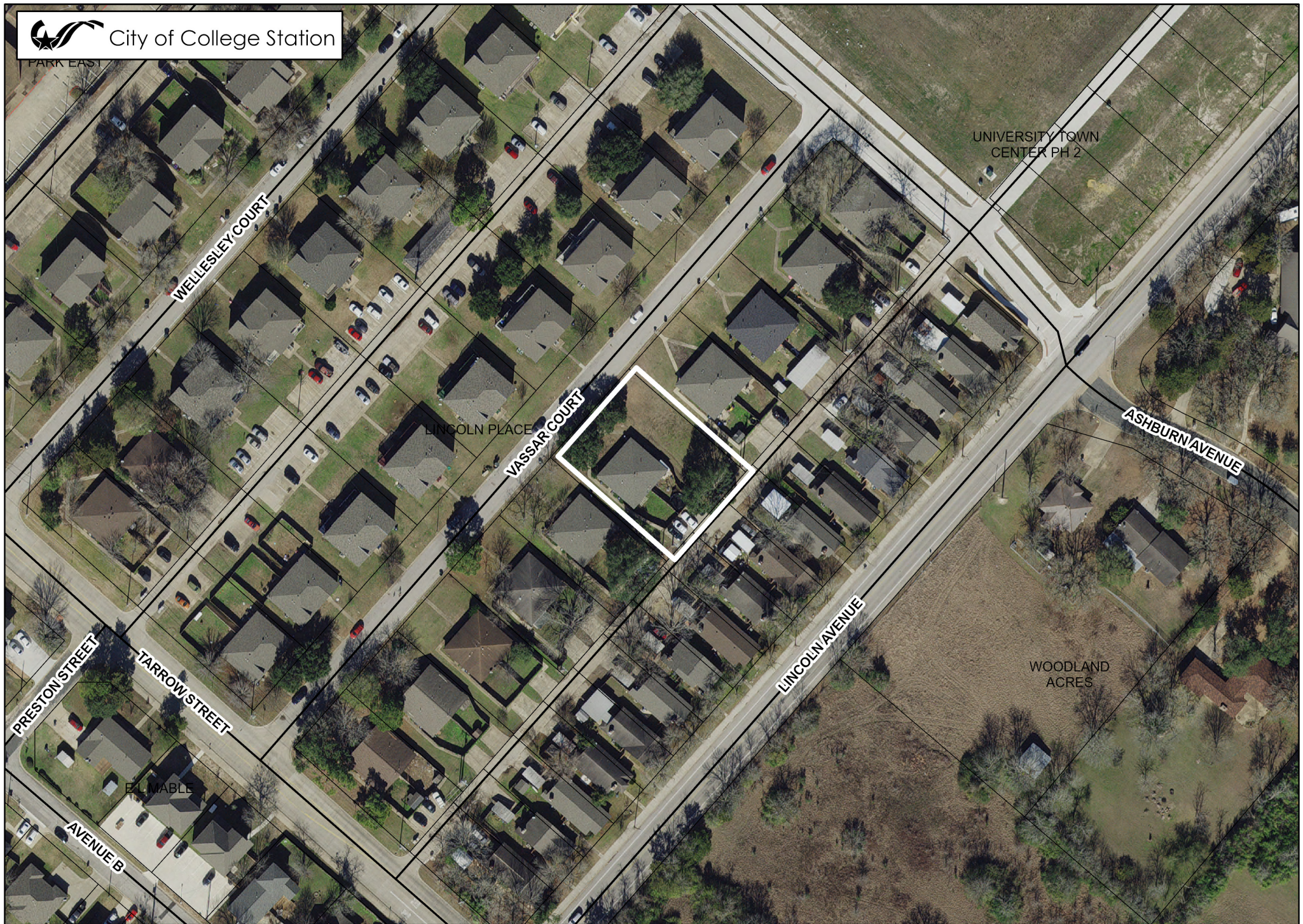
- City Limits
- 5 mile Extra Territorial Jurisdiction

0 1.25 2.5 Miles





PARK EAST



LINCOLN PLACE

UNIVERSITY TOWN
CENTER PH 2

WOODLAND
ACRES



0 110 220 Feet

710 VASSAR COURT

Case:
REZ2023-000063

REZONING



ZONING DISTRICTS (In Grayscale)

Residential		MH	Middle Housing
R	Rural	MF	Multi-Family
WE	Wellborn Estate	MU	Mixed-Use
E	Estate	MHP	Manufactured Home Pk.
WRS	Wellborn Restricted Suburban		
RS	Restricted Suburban		
GS	General Suburban		
D	Duplex		
T	Townhome		

Non-Residential

NAP	Natural Area Protected
O	Office
SC	Suburban Commercial
WC	Wellborn Commercial
GC	General Commercial
CI	Commercial Industrial
BP	Business Park
BPI	Business Park Industrial
C-U	College and University

Planned Districts

P-MUD	Planned Mixed-Use Dist.
PDD	Planned Develop. Dist.

Design Districts

WPC	Wolf Pen Creek Dev. Cor.
NG-1	Core Northgate
NG-2	Transitional Northgate
NG-3	Residential Northgate

Overlay Districts

OV	Corridor Ovr.
RDD	Redevelopment District
ROO	Restricted Occupancy Ovr.
NPO	Nbrhd. Prevailing Ovr.
NCO	Nbrhd. Conservation Ovr.
HP	Historic Preservation Ovr.

Retired Districts

R-1B	Single Family Residential
R-4	Multi-Family
R-6	High Density Multi-Family
C-3	Light Commercial
RD	Research and Dev.
M-1	Light Industrial
M-2	Heavy Industrial



0 162.5 325 Feet

710 VASSAR COURT

Case:
REZ2023-000063

REZONING

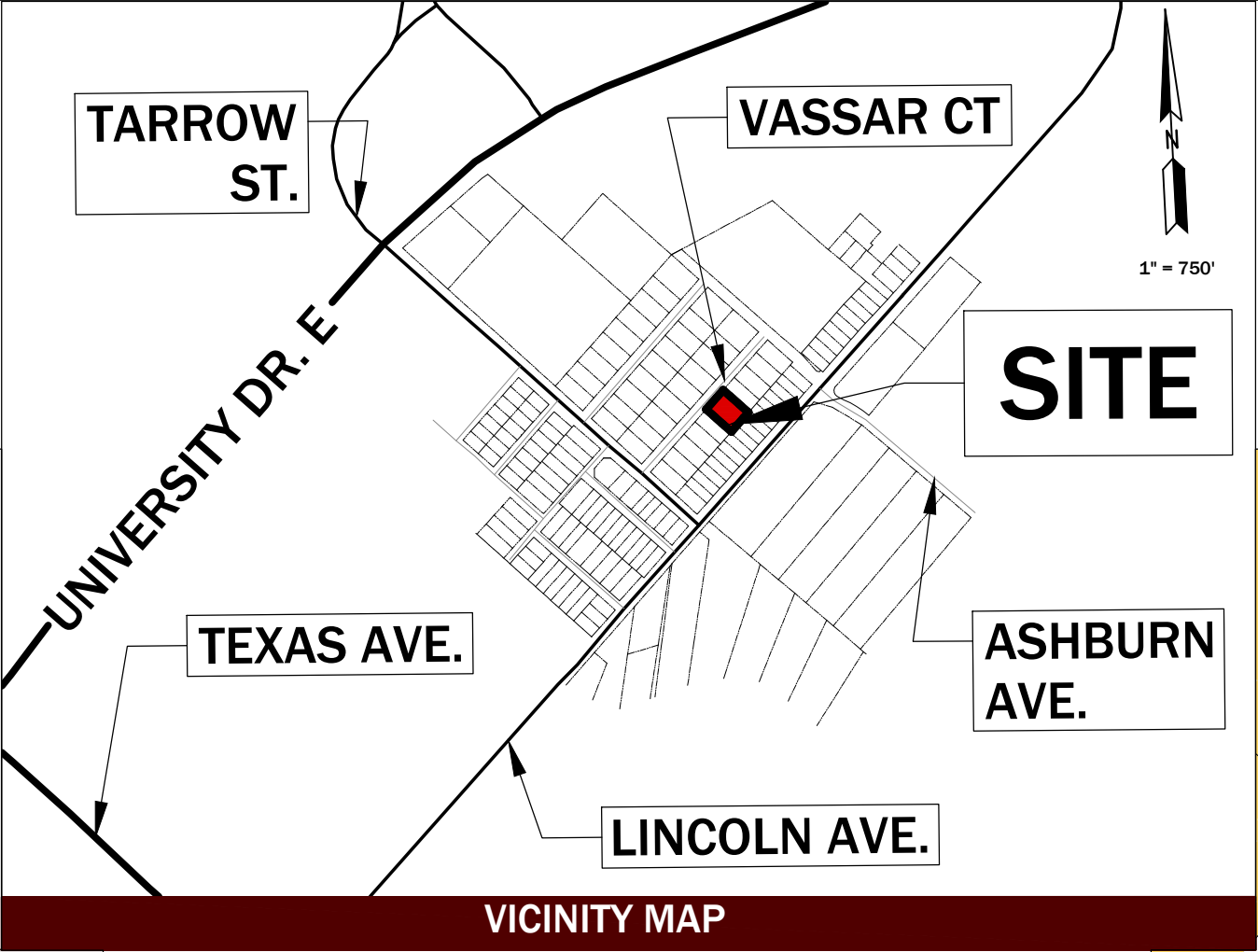
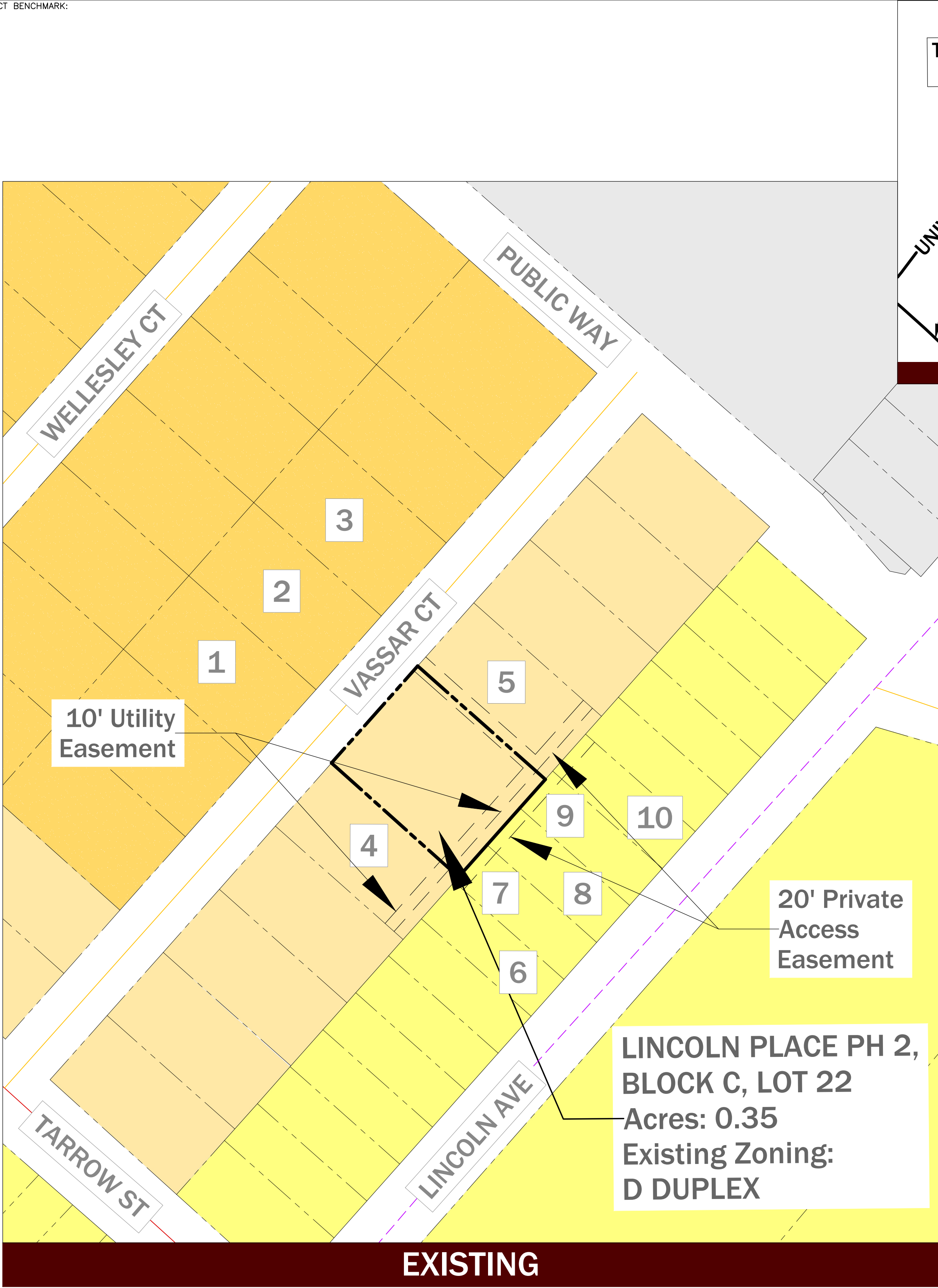
MITCHELL
MORGAN

T.979.260.6963
F.979.260.3564
TX. FIRM # F-1443
3204 EARL RUDDER FWY. S.
COLLEGE STATION, TX 77845
PLAN & DESIGN SPECIALISTS IN
CIVIL ENGINEERING • HYDRAULICS
HYDROLOGY • UTILITIES • STREETS
SITE PLANS • SUBDIVISIONS
www.mitchellandmorgan.com

For Interim Review Only
This drawing is not to be used
without the approval of the
design professional.
Drawing Prepared by: J. Morgan, P.E.
Version: No. 7/2023

JUNE 2023
Drawn By: TMM
Checked By: JMM

Prepared For:
Kyle Burford
2529 Sherandoth Ln.
Tyler, TX, 75701



Scale:
1 inch = 60 feet

LEGEND

D DUPLEX

GS GENERAL SUBURBAN

MF MULTI FAMILY

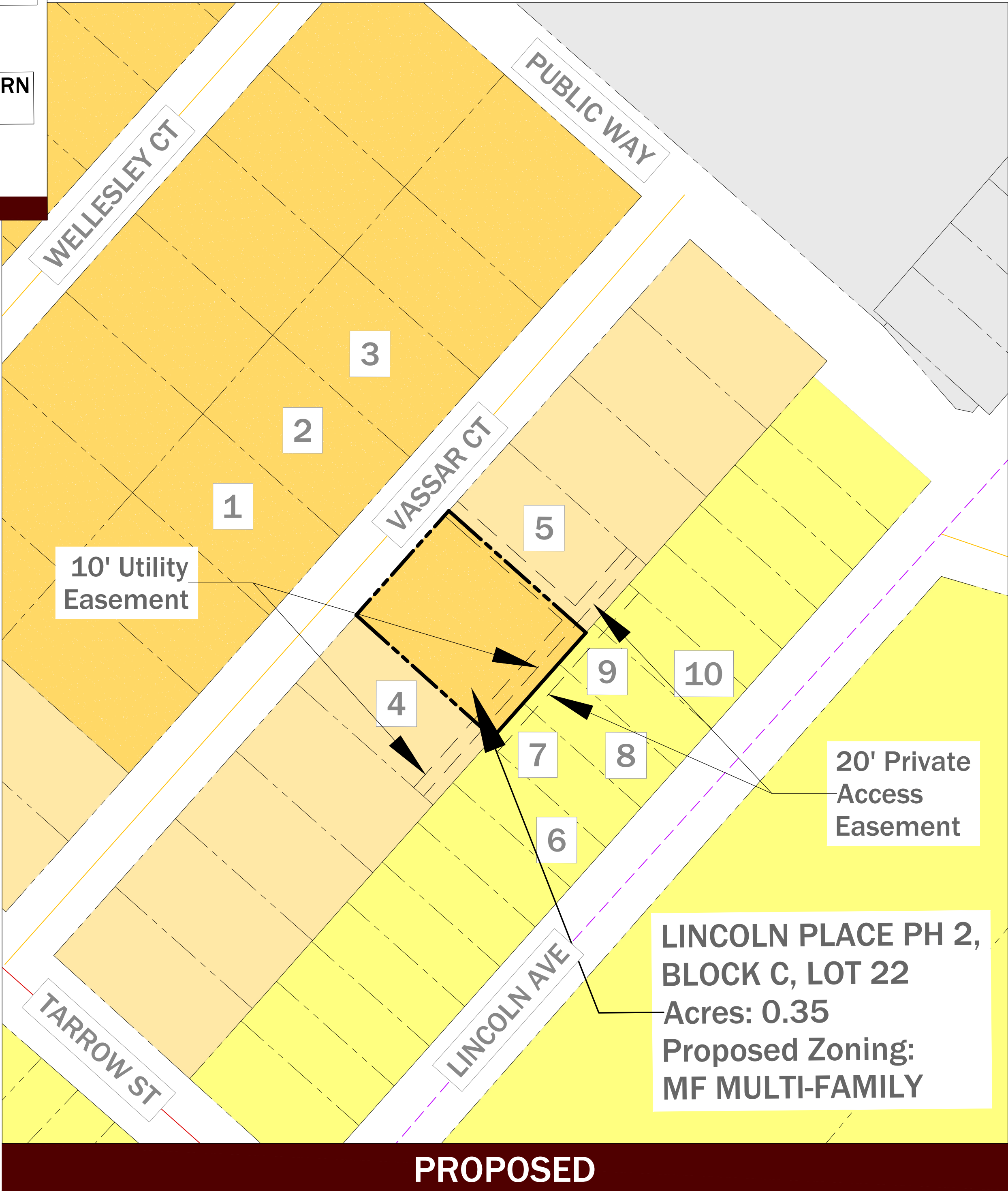
PDD PLANNED DEVP. DISTRICT

EXISTING 2-LANE LOCAL STREET

EXISTING 2-LANE MAJOR COLLECTOR

PROPOSED 2-LANE MAJOR COLLECTOR

NOTES:
1. Per Map 48041C0215F, no FEMA Floodplain exists on this property.



Number	Owner	Legal Description	Existing Zoning
1	BRADFORD JAMES & JUDITH TRUST	LINCOLN PLACE PH 2, BLOCK B, LOT 5	MF Multi Family
2	LE HIEU	LINCOLN PLACE PH 2, BLOCK B, LOT 6	MF Multi Family
3	LAI MAI NGAN NGUYEN	LINCOLN PLACE PH 2, BLOCK B, LOT 7	MF Multi Family
4	SCHUEHLE FAMILY LTD	LINCOLN PLACE PH 2, BLOCK C, LOT 23	D Duplex
5	PARULIAN OSCAR & SWANY W	LINCOLN PLACE PH 2, BLOCK C, LOT 21	D Duplex
6	HAPP JOHN H JR	LINCOLN PLACE PH 2, BLOCK C, LOT 8	GS General Suburban
7	PARIS WANDA	LINCOLN PLACE PH 2, BLOCK C, LOT 9	GS General Suburban
8	GARZA YOLANDA B	LINCOLN PLACE PH 2, BLOCK C, LOT 10	GS General Suburban
9	BROUSSARD BRANDON ANTOINE & LESLIE DIAMOND	LINCOLN PLACE PH 2, BLOCK C, LOT 11	GS General Suburban
10	HUANG CHUEN SHAN ESTATE	LINCOLN PLACE PH 2, BLOCK C, LOT 12	GS General Suburban

REZONING MAP
710 VASSAR CT MULTI-FAMILY HOUSING
0.35 ACRE TRACT

BACKGROUND INFORMATION

NOTIFICATIONS

Advertised Commission Hearing Date: September 7, 2023

Advertised Council Hearing Date: September 14, 2023

The following neighborhood organizations that are registered with the City of College Station's Neighborhood Services have received a courtesy letter of notification of this public hearing:

College Woodlands HOA
College Hills Estates HOA
College Hills HOA

Property owner notices mailed: 31
Property tenant notices mailed: 4
Contacts in support: None at the time of this report
Contacts in opposition: None at the time of this report
Inquiry contacts: None at the time of this report

ADJACENT LAND USES

Direction	Comprehensive Plan	Zoning	Land Use
North	Urban Residential	R-4 Multi-Family	Apartments
South	Mixed Residential	GS General Suburban	Townhomes
East	Urban Residential	D Duplex	Duplexes
West	Urban Residential	D Duplex	Duplexes

DEVELOPMENT HISTORY

Annexation: 1956
Zoning: R-1 Single-Family Residential upon annexation
R-1 Single-Family Residential to R-2 Duplex (1981)
Renamed from R-2 Duplex to D Duplex (2013)
Final Plat: Platted as Lincoln Place Subdivision, Phase 2, Block C, Lot 22 in 1981
Site development: Duplex



REZONING APPLICATION SUPPORTING INFORMATION

Name of Project: 710 VASSAR COURT

Address: 710 VASSAR CT

Legal Description: LINCOLN PLACE PH 2, BLOCK C, LOT 22

Total Acreage: 0.35

Applicant:: MITCHELL & MORGAN

Property Owner: EASTGATE EQUITY LLC

List the changed or changing conditions in the area or in the City which make this zone change necessary.

Developing townhomes in College Station is crucial for several reasons. Firstly, it provides much-needed housing options for the growing population of students and young professionals in the area. Secondly, townhomes offer a more affordable and manageable alternative to single-family homes, making homeownership more accessible for individuals and families. Lastly, the development of townhomes promotes community building and a sense of belonging, fostering a vibrant and diverse neighborhood in College Station.

Indicate whether or not this zone change is in accordance with the Comprehensive Plan. If it is not, explain why the Plan is incorrect.

The Comprehensive plan indicates these properties are designated as Urban Residential uses. The Urban Residential land use designation generally allows for high-density, multi-family uses that is able to conform to various forms of development including townhomes, apartments, and mixed-use buildings. Rezoning this property to MF Multi-Family is in accordance with the Comprehensive Plan as Urban Residential allows for multi-family residential uses. Rezoning houses to multi-family units are beneficial as it allows for increased housing density, maximizing land use efficiency and addressing the growing demand for housing near Texas A&M University.

How will this zone change be compatible with the present zoning and conforming uses of nearby property and with the character of the neighborhood?

Duplex units are suitable for this area due to the development character of the surrounding properties. However, multi-family development allows for higher density housing, which is more appropriate for the future land use plan for the area

Explain the suitability of the property for uses permitted by the rezoning district requested.

MF Multi-family zoning is compatible with the future land use designation on the property and will further implement the Comprehensive Plan for the area. The MF Multi-family zoning district allows for higher density, which is greatly needed for properties close to Texas A&M University.

Explain the suitability of the property for uses permitted by the current zoning district.

MF Multi-family zoning is compatible with the future land use designation on the property and will further implement the Comprehensive Plan for the area. The MF Multi-family zoning district allows for higher density, which is greatly needed for properties close to Texas A&M University.

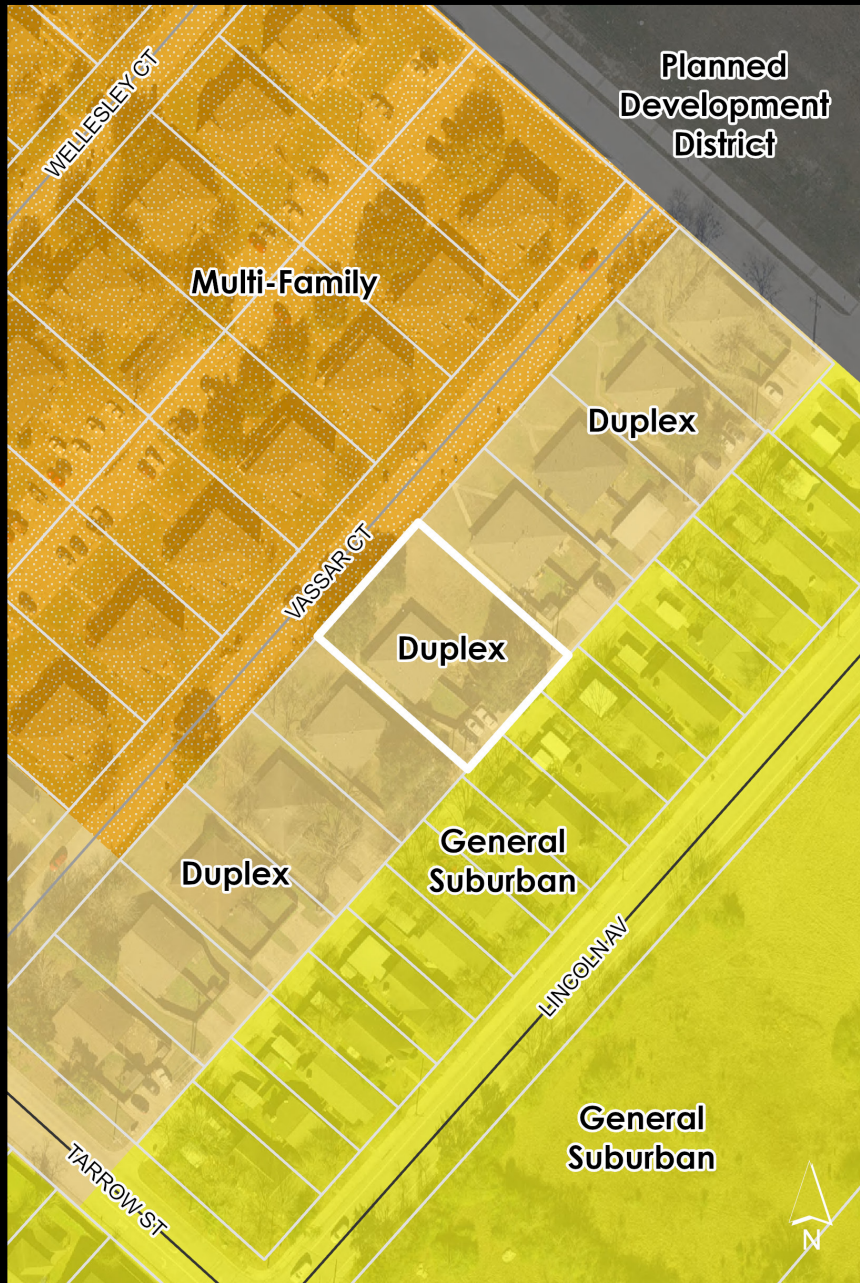
Explain the marketability of the property for uses permitted by the current zoning district.

This property is highly marketable within College Station for several reasons. The proximity to Texas A&M University makes it an attractive option for students, faculty, and staff who desire convenient access to campus facilities and amenities. And the demand for affordable housing in the area creates a strong market for multi-family units that can provide cost-effective living options.

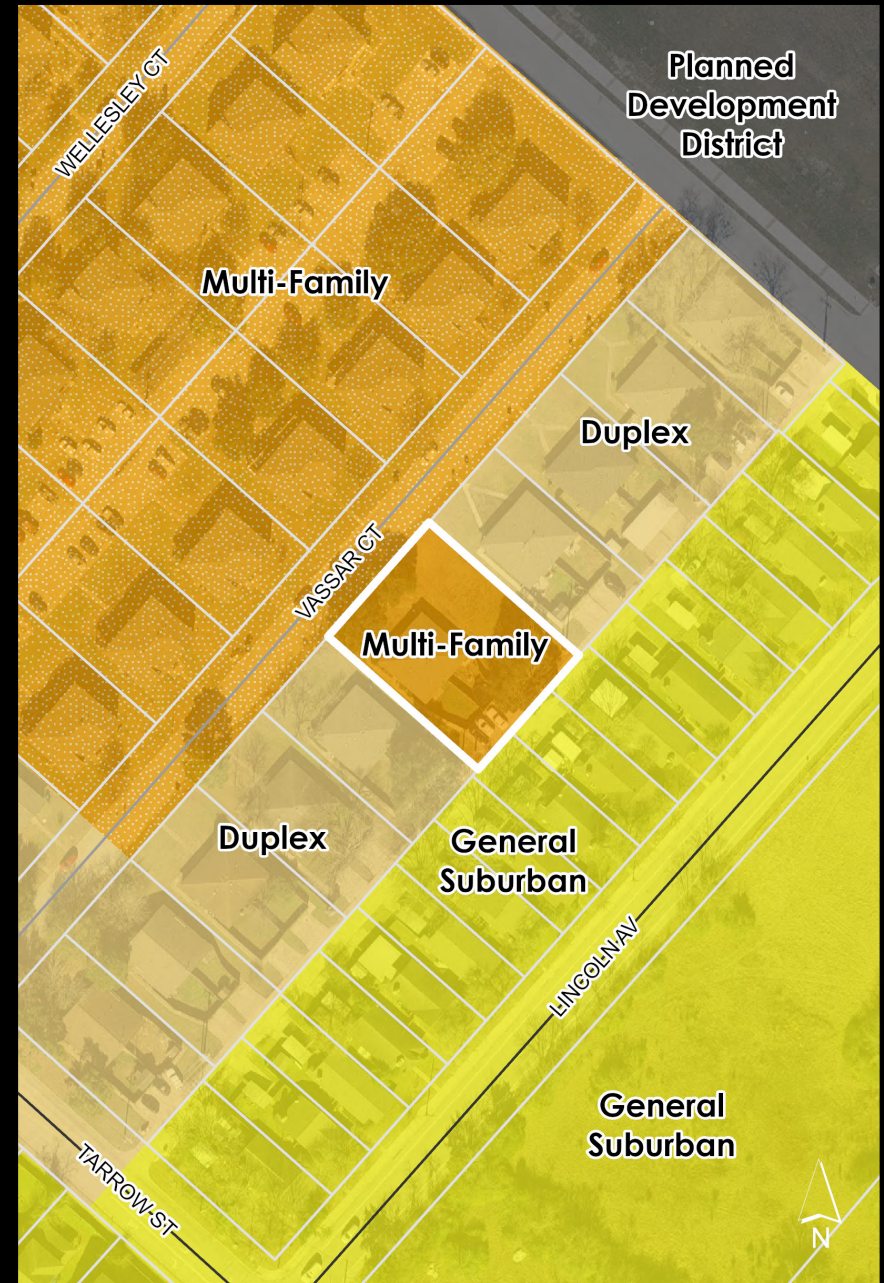
List any other reasons to support this zone change.

N/A

EXISTING Zoning

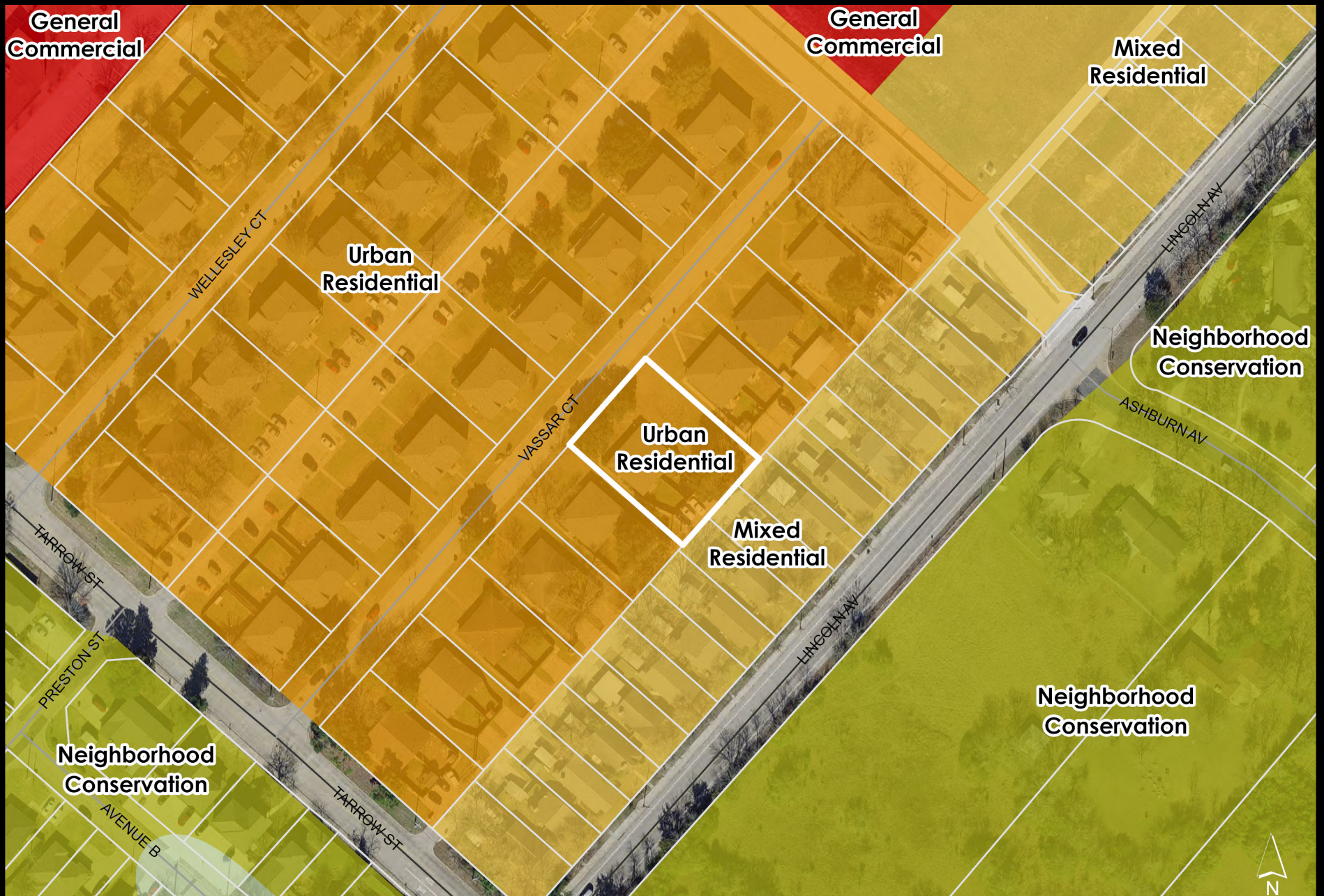


PROPOSED Zoning



EXISTING

Future Land Use



September 14, 2023
Item No. 9.4.
Greater Southwood ROO - Restricted Occupancy Overlay

Sponsor: Gabriel Schrum

Reviewed By CBC: Planning & Zoning Commission

Agenda Caption: Public Hearing, presentation, discussion, and possible action regarding an ordinance amending Appendix A, Unified Development Ordinance, Article 4, "Zoning Districts," Section 4.2 "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas, by changing the zoning district boundary from GS General Suburban to GS General Suburban and ROO Restricted Occupancy Overlay on approximately 48.31 acres of land, being 103 lots within Southwood Subdivision Sections 1, 2, 2A, 6, 7, 9, and 10 and Camelot Addition Section 2 Subdivision, generally located between Southwest Parkway and Guadalupe Drive.

Relationship to Strategic Goals:

Neighborhood Integrity

Recommendation(s): The Planning and Zoning Commission heard this item at their 9/7/23 meeting and recommended 4-3 to deny the rezoning.

Summary: Summary: This request is to rezone a total of approximately 48.31 acres from GS General Suburban to GS General Suburban and ROO Restricted Occupancy Overlay, being approximately:

- 11.26 acres being 20 lots within Southwood Section 1
- 9.98 acres being 13 lots within Southwood Section 2
- 2.96 acres being 4 lots within Southwood Section 2A
- 10.16 acres being 38 lots within Southwood Section 6, 7 & 9
- 3.76 acres being 8 lots within Southwood Section 10; and
- 10.19 acres being 20 lots within Camelot Addition Section 2

This request is to add the ROO, which is a single-family overlay zoning district, to the existing base zoning within these contiguous subdivision boundaries. The ROO is intended to provide subdivision-specific occupancy regulations – not to exceed two unrelated persons per single-family dwelling or accessory living quarter. The Greater Southwood Petition Committee, comprised of property owners from each original subdivision, has met all requirements of the ROO application process. The Petition Committee submitted the application materials including the ROO petition for each subdivision. When submitting an application with contiguous subdivisions applying jointly within one application, the fifty (50) percent plus one (1) petition signature threshold of property owners in support of the overlay must be met for each of the original subdivisions that apply jointly. City staff were able to verify that each original subdivision has met the petition signature threshold in support of the requested ROO. Southwood Section 6, 7 & 9 is unique in that it has three section numbers but was platted in 1970 as one subdivision plat and therefore counts as one original subdivision.

