



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#

November 9, 2023

4:00 PM

City Hall Council Chambers

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

1. Call to Order.

2. Executive Session Agenda.

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

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

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

- a. Kathryn A. Stever-Harper as Executrix for the Estate of John Wesley Harper v. City of College Station and Judy Meeks; No. 15,977-PC in the County Court No. 1, Brazos County, Texas.
- b. McCrory Investments II, LLC d/b/a Southwest Stor Mor v. City of College Station; Cause No. 17-000914-CV-361; In the 361st District Court, Brazos County, Texas.
- c. Shana Elliott and Lawrence Kalke v. City of College Station, et al., Cause No. 22-001122-CV-85, in the 85th District Court, Brazos County, Texas.
- d. 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.
- f. Cynthia Hopkins & Geoffrey Hopkins v. City of College Station, Cause No. 23-002880-CV-85 in the 85th District Court, Brazos County Texas.
- g. CBL & Associates Management, Inc. v. City of College Station, Cause No. 23-003159-CV-85 In The 85th District Court, Brazos County Texas.

h. Legal advice regarding the process to acquire property needed for the TXDOT State Highway 6 Widening Project.

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.
- d. Approximately 11.6 acres of land generally located near the intersection of Gateway Boulevard and Lakeway Drive.

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

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

- a. City Manager
- b. Council Self Evaluation

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. Comments should not personally attack other speakers, Council or staff. Each speaker's remarks are limited to three (3) minutes. Any speaker addressing the Council using a translator may speak for six (6) minutes. The speaker's microphone will mute when the allotted time expires and the speaker must leave the podium.

5. Presentation - Proclamations, Awards, and Recognitions.

- 5.1. Presentation proclaiming November 2023 as diabetes awareness month.

Sponsors: Tanya Smith

Attachments: 1. National Diabetes Awareness Month

- 5.2. Presentation proclaiming November 11th as Veterans Day.

Sponsors: Tanya Smith

Attachments: 1. Veterans Day

6. Hear Visitors.

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

7. Consent Agenda.

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

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

- October 26, 2023 Council Meeting

Sponsors: Tanya Smith

Attachments: 1. CCM102623 DRAFT Minutes

- 7.2. Presentation, discussion, and possible action regarding the purchase of 10 Monitor/Defibrillators 12-lead ECG from Zoll Medical Corporation for \$331,122.

Sponsors: Richard Mann

Attachments: 1. Zoll Medical Quote

- 7.3. Presentation, discussion, and possible action on resolutions authorizing the Chief of Police as the authorized official to execute documents necessary for the release of grant funds from the Office of the Governor Homeland Security Division for SWAT team night vision equipment.

Sponsors: Rodney Sigler

Attachments: 1. Grant Resolution for SWAT Team Night Vision Equipment

- 7.4. Presentation, discussion, and possible action regarding a resolution accepting a \$239,279.10 grant from the Office of the Governor for purchasing rifle resistant body armor for the police department and city marshalls.

Sponsors: Rodney Sigler

Attachments: 1. Grant Resolution for Rifle Resistant Body Armor

- 7.5. Presentation, discussion, and possible action on the purchase of electric transmission and related materials from KBS Electrical Distributors, not to exceed \$818,085.60.

Sponsors: Timothy Crabb

Attachments: 1. 23-074 Bid Summary Tab

- 7.6. Presentation, discussion, and possible action on three (3) Master Agreements for Professional Surveying Services with: Baseline Corporation, not to exceed \$100,000; Kerr Surveying, LLC, not to exceed \$20,000; and Walker Partners, LLC, not to exceed \$20,000.

Sponsors: Jennifer Cain

Attachments: 1. Baseline Corporation Vendor Signed Contract
2. Walker Partners Vendor Signed Contract

3. Kerr Surveying Vendor Signed Contract

- 7.7. Presentation, discussion, and possible action on a Construction Contract with Larry Young Paving, Inc. in the amount of \$1,719,810.25 for construction services for the Luther Street Rehab-Marion Pugh to Penberthy Project, plus the City's contingency in the amount of \$220,000 for a total appropriation of \$1,939,810.25. Approval of this item grants authority for the City Manager to authorize project expenditures up to the City's contingency amount.

Sponsors: Jennifer Cain

Attachments: 1. Luther Street Rehab Project Location Map
2. Luther Street Rehab Vendor Signed Contract

- 7.8. Presentation, discussion, and possible action on a Professional Services Agreement with Freese and Nichols, Inc. in the amount of \$520,520 for the Alum Creek Trunkline Project.

Sponsors: Jennifer Cain

Attachments: 1. Alum Creek Vendor Signed Contract
2. Alum Creek Location Map

- 7.9. Presentation, discussion, and possible action on approval of the 2023 Property Tax Roll in the amount of \$70,766,287.79.

Sponsors: Mary Ellen Leonard

Attachments: 1. City of College Station Levy Notification
2. City of College Station Levy Totals

- 7.10. Presentation, discussion, and possible action on Contract with Freeit Data Solutions, Inc. in the amount of \$421,016.30 for additional Rubrik data storage.

Sponsors: Sam Rivera

Attachments: 1. Contract 24300073--ADc

8. Workshop Agenda.

- 8.1. Presentation, discussion, and possible action regarding truck and trailer parking.

Sponsors: Emily Fisher

Attachments: None

- 8.2. Presentation, discussion, and possible action regarding a Capital Projects Update.

Sponsors: Jennifer Cain

Attachments: None

9. Regular Agenda.

- 9.1. Public Hearing, presentation, discussion, and possible action regarding an ordinance vacating and abandoning two public utility easements at 1115 Anderson Street, the first being a portion of a 15-foot-wide public utility easement located in the Crawford Burnett Survey, Abstract 7, College Station, Brazos County, Texas, and being a portion of the easement described by centerline in Volume 1364, Page 195 of the Official Records of Brazos County, Texas, and the second being a portion of a 20-foot-wide public utility easement located in the Crawford Burnett Survey, Abstract 7, College Station, Brazos County, Texas and being a portion of the easement described by centerline in Volume 468, Page 92 of the Deed of Records of Brazos County, Texas.

Sponsors: Gillian Sitler

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

4. Vicinity Map
5. Location Map - 15-foot
6. Application - 15-foot
7. Location Map - 20-foot
8. Application - 20-foot

9.2. Presentation, discussion, and possible action regarding an amendment to a contract with LULAC Oak Hill, Inc. to provide additional funding in the amount of \$585,675.00 of Community Development Block Grant funds for additional funding needed for the complete rehabilitation of LULAC Oak Hill Apartments located at 1105 Anderson.

Sponsors: Debbie Eller

- Attachments:
1. Amended Project Budget
 2. Amendment for Additional CDBG Funding

9.3. Presentation, discussion, and possible action on a resolution of the City Council of the City of College Station, Texas, determining that a public utility easement containing approximately 0.449 acres of land is needed and needs to be acquired from Clarke & Wyndham, Inc.; Real Alchemy, L.P.; Real Alchemy 1, L.P.; and JPJ Investments for the construction, operation, and maintenance of a public utility easement, as a part of the utility relocations required by the upcoming widening of State Highway 6 by the Texas Department of Transportation ("TxDOT"); and authorizing the institution of eminent domain proceedings.

Sponsors: Jennifer Cain

- Attachments:
1. Resolution Authorizing Eminent Domain - Clark & Wyndham Inc. et al.
 2. Clarke & Wyndham, et al. easement exhibit 11-1-2023

9.4. Presentation, discussion, and possible action on a resolution of the City Council of the City of College Station, Texas, determining that a public utility easement containing three parcels, totaling approximately 1.49 acres of land, is needed and needs to be acquired from POM-College Station, LLC, for the construction, operation, and maintenance of a public utility easement, as a part of the utility relocations required by the upcoming widening of State Highway 6 by the Texas Department of Transportation ("TxDOT"); and authorizing the institution of eminent domain proceedings.

Sponsors: Jennifer Cain

- Attachments:
1. Resolution Authorizing Eminent Domain - POM College Station LLC
 2. POM easement exhibit 11-1-2023

9.5. Presentation, discussion, and possible action regarding a Real Estate Contract with HFLPI-College Station LLC for the sale of approximately 11.642 acres in the College Station Business Center generally located near the intersection of Gateway Boulevard and Lakeway Drive for the price of \$3,489,000.

Sponsors: Brian Piscacek

- Attachments:
1. Real Estate Contract_CSBC

10. Council Calendar - Council May Discuss Upcoming Events.

11. Items of Community Interest.

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

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

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

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

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

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

14. Adjourn.

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

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



City Secretary

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

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

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

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

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

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

November 9, 2023
Item No. 5.1.

Sponsor: Tanya Smith, City Secretary

Reviewed By CBC: City Council

Agenda Caption: Presentation proclaiming November 2023 as diabetes awareness month.

Relationship to Strategic Goals:

Recommendation(s):

Summary:

Budget & Financial Summary:

Attachments:

1. National Diabetes Awareness Month



Proclamation

WHEREAS: more than 37 million Americans live with Type 1, Type 2, or gestational diabetes, and millions more remain at risk of developing the chronic condition; and

WHEREAS: damages the eyes, kidneys, nerves, and heart, and is linked to some types of cancer, in which diabetes can cause death; and

WHEREAS: Type 1 diabetes is a life-threatening auto-immune disease with no current cure, in which the pancreas is attacked and no longer functions properly, severely damaging mental and physical health; and

WHEREAS: Diabetics that experience blood sugar highs often feel sweaty or hot, and diabetics that experience lows often feel faint and shaky; and

WHEREAS: the diabetes community is grateful for recent advances that make everyday life easier and encourage the development of better treatments, affordable life-saving medicines, and ultimately, a cure; and

WHEREAS: we support medical research and the continuing care of diabetes and invite others to support the diabetes community by sharing stories, information, and prayers.

NOW, THEREFORE, I, John P. Nichols, by virtue of the authority vested in me as Mayor of the City of College Station, Texas, do hereby proclaim November 2023 as

National Diabetes Awareness Month

We encourage citizens to raise awareness of diabetes and support efforts to increase public awareness so individuals can recognize symptoms and understand available resources and options.

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

John P. Nichols
Mayor

Attest:

Tanya Smith
City Secretary

November 9, 2023
Item No. 5.2.
Veterans Day Proclamation

Sponsor: Tanya Smith, City Secretary

Reviewed By CBC: City Council

Agenda Caption: Presentation proclaiming November 11th as Veterans Day.

Relationship to Strategic Goals:

- Good Governance

Recommendation(s): Staff recommends Council receive the proclamation.

Summary: World War I – known at the time as “The Great War” – officially ended when the Treaty of Versailles was signed on June 28, 1919, in the Palace of Versailles outside the town of Versailles, France. However, fighting ceased seven months earlier when an armistice, or temporary cessation of hostilities, between the Allied nations and Germany went into effect on the eleventh hour of the eleventh day of the eleventh month. For that reason, November 11, 1918, is generally regarded as the end of “the war to end all wars.”

Veterans Day continues to be observed on November 11, regardless of what day of the week on which it falls. The restoration of the observance of Veterans Day to November 11 not only preserves the historical significance of the date, but helps focus attention on the important purpose of Veterans Day: A celebration to honor America’s veterans for their patriotism, love of country, and willingness to serve and sacrifice for the common good.

Budget & Financial Summary: None.

Attachments:

1. Veterans Day



Proclamation

Office of the Mayor

WHEREAS: President Woodrow Wilson first proclaimed Armistice Day, commonly recognized as Veterans Day, on November 11, 1919, commemorating the signing of the Armistice agreement between the Allies and Germany, which formally ended the major hostilities of World War I on the 11th hour of the 11th day of the 11th month in 1918; and

WHEREAS: in 1954, President Dwight Eisenhower signed a law designating the 11th of each November as Veterans Day; and

WHEREAS: on Veterans Day and every day, we remember the men and women who have served our country and defended our freedom from all enemies, both foreign and domestic. From the ground we walk, to the skies we see, and the waters that flow, our Veterans have ensured the continued safety of our great nation; and

WHEREAS: we honor their bravery, commitment, and sacrifice, and express our deep gratitude for their service and owe them an incredible debt that can never be fully repaid; and

WHEREAS: as a city that values the contributions and sacrifices made by our veterans, their loved ones, and supporters, we are proud to honor them on Veterans Day; and

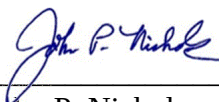
WHEREAS: The City of College Station was recognized by Texas Veterans Commission as Employer of the Year in 2022 and have earned the “We Hire Vets” designation from Texas Workforce Commission and Texas Veterans Commission every year since 2018; and

WHEREAS: approximately 13% of the City’s workforce has served our great country.

NOW, THEREFORE, I, John P. Nichols, as Mayor of the City of College Station, Texas, and on behalf of the entire College Station City Council, do hereby proclaim November 11, 2023, as

Veterans Day

and ask that you join me in thanking our veterans, their loved ones and supporters for their selfless sacrifice and continued support of our nation and our community.



John P. Nichols
Mayor

Attest:



Tanya Smith
City Secretary

Proclaimed this 11th day of November 2023

November 9, 2023
Item No. 7.1.
Minutes

Sponsor: Tanya Smith, City Secretary

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action of minutes for:
• October 26, 2023 Council Meeting

Relationship to Strategic Goals:

- Good Governance

Recommendation(s): Recommends Approval.

Summary: N/A

Budget & Financial Summary: None

Attachments:

1. CCM102623 DRAFT Minutes

MINUTES OF THE CITY COUNCIL MEETING
IN-PERSON WITH TELECONFERENCE PARTICIPATION
CITY OF COLLEGE STATION
OCTOBER 26, 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
Kimberly Dickey, Records Management Administrator

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

With a quorum present, the meeting of the College Station City Council was called to order by Mayor Nichols via In-Person and Teleconference at 4:01 p.m. on October 26, 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 4:01 p.m. on October 26, 2023, to continue discussing matters pertaining to:

2.1. Consultation with Attorney to seek advice regarding pending or contemplated litigation, to wit:

- Kathryn A. Stever-Harper as Executrix for the Estate of John Wesley Harper v. City of College Station and Judy Meeks; No. 15,977-PC in the County Court No. 1, Brazos County, Texas; and
- McCrory Investments II, LLC d/b/a Southwest Stor Mor v. City of College Station; Cause No. 17-000914-CV-361; In the 361st District Court, Brazos County, Texas; and
- Shana Elliott and Lawrence Kalke v. City of College Station, et al., Cause No. 22-001122-CV-85, in the 85th District Court, Brazos County, Texas; and

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

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

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

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 6:09 p.m. No action was taken.

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

5. PRESENTATION - PROCLAMATIONS, AWARDS, AND RECOGNITIONS.

5.1. Presentation proclaiming October 2023 as Arteriovenous Malformation Awareness Month.

Mayor Nichols presented a proclamation marking October 2023 as “Arteriovenous Malformation Awareness Month” to Rilynn Lewis.

5.2. Presentation proclaiming the week of November 6th-10th, 2023 as Municipal Court Week.

Mayor Nichols presented a proclamation of November 6th-10th of 2023 as “Municipal Court Week” to Judge Spillane and Municipal Court Staff.

6. Hear Visitors Comments.

Shenicka Foley, College Station, came before Council to thank Council for the Wyatt Place. The Wyatt Place is a project the Council has supported for habitat homes that she will eventually call home for her and her children.

Kimberly Topp, College Station, came before Council to request the to invest in a park with a dirt path/track for the College Station Mountain Bike Team and community to ride on. She stated that the team has been active since 2011 with 30 students and 17 volunteer coaches for the 2024 season. She went to suggest a few locations that dirt trails could be developed, such as Wolf Peen Creek Park, Rock Prairie Elementary School, and Southeast Community Park.

Neo Jang, College Station, came before Council in support of the Mountain Bike Trails.

Mary Linne, Bryan, came before Council regarding the Northeast Trunkline and sharing her concern that discussions still include a Rosemary route.

7. CONSENT ITEMS

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

No items pulled for discussion.

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

- **October 12, 2023, Council Meeting**

7.2. Presentation, discussion, and possible action on Resolution No. 10-26-23-7.2 authorizing an interlocal agreement for Gateway Monument Sign No. 3 with the Texas Department of Transportation (TXDOT).

7.3. Presentation, discussion, and possible action regarding Resolution No. 10-26-23-7.3 authorizing the application for the Bureau of Reclamation Water Resources and Planning Office WaterSMART Drought Response Program for the Well 6 Capacity Rehabilitation project.

7.4. Presentation, discussion, and possible action on Resolution No. 10-26-23-7.4 authorizing a license agreement with Wolf Den BCS, LLC pertaining to the approximately 0.41 square foot building encroachment, into the 15-foot public utility easement located on Lot 5, Block 1 of the Wolf Den Subdivision, according to the plat recorded in volume 18520, page 28 of the Official Public Records of Brazos County, Texas, more commonly known as 4138 Jeanne Drive.

7.5. Presentation, discussion, and possible action on a contract renewal with the Reynolds Company, LLC for the annual purchase of Water SCADA infrastructure products and services for an amount not to exceed \$216,000.

Councilmember Williams stepped out of the meeting.

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

8. WORKSHOP ITEMS

8.1. Presentation, discussion, and possible action on an update on Texas A&M Off-Campus Student Services Office operations.

Barbara Moore, Assistant to the City Manager, introduced Dr. Steffanie Baker, Director of Student Life and General Ramirez, Vice President for Student Affairs, to present a brief overview of the off-campus student services.

12th Class Day enrollment 2023

- 56,779 Undergraduate
- 12,209 Graduate
- 68,988 Total College Station campus students
- 78,090 Total TAMU Count (College Station, HSC, Qatar, Galveston)

Remember Me +3 Educational Campaign

- Fall 2023 Planned Activities
- Student Life is currently planning for fall education. Our planning timeline includes:
 - ✓ June 2023
 - Initial creative call to plan the upcoming campaign – focused on Core Value of Integrity for image design.
 - Items included in fall campaign: bulk mail to all students, Campus ESP outreach, Yard Signs for across campus, Digital signage, Social Media content calendar items, sandwich boards, OCSS web page updates, new Koldus Banner
 - ✓ July
 - Design concepts full created and approved with intent to have all materials completed by August.
 - ✓ September
 - Launch fall campaign with email and social media blasts
 - Campaign will run mid-September to November

New Student Conferences Efforts

- Updated Online Orientation content - completed by all incoming undergraduate students, to create a more engaging video to further highlight important city ordinances like the “no more than 4” ordinance.
- Videos Playing prior to Welcome to Aggieland Session and Financial Matters - the code video and the Remember Me +3 video from online orientation play in rotation with a few other vides the 20 minutes prior to the start of the two all call NSC sessions. Both students and family members are in these sessions.
- Orientation Leaders discuss during small group sessions.
- Website Enhancements - that include additional information about leases and other off campus responsibilities continue to be added.
- Collaborative coordination with Residence Life - to shift students who will not be living on campus to Student Life for support and additional educational information.

Off Campus Student Services (OCSS) office - Staffing Overview

- Assistant Director
- Community Liaison
- Neighborhood Specialist
- Off Campus Housing Specialist
- Administrative Coordinator
- *Four of Five positions were filled by August 16, 2023*
- Over \$400k in staffing resources invested by Texas A&M University!

OCSS Office - Initiatives & Future Projects

- Gig'em List in partnership with Debbie Eller and team.
- Staff training and orientation.
- Neighborhood engagement efforts.

- On-going “good neighbor” education and engagement for off campus students.
- Smart leasing workshops and materials.
- Individual consultation and support for students facing housing challenges.
- Ongoing communication and outreach via parent and family channels.
- Regular meetings between College Station leaders, TAMU administration, and TAMU student leaders to assess progress and address new issues as they arise.

Mayor Nichols opened for Citizen Comments.

Liana Vincent, College Station, spoke to as the first of several speakers on a single presentation to Council regarding what the Occupancy Enforcement Alliance (OEA) refers to as “taking the final steps” on enforcement of the occupation ordinance. She highlighted the following areas for the OEA: they recognize that the University has worked to educate students, education should be paired with enforcement they are trusting the City and Council to move to enforcement as neighborhoods have compromised while having realistic expectation as they see NMT4 as too generous.

Shirley Dupriest, College Station, continued where the previous speaker left off and came before Council to recommend a Occupancy Disclosure Statement be included Leases and Home Sales. She stated that a signature by owner and tenants will prove they know the law in case of a violation.

What does an occupancy disclosure do?

- Signature by owner and tenants prove they know the law.
- Signed disclosure required for rental or purchase agreements.
- Describes the ordinance in layman’s terms.
- Communicates the potential fines in layman’s terms.
- States fine for owner if unable to provide signed disclosure.

Why is the disclosure important?

- Ensures tenants are aware of occupancy limits and fines (A five-bedroom house does not mean you may have 5 tenants)
- Ensures investors understand rent will be paid by only 4 tenants and advertise accordingly.
- Ensures co-signers (parents) are aware total rent is paid by only 4 tenants.
- Civil penalty removes potential “criminal record” for tenants.

Jacob McFarland, College Station, continued to speak for the OEA and stated that the city should engage in meaningful consequences and communication. They would like to see the City maintain the current fines as allowed by state law and establish and publish a grace period between fines and apply it uniformly. In addition, they would like to establish attainable and fair standards of evidence which they define as the following: use evidence from citizens, use a simple metrics (e.g., cars per house X number of days per month), issue citations consistently (minimize need for judgement from city officials), and allow violators to respond in court if needed.

Fred Dupriest, College Station, came before Council speaking for the OEA to draw a contrast between civil vs. criminal enforcement and finalize the workflow previously proposed. He put forth that the primary objective is to reduce the threshold of evidence required to convict, secondary objective is to avoid creating a criminal record, and if there are consequences Civil will be more effective than Criminal.

Lloyd Davis, College Station, came before Council as a speaker from the OEA to encourage the council to continue testing and modifying the processes to affectively address enforcement moving

forward. He concluded that no future council will be as engaged and well educated on this issue than one currently elected.

Katherine Edwards, College Station, came before Council as a member of the OEA requesting Council to protect our neighborhoods and the long-term residents here in College Station. She stated that there is affordable housing in the city but the students' expectations are that they live in family neighborhoods, close to campus, with as many people as they want. She asks council to enforce the occupancy ordinance as promised in June of this year.

Leigh James, College Station, came before Council and stated that the university has resources to address this issue, there are good landlords who enforce the occupancy ordinance, and it is time to protect the city's permanent residents.

Bill Griffin, College Station, came before Council to speak on enforcement of the occupancy ordinance and request the university do more to house the students as only 15% of students can have on-campus housing.

There being no further comments, the Citizen Comments was closed.

Councilmember Williams returned to meeting.

9. REGULAR ITEMS

9.1. Presentation, discussion, and possible action related to Resolution No. 10-26-23-9.1 creating a Texas Music Friendly Advisory Committee.

Brian Piscacek, Assistant Director Economic Development, stated that in March 2023, the City of College Station initiated the certification process to become Texas Music Friendly and hosted a Texas Music Friendly workshop that was open to the public. Since the workshop, College Station has been working through the required certification steps to accomplish being one of Texas' music friendly cities and will be presented as the fifty-first Texas Music Friendly City on November 2, 2023. During this process, staff have adopted a monthly gathering for local musicians known as "Hang Out & Tune In". These monthly mixers allow local musicians to network with one another, hear from individuals in the music industry, connect with venue owners, and showcase their talent during an open mic hour.

The Texas Music Friendly program was first introduced in 2016 by the Texas Music Office and is the only Music Friendly Community Program in the U.S. This program provides Texas communities with a network to foster music industry growth and development. This resolution is the creation of a Texas Music Friendly Advisory Committee will assist in providing strategic direction to promote and support the industries within the city that directly impact the commercial music ecosystem. The Texas Music Friendly Advisory Committee shall be composed of up to twenty-five (25) local individuals qualified as set forth in the preamble. The City Council of the City of College Station shall delegate authority to the City Manager or his designee to appoint, remove, and fill vacancies for all members of the Texas Music Friendly Advisory Committee.

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 approve Resolution No. 10-26-23-9.1, creating a Texas Music Friendly Advisory Committee. The motion carried.

Mayor Nichols recessed the meeting at 8:13 p.m.

The meeting reconvened at 8:23 p.m.

9.2. Public Hearing, presentation, discussion, and possible action on Ordinance No. 2023-4475 vacating and abandoning a 0.058-acre portion of right-of-way, generally located between Lots 5, 6, & 7 of Block 1 of the Southeast College Park Subdivision, also known as 802 Dexter Drive South.

Parker Mathews, Planning and Development, stated that the right-of-way abandonment is being requested by the applicant to remediate a discrepancy between city and county platting. The original orientation of this property included a 15' alley, however a replat was filed at the county that matches the current developed condition of the property. This discrepancy was identified as the owner is wishing to replat the lot to adjust lot lines. The purpose of the abandonment is to remove the existing city ROW from the already developed lot.

At approximately 8:25 p.m., Mayor Nichols opened the Public Hearing.

There being no further comments, the Public Hearing was closed at 8:25 p.m.

MOTION: Upon a motion made by Councilmember Yancy and a second by Councilmember Harvell, the City Council voted seven (7) for and non (0) opposed, to adopt Ordinance No. 2023-4475, vacating and abandoning a 0.058-acre portion of right-of-way, generally located between Lots 5, 6, & 7 of Block 1 of the Southeast College Park Subdivision, also known as 802 Dexter Drive South. The motion carried unanimously.

9.3 Public Hearing, presentation, discussion, and possible action regarding Ordinance No. 2023-4476 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 PDD Planned Development District for approximately 2.799 acres located at 1115 Anderson Street, generally located at the intersection of Anderson Street and Clement Street, east of Holleman Drive.

Gabriel Schrum, Planning and Development, stated that this request is to change the existing zoning from GS General Suburban to PDD Planned Development District with a base zoning of MF Multi-Family and associated Concept Plan on approximately 2.799 acres.

The applicant is requesting the following modifications to the base zoning of MF:

- To reduce the minimum number of dwelling units per acre from the required 12, to 3.
- To reduce the parking requirements from one space per bedroom to one space for the first bedroom and then 0.5 space for each additional bedroom. The current requirement for multi-family is 1.5 spaces for one-bedroom units and 1.0 space per bedroom for units with two or more bedrooms.

The applicant is providing a community benefit of landscaping and streetscaping.

Staff recommends approval of the rezoning request and associated Concept Plan. The rezoning request is consistent with the Comprehensive Plan, and the requested modifications and provided benefits help ensure compatibility with adjacent properties. In addition, the additional landscape being proposed, along with streetscaping will limit any adverse impacts on the adjacent properties. By zoning the

property PDD and having the associated Concept Plan, it further illustrates the location and details of the proposed use on the property. The Planning and Zoning Commission heard this item at their October 5, 2023 meeting and voted 5-0 to recommend approval.

At approximately 8:38 p.m., Mayor Nichols opened for Citizen Comments.

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

MOTION: Upon a motion made by Councilmember Wright and a second by Councilmember Maloney, the City Council voted seven (7) for and non (0) opposed, to adopt Ordinance No. 2023-4476, 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 PDD Planned Development District for approximately 2.799 acres located at 1115 Anderson Street, generally located at the intersection of Anderson Street and Clement Street, east of Holleman Drive.. The motion carried unanimously.

Regular Items No. 9.4 thru 9.7 were presented together with the exception of 9.7e which was presented separately due to Mayor Nichols recusing.

9.4. Public Hearing, presentation, discussion, and possible action regarding Ordinance No. 2023-4477 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 as follows:

- a. **From MH Middle Housing or R-4 Multi-Family to MH Middle Housing and HOO High Occupancy Overlay or R-4 Multi-Family and HOO High Occupancy Overlay for approximately 2.85 acres being The Cooner Addition, Block 1, Lots 10-19, generally located along Cooner Street;**
- b. **From D Duplex or MH Middle Housing to MH Middle Housing and HOO High Occupancy Overlay for approximately 4.6 acres being The Cooner Addition, Block 1, Lots 20-30, and Block 5, Lots 1-8, generally located along Cooner Street;**
- c. **From D Duplex or MH Middle Housing to MH Middle Housing and HOO High Occupancy Overlay for approximately 5.4 acres being College Vista, Block E, Lots 1-14, Block F, Lots 1-10, Block G, Lots 1-5, Block H, Lots 1-3, 4R-5R, and 6-7, generally located along Live Oak Street and Ash Street;**
- d. **From D Duplex or MH Middle Housing to MH Middle Housing and HOO High Occupancy Overlay for approximately 5.11 acres being University Oaks Phase 2, Block 5, Lots 1-13, 14R1-14R2, 15A1-15A2, 16A1-16A2, 21-23, 24A1-24A2, and 25R, generally located along Dominik Drive;**
- e. **From MH Middle Housing to MH Middle Housing and HOO High Occupancy Overlay for approximately 4.66 acres being Little-Knight Addition, Lots 1-18, generally located along Aurora Court, and;**
- f. **From GS General Suburban or MH Middle Housing to MH Middle Housing and HOO High Occupancy Overlay for approximately 23.62 acres being all of that certain tract or parcel of land lying and being situated in the Joseph E. Scott League, Abstract No. 50, and Crawford Burnett League, Abstract No. 7, in College Station, Brazos County, Texas, including all of the W.M. Sparks Subdivision as described by plat recorded in Volume 139, Page 261, and portions of West Park Addition and West Park 2nd Addition as described by plats recorded in Volume 102, Page 198 and Volume 128, Page 574, respectively, of the Deed Records of Brazos County, Texas, as well as subsequent replats**

of portions of these subdivisions in an area generally bounded by Luther Street, Montclair Avenue, Grove Street, and Maryem Street.

9.5. Public Hearing, presentation, discussion, and possible action regarding Ordinance No. 2023-4478 amending Appendix A, Unified Development Ordinance, Section 6.3 “Types of Use” of the Code of Ordinances of the City of College Station, Texas, for modifications to the shared housing use in the MH Middle Housing zoning district.

9.6. Public Hearing, presentation, discussion, and possible action regarding Ordinance No. 2023-4479 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 as follows:

- a. From GS General Suburban to MH Middle Housing and HOO High Occupancy Overlay for approximately 2.02 acres being Lincoln Place Phase 2, Block C, Lots 1-16 and 17R, generally located along Lincoln Avenue;
- b. From D Duplex to MH Middle Housing and HOO High Occupancy Overlay for approximately 4.12 acres being Timber Ridge Addition Phase 1, Block 2, Lots 13-24, Block 3, Lots 12-22, generally located along University Oaks Boulevard;
- c. From D Duplex to MH Middle Housing and HOO High Occupancy Overlay for approximately 6.71 acres being Parkway Plaza Phase 5, Block 1, Lots 1-15, Block 2, Lots 1-12, generally located along Pine Ridge Drive;
- d. From GS General Suburban or D Duplex to MH Middle Housing and HOO High Occupancy Overlay for approximately 19.34 acres being Autumn Chase, Block 1, Lots 1-7, Brentwood Section Two, Block 4, Lots 1-30, Block 5, Lots 1-23, Block 6, Lots 1-4, and Brentwood Section Three Subdivision, generally located along Cornell Drive, Brentwood Drive, and Southwest Parkway;
- e. From D Duplex to MH Middle Housing and HOO High Occupancy Overlay for approximately 5.8 acres being Ashford Square Subdivision Replat, Volume 3202, Page 61, generally located along Ashford Drive;
- f. From D Duplex to MH Middle Housing and HOO High Occupancy Overlay for approximately 8.15 acres being Pecan Tree Estates Phase One Subdivision and Pecan Tree Estates Phase Two Subdivision, save and except 0.687 acres labeled "Park," generally located along Oney Hervey Drive;
- g. From GS General Suburban or T Townhouse to MH Middle Housing and HOO High Occupancy Overlay for approximately 28.4 acres being University Heights Phase 1 Subdivision, save and except Common Area 4, and University Heights Phase 2 and 3 Subdivision, generally bounded by Paloma Ridge Drive, Feather Run, Davidson Drive, and Holleman Drive South;
- h. From R Rural to MH Middle Housing and HOO High Occupancy Overlay for approximately 8.8 acres being Las Palomas Subdivision, generally bounded by Abbate Road, Feather Run, Kenyon Drive, and Holleman Drive South;
- i. From T Townhouse to MH Middle Housing and HOO High Occupancy Overlay for approximately 12.85 acres being The Barracks II Phase 111 Subdivision, and The Barracks II Phase 112, Block 38, Lots 1-24, Block 39, Lots 1-10, Common Area 13 and Parkland 12, generally bounded by Towers Parkway, Goldilocks Lane, and Cain Road;
- j. From T Townhouse to MH Middle Housing and HOO High Occupancy Overlay for approximately 18.83 acres being Pershing Pointe Villas Phase 1 Subdivision, Volume 14370, Page 149, and Pershing Pointe Villas Phase 2A Subdivision, generally bounded by Deacon Drive West, Towers Parkway, Oak Crest, and Holleman Drive South, and;

- k. From GS General Suburban or T Townhouse to MH Middle Housing and HOO High Occupancy Overlay for approximately 55.49 acres being The Barracks Phase 1 Subdivision, The Barracks Phase 2 Subdivision, Williamsgate Phase 1 Subdivision, Buena Vida Subdivision, 12 at Rock Prairie Phase 1 Subdivision, 12 at Rock Prairie Phase 2 Subdivision, and 12 at Rock Prairie Phase 3 Subdivision, generally bounded by Rock Prairie Road West, Towers Parkway, Deacon Drive West, and General Parkway.

9.7. Public Hearing, presentation, discussion, and possible action regarding Ordinance No. 2023-4480 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 as follows:

- a. From GS General Suburban or T Townhouse to MH Middle Housing for approximately 15.5 acres being The Dobrovolny Subdivision and Holleman Ridge Subdivision, generally bounded by Anderson Street, Holleman Drive, and Charles Court;
- b. From GS General Suburban or T Townhouse to MH Middle Housing for approximately 9.73 acres being Lemon Tree Addition, Block 1, Lots 1-11, Block 2, Lot 1, Block 3, Lots 1-11, and Parkway Plaza Phase 4, Block 3, Lots 1-14, Block 4, Lots 1-9, generally bounded by Anderson Street, Cedar Run, and Lemon Tree Lane;
- c. From D Duplex to MH Middle Housing for approximately 7.03 acres being Brentwood Section Five, Block 1, Lots 1-16 and Block 4, Lots 1-11, generally located along Colgate Circle and Stanford Circle;
- d. From T Townhouse to MH Middle Housing for approximately 6.85 acres being Eastmark Phase II, Block E, Lots 1R-5R and Lots 16-40, generally located along Kalanchoe Court, Camelia Court, and Azalea Court;
- e. From T Townhouse to MH Middle Housing for approximately 7.4 acres being Krenek Crossing Subdivision, Volume 6187, Page 138, generally located along Nelson Lane, Thornton Court, and Camp Court; (Presented separately)
- f. From GS General Suburban to MH Middle Housing for approximately 3.87 acres being Chalet Village Subdivision, Volume 420, Page 91, generally located along Swiss Court and Chalet Court;
- g. From R Rural or D Duplex to MH Middle Housing for approximately 43.6 acres being Steeplechase Phase One Subdivision, Steeplechase Phase Two Subdivision, and Steeplechase Phase Three Subdivision, generally bounded by Navarro Drive, FM 2154, Balcones Drive, and Welsh Avenue;
- h. From GS General Suburban, R-1B Single Family Residential, or D Duplex to MH Middle Housing for approximately 38.1 acres being Steeplechase Phase Five Subdivision, Steeplechase Phase Six Subdivision, Southwood Valley Section 23 Subdivision, Volume 525, Page 647, and West Ridge, Block 5, Lots 1A-1B, 2A-2B, 3A-3B, 4A-4B, 5A-5B, 6A-6B, 7A-7B, 8A-8B, 9A-9B, 10A-10B, 11A-11B, 12A-12B, 13A-13B, 14A-14B, 15A-15B, 16A-16B, 17A-17B, 18A-18B, 19A-19B, 20A-20B, 21A-21B, 22A-22B, 23A-23B, 24A-24B, and 25A-25B, generally bounded by Deacon Drive, FM 2154, Navarro Drive, and Welsh Avenue; and
- i. From D Duplex to MH Middle Housing for approximately 14.6 acres being Southwood Valley Section 22B, Block 47, Lots 1-14, Block 48, Lots 1-15 and 20-34, Block 49, Lots 14-29, and Southwood Valley Section 22C, Block 45, Lots 21A-21B, 22A-22B, 23A-23B, 24A-24B, 25A-25B, 26A-26B, 27A-27B, 28A-28B, Block 47, Lots 25A-25B, 26A-26B, 27A-27B, 28A-28B, 29A-29B, 30A-30B, 31A-31B, and 32A-32B, generally bounded by Deacon Drive, Welsh Avenue, Navarro Drive, and Pedernales Drive.

Michael Ostrowski, Planning and Development Director, stated that at the August 10th City Council meeting, City staff presented each of these areas along with the feedback staff received during the public engagement process. At the meeting, the City Council gave direction for staff to move forward with bringing these areas as official rezoning cases. After considering the rezoning criteria, City staff has determined that each of these areas are appropriate for rezoning to MH Middle Housing with a HOO High Occupancy Overlay, or R-4 Multi-Family with a HOO High Occupancy Overlay. The HOO High Occupancy Overlay would allow the shared housing use if the property met the requirements for that use. This item combines several City-initiated rezoning cases to MH Middle Housing and HOO High Occupancy Overlay. These requests include areas where at least one lot is already zoned MH Middle Housing, which was previously done through a privately initiated request. These areas need to be considered separately and before the ordinance amendment to remove shared housing as a permitted use from MH Middle Housing. The other City-initiated rezoning cases will be considered under separate actions.

The Planning and Zoning Commission heard this item at their October 5, 2023 meeting and voted 5-0 to recommend approval.

At approximately 9:07 p.m., Mayor Nichols opened the Public Hearing for items 9.4 through 9.7, with the exception of 9.7e.

Diana Wood, College Station, came before Council regarding unintended consequences of the proposed rezonings to MH Middle Housing as these are sensitive areas. She requested Council do more research before moving forward and approving these proposed rezonings.

Blanche Brick, College Station, stated while she supports the creation of these districts but is not in support all the areas Council is now being asked to rezone. She does support the proposals that CSAN has provided the Council, believes they have provided a service to the community, and requests council to look at their proposals and consider what they have put forward instead.

Katie Perkins, College Station, came before Council in hopes to convince Council to not do what is most convenient when it comes to the proposed rezoning areas. Ms. Perkins requested Council to consider the following when making decisions: notices of June planning meetings were not received by property owners affected by the proposed rezoned areas, after inquiring about submitting a petition, one proposed rezoning area is no longer on tonight's agenda, and she believes rezoning criteria has not been met for several proposed rezoning areas up for a vote tonight.

Rodger Lewis, College Station, stated that he did not receive a notice of the proposed rezoning but besides that these properties should be done separately.

Luke Morrison, College Station, came before Council in support of middle housing and high occupancy and how crucial it is for the students to have affordable housing here in the city.

Ben Crocket, College Station, came before Council in support of working with Council on middle housing and would like council to continue to this work to provide a diverse range of housing products and services for all residents.

Andrew Applewhite, College Station, came before Council as the Student Body President to speak on behalf of 78,000 students attending the university and request council approve ample amounts of middle housing in support of the students. He believes that this will allow them to comply with local

laws and have the housing they desire. In conclusion he believes the council will do or do not on this issue, there is no try.

There being no further comments, the Public Hearing for items 9.4 through 9.7, with the exception of 9.7e was closed at 9:30 p.m.

(9.4) MOTION: Upon a motion made by Councilmember Wright and a second by Councilmember Cunha, the City Council voted six (6) for and one (1) opposed, with Councilmember Harvell voting again, to adopt Ordinance No. 2023-4477, 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 as follows: a.) From MH Middle Housing or R-4 Multi-Family to MH Middle Housing and HOO High Occupancy Overlay or R-4 Multi-Family and HOO High Occupancy Overlay for approximately 2.85 acres being The Cooner Addition, Block 1, Lots 10-19, generally located along Cooner Street; b.) From D Duplex or MH Middle Housing to MH Middle Housing and HOO High Occupancy Overlay for approximately 4.6 acres being The Cooner Addition, Block 1, Lots 20-30, and Block 5, Lots 1-8, generally located along Cooner Street; c.) From D Duplex or MH Middle Housing to MH Middle Housing and HOO High Occupancy Overlay for approximately 5.4 acres being College Vista, Block E, Lots 1-14, Block F, Lots 1-10, Block G, Lots 1-5, Block H, Lots 1-3, 4R-5R, and 6-7, generally located along Live Oak Street and Ash Street; d.) From D Duplex or MH Middle Housing to MH Middle Housing and HOO High Occupancy Overlay for approximately 5.11 acres being University Oaks Phase 2, Block 5, Lots 1-13, 14R1-14R2, 15A1-15A2, 16A1-16A2, 21-23, 24A1-24A2, and 25R, generally located along Dominik Drive; e.) From MH Middle Housing to MH Middle Housing and HOO High Occupancy Overlay for approximately 4.66 acres being Little-Knight Addition, Lots 1-18, generally located along Aurora Court; and f.) From GS General Suburban or MH Middle Housing to MH Middle Housing and HOO High Occupancy Overlay for approximately 23.62 acres being all of that certain tract or parcel of land lying and being situated in the Joseph E. Scott League, Abstract No. 50, and Crawford Burnett League, Abstract No. 7, in College Station, Brazos County, Texas, including all of the W.M. Sparks Subdivision as described by plat recorded in Volume 139, Page 261, and portions of West Park Addition and West Park 2nd Addition as described by plats recorded in Volume 102, Page 198 and Volume 128, Page 574, respectively, of the Deed Records of Brazos County, Texas, as well as subsequent replats of portions of these subdivisions in an area generally bounded by Luther Street, Montclair Avenue, Grove Street, and Maryem Street.. The motion carried.

(9.5) MOTION: Upon a motion made by Councilmember Smith and a second by Councilmember Wright, the City Council voted six (6) for and one (1) opposed, with Councilmember Harvell voting against, to adopt Ordinance No. 2023-4478, amending Appendix A, Unified Development Ordinance, Section 6.3 “Types of Use” of the Code of Ordinances of the City of College Station, Texas, for modifications to the shared housing use in the MH Middle Housing zoning district. The motion carried.

(9.6) MOTION: Upon a motion made by Councilmember Wright and a second by Councilmember Maloney, the City Council voted five (5) for and two (2) opposed, with Councilmember Harvell and Yancy voting against, to adopt Ordinance No. 2023-4479, 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 as follows: a.) From GS General Suburban to MH Middle Housing and HOO High Occupancy Overlay for approximately 2.02 acres being Lincoln Place Phase 2, Block C, Lots 1-16 and 17R, generally located along Lincoln Avenue; b.) From D Duplex to MH Middle Housing and HOO High Occupancy Overlay for approximately 4.12 acres being Timber Ridge Addition Phase 1, Block 2, Lots 13-24,

Block 3, Lots 12-22, generally located along University Oaks Boulevard; c.) From D Duplex to MH Middle Housing and HOO High Occupancy Overlay for approximately 6.71 acres being Parkway Plaza Phase 5, Block 1, Lots 1-15, Block 2, Lots 1-12, generally located along Pine Ridge Drive; d.) From GS General Suburban or D Duplex to MH Middle Housing and HOO High Occupancy Overlay for approximately 19.34 acres being Autumn Chase, Block 1, Lots 1-7, Brentwood Section Two, Block 4, Lots 1-30, Block 5, Lots 1-23, Block 6, Lots 1-4, and Brentwood Section Three Subdivision, generally located along Cornell Drive, Brentwood Drive, and Southwest Parkway; e.) From D Duplex to MH Middle Housing and HOO High Occupancy Overlay for approximately 5.8 acres being Ashford Square Subdivision Replat, Volume 3202, Page 61, generally located along Ashford Drive; f.) From D Duplex to MH Middle Housing and HOO High Occupancy Overlay for approximately 8.15 acres being Pecan Tree Estates Phase One Subdivision and Pecan Tree Estates Phase Two Subdivision, save and except 0.687 acres labeled "Park," generally located along Oney Hervey Drive; g.) From GS General Suburban or T Townhouse to MH Middle Housing and HOO High Occupancy Overlay for approximately 28.4 acres being University Heights Phase 1 Subdivision, save and except Common Area 4, and University Heights Phase 2 and 3 Subdivision, generally bounded by Paloma Ridge Drive, Feather Run, Davidson Drive, and Holleman Drive South; h.) From R Rural to MH Middle Housing and HOO High Occupancy Overlay for approximately 8.8 acres being Las Palomas Subdivision, generally bounded by Abbate Road, Feather Run, Kenyon Drive, and Holleman Drive South; i.) From T Townhouse to MH Middle Housing and HOO High Occupancy Overlay for approximately 12.85 acres being The Barracks II Phase 111 Subdivision, and The Barracks II Phase 112, Block 38, Lots 1-24, Block 39, Lots 1-10, Common Area 13 and Parkland 12, generally bounded by Towers Parkway, Goldilocks Lane, and Cain Road; j.) From T Townhouse to MH Middle Housing and HOO High Occupancy Overlay for approximately 18.83 acres being Pershing Pointe Villas Phase 1 Subdivision, Volume 14370, Page 149, and Pershing Pointe Villas Phase 2A Subdivision, generally bounded by Deacon Drive West, Towers Parkway, Oak Crest, and Holleman Drive South; and k.) From GS General Suburban or T Townhouse to MH Middle Housing and HOO High Occupancy Overlay for approximately 55.49 acres being The Barracks Phase 1 Subdivision, The Barracks Phase 2 Subdivision, Williamsgate Phase 1 Subdivision, Buena Vida Subdivision, 12 at Rock Prairie Phase 1 Subdivision, 12 at Rock Prairie Phase 2 Subdivision, and 12 at Rock Prairie Phase 3 Subdivision, generally bounded by Rock Prairie Road West, Towers Parkway, Deacon Drive West, and General Parkway. The motion carried.

(9.6) ADMENDED MOTION: Upon a motion made by Councilmember Yancy to postpone:

I. From T Townhouse to MH Middle Housing and HOO High Occupancy Overlay for approximately 12.85 acres being The Barracks II Phase 111 Subdivision, and The Barracks II Phase 112, Block 38, Lots 1-24, Block 39, Lots 1-10, Common Area 13 and Parkland 12, generally bounded by Towers Parkway, Goldilocks Lane, and Cain Road. Motion failed due to lack of second.

(9.7) MOTION: Upon a motion made by Councilmember Wright and a second by Councilmember Maloney, the City Council voted five (5) for and two (2) opposed, with Councilmember Harvell and Yancy voting against, to adopt Ordinance No. 2023-4480, 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 as follows: a.) From GS General Suburban or T Townhouse to MH Middle Housing for approximately 15.5 acres being The Dobrovolny Subdivision and Holleman Ridge Subdivision, generally bounded by Anderson Street, Holleman Drive, and Charles Court; b.) From GS General Suburban or T Townhouse to MH Middle Housing for approximately 9.73 acres being Lemon Tree Addition, Block 1, Lots 1-11, Block 2, Lot 1, Block 3, Lots 1-11, and Parkway Plaza Phase 4, Block 3, Lots 1-14, Block 4, Lots 1-9, generally bounded by Anderson Street, Cedar Run, and Lemon Tree Lane; c.) From D Duplex to MH Middle Housing for approximately 7.03 acres being Brentwood Section Five, Block

1, Lots 1-16 and Block 4, Lots 1-11, generally located along Colgate Circle and Stanford Circle; d.) From T Townhouse to MH Middle Housing for approximately 6.85 acres being Eastmark Phase II, Block E, Lots 1R-5R and Lots 16-40, generally located along Kalanchoe Court, Camelia Court, and Azalea Court; e.) (with the exception of 9.7e); f.) From GS General Suburban to MH Middle Housing for approximately 3.87 acres being Chalet Village Subdivision, Volume 420, Page 91, generally located along Swiss Court and Chalet Court; g.) From R Rural or D Duplex to MH Middle Housing for approximately 43.6 acres being Steeplechase Phase One Subdivision, Steeplechase Phase Two Subdivision, and Steeplechase Phase Three Subdivision, generally bounded by Navarro Drive, FM 2154, Balcones Drive, and Welsh Avenue; h.) From GS General Suburban, R-1B Single Family Residential, or D Duplex to MH Middle Housing for approximately 38.1 acres being Steeplechase Phase Five Subdivision, Steeplechase Phase Six Subdivision, Southwood Valley Section 23 Subdivision, Volume 525, Page 647, and West Ridge, Block 5, Lots 1A-1B, 2A-2B, 3A-3B, 4A-4B, 5A-5B, 6A-6B, 7A-7B, 8A-8B, 9A-9B, 10A-10B, 11A-11B, 12A-12B, 13A-13B, 14A-14B, 15A-15B, 16A-16B, 17A-17B, 18A-18B, 19A-19B, 20A-20B, 21A-21B, 22A-22B, 23A-23B, 24A-24B, and 25A-25B, generally bounded by Deacon Drive, FM 2154, Navarro Drive, and Welsh Avenue; and i.) From D Duplex to MH Middle Housing for approximately 14.6 acres being Southwood Valley Section 22B, Block 47, Lots 1-14, Block 48, Lots 1-15 and 20-34, Block 49, Lots 14-29, and Southwood Valley Section 22C, Block 45, Lots 21A-21B, 22A-22B, 23A-23B, 24A-24B, 25A-25B, 26A-26B, 27A-27B, 28A-28B, Block 47, Lots 25A-25B, 26A-26B, 27A-27B, 28A-28B, 29A-29B, 30A-30B, 31A-31B, and 32A-32B, generally bounded by Deacon Drive, Welsh Avenue, Navarro Drive, and Pedernales Drive. The motion carried.

(9.7) AMENDED MOTION: Upon a motion made by Councilmember Yancy and a second by Councilmember Smith, the City Council voted three (3) for and four (4) opposed, with Mayor Nichols and Councilmember Cunha, Williams and Maloney voting against, to adopt Ordinance No. 2023-4480, 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 with the exception of 9.7e and striking Map 4 in its entirety. The motion failed.

Mayor Nichols recused himself from Regular Item 9.7e and stepped out of the meeting.

Mayor Pro Tem Maloney open Regular Item 9.7e.

Michael Ostrowski, Planning and Development Director, presented Regular 9.7e that from T Townhouse to MH Middle Housing for approximately 7.4 acres being Krenek Crossing Subdivision, Volume 6187, Page 138, generally located along Nelson Lane, Thornton Court, and Camp Court.

At approximately 10:23 p.m., Mayor Pro Tem Maloney opened the Public Hearing for 9.7e.

There being no further comments, the Public Hearing for 9.7e was closed at 10:23 p.m.

(9.7e) MOTION: Upon a motion made by Councilmember Wright and a second by Councilmember Smith, the City Council voted five (5) for and one (1) opposed, with Councilmember Harvell voting against and Mayor Nichols abstaining, to adopt Ordinance No. 2023-4480, 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 as follows:

e. From T Townhouse to MH Middle Housing for approximately 7.4 acres being Krenek Crossing Subdivision, Volume 6187, Page 138, generally located along Nelson Lane, Thornton Court, and Camp Court. The motion carried.

9.8. Public Hearing, presentation, discussion, and possible action regarding Ordinance No. 2023-4481 amending Appendix A, Unified Development Ordinance, "Article 4, Zoning Districts," Section 4.2 "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas by changing the zoning district boundary from GS General Suburban to MH Middle Housing and HOO High Occupancy Overlay for approximately 0.23 acres generally located at 701-703 Turner Street.

Robin Macias, Planning and Development, stated that this request is to rezone approximately 0.23 acres of land generally located at 701–703 Turner St from GS General Suburban to MH Middle Housing and HOO High Occupancy Overlay. The subject property is currently developed. It is the applicant's intent to establish a legal shared housing use through the site plan process. The uses allowed by MH Middle Housing and the HOO High Occupancy Overlay provide for an increase in density that is marketable given the location of the property.

The Planning & Zoning Commission heard this item at their October 5, 2023 meeting and voted 5-0 to recommend approval.

At approximately 10:29 p.m., Mayor Nichols opened the Public Hearing.

There being no further comments, the Public Hearing was closed at 10:29 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. 2023-4481, amending Appendix A, Unified Development Ordinance, "Article 4, Zoning Districts," Section 4.2 "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas by changing the zoning district boundary from GS General Suburban to MH Middle Housing and HOO High Occupancy Overlay for approximately 0.23 acres generally located at 701-703 Turner Street. 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.

Councilmembers Cunha reported on Wolf Pen Creek Crawl Event, Early Voting, and recognized the Public Communication Department for the new events calendar on the city website.

Councilmembers Wright reported on the Mural Fest Event.

Councilmember Maloney reported on the Lick Creek Wastewater Treatment Plant Ribbon Cutting Ceremony, Farmers Market, and Future Baseball Fields Public Meeting.

Councilmember Smith reported on the 85th Anniversary of the City of College Station Celebration on October 18th.

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

Nothing to report at this time.

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

Nothing to report at this time.

14. Adjournment.

There being no further business, Mayor Nichols adjourned the meeting of the City Council at 10:45 p.m. on Thursday, October 26, 2023.

John P. Nichols, Mayor

ATTEST:

Tanya Smith, City Secretary

November 9, 2023
Item No. 7.2.
Monitor/Defibrillator 12-lead ECG Purchase

Sponsor: Richard Mann, Chief of Fire and Emergency Services

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding the purchase of 10 Monitor/Defibrillators 12-lead ECG from Zoll Medical Corporation for \$331,122.

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 Zoll Medical Corporation for the purchase of 10 Monitor/Defibrillators 12-lead ECG.

Summary: The City of College Station Fire Department has strived to maintain the best Emergency Medical equipment for our personnel to serve and protect the citizens of College Station. The purchase will update our cardiac monitors to allow these newest monitors to be placed on each ambulance.

Budget & Financial Summary: Funding for this purchase will be completely paid for with grant funds available from an Assistance to Firefighter Grant (AFG Grant ID: EMW-2020-FG-12770). Zoll Medical Corporation is on the GSA schedule, also known as Federal Supply Schedule for pricing.

Attachments:

1. Zoll Medical Quote

**ZOLL Medical Corporation**

269 Mill Road
Chelmsford, MA 01824-4105
Federal ID# 04-2711626

Phone: (800) 348-9011

Fax: (978) 421-0015

Email: esales@zoll.com

Quote No: Q-62746 Version: 4

College Station Fire Department
300 Krenak Tap Road
College Station, TX 77840

ZOLL Customer No: 165610

Richard Mann
(979) 764-3715

Quote No: Q-62746

Version: 4

Issued Date: October 9, 2023
Expiration Date: December 31, 2023

Terms: NET 30 DAYS

FOB: Destination

Freight: Free Freight

Prepared by: Steve Bagwell
EMS Territory Manager
sbagwell@zoll.com
+1 8329287574

Item	Contract Reference	Part Number	Description	Qty	List Price	Adj. Price	Total Price
1		601-2231111-01	X Series Advanced Monitor/Defibrillator - 12-Lead ECG, Pacing, SpO2, SpCO, EtCO2, BVM, NIBP, CPR Expansion Pack Includes: TBI Dashboard, 4 trace tri-mode display monitor/ defibrillator/ printer, advisory algorithm, advanced communications package (Wi-Fi, Bluetooth, USB cellular modem capable) USB data transfer capable and large 6.5in (16.5cm) diagonal screen. Accessories Included: MFC cable and CPR connector, A/C power cord, One (1) roll printer paper, 6.6 Ah Li-ion battery, Operators Manual, Quick Reference Guide, and One (1)-year EMS warranty. Parameter Details: Real CPR Help - Dashboard display of CPR Depth and Rate for Adult and Pediatric patients, Visual and audio prompts to coach CPR depth (Adult patient only), Release bar to ensure adequate release off the chest, Metronome to coach rate for Adult and Pediatric patients. See-Thru ® CPR artifact filtering • Interpretative 12-Lead ECG (Full 12 ECG lead view with both dynamic and static 12-lead mode display. 12-Lead OneStep ECG cable - includes 4-Lead limb lead cable and removable precordial 6-Lead set) • ZOLL Noninvasive Pacing Technology • Real BVM Help: Dashboard provides real-time ventilation feedback on both volume and rate for intubated and non-intubated patients. AccuVent Cable included. (Accuvent disposable sensors sold separately) • Welch Allyn NIBP with Smartcuff. 10 foot Dual Lumen hose and SureBP Reusable Adult Medium Cuff • Masimo SpO2 & SpCO with Signal Extraction Technology (SET), Rainbow SET® • EtCO2 Oridion Microstream Technology. Microstream tubing set sold separately •	10	\$52,644.00	\$35,814.00	\$358,140.00
2	1176471	8300-000676	OneStep Cable, X Series	20	\$544.00	\$327.25	\$6,545.00

**ZOLL Medical Corporation**

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College Station Fire Department
Quote No: Q-62746 Version: 4

Item	Contract Reference	Part Number	Description	Qty	List Price	Adj. Price	Total Price
3	1176471	8009-0020	CPR-D-padz and CPR Stat Padz Connector for R Series	20	\$471.00	\$288.75	\$5,775.00
4	1176471	8900-000220-01	OneStep Pediatric CPR Electrode (8 per case)	4	\$831.00	\$500.50	\$2,002.00
5	1343184	8000-001128	Accuvent Flow Tube (Box of 10)	10	\$762.00	\$762.00	\$7,620.00
6		8707-000502-01	X Series Accessory Carry Case - Printer Chute with Single Zipper	9	\$634.00	\$0.00	\$0.00
7		8400-110041	CaseReview Premium Subscription, X Series, 1 Year- Hosted Provides detailed post-case information, including CPR quality on compression depth, rate, pause time and release velocity, as well as ECG, shocks, EtCO2 and SpO2 vital signs.	10	\$604.00	\$604.00	\$6,040.00
8		6008-9901-61	ZOLL X Series Trade In Allowance (EMS Group) See Trade Unit Considerations.	10		(\$5,500.00)	(\$55,000.00)

Subtotal: \$331,122.00

Total: \$331,122.00

Contract Reference	Description
1176471	Pricing is based on ZOLL's Federal Supply Schedule Contract No. V797D-40135.
1343184	Reflects Public Safety Association Inc contract pricing, agreement number PSAI 2021-06. Notwithstanding anything to the contrary herein, the terms and conditions set forth in contract PSAI 2021-06, shall apply to the customer's purchase of the products set forth on this quote.

Trade Unit Considerations

Trade-In values valid through December 31, 2023 if all equipment purchased is in good operational and cosmetic condition and includes all standard accessories. Trade-In values are dependent on the quantity and configuration of the ZOLL devices listed on this quotation. Customer assumes responsibility for shipping trade-in equipment at the quantities listed on the trade line items in this quotation to ZOLL's Chelmsford Headquarters within 60 days of receipt of new equipment. Customer agrees to pay cash value for trade-in equipment not shipped to ZOLL on a timely basis.

To the extent that ZOLL and Customer, or Customer's Representative have negotiated and executed overriding terms and conditions ("Overriding T's & C's"), those terms and conditions would apply to this quotation. In all other cases, this quote is made subject to ZOLL's Standard Commercial Terms and Conditions ("ZOLL T's & C's") which for capital equipment, accessories and consumables can be found at <https://www.zoll.com/about-zoll/invoice-terms-and-conditions> and for software products can be found at <http://www.zoll.com/SSPTC> and for hosted software products can be found at <http://www.zoll.com/SSHTC>. Except in the case of overriding T's and C's, any Purchase Order ("PO") issued in response to this quotation will be deemed to incorporate ZOLL T's & C's, and any other terms and conditions presented shall have no force or effect except to the extent agreed in writing by ZOLL.

1. Delivery will be made upon availability.
2. This Quote expires on December 31, 2023. Pricing is subject to change after this date.
3. Applicable tax, shipping & handling will be added at the time of invoicing.
4. All purchase orders are subject to credit approval before being accepted by ZOLL.

**ZOLL Medical Corporation**

269 Mill Road
Chelmsford, MA 01824-4105
Federal ID# 04-2711626

Phone: (800) 348-9011

Fax: (978) 421-0015

Email: esales@zoll.com

College Station Fire Department
Quote No: Q-62746 Version: 4

5. To place an order, please forward the purchase order with a copy of this quotation to esales@zoll.com or via fax to 978-421-0015.
6. All discounts from list price are contingent upon payment within the agreed upon terms.
7. Place your future accessory orders online by visiting www.zollwebstore.com.

Order Information (to be completed by the customer)

☐ Tax Exempt Entity (Tax Exempt Certificate must be provided to ZOLL)

☐ Taxable Entity (Applicable tax will be applied at time of invoice)

BILL TO ADDRESS	SHIP TO ADDRESS
Name/Department:	Name/Department:
Address:	Address:
City / State / Zip Code:	City / State / Zip Code:

Is a Purchase Order (PO) required for the purchase and/or payment of the products listed on this quotation?

☐ Yes PO Number: _____ PO Amount: _____
(A copy of the Purchase Order must be included with this Quote when returned to ZOLL)

☐ No (Please complete the below section when submitting this order)

For organizations that do not require a PO, ZOLL requires written execution of this order. The person signing below represents and warrants that she or he has the authority to bind the party for which he or she is signing to the terms and prices in this quotation.

College Station Fire Department

Authorized Signature:

Name: _____
Title: _____
Date: _____



ZOLL Medical Corporation

269 Mill Road
Chelmsford, MA 01824-4105
Federal ID# 04-2711626

Phone: (800) 348-9011

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Email: esales@zoll.com

College Station Fire Department
Quote No: Q-62746 Version: 4

ALS/BLS Software Solutions Master Application Service Provider Agreement

1. Orders. ZOLL Medical Corporation (“ZOLL”) shall provide the ASP Services, Implementation Services and Support Services identified in any order or contract (“Order”) between ZOLL and another party (“Customer”) incorporating this Software Solutions Master Application Service Provider Agreement (together with each such Order, the “Agreement”). ASP Services are further defined in [Section 3](#). Implementation Services are further defined in [Section 4](#). Support Services are further defined in [Section 5](#). The ASP Services, Implementation Services, and Support Services are each, and are collectively, “Services”. The terms and conditions set forth in this Agreement shall only apply to ALS/BLS Software Solutions products that are used with ZOLL Medical Corporation defibrillators. For the sake of clarity, these terms and conditions do not apply to any ZOLL patient care reporting software.

2. Payment. Customer shall pay fees to ZOLL for Services as provided in any Order and this Agreement (“Fees”). Unless otherwise provided in the applicable Order, Customer will pay ZOLL all Fees due under this Agreement within thirty (30) days after the date of ZOLL’s invoice. The first invoice will be sent after the Deployment Effective Date. “Deployment Date” means the date upon which the deployment of the ASP Services is complete and it is able to function as described in the warranty set forth in this Agreement, regardless of whether Customer actually uses such ASP Services. “Deployment Effective Date” means the earlier of (a) the Deployment Date or (b) 90 days from the date after ZOLL’s shipment of defibrillators that are included on the Order (the “Latest Deployment Date”), unless a delay in the Deployment Date has been caused by ZOLL, in which case the Deployment Effective Date shall be postponed by a number of days equal to the delay that ZOLL has caused. Fees are non-refundable other than as expressly set forth herein. Amounts not paid when due will accrue interest at the rate of 1.5% per month, or the maximum allowed by law, whichever is less. Customer shall pay all expenses (including reasonable attorney’s fees) incurred by ZOLL in connection with collection of late payments. Any amounts not paid by Customer when due may result in the forfeiture by Customer, in ZOLL’s sole discretion, of any discounts previously offered by ZOLL. In addition, ZOLL may cease providing any or all of the Services if any invoice is not paid in a timely manner, in which event ZOLL will not be liable to Customer for any damages caused by such cessation. Payment terms are subject to ZOLL’s credit approval. Fees exclude all applicable sales, use and other taxes and all applicable export and import fees, customs duties and similar charges (“Taxes”).

3. ASP Services. “ASP Services” means the hosting and maintenance of ZOLL software, as modified, updated, and enhanced (the “Underlying Software”), for remote electronic access and use by Registered Users on the website with a unique URL to be provided by ZOLL to Customer (the “ZOLL Site”) in substantial conformity with the instructions for use, documentation and users manuals from time-to-time provided by ZOLL (the “Documentation”), as listed in any Order, on and after the Implementation Date (defined below) for such services and before that Order has expired or been terminated in accordance with the Agreement. Customer acknowledges that the ASP Services are only compatible with ZOLL equipment that has been enabled and configured for use with the ASP Services in accordance with the Documentation and only with the browser and other technical environment that supports the use of the ASP Services in accordance with the Documentation.

3.1. Provision of ASP Services. Subject to the terms and conditions of the Agreement, ZOLL will use commercially reasonable efforts to make the ASP Services available to Customer and Customer’s employees, directors, principals, partners, consultants and agents authorized to use ASP Services on behalf of Customer and registered through the ZOLL Site for such use (“Registered Users”) through the ZOLL Site over normal network connections in accordance with the Documentation, excepting downtime due to necessary maintenance and troubleshooting. Customer, not ZOLL, shall be responsible for controlling Registered Users and protection of confidentiality of its login identifications and passwords. Customer acknowledges that (i) it is responsible for maintaining its interface and connectivity to the ASP Services and (ii) any facilities used for provision of the ASP Services may be owned or operated by ZOLL, or a ZOLL affiliate or a third party, or any combination of such facilities, as determined by ZOLL. Customer acknowledges that ZOLL may modify and upgrade the ASP Services, on an ongoing basis, to improve or adapt the ASP Services. Without limiting the foregoing, ZOLL will have the right, in its sole discretion, to develop, provide and market new, upgraded or modified ASP Services to Customer, including adding, removing or modifying the functionality or features of the ASP Services accessible by Registered Users. ZOLL will use commercially reasonable efforts to notify Customer within a reasonable period of time prior to the implementation of such changes so that Customer is reasonably informed of alterations to the ASP Services that will affect the ASP Services and Customer’s use of them. Notwithstanding anything to the contrary in the Agreement, ZOLL may cease providing any ASP Services upon at least six months advance notice to Customer.

3.2. Access Software. Subject to the terms and conditions of this Agreement, ZOLL grants to Customer, during the Term, a non-exclusive, non-transferable, non-sublicensable license for Registered Users to access and use the ASP Services using the ZOLL software that Registered Users may download at the ZOLL Site to access the ASP Services, as modified, updated and enhanced (the “Access Software”), each as made available to Customer through the ZOLL Site, solely for Customer’s internal business purposes and solely in accordance with the Documentation. Access Software and Underlying Software are, collectively, the “Software”.

3.3. Restrictions. Customer shall not, and shall not permit any third party to: (a) use, reproduce, modify, adapt, alter, translate or create derivative works from the ASP Services, Software or Documentation; (b) merge the ASP Services, Software or Documentation with other software or services; (c) sublicense, distribute, sell, use for service bureau use, lease, rent, loan, or otherwise transfer or allow access to the ASP Services, Software or the Documentation to any third party; (d) reverse engineer, decompile, disassemble, or otherwise attempt to alter or derive the Source Code for the ASP Services or Software; (e) remove, alter, cover or obfuscate any copyright notices or other proprietary rights notices included in the ASP Services, Software or Documentation; or (f) otherwise use or copy the ASP Services, Software or Documentation in any manner not expressly permitted by the Agreement. Customer agrees not to use the ASP Services in excess of its authorized login protocols. Customer shall immediately notify ZOLL of any unauthorized use of Customer’s login ID, password or account or other breach of security. If Customer becomes aware of any actual or threatened activity contemplated by the restrictions on use set forth in this section, Customer will, and will cause Registered Users to, immediately take all reasonable measures necessary to stop the activity or threatened activity and to mitigate the effect of such activity including: (i) discontinuing and limiting any improper access to any data; (ii) preventing any use and disclosure of improperly obtained data; (iii) destroying any copies of improperly obtained data that may have been made on their systems; (iv) otherwise attempting to mitigate any harm from such events; and (v) immediately notifying ZOLL of any such event so that ZOLL may also attempt to remedy the problem and prevent its future occurrence.

3.4. Service Level Agreement.

3.4.1. Downtime. “Downtime”, expressed in minutes, is any time the ASP Services are not accessible to Registered Users.

3.4.2. Planned Downtime. “Planned Downtime” is Downtime during which ASP Services may not be available in order for ZOLL to continue to provide commercially reasonable services, features and performance to its customers. Planned Downtime includes, but is not limited to: (a) Standard Maintenance; and (b) Emergency Maintenance. “Standard Maintenance” is performed when upgrades or system updates are desirable. “Emergency Maintenance” is performed when a critical system update must be applied quickly to avoid significant Downtime. Standard Maintenance may be performed weekly on Monday and Wednesday between the hours of 7 p.m. to 11 p.m. in Broomfield, Colorado. ZOLL will provide Customer with notice at least 24 hours in advance of Standard Maintenance.



3.4.3. Excused Downtime. “Excused Downtime” time is Downtime caused by: (a) services, software or hardware provided by anyone or any entity other than ZOLL, (b) software, services or systems operating outside of a ZOLL Site, including any software or systems operating on a Customer’s premises (including ZOLL software); (c) a Force Majeure Event or (d) Customer’s failure to comply with its obligations under the Agreement or use of the ASP Services in ways that were not intended.

3.4.4. Unplanned Downtime. Unplanned Downtime in a calendar month is expressed as a percentage calculated as follows:

$$\frac{(\text{Downtime} - (\text{Planned Downtime} + \text{Excused Downtime}))}{\text{Total number of minutes in the calendar month}} \times 100 = x\%, \text{ where “x” is Unplanned Downtime.}$$

3.4.5. Unplanned Downtime Goal. ZOLL shall provide the ASP Services such that there is less than 1% of Unplanned Downtime in a calendar month (the “Unplanned Downtime Goal”). The ASP Services covered by the Unplanned Downtime Goal are those for which Customer has paid all Fees when due and is using in the course of carrying out its normal business operations in accordance with the Agreement.

3.4.6. Revocation of Administrative Rights. Notwithstanding anything to the contrary in the Agreement, ZOLL may revoke administrative rights, including database access rights, if the use of any such rights results in Downtime.

3.4.7. Customer Content; Security; Backup.

3.4.7.1. Customer Content. As between ZOLL and Customer, and without limiting the rights of any patient, Customer will retain all right, title and interest in and to all data, information or other content provided by Customer in its use of the ASP Services (“Customer Content”); *provided, however*, that ZOLL may de-identify and use Customer Content for any lawful purpose consistent with all applicable law.

3.4.7.2. Security. Subject to Customer’s obligations under this Agreement, ZOLL will implement commercially reasonable security measures within the ASP Services in an attempt to prevent unlawful access to Customer Content by third parties. Such measures may include, where appropriate, use of updated firewalls, commercially available virus screening software, logon identification and passwords, encryption, intrusion detection systems, logging of incidents, periodic reporting, and prompt application of current security patches and virus definitions.

3.4.7.3. Backup of Customer Content (Not Applicable to Remote View). Although ZOLL will use commercially reasonable efforts to maintain the integrity of the Customer Content, to back up the Customer Content, and to provide full and ongoing access to the ASP Services, loss of access to the ASP Services and loss of Customer Content may occur. Customer will make provision for additional back-up storage of any critical Customer Content and shall be responsible for compliance with all records retention requirements applicable to Customer. ZOLL will not be responsible for any loss, corruption of or inaccessibility of the Customer Content due to interruption in the ASP Services or otherwise arising out of circumstances not within ZOLL’s control.

3.4.7.4. Availability of Customer Content (Not Applicable to Remote View). It is Customer’s responsibility to maintain any Customer Content that it requires for archival purposes, ongoing management of its operations and compliance with applicable records retention requirements. Unless specified otherwise in the Agreement, ZOLL will store Customer Content, other than Inactive Customer Content as defined below (the “Active Customer Content”), in ZOLL’s working data set until the earlier of (i) five years (calculated from the date of creation of such Customer Content, or ZOLL’s receipt of such Customer Content, whichever is later) or (ii) the expiration or termination of this Agreement or the Order under which such Active Customer Content was stored (the “Active Retention Period”). Upon the expiration of the Active Retention Period, ZOLL will notify Customer in writing and will provide Customer the option, which Customer shall exercise by informing ZOLL in writing, within 30 days of receiving the notice, that either (a) Customer wishes to receive Active Customer Content in a database determined by ZOLL in its sole and absolute discretion (a “Database”), or (b) Customer will pay ZOLL, at ZOLL’s then-current storage rates and upon ZOLL’s then-current terms and conditions, to continue to store the Active Customer Content. If Customer fails to exercise one of the foregoing options within such 30-day period, ZOLL will have the right to destroy the Active Customer Content. During the time ZOLL stores Customer Content for Customer hereunder, ZOLL may periodically identify Customer Content that has had no activity associated with it for at least 180 days (“Inactive Customer Content”) and will notify Customer in writing of its intent to remove the Inactive Customer Content from ZOLL’s working data set and destroy such data, unless Customer requests, in writing, within 30 days of receiving the notice from ZOLL, that either (z) Customer wishes to receive the Inactive Customer Content in a Database, or (y) Customer will pay ZOLL, at ZOLL’s then-current storage rates and upon ZOLL’s then-current terms and conditions, to continue to store such Inactive Customer Content. If Customer fails to exercise one of the foregoing options within such 30-day period, ZOLL will have the right to destroy the applicable Inactive Customer Content in its possession or under its control. Except for this [Section 3.4.7.4](#), the terms of [Section 3.4](#) (including, without limitation, the Unplanned Downtime Goal) do not apply to Customer’s access of Inactive Customer Content. Customer represents, warrants and agrees that it (A) is solely responsible for determining the retention period applicable to it with respect to Customer Content maintained by ZOLL; (B) has consulted with or has had the opportunity to consult with legal, information governance or records management professionals; and (C) is not relying upon ZOLL to assist with determining the records maintenance or retention requirements applicable to it.

3.4.8. Remedies. A “Service Credit” means a percentage of the monthly Fee to be credited to Customer (subject to Customer’s written request therefor and ZOLL’s verification thereof) for any ASP Service for which the Unplanned Downtime Goal is exceeded in a calendar month. For any calendar month where the aggregate total of Unplanned Downtime for any ASP Service exceeds one percent ZOLL will provide a 10% Service Credit towards Customer’s monthly Fee for such ASP Service that was affected; *provided, that* Customer (i) requests such Service Credit in writing within 30 days of the end of the calendar month in which such Unplanned Downtime occurred, (ii) includes in such request the nature of, and date and time of such Unplanned Downtime and (iii) such Unplanned Downtime is verified by ZOLL. Such Service Credit will be applied to a future month’s invoice for such ASP Services, which typically is two months later. Failure to submit a written request for Service Credit as provided in this [Section 3.4.8](#) shall constitute a waiver of such Service Credit by Customer. Further, Service Credits shall not be issued if Customer is not current on all Fees due and payable. The remedy set forth in this [Section 3.4.8](#) shall be the Customers’ sole and exclusive remedy with respect to ZOLL exceeding the Unplanned Downtime Goal.

3.4.9. Modifications. Changes to this [Section 3.4](#) may be made from time to time at ZOLL’s sole discretion. Customer will be notified of any such changes that are material.

4. Implementation Services. ZOLL shall provide ASP Services implementation, training and any related services identified in an Order (the “Implementation Services”). Customer shall, in a timely manner and at its own expense, cooperate and provide or make available to ZOLL access to the Customer’s premises, systems, telephone, terminals and facsimile machines and all relevant information, documentation and staff reasonably required by ZOLL to enable ZOLL to perform the Implementation Services. Customer acknowledges that any time frames or dates for completion of the Implementation Services set out in an Order are estimates only and



the ability to meet them is influenced by a range of factors including, without limitation, response times and level of cooperation of Customer. Any obligations as to time are therefore on a "reasonable efforts" basis only and ZOLL shall not be liable for failure to meet time frames or completion dates unless solely due to ZOLL's negligence.

5. Support Services. ZOLL shall provide the following Support Services for ASP Services without any additional Fees, except that ZOLL will have no obligation to provide such Support Services if any Fees for ASP Services are past due.

5.1. Support.

5.1.1. Emergency Support. ZOLL shall provide telephone support to Customer for 24 hours a day, 7 days a week, to address Errors that prevent Customer from using Supported ASP Services for a purpose for which Customer has an immediate and material need. "**Supported ASP Services**" means the ASP Services for which Customer has paid the then-current Fees. "**Supported Environment**" means a browser and other technical environment that supports the use of the ASP Services in accordance with the Documentation. "**Error**" means a reproducible defect in the Supported ASP Services when operated in accordance with the Documentation in a Supported Environment that causes the Supported ASP Services not to operate substantially in accordance with such Documentation.

5.1.2. Technical Support. ZOLL shall provide telephone support to Customer during 6 a.m. to 6 p.m. Eastern Time, Monday to Friday, excluding ZOLL holidays ("**Business Hours**") to address all other Errors relating to any Supported ASP Services. Such telephone support will include (i) clarification of functions and features of the Supported ASP Services; (ii) clarification of the Documentation; (iii) guidance in operation of the Supported ASP Services; (iv) assistance in identifying and verifying the causes of suspected Errors in the Supported ASP Services; and (v) advice on bypassing identified Errors in the Supported ASP Services, if reasonably possible. Responses to such reporting shall be provided at a minimum within twenty-four (24) hours during Business Hours.

5.1.3. Resolution. ZOLL shall use commercially reasonable efforts to provide a modification or workaround to Supported ASP Services that resolves an Error in all material respects ("**Resolution**").

5.1.4. Expenses. Support Services provided hereunder shall be provided from Chelmsford, Massachusetts or Broomfield, Colorado, as determined in ZOLL's sole discretion. Should Customer request that ZOLL send personnel to Customer's location to resolve any Error in the Supported ASP Services, ZOLL may charge Customer a fee of \$2,500 for each day ZOLL personnel is at Customer's location.

5.1.5. Exceptions. ZOLL shall have no responsibility under this Agreement to fix any Errors arising out of or related to the following causes: (a) Customer's modification or combination of the Access Software (in whole or in part), (b) use of the Supported ASP Services in an environment other than a Supported Environment; or (c) accident; unusual physical, electrical or electromagnetic stress; neglect; misuse; failure or fluctuation of electric power, air conditioning or humidity control; failure of media not furnished by ZOLL; excessive heating; fire and smoke damage; operation of the Supported ASP Services with other media and hardware, software or telecommunication interfaces; or causes other than ordinary use. Any corrections performed by ZOLL for such Errors shall be made, in ZOLL's reasonable discretion, at ZOLL's then-current time and material charges. ZOLL will provide the Support Services only for the most current release and the one immediately preceding major release of any Access Software. Notwithstanding anything to the contrary in the Agreement, (i) ZOLL may cease providing Support Services for any ASP Services upon at least six (6) months advance notice to Customer of such cessation and (ii) Support Services do not cover Third Party Products or Services (defined below).

5.2. Conditions and Limitations. Customer shall provide ZOLL with access to Customer's personnel and its equipment. This access must include the ability to remotely access the equipment on which the Supported ASP Services are operating and to obtain the same access to the equipment as those of Customer's employees having the highest privilege or clearance level. ZOLL will inform Customer of the specifications of the remote access methods available and associated software needed, and Customer will be responsible for the costs and use of said equipment. Fees for third party software and services are set by the owner of such software.

6. Warranties.

6.1. Implementation Services and Support Services. Subject to Customer's payment of the Fees, ZOLL warrants that any Implementation Services or Support Services provided to Customer will be performed with due care in a professional and workmanlike manner. ZOLL shall, as its sole obligation and Customer's sole and exclusive remedy for any breach of the warranty set forth in this [Section 6.1](#), perform again the Implementation Services or Support Services that gave rise to the breach or, in the case of Implementation Services, at ZOLL's option, refund the Fees for such Implementation Services paid by Customer for the Implementation Services which gave rise to the breach. The availability of any remedy for a breach of the warranty set forth in this [Section 6.1](#) is conditioned upon Customer notifying ZOLL in writing of such breach within thirty (30) days following performance of the defective Implementation Services or Support Services, specifying the breach in reasonable detail.

6.2. ASP Services and Access Software. Subject to Customer's payment of the Fees, ZOLL represents and warrants with respect to any ASP Services that (i) ZOLL has the right to license the Access Software and Documentation and make the ASP Services available to Customer pursuant to this Agreement and (ii) the ASP Services, when used as permitted and in accordance with the Documentation, will materially conform to the Documentation. ZOLL does not warrant that Customer's use of the ASP Services will be error free or uninterrupted. Customer will notify ZOLL in writing of any breach of this warranty with respect to any ASP Services prior to the expiration or termination of the Order for such ASP Services. If ZOLL is unable to provide a correction or work-around pursuant to the terms governing the provision of the ASP Services after using commercially reasonable efforts, ZOLL may terminate such Order upon written notice to Customer. Any such correction or work-around shall not extend the term of such Order. This [Section 6.2](#) sets forth Customer's exclusive remedy, and ZOLL's entire liability, for breach of the warranty for the ASP Services contained herein.

6.3. Warranty Disclaimers. The warranties for the Software and Services are solely and expressly as set forth in [Section 6.1](#) and [Section 6.2](#) and are expressly qualified, in their entirety, by this [Section 6.3](#). EXCEPT AS EXPRESSLY SET FORTH IN [SECTION 6.1](#) AND [SECTION 6.2](#), (A) THE SOFTWARE AND SERVICES ARE PROVIDED STRICTLY "AS IS", WITHOUT ANY WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, WRITTEN OR ORAL; (B) ZOLL DOES NOT PROMISE THAT THE SOFTWARE OR SERVICES WILL BE SECURE, UNINTERRUPTED OR ERROR-FREE OR THAT THEY ARE SUITABLE FOR THE PARTICULAR NEEDS OF CUSTOMER, REGISTERED USERS OR ANY THIRD PARTY; AND (C) ZOLL SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON INFRINGEMENT, AND ANY WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE OR USAGE IN TRADE. CUSTOMER ACKNOWLEDGES THAT IT HAS RELIED ON NO WARRANTIES OTHER THAN THE EXPRESS WARRANTIES IN THIS AGREEMENT, AND THAT NO WARRANTIES ARE MADE BY ANY OF ZOLL'S LICENSORS OR SUPPLIERS WITH RESPECT TO THIRD PARTY PRODUCTS OR SERVICES. Customer acknowledges and agrees that, in entering into this Agreement, it has not relied upon the future availability of any new or enhanced feature or functionality, or any new or enhanced product or service, including, without limitation, updates or upgrades to ZOLL's existing products and services. ZOLL's performance obligations hereunder are limited to those expressly enumerated herein, and payment for ZOLL's performance obligations shall be due as described herein.

7. Confidentiality. Neither party will use any trade secrets, information, or other material, tangible or intangible, that relates to the business or technology of the other party and is marked or identified as confidential or is disclosed in circumstances that would lead a reasonable person to believe such information is confidential



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("Confidential Information") for any purpose not expressly permitted by this Agreement, and will further disclose the Confidential Information of the party disclosing it ("Disclosing Party") only to the employees or contractors of the party receiving it ("Receiving Party") who have a need to know such Confidential Information for purposes of this Agreement and who are under a duty of confidentiality no less restrictive than the Receiving Party's duty hereunder. The Receiving Party will protect the Disclosing Party's Confidential Information from unauthorized use, access, or disclosure in the same manner as the Receiving Party protects its own confidential or proprietary information of a similar nature and with no less than reasonable care. The ASP Services, Software and Documentation shall be ZOLL's Confidential Information (including without limitation any routines, subroutines, directories, tools, programs, or any other technology included in the Software), notwithstanding any failure to mark or identify it as such. The Receiving Party's obligations under this Section 7 with respect to any Confidential Information of the Disclosing Party will terminate when and to the extent the Receiving Party can document that such information: (a) was already lawfully known to the Receiving Party at the time of disclosure by the Disclosing Party; (b) is disclosed to the Receiving Party by a third party who had the right to make such disclosure without any confidentiality restrictions; (c) is, or through no fault of the Receiving Party has become, generally available to the public; or (d) is independently developed by the Receiving Party without access to, or use of, Confidential Information. In addition, the Receiving Party may disclose Confidential Information of the Disclosing Party to the extent that such disclosure is: (i) necessary for the Receiving Party to enforce its rights under this Agreement in connection with a legal proceeding; or (ii) required by law or by the order of a court or similar judicial or administrative body, provided that the Receiving Party notifies the Disclosing Party of such disclosure in writing prior to making such disclosure and cooperates with the Disclosing Party, at the Disclosing Party's reasonable request and expense, in any lawful action to contest or limit the scope of such disclosure.

8. Indemnification.

8.1. By ZOLL. ZOLL will defend, at its own expense, any action against Customer or its or any of its agents, officers, director, or employees ("Customer Parties") brought by a third party alleging that any Software or Services infringe any U.S. patents or any copyrights or misappropriate any trade secrets of a third party, and ZOLL will pay those costs and damages finally awarded against the Customer Parties in any such action that are specifically attributable to such claim or those costs and damages agreed to in a monetary settlement of such action. The foregoing obligations are conditioned on Customer: (a) notifying ZOLL promptly in writing of such claim or action; (b) giving ZOLL sole control of the defense thereof and any related settlement negotiations; and (c) cooperating with ZOLL and, at ZOLL's request and expense, assisting in such defense. If any of the Software or Services become, or in ZOLL's opinion is likely to become, the subject of an infringement claim, ZOLL may, at its sole option and expense, either: (i) procure for Customer the right to continue using such Software or Services; (ii) modify or replace such Software or Services with substantially similar software or services so that such Software or Services becomes non-infringing; or (iii) terminate this Agreement, in whole or in part. Notwithstanding the foregoing, ZOLL will have no obligation under this Section 8.1 or otherwise with respect to any infringement claim based upon: (1) use of any of the Software or Services not in accordance with this Agreement; (2) any use of any Software or Services in combination with products equipment, software, services or data not supplied by ZOLL if such infringement would have been avoided but for the combination with other products, equipment, software, services or data; (3) the failure of Customer to implement any replacements, corrections or modifications made available by ZOLL for any Software or Services including, but not limited to, any use of any release of the Software other than the most current release made commercially available by ZOLL; (4) any Customer Content; or (5) any modification of any Software or Services or use thereof by any person other than ZOLL or its authorized agents or subcontractors. This Section 8 states ZOLL's entire liability and the exclusive remedy for any claims of infringement.

8.2. By Customer. Customer shall indemnify, defend and hold ZOLL and its agents, officers, directors and employees (the "ZOLL Parties") harmless from and against any and all liabilities, losses, expenses, damages and claims (collectively, "Claims") that arise out of the following except to the extent the Claims are due to the gross negligence, intentional misconduct or breach of this Agreement by the ZOLL Parties: (i) information provided to any of the ZOLL Parties by any of the Customer Parties; (ii) any of the Customer Parties' use or misuse of any of the Software or Services, including without limitation in combination with Customer's software or services or third party software or services; (iii) any modifications made by any of the Customer Parties to any of the Software or Services; (iv) infringement by any of the Customer Parties of any third party intellectual property right; (v) Taxes (other than taxes based on ZOLL's net income) and any related penalties and interest, arising from the payment of the Fees or the delivery of the Software and Services to Customer; and (ix) any violation of laws or regulations, including without limitation applicable export and import control laws and regulations in the use of any of the Software or Services, by any of the Customer Parties.

9. Limitation of Liability. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, IN NO EVENT WILL ZOLL OR ITS AFFILIATES, SUBCONTRACTORS OR SUPPLIERS, OR ANY OF THEIR OFFICERS OR DIRECTORS, BE LIABLE, EVEN IF ADVISED OF THE POSSIBILITY, FOR: (i) SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES OF ANY KIND, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY (INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE), (ii) LOSS OF PROFIT, DATA, BUSINESS OR GOODWILL, COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES OR (iii) ANY LOSSES, COSTS OR DAMAGES ASSOCIATED WITH CUSTOMER'S PRODUCTS OR OTHER ELEMENTS INCORPORATED OR USED THEREWITH WHICH WERE NOT PROVIDED BY ZOLL OR WITH RESPECT TO ANY MODIFICATIONS MADE TO THE SOFTWARE OR SERVICES OR MISUSE OF THE SOFTWARE OR SERVICES. ZOLL'S TOTAL CUMULATIVE LIABILITY IN CONNECTION WITH THIS AGREEMENT, WHETHER IN CONTRACT OR TORT OR OTHERWISE, WILL NOT EXCEED THE AMOUNT PAID TO ZOLL BY CUSTOMER FOR THE SOFTWARE AND SERVICES PROVIDED UNDER THIS AGREEMENT DURING THE 12-MONTH PERIOD PRECEDING THE EVENTS GIVING RISE TO SUCH LIABILITY. Customer acknowledges that these limitations reflect the allocation of risk set forth in this Agreement and that ZOLL would not enter into this Agreement without these limitations on its liability. Customer agrees that these limitations shall apply notwithstanding any failure of essential purpose of any limited remedy. The remedies in this Agreement are Customer's sole and exclusive remedies. In addition, ZOLL disclaims all liability of any kind of ZOLL's licensors and suppliers, for third party products or services, and for the actions or omissions of Customer's representatives.

10. Ownership. All right, title and interest, including but not limited to all existing or future copyrights, trademarks, service marks, trade secrets, patents, patent applications, know how, moral rights, contract rights, and proprietary rights, and all registrations, applications, renewals, extensions, and combinations of the foregoing, in and to the following are the exclusive property of ZOLL (or, as the case may be, its subsidiaries, licensors and suppliers): (i) ASP Services, Software, Documentation, and all proprietary technology used by ZOLL to perform its obligations under this Agreement; (ii) all software, tools, routines, programs, designs, technology, ideas, know-how, processes, techniques and inventions that ZOLL makes, develops, conceives or reduces to practice, whether alone or jointly with others, in the course of performing the Services; (iii) the fully compiled version of any of the foregoing software programs that can be executed by a computer and used without further compilation (the "Executable Code"); (iv) the human readable version of any of the foregoing software programs that can be compiled into Executable Code (the "Source Code"); and (v) all enhancements, modifications, improvements and derivative works of each and any of the foregoing (the "ZOLL Property"). If any derivative work is created by Customer from the Software or Services, ZOLL shall own all right, title and interest in and to such derivative work. Any rights not expressly granted to Customer hereunder are reserved by ZOLL (or its licensors and suppliers, as the case may be).

11. Term and Termination.



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College Station Fire Department
Quote No: Q-62746 Version: 4

11.1. Term. The term of this Agreement (“**Term**”) begins on the effective date of the first Order incorporating this Agreement and continues until it is terminated. The term of each Order begins on the effective date of such Order and continues until it expires or is terminated; *provided, however*, that such term (and any extension thereof) shall automatically renew for an equivalent period at ZOLL’s then current list pricing unless either party notifies the other party in writing of an intent to not renew such term at least ninety (90) days prior to the expiration of such term. “**Implementation Date**” for any ASP Services means the earlier of (a) the date upon which the activation of such ASP Services is complete and such ASP Services are able to function as described in the warranty for such ASP Services, regardless of whether Customer uses such ASP Services or (b) one hundred eighty (180) days following the shipment of the monitor/defibrillators in connection with which such ASP Services are to be used, unless a delay in the activation of such ASP Services is caused by ZOLL, in which case the Implementation Date shall be postponed by a number of days equal to the delay that ZOLL has caused; or (c) if Customer does not use Implementation Services to activate such ASP Services, the date of the Order for such ASP Services.

11.2. Termination. Either party may terminate this Agreement or any Order without cause on thirty (30) days’ prior written notice to the other party. Either party may terminate this Agreement or any Order if the other party materially defaults in the performance of any of its obligations hereunder and fails to cure such default within twenty (20) days after written notice from the non-defaulting party.

11.3. Effects of Termination. Upon expiration or termination of this Agreement or any Order for any reason: (a) all amounts, if any, owed to ZOLL under this Agreement or the Order that has expired or been terminated (the “**Expired or Terminated Document**”) before such termination or expiration will become immediately due and payable; (b) Customer’s right to access the ASP Services, and all licensed rights granted, in the Expired or Terminated Document will immediately terminate and cease to exist; and (c) Customer must (i) promptly discontinue all use of any ASP Services provided under the Expired or Terminated Document (ii) erase all copies of Access Software from Customer’s computers and the computers of its customers and return to ZOLL or destroy all copies of such Access Software and related Documentation on tangible media in Customer’s possession and (iii) return or destroy all copies of the Documentation in Customer’s possession or control; (d) each party shall promptly discontinue all use of the other party’s Confidential Information disclosed in connection with the Expired or Terminated Document and return to the other party or, at the other party’s option, destroy, all copies of any such Confidential Information in tangible or electronic form. Additionally, if any Order for ASP Services is terminated by ZOLL for a material default or by Customer without cause, then Customer immediately shall pay ZOLL an early termination fee equal to the amount of (x) the Fees for such ASP Services otherwise payable during the initial term of such Order had such Order not been terminated during such term minus (y) the sum of such Fees paid by Customer to ZOLL prior to the date of termination. Upon ZOLL’s request, Customer will provide a written certification (in a form acceptable to ZOLL), certifying as to Customer’s compliance with its post-termination obligations set forth in this [Section 11.3](#).

12. General Provisions.

12.1. Compliance with Laws. Customer shall comply with all applicable laws and regulations, and obtain required authorizations, concerning its use of the ASP Services, including without limitation if applicable all export and import control laws and regulations. Customer will not use any ASP Services for any purpose in violation of any applicable laws. ZOLL may suspend performance if Customer violated applicable laws or regulations.

12.2. Audits and Inspections. Upon written request from ZOLL, Customer shall furnish ZOLL with a certificate signed by an officer of Customer stating that the ASP Services are being used strictly in accordance with the terms and conditions of this Agreement. During the Term and for a period of six months following the termination or expiration of this Agreement, upon prior written notice, ZOLL will have the right, during normal business hours, to inspect, or have an independent audit firm inspect, Customer’s records relating to Customer’s use of the ASP Services to ensure it is in compliance with the terms of this Agreement. The costs of the audit will be paid by ZOLL, unless the audit reveals that Customer’s underpayment of Fees exceeds five percent. Customer will promptly pay to ZOLL any amounts shown by any such audit to be owing (which shall be calculated at ZOLL’s standard, non-discounted rates) plus interest as provided in [Section 2](#) above.

12.3. Assignments. Customer may not assign or transfer, by operation of law or otherwise (including in connection with a sale of substantially all assets or equity, merger or other change in control transaction), any of its rights under this Agreement or any Order to any third party without ZOLL’s prior written consent. Any attempted assignment or transfer in violation of the foregoing will be null and void. ZOLL shall have the right to assign this Agreement or any Order to any affiliate, or to any successor to its business or assets to which this Agreement relates, whether by merger, sale of assets, sale of stock, reorganization or otherwise, and to contract with any third party to provide part of any of the Software and Services, and to delegate performance of this Agreement or any Order to any of its subsidiaries.

12.4. U.S. Government End Users. If Customer is a branch or agency of the United States Government, the following provision applies. The Software and Documentation are composed of “commercial computer software” and “commercial computer software documentation” as such terms are used in 48 C.F.R. 12.212 (SEPT 1995) and are (i) for acquisition by or on behalf of civilian agencies, consistent with the policy set forth in 48 C.F.R. 12.212; or (ii) for acquisition by or on behalf of units of the Department of Defense, consistent with the policies set forth in 48 C.F.R. 227.7202 1 (JUN 1995) and 227.7202 3 (JUN 1995).

12.5. Notices. All notices, consents, and approvals under this Agreement must be delivered in writing by electronic mail, courier, electronic facsimile, or certified or registered mail (postage prepaid and return receipt requested) to the other party at the address set forth in the most recent Order (or to such other address or person as from time to time provided by such party in accordance with this [Section 12.5](#)), and will be effective upon receipt or three (3) business days after being deposited in the mail as required above, whichever occurs sooner.

12.6. Governing Law and Venue; Waiver of Jury Trial. This Agreement will be governed by and interpreted in accordance with the laws of the State of Colorado without reference to its choice of law rules. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement. Any action or proceeding arising from or relating to this Agreement shall be brought in a federal or state court in the State of Colorado, and each party irrevocably submits to the jurisdiction and venue of any such court in any such action or proceeding. EACH PARTY HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT.

12.7. Remedies. Except as otherwise expressly provided in this Agreement, the parties’ rights and remedies under this Agreement are cumulative. Customer acknowledges that the Software and Services are built on valuable trade secrets and proprietary information of ZOLL, that any actual or threatened breach hereof will constitute immediate, irreparable harm to ZOLL for which monetary damages would be an inadequate remedy, and that ZOLL will be entitled to injunctive relief for such breach or threatened breach. Customer further agrees to waive and hereby waives any requirement for the security or the posting of any bond in connection with such remedies. Such remedies shall not be considered to be the exclusive remedies for any such breach or threatened breach, but shall be in addition to all other remedies available at law or equity to ZOLL.

12.8. Waivers. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

12.9. Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be unenforceable, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions of this Agreement will continue in full force



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and effect. In any event, the unenforceability or invalidity of any provision shall not affect any other provision of this Agreement, and this Agreement shall continue in full force and effect, and be construed and enforced, as if such provision had not been included, or had been modified as above provided, as the case may be.

12.10. Independent Contractors. The parties are entering into, and will perform, this Agreement as independent contractors. Nothing in this Agreement will be construed to make either party the agent of the other for any purpose whatsoever, to authorize either party to enter into any contract or assume any obligation on behalf of the other or to establish a partnership, franchise or joint venture between the parties.

12.11. Third Parties. Customer is solely responsible for, and none of the fees set forth herein shall be deemed to cover, any amounts owed to third parties in connection with the use of the ASP Services. If Customer engages a third-party provider (“**Third Party Provider**”) to deliver products or services, including without limitation software, integrated into or receiving data from or accessing the ASP Services (“**Third Party Products or Services**”), Customer represents, warrants and agrees that: (i) ZOLL shall have no liability, and makes no representation, with respect to such Third Party Products or Services; and (ii) the Third Party Provider shall not be an agent of ZOLL. To the extent the ASP Services or Software contains software owned by a third party for which ZOLL has a license agreement with a third party, the ASP Services and Software and all rights granted hereunder are expressly limited by and subject to any license agreements ZOLL may have for such software.

12.12. Force Majeure. Neither party shall be liable for damages for any delay or failure of performance hereunder (other than payment obligation) arising out of causes beyond such party’s reasonable control and without such party’s fault or negligence, including, but not limited to, failure of its suppliers to timely deliver acceptable parts or services, any act or omission of Customer that interferes with or impedes ZOLL’s performance hereunder, acts of God, acts of civil or military authority, fires, riots, wars, embargoes, Internet disruptions, hacker attacks, or communications failures (a “**Force Majeure Event**”).

12.13. Entire Agreement; Amendment; No Third Party Beneficiaries; Survival. This Agreement, which may be accepted by performance, constitutes the entire agreement between the parties regarding the subject hereof and supersedes all prior or contemporaneous agreements, understandings, and communication, whether written or oral, except agreements at zollonline.com. Any other representation or agreement, whether written or oral, including but not limited to any purchase order issued by Customer, shall be wholly inapplicable to the Software and Services and shall not be binding in any way on ZOLL. This Agreement may not be amended or changed or any provision hereof waived except in writing signed by both parties. Any different or additional terms in any purchase order, confirmation or similar form issued or otherwise provided by Customer but not signed by an authorized representative of ZOLL shall have no force or effect. There are no third party beneficiaries of this Agreement. Those provisions of this Agreement that may be reasonably interpreted as surviving termination of this Agreement or the survival of which is necessary for the interpretation or enforcement of this Agreement shall continue in full force and effect in accordance with their terms notwithstanding the termination hereof including, but not limited to, [Section 7](#) (Confidentiality), [Section 8](#) (Indemnification), [Section 9](#) (Limitation on Liability), [Section 10](#) (Ownership), [Section 11.3](#) (Effects of Termination) and [Section 12](#) (General Provisions). This Agreement may be executed in counterparts, each of which will be considered an original, but all of which together will constitute the same instrument.

13. HIPAA. This [Section 13](#) applies if and to the extent that ZOLL creates, receives, maintains or transmits, directly or indirectly, any protected health information of Customer (“**PHI**”) in the course of providing Software or Services to Customer. Capitalized terms used but not defined in this [Section 13](#) have the meanings assigned to them elsewhere in the Agreement or, if not defined therein, as defined in the Health Insurance Portability and Accountability Act of 1996 (P.L. 104 191), 42 U.S.C. Section 1320d, et seq., and regulations promulgated thereunder, as amended from time to time (such statute and regulations collectively referred to as “**HIPAA**”). “**Covered Entity**” as used herein means Customer. “**Business Associate**” as used herein means ZOLL. The purpose of this [Section 13](#) is to comply with 45 C.F.R. §164.502(e) and §164.504(e), governing PHI and business associates under HIPAA.

13.1. Applicability. This [Section 13](#) applies if and to the extent that Business Associate creates, receives, maintains or transmits, directly or indirectly, any PHI in the course of providing Software or Services to Covered Entity.

13.2. Compliance and Agents. Business Associate agrees that, to the extent it has access to PHI, Business Associate will fully comply with the requirements of this [Section 13](#) with respect to such PHI. Business Associate will ensure that every agent, including a subcontractor, of Business Associate to whom it provides PHI received from, or created or received by Business Associate on behalf of, Covered Entity will comply with the same restrictions and conditions as set forth herein.

13.3. Use and Disclosure; Rights. Business Associate agrees that it shall not use or disclose PHI except as permitted under this Agreement, and in compliance with each applicable requirement of 45 CFR Section 164.504(e). Business Associate may use or disclose the PHI received or created by it, (a) to perform its obligations under this Agreement, (b) to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Agreement, or (c) to provide data aggregation functions to Covered Entity as permitted by HIPAA. Further, Business Associate may use the PHI received by it in its capacity as Business Associate, if necessary, to properly manage and administer its business or to carry out its legal responsibilities. Business Associate may disclose the PHI received by it in its capacity as Business Associate to properly manage and administer its business or to carry out its legal responsibilities if: (a) the disclosure is required by law, or (b) the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purpose for which it is disclosed to the person and the person notifies Business Associate of any instances of which it is aware that the confidentiality of the information has been breached. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under HIPAA if done by Covered Entity.

13.4. Safeguards. Business Associate agrees to develop, document, use, and keep current appropriate procedural, physical, and electronic safeguards, as required in 45 C.F.R. §§164.308 - 164.312, sufficient to prevent any use or disclosure of electronic PHI other than as permitted or required by this Agreement.

13.5. Minimum Necessary. Business Associate will limit any use, disclosure, or request for use or disclosure to the minimum amount necessary to accomplish the intended purpose of the use, disclosure, or request.

13.6. Report of Improper Use or Disclosure. Business Associate shall report to Covered Entity any information of which it becomes aware concerning any use or disclosure of PHI that is not permitted by this Agreement and any security incident of which it becomes aware. Business Associate will, following the discovery of a breach of “**unsecured protected health information**,” as defined in 45 C.F.R. § 164.402, notify Covered Entity of such breach within 15 days. The notice shall include the identification of each individual whose unsecured protected health information has been, or is reasonably believed by Business Associate to have been, accessed, acquired, or disclosed during such breach. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of this Agreement.

13.7. Individual Access. In accordance with an individual’s right to access to his or her own PHI in a designated record set under 45 CFR §164.524 and the individual’s right to copy or amend such records under 45 CFR §164.524 and §164.526, Business Associate shall make available all PHI in a designated record set to Covered Entity to enable the Covered Entity to provide access to the individual to whom that information pertains or such individual’s representative.



ZOLL Medical Corporation

269 Mill Road
Chelmsford, MA 01824-4105
Federal ID# 04-2711626

Phone: (800) 348-9011

Fax: (978) 421-0015

Email: esales@zoll.com

College Station Fire Department
Quote No: Q-62746 Version: 4

13.8. Amendment of and Access to PHI. Business Associate shall make available for amendment PHI in a designated record set and shall incorporate any amendments to PHI in a designated record set in accordance with 45 CFR §164.526 and in accordance with any process mutually agreed to by the parties.

13.9. Accounting. Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to an individual's request for an accounting of disclosures of their PHI in accordance with 45 CFR §164.528. Business Associate agrees to make available to Covered Entity the information needed to enable Covered Entity to provide the individual with an accounting of disclosures as set forth in 45 CFR §164.528.

13.10. DHHS Access to Books, Records, and Other Information. Business Associate shall make available to the U.S. Department of Health and Human Services ("DHHS"), its internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Covered Entity for purposes of determining the Covered Entity's compliance with HIPAA.

13.11. Individual Authorizations; Restrictions. Covered Entity will notify Business Associate of any limitation in its notice of privacy practices, any restriction to the use or disclosure of PHI that Covered Entity has agreed to with an individual and of any changes in or revocation of an authorization or other permission by an individual, to the extent that such limitation, restriction, change, or revocation may affect Business Associate's use or disclosure of PHI.

13.12. HITECH Act Compliance. Covered Entity and Business Associate agree to comply with the amendments to HIPAA included in the Health Information Technology for Economic and Clinical Health Act (the "HITECH Act"), including all privacy and security regulations issued under the HITECH Act that apply to Business Associate.

13.13. Breach; Termination; Mitigation. If Covered Entity knows of a pattern of activity or practice of Business Associate that constitutes a material breach or violation of Business Associate's obligations under this [Section 13](#), Covered Entity and Business Associate shall take any steps reasonably necessary to cure such breach and make Business Associate comply, and, if such steps are unsuccessful, Covered Entity may terminate this Agreement. Business Associate shall take reasonable actions available to it to mitigate any detrimental effects of such violation or failure to comply.

13.14. Return of PHI. Business Associate agrees that upon termination of this Agreement, and if feasible, Business Associate shall (a) return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, that Business Associate has continued to maintain in any form or manner and retain no copies of such information or, (b) if such return or destruction is not feasible, immediately notify Covered Entity of the reasons return or destruction are not feasible, and extend indefinitely the protection of this [Section 13](#) to such PHI and limit further uses and disclosures to those purposes that make the return or destruction of the PHI not feasible.

13.15. De-identified Health Information. Business Associate may de-identify any and all PHI and may create a "Limited Data Set" in accordance with 45 C.F.R. § 164.514(b) & (e). Covered Entity acknowledges and agrees that de-identified information is not PHI and that Business Associate may use such de-identified information for any lawful purpose. Use or disclosure of a Limited Data Set must comply with 45 CFR 164.514(e).

13.16. Survival. All representations, covenants, and agreements in or under this [Section 13](#) shall survive the execution, delivery, and performance of this Agreement.

13.17. Further Assurances; Conflicts. Each party shall in good faith execute, acknowledge or verify, and deliver any and all documents which may from time to time be reasonably requested by the other party to carry out the purpose and intent of this [Section 13](#). The terms and conditions of this [Section 13](#) will override and control any expressly conflicting term or condition of the Agreement. All non-conflicting terms and conditions of the Agreement shall remain in full force and effect. Any ambiguity shall be resolved in a manner that will permit Covered Entity to comply with HIPAA. For the avoidance of doubt, a limitation on liability in the Agreement does not conflict with this [Section 13](#).

13.18. Applicable Law. The parties acknowledge and agree that HIPAA may be amended and additional guidance or regulations implementing HIPAA may be issued after the date of the execution of this Agreement and may affect the parties' obligations hereunder. The parties agree to take such action as is necessary to amend this Agreement from time in order as is necessary for Covered Entity to comply with HIPAA.

By signing below, the Customer acknowledges and agrees to those terms and conditions. The person signing below represents and warrants that she or he has the authority to bind the Customer to those terms and conditions.

Customer

Signature: _____

Name: _____

Title: _____

Company: _____

Company Address: _____

Date: _____



College Station Fire Department
Quote No: Q-62746 Version: 4

ZOLL Medical Corporation

269 Mill Road
Chelmsford, MA 01824-4105
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November 9, 2023
Item No. 7.3.
Police Department Grant resolutions.

Sponsor: Rodney Sigler

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action on resolutions authorizing the Chief of Police as the authorized official to execute documents necessary for the release of grant funds from the Office of the Governor Homeland Security Division for SWAT team night vision equipment.

Relationship to Strategic Goals:

Good governance

Financial sustainability

Recommendation(s): Staff recommends approval.

Summary: This grant will provide 100% funding for the purchase of eight sets of night vision for the police SWAT team. This gives the SWAT team a new enhanced capability of quality night vision in low light situations.

Budget & Financial Summary: The cost of one night vision unit is \$12,361 with accessories. The grant is funded for \$98,888.50 to purchase all eight.

Attachments:

1. Grant Resolution for SWAT Team Night Vision Equipment

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION AUTHORIZING THE CHIEF OF POLICE OR DESIGNEE TO EXECUTE APPLICATION NECESSARY DOCUMENTS TO SUBMIT THE OFFICE OF THE GOVERNOR HOMELAND SECURITY GRANTS DIVISION FOR GRANT FUNDS FOR THE PURCHASE OF SWAT NIGHT VISION ON BEHALF OF THE CITY AND TO ACT ON ITS BEHALF WITH RESPECT TO GRANT ADMINISTRATION.

WHEREAS, the City Council of College Station finds it in the best interest of the citizens of College Station that the College Station Police Department operate a SWAT team for 2023; and

WHEREAS, the City of College Station Police Department agrees to provide applicable matching funds for the SWAT night vision grant application as required by the Office of the Governor Homeland Security grant application; and

WHEREAS, the City of College Station agrees that in the event of loss or misuse of the Office of the Governor funds, the City of College Station assures that the funds will be returned to the Office of the Governor in full; and

WHEREAS, the City of College Station designates the Chief of Police as the grantee's authorized official. The authorized official is given the power to apply for, accept, reject, alter or terminate the grant on behalf of the City of College Station.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of College Station hereby approves the submission of the SWAT night vision application grant application to the Office of the Governor, Homeland Security Grants Division.

PART 1: That the City Council hereby authorizes the Chief of Police as the authorized official to execute documents necessary for the submission of the SWAT night vision application, with Application Number **4283803**, for Homeland Security Grant Division-LEPTA funds to the Office of the Governor on behalf of the City of College Station and to act on its behalf with respect to any issues that may arise during processing of said application.

PART 2: That the Chief of Police as the authorized official is given the power to apply for, accept, reject, alter or terminate the SWAT night vision grant application on behalf of the City of College Station.

PART 3: That the City of College Station agrees in the event of loss or misuse of the funds, the City of College Station assures the funds will be returned in full.

PART 4: That this resolution shall take effect immediately from and after its passage.

ADOPTED this ____ day of _____, 2023.

ATTEST:

APPROVED:

City Secretary

Mayor

APPROVED:

City Attorney

November 9, 2023
Item No. 7.4.
Rifle resistant body armor

Sponsor: Rodney Sigler

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding a resolution accepting a \$239,279.10 grant from the Office of the Governor for purchasing rifle resistant body armor for the police department and city marshalls.

Relationship to Strategic Goals:

Financial Sustainability

Recommendation(s): Staff recommends council approve this item to receive the grant.

Summary: Following the school shooting in Uvalde, the Office of the Governor allotted funds that police departments could apply for to respond to such incidents. The rifle resistant body armor allows officers to more safely enter active-shooter environments with some degree of protection. The College Station Police Department applied for the grant and were awarded \$239,279.10 for the purchase of rifle resistant body armor for the police department and city marshalls.

Budget & Financial Summary: A budget amendment for the purchase of \$239, 279.10 worth of rifle resistant body armor will be needed.

Attachments:

1. Grant Resolution for Rifle Resistant Body Armor

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION AUTHORIZING THE CHIEF OF POLICE OR DESIGNEE TO EXECUTE APPLICATION NECESSARY DOCUMENTS TO SUBMIT THE OFFICE OF THE GOVERNOR FOR GRANT FUNDS FOR THE PURCHASE OF RIFLE-RESISTANT BODY ARMOR ON BEHALF OF THE CITY AND TO ACT ON ITS BEHALF WITH RESPECT TO GRANT ADMINISTRATION.

WHEREAS, the City of College Station Police Department agrees to provide applicable matching funds for the Rifle-Resistant Body Armor as required by the Office of the Governor grant application; and

WHEREAS, the City of College Station agrees that in the event of loss or misuse of the Office of the Governor funds, the City of College Station assures that the funds will be returned to the Office of the Governor in full; and

WHEREAS, the City of College Station designates the Chief of Police as the grantee's authorized official. The authorized official is given the power to apply for, accept, reject, alter or terminate the grant on behalf of the City of College Station.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of College Station hereby approves the submission of the Rifle-Resistant Body Armor grant application to the Office of the Governor, Grants Division.

