



College Station, TX

Meeting Agenda City Council

1101 Texas Ave, College Station, TX 77840

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

Meeting ID: 223 427 023 174 | Passcode: MvPmTr

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

September 28, 2023

3:00 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. Approximately 28 acres of land generally located at Midtown Drive and Corporate Pkwy in the Midtown Business Park.
- b. Property generally located west of Texas State Highway 6 and in between Harvey Road and Holleman Drive.
- c. Property generally located in the area of FM 60, Boyett Street, Church Ave. and College Main Street.

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 Judge
- b. City Secretary
- c. City Auditor
- d. City Attorney
- e. City Manager
- f. Council Self-Evaluation

2.4. Competitive Matters {Gov't Code Section 551.086};

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

- a. Power Supply

3. 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. 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.

6. 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.

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

- September 14, 2023 Council Meeting

Sponsors: Tanya Smith

Attachments: 1. CCM091423 DRAFT Minutes

6.2. Presentation, discussion, and possible action regarding purchasing firefighter protective clothing from NAFECO for \$107,683.80.

Sponsors: Richard Mann

Attachments: 1. NAFECO Quote

6.3. Presentation, discussion, and possible action regarding City of College Station Excess Liability and Workers' Compensation Insurance, Property/Boiler & Machinery, Auto Property Damage, Commercial Crime, Cyber Liability, Unmanned Aircraft Liability and Property insurance policies for Fiscal Year 2024. FY24 premiums for all lines of coverage are not to exceed \$1,360,164.

Sponsors: Alison Pond

Attachments: None

6.4. Presentation, discussion, and possible action regarding an interlocal agreement with the Texas A&M University System for aircraft rescue and fire fighting personnel and equipment requirements, operational responsibilities, command and control of the joint use fire station facility at Easterwood Airport for \$1,145,486 to be paid to the City through FY26.

Sponsors: Richard Mann

Attachments: 1. 2023-2026 TAMU ARFF Interlocal Agreement

6.5. Presentation, discussion, and possible action to the BVWACS Annual Operating & Maintenance and Capital Budget.

Sponsors: Sam Rivera

Attachments: 1. BVWACS FY2024 Approved Budget - 1
2. BVWACS FY2024 Approved Budget - 2

6.6. Presentation, discussion, and possible action on lease agreement with CTWP in the amount of \$262,641.13.

Sponsors: Sam Rivera

Attachments: 1. Contract 23300669

6.7. Presentation, discussion, and possible action regarding the rejection of all responses received to RFP 23-072 - Patricia Promenade Area Rehabilitation.

Sponsors: Debbie Eller

Attachments: None

6.8. Presentation, discussion, and possible action regarding an Interlocal Agreement with Brazos County for EMS Ambulance service to the southern portion of Brazos County.

Sponsors: Richard Mann

Attachments: 1. FY 2024-2026 Brazos County - CoCS EMS - Final 9-21-23

6.9. Presentation, discussion, and possible action regarding a resolution authorizing the chief of police to execute the application and any documents necessary to receive grant funding from the Office of the Attorney General of the State of Texas for the Victim Coordinator and Liaison Grant.

Sponsors: Billy Couch

Attachments: 1. OAG Victim Coordinator and Liaison Grant Resolution

- 6.10. Presentation, discussion, and possible action regarding a sponsorship agreement with Land of Lights, Inc., DBA Santa's Wonderland, in the amount of \$75,000.

Sponsors: Brian Piscacek

Attachments: 1. Contract 23300810 Land of Lights

- 6.11. Presentation, discussion, and possible action on participating in the MuniWatt program by joining the joint power purchase contract with MERC (Municipal Energy Resources Corporation), MUNIWATT (Municipal Power Acquisition and Supply Corporation), a Texas public facility corporation, and their Agent the City of La Grange, Texas.

Sponsors: Timothy Crabb

Attachments: 1. Resolution MuniWatt Joint Power Purchase Contract 9-12-2023
2. CSU MuniWatt Purchase Contract 9-12-2023
3. MuniWatt Joint Power Purchase Contract (Fully Executed)

7. Workshop Agenda.

- 7.1. Presentation, discussion, and possible action regarding Visit College Station's 2023 "Christmas in College Station" campaign.

Sponsors: Jeremiah Cook

Attachments: None

8. Regular Agenda.

- 8.1. Public Hearing, presentation, discussion, and possible action regarding an ordinance amending Appendix A, Unified Development Ordinance, Article 4, "Zoning Districts," Section 4.2 "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas, by changing the zoning district boundary from M-1 Light Industrial to SC Suburban Commercial for approximately 0.9663 acres located at 1601 Sebesta Road, generally located on the north side of Sebesta Road across from Foxfire Drive.

Sponsors: Anthony Armstrong

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

- 8.2. Public Hearing, presentation, discussion, and possible action regarding an ordinance amending the Comprehensive Plan to adopt the Northeast Gateway Redevelopment Plan, to amend the planning areas description within Chapter 2. Distinctive Places, to amend the Comprehensive Plan – Planning Areas Map, to amend the Comprehensive Plan – Future Land Use & Character Map, to amend the Comprehensive Plan – Functional Classification & Context Class Map, and to amend associated maps in the Bicycle, Pedestrian, and Greenways Master Plan including the Proposed Bicycle Facilities Map and the Proposed Pedestrian Facilities Map.

Sponsors: Matthew Ellis

Attachments: 1. Ordinance
2. Ordinance - Exhibit A
3. Ordinance - Exhibit B

4. Ordinance - Exhibit C
5. Ordinance - Exhibit D
6. Ordinance - Exhibit E
7. Ordinance - Exhibit F

- 8.3. Presentation, discussion, and possible action regarding an ordinance amending Chapter 8, "Businesses," Article V, "Home Solicitation, Itinerant Vendors, and Texas A&M University Ticket Reselling," regarding itinerant vendors.

Sponsors: Billy Couch

Attachments: 1. Itinerant Vendor Ord Amend 8-236 - 237

- 8.4. Presentation, discussion, and possible action regarding an ordinance amending Chapter 26, "Miscellaneous Provisions and Offenses," Section 26-8, "Noise" regarding noise in Northgate.

Sponsors: Billy Couch

Attachments: 1. Noise Ordinance Amendment Northgate Sec. 26-8

- 8.5. Presentation, discussion, and possible action regarding an ordinance repealing Chapter 8 "Businesses", Article IX, "Northgate Outdoor Dining and Entertainment" regarding Northgate outdoor dining permits.

Sponsors: Billy Couch

Attachments: 1. Ord Repealing Chapter 8 Article IX NG Outdoor Dining

9. Council Calendar - Council May Discuss Upcoming Events.

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.

11. 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)

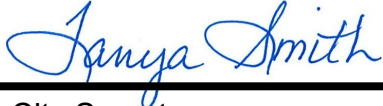
12. Future Agenda Items and Review of Standing List of Council Generated Future Agenda Items.

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.

13. 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 22, 2023 at 5:00 p.m.



City Secretary

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

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

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

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

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

September 28, 2023

Item No. 6.1.

Minutes

Sponsor: Tanya Smith, City Secretary

Reviewed By CBC: City Council

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

- September 14, 2023 Council Meeting

Relationship to Strategic Goals:

- Good Governance

Recommendation(s): Recommends Approval.

Summary: N/A

Budget & Financial Summary: None

Attachments:

1. CCM091423 DRAFT Minutes

MINUTES OF THE CITY COUNCIL MEETING
IN-PERSON WITH TELECONFERENCE PARTICIPATION
CITY OF COLLEGE STATION
SEPTEMBER 14, 2023

STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

Present:

John Nichols, Mayor

Council:

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

City Staff:

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

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

With a quorum present, the meeting of the College Station City Council was called to order by Mayor Nichols via In-Person and Teleconference at 4:00 p.m. on September 14, 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 September 14, 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

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

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

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

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

5. PRESENTATION - PROCLAMATIONS, AWARDS, AND RECOGNITIONS.

5.1. Presentation proclaiming September 17th through 23rd as Constitution Week.

Mayor Nichols presented a proclamation to the La Villita Chapter of the Daughters of the American Revolution and proclaimed September 17-23, 2023, as Constitution Week.

6. Hear Visitors Comments.

Dr. Karl Mooney, College Station, came before Council as the Chair of the YMCA has authorized a YMCA here in College Station. He expressed regret that the land previously slated for the ballpark could not be used for its intended purpose but asked council to consider if it might be used for a potential YMCA.

Jennifer Weber, Bryan, came before Council with a presentation on food risks for a potential trunkline through Rosemary in Bryan. She believes that the line would cause increased flooding without costly mitigation.

Mark Karbotly, Bryan, came before Council to represent the Embassy Suites and give his support to a possible Convention Center, expressing that he has seen the economic impact one can have on a community. He also wanted to urge Visit College Station to partner with Santa's Wonderland to provide support to local visitors and urge them to use local hotels.

7. CONSENT ITEMS

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

Items 7.3 and 7.4 were pulled from Consent for clarification.

(7.3) Jennifer Cain, Capital Projects Director, explained that 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.

(7.4) Mary Ellen Leonard, Finance Director, explained that 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.

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

- **August 24, 2023 Council Meeting**

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.

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.

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.

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.

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.

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

8. WORKSHOP ITEMS

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

Barbara Moore, Assistant to the City Manager, stated that City Hall currently has meeting rooms that can be used by the public, they are the Bush 4141 Community Room and the Heart of Aggeland Multipurpose Room. A policy needs to be adopted similar to the policies of other city meeting facilities and this policy will determine the terms of use and guidelines for potential users.

City Hall Room Use Policy

- Meetings on Monday-Friday 8:00 am to 8:00 pm.
- Weekend meetings only held by groups or meetings affiliated with the City or our partners.
- No commercial activities will be allowed.
- Non-profits and groups with 501c3 tax status or a Tax ID number could have rental fees waived.
- Non-residents would pay a fee.
- City manager may amend guidelines and procedures as needed.

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 a City Hall room use policy. The motion carried unanimously.

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

Jennifer Prochazka, Assistant City Manager, provided an update on the Parks and Recreation Department.

Current Projects

- Anderson Park Pickle Ball & Futsal
- Bachmann Senior/Little League Buildings
- Bee Creek & Central Park Tennis Courts
- Cemetery Sales office & shop
- Central Park Operations Facility
- Fun for All Playground
- Lick Creek Bird blinds
- Lincoln Center Area Improvements
- Mabel Clare Thomas Park
- Midtown bridge hike and bike trail
- Parks & Recreation Master Plan update
- Southeast Park
- Summit Crossing Park
- Veteran's Park Master Plan

Aquatics

- Open for 86 pool days
- 87,144 public swim visits
- Attendance up 4,000
- Pre-pandemic hours and staffing
- 6,075 participants
- New programs
- Challenger program

Senior Programing

- 719 Active senior memberships
- 56 Offered programs
- 3 Community Centers

Athletics

- 24 registered programs

Cemeteries

- Aggie Field of Honor & College Station Cemetery
- 185 internments
- FY23 sales: \$650,000
 - ✓ 220 plots sold
 - ✓ 100 Niches sold
- Next phase of columbarium

Council directed staff to bring back a fiscal policy cost recovery continuum discussion after consulting the Parks and Recreation Advisory Board.

Mayor Nichols introduced Luke Morrison with the Student Senate and Ben Crockett with Student Government.

1. REGULAR ITEMS

9.1. Public Hearing, presentation, discussion, and possible action on Ordinance No. 2023-4463 Budget Amendment 3 amending Ordinance No. 2022-4383 that amends the 2022-2023 Fiscal Year Budget in the amount of \$1,593,153.

Mary Ellen Leonard, Finance Director, stated that 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.

1. Rescue Vehicle - \$350,000 (Budget Amendment)
2. Fun For All Enhancements \$20,000 expenditure \$170,000 revenue (Budget Amendment)
3. Law Enforcement Officer Standards and Education Funds - \$8,153 (Budget Amendment)
4. Planning & Development Grant – GIS Training \$20,000 (Budget Amendment)
5. Street Maintenance Contract Labor \$400,000 (Budget Amendment)
6. Water Work Order and Chemical Supplies - \$350,000 (Budget Amendment)
7. Property Casualty Premiums - \$165,000 (Budget Amendment)
8. Water Transfer to Risk Mitigation - \$300,000 (Interfund Transfer)
9. Electric Risk Mitigation Transfer - \$2,000,000 (Interfund Transfer)
10. IT Replacements \$230,000 (Budget Amendment and Interfund Transfer)
11. Fleet Replacements \$50,000 (Budget Amendment and Interfund Transfer)

At approximately 7:27 p.m., Mayor Nichols opened the Public Hearing.

There being no further comments, the Public Hearing was closed at 7:27 p.m.

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. 2023-4463, that amends the 2022-2023 Fiscal Year Budget in the amount of \$1,593,153. The motion carried unanimously.

9.2. Public Hearing, presentation, discussion, and possible action regarding Ordinance No. 2023-4464 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.

At the request of the applicant this item was pulled and was not considered.

9.3 Public Hearing, presentation, discussion, and possible action regarding Ordinance No. 2023-4465 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.

Jesse Dimeolo, Planning and Development, stated that 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.

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.

At approximately 7:39 p.m., Mayor Nichols opened the Public Hearing.

There being no further comments, the Public Hearing was closed at 7:39 p.m.

MOTION: Upon a motion made by Councilmember Yancy and a second by Councilmember Maloney, the City Council voted seven (7) for and none (0) opposed, to adopt Ordinance No. 2023-4465, 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. The motion carried unanimously.

At 7:42 p.m., the Mayor recessed the Council Meeting.

The Council Meeting reconvened at 7:49 p.m.

9.4. Public Hearing, presentation, discussion, and possible action regarding Ordinance No. 2023-4466 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.

Gabriel Schrum, Planning and Development, stated that 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

Mr. Schrum explained that 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 applying 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.

The Planning and Zoning Commission heard this item at their 9/7/23 meeting and recommended 4-3 to deny the rezoning.

At approximately 7:57 p.m., Mayor Nichols opened the Public Hearing.

Donald Deere, College Station, came to Council to express his opposition of the Southwood Area Restricted Occupancy Overlay and request Council to deny the ROO for the Camelot Addition Section 2, where he owns the property.

Blanche Brick, College Station, came before Council to express her support for the ROO located at Southwest Parkway and Guadalupe Drive.

Bob Brick, College Station, came before Council to give a brief background and speak about when he was on Council, expressing his support for the ROO for the Southwood area.

Shirley Dupriest, College Station, came before Council to express her support for the ROO for the Southwood area and that this is what the ROO is intended for.

Wendy Johnson, College Station, came to Council to express her support for the ROO and the implementation of its option to limit occupancy of residential dwelling units and accessory structures to no more than two unrelated persons.

Diana Marie Wood, College Station, came before Council as president of the College Station Association of Neighborhoods and expressed her support for the action and work initiated by the applicants.

Robert Williamson, College Station, came before Council to express the opinion that this is not a student problem this is a landlord problem because they are choosing to run a business in a residential area.

There being no further comments, the Public Hearing was closed at 8:15 p.m.

MOTION: Upon a motion made by Councilmember Harvell and a second by Councilmember Wright, the City Council voted six (6) for and one (1) opposed, with Councilmember Cunha voting against, to adopt Ordinance No. 2023-4466, 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. The motion carried.

9.5. Public Hearing, presentation, discussion, and possible action regarding Ordinance No. 2023-4467 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.

Michael Ostrowski, Planning and Development Director, stated that the current district standards require that parking be 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) if 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.

The Planning and Zoning Commission heard this item at their 9/7/23 meeting and voted 7-0 to recommend approval.

At approximately 8:44 p.m., Mayor Nichols opened the Public Hearing.

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

MOTION: Upon a motion made by Councilmember Yancy and a second by Councilmember Harvell, the City Council voted seven (7) for and none (0) opposed, to adopt Ordinance No. 2023-4467, 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. The motion carried unanimously.

9.6. Public Hearing, presentation, discussion, and possible action regarding Ordinance No. 2023-4468 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.

Michael Ostrowski, Planning and Development Director, stated that 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.

The Planning and Zoning Commission heard this item at their September 7, 2023, meeting and voted 7-0 to recommend approval.

At approximately 9:04 p.m., Mayor Nichols opened the Public Hearing.

Chad Hovde, College Station, came before Council on behalf of the Bryan-College Station Regional Association of Realtors. He expressed several concerns to Council and requested the following:

1. Deny the High Occupancy Overlay (HOO) District tonight; and,
2. Direct staff to create a Middle Housing – S district to allow Shared Housing by right within a stand-alone zoning district.

If those are not to the Council's liking, he would request they consider:

1. Table the HOO tonight; and,
2. Direct staff to engage the public in discussions regarding the modifications to Middle Housing and the creation of the HOO and create a streamlined process for requesting the overlay, similar to the ROO.

There being no further comments, the Public Hearing was closed at 9:34 p.m.

At approximately 9:34 p.m., Mayor Nichols opened the Public Hearing.

Crissy Hartl, College Station, came before Council to express that some of the language about 'sufficient size' is too vague to be fairly applied.

There being no further comments, the Public Hearing was closed at 9:39 p.m.

MOTION: Upon a motion made by Councilmember Wright and a second by Councilmember Maloney, the City Council voted seven (7) for and none (0) opposed, to adopt Ordinance No. 2023-4468, 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. The motion carried unanimously.

9.7. Presentation, discussion, and possible action regarding Resolution No. 09-14-23-9.7 appointing members to the Project Steering Committee for the Comprehensive Safety Action Plan being developed by the Bryan/College Station Metropolitan Planning Organization.

Jason Schubert, Planning and Development, stated that 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 Christiansen – 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

The Planning and Zoning Commission heard this item at their 9/7/23 meeting and voted 7-0 to recommend approval.

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 approved Resolution No. 09-14-.23-9.7, appointing Randell Smith, Katherine Beaman-Jamael, Neo Jang, Dennis Christiansen, and Doug Bramwell to the Project Steering Committee for the Comprehensive Safety Action Plan being developed by the Bryan/College Station Metropolitan Planning Organization. The motion carried unanimously.

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.

Items 9.8 and 9.9 were presented together.

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.

Raney Whitwell, Community Development Analyst, presented a request for proposal that 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 with Twin City Mission, Inc. to administer the Family Support Services program to eligible College Station residents.

Mrs. Whitwell presented another request for proposal that 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 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.

(9.8) Staff recommends consideration of the HOME-ARP Supportive Services funding agreement with Twin City Missions in the amount of \$1,479,223 for the Family Support Services Program.

(9.9) 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.

(9.8) MOTION: Upon a motion made by Councilmember Wright and a second by Councilmember Yancy, the City Council voted seven (7) for and none (0) opposed, to approve 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. The motion carried unanimously.

(9.9) MOTION: Upon a motion made by Councilmember Harvell and a second by Councilmember Smith, the City Council voted seven (7) for and none (0) opposed, to approve 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. The motion carried unanimously.

10. Council Calendar

Council reviewed the calendar.

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

Mayor recognized October 18th celebration of the City's 85th anniversary.

Council recognized Alyssa Halle-Schram for her service to the city.

Councilmember Harvell recognized 100th Southside Anniversary.

Councilmember Smith recognized Jennifer Nation for a recent presentation on water conservation.

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

Councilmember Yancy reported on the Board of Health.

Councilmember Maloney reported on the Parks and Recreation Board.

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

No future items at this time.

14. Adjournment.

There being no further business, Mayor Nichols adjourned the meeting of the City Council at 10:19 p.m. on Thursday, September 14, 2023.

John P. Nichols, Mayor

ATTEST:

Tanya Smith, City Secretary

September 28, 2023
Item No. 6.2.
Annual Firefighting Protective Clothing Purchase

Sponsor: Richard Mann, Chief of Fire and Emergency Services

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding purchasing firefighter protective clothing from NAFECO for \$107,683.80.

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 quote with NAFECO for the purchase of 30 sets of firefighting protective clothing.

Summary: The City of College Station Fire Department has strived to maintain safe firefighting protective clothing for our personnel to serve and protect the citizens of College Station. The purchase will maintain our gear program and meet the National Fire Protection Association (NFPA) 1851 Standard of Selection, Care, and Maintenance of Protective Ensembles for Structural Fire Fighting and Proximity Fire Fighting.

Budget & Financial Summary: Funding for the annual protective clothing purchase is funded in the annual approved budget and NAFECO is a BuyBoard National Cooperative Vendor.

Attachments:

1. NAFECO Quote

**NAFECO**

Mailing: 1515 W Moulton St
(2601 Beltline Road)
Decatur, AL 35601
(800) 628-6233
info@nafeco.com

Quotation

Q8523081760037

Date: 2023-09-07**Expires:** 2023-12-29**FOB:** Origin

Customer Number: COL229
Customer Information: COLLEGE STATION FIRE DEPT.
Address: 300 KRENEK TAP ROAD
COLLEGE STATION, TX 77845

Attention: REBEKAH CHARANZA
Phone: 19797643707
Email: rcharanza@cstx.gov
Prepared By: Kirby Prince

Qty	Item #	Description	Each	Total
30	CVFM/F	LION Turnout V-Force Coat, REDZONE	\$2,183.46	\$65,503.80
30	PVFM/F	LION Turnout V-Force Pant, REDZONE	\$1,406.00	\$42,180.00
1	698-23	BuyBoard	\$0.00	\$0.00
			Freight Charges	TBD
			Total	\$107,683.80

*tax & freight to be determined***Thank you for your business!**

NOTE: All accounts are subject to sales tax charges unless a valid state exempt certificate is on file with NAFECO, or provided at the time of the order.

If you have any questions concerning this quote, please call our number listed above.

Visit Us On The Internet At: nafeco.com

September 28, 2023

Item No. 6.3.

Property Casualty, Excess General Liability and Excess Workers' Compensation policies for Fiscal Year 2024

Sponsor: Alison Pond, Director of Human Resources

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding City of College Station Excess Liability and Workers' Compensation Insurance, Property/Boiler & Machinery, Auto Property Damage, Commercial Crime, Cyber Liability, Unmanned Aircraft Liability and Property insurance policies for Fiscal Year 2024. FY24 premiums for all lines of coverage are not to exceed \$1,360,164.

Relationship to Strategic Goals:

Good Governance

Financially Sustainable City

Recommendation(s): The City of College Station Human Resources and Risk Management Department recommends approval of the above referenced insurance policies for the period October 1, 2023 to October 1, 2024.

Summary: Risk Management completed applications to solicit proposals for Excess Liability, Excess Workers' Compensation, Property/Boiler & Machinery, Auto Physical Damage, Commercial Crime, Cyber Liability, and UAV liability and property. Sole Broker of Record McGriff Insurance Services, Inc. submitted the City's applications to the appropriate carriers and evaluated all proposals submitted.

The City's property program had a total insured value increase of \$30 million, and the carrier's premium increased 22.5 percent for Property, Mobile Equipment, Fleet Catastrophic Loss and Boiler & Machinery. The City's High Deductible Auto Physical Damage values increased 24 percent with a rate increase of 25 percent due to losses. Excess Liability coverage had a premium increase of 20.4 percent. Excess Workers' Compensation coverage saw a flat rate, however, payroll increased 21.6 percent. Commercial crime coverage premium increased 5 percent and the cyber liability premium increased 13.3 percent. Coverage continues for the City's Unmanned Aircraft (UAV) Fleet, which added two additional FAA-approved aircraft to the five already maintained. Liability and hull coverage is included.

Overall, FY24 insurance premiums increased \$286,779.85 from FY23, or approximately 26.7 percent.

Budget & Financial Summary: Funds are available in the FY24 budget in the Property/Casualty Fund and the Workers' Compensation Fund.

Attachments:

None

September 28, 2023

Item No. 6.4.

ILA with Texas A&M University for aircraft rescue & fire fighting services

Sponsor: Richard Mann, Chief of Fire and Emergency Services

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding an interlocal agreement with the Texas A&M University System for aircraft rescue and fire fighting personnel and equipment requirements, operational responsibilities, command and control of the joint use fire station facility at Easterwood Airport for \$1,145,486 to be paid to the City through FY26.

Relationship to Strategic Goals:

1. Core Services and Infrastructure
2. Good Governance
3. Diverse Growing Economy

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

Summary: Interlocal agreement will allow the College Station Fire Department to continue operating out of Fire Station #4 through September 2026. The interlocal agreement also sets fees for the College Station Fire Department to provide Airport Rescue and Firefighting services to Easterwood Airport. The established fee amounts are based on cost recovery for personnel expenses for providing ARFF services divided equally between four partner entities: Texas A&M University System, City of College Station, City of Bryan, and Brazos County. This aligns with the council's direction to negotiate agreements to cover expenditures.

Budget & Financial Summary: Easterwood Airport, through Texas A&M University, will pay the City of College Station, \$1,145,486 over a three (3)-year Agreement.

Attachments:

1. 2023-2026 TAMU ARFF Interlocal Agreement

**2023-2026 AIRCRAFT RESCUE AND FIRE FIGHTING INTERLOCAL AGREEMENT
BETWEEN THE CITY OF COLLEGE STATION AND THE SYSTEM OFFICES OF THE
TEXAS A&M UNIVERSITY SYSTEM**

This Interlocal Agreement (“Agreement”) is made by and between THE SYSTEM OFFICES OF THE TEXAS A&M UNIVERSITY SYSTEM, (“TAMUS”), a member of The Texas A&M University System, an agency of the State of Texas and THE CITY OF COLLEGE STATION (“COLLEGE STATION”), a Texas Home Rule Municipal Corporation.

WHEREAS, Chapter 791 of the TEXAS GOVERNMENT CODE, also known as the INTERLOCAL COOPERATION ACT, authorizes the parties to contract with each other to provide a governmental function or service that each party to the contract is authorized to perform individually and in which the contracting parties are mutually interested; and

WHEREAS, the Board of Regents of The Texas A&M University System owns Easterwood Airport located in College Station, Brazos County, Texas; and

WHEREAS, TAMUS has contracted the management, operation and control of Easterwood Airport to Easterwood Airport Management ("EAM"); and

WHEREAS, COLLEGE STATION and TAMUS are committed to the promotion of the safety and health of all persons in the community within the bounds of fiscal responsibility; and

WHEREAS, Easterwood Airport's location in the city limits of College Station strategically places Easterwood Airport as an ideal locale for the establishment of a fire station facility for the joint use of TAMUS and COLLEGE STATION; and

WHEREAS, by previous Interlocal Agreements between TAMUS and COLLEGE STATION, the parties agreed to the establishment and operation of a joint use fire station facility at Easterwood Airport; and

WHEREAS, TAMUS and COLLEGE STATION have a desire to continue the cooperative use of such fire station facility; and

WHEREAS, TAMUS and COLLEGE STATION entered into an Aircraft Rescue and Fire Fighting Interlocal Agreement effective October 1, 2020 with a term ending September 30, 2023 (“Current Agreement”), and

NOW, THEREFORE, in consideration of the recitals and mutual covenants made by TAMUS, COLLEGE STATION and Easterwood Airport Management to be respectively kept and performed, the parties agree as follows:

SECTION I AGREEMENT PURPOSE

1.1 The purpose of this Agreement is to establish the responsibilities of TAMUS and COLLEGE STATION regarding Aircraft Rescue and Fire Fighting (“ARFF”) personnel and equipment requirements, operational responsibilities, command and control of the joint use fire station facility at Easterwood Airport, and the term of this Agreement.

1.2 In consideration for COLLEGE STATION’S services described in this Agreement, TAMUS will pay COLLEGE STATION a minimum base amount of **\$1,145,486.00** over a three (3) year Agreement term as detailed in Section 11.7.

SECTION II DEFINITIONS

2.1 Throughout this Agreement, the following words and phrases have the following meanings unless the context clearly indicates otherwise:

- a. Airport** – Easterwood Airport, which is owned by The Texas A&M University System and operated by EAM through its contract with TAMUS.
- b. ARFF** - Aircraft Rescue and Fire Fighting.
- c. Airport Liaison** – An EAM employee or agent trained to FAA standards, knowledgeable of Airport rules and regulations, and knowledgeable of the Aircraft Rescue and Fire Fighting functions to be performed pursuant to this Agreement.
- d. COLLEGE STATION Liaison** – A City of College Station employee or agent trained to city standards and knowledgeable of the Aircraft Rescue and Fire Fighting functions to be performed pursuant to this Agreement.
- e. Current Agreement** – The Aircraft Rescue and Fire Fighting Interlocal Agreement executed by TAMUS and COLLEGE STATION effective October 1, 2020 with a term ending September 30, 2023 (“Current Agreement”).
- f. ARFF Vehicles** – Aircraft Rescue and Fire Fighting vehicles with associated equipment owned by TAMUS and specifically designed for the purpose of providing Aircraft Rescue and Fire Fighting capabilities.
- g. COLLEGE STATION** - City of College Station, Texas.
- h. TAMUS** – The Texas A&M University System.
- i. Emergency Alert** – Emergency conditions as defined in the Easterwood Airport Emergency Plan.
- j. Emergency Plan** – The Easterwood Airport Emergency Plan currently in effect or as may be amended by mutual consent of EAM and COLLEGE STATION.
- k. EAM** – Easterwood Airport Management.
- l. Fire Department** - College Station Fire Department.
- m. Fire Fighting Agents** – A generic term used for materials such as water, foam, dry chemical, or carbon dioxide used for the extinguishment of fires.
- n. Fire Station** _ the land, facility and equipment.
- o. FAA** – Federal Aviation Administration of the United States, or any federal agency succeeding to its jurisdiction or function.
- p. Incident Command** – A standardized organizational structure used to command and control tactical operations needed to respond to an incident. The concept is further defined in the emergency plan.
- q. Joint-Use Operational Expenses** – All ordinary, direct, and reasonable expenses of

- operating the Fire Station, other than capital expenditures.
- r. Operator's Maintenance** – Common maintenance such as noting obvious vehicle defects or malfunctions, checking operating fluid levels, checking tire air pressure, etc. to ensure equipment is maintained in a state of readiness.
 - s. Organizational Maintenance** – Skilled maintenance such as those commonly performed by a technician or mechanic.
 - t. Rules and Regulations** – Rules and regulations adopted or that may be jointly adopted by EAM and COLLEGE STATION, for the operation, maintenance and administration of the Fire Station.
 - u. Unified Command System** – A shared command function consisting of the COLLEGE STATION Incident Commander or designee and EAM Director of Aviation or designee, as further defined in the Emergency Plan.

SECTION III AGREEMENT TERM

3.1 This Agreement is effective October 1, 2023. The Agreement term is from October 1, 2023 to September 30, 2026. TAMUS and COLLEGE STATION hereby agree to terminate the Current Agreement as of the Effective Date of this Agreement and for this Agreement to supersede the Current Agreement in all respects.

3.2 This Agreement may be terminated by TAMUS or COLLEGE STATION for convenience at any time provided that no less than twelve (12) months notice of termination is granted to COLLEGE STATION to build or procure adequate facilities for the displaced unit(s) and crew(s) and to procure or reassign the ARFF crew(s).

3.3 This Agreement may be terminated for cause upon ninety (90) days written notice for the following reasons:

- a.** A material breach of any term or condition of this Agreement which remains uncured during the entire notice period.
- b.** Lack of funds or other financial exigency on the part of TAMUS or COLLEGE STATION.
- c.** A decision on the part of TAMUS or the State of Texas to close Easterwood Airport.
- d.** A decision on the part of TAMUS or the State of Texas to sell Easterwood Airport or otherwise transfer ownership to another Airport authority.

3.4 TAMUS agrees, to the extent allowed by Constitution and laws of the State of Texas, that in the event of closure or sale of Airport or change in mission, this Agreement will remain in full force and effect, to the fullest degree possible, for the full term of this Agreement.

3.5 This Agreement may be terminated at any time by TAMUS for material breach of any term or condition of this Agreement caused by COLLEGE STATION ARFF personnel and resulting in a limitation of air carrier operations pursuant to Special Federal Aviation Regulation, §139.343, provided notice of such termination is provided within fifteen (15) days of the incident from which the limitation arises.

3.6 This Agreement may be terminated at any time by TAMUS due to noncompliance by COLLEGE STATION ARFF personnel with FAA and Easterwood Airport rules, regulations or guidelines reported in writing by the Airport Liaison pursuant to Paragraph 8.3 which remains uncured during the entire notice period. No such written report by the Airport Liaison shall be construed as notice of termination.

SECTION IV FIRE STATION FACILITY AND EQUIPMENT

4.1 COLLEGE STATION expressly acknowledges a significant portion of the funds used in the construction of the Fire Station were from a grant by the FAA and as a result, certain aspects of use are mandated by FAA Rules and Regulations.

4.2 TAMUS understands and acknowledges that COLLEGE STATION has sole control, authority and responsibility for emergency response and firefighting within the City of College Station.

4.3 As part of the ARFF equipment, COLLEGE STATION agrees it is responsible for maintaining and replacing when reasonably necessary, furnishings or equipment for ARFF operations as set out below.

- a.** Protective clothing for ARFF personnel.
- b.** One portable VHF radio for ARFF personnel.
- c.** Uniforms for personnel.

4.4 As part of the ARFF equipment, TAMUS is responsible for maintaining and replacing when reasonably necessary, furnishings or equipment for ARFF operations as set out below.

- a.** One primary ARFF vehicle and all associated equipment.
- b.** One personnel to function as liaison between College Station Fire Department and Easterwood Airport staff.

SECTION V PERSONNEL

5.1 COLLEGE STATION will provide a minimum of three (3) qualified fire fighters to operate and respond as a structural paramedic engine company and one (1) fire fighter per each assigned twenty-four (24) hour shift to staff an ARFF vehicle.

5.2 TAMUS and COLLEGE STATION, each, will provide one (1) qualified person to perform duties of Airport Liaison between the FAA, EAM (through the Director of Aviation or designee) and COLLEGE STATION (through the Fire Chief or designee).

TAMUS/EAM Liaison:

Kevin Davis
Airport Safety Coordinator
1 McKenzie Terminal Blvd., Suite 112
College Station, Texas 77845
(979) 775-9900
kdavis@easterwoodairport.com

COLLEGE STATION Liaison:

Lance Williams
CSFD ARFF Coordinator
300 Krenk Tap Road
College Station, Texas 77842
(979) 764-3706
lwilliams@cstx.gov

SECTION VI PAYROLL AND BENEFITS

6.1 COLLEGE STATION is solely responsible for salaries and associated payroll expenses, including all benefits, for COLLEGE STATION personnel employed in relation to the Fire Station or COLLEGE STATION's performance of this Agreement.

6.2 TAMUS is solely responsible for all salary and associated payroll expenses including all benefits for TAMUS personnel employed in relation to ensuring the performance of its contracted airport manager EAM under the terms of this Agreement

SECTION VII INSURANCE

7.1 COLLEGE STATION agrees all property owned by COLLEGE STATION will be insured or self-insured by COLLEGE STATION and TAMUS will have no liability or responsibility for loss or destruction of such property. COLLEGE STATION will provide insurance for liability arising from the use or operation of the ARFF vehicle by COLLEGE STATION employees or agents.

7.2 TAMUS agrees all property owned by TAMUS will be insured or self-insured by TAMUS and COLLEGE STATION will have no liability or responsibility for loss or destruction of such property.

SECTION VIII COMMAND AND CONTROL

8.1 COLLEGE STATION and TAMUS agree day-to-day operational control of the Fire Station is assigned to the College Station Fire Department Captain in charge of the Structural Paramedic Engine Company or Emergency Operations, as appropriate. Such control will extend to all Fire Station personnel to include ARFF personnel for the express purpose of establishing daily routines and duties in the Fire Station. Direct control of COLLEGE STATION personnel, including but not limited to discipline and dismissal, is retained by COLLEGE STATION.

8.2 Day-to-Day housekeeping functions will be performed by Fire Station personnel, including ARFF personnel, under the direction of the Fire Station Captain.

8.3 TAMUS shall provide an Airport Liaison to ensure that the Fire Station facility, equipment and operations comply with FAA guidelines and Easterwood Airport rules, regulations and guidelines. The liaison shall be responsible for reporting any non-compliance with such rules, regulations and guidelines to the COLLEGE STATION Fire Chief and the EAM Director of Aviation. The liaison shall also facilitate communications and coordinate joint actions as contemplated by this Agreement.

8.4 TAMUS, through its Airport Liaison, and COLLEGE STATION Fire Chief shall endeavor to promulgate procedures that may be jointly adopted by each of them for the operation, maintenance and administration of the Fire Station. Any procedures so adopted shall conform to the Emergency plan which shall control in the event of any inconsistent provisions. No procedures so adopted shall in any manner change, modify or amend this Agreement. In the event of an irreconcilable difference of opinion by and between the TAMUS Airport Liaison and COLLEGE STATION regarding the wording of, or subsequent interpretation, of a procedure, the matter will be presented to TAMUS's Executive Director of Risk Management & Benefits Administration and COLLEGE STATION's City Manager for resolution.

8.5 TAMUS, through its Airport Liaison, and COLLEGE STATION agree to establish a Unified Command System as outlined in the Emergency Plan during any emergency response, drill, or exercise conducted at Easterwood Airport.

8.6 COLLEGE STATION shall provide Incident Command for any Emergency Alert that occurs at Easterwood Airport.

8.7 TAMUS, through its Airport Liaison, shall provide Command and Control of Easterwood Airport facilities and runways inside the fence during any emergency at Easterwood Airport.

SECTION IX TRAINING

9.1 COLLEGE STATION agrees to train personnel provided by COLLEGE STATION in accordance with FAA and Texas Commission on Fire Protection standards.

9.2 COLLEGE STATION and TAMUS agree that requests for use of the Airport or other TAMUS facilities for training, excluding the Fire Station, shall be approved in writing by the EAM Director of Aviation or designee whose approval will not be unreasonably withheld.

9.3 COLLEGE STATION will maintain and make available for inspection at the request of the FAA or TAMUS the training records of all ARFF personnel in accordance with the requirements of the FAA-approved Part 139 Easterwood Airport Certification Manual.

9.4 TAMUS agrees to train personnel provided by COLLEGE STATION in accordance with FAA standards.

SECTION X OPERATIONAL RESPONSIBILITIES

10.1 COLLEGE STATION will provide fire protection, EMS (Emergency Medical Services), and hazardous materials response from a COLLEGE STATION Fire Station to the Texas A&M University Main Campus (mutual aid EMS), West Campus (mutual aid EMS), Northgate, and other areas in West College Station. In addition, COLLEGE STATION through the Structural Paramedic Engine Company will provide mutual aid assistance to the Aircraft Rescue and Fire Fighting (ARFF) function of Easterwood Airport in accordance with the Letter of Agreement contained in the Easterwood Airport Emergency Manual as amended and maintained at the Easterwood Airport Administrative Office.

10.2 COLLEGE STATION agrees to staff an ARFF vehicle provided by TAMUS three-hundred sixty-five (365) days per year, twenty-four hours (24) per day.

10.3 COLLEGE STATION personnel shall conduct daily inspections and perform Operator's Maintenance on the ARFF vehicle(s) kept by TAMUS at the Fire Station. Such personnel shall report observed Organizational Maintenance needs of such ARFF vehicle(s) to the Airport Liaison, or designee. COLLEGE STATION understands the usage of ARFF vehicle(s) is restricted to Easterwood Airport operations unless used in an off-airport emergency as defined in the Mutual Aid Agreement.

10.4 COLLEGE STATION personnel shall conduct basic inspections, maintenance and certifications per Texas Commission on Fire Protection requirements on the Fire Station's breathing air system.

10.5 TAMUS shall perform necessary Organizational Maintenance on ARFF vehicles to include replacement when necessary. TAMUS acknowledges it is responsible for maintaining the ARFF vehicle(s) in compliance with FAA standards. Compliance with this requirement is the sole responsibility of the TAMUS M.

10.6 COLLEGE STATION shall replace the components of the breathing air system located in the Fire Station as required to meet Texas Commission on Fire Protection regulations.

10.7 TAMUS shall remain solely responsible for making any and all environmental reports required by law concerning any operation, activity, or incident occurring on TAMUS-owned property.

SECTION XI JOINT-USE OPERATIONAL EXPENSE

11.1 COLLEGE STATION expressly agrees to pay TAMUS eighty percent (80%) of the cost of operations and maintenance without set off within thirty (30) calendar days of receipt of written notification from TAMUS.

11.2 The cost of any repairs, replacement or the addition of new equipment listed in **Exhibit "C"** will be borne eighty percent (80%) by COLLEGE STATION and twenty percent (20%) by TAMUS. Building repairs or replacement will be borne fifty percent (50%) by TAMUS and fifty percent (50%) by COLLEGE STATION as listed in **Exhibit "C"**. COLLEGE STATION Facilities Maintenance personnel may be used to make repairs to assure the most cost-effective repairs are made in consultation with and approval of the EAM Director of Aviation.

11.3 COLLEGE STATION will pay for fire protection, equipment, and fuel and maintenance expenses, which are specific to COLLEGE STATION operations.

11.4 TAMUS is responsible for the replacement of Fire Fighting Agents used during live training burns and TAMUS shall provide for replacement of Fire Fighting Agents used by ARFF equipment during any Airport emergency.

11.5 COLLEGE STATION shall be responsible for all expenses associated with the routine maintenance and certification costs of the Fire Station's breathing air system associated with ARFF operations.

11.6 COLLEGE STATION shall be responsible for all expenses related to training, personal protective equipment and other needs of its personnel.

11.7 TAMUS shall pay COLLEGE STATION a base amount for each Agreement term.

- a.** For the first term in FY24 TAMUS shall pay **\$374,293.00**
- b.** For the second term in FY25 TAMUS shall pay **\$381,779.00**
- c.** For the third term in FY26 TAMUS shall pay **\$389,414.00**

The base amount as detailed in **Exhibit "B"** is calculated by the costs associated with the salary and benefits of the three drivers needed to cover the shifts (three hundred sixty-five (365) days per year, twenty-four (24) hours per day), the cost associated with annual specialized training to staff the ARFF vehicle divided by the four partner entities (City of College Station, City of Bryan, Brazos County and Texas A&M University System). Such payment shall be made no later than the tenth business day after the effective date

of this Agreement and subsequently, not later than each anniversary date of this Agreement. The College Station portion will represent one quarter of the total cost and will be in-kind for the services provided.

11.8 TAMUS shall be responsible for the provision of and all expenses associated with Organizational Maintenance for the ARFF vehicle(s) as required, to satisfy FAA requirements.

11.9 TAMUS shall provide all fuel, oil, and other ARFF vehicle fluids.

SECTION XII COMMUNICATIONS

12.1 COLLEGE STATION acknowledges it is responsible for the maintenance and ongoing expenses for a ring-down telephone from College Station dispatch. In addition, COLLEGE STATION will provide communications equipment as follows:

- a.** Computers
- b.** Radio Base Station
- c.** Radio antenna
- d.** UPS Backup Power Supply
- e.** Fire Station Alerting Equipment
- f.** Radio battery charging banks
- g.** Telephone
- h.** Fax machine
- i.** Ring down telephone from city dispatch
- j.** Fixed communications tower

12.2 TAMUS agrees to provide communications equipment as follows:

- a.** Alerting System from air traffic control tower to ARFF station alerting system provided by CSFD
- b.** Two hand-held or vehicle-mounted VHF radios - tower frequency for CSFD vehicles (if two vehicles are permanently assigned). Vehicle-mounted CSFD radio for each Easterwood Airport ARFF vehicle.
- c.** Truck-mounted VHF radios for each Easterwood Airport ARFF vehicle.

SECTION XIII CONTRACTUAL AGREEMENT

13.1. COLLEGE STATION and TAMUS expressly agree this Agreement is intended to be and should be construed as a contractual document, by and between TAMUS and COLLEGE STATION. The covenants and agreements contained in this Agreement remain in full force and effect and will not be merged or extinguished by any subsequent act of the parties except by a written amendment executed by the Parties.

SECTION XIV SEVERABILITY

14.1 The failure of TAMUS or COLLEGE STATION to insist, in one or more instances, on strict performance of any of the requirements of this Agreement will not be construed as a waiver or relinquishment of such requirements in future instances, but will continue and remain in full force and effect.

**SECTION XV
SUCCESSORS AND ASSIGN**

15.1 This Agreement is binding upon COLLEGE STATION and TAMUS, their respective legal representatives, successors and assigns.

**SECTION XVI
NOTICES**

16.1 Any notices, approval, consent, or communication by one party to another must be in writing and may be by personal delivery or registered or certified United States Mail, properly addressed to the respective parties as follows:

TAMUS/EAM:

Kevin Davis
Dir. Of Easterwood Airport Management
1 McKenzie Terminal Blvd., Suite 112
College Station, Texas 77845
(979) 775-9901
kdavis@easterwoodairport.com

with copy to:

Phillip Ray
Vice Chancellor for Business Affairs
The Texas A&M University System
301 Tarrow
College Station, Texas 77840-7896
(979) 458-6001 pray@tamus.edu

COLLEGE STATION:

Richard Mann, Fire Chief
PO Box 9960
300 Krenk Tap Road
College Station, Texas 77842
(979) 764-3706
rmann@cstx.gov

with copy to:

Bryan Woods, City Manager
PO Box 9960
1101 Texas Avenue
College Station, Texas 77842
(979) 764-3510
bwoods@cstx.gov

**SECTION XVII
CIVIL LIABILITY AND INDEMNITY**

17.1 COLLEGE STATION and TAMUS expressly acknowledge and agree that all activities conducted by COLLEGE STATION at Easterwood Airport pursuant to this Agreement constitute or shall be construed as fire protection services for which TAMUS would have been responsible for furnishing in the absence of this Agreement. TAMUS expressly acknowledges and agrees notwithstanding any contrary provisions herein, that it is solely responsible for any civil liability that arises from furnishing of those services in accordance with and pursuant to TEXAS GOVERNMENT CODE §791.006, regardless of whether the services are provided in whole or in part by COLLEGE STATION under this Interlocal Agreement.

**SECTION XVIII
STATE AGENCY AND LOCAL GOVERNMENT MISCELLANEOUS**

18.1 Non-Waiver. COLLEGE STATION expressly acknowledges TAMUS is an agency of the State of Texas and TAMUS acknowledges COLLEGE STATION is a Texas Home Rule Municipal Corporation. Nothing in this Agreement will be construed as a waiver or relinquishment by TAMUS or COLLEGE STATION of their right to claim such exemptions, privileges and immunities as may be provided by the Constitution or the laws of the State of Texas.

18.2 Debt or Delinquency. Pursuant to Sections 2107.008 and 2252.903, Texas Government Code, COLLEGE STATION agrees that any payments owing to COLLEGE STATION under this Agreement may be applied directly toward certain debts or delinquencies that COLLEGE STATION owes the State of Texas or any agency of the State of Texas regardless of when they arise, until such debts or delinquencies are paid in full.

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

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

18.5 Loss of Funding. Performance by TAMUS under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "Legislature"). If the Legislature fails to appropriate or allot the necessary funds, TAMUS will issue written notice to TAMUS and TAMUS may terminate this Agreement without further duty or obligation hereunder. COLLEGE STATION acknowledges that appropriation of funds is beyond the control of TAMUS.

18.6 State Auditor's Office Right to Audit. COLLEGE STATION understands that acceptance of funds under this Agreement constitutes acceptance of the authority of the Texas State Auditor's Office, or any successor agency (collectively, "Auditor"), to conduct an audit or investigation in connection with those funds pursuant to Section 51.9335(c), Texas Education Code. COLLEGE STATION agrees to cooperate with the Auditor in the conduct of the audit or investigation, including without limitation, providing all records requested. COLLEGE STATION will include this provision in all contracts with permitted subcontractors.

18.7 Non-Assignment. COLLEGE STATION shall neither assign its rights nor delegate its duties under this Agreement without the prior written consent of TAMUS.

18.8 Public Information Act. COLLEGE STATION acknowledges that TAMUS is obligated to strictly comply with the Texas Public Information Act, Chapter 552, Texas Government Code (the "PIA"), in responding to any request for public information pertaining to this Agreement, as well as any other disclosure of information required by applicable Texas law.

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

THE TEXAS A&M UNIVERSITY SYTEM

By: _____

Name: _____

Title: _____

Date: _____

CITY OF COLLEGE STATION

By: _____

Mayor

Date: _____

ATTEST:

By: _____

City Secretary

Date: _____

APPROVED:

City Manager

Date: _____

City Attorney

Date: _____

Assistant City Manager/CFO

Date: _____

EXHIBIT "A"

EQUIPMENT

(Replacement/Repairs - 80% COLLEGE STATION /20% TAMUS)

1. Wall mounted metal shelving with firefighting gear accessories (firefighting gear venting) (24 unites)
2. Projection Screen, Manual, above ceiling
3. TV mounting brackets, wall hung (TV not in contract)
4. Dishwasher, under counter
5. Beds (8 each) plus other bedroom furnishings
6. Dining room furnishings
7. Lounge/Dayroom furnishings (Television, DVD/Blue Ray Player, Cabinet, Couch, Lounge Chairs, Lamps, End Tables)
8. Microwave-HD
9. Fitness room equipment
10. Chairs for Training Room
11. Tables for Training Room
12. Cooking range (heavy duty residential/oven)
13. One refrigerator/freezer and ice maker
14. First-aid equipment
15. Washer (heavy duty industrial)
16. Dryer

BUILDING

(Replacement/Repairs - 50% COLLEGE STATION/50% TAMUS)

1. Roof
2. Walls to include all structural support columns
3. Doors (interior and exterior to include bay doors)
4. Electrical wiring and equipment to include Emergency Generator.
5. Plumbing piping and equipment to include Hot Water heater
6. Heating, Air Conditioning and Ventilation Equipment and Ductwork
7. Painting
8. Flooring
9. Ceiling tile
10. Windows
11. Concrete/Asphalt work to include foundation, bays and front and rear driveways
12. Diesel Exhaust System

Special note: COLLEGE STATION will be responsible for 100% of Personal Protective Equipment to include all Self-Contained Breathing Apparatus.

Exhibit “B”
Payment Schedule Calculations

Calculations used for this agreement are comprised of the following:

- 1. Salary and benefits for three (3) ARFF Driver/Operators - \$411,717.00**
 - a. Annual Salary - \$88,699.00**
 - b. Longevity - \$800.00**
 - c. Certification Pay - \$9,000.00**
 - i. Paramedic - \$6,000.00**
 - ii. ARFF - \$600.00**
 - iii. TCFP - \$1,800.00**
 - iv. Education - \$600.00**
 - d. Benefits - \$38,740.00**
 - i. FICA - \$6,785.00**
 - ii. TMRS – \$13,527.00**
 - iii. Group Health - \$15,236.00**
 - iv. AD&D - \$64.00**
 - v. OPEB - \$1,508.00**
 - vi. Life - \$255.00**
 - vii. Workers Comp - \$1,305.00**
 - viii. Unemployment Comp - \$60.00**
- 2. Backfill cost for vacation/holiday leave for 3 ARFF Driver/Operators - \$76,140.00**
- 3. Annual Required Live Fire Training - \$9,100.00**
- 4. Structural Fire Gear - \$3,500.00 each / replaced on 5-year cycle - \$2,100.00/yr**
- 5. Assume 2% cost increases for FY25 & FY26**

Total FY24 Annual ARFF Cost = \$499,057

\$499,057 / 4 entities = \$124,764 per entity (CoCS, Bryan, TAMUS, Brazos County)

\$499,057 – \$124,764 = \$374,293 owed to City of College Station Annually

Payment Schedule:

- 1. FY24 – \$374,293.00**
- 2. FY25 – \$381,779.00**
- 3. FY26 – \$389,414.00**

September 28, 2023

Item No. 6.5.

BVWACS Annual Operating & Maintenance and Capital budget

Sponsor: Sam Rivera

Reviewed By CBC: N/A

Agenda Caption: Presentation, discussion, and possible action to the BVWACS Annual Operating & Maintenance and Capital Budget.

Relationship to Strategic Goals:

- Good Governance
- Financially Sustainable City
- Core Services and Infrastructure

Recommendation(s): CIO recommends approval of the budget for \$181,858.90 for the City of College Station portion of the BVWACS FY2024 Budget

Summary: The Brazos Valley Wide Area Communications System (BVWACS) is an interoperable radio system that allows public safety (and supporting) agencies to communicate throughout the Brazos Valley. The City of College Station is the biggest BVWACS partner with 1027 radios in use. The BVWACS budget allocation is based on the number of radios an agency uses.

The BVWACS budget of \$811,370.47 was proposed and approved by the BVWACS Governing Board. The City of College Station portion of this cost is 22.41% of the BVWACS system. This amount is an increase of \$8,742.06 from FY2023. This is due to increase in Maintenance fees (Motorola/Harris County/Data Connectivity) and the addition of 42 radios.

Budget & Financial Summary: Funds are budgeted and available through IT Communications Professional Services account

Attachments:

1. BVWACS FY2024 Approved Budget - 1
2. BVWACS FY2024 Approved Budget - 2

BVWACS FY2024 APPROVED Budget

Description	FY2023	FY2024	FY22/23 Change
Capital Fund Contributions	\$ 103,377.05	\$ 103,377.05	\$0.00
Expenses			
Salary - System Manager	\$ 106,069.10	\$ 109,781.52	\$3,712.42
Salary - BVCOG Misc	\$ 7,519.09	\$ 7,819.85	\$300.76
Salary Total	\$ 113,588.18	\$ 117,601.37	\$4,013.18
Benefits Total	\$ 32,581.73	\$ 33,885.00	\$1,303.27
General, Administrative, & Maintenance Expense			
Consulting Fees *Other Admin*	\$ -	\$ -	\$0.00
Professional Fees *Other Admin*	\$ 3,500.00	\$ 4,500.00	\$ 1,000.00
Audit Expense *Other Admin*	\$ 2,684.51	\$ 2,791.89	\$107.38
Travel Expense	\$ 8,000.00	\$ 8,500.00	\$500.00
Maintenance, Motorola	\$ 228,062.07	\$ 245,055.55	\$16,993.48
Maintenance, Harris County	\$ 64,022.94	\$ 77,395.64	\$13,372.70
Maintenance, General *Contingency*	\$ 35,000.00	\$ 45,000.00	\$10,000.00
Supply Expense *Other Admin*	\$ -	\$ -	\$0.00
Copier Expense *Postage & Printing*	\$ 400.00	\$ 400.00	\$0.00
Maintenance, Data Connectivity	\$ 50,000.00	\$ 70,000.00	\$20,000.00
Telephone Expense *Includes mobile data devices & phone*	\$ 1,800.00	\$ 3,500.00	\$1,700.00
Postage Expense *Postage & Printing*	\$ 75.00	\$ 75.00	\$0.00
Insurance, General	\$ 15,000.00	\$ 15,000.00	\$0.00
Training and Meeting Expense *Other Admin*	\$ 3,000.00	\$ 4,500.00	\$1,500.00
General, Admin, & Maintenance Expense Total	\$ 411,544.52	\$ 476,718.08	\$65,173.56
Indirect			
Indirect Cost Expense	\$ 28,418.00	\$ 29,554.72	\$1,136.72
ISF			
Accounting Service ISF	\$ 10,342.31	\$ 10,756.00	\$413.69
System Administration ISF	\$ 11,642.85	\$ 12,108.57	\$465.71
Copy/Fax Service ISF	\$ 532.60	\$ 553.91	\$21.30
Human Resource Management ISF	\$ 8,794.19	\$ 9,145.96	\$351.77
Office Space ISF	\$ 8,670.21	\$ 9,017.02	\$346.81
Receptionist/Internet/Local Phone ISF	\$ 8,320.00	\$ 8,652.80	\$332.80
ISF Total	\$ 48,302.17	\$ 50,234.25	\$1,932.09
Annual Operating & Maintenance Total	\$ 634,434.60	\$ 707,993.42	\$73,558.82
Annual Operating, Maintenance, & Capital Total	\$ 737,811.65	\$ 811,370.47	\$73,558.82

FY2024 APPROVED							
	Count	%	O&M	Capital	Total	Change	
College Station	1027	22.41%	\$ 158,688.18	\$ 23,170.72	\$ 181,858.90	\$ 8,742.06	
Bryan	560	12.22%	\$ 86,529.10	\$ 12,634.47	\$ 99,163.57	\$ 13,220.28	Annual (Includes Capital) Per Radio
Brazos	603	13.16%	\$ 93,173.29	\$ 13,604.62	\$ 106,777.91	\$ 8,883.42	Per Radio/Year \$ 177.08
TAMU	336	7.33%	\$ 51,917.46	\$ 7,580.68	\$ 59,498.14	\$ 2,026.87	Per Radio/Month \$ 14.76
Washington County	814	17.77%	\$ 125,776.22	\$ 18,365.11	\$ 144,141.33	\$ 14,611.27	
Brenham	288	6.29%	\$ 44,500.68	\$ 6,497.73	\$ 50,998.41	\$ 1,787.53	
Grimes	394	8.60%	\$ 60,879.40	\$ 8,889.25	\$ 69,768.65	\$ 4,036.98	
Madison	257	5.61%	\$ 39,710.67	\$ 5,798.32	\$ 45,508.99	\$ 4,558.51	
Burleson	303	6.61%	\$ 46,818.42	\$ 6,836.15	\$ 53,654.57	\$ 15,691.90	
Total	4582	100.00%	\$ 707,993.42	\$ 103,377.05	\$ 811,370.47	\$ 73,558.82	

September 28, 2023

Item No. 6.6.

Contract with CTWP in the amount of \$262,641.13 for copier lease.

Sponsor: Sam Rivera

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action on lease agreement with CTWP in the amount of \$262,641.13.

Relationship to Strategic Goals:

Core Services and Infrastructure

Recommendation(s): Chief Information Officer recommends approval of the contract.

Summary: The IT Department has identified twenty-six copiers that have reached their end of useful life. This contract is to lease copiers rather than purchase them. This contract includes the lease of twenty-six copiers. The lease arrangement will allow City departments to worry-free use of copiers through the typical life span of the hardware. The lease includes all parts, labor, preventative maintenance, and supplies (excluding Paper). Supplies and service support are billed on a monthly volume over a group of leased copiers to maximize the volume city-wide rather than by department. Should we go over then we will be billed a per-copy charge for any overages quarterly. These leased machines can also provide secure print using assigned codes for users should the city decide to utilize the technology. The copiers are equipped with standard options like scanning, fax, duplex, several paper drawers and sizes, OCR capability, staple finisher with a hole punch, and color print capability. There is a fair market purchase option at end of lease, or the vendor will pick up and recycle and the copier will be replaced with a new machine under a new lease. Training, delivery, and installation are included.

Budget & Financial Summary: Funds for this purchase will be acquired from IT Equipment Replacement Fund.

Attachments:

1. Contract 23300669



CONTRACT & AGREEMENT ROUTING FORM

CONTRACT#: 23300669 PROJECT#: _____ BID/RFP/RFQ#: _____

Project Name / Contract Description: Lease Agreement for 26 Copiers for five (5) years
(Inclusive of Overages, Old Copier moving, Document fee)

Name of Contractor: CTWP

CONTRACT TOTAL VALUE: \$ 262,641.13

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)

Five Year Lease Agreement for the replacement of 26 existing copiers

Funds will be provided from the "IT Equipment Replacement Fund" 10011240 5510

CRC Approval Date*: 08/21/23 *(If required)** **Council Approval Date*:** 09/28/23 **Agenda Item No*:** _____

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

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

SIGNATURES RECOMMENDING APPROVAL

DEPARTMENT DIRECTOR/ADMINISTERING CONTRACT

DATE

LEGAL DEPARTMENT

DATE

ASST CITY MGR – CFO

DATE

APPROVED & EXECUTED

CITY MANAGER

DATE

N/A

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 _____

Document Management Agreement

Agreement No.:

**CUSTOMER INFORMATION:**

Customer's Full Legal Name: City of College Station		
Address: PO Box 9960		
City/State/Zip Code: College station, Tx 77842		
Telephone Number: 979-764-3500	Federal Tax ID #:	County: Brazos

SUPPLIER INFORMATION:

Supplier Name: CTWP
Address: 3730 Franklin Avenue
City/State/Zip Code: Waco, Texas 76710

EQUIPMENT INFORMATION: See Attached Equipment ScheduleEquipment Location (if different than address shown above): see schedule A

Quantity	Equipment Make, Model & Serial Number (Required)	Quantity	Equipment Make, Model & Serial Number (Required)
2	Konica Minolta BHC3350i	11	Konica Minolta BHC550i
13	Konica Minolta BHC450i		

TERM AND PAYMENT INFORMATION: Initial Term: **60** monthsMinimum Payment Per Payment Period: **\$4301.22** *(*PLUS TAX)

Image Type	Images Included Per Payment Period	Excess Per Image Charge	Payment Period is "Monthly" unless noted here: _____ Excess image charges billed "Quarterly" unless noted here: _____
Black & White		*	
Color		*	
Scans		*	
☐ See attached schedule for additional meters.			
Advance Payment: _ * applied to ☐ 1st Minimum Payment ☐ Last Minimum Payment ☐ 1st and Last Minimum Payments			Documentation / Processing Fee: \$75.00
Security Deposit:			

In this agreement (as amended from time to time, the "Agreement"), "You" and "Your" mean the customer named above. "We," "Us" and "Our" mean the owner, **CTWP Leasing** "Supplier" means the equipment supplier named above. You acknowledge and agree that this Agreement represents the complete and exclusive agreement between You and Us regarding the subject matter herein and supersedes any other oral or written agreements between You and Us. This Agreement can be changed only by written agreement between You and Us. Other agreements not stated herein (including, without limitation, those contained in any purchase order or service agreement between You and the Supplier) are not part of this Agreement and are not binding on Us.

1. LEASE OF EQUIPMENT. You agree to lease from Us the Equipment referenced herein ("Equipment") upon the terms stated herein. You promise to pay to Us all of the charges and fees stated herein. This Agreement is binding on You as of the date You sign it. You agree that after You sign, We may insert or correct any information missing on this Agreement, including Your proper legal name, serial numbers and any other information describing the Equipment, and change the payment amount by up to 15% due to a change in the Equipment or its cost or a tax or payment miscalculation.

2. EQUIPMENT SERVICE; SUPPLIES; YOUR UNCONDITIONAL OBLIGATIONS. The Supplier named above has agreed with You to provide Equipment service during normal business hours and to provide You with all toner, developer and parts necessary for You to produce images, all of which are included in the Minimum Payment Per Payment Period. However, You agree that: (a) You must separately purchase all other supplies, including, without limitation, copier paper, at Your own cost, and (b) You must separately purchase Equipment service outside the Supplier's normal business hours and any service, parts or supplies required by your misuse of the Equipment or failure to follow the manufacturer's suggested use instructions. You agree that: (i) We are a separate and independent company from the Supplier, manufacturer and any other vendor (collectively, "Vendors"), and the Vendors are NOT Our agents; (ii) No statement or warranty by any Vendor is binding on Us, and no Vendor has authority to waive or alter any term of this Agreement; (iii) You, not We, selected the Equipment and the Vendor(s) based on Your own judgment; (iv) Your obligations hereunder are absolute and unconditional despite any Equipment failure or any Vendor's failure to provide You with any Equipment service, parts or supplies (including any service, parts or supplies that are included in the Minimum Payment Per Payment Period), or any other adverse condition; (v) We are NOT a party to the Supplier's agreement to provide You with service, parts or supplies, such contract is NOT part of this Agreement (even though We will, as a convenience to You and the Supplier, bill and collect monies owed by You to the Supplier), and no breach by the Supplier will excuse You from performing Your obligations to Us hereunder; and (vi) If the Equipment is unsatisfactory or if any Vendor fails to provide any service or fulfill any other obligation to You, You shall not make any claim against Us and shall continue to fully perform under this Agreement.

3. IMAGE CHARGES. Each Payment Period, You agree to pay Us, by the due date set forth on Our invoice to You (i) the Minimum Payment shown above, (ii) the applicable Excess Per-Image Charge for each metered image in excess of the applicable number of Images Included, and (iii) applicable taxes and other charges provided for herein. You agree to pay such Minimum Payment each Payment Period even if You do not make the applicable number of Images Included. There are no "credits" that carry over from any Payment Period during which You make fewer than the applicable number of Images Included. You agree that We may increase the Minimum Payment and/or the applicable Excess Per-Image Charges once each year during the Initial Term and once each year for any Renewal Term, by an amount not to exceed 10% per year. At Our option, You will (a) provide Us by telephone or facsimile with the actual meter readings when We so request, (b) allow Us to attach an automatic meter reading device to the Equipment, or (c) allow Us access to the Equipment to obtain meter readings or audit the meter reading device. If We request You to provide Us with meter readings and You fail to do so within 7 days of Our request, then (i) We may estimate the number of images made and invoice you accordingly, and (ii) We will adjust the estimated charge for excess images upon receipt of actual meter readings. Restrictive endorsements on checks will not be binding on Us. All payments received will be applied to past due amounts and to the current amount due in such order as We determine. Any security deposit or estimated future Governmental Charge that You pay is non-interest bearing, may be commingled with Our funds, may be applied by Us at any time to cure any default by You, and the unused portion will be returned to You within 90 days at the end of the Initial Term or Renewal Term. If We do not receive a payment in full on or before its due date, You shall pay (i) a fee equal to the greater of 10% of the amount that is late or \$29.00, plus (ii) interest on the part of the payment that is late in the amount of 1.5% per month ("Time-Value Interest") from the due date to the date paid. If any check is dishonored, You shall pay Us a fee of \$30.00.

4. TERM; AUTOMATIC RENEWAL. This Agreement is effective on the date that it is accepted by Us, and the term will begin on that date or any later date that We designate (the "Commencement Date") and will continue for the number of months shown above (the "Initial Term"). As used herein, "Present Term" means the term presently in effect at any time, whether it is the Initial Term or a Renewal Term (defined below). **Unless You notify Us in writing at least 60 days but not more than 120 days before the end of a Present Term that You intend to return the Equipment at the end of such Present Term, then: (a) this Agreement will automatically renew for an additional one-year period (a "Renewal Term") and (b) the payment terms and other terms of this Agreement will continue to apply.** If You do notify Us in writing within such time that You intend to return the Equipment at the end of a Present Term, then promptly upon the expiration of such Present Term You shall return the Equipment pursuant to Section 12. **This Agreement is non-cancelable for the full Initial Term and for any and all Renewal Terms.**

Customer:	Owner: CTWP Leasing
By: X _____ Date: ____ / ____ / ____	By: X _____
Print name: _____ Title: _____	Print name: _____
BY SIGNING ABOVE, CUSTOMER ACKNOWLEDGES RECEIPT OF PAGE 2 OF THIS AGREEMENT AND AGREES TO THE TERMS ON BOTH PAGES 1 & 2	Date: ____ / ____ / ____

5. INDEMNIFICATION. You shall indemnify and defend Us against, and hold Us harmless for, any and all claims, actions, damages, liabilities, losses and costs (including but not limited to reasonable attorneys' fees) made against Us, or suffered or incurred by Us in any way relating to the Equipment. This obligation shall survive the termination of this Agreement.

6. NO WARRANTIES. WE ARE PROVIDING THE EQUIPMENT TO YOU "AS IS". WE HAVE NOT MADE AND HEREBY DISCLAIM ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, ARISING BY APPLICABLE LAW OR OTHERWISE, INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. We hereby transfer to You, without recourse to Us, all automatically transferable warranties, if any, made to Us by the Vendor(s) of the Equipment. The parties hereto agree that the transaction documented in this Agreement is a "finance lease" under Article 2A of the Uniform Commercial Code (the "UCC"). You hereby waive any and all rights and remedies conferred upon You by sections 507-522 Article 2A of the UCC. If this Agreement is deemed to be a secured transaction, You hereby grant to Us a security interest in the Equipment and all proceeds thereof. You authorize Us to record a UCC financing statement to protect Our interests in the Equipment. You acknowledge that You are aware of the name of the Supplier of each item of Equipment and You may contact the Supplier(s) for an accurate and complete statement of those promises and warranties (if any), including any disclaimers and limitations of them or of remedies. We assign to you any warranties given to us.

7. DELIVERY, LOCATION, OWNERSHIP, USE, MAINTENANCE OF EQUIPMENT. We are not responsible for delivery or installation of the Equipment. You are responsible for Equipment maintenance to the extent the Supplier does not provide the same. You will not remove the Equipment from the Equipment Location unless You first get Our permission. If the Equipment is moved to a new location, We may increase the "Minimum Payment" and/or "Excess" per-image charges by a reasonable amount in order to account for any increased costs in providing covered service, parts and supplies to You. You shall give Us reasonable access to the Equipment Location so that We may inspect the Equipment, whether performed prior to or after the Commencement Date, and You agree to pay Our costs in connection therewith. We will own and have title to the Equipment (excluding any software) during the Agreement. Except as provided in this paragraph, references to "Equipment" include any software referenced above or installed on the Equipment. If the Equipment includes any software, (i) We don't own the software, (ii) You are responsible for entering into any necessary software license agreements with the owners or licensors of such software, (iii) You shall comply with the terms of all such agreements, if any, and (iv) any default by You under any such agreements shall constitute a default by You under this Agreement. You represent that the Equipment will be used solely for commercial purposes and not for personal, family or household purposes. You will use the Equipment in accordance with all laws, operation manuals, service contracts (if any) and insurance requirements, and shall not make any permanent alterations. At Your own cost, You will keep the Equipment in good working order and warrantable condition, ordinary wear and tear excepted ("Good Condition").

8. LOSS; DAMAGE; INSURANCE. You shall, at all times during this Agreement, bear the risk of loss and damage to the Equipment and shall continue performing all Your obligations to Us even if it becomes damaged or suffers a loss. In no event will we be liable for any consequential or indirect damages. You agree to maintain comprehensive liability insurance acceptable to us. You also agree to: 1) keep the Equipment fully insured against loss at its replacement cost, with us named as loss payee; and 2) provide proof of insurance satisfactory to us no later than 30 days following the commencement of this Agreement, and thereafter upon our written request. If you fail to maintain property loss insurance satisfactory to us and/or you fail to timely provide proof of such insurance, we have the option, but not the obligation, to secure property loss insurance on the Equipment from a carrier of our choosing in such forms and amounts as we deem reasonable to protect our interests. If we secure insurance on the Equipment, we will not name you as an insured party, your interests may not be fully protected, and you will reimburse us the premium which may be higher than the premium you would pay if you obtained insurance, and which may result in a profit to us through an investment in reinsurance. If you are current in all of your obligations under the Agreement at the time of loss, any insurance proceeds received will be applied, at our option, to repair or replace the Equipment, or to pay us the remaining payments due or to become due under this Agreement, plus our booked residual, both discounted at 3% per annum.

9. ASSIGNMENT. You shall not sell, transfer, assign or otherwise encumber (collectively, "Transfer") this Agreement, or Transfer or sublease any Equipment, in whole or in part, without Our prior written consent. We may, without notice to You, Transfer Our interests in the Equipment and/or this Agreement, in whole or in part, to a third party (a "New Owner"), in which case the New Owner will, to the extent of such Transfer, have all of Our rights and benefits but will not have to perform Our obligations (if any). Any Transfer by Us will not relieve Us of Our obligations hereunder. You agree not to assert against the New Owner any claim, defense or offset You may have against Us.

10. TAXES AND OTHER FEES. You are responsible for all taxes (including, without limitation, sales and personal property taxes, excluding only taxes based on Our income), assessments, license and registration fees and other governmental charges relating to this Agreement or the Equipment (collectively "Governmental Charges"). You agree to promptly pay Us, on demand, estimated future Governmental Charges. You authorize Us to pay any Governmental Charges as they become due, and You agree to reimburse Us promptly upon demand for the full amount (less any estimated amounts previously paid by You). You agree to pay Us a fee for preparing and filing personal property tax returns. You also agree to pay Us upon demand (i) for all costs of filing, amending and releasing UCC financing statements, and (ii) a documentation/processing fee as set forth on Page 1 (or as otherwise agreed to) to cover Our investigation, documentation and other administrative costs in originating this Agreement. You also agree to pay Us a fee, in accordance with Our current fee schedule, which may change from time to time, for additional services We may provide to You at Your request. You acknowledge that We may (on behalf of the Supplier) bill You for any supply freight fee that the Supplier charges for shipping supplies to You. You agree that the fees set forth in this Agreement may include a profit.

11. DEFAULT. You will be in default hereunder if You (1) fail to pay any amount due hereunder within 15 days of the due date, (2) breach or attempt to breach any other term, representation or covenant set forth herein or in any other agreement between You and Us, (3) die (if You are an individual), go out of business or commence dissolution proceedings, (4) become insolvent, admit Your inability to pay Your debts, make an assignment for the benefit of Your creditors (or enter into a similar arrangement), file (or there is filed against You) a bankruptcy, reorganization or similar proceeding or a proceeding for the appointment of a receiver, trustee or liquidator, or (5) suffer an adverse change in Your financial condition and, as a result thereof or for any other reason, We deem Ourselves insecure. If You default, We may do any or all of the following: (A) cancel this Agreement, (B) require You to return the Equipment pursuant to Section 12 below, (C) take possession of and/or render the Equipment (including any software) unusable (and for such purposes You hereby authorize Us and Our designees to enter Your premises, with or without prior notice or other process of law), and sell, lease or otherwise dispose of the Equipment on such terms and in such manner as We may in Our sole discretion determine, (D) require You to pay to Us, on demand, an amount equal to the sum of (i) all Minimum Payments and other amounts then due and past due, (ii) all remaining Minimum Payments for the remainder of the then Present Term discounted at a rate of 6% per annum, (iii) the residual value of the Equipment estimated by Us at the inception of this Agreement (as shown in Our books and records), discounted at a rate of 6% per annum, (iv) Time-Value Interest on the amounts specified in clauses "i", "ii" and "iii" above from the date of demand to the date paid, and (v) all other amounts that may thereafter become due hereunder to the extent that We will be obligated to collect and pay such amounts to a third party (such amounts specified in sub-clauses "i" through "v" referred to below as the "Balance Due"), and/or (E) exercise any other remedy available to Us under law. You also agree to reimburse Us on demand for all reasonable expenses of enforcement (including, without limitation, reasonable attorneys' fees and other legal costs) and reasonable expenses of repossessing, holding, preparing for disposition, and disposition ("Remarketing") of the Equipment, plus Time-Value Interest on the foregoing amounts from the date of demand to the date paid. In the event We are successful in Remarketing the Equipment, We shall give You a credit against the Balance Due in an amount equal to the present value of the proceeds received and to be received from Remarketing minus the above-mentioned costs (the "Net Proceeds"). If the Net Proceeds are less than the Balance Due, You shall be liable for such deficiency. Any delay or failure to enforce Our rights under this Agreement shall not constitute a waiver thereof. We shall not be liable for any losses, directly or indirectly arising out of, or by reason of the presence and/or use of any and all proprietary information residing on or within any Equipment returned to Us or repossessed by Us. The remedies set forth herein are cumulative, are in addition to any other remedies provided for by applicable law, and may be exercised concurrently or separately.

12. RETURN OF EQUIPMENT. If You are required to return the Equipment under this Agreement, You shall, at Your expense, promptly upon demand, send the Equipment to any location(s) that We may designate and pay Us a handling/restocking fee of \$250.00. The Equipment must be properly packed for shipment, freight prepaid and fully insured, and must be received in Good Condition (defined in Section 7 above). If the Equipment is not received within 15 days of the date of demand, You agree to continue paying Minimum Payments and all other amounts due hereunder until the Equipment is received by Us. You cannot pay off this Agreement or return the Equipment prior to the end of the Initial Term or any Renewal Term without our consent. If we consent, we may charge you, in addition to other amounts owed, an early termination fee equal to 5% of the price of the Equipment.

13. APPLICABLE LAW; VENUE; JURISDICTION; SEVERABILITY. You agree that this Agreement and any claim related to this Agreement shall be governed by the internal laws of the state in which our (or, if we assign this agreement, our assignee's) principal place of business is located and any dispute concerning this Agreement will be adjudicated in a federal or state court in such state. You hereby consent to personal jurisdiction and venue in such courts and waive transfer of venue. Each party waives any right to a jury trial. If any amount charged or collected under this Agreement is greater than the amount allowed by law (an "Excess Amount"), then (i) any Excess Amount charged but not yet paid will be waived by Us and (ii) any Excess Amount collected will be refunded to You or applied to any other amount then due hereunder. Each provision hereof shall be interpreted to the maximum extent possible to be enforceable under applicable law. If any provision is construed to be unenforceable, such provision shall be ineffective only to the extent of such unenforceability without invalidating the remainder hereof.

14. INTERIM RENT. As you will have possession of the Equipment from the date of its delivery to You, You agree to pay Us an interim rent charge as reasonably calculated by Us for the period from the date the Equipment is delivered to You until the Commencement Date. The payment for this interim period will be based on the Minimum Payment prorated on a 30-day calendar month and will be added to Your first invoice.

15. MISCELLANEOUS. You shall furnish Us with current financial statements upon Our request. You acknowledge that You have received a copy of this Agreement. The original of this Agreement shall be that copy which bears your facsimile or original signature, and which bears our original signature. You waive notice of receipt of a copy of this Agreement with Our original signature. You hereby represent to Us that this Agreement is legally binding and enforceable against You in accordance with its terms.

First Amendment to the Document Management Agreement

This First Amendment to the Document Management Agreement ("Amendment") amends that certain agreement by and between CTWP Leasing ("Owner") and City of College Station ("Customer") which agreement is identified in the Owner's internal books and records as Agreement No. 23300669 (the "Agreement"). All capitalized terms used in this Amendment, which are not otherwise defined herein, shall have the meanings given to such terms in the Agreement. Owner and Customer have mutually agreed that the following modifications be made to the Agreement.

1. The sentence in Section 1 entitled "**Lease of Equipment**" which reads, "This Agreement is binding on You as of the date You sign it," is hereby deleted and replaced with the following:

"This Agreement is binding upon both parties acceptance thereof."

2. The sentence in Section 1 entitled "**Lease of Equipment**" which reads, "You agree that after You sign, We may insert or correct any information missing on this Agreement, including Your proper legal name, serial numbers and any other information describing the Equipment, and change the payment amount by up to 15% due to a change in the Equipment or its cost or a tax or payment miscalculation," is hereby deleted in its entirety.
3. The sentence in Section 2 entitled "**Equipment Service; Supplies; Your Unconditional Obligations**" which reads, "You agree that: (i) We are a separate and independent company from the Supplier, manufacturer and any other vendor (collectively, "Vendors"), and the Vendors are NOT Our agents; (ii) No statement or warranty by any Vendor is binding on Us, and no Vendor has authority to waive or alter any term of this Agreement; (iii) You, not We, selected the Equipment and the Vendor(s) based on Your own judgment; (iv) Your obligations hereunder are absolute and unconditional despite any Equipment failure or any Vendor's failure to provide You with any Equipment service, parts or supplies (including any service, parts or supplies that are included in the Minimum Payment Per Payment Period), or any other adverse condition; (v) We are NOT a party to the Supplier's agreement to provide You with service, parts or supplies, such contract is NOT part of this Agreement (even though We will, as a convenience to You and the Supplier, bill and collect monies owed by You to the Supplier), and no breach by the Supplier will excuse You from performing Your obligations to Us hereunder; and (vi) If the Equipment is unsatisfactory or if any Vendor fails to provide any service or fulfill any other obligation to You, You shall not make any claim against Us and shall continue to fully perform under this Agreement," is hereby deleted in its entirety.
4. The sentence in Section 3 entitled "**Image Charges**" which reads, "You agree that We may increase the Minimum Payment and/or the applicable Excess Per-Image Charges once each year during the Initial Term and once each year for any Renewal Term, by an amount not to exceed 10% per year," is hereby amended as follows:

The phrase "10%" is hereby deleted and replaced with "3%".

5. The sentence in Section 3 entitled "**Image Charges**" which reads, "If We do not receive a payment in full on or before its due date, You shall pay (i) a fee equal to the greater of 10% of the amount

that is late or \$29.00, plus (ii) interest on the part of the payment that is late in the amount of 1.5% per month ("Time-Value Interest") from the due date to the date paid," is hereby deleted and replaced with the following:

"Customer will pay invoiced amount within thirty (30) days according to the Texas Prompt Payment Act. (a) Customer shall notify Owner of an error or disputed amount in an invoice submitted or payment by Owner not later than the 21st day after the date Customer receives the invoice, and shall include in such notice a detailed statement of the amount of the invoice which is disputed. (b) If a dispute is resolved in favor of Owner, the Owner is entitled to receive interest on the unpaid balance of the invoice submitted by the Owner beginning on the date that the payment for the invoice is overdue. (c) If a dispute is resolved in favor of the Customer, the Owner shall submit a corrected invoice that must be paid in accordance with the Texas Prompt Payment Act. The unpaid balance accrues interest as provided by the Texas Prompt Payment Act if the corrected invoice is not paid by the appropriate date."

6. The sentences in Section 4 entitled "**Term; Automatic Renewal**" which read, "As used herein, "Present Term" means the term presently in effect at any time, whether it is the Initial Term or a Renewal Term (defined below). Unless you notify Us in writing at least 60 days but not more than 120 days before the end of a Present Term that You intend to return the Equipment at the end of such Present Term, then: (a) this Agreement will automatically renew for an additional one-year period (a "Renewal Term") and (b) the payment terms and other terms of this Agreement will continue to apply. If You do notify Us in writing within such time that You intend to return the Equipment at the end of a Present Term, then promptly upon the expiration of such Present Term You shall return the Equipment pursuant to Section 12. This Agreement is non-cancelable for the full Initial Term and for any and all Renewal Terms," are hereby deleted in their entirety.

7. Section 5 entitled "**Indemnification**" is hereby deleted in its entirety and replaced with the following:

"5. **INDEMNIFICATION**. Owner shall indemnify, hold harmless, and defend the Customer, its Council members, officials, officers, agents, volunteers, and employees from and against any and all claims, losses, damages, causes of action, suits, and liability of every kind, including all expenses of litigation, court costs, and attorneys' fees, for injury to or death of any person or for damage to any property arising out of or in connection with the work or services done by Owner under this Agreement. IN NO EVENT SHALL EITHER PARTY BE RESPONSIBLE FOR ANY CONSEQUENTIAL OR INDIRECT DAMAGES. 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."

8. The following section is hereby added to the Agreement following Section 5 entitled "**Indemnification**":

"**RELEASE**. Owner assumes full responsibility for the work to be performed hereunder and hereby releases, relinquishes, and discharges the Customer, its Council members, officials, agents, volunteers, and employees from all claims, demands, and causes of action of every kind and character, including the cost of defense thereof, for any injury to or death of any person and any loss of or damage to any property that is caused by, alleged to be caused by, arising out of, or in

connection with the Customer's work to be performed hereunder. 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."

9. The following is hereby added to the end of Section 6 entitled "**No Warranties**":

"Notwithstanding the foregoing, nothing contained in this section shall constitute a waiver of Customer's right to reject the Equipment prior to Customer's acceptance thereof, or a waiver of Customer's right to assert an independent claim for breach of warranty against Owner the Equipment manufacturer, to the extent applicable."

10. The sentence in Section 7 entitled "**Delivery, Location, Ownership, Use, Maintenance of Equipment**" which reads, "We are not responsible for delivery or installation of the Equipment," is hereby deleted and replaced with:

"Supplier is responsible for delivery and installation of the Equipment."

11. Section 8 entitled "**Loss; Damage; Insurance**" is hereby deleted in its entirety and replaced with the following:

"8. INSURANCE.

- a. Owner 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 the Owner, its officers, agents, volunteers, and employees.
- b. Owner's insurance shall list the City of College Station, its officers, agents, volunteers, and employees as additional insureds. More specifically, the following shall be required. Certificates of insurance evidencing the required insurance policies are attached in **Exhibit "A"**.

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

- c. **Types.** Owner shall have the following types of insurance:

- 1. Commercial General Liability;
- 2. Business Automobile Liability; and
- 3. Workers' Compensation/Employer's Liability.

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

- 1. Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent.
- 2. 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 A**; and shall be approved by the City before work begins.

3. Owner shall be responsible for all deductibles on any policies obtained in compliance with this Agreement. Deductibles shall be listed on the Certificate of Insurance and are acceptable on a per-occurrence basis only.
4. The City will accept only licensed Insurance Carriers authorized to do business in the State of Texas.
5. The City will not accept "claims made" policies.
6. 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.

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

1. General Liability insurance shall be written by a carrier rated "A:VIII" or better under the current A. M. Best Key Rating Guide.
2. Policies shall contain an endorsement listing the City as Additional Insured and further providing "primary and non-contributory" language with regard to self-insurance or any insurance the City may have or obtain.
3. Limits of liability must be equal to or greater than \$1,000,000 per occurrence for bodily injury and property damage, with an annual aggregate limit of \$2,000,000.00. Limits shall be endorsed to be per project.
4. No coverage shall be excluded from the standard policy without notification of individual exclusions being submitted for the City's review and acceptance.
5. The coverage shall not exclude the following: premises/operations with separate aggregate; independent contracts; products/completed operations; contractual liability (insuring the indemnity provided herein) Host Liquor Liability, and Personal & Advertising Liability.

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

1. Business Automobile Liability insurance shall be written by a carrier rated "A:VIII" or better under the current A. M. Best Key Rating Guide.
2. Policies shall contain an endorsement listing the City as Additional Insured and further providing "primary and non-contributory" language with regard to self-insurance or any insurance the City may have or obtain.
3. Combined Single Limit of Liability not less than \$1,000,000 per occurrence for bodily injury and property damage.
4. The Business Auto Policy must show Symbol 1 in the Covered Autos Portion of the liability section in Item 2 of the declarations page.
5. The coverage shall include any autos, owned autos, leased or rented autos, non-owned autos, and hired autos.

g. Workers' Compensation/Employer's Liability Insurance. The following Workers' Compensation Insurance shall include the following terms:

1. Employer's Liability minimum limits of liability not less than \$1,000,000 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; and
3. 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".

12. The sentence in Section 9 entitled "**Assignment**" which reads, "We may, without notice to You, Transfer Our interests in the Equipment and/or this Agreement, in whole or in part, to a third party (a "New Owner"), in which case the New Owner will, to the extent of such Transfer, have all of Our rights and benefits but will not have to perform Our obligations (if any)," is hereby amended as follows:

The phrase "without notice to You" is hereby deleted and replaced with "with prior notice to You".

13. The following is hereby added to the end of Section 10 entitled "**Taxes and Other Fees**":

"Notwithstanding the foregoing, Customer will not be charged any sales tax, provided Customer furnishes Owner with documentation reflecting Customer's current sales tax-exempt status and Customer maintains such tax-exempt status throughout the Agreement term."

14. The sentence in Section 10 entitled "**Taxes and Other Fees**" which reads, "You agree to promptly pay Us, on demand, estimated future Governmental Charges," is deleted in its entirety.

15. The sub-section in Section 11 entitled "**Default**" which reads, "(1) fail to pay any amount due hereunder within 15 days of the due date," is hereby deleted and replaced with the following:

"(1) fail to pay any undisputed amount due hereunder in accordance with the Texas Prompt Payment Act,"

16. The sentence in Section 11 entitled "**Default**" which reads, "If you default, We may do any or all of the following: (A) cancel this Agreement, (B) require You to return the Equipment pursuant to Section 12 below, (C) take possession of and/or render the Equipment (including any software) unusable (and for such purposes You hereby authorize Us and Our designees to enter Your premises, with or without prior notice or other process of law), and sell, lease or otherwise dispose of the Equipment on such terms and in such manner as We may in Our sole discretion determine, (D) require You to pay to Us, on demand, an amount equal to the sum of (i) all Minimum Payments and other amounts then due and past due, (ii) all remaining Minimum Payments for the remainder of the then Present Term discounted at a rate of 6% per annum, (iii) the residual value of the Equipment estimated by Us at the inception of this Agreement (as shown in Our books and records), discounted at a rate of 6% per annum, (iv) Time-Value Interest on the amounts specified in clauses "i", "ii", and "iii" above from the date of demand to the date paid, and (v) all other amounts that may thereafter become due hereunder to the extent that We will be obligated to

collect and pay such amounts to a third party (such amounts specified in sub clauses “I” through “V” referred to below as the “Balance Due”), and/or € exercise any other remedy available to Us under law,” is hereby deleted and replaced with the following:

“Owner can take the following remedies: a) terminate this Agreement; b) require Customer to pay all past due amounts hereunder; and c) exercise any other remedy available at law or equity.”

17. The sentences in Section 11 entitled “**Default**” which read, “You also agree to reimburse Us on demand for all reasonable expenses of enforcement (including, without limitation, reasonable attorneys’ fees and other legal costs) and reasonable expenses of repossessing, holding, preparing for disposition, and disposition (“Remarketing”) of the Equipment, plus Time-Value Interest on the foregoing amounts from the date of demand to the date paid. In the event We are successful in Remarketing the Equipment, We shall give You a credit against the Balance Due in an amount equal to the present value of the proceeds received and to be received from Remarketing minus the above-mentioned costs (the “Net Proceeds”). If the Net Proceeds are less than the Balance Due, You shall be liable for such deficiency,” are hereby deleted in their entirety.

18. The sentence in Section 11 entitled “**Default**” which reads, “Any delay or failure to enforce Our rights under this Agreement shall not constitute a waiver thereof,” is hereby deleted and replaced with the following:

“Any delay or failure to enforce Our rights under this Agreement shall not constitute a waiver thereof, unless those rights are barred by the statute of limitations.”

19. The sentence in Section 12 entitled “**Return of Equipment**” which reads, “If You are required to return the Equipment under this Agreement, You shall at Your expense, promptly upon demand, send the Equipment to any location(s) that We may designate and pay Us a handling/restocking fee of \$250.00,” is hereby deleted and replaced with:

“If You are required to return the Equipment under this Agreement in the event of Default, You shall at Your expense, promptly upon demand, send the Equipment to any location(s) that We may designate.”

20. The sentences in Section 13 entitled “**Applicable Law; Venue; Jurisdiction; Severability**” which read, “You agree that this Agreement and any claim related to this Agreement shall be governed by the internal laws of the state in which our (or if we assign this agreement, assignee’s) principal place of business is located and any dispute concerning this Agreement will be adjudicated in a federal or state court in such state. You hereby consent to personal jurisdiction and venue in such courts and waive transfer of venue. Each party waives any right to a jury trial,” are hereby deleted and replaced with the following:

“The Customer agrees that this Agreement will be governed under the applicable law of the State of Texas, and any dispute concerning this Agreement will be adjudicated in a Federal or State court located in Brazos County, Texas.”

21. Section 14 entitled “**Interim Rent**” is hereby deleted in its entirety.

22. The sentence in Section 15 entitled “**Miscellaneous**” which reads, “You shall furnish Us with current financial statements upon Our request,” is hereby deleted in its entirety.

23. Customer agrees that this Agreement shall be construed as though such deleted sentences had never appeared in the Agreement form (i.e. no inferences shall be drawn from the removal of that sentence from the Agreement).

Except as specifically modified by this Amendment, all other terms and conditions of the Agreement remain in full force and effect. If, and to the extent there is a conflict between the terms of this Amendment and the terms of the Agreement, the terms of this Amendment shall control. A copy of this document containing your original or facsimile signature or other indication of your intent to agree to the terms set forth herein shall be enforceable for all purposes. This Amendment is not binding until accepted by Owner.

Customer: City of College Station

Owner: CTWP Leasing

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Date: _____

Date: _____



3730 Franklin Avenue • Waco, TX 76710 • Phone 254-752-0376 • Fax 254-752-7712

EXECUTIVE SUMMARY

City of College Station
1101 Texas Ave
College Station, Tx 77840

Dear Committee Members:

Thank you for the opportunity to present CTWP to The City of College Station. CTWP is a resident bidder with our headquarters in Texas since 1979. CTWP is one of the largest independent copier companies in the State of Texas.

CTWP owns the building we occupy in Bryan. We have had an office in Bryan since 1980 and have owned our current building since 1982. CTWP pays school, county, city, sales, and property taxes in Bryan. We are 1 of the few companies responding to this bid that can claim this. CTWP is also a Texas Resident Bidder. CTWP is a certified SBA Contractor. Very few of the respondents to this bid are.

CTWP is using the DIR contract with Konica Minolta and Canon products. The FIR contract number for Konica Minolta is DIR-CPO-4439 and for Canon is DIR-CPO-4437.

Since the inception of CTWP, customer satisfaction has been our number 1 priority. That statement encompasses our sales as well as our service departments. We have implemented processes and software to help us manage our goals. We have recently switched our total business management software to ensure it is the latest and the greatest. We continually upgrade to ensure our software and processes are with customer first priority. We have upgraded our website to offer online ordering, supply ordering and customer portal for reviewing account information and reporting service calls and issues.

CTWP has over 80 employees company wide. Over a dozen of those employees have been with CTWP for over 20 years. In the competitive marketplace with many companies wanting market share, very few have that kind of longevity. Each of our employees are trained by the manufacturer whether it be service, sales, or administration.

CTWP will deliver outstanding service after the sale by incorporating our state of the art computer system for monitoring both meter reads and service calls. Our dispatchers

will provide service calls electronically to our technicians at the moment of the requested service and our technicians will be routed to fix the problem. We have an extensive warehouse of parts and supplies to handle the copiers at The City of College Station.

We look forward to partnering with The City of College Station to ensure a mutually agreeable first class copier program both in service and sales. Once again, thank you for the opportunity to do business with The City of College Station.

Sincerely,

A handwritten signature in dark ink, appearing to read "David L. Willie", written in a cursive style.

David L. Willie
President, CTWP



July 12, 2023

PROPOSAL

City of College Station Fleet Copier Proposal

Pricing from DIR-CPO-4439

Tabletop Copiers

Konica Minolta BHC3350I Qty 2

DIR 60 Month Lease Price Each- \$67.62/month

CTWP DIR Discount Each- (\$19.49/month)

CTWP DIR 60 Month Lease Price Each - \$48.23/month

Includes delivery, set up and training

Service contract-

Black and white copies/prints-\$.0045 each

Color copies/prints-\$.045 each.

Includes service, parts, labor, drum, toner and staples



July 12, 2023

PROPOSAL

City of College Station Fleet Copier Proposal

Pricing from DIR-CPO-4439

Medium Copiers

Konica Minolta BHC450I Qty 13

DIR 60 Month Lease Price Each- \$296.61/month

CTWP DIR Discount Each- (\$174.69/month)

CTWP DIR 60 Month Lease Price Each - \$121.92/month

Includes delivery, set up and training

Service contract-

Black and white copies/prints-\$.0045 each

Color copies/prints-\$.045 each.

Includes service, parts, labor, drum, toner and staples



July 12, 2023

PROPOSAL

City of College Station Fleet Copier Proposal

Pricing from DIR-CPO-4439

Large Copiers

Konica Minolta BHC550I Qty 11

DIR 60 Month Lease Price Each- \$346.41/month

CTWP DIR Discount Each- (\$196.61/month)

CTWP DIR 60 Month Lease Price Each - \$149.80/month

Includes delivery, set up and training

Service contract-

Black and white copies/prints-\$.0045 each

Color copies/prints-\$.045 each.