REZONING REVIEW CRITERIA

1. Whether the proposal is consistent with the Comprehensive Plan:

The subject areas are designated as Neighborhood Conservation and Natural & Open Areas on the

Comprehensive Plan Future Land Use & Character Map. The Natural & Open Areas are tributaries that lead to Bee Creek and the associated floodplain. The surrounding areas to the north are designated as Neighborhood Conservation and the properties to the east are also designated as Neighborhood Conservation with Natural & Open Areas (the Bee Creek tributaries). The subject lots are surrounded by Neighborhood Conservation to the south and Neighborhood Conservation and Institutional/Public to the west at the location of A&M Consolidated High School. These subject areas are bounded by Southwest Parkway to the north, which is an existing 4-lane minor arterial and is shown on the Comprehensive Plan's Thoroughfare Plan.

The Comprehensive Plan discusses single-family overlay zoning districts in both Chapter 3, Strong Neighborhoods and Chapter 9, Collaborative Partnerships. The plan states that, "various single-family overlay zoning districts have been created to help mitigate the issues associated with tear-downs in established neighborhoods. These include the Neighborhood Conservation Overlay, the Restricted Occupancy Overlay, and the Historic Preservation Overlay." The plan goes on to state that collaboration between the City and Texas A&M University is vital to proactively address issues caused by the rapid growth of the university and the stressors and potential changes that places on nearby neighborhoods. Single-family overlay zoning is a tool that a neighborhood can choose for itself to help address and mitigate perceived, anticipated, and actual changes within an established single-family neighborhood. While the NCO Neighborhood Conservation and HP Historic Preservation overlays address and mitigate changes to physical property characteristics, the intent of a ROO is to address and mitigate issues associated with over-occupancy. As a tool that a neighborhood can pursue for itself to address issues of over-occupancy and preserve neighborhood character, the request is aligned with the Comprehensive Plan.

2. Whether the uses permitted by the proposed zoning district will be appropriate in the context of the surrounding area:

The subject areas are surrounded by GS General Suburban zoned single-family homes, except to the north across Southwest Pkwy. which is zoned D-Duplex and is currently developed with duplex housing. The single-family uses allowed by the GS General Suburban zoning district will remain and the addition of the ROO solely restricts the number of unrelated persons per single-family dwelling or accessory living quarters to no more than two unrelated persons.

As stated in the Unified Development Ordinance (UDO):

Single-family overlay districts create an additional zoning district that is superimposed over the underlying zoning district. Single-family overlay districts are intended to provide additional standards for College Station neighborhoods. These standards promote residential development patterns and are intended to protect and enhance desirable neighborhood characteristics, livability, and harmonious, orderly, and efficient growth and development. The underlying zoning district establishes the permitted uses and standards and shall remain in effect. The requirements of the overlay district are to be applied in addition to the underlying zoning district standards.

The ROO overlay standard is as follows:

Occupancy of either, a detached single-family dwelling or accessory living quarter, shall not exceed two unrelated persons per single-family dwelling or accessory living quarter. Related persons are specified in Section 11.2 'Defined Terms' in the definition of 'Family.' Accessory living quarter requirements are further specified in Section 6.5 'Accessory Uses' within the standards for 'Living Quarters.'

UDO sections 3.3 Zoning Map Amendment (Rezoning), 4.1 Establishment of Districts, and 5.11 Single-Family Overlay Districts detail the application process and regulations for single-family overlay districts and the ROO Process Handbook serves as a policy guide for residents. The process requires that a subdivision interested in pursuing a ROO form a Petition Committee. That committee is tasked with leading the effort, organizing their neighbors, hosting a neighborhood-led meeting and notifying all neighbors of the meeting via certified mail, collecting the petition signatures, and submitting the completed application and all required materials. Contiguous subdivisions can choose to work together and submit a joint application, provided that there is a representative from each original subdivision on the Petition Committee and that each subdivision submits a petition that meets the threshold of fifty (50) percent plus one (1) of signatures in support of the overlay for each subdivision.

The Greater Southwood Petition Committee was comprised of eight members, with at least one representative from each subdivision: Laurie Cordes (Southwood 1), Jerry Fox (Southwood 1) Wendy Johnson (Southwood 1), Mary Dinkel (Southwood 2), April Dallis (Southwood 2A), Michael Atkinson (Southwood 6, 7, 9), Will McCauley (Southwood 10), and Steve Hand (Camelot Addition Section 2). The Petition Committee hosted their neighborhood meeting on March 30, 2023, discussed pursuing the ROO for their subdivisions, answered questions from their neighbors, and collected petition signatures. There were 27 attendees at the meeting, 19 were property owners and one was representing property owners who were not able to attend the meeting. City staff were present as well. Some property owners signed the petition at the meeting.

The Petition Committee finished collecting petition signatures and submitted their ROO application on May 26, 2023. City staff verified that the application was complete, that all requirements were met, and that the ROO petition for each original subdivision met the signature threshold. The verified petition signatures in support of the ROO are as follows:

- Southwood Section 1: 18 of 20 lots in support (90%)
- Southwood Section 2: 8 of 13 lots in support (61.54%)
- Southwood Section 2A: 3 of 4 lots in support (75%)
- Southwood Section 6, 7 & 9: 21 of 38 lots in support (55.26%)
- Southwood Section 10: 5 of 8 lots in support (62.5%)
- Camelot Addition Section 2: 11 of 20 lots in support (55%)

Staff held a required City-hosted neighborhood meeting for this ROO application request on July 24, 2023. There were approximately 12 attendees, with the majority of questions relating to the overall process and the legacy clause within the ROO.

3. Whether the property to be rezoned is physically suitable for the proposed zoning district:

The ROO zoning does not affect any of the physical characteristics of the underlying GS General Suburban zoning district. The existing subdivisions meet the dimensional standards for GS General Suburban zoned properties as set forth in the UDO and are already developed as single-family residential subdivisions.

4. Whether there is available water, wastewater, stormwater, and transportation facilities generally suitable and adequate for uses permitted by the proposed zoning district:

The existing water, wastewater, stormwater, and transportation infrastructure is adequate to support the needs of these existing developments. No additional development and subsequent impacts are anticipated from the addition of the ROO zoning designation.

5. The marketability of the property:

The single-family uses allowed by the GS General Suburban zoning district will remain and are marketable as single-family residential homes. The ROO only restricts the number of unrelated persons per single-family dwelling or accessory living quarters to no more than two unrelated persons.

Budget & Financial Summary: N/A

Attachments:

1. Ordinance
2. Vicinity, Aerial, and Small Area Map
3. Rezoning Map
4. Background Information
5. Future Land Use Map
6. Original Subdivision Plats
7. Applicant's Supporting Information
8. Petition Committee Members
9. Neighborhood Meeting Materials
10. Petition Signatures

ORDINANCE NO. _____

AN ORDINANCE AMENDING APPENDIX A “UNIFIED DEVELOPMENT ORDINANCE,” ARTICLE 4 “ZONING DISTRICTS,” SECTION 4.2, “OFFICIAL ZONING MAP” OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING APPROXIMATELY 48.31 ACRES, BEING 103 LOTS WITHIN SOUTHWOOD SUBDIVISIONS SECTIONS 1, 2, 2A, 6, 7, 9, AND 10; AND CAMELOT ADDITION SECTION 2 SUBDIVISION DESCRIBED BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

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

- PART 1:** That Appendix A “Unified Development Ordinance,” Article 4 “Zoning Districts,” Section 4.2 “Official Zoning Map” of the Code of Ordinances of the City of College Station, Texas, be amended as set out in **Exhibit “A” and Exhibit “B”** attached hereto and made a part of this Ordinance for all purposes.
- PART 2:** If any provision of this Ordinance or its application to any person or circumstances is held invalid or unconstitutional, the invalidity or unconstitutionality does not affect other provisions or application of this Ordinance or the Code of Ordinances of the City of College Station, Texas that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this Ordinance are severable.
- PART 3:** That any person, corporation, organization, government, governmental subdivision or agency, business trust, estate, trust, partnership, association and any other legal entity violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not less than twenty five dollars (\$25.00) and not more than five hundred dollars (\$500.00) or more than two thousand dollars (\$2,000) for a violation of fire safety, zoning, or public health and sanitation ordinances, other than the dumping of refuse. Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.
- PART 4:** This Ordinance is a penal ordinance and becomes effective ten (10) days after its date of passage by the City Council, as provided by City of College Station Charter Section 35.

PASSED, ADOPTED, and APPROVED this 14th day of September, 2023.

ATTEST:

APPROVED:

City Secretary

Mayor

APPROVED:

City Attorney

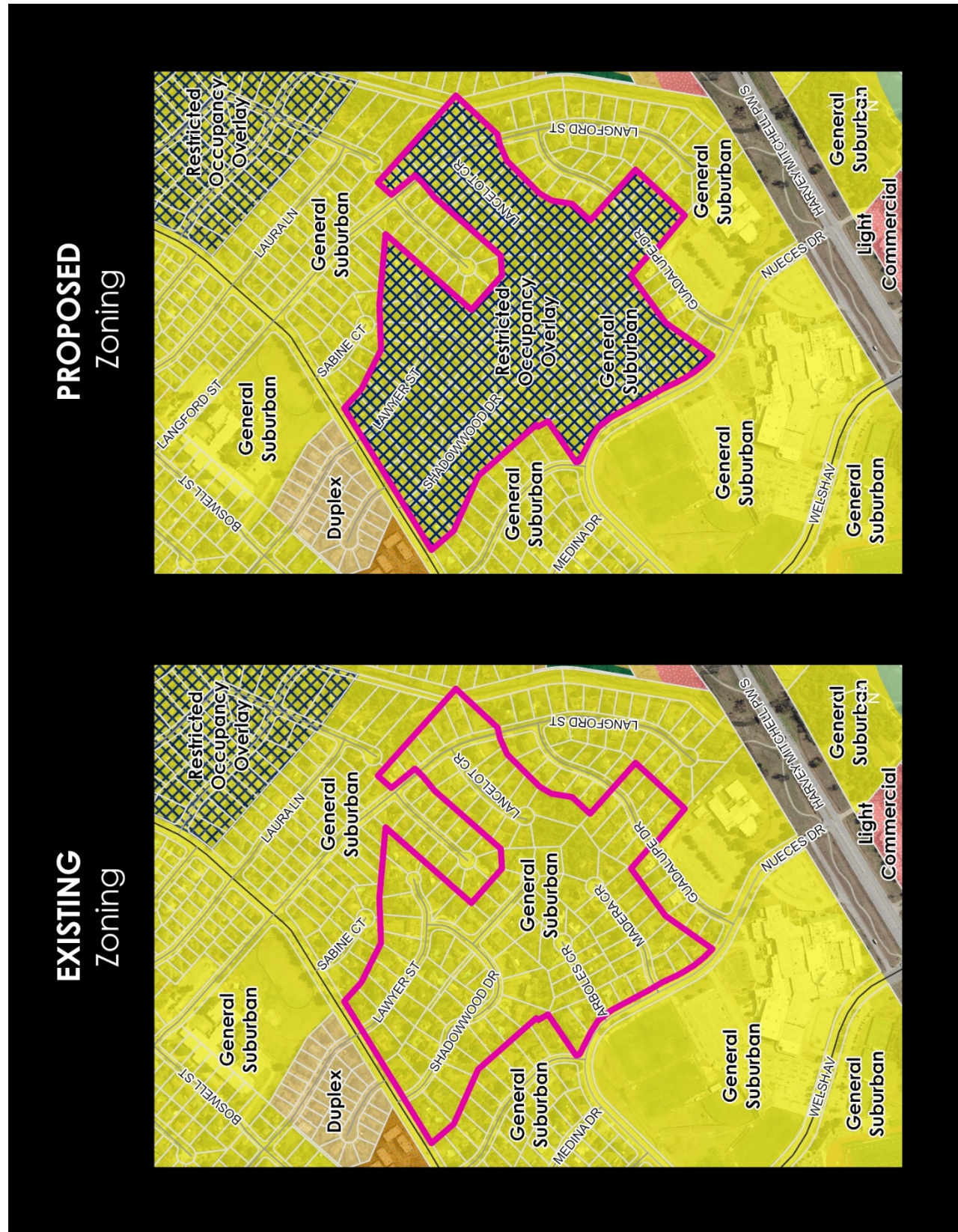
Exhibit A

That Appendix A, “Unified Development Ordinance,” Article 4, “Zoning Districts,” Section 4.2, “Official Zoning Map,” of the Code of Ordinances of the City of College Station, Texas, is hereby amended and is to read as follows:

The following properties are rezoned to apply a ROO Restricted Occupancy Overlay zoning as provided in Appendix A, “Unified Development Ordinance,” Article 5 “District Purpose Statements and Supplemental Standards”, Section 5.11 “Single-Family Overlay Districts”:

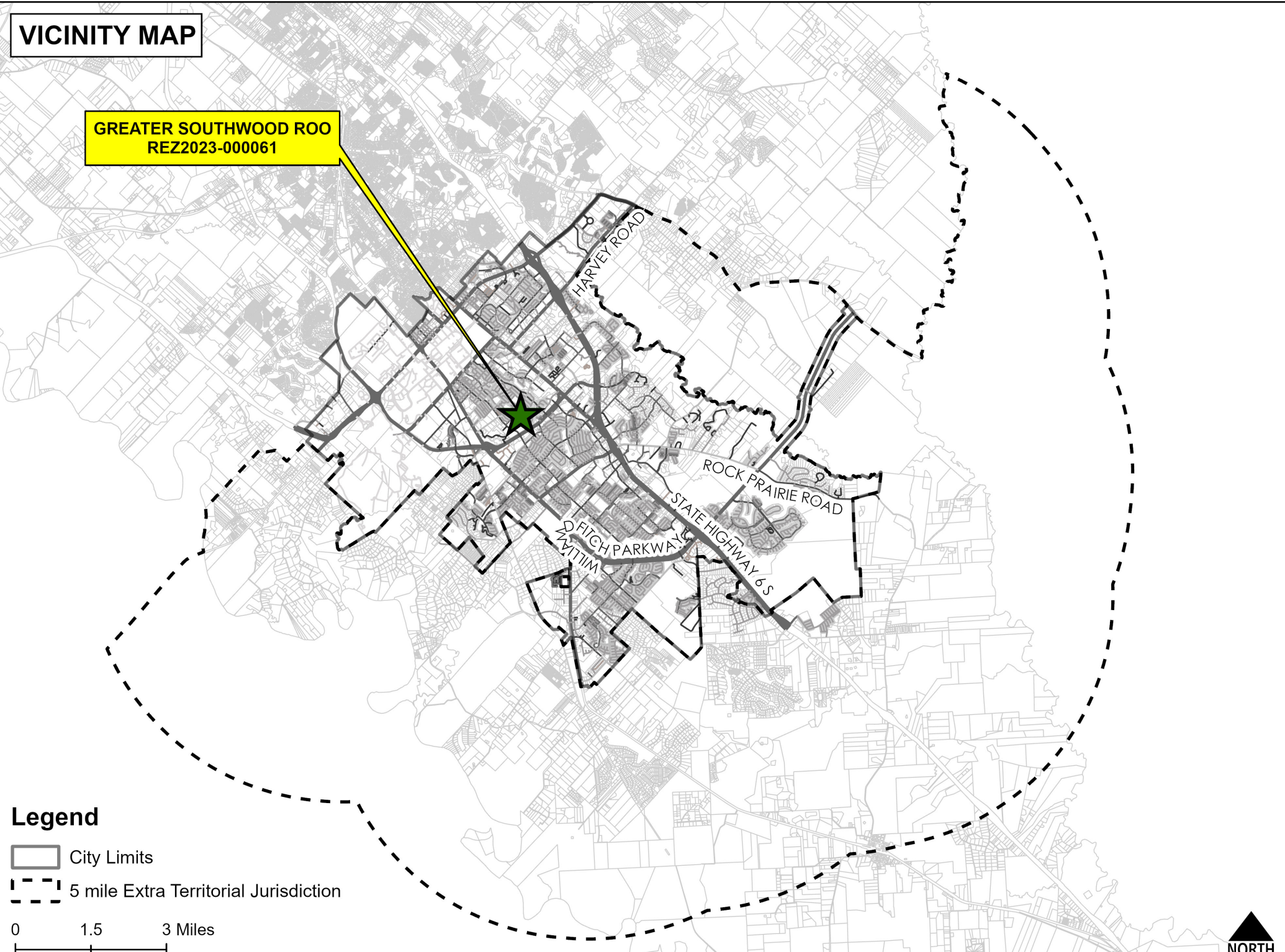
Approximately 48.31 acres of land, being 103 lots within Southwood Subdivisions Sections 1, 2, 2A, 6, 7, 9 and 10 and Camelot Addition Section 2 Subdivision.

Exhibit B



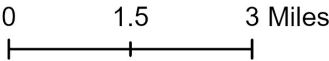
VICINITY MAP

GREATER SOUTHWOOD ROO
REZ2023-000061



Legend

- City Limits
- 5 mile Extra Territorial Jurisdiction



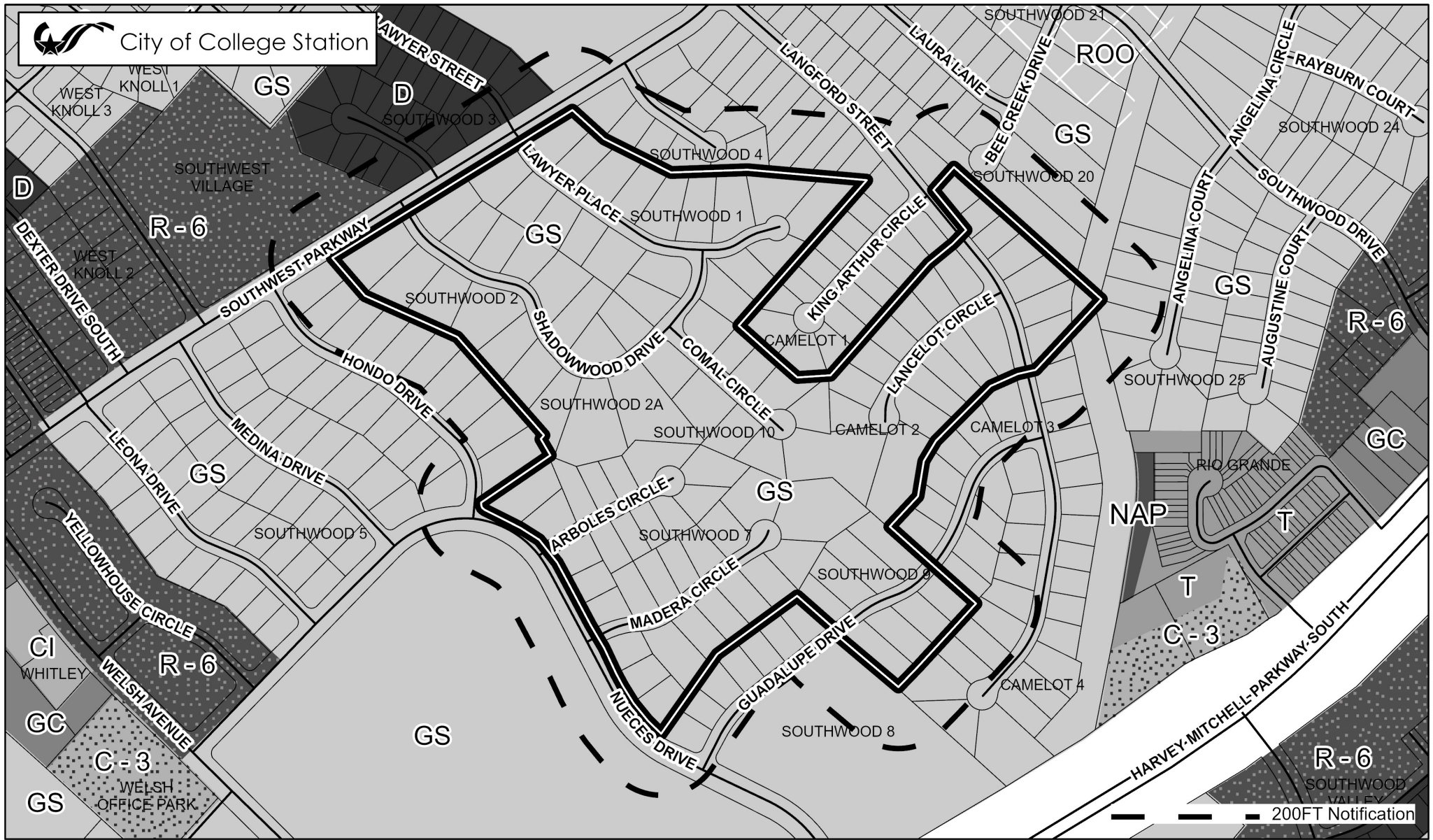


0 360 720 Feet

GREATER SOUTHWOOD ROO

Case:
REZ2023-000061

REZONING



ZONING DISTRICTS (In Grayscale)

Residential		
R	Rural	MH Middle Housing
WE	Wellborn Estate	MF Multi-Family
E	Estate	MU Mixed-Use
WRS	Wellborn Restricted Suburban	MHP Manufactured Home Pk.
RS	Restricted Suburban	
GS	General Suburban	
D	Duplex	
T	Townhome	

Non-Residential

NAP	Natural Area Protected
O	Office
SC	Suburban Commercial
WC	Wellborn Commercial
GC	General Commercial
CI	Commercial Industrial
BP	Business Park
BPI	Business Park Industrial
C-U	College and University

Planned Districts

P-MUD	Planned Mixed-Use Dist.
PDD	Planned Develop. Dist.

Design Districts

WPC	Wolf Pen Creek Dev. Cor.
NG-1	Core Northgate
NG-2	Transitional Northgate
NG-3	Residential Northgate

Overlay Districts

OV	Corridor Ovr.
RDD	Redevelopment District
ROO	Restricted Occupancy Ovr.
NPO	Nbrhd. Prevailing Ovr.
NCO	Nbrhd. Conservation Ovr.
HP	Historic Preservation Ovr.

Retired Districts

R-1B	Single Family Residential
R-4	Multi-Family
R-6	High Density Multi-Family
C-3	Light Commercial
RD	Research and Dev.
M-1	Light Industrial
M-2	Heavy Industrial



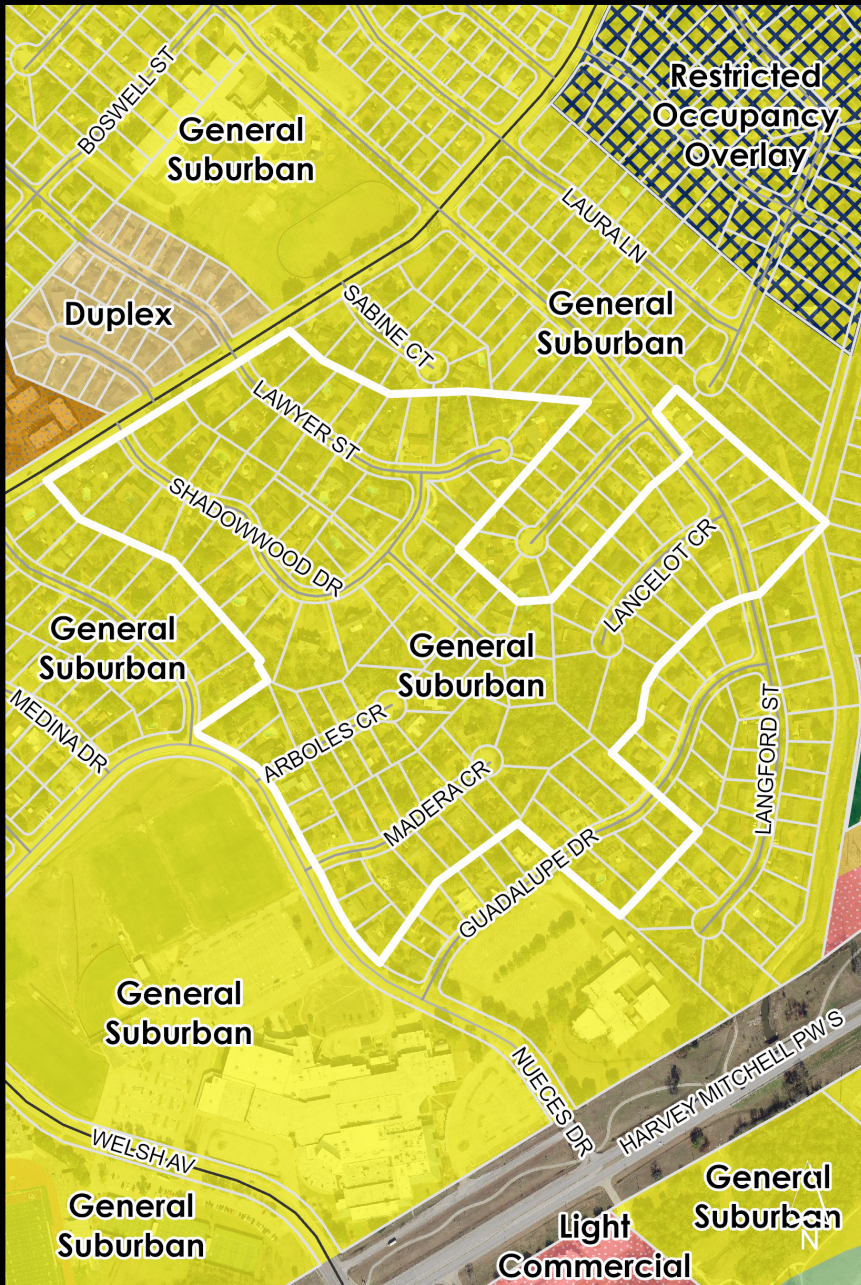
0 437.5 875 Feet

GREATER SOUTHWOOD ROO

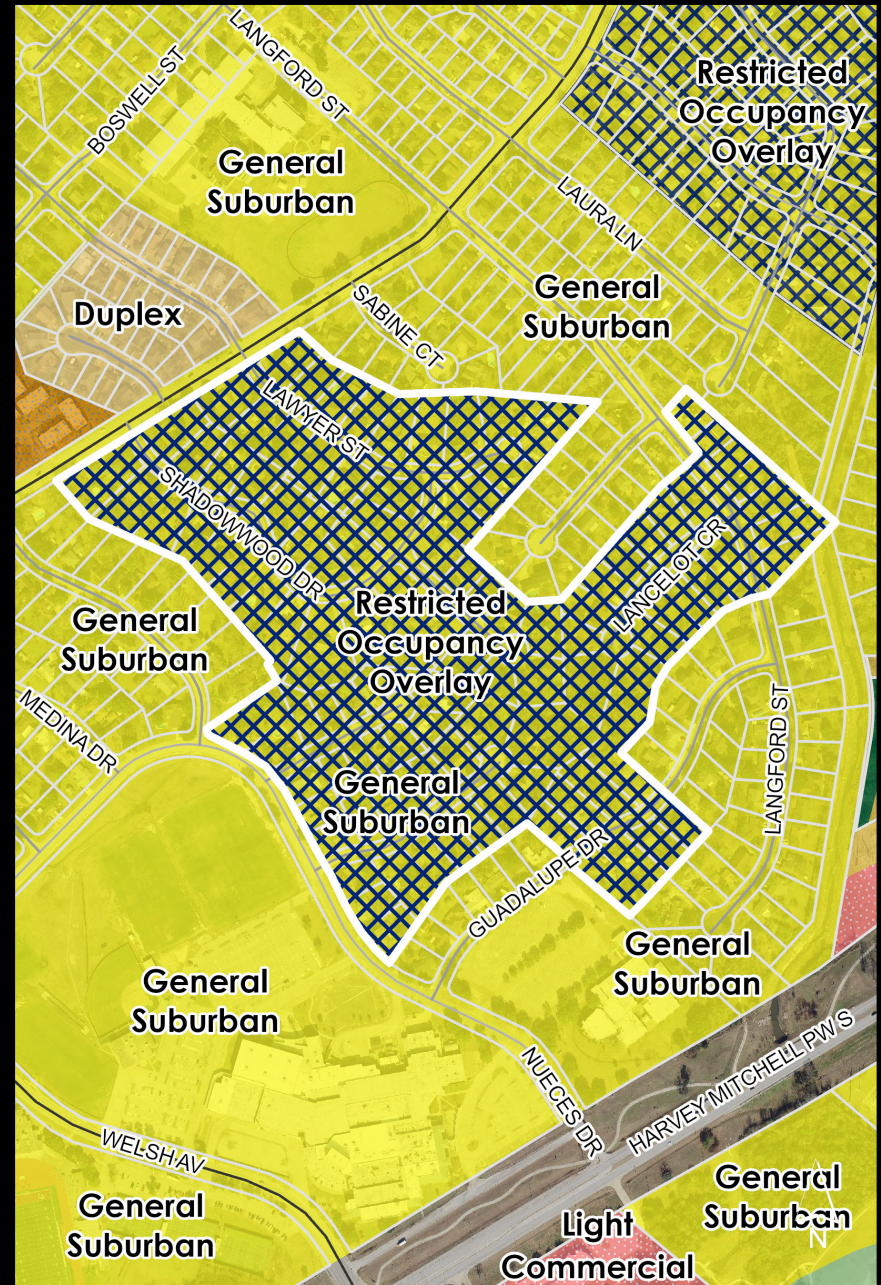
Case:
REZ2023-000061

REZONING

EXISTING Zoning



PROPOSED Zoning



BACKGROUND INFORMATION

NOTIFICATIONS

Advertised Commission Hearing Date: September 7, 2023

Advertised Council Hearing Date: September 14, 2023

Property owner notices mailed: 105
Property tenant notices mailed: 134
Contacts in support: Four at the time of this report
Contacts in opposition: One at the time of this report
Inquiry contacts: Three at the time of this report

ADJACENT LAND USES

Direction	Comprehensive Plan	Zoning	Land Use
North	Neighborhood Conservation	GS General Suburban; D- Duplex	Mixed Residential
South	Neighborhood Conservation	GS General Suburban	Residential
East	Neighborhood Conservation; Natural & Open Areas	GS General Suburban	Residential
West	Neighborhood Conservation	GS General Suburban	Public Facilities

DEVELOPMENT HISTORY

Annexation: January 1968 – August 1972

Zoning: R-1 Single-Family Residential

R-1 Single-Family Residential renamed to GS General Suburban (2013)

Final Plat: Southwood Section 1 (1967), Southwood Section 2 (1967), Southwood Section 2A (1968), Southwood Section 6,7,9 (1970), Southwood Section 10 (1972), Camelot Addition Section 2 (1972)

Site development: Single-Family Residential

EXISTING

Future Land Use



FILED FOR RECORD
DATE 3-7-67
AT 4:40 O'CLOCK P.M.
FRANK BORISKE
BRAZOS COUNTY CLERK
Witness: *Edgar*

THE STATE OF TEXAS }
COUNTY OF BRAZOS }
and County, do hereby certify that the following is a true and correct copy of the original as the same appears in the Public Records of said County, to-wit: *March*
A.D. 1967, together with a copy of the original as the same appears in the Public Records of said County, to-wit: *March*
day of *March*, 1967, at 4:45 P.M.
in Volume 260, Page 741
WITNESS MY HAND
March A.D. 1967
(L.S.) *Frank Boriske* Clerk, County
Matthew Nowak Deputy

DEDICATION

STATE OF TEXAS }
COUNTY OF BRAZOS }

WE, THE UNDERSIGNED, BEING ALL OF THE OWNERS AND LEASEHOLDERS OF THE HEREIN PLATED 11.26 ACRE TRACT CONVEYED TO US BY MRS. TENNIE JONES, ET AL., BY DEED DATED 1 JUNE 1964 AND RECORDED IN VOLUME 256, PAGE 136 OF THE DEED RECORDS OF BRAZOS COUNTY DO HEREBY DEDICATE TO THE USE OF THE PUBLIC FOREVER ALL STREETS AND EASEMENTS THEREON SHOWN FOR THE PURPOSE AND CONSIDERATION THEREIN EXPRESSED.

AREA PROGRESS CORPORATION

BY *H.D. Fitch*
PRESIDENT

CORPORATE ACKNOWLEDGEMENT

STATE OF TEXAS }
COUNTY OF BRAZOS } BEFORE ME,

THE UNDERSIGNED, A Notary Public in and for said County and State, on this day personally appeared W.D. Fitch, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said AREA PROGRESS CORPORATION, a corporation, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS 2ND DAY OF MARCH, A.D. 1967.

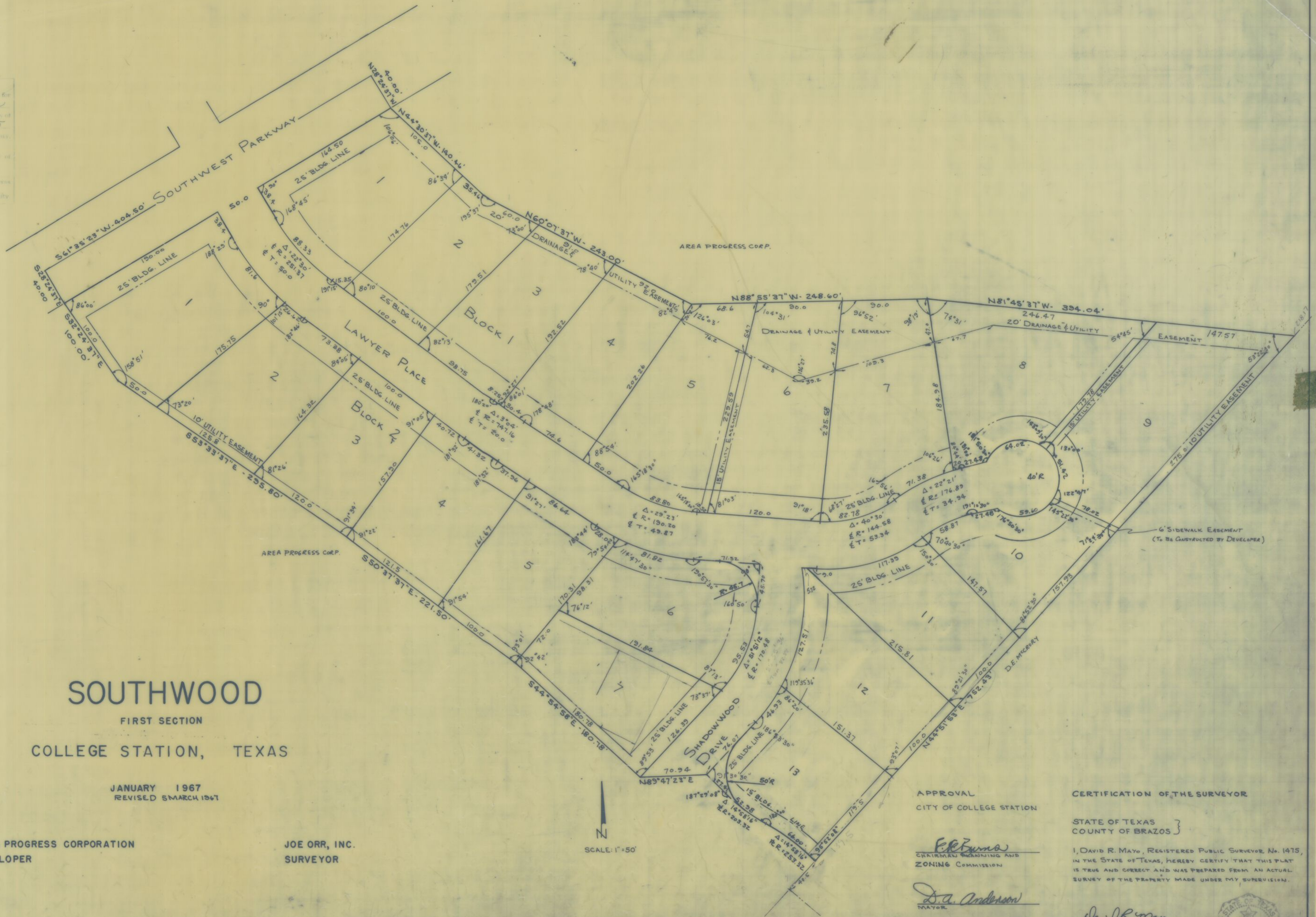
William F. Koshler
William F. Koshler
Notary Public in and for
BRAZOS COUNTY, TEXAS

AREA PROGRESS CORPORATION
DEVELOPER

JOE ORR, INC.
SURVEYOR

SOUTHWOOD FIRST SECTION COLLEGE STATION, TEXAS

JANUARY 1967
REVISED 5 MARCH 1967



APPROVAL
CITY OF COLLEGE STATION

Ed Burns
CHAIRMAN ZONING AND
ZONING COMMISSION

D.A. Anderson
MAYOR

DATE *March 7, 1967*

CERTIFICATION OF THE SURVEYOR

STATE OF TEXAS }
COUNTY OF BRAZOS }

I, DAVID R. MAYO, REGISTERED PUBLIC SURVEYOR No. 1475, IN THE STATE OF TEXAS, HEREBY CERTIFY THAT THIS PLAT IS TRUE AND CORRECT AND WAS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY MADE UNDER MY SUPERVISION.