PART 1: That the City Council hereby authorizes the Chief of Police as the authorized official to execute documents necessary for the submission of the Rifle-Resistant Body Armor grant application, with Application Number **4837501** to the Office of the Governor on behalf of the City of College Station and to act on its behalf with respect to any issues that may arise during processing of said application.

PART 2: That the Chief of Police as the authorized official is given the power to apply for, accept, reject, alter or terminate the Rifle-Resistant Body Armor grant application on behalf of the City of College Station.

PART 3: That the City of College Station agrees in the event of loss or misuse of the funds, the City of College Station assures the funds will be returned in full.

PART 4: That this resolution shall take effect immediately from and after its passage.

ADOPTED this ____ day of _____, 2023.

ATTEST:

APPROVED:

City Secretary

Mayor

APPROVED:

City Attorney

November 9, 2023
Item No. 7.5.
Purchase of Overhead Transmission Materials

Sponsor: Timothy Crabb, Director of Electric

Reviewed By CBC: N/A

Agenda Caption: Presentation, discussion, and possible action on the purchase of electric transmission and related materials from KBS Electrical Distributors, not to exceed \$818,085.60.

Relationship to Strategic Goals:

Core Services and Infrastructure
Financially Sustainable City

Recommendation(s): Staff recommends award of this purchase with KBS Electrical Distributors for an amount of \$818,085.60. The purchase of these materials is for the required relocation of electric transmission lines resulting from the TxDOT SH 6 Widening project.

Summary: Staff issued ITB #23-074 on June 13, 2023, for the Purchase of Overhead Transmission Materials and the bid was opened on July 6, 2023. Four (4) bids were received, tabulated, and then evaluated by Electric staff to ensure compliance with bid specifications. KBS Electrical Distributors (KBS) is the recommended award for these materials. The award to KBS Electrical Distributors is based upon the overall best value to the City when both price and delivery time are taken into consideration.

Upon Council approval, staff will issue a purchase order for this one-time purchase.

Budget & Financial Summary: Funds are available and budgeted within the Electric capital budget.

Attachments:

1. 23-074 Bid Summary Tab

ITB#23-074
SUMMARY OF RESPONSES

Event Number	23-074	Organization	Brazos Valley e-Marketplace
Event Title	Purchase of Overhead	Workgroup	City of College Station
Event Description	Transmission Materials	Event Owner	Robyn Forsyth
Event Type	ITB	Email	rforsyth@cstx.gov
Issue Date	6/13/2023 04:09:09 PM (CT)	Phone	(979) 764-3437
Close Date	7/13/2023 02:00:00 PM (CT)	Fax	

Responding Supplier	City	State	Response Submitted	Certification	Tab A	Tab B	Tab C	Tab E	Gr TTL
KBS ELECTRICAL DIST.	BRYAN	TX	7/13/2023 10:43:27 AM (CT)	√	\$ 172,819.00	\$ 502,135.00	\$ 140,250.00	\$ 2,881.60	\$ 818,085.60
MVA POWER INC	MONTREAL	QC	7/13/2023 11:00:13 AM (CT)	√	\$ -	\$ 275,261.88	\$ 98,010.00	\$ 3,127.08	\$ 376,398.96
Power-Equip Sales Reps, Ltd (B	PFLUGERVILLE	TX	7/12/2023 05:53:40 PM (CT)	√	\$ 233,023.40	\$ -	\$ -	\$ -	\$ 233,023.40
Techline, Inc.	Austin	TX	7/13/2023 01:53:02 PM (CT)	√	\$ 176,160.00	\$ 511,274.00	\$ 139,260.00	\$ 4,794.80	\$ 831,488.80

November 9, 2023
Item No. 7.6.
City-Wide Surveying Services

Sponsor: Jennifer Cain, Director Capital Projects

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action on three (3) Master Agreements for Professional Surveying Services with: Baseline Corporation, not to exceed \$100,000; Kerr Surveying, LLC, not to exceed \$20,000; and Walker Partners, LLC, not to exceed \$20,000.

Relationship to Strategic Goals:

Core Services and Infrastructure

Recommendation(s): Staff recommends approval.

Summary:

Typical survey assignments include preparing boundary surveys for whole tracts to be purchased or sold, preparing survey descriptions for annexations or City-initiated rezonings, preparing right-of-way or easement parcel descriptions for various projects, staking right-of-way and easement lines, completing topographic survey, etc.

Since 2017, the City has issued two Requests for Qualifications of Professional Surveying Services, resulting in annual contracts with the option to renew the contracts for up to two additional years. This year the City has selected three firms to provide surveying services in anticipation of several upcoming projects throughout the City. Nine responses were received in response to Request for Qualifications of Professional Surveying Services, RFQ No. 23-081.

Based on cumulative rankings resulting from evaluations of the responses, the following surveying firms have been selected to provide surveying services to the City:

- Baseline Corporation (\$100,000)
- Kerr Surveying, LLC (\$20,000)
- Walker Partners, LLC (\$20,000)

Each agreement will have a not to exceed amount (as stated above) and the option to renew the contract for up to two (2) additional one (1) year terms (for a total of three (3) years).

Budget & Financial Summary: Funds for surveying services are budgeted for in the accounts for the various projects that require surveying services.

Attachments:

1. Baseline Corporation Vendor Signed Contract
2. Walker Partners Vendor Signed Contract
3. Kerr Surveying Vendor Signed Contract



CONTRACT#: 24300032 PROJECT#: n/a BID/RFP/RFO#: 23-081

One of three agreements to provide professional surveying services for the City.

Baseline Corporation

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

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

Buy America Required ☐ Yes ☐ No ☒ N/A

Transparency Report ☐ Yes ☐ No ☒ N/A

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

As a result of a Request for Qualifications of Professional Surveying Services, three firms have been selected to provide surveying services for the City. Each of the three master agreements will have a not to exceed amount. Funds are budgeted for within the accounts for the various projects that require surveying services.

CRC Approval Date*: N/A (If required)* Council Approval Date*: 11.9.23 Agenda Item No*: _____

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

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

Jennifer Cain
DEPARTMENT DIRECTOR/ADMINISTERING CONTRACT

10/30/2023

DATE

John A. Haislet
LEGAL DEPARTMENT

10/30/2023
DATE


ASST CITY MGR – CFO

10/30/2023
DATE

APPROVED & EXECUTED

CITY MANAGER

DATE _____

N/A

MAYOR (if applicable)

DATE _____

N/A

CITY SECRETARY (if applicable)

DATE _____

MASTER AGREEMENT FOR SURVEYING SERVICES

This Master Agreement is by and between the **City of College Station**, a Texas Home-Rule Municipal Corporation (the “City”) and BASELINE, a Texas CORPORATION (the “Contractor” or “Surveyor”), whereby Contractor agrees to perform professional surveying services on an as needed basis according to the terms and conditions herein.

ARTICLE I

1.01 Scope of Services. This Master Agreement is for Professional Surveying Services described more fully in Contractor’s response to RFQ No. 23-081 attached as **Exhibit “A”**. The scope and details of the work to be provided to the City by Contractor are in each Service Order, which should follow the Scope of Services: Surveying Requirements attached as **Exhibit “B”** to this Agreement and incorporated as though fully set forth herein by reference. Contractor agrees to perform or cause the performance of all the work described in each Service Order. Each Service Order shall expressly reference this Agreement and be executed by both parties. The City Manager or his designee is authorized to sign the Service Orders on behalf of the City.

1.02 Service Order. Each Service Order shall identify a Project Manager for each party with respect to the Services set forth therein. Each Service Order shall identify the unique scope and details for each project including location, schedules, and a not-to-exceed amount for fees and expenses. Contractor promises to work closely with the City Project Manager or other appropriate City officials. Contractor agrees to perform any and all professional services required by the City to fulfill the Service Orders. The Contractor shall be prepared to provide the professional services in the most expedient and efficient manner possible in order to complete the work by the times specified. The work of the Contractor under this Contract may be authorized by the Project Manager as set forth in a Service Order. An example of such form is attached as **Exhibit “C”**.

1.03 Payment Terms. Contractor agrees to perform the work described in each Service Order and the City agrees to pay Contractor fees set forth and defined in the applicable Service Order for the services performed by Contractor. Service Order fees shall be based on the Fee Schedule as set forth in **Exhibit “D”**. The invoices shall be submitted to the City upon completion of all work specified in the Service Order. The payment terms are net payable within thirty (30) calendar days of the City’s receipt of the invoice. Upon termination of this Agreement, payments under this paragraph shall cease; provided, however, that Contractor shall be entitled to payments for work performed in accordance with this Agreement and any Service Order before the date of termination and for which Contractor has not yet been paid.

1.04 Payment. The total amount of payment, including reimbursements, by the City to Contractor for all approved Service Orders to be performed under this Contract shall not exceed ONE HUNDRED THOUSAND and NO /100 (\$100,000.00). There is no minimum amount to be paid by the City to the Contractor under this Contract.

1.05 Change Orders. The City may from time to time request changes in the scope and focus of the activities, investigations, and studies conducted or to be conducted by Contractor pursuant to this Contract, provided, however, that any such change that, in the opinion of Contractor, the City Manager, or the City's Project Manager, varies significantly from the scope of the work set out herein and entails an increase in cost or expense to the City shall be mutually agreed upon in advance in writing by Contractor and the City's Project Manager.

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

b. When the original contract amount plus all change orders is equal to or greater than \$100,000, the City Manager or his designee may approve the written change order provided the change order does not exceed \$50,000, and provided the sum of all change orders does not exceed 25% of the original contract amount. For such contracts, when a change order exceeds \$50,000 or when the sum of all change orders exceeds 25% of the original contract amount, the City Council of the City must approve such change order prior to commencement of the services or work; and

c. **Any request by the Contractor for an increase in the Scope of Services and an increase in the amount listed in paragraph 1.04 of Article I of this Contract shall be made and approved by the City prior to the Contractor providing such services or the right to payment for such additional services shall be waived.** If there is a dispute between the Contractor and the City respecting any service provided or to be provided hereunder by the Contractor, including a dispute as to whether such service is additional to the Scope of Services included in this Contract, the Contractor agrees to continue providing on a timely basis all services to be provided by the Contractor hereunder, including any service as to which there is a dispute.

1.06 Term and Renewals. The initial term of the Contract is for one (1) year with the option to renew for two (2) additional one (1) year terms, for a total of three (3) years. Any renewal is subject to budgetary approval and must be in writing and executed by the parties. If, for any reason, funds are not appropriated to continue the contract, the contract shall become null and void and shall terminate.

1.07 Contractor promises to work closely with the City Manager or his designee (the "Project Manager") or other appropriate City officials. Contractor agrees to perform any and all Project-related tasks reasonably required of it by the City in order to fulfill the purposes of the work to be performed. The Contractor shall be prepared to provide the professional services in the most expedient and efficient manner possible in order to complete the work by the times specified.

1.08 Independent Contractor. It is understood and agreed by the parties that the Contractor is an independent contractor retained for the services described in the Scope of Services. The City will not control the manner or the means of the Contractor's performance, but shall be entitled to a work product as in the Scope of Services. The City will not be responsible for reporting or paying employment taxes or other similar levies that may be required by the United States Internal Revenue Service or other State or Federal agencies. This Contract does not create a joint venture.

1.09 No Subcontractors. Contractor shall perform all the work hereunder. Contractor agrees all of its employees who work on each project shall be fully qualified and competent to do the work described hereunder. Contractor will not employ subcontractors in order to fulfill the obligations under this Contract without the prior written consent of the City.

ARTICLE II

2.01 Project Meetings. In developing each Service Order, Contractor shall - communicate with the City and City's Project Manager for the purpose of determining the nature of the project, including but not limited to the following: meeting with the City's staff to coordinate project goals, schedules, and deadlines; coordinating data collection; briefing the City's management staff.

2.02 Notice to Proceed. The City shall direct Contractor to commence work on each project by sending Contractor a fully executed Service Order to begin work and proceed on each project.

2.03 Representative. Contractor shall consult with the City and may, in some limited circumstances, act as the City's representative, but it is understood and agreed by the parties that for all purposes related to this Contract, Contractor shall be an independent contractor at all times and is not to be considered either an agent or an employee of the City.

ARTICLE III

3.01 Warranty. As an experienced and qualified professional, Contractor warrants the service provided by Contractor reflects high professional and industry standards, procedures, and performances. Contractor warrants the fitness and operation of its recommendations, and the performance of other services under this Contract, pursuant to a high standard of performance in the profession. Contractor warrants that it will exercise diligence and due care and perform in a good and workmanlike manner all of the services pursuant to this Contract. Approval or acceptance by the City of any of Contractor's work product under this Contract shall not constitute or be deemed a release of the responsibility and liability of Contractor, its employees, agents, or associates for the exercise of skill and diligence necessary to fulfill Contractor's responsibilities under this Contract; nor shall the City's approval or acceptance be deemed to be the assumption of responsibility by the City for any defect or error in the project's work products prepared by Contractor, its employees, associates, agents, or subcontractors.

3.02 Progress Reports. Contractor shall keep the City informed of the progress of the work by providing, at the least, monthly updates as to the status of the service being completed and shall guard against any defects or deficiencies in its work.

3.03 Correcting Errors. Contractor shall be responsible for using due diligence to correct errors, deficiencies or unacceptable work product. Contractor shall, at no cost to the City, remedy any errors, deficiencies or any work product found unacceptable, in the City's sole discretion, as soon as possible, but no longer than fifteen (15) calendar days after receiving notice of said errors, deficiencies or unacceptable work product.

3.04 Work Product. Contractor's work product shall be the exclusive property of the City. Upon completion or termination of this Contract, and upon the City's request, Contractor shall promptly deliver to the City copies of all records, notes, data, memorandum, models, and equipment of any nature that are within Contractor's possession or control and that are the City's property or relate to the City or its business.

ARTICLE IV

4.01 Indemnification. The Contractor shall indemnify, hold harmless, and defend the City, its officers, agents, volunteers, and employees from and against any and all claims, losses, damages, causes of action, suits, and liability of every kind, including all expenses of litigation, court costs, and 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 done by the Contractor under this Contract. Such indemnity shall apply regardless of whether the claims, losses, damages, causes of action, suits, or liability arise in whole or in part from the negligence of the City, any other party indemnified hereunder, the Contractor, or any third party. 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.

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

ARTICLE V

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

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

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

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

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

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

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

- (e) The Certificates of Insurance shall be prepared and executed by the insurance carrier or its authorized agent on the most current State of Texas Department of Insurance-approved forms.

5.05 Commercial (General) Liability Requirements. The following Commercial (General) Liability requirements shall apply:

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

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

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

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

- (a) Pursuant to the requirements set forth in Title 28, Section 110.110 of the Texas Administrative Code, all employees of the Consultant, the Consultant, all employees of any and all subcontractors, and all other persons providing services

on the Project must be covered by a workers' compensation insurance policy: either directly through their employer's policy (the Consultant's, or subcontractor's policy) or through an executed coverage agreement on an approved Texas Department of Insurance Division of Workers Compensation (DWC) form. Accordingly, if a subcontractor does not have his or her own policy and a coverage agreement is used, Consultants and subcontractors must use that portion of the form whereby the hiring contractor agrees to provide coverage to the employees of the subcontractor. The portion of the form that would otherwise allow them not to provide coverage for the employees of an independent contractor may not be used.

(b) The workers' compensation/Employer's Liability insurance shall include the following terms:

- i. Employer's Liability limits of \$1,000,000 for each accident is required.
- ii. "Texas Waiver of Our Right to Recover From Others Endorsement, WC 42 03 04" shall be included in this policy.
- iii. Texas must appear in Item 3A of the Worker's Compensation coverage or Item 3C must contain the following: All States except those listed in Item 3A and the States of NV, ND, OH, WA, WV, and WY.

(c) Pursuant to the explicit terms of Title 28, Section 110.110(c)(7) of the Texas Administrative Code, this Contract, the bid specifications, this Contract, and all subcontracts on this Project must include the terms and conditions set forth below, without any additional words or changes, except those required to accommodate the specific document in which they are contained or to impose stricter standards of documentation:

i. *Definitions:*

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

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

Persons providing services on the project ("subcontractors" in § 406.096 [of the Texas Labor Code]) - includes all persons or entities performing all or part of the services the Contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the Contractor and regardless of whether that person has employees. This includes, without limitation, independent Contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing,

hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

- ii. The Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Contractor providing services on the project, for the duration of the project.*
- iii. The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.*
- iv. If the coverage period shown on the Contractor's current certificate of coverage ends during the duration of the project, the Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.*
- v. The Contractor shall obtain from each person providing services on a project, and provide to the governmental entity:*
 - 1. a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and*
 - 2. no later than seven calendar days after receipt by the Contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.*
- vi. The Contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.*
- vii. The Contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 calendar days after the Contractor knew or should have known, or any change that materially affects the provision of coverage of any person providing services on the project.*
- viii. The Contractor shall post on each project site a notice, in the text, form and manner prescribed by the Division of Workers Compensation, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.*
- ix. The Contractor shall contractually require each person with whom it contracts to provide services on a project, to:*
 - 1. provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements of Texas Labor Code, Section*

- 401.011(44) for all of its employees providing services on the project, for the duration of the project;*
- 2. provide to the Contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;*
 - 3. provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;*
 - 4. obtain from each other person with whom it contracts, and provide to the Contractor:*
 - A. a certificate of coverage, prior to the other person beginning work on the project; and*
 - B. a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;*
 - 5. retain all required certificates of coverage on file for the duration of the project and for one year thereafter;*
 - 6. notify the governmental entity in writing by certified mail or personal delivery, within 10 calendar days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and*
 - 7. Contractually require each person with whom it contracts, to perform as required by paragraphs (a) - (g), with the certificates of coverage to be provided to the person for whom they are providing services.*
- x. By signing this contract, or providing, or causing to be provided a certificate of coverage, the Contractor is representing to the governmental entity that all employees of the Contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the Commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.*
- xi. The Contractor's failure to comply with any of these provisions is a breach of contract by the Contractor that entitles the governmental entity to declare*

the contract void if the Contractor does not remedy the breach within ten calendar days after receipt of notice of breach from the governmental entity.”

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

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

ARTICLE VI

6.01 Termination. At any time, the City may terminate the Agreement and each Service Order for convenience, in writing. At such time, the City shall notify Contractor, in writing, who shall cease work immediately. In the event the City terminates this Contract for convenience, the City shall pay Contractor for the services performed and expenses incurred through the date of termination.

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

ARTICLE VII

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

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

City:

City of College Station

Attn: Project Manager

P.O. Box 9960

College Station, Texas 77842

Contractor:

Firm: Baseline Corporation

Address: 1701 SW Parkway, Ste 104

College Station, TX 77840

Phone: 979-693-2777

E-mail: hmayo@baselinesurveyors.net

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

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

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

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

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

7.08 Agreement. The parties acknowledge they have read, understood, and intend to be bound by the terms and conditions of this Contract.

7.09 Effective Date. This Contract goes into effect when duly approved by all the parties hereto.

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

C.# 24300032

Master Agreement Surveying Services

A20-000034

Page 11

7.11 Exhibits.

- A.** Contractor's Response to Request for Qualifications (RFQ)
- B.** Scope of Services: Surveying Requirements
- C.** Service Order
- D.** Fee Schedule
- E.** Certificates of Insurance

BASELINE CORPORATION

By: Steven E. Williams

Printed Name: Steven E. Williams

Title: President

Date: 10/30/2023

CITY OF COLLEGE STATION

By: _____

City Manager

Date: _____

APPROVED:

John A. Haislet

City Attorney

Date: 10/30/2023

Jim Foster

Assistant City Manager / CFO

Date: 10/30/2023

Exhibit “A”
Contractor’s Response to Request for Qualifications No. 23-081
Professional Surveying Services



Innovative strategies
to design, develop,
and grow

STATEMENT OF QUALIFICATIONS

CITY OF COLLEGE STATION

Professional Surveying Services
RFQ #23-081

July 28, 2023

BASELINE | **DCCM**



FIRM INTRODUCTION 1

COMPETENCY AND QUALIFICATIONS OF PROJECT MANAGER 2

COMPETENCY AND QUALIFICATIONS OF CORE TEAM MEMBERS. 5

EXPERIENCE OF THE FIRM 8

COST ESTIMATES AND BUDGET CONSTRAINTS 11

WORKLOAD CAPACITY AND HISTORY PERFORMING WORK 12

PROPOSED APPROACH TO PROJECTS 14

CERTIFICATION i

SECTION A

Firm Introduction

Firm Introduction

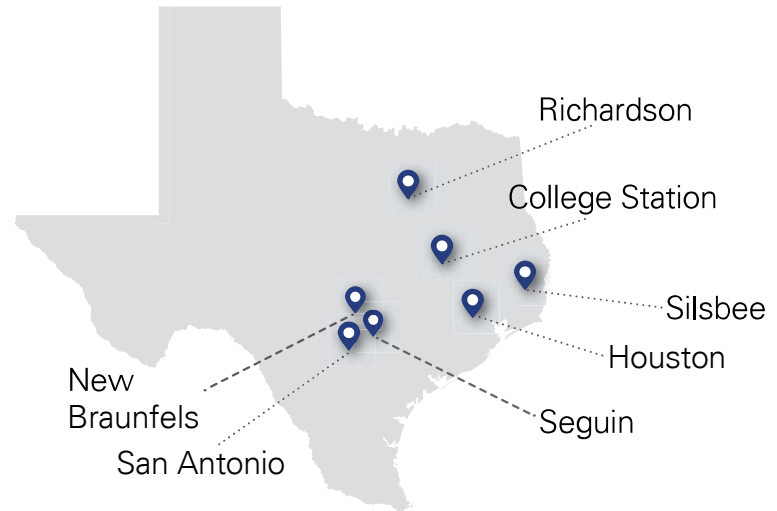
Baseline | DCCM provides surveying and mapping services for multidisciplinary projects of all sizes to clients in the public and private sectors.

Our experienced professional land surveyors and survey technicians employ state-of-the-art field equipment and modern computer technology to collect, process, and manage advanced survey data used to efficiently create highly accurate surveys, maps, and other associated deliverables. These deliverables are prepared for a broad range of engineering and architectural design projects, including projects for commercial, industrial, and residential land development; highway, bridge, and other transportation projects; utility projects; drainage projects; and projects associated with GIS.

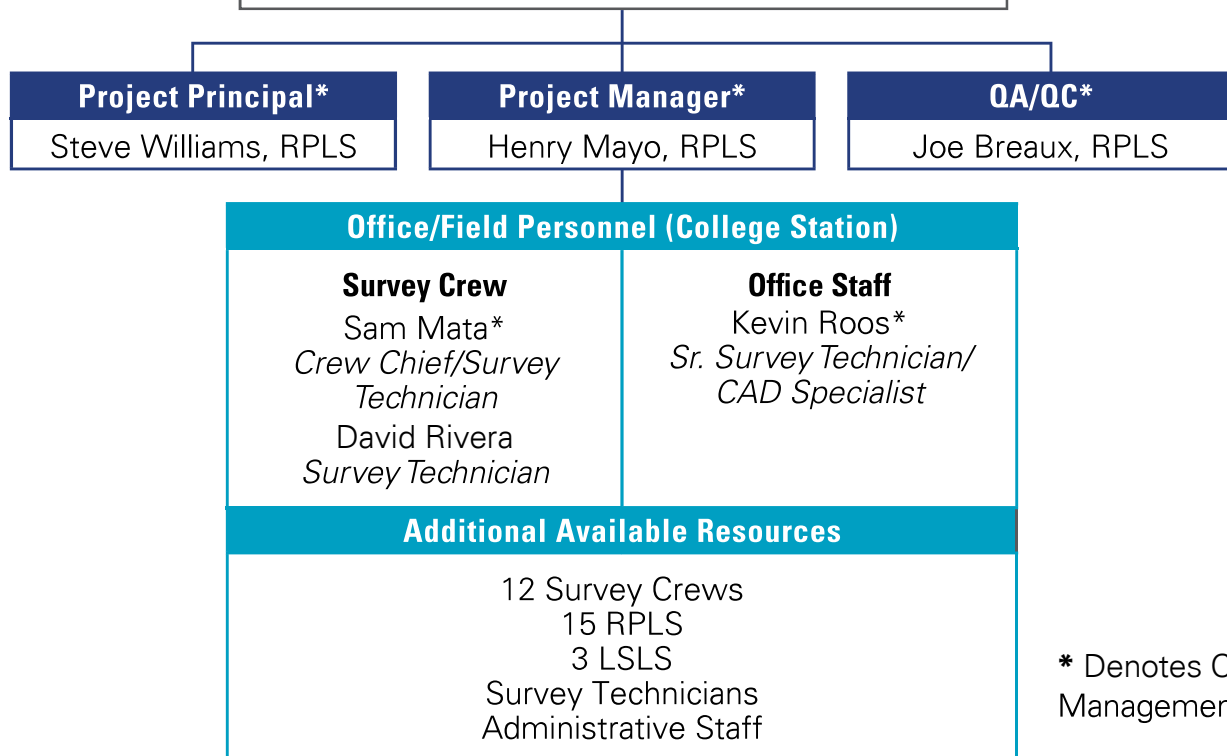
Staffing

Baseline | DCCM, together with its affiliate Shine | DCCM, has more than 50 employees, including 12 survey crews, 12 Registered Professional Land Surveyors (RPLS), three Licensed State Land Surveyors (LSLS), and numerous survey technicians available to serve the City of College Station.

Locations



City of College Station



* Denotes Core Management Team

SECTION B

Competency and Qualifications of Project Manager



HENRY MAYO, RPLS
PROJECT MANAGER

EXPERTISE

TOPOGRAPHIC AND UTILITY SURVEYING | RECORD RESEARCH
AND ABSTRACTING | ROW, EASEMENT, AND ACQUISITIONS

FIRM	EXPERIENCE	EDUCATION	LICENSES/REGISTRATIONS
Baseline DCCM	41 years	Civil Engineering Coursework – Texas A&M University	Registered Professional Land Surveyor, Texas No. 5045 – Exp. 12/31/2023
PROJECT MANAGEMENT EXPERIENCE AND TRAINING		SPECIALIZED EXPERTISE	
Many seminars, conferences, and courses on various surveying and engineering topics, including Federal Emergency Management Agency (FEMA) floodplains and permitting, AutoCAD software, GIS/LIS, GPS surveying, American Land Title Association/National Society for Professional Surveyors (ALTA/NSPS) national survey standards, boundary law, river boundary determination, history of surveying in Texas, and history of the Texas General Land Office (GLO).		• Topographic and utility surveying • Record research/abstracting • Survey control and route surveys • GPS network surveys • Surveys for right-of-way (ROW), easement, and other types of acquisitions • Platting and re-platting • Construction staking	

Henry has full-time experience performing numerous types of survey projects for both public and private sector clients. With survey records dating back over 80 years and his vast knowledge of the area's history, Henry has been the "go-to" person in Bryan/College Station for boundary and utility information and has led field and office survey efforts for Baseline | DCCM's College Station office. He prepares proposals, performs record research, plans and processes fieldwork, performs or delegates drafting, and performs the final quality assurance and quality control (QA/QC) on the deliverables. His expertise includes topographic and utility surveying, record research/abstracting, survey control and route surveys, GPS network surveys, surveys for ROW parcels and easements or other types of acquisitions, platting and replatting, and construction staking.

LINCOLN AVENUE SIDEWALK

CITY OF COLLEGE STATION | COLLEGE STATION, TEXAS

Henry served as Survey Manager on this City of College Station project. Baseline | DCCM has a long history of surveying along Lincoln Avenue in College Station. Baseline | DCCM performed the surveying and engineering on this former gravel county road when curbs, gutters, storm drains, and pavement were added 50 years ago. In 2010, Baseline | DCCM was contracted by the City of College Station to design a sidewalk and provide necessary easement and ROW surveys from Foster Street to Munson Avenue. The route included a few modern, platted subdivisions but mostly consisted of tracts from the D.A. Smith subdivision, which predated the existence of the city. Using Baseline | DCCM's historic survey records and integrating surveying data from past projects on the route, Henry could confidently

determine the ownership and ROW lines for the project. He then prepared the seven easement surveys necessary for the sidewalk project.

JONES/BUTLER ROAD, PHASE I

CITY OF COLLEGE STATION | COLLEGE STATION, TEXAS

Henry served as Surveying Project Manager and provided surveying to obtain ROW and construct a street between Southwest Parkway and FM 2818 (Harvey Mitchell Parkway). He was contracted directly by the City of College Station to prepare easement and ROW surveys for the project and was later subcontracted by Bleyl Engineering for storm drain engineering and further ROW and easement surveying. Part of the project was within an abandoned railroad ROW established 100 years ago. Determining boundaries of various abandonment and quitclaim tracts was not a simple task. Henry's archive of several historic ownership maps was very helpful to determine the relationship of the old tract boundaries to the current ownership lines.

WOLTERS RANCH TOPOGRAPHIC AND BOUNDARY SURVEYS

TIM WOLTERS | COLLEGE STATION, TEXAS

Henry served as Survey Manager and provided surveying for the comprehensive boundary and topographic surveys of their 172-acre ranch property. The property lies along the largest creek in College Station and has a major tributary creek. Seventy-five percent of the property lies within the 1 percent flood hazard boundary (100-year floodplain). As part of the topographic survey, the location of the base flood elevations from the FEMA were determined on the ground.

PARALLEL WATER TRANSMISSION LINE ON FM 2818

CITY OF COLLEGE STATION | BRYAN AND COLLEGE STATION, TEXAS

Henry served as Crew Chief and CAD Leader and provided preliminary topographic and boundary surveying of several alternate routes to determine the optimum location for exclusive 30-foot-wide easements through the City of Bryan, avoiding physical conflicts and objectionable landowners. Henry supervised the fieldwork and preparation of dozens of maps and easement plats. Permission to enter the private tracts for surveying was coordinated with the City of College Station Land Agent.

ROCK PRAIRIE ROAD - MULTIPLE PROJECTS

CITY OF COLLEGE STATION | COLLEGE STATION, TEXAS

Henry knows Rock Prairie Road like the back of his hand. Besides having his home on Rock Prairie Road West for over 30 years and the Baseline | DCCM office next door for 12 years, he has lived and worked daily along Rock Prairie Road for 50-plus years. From the county line on Rock Prairie Road West in front of the Baseline | DCCM offices, through Rock Prairie Road East at Lick Creek Park, Henry has supervised the field work and preparation of dozens of ROW parcels, easements, and boundary and topographic surveys on multiple City of College Station and private projects. Almost daily, Baseline | DCCM has an active project along this road. The only section of the 7-mile section of Rock Prairie Road within the City of College Station, which Baseline | DCCM has not surveyed for ROW or construction projects, is the half-mile section between the two College Station Independent School District schools.

LICK CREEK SEWER TRUNK LINE

CITY OF COLLEGE STATION | COLLEGE STATION, TEXAS

Henry served as Survey Manager and provided surveying on this City of College Station capital improvement project to install a large sewer trunk line through Lick Creek Park and across the Pebble Creek golf course. Henry led much of the original surveying of the existing sewer trunk line and the golf course subdivision. Baseline | DCCM's records and prior experience greatly benefited this project. The project involved a comprehensive topographic survey, including property lines, utilities, and tree locations. A digital terrain model (DTM) created from a lidar scanning flight by drone was fitted to the project control. The golf course surveying was limited to when it was closed (only on Mondays), so work was planned with that in mind, including rearranging the Christmas and New Year holidays, which also fell on Mondays. Several existing pipelines were potholed, and the Baseline | DCCM crew coordinated their schedule to locate them in a very timely manner. As the planned location of the new sewer evolved, Henry coordinated to get additional fieldwork as needed. After the topographic surveying, several permanent and temporary utility easements were prepared for acquisition. Designated wetland areas are in the project area and had to be avoided by survey activities.

OTHER NOTABLE SURVEY PROJECTS:

- Annexations of 1995–2018 (City of College Station)
- Bonfire Memorial Topographic Survey (Texas A&M University [TAMU])
- 7th Street Rehabilitation Topographic Survey (City of Huntsville)
- Rock Prairie Road East, Phases I and II (City of College Station)
- Memorial Cemetery of College Station (City of College Station)
- Brazos Electric Cooperative Powerline Tie-In (College Station Utilities)
- Munson Avenue Rehabilitation (City of College Station)
- Graham Road Rehabilitation (City of College Station)
- Eisenhower Street Extension (City of College Station)
- Old San Antonio Road Water Line Topographic Survey (City of College Station)
- Sewer Diversion Survey (City of College Station)
- Lincoln Avenue Topographic Survey (City of College Station)
- Lick Creek Wastewater Treatment Plant (City of College Station)
- Bee Creek Estates Sewer Diversion (City of College Station)
- Various Atmos Energy Surveys
 - L40; 5.5 miles in Cedar Park
 - Lincoln Avenue
 - L14 Replacement; 20 miles in Bell and Milam Counties
 - P2 Cottonwood Replacement; 5 miles in Hutto
 - P7 Upgrading; Austin to Leander

SECTION C

Competency and Qualifications of Core Team Members



STEVE WILLIAMS, RPLS
PROJECT PRINCIPAL

EXPERTISE

QA/QC | PREPARING SCOPES OF WORK | SCHEDULES AND BUDGETS | APPLYING DATA COLLECTION TECHNOLOGIES

FIRM	EXPERIENCE	EDUCATION	LICENSES/REGISTRATIONS
Baseline DCCM	42 years	N/A	Registered Professional Land Surveyor, Texas No. 4819 – Exp. 12/31/2023

EXPERIENCE

Steve's surveying experience includes land boundary, topographic, control, and route surveys; ROW mapping; bathymetric surveys; coastal boundary surveys; interior and exterior improvement surveys; construction staking; accident surveys; and surveys for court litigations. His experience has also included performing feasibility studies for site development projects, utility research, abstracting, platting and submitting/coordinating applications for zoning, utility availability, street closures, easement abandonments, U.S. Army Corps of Engineers, and GLO permits. His responsibilities include allocating field crews and office personnel to the right project at the right time. He has managed surveying contracts and projects for public and private clients throughout Texas.

ROCK PRAIRIE ROAD WEST TOPOGRAPHIC SURVEY

CITY OF COLLEGE STATION | COLLEGE STATION, TEXAS

Steve served as Survey Principal to provide surveying on this City of College Station capital improvement project to widen and upgrade a rural road to a four-lane, concrete street with sidewalks. The project involved a comprehensive topographic survey, including property lines, utilities, and tree locations. A DTM created from a lidar scanning flight by drone was fitted to the project control. Steve also provided QA/QC on all CAD drafting performed.

SOUTH COLLEGE AVENUE/SH 308

CITY OF BRYAN | BRYAN, TEXAS

Steve served as Survey Principal for surveying the planned rebuild and utility relocation upgrade of South College Avenue from the College Station city limits to Villa Maria Road. The project involved a comprehensive topographic survey, including ROW lines, utilities, and tree locations. When the project was expanded to include the burying of major utility lines, he provided QA/QC for the ROW parcel and easement surveys.

FM 2818 (HARVEY MITCHELL PARKWAY) IMPROVEMENTS

TXDOT | COLLEGE STATION, TEXAS

Steve served as Survey Principal overseeing surveying for the planned widening and upgrade of FM 2818 (Harvey Mitchell Parkway) from George Bush Drive to Wellborn Road. The project involved a comprehensive topographic survey, including ROW lines, utilities, and tree locations. A DTM created from a lidar scanning flight by drone of part of the project area (outside the airport limits) was fitted to the project control and included in the deliverables. Steve provided QA/QC for all aspects of the surveying on this project. He was involved in later integrating this project's data into a larger TxDOT project. TxDOT used the Baseline | DCCM control as the basis for the larger project.



W. JOE BREAU, RPLS
QA/QC

EXPERTISE

QA/QC | PREPARING SCOPES OF WORK | SCHEDULES AND BUDGETS | APPLYING DATA COLLECTION TECHNOLOGIES

FIRM	EXPERIENCE	EDUCATION	LICENSES/REGISTRATIONS
Baseline DCCM	49 years	BS, Engineering Technology, Civil Surveying – Texas A&M University	Registered Professional Land Surveyor, Texas No. 4293 – Exp. 12/31/2023

EXPERIENCE

Joe is highly experienced in coordinating survey projects, determining job tasks, preparing scopes of work, interpreting contracts, and preparing schedules and budgets. His experience includes performing research and analyzing property deeds; determining land boundaries and surveys, ROW, and engineering design surveys; and applying technologies for data collection. He has participated in surveying for transportation design projects ranging from small improvements and single ROW parcel surveys to miles-long projects, including 50 to 100 parcel surveys for ROW acquisition. Joe regularly contributes to The Texas Surveyor magazine on safety and has won an industry excellence award. He is a Texas Society of Professional Surveyors (TSPS) certified speaker, co-author, and presenter for several TSPS education courses.

ROCK PRAIRIE ROAD EAST RECONSTRUCTION

CITY OF COLLEGE STATION | COLLEGE STATION, TEXAS

Joe served as QA/QC for ROW survey update of Rock Prairie Road East. He performed existing easement research on the adjacent Atmos Entergy gas lines along SH 6 through Bryan and College Station.

L40 GAS LINE REPLACEMENT

ATMOS ENERGY | MILAN AND BELL COUNTIES, TEXAS

Joe served as QA/QC responsible for the planning, organization, review, and QA/QC of existing easements on our largest Atmos Energy project, the 20-mile L40 gas line replacement. He performed detailed research of easements and deeds. Many gaps in existing easements along the corridor were found.

SURVEY COORDINATION FOR TXDOT BRYAN DISTRICT

TXDOT | BRYAN, TEXAS

Joe served as the District Survey Coordinator overseeing contracted consultant work and projects, including research, analyzing deeds, performing field surveys, and preparing ROW map sets and TxDOT property descriptions for acquiring ROW parcels. He maintained safety records and incident reports and acted as overall authority for crew safety. Joe also wrote numerous work authorizations for consultants to produce deliverables, including engineering design surveys, ROW determination, encroachment and location surveys, and ROW parcels for acquisition. Joe reviewed in-house production of ROW maps and property descriptions and signed and sealed final property description documents for ROW acquisition.

**SAM
MATA**

SURVEY TECHNICIAN

**FIRM**

Baseline | DCCM

EXPERIENCE

8 Years

EDUCATION

National Center for Construction Education and Research Certification – Blinn College

TxDOT Flagger and Traffic Control Certification

OSHA 10 Training

BACKGROUND

Sam came to Baseline | DCCM out of Blinn College's site survey course, eager to advance from his construction job to a land surveyor. He was selected for hire over one other graduate from the same program because of his eagerness to be a surveyor and his on-the-ground knowledge of construction. This has proved to be a win-win for Baseline | DCCM. Sam enjoys learning all aspects of surveying and has become a valuable crew member. When necessary, Sam can perform many tasks as a one-person crew with the robotic total station and the GPS rovers.

- TAMU Heep Center Remodel (Texas A&M University) – College Station, Texas
- FM 158 (William J. Bryan Parkway) Water Underground Power Conversion (City of Bryan) – Bryan, Texas
- Corporate Parkway Topographic Survey (City of College Station) – College Station, Texas
- Texas Avenue ROW/Easement (City of Bryan) – Bryan, Texas
- Various Boundary, Easement, and Topographic Survey (City of Bryan and City of College Station) – Bryan/College Station, Texas

**KEVIN
ROOS**

SR. SURVEY TECHNICIAN/CAD SPECIALIST

**FIRM**

Baseline | DCCM

EXPERIENCE

7 Years

EDUCATION

Geology Coursework – Texas A&M University

BACKGROUND

Kevin is a motivated self-learner and quickly became the leader of Baseline | DCCM's field crew. He operates Leica GPS equipment and robotic total stations. Kevin works great as a one-person crew with GPS and the total station when needed. He is proficient in AutoCAD Civil 3D, creating 2D and 3D linework, and DTMs. He is very good at working the bugs out of DTMs on topographic survey deliverables. He is also working on building a GIS drawing of all former Joe Orr projects to not only keep as an in-house inventory of our archives but to more efficiently be able to find and share older projects with other surveyors and clients. Kevin is an associate member of the TSPS.

- Lakeway Drive Topographic and ROW Surveys (City of College Station) – College Station, Texas
- South College Avenue Topographic and Easement Surveys (City of Bryan) – Bryan, Texas
- Rock Prairie Road West Topographic Survey (City of College Station) – College Station, Texas
- Holleman Drive South Topographic Survey (City of College Station) – College Station, Texas
- FM 2818 (Harvey Mitchell Parkway) Topographic Survey (TxDOT/City of College Station) – College Station, Texas

SECTION D

Experience of the Firm

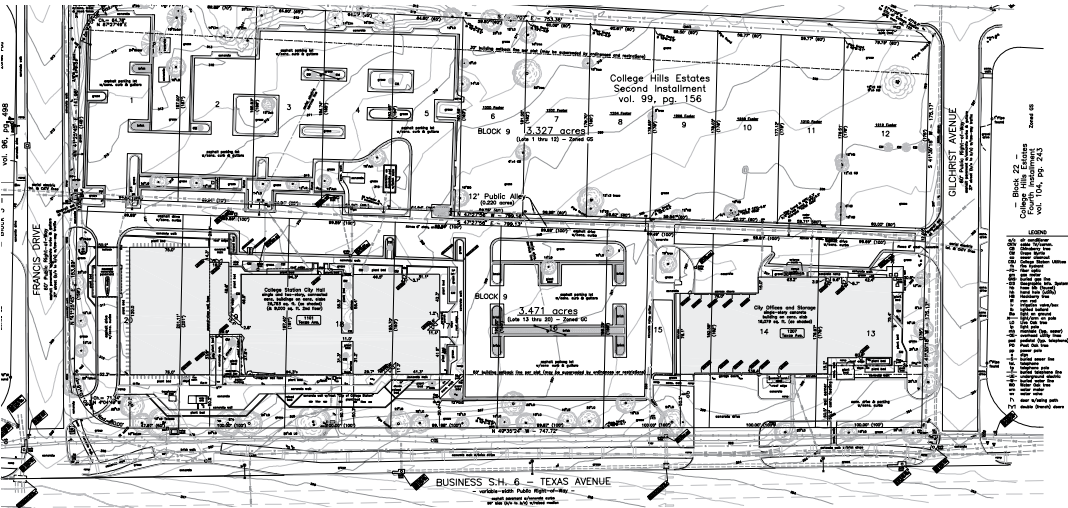


Experience
only the Baseline
team can offer.

HOLLEMAN DRIVE SOUTH WIDENING

Baseline | DCCM, formerly Joe Orr, has provided surveying services on a variety of the City of College Station's projects since 1963. With survey records dating back over 80 years and his vast knowledge of the area's history, our Project Manager, Henry Mayo, RPLS, has been the "go-to" person in Bryan/College Station for boundary and utility information. We are proud of our quick response time, quality surveys, and personal level of service.

CITY HALL TITLE SURVEY UPDATE AND TOPOGRAPHIC SURVEY
CITY OF COLLEGE STATION | COLLEGE STATION, TEXAS



TEAM LEADER
Henry Mayo, RPLS

FIRM'S ROLE
Prime

SURVEY COST
\$19,400

COMPLETION DATE
August 2019

AGENCY CONTACT
Erica Wozniak
979.764.6324

The City of College Station contracted with Baseline | DCCM initially in 2014 for a comprehensive ALTA/NSPS land title survey of the College Station City Hall and its entire block. In 2019, the City of College Station contracted with Baseline | DCCM to update the title survey and complete a topographic survey for the architects and engineers planning the new city hall project.

LINCOLN AVENUE REHABILITATION

CITY OF COLLEGE STATION | COLLEGE STATION, TEXAS



Baseline | DCCM provided full surveying services as a subconsultant for the planned rebuild and utility relocation upgrade of Lincoln Avenue. The project involved a comprehensive topographic survey, including ROW lines, utilities, and tree locations. Baseline | DCCM prepared over a dozen easement surveys and several ROW parcel surveys compiled in an indexed set per the City of College Station survey requirements. Our team's archived records going back over 50 years in the project area proved very beneficial to many aspects of the project.

TEAM LEADER

Henry Mayo, RPLS

FIRM'S ROLE

Subconsultant

SURVEY COST

\$95,750

COMPLETION DATE

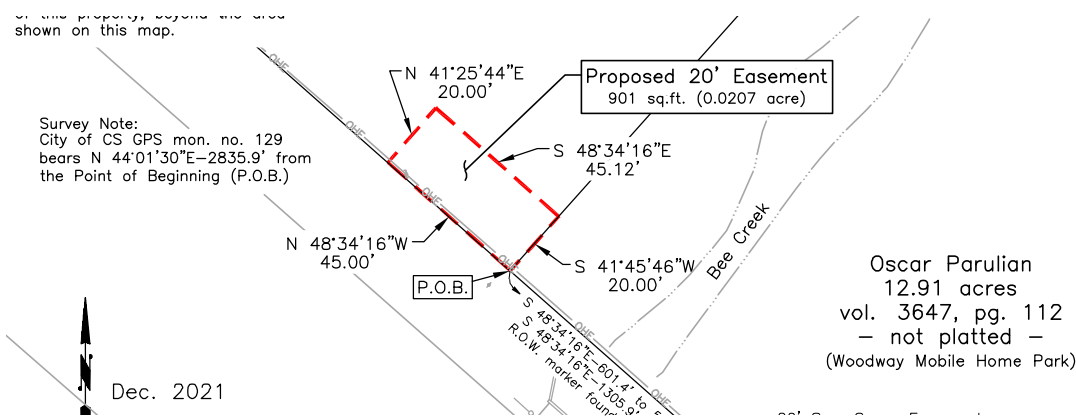
April 2023

AGENCY CONTACT

Brandon Boatcallie, PE
Prime Project Manager
979.703.1809

TEXAS AVENUE WATER LINE REPAIR

CITY OF COLLEGE STATION | COLLEGE STATION, TEXAS



In July 2021, the City of College Station's utilities department contracted with Baseline | DCCM through its master agreement to provide a topographic survey for a water line repair/replacement at its crossing of Bee Creek along Texas Avenue. Following the delivery of the topographic survey and design by the City of College Station staff, it was determined that utility easements would need to be acquired from the two affected landowners. Baseline | DCCM prepared the necessary easement surveys in November 2021 and provided final deliverables by early December 2021.

TEAM LEADER

Henry Mayo, RPLS

FIRM'S ROLE

Prime

SURVEY COST

\$3,500

COMPLETION DATE

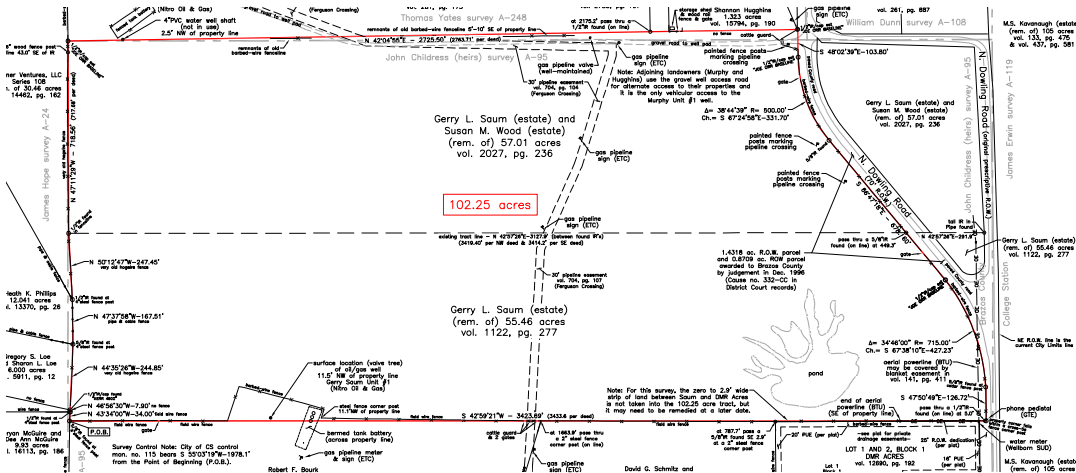
December 2021

AGENCY CONTACT

Ashley Dorsett
979.764.5031

SAUM TRACTS LAND TITLE SURVEY

CITY OF COLLEGE STATION | COLLEGE STATION, TEXAS



The City of College Station contracted Baseline | DCCM to provide a land title survey of two adjacent tracts of rural property totaling 102 acres. Half of the boundary was wooded and required acquiring access permission from adjoining landowners to perform the survey. Deed research involved determining boundary lines described originally in the 1820s, and current fence lines meandered along boundaries described to be straight lines. Baseline | DCCM's team met with City of College Station staff to review the discrepancies between the boundary fences and described boundary lines.

TEAM LEADER
Henry Mayo, RPLS

FIRM'S ROLE
Prime

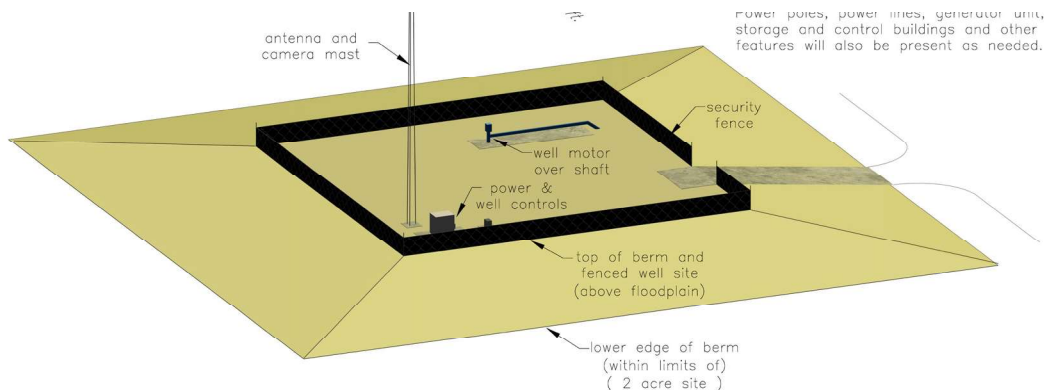
SURVEY COST
\$12,000

COMPLETION DATE
May 2022

AGENCY CONTACT
Mark McAuliffe
979.764.6272

ASTIN FARM BOUNDARY AND EASEMENT SURVEYS

CITY OF COLLEGE STATION | COLLEGE STATION, TEXAS



Baseline | DCCM was subcontracted by a law firm working for the City of College Station utilities department to provide surveying consultation, research, and follow-up with a boundary survey of eight individual sites and connecting easements on a 2,200-acre rural property bounded by two rivers. The challenges of the project were political as well as physical. Baseline | DCCM provided the CAD renderings necessary for city-client contracts with the landowners. Binkley & Barfield | DCCM consulted on the project to provide electrical engineering support on power capacity, line sizes, and easement needs.

TEAM LEADER
Henry Mayo, RPLS

FIRM'S ROLE
Subconsultant

SURVEY COST
\$48,000

COMPLETION DATE
December 2019

AGENCY CONTACT
Stephen Maldonado Jr.
979.764.5011

SECTION E

Cost Estimates and Budget Constraints

Measures to Ensure Project Budget

In most of the decades that Baseline | DCCM has provided surveying services to the City of College Station, the contracts were based on a “time and materials” basis, but often with a set not-to-exceed limit. It was rare that Baseline | DCCM ever requested an increase in the set limit without the City of College Station having requested an addition to the project scope.

In the past decade, Baseline | DCCM has mostly been providing fee estimates and, most recently, “lump sum” proposals for the City of College Station surveying services. In this manner, the fee is known by both parties and contracted not to change without a change order approved by the city.

We take pride in providing quality work to the City of College Station, for the public’s benefit. Fees are based on time pre-estimated or actual time expended, not a percentage of the project cost. Our fee schedule is competitive with similar professional surveying firms across Texas.

Initial Budget	Final Cost	Cost Difference
City Hall ALTA Title Survey Update and Topographic Survey		
– \$3,400 lump sum title survey update – \$16,000 topographic survey	This was a lump sum contract and was invoiced at 100 percent of the contracted fee.	N/A
Astin Farm Boundary and Easement Surveys		
– \$45,000 billed per hourly rates – Budget increased to \$55,000 as the scope of work increased	\$48,000	The total invoiced fee for the project was \$6,962 under budget, or a 13.51 percent difference.
Lincoln Avenue Rehabilitation		
– \$76,500 lump sum topographic survey – \$19,250 easements and ROW	This was a lump sum contract and was invoiced at 100% of the contracted fee.	N/A
Texas Avenue Water Line Repair Topographic and Easement Surveys		
– \$1,500 lump sum topographic survey – \$2,000 lump sum easement survey	This was a lump sum contract and was invoiced at 100% of the contracted fee.	N/A
Saum Tracts Land Title Survey		
– \$12,000 lump sum	This was a lump sum contract and was invoiced at 100% of the contracted fee.	N/A

SECTION F

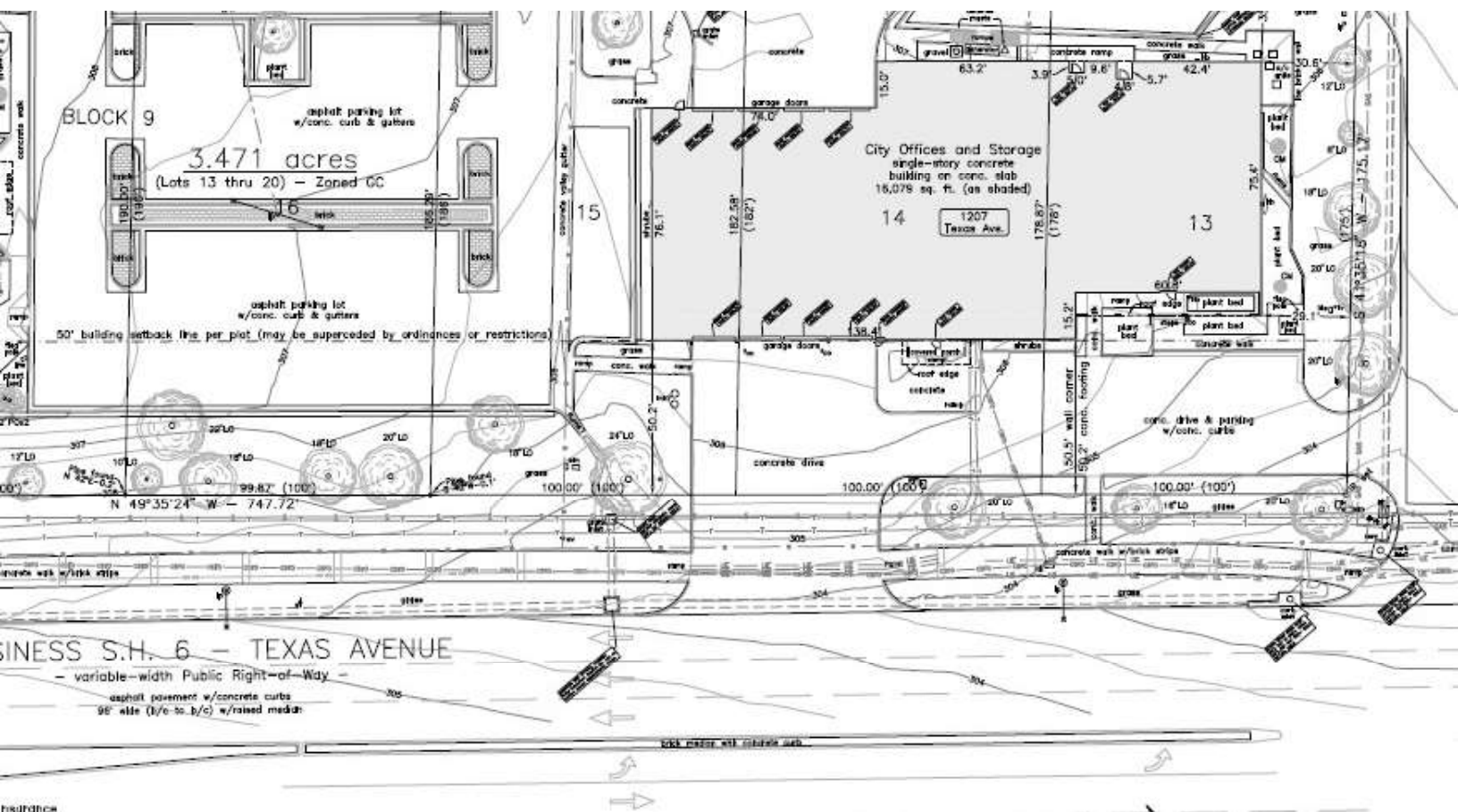
Workload Capacity and History Performing Work

Delivering Projects on Schedule

We have built our practice upon delivering excellent service and managing project schedules to ensure you get the service you need when you need it. Henry develops a detailed project schedule and personally ensures the appropriate resources are allocated to meet every project schedule. Each project listed in *Section D* were delivered within the project schedule we committed to.

Management Contingency Plan

Baseline | DCCM's management philosophy ensures several key individuals are always available to the City of College Station. Even though Henry is designated as Project Manager, Steve Williams, RPLS, our Project Principal, and Joe Breaux, RPLS, QA/QC, are successful, fully informed project managers. They are another resource the city can immediately call should Henry be temporarily unavailable.



The City of College Station contracted Baseline | DCCM, formerly Joe Orr, to provide a comprehensive ALTA/NSPS land title survey of City Hall and the surrounding block in 2014. Then in 2019, the City of College Station requested an updated title survey and topographic survey to plan a new city hall project. Our team completed the necessary field work and provided final deliverables within 68 days.

Approach for Handling Multiple Projects Simultaneously

Baseline | DCCM is currently available and has the capability to perform all required tasks.

Baseline | DCCM pledges to the City of College Station that we will make available all resources required to complete any project in which we have been selected. Baseline | DCCM can immediately respond, in person, to any issue important to the City of College Station. Our Project Principal, Steve Williams, RPLS, will work with our Project Manager, Henry Mayo, RPLS, to personally ensure that the appropriate company resources are allocated and the schedule is met.

We have multiple one- to three-person crews and can allocate resources quickly. This gives us the ability to balance the demands and schedules of multiple projects simultaneously. When the schedule is verified during the kickoff meeting, Baseline | DCCM's resources are assigned to the project and stay in place for its entirety. We carefully monitor schedules and delivery deadlines and assign the right personnel to complete the job

efficiently and effectively. As a result, experience has taught us it is unusual to have a surveying project last longer than 90 days of fieldwork, and even more unusual to use all the work hours in that period.

Baseline | DCCM and our sister company, Shine | DCCM, have seven offices throughout Texas and have access to the resources and field team members of a large company. Should the project's size, scope, or delivery schedule require a response in the field greater than what is typical, Baseline | DCCM has access to a company-wide pool of resources. Our offices are networked together and share access to all work products regardless of the location. This provides a level of responsiveness to Baseline | DCCM that is not available to other similarly sized offices and provides the City of College Station access to a company-wide total of 12 survey crews, 15 RPLSs, six Sr. Survey Technicians, five Surveyors-in-Training, and three LSLs.

12 survey crews, 15 RPLSs, three LSLs, and numerous survey technicians are available for this contract from Baseline | DCCM and our sister company, Shine | DCCM. Survey crews are fully equipped with digital levels, robotic total stations, terrestrial laser scanners, drones, data collectors with coding and mapping software, and dual-frequency GPS receivers equipped with Static and real-time kinematic network capabilities. CAD stations are equipped with the latest versions of AutoCAD Civil 3D, MicroStation, GEOPAK, Leica Infinity, Carlson Survey, Cyclone, ArcGIS, Pix 4D, and other software.

SECTION G

Project Approach



We provided surveying services for the 2.7-mile widening of Greens Prairie Road and Greens Prairie Trail. Our records of pipeline locations made in the 1980s were very beneficial to this project since some of the lines were abandoned in place and not marked in response to current Texas811 requests.

Project Approach

Organization and Structure of the Project Team

Henry Mayo, RPLS, will serve as Project Manager and the point of contact and delivery for the City of College Station surveying projects. As Project Manager, Henry will utilize Joe Breau, RPLS, for task support and QA/QC of deliverables. Steve Williams, RPLS, has the oversight as Project Principal to assign our large staff of RPLS, field surveyors, draftsmen, and administrative staff out of Houston and Richardson to support local College Station projects as needed. [Please refer to "Section A – Firm and Team Introduction" for the project team organizational chart.](#)

Should additional services be required on a surveying project, Baseline | DCCM can subcontract with Texas Drone Professionals (owner/pilot Curtis Youngblood) for aerial drone lidar scanning and photogrammetry and Plant People (Jeff Lehde, BS, MCMA) for urban forestry services. Jeff is a Certified Master Arborist and can be utilized to identify and inventory trees and plants on a project, should a comprehensive topographic survey be required. If buried utilities need to be located, Baseline | DCCM can work with our parent company, Binkley & Barfield | DCCM, for SUE.

Work Plan

The typical steps for a City of College Station project by Baseline | DCCM include:

- Responding to the City of College Station's initial inquiry of surveying needs by noting what department and city staff person needs the work and determining the project's location and proposed scope
- Reviewing any prior projects and related field and office data, which may be utilized to aid in the scope of the new project
- Compiling a proposed project folder in anticipation of receiving approval to proceed with the project in the future
- Preparing an estimate of the field, research, drafting, and administrative time required by the scope of the project (if questions or scope options arise, Baseline | DCCM will correspond with the city staff person requesting the survey work to narrow or pinpoint what is best needed for the project deliverables)
- Preparing a proposed Service Order as the City of College Station contract requires, including a lump sum or time and materials-based fee and proposed completion and delivery date
- Adding the project to the field crew, office staff schedules, and kickoff meeting in anticipation of approval of the Service Order
- Finalizing schedules once approval and a notice to proceed are received and preparing and coordinating any necessary requests for

permission to access private property with the City of College Station

- Field surveying, researching, and drafting will commence in the most efficient order possible
- Implementing a safety plan (the scope, location, prior and related projects in the same area, weather, and access permission dictate how the workflow will proceed)
- Utilizing a careful in-house QA/QC procedure before the final delivery of the project
- Exhibit plats are finished first, and the written descriptions are typed manually from only their called dimensions
- Written descriptions are then drawn graphically from only their printed pages of text to check for the accuracy of calls and closure of the boundaries described (in this manner, if the redrawn properties close graphically, there is little chance that an incorrect or transposed numerical value is in the original exhibit plat nor the metes-and-bounds written descriptions)
- Confirm the exhibit plat and metes-and-bounds descriptions to know what magnitude of round-off error the resulting recorded instruments will have
- Sending deliverables in electronic format efficiently via e-mail (originals, signed and sealed by a Texas RPLS, will be provided upon request)

Approach to Project Management

His approach will be to determine each project's required scope and schedule first, usually incorporating his first-hand knowledge of prior Baseline | DCCM projects at or near the proposed project area. If extensive fieldwork and short schedules dictate the involvement of extra labor resources, Henry will coordinate with Steve Williams, RPLS, to arrange field crew and CAD help. If additional help is needed, this will be incorporated into the proposed fee and schedule in the Service Order prepared for the City of College Station's approval.

Baseline | DCCM's computers are high-speed networked and maintained by in-house IT staff.

This ensures no unexpected interruptions and keeps the software up-to-date and standard between all offices and branches.

Our RPLSs and key personnel hold a weekly group conference call to check on the progress of all projects and quickly address any scheduling issues and needs.

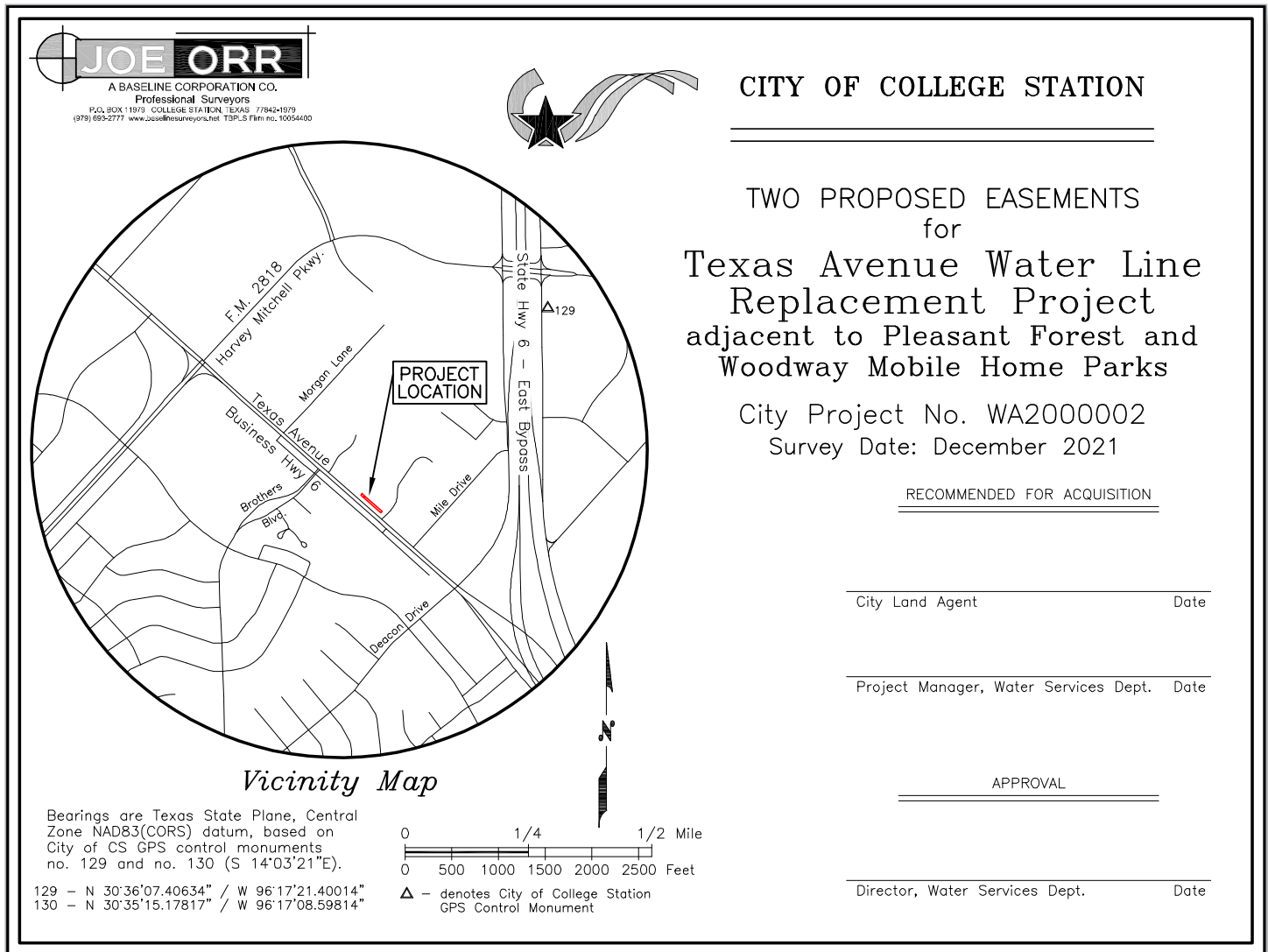
For most College Station projects, all field and office work will be performed by Baseline | DCCM staff in College Station under the direct supervision of Henry. He personally visits the project sites and oversees the fieldwork. The close proximity of our office to all College Station projects is instrumental in the efficiently managing the work schedule.



We employ over 50 people, including 12 survey crews, one LSLs, and 12 RPLSs. Our affiliate, Shine | DCCM, has an additional six people, including two LSLs and RPLSs.

Finished Product Example

Baseline | DCCM, formerly Joe Orr completed topographic and easement surveys for the Texas Avenue Water Line Repair project in December 2021. We have included a portion of the final deliverable as an example of our previous work completed for the City of College Station.



Joe Orr

A BASELINE CORPORATION CO.
 Post Office Box 11979
 College Station, TX 77842-1979
 (979) 693-2777
TBPLS Firm no. 100544-00

Proposed 20' Easement
 Fazzino 23.21 acre tract
 Morgan Rector league A-46
 College Station, Texas
 December 2021

All of that certain tract or parcel of land lying and being situated in the Morgan Rector league, abstract no. 46, in College Station, Brazos County, Texas, being a 20 ft. wide strip of land in the south corner of the remainder of that 23.21 acre tract described in the deed to Joe C. Fazzino, Trustee recorded in volume 455, page 507 of the Deed Records of Brazos County, Texas, and being more particularly described as follows:

Beginning at the south corner of the said 23.21 acre tract in the northeast right-of-way line of Texas Avenue (Business State Highway no. 6) as described in the deed to the State of Texas recorded in volume 80, page 518 of the Deed Records of Brazos County, Texas, also being the west corner of that 12.91 acre tract described in the deed to Oscar Parulian recorded in volume 3647 page 112 of the Official Public Records of Brazos County, Texas, from where a 5/8" iron rod found at the south corner of the 12.91 acre tract bears S 48° 34' 16" E – 601.4 feet, a found TXDOT type I concrete right-of-way marker bears S 48° 34' 16" E – 1305.9 feet, and City of College Station GPS control monument no. 129 bears N 44° 01' 30" E – 2835.9 feet;

Thence N 48° 34' 16" W – 45.00 feet, along the southwest line of the said 23.21 acre tract and northeast right-of-way line of Texas Avenue, to the west corner of this described easement tract;

Thence N 41° 25' 44" E – 20.00 feet through the said 23.21 acre tract to the north corner of this described easement tract;

Thence S 48° 34' 16" E – 45.12 feet, through the said 23.21 acre tract parallel and 20.00 feet northeast of its southwest line, to the east corner of this described easement tract in the common boundary of the 23.21 acre tract and said Parulian 12.91 acre tract;

Thence S 41° 45' 46" W – 20.00 feet, along the said common boundary, to the Point of Beginning and containing 901 sq.ft. (0.0207 acre) of land more or less.

Bearings are Texas State Plane, Central Zone NAD83 datum, based on City of College Station GPS control monument no. 129 and no. 130 (S 14° 03' 21" E).

See separate survey plat dated December 2021.



Fazzino easement

page 1 of 1

Existing Easements Notes:

Commitment for Title Insurance GF no. 213965, dated Sept. 6, 2021 was supplied and relied upon for existing easement research.

— The blanket powerline easement to the City of Bryan in vol. 98, pg. 76 may affect this tract, but no Bryan powerlines remain on this property.

— The blanket powerline easement to the City of College Station in vol. 1066, pg. 419, partially released in vol. 3081, pg. 117, affects this property.

— The 10' easement to the City of College Station in vol. 302, pg. 440 is along the northeast boundary of this property, beyond the area shown on this map.

— The 20' sewer easement to the City of College Station in vol. 335, pg. 467 is across the northeast part of this property, beyond the area shown on this map.

— The 20' easement to the City of College Station in vol. 428, pg. 882 is along a sewer line across the northern part of this property, beyond the area shown on this map.

— The private easement conveyed and described in vol. 2815, pg. 243 and vol. 2955, pg. 172 is located at the north corner of this property, beyond the boundary shown on this map.

Joe C. Fazzino, Trustee
(rem. of) 23.21 acres
vol. 455, pg. 507
— not platted —

(Pleasant Forest Mobile Home Park)



LEGEND

aerial powerline ——— OHE ———
fence/guardrail ——— SS ———
sanitary sewer ——— SS ———

Survey Note:

City of CS GPS mon. no. 129 bears N 44°01'30"E—2835.9' from the Point of Beginning (P.O.B.)

Dec. 2021

0 10 20 30 40 80 Ft

Bearings are TX State Plane, Central Zone NAD83(CORS) datum, based on City of CS GPS control monuments no. 129 and no. 130 (S 14°03'21"E).

All existing utility lines are not shown and some existing easements may not be shown on this exhibit map.

Background linework is from City of College Station Topographic files.

See separate metes and bounds description prepared with this plat.



Proposed 20' Easement
901 sq.ft. (0.0207 acre)

N 41°25'44"E 20.00'
S 48°34'16"E 45.12'
N 48°34'16"W 45.00'
S 41°45'46"W 20.00'

P.O.B.

S 48°34'16"E—601.4' to 5/8" IR found
S 48°34'16"E—1305.9' to concrete
P.O.W. marker found (TXDOT type I)

Bee Creek

Oscar Parulian
12.91 acres
vol. 3647, pg. 112
— not platted —
(Woodway Mobile Home Park)

20' San. Sewer Easement
vol. 335, pg. 465 (CoCS)
[bearings in description are about 45' off]

Texas Avenue
(Business Hwy. 6)
100' R.O.W. — vol. 80, pg. 518

Proposed 20' Easement
Fazzino 23.21 acre tract
Morgan Rector league A-46
College Station, Texas

Joe Orr

A BASELINE CORPORATION CO.
 Post Office Box 11979
 College Station, TX 77842-1979
 (979) 693-2777
 TBPLS Firm no. 100544-00

Proposed 20' Easement
 Parulian 12.91 acre tract
 Morgan Rector league A-46
 College Station, Texas
 December 2021

All of that certain tract or parcel of land lying and being situated in the Morgan Rector league, abstract no. 46, in College Station, Brazos County, Texas, being a 20 ft. wide strip of land in the west corner of that 12.91 acre tract described in the deed to Oscar Parulian recorded in volume 3647, page 112 of the Official Public Records of Brazos County, Texas, and being more particularly described as follows:

Beginning at the west corner of the said 12.91 acre tract in the northeast right-of-way line of Texas Avenue (Business State Highway no. 6) as described in the deed to the State of Texas recorded in volume 80, page 518 of the Deed Records of Brazos County, Texas, also being the south corner of that 23.21 acre tract described in the deed to Joe C. Fazzino recorded in volume 455, page 507 of the Deed Records of Brazos County, Texas, from where a 5/8" iron rod found at the south corner of the 12.91 acre tract bears S 48° 34' 16" E – 601.4 feet, a found TXDOT type I concrete right-of-way marker bears S 48° 34' 16" E – 1305.9 feet, and City of College Station GPS control monument no. 129 bears N 44° 01' 30" E – 2835.9 feet;

Thence S 48° 34' 16" E – 245.00 feet, along the southwest line of the said 12.91 acre tract and northeast right-of-way line of Texas Avenue, to the south corner of this described easement tract;

Thence N 41° 25' 44" E – 20.00 feet through the said 12.91 acre tract to the east corner of this described easement tract;

Thence N 48° 34' 16" W – 244.88 feet, through the said 12.91 acre tract parallel and 20.00 feet northeast of its southwest line, to the north corner of this described easement tract in the common boundary of the 12.91 acre tract and said Fazzino 23.21 acre tract;

Thence S 41° 45' 46" W – 20.00 feet, along the said common boundary, to the Point of Beginning and containing 4899 sq.ft. (0.1125 acre) of land more or less.

Bearings are Texas State Plane, Central Zone NAD83 datum, based on City of College Station GPS control monument no. 129 and no. 130 (S 14° 03' 21" E).

See separate survey plat dated December 2021.



Parulian easement

page 1 of 1

Joe C. Fazzino, Trustee
(rem. of) 23.21 acres
vol. 455, pg. 507
— not platted —
(Pleasant Forest Mobile Home Park)



Survey Note:
City of CS GPS mon. no. 129
bears N 44°01'30"E—2835.9' from
the Point of Beginning (P.O.B.)

LEGEND

aerial powerline ——— OHE ———
fence/guardrail ———— SS ————
sanitary sewer ———— SS ————

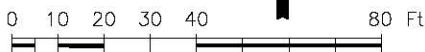
Oscar Parulian
12.91 acres
vol. 3647, pg. 112
— not platted —
(Woodway Mobile Home Park)

Existing Easements Notes:
Commitment for Title Insurance GF
no. 213966, dated Sept. 1, 2021 was
supplied and relied upon for existing
easement research.

— The blanket powerline easement to
the City of Bryan in vol. 98, pg. 76
may affect this tract, but no Bryan
powerlines remain on this property.
— The 20' easement to the City of
College Station in vol. 428, pg. 884
is along a sewer line across the
northern part of this property, beyond
the boundary shown on this map.

20' San. Sewer Easement
vol. 335, pg. 465 (CoCS)
[bearings in description
are about 45' off]

Dec. 2021



Bearings are TX State Plane, Central
Zone NAD83(CORS) datum, based on
City of CS GPS control monuments
no. 129 and no. 130 (S 14°03'21"E).

All existing utility lines are not shown
and some existing easements may
not be shown on this exhibit map.

Background linework is from City of
College Station Topographic files.

See separate metes and bounds
description prepared with this plat.



Proposed 20' Easement
Parulian 12.91 acre tract
Morgan Rector league A-46
College Station, Texas

CERTIFICATION

Exhibit “B”
Scope of Services: Surveying Requirements

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

**CITY OF COLLEGE STATION
SURVEYING REQUIREMENTS FOR LAND ACQUISITION
(AND OTHER CITY PROJECTS)**

Prepared by: Mark McAuliffe, Land Agent, on May 28, 2010
Revised by: Ashley Dorsett, Land Agent, on February 13, 2020

These requirements were developed with the help and guidance of Henry Mayo, RPLS and his father, David Mayo, RPLS. In addition, much of the information was obtained from the document entitled TxDOT Survey Manual (effective April, 1 2016) Chapter 5: Right-of-Way Surveying, prepared by the Texas Department of Transportation's Right-of-Way Division.

The general requirements below shall also apply to any survey work obtained by the City that may not be part of a typical City "project" or may not consist of right-of-way and/or easement acquisition. If a Land Agent is not associated with a particular project, then the Land Agent duties stated below shall fall upon the City's Project Manager.

Defining Project Limits

For a typical City project, the Design Engineer, at the direction of the City Project Manager, shall determine the right-of-way ("ROW") and easements needed to complete the project during the conceptual design. The Project Manager shall be responsible for the preparation and delivery of a general map that depicts and describes all property needed to the City Land Agent. The map should include any fee simple ROW, public utility easements, public access easements, public drainage easements and/or temporary construction easements that will be needed for the project.

If a Needs Resolution is required, then the Land Agent will prepare a final map and narrative legal descriptions for the needed parcels. These will be submitted for approval to the City's Legal Department, and later to City Council, as part of the Needs Resolution.

In an effort to ensure that the property needs are agreed upon before being finalized, the map and property descriptions should be discussed in a meeting with all associated City employees and the Legal Department, per the City's Land Acquisition Process. Final approval of the survey work should be memorialized in writing or with a signed title sheet as described later in this document. Written approval should include the Design Engineer, the client department, including the Director, Assistant Director and Project Manager, and, if the project is a Capital Improvement Project ("CIP"), the CIP Director, Assistant Director and Project Manager.

Right-of-Entry from Landowners

Landowners are entitled to privacy on their lands, therefore entry by persons without permission may be considered trespass. It is the responsibility of the Surveyor to obtain permission from landowners before entry. Written permission is preferred and, upon request, the City may provide a standard "Right-of-Entry" form. In the event that written approval for entry is not secured, then verbal permission is acceptable. The Surveyor must note the date, time and name of person granting permission to enter the property.

In the event that entry is denied, it is suggested that the Surveyor perform work from the right-of-way, and adjoining tracts if possible. If the Surveyor still needs to enter the property, then the Surveyor shall advise the Project Manager and/or Land Agent.

Surveyor Qualifications

All surveying must be completed under the supervision of a Registered Professional Land Surveyor and must conform to industry standards and applicable laws, including the Professional Land Surveying Act. All deliverables shall be signed, sealed and dated by an RPLS.

Coordinate System

All projects must be tied to a City of College Station GPS control monument (or Bryan or Brazos County control monument, if applicable), and must use the Texas State Plane Coordinate System Zone 3, Zone 5376, FIPS 4203, TX-Central with Central Zone NAD83 (CORS) datum. The projects must also be located relative to adjoining tracts.

Additional Requirements

The format and content of all survey work for right-of-way and easements shall follow the below requirements, as well as the guidelines described in the previously mentioned Texas Department of Transportation manual, and should also be similar to the attached example. For cases in which the Surveyor believes that the requirements do not apply to a particular assignment, then the Surveyor must obtain written approval from the Project Manager.

The Design Engineer or Surveyor shall coordinate with the Project Manager and Land Agent to obtain the necessary title work.

General:

- Permanent markers should be set for corners of ROW parcels
- Property corners, monuments and other survey markers should be located, identified and noted on the parcel plats
- Boundary discrepancies, survey problems, etc. should be noted on the parcel plats
- Title sources for ROW adjacent and/or crossing the parcels should be stated on the parcel plats
- Total area of ROW and/or easements should be calculated in square footage and acreage
- A title sheet shall be included naming the project, stating the metadata and allowing for approval as described above
- A ROW map shall be included as a graphic index map showing the surveyed parcels in relation to adjacent roadways
- Draft survey work should be submitted for review and comments, and titled "Preliminary"
- The Land Agent and/or Project Manager shall review ownership, survey markers, property lines, calls, closure, etc.
- The Surveyor shall make any necessary revisions before submitting the final survey work

Conflicting Easements:

- Parcel plats shall depict the location of all existing easements within or crossing the proposed ROW or easement, including all easements referenced on Schedule B of the provided title work
- If an easement stated on Schedule B does not affect the proposed ROW or easement, then a comment shall be made in the notes on the parcel plats
- Blanket type easements shall be noted on the parcel plats and shall describe whether utilities or facilities are located within the part to be acquired

Encroachments, Improvements and Utilities:

- Parcel plats shall depict all driveways, streets, alleys, highways, etc.
- Parcel plats shall depict all improvements including buildings, fences, etc.
- Parcel plats shall depict, in detail, all improvements to be bisected by the proposed ROW or easement or to be located within 50 feet of the proposed ROW or easement
- Parcel plats shall depict the location of all above ground utility facilities, including poles, guy wires, vent pipes, etc.
- Underground utilities shall be noted on the parcel plats if their location is identifiable, or if this is requested by the Project Manager for project purposes

Sizing:

- Survey work should include the following (to the best fit):
 - Title sheet with signature lines for approval
 - Overall ROW map – 8 ½" x 11", 11" x 17" or larger (ensure legible text)
 - Metes and bounds descriptions – 8 ½" x 11"
 - Parcel plats – 8 ½" x 11" (ensure legible text)

Headings and Descriptions:

- Refrain from placing the following text in headings:
 - "Exhibit A" or "Exhibit B" (often Exhibit A becomes Exhibit B, and vice versa)
- Refrain from using the following descriptions:
 - "ROW Dedication" (often ROW is purchased, not dedicated)
 - "Water Line Easement" or "Sanitary Sewer Easement" (use only "Easement" as uses may be stricken from the actual conveyance document)

Delivery Method:

- Printed
 - Three sets of original paper documents (upon request)
- Electronic
 - pdf format (or similar "locked" format)
 - AutoCAD in .DWG format
 - Uploaded to ftp site (upon request)

Attachments

As stated above, the attached example should also be used as a general guide when preparing right-of-way and easement survey work for the City of College Station.



CITY OF COLLEGE STATION
Public Works Department

**PROPOSED RIGHT-OF-WAY PARCEL
AND EASEMENT TRACT**

Naboo Street Rehaul
Project no. ST13915

Survey Date: June 2814

KENOBI SURVEYING
Honorable Service since 2715
Tosche Station, Tatooine
A8-G290-HPM5045

RECOMMENDED FOR ACQUISITION

Project Manager — City

Date

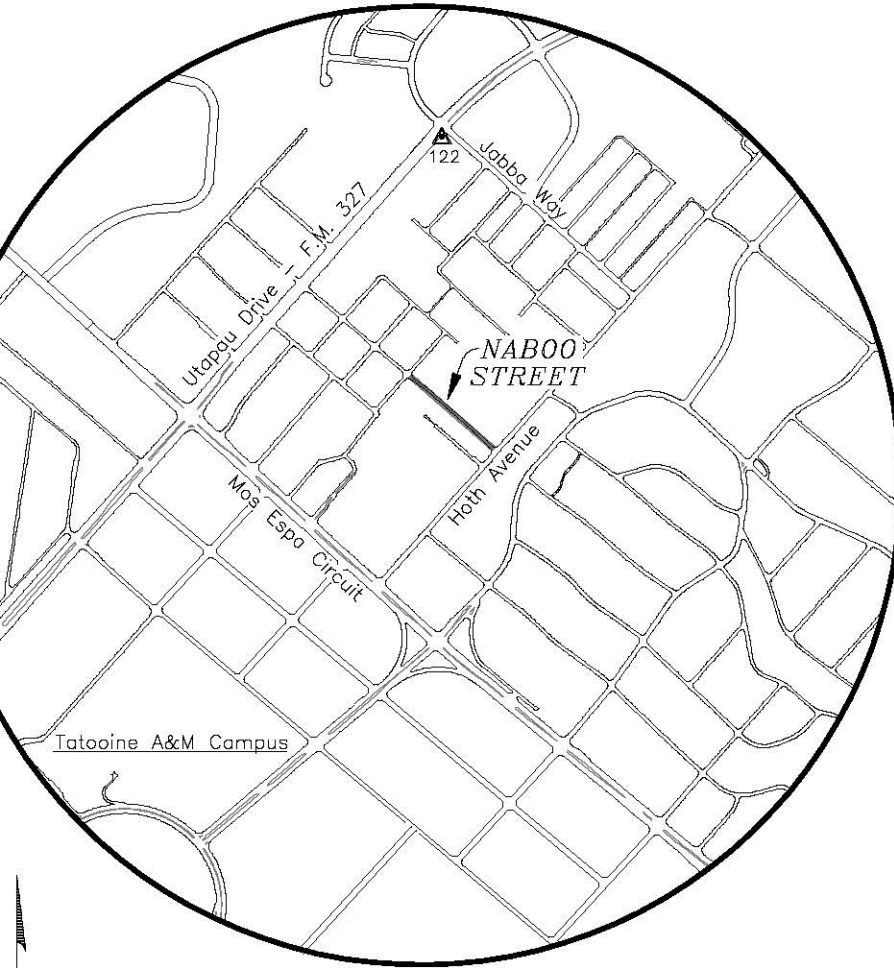
Project Manager — Design Firm

Date

APPROVAL

Director of Public Works

Date



Vicinity Map

0 1/4 1/2 Mile

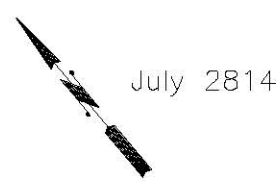
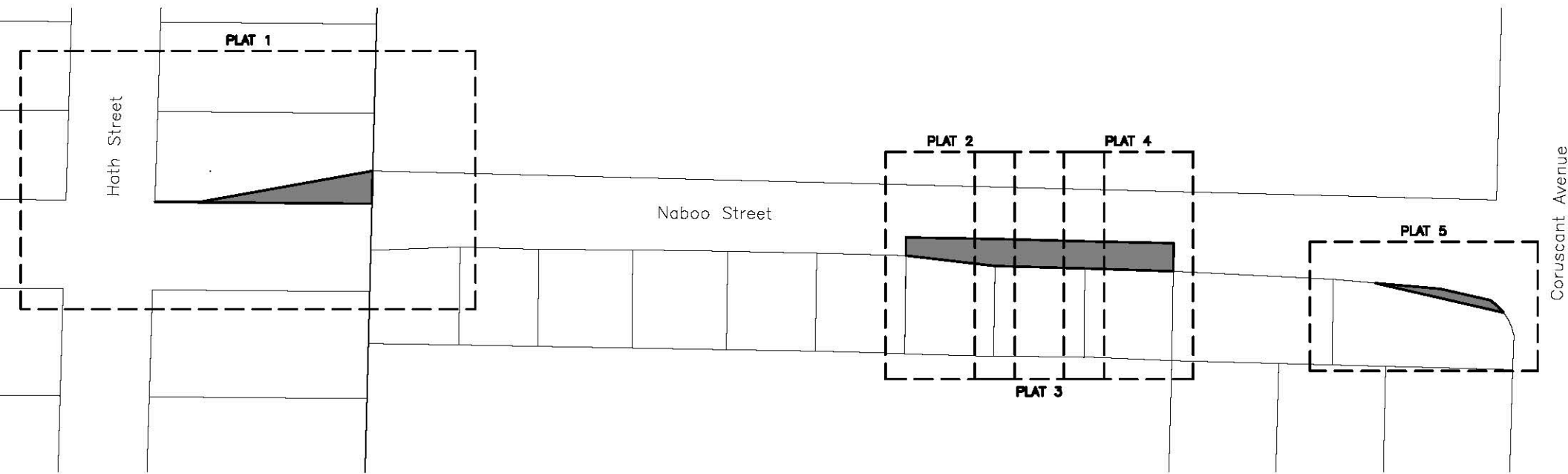
△ — denotes City of College Station
GPS Control Monument

Bearings are State Plane, Central
Zone NAD83(CORS) datum, based on
City of CS GPS control monuments
no. 122 and no. 1 (S 4°47'50" W).

1 — N 30°35'51.09963" / W 96°20'02.54418"
122 — N 30°37'58.39917" / W 96°19'44.84158"

INDEX OF SHEETS

PLAT NO.	DESCRIPTION
1	Lot 7, Block H – Death Star Subd.
2	Ackbar tract – 818 Naboo Street
3	Hett tract – 820 Naboo Street
4	Grevious tract – 822 Naboo Street
5	Lot 6–11 – 828 Naboo Street



OBI-WAN B. KENOBI
11380
LAND PROFESSIONAL SURVEYOR

0 5 10 20 40 Ft

Bearings are State Plane, Central Zone NAD83(CORS) datum, based on City of CS GPS control monuments no. 122 and no. 1 (S 4°47'50"W).

All existing utility lines and some existing easements may not shown.

Iron rods set have orange plastic caps stamped "OB KENOBI RPLS 11380".

See separate metes and bounds description prepared with this plat.

Legend

- building wall
- pavement edge
- chain-link fence
- wood fence

Hoth Street

50' right-of-way (plat)
 asphalt pavement

Naboo Street

50' right-of-way (plat)
 asphalt pavement

Proposed Right-of-Way Parcel
 897 sq. ft.

— record owner —
Boba M. Fett
 Lot 7 and Adjacent 15' of Lot 6
 vol. 285, pg. 213
 vol. 584, pg. 635

one-story home
 400 Hoth

Death Star Subdivision
 vol. 126, pg. 133
 (renamed—vol. 135, pg. 321)

Lot 7

Block H

Lot 6

Survey Note:
 City of CS GPS mon. no. 122
 bears N 3°16'36"E 1702.2' from
 Point of Beginning (P.O.B.)

P.O.B. 6' Utility Easement (plat note)

5' Public Utility Easement (plat)

concrete driveway

Lot 6-1
 Sith Subdivision
 vol. 9912, pg. 22

original lot line
 Sith Subdivision
 vol. 49, pg. 106

nail in asphalt found in 2800

R.O.W. dedication
 vol. 9912, pg. 22
 (plat)

R.O.W. parcel
 - vol. 269, pg. 180

R.O.W. dedication
 vol. 516, pg. 717
 (plat)

1/2" IR found in concrete

1/2" IR/cap set Lot 2 corner

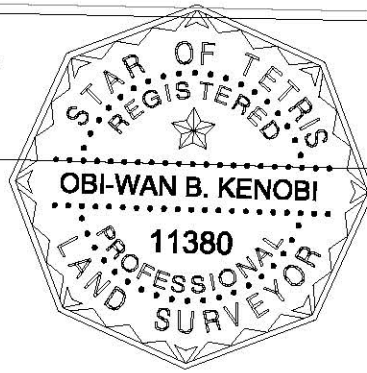
concrete parking lot

Lot 2

Part of Lots 7,8,9 & 10
 Sith Subdivision
 vol. 516, pg. 717

Proposed Right-of-Way Parcel
Naboo Street

0 2 5 10 20 Ft

10' Utility Easement
(plat)

Bearings are State Plane, Central Zone NAD83(CORS) datum, based on City of CS GPS control monuments no. 122 and no. 1 (S 4°47'50"W).

All existing utility lines and some existing easements may not shown.

See separate metes and bounds description prepared with this plat.

Legend

- building wall
- pavement edge
- chain-link fence
- wood fence

Survey Note:
City of CS GPS mon. no. 122
bears N 4°15'38"W 1958.7' from
Point of Beginning (P.O.B.)

Blanket Easement Note:

The powerline easement to the City of Bryn recorded in vol. 2504, pg. 302 may affect this tract, but its location is not described and no BTU powerline is present on this property.

Naboo Street

variable-width right-of-way
asphalt pavement

10' Access
Easement (private)
vol. 119, pg. 272

N 48°37'35"W-350.0'
to Lot 6/7 corner

P.O.B.

Proposed
Right-of-Way Parcel
634 sq. ft.*

N 43°18'24"W - 50.46'

concrete walk & porch

concrete
driveway

*Prescriptive Right-of-Way Note:
555 sq. ft. of area within this proposed
R.O.W. parcel is covered by the current
pavement of Naboo Street.

5' Sewer Easement (private)
vol. 2750, pg. 1

note: This instrument also grants
an easement for a gas line, but
its location is not clearly defined.

Admiral Ackbar
0.075 ac. (third tract)
Vol. 1846, Pg. 149

one-story, brick home on slab
818 Naboo

Lot 6

Sith Subdivision
vol. 49, pg. 106

concrete
driveway

Rancor LLC
0.0579 ac.
vol. 9814, pg. 53

Sharad Hett
rem. of 50'x66' tract
vol. 2295, pg. 76

Magnail found
in asphalt

S 39°31'41"W

15.06'

S 41°41'56"W-49.88'

1/2" IR found

6.4'

IR to IR

5' P.U.E. (plat)

5/8" IR/cap found
"NIHILUS RPLS 65090"

5' P.U.E. (plat)

1/2" IR/cap found
"SOLO 32201"

5' P.U.E. (plat)

5' P.U.E. (plat)

5' P.U.E. (plat)

5' P.U.E. (plat)

5' P.U.E. (plat)

5' P.U.E. (plat)

5' P.U.E. (plat)

Proposed Right-of-Way Parcel

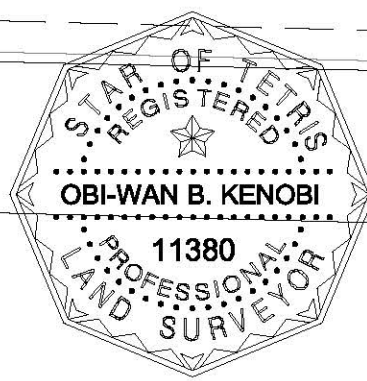
Ackbar Tract - 818 Naboo Street



Bearings are State Plane, Central Zone NAD83(CORS) datum, based on City of CS GPS control monuments no. 122 and no. 1 (S 4°47'50"W).

All existing utility lines and some existing easements may not shown.

See separate metes and bounds description prepared with this plat.



10' Utility Easement (plat)

existing
20' R.O.W. dedication
vol. 516, pg. 717 (plat)

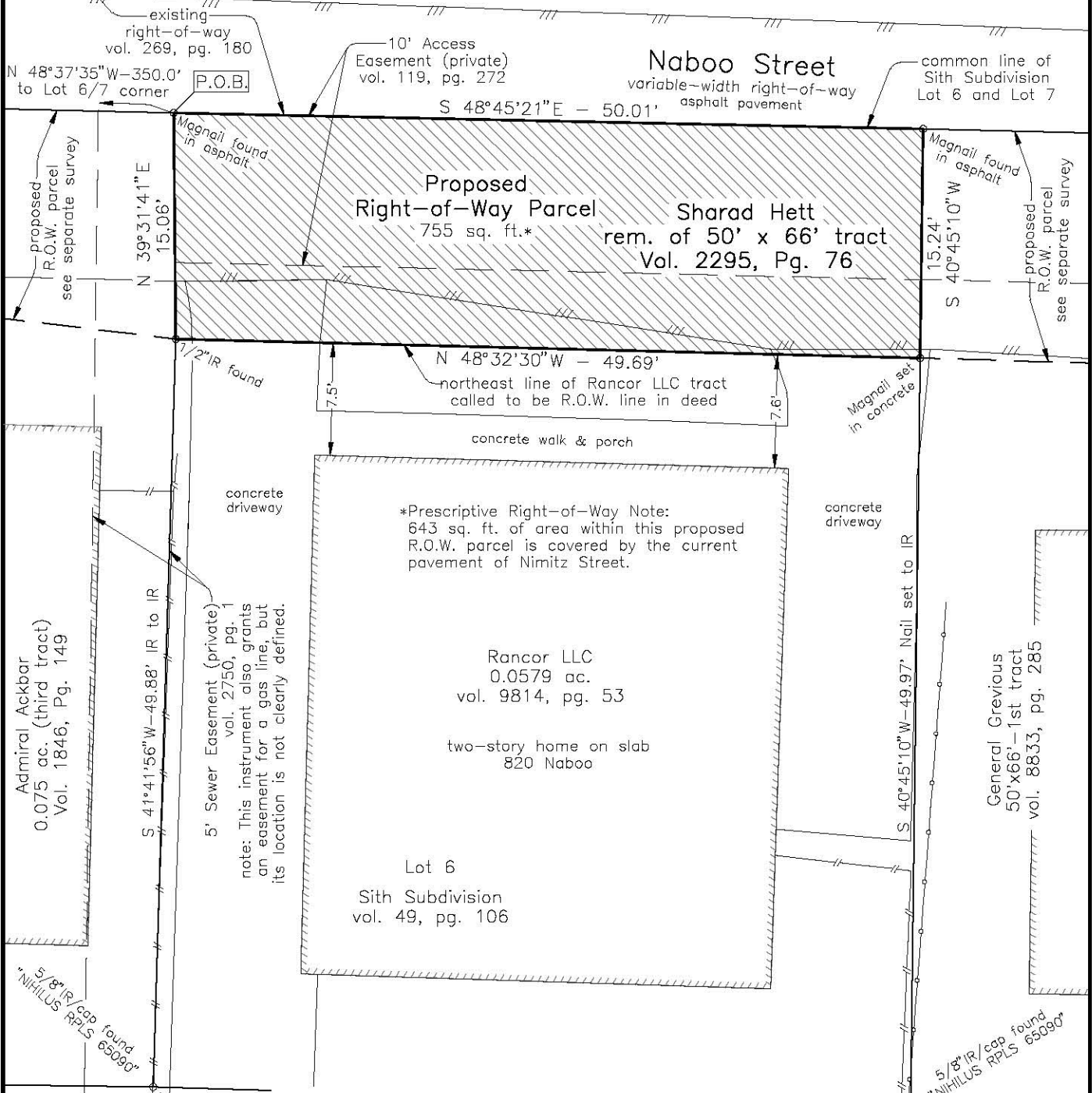
Blanket Easement Note:

The powerline easement to the City of Bryn recorded in vol. 2504, pg. 302 may affect this tract, but its location is not described and no BTU powerline is present on this property.

Survey Note:
City of CS GPS mon. no. 122 bears N 4°15'38"W 1958.7' from Point of Beginning (P.O.B.)

Legend

- building wall
- pavement edge
- chain-link fence
- wood fence



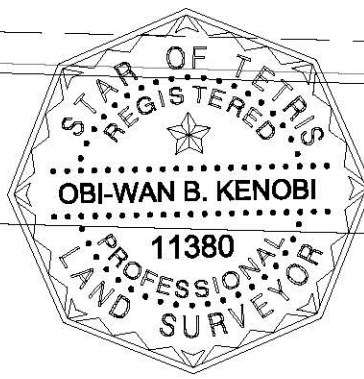
Proposed Right-of-Way Parcel
Remainder of Sharad Hett Tract



Bearings are State Plane, Central Zone NAD83(CORS) datum, based on City of CS GPS control monuments no. 122 and no. 1 (S 4°47'50"W).

All existing utility lines and some existing easements may not be shown.

See separate metes and bounds
description prepared with this plat.



10' Utility Easement
(plat)

20' R.O.W. dedication
vol. 516, pg. 717 (plat)

Survey Note:
City of CS GPS mon. no. 122
bears N 5°16'03"W 1994.7' from
Point of Beginning (P.O.B.)

Blanket Easement Note:
The powerline easement to the City of Bryn
recorded in vol. 2504, pg. 302 may affect this
tract, but its location is not described and no
BTU powerline is present on this property.

Legend

- | | |
|---|------------------|
|  | building wall |
|  | pavement edge |
|  | chain-link fence |
|  | wood fence |

Naboo Street

N 48°38'33"W-400.1' variable-width right-of-way
to Lot 6/7 corner asphalt pavement

- common line of
Sith Subdivision
Lot 6 and Lot 7

10' Access —
Easement (private)
vol. 119, pg. 272

existing
right-of-way
vol. 269, pg. 180

Sharad Hett
m. of 50'x66' tract
vol. 2295, pg. 76

N 40°45'10"E
15.24'

Magnail set
in concrete

Proposed
Right-of-Way Parcel
773 sq. ft.*

Magnail found
in asphalt

15.65'
S 40°22'15"W
existing
right-of-way
vol. 2816, pg. 99
(plat)

N 48°09'51"W - 50.07'

*Prescriptive Right-of-Way Note:
766 sq. ft. of area within this proposed
R.O.W. parcel is covered by the current
pavement of Naboo Street.

concrete
driveway

concrete walk & porch

concrete
driveway

S 40°49'06"W-50.19' Nail set to IR

Lot 6-10

A Portion of Lot 6
Sith Subdivision
vol. 2816, pg. 99

 Rancor LLC
 0.0579 ac.
 vol. 9814, pg. 53

S 40°45'10" W - 49.97' Nail set to IR

General Greivous
50'x66'—1st tract
Vol. 8833, Pg. 285
Vol. 10468, Pg. 127

one-story, brick home on slab
822 Naboo

Lot 6

Sith Subdivision
vol. 49, pg. 106

5/8" IR/cap found
"NIHILUS RPLS 65090"

3' P.U.E.

— Proposed Right-of-Way Parcel
Grevious Tract — 822 Naboo Street

ent Note:
easement to the City of Bryn
l. 2504, pg. 302 may affect this
ocation is not described and no
is present on this property.

o. commitment
60 (June 30, 2814)
n for easement
rch for this survey.

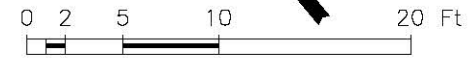
Survey Note:
City of CS GPS mon. no. 122
bears N 7°54'40"W 2129.5' from
Point of Beginning (P.O.B.)

common line of Sith Subdivision Lot 6 and Lot 7 (vol. 49, pg. 106)

10' Access
Easement (private)
vol. 119, pg. 272

Naboo Street
variable-width right-of-way
asphalt pavement

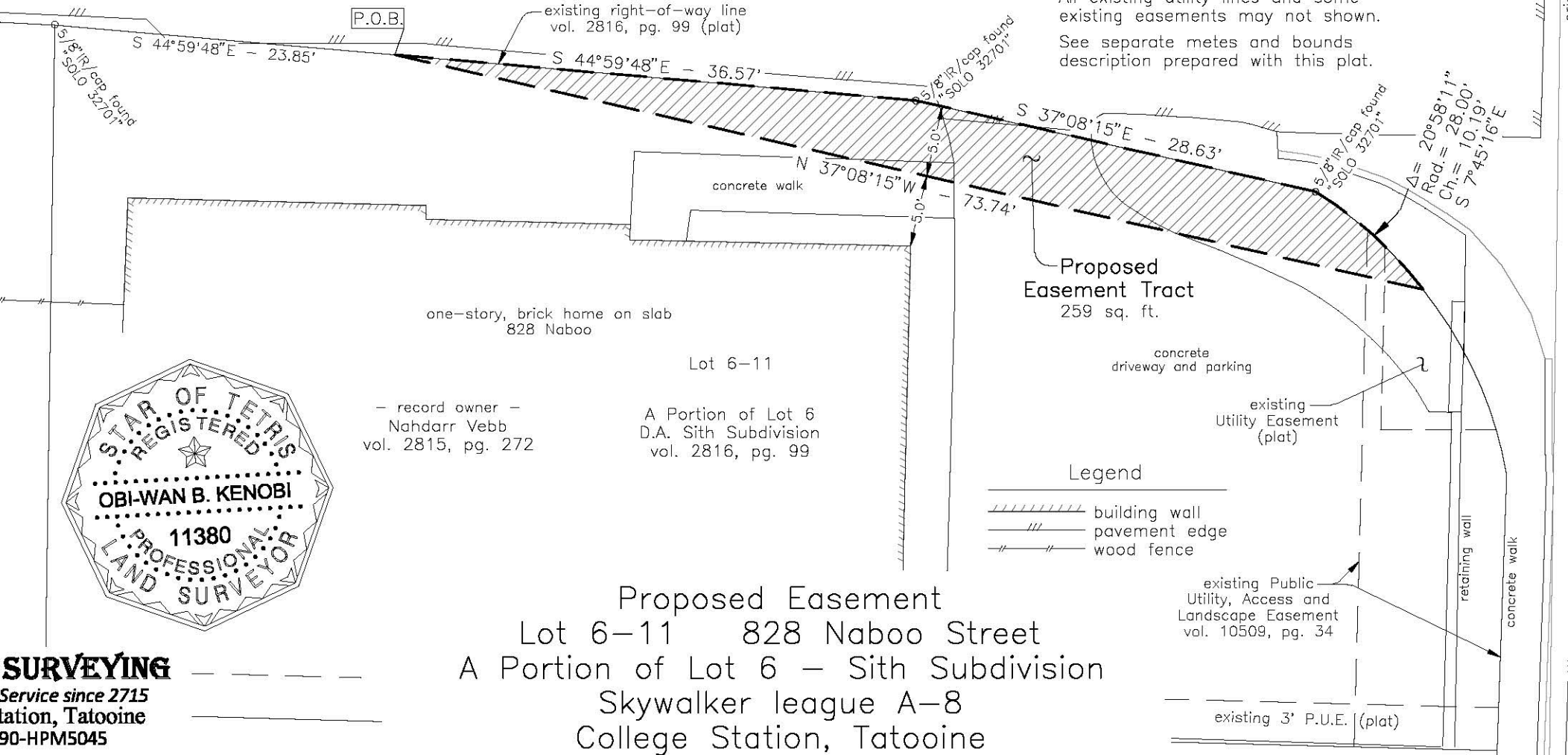
July 2814



Bearings are State Plane, Central
Zone NAD83(CORS) datum, based on
City of CS GPS control monuments
no. 122 and no. 1 (S 4°47'50"W).

All existing utility lines and some
existing easements may not shown.

See separate metes and bounds
description prepared with this plat.



SURVEYING
Service since 2715
Station, Tatooine
90-HPM5045

KENOBI SURVEYING

Honorable Service Since 2715

Tosche Station, Tatooine

A8-G290-HPM5045

Proposed Naboo Street Easement Tract
Lot 6-11, A Portion of Lot 6, Sith Subdivision
Luke Skywalker league A-8
College Station, Texas
31 July 2814

All of that certain tract or parcel of land lying and being situated in the Luke Skywalker league, abstract no. 8, in College Station, Brazos County, Texas, being part of Lot 6-11 of A Portion of Lot 6, Sith Subdivision as described by plat recorded in volume 2816, page 99 of the Official Public Records of Brazos County, Texas, being a tract of land contiguous with the northeast boundary of Lot 6-11, which is also the southwest right-of-way line of Naboo Street, and being more particularly described as follows:

Beginning at a point in the northeast line of said Lot 6-11 and southwest line of Naboo Street, from where a 5/8" iron rod with a yellow plastic cap stamped "SOLO 32701" was found at the north common corner of Lot 6-10 and Lot 6-11 bears N 44° 59' 48" W – 23.85 feet, and from where the City of College Station GPS control monument no. 122 bears N 7° 54' 40" W – 2129.5 feet.

Thence S 44° 59' 48" E – 36.57 feet, along said common Lot and right-of-way line, to a 5/8" iron rod with a yellow plastic cap stamped "SOLO 32701" found at an angle point in said line;

Thence S 37° 08' 15" E – 28.63 feet, continuing along said common Lot and right-of-way line, to another 5/8" iron rod with a yellow plastic cap stamped "SOLO 32701" found at an angle point in said line;

Thence continuing along the northeast boundary of Lot 6-11, along a curve to the right with a radius of 28.00 feet, a central angle of 20° 58' 11" and a chord of S 7° 45' 16" E – 10.19 feet, to the most southerly corner of this easement tract;

Thence N 37° 08' 15" W – 73.74 feet, through Lot 6-11 to the Point of Beginning and containing 259 square feet of land more or less.

Bearings are Texas State Plane, Central Zone NAD83 (CORS) datum, based on City of College Station GPS monuments no. 122 and no. 1 (S 4° 47' 50" W).

See survey plat dated July 2814.

KENOBI SURVEYING*Honorable Service Since 2715*

Tosche Station, Tatooine

A8-G290-HPM5045

Proposed Naboo St. R.O.W. Parcel
 Ackbar Tract – Part of Sith Lot 6
 Luke Skywalker league A-8
 College Station, Texas
 3 June 2814

All of that certain tract or parcel of land lying and being situated in the Luke Skywalker league, abstract no. 8, in College Station, Brazos County, Texas, being part of Lot 6 of the Sith Subdivision as described by plat recorded in volume 49, page 106 of the Deed Records of Brazos County, Texas, being a tract of land mostly within the existing pavement of Naboo Street and being part of that 0.075 acre (third) tract described in deed to Admiral Ackbar recorded in volume 1846, page 149 of the Official Public Records of Brazos County, Texas, and being more particularly described as follows:

Beginning at a Magnail found in asphalt at the east corner of said Ackbar tract and north corner of that 50 ft. x 66 ft. tract conveyed to Sharad Hett by deed recorded in volume 2295, page 76 of the Official Public Records of Brazos County, Texas, from where the north common corner of Lot 6 and Lot 7 of said Sith Subdivision bears N 48° 37' 35" W – 350.0 feet, and from where the City of College Station GPS control monument no. 122 bears N 4° 15' 38" W – 1958.7 feet.

Thence S 39° 31' 41" W – 15.06 feet, along the common line of said Ackbar and Hett tracts, to a 1/2" iron rod found at the north corner of that 0.0579 acre tract described in deed to Rancor LLC recorded in volume 9814, page 53 of the Official Public Records of Brazos County, Texas;

Thence N 43° 18' 24" W – 50.46 feet, through the said Ackbar tract, to a Magnail found in asphalt at the east corner of Lot 6-6 and southwest right-of-way line of Naboo Street as described by plat of Lots 6-5 & 6-6 Sith Subdivision recorded in volume 9524, page 76 of the Official Public Records of Brazos County, Texas, from where a 1/2" iron rod with a yellow plastic cap stamped "SOLO 32701" found at the common corner of said Ackbar tract and said Lot 6-6 bears S 40° 56' 54" W – 55.03 feet;

Thence N 40° 19' 39" E – 10.32 feet, along the northwest line of said Ackbar tract, to another Magnail found in asphalt at its north corner;

Thence S 48° 41' 34" E – 49.94 feet, along the northeast line of said Ackbar tract, to the Point of Beginning and containing 634 square feet of land more or less.

Bearings are Texas State Plane, Central Zone NAD83 (CORS) datum, based on City of College Station GPS monuments no. 122 and no. 1 (S 4° 47' 50" W).

See survey plat dated June 2814.

KENOBI SURVEYING*Honorable Service Since 2715*

Tosche Station, Tatooine

A8-G290-HPM5045

Proposed Naboo St. R.O.W. Parcel
 Hett Tract – Part of Sith Lot 6
 Luke Skywalker league A-8
 College Station, Texas
 3 June 2814

All of that certain tract or parcel of land lying and being situated in the Luke Skywalker league, abstract no. 8, in College Station, Brazos County, Texas, being part of Lot 6 of the Sith Subdivision as described by plat recorded in volume 49, page 106 of the Deed Records of Brazos County, Texas, being a tract of land mostly within the existing pavement of Naboo Street and being all of the remainder of that 50 ft. x 66 ft. tract described in deed to Sharad Hett recorded in volume 2295, page 76 of the Official Public Records of Brazos County, Texas, contiguous with the portion of said Hett tract conveyed to Rancor LLC by deed recorded in volume 9814, page 53 of the Official Public Records of Brazos County, Texas, and being more particularly described as follows:

Beginning at a Magnail found in asphalt at the north corner of said Hett tract from where the north common corner of Lot 6 and Lot 7 of said Sith Subdivision bears N 48° 37' 35" W – 350.0 feet, and from where the City of College Station GPS control monument no. 122 bears N 4° 15' 38" W – 1958.7 feet.