Includes service, parts, labor, drum, toner and staples

CTWP COPIERS FOR REPLACEMENT WITH CTWP MODELS

Serial Number	Make	Model	Vendor	Location	Delivery Address: College Station	CWTP Replacement	Cost	Copier Type Count
QLA44502	Canon	IR400if	CTWP	Parks - Adamson	1000 Krenek Tap Road	BHC3350i	\$ 48.23	
W3028900699	Ricoh	MP201SPF	UBEO	CSU - Warehouse	1601 Graham Rd	BHC3350i	\$ 48.23	2 Model 3350i's
2RK01316	Canon	4535i	CTWP	City Hall - IT Admin	1101 Texas Ave S, 2nd Fl	KM C450i	\$ 121.92	
2RK01344	Canon	4535i III	CTWP	CEOC Bryan (call for count) Amy Zaragoza	110 N. Main Street (BRYAN)	KM C450i	\$ 121.92	
NEW	Canon	4735		Martha PD	800 Krenek Tap Road	KM C450i	\$ 121.92	
RKJ10880	Canon	IRA4235	CTWP	CSU - CCWWTP (room behind front desk)	2200 N Forest Pkwy	KM C450i	\$ 121.92	
UMU04001	Canon	IRA4535i	CTWP	Lincoln Center (room behind front desk, old building)	1000 Eleanor St	KM C450i	\$ 121.92	
XVZ00708	Canon	IRA4535i	CTWP	Mun Ct - Fire Admin	300 Krenek Tap Road	KM C450i	\$ 121.92	
C297R401350	Ricoh	MP2555 MFP	UBEO	Meyer Center (Front Counter)	2275 Dartmouth St	KM C450i	\$ 121.92	
NEW	Ricoh	C3500		Kim Electric	1601 Graham Rd	KM C450i	\$ 121.92	
5DA082002	Xerox	XVLB7035	XEROX	PD Patrol	800 Krenek Tap Road	KM C450i	\$ 121.92	
5DA853334	Xerox	VersaLink B7035	XEROX	PD	800 Krenek Tap Road	KM C450i	\$ 121.92	
AE9572962	Xerox	WorkCentre 5335	XEROX	Public Works - Fleet	300 William King Cole Dr	KM C450i	\$ 121.92	
AE9576036	Xerox	5335	XEROX	PD Admin	800 Krenek Tap Road	KM C450i	\$ 121.92	
RKM09018	Canon	IR4245	CTWP	CSU - Graham Rd (Mail/filing room near front desk)	1601 Graham Rd	KM C450i	\$ 121.92	13 Model C450i's
2KJ05416	Canon	IRAC5535I	CTWP	CSU - Graham Rd (Electric Design room)	1601 Graham Rd	KM C550i	\$ 149.80	
UMW02833	Canon	IRA4551i	CTWP	Municipal Court	300 Krenek Tap Road	BH550i	\$ 149.80	
XYA001115	Canon	IR ADV 6555i	CTWP	Police Records	800 Krenek Tap Road	BH550i	\$ 149.80	
C339R400770	Ricoh	MP5055	UBEO	City Hall - Planning & Development	1101 Texas Ave S, 1st Fl	BH550i	\$ 149.80	
C758M320945	Ricoh	MPC6004EX	UBEO	City Hall - Human Resources	1101 Texas Ave S, 2nd Fl	BH550i	\$ 149.80	
NEW	Ricoh	C6000		Heather PW	300 Krenek Tap Road	BH550i	\$ 149.80	
BOW590278	XEROX	WC 7970	XEROX	Tourism	1207 Texas Ave S	BH550i	\$ 149.80	
MX4475110	XEROX	WC7845i	XEROX	Tourism	1207 Texas Ave S	KM C550i	\$ 149.80	
2HU03949	Canon	IRC5560i III	CTWP	City Hall - Finance - LEFT	1101 Texas Ave S, 3rd Fl	KM C550i	\$ 149.80	
3AC01222	Canon	IR ADV C5760	CTWP	Parks Admin	1000 Krenek Tap Road	KM C550i	\$ 149.80	
SKA04456	Canon	IR ADV 6555i	CTWP	City Hall - CSO	1101 Texas Ave S, 1st Fl	KM C550i	\$ 149.80	11 Model 550i's

**CTWP DIR PROPOSAL
AWARD**

Lease Agreement for Copiers & Estimated Overage Costs for 5 Years (60 months)

Per DIR-TS0-4439 Contract

BHC 3350i	Total Copiers/ Copies	Monthly Rate Each Copiers	Monthly For Qty2	Qrtly Overages based on 2	Annual for Qty 2	5 yr Cost	COMMENTS
Copier w/add on's	2	\$ 67.72	\$ 135.44	\$ -	\$ 1,625.28	\$ 8,126.40	Base Lease
Less Discount 29%		\$ (19.49)	\$ (38.98)		\$ (467.73)	\$ (2,338.66)	
Adjusted Copier Total		\$ 48.23	\$ 96.46	\$ -	\$ 1,157.55	\$ 5,787.74	
Monthly usage for BW (.0045) X 500 Per copier	1,000	\$ 2.25	\$ 4.50	\$ -	\$ 54.00	\$ 270.00	
Monthly Color Usage (.045) x 250 per copier	500	\$ 11.25	\$ 22.50	\$ -	\$ 270.00	\$ 1,350.00	
Estimated 5 Year Cost for Lease of BHC3350i Copiers		\$ 61.73	\$ 123.46	\$ -	\$ 1,481.55	\$ 7,407.74	
BHC 550i	Total Copiers/ Copies	Monthly Rate Each Copier	Monthly Rate For 11	Qrtly Overages based on 11 copiers	Annual for Qty11	5 yr Cost	COMMENTS
Copier w/add on's	11	\$ 346.41	\$ 3,810.51		\$ 45,726.12	\$ 228,630.60	Base Lease
Less Discount 57%		\$ (196.61)	\$ (2,162.73)		\$ (25,952.77)	\$ (129,763.84)	
Adjusted Copier Total		\$ 149.80	\$ 1,647.78	\$ -	\$ 19,773.35	\$ 98,866.76	
Monthly usage for BW (.0045) X 2000 Per copier	22,000	\$ 9.00	\$ 99.00		\$ 1,188.00	\$ 5,940.00	
Monthly Color Usage (.045) x 1000 per copier	11,000	\$ 45.00	\$ 495.00		\$ 5,940.00	\$ 29,700.00	
Monthly Maintenance Cost							
Estimated 5 Year Cost for Lease of C3500 Copiers		\$ 203.80	\$ 2,241.78	\$ -	\$ 26,901.35	\$ 134,506.76	
BHC 450i	Total Copiers/ Copies	Monthly Rate Each Copier	Monthly Rate For 13	Qrtly Overages based on 13 copier	Annual for Qty 13	5 yr Cost	COMMENTS
Copier w/options	13	\$ 296.61	\$ 3,855.93		\$ 46,271.16	\$ 231,355.80	Base Lease
Less Discount 59%		\$ (174.69)	\$ (2,270.95)		\$ (27,251.38)	\$ (136,256.92)	
Adjusted Copier Total		\$ 121.92	\$ 1,584.98	\$ -	\$ 19,019.78	\$ 95,098.88	
Monthly usage for BW (.0045) X1000 Per copier	13,000	\$ 4.50	\$ 58.50		\$ 702.00	\$ 3,510.00	
Monthly Color Usage (.045) x 500 per copier	6,500	\$ 22.50	\$ 292.50		\$ 3,510.00	\$ 17,550.00	
Estimated 5 Year Cost for Lease		\$ 148.92	\$ 1,935.98	\$ -	\$ 23,231.78	\$ 116,158.88	
LEASE OF COPIERS BASED ON DIR-TS0-4439 CONTRACT PRICING			Monthly	Qrtly Overages	Annual	5 yr Cost	COMMENTS
Grand Total of Plotter & Copier Leases			\$ 4,301.22	\$ -	\$ 51,614.68	\$ 258,073.38	

**CTWP DIR PROPOSAL
AWARD**

Lease Agreement for Copiers & Estimated Overage Costs for 5 Years (60 months)

Per DIR-TS0-4439 Contract

OVERAGE ESTIMATES, not on DIR Contract							
DESCRIPTION	# of Overages per type	Monthly Rate Each Copiers	Monthly	Qrtly Overages	Annual TTL Overages	5 yr Cost	COMMENTS
BHC 450i Qrtly usage for BW (.0045) avg 250 p copier(Based on 6.5 of 13 Copiers)	1,625			\$ 7.31	\$ 29.25	\$ 146.25	Qrtly Overages
BHC 450i Color Qrtly usage for BW (.045) avg 250 p copier(Based upon 6.5 of 13 Copiers)	1,625			\$ 73.13	\$ 292.50	\$ 1,462.50	
BHC 550i Qrtly usage for BW (.0045) per Copier @ 250 (Based on 6 of 11 copiers)	1,500			\$ 6.75	\$ 27.00	\$ 135.00	Qrtly Overages
BHC 550i Qrtly usage for Color (.045) per Copier @ 250 (Based on 6 of 11 copiers)	1,500			\$ 67.50	\$ 270.00	\$ 1,350.00	
BHC 3350i Qrtly overage for BW (.0045) X 100 Per copier (based upon 1 of 2 Copiers)	100			\$ 0.45	\$ 1.80	\$ 9.00	Qrtly Overages
BHC 3350i Qrtly ColorOverage (.045) x 100 per copier; (based upon 1 of 2 copier)	100			\$ 4.50	\$ 18.00	\$ 90.00	
Total Estimated 5 Year Cost for Lease & Overages		\$ -	\$ -	\$ 159.64	\$ 638.55	\$ 3,192.75	
			Monthly	Overages Qrtly	Annually	5 Yr Cost	% of TTL
Lease Payment			\$ 4,301.22		\$ 51,614.68	\$ 258,073.38	99%
Overage				\$ 159.64	\$ 638.55	\$ 3,192.75	1%
Subtotal of Contract			\$ 4,301.22	\$ 159.64	\$ 52,253.23	\$ 261,266.13	100%
One-Time Document Fee						\$ 75.00	
Cost to Move 26 Old Copiers \$50 ea						\$ 1,300.00	
Grand Total of Contract						\$ 262,641.13	

ESTIMATED OVERAGES ACROSS QUOTE	
B& W Image Monthly Allowance	36,000.00
Color Image Monthly Allowance	18,000.00
HP Mono/Color Image Monthly Allowance (Sq ft)	1,000.00

DIR Pricing Award



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

08/03/2023

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 Bailey Insurance and Risk Management 1201 Washington Ave. P.O. Box 298 Waco TX 76701		CONTACT NAME: Erin Simpson PHONE (A/C, No, Ext): (254) 753-5317 E-MAIL ADDRESS: erin@baileyinsurance.com FAX (A/C, No): (254) 753-1132	
INSURED Hayday, Inc. DBA CTWP 3730 Franklin Avenue Waco TX 76710		INSURER(S) AFFORDING COVERAGE INSURER A: Acuity A Mutual Insurance Company INSURER B: Accident Fund National Insurance Company INSURER C: INSURER D: INSURER E: INSURER F:	
		NAIC # 14184 12305	

COVERAGES**CERTIFICATE NUMBER:** CL2341210952**REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC OTHER:			ZC6645	04/15/2023	04/15/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COMP/OP AGG \$ 3,000,000
	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY			ZC6645	04/15/2023	04/15/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	☒ UMBRELLA LIAB ☒ OCCUR ☒ EXCESS LIAB ☐ CLAIMS-MADE DED RETENTION \$			ZC6645	04/15/2023	04/15/2024	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000
	☒ WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N ☒ Y	N/A	AF WCP 100092356	04/15/2023	04/15/2024	☒ 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

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

The Certificate Holder is included as an Additional Insured on the General Liability Policy and the Automobile Liability Policy if required by written contract between the Named Insured and the Additional Insured. Coverage for the Additional Insured under the General Liability Policy shall be provided on a Primary & Non-Contributory basis if required by written contract. Waiver of Subrogation shall be granted to the Certificate Holder under the referenced General Liability, Automobile Liability, and Workers Compensation Policies if required by written contract. All Additional Insureds, Waiver of Subrogation, and Primary & Non Contributory references on this Certificate of Insurance are as per corresponding endorsements and policy language. Copies of all endorsements are available upon written request.

CERTIFICATE HOLDER**CANCELLATION**

City of College Station Attn Risk Management PO Box 9960 College Station TX 77842	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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TEXAS WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

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

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

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

The premium for this endorsement is shown in the Schedule.

Schedule

1. ☐ Specific Waiver
Name of person or organization:

☒ Blanket Waiver
Any person or organization for whom the Named Insured has agreed by written contract to furnish this waiver.
2. Operations: All Texas Operations
3. Premium:
The premium charge for this endorsement shall be 1.02 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: 179

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 **04/15/2023**
Insured **HAYDAY, INC.**

Policy No. **AF WCP 100092356 01**

Endorsement No.
Premium: **\$0**

Insurance Company **ACCIDENT FUND NATIONAL** Countersigned by _____
INSURANCE COMPANY

WC 42 03 04 B
(Ed. 6-14)

**ADDITIONAL INSURED - AUTOMATIC STATUS WHEN REQUIRED IN
WRITTEN AGREEMENT WITH YOU - PRIMARY**

CA-7214(10-98)

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

GARAGE COVERAGE FORM

MOTOR CARRIER COVERAGE FORM

1. Who Is an Insured under Section II - Liability Coverage is amended to include any person or organization with whom you have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy. Such persons or organizations are additional insureds only with respect to liability arising

out of operations performed for the additional insured by you.

2. The coverage provided by this endorsement will be primary and noncontributory with respect to any other coverage available to the additional insured.

3. The Limits of Insurance applicable to the additional insured are those specified in the written contract or agreement or in the Declarations for this Coverage Form, whichever is less. These Limits of Insurance are inclusive and not in addition to the Limits of Insurance shown in the Declarations.

ACUITY ENHANCEMENTS - BUSINESS AUTO

CA-7247(10-16)

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

A. Temporary Substitute Vehicle Physical Damage

The following is added to item C Certain Trailers, Mobile Equipment and Temporary Substitute Autos under Section I - Covered Autos:

If Physical Damage Coverage is provided by this Coverage Form, any *auto* you do not own while used with permission of its owner as a temporary substitute for a covered *auto* you own that is out of service because of its breakdown, repair, servicing, loss or destruction is a covered *auto* for Physical Damage Coverage.

B. Who Is an Insured

The following are added to Who Is an Insured under Section II - Liability Coverage:

1. Newly Acquired Organizations

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

- a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
- b. This coverage does not apply to *bodily injury or property damage* that occurred before you acquired or formed the organization;
- c. No person or organization is an *insured* with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

2. Employees as Insureds

Any *employee* of yours is an *insured* while using a covered *auto* you do not own, hire or borrow in your business or your personal affairs.

C. Increased Supplementary Payments

1. The limit shown in paragraph A2a(2) of Section II - Liability Coverage is increased to \$3,000.
2. The limit shown in paragraph A2a(4) of Section II - Liability Coverage is increased to \$300.

D. Fellow Employee Coverage

The Fellow Employee Exclusion contained in Section II - Liability Coverage does not apply.

E. Towing for Covered Autos after Covered Losses

The following is added to paragraph A4 Coverage Extensions of Section III - Physical Damage Coverage in the Business Auto Coverage Form and to paragraph - A4 Coverage Extension under Section IV - Physical Damage Coverage in the Motor Carrier Coverage Form and the Towing Coverage endorsement, if it applies to your policy:

If a covered *loss* to a covered *auto* renders the vehicle undriveable, we will pay for reasonable and necessary costs to tow the vehicle to the nearest service or salvage facility. This coverage only applies to a covered *auto* insured for Comprehensive or Collision coverage. Such payments will not reduce the limits of insurance described in C Limit of Insurance.

F. Transportation Expenses

The Transportation Expenses Coverage Extension is replaced by the following:

We will also pay up to \$75 per day to a maximum of \$1,500 for temporary transportation expense incurred by you because of the total theft of a covered *auto* of the private passenger or *light truck* 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*.

G. Increased Sub-limit for Audio, Visual and Data Electronic Equipment Coverage

The sub-limit shown in paragraph C2 of the Limit of Insurance Provision of Section III - Physical Damage Coverage in the Business Auto Coverage Form is increased to \$3,000.

H. The following are added to Coverage Extensions under Section III - Physical Damage Coverage in the Business Auto Coverage Form and to Section IV - Physical Damage Coverage in the Motor Carrier Coverage Form:**1. Accidental Airbag Discharge**

We will pay to replace an airbag that deploys without the car being involved in an accident. This coverage applies only to a covered *auto* which you own.

2. Loan/Lease Gap Coverage

In the event of a total *loss* to a covered *auto* of the private passenger or *light truck*

type, we will pay any unpaid amount due on the lease or loan, less:

- a. The amount paid under the Physical Damage Coverage Section of the policy; and
- b. Any:
 - (1) Overdue lease/loan payments at the time of the *loss*;
 - (2) Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage;
 - (3) Security deposits not returned by the lessor;
 - (4) Costs for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan or lease; and
 - (5) Carry-over balances from previous loans or leases.

3. Hired Auto Physical Damage Coverage

If hired *autos* are covered *autos* for Liability Coverage, then the Physical Damage Coverages provided under this Coverage Form for any *auto* you own are extended to *autos* of the private passenger or *light truck* type which you lease, hire, rent or borrow for a period of 30 days or less, subject to the following limit.

The most we will pay under this extension is the lesser of the actual cash value, the cost of repair or \$50,000, minus a deductible. The deductible will be equal to the largest deductible applicable to any owned *auto* of the private passenger or *light truck* type for that coverage. Subject to the above limit, deductible and excess provisions, we will provide coverage equal to the broadest coverage applicable to any covered *auto* you own of the private passenger or *light truck* type.

4. Rental Reimbursement Coverage for Private Passenger Vehicles or Light Trucks

- a. This coverage applies only to a covered *auto* of the private passenger or *light truck* type.
- b. We will pay for rental reimbursement expenses incurred by you for the rental of an *auto* because of a covered *loss* to an *auto* to which this extension applies. Payment applies in addition to the otherwise applicable amount of each coverage you have on a covered *auto*. No deductibles apply to this coverage.
- c. We will pay only for those expenses incurred during the policy period beginning 24 hours after the *loss* and ending, regardless of the policy's expiration,

with the lesser of the following number of days:

- (1) The number of days reasonably required to repair or replace the covered *auto*. If *loss* is caused by theft, this number of days is added to the number of days it takes to locate the covered *auto* and return it to you.
- (2) 30 days.
- d. Our payment is limited to the lesser of the following amounts:
 - (1) Necessary and actual expenses incurred.
 - (2) \$75 per day to a maximum of \$1,500.
- e. This coverage does not apply while there are spare or reserve *autos* available to you for your operations.
- f. If *loss* results from the total theft of a covered *auto* to which this extension applies, we will pay under this coverage only that amount of your rental reimbursement expenses which is not already provided for under the Physical Damage Coverage Extensions.
- g. The Rental Reimbursement Coverage described above does not apply to a covered *auto* that is described or designated as a covered *auto* on Rental Reimbursement Coverage Form CA-9923F.

5. Fire Department Service Charge

When the fire department is called to save or protect a covered *auto*, its equipment, its contents, or occupants from a covered *loss*, we will pay up to \$1,000 for your liability for fire department service charges:

- a. Assumed by contract or agreement prior to *loss*; or
- b. Required by local ordinance.

No deductible applies to this additional coverage.

6. Fire Extinguisher Recharge

We will pay the actual cost of recharging or replacing, whichever is less, fire extinguishers kept in your covered *auto* that are intentionally discharged in an attempt to extinguish a fire.

7. Rental Reimbursement, Business Income and Extra Expense Coverage

Limits

The most we will pay for all *loss* for each covered *auto* involved in any one *accident* for Rental Reimbursement, Business Income and Extra Expense combined is \$10,000.

Coverage**a. Rental Reimbursement Coverage**

- (1) We will pay for expenses incurred by you during the *period of restoration* for the rental of an *auto* made necessary because of a covered *loss* to a covered *auto* used in your business. The *loss* must be caused by a cause of loss covered under item A1 of Physical Damage Coverage in this Coverage Part.
- (2) This Rental Reimbursement Coverage does not apply to a covered *auto* of the private passenger or *light truck* type because coverage for these vehicles is provided in item 4 of this endorsement.

b. Business Income and Extra Expense Coverage**(1) Business Income Coverage**

- (a) Actual Loss Sustained Coverage - We will pay the actual loss of *business income* sustained by you as the result of the necessary suspension of your business during the *period of restoration* due to a *loss* to a covered *auto* used in your business. The *loss* must be caused by a cause of loss covered under item A1 of Physical Damage Coverage in this Coverage Part.
- (b) Specified Amount per Day Coverage - At your option, we will pay up to \$250 per day for a maximum of seven days during the *period of restoration* for income loss. The *loss* must be caused by a cause of loss covered under item A1 of Physical Damage Coverage in this Coverage Part.

(2) Extra Expense Coverage

We will pay the necessary and reasonable *extra expenses* that you incur during the *period of restoration* that you would not have incurred had there been no *loss* to a covered *auto* used in your business. The *loss* must be caused by a cause of loss covered under item A1 of Physical Damage Coverage in this Coverage Part.

Conditions

- a.** Any payment for Business Income made under Specified Amount per Day Coverage reduces the payment we

make under any other coverages listed in extension 7.

- b.** No other deductible applies to these coverages.
- c.** We will not pay under these coverages if you do not repair or replace the covered *auto*.
- d.** You must resume all or part of your business as quickly as possible.
- e.** If you have other *autos* you can use to reduce the amount of loss payable under these coverages, you are required to use them.
- f.** We will not pay for loss or expenses caused by suspension, lapse or cancellation of any license, lease or contract. But if the suspension, lapse or cancellation is directly caused by the suspension of your business, we will cover such loss that affects your *business income*.
- g.** We will pay for expenses you incur to reduce the amount that would otherwise have been payable under this coverage. We will not pay more than the amount by which you actually reduce the *business income* loss or *extra expense* incurred.

8. Fuel in Vehicle Coverage

We will also pay, with respect to a covered *loss*, the actual loss sustained for the *loss* to the fuel used to operate your vehicle but only with respect to a covered *auto*. You must provide documentation supporting your claim for damages.

Deductible

A deductible applies to this coverage. Refer to paragraph N Deductible Applicable to Fuel in Vehicle, Miscellaneous Equipment Used With Covered Vehicle Coverages, and Electronic Logging Devices or Electronic On-Board Recorders Coverages.

9. Miscellaneous Equipment Used With Covered Vehicle Coverage

We will also pay, with respect to a covered *loss*, the actual cash value, repair cost or replacement cost, whichever is less, for *loss* to your *miscellaneous equipment* but only with respect to a covered *auto*.

Exclusions

We will not pay for *loss* caused by:

- a.** Theft, unless there are visible signs or marks of forcible entry into the covered *auto* and the theft is reported to law enforcement authorities; or
- b.** Mysterious disappearance.

Deductible

A deductible applies to this coverage. Refer to paragraph N Deductible Applicable to Fuel in Vehicle, Miscellaneous Equipment Used With Covered Vehicle Coverages, and Electronic Logging Devices or Electronic On-Board Recorders Coverages.

10. Electronic Logging Devices or Electronic On-Board Recorders

We will also pay, with respect to a covered *loss*, up to \$3,000 for the actual loss sustained to an electronic on-board recorder or electronic logging device permanently installed in the *auto* but only with respect to a covered *auto*.

Deductible

A deductible applies to this coverage. Refer to paragraph N Deductible Applicable to Fuel in Vehicle, Miscellaneous Equipment Used With Covered Vehicle Coverages, and Electronic Logging Devices or Electronic On-Board Recorders Coverages for further information.

I. Deductible Provision

Paragraph D, Deductible of Section III - Physical Damage Coverage in the Business Auto Coverage Form and paragraph D, Deductible of Section IV - Physical Damage Coverage in the Motor Carrier Coverage Form are replaced by the following:

1. For each covered *auto*, our obligation to pay for, repair, return or replace damaged or stolen property will be reduced by the applicable deductible shown in the Declarations. Any Comprehensive Coverage deductible shown in the Declarations does not apply to *loss* caused by fire or lightning.
2. For combinations of tractor, truck, semi-trailer or trailers when attached together by coupling devices at the time of *loss*, one deductible will apply.
 - a. If more than one *auto* of the combination is damaged or stolen, the largest applicable deductible shown in the Declarations will apply.
 - b. If only one *auto* of the combination is damaged or stolen, the deductible shown in the Declarations for that *auto* will apply.
3. The deductibles will not apply to *loss* caused by a collision of a covered *auto* with any other auto insured by us.
4. If the insured chooses to have a damaged windshield or other glass repaired instead of replaced, no deductible will apply to the *loss*.

J. Knowledge of Claim or Suit

The following is added to the Duties in the Event of Accident, Claim, Suit or Loss Condition:

Knowledge of an *accident*, claim, *suit* or *loss* by an agent or *employee* of any insured shall not in itself constitute knowledge of the insured unless your partners, executive officers, directors, managers, members or a person who has been designated by them to receive reports of *accidents*, claims, *suits* or *loss* shall have received such notice from the agent or *employee*.

K. Waiver of Subrogation for Written Contracts

The following is added to the Transfer of Rights of Recovery Against Others to Us Condition:

We waive any right of recovery we may have against a person or organization because of payments we make for *bodily injury* or *property damage* arising out of your use of a covered *auto* which occurs while under a contract with that person or organization. The waiver applies only to a person or organization with whom you have a written contract or agreement requiring you to waive the right of recovery under this policy. The written contract or agreement must have been executed prior to the *accident* causing *bodily injury* or *property damage*.

L. Worldwide Coverage Territory for Hired Autos

The following is added to paragraph B7 of Section IV - Business Auto Conditions in the Business Auto Coverage Form and to paragraph B7 of Section V - Motor Carrier Conditions in the Motor Carrier Coverage Form:

With respect to *autos* hired for 30 days or less, the coverage territory is extended to include all parts of the world if the insured's responsibility to pay damages is determined in a suit in the United States of America (including its territories and possessions), Puerto Rico or Canada or in a settlement we agree to.

M. Mental Anguish Coverage

The Definition of *bodily injury* is amended to include mental anguish.

N. Deductible Applicable to Fuel in Vehicle, Miscellaneous Equipment Used With Covered Vehicle Coverages and Electronic Logging Devices or Electronic On-Board Recorders

1. If *loss* to property covered by these extensions is the result of a *loss* to the covered *auto* under this Coverage Form's Comprehensive or Collision Coverage, then for each covered *auto* our obligation to pay for, repair, return or replace damaged or stolen property will be reduced by the applicable deductible shown in the Declarations. Any

Comprehensive Coverage deductible shown in the Declarations does not apply to *loss* to property covered by an extension caused by fire or lightning.

2. If *loss* to property covered by these extensions is the result of a *loss* to the covered *auto* under this Coverage Form's Specified Causes of Loss Coverage, then for each covered *auto* our obligation to pay for, repair, return or replace damaged or stolen property will be reduced by a \$100 deductible.
3. In the event that there is more than one applicable deductible, only the highest deductible will apply. In no event will more than one deductible apply.

O. Coverage Extensions Definitions

1. "*Business income*" means the:
 - a. Net income (Net profit or loss before income taxes) that would have been earned or incurred if no *loss* would have occurred; and
 - b. Continuing normal operating expenses incurred, including payroll.
2. "*Extra expense*" means those expenses you incur to avoid or minimize the suspension of business and to continue your business operations.
3. "*Light truck*" means a truck with a gross vehicle weight of 10,000 pounds or less.

4. "*Miscellaneous equipment*" means hand trucks, dollies, pallets, pads, covers, binders, tarps, tie-downs, chains and other similar equipment used in the handling of property being transported.

5. "*Period of restoration*" means the period of time that:

a. Begins:

- (1) Twenty-four hours after the time of *loss* for Rental Reimbursement Coverage or Business Income Coverage; or
- (2) Immediately after the time of *loss* for Extra Expense Coverage; and

b. Ends at the earliest of:

- (1) The time required to resume your normal business operations; or
- (2) The time that is reasonably necessary to repair or replace the covered *auto*.

Period of restoration does not include any increased period required due to the enforcement of any ordinance or law that requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize or in any way respond to or assess the effects of pollutants.

The expiration date of this policy will not cut short the *period of restoration*.

**ADDITIONAL INSURED - COMPLETED OPERATIONS AUTOMATIC STATUS
WHEN REQUIRED IN CONSTRUCTION AGREEMENT WITH YOU (OWNERS,
LESSEES OR CONTRACTORS)**

This endorsement modifies insurance provided under the following:

BIS-PAK® BUSINESS LIABILITY AND MEDICAL EXPENSES COVERAGE FORM

1. Who Is An Insured is amended to include as an additional insured:
 - a. Any person(s) or organization(s) for whom you have performed operations if you and such person(s) or organization(s) have agreed in writing in a contract or agreement that such person(s) or organization(s) be added as an additional insured on your policy for completed operations; and
 - b. Any other person(s) or organization(s) you are required to add as an additional insured under the contract or agreement described in paragraph a above.

Such person or organization is an additional insured only with respect to liability included in the *products-completed operations hazard* for *bodily injury or property damage* caused, in whole or in part, by *your work* performed for that additional insured at the location designated and described in the contract or agreement.

However:

- a. The insurance afforded to such additional insured only applies to the extent permitted by law; and
 - b. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.
2. The insurance does not apply to:
 - a. *Bodily injury or property damage* which occurs prior to execution of the contract or agreement described in item 1; or

- b. *Bodily injury or property damage* that occurs after the time period during which the contract or agreement described in item 1 requires you to add such person or organization onto your policy as an additional insured for completed operations; or
- c. *Bodily injury or property damage* arising out of the rendering of, or the failure to render, any professional, architectural, engineering or surveying services, including:
 - (1) The preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - (2) Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the *occurrence* which caused the *bodily injury or property damage* involved the rendering of or the failure to render any professional services by or for you.

3. With respect to the insurance afforded to these additional insureds, the following is added to the Liability And Medical Expenses Limits Of Insurance section:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

- a. Required by the contract or agreement; or
 - b. Available under the applicable Limits of Insurance shown in the Declarations;
- whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

**ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS -
AUTOMATIC STATUS WHEN REQUIRED IN CONSTRUCTION
AGREEMENT WITH YOU**

CB-7433(7-13)

This endorsement modifies insurance provided under the following:

BIS-PAK® BUSINESS LIABILITY AND MEDICAL EXPENSES COVERAGE FORM

1. Who Is An Insured is amended to include as an additional insured:

- a. Any person(s) or organization(s) for whom you are performing operations when you and such person(s) or organization(s) have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy; and
- b. Any other person(s) or organization(s) you are required to add as an additional insured under the contract or agreement described in paragraph a above.

Such person(s) or organization(s) is an additional insured only with respect to liability for *bodily injury*, *property damage* or *personal and advertising injury* caused, in whole or in part, by:

- a. Your acts or omissions; or
- b. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured.

However, the insurance afforded to such additional insured:

- a. Only applies to the extent permitted by law; and
- b. Will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

A person's or organization's status as an additional insured under this endorsement ends on the earlier of the date:

- a. When your operations for that insured are completed; or
- b. The contract or agreement you have entered into with the additional insured is terminated.

2. With respect to the insurance afforded these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

- a. *Bodily injury*, *property damage* or *personal and advertising injury* arising out of the rendering of, or the failure to render, any pro-

fessional architectural, engineering or surveying services, including:

- (1) The preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
- (2) Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the *occurrence* which caused the *bodily injury* or *property damage*, or the offense which caused the *personal and advertising injury*, involved the rendering of or the failure to render any professional services.

- b. *Bodily injury* or *property damage* occurring after:

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

3. With respect to the insurance afforded to these additional insureds, the following is added to the Liability And Medical Expenses Limits Of Insurance section:

The most we will pay on behalf of the additional insured is the amount of insurance:

- a. Required by the contract or agreement you have entered into with the additional insured; or
- b. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

ACUITY LIABILITY ENHANCEMENTS - GOLD**CB-7456(8-20)****This endorsement modifies insurance provided under the following:****BIS-PAK® BUSINESS LIABILITY AND MEDICAL EXPENSES COVERAGE FORM****BIS-PAK® COMMON POLICY CONDITIONS****SCHEDULE**

Coverage	Limit of Insurance	Page
Electronic Data Liability	\$10,000	9
Employee Benefits Liability	\$250,000	5
Increased Bail Bond Limit	\$2,500	2
Increased Limits of Insurance	see below	9
Damage to Premises Rented to You	\$300,000	9
Generate Aggregate*	3 times current Liability and Medical Expenses Limit	9
Medical Expenses	\$10,000	9
Products - Completed Operations*	3 times current Liability and Medical Expenses Limit	9
Supplemental Reasonable Expenses	\$500 Per Day	2
Tenants Legal Liability	\$10,000	9
Voluntary Property Damage	\$2,500 Per Occurrence \$5,000 Per Aggregate	2
Additional Included Coverages		
Automatic Status Additional Insured - Lessors of Leased Equipment	Included	3
Automatic Status Additional Insured - Managers or Lessors of Premises	Included	3
Automatic Status Additional Insured - Mortgagee, Assignee, or Receiver	Included	4
Automatic Status Additional Insured - State or Government Agency or Subdivision	Included	4
Bodily Injury Expanded Definition	Included	11
Damage to Premises Rented to You Broadening	Included	10
First Aid/Good Samaritan Coverage	Included	2
Knowledge by an Employee	Included	10
Newly Acquired Organizations - up to 180 days	Included	10
Unintentional Failure to Disclose	Included	11
Waiver of Subrogation	Included	11

*If your current Liability and Medical Expenses limit is \$500,000 or \$1,000,000

A. Increased Bail Bond Limit

Paragraph 1f(1)(b) under Liability and Medical Expenses Coverages is replaced by the following:

- (b) Up to the Increased Bail Bond Limit of Insurance shown in the Schedule for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which Business Liability Coverage for *bodily injury* applies. We do not have to furnish these bonds.

B. Supplemental Reasonable Expenses Incurred by Insured

Paragraph 1f(1)(d) under Liability and Medical Expenses Coverages is replaced by the following:

- (d) All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or *suit*, including actual loss of earnings up to the Supplemental Reasonable Expenses Limit of Insurance shown in the Schedule because of time off from work.

C. Voluntary Property Damage

1. With respect to the insurance provided under this coverage, the following apply:
 - a. Exclusion 1k(4) is replaced by the following:
 - (4) Personal property of others:
 - (a) Held by the insured for servicing, repair, storage or sale at premises owned, occupied or rented to the insured.
 - (b) Caused by the ownership, maintenance, use, loading or unloading of any auto, watercraft, or transportation of property by any means.
 - b. Exclusion 1k(5) is deleted.
2. The insurance provided by this coverage is subject to the following provisions:
 - a. We will pay for *property damage* at your request even if you are not legally liable, if it is otherwise subject to this coverage.
 - b. *Property damage* does not include loss of use if personal property of others is not physically injured.
 - c. **Limits**

The most we will pay for an *occurrence* under this coverage is the Voluntary Property Damage, Per Occurrence Limit of Insurance shown in the Schedule.

The most we will pay for the sum of all amounts paid under this coverage is the Voluntary Property Damage, Aggregate Limit of Insurance shown in the

Schedule.

The Liability and Medical Expenses Limit and the Aggregate Limits do not apply to the insurance provided under this coverage.

d. Settlement

If you make any repairs to damaged property, at our request, we will pay the larger of your actual cost or 75% of your usual charge for the necessary labor and materials. Any property paid for or replaced by us may become our property at our option. Any payment made under this coverage shall not be interpreted as an admission of liability by the insured or the company.

e. Deductible

Our obligation to pay for a covered loss applies only to the amount of loss in excess of \$100.

f. Other Insurance

The insurance provided by this coverage is excess over any other insurance carried by the insured which applies to a loss covered by this coverage.

D. First Aid/Good Samaritan Coverage

The Following is added to Liability and Medical Expenses Coverage:

1. For purposes of this coverage, the definition of *occurrence* in Definitions is replaced by the following:

"*Occurrence*" means an act or omission by your *employee* in providing or failing to provide *first aid services* provided:

 - a. Neither you nor the *employee* are employed to provide any type of *first aid services* or *medical services*.
 - b. The *first aid services* were provided while the *employee* was engaged in activities related to the scope and extent of their employment by you.
2. The following is added to paragraph 2 of Liability and Medical Expenses Limits of Insurance:
 - c. For the purposes of determining the applicable Each Occurrence Limit, all acts or omissions committed by one or more persons in providing or failing to provide *first aid services* to one person will be deemed to be one occurrence.
3. The following definitions are added to Definitions:

"*First aid services*" means *medical services* provided when no *professional medical service provider* (whether licensed or not) is present and without the immediate provision

of which would have immediately resulted in death or significant adverse result from a serious injury or serious condition of the recipient of those services.

"Medical services" includes all medical and medically-related services.

"Professional medical services provider" means anyone who is employed to provide medical services or first aid services.

E. Automatic Status Additional Insured - Lessors of Leased Equipment

1. Who Is An Insured is amended to include as an additional insured any person(s) or organization(s) which leases equipment to you, but only when you and such person(s) or organization(s) have agreed in writing in a contract or agreement that such person(s) or organization(s) be added as an additional insured on your policy provided that a certificate of insurance showing that person or organization as an additional insured has been issued.

However:

- a. Such person(s) or organization(s) are additional insureds only with respect to *bodily injury, property damage or personal and advertising injury* caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person(s) or organization(s); and
 - b. The insurance afforded to such additional insured only applies to the extent permitted by law; and
 - c. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.
2. With respect to the insurance afforded to these additional insureds, this insurance does not apply to any *occurrence* that takes place after the equipment lease expires.
 3. With respect to the insurance afforded to these additional insureds, the following is added to the Liability and Medical Expenses Limits of Insurance section:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

- a. Required by the contract or agreement; or
- b. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

F. Automatic Status Additional Insured - Managers or Lessors of Premises

1. Who Is An Insured is amended to include any person(s) or organization(s) which manages or leases a premises rented to you which is covered under this policy, but only when you and such person or organization have agreed in writing in a contract or agreement that such person(s) or organization(s) be added as an additional insured on your policy provided that a certificate of insurance showing that person or organization as an additional insured has been issued.

However:

- a. Such person(s) or organization(s) are additional insureds only with respect to *bodily injury, property damage or personal and advertising injury* arising out of the ownership, maintenance or use of that part of the premises leased to you; and
 - b. The insurance afforded to such additional insured only applies to the extent permitted by law; and
 - c. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.
2. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:
- This insurance does not apply to:
- a. Any *occurrence* that takes place after you cease to be a tenant in the premises insured under this policy; and.
 - b. Structural alterations, new construction or demolition operations performed by or for the additional insured.
3. With respect to the insurance afforded to these additional insureds, the following is added to the Liability and Medical Expenses Limits of Insurance section:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

- a. Required by the contract or agreement; or

- b. Available under the applicable Limits of Insurance shown in the Declarations; whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

G. Automatic Status Additional Insured - Mortgagee, Assignee, or Receiver

1. Who Is An Insured is amended to include any person(s) or organization(s) with respect to that person(s) or organization(s) liability as mortgagee, assignee or receiver, but only when you and such person(s) or organization(s) have agreed in writing in a contract or agreement that such person(s) or organization(s) be added as an additional insured on your policy provided that a certificate of insurance showing that person or organization as an additional insured has been issued.

However:

- a. Such person(s) or organization(s) are additional insureds only with respect to liability as mortgagee, assignee or receiver and arising out of the ownership, maintenance or use of premises by you and which is covered by this policy; and
 - b. The insurance afforded to such additional insured only applies to the extent permitted by law; and
 - c. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.
2. With respect to the insurance afforded to these additional insureds this insurance does not apply to structural alterations, new construction or demolition operations performed by or for that person(s) or organization(s).
 3. With respect to the insurance afforded to these additional insureds, the following is added to the Liability and Medical Expenses Limits of Insurance section:
If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:
 - a. Required by the contract or agreement; or
 - b. Available under the applicable Limits of Insurance shown in the Declarations; whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

H. Automatic Status Additional Insured - State or Government Agency or Subdivision

1. Who Is An Insured is amended to include as an additional insured any state or governmental agency or subdivision or political subdivision, but only when you and such state or governmental agency or subdivision or political subdivision have agreed in writing in a contract or agreement that such state or governmental agency or subdivision or political subdivision be added as an additional insured on your policy, subject to the following provisions, provided that a certificate of insurance showing that person or organization as an additional insured has been issued.

- a. This insurance applies only with respect to operations performed by you or on your behalf for which the state or governmental agency or subdivision or political subdivision has issued a permit or authorization.

However:

- (1) The insurance afforded to such additional insured only applies to the extent permitted by law; and
 - (2) If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.
- b. This insurance does not apply to:
 - (1) *Bodily injury, property damage, or personal and advertising injury* arising out of operations performed for the federal government, state or municipality; or
 - (2) *Bodily injury or property damage included within the products-completed operations hazard.*
 2. With respect to the insurance afforded to these additional insureds, the following is added to the Liability and Medical Expenses Limits of Insurance section:
If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:
 - a. Required by the contract or agreement; or

- b. Available under the applicable Limits of Insurance shown in the Declarations; whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

I. Employee Benefits Liability Coverage

1. The following is added to Liability and Medical Expenses Coverages:

Insuring Agreement

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

- (1) The amount we will pay for damages is limited as described in paragraph 4 of this coverage; and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements.

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

- b. This coverage applies to damages only if:

- (1) The act, error or omission, is negligently committed in the *administration* of your *employee benefit program*;
- (2) The act, error or omission, did not take place before the original inception date of this coverage nor after the end of the policy period; and
- (3) A *claim* for damages, because of an act, error or omission, is first made against any insured, in accordance with paragraph c below, during the policy period or an Extended Reporting Period we provide under paragraph 6 of this coverage.

- c. A *claim* seeking damages will be deemed to have been made at the earlier of the

following times:

- (1) When notice of such *claim* is received and recorded by any insured or by us, whichever comes first; or
- (2) When we make settlement in accordance with paragraph a above.

A *claim* received and recorded by the insured within 60 days after the end of the policy period will be considered to have been received within the policy period, if no subsequent policy is available to cover the "claim".

- d. All *claims* for damages made by an *employee* because of any act, error or omission, or a series of related acts, errors or omissions, including damages claimed by such *employee's* dependents and beneficiaries, will be deemed to have been made at the time the first of those *claims* is made against any insured.

Exclusions

This coverage does not apply to:

- a. **Dishonest, Fraudulent, Criminal Or Malicious Act**

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

- b. **Bodily Injury, Property Damage, Or Personal And Advertising Injury**

Bodily injury, property damage or personal and advertising injury.

- c. **Failure To Perform A Contract**

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

- d. **Insufficiency Of Funds**

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

- e. **Inadequacy Of Performance Of Investment/Advice Given With Respect To Participation**

Any *claim* based upon:

- (1) Failure of any investment to perform;
- (2) Errors in providing information on past performance of investment vehicles; or
- (3) Advice given to any person with respect to that person's decision to participate or not to participate in any plan included in the *employee benefit program*.

f. Workers' Compensation And Similar Laws

Any *claim* arising out of your failure to comply with the mandatory provisions of any workers' compensation, unemployment compensation insurance, social security or disability benefits law or any similar law.

g. ERISA

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

h. Available Benefits

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

i. Taxes, Fines Or Penalties

Taxes, fines or penalties, including those imposed under the Internal Revenue Code or any similar state or local law.

j. Employment-Related Practices

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

2. For the purposes of the coverage provided:

- a. All references to Supplementary Payments are replaced by Supplementary Payments and Employee Benefits Liability.
- b. Paragraphs f(1)(b), f(2) and f(3) Coverage Extension - Supplementary Payments do not apply.

3. For the purposes of the coverage provided, paragraphs 2 and 3 under Who Is An Insured are replaced by the following:**2. Each of the following is also an insured:**

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

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

- a. Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier.
- b. Coverage under this provision does not apply to any act, error or omission that was committed before you acquired or formed the organization.

4. For the purposes of the coverage provided, the Liability and Medical Expenses Limits of Insurance Section is replaced by the following:**Limits Of Insurance**

- a. The rules below fix the most we will pay regardless of the number of:
 - (1) Insureds;
 - (2) *Claims* made or *suits* brought;
 - (3) Persons or organizations making *claims* or bringing *suits*;
 - (4) Acts, errors or omissions; or
 - (5) Benefits included in your *employee benefits program*.
- b. The Employee Benefits Liability Limit of Insurance shown in the Schedule is the most we will pay for all damages because of acts, errors or omissions negligently committed in the *administration* of your *employee benefit program*.
- c. Subject to paragraph b, the Employee Benefits Liability Limit of Insurance shown in the Schedule is the most we will pay for all damages sustained by any one *employee*, including damages sustained by such *employee's* dependents and beneficiaries, as a result of:
 - (1) An act, error or omission; or
 - (2) A series of related acts, errors or omissions negligently committed in the *administration* of your *employee benefit program*.

However, the amount paid under this coverage shall not exceed, and will be subject to, the limits and restrictions that apply to the payment of benefits in any plan included in the

employee benefit program.

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

Deductible

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

e. Deductible

Each Employee Deductible: \$1,000

- 5. For the purposes of the coverage provided, Duties In The Event Of Occurrence, Offense, Claim Or Suit Condition is replaced by the following:

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

- a. You must see to it that we are notified as soon as practicable of an act, error or omission which may result in a *claim*. To the extent possible, notice should include:
 - (1) What the act, error or omission was and when it occurred; and
 - (2) The names and addresses of anyone who may suffer damages as a result of the act, error or omission.
- b. If a *claim* is made or *suit* is brought against any insured, you must:
 - (1) Immediately record the specifics of the *claim* or *suit* and the date received; and
 - (2) Notify us as soon as practicable.
- c. You and any other involved insured must:
 - (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the *claim* or *suit*;
 - (2) Authorize us to obtain records and other information;
 - (3) Cooperate with us in the investigation or settlement of the *claim* or defense against the *suit*; and
 - (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of an act, error or omission to which this coverage may also apply.
- d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation or incur any expense without our consent.
- e. The requirements to notify us can be satisfied by notifying our agent. Notice can be by any means of communication.

- 6. For the purposes of the coverage provided, the following Extended

Reporting Period provisions are added:

EXTENDED REPORTING PERIOD

- a. You will have the right to purchase an Extended Reporting Period, as described below, if:

- (1) This coverage is canceled or not renewed; or
- (2) We renew or replace this coverage with insurance that:
 - (a) Has an inception date later than the original inception date of this coverage; or
 - (b) Does not apply to an act, error or omission on a claims-made basis.

- b. The Extended Reporting Period does not extend the policy period or change the scope of coverage provided. It applies only to *claims* for acts, errors or omissions that were first committed before the end of the policy period but not before the original inception date of this coverage. Once in effect, the Extended Reporting Period may not be canceled.

- c. An Extended Reporting Period of five years is available, but only by an endorsement and for an extra charge.

You must give us a written request for the endorsement within 60 days after the end of the policy period. The Extended Reporting Period will not go into effect unless you pay the additional premium promptly when due.

We will determine the additional premium in accordance with our rules and rates. In doing so, we may take into account the following:

- (1) The *employee benefit programs* insured;
- (2) Previous types and amounts of insurance;
- (3) Limits of Insurance available under this coverage for future payment of damages; and
- (4) Other related factors.

The additional premium will not exceed \$100.

The Extended Reporting Period endorsement applicable to this coverage shall set forth the terms, not inconsistent with this Section, applicable to the Extended Reporting

Period, including a provision to the effect that the coverage afforded for *claims* first received during such period is excess over any other valid and collectible insurance available under policies in force after the Extended Reporting Period.

- d. If the Extended Reporting Period is in effect, we will provide an extended reporting period aggregate limit of insurance described below, but only for claims first received and recorded during the Extended Reporting Period.

The extended reporting period aggregate limit of insurance will be equal to the Employee Benefits Liability Limit of Insurance shown in the Schedule.

Paragraph 4 of this coverage will be amended accordingly. The each employee limit will then continue to apply.

7. For the purposes of the coverage provided, the following definitions are added to Liability and Medical Expenses Definitions:

- a. "*Administration*" means:

- (1) Providing information to *employees*, including their dependents and beneficiaries, with respect to eligibility for or scope of *employee benefit programs*;
- (2) Handling records in connection with the *employee benefit program*; or
- (3) Effecting, continuing or terminating any *employee's* participation in any benefit included in the *employee benefit program*.

However, *administration* does not include handling payroll deductions.

- b. "*Cafeteria plans*" means plans authorized by applicable law to allow employees to elect to pay for certain benefits with pre-tax dollars.

- c. "*Claim*" means any demand, or *suit*, made by an *employee* or an *employee's* dependents and beneficiaries, for damages as the result of an act, error or omission.

- d. "*Employee benefit program*" means a program providing some or all of the following benefits to *employees*, whether provided through a *cafeteria*

plan or otherwise:

- (1) Group life insurance; group accident or health insurance; dental, vision and hearing plans; and flexible spending accounts; provided that no one other than an *employee* may subscribe to such benefits and such benefits are made generally available to those *employees* who satisfy the plan's eligibility requirements;
 - (2) Profit sharing plans, employee savings plans, employee stock ownership plans, pension plans and stock subscription plans, provided that no one other than an *employee* may subscribe to such benefits and such benefits are made generally available to all *employees* who are eligible under the plan for such benefits;
 - (3) Unemployment insurance, social security benefits, workers' compensation and disability benefits;
 - (4) Vacation plans, including buy and sell programs; leave of absence programs, including military, maternity, family, and civil leave; tuition assistance plans; transportation and health club subsidies; and
 - (5) Any other similar benefits added thereto by endorsement.
8. For the purposes of the coverage provided, the following Definitions in the Liability and Medical Expenses Definitions Section are replaced by the following:
- a. "*Employee*" means a person actively employed, formerly employed, on leave of absence or disabled, or retired. *Employee* includes a *leased worker*. *Employee* does not include a *temporary worker*.
 - b. "*Suit*" means a civil proceeding in which damages because of an act, error or omission to which this coverage applies are alleged. *Suit* includes:
 - (1) An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
 - (2) Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with

our consent.

9. The Bis-Pak® Common Policy Conditions are amended as follows:

For the purposes of the coverage provided, paragraph H3 Other Insurance is replaced by the following:

3. This Employee Benefits Liability Coverage is excess over any of the other insurance, whether primary, excess, contingent or on any other basis that is effective prior to the beginning of the policy period shown in the Declarations and that applies to an act, error or omission on other than a claims-made basis, if the other insurance has a policy period which continues after the original inception date of this coverage.

J. Increased Limits of Insurance

1. The General Aggregate Limit is increased to equal the Liability and Medical Expenses Limit times the Increased Limits of Insurance - General Aggregate number shown in the Schedule if your current Liability and Medical Expenses Limit is equal to \$500,000 or \$1,000,000.
2. The Products-Completed Operations Aggregate Limit is increased to equal the Liability and Medical Expenses Limit times the Increased Limits of Insurance - Products-Completed Operations Aggregate number shown in the Schedule if your current Liability and Medical Expenses Limit is equal to \$500,000 or \$1,000,000.
3. The Damage To Premises Rented To You Limit is increased to the Increased Limits of Insurance - Damage to Premises Rented to You Limit of Insurance shown in the Schedule.
4. The Medical Expense Limit is increased to the Increased Limits of Insurance - Medical Expenses Limit of Insurance shown in the Schedule.

The Limits of Insurance shown in the Schedule do not replace and are not in addition to the Limits of Insurance shown in the Declarations.

K. Tenants Legal Liability

Paragraphs (1), (3) and (4) of exclusion k do not apply to *property damage* other than damage by fire, lightning, explosion, smoke, or water to premises, including the contents of such premises, rented to you for a period of 8 or more consecutive days.

The most we will pay under this coverage for damages because of *property damage* to any one premises is the Tenants Legal Liability Limit of Insurance shown in the Schedule. A \$250

deductible applies.

L. Electronic Data Liability

1. Exclusion 1s is replaced by the following:
This insurance does not apply to:

- s. Access or Disclosure of Confidential or Personal Information and Data-related Liability

- (1) Damages, other than damages because of *personal and advertising injury*, arising out of any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information; or

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

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of that which is described in paragraph (1) or (2) above.

However, unless paragraph (1) above applies, this exclusion does not apply to damages because of *bodily injury*.

2. The following paragraph is added to Liability and Medical Expenses Limits of Insurance:

Subject to 2 above, the most we will pay for *property damage* because of all loss of *electronic data* arising out of any one *occurrence* is the Electronic Data Liability Limit of Insurance shown in the Schedule.

3. The following definition is added to Liability and Medical Expenses Definitions:

"Electronic data" means information, facts or computer programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), on hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other repositories of computer software which are used with electronically controlled equipment. The term computer programs, referred to in the foregoing description of electronic data, means a set of related electronic instructions which direct the operations and functions of a computer or device connected to it, which enable the computer or device to receive,

process, store, retrieve or send data.

4. For the purposes of this coverage, the definition of *"property damage"* is replaced by the following:

"Property damage" means:

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

For the purposes of this coverage, *electronic data* is not tangible property.

M. Newly Acquired Organizations

Paragraph 3a under Who Is An Insured is replaced by the following:

- a. Coverage under this provision is afforded only:

- (1) For the number of days for the Newly Acquired Organizations as shown in the Schedule after you acquire or form the organization; or

- (2) Until the end of the policy period, whichever is earlier;

- N. Paragraph 3 of Liability and Medical Expenses Limits of Insurance is replaced by the following:

3. The most we will pay under Business Liability Coverage for damages because of *property damage* to a premises while rented to you or in the case of a fire, lightning, explosion, smoke or water while rented to you or temporarily occupied by you with permission of the owner is the applicable Damage To Premises Rented To You Limit shown for that premises in the Declarations. For a premises temporarily occupied by you, the applicable limit will be the Damage To Premises Rented To You Limit shown in the Declarations.

O. Knowledge of Claim or Suit

The following is added to the Duties in the Event of Occurrence, Offense, Claim or Suit Condition in Liability and Medical Expenses General Conditions:

Knowledge of an *occurrence*, offense, claim or

suit by an agent or *employee* of any insured shall not in itself constitute knowledge of the insured unless your partners, *executive officers*, directors, managers, members or a person who has been designated by them to receive reports of *occurrences*, offenses, claims or *suits* shall have received such notice from the agent or *employee*.

P. Bodily Injury Definition Expanded

The definition of *bodily injury* is amended to include mental distress and mental injury, including but not limited to mental anguish and emotional anguish.

Q. Waiver of Subrogation for Written Contracts

The following is added to the Transfer of Rights of Recovery Against Others to Us Condition, Applicable to Liability Coverage in the Bis-Pak® Common Policy Conditions:

We waive any right of recovery we may have against a person or organization because of payments we make for injury or damage arising out of your ongoing operations or *your work* done under a contract with that person or organization and included in the

products-completed operations hazard.

The waiver applies only to:

1. Any person or organization with whom you have a written contract or agreement in which you are required to waive rights of recovery under this policy. Such contract or agreement must have been executed prior to the *occurrence* causing injury or damage; and
2. Any other person or organization you are required to add as an additional insured under the contract or agreement described in paragraph 1 above.

R. Unintentional Failure to Disclose Hazard

The following is added to the Representations Condition in the Bis-Pak® Common Policy Conditions:

Based on our dependence upon your representations as to existing hazards, if unintentionally you should fail to disclose all such hazards at the inception date of your policy, we will not reject Liability coverage under this policy based solely on such failure.

PRIMARY AND NONCONTRIBUTORY - OTHER INSURANCE CONDITION

CB-1488(7-13)

This endorsement modifies insurance provided under the following:

BIS-PAK® COMMON POLICY CONDITIONS

The following is added to paragraph H Other Insurance of the Bis-Pak® Common Policy Conditions and supersedes any provision to the contrary:

Primary And Noncontributory Insurance

This insurance is primary to and will not seek con-

tribution from any other insurance available to an additional insured under your policy provided that:

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

September 28, 2023

Item No. 6.7.

RFP #23-072 Patricia Promenade Area Rehabilitation - Reject Proposals

Sponsor: Debbie Eller, Director of Community Services

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding the rejection of all responses received to RFP 23-072 - Patricia Promenade Area Rehabilitation.

Relationship to Strategic Goals:

Good Governance; Financial Sustainability; Core Services and Infrastructure; Neighborhood Integrity; Diverse & Growing Economy; and Improving Mobility.

Recommendation(s): Staff recommends rejection of all responses received for RFP #23-072.

Summary: This item is for consideration by Council to reject all proposals received for RFP # 23-072. The City released Request for Proposal # 23-072 - Patricia Promenade Area Rehabilitation in June 2023 and received proposals from two construction companies in July. With an estimated 75-90 days for construction completion, this would have carried over into the Texas A&M academic school year, football season, and two annual events held in Northgate (Homegrown at Northgate and Howdy Holly Days). This project and the estimated timeframe would cause significant disruption to businesses, events, residents, customers, the Northgate Division, and CSTEP operations. Therefore, after discussions within the Community Services Department and the City Manager's Office, it was determined to delay this project and reconsidered in the future.

Budget & Financial Summary: N/A

Attachments:

None

September 28, 2023
Item No. 6.8.
FY24-26 Brazos County-CoCS EMS ILA

Sponsor: Richard Mann, Chief of Fire and Emergency Services

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding an Interlocal Agreement with Brazos County for EMS Ambulance service to the southern portion of Brazos County.

Relationship to Strategic Goals:

1. Good Governance
2. Core Services

Recommendation(s): Staff recommends acceptance of the resolution.

Summary: The current FY21-FY23 Interlocal Agreement for Emergency Medical Ambulance Service between the City of College Station, the City of Bryan, and Brazos County expires on September 30, 2023. Per council direction, staff have renegotiated the agreement to closer align with expenditures. This Interlocal Agreement will allow the College Station Fire Department to continue providing EMS Ambulance service to the southern portion of Brazos County on a cost-per-call model for service provided.

Budget & Financial Summary:

- FY24 rate will be \$425 per incident, not to exceed \$340,000 total
- FY25 rate will be \$475 per incident, not to exceed \$380,000 total
- FY26 rate will be \$525 per incident, not to exceed \$425,000 total

Attachments:

1. FY 2024-2026 Brazos County - CoCS EMS - Final 9-21-23

**FY 2024-FY 2026 COLLEGE STATION AND BRAZOS COUNTY
INTERLOCAL AGREEMENT FOR
EMERGENCY MEDICAL AMBULANCE SERVICE**

THIS INTERLOCAL AGREEMENT is hereby made and entered into by and among The City of College Station, Texas, a home rule municipal corporation (“College Station” or “City”) and Brazos County, Texas (“County”), each acting by and through its duly authorized agents;

WHEREAS, the respective participating governments (the “Parties”) are authorized by the Interlocal Cooperation Act, Texas Government Code, Chapter 791, to enter into a joint agreement for the performance of the governmental function of providing Emergency Medical Ambulance Services; and

WHEREAS, College Station and County are authorized under Chapter 774 of the Texas Health & Safety Code to contract with each other to provide Emergency Medical Ambulance services; and

WHEREAS, College Station currently provides Emergency Medical Ambulance services to the County

NOW, THEREFORE, the parties, in consideration of the mutual covenants and conditions contained herein, agree as follows:

**ARTICLE I
SCOPE OF SERVICES**

1. College Station shall provide Automatic Mutual Aid Emergency Medical Ambulance Services to any requesting person in the southern portion of Brazos County within the College Station Response District as defined in **Exhibit “A” Automatic Mutual Aid Response Districts**. Response to areas of Brazos County outside of the College Station Response District will be by mutual aid request and based on resource capacity.
2. All requests for services under this Agreement shall be through the 9-1-1 Emergency Communications District and the College Station Communication Center..
3. College Station reserves the right to refuse to respond to any call pursuant to this Agreement if the Fire Chief or designee reasonably determines that the health, safety, or welfare the City would be endangered by dispatching personnel or equipment outside of its corporate limits.
4. College Station will maintain emergency medical equipment and licensed personnel in compliance with Subchapter C of Chapter 773 Health & Safety Code and will perform all activities related to this Agreement in accordance with the regulations promulgated by the Texas Department of State Health Services. College Station will provide to the County, notwithstanding any HIPAA restrictions, an electronic summary report of emergency responses made outside the corporation limits of each city, respectively, on a quarterly basis upon request. An “emergency response” is defined as a single medical incident regardless of the number of EMS or other apparatus that respond(s) and arrive on location.

ARTICLE II PAYMENTS

1. The County shall pay from current revenues to the City the following amounts for Emergency Medical Ambulance Services on a quarterly basis according to the following schedule:

2. **Fiscal Year 2024.** A sum of **\$425** per emergency response not to exceed a collective total of \$340,000 annually:

<u>Payment Due Date</u>	<u>Quarter</u>
1. January 31, 2024	October 1 – December 31, 2023
2. April 30, 2024	January 1 – March 31, 2024
3. July 31, 2024	April 1 – June 30, 2024
4. October 31, 2024	July 1 – September 30, 2024

3. **Fiscal Year 2025.** A sum of **\$475** per emergency response not to exceed a collective total of \$380,000 annually:

<u>Payment Due Date</u>	<u>Quarter</u>
1. January 31, 2025	October 1–December 31, 2024
2. April 30, 2025	January 1 – March 31, 2025
3. July 31, 2025	April 1 – June 30, 2025
4. October 31, 2025	July 1– September 30, 2025

4. **Fiscal Year 2026.** A sum of \$525 per emergency response not to exceed a collective total of \$425,000 annually:

<u>Payment Due Date</u>	<u>Quarter</u>
1. January 31, 2026	October 1 –December 31, 2025
2. April 30, 2026	January 1 – March 31, 2026
3. July 31, 2026	April 1– June 30, 2026
4. October 31, 2026	July1 – September 30, 2026

ARTICLE III TERM AND TERMINATION

The Agreement term begins on October 1, 2023 and ends on September 30, 2026. The Agreement is effective after proper approval of all parties. The Parties may terminate this Agreement, for convenience, without cause, with thirty (30) days' written notice. Further, should the Agreement be terminated, the rights and obligations of the Parties hereunder shall terminate, except those rights and obligations that have accrued under this Agreement before the date of termination shall survive.

ARTICLE IV GENERAL TERMS AND CONDITIONS

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

2. **Notice.** All notices issued between parties to this agreement shall be in writing. All notices shall be deemed given on the date personally delivered, faxed, or deposited in the U.S. mail to the following parties:

City of College Station
P.O. Box 9960
Station, Texas. 77842
Attn: Richard Mann,
Fire Chief

Brazos County
200 S. Texas Ave, Suite 332
Bryan, Texas 77803
Attn: County Judge
Duane Peters

3. **Hold Harmless.** 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 party to this Agreement, or any of its officers, agents or employees as a result of its performance under this agreement. If any party to this contract is sued by a third party for any acts or omissions arising from the performance of this Agreement, the parties agree that the governmental unit that would have been responsible for furnishing the services in the absence of the Agreement is responsible for any civil liability that arises from the furnishings of those services except for personal injury, personnel and/or retirement benefits of the personnel of the responding city, and/or damage to or resulting from use of any equipment of the responding city.

4. Savings Clause. If any provision of the Agreement shall be held to be invalid, illegal, or unenforceable by a court or other tribunal of competent jurisdiction, the validity 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 provisions or provisions of this Agreement with legal terms and conditions approximating the original intent of the parties.

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

6. No Third-Party Beneficiaries. This Agreement is for the benefit of the parties and does not confer any rights on any third parties.

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

8. Venue. This Agreement has been made under and shall be governed by the laws of the State of Texas. This Agreement and all matters related thereto shall be performed in Brazos County, Texas. The venue of any lawsuits arising out of this Agreement shall be in Brazos County, Texas.

9. Waiver. Failure of any party to enforce a provision of this Agreement shall not constitute a waiver of that provision nor in any way affect the validity of this Agreement or the right of any party 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 part(ies) 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.

10. Multiple Originals. This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes.

CITY OF COLLEGE STATION

Mayor

Date: _____

ATTEST:

City Secretary

Date: _____

APPROVED AS TO FORM:

City Attorney

Date: _____

BRAZOS COUNTY

Duane Peters, County Judge

Date: _____

ATTEST:

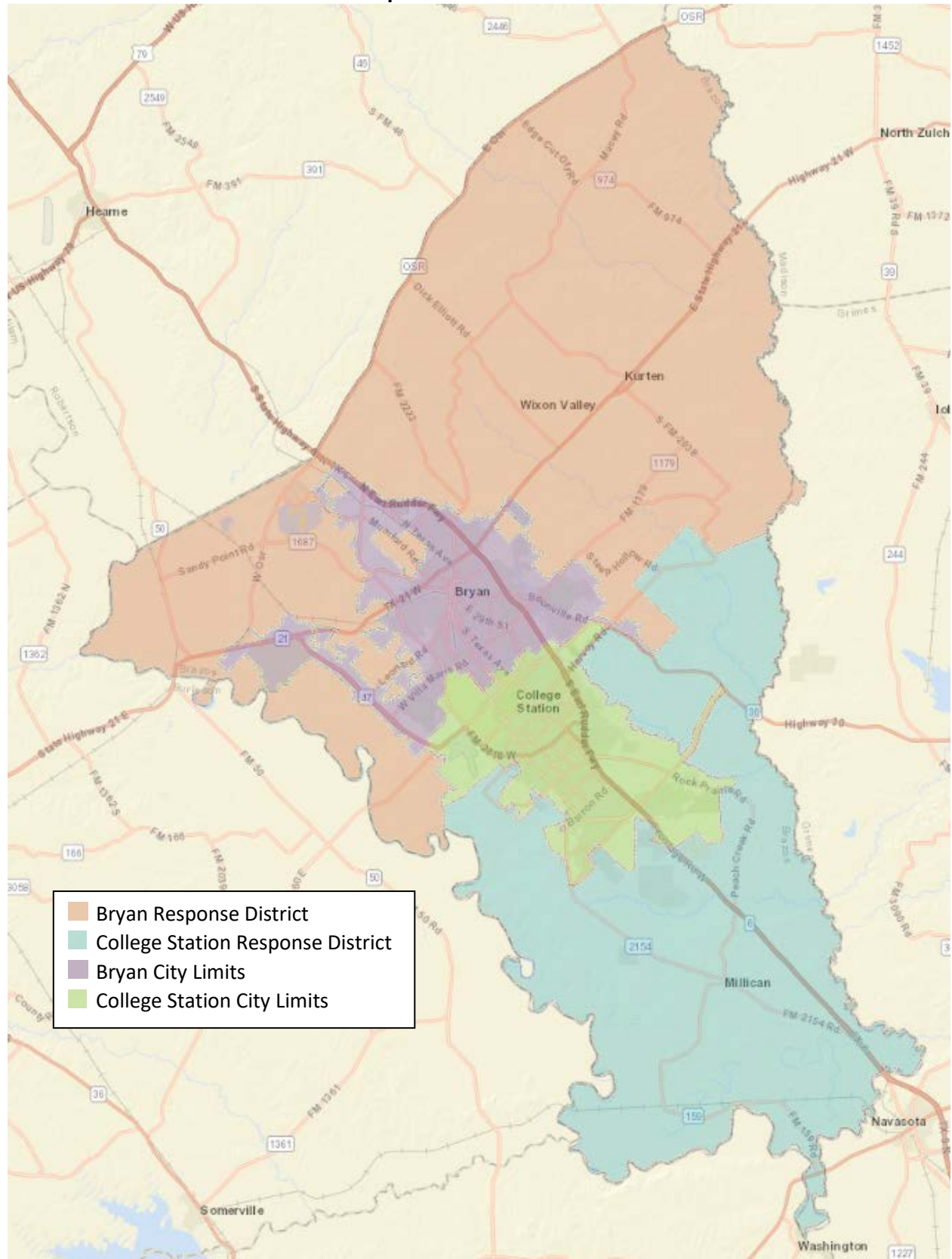
Karen McQueen, County Clerk

Date: _____

Bruce L. Erratt, Asst. County Atty.

Date: _____

Exhibit "A" Automatic Mutual Aid Response Districts



September 28, 2023
Item No. 6.9.
Grant for Victim Coordinator and Liason

Sponsor: Billy Couch

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding a resolution authorizing the chief of police to execute the application and any documents necessary to receive grant funding from the Office of the Attorney General of the State of Texas for the Victim Coordinator and Liaison Grant.

Relationship to Strategic Goals:

- Financially Sustainable City
- Core Services and Infrastructure

Recommendation(s): Staff recommends approval

Summary: The purpose of the VCLG program is to fund the mandated positions described in the Texas Code of Criminal Procedure, Article 56.04, specifically Victim Advocates in law enforcement agencies. In addition to the duties imposed in the Texas Code of Criminal Procedure, Article 56.04 (and more specifically described in Article 56.02), Victim Advocates are also expected to promote and educate the community and other professionals about victim rights and services to identify crime victims and provide or refer them to needed services.

Budget & Financial Summary: The Office of the Attorney General has granted the City of College Station \$49,392.00 to use for the purpose of funding the salary and benefits for the position of a Victim Advocate. The minimum amount needed is \$88,415. Additional funding is being sought through a second grant and is expected to cover the total cost of the position. The contract will be active until August 31st, 2024.

Attachments:

1. OAG Victim Coordinator and Liaison Grant Resolution

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS AUTHORIZING THE POLICE CHIEF TO EXECUTE THE APPLICATION AND ANY DOCUMENTS NECESSARY TO RECEIVE GRANT FUNDING FROM THE OFFICE OF THE ATTORNEY GENERAL OF TEXAS FOR THE VICTIM COORDINATOR AND LIAISON GRANT.

LEGAL NAME OF APPLICANT: The City of College Station
REFERENCE ID NUMBER: 2024-2698939999

WHEREAS, the City of College Station has applied or wishes to apply to the Office of the Attorney General (OAG) for the following grant program (*initial one*):

_____ Other Victim Assistance Grant (OVAG)
_____ Victim Coordinator and Liaison Grant (VCLG); and

WHEREAS, the City Council of the City of College Station has considered and supports the Application filed or to be filed with the OAG; and

WHEREAS, the City of College Station has designated or has designated or wishes to designate the following individual as the “Authorized Official” who is given or has been given the power to apply for, accept, reject, alter, or terminate that certain grant with the OAG, as well as given the authority to sign all grant adjustment requests, inventory reports, progress reports and financial reports or any other official documents related to the grant on behalf of the grantee:

Name of Person Designated as “Authorized Official”: Billy Couch
Position Title: Chief of Police

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

PART 1: That the City Council has approved the submission of the application to the OAG, as well as the designation of the Authorized Official

ADOPTED this 28th Day of September, 2023.

ATTEST:

APPROVED:

City Secretary

Mayor

APPROVED:

City Attorney

September 28, 2023
Item No. 6.10.
Santa's Wonderland Sponsorship

Sponsor: Brian Piscacek, Economic Development Manager

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding a sponsorship agreement with Land of Lights, Inc., DBA Santa's Wonderland, in the amount of \$75,000.

Relationship to Strategic Goals:

- Diverse & Growing Economy

Recommendation(s): Staff recommends approval of the Sponsorship Agreement.

Summary: Entering our fourth year of the "Christmas in College Station" campaign, this sponsorship leverages the city's signature holiday attraction, partnering with Santa's Wonderland to encourage visitors to the park to stay, shop, dine, and play in College Station. This campaign includes collaborative branding, advertising, and signage, connecting Santa's Wonderland patrons to local deals, events, and activities exclusive to College Station over the holiday season.

The agreement preserves "College Station" signage at multiple locations throughout the park while taking advantage of the park's investment in transporting visitors to and from Post Oak Mall through the addition of co-branded vinyl decals on either side of the buses directing the public to Visit College Station's "Christmas in College Station" webpage. Additional benefits include marketing e-blasts to ticket purchasers to promote Christmas-related events and activities, logo displays on Santa's Wonderland's website, and sharing of photo and video assets for additional collaborative opportunities.

Budget & Financial Summary: This sponsorship agreement is for \$75,000 and will be paid for using Hotel Occupancy Tax revenues. The agreement is for one year (the 2023 holiday season), with the option to renew for two additional one-year terms.

Attachments:

1. Contract 23300810 Land of Lights



CONTRACT & AGREEMENT ROUTING FORM

CONTRACT#: 23300810 PROJECT #: N/A BID/RFP/RFQ#: N/A

Project Name / Contract Description: Sponsorship Agreement

Name of Contractor: Land of Lights Inc., DBA Santa's Wonderland

CONTRACT TOTAL VALUE: \$ 75,000.00 Grant Funded Yes ☐ No ☒
If yes, what is the grant number:

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

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

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

One year term with an option to renew for two additional one-year terms. Sponsorship payments by City to Santa's Wonderland shall be made in two separate payments of \$37,500; one at contract execution, and the other midway through the season (October-December 2023).

Funding Account: 31210173-5399

(If required)*
CRC Approval Date*: 09/20/23 Council Approval Date*: 09/28/2023 Agenda Item No*:

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

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

SIGNATURES RECOMMENDING APPROVAL

DEPARTMENT DIRECTOR/ADMINISTERING CONTRACT

DATE

ASST CITY MGR – CFO

DATE

LEGAL DEPARTMENT

DATE

APPROVED & EXECUTED

CITY MANAGER

DATE

N/A

MAYOR (if applicable)

DATE

N/A

CITY SECRETARY (if applicable)

DATE

9.12.23 UPDATED

CITY OF COLLEGE STATION SPONSORSHIP AGREEMENT

This Sponsorship Agreement (“Agreement”) is executed by and between The City of College Station (“City”), a Texas, home-rule municipal corporation, and Land of Lights, Inc., DBA Santa’s Wonderland (“Santa’s Wonderland”), a Texas Corporation.

Whereas, the City has adopted the “City of College Station Sponsorships and Support Requests Policies and Procedures” Policy (“Policy”) setting forth guidelines for the City’s sponsorship of events, programs, and services in the community; and

Whereas, Santa’s Wonderland provides a unique form of recreation and entertainment to area residents; and

Whereas, the City desires to assist in promoting and providing such form of recreation and entertainment for the City and Brazos County, Texas; and

Whereas, the City and Santa’s Wonderland share a mutual purpose of enhancing the image of the City as a Christmas destination and attracting more visitors to the City; and

Whereas, the City’s sponsorship of the event, as described in this Agreement, is of general interest and relevance to City residents and the general public; and

Whereas, it is determined that Santa’s Wonderland creates a local impact on City; and

NOW, THEREFORE, for and in consideration of the terms and conditions set forth herein, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Event/program/service. The event, program, or service which is the subject of this Agreement is as follows: Promotion of “Christmas in College Station”, an ongoing event from opening day of Santa’s Wonderland (November 10, 2023) through December 30, 2023. “Christmas in College Station” shall be marketed as an event to encourage visitors and residents to visit Santa’s Wonderland, City park facilities, City restaurants and retail, and stay in City hotels.
2. Sponsorship. City agrees to sponsor the above-described event, program, or service by being a Cash Sponsor in the amount of Seventy-Five Thousand Dollars (\$75,000) to preserve the ‘College Station’ signage at the main entrance and the State of Texas flag (“College Station, Texas”) as well as adjacent to the snow play space at the former ice-skating rink location at Santa’s Wonderland (“College Station”) and carry out a marketing campaign for Santa’s Wonderland with increased emphasis on the City of College Station events and activities. Santa’s Wonderland shall submit an initial invoice to City in an amount not to exceed Thirty-Seven Thousand Five Hundred Dollars (\$37,500) within seven (7) calendar days of the execution of this Agreement and a final invoice to the City in an amount not to exceed Thirty-Seven Thousand Five Hundred Dollars (\$37,500) within seven (7) calendar days of November 15, 2023, requesting payment for services provided. Payment(s) shall be made within thirty (30) calendar days of City’s receipt of approved invoices.

3. Signage Recognition. In recognition of City's sponsorship set forth in this Agreement, Santa's Wonderland agrees to provide the following recognition from the first day of the venue opening for the 2023 season:

- (a) Snow Play Space - Santa's Wonderland will maintain prominently displayed, illuminated 'College Station' signage, accessible for photo opportunities of Santa's Wonderland guests at the snow play space (formerly the location of the ice skating rink) and said illuminated signage shall be consistent with previous seasons and no less than twenty-five feet wide by twenty feet tall.
- (b) Big Red Barn and State of Texas Flag - At the main entrance and the State of Texas flag, Santa's Wonderland will maintain illuminated 'College Station, Texas' signage consistent with previous seasons, being the 'College Station, Texas' sign on the big red barn and the 'College Station, Texas' sign on the illuminated State of Texas flag used for visitor photos.
- (c) Bus Decals - Signage shall also be displayed via large vinyl decals placed on either side of each bus transporting guests to and from the pick-up site at Post Oak Mall highlighting "Christmas in College Station" and featuring the "Visit College Station" logo, website, social media handles, and QR code encouraging patrons to download the "Christmas in College Station" mobile pass. Signage shall be clearly visible to the public and illustrate the partnership between City of College Station and Santa's Wonderland.
- (d) For the avoidance of doubt, all costs related to signage, including but not limited to production and installation, shall be inclusive of this Agreement and paid for by Santa's Wonderland.

4. Marketing Recognition. The Santa's Wonderland marketing campaign will reach individuals outside of a seventy-five (75) mile radius of the City and shall encourage visitors to stay, eat, shop, and play in College Station over the Christmas season. Santa's Wonderland marketing emails to email addresses previously provided by Santa's Wonderland patrons and Santa's Wonderland website subscribers will highlight "Christmas in College Station". Strategic emails designed by Santa's Wonderland shall contain the "Christmas in College Station" logo and link. Links to the "Christmas in College Station" landing page and "Visit College Station" website shall also be prominently displayed on the Santa's Wonderland website. Santa's Wonderland shall provide detailed reports containing online traffic generated to the "Christmas in College Station" landing page and Visit College Station website. Santa's Wonderland shall share photo assets with the City for approved uses in complementary marketing collateral.

5. Compliance. Santa's Wonderland represents having read and understood the Policy and agrees to abide by its terms unless expressly provided for otherwise in this Agreement. Santa's Wonderland agrees to adhere to all applicable rules and regulations, including safety regulations.

6. City Mark Approval. No materials, or communications, including but not limited to, print, video, internet, broadcast, or display items developed to promote or communicate the sponsorship using the City's logo, marks, or name may be used without the City's written approval.

7. Additional documents. The Policy is made a part of this Agreement and is incorporated by reference, and the terms used therein have the same meaning when used in this Agreement. Santa Wonderland's application or other documentation, if any, shall be attached and made a part of this Agreement. In the event of a conflict, the provisions and information provided by City shall prevail over information provided by Santa's Wonderland; and the information dated later in time by the City shall prevail over earlier information provided by the City.

8. Indemnification. Santa's Wonderland shall indemnify, hold harmless, and defend the City, its officers, agents, employees and volunteers from and against any and all claims, losses, damages, causes of action, suits, and liability of every kind, including all expenses of litigation, court costs, and attorney's fees, for injury to or death of any person or for damage to any property arising out of or in connection with this Sponsorship Agreement. Such indemnity shall apply regardless of whether the claims, losses, damages, causes of action, suites, or liability arise in whole or in part from the negligence of the City, any other party indemnified hereunder, Santa's Wonderland, or any third party. 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. There shall be no additional indemnification other than set forth in this section. All other provisions regarding the same subject matter shall be declared void and of no effect.

9. Release. Santa's Wonderland hereby releases, relinquishes and discharges the City, its 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 or death of any person and any loss of or damage to any property that is caused by or alleged to be caused by, arising out of, or in connection with this Sponsorship Agreement whether or not said claims, demands, or causes of action are covered in whole or in part by insurance. There shall be no additional release other than set forth in this section. All other provisions regarding the same subject matter shall be declared void and of no effect.

10. Insurance. The Applicant has filed with the City a certificate or certificates of insurance which meet the following requirements:

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

- (a) Commercial 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.
- (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 available for review and acceptance.

- (e) The coverage shall not exclude: premises/operations with separate aggregate; independent contracts; products/completed operations; contractual liability (insuring the indemnity provided herein) Personal & Advertising Liability; Host Liquor Liability Coverage.

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) Coverage shall be at least as broad as Insurance Services Office Number CA 00 01.
- (d) The Business Auto Policy must show Symbol 1 in the Covered Autos Portion of the liability section in Item 2 on the declarations page.
- (e) The coverage shall include owned autos, leased and rented autos, non-owned autos, hired autos, and any autos.

Workers' Compensation/Employer's Liability Insurance. The Workers' Compensation Insurance shall include the following terms:

- (a) Employer's Liability minimum limits of liability not less than \$1,000,000 for each accident/each disease/each employee required;
- (b) "Texas Waiver of Our Right to Recover from Others Endorsement, WC 42 03 04" shall be included in this policy; and
- (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".

Endorsement Required. Those policies set forth in the above Insurance section shall contain an endorsement listing the City as an Additional Insured and further providing that those policies are primary to any City insurance policies which shall be non-contributory. The additional insured endorsement shall be in a form at least as broad as ISO form GC 2026. Waiver of subrogation in a form at least as broad as ISO form 2404 shall be provided in favor of the City on all policies obtained by Santa's Wonderland in compliance with the terms of this Agreement. Santa's Wonderland 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 all of the requirements stated herein. All Certificates of Insurance with evidence of endorsements shall be furnished to the City's Representative at the time of execution of this Agreement on the most current State of Texas Department of Insurance-approved forms, attached hereto as Exhibit A, and approved by the City before work commences.

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

12. Termination. The City may terminate this Agreement for convenience with thirty (30) days written notice for any reason. In the event of such termination the City will notify Santa's Wonderland in writing and the obligations of the City shall cease.

13. Choice of Law. This Agreement 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. 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, User 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, User verifies that it i) does not have a practice, policy, guidance, or directive that discriminated against a firearm entity or firearm trade association; and ii) will not discriminate during the term of this Contract against a firearm entity or firearm trade association; and
- (c) Boycott Energy Companies. Subject to § 2274.002 Texas Government Code, User herein verifies that it i) does not boycott energy companies; and ii) will not boycott energy companies during the term of this Contract.
- (d) Amendment. This Agreement may only be amended by written instrument approved and executed by both parties.
- (e) This Agreement shall never be deemed or construed to create a partnership or joint venture between the parties.
- (f) Waiver. Waiver of one provision or on one occasion with respect to this Agreement does not constitute waiver of other provisions or on other occasions. If any provision of this Agreement should be held to be invalid or unenforceable, the validity and enforceability of the remaining provisions of this Agreement shall not be affected thereby.
- (g) Assignment. This Agreement may not be assigned by a party without the written approval of the other. This Agreement does not and is not intended to confer any rights or remedies upon any person other than the parties.

(h) Entire Agreement. This Agreement contains the entire agreement between the parties. There are no other written or oral agreements, contracts, or understandings between the parties.

This Agreement shall become binding on the date of the last signature of the Authorized Representative, as identified in the signature blocks below.

Land of Lights DBA
Santa's Wonderland

City of College Station

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

By: _____
City Manager
Date: _____

APPROVED:

City Attorney
Date: _____

Assistant City Manager/CFO
Date: _____

September 28, 2023
Item No. 6.11.
Resolution and Contract to Participate in MuniWatt Program

Sponsor: Timothy Crabb, Director of Electric

Reviewed By CBC: N/A

Agenda Caption: Presentation, discussion, and possible action on participating in the MuniWatt program by joining the joint power purchase contract with MERC (Municipal Energy Resources Corporation), MUNIWATT (Municipal Power Acquisition and Supply Corporation), a Texas public facility corporation, and their Agent the City of La Grange, Texas.

Relationship to Strategic Goals:

Core Services and Infrastructure
Financially Sustainable City

Recommendation(s): Staff recommends Council approve this resolution and contract.

Summary: MERC has operated the MuniGas system for over 25 years, and by using their utility aggregating ability, access to the financial markets, and a diversified municipal demand portfolio, they have provided a discount on natural gas purchases to their state and municipal customers. MERC, through MUNIWATT, is now providing this same structured process for electric power purchased by municipally owned utilities ("MOU"), with the goal of lowering the MOU's cost of purchased power. The City must pass the attached resolution and approve the MuniWatt purchase contract to participate in the MuniWatt program.

Budget & Financial Summary: N/A

Attachments:

1. Resolution MuniWatt Joint Power Purchase Contract 9-12-2023
2. CSU MuniWatt Purchase Contract 9-12-2023
3. MuniWatt Joint Power Purchase Contract (Fully Executed)

Resolution No. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS; AUTHORIZING THE CITY'S PARTICIPATION IN A JOINT POWER PURCHASE CONTRACT WITH MULTIPLE ENTITIES; AUTHORIZING THE CITY MANAGER TO EXECUTE DOCUMENTS TO PROVIDE FOR THE CITY'S PARTICIPATION IN THE JOINT POWER PURCHASE CONTRACT; PROVIDING FINDINGS OF FACT; PROVIDING FOR OPEN MEETING

RECITALS

A. The City of College Station, Texas ("**City**"), is a duly incorporated home-rule municipality.

B. Municipal Power Acquisition and Supply Corporation ("**MuniWatt**") is a public facility corporation created with the approval of the City of La Grange, Texas ("**La Grange**"), under the Texas Public Facility Corporation Act, Chapter 303, Texas Local Government Code, as amended ("**Enabling Act**").

C. MuniWatt intends to contract to purchase electric energy and desires to sell to La Grange all energy acquired under such contract(s), or exchanged for such energy, so that it may be devoted to public use; and MuniWatt is authorized to do so under the Enabling Act.

D. La Grange intends to purchase on behalf of, and resell to, the City and certain other state and local governments ("**Other Entities**") all such energy to be sold to it by MuniWatt.

E. The City desires to purchase such energy on the terms described in that certain Joint Power Purchase Contract, among the City, MuniWatt, La Grange, and the Other Entities (collectively the "**Parties**"), and a Purchase Contract supplemental thereto among the City, MuniWatt, and La Grange (collectively with the Joint Power Purchase Contract, the "**Contract**"), which the Parties consider to be necessary, useful, or appropriate for such purposes, in order to realize savings in the cost of electric energy.

F. A copy of the Contract is attached to this Resolution as Exhibit "A" and is fully incorporated herein for all purposes.

G. The City, La Grange, and Other Entities are authorized to enter into the Contract by the Interlocal Cooperation Act, Chapter 791, Texas Government Code, as amended; the Texas Public Property Finance Act, Chapter 271, Subchapter A, Texas Local Government Code, as amended; and, Chapter 552, Subchapter A, Texas Local Government Code, as amended.

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

SECTION 1. Findings of Fact. The above recitals are the City Council's true and accurate legislative findings of fact. The recitals are adopted and incorporated herein for all purposes.

SECTION 2. Approval of Contract.

(a) The City Council approves the Contract, substantially in the forms as presented to the City Council on the date of this Resolution, as provided below.

(b) The City Council authorizes and directs the City Manager to execute the Contract on the City's behalf, substantially in such form, with such changes thereto not affecting the essential terms thereof as such officer may approve.

(c) La Grange is authorized to purchase electric energy on behalf of the City solely in accordance with the terms of the Contract, as required to deliver electric energy in the amounts and on the terms to be purchased by the City under the Contract, from and after its execution and effectiveness.

(d) The City Council authorizes and directs the City Manager to take all other reasonable action necessary to observe and perform the City's authority and duties under the Contract, from and after its execution.

SECTION 3. Open Meeting. The City Council considered this Resolution during a duly noticed meeting that was open to the public, in compliance with Chapter 551, Texas Government Code.

PASSED AND APPROVED this ____ day of September 2023.

John P. Nichols
Mayor, City of College Station

ATTEST:

Tanya Smith
City Secretary, City of College Station

APPROVED AS TO FORM:

City Attorney

PURCHASE CONTRACT

1. Joint Purchase Contract. The Utility specified below hereby becomes a Party to and, except to the extent described herein, assumes all rights and obligations of a “**Utility**” under the Joint Power Purchase Contract, dated as of September 1, 2022 (the “**Joint Contract**”), among MuniWatt (specified below), the Agent (specified below), and Local Governments and State Agencies, each as therein defined, who become Parties thereto, and MuniWatt and the Agent hereby consent thereto. The terms of the Joint Contract are hereby incorporated herein by reference.

2. Priority of Unrestricted Energy Purchases and Rebates. As of the date of this Purchase Contract, the Utility shall be:

- ☒ a Qualified Charter Buyer
- ☐ a Qualified Long-Term Buyer in the [initial/second/etc.] class
- ☐ a Qualified Short-Term Buyer [in the [initial/second/etc.] class]
- ☐ an Other Buyer

3. Purchase of Energy. The Utility agrees to purchase from the Agent and receive from MuniWatt, as representative of the Agent, and the Agent agrees to sell and deliver through MuniWatt, as its representative, to the Utility, at the Utility’s Delivery Points and on the terms and conditions specified in the Joint Contract, in addition to the Quantity of Restricted Energy, if any, committed to be purchased by the Utility hereunder, the Utility’s Net Qualified Requirements for Energy during the term of this Purchase Contract, but not more than the Utility’s Maximum Annual Quantity, if any, in any Contract Year and not more, in any month, than the least of (a) the Utility’s Maximum Monthly Quantity, (b) the Unrestricted Energy then available for sale to the Utility, (c) the Quantity of such Unrestricted Energy (together with the Quantity of Restricted Energy, if any, sold to it hereunder) used for a Qualified Use in such month, and (d) the maximum Quantity that would not cause the aggregate price for such Unrestricted Energy to exceed the Dollar Cap for such month or such greater dollar amount as may be specified in writing by MuniWatt from time to time to the Utility, its Suppliers, and the Exchanger-Balancers (the least of (a), (b), (c), and (d), the “**Monthly Cap**”).

As used in the preceding paragraph, the “**Dollar Cap**” for a month is equal to the product of (x) the least of the Quantities specified in clause (a), clause (b), and clause (c) of such paragraph, (y) 10, and (z) 300% of the price listed opposite “IF-Katy HUB” for such month in the table “Monthly Bidweek Spot Gas Prices” (or any replacement table) in the first edition in such month of *Platts Gas Daily Price Guide*, or any successor publication, published by S&P Global Platts or its successor or, if such price is not published, the price specified for such month by MuniWatt as its estimate of the average price per MMBtu of gas contracted during the week preceding such month for delivery at such location in equal quantities on each day in such month.

4. Maximum Quantities. The Maximum Annual Quantity and Maximum Monthly Quantity of Unrestricted Energy that the Utility agrees to purchase and receive hereunder up to its Net Qualified Requirements, is:

- ☒ its Net Qualified Requirements or
- ☐ as specified in *Schedule A* attached hereto.

5. **Price.** The Utility will pay for all Energy purchased and received by it hereunder in any period at a price equal to the Gross Price identified herein for such period *less* the Discount determined by MuniWatt in accordance with the Joint Contract and then in effect. The Utility (unless a Withdrawing Buyer) will be entitled to a partial rebate of such payments when, as, and to the extent that rebates are declared by MuniWatt under the Joint Contract while this Purchase Contract is in effect.

6. **Delivery Points and Gross Price.** An Exchange Agreement between MuniWatt and an Exchanger-Balancer will be used to deliver Energy to be sold by MuniWatt to the Utility, unless such Exchange Agreement expires or is terminated and not replaced despite efforts by the parties or the Utility fails to establish and keep in effect sufficient Supplier Addenda. While such Exchange Agreement and Supplier Addendum are in effect in respect of the Utility, the Utility's Gross Price for Unrestricted Energy delivered under each such Supplier Addendum in each month or portion thereof will be the weighted average price payable by the Utility under its Utility Supply Contract with the Supplier party to such Supplier Addendum for Energy delivered to the Utility in such month or portion, and the Utility's Supplier Delivery Points will be the delivery points specified in such Utility Supply Contracts, unless otherwise agreed by the parties hereto. The Utility's Delivery Points and Gross Price for Unrestricted Energy not delivered under a Supplier Addendum will be as provided in the Joint Contract or as agreed to among the parties hereto in writing.

7. **Use.** The Utility will use or cause to be used all Energy purchased by it hereunder in its electric utility system or in the electric utility system of another Local Government or State Agency to which it sells such Energy. The Utility agrees that all Energy sold to it under the Joint Contract will be consumed in qualified service areas and qualified annexed areas, that no such Energy will be used in a private trade or business or to make a private loan, as provided more fully and except as permitted by *Article Ten* of the Joint Contract, and that it will notify MuniWatt of its Qualified Requirements supplied under each Supplier Addendum by the third Business Day after the end of each month in accordance with *Section 7.02B* of the Joint Contract.

8. **Schedule M.** Schedule M to the General Terms included in the Base Provisions is:

☒ Applicable, and the Utility is a Governmental Entity or Public Power System

☐ Inapplicable

If Schedule M to the General Terms is applicable, then:

☐ Add Section 3.6 of Schedule M. If not checked, inapplicable.

☐ Add Section 8.4 of Schedule M. If not checked, inapplicable.

“**Act**” means the City Charter of the City of College Station, Texas, and Chapter 552, Texas Local Government Code.

9. **Address.** The address of the Utility for notices received under the Joint Contract is:

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

Telephone No. (979)764-3439

Facsimile No. (979) 764-3452

Email: cmo@cstx.gov

10. Special Provisions.

(a) **No Opinion of Counsel.** Notwithstanding anything in Section 11.01 of the Joint Contract or in Section 3.4 of the Joint Contract as added by Schedule M to the Base Provisions of the Joint Contract to the contrary, Utility shall not be required to deliver the opinion of counsel therein described.

(b) **Sovereign Immunity.** The representations of Utility in Section 10.2(iv) of the Base Provisions of the Joint Contract and the covenant in Section 3.5 of such Base Provisions, as added by Schedule M thereto, are limited to the extent of the waiver provided in Chapter 271, Subchapter I, Texas Local Government Code.

(c) **Enforceability of Indemnities.** The representations of Utility in Section 10.2(iv) of the Base Provisions of the Joint Contract are limited to exclude any reference to the validity, binding obligation, or enforceability of the indemnities made by Utility in the Joint Contract.

(d) **Appropriation Representation.** Section 10.4 of the Base Provisions of the Joint Contract is limited by excluding any obligation to appropriate or establish a sinking fund for indemnity obligations before they arise.

(e) **Due Authorization Representation.** The representation made in clause (i) of the paragraph added to Section 10.2 of the Base Provisions of the Joint Contract by Subdivision C of Schedule M to such Base Provisions is limited by added “if any” to the end of clause (i) thereof.

11. Term. This Purchase Contract shall commence on the Effective Date hereof, which is September 1, 2023, and shall extend to August 31, 2043. Notwithstanding such Effective Date, the obligation of MuniWatt and the Agent to sell and deliver and of the Utility to purchase and receive Energy shall not commence until the later of the effective date of the first Exchange Agreement and the effective date of the first Supplier Addendum entered into by the Utility, one of its Suppliers, and the Exchanger-Balancer. The term of this Purchase Contract shall automatically be extended by one year on each December 31, unless the Utility, MuniWatt, or the Agent has given written notice to the other two parties of its election not to extend the term of this Purchase Contract prior to such December 31, but in no event shall the term of this Purchase Contract be extended beyond December 31, 2062, except by written amendment executed by the parties hereto. This Purchase Contract may be phased out at the election of the Utility as described in the Joint Contract.

The parties hereto have caused this Purchase Contract to be duly executed, effective as of the Effective Date described above.

UTILITY:

Attest/Countersign:

CITY OF COLLEGE STATION

.....
Name: Tanya Smith
Title: City Secretary

By:
Name: John P. Nichols
Title: Mayor

AGENT:

Attest/Countersign:

CITY OF LA GRANGE, TEXAS

.....
Name: Janet Bayer
Title: City Secretary

By:
Name: Jan Dockery
Mayor

MUNIWATT:

Attest:

**MUNICIPAL POWER ACQUISITION AND
SUPPLY CORPORATION**

.....
Name:
Title:

By:
Name: Glen Pape, President

*Schedule A to
Purchase Contract*

The Utility's Maximum Annual Quantity, if any, and projected Net Qualified Requirements (each expressed in MWhs) in each Contract Year when the Purchase Contract is entered into (or most recently amended without causing a new Purchase Contract to be deemed entered into pursuant to *Section 7.03B* of the Joint Contract) are as follows:

<u>Year</u>	<u>Maximum Annual Quantity (if applicable)</u>	<u>Projected Net Qualified Requirements</u>
2024		920,000 MWh
2025		930,000 MWh
2026		940,000 MWh
2027		950,000 MWh
2028		960,000 MWh
2029		970,000 MWh

The Utility's Maximum Monthly Quantity, if any, and projected Net Qualified Requirements (each expressed in MWhs) in each month when the Purchase Contract is entered into (or most recently amended

without causing a new Purchase Contract to be deemed entered into pursuant to *Section 7.03B* of the Joint Contract) are as follows for the initial 12 months of the Purchase Contract after such time, increased for each succeeding Contract Year proportionately with the increase, if any, in the Maximum Annual Quantity for such Contract Year from the initial Maximum Annual Quantity:

<u>Month</u>	<u>Maximum Monthly Quantity (if applicable)</u>	<u>Projected Net Qualified Requirements</u>
Jan 24		65,000 MWh
Feb 24		65,000 MWh
Mar 24		60,000 MWh
Apr 24		65,000 MWh
May 24		75,000 MWh
Jun 24		95,000 MWh
Jul 24		110,000 MWh
Aug 24		110,000 MWh
Sep 24		95,000 MWh
Oct 24		75,000 MWh
Nov 24		60,000 MWh
Dec 24		65,000 MWh

[complete the following after any amendment to the Purchase Contract described below]

The Utility's Maximum Annual Quantity, if any, and projected Net Qualified Requirements (each expressed in MWhs) in each Contract Year for the Purchase Contract deemed entered into pursuant to *Section 7.03B* of the Joint Contract are as follows:

<u>Year</u>	<u>Maximum Annual Quantity (if applicable)</u>	<u>Projected Net Qualified Requirements</u>

The Utility's Maximum Monthly Quantity, if any, and projected Net Qualified Requirements (each expressed in MWhs) in each month for the Purchase Contract deemed entered into pursuant to *Section 7.03B* of the Joint Contract are as follows for the initial 12 months thereof, increased for each succeeding Contract Year proportionately with the increase, if any, in the Maximum Annual Quantity for such Contract Year and Purchase Contract from the initial Maximum Annual Quantity:

<u>Month</u>	<u>Maximum Monthly Quantity (if applicable)</u>	<u>Projected Net Qualified Requirements</u>

MUNICIPAL POWER ACQUISITION AND SUPPLY CORPORATION
“MuniWatt”

and

CITY OF LA GRANGE, TEXAS
as *“Agent”*

and

STATE AND LOCAL GOVERNMENTS DESCRIBED HEREIN,
as *“Utilities”*

JOINT POWER PURCHASE CONTRACT

Dated as of September 1, 2022

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JOINT POWER PURCHASE CONTRACT

THIS JOINT POWER PURCHASE CONTRACT (herein referred to as this “*Agreement*”), dated as of September 1, 2022, among Municipal Power Acquisition and Supply Corporation (herein, together with successors and assigns permitted hereby, referred to as “*MuniWatt*”), a public facility corporation created with the approval of the City of La Grange, Texas, under the Texas Public Facility Corporation Act, chapter 303, Texas Local Government Code, as amended (herein, as amended from time to time, referred to as the “*Enabling Act*”), the City of La Grange, Texas (herein, together with assigns permitted hereby, referred to as the “*Agent*”), and each Local Government and State Agency (each as herein defined) which has hereafter assumed the rights and obligations of a Utility hereunder and whose rights and obligations hereunder have not terminated as herein provided (each herein referred to as a “*Utility*”),

WITNESSETH:

WHEREAS, MuniWatt plans to contract to purchase electric energy and desires to sell to the Agent all energy acquired under such contracts, or exchanged for such energy, so that it may be devoted to public use in the electric utilities of the Utilities, and MuniWatt is authorized to do so by the Enabling Act; and

WHEREAS, the Agent desires to purchase on behalf of the Utilities all such energy to be sold to it by MuniWatt and to resell such energy to the Utilities, and the Utilities desire to purchase such energy, on the terms described herein for such uses, which they consider to be necessary, useful, or appropriate for such purposes, in order to realize savings in the cost of electric energy; the Agent and the Utilities located in Texas are authorized to do so by the Interlocal Act (as herein defined), the Texas Public Property Finance Act, chapter 271, subchapter A, Texas Local Government Code, as amended, Section 271.102, Texas Local Government Code, as amended, and Chapter 552, Subchapter A, Texas Local Government Code, as amended; and the Utilities located outside Texas are authorized to do so by their enabling laws and charters;

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants hereinafter contained, and subject to the conditions herein set forth, the parties hereto covenant, agree, and bind themselves as follows:

ARTICLE ONE

DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

SECTION 1.01. *Definitions.*

For all purposes of this Agreement, except as otherwise expressly provided and unless the context otherwise requires:

A. The terms defined in this Article have the meanings assigned to them in this Article, the terms defined in the Base Provisions have the meanings assigned to them in the Base Provisions (unless defined in or otherwise inconsistent with this Article), and all terms include the plural as well as the singular.

B. All references in this instrument to designated “**Articles**”, “**Sections**”, “**Exhibits**”, and other provisions are to the designated Articles, Sections, Exhibits, and other provisions of this instrument as originally executed.

C. The words “**herein**”, “**hereof**”, and “**hereunder**” and other words of similar import refer to this Agreement as a whole and not any particular Article, Section, Exhibit, or other subdivision.

D. Unless otherwise provided herein, all accounting terms have the meanings assigned to them, and all computations herein provided for shall be made, in accordance with generally accepted accounting principles.

E. References herein to “**generally accepted accounting principles**” refer to such principles as they exist on the date of applicability thereof.

“**Agent**” has the meaning stated in the first paragraph of this Agreement.

“**Agreement**” means this Joint Power Purchase Contract (including the exhibits hereto) together with all Purchase Contracts, as originally executed or as they may from time to time be amended, supplemented, or modified by one or more instruments supplemental thereto entered into pursuant to the applicable provisions thereof.

“**available for sale**” has the meaning stated in *Section 7.03*.

“**Base Provisions**” means the General Terms and Conditions of the Edison Electric Institute form of Master Power Purchase and Sale Agreement (Version 2.1, last modified 4/25/00) attached hereto as *Exhibit A*, including Schedule M but excluding Schedule P and Exhibits thereto, together with the elections thereunder and modifications thereto specified in the Cover Sheet preceding such General Terms and Conditions and in Schedule E.

“**Bonds**” means all bonds or other obligations of MuniWatt or any Related Supplier issued to finance the acquisition of Energy to be sold and delivered or exchanged in accordance with this Agreement (or to refinance Bonds or finance or refinance other obligations associated with or arising out of the acquisition of Energy or Bonds), provided that, in the case of bonds or other obligations of a Related Supplier, MuniWatt has contracted to purchase all Energy financed or refinanced thereby.