David R. Mayo
DAVID R. MAYO
R.P.S. No. 1475



DEDICATION
STATE OF TEXAS
COUNTY OF BRAZOS

We, the undersigned, being all of the owners and leaseholders of the herein plat, do hereby dedicate to the use of the Public forever all streets and easements thereon shown for the purpose and consideration therein expressed.

AREA PROGRESS CORPORATION
By *W.D. Ditch*
PRESIDENT

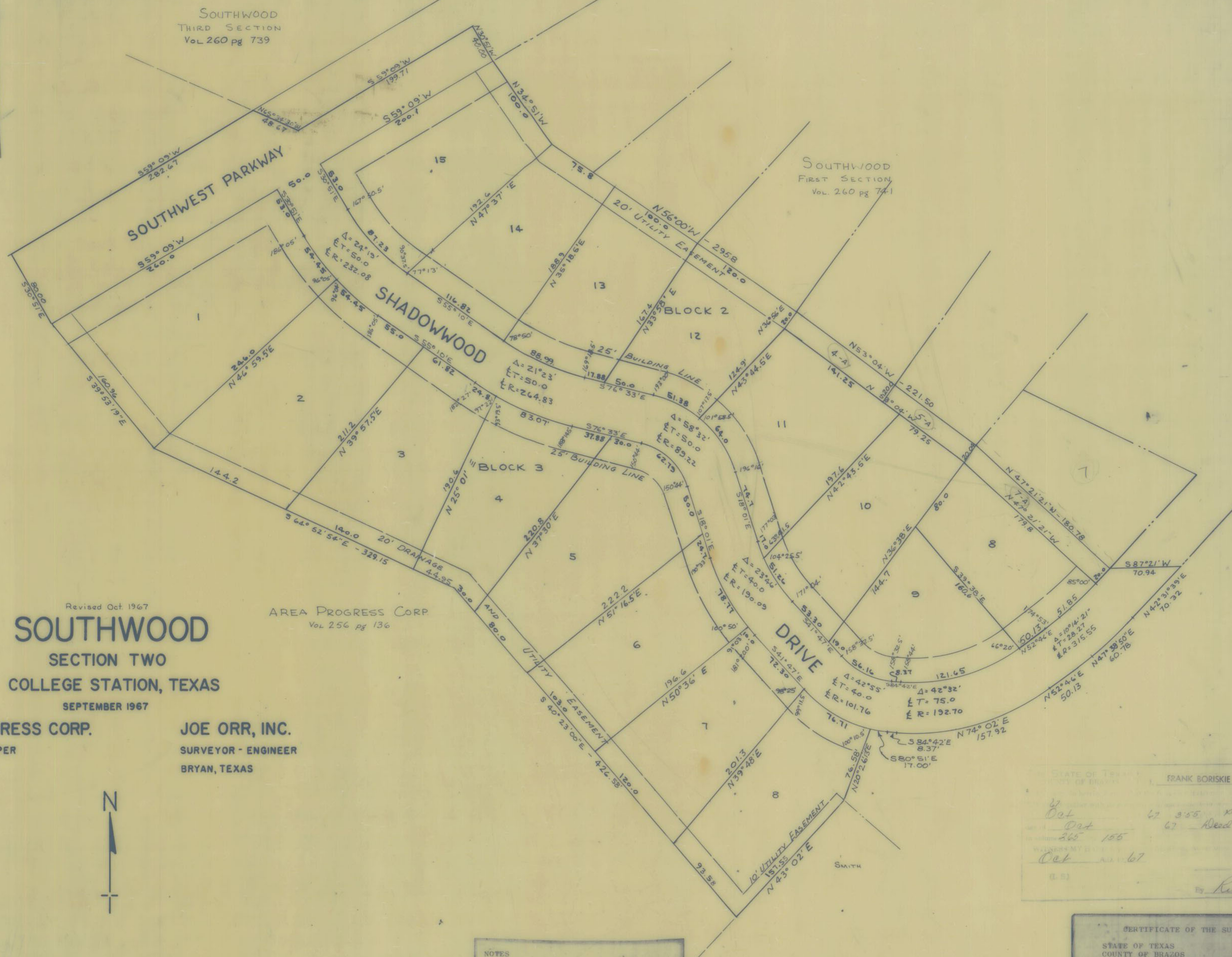
CORPORATE ACKNOWLEDGEMENT

STATE OF TEXAS
COUNTY OF BRAZOS

Before me, the undersigned, a Notary Public in and for said county and state, on this day personally appeared W.D. Ditch, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said AREA PROGRESS CORPORATION, a corporation, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 30th day of September, 1967.

William D. Ditch
Notary Public, Brazos Co., Texas
William D. Ditch



Revised Oct. 1967
SOUTHWOOD
SECTION TWO
COLLEGE STATION, TEXAS
SEPTEMBER 1967

AREA PROGRESS CORP.
Vol. 256 pg. 136

AREA PROGRESS CORP.
OWNER - DEVELOPER
BRYAN, TEXAS

JOE ORR, INC.
SURVEYOR - ENGINEER
BRYAN, TEXAS

APPROVAL
CITY OF COLLEGE STATION

E. R. Dumas
Chairman, Planning and
Zoning Commission
La. Anderson
Mayor
October 6, 1967
Date

SCALE: 1" = 50'

NOTES

All distances along curves are chord distances.
1" iron rods are set at all property corners.

STATE OF TEXAS
COUNTY OF BRAZOS
FRANK BORISKE
County Clerk in and for
the County of Brazos, Texas
do hereby certify that this plat is true and correct and
was prepared from an actual survey of the
property made under my supervision.
Oct 3 1967
By *Frank Boriske*
County Clerk

CERTIFICATE OF THE SURVEYOR

STATE OF TEXAS
COUNTY OF BRAZOS

I, David R. Mayo, Registered Public Surveyor
No. 1375, in the State of Texas, hereby
certify that this plat is true and correct and
was prepared from an actual survey of the
property made under my supervision.

David R. Mayo
David R. Mayo, Registered No. 1375
PUBLIC SURVEYOR

SOUTHWOOD

SECTION TWO- A
COLLEGE STATION, TEXAS

AUGUST, 1968

AREA PROGRESS CORP

OWNER-DEVELOPER

BRYAN, TEXAS

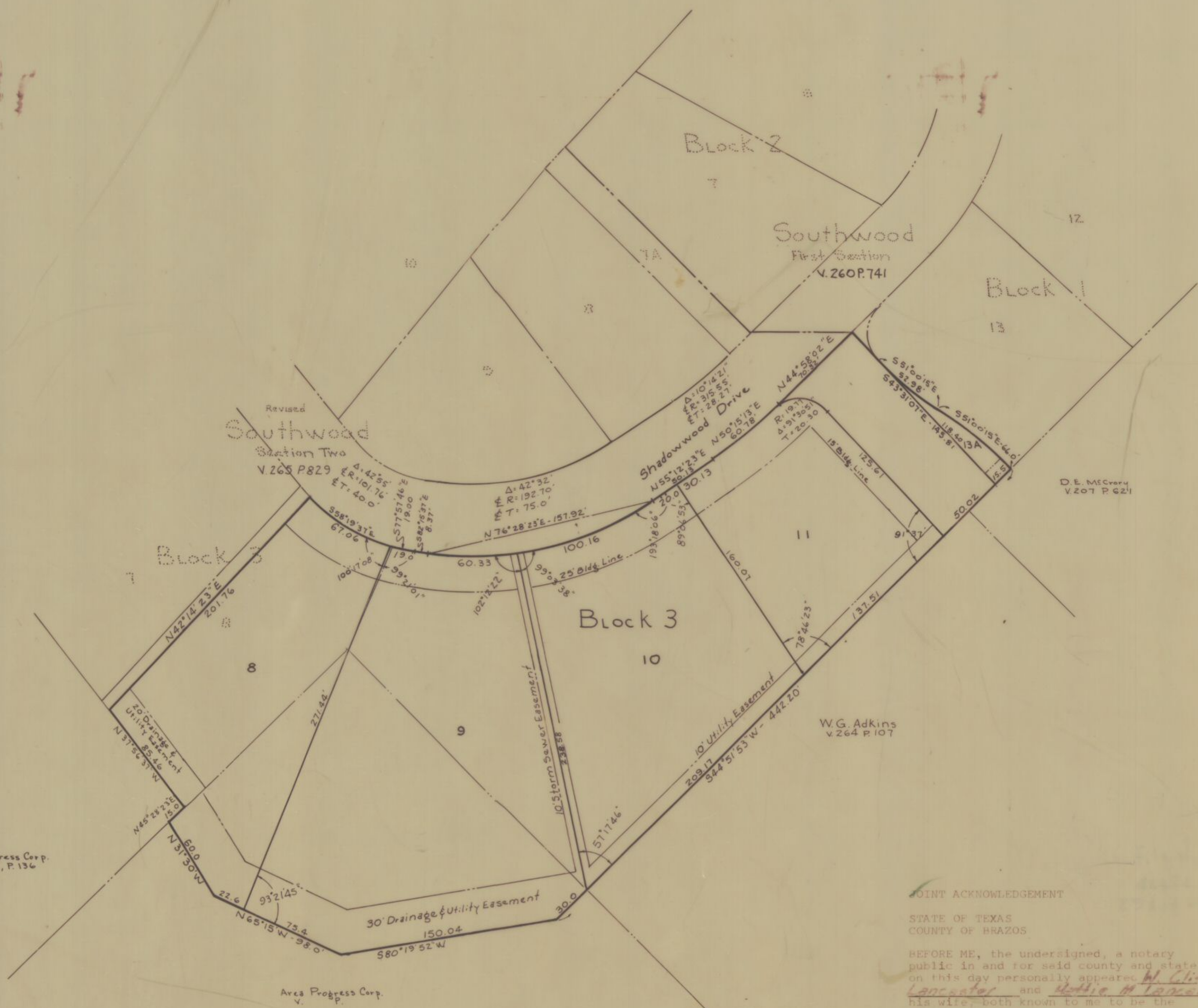
JOE ORR, INC.

SURVEYOR-ENGINEER

BRYAN, TEXAS



SCALE: 1" = 50'



DEDICATION

STATE OF TEXAS
COUNTY OF BRAZOS

We, the undersigned, being all of the owners and leaseholders of the hereon platted 2.96 acre tract of land in the Crawford Burnett League in College Station, Brazos County, Texas, do hereby dedicate to the use and benefit of the public forever all streets and easements thereon shown for the purpose and consideration therein expressed.

AREA PROGRESS CORPORATION

by W.D. Fitch
President

William G. Wilkins

William G. Lancaster

William G. Lancaster

CORPORATE ACKNOWLEDGEMENT

STATE OF TEXAS
COUNTY OF BRAZOS

Before me, the undersigned, a notary public in and for said county and state, on this day personally appeared W. D. Fitch, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said AREA PROGRESS CORPORATION, a corporation, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 12th day of August 1968.

William G. Wilkins
Notary Public, Brazos Co., Texas

SINGLE ACKNOWLEDGEMENT

STATE OF TEXAS
COUNTY OF BRAZOS

Before me the undersigned, a Notary Public in and for said county and state, on this day personally appeared William G. Wilkins, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 12th day of August, 1968.

William G. Wilkins
Notary Public, Brazos Co., Texas

JOINT ACKNOWLEDGEMENT

STATE OF TEXAS
COUNTY OF BRAZOS

BEFORE ME, the undersigned, a notary public in and for said county and state, on this day personally appeared William G. Wilkins, William G. Lancaster, and William G. Lancaster, his wife, both known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes and consideration therein expressed, and the said William G. Lancaster wife of the said William G. Lancaster having been examined by me privily and apart from her husband, and having the same fully explained to her, she, the said William G. Lancaster acknowledged such instrument to be her act and deed, and she declared that she had willingly signed the same for the purposes and consideration therein expressed, and that she did not wish to retract it.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 12th day of August, 1968.

William G. Wilkins
Notary Public, Brazos Co., Texas

STATE OF TEXAS
COUNTY OF BRAZOS

I, Frank Boriskie, County Clerk in and for said County, do hereby certify that the foregoing instrument dated the 26th day of August, A.D. 1968 together with its certificates of authentication was filed for record in my office the 29th day of August, A.D. 1968 in the Deed Records of Brazos County, in Volume 272 Pg. 564.

WITNESS MY HAND AND OFFICIAL SEAL, At my office in Bryan, Texas, this 10th day of Sept. A.D. 1968.

Frank Boriskie
County Clerk, Brazos County, Texas

By Mattie Nowak Deputy

APPROVAL
CITY OF COLLEGE STATION

C. V. Foster
Chairman, Planning and Zoning Commission

Mayor

Date

CERTIFICATE OF THE SURVEYOR

STATE OF TEXAS
COUNTY OF BRAZOS

I, David R. Mayo, Registered Public Surveyor No. 1475 in the State of Texas, hereby certify that this plat is true and correct and was prepared from an actual survey of the property made under my supervision.

David R. Mayo
David R. Mayo



NOTE:
Distances given on curves are chords.

LEGEND:
Property Line
Easement Line
Building Line
Property Corner (1/4" Iron Rod)
Concrete Monument



STATE OF TEXAS
COUNTY OF BRAZOS

We, Area Progress Corporation, owners and developers of the land shown on this plat, and designated herein as the Southwood, Section Six and Seven Subdivision to the City of College Station, Texas, and whose names are subscribed hereto, hereby dedicate to the use of the public forever all streets, alleys, parks, easements and public places thereon shown for the purpose and consideration therein expressed.

by David R. Mayo
President

STATE OF TEXAS
COUNTY OF BRAZOS

BEFORE ME, the undersigned, a Notary Public in and for Brazos County, Texas, on this day personally appeared W.D. Fitch, President of Area Progress Corporation, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said Area Progress Corporation, a corporation, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS 6th day of November, A.D. 1970.
William F. Hochler
Notary Public, Brazos County, Texas

CERTIFICATE OF THE CITY ENGINEER

I, Lloyd L. James, City Engineer of the City of College Station, Texas, hereby certify that this subdivision plat conforms to the requirements of the Subdivision Regulations of the City of College Station.

Lloyd L. James
City Engineer
City of College Station, Texas

STATE OF TEXAS
COUNTY OF BRAZOS

I, David R. Mayo, Registered Public Surveyor No. 1475, in the State of Texas, hereby certify that this plat is true and correct and was prepared from an actual survey of the property, and that property markers and monuments were placed under my supervision on the ground.



APPROVAL OF PLANNING AND ZONING COMMISSION

I, L.D. Wells, Chairman of the Planning and Zoning Commission of the City of College Station, hereby certify that the attached plat was duly approved by the Commission on the 16th day of Nov., 1970.

ATTEST:
David R. Mayo
Secretary

STATE OF TEXAS
COUNTY OF BRAZOS

I, Frank Boriskie, County Clerk in and for said county, do hereby certify that this plat together with its certificates of authentication was filed for record in my office the 4th day of Dec., 1970, in the Deed Records of Brazos County, Texas, in Volume 241, Page 241.

WITNESS my hand and official Seal, at my office in Bryan, Texas.
Frank Boriskie
County Clerk
Brazos County, Texas

SOUTHWOOD

SECTION SIX SEVEN & NINE

COLLEGE STATION, TEXAS

NOVEMBER, 1970

SCALE: 1" = 100'

AREA PROGRESS CORP.
OWNER

DAVID R MAYO
SURVEYOR

APPROVAL OF PLANNING & ZONING COMMISSION

I, C.D. Wells, CHAIRMAN OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF COLLEGE STATION, HEREBY CERTIFY THAT THE ATTACHED PLAT WAS DULY APPROVED BY THE COMMISSION ON THE 17th DAY OF JANUARY, 1972.

CHAIRMAN

ATTEST:

SECRETARY

STATE OF TEXAS
COUNTY OF BRAZOS

I, Frank Brunkin, COUNTY CLERK, IN AND FOR SAID COUNTY, DO HEREBY CERTIFY THAT THIS PLAT TOGETHER WITH ITS CERTIFICATES OF AUTHENTICATION WAS FILED FOR RECORD IN MY OFFICE THE 2nd DAY OF February A.D. 1972 AT 4:50 O'CLOCK P.M. AND DULY RECORDED ON THE 17th DAY OF January A.D. 1972 IN THE DEED RECORDS OF BRAZOS COUNTY IN VOLUME 341 PAGE 73. WITNESS MY HAND AND OFFICIAL SEAL, AT MY OFFICE IN BRYAN, TEXAS.

COUNTY CLERK
BRAZOS COUNTY, TEXAS

BY Luck Hodge
DEPUTY

66367

FILED
FEB 2 1972

PLAT
L. S. HODGE

CERTIFICATE OF CITY ENGINEER

I, LLOYD L. JAMES, CITY ENGINEER OF THE CITY OF COLLEGE STATION, TEXAS, HEREBY CERTIFY THAT THIS SUBDIVISION PLAT CONFORMS TO THE REQUIREMENTS OF THE SUBDIVISION REGULATIONS OF THE CITY OF COLLEGE STATION.

CITY ENGINEER
CITY OF COLLEGE STATION, TEXAS

STATE OF TEXAS
COUNTY OF BRAZOS

I, DAVID R. MAYO, REGISTERED PUBLIC SURVEYOR, NO. 1475, IN THE STATE OF TEXAS, HEREBY CERTIFY THAT THIS PLAT IS TRUE AND CORRECT AND WAS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY, AND THAT PROPERTY MARKERS AND MONUMENTS WERE PLACED UNDER MY SUPERVISION ON THE GROUND.

DAVID R. MAYO

DAVID R. MAYO



STATE OF TEXAS
COUNTY OF BRAZOS

WE, THE UNDERSIGNED, OWNERS AND DEVELOPERS OF THE LAND SHOWN ON THIS PLAT, AND DESIGNATED HEREIN AS THE SOUTHWOOD 10 SUBDIVISION TO COLLEGE STATION, TEXAS, AND WHOSE NAMES ARE SUBSCRIBED HERETO, HEREBY DEDICATE TO THE USE OF THE PUBLIC FOREVER ALL STREETS, ALLEYS, PARKS, EASEMENTS, AND PUBLIC PLACES THEREON SHOWN FOR THE PURPOSE AND CONSIDERATION THEREIN EXPRESSED.

OWNER

OWNER

OWNER

OWNER

STATE OF TEXAS
COUNTY OF BRAZOS

BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR THE COUNTY OF BRAZOS, STATE OF TEXAS, ON THIS DAY PERSONALLY APPEARED W.D. FITCH, PRESIDENT OF THE AREA PROGRESS CORPORATION, KNOWN TO ME TO BE THE PERSON AND OFFICER WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT THE SAME WAS THE ACT OF SAID AREA PROGRESS CORPORATION, AND THAT HE EXECUTED THE SAME AS THE ACT OF SUCH CORPORATION FOR THE PURPOSES AND CONSIDERATION THEREIN EXPRESSED, AND IN THE CAPACITY THEREIN STATED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 5th DAY OF JANUARY A.D. 1972.

NOTARY PUBLIC
BRAZOS COUNTY, TEXAS



STATE OF TEXAS
COUNTY OF BRAZOS

BEFORE ME, THE UNDERSIGNED AUTHORITY, IN AND FOR SAID COUNTY, TEXAS, ON THIS DAY PERSONALLY APPEARED RICHARD B. WADSWORTH THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATION THEREIN EXPRESSED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS 5th DAY OF JANUARY A.D. 1972.

NOTARY PUBLIC
BRAZOS COUNTY, TEXAS



STATE OF TEXAS
COUNTY OF BRAZOS

BEFORE ME, THE UNDERSIGNED AUTHORITY, IN AND FOR SAID COUNTY, TEXAS, ON THIS DAY PERSONALLY APPEARED ARTHUR H. STROUD AND PATRICIA C. STROUD HIS WIFE, BOTH KNOWN TO ME TO BE THE PERSONS WHOSE NAMES ARE SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT THEY EACH EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATION THEREIN EXPRESSED, AND THE SAID PATRICIA C. STROUD, WIFE OF THE SAID ARTHUR H. STROUD, HAVING BEEN EXAMINED BY ME PRIVILY AND APART FROM HER HUSBAND, AND HAVING THE SAME FULLY EXPLAINED TO HER, SHE, THE SAID PATRICIA C. STROUD, ACKNOWLEDGED SUCH INSTRUMENT TO BE HER ACT AND DEED AND SHE DECLARED THAT SHE HAD WILLINGLY SIGNED THE SAME FOR THE PURPOSES AND CONSIDERATION THEREIN EXPRESSED, AND THAT SHE DID NOT WISH TO RETRACT IT.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS 5th DAY OF JANUARY A.D. 1972.

NOTARY PUBLIC
BRAZOS COUNTY, TEXAS



SOUTHWOOD

SECTION 10
COLLEGE STATION, TEXAS

JANUARY 1972

SCALE 1"=50'

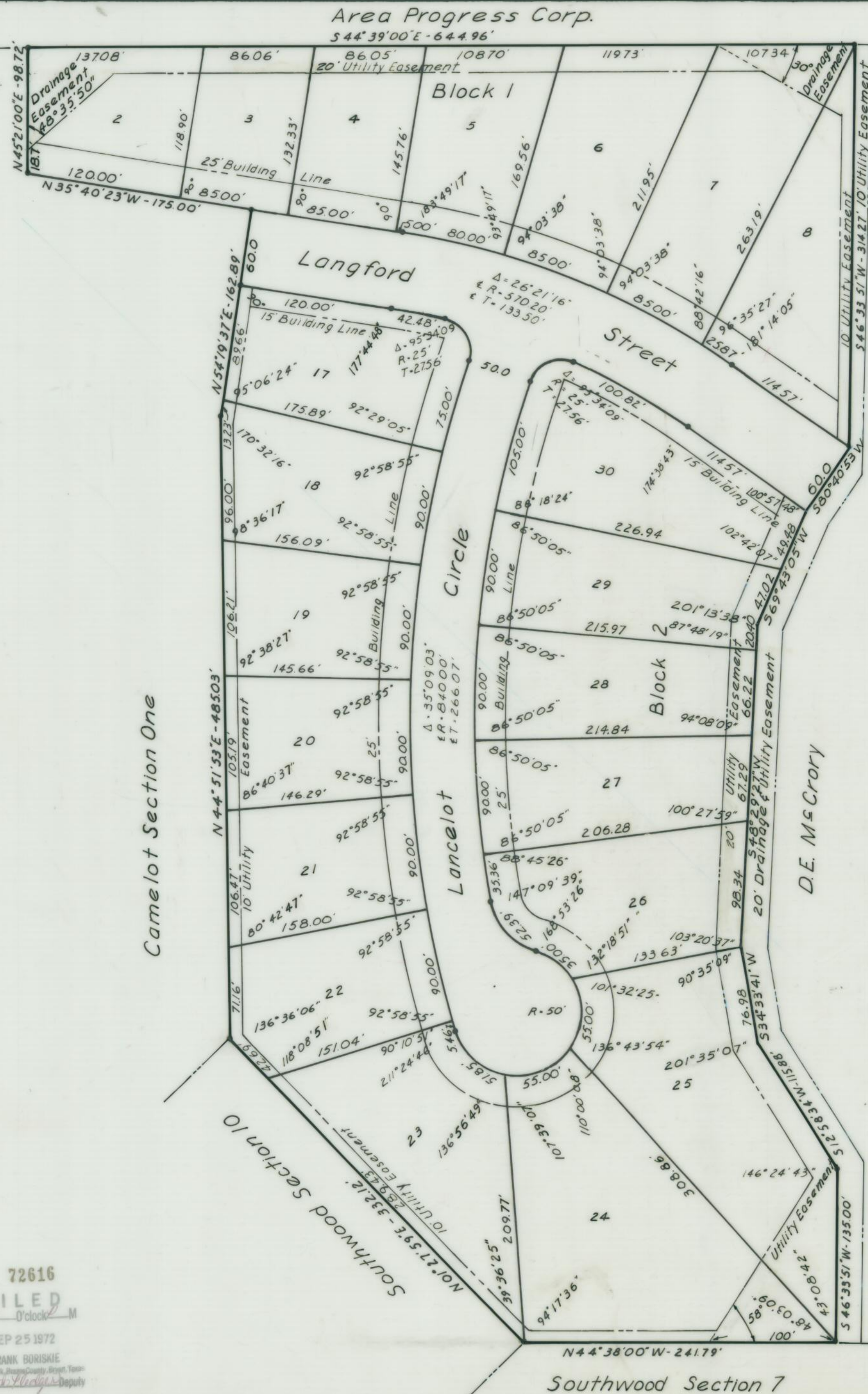
DEVELOPER:
AREA PROGRESS CORP.
P.O. BOX 47
COLLEGE STATION, TEXAS

SURVEYOR-ENGINEER
JOE ORR, INC.
100 LUTHER ST. WEST
COLLEGE STATION, TEXAS

NOTES:

- Distances on curves are chords.
- Subdivision is 3.76 acres and is part of W.G. Adkins 10 acre tract (264/107) and all of the Richard Wadsworth 1.91 acre tract (299/107).

- Note:
- Distances along curves are chords.
 - Lot corners are marked with 1/2" iron rods.
 - No Structure shall be erected within this Subdivision with a floor elevation below 268.5 U.S.G.S. Datum.



I, MR. Callahan, CHAIRMAN OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF COLLEGE STATION, TEXAS, HEREBY CERTIFY THAT THE ATTACHED PLAT WAS DULY APPROVED BY THE COMMISSION ON THE 18th DAY OF Sept 1972.

MR. Callahan
CHAIRMAN

ATTEST: B. J. Cooley
SECRETARY

STATE OF TEXAS
COUNTY OF BRAZOS

WE, THE UNDERSIGNED, OWNERS OF THE LAND SHOWN ON THIS PLAT, AND DESIGNATED HEREIN AS THE Camelot Addition Section Two IN THE CITY OF COLLEGE STATION, TEXAS, AND WHOSE NAMES ARE SUBSCRIBED HERETO, HEREBY DEDICATE TO THE USE OF THE PUBLIC FOREVER ALL STREETS, ALLEYS, PARKS, EASEMENTS AND PUBLIC PLACES THEREON SHOWN FOR THE PURPOSES AND CONSIDERATION THEREIN EXPRESSED.

Normandy Corporation

By J.B. Hervey
President

D.E. McCrory
D.E. McCrory

STATE OF TEXAS
COUNTY OF BRAZOS

BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, ON THIS DAY PERSONALLY APPEARED J.B. Hervey PRESIDENT OF THE Normandy Corporation KNOWN TO ME TO BE THE PERSON AND OFFICER WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT THE SAME WAS THE ACT OF THE SAID Normandy Corporation AND THAT HE EXECUTED THE SAME AS THE ACT OF SUCH CORPORATION FOR THE PURPOSES AND CONSIDERATION THEREIN EXPRESSED AND IN THE CAPACITY THEREIN STATED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 6th DAY OF Sept. A.D. 1972.
Jay Kingale
NOTARY PUBLIC IN AND FOR BRAZOS COUNTY, TEXAS

STATE OF TEXAS
COUNTY OF BRAZOS

BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, ON THIS DAY PERSONALLY APPEARED D.E. McCrory KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATION THEREIN EXPRESSED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 6th DAY OF Sept. A.D. 1972.
Jay Kingale
NOTARY PUBLIC IN AND FOR BRAZOS COUNTY, TEXAS

STATE OF TEXAS
COUNTY OF BRAZOS

I, DAVID R. MAYO, REGISTERED PUBLIC SURVEYOR NO. 1475 IN THE STATE OF TEXAS, HEREBY CERTIFY THAT THIS PLAT IS TRUE AND CORRECT AND WAS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY, AND THAT PROPERTY MARKERS AND MONUMENTS WERE PLACED UNDER MY SUPERVISION ON THE GROUND.

David R. Mayo
REGISTERED PUBLIC SURVEYOR



Camelot Addition Section Two

10.188 ACRES

College Station, Texas

August 1972

Scale 1" = 50'

Normandy Corporation
Owner & Developer

Joe Orr, Incorporated
Surveyors & Engineers

STATE OF TEXAS
COUNTY OF BRAZOS

I, FRANK BORISKE, COUNTY CLERK IN AND FOR SAID COUNTY, DO HEREBY CERTIFY THAT THE FOREGOING INSTRUMENT DATED THE 25th DAY OF September A.D. 1972, TOGETHER WITH ITS CERTIFICATES OF AUTHENTICATION WAS FILED FOR RECORD IN MY OFFICE THE 25th DAY OF September A.D. 1972 AT 8 O'CLOCK P M. AND DULY RECORDED ON THE DAY OF SEP A.D. 1972 IN THE DEED RECORDS OF BRAZOS COUNTY IN VOLUME 803, PAGE 1477.

WITNESS MY HAND AND OFFICIAL SEAL, AT MY OFFICE IN BRYAN, TEXAS, THIS 24th DAY OF January A.D. 1973.

Frank Boriske
COUNTY CLERK, BRAZOS COUNTY

BY: DEPUTY

72616

FILED

At 9 O'clock P M.

SEP 25 1972

FRANK BORISKE

County Clerk, Brazos County, Texas

By Frank Boriske Deputy

Southwood Section 7



REZONING APPLICATION SUPPORTING INFORMATION

Name of Project: GREATER SOUTHWOOD ROO

Address: 1817 SHADOWWOOD DR

Legal Description: SOUTHWOOD PH 1, BLOCK 2, LOT 7

Total Acreage: 0

Applicant:: WENDY JOHNSON

Property Owner: JOHNSON BLAIRE & WENDY

List the changed or changing conditions in the area or in the City which make this zone change necessary.

The contiguous subdivisions represented in this ROO application were originally developed between 1967 & 1972 for SINGLE FAMILY HOMES. For many years, residents have enjoyed the benefits of living in a family-oriented neighborhood: desirable neighborhood characteristics & livability, well maintained homes & yards, safety, and a harmonious, orderly community that fosters long-term relationships. We are not just neighbors. Many of us are friends who feel like family.

Our neighborhood is zoned for single-family homes, but an ever-increasing number of these homes have been purchased by real estate investors who desire to maximize profit by offering homes to the maximum number of renters per home as possible. This is negatively impacting the benefits of living in single-family zoned subdivision.

We would like to preserve our positive neighborhood characteristics and benefits.

Indicate whether or not this zone change is in accordance with the Comprehensive Plan. If it is not, explain why the Plan is incorrect.

Yes, this zone change is in accordance with the Comprehensive Plan for "viable and attractive neighborhoods that maintain long-term neighborhood integrity."

How will this zone change be compatible with the present zoning and conforming uses of nearby property and with the character of the neighborhood?

The properties within the ROO will continue the current use as single family homes.

Explain the suitability of the property for uses permitted by the rezoning district requested.

The ROO is a single family overlay and being applied to this neighborhood is suitable with the SF character of the area.

Explain the suitability of the property for uses permitted by the current zoning district.

The ROO is a single family overlay and being applied to this neighborhood is suitable with the SF character of the area.

Explain the marketability of the property for uses permitted by the current zoning district.

The ROO will not change the marketability of the current area.

List any other reasons to support this zone change.

62% of neighbors signed a petition in favor of ROO

GREATER SOUTHWOOD ROO PETITION COMMITTEE MEMBERS CONTACT INFORMATION

Laurrie Cordes, Chair - Southwood 1
1903 Lawyer Place
College Station, TX 77840
lwcordes@gmail.com

April Dallis, Chair - Southwood 2A
Shadowwood Drive
College Station, TX 77840
ioannadallis@gmail.com

Mary Dinkel, Chair - Southwood 2
1801 Shadowwood Drive
College Station, TX 77840
j-dinkel@email.tamu.edu
(979) 696-7241

Jerry Fox, Treasurer - Southwood 1
Lawyer Place
College Station, TX 77840
jfox@suddenlink.net
(903) 777-2770

Wendy Johnson, Secretary - Southwood 1
1817 Shadowwood Drive
College Station, TX 77840
Blawen1@yahoo.com
(210) 749.0439

Will McCauley, Chair - Southwood 10
1905 Comal Circle
College Station, TX 77840
agmcvet@gmail.com
(903) 521-2872

Michael Atkinson, Chair - Southwood 6,7 & 9
1012 Madera Circle
College Station, TX 77840
michael.r.atkinson@gmail.com
(214) 729-0608

Steve Hand, Chair - Camelot 2
1208 Lancelot
College Station, TX 77840
spsbhand@suddenlink.net
(979) 764-3937

GREATER SOUTHWOOD ROO NEIGHBORHOOD MEETING

DATE: March 30, 2023

SUBDIVISIONS INVITED: Southwood 1, 2, 2A, 6, 7, 9, 10 and Camelot 2

MEETING: Larry J. Ringer Library, Thursday, March 30, 2023, 7:00 p.m. - 8:00 p.m.

PRESENT: Greater Southwood Roo Petition Committee members: Michael Atkinson, Mary Dinkel, Steve Hand, Wendy Johnson & Will McCauley
College Station City Council staff: Naomi Sing & Matthew Ellis
27 homeowners (See sign-in sheets)

PURPOSE: To inform residents about the ROO application and to answer questions regarding the process

Petition Committee members arrived early to set up the room:

- Attendance sign-in sheets, pens and informational handouts were placed at welcome tables.
- Petition sheets & plats were placed on subdivision-specific tables along with signs to designate the corresponding subdivision.
- Neighborhood volunteers sat at subdivision specific tables to assist persons in favor of the ROO with signing the petition.

Residents were welcomed and asked to sign in as they arrived as a record of their attendance. Each attendee was given a printed Restricted Occupancy Overlay (ROO) Overview handout.

Will McCauley, Chair, presented a general overview of the ROO and answered questions with the assistance of city representatives, Naomi Sing & Matthew Ellis.

Questions were asked and clarifying information was provided concerning:

- Potential impact of a ROO on existing deed restrictions in Southwood 1, 2, 2A & 10
- The city's definition of "related persons"
- "Grandfathering" of current rental properties even after changes in ownership if homeowner continues to register the property as a rental
- Cost of ROO application and how interested persons may contribute
- An error on the informational sheet for addresses on Guadalupe Drive was verbally corrected. House numbers included in this application should read "1014 - 1021" (not 2014 - 2021)
- Mr. Donald Deere requested the names & contact information for all petition committee members

As no one had additional questions or comments, the meeting adjourned at 7:35pm, with an invitation for individuals in favor of the ROO to sign the petition, visit with fellow neighbors and/or individually discuss further questions/concerns with petition committee members & city representatives.

Respectfully submitted,



Wendy Johnson, ROO Petition Committee Secretary

Attest: Will McCauley
Print

Will McCauley
Sign

Neighbor Petition
Committee member

RESTRICTED OCCUPANCY OVERLAY (ROO) OVERVIEW

- Allows property owners, as a group, the option to limit occupancy of single-family residential dwelling units and accessory structures to no more than 2 unrelated persons within the original subdivision's boundaries. The limit is currently 4 unrelated persons. Any other deed restrictions would **not** be affected. This option was made available by City Council in 2021.
- Having this overlay would help keep our family-oriented, well-maintained neighborhood character intact and limit "rent by room" homes. Statistically, there is less crime in single family neighborhoods. Many other college towns across the country have already adopted the 2 unrelated occupancy. The city of Bryan, TX established it in 2006 and it has proven to be effective for them.
- Our subdivisions are:
 - Southwood 1 (16 homes on Lawyer Place & 4 homes on Shadowwood Drive)
 - Southwood 2 (16 homes on Shadowwood Drive)
 - Southwood 2A (4 homes on Shadowwood Drive)
 - Southwood 6, 7 & 9 (39 homes on Arboles, Madera, Nueces Drive (1821 - 2005)
& Guadalupe Drive (1014 - 1021))
 - Southwood 10 (8 homes/lots on Comal Circle)
 - Camelot 2 (20 homes on Lancelot Circle & Langford Street 1901, 1903, 1905, 1907, 1909, 1911, 1913)
- The overlay would allow a family of any size who are related by blood/marriage or otherwise defined as "family" by the city plus one unrelated person. This would allow for caregivers, adoptions, foster children, exchange students, common law marriages, etc. but not clubs, lodges, or a fraternity/sorority house.
- The process to obtain this overlay includes having a neighborhood meeting, having 50% +1 property owners sign a petition, submitting the petition, an application, application fee, and other documents to the College Station Planning and Development Department who will then put it on the agendas for both the Planning & Zoning and City Council meetings.
- The application process requirements include: a mailed notice to all property owners in our subdivisions followed by a neighborhood meeting and a petition signed by homeowners who agree with the ROO application. After the neighborhood petition & application are complete, the City of College Station will begin the city led portion of the zoning overlay process.
- If City Council approves a ROO it would apply to existing development, new construction, and redevelopment or additions within the subdivision. Those who are already renting with to up to 4 unrelated persons would be allowed to continue that practice.
- If, in the future, the subdivision wished to repeal the adopted ROO they could do so by the same application/petition process.
- The ROO application fee is \$1,400 plus related expenses (printing, postage, etc). Please contact Jerry Fox, Greater Southwood ROO Petition Committee Treasurer if you are willing to help with a donation to cover this cost. Checks payable to: *Greater Southwood ROO*

If you would like more information or have questions, visit this URL: CSTX.GOV/ROO or contact one of the Petition Committee Members:

Will McCauley, Committee Secretary
Jerry Fox, Treasurer

agmcvet@gmail.com
jfox@suddenlink.net

(903) 521-2872
(903) 777-2770

Restricted Occupancy Overlay Meeting Attendance Sign In

Signing this page is for attendance documentation ONLY.