Thence S 48° 45' 21" E – 50.01 feet, along the northeast line of said Hett tract and common line of said Lot 6 and Lot 7, to another Magnail found in asphalt at the east corner of said Hett tract and the north corner of that first 50 ft. x 66 ft. tract described in deed to General Greivous recorded in volume 8833, page 285 of the Official Public Records of Brazos County, Texas;

Thence S 40° 45' 10" W – 15.24 feet, along the southeast line of said Hett tract and northwest line of said Greivous tract, to a Magnail set in concrete at the south corner of this tract, also being the east corner of said Rancor tract, from where a 5/8" iron rod with an orange plastic cap stamped "NIHILUS RPLS 65090" found at the south corner of the Rancor tract bears S 40° 45' 10" W – 49.97 feet;

Thence N 48° 32' 30" W – 49.69 feet, along the northeast line of said Rancor tract and called to be the right-of-way line of Naboo Street in its deed, to a 1/2" iron rod found at the north corner of the Rancor tract from where another 5/8" iron rod with an orange plastic cap stamped "NIHILUS RPLS 65090" found at the west corner of the Rancor tract bears S 41° 41' 56" W – 49.88 feet;

Thence N 39° 31' 41" E – 15.06 feet, along the northwest line of said Hett tract, also being the southeast line of that 0.075 acre (third) tract conveyed by deed to Admiral Ackbar recorded in volume 1846, page 149 of the Official Public Records of Brazos County, Texas, to the Point of Beginning and containing 755 square feet of land more or less.

Bearings are Texas State Plane, Central Zone NAD83 (CORS) datum, based on City of College Station GPS monuments no. 122 and no. 1 (S 4° 47' 50" W).

See survey plat dated June 2814.

KENOBI SURVEYING*Honorable Service Since 2715*

Tosche Station, Tatooine

A8-G290-HPM5045

Proposed Naboo St. R.O.W. Parcel
 Grevious Tract – Part of Sith Lot 6
 Luke Skywalker league A-8
 College Station, Texas
 3 June 2814

All of that certain tract or parcel of land lying and being situated in the Luke Skywalker league, abstract no. 8, in College Station, Brazos County, Texas, being part of Lot 6 of the Sith Subdivision as described by plat recorded in volume 49, page 106 of the Deed Records of Brazos County, Texas, being a tract of land mostly within the existing pavement of Naboo Street, within the northeast end of that first 50 ft. x 66 ft. tract conveyed to General Grevious by deed recorded in volume 8833, page 285 of the Official Public Records of Brazos County, Texas, and being more particularly described as follows:

Beginning at a Magnail found in asphalt at the north corner of said Grevious first tract from where the north common corner of Lot 6 and Lot 7 of said Sith Subdivision bears N 48° 38' 33" W – 400.1 feet, and from where the City of College Station GPS control monument no. 122 bears N 5° 16' 03" W – 1994.7 feet.

Thence S 48° 37' 51" E – 49.96 feet, along the northeast line of said Grevious first tract and common line of said Lot 6 and Lot 7, to another Magnail found in asphalt at the east corner of said Grevious first tract and the north corner of a resubdivision of A Portion of Lot 6 of the Sith Subdivision as described by plat recorded in volume 2816, page 99 of the Official Public Records of Brazos County, Texas;

Thence S 40° 22' 15" W – 15.65 feet, along the southeast line of said Grevious first tract and northwest line of said resubdivision, to a 60d Nail set in asphalt at the south corner of this tract, also being the north corner of Lot 6-10 in the southwest right-of-way of Naboo Street as described by said resubdivision plat, and from where a 5/8" iron rod with a yellow plastic cap stamped "SOLO 32701" found at the common corner of said Grevious first tract and said Lot 6-10 bears S 40° 49' 06" W – 50.19 feet;

Thence N 48° 09' 51" W – 50.07 feet, through said Grevious first tract to a Magnail set in concrete at the west corner of this tract and east corner of that 0.0579 acre tract described in deed to Rancor LLC recorded in volume 9814, page 53 of the Official Public Records of Brazos County, Texas, from where a 5/8" iron rod with an orange plastic cap stamped "NIHILUS RPLS 65090" found at the south corner of said Rancor tract bears S 40° 45' 10" W – 49.97 feet;

Thence N 40° 45' 10" E – 15.24 feet, along the northwest line of said Grevious first tract, also being the southeast line of that 50 ft. x 66 ft. tract described in deed to Sharad Hett recorded in volume 2295, page 76 of the Official Public Records of Brazos County, Texas, to the Point of Beginning and containing 773 square feet of land more or less.

Bearings are Texas State Plane, Central Zone NAD83 (CORS) datum, based on City of College Station GPS monuments no. 122 and no. 1 (S 4° 47' 50" W).

See survey plat dated June 2814.

KENOBI SURVEYING*Honorable Service Since 2715*

Tosche Station, Tatooine

A8-G290-HPM5045

Proposed Naboo St. R.O.W. Parcel
 Lot 7, Block H, Death Star Subd.
 Luke Skywalker league A-8
 College Station, Texas
 3 June 2814

All of that certain tract or parcel of land lying and being situated in the Luke Skywalker league, abstract no. 8, in College Station, Brazos County, Texas, being part of Lot 7, Block H of the Death Star Subdivision as described by plat recorded in volume 126, page 133 (renamed in vol. 135, pg. 321) of the Deed Records of Brazos County, Texas, being a triangular tract of land along the southwest side of Lot 7 and adjoining the existing right-of-way (50 ft. wide) of Naboo Street, and being more particularly described as follows:

Beginning at a 1/2" iron rod with an orange plastic cap stamped "OB KENOBI RPLS 11380" set in the southeast line of said Lot 7, at the west corner of Lot 2 of the resubdivision of Part of Lots 7, 8, 9 and 10 of the Sith Subdivision as described by plat recorded in volume 516, page 717 of the Deed Records of Brazos County, Texas, also being in the northeast right-of-way line of Naboo Street as dedicated by said resubdivision plat, from where a 1/2" iron rod with a maroon plastic cap stamped "RPLS 62602 TAM SURV" was found N 40° 34' 19" E – 46.7 feet, and from where the City of College Station GPS control monument no. 122 bears N 3° 16' 36" E – 1702.2 feet.

Thence S 41° 26' 42" W – 18.36 feet, along the common line of said Death Star Subdivision and Sith resubdivision, to the south corner of said Lot 7 and this tract, from where a 1/2" iron rod in concrete found at the west corner of said Sith resubdivision bears S 41° 26' 42" W – 1.64 feet;

Thence N 49° 31' 24" W – 97.71 feet, along the southwest line of said Lot 7 and existing northeast right-of-way line of Naboo Street as described by said Death Star Subdivision plat, to a 1/2" iron rod with an orange plastic cap stamped "OB KENOBI RPLS 11380" set for the northwest corner of this tract, from where a 1/2" iron rod found at the west corner of said Lot 7 bears N 49° 31' 24" W – 23.83 feet;

Thence S 60° 08' 00" E – 99.72 feet, through said Lot 7 along the proposed northeast line of Naboo Street, to the Point of Beginning and containing 897 square feet of land more or less.

Bearings are Texas State Plane, Central Zone NAD83 (CORS) datum, based on City of College Station GPS monuments no. 122 and no. 1 (S 4° 47' 50" W).

See survey plat dated June 2814.

Exhibit "C"
Service Order

The Master Agreement (C.# 24300032) entered into by and between the City of College Station and Baseline Corporation is expressly incorporated by reference.

- 1. City Project Manager**
- 2. Contractor Project Manager**
- 3. Services to be Performed**
- 4. Location for Performance of Services**
- 5. Schedule of Services**
- 6. Fees for Services**

APPROVED BY:

BASELINE CORPORATION

CITY OF COLLEGE STATION

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

**Exhibit “D”
Fee Schedule**

Payment is a fixed fee in the amount stated in each Service Order. This amount shall be payable by the City pursuant to the schedule listed below and upon completion of the services and written acceptance by the City.

Fee Schedule:

Exhibit “E”
Insurance Certificates

ACORD™

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/19/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer any rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Propel Insurance 1201 Pacific Avenue; Suite 1000 COM Middle Market Tacoma, WA 98402-4321	CONTACT NAME: Aaron Leavitt	
	PHONE (A/C, No, Ext): 800 499-0933	FAX (A/C, No): 866 577-1326
	E-MAIL ADDRESS: aaron.leavitt@propelinsurance.com	
INSURED Binkley & Barfield Inc. Baseline Corporation, DCCM LLC 1750 Seamist Drive, Ste 160 Houston, TX 77008	INSURER(S) AFFORDING COVERAGE	
	INSURER A : American Guarantee and Liability Ins.Co	
	INSURER B : Zurich American Insurance Company	
	INSURER C : Evanston Insurance Company	
	INSURER D :	
	INSURER E :	
	INSURER F :	

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ BI/PD Ded:2,000 GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☒ PRO-JECT ☐ LOC OTHER:			GLO872027300	06/30/2023	06/30/2024	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$100,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
B	AUTOMOBILE LIABILITY ☒ ANY AUTO OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY			BAP87202400	06/30/2023	06/30/2024	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	UMBRELLA LIAB ☒ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DED RETENTION \$			SXS808437600	06/30/2023	06/30/2024	EACH OCCURRENCE \$10,000,000 AGGREGATE \$10,000,000 \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE/OFFICER/MEMBER EXCLUDED? ☒ Y ☒ N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	WC872027200	06/30/2023	06/30/2024	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
C	Profess. Poll			MKLV7PL0006013	08/06/2023	06/30/2024	\$5,000,000 CLM \$10,000,000 Agg.

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

RE: Contract No. 24300032

CERTIFICATE HOLDER

CANCELLATION

City of College Station
Attn Risk Manger
PO Box 9960
College Station, TX 77842-0000

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

AUTHORIZED REPRESENTATIVE

Matthew A. [Signature]

This page has been left blank intentionally.



Additional Insured – Owners, Lessees Or Contractors – Completed Operations

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Policy No. GLO872027300

Effective Date: 06.30.2023

This endorsement modifies insurance provided under the:

Commercial General Liability Coverage Part

SCHEDULE

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

Section II – **Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule of this endorsement, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in such Schedule, performed for that additional insured and included in the "products-completed operations hazard".

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

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

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Policy No. GLO872027300

Effective Date: 06.30.2023

This endorsement modifies insurance provided under the:

Commercial General Liability Coverage Part

SCHEDULE

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

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule of this endorsement, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated in such Schedule.

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

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or

2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

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

Other Insurance Amendment – Primary And Non-Contributory



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

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Named Insured:

Address (including ZIP Code):

This endorsement modifies insurance provided under the:

Commercial General Liability Coverage Part

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

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

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

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

This insurance is excess over:

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

All other terms and conditions of this policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

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

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
ELECTRONIC DATA LIABILITY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART DESIGNATED SITES
POLLUTION LIABILITY LIMITED COVERAGE PART DESIGNATED SITES
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
RAILROAD PROTECTIVE LIABILITY COVERAGE PART
UNDERGROUND STORAGE TANK POLICY DESIGNATED TANKS

The following is added to Paragraph **8. Transfer Of Rights Of Recovery Against Others To Us** of **Section IV – Conditions**:

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

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DESIGNATED CONSTRUCTION PROJECT(S) GENERAL AGGREGATE LIMIT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Designated Construction Project(s):

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

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

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



Coverage Extension Endorsement

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Policy No. BAP872027400

Effective Date: 6.30.2023

This endorsement modifies insurance provided under the:

Business Auto Coverage Form
Motor Carrier Coverage Form

A. Amended Who Is An Insured

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

The following are also "insureds":

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

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

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

B. Amendment – Supplementary Payments

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

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

C. Fellow Employee Coverage

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

D. Driver Safety Program Liability and Physical Damage Coverage

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

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

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

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

E. Lease or Loan Gap Coverage

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

Lease Or Loan Gap Coverage

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

- a. Any amount paid under the **Physical Damage Coverage** Section of the Coverage Form; and
- b. Any:
 - (1) Overdue lease or loan payments at the time of the "loss";
 - (2) Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage;
 - (3) Security deposits not returned by the lessor;
 - (4) Costs for extended warranties, credit life insurance, health, accident or disability insurance purchased with the loan or lease; and
 - (5) Carry-over balances from previous leases or loans.

F. Towing and Labor

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

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

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

G. Extended Glass Coverage

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

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

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

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

Loss Of Use Expenses

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

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

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

I. Personal Effects Coverage

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

Personal Effects Coverage

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

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

J. Tapes, Records and Discs Coverage

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

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

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

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

K. Airbag Coverage

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

L. Two or More Deductibles

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

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

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

M. Temporary Substitute Autos – Physical Damage

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

Temporary Substitute Autos – Physical Damage

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

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

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

Temporary Substitute Autos – Physical Damage

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

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

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

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

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

Include, as soon as practicable:

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

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

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

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

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

P. Employee Hired Autos – Physical Damage

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

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

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

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

Q. Unintentional Failure to Disclose Hazards

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

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

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

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

R. Hired Auto – World Wide Coverage

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

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

S. Bodily Injury Redefined

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

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

T. Expected Or Intended Injury

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

Expected Or Intended Injury

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

U. Physical Damage – Additional Temporary Transportation Expense Coverage

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

4. Coverage Extensions

a. Transportation Expenses

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

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

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

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

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

W. Return of Stolen Automobile

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

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

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



Blanket Notification To Others Of Cancellation

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Policy No. GLO872027300

Effective Date: 06.30.2023

This endorsement modifies insurance provided under the:

Commercial General Liability Coverage Part

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

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

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

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

Schedule

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

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

Endorsement

Effective Policy No. WC872027200

Endorsement No.

Insured DCCM LLC

Premium \$

Insurance Company

Countersigned by _____

Zurich American Insurance Company

WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE POLICY

WC 04 03 06 (Ed. 4-84)

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

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

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

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

Policy No. WC872027200

Endorsement No.

of the Zurich American Insurance Company

(NAME OF INSURANCE COMPANY)

issued to DCCM LLC

Premium (if any) \$

Authorized Representative

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

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

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

Schedule

Person or Organization

Blanket Waiver of Subrogation

Job Description

TEXAS WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

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

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

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

The premium for this endorsement is shown in the Schedule.

Schedule

1. () Specific Waiver

Name of person or organization

(X) Blanket Waiver

Any person or organization for whom the Named Insured has agreed by written contract to furnish this waiver.

2. Operations:

3. Premium:

The premium charge for this endorsement shall be _____ percent of the premium developed on payroll in connection with work performed for the above person(s) or organization(s) arising out of the operations described.

4. Advance Premium:

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

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

Endorsement Effective 06.30.2023
Insured

Policy No. WC872027200

Endorsement No.
Premium

Insurance Company

Countersigned by _____

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CONTRACT#: 24300034 PROJECT#: n/a BID/RFP/RFQ#: 23-081

One of three agreements to provide professional surveying services for the City.

Transparency Report ☐ Yes ☐ No ☒ N/A

CITY SECRETARY (if applicable) _____

MASTER AGREEMENT FOR SURVEYING SERVICES

This Master Agreement is by and between the **City of College Station**, a Texas Home-Rule Municipal Corporation (the “City”) and WALKER PARTNERS, LLC, a Texas CORPORATION (the “Contractor” or “Surveyor”), whereby Contractor agrees to perform professional surveying services on an as needed basis according to the terms and conditions herein.

ARTICLE I

1.01 Scope of Services. This Master Agreement is for Professional Surveying Services described more fully in Contractor’s response to RFQ No. 23-081 attached as **Exhibit “A”**. The scope and details of the work to be provided to the City by Contractor are in each Service Order, which should follow the Scope of Services: Surveying Requirements attached as **Exhibit “B”** to this Agreement and incorporated as though fully set forth herein by reference. Contractor agrees to perform or cause the performance of all the work described in each Service Order. Each Service Order shall expressly reference this Agreement and be executed by both parties. The City Manager or his designee is authorized to sign the Service Orders on behalf of the City.

1.02 Service Order. Each Service Order shall identify a Project Manager for each party with respect to the Services set forth therein. Each Service Order shall identify the unique scope and details for each project including location, schedules, and a not-to-exceed amount for fees and expenses. Contractor promises to work closely with the City Project Manager or other appropriate City officials. Contractor agrees to perform any and all professional services required by the City to fulfill the Service Orders. The Contractor shall be prepared to provide the professional services in the most expedient and efficient manner possible in order to complete the work by the times specified. The work of the Contractor under this Contract may be authorized by the Project Manager as set forth in a Service Order. An example of such form is attached as **Exhibit “C”**.

1.03 Payment Terms. Contractor agrees to perform the work described in each Service Order and the City agrees to pay Contractor fees set forth and defined in the applicable Service Order for the services performed by Contractor. Service Order fees shall be based on the Fee Schedule as set forth in **Exhibit “D”**. The invoices shall be submitted to the City upon completion of all work specified in the Service Order. The payment terms are net payable within thirty (30) calendar days of the City’s receipt of the invoice. Upon termination of this Agreement, payments under this paragraph shall cease; provided, however, that Contractor shall be entitled to payments for work performed in accordance with this Agreement and any Service Order before the date of termination and for which Contractor has not yet been paid.

1.04 Payment. The total amount of payment, including reimbursements, by the City to Contractor for all approved Service Orders to be performed under this Contract shall not exceed TWENTY THOUSAND and NO /100 (\$20,000.00). There is no minimum amount to be paid by the City to the Contractor under this Contract.

1.05 Change Orders. The City may from time to time request changes in the scope and focus of the activities, investigations, and studies conducted or to be conducted by Contractor pursuant to this Contract, provided, however, that any such change that, in the opinion of Contractor, the City Manager, or the City's Project Manager, varies significantly from the scope of the work set out herein and entails an increase in cost or expense to the City shall be mutually agreed upon in advance in writing by Contractor and the City's Project Manager.

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

b. When the original contract amount plus all change orders is equal to or greater than \$100,000, the City Manager or his designee may approve the written change order provided the change order does not exceed \$50,000, and provided the sum of all change orders does not exceed 25% of the original contract amount. For such contracts, when a change order exceeds \$50,000 or when the sum of all change orders exceeds 25% of the original contract amount, the City Council of the City must approve such change order prior to commencement of the services or work; and

c. **Any request by the Contractor for an increase in the Scope of Services and an increase in the amount listed in paragraph 1.04 of Article I of this Contract shall be made and approved by the City prior to the Contractor providing such services or the right to payment for such additional services shall be waived.** If there is a dispute between the Contractor and the City respecting any service provided or to be provided hereunder by the Contractor, including a dispute as to whether such service is additional to the Scope of Services included in this Contract, the Contractor agrees to continue providing on a timely basis all services to be provided by the Contractor hereunder, including any service as to which there is a dispute.

1.06 Term and Renewals. The initial term of the Contract is for one (1) year with the option to renew for two (2) additional one (1) year terms, for a total of three (3) years. Any renewal is subject to budgetary approval and must be in writing and executed by the parties. If, for any reason, funds are not appropriated to continue the contract, the contract shall become null and void and shall terminate.

1.07 Contractor promises to work closely with the City Manager or his designee (the "Project Manager") or other appropriate City officials. Contractor agrees to perform any and all Project-related tasks reasonably required of it by the City in order to fulfill the purposes of the work to be performed. The Contractor shall be prepared to provide the professional services in the most expedient and efficient manner possible in order to complete the work by the times specified.

1.08 Independent Contractor. It is understood and agreed by the parties that the Contractor is an independent contractor retained for the services described in the Scope of Services. The City will not control the manner or the means of the Contractor's performance, but shall be entitled to a work product as in the Scope of Services. The City will not be responsible for reporting or paying employment taxes or other similar levies that may be required by the United States Internal Revenue Service or other State or Federal agencies. This Contract does not create a joint venture.

1.09 No Subcontractors. Contractor shall perform all the work hereunder. Contractor agrees all of its employees who work on each project shall be fully qualified and competent to do the work described hereunder. Contractor will not employ subcontractors in order to fulfill the obligations under this Contract without the prior written consent of the City.

ARTICLE II

2.01 Project Meetings. In developing each Service Order, Contractor shall - communicate with the City and City's Project Manager for the purpose of determining the nature of the project, including but not limited to the following: meeting with the City's staff to coordinate project goals, schedules, and deadlines; coordinating data collection; briefing the City's management staff.

2.02 Notice to Proceed. The City shall direct Contractor to commence work on each project by sending Contractor a fully executed Service Order to begin work and proceed on each project.

2.03 Representative. Contractor shall consult with the City and may, in some limited circumstances, act as the City's representative, but it is understood and agreed by the parties that for all purposes related to this Contract, Contractor shall be an independent contractor at all times and is not to be considered either an agent or an employee of the City.

ARTICLE III

3.01 Warranty. As an experienced and qualified professional, Contractor warrants the service provided by Contractor reflects high professional and industry standards, procedures, and performances. Contractor warrants the fitness and operation of its recommendations, and the performance of other services under this Contract, pursuant to a high standard of performance in the profession. Contractor warrants that it will exercise diligence and due care and perform in a good and workmanlike manner all of the services pursuant to this Contract. Approval or acceptance by the City of any of Contractor's work product under this Contract shall not constitute or be deemed a release of the responsibility and liability of Contractor, its employees, agents, or associates for the exercise of skill and diligence necessary to fulfill Contractor's responsibilities under this Contract; nor shall the City's approval or acceptance be deemed to be the assumption of responsibility by the City for any defect or error in the project's work products prepared by Contractor, its employees, associates, agents, or subcontractors.

3.02 Progress Reports. Contractor shall keep the City informed of the progress of the work by providing, at the least, monthly updates as to the status of the service being completed and shall guard against any defects or deficiencies in its work.

3.03 Correcting Errors. Contractor shall be responsible for using due diligence to correct errors, deficiencies or unacceptable work product. Contractor shall, at no cost to the City, remedy any errors, deficiencies or any work product found unacceptable, in the City's sole discretion, as soon as possible, but no longer than fifteen (15) calendar days after receiving notice of said errors, deficiencies or unacceptable work product.

3.04 Work Product. Contractor's work product shall be the exclusive property of the City. Upon completion or termination of this Contract, and upon the City's request, Contractor shall promptly deliver to the City copies of all records, notes, data, memorandum, models, and equipment of any nature that are within Contractor's possession or control and that are the City's property or relate to the City or its business.

ARTICLE IV

4.01 Indemnification. The Contractor shall indemnify, hold harmless, and defend the City, its officers, agents, volunteers, and employees from and against any and all claims, losses, damages, causes of action, suits, and liability of every kind, including all expenses of litigation, court costs, and 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 done by the Contractor under this Contract. Such indemnity shall apply regardless of whether the claims, losses, damages, causes of action, suits, or liability arise in whole or in part from the negligence of the City, any other party indemnified hereunder, the Contractor, or any third party. 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.

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

ARTICLE V

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

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

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

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

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

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

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

- (e) The Certificates of Insurance shall be prepared and executed by the insurance carrier or its authorized agent on the most current State of Texas Department of Insurance-approved forms.

5.05 Commercial (General) Liability Requirements. The following Commercial (General) Liability requirements shall apply:

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

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

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

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

- (a) Pursuant to the requirements set forth in Title 28, Section 110.110 of the Texas Administrative Code, all employees of the Consultant, the Consultant, all employees of any and all subcontractors, and all other persons providing services

on the Project must be covered by a workers' compensation insurance policy: either directly through their employer's policy (the Consultant's, or subcontractor's policy) or through an executed coverage agreement on an approved Texas Department of Insurance Division of Workers Compensation (DWC) form. Accordingly, if a subcontractor does not have his or her own policy and a coverage agreement is used, Consultants and subcontractors must use that portion of the form whereby the hiring contractor agrees to provide coverage to the employees of the subcontractor. The portion of the form that would otherwise allow them not to provide coverage for the employees of an independent contractor may not be used.

(b) The workers' compensation/Employer's Liability insurance shall include the following terms:

- i. Employer's Liability limits of \$1,000,000 for each accident is required.
- ii. "Texas Waiver of Our Right to Recover From Others Endorsement, WC 42 03 04" shall be included in this policy.
- iii. Texas must appear in Item 3A of the Worker's Compensation coverage or Item 3C must contain the following: All States except those listed in Item 3A and the States of NV, ND, OH, WA, WV, and WY.

(c) Pursuant to the explicit terms of Title 28, Section 110.110(c)(7) of the Texas Administrative Code, this Contract, the bid specifications, this Contract, and all subcontracts on this Project must include the terms and conditions set forth below, without any additional words or changes, except those required to accommodate the specific document in which they are contained or to impose stricter standards of documentation:

i. *Definitions:*

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

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

Persons providing services on the project ("subcontractors" in § 406.096 [of the Texas Labor Code]) - includes all persons or entities performing all or part of the services the Contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the Contractor and regardless of whether that person has employees. This includes, without limitation, independent Contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing,

hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

- ii. The Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Contractor providing services on the project, for the duration of the project.*
- iii. The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.*
- iv. If the coverage period shown on the Contractor's current certificate of coverage ends during the duration of the project, the Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.*
- v. The Contractor shall obtain from each person providing services on a project, and provide to the governmental entity:*
 - 1. a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and*
 - 2. no later than seven calendar days after receipt by the Contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.*
- vi. The Contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.*
- vii. The Contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 calendar days after the Contractor knew or should have known, or any change that materially affects the provision of coverage of any person providing services on the project.*
- viii. The Contractor shall post on each project site a notice, in the text, form and manner prescribed by the Division of Workers Compensation, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.*
- ix. The Contractor shall contractually require each person with whom it contracts to provide services on a project, to:*
 - 1. provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements of Texas Labor Code, Section*

- 401.011(44) for all of its employees providing services on the project, for the duration of the project;*
- 2. provide to the Contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;*
 - 3. provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;*
 - 4. obtain from each other person with whom it contracts, and provide to the Contractor:*
 - A. a certificate of coverage, prior to the other person beginning work on the project; and*
 - B. a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;*
 - 5. retain all required certificates of coverage on file for the duration of the project and for one year thereafter;*
 - 6. notify the governmental entity in writing by certified mail or personal delivery, within 10 calendar days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and*
 - 7. Contractually require each person with whom it contracts, to perform as required by paragraphs (a) - (g), with the certificates of coverage to be provided to the person for whom they are providing services.*
- x. By signing this contract, or providing, or causing to be provided a certificate of coverage, the Contractor is representing to the governmental entity that all employees of the Contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the Commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.*
- xi. The Contractor's failure to comply with any of these provisions is a breach of contract by the Contractor that entitles the governmental entity to declare*

the contract void if the Contractor does not remedy the breach within ten calendar days after receipt of notice of breach from the governmental entity.”

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

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

ARTICLE VI

6.01 Termination. At any time, the City may terminate the Agreement and each Service Order for convenience, in writing. At such time, the City shall notify Contractor, in writing, who shall cease work immediately. In the event the City terminates this Contract for convenience, the City shall pay Contractor for the services performed and expenses incurred through the date of termination.

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

ARTICLE VII

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

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

City:

City of College Station

Attn: Project Manager

P.O. Box 9960

College Station, Texas 77842

Contractor:

Firm: Walker Partners, LLC

Address: 823 Washington Ave Ste 100

Waco, TX 76701

Phone: 254-714-1402

E-mail: gwalker@walkerpartners.com

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

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

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

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

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

7.08 Agreement. The parties acknowledge they have read, understood, and intend to be bound by the terms and conditions of this Contract.

7.09 Effective Date. This Contract goes into effect when duly approved by all the parties hereto.

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

C.# 24300034

Master Agreement Surveying Services

A20-000034

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7.11 Exhibits.

- A.** Contractor's Response to Request for Qualifications (RFQ)
- B.** Scope of Services: Surveying Requirements
- C.** Service Order
- D.** Fee Schedule
- E.** Certificates of Insurance

WALKER PARTNERS, LLC.

CITY OF COLLEGE STATION

By: Alan Munger

By: _____

Printed Name: Alan Munger

City Manager

Date: _____

Title: Vice-President

Date: 10/27/2023

APPROVED:

John A. Haislet

City Attorney

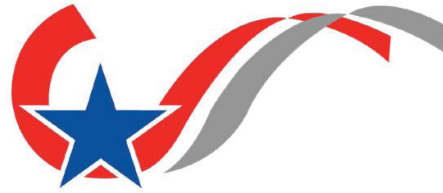
Date: 10/27/2023

Jim Ernst

Assistant City Manager / CFO

Date: 10/27/2023

Exhibit “A”
Contractor’s Response to Request for Qualifications No. 23-081
Professional Surveying Services



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



STATEMENT OF QUALIFICATIONS

City of College Station
RFQ No. 23-081 - Professional Surveying Services

July 28, 2023

Submitted by:



TBPE Registration No. 8053 | TBPLS Registration No. 10194373

July 28, 2023

City of College Station
Purchasing Division - City Hall
1101 Texas Avenue
College Station, Texas 77842

Re: RFQ No. 23-081 - Professional Surveying Services

Dear Selection Committee Members:

The City of College Station intends to contract with one or more qualified firms who can perform Professional Surveying Services as needed throughout an annual term. We understand the nature of as needed services. Baylor University, Texas State Technical College (TSTC), and the Cities of West, Gatesville, Lacy Lakeview, McGregor, and Harker Heights rely on Walker Partners for their surveying needs. College Station will benefit from selecting Walker Partners for the following reasons:

- **Leadership.** Marty Polk is committing to be your Project Manager. He is committing to be your “hands-on,” go-to person for all surveying projects. He will attend every meeting and he will lead, guide, and coach every step of every process associated with delivering a thorough and accurate survey!
- **Available Workload Capacity.** Walker Partners is staffing this assignment with very experienced survey professionals who have worked at Walker Partners for a very long time. More importantly, however, is that Walker Partners has the capacity in our staff to deliver on each assignment. **We are committing to you our ‘A’ Team for the duration of this assignment and beyond.** These key individuals are all employed by Walker Partners and include:
 - »» Marty Polk, RPLS / Project Manager and main contact, 26 years of experience, all in Texas
 - »» Kevin Hessel, RPLS / Project Principal, 45 years of experience, all in Texas
 - »» Steve Timberlake, RPLS / QA/QC, 40 years of experience, in Texas, Oklahoma, Missouri, and Kansas
 - »» Dana Spigener, RPLS / Project Surveyor, 45 years of experience, 23 in Texas
 - »» Korey Smith, RPLS / Project Surveyor, 14 years of experience, all in Texas
- **Service.** Serving your needs and goals will be our top priority. We will coordinate and collaborate with the Project Manager and Design Engineer and meet College Station’s surveying requirements for land acquisition and other City projects as set forth in the RFQ.

We are completely vested in the future of College Station. We are poised and positioned with the RIGHT people to deliver the RIGHT solutions for your survey projects.

Sincerely,



Marty Polk, RPLS
Project Manager



Kevin Hessel, RPLS
Project Principal

TABLE OF CONTENTS & CERTIFICATION

Strengthening communities and building the future through lasting relationships,
successful projects, and steadfast service.

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Below the roads run the surveyors' lines which squared
off the wilderness, and not only made it ready for sale but
constructed a shape for county and state governments."

-- Andro Linklater

Measuring America: How an Untamed Wilderness Shaped the
United States and Fulfilled the Promise of Democracy

A. FIRM INTRODUCTION

George E. “Jed” Walker, PE, founded Walker Partners over 19 years ago with the desire to build upon existing relationships and to form new lifelong partnerships by employing the best professionals in the engineering and surveying fields and delivering the highest quality projects possible. Jed believes that great projects result from a team of dedicated professionals who share this vision.

Because of Jed’s keen leadership, engineering abilities, and vision, we have steadily and responsibly grown to five locations - Bryan/College Station, Waco, Austin, Killeen, and Fort Worth. We have 97 employees, including 31 Professional Engineers, 5 Registered Professional Land Surveyors, 4 survey crews, and 7 Resident Project Representatives. We have a strong supporting staff of CADD technicians, surveyors-in-training, engineers-in-training, administrative assistants, and accountants who complete our Team and position us to serve you.

Firms don’t make great projects, people do...and we’re giving you our best!

Our **Core Management Team** that will work alongside College Station is comprised of three outstanding industry leaders. They bring years of hands-on experience in municipal surveying projects. **We have ample resources and the experience to successfully manage your project keeping it on schedule, within budget, and completed to the satisfaction of the City and community.**



Kevin Hessel, RPLS - Project Principal | Kevin has 45 years of experience in the survey industry supporting engineering firms and municipalities. **He will use this knowledge and experience to allocate adequate resources to meet the unique challenges of each project while adhering to budget and schedule.**



Marty Polk, RPLS - Project Manager | Marty has 26 years of experience in the Brazos Valley and Central Texas. **His knowledge of the area, local issues, and ability to successfully lead surveying efforts will move your project forward effectively and efficiently.**



Steve Timberlake, RPLS - QC/QA | Steve has over 40 years of experience in all facets of municipal surveying. **He will lead our in-depth QA/QC program, tailored specifically to each assignment, to ensure quality is the top priority throughout the entire project.**

WHY THE WALKER PARTNERS TEAM?

- ✓ Our Core Management Team brings you unsurpassed local knowledge, resources, leadership, and experience to keep your project on schedule and within budget. Our College Station office is minutes away from any project site and City offices!
- ✓ A deep team of experts unequaled in Brazos Valley on very similar projects.
- ✓ Leadership that is well versed in surveying services.

I cannot complete this letter without praising your Firm’s excellent survey group. Kevin Hessel and his entire team always do great work. Their efforts on behalf of our McGregor Industrial Park rose above and beyond the call of duty.

Kevin Evans, City Manager
City of McGregor

B. COMPETENCE AND QUALIFICATIONS OF THE INDIVIDUAL WHO WILL BE DIRECTLY RESPONSIBLE FOR THE MANAGEMENT AND DELIVERY OF THE PROPOSED WORK



Educational Background:
BS, Geography, Sam Houston State University

License Status:
Registered Professional Land Surveyor, Texas No. 6031
Expires 12/2023

Marty Polk, RPLS - Project Manager

Marty has 26 years of experience, all of which have been in Texas. Marty's career began on a field crew, advancing to survey technician, and is now a Registered Professional Land Surveyor and Survey Manager. At Walker Partners, Marty sets an example of exemplary achievement and professionalism.

Documented Specialized Expertise: Marty's passion lies in surveying technology. He was key to successfully integrating Walker Partners' GPS program and remains instrumental in its operation.

Descriptions and examples of Marty's projects that make him uniquely qualified to lead this charge are summarized below:

“And that survey is the one we all go back to. When you find one of their original corners, it is like a handshake with the past.”

-- Andro Linklater, *Measuring America: How an Untamed Wilderness Shaped the United States and Fulfilled the Promise of Democracy*

Similar Project Experience:

PROJECT NAME, LOCATION, & ROLE	PROJECT DESCRIPTION
Sandy Creek Off-Site Easements Waco Metropolitan Area Sewerage System (WMARSS) to City of Riesel, TX	10.8-mile waterline project consisting of a 700-acre American Land Title Association (ALTA) Survey for the plant site, 14 off-site permanent utility easements and temporary construction easements, and 2 railway spur easements with ALTA certifications. This project also required a field survey and exhibit drawings showing various portions of the Brazos River banks and bottom to acquire permits from the Texas General Land Office for a river crossing and intake and discharge points.
Legends Crossing Development Waco, TX	158-acre commercial subdivision including new street, drainage, water and wastewater design, the relocation of approximately 1,100 lf of an existing 21-inch wastewater line. Surveying included: topographic and design survey, boundary survey, highway right-of-way survey, annexation, rezoning and platting of the property, preparation of the field information for all construction staking necessary to complete the project along with the monumentation of rights-of-ways, lots and easements.
WMARSS Flat Creek Interceptor Preliminary Design and Easement Acquisition McLennan County, TX	8.2-mile route survey to prepare 26 easements and a topographic survey for preliminary design and final alignment of a 43,000 lf wastewater interceptor. Established five high order horizontal and vertical control monuments based upon State Plane Coordinate System (Texas Central, NAD 83, Geoid 03, NAVD 88).
Baylor University McLane Stadium Waco, TX	Extensive deed research and abstracting to determine record boundary of the stadium tract; extensive record search to determine riparian river boundary; one-foot contour topographic and utility as-built survey for stadium design; Brazos River soundings for bridge design; platting of stadium site; off-site route surveys for utility design; and established high accuracy site control for construction staking; construction staking and as-built surveys for utilities, auger cast piers, structural components of stadium building, stadium playing field, utilities, roadways, parking, retaining walls, bridge abutments, and track and field stadium.

C. QUALIFICATIONS OF KEY PERSONNEL



Educational Background:
N/A

License Status:
Registered Professional
Land Surveyor, Texas No.
5344
Expires 12/2023



Educational Background:
N/A

License Status:
Registered Professional
Land Surveyor, Texas No.
6240
Expires 12/2023

Kevin Hessel, RPLS - Project Principal

Kevin has lived and worked in Central Texas for the extent of his 45 year career. He directly supervises boundary surveys, easement preparation and acquisition, topographic surveys, and pipeline alignments. He has a keen, professional knowledge of Texas land development laws as well as easement and boundary laws.

In his long and notable career, he has built a reputation of accuracy and timeliness while building personal and professional relationships with community leaders. Kevin is hard working and dedicated not only to personnel in his employ, but also to his clients and the community.

Documented Specialized Expertise:

Kevin is often sought out by municipalities and private sector clients for complex projects. Many years of hands on experience has given him the expertise to determine highly accurate scopes of services and fee estimations. He executes aggressive schedules associated with complex projects and has a proven track record for detailed QA/QC reviews of survey documents.

Relevant Project Experience

Gholson Rd. Waterline Relocation, City of Lacy Lakeview: 12,500 linear feet topographic/design survey including establishing existing and proposed TxDOT rights-of-way of FM 933, locating existing easements and utilities, and preparing permanent and temporary construction easements.

Brookhollow-Prosper Interceptor, City of Prosper: 7,000 linear feet interceptor project including integrating LIDAR imaging and preparing preliminary and final alignments and easements.

Steve Timberlake, RPLS - QA/QC

Steve has over 40 years of experience in planning, managing, and executing projects. Steve has worked on multiple pipeline projects in several states. He has been responsible for topographic survey, base maps, identifying parcels and writing legal descriptions, and preparing exhibits for right-of-way acquisitions and producing final as-builts.

Documented Specialized Expertise:

Steve's pipeline projects include facility modifications, compressor station construction, new pipeline construction and old-line replacement including routing and alignment sheet and plan production. He has the ability to successfully complete multiple fast-paced large scale and small-to- medium-sized pipeline projects while coordinating multidisciplined teams, staying on schedule to meet in-service dates. Experience in routing, Preparing Easements and Exhibits, alignment sheet & plan production, and final as-builts for multiple projects.

Relevant Project Experience

Magellan-Saddlehorn Pipeline Phase 1 - Multiple States (504 Miles)

White Cliffs Twin - Northeast of Denver, CO to Cushing, OK (2nd of Two -520-Mile-long pipelines)

Front Range Pipeline – 100 Miles 16” pipeline, Colorado to Texas

Hostetter Line 293, 26 miles of 16” Pipeline – Oklahoma City, OK



Educational Background:
N/A

License Status:
Registered Professional
Land Surveyor, Texas No.
4809
Expires 12/2023



Educational Background:
BS, Business, Tarleton
State University
AS, Civil/Land Surveying,
TSTC

License Status:
Registered Professional
Land Surveyor, Texas No.
6645
Expires 12/2023

Dana Spigener, RPLS - Project Surveyor

Dana began his surveying career in 1977 as a field surveyor and advancing to Project Surveyor. He has earned professional surveying licenses in three states.

Dana is extremely knowledgeable and competent in all aspects of land surveying including boundary and topographic surveying, right-of-way surveying, construction layout staking, route surveys and easements, preparation of plats and field notes.

He has a thorough knowledge of all surveying equipment and techniques.

Documented Specialized Expertise:

Dana's flexibility and desire to learn makes him an invaluable member of the team because he can perform in any arena of the land surveying profession. His passion lies in boundary surveying and preparing superlative maps and land descriptions.

Relevant Project Experience

Texas A&M Parsons Mounted Cavalry: Boundary survey, topographic survey, improvement survey of equine facility, and Harvey Mitchell Parkway for design of improvements and new riding trails.

McLane Stadium, Baylor University: Boundary survey, title survey, platting, river channel cross sections, design survey, construction staking, and easement descriptions.

Schertz Seguin Local Government Corporation: Boundary survey, topographic survey for design of approximately 30 miles corridor for water pipeline, well sites, and treatment plants in Guadalupe and Gonzales counties, including easement descriptions.

Corey Smith, RPLS - Project Surveyor

Corey began as a summer intern and after working diligently, is now a Registered Professional Land Surveyor. He works closely with the entire Survey Department to complete topographic surveys for design projects including residential and commercial developments, water, wastewater, storm sewer, and street projects, along with countless boundary surveys.

Corey also provides technical support for the survey staff with his extensive knowledge of AutoCAD, including Carlson Survey and Civil 3D.

Documented Specialized Expertise:

Corey's passion in Surveying lies in learning, teaching and helping. Being the youngest RPLS at Walker Partners, Corey has been coached and has learned from some of the most experienced Surveyors in the State of Texas. His drive to constantly learn and diversify himself in the Surveying profession has led to him being a part of most all of the notable projects performed by Walker Partners. No matter the size of a project, from small to large, Corey's goal is to provide the most accurate and detailed information to our client's while having all deliverables looking world class.

Relevant Project Experience

Waco Regional Airport Master Plan: Aerial panel markers, photo identification points, OPUS check points, primary and secondary airport control, 12,000 LF of runway profiles, and collecting information on various airport equipment for the ground survey portion of a 6.14 square mile Aeronautical Survey.

City of Waco FM 1637 Utility Relocation Phase 2: Construction staking, water and sewer relocation including 21,400 LF of water and 16,200 LF of sewer utilizing and checking plans designed by another firm.

Life Care Services-The Delaney at Lake Waco: ALTA/NSPS Land Title Survey, Platting, Design Survey, Floodplain Delineation and Construction Staking for a 13.857 Acre Senior Living Community.

D. DEMONSTRATE THE EXPERIENCE OF THE FIRM BASED UPON PREVIOUS WORK SIMILAR TO THAT OF THE TYPE CONSIDERED



City of Harker Heights Roundabout at Heights Drive & Commercial Dr. Harker Heights, Texas

Project Description:

Walker Partners reconfigured a highly congested, traditional, four-way stop controlled intersection to the first roundabout in the area. This saved in ROW acquisition and substantially lowered construction cost while providing a very safe and highly efficient functioning intersection. Our survey team performed all surveying tasks including securing rights-of-entries, performing topographic and boundary surveys, setting monumentation, platting, and preparing land descriptions and exhibits.

Client Contact:

City of Harker Heights
Mark Hyde
Public Works Director
(254) 953-5641

Team Leader:

Dana Spigener, RPLS

Role of Firm:

Prime Firm

Construction Cost:

\$847,000

Year Completed:

2019

APPLICABILITY TO THIS SOLICITATION

- » Researched all dedicated right-of-way and adjoining properties to be affected.
- » Acquired signed and dated rights of entry letters from all affected land owners for access during topographic and boundary surveys.
- » Performed field survey of proposed roundabout improvement corridors and prepared a topographic and boundary survey map of all affected public rights-of-way and adjoining properties including all record easements existing improvements and utilities.
- » Communicated with the City regarding necessary right-of-way tracts and easements to be acquired for roadway and roundabout improvements.
- » Prepared land descriptions and exhibits of all right-of-way tracts and easements for acquisition and recording.
- » Monumented all new right-of-way and easement corners.
- » Prepared re-subdivision plats for recording depicting new right-of-way lines on affected properties.

Extraco Events Center/McLennan County Venue

Waco, Texas

Project Description:

The McLennan County Venue Project is a 97.42-acre, \$40M facility including an 80,000 square foot Expo Center, stall barns, an arena barn with supporting warm-up space, and recreational facilities. The project also includes site improvements to address utilities and drainage. Walker Partners' Survey Team performed an on the ground, detailed topographic survey for designing the site. We worked diligently with County staff to combine and digitize old construction plans and as-built maps. Using this information, combined with the staff's knowledge of locations of existing utilities, we created utility mapping for the project as well as for future use by County staff.

Walker Partners performed a boundary survey of the entire Events Center along with other properties owned by both Waco ISD and The City of Waco in order to plat all of the properties and coordinate land swaps between to the different entities. The Survey Team has been instrumental to construction progress by providing horizontal and vertical control, construction staking, pier layout, and checks and certifications as needed.



Client Contact:

Populous Architects
John Fickel
Principal
(816) 221-1500

Team Leader:

Korey Smith, RPLS

Role of Firm:

Prime Firm

Construction Cost:

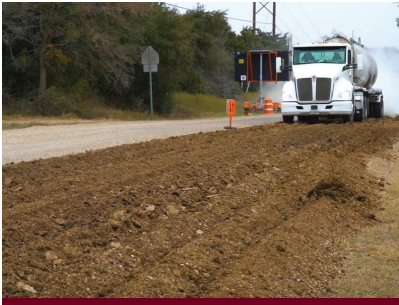
\$40M (estimated)

Year Completed:

2021

APPLICABILITY TO THIS SOLICITATION

- » Boundary survey and plat of properties owned by three entities
- » Coordinate land swap between County, City, and ISD
- » Provide horizontal and vertical control
- » Detailed utility mapping
- » Communicate and collaborate with Architect



McLennan County Speegleville Road Improvements

Waco, Texas

Project Description:

This project is a 6-mile McLennan County road improvement project for which Walker Partners is providing the following surveying services:

Establish horizontal and vertical site control on NAD83 Texas State Plane Coordinate System and NAVD88 Vertical Datum. Deed research and boundary survey to establish existing right-of-way and easements. Right-of-way survey to establish limits of existing right-of-way and easements along with boundaries of adjoining properties.

Topographic and utility survey for design, cross sections of Hog Creek and South Bosque River for floodplain calculations, detailed as-built surveys of structural components of river bridges for design of bridge improvements.

Prepare legal descriptions and exhibit drawings for acquiring additional county road right-of-way parcels and easements. Monumenting additional right-of-way parcels and easements. Land Title Surveys of private tracts to be purchased by McLennan County.

Client Contact:

McLennan County
Zane Dunnam, PE, RPLS
County Engineer
(254) 757-5028

Team Leader:

Dana Spigener, RPLS

Role of Firm:

Prime Firm

Construction Cost:

\$12,800,000 (estimated)

Year Completed:

2020

APPLICABILITY TO THIS SOLICITATION

- » Tie into nearest McLennan County control monument
- » Prepare legal descriptions and exhibit drawings
- » Monument ROW parcels and easements
- » Establish horizontal and vertical control

Brushy Creek Regional Utility Authority (BCRUA) Phase 2 Regional Water System

Lake Travis, Texas

Project Description:

In the late 2000s, The BCRUA embarked on a massive expansion project with the severe drought of 2011 further emphasizing the need to ensure adequate water supply for the Cities of Leander, Cedar Park, and Round Rock. This huge undertaking includes increasing treatment from 17 to 32 MGD, a 145 MGD deep water intake in Lake Travis with 12,000 LF of large diameter tunnels.

Walker Partners is performing all surveying tasks for the current phases of this important project. Our Survey Team began by establishing horizontal and vertical control based on the Texas State Plane Coordinate System, NAD83, and a Vertical Datum based on NAVD88.

Our Team performed boundary and right-of-way surveys. From those surveys we prepared 27 subsurface easements for the 12,000 LF water intake and transmission tunnels, including a portion in Lake Travis for the LCRA. We also surveyed 9,000 LF of Nameless Road and 17,400 LF of Trails End Road to prepare 38 electrical easements. We also performed a topographic survey of the future Pedernales Electrical Coop sub-station.



Client Contact:

BCRUA
Karen Bondy
General Manager
(512) 215-9151

Team Leader:

Kevin Hessel, RPLS

Role of Firm:

Prime Firm

Construction Cost:

\$200,000,000 (estimated)

Year Completed:

2027

APPLICABILITY TO THIS SOLICITATION

- » Perform topographic survey of electrical sub-station
- » Perform boundary surveys of several properties
- » Perform road ROW survey
- » Prepare exhibits and legal descriptions for easements



City of Waco Riverside WTP to Gholson Pump Station Waterline

Waco, Texas

Project Description:

This project includes the survey, design, and construction of approximately 19,000 linear feet of new waterline. A majority of this project is located within old railroad rights-of-way that had not been used by the railroad for over 50 years. No stone was left unturned while researching old right-of-way maps and deeds obtained from Union Pacific Railroad (UPRR), the City of Waco archives, and the McLennan County Clerk's records. We worked directly with a local title company to ensure our research was complete and UPRR held title to the rights-of-way. Our survey team prepared a boundary survey of the railroad rights-of-way and assisted the City in acquiring the property from UPRR. We also helped the City answer questions and address concerns from adjoining landowners about both the railroad right-of-way limits and the waterline project.

Permanent site control was established based on the Texas State Plane Coordinate System, Central Zone, NAD 83 and NAVD 88, utilizing GPS observations and adjusted to surface values for designing and constructing the waterline.

Our field crews performed a topographic survey of the entire length of the project, including soundings of the Brazos River. Additional boundary surveys were performed outside of the old railroad rights-of-way for preparing exhibits and legal descriptions for waterline easements necessary for the project.

Client Contact:

City of Waco
Charles Leist
Deputy Director of Utilities
(254) 750-6642

Team Leader:

Kevin Hessel, RPLS

Role of Firm:

Prime Firm

Construction Cost:

\$9,152,234.55

Year Completed:

2019

APPLICABILITY TO THIS SOLICITATION

- » Heavy research of old ROW maps from multiple entities
- » Prepare boundary survey of railroad ROW
- » Assist City with questions from landowners
- » Establish permanent site control
- » Perform topographic survey for 19,000 LF of waterline
- » Prepare exhibits and legal descriptions for easements



E. HISTORY OF ACCURACY OF COST ESTIMATES/ABILITY TO PERFORM WITHIN BUDGET

We firmly believe that great client service is a direct result of accurate and reliable cost estimating. Walker Partners is proud of our historical record of providing “Opinions of Probable Cost” that our clients can depend upon to budget, plan, and secure funding for their capital improvement projects. **Our surveyors know what to look for and what questions to ask of the Project Manager and Design Engineer when scoping a project. Their thorough research and due diligence at this early stage of the project leads to survey fee estimates that are rarely inaccurate.**

On every single project listed in Sections D and E, the survey fees quoted to our clients were spot on. During each project, our Survey Manager closely monitored the progress and resources were allocated accordingly so that the survey was delivered on time and on budget. The Survey Manager kept in close communication with the Project Manager and Design Engineer keeping all parties informed and the project on the right track.

MEASURES WE TAKE TO ENSURE PROJECTS ARE REALIZED WITHIN BUDGET

- ✓ Our Survey Manager personally puts boots on the ground and walks every single project.
- ✓ Identify existing utility easements early on so that the surveyor can contact the utility provider for all available maps, information on easement and utility location, and restrictions for crossing existing utility lines.
- ✓ Survey field data is reduced in the office daily which provides immediate feedback.
- ✓ Our surveyors play a big part in tweaking the final alignment based on what they have seen in the field. Their experience makes them extremely qualified to spot potential issues with alignments.
- ✓ Our drone technology is a valuable tool to help in determining the right preliminary and final alignment.
- ✓ The Survey Manager checks the work daily for accuracy until the survey is complete.



Land surveying has been a fundamental component for the development of the human environment since the beginning of recorded history. No project can be planned, designed, or constructed without the land being measured and the earth's surface being characterized and mapped.

F. WORKLOAD CAPACITY AND HISTORY OF PERFORMING WORK WITHIN A SPECIFIED SCHEDULE

Capabilities of the project team and approach for handling multiple projects simultaneously at various stages of development: **Marty Polk, your Project Manager, has built a career and a reputation on delivering projects on-time and “doing what he says he is going to do.”** Marty has demonstrated his ability to meet tight schedules, deliver accurate and thorough surveys, and remain in budget over and over again! Surveying is a collaborative profession, and for that reason, the offices of Walker Partners are designed to facilitate and promote interaction. We conduct bi-weekly staff meetings, in person, to ensure that all project milestones, deadlines, schedules, and commitments are adhered to.

Proof that our project team handles multiple projects at various stages of development is validated by the fact that we have over 300 active projects (surveying and civil engineering) being managed successfully, and on-schedule.

Demonstrate the Firm’s ability to deliver projects within a specified schedule: Each of our Survey Managers allocates their Team’s resources according to milestone dates, commitments, etc. for the duration of their projects. We then have bi-weekly Staff Meetings, in person, to allocate our resources between Teams as necessary to meet our commitments. **Walker Partners does NOT manage projects based upon financial status.** Each Survey Manager receives a monthly status report for their projects stating the number of hours billed to each project for that month, and the total hours billed to each phase of the project versus the budget. The Survey Manager then incorporates the “Earned Value” method of project management whereby the Actual Project Completion, per phase, is compared to the “Actual Budget Expended,” per phase.

The projects described in Item E and listed below all included significant surveying. The LS Power project was a stand-alone survey project while all the other projects also included civil engineering services.

Project	Surveying	
	Scheduled Completion	Actual Completion
Legends Crossing	*March 2007	*March 2007
LS Power - Sandy Creek Off-Site Easements	June 2006	June 2006
City of Killeen Cunningham Road Reconstruction	*July 2013	*June 2013
SSLGC Water System Improvements, Phase 1	*May 2016	*August 2016
Baylor University McLane Stadium	*August 2014	*August 2014

* Walker Partners performed surveying, civil design, and construction administration on these projects.
The dates pertain to the entire project and not just the survey portion.

Contingency plan and ability of the Firm to sustain a loss of a key team member, without compromising project quality, schedule, or budget considerations: The Leadership Team assembled for your Project was done so purposefully and intentionally. Each of the three of the Leadership Team members (Marty Polk, Kevin Hessel, and Steve Timberlake) have many years of experience and each one can successfully manage your Project without compromising quality, schedule, or budget. In addition, Dana Spigener is highly qualified and capable of managing this Project should something catastrophic happen to the entire Leadership Team!



G. PROPOSED PROJECT APPROACH

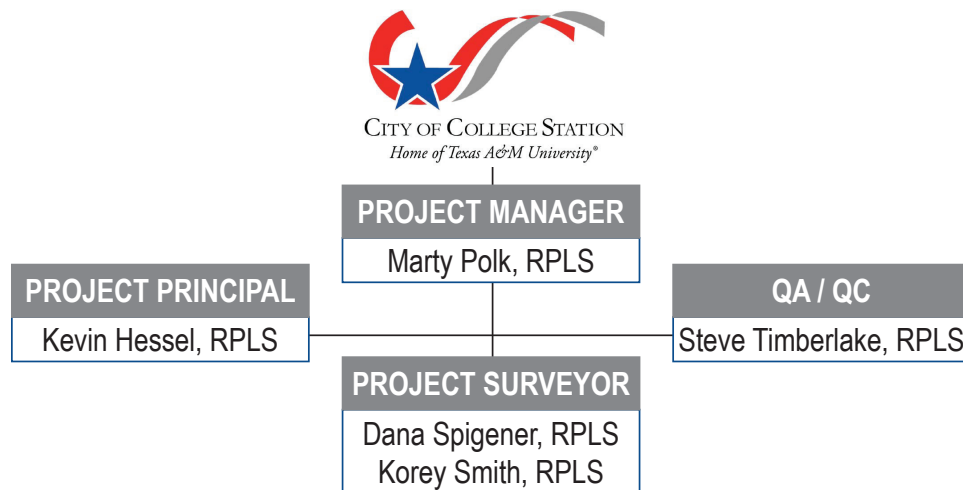
Before presenting our project approach, we think it is important to ask the question: Why do so many Central Texas communities trust our team to deliver their most important projects? The answer is simple: **our project approach puts you first.**

Walker Partners is based in Central Texas and the area communities that we serve are the same communities that we call home. The City of College Station is not a single line item on a multi-volume global strategic plan; we are neighbors and partners with a common goal of developing smart solutions that shape and prepare us for the future. **Our company and our people are committed to involving you in every step of the project approach presented on the following pages and hold ourselves accountable to that promise because we know that strong partnerships are the foundation of real progress.**

The top management and key personnel (shown in gray on the organizational chart) that will be working alongside you are experienced professionals. The strength of any firm is embedded in the knowledge, experience, and integrity of its people. After all, firms don't make projects successful, great people do. We are confident in the leadership and skills of our key team members, each of whom are dedicated to the successful execution of each surveying project we are assigned.

Your Project Manager, Marty Polk, is committed to making you his highest business priority. Marty is a proactive manager with the ability to anticipate project needs and navigate complicated project issues through leadership and collaboration. Marty will lead our Team and communicate and interact directly with your staff. We're committing the following key individuals from Walker Partners to work alongside College Station in performing all survey assignments awarded to our firm.

Organizational Structure



In addition to the key members shown above, we commit our support team of highly skilled Surveyors-in-Training (SIT), survey technicians, and four full-time field crews.

SURVEY SUPPORT TEAM

Mike Powell | Surveyor-in-Training
John Montemayor | Survey Technician
Jack Thomas | Survey Technician
Weldon Webb | Survey Technician
Kevin Fikes | Survey Technician
Nick Ontiveros | Field Crew Supervisor
Dave English | Field Crew Supervisor
Luke Montgomery | Field Crew Supervisor
Matthew Hickerson | Field Crew Supervisor

Project Understanding

Based upon the “Intent and Scope of Work” section outlined in the RFQ, Walker Partners understands that the City of College Station intends to contract with one or more qualified firms who can perform Professional Surveying Services as needed throughout an annual term. We understand the nature of on-call, or IDIQ agreements and perform these services for several municipalities. We know how important it is to respond quickly, communicate frequently, and deliver what we promise in the agreed upon time frame. We know that an accurate and thorough survey up front, delivered on time, starts your projects off right.

Every project is unique and we take time in the beginning to understand every aspect of the project. However, some key issues that can arise in most survey projects are outlined below.

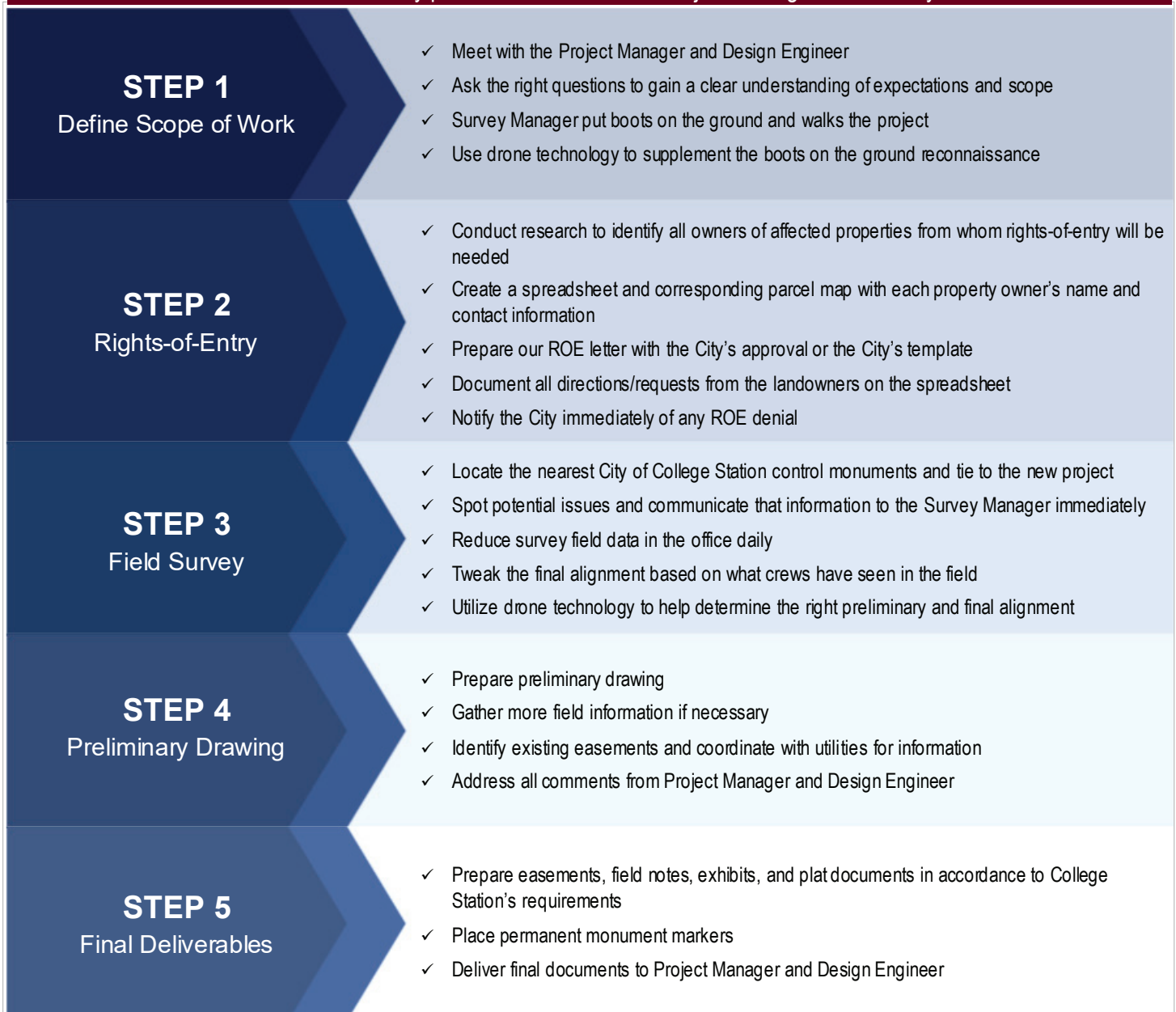
Key Issue	Solutions	Benefit to College Station
Defining project limits/ Scope of Services	Communicate and collaborate with City Project Manager, Design Engineer, and City Land Agent to a clear scope of services.	Minimizes surprises later because all parties agree on scope of work.
Right-of-Entry from landowners	Communicate early with landowners and use our well vetted process for gaining right-of-entry. We have successfully used this process on many projects.	Provides professional, respectful, and friendly interaction with property owners on behalf of the City using a tried and true process.
Surveyor qualifications	Engage our five Registered Professional Land Surveyors (RPLS) with over 158 years of combined experience.	Provides expert knowledge on all surveying projects to produce accurate, thorough, and timely surveys that meet all City of College Station requirements.
Coordinate system	Tie projects at the start of the survey to City of College Station GPS control monument. Use Texas State Plane Coordinate System Zone 3, Zone 5376, FIPS 4203, TX-Central with Central Zone NAD83 datum.	Overlay the surveyed data easily into College Station’s existing database.
Understanding property related factors that may impact the alignment and design	Perform deed research on subject and adjacent properties; obtain highway ROW maps and subdivision plats.	Provides early knowledge of existing easements and need for additional easements.
	a) Contact One Call utility locators. b) Contact municipalities and utility companies for as-builts.	Ensures that all utilities that may be in conflict with proposed alignment are addressed on engineering base map.
Base map for design	Perform field survey project control establishing and locating topographic features including contours, improvements, utility locations, and boundary line locations.	Provides accurate drawing to be used in final design and project control points to be used in constructing the project.
Parcel and easement acquisition	Prepare exhibits and legal descriptions based on property corner locations established from records research and field survey.	Timely delivery of exhibits and legal descriptions that meet all City of College Station requirements.

Work Plan

Walker Partners offers both civil engineering and surveying services. Our surveyors work with engineers daily moving projects seamlessly from inception to survey to design. We also perform many stand-alone surveys. The experience our surveyors, field survey crews, and office technicians have gained over their careers translates into cost and time savings to our clients.

Each project is different and a project approach will be customized for each assignment. Generally, our project approach follows the steps outlined below and described on the next page.

Our QA/QC process is continuous! Our Survey Manager checks the work **DAILY** for accuracy and thoroughness and communicates any potential issues with the Project Manager immediately.

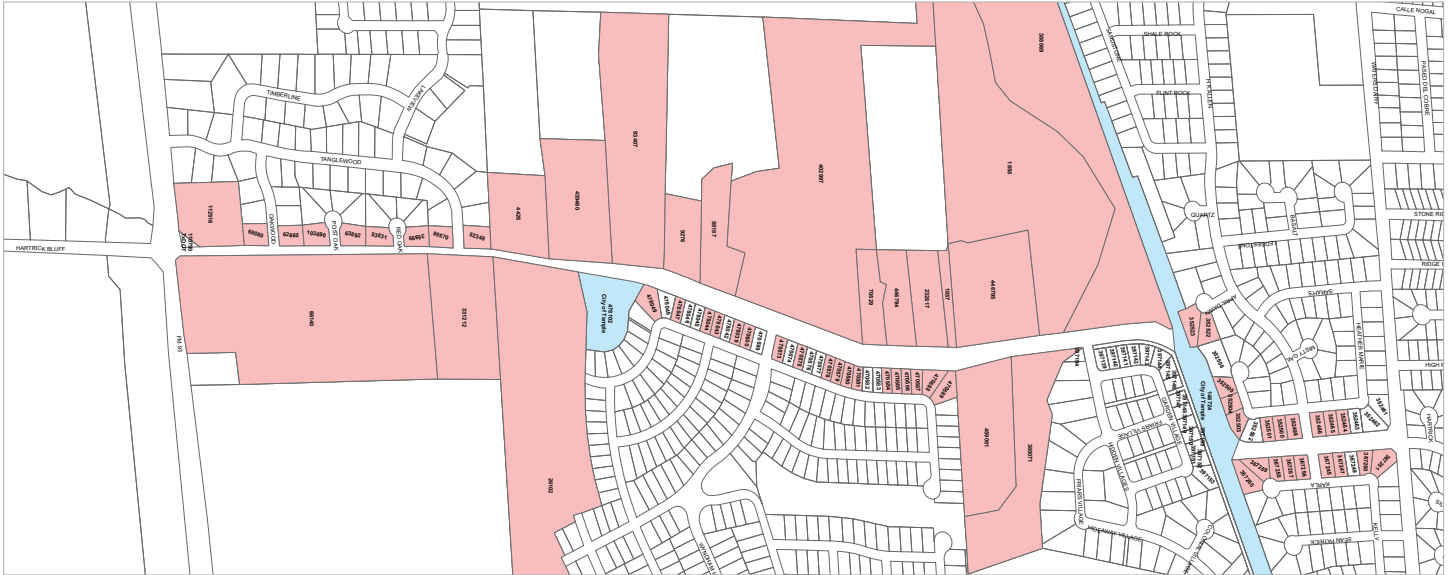


STEP 1 - Define Scope of Work

We begin each project by meeting with and working alongside the Project Manager and Design Engineer to identify the scope of work and define the project limits. During this meeting, we ask the right questions to gain a clear understanding of expectations and scope. Next, **our Survey Manager personally puts boots on the ground and walks every single project.** If any preliminary issues or challenges are discovered, these are communicated immediately to the Project Manager and Design Engineer. When appropriate, we use our drone technology to supplement the boots on the ground reconnaissance.

STEP 2 - Rights-of-Entry

Gaining rights-of-entry early is essential in order to move a project forward without delay. Research begins immediately to identify all owners of affected properties from whom rights-of-entry will be needed. **Our Title Examiner/Survey Specialist is a master sleuth at researching and locating the CORRECT property owner for each parcel.** We create a spreadsheet with each property owner's name and contact information. A parcel map is then produced that coincides with the spreadsheet (see ROE map/spreadsheet from the City of Temple Hartrick Bluff project).



Tract No.	Prop ID#	Name	Property Address	Contact Information	1st Attempt Standard Mail		2nd Attempt Certified-No Signature		3rd Attempt Certified Mail		Notes
					Date Mailed	Response	Date Mailed	Response	Date Mailed	Response	
1	352462		4913 Heather Marie		6/18/2019	-----	7/11/2019	-----	8/14/2019		
2	352463		4917 Heather Marie		6/18/2019	-----	7/11/2019	-----	8/14/2019		
3	352464		4921 Heather Marie		6/18/2019	-----	7/11/2019	-----	8/14/2019	8/23/2019	ROE Note: We would have to unlock gates if you need in the yard.
4	352465		4925 Heather Marie		6/18/2019	-----	7/11/2019	7/15/2019			
5	352504		811 Heather Marie Ct.								

We have a right-of-entry letter that has been successfully used on many of our surveying projects. We will use this letter with the City's approval or the City's template, whichever is preferred. **The rights-of-entries are tracked on the spreadsheet/map, which is updated each time a letter is received.** All directions/requests from the landowners are placed on the spreadsheet (i.e. gates codes, 24-hour prior notice, livestock and pet issues). This ensures that all parties involved in the project are aware of the restrictions for each property. If a ROE is denied, Walkers Partners notifies the City immediately so the denial can be resolved as soon as possible by City staff.

A records map is compiled showing existing rights-of-ways, tract lines, easements, other encumbrances, and possible overlaps and gaps between deed lines. **It is of utmost importance to identify existing utility easements early on so that the surveyor can contact the utility provider for all available maps, information on easement and utility location, and restrictions for crossing existing utility lines.** We work closely with Land Agents to determine which parcels will be needed for the project. The SSLGC Water System Improvements project included 97 easements/acquisitions. Because of this project we have fine-tuned our communication process with Land Agents so that title work is never duplicated or missed, saving both time and money.

STEP 3 - Field Survey

Once the preliminary alignment has been established, our field crews perform the physical field survey. Our survey begins with locating the nearest City of College Station control monuments to the new project so that the project horizontal and vertical datums are established to adhere to city requirements.

Our four Crew Chiefs and their field crews are the best of the best. **Their experience is so vast they can spot potential issues and communicate that information to the project manager immediately.** The survey field data is reduced in the office daily which provides immediate feedback. This allows for plenty of time to gather more data if needed and/or communicate issues to the City before they potentially become expensive and time consuming.

Our surveyors play a big part in tweaking the final alignment based on what they have seen in the field. Their experience makes them extremely qualified to spot potential issues with alignments. This was instrumental on our Flat Creek Interceptor, Brookhollow-Prosper Interceptor, and Sandy Creek Energy Projects. This saved time and money in design because very little redesign was needed to address alignment issues that weren't caught in the field. Our drone technology is a valuable tool to help in determining the right preliminary and final alignment.

STEP 4 - Preliminary Drawing

Every one of our office technicians are either licensed Registered Professional Land Surveyors or are working toward their RPLS license. These technicians reduce the field data into the survey drawing. They look at boundaries and topographic features as soon as the field data comes in so the field crews can be sent out to locate additional corners or existing physical features if needed.

This drawing identifies utilities and notes any issues, which are communicated and resolved immediately. Comments from the Project Manager and Design Engineer are addressed to the City's complete satisfaction.

Our QA/QC program is continuous. **The Survey Manager checks the work daily for accuracy and thoroughness until the survey is completed.** With plan-in-hand, the Survey Manager takes the survey into the field to verify the data is correct and no more information is needed. Nothing is seen as being too trivial!



STEP 5 - Final Deliverables

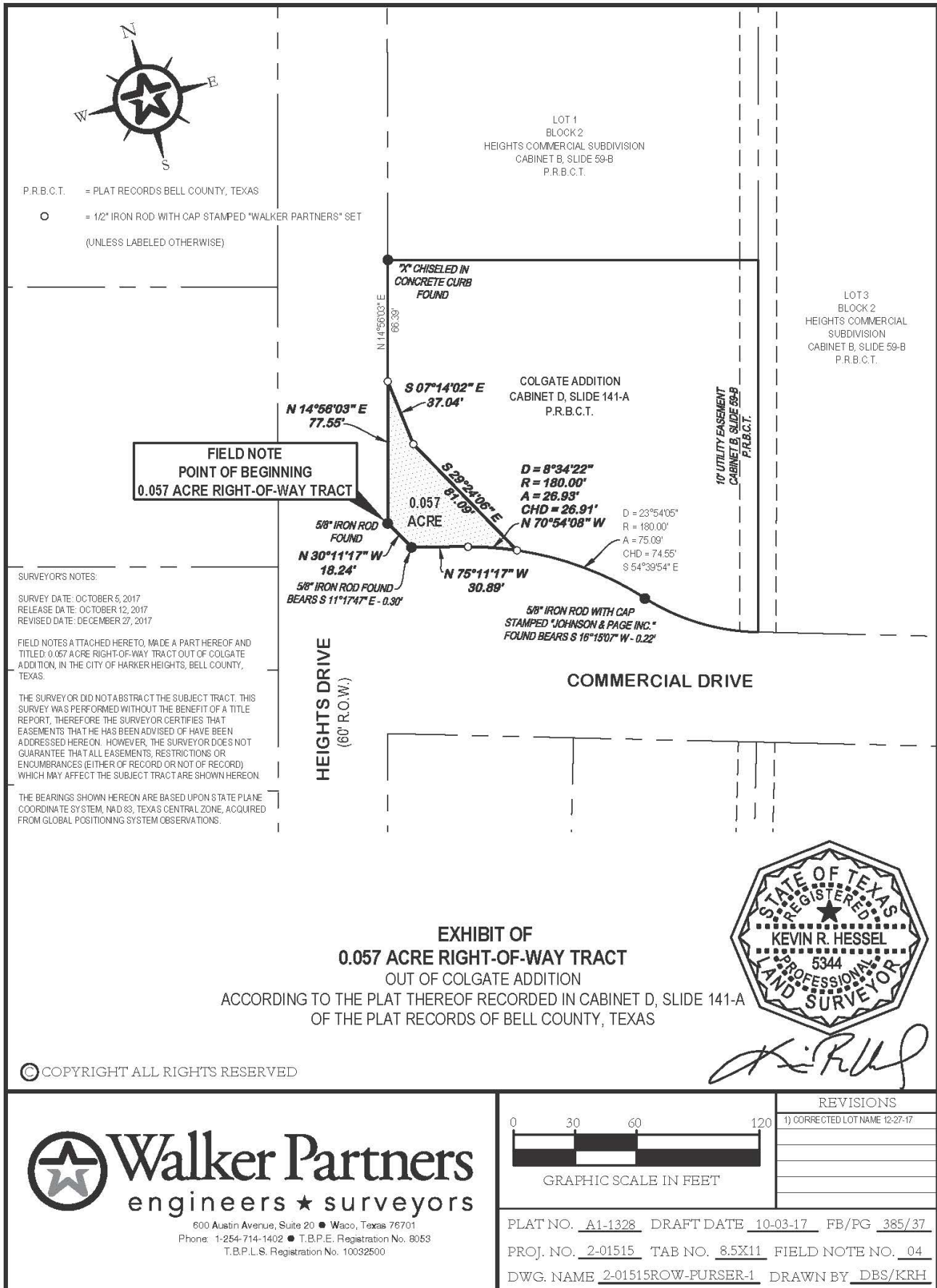
Easements, exhibits, field notes, and plat documents are prepared in accordance to College Station's survey requirements. Permanent monument markers are placed and the final documents are delivered to the Project Manager.

Approach to Project Management

Our Team consists of experienced surveyors with a long history of successfully delivering important projects to Central Texas municipalities. Marty will bring the same project management strategies and controls that he has successfully employed on other projects that municipalities like College Station entrusted to his leadership. The key components of this plan are illustrated below:

1. Well executed quality program to avoid costly and time-consuming re-work;
2. Efficient and accurate project delivery that meets College Station's budget requirements;
3. Collaborative interaction that keeps you well-informed and is respectful of your time;
4. Project challenges being anticipated and overcome with exceptional solutions.

City of Harker Heights Roundabout – Exhibit for Right-of-Way and Field Notes





600 Austin Ave., Suite 20
Waco, Texas 76701

**0.057 ACRE RIGHT-OF-WAY TRACT
OUT OF COLGATE ADDITION
IN THE CITY OF HARKER HEIGHTS, BELL COUNTY, TEXAS**

FIELD NOTES FOR A 0.057 ACRE TRACT OF LAND OUT OF COLGATE ADDITION ACCORDING TO THE PLAT THEREOF RECORDED IN CABINET D, SLIDE 141-A OF THE PLAT RECORDS OF BELL COUNTY, TEXAS (P.R.B.C.T.). SAID 0.057 ACRE TRACT BEING MORE PARTICULARLY SHOWN ON THE ATTACHED EXHIBIT DRAWING AND FURTHER DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 5/8" IRON ROD FOUND IN THE EAST RIGHT-OF-WAY LINE OF HEIGHTS DRIVE (60' WIDE), AT THE NORTH END OF CUT-BACK LINE OF COMMERCIAL DRIVE (WIDTH VARIES), MARKING THE MOST NORTHERLY SOUTHWEST CORNER OF THE ABOVE-MENTIONED COLGATE ADDITION LOT 2 AND OF THE HEREIN DESCRIBED TRACT,

THENCE N 14°56'03" E – 77.55' WITH THE COMMON LINE OF SAID COLGATE ADDITION AND HEIGHTS DRIVE TO A 1/2" IRON ROD WITH CAP STAMPED "WALKER PARTNERS" SET FOR THE MOST NORTHERLY CORNER OF THE HEREIN DESCRIBED TRACT, FROM WHICH AN "X" CHISELED IN A CONCRETE CURB FOUND IN SAID LINE OF HEIGHTS DRIVE MARKING THE NORTHWEST CORNER OF COLGATE ADDITION BEARS N 14°56'03" E – 66.39';

THENCE THROUGH THE INTERIOR OF SAID COLGATE ADDITION THE FOLLOWING TWO CALLS:

- 1) **S 07°14'02" E – 37.04'** TO A 1/2" IRON ROD WITH CAP STAMPED "WALKER PARTNERS" SET FOR AN ANGLE POINT OF THE HEREIN DESCRIBED TRACT,
- 2) **S 29°24'06" E – 81.09'** TO A 1/2" IRON ROD WITH CAP STAMPED "WALKER PARTNERS" SET IN A CURVING NORTH RIGHT-OF-WAY LINE OF COMMERCIAL DRIVE, SAME BEING THE SOUTH LINE OF SAID COLGATE ADDITION, SAID IRON ROD MARKING THE SOUTHEAST CORNER OF THE HEREIN DESCRIBED TRACT, FROM WHICH THE END ON SAID CURVE BEARS S 54°39'54" E – 74.55', FROM WHICH A 5/8" IRON ROD WITH CAP STAMPED "JOHNSON & PAGE INC." FOUND FOR REFERENCE BEARS S 16°15'07" W – 0.22';

THENCE WITH THE COMMON LINES OF COLGATE ADDITION AND COMMERCIAL DRIVE THE FOLLOWING THREE CALLS:

- 1) **AN ARC DISTANCE OF 26.93'** WITH A CURVE TO THE LEFT HAVING A RADIUS OF 180.00', A DELTA ANGLE OF 8°34'22" AND A CHORD WHICH BEARS N 70°54'08" W – 26.91' TO A 1/2" IRON ROD WITH CAP STAMPED "WALKER PARTNERS" SET FOR A POINT OF TANGENCY,
- 2) **N 75°11'17" W – 30.89'** TO A POINT AT THE SOUTH END OF THE ABOVE-MENTIONED CUT-BACK LINE WITH HEIGHTS DRIVE, FROM WHICH A 5/8" IRON ROD FOUND FOR REFERENCE BEARS S 11°17'47" E – 0.30',
- 3) **N 30°11'17" W – 18.24'** WITH SAID CUT-BACK LINE RETURNING TO THE **POINT OF BEGINNING** AND CONTAINING 0.057 ACRE OF LAND.

THIS DESCRIPTION IS BASED ON THE ATTACHED EXHIBIT DRAWING MADE BY KEVIN R. HESSEL, REGISTERED PROFESSIONAL LAND SURVEYOR, NO. 5344.

BEARINGS CITED WITHIN THIS DESCRIPTION ARE BASED ON TEXAS STATE PLANE COORDINATE SYSTEM, NAD 83, TEXAS CENTRAL ZONE ACQUIRED FROM GLOBAL POSITIONING SYSTEM OBSERVATIONS.

SURVEYED: OCTOBER 04, 2017
RELEASED: OCTOBER 12, 2017
REVISED: DECEMBER 27, 2017


KEVIN R. HESSEL, R.P.L.S. 5344

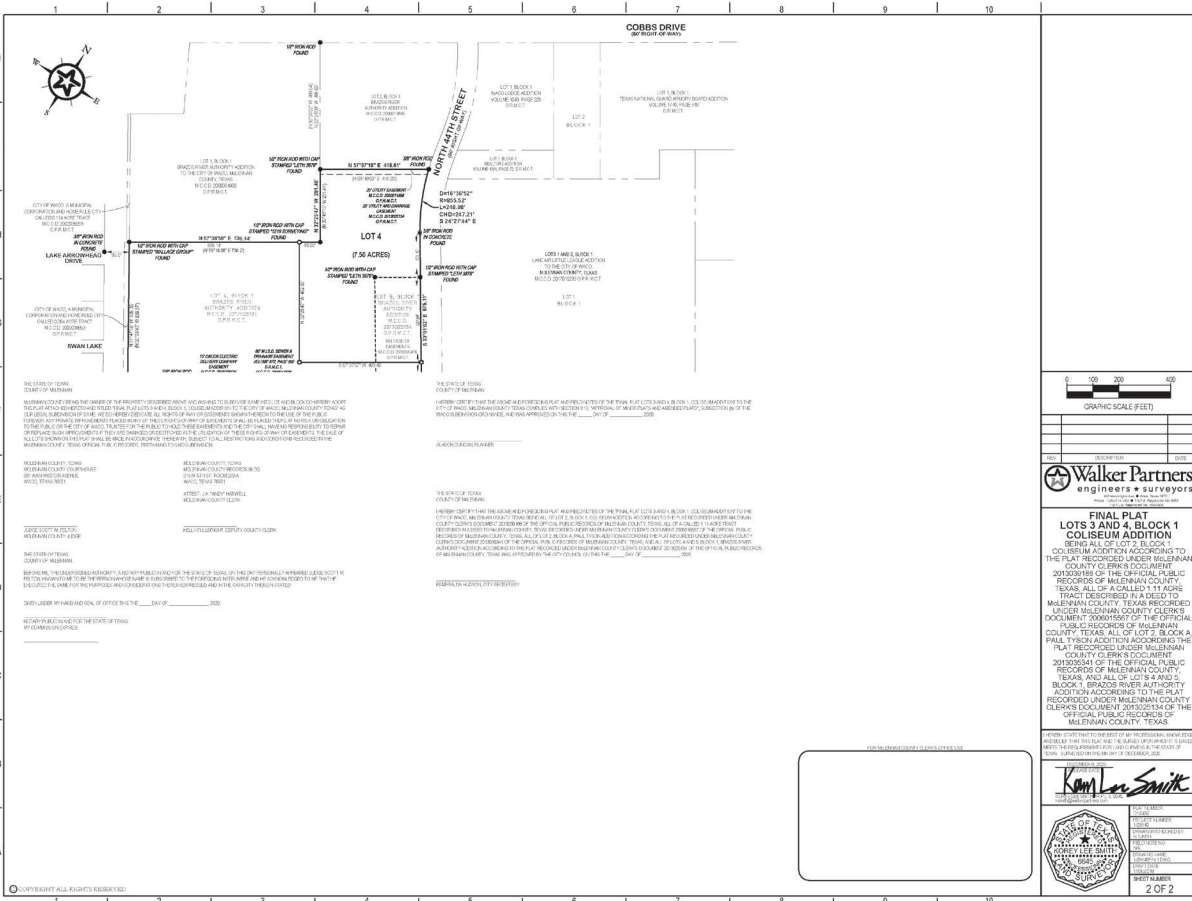
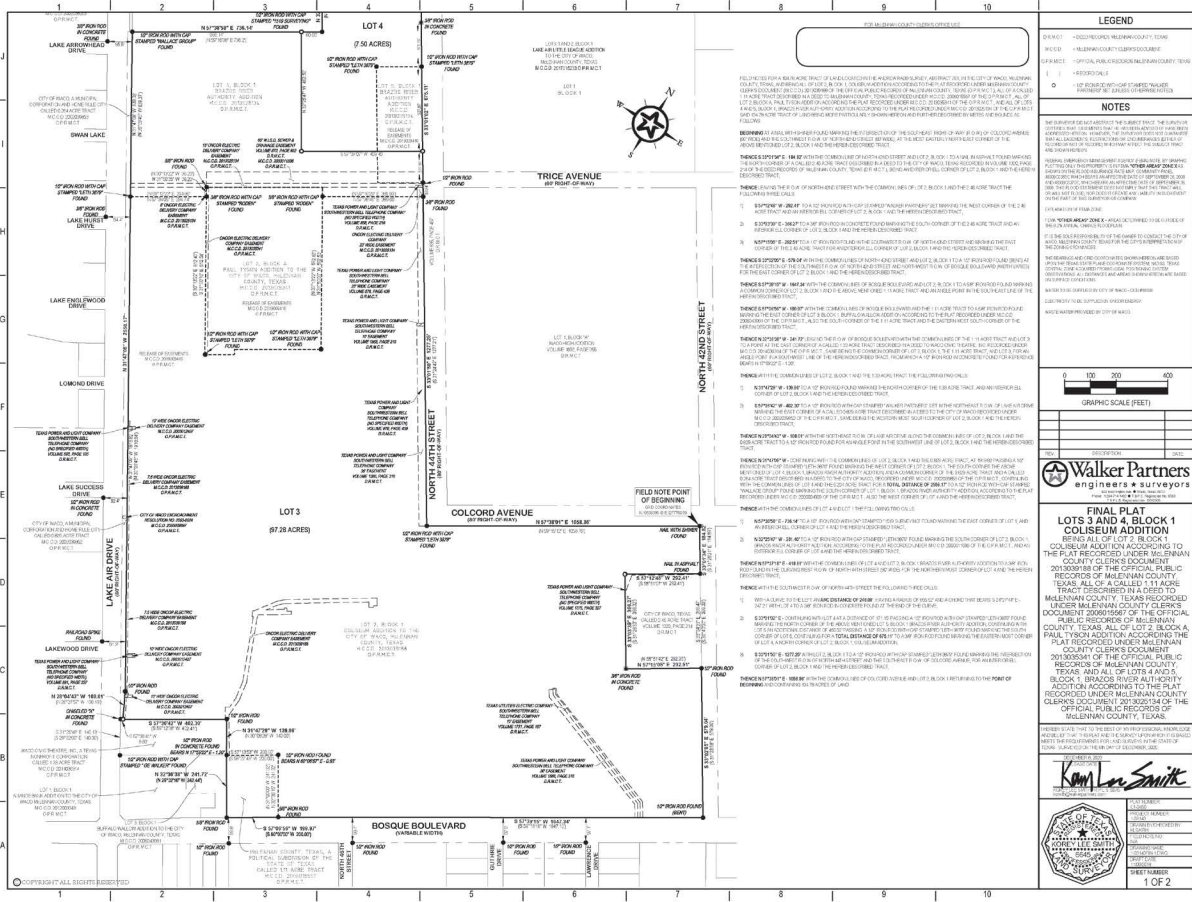


PROJ NO. 2-01515
PLAT NO. A1-1328
FIELD NOTE NO. 2-01515-FN-04-PURSER
MAP CHECKED KRH

www.WalkerPartners.com

TBPE Registration No. 8053 | TBPLS Registration No. 10032500
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McLennan County Venue (Extraco Events Center) – Final Plat



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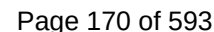


EXHIBIT "A"



600 Austin Ave., Suite 20
Waco, Texas 76701

**20 FEET WIDE (0.214 ACRE) RIGHT-OF-WAY EASEMENT
LOCATED IN THE ROBERT GEORGE SURVEY, ABSTRACT 371
AND THE THOMAS H. BARRON SURVEY, ABSTRACT 126, McLENNAN COUNTY, TEXAS**

FIELD NOTES FOR A 20 FEET WIDE (0.214 ACRE) RIGHT-OF-WAY EASEMENT LOCATED IN THE ROBERT GEORGE SURVEY, ABSTRACT 371, AND THE THOMAS H. BARRON SURVEY, ABSTRACT 126, McLENNAN COUNTY, TEXAS, AND BEING OUT OF A CALLED 5.002 ACRE TRACT DESCRIBED IN A DEED TO STEPHEN SIMCIK AND WIFE, JULIE SIMCIK RECORDED IN McLENNAN COUNTY CLERK'S DOCUMENT (M.C.C.D.) 2006044445 OF THE OFFICIAL PUBLIC RECORDS OF McLENNAN COUNTY, TEXAS (O.P.R.M.C.T.). SAID 0.214 ACRE TRACT BEING MORE PARTICULARLY SHOWN ON THE ATTACHED EXHIBIT DRAWING AND FURTHER DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 1/2" IRON ROD FOUND IN THE EAST RIGHT-OF-WAY LINE OF SPEEGLEVILLE ROAD (VARIABLE WIDTH) SAME BEING THE EAST LINE OF A CALLED 4.07 ACRE RIGHT-OF-WAY EASEMENT DESCRIBED AS TRACT NO. 1718E-1 IN TRACT NO. 12 IN A DEED TO THE COUNTY OF McLENNAN, TEXAS RECORDED IN VOLUME 978, PAGE 290 OF THE DEED RECORDS OF McLENNAN COUNTY, TEXAS (D.R.M.C.T.) MARKING THE WEST CORNER OF LOT 1, BLOCK 1, WINDSOR ESTATES ADDITION ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 1539, PAGE 225 OF THE D.R.M.C.T., SAME BEING THE NORTH CORNER OF SAID 5.002 ACRE TRACT AND OF THE HEREIN DESCRIBED TRACT, FROM WHICH A 1/2" IRON ROD WITH A CAP STAMPED "VANNOY RPLS 1988" FOUND IN THE EAST RIGHT-OF-WAY LINE OF SAID SPEEGLEVILLE ROAD MARKING THE NORTH CORNER OF LOT 4, BLOCK 1 OF SAID WINDSOR ESTATES ADDITION BEARS N 34°49'08" E - 453.26', AND A 1/2" IRON ROD WITH A CAP STAMPED "VANNOY RPLS 1988" FOUND IN THE SOUTHWEST LINE OF SAID BLOCK 1 MARKING THE EAST CORNER OF THE 5.002 ACRE TRACT BEARS S 32°54'45" E - 641.15';

THENCE S 32°54'45" E - 21.60' WITH THE COMMON LINE OF SAID 5.002 ACRE TRACT AND SAID LOT 1 TO A 1/2" IRON ROD WITH A CAP STAMPED "WALKER PARTNERS" SET FOR THE EAST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE CROSSING THE INTERIOR OF SAID 5.002 ACRE TRACT THE FOLLOWING TWO (2) CALLS:

- 1) **S 34°53'23" W - 189.46'** TO A 1/2" IRON ROD WITH A CAP STAMPED "WALKER PARTNERS" SET FOR THE POINT OF CURVATURE OF A NON-TANGENT CURVE TO THE LEFT,
- 2) **275.25' WITH THE ARC** OF SAID CURVE HAVING A RADIUS OF 1361.26', A CENTRAL ANGLE OF 11°35'07" AND A CHORD WHICH BEARS S 28°44'20" W - 274.78' TO A 1/2" IRON ROD WITH A CAP STAMPED "WALKER PARTNERS" SET IN THE SOUTHWEST LINE OF THE 5.002 ACRE TRACT;

THENCE N 44°44'34" W - 21.59' WITH THE COMMON LINE OF SAID 5.002 ACRE TRACT AND A CALLED 6.00 ACRE TRACT DESCRIBED IN A DEED TO RAMIL MARTICIO IGNACIO AND WIFE, JENNY MARTHA IGNACIO RECORDED IN M.C.C.D. 2015025038 OF THE O.P.R.M.C.T. TO A 1/2" IRON ROD FOUND IN THE EAST RIGHT-OF-WAY LINE OF SAID SPEEGLEVILLE ROAD, SAME BEING THE EAST LINE OF A CALLED 5.27 ACRE RIGHT-OF-WAY EASEMENT DESCRIBED AS TRACT NO. 1715E-2 IN TRACT NO. 12 IN A DEED TO THE COUNTY OF McLENNAN, TEXAS RECORDED IN VOLUME 978, PAGE 290 OF THE D.R.M.C.T. MARKING THE NORTHWEST CORNER OF THE 6.00 ACRE TRACT, SAME BEING THE WEST CORNER OF THE 5.002 ACRE TRACT AND OF THE HEREIN DESCRIBED TRACT, FROM WHICH A 1/2" IRON ROD FOUND MARKING THE SOUTH CORNER OF THE 5.002 ACRE TRACT AT AN INSIDE ELL CORNER OF THE 6.00 ACRE TRACT BEARS S 44°44'34" E - 487.21';

THENCE WITH THE COMMON LINE OF SAID 5.002 ACRE TRACT AND SAID SPEEGLEVILLE ROAD THE FOLLOWING TWO (2) CALLS:

- 1) **271.16' WITH THE ARC** OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 1381.26', A CENTRAL ANGLE OF 11°14'52" AND A CHORD WHICH BEARS N 28°54'37" E - 270.72' TO A 1/2" IRON ROD WITH A CAP STAMPED "LETH RPLS 3879" FOUND FOR THE END OF SAID CURVE,
- 2) **N 34°53'23" E - 197.68'** RETURNING TO THE **POINT OF BEGINNING** AND CONTAINING 0.214 ACRE OF LAND.

**THIS DESCRIPTION IS BASED ON THE ATTACHED EXHIBIT DRAWING MADE BY DANA B. SPIGENER
REGISTERED PROFESSIONAL LAND SURVEYOR, NO. 4809.**

**BEARINGS CITED WITHIN THIS DESCRIPTION ARE BASED ON TEXAS STATE PLANE COORDINATE SYSTEM, NAD 83, TEXAS
CENTRAL ZONE ACQUIRED FROM GLOBAL POSITIONING SYSTEM OBSERVATIONS.**

SURVEYED: MAY, 2017
RELEASED: JUNE 7, 2017

Dana B. Spigener
DANA B. SPIGENER, R.L.S. 4809
PROJ NO. 1-02518
PLAT NO. A1-1242
FIELD NOTE NO. 18
MAP CHECKED 06-01-17 DBS



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TBPE Registration No. 8053 | TBPLS Registration No. 10032500
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BCRUA Phase 2 – Exhibit for Electrical Easement and Field Notes

BCRUA 075

LEROY S. BERGERON AND BARBARA F. BERGERON

EXHIBIT

OF A 20 FOOT WIDE (0.146 ACRE) ELECTRIC EASEMENT
LOCATED IN THE R. BLACKWELL SURVEY, ABSTRACT 83 IN
TRAVIS COUNTY, TEXAS, BEING A PORTION OF A CALLED 11.50
ACRE TRACT DESCRIBED IN A DEED TO LEROY S. BERGERON
AND BARBARA F. BERGERON, OF RECORD IN VOLUME 13379,
PAGE 4839 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS
COUNTY, TEXAS.

MARK L. ETHERIDGE
CALLED 49.820 ACRES
T.C.C.D. 2003261029
O.P.R.T.C.T.

30' WIDE ACCESS EASEMENT
VOLUME 13379, PAGE 4839
O.P.R.T.C.T.

LEROY S. BERGERON
AND BARBARA F. BERGERON
CALLED 11.50 ACRES
VOLUME 13379, PAGE 4839
R.P.R.T.C.T.

0.146 ACRE
EASEMENT

R. BLACKWELL SURVEY
ABSTRACT 83
TRAVIS COUNTY, TEXAS

TRAILS END ROAD
TRAVIS COUNTY TEXAS
VOLUME 1780, PAGE 441
D.R.T.C.T.

SURVEYOR'S NOTES:

SURVEYED: AUGUST 28, 2017

RELEASE DATE: JANUARY 25, 2018

FIELD NOTES ATTACHED HERETO, MADE A PART HEREOF
AND TITLED:

20 FOOT WIDE (0.146 ACRE) ELECTRIC EASEMENT LOCATED
IN THE R. BLACKWELL SURVEY, ABSTRACT 83, TRAVIS
COUNTY, TEXAS.

THE SURVEYOR DID NOT ABSTRACT THE SUBJECT TRACT.
THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A
TITLE REPORT, THEREFORE THE SURVEYOR CERTIFIES THAT
EASEMENTS THAT HE HAS BEEN ADVISED OF HAVE BEEN
ADDRESSED HEREON. HOWEVER, THE SURVEYOR DOES NOT
GUARANTEE THAT ALL EASEMENTS, RESTRICTIONS OR
ENCUMBRANCES (EITHER OF RECORD OR NOT OF RECORD)
WHICH MAY AFFECT THE SUBJECT TRACT ARE SHOWN
HEREON.

THE BEARINGS AND COORDINATES SHOWN HEREON ARE
BASED UPON THE TEXAS STATE PLANE COORDINATE SYSTEM,
NAD 83, CENTRAL ZONE, ACQUIRED FROM GLOBAL
POSITIONING SYSTEM OBSERVATIONS.

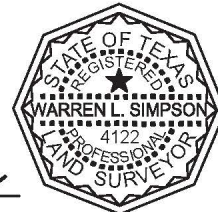
LEGEND

- = IRON ROD FOUND
(UNLESS OTHERWISE NOTED)
- () = DEED CALLS
- D.R.T.C.T. = DEED RECORDS TRAVIS
COUNTY, TEXAS
- T.C.C.D. = TRAVIS COUNTY
CLERK'S DOCUMENT
- O.P.R.T.C.T. = OFFICIAL PUBLIC RECORDS
TRAVIS COUNTY, TEXAS
- R.P.R.T.C.T. = REAL PROPERTY RECORDS
TRAVIS COUNTY, TEXAS
- = EASEMENT AREA
- = UTILITY POLE
- = GUY WIRE
- E— = OVERHEAD ELECTRIC LINE
- X- = FENCE
- T- = OVERHEAD TELEPHONE LINE

DANIELLE Y. MUNSELLE
CALLED 2 ACRES
T.C.C.D. 2008016521
O.P.R.T.C.T.

FIELD NOTE
POINT OF BEGINNING
GRID COORDINATES
N10152368.26' E3065691.39'

Warren L. Simpson
WARREN L. SIMPSON, R.P.L.S. 4122
lsimpson@walkerpartners.com



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804 Las Cimas Pkwy., Suite 150 • Austin, Texas 78746
Phone: 1-512-982-0021 • T.B.P.E. Registration No. 8063
T.B.P.L.S. Registration No. 10194317



GRAPHIC SCALE IN FEET

PLAT NO. A1-1323 PROJ. NO. 3-00619 DRAFTED 09/22/17
TAB NA F/N NO. 77 FB/PG 3-3/58 DRAWN BY IBM
DWG. NAME 3-00619ESMT-PARCEL 075-BERGERON.DWG MAP CHK'D 01/16/18

G:\PROJECTS\3-00619\3 PHASE 2 LAND RIGHTS\1 CAD\3-00619ESMT-PARCEL 075-BERGERON.DWG, 8.5X11-NO CERT-075, 1/24/2018 8:08:45 AM, jmontenayor, 1:1

BCRUA 075
LEROY S. BERGERON AND BARBARA F. BERGERON



804 Las Cimas Pkwy., Suite 150
Austin, Texas 78746

**20 FOOT WIDE (0.146 ACRE)
ELECTRIC EASEMENT
LOCATED IN THE THE R. BLACKWELL SURVEY, ABSTRACT 83
IN TRAVIS COUNTY, TEXAS**

FIELD NOTES FOR A 20 FOOT WIDE (0.146 ACRE) STRIP OF LAND LOCATED IN THE R. BLACKWELL SURVEY, ABSTRACT 83, IN TRAVIS COUNTY, TEXAS, BEING A PORTION OF A CALLED 11.50 ACRE TRACT DESCRIBED IN A DEED TO LEROY S. BERGERON AND BARBARA F. BERGERON, OF RECORD IN VOLUME 13379, PAGE 4839, OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS (R.P.R.T.C.T.). SAID 0.146 ACRE EASEMENT BEING MORE PARTICULARLY SHOWN ON THE ATTACHED EXHIBIT DRAWING, MADE A PART HEREOF AND FURTHER DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING A 1/2" IRON ROD FOUND IN THE WEST RIGHT-OF-WAY LINE OF TRAILS END ROAD, MARKING THE MOST SOUTHERLY SOUTHEAST CORNER OF SAID 11.50 ACRE TRACT AND THE SOUTHEAST CORNER OF THE HEREIN DESCRIBED EASEMENT, BEING THE NORTHEAST CORNER OF A CALLED 2 ACRE TRACT DESCRIBED IN A DEED TO DANIELLE Y. MUNSELLE, OF RECORD UNDER T.C.C.D. 2008016521 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS (O.P.R.T.C.T.);

THENCE N 46°34'05" W – 22.87' WITH THE COMMON LINE BETWEEN SAID 11.50 ACRE TRACT AND SAID 2 ACRE TRACT TO A POINT FOR THE SOUTHWEST CORNER OF THE HEREIN DESCRIBED EASEMENT, FROM WHICH A 1/2" IRON ROD FOUND MARKING A SOUTHEAST CORNER OF SAID 11.50 ACRE TRACT BEARS N 46°34'05" W – 320.35' AND S 14°29'43" W – 157.67';

THENCE N 14°25'26" E – 313.85' THROUGH THE INTERIOR OF SAID 11.50 ACRE TRACT, WEST OF, 20 FEET AT RIGHT ANGLES FROM AND PARALLEL TO THE EAST LINE OF SAID 11.50 ACRE TRACT AND THE WEST RIGHT-OF-WAY LINE OF TRAILS END ROAD, TO A POINT IN THE COMMON LINE BETWEEN SAID 11.50 ACRE TRACT AND A CALLED 49.820 ACRE TRACT DESCRIBED IN A DEED TO MARK L. ETHERIDGE, OF RECORD UNDER TRAVIS COUNTY CLERK'S DOCUMENT 2003261029 OF SAID O.P.R.T.C.T., FOR THE NORTHWEST CORNER OF THE HEREIN DESCRIBED EASEMENT, FROM WHICH A 1/2" IRON ROD FOUND MARKING THE NORTHWEST CORNER OF SAID 11.50 ACRE TRACT BEARS N 67°27'15" W – 1260.01';

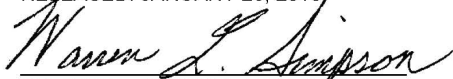
THENCE S 67°27'15" E – 20.20' WITH THE COMMON LINE BETWEEN SAID 11.50 ACRE TRACT AND SAID 49.820 ACRE TRACT, TO A 1/2" IRON ROD WITH CAP STAMPED "WALKER PARTNERS" SET IN THE WEST RIGHT-OF-WAY LINE OF TRAILS END ROAD, FOR THE NORTHEAST CORNER OF SAID 11.50 ACRE TRACT AND THE HEREIN DESCRIBED EASEMENT;

THENCE S 14°25'26" W – 322.09' WITH THE EAST LINE OF SAID 11.50 ACRE TRACT ALONG THE WEST RIGHT-OF-WAY LINE OF TRAILS END ROAD, RETURNING TO THE **POINT OF BEGINNING** AND CONTAINING 0.146 ACRE OF LAND.

THIS DESCRIPTION IS BASED ON THE ATTACHED EXHIBIT DRAWING MADE BY WARREN L. SIMPSON, REGISTERED PROFESSIONAL LAND SURVEYOR, NO. 4122.

BEARINGS CITED WITHIN THIS DESCRIPTION ARE BASED ON TEXAS STATE PLANE COORDINATE SYSTEM, NAD 83, TEXAS CENTRAL ZONE ACQUIRED FROM GLOBAL POSITIONING SYSTEM OBSERVATIONS.

SURVEYED: AUGUST 28, 2017
RELEASED: JANUARY 25, 2018


WARREN L. SIMPSON, R.P.L.S. 4122

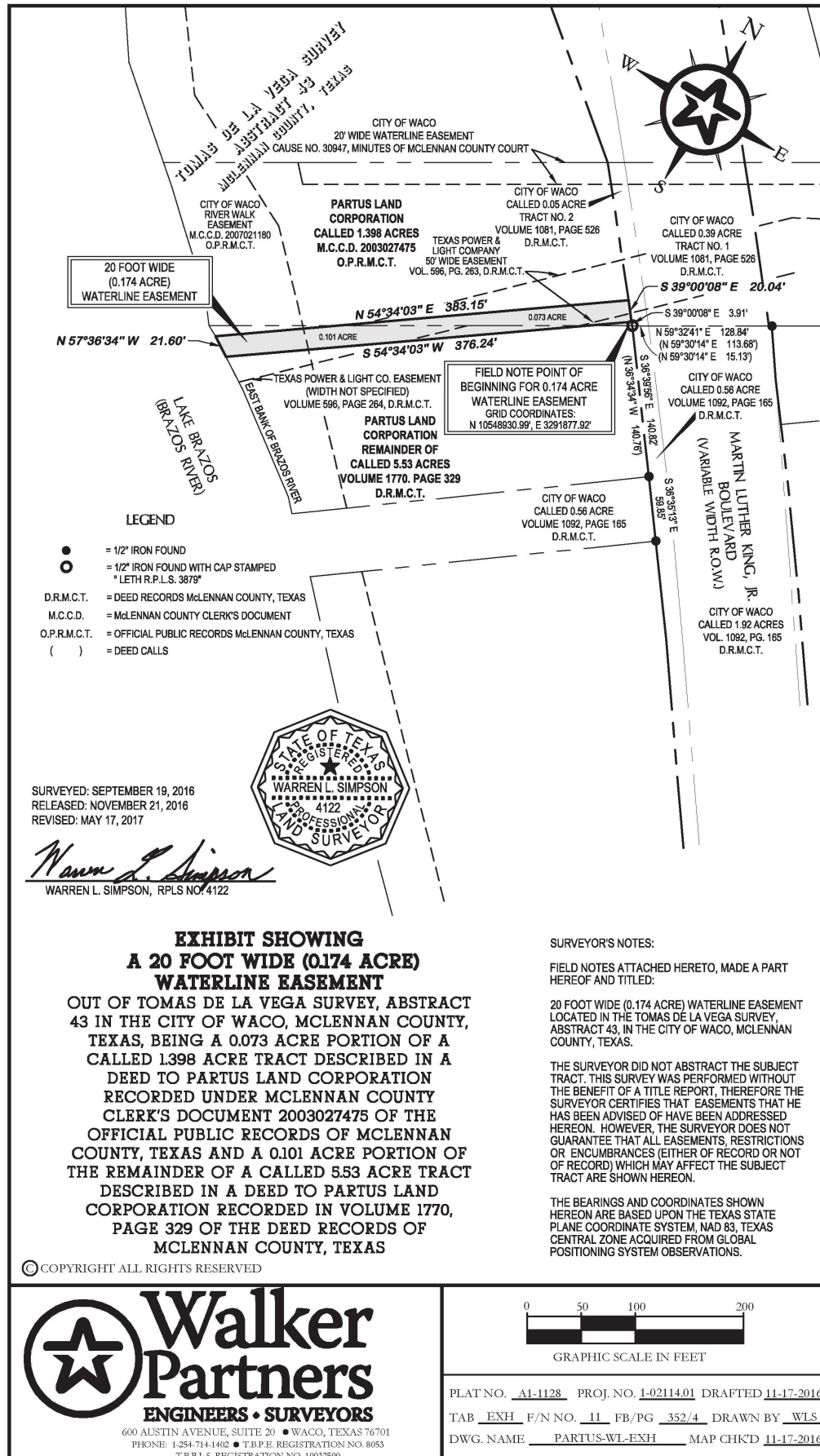


PROJ NO. 3-00619
PLAT NO. A1-1323
FIELD NOTE NO. 075
MAP CHECKED: 01/16/2018-JBM

www.WalkerPartners.com

TBPE Registration No. 8053 | TBPLS Registration No. 10194317
G:\Projects\3-00619\3 Phase 2 Land Rights\1 Survey\1.5 Final Copies\Field Notes\FN-75.docx

City of Waco Riverside WTP to Gholson Pump Station Waterline– Exhibit for Waterline Easement and Field Notes





600 Austin Ave., Suite 20
Waco, Texas 76701

**20 FOOT WIDE (0.174 ACRE)
WATERLINE EASEMENT
LOCATED IN THE TOMAS DE LA VEGA SURVEY, ABSTRACT 43,
IN THE CITY OF WACO, MCLENNAN COUNTY, TEXAS**

FIELD NOTES FOR A 20 FOOT WIDE (0.174 ACRE) STRIP OF LAND LOCATED IN THE TOMAS DE LA VEGA SURVEY, ABSTRACT 43, IN THE CITY OF WACO, MCLENNAN COUNTY, TEXAS, BEING A PORTION OF A CALLED 1.398 ACRE TRACT DESCRIBED IN A DEED TO PARTUS LAND CORPORATION RECORDED UNDER MCLENNAN COUNTY CLERK'S DOCUMENT (M.C.C.D.) 2003027475 OF THE OFFICIAL PUBLIC RECORDS OF MCLENNAN COUNTY, TEXAS (O.P.R.M.C.T.) AND A PORTION OF THE REMAINDER OF A CALLED 5.53 ACRE TRACT DESCRIBED IN A DEED TO PARTUS LAND CORPORATION RECORDED IN VOLUME 1770, PAGE 329 OF THE DEED RECORDS OF MCLENNAN COUNTY, TEXAS (D.R.M.C.T.). SAID 0.174 ACRE EASEMENT BEING MORE PARTICULARLY SHOWN ON THE ATTACHED EXHIBIT DRAWING AND FURTHER DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A POINT AT THE SOUTHEAST CORNER OF THE HEREIN DESCRIBED EASEMENT, IN THE WEST RIGHT-OF-WAY LINE OF MARTIN LUTHER KING, JR. BOULEVARD (VARIABLE WIDTH R.O.W.), BEING THE COMMON LINE BETWEEN SAID 1.398 ACRE TRACT AND A CALLED 0.05 ACRE TRACT DESCRIBED IN TRACT NO. 2 IN A DEED TO THE CITY OF WACO RECORDED IN VOLUME 1081, PAGE 526 OF THE D.R.M.C.T., FROM WHICH 1/2" IRON ROD WITH CAP STAMPED "LETH R.P.L.S. 3879" FOUND MARKING THE SOUTHEAST CORNER OF SAID 1.398 ACRE TRACT BEARS S 39°00'08" E – 3.91' AND A 1/2" IRON ROD FOUND MARKING THE ORIGINAL NORTHEAST CORNER OF SAID 5.53 ACRE TRACT BEARS N 59°32'41" E – 128.84' FROM THE SOUTHEAST CORNER OF SAID 1.398 ACRE TRACT;

THENCE S 54°34'03" W – 376.24', PARTWAY THROUGH THE INTERIOR OF SAID 1.398 ACRE TRACT AND PARTWAY THROUGH THE INTERIOR OF THE REMAINDER OF SAID 5.53 ACRE TRACT, TO A POINT ON THE EAST BANK OF LAKE BRAZOS, BEING THE WEST LINE OF THE REMAINDER OF SAID 5.53 ACRE TRACT, AT THE SOUTHWEST CORNER OF THE HEREIN DESCRIBED EASEMENT;

THENCE N 57°36'34" W – 21.60' WITH THE EAST BANK OF LAKE BRAZOS, ALONG THE WEST LINE OF THE REMAINDER OF SAID 5.53 ACRE TRACT, TO A POINT AT THE NORTHWEST CORNER OF THE HEREIN DESCRIBED EASEMENT;

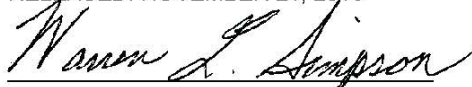
THENCE N 54°34'03" E – 383.15' PARTWAY THROUGH THE INTERIOR OF THE REMAINDER OF SAID 5.53 ACRE TRACT AND PARTWAY THROUGH THE INTERIOR OF SAID 1.398 ACRE TRACT, TO A POINT IN THE WEST RIGHT-OF-WAY LINE OF MARTIN LUTHER KING, JR. BOULEVARD;

THENCE S 39°00'08" E – 20.04' WITH THE WEST RIGHT-OF-WAY LINE OF MARTIN LUTHER KING, JR. BOULEVARD, ALONG THE COMMON LINE BETWEEN SAID 1.398 ACRE TRACT AND SAID 0.05 ACRE TRACT, RETURNING TO THE **POINT OF BEGINNING** AND CONTAINING 0.174 ACRE OF LAND.

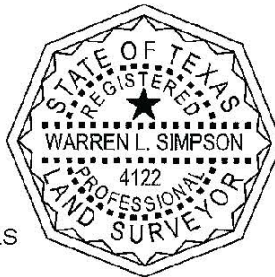
THIS DESCRIPTION IS BASED ON THE ATTACHED EXHIBIT DRAWING MADE BY WARREN L. SIMPSON, REGISTERED PROFESSIONAL LAND SURVEYOR, NO. 4122.

BEARINGS CITED WITHIN THIS DESCRIPTION ARE BASED ON TEXAS STATE PLANE COORDINATE SYSTEM, NAD 83, TEXAS CENTRAL ZONE ACQUIRED FROM GLOBAL POSITIONING SYSTEM OBSERVATIONS.

SURVEYED: SEPTEMBER 19, 2016
RELEASED: NOVEMBER 21, 2016


WARREN L. SIMPSON, R.P.L.S. 4122

PROJ NO.1-02114.01
PLAT NO. A1-1128
FIELD NOTE NO. 11, MAP CHECKED: 11-17-2016 WLS



www.WalkerPartners.com

CERTIFICATION

The undersigned affirms that they are duly authorized and qualified to submit this SOQ. The undersigned affirms that the firm is willing to sign the enclosed Standard Form of Agreement for Professional Services without modification.