“**Business Day**” has the meaning stated in the Base Provisions.

“**Code**” when used with respect to any issue of Bonds means the Internal Revenue Code of 1986, as amended and in force and effect on the date of issue thereof.

“**Commencement Date**” for any Utility means the later of the Effective Date of such Utility’s Purchase Contract or the first date on which the Agent is obligated to sell and deliver Energy to such Utility in accordance with its Purchase Contract.

“**Contract Price**” has the meaning stated in *Section 5.03*.

“**Contract Year**” means each 12 month period beginning with the first day to begin in January.

“**deliver**” means deliver or cause to be delivered.

“Delivery Point” has the meaning stated in the Base Provisions and includes the applicable Supplier Delivery Points and Displacement Delivery Points.

“Discount” means the absolute amount determined by MuniWatt from time to time pursuant to *Section 6.04* to be subtracted from each Utility’s Gross Price to determine the price to be paid by such Utility for Energy sold to it hereunder. Each change in the Discount shall become effective on the first day of the month following the month in which it is determined and announced, unless otherwise determined by MuniWatt.

“Displacement Delivery Point” means a location where Energy is required to be delivered by MuniWatt to an Exchanger-Balancer pursuant to an Exchange Agreement or to MuniWatt, as representative of the Agent, pursuant hereto for resale to a Utility when adequate Supplier Addenda in respect of such Utility are not in effect, as provided in *Section 6.02*.

“Effective Date” has the meaning stated in the Base Provisions.

“Enabled MuniWatt Supply Contract” means a MuniWatt Supply Contract that expressly elects to make *Subsection 7.03A(1)* applicable thereto with respect to Qualifying Contracts (and up to monthly Quantities of Unrestricted Energy) specified in such MuniWatt Supply Contract, if the board of directors of MuniWatt determines in its discretion that such election with respect to such Qualifying Contracts and up to such Quantities would enable MuniWatt to enter into such MuniWatt Supply Contract on better terms than are otherwise then attainable.

“Enabling Act” has the meaning stated in the first paragraph of this Agreement.

“Energy” has the meaning stated in the Base Provisions and includes both Unrestricted Energy and Restricted Energy.

“Exchanger-Balancer” means a party to an Exchange Agreement other than MuniWatt.

“Exchange Agreement” means an agreement between MuniWatt and any other Person pursuant to which such Person has agreed to accept Energy from MuniWatt at a Displacement Delivery Point and, in exchange, to deliver Energy with like value to MuniWatt at the Utilities’ Delivery Points, all on terms and conditions and subject to limitations therein provided, as originally executed or as amended, supplemented, or modified from time to time.

“Expenses” means all amounts paid by or for the account of MuniWatt in respect of its financing, acquisition, sale, or delivery of Energy to supply Utilities hereunder or in accordance with *Section 3.02*, whether or not current expenses under generally accepted accounting principles, *except* amounts paid from proceeds of borrowings, *but including* without limitation (1) principal of (and premium, if any) and interest on obligations issued or incurred to finance any such amount or to acquire MuniWatt Supply Contracts, including the Bonds, or to refund any other such obligation, (2) purchasing, storage, exchange, balancing, and transmission expense associated with such Energy, including amounts payable under MuniWatt Supply Contracts and applicable excise taxes and other governmental charges, if any, (3) amounts paid by MuniWatt pursuant to any commodity price or interest rate exchange agreement, or any other hedging agreement, entered into by MuniWatt in order to provide assurance that proceeds from the sale of such Energy will be sufficient to pay when due the principal of (and premium, if any) and interest on the Bonds and other obligations of MuniWatt incurred under or secured by a MuniWatt Indenture, including costs of terminating any such agreement, (4) financing costs such as fees and expenses of any trustee, paying agent, registrar, tender agent, authenticating agent, credit enhancer, liquidity provider, rate-setting agent, or remarketing agent with respect to Bonds, (5) general and administrative costs, including

legal and accounting fees, taxes, costs of program management, marketing, Energy scheduling and trading, billing, and collecting, and premiums for and other costs of policies of insurance elected to be maintained by MuniWatt, whether or not allocable to financing, acquisition, sale, or delivery of Energy to supply Utilities hereunder or in accordance with *Section 3.02*, less net revenue, if any, from other MuniWatt activities, if any, available to pay such costs, and (6) payments to any Related Supplier or any other corporation created for substantially the same purposes as one or more of the purposes of MuniWatt and sponsored and controlled by the Agent or MuniWatt, *provided* that such payments do not exceed amounts contributed to MuniWatt by the payee or have been found by the board of directors of MuniWatt to be in the best interests of the Utilities. For the avoidance of doubt, agreements described in *Clause (3)* of this paragraph do not include contracts for differences or similar contracts entered into in connection with the financing, acquisition, sale, or delivery of renewable energy certificates or other environmental attributes or product that are not entered into by MuniWatt to hedge the proceeds to be received from the sale of Energy in order to assure revenue sufficient to pay Bonds or other obligations.

“***Force Majeure***” has the meaning stated in the Base Provisions.

“***General Terms***” has the meaning stated in the first paragraph of the Base Provisions.

“***Governmental Charges***” has the meaning stated in the Base Provisions.

“***Gross Price***” for any Utility has the meaning specified in such Utility’s Purchase Contract.

“***Interlocal Act***” means the Interlocal Cooperation Act, chapter 791, Texas Government Code, as amended.

“***Local Government***” has the meaning assigned to such term in the Interlocal Act.

“***Maximum Annual Quantity***” and “***Maximum Monthly Quantity***” for any Utility means the Quantity of Unrestricted Energy which such Utility shall be obligated to purchase hereunder (up to its Net Qualified Requirements) in any Contract Year or month, respectively, in accordance with and subject to the conditions of *Article Seven*. Each Utility’s Maximum Annual Quantity and Maximum Monthly Quantity shall be as specified in its Purchase Contract or adjusted pursuant to *Section 6.06* or *11.03*. If the Commencement Date for any Utility occurs, or such Utility’s Purchase Contract is terminated, during a Contract Year, then such Utility’s Maximum Annual Quantity for such Contract Year shall be as specified in such Purchase Contract or, if not specified therein, shall be reduced to the same proportion of the stated Maximum Annual Quantity as the number of days of such Purchase Contract’s term in such Contract Year bears to the number of days in such Contract Year.

“***MuniWatt***” has the meaning stated in the first paragraph of this Agreement.

“***MuniWatt Indenture***” means any indenture and deed of trust and/or security agreement entered into between MuniWatt and a Trustee to secure the payment of MuniWatt’s obligations under MuniWatt Supply Contracts and any Bonds issued by MuniWatt to finance the purchase of MuniWatt Supply Contracts or to refinance Bonds or other obligations associated with or arising out of Bonds or MuniWatt Supply Contracts, as such instrument is originally executed or as it may from time to time be amended, supplemented, or modified by one or more supplemental indentures or other instruments supplemental thereto entered into pursuant to the applicable provisions thereof. For the avoidance of doubt, a MuniWatt Indenture is not Performance Assurance.

“MuniWatt Supply Contract” means a written agreement entered into by MuniWatt to purchase Energy for the purpose of selling such Energy hereunder and identified as such by written notice to the applicable Trustee.

“Net Qualified Requirements” of any Utility during any period means its Qualified Requirements during such period less the Quantity of Restricted Energy that such Utility has agreed to purchase hereunder during such period.

“Opinion of Counsel” means a written opinion of counsel who may (except as otherwise expressly provided in this Agreement) be counsel for MuniWatt, a Related Supplier, the Agent, or any Utility and, when given with respect to the status of interest on any Bond under federal income tax law, shall mean counsel of nationally recognized standing in the field of municipal bond law acceptable to MuniWatt.

“Other Buyer” means a Utility (other than a Withdrawing Buyer) that has executed a Purchase Contract that has not expired or been terminated and is not a Qualified Charter Buyer, a Qualified Long-Term Buyer, or a Qualified Short-Term Buyer.

“Party” means any Party A or Party B, each as defined in *Section 4.01*.

“Person” means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, limited liability company, unincorporated organization, or government or any agency or political subdivision thereof.

“Priority Buyer” with respect to an Enabled MuniWatt Supply Contract means a Utility (whether a Qualified Charter Buyer, a Qualified Long-Term Buyer, a Qualified Short-Term Buyer, or an Other Buyer), other than a Withdrawing Buyer, that is a party to a Qualifying Contract with respect to such Enabled MuniWatt Supply Contract.

“Purchase Contract” of a Utility means a written agreement, substantially in the form set forth in *Exhibit C*, duly completed, executed, and delivered among such Utility, MuniWatt, and the Agent, by which such Utility assumes the obligations and becomes entitled to the rights and privileges of a Utility hereunder, as originally executed or as amended, supplemented, or modified from time to time in accordance with this Agreement.

“Qualified Charter Buyer” means a Utility (other than a Withdrawing Buyer) that has executed, by the time established by MuniWatt, both (a) a Purchase Contract that specifies either no Maximum Annual Quantity or a Maximum Annual Quantity of at least 700,000 MWh per year and has an initial term of at least 20 years and (b) sufficient Supplier Addenda to enable it to purchase the lesser of its Qualified Requirements or Maximum Annual Quantity, if any, hereunder, *provided* that such Purchase Contract has a remaining term of at least 19 years.

“Qualified Long-Term Buyer” means a Utility (other than a Withdrawing Buyer or Charter Buyer) that has executed, by the time established by MuniWatt, both (a) a Purchase Contract that specifies either no Maximum Annual Quantity or a Maximum Annual Quantity of at least 300,000 MWh per year and has an initial term of at least 20 years and (b) sufficient Supplier Addenda to enable it to purchase the lesser of its Qualified Requirements or Maximum Annual Quantity, if any, hereunder, *provided* that such Purchase Contract has a remaining term of at least 19 years.

“Qualified Requirements” of any Utility during any period means the total of all Energy sold or otherwise supplied by such Utility through its electric utility system, including Energy consumed

by such Utility in its public facilities and Energy sold or otherwise supplied to other Local Governments and State Agencies, during such period for Qualified Use, whether greater than, equal to, or less than such Utility's Maximum Annual Quantity or Maximum Monthly Quantity, but *excluding* Energy generated by such Utility.

“Qualified Short-Term Buyer” means a Utility (other than a Withdrawing Buyer) that has executed, by the time established by MuniWatt, both (a) a Purchase Contract that specifies either no Maximum Annual Quantity or a Maximum Annual Quantity of at least 400,000 MWh per year and has an initial term of at least 10 years and less than 20 years and (b) sufficient Supplier Addenda to enable it to purchase the lesser of its Qualified Requirements or Maximum Annual Quantity, if any, hereunder, *provided* that such Purchase Contract has a remaining term of at least nine years.

“Qualified Use” means use within in a qualified service area or qualified annexed area of a Utility or another Local Government or State Agency within the meaning of *Section 10.03*, *excluding* private business use within the meaning of *Section 10.04*, determined in accordance with guidance received by Utilities from MuniWatt in writing from time to time.

“Qualifying Contract” with respect to an Enabled MuniWatt Supply Contract means a contract for electric capacity, energy, or renewable attributes or other products related thereto or derived therefrom, whether physical or financial (including a contract of the type commonly referred to as a “virtual power purchase agreement,” “synthetic power purchase agreement,” or “contract for differences”), entered into between a Utility, other than a Withdrawing Buyer, and the other party to such Enabled MuniWatt Supply Contract, or the Person from which Energy sold thereunder is purchased or an affiliate thereof, not earlier than the date specified in such MuniWatt Supply Contract.

“Quantity” has the meaning stated in the Base Provisions.

“receive” means receive or cause to be received.

“Related Supplier” means any corporation (other than MuniWatt) that is a party to a MuniWatt Supply Contract and a majority of the directors of which may be appointed or removed by the Agent or the board of directors of MuniWatt.

“Restricted Energy” means Energy specified as such in a MuniWatt Supply Contract or exchanged for such Energy under an Exchange Agreement.

“Revenues” means all amounts received by or for the account of MuniWatt in respect of its acquisition, sale, or delivery of MuniWatt Supply Contracts or Energy delivered to MuniWatt thereunder or exchanged for such Energy, *except* proceeds of borrowings, *but including* without limitation (1) all amounts received from or for the account of the Agent for Energy sold hereunder (including Energy sold to Utilities or sold pursuant to *Section 3.02*), (2) all amounts received by or for the account of MuniWatt pursuant to any commodity price or interest rate exchange agreement, or any other hedging agreement, entered into by MuniWatt in order to provide assurance that proceeds from the sale of Energy in accordance herewith will be sufficient to pay when due the principal of (and premium, if any) and interest on the Bonds and other obligations of MuniWatt incurred under or secured by a MuniWatt Indenture, and (3) income from the investment of such amounts or of amounts held under any MuniWatt Indenture. For the avoidance of doubt, agreements described in *Clause (2)* of this paragraph do not include contracts for differences or similar contracts entered into in connection with the financing, acquisition, sale, or delivery of renewable energy certificates or other environmental attributes or product that are not entered into by MuniWatt to hedge the proceeds to be received from the sale of Energy in order to assure revenue sufficient to pay Bonds or other obligations.

“Schedule” has the meaning stated in the Base Provisions.

“State Agency” means an entity described as such in Section 791.011(b) of the Interlocal Act.

“Supplier” means a party to a Utility Supply Contract other than a Utility.

“Supplier Addendum” in respect of any Utility means an agreement substantially in the form set forth in *Exhibit B-1* or *B-2* under which such Utility’s Supplier sells Energy to an Exchanger-Balancer, or to another Person for resale to an Exchanger-Balancer, at one or more of such Utility’s Supplier Delivery Points to enable such Exchanger-Balancer to perform its obligations under its Exchange Agreement in respect of such Utility.

“Supplier Delivery Point” for any Utility means a Delivery Point at which such Utility’s Supplier has agreed to sell Energy to the Exchanger-Balancer pursuant to a Supplier Addendum.

“Tax Regulations” when used with respect to Bonds of any series means the temporary or final Income Tax Regulations applicable to the Bonds of such series issued pursuant to Sections 141 through 150 of the Code or section 103 of the Internal Revenue Code of 1954. Any reference to a Section of the Regulations shall also refer to any successor provision to such Section hereafter promulgated by the Internal Revenue Service pursuant to Sections 141 through 150 of the Code and applicable to Bonds of the related series.

“Transaction” has the meaning stated in the Base Provisions.

“Trustee” means each commercial bank or trust company appointed by MuniWatt to act as trustee under a MuniWatt Indenture, until a successor shall have become trustee under such MuniWatt Indenture pursuant to the applicable provisions thereof, and thereafter **“Trustee”** shall mean such successor trustee.

“Unrestricted Energy” means Energy that is not Restricted Energy.

“Utility” has the meaning stated in the first paragraph of this Agreement, *including* a Qualified Charter Buyer, a Qualified Long-Term Buyer, a Qualified Short-Term Buyer, an Other Buyer, and a Withdrawing Buyer, *but excludes* a Person to whom MuniWatt or the Agent sells Energy pursuant to *Section 3.02*.

“Utility Supply Contract” means an agreement between a Utility and a Supplier pursuant to which such Supplier may or shall sell and deliver to such Utility at one or more of its Supplier Delivery Points all or a portion of such Utility’s requirements for Energy, less the quantities of Energy to be sold to the Utility at such Supplier Delivery Points pursuant to this Agreement, all on terms and conditions and subject to limitations therein provided, including any and all supplements thereto, confirmations thereunder, and related collateral, credit support, or margin or similar agreements between such parties.

“Withdrawing Buyer” means a Utility which has elected to phase out its obligation to purchase and receive Unrestricted Energy hereunder pursuant to *Section 11.03*.

SECTION 1.02. Notices, etc.

Any request, authorization, direction, notice, consent, waiver, or other document provided or permitted by this Agreement to be made upon, given or furnished to, or filed with,

(1) **MuniWatt:** MuniWatt by the Agent or any Utility shall be sufficient for every purpose hereunder if in writing and sent to MuniWatt (a) by mail, first class postage prepaid, addressed to it in care of Municipal Energy Resources Corporation, Three Riverway, Suite 1900, Houston, Texas 77056, Attention: Executive Director, or (b) by telecommunication known as email addressed to robert.murphy@munienergy.com, or, in either case, to such other address previously furnished in writing to such Person by MuniWatt, or

(2) **Agent:** the Agent by MuniWatt or any Utility shall be sufficient for every purpose hereunder if in writing and mailed, first class postage prepaid, to the Agent addressed to it at 155 E. Colorado Street, La Grange, Texas 78945, Attention: City Manager, or at any other address previously furnished in writing to such Person by the Agent, or

(3) **Utility:** any Utility by MuniWatt or the Agent shall be sufficient for every purpose hereunder if in writing and mailed, first-class postage prepaid, or sent by telecommunication known as email, to such Utility addressed to it at the address specified in its Purchase Contract or at any other address previously furnished in writing to such Person by such Utility.

Where this Agreement provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice.

SECTION 1.03. *Benefits of Agreement; Assignment.*

Nothing in this Agreement, expressed or implied, shall give any benefit or any legal or equitable right, remedy, or claim under this Agreement to any Person, other than the parties hereto and their successors hereunder and, as third party beneficiaries, the Trustees for the benefit of the owners of the obligations secured by the MuniWatt Indentures.

All right, title, and interest of MuniWatt in and to this Agreement, including the present and continuing right to bring actions and proceedings hereunder or for the enforcement hereof and to do any and all things which MuniWatt is or may become entitled to do hereunder, may and are intended to be collaterally assigned to the applicable Trustee pursuant to one or more MuniWatt Indentures granted by MuniWatt to secure its obligations under MuniWatt Supply Contracts and Bonds, if any, issued by MuniWatt to acquire MuniWatt Supply Contracts to the extent, and in order of the priorities, if any, stated in the MuniWatt Indentures. Notwithstanding the foregoing, all rights of MuniWatt to enforce, or for damages on account of any breach of, a Utility's obligations pursuant to *Article Six* may be assigned to or for the benefit of any Person acting as an Exchanger-Balancer under any Exchange Agreement, any party to a Supplier Addendum in effect in respect of such Utility, or any Person that advances funds to MuniWatt to replace revenue lost or delayed on account of such breach. The Agent and the Utilities hereby consent to such assignments.

SECTION 1.04. *Term.*

This Agreement shall become effective when the Agent, MuniWatt, and a Utility have first executed and delivered a Purchase Contract.

As between MuniWatt and the Agent, the term of this Agreement shall extend for a term beginning on the date it becomes effective and ending 40 years from the date hereof. As between MuniWatt and the Agent, the term of this Agreement shall be automatically extended by one year on each anniversary of the date hereof unless either such Person has given notice to the other such Person of its election not to extend the term hereof at least 30 days prior to such anniversary date. Notwithstanding the foregoing, this

Agreement may be terminated at the option of MuniWatt or the Agent upon the expiration of the term of all MuniWatt Supply Contracts.

This Agreement shall terminate and be discharged on the condition described in *Section 2.01*.

The term of each Utility's Purchase Contract and rights, privileges, and obligations hereunder shall be as specified in *Article Eleven*.

SECTION 1.05. *Amendment and Waiver of Agreement and Purchase Contracts*

This Agreement may be amended only (1) by written agreement of all affected parties hereto, including the affected Utilities, or (2) by written agreement of MuniWatt and the Agent if such agreement is either (a) applicable only in respect of MuniWatt Supply Contracts (and Unrestricted Energy purchased thereunder or exchanged for such Energy) acquired or entered into in a Contract Year after MuniWatt has given notice of such amendment to each affected Utility that has not consented to such amendment at least 75 days before the beginning of such Contract Year (and in respect of Unrestricted Energy purchased under such MuniWatt Supply Contracts or exchanged for such Energy) or (b) consented to in writing by Utilities of each class described in *Section 7.03A* affected by such amendment aggregating a majority of the sum of Maximum Annual Quantities (or, for Utilities with none, estimated annual Net Qualified Requirements) of such affected class plus Quantities of Restricted Energy agreed to be purchased hereunder by such affected class in the ensuing year. If so provided in a MuniWatt Indenture or MuniWatt Supply Contract, this Agreement may not be amended without the consent of the Trustee thereunder or the Related Supplier party thereto.

Each Utility may increase the term of its Purchase Contract or the Maximum Annual Quantity and Maximum Monthly Quantity, if any, of Energy to be purchased by it hereunder by amendment to its Purchase Contract, if such amendment is entered into by MuniWatt and the Agent in accordance with the MuniWatt Indentures and MuniWatt Supply Contracts. From and after the effective day of any such amendment, the term of and Maximum Annual Quantity and Maximum Monthly Quantity specified in such amendment shall be substituted for the term and Maximum Annual Quantity and Maximum Monthly Quantity of the applicable Utility specified in its Purchase Contract, as previously amended pursuant to this Section, *subject* to the provisions of *Sections 6.05* and *7.03B*.

Any Purchase Contract may be amended or supplemented to establish or revise the terms on which MuniWatt shall sell and deliver Restricted Energy to the Agent, the Agent shall purchase and receive Restricted Energy from MuniWatt and sell and deliver Restricted Energy to the applicable Utility, and such Utility shall purchase and receive Restricted Energy. Any such amendment or supplement may further incorporate or modify the terms of the Base Contract as they apply to such sales, deliveries, purchases, and receipts among such parties.

Any Purchase Contract may also be amended in any other manner by written agreement executed by MuniWatt, the Agent, and the applicable Utility, *provided* that such Purchase Contract, as amended, is consistent with the provisions of this Agreement. Neither MuniWatt nor the Agent shall unreasonably fail to amend a Utility's Purchase Contract to increase the Maximum Annual Quantity or Maximum Monthly Quantity or add to or change the Supplier Delivery Points thereunder or extend the term thereof, if requested by the Utility.

MuniWatt may, on behalf of itself, the Agent, and all other Utilities, waive compliance by a Utility with any provision of this Agreement, either in any particular instance or generally, if the board of

directors of MuniWatt or any duly authorized committee thereof finds that failure to comply with such provision will not adversely affect the Agent or materially adversely affect any other Utility.

ARTICLE TWO

ACQUISITION OF MUNIWATT SUPPLY CONTRACTS

SECTION 2.01. *Acquisition of MuniWatt Supply Contracts.*

MuniWatt will use reasonable efforts to acquire MuniWatt Supply Contracts from time to time which will enable MuniWatt to acquire the Unrestricted Energy required to be sold to and by the Agent hereunder on the terms and conditions described herein, provided that such MuniWatt Supply Contracts may be acquired and financed on terms and at locations expected to enable MuniWatt to maintain a positive Discount, in an amount deemed adequate by MuniWatt, in respect of all Unrestricted Energy acquired thereunder or exchanged for such Energy and to be sold by it hereunder.

MuniWatt may, subject to the terms of the immediately preceding paragraph (but unless otherwise agreed shall not be required to), enter into MuniWatt Supply Contracts from time to time to acquire Restricted Energy to be sold to the Agent and by the Agent to Utilities under the terms and conditions described in amendments or supplements to Purchase Contracts with such Utilities. Such terms and conditions shall establish the Quantities of and Gross Price for such Restricted Energy, which may differ from the Quantities of and Gross Prices for Unrestricted Energy hereunder.

If no MuniWatt Supply Contract is acquired within five years after the date of the first Purchase Contract executed hereunder, then this Agreement will terminate and be of no further force or effect except among such parties, including MuniWatt and the Agent, as shall have agreed to extend the term hereof.

SECTION 2.02. *Supply Projections.*

Upon request of any Utility made not more than once each Contract Year, MuniWatt shall give notice to such Utility of the Quantity of Unrestricted Energy that is reasonably expected by MuniWatt to be available for sale to such Utility at such Utility's Delivery Points hereunder in each month of the ensuing 12-month period.

SECTION 2.03. *Disposition of MuniWatt Supply Contracts.*

MuniWatt may amend, extend, terminate, or assign, exchange, or otherwise dispose of MuniWatt Supply Contracts at any time and from time to time, *subject* to the provisions of any MuniWatt Indenture, *provided* that the board of directors of MuniWatt determines, in its sole discretion, that such action and the terms thereof are in the best interests of the affected Utilities.

ARTICLE THREE

RESERVATION, SALE, AND EXCHANGE OF ENERGY

SECTION 3.01. *Reservation of Energy.*

MuniWatt will reserve for and sell to the Agent for resale to Utilities all Energy purchased and received by or on behalf of MuniWatt pursuant to MuniWatt Supply Contracts, *subject* to the terms hereof and *except* as herein otherwise provided.

SECTION 3.02. *Sales of Excess Energy.*

Whenever MuniWatt determines that the Quantity of Unrestricted Energy purchased and to be received by or on behalf of MuniWatt pursuant to the MuniWatt Supply Contracts is expected to exceed the Quantity of Energy required to satisfy the Net Qualified Requirements (or, if less, Maximum Annual Quantities and Maximum Monthly Quantities, if any) of all Utilities (other than Withdrawing Buyers) hereunder at Supplier Delivery Points, MuniWatt may sell such excess Energy for the account and benefit of the Agent to one or more other Local Governments or State Agencies at prices and on other terms and conditions determined by MuniWatt, including the terms and conditions applicable to Utilities pursuant to *Article Ten*. If MuniWatt is unable to sell any such excess Unrestricted Energy to such Local Governments and State Agencies on such terms after reasonable efforts to do so, MuniWatt may sell such excess Unrestricted Energy to any other Person or on any other terms for the account and benefit of the Agent, *subject* to the provisions of any MuniWatt Indenture or MuniWatt Supply Contract. Notwithstanding the foregoing, no such sale of excess Unrestricted Energy that is sold under a short-term agreement (31 days or less, excluding monthly contracts that automatically renew) shall be pursuant to a FERC-approved tariff.

SECTION 3.03. *Exchange Agreements; Supplier Addenda.*

To obtain Energy to sell at Delivery Points as and when required hereby, MuniWatt shall use commercially reasonable efforts to enter into one or more Exchange Agreements from time to time with any Persons under which MuniWatt shall deliver to such Persons Energy purchased and received by or on behalf of MuniWatt under the MuniWatt Supply Contracts and acquire in exchange from such Persons, at the Delivery Points, Energy of like aggregate value at the same time or one or more other times.

If MuniWatt enters into one or more Exchange Agreements, then while any such Exchange Agreement remains in effect, the provisions of this Agreement relating to the sale and delivery of Energy to and by the Agent shall apply to the Energy so acquired by MuniWatt under such Exchange Agreement rather than to the Energy delivered or required to be delivered by MuniWatt to the Exchanger-Balancer thereunder.

Each Utility shall use commercially reasonable means to, and to cause its Suppliers to, and MuniWatt shall cause the Exchanger-Balancers to, enter into and extend from time to time sufficient Supplier Addenda so as to enable such Utility to purchase at its Supplier Delivery Points all Energy required to be purchased by it hereunder.

SECTION 3.04. *Subordination.*

The Agent and the Utilities hereby acknowledge and agree that they shall have no legal or equitable right, title, or interest in or to any MuniWatt Supply Contract (or in or to any Energy to be acquired thereunder prior to the time such Energy is sold to such Person hereunder) pursuant to this Agreement or on account of any breach hereof or otherwise, and in order to secure financing of the acquisition of the MuniWatt Supply Contracts on favorable terms the Agent and the Utilities do hereby release all such right, title, and interest.

All rights, titles, and interests of the Agent and the Utilities hereunder, including, without limitation, all rights, titles, and interests of such Persons in and to the Energy purchased and received by or on behalf of MuniWatt pursuant to the MuniWatt Supply Contracts, are subject and subordinate (and in order to secure financing of the acquisition of the MuniWatt Supply Contracts on favorable terms the Agent and each Utility do hereby subordinate such rights, titles, and interests) to the liens and security interests now or hereafter granted by MuniWatt under the MuniWatt Indentures to secure the Bonds and other

obligations of MuniWatt secured thereby. The Agent and each Utility shall execute and deliver such instruments as MuniWatt may reasonably request from time to time to evidence such subordination.

ARTICLE FOUR

TERMS AND CONDITIONS OF SALES

SECTION 4.01. *Incorporation by Reference; Elections.*

The Base Provisions (including all representations, warranties, and indemnities and the effect of Force Majeure) are incorporated herein by reference and, together with the elections described in the Cover Sheet included in the Base Provisions and except as otherwise provided in this Section, shall apply to and be binding on MuniWatt, the Agent, and each Utility in respect of all sales and deliveries of Energy between such parties hereunder, except to the extent inconsistent herewith. For all purposes of the Base Provisions, (a) “Party A” shall refer to MuniWatt or the Agent, as applicable, when it is acting as a seller of Energy hereunder, (b) “Party B” shall refer to the Agent or a Utility, as applicable, when it is acting as a buyer of Energy hereunder, and (c) “Confirmation” shall refer to this Agreement and the Purchase Contracts.

For each sale of Energy by the Agent to a Utility (and by MuniWatt to the Agent in respect thereof), MuniWatt, the Agent, and such Utility hereby make the same elections under the General Terms as those made in the Utility Supply Contract in effect for such Utility (or, if more than one, in the Utility Supply Contract in respect of which such Energy is sold to the Exchanger-Balancer pursuant to the applicable Supplier Addendum) or, for any elections not made therein, the default elections specified in the General Terms, *except* to the extent inconsistent herewith and *except* that such parties make the elections described in the Cover Sheet included in the Base Provisions, which shall supersede such Utility Supply Contract elections for purposes of purchases and sales hereunder.

ARTICLE FIVE

PURCHASE OF ENERGY BY AGENT

SECTION 5.01. *Purchase and Sale of Energy by and to the Agent.*

MuniWatt shall sell and deliver to the Agent, and the Agent shall purchase and receive from MuniWatt, (1) all Energy purchased and received by or on behalf of MuniWatt pursuant to the MuniWatt Supply Contracts, *save* and *except* the Energy excluded pursuant to *Section 3.02* and Energy delivered by or on behalf of MuniWatt pursuant to an Exchange Agreement, and (2) all Energy acquired by MuniWatt pursuant to Exchange Agreements, in each case at the times and respective Delivery Points specified in *Section 5.02*, for the price specified in *Section 5.03*, and upon and subject to the further terms and conditions hereof.

SECTION 5.02. *Delivery.*

All Energy to be sold by the Agent to the Utilities shall be sold and delivered by MuniWatt to the Agent at the respective times and Delivery Points at which such Energy is to be sold by the Agent to the Utilities.

SECTION 5.03. *Price.*

In consideration for the Energy sold by MuniWatt to or for the account of the Agent hereunder, the Agent shall pay to MuniWatt the aggregate prices due and owing from the Utilities to the Agent in consideration for the resale of such Energy by the Agent to the Utilities hereunder, as and when such consideration is received by or for the account of the Agent.

In consideration for the services provided by the Agent in approving creation of MuniWatt and purchasing, selling, and delivering Energy hereunder, MuniWatt shall (1) rebate to the Agent at the end of each month during the term of this Agreement, from the aggregate purchase price paid to MuniWatt by or for the account of the Agent hereunder, an amount agreed to by MuniWatt and the Agent, not to exceed 20¢ per MWh of Energy delivered by MuniWatt to the Exchanger-Balancers pursuant to Exchange Agreements (or, if no Exchange Agreement is in effect, delivered by the Agent to such Utility hereunder at Displacement Delivery Points) in the immediately preceding month, and (2) pay, or cause to be paid, to the Agent from proceeds of each issuance of Bonds an amount agreed to by MuniWatt and the Agent, not to exceed 0.1% of the principal amount of such Bonds.

SECTION 5.04. *MuniWatt Representative for Deliveries.*

The Agent appoints MuniWatt as its representative for purposes of receiving and transferring title to Energy to be delivered to and by the Agent hereunder and under the MuniWatt Supply Contracts, including but not limited to deliveries under this *Article Five*, and MuniWatt accepts such appointment. Pursuant to such appointment, title to all Energy delivered to, by, or for the account of the Agent hereunder and under the MuniWatt Supply Contracts, including but not limited to deliveries under this *Article Five*, shall be delivered to and by MuniWatt, as representative of the Agent, rather than the Agent.

ARTICLE SIX

SALE OF ENERGY TO UTILITIES

SECTION 6.01. *Purchase and Sale of Energy by and to Utilities.*

At each time within each day during the term of this Agreement after the Commencement Date for a Utility, such Utility shall purchase from the Agent and receive from MuniWatt, as representative of the Agent, and the Agent shall sell and deliver through MuniWatt, as representative of the Agent, to such Utility, at the Delivery Points specified in *Section 6.02* and for the price specified in *Section 6.03*, (a) a Quantity of Unrestricted Energy equal to such Utility's Net Qualified Requirements for such time and day and (b) the Quantity of Restricted Energy, if any, specified in such Utility's Purchase Contract, as amended, all upon and subject to the further terms and conditions hereof, *provided* that (i) the Quantity of Unrestricted Energy sold to and purchased by any Utility in any month shall not exceed the lesser of such Utility's Maximum Monthly Quantity or the Quantity of Unrestricted Energy available for sale to such Utility in such month pursuant to *Section 7.03* and (ii) the Quantity of Unrestricted Energy sold and delivered to and purchased and received by such Utility in any month at Displacement Delivery Points shall not exceed such Utility's most recently estimated Net Qualified Requirements for such month to be received at Displacement Delivery Points.

The purchases and sales described in this Section shall be the only Transactions between the Agent and each Utility hereunder, and this Agreement and such Utility's Purchase Contract shall be the Confirmation specifying the terms of such Transactions. The Agent shall be obligated to sell and deliver

Energy to each Utility hereunder solely from and to the extent of Energy sold and delivered by MuniWatt, whether to the Agent or as representative of the Agent, at the Utility's Delivery Points.

SECTION 6.02. *Delivery Points.*

All Energy sold by the Agent to any Utility hereunder shall be delivered by such Utility's Suppliers under such Utility's Supplier Addenda and sold by the Agent to such Utility at such Utility's Supplier Delivery Points up to the Quantity of Energy that such Suppliers have agreed to sell to the Exchanger-Balancers at such Supplier Delivery Points. All other Energy sold by the Agent to any Utility hereunder shall be delivered at the Delivery Point specified in such Utility's Purchase Contract, except as provided in the following paragraph.

If either (i) no Exchange Agreement is in effect in any month to enable MuniWatt to exchange and balance Energy purchased under one or more MuniWatt Supply Contracts or (ii) sufficient Supplier Addenda with Exchanger-Balancers are no longer in effect in respect of a Utility to enable such Utility to purchase a Quantity of Unrestricted Energy equal to the lesser of its Net Qualified Requirements available for sale to such Utility or its Maximum Monthly Quantity in any month, then (1) such Utility's Delivery Points for Energy and Gross Price for Unrestricted Energy (a) received by or on behalf of MuniWatt pursuant to such MuniWatt Supply Contract or (b) in excess of Energy sold to Exchanger-Balancers under such Utility's Supplier Addenda in such month shall cease to be the respective Supplier Delivery Points and Gross Prices specified in such Utility's Purchase Contracts, (2) such Utility's Delivery Points for such Energy shall thereafter be the Displacement Delivery Point or Displacement Delivery Points designated by MuniWatt at which it receives Energy under such MuniWatt Supply Contract or delivers Energy in exchange for Energy sold to Exchanger-Balancers under such Supplier Addenda, and (3) such Utility's Gross Price for such Unrestricted Energy shall thereafter be the price at which Unrestricted Energy delivered by MuniWatt at such Displacement Delivery Point was valued from time to time for exchanges under the Exchange Agreement most recently in effect for such Energy less the applicable Discount.

MuniWatt shall use commercially reasonable efforts to cause the applicable Exchanger-Balancers to (and shall require that all Related Suppliers cause the other parties to contracts by which they obtain Energy to be sold and delivered to MuniWatt under MuniWatt Supply Contracts to) agree to offer to sell and deliver, on behalf of each Utility acting as its agent, any or all Unrestricted Energy purchased and received by such Utility at a Displacement Delivery Point, if and when requested by such Utility.

SECTION 6.03. *Price.*

In consideration for the Energy sold and delivered by or on behalf of the Agent to each Utility hereunder during any calendar month, such Utility shall pay to or for the account of the Agent, as provided in the Base Provisions, the product of (a) the Quantity of Energy sold by the Agent to such Utility in such month, measured in MWhs, and (b) the price per MWh determined by subtracting the Discount in effect during such period from the Utility's Gross Price for such Energy in such period. The prices described in this Section are the "Contract Prices" referred to in the Base Provisions for Energy sold by MuniWatt to the Agent and by the Agent to the Utility hereunder.

SECTION 6.04. *Determination of Discount.*

MuniWatt shall establish and periodically adjust an annual budget of all Revenues expected to be received and all Expenses expected to be paid and, in connection therewith, shall set and from time to time adjust Discounts to be subtracted from each Utility's Gross Price for Energy for purposes of determining the price to be paid by Utilities for such Energy sold to them hereunder.

MuniWatt shall set the Discounts at the greatest amount which, if subtracted from all applicable Utility Gross Prices from and after the effective date of such Discounts, in the sole judgment of MuniWatt would nevertheless result in adequate projected Revenue to pay, or to establish any reserves (if required by any MuniWatt Indenture or MuniWatt Supply Contract or considered prudent by MuniWatt) for, all anticipated Expenses and to comply with all MuniWatt Indenture provisions during the remaining expected term hereof. In no event may the Discount be less than \$0.

In setting Discounts, MuniWatt may establish classes of Purchase Contracts hereunder (which may distinguish between Purchase Contracts of different terms, with different Delivery Points, with Gross Prices determined by reference to different locales, being phased out pursuant to *Section 11.03* beginning in different Contract Years, providing for the purchase of Restricted Energy, or having other differences) and may set a different Discount for each such class of Purchase Contracts; *provided* that no class of Purchase Contract shall be established, and no Discount shall be set or adjusted in a manner that is not equally applicable to all Utilities in the same class, unless such action is consented to by Utilities with Maximum Annual Quantities (or, for Utilities with none, estimated annual Net Qualified Requirements) and/or commitments to purchase Quantities of Restricted Energy hereunder in the ensuing Contract Year that comprise a majority of the Maximum Annual Quantities (or, for Utilities with none, estimated annual Net Qualified Requirements) and commitments to purchase Quantities of Restricted Energy for such ensuing Contract Year applicable to each class of Purchase Contracts.

Each new Discount shall become effective for Energy sold in the month following the month in which such Discount is set and, for any adjustment thereof, notice thereof is given to Utilities, unless deferred by MuniWatt. Discounts may be suspended as and to the extent required by the provisions of any MuniWatt Indenture or MuniWatt Supply Contract. MuniWatt shall give prompt notice of each new Discount and each suspension of Discounts to each affected Utility.

SECTION 6.05. *Price Rebate.*

It is the intention of the parties that MuniWatt administer its program of acquiring, selling, and delivering Energy hereunder without profit on its part and that the price of Energy sold to Utilities hereunder be the lowest possible price required to pay Expenses and establish and maintain required or prudent reserves. The parties hereto recognize that, in establishing the Discount applicable to each class of Purchase Contracts from time to time hereunder, MuniWatt must or may provide for prudent reserves, including reserves for unanticipated Expenses, variations in Energy sales, revenues, and cost, and credit and Discount management.

MuniWatt shall review its reserves associated with the program established hereunder at least annually. Whenever MuniWatt determines that such reserves exceed the amounts which are prudent to maintain for Expenses thereafter due or to apply to the retirement of Bonds, MuniWatt shall declare a surplus and rebate the excess portion of such reserves to all Utilities (other than Withdrawing Buyers) then a Party hereto, subject to the terms of the MuniWatt Indentures and the MuniWatt Supply Contracts. On or before the last day of the term of the last Purchase Contract in effect, after reserving funds to pay all Expenses theretofore incurred or reasonably anticipated, MuniWatt shall declare as surplus and rebate to the Utilities (other than Withdrawing Buyers) then a Party hereto all remaining reserves and other funds held by or for the account of MuniWatt pursuant to this Agreement or the MuniWatt Indentures, subject to the terms of the MuniWatt Indentures and the MuniWatt Supply Contracts.

Each rebate of excess reserves shall be allocated among Utilities (other than Withdrawing Buyers) in proportion to the product, for each Utility, of (1) either (a) 1.0, if such Person is a Qualified Charter Buyer or has no Maximum Annual Quantity, or (b) otherwise the lesser of 1.0 or a fraction, the numerator of which is equal to such Utility's Maximum Annual Quantity plus the Quantity of Restricted

Energy it is committed to purchase hereunder for the Contract Year in which such rebate is made and the denominator of which is equal to the arithmetic average of such Utility's Maximum Annual Quantities plus the Quantity of Restricted Energy it is committed to purchase hereunder for such and all prior Contract Years during the term of such Utility's Purchase Contract and (2) the product of (a) the aggregate Quantity of Energy purchased by such Utility pursuant hereto from the date of such Utility's Purchase Contract through the month preceding the month in which such rebate is made and (b) the applicable percentage specified below:

<u>Utility Type</u>	<u>Percentage</u>
Qualified Charter Buyers	100%
Qualified Long-Term Buyers	90%
Qualified Short-Term Buyers	25%
Other Buyers	10%

If a Utility's Purchase Contract has been amended as described and after the times specified in *Section 7.03B*, then for purposes of this Section such Utility shall be treated as a separate Utility of the relevant type for each Purchase Contract deemed by such Subsection to have been entered into by it.

SECTION 6.06. *Adjustment of Terms and Maximum Quantities.*

Each Utility may increase the term of its Purchase Contract or the Maximum Annual Quantity and Maximum Monthly Quantity, if any, of Unrestricted Energy or the Quantity of Restricted Energy to be purchased by it hereunder by amendment or supplement to its Purchase Contract, if such amendment or supplement is entered into by MuniWatt and the Agent in accordance with the MuniWatt Indentures and MuniWatt Supply Contracts. From and after the effective day of any such amendment or supplement, the term of and Maximum Annual Quantity, Maximum Monthly Quantity, and Quantity of committed purchases of Restricted Energy specified in such amendment or supplement shall be substituted for the term and Maximum Annual Quantity, Maximum Monthly Quantity, and Quantity of Restricted Energy purchases of the applicable Utility specified in its Purchase Contract, as previously amended or supplemented pursuant to this Section.

ARTICLE SEVEN

SCHEDULING AND ALLOCATIONS

SECTION 7.01. *Scheduling.*

A. *Supplier Delivery Points.* Whenever Energy is to be sold and purchased hereunder at a Utility's Supplier Delivery Point in any interval, the applicable Utility shall Schedule and receive such Energy at such Supplier Delivery Point. MuniWatt and the Agent hereby authorize each Utility to act as their agent, and each Utility agrees, to Schedule and receive all such Energy then and there to be purchased and received by or on behalf of the Agent hereunder or to be received by MuniWatt under an Exchange Agreement. Each Utility may do so by Scheduling for receipt at each Supplier Delivery Point the combined total of (1) Energy then and there to be sold by a Supplier to Utility under a Utility Supply Contract and (2) Energy then and there to be sold by such Supplier to the Exchanger-Balancer under a Supplier Addendum with such Utility and delivered by such Exchanger-Balancer to MuniWatt under an Exchange Agreement.

B. *Displacement Delivery Points.* Whenever Energy is to be sold and delivered to, and purchased and received by, a Utility hereunder at a Displacement Delivery Point, such Utility shall Schedule and receive, and MuniWatt and the Agent shall Schedule and deliver, such Energy to such Utility

at such Displacement Delivery Point. All Energy acquired under a MuniWatt Supply Contract to be sold and delivered to and purchased and received by each Utility at a Displacement Delivery Point in any month shall be Scheduled for each interval within such month in proportion to the Energy required to be delivered to MuniWatt at such Displacement Delivery Point in such interval under such MuniWatt Supply Contract.

SECTION 7.02. *Qualified Requirements.*

A. *Annual Forecast.* At least 45 days prior to each Contract Year, each Utility shall notify MuniWatt in writing of the Quantities of Unrestricted Energy that such Utility expects to purchase from the Agent at such Utility's Delivery Points in each month in such Contract Year in accordance with the provisions of this Section, assuming that the Agent is able to supply Quantities of Unrestricted Energy equal to the lesser of such Utility's Net Qualified Requirements or its Maximum Monthly Quantity for such month, up to its Maximum Annual Quantity for the Contract Year. If at any time during a Contract Year any Utility expects to purchase from the Agent a materially different Quantity of Unrestricted Energy in any succeeding month than the Quantity for such month specified in the most recent notice given by such Utility to MuniWatt pursuant to this Subsection, such Utility shall promptly notify MuniWatt in writing of the revised Quantities of Unrestricted Energy that such Utility expects to purchase from the Agent in each succeeding month in such Contract Year, in each case assuming that the Agent is able to supply a Quantity of Unrestricted Energy equal to the lesser of such Utility's Net Qualified Requirements or its Maximum Monthly Quantity for each such month, up to its Maximum Annual Quantity for the Contract Year.

If one or more Supplier Addenda are in effect for a Utility but such Utility expects that its Suppliers will not be required or able to deliver at its Supplier Delivery Points a Quantity of Unrestricted Energy equal to the least of such Utility's Net Qualified Requirements, its Maximum Monthly Quantity, or the Quantity of Unrestricted Energy available for sale to such Utility in any month, then (a) such Utility shall notify MuniWatt in writing, at least seven Business Days before the beginning of such month, of the Quantity of Unrestricted Energy expected to be purchased and received by such Utility from the Agent at the Displacement Delivery Points in such month, determined as if such Utility were not constrained by the Unrestricted Energy available for sale to such Utility, and (b) MuniWatt shall notify such Utility at least five Business Days before the beginning of such month of the Quantity of Unrestricted Energy, if any, to be Scheduled and received by such Utility at each Displacement Delivery Point. The parties recognize, however, that Utilities will have a right to purchase and receive, and MuniWatt and the Agent will have an obligation to sell and deliver, Unrestricted Energy to a Utility at a Displacement Delivery Point only to the extent that Unrestricted Energy is allocated to such Utility pursuant to *Section 7.03*, and that the sale and delivery of Unrestricted Energy to all other Utilities at Supplier Delivery Points, as well as to spot purchasers to which MuniWatt elects to sell Unrestricted Energy pursuant to *Section 3.02*, will have priority over the sale and delivery of Unrestricted Energy to Utilities at Displacement Delivery Points.

On request of MuniWatt, each Utility shall notify MuniWatt in writing of its estimated Net Qualified Requirements (not to exceed its Maximum Annual Quantities, if any) for each Contract Year during the term of any MuniWatt Supply Contract proposed to be entered into or Bonds proposed to be issued by MuniWatt.

B. *Monthly Reports.* Within three Business Days after the end of each month, each Utility shall notify MuniWatt or cause MuniWatt to be notified of (1) the Quantity and Gross Price of Energy delivered by each of its Suppliers at such Utility's Supplier Delivery Points in such month and (2) either (a) its Qualified Requirements for Energy in such month, if less, or (b) that such Qualified Requirements exceeded such Utility's Maximum Monthly Quantity (plus Quantity of Restricted Energy purchases hereunder) for such month or, together with the cumulative Quantity of Energy purchased from the Agent in all preceding months in such Contract Year, such Utility's Maximum Annual Quantity (plus Quantity of Restricted Energy purchases hereunder) for such Contract Year. Within five Business Days

after the end of each month (or by such other time to which MuniWatt and the applicable Utility may agree), MuniWatt shall notify each Utility of the Quantity of Unrestricted Energy that was available for sale and sold to such Utility by the Agent at each Delivery Point, if less than the aggregate Quantity of Energy, less the Quantity of Restricted Energy, delivered by such Utility's Suppliers at such Utility's Supplier Delivery Points in such month.

SECTION 7.03. *Allocations of Energy.*

A. *Allocations of Unrestricted Energy.* If the Quantity of Unrestricted Energy available for sale by the Agent at all Supplier Delivery Points in any month in a Contract Year (as determined by MuniWatt in its discretion, taking into account rights and obligations to balance deliveries of Energy under each Exchange Agreement) is less than the total Quantity of Unrestricted Energy otherwise required to be sold by it to Utilities at the Supplier Delivery Points in such month pursuant to *Article Six*, MuniWatt shall allocate Unrestricted Energy to the Utilities in such month in the following order and Quantities (and, within each priority, in proportion to the Quantities otherwise required to be sold to each such Utility pursuant to *Article Six*), up to the Quantities of Unrestricted Energy required to be sold to such Utilities pursuant to *Article Six*, until the total Quantity of Unrestricted Energy available for sale by the Agent at all Supplier Delivery Points in such month has been allocated:

(1) ***Priority Buyers:*** *first*, each Qualified Charter Buyer, Qualified Long-Term Buyer, Qualified Short-Term Buyer, or Other Buyer, if any, that is a Priority Buyer with respect to the Enabled MuniWatt Supply Contract from which such Unrestricted Energy (or Energy exchanged therefor) is derived, up to the Quantity specified in such MuniWatt Supply Contract;

(2) ***Qualified Charter Buyers:*** *second*, each Qualified Charter Buyer up to a Quantity equal to the product of 700,000 MWhs and a fraction, the numerator of which is equal to such Utility's Maximum Monthly Quantity (or, if none, most recently estimated Net Qualified Requirements) for such month and the denominator of which is such Utility's Maximum Annual Quantity (or, if none, most recently estimated annual Net Qualified Requirements) for such Contract Year;

(3) ***Qualified Long-Term Buyers:*** *third*, all Qualified Long-Term Buyers of each class established by MuniWatt, and among such classes of Qualified Long-Term Buyers in the order in which MuniWatt closes admission to such classes;

(4) ***Qualified Short-Term Buyers:*** *fourth*, all Qualified Short-Term Buyers of each class established by MuniWatt, and among such classes of Qualified Short-Term Buyers in the order in which MuniWatt closes admission to such classes;

(5) ***Other Buyers:*** *fifth*, all Other Buyers;

(6) ***Spot Buyers:*** *sixth*, each buyer to which MuniWatt elects to sell Unrestricted Energy pursuant to *Section 3.02*; and

(7) ***Withdrawing Buyers:*** *seventh*, all Utilities that are Withdrawing Buyers.

If, after such allocation for a month, a Quantity of Unrestricted Energy remains available for sale in such month to Utilities at Displacement Delivery Points, then such remaining Quantity of Unrestricted Energy available for sale shall be allocated among such Utilities in proportion to the balance of (a) the lesser of their Net Qualified Requirements or Monthly Maximum Quantity for such month less (b) the Quantity of Unrestricted Energy allocated to such Utilities at their Supplier Delivery Points.

B. Treatment of Purchase Contract Amendments. For purposes of *Clauses (2), (3), and (4)* of *Subsection A* of this Section and *Section 6.05*,

(1) **Increases:** if the Purchase Contract with a Qualified Charter Buyer is amended after the time established by MuniWatt by which Utilities may qualify as Qualified Charter Buyers, or a Purchase Contract with a Qualified Long-Term Buyer or Qualified Short-Term Buyer is amended after admission to the class of such Qualified Long-Term Buyer or Qualified Short-Term Buyer has been closed, in either event to increase such Utility's Maximum Annual Quantity, such amendment shall be treated as the execution of a new Purchase Contract with a Maximum Annual Quantity equal to the amount of the increase;

(2) **Extensions:** if the Purchase Contract with a Utility is amended to increase the term of such Purchase Contract after the time established by MuniWatt by which Utilities may qualify as Qualified Charter Buyers or after MuniWatt has closed admission to such Utility's class of Qualified Long-Term Buyers or Qualified Short-Term Buyers and the result of such amendment would (but for this *Clause (2)*) improve the allocation priority of Energy to be sold and delivered to such Utility in accordance with this Subsection, then such amendment shall be treated as the termination of such Utility's Purchase Contract and the execution of a new extended Purchase Contract with such Utility as of the date of such amendment; and

(3) **Qualification:** for purposes of any new Purchase Contract with a Utility described in *Clause (1)* or *(2)* of this Subsection, such Utility shall be treated as a Qualified Long-Term Buyer or Qualified Short-Term Buyer of the applicable class or an Other Buyer, as applicable.

C. Available for Sale. As used herein, Unrestricted Energy is "**available for sale**" by MuniWatt to a Utility in any period at (1) a Utility's Supplier Delivery Point, if a Supplier is obligated to sell such Energy to an Exchanger-Balancer at such Delivery Point in such period, such Energy is available to be acquired by MuniWatt from such Exchanger-Balancer in accordance with the terms of their Exchange Agreement (taking into account management in MuniWatt's discretion of its balancing obligations thereunder), and such Energy would be allocated to such Utility in such month at such Delivery Point in accordance with this Section and (2) a Displacement Delivery Point if (a) either MuniWatt is entitled to acquire such Energy from an Exchanger-Balancer at such Displacement Delivery Point or no Exchange Agreement is then in effect and (b) such Energy would be allocated to such Utility in such month at such Displacement Delivery Point in accordance with this Section in addition to any Unrestricted Energy allocated to such Utility at Supplier Delivery Points. All determinations of whether Unrestricted Energy is available for sale by MuniWatt at a Delivery Point shall be made by MuniWatt in its discretion and shall be binding on all other parties hereto.

D. Allocation of Restricted Energy. Restricted Energy shall be sold and delivered to and received and purchased by Utilities in the Quantities, if any, and at the times specified in amendments or supplements, if any, to their Purchase Contracts.

SECTION 7.04. Notices of Quantities.

Each notice from a Utility to MuniWatt of such Utility's Qualified Requirements, Net Qualified Requirements, and purchases and each notice from MuniWatt to a Utility of Unrestricted Energy available for sale and sold to such Utility (1) shall be given in writing (including by facsimile or internet) or by telephone promptly confirmed in writing, (2) in the case of notices to MuniWatt shall be given to any Person engaged by MuniWatt to manage performance of its obligations hereunder at the address or number specified by MuniWatt in writing to such Utility, and (3) shall not be deemed to have been given until

receipt by the Person to whom such notice is given or at the place to which notices to such Person are to be addressed.

ARTICLE EIGHT

GOVERNMENTAL CHARGES

SECTION 8.01. *Governmental Charges.*

The parties hereto understand and believe that all sales of Energy made to the Agent and the Utilities hereunder are exempt from sales, use, and other excise taxes and Governmental Charges imposed by the United States, and State, or any municipality, political subdivision, or instrumentality thereof. Utilities shall provide MuniWatt and the Agent with any and all documentation necessary to evidence such Utilities' exemption from such Governmental Charges. If at any time any such sale becomes subject to the payment of any sales, use, or other excise tax or Governmental Charge imposed by any federal, state, or local authority or instrumentality, the Utilities shall pay or reimburse the Agent or MuniWatt, as applicable, for all such Governmental Charges as shall be due or paid by either of them in respect of such sales.

SECTION 8.02. *Recovery of Governmental Charges.*

If any taxes or other Governmental Charges shall be imposed upon and not reimbursed to the Agent or MuniWatt in respect of any sales of Energy made or entitlements hereunder, MuniWatt may recover such taxes and other Governmental Charges by adjustment of the Discount used to determine the price of Energy sold hereunder pursuant to *Section 6.04* and shall reimburse the Agent for or pay any such Governmental Charges imposed on it.

ARTICLE NINE

BILLING AND PAYMENT

SECTION 9.01. *Monthly Statements.*

On or before the 10th day of each month (or by such other time to which MuniWatt and the applicable Utility may agree), MuniWatt shall submit a statement to each Utility stating the Quantities of Unrestricted Energy and Restricted Energy sold to it hereunder and delivered by each Supplier during the prior month and invoicing the price for such Energy due from such Utility to or for the account of the Agent pursuant to the terms of this Agreement. If the actual total Quantities are not available by the billing date, MuniWatt shall invoice on an estimated basis and adjust for differences from actual totals in the following month's billing or as soon thereafter as available.

SECTION 9.02. *Early Payment Discounts.*

MuniWatt may from time to time maintain a program providing discounts for all invoices paid on or before the date specified in such program, *provided* that such discounts are made available to all Utilities on the same basis. If MuniWatt maintains such a program and any Utility makes payment of the discounted amount on or before the date specified in such program, such discounted payment shall be considered payment of the applicable invoice in full.

SECTION 9.03. *Waiver of Set-Off, Etc.*

In order to induce Persons to purchase the Bonds and enter into MuniWatt Supply Contracts so as to enable MuniWatt to acquire Energy for a cost that enables it to sell Energy at the prices described herein, the Agent hereby waives all rights of set-off, recoupment, counterclaim, and abatement against MuniWatt, the Related Suppliers, and the Trustees, and the Utilities hereby waive all rights of set-off, recoupment, counterclaim, and abatement against MuniWatt, the Related Suppliers, the Trustees, and the Agent, in each case to the fullest extent that they may lawfully agree and notwithstanding any breach by any such Person of any obligation hereunder or under any MuniWatt Indenture or MuniWatt Supply Contract.

SECTION 9.04. *Audits; Financial Information.*

MuniWatt shall provide to each Utility on request a copy of its financial statements and accompanying report of auditors required to be delivered to the Trustees pursuant to the MuniWatt Indentures or MuniWatt Supply Contracts.

MuniWatt shall permit each Utility, or a representative appointed by it, to inspect its financial and other records during regular business hours on reasonable notice.

ARTICLE TEN

UTILITIES' USE OF ENERGY

SECTION 10.01. *General.*

Each Utility shall use Energy sold and delivered to it hereunder solely for public uses which it considers necessary, useful, or appropriate in connection with the operation of its electric utility system. If a Utility purchases Energy hereunder at a Displacement Delivery Point and does not transmit, or cause to be transmitted, such Energy to the Utility's electric utility system, then such Utility shall sell such Energy at such Displacement Delivery Point and apply the proceeds of such sale to acquire other Energy (other than from the Agent hereunder or MuniWatt) for use in such Utility's electric utility system within two years after such sale. If a Utility so sells Energy purchased hereunder at a Displacement Delivery Point, then (1) for purposes of this Article, the Energy so sold shall not be considered sold to or purchased by such Utility hereunder, and the Energy so purchased with proceeds of such sale shall be considered sold to and purchased by such Utility hereunder in its stead, and (2) such Utility shall promptly notify MuniWatt in writing of the Quantity of Energy so sold by it at a Displacement Delivery Point, the amount of proceeds of such sale, the Quantity of Energy purchased with such proceeds and used by such Utility or another Local Government or State Agency for Qualified Use, and the price paid for the Energy so purchased.

SECTION 10.02. *To Preserve Tax Exemption.*

No Utility shall knowingly use or permit the use of Energy sold and delivered to it hereunder in a manner which (or shall knowingly take or omit to take any other action which, if taken or omitted, respectively) would adversely affect the exclusion of interest on any Bond from the gross income, as defined in Section 61 of the Code, of the owner thereof for federal income tax purposes. Without limiting the generality of the foregoing, each Utility shall comply with each specific covenant in this Article at all times prior to the last maturity of Bonds, *unless* and *until* (1) MuniWatt shall have waived compliance with such covenant in writing or (2) such Utility shall have delivered to MuniWatt and each Trustee an Opinion of Counsel to the effect that failure to comply with such covenant, either generally or to the extent described therein, will not adversely affect any exclusion of interest on any Bond from the gross income, as defined

in Section 61 of the Code, of the owner thereof for federal income tax purposes, and thereafter such covenant shall no longer be binding upon such Utility to the extent described in such Opinion of Counsel, anything in any other Section of this Article to the contrary notwithstanding. If, due to the promulgation of new or amended Tax Regulations, the issuance of a private letter ruling to a Related Supplier or a published ruling, or otherwise, MuniWatt concludes that compliance with any such covenant is not required to preserve the exclusion of interest on any Bond from such gross income, MuniWatt shall seek an Opinion of Counsel to such effect and, upon receipt of such an opinion, shall so waive compliance with such covenant and shall notify each Utility of such waiver.

SECTION 10.03. *Use in Limited Service Area.*

Unless otherwise agreed by MuniWatt in writing, each Utility shall resell Energy purchased by it hereunder to such Persons such that all of such Energy will be (1) furnished to customers of such Utility who purchase such Energy other than for resale and are located in such Utility's qualified service area or (2) sold to a utility owned by a Local Government or State Agency that furnishes all such Energy to customers of such utility who purchase such Energy other than for resale and are located in such utility's qualified service area. For such purposes, a Utility's or other utility's "***qualified service area***" means (a) an area throughout which such Utility or other utility provided electricity distribution services at all times during each 5-year period prior to the date on which MuniWatt acquires a MuniWatt Supply Contract pursuant to which Energy (or Energy exchanged therefor) sold and delivered to such Utility is delivered to or on behalf of MuniWatt or (b) an area recognized as the electricity service area of such Utility or other utility under state or federal law.

Unless otherwise agreed by MuniWatt in writing, each Utility shall forecast and Schedule Energy for purchase and receipt pursuant to *Sections 7.01 and 7.02* such that it may resell its forecasted and Scheduled Quantities of Energy in full in accordance with the provisions of this Section.

SECTION 10.04. *No Private Use or Payments.*

Prior to the last maturity of the Bonds, no Utility shall use or permit the use of Energy sold and delivered to it hereunder directly or indirectly in any private business use, *unless* otherwise agreed by MuniWatt in accordance with the applicable provisions of each MuniWatt Indenture and MuniWatt Supply Contract. For these purposes, "***private business use***" means use in any trade or business carried on by any Person, or any activity of any Person other than a natural person, in each case excluding state and local governments, *unless* (1) such use is merely as a member of the general public, (2) such property is intended to be and is in fact reasonably available for use on the same basis as natural persons not engaged in a trade or business, or (3) no priority rights therein or special benefits therefrom are extended to such Person (other than customary and reasonable differences in rates for different classes of users).

For purposes of the foregoing covenant, property is considered to be "***used***" by a Person if:

- A. ***Dispositions:*** it is sold or otherwise disposed of, or leased, to such Person;
- B. ***Operation and Management:*** it is operated, managed, or otherwise physically employed, utilized, or consumed by such Person, *excluding* operation or management pursuant to an agreement which meets the guidelines set forth in Revenue Procedure 2017-13, including any amendments or revisions thereto or superseding Tax Regulations, or is described in subparagraph (A) through (D) of Section 1.141-3(b)(4)(iii) of the Tax Regulations;

C. *Legal Entitlements:* capacity in or output or service from such property is reserved or committed to such Person under a take or pay, output, incentive payment, or similar contract or arrangement or special legal entitlements (e.g., priority rights) to beneficial use of such property are extended to such Person; or

D. *Economic Benefit:* in the case of property not available for use by the general public, such property bestows a special economic benefit on such Person.

SECTION 10.05. *No Private Loan.*

No Utility shall use Energy sold and delivered to it hereunder directly or indirectly to make or finance loans to any Person other than a state or local government. For purposes of the foregoing covenant, Energy is considered to be “loaned” to a Person if (1) it is sold to such Person in a transaction which creates a debt for federal income tax purposes or (2) indirect benefits, or burdens and benefits of ownership, of such Energy are otherwise transferred in a transaction which is the economic equivalent of a loan.

ARTICLE ELEVEN

UTILITIES

SECTION 11.01. *Addition of Utilities.*

Any Local Government or any State Agency shall become a Party to this Agreement, as a Utility, when such Local Government or State Agency, MuniWatt, and the Agent shall have executed and delivered a Purchase Contract and such Local Government or State Agency shall have delivered to MuniWatt (i) certified copies of all ordinances, resolutions, public notices, and other documents evidencing the necessary authorizations with respect to the execution, delivery, and performance by such Local Government or State Agency of such Purchase Contract and this Agreement and (ii) unless otherwise provided in the Purchase Contract, an opinion of counsel for such Local Government or State Agency, in form and substance reasonably satisfactory to MuniWatt, regarding the validity, binding effect, and enforceability of such Purchase Contract and this Agreement against such Local Government or State Agency under applicable law. Upon such execution and delivery, such Local Government or State Agency shall be entitled to all the rights, privileges, and benefits, and shall assume all of the obligations, of a Utility hereunder, except to the extent provided in such Purchase Contract, effective on the Effective Date specified in such Purchase Contract. Notwithstanding the foregoing, the Agent shall not be permitted to be a Utility hereunder.

SECTION 11.02. *Term of Purchase Contract.*

The term of each Utility’s Purchase Contract shall extend from the Effective Date of such Purchase Contract to the earliest of (1) the end of the term specified in such Purchase Contract, as amended by written instrument executed and delivered by MuniWatt, the Agent, and such Utility, (2) the expiration of the term or termination of this Agreement, (3) if such Utility has elected to phase out such Purchase Contract pursuant to *Section 11.03*, the date as of which MuniWatt has terminated, or there shall have expired, all MuniWatt Supply Contracts allocable to such Utility pursuant to such Section, (4) the date as of which such Utility shall have disposed of or abandoned substantially all electric utility facilities owned by it, unless either such facilities have been transferred to a Local Government or State Agency to which such Utility’s Purchase Contract has been assigned pursuant to *Section 11.04* or otherwise agreed in such Purchase Contract, or (5) the date as of which such Purchase Contract shall have terminated by written instrument executed and delivered by MuniWatt, the Agent, and such Utility or by MuniWatt and the Agent

for cause. At such time as the term of any Utility's Purchase Contract has expired, such Utility shall no longer be considered a Utility hereunder or be a Party hereto or be obligated, or entitled to any right or privilege, hereunder.

SECTION 11.03. *Phase-Out of Purchase Contracts.*

Any Utility may elect to phase out its obligation to purchase and receive Unrestricted Energy hereunder by giving notice of such election to MuniWatt at least three months prior to the effective date of such election, which will have the consequence described in this Section.

If any Utility gives notice of a phase out of its obligations hereunder in accordance with this Section, then the Quantity of Unrestricted Energy required to be purchased and/or received by or on behalf of such Utility hereunder in any period shall not exceed the Quantity of Unrestricted Energy available for sale to such Utility, determined pursuant to *Section 7.03*.

SECTION 11.04. *Assignment by Utility.*

Each Utility may assign its Purchase Contract, in whole or in part, to any other Local Government or State Agency and, in connection therewith, may change the Supplier Delivery Points at which Energy sold pursuant to the assigned portion shall be delivered pursuant to *Section 6.02*, with the consent of MuniWatt. If the assignee assumes the obligations of such Utility pursuant hereto in respect of the assigned portion of such Purchase Contract, then all rights and obligations of such Utility hereunder in respect of such assigned portion shall transfer to and vest in such assignee, and such Utility shall no longer be obligated hereunder in respect thereof. If MuniWatt and such assignee elect to execute a new Purchase Contract to effect any such assignment, such Purchase Contract shall be deemed to have been executed as of the date of the Purchase Contract being assigned for purposes of *Section 7.03*. At the request of any Utility, MuniWatt shall use reasonable efforts to solicit other Local Governments and State Agencies to accept an assignment of such Utility's Purchase Contract or any portion thereof.

ARTICLE TWELVE

MISCELLANEOUS

SECTION 12.01. *Limited Obligations of MuniWatt, Agent, and Utilities.*

Neither MuniWatt nor the Agent nor the Utilities shall be obligated to observe and perform any obligation hereunder except from and to the extent of the property and sources of funds to which such Person's obligations hereunder are limited by this Section, to which all recourse of any other Party hereto shall be limited. No provision of this Agreement shall require any Party hereto to expend or risk any other funds or incur any other financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers. Anything in this Agreement to the contrary notwithstanding, the performance by any Party hereto of all duties and obligations imposed upon it hereby, the exercise by it of all powers granted to it hereunder, the carrying out of all covenants, agreements, and promises made by it hereunder, and liability of such Party for all warranties and other covenants herein shall be limited solely to such property and sources of funds; and no such Party shall be required to effectuate any of such duties, obligations, powers, or covenants except from, and to the extent of, such property and sources of funds. Whether or not therein expressly so provided, every provision of this Agreement shall be subject to the provisions of this Section.

The obligations of MuniWatt hereunder shall be limited to the property and funds held or pledged, or required to be held or pledged, under the MuniWatt Indentures, including the MuniWatt Supply

Contracts, the Exchange Agreements, proceeds of any Bonds issued by MuniWatt to acquire MuniWatt Supply Contracts, and amounts paid to MuniWatt hereunder, and to its rights under the MuniWatt Supply Contracts and Exchange Agreements, including Energy purchased or acquired by exchange by or on behalf of it thereunder. The obligations of MuniWatt and the Agent to sell and deliver Energy to any Utility hereunder shall be limited to (a) for Energy to be sold at a Supplier Delivery Point, the Energy sold by Suppliers to the Exchanger-Balancer under Supplier Addenda and acquired by MuniWatt by exchange under an Exchange Agreement, and (b) for Energy to be sold at a Displacement Delivery Point, the Energy sold and delivered by Related Suppliers to MuniWatt under the MuniWatt Supply Contracts or there acquired by MuniWatt by exchange under an Exchange Agreement and the rights of MuniWatt thereunder.

The obligations of the Agent hereunder shall be limited to the Energy sold to it by MuniWatt pursuant to *Section 5.01*, the proceeds of sale of such Energy to the Utilities pursuant to *Section 6.01*, and such other funds as may be paid to the Agent by any other Party hereto to enable it to observe or perform any of its obligations hereunder.

The obligations of the Utilities hereunder shall be limited to the current revenues of their respective electric utility systems.

No Party hereto or other beneficiary hereof shall have any right to demand payment or performance by any other Party hereto out of money raised or to be raised by taxation.

SECTION 12.02. *No Recourse Against Officers, Etc.*

No recourse under or upon any obligation, covenant, or agreement contained in this Agreement, or for any claim based thereon or otherwise in respect thereof, shall be had against any incorporator, or against any past, present, or future director, officer, or employee or member of the governing body, as such, of any Party hereto or of any successor, or against any Person with whom any such Party has contracted for goods or services, either directly or through such Party, whether by virtue of any constitution or statute or rule of law, or by the enforcement of any assessment, judgment, or penalty, or otherwise; it being expressly understood that this Agreement is solely a corporate obligation, and that no such personal liability whatever shall attach to, or is or shall be incurred by, the incorporators, directors, officers, or employees, as such, of such Party or any successor, or any member of its governing body, or any such contracting Person, or any of them, by reason of the obligations, covenants, or agreements contained in this Agreement or implied therefrom, and that any and all such personal liability either at common law or equity or by constitution or statute of, and any and all such rights and claims against, every such incorporator, member, director, officer, employee, or Person, as such, are hereby expressly waived and released as a condition of, and in consideration for, the execution of this Agreement.

SECTION 12.03. *Time of the Essence.*

Time shall be of the essence in the payment or performance of the obligations from time to time imposed upon the parties hereto by this Agreement.

SECTION 12.04. *No Fiduciaries.*

Notwithstanding any provision herein to the contrary, except to the extent that MuniWatt is acting on behalf of and as representative of the Agent for purposes of receiving and transferring title to Energy to be delivered to and by the Agent hereunder or under the MuniWatt Supply Contracts, the relationship among all parties hereunder shall be as independent contractors acting as principals, and not as agents, trustees, or fiduciaries for any other Party hereto. Each Party hereto undertakes to perform such

duties, and only such duties, on its part as are specifically set forth in this Agreement, and no implied duties, covenants, or obligations shall be inferred from or read into any provision of this Agreement.

SECTION 12.05. *Independence of MuniWatt, Related Suppliers, and Agent.*

The Agent acknowledges that the Utilities and the holders of Bonds issued from time to time will rely upon (and would be substantially harmed if the Agent does not preserve), and the Agent therefore agrees not to take any action that would interfere with, the independent identities and independent corporate existence of MuniWatt, the Related Suppliers, and the Agent so long as MuniWatt remains obligated hereby or under a MuniWatt Indenture or MuniWatt Supply Contract. Without limiting the generality of the foregoing, for so long as MuniWatt remains obligated hereby or under a MuniWatt Indenture or MuniWatt Supply Contract, the Agent shall not include the assets or liabilities of MuniWatt in the financial statements of the Agent; shall not commingle the assets or accounts of MuniWatt, the Related Suppliers, and the Agent; shall not refer to MuniWatt or its assets or activities as a division, department, or other part of, or as owned by, the Agent or any Related Supplier; shall not seek to borrow money, issue bonds or other obligations, or otherwise obtain credit on the basis of MuniWatt's assets; in the event the Agent shall file a petition under chapter 9 of the United States Bankruptcy Code, shall not request or consent to the consolidation of MuniWatt, or any Related Supplier or its assets or liabilities in the case commenced by such petition; shall not commingle the assets or activities of the Agent or any Related Supplier with those of MuniWatt and, in the event the Agent elects to exercise any power granted to it pursuant to Section 303.045 of the Enabling Act, shall do so only in a manner that observes all requisite corporate formalities applicable to MuniWatt.

SECTION 12.06. *Imaged Documents.*

Any document generated by the Parties with respect to this Agreement, including this Agreement, may be imaged and stored electronically (each an "*Imaged Document*"). Imaged Documents may be introduced as evidence in any proceeding as if such were original business records, and neither Party shall contest the admissibility of Imaged Documents as evidence in any proceeding.

SECTION 12.07. *Not a Company or Business Entity.*

Each of the Parties hereby represents and verifies that it is not a "company," as defined in Section 808.001(2), 809.001, or 2274.001 (as added by Senate Bill 19 of the 87th Legislature of Texas), Texas Government Code, or a "business entity," as defined in Section 2252.908(1), Texas Government Code.

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IN WITNESS WHEREOF, MuniWatt and the Agent have duly executed this Agreement as of the day and year first written above and each Utility has executed its Purchase Contract as of the Effective Date thereof.

CITY OF LA GRANGE, TEXAS

By: Jan Dockery
Jan Dockery Mayor

Attest/Countersign:

Janet Bayer
Janet Bayer, City Secretary

**MUNICIPAL POWER ACQUISITION AND
SUPPLY CORPORATION**

By: Glen Pape
Glen Pape, President

Attest:

Janetta Morris
Janetta Morris, Secretary

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**EXHIBIT A
TO
JOINT POWER PURCHASE CONTRACT**

BASE PROVISIONS

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MASTER POWER PURCHASE AND SALE AGREEMENT

The Parties hereby agree that the Master Power Purchase and Sale Agreement set forth in this Exhibit (the “Master Agreement”), including the General Terms and Conditions (the “General Terms”) and, if made applicable, Schedules E and M thereto, as supplemented and modified by the provisions of the Cover Sheet (the “Cover Sheet”) set forth in this Exhibit, comprise the “Base Provisions,” as defined in the Joint Power Purchase Agreement to which this Exhibit is attached (the “Joint Agreement”). As used herein, “this Agreement” has the meaning stated in the Joint Agreement. Capitalized terms used but not defined in the Cover Sheet or the General Terms have the meanings assigned to such terms in the Joint Agreement.

See Section 4.01 of the Joint Agreement for additional elections that may apply to the purchase and sale of Energy at Supplier Delivery Points.

COVER SHEET

Article One: General Definitions

- | | | |
|------|---------------------|--|
| 1.10 | “Contract Price” | Section 1.10 of the General Terms is amended to read as follows:

“1.10 ‘Contract Price’ means the relevant price specified in <i>Section 5.03</i> or <i>6.03</i> of the Joint Agreement. |
| 1.12 | “Credit Rating” | Section 1.12 of the General Terms is amended by deleting in the fourth line the word “issues” and replacing it with word “issuer.” |
| 1.19 | “Effective Date” | Section 1.19 of the General Terms is amended to read as follows:

“1.19 ‘Effective Date’ of (i) any Utility’s Purchase Contract and rights and obligations under this Agreement means the date specified as such in its Purchase Contract and (ii) this Agreement in all other respects means the date thereof. |
| 1.23 | “Force Majeure” | Section 1.23 of the General Terms is amended (1) by inserting “or to obtain the Product at a more advantageous price or under more advantageous terms and conditions” after the word “hereunder” in clause (ii) and (2) by inserting “or under more advantageous terms to a third party purchaser” after the phrase “Contract Price” in clause (iv). |
| 1.43 | “Party A Tariff” | Inapplicable |
| 1.44 | “Party B Tariff” | Inapplicable |
| 1.47 | “Product” | Section 1.47 of the General Terms is amended to read as follows:

“1.47 ‘Product’ means Energy only and not any of the following: capacity, regulation and frequency response, energy imbalance, operating reserve-spinning, operating reserve-supplemental, or other ancillary services or products.” |
| 1.50 | “Recording” | Section 1.50 of the General Terms is amended by deleting the reference to Section “2.4” and replacing it with “2.5.” |
| 1.51 | “Replacement Price” | Section 1.51 of the General Terms is amended by inserting “for delivery” in the second line before the text “at the Delivery Point.” |

1.53	“Sales Price”	Section 1.53 of the General Terms is amended to delete the phrase “at the Delivery Point” from the second line.
1.56	“Settlement Amount”	“1.56 ‘Settlement Amount’ means, when a Utility is the Defaulting Party, all costs incurred by the Non-Defaulting Party in respect of an Event of Default by such Utility resulting in termination of such Utility’s Purchase Contract and, when the Agent or MuniWatt is the Defaulting Party, \$0.”
1.62	“Cyber Attack”	Article One of the General Terms is amended to add the following definition: “1.62 ‘Cyber Attack’ means a third-party attack that compromises the integrity or availability of information from an information system or systems required to perform the obligations under this Agreement.”
1.63	“Energy”	Article One of the General Terms is amended to add the following definition: “1.63 ‘Energy’ means three-phase, 60-cycle alternating current electric energy, expressed in megawatt hours.”
1.64	“ERCOT”	Article One of the General Terms is amended to add the following definition: “1.64 ‘ERCOT’ means the Electric Reliability Council of Texas.”
1.65	“Firm (LD)”	Article One of the General Terms is amended to add the following definition: “1.65 ‘Firm (LD),’ as used in the provisions included in Schedule E, has the meaning stated in such Schedule.”
1.66	“Firm (No Force Majeure)”	Article One of the General Terms is amended to add the following definition: “1.66 Firm (No Force Majeure),’ as used in the provisions included in Schedule E, has the meaning stated in such Schedule.”
1.67	“Act”	Article One of the General Terms is amended to add the following definition: “1.67 ‘Act,’ as used in the provisions included in Schedule M, has the meaning stated in such Schedule.”
1.68	“Governmental Entity or Public Power System”	Article One of the General Terms is amended to add the following definition: “1.68 ‘Governmental Entity or Public Power System,’ as used in the provisions included in Schedule M, has the meaning stated in such Schedule.”
1.69	“Special Fund”	Article One of the General Terms is amended to add the following definition: “1.69 ‘Special Fund,’ as used in the provisions included in Schedule M, has the meaning stated in such Schedule.”

1.70	“Governmental Charges”	Article One of the General Terms is amended to add the following definition: “1.70 ‘Governmental Charges’ means all taxes, fees, or other charges or impositions imposed by any government or instrumentality thereof.
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Article Two: Transaction Terms and Conditions

2.3	Confirmation	The Joint Agreement and the Purchase Contracts referred to therein are the Confirmations of Transactions, and the only Confirmations of Transactions, referred to in the General Terms. Section 2.3 of the General Terms shall not apply to this Agreement.
2.4	Additional Confirmation Terms	[] Optional provision in Section 2.4. If not checked, inapplicable.
2.5	Recording	Section 2.5 of the General Terms is amended by (1) deleting from the beginning of the first sentence the phrase “Unless a Party expressly objects to a Recording (defined below) at the beginning of a telephone conversation, each” and replacing it with the word “Each,” (2) inserting “and instant messages” after “conversations” in line three, and (3) deleting the second sentence in its entirety and replacing it with the following: “Each Party waives any further notice of such monitoring or recording, and agrees to notify its officers, employees and agents of such monitoring or recording and to obtain any necessary consent of such officers, employees and agents; provided, further that the Party responsible for obtaining the consent of its officers, employees and agents to such recordings shall indemnify, defend and hold the other Party harmless from any and all losses, liabilities, claims, damages, judgments, costs and expenses, including but not limited to reasonably attorney’s fees and costs of court, arising from or out of such Party’s failure to obtain the consent of its officers, employees and agents to such recordings.” Notwithstanding Section 2.5 of the General Terms, no Recording shall evidence an agreement between or among MuniWatt, the Agent, and any Utility prior to the execution and delivery by such Persons of such Utility’s Purchase Contract.

Article Three: Obligations and Deliveries

3.2	Transmission and Scheduling	With respect to transmission and Scheduling the delivery and receipt of Energy under this Agreement (1) at a Supplier Delivery Point to or by the Agent or a Utility, Section 3.2 of the General Terms is amended as provided in the applicable Utility Supply Contract, if there amended, and (2) at a Displacement Delivery Point located within the ERCOT region, Section 3.2 of the General Terms is amended by adding the text specified in Schedule E to the General Terms, which shall apply only to Obligations to transmit to and Schedule at such Displacement Delivery Point.
3.3	Force Majeure	In addition to the provisions of Section 3.3 of the Base Provisions, the parties agree that a Cyber Attack that causes (i) the failure to perform a firm obligation or (ii) a breach of a Party’s confidentiality obligations arising under Section 10.11 of the General Terms will constitute an event of Force Majeure.

Notwithstanding Section 3.3 of the General Terms, MuniWatt and the Agent shall be deemed to be prevented from carrying out, in whole or in part, their respective obligations under this Agreement in favor of a Utility by reason of Force Majeure whenever such Utility's Supplier is prevented from carrying out, in whole or in part, its obligations under the applicable Utility Supply Agreement or Supplier Addendum by reason of "Force Majeure," as therein defined; neither MuniWatt nor the Agent shall be required to give notice and details of such Force Majeure to each other or the applicable Utility or remedy such Force Majeure; and Force Majeure does not include any action taken by the Agent or any Utility in its governmental capacity.

Article Four: Remedies for Failure to Deliver/Receive

4.1 Seller Failure

☐ Accelerated Payment of Damages. If not checked, inapplicable.

With respect to a Seller's obligation to Schedule and deliver Energy under the Agreement (1) at a Supplier Delivery Point, Section 4.1 of the General Terms is amended as provided in the applicable Utility Supply Contract, if there amended, and (2) at a Displacement Delivery Point located within the ERCOT region, Section 4.1 of the General Terms is amended by adding the text specified under such Section in Schedule E to the General Terms, which shall apply only to Seller failures to Schedule or deliver at such Displacement Delivery Point.

4.2 Buyer Failure

☐ Accelerated Payment of Damages. If not checked, inapplicable.

With respect to a Buyer's obligation to Schedule and receive Energy delivered under the Agreement (1) at a Supplier Delivery Point, Section 4.2 of General Terms is amended as provided in the applicable Utility Supply Contract, if there amended, and (2) at a Displacement Delivery Point located within the ERCOT region, Section 4.2 of the General Terms is amended by adding the text specified under such Section in Schedule E to the General Terms, which shall apply only to Buyer failures to Schedule or receive at such Displacement Delivery Point.

4.3, 4.4 Mitigation; Exclusivity

The following new sections are added to the end of Article Four of the General Terms:

"4.3 Mitigation. Each Party has a duty to mitigate damages under this Agreement and will use commercially reasonable efforts to minimize any damages it may incur resulting from the other Party's performance or nonperformance hereunder.

"4.4 Exclusivity. So long as any failure of Seller to schedule or deliver, or any failure of Buyer to schedule or receive, a Product hereunder does not constitute or result in an Event of Default as defined in Article Five hereof, the remedies specified in this Article Four shall be the exclusive remedies available to Buyer for any failure of Seller to Schedule or deliver any Product hereunder, and to Seller for any failure of Buyer to schedule or receive a Product hereunder, and no other liability under any theory of law or equity shall attach in connection with such failure."

Article Five: Events of Default; Remedies

The provisions of Article Five of the General Terms shall be applied as if a Utility's Supplier were guarantor of MuniWatt's and the Agent's obligations to sell and deliver Energy to or for the benefit of such Utility at Supplier Delivery Points, and sales and deliveries to each Utility (and to the Agent for such Utility's account) of Energy acquired from each Supplier pursuant to an Exchange Agreement or at a Displacement Delivery Point shall be treated as made pursuant to a separate Master Agreement, separately terminable.

5.1 Events of Default

The definition of "Event of Default" in Section 5.1 of the General Terms is amended to include, as used in each separate agreement described in the immediately preceding row for Energy acquired from a Supplier and to be sold and delivered to a Utility, (1) with respect to such Utility, an "Event of Default," as defined in the Utility Supply Contract between such Utility and Supplier, and (2) with respect to MuniWatt and the Agent and Energy acquired from such Supplier, an "Event of Default," as defined in such Utility Supply Contract, with respect to such Supplier.

Notwithstanding the provisions of Section 5.1 of the General Terms, the Parties agree that a failure by a Party to pay that is solely the result of a Cyber Attack will not constitute an Event of Default, provided that (a) sufficient funds were available for such Party to fulfil its obligations hereunder on the relevant date and (b) the payment is made as soon as practicable but in no event later than 15 days after the occurrence of the Cyber Attack.

5.1(g) Cross Default

Not designated for (and inapplicable to) Buyer and Seller, except as provided in Section 5.1 of the General Terms, as modified by the provisions in the immediately preceding row.

5.4 Notice of Payment of Termination Payment

Notwithstanding Section 5.4 of the General Terms, any Termination Payment payable by the Agent or MuniWatt shall be made on the last Business Day of a month that is at least two Business Days after the notice of the amount thereof is effective.

5.6 Closeout Setoff

☐ Option A (Applicable if no other selection is made.)

☐ Option B - Affiliates shall have the meaning set forth in the Agreement unless otherwise specified as follows: _____

☒ Option C (No Setoff)

5.8 Superseding Provisions

If the parties to a Supplier Addendum in respect of any Utility agree to procedures for resolving disputes thereunder, then the same procedures shall apply to the resolution of disputes hereunder in respect of the sale and delivery of all Energy sold, or agreed to be sold, thereunder (and proceedings hereunder and thereunder may be consolidated), to the extent permitted by law, notwithstanding anything in this Article to the contrary.

Article Six: Payment and Netting

6.2 Timeliness of Payments

Notwithstanding Section 6.2 of the General Terms, no invoice payable by the Agent or MuniWatt under the Agreement shall be payable prior to the last Business Day of the month in which such invoice is received or, if

received less than 10 days prior to the end of such month, then the last Business Day of the next succeeding month.

- 6.3 Disputes and Adjustments of Invoices Notwithstanding Section 6.3 of the General Terms, no payment required to be made by MuniWatt or the Agent pursuant to such Section shall be payable prior to the last Business Day of the month in which the applicable dispute is resolved or, if resolved less than two Business Days prior to the end of such month, then the last Business Day of the next succeeding month.

Article Eight: Credit and Collateral Requirements

8.1 Party A Credit Protection

- 8.1(a) Financial Information ☐ Option A
☐ Option B
☒ Option C, but only when MuniWatt is Party A and the Agent is Party B
When the Agent is Party A and a Utility is Party B, as specified in the applicable Utility's Purchase Contract
- 8.1(b) Credit Assurances ☐ Not Applicable
☒ Applicable, notwithstanding the elections for Section 8.1(a) made in this Cover Sheet
- 8.1(c) Collateral Threshold ☒ Not Applicable, except to the extent provided in a Purchase Contract
☐ Applicable
- 8.1(d) Downgrade Event ☒ Not Applicable
☐ Applicable
- 8.1(e) Guaranty Not specified and not applicable.

8.2 Party B Credit Protection

- 8.2(a) Financial Information ☐ Option A
☐ Option B
☒ Option C, but only when MuniWatt is Party A and the Agent is Party B
When the Agent is Party A and a Utility is Party B, all information posted by MuniWatt or a Related Supplier to the Electronic Municipal Market Access (EMMA) System maintained by the Municipal Securities Rulemaking Board, such information to be deemed delivered when posted.
- 8.2(b) Credit Assurances ☒ Not Applicable
☐ Applicable
- 8.2(c) Collateral Threshold ☒ Not Applicable
☐ Applicable
- 8.2(d) Downgrade Event ☒ Not Applicable

[] Applicable

8.2(e) Guaranty

Not specified and not applicable.

Article Nine: Governmental Charges

9.2 Governmental Charges

Section 9.2 of the General Terms is superseded and replaced in its entirety by Article Eight of the Joint Contract.

Article Ten: Miscellaneous

10.1 Term of Master Agreement

Section 10.1 of the General Terms is amended to add the following at the end of the Section:

“Notwithstanding anything herein to the contrary, the Parties agree Sections 5.2 through 5.7, Article Seven, and Sections 10.6 and 10.11 shall survive the term of this Agreement.”

10.2 Representations and Warranties

The representations in the following paragraphs of Section 10.2 of the General Terms are modified as follows:

(iv)

The enforceability of this Agreement and the Purchase Contracts against any Party hereto is limited by immunity on the grounds of sovereignty or other similar grounds to the extent provided by law, but only to the extent that such immunity may not be waived, and to the fullest extent authorized by law each Party waives and agrees that it will not claim any such immunity from (a) suit, (b) jurisdiction of court (including a court located outside the jurisdiction of its organization), (c) relief by way of injunction, order for specific performance or recovery of property, (d) attachment of assets, and (e) execution or enforcement of any judgment.

(ix)

Neither MuniWatt nor the Agent nor any Utility represents that it is a “forward contract merchant” within the meaning of the United States Bankruptcy Code.

(x)

Represented by Utilities only and not by MuniWatt or the Agent. Each of MuniWatt and the Agent represents that it is (1) an “eligible commercial entity” as such term is defined in the Commodity Futures Modernization Act of 2000 (7 U.S.C. § 1a(17)), and (2) an “eligible contract participant” as such term is defined in the Commodity Exchange Act (7 U.S.C. § 1a), as amended.

(xi)

Represented by Utilities only and not by MuniWatt or the Agent. Each of MuniWatt and the Agent represents that it is (1) an “eligible commercial entity” as such term is defined in the Commodity Futures Modernization Act of 2000 (7 U.S.C. § 1a(17)), and (2) an “eligible contract participant” as such term is defined in the Commodity Exchange Act (7 U.S.C. § 1a), as amended.

10.4 Indemnity

The indemnities given by MuniWatt, the Agent, and each Utility pursuant to Section 10.4 of the General Terms shall be limited to the extent permitted by law.

10.5 Assignment

Section 10.5 of the General Terms is superseded and replaced in its entirety by Sections 1.03 and 11.04 of the Joint Contract.

10.6 Governing Law

Section 10.6 of the General Terms is modified by replacing “New York” with “Texas.” The Parties agree that (1) each Product is a “good” as such term is defined in the Uniform Commercial Code of the State of Texas,

and (ii) all of the provisions of the Uniform Commercial Code of the State of Texas shall apply to this Agreement and all Transactions.

10.7 Notices

Section 10.7 of the General Terms is superseded and replaced in its entirety by Section 1.02 of the Joint Contract.

10.8 General

The fourth sentence of Section 10.8 of the General Terms (being the sentence beginning “Except to the extent herein provided . . .”) is superseded and replaced in its entirety by Section 1.05 of the Joint Contract.

The seventh sentence of Section 10.8 of the General Terms (being the sentence beginning “Each Party further agrees that it will not assert . . .”) is superseded and replaced in its entirety by Section 1.03 of the Joint Contract.

10.10 Forward Contract

Section 10.10 of the General Terms is revised to read as follows:

“The Parties intend that (i) all Transactions constitute a “forward contract” within the meaning of the United States Bankruptcy Code (the “Bankruptcy Code”) or a “swap agreement” within the meaning of the Bankruptcy Code; (ii) all payments made or to be made by one Party to the other Party pursuant to this Agreement constitute “settlement payments” within the meaning of the Bankruptcy Code; (iii) all transfers of Performance Assurance by one Party to the other Party under this Agreement constitute “margin payments” within the meaning of the Bankruptcy Code; and (iv) this Agreement constitutes a “master netting agreement” within the meaning of the Bankruptcy Code.”

10.11 Confidentiality

[x] Confidentiality Applicable If not checked, inapplicable.

The following sentence is added to Section 10.11 of the General Terms:

“A Party may disclose any one or more of the commercial terms of a Transaction (other than the name of the other Party unless otherwise agreed to in writing by the Parties) to any industry price source for the purpose of aggregating and reporting such information in the form of a published energy price index.”

10.12 FERC and ERCOT Standards of Review; Mobile-Sierra Waiver

The following is added to the General Terms as Section 10.18:

10.18 FERC and ERCOT Standards of Review; Mobile-Sierra Waiver.

(a) FERC Standard of Review. Absent the agreement of all Parties to the proposed change, the standard of review for changes to any rate, charge, classification, term, or condition of this Agreement, whether proposed by a Party (to the extent that any waiver in Subsection B of this Section is unenforceable or ineffective as to such Party), a non-party, or FERC acting *sua sponte*, shall solely be the “public interest” application of the “just and reasonable” standard of review set forth in United Energy Pipe Line Co. v. Mobile Energy Service Corp., 350 U.S. 332 (1956), and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956), and clarified by Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish, 554 U.S. 527 (2008)

and NRG Power Marketing, LLC v. Maine Public Utilities Commission, 130 S. Ct. 693 (2010) (the “Mobile-Sierra” doctrine).

(b) ERCOT Transaction Standard of Review.

Absent the agreement of all Parties to the proposed change, the standard of review for changes to any portion of this Agreement with respect to any Transaction entered into hereunder having a Delivery Point in the ERCOT region, whether proposed by a Party (to the extent that any waiver in Subsection C of this Section is unenforceable or ineffective as to such Party), a non-party, or the Public Utility Commission of Texas (the “PUC”) acting sua sponte, shall be the “public interest” standard of review set forth in High Plains Natural Energy Co. v. Railroad Commission, 467 S.W.2d 532 (Tex. Civ. App.—Austin, 1971), writ ref’d n.r.e.

(c) Mobile-Sierra Waiver. In addition, and notwithstanding the foregoing subsections A and B of this Section, to the fullest extent permitted by applicable law, each Party, for itself and its successors and assigns, hereby expressly and irrevocably waives any rights it can or may have, now or in the future, whether under Section 205 and/or Section 206 of the Federal Power Act or otherwise, to seek to obtain from FERC or the PUC by any means, directly or indirectly (through complaint, investigation, or otherwise), and each hereby covenants and agrees not at any time to seek to so obtain, an order from FERC or the PUC changing any Section of this Agreement specifying the rate, charge, classification, or other term or condition agreed to by the Parties, it being the express intent of the Parties that, to the fullest extent permitted by applicable law, neither Party shall unilaterally seek to obtain from FERC or the PUC any relief changing the rate, charge, classification, or other term or condition of this Agreement, notwithstanding any subsequent changes in applicable law or market conditions that may occur. In the event it were to be determined that applicable law precludes the Parties from waiving their rights to seek changes from FERC to their market-based power sales contracts (including entering into covenants not to do so), then this Subsection shall not apply, provided that, consistent with Subsections A and B of this Section, neither Party shall seek any such changes except solely under the “public interest” application of the “just and reasonable” standard of review and otherwise as set forth in such Subsections.

GENERAL TERMS AND CONDITIONS

ARTICLE ONE: GENERAL DEFINITIONS

1.1 “Affiliate” means, with respect to any person, any other person (other than an individual) that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such person. For this purpose, “control” means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power.

1.2 “Agreement” has the meaning set forth in the Cover Sheet.

1.3 “Bankrupt” means with respect to any entity, such entity (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it, (ii) makes an assignment or any general arrangement for the benefit of creditors, (iii) otherwise becomes bankrupt or insolvent (however evidenced), (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (v) is generally unable to pay its debts as they fall due.

1.4 “Business Day” means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday. A Business Day shall open at 8:00 a.m. and close at 5:00 p.m. local time for the relevant Party’s principal place of business. The relevant Party, in each instance unless otherwise specified, shall be the Party from whom the notice, payment or delivery is being sent and by whom the notice or payment or delivery is to be received.

1.5 “Buyer” means the Party to a Transaction that is obligated to purchase and receive, or cause to be received, the Product, as specified in the Transaction.

1.6 “Call Option” means an Option entitling, but not obligating, the Option Buyer to purchase and receive the Product from the Option Seller at a price equal to the Strike Price for the Delivery Period for which the Option may be exercised, all as specified in the Transaction. Upon proper exercise of the Option by the Option Buyer, the Option Seller will be obligated to sell and deliver the Product for the Delivery Period for which the Option has been exercised.

1.7 “Claiming Party” has the meaning set forth in Section 3.3.

1.8 “Claims” means all third party claims or actions, threatened or filed and, whether groundless, false, fraudulent or otherwise, that directly or indirectly relate to the subject matter of an indemnity, and the resulting losses, damages, expenses, attorneys’ fees and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement.

1.9 “Confirmation” has the meaning set forth in Section 2.3.

1.10 “Contract Price” means the price in \$U.S. (unless otherwise provided for) to be paid by Buyer to Seller for the purchase of the Product, as specified in the Transaction.

1.11 “Costs” means, with respect to the Non-Defaulting Party, brokerage fees, commissions and other similar third party transaction costs and expenses reasonably incurred by such Party either in terminating any arrangement pursuant to which it has hedged its obligations or entering into new arrangements which replace a Terminated Transaction; and all reasonable attorneys’ fees and expenses incurred by the Non-Defaulting Party in connection with the termination of a Transaction.

1.12 “Credit Rating” means, with respect to any entity, the rating then assigned to such entity’s unsecured, senior long-term debt obligations (not supported by third party credit enhancements) or if such entity does not have a rating for its senior unsecured long-term debt, then the rating then assigned to such entity as an issues rating by S&P, Moody’s or any other rating agency agreed by the Parties as set forth in the Cover Sheet.

1.13“Cross Default Amount” means the cross default amount, if any, set forth in the Cover Sheet for a Party.

1.14“Defaulting Party” has the meaning set forth in Section 5.1.

1.15“Delivery Period” means the period of delivery for a Transaction, as specified in the Transaction.

1.16“Delivery Point” means the point at which the Product will be delivered and received, as specified in the Transaction.

1.17“Downgrade Event” has the meaning set forth on the Cover Sheet.

1.18“Early Termination Date” has the meaning set forth in Section 5.2.

1.19“Effective Date” has the meaning set forth on the Cover Sheet.

1.20“Equitable Defenses” means any bankruptcy, insolvency, reorganization and other laws affecting creditors’ rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending.

1.21“Event of Default” has the meaning set forth in Section 5.1.

1.22“FERC” means the Federal Energy Regulatory Commission or any successor government agency.