DATE:

Thursday, March 30, 2023

	Printed Name	Address	Email/Phone	Signature
1.	PATRICIA Ljungdahl <i>Patti Ljungdahl</i>	1822 Shadowwood Dr	patti1@Suddenlink.net 976-268-1255	<i>P. Ljungdahl</i>
2.	Robert Moore	1021 Guadalupe Dr	carrob411@gmail.com	<i>Robert Moore</i>
3.	Stephen Hann	1208 LAKELot Cir	SPSbhandesuddenlink.net	<i>Stephen Hann</i>
4.	Margit Garay	1010 ARBOLES Cir	margitgaray@gmail.com	<i>Margit Garay</i>
5.	Katherine A. Edwards	313 Pershing Ave		<i>Katherine A. Edwards</i>
6.	Rebekah Pierce	1903 Langford Street	rebekah.b.pierce@gmail.com	<i>Rebekah</i>
7.	Arron Pierce	1903 Langford Street	pierce.arron@yahoo.com	<i>Arron</i>
8.	Matthew Hood	1002 Maden Cir	mghood85@gmail.com	<i>Matthew Hood</i>
9.	Kay Hesby	1104 Guadalupe	kshesby@hotmail.com	<i>Kay Hesby</i>
10.				
11.				
12.				

Restricted Occupancy Overlay Meeting Attendance Sign In

Signing this page is for attendance documentation ONLY.

DATE:

Thursday, March 30, 2023

	Printed Name	Address	Email/Phone	Signature
13.	Judy Jones	1900 Cornal Cr.	979-255-4890 harryjudyjones@mac.com	Judy Jones
14.	Will McCauley	1905 Cornal Cir	903-521-2872; agmccre@gnail.com	Will McCauley
15.	Mary Dinkel	1801 Shadowood Dr	J-dinkel@email.tamv.edu	Mary Dinkel
16.	CHESTER HEDDERMAN	1819 SHADOWWOOD	BHEDD1819@AOL.COM	Chester W Hedderman
17.	Carole Moore			
18.	Michael Atkinson	1012 Madera Cir	214-729-0608 michael.r.atkinson@gmail.com	Michael Atkinson
19.	Don Sears	1009 Madera	979-324-3520	Don Sears
20.	GARY HARRIS	1815 SHADOW	979-777-1628	GARY HARRIS
21.	Serve & Anne Rupp	1815 Shadow	979-777-5890	Step 2 door
22.	Violetta Cook	1010 Madera	979-777-1628	Violetta Cook
23.	Jonathan Burke	1010 Madera	979-693-4959	Jonathan Burke

Restricted Occupancy Overlay Meeting Attendance Sign In

DATE:

Thursday, March 30, 2023

Signing this page is for attendance documentation ONLY.

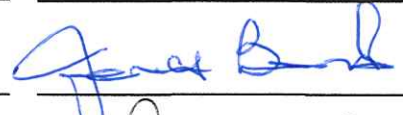
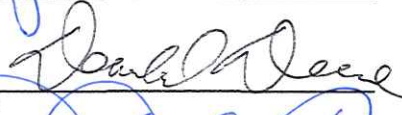
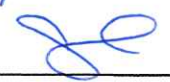
	Printed Name	Address	Email/Phone	Signature
24.	Maggie Church	1905 Lawyer Place	maggiechurchb@gmail.com	
25.	Wendy Johnson	1817 Shadowwood Dr.	blawen1@yahoo.com	Wendy Johnson
26.				
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33.				
34.				

Restricted Occupancy Overlay Meeting Attendance Sign In

DATE:

Thursday, March 30, 2023

Signing this page is for attendance documentation ONLY.

	Printed Name	Address	Email/Phone	Signature
35.	JAMES BEARD	1812 SHADOWWOOD DR	JIMBEARD@AOL.COM	
36.	DONALD DEERE	1500 FROST DR.	DONALDDEERE@AOL.COM	
37.	SUSAN A FOX	1901 LAWYER PLACE	SUSANAFox@gmail.com	
38.	JEFF WIND	1811 SHADOWWOOD DR	WIND.JEFF@GMAIL.COM	
39.	JERRY FOX	1901 LAWYER PLACE	JFOX@SHEDDENLINK.NET	
40.	Ashley McCauley	1905 Comal Cir	willisashley87@gmail.com	
41.				
42.				
43.				
44.				
45.				

MAY 26 2023

Restricted Occupancy Overlay Petition

By signing below, I agree that the Restricted Occupancy Overlay (ROO) ordinance will limit occupancy to no more than two unrelated persons in a detached single-family dwelling or in an accessory living quarters in SOUTHWOOD FIRST SECTION. I understand that related persons are related by blood, adoption, guardianship, marriage, are an authorized caretaker, or members of a group home for disabled persons, as defined in UDO Section 11.2 Defined Terms in the definition of "Family." I understand that at least 50% + 1 of the total number of single-family zoned or developed building plots in the original subdivision are required to submit the ROO application for consideration. I understand that submitting an application does not guarantee ROO approval.

DATE: Thursday, March 30, 2023

FULL LEGAL SUBDIVISION NAME:

SOUTHWOOD FIRST SECTION

ADDRESS	LEGAL DESCRIPTION	PROPERTY OWNER NAME	SIGNATURE	DATE
1. 1903 Lawyer Place	Southwood Ph1 Block1, Lot8	Roger & Laurie Withig Cordes	Laurie Withig	3/30/23
2. 1817 Shadowwood Dr.	Southwood PH1, Block2, Lot7	Blaine + Wendy Johnson	Wendy B. Johnson	3.30.23
3. 1819 SHADOWWOOD Dr	SOUTHWOOD PH1, Block2 Lot6	CHESTER W & JUDY HEDDERMAN	Chester Hedderman	3/30/23
4. 1901 Lawyer Place	Southwood Ph1, Block1, Lot7	Fox, Jerry E and Susan A	Jerry E Fox	3/30/23
5. 1805 Lawyer Place	Southwood PH1, Block1, Lot1	LEONARD & GAIL ABRAHAM	Leonard & Gail Abraham	3/30/23
6. Lawyer Place	Southwood PH1, Block1, Lot4	Patricia E. Berkey	Patricia E. Berkey	4-1-23
7. 1806 Lawyer Pl.	Southwood Ph1 Block2, Lot3	MACE SUE ADRIEGATE MACE	S. D. Mace	4/2/23
8. 1800 Lawyer Pl	Southwood Ph1 Block2, Lot1 (less 15' TRE)	Carlisle, Martin & Kimberly Nicole	Carlisle, Martin & Kimberly Nicole	4/2/23
9. 1900 Lawyer Pl	Southwood PH1 Block #1, Lot 11	BRENDA SIGECI SALVATORE SIGECI	Salvatore Sigeci	4-2-23
10. 1902 Lawyer Pl	Southwood Ph1 Block1, Lot 10	Shelly morgan	Shelly Morgan	4-2-23
11. 1808 LAWYER PL	SOUTHWOOD PH1 BLOCK2 LOT4	JEARY R. ROBERTS	Jeary R. Roberts	4-13-23
12. 1805 Lawyer Place	Southwood PH1 Block1, Lot 20 (1.5' OF)	Leanne Elizabeth Pool	Leanne Elizabeth Pool	4/15/23

MAY 26 2023

Restricted Occupancy Overlay Petition

By signing below, I agree that the Restricted Occupancy Overlay (ROO) ordinance will limit occupancy to no more than two unrelated persons in a detached single-family dwelling or in an accessory living quarters in SOUTHWOOD FIRST SECTION. I understand that related persons are related by blood, adoption, guardianship, marriage, are an authorized caretaker, or members of a group home for disabled persons, as defined in UDO Section 11.2 Defined Terms in the definition of "Family." I understand that at least 50% + 1 of the total number of single-family zoned or developed building plots in the original subdivision are required to submit the ROO application for consideration. I understand that submitting an application does not guarantee ROO approval.

DATE: Thursday, March 30, 2023

FULL LEGAL SUBDIVISION NAME:

SOUTHWOOD FIRST SECTION

ADDRESS	LEGAL DESCRIPTION	PROPERTY OWNER NAME	SIGNATURE	DATE
13. 1826 Shadowwood Dr.	Southwood Ph1, Block 1, Lot 12 + 6.5' Tri of 13	Berkey, Tod & Erin	Erin Berkey	4-16-23
14. 1811 Lawyer Pl	Southwood Ph1, BLK 1, Lot 6	George W. Porge, Jr AND Nancy P. Porge	George W. Porge	4-16-23
15. 1802 Lawyer Pl	Southwood Ph1, BLK 2, Lot 1: Lot 2 (15' tri) Less 15' tri	Brummett Kevin Lee Pamela S	Pamela S Brummett	4-16-23
16. 1804 Lawyer Pl	Southwood Ph1, BLK 2, LOT 2 (15' TRI) & (LESS 15' TRI)	Warbs, Ralph A.	Ralph A. Warbs	4-16-23
17. 1905 Lawyer Place	Southwood Ph1, Block 1 Lot 9 (less 6.5' tri of 13)	Margaret Church	Margaret Church	5/22/23
18. 1824 Shadowwood	Southwood Ph1, Block 1, Lot 13	Cristy Cochran	Cristy Cochran	5/22/23
19.				
20.				

MAY 26 2023

Restricted Occupancy Overlay Petition

By signing below, I agree that the Restricted Occupancy Overlay (ROO) ordinance will limit occupancy to no more than two unrelated persons in a detached single-family dwelling or in an accessory living quarters in SOUTHWOOD SECTION 2. I understand that related persons are related by blood, adoption, guardianship, marriage, are an authorized caretaker, or members of a group home for disabled persons, as defined in UDO Section 11.2 Defined Terms in the definition of "Family." I understand that at least 50% + 1 of the total number of single-family zoned or developed building plots in the original subdivision are required to submit the ROO application for consideration. I understand that submitting an application does not guarantee ROO approval.

DATE: Thursday, March 30, 2023

FULL LEGAL SUBDIVISION NAME:

SOUTHWOOD SECTION 2

ADDRESS	LEGAL DESCRIPTION	PROPERTY OWNER NAME	SIGNATURE	DATE
	PH 2 Block 2, Lot 15			
1. 1801 Shadowwood Dr.	Southwood PH 2, Block 2, Lot 15	Dinkel John J + Mary R	Mary A. Dinkel	March 30, 2023
2. 1812 Shadowwood	Southwood PH 2 BK 3 LT 5	HARKET BEARD REVOCABLE TRUST	Janet Bond	3/30/23
3. 1815 Shadowwood Dr.	Southwood Ph. 2, Block 2 Lot 7A + 8 (Less 10' x 1')	Reop Stephen S. + Marianne A.	Steph Reop	3/30/23
4. 1811 Shadowwood Dr.	Southwood PH 2, Block 2, Lot 10 + 20' OF SA	WIND, SEFF		3/30/23
5. 1807 Shadowwood	Southwood PH 2, Block 2 Lot 12	Daniel L. King	D. King	4/2/23
6. 1804 Shadowwood Dr.	Southwood PH 2, Block 3, Lot 3 + 20' OF 4	Travis Rowell		4.2.23
7. 1809 Shadowwood Dr.	Southwood PH 2 Block 2, Lot 11 Less 120" x 5 (Less 271 OF)	John E. Morton	John E. Morton	4/2/23
8. 1810 Shadowwood Dr	Southwood PH 2 Block 3 Lot 4	T.J. Mickleff		4/22/23
9.				
10.				
11.				
12.				

MAY 26 2023

Restricted Occupancy Overlay Petition

By signing below, I agree that the Restricted Occupancy Overlay (ROO) ordinance will limit occupancy to no more than two unrelated persons in a detached single-family dwelling or in an accessory living quarters in SOUTHWOOD SECTION 2A. I understand that related persons are related by blood, adoption, guardianship, marriage, are an authorized caretaker, or members of a group home for disabled persons, as defined in UDO Section 11.2 Defined Terms in the definition of "Family." I understand that at least 50% + 1 of the total number of single-family zoned or developed building plots in the original subdivision are required to submit the ROO application for consideration. I understand that submitting an application does not guarantee ROO approval.

DATE: Thursday, March 30, 2023

FULL LEGAL SUBDIVISION NAME:

SOUTHWOOD SECTION 2A

ADDRESS	LEGAL DESCRIPTION	PROPERTY OWNER NAME	SIGNATURE	DATE
1. 1872 Shadowwood Dr. 1820	Southwood PH 2A Block 3 RPT 11	Patricia W. Ljungdahl	Patricia W. Ljungdahl	3/30/23
2. SHADOWWOOD DR. 1816	SOUTHWOOD PH 2A, BLOCK 3, LOT 10 & TR 134 OF C BURNETT	DALLIS, CONSTANTINO S A & APRIL		4.25.23
3. Shadowwood Dr.	Southwood PH 2A, Block 3, LOT 8	Dallis, Andreas A & Sarah		4.25.23
4.				

MAY 26 2023

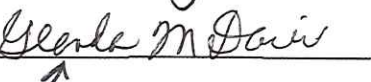
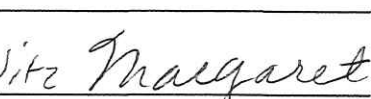
Restricted Occupancy Overlay Petition

By signing below, I agree that the Restricted Occupancy Overlay (ROO) ordinance will limit occupancy to no more than two unrelated persons in a detached single-family dwelling or in an accessory living quarters in SOUTHWOOD SECTION 6. I understand that related persons are related by blood, adoption, guardianship, marriage, are an authorized caretaker, or members of a group home for disabled persons, as defined in UDO Section 11.2 Defined Terms in the definition of "Family." I understand that at least 50% + 1 of the total number of single-family zoned or developed building plots in the original subdivision are required to submit the ROO application for consideration. I understand that submitting an application does not guarantee ROO approval.

DATE: Thursday, March 30, 2023

FULL LEGAL SUBDIVISION NAME:

SOUTHWOOD SECTION 6

ADDRESS	LEGAL DESCRIPTION	PROPERTY OWNER NAME	SIGNATURE	DATE
1. 1821 Nueces Dr.	Southwood PH6 Block 3 Lot 22	William + Erica Johnson		5/20/23
2. 1901 Nueces Dr.	Southwood phase 6 Block 7, Lot 7	LAW TIZARD		5/20/23
3. 1905 Nueces Dr.	Southwood phase 6 Block 7 Lot 9	Glenda m Davis		5/20/23
4. _____	_____	Glenda m Davis		_____
5. 2001 Nueces	Southwood PH6 Block 8 lot 19	Margaret Witz		5/20/23
6. 2005 Nueces Dr	SW phase 6 BK 8 Lot 21	Ken Jackson		5/21/23
7. _____	_____	_____	_____	_____
8. _____	_____	_____	_____	_____

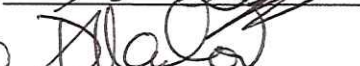
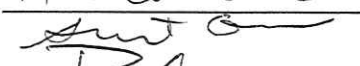
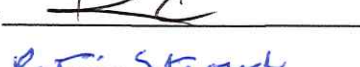
MAY 26 2023

Restricted Occupancy Overlay Petition

By signing below, I agree that the Restricted Occupancy Overlay (ROO) ordinance will limit occupancy to no more than two unrelated persons in a detached single-family dwelling or in an accessory living quarters in SOUTHWOOD SECTION 7. I understand that related persons are related by blood, adoption, guardianship, marriage, are an authorized caretaker, or members of a group home for disabled persons, as defined in UDO Section 11.2 Defined Terms in the definition of "Family." I understand that at least 50% + 1 of the total number of single-family zoned or developed building plots in the original subdivision are required to submit the ROO application for consideration. I understand that submitting an application does not guarantee ROO approval.

DATE: Thursday, March 30, 2023

FULL LEGAL SUBDIVISION NAME: SOUTHWOOD SECTION 7

ADDRESS	LEGAL DESCRIPTION	PROPERTY OWNER NAME	SIGNATURE	DATE
1. 1012 Madera Cir	Southwood Ph 7 Block 8 Lot 13	Atkinson Michael & Edna		3/30/23
2. 1010 ARBOLES	Southwood Ph 7 Block 7 Lot 2	MARGIT GARAY	Margit Garay	3/30/23
3. 1010 Madera	Southwood Ph 7, Block 8, Lot 14	Violetta Cook	Violetta Cook	3/30/23
4. 1002 Madera Cir	Southwood Ph 7, Block 8, Lot 18	HOOD MATTHEW + MEGHAN		3/30/23
5. 1002 Arboles Cir	Southwood, Ph 7, Block 7, Lot 6	Jackie Dominguez	Jackie Dominguez	5/20/23
6. 1003 Madera Cir	Southwood, Ph 7, Block 7, Lot 10	Kevin Duff		5/20/23
7. 1011 Madera Cir	Southwood Ph 7, Block 7, Lot 14	Dianne Marlow		05/21/2023
8. 1006 Madera Cir	Southwood Ph 7, Block 8, Lot 16	Ryan Lisch		05/21/2023
9. 1013 Madera Cir	Southwood Ph 7 Block 7 Lot 17	Anat & Nehemia Gena		5/21/2023
10. 1009 Arboles Cir	Southwood Ph. 7 Block 3 Lot 27	Dorian Crowder		5/21/2023
11. 1012 Arboles	Southwood Ph 7 Block 7 Lot 1	Patricia Stroud	Patricia Stroud	5.23.2023
12. _____	_____	_____	_____	_____
13. _____	_____	_____	_____	_____

MAY 26 2023

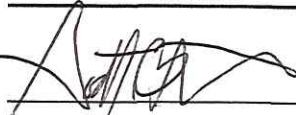
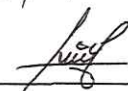
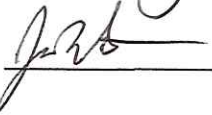
Restricted Occupancy Overlay Petition

By signing below, I agree that the Restricted Occupancy Overlay (ROO) ordinance will limit occupancy to no more than two unrelated persons in a detached single-family dwelling or in an accessory living quarters in SOUTHWOOD SECTION 9. I understand that related persons are related by blood, adoption, guardianship, marriage, are an authorized caretaker, or members of a group home for disabled persons, as defined in UDO Section 11.2 Defined Terms in the definition of "Family." I understand that at least 50% + 1 of the total number of single-family zoned or developed building plots in the original subdivision are required to submit the ROO application for consideration. I understand that submitting an application does not guarantee ROO approval.

DATE: Thursday, March 30, 2023

FULL LEGAL SUBDIVISION NAME:

SOUTHWOOD SECTION 9

	ADDRESS	LEGAL DESCRIPTION	PROPERTY OWNER NAME	SIGNATURE	DATE
1.	1015 GUADALUPE	SOUTHWOOD PH 9, Block 8, Lot 8	SCOTT G. STEVENSON		5-20-2023
2.	1017 Guadalupe	Southwood PH 9 Block 8 Lot 9	Jose F. Orozco		May-20-2023
3.	1019 Guadalupe	Southwood Phase 9 Bl: 8 lot 10	Susan G. Scott		5-20-23
4.	1014 Guadalupe	Southwood Phase 9, Bl: 9 lot 1	Jeremy & Janice Quast		5-20-23
5.	1016 Guadalupe	Southwood Phase 9, Bl 9, Lot 2	Justin & Julie Wester		5-21-23
6.					
7.					
8.					

MAY 26 2023

Restricted Occupancy Overlay Petition

By signing below, I agree that the Restricted Occupancy Overlay (ROO) ordinance will limit occupancy to no more than two unrelated persons in a detached single-family dwelling or in an accessory living quarters in SOUTHWOOD SECTION 10. I understand that related persons are related by blood, adoption, guardianship, marriage, are an authorized caretaker, or members of a group home for disabled persons, as defined in UDO Section 11.2 Defined Terms in the definition of "Family." I understand that at least 50% + 1 of the total number of single-family zoned or developed building plots in the original subdivision are required to submit the ROO application for consideration. I understand that submitting an application does not guarantee ROO approval.

DATE: Thursday, March 30, 2023

FULL LEGAL SUBDIVISION NAME:

SOUTHWOOD SECTION 10

	ADDRESS	LEGAL DESCRIPTION	PROPERTY OWNER NAME	SIGNATURE	DATE
1.	1900 Cornal	Southwood PH 10, Block 1, Lot 1	Darryl & Judy Jones	Judy Jones	3/30/2023
2.	1905 Cornal	TRI of 5 Acres 0.4205	McCawley Will & Ashley	Ashley McCawley	3/30/2023
3.	1901 Cornal	Southwood PH 10, Block 1, Lot 8	Cherry Robert C Leigh Sr	RLR	4/11/23
4.	1903 Cornal	SOUTHWOOD PH 10 BLOCK 1, Lot 7	JOHN B. PENSION, JR	John B Pension Jr	4/11/2023
5.	1907 Cornal	Southwood PH 10, Block 1, Lot 5	Appelt, Kenneth L & Kathi	Kenneth Appelt	4/18/2023
6.					
7.					
8.					

MAY 26 2023

Restricted Occupancy Overlay Petition

By signing below, I agree that the Restricted Occupancy Overlay (ROO) ordinance will limit occupancy to no more than two unrelated persons in a detached single-family dwelling or in an accessory living quarters in CAMELOT PHASE 2. I understand that related persons are related by blood, adoption, guardianship, marriage, are an authorized caretaker, or members of a group home for disabled persons, as defined in UDO Section 11.2 Defined Terms in the definition of "Family." I understand that at least 50% + 1 of the total number of single-family zoned or developed building plots in the original subdivision are required to submit the ROO application for consideration. I understand that submitting an application does not guarantee ROO approval.

DATE: Thursday, March 30, 2023

FULL LEGAL SUBDIVISION NAME:

CAMELOT PHASE 2

ADDRESS	LEGAL DESCRIPTION	PROPERTY OWNER NAME	SIGNATURE	DATE
1. 1208 LANCELOT CIR	CAMELOT PH 2, Block 2, Lot 25	HAND STEPHEN E. PAULS	Stephen Pauls	03/30/23
2. 1911 Langford St	Camelot Ph 2, Block 1, Lot 7	Ann Doyle Boehm	Ann Doyle Boehm	3 May 2023
3. 1211 LANCELOT CIR	CAMELOT PH 2, BLOCK 2, LOT 20	Wes & Carla Duffard	Mrs. Carla Duffard	4/18/23
4. 1214 Lancelot Cir	Camelot Ph 2, Block 2, Lot 28	Bob Russell Jr + Carolyn Howerton	Carolyn Howerton	4/18/23
5. 1215 Lancelot Cir	Camelot Ph 2, Block 2, Lot 18	Confidential Owner (Leo)	Ashley V. Hu	4/19/23
6. 1218 Lancelot Cir	Camelot PH 2, Block 2, Lot 30	Williams, ERIN Dumbort + Robert V	R. Williams	4/29/23
7. 1207 LANCELOT CIR	CAMELOT PH 2, Block 2, Lot 22	CANON, STEPHEN BENDLEY	Stephen Bendley	5/5/23
8. 1212 LANCELOT CIR	Camelot Ph 2, Block 2, Lot 27	ROBERT E. DAVIDSON	Robert Davidson	5/5/23
9. 1913 Langford St	Camelot PH 2 Block 1 Lot 3 @ Camelot PH 2	Michael Colvett Lawler	Michael Lawler	5/19/23
10. 1907 Langford	Camelot ph 2 block 1 lot 5	GARY L BOETTNER	Gary L Boettner	5/19/23
11. 1209 Lancelot Circle	camelot ph 2 block 2, lot 21	Louise Shouse	Louise Shouse	5/21/23
12.				

September 14, 2023
Item No. 9.5.
Parking and Access Standards for MH Middle Housing

Sponsor: Michael Ostrowski, Director of Planning and Development

Reviewed By CBC: Planning & Zoning Commission

Agenda Caption: Public Hearing, presentation, discussion, and possible action regarding an ordinance amending Appendix A, Unified Development Ordinance, Article 5.2 “Residential Dimensional Standards,” Article 7.3 “Off-Street Parking Standards,” and Article 7.4 “Access Management and Circulation,” of the Code of Ordinances of the City of College Station, Texas, regarding parking and access standards for developments in the MH Middle Housing zoning district.

Relationship to Strategic Goals:

- Good Governance
- Diverse & Growing Economy

Recommendation(s): Staff recommends approval.

The Planning and Zoning Commission heard this item at their 9/7/23 meeting and voted 7-0 to recommend approval.

Summary: At the August 10, 2023 City Council meeting, staff gave a presentation on the results of the City-initiated middle housing rezonings public engagement and sought direction on which cases to bring forward. Additionally, staff suggested several amendments to MH Middle Housing zoning district based on feedback from the public and the development community. The City Council gave direction for staff to pursue an ordinance amendment to increase the maximum number of parking spaces in the front yard in the MH Middle Housing zoning district.

In conversations with the development community, concerns were raised about the parking and access standards in MH Middle Housing. The current district standards require that parking be located in the rear yard when the required number of parking spaces exceeds three (3). While the intent of the district is to create a more walkable pattern of lots, with buildings lining the streets, this standard may limit an applicant’s desire rezone a property to MH Middle Housing, when a property’s current zoning district would allow four (4) spaces in the front yard. Staff is proposing to amend the district standard to increase the maximum number of parking spaces in the front yard to no more than four (4) as long as the parking area does not make up more than fifty percent (50%) of the front yard. This would allow single-family, duplex, and townhouse uses to park in the front yard, if they choose, and require shared housing uses and multiplex developments to park in the rear yard.

Finally, in Section 7.4.e, a clarity amendment is being provided to state that when rear parking is provided, one driveway can be provided to serve two lots.

Budget & Financial Summary: N/A

Attachments:

1. Ordinance
2. Sec. 5.2. Residential Zoning District Dimensional Standards redlines
3. Sec. 7.3. Off-Street Parking Standards redlines

4. Sec. 7.4. Access Management and Circulation redlines

ORDINANCE NO. 2023-____

AN ORDINANCE AMENDING APPENDIX A “UNIFIED DEVELOPMENT ORDINANCE,” ARTICLE 5.2 “RESIDENTIAL ZONING DISTRICT DIMENSIONAL STANDARDS,” ARTICLE 7.3 “OFF-STREET PARKING STANDARDS,” AND ARTICLE 7.4 “ACCESS MANAGEMENT AND CIRCULATION,” OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, REGARDING PARKING AND ACCESS STANDARDS FOR DEVELOPMENTS IN THE MH MIDDLE HOUSING ZONING DISTRICT; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

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

- PART 1:** That Appendix A “Unified Development Ordinance,” Article 5.2 “Residential Zoning District Dimensional Standards,” Article 7.3 “Off-Street Parking Standards,” and Article 7.4 “Access Management and Circulation,” of the Code of Ordinances of the City of College Station, Texas, be amended as set out in **Exhibit “A,” Exhibit “B,” and Exhibit “C,”** attached hereto and made a part of this Ordinance for all purposes.
- PART 2:** If any provision of this Ordinance or its application to any person or circumstances is held invalid or unconstitutional, the invalidity or unconstitutionality does not affect other provisions or application of this Ordinance or the Code of Ordinances of the City of College Station, Texas, that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this Ordinance are severable.
- PART 3:** That any person, corporation, organization, government, governmental subdivision or agency, business trust, estate, trust, partnership, association and any other legal entity violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not less than twenty five dollars (\$25.00) and not more than five hundred dollars (\$500.00) or more than two thousand dollars (\$2,000) for a violation of fire safety, zoning, or public health and sanitation ordinances, other than the dumping of refuse. Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.
- PART 4:** This Ordinance is a penal ordinance and becomes effective ten (10) days after its date of passage by the City Council, as provided by City of College Station Charter Section 35.

PASSED, ADOPTED, and APPROVED this 14th day of September, 2023.

ATTEST:

APPROVED:

City Secretary

Mayor

APPROVED:

City Attorney

Exhibit A

That Appendix A “Unified Development Ordinance,” Article 5.2.B “Middle Housing Product Types and Dimensional Standards Table,” of the Code of Ordinances of the City of College Station, Texas, is hereby amended to read as follows:

B. MH Middle Housing Product Types and Dimensional Standards Table.

The following table establishes dimensional standards that shall be applied within the MH Middle Housing zoning district unless otherwise identified in this UDO.

MH Middle Housing Product Types and Dimensional Standards									
KEY: SF = square feet									
Product Type	Live-Work	Townhouse	Reduced Setback Single-Family	Single-Family	Courtyard Houses	Split-Lot Duplex	Duplex	Small Multiplex	Medium Multiplex
Min. Lot Area per Dwelling Unit	2,250 SF	2,250 SF	2,250 SF	3,200 SF	4,000 SF	2,250 SF	2,250 SF	1,500 SF	800 SF
Min. Lot Width	25'	25'	25'	40'	40'	25'	50'	60' (a)	80'
Min. Lot Depth	90'	90'	90'	80'	80'	90'	90'	100'	100'
Max. Number of Attached Units	N/A	6	N/A	N/A	N/A	2	2	4	12
Min. Front Setback	15' (b)	15' (b)	15' (b)	15' (b)	5'	15' (b)	15' (b)	15' (b)	15' (b)
Max. Front Setback	25'	25'	25'	25'	15'	25'	25'	25'	25'
Min. Side Setback	5'	5'	5' (c)	5'	5'	5'	5'	10'	10'
Min. Side Street Setback	5'	5'	5'	5'	15' (b)	5'	5'	5'	5'
Min. Setback between Structures	10'	10'	10'	10'	10'	10'	10'	10'	20'
Min. Rear Setback (d) (e)	40'	40'	40'	40'	20'	40'	40'	40'	40'
Max. Impervious Cover	55% (g)	55% (g)	55% (g)	55% (g)	55% (g)	55% (g)	55% (g)	(f)	(f)
Max. Height (h) (i) (j)	35'	35'	35'	35'	35'	35'	35'	35'	35'

Min. Number of Stories	2	N/A	N/A	N/A	N/A	N/A	N/A	N/A	2
Max. Dwelling Units/Acre (Subdivision Gross)	16	16	16	12	16	20	20	24	24
Parking	Front/Rear (k)	Front/Rear (k)	Front/Rear (k)	Front/Rear/Side (k)	Rear	Front/Rear (k)	Front/Rear (k)	Rear	Rear

Notes:

- (a) For small multiplex products, lot width may be reduced to thirty (30) feet if the building is two (2) stories or taller.
- (b) The Administrator may decrease the minimum setback to less than fifteen (15) feet, but not less than five (5) feet, with an administrative adjustment if there are no utility or right-of-way constraints.
- (c) For zero lot line development, refer to the Lots Subsection of the General Requirements and Minimum Standards of Design for Subdivisions within the City Limits Section of Article 8, Subdivision Design and Improvements of this UDO.
- (d) The rear setback shall be increased by the width of the required landscaping buffer when abutting Suburban Residential, Estate Residential, or Rural land uses as depicted in the Comprehensive Plan Future Land Use & Character Map.
- (e) The rear setback can be reduced to twenty (20) feet if abutting an alley or front or side parking is provided.
- (f) Maximum impervious cover shall be determined by an engineered drainage analysis performed in conjunction with the Drainage Section of the Bryan/College Station Unified Design Guidelines and approved by the City Engineer or their designee.
- (g) Additional impervious cover may be allowed as determined by an engineered drainage analysis performed in conjunction with the Drainage Section of the Bryan/College Station Unified Design Guidelines and approved by the City Engineer or their designee.
- (h) Public, civic, and institutional structures shall have a maximum building height of fifty (50) feet in this district.
- (i) Refer to the Easterwood Field Airport Zoning Ordinance regarding height limitations.
- (j) Shall abide by the Low-Density Residential Height Protection Subsection in the General Provisions Section of Article 7, General Development Standards of this UDO.
- (k) Front parking shall be allowed only when four (4) or fewer parking spaces are required on the lot.

Exhibit B

That Appendix A “Unified Development Ordinance,” Article 7.3.C. “Dimensions, Access, and Location,” of the Code of Ordinances of the City of College Station, Texas, is hereby amended by amending Subsections 5 and 6, to read as follows:

C. Dimensions, Access, and Location.

5. In the MH Middle Housing zoning district, single-family, duplexes, townhouses, and live-work units may locate parking in front of the structure as long as four (4) or fewer parking spaces are required, and the parking area does not exceed a size equivalent of fifty (50) percent of the front area as described above.
6. In the MH Middle Housing zoning district, courtyard houses and multiplexes shall locate parking between the rear plane of the primary structure and the rear property line.

Exhibit C

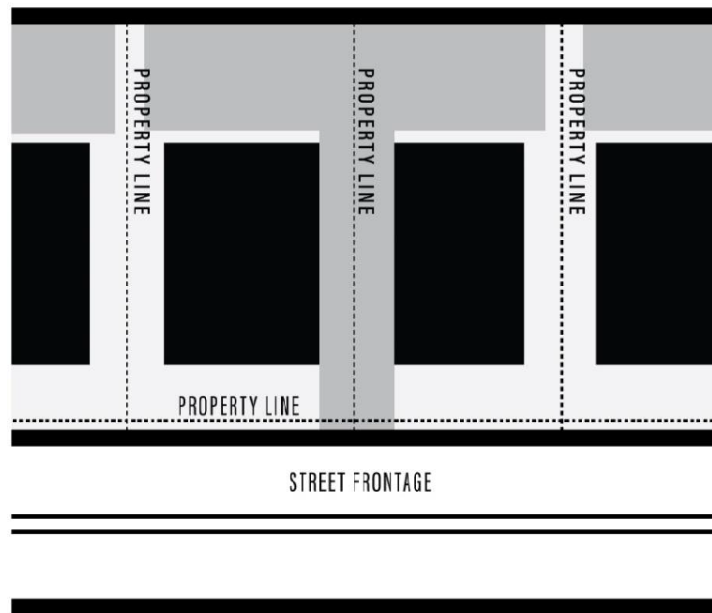
That Appendix A “Unified Development Ordinance,” Article 7.4.B.1.e “Shared Driveways,” of the Code of Ordinances of the City of College Station, Texas, is hereby amended to read as follows:

e. Shared Driveways.

The Development Engineer may require a shared driveway at the time of platting, development, or redevelopment of the affected lots.

When MH Middle Housing lots take access from a public street to provide rear parking, one (1) driveway shall be allowed for every two (2) lots, unless a rear alley is provided. The Administrator may approve up to three (3) lots to take access from a single driveway for rear parking if a shared access easement is provided. See the example diagram below:

MH Middle Housing Shared Driveways



B. MH Middle Housing Product Types and Dimensional Standards Table.

The following table establishes dimensional standards that shall be applied within the MH Middle Housing zoning district unless otherwise identified in this UDO.