Signed By: George E. Walker, Jr. Title: President/CEO

Typed Name: George E. Walker, Jr. Company Name: Walker Partners, LLC

Phone No.: 254-714-1402 Fax No.: 254-714-0402

Email: gwalker@walkerpartners.com

Bid Address: 2700 Earl Rudder Freeway, Suite 1600, College Station, TX 77845
P.O. Box or Street City State Zip

Order Address: 823 Washington Avenue, Suite 100, Waco, TX 76701
P.O. Box or Street City State Zip

Remit Address: 823 Washington Avenue, Suite 100, Waco, TX 76701
P.O. Box or Street City State Zip

Federal Tax ID No.: 35-2235040

DUNS No.: 183997860

Date: July 28, 2023

Number of Addenda Acknowledged: No Addenda Issued

END OF RFQ NO. 23-081

*****DO NOT MODIFY THIS FORM*****

Exhibit “B”
Scope of Services: Surveying Requirements

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

**CITY OF COLLEGE STATION
SURVEYING REQUIREMENTS FOR LAND ACQUISITION
(AND OTHER CITY PROJECTS)**

Prepared by: Mark McAuliffe, Land Agent, on May 28, 2010
Revised by: Ashley Dorsett, Land Agent, on February 13, 2020

These requirements were developed with the help and guidance of Henry Mayo, RPLS and his father, David Mayo, RPLS. In addition, much of the information was obtained from the document entitled TxDOT Survey Manual (effective April, 1 2016) Chapter 5: Right-of-Way Surveying, prepared by the Texas Department of Transportation's Right-of-Way Division.

The general requirements below shall also apply to any survey work obtained by the City that may not be part of a typical City "project" or may not consist of right-of-way and/or easement acquisition. If a Land Agent is not associated with a particular project, then the Land Agent duties stated below shall fall upon the City's Project Manager.

Defining Project Limits

For a typical City project, the Design Engineer, at the direction of the City Project Manager, shall determine the right-of-way ("ROW") and easements needed to complete the project during the conceptual design. The Project Manager shall be responsible for the preparation and delivery of a general map that depicts and describes all property needed to the City Land Agent. The map should include any fee simple ROW, public utility easements, public access easements, public drainage easements and/or temporary construction easements that will be needed for the project.

If a Needs Resolution is required, then the Land Agent will prepare a final map and narrative legal descriptions for the needed parcels. These will be submitted for approval to the City's Legal Department, and later to City Council, as part of the Needs Resolution.

In an effort to ensure that the property needs are agreed upon before being finalized, the map and property descriptions should be discussed in a meeting with all associated City employees and the Legal Department, per the City's Land Acquisition Process. Final approval of the survey work should be memorialized in writing or with a signed title sheet as described later in this document. Written approval should include the Design Engineer, the client department, including the Director, Assistant Director and Project Manager, and, if the project is a Capital Improvement Project ("CIP"), the CIP Director, Assistant Director and Project Manager.

Right-of-Entry from Landowners

Landowners are entitled to privacy on their lands, therefore entry by persons without permission may be considered trespass. It is the responsibility of the Surveyor to obtain permission from landowners before entry. Written permission is preferred and, upon request, the City may provide a standard "Right-of-Entry" form. In the event that written approval for entry is not secured, then verbal permission is acceptable. The Surveyor must note the date, time and name of person granting permission to enter the property.

In the event that entry is denied, it is suggested that the Surveyor perform work from the right-of-way, and adjoining tracts if possible. If the Surveyor still needs to enter the property, then the Surveyor shall advise the Project Manager and/or Land Agent.

Surveyor Qualifications

All surveying must be completed under the supervision of a Registered Professional Land Surveyor and must conform to industry standards and applicable laws, including the Professional Land Surveying Act. All deliverables shall be signed, sealed and dated by an RPLS.

Coordinate System

All projects must be tied to a City of College Station GPS control monument (or Bryan or Brazos County control monument, if applicable), and must use the Texas State Plane Coordinate System Zone 3, Zone 5376, FIPS 4203, TX-Central with Central Zone NAD83 (CORS) datum. The projects must also be located relative to adjoining tracts.

Additional Requirements

The format and content of all survey work for right-of-way and easements shall follow the below requirements, as well as the guidelines described in the previously mentioned Texas Department of Transportation manual, and should also be similar to the attached example. For cases in which the Surveyor believes that the requirements do not apply to a particular assignment, then the Surveyor must obtain written approval from the Project Manager.

The Design Engineer or Surveyor shall coordinate with the Project Manager and Land Agent to obtain the necessary title work.

General:

- Permanent markers should be set for corners of ROW parcels
- Property corners, monuments and other survey markers should be located, identified and noted on the parcel plats
- Boundary discrepancies, survey problems, etc. should be noted on the parcel plats
- Title sources for ROW adjacent and/or crossing the parcels should be stated on the parcel plats
- Total area of ROW and/or easements should be calculated in square footage and acreage
- A title sheet shall be included naming the project, stating the metadata and allowing for approval as described above
- A ROW map shall be included as a graphic index map showing the surveyed parcels in relation to adjacent roadways
- Draft survey work should be submitted for review and comments, and titled "Preliminary"
- The Land Agent and/or Project Manager shall review ownership, survey markers, property lines, calls, closure, etc.
- The Surveyor shall make any necessary revisions before submitting the final survey work

Conflicting Easements:

- Parcel plats shall depict the location of all existing easements within or crossing the proposed ROW or easement, including all easements referenced on Schedule B of the provided title work
- If an easement stated on Schedule B does not affect the proposed ROW or easement, then a comment shall be made in the notes on the parcel plats
- Blanket type easements shall be noted on the parcel plats and shall describe whether utilities or facilities are located within the part to be acquired

Encroachments, Improvements and Utilities:

- Parcel plats shall depict all driveways, streets, alleys, highways, etc.
- Parcel plats shall depict all improvements including buildings, fences, etc.
- Parcel plats shall depict, in detail, all improvements to be bisected by the proposed ROW or easement or to be located within 50 feet of the proposed ROW or easement
- Parcel plats shall depict the location of all above ground utility facilities, including poles, guy wires, vent pipes, etc.
- Underground utilities shall be noted on the parcel plats if their location is identifiable, or if this is requested by the Project Manager for project purposes

Sizing:

- Survey work should include the following (to the best fit):
 - Title sheet with signature lines for approval
 - Overall ROW map – 8 ½" x 11", 11" x 17" or larger (ensure legible text)
 - Metes and bounds descriptions – 8 ½" x 11"
 - Parcel plats – 8 ½" x 11" (ensure legible text)

Headings and Descriptions:

- Refrain from placing the following text in headings:
 - "Exhibit A" or "Exhibit B" (often Exhibit A becomes Exhibit B, and vice versa)
- Refrain from using the following descriptions:
 - "ROW Dedication" (often ROW is purchased, not dedicated)
 - "Water Line Easement" or "Sanitary Sewer Easement" (use only "Easement" as uses may be stricken from the actual conveyance document)

Delivery Method:

- Printed
 - Three sets of original paper documents (upon request)
- Electronic
 - pdf format (or similar "locked" format)
 - AutoCAD in .DWG format
 - Uploaded to ftp site (upon request)

Attachments

As stated above, the attached example should also be used as a general guide when preparing right-of-way and easement survey work for the City of College Station.



CITY OF COLLEGE STATION
Public Works Department

**PROPOSED RIGHT-OF-WAY PAR
AND EASEMENT TRACT**

Naboo Street Rehal
Project no. ST13915

Survey Date: June 2814

KENOBI SURVEYING
Honorable Service since 2715
Tosche Station, Tatooine
A8-G290-HPM5045

RECOMMENDED FOR ACQUISITION

Project Manager — City

Date

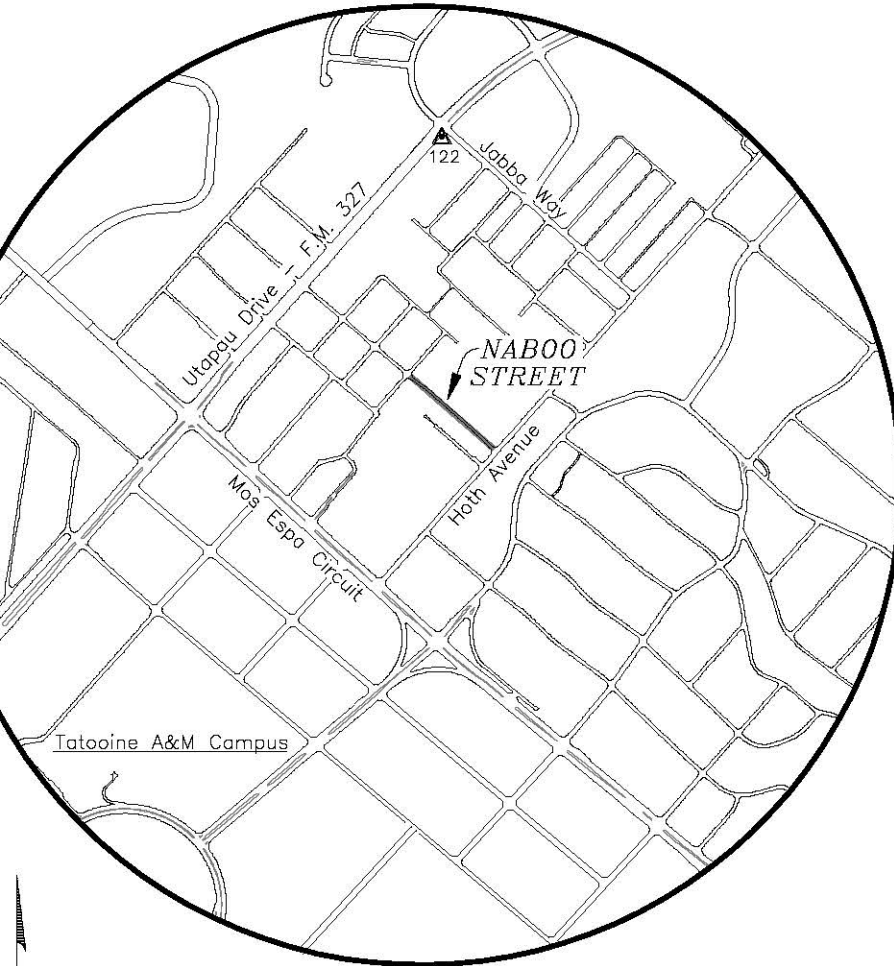
Project Manager — Design Firm

Date

APPROVAL

Director of Public Works

Date



Vicinity Map

0 1/4 1/2 Mile

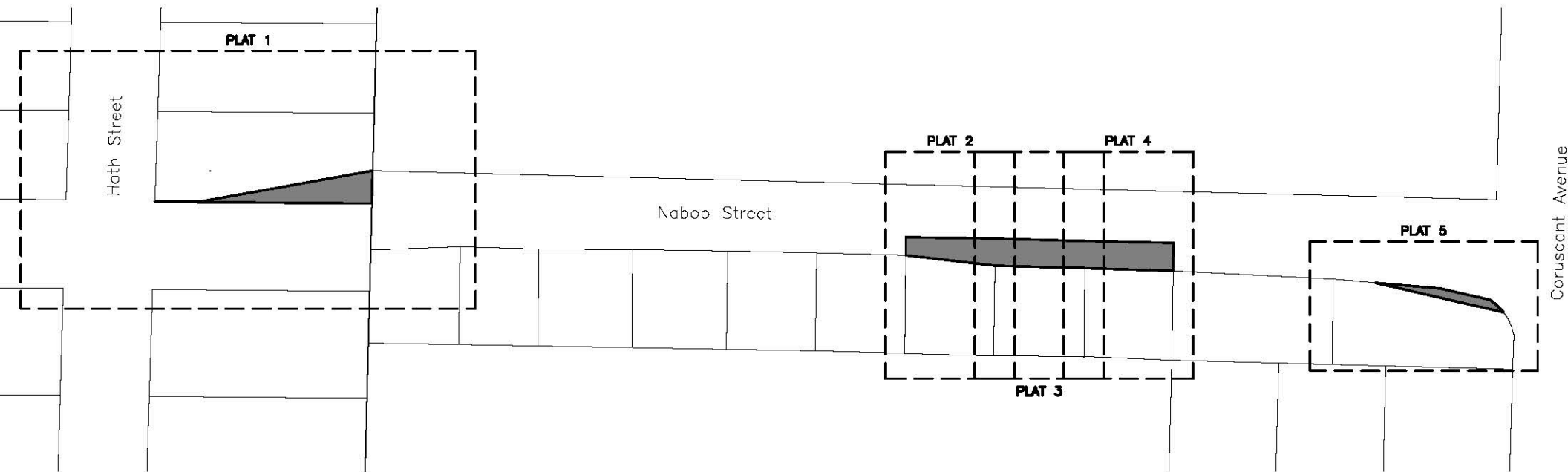
△ — denotes City of College Station
GPS Control Monument

Bearings are State Plane, Central
Zone NAD83(CORS) datum, based on
City of CS GPS control monuments
no. 122 and no. 1 (S 4°47'50" W).

1 — N 30°35'51.09963" / W 96°20'02.54418"
122 — N 30°37'58.39917" / W 96°19'44.84158"

INDEX OF SHEETS

PLAT NO.	DESCRIPTION
1	Lot 7, Block H – Death Star Subd.
2	Ackbar tract – 818 Naboo Street
3	Hett tract – 820 Naboo Street
4	Grevious tract – 822 Naboo Street
5	Lot 6–11 – 828 Naboo Street



July 2814



OBI-WAN B. KENOBI
11380
LAND PROFESSIONAL SURVEYOR

0 5 10 20 40 Ft

Bearings are State Plane, Central Zone NAD83(CORS) datum, based on City of CS GPS control monuments no. 122 and no. 1 (S 4°47'50"W).

All existing utility lines and some existing easements may not shown.

Iron rods set have orange plastic caps stamped "OB KENOBI RPLS 11380".

See separate metes and bounds description prepared with this plat.

Legend

- building wall
- pavement edge
- chain-link fence
- wood fence

Hoth Street

50' right-of-way (plat)
 asphalt pavement

Naboo Street

50' right-of-way (plat)
 asphalt pavement

Proposed Right-of-Way Parcel
 897 sq. ft.

— record owner —
Boba M. Fett
 Lot 7 and Adjacent 15' of Lot 6
 vol. 285, pg. 213
 vol. 584, pg. 635

one-story home
 400 Hoth

Death Star Subdivision
 vol. 126, pg. 133
 (renamed—vol. 135, pg. 321)

Lot 7

Block H

Lot 6

Survey Note:
 City of CS GPS mon. no. 122
 bears N 3°16'36"E 1702.2' from
 Point of Beginning (P.O.B.)

P.O.B. 6' Utility Easement (plat note)

5' Public Utility Easement (plat)

concrete driveway

nail in asphalt found in 2800

R.O.W. dedication vol. 9912, pg. 22 (plat)

R.O.W. parcel - vol. 269, pg. 180

R.O.W. dedication vol. 516, pg. 717 (plat)

1/2" IR/cap set Lot 2 corner

concrete parking lot

Lot 2

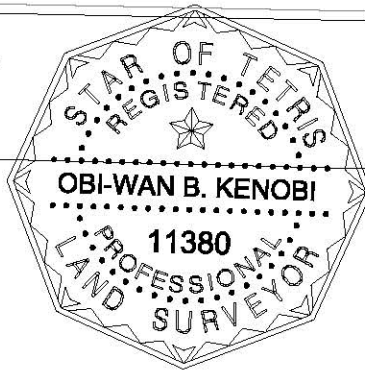
Part of Lots 7,8,9 & 10
 Sith Subdivision
 vol. 516, pg. 717

Lot 6-1
 Sith Subdivision
 vol. 9912, pg. 22

original lot line
 Sith Subdivision
 vol. 49, pg. 106

Proposed Right-of-Way Parcel
Naboo Street

10' Utility Easement
(plat)



Bearings are State Plane, Central Zone NAD83(CORS) datum, based on City of CS GPS control monuments no. 122 and no. 1 (S 4°47'50"W).

All existing utility lines and some existing easements may not shown.

See separate metes and bounds description prepared with this plat.

Legend

- building wall
- pavement edge
- chain-link fence
- wood fence

Survey Note:
City of CS GPS mon. no. 122 bears N 4°15'38"W 1958.7' from Point of Beginning (P.O.B.)

Blanket Easement Note:

The powerline easement to the City of Bryn recorded in vol. 2504, pg. 302 may affect this tract, but its location is not described and no BTU powerline is present on this property.

Naboo Street

variable-width right-of-way
asphalt pavement

10' Access
Easement (private)
vol. 119, pg. 272

N 48°37'35"W-350.0'
to Lot 6/7 corner

P.O.B.

Proposed
Right-of-Way Parcel
634 sq. ft.*

N 43°18'24"W - 50.46'

Magnail found
in asphalt
S 39°31'41"W
Sharad Hett
rem. of 50'x66' tract
vol. 2295, pg. 76

concrete walk & porch

concrete
driveway

*Prescriptive Right-of-Way Note:
555 sq. ft. of area within this proposed
R.O.W. parcel is covered by the current
pavement of Naboo Street.

5' Sewer Easement (private)
vol. 2750, pg. 1

note: This instrument also grants
an easement for a gas line, but
its location is not clearly defined.

Admiral Ackbar
0.075 ac. (third tract)
Vol. 1846, Pg. 149

one-story, brick home on slab
818 Naboo

Lot 6

Sith Subdivision
vol. 49, pg. 106

concrete
driveway

Rancor LLC
0.0579 ac.
vol. 9814, pg. 53

Lot 6-6

Lots 6-5 & 6-6
Sith Subdivision
vol. 9524, pg. 76

5' P.U.E.
(plat)

1/2" IR/cap found
*SOLO 32201"

5/8" IR/cap found
*NIHILUS RPLS 65090"

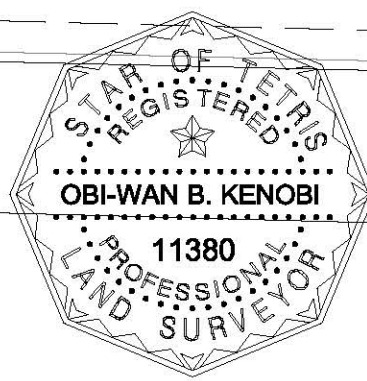
Proposed Right-of-Way Parcel
Ackbar Tract - 818 Naboo Street



Bearings are State Plane, Central Zone NAD83(CORS) datum, based on City of CS GPS control monuments no. 122 and no. 1 (S 4°47'50"W).

All existing utility lines and some existing easements may not shown.

See separate metes and bounds description prepared with this plat.



10' Utility Easement (plat)

existing
20' R.O.W. dedication
vol. 516, pg. 717 (plat)

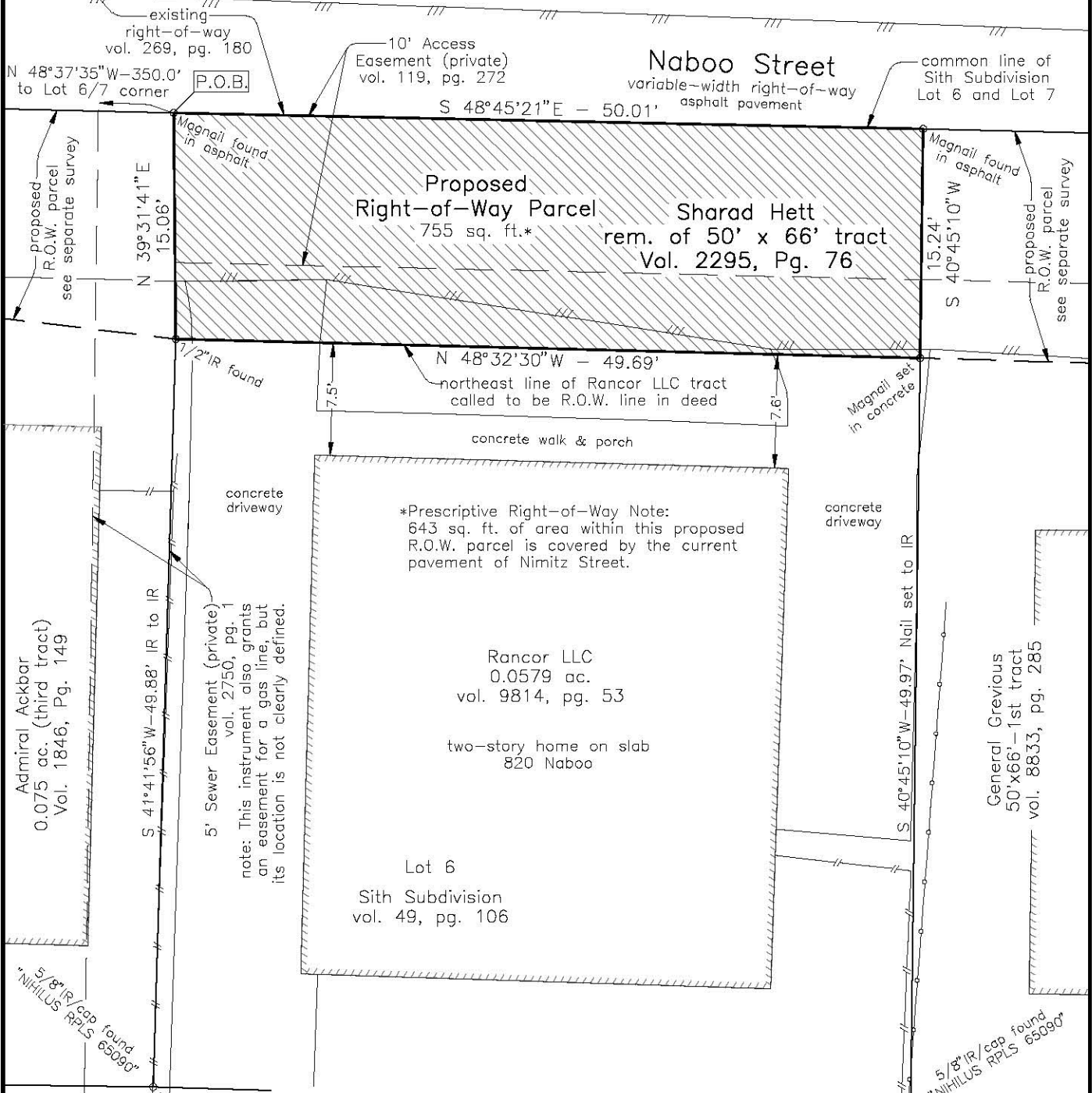
Blanket Easement Note:

The powerline easement to the City of Bryn recorded in vol. 2504, pg. 302 may affect this tract, but its location is not described and no BTU powerline is present on this property.

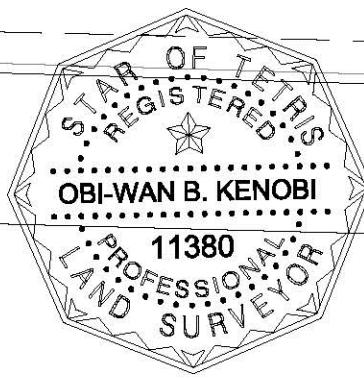
Survey Note:
City of CS GPS mon. no. 122 bears N 4°15'38"W 1958.7' from Point of Beginning (P.O.B.)

Legend

- building wall
- pavement edge
- chain-link fence
- wood fence



Proposed Right-of-Way Parcel
Remainder of Sharad Hett Tract



Bearings are State Plane, Central Zone NAD83(CORS) datum, based on City of CS GPS control monuments no. 122 and no. 1 (S 4°47'50"W).

All existing utility lines and some existing easements may not shown.

See separate metes and bounds description prepared with this plat.

10' Utility Easement (plat)

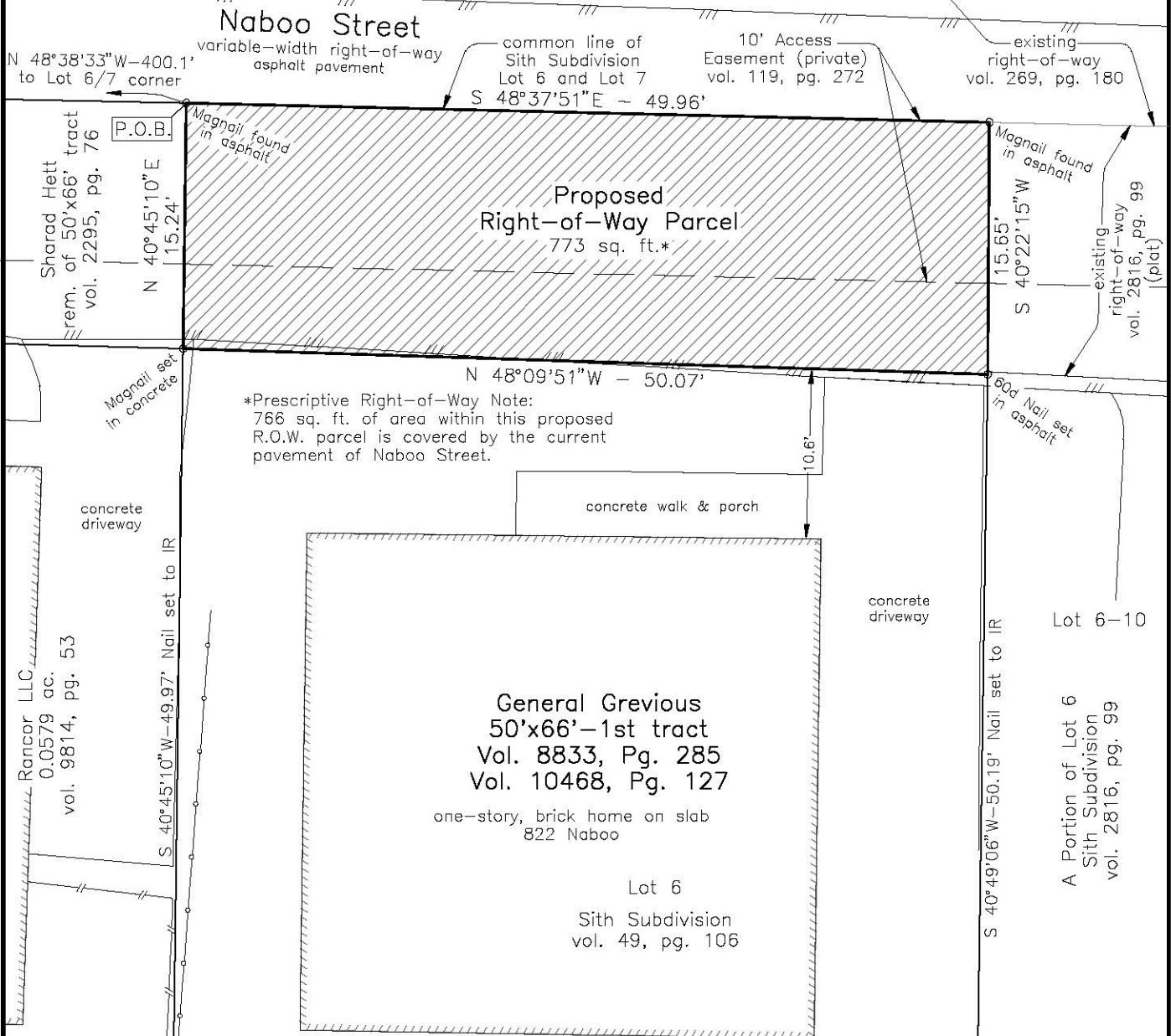
existing
20' R.O.W. dedication
vol. 516, pg. 717 (plat)

Blanket Easement Note:
The powerline easement to the City of Bryn recorded in vol. 2504, pg. 302 may affect this tract, but its location is not described and no BTU powerline is present on this property.

Survey Note:
City of CS GPS mon. no. 122
bears N 5°16'03"W 1994.7' from
Point of Beginning (P.O.B.)

Legend

- building wall
- pavement edge
- chain-link fence
- wood fence



Proposed Right-of-Way Parcel
Greivous Tract - 822 Naboo Street

ent Note:
easement to the City of Bryn
l. 2504, pg. 302 may affect this
ocation is not described and no
is present on this property.

o. commitment
60 (June 30, 2814)
n for easement
rch for this survey.

Survey Note:
City of CS GPS mon. no. 122
bears N 7°54'40"W 2129.5' from
Point of Beginning (P.O.B.)

common line of Sith Subdivision Lot 6 and Lot 7 (vol. 49, pg. 106)

10' Access
Easement (private)
vol. 119, pg. 272

Naboo Street
variable-width right-of-way
asphalt pavement

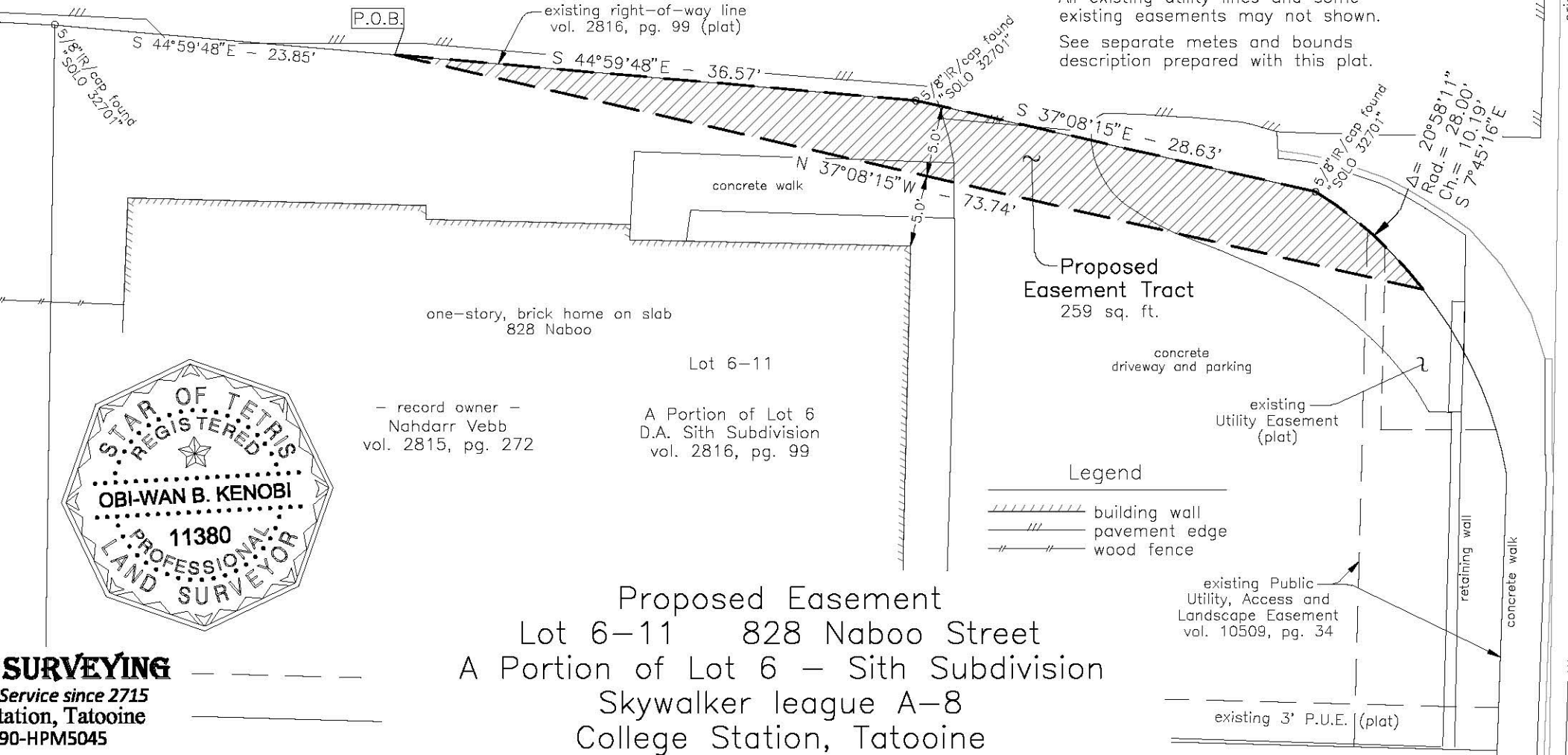
July 2814

0 2 5 10 20 Ft

Bearings are State Plane, Central
Zone NAD83(CORS) datum, based on
City of CS GPS control monuments
no. 122 and no. 1 (S 4°47'50"W).

All existing utility lines and some
existing easements may not shown.

See separate metes and bounds
description prepared with this plat.



Proposed Easement
Lot 6-11 828 Naboo Street
A Portion of Lot 6 – Sith Subdivision
Skywalker league A-8
College Station, Tatooine

KENOBI SURVEYING*Honorable Service Since 2715*

Tosche Station, Tatooine

A8-G290-HPM5045

Proposed Naboo Street Easement Tract
 Lot 6-11, A Portion of Lot 6, Sith Subdivision
 Luke Skywalker league A-8
 College Station, Texas
 31 July 2814

All of that certain tract or parcel of land lying and being situated in the Luke Skywalker league, abstract no. 8, in College Station, Brazos County, Texas, being part of Lot 6-11 of A Portion of Lot 6, Sith Subdivision as described by plat recorded in volume 2816, page 99 of the Official Public Records of Brazos County, Texas, being a tract of land contiguous with the northeast boundary of Lot 6-11, which is also the southwest right-of-way line of Naboo Street, and being more particularly described as follows:

Beginning at a point in the northeast line of said Lot 6-11 and southwest line of Naboo Street, from where a 5/8" iron rod with a yellow plastic cap stamped "SOLO 32701" was found at the north common corner of Lot 6-10 and Lot 6-11 bears N 44° 59' 48" W – 23.85 feet, and from where the City of College Station GPS control monument no. 122 bears N 7° 54' 40" W – 2129.5 feet.

Thence S 44° 59' 48" E – 36.57 feet, along said common Lot and right-of-way line, to a 5/8" iron rod with a yellow plastic cap stamped "SOLO 32701" found at an angle point in said line;

Thence S 37° 08' 15" E – 28.63 feet, continuing along said common Lot and right-of-way line, to another 5/8" iron rod with a yellow plastic cap stamped "SOLO 32701" found at an angle point in said line;

Thence continuing along the northeast boundary of Lot 6-11, along a curve to the right with a radius of 28.00 feet, a central angle of 20° 58' 11" and a chord of S 7° 45' 16" E – 10.19 feet, to the most southerly corner of this easement tract;

Thence N 37° 08' 15" W – 73.74 feet, through Lot 6-11 to the Point of Beginning and containing 259 square feet of land more or less.

Bearings are Texas State Plane, Central Zone NAD83 (CORS) datum, based on City of College Station GPS monuments no. 122 and no. 1 (S 4° 47' 50" W).

See survey plat dated July 2814.

KENOBI SURVEYING*Honorable Service Since 2715*

Tosche Station, Tatooine

A8-G290-HPM5045

Proposed Naboo St. R.O.W. Parcel
 Ackbar Tract – Part of Sith Lot 6
 Luke Skywalker league A-8
 College Station, Texas
 3 June 2814

All of that certain tract or parcel of land lying and being situated in the Luke Skywalker league, abstract no. 8, in College Station, Brazos County, Texas, being part of Lot 6 of the Sith Subdivision as described by plat recorded in volume 49, page 106 of the Deed Records of Brazos County, Texas, being a tract of land mostly within the existing pavement of Naboo Street and being part of that 0.075 acre (third) tract described in deed to Admiral Ackbar recorded in volume 1846, page 149 of the Official Public Records of Brazos County, Texas, and being more particularly described as follows:

Beginning at a Magnail found in asphalt at the east corner of said Ackbar tract and north corner of that 50 ft. x 66 ft. tract conveyed to Sharad Hett by deed recorded in volume 2295, page 76 of the Official Public Records of Brazos County, Texas, from where the north common corner of Lot 6 and Lot 7 of said Sith Subdivision bears N 48° 37' 35" W – 350.0 feet, and from where the City of College Station GPS control monument no. 122 bears N 4° 15' 38" W – 1958.7 feet.

Thence S 39° 31' 41" W – 15.06 feet, along the common line of said Ackbar and Hett tracts, to a 1/2" iron rod found at the north corner of that 0.0579 acre tract described in deed to Rancor LLC recorded in volume 9814, page 53 of the Official Public Records of Brazos County, Texas;

Thence N 43° 18' 24" W – 50.46 feet, through the said Ackbar tract, to a Magnail found in asphalt at the east corner of Lot 6-6 and southwest right-of-way line of Naboo Street as described by plat of Lots 6-5 & 6-6 Sith Subdivision recorded in volume 9524, page 76 of the Official Public Records of Brazos County, Texas, from where a 1/2" iron rod with a yellow plastic cap stamped "SOLO 32701" found at the common corner of said Ackbar tract and said Lot 6-6 bears S 40° 56' 54" W – 55.03 feet;

Thence N 40° 19' 39" E – 10.32 feet, along the northwest line of said Ackbar tract, to another Magnail found in asphalt at its north corner;

Thence S 48° 41' 34" E – 49.94 feet, along the northeast line of said Ackbar tract, to the Point of Beginning and containing 634 square feet of land more or less.

Bearings are Texas State Plane, Central Zone NAD83 (CORS) datum, based on City of College Station GPS monuments no. 122 and no. 1 (S 4° 47' 50" W).

See survey plat dated June 2814.

KENOBI SURVEYING*Honorable Service Since 2715*

Tosche Station, Tatooine

A8-G290-HPM5045

Proposed Naboo St. R.O.W. Parcel
 Hett Tract – Part of Sith Lot 6
 Luke Skywalker league A-8
 College Station, Texas
 3 June 2814

All of that certain tract or parcel of land lying and being situated in the Luke Skywalker league, abstract no. 8, in College Station, Brazos County, Texas, being part of Lot 6 of the Sith Subdivision as described by plat recorded in volume 49, page 106 of the Deed Records of Brazos County, Texas, being a tract of land mostly within the existing pavement of Naboo Street and being all of the remainder of that 50 ft. x 66 ft. tract described in deed to Sharad Hett recorded in volume 2295, page 76 of the Official Public Records of Brazos County, Texas, contiguous with the portion of said Hett tract conveyed to Rancor LLC by deed recorded in volume 9814, page 53 of the Official Public Records of Brazos County, Texas, and being more particularly described as follows:

Beginning at a Magnail found in asphalt at the north corner of said Hett tract from where the north common corner of Lot 6 and Lot 7 of said Sith Subdivision bears N 48° 37' 35" W – 350.0 feet, and from where the City of College Station GPS control monument no. 122 bears N 4° 15' 38" W – 1958.7 feet.

Thence S 48° 45' 21" E – 50.01 feet, along the northeast line of said Hett tract and common line of said Lot 6 and Lot 7, to another Magnail found in asphalt at the east corner of said Hett tract and the north corner of that first 50 ft. x 66 ft. tract described in deed to General Greivous recorded in volume 8833, page 285 of the Official Public Records of Brazos County, Texas;

Thence S 40° 45' 10" W – 15.24 feet, along the southeast line of said Hett tract and northwest line of said Greivous tract, to a Magnail set in concrete at the south corner of this tract, also being the east corner of said Rancor tract, from where a 5/8" iron rod with an orange plastic cap stamped "NIHILUS RPLS 65090" found at the south corner of the Rancor tract bears S 40° 45' 10" W – 49.97 feet;

Thence N 48° 32' 30" W – 49.69 feet, along the northeast line of said Rancor tract and called to be the right-of-way line of Naboo Street in its deed, to a 1/2" iron rod found at the north corner of the Rancor tract from where another 5/8" iron rod with an orange plastic cap stamped "NIHILUS RPLS 65090" found at the west corner of the Rancor tract bears S 41° 41' 56" W – 49.88 feet;

Thence N 39° 31' 41" E – 15.06 feet, along the northwest line of said Hett tract, also being the southeast line of that 0.075 acre (third) tract conveyed by deed to Admiral Ackbar recorded in volume 1846, page 149 of the Official Public Records of Brazos County, Texas, to the Point of Beginning and containing 755 square feet of land more or less.

Bearings are Texas State Plane, Central Zone NAD83 (CORS) datum, based on City of College Station GPS monuments no. 122 and no. 1 (S 4° 47' 50" W).

See survey plat dated June 2814.

KENOBI SURVEYING*Honorable Service Since 2715*

Tosche Station, Tatooine

A8-G290-HPM5045

Proposed Naboo St. R.O.W. Parcel
 Greivous Tract – Part of Sith Lot 6
 Luke Skywalker league A-8
 College Station, Texas
 3 June 2814

All of that certain tract or parcel of land lying and being situated in the Luke Skywalker league, abstract no. 8, in College Station, Brazos County, Texas, being part of Lot 6 of the Sith Subdivision as described by plat recorded in volume 49, page 106 of the Deed Records of Brazos County, Texas, being a tract of land mostly within the existing pavement of Naboo Street, within the northeast end of that first 50 ft. x 66 ft. tract conveyed to General Greivous by deed recorded in volume 8833, page 285 of the Official Public Records of Brazos County, Texas, and being more particularly described as follows:

Beginning at a Magnail found in asphalt at the north corner of said Greivous first tract from where the north common corner of Lot 6 and Lot 7 of said Sith Subdivision bears N 48° 38' 33" W – 400.1 feet, and from where the City of College Station GPS control monument no. 122 bears N 5° 16' 03" W – 1994.7 feet.

Thence S 48° 37' 51" E – 49.96 feet, along the northeast line of said Greivous first tract and common line of said Lot 6 and Lot 7, to another Magnail found in asphalt at the east corner of said Greivous first tract and the north corner of a resubdivision of A Portion of Lot 6 of the Sith Subdivision as described by plat recorded in volume 2816, page 99 of the Official Public Records of Brazos County, Texas;

Thence S 40° 22' 15" W – 15.65 feet, along the southeast line of said Greivous first tract and northwest line of said resubdivision, to a 60d Nail set in asphalt at the south corner of this tract, also being the north corner of Lot 6-10 in the southwest right-of-way of Naboo Street as described by said resubdivision plat, and from where a 5/8" iron rod with a yellow plastic cap stamped "SOLO 32701" found at the common corner of said Greivous first tract and said Lot 6-10 bears S 40° 49' 06" W – 50.19 feet;

Thence N 48° 09' 51" W – 50.07 feet, through said Greivous first tract to a Magnail set in concrete at the west corner of this tract and east corner of that 0.0579 acre tract described in deed to Rancor LLC recorded in volume 9814, page 53 of the Official Public Records of Brazos County, Texas, from where a 5/8" iron rod with an orange plastic cap stamped "NIHILUS RPLS 65090" found at the south corner of said Rancor tract bears S 40° 45' 10" W – 49.97 feet;

Thence N 40° 45' 10" E – 15.24 feet, along the northwest line of said Greivous first tract, also being the southeast line of that 50 ft. x 66 ft. tract described in deed to Sharad Hett recorded in volume 2295, page 76 of the Official Public Records of Brazos County, Texas, to the Point of Beginning and containing 773 square feet of land more or less.

Bearings are Texas State Plane, Central Zone NAD83 (CORS) datum, based on City of College Station GPS monuments no. 122 and no. 1 (S 4° 47' 50" W).

See survey plat dated June 2814.

KENOBI SURVEYING*Honorable Service Since 2715*

Tosche Station, Tatooine

A8-G290-HPM5045

Proposed Naboo St. R.O.W. Parcel
 Lot 7, Block H, Death Star Subd.
 Luke Skywalker league A-8
 College Station, Texas
 3 June 2814

All of that certain tract or parcel of land lying and being situated in the Luke Skywalker league, abstract no. 8, in College Station, Brazos County, Texas, being part of Lot 7, Block H of the Death Star Subdivision as described by plat recorded in volume 126, page 133 (renamed in vol. 135, pg. 321) of the Deed Records of Brazos County, Texas, being a triangular tract of land along the southwest side of Lot 7 and adjoining the existing right-of-way (50 ft. wide) of Naboo Street, and being more particularly described as follows:

Beginning at a 1/2" iron rod with an orange plastic cap stamped "OB KENOBI RPLS 11380" set in the southeast line of said Lot 7, at the west corner of Lot 2 of the resubdivision of Part of Lots 7, 8, 9 and 10 of the Sith Subdivision as described by plat recorded in volume 516, page 717 of the Deed Records of Brazos County, Texas, also being in the northeast right-of-way line of Naboo Street as dedicated by said resubdivision plat, from where a 1/2" iron rod with a maroon plastic cap stamped "RPLS 62602 TAM SURV" was found N 40° 34' 19" E – 46.7 feet, and from where the City of College Station GPS control monument no. 122 bears N 3° 16' 36" E – 1702.2 feet.

Thence S 41° 26' 42" W – 18.36 feet, along the common line of said Death Star Subdivision and Sith resubdivision, to the south corner of said Lot 7 and this tract, from where a 1/2" iron rod in concrete found at the west corner of said Sith resubdivision bears S 41° 26' 42" W – 1.64 feet;

Thence N 49° 31' 24" W – 97.71 feet, along the southwest line of said Lot 7 and existing northeast right-of-way line of Naboo Street as described by said Death Star Subdivision plat, to a 1/2" iron rod with an orange plastic cap stamped "OB KENOBI RPLS 11380" set for the northwest corner of this tract, from where a 1/2" iron rod found at the west corner of said Lot 7 bears N 49° 31' 24" W – 23.83 feet;

Thence S 60° 08' 00" E – 99.72 feet, through said Lot 7 along the proposed northeast line of Naboo Street, to the Point of Beginning and containing 897 square feet of land more or less.

Bearings are Texas State Plane, Central Zone NAD83 (CORS) datum, based on City of College Station GPS monuments no. 122 and no. 1 (S 4° 47' 50" W).

See survey plat dated June 2814.

Exhibit "C"
Service Order

The Master Agreement (C.# 24300034) entered into by and between the City of College Station and Walker Partners, LLC is expressly incorporated by reference.

- 1. City Project Manager**
- 2. Contractor Project Manager**
- 3. Services to be Performed**
- 4. Location for Performance of Services**
- 5. Schedule of Services**
- 6. Fees for Services**

APPROVED BY:

WALKER PARTNERS, LLC

CITY OF COLLEGE STATION

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

**Exhibit “D”
Fee Schedule**

Payment is a fixed fee in the amount stated in each Service Order. This amount shall be payable by the City pursuant to the schedule listed below and upon completion of the services and written acceptance by the City.

Fee Schedule:

Exhibit “E”
Insurance Certificates



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/18/2023

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 Ward & Moore Insurance Services- Gatesville PO Box 179 Gatesville TX 76528	CONTACT NAME: Monica Veazey PHONE (A/C, No, Ext): 254-679-5247 E-MAIL ADDRESS: mveazey@acrisure.com FAX (A/C, No):												
INSURED Walker Partners, LLC 823 Washington Ave, Ste 100 Waco TX 76701-1252	WALKPAR-01 INSURER(S) AFFORDING COVERAGE <table><tr><td>INSURER A : The Cincinnati Casualty Company</td><td>NAIC # 28665</td></tr><tr><td>INSURER B : Texas Mutual Insurance Company</td><td>22945</td></tr><tr><td>INSURER C : Beazley Insurance Company Inc.</td><td>37540</td></tr><tr><td>INSURER D : StarStone Specialty Insurance Company</td><td>44776</td></tr><tr><td>INSURER E :</td><td></td></tr><tr><td>INSURER F :</td><td></td></tr></table>	INSURER A : The Cincinnati Casualty Company	NAIC # 28665	INSURER B : Texas Mutual Insurance Company	22945	INSURER C : Beazley Insurance Company Inc.	37540	INSURER D : StarStone Specialty Insurance Company	44776	INSURER E :		INSURER F :	
INSURER A : The Cincinnati Casualty Company	NAIC # 28665												
INSURER B : Texas Mutual Insurance Company	22945												
INSURER C : Beazley Insurance Company Inc.	37540												
INSURER D : StarStone Specialty Insurance Company	44776												
INSURER E :													
INSURER F :													

COVERAGES**CERTIFICATE NUMBER:** 1879022122**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:			EPP 0266941	7/30/2023	7/30/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY			EBA 0266941	7/30/2023	7/30/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE DED ☒ RETENTION \$ 0			EPP 0266941	7/30/2023	7/30/2024	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y / N ☒ N	N / A	0001226901	7/30/2023	7/30/2024	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	Prof/Pol Liab			C11CD0231301	7/30/2023	7/30/2024	POLL Each Claim/Agg 5,000,000
D	Excess Liability			75120U230ALI	7/30/2023	7/30/2024	XLIA Each Occ/Agg 5,000,000

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

- Additional Insured endorsement for General Liability, Auto Liability, Umbrella Liability, & Excess Liability attached.
- Waiver of Subrogation endorsement for General Liability, Auto Liability, Workers' Compensation, Umbrella & Excess Liability attached.
- 30 Day Notice of Cancellation endorsement for General Liability, Auto Liability, Umbrella Liability & Workers' Compensation attached.
- Notice of Cancellation endorsement for Professional Liability available upon request.
- Primary & Non-Contributory endorsement for General Liability, Auto Liability, Umbrella Liability & Excess Liability attached.

Project: Surveying Services Contract 23-081.

CERTIFICATE HOLDER**CANCELLATION**

City of College Station PO Box 9960 College Station, TX 77842	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CONTRACTORS ADDITIONAL INSURED - AUTOMATIC STATUS AND AUTOMATIC WAIVER OF SUBROGATION WHEN REQUIRED IN WRITTEN CONTRACT, AGREEMENT, PERMIT OR AUTHORIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. Additional Insured - Owners, Lessees Or Contractors - Automatic Status For Other Parties When Required In Written Contract Or Agreement With You

1. Section II - Who Is An Insured is amended to include as an additional insured any person or organization you have agreed in writing in a contract or agreement to add as an additional insured on this Coverage Part. Such person(s) or organization(s) is an additional insured only with respect to liability for:

a. "Bodily injury", "property damage" or "personal and advertising injury" *caused, in whole or in part, by* the performance of your ongoing operations by you or on your behalf, under that written contract or written agreement. Ongoing operations does not apply to "bodily injury" or "property damage" occurring after:

(1) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or

(2) That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project; and

b. "Bodily injury" or "property damage" *caused, in whole or in part, by* "your work" performed under that written contract or written agreement and in-

cluded in the "products-completed operations hazard", but only if:

(1) The Coverage Part to which this endorsement is attached provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard"; and

(2) The written contract or written agreement requires you to provide additional insured coverage included within the "products-completed operations hazard" for that person or organization.

If the written contract or written agreement requires you to provide additional insured coverage included within the "products-completed operations hazard" for a specified length of time for that person or organization, the "bodily injury" or "property damage" must occur prior to the expiration of that period of time in order for this insurance to apply.

If the written contract or written agreement requires you to provide additional insured coverage for a person or organization per only ISO additional insured endorsement form number **CG 20 10**, without specifying an edition date, and without specifically requiring additional insured coverage included within the "products-completed operations hazard", this Paragraph **b.** does not apply to that person or organization.

2. If the written contract or written agreement described in Paragraph **1.** above specifically requires you to provide additional insured coverage to that person or organization:

a. *Arising out of* your ongoing operations or *arising out of* "your work"; or

- b. By way of an edition of an ISO additional insured endorsement that includes *arising out of* your ongoing operations or *arising out of* "your work";

then the phrase *caused, in whole or in part, by* in Paragraph **A.1.a.** and/or Paragraph **A.1.b.** above, whichever applies, is replaced by the phrase *arising out of*.

- 3. With respect to the insurance afforded to the additional insureds described in Paragraph **A.1.**, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

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

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

- 4. This Paragraph **A.** does not apply to additional insureds described in Paragraph **B.**

B. Additional Insured - State Or Governmental Agency Or Subdivision Or Political Subdivision - Automatic Status When Required In Written Permits Or Authorizations

- 1. **Section II - Who Is An Insured** is amended to include as an additional insured any state or governmental agency or subdivision or political subdivision you have agreed in writing in a permit or authorization to add as an additional insured on this Coverage Part. Such state or governmental agency or subdivision or political subdivision is an additional insured 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, in writing, a permit or authorization.

- 2. With respect to the insurance afforded to the additional insureds described in Paragraph **B.1.**, the following additional exclusions apply:

This insurance does not apply to:

- a. "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the federal government, state or municipality; or
- b. "Bodily injury" or "property damage" included within the "products-completed operations hazard."

- C. The insurance afforded to additional insureds described in Paragraphs **A.** and **B.**:

- 1. Only applies to the extent permitted by law; and
- 2. Will not be broader than that which you are required by the written contract, written agreement, written permit or written authorization to provide for such additional insured; and
- 3. Does not apply to any person, organization, state, governmental agency or subdivision or political subdivision specifically named as an additional insured for the same project in the schedule of an endorsement added to this Coverage Part.

- D. With respect to the insurance afforded to the additional insureds described in Paragraphs **A.** and **B.**, the following is added to **Section III - Limits Of Insurance**:

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

- 1. Required by the written contract, written agreement, written permit or written authorization described in Paragraphs **A.** and **B.** For the purpose of determining the required amount of insurance only, we will include the minimum amount of any Umbrella Liability or Excess Liability coverage required for that additional insured in that written contract, written agreement, written permit or written authorization; or
- 2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

- E. **Section IV - Commercial General Liability Conditions** is amended to add the following:

Automatic Additional Insured Provision

This insurance applies only if the "bodily injury" or "property damage" occurs, or the "personal and advertising injury" offense is committed:

1. During the policy period; and
 2. Subsequent to your execution of the written contract or written agreement, or the issuance of a written permit or written authorization, described in Paragraphs **A.** and **B.**
- F. Except when **G.** below applies, the following is added to **Section IV - Commercial General Liability Conditions, Other Insurance,** and supersedes any provision to the contrary:

When Other Additional Insured Coverage Applies On An Excess Basis

This insurance is primary to other insurance available to the additional insured described in Paragraphs **A.** and **B.** except:

1. As otherwise provided in **Section IV - Commercial General Liability Conditions, Other Insurance, b. Excess Insurance;** or
 2. For any other valid and collectible insurance available to the additional insured as an additional insured on another insurance policy that is written on an excess basis. In such case, this insurance is also excess.
- G. The following is added to **Section IV - Commercial General Liability Conditions, Other Insurance,** and supersedes any provision to the contrary:

Primary Insurance When Required By Written Contract, Agreement, Permit Or Authorization

Except when wrap-up insurance applies to the claim or "suit" on behalf of the additional insured, this insurance is primary to any other insurance available to the additional insured described in Paragraphs **A.** and **B.** provided that:

1. The additional insured is a Named Insured under such other insurance; and
2. You have agreed in writing in a contract, agreement, permit or authorization de-

scribed in Paragraph **A.** or **B.** that this insurance would be primary to any other insurance available to the additional insured.

As used in this endorsement, wrap-up insurance means a centralized insurance program under which one party has secured either insurance or self-insurance covering some or all of the contractors or subcontractors performing work on one or more specific project(s).

Primary And Noncontributory Insurance When Required By Written Contract, Agreement, Permit Or Authorization

Except when wrap-up insurance applies to the claim or "suit" on behalf of the additional insured, this insurance is primary to and will not seek contribution from any other insurance available to the additional insured described in Paragraphs **A.** and **B.** provided that:

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

As used in this endorsement, wrap-up insurance means a centralized insurance program under which one party has secured either insurance or self-insurance covering some or all of the contractors or subcontractors performing work on one or more specific project(s).

- H. **Section IV - Commercial General Liability Conditions, Transfer Of Rights Of Recovery Against Others To Us** is amended by the addition of the following:

Waiver of Subrogation

We waive any right of recovery against any additional insured under this endorsement, because of any payment we make under this endorsement, to whom the insured has waived its right of recovery in a written contract, written agreement, written permit or written authorization. Such waiver by us applies only to the extent that the insured has waived its right of recovery against such additional insured prior to loss.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CONTRACTORS' COMMERCIAL GENERAL LIABILITY BROADENED ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. Endorsement - Table of Contents:

<u>Coverage:</u>	<u>Begins on Page:</u>
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2. Unintentional Failure To Disclose Hazards	8
3. Damage To Premises Rented To You	8
4. Supplementary Payments	10
5. Medical Payments	10
6. 180 Day Coverage For Newly Formed Or Acquired Organizations	10
7. Waiver Of Subrogation	10
8. Automatic Additional Insured - Specified Relationships:	10
(a) Managers Or Lessors Of Premises	
(b) Lessor Of Leased Equipment	
(c) Vendors	
(d) State Or Governmental Agency Or Subdivision Or Political Subdivision - Permits Or Authorizations Relating To Premises	
(e) Mortgagee, Assignee Or Receiver	
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16. Voluntary Property Damage Coverage and Care, Custody Or Control Liability Coverage	15
17. Broadened Contractual Liability - Work Within 50' Of Railroad Property	17
18. Alienated Premises	17

B. Limits Of Insurance:

The Commercial General Liability Limits of Insurance apply to the insurance provided by this endorsement, except as provided below:

1. Employee Benefit Liability Coverage

Each Employee Limit: \$1,000,000
Aggregate Limit: \$3,000,000
Deductible Amount: \$ 1,000

3. Damage To Premises Rented To You

The lesser of:

- a. The Each Occurrence Limit shown in the Declarations; or
- b. \$500,000 unless otherwise stated \$ _____

4. Supplementary Payments

- a. Bail Bonds: \$ 2,500
- b. Loss Of Earnings: \$ 500

Insurance, **3. Damage To Premises Rented To You** of this endorsement.

4. Supplementary Payments

Under **Section I - Supplementary Payments - Coverages A and B**:

- a. Paragraph **1.b.** is replaced by the following:

Up to the limit shown in **Section B. Limits Of Insurance, 4.a.** Bail Bonds of this endorsement for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

- b. Paragraph **1.d.** is replaced by the following:

All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to the limit shown in **Section B. Limits Of Insurance, 4.b.** Loss Of Earnings of this endorsement per day because of time off from work.

5. Medical Payments

The Medical Expense Limit of Any One Person as shown in the Declarations is amended to the limit shown in **Section B. Limits Of Insurance, 5.** Medical Payments of this endorsement.

6. 180 Day Coverage For Newly Formed Or Acquired Organizations

Section II - Who Is An Insured is amended as follows:

Subparagraph **a.** of Paragraph **3.** is replaced by the following:

- a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier;

7. Waiver Of Subrogation

Section IV - Commercial General Liability Conditions, 8. Transfer Of Rights Of Recovery Against Others To Us is amended by the addition of the following:

We waive any right of recovery against any additional insured under this endorsement, because of any payment we make under this endorsement, to whom

the insured has waived its right of recovery in a written contract, written agreement, written permit or written authorization. Such waiver by us applies only to the extent that the insured has waived its right of recovery against such additional insured prior to loss.

8. Automatic Additional Insured - Specified Relationships

- a. The following is added to **Section II - Who Is An Insured**:

(1) Any person(s) or organization(s) described in Paragraph **8.a.(2)** of this endorsement (hereinafter referred to as additional insured) whom you are required to add as an additional insured under this Coverage Part by reason of a written contract, written agreement, written permit or written authorization.

(2) Only the following persons or organizations are additional insureds under this endorsement, and insurance coverage provided to such additional insureds is limited as provided herein:

(a) Managers Or Lessors Of Premises

The manager or lessor of a premises leased to you you are required per Paragraph **8.a.(1)** of this endorsement to provide insurance, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by you or those acting on your behalf in connection with the ownership, maintenance or use of that part of the premises leased to you, subject to the following additional exclusions:

This insurance does not apply to:

(i) Any "occurrence" which takes place after you cease to be a tenant in that premises;

(ii) Structural alterations, new construction or demolition operations performed by or on be-

half of such additional insured.

(b) Lessor Of Leased Equipment

Any person(s) or organization(s) from whom you lease equipment you are required per Paragraph **8.a.(1)** of this endorsement to provide insurance. Such person(s) or organization(s) are insureds only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person(s) or organization(s). A person's or organization's status as an additional insured under this endorsement ends when their contract or agreement with you for such leased equipment ends. However, this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

(c) Vendors

Any person or organization (referred to below as vendor) you are required per Paragraph **8.a.(1)** of this endorsement to provide insurance, but only with respect to liability for "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business, subject to the following additional exclusions:

- (i)** The insurance afforded the vendor does not apply to:
 - 1)** "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for

damages that the vendor would have in the absence of the contract or agreement;

- 2)** Any express warranty unauthorized by you;
- 3)** Any physical or chemical change in the product made intentionally by the vendor;
- 4)** Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
- 5)** Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
- 6)** Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
- 7)** Products which, after distribution or sale by you, have been labeled or re-labeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

8) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

- a) The exceptions contained in Paragraphs (c)(i)4 or 6 of this endorsement; or
- b) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

(ii) This insurance does not apply to any insured person or organization:

- 1) From whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products; or
- 2) When liability included within the "products-completed operations hazard" has been excluded under this Coverage Part with respect to such products.

(d) **State Or Governmental Agency Or Subdivision Or Political Subdivision -**

Permits Or Authorizations Relating To Premises

Any state or governmental agency or subdivision or political subdivision you are required per Paragraph **8.a.(1)** of this endorsement to provide insurance, subject to the following additional provision:

This insurance applies only with respect to the following hazards for which the state or governmental agency or subdivision or political subdivision has issued a permit or authorization in connection with premises you own, rent or control and to which this insurance applies:

- (i) The existence, maintenance, repair, construction, erection or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, man-holes, marquees, hoist away openings, sidewalk vaults, street banners or decorations and similar exposures;
- (ii) The construction, erection or removal of elevators; or
- (iii) The ownership, maintenance or use of any elevators covered by this insurance.

(e) **Mortgagee, Assignee Or Receiver**

Any person or organization you are required per Paragraph **8.a.(1)** of this endorsement to provide insurance, but only with respect to their liability as mortgagee, assignee or receiver and arising out of the ownership, maintenance or use of the premises by you. However, this insurance does not apply to structural alterations, new construction and demolition operations performed by or for that person or organization.

(3) The insurance afforded to additional insureds described in Paragraph **8.a.(1)** of this endorsement:

- (a) Only applies to the extent permitted by law;
- (b) Will not be broader than that which you are required by the written contract, written agreement, written permit or written authorization to provide for such additional insured; and
- (c) Does not apply to any person, organization, vendor, state, governmental agency or subdivision or political subdivision, specifically named as an additional insured under any other provision of, or endorsement added to, this Coverage Part, provided such other provision or endorsement covers the injury or damage for which this insurance applies.

b. With respect to the insurance afforded to the additional insureds described in Paragraph **8.a.(1)** of this endorsement, the following is added to **Section III - Limits Of Insurance**:

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

- (1) Required by the written contract, written agreement, written permit or written authorization described in Paragraph **8.a.(1)** of this endorsement. For the purpose of determining the required amount of insurance only, we will include the minimum amount of any Umbrella liability or Excess Liability coverage required for that additional insured in that written contract, written agreement, written permit or written authorization; or
- (2) Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

c. **Section IV - Commercial General Liability Conditions** is amended to include the following:

Automatic Additional Insured Provision

This insurance applies only if the "bodily injury" or "property damage" occurs, or the "personal and advertising injury" offense is committed:

- (1) During the policy period; and
- (2) Subsequent to your execution of the written contract or written agreement, or the issuance of a written permit or written authorization, described in Paragraph **8.a.(1)**.

d. **Section IV - Commercial General Liability Conditions** is amended as follows:

Condition **4**. Other Insurance is amended to include:

Primary And Noncontributory Insurance

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured per Paragraph **8.a.(1)** of this endorsement provided that:

- (1) The additional insured is a Named Insured under such other insurance; and
- (2) You have agreed in writing in a contract, agreement, permit or authorization described in **8.a.(2)** of this endorsement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

9. Property Damage To Borrowed Equipment

a. The following is added to Exclusion **2.j**. Damage To Property under Section **I - Coverage A - Bodily Injury And Property Damage Liability**:

Paragraphs **(3)** and **(4)** of this exclusion do not apply to tools or equipment loaned to you, provided they are not being used to perform operations at the time of loss.

b. With respect to the insurance provided by this section of the endorsement, the following additional provisions apply:

- (1) The Limits of Insurance shown in the Declarations are replaced by the limits shown in Section **B**.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CinciPlus®
BUSINESS AUTO XC+®
(EXPANDED COVERAGE PLUS)
ENDORSEMENT

This endorsement modifies insurance provided by the following:

BUSINESS AUTO COVERAGE FORM

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

A. Blanket Waiver of Subrogation

SECTION IV - BUSINESS AUTO CONDITIONS, A. Loss Conditions, 5. Transfer of Rights of Recovery Against Others to Us is amended by the addition of the following:

We waive any right of recovery we may have against any person or organization because of payments we make for "bodily injury" or "property damage" arising out of the operation of a covered "auto" when you have assumed liability for such "bodily injury" or "property damage" under an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution or the "insured contract".

B. Noncontributory Insurance

SECTION IV - BUSINESS AUTO CONDITIONS, B. General Conditions, 5. Other Insurance c. is deleted in its entirety and replaced by the following:

- c. Regardless of the provisions of Paragraph a. above, this Coverage Form's Liability Coverage is primary and we will not seek contribution from any other insurance for any liability assumed under an "insured contract" that requires liability to be assumed on a primary noncontributory basis.

C. Additional Insured by Contract

SECTION II - LIABILITY COVERAGE, A. Coverage, 1. Who is an Insured is amended to include as an insured any person or organization for whom you have agreed in a valid written contract to provide insurance as afforded by this policy.

This provision is limited to the scope of the valid written contract.

This provision does not apply unless the valid written contract has been:

1. Executed prior to the accident causing "bodily injury" or "property damage"; and
2. Is still in force at the time of the "accident" causing "bodily injury" or "property damage".

D. Employee Hired Auto

1. Changes in Liability Coverage

The following is added to the **SECTION II - LIABILITY COVERAGE, A. Coverage, 1. Who is an Insured**:

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

2. Changes in General Conditions

SECTION IV - BUSINESS AUTO CONDITIONS, B. General Conditions, 5. Other Insurance is deleted in its entirety and replaced by the following:

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

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

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

E. Audio, Visual and Data Electronic Equipment

SECTION III - PHYSICAL DAMAGE COVERAGE, C. Limit of Insurance is amended by adding the following:

4. The most we will pay for all "loss" to audio, visual or data electronic equipment and any accessories used with this equipment as a result of any one "accident" is the lesser of:
 - a. The actual cash value of the damaged or stolen property as of the time of the "accident";
 - b. The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality; or
 - c. \$2,500.

Provided the equipment, at the time of the "loss" is:

- a. Permanently installed in or upon the covered "auto" in a housing, opening or other location that is not normally used by the "auto" manufacturer for the installation of such equipment;
- b. Removable from a permanently installed housing unit as described in Paragraph 2.a. above; or
- c. An integral part of such equipment.

F. Who is an Insured - Amended

SECTION II - LIABILITY COVERAGE, A. Coverage, 1. Who is an Insured is amended by adding the following:

The following are "insureds":

1. Any subsidiary which is a legally incorporated entity of which you own a financial interest of more than 50% of the voting stock on the effective date of this coverage form.

However, the insurance afforded by this provision does not apply to any subsidiary that is an "insured" under any other automobile liability policy or would be an "insured" under such policy but for termination of such policy or the exhaustion of such policy's limits of insurance.

2. Any organization that is newly acquired or formed by you and over which you maintain majority ownership. The insurance provided by this provision:

- a. Is effective on the date of acquisition or formation, and is afforded for 180 days after such date;
 - b. Does not apply to "bodily injury" or "property damage" resulting from an "accident" that occurred before you acquired or formed the organization;
 - c. Does not apply to any newly acquired or formed organization that is a joint venture or partnership; and
 - d. Does not apply to an insured under any other automobile liability policy or would be an insured under such a policy but for the termination of such policy or the exhaustion of such policy's limits of insurance.
3. Any of your "employees" while using a covered "auto" in your business or your personal affairs, provided you do not own, hire or borrow that "auto".

G. Liability Coverage Extensions - Supplementary Payments - Higher Limits

SECTION II - LIABILITY COVERAGE, A. Coverage, 2. Coverage Extensions, a. Supplementary Payments is amended by:

1. Replacing the \$2,000 Limit of Insurance for bail bonds with \$4,000 in (2); and
2. Replacing the \$250 Limit of Insurance for reasonable expenses with \$500 in (4).

H. Amended Fellow Employee Exclusion

SECTION II - LIABILITY COVERAGE, B. Exclusions, 5. Fellow Employee is modified as follows:

Exclusion 5. **Fellow Employee** is deleted.

I. Hired Auto - Physical Damage

If hired "autos" are covered "autos" for Liability Coverage, then Comprehensive and Collision Physical Damage Coverages as provided under **SECTION III - PHYSICAL DAMAGE COVERAGE** of this Coverage Part are extended to "autos" you hire, subject to the following:

1. The most we will pay for "loss" to any hired "auto" is \$50,000 or the actual cash value or cost to repair or replace, whichever is the least, minus a deductible.
2. The deductible will be equal to the largest deductible applicable to any owned "auto" for that coverage, or \$1,000, whichever is less.
3. Hired Auto - Physical Damage coverage is excess over any other collectible insurance.

4. 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 insured under this policy.

Coverage includes loss of use of that hired auto, provided it results from an "accident" for which you are legally liable and as a result of which a monetary loss is sustained by the leasing or rental concern. The most we will pay for any one "accident" is \$3,000.

If a limit for Hired Auto - Physical Damage is shown in the Schedule, then that limit replaces, and is not added to, the \$50,000 limit indicated above and the deductibles shown in the Schedule are applicable.

J. Rental Reimbursement

SECTION III - PHYSICAL DAMAGE COVERAGE is amended by adding the following:

1. We will pay for rental reimbursement expenses incurred by you for the rental of an "auto" because of a "loss" to a covered "auto". Payment applies in addition to the otherwise applicable amount of each coverage you have on a covered "auto". No deductible applies to this coverage.
2. 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:
 - a. The number of days reasonably required to repair the covered "auto". If "loss" is caused by theft, this number of days is added to the number of days it takes to locate the covered "auto" and return it to you; or
 - b. 30 days.
3. Our payment is limited to the lesser of the following amounts:
 - a. Necessary and actual expenses incurred; or
 - b. \$50 per day.
4. This coverage does not apply while there are spare or reserve "autos" available to you for your operations.
5. We will pay under this coverage only that amount of your rental reimbursement expenses which is not already provided for under **SECTION III - PHYSICAL DAMAGE COVERAGE, A. Coverage, 4. Coverage Extensions**.

K. Transportation Expense - Higher Limits

SECTION III - PHYSICAL DAMAGE COVERAGE, A. Coverage, 4. Coverage Extensions is amended by replacing \$20 per day with \$50 per day, and \$600 maximum with \$1,500 maximum in **Extension a. Transportation Expenses**.

L. Airbag Coverage

SECTION III - PHYSICAL DAMAGE COVERAGE, B. Exclusions, 3.a. is amended by adding the following:

However, the mechanical and electrical breakdown portion of this exclusion does not apply to the accidental discharge of an airbag. This coverage for airbags is excess over any other collectible insurance or warranty.

M. Loan or Lease Gap Coverage

1. **SECTION III - PHYSICAL DAMAGE COVERAGE, C. Limit of Insurance** is deleted in its entirety and replaced by the following, but only for private passenger type "autos" with an original loan or lease, and only in the event of a "total loss" to such a private passenger type "auto":
 - a. The most we will pay for "loss" in any one "accident" is the greater of:
 - (1) The amount due under the terms of the lease or loan to which your covered private passenger type "auto" is subject, but will not include:
 - (a) Overdue lease or loan payments;
 - (b) Financial penalties imposed under the lease due to high mileage, excessive use or abnormal wear and tear;
 - (c) Security deposits not refunded by the lessor;
 - (d) Costs for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan or lease; and
 - (e) Carry-over balances from previous loans or leases, or
 - (2) Actual cash value of the stolen or damaged property.
 - b. An adjustment for depreciation and physical condition will be made in determining actual cash value at the time of "loss".

2. **SECTION V - DEFINITIONS** is amended by adding the following, but only for the purposes of this **Loan or Lease Gap Coverage**:

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

N. Glass Repair - Waiver of Deductible

SECTION III - PHYSICAL DAMAGE COVERAGE, D. Deductible is amended by adding the following:

No deductible applies to glass damage if the glass is repaired in a manner acceptable to us rather than replaced.

O. Duties in the Event of an Accident, Claim, Suit or Loss - Amended

SECTION IV - BUSINESS AUTO CONDITIONS, A. Loss Conditions, 2. Duties in the Event of Accident, Claim, Suit or Loss, a. is amended by adding the following:

This condition applies only when the "accident" or "loss" is known to:

1. You, if you are an individual;
2. A partner, if you are a partnership;
3. An executive officer or insurance manager, if you are a corporation; or
4. A member or manager, if you are a limited liability company.

P. Unintentional Failure to Disclose Hazards

SECTION IV - BUSINESS AUTO CONDITIONS, B. General Conditions, 2. Concealment, Misrepresentation or Fraud is amended by adding the following:

However, if you unintentionally fail to disclose any hazards existing on the effective date of this Coverage Form, we will not deny coverage under this Coverage Form because of such failure.

Q. Mental Anguish Resulting from Bodily Injury

SECTION V - DEFINITIONS, C. "Bodily injury" is deleted in its entirety and replaced by the following:

"Bodily injury" means bodily injury, sickness or disease sustained by a person, including mental anguish and death sustained by the same person that results from such bodily injury, sickness or disease. "Bodily injury" does not include mental anguish or death that does not result from bodily injury, sickness or disease.

R. Coverage for Certain Operations in Connection with Railroads

With respect to the use of a covered "auto" in operations for or affecting a railroad:

1. **SECTION V - DEFINITIONS, H. "Insured contract", 1.c.** is deleted in its entirety and replaced by the following:
 - c. An easement or license agreement;
2. **SECTION V - DEFINITIONS, H. "Insured contract", 2.a.** is deleted.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AUTOMATIC PRIMARY AND NON-CONTRIBUTORY COVERAGE ENDORSEMENT - WHERE REQUIRED BY WRITTEN CONTRACT

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY COVERAGE PART

SCHEDULE

LIMITS OF INSURANCE: \$ 5,000,000 Each Occurrence Limit \$ 5,000,000 Aggregate Limit	
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COMMERCIAL UMBRELLA LIABILITY COVERAGE FORM, US 101 and US 101 UM, is amended as follows:

A. SECTION III - LIMITS OF INSURANCE is amended to add the following:

7. For the purposes of this endorsement only, the Limits of Insurance stated in the Schedule of this endorsement and described below will apply on a "primary and non-contributory basis" within the parameters set forth in **SECTION III - LIMITS OF INSURANCE** of the Coverage Part to which this endorsement is attached:

We will not pay more on behalf of a "non-contributory additional insured" than the lesser of:

- a. The Limits of Insurance stated in the Schedule of this endorsement; or
- b. The limits of insurance required in a written contract on a "primary and non-contributory basis" for such "non-contributory additional insured", but only to the extent the required limits of insurance are in excess of the "underlying insurance"; or
- c. The Limits of Insurance available after the payment of "ultimate net loss" on any insured's behalf from any claim or "suit".

This provision is included within and does not act to increase the Limits of Insurance stated in the Declarations.

B. SECTION IV - CONDITIONS is amended as follows:

1. Condition **9. Other Insurance** is amended to add the following:

It is agreed that this condition does not apply to the "non-contributory additional insured's" own insurance program on which they are a named insured.

However:

- a. This exception to the Other Insurance Condition shall only apply if the applicable "underlying insurance" applies on a "primary and non-contributory basis" for such "non-contributory additional insured" and only to the extent of the specific limits of insurance required in a written contract or agreement on a "primary and non-contributory basis" that is in excess of the "underlying insurance"; and
- b. It is understood and agreed that the insurance provided by this Coverage Part is excess of:
 - (1) "Underlying insurance" listed in the Schedule of Underlying Insurance;
 - (2) Any other insurance available to the "non-contributory additional insured" as an additional insured; and
 - (3) Any other insurance available to the "non-contributory additional insured" on which they are not a named insured.

2. The following condition is added:

15. As a precedent to the receipt of insurance coverage hereunder, the "non-contributory additional insured" must give written notice of such claim or "suit", including a demand for de-

fense and indemnity, to any other insurer who had coverage for the claim or "suit" under its policies. Such notice must demand the full coverage available and the "non-contributory additional insured" shall not waive or limit such other available coverage.

This condition does not apply to the "non-contributory additional insured's" own insurance program on which they are a named insured.

C. SECTION V - DEFINITIONS is amended to add the following:

30. "Non-contributory additional insured" means any person or organization:

- a.** Qualifying as an additional insured under **SECTION II - WHO IS AN INSURED**, Paragraph **3.** of the Coverage Part to which this endorsement is attached; and
- b.** Being granted additional insured status on a "primary and non-contributory basis" in the "underlying insurance" as required in a written

contract between an additional insured and a Named Insured provided:

- (1)** The written contract or agreement is executed before the "occurrence" resulting in "bodily injury", "personal and advertising injury" or "property damage" for which coverage is being sought under this endorsement; and
- (2)** The written contract or agreement requires a specific limit of insurance on a "primary and non-contributory basis" that is in excess of "underlying insurance".

31. "Primary and non-contributory basis" means that the limits of insurance of the Coverage Part to which this endorsement is attached apply to insured loss on behalf of the "non-contributory additional insured" prior to limits of insurance from other insurance in which the "non-contributory additional insured" is a named insured.

COMMERCIAL UMBRELLA LIABILITY COVERAGE FORM

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COMMERCIAL UMBRELLA LIABILITY COVERAGE FORM

Various provisions in this Coverage Part restrict this insurance. Read the entire Coverage Part carefully to determine rights, duties and what is and is not covered.

Throughout this Coverage Part the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this Coverage Part. The words "we", "us" and "our" refer to the Company providing this insurance.

The word "insured" means any person or organization qualifying as such under **SECTION II - WHO IS AN INSURED**.

Other words and phrases that appear in quotation marks have special meaning. Refer to **SECTION V - DEFINITIONS**.

SECTION I - COVERAGE

A. Insuring Agreement

1. We will pay on behalf of the insured the "ultimate net loss" which the insured is legally obligated to pay as damages for "bodily injury", "personal and advertising injury" or "property damage" to which this insurance applies:
 - a. Which is in excess of the "underlying insurance"; or
 - b. Which is either excluded or not insured by "underlying insurance".
2. If any limit of insurance, such as a sublimit, is specified in the "underlying insurance", this insurance does not apply to "bodily injury", "personal and advertising injury" or "property damage" arising out of that exposure unless that limit of insurance is specified in the Schedule of Underlying Insurance.
3. This insurance applies to "bodily injury", "personal and advertising injury" or "property damage" only if:
 - a. The "bodily injury", "personal and advertising injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory"; and
 - b. The "bodily injury" or "property damage" occurs during the policy period shown in the Declarations; or
 - c. The "personal and advertising injury" results from an "occurrence" that takes place during the policy period shown in the Declarations; and
- d. Prior to the "coverage term" no insured listed under Paragraph 1. of Section II - Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part, or that the "personal and advertising injury" offense had been committed, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the "coverage term", that the "bodily injury" or "property damage" occurred, or that the "personal and advertising injury" offense had been committed, then any continuation, change or resumption of such "bodily injury", "personal and advertising injury" or "property damage" during or after the "coverage term" will be deemed to have been known prior to the policy period.
4. "Bodily injury" or "property damage" which occurs during the "coverage term" and was not, prior to the "coverage term", known to have occurred by any insured listed under Paragraph 1. of Section II - Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of that "bodily injury" or "property damage" after the end of the "coverage term".
5. "Personal and advertising injury" caused by an offense which was committed during the "coverage term" and was not, prior to the "coverage term", known to have been committed by any insured listed under Paragraph 1. of Section II - Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of that "personal and advertising injury" offense after the end of the "coverage term".
6. "Bodily injury" or "property damage" will be deemed to have been known to have occurred, or a "personal and advertising injury" offense will be deemed to have been known to have been committed at the earliest time when any insured listed under Paragraph 1. of Section II - Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:

- a. Reports all, or any part, of the "bodily injury", "personal and advertising injury" or "property damage" to us or any other insurer;
- b. Receives a written or verbal demand or claim for damages because of the "bodily injury", "personal and advertising injury" or "property damage"; or
- c. Becomes aware by any other means that "bodily injury" or "property damage" had occurred or has begun to occur, or that the "personal and advertising injury" offense had been committed or has begun to be committed.

7. The amount we will pay for damages is limited as described in **SECTION III - LIMITS OF INSURANCE.**

No other obligation or liability to pay sums or perform acts or services is covered, unless expressly provided for under **SECTION I - COVERAGE, C. Defense and Supplementary Payments.**

B. Exclusions

This insurance does not apply to:

1. Asbestos

Any liability arising out of, attributable to or any way related to asbestos in any form or transmitted in any manner.

2. Breach of Contract, Failure to Perform, Wrong Description and Violation of Another's Rights

"Personal and advertising injury":

- a. Arising out of breach of contract, except an implied contract to use another's advertising idea in your "advertisement";
- b. Arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement";
- c. Arising out of the wrong description of the price of goods, products or services stated in your "advertisement"; or
- d. Caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict "personal and advertising injury".

3. Contractual Liability

Any liability for which the insured is obligated to pay damages by reason of the

assumption of liability in a contract or agreement. This exclusion does not apply to liability for "bodily injury", "personal and advertising injury" or "property damage":

- a. That the insured would have in the absence of the contract or agreement; or
- b. Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury", "personal and advertising injury" or "property damage" occurs subsequent to the execution of the contract or agreement.

4. Damage to Impaired Property or Property Not Physically Injured

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- a. A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- b. A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

5. Damage to Property

"Property damage" to:

- a. Property:
 - (1) You own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property; or
 - (2) Owned or transported by the insured and arising out of the ownership, maintenance or use of an "auto".
- b. Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- c. Property loaned to you;
- d. Personal property in the care, custody or control of the insured;

damages because of "bodily injury", "personal and advertising injury" or "property damage" to which this insurance applies. We will have no duty to defend the insured against any "suit" seeking damages for "bodily injury", "personal and advertising injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result when:

- a. The applicable limits of the "underlying insurance" and any other insurance have been exhausted by payment of claims; or
 - b. Damages are sought for "bodily injury", "personal and advertising injury" or "property damage" which are not covered by "underlying insurance" or other insurance.
2. Our right and duty to defend ends when the applicable Limit of Insurance, as stated in the Declarations, has been exhausted by payment of claims.
 3. We have no duty to investigate, settle or defend any claim or "suit" other than those circumstances described in Paragraph C.1. However, we do have the right to participate in the investigation, settlement or defense of any claim or "suit" to which this insurance applies. If we exercise this right, we will do so at our expense.
 4. If there is no underlying insurer or other insurance obligated to do so, we will pay the following when we provide a defense:
 - a. All expenses we incur.
 - b. The cost of bail bonds up to \$3,000 (including bonds for related traffic law violations) required because of an "occurrence" we cover. We do not have to furnish these bonds.
 - c. The cost of bonds to appeal a judgment or award in any claim or "suit" we defend and the cost of bonds to release attachments, but only for bond amounts within the applicable Limits of Insurance. We do not have to furnish these bonds.
 - d. Reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including the actual loss of earnings.
 - e. All court costs taxed against the insured in the "suit". However, these payments do not include attorneys'

fees or attorneys' expenses taxed against the insured.

5. If there is no underlying insurer obligated to do so, we will pay the following for an "occurrence" to which this insurance applies, even if we have no duty to provide a defense:
 - a. Prejudgment interest awarded against the insured on that part of the judgment we become obligated to pay and which falls within the applicable Limit of Insurance. If we make an offer to pay the applicable Limits of Insurance, we will not pay any prejudgment interest based on the period of time after the offer.
 - b. All interest awarded against the insured on the full amount of any judgment that accrues:
 - (1) After entry of the judgment; and
 - (2) Before we have paid, offered to pay or deposited in court the part of the judgment that is within the applicable Limit of Insurance.
6. The payments described in Paragraphs 4. and 5. above will not reduce the Limits of Insurance provided by this Coverage Part when defense or supplementary payments provided by the "underlying insurance" do not reduce their Limits of Insurance. However, when defense or supplementary payments provided by the "underlying insurance" reduce their Limits of Insurance then such expense payments paid by us will reduce the Limits of Insurance provided by this Coverage Part.
7. If we are prevented by law or otherwise from carrying out any of the provisions of **SECTION I - COVERAGE, C. Defense and Supplementary Payments**, we will pay any expense incurred with our written consent.

SECTION II - WHO IS AN INSURED

1. Except for liability arising out of the ownership, maintenance, occupancy or use of an "auto":
 - a. If you are designated in the Declarations as:
 - (1) An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
 - (2) A partnership or joint venture, you are an insured. Your members, partners and their spouses are also insureds, but only with respect to the conduct of your business.

- (3) A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
 - (4) An organization other than a partnership, joint venture, or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders. Each of the following is also a Named Insured:
 - (a) Any "subsidiary" company of such organization, including any "subsidiary" of such "subsidiary":
 - 1) Existing at the inception of this Coverage Part; or
 - 2) Formed or acquired on or after the inception of this Coverage Part.
 - (b) Any other company controlled and actively managed by such organization or any "subsidiary" thereof:
 - 1) At the inception of this Coverage Part; or
 - 2) If the control and active management thereof is acquired on or after the inception of this Coverage Part.
 - (5) A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.
- b.** Each of the following is also an insured:
- (1) Any "employee" of yours while acting within the scope of their duties as such.
 - (2) Any person or organization while acting as your real estate manager.
 - (3) Any person or organization having proper temporary custody of your property if you die, but only:
 - (a) With respect to liability arising out of the maintenance or use of that property; and
 - (b) Until your legal representative has been appointed.
 - (4) Your legal representative if you die, but only with respect to duties as such.
- 2.** Only with respect to liability arising out of the ownership, maintenance, occupancy or use of an "auto":
- a.** You are an insured.
 - b.** Anyone else while using with your permission an "auto" you own, hire or borrow is also an insured except:
 - (1) The owner or any other person or organization (except your "executive officers" or principals) from whom you hire or borrow an "auto", unless such persons or organizations are insureds in your "underlying insurance" listed in the Schedule of Underlying Insurance, and then only for such hazards for which coverage is provided by such "underlying insurance". This exception does not apply if the "auto" is a trailer or semi-trailer connected to an "auto" you own.
 - (2) Your "employee", if the "auto" is owned by that "employee" or a member of his or her household, unless:
 - (a) Such "employee" is an insured with respect to that "auto" in the "underlying insurance" listed in the Schedule of Underlying Insurance, and then only for such hazards for which coverage is provided by such "underlying insurance"; or
 - (b) The "bodily injury" or "property damage" is sustained by a co-"employee" of such "employee".
 - (3) Someone using an "auto" while he or she is working in a business of selling, servicing, repairing, parking or storing "autos", unless that business is yours.
 - (4) Anyone other than your "employees", partners (if you are a partnership), members (if you are a limited liability company), or a lessee or borrower or any of their "employees", while moving property to or from an "auto".
 - c.** Anyone liable for the conduct of an insured described in Paragraphs **2.a.** and **b.** above is also an insured, but only if they are provided insurance coverage for such liability by valid and collectible "underlying insurance" listed in the Schedule of Underlying Insurance and then only for such hazards for which coverage is provided by such "underlying insurance".

3. At your option and subject to the terms and conditions of this insurance, any other person or organization not addressed by Paragraphs 1. and 2. above, but covered in the "underlying insurance" listed in the Schedule of Underlying Insurance are also insureds, but only to the extent that insurance is provided for such person or organization by the "underlying insurance".

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.

SECTION III - LIMITS OF INSURANCE

1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
 - a. Insureds;
 - b. Claims made, "suits" brought or number of vehicles involved or insured; or
 - c. Persons or organizations making claims or bringing "suits".
2. The Aggregate Limit is the most we will pay for all damages:
 - a. Included in the "products-completed operations hazard";
 - b. Because of "bodily injury" by disease sustained by your "employees" arising out of and in the course of their employment by you; or
 - c. Because of "bodily injury", "personal and advertising injury" or "property damage" not included within a. or b. above. However, this Aggregate Limit will not apply to damages which are not subject to an Aggregate Limit in the "underlying insurance".

The Aggregate Limit applies separately to a., b. and c. The Aggregate Limit described in c. will apply only to damages not subject to a. or b. above.

3. Subject to the Limit of Insurance described in 2.c. above:
 - a. Only in the event that "underlying insurance" specifically listed in the Schedule of Underlying Insurance provides an annual Aggregate Limit of Insurance for damages that would not be subject to 2.a. or b. above that is applicable separately to each:
 - (1) Location owned by, or rented or leased to you solely with respect to damages which are the result of a claim or "suit" for "bodily injury" or "property damage" which can be at-

tributed to operations at only a single location, then the Aggregate Limit described in 2.c. above applies separately to each location owned by, or rented or leased to you.

- (2) Of your construction projects solely with respect to damages which are the result of a claim or "suit" for "bodily injury" or "property damage" which can be attributed only to ongoing operations and only at a single construction project, then the Aggregate Limit described in 2.c. above applies separately to each of your construction projects.

- b. Only with respect to the application of Limits of Insurance described in 3.a. above, the following terms location and construction project will have the following meanings:

- (1) Location means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad.
- (2) Construction project means a location you do not own, rent or lease where ongoing improvements, alterations, installation, demolition or maintenance work is performed by you or on your behalf. All connected ongoing improvements, alterations, installation, demolition or maintenance work performed by you or on your behalf at the same location for the same persons or entities, no matter how often or under how many different contracts, will be deemed to be a single construction project.

4. Subject to the limits described in 2. and 3. above, the Each Occurrence Limit is the most we will pay for the "ultimate net loss":

- a. In excess of the applicable limits of "underlying insurance"; or
- b. If an "occurrence" is not covered by "underlying insurance", but covered by the terms and conditions of this Coverage Part,

for all "bodily injury", "personal and advertising injury" and "property damage" arising out of any one "occurrence".

We will not pay more than the Limit of Insurance shown in this Coverage Part's Declarations for each "occurrence" because any Personal Umbrella Liability Policy(ies) is/are attached to this policy.

9. Other Insurance

- a. This insurance is excess over, and shall not contribute with any other insurance, whether primary, excess, contingent or on any other basis. This condition will not apply to insurance specifically written as excess over this Coverage Part.

When this insurance is excess, we will have no duty to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends and coverage is otherwise applicable, we will have the right, but not the duty to undertake to do so, provided that whomever we agree to defend and the Named Insured assign their rights to us under the policies of the insurers who did not defend. Such assignment must be in writing.

- b. When this insurance is excess over other insurance, we will pay only our share of the "ultimate net loss" that exceeds the sum of:
 - (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
 - (2) The total of all deductible and self-insured amounts under all that other insurance.

10. Premium

The premium for this Coverage Part shall be as stated in the Declarations. The advance and anniversary premiums are not subject to adjustment, except as stated in the Declarations, or as stated in an endorsement issued by us to form a part of this Coverage Part.

You shall maintain records of such information as is necessary for premium computation, and shall, if requested by us, send copies of such records to us at the end of the "coverage term" and at such times during the policy period as we may direct.

11. Representations

- a. By acceptance of this Coverage Part, you agree that the statements in the Declarations are your agreements and representations, that this Coverage Part is issued in reliance upon the truth of such representations and that this Coverage Part embodies all agreements existing between you and us or any of our agents relating to this insurance.
- b. However, to the extent that the following applies in the "underlying insurance" listed specifically in the Schedule of Underlying Insurance, it will also apply to this Coverage Part:

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

12. Separation of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

13. Transfer of Rights of Recovery Against Others to Us

- a. If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.
- b. Any recoveries shall be applied as follows:
 - (1) First, we will reimburse anyone, including the insured, the amounts actually paid by them that were in excess of our payments;
 - (2) Next, we will be reimbursed to the extent of our actual payment; and
 - (3) Lastly, any amounts left after meeting the obligations outlined in (1) and (2) above will be distributed to anyone else known to us at the time a recovery is made and who is legally entitled to such recovery.

Expenses incurred in the recovery shall be apportioned among all interests in the ratio of their respective recoveries as finally settled. If there is no recovery as a result of our attempts, we shall bear all of the recovery expenses.

- c. If prior to an "occurrence" to which this Coverage Part would apply, you and the issuer of your applicable "underlying insurance" listed specifically in the Schedule of Underlying Insurance waive any right of recovery against a person or organization for injury or damage, we will also waive any rights we may have against such person or organization.

9. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any similar governing document.
10. "Hostile fire" means one that becomes uncontrollable or breaks out from where it was intended to be.
11. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
- a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
 - b. You have failed to fulfill the terms of a contract or agreement,
- if such property can be restored to use by:
- a. The repair, replacement, adjustment or removal of "your product" or "your work"; or
 - b. Your fulfilling the terms of the contract or agreement.
12. "Insured contract" means:
- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for "property damage" by fire or explosion to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
 - b. A sidetrack agreement;
 - c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
 - d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
 - e. An elevator maintenance agreement;
 - f. That part of any other contract or agreement pertaining to your business, other than a contract or agreement pertaining to the rental or lease of any "auto", (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury", "property damage" or "personal and advertising injury" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement; or

- g. That part of any contract or agreement entered into, as part of your business, pertaining to the rental or lease, by you or any of your "employees", of any "auto". However, such contract or agreement shall not be considered an "insured contract" to the extent that it obligates you or any of your "employees" to pay for "property damage" to any "auto" rented or leased by you or any of your "employees".

Paragraphs **f.** and **g.** do not include that part of any contract or agreement:

- (1) That indemnifies a railroad for "bodily injury", "property damage" or "personal and advertising injury" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing. However, if such liability is insured by valid and collectible "underlying insurance" as listed in the Schedule of Underlying Insurance, this Paragraph (1) shall not apply for such hazards for which insurance coverage is afforded by such "underlying insurance";
- (2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - (a) Preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage;
- (3) Under which the insured, if an architect, engineer or surveyor, assumes liability for injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in Paragraph (2) above and supervisory, inspection, architectural or engineering activities;
- (4) That indemnifies an advertising, public relations or media consulting firm for "personal and advertising injury" arising out of the planning, execution or failure to execute marketing communications programs. Marketing communications programs include but are not limited to comprehensive marketing campaigns; consumer, trade and corporate advertising for all media; media planning, buying, monitoring and analysis; direct mail; promotion; sales materials; design; presentations; point-of-sale materials; market research;

public relations and new product development;

- (5) Under which the insured, if an advertising, public relations or media consulting firm, assumes liability for "personal and advertising injury" arising out of the insured's rendering or failure to render professional services, including those services listed in Paragraph (4), above;
 - (6) That indemnifies a website designer or content provider, or Internet search, access, content or service provider for injury or damage arising out of the planning, execution or failure to execute Internet services. Internet Services include but are not limited to design, production, distribution, maintenance and administration of websites and web-banners; hosting websites; registering domain names; registering with search engines; marketing analysis; and providing access to the Internet or other similar networks;
 - (7) Under which the insured, if a website designer or content provider, or Internet search, access, content or service provider, assumes liability for injury or damage arising out of the insured's rendering or failure to render Internet services, including those listed in Paragraph (6), above;
 - (8) That pertains to the loan, lease or rental of an "auto" to you or any of your "employees", if the "auto" is loaned, leased or rented with a driver; or
 - (9) That holds a person or organization engaged in the business of transporting property by "auto" for hire harmless for your use of an "auto" over a route or territory that person or organization is authorized to serve by public authority.
13. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm to perform duties related to the conduct of your business. "Leased worker" includes supervisors furnished to you by the labor leasing firm. "Leased worker" does not include a "temporary worker".
14. "Loading or unloading" means the handling of property:
- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
 - b. While it is in or on an aircraft, watercraft or "auto"; or
 - c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

15. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

- a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- b. Vehicles maintained for use solely on or next to premises you own or rent;
- c. Vehicles that travel on crawler treads;
- d. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
 - (1) Power cranes, shovels, loaders, diggers or drills; or
 - (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
- e. Vehicles not described in Paragraph a., b., c. or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well-servicing equipment; or
 - (2) Cherry pickers and similar devices used to raise or lower workers;
- f. Vehicles not described in Paragraph a., b., c. or d. above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

- (1) Equipment designed primarily for:
 - (a) Snow removal;
 - (b) Road maintenance, but not construction or resurfacing; or
 - (c) Street cleaning;
- (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
- (3) Air compressors, pumps and generators, including spraying, welding,

ENDORSEMENT

Named Insured:

Policy Number:

**Endorsement
Effective Date:**

**Endorsement
Number:**

(12:01 AM Standard Time at the address of the
Named Insured as shown in the Declarations)

EARLIER NOTICE OF CANCELLATION PROVIDED BY US

This Endorsement changes the Policy. Please read it carefully.

This endorsement modifies coverage provided under the following:

**COMMERCIAL EXCESS LIABILITY FORM
COMMERCIAL LIABILITY UMBRELLA FORM**

Number of Days' Notice: 30

For any statutorily permitted reason other than nonpayment of premium, the number of days required for notice of cancellation, as provided within this policy or as amended by an applicable state cancellation endorsement, is increased to the number of days shown in above.

Date of Issuance:

Page 1 of 1

Policy Form:

Starstone Specialty Insurance Company

Endorsement Form: SSS ALT 0274 06 20

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ENDORSEMENT

Named Insured:

Policy Number:

**Endorsement
Effective Date:**

**Endorsement
Number:**

(12:01 AM Standard Time at the address of the
Named Insured as shown in the Declarations)

AGGREGATE LIMITS OF INSURANCE – PER PROJECT

This Endorsement changes the Policy. Please read it carefully.

This endorsement modifies coverage provided under the following:

COMMERCIAL EXCESS LIABILITY FORM

Paragraph **2.b.** under **Section II – Limits Of Insurance** is deleted and replaced by the following:

- 2.b.** The Aggregate Limit is the most we will pay for the sum of all "ultimate net loss", for all "injury or damage" covered under this Coverage Part.

However, this Aggregate Limit only applies to "injury or damage" that is subject to an aggregate limit of insurance under the "controlling underlying insurance".

The above described Aggregate Limit applies separately to each of your projects away from premises owned by or rented to you. Notwithstanding the application of the General Aggregate Limit to each "Project" of the Named Insured, under no circumstances will we pay more than two times the Aggregate Limit stated on the Commercial Excess Liability Policy Declarations.

For the purposes of this endorsement, "Project" means all work done by you or on your behalf, away from your premises owned or rented to you, to complete an individual bid or negotiated contract to provide services for a specified period of time. Multiple jobs, work orders, purchase orders, or work done at multiple locates under one contract are not separate "projects" within the meaning of this endorsement.

Date of Issuance:

Starstone Specialty Insurance Company

Page 1 of 1

Policy Form:

Endorsement Form: SSS ALT 0206 06 20

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ENDORSEMENT

Named Insured:

Policy Number:

**Endorsement
Effective Date:**

**Endorsement
Number:**

(12:01 AM Standard Time at the address of the
Named Insured as shown in the Declarations)

PRIMARY NON-CONTRIBUTORY ENDORSEMENT - BLANKET

This Endorsement changes the Policy. Please read it carefully.

This endorsement modifies coverage provided under the following:

COMMERCIAL EXCESS LIABILITY FORM COMMERCIAL LIABILITY UMBRELLA FORM

It is agreed that:

The Other Insurance Condition is amended to include the following additional provision:

When required by written contract or agreement, the insurance provided by this Policy is primary insurance and we will not seek contribution from any other insurance available to the person or organization covered as an additional insured hereunder.

This endorsement does not change any other provision of the Policy. The title and any headings in this endorsement are solely for convenience and do not affect its meaning.

Date of Issuance:

Starstone Specialty Insurance Company

Page 1 of 1

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Policy Form:

Endorsement Form: SSS ALT 0377 06 20

ENDORSEMENT

Named Insured:

Policy Number:

**Endorsement
Effective Date:**

**Endorsement
Number:**

(12:01 AM Standard Time at the address of the
Named Insured as shown in the Declarations)

WAIVER OF SUBROGATION ENDORSEMENT

This Endorsement changes the Policy. Please read it carefully.

This endorsement modifies coverage provided under the following:

COMMERCIAL EXCESS LIABILITY FORM COMMERCIAL LIABILITY UMBRELLA FORM

SCHEDULE

Name Of Person Or Organization:

Any person(s) or organization(s) to whom the *Named Insured* agrees, in a written contract, to provide a waiver of subrogation. However, this status exists only for the project specified in that contract.

The Company waives any right of recovery it may have against the person or organization shown in the above Schedule because of payments the Company makes for injury or damage arising out of the *insured's* work done under a contract with that person or organization. The waiver applies only to the person or organization in the above Schedule.

Under no circumstances shall this endorsement act to extend the policy period, change the scope of coverage or increase the Aggregate Limits of Insurance shown in the Declarations.

COMMERCIAL EXCESS LIABILITY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the company providing this insurance. The word "insured" means any person or organization qualifying as such under the "controlling underlying insurance".

Other words and phrases that appear in quotation marks in this Coverage Part have special meaning. Refer to Section IV – Definitions. Other words and phrases that are not defined under this Coverage Part but defined in the "controlling underlying insurance" will have the meaning described in the policy of "controlling underlying insurance".

The insurance provided under this Coverage Part will follow the same provisions, exclusions and limitations that are contained in the applicable "controlling underlying insurance", unless otherwise directed by this insurance. To the extent such provisions differ or conflict, the provisions of this Coverage Part will apply. However, the coverage provided under this Coverage Part will not be broader than that provided by the applicable "controlling underlying insurance".

There may be more than one "controlling underlying insurance" listed in the Declarations and provisions in those policies conflict, and which are not superseded by the provisions of this Coverage Part. In such a case, the provisions, exclusions and limitations of the "controlling underlying insurance" applicable to the particular "event" for which a claim is made or suit is brought will apply.

SECTION I –

COVERAGES 1. Insuring

Agreement

- a. We will pay on behalf of the insured the "ultimate net loss" in excess of the "retained limit" because of "injury or damage" to which insurance provided under this Coverage Part applies.

We will have the right and duty to defend the insured against any suit seeking damages for such "injury or damage" when the applicable limits of "controlling underlying insurance" have been exhausted in accordance with the provisions of such "controlling underlying insurance".

When we have no duty to defend, we will have the right to defend, or to participate in the defense of, the insured against any other suit seeking damages for "injury or damage".

However, we will have no duty to defend the insured against any suit seeking damages for which insurance under this policy does not apply.

At our discretion, we may investigate any "event" that may involve this insurance and settle any resultant claim or suit, for which we have the duty to defend.

But:

- (1) The amount we will pay for "ultimate net loss" is limited as described in Section II – Limits Of Insurance; and

- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements under this Coverage Part. However, if the policy of "controlling underlying insurance" specifies that limits are reduced by defense expenses, our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of defense expenses, judgments or settlements under this Coverage Part.

- b. This insurance applies to "injury or damage" that is subject to an applicable "retained limit". If any other limit, such as, a sublimit, is specified in the "controlling underlying insurance", this insurance does not apply to "injury or damage" arising out of that exposure unless that limit is specified in the Declarations under the Schedule of "controlling underlying insurance".
- c. If the "controlling underlying insurance" requires, for a particular claim, that the "injury or damage" occur during its policy period in order for that coverage to apply, then this insurance will only apply to that "injury or damage" if it occurs during the policy period of this Coverage Part. If the "controlling underlying insurance" requires that the "event" causing the particular "injury or damage" takes place during its policy period in order for that coverage to apply, then this insurance will apply to the claim only if the "event" causing that "injury or damage" takes place during the policy period of this Coverage Part.

d. Any additional insured under any policy of "controlling underlying insurance" will automatically be an additional insured under this insurance. If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance required by the contract, less any amounts payable by any "controlling underlying insurance".

Additional insured coverage provided by this insurance will not be broader than coverage provided by the "controlling underlying insurance".

2. Exclusions

The following exclusions, and any other exclusions added by endorsement, apply to this Coverage Part. In addition, the exclusions applicable to any "controlling underlying insurance" apply to this insurance unless superseded by the following exclusions, or superseded by any other exclusions added by endorsement to this Coverage Part.

Insurance provided under this Coverage Part does not apply to:

a. Medical Payments

Medical payments coverage or expenses that are provided without regard to fault, whether or not provided by the applicable "controlling underlying insurance".

b. Auto

Any loss, cost or expense payable under or resulting from any of the following auto coverages:

- (1) First-party physical damage coverage;
- (2) No-fault coverage;
- (3) Personal injury protection or auto medical payments coverage; or
- (4) Uninsured or underinsured motorists coverage.

c. Pollution

- (1) "Injury or damage" which would not have occurred, in whole or in part, but for the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of pollutants at any time.
- (2) Any loss, cost or expense arising out of any:
 - (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, pollutants; or

- (b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, pollutants.

This exclusion does not apply to the extent that valid "controlling underlying insurance" for the pollution liability risks described above exists or would have existed but for the exhaustion of underlying limits for "injury or damage".

d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

SECTION II – LIMITS OF INSURANCE

1. The Limits of Insurance shown in the Declarations, and the rules below fix the most we will pay regardless of the number of:

- a. Insureds;
- b. Claims made or suits brought, or number of vehicles involved;
- c. Persons or organizations making claims or bringing suits; or
- d. Limits available under any "controlling underlying insurance".

2. The Limits of Insurance of this Coverage Part will apply as follows:

- a. This insurance only applies in excess of the "retained limit".
- b. The Aggregate Limit is the most we will pay for the sum of all "ultimate net loss", for all "injury or damage" covered under this Coverage Part.

However, this Aggregate Limit only applies to "injury or damage" that is subject to an aggregate limit of insurance under the "controlling underlying insurance".
- c. Subject to Paragraph 2.b. above, the Each Occurrence Limit is the most we will pay for the sum of all "ultimate net loss" under this insurance because of all "injury or damage" arising out of any one "event".
- d. If the Limits of Insurance of the "controlling underlying insurance" are reduced by defense expenses by the terms of that policy, any payments for defense expenses we make will reduce our applicable Limits of Insurance in the same manner.

3. If any "controlling underlying insurance" has a policy period that is different from the policy period of this Coverage Part then, for the purposes of this insurance, the "retained limit" will only be reduced or exhausted by payments made for "injury or damage" covered under this insurance.

The Aggregate Limit of this Coverage Part applies separately to each consecutive annual period of this Coverage Part and to any remaining period of this Coverage Part of less than 12 months, starting with the beginning of the policy period shown in the Declarations, 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.

SECTION III – CONDITIONS

The following conditions apply. In addition, the conditions applicable to any "controlling underlying insurance" are also applicable to the coverage provided under this insurance unless superseded by the following conditions.

1. Appeals

If the "controlling underlying insurer" or insured elects not to appeal a judgment in excess of the amount of the "retained limit", we may do so at our own expense. We will also pay for taxable court costs, pre- and postjudgment interest and disbursements associated with such appeal. In no event will this provision increase our liability beyond the applicable Limits of Insurance described in Section II – Limits Of Insurance.

2. Bankruptcy

a. Bankruptcy Of Insured

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

b. Bankruptcy Of Controlling Underlying Insurer

Bankruptcy or insolvency of the "controlling underlying insurer" will not relieve us of our obligations under this Coverage Part.

However, insurance provided under this Coverage Part will not replace any "controlling underlying insurance" in the event of bankruptcy or insolvency of the "controlling underlying insurer". The insurance provided under this Coverage Part will apply as if the "controlling underlying insurance" were in full effect and recoverable.

3. Duties In The Event Of An Event, Claim Or Suit

a. You must

see to it that we are notified as soon as practicable of an "event", regardless of the amount, which may result in a claim under this insurance. To the extent possible, notice should include:

- (1) How, when and where the "event" took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any "injury or damage" arising out of the "event".

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.

You must see to it that we receive written notice of the claim or suit as soon as practicable.

c. You and any other insured involved 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 "injury or damage" to which this insurance 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, other than for first aid, without our consent.

4. First Named Insured Duties

The first Named Insured is the person or organization first named in the Declarations and is responsible for the payment of all premiums. The first Named Insured will act on behalf of all other Named Insureds for giving and receiving of notice of cancellation or the receipt of any return premium that may become payable.

At our request, the first Named Insured will furnish us, as soon as practicable, with a complete copy of any "controlling underlying insurance" and any subsequently issued endorsements or policies which may in any way affect the insurance provided under this Coverage Part.

5. Cancellation

- a. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
- b. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
 - (1) 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
 - (2) 30 days before the effective date of cancellation if we cancel for any other reason.
- c. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
- d. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
- e. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
- f. If notice is mailed, proof of mailing will be sufficient proof of notice.

6. Changes

This Coverage Part contains all the agreements between you and us concerning the insurance afforded. The first Named Insured is authorized by all other insureds to make changes in the terms of this Coverage Part with our consent. This Coverage Part's terms can be amended or waived only by endorsement.

7. Maintenance Of/Changes To Controlling Underlying Insurance

Any "controlling underlying insurance" must be maintained in full effect without reduction of coverage or limits except for the reduction of aggregate limits in accordance with the provisions of such "controlling underlying insurance" that results from "injury or damage" to which this insurance applies.

Such exhaustion or reduction is not a failure to maintain "controlling underlying insurance". Failure to maintain "controlling underlying insurance" will not invalidate insurance provided under this Coverage Part, but insurance provided under this Coverage Part will apply as if the "controlling underlying insurance" were in full effect.

The first Named Insured must notify us in writing, as soon as practicable, if any "controlling underlying insurance" is cancelled, not renewed, replaced or otherwise terminated, or if the limits or scope of coverage of any "controlling underlying insurance" is changed.

8. Other Insurance

- a. This insurance is excess over, and shall not contribute with any of the other insurance, whether primary, excess, contingent or on any other basis. This condition will not apply to insurance specifically written as excess over this Coverage Part.

When this insurance is excess, if no other insurer defends, we may undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

- b. When this insurance is excess over other insurance, we will pay only our share of the "ultimate net loss" that exceeds the sum of:

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

9. Premium Audit

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. If this policy is auditable, the premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period, we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit premium is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

10. Loss Payable

Liability under this Coverage Part does not apply to a given claim unless and until:

- a. The insured or insured's "controlling underlying insurer" has become obligated to pay the "retained limit"; and
- b. The obligation of the insured to pay the "ultimate net loss" in excess of the "retained limit" has been determined by a final settlement or judgment or written agreement among the insured, claimant, "controlling underlying insurer" (or a representative of one or more of these) and us.

11. Legal Action Against Us

No person or organization has a right under this Coverage Part:

- a. To join us as a party or otherwise bring us into a suit asking for damages from an insured; or
- b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured, "controlling underlying insurer" and the claimant or the claimant's legal representative.

12. Transfer Of Defense

a. Defense Transferred To Us

When the limits of "controlling underlying insurance" have been exhausted, in accordance with the provisions of "controlling underlying insurance", we may elect to have the defense transferred to us. We will cooperate in the transfer of control to us of any outstanding claims or suits seeking damages to which this insurance applies and which would have been covered by the "controlling underlying insurance" had the applicable limit not been exhausted.

b. Defense Transferred By Us

When our limits of insurance have been exhausted our duty to provide a defense will cease.

We will cooperate in the transfer of control of defense to any insurer specifically written as excess over this Coverage Part of any outstanding claims or suits seeking damages to which this insurance applies and which would have been covered by the "controlling underlying insurance" had the applicable limit not been exhausted.

In the event that there is no insurance written as excess over this Coverage Part, we will cooperate in the transfer of control to the insured and its designated representative.

13. When We Do Not Renew

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

SECTION IV – DEFINITIONS

The definitions applicable to any "controlling underlying insurance" also apply to this insurance. In addition, the following definitions apply.

1. "Controlling underlying insurance" means any policy of insurance or self-insurance listed in the Declarations under the Schedule of "controlling underlying insurance".
2. "Controlling underlying insurer" means any insurer who provides any policy of insurance listed in the Declarations under the Schedule of "controlling underlying insurance".
3. "Event" means an occurrence, offense, accident, act, or other event, to which the applicable "controlling underlying insurance" applies.
4. "Injury or damage" means any injury or damage, covered in the applicable "controlling underlying insurance" arising from an "event".
5. "Retained limit" means the available limits of "controlling underlying insurance" applicable to the claim.
6. "Ultimate net loss" means the total sum, after reduction for recoveries, or salvages collectible, that the insured becomes legally obligated to pay as damages by reason of:
 - a. Settlements, judgments, binding arbitration; or
 - b. Other binding alternate dispute resolution proceeding entered into with our consent."Ultimate net loss" includes defense expenses if the "controlling underlying insurance" specifies that limits are reduced by defense expenses.