1.23“Force Majeure” means an event or circumstance which prevents one Party from performing its obligations under one or more Transactions, which event or circumstance was not anticipated as of the date the Transaction was agreed to, which is not within the reasonable control of, or the result of the negligence of, the Claiming Party, and which, by the exercise of due diligence, the Claiming Party is unable to overcome or avoid or cause to be avoided. Force Majeure shall not be based on (i) the loss of Buyer’s markets; (ii) Buyer’s inability economically to use or resell the Product purchased hereunder; (iii) the loss or failure of Seller’s supply; or (iv) Seller’s ability to sell the Product at a price greater than the Contract Price. Neither Party may raise a claim of Force Majeure based in whole or in part on curtailment by a Transmission Provider unless (i) such Party has contracted for firm transmission with a Transmission Provider for the Product to be delivered to or received at the Delivery Point and (ii) such curtailment is due to “force majeure” or “uncontrollable force” or a similar term as defined under the Transmission Provider’s tariff; provided, however, that existence of the foregoing factors shall not be sufficient to conclusively or presumptively prove the existence of a Force Majeure absent a showing of other facts and circumstances which in the aggregate with such factors establish that a Force Majeure as defined in the first sentence hereof has occurred. The applicability of Force Majeure to the Transaction is governed by the terms of the Products and Related Definitions contained in Schedule P.

1.24“Gains” means, with respect to any Party, an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from the termination of a Terminated Transaction, determined in a commercially reasonable manner.

1.25“Guarantor” means, with respect to a Party, the guarantor, if any, specified for such Party on the Cover Sheet.

1.26“Interest Rate” means, for any date, the lesser of (a) the per annum rate of interest equal to the prime lending rate as may from time to time be published in *The Wall Street Journal* under “Money Rates” on such day (or if not published on such day on the most recent preceding day on which published), plus two percent (2%) and (b) the maximum rate permitted by applicable law.

1.27“Letter(s) of Credit” means one or more irrevocable, transferable standby letters of credit issued by a U.S. commercial bank or a foreign bank with a U.S. branch with such bank having a credit rating of at least A- from S&P or A3 from Moody’s, in a form acceptable to the Party in whose favor the letter of credit is issued. Costs of a Letter of Credit shall be borne by the applicant for such Letter of Credit.

1.28“Losses” means, with respect to any Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from termination of a Terminated Transaction, determined in a commercially reasonable manner.

1.29“Master Agreement” has the meaning set forth on the Cover Sheet.

1.30“Moody’s” means Moody’s Investor Services, Inc. or its successor.

1.31“NERC Business Day” means any day except a Saturday, Sunday or a holiday as defined by the North American Electric Reliability Council or any successor organization thereto. A NERC Business Day shall open at 8:00 a.m. and close at 5:00 p.m. local time for the relevant Party’s principal place of business. The relevant Party, in each instance unless otherwise specified, shall be the Party from whom the notice, payment or delivery is being sent and by whom the notice or payment or delivery is to be received.

1.32“Non-Defaulting Party” has the meaning set forth in Section 5.2.

1.33“Offsetting Transactions” mean any two or more outstanding Transactions, having the same or overlapping Delivery Period(s), Delivery Point and payment date, where under one or more of such Transactions, one Party is the Seller, and under the other such Transaction(s), the same Party is the Buyer.

1.34“Option” means the right but not the obligation to purchase or sell a Product as specified in a Transaction.

1.35“Option Buyer” means the Party specified in a Transaction as the purchaser of an option, as defined in Schedule P.

1.36“Option Seller” means the Party specified in a Transaction as the seller of an option , as defined in Schedule P.

1.37“Party A Collateral Threshold” means the collateral threshold, if any, set forth in the Cover Sheet for Party A.

1.38“Party B Collateral Threshold” means the collateral threshold, if any, set forth in the Cover Sheet for Party B.

1.39“Party A Independent Amount” means the amount , if any, set forth in the Cover Sheet for Party A.

1.40“Party B Independent Amount” means the amount , if any, set forth in the Cover Sheet for Party B.

1.41“Party A Rounding Amount” means the amount, if any, set forth in the Cover Sheet for Party A.

1.42“Party B Rounding Amount” means the amount, if any, set forth in the Cover Sheet for Party B.

1.43“Party A Tariff” means the tariff, if any, specified in the Cover Sheet for Party A.

1.44“Party B Tariff” means the tariff, if any, specified in the Cover Sheet for Party B.

1.45“Performance Assurance” means collateral in the form of either cash, Letter(s) of Credit, or other security acceptable to the Requesting Party.

1.46“Potential Event of Default” means an event which, with notice or passage of time or both, would constitute an Event of Default.

1.47“Product” means electric capacity, energy or other product(s) related thereto as specified in a Transaction by reference to a Product listed in Schedule P hereto or as otherwise specified by the Parties in the Transaction.

1.48“Put Option” means an Option entitling, but not obligating, the Option Buyer to sell and deliver the Product to the Option Seller at a price equal to the Strike Price for the Delivery Period for which the option may be exercised, all as specified in a Transaction. Upon proper exercise of the Option by the Option Buyer, the Option Seller will be obligated to purchase and receive the Product.

1.49“Quantity” means that quantity of the Product that Seller agrees to make available or sell and deliver, or cause to be delivered, to Buyer, and that Buyer agrees to purchase and receive, or cause to be received, from Seller as specified in the Transaction.

1.50“Recording” has the meaning set forth in Section 2.4.

1.51“Replacement Price” means the price at which Buyer, acting in a commercially reasonable manner, purchases at the Delivery Point a replacement for any Product specified in a Transaction but not delivered by Seller, plus (i) costs reasonably incurred by Buyer in purchasing such substitute Product and (ii) additional transmission charges, if any, reasonably incurred by Buyer to the Delivery Point, or at Buyer’s option, the market price at the Delivery Point for such Product not delivered as determined by Buyer in a commercially reasonable manner; provided, however, in no event shall such price include any penalties, ratcheted demand or similar charges, nor shall Buyer be required to utilize or change its utilization of its owned or controlled assets or market positions to minimize Seller’s liability. For the purposes of this definition, Buyer shall be considered to have purchased replacement Product to the extent Buyer shall have entered into one or more arrangements in a commercially reasonable manner whereby Buyer repurchases its obligation to sell and deliver the Product to another party at the Delivery Point.

1.52“S&P” means the Standard & Poor’s Rating Group (a division of McGraw-Hill, Inc.) or its successor.

1.53“Sales Price” means the price at which Seller, acting in a commercially reasonable manner, resells at the Delivery Point any Product not received by Buyer, deducting from such proceeds any (i) costs reasonably incurred by Seller in reselling such Product and (ii) additional transmission charges, if any, reasonably incurred by Seller in delivering such Product to the third party purchasers, or at Seller’s option, the market price at the Delivery Point for such Product not received as determined by Seller in a commercially reasonable manner; provided, however, in no event shall such price include any penalties, ratcheted demand or similar charges, nor shall Seller be required to utilize or change its utilization of its owned or controlled assets, including contractual assets, or market positions to minimize Buyer’s liability. For purposes of this definition, Seller shall be considered to have resold such Product to the extent Seller shall have entered into one or more arrangements in a commercially reasonable manner whereby Seller repurchases its obligation to purchase and receive the Product from another party at the Delivery Point.

1.54“Schedule” or “Scheduling” means the actions of Seller, Buyer and/or their designated representatives, including each Party’s Transmission Providers, if applicable, of notifying, requesting and confirming to each other the quantity and type of Product to be delivered on any given day or days during the Delivery Period at a specified Delivery Point.

1.55“Seller” means the Party to a Transaction that is obligated to sell and deliver, or cause to be delivered, the Product, as specified in the Transaction.

1.56“Settlement Amount” means, with respect to a Transaction and the Non-Defaulting Party, the Losses or Gains, and Costs, expressed in U.S. Dollars, which such party incurs as a result of the liquidation of a Terminated Transaction pursuant to Section 5.2.

1.57“Strike Price” means the price to be paid for the purchase of the Product pursuant to an Option.

1.58“Terminated Transaction” has the meaning set forth in Section 5.2.

1.59“Termination Payment” has the meaning set forth in Section 5.3.

1.60“Transaction” means a particular transaction agreed to by the Parties relating to the sale and purchase of a Product pursuant to this Master Agreement.

1.61 “Transmission Provider” means any entity or entities transmitting or transporting the Product on behalf of Seller or Buyer to or from the Delivery Point in a particular Transaction.

ARTICLE TWO: TRANSACTION TERMS AND CONDITIONS

2.1 Transactions. A Transaction shall be entered into upon agreement of the Parties orally or, if expressly required by either Party with respect to a particular Transaction, in writing, including an electronic means of communication. Each Party agrees not to contest, or assert any defense to, the validity or enforceability of the Transaction entered into in accordance with this Master Agreement (i) based on any law requiring agreements to be in writing or to be signed by the parties, or (ii) based on any lack of authority of the Party or any lack of authority of any employee of the Party to enter into a Transaction.

2.2 Governing Terms. Unless otherwise specifically agreed, each Transaction between the Parties shall be governed by this Master Agreement. This Master Agreement (including all exhibits, schedules and any written supplements hereto), the Party A Tariff, if any, and the Party B Tariff, if any, any designated collateral, credit support or margin agreement or similar arrangement between the Parties and all Transactions (including any Confirmations accepted in accordance with Section 2.3) shall form a single integrated agreement between the Parties. Any inconsistency between any terms of this Master Agreement and any terms of the Transaction shall be resolved in favor of the terms of such Transaction.

2.3 Confirmation. Seller may confirm a Transaction by forwarding to Buyer by facsimile within three (3) Business Days after the Transaction is entered into a confirmation (“Confirmation”) substantially in the form of Exhibit A. If Buyer objects to any term(s) of such Confirmation, Buyer shall notify Seller in writing of such objections within two (2) Business Days of Buyer’s receipt thereof, failing which Buyer shall be deemed to have accepted the terms as sent. If Seller fails to send a Confirmation within three (3) Business Days after the Transaction is entered into, a Confirmation substantially in the form of Exhibit A, may be forwarded by Buyer to Seller. If Seller objects to any term(s) of such Confirmation, Seller shall notify Buyer of such objections within two (2) Business Days of Seller’s receipt thereof, failing which Seller shall be deemed to have accepted the terms as sent. If Seller and Buyer each send a Confirmation and neither Party objects to the other Party’s Confirmation within two (2) Business Days of receipt, Seller’s Confirmation shall be deemed to be accepted and shall be the controlling Confirmation, unless (i) Seller’s Confirmation was sent more than three (3) Business Days after the Transaction was entered into and (ii) Buyer’s Confirmation was sent prior to Seller’s Confirmation, in which case Buyer’s Confirmation shall be deemed to be accepted and shall be the controlling Confirmation. Failure by either Party to send or either Party to return an executed Confirmation or any objection by either Party shall not invalidate the Transaction agreed to by the Parties.

2.4 Additional Confirmation Terms. If the Parties have elected on the Cover Sheet to make this Section 2.4 applicable to this Master Agreement, when a Confirmation contains provisions, other than those provisions relating to the commercial terms of the Transaction (e.g., price or special transmission conditions), which modify or supplement the General Terms and Conditions of this Master Agreement (e.g., arbitration provisions or additional representations and warranties), such provisions shall not be deemed to be accepted pursuant to Section 2.3 unless agreed to either orally or in writing by the Parties; provided that the foregoing shall not invalidate any Transaction agreed to by the Parties.

2.5 Recording. Unless a Party expressly objects to a Recording (defined below) at the beginning of a telephone conversation, each Party consents to the creation of a tape or electronic recording (“Recording”) of all telephone conversations between the Parties to this Master Agreement, and that any such Recordings will be retained in confidence, secured from improper access, and may be submitted in evidence in any proceeding or action relating to this Agreement. Each Party waives any further notice of such monitoring or recording, and agrees to notify its officers and employees of such monitoring or recording and to obtain any necessary consent of such officers and employees. The Recording, and the terms and conditions described therein, if admissible, shall be the controlling evidence for the Parties’ agreement with respect to a particular Transaction in the event a Confirmation is not fully executed (or deemed accepted) by both Parties. Upon full execution (or deemed acceptance) of a Confirmation, such Confirmation shall control in the event of any conflict with the terms of a Recording, or in the event of any conflict with the terms of this Master Agreement.

ARTICLE THREE: OBLIGATIONS AND DELIVERIES

3.1 Seller's and Buyer's Obligations. With respect to each Transaction, Seller shall sell and deliver, or cause to be delivered, and Buyer shall purchase and receive, or cause to be received, the Quantity of the Product at the Delivery Point, and Buyer shall pay Seller the Contract Price; provided, however, with respect to Options, the obligations set forth in the preceding sentence shall only arise if the Option Buyer exercises its Option in accordance with its terms. Seller shall be responsible for any costs or charges imposed on or associated with the Product or its delivery of the Product up to the Delivery Point. Buyer shall be responsible for any costs or charges imposed on or associated with the Product or its receipt at and from the Delivery Point.

3.2 Transmission and Scheduling. Seller shall arrange and be responsible for transmission service to the Delivery Point and shall Schedule or arrange for Scheduling services with its Transmission Providers, as specified by the Parties in the Transaction, or in the absence thereof, in accordance with the practice of the Transmission Providers, to deliver the Product to the Delivery Point. Buyer shall arrange and be responsible for transmission service at and from the Delivery Point and shall Schedule or arrange for Scheduling services with its Transmission Providers to receive the Product at the Delivery Point.

3.3 Force Majeure. To the extent either Party is prevented by Force Majeure from carrying out, in whole or part, its obligations under the Transaction and such Party (the "Claiming Party") gives notice and details of the Force Majeure to the other Party as soon as practicable, then, unless the terms of the Product specify otherwise, the Claiming Party shall be excused from the performance of its obligations with respect to such Transaction (other than the obligation to make payments then due or becoming due with respect to performance prior to the Force Majeure). The Claiming Party shall remedy the Force Majeure with all reasonable dispatch. The non-Claiming Party shall not be required to perform or resume performance of its obligations to the Claiming Party corresponding to the obligations of the Claiming Party excused by Force Majeure.

ARTICLE FOUR: REMEDIES FOR FAILURE TO DELIVER/RECEIVE

4.1 Seller Failure. If Seller fails to schedule and/or deliver all or part of the Product pursuant to a Transaction, and such failure is not excused under the terms of the Product or by Buyer's failure to perform, then Seller shall pay Buyer, on the date payment would otherwise be due in respect of the month in which the failure occurred or, if "Accelerated Payment of Damages" is specified on the Cover Sheet, within five (5) Business Days of invoice receipt, an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the Contract Price from the Replacement Price. The invoice for such amount shall include a written statement explaining in reasonable detail the calculation of such amount.

4.2 Buyer Failure. If Buyer fails to schedule and/or receive all or part of the Product pursuant to a Transaction and such failure is not excused under the terms of the Product or by Seller's failure to perform, then Buyer shall pay Seller, on the date payment would otherwise be due in respect of the month in which the failure occurred or, if "Accelerated Payment of Damages" is specified on the Cover Sheet, within five (5) Business Days of invoice receipt, an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the Sales Price from the Contract Price. The invoice for such amount shall include a written statement explaining in reasonable detail the calculation of such amount.

ARTICLE FIVE: EVENTS OF DEFAULT; REMEDIES

5.1 Events of Default. An "Event of Default" shall mean, with respect to a Party (a "Defaulting Party"), the occurrence of any of the following:

- (a) the failure to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within three (3) Business Days after written notice;
- (b) any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated;

- (c) the failure to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default, and except for such Party's obligations to deliver or receive the Product, the exclusive remedy for which is provided in Article Four) if such failure is not remedied within three (3) Business Days after written notice;
- (d) such Party becomes Bankrupt;
- (e) the failure of such Party to satisfy the creditworthiness/collateral requirements agreed to pursuant to Article Eight hereof;
- (f) such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of such Party under this Agreement to which it or its predecessor was a party by operation of law or pursuant to an agreement reasonably satisfactory to the other Party;
- (g) if the applicable cross default section in the Cover Sheet is indicated for such Party, the occurrence and continuation of (i) a default, event of default or other similar condition or event in respect of such Party or any other party specified in the Cover Sheet for such Party under one or more agreements or instruments, individually or collectively, relating to indebtedness for borrowed money in an aggregate amount of not less than the applicable Cross Default Amount (as specified in the Cover Sheet), which results in such indebtedness becoming, or becoming capable at such time of being declared, immediately due and payable or (ii) a default by such Party or any other party specified in the Cover Sheet for such Party in making on the due date therefor one or more payments, individually or collectively, in an aggregate amount of not less than the applicable Cross Default Amount (as specified in the Cover Sheet);
- (h) with respect to such Party's Guarantor, if any:
 - (i) if any representation or warranty made by a Guarantor in connection with this Agreement is false or misleading in any material respect when made or when deemed made or repeated;
 - (ii) the failure of a Guarantor to make any payment required or to perform any other material covenant or obligation in any guaranty made in connection with this Agreement and such failure shall not be remedied within three (3) Business Days after written notice;
 - (iii) a Guarantor becomes Bankrupt;
 - (iv) the failure of a Guarantor's guaranty to be in full force and effect for purposes of this Agreement (other than in accordance with its terms) prior to the satisfaction of all obligations of such Party under each Transaction to which such guaranty shall relate without the written consent of the other Party; or
 - (v) a Guarantor shall repudiate, disaffirm, disclaim, or reject, in whole or in part, or challenge the validity of any guaranty.

5.2 Declaration of an Early Termination Date and Calculation of Settlement Amounts. If an Event of Default with respect to a Defaulting Party shall have occurred and be continuing, the other Party (the "Non-Defaulting Party") shall have the right (i) to designate a day, no earlier than the day such notice is effective and no later than 20 days after such notice is effective, as an early termination date ("Early Termination Date") to accelerate all amounts owing between the Parties and to liquidate and terminate all, but not less than all, Transactions (each referred to as a "Terminated Transaction") between the Parties, (ii) withhold any payments due to the Defaulting Party under this Agreement and (iii) suspend performance. The Non-Defaulting Party shall calculate, in a commercially reasonable manner, a Settlement Amount for each such Terminated Transaction as of the Early Termination Date (or, to the extent

that in the reasonable opinion of the Non-Defaulting Party certain of such Terminated Transactions are commercially impracticable to liquidate and terminate or may not be liquidated and terminated under applicable law on the Early Termination Date, as soon thereafter as is reasonably practicable).

5.3 Net Out of Settlement Amounts. The Non-Defaulting Party shall aggregate all Settlement Amounts into a single amount by: netting out (a) all Settlement Amounts that are due to the Defaulting Party, plus, at the option of the Non-Defaulting Party, any cash or other form of security then available to the Non-Defaulting Party pursuant to Article Eight, plus any or all other amounts due to the Defaulting Party under this Agreement against (b) all Settlement Amounts that are due to the Non-Defaulting Party, plus any or all other amounts due to the Non-Defaulting Party under this Agreement, so that all such amounts shall be netted out to a single liquidated amount (the “Termination Payment”) payable by one Party to the other. The Termination Payment shall be due to or due from the Non-Defaulting Party as appropriate.

5.4 Notice of Payment of Termination Payment. As soon as practicable after a liquidation, notice shall be given by the Non-Defaulting Party to the Defaulting Party of the amount of the Termination Payment and whether the Termination Payment is due to or due from the Non-Defaulting Party. The notice shall include a written statement explaining in reasonable detail the calculation of such amount. The Termination Payment shall be made by the Party that owes it within two (2) Business Days after such notice is effective.

5.5 Disputes With Respect to Termination Payment. If the Defaulting Party disputes the Non-Defaulting Party’s calculation of the Termination Payment, in whole or in part, the Defaulting Party shall, within two (2) Business Days of receipt of Non-Defaulting Party’s calculation of the Termination Payment, provide to the Non-Defaulting Party a detailed written explanation of the basis for such dispute; provided, however, that if the Termination Payment is due from the Defaulting Party, the Defaulting Party shall first transfer Performance Assurance to the Non-Defaulting Party in an amount equal to the Termination Payment.

5.6 Closeout Setoffs.

Option A: After calculation of a Termination Payment in accordance with Section 5.3, if the Defaulting Party would be owed the Termination Payment, the Non-Defaulting Party shall be entitled, at its option and in its discretion, to (i) set off against such Termination Payment any amounts due and owing by the Defaulting Party to the Non-Defaulting Party under any other agreements, instruments or undertakings between the Defaulting Party and the Non-Defaulting Party and/or (ii) to the extent the Transactions are not yet liquidated in accordance with Section 5.2, withhold payment of the Termination Payment to the Defaulting Party. The remedy provided for in this Section shall be without prejudice and in addition to any right of setoff, combination of accounts, lien or other right to which any Party is at any time otherwise entitled (whether by operation of law, contract or otherwise).

Option B: After calculation of a Termination Payment in accordance with Section 5.3, if the Defaulting Party would be owed the Termination Payment, the Non-Defaulting Party shall be entitled, at its option and in its discretion, to (i) set off against such Termination Payment any amounts due and owing by the Defaulting Party or any of its Affiliates to the Non-Defaulting Party or any of its Affiliates under any other agreements, instruments or undertakings between the Defaulting Party or any of its Affiliates and the Non-Defaulting Party or any of its Affiliates and/or (ii) to the extent the Transactions are not yet liquidated in accordance with Section 5.2, withhold payment of the Termination Payment to the Defaulting Party. The remedy provided for in this Section shall be without prejudice and in addition to any right of setoff, combination of accounts, lien or other right to which any Party is at any time otherwise entitled (whether by operation of law, contract or otherwise).

Option C: Neither Option A nor B shall apply.

5.7 Suspension of Performance. Notwithstanding any other provision of this Master Agreement, if (a) an Event of Default or (b) a Potential Event of Default shall have occurred and be continuing, the Non-Defaulting Party, upon written notice to the Defaulting Party, shall have the right (i) to suspend performance under any or all Transactions; provided, however, in no event shall any such suspension continue for longer than ten (10) NERC Business Days with respect to any single Transaction unless an early Termination Date shall have been declared and notice thereof pursuant to Section 5.2 given, and (ii) to the extent an Event of Default shall have occurred and be continuing to exercise any remedy available at law or in equity.

ARTICLE SIX: PAYMENT AND NETTING

6.1 Billing Period. Unless otherwise specifically agreed upon by the Parties in a Transaction, the calendar month shall be the standard period for all payments under this Agreement (other than Termination Payments and, if “Accelerated Payment of Damages” is specified by the Parties in the Cover Sheet, payments pursuant to Section 4.1 or 4.2 and Option premium payments pursuant to Section 6.7). As soon as practicable after the end of each month, each Party will render to the other Party an invoice for the payment obligations, if any, incurred hereunder during the preceding month.

6.2 Timeliness of Payment. Unless otherwise agreed by the Parties in a Transaction, all invoices under this Master Agreement shall be due and payable in accordance with each Party’s invoice instructions on or before the later of the twentieth (20th) day of each month, or tenth (10th) day after receipt of the invoice or, if such day is not a Business Day, then on the next Business Day. Each Party will make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. Any amounts not paid by the due date will be deemed delinquent and will accrue interest at the Interest Rate, such interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full.

6.3 Disputes and Adjustments of Invoices. A Party may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice, rendered under this Agreement or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with notice of the objection given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within two (2) Business Days of such resolution along with interest accrued at the Interest Rate from and including the due date to but excluding the date paid. Inadvertent overpayments shall be returned upon request or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Interest Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment. Any dispute with respect to an invoice is waived unless the other Party is notified in accordance with this Section 6.3 within twelve (12) months after the invoice is rendered or any specific adjustment to the invoice is made. If an invoice is not rendered within twelve (12) months after the close of the month during which performance of a Transaction occurred, the right to payment for such performance is waived.

6.4 Netting of Payments. The Parties hereby agree that they shall discharge mutual debts and payment obligations due and owing to each other on the same date pursuant to all Transactions through netting, in which case all amounts owed by each Party to the other Party for the purchase and sale of Products during the monthly billing period under this Master Agreement, including any related damages calculated pursuant to Article Four (unless one of the Parties elects to accelerate payment of such amounts as permitted by Article Four), interest, and payments or credits, shall be netted so that only the excess amount remaining due shall be paid by the Party who owes it.

6.5 Payment Obligation Absent Netting. If no mutual debts or payment obligations exist and only one Party owes a debt or obligation to the other during the monthly billing period, including, but not limited to, any related damage amounts calculated pursuant to Article Four, interest, and payments or credits, that Party shall pay such sum in full when due.

6.6 Security. Unless the Party benefiting from Performance Assurance or a guaranty notifies the other Party in writing, and except in connection with a liquidation and termination in accordance with Article Five, all amounts netted pursuant to this Article Six shall not take into account or include any Performance Assurance or guaranty which may be in effect to secure a Party’s performance under this Agreement.

6.7 Payment for Options. The premium amount for the purchase of an Option shall be paid within two (2) Business Days of receipt of an invoice from the Option Seller. Upon exercise of an Option, payment for the Product underlying such Option shall be due in accordance with Section 6.1.

6.8 Transaction Netting. If the Parties enter into one or more Transactions, which in conjunction with one or more other outstanding Transactions, constitute Offsetting Transactions, then all such Offsetting Transactions may by agreement of the Parties, be netted into a single Transaction under which:

- (a) the Party obligated to deliver the greater amount of Energy will deliver the difference between the total amount it is obligated to deliver and the total amount to be delivered to it under the Offsetting Transactions, and
- (b) the Party owing the greater aggregate payment will pay the net difference owed between the Parties.

Each single Transaction resulting under this Section shall be deemed part of the single, indivisible contractual arrangement between the parties, and once such resulting Transaction occurs, outstanding obligations under the Offsetting Transactions which are satisfied by such offset shall terminate.

ARTICLE SEVEN: LIMITATIONS

7.1 Limitation of Remedies, Liability and Damages. EXCEPT AS SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY; THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN OR IN A TRANSACTION, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

ARTICLE EIGHT: CREDIT AND COLLATERAL REQUIREMENTS

8.1 Party A Credit Protection. The applicable credit and collateral requirements shall be as specified on the Cover Sheet. If no option in Section 8.1(a) is specified on the Cover Sheet, Section 8.1(a) Option C shall apply exclusively. If none of Sections 8.1(b), 8.1(c) or 8.1(d) are specified on the Cover Sheet, Section 8.1(b) shall apply exclusively.

- (a) Financial Information. Option A: If requested by Party A, Party B shall deliver (i) within 120 days following the end of each fiscal year, a copy of Party B's annual report containing audited consolidated financial statements for such fiscal year and (ii) within 60 days after the end of each of its first three fiscal quarters of each fiscal year, a copy of Party B's quarterly report containing unaudited consolidated financial statements for such fiscal quarter. In all cases the statements shall be for the most recent accounting period and prepared in accordance with generally accepted accounting principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as Party B diligently pursues the preparation, certification and delivery of the statements.

Option B: If requested by Party A, Party B shall deliver (i) within 120 days following the end of each fiscal year, a copy of the annual report containing audited consolidated financial statements for such fiscal year for the party(s) specified on the Cover Sheet and (ii) within 60 days after the end of each of its first three fiscal quarters of each fiscal year, a copy of quarterly report containing unaudited consolidated financial statements for such fiscal quarter for the party(s) specified on the Cover Sheet. In all cases the statements shall be for the most recent accounting period and shall be prepared in accordance with generally accepted accounting principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as the relevant entity diligently pursues the preparation, certification and delivery of the statements.

Option C: Party A may request from Party B the information specified in the Cover Sheet.

- (b) Credit Assurances. If Party A has reasonable grounds to believe that Party B's creditworthiness or performance under this Agreement has become unsatisfactory, Party A will provide Party B with written notice requesting Performance Assurance in an amount determined by Party A in a commercially reasonable manner. Upon receipt of such notice Party B shall have three (3) Business Days to remedy the situation by providing such Performance Assurance to Party A. In the event that Party B fails to provide such Performance Assurance, or a guaranty or other credit assurance acceptable to Party A within three (3) Business Days of receipt of notice, then an Event of Default under Article Five will be deemed to have occurred and Party A will be entitled to the remedies set forth in Article Five of this Master Agreement.
- (c) Collateral Threshold. If at any time and from time to time during the term of this Agreement (and notwithstanding whether an Event of Default has occurred), the Termination Payment that would be owed to Party A plus Party B's Independent Amount, if any, exceeds the Party B Collateral Threshold, then Party A, on any Business Day, may request that Party B provide Performance Assurance in an amount equal to the amount by which the Termination Payment plus Party B's Independent Amount, if any, exceeds the Party B Collateral Threshold (rounding upwards for any fractional amount to the next Party B Rounding Amount) ("Party B Performance Assurance"), less any Party B Performance Assurance already posted with Party A. Such Party B Performance Assurance shall be delivered to Party A within three (3) Business Days of the date of such request. On any Business Day (but no more frequently than weekly with respect to Letters of Credit and daily with respect to cash), Party B, at its sole cost, may request that such Party B Performance Assurance be reduced correspondingly to the amount of such excess Termination Payment plus Party B's Independent Amount, if any, (rounding upwards for any fractional amount to the next Party B Rounding Amount). In the event that Party B fails to provide Party B Performance Assurance pursuant to the terms of this Article Eight within three (3) Business Days, then an Event of Default under Article Five shall be deemed to have occurred and Party A will be entitled to the remedies set forth in Article Five of this Master Agreement.

For purposes of this Section 8.1(c), the calculation of the Termination Payment shall be calculated pursuant to Section 5.3 by Party A as if all outstanding Transactions had been liquidated, and in addition thereto, shall include all amounts owed but not yet paid by Party B to Party A, whether or not such amounts are due, for performance already provided pursuant to any and all Transactions.

- (d) Downgrade Event. If at any time there shall occur a Downgrade Event in respect of Party B, then Party A may require Party B to provide Performance Assurance in an amount determined by Party A in a commercially reasonable manner. In the event Party B shall fail to provide such Performance Assurance or a guaranty or other credit assurance acceptable to Party A within three (3) Business Days of receipt of notice, then an Event of Default shall be deemed to have occurred and Party A will be entitled to the remedies set forth in Article Five of this Master Agreement.
- (e) If specified on the Cover Sheet, Party B shall deliver to Party A, prior to or concurrently with the execution and delivery of this Master Agreement a guarantee in an amount not less than the Guarantee Amount specified on the Cover Sheet and in a form reasonably acceptable to Party A.

8.2 Party B Credit Protection. The applicable credit and collateral requirements shall be as specified on the Cover Sheet. If no option in Section 8.2(a) is specified on the Cover Sheet, Section 8.2(a) Option C shall apply exclusively. If none of Sections 8.2(b), 8.2(c) or 8.2(d) are specified on the Cover Sheet, Section 8.2(b) shall apply exclusively.

- (a) Financial Information. Option A: If requested by Party B, Party A shall deliver (i) within 120 days following the end of each fiscal year, a copy of Party A's annual report containing audited consolidated financial statements for such fiscal year and (ii) within 60 days after the end of each of its first three fiscal quarters of each fiscal year, a copy of such Party's quarterly report containing unaudited consolidated financial statements for such fiscal quarter. In all cases the statements shall be for the most recent accounting period and prepared in accordance with generally accepted accounting principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as such Party diligently pursues the preparation, certification and delivery of the statements.

Option B: If requested by Party B, Party A shall deliver (i) within 120 days following the end of each fiscal year, a copy of the annual report containing audited consolidated financial statements for such fiscal year for the party(s) specified on the Cover Sheet and (ii) within 60 days after the end of each of its first three fiscal quarters of each fiscal year, a copy of quarterly report containing unaudited consolidated financial statements for such fiscal quarter for the party(s) specified on the Cover Sheet. In all cases the statements shall be for the most recent accounting period and shall be prepared in accordance with generally accepted accounting principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as the relevant entity diligently pursues the preparation, certification and delivery of the statements.

Option C: Party B may request from Party A the information specified in the Cover Sheet.

- (b) Credit Assurances. If Party B has reasonable grounds to believe that Party A's creditworthiness or performance under this Agreement has become unsatisfactory, Party B will provide Party A with written notice requesting Performance Assurance in an amount determined by Party B in a commercially reasonable manner. Upon receipt of such notice Party A shall have three (3) Business Days to remedy the situation by providing such Performance Assurance to Party B. In the event that Party A fails to provide such Performance Assurance, or a guaranty or other credit assurance acceptable to Party B within three (3) Business Days of receipt of notice, then an Event of Default under Article Five will be deemed to have occurred and Party B will be entitled to the remedies set forth in Article Five of this Master Agreement.
- (c) Collateral Threshold. If at any time and from time to time during the term of this Agreement (and notwithstanding whether an Event of Default has occurred), the Termination Payment that would be owed to Party B plus Party A's Independent Amount, if any, exceeds the Party A Collateral Threshold, then Party B, on any Business Day, may request that Party A provide Performance Assurance in an amount equal to the amount by which the Termination Payment plus Party A's Independent Amount, if any, exceeds the Party A Collateral Threshold (rounding upwards for any fractional amount to the next Party A Rounding Amount) ("Party A Performance Assurance"), less any Party A Performance Assurance already posted with Party B. Such Party A Performance Assurance shall be delivered to Party B within three (3) Business Days of the date of such request. On any Business Day (but no more frequently than weekly with respect to Letters of Credit and daily with respect to cash), Party A, at its sole cost, may request that such Party A Performance Assurance be reduced correspondingly to the amount of such excess Termination Payment plus Party A's Independent Amount, if any, (rounding upwards for any fractional amount to the next Party A Rounding Amount). In the event that Party A fails to provide Party A Performance Assurance pursuant to the terms of this Article Eight within three (3) Business Days, then an Event of Default under Article Five shall be deemed to have occurred and Party B will be entitled to the remedies set forth in Article Five of this Master Agreement.

For purposes of this Section 8.2(c), the calculation of the Termination Payment shall be calculated pursuant to Section 5.3 by Party B as if all outstanding Transactions had been liquidated, and in addition thereto, shall include all amounts owed but not yet paid by Party A to Party B, whether or not such amounts are due, for performance already provided pursuant to any and all Transactions.

- (d) Downgrade Event. If at any time there shall occur a Downgrade Event in respect of Party A, then Party B may require Party A to provide Performance Assurance in an amount determined by Party B in a commercially reasonable manner. In the event Party A shall fail to provide such Performance Assurance or a guaranty or other credit assurance acceptable to Party B within three (3) Business Days of receipt of notice, then an Event of Default shall be deemed to have occurred and Party B will be entitled to the remedies set forth in Article Five of this Master Agreement.
- (e) If specified on the Cover Sheet, Party A shall deliver to Party B, prior to or concurrently with the execution and delivery of this Master Agreement a guarantee in an amount not less than the Guarantee Amount specified on the Cover Sheet and in a form reasonably acceptable to Party B.

8.3 Grant of Security Interest/Remedies. To secure its obligations under this Agreement and to the extent either or both Parties deliver Performance Assurance hereunder, each Party (a "Pledgor") hereby grants to the other Party (the "Secured Party") a present and continuing security interest in, and lien on (and right of setoff against), and assignment of, all cash collateral and cash equivalent collateral and any and all proceeds resulting therefrom or the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of, such Secured Party, and each Party agrees to take such action as the other Party reasonably requires in order to perfect the Secured Party's first-priority security interest in, and lien on (and right of setoff against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof. Upon or any time after the occurrence or deemed occurrence and during the continuation of an Event of Default or an Early Termination Date, the Non-Defaulting Party may do any one or more of the following: (i) exercise any of the rights and remedies of a Secured Party with respect to all Performance Assurance, including any such rights and remedies under law then in effect; (ii) exercise its rights of setoff against any and all property of the Defaulting Party in the possession of the Non-Defaulting Party or its agent; (iii) draw on any outstanding Letter of Credit issued for its benefit; and (iv) liquidate all Performance Assurance then held by or for the benefit of the Secured Party free from any claim or right of any nature whatsoever of the Defaulting Party. The Secured Party shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce the Pledgor's obligations under the Agreement (the Pledgor remaining liable for any amounts owing to the Secured Party after such application), subject to the Secured Party's obligation to return any surplus proceeds remaining after such obligations are satisfied in full.

ARTICLE NINE: GOVERNMENTAL CHARGES

9.1 Cooperation. Each Party shall use reasonable efforts to implement the provisions of and to administer this Master Agreement in accordance with the intent of the parties to minimize all taxes, so long as neither Party is materially adversely affected by such efforts.

9.2 Governmental Charges. Seller shall pay or cause to be paid all taxes imposed by any government authority ("Governmental Charges") on or with respect to the Product or a Transaction arising prior to the Delivery Point. Buyer shall pay or cause to be paid all Governmental Charges on or with respect to the Product or a Transaction at and from the Delivery Point (other than ad valorem, franchise or income taxes which are related to the sale of the Product and are, therefore, the responsibility of the Seller). In the event Seller is required by law or regulation to remit or pay Governmental Charges which are Buyer's responsibility hereunder, Buyer shall promptly reimburse Seller for such Governmental Charges. If Buyer is required by law or regulation to remit or pay Governmental Charges which are Seller's responsibility hereunder, Buyer may deduct the amount of any such Governmental Charges from the sums due to Seller under Article 6 of this Agreement. Nothing shall obligate or cause a Party to pay or be liable to pay any Governmental Charges for which it is exempt under the law.

ARTICLE TEN: MISCELLANEOUS

10.1 Term of Master Agreement. The term of this Master Agreement shall commence on the Effective Date and shall remain in effect until terminated by either Party upon (thirty) 30 days' prior written notice; provided, however, that such termination shall not affect or excuse the performance of either Party under any provision of this Master Agreement that by its terms survives any such termination and, provided further, that this Master Agreement and any other documents executed and delivered hereunder shall remain in effect with respect to the Transaction(s) entered into prior to the effective date of such termination until both Parties have fulfilled all of their obligations with respect to such Transaction(s), or such Transaction(s) that have been terminated under Section 5.2 of this Agreement.

10.2 Representations and Warranties. On the Effective Date and the date of entering into each Transaction, each Party represents and warrants to the other Party that:

- (i) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;
- (ii) it has all regulatory authorizations necessary for it to legally perform its obligations under this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3);
- (iii) the execution, delivery and performance of this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3) are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it;
- (iv) this Master Agreement, each Transaction (including any Confirmation accepted in accordance with Section 2.3), and each other document executed and delivered in accordance with this Master Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms; subject to any Equitable Defenses.
- (v) it is not Bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt;
- (vi) there is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3);
- (vii) no Event of Default or Potential Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3);
- (viii) it is acting for its own account, has made its own independent decision to enter into this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3) and as to whether this Master Agreement and each such Transaction (including any Confirmation accepted in accordance with Section 2.3) is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3);

- (ix) it is a “forward contract merchant” within the meaning of the United States Bankruptcy Code;
- (x) it has entered into this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3) in connection with the conduct of its business and it has the capacity or ability to make or take delivery of all Products referred to in the Transaction to which it is a Party;
- (xi) with respect to each Transaction (including any Confirmation accepted in accordance with Section 2.3) involving the purchase or sale of a Product or an Option, it is a producer, processor, commercial user or merchant handling the Product, and it is entering into such Transaction for purposes related to its business as such; and
- (xii) the material economic terms of each Transaction are subject to individual negotiation by the Parties.

10.3 Title and Risk of Loss. Title to and risk of loss related to the Product shall transfer from Seller to Buyer at the Delivery Point. Seller warrants that it will deliver to Buyer the Quantity of the Product free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto by any person arising prior to the Delivery Point.

10.4 Indemnity. Each Party shall indemnify, defend and hold harmless the other Party from and against any Claims arising from or out of any event, circumstance, act or incident first occurring or existing during the period when control and title to Product is vested in such Party as provided in Section 10.3. Each Party shall indemnify, defend and hold harmless the other Party against any Governmental Charges for which such Party is responsible under Article Nine.

10.5 Assignment. Neither Party shall assign this Agreement or its rights hereunder without the prior written consent of the other Party, which consent may be withheld in the exercise of its sole discretion; provided, however, either Party may, without the consent of the other Party (and without relieving itself from liability hereunder), (i) transfer, sell, pledge, encumber or assign this Agreement or the accounts, revenues or proceeds hereof in connection with any financing or other financial arrangements, (ii) transfer or assign this Agreement to an affiliate of such Party which affiliate’s creditworthiness is equal to or higher than that of such Party, or (iii) transfer or assign this Agreement to any person or entity succeeding to all or substantially all of the assets whose creditworthiness is equal to or higher than that of such Party; provided, however, that in each such case, any such assignee shall agree in writing to be bound by the terms and conditions hereof and so long as the transferring Party delivers such tax and enforceability assurance as the non-transferring Party may reasonably request.

10.6 Governing Law. THIS AGREEMENT AND THE RIGHTS AND DUTIES OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED, ENFORCED AND PERFORMED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. EACH PARTY WAIVES ITS RESPECTIVE RIGHT TO ANY JURY TRIAL WITH RESPECT TO ANY LITIGATION ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT.

10.7 Notices. All notices, requests, statements or payments shall be made as specified in the Cover Sheet. Notices (other than scheduling requests) shall, unless otherwise specified herein, be in writing and may be delivered by hand delivery, United States mail, overnight courier service or facsimile. Notice by facsimile or hand delivery shall be effective at the close of business on the day actually received, if received during business hours on a Business Day, and otherwise shall be effective at the close of business on the next Business Day. Notice by overnight United States mail or courier shall be effective on the next Business Day after it was sent. A Party may change its addresses by providing notice of same in accordance herewith.

10.8 General. This Master Agreement (including the exhibits, schedules and any written supplements hereto), the Party A Tariff, if any, the Party B Tariff, if any, any designated collateral, credit support or margin agreement or similar arrangement between the Parties and all Transactions (including any Confirmation accepted in accordance

with Section 2.3) constitute the entire agreement between the Parties relating to the subject matter. Notwithstanding the foregoing, any collateral, credit support or margin agreement or similar arrangement between the Parties shall, upon designation by the Parties, be deemed part of this Agreement and shall be incorporated herein by reference. This Agreement shall be considered for all purposes as prepared through the joint efforts of the parties and shall not be construed against one party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof. Except to the extent herein provided for, no amendment or modification to this Master Agreement shall be enforceable unless reduced to writing and executed by both Parties. Each Party agrees if it seeks to amend any applicable wholesale power sales tariff during the term of this Agreement, such amendment will not in any way affect outstanding Transactions under this Agreement without the prior written consent of the other Party. Each Party further agrees that it will not assert, or defend itself, on the basis that any applicable tariff is inconsistent with this Agreement. This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement). Waiver by a Party of any default by the other Party shall not be construed as a waiver of any other default. Any provision declared or rendered unlawful by any applicable court of law or regulatory agency or deemed unlawful because of a statutory change (individually or collectively, such events referred to as "Regulatory Event") will not otherwise affect the remaining lawful obligations that arise under this Agreement; and provided, further, that if a Regulatory Event occurs, the Parties shall use their best efforts to reform this Agreement in order to give effect to the original intention of the Parties. The term "including" when used in this Agreement shall be by way of example only and shall not be considered in any way to be in limitation. The headings used herein are for convenience and reference purposes only. All indemnity and audit rights shall survive the termination of this Agreement for twelve (12) months. This Agreement shall be binding on each Party's successors and permitted assigns.

10.9 Audit. Each Party has the right, at its sole expense and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this Master Agreement. If requested, a Party shall provide to the other Party statements evidencing the Quantity delivered at the Delivery Point. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof will be made promptly and shall bear interest calculated at the Interest Rate from the date the overpayment or underpayment was made until paid; provided, however, that no adjustment for any statement or payment will be made unless objection to the accuracy thereof was made prior to the lapse of twelve (12) months from the rendition thereof, and thereafter any objection shall be deemed waived.

10.10 Forward Contract. The Parties acknowledge and agree that all Transactions constitute "forward contracts" within the meaning of the United States Bankruptcy Code.

10.11 Confidentiality. If the Parties have elected on the Cover Sheet to make this Section 10.11 applicable to this Master Agreement, neither Party shall disclose the terms or conditions of a Transaction under this Master Agreement to a third party (other than the Party's employees, lenders, counsel, accountants or advisors who have a need to know such information and have agreed to keep such terms confidential) except in order to comply with any applicable law, regulation, or any exchange, control area or independent system operator rule or in connection with any court or regulatory proceeding; provided, however, each Party shall, to the extent practicable, use reasonable efforts to prevent or limit the disclosure. The Parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with, this confidentiality obligation.

SCHEDULE E

(THIS SCHEDULE IS INCLUDED ONLY FOR SALES, DELIVERIES, PURCHASES, AND RECEIPTS AT DISPLACEMENT DELIVERY POINTS IN THE ERCOT REGION)

1. Section 1.1:

“Firm (LD)” means, with respect to a Transaction, that either Party shall be relieved of its obligations to sell and deliver or purchase and receive without liability only to the extent that, and for the period during which, such performance is prevented by Force Majeure. In the absence of Force Majeure, the Party to which performance is owed shall be entitled to receive from the Party which failed to deliver/receive an amount determined pursuant to Article Four of the Base Provisions, except as otherwise provided herein.

“Firm (No Force Majeure)” means, with respect to a Transaction, that if either Party fails to perform its obligation to sell and deliver or purchase and receive the Product, the Party to which performance is owed shall be entitled to receive from the Party which failed to perform an amount determined pursuant to Article Four of the Base Provisions, except as otherwise provided herein. Force Majeure shall not excuse performance of a Firm (No Force Majeure) Transaction, except as otherwise provided herein.

2. Section 3.2:

“With respect to Firm (LD) Transactions and Firm (No Force Majeure) Transactions in the ERCOT region, the following shall apply, notwithstanding any other Scheduling deadlines in the ERCOT Nodal Protocols:

“(A) Definitions:

“DRUC Schedule Deadline” means the time at which ERCOT is required to start the Day-Ahead Reliability Commitment (DRUC) process relating to such day of delivery.

“HRUC Schedule Deadline” means the time at which ERCOT is required to start an Hourly Reliability Unit Commitment (HRUC) process relating to such hour of delivery.

“First HRUC Schedule Deadline” means the HRUC Schedule Deadline which immediately follows the time at which [the Parties entered into the Transaction/Buyer must begin to receive Energy at a Displacement Delivery Point] and which occurs after the start of the next clock hour.

“(B) HRUC Scheduling Requirement: Buyer and Seller shall Schedule each hour’s deliveries of the Product with ERCOT prior to the First HRUC Schedule Deadline unless the time at which [the Transaction was entered into/Buyer must begin to receive Energy at a Displacement Delivery Point] is less than thirty (30) minutes prior to the start of the next clock hour, in which case the HRUC Schedule Deadline immediately following the First HRUC Schedule Deadline shall be the applicable scheduling deadline.

“(C) DRUC Scheduling Requirement: If a Transaction is entered into prior to that day’s DRUC Schedule Deadline, Buyer and Seller shall Schedule such day’s deliveries of the Product with ERCOT prior to that day’s DRUC Schedule Deadline.”

3. Section 4.1:

“If Seller fails to schedule or deliver all or part of the Product pursuant to a Transaction within the ERCOT region and such failure is not excused under the terms of the Product or by Buyer’s failure to perform, then Seller shall pay Buyer, on the date payment would otherwise be due in respect of the month in which the failure

occurred or, if “Accelerated Payment of Damages” is specified on the Cover Sheet, within five (5) Business Days of invoice receipt, (i) an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the Contract Price from the Replacement Price and (ii) an amount equal to the ERCOT charges incurred by Buyer, if any, as a result of Seller’s failure to Schedule a Firm (LD) or Firm (No Force Majeure) Transaction in the ERCOT region prior to any applicable DRUC Schedule Deadline or HRUC Schedule Deadline under *Section 3.2*. The invoice for such amount shall include a written statement explaining in reasonable detail the calculation of such amount.”

4. Section 4.2:

“If Buyer fails to schedule and/or receive all or part of the Product pursuant to a Transaction within the ERCOT region and such failure is not excused under the terms of the Product or by Seller’s failure to perform, then Buyer shall pay Seller, on the date payment would otherwise be due in respect of the month in which the failure occurred or, if “Accelerated Payment of Damages” is specified on the Cover Sheet, within five (5) Business Days of invoice receipt, (i) an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the Sales Price from the Contract Price and (ii) an amount equal to the ERCOT charges incurred by Seller, if any, as a result of Buyer’s failure to Schedule a Firm (LD) or Firm (No Force Majeure) Transaction prior to any applicable DRUC Schedule Deadline or HRUC Schedule Deadline under *Section 3.2*. The invoice for such amount shall include a written statement explaining in reasonable detail the calculation of such amount.”

SCHEDULE M

(THIS SCHEDULE IS INCLUDED IF THE APPROPRIATE BOX IN THE APPLICABLE PURCHASE CONTRACT IS MARKED INDICATING A PARTY IS A GOVERNMENTAL ENTITY OR PUBLIC POWER SYSTEM)

A. The Parties agree to add the following definitions in Article One.

“Act” means as specified in the Purchase Contract.

“Governmental Entity or Public Power System” means a municipality, county, governmental board, public power authority, public utility district, joint action agency, or other similar political subdivision or public entity of the United States, one or more States or territories or any combination thereof.

“Special Fund” means a fund or account of the Governmental Entity or Public Power System set aside and or pledged to satisfy the Public Power System’s obligations hereunder out of which amounts shall be paid to satisfy all of the Public Power System’s obligations under this Master Agreement for the entire Delivery Period.

B. The following sentence shall be added to the end of the definition of “Force Majeure” in Article One.

If the Claiming Party is a Governmental Entity or Public Power System, Force Majeure does not include any action taken by the Governmental Entity or Public Power System in its governmental capacity.

C. The Parties agree to add the following representations and warranties to Section 10.2:

Further and with respect to a Party that is a Governmental Entity or Public Power System, such Governmental Entity or Public Power System represents and warrants to the other Party continuing throughout the term of this Master Agreement, with respect to this Master Agreement and each Transaction, as follows: (i) all acts necessary to the valid execution, delivery and performance of this Master Agreement, including without limitation, competitive bidding, public notice, election, referendum, prior appropriation or other required procedures, if any, has or will be taken and performed as required under the Act and the Public Power System’s ordinances, bylaws or other regulations, (ii) all persons making up the governing body of Governmental Entity or Public Power System are the duly elected or appointed incumbents in their positions and hold such positions in good standing in accordance with the Act and other applicable law, (iii) entry into and performance of this Master Agreement by Governmental Entity or Public Power System are for a proper public purpose within the meaning of the Act and all other relevant constitutional, organic or other governing documents and applicable law, (iv) the term of this Master Agreement does not extend beyond any applicable limitation imposed by the Act or other relevant constitutional, organic or other governing documents and applicable law, (v) the Public Power System’s obligations to make payments hereunder are unsubordinated obligations and such payments are (a) operating and maintenance costs (or similar designation) which enjoy first priority of payment at all times under any and all bond ordinances or indentures to which it is a party, the Act and all other relevant constitutional, organic or other governing documents and applicable law or (b) otherwise not subject to any prior claim under any and all bond ordinances or indentures to which it is a party, the Act and all other relevant constitutional, organic or other governing documents and applicable law and are available without limitation or deduction to satisfy all Governmental Entity or Public Power System’ obligations hereunder and under each Transaction or (c) are to be made solely from a Special Fund, (vi) entry into and performance of this Master Agreement and each Transaction by the Governmental Entity or Public Power System will not adversely affect the exclusion from gross income for federal income tax purposes of interest on any obligation of Governmental Entity or

Public Power System otherwise entitled to such exclusion, and (vii) obligations to make payments hereunder do not constitute any kind of indebtedness of Governmental Entity or Public Power System or create any kind of lien on, or security interest in, any property or revenues of Governmental Entity or Public Power System which, in either case, is proscribed by any provision of the Act or any other relevant constitutional, organic or other governing documents and applicable law, any order or judgment of any court or other agency of government applicable to it or its assets, or any contractual restriction binding on or affecting it or any of its assets.

D. The Parties agree to add the following sections to Article Three:

Section 3.4 Public Power System's Deliveries. On the Effective Date and as a condition to the obligations of the other Party under this Agreement, Governmental Entity or Public Power System shall provide the other Party hereto (i) certified copies of all ordinances, resolutions, public notices and other documents evidencing the necessary authorizations with respect to the execution, delivery and performance by Governmental Entity or Public Power System of this Master Agreement and (ii) unless otherwise provided in the Purchase Contract to which Governmental Entity or Public Power System is a party, an opinion of counsel for Governmental Entity or Public Power System, in form and substance reasonably satisfactory to the Other Party, regarding the validity, binding effect and enforceability of this Master Agreement against Governmental Entity or Public Power System in respect of the Act and all other relevant constitutional organic or other governing documents and applicable law.

Section 3.5 No Immunity Claim. Governmental Entity or Public Power System warrants and covenants that with respect to its contractual obligations hereunder and performance thereof, it will not claim immunity on the grounds of sovereignty or similar grounds with respect to itself or its revenues or assets from (a) suit, (b) jurisdiction of court (including a court located outside the jurisdiction of its organization), (c) relief by way of injunction, order for specific performance or recovery of property, (d) attachment of assets, or (e) execution or enforcement of any judgment.

E. If the appropriate box is checked on the Purchase Contract to which Governmental Entity or Public Power System is a party, as an alternative to selecting one of the options under Section 8.3, the Parties agree to add the following section to Article Three:

Section 3.6 Governmental Entity or Public Power System Security. With respect to each Transaction, Governmental Entity or Public Power System shall either (i) have created and set aside a Special Fund or (ii) upon execution of this Master Agreement and prior to the commencement of each subsequent fiscal year of Governmental Entity or Public Power System during any Delivery Period, have obtained all necessary budgetary approvals and certifications for payment of all of its obligations under this Master Agreement for such fiscal year; any breach of this provision shall be deemed to have arisen during a fiscal period of Governmental Entity or Public Power System for which budgetary approval or certification of its obligations under this Master Agreement is in effect and, notwithstanding anything to the contrary in Article Four, an Early Termination Date shall automatically and without further notice occur hereunder as of such date wherein Governmental Entity or Public Power System shall be treated as the Defaulting Party. Governmental Entity or Public Power System shall have allocated to the Special Fund or its general funds a revenue base that is adequate to cover Public Power System's payment obligations hereunder throughout the entire Delivery Period.

F. If the appropriate box is checked on the Purchase Contract to which Governmental Entity or Public Power System is a party, the Parties agree to add the following section to Article Eight:

Section 8.4 Governmental Security. As security for payment and performance of Public Power System's obligations hereunder, Public Power System hereby pledges, sets over, assigns and grants to the other Party a security interest in all of Public Power System's right, title and interest in and to *[specify collateral]*.

G. The Parties agree to add the following sentence at the end of Section 10.6 - Governing Law:

NOTWITHSTANDING THE FOREGOING, IN RESPECT OF THE APPLICABILITY OF THE ACT, AS DEFINED IN THE APPLICABLE PURCHASE CONTRACT, THE LAWS OF THE STATE OF THE UTILITY'S ORGANIZATION SHALL APPLY.

**EXHIBIT B-1
TO
JOINT POWER PURCHASE CONTRACT**

[FORM OF SUPPLIER ADDENDUM: SEPARATE EXCHANGER-BALANCER]

ADDENDUM TO MASTER POWER PURCHASE AND SALE AGREEMENT

This Addendum to Master Power Purchase and Sale Agreement (herein referred to as this “**Addendum**”), dated as of [date], among [name and description of Utility] (herein referred to as “**Buyer**”), [name and description of Supplier] (herein referred to as “**Seller**”), and [name and description of Exchanger-Balancer] (herein referred to as the “**Exchanger-Balancer**”),

W I T N E S S E T H:

WHEREAS, Buyer and Seller have entered into a [name and date of Supply Contract] (herein, together with supplements and exhibits thereto, extensions and replacements thereof, Confirmations of Transactions thereunder, and amendments thereto entered into by Buyer and Seller from time to time, referred to as the “**Supply Contract**”), under which, for the term, and on the conditions specified therein, Seller has agreed to sell, Schedule, and deliver to Buyer, at the Delivery Points designated therein or pursuant thereto (herein referred to as the “**Supplier Delivery Points**”), a portion of Buyer’s requirements for Energy and other Products specified therein in accordance with transactions agreed to by them from time to time;

WHEREAS, Municipal Power Acquisition and Supply Corporation (herein referred to as “**MuniWatt**”) has entered into or offered to enter into a Purchase Contract (herein referred to as the “**Purchase Contract**”) with the City of La Grange, Texas (herein referred to as the “**Agent**”) and Buyer in order to admit Buyer as a party to a Joint Power Purchase Contract, dated as of September 1, 2022 (herein, as amended from time to time, referred to as the “**Cooperative Contract**”), under which MuniWatt would sell through the Agent to Buyer, and Buyer would purchase from the Agent, at the Supplier Delivery Points certain Quantities of Energy at a lower price than the price of Energy sold to Buyer by or on behalf of Seller pursuant to the Supply Contract;

WHEREAS, in order to enable MuniWatt to perform its obligations under the Cooperative Contract without excessive transmission costs (and to accommodate temporary imbalances in supply of and demand) for Energy to be sold by the Agent to Buyer pursuant to the Cooperative Contract, MuniWatt and the Exchanger-Balancer have entered into an Energy Exchange and Balancing Agreement, dated as of [date] (as amended from time to time, herein referred to as the “**Exchange Agreement**”), under which the Exchanger-Balancer is required to deliver certain Quantities of Energy to MuniWatt or its designee at the Supplier Delivery Points, from and to the extent of Energy sold to the Exchanger-Balancer by Seller pursuant hereto, in exchange for Energy delivered by MuniWatt to the Exchanger-Balancer at one or more other locations or payments by MuniWatt’s designee;

WHEREAS, Seller is willing to enter into this Addendum to sell Energy to the Exchanger-Balancer at the Supplier Delivery Points and to reduce the Quantities of Energy required to be purchased by Buyer from Seller at the Supplier Delivery Points pursuant to the Supply Contract; and

WHEREAS, although the agreement by Seller to sell and by the Exchanger-Balancer to purchase Energy pursuant hereto and the amendment made hereby to the Supply Contract to reduce the Quantities of Energy to be purchased and sold thereunder, respectively, are being documented together in

this Addendum for convenience, they are independent two-party transactions for which other parties to this Addendum bear no liability (except only as expressly stated herein);

NOW, THEREFORE, for and in consideration of the premises and of the mutual covenants, agreements, conditions, and undertakings herein set forth, the parties hereto agree as follows:

1. Sale and Delivery to the Exchanger-Balancer. During each month, day, hour, and other interval specified in the Supply Contract while the Supply Contract and this Addendum are in effect, Seller shall sell and deliver, or cause to be delivered, to the Exchanger-Balancer, and the Exchanger-Balancer shall purchase and receive, or cause to be received from Seller, at the Supplier Delivery Points and for the same price as the price for Energy sold by Seller to Buyer pursuant to the Supply Contract, quantities of Energy equal to the Seller's Share of the Quantities of Energy to be sold to Buyer at the Supplier Delivery Points in such interval pursuant to the Cooperative Contract, but not more than the lesser of (a) the maximum Quantity of Energy then required to be sold and delivered by Seller to Buyer at the Supplier Delivery Points pursuant to the Supply Contract, determined without giving effect to *Section 2* hereof, or (b) the maximum Quantity, if any, that may be sold to the Exchanger-Balancer hereunder without causing the aggregate price for Energy sold by Seller to the Exchanger-Balancer hereunder in the same month to exceed the Seller's Share of the Monthly Cap specified in or pursuant to the Purchase Contract. Such sale and purchase of Energy between Seller and the Exchanger-Balancer shall be made on the same terms (including warranties and indemnities of Seller and the effect of *force majeure*) and subject to the same conditions as the terms and conditions of the Supply Contract to the same extent and for all purposes as if Seller and the Exchanger-Balancer had entered into the Supply Contract, except as otherwise provided herein and except that the Exchanger-Balancer shall not make (and shall not be deemed to have made) any representations, warranties, covenants, or certifications of Buyer or Seller under the Supply Contract and Seller shall not have the right to audit the Exchanger-Balancer's books and records.

If more than one price is set forth in the Supply Contract for Energy sold and delivered thereunder by Seller to Buyer in any interval (*e.g.*, due to differences between peak and off-peak deliveries or discrepancies from Scheduled Quantities), the price for Energy sold to the Exchanger-Balancer pursuant to this Addendum in such interval shall be the weighted average price for Energy sold and delivered by Seller to Buyer pursuant to the Supply Contract. Solely for purposes of computing any such weighted average price, all Energy sold by Seller to Buyer or the Exchanger-Balancer at the Supplier Delivery Points in an interval pursuant to this Addendum or the Supply Contract shall be deemed to have been sold and delivered to Buyer.

If Buyer and Seller resolve any dispute between them regarding the price of Energy sold (or, but for this Addendum, to have been sold) by Seller to Buyer under the Supply Contract in any interval, or if any such dispute shall be resolved by arbitration or judicial proceedings, the price payable by the Exchanger-Balancer to Seller hereunder for Energy sold and delivered in the same interval shall be adjusted to the net price resulting from such resolution, and Seller shall promptly rebate to the Exchanger-Balancer any excess paid by the Exchanger-Balancer for such Energy or the Exchanger-Balancer shall promptly pay to Seller any additional amount required to pay for such Energy in full.

Buyer and Seller acknowledge that the net amounts payable by Buyer to Seller pursuant to the Supply Contract (as amended by this Addendum) shall equal the amounts payable by Buyer to Seller pursuant to the Supply Contract (determined as if not amended by this Addendum), less the amounts payable by the Exchanger-Balancer to Seller pursuant to this Addendum.

As used herein, the "***Seller's Share***" for any interval is equal to a fraction, the numerator of which is equal to the Quantity of Energy then required to be sold and delivered by Seller to Buyer at the Supplier Delivery Points pursuant to the Supply Contract, determined without giving effect to *Section 2* hereof, and

the denominator of which is equal to the aggregate Quantity of Energy then required to be sold and delivered to Buyer at the Supplier Delivery Points by Seller and all other Persons who have entered into Addenda with Buyer and Dealer substantially similar to this Addendum (determined without giving effect to such Addenda).

2. *Sale and Delivery to Buyer.* The Quantity of Energy to be sold and delivered, or caused to be delivered, by Seller to Buyer and purchased and received, or caused to be received, by Buyer from Seller at the Supplier Delivery Points pursuant to the Supply Contract in each interval specified therein shall be reduced by the Quantity of Energy sold and delivered, or caused to be delivered, by Seller to the Exchanger-Balancer at the Supplier Delivery Points in such interval pursuant to *Section 1* hereof. If more than one price is set forth in or established under the Supply Contract for Energy sold thereunder by Seller in any such interval, then the price at which such reduced Quantity of Energy shall be sold to and purchased by Buyer thereunder shall be equal to the weighted average price referred to in *Section 1* hereof.

Except for such reduction in the Quantity of Energy to be sold and delivered, or caused to be delivered, by Seller and purchased and received, or caused to be received, by Buyer pursuant to the Supply Contract, all other obligations of such parties under the Supply Contract (including, without limitation, the parties' obligations to Schedule, deliver, and receive all Energy to be sold to Buyer thereunder, their obligations to sell and deliver and purchase and receive all other Product thereunder, and all other covenants, representations, warranties, and certifications of Buyer and Seller thereunder) shall remain in full force and effect, and no such obligations of Buyer are assumed by the Exchanger-Balancer hereunder.

3. *Confirmations, Statements, and Payments.* Buyer shall send (or shall cause Seller to send) a copy of each Transaction Confirmation under the Supply Contract to MuniWatt when and as issued or received, and Buyer shall also compute and, by the third Business Day after each month, shall notify MuniWatt and Seller of the Seller's Share of all Energy purchased and received by Buyer at the Supplier Delivery Points in such month. Under the Cooperative Contract, MuniWatt is obligated to submit a statement to each Buyer, on or before the 10th Day of each month or other date therein provided, stating the Quantity of Energy sold to it under the Cooperative Contract that was delivered by Seller in such month, which is the Quantity of Energy purchased by the Exchanger-Balancer from Seller in such month hereunder. Buyer shall cause MuniWatt to provide, or shall forward, to Seller a copy of each such statement.

Seller shall invoice the Exchanger-Balancer for all Energy sold to it by Seller pursuant to this Addendum in each month, at the price referred to in *Section 1* hereof, by the 10th day of the following month, and the Exchanger-Balancer shall pay such invoice by the later of the 20th day of such following month or 10 days after receipt of such invoice or, if the day for such payment is not a Business Day, then on the next Business Day.

The Exchanger-Balancer shall be entitled to net and set off amounts owing to Seller hereunder against any other amounts owed by Seller to the Exchanger-Balancer under any other agreement between Seller and the Exchanger-Balancer. Buyer does not guaranty and shall not be liable for any payment owed by any party hereto (other than Buyer) to any other party hereto.

4. *Performance Assurance.* Seller shall hold all Performance Assurance received by it under the Supply Contract for the joint benefit of Seller and the Agent as security for the payment obligations of Buyer payable to Seller under the Supply Contract and the Agent under the Cooperative Contract equally and ratably in proportion to the amount payable to each. If and to the extent that Buyer has granted a security interest in such Performance Assurance or any part thereof in favor of Seller, Buyer hereby grants a security interest in the same in favor of the Agent. Notwithstanding any provision of the Supply Contract or Cooperative Contract to the contrary, in no event will Buyer be deemed to grant a security interest in any

Performance Assurance received from Seller, and Buyer shall retain at all times its full rights to and security interest in any existing and future Performance Assurance received from Seller.

5. Scheduling. The Exchanger-Balancer hereby authorizes Seller, as agent for the Exchanger-Balancer, MuniWatt, and the Agent, to Schedule for delivery to the Supplier Delivery Points for the account of Buyer all Energy there sold or required to be sold by Seller to the Exchanger-Balancer hereunder. Seller may do so by Scheduling for delivery to the Supplier Delivery Points the combined total of (1) Energy then and there to be sold by Seller to Buyer under the Supply Contract and (2) Energy then and there to be sold by Seller to the Exchanger-Balancer under this Addendum. The Exchanger-Balancer hereby authorizes Buyer, as agent for the Exchanger-Balancer, to Schedule for receipt at the Supplier Delivery Points all Energy there sold or required to be sold by Seller to the Exchanger-Balancer hereunder. Buyer may do so by Scheduling for receipt at the Supplier Delivery Points the combined total of (1) Energy then and there to be purchased by Buyer from Seller under the Supply Contract and (2) Energy then and there to be sold and delivered by Seller to the Exchanger-Balancer under this Addendum and sold to Buyer under the Cooperative Contract.

6. Exchange Agreement Value. For purposes of the balancing provisions of the Exchange Agreement, the Value of Energy delivered by Exchanger-Balancer to MuniWatt thereunder at the following Supplier Delivery Point(s) shall be as follows:

Supplier Delivery Point	Value
<i>[Describe Supplier Delivery Point]</i>	<i>[Describe the published index or other means for determining the Value of Energy delivered by the Supplier to the Dealer at the Supplier Delivery Point, including any fallback price source]</i>

7. No Liability; Indemnity. Nothing herein shall make MuniWatt, the Agent, or the Exchanger-Balancer a party to the Supply Contract or obligated thereunder. Seller and Buyer agree that the Exchanger-Balancer shall not be liable under any theory to Seller or Buyer for (a) any breach by Buyer of any term of the Supply Contract, the Cooperative Contract, this Addendum, or any other contract to which Buyer is a party, (b) any breach by Seller of any of the terms of the Supply Contract, this Addendum, or any other contract to which Seller is a party, or (c) any breach by either Seller or Buyer, or their agents, of any duty of care, law, regulation, or other legal obligation applicable to it, for Energy sold by Seller to Buyer (or to the Exchanger-Balancer hereunder) pursuant to the Supply Contract or any other supply arrangement applicable to any third party seller of Energy to Buyer (or to the Exchanger-Balancer hereunder). The Exchanger-Balancer and Buyer agree that Seller likewise shall not be liable under any theory to Buyer or the Exchanger-Balancer for (a) any breach by Buyer of any term of the Supply Contract, the Cooperative Contract, or any other contract to which Buyer is a party, (b) any breach by the Exchanger-Balancer of any of the terms of the Exchange Agreement or any other contract to which it is a party, or (c) any breach by either the Exchanger-Balancer or Buyer of any duty of care, law, regulation, or other legal obligation applicable to it, for Energy sold or exchanged by the Exchanger-Balancer pursuant to the Exchange Agreement.

Except for the obligations to receive and purchase Energy at the price described in *Section 1*, the Exchanger-Balancer shall have no obligations or liabilities in favor of Seller or any other person hereunder or under the Supply Contract (whether or not in the context of Force Majeure), including, without limitation, obligations or liabilities (i) for taxes, warranties of title or merchantability, indemnities, scheduling fees,

imbalance charges, overpull or unauthorized Energy penalties or charges, or similar costs or losses resulting from the liquidation of hedge positions or (ii) to maintain or operate any transmission facilities, to manage transmission contracts or capacity, to enter into financial hedge transactions with Buyer, to provide risk management services or consulting services of any type (including, but not limited to, hedging strategies, projecting Energy supply costs and fuel requirements, or regulatory services), to pay any early termination damages or cover damages, to provide Performance Assurance or other security or collateral, to provide any type of fixed price, trigger price, or other risk management products to Buyer, or to act as agent in any capacity for Buyer or Seller under the Supply Contract.

The obligations of the Exchanger-Balancer to Seller hereunder shall not be affected by any failure by MuniWatt to observe and perform its obligations under the Exchange Agreement or any imbalance existing thereunder.

Seller shall indemnify the Exchanger-Balancer and hold it harmless from and against any loss, cost, or liability accruing to the Exchanger-Balancer resulting from (a) any claim by Buyer or any other person of breach by Seller of, or negligence or misconduct by Seller in performance under, the Supply Contract or this Addendum, or breach of any duty of care, law, regulation, or other legal obligation applicable to Seller in connection therewith or herewith, (b) any claim which attaches before title to Energy sold by Seller to the Exchanger-Balancer hereunder passes to the Exchanger-Balancer, and (c) any failure of Energy sold by Seller to the Exchanger-Balancer hereunder to meet standards under the Supply Contract.

8. Nondisclosure by Exchanger-Balancer. The Exchanger-Balancer shall not disclose to any person the terms of the Supply Contract (the “**Confidential Information**”) except for disclosures of such terms (i) to Municipal Power Partners, Ltd. (“**MPP**”), Municipal Energy Resources Corporation (“**MERC**”), the Agent, MuniWatt, and directors, officers, employees, contractors, auditors, agents, and representatives of and counsel to the Exchanger-Balancer and the Exchanger-Balancer’s parent companies and affiliates (the “**Representatives**”), MPP, MERC, the Agent, or MuniWatt who need the Confidential Information for purposes of performing the services provided under this Addendum, the Exchange Agreement, and all other documents executed by the Exchanger-Balancer in connection herewith and therewith or (ii) that are requested or required (by oral questions, interrogatories, requests for information or documents in legal proceedings, subpoena, civil investigative demand, or other similar process) to be disclosed or otherwise are required to be disclosed by law or in connection with legal proceedings regarding this Addendum, the Exchange Agreement, or the enforcement hereof or thereof. Notwithstanding the foregoing, the following will not constitute Confidential Information for purposes of this Addendum: (i) information which is or becomes generally available to the public other than as a result of a disclosure by the Exchanger-Balancer or its Representatives; (ii) information which was already known to the Exchanger-Balancer on a nonconfidential basis prior to being furnished to the Exchanger-Balancer by Seller or Buyer; and (iii) information which becomes available to the Exchanger-Balancer on a nonconfidential basis from a source other than Seller or Buyer or a representative of Seller or Buyer, if such source was not subject to any prohibition against transmitting the information to the Exchanger-Balancer and was not bound by a confidentiality agreement with Seller or Buyer.

9. Governing Law. This Addendum shall be governed by and construed in accordance with the laws of the State of Texas.

10. Notices. Except as otherwise provided in this Addendum, any notice, request, demand, statement, bill, or other document required to be given to any party by this Addendum, and any notice which any party hereto may desire to give any other party hereto, shall be in writing and will be considered duly delivered when mailed by registered mail, return receipt requested, or sent by facsimile or electronic transmission with receipt acknowledged, to the address or number of the receiving party listed opposite its

signature below or to any other address or number previously furnished in writing for such purpose by the receiving party to the other parties hereto.

11. Successors and Assigns. The provisions of this Addendum shall be binding upon and inure to the benefit of the successors and assigns of each of the parties hereto. No party hereto may assign any of its rights or obligations hereunder without the consent of the other parties hereto, except to a trustee, individual or corporate, as security for bonds, securities, or other contractual obligations. No such consent shall be unreasonably withheld, *provided* that any party may refuse so to consent if the assignee does not meet such party's credit requirements. Upon such consent and assignment, the assigning party shall be released from all further liability hereunder, unless otherwise agreed by it.

12. Waivers. No waiver by any party hereto of any default by any other party hereto in the observance or performance of any provision of this Addendum shall operate as a waiver of any future default, whether of a like or of a different character.

13. Relationship Between the Parties. In connection with the negotiation of, the entering into, and the confirming of the execution of this Addendum, each party hereto acknowledges and agrees: (i) it is acting as principal (and not as agent or in any other capacity, fiduciary or otherwise); (ii) the other party is not acting as a fiduciary or financial or investment advisor for it; (iii) it is not relying upon any representations (whether written or oral) of the other party; (iv) the other party has not given to it (directly or indirectly through any other person) any advice, counsel, assurance, guaranty, or representation whatsoever as to the expected or projected success, profitability, return, performance, result, effect, consequence, or benefit (either legal, regulatory, tax, financial, accounting, or otherwise) of this Addendum; (v) it has consulted with its own legal, regulatory, tax, business, investment, financial, and accounting advisors to the extent it has deemed necessary, and it has made its own investment, hedging, and trading decisions based upon its own judgment and upon any advice from such advisors as it has deemed necessary, and not upon any view expressed by the other party; (vi) all trading decisions have been the result of arm's length negotiations between the parties; and (vii) it is entering into this Addendum with a full understanding of all of the risks hereof and thereof (economic and otherwise), and it is capable of assuming and willing to assume those risks (economic and otherwise).

14. Entire Agreement. This Addendum and the Supply Contract contain the entire agreement among the parties, and except as stated herein or therein there are no oral promises, agreements, warranties, obligations, or conditions, precedent or otherwise, affecting it.

15. Amendments. Any change, modification, or alteration of this Addendum shall be in writing, signed by the parties hereto, and no course of dealing between or among any parties hereto shall be construed to alter any term hereof, except as expressly stated herein. No amendment to the Supply Contract shall affect the rights and obligations of the Exchanger-Balancer hereunder (other than changing the price at which Energy is to be purchased by it hereunder) unless approved in writing by the Exchanger-Balancer. Buyer shall provide the Exchanger-Balancer and MuniWatt with a copy of each such amendment promptly after execution thereof.

16. Severability. Except as otherwise stated herein, if any provision hereof or application thereof shall be declared or rendered unlawful by a court of law or regulatory agency with jurisdiction over any party hereto or deemed unlawful because of a statutory change, the remaining applications thereof and provisions of this Addendum shall nevertheless remain valid and enforceable.

17. Corporate Obligations. No recourse under or upon any obligation, covenant, or agreement contained in this Addendum, or for any claim based thereon or otherwise arising in respect thereof, shall be had against any incorporator or sponsor, or against any past, present, or future director, officer, employee,

or member of the governing body, as such, of any party hereto or of any successor, or against any person or entity with whom any such party has contracted for goods or services, either directly or through such party, whether by virtue of any constitution or statute or rule of law, or by the enforcement of any assessment, judgment, or penalty, or otherwise; it being expressly understood that this Addendum is solely a corporate obligation, and that no such personal liability whatever shall attach to, or is or shall be incurred by, the incorporators, sponsors, directors, officers, or employees, as such, of such party or any successor, or any member of its governing body, or any such contracting person, or any of them, by reason of the obligations, covenants, or agreements contained in this Addendum or implied therefrom, and that any and all such personal liability either at common law or equity or by constitution or statute of, and any and all such rights and claims against, every such incorporator, sponsor, member, director, officer, employee, or person, as such, are hereby expressly waived and released as a condition of, and in consideration for, the execution of this Addendum.

18. Government Regulation. The purchase and sale of Energy by the Exchanger-Balancer, Buyer, and Seller or their designees hereunder are subject to all valid laws with respect to the subject matter hereof and to all valid present and future orders, rules, and regulations of duly constituted governmental authorities having jurisdiction.

19. Benefits of Contract. Nothing in this Addendum, expressed or implied, shall give any benefit or any legal or equitable right, remedy, or claim under this Addendum to any person or entity other than the parties hereto, the Agent, MuniWatt, and their successors and assigns permitted hereby.

20. Effective Date. Notwithstanding the date hereof, this Addendum shall not become operative or effective until the first day of the month following the later of (1) the effective date for qualification of Buyer as a "Participant" under the Exchange Agreement and (2) first effective date for designation of a ["Dealer's Point of Receipt"] under the Exchange Agreement.

21. Term and Termination. This Addendum shall extend for a period of 40 years unless sooner terminated pursuant to this Section. This Addendum shall terminate on the earliest of (a) the cancellation, termination, or expiration of the Supply Contract, (b) the extension, renewal, modification, amendment, or replacement of the Supply Contract in a manner that adversely affects the rights and obligations of the Exchanger-Balancer hereunder (other than by changing the price at which Energy is to be purchased by it hereunder) without the prior written approval of the Exchanger-Balancer, or (c) cancellation, termination, or expiration of the Exchange Agreement or of the rights and obligations of Buyer under the Cooperative Contract. Buyer, Seller, and the Exchanger-Balancer shall give the other parties notice of any such event which is known to it and would result in the termination of this Addendum. In addition, Seller may terminate this Addendum on account of any default by the Exchanger-Balancer in paying its obligations hereunder on the same terms and conditions as Seller may terminate the Supply Contract on account of any such default by Buyer in paying its obligations thereunder. No such termination shall affect the obligations of Seller to indemnify the Exchanger-Balancer.

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have duly authorized and caused this Addendum to be executed as of the date first hereinabove written in multiple originals.

Seller's Addresses and Nos.:

Telephone: () -
Facsimile: () -
Email: _____

[NAME OF SELLER], as Seller

By:
Name:
Title:

Exchanger-Balancer's Addresses and Nos.:

Telephone: () -
Facsimile: () -
Email: _____

**[NAME OF EXCHANGER-BALANCER], as
Exchanger-Balancer**

By:
Name:
Title:

Buyer's Addresses and Nos.:

Telephone: () -
Facsimile: () -
Email: _____

[NAME OF UTILITY], as Buyer

By:
Name:
Title:

**EXHIBIT B-2
TO
JOINT POWER PURCHASE CONTRACT**

[FORM OF SUPPLIER ADDENDUM: NO SEPARATE EXCHANGER-BALANCER]

ADDENDUM TO MASTER POWER PURCHASE AND SALE AGREEMENT

This Addendum to Master Power Purchase and Sale Agreement (herein referred to as this “**Addendum**”), dated as of [date], between [name and description of Utility] (herein referred to as “**Buyer**”) and [name and description of Exchanger-Balancer Supplier] (herein referred to as “**Dealer**”),

W I T N E S S E T H:

WHEREAS, Buyer and Dealer have entered into a [name and date of Supply Contract] (herein, together with supplements and exhibits thereto, extensions and replacements thereof, Confirmations of Transactions thereunder, and amendments thereto entered into by Buyer and Dealer from time to time, referred to as the “**Supply Contract**”), under which, on the terms and conditions specified therein, Dealer has agreed to sell, Schedule, and deliver to Buyer, at the Delivery Points designated therein or pursuant thereto (herein referred to as the “**Supplier Delivery Points**”), a portion of Buyer’s requirements for Energy and other Products specified therein in accordance with transactions agreed to by them from time to time;

WHEREAS, Municipal Power Acquisition and Supply Corporation (herein referred to as “**MuniWatt**”) has entered into or offered to enter into a Purchase Contract (herein referred to as the “**Purchase Contract**”) with the City of La Grange, Texas (herein referred to as the “**Agent**”) and Buyer in order to admit Buyer as a party to a Joint Power Purchase Contract, dated as of September 1, 2022 (herein, as amended from time to time, referred to as the “**Cooperative Contract**”), under which MuniWatt would sell through the Agent to Buyer, and Buyer would purchase from the Agent, at the Supplier Delivery Points certain Quantities of Energy at a lower price than the price of Energy sold to Buyer by or on behalf of Dealer pursuant to the Supply Contract;

WHEREAS, in order to enable MuniWatt to perform its obligations under the Cooperative Contract without excessive transmission costs (and to accommodate temporary imbalances in supply of and demand) for Energy to be sold by the Agent to Buyer pursuant to the Cooperative Contract, MuniWatt and Dealer have entered into an Energy Exchange and Balancing Agreement, dated as of [date] (as amended from time to time, herein referred to as the “**Exchange Agreement**”), under which Dealer is required to deliver certain Quantities of Energy to MuniWatt or its designee at the Supplier Delivery Points in exchange for Energy delivered by MuniWatt to Dealer at one or more other locations or payments by MuniWatt’s designee; and

WHEREAS, to the extent Dealer delivers Energy to MuniWatt or its designee at the Supplier Delivery Points pursuant to this Addendum and the Exchange Agreement, the parties desire to reduce the Quantities of Energy required to be sold and delivered by Dealer to Buyer and received and purchased by Buyer from Dealer at the Supplier Delivery Points pursuant to the Supply Contract;

NOW, THEREFORE, for and in consideration of the premises and of the mutual covenants, agreements, conditions, and undertakings herein set forth, the parties hereto agree as follows:

1. Deliveries by Dealer to MuniWatt. During each month, day, hour, and other interval described in the Supply Contract while the Supply Contract and this Addendum are in effect, Dealer shall

deliver, or cause to be delivered, to MuniWatt or its designee pursuant to the Exchange Agreement, at the Supplier Delivery Points, quantities of Energy equal to the Dealer's Share of the Quantities of Energy to be sold to Buyer at the Supplier Delivery Points in such interval pursuant to the Cooperative Contract, but not more than the lesser of (a) the maximum Quantity of Energy then required to be sold and delivered by Dealer to Buyer at the Supplier Delivery Points pursuant to the Supply Contract, determined without giving effect to *Section 2* hereof, or (b) the maximum Quantity, if any, that may be delivered to MuniWatt hereunder without causing the aggregate Value (as defined in the succeeding paragraph) of Energy delivered by Dealer to MuniWatt hereunder in the same month to exceed the Dealer's Share of the Monthly Cap specified in or pursuant to the Purchase Contract.

Buyer and Dealer acknowledge that the net amounts payable by Buyer to Dealer pursuant to the Supply Contract (as amended by this Addendum) shall equal the amounts payable by Buyer to Dealer pursuant to the Supply Contract (determined as if not amended by this Addendum), less the "**Value**" credited by MuniWatt to Dealer pursuant to the Exchange Agreement for Energy delivered by Dealer to MuniWatt or its designee pursuant to this Addendum, which shall be the weighted average price per MWh payable by Buyer to Dealer pursuant to the Supply Contract for Energy sold and delivered by Dealer to Buyer thereunder in the same interval. Solely for purposes of computing any such weighted average price, all Energy sold and delivered by Dealer to Buyer or delivered by Dealer to MuniWatt at the Supplier Delivery Points in an interval pursuant to this Addendum or the Supply Contract shall be deemed to have been sold and delivered to Buyer.

As used herein, the "**Dealer's Share**" for any interval is equal to a fraction, the numerator of which is equal to the Quantity of Energy then required to be sold and delivered by Dealer to Buyer at the Supplier Delivery Points pursuant to the Supply Contract, determined without giving effect to *Section 2* hereof, and the denominator of which is equal to the aggregate Quantity of Energy then required to be sold and delivered to Buyer at the Supplier Delivery Points by Dealer and all other Persons who have entered into Addenda with Buyer and Dealer substantially similar to this Addendum but providing for the sale of Energy by such Persons to Dealer for further delivery to MuniWatt or its designee (determined without giving effect to such Addenda).

2. Sale and Delivery by Dealer to Buyer. The Quantity of Energy to be sold and delivered, or caused to be delivered, by Dealer to Buyer and purchased and received, or caused to be received, by Buyer from Dealer at the Supplier Delivery Points pursuant to the Supply Contract in each interval specified therein shall be reduced by the Quantity of Energy delivered, or caused to be delivered, by Dealer to MuniWatt or its designee pursuant to this Addendum and the Exchange Agreement at the Supplier Delivery Points in such interval pursuant to *Section 1* hereof. If more than one price is set forth in or established under the Supply Contract for Energy sold thereunder by Seller in any such interval, then the price at which such reduced Quantity of Energy shall be sold to and purchased by Buyer thereunder shall be equal to the weighted average price referred to in *Section 1* hereof.

Except for such reduction in the Quantity of Energy to be sold and delivered, or caused to be delivered, by Dealer and purchased and received, or caused to be received, by Buyer pursuant to the Supply Contract, all other obligations of such parties under the Supply Contract (including, without limitation, the parties' obligations to Schedule, deliver, and receive all Energy to be sold to Buyer thereunder, their obligations to sell and deliver and purchase and receive all other Product thereunder, and all other covenants, representations, warranties, and certifications of Buyer and Dealer thereunder) shall remain in full force and effect.

3. Confirmations, Statements, and Payments. Buyer shall send (or shall cause Dealer, in its capacity as seller under the Supply Contract, to send) a copy of each Transaction Confirmation under the Supply Contract to MuniWatt when and as issued or received, and Buyer shall also compute and, by the

third Business Day after each month, shall notify MuniWatt and Dealer of the Dealer's Share of all Energy purchased and received by Buyer at the Supplier Delivery Points in such month. Under the Cooperative Contract, MuniWatt is obligated to submit a statement to each Buyer, on or before the 10th day of each month or other date therein provided, stating the Quantity of Energy sold to it under the Cooperative Contract that was delivered by Dealer in such month. Buyer shall cause MuniWatt to provide, or shall forward, to Dealer a copy of each such statement.

4. Performance Assurance. Dealer shall hold all Performance Assurance received by it under the Supply Contract for the joint benefit of Dealer and the Agent as security for the payment obligations of Buyer payable to Dealer under the Supply Contract and the Agent under the Cooperative Contract equally and ratably in proportion to the amount payable to each. If and to the extent that Buyer has granted a security interest in such Performance Assurance or any part thereof in favor of Dealer, Buyer hereby grants a security interest in the same in favor of the Agent. Notwithstanding any provision of the Supply Contract or Cooperative Contract to the contrary, in no event will Buyer be deemed to grant a security interest in any Performance Assurance received from Dealer, and Buyer shall retain at all times its full rights to and security interest in any existing and future Performance Assurance received from Dealer.

5. Scheduling. Dealer, as agent for MuniWatt and the Agent, shall Schedule for delivery to the Supplier Delivery Points for the account of Buyer all Energy there delivered or required to be delivered by Dealer to MuniWatt hereunder and under the Exchange Agreement. Dealer may do so by Scheduling for delivery to the Supplier Delivery Points the combined total of (1) Energy then and there to be sold by Dealer to Buyer under the Supply Contract and (2) Energy then and there to be delivered by Dealer to MuniWatt under this Addendum and the Exchange Agreement. Buyer, as agent for MuniWatt and the Agent, shall Schedule for receipt at the Supplier Delivery Points all Energy there delivered or required to be delivered by Dealer to MuniWatt hereunder and under the Exchange Agreement. Buyer may do so by Scheduling for receipt at the Supplier Delivery Points the combined total of (1) Energy then and there to be purchased by Buyer from Dealer under the Supply Contract and (2) Energy then and there to be delivered by Dealer to MuniWatt under this Addendum and sold to Buyer under the Cooperative Contract.

6. Exchange Agreement Value. For purposes of the balancing provisions of the Exchange Agreement, the Value of Energy delivered by Dealer to MuniWatt thereunder at the following Supplier Delivery Point(s) shall be as follows:

Supplier Delivery Point	Value
[Describe Supplier Delivery Point]	[Describe the published index or other means for determining the Value of Energy delivered by the Supplier to the Dealer at the Supplier Delivery Point, including any fallback price source]

67 Nondisclosure by Dealer. Dealer shall not disclose to any person the terms of the Supply Contract (the "**Confidential Information**") except that Dealer may disclose such terms (i) to Municipal Power Partners, Ltd. ("**MPP**"), Municipal Energy Resources Corporation ("**MERC**"), the Agent, MuniWatt, and directors, officers, employees, contractors, auditors, agents, and representatives of and counsel to Dealer and Dealer's parent companies and affiliates (the "**Representatives**"), MPP, MERC, the Agent, or MuniWatt who need the Confidential Information for purposes of performing the services provided under this Addendum, the Exchange Agreement, and all other documents executed by Dealer in connection herewith and therewith or (ii) that are requested or required (by oral questions, interrogatories,

requests for information or documents in legal proceedings, subpoena, civil investigative demand, or other similar process) to be disclosed or otherwise are required to be disclosed by law or in connection with legal proceedings regarding this Addendum, the Exchange Agreement, or the enforcement hereof or thereof. Notwithstanding the foregoing, the following will not constitute Confidential Information for purposes of this Addendum: (i) information which is or becomes generally available to the public other than as a result of a disclosure by Dealer or its Representatives; (ii) information which was already known to Dealer on a nonconfidential basis prior to being furnished to Dealer by Buyer; and (iii) information which becomes available to Dealer on a nonconfidential basis from a source other than Buyer or a representative of Buyer, if such source was not subject to any prohibition against transmitting the information to Dealer.

8. *Governing Law.* This Addendum shall be governed by and construed in accordance with the laws of the State of Texas.

9. *Notices.* Except as otherwise provided in this Addendum, any notice, request, demand, statement, bill, or other document required to be given to either party by this Addendum, and any notice which either party hereto may desire to give to the other party hereto, shall be in writing and will be considered duly delivered when mailed by registered mail, return receipt requested, or sent by facsimile or electronic transmission with receipt acknowledged, to the address or number of the receiving party listed opposite its signature below or to any other address or number previously furnished in writing for such purpose by the receiving party to the other parties hereto.

10. *Successors and Assigns.* The provisions of this Addendum shall be binding upon and inure to the benefit of the successors and assigns of each of the parties hereto. No party hereto may assign any of its rights or obligations hereunder without the consent of the other party hereto, except to a trustee, individual or corporate, as security for bonds, securities, or other contractual obligations. No such consent shall be unreasonably withheld, *provided* that either party may refuse so to consent if the assignee does not meet such party's credit requirements. Upon such consent and assignment, the assigning party shall be released from all further liability hereunder, unless otherwise agreed by it.

11. *Waivers.* No waiver by either party hereto of any default by the other party hereto in the observance or performance of any provision of this Addendum shall operate as a waiver of any future default, whether of a like or of a different character.

12. *Relationship Between the Parties.* In connection with the negotiation of, the entering into, and the confirming of the execution of this Addendum, each party hereto acknowledges and agrees: (i) it is acting as principal (and not as agent or in any other capacity, fiduciary or otherwise); (ii) the other party is not acting as a fiduciary or financial or investment advisor for it; (iii) it is not relying upon any representations (whether written or oral) of the other party; (iv) the other party has not given to it (directly or indirectly through any other person) any advice, counsel, assurance, guaranty, or representation whatsoever as to the expected or projected success, profitability, return, performance, result, effect, consequence, or benefit (either legal, regulatory, tax, financial, accounting, or otherwise) of this Addendum; (v) it has consulted with its own legal, regulatory, tax, business, investment, financial, and accounting advisors to the extent it has deemed necessary, and it has made its own investment, hedging, and trading decisions based upon its own judgment and upon any advice from such advisors as it has deemed necessary, and not upon any view expressed by the other party; (vi) all trading decisions have been the result of arm's length negotiations between the parties; and (vii) it is entering into this Addendum with a full understanding of all of the risks hereof and thereof (economic and otherwise), and it is capable of assuming and willing to assume those risks (economic and otherwise).

13. *Entire Agreement.* This Addendum and the Supply Contract contain the entire agreement among the parties, and except as stated herein or therein there are no oral promises, agreements, warranties, obligations, or conditions, precedent or otherwise, affecting it.

14. *Amendments.* Any change, modification, or alteration of this Addendum shall be in writing, signed by the parties hereto, and no course of dealing between the parties hereto shall be construed to alter any term hereof, except as expressly stated herein. Buyer shall provide MuniWatt with a copy of each amendment to the Supply Contract promptly after execution thereof.

15. *Severability.* Except as otherwise stated herein, if any provision hereof or application thereof shall be declared or rendered unlawful by a court of law or regulatory agency with jurisdiction over either party hereto or deemed unlawful because of a statutory change, the remaining applications thereof and provisions of this Addendum shall nevertheless remain valid and enforceable.

16. *Corporate Obligations.* No recourse under or upon any obligation, covenant, or agreement contained in this Addendum, or for any claim based thereon or otherwise arising in respect thereof, shall be had against any incorporator or sponsor, or against any past, present, or future director, officer, employee, or member of the governing body, as such, of either party hereto or of any successor, or against any person or entity with whom either such party has contracted for goods or services, either directly or through such party, whether by virtue of any constitution or statute or rule of law, or by the enforcement of any assessment, judgment, or penalty, or otherwise; it being expressly understood that this Addendum is solely a corporate obligation, and that no such personal liability whatever shall attach to, or is or shall be incurred by, the incorporators, sponsors, directors, officers, or employees, as such, of such party or any successor, or any member of its governing body, or any such contracting person, or any of them, by reason of the obligations, covenants, or agreements contained in this Addendum or implied therefrom, and that any and all such personal liability either at common law or equity or by constitution or statute of, and any and all such rights and claims against, every such incorporator, sponsor, member, director, officer, employee, or person, as such, are hereby expressly waived and released as a condition of, and in consideration for, the execution of this Addendum.

17. *Government Regulation.* The delivery and receipt of Energy hereunder are subject to all valid laws with respect to the subject matter hereof and to all valid present and future orders, rules, and regulations of duly constituted governmental authorities having jurisdiction.

18. *Benefits of Contract.* Nothing in this Addendum, expressed or implied, shall give any benefit or any legal or equitable right, remedy, or claim under this Addendum to any person or entity other than the parties hereto, the Agent, MuniWatt, and their successors and assigns permitted hereby.

19. *Effective Date.* Notwithstanding the date hereof, this Addendum shall not become operative or effective until the first day of the month following the later of (1) the effective date for qualification of Buyer as a "Participant" under the Exchange Agreement and (2) first effective date for designation of a ["Dealer's Point of Receipt"] under the Exchange Agreement.

20. *Term and Termination.* This Addendum shall extend for a period of 40 years unless sooner terminated pursuant to this Section. This Addendum shall terminate on the cancellation, termination, or expiration of the Supply Contract, the Exchange Agreement, or the rights and obligations of Buyer under the Cooperative Contract. Each party hereto shall give the other party hereto notice of any such event which is known to it and would result in the termination of this Addendum.

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have duly authorized and caused this Addendum to be executed as of the date first hereinabove written in multiple originals.

Dealer's Addresses and Nos.:

Telephone: () -
Facsimile: () -
Email: _____

[NAME OF DEALER], as Dealer

By:
Name:
Title:

Buyer's Addresses and Nos.:

Telephone: () -
Facsimile: () -
Email: _____

[NAME OF UTILITY], as Buyer

By:
Name:
Title:

**EXHIBIT C
TO
JOINT POWER PURCHASE CONTRACT**

[FORM OF PURCHASE CONTRACT]

PURCHASE CONTRACT

1. Joint Purchase Contract. The Utility specified below hereby becomes a Party to and, except to the extent described herein, assumes all rights and obligations of a “*Utility*” under the Joint Power Purchase Contract, dated as of September 1, 2022 (the “*Joint Contract*”), among MuniWatt (specified below), the Agent (specified below), and Local Governments and State Agencies, each as therein defined, who become Parties thereto, and MuniWatt and the Agent hereby consent thereto. The terms of the Joint Contract are hereby incorporated herein by reference.

2. Priority of Unrestricted Energy Purchases and Rebates. As of the date of this Purchase Contract, the Utility shall be:

- ☐ a Qualified Charter Buyer
- ☐ a Qualified Long-Term Buyer in the [*initial/second/etc.*] class
- ☐ a Qualified Short-Term Buyer [in the [*initial/second/etc.*] class]
- ☐ an Other Buyer

3. Purchase of Energy. The Utility agrees to purchase from the Agent and receive from MuniWatt, as representative of the Agent, and the Agent agrees to sell and deliver through MuniWatt, as its representative, to the Utility, at the Utility’s Delivery Points and on the terms and conditions specified in the Joint Contract, in addition to the Quantity of Restricted Energy, if any, committed to be purchased by the Utility hereunder, the Utility’s Net Qualified Requirements for Energy during the term of this Purchase Contract, but not more than the Utility’s Maximum Annual Quantity, if any, in any Contract Year and not more, in any month, than the least of (a) the Utility’s Maximum Monthly Quantity, (b) the Unrestricted Energy then available for sale to the Utility, (c) the Quantity of such Unrestricted Energy (together with the Quantity of Restricted Energy, if any, sold to it hereunder) used for a Qualified Use in such month, and (d) the maximum Quantity that would not cause the aggregate price for such Unrestricted Energy to exceed the Dollar Cap for such month or such greater dollar amount as may be specified in writing by MuniWatt from time to time to the Utility, its Suppliers, and the Exchanger-Balancers (the least of (a), (b), (c), and (d), the “*Monthly Cap*”).

As used in the preceding paragraph, the “*Dollar Cap*” for a month is equal to the product of (x) the least of the Quantities specified in clause (a), clause (b), and clause (c) of such paragraph, (y) 10, and (z) 300% of the price listed opposite “IF-Katy HUB” for such month in the table “Monthly Bidweek Spot Gas Prices” (or any replacement table) in the first edition in such month of *Platts Gas Daily Price Guide*, or any successor publication, published by S&P Global Platts or its successor or, if such price is not published, the price specified for such month by MuniWatt as its estimate of the average price per MMBtu of gas contracted during the week preceding such month for delivery at such location in equal quantities on each day in such month.

[insert provisions, if any, for the purchase of Restricted Energy, which may incorporate an exhibit, appendix, schedule, or other attachment]

4. **Maximum Quantities.** The Maximum Annual Quantity and Maximum Monthly Quantity of Unrestricted Energy that the Utility agrees to purchase and receive hereunder up to its Net Qualified Requirements, is:

- ☐ its Net Qualified Requirements or
- ☐ as specified in *Schedule A* attached hereto.

5. **Price.** The Utility will pay for all Energy purchased and received by it hereunder in any period at a price equal to the Gross Price identified herein for such period *less* the Discount determined by MuniWatt in accordance with the Joint Contract and then in effect. The Utility (unless a Withdrawing Buyer) will be entitled to a partial rebate of such payments when, as, and to the extent that rebates are declared by MuniWatt under the Joint Contract while this Purchase Contract is in effect.