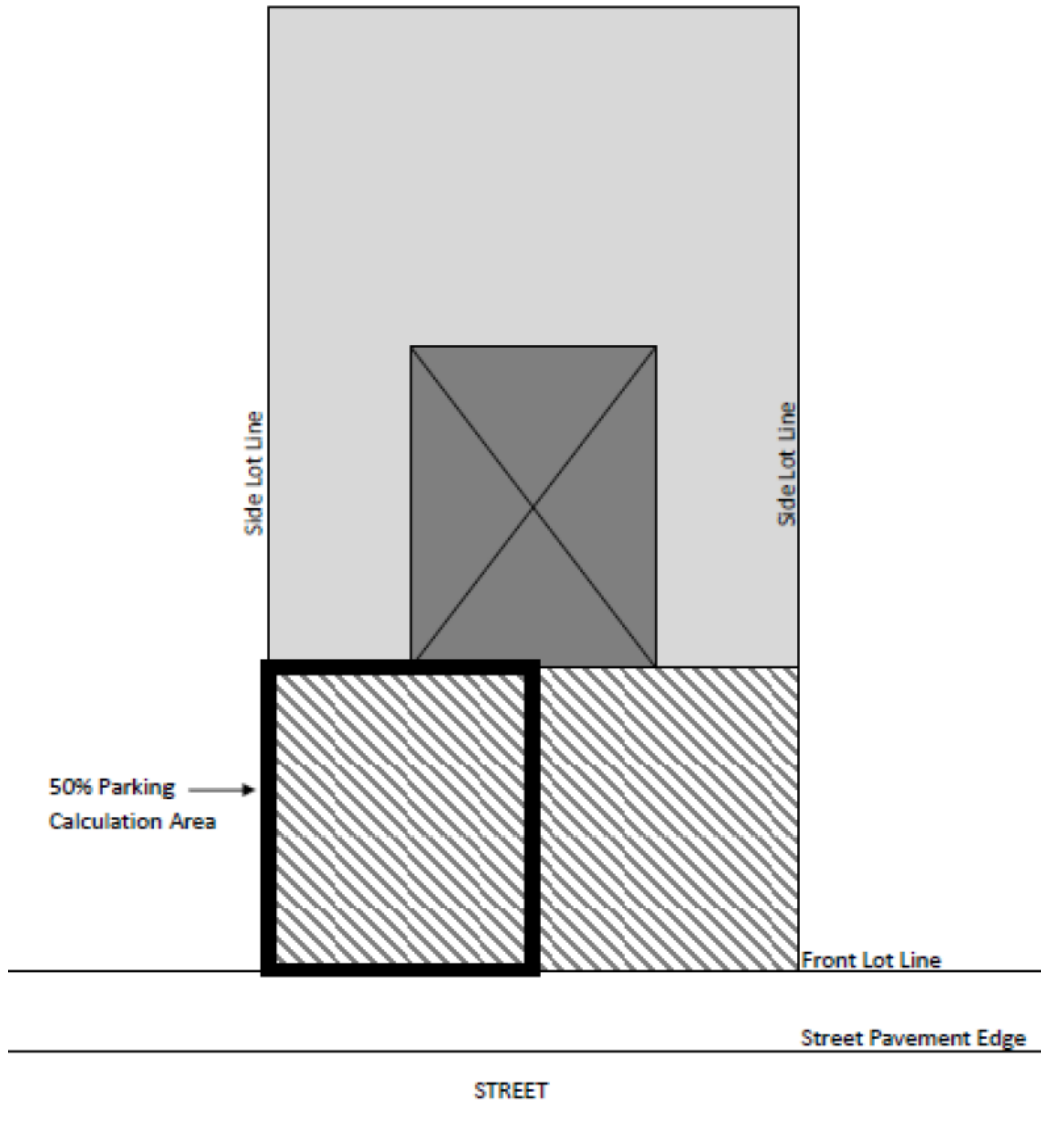
MH Middle Housing Product Types and Dimensional Standards									
KEY: SF = square feet									
Product Type	Live-Work	Townhouse	Reduced Setback Single-Family	Single-Family	Courtyard Houses	Split-Lot Duplex	Duplex	Small Multiple x	Medium Multiple x
Min. Lot Area per Dwelling Unit	2,250 SF	2,250 SF	2,250 SF	3,200 SF	4,000 SF	2,250 SF	2,250 SF	1,500 SF	800 SF
Min. Lot Width	25'	25'	25'	40'	40'	25'	50'	60' (a)	80'
Min. Lot Depth	90'	90'	90'	80'	80'	90'	90'	100'	100'
Max. Number of Attached Units	N/A	6	N/A	N/A	N/A	2	2	4	12
Min. Front Setback	15' (b)	15' (b)	15' (b)	15' (b)	5'	15' (b)	15' (b)	15' (b)	15' (b)
Max. Front Setback	25'	25'	25'	25'	15'	25'	25'	25'	25'
Min. Side Setback	5'	5'	5' (c)	5'	5'	5'	5'	10'	10'
Min. Side Street Setback	5'	5'	5'	5'	15' (b)	5'	5'	5'	5'
Min. Setback between Structures	10'	10'	10'	10'	10'	10'	10'	10'	20'
Min. Rear Setback (d) (e)	40'	40'	40'	40'	20'	40'	40'	40'	40'
Max. Impervious Cover	55% (g)	55% (g)	55% (g)	55% (g)	55% (g)	55% (g)	55% (g)	(f)	(f)
Max. Height (h) (i) (j)	35'	35'	35'	35'	35'	35'	35'	35'	35'
Min. Number of Stories	2	N/A	N/A	N/A	N/A	N/A	N/A	N/A	2
Max. Dwelling Units/Acre (Subdivision Gross)	16	16	16	12	16	20	20	24	24
Parking	Front/Rear (k)	Front/Rear (k)	Front/Rear (k)	Front/Rear/Side (k)	Rear	Front/Rear (k)	Front/Rear (k)	Rear	Rear

Notes:

- (a) For small multiplex products, lot width may be reduced to thirty (30) feet if the building is two (2) stories or taller.
- (b) The Administrator may decrease the minimum setback to less than fifteen (15) feet, but not less than five (5) feet, with an administrative adjustment if there are no utility or right-of-way constraints.
- (c) For zero lot line development, refer to the Lots Subsection of the General Requirements and Minimum Standards of Design for Subdivisions within the City Limits Section of Article 8, Subdivision Design and Improvements of this UDO.
- (d) The rear setback shall be increased by the width of the required landscaping buffer when abutting Suburban Residential, Estate Residential, or Rural land uses as depicted in the Comprehensive Plan Future Land Use & Character Map.
- (e) The rear setback can be reduced to twenty (20) feet if abutting an alley or front or side parking is provided.
- (f) Maximum impervious cover shall be determined by an engineered drainage analysis performed in conjunction with the Drainage Section of the Bryan/College Station Unified Design Guidelines and approved by the City Engineer or their designee.
- (g) Additional impervious cover may be allowed as determined by an engineered drainage analysis performed in conjunction with the Drainage Section of the Bryan/College Station Unified Design Guidelines and approved by the City Engineer or their designee.
- (h) Public, civic, and institutional structures shall have a maximum building height of fifty (50) feet in this district.
- (i) Refer to the Easterwood Field Airport Zoning Ordinance regarding height limitations.
- (j) Shall abide by the Low-Density Residential Height Protection Subsection in the General Provisions Section of Article 7, General Development Standards of this UDO.
- (k) Front parking shall be allowed only when ~~four three (43)~~ or fewer parking spaces are required on the lot.

public right-of-way (see graphic below). The driveway area shall be included in this calculation.

Allowable Location for Parking for Detached Single-Family Uses



4. When existing detached single-family parking is expanded in front of the structure, it shall not exceed a size equivalent to fifty (50) percent of the front area as described above.
5. In the MH Middle Housing zoning district, single-family, duplexes, townhouses, and live-work units may locate parking in front of the structure as long as four (4) ~~three~~ or fewer parking spaces are required, and the parking area does not exceed a size equivalent of fifty (50) percent of the front area as described above.

6. In the MH Middle Housing zoning district, courtyard houses, ~~duplexes~~, and multiplexes shall locate parking between the rear plane of the primary structure and the rear property line.
7. An eighteen (18) foot paved space (ninety (90) degree only) may be utilized where the space abuts a landscaped island with a minimum depth of four (4) feet. An eighteen (18) foot space may also be used when adjacent to a sidewalk provided that the minimum width of the sidewalk is six (6) feet. This standard shall also apply to off-street parking for single-family residential, duplexes, and townhouses.
8. The width of an alley may be assumed to be a portion of the maneuvering space requirement for off-street parking facilities located adjacent to a public alley. This standard shall apply for off-street parking for all uses including single-family residential, duplexes, townhouses, and small and medium multiplexes.
9. Each parking space intended for use by the handicapped shall be designed in accordance with the standards of the Texas Architectural Barriers Act (TABAA) administered by the Texas Department of License and Regulation.
10. Each parking space and the maneuvering area thereto shall be located entirely within the boundaries of the building plot except where shared parking is approved by the City.
11. All parking spaces, aisles, and modules shall meet the minimum requirements, as shown in the following table. All dimensions are measured from face of curb to face of curb or wall to wall.

Sec. 7.4. Access Management and Circulation.

A. Location of Existing and Planned Multi-Modal Routes.

Any proposed development shall take into account the location of existing and planned multi-modal routes (i.e., bikeways, pedestrian ways, and transit routes) and provide pedestrian and/or vehicular connections to the route(s) within or adjacent to the development.

B. Easements.

1. Street Access.

No use shall be permitted to take direct access to a street except as allowed in this Section.

a. Local Streets.

All residential uses and associated visitor parking areas may take direct access to local streets. Residential visitor parking areas may take direct access to local streets via a driveway; however, no backing maneuvers onto local streets shall be allowed. Non-residential uses shall not take direct access to local streets, provided that any lot located within a non-residential subdivision or any parcel adjacent to a street within a non-residential subdivision may take direct access to the local street internal to the subdivision, and provided that any corner lot abutting a local street and an arterial or collector street or freeway/expressway may take access to the local street if such access is required by the highway governmental authority having jurisdiction.

b. Minor Collector Streets.

No single-family dwelling, duplex, or townhouse shall take direct access to minor collector streets except when permitted by Article 8, Subdivision Design and Improvements of this UDO. Residential visitor parking areas may take direct access to minor collector streets via a driveway; however, no backing maneuvers onto local streets shall be allowed.

c. Major Collector Streets.

No single-family dwelling, duplex, townhouse, or multiplex shall take direct access to major collector streets. Residential visitor parking areas may take direct access to major collector streets via a driveway; however, no backing maneuvers onto local streets shall be allowed.

d. Arterial Streets.

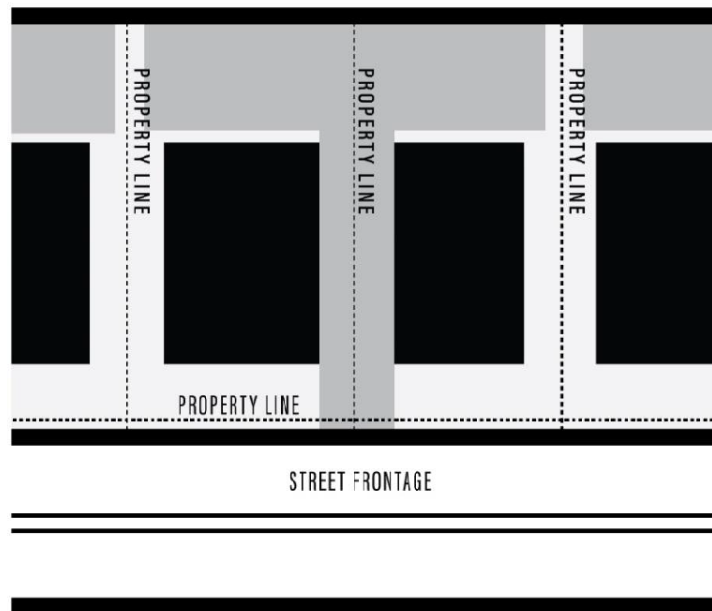
No single-family dwelling, duplex, townhouse, or multiplex shall take direct access to arterial streets.

e. Shared Driveways.

The Development Engineer may require a shared driveway at the time of platting, development, or redevelopment of the affected lots.

When MH Middle Housing lots take access from a public street to provide rear parking, one (1) driveway shall be allowed for every two (2) lots, unless a rear alley is provided. The Administrator may approve up to three (3) lots to take access from a single driveway for rear parking if a shared access easement is provided. See the example diagram below:

MH Middle Housing Shared Driveways



2. Cross-Access Easements.

- a. If a parcel is to be developed for any non-residential land use, a cross-access easement shall be provided by the property owner to adjoining properties that front on the same street and that are, or may be, developed as non-residential land uses.
- b. Cross-access easements shall be situated parallel to the street right-of-way line abutting both parcels. The property owner shall maintain access easements.
- c. The property owner shall provide appropriate documentation of a good faith effort to extend the access easement through all immediately abutting properties. If such an effort fails, the portion of the easement on the subject site shall be developed and designed to ensure future connection to the neighboring properties.
- d. Where a cross-access easement is granted, no permanent structures or parking that would interfere with the proposed access shall be permitted in the easement. Some improvements such as medians and parking islands may be constructed within an access easement if it has been demonstrated that adequate circulation and cross access have been accomplished and that all applicable standards of this UDO have been met.
- e. The Development Engineer may waive the requirement for an easement of access required above in those cases where unusual topography or site conditions would render such an easement of no useable benefit to adjoining properties.
- f. The Development Engineer may approve the vacation of an easement of access in those cases where adjoining parcels are subsequently developed with a residential use.

C. Driveway Access Location and Design.

1. General.

- a. It shall be unlawful for any person to cut, break, or remove any curb or install a driveway along a street except as herein authorized. Openings in the curb may be approved by the Development Engineer for the purposes of drainage.

September 14, 2023
Item No. 9.6.
High Occupancy Ordinance (HOO)

Sponsor: Michael Ostrowski, Director of Planning and Development

Reviewed By CBC: Planning & Zoning Commission

Agenda Caption: Public Hearing, presentation, discussion, and possible action regarding an ordinance amending Appendix A, Unified Development Ordinance, Section 1.10 “Transitional Provisions,” Section 4.1 “Establishment of Districts,” Section 5.10 “Overlay Districts,” and Section 6.3 “Types of Use” of the Code of Ordinances of the City of College Station, Texas, for the creation of the HOO High Occupancy Overlay.

Relationship to Strategic Goals:

- Neighborhood Integrity
- Diverse & Growing Economy

Recommendation(s): Staff recommends approval.

The Planning and Zoning Commission heard this item at their 9/7/23 meeting and voted 7-0 to recommend approval.

Summary: At the August 10, 2023 City Council meeting, staff gave a presentation on the results of the City-initiated middle housing rezoning public engagement and sought direction on which cases to bring forward. Additionally, staff suggested several amendments to the MH Middle Housing zoning district based on feedback from the public and the development community.

During conversations with the public, concerns were identified relating to allowing Shared Housing uses (a use that allows more than one family to reside in a single dwelling unit) within all the areas being considered for City-initiated MH Middle Housing. Staff recommended and the City Council gave direction for the removal of the Shared Housing use from the MH Middle Housing zoning district and to instead allow the use through an overlay district, known as a HOO High Occupancy Overlay. Shared housing will continue to be allowed by right in MF Multi-Family and the Northgate zoning districts. By doing this, the City could better define where Shared Housing would be located.

This amendment only creates the HOO High Occupancy Overlay district. A future amendment in October would remove Shared Housing from the MH Middle Housing zoning district as a permitted use. These are being done as separate amendments so that we don’t create any non-conforming uses. Following the amendment in October, the City Council would then consider the rezoning of properties to MH Middle Housing and/or to HOO High Occupancy Overlay.

Budget & Financial Summary: N/A

Attachments:

1. Ordinance
2. Section 1.10 Transitional Provisions redlines
3. Section 4.1 Establishment of Districts redlines
4. Section 5.10 Overlay Districts redlines
5. Section 6.3 Types of Use redlines

ORDINANCE NO. 2023-____

AN ORDINANCE AMENDING APPENDIX A “UNIFIED DEVELOPMENT ORDINANCE,” ARTICLE 1.10 “TRANSITIONAL PROVISIONS,” ARTICLE 4.1 “ESTABLISHMENT OF DISTRICTS,” ARTICLE 5.10 “OVERLAY DISTRICTS,” AND ARTICLE 6.3 “TYPES OF USE” OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, FOR THE CREATION OF THE HOO HIGH OCCUPANCY OVERLAY; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

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

- PART 1:** That Appendix A “Unified Development Ordinance,” Article 1.10 “Transitional Provisions,” Article 4.1 “Establishment of Districts,” Article 5.10 “Overlay Districts,” and Article 6.3 “Types of Use” of the Code of Ordinances of the City of College Station, Texas, be amended as set out in **Exhibit “A,” Exhibit “B,” Exhibit “C,” and Exhibit “D,”** attached hereto and made a part of this Ordinance for all purposes.
- PART 2:** If any provision of this Ordinance or its application to any person or circumstances is held invalid or unconstitutional, the invalidity or unconstitutionality does not affect other provisions or application of this Ordinance or the Code of Ordinances of the City of College Station, Texas, that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this Ordinance are severable.
- PART 3:** That any person, corporation, organization, government, governmental subdivision or agency, business trust, estate, trust, partnership, association and any other legal entity violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not less than twenty five dollars (\$25.00) and not more than five hundred dollars (\$500.00) or more than two thousand dollars (\$2,000) for a violation of fire safety, zoning, or public health and sanitation ordinances, other than the dumping of refuse. Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.
- PART 4:** This Ordinance is a penal ordinance and becomes effective ten (10) days after its date of passage by the City Council, as provided by City of College Station Charter Section 35.

PASSED, ADOPTED, and APPROVED this 14th day of September, 2023.

ATTEST:

APPROVED:

City Secretary

Mayor

APPROVED:

City Attorney

Exhibit A

That Appendix A “Unified Development Ordinance,” Article 1.10.B “Zoning Districts,” of the Code of Ordinances of the City of College Station, Texas, is hereby amended by amending Subsection 5, and is to read as follows:

5. New Districts.

The following districts are hereby created and added to those in effect at the time of the adoption of this UDO.

New District	Name	Effective Date
RDD	Redevelopment District	June 13, 2003
P-MUD	Planned Mixed-Use Development	June 13, 2003
NCO	Neighborhood Conservation Overlay	December 13, 2007
HP	Historic Preservation Overlay	September 11, 2008
NAP	Natural Areas Protected	October 7, 2012
SC	Suburban Commercial	October 7, 2012
BP	Business Park	October 7, 2012
BPI	Business Park Industrial	October 7, 2012
RS	Restricted Suburban	September 22, 2013
MF	Multi-Family	December 28, 2014
MU	Mixed-Use	December 28, 2014
WE	Wellborn Estate	August 7, 2016
WRS	Wellborn Restricted Suburban	August 7, 2016
WC	Wellborn Commercial	August 7, 2016
ROO	Restricted Occupancy Overlay	April 19, 2021
MH	Middle Housing	November 6, 2022
HOO	High Occupancy Overlay	September 24, 2023

Exhibit B

That Appendix A “Unified Development Ordinance,” Article 4.1 “Establishment of Districts,” of the Code of Ordinances of the City of College Station, Texas, is hereby amended to read as follows:

Sec. 4.1. Establishment of Districts.

For the purpose of this UDO, portions of the city, as specified on the Official Zoning Map, are hereby divided into the zoning districts enumerated below. The intensity regulations applicable for such districts are designated in the respective Sections of Article 5, District Purpose Statements and Supplemental Standards, and the use regulations are designated in Article 6, Use Regulations of this UDO.

Table of Districts	
Residential Zoning Districts	
R	Rural
WE	Wellborn Estate
E	Estate
WRS	Wellborn Restricted Suburban
RS	Restricted Suburban
GS	General Suburban
T	Townhouse
D	Duplex
MH	Middle Housing
MF	Multi-Family
MU	Mixed-Use
MHP	Manufactured Home Park
Non-Residential Zoning Districts	
O	Office
SC	Suburban Commercial
WC	Wellborn Commercial
GC	General Commercial
CI	Commercial Industrial
BP	Business Park
BPI	Business Park Industrial
CU	College and University
NAP	Natural Areas Protected
Retired Districts	
R-1B	Single-Family Residential
R-4	Multi-Family
R-6	High Density Multi-Family
C-3	Light Commercial
M-1	Light Industrial
M-2	Heavy Industrial
R&D	Research & Development
NPO	Neighborhood Prevailing Overlay
Planned Districts	
P-MUD	Planned Mixed-Use District
PDD	Planned Development District
Design Districts	

WPC	Wolf Pen Creek
NG-1	Core Northgate
NG-2	Transitional Northgate
NG-3	Residential Northgate
Overlay Districts	
OV	Corridor Overlay
RDD	Redevelopment District
HP	Historic Preservation Overlay
HOO	High Occupancy Overlay
Single-Family Overlay Districts	
ROO	Restricted Occupancy Overlay
NCO	Neighborhood Conservation Overlay

Exhibit C

That Appendix A “Unified Development Ordinance,” Article 5.10 “Overlay Districts,” of the Code of Ordinances of the City of College Station, Texas, is hereby amended by adding Subsection D, and is to read as follows:

D. HOO High Occupancy Overlay.

1. Purpose.

The purpose of this district is to accommodate increased residential occupancy through the permitting of shared housing as a use. The HOO High Occupancy Overlay aims to promote efficient land use and provide additional housing opportunities by allowing higher-occupancy residential structures within specific areas of College Station where additional residential density is appropriate.

2. Applicability.

The HOO High Occupancy Overlay may be applied where the base zoning district(s) of the area is MH Middle Housing, a multi-family zoning district, or a mixed-use zoning district. An area under this overlay shall consist of a property or contiguous properties that are of sufficient size that generally follow visible geographic features of an area. It is not the intent for this overlay to be applied to small areas or individual lots.

3. Standards.

In addition to the permitted uses of the base zoning district, shared housing is a permitted use.

Exhibit D

That Appendix A “Unified Development Ordinance,” Article 6.3 “Types of Use” of the Code of Ordinances of the City of College Station, Texas, is hereby amended to read as follows:

Sec. 6.3. Types of Use.

- A. Uses of land or structures which are not expressly listed in the Use Table as permitted uses (P), permitted uses subject to specific use standards (P*), or conditional uses (C) in a zoning district or planned development are prohibited uses and shall not be established in that district or planned development.
- B. The Administrator shall determine whether or not an unlisted use, that is otherwise prohibited, as stated above should be processed. In doing so, the Administrator shall utilize purpose statements adopted herein in conjunction with the applicable zoning district, and consideration of the following criteria:
 - 1. The actual or anticipated characteristics of the activity based on known characteristics of similar projects in standard planning practice;
 - 2. The relative amount of site area, floor space, and equipment;
 - 3. Relative volumes of sales from each activity;
 - 4. The customer type for each activity;
 - 5. The relative number of employees in each activity;
 - 6. Hours of operation;
 - 7. Building and site arrangement;
 - 8. Vehicles used with the activity and the relative number of vehicle trips generated by the use; and
 - 9. How the use advertises itself.

C. Use Table.

Except where otherwise specifically provided herein, regulations governing the use of land and structures with the various zoning districts and classifications of planned developments are hereby established as shown in the following Use Table.

1. Permitted Uses.

A "P" indicates that a use is allowed by right in the respective district. Such uses are subject to all other applicable regulations of this UDO.

2. Permitted Uses Subject to Specific Standards.

A "P*" indicates a use that will be permitted, provided that the use meets the provisions in the Specific Use Standards Section below. Such uses are also subject to all other applicable regulations of this UDO.

3. Conditional Uses.

A "C" indicates a use that is allowed only where a conditional use permit is approved by the City Council. The Council may require that the use meet the additional standards enumerated in the Specific Use Standards Section below. Conditional uses are subject to all other applicable regulations of this UDO.

USE TABLE																																				
Specific Uses	R	WE	E	WRS	RS	GS	T**	D**	MH	MF**	MU**	MHP**	P-MUD**	O	SC**	WC	GC	CI	BP**	BPI	CU	NAP	R-1B	R-4**	R-6**	C-3**	M-1	M-2	R&D**	WPC**	NG-1**	NG-2**	NG-3**	HOO**		
KEY: P = Permitted by Right P* = Permitted Subject to Specific Use Standards C = Conditional Use ** = District with Supplemental Standards (refer to Article 5, District Purpose Statements and Supplemental Standards)																																				
RESIDENTIAL USES																																				
Assisted Living/Residential Care Facility														P	P		P																			
Boarding and Rooming House										P			P											P	P									P		
Courtyard House									P*																											
Dormitory										P	P		P											P	P							P	P	P		
Duplex								P	P				P											P	P											
Extended Care Facility/Convalescent/Nursing Home										P			P		P		P	P						P	P					P						
Fraternity/Sorority										P														P	P							P	P	P		
Manufactured Home	P*		P*									P*																								
Mixed-Use Structure										P	P		P																		P	P	P	P		
Multi-Family										P	P		P											P	P						C (a)	P	P	P		
Multi-Family built prior to January 2002										P	P													P	P						P	P	P	P		
Multiplex, Medium									P	P																										
Multiplex, Small									P	P																										
Shared Housing									P	P	P (d)		P (d)											P (d)	P (d)						P (d)		P	P	P	P
Single-Family Detached	P	P	P	P	P	P	P	P	P				P										P													
Single-Unit Dwelling										P																										
Split-Lot Duplex								P	P																											
Townhouse							P		P	P			P											P	P										P	
Two-Unit Dwelling										P																										
Live-Work Unit									P*					P*	P*																					
PUBLIC, CIVIC, AND INSTITUTIONAL USES																																				
Educational Facility, College and University																					P															
Educational Facility, Indoor Instruction									P	P	P		P	P	P	P	P	P								P				P	P	P	P			
Educational Facility, Outdoor Instruction	P	C	C										P			P	P	P																		
Educational Facility, Primary and Secondary	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P	P	P	P			

Educational Facility, Tutoring									P	P	P		P	P	P	P	P												P	P	P	P			
Educational Facility, Vocational/Trade													P	P			P	P	P	P							P	P							
Governmental Facilities	P *	P *	P *	P *	P *	P *	P *	P *	P *	P *	P *	P *	P	P	P *	P *	P	P	P	P	P			P *	P *	P *	P	P	P	P	P	P	P *		
Health Care, Hospitals																	P	P																	
Health Care, Medical Clinics											P	P			P	P	P	P	P								P					P	P		
Parks	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P	P	P	P		
Places of Worship	P *	P *	P *	P *	P *	P *	P *	P *	P *	P *	P *	P *	P	P	P	P *	P	P	P	P	P			P *	P *	P *	P	P	P	P	P	P	P		
COMMERCIAL, OFFICE, AND RETAIL USES																																			
Agricultural Use, Barn or Stable for Private Stock	P	P	P																																
Agricultural Use, Farm or Pasturage	P	P	P																																
Agricultural Use, Farm Product Processing	P																																		
Animal Care Facility, Indoor										P	P		P	P	P	P	P									P				P	P	P			
Animal Care Facility, Outdoor	P *																P																		
Art Studio/Gallery										P (c)	P	P		P	P	P	P	P								P				P	P	P	P		
Car Wash																	P *																		
Commercial Garden, Greenhouse, or Landscape Maintenance	P *																P *	P *	P *	P *								P *							
Commercial Amusement											P	P		P		C	C	P *	P *							C				P	P	P			
Conference/Convention Center											P	P		P				P	P											P	P	P			
Country Club	P	P	P	P	P	P							P				P	P						P											
Day Care, Commercial										P (c)	P	P	C	P	P	P	P	P								C	C	P					P	P	P
Drive-In/Thru																P *		P												C			P *		
Dry Cleaners and Laundry											P	P		P *	P *	P	P *	P	P							P *				P *	P *	P *	P *		
Fraternal Lodge														P				P	P												P	P	P		
Fuel Sales														P *				P *									P *		P						
Funeral Home																		P	P	P									P						
Golf Course or Driving Range	P *													P *				P *	P *																
Health Club/Sports Facility, Indoor											P	P		P		P	P	P	P								P				P	P	P	P	

Health Club/Sports Facility, Outdoor										P	P *		P				P	P														P	P *	P		
Hotel	C (b)									P	P		P		P																P	P	P			
Mobile Food Court										C	C		C				C														C	C	C			
Night Club, Bar, or Tavern										C	C		C				C														C	P	P			
Office									P (c)	P	P		P	P	P	P	P	P	P	P	P								P	P	P	P	P	P	P	
Parking as a Primary Use											P		P	C			P	P													P		P *			
Personal Service Shop									P (c)	P	P		P	P	P	P	P											P			P	P	P	P		
Printing/Copy Shop										P	P		P	P	P	P	P	P	P	P	P							P				P	P	P		
Radio/TV Station/Studio										P	P		P	P			P	P	P	P								P	P	P				P *		
Recreational Vehicle Park	C																C																			
Restaurant										P	P		P		P *	P *	P											P *				P	P	P	P *	
Retail Sales - Single Tenant over 50,000 SF											P						P																	P		
Retail Sales and Service									P (c)	P	P		P		P *	P *	P *	P *									P				P	P	P	P		
Retail Sales and Service - Alcohol											C		P				P *	P *									P				C	P	P			
Sexually Oriented Business	P *	P *	P *	P *	P *	P *	P *	P *		P *	P *	P *	P *	P *			P *	P *	P *	P *	P *		P *	P *	P *	P *	P *	P *	P *	P *	P *	P *	P *	P *	P *	
Shooting Range, Indoor													P				P	P		P											P					
Theater										P	P		P				P														P	P	P	P		
Retail Sales, Manufactured Homes																				P												P *				
Storage, Self Service															P *	P *	P	P		P							P *		P							
Vehicular Sales, Rental, Repair, and Service																	P *	P *		P											P *					
Wholesales/Services																	P *	P *	P	P									P	P						
INDUSTRIAL AND MANUFACTURING USES																																				
Storage Tank/Cold Storage Plant																	P		P										P							
Micro-Industrial																	P *	P *		P											P *	P *				
Industrial, Light																	P	P	P								P	P	P							
Industrial, Heavy																			P									P								
Recycling Facility - Large																	P *		P									P								

Sec. 1.10. Transitional Provisions.

B. Zoning Districts.

5. New Districts.

The following districts are hereby created and added to those in effect at the time of the adoption of this UDO.

New District	Name	Effective Date
RDD	Redevelopment District	June 13, 2003
P-MUD	Planned Mixed-Use Development	June 13, 2003
NCO	Neighborhood Conservation Overlay	December 13, 2007
HP	Historic Preservation Overlay	September 11, 2008
NAP	Natural Areas Protected	October 7, 2012
SC	Suburban Commercial	October 7, 2012
BP	Business Park	October 7, 2012
BPI	Business Park Industrial	October 7, 2012
RS	Restricted Suburban	September 22, 2013
MF	Multi-Family	December 28, 2014
MU	Mixed-Use	December 28, 2014
WE	Wellborn Estate	August 7, 2016
WRS	Wellborn Restricted Suburban	August 7, 2016
WC	Wellborn Commercial	August 7, 2016
ROO	Restricted Occupancy Overlay	April 19, 2021
MH	Middle Housing	November 6, 2022
<u>HOO</u>	<u>High Occupancy Overlay</u>	<u>September 24, 2023</u>

Sec. 4.1. Establishment of Districts.

For the purpose of this UDO, portions of the city, as specified on the Official Zoning Map, are hereby divided into the zoning districts enumerated below. The intensity regulations applicable for such districts are designated in the respective Sections of Article 5, District Purpose Statements and Supplemental Standards, and the use regulations are designated in Article 6, Use Regulations of this UDO.

Table of Districts	
Residential Zoning Districts	
R	Rural
WE	Wellborn Estate
E	Estate
WRS	Wellborn Restricted Suburban
RS	Restricted Suburban
GS	General Suburban
T	Townhouse
D	Duplex
MH	Middle Housing
MF	Multi-Family
MU	Mixed-Use
MHP	Manufactured Home Park
Non-Residential Zoning Districts	
O	Office
SC	Suburban Commercial
WC	Wellborn Commercial
GC	General Commercial
CI	Commercial Industrial
BP	Business Park
BPI	Business Park Industrial
CU	College and University
NAP	Natural Areas Protected
Retired Districts	
R-1B	Single-Family Residential
R-4	Multi-Family
R-6	High Density Multi-Family
C-3	Light Commercial
M-1	Light Industrial
M-2	Heavy Industrial
R&D	Research & Development
NPO	Neighborhood Prevailing Overlay
Planned Districts	
P-MUD	Planned Mixed-Use District
PDD	Planned Development District
Design Districts	
WPC	Wolf Pen Creek
NG-1	Core Northgate
NG-2	Transitional Northgate
NG-3	Residential Northgate
Overlay Districts	
OV	Corridor Overlay
RDD	Redevelopment District
HP	Historic Preservation Overlay

<u>HOO</u>	<u>High Occupancy Overlay</u>
Single-Family Overlay Districts	
ROO	Restricted Occupancy Overlay
NCO	Neighborhood Conservation Overlay

Sec. 5.10. Overlay Districts.

In the event an area is rezoned to apply an overlay district, this district shall apply to all multi-family, commercial, and industrial property, and where applicable, to single-family, duplex, or townhouse development. The underlying district establishes the permitted uses and shall remain in full force, and the requirements of the overlay district are to be applied in addition to the underlying use and site restrictions.

A. OV Corridor Overlay.

This district is established to enhance the image of gateways and key entry points, major corridors, and other areas of concern, as determined by the City Council, by maintaining a sense of openness and continuity.

The following supplemental standards shall apply to this district:

1. Setbacks.

All buildings will be set back forty (40) feet from the right-of-way. Where parking is located in the front of the building, there shall be a front setback of twenty (20) feet from the right-of-way to the parking area and all drive aisles.

2. Signs.

Freestanding signs shall be limited to the restrictions of the Signs Section of Article 7, General Development Standards of this UDO but shall not exceed the height of the building.

3. Building Colors.

Building colors shall be neutral and harmonious with the existing man-made or natural environment, and only compatible accent colors shall be used. All colors shall be approved by the Administrator. The applicant must provide elevation drawings and color samples.

4. Special Restrictions for Retail Fuel Sales.

In cases where the underlying zoning district allows fuel sales and a station is proposed, the following restrictions shall apply:

a. Activities Restricted.

- 1) No major emergency auto repair; and
- 2) No body, fender, or paint work.

b. Signs.

- 1) Sign height shall be restricted by the provisions of the Signs Section of Article 7, General Development Standards of this UDO but shall not exceed the height of the building.
- 2) No freestanding fuel price signage shall be permitted.
- 3) Signs for air, water, and other similar services or products must meet the criteria for exempt signs as provided in the Signs Section of Article 7, General Development Standards of this UDO.

B. RDD Redevelopment District.

The purpose of this district is to facilitate the redevelopment of existing nonconforming commercial centers through flexible or relaxed standards, which can accommodate existing physical limitations and take extraordinary circumstances into account. The RDD Redevelopment District is an overlay district. The permissible uses on any site shall be governed by the underlying zoning.

The following supplemental standards shall apply to this district:

1. Location.

An RDD Redevelopment District may be established upon any commercially zoned property where the initial development was developed a minimum of twenty (20) years before the rezoning request and the proposed redevelopment meets the intent of this Section. Special consideration should be given to those areas considered "gateways" and/or historic, and those with proximity to Texas A&M University.

2. Standards.

Although every effort should be made to meet all requirements of this UDO, designated RDD Redevelopment Districts may be allowed to waive up to fifty (50) percent of required parking standards and landscaping where physical limitations and the site's location and relationship to the goals of the Comprehensive Plan warrant consideration. A lesser percentage may be established as part of the approval process.

3. Criteria for Evaluation.

Evaluation of all sites and site plans for rezoning to RDD Redevelopment District shall consider the following:

- a. Conformance with the Comprehensive Plan;
- b. Aesthetic contribution of the proposed redevelopment;
- c. Economic viability of the existing site;
- d. Physical limitations and the demonstrated inability to meet current requirements;
- e. Public health and safety standards; and
- f. Effort made to meet all standards of this UDO.
- g. Full engineering of sites may not be required for the establishment of an RDD Redevelopment District; however, a preliminary engineering study will be required which assesses parking, vehicular access and circulation, drainage, and utility requirements.

4. Procedure for Establishment.

The procedure for rezoning to RDD Redevelopment District shall be the same as any other rezoning application except that a site plan of the proposed redevelopment of the site shall be carefully evaluated to ascertain the site plan's benefit to achieving the goals of the Comprehensive Plan. Elevations of proposed structures may be required as part of the review process, or to determine eligibility for rezoning.

Full engineering may not be required for evaluating a property for rezoning. Varying levels of information may be required by the Administrator depending upon the peculiarities of any given site.

The site plan components shall govern the redevelopment of the site following the approval of an RDD Redevelopment District.