TEXAS WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

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

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

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

The premium for this endorsement is shown in the Schedule.

Schedule

1. ☐ Specific Waiver

Name of person or organization

☒ Blanket Waiver

Any person or organization for whom the Named Insured has agreed by written contract to furnish this waiver.

2. Operations: All Texas operations

3. Premium:

The premium charge for this endorsement shall be **2.00** percent of the premium developed on payroll in connection with work performed for the above person(s) or organization(s) arising out of the operations described.

4. Advance Premium: Included, see Information Page

This endorsement changes the policy to which it is attached effective on the inception date of the policy unless a different date is indicated below.
(The following "attaching clause" need be completed only when this endorsement is issued subsequent to preparation of the policy.)

This endorsement, effective on 7/30/23 at 12:01 a.m. standard time, forms a part of:

Policy no. 0001226901 of Texas Mutual Insurance Company effective on 7/30/23

Issued to: WALKER PARTNERS LLC

This is not a bill



Authorized representative

NCCI Carrier Code: 29939

7/28/23

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CANCELLATION OR NONRENEWAL BY US NOTIFICATION TO A DESIGNATED ENTITY

This endorsement modifies insurance provided under the following:

**BUSINESSOWNERS PACKAGE POLICY
CLAIMS-MADE EXCESS LIABILITY COVERAGE PART
COMMERCIAL AUTO COVERAGE PART
COMMERCIAL GENERAL LIABILITY COVERAGE PART
COMMERCIAL UMBRELLA LIABILITY COVERAGE PART
DENTIST'S PACKAGE POLICY
ELECTRONIC DATA LIABILITY COVERAGE PART
EXCESS LIABILITY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS COVERAGE PART
PRODUCT WITHDRAWAL COVERAGE PART
PROFESSIONAL LIABILITY COVERAGE PART
PROFESSIONAL UMBRELLA LIABILITY COVERAGE PART
PROFESSIONAL UMBRELLA LIABILITY COVERAGE PART - CLAIMS-MADE
RAILROAD PROTECTIVE LIABILITY COVERAGE PART
UNDERGROUND STORAGE TANK POLICY**

SCHEDULE

Name and mailing address of person(s) or organization(s):

1. FOR WHOM YOU ARE REQUIRED IN A WRITTEN CONTRACT THAT WAS EXECUTED ON OR AFTER THE EARLIER OF THE FOLLOWING DATES: A. THE EFFECTIVE DATE OF THIS POLICY, OR B. THE EFFECTIVE DATE OF THE ORIGINAL POLICY OF WHICH THIS POLICY IS A RENEWAL OR REPLACEMENT, AND 2. FOR WHOM YOU ARE REQUIRED IN THAT SAME WRITTEN CONTRACT AS REFERRED TO IN 1. ABOVE TO PROVIDE CANCELLATION NOTICE.

Number of days notice (other than nonpayment of premium): 30

- A.** If we cancel or nonrenew this policy for any statutorily permitted reason other than nonpayment of premium we will mail notice to the person or organization shown in the Schedule. We will mail such notice at least the number of days shown in the Schedule before the effective date of cancellation or nonrenewal.
- B.** If we cancel this policy for nonpayment of premium, we will mail notice to the person or organization shown in the Schedule. We will mail such notice at least 10 days before the effective date of cancellation.
- C.** If notice is mailed, proof of mailing to the mailing address shown in the Schedule will be sufficient proof of notice.
- D.** In no event will coverage extend beyond the actual expiration, termination or cancellation of the policy.

TEXAS NOTICE OF MATERIAL CHANGE ENDORSEMENT

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

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

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

Schedule

1. Number of days advance notice: 30
2. Notice will be mailed to: PER LIST ON FILE

This endorsement changes the policy to which it is attached effective on the inception date of the policy unless a different date is indicated below.
(The following "attaching clause" need be completed only when this endorsement is issued subsequent to preparation of the policy.)
This endorsement, effective on 7/30/23 at 12:01 a.m. standard time, forms a part of:

Policy no. 0001226901 of Texas Mutual Insurance Company effective on 7/30/23

Issued to: WALKER PARTNERS LLC

This is not a bill

NCCI Carrier Code: 29939



Authorized representative

7/28/23



CONTRACT#: 243000033 PROJECT#: n/a BID/RFP/RFQ#: 23-081

One of three agreements to provide professional surveying services for the City.

Transparency Report ☐ Yes ☐ No ☒ N/A

Page 235 of 593

MASTER AGREEMENT FOR SURVEYING SERVICES

This Master Agreement is by and between the **City of College Station**, a Texas Home-Rule Municipal Corporation (the “City”) and **KERR SURVEYING, LLC**, a Texas CORPORATION (the “Contractor” or “Surveyor”), whereby Contractor agrees to perform professional surveying services on an as needed basis according to the terms and conditions herein.

ARTICLE I

1.01 Scope of Services. This Master Agreement is for Professional Surveying Services described more fully in Contractor’s response to RFQ No. 23-081 attached as **Exhibit “A”**. The scope and details of the work to be provided to the City by Contractor are in each Service Order, which should follow the Scope of Services: Surveying Requirements attached as **Exhibit “B”** to this Agreement and incorporated as though fully set forth herein by reference. Contractor agrees to perform or cause the performance of all the work described in each Service Order. Each Service Order shall expressly reference this Agreement and be executed by both parties. The City Manager or his designee is authorized to sign the Service Orders on behalf of the City.

1.02 Service Order. Each Service Order shall identify a Project Manager for each party with respect to the Services set forth therein. Each Service Order shall identify the unique scope and details for each project including location, schedules, and a not-to-exceed amount for fees and expenses. Contractor promises to work closely with the City Project Manager or other appropriate City officials. Contractor agrees to perform any and all professional services required by the City to fulfill the Service Orders. The Contractor shall be prepared to provide the professional services in the most expedient and efficient manner possible in order to complete the work by the times specified. The work of the Contractor under this Contract may be authorized by the Project Manager as set forth in a Service Order. An example of such form is attached as **Exhibit “C”**.

1.03 Payment Terms. Contractor agrees to perform the work described in each Service Order and the City agrees to pay Contractor fees set forth and defined in the applicable Service Order for the services performed by Contractor. Service Order fees shall be based on the Fee Schedule as set forth in **Exhibit “D”**. The invoices shall be submitted to the City upon completion of all work specified in the Service Order. The payment terms are net payable within thirty (30) calendar days of the City’s receipt of the invoice. Upon termination of this Agreement, payments under this paragraph shall cease; provided, however, that Contractor shall be entitled to payments for work performed in accordance with this Agreement and any Service Order before the date of termination and for which Contractor has not yet been paid.

1.04 Payment. The total amount of payment, including reimbursements, by the City to Contractor for all approved Service Orders to be performed under this Contract shall not exceed TWENTY THOUSAND and NO /100 (\$20,000.00). There is no minimum amount to be paid by the City to the Contractor under this Contract.

1.05 Change Orders. The City may from time to time request changes in the scope and focus of the activities, investigations, and studies conducted or to be conducted by Contractor pursuant to this Contract, provided, however, that any such change that, in the opinion of Contractor, the City Manager, or the City's Project Manager, varies significantly from the scope of the work set out herein and entails an increase in cost or expense to the City shall be mutually agreed upon in advance in writing by Contractor and the City's Project Manager.

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

b. When the original contract amount plus all change orders is equal to or greater than \$100,000, the City Manager or his designee may approve the written change order provided the change order does not exceed \$50,000, and provided the sum of all change orders does not exceed 25% of the original contract amount. For such contracts, when a change order exceeds \$50,000 or when the sum of all change orders exceeds 25% of the original contract amount, the City Council of the City must approve such change order prior to commencement of the services or work; and

c. **Any request by the Contractor for an increase in the Scope of Services and an increase in the amount listed in paragraph 1.04 of Article I of this Contract shall be made and approved by the City prior to the Contractor providing such services or the right to payment for such additional services shall be waived.** If there is a dispute between the Contractor and the City respecting any service provided or to be provided hereunder by the Contractor, including a dispute as to whether such service is additional to the Scope of Services included in this Contract, the Contractor agrees to continue providing on a timely basis all services to be provided by the Contractor hereunder, including any service as to which there is a dispute.

1.06 Term and Renewals. The initial term of the Contract is for one (1) year with the option to renew for two (2) additional one (1) year terms, for a total of three (3) years. Any renewal is subject to budgetary approval and must be in writing and executed by the parties. If, for any reason, funds are not appropriated to continue the contract, the contract shall become null and void and shall terminate.

1.07 Contractor promises to work closely with the City Manager or his designee (the "Project Manager") or other appropriate City officials. Contractor agrees to perform any and all Project-related tasks reasonably required of it by the City in order to fulfill the purposes of the work to be performed. The Contractor shall be prepared to provide the professional services in the most expedient and efficient manner possible in order to complete the work by the times specified.

1.08 Independent Contractor. It is understood and agreed by the parties that the Contractor is an independent contractor retained for the services described in the Scope of Services. The City will not control the manner or the means of the Contractor's performance, but shall be entitled to a work product as in the Scope of Services. The City will not be responsible for reporting or paying employment taxes or other similar levies that may be required by the United States Internal Revenue Service or other State or Federal agencies. This Contract does not create a joint venture.

1.09 No Subcontractors. Contractor shall perform all the work hereunder. Contractor agrees all of its employees who work on each project shall be fully qualified and competent to do the work described hereunder. Contractor will not employ subcontractors in order to fulfill the obligations under this Contract without the prior written consent of the City.

ARTICLE II

2.01 Project Meetings. In developing each Service Order, Contractor shall - communicate with the City and City's Project Manager for the purpose of determining the nature of the project, including but not limited to the following: meeting with the City's staff to coordinate project goals, schedules, and deadlines; coordinating data collection; briefing the City's management staff.

2.02 Notice to Proceed. The City shall direct Contractor to commence work on each project by sending Contractor a fully executed Service Order to begin work and proceed on each project.

2.03 Representative. Contractor shall consult with the City and may, in some limited circumstances, act as the City's representative, but it is understood and agreed by the parties that for all purposes related to this Contract, Contractor shall be an independent contractor at all times and is not to be considered either an agent or an employee of the City.

ARTICLE III

3.01 Warranty. As an experienced and qualified professional, Contractor warrants the service provided by Contractor reflects high professional and industry standards, procedures, and performances. Contractor warrants the fitness and operation of its recommendations, and the performance of other services under this Contract, pursuant to a high standard of performance in the profession. Contractor warrants that it will exercise diligence and due care and perform in a good and workmanlike manner all of the services pursuant to this Contract. Approval or acceptance by the City of any of Contractor's work product under this Contract shall not constitute or be deemed a release of the responsibility and liability of Contractor, its employees, agents, or associates for the exercise of skill and diligence necessary to fulfill Contractor's responsibilities under this Contract; nor shall the City's approval or acceptance be deemed to be the assumption of responsibility by the City for any defect or error in the project's work products prepared by Contractor, its employees, associates, agents, or subcontractors.

3.02 Progress Reports. Contractor shall keep the City informed of the progress of the work by providing, at the least, monthly updates as to the status of the service being completed and shall guard against any defects or deficiencies in its work.

3.03 Correcting Errors. Contractor shall be responsible for using due diligence to correct errors, deficiencies or unacceptable work product. Contractor shall, at no cost to the City, remedy any errors, deficiencies or any work product found unacceptable, in the City's sole discretion, as soon as possible, but no longer than fifteen (15) calendar days after receiving notice of said errors, deficiencies or unacceptable work product.

3.04 Work Product. Contractor's work product shall be the exclusive property of the City. Upon completion or termination of this Contract, and upon the City's request, Contractor shall promptly deliver to the City copies of all records, notes, data, memorandum, models, and equipment of any nature that are within Contractor's possession or control and that are the City's property or relate to the City or its business.

ARTICLE IV

4.01 Indemnification. The Contractor shall indemnify, hold harmless, and defend the City, its officers, agents, volunteers, and employees from and against any and all claims, losses, damages, causes of action, suits, and liability of every kind, including all expenses of litigation, court costs, and 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 done by the Contractor under this Contract. Such indemnity shall apply regardless of whether the claims, losses, damages, causes of action, suits, or liability arise in whole or in part from the negligence of the City, any other party indemnified hereunder, the Contractor, or any third party. 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.

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

ARTICLE V

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

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

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

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

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

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

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

- (e) The Certificates of Insurance shall be prepared and executed by the insurance carrier or its authorized agent on the most current State of Texas Department of Insurance-approved forms.

5.05 Commercial (General) Liability Requirements. The following Commercial (General) Liability requirements shall apply:

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

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

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

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

- (a) Pursuant to the requirements set forth in Title 28, Section 110.110 of the Texas Administrative Code, all employees of the Consultant, the Consultant, all employees of any and all subcontractors, and all other persons providing services

on the Project must be covered by a workers' compensation insurance policy: either directly through their employer's policy (the Consultant's, or subcontractor's policy) or through an executed coverage agreement on an approved Texas Department of Insurance Division of Workers Compensation (DWC) form. Accordingly, if a subcontractor does not have his or her own policy and a coverage agreement is used, Consultants and subcontractors must use that portion of the form whereby the hiring contractor agrees to provide coverage to the employees of the subcontractor. The portion of the form that would otherwise allow them not to provide coverage for the employees of an independent contractor may not be used.

(b) The workers' compensation/Employer's Liability insurance shall include the following terms:

- i. Employer's Liability limits of \$1,000,000 for each accident is required.
- ii. "Texas Waiver of Our Right to Recover From Others Endorsement, WC 42 03 04" shall be included in this policy.
- iii. Texas must appear in Item 3A of the Worker's Compensation coverage or Item 3C must contain the following: All States except those listed in Item 3A and the States of NV, ND, OH, WA, WV, and WY.

(c) Pursuant to the explicit terms of Title 28, Section 110.110(c)(7) of the Texas Administrative Code, this Contract, the bid specifications, this Contract, and all subcontracts on this Project must include the terms and conditions set forth below, without any additional words or changes, except those required to accommodate the specific document in which they are contained or to impose stricter standards of documentation:

i. *Definitions:*

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

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

Persons providing services on the project ("subcontractors" in § 406.096 [of the Texas Labor Code]) - includes all persons or entities performing all or part of the services the Contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the Contractor and regardless of whether that person has employees. This includes, without limitation, independent Contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing,

hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

- ii. The Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Contractor providing services on the project, for the duration of the project.*
- iii. The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.*
- iv. If the coverage period shown on the Contractor's current certificate of coverage ends during the duration of the project, the Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.*
- v. The Contractor shall obtain from each person providing services on a project, and provide to the governmental entity:*
 - 1. a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and*
 - 2. no later than seven calendar days after receipt by the Contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.*
- vi. The Contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.*
- vii. The Contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 calendar days after the Contractor knew or should have known, or any change that materially affects the provision of coverage of any person providing services on the project.*
- viii. The Contractor shall post on each project site a notice, in the text, form and manner prescribed by the Division of Workers Compensation, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.*
- ix. The Contractor shall contractually require each person with whom it contracts to provide services on a project, to:*
 - 1. provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements of Texas Labor Code, Section*

- 401.011(44) for all of its employees providing services on the project, for the duration of the project;*
- 2. provide to the Contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;*
 - 3. provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;*
 - 4. obtain from each other person with whom it contracts, and provide to the Contractor:*
 - A. a certificate of coverage, prior to the other person beginning work on the project; and*
 - B. a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;*
 - 5. retain all required certificates of coverage on file for the duration of the project and for one year thereafter;*
 - 6. notify the governmental entity in writing by certified mail or personal delivery, within 10 calendar days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and*
 - 7. Contractually require each person with whom it contracts, to perform as required by paragraphs (a) - (g), with the certificates of coverage to be provided to the person for whom they are providing services.*
- x. By signing this contract, or providing, or causing to be provided a certificate of coverage, the Contractor is representing to the governmental entity that all employees of the Contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the Commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.*
- xi. The Contractor's failure to comply with any of these provisions is a breach of contract by the Contractor that entitles the governmental entity to declare*

the contract void if the Contractor does not remedy the breach within ten calendar days after receipt of notice of breach from the governmental entity.”

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

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

ARTICLE VI

6.01 Termination. At any time, the City may terminate the Agreement and each Service Order for convenience, in writing. At such time, the City shall notify Contractor, in writing, who shall cease work immediately. In the event the City terminates this Contract for convenience, the City shall pay Contractor for the services performed and expenses incurred through the date of termination.

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

ARTICLE VII

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

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

City:

City of College Station

Attn: Project Manager

P.O. Box 9960

College Station, Texas 77842

Contractor:

Firm: KERR SURVEYING

Address: 409 N TEXAS AVE

BRYAN, TX 77803

Phone: 979-268-3195

E-mail: nathan@kerrsurveying.net

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

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

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

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

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

7.08 Agreement. The parties acknowledge they have read, understood, and intend to be bound by the terms and conditions of this Contract.

7.09 Effective Date. This Contract goes into effect when duly approved by all the parties hereto.

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

C.# 24300034

Master Agreement Surveying Services

A20-000034

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7.11 Exhibits.

- A.** Contractor's Response to Request for Qualifications (RFQ)
- B.** Scope of Services: Surveying Requirements
- C.** Service Order
- D.** Fee Schedule
- E.** Certificates of Insurance

KERR SURVEYING, LLC

By: Nathan Kerr

Printed Name: Nathan Kerr

Title: Owner & President

Date: 10/27/2023

CITY OF COLLEGE STATION

By: _____

City Manager

Date: _____

APPROVED:

John A. Haislet

City Attorney

Date: 10/30/2023

Jim Costa

Assistant City Manager / CFO

Date: 10/30/2023

Exhibit “A”
Contractor’s Response to Request for Qualifications No. 23-081
Professional Surveying Services

Statement of Qualifications
RFQ No. 23-081
Professional Surveying Services
for the
City of College Station

KERR SURVEYING

Kerr Surveying, LLC | 409 N. Texas Ave., Bryan, TX 77803
Office: (979) 268-3195 | Web: www.kerrlandsurveying.com
TBPELS Firm No. 10018500



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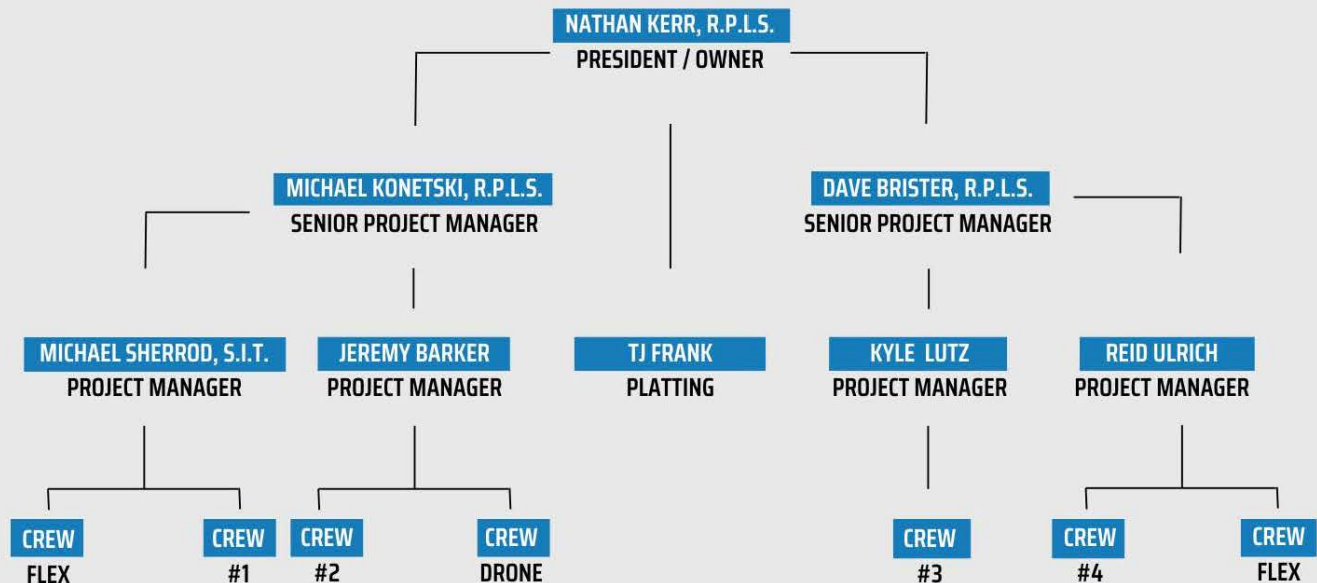
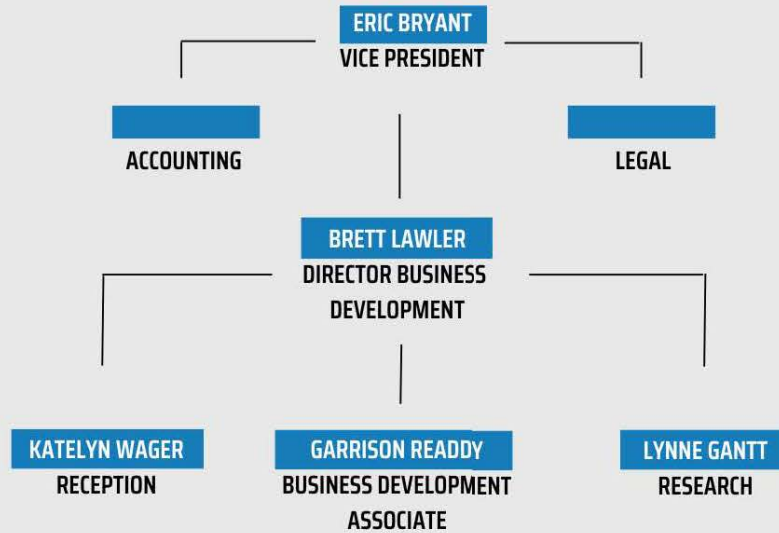
A. Firm Introduction

Founded in 1986 by Brad Kerr, Kerr Surveying has a rich and storied history serving and surveying the greater Brazos Valley, and more recently, all territories in the great State of Texas. Kerr's original office location was 505 Church Ave. in the historic Northgate District of College Station, TX. In 2011, as the business continued to grow and scale, Kerr Surveying moved to its current office location of 409 N. Texas Avenue, Bryan, TX. In 2020, following in his father's footsteps, Nathan Kerr purchased Kerr Surveying from his father, Brad Kerr. Over the last 3 years, Kerr Surveying has experienced exponential growth and expanded across the entire State of Texas.

Kerr Surveying, TBPELS Firm No. 10018500, is currently headquartered in the heart of Bryan Texas, employs a professional and skilled staff including three (3) Registered Professional Land Surveyors licensed and certified by the Texas Board of Professional Engineers and Land Surveyors, two (2) Surveyors in Training, four (4) Project Managers, seven (7) CAD Technicians, thirteen (13) Certified Survey Technicians and seven (7) Field Crews offering more than 150 years of combined surveying experience in the Brazos County and around Texas. With the latest Leica GNSS and robotic field equipment, up-to-date Leica Infinity and Carlson Survey OEM (CAD) software, other survey related programs, as well as a completely independent drone services division offering the latest in LiDAR and Photogrammetry, our staff has the ability to efficiently, effectively, and accurately survey any project to fit your needs and timeline.

KERR ORGANIZATIONAL CHART

SURVEYING



B. Management Competency & Qualifications



Nathan Paul Kerr, R.P.L.S. 6834

- (a) Nathan began his career in Professional Land Surveying in 2012 and earned a Bachelor of Science Degree in Industrial Technology with an Emphasis in Surveying and Mapping from University of Texas at Tyler in 2017. He became a licensed Registered Professional Land Surveyor in 2020 and since that time has managed projects spanning all surveying categories found in the Texas Society of Professional Surveyors Manual of Practice with a focus mainly in Brazos County.
- (b) Below are several examples of specific projects that fall within the purview of Professional Land Surveying completed by Nathan Kerr as the R.P.L.S and Project Manager.
- Topographic As-Built and Standard Land Survey for Mobile Avenue Drainage Project, Bryan, TX
 - Midtown Park Development which included boundary, right-of-way determinations/parcel descriptions, topographic, consulting, platting and construction staking. Bryan, TX
 - Lloyd Lane in northern Brazos County for right-of-way purchase from Brazos County, which included topographic surveying and boundary surveying for reconstruction. Brazos County, TX
 - Land Title Survey of a ~9,000-acre farm in Robertson County including the Gradient Boundary of the Brazos River as it applied to the farm. Robertson County, TX
 - Surveying services (platting, topographic, land title, elevation certificate) for a multitude of subdivisions within Brazos County including the Midtown Reserve, Southern Pointe, Castlegate 2, Traditions, Austin's Colony and Williams Creek Reserve
 - Surveying for ~2.4 mile topographic and boundary surveying for Bryan sewer line extension from Austin's Colony to the proposed Stella Ranch Subdivision development on FM 1179.
- (c) Bachelor of Science Degree in Industrial Technology with an Emphasis in Surveying and Mapping from University of Texas at Tyler
- (d) R.P.L.S. 6834, Kerr Surveying Principal, Owner, President, Sr. Project Manager, 2023 Vice President of the Brazos Valley Chapter of TSPS. R.P.L.S. license status is current and renews annually at the end of each calendar year.

**Michael Konetski, R.P.L.S. 6531**

- (a) Michael began his career in Professional Land Surveying in 2004 and earned a Bachelor of Science Degree in Industrial Technology from Millersville University, Pennsylvania in 2003. He became a Texas licensed Registered Professional Land Surveyor in 2014 and since that time has managed projects spanning all surveying categories found in the Texas Society of Professional Surveyors Manual of Practice with a focus mainly in Brazos County.
- (b) Below are 3 examples of specific projects that fall within the purview of Professional Land Surveying completed by Michael Konetski as the R.P.L.S and Project Manager.
- L8B & L8B South Atmos Energy Pipeline Relocation Projects, Brazos County TX
 - Work included boundary determination, easement work and topographic work along 8.5 and 4.5 mile long stretches of easement right of way. Easements were written to replace blanket easements spanning over rural properties, FM Roads and State rights-of-way.
 - Rellis Campus Texas A&M University System, Brazos County, TX
 - Infrastructure upgrade including topographic survey of the 2,200-acre campus site to upgrade and realign existing utilities located within existing right-of-ways.
 - Texas Avenue Overhead Electric Relocation, Brazos County, TX
 - Phase 1 and Phase 2 of surveying the state right of way through Downtown Bryan for the underground relocation of aerial electric lines. Created over 100 parcel maps with corresponding field notes for the acquisition of utility easements.
- (c) Bachelor of Science Degree in Industrial Technology from Millersville University, PA.
- (d) R.P.L.S. 6531, FAA Part 107 UAS Cert #3921903, Kerr Surveying Sr. Project Manager, Texas R.P.L.S. license status is current and renews annually at the end of each calendar year.

**David Brister, TX: R.P.L.S. 6537, AL: P.L.S 31566, MS: P.S. 3238, Sr. Project Manager**

- (a) David began his career in Professional Land Surveying in 2001 and earned a Bachelor of Science Degree in Geomatics with a Minor in Business from Troy University, AL. He received his Alabama Professional Land Surveyor license in 2010, his Mississippi Professional Surveyor license in 2012 and his Texas Registered Professional Land Surveyor license in 2014. Since receiving his first license, David has managed projects spanning all Professional Land surveying categories in Alabama, Mississippi and Texas.
- (b) Below are 3 examples of specific projects that fall within the purview of Professional Land Surveying completed by David Brister as the R.P.L.S and Project Manager.
- City of Pearland, TX Control Monument System
 - RPLS for setting 17 concrete monuments with brass caps covering the entirety of the City of Pearland, TX to FEMA standards. Monuments to be the control base for all survey, engineering, and construction projects within the City of Pearland. Project included coordinating with subs and City of Pearland, deciding location of the monuments for coverage, design of brass caps, creating and completing control monument data sheets.
 - Mykawa Road Widening, City of Pearland, TX
 - RPLS for 1.25 miles of roadway widening in the City of Pearland, TX. Project was a pass-through project for the City of Pearland with TxDOT funding. All project deliverables including control set up, control data sheets, topography, ROW sheets, and parcel takings for 37 parcels meeting TxDOT standards.
 - City of Auburn, AL Storm Drain Location and Inverts
 - PLS for the location, pipe description, and invert readings of storm drain system for 2.65 square miles in the city. Data was used to create a City owned GIS system showing location and condition of constructed storm utilities for engineering design and flood studies.
- (c) Bachelor of Science Degree in Geomatics with a Minor in Business from Troy University, AL
- (d) TX: R.P.L.S. 6537, AL: P.L.S 31566, MS: P.S. 3238, Kerr Surveying Sr. Project Manager, Texas and Mississippi license status is current and renews annually at the end of each calendar year and Alabama license status is current and renews bi-annually every other year in December.

C. Technical Adequacy of Personnel



Jeremy Barker, Project Manager, Lead Drafter, CAD Technician V

Began career at Kerr Surveying in 1999. 16 years of experience on CAD software at Kerr Surveying and 8 years in the field as a survey technician.



Michael Sherrod, S.I.T., C.S.T. Level I, Project Manager & CAD Technician III

Began survey career in 2019. Earned a Bachelor of Science Degree in Geographic Information Science and Technology with minors in Geology and Urban Planning from Texas A&M University in 2020.



Heather Sanders, S.I.T., CAD Technician I

Began survey career in 2015. Earned a Bachelor Degree in Civil Engineering with a minor in Construction Science from the University of Texas at Tyler.



Tatum J. Frank, Platting Coordinator, C.S.T. Level I, CAD Technician II

Began survey career in 2012. Earned a Bachelor of Science Degree in Geography with GIS Option and a minor in Spanish from Texas A&M University in 2015.



Reid Ulrich, Project Manager, C.S.T. Level I, CAD Technician II

Began survey career in 2019. Earned a Bachelor of Science Degree in Spatial Sciences from Texas A&M University in 2019.



Kyle Lutz, Project Manager, C.S.T. Level I, CAD Technician II

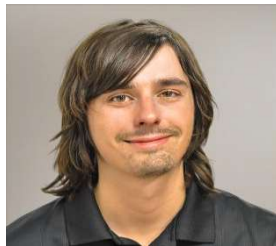
Began survey career in 2008. Earned a Bachelor of Science Degree in Geographic Information Systems with an emphasis in Geomatics from Texas A&M University at Corpus Christi in 2012.

**Wyatt Weston, Chief of Parties, C.S.T. Level I, Field Technician Level IV, CAD Technician I**

Began survey career in 2018. Extensive coursework in Applied Science in Surveying at Texas State Technical College.

**Justin Roberts, Crew Chief, Safety Specialist, C.S.T. Level I, Field Technician Level IV**

Began survey career in 2012. Certified in NCCER Site Layout Level I & II and ICTP Training. Developed the course work and was the sole instructor for the Land Surveying Training Program for Blinn Junior College/Texas A&M University at the Rellis Campus.

**Parker Thane, Crew Chief, C.S.T. Level II, Field Technician Level IV, FAA Part 107 UAS Cert #4425235**

Began career in 2018. Completed Blinn Junior College Land Surveying Training Program

**Michael Henry, Crew Chief & Drone Pilot, C.S.T. Level I, Field Technician Level III, FAA Part 107 UAS Cert #4824887**

Began career in 2021. Earned a Bachelor of Science Degree in Geographic Information Science and Technology with a Minor in Mathematics from Texas State University.

**Garrison Readdy, Business Development Associate, Flex Crew Chief, C.S.T. Level I, Field Technician Level IV, CAD Technician Level I**

Began career in 2016. Earned a Bachelor of Arts in Telecommunications from Georgia State University. Extensive Field Technician and Crew Chief experience in Georgia. Fundamentals in AutoCAD Certification.

D. Firm's Experience

1. Woodville Road Re-Construction, City of Bryan

- a) Project Description: As-Built, Topographic and Right-of-Way Survey of Woodville Road. Scope and Deliverables included:
- *Project Limits:*
 - *Woodville Road ROW (+10' either side)*
 - *ROW of all side streets & end streets (i.e. Texas Avenue & Old Hearne Road +10' either side and 200' in each direction)*
 - *Full ROW (limits of proposed LTL along FM 1375 + 100' in both directions)*
 - *Establish boundary of ROW – mark property corners – include all easements dedicated by plat*
 - *1' contours*
 - *spot elevations (as required)*
 - *topo approximately 200' upstream and downstream of creek crossings*
 - *Surface utilities located per 811 call (coordinated/ordered by Kerr – need to hammer and require this with the private utility companies)*
 - *5 Temporary Benchmarks (one at each end and three along the route)*
 - *Inverts & flowlines (grate inlets, sewer, storm sewer, culverts, etc...)*
 - *Fire hydrants, water valves or manholes located 100' to 200' feet beyond the project limits*
 - *Existing improvements (i.e. street signs, pavements, driveways, mailboxes, etc...)*
 - *Base Service - no tree surveying required*
- b) Team Leader: Sr. Project Manager Nathan Kerr, R.P.L.S. 6834; Project Manager Jeremy Barker
- c) Firm's Role: Kerr Surveying was engaged by RME Engineering to provide all Professional Land Surveying Services for this project.
- d) Project Cost: \$45,000.000
- e) Date of Completion: July 7th, 2023
- f) Agency Reference: Rabon Metcalf – 979-764-0704

2. Jones Road (College Station) Re-Construction and Right of Way Acquisitions, Brazos County

- a) Project Description: Right of Way determination of Jones Road from FM 60 to Turkey Creek. Created Right of Way Map of existing Right of Way, staked existing Right of Way on the ground and prepared multiple exhibits and descriptions for Right of Way Dedication. Scope and Deliverables included:
- 1 Standard ROW Map of Jones Road from FM 60 to Turkey Creek
 - 4 Exhibits and Metes and Bounds Descriptions as designated by Brazos County
 - Property Corners Marked on all parcels designated by Brazos County
 - ROW marked every 100' as Designated by Client (wooden laths)
 - Setting benchmarks approximately every 2000'
 - Locating, with elevation, Geotechnical 13 borings though out the project.
- b) Team Leader: Sr. Project Manager Michael Konetski, R.P.L.S. 6531; Project Manager Jeremy Barker
- c) Firm's Role: Kerr Surveying was engaged by the Brazos County Road & Bridge Department to provide all Professional Land Surveying Services for this project.
- d) Project Cost: \$25,075.00
- e) Date of Completion: July 20th, 2023
- f) Agency Reference: Darrell Kolwes with Brazos County Road & Bridge Dept. – 979-822-2127

3. Anderson Park Pickle Ball Courts, College Station

- a) Project Description: Topographic and As-Built Standard Land Survey of Anderson Park, College Station, for design purposes. Scope and Deliverables included:
- *1 Standard Land Survey Plat*
 - *included improvements*
 - *included minimal research on setbacks and easements*
 - *KS did not abstract this tract*
 - *Property Corners Marked*
 - *1' contours (NAVD88 datum)*
 - *25' spot elevation grid within clouded area shown on provided exhibit*
 - *Flowlines of Storm Inlet on Holleman Drive (includes flowline of open back)*
 - *Includes tie to the right-of-way of Village Street*
 - *Surface utilities located per 811 call (ordered by KS)*
 - *3 Temporary Benchmarks set near site for future construction use*
 - *Inverts and flow lines on manholes/grate inlets, pipes etc. (sanitary and storm)*
 - *Tree locations are not part of this scope*

- *Tie to City of College Station GPS Monument*
- b) Team Leader: Sr. Project Manager Nathan Kerr, R.P.L.S. 6834; Project Manager Jeremy Barker
- c) Firm's Role: Kerr Surveying was engaged by Mitchell & Morgan Engineering to provide all Professional Land Surveying Services for this project.
- d) Project Cost: \$4,800.00
- e) Date of Completion: June 20th, 2023
- f) Agency Reference: Kerry Pillow & Veronica Morgan, 979-260-6963

4. Longmire Dr. & Eagle Ave. Intersection, College Station

- a) Project Description: Topographic and As-Built Standard Land Survey of the Longmire Dr. and Eagle Ave. Intersection, College Station, for design purposes. Scope and Deliverables included:
 - *1' contours (NAVD88 datum)*
 - *all roadway striping on Longmire and Eagle (bike lanes, lane striping, crosswalk markings)*
 - *survey of all surface utility structures (storm, sanitary, water, etc.) as well as any utilities marked by franchise companies.*
 - *rim and flowline information for all storm and sanitary structures.*
 - *all other structures captured (sidewalks, light poles, etc.)*
 - *topographic and as-built data all the way up to the fence on the property lines (fences) on all corners of the intersection*
 - *survey will begin ±200' from the crosswalk striping on Longmire Dr and Eagle Ave in all directions.*
 - *3 Temporary Benchmarks set near site for future construction use*
 - *all trees within ROW will be located*

Also included determining property lines and ROW lines.

Deliverables included:

- *.dwg SURFACE file*
- *.txt/.csv for points*
- *.tin triangulation file*
- b) Team Leader: Sr. Project Manager Michael Konetski R.P.L.S. 6531; Project Manager Jeremy Barker
- c) Firm's Role: Kerr Surveying was engaged by Kimley Horn Engineering to provide all Professional Land Surveying Services for this project.
- d) Project Cost: \$9,000.00
- e) Date of Completion: April 20th, 2023
- f) Agency Reference: Annie Briscoe, 979-307-5031

5. TAMU Indoor Track, College Station

- a) Project Description: A preliminary check of the evenness of the recessed slab in existing cavity, layout and staking of the new indoor track during the construction of the Texas A&M Indoor Track Stadium. The indoor track, which was part of the Texas A&M Athletics Centennial Campaign, is the first of its kind in the United States and only the 4th constructed in the world. Work involved multiple methods of horizontal and vertical surveying to reach the required 2-millimeter tolerances which was necessary to construct the permanently bolted structure now housed in the Indoor Track Complex on Olsen Boulevard.
- b) Team Leader: Sr. Project Manager Michael Konetski R.P.L.S. 6531; Project Manager Michael Sherrod
- c) Firm's Role: Kerr Surveying was engaged by Geo Surfaces to provide all Professional Land Surveying Services and Staking for this project.
- d) Project Cost: \$8,550.00
- e) Date of Completion: May 18th, 2023
- f) Agency Reference: Ben Moran with GeoSurfaces, 225-315-1994

E. Firm's history of accuracy of cost estimates and ability to perform within budget constraintsSummaries of the budgets for the projects listed in Consideration Item (D):

- 1. Woodville Road, City of Bryan
 - a) Projected Cost Estimate: \$45,000.00
 - b) Actual Cost: \$45,000.00
 - c) Overage: 0%
- 2. Jones Road Re-Construction, Brazos County
 - a) Projected Cost Estimate: \$25,075.00
 - b) Actual Cost: \$25,075.00
 - c) Overage: 0%
- 3. Anderson Park, College Station
 - a) Projected Cost Estimate: \$4,800.00
 - b) Actual Cost: \$4,800.00
 - c) Overage: 0%
- 4. Longmire Dr. & Eagle Ave. Intersection, College Station
 - a) Projected Cost Estimate: \$9,000.00
 - b) Actual Cost: \$9,000.00
 - c) Overage: 0%

5. TAMU Indoor Track, College Station

- a) Projected Cost Estimate: \$8,550.00
- b) Actual Cost: \$8,550.00
- c) Overage: 0%

As detailed in the historical summaries above, Kerr Surveying has a proven track record of accurate cost estimates and budgetary constraints, and it begins with its custom and proprietary job management software which serves as a CRM and ERP. All pertinent client and job information is housed within the software. Then, the proposed/requested project scope is broken down into the necessary individual job tasks that will need to be completed in order to complete the project. Each job task is then evaluated to determine the length of time required to complete. From there, our software applies the job specific rates for each task to the proposed completion times which yields each job task estimate. The total project estimate is the combined total of each project specific job task. Each estimate provided by Kerr is backed by over 35 years of historical estimating and quoting data which yields highly accurate estimates. This approach provides both Kerr and their respective clients with clear and accurate costs for each phase of a project and provides their clients an opportunity to have a detailed and specific discussion regarding any budget constraints.

F. Firm's Workload Capacity and History of Performing Work within a Specified Schedule*Summaries of the budgets for the projects listed in Consideration Item (D):***1. Woodville Road, City of Bryan**

- a) Date Request Received: Most recent request for work received April 14th, 2023
- b) Scheduled Due Date: July 7th, 2023
- c) Actual Completion/Delivery Date: July 7th, 2023
- d) Over/Under in Days: 0

2. Jones Road Re-Construction, Brazos County

- a) Date Request Received: May 24th, 2023
- b) Scheduled Due Date: July 20th, 2023
- c) Actual Completion/Delivery Date: July 20th, 2023
- d) Over/Under in Days: 0

3. Anderson Park, College Station

- a) Date Request Received: April 24th, 2023
- b) Scheduled Due Date: May 17th, 2023

- c) Actual Completion/Delivery Date: May 17th, 2023
- d) Over/Under in Days: 0

4. Longmire Dr. & Eagle Ave. Intersection, College Station

- a) Date Request Received: March 27th, 2023
- b) Scheduled Due Date: April 13th, 2023
- c) Actual Completion/Delivery Date: April 20th, 2023
- d) Over/Under in Days: Over 7 days due to unprecedented rain in the month of April. According to KBTX “April 2023 was the 5th wettest April on record with Easterwood Airport recording 10 days of measurable rain for a total of 8.94” and the April 6th record of 3.02” was plenty to drown the day’s previous rainfall record from 1887 that sat untouched for 137 years.”

5. TAMU Indoor Track, College Station

- a) Date Request Received: April 21st, 2023
- b) Scheduled Due Date: May 17th, 2023
- c) Actual Completion/Delivery Date: May 18th, 2023
- d) Over/Under in Days: Over 1 day due to additional scope request from client.

- (a) As shown in the historical timeline summaries above, Kerr Surveying has the capabilities and proven track record to accomplish any and all professional surveying work required, both thoroughly and in a comprehensive manner. With a team comprised of 3 Registered Professional Land Surveyors, 2 Surveyors in Training, 4 Project Managers, 7 CAD Technicians, 13 Certified Survey Technicians and 7 Field Crews utilizing the latest Leica GNSS and robotic field equipment, and up-to-date Leica Infinity and Carlson Survey OEM (CAD) software as well as other survey related programs, our staff has the ability to efficiently, effectively and accurately survey any project to fit the required needs and timeline.

Kerr Surveying uses Leica Infinity and Carlson Survey OEM software which produces Auto-Cad 2021 electronic versions of deliverables. In addition to Auto-Cad software, Kerr manages all clients and projects within a proprietary and custom ERP management software which ensures both our clients and projects are well documented, tracked and managed through each stage of a project, and that deadlines are met. Within the software, a project is broken down into the necessary job tasks and both time and cost estimates are generated for each task. Once a proposal is accepted, the job is generated within the system, assigned the agreed upon due date and assigned to a Project Team consisting of a Sr. Project Manager (R.P.L.S.), a Project Manager, a field crew and an

additional flex field crew. From there, each job task is then assigned to its respective team member and assigned a completion date. These project dates, or milestones, all feed into the master calendar in an easily viewable matrix which allows for simple and transparent management of multiple projects and their respective milestones simultaneously. This software also allows Kerr to forecast and schedule the workload of each Sr. Project Manager, Project Manager, and field crew on an individual basis as well as each Project Team on a rolling 13-week outlook to ensure that all projects are delivered on time and at cost.

- (b) The only constant in life is change. With this in mind, Kerr Surveying has structured its Project Teams and workflows in such a manner so that when change occurs, especially with personnel, there is ample overflow and coverage across all departments. Through scheduled and reoccurring cross-training each position at Kerr Surveying has a knowledgeable and trained “understudy” that can step in to take over a job task or project should the need arise. As reflected on the ORG Chart, Kerr has 3 Registered Surveyors on staff providing ample bandwidth to handle the loss of a key team member without compromising quality, schedule, or budget constraints. Kerr also utilizes many “flex” roles to help with overflow. Each Sr. Project Manager and Project Manager has extensive field experience and has served as Chief of Parties at one point in their career, giving them the ability to schedule crews and flex in the field when needed. Kerr Surveying employs 2 dedicated Flex Field Crews which are at the disposal of each Project Team. The current Chief of Parties, a Business Development Associate and several Crew Chiefs are also proficient in Auto-CAD providing additional drafting bandwidth as well.

G. Firm's Proposed Approach to Projects

- (a) From cost estimating, work plan creation and delivery of the final product, each phase of work is closely monitored by the assigned Sr. Project Manager and Project Manager through Kerr's proprietary software. This system-based approach ensures that each project task is completed within its designated time frame and provides the Project Manager the ability to assign specific jobs tasks to the appropriate team member. It also provides the necessary visibility to identify a wide range of potential obstacles and make data-based decisions when finding the best possible solution. Most importantly, this approach allows Kerr Surveying to consistently produce the highest quality work in the most efficient timeframe.

In addition to the workflow processes which provide accurate cost estimates, completion timelines, staff redundancies and overlap, project visibility at every stage and early identification of potential obstacles, Kerr also utilizes a wide range of physical assets to tackle unforeseen challenges, especially in the field. Through the use of multiple field crews, multiple production PODs, multiple Registered Surveyors, off road vehicles, drones, boats, 7

sets of Leica GPS equipment, proprietary project management software and even a private GPS Network, Kerr Surveying has the assets to overcome any challenge in the field or office.

(b) Final products of Jones Road Reconstruction and Right-of-Way Acquisitions

**EXHIBIT "A"**

Sheet 1 of 3

**FIELD NOTES DESCRIPTION
OF A
0.199 ACRE TRACT
OUT OF A CALLED 5.822 ACRE TRACT
JOHN H. JONES LEAGUE SURVEY, ABSTRACT 26
BRAZOS COUNTY, TEXAS**

A FIELD NOTES DESCRIPTION OF 0.199 ACRES IN THE JOHN H. JONES LEAGUE SURVEY, ABSTRACT 26, IN BRAZOS COUNTY, TEXAS, BEING A PORTION OF A CALLED 5.822 ACRE TRACT OF LAND CONVEYED TO THOMAS E. WINSHIP AND WIFE, BARBARA J. WINSHIP IN VOLUME 2657, PAGE 226 OF THE OFFICIAL RECORDS OF BRAZOS COUNTY, TEXAS (ORBCT), SAID 5.822 ACRES BEING A PORTION OF THE RESERVE TRACT SHOWN ON THE PLAT OF CANYON CREEK FILED IN VOLUME 353, PAGE 109 OF THE DEED RECORDS OF BRAZOS COUNTY, TEXAS (ORBCT); SAID 0.199 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2 inch iron rod found on the east side of Jones Road, at the south corner of said 5.822 acre tract, from which a point in a curve on the west right-of-way line of Jones Road as established in Volume 1913, Page 202 (ORBCT) and re-filed in Volume 15211, Page 151 of the Official Public Records of Brazos County, Texas (OPRBCT) bears S 72° 29' 35" W, a distance of 91.87 feet and from said point a 1/2 inch iron rod with yellow plastic cap stamped 'STRONG RPLS 4961' found at the south end of said curve bears S 18° 54' 09" E, a chord distance of 114.10 feet and another 1/2 inch iron rod with yellow plastic cap stamped 'STRONG RPLS 4961' found at the north end of said curve bears N 13° 26' 20" W, a chord distance of 332.23 feet;

THENCE, with the west line of said 5.822 acre tract, the following three (3) courses and distances:

- 1) N 24° 03' 21" W**, a distance of **149.85 feet** to a point;
- 2) N 24° 45' 40" W**, a distance of **59.95 feet** to a 1/2 inch iron rod found;
- 3) N 02° 13' 50" E**, a distance of **200.28 feet** to a point at the northwest corner of said 5.822 acre tract;

THENCE, with the northwest line of said 5.822 acre tract, same being the northwest line of said Reserve Tract, **N 37° 49' 09" E**, for a distance of **0.78 feet** to a 1/2 inch iron rod with a blue plastic cap stamped 'KERR SURVEYING' set on the proposed east right-of-way line of Jones Road, for the northeast corner hereof, from which a 1/2 inch iron rod with yellow plastic cap stamped 'GOODWIN LASITER' found on the northwest line of said 5.822 acre tract bears N 37° 49' 09" E, a distance of 16.43 feet and also from said iron rod set, a 1/2 inch iron rod found on said line bears N 37° 49' 09" E, a distance of 415.07 feet;

THENCE, through said 5.822 acre tract, along the east line of the proposed 100' wide right-of-way for Jones Road, with a curve to the left, having a radius of **2,241.83 feet**, an arc length of **396.62 feet**, a delta angle of **10° 08' 12"**, and a chord

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EXHIBIT "A"**Sheet 2 of 3**

which bears **S 12° 22' 02" E**, a distance of **396.11 feet** to a point at the intersection of the southeast line of said 5.822 acre tract with the existing east right-of-way line of Jones Road established in Volume 1913, Page 204 (ORBCT), same being the west corner of the remainder of a called 2.00 acre tract of land conveyed to Christopher Michael Hodges and Jodiann Hodges in Volume 17154, Page 17 (OPRBCT) and the southeast corner hereof, from which a 1/2 inch iron rod found bears **S 57° 37' 44" E**, a distance of 0.33 feet and also from said point, a 5/8 inch iron rod found at the common corner of said 5.822 acre tract and said remainder of 2.00 acre tract bears **N 53° 36' 12" E**, a distance of 415.60 feet;

THENCE, with the southeast line of said 5.822 acre tract, **S 53° 36' 12" W**, for a distance of **8.60 feet** to the **POINT OF BEGINNING** hereof and containing **0.199 of an acre (~8,672 Square Feet)**, more or less.

Surveyed on the ground August 2022 under my supervision. See plat prepared September 2022 for other information. The bearing basis for this survey is based on the Texas State Plane Coordinate System of 1983 (NAD83), Central Zone, Grid North as established from GPS observation using the Leica Smartnet NAD83 (NA2011) Epoch 2010 Multi-year CORS Solution 2 (MYCS2). Distances described herein are surface distances. To obtain grid distances (not grid areas) divide by a combined scale factor of 1.00010246501640 (calculated using GEOID12B). Reference drawing: 22-740-Boundary-S.



9/8/22

Michael Konetski

Registered Professional Land Surveyor No. 6531

**KERR
SURVEYING**

Kerr Surveying, LLC | 409 N. Texas Ave. Bryan, TX 77803

Office: (979) 268-3195 | Web: www.kerrlandsurveying.comSurveys@kerrsurveying.net | TBPELS Firm No. 10018500



Exhibit A
Sheet 1 of 3

FIELD NOTES DESCRIPTION
OF A
0.378 ACRE TRACT
OUT OF THE REMAINDER OF A CALLED 35.9004 ACRE TRACT
JOHN H. JONES LEAGUE SURVEY, ABSTRACT 26
BRAZOS COUNTY, TEXAS

A FIELD NOTES DESCRIPTION OF 0.378 ACRES IN THE JOHN H. JONES LEAGUE SURVEY, ABSTRACT 26, IN BRAZOS COUNTY, TEXAS, BEING A PORTION OF THE REMAINDER OF A CALLED 35.9004 ACRE TRACT OF LAND CONVEYED TO MARTHA ANN WILLIAMS IN VOLUME 4464, PAGE 185 OF THE OFFICAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS (OPRBCT); SAID 0.378 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2 inch iron rod with blue plastic cap stamped 'KERR SURVEYING' found on the northeast side of Jones Road, in the south line of said Williams tract, at the west corner of Lot 1R-1 of Aggieland Business Park 2, filed in Volume 18152, Page 264 (OPRBCT), from which a 1/2 inch iron rod found at a common corner of said Williams tract and said Lot 1R-1 bears N 40° 40' 09" E, a distance of 497.15 feet;

THENCE, with the south line of said Williams tract, S 40° 40' 09" W, for a distance of **12.18 feet** to a point for the southwest corner of said Williams tract, from which a 1/2 inch iron rod found bears N 40° 40' 09" E, a distance of 0.54 feet;

THENCE, with the southwest line of said Williams tract, along the existing northeast line of Jones Road, N 47° 25' 37" W, for a distance of **1,008.32 feet** to a 1/2 inch iron rod found at the west corner of said Williams tract;

THENCE, with the northwest line of said Williams tract, N 42° 38' 58" E, for a distance of **20.45 feet** to a 3/8 inch iron rod found at the south corner of a called 196.829 acre tract of land conveyed to Bryan Business Council, Inc. in Volume 17381, Page 11 (OPRBCT), same being the east corner of a tract of land conveyed to Brazos County for right-of-way in Volume 1913, Page 210 of the Official Records of Brazos County, Texas (ORBCT) and re-filed in Volume 15211, Page 161 (OPRBCT), from which a 1/2 inch iron rod found bent at the north corner of said Williams tract bears N 42° 38' 58" E, a distance of 1,031.23 feet;

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Exhibit A
Sheet 2 of 3

THENCE, through said Williams tract, with the proposed northeast line of Jones Road, **S 46° 57' 23" E**, for a distance of **1,007.93 feet** to the **POINT OF BEGINNING** hereof and containing **0.378 of an acre (~16,442 Square Feet)**, more or less.

Surveyed on the ground September 2022 under my supervision. See plat prepared September 2022 for other information. The bearing basis for this survey is based on the Texas State Plane Coordinate System of 1983 (NAD83), Central Zone, Grid North as established from GPS observation using the Leica Smartnet NAD83 (NA2011) Epoch 2010 Multi-year CORS Solution 2 (MYCS2). Distances described herein are surface distances. To obtain grid distances (not grid areas) divide by a combined scale factor of 1.00010246501640 (calculated using GEOID12B). Reference drawing: 22-740A-Boundary.



Michael Konetski 9/22/22

Michael Konetski

Registered Professional Land Surveyor No. 6531

KERR
SURVEYING

Kerr Surveying, LLC | 409 N. Texas Ave. Bryan, TX 77803

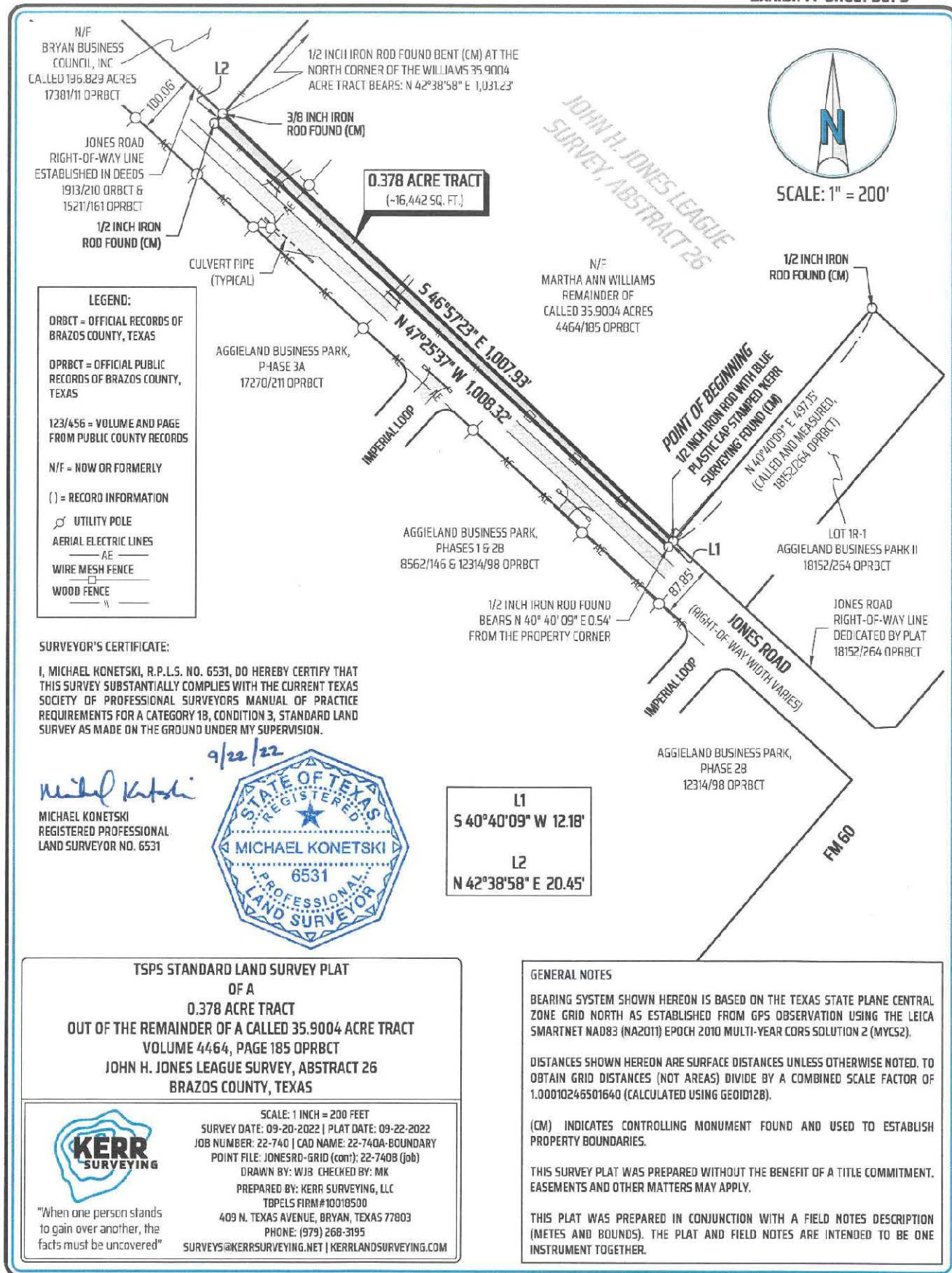
Office: (979) 268-3195 | Web: www.kerrlandsurveying.com

Surveys@kerrsurveying.net | TBPELS Firm No. 10018500

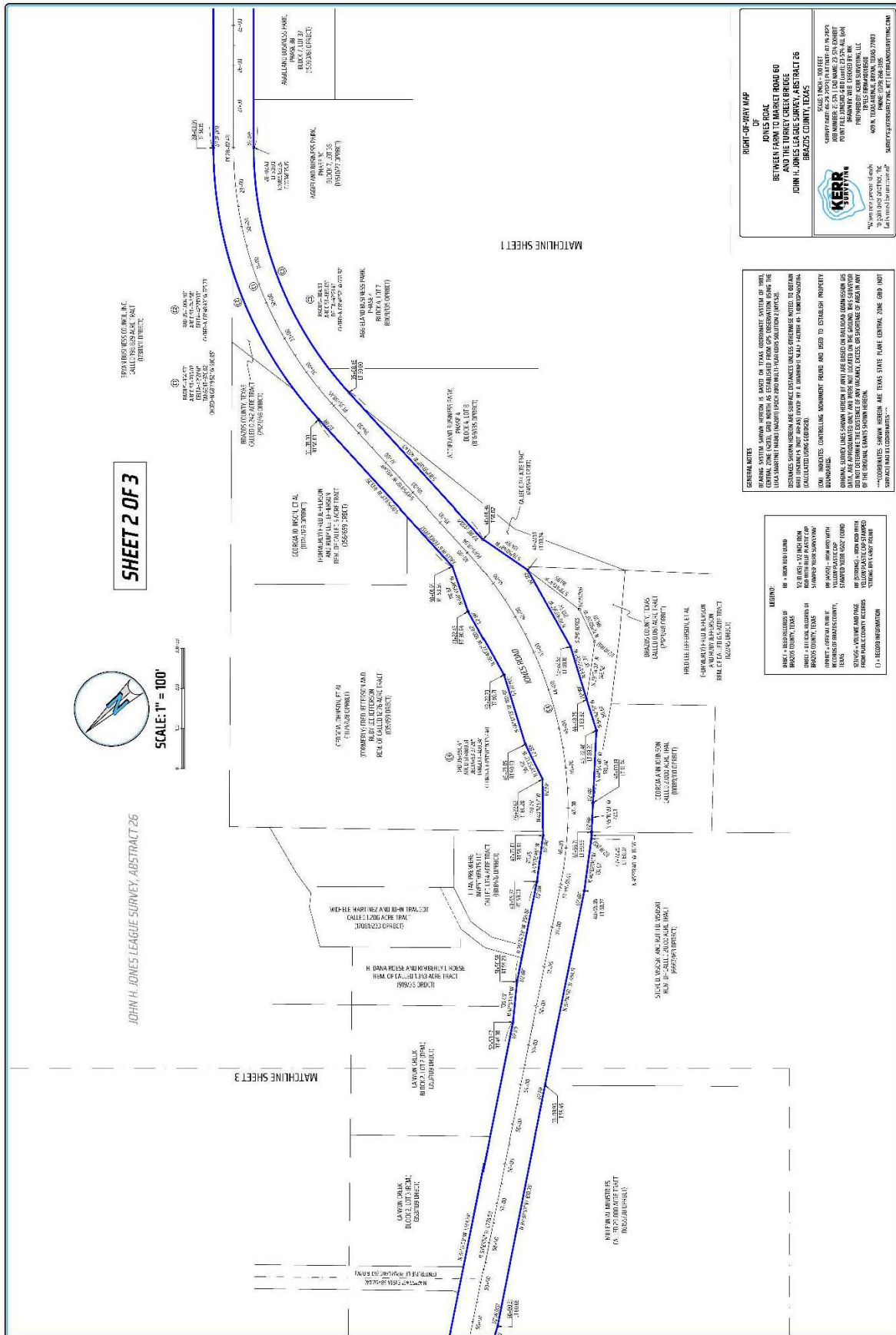
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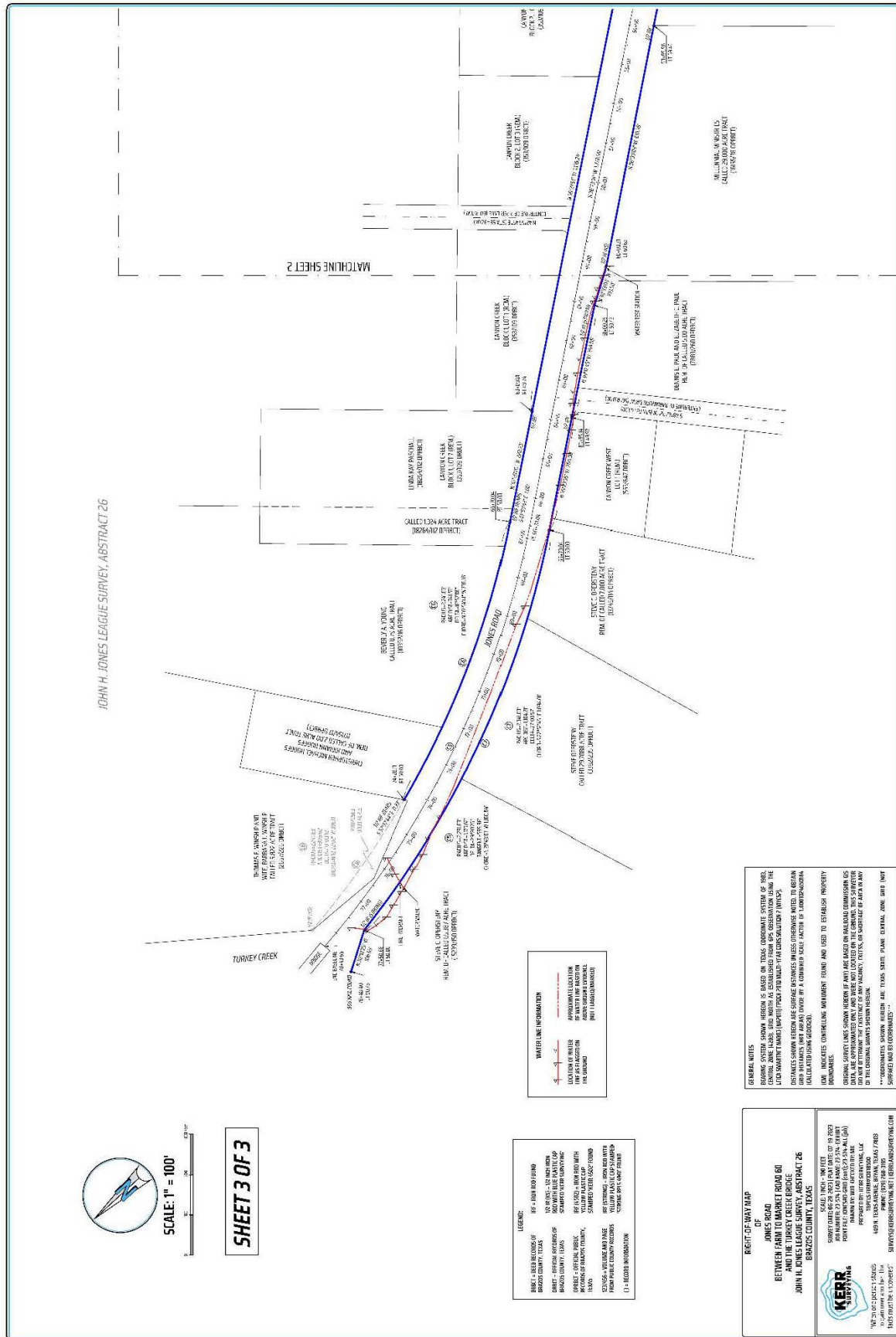
2 | Page

Exhibit A Sheet 3 of 3



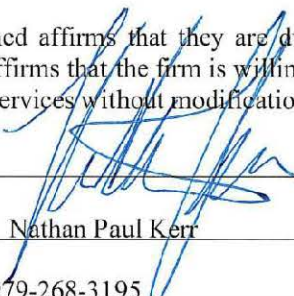






CERTIFICATION

The undersigned affirms that they are duly authorized and qualified to submit this SOQ. The undersigned affirms that the firm is willing to sign the enclosed Standard Form of Agreement for Professional Services without modification.

Signed By:  Title: Owner & President

Typed Name: Nathan Paul Kerr Company Name: Kerr Surveying

Phone No.: 979-268-3195 Fax No.: _____

Email: nathan@kerrsurveying.net

Bid Address: 409 N Texas Ave Bryan TX 77803
P.O. Box or Street City State Zip

Order Address: 409 N Texas Ave Bryan TX 77803
P.O. Box or Street City State Zip

Remit Address: 409 N Texas Ave Bryan TX 77803
P.O. Box or Street City State Zip

Federal Tax ID No.: 92-0186874

DUNS No.: N/A

Date: 7/27/2023

Number of Addenda Acknowledged: 0

END OF RFQ NO. 23-081

*****DO NOT MODIFY THIS FORM*****

Exhibit “B”
Scope of Services: Surveying Requirements

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

**CITY OF COLLEGE STATION
SURVEYING REQUIREMENTS FOR LAND ACQUISITION
(AND OTHER CITY PROJECTS)**

Prepared by: Mark McAuliffe, Land Agent, on May 28, 2010
Revised by: Ashley Dorsett, Land Agent, on February 13, 2020

These requirements were developed with the help and guidance of Henry Mayo, RPLS and his father, David Mayo, RPLS. In addition, much of the information was obtained from the document entitled TxDOT Survey Manual (effective April, 1 2016) Chapter 5: Right-of-Way Surveying, prepared by the Texas Department of Transportation's Right-of-Way Division.

The general requirements below shall also apply to any survey work obtained by the City that may not be part of a typical City "project" or may not consist of right-of-way and/or easement acquisition. If a Land Agent is not associated with a particular project, then the Land Agent duties stated below shall fall upon the City's Project Manager.

Defining Project Limits

For a typical City project, the Design Engineer, at the direction of the City Project Manager, shall determine the right-of-way ("ROW") and easements needed to complete the project during the conceptual design. The Project Manager shall be responsible for the preparation and delivery of a general map that depicts and describes all property needed to the City Land Agent. The map should include any fee simple ROW, public utility easements, public access easements, public drainage easements and/or temporary construction easements that will be needed for the project.

If a Needs Resolution is required, then the Land Agent will prepare a final map and narrative legal descriptions for the needed parcels. These will be submitted for approval to the City's Legal Department, and later to City Council, as part of the Needs Resolution.

In an effort to ensure that the property needs are agreed upon before being finalized, the map and property descriptions should be discussed in a meeting with all associated City employees and the Legal Department, per the City's Land Acquisition Process. Final approval of the survey work should be memorialized in writing or with a signed title sheet as described later in this document. Written approval should include the Design Engineer, the client department, including the Director, Assistant Director and Project Manager, and, if the project is a Capital Improvement Project ("CIP"), the CIP Director, Assistant Director and Project Manager.

Right-of-Entry from Landowners

Landowners are entitled to privacy on their lands, therefore entry by persons without permission may be considered trespass. It is the responsibility of the Surveyor to obtain permission from landowners before entry. Written permission is preferred and, upon request, the City may provide a standard "Right-of-Entry" form. In the event that written approval for entry is not secured, then verbal permission is acceptable. The Surveyor must note the date, time and name of person granting permission to enter the property.

In the event that entry is denied, it is suggested that the Surveyor perform work from the right-of-way, and adjoining tracts if possible. If the Surveyor still needs to enter the property, then the Surveyor shall advise the Project Manager and/or Land Agent.

Surveyor Qualifications

All surveying must be completed under the supervision of a Registered Professional Land Surveyor and must conform to industry standards and applicable laws, including the Professional Land Surveying Act. All deliverables shall be signed, sealed and dated by an RPLS.

Coordinate System

All projects must be tied to a City of College Station GPS control monument (or Bryan or Brazos County control monument, if applicable), and must use the Texas State Plane Coordinate System Zone 3, Zone 5376, FIPS 4203, TX-Central with Central Zone NAD83 (CORS) datum. The projects must also be located relative to adjoining tracts.

Additional Requirements

The format and content of all survey work for right-of-way and easements shall follow the below requirements, as well as the guidelines described in the previously mentioned Texas Department of Transportation manual, and should also be similar to the attached example. For cases in which the Surveyor believes that the requirements do not apply to a particular assignment, then the Surveyor must obtain written approval from the Project Manager.

The Design Engineer or Surveyor shall coordinate with the Project Manager and Land Agent to obtain the necessary title work.

General:

- Permanent markers should be set for corners of ROW parcels
- Property corners, monuments and other survey markers should be located, identified and noted on the parcel plats
- Boundary discrepancies, survey problems, etc. should be noted on the parcel plats
- Title sources for ROW adjacent and/or crossing the parcels should be stated on the parcel plats
- Total area of ROW and/or easements should be calculated in square footage and acreage
- A title sheet shall be included naming the project, stating the metadata and allowing for approval as described above
- A ROW map shall be included as a graphic index map showing the surveyed parcels in relation to adjacent roadways
- Draft survey work should be submitted for review and comments, and titled "Preliminary"
- The Land Agent and/or Project Manager shall review ownership, survey markers, property lines, calls, closure, etc.
- The Surveyor shall make any necessary revisions before submitting the final survey work

Conflicting Easements:

- Parcel plats shall depict the location of all existing easements within or crossing the proposed ROW or easement, including all easements referenced on Schedule B of the provided title work
- If an easement stated on Schedule B does not affect the proposed ROW or easement, then a comment shall be made in the notes on the parcel plats
- Blanket type easements shall be noted on the parcel plats and shall describe whether utilities or facilities are located within the part to be acquired

Encroachments, Improvements and Utilities:

- Parcel plats shall depict all driveways, streets, alleys, highways, etc.
- Parcel plats shall depict all improvements including buildings, fences, etc.
- Parcel plats shall depict, in detail, all improvements to be bisected by the proposed ROW or easement or to be located within 50 feet of the proposed ROW or easement
- Parcel plats shall depict the location of all above ground utility facilities, including poles, guy wires, vent pipes, etc.
- Underground utilities shall be noted on the parcel plats if their location is identifiable, or if this is requested by the Project Manager for project purposes

Sizing:

- Survey work should include the following (to the best fit):
 - Title sheet with signature lines for approval
 - Overall ROW map – 8 ½" x 11", 11" x 17" or larger (ensure legible text)
 - Metes and bounds descriptions – 8 ½" x 11"
 - Parcel plats – 8 ½" x 11" (ensure legible text)

Headings and Descriptions:

- Refrain from placing the following text in headings:
 - "Exhibit A" or "Exhibit B" (often Exhibit A becomes Exhibit B, and vice versa)
- Refrain from using the following descriptions:
 - "ROW Dedication" (often ROW is purchased, not dedicated)
 - "Water Line Easement" or "Sanitary Sewer Easement" (use only "Easement" as uses may be stricken from the actual conveyance document)

Delivery Method:

- Printed
 - Three sets of original paper documents (upon request)
- Electronic
 - pdf format (or similar "locked" format)
 - AutoCAD in .DWG format
 - Uploaded to ftp site (upon request)

Attachments

As stated above, the attached example should also be used as a general guide when preparing right-of-way and easement survey work for the City of College Station.



CITY OF COLLEGE STATION
Public Works Department

**PROPOSED RIGHT-OF-WAY PARCEL
AND EASEMENT TRACT**

Naboo Street Rehaul
Project no. ST13915

Survey Date: June 2814

KENOBI SURVEYING
Honorable Service since 2715
Tosche Station, Tatooine
A8-G290-HPM5045

RECOMMENDED FOR ACQUISITION

Project Manager – City

Date

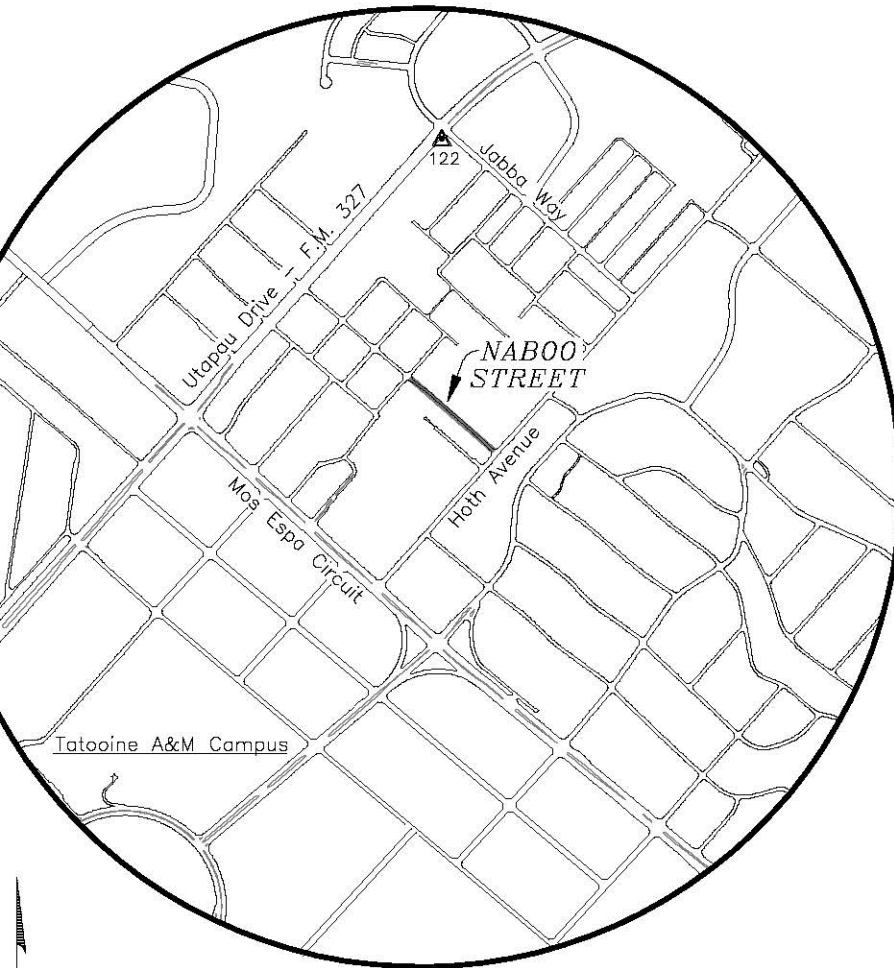
Project Manager – Design Firm

Date

APPROVAL

Director of Public Works

Date



Vicinity Map

0 1/4 1/2 Mile

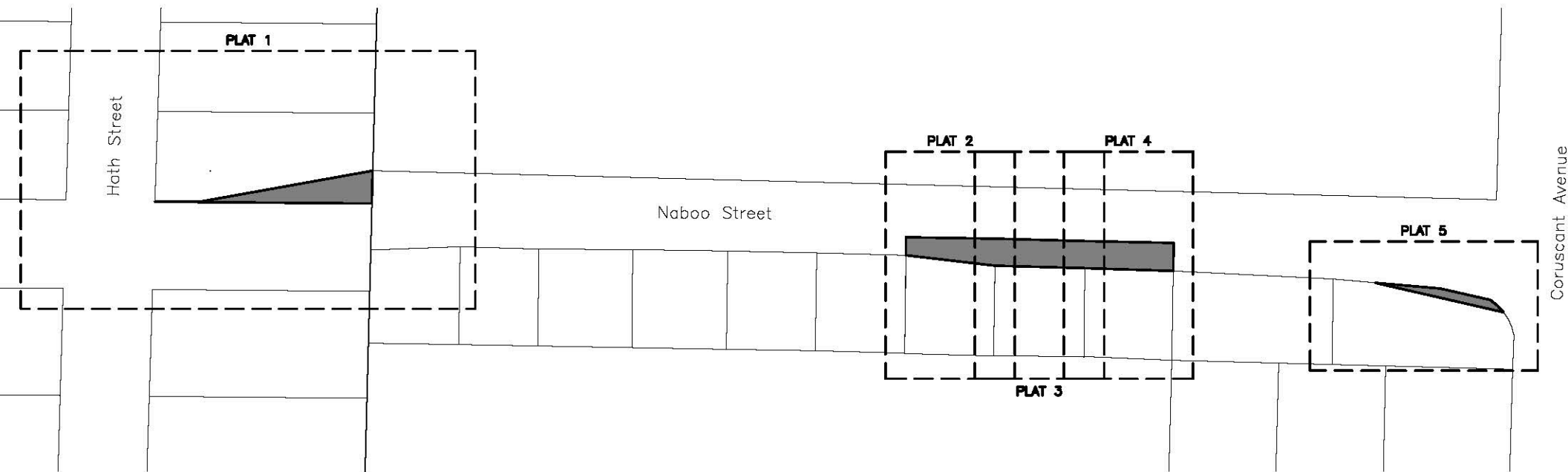
△ – denotes City of College Station
GPS Control Monument

Bearings are State Plane, Central
Zone NAD83(CORS) datum, based on
City of CS GPS control monuments
no. 122 and no. 1 (S 4°47'50" W).

1 – N 30°35'51.09963" / W 96°20'02.54418"
122 – N 30°37'58.39917" / W 96°19'44.84158"

INDEX OF SHEETS

PLAT NO.	DESCRIPTION
1	Lot 7, Block H – Death Star Subd.
2	Ackbar tract – 818 Naboo Street
3	Hett tract – 820 Naboo Street
4	Grevious tract – 822 Naboo Street
5	Lot 6–11 – 828 Naboo Street



July 2814



OBI-WAN B. KENOBI
11380
LAND PROFESSIONAL SURVEYOR

0 5 10 20 40 Ft

Bearings are State Plane, Central Zone NAD83(CORS) datum, based on City of CS GPS control monuments no. 122 and no. 1 (S 4°47'50"W).

All existing utility lines and some existing easements may not shown.

Iron rods set have orange plastic caps stamped "OB KENOBI RPLS 11380".

See separate metes and bounds description prepared with this plat.

Legend

- building wall
- pavement edge
- chain-link fence
- wood fence

Hoth Street

50' right-of-way (plat)
 asphalt pavement

Naboo Street

50' right-of-way (plat)
 asphalt pavement

Proposed Right-of-Way Parcel
 897 sq. ft.

— record owner —

Boba M. Fett

Lot 7 and Adjacent 15' of Lot 6
 vol. 285, pg. 213
 vol. 584, pg. 635

one-story home
 400 Hoth

Death Star Subdivision
 vol. 126, pg. 133
 (renamed—vol. 135, pg. 321)

Lot 7

Block H

Lot 6

Survey Note:
 City of CS GPS mon. no. 122
 bears N 3°16'36"E 1702.2' from
 Point of Beginning (P.O.B.)

P.O.B. 6' Utility Easement (plat note)

5' Public Utility Easement (plat)

concrete driveway

nail in asphalt found in 2800

R.O.W. dedication vol. 9912, pg. 22 (plat)
 Lot 6
 R.O.W. parcel - vol. 269, pg. 180

R.O.W. dedication vol. 516, pg. 717 (plat)
 1/2" IR found in concrete
 1/2" IR/cap set Lot 2 corner

10' Utility Easement (plat)

concrete parking lot

Lot 2

Part of Lots 7,8,9 & 10
 Sith Subdivision
 vol. 516, pg. 717

Lot 6-1
 Sith Subdivision
 vol. 9912, pg. 22

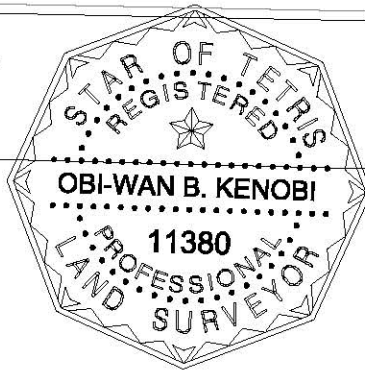
original lot line
 Sith Subdivision
 vol. 49, pg. 106

Proposed Right-of-Way Parcel
Naboo Street

concrete parking lot

0 2 5 10 20 Ft

10' Utility Easement
(plat)



Bearings are State Plane, Central Zone NAD83(CORS) datum, based on City of CS GPS control monuments no. 122 and no. 1 (S 4°47'50"W).

All existing utility lines and some existing easements may not shown.

See separate metes and bounds description prepared with this plat.

Legend

- building wall
- pavement edge
- chain-link fence
- wood fence

Survey Note:
City of CS GPS mon. no. 122
bears N 4°15'38"W 1958.7' from
Point of Beginning (P.O.B.)

Blanket Easement Note:

The powerline easement to the City of Bryn recorded in vol. 2504, pg. 302 may affect this tract, but its location is not described and no BTU powerline is present on this property.

Naboo Street

variable-width right-of-way
asphalt pavement

10' Access
Easement (private)
vol. 119, pg. 272

N 48°37'35"W-350.0'
to Lot 6/7 corner

P.O.B.

Proposed
Right-of-Way Parcel
634 sq. ft.*

N 43°18'24"W - 50.46'

concrete walk & porch

concrete
driveway

*Prescriptive Right-of-Way Note:
555 sq. ft. of area within this proposed
R.O.W. parcel is covered by the current
pavement of Naboo Street.

5' Sewer Easement (private)
vol. 2750, pg. 1

note: This instrument also grants
an easement for a gas line, but
its location is not clearly defined.

Admiral Ackbar
0.075 ac. (third tract)
Vol. 1846, Pg. 149

one-story, brick home on slab
818 Naboo

Lot 6

Sith Subdivision
vol. 49, pg. 106

concrete
driveway

Rancor LLC
0.0579 ac.
vol. 9814, pg. 53

5' P.U.E.
(plat)

1/2" IR/cap found
*SOLO 32201"

5/8" IR/cap found
*NIHILUS RPLS 65090"

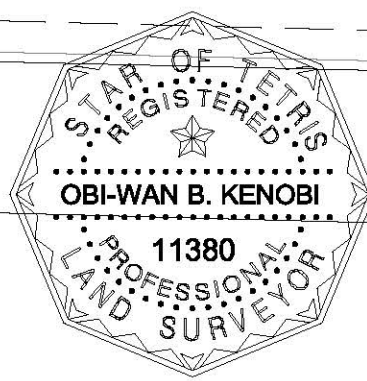
Proposed Right-of-Way Parcel
Ackbar Tract - 818 Naboo Street



Bearings are State Plane, Central Zone NAD83(CORS) datum, based on City of CS GPS control monuments no. 122 and no. 1 (S 4°47'50"W).

All existing utility lines and some existing easements may not shown.

See separate metes and bounds description prepared with this plat.



10' Utility Easement (plat)

existing
20' R.O.W. dedication
vol. 516, pg. 717 (plat)

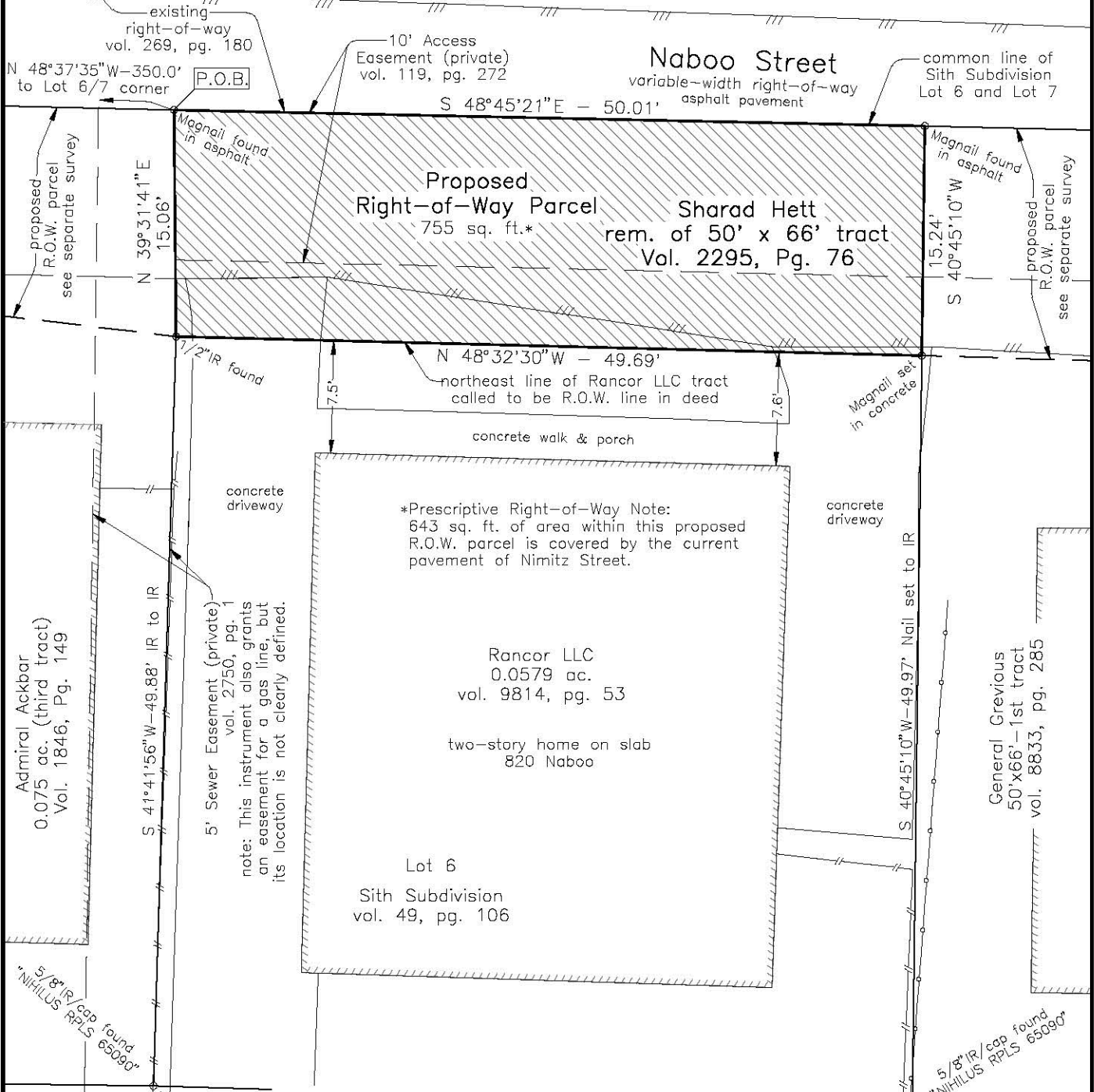
Blanket Easement Note:

The powerline easement to the City of Bryn recorded in vol. 2504, pg. 302 may affect this tract, but its location is not described and no BTU powerline is present on this property.

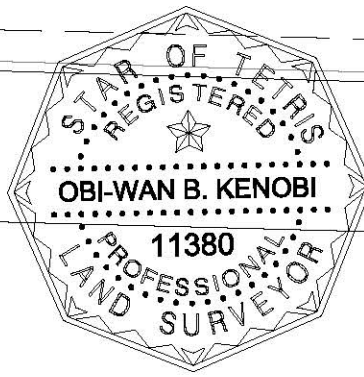
Survey Note:
City of CS GPS mon. no. 122 bears N 4°15'38"W 1958.7' from Point of Beginning (P.O.B.)

Legend

- building wall
- pavement edge
- chain-link fence
- wood fence



Proposed Right-of-Way Parcel
Remainder of Sharad Hett Tract



Bearings are State Plane, Central Zone NAD83(CORS) datum, based on City of CS GPS control monuments no. 122 and no. 1 (S 4°47'50"W).

All existing utility lines and some existing easements may not shown.

See separate metes and bounds description prepared with this plat.

10' Utility Easement (plat)

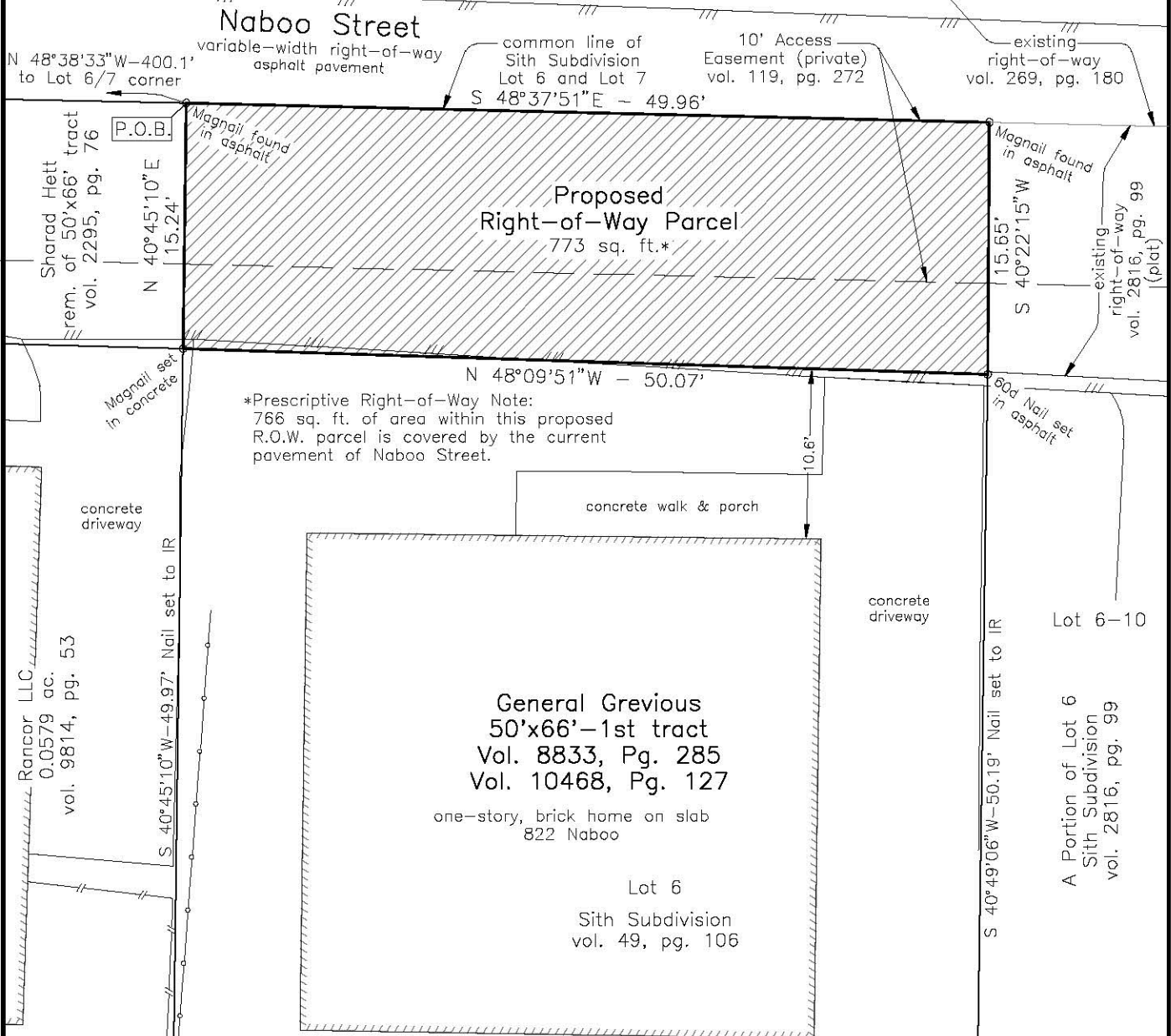
existing
20' R.O.W. dedication
vol. 516, pg. 717 (plat)

Blanket Easement Note:
The powerline easement to the City of Bryn recorded in vol. 2504, pg. 302 may affect this tract, but its location is not described and no BTU powerline is present on this property.

Survey Note:
City of CS GPS mon. no. 122
bears N 5°16'03"W 1994.7' from
Point of Beginning (P.O.B.)

Legend

- building wall
- pavement edge
- chain-link fence
- wood fence



Proposed Right-of-Way Parcel
Greivous Tract - 822 Naboo Street

ent Note:
easement to the City of Bryn
l. 2504, pg. 302 may affect this
ocation is not described and no
is present on this property.

o. commitment
60 (June 30, 2814)
n for easement
rch for this survey.

Survey Note:
City of CS GPS mon. no. 122
bears N 7°54'40"W 2129.5' from
Point of Beginning (P.O.B.)

common line of Sith Subdivision Lot 6 and Lot 7 (vol. 49, pg. 106)

10' Access
Easement (private)
vol. 119, pg. 272

Naboo Street
variable-width right-of-way
asphalt pavement

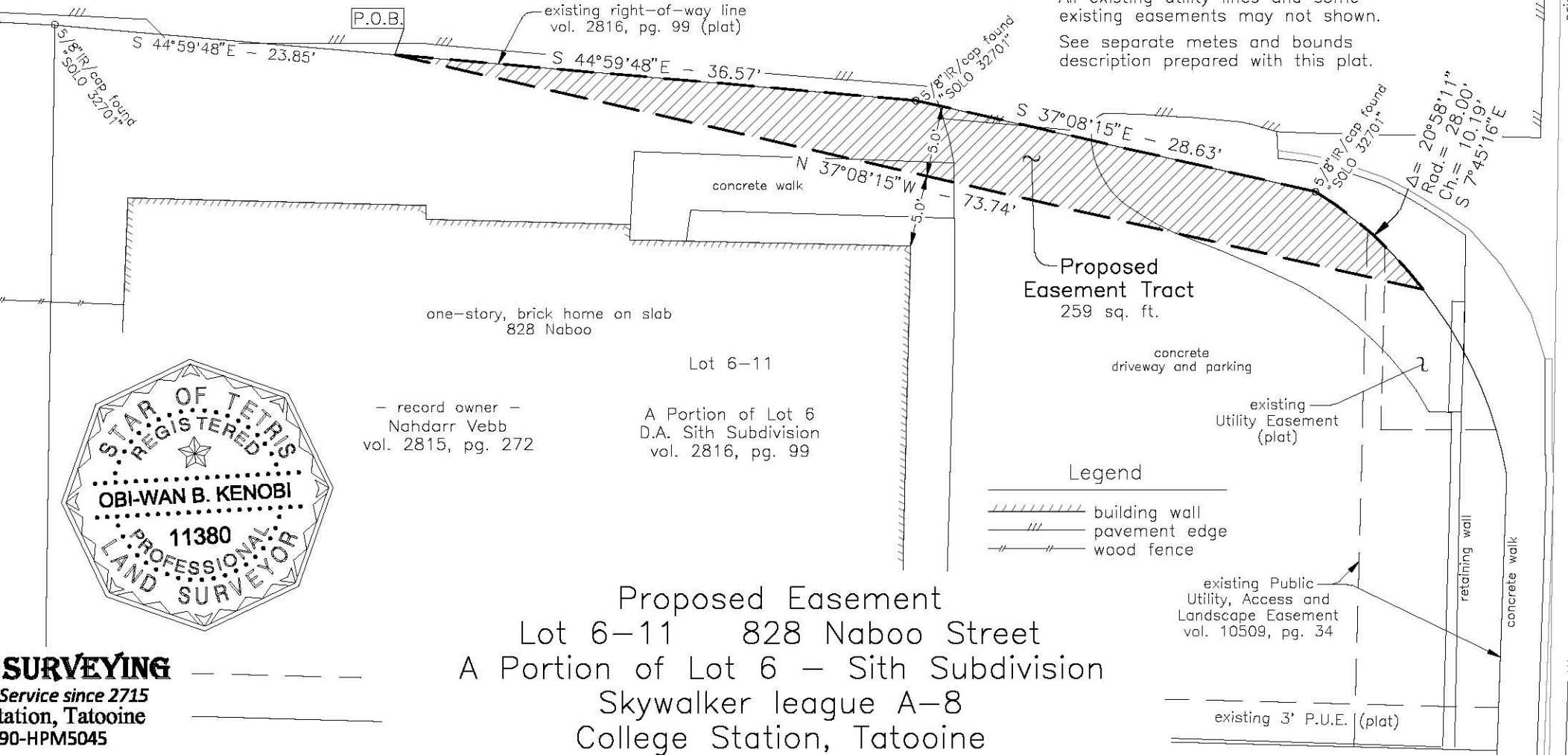
July 2814

0 2 5 10 20 Ft

Bearings are State Plane, Central
Zone NAD83(CORS) datum, based on
City of CS GPS control monuments
no. 122 and no. 1 (S 4°47'50"W).

All existing utility lines and some
existing easements may not shown.

See separate metes and bounds
description prepared with this plat.



Proposed Easement
Lot 6-11 828 Naboo Street
A Portion of Lot 6 – Sith Subdivision
Skywalker league A-8
College Station, Tatooine

KENOBI SURVEYING

Honorable Service Since 2715

Tosche Station, Tatooine

A8-G290-HPM5045

Proposed Naboo Street Easement Tract
Lot 6-11, A Portion of Lot 6, Sith Subdivision
Luke Skywalker league A-8
College Station, Texas
31 July 2814

All of that certain tract or parcel of land lying and being situated in the Luke Skywalker league, abstract no. 8, in College Station, Brazos County, Texas, being part of Lot 6-11 of A Portion of Lot 6, Sith Subdivision as described by plat recorded in volume 2816, page 99 of the Official Public Records of Brazos County, Texas, being a tract of land contiguous with the northeast boundary of Lot 6-11, which is also the southwest right-of-way line of Naboo Street, and being more particularly described as follows:

Beginning at a point in the northeast line of said Lot 6-11 and southwest line of Naboo Street, from where a 5/8" iron rod with a yellow plastic cap stamped "SOLO 32701" was found at the north common corner of Lot 6-10 and Lot 6-11 bears N 44° 59' 48" W – 23.85 feet, and from where the City of College Station GPS control monument no. 122 bears N 7° 54' 40" W – 2129.5 feet.

Thence S 44° 59' 48" E – 36.57 feet, along said common Lot and right-of-way line, to a 5/8" iron rod with a yellow plastic cap stamped "SOLO 32701" found at an angle point in said line;

Thence S 37° 08' 15" E – 28.63 feet, continuing along said common Lot and right-of-way line, to another 5/8" iron rod with a yellow plastic cap stamped "SOLO 32701" found at an angle point in said line;

Thence continuing along the northeast boundary of Lot 6-11, along a curve to the right with a radius of 28.00 feet, a central angle of 20° 58' 11" and a chord of S 7° 45' 16" E – 10.19 feet, to the most southerly corner of this easement tract;

Thence N 37° 08' 15" W – 73.74 feet, through Lot 6-11 to the Point of Beginning and containing 259 square feet of land more or less.

Bearings are Texas State Plane, Central Zone NAD83 (CORS) datum, based on City of College Station GPS monuments no. 122 and no. 1 (S 4° 47' 50" W).

See survey plat dated July 2814.

KENOBI SURVEYING*Honorable Service Since 2715*

Tosche Station, Tatooine

A8-G290-HPM5045

Proposed Naboo St. R.O.W. Parcel
 Ackbar Tract – Part of Sith Lot 6
 Luke Skywalker league A-8
 College Station, Texas
 3 June 2814

All of that certain tract or parcel of land lying and being situated in the Luke Skywalker league, abstract no. 8, in College Station, Brazos County, Texas, being part of Lot 6 of the Sith Subdivision as described by plat recorded in volume 49, page 106 of the Deed Records of Brazos County, Texas, being a tract of land mostly within the existing pavement of Naboo Street and being part of that 0.075 acre (third) tract described in deed to Admiral Ackbar recorded in volume 1846, page 149 of the Official Public Records of Brazos County, Texas, and being more particularly described as follows:

Beginning at a Magnail found in asphalt at the east corner of said Ackbar tract and north corner of that 50 ft. x 66 ft. tract conveyed to Sharad Hett by deed recorded in volume 2295, page 76 of the Official Public Records of Brazos County, Texas, from where the north common corner of Lot 6 and Lot 7 of said Sith Subdivision bears N 48° 37' 35" W – 350.0 feet, and from where the City of College Station GPS control monument no. 122 bears N 4° 15' 38" W – 1958.7 feet.

Thence S 39° 31' 41" W – 15.06 feet, along the common line of said Ackbar and Hett tracts, to a 1/2" iron rod found at the north corner of that 0.0579 acre tract described in deed to Rancor LLC recorded in volume 9814, page 53 of the Official Public Records of Brazos County, Texas;

Thence N 43° 18' 24" W – 50.46 feet, through the said Ackbar tract, to a Magnail found in asphalt at the east corner of Lot 6-6 and southwest right-of-way line of Naboo Street as described by plat of Lots 6-5 & 6-6 Sith Subdivision recorded in volume 9524, page 76 of the Official Public Records of Brazos County, Texas, from where a 1/2" iron rod with a yellow plastic cap stamped "SOLO 32701" found at the common corner of said Ackbar tract and said Lot 6-6 bears S 40° 56' 54" W – 55.03 feet;

Thence N 40° 19' 39" E – 10.32 feet, along the northwest line of said Ackbar tract, to another Magnail found in asphalt at its north corner;

Thence S 48° 41' 34" E – 49.94 feet, along the northeast line of said Ackbar tract, to the Point of Beginning and containing 634 square feet of land more or less.

Bearings are Texas State Plane, Central Zone NAD83 (CORS) datum, based on City of College Station GPS monuments no. 122 and no. 1 (S 4° 47' 50" W).

See survey plat dated June 2814.

KENOBI SURVEYING*Honorable Service Since 2715*

Tosche Station, Tatooine

A8-G290-HPM5045

Proposed Naboo St. R.O.W. Parcel
 Hett Tract – Part of Sith Lot 6
 Luke Skywalker league A-8
 College Station, Texas
 3 June 2814

All of that certain tract or parcel of land lying and being situated in the Luke Skywalker league, abstract no. 8, in College Station, Brazos County, Texas, being part of Lot 6 of the Sith Subdivision as described by plat recorded in volume 49, page 106 of the Deed Records of Brazos County, Texas, being a tract of land mostly within the existing pavement of Naboo Street and being all of the remainder of that 50 ft. x 66 ft. tract described in deed to Sharad Hett recorded in volume 2295, page 76 of the Official Public Records of Brazos County, Texas, contiguous with the portion of said Hett tract conveyed to Rancor LLC by deed recorded in volume 9814, page 53 of the Official Public Records of Brazos County, Texas, and being more particularly described as follows:

Beginning at a Magnail found in asphalt at the north corner of said Hett tract from where the north common corner of Lot 6 and Lot 7 of said Sith Subdivision bears N 48° 37' 35" W – 350.0 feet, and from where the City of College Station GPS control monument no. 122 bears N 4° 15' 38" W – 1958.7 feet.

Thence S 48° 45' 21" E – 50.01 feet, along the northeast line of said Hett tract and common line of said Lot 6 and Lot 7, to another Magnail found in asphalt at the east corner of said Hett tract and the north corner of that first 50 ft. x 66 ft. tract described in deed to General Greivous recorded in volume 8833, page 285 of the Official Public Records of Brazos County, Texas;

Thence S 40° 45' 10" W – 15.24 feet, along the southeast line of said Hett tract and northwest line of said Greivous tract, to a Magnail set in concrete at the south corner of this tract, also being the east corner of said Rancor tract, from where a 5/8" iron rod with an orange plastic cap stamped "NIHILUS RPLS 65090" found at the south corner of the Rancor tract bears S 40° 45' 10" W – 49.97 feet;

Thence N 48° 32' 30" W – 49.69 feet, along the northeast line of said Rancor tract and called to be the right-of-way line of Naboo Street in its deed, to a 1/2" iron rod found at the north corner of the Rancor tract from where another 5/8" iron rod with an orange plastic cap stamped "NIHILUS RPLS 65090" found at the west corner of the Rancor tract bears S 41° 41' 56" W – 49.88 feet;

Thence N 39° 31' 41" E – 15.06 feet, along the northwest line of said Hett tract, also being the southeast line of that 0.075 acre (third) tract conveyed by deed to Admiral Ackbar recorded in volume 1846, page 149 of the Official Public Records of Brazos County, Texas, to the Point of Beginning and containing 755 square feet of land more or less.

Bearings are Texas State Plane, Central Zone NAD83 (CORS) datum, based on City of College Station GPS monuments no. 122 and no. 1 (S 4° 47' 50" W).

See survey plat dated June 2814.

KENOBI SURVEYING*Honorable Service Since 2715*

Tosche Station, Tatooine

A8-G290-HPM5045

Proposed Naboo St. R.O.W. Parcel
 Grevious Tract – Part of Sith Lot 6
 Luke Skywalker league A-8
 College Station, Texas
 3 June 2814

All of that certain tract or parcel of land lying and being situated in the Luke Skywalker league, abstract no. 8, in College Station, Brazos County, Texas, being part of Lot 6 of the Sith Subdivision as described by plat recorded in volume 49, page 106 of the Deed Records of Brazos County, Texas, being a tract of land mostly within the existing pavement of Naboo Street, within the northeast end of that first 50 ft. x 66 ft. tract conveyed to General Grevious by deed recorded in volume 8833, page 285 of the Official Public Records of Brazos County, Texas, and being more particularly described as follows:

Beginning at a Magnail found in asphalt at the north corner of said Grevious first tract from where the north common corner of Lot 6 and Lot 7 of said Sith Subdivision bears N 48° 38' 33" W – 400.1 feet, and from where the City of College Station GPS control monument no. 122 bears N 5° 16' 03" W – 1994.7 feet.

Thence S 48° 37' 51" E – 49.96 feet, along the northeast line of said Grevious first tract and common line of said Lot 6 and Lot 7, to another Magnail found in asphalt at the east corner of said Grevious first tract and the north corner of a resubdivision of A Portion of Lot 6 of the Sith Subdivision as described by plat recorded in volume 2816, page 99 of the Official Public Records of Brazos County, Texas;

Thence S 40° 22' 15" W – 15.65 feet, along the southeast line of said Grevious first tract and northwest line of said resubdivision, to a 60d Nail set in asphalt at the south corner of this tract, also being the north corner of Lot 6-10 in the southwest right-of-way of Naboo Street as described by said resubdivision plat, and from where a 5/8" iron rod with a yellow plastic cap stamped "SOLO 32701" found at the common corner of said Grevious first tract and said Lot 6-10 bears S 40° 49' 06" W – 50.19 feet;

Thence N 48° 09' 51" W – 50.07 feet, through said Grevious first tract to a Magnail set in concrete at the west corner of this tract and east corner of that 0.0579 acre tract described in deed to Rancor LLC recorded in volume 9814, page 53 of the Official Public Records of Brazos County, Texas, from where a 5/8" iron rod with an orange plastic cap stamped "NIHILUS RPLS 65090" found at the south corner of said Rancor tract bears S 40° 45' 10" W – 49.97 feet;

Thence N 40° 45' 10" E – 15.24 feet, along the northwest line of said Grevious first tract, also being the southeast line of that 50 ft. x 66 ft. tract described in deed to Sharad Hett recorded in volume 2295, page 76 of the Official Public Records of Brazos County, Texas, to the Point of Beginning and containing 773 square feet of land more or less.

Bearings are Texas State Plane, Central Zone NAD83 (CORS) datum, based on City of College Station GPS monuments no. 122 and no. 1 (S 4° 47' 50" W).

See survey plat dated June 2814.

KENOBI SURVEYING*Honorable Service Since 2715*

Tosche Station, Tatooine

A8-G290-HPM5045

Proposed Naboo St. R.O.W. Parcel
 Lot 7, Block H, Death Star Subd.
 Luke Skywalker league A-8
 College Station, Texas
 3 June 2814

All of that certain tract or parcel of land lying and being situated in the Luke Skywalker league, abstract no. 8, in College Station, Brazos County, Texas, being part of Lot 7, Block H of the Death Star Subdivision as described by plat recorded in volume 126, page 133 (renamed in vol. 135, pg. 321) of the Deed Records of Brazos County, Texas, being a triangular tract of land along the southwest side of Lot 7 and adjoining the existing right-of-way (50 ft. wide) of Naboo Street, and being more particularly described as follows:

Beginning at a 1/2" iron rod with an orange plastic cap stamped "OB KENOBI RPLS 11380" set in the southeast line of said Lot 7, at the west corner of Lot 2 of the resubdivision of Part of Lots 7, 8, 9 and 10 of the Sith Subdivision as described by plat recorded in volume 516, page 717 of the Deed Records of Brazos County, Texas, also being in the northeast right-of-way line of Naboo Street as dedicated by said resubdivision plat, from where a 1/2" iron rod with a maroon plastic cap stamped "RPLS 62602 TAM SURV" was found N 40° 34' 19" E – 46.7 feet, and from where the City of College Station GPS control monument no. 122 bears N 3° 16' 36" E – 1702.2 feet.

Thence S 41° 26' 42" W – 18.36 feet, along the common line of said Death Star Subdivision and Sith resubdivision, to the south corner of said Lot 7 and this tract, from where a 1/2" iron rod in concrete found at the west corner of said Sith resubdivision bears S 41° 26' 42" W – 1.64 feet;

Thence N 49° 31' 24" W – 97.71 feet, along the southwest line of said Lot 7 and existing northeast right-of-way line of Naboo Street as described by said Death Star Subdivision plat, to a 1/2" iron rod with an orange plastic cap stamped "OB KENOBI RPLS 11380" set for the northwest corner of this tract, from where a 1/2" iron rod found at the west corner of said Lot 7 bears N 49° 31' 24" W – 23.83 feet;

Thence S 60° 08' 00" E – 99.72 feet, through said Lot 7 along the proposed northeast line of Naboo Street, to the Point of Beginning and containing 897 square feet of land more or less.

Bearings are Texas State Plane, Central Zone NAD83 (CORS) datum, based on City of College Station GPS monuments no. 122 and no. 1 (S 4° 47' 50" W).

See survey plat dated June 2814.

Exhibit "C"
Service Order

The Master Agreement (C.# 24300034) entered into by and between the City of College Station and KERR SURVEYING, LLC is expressly incorporated by reference.

- 1. City Project Manager**
- 2. Contractor Project Manager**
- 3. Services to be Performed**
- 4. Location for Performance of Services**
- 5. Schedule of Services**
- 6. Fees for Services**

APPROVED BY:

KERR SURVEYING, LLC

CITY OF COLLEGE STATION

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

**Exhibit “D”
Fee Schedule**

Payment is a fixed fee in the amount stated in each Service Order. This amount shall be payable by the City pursuant to the schedule listed below and upon completion of the services and written acceptance by the City.

Fee Schedule:

Exhibit “E”
Insurance Certificates



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/16/2023

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 MEDALLION INSURANCE SERVICES PO Box 79089 Charlotte NC 28271		CONTACT NAME: Phyllis Constantino PHONE (A/C, No, Ext): (704) 256-6000 FAX (A/C, No): (704) 256-6001 E-MAIL ADDRESS: phyllis@medallioninsurance.com	
INSURED Kerr Surveying LLC 409 N Texas Ave Bryan TX 77803		INSURER(S) AFFORDING COVERAGE INSURER A: Hanover Lloyds Insurance Company INSURER B: Allmerica Financial Benefit Insurance Company INSURER C: National Casualty Company INSURER D: INSURER E: INSURER F:	
		NAIC # 41602 41840 11991	

COVERAGES**CERTIFICATE NUMBER:** CL2332309459**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:			OL6H219520	04/02/2023	04/02/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY			AW6H219516	04/02/2023	04/02/2024	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 \$			OL6H219520	04/02/2023	04/02/2024	EACH OCCURRENCE \$ 2,000,000 AGGREGATE \$ 2,000,000
	☒ 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 ☒ N	N / A	W26H219518	04/02/2023	04/02/2024	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	PROFESSIONAL LIABILITY CLAIMS-MADE			JEO0001821	04/02/2023	04/02/2024	EACH CLAIM \$2,000,000 AGGREGATE \$2,000,000

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

The general liability policy includes a blanket additional insured endorsement # 391-1448 08 16 and is primary and noncontributory when required by written contract. The general liability policy includes a blanket waiver of subrogation when required by written contract.