6. **Delivery Points and Gross Price.** An Exchange Agreement between MuniWatt and an Exchanger-Balancer will be used to deliver Energy to be sold by MuniWatt to the Utility, unless such Exchange Agreement expires or is terminated and not replaced despite efforts by the parties or the Utility fails to establish and keep in effect sufficient Supplier Addenda. While such Exchange Agreement and Supplier Addendum are in effect in respect of the Utility, the Utility's Gross Price for Unrestricted Energy delivered under each such Supplier Addendum in each month or portion thereof will be the weighted average price payable by the Utility under its Utility Supply Contract with the Supplier party to such Supplier Addendum for Energy delivered to the Utility in such month or portion, and the Utility's Supplier Delivery Points will be the delivery points specified in such Utility Supply Contracts, unless otherwise agreed by the parties hereto. The Utility's Delivery Points and Gross Price for Unrestricted Energy not delivered under a Supplier Addendum will be as provided in the Joint Contract or as agreed to among the parties hereto in writing. *[insert or cross reference to Delivery Points and Gross Price for Restricted Energy, if applicable]*

7. **Use.** The Utility will use or cause to be used all Energy purchased by it hereunder in its electric utility system or in the electric utility system of another Local Government or State Agency to which it sells such Energy. The Utility agrees that all Energy sold to it under the Joint Contract will be consumed in qualified service areas and qualified annexed areas, that no such Energy will be used in a private trade or business or to make a private loan, as provided more fully and except as permitted by *Article Ten* of the Joint Contract, and that it will notify MuniWatt of its Qualified Requirements supplied under each Supplier Addendum by the third Business Day after the end of each month in accordance with *Section 7.02B* of the Joint Contract.

8. **Schedule M.** Schedule M to the General Terms included in the Base Provisions is:

- ☐ Applicable, and the Utility is a Governmental Entity or Public Power System
- ☐ Inapplicable

If Schedule M to the General Terms is applicable, then:

- ☐ Add Section 3.6 of Schedule M. If not checked, inapplicable.
- ☐ Add Section 8.4 of Schedule M. If not checked, inapplicable.

“*Act*” means _____, the Utility's enabling act.

9. **Address.** The address of the Utility for notices received under the Joint Contract is:

Telephone No. (____) _____
Facsimile No. (____) _____
Email: _____

10. **Special Provisions.** *[insert special provisions, if any].*

11. **Term.** This Purchase Contract shall commence on the Effective Date hereof, which is _____, and shall extend to _____. Notwithstanding such Effective Date, the obligation of MuniWatt and the Agent to sell and deliver and of the Utility to purchase and receive Energy shall not commence until the later of the effective date of the first Exchange Agreement and the effective date of the first Supplier Addendum entered into by the Utility, one of its Suppliers, and the Exchanger-Balancer. The term of this Purchase Contract shall automatically be extended by one year on each December 31, unless the Utility, MuniWatt, or the Agent has given written notice to the other two parties of its election not to extend the term of this Purchase Contract prior to such December 31, but in no event shall the term of this Purchase Contract be extended beyond December 31, _____, except by written amendment executed by the parties hereto. This Purchase Contract may be phased out at the election of the Utility as described in the Joint Contract.

The parties hereto have caused this Purchase Contract to be duly executed, effective as of the Effective Date described above.

UTILITY:

Attest/Countersign:

.....
Name:
Title:
By:
Name:
Title:

AGENT:

Attest/Countersign:

CITY OF LA GRANGE, TEXAS

.....
Name:
Title:
By:
Name:
Mayor

MUNIWATT:

Attest:

**MUNICIPAL POWER ACQUISITION AND
SUPPLY CORPORATION**

.....
Name:
Title:
By:
Name:
President

*Schedule A to
Purchase Contract*

The Utility's Maximum Annual Quantity, if any, and projected Net Qualified Requirements (each expressed in MWhs) in each Contract Year when the Purchase Contract is entered into (or most recently amended without causing a new Purchase Contract to be deemed entered into pursuant to *Section 7.03B* of the Joint Contract) are as follows:

<u>Year</u>	<u>Maximum Annual Quantity (if applicable)</u>	<u>Projected Net Qualified Requirements</u>

The Utility's Maximum Monthly Quantity, if any, and projected Net Qualified Requirements (each expressed in MWhs) in each month when the Purchase Contract is entered into (or most recently amended without causing a new Purchase Contract to be deemed entered into pursuant to *Section 7.03B* of the Joint Contract) are as follows for the initial 12 months of the Purchase Contract after such time, increased for each succeeding Contract Year proportionately with the increase, if any, in the Maximum Annual Quantity for such Contract Year from the initial Maximum Annual Quantity:

<u>Month</u>	<u>Maximum Monthly Quantity (if applicable)</u>	<u>Projected Net Qualified Requirements</u>

[complete the following after any amendment to the Purchase Contract described below]

The Utility's Maximum Annual Quantity, if any, and projected Net Qualified Requirements (each expressed in MWhs) in each Contract Year for the Purchase Contract deemed entered into pursuant to *Section 7.03B* of the Joint Contract are as follows:

<u>Year</u>	Maximum Annual Quantity (if applicable)	Projected Net Qualified Requirements

The Utility's Maximum Monthly Quantity, if any, and projected Net Qualified Requirements (each expressed in MWhs) in each month for the Purchase Contract deemed entered into pursuant to *Section 7.03B* of the Joint Contract are as follows for the initial 12 months thereof, increased for each succeeding Contract Year proportionately with the increase, if any, in the Maximum Annual Quantity for such Contract Year and Purchase Contract from the initial Maximum Annual Quantity:

<u>Month</u>	Maximum Monthly Quantity (if applicable)	Projected Net Qualified Requirements

September 28, 2023

Item No. 7.1.

2023 Christmas in College Station Campaign

Sponsor: Jeremiah Cook

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding Visit College Station's 2023 "Christmas in College Station" campaign.

Relationship to Strategic Goals:

Diverse & Growing Economy

Recommendation(s): Staff recommend that Council receive the presentation and provide feedback as desired.

Summary: Tourism staff will provide an overview of highlights of the upcoming "Christmas in College Station" campaign. Staff will discuss the plan to increase tourism during the 2023 holiday season through marketing opportunities, engagement with local businesses, and a variety of holiday-inspired events.

Budget & Financial Summary: N/A

Attachments:

None

September 28, 2023
Item No. 8.1.
Rezoning - 1601 Sebesta Road

Sponsor: Anthony Armstrong

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 M-1 Light Industrial to SC Suburban Commercial for approximately 0.9663 acres located at 1601 Sebesta Road, generally located on the north side of Sebesta Road across from Foxfire Drive.

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.

The Planning and Zoning Commission heard this item at their 9/7/23 meeting and voted 7-0 to recommend approval.

Summary: This request is to rezone approximately 0.9663 acres of land generally located at 1601 Sebesta Road from M-1 Light Industrial to SC Suburban Commercial. It is the applicant's intent to rezone this property to be in line with the Comprehensive Plan to allow for more neighborhood commercial uses like retail sales.

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 Neighborhood Commercial. For the Neighborhood Commercial land use, the Comprehensive Plan provides the following:

Areas of commercial activities that cater primarily to nearby residents. These areas tend to be smaller format than general commercial and located adjacent to major roads along the fringe of residential areas. Design of these structures is compatible in size, architecture, and lot coverage with surrounding residential uses.

The intent of the district is to accommodate limited commercial services compared to General Commercial, as well as encourage transitions in building height and mass when adjacent to residential neighborhoods. This area of Neighborhood Commercial is located as a step down from the more intense General Commercial areas against the highway, towards the residential land uses to the east.

The zoning districts that are generally appropriate within this land use include suburban commercial and office 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 subject property is directly adjacent to the Century Hill Development Subdivision, which extends to the west and north to the SH 6 frontage road. Century Hill Development has a pool supply company and office building near the subject property, and a car dealership and large restaurant with highway frontage. There is property to the north of the subject tract that is currently under construction as an assisted living facility, which is zoned PDD Planned Development District with a base zoning of SC Suburban commercial. To the east are warehouses located adjacent to the Emerald Forest single family neighborhood. The subject property's location of being between the commercial center and a single family neighborhood makes SC Suburban Commercial zoning an appropriate designation for this property, and is the intent of the Comprehensive Plan.

This rezoning also removes the potential for light industrial uses close to the existing neighborhoods. The existing zoning of M-1 Light Industrial allows for uses that would be inconsistent with the adjacent neighborhood, such as outdoor storage. The UDO defines light industrial as, "A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing." The proposed zoning of Suburban commercial allows for a variety of neighborhood friendly uses such as day cares, health clubs, dry cleaners, and personal service shops. These uses are more appropriate for the surrounding area than those of light industrial.

3. Whether the property to be rezoned is physically suitable for the proposed zoning district:

The subject property is already developed with two existing buildings and associated parking. The current use of the buildings is office, which is allowed in the SC Suburban Commercial zoning district. The subject property's smaller acreage of under one acre lends the site to be better developed or redeveloped under the SC Suburban Commercial zoning standards versus M-1 Light Industrial, which tends to be bigger lots with larger footprints. For reference, the zoning district that replaced M-1 Light Industrial when it was retired was BPI Business Park Industrial, which requires a minimum of five acres.

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 site. As the applicant has no desire to change the layout of the site, all existing utilities will suffice to continue serving the existing buildings. In the event that additional development is sought, any drainage or infrastructure required with site development shall be designed and constructed in accordance with the BCS Unified Design Guidelines. The subject property currently drains to Sebesta Road and eventually to Bee Creek.

A TIA was not required on this rezoning request as the potential trip rate is below the 150 peak trip threshold.

5. The marketability of the property:

With its location between a General Commercial center and an Estate neighborhood, the opportunity for neighborhood-centered commercial uses makes the property more marketable for potential tenants, such as retail sales or service shops. This rezoning request will expand the number of allowed uses on the property, while also removing the industrial-related ones.

Budget & Financial Summary: N/A

Attachments:

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

ORDINANCE NO. _____

AN ORDINANCE AMENDING APPENDIX A “UNIFIED DEVELOPMENT ORDINANCE,” ARTICLE 4 “ZONING DISTRICTS,” SECTION 4.2, “OFFICIAL ZONING MAP” OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY CHANGING THE ZONING DISTRICT BOUNDARIES FROM M-1 LIGHT INDUSTRIAL TO SC SUBURBAN COMMERCIAL AFFECTING APPROXIMATELY 0.9963 ACRES OF LAND BEING BLOCK 1, LOT 2B OF THE AGENCY RECORDS CONTROL INC. SUBDIVISION AS DESCRIBED IN THE REPLAT RECORDED IN VOLUME 6372 PAGE 140 OF THE OFFICIAL RECORDS OF BRAZOS COUNTY AND GENERALLY LOCATED AT 1601 SEBESTA RD, 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 28th 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, Block 1, Lot 2B of the Replat of Lot 1B, Agency Records Control Inc. Subdivision, is rezoned from M-1 Light Industrial to SC Suburban Commer

CERTIFICATE OF OWNERSHIP AND DEDICATION

STATE OF Texas

COUNTY OF Brazos

BEFORE ME, the undersigned authority, on this day personally appeared Replat of Lot 1B, known to me to be the person whose name is subscribed to the foregoing petition, and acknowledged to me that he executed the same for the purposes and consideration therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 22nd day of October, 2004.

 Notary Public in and for the State of Texas, My Comm. Expires 10/22/07

CERTIFICATE OF THE CITY PLANNER

I, John A. Davis, City Planner, do hereby certify that the plat is in conformity with the provisions of the City of Bryan, Texas, and that the same has been approved by the City Council.

CERTIFICATE OF THE COUNTY CLERK

I, John A. Davis, County Clerk, do hereby certify that the plat is in conformity with the provisions of the County of Brazos, Texas, and that the same has been approved by the County Board.

CERTIFICATE OF SUPERVISOR AND/OR ENGINEER

I, John A. Davis, Supervisor and/or Engineer, do hereby certify that the plat is in conformity with the provisions of the State of Texas, and that the same has been approved by the State Board of Supervisors and/or Engineers.

EXISTING PLAT

OWNER/DEVELOPER:

DR. ROBERT BOWEN, INC.
 440 TECHNOLOGY PARKWAY
 COLLEGE STATION, TEXAS
 TEL: (979) 693-5378
 FAX: (979) 784-8605

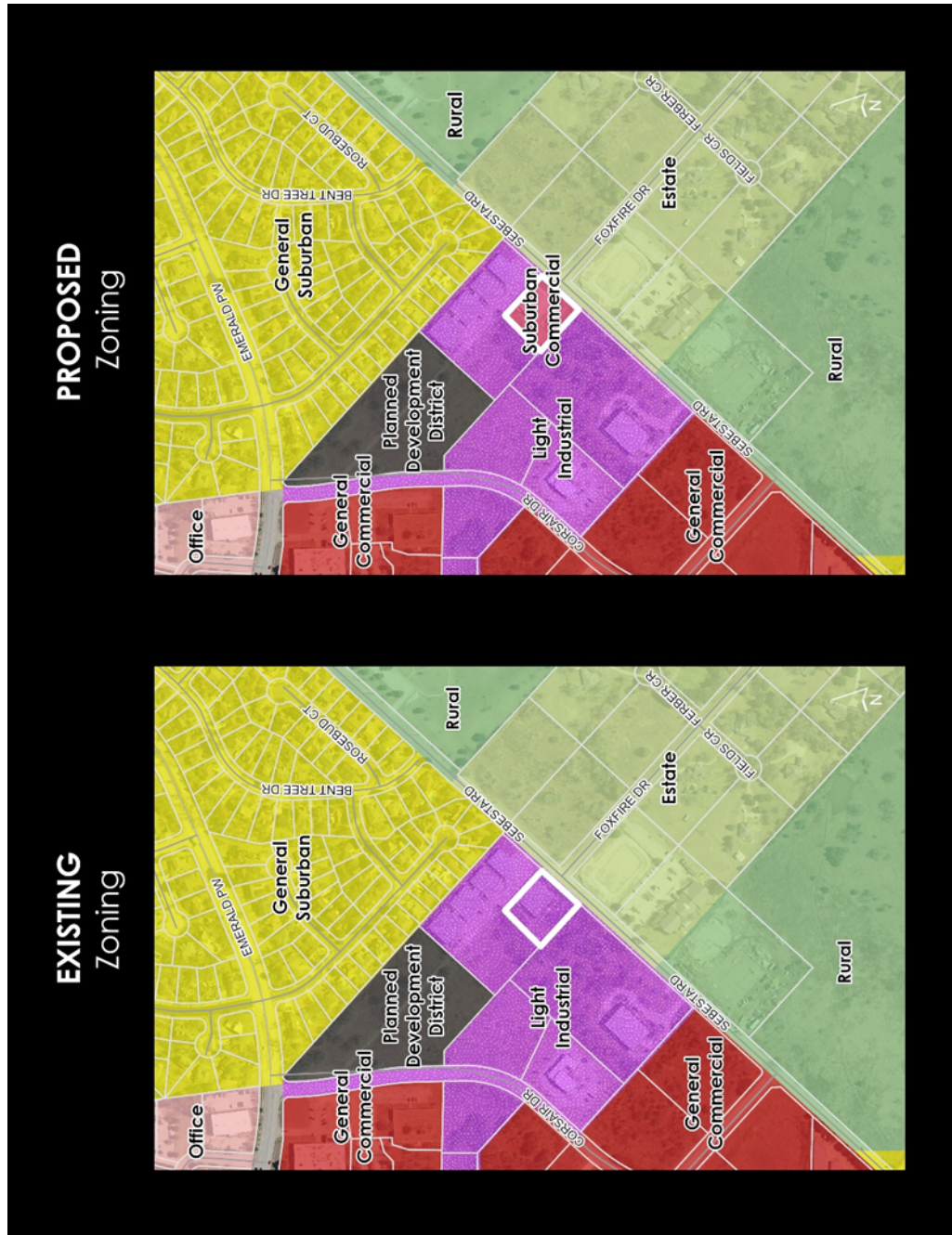
AGENCY RECORDS CONTROL, INC.

4.4378 ACRES
 VOLUME 4872, PAGE 158
 COLLEGE STATION,
 BRAZOS COUNTY, TEXAS

DATE: OCTOBER 8, 2004
REVISIONS: OCTOBER 22, 2004

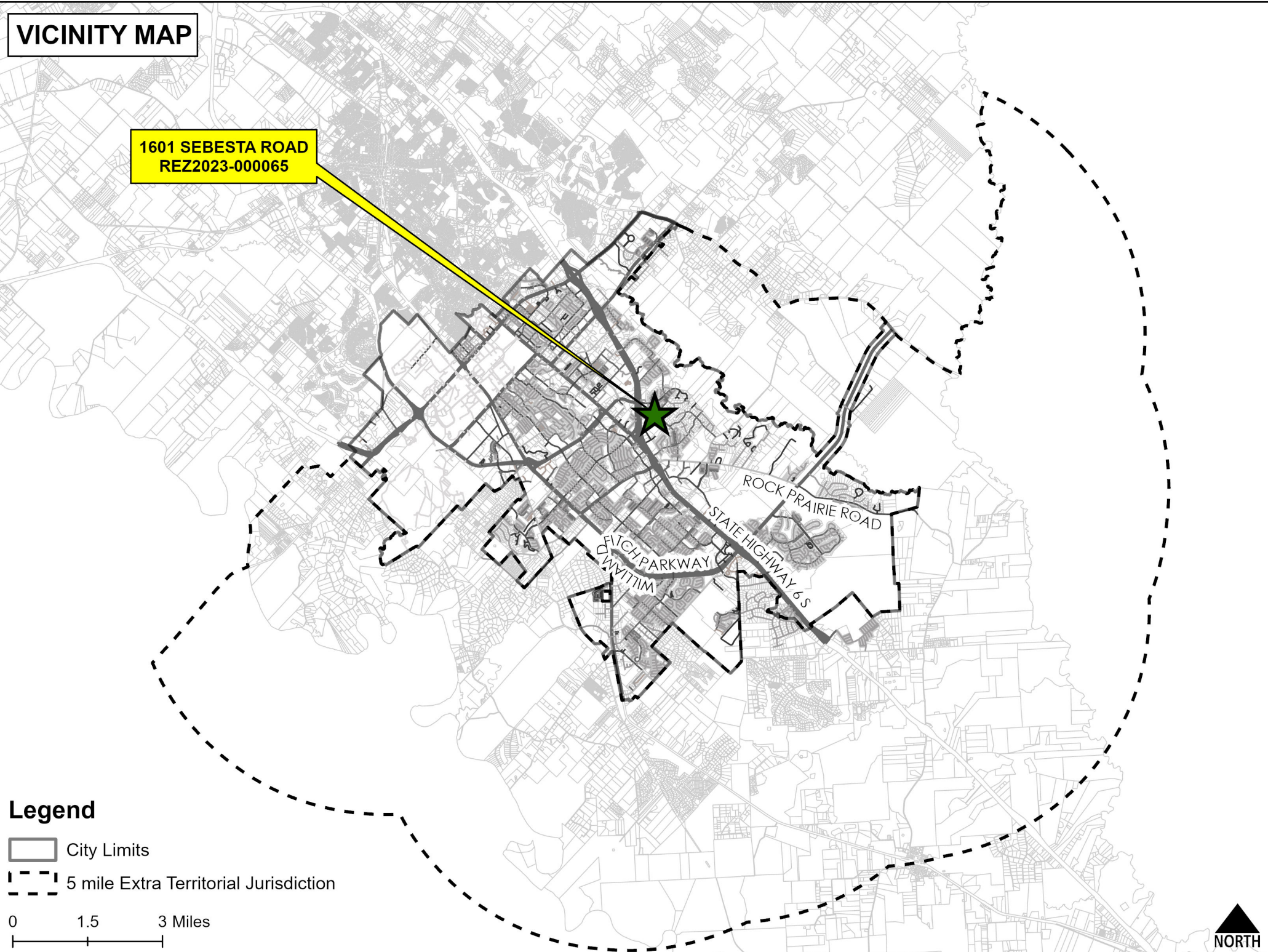
PROJECT
20-04
SHEET
1 of 1

Exhibit B



VICINITY MAP

1601 SEBESTA ROAD
REZ2023-000065

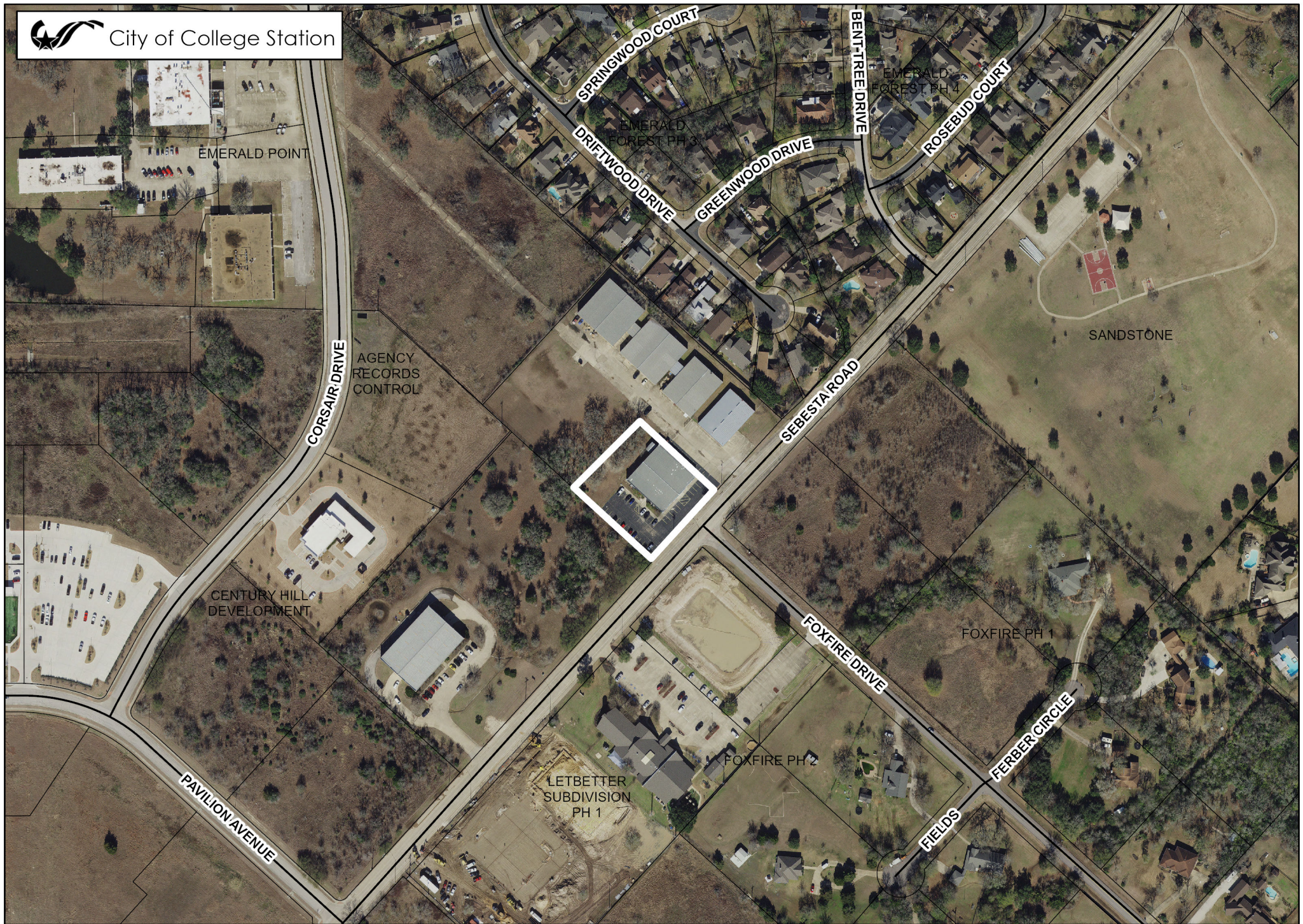


Legend

- City Limits
- 5 mile Extra Territorial Jurisdiction

0 1.5 3 Miles



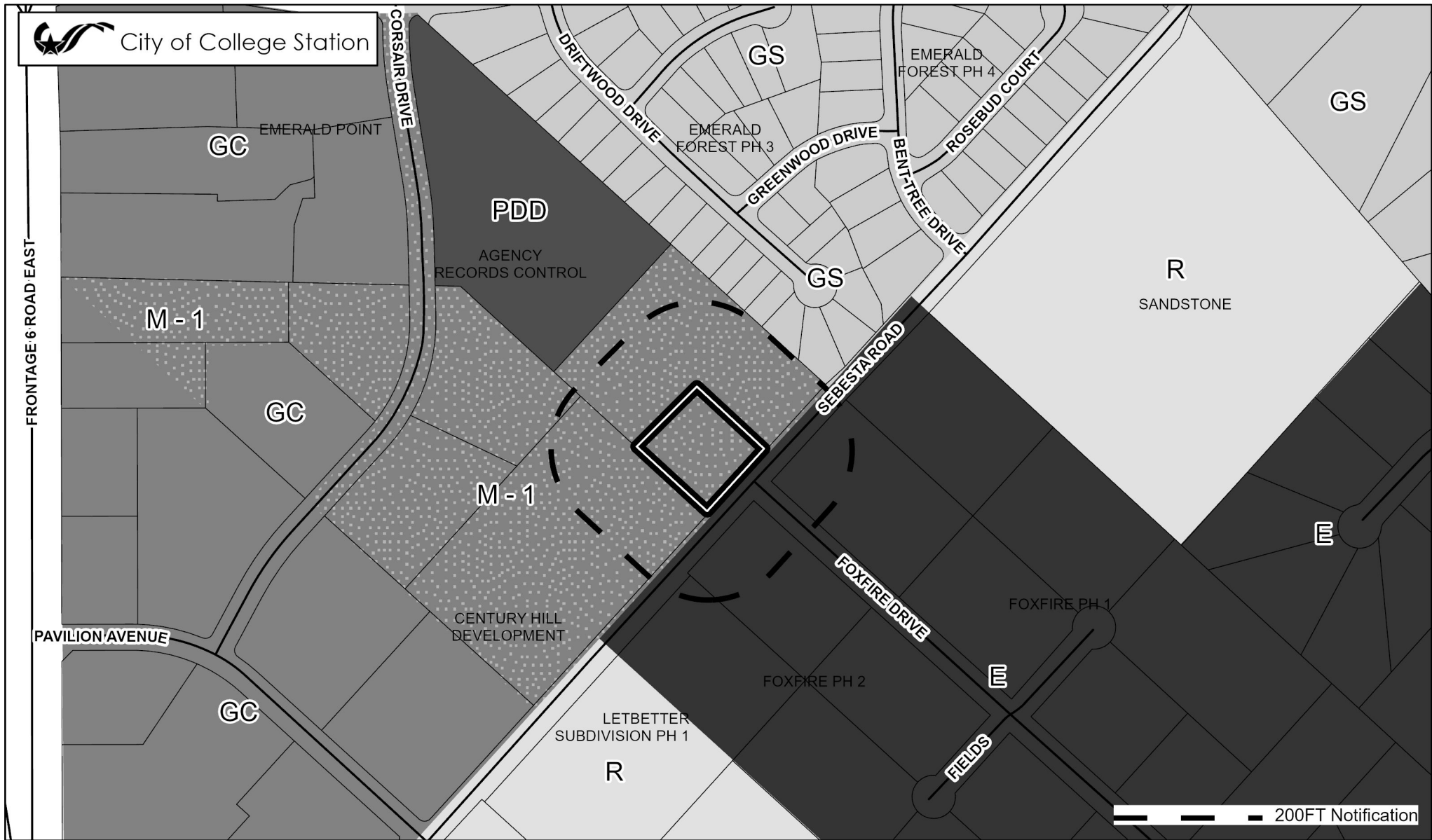


0 255 510 Feet

1601 SEBESTA ROAD

Case:
REZ2023-000065

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



0 310 620 Feet

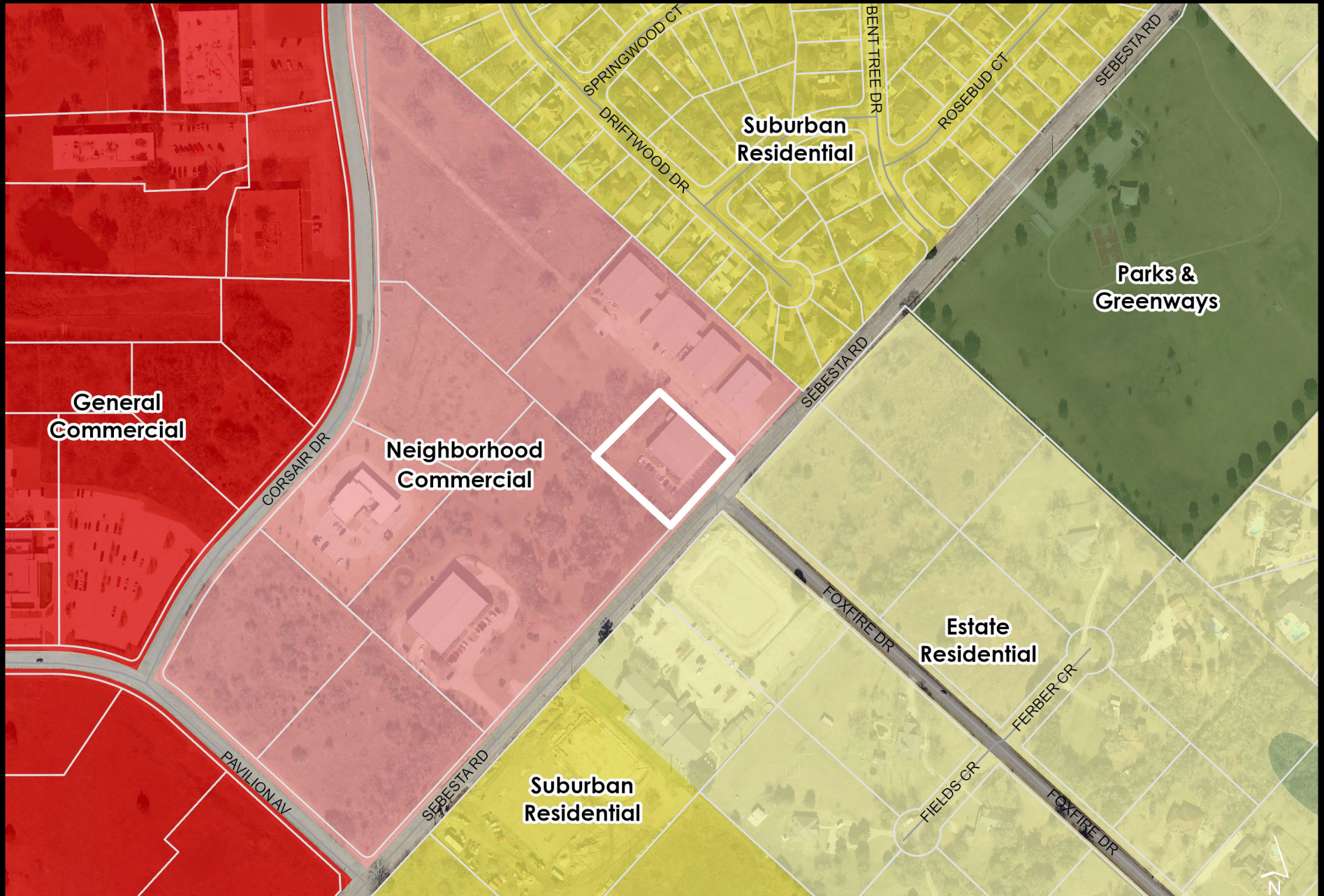
1601 SEBESTA ROAD

Case:
REZ2023-000065

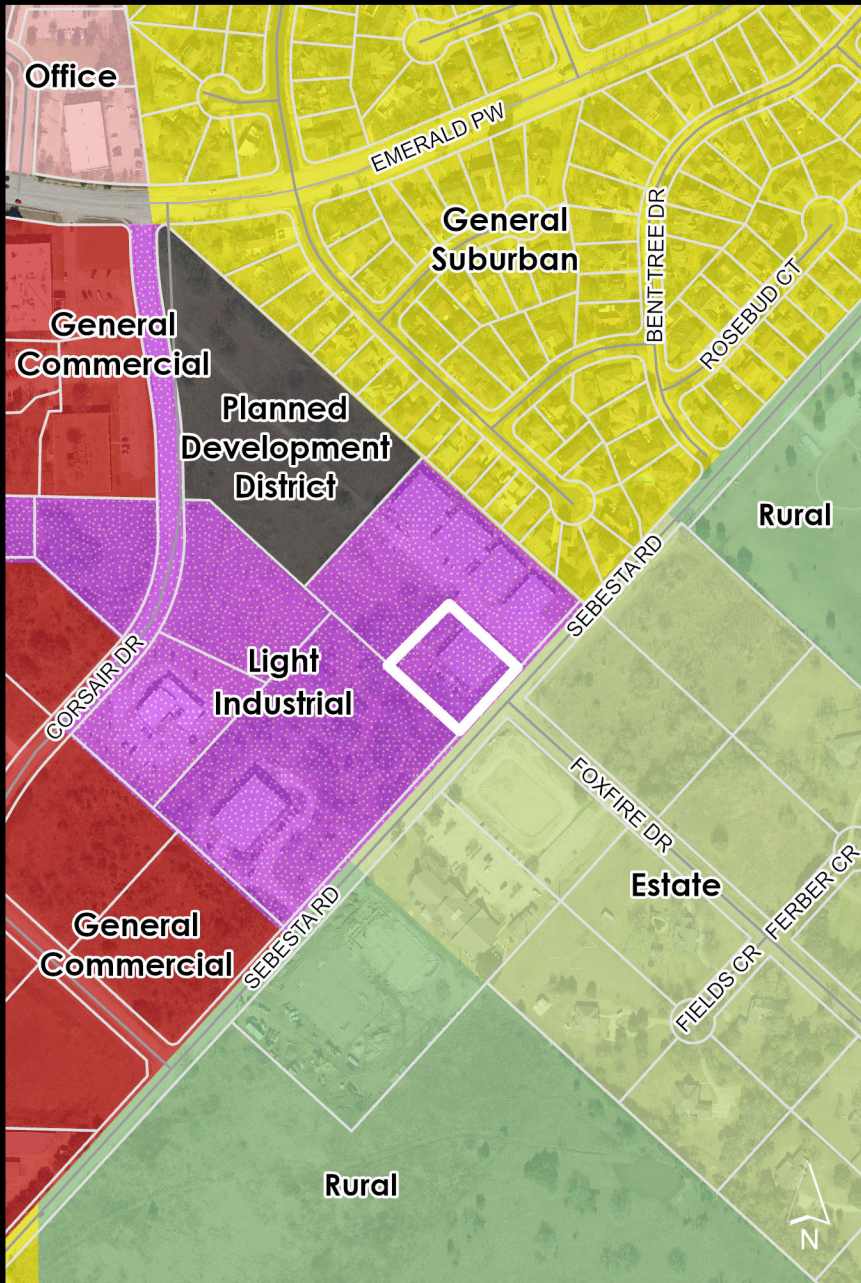
REZONING

EXISTING

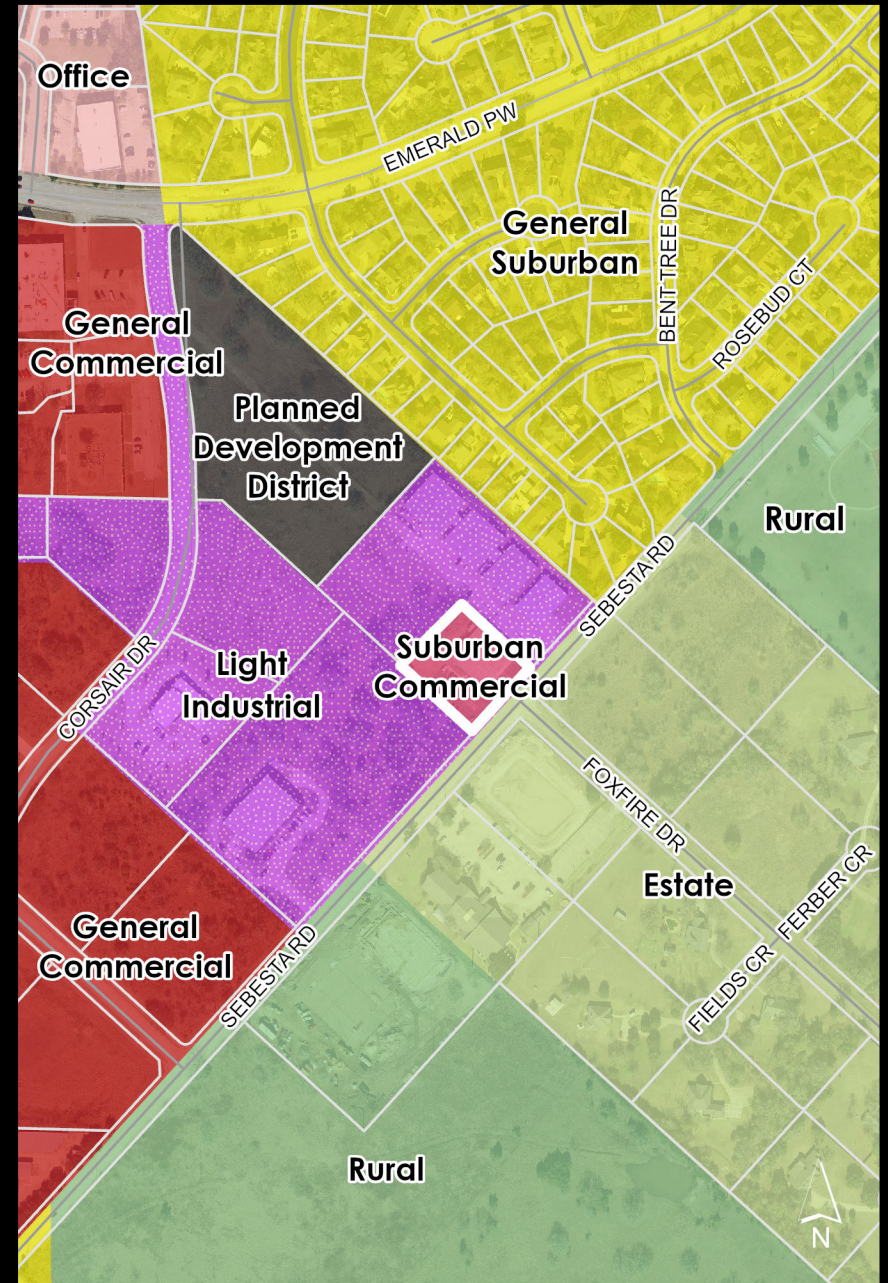
Future Land Use



EXISTING Zoning



PROPOSED Zoning



LEGEND

PROPERTY BOUNDARY

CITY LIMITS

AREA TO BE REZONED

NOTES:

- THE BEARINGS OF THIS SURVEY ARE BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE, NAD83(2011) EPOCH 2010
- NO PART OF THIS PROPERTY LIES WITHIN A SPECIAL FLOOD HAZARD AREA, ACCORDING TO FLOOD INSURANCE RATE MAP NO. 48041C0305F, REVISED APRIL 2, 2014.

REZONING EXHIBIT

1601 SEBESTA ROAD

COLLEGE STATION, TX

DRAWN BY: DPB

APPROVED BY: DPB

DATE: JULY 27, 2023

JOB NUMBER: TBD

SCALE: 1"=40'

SHEET NO.: 1 OF 1

THIS EXHIBIT HAS BEEN PREPARED BY DANIEL BEAMON, P.E. #105876. THIS EXHIBIT SHALL BE USED FOR REFERENCE ONLY AND SHALL NOT BE USED FOR BIDDING OR CONSTRUCTION.

BEAMON ENGINEERING

TBPE FIRM NO. F-21588 16172

BENCH LANE BRYAN, TEXAS 77807

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BACKGROUND INFORMATION

NOTIFICATIONS

Advertised Commission Hearing Date: September 7, 2023

Advertised Council Hearing Date: September 28, 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:

Sandstone HOA
Emerald Forest HOA
Foxfire HOA

Property owner notices mailed: 13
Property tenant notices mailed: 2
Contacts in support: None at the time of this report
Contacts in opposition: None at the time of this report
Inquiry contacts: 2 at the time of this report

ADJACENT LAND USES

Direction	Comprehensive Plan	Zoning	Land Use
Northeast	Neighborhood Commercial	M-1 Light Industrial	Warehouses
Southeast	Estate Residential	E Estate	Church
Southwest	Neighborhood Commercial	M-1 Light Industrial	Pool supply
Northwest	Neighborhood Commercial	M-1 Light Industrial	Undeveloped

DEVELOPMENT HISTORY

Annexation: 1977

Zoning: A-O Agricultural Open upon annexation
A-O Agricultural Open to M-1 Light Industrial (1979)

Final Plat: Platted as Replat of Lot 1B, Agency Records Control Inc. Subdivision, Block 1, Lot 2B in 2004

Site development: Office



REZONING APPLICATION SUPPORTING INFORMATION

Name of Project: REZONE FROM RETIRED M1 TO SC PER COMP PLAN (REZ2023-000065)

Address: 1601 SEBESTA RD

Legal Description: AGENCY RECORD CONTROL, LOT 2B, ACRES 0.9663

Total Acreage: 0.9663

Applicant:: Bob Yancy

Property Owner: YANCY HERITAGE HOLDINGS LTD

List the changed or changing conditions in the area or in the City which make this zone change necessary.

Subject Property is situated at the gateway to multiple neighborhoods and is currently zoned M1, but is specified as Neighborhood Commercial on the Comp Plan. Thus, Suburban Commercial (SC) is a more appropriate zoning for this property.

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 proposed zone change is in accordance with the Comp 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 property's current utilization as Office is compatible at the current zoning of M1

Explain the suitability of the property for uses permitted by the rezoning district requested.

The property is less than 15,000 sq ft., thus ensuring its compatibility with Neighborhood Commercial Retail sales & Service, Personal Services, Office, etc.; the property has adequate parking spaces to satisfy SC Requirements.

Explain the suitability of the property for uses permitted by the current zoning district.

The property is less than 15,000 sq ft., thus ensuring its compatibility with Neighborhood Commercial Retail sales & Service, Personal Services, Office, etc.; the property has adequate parking spaces to satisfy SC Requirements.

Explain the marketability of the property for uses permitted by the current zoning district.

The property is well maintained, aesthetically appealing and situated in a central location

List any other reasons to support this zone change.

To accommodate NC tenants, in addition to its current utilization in accordance with the Comp Plan

September 28, 2023
Item No. 8.2.
Northeast Gateway Redevelopment Plan

Sponsor: Matthew Ellis

Reviewed By CBC: Planning & Zoning Commission

Agenda Caption: Public Hearing, presentation, discussion, and possible action regarding an ordinance amending the Comprehensive Plan to adopt the Northeast Gateway Redevelopment Plan, to amend the planning areas description within Chapter 2. Distinctive Places, to amend the Comprehensive Plan – Planning Areas Map, to amend the Comprehensive Plan – Future Land Use & Character Map, to amend the Comprehensive Plan – Functional Classification & Context Class Map, and to amend associated maps in the Bicycle, Pedestrian, and Greenways Master Plan including the Proposed Bicycle Facilities Map and the Proposed Pedestrian Facilities Map.

Relationship to Strategic Goals:

- Good Governance
- Financial Sustainability
- Core Services & Infrastructure
- Neighborhood Integrity
- Diverse & Growing Economy
- Improving Mobility
- Sustainable City

Recommendation(s): Staff recommends approval.

The Bicycle, Pedestrian, and Greenways Advisory Board heard this item at their September 18, 2023 meeting and recommended approval 7-0.

The Planning and Zoning Commission heard this item at their September 21, 2023 meeting and recommended approval 5-0.

Summary: The Northeast Gateway Redevelopment Plan, an important priority project from the FY23 PDS Plan of Work, has been underway since November 2022. This item comes from Comprehensive Plan Action 2.2, to prioritize and undertake detailed small area plans for priority areas. The planning effort invited participants to reimagine the area with a new distinct identity that welcomes visitors and residents into the City of College Station. Plan goals include incorporating vertical and horizontal mixed-uses, supporting existing commercial uses, and providing a greater mix of housing options to support the growing population who seek to live, work, and play near Texas A&M University.

Staff engaged the community throughout the planning effort by hosting six working group meetings, two meetings on the Texas A&M University campus, two property and business owner meetings, four area-wide meetings, and a virtual area-wide meeting, as well as a virtual engagement website to gather community feedback. Additionally, staff directly engaged with property developers with significant ties in the area and representatives from the Texas Department of Transportation on future mobility projects in the planning area. City staff also coordinated internally to ensure the plan meets the needs of all departments and maintains the City's excellent services.

Background: The Northeast Gateway Redevelopment Plan creates a coordinated strategy for future change and redevelopment along two of the busiest corridors in the city: Texas Avenue and University Drive (FM 60). The plan is divided into two subareas: The Crossing and Eastgate Main.

The Crossing is the primary gateway into the City of College Station and Texas A&M University for visitors entering from Bryan on Texas Avenue and from State Highway 6 along the University Drive (FM 60) hospitality corridor. The Crossing generally includes the area surrounding the intersection, east along University Drive (FM 60) to Tarrow Street, and south along Texas Avenue to Lincoln Avenue. The Crossing anticipates a high level of redevelopment, vertical mixed-use structures, significant increases in housing options and housing stock, an enhanced and expanded multi-modal transportation system, and a denser urban form.

Eastgate Main is centered at the intersection of Texas Avenue and New Main Drive/Walton Drive. It contains one of College Station's historic retail shopping centers, the College Station City Hall and Visitor Center, and is adjacent to the College Hills Estates neighborhood. Eastgate Main is bounded by Foster Avenue, George Bush Drive East, Texas Avenue, and Lincoln Avenue, where it interfaces with The Crossing subarea. Eastgate Main anticipates both vertical and horizontal mixed-use developments that honor the historic commercial structures along Walton Drive while providing additional housing opportunities along Foster Avenue.

Staff will present the finalized Northeast Gateway Redevelopment Plan and associated changes for consideration and possible adoption by the City Council.

Budget & Financial Summary: N/A

Attachments:

1. Ordinance
2. Ordinance - Exhibit A
3. Ordinance - Exhibit B
4. Ordinance - Exhibit C
5. Ordinance - Exhibit D
6. Ordinance - Exhibit E
7. Ordinance - Exhibit F

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF COLLEGE STATION, TEXAS, AMENDING THE OFFICIAL CITY OF COLLEGE STATION COMPREHENSIVE PLAN TO ADOPT THE NORTHEAST GATEWAY REDEVELOPMENT PLAN, TO AMEND THE PLANNING AREAS DESCRIPTION WITHIN CHAPTER 2. DISTINCTIVE PLACES, TO AMEND THE COMPREHENSIVE PLAN – PLANNING AREAS MAP, TO AMEND THE COMPREHENSIVE PLAN – FUTURE LAND USE & CHARACTER MAP, TO AMEND THE COMPREHENSIVE PLAN – FUNCTIONAL CLASSIFICATION & CONTEXT CLASS MAP, AND TO AMEND ASSOCIATED MAPS IN THE BICYCLE, PEDESTRIAN, AND GREENWAYS MASTER PLAN INCLUDING THE PROPOSED BICYCLE FACILITIES MAP AND THE PROPOSED PEDESTRIAN FACILITIES MAP; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND CONTAINING OTHER PROVISIONS RELATED THERETO.

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

PART 1: That the “Official City of College Station Comprehensive Plan” is hereby amended by adding new Subsections “B.11”, “C.6”, “D.1.c”, “E.1.e”, “E.2.b”, and “E.3.a” of Exhibit “A” thereto as set out in **Exhibit “A”**, and as further described in **Exhibit “B”, Exhibit “C”, Exhibit “D”, Exhibit “E”, and Exhibit “F”**, attached hereto and made a part hereof.

PART 2: That if any provisions of any section of this Ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this Ordinance, which shall remain in full force and effect.

PART 3: That this Ordinance shall take effect immediately from and after its passage.

PASSED, ADOPTED and APPROVED this 28th day of September, 2023.

ATTEST:

APPROVED:

City Secretary

Mayor

APPROVED:

City Attorney

EXHIBIT A

That Ordinance No.4303 adopting the “Official City of College Station Comprehensive Plan” as amended, is hereby amended by adding Subsection “B.11”, “C.6”, “D.1.c”, “E.1.e”, “E.2.b”, and “E.3.a” to Exhibit “A” of said plan for Exhibit “A” to read in its entirety as follows:

A. Comprehensive Plan

The Official City of College Station Comprehensive Plan (Ordinance 4303) is hereby adopted and consists of the following:

1. Plan Foundation;
2. Distinctive Places;
3. Strong Neighborhoods;
4. A Prosperous Economy;
5. Engaging Spaces;
6. Integrated Mobility;
7. Exceptional Services;
8. Managed Growth;
9. Collaborative Partnerships; and
10. Plan Implementation.

B. Master Plans

The following Master Plans are hereby adopted and made a part of the Official City of College Station Comprehensive Plan:

1. The Northgate Redevelopment Plan dated November 1996;
2. The Revised Wolf Pen Creek Master Plan dated 1998;
3. Northgate Redevelopment Implementation Plan dated July 2003;
4. Bicycle, Pedestrian, and Greenways Master Plan dated January 2010;
5. Parks, Recreation, and Open Spaces Master Plan dated July 2011;
6. Medical District Master Plan dated October 2012;
7. Wellborn Community Plan dated April 2013;
8. Economic Development Master Plan dated May 2020;
9. The Water System Master Plan dated April 2017;
10. The Wastewater System Master Plan dated April 2017; and
11. Northeast Gateway Redevelopment Plan dated September 2023.

C. Master Plan Amendments

The following Master Plan Amendments to the Official City of College Station Comprehensive Plan are as follows:

ORDINANCE NO. _____

1. Expiring the East College Station Transportation Study dated May 2005 – Ordinance 4404, dated November 10, 2022.
2. Expiring the Central College Station Neighborhood Plan dated June 2010 – Ordinance 4404, dated November 10, 2022.
3. Expiring the Eastgate Neighborhood Plan dated June 2011 – Ordinance 4404, dated November 10, 2022.
4. Expiring the Southside Area Neighborhood Plan dated August 2012 – Ordinance 4404, dated November 10, 2022.
5. Expiring the South Knoll Neighborhood Plan dated September 2013 – Ordinance 4404, dated November 10, 2022.
6. Amended as shown in the Northeast Gateway Redevelopment Plan for Map 5.4 Proposed Bicycle Facilities and Map 5.5 Proposed Pedestrian Facilities within the Bicycle, Pedestrian, and Greenways Master Plan – this Ordinance, dated September 28, 2023.

D. Text Amendments

The following Text Amendments to the Official City of College Station Comprehensive Plan are as follows:

1. Text Amendments:
 - a. *Chapter 2. Distinctive Places* by amending the text regarding the Neighborhood Center future land use description, intent, and generally appropriate zoning districts – Ordinance 4351, dated April 28, 2022.
 - b. *Chapter 2. Distinctive Places* by amending the text regarding the Planning Areas description to remove expired plans – Ordinance 4404, dated November 10, 2022.
 - c. *Chapter 2. Distinctive Places* by amending the text regarding the Planning Areas description to rename the Texas Avenue & University Drive (FM 60) Redevelopment Area to the Northeast Gateway Redevelopment Plan – this Ordinance, dated September 28, 2023.

E. Map Amendments

The following Map Amendments to the Official City of College Station Comprehensive Plan are as follows:

1. Future Land Use & Character Map:

ORDINANCE NO. _____

- a. Approximately 5 acres of land generally located at 2354 Barron Road from Suburban Residential to Neighborhood Commercial – Ordinance 4365, dated June 23, 2022.
- b. Approximately 17 acres of land generally located at 400 Double Mountain Road from Medical to Urban Residential – Ordinance 4378, dated August 11, 2022.
- c. Approximately 0.19 acres of land generally located at 106 Southland Street from Suburban Residential to Neighborhood Commercial – Ordinance 4388, dated September 8, 2022
- d. Approximately 2.611 acres of land, generally located at 100 - 170 Graham Road from Business Center to Neighborhood Commercial – Ordinance 4435, dated May 15, 2023.
- e. Amended as shown in the Northeast Gateway Redevelopment Plan – this Ordinance, dated September 28, 2023.

2. Planning Areas Map:

- a. Removing the Central College Station Neighborhood Plan, Eastgate Neighborhood Plan, Southside Area Neighborhood Plan, and South Knoll Neighborhood Plan – Ordinance 4404, dated November 10, 2022.
- b. Renaming the Texas Avenue & University Drive (FM 60) Redevelopment Area to the Northeast Gateway Redevelopment Plan – this Ordinance, dated September 28, 2023.

3. Functional Classification & Context Class Map:

- a. Amended as shown in the Northeast Gateway Redevelopment Plan – this Ordinance, dated September 28, 2023.

F. General

1. **Conflict.** All parts of the Comprehensive Plan and any amendments thereto shall be harmonized where possible to give effect to all. Only in the event of an irreconcilable conflict shall the later adopted ordinance prevail and then only to the extent necessary to avoid such conflict. Ordinances adopted at the same city council meeting without reference to another such ordinance shall be harmonized, if possible, so that effect may be given to each.
2. **Purpose.** The Comprehensive Plan is to be used as a guide for growth and development for the entire City and its Extraterritorial Jurisdiction (“ETJ”). The Comprehensive Plan depicts generalized locations of proposed future land uses, including thoroughfares,

ORDINANCE NO. _____

bicycle and pedestrian ways, parks, greenways, and waterlines, and sewer lines that are subject to modification by the City to fit local conditions and budget constraints.

3. **General nature of Future Land Use.** The Comprehensive Plan, in particular the Future Land Use & Character Map and any adopted amendments thereto, shall not be, nor be considered, a zoning map, shall not constitute zoning regulations or establish zoning boundaries, and shall not be site or parcel specific but shall be used to illustrate generalized locations.
4. **General nature of College Station Comprehensive Plan.** The Comprehensive Plan and any additions, amendments, master plans and subcategories thereto depict same in generalized terms including future locations; and are subject to modifications by the City to fit local conditions, budget constraints, cost participation, and right-of-way availability that warrant further refinement as development occurs. Linear routes such as thoroughfares, bikeways, pedestrian ways, greenways, waterlines, and sewer lines that are a part of the Comprehensive Plan may be relocated by the City 1,000 feet from the locations shown in the Comprehensive Plan without being considered an amendment thereto.
5. **Reference.** The term College Station Comprehensive Plan includes all of the above in its entirety as if presented in full herein, and as same may from time to time be amended.

EXHIBIT B

That the “Official City of College Station Comprehensive Plan” is hereby amended by adopting and making part of it the “Northeast Gateway Redevelopment Plan” to read as follows:



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

NORTHEAST GATEWAY REDEVELOPMENT PLAN

Adopted September 28, 2023

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An aerial photograph of College Station, Texas, showing the College Station City Hall building, a large green park area, and a multi-lane road in the foreground. The city hall is a large, modern building with a clock tower. The park area is lush with green trees and grass. The road is a wide, multi-lane highway with a median.

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1

PLAN FOUNDATION

The Northeast Gateway Redevelopment Plan describes a coordinated strategy for future change and redevelopment within the Northeast Gateway Redevelopment Area identified in Chapter 2, Distinctive Places of the City of College Station Comprehensive Plan. This plan includes a closer look into the existing conditions, trends, and development pressures within the Northeast Gateway Redevelopment Area.

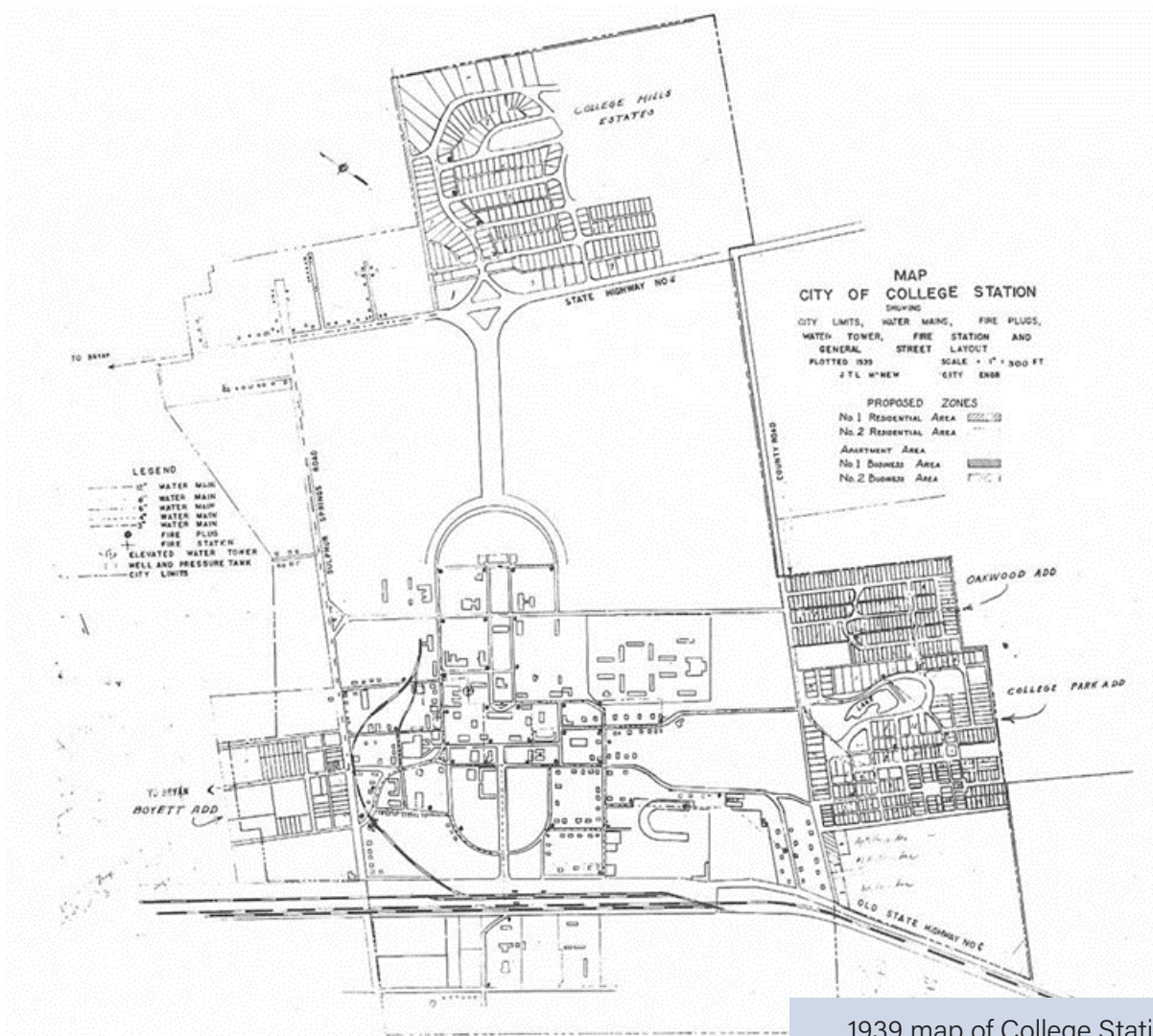
This plan covers the time horizon from 2023-2033 and serves as a statement of the community's intentions for the future. It provides goals and actions on a broad range of topics and provides strategic direction to enable infill and redevelopment and enhance mobility options throughout the planning area while providing opportunities for existing businesses and tenants.

In September 2033, on the 10-year anniversary of this plan's adoption date, the plan is officially retired and serves as a historical reference only. Subsequently, the City of College Station can choose to analyze whether a renewed planning effort is warranted or whether the goals of this plan have been satisfactorily implemented.

Planning Area

While once a predominantly rural and undeveloped area on the edge of the Agricultural and Mechanical College of Texas, the Northeast Gateway Redevelopment Area began to develop in earnest in the 1930s. The construction of Texas A&M University's Administration Building in 1932 reoriented the primary entrance of the campus from the historic train depot where Wellborn Road sits today to State Highway 6 (now Texas Avenue), creating a formal eastern entrance to campus on New Main Drive that acknowledged the growing primacy of the automobile.

The College Hills Estates subdivision was platted in July 1938, just months before community members voted to incorporate College Station as a city in October 1938. The entrance to the neighborhood was set opposite the new entrance to Texas A&M University, mimicking the curved highway entrance and exit pattern from across the street. The College Hills Estates neighborhood also employed the curvilinear streets and dedicated parkland practices seen elsewhere in the area during that era, while adding an auto-oriented shopping village at the New Main Drive/Walton Drive and State Highway 6 intersection (now Texas Avenue). The College Hills Estates neighborhood would be the first, but not the only, development to contribute to the Eastgate area, so named for the adjacent eastern gate into the Agricultural and Mechanical College of Texas. Another historic structure in the area at 903 Texas Avenue is documented in *A Guide to Historic Brazos County*. This one-story, free-standing brick building with art deco influences was constructed between 1941 and 1942.

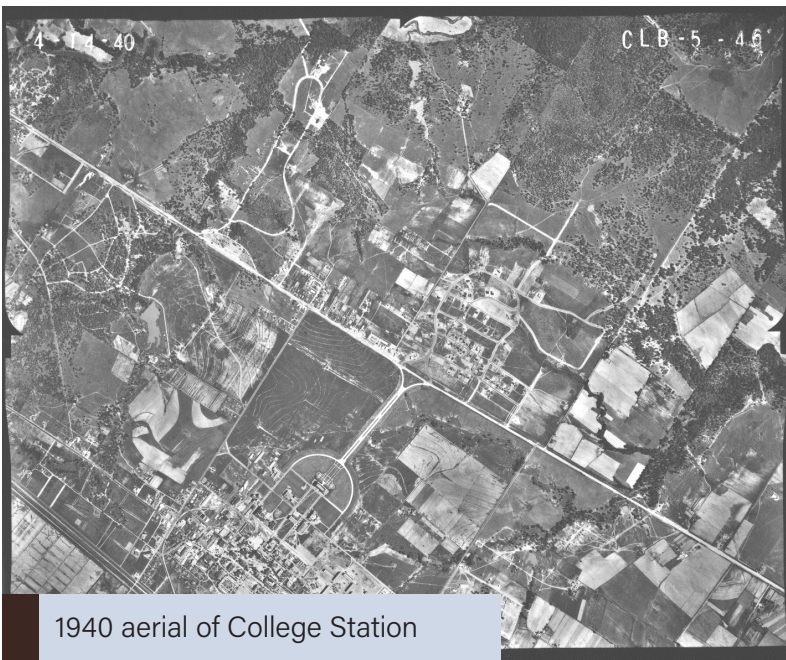


1939 map of College Station



1979 aerial photograph of City Hall

The Northeast Gateway Redevelopment Area experienced continued growth and development through the 1960s. During this period, the City of College Station established an administrative complex along Texas Avenue, including a city hall and fire station, built between 1969 and 1983. The majority of University Drive (FM 60) – previously called Sulphur Springs Road – was constructed in 1968 when it was extended east from its previous terminus at Texas Avenue to connect to the rerouted State Highway 6 – now the Earl Rudder Freeway. With this new link to the highway, the University Drive (FM 60) and Texas Avenue corridors would gradually fill in with commercial development through the 1990s.



1940 aerial of College Station

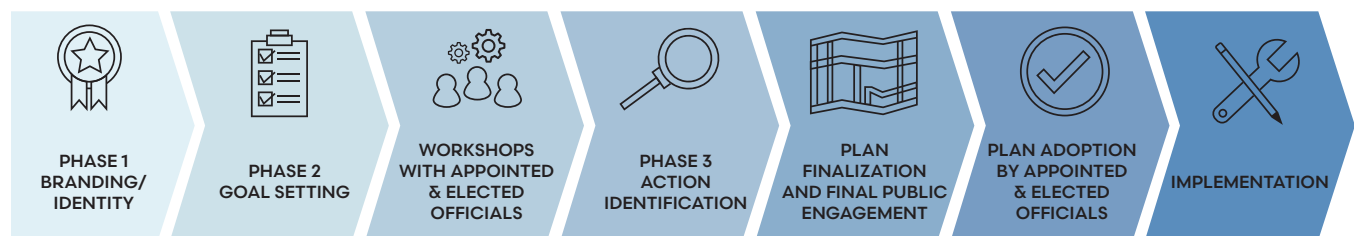
Since the 1990s, most development has been infill since much of the area had generally been developed by this point, leaving few opportunities for new, large-scale developments. Following the success of high-rise developments in Northgate after 2012, more interest and pressures for redevelopment have been seen in this area. The most significant development project was Northpoint Crossing, developed in 2014 on the northwestern corner of Texas Avenue and University Drive (FM 60). Embassy Suites also developed a new hotel along Jane Street in 2016. This structure is taller than other commercial structures around it and has reduced setbacks similar to what this plan proposes for the whole planning area. Most recently, the City of College Station developed a new City Hall along the same block as the prior site and rehabilitated the former fire station to house a visitor's center and Visit College Station.

RELATIONSHIP TO COMPREHENSIVE PLAN

The Comprehensive Plan indicates that “this area includes a number of underperforming land uses that...are poised for redevelopment,” suggesting that the planning effort should complement the nearby hospitality corridor, the Eastgate area, and the Texas A&M University Campus Master Plan while bringing aspects of an urban character to this portion of the City.

Additionally, Comprehensive Plan Action 2.2 directs staff to prioritize and undertake detailed plans for priority neighborhoods, districts, corridors, or redevelopment areas. During the 2021 Comprehensive Plan update, the Northeast Gateway Redevelopment Area was identified as a priority planning area. This is the first small area plan effort to be adopted under the 2021 City of College Station Comprehensive Plan.

PLANNING PROCESS

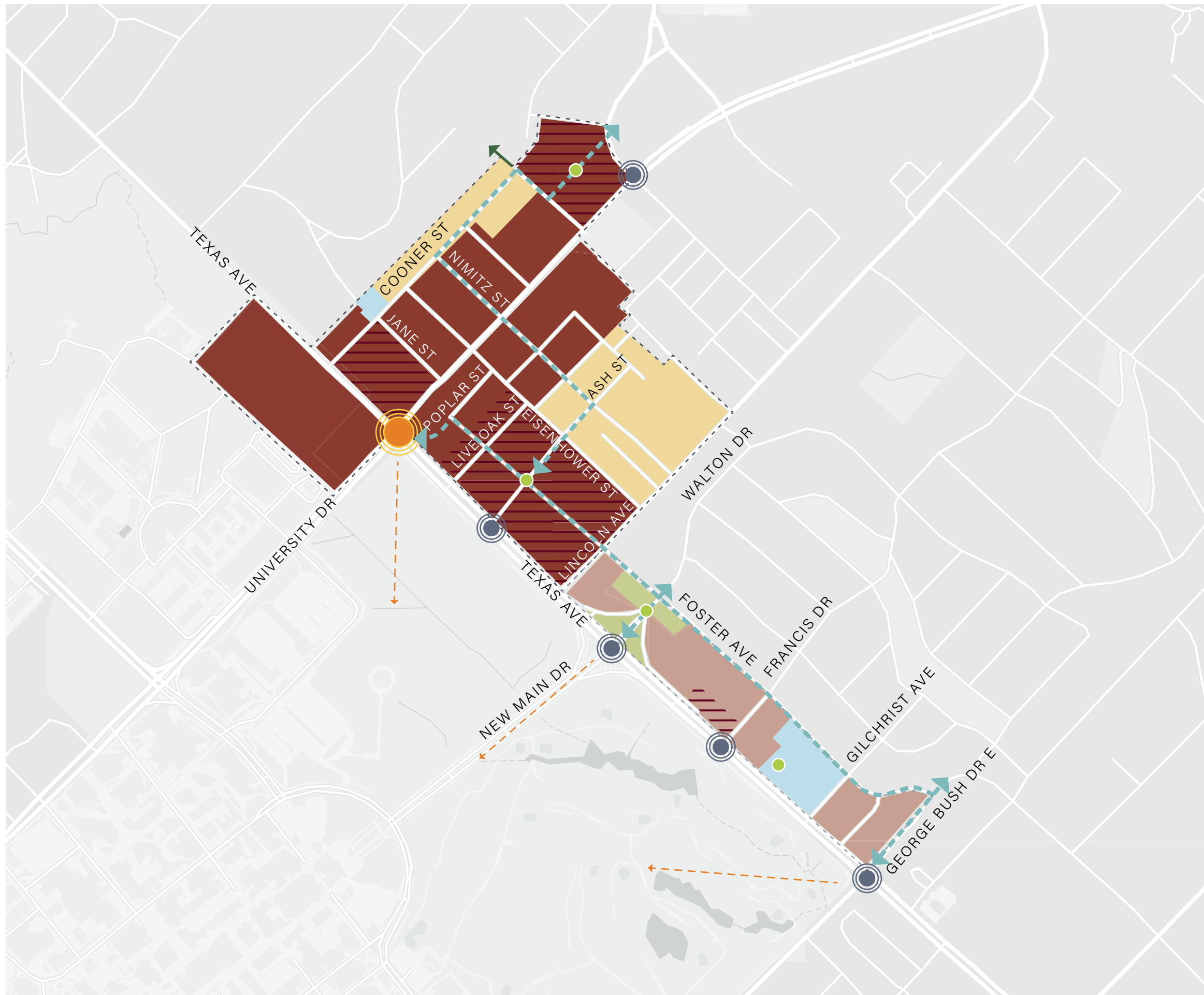


The beginning phases of the planning process included community visioning and brainstorming for the future of the planning area. During the Phase 1 meetings, participants were asked to help envision a new identity for the district, potential changes that could benefit the area, and strengths of the area that should be maintained. City staff grouped these comments into broader categories that helped inform the second phase of public engagement. The Phase 2 meetings focused on the categories from Phase 1, crafting the broad themes into goals and beginning to think about actions that would help implement them. Meeting participants helped City staff write the final goals for the plan and brainstormed actions to implement the goals of the plan. City staff wrapped the first two phases of the planning effort by conducting workshops with the Planning and Zoning Commission and City Council to explain the process and public input received through Phase 2 and ask for input and direction.

The middle phases of the planning effort focused on selecting a preferred scenario from three options that a consultant team from Asakura Robinson developed with City staff. The Phase 3 meetings offered individuals the opportunity to provide input on the scenarios and help identify additional actions that should be pursued during the plan. “Asakura Robinson and City staff then collated the preferred scenario and public feedback into **Map 1.1 Northeast Gateway Redevelopment Area Concept Plan**. Staff completed the middle phases of the planning effort with a final area-wide meeting and an online survey.

The final stage of this planning effort included meetings with the Bicycle, Pedestrian, and Greenways Advisory Board, the Planning and Zoning Commission, and City Council. The final plan was presented to the board and commission for their recommendation. The plan, along with the recommendations from the board and commission, was forwarded to the City Council for final adoption. After the plan was adopted by the City Council, staff began implementation of the actions in the plan. Implementation will occur over the planning horizon through City investments in infrastructure and programs, changes in regulations and policies that support a more urban character, and private development decisions.

Northeast Gateway Redevelopment Area Concept Plan



- CATALYST SITE
 - PRIMARY ARRIVAL GATEWAY
 - KEY INTERSECTION
 - KEY PUBLIC SPACE ACTIVATION
 - PRIORITY PED/BIKE CONNECTION
 - TEXAS A&M CAMPUS VISTA
 - BILLIE MADELEY PARK CONNECTION
- FUTURE LAND USE**
- URBAN CENTER
 - NEIGHBORHOOD CENTER
 - MIXED RESIDENTIAL
 - INSTITUTIONAL/PUBLIC
 - PARKS & GREENWAYS

SOURCE: ASAKURA ROBINSON



PROJECT TEAMS

Every planning effort requires coordination between stakeholders, staff, and appointed and elected officials. This planning effort engaged Asakura Robinson as an urban design consultancy, City staff, a working group of volunteers, the Planning and Zoning Commission and City Council, and the general public to build the plan's vision, goals, and actions. Members of the various project teams are identified in the Acknowledgments at the end of the plan.

ASAKURA ROBINSON

Asakura Robinson is a planning, urban design, and landscape architecture practice headquartered in Austin, Texas. They strive to bring comprehensive, equitable, sustainable, and implementable solutions to cities of all sizes. They collaborated with City staff on the scenario planning activities, concept plan, graphics, and plan content.

STAFF RESOURCE TEAM

The Staff Resource Team consisted of representatives from each department within the City to shepherd the plan and offer internal coordination opportunities. The Staff Resource Team met after each phase of the project to talk through any new information or decisions and confirm the roadmap for the next phase of the project.

PLANNING & DEVELOPMENT SERVICES RESOURCE TEAM

The Planning & Development Services Resource Team was comprised of staff from each of the divisions within the Planning & Development Services department to provide periodic updates and prepare for meetings with the Staff Resource Team and Working Group. This team met every other month in addition to bi-weekly check-ins on progress.

WORKING GROUP

The Working Group was a group of individuals that volunteered to help City staff determine the direction of the plan and provide more focused input throughout its creation. The group was comprised of property and business owners and residents within or around the planning area. Participants learned about small area planning, offered direction on specific components of the plan, and served as ambassadors for the project in their community circles.

Plan Goals & Structure

The Northeast Gateway Redevelopment Plan is of interest to community residents, investors, developers, business owners, and others interested in how the area will evolve over the next 10 years. The plan is divided into chapters representing each plan subarea: The Crossing and Eastgate Main. Each chapter contains goals, corresponding actions, narrative descriptions, and maps that provide direction for how the area should redevelop over time.

CHAPTER 1: PLAN FOUNDATION

The first chapter details the history of the area and provides an overview of the planning process and public participation opportunities.

CHAPTER 2: THE CROSSING

The Crossing is identified as the portion of the planning area that is north of Lincoln Avenue. This area is mostly composed of the Urban Center and Mixed Residential future land use designations, anticipating a higher level of redevelopment than Eastgate Main. The Crossing anticipates significant increases in housing options and housing stock, an enhanced and expanded multi-modal system, and a denser urban form.



THE THREE GOALS FOR THE CROSSING ARE:

1. Build a vibrant and distinct identity for the crossing that embraces an attractive urban form with versatile public spaces.
2. Ensure the availability of residential and commercial opportunities throughout the district.
3. Provide a safe and connected multi-modal mobility system designed to support all modes traveling to, from, and throughout the district.

CHAPTER 3: EASTGATE MAIN

Eastgate Main is the portion of the planning area that is south of Lincoln Avenue. This area is composed of the Neighborhood Center future land use designation, which anticipates both vertical and horizontal mixed-use developments. Eastgate Main best supports horizontal mixed-use development that honors the historic commercial structures along Walton Drive while providing additional housing opportunities along Foster Avenue.



THE THREE GOALS FOR EASTGATE MAIN ARE:

1. Enhance the existing historic identity of eastgate main by enabling and incentivizing appropriate and contextual infill, redevelopment, and revitalization.
2. Support the interests of current residents and businesses while redevelopment occurs.
3. Strengthen the existing multi-modal mobility system to support a diversity of modes of travel.



CHAPTER 4: PLAN IMPLEMENTATION

The final chapter establishes accountability for the execution of this plan and guides the necessary processes that come with plan implementation. In addition to detailing several area-wide actions, it collates the actions from the previous chapters and identifies implementation priorities and strategies.





2 THE CROSSING

The Crossing is one of the subareas of the Northeast Gateway Redevelopment Area. The dividing line for the subareas is Lincoln Avenue; The Crossing is the northern half of the planning area. The Crossing is oriented to the intersection of Texas Avenue and University Drive (FM 60). It includes areas designated as Urban Center and Mixed Residential on the Comprehensive Plan Future Land Use & Character Map. Currently, The Crossing is home to a variety of automobile-oriented retail and service uses, big-box shopping centers, hotel lodging, and owner-occupied and student-oriented housing. Its prominent location at a pedestrian entrance and vista to Texas A&M University makes The Crossing a primary gateway to the City of College of Station and Texas A&M University for visitors entering from Bryan on Texas Avenue and from State Highway 6 along the University Drive (FM 60) hospitality corridor.

The Crossing's commercial setting and orientation to two major arterials have resulted in an auto-centric public realm that is poised for infill and redevelopment as aging and underperforming commercial structures depreciate. Although much of the area has been divided into smaller lots, large parcels containing big-box shopping centers and excess parking areas can provide catalytic sites for infill or redevelopment and improved street connectivity.

The Crossing Concept Plan

- CATALYST SITE
- PRIMARY ARRIVAL GATEWAY
- KEY INTERSECTION
- KEY PUBLIC SPACE ACTIVATION
- PRIORITY PED/BIKE CONNECTION
- TEXAS A&M CAMPUS VISTA
- BILLIE MADELEY PARK CONNECTION
- FUTURE LAND USE

URBAN CENTER

MIXED RESIDENTIAL

INSTITUTIONAL/PUBLIC

Concept Plan

Map 2.1: The Crossing Concept Plan highlights key design elements and opportunities addressed further in this chapter that can be implemented through future redevelopment or public investment.

SOURCE: ASAKURA ROBINSON

CHARACTER & URBAN FORM

Building on the future land use categories described in the Comprehensive Plan, the Concept Plan prioritizes orienting development within the Urban Center areas towards Texas Avenue and University Drive (FM 60). Though the Comprehensive Plan anticipates an average of five (5) stories and mixed-use development throughout the Urban Center future land use, taller buildings at the intersection of and along the Texas Avenue and University Drive (FM 60) corridors would support a higher level of activity and help frame one of the primary gateways to the city. Infill and redevelopment along an improved Live Oak Street or the extension of Foster Avenue also provide space for a new mix of uses. The example in **Figure 2.1 Urban Street Rendering** exhibits a new development pattern that should be sought in The Crossing. Mixed Residential areas along Cooner Street and southeast of the Live Oak Street/Eisenhower Street intersection support a greater diversity of housing opportunities and help transition from Urban Center land uses to adjoining single-family neighborhoods.

Figure 2.1: Urban Street Rendering



GATEWAYS & KEY INTERSECTIONS

The intersection of Texas Avenue and University Drive (FM 60) is the pinnacle intersection within The Crossing. This intersection is one of six Primary Arrival Gateways into the city, which the Comprehensive Plan describes as “locations where the most substantial enhancements should be installed. [Enhancements] may include significant monument signage, substantial areas of landscaping and tree planting, fountains, lighted icons, and large-scale art.” Texas A&M University’s 2017 Campus Master Plan also recognizes the importance of this gateway, identifying new improvements for the southwestern corner of the intersection including a new monument sign. Other key intersections include the intersection of University Drive (FM 60) at Tarrow Street and the signalized entrance to the Lone Star Pavilion shopping center from Texas Avenue.



Live Oak Street

CATALYST SITES

The Concept Plan highlights four catalyst sites within The Crossing:

- The University Plaza shopping center at University Drive (FM 60) and Tarrow Street;
- The block containing the Bank of America building that is bounded by Texas Avenue, Cooner Street, Jane Street, and University Drive (FM 60);
- The restaurant and hotel area on both sides of Live Oak Street; and
- The Lone Star Pavilion shopping center and outparcels bounded by Texas Avenue, Eisenhower St. and Lincoln Ave.

While infill or redevelopment of these sites will be driven by the private sector, these sites represent development opportunities with fewer parcel assembly constraints and locations for important mobility infrastructure or new public spaces.

Distinctive Places

GOAL: Build a vibrant and distinct identity for The Crossing that embraces an attractive urban form with versatile public spaces.

As one of the subareas of the Northeast Gateway Redevelopment Area and a primary gateway to the Texas A&M University campus, The Crossing provides a strong opportunity for urban development types and public spaces that are currently only available in Northgate area and Century Square. Creating a distinct urban space that caters to a broader cross-section of the College Station community will require quality development and design stemming from public and private sector cooperation.

BUILDING FORM & USE

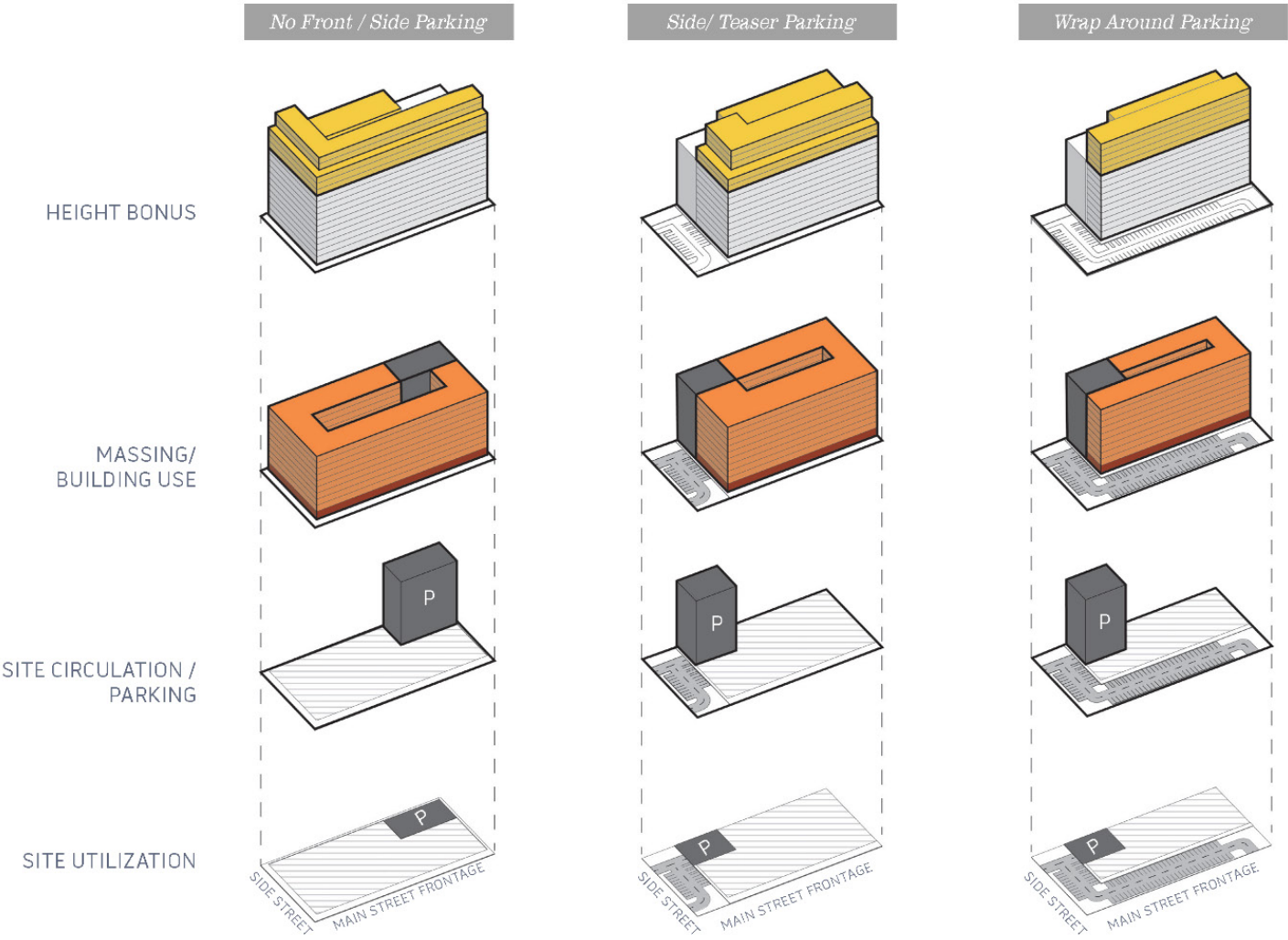
Future development within The Crossing's Urban Center areas will contribute to the creation of a vibrant, walkable district. The form, siting, and uses of buildings play important roles in creating a comfortable and inviting pedestrian realm by providing easy and convenient access close to major pedestrian routes and activating streets with ground-floor uses that generate foot traffic and visual interest.



CITY OF COLLEGE STATION

Figure 2.2: Parking and Building Placement Examples shows possible siting and location combinations for various vertical mixed-use structures. A mix of uses is encouraged in both vertical mixed-use buildings and horizontal mixed-use developments, where uses can be in separate buildings that are connected through site design. Mixed-use and multi-family housing development will help residents live close to major employers and amenities and provide customers for retail and service providers. Locating buildings close to the street with consistent massing and setbacks creates visual consistency that provides a sense of enclosure for drivers. Including several vertical elements, such as street trees or pedestrian spaces, in a driver's field of vision has a traffic-calming effect, creating a safer and more welcoming space for pedestrians and cyclists.¹

Figure 2.2: Parking and Building Placement Examples



Century Square is a mixed-use development west of the planning area. 100 Park provides needed housing units next to Texas A&M University and customers for the surrounding commercial uses.



Table 2.1 Suggested Development Standards contains example development standards to implement the vision of the plan. These development standards should be used to assist in future ordinance amendments.

<i>Table 2.1 Suggested Development Standards</i>		
Area	Urban Center	Mixed Residential
Maximum Height	5 stories / 60-ft (above 5 stories with density/height bonus)	35-ft
Average Number of Stories	4	2
Vertical Mixed-Use	Encouraged	Not permitted.
Minimum Front Setback	20-ft minimum setback from the curb.	5-ft minimum setback.
Maximum Front Setback	If no parking is provided: maximum 15-ft. If a one-way drive aisle and single-loaded 45-degree angled parking are provided: maximum 50-ft. If a two-way drive aisle and double-loaded perpendicular parking is provided in front of the structure: maximum 100-ft.	25-ft maximum setback. Setbacks below 15-ft encouraged.
Block Length	Not to exceed 660-ft per face. Smaller block sizes or pedestrian passages between 300-400-ft are encouraged to promote a walkable grid network.	Not to exceed 660-ft.
Front Parking	Discouraged. Not permitted along Foster Avenue. For other areas, a single row of parking is permitted when separated from the right-of-way by a sidewalk and a landscape buffer of 6-ft with street trees.	Permitted.
Side/Rear Parking	Permitted.	Permitted.
Building Orientation	The primary entrance should be facing the street or intersection (if located at an intersection).	The primary entrance should be facing the street or intersection (if located at an intersection).
Sidewalks	Minimum 8-ft. For high-traffic areas, 12-ft and canopy overhangs to provide shade are recommended.	Minimum 6-ft.



Example of new housing construction in the Mixed Residential area on Cooner Street.

Within Mixed Residential areas, residential redevelopment, including through the MH Middle Housing zoning district, is anticipated to provide a mix of housing types, including single-family homes, duplexes, townhouses, live-work units, courtyard houses, and multiplexes. In combination with the commercial uses anticipated in the Urban Center areas, the mix of different housing types embodied by the MH Middle Housing zoning district will enable a new generation of faculty, staff, and students of Texas A&M University to live, work, and recreate next to the university. These new housing opportunities are also anticipated to reduce the development pressures in the surrounding single-family residential areas.

PUBLIC SPACE

Parks, plazas, and open spaces provide opportunities for residents, workers, and visitors to relax and gather. Though parks and open spaces such as Lions Park, Billie Madeley Park, and the Polo Fields are located just outside of The Crossing, no public space exists within The Crossing. Creating new public spaces and improving connections to the existing public spaces just beyond the planning area are priorities.

Three key public spaces are proposed with the future redevelopment of The Crossing: a central green or plaza within the Lone Star Pavilion catalyst site near future extensions of Foster Avenue and Ash Street; a green or plaza within the University Plaza catalyst site with potential stormwater management features to help mitigate issues within the area; and a shared-use path connection from Cooner Street and the University Plaza area to Billie Madeley Park, which is currently only accessible through the City of Bryan. The design, function, and connectivity of these spaces should be determined in conjunction with the property owner or developer and the community to identify desired amenities and features. As The Crossing's redevelopment will provide new housing opportunities for residents and families, the design of these spaces should also consider the needs of multigenerational households and children.

In addition to providing recreational space, these spaces can be designed to provide on-site stormwater management and detention, supplementing capacity at existing stormwater management facilities. In contrast to conventional detention basins, low-impact development techniques can allow stormwater to infiltrate through the ground while minimizing the footprint dedicated to standalone space. Water features can also cool the air and provide a calming effect with white noise. Siting these spaces near existing stormwater facilities such as the detention basin at University Plaza or within the low-lying area of Lone Star Pavilion's parking lot could minimize disruptions and enhance their effectiveness.

Because there is very little public property within The Crossing, the City will need to collaborate with private property owners to locate, design, and manage public space. Public space can be either publicly owned, if purchased by or dedicated to the City, or privately owned by the developer, such as The Green at Century Square. The mechanisms to create public space vary but can include parkland dedication, land dedication for public use in return for incentives such as a height bonus, public-private partnerships that include a mix of public funds or in-kind management or maintenance, and public access easements or agreements.



Existing parking lot sign at the Lone Star Pavilion shopping center

ARTS, CULTURE, & PROGRAMMING

Cultural institutions play an important role in creating a district's identity and activating public spaces through arts and programming. Nearby Century Square includes a mix of sculptures and murals that pay homage to Texas A&M University's culture and traditions. Century Square's management also hosts events on The Green, with its Front Porch live music series, Century Square Cinema movie screenings, and monthly Shopping on the Square vendor markets. Except for religious institutions and the Benjamin Knox Gallery, there are few existing spaces for culture and art within The Crossing, and a lack of public space prevents programming opportunities.



Future public space within The Crossing can create opportunities for partnerships with arts institutions such as the Arts Council of Brazos Valley, the Texas A&M University School of Performance, Visualization & Fine Arts, and the Texas A&M University Academy for the Visual and Performing Arts. New development could support the arts, especially if site-specific art installations or contributions to art funds are included as a criterion for bonus heights. The hospitality industry and arts are closely aligned, and hotel occupancy tax revenues within the area can support Visit College Station and investment in the arts.

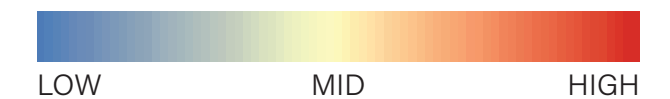
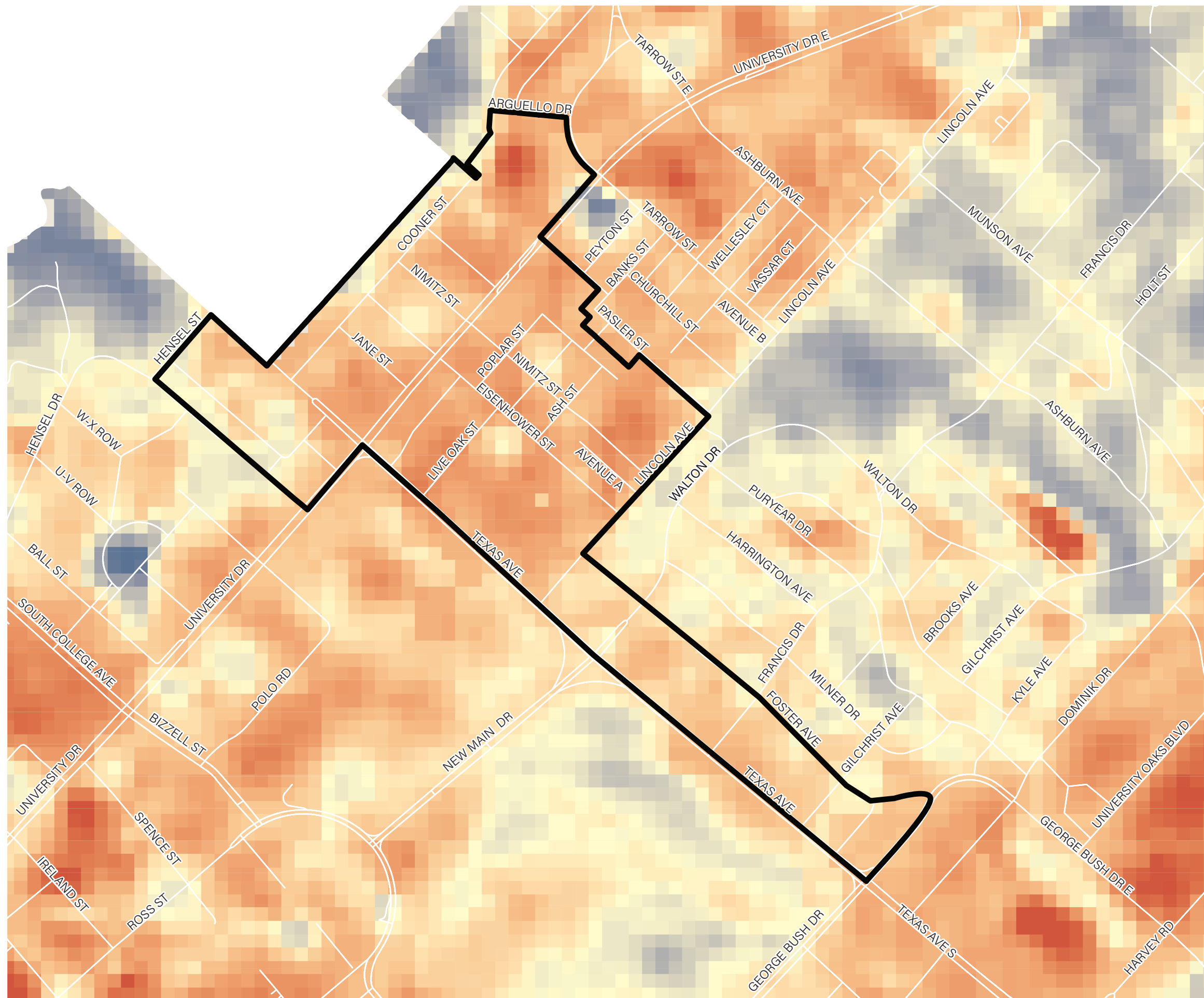
Besides direct investment in the arts, The Crossing can support the growth of cultural institutions by providing affordable spaces for artists and artisans. Vacant buildings and storefronts can be adapted and reused as makerspaces, creating new activity within The Crossing and increasing occupancy of otherwise underutilized spaces.

URBAN FORESTRY & HEAT ISLAND MITIGATION

While hot summers are an unavoidable fact of life in Central Texas, the additional impacts of heat can be especially pronounced in heavily paved urban areas that absorb and retain heat through pavement and building materials. According to the Environmental Protection Agency (EPA), heat islands are “urbanized areas that experience higher temperatures than outlying areas.” Heat has a significant negative impact on pedestrian and cyclist comfort, with elevated surface temperatures in denser areas reducing comfort when compared to greener, more natural landscapes with trees and shade. The Cooling College Station plan addresses urban heat islands, visualized estimated surface temperatures across College Station, and outlined a five-year tree planting plan for public parks, rights-of-way, and other City properties. **Map 2.2: Surface Temperatures from Cooling College Station** shows the relative urban heat in the planning area.

Planning for urban tree canopy with future redevelopment in The Crossing can help mitigate the heat island effect present within this area: the surface temperature analysis from Cooling College Station highlights increased surface temperatures within The Crossing when compared to neighboring areas such as Eastgate Main and Century Square. Planting trees around buildings, in parking lots, and public spaces and rights-of-way is one of the most effective techniques to reduce heat islands, as the greenery provides shade and evapotranspiration that lowers surface and air temperatures.

Surface Temperatures from Cooling College Station



-  DISTRICT BOUNDARY
-  COLLEGE STATION CITY LIMITS



Strong Neighborhoods & Prosperous Economy

GOAL: Ensure the availability of residential and commercial opportunities throughout the district.

As The Crossing redevelops, the availability of residential and commercial opportunities will expand. More housing options and choices will become available and vertical mixed-use structures will bring new commercial prospects that have not been available in College Station. However, this redevelopment should be pursued in a phased approach so as not to displace residential and commercial tenants due to a lack of opportunity or skyrocketing rental prices.

HOUSING FOR DIVERSE RESIDENTS

Reflecting the community's existing and future housing needs and demographic characteristics, future development and redevelopment of different housing types will expand housing opportunities for all residents of the City of College Station, including faculty, staff, and students of Texas A&M University. While detached single-family homes have historically been the base of College Station's housing stock, the MH Middle Housing zoning district can provide more for-sale and for-rent opportunities for households and families seeking a walkable lifestyle near employment opportunities and amenities, particularly as rising land values raise the costs of single-family home ownership. Even as appraised land values increase within Brazos County, denser housing types can remain more affordable over time because they consume less land and can spread property value and tax costs across a greater number of households, reducing the burden on individual homeowners or renters. Additionally, by enabling the MH Middle Housing zoning district and incentivizing higher-density housing in this redevelopment area, development pressures can be concentrated here and outside of established single-family neighborhoods. Furthermore, the MH Middle Housing zoning district provides greater flexibility and serves as a transitional buffer between more intense urban uses and established single-family zoning districts. Encouraging amenities such as green space and childcare close to housing opportunities can also make The Crossing more attractive to families.

MIXED-USE DEVELOPMENT TYPES

Creating an urban center within The Crossing requires compact, mixed-use development to create activity and pedestrian traffic. Mixing residential and economic/employment-generating uses in a compact development form provides housing in an amenity-rich area, generates foot traffic for retail and service uses, and creates attractive locations for office workers and employers. Mixed-use development can take the form of vertical mixed-use, where a single building contains commercial uses on the ground floor and/or upper stories as well as residential uses above, or horizontal mixed-use, which combines commercial and residential uses within a walkable, compact site. Vertical mixed-use developments should provide a variety of retail and service space sizes and configurations on their first floors to support a mix of users and needs. Use requirements should be flexible and allow complementary sectors to cluster in the area, such as wellness and lifestyle-oriented businesses like yoga studios and juice bars, or makerspaces and professional offices.

Major challenges to the successful development of vertical mixed-use buildings can include the availability of financing for the developer and commercial real estate market demand. Vertical mixed-use development is more complex than horizontal mixed-use development due to building code requirements and the mix of revenues and management needs. Additionally, a comment staff received repeatedly throughout the planning process was how perceptions of access to retail spaces can impact customer traffic. Developments that do not have clear access points, including front-row parking, have had limited success.

ECONOMIC DEVELOPMENT

Wherever possible, redevelopment within The Crossing should support the retention of existing businesses. While mixed-use development may seem like a major change to the big-box format of many retailers and anchors, many national retailers have successfully opened stores in urban and mixed-use developments, as evidenced by the Buffalo Heights H-E-B. Since a variety of big-box retailers are present within this area, development regulations should avoid setting overly restrictive maximum limits for allowable gross floor area for ground-floor retail establishments. Maintaining flexibility for retailers and commercial tenants will be critical as this sector continues to adapt to the effects of the COVID-19 pandemic, the rise of online retail, and the growing need for backroom spaces for online order fulfillment and pickup.

H-E-B store in Buffalo Heights mixed-use development in Houston.