C. HP Historic Preservation Overlay.

1. Purpose.

The HP Historic Preservation Overlay is intended to provide for the protection and preservation of places and areas of historical, cultural, and architectural importance and significance. Such action is necessary to promote the economic, cultural, educational, and general welfare of the public. Specifically, this district has the following expressed purposes:

- a. To protect and enhance the landmarks and districts which represent distinctive elements of College Station's historic, architectural, and cultural heritage;
- b. To foster civic pride in the accomplishments of the past;

- c. To protect and enhance College Station's attractiveness to visitors and the support and stimulus to the economy thereby provided;
 - d. To ensure the harmonious, orderly, and efficient growth and development of College Station;
 - e. To promote economic prosperity and welfare of the community by encouraging the most appropriate use of such property within College Station; and
 - f. To encourage stabilization, restoration, and improvements of such properties and their values.
2. **Applicability.**

The HP Historic Preservation Overlay may be applied to districts, areas, or individual property, regardless of the base zoning district or current use of the properties, that:

- a. Are at least forty (40) years old;
- b. Meet at least two (2) of the criteria listed below; and
- c. Possess historic integrity that is evident through historic qualities including location, design, setting, materials, workmanship, feeling, and association.

3. **Criteria for Designation of HP Historic Preservation Overlays.**

A property or district may be designated if it:

- a. Possesses significance in history, architecture, archeology, and culture;
- b. Is associated with events that have made a significant contribution to the broad patterns of local, regional, state, or national history;
- c. Is associated with events that have made a significant impact in our past;
- d. Embodies the distinctive characteristics of a type, period, or method of construction;
- e. Represents the work of a master designer, builder, or craftsman;
- f. Represents an established and familiar visual feature of the neighborhood or city; or
- g. Is eligible for listing on the National Register of Historic Places, Recorded Texas Historic Landmark, or a State Archaeological Landmark, as determined by the Texas Historical Commission.

4. **Removal of an HP Historic Preservation Overlay.**

Upon recommendation of the Landmark Commission to the Planning and Zoning Commission based upon new and compelling evidence and negative evaluation according to the same criteria and following the same procedures set forth in this UDO for designation, the Planning and Zoning Commission may recommend to the City Council and the City Council may remove an HP Historic Preservation Overlay made under this Section.

D. HOO High Occupancy Overlay.

1. Purpose.

The purpose of this district is to accommodate increased residential occupancy through the permitting of shared housing as a use. The HOO High Occupancy Overlay aims to promote efficient land use and provide additional housing opportunities by allowing higher-occupancy residential structures within specific areas of College Station where additional residential density is appropriate.

2. Applicability.

The HOO High Occupancy Overlay may be applied where the base zoning district(s) of the area is MH Middle Housing, a multi-family zoning district, or a mixed-use zoning district. An area under this overlay shall consist of a property or contiguous properties that are of sufficient size that generally follow

visible geographic features of an area. It is not the intent for this overlay to be applied to small areas or individual lots.

3. Standards.

In addition to the permitted uses of the base zoning district, shared housing is a permitted use.

Sec. 6.3. Types of Use.

- A. Uses of land or structures which are not expressly listed in the Use Table as permitted uses (P), permitted uses subject to specific use standards (P*), or conditional uses (C) in a zoning district or planned development are prohibited uses and shall not be established in that district or planned development.
- B. The Administrator shall determine whether or not an unlisted use, that is otherwise prohibited, as stated above should be processed. In doing so, the Administrator shall utilize purpose statements adopted herein in conjunction with the applicable zoning district, and consideration of the following criteria:
 - 1. The actual or anticipated characteristics of the activity based on known characteristics of similar projects in standard planning practice;
 - 2. The relative amount of site area, floor space, and equipment;
 - 3. Relative volumes of sales from each activity;
 - 4. The customer type for each activity;
 - 5. The relative number of employees in each activity;
 - 6. Hours of operation;
 - 7. Building and site arrangement;
 - 8. Vehicles used with the activity and the relative number of vehicle trips generated by the use; and
 - 9. How the use advertises itself.

C. Use Table.

Except where otherwise specifically provided herein, regulations governing the use of land and structures with the various zoning districts and classifications of planned developments are hereby established as shown in the following Use Table.

1. Permitted Uses.

A "P" indicates that a use is allowed by right in the respective district. Such uses are subject to all other applicable regulations of this UDO.

2. Permitted Uses Subject to Specific Standards.

A "P*" indicates a use that will be permitted, provided that the use meets the provisions in the Specific Use Standards Section below. Such uses are also subject to all other applicable regulations of this UDO.

3. Conditional Uses.

A "C" indicates a use that is allowed only where a conditional use permit is approved by the City Council. The Council may require that the use meet the additional standards enumerated in the Specific Use Standards Section below. Conditional uses are subject to all other applicable regulations of this UDO.

USE TABLE																																				
Specific Uses	R	WE	E	WRS	RS	GS	T**	D**	MH	MF**	MU**	MHP**	P-MUD**	O	SC**	WC	GC	CI	BP**	BPI	CU	NAP	R-1B	R-4**	R-6**	C-3**	M-1	M-2	R&D**	WPC**	NG-1**	NG-2**	NG-3**	HOO**		
KEY: P = Permitted by Right P* = Permitted Subject to Specific Use Standards C = Conditional Use ** = District with Supplemental Standards (refer to Article 5, District Purpose Statements and Supplemental Standards)																																				
RESIDENTIAL USES																																				
Assisted Living/Residential Care Facility														P	P		P																			
Boarding and Rooming House										P			P											P	P									P		
Courtyard House									P*																											
Dormitory										P	P		P											P	P							P	P	P		
Duplex								P	P				P											P	P											
Extended Care Facility/Convalescent /Nursing Home										P			P		P		P	P						P	P					P						
Fraternity/Sorority										P														P	P							P	P	P		
Manufactured Home	P*		P*									P*																								
Mixed-Use Structure										P	P		P																		P	P	P	P		
Multi-Family										P	P		P											P	P					C(a)	P	P	P	P		
Multi-Family built prior to January 2002										P	P													P	P						P	P	P	P		
Multiplex, Medium									P	P																										
Multiplex, Small									P	P																										
Shared Housing									P	P	P(d)		P(d)											P(d)	P(d)					P(d)	P	P	P	P	P	
Single-Family Detached	P	P	P	P	P	P	P	P	P				P										P													
Single-Unit Dwelling										P																										
Split-Lot Duplex								P	P																											
Townhouse							P		P	P			P											P	P										P	
Two-Unit Dwelling										P																										
Live-Work Unit									P*					P*	P*																					
PUBLIC, CIVIC, AND INSTITUTIONAL USES																																				
Educational Facility, College and University																					P															
Educational Facility, Indoor Instruction									P	P	P		P	P	P	P	P	P								P				P	P	P	P			
Educational Facility, Outdoor Instruction	P	C	C										P			P	P	P																		
Educational Facility, Primary and Secondary	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P	P	P	P			

Educational Facility, Tutoring										P	P	P		P	P	P	P	P												P	P	P	P	
Educational Facility, Vocational/Trade														P	P			P	P	P	P							P	P					
Governmental Facilities	P *	P *	P *	P *	P *	P *	P *	P *	P *	P *	P *	P *	P	P	P	P *	P *	P	P	P	P	P		P *	P *	P *	P	P	P	P	P	P	P	P *
Health Care, Hospitals																		P	P															
Health Care, Medical Clinics											P	P			P	P	P	P	P								P					P	P	
Parks	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Places of Worship	P *	P *	P *	P *	P *	P *	P *	P *	P *	P *	P *	P *	P	P	P	P	P *	P	P	P	P	P	P	P *	P *	P *	P	P	P	P	P	P	P	P
COMMERCIAL, OFFICE, AND RETAIL USES																																		
Agricultural Use, Barn or Stable for Private Stock	P	P	P																															
Agricultural Use, Farm or Pasturage	P	P	P																															
Agricultural Use, Farm Product Processing	P																																	
Animal Care Facility, Indoor										P	P		P	P	P	P	P	P								P				P	P	P		
Animal Care Facility, Outdoor	P *																	P																
Art Studio/Gallery										P (c)	P	P		P	P	P	P	P								P				P	P	P	P	
Car Wash																	P *																	
Commercial Garden, Greenhouse, or Landscape Maintenance	P *																P *	P *	P *	P *							P *							
Commercial Amusement										P	P		P		C	C	P *	P *								C				P	P	P		
Conference/Convention Center										P	P		P				P	P											P	P	P			
Country Club	P	P	P	P	P	P							P				P	P					P											
Day Care, Commercial										P (c)	P	P	C	P	P	P	P	P							C	C	P				P	P	P	
Drive-In/Thru															P *		P												C			P *		
Dry Cleaners and Laundry											P	P		P *	P *	P	P *	P	P							P *				P *	P *	P *	P *	
Fraternal Lodge													P				P	P													P	P	P	
Fuel Sales													P *				P *									P *		P						
Funeral Home																	P	P	P									P						
Golf Course or Driving Range	P *												P *				P *	P *																

Health Club/Sports Facility, Indoor										P	P		P		P	P	P												P				P	P	P	P		
Health Club/Sports Facility, Outdoor										P	P*		P			P	P															P	P*	P				
Hotel	C (b)									P	P		P		P																P	P	P					
Mobile Food Court										C	C		C			C																C	C	C				
Night Club, Bar, or Tavern										C	C		C			C																C	P	P				
Office									P (c)	P	P		P	P	P	P	P	P	P	P									P	P	P	P	P	P	P			
Parking as a Primary Use											P		P	C			P	P														P		P*				
Personal Service Shop									P (c)	P	P		P	P	P	P	P												P				P	P	P	P		
Printing/Copy Shop										P	P		P	P	P	P	P	P	P	P										P				P	P	P		
Radio/TV Station/Studio										P	P		P	P			P	P	P	P										P	P	P			P*			
Recreational Vehicle Park	C																C																					
Restaurant										P	P		P		P*	P*	P													P*				P	P	P	P*	
Retail Sales - Single Tenant over 50,000 SF											P						P																		P			
Retail Sales and Service										P (c)	P	P		P		P*	P*	P*	P*										P				P	P	P	P		
Retail Sales and Service - Alcohol												C		P				P*	P*										P				C	P	P			
Sexually Oriented Business	P*	P*	P*	P*	P*	P*	P*	P*		P*	P*	P*	P*	P*			P*	P*	P*	P*	P*	P*							P*	P*	P*	P*	P*	P*	P*			
Shooting Range, Indoor													P				P	P		P												P						
Theater										P	P		P				P																P	P	P	P		
Retail Sales, Manufactured Homes																			P														P*					
Storage, Self Service															P*	P*	P	P		P									P*			P						
Vehicular Sales, Rental, Repair, and Service																	P*	P*		P													P*					
Wholesales/Services																	P*	P*	P	P											P	P						
INDUSTRIAL AND MANUFACTURING USES																																						
Storage Tank/Cold Storage Plant																		P		P											P							
Micro-Industrial																	P*	P*		P													P*	P*				
Industrial, Light																		P	P	P										P	P	P						

September 14, 2023
Item No. 9.7.
Appointments to MPO Project Steering Committee

Sponsor: Jason Schubert

Reviewed By CBC: N/A

Agenda Caption: Presentation, discussion, and possible action regarding a resolution appointing members to the Project Steering Committee for the Comprehensive Safety Action Plan being developed by the Bryan/College Station Metropolitan Planning Organization.

Relationship to Strategic Goals:

Improving Mobility

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

Summary: In August 2022, the Council approved a resolution supporting the submission of a joint application for the federal Safe Streets and Roads for All grant program to obtain funding to conduct a county-wide Comprehensive Safety Action Plan. The MPO was the lead applicant with Brazos County, City of Bryan, and City of College Station as joint applicants. The local jurisdictions committed to provide \$20,000 each to serve as the local match for the proposed plan. In February 2023, the U.S. Department of Transportation announced that the MPO's grant application was awarded funding. At the June 12, 2023 Council Workshop, Dan Rudge, Executive Director of the Bryan/College Station Metropolitan Planning Organization (MPO), provided an update on the project and requested each of the participating jurisdictions appoint five individuals to serve on a Project Steering Committee during the development of the plan, which is anticipated to take approximately one year to complete.

The Comprehensive Safety Action Plan will evaluate the transportation network and seek to improve safety by reducing or eliminating roadway fatalities and serious injuries through identifying safety action items and implementation focused on all roadway users. Staff recommends appointing a combination of City staff, City board members, and community members to serve on the Project Steering Committee as a variety of perspectives will enhance the development of the plan. Recommended appointments are:

- Randell Smith, Senior Traffic Engineer II – City staff
- Katherine Beaman-Jamael, Graduate Engineer II – City staff; City representative on MPO's Active Transportation Advisory Panel
- Neo Jang – Board member recommended from the Bicycle, Pedestrian, and Greenways Advisory Board
- Dennis Christansen – Current Planning & Zoning Commission Chair; Vice Chair of Brazos County Regional Mobility Authority
- Doug Bramwell – Chair of Bryan/College Station Chamber of Commerce Transportation Committee

In addition to the Project Steering Committee, the planning effort will include public meetings and outreach over the coming year that will be led by the MPO.

Budget & Financial Summary: N/A

Attachments:

1. Resolution

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, APPOINTING MEMBERS TO THE PROJECT STEERING COMMITTEE FOR THE COMPREHENSIVE SAFETY ACTION PLAN BEING DEVELOPED BY THE BRYAN/COLLEGE STATION METROPOLITAN PLANNING ORGANIZATION.

WHEREAS, the City Council of the City of College Station, Texas, adopted Resolution 8-25-22-7.2 on August 25, 2022 supporting a joint grant application with the Bryan/College Station Metropolitan Planning Organization, City of Bryan, and Brazos County for the federal Safe Streets and Roads for All program seeking funding to develop a county-wide Comprehensive Safety Action Plan to help reduce or eliminate roadway fatalities and serious injuries for all users; and

WHEREAS, in February 2023 the U.S. Department of Transportation announced the joint grant application was awarded funding; and

WHEREAS, the Bryan/College Station Metropolitan Planning Organization has requested each participating jurisdiction appoint five individuals to serve on a Project Steering Committee; and

WHEREAS, the City Council of the City of College Station, Texas, appoints a combination of City staff, City board members, and community members for a variety of perspectives; now, therefore,

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

PART 1: That the City Council hereby appoints Randell Smith, Katherine Beaman-Jamael, Neo Jang, Dennis Christiansen, and Doug Bramwell to the Project Steering Committee for development of the Comprehensive Safety Action Plan.

PART 2: That the City Council hereby sets the appointments for the duration of the development of the Comprehensive Safety Action Plan.

PART 3: That this Resolution shall take effect immediately from and after its passage.

ADOPTED this 14th day of September, 2023.

ATTEST:

APPROVED:

City Secretary

MAYOR

APPROVED:

City Attorney

September 14, 2023
Item No. 9.8.
HOME-ARP Supportive Services Funding Agreement

Sponsor: Raney Whitwell, Community Development Analyst

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding a HOME-American Rescue Plan funding agreement in the amount of \$1,479,223 with Twin City Mission for Supportive Services to be provided to College Station residents eligible under the grant requirements.

Relationship to Strategic Goals:

Financial Sustainability, Core Services & Infrastructure, Neighborhood Integrity, Diverse & Growing Economy

Recommendation(s): Staff recommends consideration of the HOME-ARP Supportive Services funding agreement with Twin City Missions in the amount of \$1,479,223.00 for the Family Support Services Program.

Summary: The U. S. Department of Housing and Urban Development (HUD) provided notice to all eligible grantees in June 2021 regarding a new grant opportunity through the American Rescue Plan to address the qualifying populations through four activities: Supportive Services, Rental Housing Construction, Non-Congregate Shelter, or Tenant Based Rental Assistance. As indicated in Attachment 1, staff completed research, stakeholder meetings, round table discussions, interviews with service providers, and those seeking services and it was determined that Supportive Services are the most pressing need in College Station.

The HOME-ARP Allocation Plan (Plan) was developed to meet the requirements of the grant and specify how the grant would be utilized in College Station. City Council approved the Plan on May 26, 2022 and the Plan was approved by HUD on July 8, 2022. The plan allocates \$1,740,263 according to the budget found in Attachment 2. Funds must be used to benefit College Station individuals and families in the following specified qualifying populations: homeless, at risk of becoming homeless, fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking, or other populations at risk of becoming homeless, including veterans and their families. The grant requires that services must be made available to all qualifying populations.

A Request for Proposal was released on May 1, 2023, seeking qualified nonprofits to administer supportive services programming. Four responses were received to the Request for Proposal. Twin City Mission, Inc. is the only applicant that proposed a program to serve all qualifying populations without restrictions. This item will allow the City Council to consider approval of a Supportive Services funding agreement in the amount of \$1,479,223.00 with Twin City Mission, Inc. to administer the Family Support Services program to eligible College Station residents. The Family Support Services program will provide supportive services, trauma-informed case management, and benefits navigation to all qualifying populations in College Station. Twin City Mission will operate the program in donated spaces to provide the services. This contract will end on September 30, 2030 or when all funds are expended, whichever occurs first.

Twin City Mission, Inc, has served homeless individuals in the Brazos Valley since 1963 and is experienced with the needs and barriers faced by these populations. This program is expected to

have a significant impact on the most vulnerable residents in our community and will assist them in working towards a stable living environment and self-sufficiency.

The approved Plan can be found at
www.cstx.gov/departments__city_hall/commserv/development/publications

Budget & Financial Summary: \$1,479,223 in HOME ARP funds are available in the 2023 Community Development Fund.

Attachments:

1. HOME-ARP Plan Development Process Summary
2. Proposed HOME-ARP Budget
3. 23300728 HOME-ARP Supportive Services Agreement

Attachment 1: HOME-ARP Plan and Budget Development Process Summary

Event	Date
Continuum of Care/Homeless Providers consultation	July 26, 2021
Federal Award Notice	September 20, 2021
Required Agency Consultations/Research	January – March 2022
HOME-ARP Public Hearing	May 17, 2022
HOME-ARP plan approval by City Council	May 26, 2022
HOME-ARP Plan submitted to HUD	June 15, 2022
HOME-ARP Plan Approved by HUD	July 8, 2022
HOME-ARP Social Service HUD Discussion w/Nonprofits	July 21, 2022
Contract, RFP, Procedures and Policies Development	August 2022- April 2023
HOME-ARP RFP released	May 1, 2023
Mandatory Pre-Proposal Conference	May 19, 2023
HOME-ARP RFP Submission Deadline	June 23, 2023
RFP review and contract negotiations	June 2023- August 2023

Attachment 2: HOME-ARP Budget

HUD Approved HOME-ARP Plan Budget

	Funding Amount	Percent of the Grant	Statutory Limit
Supportive Services	\$1,479,223		
Non-Profit Operating	\$87,013	5%	5%
Non-Profit Capacity Building	\$87,013	5%	5%
Administration and Planning (City)	\$87,013	5%	15%
Total HOME-ARP Allocation	\$1,740,263		

Proposed Twin City Mission Budget		
Supportive Services		\$1,479,223
Salary	\$713,833	
Supportive Services Activities	\$708,790	
Clinical Supervision	\$9,000	
Vehicle Lease	\$33,000	
Vehicle Maintenance & Fuel	\$9,800	
Milage	\$4,800	
Non-Profit Capacity Building		\$87,013
Salary	\$53,679	
Supplies	\$3,334	
Staff Development	\$10,000	
Printing/Publication	\$7,000	
Public Awareness	\$7,000	
IT Equipment	\$6,000	
Non-Profit Operating Expenses		\$87,013
Supplies	\$9,900	
Internet	\$4,501	
Telephone	\$7,250	
Cell Phone	\$11,777	
Equipment Lease/Rental	\$2,520	
Audit	\$10,350	
Dues/Subscription & Fees	\$4,815	
Insurance	\$35,900	
Total Funding Amount		\$1,653,249

**CITY OF COLLEGE STATION
HOME INVESTMENT PARTNERSHIP – AMERICAN RESCUE PLAN
SUPPORTIVE SERVICES FUNDING AGREEMENT**

This HOME – ARP Supportive Services Funding Agreement (the “Agreement”) is between the City of College Station (“City”), a Texas Home Rule Municipal Corporation, and TWIN CITY MISSION, INC., (“Subrecipient”), a private non-profit agency (collectively referred to as the “Parties”).

WHEREAS, the City has received funds under the American Rescue Plan; and

WHEREAS, the City wishes to engage Subrecipient to directly provide supportive services to qualifying populations residing within the City; and

WHEREAS, Subrecipient desires to provide supportive services to qualifying populations residing within the City through its FAMILY SUPPORT SERVICES program;

NOW, THEREFORE, the Parties Agree as follows;

**ARTICLE I
STATEMENT OF WORK**

1.01 Subrecipient shall provide the following supportive services to qualifying populations residing within the City Limits of the City of College Station: Trauma informed Case Management, Benefits Navigation, Life and Financial Coaching, and direct client service (the “Services”), and as further described on **Exhibit A**.

**ARTICLE II
AGREEMENT PERIOD**

2.01 This Agreement will terminate on September 30, 2030, unless extended by a written agreement.

**ARTICLE III
SUBRECIPIENT PERFORMANCE**

3.01 Subrecipient shall in all aspects of its performance the Services comply with the HOME Investment Partnerships Act, 42 U.S.C. § 12701 (the “Act”) and the implementing regulations, 24 C.F.R. Part 92, the HOME Investment Partnerships Program Rules, and the HOME-ARP Program Requirements as described in Implementation Notice CPD-21-10, as revised by Notice CPD-22-13.

3.02 Subrecipient shall perform all activities in accordance with the terms of the Performance Statement, (“**Exhibit A**”); the Budget, (“**Exhibit B**”); the Applicable Laws and Regulations, (“**Exhibit C**”); the Certifications, (“**Exhibit D**”); the Insurance Requirements and Certificates of Insurance (“**Exhibit E**”), the assurances, covenants, warranties, certifications, and all other statements made by Subrecipient in its application for the project funded under this Agreement;

and with all other terms, provisions, and requirements set forth in this Agreement.

3.03 In the event that there is program income, repayments, or recaptured funds, the funds must be used in accordance with the requirements of 24 C.F.R. § 92.503, as outlined in the Performance Statement, “**Exhibit A**”.

ARTICLE IV PAYMENT AND CITY OBLIGATIONS

4.01 Measure of Liability. In consideration of full and satisfactory performance of the activities referred to in Article V of this Agreement, City may reimburse for actual and reasonable costs up to the amount of ONE MILLION FOUR HUNDRED SEVENTY-NINE THOUSAND TWO HUNDRED TWENTY-THREE and 55/100 DOLLARS (\$1,479,223.55) that will be paid from the Fiscal Year 2022 Community Services Budget (HUD Grant Year 2021). These costs incurred by Subrecipient during the agreement period for performances rendered under this Agreement by Subrecipient are subject to the limitations set forth in this Article IV.

- (a) The Parties agree that City's obligations to meet City's liabilities under Article IV of this Agreement are contingent upon the actual receipt of adequate local or federal funds. If adequate funds are not available to make payments under this Agreement, the City shall notify Subrecipient in writing within a reasonable time after it is determined funds are not available. The City shall then terminate this Agreement and will not be liable for failure to make payments to Subrecipient under this Agreement.
- (b) City shall not be liable to Subrecipient for any costs incurred by Subrecipient, or any portion thereof, which have been paid to Subrecipient or which are subject to payment to Subrecipient, or which have been reimbursed to Subrecipient, or are subject to reimbursement to Subrecipient, by any source other than City or Subrecipient.
- (c) City shall not be liable to Subrecipient for any costs incurred by Subrecipient which are not eligible project costs, as set forth in 24 C.F.R. § 92.206 and Notice CPD 21-10 and Article VI of this Agreement. Funds provided under this Agreement shall not be used nor shall City be liable for payment of costs associated directly or indirectly incurred because of prohibited activities as defined in 24 C.F.R. § 92.214, as revised by Notice CPD 21-10.
- (d) City shall not be liable to Subrecipient for any costs incurred by Subrecipient or for any performances rendered by Subrecipient which are not strictly in accordance with the terms of this Agreement, including the terms of the Exhibits of this Agreement.
- (e) City shall not be liable for costs incurred or performance rendered by Subrecipient before commencement or after termination of this Agreement.

4.02 Limit of Liability

- (a) **Notwithstanding any other provision of this Agreement, the total of all payments and other obligations incurred by City under this Agreement shall under no circumstances exceed ONE MILLION FOUR HUNDRED SEVENTY-NINE THOUSAND TWO HUNDRED TWENTY-THREE and 55/100 Dollars, (\$1,479,223.55), from the HUD Grant Year 2021 Budget.**

ARTICLE V DISBURSEMENT OF FUNDS

5.01 City shall pay costs incurred which it determines are eligible and which are properly submitted under this Agreement in accordance with the requirements of 24 C.F.R. § 92.502. Subrecipient may not request disbursement of funds under this Agreement until the funds are needed for payment of eligible costs. The amount of each request must be limited to the amount of money needed to pay eligible costs actually incurred, and may not include amounts for prospective or future needs.

5.02 Any and all Program Income as defined in the Appendix to Notice CPD 21-10 must be disbursed by Subrecipient prior to requesting a disbursement of funds from the City.

5.03 The Parties agree that City's obligations to make payments under this Agreement are contingent upon Subrecipient's full and satisfactory performance of its obligations under this Agreement. City reserves the right to recover, recapture or offset funds paid under this Agreement in the event City determines Subrecipient will be unable to commit or expend funds within the prescribed time, as determined by the City. Subrecipient agrees to refund to the City all funds that the City in its sole discretion determines to have been used for ineligible or unapproved purposes. Such refunds will be made within thirty (30) days of notification by the City of the ineligible expenditure.

ARTICLE VI UNIFORM ADMINISTRATIVE REQUIREMENTS, COSTS PRINCIPLES AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

6.01 Subrecipient shall comply with the requirements of 2 CFR Part 200.

ARTICLE VII RETENTION AND ACCESSIBILITY OF RECORDS

7.01 Subrecipient must establish and maintain sufficient records that all funds used by Subrecipient pursuant to this Agreement benefitted individuals and families in qualifying populations, including those listed under 24 C.F.R. § 92.508, as amended by Notice CPD 21-10. The sufficiency of the records will be determined by City.

7.02 All records pertinent to this Agreement shall be retained by Subrecipient for five calendar years has expired with the following are exceptions:

- (a) If any litigation, claim or audit is started before the expiration of the five-year period and extends beyond the five-year period, the records will be maintained until all litigation, claims or audit findings involving the records have been finally resolved, including all legal and administrative appeals.
- (b) Records covering displacement and acquisitions must be retained for at least five years after the date by which all persons displaced from the property and all persons whose property is acquired for the project have received the final payment to which they are entitled in accordance with 24 C.F.R. § 92.353.

7.03 Subrecipient shall give HUD, the Comptroller General of the United States, the City of College Station, or any of their duly authorized representatives, access to and the right to examine all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by Subrecipient pertaining to this Agreement. Such rights to access shall continue as long as the records are retained by Subrecipient. Subrecipient agrees to maintain such records in a location accessible to the above-named persons and entities.

7.04 Subrecipient shall require the substance of this Article VII to be included in all subcontracts for the use of funds under this Agreement.

7.05 Subrecipient must provide citizens, public agencies, and other interested parties with reasonable access to records consistent with the TEXAS PUBLIC INFORMATION ACT.

ARTICLE VIII REPORTING REQUIREMENTS

8.01 Subrecipient shall submit to City such reports on the operation and performance of this Agreement as may be required by City including, but not limited to the reports specified in this Article VIII.

8.02 Subrecipient shall provide City with all reports necessary for City's compliance with 24 C.F.R. §§ 92.508, 92.509 and 24 C.F.R. SUBPART K or any other applicable statute, law or regulation. Subrecipient agrees to furnish the City with information on program participants, including: income verifications, race, ethnicity, age, sex, family status, disability status and head-of-household status. -add veteran status, household type, qualifying population

8.03 Subrecipient will report any project or program delays or modifications and await City approval before proceeding.

8.04 Subrecipient will also report any instances of fraud or program abuse to the City. Subrecipient agrees to meet with the City to discuss progress or concerns as the need arises and at the City's request.

8.05 Subrecipient agrees to report on a semi-annual quarterly basis to the City on program or project status. This must be a written report of the status on recently completed, ongoing, and pre-

approved programs or projects and must include information for the reporting period to include the status on: applicant approvals/denials; projects/programs approved; fund disbursements; project bidding information; property sales; contractor/subcontractors utilization to include: race, sex, ethnicity, addresses, social security numbers and amounts billed and paid; use of program income, repayments, and recaptured funds; and other information as specified by the City.

8.06 In addition to the limitations on liability otherwise specified in this Agreement, it is expressly understood and agreed by the Parties hereto that if Subrecipient fails to submit to City in a timely and satisfactory manner any report required by this Agreement, City may, at its sole option and in its sole discretion, withhold any or all payments otherwise due or requested by Subrecipient hereunder. If City withholds such payments, it shall notify Subrecipient in writing of its decision and the reasons therefore. Payments withheld pursuant to this paragraph may be held by City until such time as Subrecipient fully cures or performs any and all delinquent obligations identified as the reason funds are withheld.

ARTICLE IX MONITORING

9.01 The City reserves the right to carry out regular and periodic field inspections to ensure compliance with the requirements of this Agreement. After each monitoring visit, City shall provide Subrecipient with a written report of the monitor's findings. If the monitoring reports note deficiencies in Subrecipient's performances under the terms of this Agreement, the monitoring report shall include requirements for the timely correction of such deficiencies by Subrecipient. Failure by Subrecipient to take action specified in the monitoring report may be cause for suspension or termination of this Agreement, as provided in Article XVIII and XIX of this Agreement.

ARTICLE X INDEPENDENT CONTRACTOR

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

10.02 The Subrecipient 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 subletting of any portion or feature of the work or materials required in the performance of this Agreement shall not relieve the Subrecipient from its obligations to the City under this Agreement. The Subrecipient shall appoint and keep a competent program manager and any necessary assistants,

all satisfactory to the City, to act as the Subrecipient's representative and to supervise its employees and subcontractors. Adequate supervision by competent and reasonable representatives of the Subrecipient is essential to the proper performance of the work, and lack of such supervision shall be grounds for suspending the operations of the Subrecipient and is a breach of this Agreement.

10.03 By entering into this Agreement, City and Subrecipient do not intend to create a joint enterprise.

ARTICLE XI INDEMNIFICATION AND RELEASE

11.01 SUBRECIPIENT AGREES TO INDEMNIFY AND HOLD HARMLESS THE CITY, ITS OFFICERS, AGENTS, VOLUNTEERS, AND EMPLOYEES FROM AND AGAINST ANY AND ALL LOSS, COSTS, OR DAMAGE OF ANY KIND, NATURE, OR DESCRIPTION THAT MAY ARISE OUT OF OR IN CONNECTION WITH THIS AGREEMENT WHETHER OR NOT THE CLAIM OR CAUSE OF ACTION RESULTS FROM ANY NEGLIGENCE OF THE CITY OR ANY OF ITS OFFICERS, AGENTS, OR EMPLOYEES. 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.

11.02 SUBRECIPIENT ASSUMES FULL RESPONSIBILITY FOR THE WORK TO BE PERFORMED AND SERVICES TO BE PROVIDED HEREUNDER, AND HEREBY RELEASES, RELINQUISHES AND DISCHARGES THE CITY, ITS OFFICERS, AGENTS, VOLUNTEERS, AND, EMPLOYEES FROM ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION OF EVERY KIND AND CHARACTER, INCLUDING THE COST OF DEFENSE THEREOF, FOR ANY INJURY TO, INCLUDING DEATH OF, ANY PERSON (WHETHER EMPLOYEES OR AGENTS OF EITHER OF THE PARTIES HERETO OR THIRD PERSONS) AND ANY LOSS OF OR DAMAGE TO PROPERTY (WHETHER THE PROPERTY IS THAT OF EITHER OF THE PARTIES HERETO OR OF THIRD PARTIES) THAT IS CAUSED BY OR ALLEGED TO BE CAUSED BY, ARISING OUT OF, OR IN CONNECTION WITH THE SUBRECEPIENT'S WORK OR SERVICES PROVIDED HEREUNDER WHETHER OR NOT SAID CLAIMS, DEMANDS, OR CAUSES OF ACTIONS ARE COVERED IN WHOLE OR PART BY INSURANCE. 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.

11.03 BY ENTERING INTO THIS AGREEMENT THE CITY DOES NOT WAIVE ITS GOVERNMENTAL IMMUNITY OR THE LIMITATIONS AS TO DAMAGES CONTAINED IN THE TEXAS TORT CLAIMS ACT OR CONSENT TO SUIT.

ARTICLE XII INSURANCE

12.01 General. Subrecipient 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 services performed by Subrecipient, its agents, representatives, volunteers, employees, or subcontractors.

12.02 Subrecipient's insurance shall list the City of College Station, its employees, agents, volunteers, and officials as additional insureds. Insurance requirements are as set forth below. Certificates of insurance evidencing the required insurance coverages are attached in **Exhibit F**.

During the term of this Agreement Subrecipient's insurance policies shall meet the minimum requirements of this section:

12.03 Types. Subrecipient shall have the following types of insurance:

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

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

- (a) Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent.
- (b) Certificates of Insurance and endorsements shall be furnished on the most current State of Texas Department of Insurance-approved forms to the City's Representative at the time of execution of this Agreement; shall be attached to this Agreement as **Exhibit F**; and shall be approved by the City before work begins.
- (c) Contractor shall be responsible for all deductibles on any policies obtained in compliance with this Agreement. Deductibles shall be named on the Certificate of Insurance and are acceptable on a per-occurrence basis only.
- (d) The City will accept only Insurance Carriers licensed and authorized to do business in the State of Texas.
- (e) The City will not accept "claims made" policies.
- (f) Coverage shall not be suspended, canceled, non-renewed or reduced in limits of liability before thirty (30) days written notice has been given to the City.

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

- (a) General Liability insurance shall be written by a carrier rated "A:VIII" or better under the current A. M. Best Key Rating Guide.
- (b) Policies shall contain an endorsement naming the City as Additional Insured and further providing "primary and non-contributory" language with regard to self-insurance or any insurance the City may have or obtain

- (c) Limits of liability must be equal to or greater than \$500,000 per occurrence for bodily injury and property damage, with an annual aggregate limit of \$1,000,000.00. Limits shall be endorsed to be per project.
- (d) No coverage shall be excluded from the standard policy without notification of individual exclusions being submitted for the City's review and acceptance
- (e) The coverage shall include, but not be limited to the following: premises/operations with separate aggregate; independent contracts; products/completed operations; contractual liability (insuring the indemnity provided herein) Host Liquor Liability, and Personal & Advertising Liability.

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

12.07 Workers' Compensation/Employer's Liability Insurance. Workers Compensation/Employer's Liability insurance shall include the following terms:

- (a) Employer's Liability minimum limits of liability not less than \$500,000 for each accident/each disease/each employee are required.
- (b) "Texas Waiver of Our Right to Recover From Others Endorsement, WC 42 03 04" shall be included in this policy.
- (c) TEXAS must appear in Item 3A of the Workers' Compensation coverage or Item 3C must contain the following: "All States except those named in Item 3A and the States of NV, ND, OH, WA, WV, and WY".

ARTICLE XIII SUBCONTRACTS

13.01 Except for subcontracts to which the federal labor standards requirements apply, Subrecipient may not subcontract for performances of any obligation required or described in this Agreement without obtaining City's prior written approval. Subrecipient shall only subcontract for

performance obligations required or described in this Agreement to which the federal labor standards requirements apply after Subrecipient has submitted a Subcontractor utilization form, as specified by City, for each such proposed subcontract and Subrecipient has obtained City's prior written approval, based on the information submitted, of Subrecipient's intent to enter into such proposed subcontract. Subrecipient, in subcontracting for the performance of any obligation required as described in this Agreement, expressly understands that in entering into such subcontracts, City is in no way liable to Subrecipient's subcontractor(s).

13.02 In no event shall any provision of this Article XIII, specifically the requirement that Subrecipient obtain City's prior written approval of a subcontractor's eligibility, be construed as relieving Subrecipient of the responsibility for ensuring that the performances rendered under all subcontracts are rendered so as to comply with all of the terms of this Agreement, as if such performances rendered were rendered by Subrecipient. City's approval under Article XIII does not constitute adoption, ratification, or acceptance of Subrecipient's or subcontractor's performance hereunder. City maintains the right to insist upon Subrecipient's full compliance with the terms of this Agreement, and by the act of approval under Article XIII, City does not waive any rights or remedies which, may exist or which may subsequently accrue to City under this Agreement.

13.03 Subrecipient shall comply with all applicable federal, state, and local laws, regulations, and ordinances for making procurement under this Agreement.

13.04 Subrecipient shall submit a subcontractor utilization report prior to beginning work and prior to hiring any additional subcontractors.