30 Day NOC included.

CERTIFICATE HOLDER**CANCELLATION**

City of College Station Attn: Project Manager 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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November 9, 2023
Item No. 7.7.
Luther Street Rehab Construction Contract

Sponsor: Jennifer Cain, Director Capital Projects

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action on a Construction Contract with Larry Young Paving, Inc. in the amount of \$1,719,810.25 for construction services for the Luther Street Rehab-Marion Pugh to Penberthy Project, plus the City's contingency in the amount of \$220,000 for a total appropriation of \$1,939,810.25. Approval of this item grants authority for the City Manager to authorize project expenditures up to the City's contingency amount.

Relationship to Strategic Goals:

Core Services and Infrastructure

Recommendation(s): Staff recommends approval.

Summary:

The project involves the construction of approximately 1,500 linear feet of improvements to Luther Street from Marion Pugh Boulevard to Penberthy Boulevard. The improvements consist of removal and replacement of the existing roadway pavement, addition of a 10.5' shared use path, installation of a storm drain system, as well as replacement of the existing 16-inch water main from Penberthy Boulevard to Sienna Drive.

The project was bid via competitive sealed proposal (CSP) on September 1, 2023, bid #23-088. Five (5) sealed bids were submitted. After evaluation, Larry Young Paving, Inc. offered the best value for the city based on the published selection criteria. The base bid was accepted.

The project is proposed to begin in December of 2023 and is contracted to take 240 calendar days to complete.

Budget & Financial Summary: A combined budget in the amount of \$3,639,000 is included in the Streets and Water Capital Projects Fund. A combined total of \$ 309,157 has been expended or committed to date, leaving a balance of \$3,329,843 for this contract and related costs.

Attachments:

1. Luther Street Rehab Project Location Map
2. Luther Street Rehab Vendor Signed Contract

Project Location Map

Luther Street Rehab

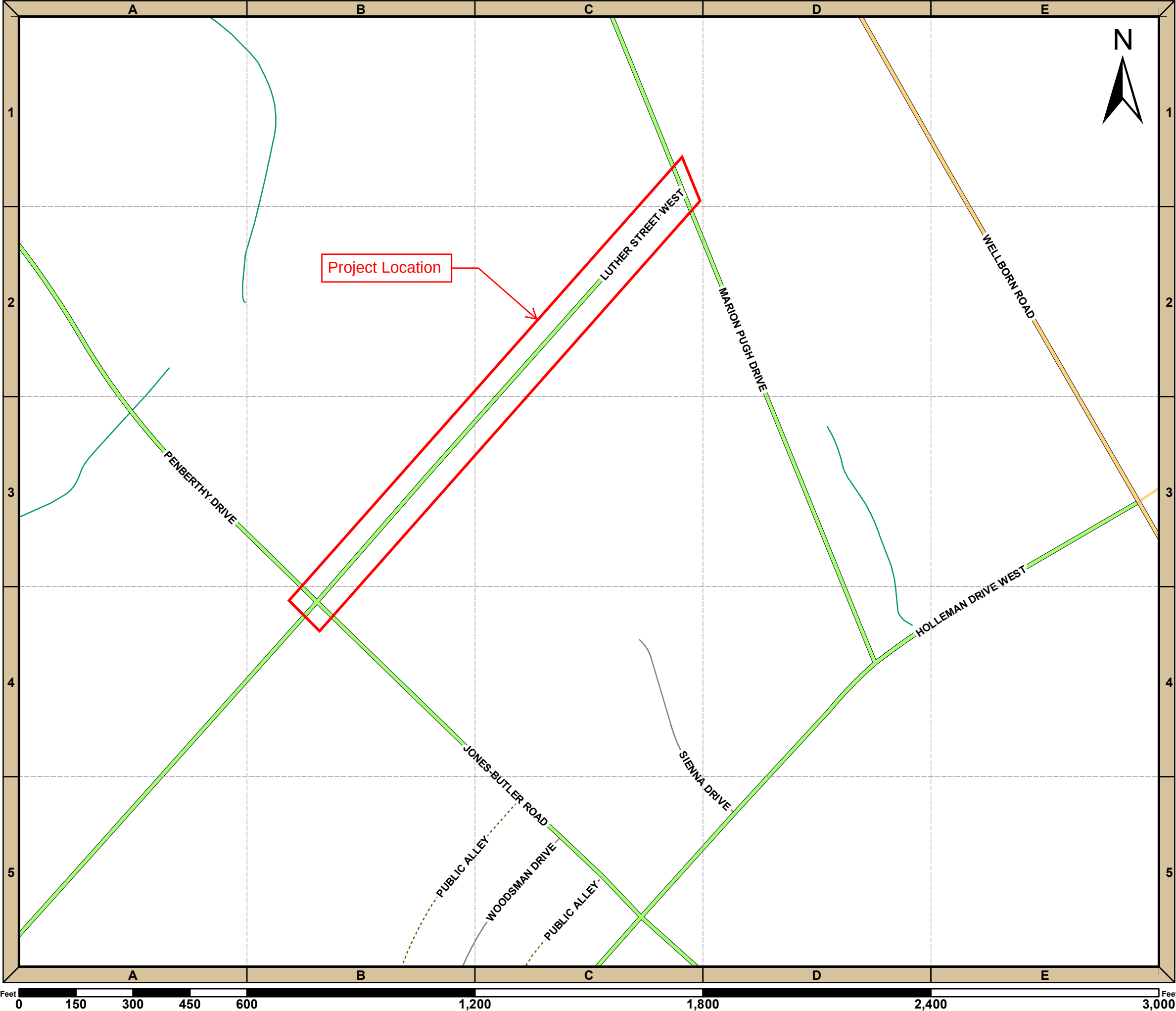
ST2002 WA2000001

Legend

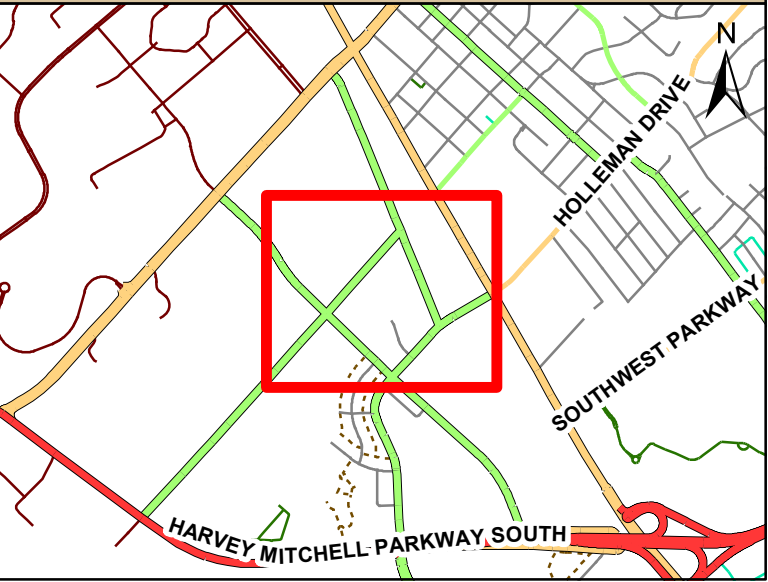
Streets

Functional Classification

- MAJOR ARTERIAL
- MAJOR COLLECTOR
- MINOR ARTERIAL
- LOCAL STREET
- ALLEY
- Trail



Overview Map



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



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

CONTRACT & AGREEMENT ROUTING FORM

CONTRACT#: 24300037 PROJECT#: ST2002 WA2000001 BID/RFP/RFQ#: 23-088

Project Name / Contract Description: Luther Street Rehab-Marion Pugh to Penberthy

Name of Contractor: Larry Young Paving, Inc

CONTRACT TOTAL VALUE: \$ 1,719,810.25

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 (5) bids were received. A combined budget in the amount of \$3,639,000 is included in the Streets and Water Capital Projects Fund.

A combined total of \$ 309,157 has been expended or committed to date, leaving a balance of \$3,329,843 for this contract and related costs.

CRC Approval Date*: N/A (If required)* Council Approval Date*: 11/9/23 Agenda Item No*:

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

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

SIGNATURES RECOMMENDING APPROVAL

Jennifer Cain
DEPARTMENT DIRECTOR/ADMINISTERING CONTRACT

10/26/2023
DATE

LEGAL DEPARTMENT

DATE

ASST CITY MGR – CFO

DATE

APPROVED & EXECUTED

CITY MANAGER

DATE

N/A

MAYOR (if applicable)

DATE

N/A

CITY SECRETARY (if applicable)

DATE

Original(s) sent to CSO on

Scanned into Laserfiche on

Original(s) sent to Fiscal on

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

This Agreement is entered into by and between the City of College Station, a Texas home-rule municipal corporation (the "City") and LARRY YOUNG PAVING, INC. (the "Contractor") for the construction and/or installation of the following:
as described in RFP (CSP) 23-088 Luther Street Rehabilitation from Penburthy Blvd to Marion Pugh Dr.

1. DEFINITIONS

1.01 Calendar Day. The term "calendar day" shall mean any day of the week or month, no days being excepted.

1.02 City. The term "City" shall mean and be understood as referring to the City of College Station, Texas.

1.03 City's Consultant. The term "City's Consultant" or "Consultant" shall mean and be understood as referring to the City's design professional(s) for the Project.

1.04 City's Representative. The term "City's Representative" or "Representative" shall mean and be understood as referring to the City Manager or his delegate or delegates, including a project management firm if applicable, who shall act as City's agent.

1.05 Contingency Amount. The term "Contingency Amount" shall mean and be understood as referring to the amount established and appropriated by the City, to be used exclusively by the City and in the City's sole discretion, to pay City-authorized costs associated with Change Orders and other related expenses for this Project. The Contractor agrees that the Contingency Amount, if any, is established by and is for the sole use of the City, that the Contingency Amount is not included in the Contract Amount, and that the Contractor has no right to use or receive any Contingency Amount unless authorized by the City in a written and duly authorized change order. The City's Contingency Amount is: Two Hundred Twenty Thousand and NO /100 Dollars (\$ 220,000.00).

1.06 Contract Amount. The term "Contract Amount" shall mean the amount of Contractor's lump sum base bid proposal, together with all alternates, as accepted by the City in accordance with the Contractor's Proposal. In the case of a unit price contract, Contract Amount shall mean the sum of the product of all unit prices multiplied by the respective estimated final quantities of work, for all base bid and alternates, as accepted by the City. Except in the event of a duly authorized change order approved by the City as provided in this Agreement, and in consideration of the Contractor's final completion of all Work in conformity with this Agreement, the City shall pay the Contractor an amount not to exceed: One Million Seven Hundred Nineteen Thousand Eight Hundred Ten and 25 /100 Dollars (\$ 1,719,810.25).

1.07 Contract Documents. The term "Contract Documents" shall mean those documents listed in Section 2.01.

1.08 Contractor. The term "Contractor" shall mean the person(s), partnership, or corporation who has agreed to perform the Work contemplated in this Agreement and the other Contract Documents.

1.09 Contractor's Proposal. The term "Contractor's Proposal" shall mean the document provided by the Contractor in response to, and shall include all information required by the City's Request for Proposal/Invitation to Bid for the Project.

1.10 Extra Work. The term "Extra Work" shall mean and include work that is **not** covered or contemplated by the Contract Documents but that may be required by City's Representative and approved by the City in writing *prior* to the work being done by the Contractor.

1.11 Final Completion. The term "Final Completion" shall mean that all the Work has been completed, all final punch list items have been inspected and satisfactorily completed, all payments to materialmen and subcontractors have been made, all documentation and warranties have been submitted, and all closeout documents have been executed and approved by the City.

1.12 Hazardous Substance. The term "Hazardous Substance" shall mean and include any element, constituent, chemical, substance, compound, or mixture, which is defined as a hazardous substance by any local, state or federal law, rule, ordinance, by-law, or regulation pertaining to environmental regulation, contamination, clean-up or disclosure, including, without limitation, The Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), The Resource Conservation and Recovery Act ("RCRA"), The Toxic Substances Control Act ("TSCA"), The Clean Water Act ("CWA"), The Clean Air Act ("CAA"), and the Marine Protection Research and Sanctuaries Act ("MPRSA"), The Occupational Safety and Health Act ("OSHA"), The Superfund Amendments and Reauthorization Act of 1986 ("SARA"), or other state superlien or environmental clean-up or disclosure statutes including all state and local counterparts of such laws (all such laws, rules and regulations being referred to collectively as "Environmental Laws").

1.13 Environmental Laws. The term "Environmental laws" shall mean collectively, any local, state or federal law, rule, ordinance, by-law, or regulation pertaining to environmental regulation, contamination, clean-up or disclosure, including, without limitation, The Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), The Resource Conservation and Recovery Act ("RCRA"), The Toxic Substances Control Act ("TSCA"), The Clean Water Act ("CWA"), The Clean Air Act ("CAA"), and the Marine Protection Research and Sanctuaries Act ("MPRSA"), The Occupational Safety and Health Act ("OSHA"), The Superfund Amendments and Reauthorization Act of 1986 ("SARA"), or other state superlien or environmental clean-up or disclosure statutes including all state and local counterparts of such laws.

1.14 Interpretation of Phrases. Whenever the words "directed", "permitted", "designated", "required", "considered necessary", "prescribed", or words of like import are used, it is understood that the direction, requirement, permission, order, designation, or prescription of City's Representative is intended. Similarly, the words "approved", "acceptable", "satisfactory", or words of like import shall mean approved by, accepted by, or satisfactory to City's Representative.

1.15 Nonconforming work. The term "nonconforming work" shall mean Work or any part thereof that is rejected by City's Representative as not conforming with the Contract Documents.

1.16 Parties. The "parties" are the City and the Contractor.

1.17 Project. The term "Project" shall mean the construction of an improvement to real property where the Work comprises either whole or a part of such construction and which may include construction by the City or separate contractors.

1.18 Project Manager. The term "Project Manager" shall mean the Contractor's Project Manager. The Project Manager shall assist the City in performing various administrative and oversight duties relating to the Work, subject to limitations in authority that must be verified by Contractor.

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

1.20 Substantially Completed. The term "Substantially Completed" means that in the opinion of the City's Representative the Project, including all systems and improvements, is in a condition to serve its intended purpose but still may require minor miscellaneous work and adjustment. Final payment of the Agreement Price, including retainage, however, shall be withheld until Final Completion and acceptance of the Work by the City. Acceptance by the City shall not impair or waive any warranty obligation of Contractor.

1.21 Work. The term "Work" as used in this Agreement shall mean the construction and services required by the Contract Documents and Exhibits, including any duly authorized change orders, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill its obligations. The Work may constitute the whole or a part of the Project. The Work includes but is not limited to all labor, parts, supplies, skill, supervision, transportation, services, and other facilities and all other items needed to produce, construct, and fully complete the Project.

1.22 Working Day. A "working day" means any day not including Saturdays, Sundays, or legal holidays.

2. CONTRACT DOCUMENTS

2.01 The Contract Documents and their priority shall be as follows:

- (a) This signed Agreement.
- (b) Addendum to this Agreement.
- (c) General Conditions, as may be applicable.
- (d) Special Conditions, as may be applicable.
- (e) Specifications, including the technical specifications set out at BCS Unified Design Guidelines ("Specifications").
- (f) Plans.
- (g) Instructions to Bidders and any other notices to Bidders or Contractor.
- (h) Performance bond, Payment bonds, Bid bonds and Special bonds.
- (i) Contractor's Proposal.

2.02 Where applicable, the Contractor will be furnished three (3) sets of plans, specifications, and related Contract Documents for its use during construction. Plans and Specifications provided for use during construction shall be furnished directly to the Contractor only.

2.03 The Contractor shall distribute copies of the Plans and Specifications to suppliers and subcontractors as necessary. The Contractor shall keep one (1) copy of the Plans and Specifications accessible at the work site with the latest revisions noted thereon. For proper execution of the Work contemplated by this Agreement, additional sets of drawings, plans and specifications may be purchased by the Contractor.

2.04 All drawings, specifications, and copies thereof furnished by the City shall not be re-used on other work, and with the exception of one (1) copy of the signed Contract Documents, all documents, including sets of the Plans and Specifications and "as built" drawings, are to be returned to the City on request at the completion of the Work. All Contract Documents, models, mockups, or other representations are the property of the City.

2.05 In the event of inconsistencies within or between parts of the Contract Documents, the Contractor shall (1) provide the better quality or greater quantity of Work, or (2) comply with the more stringent requirement, either or both in accordance with the City's interpretation. The terms and conditions of this Section 2.05, however, shall not relieve the Contractor of any of the obligations set forth in Sections 8.01. and 8.02 of this Agreement.

3. AWARD OF CONTRACT

3.01 Upon the notice of intent to award of the contract by the City, the parties shall execute this Agreement, and the Contractor shall deliver to City's Representative all documents, bonds, and certificates of insurance required herein.

3.02 Time is of the essence of this Agreement. Accordingly, the Contractor shall be prepared to perform the Work in the most expedient and efficient possible manner in order to complete the Work by the times specified in this Agreement for Substantial Completion and Final Completion. In addition, the Contractor's work on the Project shall be commenced on the date to be specified in the City's written notice to proceed. **The notice to proceed may not be given, nor may any Work be commenced, until this Agreement is fully executed and complete, including all required exhibits and other attachments, particularly those required under Sections 27 and 28 (Insurance & Bonds).**

4. CITY'S REPRESENTATIVE

4.01 The Contractor shall forward all communications, written or oral, to the City through the City's Representative.

4.02 The City's Representative may periodically review and inspect the Work of the Contractor.

4.03 The City's Representative shall appoint, from time to time, such subordinate supervisors or inspectors as City's Representative may deem proper to inspect the Work performed under this Agreement and ensure that said Work is performed in accordance with the Plans and Specifications.

4.04 The City's Representative shall interpret questions concerning the Contract Documents. The City's inspector has authority to reject any of the Work for failure to comply with the Contract Documents and/or applicable laws.

4.05 Should the Contractor object to any orders by any subordinate supervisor or inspector, the Contractor may, within two (2) days from receipt of such order, make written appeal to City's Representative for his decision.

5. INDEPENDENT CONTRACTOR

5.01 In all activities or services performed hereunder, the Contractor is an independent contractor and not an agent or employee of the City. The Contractor, as an independent contractor, shall be responsible for the final product contemplated under this Agreement. Except for materials furnished by the City, the Contractor shall supply all materials, equipment and labor required for the execution of the Work. The Contractor shall have ultimate control over the execution of the Work under this Agreement. The Contractor shall have the sole obligation to employ, direct, control, supervise, manage, discharge, and compensate all of its employees and subcontractors, and the City shall have no control of or supervision over the employees of the Contractor or any of the Contractor's subcontractors except to the limited extent provided for in this Agreement.

5.02 Standard of Care. The Work shall be performed in a good and workmanlike manner, and in accordance with this Agreement, and all applicable laws, codes, and regulations. The construction of the Project is subject to amendments and adjustments to the Contract required by any applicable changes in regulations or requested or approved by in writing by the City. If at any time during the progress of the Work the Contractor becomes aware of any errors or omissions in the Plans or Specifications for this Project or that the Agreement deviates from applicable legal requirements, Contractor shall promptly provide written notice thereof to the City. The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention.

5.03 The Contractor shall retain personal control and shall give its personal attention to the faithful prosecution and completion of the Work and fulfillment of this Agreement. The Contractor shall be responsible for and have control over construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work. The subletting of any portion or feature of the Work or materials required in the performance of this Agreement shall not relieve the Contractor from its obligations to the City under this Agreement. The Contractor shall appoint and keep on the Project site during the progress of the Work, including at all times subcontractors are present at the Project site, a competent English speaking Project Manager and/or superintendent and any necessary assistants, all satisfactory to City's Representative, to act as the Contractor's representative and to supervise its employees and subcontractors. All directions given to the Project Manager and/or superintendent shall be binding as if given to the Contractor. Adequate supervision by competent and reasonable representatives of the Contractor is essential to the proper performance of the Work, and lack of such supervision shall be grounds for suspending the operations of the Contractor and is a breach of this Agreement.

5.04 Unless otherwise stipulated, the Contractor shall provide and pay for all labor, materials, tools, equipment, transportation, facilities, and drawings, including engineering, and any other services necessary or reasonably incidental to the performance of the Work by the Contractor. Any additional work, material, or equipment needed to meet the intent of this provision shall be supplied by the Contractor *without* claim for additional payment, even though not specifically mentioned herein.

5.05 Any injury or damage to the Contractor or the Project caused by an act of God, natural cause, a party or entity not privy to this Agreement, or other force majeure shall be assumed and borne by the Contractor.

6. DISORDERLY EMPLOYEES

The Contractor agrees to employ only orderly and competent employees skillful in the performance of the type of work required, and agrees that whenever City's Representative shall inform the Contractor in writing that any person or persons on the Project are, in his opinion, incompetent, unfaithful, or disorderly, such person or person shall be discharged from the Project and shall not again be re-employed on the site or the Project without City's Representative's written permission.

7. HOURS OF WORK

The Contractor may work Monday through Friday from 7 a.m. to 6 p.m., exclusive of Saturdays, Sundays, or legal holidays. The Contractor may work overtime, weekends, and holidays only when approved in advance by the City's Representative. The time for Substantial Completion shall not be affected in any way by inclusion of this section or by the City's consent or lack of consent to work outside of the times specified in this Agreement.

8. NATURE OF THE WORK

8.01 It is understood and agreed that the Contractor has, by careful examination, studied and compared the Plans and other Contract Documents, satisfied itself as to the nature and location of the Work, the conditions of

the ground and soil, the nature of any structures, the character, quality, and quantity of the material to be utilized, the character of equipment and facilities needed for and during the prosecution of the Work, the time needed to complete the Work, Contractor's ability to meet all deadlines and schedules required by this Agreement, the general and local conditions, including but not limited to weather, and all other matters that in any way affect the Work under this Agreement. These obligations are for the purpose of facilitating construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, any errors, inconsistencies or omissions discovered, or which reasonably should have been discovered by the Contractor shall be reported promptly to the City as a request for information in such form as the City may require. However, the Contractor shall not perform any act or do any Work that places the safety of persons at risk or potentially damages materials or equipment used in the Project, and the Contractor shall do nothing that would render any test or tests erroneous.

8.02 Any design errors or omissions noted by the Contractor shall be reported promptly to the City, but it is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional unless otherwise specifically provided in the Contract Documents. Any nonconformity discovered by or which reasonably should have been discovered or made known to the Contractor shall be reported promptly to the City.

8.03 If the Contractor fails to perform the obligations of Sections 8.01. and 8.02., the Contractor shall pay such costs and damages to the City as would have been avoided if the Contractor had performed such obligations. The Contractor shall not be liable to the City for damages resulting from errors, inconsistencies or omissions in the Contract Documents or for differences between field measurements or conditions and the Contract Documents unless the Contractor recognized or reasonably should have recognized such error, inconsistency, omission or difference and knowingly failed to report it to the City.

9. POST-AGREEMENT AWARD MEETINGS

9.01 Prior to the commencement of the Work, the parties shall meet and attend a post-agreement award meeting at the time and place determined by City's Representative. At the post-agreement award meeting, the parties shall meet, discuss, and finalize all schedules, including commencement date, and/or specifications submitted for review. No later than ten (10) days prior to the post-agreement award meeting, the Contractor shall submit to City's Representative the following documents:

(a) Schedule for performance of the Work ("Construction Schedule"). Project Schedule contemplated, including the starting and ending date, as well as an indication of the completion of stages of Work hereunder. Such document, once approved by the City and, if applicable, the City's Consultant shall be incorporated into this Agreement as a Contract Document and attached hereto as **Exhibit E**. If not accepted, the Construction Schedule shall be promptly revised by the Contractor in accordance with the recommendations of the City and Consultant and resubmitted for acceptance. The Construction Schedule shall not be modified except by written change order. Additional days or changes to the number of days in the Construction Schedule shall also be by written change order. After a written change order is approved and fully executed by all parties, the Contractor shall submit an updated Construction Schedule that reflects changes authorized by approved change orders. The Construction Schedule shall not exceed time limits current under the Contract Documents, shall be submitted with each pay application, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.

(b) The names and addresses of all proposed subcontractors in writing.

- (c) Schedules of the starting and ending dates of subcontractors and the scope of Work contemplated for subcontractors.
- (d) Name, local office, phone number and addresses and, home phone numbers for the Contractor and its Project Superintendent/Manager.
- (e) For construction projects, four (4) copies of all shop and/or setting drawings or schedules for the submission thereof, including PDF/electronic versions and CAD files.
- (f) Where applicable, materials procurement schedules and material supplier names, addresses and phone numbers.

9.02 The City's Representative, within five (5) working days after the initial post-agreement award conference or any other meetings, may submit minutes of the meeting to the Contractor. The Contractor shall thereafter have five (5) working days to review the minutes and make its objections, changes, or reductions thereto in writing. The Contractor shall thereafter sign the minutes and promptly return them to City's Representative. Where there is disagreement, City's Representative will make the final determination.

10. PROGRESS OF WORK

10.01 The Construction Schedule shall be in a detailed precedence-style critical path method ("CPM") or primavera-type format satisfactory to the City and the Consultant. The Construction Schedule shall also (i) provide a graphic representation of all activities and events that will occur during performance of the Work; (ii) identify each phase of construction and occupancy; and (iii) set forth dates that are critical in ensuring the timely and orderly completion of the Work in accordance with the requirements of the Contract Documents (hereinafter referred to as "Milestone Dates"). If not accepted, the Construction Schedule shall be promptly revised by the Contractor in accordance with the recommendations of the City and Consultant and resubmitted for acceptance.

10.02 Further, the parties shall be subject to the following:

- (a) The Contractor shall submit a Construction Schedule and schedule of values at the initial post-agreement award meeting and subsequent meetings.
- (b) City's Representative shall be entitled to make objections to the Contractor's Construction Schedule submitted herein. The Contractor shall promptly resubmit a revised Construction Schedule to City's Representative.
- (c) The Project Superintendent/Manager shall coordinate its activities with City's Representative. If required by the City, the Contractor shall provide a weekly schedule of planned activities, which may be reviewed on a daily basis.
- (d) The Contractor shall submit, at such time as may reasonably be requested by City's Representative, additional schedules that shall list the order in which the Contractor proposes to carry on the Work with dates at which the Contractor will start the several parts of the Work and the estimated dates of completion of the several parts.
- (e) The Contractor shall attend additional meetings called by City's Representative upon twenty-four (24) hours written notice unless otherwise agreed in writing by the parties.

(f) When the City is having other work done, either by agreement or by its own force, City's Representative may direct the time and manner of work done under this Agreement so that conflicts will be avoided and the various work being done by and for the City shall be coordinated.

(g) In the event that it is determined by the City that the progress of the Work is not in accordance with the approved Construction Schedule, the City may so inform the Contractor and require the Contractor to take such action as is necessary to insure completion of the Project within the time specified.

10.03 The process of approving the Construction Schedule and updates to the Construction Schedule shall not constitute a warranty by the City that any non-Contractor milestones or activities will occur as set out in the Construction Schedule. Approval of the Construction Schedule does not constitute a commitment by the City to furnish any City-furnished information or material any earlier than the City would otherwise be obligated to furnish that information or material under the Contract Documents. Failure of the Work to proceed in the sequence scheduled by Contractor shall not alone serve as the basis for a claim for additional compensation or time. In the event there is interference with the Work which is beyond its control, Contractor shall attempt to reschedule the Work in a manner that will hold the additional time and costs beyond its control to a minimum. The Contractor shall monitor the progress of the Work for conformance with the requirements of the Construction Schedule and shall promptly advise the City of any delays or potential delays. In the event the Construction Schedule indicates any delays, the Contractor shall propose an affirmative plan to correct the delay. In no event shall any adjustment to the Construction Schedule constitute an adjustment in the Contract Time, any Milestone Date or the Contract Sum unless any such adjustment is agreed to by the City and authorized pursuant to Change Order.

10.04 The Contractor shall also prepare a submittal schedule promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, and shall submit the schedule(s) for the Consultant's approval. The Consultant's approval shall not unreasonably be delayed or withheld. The submittal schedule shall (i) be coordinated with the Contractor's Construction Schedule; and (ii) allow the Consultant reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

10.05 In the event the City determines that the performance of the Work, as of a Milestone Date or otherwise, has not progressed or reached the level of completion required by the Contract Documents, the City shall have the right to order the Contractor to take corrective measures necessary to expedite the progress of construction, including, without limitation, (i) working additional shifts or overtime; (ii) supplying additional manpower, equipment, and facilities; and (iii) other similar measures (hereinafter referred to collectively as "Extraordinary Measures"). Such Extraordinary Measures shall continue until the progress of the Work complies with the stage of completion required by the Contract Documents. The City's right to require Extraordinary Measures is solely for the purpose of ensuring the Contractor's compliance with the Construction Schedule.

(a) The Contractor shall not be entitled to an adjustment in the Contract Sum in connection with Extraordinary Measures required by the City under or pursuant to this Subsection.

(b) The City may exercise the rights furnished the City under or pursuant to this Subsection as frequently as the City deems necessary to ensure that the Contractor's performance of the Work will comply with any Milestone Date or completion date set forth in the Contract Documents.

10.06 Work Stoppage. If in the judgment of either the City or City's Representative any of the Work or materials furnished is not in strict accordance with this Agreement or any portion of the Work is being performed

so as to create a hazardous condition, they may, in their sole discretion, order the Work of the Contractor or any subcontractor wholly or partially stopped until any objectionable person, work, or material is removed from the premises. Such stoppage or suspension shall neither invalidate any of the Contractor's performance obligations under this Agreement, including the time of performance and deadlines therefore, nor will any extra charge be allowed the Contractor by reason of such stoppage or suspension.

11. SITE CONDITIONS AND MANAGEMENT

11.01 Where the Contractor is working around or in existing structures, it shall verify conditions at the site, including but not limited to, door openings and passages. Any items constructed or manufactured off-site or outside of buildings shall be done so that they are not too bulky for existing facilities. The Contractor shall provide special apparatus as required to handle any such items. All special handling equipment charges shall be at the Contractor's expense. Further, Contractor shall include in its price for the Work, all labor, materials, equipment and/or engineering services required to protect the adjacent properties and/or structures from damage due to performance of the Work.

11.02 The Contractor shall be responsible for all power, light, and water required to perform the Work.

11.03 Throughout the progress of the Work, the Contractor shall keep the working area free from debris of all types, and remove from premises all rubbish, resulting from any work being done by him. At the completion of the Work, the Contractor shall leave the premises in a clean and finished condition. Any failure to do so may be remedied and charged back to the Contractor.

11.04 Layout of Work. Except as specifically provided herein, the Contractor shall lay out all Work in a manner acceptable to City's Representative in accordance with applicable City of College Station codes and ordinances. City's Representative will review the Contractor's layout of all structures and any other layout work done by the Contractor at the construction meeting, or at the Contractor's request, but this review does not relieve the Contractor of the responsibility of accurately locating all Work in accordance with the Plans and Specifications.

11.05 Lines and Grades. All lines and grades shall be furnished by the Contractor. Benchmarks and control stakes have been provided by the City's Representative. All benchmarks and control stakes shall be carefully preserved by the Contractor. In case of destruction or removal of the same by the Contractor, its subcontractors, or employees, such stakes, marks, etc. shall be replaced by the Contractor at the Contractor's expense. If the Contractor fails to do so, the City may do so and charge back the Contractor. Additional construction staking as needed for the Work, including lines and grades, shall be the sole responsibility of the Contractor, and the Contractor shall receive no extra time or compensation therefor.

11.06 The Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as any information furnished by the City, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the City and the Consultant any errors, inconsistencies or omissions discovered by or made known to the Contractor. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents. Contractor acknowledges the City does not represent nor warrant the accuracy or completeness of information provided by the City related to existing conditions and locations of existing utilities and services. Such information if provided, is provided to the Contractor as a matter of convenience and does not substitute for the Contractor using due diligence to reasonably observe and or to

access space to determine errors, inconsistencies or omissions. In all cases of interconnection of the Work with existing conditions, Contractor shall verify at the site all dimensions relating to such existing conditions.

11.07 Contractor's Structures. The building or locating of structures or the erection of tents or other forms of protection will be permitted only at such places as City's Representative shall permit. The Contractor shall not damage the property where such structures are allowed and shall at all times maintain sanitary conditions in and about such structures in a manner satisfactory to the City. The City may charge the Contractor for any damage or injury to the City, its property, or third persons as a result of the location or use of such structures.

11.08 The Contractor and any entity over whom the Contractor has control shall not erect any sign on the Project site without the prior written consent of the City.

11.09 City may have other work related to the Project performed at the Project site during the time the Work is performed. Contractor should schedule its Work to coordinate with the work of other contractors and utilities with the understanding that some of that work may be performed at times other than as set out in the Contract Documents or as otherwise anticipated. City will endeavor to have such other work performed so as not to unduly interfere with Contractor's performance when Contractor notifies City of specific reasonable needs well in advance of those needs and where it is possible to do so. In the event of substantial delay caused by another contractor or a utility, after advance notice of its needs by Contractor, Contractor will be entitled to make a claim for an extension of time as provided herein.

11.10 When two or more contractors, including Contractor, are employed on related or adjacent work or obtain materials from the same material source, or when work must be completed by one contractor before another can begin, each shall conduct his operations in such a manner as not to cause any unnecessary delay or hindrance to the other. Each contractor, including Contractor if applicable, shall be responsible to the other for all damage to work, to persons, or to property caused to the other by his operations, and for loss caused the other due to unreasonable or unjustified delays or failure to finish the work or portions thereof, or furnish materials within the time requested. Should Contractor cause damage to the work or property of any separate contractor at the Project site, or should any claim arising out of Contractor's separate contractor at the Project site, or should any claim arising out of Contractor's performance of the Work be made by any separate contractor against Contractor, City or other consultants, or any other person, Contractor shall promptly attempt to settle with such other contractor by agreement, or to otherwise resolve the dispute. **Contractor shall, to the fullest extent permitted by applicable laws, indemnify and hold City harmless from and against all claims, damages, losses and expenses (including, but not limited to, fees of architects, attorneys and other professionals and court costs) arising directly, indirectly or consequentially out of any action, legal or equitable, brought by any separate contractor against City to the extent based on a claim arising out of Contractor's negligence.**

12. MATERIALS

12.01 Materials or work described in words that when so applied have well-known technical or trade meaning shall be held to refer to such recognized standards. All work shall be done and all materials furnished in strict conformity with this Agreement, the other Contract Documents, and recognized industry standards. When specific products, systems or items of equipment are referred to in the Contract Documents, any ancillary devices necessary for connecting the products, systems or items of equipment shall also be provided. When standards, codes, manufacturer's instructions and guarantees are required by the Contract Documents, the current edition at the time of Contract execution shall apply, unless another edition is specified in the Contract Documents. References to standards, codes, manufacturer's instructions and guarantees shall apply in full, except (1) they do not supersede more stringent standards set out in the Contract Documents, and (2) any exclusions or waivers that are inconsistent with the Contract Documents do not apply.

12.02 All materials shall be approved by the City prior to purchase by the Contractor. Unless otherwise specified herein, the Contractor shall purchase all materials and equipment outright and shall not subject the materials and equipment utilized in the Project to any conditional sales agreement, bailment, lease, or other agreement reserving unto seller any right, title, or interest therein. Title to all materials, but not risk of loss, shall pass to the City upon delivery to the Project.

12.03 Where the City deems it necessary to supply materials, it may furnish to the Contractor the list of materials set forth in the attached "List of City Furnished Materials". Upon receipt of said materials, the Contractor shall immediately furnish to the City a written receipt. Moreover, the Contractor shall, on behalf of the City, accept delivery of the materials set forth in the attached "List of Materials Ordered by the City". Under such circumstances, the Contractor shall promptly forward to the City for payment the supplier's invoice together with the Contractor's receipt in writing for such materials.

(a) Upon acceptance of the materials furnished or ordered by the City, the Contractor warrants that it shall properly handle, transport, store and safeguard the materials.

(b) Further, the Contractor shall repair, repaint or replace any and all materials or any part thereof damaged or stolen while in its possession. Such materials are considered to be in the Contractor's possession from the moment the Contractor either accepts delivery of the materials or signs a receipt accepting delivery of said materials until the Project is accepted by the City's Representative.

(c) Before transporting any of the materials furnished or ordered by the City, the Contractor shall establish to the City's satisfaction that it has obtained insurance against losses, theft, damage, equal to or greater than the amounts spent by the City in securing said materials. It shall be incumbent upon the Contractor to verify the cost of materials.

(d) The City shall not be obligated to furnish materials in excess of the quantities, size, kind, and type set forth in the attached List of City Furnished Materials and List of Materials Ordered by the City. If the City furnishes, and the Contractor accepts, materials in excess thereof, the values of such excess materials shall be their actual cost as stated by the City.

(e) Upon delivery, the Contractor shall promptly receive, unload, transport, and handle all materials and equipment on the List of Materials Ordered by the City at its expense and shall be responsible for all shipping costs.

12.04 Materials and supplies shall be new and of good quality. Upon request, the Contractor shall supply proof of quality and manufacturer. No refurbished, reconditioned, or other previously utilized materials or supplies will be used without the prior signed authorization of City's Representative. The Contractor may utilize substitutes of equal quality and function only upon the prior written authorization of the City's Representative. The City's Representative may require documentation as to quality and function, including manufacturer's specifications, to insure that the proposed substitute is equal to the required material or supply. The City's Representative shall have sole discretion over the use of substitute materials and supplies. Contractor shall bear the risk of any delay in performance caused by submitting substitutions.

12.05 Only materials and equipment which are to be used directly in the Work shall be brought to and stored on the Project site by the Contractor. After equipment is no longer required for the Work, it shall be promptly removed from the Project site. Protection of construction material and equipment stored at the Project site from weather, theft, damage and all other perils is solely the responsibility of the Contractor.

12.06 Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the Work by the Contractor or a subcontractor, sub-subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

12.07 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

12.08 Samples are physical examples that illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

12.09 Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. Their purpose is to demonstrate the way by which the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals.

12.10 The Contractor shall review for compliance with the Contract Documents, approve and submit to the City's Consultant Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents in accordance with the submittal schedule approved by the City's Consultant or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the City or of separate contractors.

12.11 By submitting Shop Drawings, Product Data, Samples and similar submittals, the Contractor represents to the City and City's Consultant that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

12.12 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the respective submittal has been approved by the City's Consultant.

12.13 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the City's Consultant's approval of Shop Drawings, Product Data, Samples or similar submittals unless the Contractor has specifically informed the City's Consultant in writing of such deviation at the time of submittal and (1) the City's Consultant has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples or similar submittals by the City's Consultant's approval thereof.

12.14 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples or similar submittals, to revisions other than those requested by the City's Consultant on previous submittals. In the absence of such written notice, the City's Consultant's approval of a resubmission shall not apply to such revisions.

12.15 Contractor shall be liable for and the City may withhold from Contractor's payments any amount of additional fees charged by City's Consultant for excessive resubmittal review.

13. ENTRY, OBSERVATION, TESTING & POSSESSION

13.01 The City reserves the right to enter the Project site or sites by such employee(s) or agent(s) as it may elect for the purpose of inspecting the work. The City further reserves the right to enter the Project site or sites for the purpose of performing such collateral work as the City may desire.

13.02 The City's Representative shall have the right, at all reasonable times, to observe and test the work. The Contractor shall make necessary arrangements and provide proper facilities and access for such observation and testing at any location where the Work or any part thereof is in preparation or progress. The Contractor shall ascertain the scope of any observation that may be contemplated by City's Representative and shall give ample notice as to the time each part of the Work will be ready for observation.

13.03 The City's Representative may require Contractor to remove, dismantle, or uncover completed work. If the work is not in accordance with the Plans, Specifications, or other Contract Documents, the Contractor shall pay the costs of repair and restoration of the work required to be removed, dismantled, or uncovered. Unless Contractor is obligated to provide advance notice of inspection, prior to covering up the work, and fails to do so, if said work is in accordance with the -Plans, -Specifications, and other Contract Documents, the City shall pay the costs of repair and restoration of the work.

13.04 City shall have the right to take possession of and use any completed or partially completed portions of the Project prior to the time for completing the entire Project or such portions which may not have expired. The parties agree and understand that possession and use shall not constitute an acceptance of any work not completed in accordance with this Agreement. Further, insurance changes required to keep Contractor's insurance in effect shall be the responsibility of Contractor.

14. REJECTED WORK

14.01 All work deemed not in conformity with this Agreement as determined by the City in its sole discretion, may be rejected by the City. City's Representative may reject any work found to be defective or not in accordance with the Contract Documents, regardless of the stage of the work's completion or the time or place of discovery of such defects or inconsistencies and regardless of whether City's Representative has previously accepted the work through oversight or otherwise. Neither observations nor inspections, tests, or approvals made by City's Representative, or other persons authorized under this Agreement to make such observations, inspections, tests, or approvals, shall relieve the Contractor from the obligation to perform the Work in accordance with the requirements of this Agreement and the other Contract Documents.

14.02 If the work or any part thereof is rejected by the City, it shall be deemed by City's Representative as not in conformity with this Agreement. Any remedial action required, as set forth herein, shall be at the Contractor's expense, as follows:

(a) The Contractor may be required, at the City's option, after notice from City's Representative, to remedy such work so that it shall be in full compliance with this Agreement. All rejected work or materials shall be immediately replaced in order to conform with this Agreement.

(b) If the City deems it inexpedient to correct work damaged or not done in accordance with this Agreement, an equitable deduction from the agreed sum may be made by the City at the City's sole discretion.

14.03 If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of written notice from the City to commence and continue correction of such default or neglect with diligence and promptness, the City may, without prejudice to other remedies the City may have, correct such deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, including City's expenses and compensation for the City's Consultant's additional services made necessary by such default, neglect or failure. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the City.

15. SUBCONTRACTING & SUBCONTRACTORS

15.01 The Contractor agrees that it will retain personal control and will give its personal attention to the fulfillment of this Agreement. The Contractor further agrees that subletting of any portion or feature of the Work or materials required in the performance of this Agreement shall not relieve the Contractor from its full obligation to the City as provided by this Agreement.

15.02 Subcontractors must be approved by City's Representative prior to hiring or beginning any work on the Project. If City's Representative judges any subcontractor to be failing to perform the Work in strict accordance with the drawings and specifications, the Contractor, after due notice, shall discharge the same, but this shall in no way release the Contractor from its obligations and responsibility under this Agreement. Every subcontractor shall be bound by the terms and provisions of this Agreement and the Contract Documents as far as applicable to their work. Contractor's subcontract agreement shall provide that subcontractors shall assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the subcontractor's Work, which the Contractor, by these Documents, assumes toward the City and Consultant. The Contractor shall be fully responsible to the City for the acts and omissions of its subcontractors. Nothing contained herein shall create any contractual or employment relations between any subcontractor and the City.

16. PAYMENT

16.01 The City stipulates that it is an exempt organization as defined by the Limited Sales, Excise and Use Tax Act and, as such, is exempt from the payment of the sales tax on materials and supplies used in the performance of this Agreement. The Contractor shall issue exemption certificates to its suppliers and subcontractors in lieu of said sales tax for all such materials and supplies, and said exemption certificates must comply with the State Comptroller's Ruling No. 95-0.07 and shall be subject to the provision of the State Comptroller's Ruling No. 95-0.09, effective October 1, 1969.

16.02 Progress Payment Applications. The Contractor shall submit applications for payment as provided for herein. Applications for payment will be processed by City's Representative. Before the first Application for Payment, the Contractor shall submit to the City a schedule of values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the City may require ("Schedule of Values"). The Schedule of Values shall not overvalue early job activities and shall follow the trade divisions of the Specifications so far as possible. Modifications must be approved by City. This schedule, unless objected to by the City, shall be incorporated into this Agreement as a Contract Document and attached hereto as **Exhibit F**. The Schedule of Values shall be used as a basis for reviewing the Contractor's Applications for Payment. On or before the 15th day of each month, the Contractor shall submit to City's Representative, for approval or modification, an updated Project Schedule and a statement, backed by the Schedule of Values, showing as completely as practicable the total value of the actual work performed by the Contractor and accepted by the City up to and including the last day of the *preceding* month. The statement shall also include the value of all materials

not previously submitted for payment which have been delivered to the site but have not yet been incorporated into the Work.

16.03 Progress Payments. On or before the **30th** calendar day following the City's receipt of a progress payment application made in conformity with Section 16.02, the City shall pay to the Contractor the approved amount of the progress payment based on the Contractor's applications for payment, and the recommendation and approval of City's Representative. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage of Work completed by the Contractor and approved by the City, but in each case less the aggregate of payments previously made, less retainage, and less amounts as City's Representative shall determine and the City may withhold in accordance with this Agreement. Upon Final Completion, including the delivery of all close out documents, such as "as built" drawings, warranties, guarantees, required additional materials, releases, operation and maintenance manuals, and acceptance of the Work in accordance with this Agreement, the City shall pay the remainder of the balance due under this Agreement, less any sums withheld under other terms of this Agreement and less the retainage, which shall be retained for a period of thirty (30) calendar days from the date of Final Completion. Acceptance of retainage by Contractor shall constitute a Waiver and Release of all claims by Contractor.

16.04 Retainage. From each approved statement, the City shall retain until final payment, ten percent (10%), where the full contract amount is less than \$400,000.00, and five percent (5%), where the full contract amount is \$400,000.00 or more. The City may also retain from each approved statement any other sums authorized under the terms of this Agreement.

OR:

16.04 Retainage. This section has been removed. No retainage will be deducted.

16.05 If the actual amount of work to be done and the materials to be furnished differ from estimates and where the basis for payment is the unit price method, then payment shall be for the actual amount of accepted work done and materials furnished on the Project.

16.06 Reduction in the scope or quantity of work on unit price items shall merely reduce the number of units. In the event that materials have been delivered prior to notice of such reduction, the City will have the option either to pay freight & transportation costs and any re-stocking charges actually incurred by the Contractor or to purchase the materials. The Contractor shall never be entitled to anticipated or lost profits on the deleted or reduced portion of a job, whether bid on a unit price or lump sum basis.

16.07 The Contractor shall have the sole obligation to pay any and all charges or fees and give all notices necessary to and incidental to the lawful prosecution of the Work hereunder. The Contractor shall not and shall have no authority whatsoever to obligate the City to make any payments to another party nor make any promises or representation of any nature on behalf of the City, without the specific written approval of the City.

16.08 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the City may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

16.09 Unless otherwise provided in the Contract Documents:

- (a) Allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- (b) Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Contract Amount but not in the allowances; and
- (c) Whenever costs are more than or less than allowances, the Contract Amount shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 16.9(a) and (2) changes in the Contractor's costs under Section 16.9(b).

16.10 Suspension of Payments. The City, at any time, may suspend monthly progress payments on the Work if it determines that the projected liquidated damages may exceed retainage. The City, at any time, may suspend monthly progress payments if it believes that the Contractor will not complete the Work due to actual default or that the Contractor has represented or done some act that indicates that it will not complete the Work in accordance with this Agreement or within the time period submitted in its bid. Provided, however, City is in no way obligated to Contractor's surety to withhold payment pursuant to the provisions of this Section.

16.11 Withhold Funds. Regardless of any bond, the City may, on account of subsequently discovered evidence and in addition to the retainage withheld under Section 16.04, withhold funds or nullify all or part of any acceptance or certificate to such extent as may be necessary to protect itself from loss on account of any of the following, or as otherwise provided in this Agreement:

- (a) Defective work other than defects in design provided to Contractor by a person other than Contractor's agents, contractors, fabricators, or suppliers, or its consultants, of any tier for non-critical infrastructure.
- (b) Failure to timely disclose in writing to the City of a known defect, inaccuracy, inadequacy, or insufficiency in the plans, specifications or other design documents.
- (c) Claims made or reasonable evidence indicating probable filing of claims by unpaid vendors or other third parties.
- (d) Failure of the Contractor to make prompt payments to subcontractors for labor or material or materialmen.
- (e) Claims made or reasonable evidence indicating claims will be made for damage to another by the Contractor.
- (f) Claims made or reasonable evidence indicating claims will be made for damage to third parties, including adjacent property owners.
- (g) Claims made or reasonable evidence indicating claims will be made for unremedied damage to property owned by the City.
- (h) City's determination of an amount of liquidated damages.
- (i) Charges made for repairs to the Contractor's defective work or repairs made by the City to correct damage to other property.
- (j) Other amounts authorized under this Agreement or under any other agreement made between City and Contractor.
- (k) Corrections of mistakes, errors and overpayments in relation to prior pay applications and payments.

Provided, however, City is in no way obligated to Contractor's surety to withhold payment pursuant to the provisions of this Section.

16.12 Virtual Payment Method. For increased payment and financial information security, the Contractor must use the City's approved virtual payment card system or digital payment system for all payments, storing, and modifications of financial information used for City payments to the Contractor. Any related reasonable fees paid by the Contractor for use of the virtual payment card system or digital payment system may be passed through to the City.

17. EXTRA WORK CHARGES

17.01 No changes shall be made, nor will bills for changes, alterations, modifications, deviations, and extra orders be recognized or paid for except upon the written order from authorized personnel of the City.

17.02 City Manager Approval. When the original contract amount plus all change orders is **One Hundred Thousand Dollars (\$100,000)** or less, the City Manager or his designee may approve the written change order in accordance with 17.03 below, provided the change order does not increase the total amount set forth in the Contract to more than **One Hundred Thousand Dollars (\$100,000)**. For such contracts, when a change order results in a total contract amount that exceeds **One Hundred Thousand Dollars (\$100,000)**, the City Council of the City must approve such change order prior to commencement of the services or work.

☒ **17.03** For "Extra Work", as defined in this Agreement and authorized through written change orders, and pursuant to Section 252.048(d) of the Texas Local Government Code, the original Contract price may not be increased by more than **twenty-five percent (25%)**. Written change orders that do not exceed **twenty-five percent (25%)** of the original Contract Amount may be made or approved by the City Manager or his delegate if the change order is equal to or less than **Fifty Thousand Dollars (\$50,000.00)**. Changes in excess of **Fifty Thousand Dollars (\$50,000.00)** must be approved by the City Council prior to commencement of the services or work. **Any requests by the Contractor for a change to the Contract Amount shall be made prior to the beginning of the work covered by the proposed change or the right to payment for Extra Work shall be waived.** No course of conduct or dealings between the parties, nor implied acceptance of alterations or additions to the Work or changes to the Contract Schedule shall be the basis for any claim for an increase in compensation or change in time. Any cost incurred by Contractor in connection with any Extra Work shall be included in Contractor's requested change order and Contractor's failure to include any such cost shall act to Waive and Release any claim for such non-included cost.

OR:

☐ **17.03** For construction contracts funded in whole or in part by Certificates of Obligations, for "Extra Work," as defined in this Agreement and authorized through written change orders, and pursuant to Section 271.060 of the Texas Local Government Code, a contract with an original contract price of \$1 million or more may not be increased by more than **twenty-five percent (25%)**. If a change order for a construction contract funded in whole or in part with certificates of obligation that has an original price of less than \$1 million increases the Contract Amount to \$1 million or more, subsequent change orders may not increase the revised Contract Amount by more than **twenty-five percent (25%)**. Written change orders may be made or approved by the City Manager or his delegate if the change order is equal to or less than **Fifty Thousand Dollars (\$50,000.00)**. Changes in excess of **Fifty Thousand Dollars (\$50,000.00)** must be approved by the City Council prior to commencement of the services or work. **Any requests by the Contractor for a change to the Contract Amount shall be made prior to the beginning of the work covered by the proposed change or the right to payment for Extra Work shall be waived.** No course of conduct or dealings between the parties, nor implied acceptance of alterations or additions to the Work or changes to the Contract Schedule shall be the basis for any claim for an increase in compensation or change in time. Any cost incurred by Contractor in connection with any Extra Work shall be

included in Contractor's requested change order and Contractor's failure to include any such cost shall act to Waive and Release any claim for such non-included cost.

17.04 The Contractor shall complete all Work as specified or indicated in the Contract Documents. The Contractor shall complete all Extra Work in connection therewith. All work and materials shall be in strict conformity with the specifications. The Substantial Completion of the Work shall not excuse the Contractor from performing all the Work undertaken, whether of a minor or major nature, and thereby completing the Project in accordance with the Contract Documents. In the event that the Contractor fails to perform the Work as required for Substantial Completion or Final Completion, the City may contract with a third party to complete the Work and the Contractor shall assume and pay the costs of the performance of the Work as contracted.

(a) It is agreed that the Contractor shall perform all Extra Work under the direction of City's Representative when presented with a written work order signed by City.

(b) **No claim for Extra Work of any kind will be allowed unless ordered in writing by the City.** In case any orders or instructions appear to the Contractor to involve Extra Work for which it should receive compensation or an adjustment in the construction time, it shall make written request to City's Representative for a written order from City authorizing such Extra Work.

(c) Should a difference of opinion arise as to what does or does not constitute Extra Work, or as to the payment therefor, and the City insists upon its performance, then the Contractor shall proceed with the Work after making written requests for written orders in a change order and shall keep adequate and accurate account of the actual field costs therefor, as provided under Method C.

(d) It is also agreed that the compensation to be paid to the Contractor for performing Extra Work shall be determined by one or more of the following methods:

Method A - By agreed unit prices, or

Method B - By agreed lump sum, or

Method C - If neither Method A nor Method B is agreed upon before the Extra Work is commenced, then the Contractor shall be paid the actual field cost (as defined in subsection (g) below) of the Work.

(e) **Method A - Unit Prices.** The Contractor agrees to perform Extra Work for the unit prices in the Contractor's Proposal. The Contractor also agrees and warrants that when it is necessary to construct units not shown in the Contract Documents, it shall construct such units for a price arrived at as follows:

(1) The cost of materials shall be determined by the invoices;

(2) The cost of labor shall be the reasonable cost thereof, as determined by the City, but in no event shall it exceed an amount determined by calculating the ratio of the total labor costs to the total costs to the total material costs in the section of the Proposal involved, and multiplying the cost of materials for the unit in question by this ratio. Provided, however, that the ratio shall be calculated for only those units that are similar to the new unit for which a price is to be determined.

(f) **Method B - Lump Sum.** The lump sum shall be reasonably close to the amount for similar work previously done or combinations of similar units. Invoices for materials used shall be provided in support of the agreed lump sum.

(g) **Method C - Actual Field Costs.** The actual field cost is hereby defined to include the cost of all applicable workmen and laborers, as well as materials, supplies, teams, trucks, rentals on machinery and equipment, for the time actually employed or used for such Extra Work, plus actual transportation charges necessarily incurred, together with other costs reasonably incurred directly on account of such Extra Work, including social security, old age benefits, maintenance bonds, public liability, property damage, workers' compensation, and all other insurance as may be required by law or ordinances or required and agreed to by the City or City's Representative. City's Representative may direct the form in which accounts of the actual field costs shall be kept and records of these accounts shall be made available to City's Representative. Unless otherwise agreed upon, the prices for the use of machinery and equipment shall be determined by using one hundred percent (100%), unless otherwise specified, of the latest schedule of equipment and ownership expenses adopted by the Associated General Contractors of America. Where practical, the terms and prices for the use of machinery and equipment shall be incorporated in the written Extra Work order. Actual field costs shall not exceed the prevailing market price therefor within reasonable tolerances as determined by City's Representative. The amount due to Contractor for costs other than actual field costs shall be calculated in accordance with the following standards:

- (1) No indirect or consequential damages will be allowed.
- (2) All damages must be directly and specifically shown to be caused by a proven wrong. No recovery shall be based on a comparison by planned expenditures to total actual expenditures or on estimated losses of labor efficiency, or on a comparison of planned man loading to actual man loading, or any other analysis that is used to show damages indirectly.
- (3) Damages are limited to extra costs specifically shown to have been directly caused by a proven wrong.
- (4) The maximum daily limit on any recovery for delay shall be the amount established by the Contractor for job overhead costs, defined in the pay applications, divided by the total number of days specified for completion called for in the original Contract. Absent an overhead amount in the Schedule of Values, the amount estimated by Contractor for job overhead cost shall be used.

18. TIME OF COMPLETION

18.01 The date of beginning, the time for Substantial Completion and Final Completion of Work as specified in this Agreement are of the essence of this Agreement.

18.02 The Work embraced by this Agreement shall be commenced on the date specified in the notice to proceed. Said notice to proceed may be given orally or set by the City's Representative at the post-award conference.

18.03 The Work shall be Substantially Completed within the time bid, which shall run from the date when the notice to proceed is given by City's Representative. The Contractor bid calendar days for the time within which it shall reach Substantial Completion of the Project.

18.04 The Work shall reach Final Completion and be ready for final payment within **thirty (30) calendar days** from the date of Substantial Completion.

19. SUBSTANTIAL COMPLETION

19.01 The Contractor shall notify City's Representative when, in the Contractor's opinion, the Contract is Substantially Completed. Within ten (10) calendar days after the Contractor has given City's Representative written notice that the Work has been Substantially Completed, City's Representative shall inspect the Work for the preparation of a final punch list.

(a) If City's Representative and the City find that the Work is not Substantially Completed, then they shall so notify the Contractor who shall then complete the Work. City's Representative shall not be required to provide a list of unfinished work.

(b) If the City Representative and City find that the Work is Substantially Completed, the City shall issue to the Contractor its certificate of Substantial Completion.

19.02 The Substantial Completion of the Work shall not excuse the Contractor from performing all of the Work, whether of a minor or major nature, necessary for Final Completion and thereby completing the Project in accordance with the Contract Documents.

20. FINAL COMPLETION

20.01 Contractor shall notify the City's Representative when it believes that the Work has reached Final Completion as defined in this Agreement. If the City's Representative and the City accept and deems such Work Finally Complete, then Contractor shall be so notified and certificates of completion and acceptance, as provided herein, shall be issued. A complete itemized statement of this Agreement account, certified by the City's Representative as correct, shall then be prepared and delivered to Contractor. Contractor or City, as the case may be, shall pay the balance due as reflected by said statement within thirty (30) calendar days.

20.02 The Contractor shall procure all required certificates of acceptance or completions issued by state, municipal, or other authorities and submit the same to the City. The City may withhold any payments due under this Agreement until the necessary certificates are procured and delivered.

20.03 Neither the final payment nor any acceptance nor certificate nor any provision of this Agreement shall relieve the Contractor of any responsibility for faulty workmanship or materials. At the option of the City, the Contractor shall remedy any such defects and pay for any damage to other work which may appear after final acceptance of the Work.

21. DELAYS

21.01 The Contractor, in undertaking to complete the Work within the times herein fixed, has taken into consideration and made allowance for all hindrances and delays incident to such Work, whether growing out of delays in securing material or workmen or delays arising from inclement weather or otherwise.

21.02 The City may, in its sole discretion, delay the Work during inclement weather in order to preserve the Project, insure safety of work forces, and the preservation of materials and equipment. In such event and upon a written request from the Contractor, the City may grant an extension of time pursuant to Section 22 to offset for such stoppage of the Work.

21.03 No payment or compensation of any kind shall be made to the Contractor for damages because of hindrance or delay in the progress of the Work, unless such delays (i) are caused by the actual interference, fraud, bad faith or misrepresentation by the City or its agents, (ii) extend for an unreasonable length of time; or (iii) were not contemplated by the parties at the time of contracting. In the event of any delay entitling Contractor to an

increase in Contract Amount, except when due to City's intentional interference or fraud, Contractor's recovery shall be limited as outlined in Section 21.04 below. The City's reasonable exercise of any of its rights or remedies under the Contract, regardless of the extent or frequency, shall not under any circumstances be construed as interference with the Contractor's performance of the Work.

21.04 In the event of delays resulting from changes ordered in the Work by the City or other delays caused by the City or for the City's convenience, the Contractor may apply to the City for recovery of incidental damages resulting from increased storage costs or other costs necessary to protect the value of the Work. In no event shall any consequential or other damages be allowed or any other charges or claims be made by the Contractor for hindrances or delays resulting from any other cause.

22. EXTENSIONS OF TIME

22.01 The Contractor has submitted its proposal in full recognition of the time required for the completion of this Project, taking into consideration all factors including, but not limited to the average climatic range and industrial conditions. The Contractor has considered the liquidated damage provision of this Agreement and understands and agrees that it shall not be entitled to, nor will it request, an extension of time for either Substantial Completion or Final Completion, except when the Work has been delayed by one or more of the following:

- (a) An act or neglect of the City, the City's Representative, employees of the City, or other contractors employed by the City;
- (b) By changes ordered in the Work, or reductions thereto approved in writing;
- (c) By "rain days" (days with rainfall in excess of one-tenth of an inch) during the term of this Agreement that exceed the average number of rain days for such term for this locality, both as determined by the National Weather Service Forecast Office for Easterwood Airport in College Station, Texas (KCLL/CLL); or
- (d) By other causes that the City and the Contractor agree may reasonably justify delay and that were beyond the Contractor's reasonable control and ability to estimate, predict, or avoid, such as delays caused by unforeseen labor disputes, fire, natural disasters, acts of war, and other rare and unpredictable events. This term does **not** include normal delays incident to the delivery of materials, tools, or labor that reasonably could have been predicted and/or accounted for in the Contractor's Proposal or decision to bid.

22.02 If one or more of the foregoing conditions is present, the Contractor may apply in writing for an extension of time, within thirty (30) days of the occurrence of the event causing the delay, submitting therewith all written justification as may be required by the City's Representative. Within ten (10) calendar days after receipt of a written request for an extension of time, which is supported by all requested documentation, the City shall, in writing and in its sole discretion, grant or deny the request. Under no circumstances shall any extension of time by the City be valid and binding unless it is in writing and in conformity with the other terms of this Agreement.

23. LIQUIDATED DAMAGES

23.01 The time for the Substantial and Final Completion of the Work described herein are reasonable times for the completion of each, taking into consideration all conditions, including but not limited to the average climatic conditions and usual industrial conditions prevailing in this locality. The amount of liquidated damages for the Contractor's failure to meet the deadlines for Substantial and/or Final Completion are fixed and agreed on by the Contractor because of the impracticability and extreme difficulty in fixing and ascertaining the actual damages

that the City would in such an event sustain. The amounts to be charged are agreed to be damages the City would sustain and shall be retained by the City from current periodic estimates for payment or from final payment.

23.02 As a result of the difficulty in estimation, calculation and ascertainment of City's damages due to a failure of Contractor to achieve timely completion of the Work, if the Contractor should neglect, fail, or refuse to either Substantially Complete or Finally Complete the Work within the time herein specified, or any proper extension thereof granted by the City's Representative pursuant to the terms of Section 22 of this Agreement, then the Contractor does hereby agree as part of the consideration for the awarding of this Agreement that the City may permanently withhold from the Contractor's total compensation the sum of Five Hundred and NO /100 DOLLARS (\$ 500.00) for each and every calendar day that the Contractor shall be in default after the time stipulated for Substantial Completion and/or Final Completion, not as a penalty, but as liquidated damages for the breach of this Agreement. It being specifically understood that the assessment of liquidated damages may be made for any failure to meet either or both of the deadlines specified for Substantial Completion and/or Final Completion.

24. CHARGES FOR INJURY OR REPAIR

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

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

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

25. WARRANTY

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

The Contractor warrants that all materials provided to the City under this Agreement shall be new unless otherwise approved in advance by City's Representative, and all work will be of good quality, free from faults and defects (other than defects from third parties as set out in Chapter 59 Texas Business and Commerce Code relating to non-critical infrastructure), and in conformance with this Agreement, the other Contract Documents, and recognized industry standards .

25.02 All work not conforming to these requirements, including but not limited to unapproved substitutions, may be considered defective.

25.03 This warranty is in addition to any rights or warranties expressed or implied by law and in addition to any consumer protection claims arising from misrepresentations by the Contractor.

25.04 Where more than a one (1) year warranty is specified for individual products, work, or materials, the longer warranty shall govern.

25.05 This warranty obligation shall be covered by any performance or payment bonds tendered in compliance with this Agreement.

25.06 Defective Work Discovered During Warranty Period. If any of the Work is found or determined to be either defective, including obvious defects under warranty as set forth in this Section 25, or otherwise not in accordance with this Agreement within one (1) year after the date of the issuance of a certificate of Final Completion of the Work or a designated portion thereof, whichever is longer, or within one (1) year after acceptance by the City of designated equipment, or within such longer period of time as may be prescribed by law or by the terms of any applicable special warranty required by this Agreement, the Contractor shall promptly, upon receipt of written notice by the City, correct the defective work at no cost to the City.

25.07 The obligation to correct any defective work shall survive the termination of this Agreement. The guarantee to correct the defective work shall not constitute the exclusive remedy of City, nor shall other remedies be limited to the terms of either the warranty or the guarantee.

25.08 If within ten (10) calendar days after the City has notified the Contractor of a defect, failure, or abnormality in the Work, the Contractor has not started to make the necessary corrections or adjustments, the City is hereby authorized to make the corrections or adjustments, or to order the Work to be done by a third party. The cost of the work shall be paid by the Contractor or its surety.

25.09 The cost of all materials, parts, labor, transportation, supervision, special instruments, and supplies required for the replacement or repair of parts and for correction of defects shall be paid by the Contractor or by the surety.

25.10 The guarantee shall be extended to cover all repairs and replacements furnished, and the term of the guarantee for each repair or replacement shall be one (1) year after the installation or completion. The one (1) year warranty shall cover all Work, equipment, and materials that are part of this Project, whether or not a warranty is specified in the individual section of the Contract Documents that prescribe that particular aspect of the Work.

26. PAYMENT OF EMPLOYEES, SUBCONTRACTORS & SUPPLIERS

26.01 Wage Rates. Pursuant to Section 2258.023(a) of the Texas Government Code, wage rates paid by the Contractor and any subcontractor on this Project shall be not less than the general prevailing rate of per diem wages for work of a similar character in this locality as specified in the schedule of general prevailing rates of per diem wages attached hereto as Exhibit A.

26.02 Statutory Penalty. Pursuant to Section 2258.023(b) of the Texas Government Code, if the Contractor or any subcontractor violates the requirements of Section 26.01, the Contractor or subcontractor as the case may be shall pay the City **sixty dollars (\$60.00)** for each worker employed for each calendar day or part of the day that the worker is paid less than the stipulated wage rates.

26.03 The Contractor and each subcontractors shall pay all of their employees engaged in work on the Project in full (less mandatory legal deductions) in cash or by check readily cashable, without discount, no less than once each week.

26.04 No later than the seventh (7th) calendar day following the payment of wages, the Contractor must file with City's Representative a certified, sworn, legible copy of such payroll. This shall contain the name of each employee, their classification, the number of hours worked on each day, rate of pay, and net pay. The affidavit

shall state that the copy is a true and correct copy of such payroll and that no rebates or deductions (except as shown) have been made or will be made in the future from the wages therein shown.

26.05 Payment of Subcontractors. The Contractor shall be solely and exclusively responsible for compensating any of the Contractor's employees, subcontractors, materialmen and/or suppliers of any type or nature whatsoever and for insuring that no claims or liens of any type arising out of or incidental to the performance of any services performed pursuant to this Agreement are filed against any property owned by the City. In the event a statutory lien notice is sent to the City, the Contractor shall, where no payment bond covers the Work, upon written notice from the City, immediately obtain a bond at its expense and hold the City harmless from any losses that may result from the filing or enforcement of any said lien notice. In the event that the Contractor defaults in the provision of the bond, the City may withhold such funds as are necessary to assure the payment of such claim until litigation determines to whom payment shall be made.

26.06 Affidavit of Bills Paid. Prior to Final Acceptance of the Project, the Contractor shall provide a notarized affidavit stating that all bills for labor, materials, and incidentals incurred have been paid in full, that any claims from manufacturers, materialmen, and subcontractors have been released, and that there are no claims pending of which the Contractor has been notified.

27. INSURANCE

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

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

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

- (a) Commercial General Liability.
- (b) Business Automobile Liability.
- (c) Excess Liability – required for contract amounts exceeding \$1,000,000.
- (d) Builder's Risk – provides coverage for contractor's labor and materials for a project during construction that involves a structure such as a building or garage, builder's risk policy shall be written on "all risks" form.
- (e) Workers' Compensation/ Employer's Liability.

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

- (a) Only licensed Insurance Carriers authorized to do business in the State of Texas will be accepted.
- (b) Deductibles shall be listed on the Certificate of Insurance and are acceptable only on a per occurrence basis for property damage only.
- (c) "Claims Made" policies are not accepted.
- (d) Coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice has been given to the City of College Station.

- (e) The City of College Station, its agents, officials, employees and volunteers, are to be named as “Additional Insured” to the Commercial General, Umbrella and Business Automobile Liability policies. The coverage shall contain no special limitations on the scope of protection afforded to the City, its agents, officials, employees or volunteers.

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

- (a) General Liability insurance shall be written by a carrier rated “A:VIII” or better in accordance with the current A.M. Best Key Rating Guide.
- (b) Limit of \$1,000,000.00 per occurrence for bodily injury and property damage with an annual aggregate limit of \$2,000,000.00 which limits shall be endorsed to be per Project.
- (c) Coverage shall be at least as broad as ISO form GC 00 01.
- (d) No coverage shall be excluded from the standard policy without notification of individual exclusions being attached for the City’s review and acceptance.
- (e) The coverage shall not exclude the following: premises/operations with separate aggregate; independent contracts; products/completed operations; contractual liability (insuring the indemnity provided herein) Host Liquor Liability, Personal & Advertising Liability; and Explosion, Collapse, and Underground coverage.

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

- (a) Business Automobile Liability insurance shall be written by a carrier rated “A:VIII” or better in accordance with the current A.M. Best Key Rating Guide.
- (b) Minimum Combined Single Limit of \$1,000,000.00 per occurrence for bodily injury and property damage.
- (c) The Business Auto Policy must show Symbol 1 in the Covered Autos Portion of the liability section in Item 2 of the declarations page.
- (d) The coverage shall include owned autos, leased or rented autos, non-owned autos, any autos and hired autos.
- (e) Pollution Liability coverage shall be provided by endorsement MCS-90, with a limit of \$1,000,000.00, where such exposures exist.

27.06 Excess Liability. The following Excess Liability requirements shall apply:

Unless otherwise agreed in writing, excess liability coverage following the form of the underlying coverage with a minimum limit of \$5,000,000.00 or the total value of the Agreement, whichever is greater, per occurrence/aggregate when combined with the lowest primary liability coverage, is required for contracts exceeding \$1,000,000 in total value.

27.07 Additional Insured.

Those policies set forth in Sections 27.04, 27.05, and 27.06 shall contain an endorsement listing the City as Additional Insured and further providing that the Contractor's policies are primary to any self-insurance or insurance policies procured by the City. The additional insured endorsement shall be in a form acceptable to the City. Waiver of subrogation in a form acceptable to the City shall be provided in favor of the City on all policies obtained by the Contractor in compliance with the terms of this Agreement. Contractor shall be responsible for all deductibles which may exist on any policies obtained in compliance with the terms of this Agreement. All coverage for subcontractors shall be subject to the requirements stated herein. All Certificates of Insurance and endorsements shall be furnished to the City's Representative at the time of execution of this Agreement, attached hereto as Exhibit C, and approved by the City before Work commences.

27.08 Builder's Risk

Until the Work is completed and accepted by the City, the Contractor shall purchase and maintain builder's risk insurance upon the entire Work at the Project site to the full insurable value thereof, including any increases in value due to duly authorized change orders to the Work and Project. The builder's risk insurance shall also cover portions of the Work stored off site after written approval of the City of the value established in the approval, and also portions of the Work in transit. This insurance shall include the interests of the City, the Contractor, subcontractors and sub-subcontractors in the Work and shall insure against the perils of fire, wind, storm, hail, lightning and extended coverage including flood and earthquake and shall include all-risk insurance for physical loss or damage, including, without duplication of coverage, theft, vandalism and malicious mischief. The insurance shall cover reasonable compensation for City's Consultant's services and expenses required as a result of an insured loss. This must be an all-risk policy incorporating the following language:

Permission is given for the Project insured hereunder to become occupied, the insurance remaining in full force and effect until such time as the Project has been accepted by the City, all as currently approved by the Texas Board of Insurance Commissioners

When permissible by law, the Certificate of Insurance must include the names of the insured Contractor and the City. The deductible under the policy, including that for flood shall not exceed \$100,000.00 without the written approval of the City.

27.09 Workers' Compensation/Employer's Liability Insurance. The following Workers' Compensation Insurance requirements shall apply.

- (a) Pursuant to the requirements set forth in Title 28, Section 110.110 of the Texas Administrative Code, all employees of the Contractor, all employees of any and all subcontractors, and all other persons providing services on the Project must be covered by a workers' compensation insurance policy: either directly through their employer's policy (the Contractor's or subcontractor's policy) or through an executed coverage agreement on an approved Texas Department of Insurance Division of Workers' Compensation (DWC) form. Accordingly, if a subcontractor does not have his or her own policy and a coverage agreement is used, contractors and subcontractors must use that portion of the form whereby the hiring contractor agrees to provide coverage to the employees of the subcontractor. The portion of the form that would otherwise allow them not to provide coverage for the employees of an independent contractor may not be used.
- (b) Workers' Compensation/ Employer's Liability insurance shall include the following terms:
 - 1. Employer's Liability minimum limits of \$1,000,000.00 for each accident/each disease/each

employee are required.

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

- (c) Pursuant to the explicit terms of Title 28, Section 110.110(c) (7) of the Texas Administrative Code, the bid specifications, this Agreement, and all subcontracts on this Project must include the following terms and conditions in the following language, without any additional words or changes, except those required to accommodate the specific document in which they are contained or to impose stricter standards of documentation:

"A. Definitions:

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

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

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

B. The Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Contractor providing services on the project, for the duration of the project.

C. The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.

D. If the coverage period shown on the Contractor's current certificate of coverage ends during the duration of the project, the Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been

extended.

E. The Contractor shall obtain from each person providing services on a project, and provide to the governmental entity:

(1) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and

(2) no later than seven calendar days after receipt by the Contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.

F. The Contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.

G. The Contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 calendar days after the Contractor knew or should have known, or any change that materially affects the provision of coverage of any person providing services on the project.

H. The Contractor shall post on each project site a notice, in the text, form and manner prescribed by the Division of Workers' Compensation, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.

I. The Contractor shall contractually require each person with whom it contracts to provide services on a project, to:

(1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;

(2) provide to the Contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;

(3) provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(4) obtain from each other person with whom it contracts, and provide to the Contractor:

(a) A certificate of coverage, prior to the other person beginning work on the project; and

(b) A new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate

of coverage ends during the duration of the project;

(5) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;

(6) notify the governmental entity in writing by certified mail or personal delivery, within 10 calendar days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and

(7) Contractually require each person with whom it contracts to perform as required by Sections (a) - (g), with the certificates of coverage to be provided to the person for whom they are providing services.

J. By signing this Agreement, or providing, or causing to be provided a certificate of coverage, the Contractor is representing to the governmental entity that all employees of the Contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project; that the coverage will be based on proper reporting of classification codes and payroll amounts; and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the Commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

K. The Contractor's failure to comply with any of these provisions is a breach of contract by the Contractor that entitles the governmental entity to declare the Agreement void if the Contractor does not remedy the breach within ten calendar days after receipt of notice of breach from the governmental entity."

27.09 Certificates of Insurance. Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent on the most current State of Texas Department of Insurance-approved form, and shall contain the following provisions and warranties:

- (a)** The company is authorized to do business in the State of Texas.
- (b)** The insurance policies provided by the insurance company are underwritten on forms that have been provided by the Department of Insurance or ISO.
- (c)** Original endorsements affecting coverage required by this section shall be furnished with the certificates of insurance.

28. BOND PROVISIONS

28.01 Pursuant to Section 2253.021 of the Texas Government Code, for all public works contracts with governmental entities, a payment bond is required if the Contract Amount exceeds \$50,000, and a performance bond is required if the Contract Amount exceeds \$100,000. Below those amounts, the City *may* require payment and/or performance bonds. In the event a performance or payment bond or both is required either by law or in the City's discretion, such bonds shall be executed in accordance with all requirements of Chapter 3503 of the Texas Insurance Code, all other applicable law, and the following:

(a) The Contractor shall execute performance and payment bonds for the full Contract Amount and, if required by Contractor's surety to cover increases in the dollar amounts or amount of Work that is increased by a duly authorized change order, Contractor shall secure performance and payment bond riders to increase the dollar amounts and coverages of the performance and payment bonds.

(b) The bond surety shall be authorized under the laws of the State of Texas to provide a performance and payment bond and shall have attached proof of authorization of the surety to act in the performance and payment of bonds.

(c) The Contractor shall provide original, sealed, and complete counterparts of the executed bonds in the forms required by the Contract Documents, which are attached as Exhibit B, together with valid original powers of attorney, **at the time of execution of this Agreement by Contractor and prior** to the commencement of work. Copies of the executed bonds shall be attached hereto as **Exhibit B**.

(d) The performance and payment bonds, and any subsequently issued bond riders, shall remain in effect for a period of one (1) year after Final Completion of the Work and shall be extended for any warranty work to cover the warranty period.

(e) If at any time during the execution of this Agreement in the required period thereafter, the bond or bonds become invalid or ineffective for any reason, the Contractor shall promptly supply within ten (10) days such other bond or bonds, which bond or bonds shall assure performance or payment as required.

28.02 The Contractor may make such changes and alterations as the City may require in the Work or any part thereof without affecting the validity of this Agreement and any accompanying bond. If such changes or alterations diminish the quantity of the work to be done, they shall not constitute the basis for any claim for damages or anticipated profits. If the City makes changes or alterations that render useless any work already done or material already used in said work, then the City shall compensate the Contractor for any material or labor so used, and for any actual loss occasioned by such change due to actual expenses incurred in preparation for the Work as originally planned, in accordance with the provisions of Article 17.

29. SURETY

29.01 If the Contractor has abandoned the Project or the City has terminated the Contract for cause and the Contractor's Surety, after notice demanding completion is sent, fails to commence the completion of the Work in compliance with this Agreement, then the City at its option may provide for completion of the Work in either of the following manners:

(a) The City may employ such force of men and use of instruments, machinery, equipment, tools, materials, and supplies as said the City may deem necessary to complete the Work and charge the expense of such labor, machinery, equipment, tools, materials, and supplies to the Contractor, and the expense so charged shall be deducted and paid by the City out of such monies as may be due or that may thereafter at any time become due to the Contractor and Surety.

(b) The City may, after notice published as required by law, accept sealed bids and let this Agreement for the completion of the Work under substantially the same terms and conditions that are provided in this Agreement. In case of any increase in cost to the City under the new agreement as compared to what would have been the cost under this Agreement, such increase together with all of the City's damages due to Contractor's abandonment and/or default, including liquidated damages, as provided pursuant to Section 38, entitled "TERMINATION FOR CAUSE" shall be charged to the Contractor and the surety

shall be and remain bound therefor. However, should the cost to complete such new agreement prove to be less than that which would have been the cost to complete the Work under this Agreement, the Contractor shall be credited therewith after all deductions are made in accordance with this Agreement.

29.02 Should the cost to complete the Work exceed the Contract Amount and the Contractor fails to pay the amount due to the City within the time designated and there remains any machinery, equipment, tools, materials, or supplies on the Project site, notice thereof, together with an itemized list of such equipment and materials, shall be mailed to the Contractor at its respective address designated in this Agreement; provided, however, that actual written notice given in any manner shall satisfy this condition. After mailing, or otherwise giving such notice, such property shall be held at the risk of the Contractor subject only to the duty of City's Representative to exercise ordinary care to protect such property. After fifteen (15) calendar days from the date of said notice, City's Representative may sell such machinery, equipment, tools, materials, or supplies and apply the net sum derived from such sale to the credit of the Contractor. Such sale may be made at either public or private sale, with or without notice, as City's Representative may elect. City's Representative shall release any machinery, equipment, tools, materials, or supplies which remain on the job site and belong to persons other than the Contractor to their proper owners.

29.03 In the event the account shows that the cost to complete the Work is less than that which would have been the cost to City had the Work been completed by the Contractor under the terms of this Agreement, or when the Contractor shall pay the balance shown to be due by them to the City, then all machinery, equipment, tools, materials, or supplies left on the Project site shall be turned over to the Contractor.

30. COMPLIANCE WITH LAW

30.01 The Contractor's work and materials shall comply with all state and federal laws, municipal ordinances, regulations, codes, and directions of inspectors appointed by proper authorities having jurisdiction.

30.02 The Contractor shall perform and require all subcontractors to perform the Work in accordance with applicable laws, codes, ordinances, and regulations of the State of Texas and the United States and in compliance with OSHA and other laws as they apply to its employees. In the event any of the conditions of the specifications violate the code for any industry, then such code conditions shall prevail.

30.03 The Contractor shall follow all applicable state and federal laws, municipal ordinances, and guidelines concerning soil erosion and sediment control throughout the Project and warranty term.

31. SAFETY PRECAUTIONS

31.01 All safety measures, policies and precautions at the site are a part of the construction techniques and processes for which the Contractor shall be solely responsible. The Contractor is solely responsible for handling and use of hazardous materials or waste, and informing employees of any such hazardous materials or waste. The Contractor shall provide copies of all hazardous materials and waste data sheets to the College Station Fire Department marked "Attn.: Assistant Chief".

31.02 The Contractor has the sole obligation to protect or warn any individual of potential hazards created by the performance of the Work set forth herein. The Contractor shall, at its own expense, take such precautionary measures for the protection of persons, property, and the Work as may be necessary.

31.03 The Contractor shall be held responsible for all damages to property, personal injuries and/or death due to failure of safety devices of any type or nature that may be required to protect or warn any individual of potential

hazards created by the performance of the Work set forth herein; and when any property damage is incurred, the damaged portion shall immediately be replaced or compensated for by the Contractor at its own cost and expense.

31.04 Contractor agrees that it shall not transport to, use, generate, dispose of, or install at the Project site any Hazardous Substance (as defined in this Agreement, except in accordance with applicable Environmental Laws. Further, in performing the Work, Contractor shall not cause any release of Hazardous Substances into, or contamination of, the environment, including the soil, the atmosphere, any water course or ground water, except in accordance with applicable Environmental Laws (as defined in this Agreement). **In the event Contractor engages in any of the activities prohibited in this Section 31.04 to the fullest extent permitted by law, Contractor hereby indemnifies and holds City and all of its respective officials, agents and employees harmless from and against any and all claims, damages, losses, causes of action, suits and liabilities of every kind, including, but not limited to, expenses of litigation, court costs, punitive damages and attorneys' fees, arising out of, incidental to or resulting from the activities prohibited in this section 31.04.**

31.05 In the event Contractor encounters on the Project site any Hazardous Substance, or what Contractor may reasonably believe to be a Hazardous Substance, and which is being introduced to the Work, or exists on the Project site, in a manner violative of any applicable Environmental Laws, Contractor shall immediately stop work in the area affected and report the condition to City in writing. The Work in the affected area shall not thereafter be resumed except by written authorization of City if in fact a Hazardous Substance has been encountered and has not been rendered harmless. In the event Contractor fails to stop the Work upon encountering a Hazardous Substance at the Project site, **to the fullest extent permitted by law, Contractor hereby indemnifies and holds City and all of its officials, agents and employees harmless from and against any and all claims, damages, losses, causes of action, suits and liabilities of every kind, including, but not limited to, expenses of litigation, court costs, punitive damages and attorneys' fees, arising out of, incidental to or resulting from Contractor's failure to stop the Work.**

31.06 City and Contractor may enter into a separate agreement and/or Change Order for Contractor to remediate and/or render harmless the Hazardous Substance, but Contractor shall not be required to remediate and/or render harmless the Hazardous Substance absent such agreement. Contractor shall not be required to resume work in any area affected by the Hazardous Substance until such time as the Hazardous Substance has been remediated and/or rendered harmless.

31.07 It is the Contractor's responsibility to comply with all Environmental Laws (as defined in this Agreement) based on the law in effect at the time its services are rendered and to comply with any amendments to those laws for all services rendered after the effective date of any such amendments.

32. TRENCH SAFETY

The Contractor must comply with Texas law regarding trench excavation exceeding five feet in depth and in accordance with the following items:

32.01 The Contractor must comply with the requirements of Subchapter 756 of the Tex. Health & Safety Code Ann. §756.022-023, and the requirements of 29 C.F.R., Subpart P – Excavations (sections 1926.650 et. seq.) of the Occupational Safety and Health Administration Standards, as amended.

32.02 The Contractor must include a separate pay item for trench safety complying with trench safety requirements, stating a unit price per linear foot of trench safety systems, as measured along the centerline of trench including manholes and other line structures.

32.03 Before beginning work on this project, the Contractor must submit to the City a complete trench safety program that complies with state and federal regulations. It is the sole duty, responsibility and prerogative of the Contractor, not the City, to determine the specific applicability of the designed trench safety systems to each field condition encountered on the project.

32.04 The Contractor must provide the City the name of the “competent person” required by OSHA standards to perform the trench safety inspections. The Contractor must make daily inspections to ensure that the systems comply with all applicable laws and regulations, and must maintain a permanent record of daily inspections available for examination by the City or other government authority.

32.05 If evidence of possible cave-ins or slides is apparent, the Contractor must cease all work in the trench and surrounding area until the necessary precautions have been taken by the Contractor to safeguard personnel entering the trench.

33. INDEMNITY

33.01 CONTRACTOR SHALL PROTECT, DEFEND, HOLD HARMLESS AND INDEMNIFY THE CITY FROM ANY AND ALL CLAIMS, DEMANDS, EXPENSES, LIABILITY OR CAUSES OF ACTION FOR INJURY TO ANY PERSON, INCLUDING DEATH, AND FOR DAMAGE TO ANY PROPERTY, TANGIBLE OR INTANGIBLE, OR FOR ANY BREACH OF CONTRACT ARISING OUT OF OR IN ANY MANNER CONNECTED WITH THE WORK DONE BY ANY PERSON UNDER THE CONTRACT DOCUMENTS. IT IS THE INTENT OF THE PARTIES THAT THIS PROVISION SHALL EXTEND TO, AND INCLUDE, ANY AND ALL CLAIMS, CAUSES OF ACTION OR LIABILITY CAUSED BY THE CONCURRENT, JOINT AND/OR CONTRIBUTORY NEGLIGENCE OF THE CITY, AN ALLEGED BREACH OF AN EXPRESS OR IMPLIED WARRANTY BY THE CITY OR WHICH ARISES OUT OF ANY THEORY OF STRICT OR PRODUCTS LIABILITY.

33.02 The indemnification contained in Section 33.01 shall include but not be limited to the following specific instances:

- (a) The City is damaged due to the act, omission, mistake, fault or default of the Contractor.**
- (b) In the event of any claims for payment for goods or services brought by any material suppliers, mechanics, laborers, or other subcontractors.**
- (c) In the event of any and all injuries to or claims of adjacent property owners caused by the Contractor, its agents, employees, and representatives.**
- (d) In the event of any damage to the floor, walls, etc., caused by the Contractor's personnel or equipment during installation.**
- (e) The removal of all debris related to the Work.**
- (f) The acts and omissions of the subcontractors it hired.**
- (g) The Contractor's failure to comply with applicable federal, state, or local regulations, that touch upon or concern the maintenance of a safe and protected working environment and the safe use and operation of machinery and equipment in that working environment, no matter where fault or responsibility lies.**

33.03 The indemnification obligations of the Contractor under this section shall not extend to include the liability of any professional engineer, the architect, their consultants, and agents or employees of any of them arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, Change Orders, designs or specifications, or (2) the giving of or the failure to give directions or instructions by the professional engineer, the architect, their consultants, and agents and employees of any of them, provided such giving or failure to give is the primary cause of the injury or damage.

33.04 It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of the indemnification obligation under Section 33.01, such legal limitations are made a part of the indemnification obligation and shall operate to amend the indemnification obligation to the minimum extent necessary to bring the provision into conformity with the requirements of such limitations, and as so modified, the indemnification obligation shall continue in full force and effect.

33.05 The indemnity provisions provided herein shall survive the termination or expiration of this Agreement.

33.06 The indemnification obligations under this section shall not be limited by any limitation on the amount or type of damages, compensation or benefits payable by or for Contractor under workers compensation acts, disability benefit acts or other employee benefit acts. There shall be no additional indemnification other than as set forth in this section. All other provisions regarding the same subject matter shall be declared void and of no effect.

34. RELEASE

34.01 The Contractor assumes full responsibility for the Work to be performed hereunder, and hereby releases, relinquishes, and discharges the City, its officers, agents, and employees from all claims, demands, and causes of action of every kind and character, including the cost of defense thereof, for any injury to or death of any person (whether employees of either party or other third parties) and any loss of or damage to any property (whether property of either of the parties hereto, their employees, or of third parties) that is caused by or alleged to be caused by, arising out of, or in connection with the Contractor's Work to be performed hereunder. This release shall apply regardless of whether said claims, demands, and causes of action are covered in whole or in part by insurance, and in the event of injury, death, property damage, or loss suffered by the Contractor, any subcontractor, or any person or organization directly or indirectly employed by any of them to perform or furnish work on the Project, this release shall apply regardless of whether such injury, death, loss, or damage was caused in whole or in part by the negligence of the City. There shall be no additional release or hold harmless provision other than as set forth in this section. All other provisions regarding the same subject matter shall be declared void and of no effect.

35. PERMITS AND LICENSES

35.01 The Contractor shall secure and pay for all necessary permits and licenses, governmental fees, and inspections necessary for the proper execution and completion of the Work. During this Agreement term and/or period during which the Contractor is working, it shall give all notices and comply with all laws, ordinances, rules, regulations, and lawful orders of any public authority bearing on the performance of the Work.

36. ROYALTIES AND LICENSING FEES

36.01 THE CONTRACTOR SHALL PAY ALL ROYALTIES AND LICENSING FEES. THE CONTRACTOR SHALL HOLD THE CITY HARMLESS AND INDEMNIFY THE CITY FROM THE PAYMENT OF ANY ROYALTIES, DAMAGES, LOSSES OR EXPENSES INCLUDING ATTORNEY'S FEES FOR SUITS, CLAIMS OR OTHERWISE, GROWING OUT OF INFRINGEMENT OR ALLEGED INFRINGEMENT OF PATENTS, MATERIALS AND METHODS USED IN THE PROJECT. IT SHALL DEFEND ALL SUITS OR CLAIMS FOR INFRINGEMENT OF ANY PATENT RIGHTS. FURTHER, IF THE CONTRACTOR HAS REASON TO BELIEVE THAT THE DESIGN, SERVICE, PROCESS, OR PRODUCT SPECIFIED IS AN INFRINGEMENT OF A PATENT, IT SHALL PROMPTLY GIVE SUCH INFORMATION TO CITY'S REPRESENTATIVE.

37. BREACH OF CONTRACT & DAMAGES

37.01 The City shall have the right to declare the Contractor in breach of this Agreement for cause when the City determines that this Agreement is not being performed according to its understanding of the intent and meaning of this Agreement. Such breach shall not in any way invalidate, abrogate, or terminate the Contractor's obligations under this Agreement.

37.02 Without prejudice to any other legal or equitable right or remedy that the City would otherwise possess hereunder or as a matter of law, the City upon giving the Contractor five (5) calendar days prior written notice shall be entitled to damages for breach of contract, upon but not limited to the following occurrences:

- (a) If the Contractor shall fail to remedy any default after written notice thereof from City's Representative, as City's Representative shall direct; or
- (b) If the Contractor shall fail for any reason other than the failure by City's Representative to make payments called upon when due; or
- (c) If the Contractor commits a substantial default under any of the terms, provisions, conditions, or covenants contained in this Agreement.

38. TERMINATION FOR CAUSE

38.01 At any time, and without prejudice to any other legal or equitable right or remedy that the City would otherwise possess hereunder or as a matter of law, the City upon giving the Contractor five (5) calendar days prior written notice shall be entitled to terminate this Agreement in its entirety for any of the following:

- (a) If the Contractor becomes insolvent, commits any act of bankruptcy, makes a general assignment for the benefit of creditors, or becomes the subject of any proceeding commenced under any statute or law for the relief of debtors and, after notice, fails to provide adequate assurance that it can remedy all of its defaults; or
- (b) If a receiver, trustee, or liquidator of any of the property or income of the Contractor is appointed; or
- (c) If the Contractor fails to prosecute the Work or any part thereof with diligence necessary to insure its progress and completion as prescribed by the time schedules; or
- (d) If the Contractor fails to remedy any default within ten (10) calendar days after written notice thereof from City's Representative, as City's Representative shall direct; or

- (e) If the Contractor fails for any reason other than the failure by City's Representative to make payments called upon when due; or
- (f) If the Contractor abandons the Work.
- (g) If the Contractor commits a material default under any of the terms, provisions, conditions, or covenants contained in this Agreement.

39. TERMINATION FOR CONVENIENCE

39.01 The performance of the Work may be terminated at any time in whole or, from time to time, in part, by the City for its convenience. Any such termination shall be effected by delivery to the Contractor of a written notice (notice of termination) specifying the extent to which performance of the Work is terminated, and the date upon which termination becomes effective.

39.02 In the event of termination for convenience, the Contractor shall only be paid the reasonable value of the Work performed prior to the effective date of the termination notice and shall be further subject to any claim the City may have against the Contractor under other provisions of this Agreement or as a matter of law. In the event of termination for convenience, Contractor Waives and Releases any claim for lost profit, other than profit on Work performed prior to the effective date of such termination.

40. RIGHT TO COMPLETE

40.01 If this Agreement is terminated for cause, the City shall have the right but shall not be obligated to complete the Work itself or by others; and to this end, the City shall be entitled to take possession of and use such equipment, without rental obligation therefor, and materials as may be on the job site, and to exercise all rights, options, and privileges of the Contractor under its subcontracts, purchase orders, or otherwise; and the Contractor shall promptly assign such rights, options, and privileges to City. If the City elects to complete the Work itself or by others, pursuant to the foregoing, then the Contractor and/or Contractor's surety will reimburse City for all costs incurred by the City (including, without limitation, applicable, general, administrative expenses, field overhead, the cost of necessary equipment, materials, field labor, additional fees paid to architects, engineers, attorneys or others to assist the City in connection with the termination and liquidated damages) in completing and/or correcting work by the Contractor that fails to meet any requirement of this Agreement or the other Contract Documents.

41. CLOSE OUT

41.01 After receipt of a notice of termination, whether for cause or convenience, unless otherwise directed by City's Representative, the Contractor shall, in good faith and to the best of its ability, do all things necessary in the light of such notice to assure the efficient and proper closeout of the terminated work (including the protection of City's property). Among other things, the Contractor shall, except as otherwise directed or approved by City's Representative, do the following:

- (a) Stop the work on the date and to the extent specified in the notice of termination;
- (b) Place no further orders or subcontracts for services, equipment, or materials, except as may be necessary for completion of such portion of the Work as is not terminated;

- (c) Terminate all orders and subcontracts to the extent that they relate to the performance of the Work terminated by the notice of termination;
- (d) Assign to City's Representative, in the manner and to the extent directed by it, all of the right, title, and interest of the Contractor under the orders or subcontracts so terminated; in which case, City's Representative shall have the right to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
- (e) With the approval of City's Representative, settle all outstanding liabilities and all claims arising out of such termination, orders, and subcontracts;
- (f) Deliver to City's Representative, when directed by City's Representative, all documents and all property, which if the Work had been completed, Contractor would have been required to account for or deliver to City's Representative, and transfer title to such property to City's Representative to the extent not already transferred.

42. TERMINATION CONVERSION

42.01 Upon determination of Court of competent jurisdiction that termination of the Contractor pursuant to Section 38 was wrongful and/or otherwise improper, such termination will be deemed converted to a termination for convenience pursuant to Section 39 and Contractor's remedy for such termination shall be limited to the recovery of the payments permitted for termination for convenience as set forth in Section 39.

43. HIRING

43.01 During the term of this Agreement and for a period of one (1) year thereafter, the Contractor agrees not to solicit for hire any employee or employees of the City that were associated with work specified under this Agreement. In the event that this provision is breached by the Contractor, the Contractor agrees to pay the City damages in the amount equal to twelve (12) months of the employee's total compensation plus any legal expenses associated with enforcement of this provision.

44. ASSIGNMENT

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

45. EFFECTIVE DATE

45.01 This Agreement goes into effect when duly approved by all the parties hereto and is contingent upon Contractor obtaining the bonds required herein.

46. OTHER TERMS

46.01 Invalidity. If any provision of this Agreement shall be held to be invalid, illegal or unenforceable by a court or other tribunal of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The parties shall use their best efforts to replace

the respective provision or provisions of this Agreement with legal terms and conditions approximating the original intent of the parties.

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

46.03 Written Notice. Unless otherwise specified, written notice shall be deemed to have been duly served if delivered in person to the individual or to a member of the firm or to any officer of the corporation for whom it is intended or if it is delivered or sent certified mail to the last business address as listed herein. Each party will have the right to change its business address by at least thirty (30) calendar days written notice to the other parties in writing of such change.

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

46.05 Amendment. No amendment to this Agreement shall be effective and binding unless and until it is reduced to writing and signed by duly authorized representatives of both parties.

46.06 Mediation. After receipt of a written notice of a claim, the City may elect to refer the matter to the City's Consultant, City's Representative or another party for review. Contractor will attend meetings called to review and discuss the claims and mitigation of the problem, and shall furnish any reasonable factual backup for the claim requested. The City may also elect to defer consideration of the claim until the Work is completed, in which case the same review options shall be available to the City at the completion of the Work. At any stage, the City, at its sole discretion, is entitled to refer a claim to mediation under the Construction Industry Mediation Rules of the American Arbitration Association, and, if this referral is made, Contractor will take part in the mediation process. The filing, mediation or rejection of a claim does not entitle Contractor to stop performance of the Work. The Contractor shall proceed diligently with performance of the Contract during the pendency of any claim, excepting termination or under City's direction to stop the Work. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. The parties shall share the Mediator's fee and any filing fees equally and the Mediation shall be held in College Station, Texas.

46.07 Arbitration. In the event of a dispute and upon the mutual written consent of both parties, the parties may agree to arbitration without waiving any of their other rights hereunder.

46.08 Choice of Law and Place of Performance. This Agreement has been made under and shall be governed by the laws of the State of Texas. Performance and all matters related thereto shall be in Brazos County, Texas, United States of America.

46.09 Authority to do business. The Contractor represents that it has a certificate of authority, authorizing it to do business in the State of Texas, a registered agent and registered office during the duration of this Agreement.

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

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

46.12 Headings, Gender, Number. The article headings are used in this Agreement for convenience and reference purposes only and are not intended to define, limit, or describe the scope or intent of any provision of this Agreement and shall have no meaning or effect upon its interpretation. Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise.

46.13 Agreement Read. The parties acknowledge that they have had opportunity to consult with counsel of their choice, have read, understand and intend to be bound by the terms and conditions of this Agreement.

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

46.15 Notice of Indemnification. City and Contractor hereby acknowledge and agree that this Agreement contains certain indemnification obligations and covenants.

46.16 Verification No Boycott. To the extent applicable, this Contract is subject to the following:

- (a) Boycott Israel. If this Contract is for goods and services subject to § 2270.002 Texas Government Code, Contractor verifies that it (i) does not boycott Israel; and (ii) will not boycott Israel during the term of this Contract;
- (b) Boycott Firearms. If this Contract is for goods and services subject to § 2274.002 Texas Government Code, Contractor verifies that it (i) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (ii) will not discriminate during the term of the contract against a firearm entity or firearm trade association; and
- (c) Boycott Energy Companies. Subject to § 2274.002 Texas Government Code Contractor herein verifies that it (i) does not boycott energy companies; and (ii) will not boycott energy companies during the term of this Contract.

46.17 Fraud Reporting. To reduce the risk of fraud and to protect the Contractor's financial information from fraud, the Contractor must report to the City in writing at VendorInvoiceEntry@cstx.gov if the Contractor reasonably suspects or knows if any of their financial information has been subject to fraudulent activity or suspected fraudulent activity.

List of Exhibits

- A. Wage Rates
- B. Performance & Payment Bonds
- C. Certificates of Insurance
- D. Plans & Specifications
- E. Construction Schedule
- F. Schedule of Values

LARRY YOUNG PAVING, INC.

CITY OF COLLEGE STATION

By: Herbert L. Young Jr.

By: _____

Printed Name: Herbert L. Young Jr.

City Manager

Date: _____

Title: President

Date: 10/26/2023

APPROVED:

City Attorney

Date: _____

Assistant City Manager/CFO

Date: _____

EXHIBIT A
DAVIS BACON WAGE RATES

Superseded General Decision Number: TX20220007

State: Texas

Construction Types: Heavy and Highway

Counties: Atascosa, Bandera, Bastrop, Bell, Bexar, Brazos, Burleson, Caldwell, Comal, Coryell, Guadalupe, Hays, Kendall, Lampasas, McLennan, Medina, Robertson, Travis, Williamson and Wilson Counties in Texas.

HEAVY (excluding tunnels and dams, not to be used for work on Sewage or Water Treatment Plants or Lift / Pump Stations in Bell, Coryell, McClennon and Williamson Counties) and HIGHWAY Construction Projects

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60).

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:	. Executive Order 14026 generally applies to the contract. . The contractor must pay all covered workers at least \$16.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2023.
If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:	. Executive Order 13658 generally applies to the contract. . The contractor must pay all covered workers at least \$12.15 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2023.

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <http://www.dol.gov/whd/govcontracts>.

Rates

Fringes

CEMENT MASON/CONCRETE
FINISHER (Paving and
Structures).....\$ 12.56 **

ELECTRICIAN.....\$ 26.35

FORM BUILDER/FORM SETTER

Paving & Curb.....\$ 12.94 **

Structures.....\$ 12.87 **

LABORER

Asphalt Raker.....\$ 12.12 **

Flagger.....\$ 9.45 **

Laborer, Common.....\$ 10.50 **

Laborer, Utility.....\$ 12.27 **

Pipelayer.....\$ 12.79 **

Work Zone Barricade

Servicer.....\$ 11.85 **

PAINTER (Structures).....\$ 18.34

POWER EQUIPMENT OPERATOR:

Agricultural Tractor.....\$ 12.69 **

Asphalt Distributor.....\$ 15.55 **

Asphalt Paving Machine.....\$ 14.36 **

Boom Truck.....\$ 18.36

Broom or Sweeper.....\$ 11.04 **

Concrete Pavement

Finishing Machine.....\$ 15.48 **

Crane, Hydraulic 80 tons

or less.....\$ 18.36

Crane, Lattice Boom 80

tons or less.....\$ 15.87 **

Crane, Lattice Boom over

80 tons.....\$ 19.38

Crawler Tractor.....\$ 15.67 **

Directional Drilling

Locator.....\$ 11.67 **

Directional Drilling

Operator.....\$ 17.24

Excavator 50,000 lbs or

Less.....\$ 12.88 **

Excavator over 50,000 lbs...\$ 17.71

Foundation Drill, Truck

Mounted.....\$ 16.93

Front End Loader, 3 CY or

Less.....\$ 13.04 **

Front End Loader, Over 3 CY.\$ 13.21 **

Loader/Backhoe.....\$ 14.12 **

Mechanic.....\$ 17.10

Milling Machine.....\$ 14.18 **

Motor Grader, Fine Grade...\$ 18.51

Motor Grader, Rough.....\$ 14.63 **

Pavement Marking Machine...\$ 19.17

Reclaimer/Pulverizer.....\$ 12.88 **

Roller, Asphalt.....\$ 12.78 **

Roller, Other.....\$ 10.50 **

Scraper.....\$ 12.27 **

Spreader Box.....\$ 14.04 **

Trenching Machine, Heavy...\$ 18.48

Servicer.....\$ 14.51 **

Steel Worker

Reinforcing.....\$ 14.00 **

Structural.....\$ 19.29

TRAFFIC SIGNALIZATION:

Traffic Signal Installation

Traffic Signal/Light Pole

Worker.....\$ 16.00 **

TRUCK DRIVER

Lowboy-Float.....\$ 15.66 **

Off Road Hauler.....\$ 11.88 **

Single Axle.....\$ 11.79 **

Single or Tandem Axle Dump

Truck.....\$ 11.68 **

Tandem Axle Tractor w/Semi

Trailer.....\$ 12.81 **

WELDER.....\$ 15.97 **

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or

"UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour

National Office because National Office has responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISIO"

1. Payment greater than prevailing wage rate as listed within this document not prohibited per Texas Government Code, Chapter 2258, Prevailing Wage Rates, Subchapter A. General Provisions.
2. Not less than the following hourly rates shall be paid for the various classifications of work required by this project. Workers in classifications where rates are not identified shall be paid not less than the general prevailing rate of "laborer" for the various classifications of work therein listed.
3. The hourly rate for legal holiday and overtime work shall not be less than one and one-half (1 & 1/2) times the base hourly rate.
4. The rates listed are journeyman rates. Helpers may be used on the project and may be compensated at a rate determined mutually by the worker and employer, commensurate with the experience and skill of the worker but not at a rate less than 60% of the journeyman's wage as shown. Apprentices (enrolled in a federally certified apprentice program) may be used at the percentage rates of the journeyman scale stipulated in their apprenticeship agreement. At no time shall a journeyman supervise more than two (2) apprentices or helpers. All apprentices or helpers shall be under the direct supervision of a journeyman working as a crew.
5. Except for Heavy/Highway Construction, building construction wage rates shall be paid to all workers except those workers engaged in site work and construction beyond five feet of buildings.

EXHIBIT B
PERFORMANCE AND PAYMENT BONDS

PERFORMANCE BOND

Bond No. 4469483

THE STATE OF TEXAS

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KNOW ALL MEN BY THESE PRESENTS:

THE COUNTY OF BRAZOS

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THAT WE, Larry Young Paving, Inc., as Principal, hereinafter called "Contractor" and the other subscriber hereto Markel Insurance Company, as Surety, do hereby acknowledge ourselves to be held and firmly bound to the City of College Station, a municipal corporation, in the sum of One Million Seven Hundred Nineteen Thousand Eight Hundred Ten and 25 /100 Dollars (\$ 1,719,810.25) for the payment of which sum, well and truly to be made to the City of College Station and its successors, the said Contractor and Surety do bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:

WHEREAS, the Contractor has on or about this day executed a Contract in writing with the City of College Station for RFP (CSP) 23-088 Luther Street Rehabilitation from Penburthy Blvd to Marion Pugh Dr.

all of such Work to be done as set out in full in said Contract Documents therein referred to and adopted by the City Council, all of which are made a part of this instrument as fully and completely as if set out in full herein.

NOW THEREFORE, if the said Contractor shall faithfully and strictly perform Contract in all its terms, provisions, and stipulations in accordance with its true meaning and effect, and in accordance with the Contract Documents referred to therein and shall comply strictly with each and every provision of the Contract, including all warranties and indemnities therein and with this bond, then this obligation shall become null and void and shall have no further force and effect; otherwise the same is to remain in full force and effect.

It is further understood and agreed that the Surety does hereby relieve the City of College Station or its representatives from the exercise of any diligence whatever in securing compliance on the part of the Contractor with the terms of the Contract, including the making of payments thereunder and, having fully considered its Principal's competence to perform the Contract in the underwriting of this Performance Bond, the Surety hereby waives any notice to it of any default, or delay by the Contractor in the performance of his Contract and agrees that it, the Surety, shall be bound to take notice of and shall be held to have knowledge of all acts or omissions of the Contractor in all matters pertaining to the Contract. The Surety understands and agrees that the provision in the Contract that the City of College Station shall retain certain amounts due the Contractor until the expiration of thirty (30) days from the acceptance of the Work is intended for the City's benefit, and the City of College Station shall have the right to pay or withhold such retained amounts or any other amount owing under the Contract without changing or affecting the liability of the Surety hereon in any degree.

It is further expressly agreed by Surety that the City of College Station or its representatives are at liberty at any time, without notice to the Surety, to make any change in the Contract Documents and in the Work to be

Contract No. 24300037
Construction Agreement Over \$50,000
Form 04-20-2023

done thereunder, as provided in the Contract, and in the terms and conditions thereof, or to make any change in, addition to, or deduction from the Work to be done thereunder; and that such changes, if made, shall not in any way vitiate the obligation in this bond and undertaking or release the Surety therefrom. Surety, for value received, stipulates and agrees that any change in Contract Time or Contract Sum shall not in anywise affect its obligation on this bond and it does hereby waive notice of any such change in Contract Time or Contract Sum.

It is further expressly agreed and understood that the Contractor and Surety will fully indemnify and hold harmless the City of College Station from any liability, loss, cost, expense, or damage arising out of or in connection with the Work done by the Contractor under the Contract. In the event that the City of College Station shall bring any suit or other proceeding at law on the Contract or this bond or both, the Contractor and Surety agree to pay to the City the actual amounts of attorneys' fees incurred by the city in connection with such suit.

This bond and all obligations created hereunder shall be performable in Brazos County, Texas. This bond is given in compliance with the provisions of Chapter 2253 of the Texas Government Code, as amended, which is incorporated herein by this reference. However, all of the express provisions hereof shall be applicable whether or not within the scope of said statute.

Notices required or permitted hereunder shall be in writing and shall be deemed delivered when actually received or, if earlier, on the third day following deposit in a United State Postal Service post office or receptacle, with proper postage affixed (certified mail, return receipt requested), addressed to the respective other party at the address prescribed in the Contract Documents, or at such other address as the receiving party may hereafter prescribe by written notice to the sending party. A copy of surety agent's "Power of Attorney" must be attached hereto.

IN WITNESS THEREOF, the said Contractor and Surety have signed and sealed this instrument on the respective dates written below their signatures and have attached current Power of Attorney.

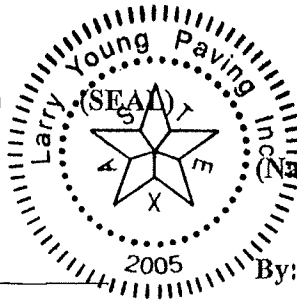
Bond No. 4469483

FOR THE CONTRACTOR:

LARRY YOUNG PAVING, INC.

ATTEST & SEAL: (if a corporation)

WITNESS: (if not a corporation)



(Name of Contractor)

By: [Signature]

By: [Signature]

Name: Tracy Lang

Name: _____

Title: Witness

Title: _____

Date: November 9, 2023

Date: November 9, 2023

FOR THE SURETY:

ATTEST/WITNESS (SEAL)

Markel Insurance Company
(Full Name of Surety)

By: Teresa Martin

9500 Arboretum Blvd., Suite 400

Name: Teresa Martin

Austin, TX 78759
(Address of Surety for Notice)

Title: Witness

Date: November 9, 2023

By: Alexandra Petroski

Name: Alexandria Petroski

Title: Attorney-In-Fact

Date: November 9, 2023

FOR THE CITY:

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

REVIEWED:

City Attorney

City Manager

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

TEXAS STATUTORY PAYMENT BOND

Bond No. 4469483

THE STATE OF TEXAS

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KNOW ALL MEN BY THESE PRESENTS:

THE COUNTY OF BRAZOS

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§

THAT WE, Larry Young Paving, Inc., as Principal, hereinafter called "Principal" and the other subscriber hereto Markel Insurance Company, a corporation organized and existing under the laws of the State of _____, licensed to business in the State of Texas and admitted to write bonds, as Surety, herein after called "Surety", do hereby acknowledge ourselves to be held and firmly bound to the City of College Station, a municipal corporation, in the sum of One Million Seven Hundred Nineteen Thousand Eight Hundred Ten and 25 /100 Dollars (\$ 1,719,810.25) for payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns jointly and severally.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:

WHEREAS, Principal has entered into a certain contract with the City of College Station, dated the 9th day of November, 20 23, for _____
RFP (CSP) 23-088 Luther Street Rehabilitation from Penburthy Blvd to Marion Pugh Dr., referred to and made a part hereof as fully and to the same extent as if copied at length herein.

NOW THEREFORE, the condition of this obligation is such that if Principal shall pay all claimants supplying labor and material to him or a subcontractor in the prosecution of the Work provided for in said contract, then, this obligation shall be null and void; otherwise to remain in full force and effect;

PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of Chapter 2253 of the Texas Government Code and all liabilities on this bond shall be determined in accordance with the provisions, conditions and limitations of said Code to the same extent as if it were copied at length herein.

Surety, for value received, stipulates and agrees that any change in Contract Time or Contract Sum shall not in anywise affect its obligation on this bond, and it does hereby waive notice of any such change in Contract Time or Contract Sum. A copy of surety agent's "Power of Attorney" must be attached hereto.