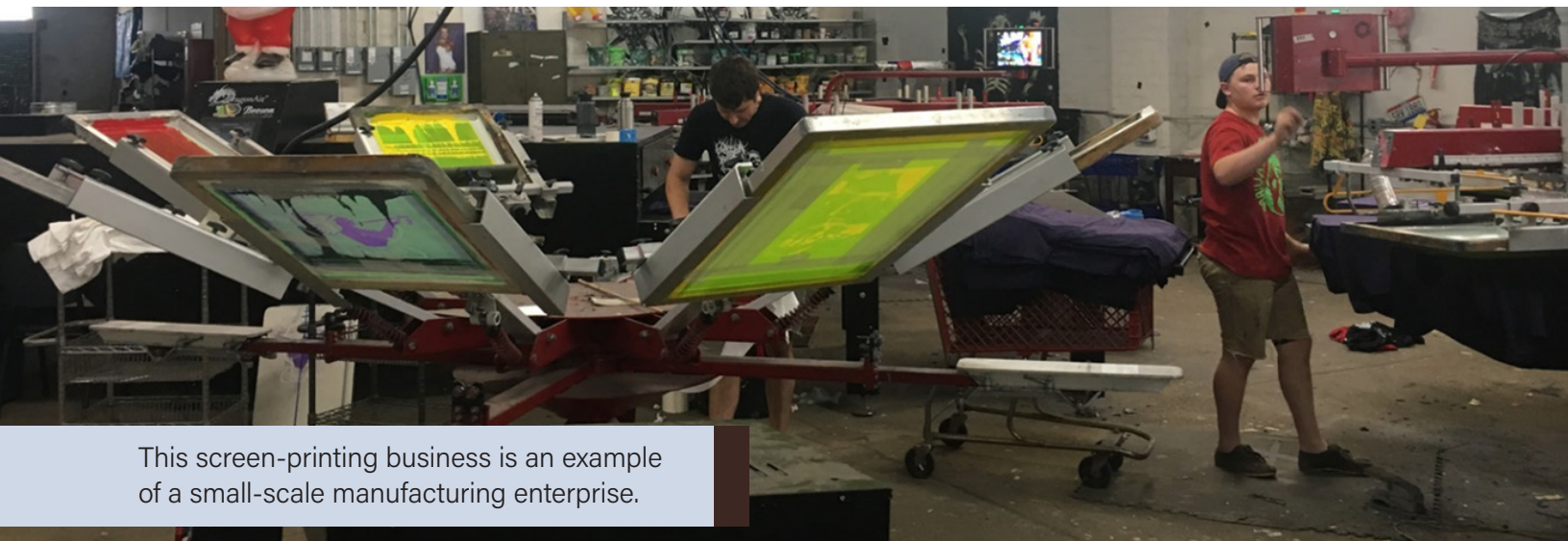


As The Crossing continues to redevelop, small-scale commercial and office uses may be able to take root in older and lower-rent spaces, providing space for this sector. Large spaces such as the former Albertson's store at the University Plaza shopping center could accommodate a larger tenant or could be divided to permit small-scale pop-up shops that allow small businesses to scale and activate vacant spaces. Pop-ups typically include short-term agreements rather than long-term leases, providing flexibility for the property owner.



Triangle Pop-Up Market in Raleigh, NC.

Makerspaces and small-scale manufacturers, often called micro-industrial uses, can also catalyze economic development and adaptive reuse within The Crossing. As opposed to the popular conception of large factories and heavy manufacturing as massive, loud, and polluting entities, small-scale manufacturing utilizes recent technologies that are clean, quiet, and can fit into smaller spaces. Where the retail market is unable to support full occupancy of retail spaces, these makers can occupy difficult-to-lease or less desirable retail spaces. The presence of a small storefront can provide opportunities to market directly to local customers while the rear spaces are used for production. Finally, the proximity of The Crossing to Texas A&M University can also support collaborations with students, staff, and faculty from the University.



This screen-printing business is an example of a small-scale manufacturing enterprise.

INFILL & REDEVELOPMENT

The Northeast Gateway Redevelopment Area contains retail and office buildings in a variety of sizes and conditions, from larger big-box retail spaces to smaller offices. Within The Crossing, these spaces tend to be larger as part of a shopping center or strip development. However, a variety of spaces within The Crossing are currently vacant, including ground-floor retail spaces in the Northpoint Crossing development and the former Albertson's store at the University Plaza shopping center.

As market conditions begin to encourage infill and redevelopment within these areas, providing flexibility for the reuse of vacant spaces will encourage continued economic development and placemaking opportunities within the area. Key opportunities within The Crossing could include permitting spaces for small business pop-ups, makers, and small-scale manufacturers. The recent elimination of parking minimums within redevelopment areas could provide flexibility for users seeking to occupy existing spaces and remove a barrier to redeveloping vacant or underutilized parking areas or developing new pad sites.

Redevelopment encourages the continued longevity and adaptation of existing businesses and residents while creating the space and amenities to attract and house new businesses and residents. Strategies to reconnect the street grid and create new spaces for businesses and residents can be completed incrementally over time. Achieving the plan's vision of redevelopment will require smaller projects and site activations, with a phased approach ensuring the continued operation of existing tenants until they are ready for potential change. When redevelopment sites contain underutilized spaces such as vacant buildings or parking lots, redeveloping these areas provides options for businesses to temporarily relocate and remain in the area during construction and development, while reducing financial risk. However, the City should coordinate with business and economic development entities such as the Brazos Valley Economic Development Corporation to develop strategies that minimize construction disruptions and displacement. Construction disruption assistance could include technical assistance or financial assistance through short-term loans or grant programs for lost revenues due to redevelopment and construction.

INCENTIVES FOR QUALITY DEVELOPMENT

Creating the desired community character and form within The Crossing area will be primarily driven by the private sector through infill and redevelopment. Accordingly, aligning development regulations and incentives to encourage the provision of high-quality urban design and public spaces will be a critical implementation strategy.

While Texas enabling authority prohibits the outright requirement of public benefits like affordable housing in new development, cities can use financial or regulatory incentives to encourage the provision of public benefits in new development. Common regulatory incentives include height and density bonuses, which allow developers to go above a standard height or density limit in return for providing benefits such as affordable housing, public space, pedestrian and bicycle amenities, and more. This type of market-driven incentive can achieve both public and private goals in new development.



Bonuses for providing affordable housing typically require setting aside a certain percentage of on-site residential units as affordable, or contributing to an affordable housing fund, depending on the community's definitions and policies. Public spaces and facilities that exceed standard design requirements in site development plans or subdivisions standards can also qualify for bonuses, often in proportion to the amount of land dedicated. Setting base height or density limits, thresholds for bonuses, and administrative procedures should be coordinated and prioritized as strategic actions stemming from this planning effort.

As The Crossing is intended to be the site of the most intense development within the planning area, the City should incorporate regulatory incentives such as height bonuses in future zoning ordinance updates to encourage high-quality and dense development within this area. The City should develop a density bonus system to encourage public benefits as a component of development and achieve other goals in this plan, including the dedication of space for public use or the construction of priority mobility connections such as bicycle and pedestrian facilities. The incentive structure should ensure that the increases in height or developable area are proportional to the public benefits received.



Integrated Mobility

GOAL: Provide a safe and connected multi-modal mobility system designed to support all modes traveling to, from, and throughout the district.

Infill and redevelopment will bring more people to The Crossing to live, shop, or recreate. Enhancements are needed to the mobility system to handle the additional trips within the district. These additional paths and improvements should be carefully planned to maximize impact and safety for all users.

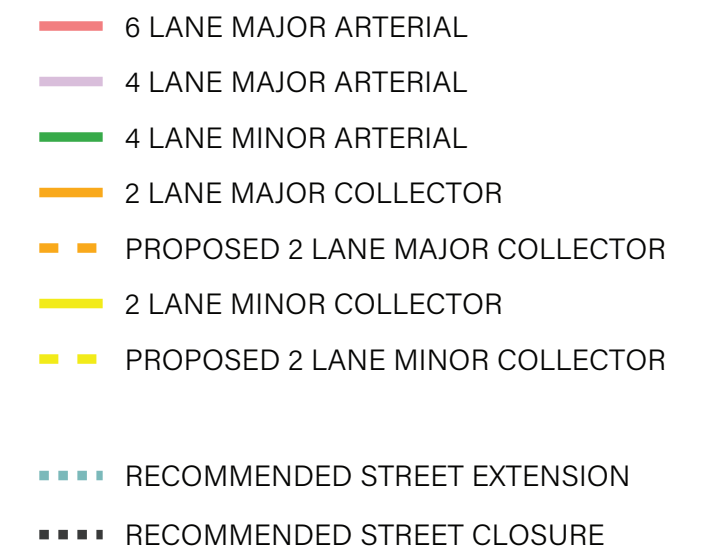
FUTURE STREET NETWORK

Map 2.3: Future Street Network focuses on building a robust, urban street grid and providing alternatives to Texas Avenue and University Drive (FM 60) with high-quality facilities for pedestrians and cyclists. While shared-use paths and sidewalks exist along sections of these two arterials, they may not be preferred routes for pedestrians and cyclists due to a lack of adequately separated facilities, gaps in the existing network, excessive noise and heat, and distances to storefronts.

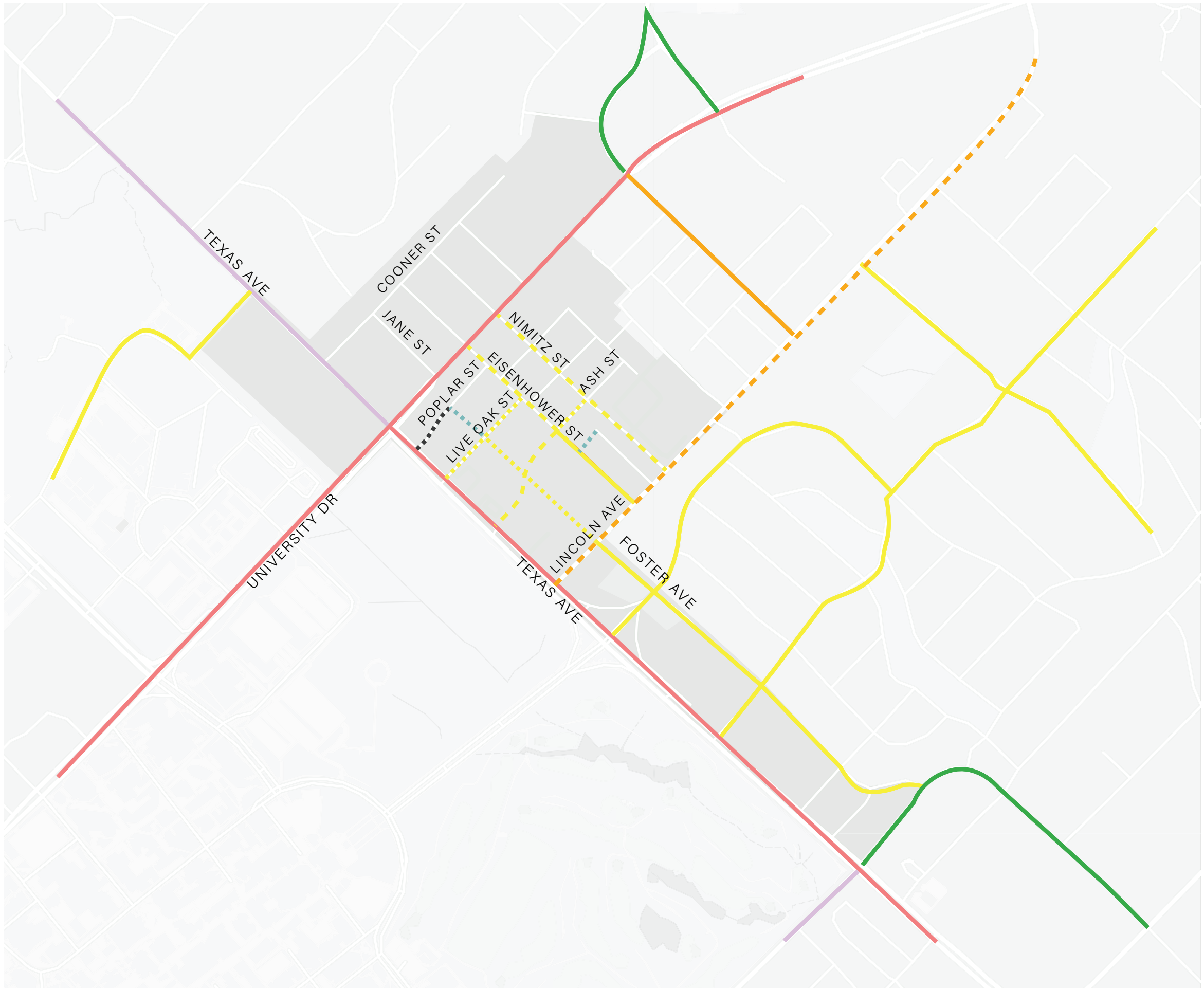
Connections prioritized for future improvement within The Crossing are the extension of Foster Avenue from Lincoln Avenue to Live Oak Street, the extension of Ash Street from its existing terminus to the signal at Texas Avenue, and the bicycle facility along Ash Street and Nimitz Street between the Ash Street/Eisenhower Street intersection and Nimitz Street's terminus at Cooner Street. These will provide improved connectivity to existing neighborhoods, create an alternative bicycle and pedestrian crossing at University Drive (FM 60), and support development within important catalyst sites. Additionally, one of the actions of the plan suggests improvements to Live Oak Street, including eliminating the existing offset at Eisenhower Street and providing improved bicycle and pedestrian facilities to encourage redevelopment.

In addition to these improvements between University Drive (FM 60) and Lincoln Avenue, an important bicycle and pedestrian connection could be made between the existing right-of-way of Cooner Street and the University Plaza shopping center to provide additional access and complete a parallel bicycle and pedestrian network to University Drive (FM 60) through the district. Although existing grades and stormwater facilities currently prevent a direct connection between Cooner Street and Chimney Hill Drive, future redevelopment of the University Plaza shopping center should formalize the bicycle and pedestrian connection between Cooner Street and Tarrow Street/Arguello Drive.

Future Street Network



SOURCE: ASAKURA ROBINSON



HIGH-COMFORT BICYCLE & PEDESTRIAN FACILITIES

A walkable, bikeable, and vibrant urban center requires high-quality and high-comfort pedestrian and bicycle facilities. Development of pedestrian and bicycle facilities must emphasize comfort, recognizing the impacts of vehicular traffic speeds, noise, heat, and slope that can reduce perceptions of safety and create stress for users.² High-comfort facilities serve users of all ages and abilities.

Strategies to improve comfort can include lowering vehicular speeds, providing additional separation from vehicular traffic through horizontal or vertical separation or barriers, providing street trees and shade, and providing facilities that are sized appropriately to allow users to pass or maneuver with ease. Many of these strategies can be implemented through street section design guidance in the Bryan/College Station Unified Design Guidelines, as well as careful coordination with Texas Department of Transportation (TxDOT) design guidelines. As design standards based on functional classifications typically prioritize vehicle movement over local urban design context and pedestrian and bicycle comfort, future updates should respond to specific local contexts and anticipate where exceptions are needed. Establishing additional pedestrian crossings, such as a crosswalk at the Lone Star Pavilion signalized intersection, can reduce the length of pedestrian trips.



Several changes are proposed to the Bicycle Plan within the Bicycle, Pedestrian, and Greenways Master Plan, as reflected in **Map 2.4: Future Bicycle Network**. Proposed bike routes are suggested for Cooner Street and Nimitz Street between Cooner Street and University Drive (FM 60). These bike routes will help connect other components of the bicycle network on streets with constrained right-of-way. Proposed shared-use paths are anticipated going through the University Plaza shopping center, along Texas Avenue between Lincoln Avenue and the city limits, and along the western half of Poplar Street where the road closure is suggested. Additionally, there are new proposed bike paths along the Foster Avenue extension north of Lincoln Avenue, along Live Oak Street, along Ash Street between Eisenhower Street and Nimitz Street, and along Eisenhower Street between Ash Street and University Drive (FM 60).

Similarly, changes are proposed to the Pedestrian Plan within the Bicycle, Pedestrian, and Greenways Master Plan as shown in **Map 2.5: Future Pedestrian Network**. The proposed shared-use paths from the Bicycle Plan are suggested to be added to the Pedestrian Plan, including through the University Plaza shopping center, along Texas Avenue, and along Poplar Street. Additionally, the Foster Avenue extension is proposed to have sidewalks on both sides of the street and the extension of Avenue A to Eisenhower Street is proposed to have a sidewalk on one side.

Future Bicycle Network

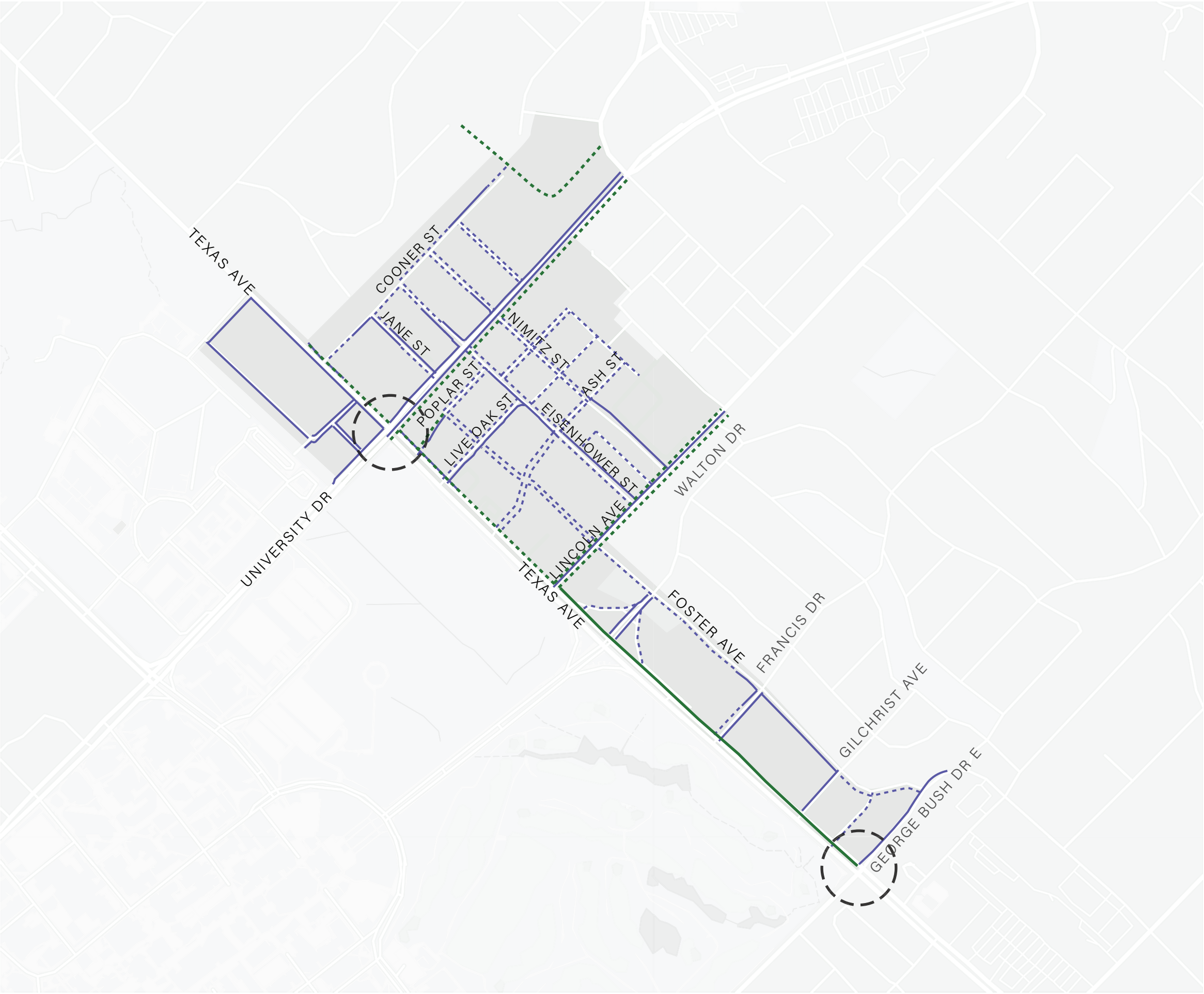
- BIKE LANE EXISTING
- - - BIKE LANE FUNDED/PROPOSED
- BIKE ROUTE EXISTING
- - - BIKE ROUTE FUNDED/PROPOSED
- SHARED USE PATH EXISTING
- - - SHARED USE PATH FUNDED/PROPOSED
- - - GRADE SEPARATED CROSSING PROPOSED



SOURCE: ASAKURA ROBINSON

Future Pedestrian Network

- SIDEWALK EXISTING
- SIDEWALK FUNDED/PROPOSED
- SHARED USE PATH EXISTING
- SHARED USE PATH FUNDED/PROPOSED
- GRADE SEPARATED CROSSING PROPOSED



SOURCE: ASAKURA ROBINSON

The Bicycle, Pedestrian, and Greenways Master Plan currently proposes a bicycle/pedestrian grade-separated facility at Texas Avenue and University Drive (FM 60). In addition to a grade-separated bicycle/pedestrian facility, facilities that separate traffic while allowing pedestrians and cyclists to remain at grade should be considered. Grade separations can negatively impact cyclist and pedestrian perceptions of safety and convenience, particularly if they add additional travel distance or difficulty or are perceived to be unsafe. In addition to separating the bicycle and pedestrian facilities at this intersection, separating through traffic should be explored, such as lowering northbound/southbound Texas Avenue below grade while maintaining an at-grade, signal-controlled intersection with bicycle and pedestrian facilities. This would potentially mitigate an existing signal phase and improve intersection performance.

PROPOSED URBAN STREET CROSS-SECTION

Within catalyst sites such as Lone Star Pavilion and University Plaza, modifications to the City's standard Minor Collector section may be appropriate to provide enhanced facilities, including separated bike lanes buffered from through traffic by on-street parallel parking, street furniture, street tree planting zones, and wide sidewalks. While street trees provide shade, they sometimes conflict with utility provision; care and intention should be shown for the location of trees outside of utility locations. Revisions to the MU Mixed-Use zoning district should include which amenities should be provided with property development. The Minor Collector variation shown in **Figure 2.3: Proposed Urban Street Cross-Section** provides ample space for pedestrians and can support amenities such as sidewalk cafes within privately owned frontages.

Although the standard Minor Collector section requires a 60-foot right-of-way, retrofits to existing sections of Ash Street and Nimitz Street must consider the constrained right-of-way (typically 50 feet) and existing pavement section (typically 27 feet). As these sections will provide an important bicycle connection within the existing residential area, future improvements should consider reducing vehicular travel lane widths to manage right-of-way while maintaining adequate fire access and vertical and horizontal separation from bicycle and pedestrian facilities. Although bicycle and pedestrian facilities should ideally be separated to reduce conflicts between users, an alternative shared-use path section may be appropriate where lower bicycle and pedestrian traffic volumes are anticipated.

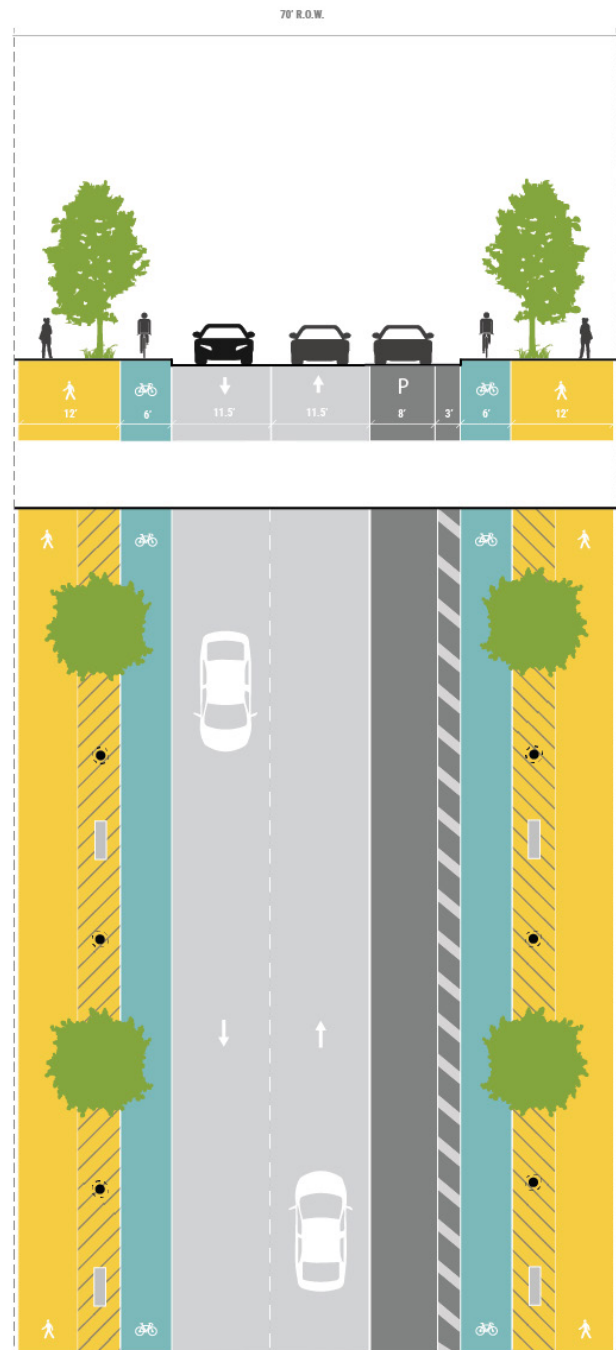


Figure 2.3: Proposed Urban Street Cross-Section



This sidewalk in Northpoint Crossing highlights how tree and furniture placement can reduce attractiveness to pedestrians. Utility infrastructure should not be located in high-traffic areas. Additionally, street trees should not reduce sidewalk width.



While the information kiosk obstructs the sidewalk, this sidewalk in Century Square maintains ample space for landscaping as well as bike storage, leaving a wide path for pedestrians.

CONNECTED STREET NETWORK

Although a street grid can be seen within The Crossing's residential areas, creating a connected street network will require addressing the larger blocks between the residential areas and the primary corridors, particularly those located between Eisenhower Street and Texas Avenue.

Typical block dimensions include 275 feet (between Ash Street and Live Oak Street) by 320 feet (between Eisenhower Street and Nimitz Street), and 300 feet (MacArthur Street to Nimitz Street) by 625 feet (Cooner Street to University Drive (FM 60)). Smaller block sizes create a greater variety of route options for travel modes that are more sensitive to distance, such as walking and biking. Currently, the "superblock" bounded by Texas Avenue, Live Oak Street, Eisenhower Street, and Lincoln Avenue is over 1,100 feet and 800 feet on its faces. Though the Future Street Network Plan identifies priority connections for public investment, future redevelopment should include a mix of local streets and bicycle/pedestrian connections that provide additional connectivity. For example, Century Square's central block is about 350 feet by 550 feet and bounded by vehicular accesses, but the interior of this block contains high-quality pedestrian areas that contribute to this development's walkability. The Unified Development Ordinance prohibits block lengths greater than 660 feet in Urban Core Context Zones as defined in the Comprehensive Plan.

New connections should be designed to connect to existing public streets wherever possible and provide connectivity to adjoining neighborhoods. Offsets and jogs should be avoided or resolved with new intersection designs or realignments, such as the existing jogs of Live Oak Street and Ash Street at Eisenhower Street.

TRAFFIC SIGNAL & ACCESS MANAGEMENT

The Crossing contains several critical intersections that manage traffic flows to and from College Station's commercial corridors, the City of Bryan, and Texas A&M University. In addition to the central signalized intersection of Texas Avenue and University Drive (FM 60), traffic signals are present at University Drive (FM 60)'s intersections with Nimitz Street and Tarrow Street, as well as Texas Avenue's intersections with the access drive to the Lone Star Pavilion shopping center, Walton Drive, and George Bush Drive East.

While the existing signalized intersections are spaced with about 0.2 miles between each signal, nearly reflecting the accepted recommended minimum spacing of a quarter mile between each signal, managing parcel-level access near intersections is a crucial challenge within The Crossing. At the Texas Avenue and University Drive (FM 60) intersection, the presence of driveway and local street accesses such as the existing Exxon gas station, U-Haul location, and Poplar Street negatively impact intersection performance, safety, and pedestrian comfort. Though these accesses are primarily right-in/right-out entrances with raised medians that restrict left-turn movements near the intersection, where there is limited alternative access from local streets, a lack of alternatives can negatively impact perceptions of access near the intersection. Commercial spaces with relatively low connectivity to adjacent areas or requiring additional turning movements have been anecdotally noted to be less desirable.

Encouraging internal circulation through street connections and small blocks can help to provide access from side streets, minimize the need for curb cuts and driveway accesses near high-volume intersections, and improve perceptions of access within the area. The presence of secondary streets and internal connections can also support urban development forms with parking located behind or to the side of the primary building in surface lots or parking structures. Future development and improvements to Texas Avenue and University Drive (FM 60) should be coordinated to consider the effectiveness of existing median crossovers with left-turn bays and the potential need for additional signals.



PUBLIC TRANSIT

Transit improvements can help reduce vehicular usage and limit the impact of increased demand on current infrastructure. The Brazos Transit District (BTD) is considering implementing fixed stops along all of its routes, including the three routes that frequent the area, as the addition of fixed stops could encourage ridership and improve the transit experience. Texas A&M University Transportation Services should also consider adding new fixed stops to the existing 12/Reveille route or rerouting the 12/Reveille service into the future redevelopment of the Lone Star Pavilion shopping center to service the increased housing densities. Additionally, the frequency of the busiest routes, particularly routes that have one hour or greater intervals between buses, should be shortened to ensure reliable service and encourage transit ridership. Lastly, improvements to bus stops, including but not limited to transit shelters and bike racks, will help riders by protecting them from traffic and extreme weather conditions. Transit shelters should be offered in designated furniture zones along transit corridors and bike racks should be installed to allow multi-modal riders the opportunity to lock their vehicles as neither Brazos Transit District nor Texas A&M University Transportation Services have mounted bike racks on their buses. Future opportunities to add mounted bike racks to both transit providers' buses should be capitalized upon.

Strategic Actions

The actions listed below are intended to accomplish the City's goal for creating a vibrant and distinct district that provides sufficient residential and commercial opportunities connected by a safe and comfortable multi-modal mobility system.

DISTINCTIVE PLACES

- C.1 Revise the existing MU Mixed-Use zoning district standards within the Unified Development Ordinance (UDO).** The revised zoning district should focus on vertical mixed-use structures and set minimum and maximum square footage requirements for active ground-floor uses, minimum and maximum setbacks, landscaping and open space requirements, a height cap, and other appropriate revisions to realize a more urban form throughout the redevelopment area and the city.
- C.2 Evaluate amending the MU Mixed-Use zoning district regulations to permit micro-industrial uses with specific use standards.** Micro-industrial uses are currently permitted in the GC General Commercial, CI Commercial Industrial, and BPI Business Park Industrial zoning districts. Amendments to the MU Mixed-Use zoning district should include permitting micro-industrial uses such as makerspaces and small-scale manufacturing.
- C.3 Evaluate open space and plaza requirements within The Crossing to establish at least one large plaza space within the district.** As The Crossing redevelops, it will be increasingly important to ensure there is at least one larger public gathering space to enable a sense of community to develop. This can be accomplished through public investment, regulatory changes, or modifications to the parkland dedication requirements.
- C.4 Create and implement visually intuitive branding for The Crossing and its public spaces.** Part of redevelopment will include place-making activities, including visual cues of your location in the city. District branding will help residents and visitors differentiate their experience in this area from the nearby University Drive (FM 60) Corridor, Eastgate Main, Century Square, and Texas A&M University.

STRONG NEIGHBORHOODS & PROSPEROUS ECONOMY

- C.5 Establish appropriate first row parking standards and locations within the district.** In other areas of the city, first row parking has been seen as a good addition to denser commercial developments. Finding the right locations for first row parking will enable an urban form to develop while still inviting visitors to park in visible parking areas.

INTEGRATED MOBILITY

- C.6 Assess the feasibility of a grade-separated facility at the Texas Avenue and University Drive (FM 60) intersection.** The City should work with TxDOT to study the feasibility, cost, and design of a grade-separated facility. The feasibility analysis should determine whether keeping automotive or bicycle/pedestrian traffic at grade is possible and determine a preferred facility design.
- C.7 Evaluate closing or pedestrianizing Poplar Street's terminus at Texas Avenue.** Poplar Street is less than 200 feet from Texas Avenue's intersection with University Drive (FM 60), which does not meet most guidance for access spacing from intersections. This could create opportunities for a deeper block along University Drive (FM 60), enabling more urban types of development.

- C.8 Explore and implement improvements to Live Oak Street as redevelopment occurs.** Live Oak Street will require improvements to bring it up to Minor Collector standards and alternatives should be considered that implement a more urban street section. There is also an existing offset for Live Oak Street on either side of Eisenhower Street, and a roundabout or other improvements at the intersection should be analyzed for solutions.
- C.9 Extend Foster Avenue from its terminus at Lincoln Avenue to Live Oak Street as redevelopment occurs.** Foster Avenue parallels Texas Avenue from Lincoln Avenue to Gilchrist Street, providing a secondary route. The extension of Foster Avenue north of Lincoln Avenue would continue this route, offering the best opportunity to create The Crossing district.
- C.10 Create pedestrian connections across Texas Avenue at the Ash Street extension.** There is an existing signal at the intersection of the future Ash Street extension and Texas Avenue, but no pedestrian crossing was installed when the intersection was improved. Providing this crossing offers pedestrians another opportunity to cross Texas Avenue at a controlled intersection.
- C.11 Extend Ash Street from Eisenhower Street to Texas Avenue at the existing signalized intersection as redevelopment occurs.** The extension of Ash Street will help complete the thoroughfare network and offer more opportunities for navigation through the district.
- C.12 Extend Avenue A from its current terminus to Eisenhower Street as redevelopment occurs.** Avenue A does not meet the UDO requirements for a turnaround, leading to issues with fire and solid waste service. Extending Avenue A to Eisenhower Street allows for the continued movement of vehicles and would eliminate the service issues for Avenue A.
- C.13 Improve Nimitz Street from University Drive (FM 60) to Ash Street to the Minor Collector standards.** The signal at Nimitz Street and University Drive (FM 60) will likely bring additional traffic down the corridor. Nimitz Street should be improved to better handle the additional circulation and provide bicycle and pedestrian facilities that currently do not exist along the corridor.
- C.14 Incorporate flexible urban street standards as an alternative within the adopted cross-sections.** The cross-section alternative should allow for and encourage on-street parking, potentially limited to one side, and additional bicycle and pedestrian facilities within constrained rights-of-way.





3 EASTGATE MAIN

Eastgate Main is centered at the intersection of Texas Avenue and New Main Drive/ Walton Drive, containing one of College Station's historic retail shopping centers and the College Station City Hall. It is bounded by Foster Avenue, George Bush Drive East, Texas Avenue, and Lincoln Avenue, where it interfaces with The Crossing subarea. Designated Neighborhood Center land use in the Comprehensive Plan Future Land Use & Character Map, Eastgate Main anticipates a mix of small-scale commercial, office, and residential uses arranged horizontally and sometimes within mixed-use structures that support surrounding neighborhoods.



1939 plat of College Hills Estates

While the Northgate area redeveloped over the past 20 years as a district oriented to students and visitors of Texas A&M University due to its proximity, Eastgate maintains much of its character from the late 1930s and early 1940s as the College Hills Estates subdivision was developed. The subdivision included a shopping village with commercial parcels with retailers and small businesses such as medical offices fronting on Texas Avenue and a distinctive diamond intersection at Texas Avenue and Walton Drive providing a formal entrance into the subdivision and Texas A&M University. Today, Eastgate Main is a small commercial area retaining several one-story retailers, services, and restaurants, with remnants of the original drive lanes visible in the drive aisles and parking areas (also nicknamed the “swoops”) in front of these businesses. The naming of Eastgate Main was inspired by its historical character as the east gate to Texas A&M University and the community’s desire to maintain the original shopping village and main entrance character.

Between the diamond intersection and Francis Drive, the commercial area embodies an auto-oriented character, with a frontage lane providing access to several drive-thru and chain restaurants and strip-center retail. The City of College Station’s administrative buildings occupy the block between Francis Drive and Gilchrist Avenue, with the distinctive City Hall building, plaza, and lawn area providing an additional civic landmark within the area before transitioning to single-family homes between Gilchrist Avenue and George Bush Drive East.



1940 photograph of Eastgate shopping village



College Station City Hall

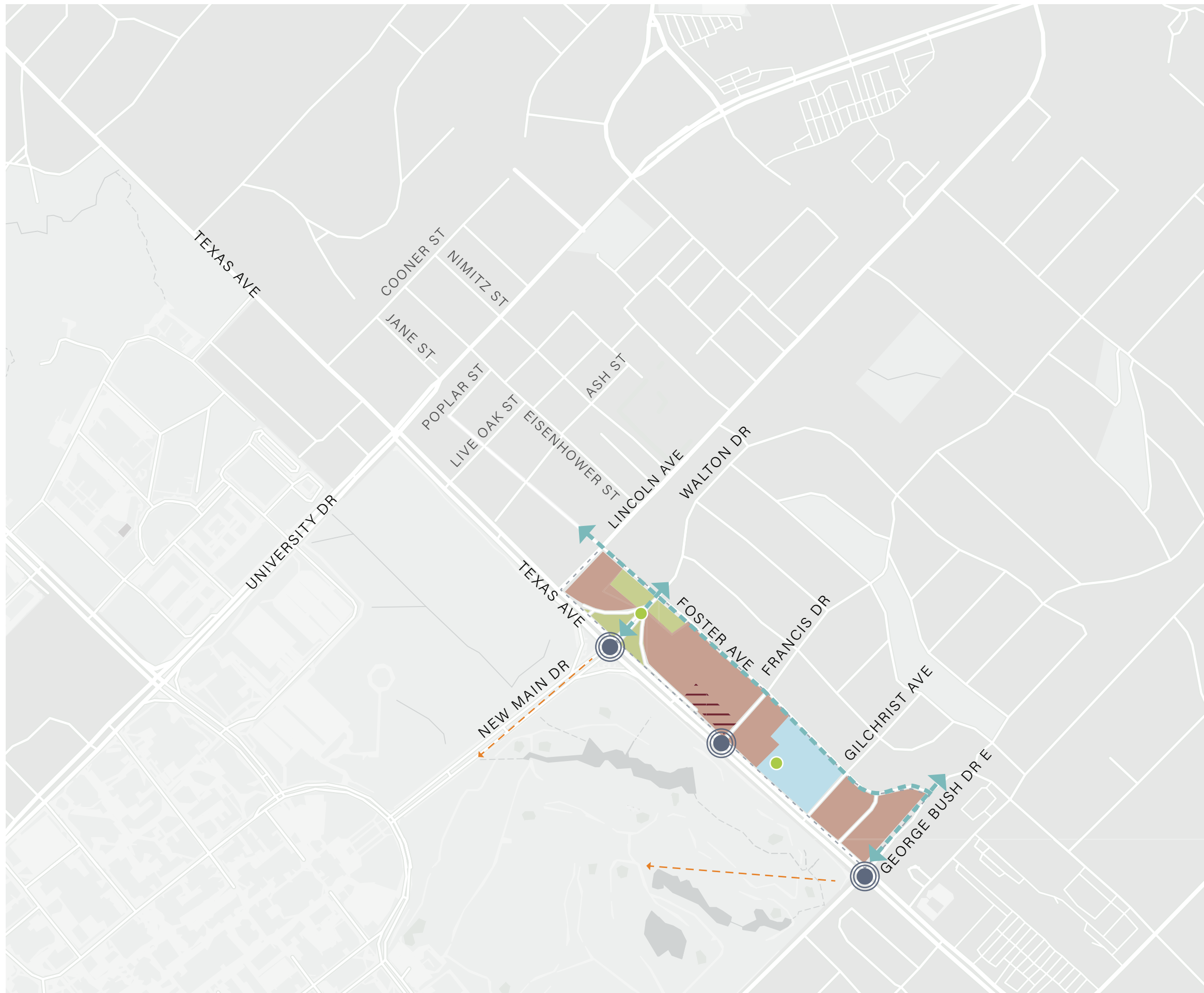
Future infill and redevelopment in Eastgate Main can support this historic center of College Station's residential community. Existing public spaces such as Eastgate Park and the City Hall site also provide opportunities for public gathering spaces and amenities that bring residents together and contribute to the area's sense of place.

Concept Plan

Map 3.1: Eastgate Main Concept Plan highlights key design elements and opportunities that can be implemented through future development and investment. With the historic commercial area and the diamond intersection at its center, the Concept Plan focuses on revitalizing the shopping area as a signature public space and gathering area and supporting it with increased housing options, commercial space, and improved bicycle and pedestrian connections.

Eastgate Main Concept Plan

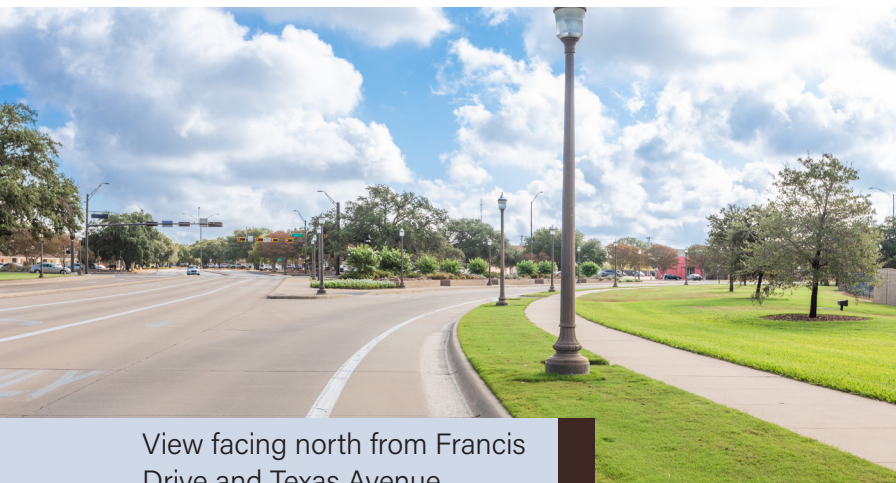
-  CATALYST SITE
 -  KEY INTERSECTION
 -  KEY PUBLIC SPACE ACTIVATION
 -  PRIORITY PED/BIKE CONNECTION
 -  TEXAS A&M CAMPUS VISTA
- FUTURE LAND USE**
-  NEIGHBORHOOD CENTER
 -  INSTITUTIONAL/PUBLIC
 -  PARKS & GREENWAYS



SOURCE: ASAKURA ROBINSON

CHARACTER & URBAN FORM

As a historic, present, and future main gateway for College Station with local businesses, public green space, and City Hall, the Eastgate Main Concept Plan anticipates limited redevelopment of the historic commercial area while improving public space amenities and encouraging the creation of new mixed-use and office spaces. Developments and redevelopments should demonstrate context sensitivity, with heights averaging three (3) stories as anticipated in the Comprehensive Plan. Revitalizing the historic commercial area could include façade improvements, restorations, and additions that improve the attractiveness and utility of these spaces while remaining harmonious with the early 1940s design.



View facing north from Francis Drive and Texas Avenue.

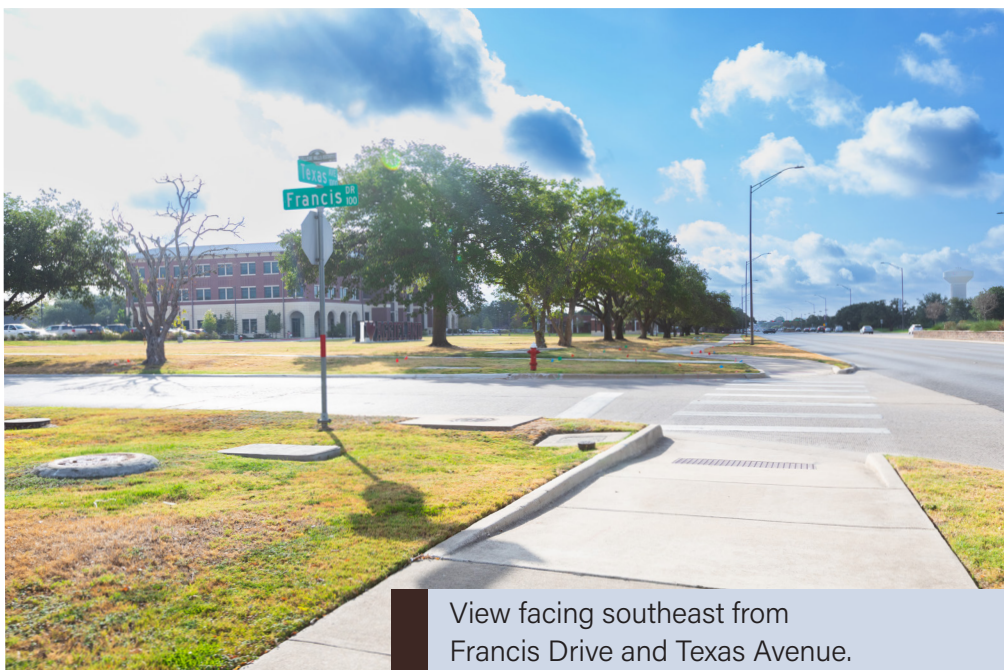
GATEWAYS & KEY INTERSECTIONS

The historic (now signalized) diamond intersection at Texas Avenue and New Main Drive/Walton Drive is a key intersection within Eastgate Main, providing an entrance to Texas A&M University and the College Hills Estates subdivision. This intersection is home to the historic commercial district for the area and green spaces with landscaping and public art and is designated as a key image/design intersection in the Comprehensive Plan.

The intersection of Texas Avenue and George Bush Drive East provides views to the Texas A&M University campus for northbound travelers on Texas Avenue and is an important crossing for cyclists using the bike lanes on George Bush Drive East. Several median openings are present within the study area, providing access to Lincoln Avenue, Francis Drive, and Gilchrist Avenue. Future improvements to these intersections, including signalization, could provide an additional crossing of Texas Avenue for cyclists and pedestrians.

CATALYST SITES

The Concept Plan highlights the strip-center commercial area between the frontage drive aisle and Francis Drive as likely sites for redevelopment due to their prominent location and potential for mixed-use development. These sites could provide improved bicycle and pedestrian connectivity between City Hall and the Walton Drive gateway and generate additional foot traffic for the historic commercial area. Small-scale multi-family development, similar to the existing structure at the corner of Francis Drive and Foster Avenue, could create additional density and housing variety on this block.



View facing southeast from Francis Drive and Texas Avenue.

DISTINCTIVE PLACES

GOAL: Enhance the existing historic identity of Eastgate Main by enabling and incentivizing appropriate and contextual infill, redevelopment, and revitalization.

Eastgate Main is a historic gateway to College Station and public comment throughout the planning process highlighted participants' desire to see the historic shopping center succeed into the future. While smaller in scale than The Crossing and nearby commercial districts such as Century Square and Northgate, the smaller footprint and its adjoining residential neighborhood context help Eastgate Main stand apart from its peers. Its historic nature and distinguishing green space provide an opportunity to create an urban environment that is wholly and uniquely College Station.



BUILDING FORM & USE

The historic shopping center primarily consists of small, single-story commercial buildings with storefronts, minimal setbacks, and perpendicular parking in front of businesses along the “swoops.” Parapet walls and rooflines create the appearance of varying heights of the front façades. Future development in Eastgate Main should demonstrate sensitivity to the massing and height of existing structures, particularly the historic commercial area and City Hall. Two to three-story mixed-use or commercial/office buildings can support this area’s continued future while neither overwhelming the historic commercial area and surrounding neighborhood nor rivaling the prominence of City Hall. While a row of parking can be provided in front of businesses, large parking areas are discouraged to orient building façades close to the street, maintaining consistent setbacks and a pedestrian environment.

Outside of the “swoops,” vertical mixed-use development is preferred along Texas Avenue, though adding residential uses within the existing commercial area can effectively create a horizontal mixed-use environment. Denser housing types, such as multiplexes, live-work units, and small multi-family buildings fronting on Foster Avenue can also provide a transition between Texas Avenue and the College Hills Estates neighborhood.

Table 3.1 Suggested Development Standards contains example development standards to implement the vision of the plan. These development standards should be used to assist in future ordinance amendments.

<i>Table 3.1 Suggested Development Standards</i>	
Area	Neighborhood Center
Max. Stories/Height	4 stories / 60-ft (above 4 stories by exception or with height bonus)
Average Number of Stories within Area	3
Vertical Mixed-Use	Encouraged. Ground-floor active uses are required on the Texas Avenue corridor between Lincoln Avenue and Francis Drive.
Minimum Front Setback	20-ft minimum setback from the curb.
Maximum Front Setback	If no parking is provided: maximum 30-ft. If a one-way drive aisle and single-loaded 45-degree angled parking are provided: maximum 50-ft. If a two-way drive aisle and double-loaded perpendicular parking is provided in front of the structure: maximum 100-ft.
Front Parking	Permitted.
Side/Rear Parking	Encouraged.
Building Orientation/ Entrance Location	The primary entrance should be facing the street or intersection (if located at an intersection), with precedence to Texas Avenue.
Sidewalks	Minimum 8-ft. For high-traffic areas, 12-ft and canopy overhangs to provide shade are recommended.

PUBLIC SPACE

Eastgate Main is home to prominent and highly visible City-owned open spaces including Eastgate Park, the plaza and lawn in front of City Hall, and the landscaped area on George Bush Drive East. These spaces vary in their utility as public space; while Eastgate Park is a City park, the City Hall site is a more formal event/programming space, and the George Bush Drive East landscaping is not a formal park but includes berms, mounds, and planting areas.

Eastgate Park is the most visited park space within Eastgate Main and it includes both rectangular sections on Foster Avenue and the triangles at Texas Avenue and Walton Drive. Though Eastgate Park is highly divided by Walton Drive and the historic shopping village, the different areas are landscaped with grass, mature trees, and planting beds. The triangles at Texas Avenue and Walton Drive include additional hardscaping, with a public art installation in the northeast triangle. There are no amenities such as seating or trash cans in the park, limiting the park's current usefulness as a gathering space. **Figure 3.1: Eastgate Park Perspective View** shows an example of a small improvement to Eastgate Park that could make it more usable. A needs assessment and park plan should be organized for the park to better identify improvement possibilities.

Figure 3.1: Eastgate Park Perspective View



Some café seating is visible in the northern “swoop’s” limited sidewalk area, highlighting a latent demand for gathering and seating in this area. Reworking the “swoops” to improve walkability in the shopping village could improve the attractiveness of the storefronts and transform Eastgate Park and the intersection into a true gathering space and a main plaza for the district. **Figure 3.2: Eastgate Main Rendering** shows an improvement scenario that would not require redevelopment of the commercial spaces but would make the northern “swoop” more usable as a plaza.

Figure 3.2: Eastgate Main Rendering



Measurements of the northern “swoop” highlight the excess pavement width, which exceeds 70 feet from curb to curb, with parking on both sides and a two-way travel lane. This pavement width likely reflects the through traffic in this travel lane before the signalized intersection at Texas Avenue and Walton Drive was constructed. This pavement width could support curb and sidewalk extensions in front of the storefronts through the narrowing of travel lanes and the driveways could be evaluated for consolidation and reconfiguration as shown in **Figure 3.2: Eastgate Main Rendering**. Adopting a shared street approach and replacing the asphalt paving in the “swoops” with textured pavement, bricks, or pavers could allow this area to function as a plaza when closed to traffic. The City should also undertake a study to assess geometric design options to improve the “swoops” as a part of the master plan for Eastgate Park.

The use of paving patterns, planting, and bollards in Century Square shows how parking areas and storefronts can be separated while maintaining flexibility for both vehicles and pedestrians.



ARTS, CULTURE & PROGRAMMING

Partnerships between the City's Parks and Recreation Department and the Eastgate Main commercial community could activate Eastgate Park as a venue for events, festivals, and markets. Temporarily closing the "swoops" to vehicular traffic would create a low-cost street festival atmosphere, with vendors and tents occupying existing parking areas. The City Hall plaza is another important venue for programming, with ample parking for events.

Establishing a programming schedule in this area will require coordination between the City and Eastgate's commercial community. The City should work with the business community to support the development of a business association or provide ongoing support for marketing and event coordination in Eastgate Main, similar to prior efforts in Northgate.

Strong Neighborhoods and a Prosperous Economy

GOAL: Support the interests of current residents and businesses while redevelopment occurs.

Although Eastgate Main anticipates a lower level of infill and redevelopment, there is always the potential for unintended impacts on existing residents and businesses. The City should support changes that will enhance the area, including the interests of the existing community. That may come through the development of and direct engagement with an Eastgate Business Association or another engagement mechanism.

ECONOMIC DEVELOPMENT

Eastgate Main is home to long-time residents and small businesses, including offices, bakeries and restaurants, retailers, and service providers. Many of these businesses own their buildings and depend on vehicular traffic to access their customer base. Festivals held in the plaza area by pedestrianizing the “swoops” could also provide opportunities to highlight the businesses located in Eastgate Main. **Figure 3.3: Dining Box Perspective View** shows a business expanding their usable space by including a dining box. Future construction and redevelopment should work with business owners to minimize disruptions to parking availability and customer access.

Figure 3.3: Dining Box Perspective View



Future economic development strategies should continue to encourage the retention and growth of businesses within Eastgate Main. Redevelopment of auto-oriented parcels could include new office spaces that provide daytime foot traffic to Eastgate Main's businesses, including spaces for larger employers that would not fit within smaller historic structures. Additionally, any city participation in a public-private partnerships or development agreement should consider anti-displacement measures.

INFILL & REDEVELOPMENT

Redevelopment within the Eastgate Main area should respect existing historic structures and character of the area. While no structures within Eastgate Main are formally protected or recognized with historic markers, the 1941 Walton Medical Building at 903 Texas Avenue is listed in the Brazos Heritage Society's 2003 Guide to Historic Brazos County. Future modifications to these buildings such as façade improvements should maintain similar setbacks and massing, and taller additions may be appropriate if stepped back from the original elevation.

Integrated Mobility

GOAL: Strengthen the existing multi-modal mobility system to support a diversity of modes of travel.

As infill and redevelopment occur, a stronger mobility system will enable residents of the planning area and the surrounding neighborhoods to access the improvements. Enabling mobility options empowers choice in navigation, reducing the overall congestion on

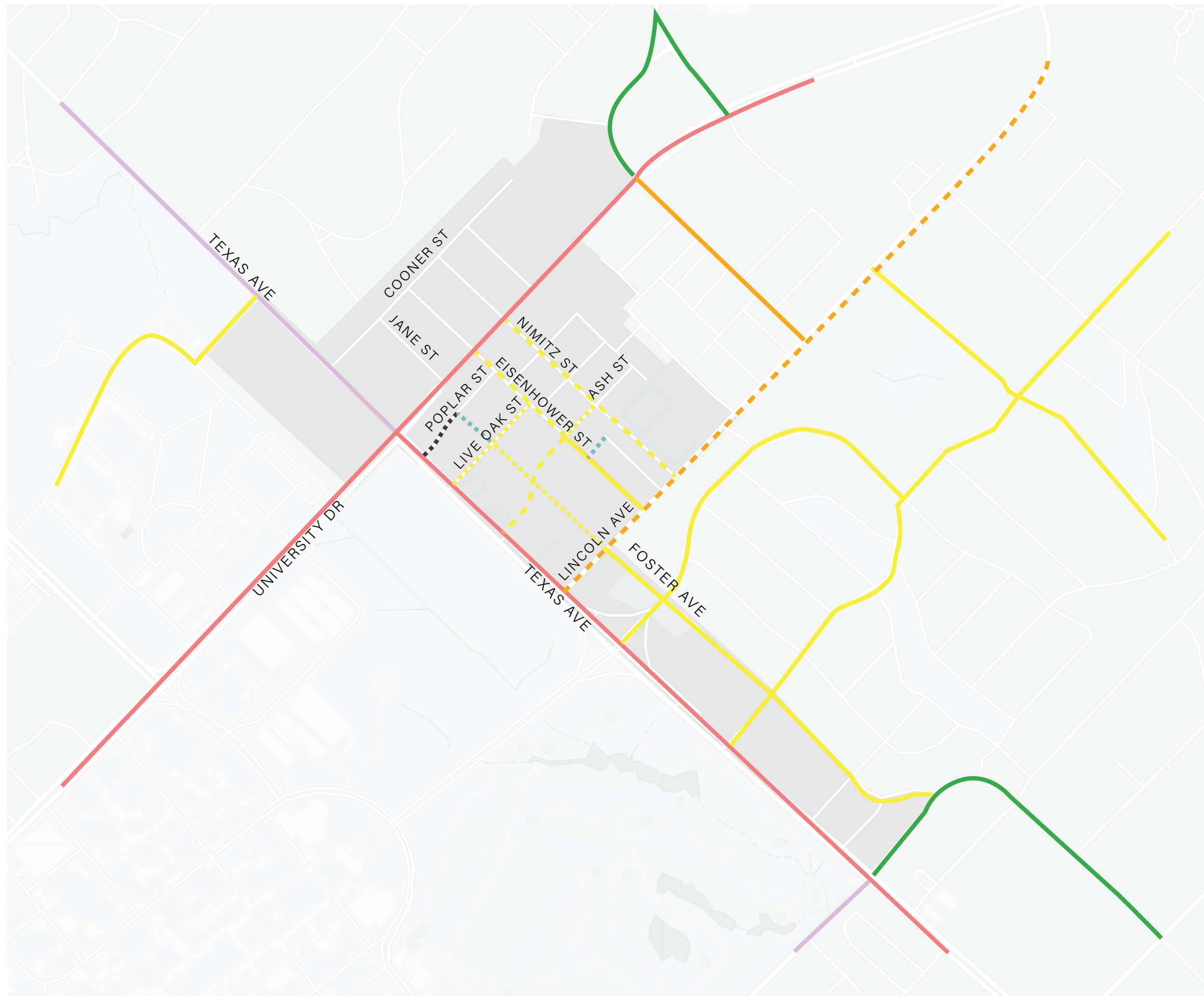
FUTURE STREET NETWORK

Map 3.2: Future Street Network does not propose significant new connections within this area, as adequate connectivity is already provided between Foster Avenue and Texas Avenue. Foster Avenue, Walton Drive, and Francis Drive are existing Minor Collectors with a mix of dedicated bike lanes and shared routes for bicycles and automobiles, as well as planned shared-use paths. The southern boundary of Eastgate Main, George Bush Drive East, is classified as a 4 Lane Minor Arterial in the City's Thoroughfare Plan, and the northern boundary, Lincoln Avenue, is a 2 Lane Major Collector with planned shared-use paths on both sides.



Future Street Network

- 6 LANE MAJOR ARTERIAL
- 4 LANE MAJOR ARTERIAL
- 4 LANE MINOR ARTERIAL
- 2 LANE MAJOR COLLECTOR
- - - PROPOSED 2 LANE MAJOR COLLECTOR
- 2 LANE MINOR COLLECTOR
- - - PROPOSED 2 LANE MINOR COLLECTOR
- - - RECOMMENDED STREET EXTENSION
- - - RECOMMENDED STREET CLOSURE



SOURCE: ASAKURA ROBINSON

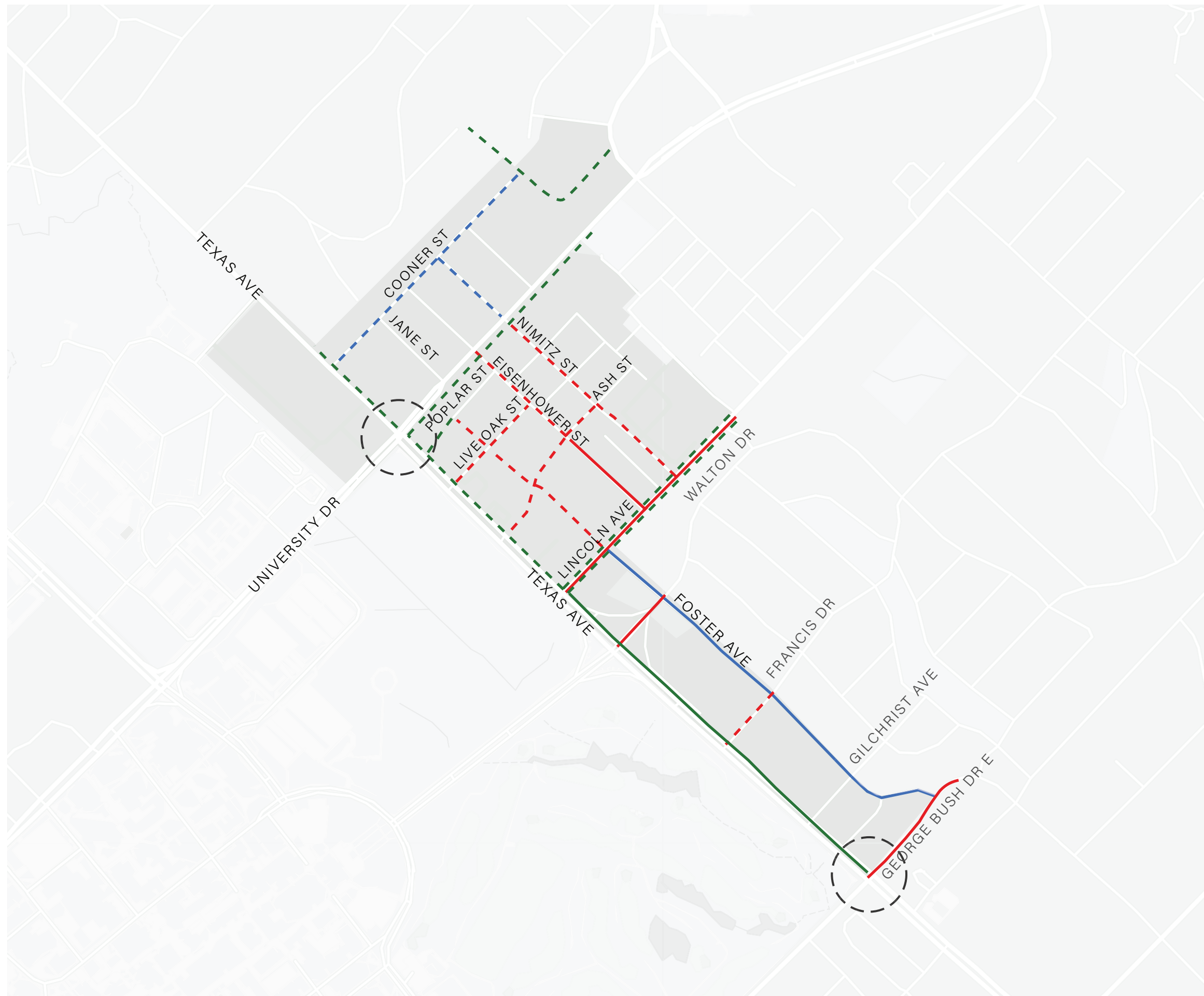


HIGH-COMFORT BICYCLE & PEDESTRIAN FACILITIES

Eastgate Main's small blocks and connected street network allow easy and convenient access within Eastgate Main. The area is also an important hub for pedestrians and cyclists seeking to connect from Texas A&M University to the nearby College Hills Estates and College Hills Woodlands neighborhoods, and from the Harvey Road corridor along Foster Avenue. **Map 3.3: Future Bicycle Network** shows the proposed bicycle connections through the district. Foster Avenue, Francis Drive, and Gilchrist Avenue are currently signed as bike routes with shared lanes for bicycles and automobiles. Bike lanes currently exist on Lincoln Avenue and Walton Drive and are proposed on Francis Drive. Shared-use paths are currently planned on both sides of Lincoln Avenue. The only addition to the bicycle network is the grade-separated crossing at Texas Avenue and George Bush Drive East. All design options for such a facility should be explored to determine the best possible outcome.

Future Bicycle Network

- BIKE LANE EXISTING
- - - BIKE LANE FUNDED/PROPOSED
- BIKE ROUTE EXISTING
- - - BIKE ROUTE FUNDED/PROPOSED
- SHARED USE PATH EXISTING
- - - SHARED USE PATH FUNDED/PROPOSED
- - - GRADE SEPARATED CROSSING PROPOSED



SOURCE: ASAKURA ROBINSON

Additionally, **Map 3.4: Future Pedestrian Network** shows the network of pedestrian facilities through the planning area. In Eastgate Main, the only addition to the Pedestrian Plan is the sidewalks along the “swoops” to create better connectivity from Texas Avenue to Foster Avenue and Walton Drive. The proposed grade-separated crossing at Texas Avenue and George Bush Drive East is also proposed to be added. As micromobility ridership grows, including electric and non-electric bicycles, scooters, and skateboards, the provision of a network of safe facilities will become increasingly important.



Missing sidewalks along the “swoops”

Future Pedestrian Network

- SIDEWALK EXISTING
- SIDEWALK FUNDED/PROPOSED
- SHARED USE PATH EXISTING
- SHARED USE PATH FUNDED/PROPOSED
- GRADE SEPARATED CROSSING PROPOSED



SOURCE: ASAKURA ROBINSON

Bike lanes, buffered bike lanes, or separated bike lanes are preferable to shared bike routes on high-speed or high-traffic corridors. They provide physical separation from automobile traffic, and continuous, high-comfort lanes without gaps or interruptions can be highly preferable routes for cyclists. They are also relatively low-cost interim improvements that can be implemented within existing pavement widths with paint, and the addition of vertical barriers such as planters and precast concrete curbs can provide an added degree physical separation. However, vertical barriers may not be appropriate when frequent curb cuts such as driveways are present on the corridor.



Planters used in temporary installation.

TRAFFIC SIGNAL & ACCESS MANAGEMENT

Texas Avenue within Eastgate Main currently has signalized intersections at New Main Drive/Walton Drive and George Bush Drive East. Median openings with left turn bays currently exist at Lincoln Avenue, the entrance to the frontage access road serving Raising Cane's and Torchy's Tacos, Francis Drive, and Gilchrist Avenue.

Over time, traffic volumes caused by continued growth within the College Station area and Texas A&M University, as well as redevelopment within the Eastgate Main and The Crossing areas, may necessitate replacing these median openings with a different design. While a warrant analysis will be required to determine its need, Francis Drive would likely be the most appropriate location for an additional signalized intersection within Eastgate Main due to its spacing from Walton Drive (0.2 miles) and George Bush Drive East (0.28 miles) and its continuity through the College Hills Estates and College Hills Woodlands neighborhoods. A signalized intersection at Francis Drive would provide an additional crossing opportunity for cyclists and pedestrians to access the Texas A&M University campus.

PARKING MANAGEMENT

Future redevelopment within the Eastgate Main area will need to consider the location and availability of parking, which stands in contrast to the excess parking currently within The Crossing. The historic shopping village has little off-street parking, with the “swoops” providing the primary parking for visitors and limited off-street parking available for employees in the alleyways behind the buildings. The suburban-style strip development along the frontage road between the shopping village and Francis Drive has ample on-site parking provided. No parking is available at Eastgate Park, and on-street parking is prohibited along most of Foster Avenue. Public parking is available at City Hall.

As Eastgate Main redevelops, the City should develop a parking management strategy that maintains on-street parking in front of businesses, encourages shared parking across users and property owners, manages overflows and peak demand during events, and helps visitors identify parking areas through signage and awareness. Parking availability is likely to be a major concern for businesses with future development, and proactive management and study will alleviate this concern.



Strategic Actions

DISTINCTIVE PLACES

- E.1 Revise the existing P-MUD Planned Mixed-Use District standards within the Unified Development Ordinance.** The revised zoning district should focus on horizontally mixing uses within a development or defined area, ensuring sufficient commercial and residential opportunities throughout the district. The revisions should maintain the concept plan requirement and clarify an appropriate baseline mix of uses.
- E.2 Create a master plan for Eastgate Park.** These park spaces are currently unprogrammed, landscaped lawns with no amenities or seating. Identifying opportunities for Eastgate Park to become a usable community gathering space distinct from the plaza and lawn at City Hall will open more opportunities for place-making.
- E.3 Assess the feasibility of temporarily closing the “swoops” to through traffic.** Temporarily pedestrianizing the “swoops” and converting parking spaces and drive aisles could create a street festival-style atmosphere for events such as markets and festivals. Closures should consider traffic and parking impacts on businesses and surrounding neighborhoods.
- E.4 Activate the City Hall site to host public events and gatherings that bring residents and tourists to the center of Eastgate Main.** With the development of the new City Hall in 2021 and the rehabilitation of the old fire station in 2023, the City of College Station has developed a municipal complex that can be activated to host community events throughout the year.

E.5 Create and implement visually intuitive branding for Eastgate Main and its public spaces.

Part of redevelopment will include place-making activities, including visual cues of your location in the city. District branding will help residents and visitors differentiate their experience in this area from the nearby Eastgate neighborhoods, The Crossing, and Texas A&M University.

E.6 Create opportunities for residents to engage with the history of the area. Eastgate Main was part of one of the earliest developments in College Station. Opportunities include signage discussing the history of the area and identification of historic buildings.

STRONG NEIGHBORHOODS & PROSPEROUS ECONOMY

E.7 Create a façade improvement program for Eastgate Main. A façade improvement program could provide grants for building owners to improve the appearance of their façades and restore architectural styles from the founding of the City of College Station and the initial development of the Eastgate Main area in the late 1930s and early 1940s.

E.8 Work with property owners to assess the potential need, benefit, and structure of creating an Eastgate Business Association. An Eastgate Business Association could collectively initiate actions to improve the Eastgate Main area and coordinate hosting local events in the plaza area at Eastgate Park. Additionally, having an Eastgate Business Association enables more coordination with City staff, including updates on development activity and City projects within the district.

INTEGRATED MOBILITY

E.9 Study traffic operations and access needs on the Texas Avenue corridor to assess the need for changes to median break locations and future signalized intersections. Several unsignalized median openings with left-turn bays exist along Texas Avenue, including at Live Oak Street, the entrance to the Lone Star Pavilion shopping center, Lincoln Avenue, the frontage road near the “swoops,” Francis Drive, and Gilchrist Avenue. Future modifications to these intersections should review traffic volumes and crossing movements to enhance traffic safety and operations.

E.10 Evaluate the intersection of Foster Avenue and George Bush Drive East to determine necessary improvements. Traffic frequently backs up on Foster Avenue at this intersection. The City should explore congestion mitigation improvements including possible dedicated left and right turn lanes.

E.11 Assess the feasibility of a grade-separated facility at the Texas Avenue and George Bush Drive intersection. The City should work with TxDOT to study the feasibility, cost, and design of a grade-separated facility. The feasibility analysis should determine whether keeping automotive or bicycle and pedestrian traffic at grade is possible and determine a preferred facility design.

E.12 Improve bicycle and pedestrian connections to Thomas Park along Walton Drive, Francis Drive, and Gilchrist Avenue. Located nearby Eastgate Main, Thomas Park is one of the more significant park spaces in this area of the city. As more potential users of the park move into the planning area, improved connections to the park should be explored.

E.13 Develop an Eastgate Main parking management strategy. This could include improving existing parking within the “swoops” and creating shared parking areas that are easily accessed from the surrounding streets.



4 PLAN IMPLEMENTATION

The Northeast Gateway Redevelopment Plan lays out a new vision for a key redevelopment area, corridor, and intersection for the City of College Station. Implementation requires collaboration between the City, Texas A&M University, and the community to achieve the goals of this plan. This chapter lays out planning considerations, implementation methods, and funding sources for accomplishing the goals and actions contained within the plan. This chapter also includes several actions that should be pursued across the entire planning area. Additionally, Table 4.1: Implementation Matrix outlines the timeframe, establishes implementation responsibilities and administration, and determines possible funding sources for actions within the plan.

Key Considerations

FISCAL HEALTH

Redevelopment within the Northeast Gateway Redevelopment Area will require both public and private investment, and the City of College Station must balance both the increased tax revenues and the increased demand for services that come with redevelopment. While urban areas may appear on the surface to require greater investment in infrastructure than suburban areas, research has found that increased density allows infrastructure to be provided more efficiently on a per-capita or per-acre basis.¹ The greater amount of real property improvement translates to increased real property values and tax revenues, and strong hospitality and retail sectors can support increased revenues through sales taxes and hotel occupancy taxes. Although redevelopment can support long-term revenues, College Station will need to coordinate near- and mid-term investments to catalyze redevelopment.



TARGETED INVESTMENT

A major Special Revenue Fund for the City of College Station is the Hotel Occupancy Tax (HOT) Fund. Hotel occupancy taxes can be used to enhance and promote tourism and the convention and hotel industry and can support administrative and programming costs through the HOT Fund. While expenditure categories are defined by statute, they can include tourism advertising and promotion, funding programs that enhance the arts, funding mobility systems for tourists, and signage and wayfinding directing the public to sights and attractions frequented by visitors to the community. Because of this area's proximity to Texas A&M University, its existing hotel presence, and the location of the Visitor Center at the City Hall complex, the HOT fund may be a viable tool with which to fund activities in the planning area.

Because of the extent of redevelopment anticipated within this area, College Station should explore establishing a special taxing entity such as a Tax Increment Reinvestment Zone (TIRZ) to capture new revenues and provide dedicated funding for redevelopment. A TIRZ captures the added real property tax revenues above "base year" revenues (when the TIRZ is established) that are attributable to new development within a designated reinvestment zone. These new revenues are then set aside in a stand-alone fund that is used to reinvest in public infrastructure within the area. Two important considerations with TIRZ financing are impacts on the City's General Fund since the revenues above the base year will be dedicated to the TIRZ rather than the General Fund, and its financial viability to support projects based on revenues over time. Two TIRZs are present within the City, including East Medical District TIRZ #19 and the Dartmouth Synthetic TIRZ. TIRZ funds can finance projects through a pay-as-you-go method or as the security for debt financing.

Should the City pursue active management of parking facilities, such as City-owned or City-operated paid on-street parking or off-street lots or structures, it may be appropriate to create an Enterprise fund to support operations. The City currently maintains a Northgate Parking Fund that allocates parking revenues for operational costs in the Northgate area. The Community Services department also provides staffing and administrative services for Northgate.

LAND USE AND ZONING UPDATES

City staff are currently exploring options to improve the City's provisions for mixed-use and middle housing development, including text and map amendments for the existing MH Middle Housing, MU Mixed-Use, and P-MUD Planned Mixed-Use districts. The current MU Mixed-Use zoning district is primarily focused on vertical mixed-use development, and horizontal mixed-use development is covered through the P-MUD Planned Mixed-Use District process. Potential modifications include the use of density/height caps and aligned bonuses, ground floor use requirements, percentage requirements to ensure mixes of residential and non-residential uses, and dimensional standards. Proactive zoning map amendments may be needed after the zoning districts are established to fully realize the vision in the Comprehensive Plan and this plan.



Implementation Methods

Generally, the actions of this plan fall into one of five categories: capital improvement, focused planning effort, policy-based decision, project/program, or regulation. Implementation of each category requires unique approaches and produces different results. **Table 4.1: Implementation Matrix** indicates the most appropriate implementation method for each action.

CAPITAL IMPROVEMENTS

Capital improvements are large-scale infrastructure projects that the City pursues through the Capital Improvement Projects department. These expansion, modification, rehabilitation, and replacement projects include streets, utilities, parks, and public facilities and buildings. To be implemented, actions in this category need to be added to the Capital Plan, funded, and constructed.

FOCUSED PLANNING EFFORTS

Focused planning efforts are studies, plans, and designs that various City departments complete to identify specific steps needed for implementation. Actions in this category need to be analyzed with resulting recommendations. Implementation of the recommendations is commonly pursued under a different action. This Northeast Gateway Redevelopment Plan is a focused planning effort that also indicates additional studies that are needed, particularly related to mobility improvements within the planning area.

POLICY-BASED DECISIONS

Policy-based decisions are direction that the Planning and Zoning Commission and City Council provide to City staff. These decisions get implemented in various policy, regulatory, and guidance documents to implement the direction from the elected and appointed officials of College Station. Direction should be sought on actions in this category, and City staff should take the appropriate steps for implementation.

PROJECTS AND PROGRAMS

Projects and programs are the broadest category of plan actions. These can include projects that are not considered capital improvements and programs that the City organizes administratively. Implementation of actions in this category should be assessed individually as there are a variety of ways accomplish these actions. Generally, the action provides an indication of what implementation should consider and how it might be implemented.

REGULATIONS

Regulations are developed by the City to guide or permit allowable activities within College Station. These can include modifications to the City of College Station Code of Ordinances, including the Unified Development Ordinance (UDO), or another regulatory document under the jurisdiction of the City of College Station. To be implemented, actions in this category should be adopted in their respective regulatory documents.

Funding

Funding for plan actions come from a variety of sources. Generally, the actions in the Northeast Gateway Redevelopment Plan can be funded by one or more of the following sources: City department budgets, the Capital Improvement Projects fund, state and federal grants, and/or private investment. All funding options should be explored, but **Table 4.1: Implementation Matrix** indicates the funding mechanisms that City staff have identified as most appropriate or likely to complete the action.

DEPARTMENTAL BUDGETS

Funding projects through City departmental budgets can be accomplished in two ways: using available funds and directing them towards the project or through service level adjustments (SLAs). SLAs are approved as part of the annual City budget process and can be for one-time or recurring expenses.

CAPITAL IMPROVEMENTS

Capital improvements are most likely to be funded through the Capital Improvement Program funds. The projects from these funds are prioritized and budgeted on a rolling five-year Capital Plan. These funds are also allocated during the annual City budget process as one-time expenses.

STATE AND FEDERAL FUNDING

Funding opportunities from the state and federal government are also available, particularly in the areas of transportation and the environment. These funds are primarily available through grants but may also be through specific budget appropriations. Often, grant funding includes local matching requirements.

PRIVATE INVESTMENTS

Outside of government funding, private investments can be pursued through development exactions within the UDO, foundation investments, or donations to the City for specific projects.

Area-Wide Actions

DISTINCTIVE PLACES

- A.1 Create a consistent wayfinding system based on the district branding to help people navigate the district.** Using each district's branding, a wayfinding system should be developed to enable and encourage exploration of the planning area and spotlight specific shops and services.
- A.2 Develop and implement a pedestrian-scale street lighting system.** Work to determine a standard in accordance with the College Station Utilities Construction Specifications, Electric Service, and Meter Installation Guidelines. The feeling of safety in an area is directly tied to its success, and streetlights generally make a district feel safer.

STRONG NEIGHBORHOODS & PROSPEROUS ECONOMY

- A.3 Establish a density/height bonus program to encourage public benefits as a component of development.** While state enabling authority does not permit municipalities to require affordable housing in new development, future zoning updates can incentivize public benefits through height or density bonus provisions. Potential benefits could include affordable housing, art installations or contributions to art funds, or additional public open space and landscaping, among other options.
- A.4 Establish an affordable housing incentives program or programs.** This can include the height cap and density program, tax incentives, tax increment financing, grant programs, and other City-initiated tools to ensure the affordability of both new and existing housing stock. These programs should be aimed at both affordable and workforce housing and income levels to ensure continued affordability within the district.
- A.5 Establish a Legacy Business Program to recognize and support longtime small businesses.** Legacy business programs nominate and recognize small local businesses meeting certain criteria such as longevity, family ownership, historic status, and cultural contributions to the community. In addition to public recognition, designation as a Legacy Business can also provide eligibility for grant funding (such as façade improvements or renovations) or targeted technical assistance to ensure the business' continued longevity.
- A.6 Commission a market study to understand space needs and capacity within the redevelopment area.** This could also extend to a citywide scale to analyze the market needs for additional retail, commercial, and hospitality uses throughout the community.
- A.7 Study the feasibility of establishing a Tax Increment Reinvestment Zone (TIRZ) to reinvest in the area.** This study should include cost estimates for projects that could be funded by a TIRZ and a detailed study of redevelopment potential and year-to-year revenues to support potential financing.

INTEGRATED MOBILITY

- A.8 Coordinate with Brazos Transit District to establish fixed stops and improve service provision from existing conditions.** The location of the new fixed stops should be explored to maximize efficacy and access to areas that are important to transit passengers.

Table 4.1: Implementation Matrix

Table 4.1: Implementation Matrix														
CHAPTER	SECTION	ACTION NUMBER	ACTION ITEM	TASK TYPE	IMPLEMENTATION TIMELINE			CITY - RESPONSIBLE PARTY	PARTNERS - INTERNAL	PARTNERS - EXTERNAL	FUNDING SOURCES			
					Short (1-3 years)	Medium (4-7 years)	Long (8-10 years)				CITY / DEPT. BUDGETS	CIP BUDGET	GRANTS	PRIVATE
AREA-WIDE ACTIONS	DISTINCTIVE PLACES	A.1	Create a consistent wayfinding system based on the district branding to help people navigate the district. Using each district's branding, a wayfinding system should be developed to enable and encourage exploration and spotlight specific locations around the planning area.	Project / program		X		Capital Improvement Projects Planning & Development Services	Economic Development & Tourism		X	X	X	X
		A.2	Develop and implement a pedestrian-scale street lighting system. Work to determine a standard in accordance with the College Station Utilities Construction Specifications, Electric Service, and Meter Installation Guidelines. The feeling of safety in an area is directly tied to its success, and streetlights generally make a district feel safer.	Project / program		X		Capital Improvement Projects Planning & Development Services	CSU - Electric Police			X	X	X
	STRONG NEIGHBORHOODS & PROSPEROUS ECONOMY	A.3	Establish a density/height bonus program to encourage public benefits as a component of development. While state enabling authority does not permit municipalities to require affordable housing in new development, future zoning updates can incentivize public benefits through height or density bonus provisions. Potential benefits could include affordable housing or commercial spaces, art installations or contributions to art funds, or additional public open space and landscaping, among other options.	Policy-based decision	X			Planning & Development Services	Community Services		X			X
		A.4	Establish an affordable housing incentives program or programs. This can include the height cap and density program, tax incentives, tax increment financing, grant programs, and other City-initiated tools to ensure the affordability of both new and existing housing stock. These programs should be aimed at both affordable and workforce housing and income levels to ensure continued affordability within the district.	Policy-based decision	X			Community Services Planning & Development Services	Fiscal Services		X		X	X
		A.5	Establish a Legacy Business Program to recognize and support longtime small businesses. Legacy business programs nominate and recognize small local businesses meeting certain criteria such as longevity, family ownership, historic status, and cultural contributions to the community. In addition to public recognition, designation as a Legacy Business can also provide eligibility for grant funding (such as façade improvements or renovations) or targeted technical assistance to ensure the business' continued longevity.	Project / program		X		Economic Development & Tourism	Community Services		X		X	
		A.6	Commission a market study to understand space needs and capacity within the redevelopment area. This could also extend to a citywide scale to analyze the market needs for additional retail, commercial, and hospitality uses throughout the community.	Project / program		X		Economic Development & Tourism Planning & Development Services			X			
		A.7	Study the feasibility of establishing a Tax Increment Reinvestment Zone (TIRZ) to reinvest in the area. This study should include cost estimates for projects that could be funded by a TIRZ and a detailed study of redevelopment potential and year-to-year revenues to support potential financing.	Policy-based decision	X			Economic Development & Tourism	Planning & Development Services Fiscal Services City Manager's Office		X			
	INTEGRATED MOBILITY	A.8	Coordinate with Brazos Transit District to establish fixed stops and improve service provision from existing conditions. The location of the new fixed stops should be explored to maximize efficacy and access to areas that are important to transit passengers.	Project / program		X		Planning & Development Services	Capital Improvement Projects		X	X		

CHAPTER 2: THE CROSSING	DISTINCTIVE PLACES	C.1	Revise the existing MU Mixed-Use zoning district standards within the Unified Development Ordinance (UDO). The revised zoning district should focus on vertical mixed-use structures and set minimum and maximum square footage requirements for active ground-floor uses, minimum and maximum setbacks, landscaping and open space requirements, a height cap, and other appropriate revisions to realize a more urban form throughout the redevelopment area and the city.	Regulation	X			Planning & Development Services			X			
		C.2	Evaluate amending the MU Mixed-Use zoning district regulations to permit micro-industrial uses with specific use standards. Micro-industrial uses are currently permitted in the GC General Commercial, CI Commercial Industrial, and BPI Business Park Industrial zoning districts. Amendments to the MU Mixed-Use zoning district should include permitting micro-industrial uses such as makerspaces and small-scale manufacturing.	Regulation	X			Planning & Development Services			X			
		C.3	Evaluate open space and plaza requirements within The Crossing to establish at least one large plaza space within the district. As The Crossing redevelops, it will be increasingly important to ensure there is at least one larger public gathering space to enable a sense of community to develop. This can be accomplished through public investment, regulatory changes, or modifications to the parkland dedication requirements.	Regulation	X			Planning & Development Services	Parks & Recreation		X			X
		C.4	Create and implement visually intuitive branding for The Crossing and its public spaces. Part of redevelopment will include place-making activities, including visual cues of your location in the city. District branding will help residents and visitors differentiate their experience in this area from the nearby University Drive (FM 60) Corridor, Eastgate Main, Century Square, and Texas A&M University.	Project / program		X		Capital Improvement Projects Planning & Development Services	Economic Development & Tourism		X		X	
	STRONG NEIGHBORHOODS & PROSPEROUS ECONOMY	C.5	Establish appropriate first row parking standards and locations within the district. In other areas of the city, first row parking has been seen as a good addition to denser commercial developments. Finding the right locations for first row parking will enable an urban form to develop while still inviting visitors to park in visible parking areas.	Regulation	X			Planning & Development Services			X			
	INTEGRATED MOBILITY	C.6	Assess the feasibility of a grade-separated facility at the Texas Avenue and University Drive (FM 60) intersection. The City should work with TxDOT to study the feasibility, cost, and design of a grade-separated facility. The feasibility analysis should determine whether keeping automotive or bicycle/pedestrian traffic at grade is possible and determine a preferred facility design.	Capital improvement		X		Planning & Development Services Capital Improvement Projects	Public Works	Texas Department of Transportation BCS Metropolitan Planning Organization Texas A&M University	X	X		
		C.7	Evaluate closing or pedestrianizing Poplar Street’s terminus at Texas Avenue. Poplar Street is less than 200 feet from Texas Avenue’s intersection with University Drive (FM 60), which does not meet most guidance for access spacing from intersections. This could create opportunities for a deeper block along University Drive (FM 60), enabling more urban types of development.	Capital improvement			X	Planning & Development Services Capital Improvement Projects	Public Works	Texas Department of Transportation	X	X		
		C.8	Explore and implement improvements to Live Oak Street as redevelopment occurs. Live Oak Street will require improvements to bring it up to Minor Collector standards and alternatives should be considered that implement a more urban street section. There is also an existing offset for Live Oak Street on either side of Eisenhower Street, and a roundabout or other improvements at the intersection should be analyzed for solutions.	Capital improvement			X	Planning & Development Services Capital Improvement Projects	Public Works	Texas Department of Transportation		X		X
		C.9	Extend Foster Avenue from its terminus at Lincoln Avenue to Live Oak Street as redevelopment occurs. Foster Avenue parallels Texas Avenue from Lincoln Avenue to Gilcrest Street, providing a secondary route. The extension of Foster Avenue north of Lincoln Avenue would continue this route, offering the best opportunity to create The Crossing district.	Capital improvement			X	Planning & Development Services Capital Improvement Projects	Public Works			X		X
		C.10	Create pedestrian connections across Texas Avenue at the Ash Street extension. There is an existing signal at the intersection of the future Ash Street extension and Texas Avenue, but no pedestrian crossing was installed when the intersection was improved. Providing this crossing offers pedestrians another opportunity to cross Texas Avenue at a controlled intersection.	Capital improvement		X		Public Works	Planning & Development Services	Texas Department of Transportation	X			
		C.11	Extend Ash Street from Eisenhower Street to Texas Avenue at the existing signalized intersection as redevelopment occurs. The extension of Ash Street will help complete the thoroughfare network and offer more opportunities for navigation through the district.	Capital improvement			X	Planning & Development Services Capital Improvement Projects	Public Works	Texas Department of Transportation		X		X
		C.12	Extend Avenue A from its current terminus to Eisenhower Street as redevelopment occurs. Avenue A does not meet the UDO requirements for a turnaround, leading to issues with fire and solid waste service. Extending Avenue A to Eisenhower Street allows for the continued movement of vehicles and would eliminate the service issues for Avenue A.	Capital improvement			X	Planning & Development Services Capital Improvement Projects	Public Works			X		X
		C.13	Improve Nimitz Street from University Drive (FM 60) to Ash Street to the Minor Collector standards. The signal at Nimitz Street and University Drive (FM 60) will likely bring additional traffic down the corridor. Nimitz Street should be improved to better handle the additional circulation and provide bicycle and pedestrian facilities that currently do not exist along the corridor.	Capital improvement		X		Planning & Development Services Capital Improvement Projects	Public Works			X		
		C.14	Incorporate flexible urban street standards as an alternative within the adopted cross-sections. The cross-section alternative should allow for and encourage on-street parking, potentially limited to one side, and additional bicycle and pedestrian facilities within constrained rights-of-way.	Policy-based decision	X			Planning & Development Services			X			

CHAPTER 3: EASTGATE MAIN	DISTINCTIVE PLACES	E.1	Revise the existing P-MUD Planned Mixed-Use District standards within the Unified Development Ordinance. The revised zoning district should focus on horizontally mixing uses within a development or defined area, ensuring sufficient commercial and residential opportunities throughout the district. The revisions should maintain the concept plan requirement and clarify an appropriate baseline mix of uses.	Regulation	X			Planning & Development Services			X			
		E.2	Create a master plan for Eastgate Park. These park spaces are currently unprogrammed, landscaped lawns with no amenities or seating. Identifying opportunities for Eastgate Park to become a usable community gathering space distinct from the plaza and lawn at City Hall will open more opportunities for place-making.	Focused planning effort		X		Parks & Recreation	Planning & Development Services		X			
		E.3	Assess the feasibility of temporarily closing the “swoops” to through traffic. Temporarily pedestrianizing the “swoops” and converting parking spaces and drive aisles could create a street festival-style atmosphere for events such as markets and festivals. Closures should consider traffic and parking impacts on businesses and surrounding neighborhoods.	Project / program		X		Planning & Development Services	Public Works		X			
		E.4	Activate the City Hall site to host public events and gatherings that bring residents and tourists to the center of Eastgate Main. With the development of the new City Hall in 2021 and the rehabilitation of the old fire station in 2023, the City of College Station has developed a municipal complex that can be activated to host community events throughout the year.	Project / program	X			Economic Development & Tourism			X			
		E.5	Create and implement visually intuitive branding for Eastgate Main and its public spaces. Part of redevelopment will include place-making activities, including visual cues of your location in the city. District branding will help residents and visitors differentiate their experience in this area from the nearby Eastgate neighborhoods, The Crossing, and Texas A&M University.	Project / program		X		Capital Improvement Projects Planning & Development Services	Economic Development & Tourism		X			
		E.6	Create opportunities for residents to engage with the history of the area. Eastgate Main was part of one of the earliest developments in College Station. Opportunities include signage discussing the history of the area and identification of historic buildings.	Project / program		X		Planning & Development Services	Economic Development & Tourism Parks & Recreation		X		X	X
	STRONG NEIGHBORHOODS & PROSPEROUS ECONOMY	E.7	Create a façade improvement program for Eastgate Main. A façade improvement program could provide grants for building owners to improve the appearance of their façades and restore architectural styles from the founding of the City of College Station and the initial development of the Eastgate Main area in the late 1930s and early 1940s.	Project / program		X		Economic Development & Tourism	Planning & Development Services		X		X	X
		E.8	Work with property owners to assess the potential need, benefit, and structure of creating an Eastgate Business Association. An Eastgate Business Association could collectively initiate actions to improve the Eastgate Main area and coordinate hosting local events in the plaza area at Eastgate Park. Additionally, having an Eastgate Business Association enables more coordination with City staff, including updates on development activity and City projects within the district.	Project / program			X	Economic Development & Tourism	Planning & Development Services	Eastgate Business Owners	X			X
	INTEGRATED MOBILITY	E.9	Study traffic operations and access needs on the Texas Avenue corridor to assess the need for changes to median break locations and future signalized intersections. Several unsignalized median openings with left-turn bays exist along Texas Avenue, including at Live Oak Street, the entrance to the Lone Star Pavilion shopping center, Lincoln Avenue, the frontage road near the “swoops,” Francis Drive, and Gilchrist Avenue. Future modifications to these intersections should review traffic volumes and crossing movements to enhance traffic safety and operations.	Focused planning effort		X		Planning & Development Services	Public Works	Texas Department of Transportation	X		X	
		E.10	Evaluate the intersection of Foster Drive and George Bush Drive East to determine necessary improvements. Traffic frequently backs up on Foster Drive at this intersection. The City should explore congestion mitigation improvements including possible dedicated left and right turn lanes.	Capital improvement			X	Planning & Development Services Capital Improvement Projects	Public Works		X	X		
		E.11	Assess the feasibility of a grade-separated facility at the Texas Avenue and George Bush Drive intersection. The City should work with TxDOT to study the feasibility, cost, and design of a grade-separated facility. The feasibility analysis should determine whether keeping automotive or bicycle and pedestrian traffic at grade is possible and determine a preferred facility design.	Capital improvement		X		Planning & Development Services Capital Improvement Projects	Public Works	Texas Department of Transportation BCS Metropolitan Planning Organization Texas A&M University	X	X		
		E.12	Improve bicycle and pedestrian connections to Thomas Park along Walton Drive, Francis Drive, and Gilchrist Avenue. Located nearby Eastgate Main, Thomas Park is one of the more significant park spaces in this area of the city. As more potential users of the park move into the planning area, improved connections to the park should be explored.	Capital improvement		X		Planning & Development Services Capital Improvement Projects	Public Works		X	X		
		E.13	Develop an Eastgate Main parking management strategy. This could include improving existing parking within the “swoops” and creating shared parking areas that are easily accessed from the surrounding streets.	Focused planning effort			X	Planning & Development Services	Public Works		X			



APPENDIX A: EXISTING CONDITIONS

Surrounding Context

The planning area is bounded by the College Station-Bryan city limit to the north, Tarrow Street to the east, George Bush Drive East to the south, and the Northpoint Crossing development to the west. Most of the western boundary is the Texas A&M University campus, while most of the eastern boundary is comprised of the Prairie View Heights and Eastgate neighborhoods.

Texas A&M University is a major component of the City of College Station with significant influence on the proposed development within this area. Texas A&M University's College Station campus consistently ranks in the top five universities with the largest enrollment nationally and is the biggest employer in the region as identified by the Brazos Valley Economic Development Corporation, making Texas A&M University an important hub for a significant portion of the regional population. The location of the redevelopment area necessitates careful consideration of the University's goals for their eastern boundary and inter-organizational collaboration to create cohesion across Texas Avenue. Texas A&M University updated its College Station Campus Master Plan in 2017, which depicts the expansion of their developments along University Drive (FM 60) across from Century Square, bringing the northeastern edge of campus development much closer to Texas Avenue. This expansion provides a key opportunity for the City and the University to work together to ensure that development on either side of Texas Avenue enhances both organizations. With Texas A&M University's continued growth, the success of the plan will be partially attributed to how efficiently people can get on and off campus.

Looking to the opposite boundary, the planning area adjoins the Prairie View Heights neighborhood, which was platted in 1947. It is bounded today by Tarrow Street, Peyton Street, Columbus Street, and Chappel Street. Prairie View Heights is one of the three historically Black neighborhoods in College Station, reflective of the racial segregation patterns of the time. The area has experienced significant gentrification pressures in recent years with the increased demand for student-oriented housing near Texas A&M University. Neighborhood representatives expressed interest in pursuing a Neighborhood Conservation Overlay (NCO) zoning designation in 2011 to support preservation efforts and limit redevelopment pressures but ultimately did not move forward with pursuing the NCO. Changes pursued by this plan should remain sensitive to this context and work to mitigate further gentrification effects on this neighborhood. Outside of the Prairie View Heights neighborhood, many other Eastgate neighborhoods adjoin the planning area, including multiple phases of the College Hills Estates subdivision. Similar careful consideration should be given to potential impacts on these neighborhoods.

A final geographic consideration surrounding the redevelopment area is the proximity to residents in the City of Bryan. The northern boundary is the city limit line, with the City of Bryan beginning on the other side. Along Texas Avenue, the developments continue in a low-density commercial fashion, matching the current development pattern along Texas Avenue in College Station. However, just north of Cooner Street is a low-density residential neighborhood that necessitates consideration. Any changes to the planning area, especially along Cooner Street, may have impacts outside the planning area. Careful consideration of those impacts is needed to ensure the best outcome of the plan.

Demographics

The planning area has more than doubled in population between 2010 and 2020, increasing from 1,387 to 2,787 people. The estimated population of the area in 2022 is 2,912, making up just over 2% of the total population of College Station. The median age for the area is 22.4, slightly younger than the College Station median age of 23.7. The area population leans slightly more male at 52%. Educational attainment is reflected in the American Community Survey by respondents selecting their highest level of educational attainment. The area has a similar educational attainment for people who are 25 years old or older when compared to the rest of the city. The city and the planning area have 12% of the population with a high school diploma or equivalent, and the planning area has a slightly lower percentage of college graduates at 30% compared to 31% citywide. The planning area has a much higher percentage of people with less than a high school education at 18% compared to the 5% for the city. The area is slightly more diverse than the rest of the city, with the White population being 60.4% compared to the citywide 62.3%. There is a significantly larger Asian population within the area with 29.2% of people identified as Asian, compared to 10.3% of people across the city. Overall, 19% of the people in the planning area identify as Hispanic or Latino, 8.3% of people identify as Black or African American, and 2.6% identify as two or more races.

The average household size in the planning area is 3.14 people. The median family income for the area is \$38,397, about 70% of the median income for College Station. Average income is also lower than the rest of the city at \$55,694, about 66% of the average income across the whole city.

Relevant to demographic change within the City of College Station and the planning area will be influenced by continued increases in the student population at Texas A&M University. The proximity to the university campus makes it an attractive area for housing staff and students as identified in existing housing development in the study area. Per **Table A.1: Texas A&M University College Station Campus Participation Projections**, Texas A&M University's enrollment is expected to continue increasing through 2035.

Table A.1: Texas A&M University College Station Campus Participation Projections					
Actual 2010	Actual 2015	Actual Prelim 2020	Anticipated 2025	Anticipated 2030	Anticipated 2035
49,129	58,515	65,272	70,279	73,432	77,842

Source: Enrollment Forecast for Texas Institutions of Higher Education 2021-2035 – January 2021, Texas Higher Education Coordinating Board

Interpretation of these figures is sometimes complicated by the inclusion of distance education in enrollment figures. According to **Table A.2: Texas A&M University College Station Campus Student Headcount**, 60,033 students were enrolled on the 20th class day of the spring 2023 semester. Not all students who attend Texas A&M University in non-distance programs live in College Station, but the continued growth of Texas A&M University will likely increase the population of the region, the City of College Station, and the planning area.

Table A.2: Texas A&M University College Station Campus Student Headcount					
Year	2018-2019	2019-2020	2020-2021	2021-2022	2022-2023
Fall	60,521	60,368	61,503	63,025	64,131
Spring	56,316	56,260	57,765	58,626	60,033

Source: Enrollment Profile, Texas A&M University Office of Academic & Business Performance Analytics

People who live in the planning area tend to be younger, have lower incomes, and are more diverse when compared to the city overall. These are three indicators that are commonly seen when looking at the student population. Based on these indicators, as well as the proximity to Texas A&M University, it is likely that many people living within the plan boundaries are students.