ARTICLE XIV CONFLICT OF INTEREST

14.01 No employee, agent, consultant, officer, or elected official or appointed official of the City or the Subrecipient, individually known as a "Covered Person," that exercises or has exercised any functions or responsibilities with respect to HOME-ARP assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to HOME-ARP assisted activities, is eligible to receive HOME-ARP assistance under the Program or to have a financial interest or financial benefit in any contract, subcontract, or other agreement with respect to the HOME-ARP funded activities contemplated in this Agreement, or the proceeds from such activities. This provision shall apply to both Covered Persons and those with whom they have business or immediate family ties, during their tenure with the City or Subrecipient or for one year thereafter. Immediate family ties include (whether by blood, marriage or adoption) the spouse, parent (including a stepparent), child (including a stepchild), brother, sister (including a stepbrother or stepsister), grandparent, grandchild, and in-laws of a Covered Person. In the event a Covered Person, or a person with whom the Covered Person has business or family ties, is otherwise eligible and applies to the Program, Subrecipient will immediately notify the City. The City, in its sole discretion, may pursue an exception from HUD under the provisions of 24 CFR 92.356(d) to allow participation notwithstanding the conflict of interest. Only HUD may grant such an exception; neither the City nor the Subrecipient may grant such an exception on its own. Moreover, the City and Subrecipient shall comply with the conflict of interest requirements in 2

CFR 200.317 and 2 CFR 200.318 in the procurement of property and services.

ARTICLE XV COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS

15.01 Subrecipient shall comply with all federal, state and local laws, statutes, ordinances, rules, regulations, orders and decrees of any court or administrative body or tribunal related to the activities and performances of Subrecipient under this Agreement. Upon request by City, Subrecipient shall furnish satisfactory proof of its compliance herein.

15.02 Equal Opportunity. Subrecipient shall ensure that no person shall on the grounds of race, color, religion, sex, handicap, family status, age, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds provided under this Agreement. In addition, funds provided under this Agreement must be made available in accordance with the following requirements:

- a. The requirements of the Fair Housing Act (42 U.S.C. 3601-19) and implementing regulations at 24 CFR Part 100; Executive Order 11063, as amended by Executive Order 12259 (3 CFR 1958 B1963 Comp., P. 652 and 3 CFR 1980 Comp., P. 307) (Equal Opportunity in Housing) and implementing regulations at 24 CFR Part 107; and of the Civil Rights Act of 1964 (42 U.S. C. 2000d) (Nondiscrimination in Federally Assisted Programs) and implementing regulations issued at 24 CFR Part 1;
- b. The prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101-07) and implementing Regulations at 24 CFR Part 146;
- c. The requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR Part 8;
- d. Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and implementing regulations at 24 CFR part 135;
- e. The requirements of Executive Order 11246, as amended by Executive Orders 11375, 11478, 12086, and 12107 (3 CFR 1964-65, Comp., p. 339) (Equal Employment Opportunity) and the implementing regulations issued at 41 CFR Chapter 60;
- f. The requirements of 24 CFR 92.351, 2 CFR 200.321, Executive Orders 11625, as amended, and 12432 (concerning Minority Business Enterprise), and 12138, as amended (concerning Women's Business Enterprise); and
- g. The requirements of 24 CFR 5.105(a)(2) requiring that HUD-assisted housing be made available without regard to actual or perceived sexual orientation, gender identity, or marital status and prohibiting subrecipients, owners, developers, or their agents from inquiring about the sexual orientation or gender identity of an applicant for, or occupant of, HUD-assisted housing for the purpose of determining eligibility for the housing or otherwise making such housing available. This prohibition on inquiries regarding sexual orientation or gender identity does not prohibit any individual from voluntarily self-identifying sexual orientation or gender identity.

15.03 Lobbying Disclosure Requirements. In accordance with the requirements of 24 CFR part

87, the Subrecipient certifies, to the best of its knowledge and belief, that:

- a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
- b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Subrecipient shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;
- c. The Subrecipient shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all such lower-tier parties shall certify and disclose accordingly; and
- d. Subrecipient acknowledges that this certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

15.04 Drug-Free Workplace. Subrecipient will comply with the drug-free workplace requirements of 2 CFR 2429.

15.05 Faith-based activities. Organization that are religious or faith-based are eligible, on the same basis as any other organization, to participate in the HOME-ARP program in accordance with the requirement of 24 C.F.R. § 92.257, but must comply with the requirements of 24 CFR 5.109.

15.06 Verification No Boycott. To the extent applicable, this Agreement is subject to the following:

- a. Boycott Israel. If this Agreement is for goods and services subject to § 2270.002 Texas Government Code, Subrecipient verifies that it i) does not boycott Israel; and ii) will not boycott Israel during the term of this Agreement;
- b. Boycott Firearms. If this Agreement is for goods and services subject to § 2274.002 Texas Government Code, Subrecipient 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 Agreement against a firearm entity or firearm trade association; and
- c. Boycott Energy Companies. Subject to § 2274.002 Texas Government Code, Subrecipient herein verifies that it i) does not boycott energy companies; and ii) will not boycott energy companies during the term of this Agreement.

ARTICLE XVI LEGAL AUTHORITY

16.01 Subrecipient assures and guarantees that Subrecipient possesses the legal authority to enter into this Agreement, to receive funds authorized by this Agreement, and to perform the services Subrecipient has obligated itself to perform hereunder.

16.02 The person or persons signing and executing this Agreement on behalf of Subrecipient, or representing themselves as signing and executing this Agreement on behalf of Subrecipient, do hereby warrant and guarantee that they have been duly authorized by Subrecipient to execute this Agreement on behalf of Subrecipient and to validly and legally bind Subrecipient to all terms, performances, and provisions herein set forth.

16.03 Subrecipient shall not employ, award Agreement to, or fund any person that has been debarred, suspended, proposed for debarment, or placed on ineligibility status by U.S. Department of Housing and Urban Development. In addition, City shall have the right to suspend or terminate this Agreement if Subrecipient is debarred, suspended, proposed for debarment, or ineligible to participate in the HOME-ARP Program.

ARTICLE XVII LITIGATION AND CLAIMS

17.01 Subrecipient shall give City immediate notice in writing of a) any action, including any proceeding before an administrative agency, brought or filed against Subrecipient in connection with this Agreement; and b) any claim against Subrecipient. Except as otherwise directed by City, Subrecipient shall furnish immediately to City copies of all documents received by Subrecipient with respect to such action, proceeding, or claim.

ARTICLE XVIII CHANGES AND AMENDMENTS

18.01 Except as specifically provided otherwise in this Agreement, any alterations, additions, or deletions to the terms of this Agreement shall be by amendment hereto in writing and executed by both the Parties to this Agreement.

18.02 It is understood and agreed by the Parties hereto that any performance under this Agreement must be rendered in accordance with the Act, the regulations promulgated under the Act, the assurances and certifications made to City by Subrecipient, and the assurances and certifications made to the United States Department of Housing and Urban Development by the City with regard to the operation of the HOME-ARP Program.

18.03 Any alterations, additions, or deletions to the terms of this Agreement which are required by changes in Federal or state law or regulations are automatically incorporated into this Agreement without written amendment hereto, and shall become effective on the date designated by such law or regulations. All other amendments to the Agreement must be in writing and signed by both Parties, except as provided in paragraphs 18.02 and 18.03.

ARTICLE XIX SUSPENSION

19.01 In the event Subrecipient fails to comply with any term of this Agreement, City may, upon written notification to Subrecipient, suspend this Agreement in whole or in part and withhold further payments to Subrecipient, and prohibit Subrecipient from incurring additional obligations of funds under this Agreement.

ARTICLE XX TERMINATION

20.01 The City may terminate this Agreement in whole or in part, in accordance with 24 CFR. § 85.43, 2 CFR 200.339,400, and this Article or as provided in this Agreement. In the event Subrecipient materially fails as determined by City, to comply with any term of this Agreement, whether stated in a Federal statute or regulation, an assurance, in a City plan or application, a notice of award, or elsewhere, City may take one or more of the following actions:

- (a) Temporarily withhold cash payments pending correction of the deficiency or default by the Subrecipient.
- (b) Disallow all or part of the cost of the activity or action not in compliance; and require immediate repayment of such disallowed costs.
- (c) Withhold further HOME-ARP awards from Subrecipient.
- (d) Exercise other rights and remedies that may be legally available as determined by the City to comply with the terms of this Agreement.
- (e) City may terminate this Agreement for convenience in accordance with 24 C.F.R. §85.44.

ARTICLE XXI AUDIT

21.01 City may at any time request an audit of Subrecipient to ensure compliance under this Agreement. Subrecipient shall arrange for the performance of an annual financial and compliance audit of funds received and performances rendered under this Agreement, subject to the following conditions and limitations:

- (a) Subrecipient shall have an audit made in accordance with 2 CFR Part 200 Subpart F;

- (b) At the option of City, each audit required by this Article may cover either Subrecipient's entire operations or each department, agency, or establishment of Subrecipient which received, expended, or otherwise administered federal funds;
- (c) Unless otherwise specifically authorized by City in writing, Subrecipient shall submit the complete and final report of such audit to City within thirty (30) days after completion of the audit, but no later than one (1) year after the end of each fiscal period included within the period of this Agreement. All audits performed are subject to review and resolution by City or its authorized representative.
- (d) As part of its audit, Subrecipient shall verify expenditures according to the Budget attached as **Exhibit B**.

21.02 Notwithstanding 21.01 City reserves the right to conduct an annual financial and compliance audit of funds received and performances rendered under this Agreement. Subrecipient agrees to permit City or its authorized representative to audit Subrecipient's records and to obtain any documents, materials, or information necessary to facilitate such audit.

21.03 Subrecipient understands and agrees that it shall be liable to City for any costs disallowed pursuant to financial and compliance audit(s) of funds received under this Agreement. Subrecipient further understands and agrees that reimbursement to City of such disallowed costs shall be paid by Subrecipient from funds which were not provided or otherwise made available to Subrecipient under this Agreement.

21.04 Subrecipient shall take all necessary actions to facilitate the performance of such audit or audits conducted pursuant to this Article XXI as City may require of Subrecipient

21.05 All approved HOME-ARP audit reports shall be made available for public inspection within 30 days after completion of the audit.

ARTICLE XXII ENVIRONMENTAL CLEARANCE REQUIREMENTS

22.01 Subrecipient understands and agrees that by the execution of this Agreement, City shall assume the responsibilities for environmental review, decision making, and other action which would otherwise apply to City in accordance with and to the extent specified in 24 C.F.R., PARTS 50 AND 58. In accordance with 24 C.F.R. § 58.77(b), Subrecipient further understands and agrees that City shall handle inquiries and complaints from persons and agencies seeking redress in relation to environmental reviews covered by approved certifications.

22.02 City shall prepare and maintain a written Environmental Review in accordance with 24 C.F.R. PART 58 to ensure compliance with the NATIONAL ENVIRONMENTAL POLICY ACT (NEPA).

ARTICLE XXIII SPECIAL CONDITIONS

23.01 Affirmative Marketing. Should funds from this Agreement be used in the construction of five (5) or more dwelling units, Subrecipient shall adopt Affirmative Marketing procedures and requirements. The Affirmative Marketing procedures and requirements shall include, but need not be limited to, those specified in 24 C.F.R. § 92.351. City will assess the efforts of the Subrecipient during the marketing of the units by use of compliance certification. Where a Subrecipient fails to follow the Affirmative Marketing procedures and requirements, corrective actions shall include extensive outreach efforts to appropriate contacts to achieve the occupancy goals or other sanctions the City may deem necessary. Subrecipient must provide City with an annual assessment of the Affirmative Marketing program of the development, if an Affirmative Marketing program is required under this section. The assessment must include:

- (a) Method used to inform the public and potential residents about Federal Fair Housing laws and Affirmative Marketing policy. Subrecipient's advertising of housing must include the Equal Housing Opportunity logo or statement. Advertising media may include newspaper, radio, television, brochures, leaflets, or signage. Subrecipient may wish to use community organizations, places of worship, employment centers, fair housing groups, housing counseling agencies, social service centers or medical service centers as resources for this outreach.
- (b) Records describing actions taken by the Subrecipient to affirmatively market housing and records to assess the results of these actions. Subrecipient must maintain a file containing all marketing efforts (i.e. copies of newspapers ad, memos of phone calls, copies of letters) to be available for inspection at least annually by City.
- (c) Subrecipient shall solicit applications for housing from persons in the housing market who are least likely to apply for housing without benefit of special outreach efforts. In general, persons who are not of the race/ethnicity of the residents of the neighborhood in which the housing is located shall be considered those least likely to apply.
- (d) Subrecipient shall maintain a listing of all residents residing in each home through the end of the compliance period.
- (e) The Subrecipient will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps shall include: Placing qualified small and minority businesses and women's business enterprises on solicitation lists; Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources; Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises; Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises; Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in the preceding paragraph.

23.02 Enforcement of Affordability. Subrecipient and City shall provide legally enforceable agreements consisting of a Real Estate Lien Note and Deed of Trust, containing remedies adequate to enforce the affordability requirements of 24 C.F.R. § 92.254, as applicable, for each activity assisted under this Agreement, to be recorded in the real property records of Brazos County. Funds recaptured because housing no longer meets the affordability requirements under 24 C.F.R. § 92.254(a)(5) are subject to the requirements of 24 C.F.R. § 92.503. Subrecipient must provide along with the other legal instruments an Agreement of Affordability.

23.03 Reversion of Assets. Upon termination of this Agreement, all funds remaining on hand on the date of termination and all accounts receivable attributable to the use of funds received under this Agreement shall revert to City. Subrecipient shall return these assets to City within seven (7) days after the date of termination.

23.04 Flood Hazards. Funds provided under this Agreement may not be used in connection with acquisition, rehabilitation, or construction of a development located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards.

23.05 Displacement, Relocation, and Acquisition. Subrecipient must ensure that it has taken all reasonable steps to minimize the displacement of persons (families, business and nonprofit organizations) as a result of a project assisted with funds provided under this Agreement. Subrecipient must comply with the applicable provisions of 24 C.F.R. 92.353, 49 C.F.R. Part 24, and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601-4655).

23.06 Property Standards. Subrecipient shall ensure that all housing assisted with funds provided under this Agreement (1) shall meet the lead-based paint requirements in 24 C.F.R. § 92.355 upon project completion and (2) shall meet the requirements of 24 C.F.R. § 92.355 for the duration of this Agreement.

23.07 Fees Prohibited. Subrecipient is prohibited from charging any servicing, origination, or other fees for the costs of administering its program hereunder, except as may be permitted by 24 CFR 92.214, and as revised by Notice CPD 21-10. All documents necessary for the conveyance of real property, pursuant to the agreement, must be approved, prior to execution, by the City. (i.e. deeds, notes, Deed of Trust, etc.)

23.08 Funding under this Agreement is contingent upon Subrecipient meeting all terms, conditions of this Agreement.

23.09 This Agreement and the performance hereunder may not be assigned without the express written consent of City.

23.10 This Agreement is binding on Subrecipient's permitted assigns and successors-in-interest.

ARTICLE XXIV ORAL AND WRITTEN AGREEMENTS

24.01 All oral and written agreements between the Parties relating to the subject matter of this Agreement that were made prior to the execution of this Agreement have been reduced to writing and are contained in this Agreement.

24.02 The attachments enumerated and denominated below are hereby made a part of this Agreement, and constitute promised performances by Subrecipient in accordance with Article III of this Agreement.

**ARTICLE XXV
VENUE**

25.01 For purposes of litigation pursuant to this Agreement, venue shall lie in Brazos County, Texas

List of Exhibits

- A. Performance Statement
- B. Budget
- C. Applicable Laws and Regulations
- D. Certifications
- E. Insurance Certificates

TWIN CITY MISSION, INC.

CITY OF COLLEGE STATION

By:_____

By:_____

Printed Name:_____

City Manager

Date:_____

Title:_____

APPROVED:

Date:_____

City Attorney

Date:_____

Assistant City Manager/CFO

Date:_____

EXHIBIT A PERFORMANCE STATEMENT

1. **Subrecipient** is awarded up to \$1,479,223.55 from the City of College Station FY 2022 (HUD Grant Year 2021) HOME-ARP Program. These funds must be used to provide the following supportive services to qualifying populations residing within the city limits of the City of College Station:
 - a. Trauma Informed Case Management (list and describe supportive services and state whether the supportive services are McKinney-Vento supportive services, homelessness prevention services, Housing Counseling services or some combination of the three.)
 - b. Benefits Navigation (list and describe supportive services and state whether the supportive services are McKinney-Vento supportive services, homelessness prevention services, Housing Counseling services or some combination of the three.)
 - c. Life and Financial Coaching (list and describe supportive services and state whether the supportive services are McKinney-Vento supportive services, homelessness prevention services, Housing Counseling services or some combination of the three.)
 - d. Direct provision of services for eligible expenses as listed in Notice: CPD-21-10 Section D. Supportive Services, 4,c.Eligible Cost. (list and describe supportive services and state whether the supportive services are McKinney-Vento supportive services, homelessness prevention services, Housing Counseling services or some combination of the three.)
2. A detailed Program Budget and cost breakdown shall be submitted by the Subrecipient to the City for review of each project for a cost or price analysis prior to the start of the project.
3. A final budget shall be submitted with HOME-ARP close-out information at the end this Agreement showing total costs and funding sources.
4. Subrecipient must provide written notification of all subcontractors to City.
5. Any program income, recaptured funds, or repayment of any funds must be immediately returned to the City of College Station. In the event that there is program income, repayments, and/or recaptured funds, the funds must be used in accordance with the requirements of 24 C.F.R. § 92.503.

**EXHIBIT B
BUDGET**

SOURCES OF FUNDS:

Maximum Proceeds of grant under the agreement	<u>\$1,479,223.55</u>
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USES OF FUNDS:

Supportive Services

Salary.....	\$713,833.31
Supportive Services Activities.....	\$708,789.69
Clinical Supervision.....	\$9,000.00
Vehicle Lease.....	\$33,000.00
Vehicle Maintenance/Fuel.....	\$9,800.00
Mileage.....	\$4,800.00

EXHIBIT C

THE APPLICABLE LAWS AND REGULATIONS

Subrecipient shall comply with all federal, state, and local laws and regulations applicable to the activities and performances rendered by Subrecipient under this Agreement including but not limited to the laws, and the regulations specified in Section I through VI of this Exhibit C.

I. CIVIL RIGHTS

- THE FAIR HOUSING ACT (42 U.S.C. 3601-20) AND IMPLEMENTING REGULATIONS AT 24 C.F.R. PART 100; EXECUTIVE ORDER 11063, AS AMENDED BY EXECUTIVE ORDER 12259 (3 C.F.R., 1958-1963 COMP., P. 652 AND 3 C.F.R., 1980 COMP., P. 307) (EQUAL OPPORTUNITY IN HOUSING) AND IMPLEMENTING REGULATIONS AT 24 C.F.R., PART 107; AND TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 (42 U.S.C. 2000D) (NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS) AND IMPLEMENTING REGULATIONS ISSUED AT 24 C.F.R., PART 1;
- EXECUTIVE ORDER 11063, AS AMENDED BY EXECUTIVE ORDER 12259, AND 24 C.F.R. PART 107, "NONDISCRIMINATION AND EQUAL OPPORTUNITY IN HOUSING UNDER EXECUTIVE ORDER 11063". THE FAILURE OR REFUSAL OF SUBRECIPIENT TO COMPLY WITH THE REQUIREMENTS OF EXECUTIVE ORDER 11063 OR 24 C.F.R., PART 107 SHALL BE A PROPER BASIS FOR THE IMPOSITION OF SANCTIONS SPECIFIED IN 24 C.F.R. 107.60;
- THE PROHIBITION AGAINST DISCRIMINATION ON THE BASIS OF AGE UNDER THE AGE DISCRIMINATION ACT OF 1975 (42 U.S.C. 6101-07) AND IMPLEMENTING REGULATIONS AT 24 C.F.R., PART 146, AND THE PROHIBITIONS AGAINST DISCRIMINATION AGAINST HANDICAPPED INDIVIDUALS UNDER SECTION 504 OF THE REHABILITATION ACT OF 1973 (29 U.S.C. 794) AND IMPLEMENTING REGULATIONS AT 24 C.F.R., PART 8;
- THE REQUIREMENTS OF EXECUTIVE ORDER 11246 (3 C.F.R. 1964-65, COMP., P. 339) (EQUAL EMPLOYMENT OPPORTUNITY) AND THE IMPLEMENTING REGULATIONS ISSUED AT 41 C.F.R., CHAPTER 60.
- THE REQUIREMENTS OF 24 C.F.R. 92.351 (MINORITY OUTREACH), EXECUTIVE ORDERS 11625 AND 12432 (CONCERNING MINORITY BUSINESS ENTERPRISE), AND 12138 (CONCERNING WOMEN'S BUSINESS ENTERPRISE). CONSISTENT WITH HUD'S RESPONSIBILITIES UNDER THESE ORDERS, SUBRECIPIENT MUST MAKE EFFORTS TO ENCOURAGE THE USE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES IN CONNECTION WITH HOME FUNDED ACTIVITIES. SUBRECIPIENT MUST PRESCRIBE PROCEDURES ACCEPTABLE TO THE CITY TO ESTABLISH ACTIVITIES TO ENSURE THE INCLUSION, TO THE MAXIMUM EXTENT POSSIBLE, OF MINORITIES AND WOMEN, AND ENTITIES OWNED BY MINORITIES AND WOMEN. THE AGREEMENT OR / SUBCONTRACTOR WILL BE REQUIRED TO IDENTIFY AGREEMENTS WHICH HAVE BEEN BID BY MINORITY OWNED, WOMEN OWNED, AND/OR SMALL DISADVANTAGED BUSINESSES.
- THE AGE DISCRIMINATION ACT OF 1975 (42 U.S.C., SECTION 6101 ET SEQ.);
- SECTION 504 OF THE REHABILITATION ACT OF 1973 (29 U.S.C., SECTION 794) AND "NONDISCRIMINATION BASED ON HANDICAP IN FEDERALLY-ASSISTED PROGRAMS AND ACTIVITIES OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT", 24 C.F.R., PART 8. BY SIGNING THIS AGREEMENT, SUBRECIPIENT UNDERSTANDS AND AGREES THAT THE ACTIVITIES FUNDED HEREIN SHALL BE OPERATED IN ACCORDANCE WITH 24 C.F.R., PART 8; AND THE ARCHITECTURAL BARRIERS ACT OF 1968 (42 U.S.C., SECTION 4151 ET. SEQ.) INCLUDING THE USE OF A TELECOMMUNICATIONS DEVICE FOR DEAF PERSONS (TDDs) OR EQUALLY EFFECTIVE COMMUNICATION SYSTEM.

II. LEAD-BASED PAINT

- TITLE IV OF THE LEAD-BASED PAINT POISONING PREVENTION ACT (42 U.S.C. SEC. 4831).

III. ENVIRONMENTAL STANDARDS

- NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 (42 U.S.C. SEC. 4321 ET. SEQ.) AND 40 C.F.R. PARTS 1500-1508;
- THE NATIONAL HISTORIC PRESERVATION ACT OF 1966 (16 U.S.C. SEC. 470 ET. SEQ.) AS AMENDED; PARTICULARLY SECTION 106 (16 U.S.C. SEC. 470F);
- EXECUTIVE ORDER 11593, PROTECTION AND ENHANCEMENT OF THE CULTURAL ENVIRONMENT, MAY 13, 1971 (36 FED. REG. 8921), PARTICULARLY SECTION 2(C);
- THE RESERVOIR SALVAGE ACT OF 1960 (16 U.S.C. SEC. 469 ET SEQ.). PARTICULARLY SECTION 3 (16 U.S.C. SEC. 469A-1), AS AMENDED BY THE ARCHEOLOGICAL AND HISTORIC PRESERVATION ACT OF 1974; FLOOD DISASTER PROTECTION ACT OF 1973, (42 U.S.C. SEC. 4001 ET. SEQ.) AS AMENDED, PARTICULARLY SECTIONS 102(A) AND 202(A) (42 U.S.C. SEC. 4012A (A) AND SEC. 4106(A);
- EXECUTIVE ORDER 11988, FLOODPLAIN MANAGEMENT, MAY 24, 1977 (42 FED. REG. 26951), PARTICULARLY SECTION 2(A).
- EXECUTIVE ORDER 11990 PROTECTION OF WETLANDS, MAY 24, 1977 (42 FED. REG. 26961), PARTICULARLY SECTIONS 2 AND 5.
- THE SAFE DRINKING WATER ACT OF 1974, (42 U.S.C. SEC. 201, 300(F) ET SEQ.) AND (21 U.S.C. SEC. 349) AS AMENDED, PARTICULARLY SECTION 1424(E) (42 U.S.C. SEC. 300H-303(E);
- THE ENDANGERED SPECIES ACT OF 1973, (16 U.S.C. SEC. 1531 ET. SQ.) AS AMENDED, PARTICULARLY SECTION 7 (16 U.S.C. SEC. 1536);
- THE WILD AND SCENIC RIVERS ACT OF 1968, (16 U.S.C. SEC. 1271 ET SEQ.) AS AMENDED, PARTICULARLY SECTION 7(B) AND (C)(16 U.S.C. SEC. 1278(B) AND (C);
- THE CLEAN AIR ACT (41 U.S.C. SEC. 7401 ET SEQ.) AS AMENDED, PARTICULARLY SECTION 176(C) AND (D) (42 U.S.C. SEC. 7506(C) AND (D);
- FARMLANDS PROTECTION AND POLICY ACT OF 1981, (7 U.S.C. SEC. 4201 ET SEQ.)
- 24 C.F.R. PART 51, ENVIRONMENTAL CRITERIA AND STANDARDS.

IV. ACQUISITION/RELOCATION

- THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970 (42 U.S.C., SEC. 4601 ET. SEQ.), 49 C.F.R. PART 24, AND 24 C.F.R. SECTION 570.496A (55 FED. REG. 29309 (JULY 18, 1990)

V. LABOR REQUIREMENTS

- AGREEMENT WORK HOURS AND SAFETY STANDARDS ACT, AS AMENDED (40 USC 327-333)
- COPELAND (ANTI-KICKBACK) ACT (40 USC 276c)
- FAIR LABOR STANDARDS ACT OF 1938, AS AMENDED (29 USC 201, ET. SEQ.)

EXHIBIT D
CERTIFICATION REGARDING LOBBYING FOR
AGREEMENTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS

The undersigned certifies, to the best of its knowledge and belief, that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a member of congress, an officer or employee of congress, or an employee of a member of congress in connection with the awarding of any federal agreement, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement or modification of any federal agreement, grant, loan, or cooperative agreement.
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of congress, an officer or employee of congress, or an employee of a member of congress in connection with this federal agreement, grant, loan, or cooperative agreement, the undersigned shall complete and submit standard form LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and agreements under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C.A. § 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

By: _____

Printed Name: _____

Title: _____

Date: _____

EXHIBIT E
CERTIFICATES OF INSURANCE

September 14, 2023

Item No. 9.9.

HOME-ARP Nonprofit Operating and Capacity Building funding agreement

Sponsor: Raney Whitwell, Community Development Analyst

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding a HOME-American Rescue Plan funding agreement in the amount of \$174,026 with Twin City Mission to increase capacity for and operate the Family Support Services program for College Station residents eligible under the grant requirements.

Relationship to Strategic Goals:

Financial Sustainability, Core Services & Infrastructure, Neighborhood Integrity, Diverse & Growing Economy

Recommendation(s): Staff recommends consideration of the HOME-ARP Nonprofit Operating and Capacity Building funding agreement with Twin City Mission in the amount of \$174,026 for the Family Support Services Program.

Summary: The U. S. Department of Housing and Urban Development (HUD) provided notice to all eligible grantees in June 2021 regarding a new grant opportunity through the American Rescue Plan to address the qualifying populations through four activities: Supportive Services, Rental Housing Construction, Non-Congregate Shelter, or Tenant Based Rental Assistance. As indicated in Attachment 1, staff completed research, stakeholder meetings, round table discussions, interviews with service providers, and those seeking services and it was determined that Supportive Services are the most pressing need in College Station.

The HOME-ARP Allocation Plan (Plan) was developed to meet the requirements of the grant and specify how the grant would be utilized in College Station. City Council approved the Plan on May 26, 2022 and the Plan was approved by HUD on July 8, 2022. The plan allocates \$1,740,263 according to the budget found in Attachment 2. Funds must be used to benefit College Station individuals and families in the following specified qualifying populations: homeless, at risk of becoming homeless, fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking, or other populations at risk of becoming homeless, including veterans and their families. The grant requires that services must be made available to all qualifying populations.

A Request for Proposal was released on May 1, 2023, seeking qualified nonprofits to administer supportive services programming. Four responses were received to the Request for Proposal. Twin City Mission, Inc. is the only applicant that proposed a program to serve all qualifying populations without restrictions. This item will allow the City Council to consider approval of a Nonprofit Operating and Capacity Building funding agreement in the amount of \$174,026.00 with Twin City Mission, Inc. to develop and operate the Family Support Services program. The Family Support Services program will provide supportive services, trauma-informed case management, and benefits navigation to all qualifying populations in College Station. Twin City Mission will operate the program in donated spaces to provide the services. This contract will end on September 30, 2030 or when all funds are expended, whichever occurs first.

Twin City Mission, Inc. has served homeless individuals in the Brazos Valley since 1963 and is

experienced with the needs and barriers faced by these populations. This program is expected to have a significant impact on the most vulnerable residents in our community and will assist them in working towards a stable living environment and self-sufficiency.

The approved Plan can be found at
www.cstx.gov/departments__city_hall/commserve/development/publications

Budget & Financial Summary: \$174,026.00 in HOME ARP funds are available in the 2023 Community Development fund.

Attachments:

1. 23300745 HOME-ARP - Nonprofit Operating and Capacity Building

**CITY OF COLLEGE STATION
HOME INVESTMENT PARTNERSHIP – AMERICAN RESCUE PLAN
OPERATING AND CAPACITY BUILDING ASSISTANCE FUNDING AGREEMENT**

This HOME – ARP Operating and Capacity Building Assistance Funding Agreement (the “Agreement”) is between the City of College Station (“City”), a Texas Home Rule Municipal Corporation, and TWIN CITY MISSION, INC. (“Subrecipient”), a private non-profit agency (collectively referred to as the “Parties”).

WHEREAS, the City has received funds under the American Rescue Plan; and

WHEREAS, Subrecipient has a current contract with City for HOME-ARP supportive services; and

WHEREAS, the City wishes to support the general operating costs of Subrecipient for costs not tied to a specific program but would allow Subrecipient to improve the capacity of the organization to carry out eligible core HOME-ARP activities successfully; and

NOW, THEREFORE, the Parties Agree as follows;

**ARTICLE I
SCOPE OF ASSISTANCE**

1.01 Subrecipient shall use funds received under this Agreement only for eligible general operating costs of Subrecipient (the “Expenses”), and as further described on **Exhibit A**.

**ARTICLE II
AGREEMENT PERIOD**

2.01 This Agreement will terminate on September 30, 2030, unless extended by a written agreement.

**ARTICLE III
SUBRECIPIENT PERFORMANCE**

3.01 Subrecipient shall in all aspects of its performance of this Agreement comply with the HOME Investment Partnerships Act, 42 U.S.C. § 12701 (the “Act”) and the implementing regulations, 24 C.F.R. Part 92, the HOME Investment Partnerships Program Rules, and the HOME-ARP Program Requirements as described in Implementation Notice CPD-21-10, as revised by Notice CPD-22-13.

3.02 Subrecipient shall perform all activities in accordance with the terms of the Performance Statement, (**“Exhibit A”**); the Budget, (**“Exhibit B”**); the Applicable Laws and Regulations, (**“Exhibit C”**); the Certifications, (**“Exhibit D”**); the Insurance Requirements and Certificates of Insurance (**“Exhibit E”**), the assurances, covenants, warranties, certifications, and all other statements made by Subrecipient in its application for the project funded under this Agreement; and with all other terms, provisions, and requirements set forth in this Agreement.

3.03 In the event that there is program income, repayments, or recaptured funds, the funds must be used in accordance with the requirements of 24 C.F.R. § 92.503, as outlined in the Performance Statement, “**Exhibit A**”.

ARTICLE IV PAYMENT AND CITY OBLIGATIONS

4.01 Measure of Liability. In consideration of full and satisfactory performance of the activities referred to in Article V of this Agreement, City may reimburse for actual and reasonable costs up to the amount of **ONE HUNDRED SEVENTY-FOUR THOUSAND TWENTY-SIX** and 30/100 DOLLARS (\$174,026.30) that will be paid from the Fiscal Year 2022 Community Services Budget (HUD Grant Year 2021). These costs incurred by Subrecipient during the agreement period for performances rendered under this Agreement by Subrecipient are subject to the limitations set forth in this Article IV.

- (a) The Parties agree that City's obligations to meet City's liabilities under Article IV of this Agreement are contingent upon the actual receipt of adequate local or federal funds. If adequate funds are not available to make payments under this Agreement, the City shall notify Subrecipient in writing within a reasonable time after it is determined funds are not available. The City shall then terminate this Agreement and will not be liable for failure to make payments to Subrecipient under this Agreement.
- (b) City shall not be liable to Subrecipient for any costs incurred by Subrecipient, or any portion thereof, which have been paid to Subrecipient or which are subject to payment to Subrecipient, or which have been reimbursed to Subrecipient, or are subject to reimbursement to Subrecipient, by any source other than City or Subrecipient.
- (c) City shall not be liable to Subrecipient for any costs incurred by Subrecipient which are not eligible project costs, as set forth in 24 C.F.R. § 92.206 and Notice CPD 21-10 and Article VI of this Agreement. Funds provided under this Agreement shall not be used nor shall City be liable for payment of costs associated directly or indirectly incurred because of prohibited activities as defined in 24 C.F.R. § 92.214, as revised by Notice CPD 21-10.
- (d) City shall not be liable to Subrecipient for any costs incurred by Subrecipient or for any performances rendered by Subrecipient which are not strictly in accordance with the terms of this Agreement, including the terms of the Exhibits of this Agreement.
- (e) City shall not be liable for costs incurred or performance rendered by Subrecipient before commencement or after termination of this Agreement.

4.02 Limit of Liability

- (a) Notwithstanding any other provision of this Agreement, the total of all payments and other obligations incurred by City under this Agreement shall under no circumstances exceed **ONE HUNDRED SEVENTY-FOUR THOUSAND TWENTY-SIX and 30/100 Dollars, (\$174,026.30), from the HUD Grant Year 2021 Budget.**

ARTICLE V DISBURSEMENT OF FUNDS

5.01 City shall pay costs incurred which it determines are eligible and which are properly submitted under this Agreement in accordance with the requirements of 24 C.F.R. § 92.502. Subrecipient may not request disbursement of funds under this Agreement until the funds are needed for payment of eligible costs. The amount of each request must be limited to the amount of money needed to pay eligible costs actually incurred, and may not include amounts for prospective or future needs.

5.02 Any and all Program Income as defined in the Appendix to Notice CPD 21-10 must be disbursed by Subrecipient prior to requesting a disbursement of funds from the City.

5.03 The Parties agree that City's obligations to make payments under this Agreement are contingent upon Subrecipient's full and satisfactory performance of its obligations under this Agreement. City reserves the right to recover, recapture or offset funds paid under this Agreement in the event City determines Subrecipient will be unable to commit or expend funds within the prescribed time, as determined by the City. Subrecipient agrees to refund to the City all funds that the City in its sole discretion determines to have been used for ineligible or unapproved purposes. Such refunds will be made within thirty (30) days of notification by the City of the ineligible expenditure.

ARTICLE VI UNIFORM ADMINISTRATIVE REQUIREMENTS, COSTS PRINCIPLES AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

6.01 Subrecipient shall comply with the requirements of 2 CFR Part 200.

ARTICLE VII RETENTION AND ACCESSIBILITY OF RECORDS

7.01 Subrecipient must establish and maintain sufficient records that all funds used by Subrecipient pursuant to this Agreement benefitted individuals and families in qualifying populations, including those listed under 24 C.F.R. § 92.508, as amended by Notice CPD 21-10. The sufficiency of the records will be determined by City.

7.02 All records pertinent to this Agreement shall be retained by Subrecipient for five calendar years has expired with the following are exceptions:

- (a) If any litigation, claim or audit is started before the expiration of the five-year period and extends beyond the five-year period, the records will be maintained until all litigation, claims or audit findings involving the records have been finally resolved, including all legal and administrative appeals.
- (b) Records covering displacement and acquisitions must be retained for at least five years after the date by which all persons displaced from the property and all persons whose property is acquired for the project have received the final payment to which they are entitled in accordance with 24 C.F.R. § 92.353.