IN WITNESS THEREOF, the said Principal and Surety have signed and sealed this instrument on the respective dates written below their signatures.

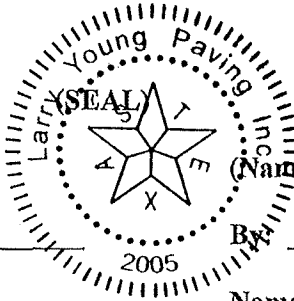
Bond No. 4469483

FOR THE CONTRACTOR:

LARRY YOUNG PAVING, INC.

ATTEST & SEAL: (if a corporation)

WITNESS: (if not a corporation)



By: [Signature]

Name: Tracy Lang

Title: Witness

Date: November 9, 2023

By: [Signature]

Name: Herbert L. Young, Jr.

Title: President

Date: November 9, 2023

FOR THE SURETY:

ATTEST/WITNESS (SEAL)

Markel Insurance Company
(Full Name of Surety)

By: [Signature]

Name: Teresa Martin

Title: Witness

Date: November 9, 2023

9500 Arboretum Blvd., Suite 400

Austin, TX 78759
(Address of Surety for Notice)

By: [Signature]

Name: Alexandria Petroski

Title: Attorney-In-Fact

Date: November 9, 2023

FOR THE CITY:

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

REVIEWED:

City Attorney

City Manager

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

Contract No. 24300037
Construction Agreement Over \$50,000
Form 04-20-2023

JOINT LIMITED POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That SureTec Insurance Company, a Corporation duly organized and existing under the laws of the State of Texas and having its principal office in the County of Harris, Texas and Markel Insurance Company (the "Company"), a corporation duly organized and existing under the laws of the state of Illinois, and having its principal administrative office in Glen Allen, Virginia, does by these presents make, constitute and appoint:

Connie Grocholski, Alexandria Petroski, Teresa Martin, Sally White

Their true and lawful agent(s) and attorney(s)-in-fact, each in their separate capacity if more than one is named above, to make, execute, seal and deliver for and on their own behalf, individually as a surety or jointly, as co-sureties, and as their act and deed any and all bonds and other undertaking in suretyship provided, however, that the penal sum of any one such instrument executed hereunder shall not exceed the sum of:

Fifty Million and 00/100 Dollars (\$50,000,000.00)

This Power of Attorney is granted and is signed and sealed under and by the authority of the following Resolutions adopted by the Board of Directors of SureTec Insurance Company and Markel Insurance Company:

"RESOLVED, That the President, any Senior Vice President, Vice President, Assistant Vice President, Secretary, Assistant Secretary, Treasurer or Assistant Treasurer and each of them hereby is authorized to execute powers of attorney, and such authority can be executed by use of facsimile signature, which may be attested or acknowledged by any officer or attorney, of the company, qualifying the attorney or attorneys named in the given power of attorney, to execute in behalf of, and acknowledge as the act and deed of the SureTec Insurance Company and Markel Insurance Company, as the case may be, all bond undertakings and contracts of suretyship, and to affix the corporate seal thereto."

IN WITNESS WHEREOF, Markel Insurance Company and SureTec Insurance Company have caused their official seal to be hereunto affixed and these presents to be signed by their duly authorized officers on the 20th day of January, 2023.

SureTec Insurance Company

By:

Michael C. Kelmig, President



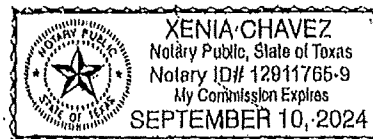
By:

Undey Jennings, Vice President

State of Texas
County of Harris:

On this 20th day of January, 2023 A. D., before me, a Notary Public of the State of Texas, in and for the County of Harris, duly commissioned and qualified, came THE ABOVE OFFICERS OF THE COMPANIES, to me personally known to be the individuals and officers described in, who executed the preceding instrument, and they acknowledged the execution of same, and being by me duly sworn, disposed and said that they are the officers of the said companies aforesaid, and that the seals affixed to the preceding instrument are the Corporate Seals of said Companies, and the said Corporate Seals and their signatures as officers were duly affixed and subscribed to the said instrument by the authority and direction of the said companies, and that Resolutions adopted by the Board of Directors of said Companies referred to in the preceding instrument is now in force.

IN TESTIMONY WHEREOF, I have hereunto set my hand, and affixed my Official Seal at the County of Harris, the day and year first above written.



By:

Xenia Chavez, Notary Public
My commission expires 9/10/2024

We, the undersigned Officers of SureTec Insurance Company and Markel Insurance Company do hereby certify that the original POWER OF ATTORNEY of which the foregoing is a full, true and correct copy is still in full force and effect and has not been revoked.

IN WITNESS WHEREOF, we have hereunto set our hands, and affixed the Seals of said Companies, on the 9th day of November, 2023.

SureTec Insurance Company

By:

M. Brent Beaty, Assistant Secretary

Markel Insurance Company

By:

Andrew Marquis, Assistant Secretary

Any instrument issued in excess of the penalty stated above is totally void and without any validity. 4221009
For verification of the authority of this Power you may call (713) 812-0800 on any business day between 8:30 AM and 5:00 PM CST.

Markel Insurance Company

THIS BOND RIDER CONTAINS IMPORTANT COVERAGE INFORMATION

Statutory Complaint Notice/Filing of Claims

To obtain information or make a complaint: You may call the Surety's toll free telephone number for information or to make a complaint or file a claim at: 1-866-732-0099. You may also write to the Surety at:

Markel Insurance Company
9500 Arboretum Blvd., Suite
400
Austin, TX 78759

You may contact the Texas Department of Insurance to obtain information on companies, coverage, rights or complaints at 1-800-252- 3439. You may write the Texas Department of Insurance at:

PO Box 149104
Austin, TX 78714-
9104
Fax#: 512-490-1007
Web: <http://www.tdi.state.tx.us>
Email: ConsumerProtection@tdi.texas.gov

PREMIUM OR CLAIMS DISPUTES: Should you have a dispute concerning your premium or about a claim, you should contact the Surety first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

EXHIBIT C
CERTIFICATES OF INSURANCE AND ENDORSEMENTS



LARRYOU-01

KBAKER

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/10/2023

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 Rollo Insurance Group, Inc 1202 Amistad Loop College Station, TX 77845	CONTACT NAME: PHONE (A/C, No, Ext): (979) 307-7700 FAX (A/C, No): E-MAIL ADDRESS:
	INSURER(S) AFFORDING COVERAGE INSURER A : United Fire & Ind Co INSURER B : Texas Mutual Insurance Company INSURER C : Homesite Ins Co Of The Midwest INSURER D : Endurance American Specialty Insurance Company INSURER E : INSURER F :
INSURED Larry Young Paving, Inc. Silver Hill Equipment Co., LLC PO Box 11779 College Station, TX 77842	NAIC # 19496 22945 13927 41718

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☒ PROJECT ☐ LOC OTHER:			85327666	8/23/2023	8/23/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY			85327666	8/23/2023	8/23/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE DED ☐ RETENTION \$			85327666	8/23/2023	8/23/2024	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ Aggregate \$ 1,000,000
B	☒ WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N Y	N/A	0001311091	8/23/2023	8/23/2024	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	Excess Liability			CXP-022988-00	8/23/2023	8/23/2024	Excess Liab \$4M X \$1 4,000,000
D	Excess Liability			ELD30043365100	8/23/2023	8/23/2024	Excess Liab \$5M X \$5M 5,000,000

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

Luther Street Rehabilitation from Penberthy Blvd to Marion Pugh Dr.

RFP Number 23-088

Project number ST2002 & WA2000001

CERTIFICATE HOLDER

CANCELLATION

City of College Station, Texas
Purchasing Division - City Hall
PO Box 9960
1101 Texas Avenue
College Station, TX 77842

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

AUTHORIZED REPRESENTATIVE

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BUSINESS AUTO ULTRA ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

COMMON POLICY CONDITIONS

COVERAGE INDEX

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The COVERAGE INDEX set forth above is informational only and grants no coverage.

Terms set forth in ***(Bold Italics)*** are likewise for information only and by themselves shall be deemed to grant no coverage.

(Temporary Substitute Auto Physical Damage)

A. TEMPORARY SUBSTITUTE AUTO PHYSICAL DAMAGE

SECTION I – COVERED AUTOS, paragraph C. Certain Trailers, Mobile Equipment and Temporary Substitute Autos is amended by adding the following at the end of the existing language:

If Physical Damage Coverage is provided under this Coverage form for an "auto" you own, the Physical Damage coverages provided for that owned "auto" are extended to any "auto" you do not own while used with the permission of its owner as a temporary substitute for the covered "auto" you own that is out of service because of its breakdown, repair, servicing, "loss", or destruction

B. BROADENED LIABILITY COVERAGES

SECTION II – LIABILITY COVERAGE in Paragraph A. Coverage at 1. Who Is An Insured is amended to include the following:

(Broad Form Insured)

- d. Any legally incorporated subsidiary in which you own more than 50% of the voting stock on the effective date of the Coverage Form. However, the Named Insured does not include any subsidiary that is an "insured" under any other automobile policy or would be an "insured" under such a policy but for its termination or the exhaustion of its Limit of Insurance.
- e. Any organization that is acquired or formed by you, during the term of this policy and over which you maintain majority ownership. However, the Named Insured does not include any newly formed or acquired organization:
 - (1) That is a joint venture or partnership,
 - (2) That is an "insured" under any other policy,
 - (3) That has exhausted its Limits of Insurance under any other policy, or
 - (4) 180 days or more after its acquisition or formation by you, unless you have given us notice of the acquisition or formation

Coverage does not apply to "bodily injury" or "property damage" that results from an accident that occurred before you formed or acquired the organization.

(Employee as Insureds)

- f. Any employee of yours while acting in the course of your business or your personal affairs while using a covered "auto" you do not own, hire or borrow.

(Additional Insured Status by Contract, Agreement or Permit)

- g. Any person or organization whom you are required to add as an additional insured on this policy under a written contract or agreement; but the written contract or agreement must be:
 - (1) Currently in effect or becoming effective during the term of this policy; and
 - (2) Executed prior to the "bodily injury" or "property damage."

The additional insured status will apply only with respect to your liability for "bodily injury" or "property damage" which may be imputed to that person(s) or organization(s) directly arising out of the ownership, maintenance or use of the covered "autos" at the location(s) designated, if any.

Coverage provided by this endorsement will not exceed the limits of liability required by the written contract or written agreement even if the limits of liability stated in the policy exceed those limits. This endorsement shall not increase the limits stated in **Section II. C. Limits of Insurance.**

For any covered "auto" you own this Coverage Form provides primary coverage.

C. BROADENED SUPPLEMENTARY PAYMENTS

SECTION II. LIABILITY A. Coverage 2. Coverage Extensions a. Supplementary Payments (2) and (4) are replaced by the following:

(Bail Bond Coverage)

- (2) Up to \$5,000 for cost of bail bonds (including bonds for related traffic violations) required because of an "accident" we cover. We do not have to furnish these bonds.

(Loss of Earnings Coverage)

- (4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earning up to \$500 a day because of time off from work.

(Amended Fellow Employee Exclusion)

D. AMENDED FELLOW EMPLOYEE EXCLUSION

Only with respect to your "employees" who occupy positions which are supervisory in nature, **SECTION II. LIABILITY B. Exclusion 5. Fellow Employee** is replaced by:

5. Fellow Employee

"Bodily Injury":

- a. To you, or your partners or members (if you are a partnership or joint venture), or to your members (if you are a limited liability company);
- b. To your "executive officers" and directors (if you are an organization other than a partnership, joint venture, or limited liability company) but only with respect to performance of their duties as your officers or directors;
- c. For which there is an obligation to share damages with or repay someone else who must pay damages because of the injury described in paragraph a and b above; or
- d. Arising out of his or her providing or failing to provide professional health care services.

For purposes of this endorsement, a position is deemed to be supervisory in nature if that person performs principle work which is substantially different from that of his or her subordinates and has authority to hire, transfer, direct, discipline or discharge.

E. BROADENED PHYSICAL DAMAGE COVERAGES

SECTION III – PHYSICAL DAMAGE COVERAGE A. Coverage is amended as follows:

(Towing and Labor)

2. Towing is deleted and replaced with the following:

2. Towing and Labor

We will pay towing and labor costs incurred, up to the limits shown below, each time a covered "auto" is disabled:

- a. For private passenger type vehicles we will pay up to \$100 per disablement.
- b. For all other covered "auto's" we will pay up to \$500 per disablement

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

(Physical Damage Additional Transportation Expense Coverage)

4. Coverage Extensions

- a. **Transportation Expenses** is amended to provide the following limits:

We will pay up to \$60 per day to a maximum of \$1,800. All other terms and provisions of this section remain applicable.

The following language is added to **4. Coverage Extensions**:

(Extra Expense – Theft)

c. Theft Recovery Expense

If you have purchased Comprehensive Coverage on an "auto" that is stolen, we will pay the expense of returning that stolen auto to you. The limit for this coverage extension is \$5,000.

(Rental Reimbursement and Additional Transportation Expense)

d. Rental Reimbursement

We will provide Rental Reimbursement and Additional Expense coverage only for those Physical Damage coverages for which a premium is shown in the Declarations or schedule pages. Coverage applies only to a covered "auto".

- (1)** We will pay for auto rental expense and the expense incurred by you because of "loss" to remove and transfer your materials and equipment from a covered "auto" to a covered "auto." Payment applies in addition to the otherwise applicable coverage you have on a covered "auto." No deductible applies to this coverage.
- (2)** We will pay only for expenses incurred during the policy period and beginning 24 hours after the "loss" and ending, regardless of the policy's expiration, with the lesser of the following number of days:
 - (a)** The number of days reasonably required to repair or replace the covered "auto." If "loss" is caused by theft, this number of days is added to the number of days it takes to locate the covered "auto" and return it to you, or
 - (b)** 30 days.
- (3)** Our payment is limited to the lesser of the following amounts:
 - (a)** Necessary and actual expenses incurred; or
 - (b)** \$75 per day.
 - (c)** This coverage does not apply while there are spare or reserve "autos" available to you for your operations.
 - (d)** If "loss" results from the total theft of a covered "auto" of the private passenger or light truck type, we will pay under this coverage only that amount of your rental reimbursement expense which is not already provided for under the **SECTION III – PHYSICAL DAMAGE COVERAGE, A. Coverage, 4. Coverage Extensions, a. Transportation Expenses.**

(Personal Effects Coverage)

e. Personal Effects

If you have purchased Comprehensive Coverage on this policy for an "auto" you own and that "auto" is stolen, we will pay, without application of a deductible, up to \$500 for Personal Effects stolen with the "auto". The insurance provided under this provision is excess over any other collectible insurance. For this coverage extension, Personal Effects means tangible property that is worn or carried by an "insured".

(Personal Property of Others)

f. Personal Property of Others

We will pay up to \$500 for loss to personal property of others in or on your covered "auto." This coverage applies only in the event of "loss" to your covered "auto" caused by fire, lightning, explosion, theft, mischief or vandalism, the covered "auto's" collision with another object, or the covered "auto's" overturn. No deductibles apply to this coverage.

(Locksmith Coverage)

g. Locksmith Coverage

We will pay up to \$250 per occurrence for necessary locksmith services for keys locked inside a covered private passenger "auto". The deductible is waived for these services.

(Vehicle Wrap Coverage)

h. Vehicle Wrap Coverage

If you have Comprehensive or Collision coverage on an "auto" that is a total loss, in addition to the actual cash value of the "auto", we will pay up to \$1,000 for vinyl vehicle wraps which are displayed on the covered "auto" at the time of total loss. Regardless of the number of autos deemed a total loss, the most we will pay under this Vehicle Wrap Coverage for any one "loss" is \$5,000. For purposes of this coverage provision, signs or other graphics painted or magnetically affixed to the vehicle are not considered vehicle wraps.

(Airbag Accidental Discharge)

F. SECTION III – PHYSICAL DAMAGE COVERAGE, B. Exclusions is amended at **3.** to include the following language:

If you have purchased Comprehensive or Collision Coverage under this policy, this exclusion does not apply to mechanical breakdown relating to the accidental discharge of an air bag. This coverage applies only to a covered auto you own and is excess of any other collectible insurance or warranty. No deductible applies to this coverage.

G. BROADENED LIMITS OF INSURANCE

(Audio, Visual and Data Electronic Equipment Coverage)

SECTION III – PHYSICAL DAMAGE COVERAGE – C. Limit of Insurance at **1.b.** is amended to provide the following limits:

- b.** Limits of \$1,000 per "loss" is increased to \$5,000 per "loss". All other terms and provisions of this section remain applicable.

(Auto Loan/Lease Total Loss Protection)

SECTION III – PHYSICAL DAMAGE COVERAGE – C. Limit of Insurance is amended by adding the following language:

- 4.** In the event of a total "loss" to a covered "auto" shown in the Schedule pages, subject at the time of the "loss" to a loan or lease, we will pay any unpaid amount due including up to a maximum of \$500 for early termination fees or penalties on the lease or loan for a covered "auto" less:
 - a.** The amount paid under the Physical Damage Coverage Section of the policy; and
 - b.** Any:
 - (1)** Overdue lease / loan payments at the time of the "loss";
 - (2)** Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage;
 - (3)** Security deposits not returned by the lessor;
 - (4)** Costs for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan or lease; and
 - (5)** Carry-over balances from previous loans or leases.

(Glass Repair – Deductible Amendment)

H. GLASS REPAIR – DEDUCTIBLE

SECTION III – PHYSICAL DAMAGE COVERAGE – D. Deductible is amended by adding the following:

Any deductible shown in the Declarations as applicable to the covered "auto" will not apply to glass breakage if the damaged glass is repaired, rather than replaced.

(Amended Duties in the Event of Accident, Claim, Suit or Loss)

I. AMENDED DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS

Under **SECTION IV – BUSINESS AUTO CONDITIONS, A. Loss Conditions**, the following is added to paragraph **2. Duties In The Event of Accident, Suit or Loss**:

- d. Knowledge of any "accident", "claim", "suit" or "loss" will be deemed knowledge by you when notice of such "accident", "claim", "suit" or "loss" has been received by:
 - (1) You, if you are an individual;
 - (2) Any partner or insurance manager if you are a partnership;
 - (3) An executive officer or insurance manager, if you are a corporation;
 - (4) Your members, managers or insurance manager, if you are a limited liability company; or
 - (5) Your officials, trustees, board members or insurance manager, if you are a not-for-profit organization.

(Waiver of Subrogation by Contract)

J. WAIVER OF SUBROGATION REQUIRED BY CONTRACT

Under **SECTION IV, BUSINESS AUTO CONDITIONS, A. Loss Conditions 5. Transfer of Rights of Recovery Against Others to Us** the following language is added:

However, we waive any rights of recovery we may have against the person or organization with whom you have agreed in writing in a contract, agreement or permit, to provide insurance such as is afforded under the policy to which this endorsement is attached. This provision does not apply unless the written contract or written agreement has been executed, or permit has been issued, prior to the "bodily injury" or "property damage."

(Unintentional Failure to Disclose)

K. UNINTENTIONAL FAILURE TO DISCLOSE

Under **SECTION IV – BUSINESS AUTO CONDITIONS, B. General Conditions**, the following is added to **2. Concealment, Misrepresentation Or Fraud**:

Your unintentional error in disclosing, or failing to disclose, any material fact existing at the effective date of this Coverage Form, or during the policy period in connection with any additional hazards, will not prejudice your rights under this Coverage Form.

(Hired, Leased, Rented or Borrowed Auto Physical Damage)

L. HIRED, LEASED, RENTED OR BORROWED AUTO PHYSICAL DAMAGE

Under **SECTION IV – BUSINESS AUTO CONDITIONS B. General Conditions 5. Other Insurance** Paragraph **5.b.** is replaced by the following:

- b. (1) For "Comprehensive" and "Collision" Auto Physical Damage coverage provided by this endorsement, the following are deemed to be covered "autos" you own:
 - (a) Any Covered "auto" you lease, hire, rent or borrow; and
 - (b) Any Covered "auto" hired or rented by your "employee" under a contract in that individual "employee's" name, with your permission, while performing duties related to the conduct of your business.

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

(2) Limit of Insurance For This Section

The most we will pay for any one "loss" is the lesser of the following:

- (a) \$75,000 per accident, or
- (b) actual cash value at the time of loss, or
- (c) cost of repair.

Minus a \$500 deductible. An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a total loss. No deductible applies to "loss" caused by fire or lightning.

(3) This Hired Auto Physical Damage coverage is excess over any other collectible insurance.

(4) Definitions For This Section

(a) Comprehensive Coverage: from any cause except the covered "auto's" collision with another object or the covered "auto's" overturn. We will pay glass breakage, "loss" caused by hitting a bird or animal and, "loss" caused by falling objects or missiles.

(b) Collision Coverage: caused by the covered "auto's" collision with another object or by the covered "auto's" overturn.

(Mental Anguish)

M. MENTAL ANGUISH

Under **SECTION V – DEFINITIONS**, **C.** is replaced by the following:

C. "Bodily injury" means bodily injury, sickness or disease sustained by a person including mental anguish or death resulting from bodily injury, sickness, or disease.

(Extended Cancellation Condition)

N. EXTENDED CANCELLATION CONDITION

Under **CANCELLATION**, of the **COMMON POLICY CONDITIONS** form, item **2.b.** is replaced by the following:

b. 60 days before the effective date of cancellation if we cancel for any other reason.

ULTRA LIABILITY PLUS ENDORSEMENT**COMMERCIAL GENERAL LIABILITY EXTENSION ENDORSEMENT SUMMARY OF COVERAGES**

This is a summary of the various additional coverages and coverage modifications provided by this endorsement. No coverage is provided by this summary.

- * Extended Property Damage
- * Expanded Fire Legal Liability to include Explosion, Lightning and Sprinkler Leakage
- * Coverage for non-owned watercraft is extended to 51 feet in length
- * Property Damage - Borrowed Equipment
- * Property Damage Liability - Elevators
- * Coverage D - Voluntary Property Damage Coverage
\$5,000 Occurrence with a \$10,000 Aggregate
- * Coverage E - Care, Custody and Control Property Damage Coverage
\$25,000 Occurrence with a \$100,000 Aggregate - \$500 Deductible
- * Coverage F - Electronic Data Liability Coverage - \$50,000
- * Coverage G - Product Recall Expense
\$25,000 Each Recall Limit with a \$50,000 Aggregate - \$1,000 Deductible
- * Coverage H - Water Damage Legal Liability - \$25,000
- * Increase in Supplementary Payments: Bail Bonds to \$1,000
- * Increase in Supplementary Payments: Loss of Earnings to \$500
- * For newly formed or acquired organizations - extend the reporting requirement to 180 days
- * Broadened Named Insured
- * Automatic Additional Insured - Owners, Lessees or Contractors - Automatic Status When Required in Construction Agreement With You – Including Upstream Parties
- * Automatic Additional Insured - Vendors
- * Automatic Additional Insured - Lessor of Leased Equipment Automatic Status When Required in Lease Agreement With You
- * Automatic Additional Insured - Managers or Lessor of Premises
- * Additional Insured - Engineers, Architects or Surveyors Not Engaged by the Named Insured
- * Additional Insured - Employee Injury to Another Employee
- * Automatically included - Aggregate Limits of Insurance (per location)
- * Automatically included - Aggregate Limits of Insurance (per project)
- * Knowledge of occurrence - Knowledge of an "occurrence", "claim or suit" by your agent, servant or employee shall not in itself constitute knowledge of the named insured unless an officer of the named insured has received such notice from the agent, servant or employee
- * Blanket Waiver of Subrogation
- * Liberalization Condition
- * Unintentional failure to disclose all hazards. If you unintentionally fail to disclose any hazards existing at the inception date of your policy, we will not deny coverage under this Coverage Form because of such failure. However, this provision does not affect our right to collect additional premium or exercise our right of cancellation or non-renewal.
- * Mobile equipment to include snow removal, road maintenance and street cleaning equipment less than 1,000 lbs GVW
- * Bodily Injury Redefined

REFER TO THE ACTUAL ENDORSEMENT FOLLOWING ON PAGES 2 THROUGH 12 FOR CHANGES AFFECTING YOUR INSURANCE PROTECTION

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ULTRA LIABILITY PLUS ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SECTION I - COVERAGES

A. The following changes are made at **COVERAGE A - BODILY INJURY AND PROPERTY DAMAGE LIABILITY**

1. Extended Property Damage

At **2. Exclusions** exclusion **a. Expected or Intended Injury** is replaced with the following:

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

2. Expanded Fire Legal Liability

At **2. Exclusions** the last paragraph is deleted and replaced by the following:

Exclusions **c.** through **n.** do not apply to damage by fire, explosion, lightning, smoke resulting from such fire, explosion, or lightning or sprinkler leakage to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in **SECTION III - LIMITS OF INSURANCE**.

3. Non-Owned Watercraft

At **2. Exclusions** exclusion **g. Aircraft, Auto Or Watercraft (2) (a)** is deleted and replaced by the following:

(a) Less than 51 feet long;

4. Property Damage – Borrowed Equipment

At **2. Exclusions** the following is added to paragraph **(4)** of exclusion **j. Damage To Property**:

This exclusion does not apply to "property damage" to borrowed equipment while at a jobsite and while not being used to perform operations. The most we will pay for "property damage" to any one piece of borrowed equipment under this coverage is \$25,000 per occurrence. The insurance afforded under this provision is excess over any valid and collectible property insurance (including deductible) available to the insured, whether primary, excess, contingent or on any other basis.

5. Property Damage Liability – Elevators

At **2. Exclusions** the following is added to paragraphs **(3), (4)** and **(6)** of exclusion **j. Damage To Property**:

This exclusion does not apply to "property damage" resulting from the use of elevators. However, any insurance provided for such "property damage" is excess over any valid and collectible property insurance (including deductible) available to the insured, whether primary, excess, contingent or on any other basis.

B. The following coverages are added:

1. **COVERAGE D - VOLUNTARY PROPERTY DAMAGE COVERAGE**

"Property damage" to property of others caused by the insured:

a. While in your possession; or

b. Arising out of "your work".

Coverage applies at the request of the insured, whether or not the insured is legally obligated to pay.

For the purposes of this **Voluntary Property Damage Coverage** only:

Exclusion **j. Damage to Property** is deleted and replaced by the following:

j. Damage to Property

"Property damage" to:

- (1) Property held by the insured for servicing, repair, storage or sale at premises you own, rent, lease, operate or use;
- (2) Property transported by or damage caused by any "automobile", "watercraft" or "aircraft" you own, hire or lease;
- (3) Property you own, rent, lease, borrow or use.

The amount we will pay is limited as described below in **SECTION III - LIMITS OF INSURANCE**

For the purposes of this Voluntary Property Damage Coverage, our right and duty to defend ends when we have paid the Limit of Liability or the Aggregate Limit for each coverage, and we are granted discretion in making payments under this coverage.

2. COVERAGE E - CARE, CUSTODY AND CONTROL PROPERTY DAMAGE COVERAGE

For the purpose of this **Care, Custody and Control Property Damage Coverage** only:

- a. Item (4) of exclusion j. does not apply.

The amount we will pay is limited as described below in **SECTION III - LIMITS OF INSURANCE**

For the purposes of this Care, Custody and Control Property Damage Coverage, our right and duty to defend ends when we have paid the Limit of Liability or the Aggregate Limit for each coverage, and we are granted discretion in making payments under this coverage.

3. COVERAGE F - ELECTRONIC DATA LIABILITY COVERAGE

For the purposes of this **Electronic Data Liability Coverage** only:

- a. Exclusion p. of **Coverage A – Bodily Injury And Property Damage Liability** in **Section I – Coverages** is replaced by the following:

2. Exclusions

This insurance does not apply to:

p. Electronic data

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

However, this exclusion does not apply to liability for damages because of "bodily injury"

- b. "Property damage" means:

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

For the purposes of this **Electronic Data Liability Coverage**, "electronic data" is not tangible property.

The amount we will pay is limited as described below in **SECTION III - LIMITS OF INSURANCE**

4. COVERAGE G - PRODUCT RECALL EXPENSE

- a. Insuring Agreement

- (1) We will pay 90% of "product recall expense" you incur as a result of a "product recall" you initiate during the coverage period.
- (2) We will only pay for "product recall expense" arising out of "your products" which have been physically relinquished to others.

The amount we will pay is limited as described below in **SECTION III - LIMITS OF INSURANCE**

b. Exclusions

This insurance does not apply to "product recall expense" arising out of:

- (1) Any fact, circumstance or situation which existed at the inception date of the policy and which you were aware of, or could reasonably have foreseen that would have resulted in a "product recall".
- (2) Deterioration, decomposition or transformation of a chemical nature, except if caused by an error in the manufacture, design, processing, storage, or transportation of "your product".
- (3) The withdrawal of similar products or batches that are not defective, when a defect in another product or batch has been found.
- (4) Acts, errors or omissions of any of your employees, done with prior knowledge of any of your officers or directors.
- (5) Inherent vice, meaning a natural condition of property that causes it to deteriorate or become damaged.
- (6) "Bodily injury" or "property damage".
- (7) Failure of "your product" to accomplish its intended purpose, including any breach of warranty of fitness, quality, efficacy or efficiency, whether written or implied.
- (8) Loss of reputation, customer faith or approval, or any costs incurred to regain customer market, or any other consequential damages.
- (9) Legal fees or expenses.
- (10) Damages claimed for any loss, cost or expense incurred by you or others for the loss of use of "your product".
- (11) "Product recall expense" arising from the "product recall" of any of "your products" for which coverage is excluded by endorsement.
- (12) Any "product recall" initiated due to the expiration of the designated shelf life of "your product".

5. COVERAGE H - WATER DAMAGE LEGAL LIABILITY

The Insurance provided under **Coverage H (Section I)** applies to "property damage" arising out of water damage to premises that are both rented to and occupied by you.

The Limit under this coverage shall not be in addition to the Damage To Premises Rented To You Limit.

The amount we will pay is limited as described below in **SECTION III - LIMITS OF INSURANCE**

C. SUPPLEMENTARY PAYMENTS - COVERAGES A AND B is amended:**1. To read SUPPLEMENTARY PAYMENTS****2. Bail Bonds**

Item **1.b.** is amended as follows:

- b.** Up to \$1,000 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

3. Loss of Earnings

Item **1.d.** is amended as follows:

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

4. The following language is added to Item 1.

However, we shall have none of the duties set forth above when this insurance applies only for **Voluntary Property Damage Coverage** and/or **Care, Custody or Control Property Damage Coverage** and we have paid the Limit of Liability or the Aggregate Limit for these coverages.

SECTION II - WHO IS AN INSURED

A. The following change is made:

Extended Reporting Requirements

Item **3.a.** is deleted and replaced by the following :

- a.** Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier.

B. The following provisions are added:

4. BROAD FORM NAMED INSURED

Item **1.f.** is added as follows:

- f.** Any legally incorporated entity of which you own more than 50 percent of the voting stock during the policy period only if there is no other similar insurance available to that entity. However:

- (1) Coverage A** does not apply to "bodily injury" or "property damage" that occurred before you acquired more than 50 percent of the voting stock; and
- (2) Coverage B** does not apply to "personal and advertising injury" arising out of an offense committed before you acquired more than 50 percent of the voting stock.

5. Additional Insured - Owners, Lessees or Contractors-Automatic Status When Required in Construction or Service Agreement With You – Including Upstream Parties

- a.** Any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy;
- b.** Any other person or organization 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" which may be imputed to that person or organization directly arising out of:

- 1.** Your acts or omissions; or
 - 2.** The acts or omissions of those acting on your behalf;
- in the performance of your ongoing operations for the additional insured.

However, the insurance afforded to such additional insured:

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

- c.** With respect to the insurance afforded to these additional insureds, the following additional exclusions apply: This insurance does not apply to:

- 1.** "Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:
 - a.** The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - b.** Supervisory, inspection, architectural or engineering activities.

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

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

- a. 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
- b. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

6. Additional Insured - Vendors

- a. Any person(s) or organization(s) (referred to throughout this additional coverage as vendor), but only with respect to "bodily injury" or "property damage", which may be imputed to that person(s) or organization(s) arising out of "your products" shown with the Schedule which are distributed or sold in the regular course of the vendor's business is an insured.

However:

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

7. Additional Insured – Lessor of Leased Equipment – Automatic Status When Required in Lease Agreement With You

- a. Any person(s) or organization(s) from whom you lease equipment when you and such person(s) or organization(s) have agreed in writing in a contract or agreement that such person(s) or organization(s) be added as an additional insured on your policy. Such person(s) or organization(s) is an insured only with respect to your liability for "bodily injury", "property damage" or "personal and advertising injury" directly arising out of the maintenance, operation or use of equipment leased to you, which may be imputed to such person or organization as the lessor of equipment.

However, the insurance afforded to such additional insured:

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

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

- b. With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

8. Additional Insured – Managers or Lessors of Premises

- a. Any person(s) or organization(s), but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and subject to the following additional exclusions:

This insurance does not apply to:

- (1) Any "occurrence" which takes place after you cease to be a tenant in that premises.
- (2) Structural alterations, new construction or demolition operations performed by or on behalf of the person(s) or organization(s) shown in the Schedule.

However:

- (1) The insurance afforded to such additional insured only applies to the extent permitted by law; and
- (2) If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

9. Additional Insured - Engineers, Architects or Surveyors Not Engaged by the Named Insured

- a. Any architects, engineers or surveyors who are not engaged by you are insureds, but only with respect to liability for "bodily injury" or "property damage" or "personal and advertising injury" which may be imputed to that architect, engineer or surveyor arising out of:

- (1) Your acts or omissions; or
- (2) Your acts or omissions of those acting on your behalf;

in the performance of your ongoing operations performed by you or on your behalf.

But only if such architects, engineers or surveyors, while not engaged by you, are contractually required to be added as an additional insured to your policy.

However, the insurance afforded to such additional insured:

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

- b. With respect to the insurance afforded to these additional insureds, the following additional exclusion applies: This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or failure to render any professional services, including:

- (1) The preparing, approving, or failing to prepare or approve, maps, drawings, opinions, reports, surveys, change orders, designs or specifications; or
- (2) Supervisory, inspection or engineering services.

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

10. Additional Insured- Employee Injury to Another Employee

With respect to your "employees" who occupy positions which are supervisory in nature:

Paragraph **2.a.(1)** of **SECTION II – WHO IS AN INSURED** is amended to read:

a. "Bodily injury" or "personal and advertising injury"

- (1) To you, to your partners or members (if you are a partnership or joint venture), or to your members (if you are a limited liability company);
- (2) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in paragraph **(1)(a)** above; or
- (3) Arising out of his or her providing or failing to provide professional healthcare services. Paragraph **3.a.** is deleted.

For the purpose of this Item **10** only, a position is deemed to be supervisory in nature if that person performs principle work which is substantially different from that of his or her subordinates and has authority to hire, direct, discipline or discharge.

SECTION III - LIMITS OF INSURANCE

A. The following Items are deleted and replaced by the following:

- 2. The General Aggregate Limit is the most we will pay for the sum of:
 - a. Medical expenses under Coverage C;**
 - b. Damages under Coverage A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and**
 - c. Damages under Coverage B; and**
 - d. Damages under Coverage H.**
- 3. The Products-Completed Operations Aggregate Limit is the most we will pay under **Coverage A** for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard" and **Coverage G.**
- 6. Subject to 5. above, the Damage to Premises Rented to You Limit is the most we will pay under **Coverage A** for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, explosion, lightning, smoke resulting from such fire, explosion, or lightning or sprinkler leakage while rented to you or temporarily occupied by you with permission of the owner.

B. The following are added:

- 8. Subject to Paragraph 5. of **SECTION III – LIMITS OF INSURANCE** \$25,000 is the most we will pay under **Coverage H for Water Damage Legal Liability.**
Coverage G - Product Recall Expense
- 9. Aggregate Limit \$50,000
Each Product Recall Limit \$25,000
 - a. The Aggregate Limit shown above is the most we will pay for the sum of all "product recall expense" you incur as a result of all "product recalls" you initiate during the endorsement period.**

- b. The Each Product Recall Limit shown above is the most we will pay, subject to the Aggregate and \$1,000 deductible, for "product recall expense" you incur for any one "product recall" you initiate during the endorsement period.

We will only pay for the amount of "product recall expenses" which are in excess of the deductible amount. The deductible applies separately to each "product recall". The limits of insurance will not be reduced by the amount of this deductible.

We may, or will if required by law, pay all or any part of any deductible amount. Upon notice of our payment of a deductible amount, you shall promptly reimburse us for the part of the deductible amount we paid.

10. Aggregate Limits of Insurance (Per Location)

The General Aggregate Limit applies separately to each of your "locations" owned by or rented to you or temporarily occupied by you with the permission of the owner.

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

11. Aggregate Limits of Insurance (Per Project)

The General Aggregate Limit applies separately to each of your projects away from premises owned by or rented to you.

- 12. With respects to the insurance afforded to additional insureds afforded coverage by items **5** through **10** of **SECTION II – WHO IS AN INSURED** above, the following is added:

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

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

Whichever is less.

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

- 13 Subject to **5.** of **SECTION III – LIMITS OF INSURANCE**, a \$5,000 "occurrence" limit and a \$10,000 "aggregate" limit is the most we will pay under Coverage **A** for damages because of "property damage" covered under **Coverage D - Voluntary Property Damage Coverage**.

For the purposes of this Voluntary Property Damage Coverage, our right and duty to defend ends when we have paid the Limit of Liability or the Aggregate Limit for each coverage, and we are granted discretion in making payments under this coverage.

- 14. Subject to **5.** of **SECTION III – LIMITS OF INSURANCE**, a \$25,000 "occurrence" limit and a \$100,000 "aggregate" limit is the most we will pay under **Coverage E - Care, Custody and Control Coverage** regardless of the number of:

- a. Insureds;
- b. Claims made or "suits" brought; or
- c. Persons or organizations making claims or bringing "suits".

Deductible - Our obligation to pay damages on your behalf applies only to the amount of damages in excess of \$500.

This deductible applies to all damages because of "property damage" as the result of any one "occurrence" regardless of the number of persons or organizations who sustain damages because of that "occurrence".

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

As respects this coverage "aggregate" is the maximum amount we will pay for all covered "occurrences" during one policy period.

For the purposes of this Care, Custody and Control Property Damage Coverage, our right and duty to defend ends when we have paid the Limit of Liability or the Aggregate Limit for each coverage, and we are granted discretion in making payments under this coverage.

15. Subject to 5. of **SECTION III – LIMITS OF INSURANCE**, the most we will pay for “property damage” under **Coverage F - Electronic Data Liability Coverage** for loss of “electronic data” is \$50,000 without regard to the number of “occurrences”.

SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS

A. The following conditions are amended:

1. Knowledge of Occurrence

- a.** Condition 2., Items **a.** and **b.** are deleted and replaced by the following:

(1) Duties In The Event Of Occurrence, Offense, Claim Or Suit

- (a)** You must see to it that we are notified as soon as practicable of an “occurrence” or an offense which may result in a claim. Knowledge of an “occurrence” by your agent, servant or employee shall not in itself constitute knowledge of the named insured unless an officer of the named insured has received such notice from the agent, servant or employee. To the extent possible, notice should include:

- i.** How, when and where the “occurrence” took place;
- ii.** The names and addresses of any injured persons and witnesses, and
- iii.** The nature and location of any injury or damage arising out of the “occurrence” or offense.

- (b)** If a claim is made or “suit” is brought against any insured, you must:

- i.** Immediately record the specifics of the claim or “suit” and the date received; and
- ii.** Notify us as soon as practicable.

You must see to it that we receive written notice of the claim or “suit” as soon as practicable. Knowledge of a claim or “suit” by your agent, servant or employee shall not in itself constitute knowledge of the named insured unless an officer of the named insured has received such notice from the agent, servant or employee.

- 2.** Where **Broad Form Named Insured** is added in **SECTION II – WHO IS AN INSURED** of this endorsement, Condition 4. **Other Insurance b. Excess Insurance (1).(a)** is replaced by the following:

- (a)** Any of the other insurance, whether primary, excess, contingent or on any other basis, that is available to an insured solely by reason of ownership by you of more than 50 percent of the voting stock, and not withstanding any other language in any other policy. This provision does not apply to a policy written to apply specifically in excess of this policy.

B. The following are added:

- 10.** Condition **(5) of 2. “Duties in the event Occurrence, Offense, Claim or Suit” c.** You or any other involved insured must:

- (5)** Upon our request, replace or repair the property covered under **Voluntary Property Damage Coverage** at your actual cost, excluding profit or overhead.

11. Blanket Waiver Of Subrogation

We waive any right of recovery we may have against any person or organization because of payments we make for injury or damage arising out of: premises owned or occupied by or rented or loaned to you, ongoing operations performed by you or on your behalf, done under a contract with that person or organization, “your work”, or “your products”. We waive this right where you have agreed to do so as part of a written contract, executed by you before the “bodily injury” or “property damage” occurs or the “personal and advertising injury” offense is committed.

12. Liberalization

If a revision to this Coverage Part, which would provide more coverage with no additional premium becomes effective during the policy period in the state designated for the first Named Insured shown in the Declarations, your policy will automatically provide this additional coverage on the effective date of the revision.

13. Unintentional Failure to Disclose All Hazards

Based on our reliance on your representations as to existing hazards, if you unintentionally should fail to disclose all such hazards at the inception date of your policy, we will not deny coverage under this Coverage Part because of such failure. However, this provision does not affect our right to collect additional premium or exercise our right of cancellation or non-renewal.

14. The following conditions are added in regard to Coverage G - Product Recall Expense

In event of a "product recall", you must

- a. See to it that we are notified as soon as practicable of a "product recall". To the extent possible, notice should include how, when and where the "product recall" took place and estimated "product recall expense".
- b. Take all reasonable steps to minimize "product recall expense". This will not increase the limits of insurance.
- c. If requested, permit us to question you under oath at such times as may be reasonably required about any matter relating to this insurance or your claim, including your books and records. Your answers must be signed.
- d. Permit us to inspect and obtain other information proving the loss. You must send us a signed, sworn statement of loss containing the information we request to investigate the claim. You must do this within 60 days after our request.
- e. Cooperate with us in the investigation or settlement of any claim.
- f. Assist us upon our request, in the enforcement of any rights against any person or organization which may be liable to you because of loss to which this insurance applies.

SECTION V – DEFINITIONS

A. At item 12. "Mobile equipment" the wording at f.(1) is deleted and replaced by the following:

f.(1) Equipment designed primarily for:

- (a) Snow removal;
- (b) Road maintenance, but not construction or resurfacing; or
- (c) Street cleaning;

except for such vehicles that have a gross vehicle weight less than 1,000 lbs which are not designed for highway use.

B. Item 3. "bodily injury" is deleted and replaced with the following:

3. "Bodily injury" means physical injury, sickness or disease sustained by a person. This includes mental anguish, mental injury, shock, fright or death that results from such physical injury, sickness or disease.

C. The following definitions are added for this endorsement only:

23. "Electronic data" means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tape drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

24. "Product recall" means a withdrawal or removal from the market of "your product" based on the determination by you or any regulatory or governmental agency that:

- a. The use or consumption of "your product" has caused or will cause actual or alleged "bodily injury" or "property damage"; and
- b. Such determination requires you to recover possession or control of "your product" from any distributor, purchaser or user, to repair or replace "your product", but only if "your product" is unfit for use or consumption, or is hazardous as a result of:
 - (1) An error or omission by an insured in the design, manufacturing, processing, labeling, storage, or transportation of "your product"; or
 - (2) Actual or alleged intentional, malicious or wrongful alteration or contamination of "your product" by someone other than you.

25. "Product recall expense" means reasonable and necessary expenses for:

- a.** Telephone, radio and television communication and printed advertisements, including stationery, envelopes and postage.
- b.** Transporting recalled products from any purchaser, distributor or user, to locations designated by you.
- c.** Remuneration paid to your employees for overtime, as well as remuneration paid to additional employees or independent contractors you hire.
- d.** Transportation and accommodation expense incurred by your employees.
- e.** Rental expense incurred for temporary locations used to store recalled products.
- f.** Expense incurred to properly dispose of recalled products, including packaging that cannot be reused.
- g.** Transportation expenses incurred to replace recalled products.
- h.** Repairing, redistributing or replacing covered recalled products with like products or substitutes, not to exceed your original cost of manufacturing, processing, acquisition and/or distribution.

These expenses must be incurred as a result of a "product recall".

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**PRIMARY AND NONCONTRIBUTORY –
OTHER INSURANCE CONDITION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The following is added to the **Other Insurance** Condition and supersedes any provision to the contrary:

Primary And Noncontributory Insurance

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

- (1) The additional insured is a Named Insured under such other insurance; and

- (2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location And Description Of Completed Operations
ANY PERSON OR ORGANIZATION YOU HAVE AGREED TO NAME AS	LOCATIONS DESIGNATED AND DESCRIBED IN A WRITTEN
ADDITIONAL INSURED BY WRITTEN CONTRACT OR AGREEMENT IF THE	CONTRACT OR AGREEMENT
CONTRACT OR AGREEMENT IS EXECUTED PRIOR TO LOSS.	
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the Schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to Section III – Limits Of Insurance:

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

1. Required by the contract or agreement; or
2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location(s) Of Covered Operations
ANY PERSON OR ORGANIZATION YOU HAVE AGREED TO NAME AS ADDITIONAL INSURED BY WRITTEN CONTRACT OR AGREEMENT IF THE CONTRACT OR AGREEMENT IS EXECUTED PRIOR TO LOSS	LOCATIONS DESIGNATED AND DESCRIBED IN A WRITTEN CONTRACT OR AGREEMENT
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

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

This insurance does not apply to "bodily injury" or "property damage" occurring after:

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

- C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

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

1. Required by the contract or agreement; or

2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

TEXAS WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

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

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

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

The premium for this endorsement is shown in the Schedule.

Schedule

1. ☐ Specific Waiver

Name of person or organization

☒ Blanket Waiver

Any person or organization for whom the Named Insured has agreed by written contract to furnish this waiver.

2. Operations: All Texas operations

3. Premium:

The premium charge for this endorsement shall be **2.00** percent of the premium developed on payroll in connection with work performed for the above person(s) or organization(s) arising out of the operations described.

4. Advance Premium: Included, see Information Page

This endorsement changes the policy to which it is attached effective on the inception date of the policy unless a different date is indicated below.
(The following "attaching clause" need be completed only when this endorsement is issued subsequent to preparation of the policy.)
This endorsement, effective on 8/23/23 at 12:01 a.m. standard time, forms a part of:

Policy no. 0001311091 of Texas Mutual Insurance Company effective on 8/23/23

Issued to: LARRY YOUNG PAVING INC

This is not a bill



Authorized representative

NCCI Carrier Code: 29939

8/21/23

EXHIBIT D
PLANS AND SPECIFICATIONS

EXHIBIT E
CONSTRUCTION SCHEDULE

See attached with a date of substantial completion of 240 calendar days.

		Total Project Days	240
Luther St. Rehabilitation from Penberthy Blvd to Marion Pugh Dr.			
Project Commencement Date: 11/01/2023	Project Number RFP 23-088	Prepared By: LYP Estimating for City of College Station	
Executive Summary			

Larry Young Paving has developed this proposal specifically for the City of College Station and the Luther St. Rehabilitation, RFP 23-088. Larry Young Paving believes it is the most qualified proposer based on experience in slip form paving (as a portion of the project, 75%, can be slipped), experience and relationship with the City of College Station personnel, and experience and ability to shorten project durations for better public relations.

Key factors that were considered when developing this proposal were:

1. **Eliminating public impact- LYP Proposes 240 days as opposed to 300 days**
2. **Quality Construction and ride by use of slipform paver**

When considering the project in whole and these items above, LYP has determined that the timeline, per our submitted schedule, can be reduced to 240 calendar days from the 300 calendar days.

The schedule reduction is to help minimize overall traffic impact. In order to achieve the schedule as submitted, LYP has identified the following critical items:

1. Drawings/Shop Drawings and Submittal approvals for long lead items both prior to award and post award. The 16" DI pipe is a long lead item and if we are to received the award or LOI by the end of September, we believe that we can get the pipe by when its required in the submitted schedule

Important Project Dates:

Total Project Timeline

Start Date: 11/01/2023

Date of Substantial Completion: 7/1/2024 (240 Calendar days)

Date of Final Completion: 7/20/2024

Project Bid: \$1,719,810.25

Luther St. Reconstruction Schedule- 9/1/2023

ID	Task Name	Start	Finish	Duration	Q4 23							
					5/11	12/11	19/11	26/11	3/12	10/12	17/12	24/12
1	Mobilization	11/1/2023	11/2/2023	2d								
2	SWPPP	11/2/2023	11/3/2023	2d								
3	Phase 1 Storm Sewer	11/6/2023	11/30/2023	19d								
4	Phase 1 Demo and Dirtwork	12/1/2023	12/29/2023	21d								
5	Phase 1 Concrete	1/2/2024	2/1/2024	23d								
6	Phase 1 Backfill	2/2/2024	2/12/2024	7d								
7	Phase 2 TCP	2/13/2024	2/14/2024	2d								
8	Phase 2 Storm Sewer	2/15/2024	3/8/2024	17d								
9	Phase 2 Waterline	3/8/2024	4/1/2024	17d								
10	Phase 2 Demo and Dirtwork	4/2/2024	4/30/2024	21d								
11	Phase 2 Concrete	5/1/2024	6/14/2024	33d								
12	Phase 2 Backfill	6/17/2024	6/21/2024	5d								
13	Striping and Clean up	6/24/2024	6/28/2024	5d								
14	Final Signage and Demobilization	7/1/2024	7/1/2024	1d								

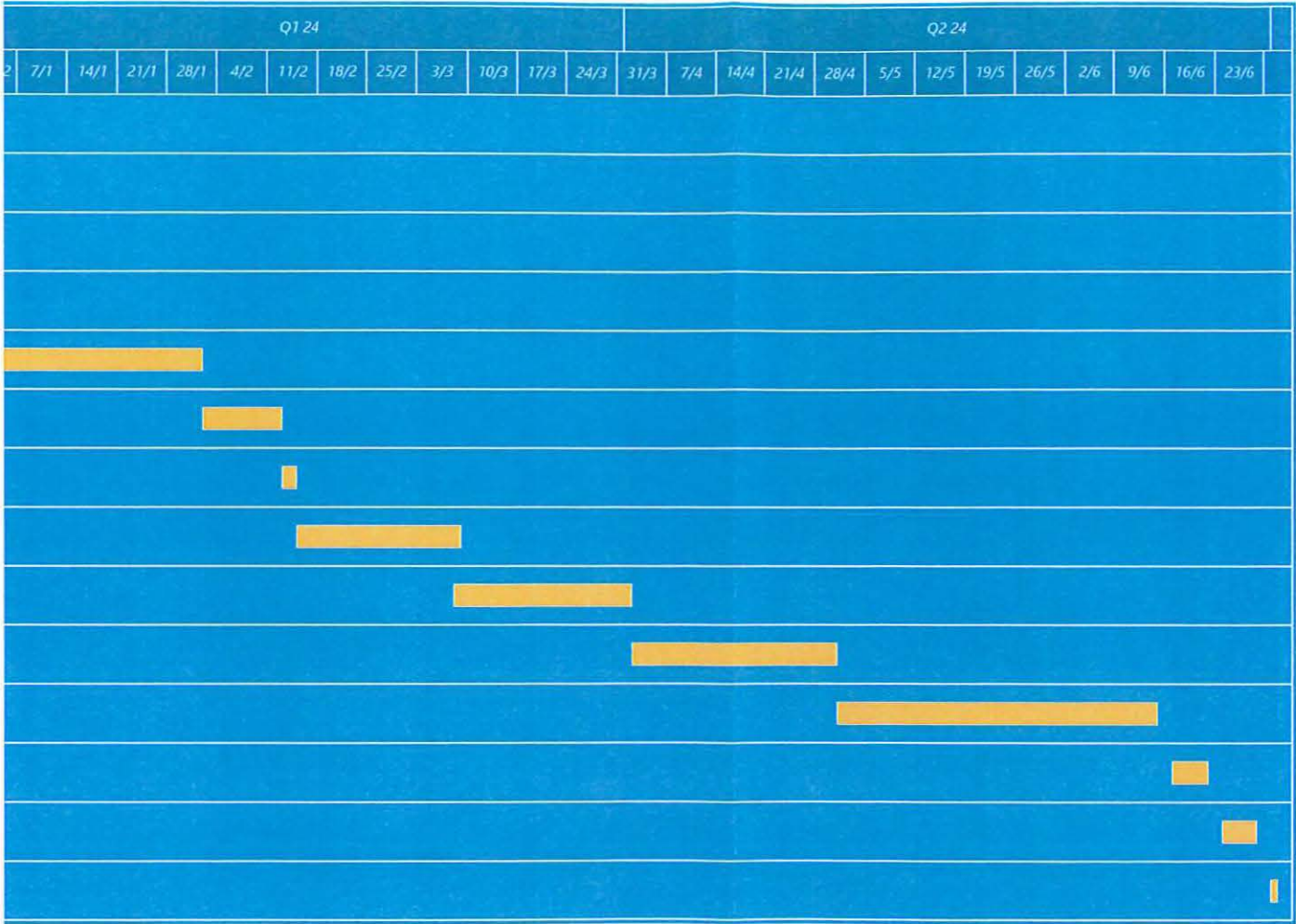


EXHIBIT F
SCHEDULE OF VALUES

City of College Station
Luther Street Rehabilitation from
Pentburthy to Marion Pugh
Bid Open Friday, September 1, 2023 at 2:00 p.m. CT

A. GENERAL CONSTRUCTION ITEMS

ITEM	DESCRIPTION	QTY	UNIT	UNIT PRICE	TOTAL
1	Mobilization complete for the sum of	1	LS	140,000.00	140,000.00
2	Traffic Control complete for the sum of	1	LS	35,000.00	35,000.00
3	Portable Message Sign complete for the sum of	96	WK	260.00	24,960.00
4	Erosion and Sedimentation Control complete for the sum of	1	LS	12,000.00	12,000.00
5	Solid Sod Disturbed Areas complete for the sum of	1,300	SY	8.00	10,400.00
6	Seeding, Hydromulch complete for the sum of	1,550	SY	0.75	1,162.50
7	Topsoil complete for the sum of	320	CY	110.00	35,200.00
8	Irrigation Restoration Allowance complete for the sum of	1	LS	10,000.00	10,000.00
9	ROW Preparation & Tree Removal complete for the sum of	1	LS	6,000.00	6,000.00
TOTAL SECTION A - GENERAL CONSTRUCTION ITEMS					274,722.50

B. DEMOLITION ITEMS

ITEM	DESCRIPTION	QTY	UNIT	UNIT PRICE	TOTAL
10	Removal of Existing Concrete Pavement complete and in place for the sum of	425	SY	14.00	5,950.00
11	Removal of Existing Sidewalk complete and in place for the sum of	2,000	SF	1.50	3,000.00
12	Removal of Existing Asphalt Pavement complete and in place for the sum of	4,700	SY	6.00	28,200.00
13	Removal of Existing Striping complete and in place for the sum of	175	LF	2.25	393.75
14	Removal of Existing Sign and Support complete and in place for the sum of	16	EA	180.00	2,880.00
15	Removal of Existing Fence complete and in place for the sum of	1,150	LF	5.00	5,750.00
16	Removal of Existing 10" Water Line complete and in place for the sum of	100	LF	40.00	4,000.00
17	10" Abandonment Plug complete and in place for the sum of	6	EA	1,400.00	8,400.00
18	Removal of Existing 12" Water Line complete and in place for the sum of	60	LF	37.00	2,220.00
19	Abandon and Grout Fill Existing 6" Water Line complete and in place for the sum of	30	LF	39.00	1,170.00
20	Abandon and Grout Fill Existing 12" Water Line complete and in place for the sum of	430	LF	17.00	7,310.00
21	12" Abandonment Plug complete and in place for the sum of	4	EA	1,500.00	6,000.00
22	Removal of Existing 18" Storm Line complete and in place for the sum of	90	LF	36.00	3,240.00
23	Removal of Existing 18" Safety End Treatment complete and in place for the sum of	4	EA	250.00	1,000.00
24	Excavation complete and in place for the sum of	5,750	CY	34.00	195,500.00
25	Embankment complete and in place for the sum of	325	CY	45.00	14,625.00
TOTAL SECTION B - DEMOLITION ITEMS					289,638.75

City of College Station
Luther Street Rehabilitation from
Pentburthy to Marion Pugh
Bid Open Friday, September 1, 2023 at 2:00 p.m. CT

C. ROADWAY CONSTRUCTION ITEMS

ITEM	DESCRIPTION	QTY	UNIT	UNIT PRICE	TOTAL
26	8" Lime Treatment complete for the sum of	7,500	SY	8.75	65,625.00
27	Hydrated Lime complete for the sum of	135	TON	350.00	47,250.00
28	7" Concrete Pavement with Integral Curb complete for the sum of	3,850	SY	75.00	288,750.00
29	2" Asphalt Pavement Type D complete for the sum of	175	SY	39.00	6,825.00
30	6" Asphalt Pavement Type B complete for the sum of	175	SY	67.00	11,725.00
31	4" Concrete Sidewalk complete for the sum of	1,200	SF	6.25	7,500.00
32	4" Concrete Sidewalk Adjacent to Curb complete for the sum of	28,000	SF	7.00	196,000.00
33	4" Concrete Sidewalk with Integral Retaining Wall complete for the sum of	750	SF	18.00	13,500.00
34	6" Concrete Driveway complete for the sum of	260	SY	130.00	33,800.00
35	Stamped Concrete Pavement complete for the sum of	25	SY	180.00	4,500.00
36	6" Concrete Curb complete for the sum of	60	LF	12.00	720.00
37	6" Concrete Curb & Gutter complete for the sum of	160	LF	43.00	6,880.00
38	6" Concrete Valley Gutter complete for the sum of	30	SY	130.00	3,900.00
39	Concrete Riprap complete for the sum of	10	SY	130.00	1,300.00
40	Pedestrian Guardrail complete for the sum of	35	LF	200.00	7,000.00
41	Bike Ramp complete for the sum of	1	EA	2,000.00	2,000.00
42	Pedestrian Ramp (BCS Detail SW2-00) complete for the sum of	3	EA	2,000.00	6,000.00
43	Pedestrian Ramp (BCS Detail SW3-05) complete for the sum of	1	EA	2,000.00	2,000.00
44	Detectable Warning Surface complete for the sum of	30	SF	6.25	187.50
45	TXDOT Sign and Support complete for the sum of	12	EA	1,200.00	14,400.00
46	4" Thermoplastic Striping Solid Yellow Line w/sealant complete for the sum of	2,800	LF	1.25	3,500.00
47	6" Thermoplastic Striping Broken White Line w/sealant complete for the sum of	10	LF	2.75	27.50
48	4" Thermoplastic Striping Solid White Line w/sealant complete for the sum of	100	LF	2.75	275.00
49	6" Thermoplastic Striping Solid Yellow Line w/sealant complete for the sum of	2,650	LF	2.25	5,962.50
50	24" Thermoplastic Striping Solid White Line w/sealant complete for the sum of	335	LF	11.00	3,685.00
51	8" Raised Pavement Marking (Turtle Dome) complete for the sum of	27	EA	61.00	1,647.00
52	6' Bike Intersection Conflict Stripe complete for the sum of	10	EA	20.00	200.00

City of College Station
Luther Street Rehabilitation from
Pentburthy to Marion Pugh
Bid Open Friday, September 1, 2023 at 2:00 p.m. CT

53	Bike Lane Symbol with Helmet complete for the sum of	10	EA	360.00	3,600.00
54	Bike Lane Symbol - Custom complete for the sum of	10	EA	610.00	6,100.00
55	Bike Lane Ends complete for the sum of	1	EA	740.00	740.00
TOTAL SECTION C - ROADWAY CONSTRUCTION ITEMS					745,599.50

D. STORM DRAIN CONSTRUCTION ITEMS

ITEM	DESCRIPTION	QTY	UNIT	UNIT PRICE	TOTAL
56	18" RCP, C76 Class III, w/ ASTM C443 Rubber Gasket & Full Depth Cement Stabilized Sand Backfill complete and in place for the sum of	210	LF	130.00	27,300.00
57	24" RCP, C76 Class III, w/ ASTM C443 Rubber Gasket & Full Depth Cement Stabilized Sand Backfill complete and in place for the sum of	600	LF	140.00	84,000.00
58	30" RCP, C76 Class III, w/ ASTM C443 Rubber Gasket & Full Depth Cement Stabilized Sand Backfill complete and in place for the sum of	700	LF	180.00	126,000.00
59	Trench Safety complete and in place for the sum of	1,510	LF	0.75	1,132.50
60	4' Junction Box w/ Full Depth Cement Stabilized Sand Backfill complete and in place for the sum of	4	EA	6,300.00	25,200.00
61	5' Junction Box w/ Full Depth Cement Stabilized Sand Backfill complete and in place for the sum of	1	EA	6,400.00	6,400.00
62	10' Recessed Curb Inlet w/ Full Depth Cement Stabilized Sand Backfill complete and in place for the sum of	1	EA	6,500.00	6,500.00
63	15' Recessed Curb Inlet w/ Full Depth Cement Stabilized Sand Backfill complete and in place for the sum of	1	EA	6,500.00	6,500.00
64	3' Drop Inlet complete and in place for the sum of	1	EA	5,900.00	5,900.00
TOTAL SECTION D - STORM DRAIN CONSTRUCTION ITEMS					288,932.50

E. WATER AND SANITARY SEWER ITEMS

ITEM	DESCRIPTION	QTY	UNIT	UNIT PRICE	TOTAL
65	6" AWWA C-900 DR14 PVC Water Line by Open Cut complete and in place for the sum of	23	LF	65.00	1,495.00
66	6" AWWA C-900 DR14 PVC Water Line by Open Cut w/ Full Depth Cement Stabilized Sand Backfill complete and in place for the sum of	14	LF	93.00	1,302.00
67	12" AWWA C-900 DR14 PVC Water Line by Open Cut complete and in place for the sum of	23	LF	170.00	3,910.00
68	16" DIP ANSI/AWWA C151/A21.5 Pressure Class 250 Water Line by Open Cut complete and in place for the sum of	12	LF	180.00	2,160.00
69	10" DIP ANSI/AWWA C151/A21.5 Pressure Class 250 Water Line by Open Cut w/ Full Depth Cement Stabilized Sand Backfill complete and in place for the sum of	443	LF	150.00	66,450.00
70	16"X45 Degree Bend complete and in place for the sum of	4	EA	2,500.00	10,000.00
71	16"X6" Tee complete and in place for the sum of	1	EA	3,200.00	3,200.00
72	16" Gate Valve complete and in place for the sum of	1	EA	16,000.00	16,000.00
73	16"X12" Reducer complete and in place for the sum of	2	EA	2,300.00	4,600.00
74	Fire Hydrant Assembly w/6" Gate Valve complete and in place for the sum of	1	EA	7,800.00	7,800.00
75	Connect to Existing Water System complete and in place for the sum of	2	EA	2,000.00	4,000.00
TOTAL SECTION E - WATER AND SANITARY SEWER ITEMS					120,917.00
Total Base Proposal					1,719,810.25

Total number of calendar days to substantial completion is 300 days

November 9, 2023
Item No. 7.8.
Alum Creek Trunkline Design

Sponsor: Jennifer Cain, Director Capital Projects

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action on a Professional Services Agreement with Freese and Nichols, Inc. in the amount of \$520,520 for the Alum Creek Trunkline Project.

Relationship to Strategic Goals:

Core Services and Infrastructure

Recommendation(s): Staff recommends approval.

Summary: The Alum Creek Trunkline Project is a sanitary sewer trunkline that will extend approximately 18,000 linear feet from Arrington Road, across State Highway 6, and tie into the Lick Creek Trunkline. This project will increase the City's sewer capacity between Arrington Road and Greens Prairie. The initial phase of the project will include a route study and conceptual design. Final design and construction will be included in a later phase.

Budget & Financial Summary: Budget in the amount of \$2,030,000 is included in the Wastewater Capital Improvement Projects Fund for WW2301. A total of \$3,450.91 has been expended or committed to date, leaving a balance of \$2,026,549.09 for this contract and future expenses.

Attachments:

1. Alum Creek Vendor Signed Contract
2. Alum Creek Location Map



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

CONTRACT & AGREEMENT ROUTING FORM

CONTRACT#: 243000134 PROJECT#: WW2301 BID/RFP/RFQ#: 23-032

Project Name / Contract Description: Alum Creek Trunkline

PDR and conceptual design for 18,000 feet of 24-inch trunkline.

Name of Contractor: Freese and Nichols

CONTRACT TOTAL VALUE: \$ 520,520

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)

Budget in the amount of \$2,030,000 is included in the Wastewater Capital Improvement Projects Fund for WW2301. A total of \$3,450.91 has been expended or committed to date, leaving a balance of \$2,026,549.09 for this contract and future expenses.

CRC Approval Date*: N/A *(If required)** **Council Approval Date*:** 11.09.23 **Agenda Item No*:**

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

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

SIGNATURES RECOMMENDING APPROVAL

Jennifer Cain
DEPARTMENT DIRECTOR/ADMINISTERING CONTRACT

10/30/2023
DATE

LEGAL DEPARTMENT

DATE

ASST CITY MGR – CFO

DATE

APPROVED & EXECUTED

CITY MANAGER

DATE

N/A

MAYOR (if applicable)

DATE

N/A

CITY SECRETARY (if applicable)

DATE

Original(s) sent to CSO on _____

Scanned into Laserfiche on _____

Original(s) sent to Fiscal on _____

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

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

**ARTICLE I
SCOPE OF SERVICES**

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

Preliminary Design of the Alum Creek Trunkline Project (WW-2301)

**ARTICLE II
PAYMENT**

2.01 In consideration of the Consultant’s provision of the professional services in compliance with all terms and conditions of this Contract, the City shall pay the Consultant according to the terms set forth in **Exhibit “B”**. Except in the event of a duly authorized change order, approved by the City as provided in this Contract, the total cost of all professional services provided under this Contract may not exceed Five Hundred Twenty Thousand Five Hundred Twenty and No /100 Dollars (\$ 520,520.00).

2.02 Virtual Payment Method. For increased payment and financial information security, the Contractor must use the City’s approved virtual payment card system or digital payment system for all payments, storing, and modifications of financial information used for City payments to the Contractor. Any related reasonable fees paid by the Contractor for use of the virtual payment card system or digital payment system may be passed through to the City.

ARTICLE III

TIME OF PERFORMANCE AND CONSTRUCTION COST

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

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

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

Draft Preliminary Design Report to be complete within 180 days of the Notice to Proceed.

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

(a) **Liquidated Damages.**

- (1) The time for the completion of all Work described in this Agreement are reasonable times for the completion of each task by the agreed upon days or dates, taking into consideration all conditions, including but not limited to the usual industry conditions prevailing in this locality. The amount of liquidated damages for the Consultant's failure to meet contractual deadlines specifically set forth in the Consultant's scope of services and schedule are fixed and agreed on by the Consultant because of the impracticability and extreme difficulty in fixing and ascertaining the actual damages that the City would in such an event sustain. The amounts to be charged are agreed to be damages the City would sustain and shall be deducted by the City from current amounts owed to Consultant for payment or from final payment.
- (2) As a result of the difficulty in estimation, calculation and ascertainment of City's damages due to a failure of Consultant to achieve timely completion of the Work, if the Consultant should neglect, or fail, or refuse to complete the Work within the times specified in the Consultant's scope of services and schedule, or any proper extension thereof granted by the City's Representative pursuant to this Agreement, then the Consultant does hereby agree as part of the consideration for the awarding of this Agreement that the City may permanently withhold from the Consultant's total compensation the sum of **TWO HUNDRED FIFTY and 00/100 DOLLARS (\$250.00)** for each and every calendar day that the Consultant shall be in default after the time(s) stipulated completion of the task(s) in question, not as a penalty, but as liquidated damages for the breach of this Agreement. It being specifically understood that the assessment of liquidated damages may be made for any failure to meet any of the deadlines specified in the Consultant's scope of services and schedule for completion in this Agreement.

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

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

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

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

3.08 The construction budget for this Project, which is established as a condition of this Contract is \$ 7,515,560.00. This construction budget shall not be exceeded unless the amount is changed in writing by the City.

ARTICLE IV CONCEPTUAL DESIGN

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

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

4.03 The Consultant shall prepare a Conceptual Design that shall include schematic layouts, surveys, sketches and exhibits demonstrating the considerations involved in the Project. The Consultant shall consider environmentally responsible design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the City's Program, the Project Schedule

and budget. The Consultant shall reach an understanding with the City regarding the requirements of the Project. The Conceptual Design shall contemplate compliance with all applicable laws, statutes, ordinances, codes and regulations. Upon the City's request, the Consultant shall meet with City staff and the City Council to make a presentation of its report.

ARTICLE V PRELIMINARY DESIGN

5.01 The City shall direct the Consultant to commence work on the Preliminary Design by sending to the Consultant a letter of authorization to begin work on the Preliminary Design pursuant to this Contract. Upon receipt of the letter of authorization to commence Preliminary Design, the Consultant shall meet with the City for the purpose of determining the extent of any revisions to the Conceptual Design.

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

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

ARTICLE VI FINAL DESIGN

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

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

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

6.04 The Consultant shall provide the City with complete contract documents sufficient to be advertised for bids by the City. The contract documents shall include the design and specifications and other changes that are required to fulfill the purpose of the Project. Upon completion of the Final Design of the Project, with the submission of the complete contract documents, and upon request of the City, the Consultant shall meet with City staff and the City Council to present the Final Design of the Project. The Consultant shall provide an explanation of the Final Design, including identification of all material changes and deviations that have taken place from the Preliminary Design Documents and a cost estimate. The Consultant shall verify that, to the best of Consultant's belief, the Project requirements and construction can be completed within the Project budget and schedule.

ARTICLE VII BID PREPARATIONS & EVALUATION

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

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

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

ARTICLE VIII CONSTRUCTION

8.01 The Consultant shall be a representative of, and shall advise and consult with, the City (1) during construction, and (2) at the City's direction from time to time during the correction, or warranty, period described in the construction contract. The Consultant shall have authority to act

on behalf of the City only to the extent provided in this Contract unless modified by written instrument.

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

8.03 The Consultant shall keep the City informed of the progress and quality of the work. The Consultant shall employ the professional skill and care ordinarily provided by competent engineers or architects practicing in the same or similar locality and under the same or similar circumstances and professional license in discovering and promptly reporting to the City any defects or deficiencies in such work and shall disapprove or reject any work failing to conform to the contract documents.

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

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

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

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

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

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

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

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

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

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

ARTICLE IX CHANGE ORDERS, DOCUMENTS & MATERIALS

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

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

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

9.04 Any request by the Consultant for an increase in the Scope of Services and an increase in the amount listed in paragraph two of this Contract shall be made and approved by the City prior to the Consultant providing such services or the right to payment for such additional services shall be waived. If there is a dispute between the Consultant and the City respecting any service provided or to be provided hereunder by the Consultant, including a dispute as to whether such service is additional to the Scope of Services included in this Contract, the Consultant agrees to continue providing on a timely basis all services to be provided by the Consultant hereunder, including any service as to which there is a dispute.

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

ARTICLE X WARRANTY, INDEMNIFICATION & RELEASE

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

City for any defect or error in the aforesaid documents prepared by the Consultant, its employees, associates, agents, or subcontractors.

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

10.03 In all activities or services performed hereunder, the Consultant is an independent contractor and not an agent or employee of the City. The Consultant and its employees are not the agents, servants, or employees of the City. As an independent contractor, the Consultant shall be responsible for the professional services and the final Work Product contemplated under this Contract. Except for materials furnished by the City, the Consultant shall supply all materials, equipment, and labor required for the professional services to be provided under this Contract. The Consultant shall have ultimate control over the execution of the services it is to provide under this Contract. The Consultant shall have the sole obligation to employ, direct, control, supervise, manage, discharge, and compensate all of its employees or subcontractors, and the City shall have no control of or supervision over the employees of the Consultant or any of the Consultant's subcontractors.

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

10.05 Indemnity.

- (a) To the fullest extent permitted by law, Consultant agrees to indemnify and hold harmless the City, its Council members, officials, officers, agents, employees, and volunteers (separately and collectively referred to in this paragraph as "Indemnatee") from and against all claims, damages losses and expenses (including but not limited to attorney's fees) arising out of or resulting from any negligent act, error or omission, intentional tort or willful misconduct, intellectual property infringement or including failure to pay a subconsultant, subcontractor, or supplier pursuant to this Contract by Consultant, its employees, subcontractors, subconsultants, or others for whom Consultant may be legally liable ("Consultant Parties"), but only to the extent caused in whole or in part by the Consultant Parties. IF THE CLAIMS, ETC. ARE CAUSED IN PART BY CONSULTANT PARTIES, AND ALSO IN PART BY THE NEGLIGENCE OR WILLFUL MISCONDUCT OF ANY OR ALL OF THE INDEMNITEES OR ANY OTHER THIRD PARTY, THEN CONSULTANT SHALL ONLY INDEMNIFY ON A COMPARATIVE BASIS, AND ONLY FOR THE AMOUNT FOR WHICH CONSULTANT PARTIES ARE FOUND LIABLE AND NOT FOR ANY AMOUNT FOR

WHICH ANY OR ALL INDEMNITEES OR OTHER THIRD PARTIES ARE LIABLE.

- (b) To the fullest extent permitted by law, Consultant agrees to defend the Indemnitees where the indemnifiable acts listed in Article 10 above occur outside the course of performance of professional services (i.e. non-professional services) and the claim is not based wholly or partly on the negligence of, fault of, or breach of contract by the governmental agency, the agency's agent, employee, or other entity over which the governmental agency exercises control, other than the Consultant or Consultant Parties.**
- (c) Consultant shall procure liability insurance covering its obligations under this section.**
- (d) It is mutually understood and agreed that the indemnification provided for in this section 10.05 shall indefinitely survive any expiration, completion or termination of this Contract. There shall be no additional indemnification other than as set forth in this section. All other provisions regarding the same subject matter shall be declared void and of no effect.**

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

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

ARTICLE XI INSURANCE

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

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

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

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

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

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

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

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

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

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

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

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

- (a) Pursuant to the requirements set forth in Title 28, Section 110.110 of the Texas Administrative Code, all employees of the Consultant, the Consultant, all employees of any and all subcontractors, and all other persons providing services on the Project must be covered by a workers’ compensation insurance policy: either directly through their employer’s policy (the Consultant’s, or subcontractor’s policy) or through an executed coverage agreement on an approved Texas Department of Insurance Division of Workers Compensation (DWC) form. Accordingly, if a subcontractor does not have his or her own policy and a coverage agreement is used, Consultants and subcontractors must use that portion of the form whereby the hiring contractor agrees to provide coverage to the employees of the

subcontractor. The portion of the form that would otherwise allow them not to provide coverage for the employees of an independent contractor may not be used.

(b) The workers' compensation/Employer's Liability insurance shall include the following terms:

- i. Employer's Liability limits of \$1,000,000 for each accident is required.
- ii. "Texas Waiver of Our Right to Recover From Others Endorsement, WC 42 03 04" shall be included in this policy.
- iii. Texas must appear in Item 3A of the Worker's Compensation coverage or Item 3C must contain the following: All States except those listed in Item 3A and the States of NV, ND, OH, WA, WV, and WY.

(c) Pursuant to the explicit terms of Title 28, Section 110.110(c)(7) of the Texas Administrative Code, this Contract, the bid specifications, this Contract, and all subcontracts on this Project must include the terms and conditions set forth below, without any additional words or changes, except those required to accommodate the specific document in which they are contained or to impose stricter standards of documentation:

i. Definitions:

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

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

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

- ii. The Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage

agreements, that meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Contractor providing services on the project, for the duration of the project.

- iii. The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.
- iv. If the coverage period shown on the Contractor's current certificate of coverage ends during the duration of the project, the Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.
- v. The Contractor shall obtain from each person providing services on a project, and provide to the governmental entity:
 - 1. a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and
 - 2. no later than seven calendar days after receipt by the Contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.
- vi. The Contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.
- vii. The Contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 calendar days after the Contractor knew or should have known, or any change that materially affects the provision of coverage of any person providing services on the project.
- viii. The Contractor shall post on each project site a notice, in the text, form and manner prescribed by the Division of Workers Compensation, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- ix. The Contractor shall contractually require each person with whom it contracts to provide services on a project, to:
 - 1. provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;
 - 2. provide to the Contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;

3. provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 4. obtain from each other person with whom it contracts, and provide to the Contractor:
 - A. a certificate of coverage, prior to the other person beginning work on the project; and
 - B. a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 5. retain all required certificates of coverage on file for the duration of the project and for one year thereafter;
 6. notify the governmental entity in writing by certified mail or personal delivery, within 10 calendar days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and
 7. Contractually require each person with whom it contracts, to perform as required by paragraphs (a) - (g), with the certificates of coverage to be provided to the person for whom they are providing services.
- x. By signing this contract, or providing, or causing to be provided a certificate of coverage, the Contractor is representing to the governmental entity that all employees of the Contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the Commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.
- xi. The Contractor's failure to comply with any of these provisions is a breach of contract by the Contractor that entitles the governmental entity to declare the contract void if the Contractor does not remedy the breach within ten calendar days after receipt of notice of breach from the governmental entity."

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

- (a) Coverage shall be written by a carrier rated "A:VIII" or better in accordance with the current A.M. Best Key Rating Guide.

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

ARTICLE XII

USE OF DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS

12.01 Any and all drawings, specifications and other documents prepared, furnished, or both prepared and furnished by Consultant or any Subconsultant or other designer contracted under Consultant pursuant to this Contract (including, without limitation, the Construction Documents) ("Work Product"), shall be the exclusive property of the City, whether the Project is completed or not. Upon completion or termination of this Contract, Consultant shall promptly deliver to the City all records, notes, data, memoranda, models, and equipment of any nature that are within Consultant's possession or control and that are the City's property or relate to the City or its business. The City shall be furnished and permitted to retain reproducible copies and electronic versions of Consultant's Work Product and related documents and information relating to the Project.

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

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

12.04 The documents prepared by Consultant may be used as a prototype for other facilities by the City. The City may elect to use the Consultant to perform the site adaptation and other architectural or engineering services involved in reuse of the prototype. If so, the Consultant is obligated to perform the work for an additional compensation that will fairly compensate the Consultant and its sub-consultants only for the additional work involved. It is reasonable to expect that the fair additional compensation will be significantly less than the fee provided for under this

Contract. If the City elects to employ a different architect or engineer to perform the site adaptation and other architectural or engineering services involved in reuse of the prototype, that architect or engineer will be entitled to use Consultant's sub-consultants on the same basis that Consultant would have been entitled to use them for the work on the reuse of the prototype, and such architect or engineer will be entitled, to the extent allowed by law, to duplicate the design and review and refer to the construction documents, approved shop drawings and calculations, and change order drawings in performing its work. The Consultant will not be responsible for errors and omissions of a subsequent architect or engineer. The Consultant shall commit its subconsultants to the terms of this subparagraph. The provisions of this section shall survive termination of this Contract.

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

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

ARTICLE XIII TERMINATION

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

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

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

ARTICLE XIV MISCELLANEOUS TERMS

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

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

14.03 Fraud Reporting. To reduce the risk of fraud and to protect the Contractor's financial information from fraud, the Contractor must report to the City in writing at VendorInvoiceEntry@cstx.gov if the Contractor reasonably suspects or knows if any of their financial information has been subject to fraudulent activity or suspected fraudulent activity.

City of College Station

Attn: Casey Rhodes
PO BOX 9960
1101 Texas Ave
College Station, TX 77842
crhodes @cstx.gov

Freese and Nichols, Inc.

Attn: Jason Ward
10497 Town & Country Way
Suite 500
Houston, TX 77024

14.04 No action or failure to act by the City shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach there under, except as may be specifically agreed in writing. No waiver of any provision of the Contract shall be of any force or effect, unless such waiver is in writing, expressly stating to be a waiver of a specified provision of the Contract and is signed by the party to be bound thereby. In addition, no waiver by either party hereto of any term or condition of this Contract shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition and shall not in any way limit or waive that party's right thereafter to enforce or compel strict compliance with the Contract or any portion or provision or right under the Contract.

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

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

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

14.08 Prioritization. Contractor and City agree that City is a political subdivision of the State of Texas and is thus subject to certain laws. Because of this there may be documents or portions thereof

added by Contractor to this Contract as exhibits that conflict with such laws, or that conflict with the terms and conditions herein excluding the additions by Contractor. In either case, the applicable law or the applicable provision of this Contract excluding such conflicting addition by Contractor shall prevail. The parties understand this section comprises part of this Contract without necessity of additional consideration.

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

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

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

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

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

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

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

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

List of Exhibits

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

FREESE AND NICHLOS, INC.

CITY OF COLLEGE STATION

By: Richard Weatherly

By: _____

Printed Name: Richard weatherly

City Manager

Date: _____

Title: Vice President

Date: 10/27/2023

APPROVED:

City Attorney

Date: _____

Assistant City Manager/CFO

Date: _____

EXHIBIT A
SCOPE OF SERVICES

SCOPE OF SERVICES AND RESPONSIBILITIES OF OWNER

ARTICLE I

PROJECT DESCRIPTION: The City of College Station (Owner) is proceeding with Preliminary Design on the Alum Creek Trunkline Project (The Project). The Project will include the design of approximately 18,500 linear feet of 21- and 18-inch diameter sanitary sewer, including manholes, creek crossings, and connections at existing tie-in points to replace an existing trunk sewer.

The Project will also include the following components:

1. Hydraulic modeling to confirm the sizing of proposed sewer lines.
2. Review of CCTV of up to 1,600 LF of the existing sewer line to assess the condition and remaining useful life.
3. Route Study to evaluate the preferred alternative alignment.
4. Updated cost estimating for City budgeting.

The following are assumptions for the proposed scope of services:

1. City to provide CCTV footage as required for the project.
2. This project only includes preliminary design (30%). Final design, bid phase, and construction phase services to be contracted at a later date.
3. This project will be self funded by the City. No outside funding requirements.
4. After approval of the Preliminary Design Report, the design team will authorize preparation of metes and bounds for proposed easements.

BASIC SERVICES: FNI shall render the following professional services in connection with the development of the Project:

A. PROJECT MANAGEMENT

Upon execution of this Agreement, FNI shall:

1. Conduct kickoff meeting to review scope, schedule, and budget; determine any special conditions that may affect design; discuss administrative requirements of Owner; and to develop design criteria.
2. Manage efforts of internal design team and sub-consultants on the Project and perform Quality Control review of all deliverables.
3. Prepare meeting agendas and minutes and attend the following meetings:
 - a. Attend up to two monthly project coordination meetings with Owner.
 - b. Attend up to two meetings with utility providers needed for the project.
 - c. Attend one in-person workshop for review of the PER.
4. Prepare a Microsoft Project schedule and provide monthly updates including necessary revisions to bring the Project back on schedule if needed. The project schedule will not be resource loaded.
5. Prepare monthly reporting including status report, recent activities, upcoming activities, action items log, decisions made log, budget updates, schedule updates, and scope changes. Prepare monthly invoices.

6. Deliverables include the following:

- a. Agendas and minutes for all meetings
- b. Project schedule updated monthly
- c. Monthly reporting
- d. Monthly invoices

B. PRELIMINARY DESIGN PHASE. After Owner has issued written authorization to proceed with the Preliminary Design Phase, FNI shall:

1. Advise the Owner as to the necessity of the Owner providing or obtaining data or services from subconsultants and other 3rd party companies (HOA, Utilities, etc) and assist the Owner in connection with any such services. Collect and review existing data, reports, mapping, and records from the Owner. Review documents associated with the project. Provide analyses of the Owner's requirements for the Project, including planning, surveys, site evaluations and comparative studies of prospective sites and solutions.
2. Prepare a desktop route study for the proposed gravity sewer. Obtain GIS mapping of the route corridors, where available. Up to three routes will be evaluated. The study shall include an analysis of hydraulics, construction costs, conflicts with existing infrastructure, land costs (to be provided by the Owner), environmental considerations, accessibility, and permitting requirements. The study will include one site visit to points of public access. Present the route desktop study in a workshop to the Owner.
3. Based upon the desktop pipeline route study, proceed with the final pipeline alignment selection.
 - a. Provide GIS alignment to surveyor to prepare property boundary information in GIS format. FNI will obtain the Right-of-Entry letters to access property.
 - b. The Owner will provide recent CCTV footage and if available, inspection reports of the existing sanitary sewers where the proposed pipelines will be connected including the existing 16" sewer through the Pebble Creek subdivision and 18" sewer in the Nantucket subdivision.
 - c. FNI will review alignment in the field and make modifications to avoid conflicts and determine the final pipeline alignment. Final alignment will be based upon property considerations, constructability, hydraulics, construction costs, conflicts with existing infrastructure, land costs (to be provided by Owner), environmental considerations, accessibility, and permitting requirements.
 - d. FNI will meet with third party utility owners, development review and approval departments, and other agencies having jurisdiction over alignment approval. Meetings will be to coordinate the third-party requirements and seek approval of the final alignment. FNI will gather mapping of existing utilities to assist in route selection and pipeline design.
2. Prepare preliminary design report (PDR) consisting of final design criteria, codes and standards to be used for final design, permitting requirements, evaluation of alternatives, project phasing and bid packages, updated project schedule, opinion of probable construction cost (OPCC), and preliminary plan and one line profile sheets prepared at a 1"=40' scale.
3. Furnish a PDF copy of the PDR and present PDR to Owner. Receive Owner comments, make modifications to the PDR, and issue the final draft of PDR.

4. Deliverables for the Preliminary Design Phase include the following:
 - a. Draft Copy of Preliminary Design Report
 - b. Final Copy of Preliminary Design Report

ARTICLE II

SPECIAL SERVICES: Special Services to be performed by FNI include the following:

A. ENVIRONMENTAL SERVICES

The Environmental Evaluation shall be performed concurrently with the Alternate Route Study in order to evaluate all routes based on environmental constraints.

1. Alternate Route Desktop Evaluation – As part of the alternate route study, FNI environmental scientists will conduct a desktop evaluation of up to three (3) alternate pipeline routes. The purpose of this assessment is to identify potential environmental constraints along the alternate pipeline routes and to assist project engineers with the identification of a preferred alignment;
2. Gather and Review Existing Information – Prior to conducting a pedestrian survey along the proposed sanitary sewer alignment, FNI environmental scientists will assemble and review data such as aerial photographs, USGS topographic maps, National Wetlands Inventory (NWI) maps, the USGS National Hydrography Dataset (NHD), and soils data within the proposed project area;
3. Conduct Pedestrian Survey - FNI environmental scientists will conduct a site visit to make observations along the alignment to document existing environmental conditions and assess potential permitting requirements. The presence and locations of waters of the U.S., including wetlands; potential threatened/endangered species habitat; and vegetation cover types will be identified in the proposed project area;
4. Coordinate with the Texas Historical Commission - Projects sponsored by public entities that affect a cumulative area greater than five acres or that disturb more than 5,000 cubic yards require advance consultation with the Texas Historical Commission (THC) according to Section 191.0525 (d) of the Antiquities Code of Texas. Because the proposed project is expected to exceed these thresholds, coordination with THC is expected to be required. FNI will draft a consultation letter to the THC for City's review and comment. FNI will incorporate City's comments and submit the consultation letter to the THC. Any follow up studies requested by the THC are not included in this scope of services but can be provided upon written authorization;
5. Coordinate with Project Engineers - Utilizing information gathered during the pedestrian survey and consultation with the THC, FNI environmental scientists will coordinate with the project engineers to evaluate environmental permitting constraints associated with development of the project; and
6. Prepare Technical Memorandum - Based on our understanding of the proposed project, it appears that the pipeline could be constructed to meet the terms and conditions of NWP 58, without requiring notification to the USACE. Information gathered during the pedestrian survey and consultation with the THC will be used to prepare a draft technical memorandum. The memorandum will include discussions of methodologies used, the hydrologic characterization and locations of potential waters of the U.S., and an opinion on their jurisdictional status. If at the completion of environmental tasks 1-5, NWP 58 without PCN still appears to be appropriate for the project, this memorandum will also include a discussion of how the proposed project could

meet the terms and conditions of NWP 58, without PCN. The draft technical memorandum will be submitted to the City for review and comment. After incorporating City's comments into the document, FNI will submit a final technical memorandum to the City. In the event that a PCN, or other USACE permit is required, then FNI could provide these as an Additional Service.

B. TOPOGRAPHIC SURVEYING

Baseline will perform the following topographic surveying services for this Project:

1. Utilizing previous and new fieldwork, FNI will perform a detailed topographic survey of the designated route(s), approximately 50 to 75 feet in width.
2. The survey will include sufficient surface elevation points and break lines to create an accurate digital terrain model (DTM) with contours. Manholes, headwalls, fences, roads, concrete slabs, walls, buildings, culverts, utility poles, guys, valves, hydrants, meters, and similar features pertinent to the project. Rim and flowline elevations of sanitary sewers and storm inlets will be determined. Buried utility line marks by others (SUE) and pertinent trees (6" and greater in diameter)will also be located.
3. Record deed lines, rights-of-way, known existing easement lines and ownership information will be researched and included in the topographic drawing at mapping accuracy (~6").
4. FNI will establish accurate 3D survey control points and benchmarks. Horizontal and vertical datums will be based on City of College Station GPS control monuments and published datums (NAD83 & NAVD88).

C. EASEMENT SURVEYING AND DOCUMENTS

Baseline will perform the following easement services for this Project:

1. Prepare up to ten (10) easement instruments (Metes and Bounds) and graphic exhibits of easements required for proposed wastewater mains as needed, including temporary construction easements, in accordance with current CITY ROW Mapping requirements
2. Individual parcel exhibits shall be on 8 ½"x11" paper, shall be sealed, dated, and signed by a Registered Professional Land Surveyor (three (3) originals of each, City to provide standard language) and shall contain the following:
 - a. Parcel number
 - b. Area required
 - c. Area remaining
 - d. Legal description
 - e. Current owner
 - f. Any existing platted easements or easements filed by separate instruments including easements provided by utility companies
 - g. All physical features
3. Metes and bounds description of parcel to be prepared. The description shall be provided on a separate sheet from the exhibit. Each type of easement shall be described separately.
4. Submit Easement Instruments for review and approval by the CITY's Land Agent.
5. The CITY will be responsible for preparing the easement dedication language.

D. SUBSURFACE UTILITY ENGINEERING SERVICES:

Baseline will perform the following Services for this Project:

1. Quality Level B (QLB) Designation (18,500 linear feet and up to 75' wide)

Quality Level B (QL-B) is to indicate by marking with paint, the presence and approximate horizontal location of subsurface utilities by use of geophysical prospecting techniques including, without limitations, electromagnetic, sonic, and acoustical techniques. Provide the following designating services to aid the Client in the location of existing utilities:

- a. Provide all equipment, personnel, and supplies required for performing designating services. FNI shall determine which equipment, personnel, and supplies are required to perform designating services.
- b. Designate the approximate horizontal location of existing utilities within the project limits as described above, by use of Electromagnetic Equipment.
- c. Mark the utility locations on the ground pursuant to the utility identification color as prescribed by APWA, survey utility marks, and map collected data.
- d. Markings on the ground are to be used for design and verification purposes and not for construction excavation purposes. The use of the information provided does not relieve any contractor from the duty to comply with applicable utility damage prevention laws and regulations, including, but not limited to, giving notification to utility owners or "One-Call Notification Centers" before excavation.
- e. The accuracy of subsurface data can be influenced by factors beyond our control, such as conductivity of materials and their surroundings, soil moisture content, proximity of other underground utilities or structures, depth of utility, etc. Therefore, only the accuracy of data obtained by actual physical verification (through vacuum or hydro excavation or otherwise) can be guaranteed to applicable engineering and/or surveying standards.

2. Quality Level A (QL-A) Test Hole Services

Quality Level A (QL-A) Test Hole Services are the location and accurate horizontal and vertical position of subsurface utilities by excavating a test hole using vacuum excavation techniques and equipment that is non-destructive to utilities. In performing locating (test hole) services, FNI will provide the following services for up to ten (10) level A test holes:

- a. Provide all equipment, personnel, and supplies required to perform locating services. FNI shall determine which equipment, personnel and supplies are required to perform such services.
- b. Conduct appropriate investigation of site conditions and utilize the Plan Sheets provided by the Client to establish conditions and understand the utility locations.
- c. Excavate test holes at Client selected locations to expose the utility to be measured. In performing such excavations, FNI shall comply with applicable utility damage prevention laws.
- d. Excavations will be performed using specially developed vacuum excavation equipment that is non-destructive to existing facilities. If contaminated soils are discovered during the excavation process, FNI will notify the Client.
- e. Investigate, evaluate, measure and record:
 - i. Actual depth to top of utility referenced to a survey marker installed directly above the centerline of the exposed utility structure and
 - ii. Outside diameter of utility and configuration of non-encased, multi-conduit systems.
- f. Furnish and install survey markers directly above the centerline of utility structure.
- g. Backfill around the exposed facility using pea gravel in the roadways.
- h. Evaluate and compare field information with utility information described in utility records and resolve conflicts.

ARTICLE III

ADDITIONAL SERVICES: Additional Services to be performed by FNI, if authorized by Owner, which are not included in the above-described basic services, are described as follows:

- A. Providing services to investigate existing conditions or facilities, or to make measured drawings thereof, or to verify the accuracy of drawings or other information furnished by Owner.
- B. Providing renderings, model, and mock-ups requested by the Owner.
- C. Making revisions to drawings, specifications or other documents when such revisions are 1) not consistent with approvals or instructions previously given by Owner or 2) due to other causes not solely within the control of FNI.
- D. Investigations involving consideration of operation, maintenance and overhead expenses, and the preparation of rate schedules, earnings and expense statements, feasibility studies, appraisals, evaluations, assessment schedules, and material audits or inventories required for certification of force account construction performed by Owner.
- E. Preparing applications and supporting documents for government grants, loans, or planning advances and providing data for detailed applications.
- F. Preparing data and reports for assistance to Owner in preparation for hearings before regulatory agencies, courts, arbitration panels or any mediator, giving testimony, personally or by deposition, and preparations therefore before any regulatory agency, court, arbitration panel or mediator.
- G. Performing investigations, studies and analyses of substitutions of equipment and/or materials or deviations from the drawings and specifications.
- H. Assisting Owner in the defense or prosecution of litigation in connection with or in addition to those services contemplated by this Agreement. Such services, if any, shall be furnished by FNI on a fee basis negotiated by the respective parties outside of and in addition to this Agreement.
- I. Providing environmental support services including the design and implementation of ecological baseline studies, environmental monitoring, impact assessment and analyses, permitting assistance, and other assistance required to address environmental issues, beyond the scope of services already included.
- J. Design, contract modifications, studies or analysis required to comply with local, State, Federal or other regulatory agencies that become effective after the date of this agreement.
- K. Providing basic or additional services on an accelerated time schedule. The scope of this service include cost for overtime wages of employees and consultants, inefficiencies in work sequence and plotting or reproduction costs directly attributable to an accelerated time schedule directed by the Owner.

ARTICLE IV

TIME OF COMPLETION: FNI is authorized to commence work on the Project upon execution and delivery of this Agreement and agrees to complete the services in accordance with the following schedule:

- Draft Preliminary Design Report to be complete within 180 days of the Notice to Proceed.

If FNI's services are delayed through no fault of FNI, FNI shall be entitled to adjust the contract schedule consistent with the number of days of delay. These delays may include but are not limited to delays in Owner or regulatory reviews, delays on the flow of information to be provided to FNI, governmental approvals, etc. These delays may result in an adjustment to compensation as outlined on the face of this Agreement and in Attachment CO.

ARTICLE V

RESPONSIBILITIES OF Owner: Owner shall perform the following in a timely manner so as not to delay the services of FNI:

- A. Designate in writing a person to act as Owner's representative with respect to the services to be rendered under this Agreement. Such person shall have contract authority to transmit instructions, receive information, interpret and define Owner's policies and decisions with respect to FNI's services for the Project.
- B. Provide all criteria and full information as to Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which Owner will require to be included in the drawings and specifications.
- C. Assist FNI by placing at FNI's disposal all available information pertinent to the Project including previous reports and any other data relative to design or construction of the Project.
- D. Arrange for access to and make all provisions for FNI to enter upon public and private property as required for FNI to perform services under this Agreement.
- E. Examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by FNI, obtain advice of an attorney, insurance counselor and other consultants as Owner deems appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of FNI.
- F. Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project. Pay all fees for permit applications.
- G. Provide such accounting, independent cost estimating and insurance counseling services as may be required for the Project, such legal services as Owner may require or FNI may reasonably request with regard to legal issues pertaining to the Project including any that may be raised by Contractor(s), such auditing service as Owner may require to ascertain how or for what purpose any Contractor has used the moneys paid under the construction contract, and such inspection services as Owner may require to ascertain that Contractor(s) are complying with any law, rule, regulation, ordinance, code or order applicable to their furnishing and performing the work.
- H. Furnish, or direct FNI to provide, Additional Services as stipulated in Attachment SC, Article III of this Agreement or other services as required.
- I. Bear all costs incident to compliance with the requirements of this Article V.

ARTICLE VI

DESIGNATED REPRESENTATIVES: FNI and Owner designate the following representatives:

Owner's Designated Representative – Casey Rhodes
300 Krenek Tap Rd
College Station, Texas 77840
(979) 764-6248
crhodes@cstx.gov

Owner's Accounting Representative – vendorinvoiceentry@cstx.gov

FNI's Designated Representative – Jason Ward
10497 Town and Country Way, Suite 500
Houston, Texas 77024
(713) 600-6853
jvw@freese.com

FNI's Accounting Representative – Kristina Isaac
10497 Town and Country Way, Suite 600
Houston, Texas 77024
(713) 600-6860
kristina.isaac@freese.com

EXHIBIT B PAYMENT TERMS

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

☐

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

-OR-

☒

Payment is a fixed fee in the amount listed in paragraph 2.01 of this Contract. This amount shall be payable by the City pursuant to the schedule listed below and upon completion of the services and written acceptance by the City.

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

Schedule of Payment for each phase:

See attached fee schedule

ARTICLE VII – COMPENSATION (ATTACHMENT CO)

City of College Station Alum Creek Trunk Line Preliminary Design Summary of Fee by Tasks	
Task A – Project Management	\$34,154
Task B – Preliminary Design Phase Services	\$238,878
Basic Services Total (Lump Sum)	\$273,032
Task A – Environmental Services	\$22,447
Task B – Topographic Surveying	\$90,969
Task C – Easement Surveying and Documents	\$72,266
Task D – Subsurface Utility Engineering	\$61,806
Special Services Total (Cost Plus Maximum)	\$247,488
Total	\$520,520

If the Scope of Services change so that Additional Services are needed, including but not limited to those services described as Additional Services in Exhibit A, FNI will notify CITY for CITY's approval before proceeding. Additional Services shall be computed based on the Schedule of Charges on the following page.

EXHIBIT C
CERTIFICATE(S) OF INSURANCE



FREEAND-02

KSUTTON

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/20/2023

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 Ames & Gough 8300 Greensboro Drive Suite 980 McLean, VA 22102	CONTACT NAME:	
	PHONE (A/C, No, Ext): (703) 827-2277	FAX (A/C, No): (703) 827-2279
	E-MAIL ADDRESS: admin@amesgough.com	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : Hartford Underwriters Insurance Company A+ (XV)	30104
INSURED Freese and Nichols, Inc. 801 Cherry Street, Suite 2800 Fort Worth, TX 76102	INSURER B : Valley Forge Insurance Company A(XV)	20508
	INSURER C : Continental Insurance Company A(XV)	35289
	INSURER D : Travelers Casualty and Surety Company	19038
	INSURER E :	
	INSURER F :	

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY			7063394194	10/23/2023	10/23/2024	EACH OCCURRENCE \$ 1,000,000
	☐ CLAIMS-MADE ☒ OCCUR		DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000				
	☒ Contractual Liab.		MED EXP (Any one person) \$ 15,000				
			PERSONAL & ADV INJURY \$ 1,000,000				
			GENERAL AGGREGATE \$ 2,000,000				
	GEN'L AGGREGATE LIMIT APPLIES PER:						PRODUCTS - COMP/OP AGG \$ 2,000,000
	☐ POLICY ☒ PRO-JECT ☒ LOC						\$
	OTHER:						\$
B	☒ AUTOMOBILE LIABILITY			7063394177	10/23/2023	10/23/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	☒ ANY AUTO OWNED AUTOS ONLY ☐ SCHEDULED AUTOS		BODILY INJURY (Per person) \$				
	☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY		BODILY INJURY (Per accident) \$				
			PROPERTY DAMAGE (Per accident) \$				
			\$				
C	☒ UMBRELLA LIAB ☒ OCCUR			7063394180	10/23/2023	10/23/2024	EACH OCCURRENCE \$ 10,000,000
	☐ EXCESS LIAB ☐ CLAIMS-MADE		AGGREGATE \$ 10,000,000				
	☐ DED ☒ RETENTION \$ 10,000		\$				
C	☒ WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			7063394213	10/23/2023	10/23/2024	☒ PER STATUTE ☐ OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	☒ Y ☒ N	N/A				E.L. EACH ACCIDENT \$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
							E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D	☒ Professional Liab.			107930947	10/23/2023	10/23/2024	Per Claim 5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
PROFESSIONAL LIABILITY AGGREGATE LIMIT: \$10,000,000

RE: Carter Creek WWTP Effluent Filter Improvements Phase 1 - Outfall Improvements Contract No. 23300648

City of College Station, its officials, agents, employees and volunteers are included as Additional Insured with respect to General Liability, Auto Liability, and Umbrella Liability when required by written contract. General Liability, Auto Liability and Umbrella Liability are primary and non-contributory over any existing insurance and limited to liability arising out of the operations of the named insured and when required by written contract. General Liability, Auto Liability, SEE ATTACHED ACORD 101

CERTIFICATE HOLDER

CANCELLATION

City of College Station, TX 1101 Texas Ave College Station, TX 77842	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE



ADDITIONAL REMARKS SCHEDULE

AGENCY Ames & Gough		NAMED INSURED Freese and Nichols, Inc. 801 Cherry Street, Suite 2800 Fort Worth, TX 76102	
POLICY NUMBER SEE PAGE 1			
CARRIER SEE PAGE 1	NAIC CODE SEE P 1		
		EFFECTIVE DATE: SEE PAGE 1	

ADDITIONAL REMARKS

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

Description of Operations/Locations/Vehicles:

Umbrella Liability and Workers Compensation policies include a Waiver of Subrogation in favor of the Additional Insured where permissible by state law and when required by written contract. 30-day Notice of Cancellation will be issued for the General Liability, Auto Liability, Umbrella Liability, Workers Compensation and Professional Liability policies in accordance with policy terms and conditions. The General Liability policy does not contain an exclusion for Explosion, Collapse or Underground hazard.

Retro Date for the Professional Liability Policy is: 11/01/1965.



TEXAS WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

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

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

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

The premium for this endorsement is shown in the Schedule.

Schedule

1. ☐ Specific Waiver

Name of person or organization

☒ Blanket Waiver

Any person or organization for whom the Named Insured has agreed by written contract to furnish this waiver.

2. Operations: All Texas Operations

3. Premium:

The premium charge for this endorsement shall be 2% 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: Refer to Schedule of Operations

All other terms and conditions of the policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the policy issued by the designated Insurers, takes effect on the Policy Effective Date of said policy at the hour stated in said policy, unless another effective date (the Endorsement Effective Date) is shown below, and expires concurrently with said policy unless another expiration date is shown below.

**Blanket Additional Insured - Owners, Lessees or Contractors -
with Products-Completed Operations Coverage Endorsement**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

It is understood and agreed as follows:

- I. WHO IS AN INSURED** is amended to include as an **Insured** any person or organization whom you are required by **written contract** to add as an additional insured on this **Coverage Part**, but only with respect to liability for **bodily injury, property damage** or **personal and advertising injury** caused in whole or in part by your acts or omissions, or the acts or omissions of those acting on your behalf:
- A.** In the performance of your ongoing operations subject to such **written contract**; or
 - B.** In the performance of **your work** subject to such **written contract**, but only with respect to **bodily injury** or **property damage** included in the **products-completed operations hazard**, and only if:
 - 1. The **written contract** requires you to provide the additional insured such coverage; and
 - 2. This **Coverage Part** provides such coverage; and
 - C.** Subject always to the terms and conditions of this policy, including the limits of insurance, the Insurer will not provide such additional insured with:
 - 1. Coverage broader than what you are required to provide by the **written contract**; or
 - 2. A higher limit of insurance than what you are required to provide by the **written contract**.

Any coverage granted by this Paragraph **I.** shall apply solely to the extent permissible by law.

- II.** If the written contract requires additional insured coverage under the 07-04 edition of CG2010 or CG2037, then paragraph **I.** above is deleted in its entirety and replaced by the following:

WHO IS AN INSURED is amended to include as an **Insured** any person or organization whom you are required by **written contract** to add as an additional insured on this **Coverage Part**, but only with respect to liability for **bodily injury, property damage** or **personal and advertising injury** caused in whole or in part by your acts or omissions, or the acts or omissions of those acting on your behalf:

- A.** In the performance of your ongoing operations subject to such **written contract**; or
- B.** In the performance of **your work** subject to such **written contract**, but only with respect to **bodily injury** or **property damage** included in the **products-completed operations hazard**, and only if:
 - 1. The **written contract** requires you to provide the additional insured such coverage; and
 - 2. This **Coverage Part** provides such coverage.

- III.** But if the **written contract** requires:

- A.** Additional insured coverage under the 11-85 edition, 10-93 edition, or 10-01 edition of CG2010, or under the 10-01 edition of CG2037; or
- B.** Additional insured coverage with "arising out of" language;

then paragraph **I.** above is deleted in its entirety and replaced by the following:

WHO IS AN INSURED is amended to include as an **Insured** any person or organization whom you are required by **written contract** to add as an additional insured on this **Coverage Part**, but only with respect to liability for **bodily injury, property damage** or **personal and advertising injury** arising out of **your work** that is subject to such **written contract**.

- IV.** But if the **written contract** requires additional insured coverage to the greatest extent permissible by law, then paragraph **I.** above is deleted in its entirety and replaced by the following:

**Blanket Additional Insured - Owners, Lessees or Contractors -
with Products-Completed Operations Coverage Endorsement**

WHO IS AN INSURED is amended to include as an **Insured** any person or organization whom you are required by **written contract** to add as an additional insured on this **Coverage Part**, but only with respect to liability for **bodily injury, property damage or personal and advertising injury** arising out of **your work** that is subject to such **written contract**.

- V. The insurance granted by this endorsement to the additional insured does not apply to **bodily injury, property damage, or personal and advertising injury** arising out of:
- A. 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; and
 - 2. Supervisory, inspection, architectural or engineering activities; or
 - B. Any premises or work for which the additional insured is specifically listed as an additional insured on another endorsement attached to this **Coverage Part**.
- VI. Under **COMMERCIAL GENERAL LIABILITY CONDITIONS**, the Condition entitled **Other Insurance** is amended to add the following, which supersedes any provision to the contrary in this Condition or elsewhere in this **Coverage Part**:

Primary and Noncontributory Insurance

With respect to other insurance available to the additional insured under which the additional insured is a named insured, this insurance is primary to and will not seek contribution from such other insurance, provided that a **written contract** requires the insurance provided by this policy to be:

- 1. Primary and non-contributing with other insurance available to the additional insured; or
- 2. Primary and to not seek contribution from any other insurance available to the additional insured.

But except as specified above, this insurance will be excess of all other insurance available to the additional insured.

- VII. Solely with respect to the insurance granted by this endorsement, the section entitled **COMMERCIAL GENERAL LIABILITY CONDITIONS** is amended as follows:

The Condition entitled **Duties In The Event of Occurrence, Offense, Claim or Suit** is amended with the addition of the following:

Any additional insured pursuant to this endorsement will as soon as practicable:

- 1. Give the Insurer written notice of any **claim**, or any **occurrence** or offense which may result in a **claim**;
- 2. Send the Insurer copies of all legal papers received, and otherwise cooperate with the Insurer in the investigation, defense, or settlement of the **claim**; and
- 3. Make available any other insurance, and endeavor to tender the defense and indemnity of any **claim** to any other insurer or self-insurer, whose policy or program applies to a loss that the Insurer covers under this **coverage part**. However, if the **written contract** requires this insurance to be primary and non-contributory, this paragraph 3. does not apply to other insurance under which the additional insured is a named insured.

The Insurer has no duty to defend or indemnify an additional insured under this endorsement until the Insurer receives written notice of a **claim** from the additional insured.

- VIII. Solely with respect to the insurance granted by this endorsement, the section entitled **DEFINITIONS** is amended to add the following definition:

Written contract means a written contract or written agreement that requires you to make a person or organization an additional insured on this **Coverage Part**, provided the contract or agreement:

- A. Was executed prior to:

**Blanket Additional Insured - Owners, Lessees or Contractors -
with Products-Completed Operations Coverage Endorsement**

1. The **bodily injury** or **property damage**; or
 2. The offense that caused the **personal and advertising injury**;
for which the additional insured seeks coverage; and
- B.** Is still in effect at the time of the **bodily injury** or **property damage occurrence** or **personal and advertising injury** offense.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.

**CNA PARAMOUNT****Changes - Notice of Cancellation or Material
Restriction Endorsement**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
EMPLOYEE BENEFITS LIABILITY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
RAILROAD PROTECTIVE LIABILITY COVERAGE PART
STOP GAP LIABILITY COVERAGE PART
TECHNOLOGY ERRORS AND OMISSIONS LIABILITY COVERAGE PART
SPECIAL PROTECTIVE AND HIGHWAY LIABILITY POLICY – NEW YORK DEPARTMENT OF TRANSPORTATION

SCHEDULE	
Number of days notice (other than for nonpayment of premium):	030
Number of days notice for nonpayment of premium:	10
Name of person or organization to whom notice will be sent:	PER SCHEDULE ON FILE
Address:	PER SCHEDULE ON FILE PER SCHEDULE ON FILE XX 00000

If no entry appears above, the number of days notice for nonpayment of premium will be 10 days.

It is understood and agreed that in the event of cancellation or any material restrictions in coverage during the **policy period**, the Insurer also agrees to mail prior written notice of cancellation or material restriction to the person or organization listed in the above Schedule. Such notice will be sent prior to such cancellation in the manner prescribed in the above Schedule.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.

**Waiver of Transfer of Rights of Recovery Against
Others to the Insurer Endorsement**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE
Name Of Person Or Organization:
ANY PERSON OR ORGANIZATION WHOM THE NAMED INSURED HAS AGREED IN WRITING IN A CONTRACT OR AGREEMENT TO WAIVE SUCH RIGHTS OF RECOVERY, BUT ONLY IF SUCH CONTRACT OR AGREEMENT:
1.IS IN EFFECT OR BECOMES EFFECTIVE DURING THE TERM OF THIS COVERAGE PART; AND 2.WAS EXECUTED PRIOR TO THE BODILY INJURY, PROPERTY DAMAGE OR PERSONAL AND ADVERTISING INJURY GIVING RISE TO THE CLAIM.

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

Under **COMMERCIAL GENERAL LIABILITY CONDITIONS**, it is understood and agreed that the condition entitled **Transfer Of Rights Of Recovery Against Others To Us** is amended by the addition of the following:

With respect to the person or organization shown in the Schedule above, the Insurer waives any right of recovery the Insurer may have against such person or organization because of payments the Insurer makes for injury or damage arising out of the **Named Insured's** ongoing operations or **your work** included in the **products-completed operations hazard**.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.

100200066-40292826668378





ADDITIONAL INSURED - PRIMARY AND NON-CONTRIBUTORY

It is understood and agreed that this endorsement amends the **BUSINESS AUTO COVERAGE FORM** as follows:

SCHEDULE

Name of Additional Insured Person Or Organization

ANY PERSON OR ORGANIZATION THAT YOU ARE REQUIRED BY WRITTEN CONTRACT OR WRITTEN AGREEMENT TO NAME AS AN ADDITIONAL INSURED.

1. In conformance with paragraph **A.1.c.** of **Who Is An Insured** of Section **II - LIABILITY COVERAGE**, the person or organization scheduled above is an insured under this policy.
2. The insurance afforded to the additional insured under this policy will apply on a primary and non-contributory basis if you have committed it to be so in a written contract or written agreement executed prior to the date of the "**accident**" for which the additional insured seeks coverage under this policy.

All other terms and conditions of the policy remain unchanged

This endorsement, which forms a part of and is for attachment to the policy issued by the designated Insurers, takes effect on the Policy Effective date of said policy at the hour stated in said policy, unless another effective date (the Endorsement Effective Date) is shown below, and expires concurrently with said policy.