Area Character

To assess the existing character of the redevelopment area, staff looked at existing and future land uses, zoning, characteristics of housing and neighborhood centers, and municipal functions, including code enforcement, capital improvements, and permitted development activity.

EXISTING LAND USE

The planning area is primarily made up of low- to medium-density commercial areas, with some residential throughout the area. Exclusively commercial uses make up 47.3% of the area, with an additional 4.2% of the planning area composed of mixed-use buildings with commercial on ground floors. In addition to the mixed-use residential uses within those structures, 37.8% of the land is being used for an assortment of residential uses. The rest of the area is comprised of public or semi-public uses, including the College Station City Hall, a Bryan Texas Utilities electrical substation, and three religious institutions.

FUTURE LAND USE

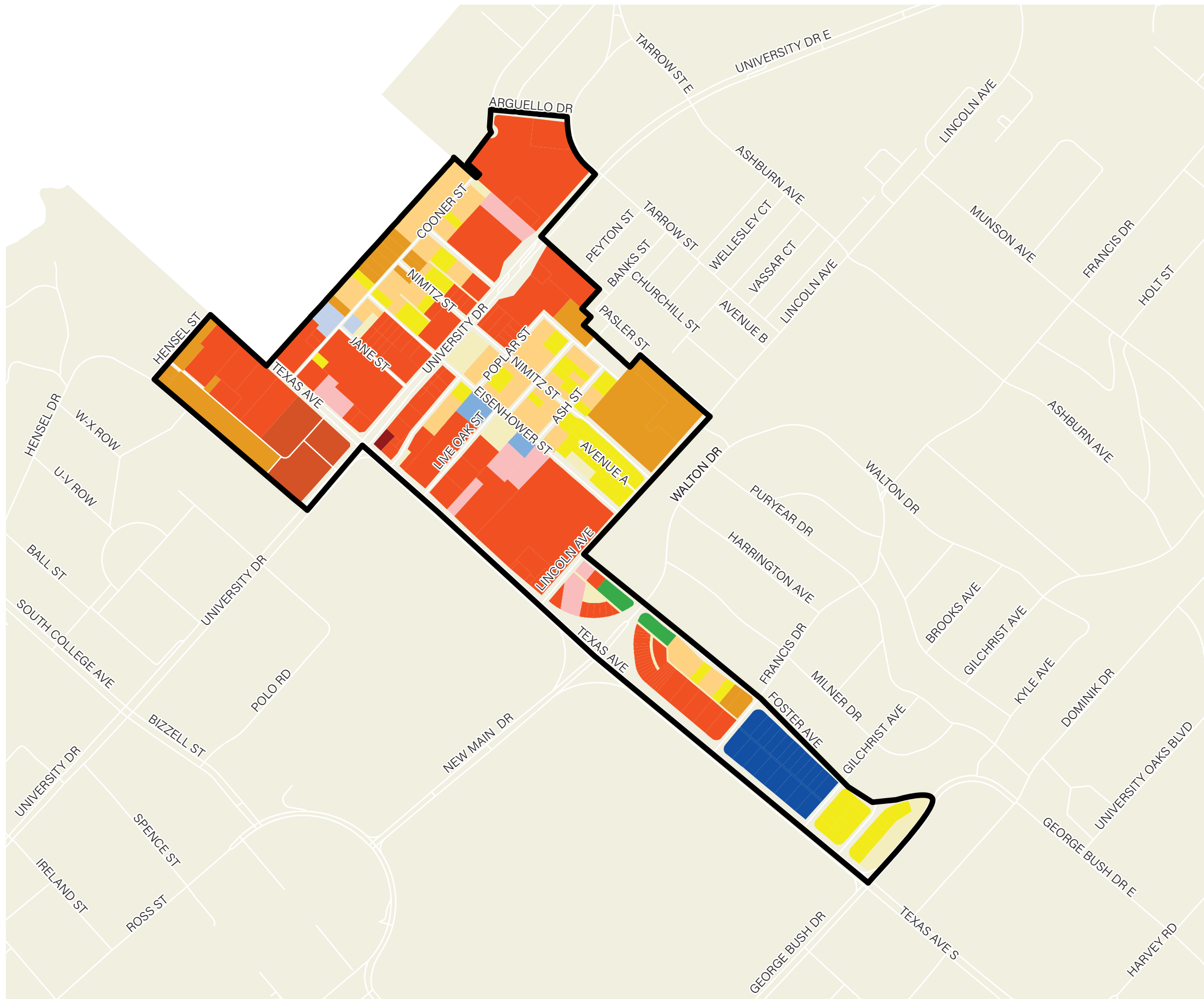
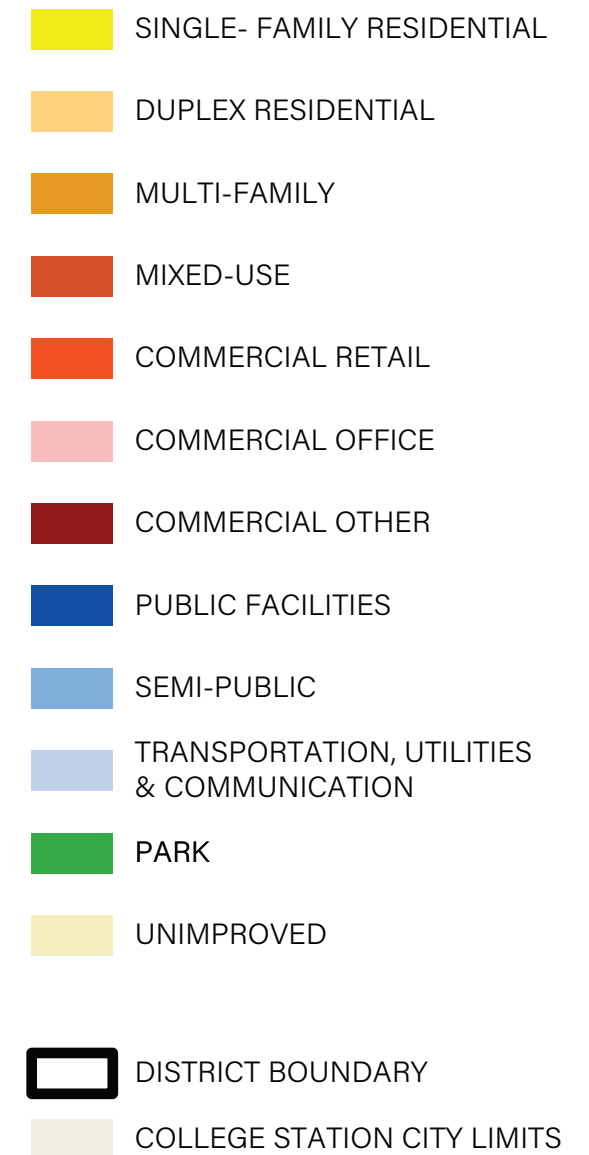
The future land use designations depict the area as a much denser urban area with a greater mix of commercial and residential uses and more housing options. In the Comprehensive Plan Future Land Use & Character Map, the boundary is designated as a Redevelopment Area. The prevailing future land use is the Urban Center land use at 63.7%, which is the most urban form of commercial and residential development. The intent of this land use is a compact and walkable use pattern with multi-story mixed-use structures, a stark contrast from the existing uses within the area. Secondly, the land uses Neighborhood Center at 12.2% and Mixed Residential at 18.6% comprise a significant portion of the area. These land uses aim to have dense, accessible residential and commercial uses to support the surrounding lower-density residential areas. The Neighborhood Center future land use operates like Urban Center but at a smaller scale to serve as a transition down to lower-density commercial areas and surrounding residential areas. The Mixed Residential future land use serves as a buffer between land uses of different intensities by stepping down in scale and density when approaching existing neighborhoods. Comparing the existing land uses with the future land uses, it becomes clear that planning for redevelopment in this area is a high priority.

ZONING

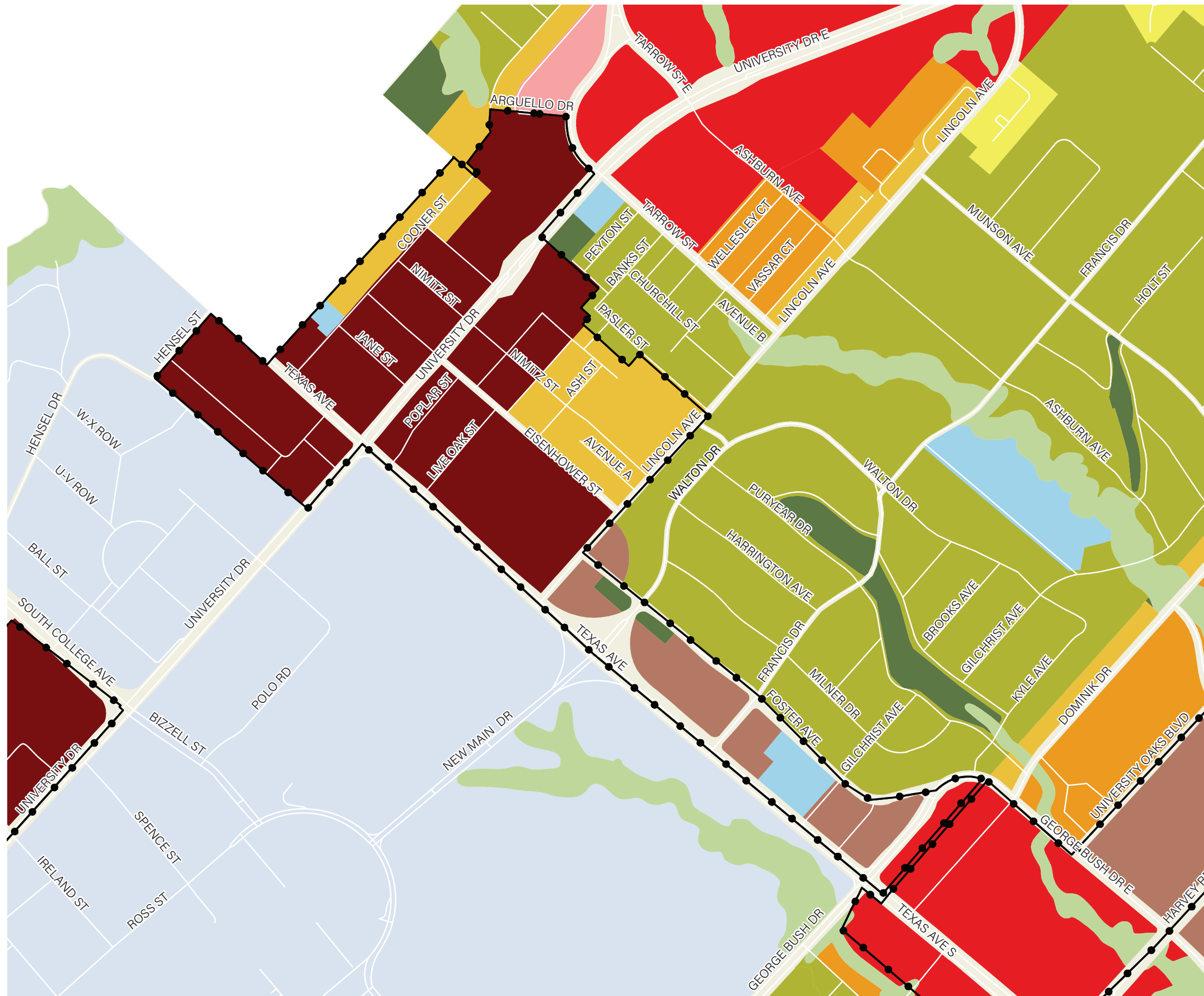
Future land uses exist in the Comprehensive Plan to guide policy decisions on properties throughout the city, including changes in zoning. The existing zoning can be evaluated to see how well it aligns with the future land uses envisioned for the area. Commercial zoning districts make up 48.1% of the zoning in the area, with the majority of that being GC General Commercial. Comparatively, 42.9% of the area is zoned for residential uses. Only 9% of the planning area is currently zoned for mixed uses that would be compatible with the urban forms depicted by the future land uses in the area. Zoning changes will need to occur within the planning area to realize the intended future land uses.



Existing Land Use



Future Land Use & Character

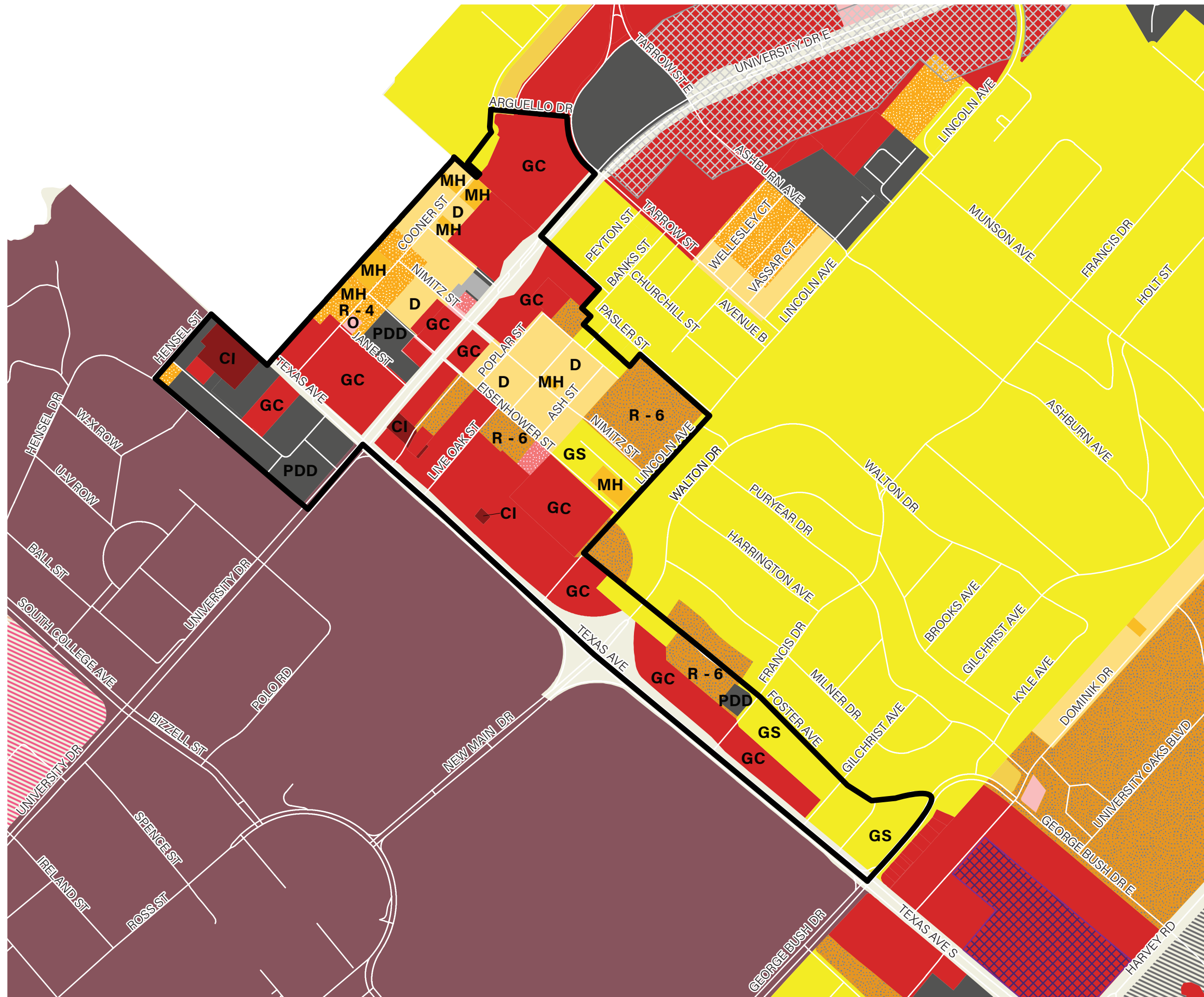


- URBAN CENTER
- NEIGHBORHOOD CENTER
- GENERAL COMMERCIAL
- NEIGHBORHOOD COMMERCIAL
- URBAN RESIDENTIAL
- MIXED RESIDENTIAL
- SUBURBAN RESIDENTIAL
- NEIGHBORHOOD CONSERVATION
- INSTITUTIONAL/PUBLIC
- TEXAS A&M UNIVERSITY
- PARKS & GREENWAYS
- NATURAL & OPEN AREAS
- REDEVELOPMENT AREAS
- COLLEGE STATION CITY LIMITS

*NOTE: A COMPREHENSIVE PLAN SHALL NOT CONSTITUTE ZONING REGULATIONS OR ESTABLISH ZONING BOUNDARIES

Zoning

- GS GENERAL SUBURBAN
- D DUPLEX
- T TOWNHOUSE
- MH MIDDLE HOUSING
- MF MULTI-FAMILY
- O OFFICE
- GC GENERAL COMMERCIAL
- CI COMMERCIAL INDUSTRIAL
- C-U COLLEGE AND UNIVERSITY
- P-MUD PLANNED MIXED-USE DEVELOPMENT
- PDD PLANNED DEVELOPMENT DISTRICT
- NG-2 TRANSITIONAL NORTHGATE
- WPC WOLF PEN CREEK
- OV CORRIDOR OVERLAY
- RDD REDEVELOPMENT DISTRICT
- C-3 LIGHT COMMERCIAL
- R-4 MULTI-FAMILY
- R-6 HIGH DENSITY MULTI-FAMILY
- DISTRICT BOUNDARY
- COLLEGE STATION CITY LIMITS





HOUSING CHARACTERISTICS

Housing in this area reflects a substantial college student presence. According to the ESRI Living Atlas, almost two-thirds of housing units in the planning area are renter occupied, and that is also reflected in the 71% of housing units that are registered with the City's Rental Registration program. While primarily rentals, there are still some owner-occupants dotted throughout the area. Of those homes that are owner-occupied, the average home value of \$150,575 is less than half of the city's overall average home value of \$363,544. Finally, based on the City's Housing Conditions survey from 2020 that evaluated the outside maintenance upkeep of living units throughout the city, 84% of homes in the planning area were determined to be in excellent condition. Only 2.5% of the homes in the planning area needed major repairs, being designated as substandard or dilapidated in condition.

NEIGHBORHOOD CENTERS

The term "third places" describes spaces where people gather outside of their homes and workplaces. These are spaces open to everyone that encourage interactions between people and the community. Many of these third places and community spaces lie just outside the plan boundary, including Thomas Park, Lions Park, and Century Square. Within the planning area, the most significant neighborhood center is the new College Station City Hall, which has been open since December 2021. It provides several meeting spaces available for public reservation to hold community gatherings of all types. Down the street from City Hall is Eastgate Park, a pocket park split across Walton Drive that allows for unprogrammed activities and green space. Finally, there are three religious buildings including the Rohr Chabad Jewish Center at Texas A&M University, the College Station Chinese Bible Church, and the College Hills Baptist Church.

CODE ENFORCEMENT

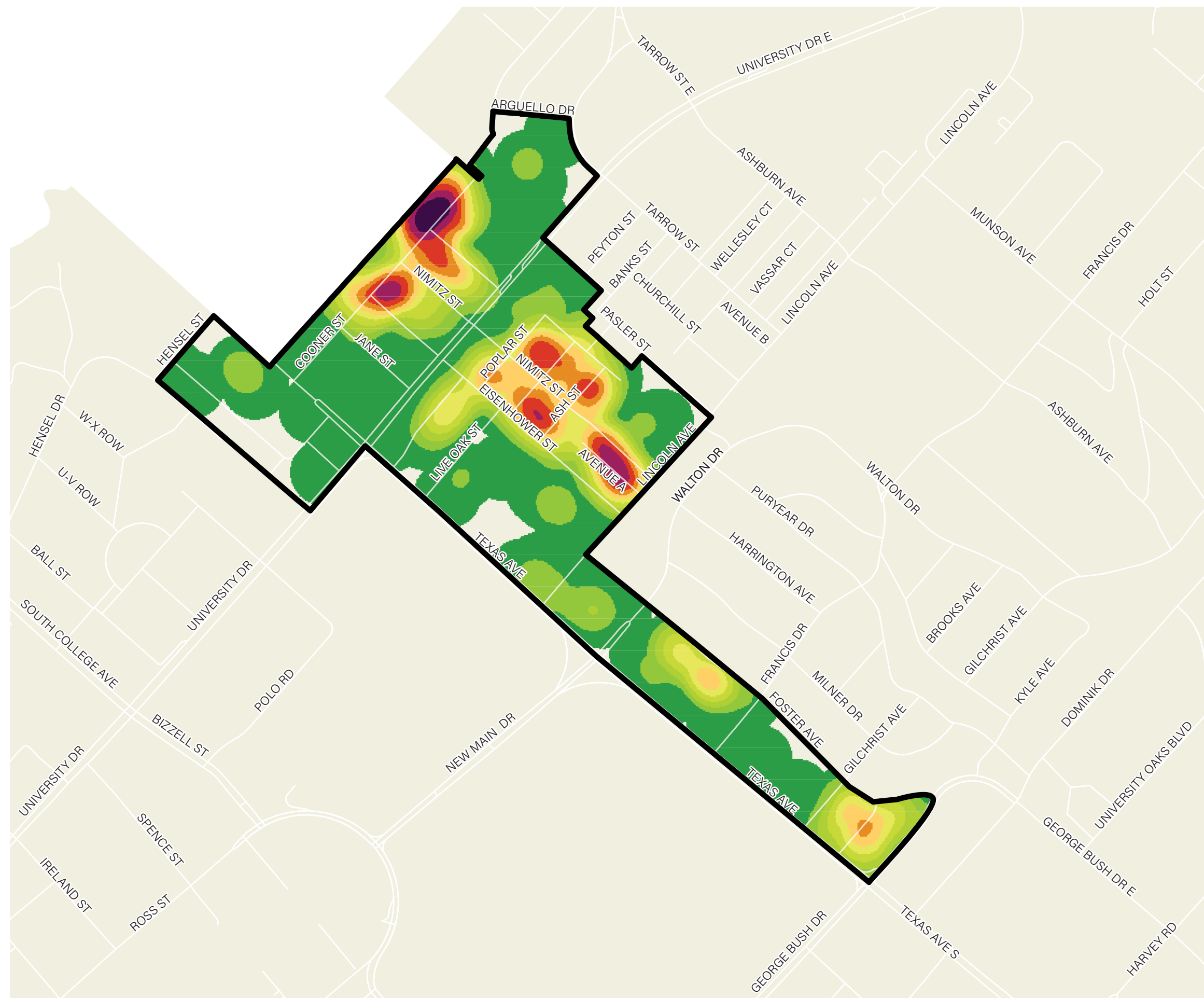
The planning area has had several code enforcement investigations throughout the last 10 years. Most code enforcement investigations resulted in property owner education and voluntary compliance, while a small portion resulted in fines or summons to court. More than half of the issues were solid waste and recycling violations with cans being left out after collection day. This creates conflicts with road users, including cars and bikes, trying to share already narrow roads. The next biggest category was weeds and grass violations at 17.5%. Weeds and grass violations are property maintenance issues where the grass has grown over 12 inches in length. This provides low aesthetic value, can increase issues with pests and vermin, and can hang over into the sidewalk creating access problems for sidewalk users. Finally, the third biggest issue was rental registration violations at 11%, which entails operating a single-family, duplex, triplex, or fourplex rental housing unit without registering with the City's Rental Registration program or letting existing registration lapse. Compliance with the program helps the City accurately gauge the rental housing stock, keep track of the owner-occupied and renter-occupied homes, and have a local point-of-contact in case issues arise with a rental home. **Table A.3: Code Enforcement Cases, 2012-2022** describes the code enforcement cases in the planning area over the past 10 years.

Table A.3: Code Enforcement Cases, 2012-2022

Code Violation Type	Number of Cases
Accumulation of Trash <i>Trash over-flow, typically in yards, causing aesthetic and safety concerns</i>	127
Cans Out After Collection Day <i>Trash or recycling cans still on the curb after trash collection day</i>	1,460
Illegal Signs <i>Signs that are being displayed are prohibited per the City Code</i>	117
Junk Motor Vehicles <i>Dilapidated cars are left in the yard, visible from the street</i>	25
Liquor License Expired <i>Business establishments running with an expired liquor license</i>	17
No More Than Four Unrelated Tenants Violation <i>Permanent occupancy of the structure over the family definition of four unrelated persons</i>	21
Non-Specific Investigation <i>General inquiries/complaints that don't fit into a specific violation-type</i>	37
Open Storage <i>Storage visible from the street</i>	77
Parking <i>Illegal parking violations</i>	49
Property Maintenance <i>Property is not being maintained, including structural and safety issues</i>	35
Rental Registration <i>A property's Rental Registration with the City has expired</i>	312
Use Violations <i>Prohibited use type is being used</i>	30
Weeds & Grass <i>A property's yard is not being properly maintained</i>	495
Total	2,802

Code Enforcement Case Density

Code Enforcement Cases collected by the College Station Code Enforcement Division from 2012-2022 was used to map code issues. These are cases concerning compliance with codes related to: parking, weeds & grass, health & safety, zoning violations, sanitation & illegal dumping.



*CODE ENFORCEMENT DENSITY**



*Based on the number of crashes within a 250 foot radius



 DISTRICT BOUNDARY

COLLEGE STATION CITY LIMITS

DEVELOPMENT ACTIVITY

The City of College Station manages requests and reviews of development proposals and administers development standards through a variety of processes. One development project often necessitates multiple processes, reviews, permits, and inspections before it can be constructed and occupied. An example is a new commercial center that could require a Final Plat, a Development Permit, a Site Plan Review, an Architectural Review, and a Building Permit with inspections. Another example is a new residential subdivision that could require a Zoning Map Amendment, a Preliminary Plan, Final Plats, and Building Permits with inspections.

Each project is analyzed for the permits or reviews that will be needed, and in what order those must be obtained. Each permit or review undergoes review by numerous staff in various departments throughout the City. Before the initiation of a project, the City offers pre-application conferences that allow all applicable reviewing departments to clearly communicate the expectations of the project to a future applicant to assist with quicker reviews down the line.

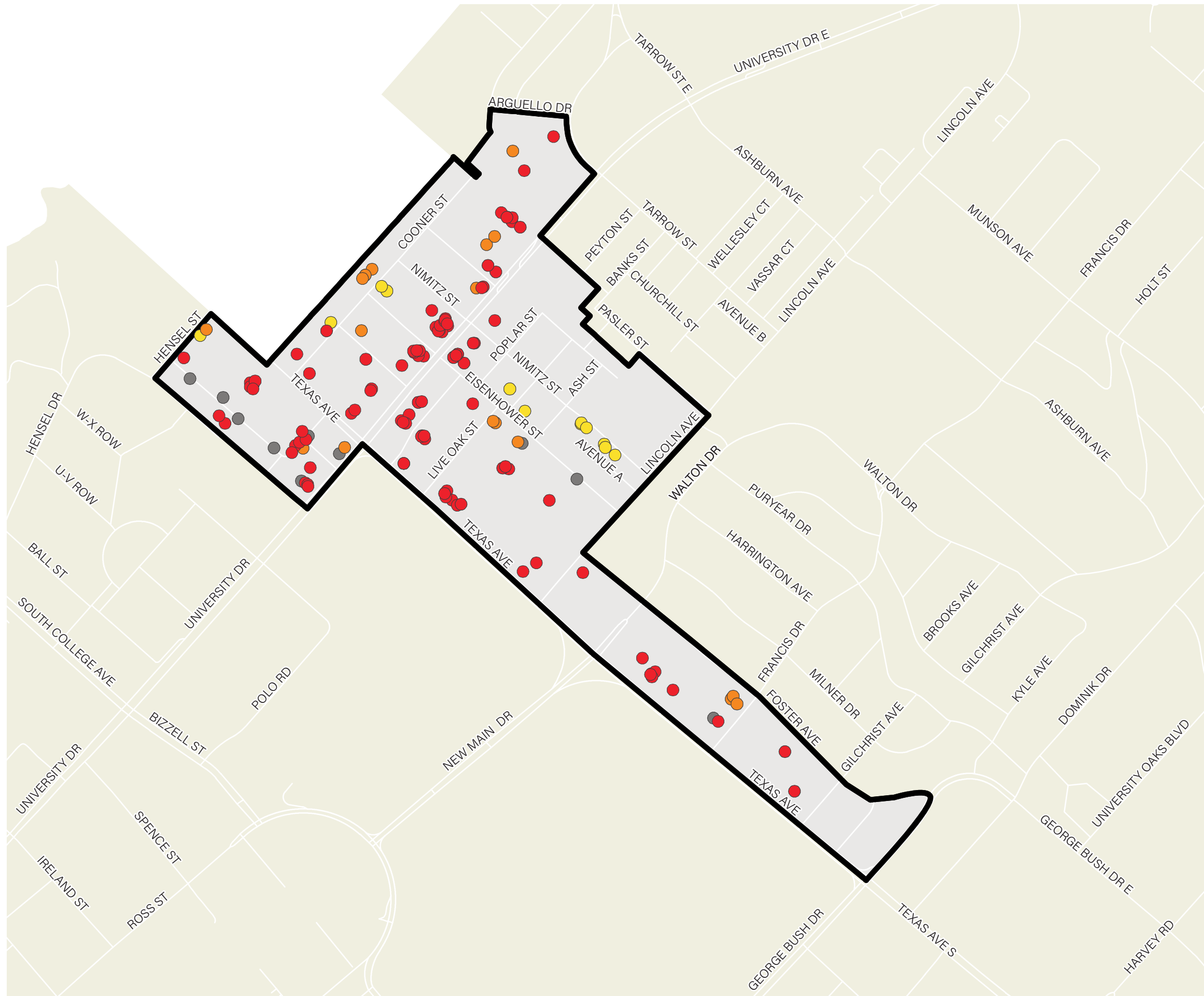
The numbers in **Table A.4, Development Activity, 2012-2022** show archived and approved project applications over the last 10 years within the plan boundaries. Architectural reviews and site plans were common in the area, reflective of the commercial nature of the planning area. Pre-application conferences were also common in the area, showing interest in development and redevelopment within the area.

Table A.4: Development Activity, 2012-2022

Review Type	Number of Reviews
Abandonments	11
Appeals, Waivers, and Variances	11
Architectural Reviews	34
Commercial Final Plats	4
Development Permits	7
Pre-Application Conferences	28
Preliminary Plan	1
Private Improvements in ROW	1
Residential Final Plats	4
Rezoning	9
Right-of-Way Permits	13
Site Plans	24

Development Activity

- COMMERCIAL
- NON-RESIDENTIAL
- MULTI-FAMILY RESIDENTIAL
- SINGLE FAMILY RESIDENTIAL
- DISTRICT BOUNDARY
- COLLEGE STATION CITY LIMITS



PUBLIC INVESTMENTS

Several major capital improvement projects have been pursued in the planning area over the last 10 years. University Drive (FM 60), one of the major thoroughfares through the area, has had pedestrian improvements (completed in FY2020), raised median improvements (completed in FY2020), and a new signal installed at Nimitz Street (completed in FY2021). Texas Avenue, the other major thoroughfare going through the planning area has had pedestrian improvements (completed in FY2014), planter boxes replaced (completed in FY2017), and a new signal installed at Walton Drive (completed in FY2021). University Drive (FM 60) and Texas Avenue are managed by the Texas Department of Transportation (TxDOT), meaning costs for improvements to those roads are shared between the State of Texas and the City. Other roads throughout the planning area are managed locally, meaning they are funded through the Capital Improvement Program or federal and state grants. Several streets were constructed, reconstructed, or rehabilitated, including Cooner Street (completed in FY2013), Nimitz Street (completed in FY2014), Lincoln Avenue (construction begins FY2023), Francis Drive (construction begins FY2023), and Eisenhower Street (construction begins FY2024). In addition to roadway improvements, both the Lincoln Avenue and Francis Drive rehabilitation projects include water, wastewater, and stormwater improvements. Finally, the biggest non-street improvements in the area were the new College Station City Hall building (completed in FY2021) and the Northeast Sanitary Sewer Trunk Line (construction begins FY2024).

PUBLIC REALM CONDITIONS

Streetscapes within the study area are largely suburban. University Drive (FM 60) between Tarrow Street and Texas Avenue is a primarily commercial thoroughfare, with roadway conditions creating a largely uncomfortable environment for cyclists due to a lack of bike lanes and a lack of comfort for pedestrians due to a lack of separation between the sidewalk and vehicle travel lanes. Tree canopy is infrequent along pedestrian areas or placed behind the sidewalk, resulting in relatively little shade or cooling effect. Parking is primarily located in front of buildings, with a minimal feeling of enclosure due to large setbacks, lack of trees, and the wide street right-of-way. The Northpoint Crossing development attempts to create an improved sense of enclosure with minimal setbacks from the right-of-way, and planting buffers and trees between the travel lanes and sidewalk create a more comfortable pedestrian experience. Pedestrian ramps are also available near this intersection, however, interruptions to sidewalk connections such as bicycles locked to fences and frequent turns may impact access.





A similar streetscape environment exists along Texas Avenue, with large setbacks, front parking areas, and wide right-of-way. However, on the Texas A&M University campus, the presence of a sidewalk that is separated from the right-of-way by a grassy buffer strip and shaded by trees provides a preferred pedestrian alternative. The trees also promote a sense of enclosure along the corridor despite the suburban-style commercial setbacks and the expansive green spaces on the Texas A&M University campus.

Near the intersection of Walton Drive and Texas Avenue, a neighborhood commercial environment is evident with primarily one-story commercial buildings with parapet rooflines, a single row of parking separating drive lanes, and some activity such as outdoor displays or dining available on the sidewalk directly in front of businesses. Landscaped islands separating these buildings from Texas Avenue help to reduce road noise and provide greenery, public art, and visual interest. Also in this area is Eastgate Park. This publicly owned park space is unprogrammed, with no amenities or park furnishings aside from the park sign.

Between Walton Drive and George Bush Drive East, the pedestrian streetscape experience improves somewhat, with trees and a grassy buffer separating the sidewalk from the Texas Avenue travel lanes, though the sidewalk abuts the frontage drive. There is a public space at the entrance to the new College Station City Hall with a grassy lawn and plaza. A landscaped area along George Bush Drive East between Texas Avenue and Foster Avenue includes some ornamental plantings. This corridor includes painted bike lanes on both sides of the road and sidewalks adjacent to drive lanes.

Little public art or wayfinding was identified within the planning area, except for gateway signs to Texas A&M University, the public art installation within the northern Walton Drive/ Texas Avenue island, and gateway elements at City Hall.

As mentioned, the current development pattern of the area is mostly commercial, offering many opportunities for economic growth. According to **Table A.5 Estimated Total Sales, Employees, and Businesses**, the planning area contains 200 businesses that employ an estimated 1,947 people, averaging approximately 10 employees per business. That is slightly lower than the city's overall average of 12.5 employees per business.

ESRI's Business Locator report estimates business activity based on address points, including estimates of total sales, number of businesses, and employees. An inspection of **Table A.5 Estimated Total Sales, Employees, and Businesses** reveals potential estimation issues due to the size of the comparison areas, as well as newer businesses not being accurately captured – for example, sales and employment for the Century Square area are likely substantially higher than the ESRI estimates, based on a comparison to the City's actual tax revenues.

<i>Table A.5 Estimated Total Sales, Employees, and Businesses</i>			
Area	2022 Total Sales	Total Employees	Total Businesses
Northeast Gateway Redevelopment Area	\$212,061,000	1,947	200
Century Square	\$18,386,000	336	27
Northgate	\$79,517,000	1,100	122
Texas Avenue from George Bush Drive to Southwest Pkwy	\$283,985,000	1,954	126

Source: ESRI Business Locator

RETAIL, OFFICE, AND HOTEL MARKET

Table A.5 Estimated Total Sales, Employees, and Businesses highlights the high sales volume of existing big-box retailers such as Best Buy, Office Depot, and Barnes & Noble in the planning area. Several offices are located within the area, with larger groupings including the Bank of America office building on University Drive (FM 60), 526 University Drive, small-scale offices at 707 Texas Avenue, and some small offices near Eastgate Main. The City of College Station City Hall is also located in the planning area. Six hotels are present within the redevelopment area, including the Hampton Inn, Home2 Suites, and Knights Inn near the Northpoint Crossing development, the Super 8 between Cooner Street and the Bryan city limits, the Embassy Suites at University Drive (FM 60) and Jane Street, and the La Quinta on Live Oak Street. While hotel occupancy tax revenue data was not available for the planning area, the City of College Station levies a 7% hotel occupancy tax.

PROPERTY OWNERSHIP

Property ownership stability is an important indicator of how frequently new people or businesses are occupying the area. Of the 307 properties, 176, or 57.33%, were owned by the same entity in 2017 and 2022. Of those, 112, or 36.48%, were owned by the same entity in 2012 and 2022. This data shows that almost two-thirds of properties changed hands in the past 10 years, meaning there has been a high turnover in property ownership.

SALES AND PROPERTY TAX

Another way to track the economic vitality of an area is to assess the amount of taxes that the City collects from the area. The City of College Station currently levies a property tax rate of \$0.524613 per \$100 valuation and a 1.50% sales tax. Sales tax and property tax revenue performance was estimated using data provided by City staff and appraisal data from the Brazos Central Appraisal District. City staff provided data on sales tax revenues for the redevelopment area as well as nearby commercial areas between January 2018 and September 2022. The comparisons across these areas highlight the relative fiscal productivity of the areas. Generally, more urbanized areas with a higher degree of investment in buildings and improvements as reflected in the Improvement/Land Value Ratio produce higher estimated property tax revenues on a per-acre basis. Though big-box strip areas supporting retailers like H-E-B on Texas Avenue may lead in terms of sales tax revenue, they require a large amount of land and may cost more to service with utilities and infrastructure. Redevelopment and infill in the planning area have the potential to improve the area's fiscal performance by generating increased property tax and sales tax revenues for the City, offsetting the cost of potential improvements and investments.

Table A.6 Sales Tax Revenues

Area	Estimated Acreage	Amount Received October 2021-September 2022	Average Sales Tax/ Month	Estimated Annual Sales Tax Revenue/ Acre
Northeast Gateway Redevelopment Area	141.27	\$769,017.75	\$64,085	\$5,444
Century Square	26.6	\$485,647	\$40,471	\$18,257
Northgate	112.11	\$490,320	\$40,860	\$4,374
Texas Avenue from George Bush Drive to Southwest Pkwy	132.03	\$6,009,557	\$500,796	\$22,758

Source: City of College Station Sales Tax Figures

Table A.7 2022 Property Values

Area	Estimated Acreage	Land Value	Improvement Value	Total Value	2022 Total Value/Acre
Northeast Gateway Redevelopment Area	141.27	\$107,723,158	\$152,327,076	\$260,050,234	\$1,840,839
Century Square	26.6	\$34,434,101	\$49,316,979	\$83,751,080	\$3,148,537
Northgate	112.11	\$156,596,002	\$376,126,108	\$532,722,110	\$4,751,497
Texas Avenue from George Bush Drive to Southwest Pkwy	132.03	\$71,737,868	\$78,064,077	\$149,801,945	\$1,134,574

Source: Brazos Central Appraisal District 2022 Certified Tax Roll

Table A.8 Tax Performance per Acre

Area	Estimated Property Tax Revenues	Estimated Property Tax Revenues/Acre	Estimated Annual Sales Tax Revenue/Acre	Estimated Total Tax Revenues / Acre
Northeast Gateway Redevelopment Area	\$1,364,257	\$9,657	\$5,444	\$15,101
Century Square	\$0*	\$0*	\$18,257	\$18,257
Northgate	\$2,794,729	\$24,927	\$4,374	\$29,301
Texas Avenue from George Bush Drive to Southwest Pkwy	\$1,364,257	\$5,952	\$22,758	\$28,710
* Century Square is owned by Texas A&M University, a state entity, and thus does not contribute to local property taxes. However, the City does collect sales tax at Century Square.				

Source: City of College Station Sales Tax Figures, Brazos Central Appraisal District 2022 Certified Tax Roll



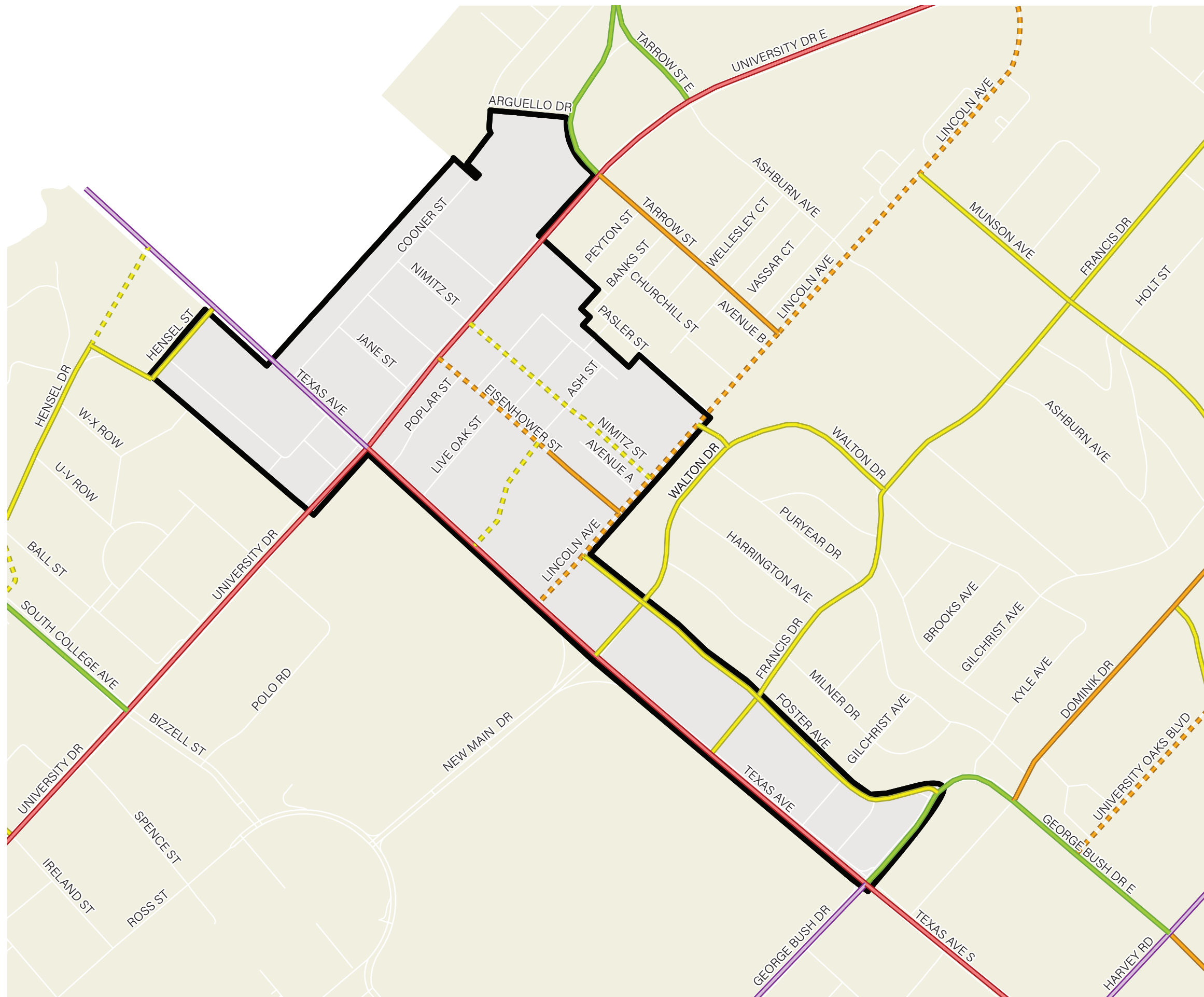
Mobility

STREETS

The Thoroughfare Plan within the City's Comprehensive Plan details the location and size of existing and future major roadways throughout College Station. The redevelopment area has 10 streets on the Thoroughfare Plan, many of which are already constructed. Texas Avenue and University Drive (FM 60) are constructed as 6-Lane Major Arterials and George Bush Drive East is an existing 4-Lane Minor Arterial.

Eisenhower Street is partially constructed as a 2-Lane Major Collector, while Lincoln Avenue is proposed to be improved as a 2-Lane Major Collector. Three existing 2-Lane Minor Collectors are already constructed in the planning area: Foster Avenue, Walton Drive, and Francis Drive. Nimitz Street is proposed to be constructed as a 2-Lane Minor Collector, while Ash Street is proposed to be continued through future redevelopment as a 2-Lane Minor Collector to align with the existing light at Texas Avenue.

Existing Thoroughfare Plan



- FREEWAY/EXPRESSWAY
- - - - PROPOSED FREEWAY/EXPRESSWAY
- 6 LANE MAJOR ARTERIAL
- - - - PROPOSED 6 LANE MAJOR ARTERIAL
- 4 LANE MAJOR ARTERIAL
- - - - PROPOSED 4 LANE MAJOR ARTERIAL
- 4 LANE MINOR ARTERIAL
- - - - PROPOSED 4 LANE MINOR ARTERIAL
- 2 LANE MAJOR COLLECTOR
- - - - PROPOSED 2 LANE MAJOR COLLECTOR
- 2 LANE MINOR COLLECTOR
- - - - PROPOSED 2 LANE MINOR COLLECTOR
- DISTRICT BOUNDARY
- COLLEGE STATION CITY LIMITS



CRASH DATA

In the planning area over the last 10 years, 1,167 vehicular crashes have occurred, which is an average of 117 crashes per year. Of those, 913 were minor crashes where no or only minor injuries occurred and 254 were major crashes where major injuries were likely or confirmed. Crashes occurred most frequently at intersections, with 646 in total. Of those, 363 crashes occurred at the intersection of Texas Avenue and University Drive (FM 60), one of the top 10 intersections for crashes in College Station. Improved vehicular safety is a high priority across the city and especially in the area with its high vehicular volumes. Other intersections in the planning area with a high number of crashes include the intersections of Texas Avenue and New Main/Walton Drive, Texas Avenue and Live Oak Street, Texas Avenue and George Bush Drive East, and Texas Avenue and Lincoln Avenue. Of the other crashes in the planning area, 80 were related to private driveway access points, and 441 were not related to an intersection or private driveway.

Crash Density

Crash data collected by the College Station Police Department from 2012-2022 was used to map traffic accidents spanning all modes of transportation.

TOP 5 INTERSECTIONS WITH CRASHES

- 1 UNIVERSITY DR & TEXAS AVE
- 2 TEXAS AVE & NEW MAIN DR
- 3 TEXAS AVE & LIVE OAK ST
- 4 TEXAS AVE & GEORGE BUSH DR
- 5 TEXAS AVE & LINCOLN AVE

CRASH DENSITY*



*Based on the number of crashes within a 250 foot radius

- DISTRICT BOUNDARY
- COLLEGE STATION CITY LIMITS

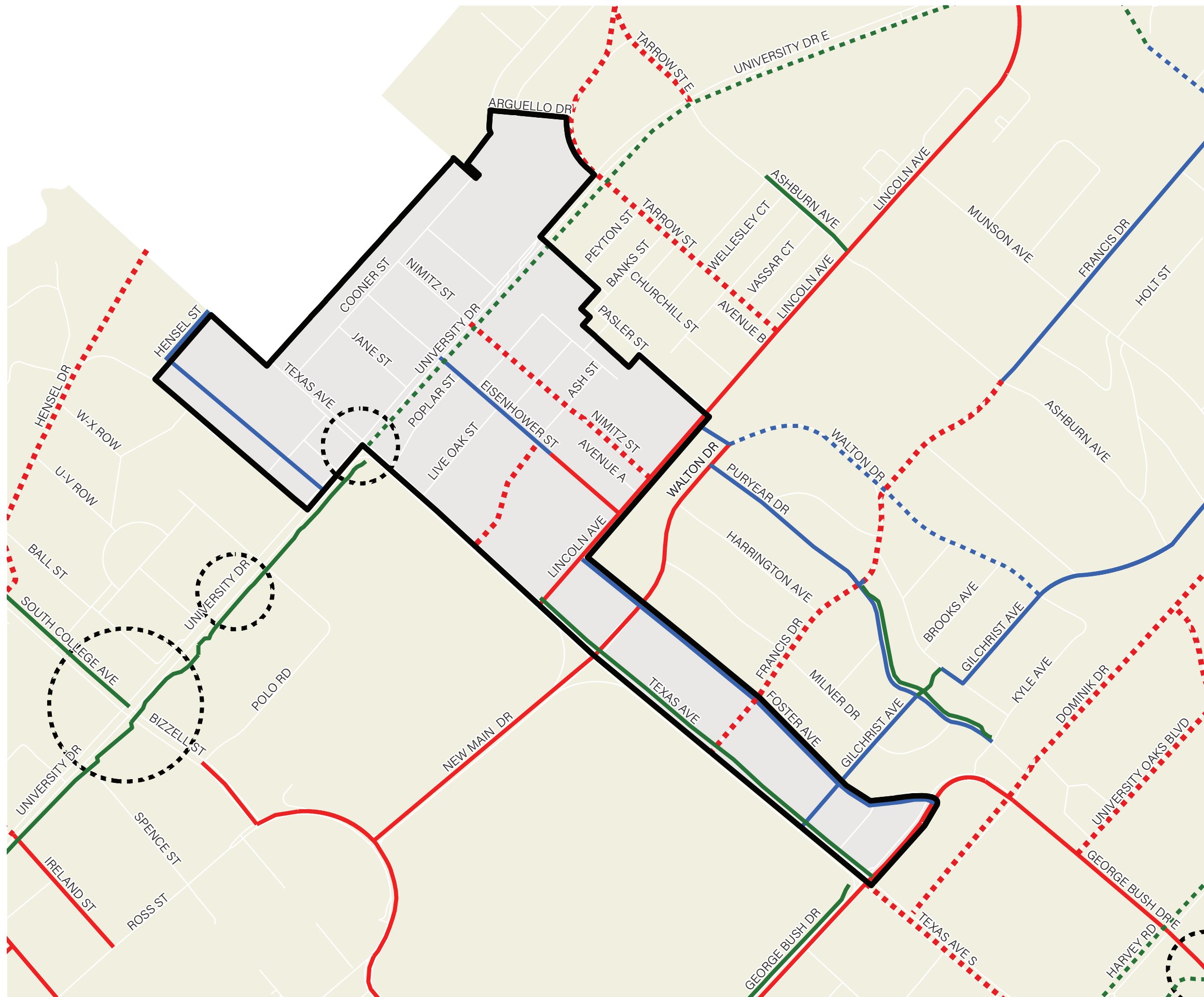


BICYCLE AND PEDESTRIAN FACILITIES

Bicycle facilities are important infrastructure throughout the city to enable mobility choices for bicyclists navigating into, out of, and throughout the planning area. Within the planning area, there are 3.69 miles of existing bicycle lanes, with an additional 2.66 miles proposed in the Bicycle, Pedestrian, and Greenways Master Plan. For those navigating into the planning area, there are 385 bicycle parking spots provided across 24 commercial locations throughout the planning area, for an average of 16 spots per location.



Existing Bicycle Plan



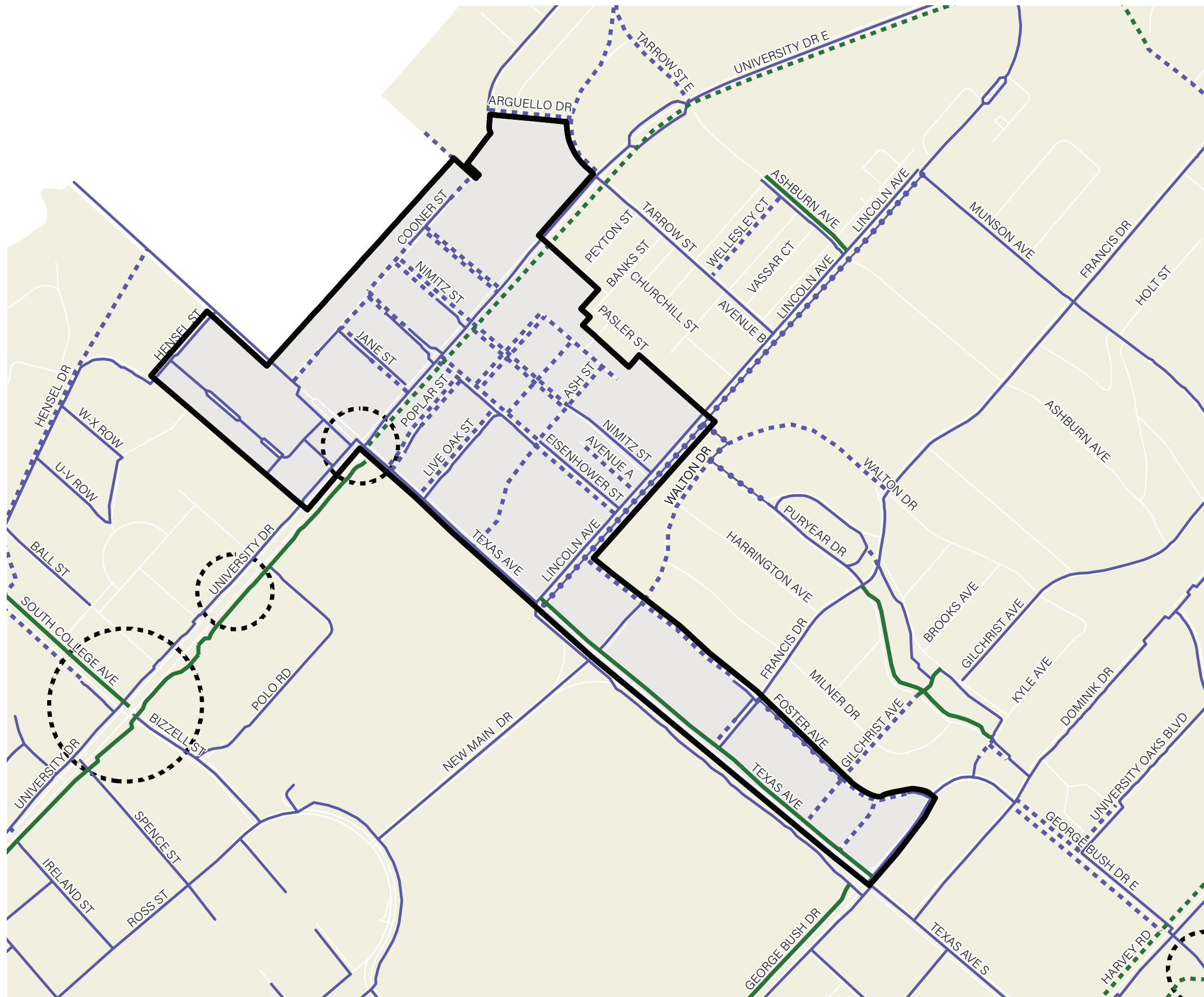
- BIKE LANE EXISTING
- BIKE LANE FUNDED
- BIKE FACILITY PROPOSED
- BIKE ROUTE EXISTING
- - - BIKE ROUTE PROPOSED
- SHARED-USE PATH EXISTING
- SHARED-USE PATH FUNDED
- SHARED-USE PATH PROPOSED
- GRADE SEPARATION EXISTING
- GRADE SEPARATION FUNDED
- GRADE SEPARATION PROPOSED
- DISTRICT BOUNDARY
- COLLEGE STATION CITY LIMITS

Strava heatmap data shows that cyclists prefer to cross Texas Avenue at its intersections with New Main Drive/Walton Drive and George Bush Drive East. This highlights that low-comfort conditions along Texas Avenue and University Drive (FM 60) encourage cyclists to utilize alternative routes such as New Main Drive/Walton Drive and George Bush Drive East to reach their destinations. Cycling use is also higher on the shared-use path on the perimeter of Texas A&M University rather than their accompanying street right-of-way. Strava also highlights higher cyclist use on Foster Avenue, which drops off significantly at Lincoln Avenue when Foster Avenue enters the shopping center. A stronger bicycle connection to the east side of Texas Avenue at the Crossing would help cyclists connect more effectively to amenities and housing in this area.



Pedestrian facilities offer yet another mobility choice for people living in or wanting to access the planning area. The area has 8.46 miles of existing pedestrian facilities, with an additional 0.97 miles funded. There are 5.43 miles of proposed future pedestrian connections throughout the rest of the planning area.

Existing Pedestrian Plan



- SIDEWALK EXISTING
- SIDEWALK FUNDED
- - - SIDEWALK PROPOSED
- SHARED-USE PATH EXISTING
- SHARED-USE PATH FUNDED
- - - SHARED-USE PATH PROPOSED
- GRADE SEPARATION EXISTING
- GRADE SEPARATION FUNDED
- GRADE SEPARATION PROPOSED
- DISTRICT BOUNDARY
- COLLEGE STATION CITY LIMITS

Strava's heatmap data for runners and walkers is similar to cyclist data, though it highlights higher volumes along the perimeter of the Texas A&M University campus and the Texas Avenue and University Drive (FM 60) corridors. Volumes are still fairly low within the interior of the redevelopment area. While Strava running/walking data may reflect recreational user traffic volumes, it also highlights preferred intersection crossings, such as the south and east crossings of Texas Avenue and University Drive (FM 60) that connect to the Texas A&M University perimeter path, and the north side of George Bush Drive East at Texas Avenue. Accordingly, there are key opportunities to improve bicycle and pedestrian connectivity throughout the redevelopment area.

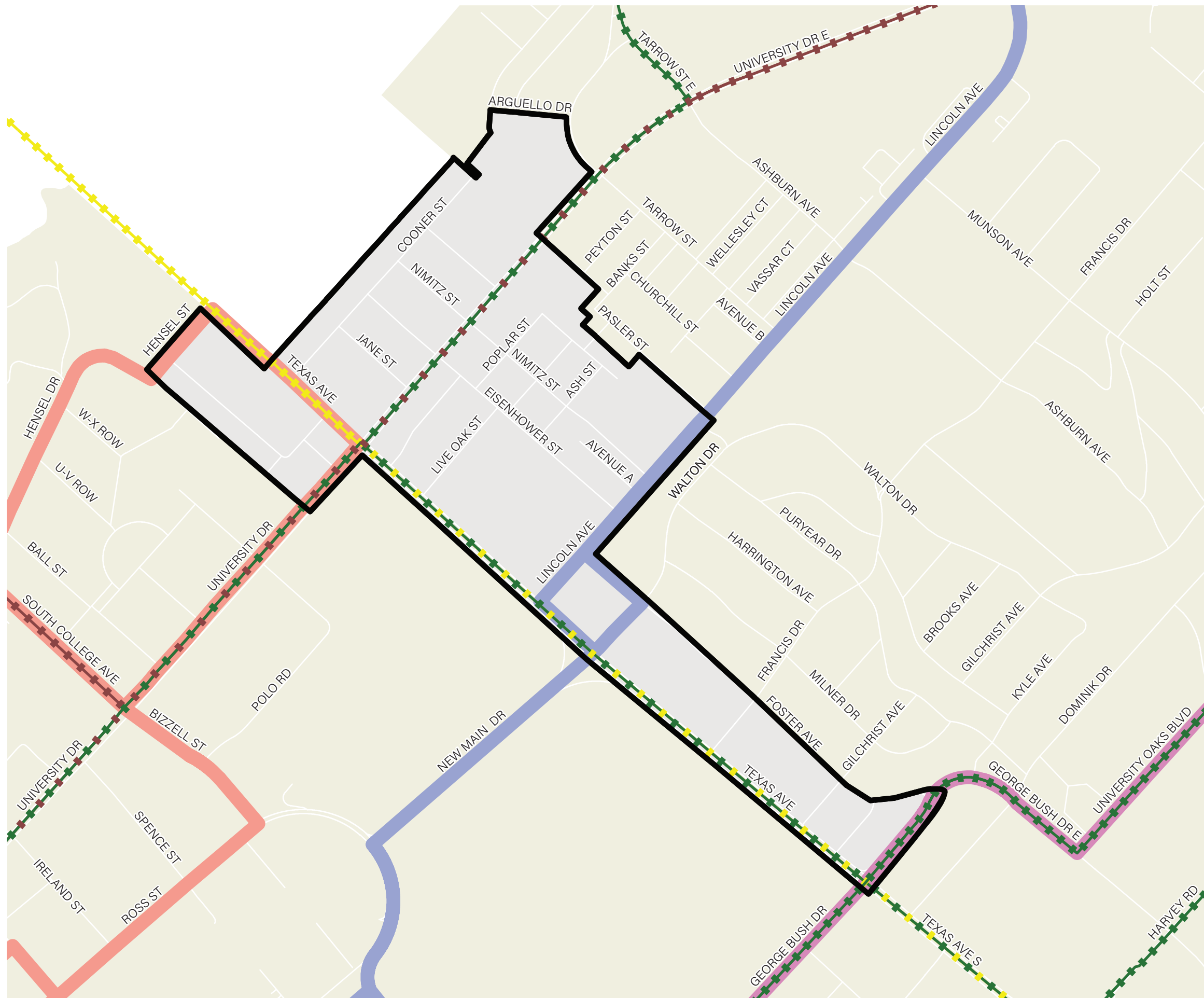


The Strava Map shown here indicates the paths pedestrians take through the planning area. The hotter (more yellow) the path, the more frequently the paths was used.



TRANSIT

Several bus routes go through the planning area from both major transit providers in the region. First, Brazos Transit District (BTD) operates three routes within the planning area, including the Texas Express, 03 Green, and 04 Maroon. BTD does not currently operate with fixed stops, but all three routes stop in the planning area when requested. BTD is investigating the feasibility of transitioning to a fixed-route bus system, and it will be important to engage them in redevelopment planning discussions within the planning area. Additionally, Texas A&M University Transportation Services runs four bus routes through the planning area, with only the 25 Centerpole having a fixed stop on Lincoln Avenue. The other three, the 04 Gig 'Em, 12 Reveille, and 22 Excel, drive through the planning area but do not stop.



Bus Routes

BRAZOS TRANSIT DISTRICT BUS ROUTES

- GREEN
- MAROON
- TEXAS EXPRESS

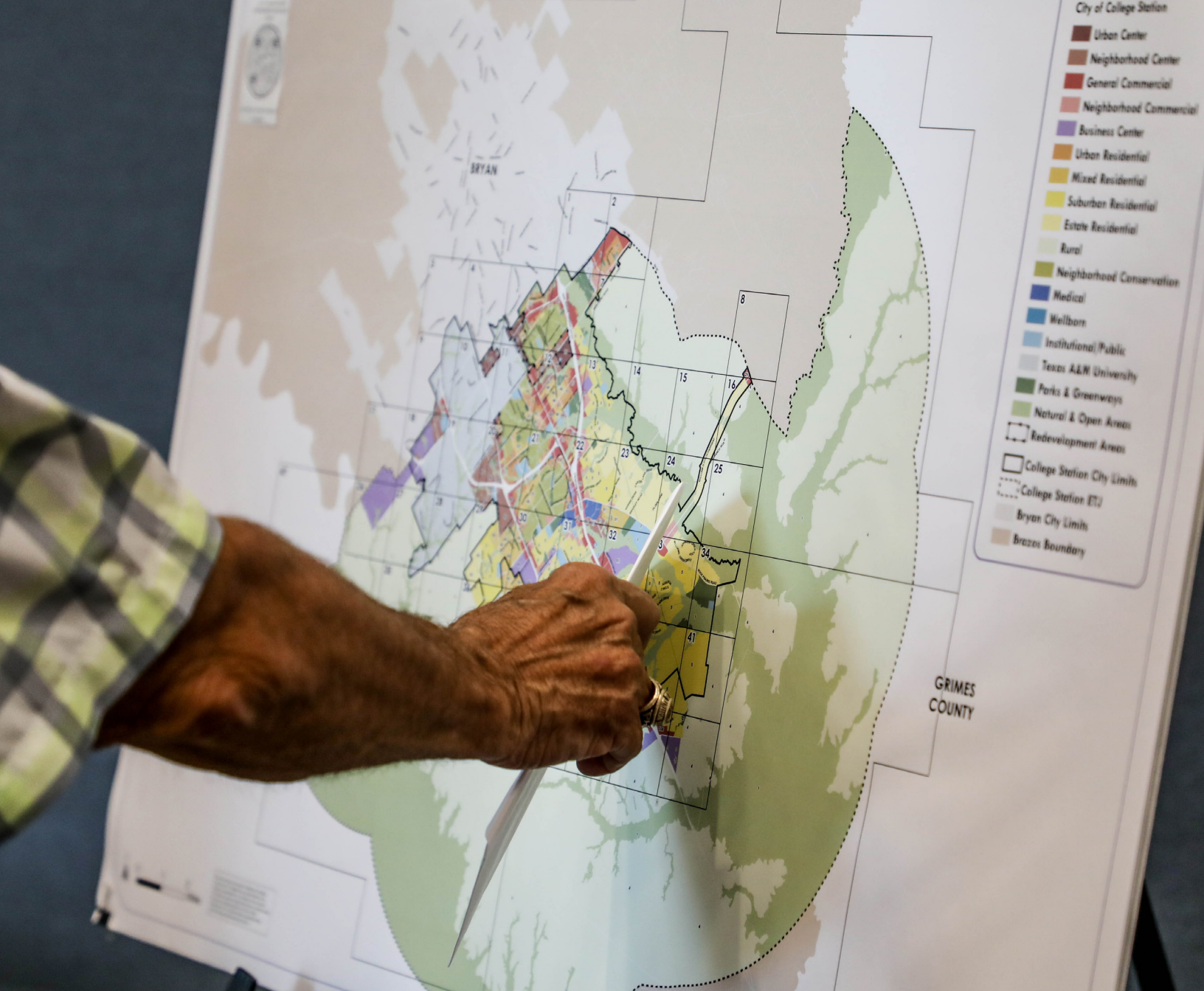
TEXAS A&M UNIVERSITY BUS ROUTES

- GIG 'EM
- REVEILLE
- EXCEL
- DISTRICT BOUNDARY
- COLLEGE STATION CITY LIMITS



Conclusion

Analyzing the existing conditions of the redevelopment area provides context and serves as the baseline for the plan creation process. Based on the collected data, some important conclusions can be drawn. First, the data shows that the area is primed for redevelopment. The Comprehensive Plan Future Land Use & Character Map reflects significant changes in uses from what is on the ground today, properties have been frequently changing hands, major infrastructure investments have been made from the public and private sides, and there has been an increase in density in recent developments. Second, the current population of the planning area is younger when compared to the rest of the city. While not all, a high percentage of people living in the plan boundaries likely attend classes or work at Texas A&M University due to its proximity, and that is unlikely to change. Additionally, the plan for redevelopment to a more urban form is expected to draw in people who are interested in living in a more walkable street pattern, including students, young families, and professionals. The plan should reflect this fact in its goals and actions. Finally, investments will need to be made by the City to fully realize the goals of an urban redevelopment plan. Vehicular crashes and mobility safety remain an issue along Texas Avenue and University Drive (FM 60), transit is not common in the planning area, and utility constraints are likely to force redevelopment to be phased over multiple years to align with substantial increases in utility demands from mixed-use projects. Each of these investments, whether public or privately initiated, will need to be carefully considered and coordinated. The resulting plan should reflect and address these conclusions in its implementation.



APPENDIX B: PUBLIC ENGAGEMENT SUMMARY

Public participation and input are critical to any planning effort. The knowledge and experience of residents help City staff understand the concerns of the community and adjust the plan accordingly. The City of College Station places a high priority on receiving and responding to resident feedback; to that end, City staff offered numerous engagement opportunities in various formats to empower residents to participate and have their voices heard. The following describes those opportunities and summarizes the public feedback.

WORKING GROUP MEETING - NOVEMBER 16, 2022

After compiling the existing conditions data, the Working Group held its kick-off meeting to discuss the project, set expectations for the December 5 and December 7 public meetings, and begin discussions around project names and branding.

PROPERTY & BUSINESS OWNER MEETING - DECEMBER 5, 2022

Before this meeting, staff mailed fliers to property owners within the planning area with details for this meeting and the January 30 property owner meeting. This meeting centered on defining the scope of the project, as well as a naming and branding discussion.

AREA-WIDE MEETING - DECEMBER 7, 2022

Before this meeting, staff mailed fliers to residents within the planning area with details for this meeting and the February 1 area-wide meeting. Similar to the property owner meeting on December 5, this meeting centered on defining the scope of the project, as well as a naming and branding discussion.



WORKING GROUP MEETING - DECEMBER 12, 2022

The Working Group then met to discuss the public input from the December 5 and 7 meetings. During this meeting and based on the feedback from the previous meetings, the Working Group decided to split the planning area at Lincoln Avenue and plan for the two subareas separately. The discussion also included the upcoming meetings and the rest of the plan timeline.

VIRTUAL ENGAGEMENT SITE - JANUARY TO MAY 2023

In addition to the in-person meetings, staff offered numerous opportunities to provide feedback throughout the planning effort. The site launched with more information on the timeline of the planning effort, ideas on goals from the first phase meetings, and a map where individuals could provide ideas, things they liked, and things they wanted to see changed. The virtual engagement site also hosted the scenario modeling activities prior to the April 26 meeting.

ON-CAMPUS MEETING - JANUARY 25, 2023

To offer members of the Texas A&M University community opportunities to engage with the planning effort, staff held two meetings in the Memorial Student Center. This was the first of those meetings where the campus community provided feedback on the branding options and ideas for plan actions.

PROPERTY & BUSINESS OWNER MEETING – JANUARY 30, 2023

Staff held a second meeting with property owners to discuss their ideas on the plan goals and begin brainstorming plan actions. The goal was to bring the ideas to the February 1 meeting for broader community feedback. However, this meeting and the meeting on February 1 were impacted by an unseasonal cold snap and were scarcely attended. Staff instead gathered feedback from those in attendance and began to develop the virtual area-wide meeting that was held on February 21.

AREA-WIDE MEETING – FEBRUARY 1, 2023

Due to the cold snap, the meeting was not well attended. However, staff incorporated the activities from this meeting into the virtual area-wide meeting on February 21.

WORKING GROUP MEETING – FEBRUARY 7, 2023

The Working Group met to discuss the January 30 and February 1 meetings and some of the proposed plan actions. The group finalized the subarea goals, which were then added to the project website for broader community feedback.

ON-CAMPUS MEETING – FEBRUARY 13, 2023

The second and final meeting in the Memorial Student Center, this meeting focused on brainstorming for plan actions and reflecting on the campus community vision for the planning area.



VIRTUAL AREA-WIDE MEETING – FEBRUARY 21, 2023

The virtual area-wide meeting focused on gathering feedback on the plan goals and actions from people who may not have been able to make it to any of the previous meetings. Incorporating the feedback from this and all of the previous meetings, staff began working with Asakura Robinson on the scenario modeling for the April 26 area-wide meetings.

WORKING GROUP MEETING – MARCH 28, 2023

The Working Group met to discuss and suggest changes to the different scenarios that were offered for public comment on the website and at the April 26 area-wide meeting. City staff and Asakura Robinson collaborated on the modifications to the scenarios.

AREA-WIDE MEETING – APRIL 26, 2023

This area-wide meeting empowered residents to view and provide comments on three development scenarios for the planning area. The feedback from this meeting and internal City discussions were compiled into a preferred scenario.



WORKING GROUP MEETING - MAY 23, 2023

In the penultimate meeting of the Working Group, the conversation focused on the results of the scenario exercise and helping staff identify a preferred scenario. Following this meeting, City staff and Asakura Robinson collated the feedback from the previous meetings into a draft of the Northeast Gateway Redevelopment Plan.

WORKING GROUP MEETING - AUGUST 8, 2023

The Working Group met before the Northeast Gateway Redevelopment Plan was finalized to discuss the plan actions and help finalize the plan narrative. This feedback was incorporated into the plan before the final area-wide meeting.

AREA-WIDE MEETING - AUGUST 28, 2023

After finishing the Northeast Gateway Redevelopment Plan, City staff organized one final area-wide meeting to ensure the plan matched the vision of the community and gather any final edits before bringing the plan forward for adoption.



APPENDIX C: SCENARIO MODELING

In preparation for the April 26 meeting, Asakura Robinson developed three alternative buildout scenarios within the Northeast Gateway Redevelopment Area: a low redevelopment scenario called Big Box Retrofit, a medium redevelopment scenario called High-Quality Housing, and a high redevelopment scenario called Urban Village. These scenarios helped visualize and quantify the impacts of potential redevelopment within the planning area. These three illustrative scenarios were used at the April 26 area-wide meeting and on the virtual engagement website to shape the conversation around a preferred redevelopment scenario. The scenario boards used during the April 26 meeting are available at the end of this chapter in Graphic C.1: Preferred Scenario, Graphic C.2: Big Box Retrofit, Graphic C.3: High-Quality Housing, and Graphic C.4: Urban Village. The scenarios were scoped to highlight a varied mix of land uses and development intensities. Based on community feedback, City staff and Asakura Robinson developed a preferred scenario that was incorporated into the final plan recommendations, drawing on elements from the three original scenarios.

Process & Methods

Asakura Robinson outlined three scenarios that were reviewed by City staff. Following initial feedback, the team held an internal charette and developed strategies for connectivity, building footprints, heights, and use. Working with City staff, the team refined these scenarios to develop building types.

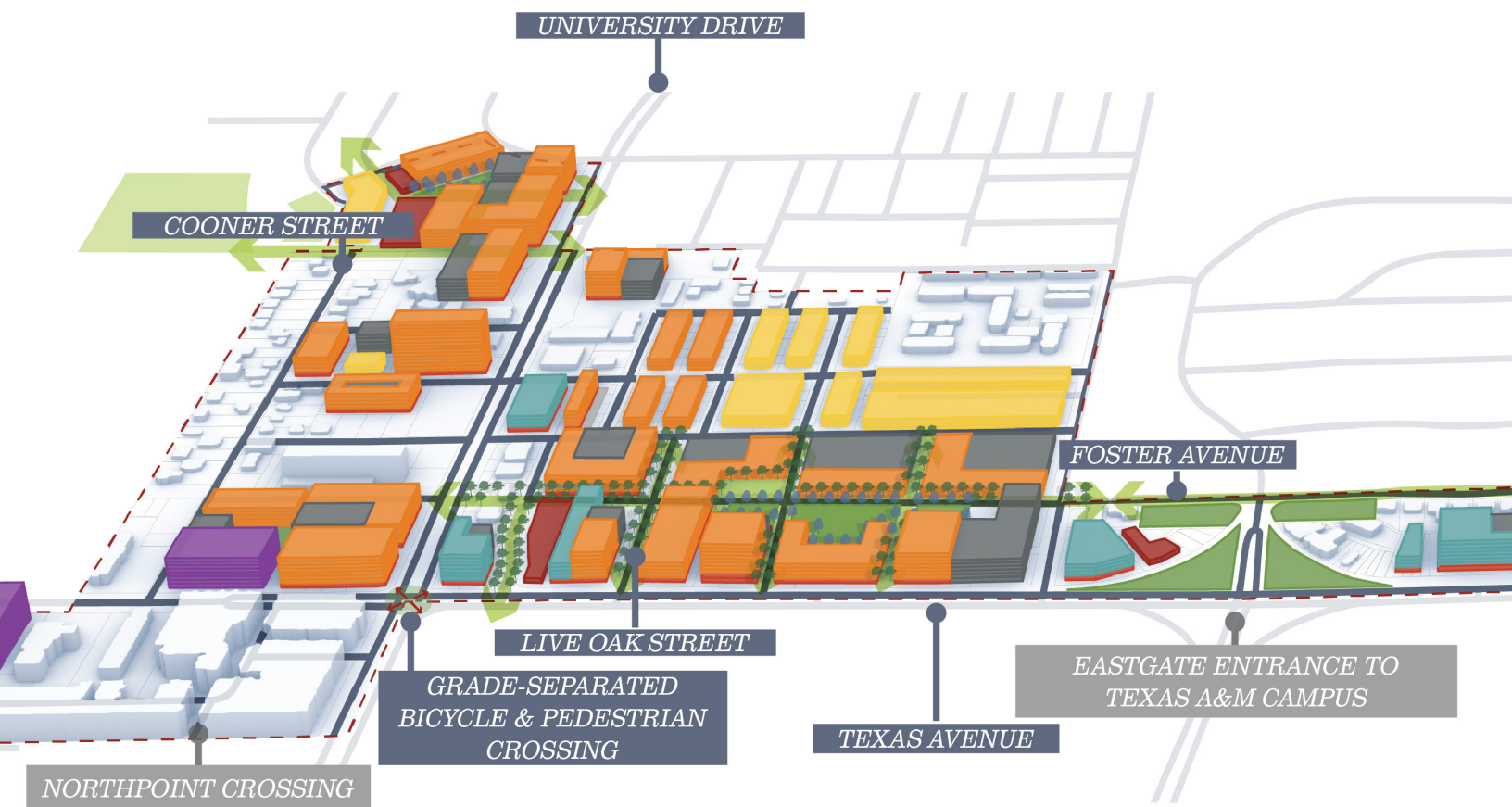
The building types formed the basis of the model in Urban Footprint, an interactive online mapping and analysis tool. Urban Footprint's base parcel dataset utilizes CoreLogic's proprietary datasets to estimate the mix and amount of land and building uses, residents, and employment on each parcel. Asakura Robinson staff conducted an initial quality control review of the base parcel dataset to correct discrepancies between this product and known development within College Station. Parcel attributes were modified to reflect actual development, with the results of Urban Footprint's base scenario available in **Table C.1: Base Conditions Comparison**.

<i>Table C.1: Base Conditions Comparison</i>				
	Population	Dwelling Units	Employment	Improvement Square Footage
Existing Conditions Data (Appendix A)	2,912	1,291	1,954	2,483,791
Urban Footprint Base Scenario	2,686	1,221	2,467	2,439,182

Urban Footprint's assumptions utilize publicly available US Census data as well as per-unit assumptions. The City's existing conditions data notes an average household size of 3.14, which is higher than Urban Footprint's residents-per-unit assumptions for single-family and multi-family units. A review of Census 2020 block level information and unit counts showed an approximate household size of 2.58 for the Northpoint Crossing development, which is likely more reflective of the mix of unit types in new multifamily development. New single-family and middle housing developments, therefore, used the 3.14 persons per household multiplier in Urban Footprint, while multifamily developments used the 2.58 persons per household multiplier.

Although corrected parcels included the Northpoint Crossing development and infill shared housing, the base scenario's estimate of population is likely low due to the Urban Footprint platform's use of multipliers. Conversely, Urban Footprint's base scenario estimate for employment is likely higher than the estimate in the existing conditions data sourced from ESRI Business Analyst due to existing vacancies within the study area, such as the former Albertson's site within the University Plaza shopping center, vacant commercial space near Live Oak Street, and the ground-floor retail at Northpoint Crossing. ESRI Business Analyst utilizes Data Axle business-level data to identify business locations, sales, and employee counts, while Urban Footprint uses the US Census Longitudinal Employer-Household Dynamics (LEHD) Origin-Destination Employment Statistics (LODES) dataset (2018) disaggregated to the parcel level using land use designations.

Asakura Robinson also identified the larger parking areas within the planning area and reallocated the population/employment attributes from those areas to their respective buildings. This is an important step for infill development scenarios that preserve existing buildings while new buildings are constructed in excess parking areas. As the base scenario figures are primarily used to calculate and contextualize the increment of new development when compared to existing conditions, the estimates were deemed appropriate to proceed.



BUILDING & PLACE TYPE ASSUMPTIONS

Asakura Robinson reviewed Urban Footprint’s library of land use paints (building types) for appropriateness and consistency with the building types identified in each scenario and developed new building types to respond to desired local conditions. The new building types reflected known developments within the College Station area and Texas as a whole, aiming to capture site design considerations including increased setbacks and parking needs that were not well-represented in Urban Footprint’s standard paints. The final building types used across the scenarios are identified in **Table C.2: Building Type Assumptions**.

The land use paint best reflecting the development shown in the scenario was applied to parcels in Urban Footprint to approximate new development. Urban Footprint calculated a standardized set of buildout metrics for each scenario which were then exported and processed.

For a 100% redevelopment scenario, blended place types were created to approximate the overall composition of the Urban Center and Neighborhood Center land use types. Public parcels and parks were excluded from the 100% redevelopment scenario. The results of this aggregation are identified in **Table C.3: Place Type Assumptions**.

3D VISUALIZATION & GRAPHICS PRODUCTION

Asakura Robinson recreated the sketched scenarios in the Rhino 3D graphics and computer-aided design (CAD) software to visualize the heights and massing within the context of the study area. Graphic callouts and explanations were inserted in Adobe Illustrator and Adobe InDesign to support clear communication for public understanding and interpretation during the public meeting.

Table C.2: Building Type Assumptions								
Building Type Name	Description	Floor Area Ratio	Residential Density	Population Density	Employment Density	Average Gross Floor Area per Employee	Residential Square Footage (%)	Commercial Square Footage (%)
3-4 Story Commercial Retail and Office	A mix of ground floor retail and services with office uses.	1.281	0	0	148.221	340.852	0%	100%
3-4 Story Vertical Mixed Use	A mix of ground floor retail and services with residential.	1.529	46.704	84.109	32.306	528.825	71.9%	28.1%
6-10 Story Vertical Mixed Use	6-8 story apartment building with a garage, some ground-floor retail.	3.279	117.748	210.299	61.263	488.854	78.8%	21.2%
8-10 Story Multifamily	Mid-rise multifamily with ground-floor retail.	4.564	138.366	247.122	83.639	454.183	77.1%	22.9%
Low-Rise Strip Retail	1-story restaurant and retail with a front row of parking.	0.390	0	0	23.901	584.854	0%	100%
Retail Green/Hub	Central green space with low-rise restaurants flanking the green.	0.433	0	0	41.82	429.427	0%	100%
Standard Podium Multifamily	3-4 story multifamily.	1.954	65.257	116.549	7.293	260.265	95.6%	4.4%
Urban Podium Multifamily	3-6 story multifamily with some mixed use.	3.239	133.813	238.99	16.969	260.265	94.9%	5.2%
Suburban Townhome	Townhouse density with increased setbacks and larger unit sizes.	0.770	20.173	59.544	0	N/A	100%	0%
Urban Townhome Live/Work	Townhouse with minimal setbacks, greater heights, small unit size, and workspaces on the ground floor.	1.368	35.457	104.654	18.167	168	92.2%	7.8%

Table C.3: Place Type Assumptions								
Place Type Name	Description	Floor Area Ratio	Residential Density	Population Density	Employment Density	Average Gross Floor Area per Employee	Residential Square Footage (%)	Commercial Square Footage (%)
Urban Center	18% urban podium multifamily, 18% standard podium multifamily, 15% low-rise strip retail, 14% 3-4 story commercial retail and office, 12.5% 8-10 story multifamily, 12.5% 6-8 story multifamily, 5% retail green/hub, 5% parking structure	2.181	66.49 du/ac	118.751 pop/ac	48.385 emp/ac	396.5	53.8%	46.2%
Neighborhood Center	20% 3-4 Story Vertical Mixed Use, 10% Low-Rise Strip Retail, 60% Suburban Townhome, 10% Urban Townhome Live/Work	0.943	24.99 du/ac	63.014 pop/ac	10.668 emp/ac	181.1	83.6%	16.4%
Mixed Residential	90% Suburban Townhome, 10% Urban Townhome Live/Work	0.829	21.702 du/ac	64.055 du/ac	1.817 emp/ac	16.8	99.2%	0.8%

Modeling Results

The Urban Footprint Summary Statistics in **Table C.4: Summary Statistics for Scenarios** include all initial outputs from Urban Footprint. Because parcel-specific base values were not verified, specific square footage estimates are not guaranteed to be accurate. However, the differences between the base scenario values and the individual scenario outcomes can highlight the relative scale of potential changes between each scenario.

SUMMARY STATISTICS

<i>Table C.4: Summary Statistics for Scenarios</i>					
Scenario	Population	Dwelling Units	Jobs	Residential Square Footage	Non-Residential Square Footage
Base Scenario	2,686	1,221	2,467	1.25M	1.19M
Scenario 1 - Low	5,041	2,188	3,862	2.25M	1.71M
Scenario 2 - Medium	9,038	3,888	4,058	3.87M	1.77M
Scenario 3 - High	13,420	5,675	5,152	5.52M	2.06M
Preferred Scenario	11,373	4,873	3,795	4.74M	1.70M
Preferred Scenario (100% buildout)	17,760	7,351	5,078	7.06M	2.196M

Source: Urban Footprint

ESTIMATED FLOOR-AREA RATIO & FISCAL IMPACT

As Urban Footprint does not have modules to calculate the planning area's floor-area ratio or fiscal impact, selected estimates were processed in spreadsheet software. The area-wide floor-area ratio figures in **Table C.5: Estimated Floor-Area Ratio** were calculated for each scenario to approximate their relative levels of building area and parcel coverage.

<i>Table C.5: Estimated Floor-Area Ratio</i>			
Scenario	Floor Area (acres)	Parcel Area (acres)	Floor-Area Ratio
Base Scenario	57.02	152.46	0.37
Scenario 1 - Low	90.88	152.46	0.60
Scenario 2 - Medium	129.58	152.46	0.85
Scenario 3 - High	173.92	152.46	1.14
Preferred Scenario	148.04	152.46	0.97
Preferred Scenario (100% buildout)	212.58	152.46	1.39

Source: Urban Footprint

Improvement values are the primary driver of increased real property values through redevelopment and generally vary depending on construction type and improvement size. The 2022 certified tax roll appraisal data from the Brazos Central Appraisal District was gathered for the planning area as well as nearby commercial districts in College Station and are listed in [Table C.6: 2022 Land and Improvement Values](#).

<i>Table C.6: 2022 Land and Improvement Values</i>						
Study Areas	Acreage	Appraised Land Value	Appraised Land Value per Acre	Livable Square Footage	Appraised Improvement Value	Improvement Value Per Square foot
Century Square	26.6	\$34,434,101	\$1,294,515	437,911	\$49,316,979	\$113/SF
Northgate	112.11	\$156,596,002	\$1,396,723	3,760,879	\$376,126,108	\$100/SF
Texas Avenue (from George Bush Dr. E to Southwest Pkwy)	132.03	\$71,737,868	\$543,330	1,412,544	\$78,064,077	\$55/SF
Northeast Gateway Redevelopment Area	152.46	\$124,893,968	\$819,211	2,483,791	\$253,836,266	\$102/SF

Source: Brazos Central Appraisal District 2022 Certified Tax Roll

The project team chose two scenarios to analyze possible outcomes for improved square footage valuation: \$100/SF and \$125/SF. The \$100/SF scenario in **Table C.7: Estimated Property Tax Revenues - \$100/SF Scenario** is similar to the valuation already seen within the planning area, and the \$125/SF scenario in **Table C.8: Estimated Property Tax Revenues - \$125/SF Scenario** is an approximate average of the valuation of newly constructed mixed-use building types across College Station. Newer improvements typically have higher values per square foot than older improvements, which have depreciated over time. Mixed-use building types, particularly those over six or seven stories, also include more costly steel, masonry, and concrete construction materials instead of wood framing.

Table C.7: Estimated Property Tax Revenues - \$100/SF Scenario

Scenario	Estimated Added Square Footage	Value of Estimated Added Square Footage	Additional Property Tax Revenue (\$0.524613 /\$100 value)	Estimated Property Tax Values (Land and Improvement)	Estimated Total Property Tax Revenue
Base Scenario	-	-	-	\$1,986,868	\$1,986,868
Scenario 1 - Low	1,475,127	\$147,512,745	\$773,871	\$1,986,868	\$2,760,739
Scenario 2 - Medium	3,160,887	\$316,088,661	\$1,658,242	\$1,986,868	\$3,645,110
Scenario 3 - High	5,092,329	\$509,232,859	\$2,671,502	\$1,986,868	\$4,658,370
Preferred Scenario	3,965,045	\$396,504,550	\$2,080,114	\$1,986,868	\$4,066,982
Preferred Scenario (100% buildout)	6,776,297	\$677,629,679	\$3,554,933	\$1,986,868	\$5,541,801

Source: Urban Footprint, Brazos Central Appraisal District 2022 Certified Tax Roll

Table C.8: Estimated Property Tax Revenues - \$125/SF Scenario

Scenario	Estimated Added Square Footage	Value of Estimated Added Square Footage	Additional Property Tax Revenue (\$0.524613 /\$100 value)	Estimated Property Tax Values (Land and Improvement)	Estimated Total Property Tax Revenue
Base Scenario	-	-	-	\$1,986,868	\$1,986,868
Scenario 1 - Low	1,475,127	\$184,390,932	\$967,339	\$1,986,868	\$2,954,207
Scenario 2 - Medium	3,160,887	\$395,110,826	\$2,072,803	\$1,986,868	\$4,059,671
Scenario 3 - High	5,092,329	\$636,541,074	\$3,339,377	\$1,986,868	\$5,326,245
Preferred Scenario	3,965,045	\$495,630,687	\$2,600,143	\$1,986,868	\$4,587,011
Preferred Scenario (100% buildout)	6,776,297	\$847,037,098	\$4,443,667	\$1,986,868	\$6,430,535

Source: Urban Footprint, Brazos Central Appraisal District 2022 Certified Tax Roll

Sales tax revenue per square foot was estimated using Urban Footprint's estimate of additional retail square footage within the planning area and sales tax information provided by the City, which was estimated to be \$0.937/SF based on existing revenues (\$769,018 in FY2022) and square footage (821,110). As this estimate includes vacant retail spaces that are not currently producing sales tax revenues, increased occupancy or sales will cause this multiplier to increase. Thus, additional sales tax revenues in [Table C.9: Estimated Sales Tax Revenues](#) should be regarded as a conservative estimate.

<i>Table C.9: Estimated Sales Tax Revenues</i>			
Scenario	Added Retail Square Footage	Estimated Additional Sales Tax Revenue (\$0.937/SF of retail space)	Estimated Sales Tax Revenue
Base Scenario	-	\$0	\$769,018
Scenario 1 - Low	188,834	\$176,938	\$945,955
Scenario 2 - Medium	302,104	\$283,072	\$1,052,090
Scenario 3 - High	401,819	\$376,504	\$1,145,522
Preferred Scenario	343,578	\$321,933	\$1,090,951
Preferred Scenario (100% buildout)	725,736	\$680,015	\$1,449,033

Source: City of College Station Sales Tax Figures

Sales tax revenue performance from [Table C.9: Estimated Sales Tax Revenues](#) were added to the results from [Table C.7: Estimated Property Tax Revenues - \\$100/SF Scenario](#) and [Table C.8: Estimated Property Tax Revenues - \\$125/SF Scenario](#) to show a potential range of outcomes based on improvements within the planning area. Those outcomes are available in [Table C.10: Estimated Total Tax Revenues Per Acre - \\$100/SF Scenario](#) and [Table C.11: Estimated Total Tax Revenues Per Acre - \\$125/SF Scenario](#).

<i>Table C.10: Estimated Total Tax Revenues Per Acre - \$100/SF Scenario</i>					
Scenario	Estimated Total Property Tax Revenue	Estimated Sales Tax Revenue	Estimated Total Tax Revenue	Total Acreage	Estimated Tax Revenues per Acre
Base Scenario	\$1,986,868	\$769,018	\$2,755,886	152.46	\$18,076
Scenario 1 - Low	\$2,760,739	\$945,955	\$3,706,694	152.46	\$24,313
Scenario 2 - Medium	\$3,645,110	\$1,052,090	\$4,697,200	152.46	\$30,809
Scenario 3 - High	\$4,658,370	\$1,145,522	\$5,803,892	152.46	\$30,809
Preferred Scenario	\$4,066,982	\$1,090,951	\$5,157,933	152.46	\$33,831
Preferred Scenario (100% buildout)	\$5,541,801	\$1,449,033	\$6,990,834	152.46	\$45,854

Source: Urban Footprint, Brazos Central Appraisal District 2022 Certified Tax Roll, City of College Station Sales Tax Figures

Table C.11: Estimated Total Tax Revenues Per Acre - \$125/SF Scenario

Scenario	Estimated Total Property Tax Revenue	Estimated Sales Tax Revenue	Estimated Total Tax Revenue	Total Acreage	Estimated Tax Revenues per Acre
Base Scenario	\$1,986,868	\$769,018	\$2,755,886	152.46	\$18,076
Scenario 1 - Low	\$2,954,207	\$945,955	\$3,900,162	152.46	\$25,582
Scenario 2 - Medium	\$4,059,671	\$1,052,090	\$5,111,761	152.46	\$33,529
Scenario 3 - High	\$5,326,245	\$1,145,522	\$6,471,767	152.46	\$42,449
Preferred Scenario	\$4,587,011	\$1,090,951	\$5,677,962	152.46	\$37,242
Preferred Scenario (100% buildout)	\$6,430,535	\$1,449,033	\$7,879,568	152.46	\$51,683

Source: Urban Footprint, Brazos Central Appraisal District 2022 Certified Tax Roll, City of College Station Sales Tax Figures

Finally, parcel-level estimates were also developed to estimate utility and transportation demands within the area. Utility demands, expressed as land use equivalents, are derived using estimated water and wastewater demands based on building types and square footage. Vehicle trips per day were generated using Urban Footprint's built-in transportation modeling capabilities with ITE trip generation calculations. These estimates were developed without professional engineering guidance, and future studies should assess existing capacity and refine demand projections.

Table C.12: Utility and Transportation Model Outcomes

Scenario	Land Use Equivalents	Vehicle Trips Per Day (ITE)
Base Scenario	2,614	57,473
Scenario 1 - Low	3,680	72,650
Scenario 2 - Medium	5,142	85,473
Scenario 3 - High	6,900	100,886
Preferred Scenario	6,038	90,977
Preferred Scenario (100% buildout)	8,945	122,492

Source: Urban Footprint

PREFERRED SCENARIO

AT A GLANCE:

+ 3,583 DWELLINGS

NEW RESIDENTIAL UNITS

+1,841 JOBS

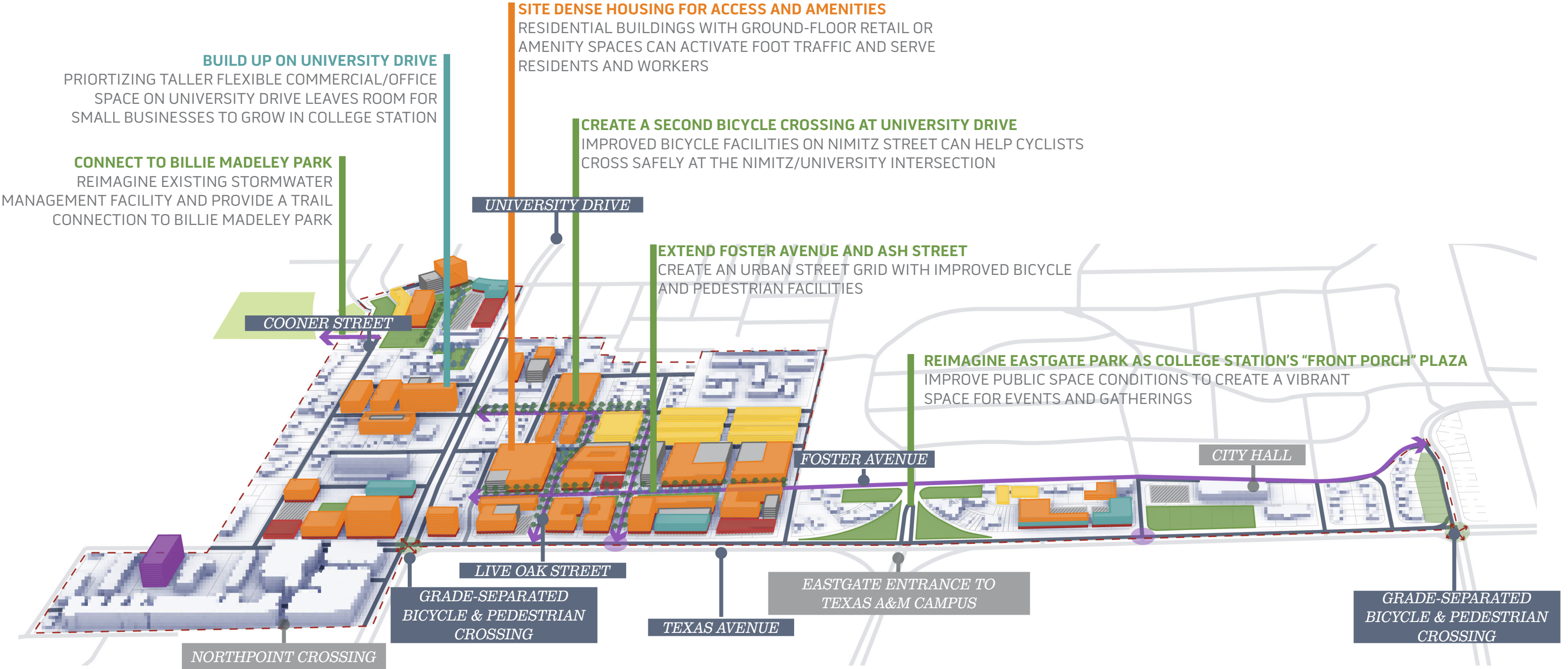
NEW EMPLOYMENT OPPORTUNITIES

+ 343,578 SQ. FT.

NEW RETAIL SPACE

+ 174,125 SQ. FT.