7.03 Subrecipient shall give HUD, the Comptroller General of the United States, the City of College Station, or any of their duly authorized representatives, access to and the right to examine all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by Subrecipient pertaining to this Agreement. Such rights to access shall continue as long as the records are retained by Subrecipient. Subrecipient agrees to maintain such records in a location accessible to the above-named persons and entities.

7.04 Subrecipient shall require the substance of this Article VII to be included in all subcontracts for the use of funds under this Agreement.

7.05 Subrecipient must provide citizens, public agencies, and other interested parties with reasonable access to records consistent with the TEXAS PUBLIC INFORMATION ACT.

ARTICLE VIII REPORTING REQUIREMENTS

8.01 Subrecipient shall submit to City such reports on the operation and performance of this Agreement as may be required by City including, but not limited to the reports specified in this Article VIII.

8.02 Subrecipient shall provide City with all reports necessary for City's compliance with 24 C.F.R. §§ 92.508, 92.509 and 24 C.F.R. SUBPART K or any other applicable statute, law or regulation. Subrecipient agrees to furnish the City with information on program participants, including: income verifications, race, ethnicity, age, sex, family status, disability status and head-of-household status. -add veteran status, household type, qualifying population

8.03 Subrecipient will report any project or program delays or modifications and await City approval before proceeding.

8.04 Subrecipient will also report any instances of fraud or program abuse to the City. Subrecipient agrees to meet with the City to discuss progress or concerns as the need arises and at the City's request.

8.05 Subrecipient agrees to report on a semi-annual quarterly basis to the City on program or project status. This must be a written report of the status on recently completed, ongoing, and pre-approved programs or projects and must include information for the reporting period to include

the status on: applicant approvals/denials; projects/programs approved; fund disbursements; project bidding information; property sales; contractor/subcontractors utilization to include: race, sex, ethnicity, addresses, social security numbers and amounts billed and paid; use of program income, repayments, and recaptured funds; and other information as specified by the City.

8.06 In addition to the limitations on liability otherwise specified in this Agreement, it is expressly understood and agreed by the Parties hereto that if Subrecipient fails to submit to City in a timely and satisfactory manner any report required by this Agreement, City may, at its sole option and in its sole discretion, withhold any or all payments otherwise due or requested by Subrecipient hereunder. If City withholds such payments, it shall notify Subrecipient in writing of its decision and the reasons therefore. Payments withheld pursuant to this paragraph may be held by City until such time as Subrecipient fully cures or performs any and all delinquent obligations identified as the reason funds are withheld.

ARTICLE IX MONITORING

9.01 The City reserves the right to carry out regular and periodic field inspections to ensure compliance with the requirements of this Agreement. After each monitoring visit, City shall provide Subrecipient with a written report of the monitor's findings. If the monitoring reports note deficiencies in Subrecipient's performances under the terms of this Agreement, the monitoring report shall include requirements for the timely correction of such deficiencies by Subrecipient. Failure by Subrecipient to take action specified in the monitoring report may be cause for suspension or termination of this Agreement, as provided in Article XVIII and XIX of this Agreement.

ARTICLE X INDEPENDENT CONTRACTOR

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

10.02 The Subrecipient 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 subletting of any portion or feature of the work or materials required in the performance of this Agreement shall not relieve the Subrecipient from its obligations to the City under this Agreement. The Subrecipient shall appoint and keep a competent program manager and any necessary assistants, all satisfactory to the City, to act as the Subrecipient's representative and to supervise its employees

and subcontractors. Adequate supervision by competent and reasonable representatives of the Subrecipient is essential to the proper performance of the work, and lack of such supervision shall be grounds for suspending the operations of the Subrecipient and is a breach of this Agreement.

10.03 By entering into this Agreement, City and Subrecipient do not intend to create a joint enterprise.

ARTICLE XI INDEMNIFICATION AND RELEASE

11.01 SUBRECIPIENT AGREES TO INDEMNIFY AND HOLD HARMLESS THE CITY, ITS OFFICERS, AGENTS, VOLUNTEERS, AND EMPLOYEES FROM AND AGAINST ANY AND ALL LOSS, COSTS, OR DAMAGE OF ANY KIND, NATURE, OR DESCRIPTION THAT MAY ARISE OUT OF OR IN CONNECTION WITH THIS AGREEMENT WHETHER OR NOT THE CLAIM OR CAUSE OF ACTION RESULTS FROM ANY NEGLIGENCE OF THE CITY OR ANY OF ITS OFFICERS, AGENTS, OR EMPLOYEES. 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.

11.02 SUBRECIPIENT ASSUMES FULL RESPONSIBILITY FOR THE WORK TO BE PERFORMED AND SERVICES TO BE PROVIDED HEREUNDER, AND HEREBY RELEASES, RELINQUISHES AND DISCHARGES THE CITY, ITS OFFICERS, AGENTS, VOLUNTEERS, AND, EMPLOYEES FROM ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION OF EVERY KIND AND CHARACTER, INCLUDING THE COST OF DEFENSE THEREOF, FOR ANY INJURY TO, INCLUDING DEATH OF, ANY PERSON (WHETHER EMPLOYEES OR AGENTS OF EITHER OF THE PARTIES HERETO OR THIRD PERSONS) AND ANY LOSS OF OR DAMAGE TO PROPERTY (WHETHER THE PROPERTY IS THAT OF EITHER OF THE PARTIES HERETO OR OF THIRD PARTIES) THAT IS CAUSED BY OR ALLEGED TO BE CAUSED BY, ARISING OUT OF, OR IN CONNECTION WITH THE SUBRECEPIENT'S WORK OR SERVICES PROVIDED HEREUNDER WHETHER OR NOT SAID CLAIMS, DEMANDS, OR CAUSES OF ACTIONS ARE COVERED IN WHOLE OR PART BY INSURANCE. 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.

11.03 BY ENTERING INTO THIS AGREEMENT THE CITY DOES NOT WAIVE ITS GOVERNMENTAL IMMUNITY OR THE LIMITATIONS AS TO DAMAGES CONTAINED IN THE TEXAS TORT CLAIMS ACT OR CONSENT TO SUIT.

ARTICLE XII

INSURANCE

12.01 General. Subrecipient 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 services performed by Subrecipient, its agents, representatives, volunteers, employees, or subcontractors.

12.02 Subrecipient's insurance shall list the City of College Station, its employees, agents, volunteers, and officials as additional insureds. Insurance requirements are as set forth below. Certificates of insurance evidencing the required insurance coverages are attached in **Exhibit F**.

During the term of this Agreement Subrecipient's insurance policies shall meet the minimum requirements of this section:

12.03 Types. Subrecipient shall have the following types of insurance:

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

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

- (a) Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent.
- (b) Certificates of Insurance and endorsements shall be furnished on the most current State of Texas Department of Insurance-approved forms to the City's Representative at the time of execution of this Agreement; shall be attached to this Agreement as **Exhibit F**; and shall be approved by the City before work begins.
- (c) Contractor shall be responsible for all deductibles on any policies obtained in compliance with this Agreement. Deductibles shall be named on the Certificate of Insurance and are acceptable on a per-occurrence basis only.
- (d) The City will accept only Insurance Carriers licensed and authorized to do business in the State of Texas.
- (e) The City will not accept "claims made" policies.
- (f) Coverage shall not be suspended, canceled, non-renewed or reduced in limits of liability before thirty (30) days written notice has been given to the City.

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

- (a) General Liability insurance shall be written by a carrier rated "A:VIII" or better under the current A. M. Best Key Rating Guide.
- (b) Policies shall contain an endorsement naming the City as Additional Insured and further providing "primary and non-contributory" language with regard to self-insurance or any insurance the City may have or obtain

- (c) Limits of liability must be equal to or greater than \$500,000 per occurrence for bodily injury and property damage, with an annual aggregate limit of \$1,000,000.00. Limits shall be endorsed to be per project.
- (d) No coverage shall be excluded from the standard policy without notification of individual exclusions being submitted for the City's review and acceptance
- (e) The coverage shall include, but not be limited to the following: premises/operations with separate aggregate; independent contracts; products/completed operations; contractual liability (insuring the indemnity provided herein) Host Liquor Liability, and Personal & Advertising Liability.

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

12.07 Workers' Compensation/Employer's Liability Insurance. Workers Compensation/Employer's Liability insurance shall include the following terms:

- (a) Employer's Liability minimum limits of liability not less than \$500,000 for each accident/each disease/each employee are required.
- (b) "Texas Waiver of Our Right to Recover From Others Endorsement, WC 42 03 04" shall be included in this policy.
- (c) TEXAS must appear in Item 3A of the Workers' Compensation coverage or Item 3C must contain the following: "All States except those named in Item 3A and the States of NV, ND, OH, WA, WV, and WY".

ARTICLE XIII SUBCONTRACTS

13.01 Except for subcontracts to which the federal labor standards requirements apply, Subrecipient may not subcontract for performances of any obligation required or described in this Agreement without obtaining City's prior written approval. Subrecipient shall only subcontract for

performance obligations required or described in this Agreement to which the federal labor standards requirements apply after Subrecipient has submitted a Subcontractor utilization form, as specified by City, for each such proposed subcontract and Subrecipient has obtained City's prior written approval, based on the information submitted, of Subrecipient's intent to enter into such proposed subcontract. Subrecipient, in subcontracting for the performance of any obligation required as described in this Agreement, expressly understands that in entering into such subcontracts, City is in no way liable to Subrecipient's subcontractor(s).

13.02 In no event shall any provision of this Article XIII, specifically the requirement that Subrecipient obtain City's prior written approval of a subcontractor's eligibility, be construed as relieving Subrecipient of the responsibility for ensuring that the performances rendered under all subcontracts are rendered so as to comply with all of the terms of this Agreement, as if such performances rendered were rendered by Subrecipient. City's approval under Article XIII does not constitute adoption, ratification, or acceptance of Subrecipient's or subcontractor's performance hereunder. City maintains the right to insist upon Subrecipient's full compliance with the terms of this Agreement, and by the act of approval under Article XIII, City does not waive any rights or remedies which, may exist or which may subsequently accrue to City under this Agreement.

13.03 Subrecipient shall comply with all applicable federal, state, and local laws, regulations, and ordinances for making procurement under this Agreement.

13.04 Subrecipient shall submit a subcontractor utilization report prior to beginning work and prior to hiring any additional subcontractors.

ARTICLE XIV CONFLICT OF INTEREST

14.01 No employee, agent, consultant, officer, or elected official or appointed official of the City or the Subrecipient, individually known as a "Covered Person," that exercises or has exercised any functions or responsibilities with respect to HOME-ARP assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to HOME-ARP assisted activities, is eligible to receive HOME-ARP assistance under the Program or to have a financial interest or financial benefit in any contract, subcontract, or other agreement with respect to the HOME-ARP funded activities contemplated in this Agreement, or the proceeds from such activities. This provision shall apply to both Covered Persons and those with whom they have business or immediate family ties, during their tenure with the City or Subrecipient or for one year thereafter. Immediate family ties include (whether by blood, marriage or adoption) the spouse, parent (including a stepparent), child (including a stepchild), brother, sister (including a stepbrother or stepsister), grandparent, grandchild, and in-laws of a Covered Person. In the event a Covered Person, or a person with whom the Covered Person has business or family ties, is otherwise eligible and applies to the Program, Subrecipient will immediately notify the City. The City, in its sole discretion, may pursue an exception from HUD under the provisions of 24 CFR 92.356(d) to allow participation notwithstanding the conflict of interest. Only HUD may grant such an exception; neither the City nor the Subrecipient may grant such an exception on its own. Moreover, the City and Subrecipient shall comply with the conflict of interest requirements in 2

CFR 200.317 and 2 CFR 200.318 in the procurement of property and services.

ARTICLE XV COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS

15.01 Subrecipient shall comply with all federal, state and local laws, statutes, ordinances, rules, regulations, orders and decrees of any court or administrative body or tribunal related to the activities and performances of Subrecipient under this Agreement. Upon request by City, Subrecipient shall furnish satisfactory proof of its compliance herein.

15.02 Equal Opportunity. Subrecipient shall ensure that no person shall on the grounds of race, color, religion, sex, handicap, family status, age, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds provided under this Agreement. In addition, funds provided under this Agreement must be made available in accordance with the following requirements:

- a. The requirements of the Fair Housing Act (42 U.S.C. 3601-19) and implementing regulations at 24 CFR Part 100; Executive Order 11063, as amended by Executive Order 12259 (3 CFR 1958 B1963 Comp., P. 652 and 3 CFR 1980 Comp., P. 307) (Equal Opportunity in Housing) and implementing regulations at 24 CFR Part 107; and of the Civil Rights Act of 1964 (42 U.S. C. 2000d) (Nondiscrimination in Federally Assisted Programs) and implementing regulations issued at 24 CFR Part 1;
- b. The prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101-07) and implementing Regulations at 24 CFR Part 146;
- c. The requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR Part 8;
- d. Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and implementing regulations at 24 CFR part 135;
- e. The requirements of Executive Order 11246, as amended by Executive Orders 11375, 11478, 12086, and 12107 (3 CFR 1964-65, Comp., p. 339) (Equal Employment Opportunity) and the implementing regulations issued at 41 CFR Chapter 60;
- f. The requirements of 24 CFR 92.351, 2 CFR 200.321, Executive Orders 11625, as amended, and 12432 (concerning Minority Business Enterprise), and 12138, as amended (concerning Women's Business Enterprise); and
- g. The requirements of 24 CFR 5.105(a)(2) requiring that HUD-assisted housing be made available without regard to actual or perceived sexual orientation, gender identity, or marital status and prohibiting subrecipients, owners, developers, or their agents from inquiring about the sexual orientation or gender identity of an applicant for, or occupant of, HUD-assisted housing for the purpose of determining eligibility for the housing or otherwise making such housing available. This prohibition on inquiries regarding sexual orientation or gender identity does not prohibit any individual from voluntarily self-identifying sexual orientation or gender identity.

15.03 Lobbying Disclosure Requirements. In accordance with the requirements of 24 CFR part

87, the Subrecipient certifies, to the best of its knowledge and belief, that:

- a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
- b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Subrecipient shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;
- c. The Subrecipient shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all such lower-tier parties shall certify and disclose accordingly; and
- d. Subrecipient acknowledges that this certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

15.04 Drug-Free Workplace. Subrecipient will comply with the drug-free workplace requirements of 2 CFR 2429.

15.05 Faith-based activities. Organization that are religious or faith-based are eligible, on the same basis as any other organization, to participate in the HOME-ARP program in accordance with the requirement of 24 C.F.R. § 92.257, but must comply with the requirements of 24 CFR 5.109.

15.06 Verification No Boycott. To the extent applicable, this Agreement is subject to the following:

- a. Boycott Israel. If this Agreement is for goods and services subject to § 2270.002 Texas Government Code, Subrecipient verifies that it i) does not boycott Israel; and ii) will not boycott Israel during the term of this Agreement;
- b. Boycott Firearms. If this Agreement is for goods and services subject to § 2274.002 Texas Government Code, Subrecipient 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 Agreement against a firearm entity or firearm trade association; and
- c. Boycott Energy Companies. Subject to § 2274.002 Texas Government Code, Subrecipient herein verifies that it i) does not boycott energy companies; and ii) will not boycott energy companies during the term of this Agreement.

ARTICLE XVI LEGAL AUTHORITY

16.01 Subrecipient assures and guarantees that Subrecipient possesses the legal authority to enter into this Agreement, to receive funds authorized by this Agreement, and to perform the services Subrecipient has obligated itself to perform hereunder.

16.02 The person or persons signing and executing this Agreement on behalf of Subrecipient, or representing themselves as signing and executing this Agreement on behalf of Subrecipient, do hereby warrant and guarantee that they have been duly authorized by Subrecipient to execute this Agreement on behalf of Subrecipient and to validly and legally bind Subrecipient to all terms, performances, and provisions herein set forth.

16.03 Subrecipient shall not employ, award Agreement to, or fund any person that has been debarred, suspended, proposed for debarment, or placed on ineligibility status by U.S. Department of Housing and Urban Development. In addition, City shall have the right to suspend or terminate this Agreement if Subrecipient is debarred, suspended, proposed for debarment, or ineligible to participate in the HOME-ARP Program.

ARTICLE XVII LITIGATION AND CLAIMS

17.01 Subrecipient shall give City immediate notice in writing of a) any action, including any proceeding before an administrative agency, brought or filed against Subrecipient in connection with this Agreement; and b) any claim against Subrecipient. Except as otherwise directed by City, Subrecipient shall furnish immediately to City copies of all documents received by Subrecipient with respect to such action, proceeding, or claim.

ARTICLE XVIII CHANGES AND AMENDMENTS

18.01 Except as specifically provided otherwise in this Agreement, any alterations, additions, or deletions to the terms of this Agreement shall be by amendment hereto in writing and executed by both the Parties to this Agreement.

18.02 It is understood and agreed by the Parties hereto that any performance under this Agreement must be rendered in accordance with the Act, the regulations promulgated under the Act, the assurances and certifications made to City by Subrecipient, and the assurances and certifications made to the United States Department of Housing and Urban Development by the City with regard to the operation of the HOME-ARP Program.

18.03 Any alterations, additions, or deletions to the terms of this Agreement which are required by changes in Federal or state law or regulations are automatically incorporated into this Agreement without written amendment hereto, and shall become effective on the date designated by such law or regulations. All other amendments to the Agreement must be in writing and signed by both Parties, except as provided in paragraphs 18.02 and 18.03.

ARTICLE XIX SUSPENSION

19.01 In the event Subrecipient fails to comply with any term of this Agreement, City may, upon written notification to Subrecipient, suspend this Agreement in whole or in part and withhold further payments to Subrecipient, and prohibit Subrecipient from incurring additional obligations of funds under this Agreement.

ARTICLE XX TERMINATION

20.01 The City may terminate this Agreement in whole or in part, in accordance with 24 CFR. § 85.43, 2 CFR 200.339,400, and this Article or as provided in this Agreement. In the event Subrecipient materially fails as determined by City, to comply with any term of this Agreement, whether stated in a Federal statute or regulation, an assurance, in a City plan or application, a notice of award, or elsewhere, City may take one or more of the following actions:

- (a) Temporarily withhold cash payments pending correction of the deficiency or default by the Subrecipient.
- (b) Disallow all or part of the cost of the activity or action not in compliance; and require immediate repayment of such disallowed costs.
- (c) Withhold further HOME-ARP awards from Subrecipient.
- (d) Exercise other rights and remedies that may be legally available as determined by the City to comply with the terms of this Agreement.
- (e) City may terminate this Agreement for convenience in accordance with 24 C.F.R. §85.44.

ARTICLE XXI AUDIT

21.01 City may at any time request an audit of Subrecipient to ensure compliance under this Agreement. Subrecipient shall arrange for the performance of an annual financial and compliance audit of funds received and performances rendered under this Agreement, subject to the following conditions and limitations:

- (a) Subrecipient shall have an audit made in accordance with 2 CFR Part 200 Subpart F;

- (b) At the option of City, each audit required by this Article may cover either Subrecipient's entire operations or each department, agency, or establishment of Subrecipient which received, expended, or otherwise administered federal funds;
- (c) Unless otherwise specifically authorized by City in writing, Subrecipient shall submit the complete and final report of such audit to City within thirty (30) days after completion of the audit, but no later than one (1) year after the end of each fiscal period included within the period of this Agreement. All audits performed are subject to review and resolution by City or its authorized representative.
- (d) As part of its audit, Subrecipient shall verify expenditures according to the Budget attached as **Exhibit B**.

21.02 Notwithstanding 21.01 City reserves the right to conduct an annual financial and compliance audit of funds received and performances rendered under this Agreement. Subrecipient agrees to permit City or its authorized representative to audit Subrecipient's records and to obtain any documents, materials, or information necessary to facilitate such audit.

21.03 Subrecipient understands and agrees that it shall be liable to City for any costs disallowed pursuant to financial and compliance audit(s) of funds received under this Agreement. Subrecipient further understands and agrees that reimbursement to City of such disallowed costs shall be paid by Subrecipient from funds which were not provided or otherwise made available to Subrecipient under this Agreement.

21.04 Subrecipient shall take all necessary actions to facilitate the performance of such audit or audits conducted pursuant to this Article XXI as City may require of Subrecipient

21.05 All approved HOME-ARP audit reports shall be made available for public inspection within 30 days after completion of the audit.

ARTICLE XXII ENVIRONMENTAL CLEARANCE REQUIREMENTS

22.01 Subrecipient understands and agrees that by the execution of this Agreement, City shall assume the responsibilities for environmental review, decision making, and other action which would otherwise apply to City in accordance with and to the extent specified in 24 C.F.R., PARTS 50 AND 58. In accordance with 24 C.F.R. § 58.77(b), Subrecipient further understands and agrees that City shall handle inquiries and complaints from persons and agencies seeking redress in relation to environmental reviews covered by approved certifications.

22.02 City shall prepare and maintain a written Environmental Review in accordance with 24 C.F.R. PART 58 to ensure compliance with the NATIONAL ENVIRONMENTAL POLICY ACT (NEPA).

ARTICLE XXIII SPECIAL CONDITIONS

23.01 Affirmative Marketing. Should funds from this Agreement be used in the construction of five (5) or more dwelling units, Subrecipient shall adopt Affirmative Marketing procedures and requirements. The Affirmative Marketing procedures and requirements shall include, but need not be limited to, those specified in 24 C.F.R. § 92.351. City will assess the efforts of the Subrecipient during the marketing of the units by use of compliance certification. Where a Subrecipient fails to follow the Affirmative Marketing procedures and requirements, corrective actions shall include extensive outreach efforts to appropriate contacts to achieve the occupancy goals or other sanctions the City may deem necessary. Subrecipient must provide City with an annual assessment of the Affirmative Marketing program of the development, if an Affirmative Marketing program is required under this section. The assessment must include:

- (a) Method used to inform the public and potential residents about Federal Fair Housing laws and Affirmative Marketing policy. Subrecipient's advertising of housing must include the Equal Housing Opportunity logo or statement. Advertising media may include newspaper, radio, television, brochures, leaflets, or signage. Subrecipient may wish to use community organizations, places of worship, employment centers, fair housing groups, housing counseling agencies, social service centers or medical service centers as resources for this outreach.
- (b) Records describing actions taken by the Subrecipient to affirmatively market housing and records to assess the results of these actions. Subrecipient must maintain a file containing all marketing efforts (i.e. copies of newspapers ad, memos of phone calls, copies of letters) to be available for inspection at least annually by City.
- (c) Subrecipient shall solicit applications for housing from persons in the housing market who are least likely to apply for housing without benefit of special outreach efforts. In general, persons who are not of the race/ethnicity of the residents of the neighborhood in which the housing is located shall be considered those least likely to apply.
- (d) Subrecipient shall maintain a listing of all residents residing in each home through the end of the compliance period.
- (e) The Subrecipient will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps shall include: Placing qualified small and minority businesses and women's business enterprises on solicitation lists; Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources; Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises; Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises; Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in the preceding paragraph.

23.02 Enforcement of Affordability. Subrecipient and City shall provide legally enforceable agreements consisting of a Real Estate Lien Note and Deed of Trust, containing remedies adequate to enforce the affordability requirements of 24 C.F.R. § 92.254, as applicable, for each activity assisted under this Agreement, to be recorded in the real property records of Brazos County. Funds recaptured because housing no longer meets the affordability requirements under 24 C.F.R. § 92.254(a)(5) are subject to the requirements of 24 C.F.R. § 92.503. Subrecipient must provide along with the other legal instruments an Agreement of Affordability.

23.03 Reversion of Assets. Upon termination of this Agreement, all funds remaining on hand on the date of termination and all accounts receivable attributable to the use of funds received under this Agreement shall revert to City. Subrecipient shall return these assets to City within seven (7) days after the date of termination.

23.04 Flood Hazards. Funds provided under this Agreement may not be used in connection with acquisition, rehabilitation, or construction of a development located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards.

23.05 Displacement, Relocation, and Acquisition. Subrecipient must ensure that it has taken all reasonable steps to minimize the displacement of persons (families, business and nonprofit organizations) as a result of a project assisted with funds provided under this Agreement. Subrecipient must comply with the applicable provisions of 24 C.F.R. 92.353, 49 C.F.R. Part 24, and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601-4655).

23.06 Property Standards. Subrecipient shall ensure that all housing assisted with funds provided under this Agreement (1) shall meet the lead-based paint requirements in 24 C.F.R. § 92.355 upon project completion and (2) shall meet the requirements of 24 C.F.R. § 92.355 for the duration of this Agreement.

23.07 Fees Prohibited. Subrecipient is prohibited from charging any servicing, origination, or other fees for the costs of administering its program hereunder, except as may be permitted by 24 CFR 92.214, and as revised by Notice CPD 21-10. All documents necessary for the conveyance of real property, pursuant to the agreement, must be approved, prior to execution, by the City. (i.e. deeds, notes, Deed of Trust, etc.)

23.08 Funding under this Agreement is contingent upon Subrecipient meeting all terms, conditions of this Agreement.

23.09 This Agreement and the performance hereunder may not be assigned without the express written consent of City.

23.10 This Agreement is binding on Subrecipient's permitted assigns and successors-in-interest.

ARTICLE XXIV ORAL AND WRITTEN AGREEMENTS

24.01 All oral and written agreements between the Parties relating to the subject matter of this Agreement that were made prior to the execution of this Agreement have been reduced to writing and are contained in this Agreement.

24.02 The attachments enumerated and denominated below are hereby made a part of this Agreement, and constitute promised performances by Subrecipient in accordance with Article III of this Agreement.

**ARTICLE XXV
VENUE**

25.01 For purposes of litigation pursuant to this Agreement, venue shall lie in Brazos County, Texas

List of Exhibits

- A. Performance Statement
- B. Budget
- C. Applicable Laws and Regulations
- D. Certifications
- E. Insurance Certificates

TWIN CITY MISSION, INC.

CITY OF COLLEGE STATION

By:_____

By:_____

Printed Name:_____

City Manager

Date:_____

Title:_____

APPROVED:

Date:_____

City Attorney

Date:_____

Assistant City Manager/CFO

Date:_____

EXHIBIT A
PERFORMANCE STATEMENT

1. Subrecipient is awarded up to \$174,026.30 from the City of College Station FY 2022 (HUD Grant Year 2021) HOME-ARP Program. These funds must be used only for eligible operating and capacity building assistance cost as detailed and in the amounts detailed in Exhibit B.
2. Any program income, recaptured funds, or repayment of any funds must be immediately returned to the City of College Station. In the event that there is program income, repayments, and/or recaptured funds, the funds must be used in accordance with the requirements of 24 C.F.R. § 92.503.

**EXHIBIT B
BUDGET**

SOURCES OF FUNDS:

Maximum Proceeds of grant under the Agreement	<u>\$174,026.30</u>
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USES OF FUNDS:

Nonprofit Capacity Building

Salary.....	\$53,679.14
Supplies.....	\$3,333.86
Staff Development.....	\$10,000.00
Printing and Publications.....	\$7,000.00
Public Awareness.....	\$7,000.00
IT Equipment.....	\$6,000.00

Nonprofit Operating Expenses

Supplies.....	\$9,900.00
Internet.....	\$4,501.00
Telephone.....	\$7,250.00
Cell phone.....	\$11,777.00
Equipment Lease & Rental	\$2,520.00
Audit.....	\$10,350.00
Dues, Subscriptions & Fees.....	\$4,815.00
Insurance.....	\$35,900.00

EXHIBIT C

THE APPLICABLE LAWS AND REGULATIONS

Subrecipient shall comply with all federal, state, and local laws and regulations applicable to the activities and performances rendered by Subrecipient under this Agreement including but not limited to the laws, and the regulations specified in Section I through VI of this Exhibit C.

I. CIVIL RIGHTS

- THE FAIR HOUSING ACT (42 U.S.C. 3601-20) AND IMPLEMENTING REGULATIONS AT 24 C.F.R. PART 100; EXECUTIVE ORDER 11063, AS AMENDED BY EXECUTIVE ORDER 12259 (3 C.F.R., 1958-1963 COMP., P. 652 AND 3 C.F.R., 1980 COMP., P. 307) (EQUAL OPPORTUNITY IN HOUSING) AND IMPLEMENTING REGULATIONS AT 24 C.F.R., PART 107; AND TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 (42 U.S.C. 2000D) (NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS) AND IMPLEMENTING REGULATIONS ISSUED AT 24 C.F.R., PART 1;
- EXECUTIVE ORDER 11063, AS AMENDED BY EXECUTIVE ORDER 12259, AND 24 C.F.R. PART 107, "NONDISCRIMINATION AND EQUAL OPPORTUNITY IN HOUSING UNDER EXECUTIVE ORDER 11063". THE FAILURE OR REFUSAL OF SUBRECIPIENT TO COMPLY WITH THE REQUIREMENTS OF EXECUTIVE ORDER 11063 OR 24 C.F.R., PART 107 SHALL BE A PROPER BASIS FOR THE IMPOSITION OF SANCTIONS SPECIFIED IN 24 C.F.R. 107.60;
- THE PROHIBITION AGAINST DISCRIMINATION ON THE BASIS OF AGE UNDER THE AGE DISCRIMINATION ACT OF 1975 (42 U.S.C. 6101-07) AND IMPLEMENTING REGULATIONS AT 24 C.F.R., PART 146, AND THE PROHIBITIONS AGAINST DISCRIMINATION AGAINST HANDICAPPED INDIVIDUALS UNDER SECTION 504 OF THE REHABILITATION ACT OF 1973 (29 U.S.C. 794) AND IMPLEMENTING REGULATIONS AT 24 C.F.R., PART 8;
- THE REQUIREMENTS OF EXECUTIVE ORDER 11246 (3 C.F.R. 1964-65, COMP., P. 339) (EQUAL EMPLOYMENT OPPORTUNITY) AND THE IMPLEMENTING REGULATIONS ISSUED AT 41 C.F.R., CHAPTER 60.
- THE REQUIREMENTS OF 24 C.F.R. 92.351 (MINORITY OUTREACH), EXECUTIVE ORDERS 11625 AND 12432 (CONCERNING MINORITY BUSINESS ENTERPRISE), AND 12138 (CONCERNING WOMEN'S BUSINESS ENTERPRISE). CONSISTENT WITH HUD'S RESPONSIBILITIES UNDER THESE ORDERS, SUBRECIPIENT MUST MAKE EFFORTS TO ENCOURAGE THE USE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES IN CONNECTION WITH HOME FUNDED ACTIVITIES. SUBRECIPIENT MUST PRESCRIBE PROCEDURES ACCEPTABLE TO THE CITY TO ESTABLISH ACTIVITIES TO ENSURE THE INCLUSION, TO THE MAXIMUM EXTENT POSSIBLE, OF MINORITIES AND WOMEN, AND ENTITIES OWNED BY MINORITIES AND WOMEN. THE AGREEMENT OR / SUBCONTRACTOR WILL BE REQUIRED TO IDENTIFY AGREEMENTS WHICH HAVE BEEN BID BY MINORITY OWNED, WOMEN OWNED, AND/OR SMALL DISADVANTAGED BUSINESSES.
- THE AGE DISCRIMINATION ACT OF 1975 (42 U.S.C., SECTION 6101 ET SEQ.);
- SECTION 504 OF THE REHABILITATION ACT OF 1973 (29 U.S.C., SECTION 794) AND "NONDISCRIMINATION BASED ON HANDICAP IN FEDERALLY-ASSISTED PROGRAMS AND ACTIVITIES OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT", 24 C.F.R., PART 8. BY SIGNING THIS AGREEMENT, SUBRECIPIENT UNDERSTANDS AND AGREES THAT THE ACTIVITIES FUNDED HEREIN SHALL BE OPERATED IN ACCORDANCE WITH 24 C.F.R., PART 8; AND THE ARCHITECTURAL BARRIERS ACT OF 1968 (42 U.S.C., SECTION 4151 ET. SEQ.) INCLUDING THE USE OF A TELECOMMUNICATIONS DEVICE FOR DEAF PERSONS (TDDs) OR EQUALLY EFFECTIVE COMMUNICATION SYSTEM.

II. LEAD-BASED PAINT

- TITLE IV OF THE LEAD-BASED PAINT POISONING PREVENTION ACT (42 U.S.C. SEC. 4831).

III. ENVIRONMENTAL STANDARDS

- NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 (42 U.S.C. SEC. 4321 ET. SEQ.) AND 40 C.F.R. PARTS 1500-1508;
- THE NATIONAL HISTORIC PRESERVATION ACT OF 1966 (16 U.S.C. SEC. 470 ET. SEQ.) AS AMENDED; PARTICULARLY SECTION 106 (16 U.S.C. SEC. 470F);
- EXECUTIVE ORDER 11593, PROTECTION AND ENHANCEMENT OF THE CULTURAL ENVIRONMENT, MAY 13, 1971 (36 FED. REG. 8921), PARTICULARLY SECTION 2(C);
- THE RESERVOIR SALVAGE ACT OF 1960 (16 U.S.C. SEC. 469 ET SEQ.). PARTICULARLY SECTION 3 (16 U.S.C. SEC. 469A-1), AS AMENDED BY THE ARCHEOLOGICAL AND HISTORIC PRESERVATION ACT OF 1974; FLOOD DISASTER PROTECTION ACT OF 1973, (42 U.S.C. SEC. 4001 ET. SEQ.) AS AMENDED, PARTICULARLY SECTIONS 102(A) AND 202(A) (42 U.S.C. SEC. 4012A (A) AND SEC. 4106(A);
- EXECUTIVE ORDER 11988, FLOODPLAIN MANAGEMENT, MAY 24, 1977 (42 FED. REG. 26951), PARTICULARLY SECTION 2(A).
- EXECUTIVE ORDER 11990 PROTECTION OF WETLANDS, MAY 24, 1977 (42 FED. REG. 26961), PARTICULARLY SECTIONS 2 AND 5.
- THE SAFE DRINKING WATER ACT OF 1974, (42 U.S.C. SEC. 201, 300(F) ET SEQ.) AND (21 U.S.C. SEC. 349) AS AMENDED, PARTICULARLY SECTION 1424(E) (42 U.S.C. SEC. 300H-303(E);
- THE ENDANGERED SPECIES ACT OF 1973, (16 U.S.C. SEC. 1531 ET. SQ.) AS AMENDED, PARTICULARLY SECTION 7 (16 U.S.C. SEC. 1536);
- THE WILD AND SCENIC RIVERS ACT OF 1968, (16 U.S.C. SEC. 1271 ET SEQ.) AS AMENDED, PARTICULARLY SECTION 7(B) AND (C)(16 U.S.C. SEC. 1278(B) AND (C);
- THE CLEAN AIR ACT (41 U.S.C. SEC. 7401 ET SEQ.) AS AMENDED, PARTICULARLY SECTION 176(C) AND (D) (42 U.S.C. SEC. 7506(C) AND (D);
- FARMLANDS PROTECTION AND POLICY ACT OF 1981, (7 U.S.C. SEC. 4201 ET SEQ.)
- 24 C.F.R. PART 51, ENVIRONMENTAL CRITERIA AND STANDARDS.

IV. ACQUISITION/RELOCATION

- THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970 (42 U.S.C., SEC. 4601 ET. SEQ.), 49 C.F.R. PART 24, AND 24 C.F.R. SECTION 570.496A (55 FED. REG. 29309 (JULY 18, 1990)

V. LABOR REQUIREMENTS

- AGREEMENT WORK HOURS AND SAFETY STANDARDS ACT, AS AMENDED (40 USC 327-333)
- COPELAND (ANTI-KICKBACK) ACT (40 USC 276c)
- FAIR LABOR STANDARDS ACT OF 1938, AS AMENDED (29 USC 201, ET. SEQ.)

EXHIBIT D
CERTIFICATION REGARDING LOBBYING FOR
AGREEMENTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS

The undersigned certifies, to the best of its knowledge and belief, that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a member of congress, an officer or employee of congress, or an employee of a member of congress in connection with the awarding of any federal agreement, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement or modification of any federal agreement, grant, loan, or cooperative agreement.
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of congress, an officer or employee of congress, or an employee of a member of congress in connection with this federal agreement, grant, loan, or cooperative agreement, the undersigned shall complete and submit standard form LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and agreements under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C.A. § 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

By: _____

Printed Name: _____

Title: _____

Date: _____

EXHIBIT E
CERTIFICATES OF INSURANCE

September 14, 2023
Item No. 12.1.
Council Reports on Committees, Boards, and Commissions

Sponsor: City Council

Reviewed By CBC: City Council

Agenda Caption: 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)

Relationship to Strategic Goals:

Good Governance

Recommendation(s): Review meetings attended.

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

Budget & Financial Summary: None.

Attachments:

None