NEW OFFICE SPACE



LEGEND

	COMMERCIAL (LOW RISE)		MULTIFAMILY RESIDENTIAL		OFFICE		OPENSOURCE/GREENSPACE		STRUCTURED PARKING		STREET
	COMMERCIAL/RETAIL (STOREFRONT)		MIDDLE HOUSING AND TOWNHOMES		HOTEL		SURFACE PARKING		PRIORITY IMPROVEMENT		DISTRICT BOUNDARY

SCENARIO 1

"BIG BOX RETROFIT"

AT A GLANCE:

+ 897 DWELLINGS

NEW RESIDENTIAL UNITS

+1,908 JOBS

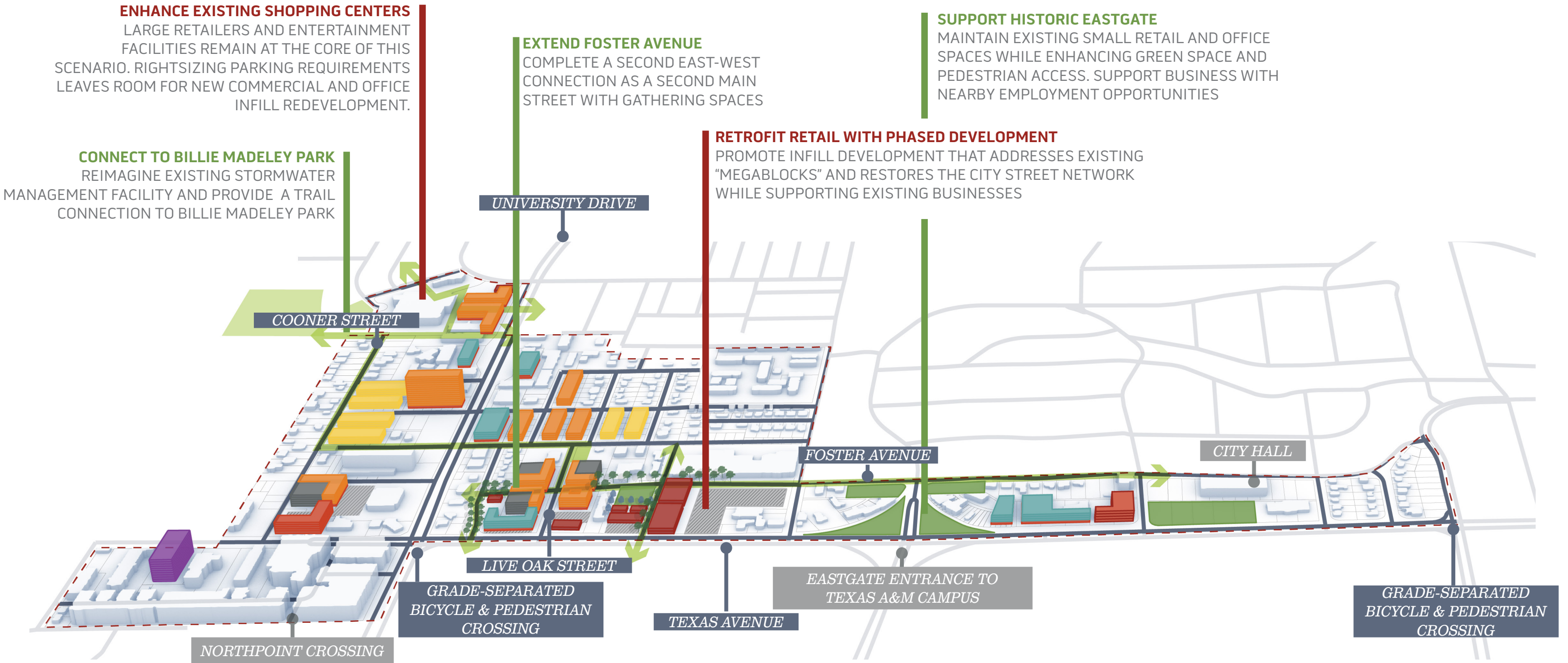
NEW EMPLOYMENT OPPORTUNITIES

+ 188,834 SQ. FT.

NEW RETAIL SPACE

+ 326,614 SQ. FT.

NEW OFFICE SPACE



LEGEND

	COMMERCIAL (LOW RISE)		MULTIFAMILY RESIDENTIAL		OFFICE		OPENSOURCE/GREENSPACE		STRUCTURED PARKING		STREET
	COMMERCIAL/RETAIL (STOREFRONT)		MIDDLE HOUSING AND TOWNHOMES		HOTEL		SURFACE PARKING		CONNECTIVITY IMPROVEMENT		DISTRICT BOUNDARY

SCENARIO 2

"HIGH-QUALITY HOUSING"

AT A GLANCE:

+ 2,597

DWELLINGS

NEW RESIDENTIAL UNITS

+ 2,104

JOBS

NEW EMPLOYMENT OPPORTUNITIES

+ 302,104

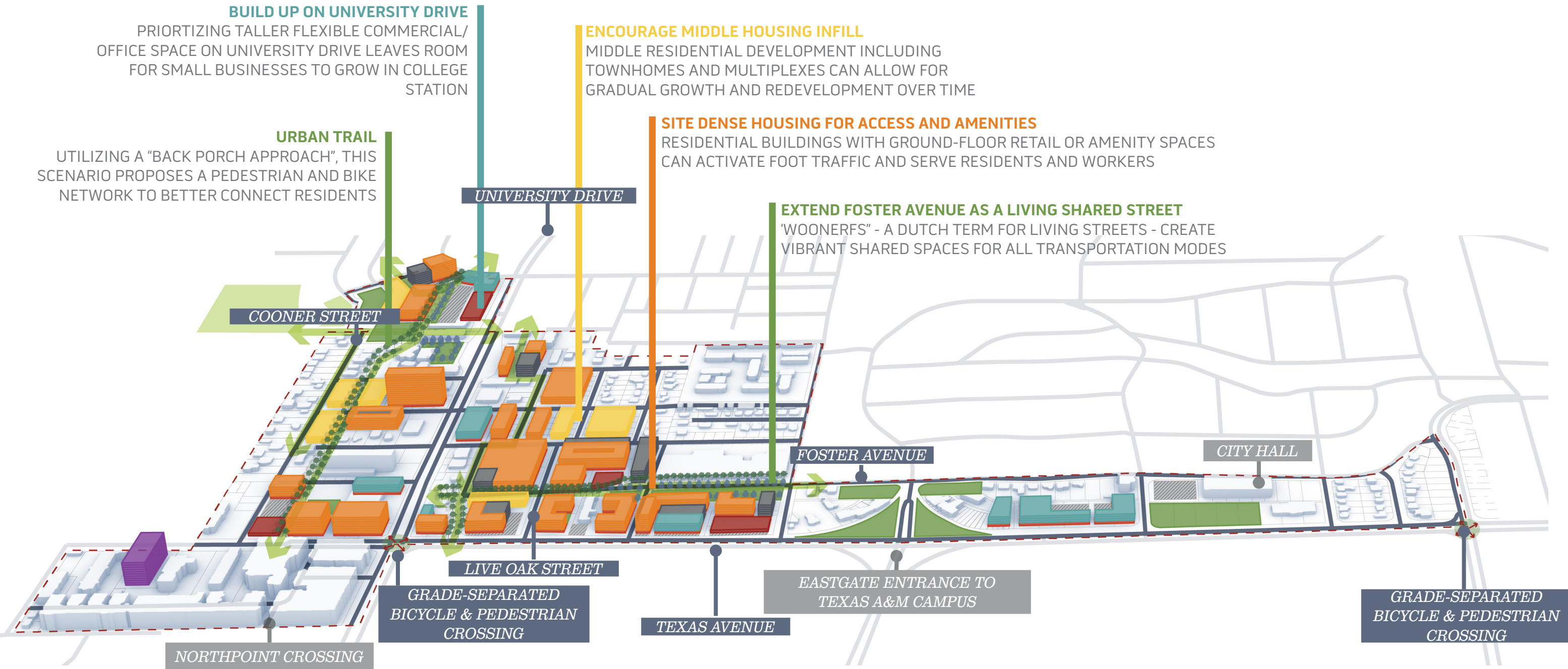
SQ. FT.

NEW RETAIL SPACE

+ 283,875

SQ. FT.

NEW OFFICE SPACE



LEGEND

COMMERCIAL (LOW RISE)

COMMERCIAL/RETAIL (STOREFRONT)

MULTIFAMILY RESIDENTIAL

MIDDLE HOUSING AND TOWNHOMES

OFFICE

HOTEL

OPENSOURCE/GREENSPACE

SURFACE PARKING

STRUCTURED PARKING

CONNECTIVITY IMPROVEMENT

STREET

DISTRICT BOUNDARY

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SCENARIO 3

"URBAN VILLAGE"

AT A GLANCE:

+ 4,384

DWELLINGS

NEW RESIDENTIAL UNITS

+3,198

JOB

NEW EMPLOYMENT OPPORTUNITIES

+ 401,819

SQ. FT.

NEW RETAIL SPACE

+ 473,887

SQ. FT.

NEW OFFICE SPACE

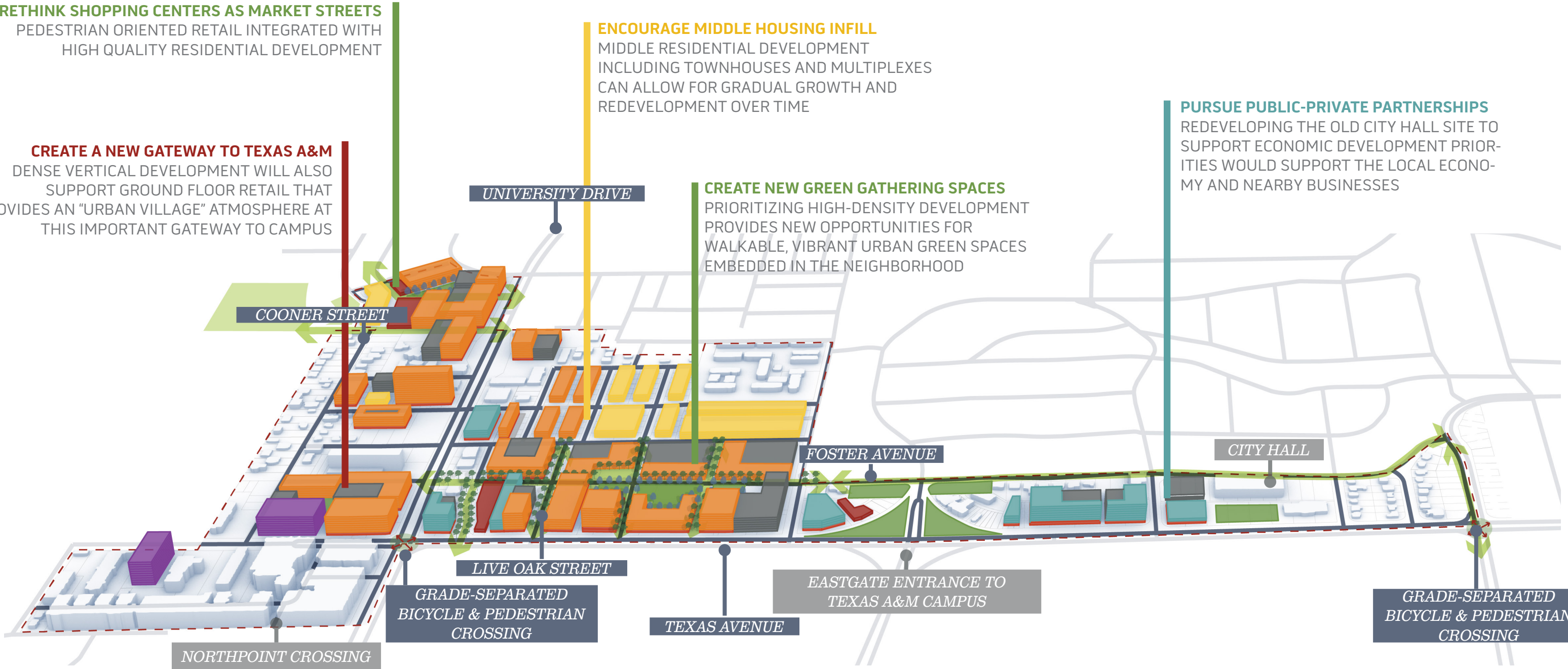
RETHINK SHOPPING CENTERS AS MARKET STREETS
PEDESTRIAN ORIENTED RETAIL INTEGRATED WITH HIGH QUALITY RESIDENTIAL DEVELOPMENT

CREATE A NEW GATEWAY TO TEXAS A&M
DENSE VERTICAL DEVELOPMENT WILL ALSO SUPPORT GROUND FLOOR RETAIL THAT PROVIDES AN "URBAN VILLAGE" ATMOSPHERE AT THIS IMPORTANT GATEWAY TO CAMPUS

ENCOURAGE MIDDLE HOUSING INFILL
MIDDLE RESIDENTIAL DEVELOPMENT INCLUDING TOWNHOUSES AND MULTIPLEXES CAN ALLOW FOR GRADUAL GROWTH AND REDEVELOPMENT OVER TIME

CREATE NEW GREEN GATHERING SPACES
PRIORITIZING HIGH-DENSITY DEVELOPMENT PROVIDES NEW OPPORTUNITIES FOR WALKABLE, VIBRANT URBAN GREEN SPACES EMBEDDED IN THE NEIGHBORHOOD

PURSUE PUBLIC-PRIVATE PARTNERSHIPS
REDEVELOPING THE OLD CITY HALL SITE TO SUPPORT ECONOMIC DEVELOPMENT PRIORITIES WOULD SUPPORT THE LOCAL ECONOMY AND NEARBY BUSINESSES



LEGEND

	COMMERCIAL (LOW RISE)		MULTIFAMILY RESIDENTIAL		OFFICE		OPENSOURCE/GREENSPACE		STRUCTURED PARKING		STREET
	COMMERCIAL/RETAIL (STOREFRONT)		MIDDLE HOUSING AND TOWNHOMES		HOTEL		SURFACE PARKING		CONNECTIVITY IMPROVEMENT		DISTRICT BOUNDARY



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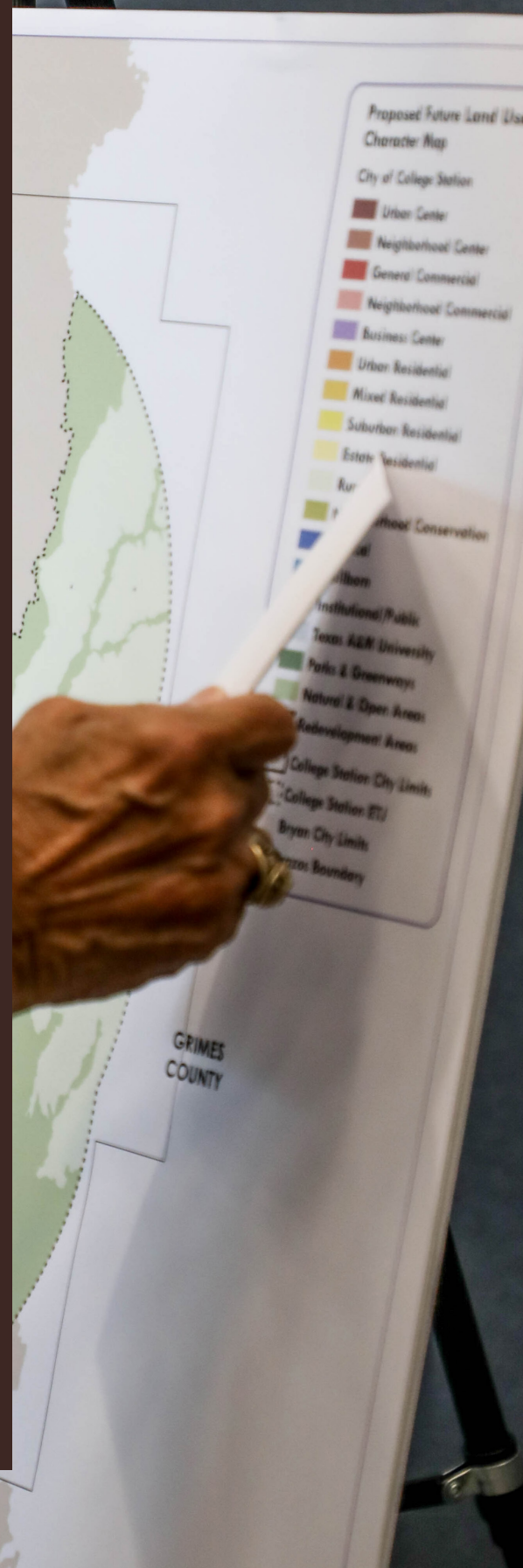
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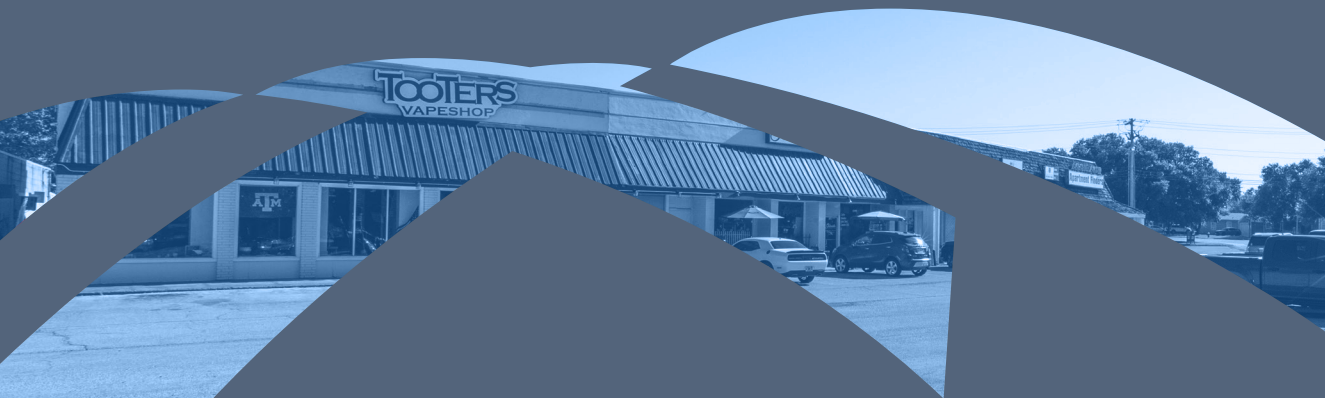
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EXHIBIT C

That the “Official City of College Station Comprehensive Plan” is hereby amended by amending *Chapter 2. Distinctive Places* to read as follows:



2 DISTINCTIVE PLACES

The Comprehensive Plan sets the framework to create distinctive places, strong neighborhoods, a prosperous economy, and engaging natural spaces and arts for everyone in College Station. The plan provides policy direction for an integrated mobility network, exceptional City services, and carefully managed, fiscally responsible growth. Effective collaboration across City departments and with regional partners is key to achieve and implement the plan's vision, goals, and actions. The plan strives to identify, create, conserve, and connect places of distinction – those areas that make College Station unique and contribute to the City's character and sense of place.



Goal

Vibrant and distinct districts, attractive neighborhoods, revitalized gateways and corridors, and conserved natural areas, grounded in environmental stewardship and resiliency.

Purpose

How land is used – including its appearance, physical arrangement, and development intensity – contributes significantly to the community's character and its sense of place with far-reaching and long-term impacts. The City must balance and encourage infill, redevelopment, and new development in appropriate areas to accommodate an increasing population while maintaining the integrity and character of established neighborhoods. Revitalization, where needed, is also essential to maintaining College Station's character.

Sound planning ensures that the City can accommodate needed development, that development can be adequately served with public services, and that its impacts can be managed to maintain compatibility and to promote the character desired by College Station's residents. Planning establishes effective strategies for future growth, infill, and appropriate redevelopment while balancing market opportunities, protecting and enhancing neighborhood character, creating and preserving unique districts and corridors, conserving natural areas, and creating a more resilient community.

The 10-year update to the Comprehensive Plan places a renewed focus on infill and redevelopment in strategic locations to accommodate population growth while ensuring the long-term fiscal sustainability of the City. Infill and redevelopment opportunities more efficiently utilize existing infrastructure, facilities, and City staff resources by encouraging growth in areas with existing capacity to maximize efficiency.

The Comprehensive Plan contains future land use categories that serve as policy guides and set expectations for how land within the City should be developed and used in the future. The terms future land use and zoning often get confused, but they are separate tools and processes. Future land use serves as a guide for how areas of the City may develop in the future. In contrast, zoning regulates how a specific property can be developed and used today. **Map 2.2, Future Land Use & Character** is used to guide decisions about infrastructure investment and zoning changes.

This chapter serves as the plan's foundation and encompasses many interrelated components as land use and development patterns are fundamental to the other topic chapters including creating strong neighborhoods (Chapter 3), a prosperous economy (Chapter 4), engaging natural spaces and arts (Chapter 5), an integrated mobility network (Chapter 6), exceptional City services (Chapter 7), and carefully managed, fiscally responsible growth (Chapter 8). Effective collaboration across City departments and with regional partners (Chapter 9) is vital to achieve and implement the plan's vision, goals, and actions (Chapter 10).

This chapter includes a series of maps that depict the City's land use strategies and goals visually, including **Map 2.1, Planning Areas**, **Map 2.2, Future Land Use & Character**, and **Map 2.3, Community Assets & Image Corridors**.

Planning Considerations

Planning input from the community identified various issues and opportunities regarding land use planning, conservation of natural features, and enhanced community identity and aesthetics. The considerations highlighted in this section were used in the development of the goal and action recommendations that follow.

GROWTH AND DEVELOPMENT

College Station is poised for continued population growth, which will bring demands for additional housing, shopping, recreational needs, public facilities, infrastructure, and services. University students continue to make up a significant portion of the population, but College Station is also diversifying in age—those aged 55 and over are the fastest-growing cohort, increasing by 83.5 percent over the last decade. The City of College Station is projected to increase by approximately 35,000 people over the next decade for a total population estimated to be 162,500 by 2030. The housing demand associated with this population growth is approximately 14,000 additional dwelling units. When factoring in assumed build-out of all existing and known development projects, there is a gap of approximately 10,000 dwelling units. This additional housing stock could come from a combination of infill development, redevelopment projects in existing areas, and new developments. This housing stock must include a variety of housing types to meet the needs and demands of all residents including students, young professionals, families and non-family households, renters and homeowners, and the retiree and 55 and older population, with an emphasis on aging-in-place. For reference, the City had a net gain of approximately 12,800 housing units over the last decade, with 6,500 single-family residences and 6,300 multi-family units added.¹



If population and housing demands continue to increase and state legislation restricting annexation remains in effect, the City will naturally face a greater need for increased density in appropriately targeted areas. This presents an exciting opportunity to thoughtfully plan for a variety of neighborhoods that accommodate a wide range of lifestyles for College Station residents. Though the current population density at slightly more than 2,400 persons per square mile remains low in comparison to other metropolitan areas, the need for increased density offers opportunities for reinvigorating strategic areas and reimagining the way that new neighborhoods are designed. The City's enviable growth prospects necessitate more effective land use planning and capital investments, as well as diversified housing types including vertical mixed-use apartments, townhomes, and dense single-family neighborhoods.

¹Data provided by City of College Station Planning & Development Services

COMMUNITY CHARACTER, SUSTAINABILITY & URBAN DESIGN

College Station residents are interested in the character of their neighborhoods, special districts, corridors, and natural areas that collectively make College Station unique. Effective design also helps to create places of distinction – places worth remembering and protecting – and contributes significantly to quality of life. The design of streetscapes and building fronts as well as the treatment of parking and other physical features all impact how people experience the public realm. This plan speaks to the urban form of the City (where, when, and how land uses are developed) as well as public realm design (sometimes called urban design) and its impact on community character and identity.

Residents expressed the desire to preserve natural features for their environmental functions as well as their contribution to the community's character, with an emphasis on ensuring that the use or enjoyment of existing resources does not compromise resource availability for future residents. This is generally recognized as the definition of sustainability – meeting the needs of current generations without compromising the ability of future generations to meet their own needs. Combining these desires for unique places, quality urban design, and development patterns that are sensitive to resident needs and natural resources, along with the efficient use of infrastructure and City resources, provides a defined vision to make College Station a more livable and sustainable community.

As College Station grows, it is the residents' and City's intent that:

- **Infill and redevelopment in strategic locations is prioritized** over expansion of the urban area, is sensitive to existing neighborhoods, and engages residents in infill and redevelopment planning.
- **Growth occurs in a sustainable manner** to steward limited resources in an efficient and responsible manner that accommodates an increasing population and mitigates negative impacts on the natural and built environment. Compact development patterns help minimize sprawl and its associated impacts and makes sound economic sense for infrastructure provision and City services (see **Chapter 8: Managed Growth**).
- **New or enhanced residential areas are created** with qualities of traditional neighborhoods that feature a mix of housing types, a balance of owner and renter occupants, where parks and open space are provided, neighborhood-serving businesses are accessible, and adjacent neighborhoods and areas are connected in a seamless fashion (see **Chapter 3: Strong Neighborhoods**).
- **Existing neighborhoods are conserved, enhanced, or revitalized** with harmonious improvements, infill development, and compatible adjacent land uses that enhance the established neighborhood's character (see **Chapter 3: Strong Neighborhoods**).
- **Unique corridors and districts are developed, enhanced, and conserved** that foster vibrant places, streets, and natural corridors that contribute to the community's character and sense of place.
- **Rural areas are preserved** to protect streams, trees, pastures, and open areas that contribute significantly to the character of rural areas.
- **Natural resources are managed and conserved through sound stewardship practices** to protect streams, wooded areas, and open spaces that provide habitat for a variety of plants and wildlife, convey and clean stormwater, improve air quality, and add to the City's character and identity (see **Chapter 5: Engaging Spaces**).

- **Sustainable site design and low impact development practices are utilized** to mitigate stormwater and prevent flooding, avoid soil erosion and mitigate urban heat island effect, encourage tree preservation and planting programs, reduce energy consumption and pursue renewable technologies, conserve and reuse water, encourage native and adapted vegetation, and minimize waste and resource consumption, among others.
- **Multiple mobility mode options are available** to access neighborhoods, major employers and attractions, and the wider community, and streets are designed in a context-sensitive manner. The design of a street should be a function of both its role as a mobility corridor and its place context (see **Chapter 6: Integrated Mobility**).
- **Streetscapes are designed at a human-scale** and contribute positively to the way people navigate and experience the City. Effective streetscapes prioritize elements like wide sidewalks, pedestrian-scaled streetlights, wayfinding signs, and canopy trees. New district and corridor plans, as well as context-sensitive street design, will help elevate streets from utilitarian elements of the community to special places in their own right.
- **Public facilities are located and designed to contribute to community character** and make a statement about the community's values and expectations. A well-designed library or community center fits into a neighborhood, enabling residents to walk safely from their homes and providing a place for neighbors to gather, and contributes positively to that neighborhood's character and reinforces the public facility as an integral part of the community.
- **Public spaces are highly visible and accessible to all residents and visitors.** Public spaces like plazas, amphitheaters, and pedestrian malls that are well designed and safe foster social interactions and community identity.



Existing Land Use

Future land use and character is grounded in the current use of land and the prevailing character. An overview of the current conditions is necessary prior to forming policies for the future use of land and community character. College Station can be readily divided into three basic types of existing land use patterns: urban, suburban, and rural. These are common terms that should bring immediate images to mind. Attributes that define these areas contribute to the identity of College Station.

Urban character is currently concentrated in the Northgate area. It includes early 20th century lot-line commercial structures such as those along either side of College Main, and immediately north of University Drive (FM 60). More recently constructed structured parking and multi-story residential projects built close to the street continue this urban feel. This area includes vertical, mixed-use development, minimal setbacks, minimal surface parking lots, and a high level of pedestrian activity.

Suburban character dominates College Station largely due to the time period most of the City was developed (post-World War II), local preferences and building customs, and the dominance of apartment-style development to support the student population. Much of this suburban character is auto-dominated and consists of land uses that have extensive areas of parking in relationship to their floor area. Big-box retail areas and shopping malls are quintessential examples of this character. Most apartment complexes, duplexes, and single-family residential developments exhibit similar auto-oriented character and design.

Some suburban areas of the City exhibit a less auto-dependent and more walkable character. These areas retain a balance between green areas (parks and open space) and the built environment. Often these areas include parks, schools, and small-scale, neighborhood-serving businesses. The College Hills area is a good example of this type of suburban character. There are also suburban areas that are dominated by open space. These estate areas exhibit a more rural character with homes generally placed on large lots. The Foxfire subdivision is a good example of this type of suburban land use and character.

Rural areas that currently exist in and around College



Station are areas that exhibit countryside, agricultural, and natural character. Countryside is typically dominated by a few lots of estate size or greater fronting a road surrounded by agricultural or natural lands. The latter two tend to be determined by uses – crop or ranching in agricultural areas and wooded or savannah lands in natural areas. Rural areas tend to be more sensitive than other character areas to intrusions from incompatible development. Portions of the City and most of the ETJ are planned to remain rural and are identified accordingly on **Map 2.2, Future Land Use & Character**. Additional information about these areas is contained in **Chapter 8: Managed Growth**.



Future Land Use

The plan for future uses of land is presented through policy guidance and associated maps. Three significant land use components work in tandem to identify, create, conserve, and connect places of distinction – those areas that make College Station unique and contribute to the City's character and sense of place. These components are: Planning Areas, Future Land Use & Character, and Community Assets & Images Corridors. Each component is visually represented by an associated map. Combined, the narrative and maps capture the City's policies regarding how and where College Station will grow and change over the course of the next decade.

- **Map 2.1, Planning Areas** depicts areas within the city with distinctive character that have existing small area plans or are priority areas for future focused planning efforts.
- **Map 2.2, Future Land Use & Character** provides specific detail regarding the desired future use and character of all land within the City and ETJ.
- **Map 2.3, Community Assets & Image Corridors** visually portrays community assets, both natural and man-made, that contribute to the character and identity of the City.

PLANNING AREAS

The policy guidance within this section and **Map 2.1, Planning Areas** are intended to provide a broad overview of the City's land use strategy. Significant neighborhoods, districts, corridors, redevelopment areas, and places that would benefit from future small area planning efforts are identified. Small area plans are focused planning efforts that provide a more granular level of study and specific actions for a smaller, defined geographic area to help implement the Comprehensive Plan's overarching goals. The City has several existing small areas plans and identified priority areas for additional planning efforts through recent citizen input and the 10-year plan update.

The basic land use strategy is to strategically accommodate the projected demand for new housing, businesses, public facilities, and infrastructure needs resulting in multiple places of distinction. This enables the City to continually strengthen its principal competitive advantage for attracting and retaining residents, visitors, and new businesses along with the employment and tax revenues that accompany them – that is, a high quality of life. The land use strategy and planning areas focus on identifying, creating, conserving, and connecting:

- Strong and sustainable neighborhoods
- Unique districts and corridors, both natural and man-made
- Redevelopment areas that renew, revitalize, and infill underperforming areas of the community through partnerships with public and private interests
- Rural areas that preserve open spaces and respect the limits of public infrastructure and services, and
- A context sensitive mobility system that links the community together (as discussed in **Chapter 6: Integrated Mobility** and visually represented through the **Thoroughfare Plan and Bicycle, Pedestrian, and Greenways Master Plan**)



Neighborhoods & Districts

Neighborhood planning areas are places in which the current land use, character, and identity will generally remain and be enhanced. Among other activities, these plans identify appropriate and compatible land uses and design for vacant lands within the neighborhood and its area of influence. They also designate areas appropriate for redevelopment. Neighborhood plans typically contain strategies that address existing challenges (for example, code issues) and identify enhancement actions (such as pedestrian or park improvements).

District planning areas present opportunities for a mix of appropriate uses that enhance the unique characteristics of a defined area of the City. Existing examples include the Wellborn Community Plan which centers on the unique, rural character of the Wellborn area and the Medical District Master Plan which focuses on creating a cohesive healthcare and wellness district.

Between 2009 and 2013, residents, staff, and City leadership worked together to create five neighborhood and small area plans and two district plans. These plans provided strategic recommendations for an area within a defined timeframe (typically seven years). Once adopted, those recommendations were either implemented over the planning period or incorporated into relevant parts of the Comprehensive Plan or other master plans. Occasionally, some action items were not pursued due to changed conditions, project feasibility, available funding, or waning neighborhood interest. The City established a formal process for reviewing existing plans and conducted an audit of the five neighborhood and small area plans in 2022. Nearly 70 percent of actions across all plans were either completed or in progress as of the audit date, demonstrating a positive implementation success rate. The audit also analyzed challenges in plan implementation and provided key recommendations for future small area planning efforts. Based on the audit's findings, four of the original five neighborhood and small area plans that were beyond their planning horizons were retired.

The City will continue pursuing new neighborhood and district planning efforts for areas facing significant changes or development pressures, or to create or enhance the unique character of an area.



- **Planning Area 1: Wellborn Community Plan** – Adopted in April 2013, this plan encompasses 929 acres in the southwestern portion of the City, including much of the historic Wellborn community and focuses on retaining the rural character of the area. However, conditions have changed in recent years and the community is facing continued development pressures for growth that may now be appropriate, in contrast with the existing plan direction. A renewed planning effort in the Wellborn area is needed.
- **Planning Area 2: Medical District Master Plan** - Adopted in October 2012, the Medical District Master Plan creates a focused healthcare and wellness district that includes the City's major hospitals and medical facilities. This area is generally located along State Highway 6 near the Rock Prairie Road interchange, which is one of the primary gateways into the City as one approaches from the south. The plan links medical facilities into a cohesive district with supporting commercial and residential areas that are being realized through the Midtown Reserve & City Center master planned development. The City-owned Midtown Business Park, consisting of over 250 acres, is located in this general area as well, providing economic development opportunities for office, light and heavy-industrial, and limited commercial uses. There are also significant natural features in the area – branches of Lick Creek and Spring Creek – and these should continue to be incorporated into the district as parks, greenway trails, and open space. Future development should also continue cohesive identity elements such as signage, landscaping, and design that visually tie the district together.
- **Planning Area 3: Wolf Pen Creek District** - This district along the Wolf Pen Creek corridor combines parks, arts, and commerce by linking a variety of private and public facilities together with an urban greenway. This area has been the subject of considerable planning efforts, including specific Wolf Pen Creek Design Standards (within the Unified Development Ordinance), and substantial public and private investment. Future planning should build upon these existing efforts to expand the district's reach into the adjacent areas of influence, resulting in a more urban character.

Redevelopment

Portions of the City are identified for focused redevelopment activities. Within these areas it is anticipated that a change in use – and, if appropriate, character – requires some form of direct intervention by the City. This intervention may involve regulation (e.g., City-initiated rezoning), investment (e.g., capital expenditure on infrastructure), or incentives (e.g., fast-tracking of a project or density bonuses). This stands in contrast to areas that experience changes in use based on market opportunities alone. Some of these redevelopment areas may overlap established neighborhood areas, districts, or corridors and careful attention and cohesive planning will be needed to provide appropriate transitions between redeveloping and existing areas.



- **Planning Area 4: Northgate District & Redevelopment Area** - This area serves as the City's primary entertainment district and represents the City's only current urban character area. This area has been and will continue to be the subject of considerable planning along with substantial public and private investment. These efforts should be guided by the Northgate District Design Standards (within the Unified Development Ordinance), the Mobility Study and Operations Plan, and any emerging plans for the area. Continued development and redevelopment efforts in the Northgate District should enhance the vibrant entertainment district and include vertical mixed-use projects, retail and entertainment uses, and tourist attractions.
- **Planning Area 5: Northeast Gateway Redevelopment Plan** - Adopted in September 2023, the Northeast Gateway Redevelopment Plan creates a coordinated strategy for future change and redevelopment along two of the busiest corridors in the city: Texas Avenue and University Drive (FM 60). The plan is divided into two subareas: The Crossing and Eastgate Main. The Crossing is the primary gateway into the City of College Station and Texas A&M University for visitors entering from Bryan on Texas Avenue and from State Highway 6 along the University Drive (FM 60) hospitality corridor. The Crossing generally includes the area surrounding the intersection, east along University Drive (FM 60) to Tarrow Street, and south along Texas Avenue to Lincoln Avenue. The Crossing anticipates a high level of redevelopment, vertical mixed-use structures, significant increases in housing options and housing stock, an enhanced and expanded multi-modal transportation system, and a denser urban form. Eastgate Main is centered at the intersection of Texas Avenue and New Main Drive/Walton Drive. It contains one of College Station's historic retail shopping centers, the College Station City Hall and Visitor Center, and is adjacent to the College Hills Estates neighborhood. Eastgate Main is bounded by Foster Avenue, George Bush Drive East, Texas Avenue, and Lincoln Avenue, where it interfaces with The Crossing subarea. Eastgate Main anticipates both vertical and horizontal mixed-use developments that honor the historic commercial structures along Walton Drive while providing additional housing opportunities along Foster Avenue.

- **Planning Area 6: Harvey Road Redevelopment Area** – his section of Harvey Road includes newer commercial areas and a number of underperforming commercial and older multi-family properties and apartment complexes. This area also includes the Post Oak Mall, which will likely need to reposition itself in the near future to remain competitive. This presents an exciting opportunity to evolve into a denser area of the City, including vertical and horizontal mixed-use developments, which could compliment the adjacent Wolf Pen Creek District. During the 10-year Comprehensive Plan evaluation, residents and City leadership expressed interest in alternative options for future redevelopment and revitalization of this area, indicating a need for additional study and engagement.
- **Planning Area 7: George Bush Drive & Wellborn Road (FM 2154) Redevelopment Area** - This area includes a number of underperforming commercial properties and poor-quality residences that, due to planned road changes to the George Bush Drive and Wellborn Road (FM 2154) intersection along with the area's proximity to Texas A&M University, are poised for redevelopment. Much of the area is currently subdivided into small lots, making it difficult to consolidate land for redevelopment. The presence of existing residences and businesses, and proximity to established neighborhoods and the university campus, requires careful site planning and building design. Redevelopment planning efforts should focus on bringing vertical and horizontal mixed-use and other aspects of urban character to this portion of the City, while providing contextually appropriate transitions to established areas of the Southside neighborhood. During the 10-year plan evaluation residents were divided on alternative options for this area, indicating the need for further study and public engagement. Residents strongly opposed changes to interior portions of the Southside neighborhood across from Texas A&M University, thus future planning efforts within the Southside neighborhood should center on the area surrounding the George Bush Drive and Wellborn Road (FM 2154) intersection. These planning efforts will be prioritized and synced with the proposed road changes, once the timing is known.

Gateway Corridors

Gateway corridors serve as functional and focal entry points into the City and its unique districts, neighborhoods, redevelopment, and natural areas. These gateway corridors are prominent routes for College Station residents and visitors alike. An effective gateway corridor establishes a positive impression and identity that reinforces the community's character. Several of these corridors serve as a link between districts, further reinforcing their importance. Identity and beautification elements, such as decorative markers and themed wayfinding signs, should be placed along these corridors. Additionally, landscaping and streetscape elements should be unified and significant along these corridors. These corridors also offer the opportunity for the placement of public art and other design elements.

- **Planning Area 8: Presidential Gateway & BioCorridor** - This area located near the intersection of State Highway 47 and Raymond Stotzer Parkway (FM 60) is a main entryway into the City from the west. It is adjacent to the Texas A&M University Health Science Center, Easterwood Airport, and nearby the RELIS Campus in Bryan. The BioCorridor contains interconnected, master planned properties specializing in corporate office, biomanufacturing, research and development, and industrial uses. The area's character is managed and regulated jointly by the cities of College Station and Bryan largely through the BioCorridor Planned Development District. Future development should build upon existing assets in the area and continue to enhance this primary gateway into the City through cohesive design, landscaping, and signage.
- **Planning Area 9: Hospitality Corridor** - This area along University Drive (FM 60), spanning from Tarrow Street and Fire Station #6 to the interchange at State Highway 6, is one of the main entryways into the City from the highway. A number of hotels and restaurants are currently located

along this corridor. The focus of this corridor should be linking current and future hospitality facilities into a cohesive corridor along with adjacent redevelopment areas that, over time, could emerge as another urban character area. The plan should include identity elements such as signage, landscaping, and enhanced design to visually tie the corridor together.

- **Planning Area 10: Municipal Center Corridor** - This area located along Krenak Tap Road between State Highway 6 and Texas Avenue includes Stephen C. Beachy Central Park, the original City cemetery, and several municipal facilities. The area also includes significant natural features such as Bee Creek and several wooded areas. Plans for this corridor should enhance the municipal facilities and support a mix of residential and commercial activities with an emphasis on cohesive design that integrates the natural features of the area.
- **Planning Area 11: Harvey Mitchell Corridor** - This is an area of Harvey Mitchell Parkway (FM 2818) generally around its intersection with Texas Avenue extending eastward to State Highway 6. This area includes a significant amount of floodplain area adjacent to Bee Creek and significant road frontage along Harvey Mitchell Parkway and Texas Avenue. The focus of this plan should be the development of an urban area that incorporates the natural features of the area and design elements that positively contribute to two prominent entries into the core of the City.
- **Planning Area 12: Longmire & Highway 6 Frontage Road Corridor** - This gateway corridor is a major entryway into the City from State Highway 6. The area is generally defined as the State Highway 6 Frontage Road at its intersection with Texas Avenue between Deacon Drive to Rock Prairie Road and west to Longmire Drive. The corridor contains a series of older, underperforming, and in many cases nonconforming, commercial and multi-family uses. As a key corridor, future planning efforts should focus on redevelopment opportunities and identity enhancements such as signage, landscaping, and design to create a more visually cohesive entryway and corridor.
- **Planning Area 13: Wellborn Road (FM 2154) and William D. Fitch Corridor (State Highway 40)** - This area is generally the southwestern gateway into the City near the intersection of Wellborn Road (FM 2154) and William D. Fitch Parkway (State Highway 40). There is a future grade-separated crossing at the intersection of these roads that will significantly change the area's character. The land west of the railroad and generally south of Rock Prairie Road is largely undeveloped but limited in development potential due to sewer capacity constraints. A plan for this area should focus on opportunities for visual enhancements such as signage, landscaping, and enhanced design to create a more attractive entryway, along with compatible land uses such as light industrial that can operate within existing constraints.



Natural Corridors

Natural corridors exhibit opportunities for resource conservation and recreational activities. Examples include the Carter Creek and Lick Creek Corridors. Each of these will be the subject of a future district or corridor plan.

- **Planning Area 14: Bee Creek Corridor** - This corridor contains Bee Creek, which is a significant stream that traverses many neighborhoods in the core of the City. This watershed has been the location of intense development resulting in significant alteration to the stream. The focus of this corridor should be on the continued restoration of the creek, development of recreational opportunities, and expansion of its role in linking adjacent areas.
- **Planning Area 15: Carter Creek Corridor** - This corridor consists of the entirety of Carter Creek and its associated floodplain. Carter Creek is a significant natural feature stretching along much of the eastern edge of the City and linking College Station, Bryan, and the remainder of Brazos County. The focus of this corridor should be the protection of this natural feature and development of recreational opportunities that could cohesively connect the region.
- **Planning Area 16: Lick Creek Corridor** - This area includes Lick Creek Park and the surrounding area. Lick Creek Park is one of the most significant natural features in College Station. It offers a unique natural setting and protects much of the Lick Creek watershed along with a large, wooded area and the habitats of rare and endangered species. The focus of this corridor should be the continued protection of the natural features, additional recreational and educational opportunities, and the expansion of its role in linking adjacent areas.

FUTURE LAND USE & CHARACTER

Future land use serves as a guide for how all property within the City may develop in the future. Each future land use category contains a character-based description and overall intent of the category, along with generally appropriate zoning districts that help achieve the desired character. There are also example photographs from existing developments in College Station or other communities to visually illustrate the desired development characteristics.

The appropriateness of zoning change requests will be considered using multiple criteria including, but not limited to, whether the request is aligned with **Map 2.2, Future Land Use & Character**, whether changed or changing conditions exist in the area, compatibility with existing uses and development patterns, impact on environmentally sensitive and natural areas, impact on and timing of infrastructure, and consistency with all goals and strategies of the Comprehensive Plan. The zoning districts listed as generally appropriate under each future land use category are meant to provide guidance and do not represent affirmative support of each listed zoning district.

The land use strategies discussed in this chapter are further clarified by the future land use category descriptions and are visually portrayed in **Map 2.2, Future Land Use & Character**. The associated acreages in each land use category are compiled in **Table 2.1, Summary of Future Land Use Acreages**.

With the 10-year Comprehensive Plan update several changes were made to the future land use categories and map based on community and stakeholder input, changing conditions, and best practices identified during the evaluation process. These changes include renaming, simplifying and reducing the number of categories, refining the land use definitions, creating new categories to encourage and support emerging development forms, and reconsidering how land uses apply to various areas of the City.

The future land uses described below and applied to **Map 2.2, Future Land Use & Character** are meant to realize the citizens' vision for the future of College Station.

Table 2.1 - Summary of Future Land Use Acreages		
Future Land Use	City Limits	ETJ
Urban Center	335.6	
Neighborhood Center	1,255.9	
General Commercial	1,855.0	159.4
Neighborhood Commercial	523.9	
Business Center	968.0	874.0
Urban Residential	963.9	
Mixed Residential	1,093.4	209.1
Suburban Residential	6,342.9	577.7
Estate Residential	2,822.7	885.0
Rural	7.9	57,785.4
Neighborhood Conservation	1,795.7	
Medical	170.9	
Wellborn	434.6	38.0
Institutional/Public	952.4	4.2
Texas A&M University	4,839.8	44.4
Parks & Greenways	870.4	*17.3
Natural & Open Areas	5,131.9	41,804.3
TOTALS	30,364.9	102,398.8

*Note: The 17.3 acres of Parks & Greenways in the ETJ is the park within the Southern Pointe subdivision, which will be annexed into the City in the future per their development agreement

Planning Areas

NEIGHBORHOODS & DISTRICTS

1. WELLBORN DISTRICT PLAN*
2. MEDICAL DISTRICT MASTER PLAN*
3. WOLF PEN CREEK DISTRICT*

REDEVELOPMENT AREAS

4. NORTHGATE DISTRICT*
5. NORTHEAST GATEWAY REDEVELOPMENT PLAN*
6. HARVEY ROAD AREA
7. GEORGE BUSH DRIVE & WELLBORN ROAD AREA

GATEWAY CORRIDORS

8. PRESIDENTIAL GATEWAY & BIOCORRIDOR*
9. HOSPITALITY CORRIDOR*
10. MUNICIPAL CENTER CORRIDOR
11. HARVEY MITCHELL CORRIDOR
12. LONGMIRE & HIGHWAY 6 FRONTAGE ROAD CORRIDOR
13. WELLBORN ROAD & WILLIAM D. FITCH CORRIDOR

NATURAL CORRIDORS

14. BEE CREEK CORRIDOR
15. CARTER CREEK CORRIDOR
16. LICK CREEK CORRIDOR

MAIN CORRIDORS

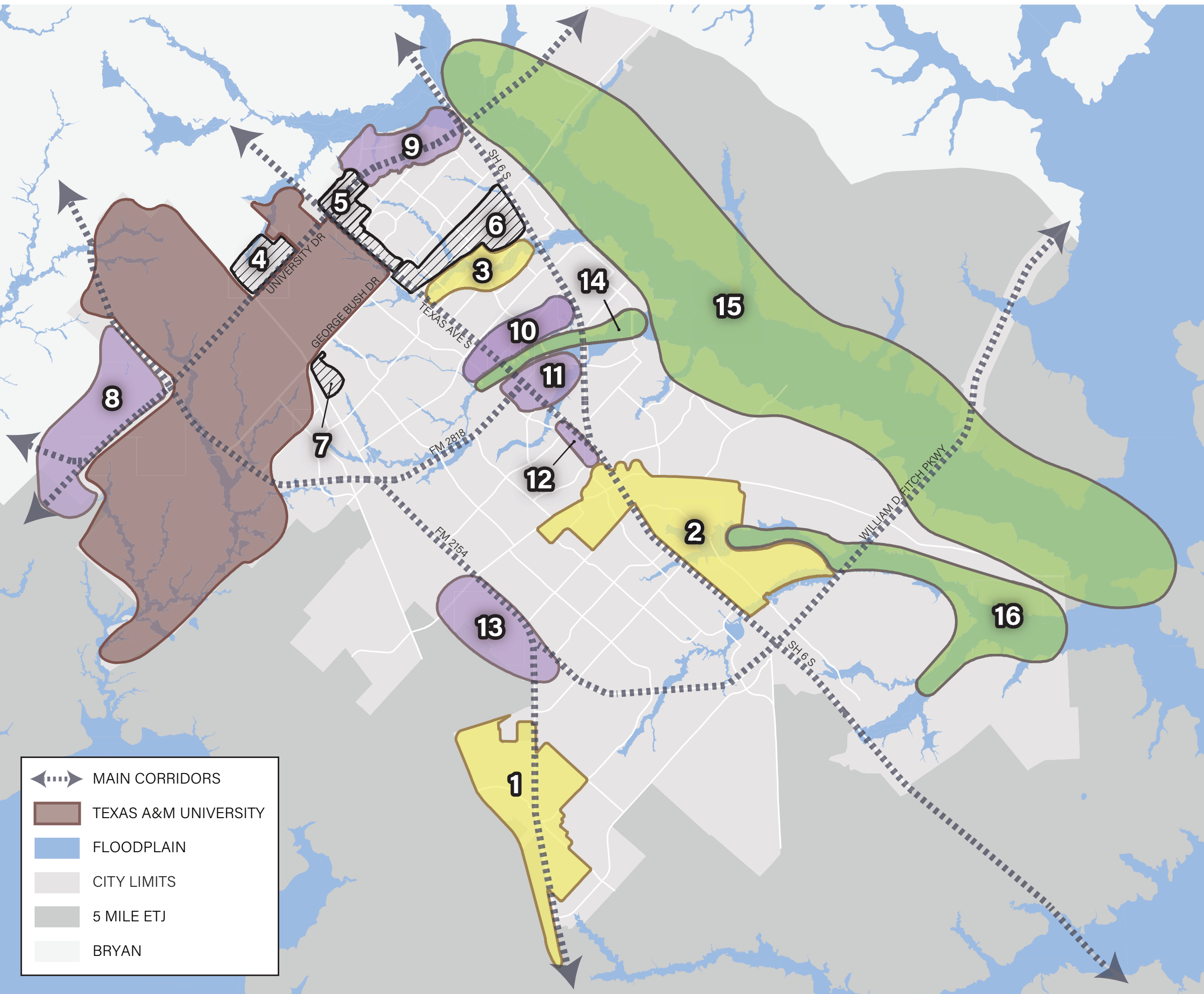
TEXAS A&M UNIVERSITY

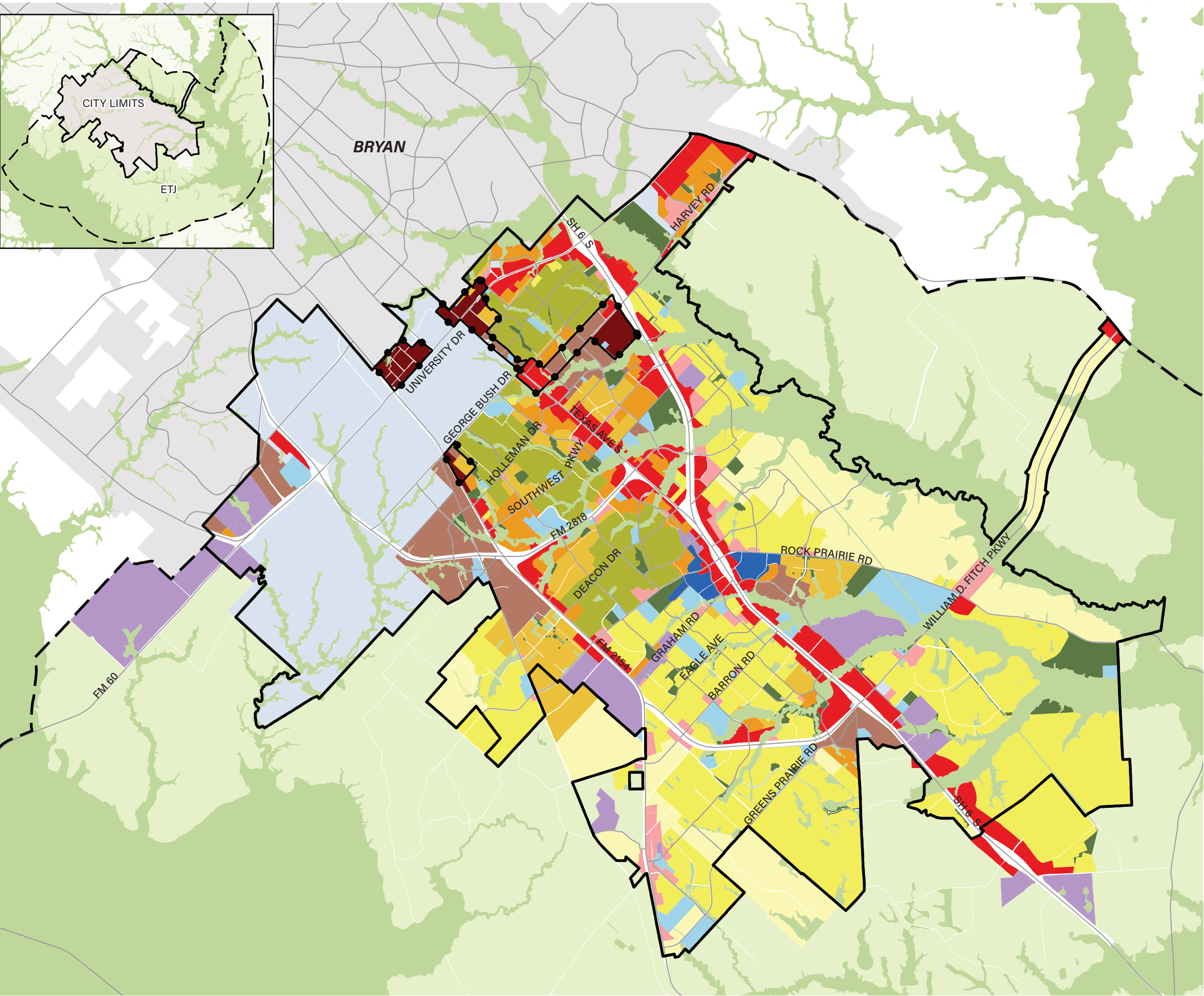
FLOODPLAIN

CITY LIMITS

5 MILE ETJ

BRYAN





*Future Land Use
& Character*

- URBAN CENTER
- NEIGHBORHOOD CENTER
- GENERAL COMMERCIAL
- NEIGHBORHOOD COMMERCIAL
- BUSINESS CENTER
- URBAN RESIDENTIAL
- MIXED RESIDENTIAL
- SUBURBAN RESIDENTIAL
- ESTATE RESIDENTIAL
- RURAL
- NEIGHBORHOOD CONSERVATION
- MEDICAL
- INSTITUTIONAL/PUBLIC
- TEXAS A&M UNIVERSITY
- PARKS & GREENWAYS
- NATURAL & OPEN AREAS
- REDEVELOPMENT AREAS

*NOTE: A COMPREHENSIVE PLAN SHALL NOT
CONSTITUTE ZONING REGULATIONS OR ESTABLISH
ZONING BOUNDARIES

Future Land Use Categories

URBAN CENTER

Areas that are appropriate for the most intense development and mix of uses arranged in a compact and walkable pattern. These areas will tend to consist of multi-story residential, commercial, and office uses that may be mixed vertically within mixed-use structures or horizontally in an integrated manner. Urban Centers should also incorporate consolidated parking facilities, access to transportation alternatives, open space and recreational facilities, and public uses.

Building Height: 5 stories average

Mobility: Walking, bicycling, transit, automobile

Intent

- Create and reinforce walkable activity centers with small blocks that are connected to surrounding development and include a mix of complementary uses
- Accommodate a mix of building types including freestanding and attached structures that frame attractive pedestrian zones between buildings and streets
- Encourage commercial uses along primary streets
- Encourage vertical mixed-use structures with ground-floor retail in appropriate locations such as along major corridors
- Support multi-family residential as a secondary component of a center
- Encourage shared surface parking located behind buildings or to the side of buildings, structured parking, and on-street parking where possible

Generally appropriate zoning districts:

Mixed-use, Northgate zoning (in Northgate only), Wolf Pen Creek zoning (in Wolf Pen Creek only)



NEIGHBORHOOD CENTER

Areas that are appropriate for a mix of uses arranged in a compact and walkable pattern at a smaller scale than Urban Centers. These areas consist of residential, commercial, and office uses arranged horizontally in an integrated manner and may be mixed vertically within structures. Neighborhood Centers should also incorporate consolidated parking facilities, access to transportation alternatives, open space and recreational facilities, and public uses.

Height: 3 stories average

Mobility: Walking, bicycling, transit, automobile

Intent

- Create and reinforce walkable activity centers that are connected to surrounding development and include a mix of complementary uses
- Accommodate a mix of building types that frame attractive pedestrian spaces
- Support vertical mixed-use structures with ground-floor retail in appropriate locations such as along corridors or major intersections
- Encourage all land generally within 300 to 500 feet of streets classified as major collectors or higher to be commercial uses, unless providing vertical mixed-use structures with residential uses on upper floors. The exact location and extent can be modified if creating commercial nodes, such as at intersections, and/or if other characteristics of the site require an alternative design that provides a mixture of uses in an integrated manner.
- Stand-alone commercial uses with a preferred emphasis on urban form may be allowed if the size and scale of the property and/or development does not adequately support mixing uses in a horizontal manner
- Support multi-family residential as a complementary secondary component of a center that includes commercial and/or office uses
- Encourage shared surface parking located behind or to the side of buildings (with some limited parking in front of buildings), structured parking, and on-street parking where possible

Generally appropriate zoning districts:

Mixed-use, Wolf Pen Creek zoning (in Wolf Pen Creek only), commercial and multi-family zoning may be considered in some circumstances if designed in an integrated manner through a Planned Development District with a preferred emphasis on urban form



GENERAL COMMERCIAL

Concentrated areas of commercial activities that cater to both nearby residents and to the larger community or region. Generally, these areas tend to be large and located along regionally significant roads. Due to their context, these areas tend to prioritize automobile mobility.

Height: 1-2 stories average

Mobility: Primarily automobile, but accessible by walking, bicycling, and transit

Intent

- Accommodate a wide range of commercial uses
- Concentrate future commercial development at major intersections
- Provide connectivity to surrounding bicycle and pedestrian networks and provide safe pedestrian facilities within sites
- Encourage transitions in building height and mass when adjacent to residential neighborhoods
- Support multi-family residential as secondary uses on a site
- Encourage shared surface parking

Generally appropriate zoning districts:

General commercial, office, and mixed-use zoning



NEIGHBORHOOD COMMERCIAL

Areas of commercial activities that cater primarily to nearby residents. These areas tend to be smaller format than general commercial and located adjacent to major roads along the fringe of residential areas. Design of these structures is compatible in size, architecture, and lot coverage with surrounding residential uses.

Height: 1-2 stories average

Mobility: Primarily automobile, but accessible by walking, bicycling, and transit

Intent

- Accommodate limited commercial services compared to General Commercial
- Provide pedestrian and bicycle connectivity to surrounding neighborhoods and nearby public uses (schools, parks, etc.)
- Support some residential uses that are compatible with the surrounding neighborhood character
- Encourage transitions in building height and mass when adjacent to residential neighborhoods
- In a walkable neighborhood context, locate new buildings near the street and accommodate parking to the side or rear of buildings with some limited parking in front of buildings and accommodate on-street parking where possible

Generally appropriate zoning districts:

Suburban commercial and office zoning



BUSINESS CENTER

Areas that include office, research, or industrial uses that may be planned and developed as a unified project. Generally, these areas need convenient access to arterial roadways.

Height: Varies

Mobility: Primarily automobile

Intent

- Accommodate a variety of large footprint buildings
- Accommodate commercial and service uses within Business Centers
- Accommodate pedestrian, bicycle, and transit connectivity to and within Business Centers
- Provide buffering through landscaping and building placement where large-scale employment sites are adjacent to residential areas

Generally appropriate zoning districts:

Business park, industrial, and commercial industrial zoning



URBAN RESIDENTIAL

Areas that are appropriate for a range of high-density multi-family 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.

Height: 3 stories average

Mobility: Walking, bicycling, transit, automobile

Intent

- Accommodate a wide range of attractive multi-family 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
- Support commercial, service, office uses, and vertical mixed-use within redevelopment areas

Generally appropriate zoning districts:

Multi-family, townhouse, mixed-use, and limited suburban commercial zoning



MIXED RESIDENTIAL

Areas appropriate for a mix of moderate density residential development including, townhomes, duplexes, small multi-family buildings (3-12 unit), and limited small-lot single family. These areas are appropriate for residential infill and redevelopment that allows original character to evolve. These areas may serve as buffers between more intense multi-family residential or mixed-use development and suburban residential or neighborhood conservation areas.

Height: Varies (generally 2-3 stories)

Mobility: Walking, bicycling, transit, automobile

Intent

- Accommodate a walkable pattern of small lots, small blocks, and well-connected street pattern
- Accommodate streetscape features such as sidewalks, street trees, and lighting
- Encourage community facilities, parks, and greenways within neighborhoods
- Support neighborhoods with a mix of housing types and where larger or more dense housing is located near community facilities or adjacent to commercial or neighborhood centers

Generally appropriate zoning districts:

Duplex, townhouse, middle housing, and limited-scale single-family



SUBURBAN RESIDENTIAL

Primarily single-family residential areas that consist of low to moderate density single-family lots. These areas may also include limited townhomes, duplexes, other housing types, and some non-residential uses that are compatible with surrounding single-family areas. Development types tend to be highly consistent within a subdivision or neighborhood.

Height: 1-2 stories

Mobility: Primarily automobile, but accessible by walking, bicycling, and transit to surrounding neighborhood services and centers

Intent

- Accommodate streetscape features such as sidewalks, street trees, and lighting
- Support neighborhoods with a mix of housing types
- Encourage community facilities, parks, and greenways within neighborhoods
- When establishing new residential areas or expanding existing developments, provide pedestrian and vehicular connectivity between adjacent developments

Generally appropriate zoning districts:

General and restricted suburban zoning



ESTATE RESIDENTIAL

Primarily single-family residential areas that have a low level of development activities. These areas are appropriate for very low-density residential lots of one-acre or greater lot sizes or average 20,000 square foot lots when clustered around open space.

Height: 1-2 stories

Mobility: Primarily automobile

Intent

- Support a wide range of lot sizes, long blocks, and curvilinear streets. Buildings tend to be located greater than 30 feet from a fronting street.
- When establishing new residential areas or expanding existing developments, provide pedestrian and vehicular connectivity between adjacent developments

Generally appropriate zoning districts:

Estate, rural, and manufactured home park zoning



NEIGHBORHOOD CONSERVATION

Residential areas that are essentially “built-out” and are not likely to be the focus of extensive infill development or redevelopment. These areas often were platted before current development regulations were in place often resulting in nonconforming situations. These areas are appropriate for overlays or zoning classifications that provide additional character protection and address nonconforming issues.

Height: 1-2 stories

Mobility: Walking, bicycling, transit, automobile; on-street parking and private off-street parking

Intent

- Maintain the existing housing stock, lot patterns, and character of neighborhoods
- Support infill housing that fits-in with neighboring homes (scale, placement, use, etc.)
- Address nonconforming lot issues through flexible development regulations
- Maintain established trees

Generally appropriate zoning districts:

General and restricted suburban, single-family overlays



TEXAS A&M UNIVERSITY

Areas owned by Texas A&M University and are appropriate for campus development as described in the Texas A&M Campus Master Plan and related documents.

INSTITUTIONAL/PUBLIC

Areas that are, and are likely to remain, in some form of institutional or public activity. Examples include schools, libraries, municipal facilities, and major utilities.

MEDICAL

Areas appropriate for medically related uses and supporting office, commercial, and residential uses. The medical land use designation surrounding Rock Prairie and State Highway 6 is further detailed in the Medical District Master Plan, which envisions a wide array of medical and supporting services and activities concentrated in the district. This includes the two major hospitals in close proximity to residential neighborhoods, neighborhood centers, offices, and commercial uses.

Height: Varies

Mobility: Walking, bicycling, transit, automobile

Generally appropriate zoning districts:

Varies

WELLBORN

The Wellborn Community Plan envisions the future of Wellborn to maintain its rural character with open space that is both privately and publicly held. The area will continue as a place where neighborhood commercial uses support surrounding low-density residential properties.

Height: Varies

Mobility: Primarily automobile

Zoning districts: Wellborn zoning districts, as appropriate and specified in the Wellborn Community Plan



PARKS & GREENWAYS

Areas that are permanently protected from development. Such areas are preserved for their natural function or for parks, recreation, or greenways opportunities. These areas include, publicly owned open space, conservation easements, greenway trails, and public parks.

NATURAL & OPEN AREAS

This land use designation is generally for areas that represent a constraint to development and that should be conserved for their natural function or open space qualities. These areas include floodplains, riparian buffers, common areas, and open space. The boundaries of the Natural & Open Areas land use are illustrative, and the exact location of floodplains and other physical constraints are determined during the development process.

Generally appropriate zoning districts

Natural areas protected

RURAL

Areas that, due to public service limitations, inadequate public infrastructure, or a prevailing rural or agricultural character, should have very limited development activities. These areas will tend to include a mix of large acreages (ranches and farmsteads) and limited large-lot (two acre or larger) residential developments. Open space is the dominant feature of these areas.

Height: Varies

Mobility: Primarily automobile

Generally appropriate zoning districts

Rural and manufactured home park zoning



Community Assets & Images Corridors

The physical design and appearance of the built environment – what buildings, streets, and parks look like – contributes significantly to the character and identity of the City. This section identifies many of the community's unique assets and provides general policy guidance regarding suburban and urban design, streets and streetscape design, public buildings and facilities, image corridors, and gateways. More specific and detailed guidance will be provided through subsequent neighborhood, district, and corridor plans, as well as master plans and other studies and plans adopted by the City Council.

COMMUNITY ASSETS

College Station has a number of existing assets (both natural and man-made) that contribute significantly to the character and identity of the City and, thus, are deserving of identification and worthy of policy guidance. **Map 2.3, Community Assets & Image Corridors**, visually portrays these assets which include natural features such as Carter Creek and Lick Creek, connections to the greater region such as Easterwood Airport, public facilities such as the Texas A&M University campus and Veterans Park, and various vistas and views. Care should be taken to protect each of these assets from encroachment by incompatible land uses and from insensitive development activities that would compromise their contribution to the area's character and identity.

IMAGE CORRIDORS

Image corridors are delineated on **Map 2.3, Community Assets & Image Corridors**, reflecting their importance as routes that many residents and visitors travel and, along the way, form impressions of College Station. Several of these corridors serve as a link between districts, further reinforcing their importance. Identity and beautification elements, such as decorative markers and themed wayfinding signs, should be placed along these corridors. Additionally, landscaping and streetscape elements should be unified and significant along these corridors. These corridors also offer the opportunity for the placement of public art and other design elements. Primary image corridors include corridors that carry high volumes of traffic and move travelers through or along some of the City's most significant assets. Examples include State Highway 6, Texas Avenue, and Wellborn Road (FM 2154). Secondary image corridors include corridors that tend to carry slightly less traffic volume and move travelers mainly through the community's significant business or residential areas. Examples include Rock Prairie Road, Harvey Road (FM 30), and portions of University Drive (FM 60). Image corridors also offer an opportunity to support the City's resource conservation objectives through the preservation of open space and other natural features along these key corridors. Where these corridors cross streams, go through forested areas, or offer attractive vistas, care should be taken in how bridges are constructed, banks are stabilized, stormwater is managed, trees are protected, and views are kept unobstructed to maximize the positive impressions gained by these assets.

GATEWAYS

A gateway serves as the symbolic entry point to an area, whether the City, a neighborhood, or a district. An effective gateway establishes an immediate positive impression that reinforces the character of an area and is visually harmonious with its surroundings. The key gateways into these areas need specific design elements and enhancements to create such an experience. For neighborhoods this may be in the form of landscaping or an entrance monument. For districts and corridors this may be in the form of landscaping,

streetscape, special lighting, signage, public art, or building design. Along the image corridors at key entry points to the City this may be in the form of landscaping, special signage, public art, or enhancements to bridges and overpasses.

Each of the neighborhood area plans, district plans, and corridor plans should address the most effective means to enhance associated gateways. This section outlines the framework for the most appropriate manner to address the key gateways into and out of the City as a whole. This plan identifies three levels of gateways, each with its own specific purpose and related design focus.

Early Image-Setting Gateways are locations where those approaching the community can first be engaged and experience College Station's unique identity. These areas offer opportunities for tasteful signage and landscaping that are harmonious with the surrounding rural areas while announcing one's pending arrival into College Station. Examples of appropriate locations for such enhancements are the intersection of University Drive/Raymond Stotzer Parkway (FM 60) and Wellborn Road (FM 2154), the FM 60 crossing of the Brazos River, and the intersection of State Highway 47 and Raymond Stotzer Parkway (FM 60).

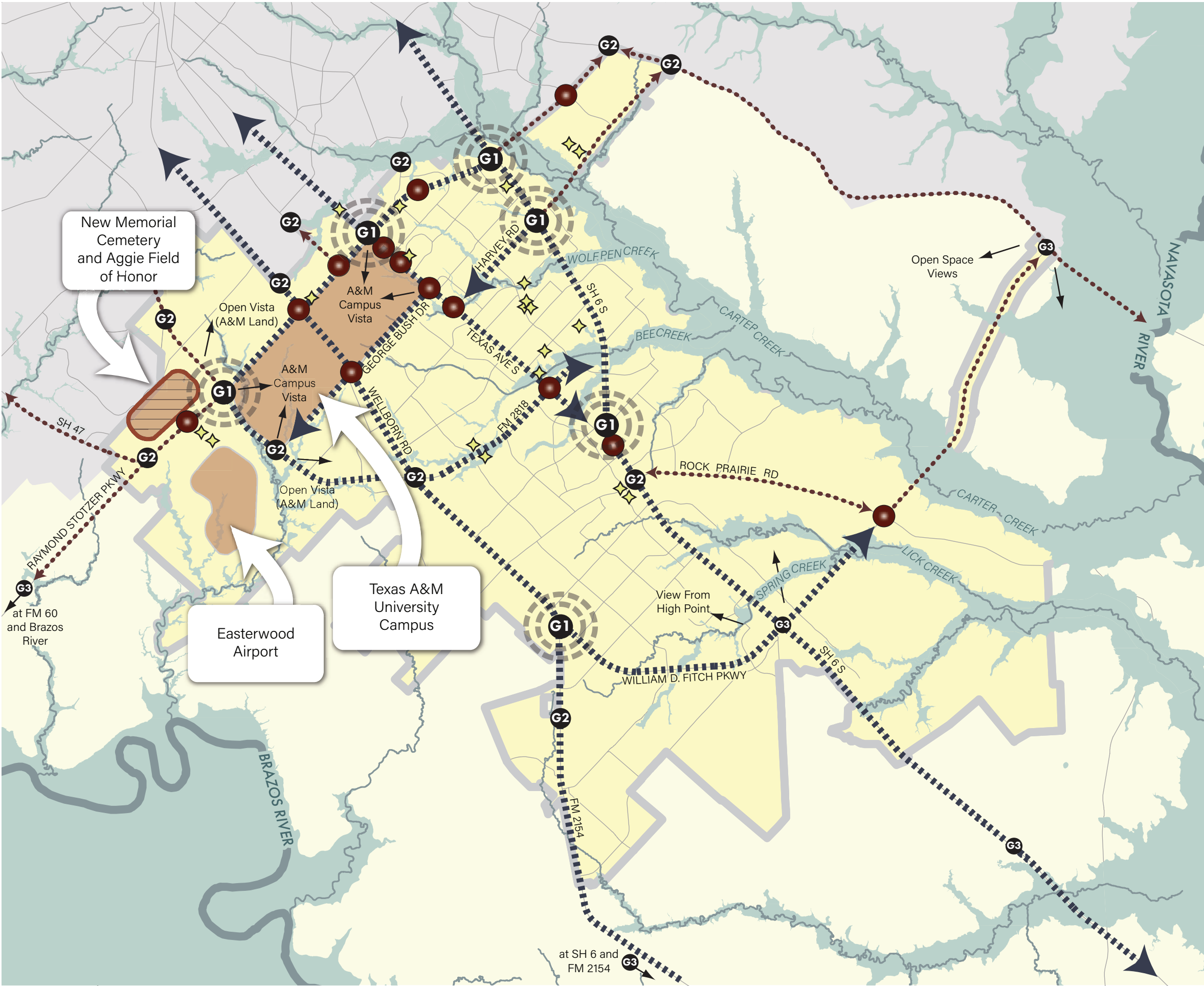
Secondary Welcoming Gateways are locations where community identity and themes can be reinforced through more substantial enhancements. These may include significant monument signage, substantial areas of landscaping and tree planting, and flags. Generally, these are located within the city limits but prior to arrival in the core of the City itself. Examples of appropriate locations for such enhancements are the Rock Prairie Road interchange with State Highway 6, the intersection of George Bush Drive and Harvey Mitchell Parkway (FM 2818), and the city limits at South College Avenue.

Primary Arrival Gateways are locations where the most substantial enhancements should be installed. These may include significant monument signage, substantial areas of landscaping and tree planting, fountains, lighted icons, and large-scale art. Examples of appropriate locations for such enhancements are the intersection of Texas Avenue and State Highway 6, the University Drive/Raymond Stotzer Parkway (FM 60) interchange with Harvey Mitchell Parkway (FM 2818), and the intersection of Texas Avenue and University Drive (FM 60).

For these gateways to succeed, it is essential that common elements be used throughout each of the three levels. Further, enhancements should be focused and sized properly to have the intended impact. Enhancements dispersed over a wide area, lacking common elements, and sized inappropriately will have less of an impact and will miss a critical opportunity to reinforce the character and identity of College Station.



Community Assets & Image Corridors



- KEY IMAGE / DESIGN INTERSECTION
- PRIMARY ARRIVAL GATEWAY
- SECONDARY WELCOMING GATEWAY
- EARLY IMAGE-SETTING GATEWAY
- PUBLIC ART LOCATION
- PRIMARY IMAGE CORRIDOR
- SECONDARY IMAGE CORRIDOR
- FLOODPLAIN
- EXISTING UNIQUE COMMUNITY ASSET AREA
- EMERGING / POTENTIAL UNIQUE COMMUNITY ASSET AREA
- CITY LIMITS
- 5 MILE EXTRATERRITORIAL JURISDICTION (ETJ)

Strategic & Ongoing Actions

The actions listed below designed to achieve the City's goal of vibrant and distinct districts, attractive neighborhoods, revitalized gateways and corridors, and conserved natural areas, grounded in environmental stewardship and resiliency.

STRATEGIC ACTIONS

- 2.1 Review and undertake amendments to the Unified Development Ordinance's zoning districts.**
Consider amendments necessary to implement the Future Land Use & Character categories and definitions.
- 2.2 Prioritize and undertake detailed plans for priority neighborhoods, districts, corridors, or redevelopment areas.** The City should commit to proactively planning for a limited set of target areas, as specified in **Map 2.1, Planning Areas**.
- 2.3 Creative incentives and programs to revitalize existing areas and established neighborhoods.**
This could include façade or landscaping improvement programs or rehabilitation initiatives. New programs should align with and complement existing City efforts through the Neighborhood Partnership Program, Neighborhood Grant Program, and proposed property maintenance programming.
- 2.4 Evaluate existing policies and create incentives for low impact and sustainable development.**
Encourage policies and regulations that incentivize sustainable practices such as energy reduction, renewable energy, water conservation, protection of natural resources, use of native and adapted vegetation, adaptive reuse, waste minimization, and stormwater management.
- 2.5 Pursue feasibility of a tree preservation and/or tree planting incentive program.** This could involve regulatory changes, incentives to preserve existing trees (especially large canopy trees) in new development and redevelopment projects, requiring replacement of trees that are destroyed or removed, proactive efforts by the City such as planting trees and installing landscaping along major road corridors and gateways, or a program where the City or a partner agency provides trees at reduced cost.
- 2.6 Create additional incentives for conservation design and evaluate the effectiveness of cluster development standards in the Unified Development Ordinance.** Common incentives include density bonuses where a project may be permitted a greater total density in exchange for preservation of common open space areas.
- 2.7 Integrate parks, greenways, and community facilities within new neighborhoods.** Ensure that parks, greenways, and other types of open spaces are integrated into the design of new neighborhoods and that appropriate connections are made to existing facilities. Also consider opportunities and partnerships to locate civic uses (such as recreation centers, schools, libraries) within new neighborhoods or redevelopment areas.

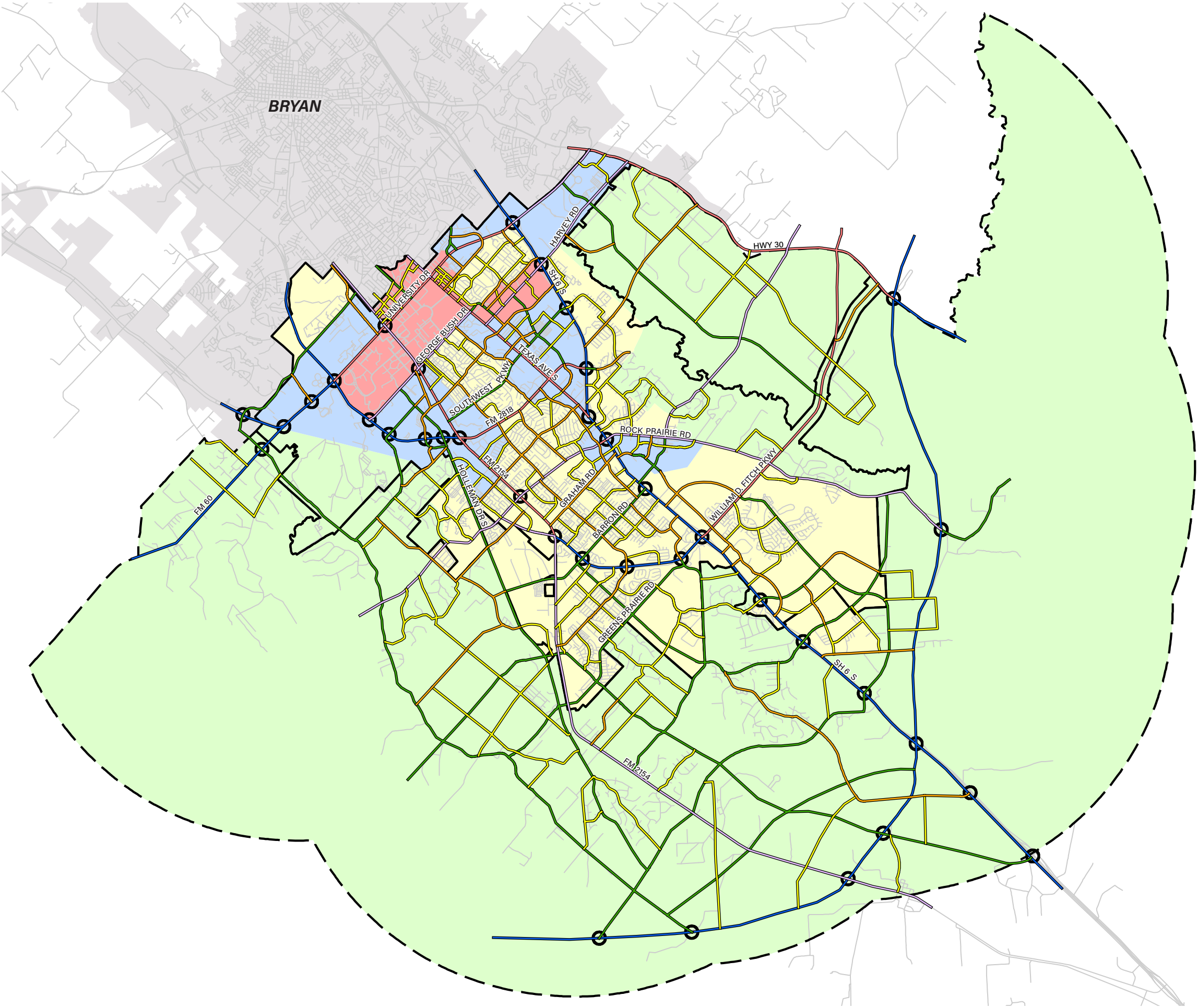


ONGOING ACTIONS AND POLICY DIRECTION

- 2.8 Evaluate and update development standards in the Unified Development Ordinance.** Evaluate the effectiveness of development standards such as mobility and connectivity, off-street parking, building form and design, landscaping and buffers, exterior lighting, or other applicable standards to achieve desired design form and quality.
- 2.9 Develop or refine incentives to promote high quality design.** Such incentives may include regulatory (flexible standards, density bonuses), procedural, cost-sharing agreements, and tax incentives, among others. Incentives could be targeted to specific geographies or types of development (such as mixed-use or commercial).
- 2.10 Encourage parking alternatives to support redevelopment opportunities.** Use regulatory or other incentives to encourage residential, commercial, and mixed development models in the City's targeted Redevelopment Areas that integrate structured parking, reduced parking requirements, or shared parking agreements to enable more productive use of the overall site in place of extensive surface parking.
- 2.11 Continue to initiate proactive zoning map updates.** Amend the zoning map in strategic areas to encourage transitions to the desired community character and help implement the Future Land Use & Character Map. Proactive zoning map changes may also encourage redevelopment in targeted areas.
- 2.12 Continue beautification programs.** Maintain and consider opportunities to expand beautification partnerships with Keep Brazos Beautiful and other organizations.

EXHIBIT D

That the “Official City of College Station Comprehensive Plan” is hereby amended by amending *Map 6.3. Functional Classification & Context Class* as follows:



*Functional
Classification &
Context Class*

THOROUGHFARE PLAN

- GRADE SEPARATION
- FREEWAY/EXPRESSWAY
- 6 LANE MAJOR ARTERIAL
- 4 LANE MAJOR ARTERIAL
- MINOR ARTERIAL
- MAJOR COLLECTOR
- MINOR COLLECTOR

CONTEXT ZONES

- URBAN CORE
- GENERAL URBAN
- SUBURBAN
- RURAL

- CITY LIMITS
- ETJ

EXHIBIT E

That the “Official City of College Station Comprehensive Plan” is hereby amended by amending *Map 5.4 Proposed Bicycle Facilities* within the Bicycle, Pedestrian, and Greenways Master Plan as follows:

MAP 5.4
Proposed Bicycle Facilities

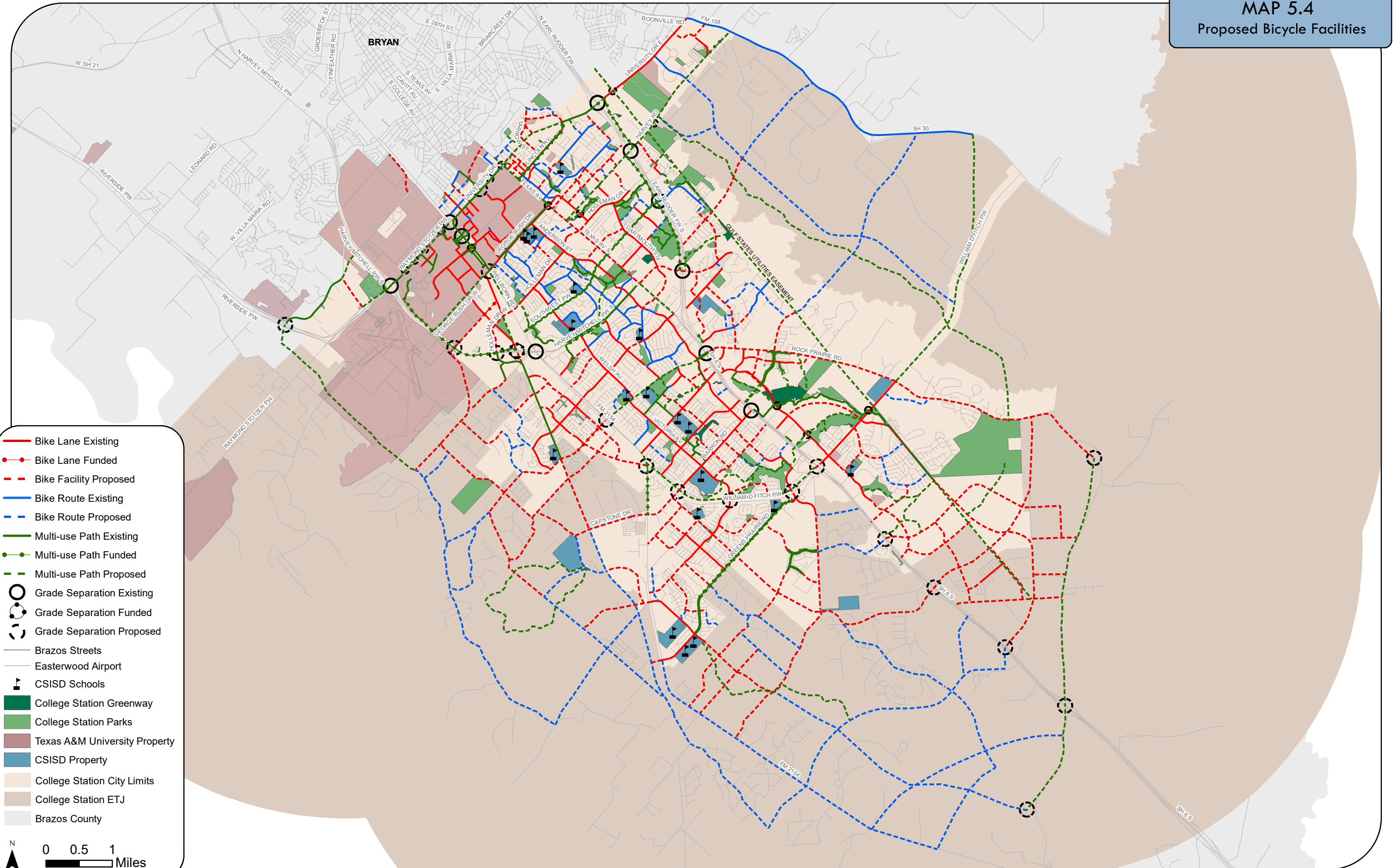
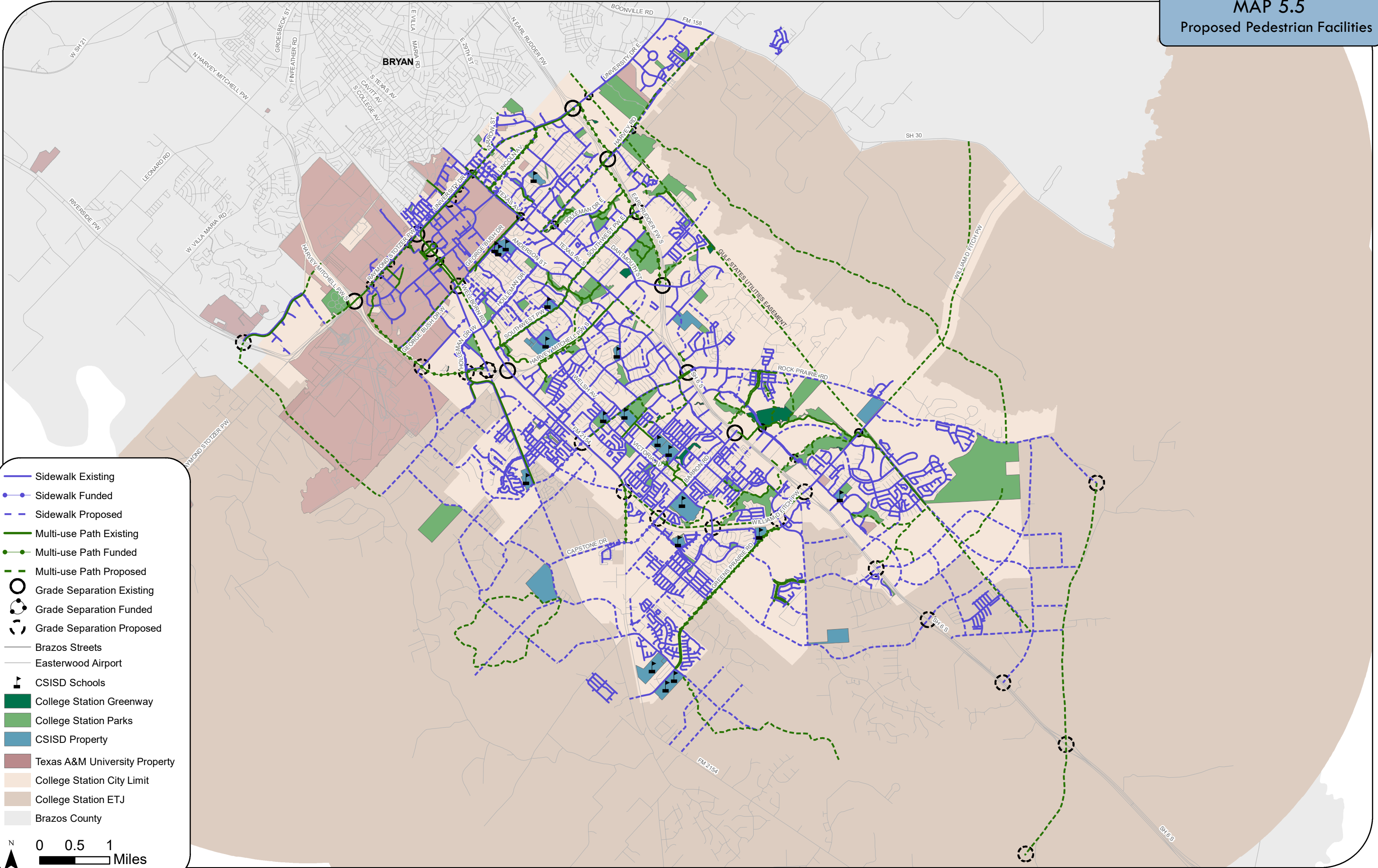


EXHIBIT F

That the “Official City of College Station Comprehensive Plan” is hereby amended by amending *Map 5.5 Proposed Pedestrian Facilities* within the Bicycle, Pedestrian, and Greenways Master Plan as follows:



September 28, 2023
Item No. 8.3.
Itinerant Vendor Ordinance Modification Request

Sponsor: Billy Couch

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding an ordinance amending Chapter 8, "Businesses," Article V, "Home Solicitation, Itinerant Vendors, and Texas A&M University Ticket Reselling," regarding itinerant vendors.

Relationship to Strategic Goals:

Good Governance and Core Services and Infrastructure

Recommendation(s): Staff recommends approval

Summary: This suggested modification cleans up the exemption language for charitable organizations and regulates the location and time they can operate as itinerant vendors. Specifically, this modification removes the "twice per year" caveat which currently cannot be tracked or enforced with the exemptions extended to charitable organizations. It maintains a charitable organization's ability to be exempted from the application process, obtaining permits, and payment of the permit fee and bonds. This modification prohibits a charitable organization from operating on public/city-owned property without written consent from the City Manager. Specifically to Northgate, it restricts the hours a charitable organization can operate as an itinerant vendor to be consistent with bar and mobile food vendor operating hours.

Budget & Financial Summary: Not Applicable

Attachments:

1. Itinerant Vendor Ord Amend 8-236 - 237

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 8, “BUSINESSES,” ARTICLE V, “HOME SOLICITATION, ITINERANT VENDORS, AND TEXAS A&M UNIVERSITY TICKET RESELLING,” DIVISION 3 “ITINERANT VENDOR PERMITS,” OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY AMENDING CERTAIN SECTIONS RELATING TO ITINERANT VENDOR; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

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

- PART 1:** That Chapter 8, “Businesses,” Article V, “Home Solicitation, Itinerant Vendors, and Texas A&M University Ticket Reselling,” Division 3 “Itinerant Vendor Permits,” Section 8-236 (b) and Section 8-237 (a) (5) and (b) (2) of the Code of Ordinances of the City of College Station, Texas, be amended as set out in Exhibit “A” attached hereto and made a part of this Ordinance for all purposes.
- PART 2:** If any provision of this Ordinance or its application to any person or circumstances is held invalid or unconstitutional, the invalidity or unconstitutionality does not affect other provisions or application of this Ordinance or the Code of Ordinances of the City of College Station, Texas, that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this Ordinance are severable.
- PART 3:** That any person, corporation, organization, government, governmental subdivision or agency, business trust, estate, trust, partnership, association and any other legal entity violating any of the provisions of this Ordinance 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 _____ day of _____, 20__.

ATTEST:

APPROVED:

City Secretary

Mayor

APPROVED:

City Attorney

EXHIBIT A

That **Chapter 8, “Businesses,” Article V, “Home Solicitation, Itinerant Vendors, and Texas A&M University Ticket Reselling,” Division 3 “Itinerant Vendor Permits,” Section 8-236 (b) and Section 8-237** by adding (a) (5) and amending (b) (2) of the Code of Ordinances of the City of College Station, Texas, is hereby amended to read as follows:

Sec. 8-236. Exemptions to itinerant vendor permits.

(b) A charitable organization is exempt only from submitting an application, obtaining the permit, paying the permit fee and bonds when holding a bazaar, fete, rummage sale, car wash or other special event for the purpose of raising funds. A charitable organization must follow all other itinerant vendor regulations in this chapter.

Sec. 8-237. Term, limitations and representations.**(a) Duration**

(5) **Northgate Sales Time.** No itinerant vendor or charitable organization may operate between the hours of 2 a.m. to 5 a.m. in the Northgate District.

(b) Zoning and location restrictions.

(2) No itinerant vendor or charitable organization may locate or operate in or on any street, sidewalk, right-of-way, promenade, parking garage, parking lot or any other City owned, leased, or operated property without the express written consent of the City Manager.

September 28, 2023
Item No. 8.4.
Noise Amendment - Northgate

Sponsor: Billy Couch

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding an ordinance amending Chapter 26, "Miscellaneous Provisions and Offenses," Section 26-8, "Noise" regarding noise in Northgate.

Relationship to Strategic Goals:

Good Governance and Core Services and Infrastructure

Recommendation(s): Staff recommends approval

Summary: This recommended ordinance amendment sets a sound level standard for the Northgate Entertainment District of 76 decibels between the hours of 10:01 pm and 6:59 am. This also recommends prohibiting the use of speakers or amplifiers from being used towards public space. The purpose of this ordinance amendment is to reduce the levels of noise in the public spaces of Northgate.

Budget & Financial Summary: Not Applicable

Attachments:

1. Noise Ordinance Amendment Northgate Sec. 26-8

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 26, “MISCELLANEOUS PROVISIONS AND OFFENSES,” SECTION 26-8, “NOISE,” OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY AMENDING CERTAIN SECTIONS RELATING TO NIGHTTIME NOISE; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

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

- PART 1:** That Chapter 26, “Noise,” Section 26-8 of the Code of Ordinances of the City of College Station, Texas, be amended as set out in **Exhibit “A”** attached hereto and made a part of this Ordinance for all purposes.
- PART 2:** If any provision of this Ordinance or its application to any person or circumstances is held invalid or unconstitutional, the invalidity or unconstitutionality does not affect other provisions or application of this Ordinance or the Code of Ordinances of the City of College Station, Texas, that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this Ordinance are severable.
- PART 3:** That any person, corporation, organization, government, governmental subdivision or agency, business trust, estate, trust, partnership, association and any other legal entity violating any of the provisions of this Ordinance 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 _____ day of _____, 20__.

ATTEST:

APPROVED:

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City Secretary

Mayor

APPROVED:

City Attorney

EXHIBIT A

That Chapter 26, “Noise,” Section 26-8 of the Code of Ordinances of the City of College Station, Texas, is hereby amended to read as follows:

Sec. 26-8. Noise.

A violation of this section is declared a nuisance and may be enforced 5,000 feet outside the City limits. A person commits an offense if the person allows or maintains an unreasonable noise:

(1) Residential Daytime noise.

- a.** During the hours of 7:00 a.m. to 10:00 p.m. that, when measured from the property line of a residence located in residential zoned property, exceeds 63 decibels and would disturb or annoy a person of ordinary sensibilities; or
- b.** During the hours of 7:00 a.m. to 10:00 p.m. that, when measured from a contiguous interior wall of a residence that is a multiunit residence located in residential zoned property, exceeds 55 decibels and would disturb or annoy a person of ordinary sensibilities.

(2) Residential Nighttime noise.

- a.** During the hours of 10:01 p.m. to 6:59 a.m. that, when measured from the property line of a residence located in residential zoned property, exceeds 56 decibels and would disturb or annoy a person of ordinary sensibilities; or
- b.** During the hours of 10:01 p.m. to 6:59 a.m. that, when measured from a contiguous interior wall of a residence that is a multiunit residence located in residential zoned property, exceeds 50 decibels and would disturb or annoy a person of ordinary sensibilities.

(3) Northgate District Noise.

- a.** During the hours of 10:01 p.m. to 6:59 a.m. that, when measured from the property line of a business or residence located in Northgate Central Business District, exceeds 76 decibels and would disturb or annoy a person of ordinary sensibilities; or
- b.** During the hours of 10:01 p.m. to 6:59 a.m. no person shall use, allow or cause any loudspeaker, loudspeaker system, sound amplifier, or any other technology, machine or device that produces, or amplifies sound on or towards any property the person has no right to occupy, sidewalk, promenade, or any other public space owned, leased or maintained within the Northgate Central Business District.

(4) Wolf Pen Creek Amphitheater.

- a.** If a user, renter, or any person occupying Wolf Pen Creek Amphitheater makes or allows an unreasonable noise that would disturb or annoy a person of ordinary sensibilities the City will notify that person to lower the noise to a reasonable level.
- b.** If the noise level is not lowered the person may be ordered to cease use of the amphitheater.

(5) Exemptions.

- a.** Necessary construction or property maintenance, including the use of lawnmowers, during the hours of 6:00 a.m. to 10:00 p.m.
 - 1.** For a person to perform construction work before 6:00 a.m. or end later than 10:00 p.m. a permit must be sought and obtained from the City Building Official, and if the Building Official concludes that because of the construction operations involved construction at that time is reasonable and necessary.
 - 2.** Construction work in public rights-of-way or easements by the City or the Texas Department of Transportation.
- b.** Use of properly maintained air conditioning units.

September 28, 2023
Item No. 8.5.
Ordinance Repeal - NOrthgate Outdoor Dining Box

Sponsor: Billy Couch

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding an ordinance repealing Chapter 8 “Businesses”, Article IX, “Northgate Outdoor Dining and Entertainment” regarding Northgate outdoor dining permits.

Relationship to Strategic Goals:

Good Governance and Core Services and Infrastructure

Recommendation(s): Staff recommends approving the repeal

Summary: The outdoor dining boxes currently permitted in Northgate occupy public space and reduce the amount of space available for pedestrian traffic. This recommendation repeals the ordinance permitting these boxes and will allow for their removal. From a safety standpoint the desired result is to prevent public space from becoming obstructed, concentrating intoxicated persons (which leads to fights/assaults), and inhibiting emergency responses.

Budget & Financial Summary: Not Applicable

Attachments:

1. Ord Repealing Chapter 8 Article IX NG Outdoor Dining

ORDINANCE NO. _____

AN ORDINANCE REPEALING CHAPTER 8 “BUSINESSES”, ARTICLE IX, “NORTHGATE OUTDOOR DINING AND ENTERTAINMENT” OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY REPEALING ARTICLE IX RELATING TO NORTHGATE OUTDOOR DINING PERMITS; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

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

- PART 1:** That Chapter 8, “Businesses” Article IX, “Northgate Outdoor Dining and Entertainment” of the Code of Ordinances of the City of College Station, Texas, be repealed as set out in **Exhibit “A”** attached hereto and made a part of this Ordinance for all purposes.
- PART 2:** If any provision of this Ordinance or its application to any person or circumstances is held invalid or unconstitutional, the invalidity or unconstitutionality does not affect other provisions or application of this Ordinance or the Code of Ordinances of the City of College Station, Texas, that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this Ordinance are severable.
- PART 3:** That any person, corporation, organization, government, governmental subdivision or agency, business trust, estate, trust, partnership, association and any other legal entity violating any of the provisions of this Ordinance 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 28th day of September, 2023.

ATTEST:

APPROVED:

City Secretary

Mayor

APPROVED:

City Attorney

EXHIBIT A

That Chapter 8, “Businesses” Article IX, “Northgate Outdoor Dining and Entertainment” of the Code of Ordinances of the City of College Station, Texas be repealed.

September 28, 2023

Item No. 11.1.

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