Form No: CNA71527XX (10-2012)

Endorsement Effective Date:

Endorsement No: 15; Page: 1 of 1

Underwriting Company: Valley Forge Insurance Company

Endorsement Expiration Date:

Policy No: 7063394177

Policy Effective Date: 10/23/2023

Policy Page:



POLICY HOLDER NOTICE - COUNTRYWIDE

It is understood and agreed that:

If the **Named Insured** has agreed under written contract to provide notice of cancellation to a party to whom the Agent of Record has issued a Certificate of Insurance, and if the Insurer cancels a policy term described on that Certificate of Insurance for any reason other than nonpayment of premium, then notice of cancellation will be provided to such Certificate holders at least 30 days in advance of the date cancellation is effective.

If notice is mailed, then proof of mailing to the last known mailing address of the Certificate holder on file with the Agent of Record will be sufficient to prove notice.

Any failure by the Insurer to notify such persons or organizations will not extend or invalidate such cancellation, or impose any liability or obligation upon the Insurer or the Agent of Record.



POLICY HOLDER NOTICE – NOTICE OF CANCELLATION CERTIFICATEHOLDERS

It is understood and agreed that:

If you have agreed under written contract to provide notice of cancellation to a party to whom the Agent of Record has issued a Certificate of Insurance, and if we cancel a policy term described on that Certificate of Insurance for any reason other than nonpayment of premium, then notice of cancellation will be provided to such Certificate holders at least 30 days in advance of the date cancellation is effective.

If notice is mailed, then proof of mailing to the last known mailing address of the Certificateholder on file with the Agent of Record will be sufficient to prove notice.

Any failure by us to notify such persons or organizations will not extend or invalidate such cancellation, or impose any liability or obligation upon us or the Agent of Record.

Form No: CNA87315XX (10-2016)

Underwriting Company: The Continental Insurance Company

Policy No: 7063394213
Policy Effective Date:10/23/23
Policy Page:



NOTICE OF CANCELLATION TO CERTIFICATEHOLDERS

It is understood and agreed that:

If you have agreed under written contract to provide notice of cancellation to a party to whom the Agent of Record has issued a Certificate of Insurance, and if we cancel a policy term described on that Certificate of Insurance for any reason other than nonpayment of premium, then notice of cancellation will be provided to such Certificateholders at least 30 days in advance of the date cancellation is effective.

If notice is mailed, then proof of mailing to the last known mailing address of the Certificateholder on file with the Agent of Record will be sufficient to prove notice.

Any failure by us to notify such persons or organizations will not extend or invalidate such cancellation, or impose any liability or obligation upon us or the Agent of Record.

All other terms and conditions of the policy remain unchanged

This endorsement, which forms a part of and is for attachment to the policy issued by the designated Insurers, takes effect on the Policy Effective date of said policy at the hour stated in said policy, unless another effective date (the Endorsement Effective Date) is shown below, and expires concurrently with said policy.

Form No: CNA68021XX (02-2013)
Endorsement Effective Date:
Endorsement No:
Underwriting Company: Valley Forge Insurance Company

Policy No: 7063394177
Policy Effective Date: 10/23/23
Policy Page:

NOTICE OF CANCELLATION PROVIDED BY THE COMPANY

This endorsement changes the following:

Professional Liability Terms and Conditions

PROVISIONS:

If the Company cancels this policy for any statutorily permitted reason other than nonpayment of premium, the Company will mail or deliver notice of cancellation to the Person or Entity shown in the Notice Schedule below. The Company will mail or deliver such notice to the address provided by the **Named Insured** at least the number of days shown for cancellation in such Notice Schedule before the effective date of cancellation.

Notice Schedule

Number of Days Notice of Cancellation: 30

Person or Entity:

Any person or entity to whom the **Named Insured** has agreed in a written contract that notice of cancellation of this policy will be given, but only if:

1. the **Named Insured** sends the Company a written request to provide such notice, including the name and address of such person or entity, after the **Named Insured** receives notice from us of the cancellation of this policy; and
2. The Company receives such written request no later than 10 days after the **Named Insured** receives the notice of cancellation.

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, exclusions or limitations of the above-mentioned policy, except as expressly stated herein. This endorsement is part of such policy and incorporated therein.

Issuing Company: Travelers Casualty and Surety Company of America
Policy Number: 107930947

William D Fitch

Pebble Creek

**Arrington
Road**

**Greens Prairie
Road**

**Conceptual
route. Subject
to change.**

State Highway 6

November 9, 2023

Item No. 7.9.

Presentation, possible action, and discussion on approval of the 2023 Property Tax Roll in the amount of \$70,766,287.79

Sponsor: Mary Ellen Leonard, Director of Fiscal Services

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action on approval of the 2023 Property Tax Roll in the amount of \$70,766,287.79.

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 of the 2023 Property Tax Roll in the amount of \$70,766,287.79.

Summary: Section 26.09 (e) of the Texas Property Tax Code mandates formal approval of the Tax Roll by the City Council as the final step in the process of establishing the tax roll for the new year. The tax roll consists of the Maintenance and Operations levy and the Interest and Sinking fund levy.

Budget & Financial Summary: The tax roll that will be generated by the tax rate of \$0.513086 per \$100 assessed valuation is \$70,766,287.79. This tax rate was adopted by the City Council on August 24, 2023.

Attachments:

1. City of College Station Levy Notification
2. City of College Station Levy Totals

Kristeen Roe, CTA, PAC
Brazos County Tax Assessor/Collector
4151 County Park Ct.
Bryan, TX 77802
979-775-9930
979-775-9938 - Fax



October 24, 2023

Honorable John Nichols, Mayor
City of College Station
P. O. Box 9960
College Station, TX 77842

RE: Certification of 2023 Levy

Dear Mayor Mooney:

Please place approval of the 2023 tax levy on the next city council agenda. Enclosed with this correspondence is the calculated 2023 levy for the City of College Station.

Approval of the Levy as provided in Sec. 26.09 (e) is the final step in the creation of the tax rolls for the county. Please contact me if you have any questions concerning the information.

Respectfully,

A handwritten signature in cursive script, reading "Kristeen Roe", is written over a horizontal line.

Kristeen Roe, CTA, PCAC
Tax Assessor/Collector
Brazos County, Texas

2023 LEVY TOTALS

C2 - CITY OF COLL. STAT.

Property Count: 34,315

Grand Totals

10/24/2023

8:11:28AM

Land			Value			
Homesite:			1,890,051,210			
Non Homesite:			1,919,266,477			
Ag Market:			126,019,612			
Timber Market:			0	Total Land	(+)	3,935,337,299
Improvement			Value			
Homesite:			7,137,215,337			
Non Homesite:			5,827,933,998	Total Improvements	(+)	12,965,149,335
Non Real		Count	Value			
Personal Property:		3,221	832,957,716			
Mineral Property:		1,296	9,201,972			
Autos:		0	0	Total Non Real	(+)	842,159,688
				Market Value	=	17,742,646,322
Ag	Non Exempt		Exempt			
Total Productivity Market:		126,019,612	0			
Ag Use:		796,540	0	Productivity Loss	(-)	125,223,072
Timber Use:		0	0	Appraised Value	=	17,617,423,250
Productivity Loss:		125,223,072	0	Homestead Cap	(-)	575,482,023
				Assessed Value	=	17,041,941,227
				Total Exemptions Amount (Breakdown on Next Page)	(-)	2,819,105,795
				Net Taxable	=	14,222,835,432

Freeze	Assessed	Taxable	Actual Tax	Ceiling	Count			
DP	28,596,817	25,936,838	100,395.89	101,463.00	93			
OV65	1,561,485,023	1,319,208,170	4,592,267.65	4,633,427.02	4,054			
Total	1,590,081,840	1,345,145,008	4,692,663.54	4,734,890.02	4,147	Freeze Taxable	(-)	1,345,145,008
Tax Rate	0.5130860							
						Freeze Adjusted Taxable	=	12,877,690,424

Levy Info								
M&O Rate:	0.3016440	M&O Tax:	41,603,602.76					
I&S Rate:	0.2114420	I&S Tax:	29,162,685.03					
Protected I&S Rate:	0.0000000	Protected I&S Tax:	0.00					
		Ag Penalty:	0.00					
		PP Late Penalty:	0.00					
		Late Correction Penalty:	0.00					
				Total Levy				70,766,287.79
Tax Increment Finance Value:			0					
Tax Increment Finance Levy:			0.00					

2023 LEVY TOTALS

C2 - CITY OF COLL. STAT.

Property Count: 34,315

Grand Totals

10/24/2023

8:11:34AM

Exemption Breakdown

Exemption	Count	Local	State	Total
CHODO (Partial)	12	18,568,072	0	18,568,072
DP	94	0	0	0
DV1	95	0	860,000	860,000
DV1S	5	0	25,000	25,000
DV2	62	0	578,250	578,250
DV2S	2	0	15,000	15,000
DV3	82	0	852,000	852,000
DV3S	5	0	50,000	50,000
DV4	383	0	2,055,745	2,055,745
DV4S	33	0	221,654	221,654
DVHS	248	0	93,310,959	93,310,959
DVHSS	24	0	7,515,592	7,515,592
EX	4	0	1,116,565	1,116,565
EX-XG	1	0	189,110	189,110
EX-XJ	1	0	10,510	10,510
EX-XL	2	0	307,101	307,101
EX-XN	8	0	5,446,545	5,446,545
EX-XR	1	0	13,190	13,190
EX-XU	6	0	21,790,178	21,790,178
EX-XV	619	0	2,248,548,213	2,248,548,213
EX-XV (Prorated)	1	0	385,132	385,132
EX366	1,266	0	539,821	539,821
FR	7	42,750,893	0	42,750,893
FRSS	2	0	700,017	700,017
HS	11,746	246,023,446	0	246,023,446
MASSS	2	0	528,492	528,492
OV65	4,337	125,806,845	0	125,806,845
OV65S	5	150,000	0	150,000
PC	7	262,088	0	262,088
SO	15	485,377	0	485,377
Totals		434,046,721	2,385,059,074	2,819,105,795

November 9, 2023

Item No. 7.10.

Contract with Freeit Data Solutions for additional Rubrik data storage.

Sponsor: Sam Rivera

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action on Contract with Freeit Data Solutions, Inc. in the amount of \$421,016.30 for additional Rubrik data storage.

Relationship to Strategic Goals:

Core Services and Infrastructure

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

Summary: The IT Department has used Rubrik data protection appliance to back up the cities data for four years. The current Rubrik appliance is almost 90% full which means we have a few months to either increase our backup storage capacity or stop backing up some data. All backup data is stored in two Rubrik devices located in two different city buildings and duplicated in the Amazon Web Services cloud located in the Midwest. All data is encrypted and protected from cyber attackers.

Budget & Financial Summary: The funding for this purchase was requested and approved through the FY24 SLA budget process. Funds have been transferred into the FY24 IT Department operating budget.

Attachments:

1. Contract 24300073--ADc



CONTRACT & AGREEMENT ROUTING FORM

CONTRACT#: 24300073 PROJECT #: N/A BID/RFP/RFQ#: N/A

Project Name / Contract Description: The purchase of Rubrik hardware and the 3-year annual software use.

Name of Contractor: Freeit Data Solutions, Inc.

CONTRACT TOTAL VALUE: \$ 421,016.30 **Grant Funded** Yes ☐ No ☒

If yes, what is the grant number:

Debarment Check ☐ Yes ☐ No ☒ N/A

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

Section 3 Plan Incl. ☐ Yes ☐ No ☒ N/A

Buy America Required ☐ Yes ☐ No ☒ N/A

Transparency Report ☐ Yes ☐ No ☒ N/A

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

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

This is a purchase for an SLA that was approved for FY24. Funding will come from 10011260-5112.

Pricing taken from the DIR contract No. DIR-CPO-4696.

(If required)*

CRC Approval Date*: N/A **Council Approval Date*:** 11/9/2023 **Agenda Item No*:** _____

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

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

SIGNATURES RECOMMENDING APPROVAL

Sam Rivera
DEPARTMENT DIRECTOR/ADMINISTERING CONTRACT

10/27/2023
DATE

[Signature]
ASST CITY MGR – CFO

10/30/2023
DATE

Baron Longoria
LEGAL DEPARTMENT

10/30/2023
DATE

APPROVED & EXECUTED

CITY MANAGER

DATE

N/A
MAYOR (if applicable)

DATE

N/A
CITY SECRETARY (if applicable)

DATE

9.12.23 UPDATED

TECHNOLOGY SERVICES CONTRACT

This Contract is by and between the **City of College Station**, a Texas Municipal Home-Rule Corporation (the “City”) and **Freeit Data Solutions, Inc.**, a Texas Corporation (the “Consultant”), whereby Consultant agrees to perform and the City agrees to pay for the work described herein.

ARTICLE I SCOPE OF SERVICE

1.01 This Contract is for the purchase of Rubrik hardware and the 3-year annual software use (the “Project”). The scope and details of the work to be provided to the City by Consultant for the Project are set forth in **Exhibit “A”** to this Contract and are incorporated as though fully set forth herein by reference (the “Work”). Consultant agrees to perform or cause the performance of all the work described in **Exhibit “A.”**

1.02 Consultant agrees to perform the work described in **Exhibit “A”** hereto and the City agrees to pay Consultant a fee based on the rates set forth in **Exhibit “B”** to this Contract for the Work performed by Consultant. The invoices shall be submitted to the City following the 15th day and the last day of each month. The payment terms are net payable within thirty (30) calendar days of the City’s receipt of the invoice. Upon termination of this Contract, payments under this paragraph shall cease, provided, however, that Consultant shall be entitled to payments for work performed in accordance with this Contract before the date of termination and for which Consultant has not yet been paid.

ARTICLE II PAYMENT

2.01 The total amount of payment, including reimbursements, by the City to Consultant for all Work to be performed under this Contract may not, under any circumstances, exceed Four Hundred Twenty-One Thousand Sixteen and 30 /100 Dollars (\$ 421,016.30).

ARTICLE III CHANGE ORDERS

3.01 The City may from time to time request changes in the scope and focus of the Work to be conducted by Consultant pursuant to this Contract, provided, however, that any such change that in the opinion of Consultant, the City Manager, or the City’s Project Manager varies significantly from the scope of the work set out herein and would entail an increase in cost or expense to the City shall be mutually agreed upon in advance in writing by Consultant and the City’s Project Manager.

- (a) When the original Contract amount plus all change orders is \$100,000 or less, the City Manager or his designee may approve the written change order provided the change order does not increase the total amount set forth in the Contract to more

than \$100,000. For such contracts, when a change order results in a total contract amount that exceeds \$100,000, the City Council of the City must approve such change order prior to commencement of the services or work; and

- (b) When the original contract amount plus all change orders is greater than \$100,000, the City Manager or his designee may approve the written change order provided the change order does not exceed \$50,000, and provided the sum of all change orders does not exceed 25% of the original contract amount. For such contracts, when a change order exceeds \$50,000 or when the sum of all change orders exceeds 25% of the original contract amount, the City Council of the City must approve such change order prior to commencement of the services or work. Thereafter, any additional change orders exceeding \$50,000 or any additional change orders totaling 25 percent following such council approval, must be approved by City Council; and
- (c) **Any request by the Consultant for an increase in the Scope of Work and an increase in the amount listed in paragraph two of this Contract shall be made and approved by the City prior to the Consultant providing such work or the right to payment for such additional work shall be waived.** If there is a dispute between the Consultant and the City respecting any service provided or to be provided hereunder by the Consultant, including a dispute as to whether such Work is additional to the Scope of Work included in this Contract, the Consultant agrees to continue providing on a timely basis all work to be provided by the Consultant hereunder, including any Work as to which there is a dispute.

**ARTICLE IV
TIME OF PERFORMANCE**

☐ **4.01** Except as provided in Article XI hereinbelow, the Consultant shall complete all of the work described in **Exhibit “A”** by the dates set forth below:

_____.

- OR -

☒ **4.01** Except as provided in Article XI hereinbelow, the term of this Contract shall be for three (3) years from the effective date of this Contract. Any renewal must be in writing and executed by the parties.

4.02 Time is of the essence of this Contract. The Consultant shall be prepared to provide the Work in the most expedient and efficient manner possible in order to complete the work by the times specified.

4.03 Consultant promises to work closely with the City Manager or his designee (the "Project Manager") or other appropriate City officials. Consultant agrees to perform any and all Project-related tasks reasonably required of it by the City in order to fulfill the purposes of the Work to be performed. The Work of Consultant under this Contract may be authorized by the Project Manager in various phases as set forth in **Exhibit "A."**

ARTICLE V INDEPENDENT CONTRACTOR AND NONSOLICITATION

5.01 Independent Contractor. In all activities or work performed hereunder, the Consultant is an independent contractor and not an agent or employee of the City. The Consultant, as an independent contractor, shall be responsible for the final product contemplated under this Contract. Except for materials furnished by the City, the Consultant shall supply all materials, equipment and labor required for the execution of the Work on the Project. The Consultant shall have ultimate control over the execution of the Work under this Contract. The Consultant shall have the sole obligation to employ, direct, control, supervise, manage, discharge, and compensate all of its employees and subcontractors, and the City shall have no control of or supervision over the employees of the Consultant or any of the Consultant's subcontractors except to the limited extent provided for in this Contract. Consultant shall be liable for any misrepresentations. Any negotiations by the Consultant on the City's behalf are binding on the City only when within the Scope of Work contained herein and approved by the City.

5.02 Nonsolicitation. Consultant recognizes and understands that it will be interacting with City employees when performing Work under this Contract, and that it may cause irreparable harm to the City should one or more City employees perform work for Consultant either directly or indirectly. Because of this, Consultant agrees that it shall not directly or indirectly, personally or through others, solicit or encourage, or attempt to solicit or encourage on Consultant's own behalf or on behalf of any other person or entity for hire or use the work of any employee or other consultant of the City or any of City's agents or officials. Consultant agrees to adhere to this requirement for a minimum of one year following termination of this Contract. This provision shall survive termination of this Contract.

ARTICLE VI AUTHORIZATION

6.01 The City shall direct Consultant to commence Work on the Project by sending Consultant a "letter of authorization" to begin Work on the Project.

6.02 Upon receipt of the letter of authorization to begin Work on the implementation of the Project, Consultant shall meet with the City for the purpose of determining the nature of the Project, including but not limited to the following: meeting with the City's staff to coordinate Project goals, schedules, and deadlines; coordinating data collection; briefing the City's management staff; documenting study assumptions, methodologies and expectations; devising the criteria to be met for both interim goals and final completion of the Work.

6.03 Consultant shall consult with the City and may, in some limited circumstances, act as the City's representative, but it is understood and agreed by the parties that for all purposes related to this Contract, Consultant shall be an independent consultant at all times and is not to be considered either an agent or an employee of the City.

ARTICLE VII WARRANTY

7.01 As an experienced and qualified professional, Consultant warrants that the Work provided by Consultant reflects high professional and industry standards, procedures, and performances. Consultant warrants the design, preparation of drawings, the designation or selection of materials and equipment, the selection and supervision of personnel, the fitness and operation of its recommendations, and the performance of other work under this Contract, pursuant to a high standard of performance in the field in which Consultant works. Consultant warrants that it will exercise diligence and due care and perform in a good and workmanlike manner all of the work pursuant to this Contract. Approval or acceptance by the City of any of Consultant's work product under this Contract shall not constitute, or be deemed, a release of the responsibility and liability of Consultant, its employees, agents, or associates for the exercise of skill and diligence necessary to fulfill Consultant's responsibilities under this Contract. Nor shall the City's approval or acceptance be deemed to be the assumption of responsibility by the City for any defect or error in the Project's Work products prepared by Consultant, its employees, associates, agents, or subconsultants.

7.02 Consultant shall keep the City informed of the progress of the Work and shall guard against any defects or deficiencies in its work.

7.03 Consultant shall be responsible for using due diligence to correct errors, deficiencies or unacceptable Work. Consultant shall, at no cost to the City, remedy any errors, deficiencies or any Work found unacceptable, in the City's sole discretion, as soon as possible, but no longer than fifteen (15) calendar days after receiving notice of said errors, deficiencies or unacceptable Work.

7.04 Consultant's work product shall be the exclusive property of the City. Upon completion or termination of this Contract, Consultant shall promptly deliver to the City all records, notes, data, memorandum, models, and equipment of any nature that are within Consultant's possession or control and that are the City's property or relate to the City or its business.

ARTICLE VIII INDEMNIFICATION AND RELEASE

8.01 Indemnity. The Consultant agrees to indemnify, defend, and hold harmless the City, its officers, employees, volunteers and agents (separately and collectively referred to in this paragraph as "Indemnitee"), from and against any and all claims, losses, damages, causes of action, suits, judgments, settlements made by Indemnitee, and liability of every kind, including all expenses of litigation, court costs, attorney's fees, and other reasonable costs for damage to or loss of use of any property, for injuries to, or sickness or death of any person,

including but not limited to Consultant, any of its subconsultants of any tier, or of any employee or invitee of Consultant or of any such subconsultants, that is caused by, arises out of, related to, or in connection with, the negligence of and/or negligent performance of this Contract by Consultant or by any such subconsultants of any tier, under this Contract. There shall be no additional indemnification other than as set forth in this section. All other provisions regarding the same subject matter shall be declared void and of no effect.

8.02 It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of the indemnification obligation under Paragraph 8.01, such legal limitations are made a part of the indemnification obligation and shall operate to amend the indemnification obligation to the minimum extent necessary to bring the provision into conformity with the requirements of such limitations, and as so modified, the indemnification obligation shall continue in full force and effect.

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

ARTICLE IX INSURANCE

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

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

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

- (d) Professional Liability.
- (e) Cyber Liability.

9.03 Certificates of Insurance. For each of these policies, the policy shall be endorsed to show the Consultant's insurance coverage as primary with respect to the City, its officials, agents, employees and volunteers. Any insurance or self-insurance carried or obtained by the City, its officials, agents, employees or volunteers, shall be considered in excess of the Consultant's insurance and shall not contribute to it. No term or provision of the indemnification provided by the Consultant to the City pursuant to this Contract shall be construed or interpreted as limiting or otherwise affecting the terms of the insurance coverage. All Certificates of Insurance and endorsements shall be furnished to the City's Representative at the time of execution of this Contract, on the most current State of Texas Department of Insurance-approved forms, attached hereto as **Exhibit C**, and approved by the City *before* work commences.

9.04 Additional Insurance. The Consultant shall include all subconsultants as Additional Insureds under its policies, or shall furnish separate certificates and endorsements for each subconsultant. Coverages for subconsultants shall be subject to all requirements stated herein.

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

- (a) Only licensed insurance carriers authorized to do business in the State of Texas shall be accepted.
- (b) Deductibles shall be listed on the certificate of insurance and are acceptable only on an "occurrence" basis.
- (c) "Claims made" policies are not accepted, except for Professional Liability insurance.
- (d) Coverage shall not be suspended, voided, canceled, or reduced in coverage or in limits of liability except after thirty (30) calendar days written notice has been given to the City of College Station.
- (e) The Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent. Each certificate shall contain the following provisions and warranties:
 - i. The licensed insurance company is authorized to do business in the State of Texas
 - ii. The insurance policy is underwritten on forms provided by the Texas State Board of Insurance or ISO
 - iii. All endorsements and coverages are included according to the requirements of this Contract
 - iv. The form of notice of cancellation, termination, or change in coverage provisions is specified in this attachment

- (f) The City of College Station, its officials, agents, employees, and volunteers are to be named as Additional Insureds on the Commercial General Liability and Business Automobile Liability Policies. The coverages shall contain no special limitations on the scope of protection afforded the City, its officials, agents, employees, and volunteers.

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

- (a) Coverage shall be written by a carrier rated “A: VIII” or better in accordance with the current A. M. Best Key Rating Guide.
- (b) Minimum limits of liability of \$1,000,000 per occurrence per project with a \$2,000,000 annual aggregate limit.
- (c) Coverage shall be at least as broad as Insurance Service's Office (ISO) Number CG 00 01.
- (d) No coverage shall be excluded from the standard policy without notification of individual exclusions being attached for the City’s review and acceptance.
- (e) The coverage shall not exclude: premises/operations; independent contracts; products/completed operations; contractual liability (insuring the indemnity provided herein); and Host Liquor Liability.
- (f) The City shall be named as Additional Insured and policies endorsed to waive rights of subrogation and to be primary and non-contributory with regard to any self-insurance or insurance policy held by the City.

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

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

9.08 Workers’ Compensation/Employer’s Liability Insurance requirements. The Workers’ Compensation/Employer’s Liability insurance shall include the following terms:

- (a) Employer’s Liability limits of \$1,000,000 for each accident is required.
- (b) “Texas Waiver of Our Right to Recover from Others Endorsement, WC 42 03 04” shall be included in this policy.

- (c) Texas must appear in Item 3A of the Workers' Compensation coverage or Item 3C must contain the following: All States except those listed in Item 3A and the States of NV, ND, OH, WA, WV, and WY.

9.09 Professional Liability requirements. The following Professional Liability requirements shall apply:

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

9.10 Cyber Liability. Minimum limits of \$5,000,000 for third party losses. Coverage must include:

- (a) Event Management;
- (b) Unauthorized Access/use;
- (c) Computer Virus;
- (d) Denial of Service Attack;
- (e) Libel, Cyber-libel, Slander, Product Disparagement;
- (f) Violation of Right of Privacy;
- (g) Regulatory Costs;
- (h) Privacy Costs- Privacy Injury and Identity Theft;
- (i) Programming Errors & Omissions Liability;
- (j) Replacement or Restoration of Electronic Data (First Person);
- (k) Extortion Threats;
- (l) Business Income and Extra Expense (to \$1 million);
- (m) Public Relations Expense; and
- (n) Security Breach Expense.

ARTICLE X TECHNOLOGY REQUIREMENTS

10.01 Cloud Provider. When some or all of the Contractor's Work involve being a Cloud Provider, the following shall apply:

- (a) Security Policies and Procedures.** The Contractor shall provide the City with copies of its information security policies and procedures within three (3) business days upon City's request covering:

 - i. Data Classification and privacy;
 - ii. Security training and awareness;
 - iii. Systems administration, patching and configuration;
 - iv. Incident response;
 - v. Managing workstations, mobile devices and antivirus applications;
 - vi. Backups, disaster recovery and business partners and contractors;
 - vii. Audit and testing schedules;
 - viii. Requirements for third-party business partners and contractors;
 - ix. Compliance with information security or privacy laws, rules, regulations or standards;
 - x. Evidence of background checks that support security of sensitive or confidential information;
 - xi. Disclosure of previous data breaches; and
 - xii. Any other relevant information regarding security policies or procedures.
- (b) Industry Best Practices.** Contractor must provide all services using the best commercially-available security technology and techniques according to industry best practices and standards; the City's security standards, policies and procedures including those relating to fraud prevention and detection and any other inappropriate system and network use or access, including:

 - i. Providing secure (SSL, HTTPS, or similar) access to all levels of users as defined by the City via the internet;
 - ii. Having controls meeting applicable laws and the latest Framework for Improving Critical Infrastructure Cyber security from National Institute of Standards and Technology (NIST) or compatible industry security frameworks;
 - iii. Completely testing and applying patches for hardware bios/firmware, bare metal operating systems (e.g. VMware ESXi), virtualized server operating systems, and software products before release; and
 - iv. Having all servers providing work to the City solely physically located within the continental United States of America. Contractor must house all

servers and equipment in an operational environment meeting industry standards including a climate-controlled room with a fire and security hazard detection system and a network and electrical redundancy system, including backup Uninterruptable Power Supply (UPS) and automatic fail-over stand-by generators and physical security.

(c) Data Breach.

- i. **Notice.** Contractor must immediately notify the City by telephone and email no later than twenty-four (24) hours if there is a reasonable probability of a data security incident. Contractor must send a written letter following up on the data security incident within forty-eight (48) hours following a data breach. The Contractor must:
 1. Cooperate with the City's request to investigate and resolve the incident in a timely manner;
 2. Promptly implement necessary remedial measures; and
 3. Document responsive actions taken related to the data breach, including any post-incident review and actions taken to make changes in business practices in providing the work, if necessary.
- ii. **Contractor Agreement Breach.** If a data breach results from Contractor's breach of the Contract, Contractor must:
 1. Bear any costs associated with the investigation and resolution of the data breach
 2. Notify individuals, regulators and all others required by Identity Theft Enforcement and Protection Act in the Texas Business and Commerce Code Chapter 521 Unauthorized Use of Identifying Information;
 3. Engage a credit monitoring service or identity protection service;
 4. Publish a website or toll-free number and call center for affected individuals as required by state or federal law;
 5. Complete all corrective actions as reasonably determined based on root cause; and
 6. Send the City written findings and remedial measures from the data breach.

(d) Preventive Security Procedures. Contractor must:

- i. Provide on-going software updates as they become available complying with the defined maintenance windows. The Contractor must completely test updates; including any bug fixes, patches and other improvements;
- ii. Monitor system and error logs and perform preventive maintenance to minimize and predict system problems, including initiating and completing an appropriate response;

- iii. Conduct a third-party independent security/vulnerability assessment at its own expense at least annually and submit the results of such assessment to the City;
 - iv. Agree to third-party application and vulnerability security scans and schedules;
 - v. Comply with the City's directions/resolutions to remediate security/vulnerability assessment results aligning with City Security Vulnerability Assessment Standards;
 - vi. Limit logical and physical access to all system components and provide access only to those individuals with a business need for work provided. Individuals who have access to systems and data must have a criminal background check;
 - vii. Annually audit the data center through an independent third-party auditor. Audit results must form part of the Contractor's applicable Service Organization Control (SOC) report. The audit results must comply with industry standard controls for data security and disaster recovery that the Contractor shall report to the City in writing; and
 - viii. Take all necessary measures to protect the data and encryption keys including, but not limited to the off-site servers daily backup according to industry best practices and encryption techniques.
- (e) **Disaster Recovery.** Contractor must comply with any and all City disaster recovery and resiliency protocols to prevent system interruption. In the event of system breach, Contractor shall notify the City and restore the system within twenty-four (24) hours from discovery of breach.
- (f) **Closeout.**
- i. Agreement Expiration. When the Agreement term expires or terminates, and at any other time at the City's written request, Contractor must promptly return to the City all intellectual and physical property subject to the Agreement including, but not limited to system configuration data and information in file or document formats in the Contractor's possession or control.
 - ii. Access. The City will have access to export and retrieve its data for no less than ninety (90) days after the Agreement expiration or termination date. The City must be able to access its data at any time during the Agreement term in a readily readable, structured and documented format, such as CSV-format or some other standard format offered by the Contractor. The Contractor must provide the City transition work after Agreement expiration or termination at Contractor's then-current and generally-charged hourly rates.
 - iii. Data Removal. At the City's request upon Agreement expiration or termination, the Contractor must remove, delete, purge, overwrite or otherwise render inaccessible within a reasonable time, all City data

remaining on Contractor's servers to the extent possible based on the then-current technology available. Contractor must provide the City a written and signed statement confirming data has been deleted, purged, overwritten or otherwise rendered inaccessible. The Contractor will not otherwise delete the City's data without City's prior written consent.

10.02 Premise Solutions. When some or all of the Contractor's Work involve providing Premise Solutions, the following shall apply:

(a) Requirements: Contract must:

- i. Provide the City with its security architecture. The security architecture must at a minimum meet applicable laws and the latest Cybersecurity Framework for Improving Critical Infrastructure from National Institute of Standards and Technology (NIST) or compatible industry security frameworks;
- ii. Have data access limited to only required support service;
- iii. Evidence of background checks that support security of the City's sensitive or confidential information;
- iv. Notify the City within twenty-four (24) hours when any patches resulting from security vulnerability and threats become available;
- v. Provide City with all applicable security assessments, audits and certifications related to system security annually;
- vi. Train City staff on security-related procedures regarding system operation and maintenance; and
- vii. Take all necessary measures to protect the City's data and data encryption when applicable.

(b) Data Breach.

- i. **Notice.** Contractor must immediately notify the City by telephone and email no later than twenty-four (24) hours if there is a reasonable probability of a data security incident. Contractor must send a written letter following up on the data security incident within forty-eight (48) hours following a data breach. The Contractor must:
 1. Cooperate with the City's request to investigate and resolve the incident in a timely manner;
 2. Promptly implement necessary remedial measures; and
 3. Document responsive actions taken related to the data breach, including any post-incident review and actions taken to change business practices in providing the work, if necessary.
- ii. **Contractor Agreement Breach.** If a data breach results from Contractor's breach of this Agreement, Contractor must:

1. Bear any costs associated with the investigation and resolution of the data breach;
2. Notify individuals, regulators and all others required by Identity Theft Enforcement and Protection Act in the Texas Business and Commerce Code Chapter 521 Unauthorized Use of Identifying Information;
3. Engage a credit monitoring service;
4. Publish a website or a toll-free number and call center for affected individuals as required by state or federal law;
5. Complete all corrective actions as reasonably determined based on root cause; and
6. Send the City written findings and remedial measures from the data breach.

(c) **Data Removal.** At the City's request upon Agreement expiration or termination, the Contractor must remove, delete, purge, overwrite or otherwise render inaccessible within a reasonable time, all City data remaining on Contractor's servers to the extent possible based on the then-current technology available. Contractor must provide the City a written and signed statement confirming data has been deleted, purged, overwritten or otherwise rendered inaccessible. The Contractor will not otherwise delete the City's data without City's prior written consent.

10.03 Background Checks. The Consultant agrees to assume all responsibility for and to perform background checks on all its employees, agents and assigns working on the Project. Such background checks include but are not limited to, criminal records and civil judgments, professional license verifications, motor vehicle records, social security number, court records, military service records, other public records reports, and verifications of employment, and education. This must be done prior to such individuals commencing their work on the Project. Consultant agrees to produce any and all background checks information as described herein when requested to the City. To the degree allowed by applicable law, City agrees to keep such information confidential.

10.04 Change Management. Any major change to the system shall be authorized and approved by the City. The changes will follow the change management process outlined by the City and in accordance with this Contract. All enhancements and upgrades shall be included in the change management scope of work. All changes will be reasonably tested by the vendor in accordance with the requirements of the City. All major upgrades with exception to emergency upgrades, such as to address a vulnerability, will be scheduled on a calendar and back-out plans presented to the City.

10.05 Work Completion. Unless explicitly provided for otherwise in this Contract or expressly mutually agreed upon by the parties in writing, the Work will be considered complete when it functions in the City's current technology environment.

ARTICLE XI TERMINATION

11.01 At any time, the City may terminate the Project for convenience, in writing. At such time, the City shall notify Consultant, in writing, who shall cease work immediately. Consultant shall be compensated for the work performed. In the event that the City terminates this Contract for convenience, the City shall pay Consultant for the work performed and expenses incurred prior to the date of termination.

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

ARTICLE XII MISCELLANEOUS TERMS

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

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

CITY:

City of College Station

Attn: Dan Merkel

P.O. Box 9960

College Station, Texas 77842

dmerkel@cstx.gov

CONSULTANT:

Freeit Data Solutions, Inc.

Attn: Andrew Neuenschwander

P.O. Box 1572

Austin, TX 78767

andrew@freeitdata.com

12.03 Performance of Work. Consultant, its employees, associates or subconsultants shall perform all the Work hereunder. Consultant agrees that all of its associates, employees, or subconsultants who work on this Project shall be fully qualified and competent to do the Work described hereunder. Consultant shall undertake the Work and complete it in a timely manner.

12.04 Compliance. The Consultant shall comply with all applicable federal, state, and local statutes, regulations, ordinances, and other laws, including but not limited to the Immigration Reform and Control Act (IRCA). The Consultant may not knowingly obtain the labor or work of an unauthorized alien. The Consultant, not the City, must verify eligibility for employment as required by IRCA.

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

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

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

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

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

12.10 Bound by Terms. The parties acknowledge that they have read, understood, and intend to be bound by the terms and conditions of this Contract.

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

12.12 No Boycott Israel. 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, Consultant 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, Consultant verifies that it i) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm

trade association; and ii) will not discriminate during the term of the contract against a firearm entity or firearm trade association; and

- (c) Boycott Energy Companies. Subject to § 2274.002 Texas Government Code Consultant herein verifies that it i) does not boycott energy companies; and ii) will not boycott energy companies during the term of this Contract.

List of Exhibits

- A. Scope of Work
- B. Payment Schedule
- C. Certificates of Insurance

FREEIT DATA SOLUTIONS, INC.

By: Andrew Neuenschwander
Printed Name: Andrew Neuenschwander
Title: Account Executive
Date: 10/27/2023

CITY OF COLLEGE STATION

By: _____
City Manager
Date: _____

APPROVED:

Baron Longoria
City Attorney
Date: 10/30/2023

Jim Costa
Assistant City Manager/CFO
Date: 10/30/2023

Exhibit A
Scope of Work

See attached proposal...

Pricing taken from DIR contract number DIR-CPO-4696



Contract No: DIR-CPO-4696
TAX ID#: 27-2209002
Term: NET 30
FOB: Destination

City of College Station

Dan Merkel
 1101 Texas Avenue PO Box 9960
 College Station, TX 77842
 (979) 764-3498
 dmerkel@cstx.gov

Quote Number: 330459
Quote Date: 10/24/2023
Expiration Date: 11/2/2023

Freeit Data Solutions, Inc.

P.O. Box 1572
 Austin, TX 78767
 PH: (800) 478-5161 / FAX: (888) 416-0471

Freeit Contact: Andrew Neuenschwander
 (435) 640-3425 Andrew@freeitdata.com

Qty	Part Number	Description	Unit Price	Ext Price
Rubrik - 3yr Contract				
Rubrik - 3yr Contract - One-time				
Hardware/Subscription				
1	RHA-6412S-01	r6412s Appliance, 4-node, 144TB raw HDD, 1.6TB SSD, SFP+ NIC	\$24,483.22	\$24,483.22
2	RCA-F3M-CBL-01	Fiber Optic OM3 LC/LC Cable, 3M, pack of 4	\$64.85	\$129.70
2	RCA-SFP-TSR-01	10G/1G Dual Rate SFP+ Transceiver, pack of 4	\$406.24	\$812.48
1	RHA-6412S-01	r6412s Appliance, 4-node, 144TB raw HDD, 1.6TB SSD, SFP+ NIC	\$24,483.22	\$24,483.22
2	RCA-F3M-CBL-01	Fiber Optic OM3 LC/LC Cable, 3M, pack of 4	\$64.85	\$129.70
2	RCA-SFP-TSR-01	10G/1G Dual Rate SFP+ Transceiver, pack of 4	\$406.24	\$812.48
180	RS-BT-RCMD-T	Rubrik Cloud Data Management Software, per usable BETB, Premium Support, Prepay	\$0.00	\$0.00
Services				
1	FDS-SMSTRT	Freeit Smart Start Installation	\$4,675.00	\$4,675.00
			One-Time Total:	\$55,525.80
Rubrik - 3yr Contract - Annual Payments				
Subscription				
90	RS-BT-EE-PE-PA	Rubrik Enterprise Edition; per usable BETB; Premium support; pay annual	\$2,434.08	\$219,067.20
90	RS-BT-FE-PE-PA	Rubrik Foundation Edition; per usable BETB; Premium support; pay annual	\$1,394.17	\$125,475.30
Subscription Period Duration: 36 Months				
Support				
1	RS-HW-SVC-PE-S3	Support for R6000S-3 hardware; Premium support	\$11,393.28	\$11,393.28
1	RS-HW-SVC-PE-S3	Support for R6000S-3 hardware; Premium support	\$11,393.28	\$11,393.28
Support Period Duration: 36 Months				
			Recurring Total:	\$367,329.06
			List Total:	\$2,087,860.60
			DIR Discounted Total:	\$1,880,400.36
Year 1 Payment:			Shipping and Tax not applicable:	\$0.00
Year 2 Payment:			Additional Discount:	(\$1,457,545.50)
Year 3 Payment:			3 Year Grand Total:	\$422,854.86

Customer Signature of Acceptance

PO#

By issuance of a PO, I acknowledge that I have the authority on behalf of my company to make purchasing decisions to order the items in this quote and to begin project initiation. This quote is subject to and will be governed by the Standard Terms and Conditions set forth by the State of Texas Department of Information Resources located at <https://dir.texas.gov/contracts/DIR-CPO-4696> and will govern our relationship and any PO issued in relation to this quote. Any and all competing or conflicting terms and conditions are hereby unconditionally rejected.

Exhibit B
Payment Terms

SELECT ONE:

☐

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

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

-OR-

☒

Payment is a fixed fee in the amount listed in Article II of this Contract. This amount shall be payable by the City pursuant to the schedule listed below and upon completion of the work and written acceptance by the City.

Schedule of Payment for each phase:

Upfront at the beginning of year one, total of 122,443.02 plus one time total of 53,687.24...
\$176,130.26

Upfront at beginning of year two for total...\$122,443.02

Upfront at beginning of year three for total...\$122,443.02

Grand Total...\$421,016.30 at completion of three years.

24300073

Exhibit C
Certificates of Insurance



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/04/2023

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 IAAT 3834 Spicewood Springs, Ste. 100 Austin, TX. 78759		CONTACT NAME: John Knox PHONE (A/C, No, Ext): 512-358-7252 E-MAIL ADDRESS: john@johnknoxinsurance.com FAX (A/C, No): 512-358-7242	
		INSURER(S) AFFORDING COVERAGE	
		INSURER A: Citizens Insurance Company of America	
		INSURER B: The Hanover Insurance Company	
		INSURER C:	
		INSURER D:	
		INSURER E:	
		INSURER F:	

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

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PRO-JECT ☐ LOC OTHER:	X	X	ZLDH630650 02	05/28/2023	05/28/2024	EACH OCCURRENCE \$ 1000000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100000 MED EXP (Any one person) \$ 10000 PERSONAL & ADV INJURY \$ 1000000 GENERAL AGGREGATE \$ 2000000 PRODUCTS - COMP/OP AGG \$ 2000000
A	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☒ HIRED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ NON-OWNED AUTOS ONLY	X	X	ZLDH630650 02	05/28/2023	05/28/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB ☐ EXCESS LIAB DED ☐ RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				PER STATUTE ☐ OTH-ER ☐ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
B	Professional Liability			LHDH630674 02	05/28/2023	05/28/2024	Limit 5,000,000
B	Cyber			LHDH630674 02	05/28/2023	05/28/2024	Limit 5,000,000

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

Certificate Holder is named as an Additional Insured on General Liability and Auto Policies when required by written contract.
A Waiver of Subrogation is endorsed in Certificate Holders favor when required by written contract.

CERTIFICATE HOLDER

City of College Station
Attention Risk Manager
PO Box 9960
College Station TX 77840

CANCELLATION

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

AUTHORIZED REPRESENTATIVE

Patrick L. Wathen

<DA>

November 9, 2023
Item No. 8.1.
City-wide Truck and Trailer Parking

Sponsor: Emily Fisher, Director of Public Works

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding truck and trailer parking.

Relationship to Strategic Goals:

1. Improving Mobility

Recommendation(s): n/a

Summary: A follow-up presentation regarding truck parking within the city limits, including where trucks are currently parking, actions taken since the previous presentation, a summary of the public meeting and what options are available.

Budget & Financial Summary: n/a

Attachments:

None

November 9, 2023
Item No. 8.2.
Capital Projects Update

Sponsor: Jennifer Cain, Director Capital Projects

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding a Capital Projects Update.

Relationship to Strategic Goals:
Core Services and Infrastructure

Recommendation(s): n/a

Summary: Presentation and update on Capital Projects.

Budget & Financial Summary: n/a

Attachments:
None

November 9, 2023

Item No. 9.1.

1115 Anderson Street – Public Utility Easement Abandonments

Sponsor: Gillian Sitler

Reviewed By CBC: N/A

Agenda Caption: Public Hearing, presentation, discussion, and possible action regarding an ordinance vacating and abandoning two public utility easements at 1115 Anderson Street, the first being a portion of a 15-foot-wide public utility easement located in the Crawford Burnett Survey, Abstract 7, College Station, Brazos County, Texas, and being a portion of the easement described by centerline in Volume 1364, Page 195 of the Official Records of Brazos County, Texas, and the second being a portion of a 20-foot-wide public utility easement located in the Crawford Burnett Survey, Abstract 7, College Station, Brazos County, Texas and being a portion of the easement described by centerline in Volume 468, Page 92 of the Deed of Records of Brazos County, Texas.

Relationship to Strategic Goals:

- Core Services & Infrastructure
- Diverse & Growing Economy

Recommendation(s): Staff recommends approval.

Summary: The public utility easement abandonments are being requested by the applicant as a result of a change in use and layout of the site. The originally dedicated easements were previously utilized for electrical utility service to the building on the tract that has since been abandoned and demolished. It was determined by the City of College Station and the applicant that the proposed use for the site would best be served with underground electrical utility lines.

The public utility easements are generally 15-foot wide, extending 119 feet from the north corner of the called 2.805 acre tract, and generally 20-foot wide, extending 121 feet from the north corner of the called 2.805 acre tract.

Budget & Financial Summary: N/A

Attachments:

1. Ordinance
2. Ordinance Exhibit A
3. Ordinance Exhibit B
4. Vicinity Map
5. Location Map - 15-foot
6. Application - 15-foot
7. Location Map - 20-foot
8. Application - 20-foot

ORDINANCE NO. _____

AN ORDINANCE MAKING CERTAIN AFFIRMATIVE FINDINGS AND VACATING AND ABANDONING TWO PUBLIC UTILITY EASEMENTS, THE FIRST BEING A PORTION OF A 15-FOOT-WIDE PUBLIC UTILITY EASEMENT LOCATED IN THE CRAWFORD BURNETT SURVEY, ABSTRACT 7, COLLEGE STATION, BRAZOS COUNTY, TEXAS, AND BEING A PORTION OF THE EASEMENT DESCRIBED BY CENTERLINE IN VOLUME 1364, PAGE 195 OF THE OFFICIAL RECORDS OF BRAZOS COUNTY, TEXAS, AND THE SECOND BEING A PORTION OF A 20-FOOT-WIDE PUBLIC UTILITY EASEMENT LOCATED IN THE CRAWFORD BURNETT SURVEY, ABSTRACT 7, COLLEGE STATION, BRAZOS COUNTY, TEXAS AND BEING A PORTION OF THE EASEMENT DESCRIBED BY CENTERLINE IN VOLUME 468, PAGE 92 OF THE DEED OF RECORDS OF BRAZOS COUNTY, TEXAS.

WHEREAS, the City of College Station, Texas, has received an application for the vacation and abandonment of a portion of a 15 foot wide public utility easement, said portion lying in the Crawford Burnett Survey, Abstract 7, College Station, Brazos County, Texas and being a portion of the easement described by centerline in Volume 1364, Page 195 of the Official Records of Brazos County, Texas, as described in **Exhibit “A”**, attached hereto; and

WHEREAS, the City of College Station, Texas, has received an application for the vacation and abandonment of a portion of a 20 foot wide public utility easement, said portion lying in the Crawford Burnett League Survey, Abstract 7, College Station, Brazos County, Texas and being a portion of the easement described by centerline in Volume 468, Page 92 of the Deed of Records of Brazos County, Texas, as described in **Exhibit “B”**, attached hereto; and

WHEREAS, in order for the public utility easements to be vacated and abandoned by the City Council of the City of College Station, Texas, the City Council must make certain affirmative findings; now therefore,

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

PART 1: That after opening and closing a public hearing, the City Council finds the following pertaining to the vacating and abandoning of the public utility easements described in **Exhibit “A”** and **Exhibit “B”** attached hereto and made a part of this ordinance for all purposes.

1. Abandonment of the public utility easements will not result in property that does not have access to public roadways or utilities.
2. There is no public need or use for the public utility easements.
3. There is no anticipated future public need or use for the public utility easements.

4. Abandonment of the public utility easements will not impact access for all public utilities to serve current and future customers.

PART 2: That the public utility easements as described in **Exhibit “A”** and **Exhibit “B”** be abandoned and vacated by the City.

PASSED, ADOPTED and APPROVED this 9th day of November, 2023.

ATTEST:

APPROVED:

City Secretary

Mayor

APPROVED:

City Attorney

Exhibit A

**FIELD NOTES DESCRIPTION
OF A
15' WIDE UTILITY EASEMENT
TO BE ABANDONED
CRAWFORD BURNETT LEAGUE SURVEY, ABSTRACT 7
COLLEGE STATION, BRAZOS COUNTY, TEXAS**

A FIELD NOTES DESCRIPTION OF A 15' WIDE UTILITY EASEMENT DESCRIBED BY CENTERLINE IN VOLUME 1364, PAGE 195 OF THE OFFICIAL RECORDS OF BRAZOS COUNTY, TEXAS (ORBCT) TO BE ABANDONED IN THE CRAWFORD BURNETT LEAGUE SURVEY, ABSTRACT 7, IN COLLEGE STATION, BRAZOS COUNTY, TEXAS, BEING OVER, ACROSS AND UPON A CALLED 2.805 ACRE TRACT OF LAND DESCRIBED IN A DEED TO A HOME BASE FOR TRANSITIONING YOUTH, INC. RECORDED IN VOLUME 17143, PAGE 25 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS (OPRBCT) BEING PREVIOUSLY DESCRIBED AS A 3 ACRE TRACT RECORDED IN VOLUME 361, PAGE 68 OF THE DEED RECORDS OF BRAZOS COUNTY, TEXAS (DRBCT); SAID 15' WIDE UTILITY EASEMENT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at a 1/2 inch iron rod with a plastic cap stamped "RPLS 1852" found for the north corner of said 2.805 acres;

THENCE, over, across and upon said 2.805 acres for the following five (5) courses and distances:

- 1) **S 05° 36' 33" W**, for a distance of **23.44 feet** to a point for corner being the **POINT OF BEGINNING** hereof;
- 2) **S 44° 53' 25" E**, for a distance of **19.24 feet** to a point for corner (Centerline previously described as S 41° 15' E, 18.5');;
- 3) **S 06° 20' 16" W**, for a distance of **106.63 feet** to a point for corner (Centerline previously described as S 9° 36' W, 130'), from which City of College Station Monument CS94-220 bears S 33° 28' 01" W, a distance of 2,876.35 feet;
- 4) **N 83° 39' 44" W**, for a distance of **15.00 feet** to a point for corner, from which a 1/2 inch iron rod with a plastic cap stamped "RPLS 1852" found for the west corner of said 2.805 acres bears S 61° 31' 13" W, a distance of 329.27 feet;
- 5) **N 06° 20' 16" E**, for a distance of **118.68 feet** to the **POINT OF BEGINNING** hereof and containing **1,690 square feet**, more or less.

Centerline of existing easement to be abandoned was intended to serve a power pole existing at the time of the original survey which may or may not have been located within the original described easement. No evidence was found showing an alternate location to the existing power pole at the time of this survey.

Surveyed on the ground March 2023 under my supervision. See plat prepared June 2023 for other information. The bearing basis for this survey is based on the Texas State Plane Coordinate System of 1983 (NAD83), Central Zone, Grid North as established from GPS observation using the Leica Smartnet NAD83 (NA2011) Epoch 2010 Multi-year CORS Solution 2 (MYCS2). Distances described herein are surface distances. To obtain grid distances (not grid areas) divide by a combined scale factor of 1.00010475242428 (calculated using GEOID12B). Reference drawing: 23-571-EASEMENT2. REV 9-11-23



GENERAL NOTES

BEARING SYSTEM SHOWN HEREON IS BASED ON THE TEXAS COORDINATE SYSTEM OF 1983, CENTRAL ZONE (4203), GRID NORTH AS ESTABLISHED FROM GPS OBSERVATION USING THE LEICA SMARTNET NAD83 (NA2011) EPOCH 2010 MULTI-YEAR CORS SOLUTION 2 (MYC52).

DISTANCES SHOWN HEREON ARE SURFACE DISTANCES UNLESS OTHERWISE NOTED. TO OBTAIN GRID DISTANCES (NOT AREAS) DIVIDE BY A COMBINED SCALE FACTOR OF 1.00010475242428 (CALCULATED USING GEOID12B).

(CM) INDICATES CONTROLLING MONUMENT FOUND AND USED TO ESTABLISH PROPERTY BOUNDARIES.

THIS SURVEY PLAT WAS PREPARED WITHOUT THE BENEFIT OF A TITLE COMMITMENT. EASEMENTS AND OTHER MATTERS MAY APPLY.

THIS SURVEY REFLECTS THE BOUNDARY OF THE PROPERTY ONLY. ADDITIONAL IMPROVEMENTS MAY EXIST AND WERE NOT LOCATED AT THE TIME OF THIS SURVEY.

THIS PLAT WAS PREPARED IN CONJUNCTION WITH A FIELD NOTES DESCRIPTION (METES AND BOUNDS). THE PLAT AND FIELD NOTES ARE INTENDED TO BE ONE INSTRUMENT TOGETHER.

LEGEND:

DRBCT = DEED RECORDS OF BRAZOS COUNTY, TEXAS

CONCRETE

ORBCT = OFFICIAL RECORDS OF BRAZOS COUNTY, TEXAS

GRAVEL

OPRBCT = OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS

AERIAL ELECTRIC LINES

WOOD FENCE

UTILITY POLE

123/456 = VOLUME AND PAGE FROM PUBLIC COUNTY RECORDS

N/F = NOW OR FORMERLY

() = RECORD INFORMATION

SURVEYOR'S CERTIFICATE:

I, MICHAEL KONETSKI, R.P.L.S. NO. 6531, DO HEREBY CERTIFY THAT THIS SURVEY SUBSTANTIALLY COMPLIES WITH THE CURRENT TEXAS SOCIETY OF PROFESSIONAL SURVEYORS MANUAL OF PRACTICE REQUIREMENTS FOR A CATEGORY 1B, CONDITION 3, STANDARD LAND SURVEY AS MADE ON THE GROUND UNDER MY SUPERVISION.



Michael Konetski
MICHAEL KONETSKI
REGISTERED PROFESSIONAL
LAND SURVEYOR NO. 6531

REVISED 8/14/2023
CORRECTED EASEMENT TYPES

TSPS STANDARD LAND SURVEY PLAT OF A

15' WIDE ELECTRICAL EASEMENT TO BE ABANDONED

VOLUME 1364, PAGE 195 ORBCT

ACROSS A TRACT CALLED TO BE 2.805 ACRES IN

VOLUME 17143, PAGE 25 OPRBCT

CRAWFORD BURNETT LEAGUE SURVEY, ABSTRACT 7
COLLEGE STATION, BRAZOS COUNTY, TEXAS



"When one person stands
to gain over another, the
facts must be uncovered"

SCALE: 1 INCH = 20 FEET
SURVEY DATE: 03-02-2023 | PLAT DATE: 06-19-2023
JOB NUMBER: 23-571 | CAD NAME: 23-571-EASEMENT2
POINT FILE: 23-155 (cont); 23-571 (job)
DRAWN BY: MS CHECKED BY: MK
PREPARED BY: KERR SURVEYING, LLC
TBPELS FIRM#10018500
409 N. TEXAS AVENUE, BRYAN, TEXAS 77803
PHONE: (979) 268-3195
SURVEYS@KERRSURVEYING.NET | KERRLANDSURVEYING.COM

POINT OF COMMENCEMENT

1/2 INCH IRON ROD WITH PLASTIC CAP
STAMPED "RPLS 1852" FOUND (CM)

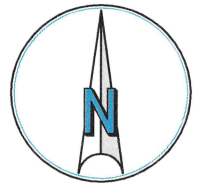
S 05°36'33" E
23.44'

POINT OF BEGINNING

APPROXIMATE LOCATION OF 20'
WIDE ELECTRICAL EASEMENT
(468/92 DRBCT)

**15' WIDE ELECTRICAL
EASEMENT**
(~1,690 SQUARE FEET)

N/F
A HOME BASE FOR TRANSITIONING
FOSTER YOUTH, INC.
CALLED 2.805 ACRES
(17143/25 OPRBCT)



SCALE: 1" = 20'

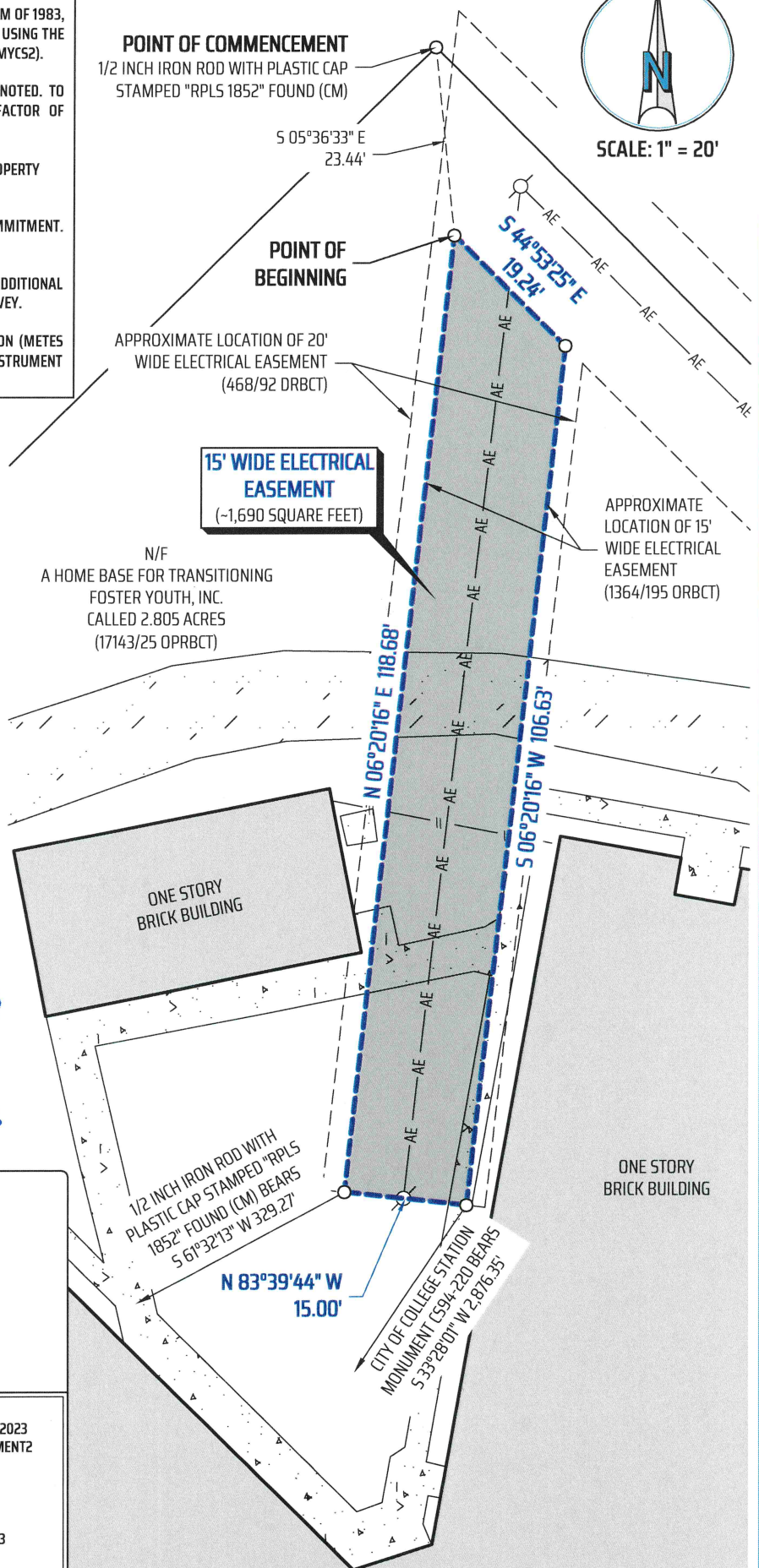


Exhibit B

**FIELD NOTES DESCRIPTION
OF A
20' WIDE UTILITY EASEMENT
TO BE ABANDONED
CRAWFORD BURNETT LEAGUE SURVEY, ABSTRACT 7
COLLEGE STATION, BRAZOS COUNTY, TEXAS**

A FIELD NOTES DESCRIPTION OF A 20' WIDE UTILITY EASEMENT DESCRIBED BY CENTERLINE IN VOLUME 468, PAGE 92 OF THE DEED RECORDS OF BRAZOS COUNTY, TEXAS (DRBCT) TO BE ABANDONED IN THE CRAWFORD BURNETT LEAGUE SURVEY, ABSTRACT 7, IN COLLEGE STATION, BRAZOS COUNTY, TEXAS, BEING OVER, ACROSS AND UPON A CALLED 2.805 ACRE TRACT OF LAND DESCRIBED IN A DEED TO A HOME BASE FOR TRANSITIONING YOUTH, INC. RECORDED IN VOLUME 17143, PAGE 25 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS (OPRBCT) BEING PREVIOUSLY DESCRIBED AS A 3 ACRE TRACT RECORDED IN VOLUME 361, PAGE 68 OF THE DEED RECORDS OF BRAZOS COUNTY, TEXAS (DRBCT); SAID 20' WIDE UTILITY EASEMENT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at a 1/2 inch iron rod with a plastic cap stamped "RPLS 1852" found for the north corner of said 2.805 acres;

THENCE, over, across and upon said 2.805 acres for the following five (5) courses and distances:

- 1) **S 00° 18' 58" W**, for a distance of **20.91 feet** to a point for corner being the **POINT OF BEGINNING** hereof;
- 2) **S 44° 53' 25" E**, for a distance of **25.64 feet** to a point for corner;
- 3) **S 06° 22' 03" W**, for a distance of **104.77 feet** to a point for corner (Centerline previously described as S 21° W, 134'), from which City of College Station Monument CS94-220 bears S 33° 30' 27" W, a distance of 2,877.38 feet;
- 4) **N 83° 37' 57" W**, for a distance of **20.00 feet** to a point for corner, from which a 1/2 inch iron rod with a plastic cap stamped "RPLS 1852" found for the west corner of said 2.805 acres bears S 61° 15' 52" W, a distance of 327.04 feet;
- 5) **N 06° 22' 03" E**, for a distance of **120.82 feet** to the **POINT OF BEGINNING** hereof and containing **2,256 square feet**, more or less.

Centerline of existing easement to be abandoned was intended to serve a power pole existing at the time of the original survey which may or may not have been located within the original described easement. No evidence was found showing an alternate location to the existing power pole at the time of this survey.

Surveyed on the ground March 2023 under my supervision. See plat prepared June 2023 for other information. The bearing basis for this survey is based on the Texas State Plane Coordinate System of 1983 (NAD83), Central Zone, Grid North as established from GPS observation using the Leica Smartnet NAD83 (NA2011) Epoch 2010 Multi-year CORS Solution 2 (MYCS2). Distances described herein are surface distances. To obtain grid distances (not grid areas) divide by a combined scale factor of 1.00010475242428 (calculated using GEOID12B). Reference drawing: 23-571-EASEMENT1. REVISED 9-11-23



GENERAL NOTES

BEARING SYSTEM SHOWN HEREON IS BASED ON THE TEXAS COORDINATE SYSTEM OF 1983, CENTRAL ZONE (4203), GRID NORTH AS ESTABLISHED FROM GPS OBSERVATION USING THE LEICA SMARTNET NAD83 (NA2011) EPOCH 2010 MULTI-YEAR CORS SOLUTION 2 (MYC52).

DISTANCES SHOWN HEREON ARE SURFACE DISTANCES UNLESS OTHERWISE NOTED. TO OBTAIN GRID DISTANCES (NOT AREAS) DIVIDE BY A COMBINED SCALE FACTOR OF 1.000104752428 (CALCULATED USING GEOID12B).

(CM) INDICATES CONTROLLING MONUMENT FOUND AND USED TO ESTABLISH PROPERTY BOUNDARIES.

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THIS PLAT WAS PREPARED IN CONJUNCTION WITH A FIELD NOTES DESCRIPTION (METES AND BOUNDS). THE PLAT AND FIELD NOTES ARE INTENDED TO BE ONE INSTRUMENT TOGETHER.

LEGEND:

DRBCT = DEED RECORDS OF BRAZOS COUNTY, TEXAS

ORBCT = OFFICIAL RECORDS OF BRAZOS COUNTY, TEXAS

OPRBCT = OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS

123/456 = VOLUME AND PAGE FROM PUBLIC COUNTY RECORDS

N/F = NOW OR FORMERLY

() = RECORD INFORMATION

CONCRETE

GRAVEL

AERIAL ELECTRIC LINES

WOOD FENCE

UTILITY POLE

SURVEYOR'S CERTIFICATE:

I, MICHAEL KONETSKI, R.P.L.S. NO. 6531, DO HEREBY CERTIFY THAT THIS SURVEY SUBSTANTIALLY COMPLIES WITH THE CURRENT TEXAS SOCIETY OF PROFESSIONAL SURVEYORS MANUAL OF PRACTICE REQUIREMENTS FOR A CATEGORY 1B, CONDITION 3, STANDARD LAND SURVEY AS MADE ON THE GROUND UNDER MY SUPERVISION.



Michael Konetski
MICHAEL KONETSKI
REGISTERED PROFESSIONAL
LAND SURVEYOR NO. 6531

REVISED 8/14/2023
CORRECTED EASEMENT TYPES

TSPS STANDARD LAND SURVEY PLAT
OF A PORTION OF A
20' WIDE ELECTRICAL EASEMENT
TO BE ABANDONED
VOLUME 468, PAGE 92 DRBCT
ACROSS A TRACT CALLED TO BE 2.805 ACRES IN
VOLUME 17143, PAGE 25 OPRBCT
CRAWFORD BURNETT LEAGUE SURVEY, ABSTRACT 7
COLLEGE STATION, BRAZOS COUNTY, TEXAS

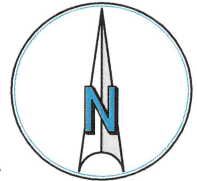


"When one person stands
to gain over another, the
facts must be uncovered"

SCALE: 1 INCH = 20 FEET
SURVEY DATE: 03-02-2023 | PLAT DATE: 06-19-2023
JOB NUMBER: 23-571 | CAD NAME: 23-571-EASEMENT1
POINT FILE: 23-155 (cont); 23-571 (job)
DRAWN BY: MS CHECKED BY: MK
PREPARED BY: KERR SURVEYING, LLC
TBPELS FIRM#10018500
409 N. TEXAS AVENUE, BRYAN, TEXAS 77803
PHONE: (979) 268-3195
SURVEYS@KERRSURVEYING.NET | KERRLANDSURVEYING.COM

POINT OF COMMENCEMENT

1/2 INCH IRON ROD WITH PLASTIC CAP
STAMPED "RPLS 1852" FOUND (CM)



SCALE: 1" = 20'

S 00°18'58" W
20.91'

POINT OF BEGINNING

APPROXIMATE LOCATION OF 20'
WIDE ELECTRICAL EASEMENT
(468/92 DRBCT)

20' WIDE ELECTRICAL
EASEMENT
(~2,256 SQUARE FEET)

N/F
A HOME BASE FOR TRANSITIONING
FOSTER YOUTH, INC.
CALLED 2.805 ACRES
(17143/25 OPRBCT)

APPROXIMATE
LOCATION OF 15'
WIDE ELECTRICAL
EASEMENT
(1364/195 ORBCT)

ONE STORY
BRICK BUILDING

ONE STORY
BRICK BUILDING

1/2 INCH IRON ROD WITH
PLASTIC CAP STAMPED "RPLS
1852" FOUND (CM) BEARS
S 61°15'52" W 327.04'

N 83°37'57" W
20.00'

CITY OF COLLEGE STATION
MONUMENT (C594-220) BEARS
S 33°30'27" W 2.877'38"

VICINITY MAP

NORTH

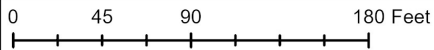
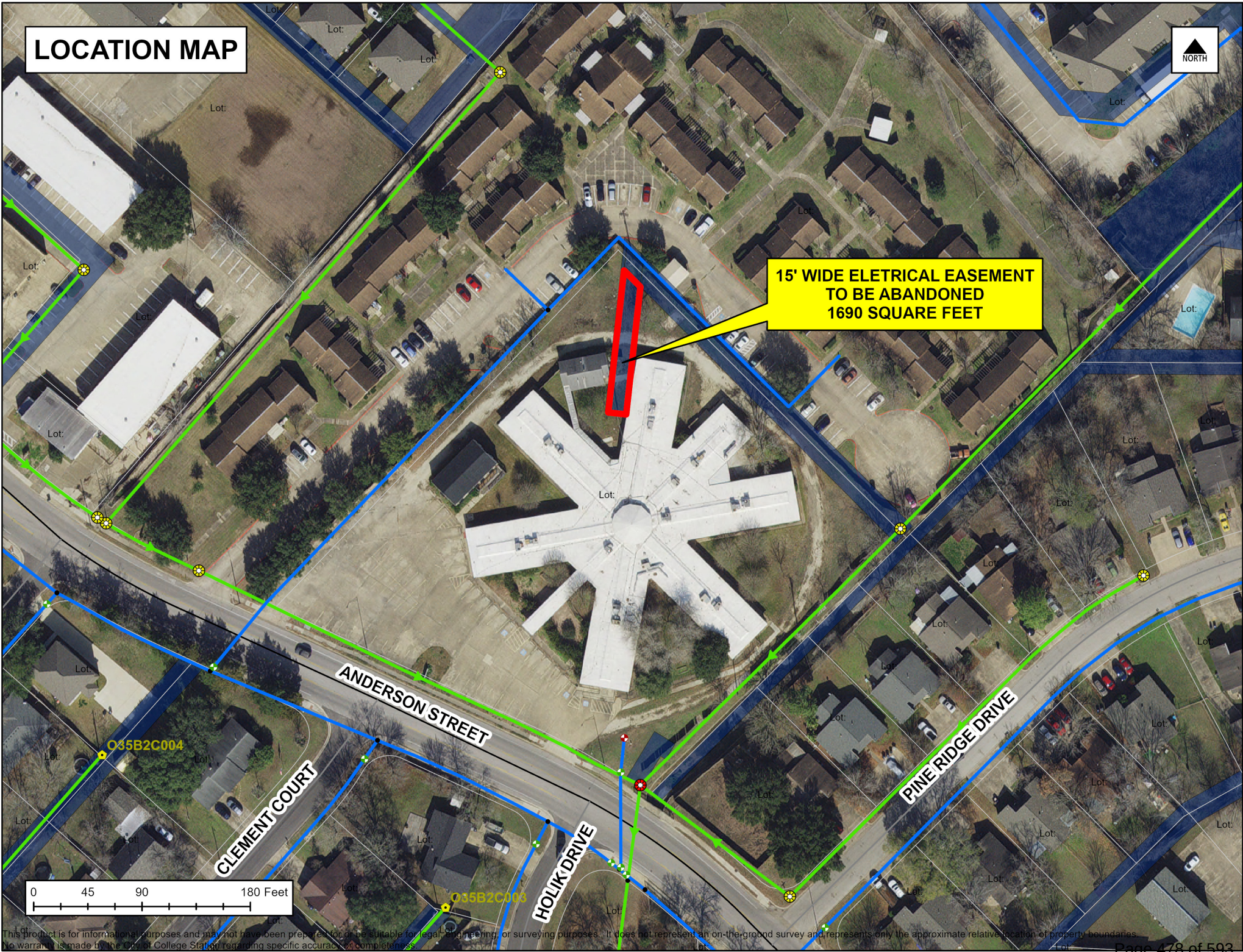
1115 ANDERSON ST

0 0.05 0.1 0.2 Miles

LOCATION MAP



15' WIDE ELETRICAL EASEMENT
TO BE ABANDONED
1690 SQUARE FEET



FOR OFFICE USE ONLY

CASE NO.: _____
 DATE SUBMITTED: _____
 TIME: _____
 STAFF: _____

ABANDONMENT OF PUBLIC RIGHT-OF-WAY/EASEMENT APPLICATION

MINIMUM SUBMITTAL REQUIREMENTS:

- ☒ Abandonment of Public Right-of-Way/Easement Application Fee. (**Refer to the Planning and Development Fee Schedule for all applicable fees**)
- ☒ Application completed in full. This application form provided by the City of College Station must be used and may not be adjusted or altered. Please attach pages if additional information is provided.
- ☒ All exhibits processed (except for Exhibit No. 4, which will be processed by staff).
- ☒ Title report for property current within ninety (90) days or accompanied by a Nothing Further Certificate current within ninety (90) days. The report must include applicable information such as ownership, liens, encumbrances, etc.
- ☒ For unplatted property, a signed, sealed and dated metes and bounds description and a diagram of the property showing the location of the abandonment.
- ☐ For platted property, a copy of the plat showing the lot, block, subdivision, and recording information.

LOCATION OF RIGHT-OF-WAY/EASEMENT TO BE ABANDONED (include legal description):

1115 Anderson Street - 2.799 Acre Tract called 2.805 acres in Volume 17143, Page 25 OPRBCT

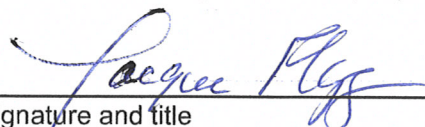
APPLICANT/PROJECT MANAGER'S INFORMATION (Primary contact for the project):

Name A Homebase for Transitioning Foster Youth E-mail ~~brussell@tamu.edu~~ **bdrussell@tamu.edu**
 Street Address 3708 East 29th Street, Suite 1000
 City Bryan State Texas Zip Code 77802
 Phone Number 979-229-8963 Fax Number _____

PROPERTY OWNER'S INFORMATION (ALL owners must be identified. Please attach an additional sheet for multiple owners):

Name A Homebase for Transitioning Foster Youth E-mail ~~brussell@tamu.edu~~ **bdrussell@tamu.edu**
 Street Address: 3708 East 29th Street, Suite 1000
 City Bryan State Texas Zip Code 77802
 Phone Number 979-229-8963 Fax Number _____

The applicant has prepared this application and certifies that the facts stated herein and exhibits attached hereto are true and correct. IF THIS APPLICATION IS FILED BY ANYONE OTHER THAN THE OWNER OF THE PROPERTY, this application must be accompanied by a power of attorney statement of the owner. If there is more than one owner, all owners must sign the application or power of attorney. If the owner is a company, the application must be accompanied by proof of authority for the company's representative to sign the application on its behalf.


 Signature and title

7-10-23
 Date

TO THE MAYOR AND CITY COUNCIL OF THE CITY OF COLLEGE STATION:

The undersigned hereby makes application for the abandonment of that portion of the above right-of-way particularly described in Exhibit No. 1, attached. In support of this application, the undersigned represents and warrants the following:

1. The undersigned will hold the City of College Station harmless, and indemnify it against all suits, costs, expenses, and damages that may arise or grow out of such abandonment.
2. Attached, marked Exhibit No. 1, is a sealed metes and bounds description of the area sought to be abandoned, prepared by a Registered Public Surveyor.
3. Attached, marked Exhibit No. 2, is a copy of a plat or detailed sketch of that portion of the public right-of-way/easement sought to be abandoned and the surrounding area to the nearest streets in all directions, showing the abutting lots and block, and the subdivision in which the above described right-of- way/easement is situated, together with the record owners of such lots.
4. Attached, marked Exhibit No. 3, is the consent of all public utilities to the abandonment.
5. Attached, marked Exhibit No. 4, is the consent of the City of College Station staff to the abandonment.
6. Attached, marked Exhibit No. 5, is the consent of all the abutting property owners, except the following: (if none, so state)

Name _____ E-mail _____

Street Address _____

City _____ State _____ Zip Code _____

Reason consent was not obtained: _____

If objecting, points of objection:

Name _____ E-mail _____

Street Address _____

City _____ State _____ Zip Code _____

Reason consent was not obtained: _____

If objecting, points of objection:

Name _____ E-mail _____

Street Address _____

City _____ State _____ Zip Code _____

Reason consent was not obtained: _____

If objecting, points of objection:

7. That the abandonment will not result in property that does not have access to public roadways or utilities because:

These easements were servicing the building that was abandoned and demolished on site. they do not provide public roadways or utilities to other property or this property.

8. That there is no current public need or use for the easement or right-of-way because:

These easements were servicing the building that was abandoned and demolished on site. they do not provide public roadways or utilities to other property or this property.

9. That there is no anticipated future public need or use for the easement or right-of-way because:

These easements were servicing the building that was abandoned and demolished on site. they do not provide public roadways or utilities to other property or this property.

10. That all public utilities have access to serve current and future customers because:

Yes, these easement abandonments do not affect public utilities for the current or future customer.

11. Such public right-of-way/easement has been and is being used as follows:

These easements were servicing the building that was abandoned and demolished on site. they do not provide public roadways or utilities to other property or this property.

I swear that all of the information contained in this application is true and correct to the best of my knowledge and belief.

Jacque Flagg, Pres. of Board
Signature and title

7-20-23
Date

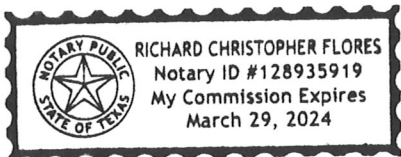
STATE OF TEXAS

§
§
§

ACKNOWLEDGEMENT

COUTY OF BRAZOS

Subscribed and sworn to before me, a Notary Public, this *20th* day of *JULY*, *2023* by
JACQUE FLAGG



[Signature]
Notary Public in and for
the State of Texas

Application for Abandonment of
a Public Right-of-Way/Easement

Location: 1115 Anderson Street

EXHIBIT NO. 1

Attached is a sealed copy of the metes and bounds description of the public right-of-way/easement situated in

Addition/Subdivision to the City of College Station, Brazos County, Texas, sought to be abandoned.

**FIELD NOTES DESCRIPTION
OF A
15' WIDE UTILITY EASEMENT
TO BE ABANDONED
CRAWFORD BURNETT LEAGUE SURVEY, ABSTRACT 7
COLLEGE STATION, BRAZOS COUNTY, TEXAS**

A FIELD NOTES DESCRIPTION OF A 15' WIDE UTILITY EASEMENT DESCRIBED BY CENTERLINE IN VOLUME 1364, PAGE 195 OF THE OFFICIAL RECORDS OF BRAZOS COUNTY, TEXAS (ORBCT) TO BE ABANDONED IN THE CRAWFORD BURNETT LEAGUE SURVEY, ABSTRACT 7, IN COLLEGE STATION, BRAZOS COUNTY, TEXAS, BEING OVER, ACROSS AND UPON A CALLED 2.805 ACRE TRACT OF LAND DESCRIBED IN A DEED TO A HOME BASE FOR TRANSITIONING YOUTH, INC. RECORDED IN VOLUME 17143, PAGE 25 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS (OPRBCT) BEING PREVIOUSLY DESCRIBED AS A 3 ACRE TRACT RECORDED IN VOLUME 361, PAGE 68 OF THE DEED RECORDS OF BRAZOS COUNTY, TEXAS (DRBCT); SAID 15' WIDE UTILITY EASEMENT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at a 1/2 inch iron rod with a plastic cap stamped "RPLS 1852" found for the north corner of said 2.805 acres;

THENCE, over, across and upon said 2.805 acres for the following five (5) courses and distances:

- 1) **S 05° 36' 33" W**, for a distance of **23.44 feet** to a point for corner being the **POINT OF BEGINNING** hereof;
- 2) **S 44° 53' 25" E**, for a distance of **19.24 feet** to a point for corner (Centerline previously described as S 41° 15' E, 18.5');;
- 3) **S 06° 20' 16" W**, for a distance of **106.63 feet** to a point for corner (Centerline previously described as S 9° 36' W, 130'), from which City of College Station Monument CS94-220 bears S 33° 28' 01" W, a distance of 2,876.35 feet;
- 4) **N 83° 39' 44" W**, for a distance of **15.00 feet** to a point for corner, from which a 1/2 inch iron rod with a plastic cap stamped "RPLS 1852" found for the west corner of said 2.805 acres bears S 61° 31' 13" W, a distance of 329.27 feet;
- 5) **N 06° 20' 16" E**, for a distance of **118.68 feet** to the **POINT OF BEGINNING** hereof and containing **1,690 square feet**, more or less.

Centerline of existing easement to be abandoned was intended to serve a power pole existing at the time of the original survey which may or may not have been located within the original described easement. No evidence was found showing an alternate location to the existing power pole at the time of this survey.

Surveyed on the ground March 2023 under my supervision. See plat prepared June 2023 for other information. The bearing basis for this survey is based on the Texas State Plane Coordinate System of 1983 (NAD83), Central Zone, Grid North as established from GPS observation using the Leica Smartnet NAD83 (NA2011) Epoch 2010 Multi-year CORS Solution 2 (MYCS2). Distances described herein are surface distances. To obtain grid distances (not grid areas) divide by a combined scale factor of 1.00010475242428 (calculated using GEOID12B). Reference drawing: 23-571-EASEMENT2. REV 9-11-23



Application for Abandonment of
a Public Right-of-Way/Easement

Location: 1115 Anderson Street

EXHIBIT NO. 2

Attached is a copy of a plat or detailed sketch of the public right-of-way/easement sought to be abandoned in the above-mentioned application, showing the surrounding area to the nearest streets in all directions, abutting lots, the block or blocks in which the portion of the public right-of-way/easement sought to be vacated is situated, and the addition or subdivision in which the portion of the public right-of-way/easement sought to be abandoned is situated. Also, the names of record owners of the abutting lots are shown.

GENERAL NOTES

BEARING SYSTEM SHOWN HEREON IS BASED ON THE TEXAS COORDINATE SYSTEM OF 1983, CENTRAL ZONE (4203), GRID NORTH AS ESTABLISHED FROM GPS OBSERVATION USING THE LEICA SMARTNET NAD83 (NA2011) EPOCH 2010 MULTI-YEAR CORS SOLUTION 2 (MYC52).

DISTANCES SHOWN HEREON ARE SURFACE DISTANCES UNLESS OTHERWISE NOTED. TO OBTAIN GRID DISTANCES (NOT AREAS) DIVIDE BY A COMBINED SCALE FACTOR OF 1.00010475242428 (CALCULATED USING GEOID12B).

(CM) INDICATES CONTROLLING MONUMENT FOUND AND USED TO ESTABLISH PROPERTY BOUNDARIES.

THIS SURVEY PLAT WAS PREPARED WITHOUT THE BENEFIT OF A TITLE COMMITMENT. EASEMENTS AND OTHER MATTERS MAY APPLY.

THIS SURVEY REFLECTS THE BOUNDARY OF THE PROPERTY ONLY. ADDITIONAL IMPROVEMENTS MAY EXIST AND WERE NOT LOCATED AT THE TIME OF THIS SURVEY.

THIS PLAT WAS PREPARED IN CONJUNCTION WITH A FIELD NOTES DESCRIPTION (METES AND BOUNDS). THE PLAT AND FIELD NOTES ARE INTENDED TO BE ONE INSTRUMENT TOGETHER.

LEGEND:

DRBCT = DEED RECORDS OF BRAZOS COUNTY, TEXAS

CONCRETE

ORBCT = OFFICIAL RECORDS OF BRAZOS COUNTY, TEXAS

GRAVEL

OPRBCT = OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS

AERIAL ELECTRIC LINES

WOOD FENCE

UTILITY POLE

123/456 = VOLUME AND PAGE FROM PUBLIC COUNTY RECORDS

N/F = NOW OR FORMERLY

() = RECORD INFORMATION

SURVEYOR'S CERTIFICATE:

I, MICHAEL KONETSKI, R.P.L.S. NO. 6531, DO HEREBY CERTIFY THAT THIS SURVEY SUBSTANTIALLY COMPLIES WITH THE CURRENT TEXAS SOCIETY OF PROFESSIONAL SURVEYORS MANUAL OF PRACTICE REQUIREMENTS FOR A CATEGORY 1B, CONDITION 3, STANDARD LAND SURVEY AS MADE ON THE GROUND UNDER MY SUPERVISION.



Michael Konetski
MICHAEL KONETSKI
REGISTERED PROFESSIONAL
LAND SURVEYOR NO. 6531

REVISED 8/14/2023
CORRECTED EASEMENT TYPES

TSPS STANDARD LAND SURVEY PLAT OF A

15' WIDE ELECTRICAL EASEMENT TO BE ABANDONED

VOLUME 1364, PAGE 195 ORBCT

ACROSS A TRACT CALLED TO BE 2.805 ACRES IN

VOLUME 17143, PAGE 25 OPRBCT

CRAWFORD BURNETT LEAGUE SURVEY, ABSTRACT 7
COLLEGE STATION, BRAZOS COUNTY, TEXAS



"When one person stands
to gain over another, the
facts must be uncovered"

SCALE: 1 INCH = 20 FEET
SURVEY DATE: 03-02-2023 | PLAT DATE: 06-19-2023
JOB NUMBER: 23-571 | CAD NAME: 23-571-EASEMENT2
POINT FILE: 23-155 (cont); 23-571 (job)
DRAWN BY: MS CHECKED BY: MK
PREPARED BY: KERR SURVEYING, LLC
TBPELS FIRM#10018500
409 N. TEXAS AVENUE, BRYAN, TEXAS 77803
PHONE: (979) 268-3195
SURVEYS@KERRSURVEYING.NET | KERRLANDSURVEYING.COM

POINT OF COMMENCEMENT

1/2 INCH IRON ROD WITH PLASTIC CAP
STAMPED "RPLS 1852" FOUND (CM)

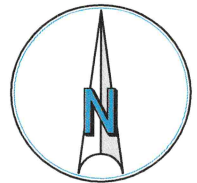
S 05°36'33" E
23.44'

POINT OF BEGINNING

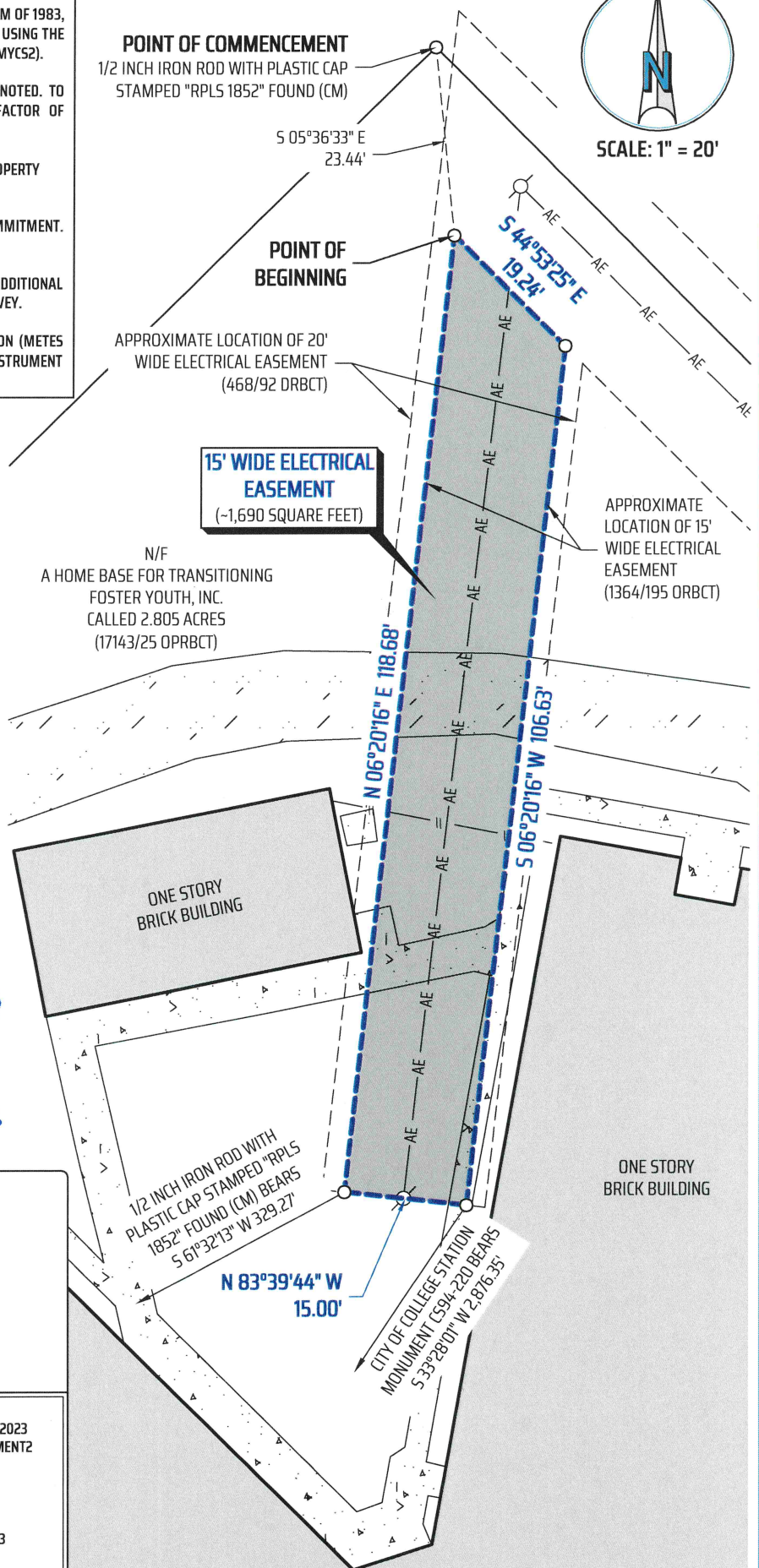
APPROXIMATE LOCATION OF 20'
WIDE ELECTRICAL EASEMENT
(468/92 DRBCT)

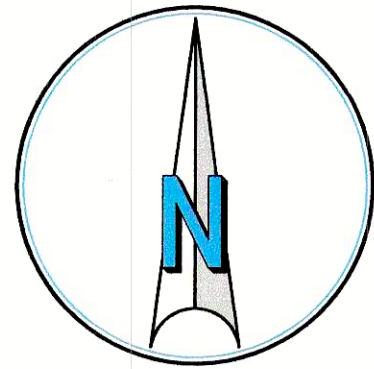
**15' WIDE ELECTRICAL
EASEMENT**
(~1,690 SQUARE FEET)

N/F
A HOME BASE FOR TRANSITIONING
FOSTER YOUTH, INC.
CALLED 2.805 ACRES
(17143/25 OPRBCT)

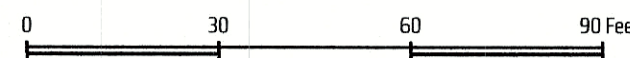


SCALE: 1" = 20'





SCALE: 1" = 30'



LEGEND:

DRBCT = DEED RECORDS OF BRAZOS COUNTY, TEXAS

ORBCT = OFFICIAL RECORDS OF BRAZOS COUNTY, TEXAS

OPRBCT = OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS

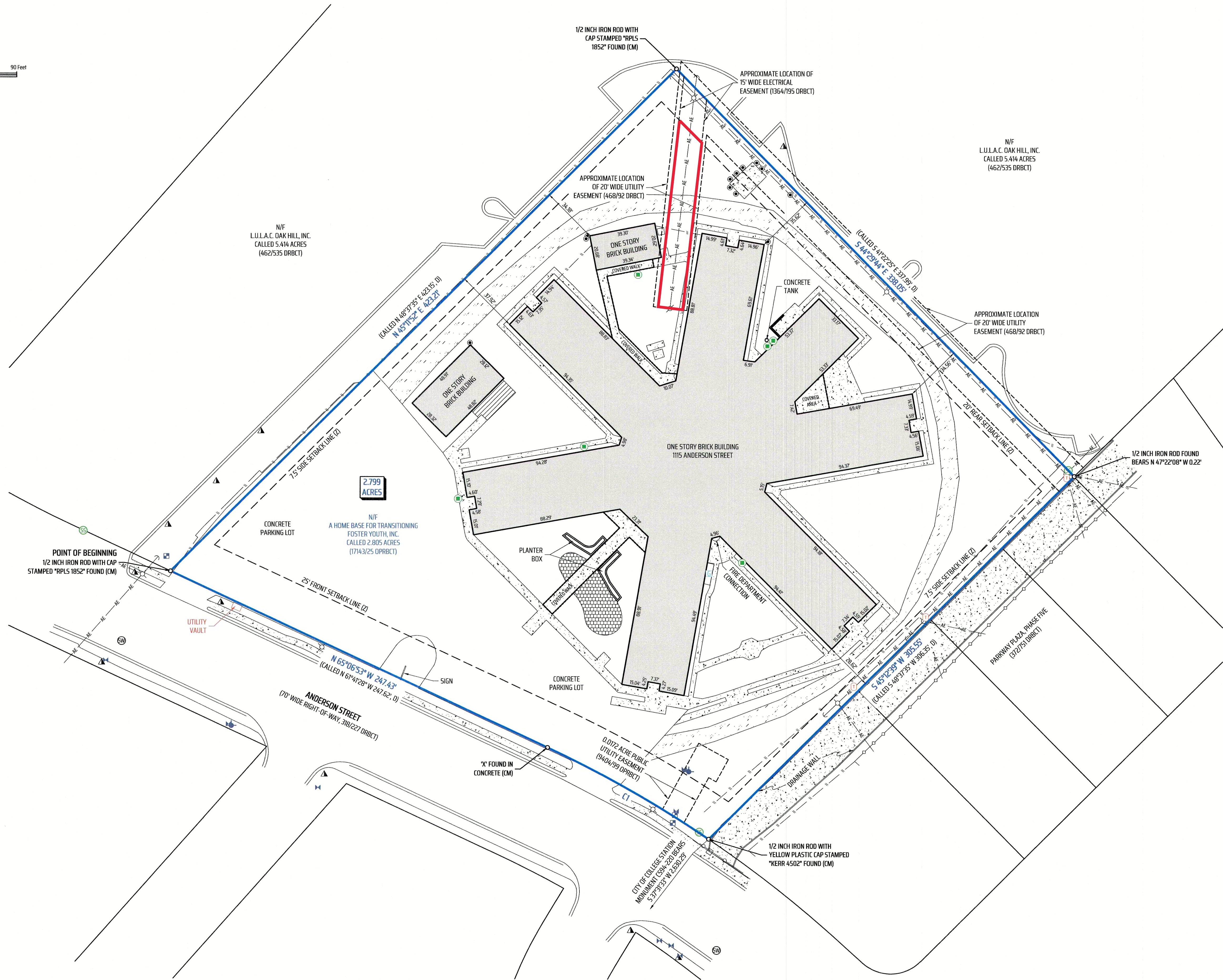
123/456 = VOLUME AND PAGE FROM PUBLIC COUNTY RECORDS

N/F = NOW OR FORMERLY

() = RECORD INFORMATION

(D) = PER DEED, 17143/25 OPRBCT

- WATER VALVE
- WATER METER
- FIRE HYDRANT
- SANITARY SEWER MANHOLE
- CLEAN OUT
- STORM SEWER MANHOLE
- STREET SIGN
- UTILITY POLE
- LIGHT POLE/STANDARD
- GUY WIRE
- GAS METER
- BOLLARD
- TELEPHONE PEDESTAL
- AERIAL ELECTRIC LINES
- WOOD FENCE
- CHAIN LINK FENCE
- DECK
- CONCRETE
- GRAVEL
- BRICK
- CURB



CURVE	RADIUS	ARC LENGTH	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	697.71'	110.21'	09°03'01"	N 60°35'23" W	110.09'
C1 (D)	747.84'	110.19'	08°26'32"	N 57°28'12" W	110.09'

GENERAL NOTES

BEARING SYSTEM SHOWN HEREON IS BASED ON TEXAS COORDINATE SYSTEM OF 1983, CENTRAL ZONE (4203), GRID NORTH AS ESTABLISHED FROM GPS OBSERVATION USING THE LEICA SMARTNET NAD83 (NA2011) EPOCH 2010 MULTI-YEAR CORS SOLUTION 2 (MYCS2).

DISTANCES SHOWN HEREON ARE SURFACE DISTANCES UNLESS OTHERWISE NOTED. TO OBTAIN GRID DISTANCES (NOT AREAS) DIVIDE BY A COMBINED SCALE FACTOR OF 1.000104752428 (CALCULATED USING GEOID12B).

(CM) INDICATES CONTROLLING MONUMENT FOUND AND USED TO ESTABLISH PROPERTY BOUNDARIES.

THIS SURVEY PLAT WAS PREPARED TO REFLECT THE TITLE REPORT ISSUED BY LAWYERS TITLE COMPANY, GF NO. M2938, EFFECTIVE DATE: 03/21/2023. ITEMS LISTED ARE ADDRESSED AS FOLLOWS:

- UTILITY EASEMENT TO THE CITY OF COLLEGE STATION RECORDED IN VOLUME 468, PAGE 92 (DRBCT) DOES CROSS THIS TRACT AS SHOWN.
- UTILITY EASEMENT TO THE CITY OF COLLEGE STATION RECORDED IN VOLUME 1364, PAGE 195 (ORBCT) DOES CROSS THIS TRACT AS SHOWN.
- PRIVATE EASEMENT AGREEMENT RECORDED IN VOLUME 3081, PAGE 294 (ORBCT) DOES AFFECT THIS TRACT. THIS EASEMENT IS BLANKET IN NATURE AND NOT PLOTTABLE.
- PUBLIC UTILITY EASEMENT TO THE CITY OF COLLEGE STATION RECORDED IN VOLUME 9404, PAGE 99 (OPRBCT) DOES CROSS THIS TRACT AS SHOWN.

ALL OTHER ITEMS ARE NOT SURVEY ITEMS AND/OR ARE NOT ADDRESSED BY THIS PLAT.

THIS PLAT WAS PREPARED IN CONJUNCTION WITH A FIELD NOTES DESCRIPTION (METES AND BOUNDS). THE PLAT AND FIELD NOTES ARE INTENDED TO BE ONE INSTRUMENT TOGETHER.

ZONING SETBACK NOTES

ACCORDING TO THE CITY OF COLLEGE STATION ONLINE ZONING MAP REFERENCED ON 3/20/2023, THIS TRACT IS ZONED GENERAL SUBURBAN (G5) AND IS SUBJECT TO THE FOLLOWING BUILDING SETBACKS (Z) AS SHOWN HEREON:

FRONT SETBACK - 25 FEET
SIDE SETBACK (INTERIOR) - 7.5 FEET
REAR SETBACK - 20 FEET

FLOOD PLAIN NOTES:

THIS TRACT LIES WITHIN FLOOD ZONE 'X' UNSHADED AND DOES NOT LIE WITHIN A SPECIAL FLOOD HAZARD AREA SUBJECT TO THE 1% ANNUAL CHANCE FLOOD (100 YEAR FLOOD PLAIN) ACCORDING TO THE BRAZOS COUNTY FLOOD INSURANCE RATE MAP (FIRM) PANEL NO. 48041C0305F, REVISED DATE: 04-02-2014.

SURVEYOR'S CERTIFICATE:

I, MICHAEL KONETSKI, R.P.L.S. NO. 6531, DO HEREBY CERTIFY THAT THIS SURVEY SUBSTANTIALLY COMPLIES WITH THE CURRENT TEXAS SOCIETY OF PROFESSIONAL SURVEYORS MANUAL OF PRACTICE REQUIREMENTS FOR A CATEGORY 1A, CONDITION 3, LAND TITLE SURVEY AS MADE ON THE GROUND UNDER MY SUPERVISION.

3/23/23
MICHAEL KONETSKI
REGISTERED PROFESSIONAL
LAND SURVEYOR NO. 6531



LAND TITLE SURVEY PLAT
OF A
2.799 ACRE TRACT
CALLED TO BE 2.805 ACRES IN
VOLUME 17143, PAGE 25 OPRBCT
CRAWFORD BURNETT LEAGUE SURVEY, ABSTRACT 7
COLLEGE STATION, BRAZOS COUNTY, TEXAS



"When one person stands
to gain over another, the
facts must be uncovered"

SCALE: 1 INCH = 30 FEET
SURVEY DATE: 03-02-2023 | PLAT DATE: 03-23-2023
JOB NUMBER: 23-155 | CAD NAME: 23-155-TITLE
POINT FILE: 23-155 (cont); 23-155 (job)
DRAWN BY: MS CHECKED BY: MK
PREPARED BY: KERR SURVEYING, LLC
TBPELS FIRM#10018500
409 N. TEXAS AVENUE, BRYAN, TEXAS 77803
PHONE: (979) 268-3195
SURVEYS@KERRSURVEYING.NET | KERRLANDSURVEYING.COM

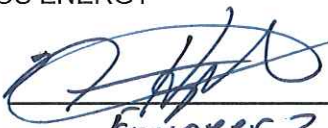
Application for Abandonment of
a Public Right-of-Way/Easement

Location: 1115 Anderson Street

EXHIBIT NO. 3

The undersigned public utility companies, using or entitled to use, under the terms and provisions of our respective franchises with the City of College Station, that portion of the public right-of-way/utility easement sought to be abandoned in the Application for Abandonment above referred to, do hereby consent to the abandonment of the described portion thereof.

ATMOS ENERGY

By: 

Title: Engineer 3

VERIZON TELEPHONE COMPANY

By: _____

Title: _____

SUDDENLINK COMMUNICATIONS

By: _____

Title: _____

BRYAN TEXAS UTILITIES

By: _____

Title: _____

Application for Abandonment of
a Public Right-of-Way/Easement

Location: 1115 Anderson Street

EXHIBIT NO. 3

The undersigned public utility companies, using or entitled to use, under the terms and provisions of our respective franchises with the City of College Station, that portion of the public right-of-way/utility easement sought to be abandoned in the Application for Abandonment above referred to, do hereby consent to the abandonment of the described portion thereof.

ATMOS ENERGY

By: _____
Title: _____

VERIZON TELEPHONE COMPANY

By: Michael R. Zwernema
Title: OSP Engineer

SUDDENLINK COMMUNICATIONS

By: _____
Title: _____

BRYAN TEXAS UTILITIES

By: _____
Title: _____

Application for Abandonment of
a Public Right-of-Way/Easement

Location: 1115 Anderson Street

EXHIBIT NO. 3

The undersigned public utility companies, using or entitled to use, under the terms and provisions of our respective franchises with the City of College Station, that portion of the public right-of-way/utility easement sought to be abandoned in the Application for Abandonment above referred to, do hereby consent to the abandonment of the described portion thereof.

ATMOS ENERGY

By: _____

Title: _____

VERIZON TELEPHONE COMPANY

By: _____

Title: _____

SUDDENLINK COMMUNICATIONS

By: 

Title: Supervisor OPS - Construction

7.18.23

BRYAN TEXAS UTILITIES

By: _____

Title: _____

Application for Abandonment of
a Public Right-of-Way/Easement

Location: 1115 Anderson Street

EXHIBIT NO. 3

The undersigned public utility companies, using or entitled to use, under the terms and provisions of our respective franchises with the City of College Station, that portion of the public right-of-way/utility easement sought to be abandoned in the Application for Abandonment above referred to, do hereby consent to the abandonment of the described portion thereof.

ATMOS ENERGY

By: _____
Title: _____

VERIZON TELEPHONE COMPANY

By: _____
Title: _____

SUDDENLINK COMMUNICATIONS

By: _____
Title: _____

BRYAN TEXAS UTILITIES

By: GREG BURKHOLDER
Title: Engineering Design Manager

Application for Abandonment of a Public Right-of-Way / Easement

Location: 1115 Anderson Street

EXHIBIT NO.4

The undersigned, City staff of the City of College Station, certify that they have carefully considered the Application for Abandonment of the public right-of-way/easement referred to above the standpoint of City of College Station ordinances and with respect to recent and future needs of the City of College Station and see no objection to the requested abandonment from the City's standpoint.

X 

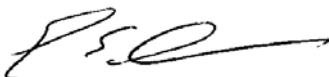
City Engineer
City of College Station

X 

Building Official
City of College Station

X 

Zoning Official
City of College Station

X 

Fire Marshal
City of College Station

X 

Electric Department
City of College Station

X 

Water Services Department
City of College Station

X 

Public Works Director
City of College Station

Application for Abandonment of
a Public Right-of-Way/Easement

Location: 1115 Anderson Street

EXHIBIT NO. 5

The undersigned, owners of property abutting upon that portion of the public right-of-way/easement named and described in the Application for Abandonment of a Public Right-of-Way/Easement referred to above, do hereby consent to such abandonment.

NAME: _____
ADDRESS: _____

NAME: _____
ADDRESS: _____

NAME: _____
ADDRESS: _____

NAME: _____
ADDRESS: _____

Lawyers Title Company of Brazos County
1450 Copperfield Parkway, Suite 100
College Station, TX 77845
Phone: 979-776-3600
Fax: 979-776-2383

TITLE REPORT

Date: June 22, 2023

File No.: GF No. M2953

Record Title at the Effective Date Hereof is Vested in:

A Home Base for Transitioning Foster Youth, Inc., a Texas non-profit corporation doing business as Unlimited Potential

The Land Referred to In this Report is Described as Follows:

TRACT ONE

A FIELD NOTES DESCRIPTION OF A 20' WIDE UTILITY EASEMENT DESCRIBED IN VOLUME 468, PAGE 92 OF THE DEED RECORDS OF BRAZOS COUNTY, TEXAS (DRBCT) TO BE ABANDONED IN THE CRAWFORD BURNETT LEAGUE SURVEY, ABSTRACT 7, IN COLLEGE STATION, BRAZOS COUNTY, TEXAS, BEING OVER, ACROSS AND UPON A CALLED 2.805 ACRE TRACT OF LAND DESCRIBED IN A DEED TO A HOME BASE FOR TRANSITIONING YOUTH, INC. RECORDED IN [VOLUME 17143, PAGE 25](#) OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS (OPRBCT); SAID 20' WIDE UTILITY EASEMENT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at a 1/2 inch iron rod with a plastic cap stamped "RPLS 1852" found for the north corner of said 2.805 acres;

THENCE, over, across and upon said 2.805 acres for the following five (5) courses and distances:

- 1) S 00° 18' 58" W, for a distance of 20.91 feet to a point for corner being the POINT OF BEGINNING hereof;
- 2) S 44° 53' 25" E, for a distance of 25.64 feet to a point for corner;
- 3) S 06° 22' 03" W, for a distance of 104.77 feet to a point for corner, from which City of College Station Monument CS94-220 bears S 33° 30' 27" W, a

distance of 2,877.38 feet;

4) N 83° 37' 57" W, for a distance of 20.00 feet to a point for corner, from which a 1/2 inch iron rod with a plastic cap stamped "RPLS 1852" found for the west corner of said 2.805 acres bears S 61° 15' 52" W, a distance of 327.04 feet;

5) N 06° 22' 03" E, for a distance of 120.82 feet to the POINT OF BEGINNING hereof and containing 2,256 square feet, more or less.

TRACT TWO

A FIELD NOTES DESCRIPTION OF A 15' WIDE UTILITY EASEMENT DESCRIBED IN VOLUME 1364, PAGE 195 OF THE OFFICIAL RECORDS OF BRAZOS COUNTY, TEXAS (ORBCT) TO BE ABANDONED IN THE CRAWFORD BURNETT LEAGUE SURVEY, ABSTRACT 7, IN COLLEGE STATION, BRAZOS COUNTY, TEXAS, BEING OVER, ACROSS AND UPON A CALLED 2.805 ACRE TRACT OF LAND DESCRIBED IN A DEED TO A HOME BASE FOR TRANSITIONING YOUTH, INC. RECORDED IN [VOLUME 17143, PAGE 25](#) OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS (OPRBCT); SAID 15' WIDE UTILITY EASEMENT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at a 1/2 inch iron rod with a plastic cap stamped "RPLS 1852" found for the north corner of said 2.805 acres;

THENCE, over, across and upon said 2.805 acres for the following five (5) courses and distances:

1) S 05° 36' 33" W, for a distance of 23.44 feet to a point for corner being the POINT OF BEGINNING hereof;

2) S 44° 53' 25" E, for a distance of 19.24 feet to a point for corner;

3) S 06° 20' 16" W, for a distance of 106.63 feet to a point for corner, from which City of College Station Monument CS94-220 bears S 33° 28' 01" W, a distance of 2,876.35 feet;

4) N 83° 39' 44" W, for a distance of 15.00 feet to a point for corner, from which a 1/2 inch iron rod with a plastic cap stamped "RPLS 1852" found for the west corner of said 2.805 acres bears S 61° 31' 13" W, a distance of 329.27 feet;

5) N 06° 20' 16" E, for a distance of 118.68 feet to the POINT OF BEGINNING hereof and containing 1,690 square feet, more or less.

NOTE: The Company is prohibited from insuring the area or quantity of the land described herein. Any statement in the above legal description of the area or quantity of land is not a representation that such area or quantity is correct, but is made only for informational and/or identification purposes and does not override Item 2 of Schedule B hereof.

Exceptions:

Utility Easement executed by Brazos Valley Geriatric Center to the City of College Station, Texas, dated November 25, 1980, recorded in [Volume 468, Page 92](#), Deed Records of Brazos County, Texas.

Utility Easement executed by ARA Living Centers of Texas, Inc. to the City of College Station, dated November 1, 1991, recorded in [Volume 1364, Page 195](#), Official Records of Brazos County, Texas.

Multiple Dwelling Unit Right-of-Entry Private Easement Agreement by and between TCA Management Company and Amerra Health Care d/b/a Brazos Valley Geriatric, dated March 31, 1998, recorded in [Volume 3081, Page 294](#), Official Records of Brazos County, Texas.

Public Utility Easement executed by Anderson Re TX, LLC to City of College Station, Texas, dated November 17, 2009, recorded in [Volume 9404, Page 99](#), Official Records of Brazos County, Texas.

All leases, grants, exceptions or reservations of coal, lignite, oil, gas and other minerals, together with all rights, privileges, and immunities relating thereto, appearing in the Public Records whether listed or not. There may be leases, grants exceptions or reservations of mineral interest that are not listed.

Curative Matters:

Vendor's lien retained in Deed executed by SEZER ENTERPRISES, LLC, a Texas limited liability company, to A HOME BASE FOR TRANSITIONING FOSTER YOUTH, INC., a Texas non-profit corporation doing business as UNLIMITED POTENTIAL, dated June 30, 2021, recorded in [Volume 17143, Page 25](#), Official Records of Brazos County, Texas, securing the payment of one note of even date therewith in the principal sum of \$443,016.88, payable to BRAZOS VALLEY CDC, INC., and additionally secured by a Deed of Trust of even date therewith executed by A HOME BASE FOR TRANSITIONING FOSTER YOUTH, INC., a Texas non-profit corporation doing business as UNLIMITED POTENTIAL, to PAUL TURNEY, Trustee, said Deed of Trust filed on June 30, 2021, in [Volume 17143, Page 29](#), Official Records of Brazos County, Texas.

The following note is for informational purposes only:

The following deed(s) affecting said land were recorded within thirty-six (36) months of the date of this report:

Warranty Deed with Vendor's Lien executed by SEZER ENTERPRISES, LLC, a Texas limited liability company, to A HOME BASE FOR TRANSITIONING FOSTER YOUTH, INC., a Texas non-profit corporation doing business as UNLIMITED POTENTIAL, dated June 30, 2021, recorded in [Volume 17143, Page 25](#), Official Records of Brazos County, Texas.

Assumed Name Certificate executed by A Home Base for Transitioning Foster Youth doing business as Unlimited Potential, Inc., dated December 6, 2018, recorded in [Volume 15046, Page 142](#), Official Records of Brazos County, Texas.

THIS REPORT IS ISSUED WITH THE EXPRESS UNDERSTANDING, EVIDENCED BY THE ACCEPTANCE OF SAME, THAT THE UNDERSIGNED, LAWYERS TITLE COMPANY OF BRAZOS COUNTY DOES NOT UNDERTAKE HEREIN TO GIVE OR EXPRESS ANY OPINION AS TO THE VALIDITY OF THE TITLE TO THE PROPERTY ABOVE DESCRIBED, NOR AS TO THE VALIDITY OF ANY OF THE INSTRUMENTS REPORTED HEREIN, INCLUDING THE PURPORTED DEED(S) ESTABLISHING THE RECORD OWNER(S) CITED ABOVE, BUT IS SIMPLY REPORTING BRIEFLY HEREIN, AS TO THE INSTRUMENTS FOUNDS OF RECORD PERTAINING TO THE SUBJECT PROPERTY, AND IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT THIS REPORT IS NEITHER A GUARANTY OR WARRANTY OF THE TITLE. Y ACCEPTANCE OF THIS TITLE REPORT, IT IS UNDERSTOOD THAT THE LIABILITY OF THE ISSUER HEREOF IS EXPRESSLY LIMITED TO \$250.00. THIS SEARCH HAS BEEN LIMITED TO THE ABOVE MATTERS AND THE ABOVE TIME PERIOD AND LAWYERS TITLE COMPANY OF BRAZOS COUNTY HAS NOT SEARCHED FOR, NOR HAS REFLECTED HEREIN, ANY EXAMINATION AS TO TAX SUITS, SPECIAL ASSESSMENTS, CONFLICTS OR OTHER INSTRUMENTS WHICH MAY AFFECT TITLE TO THE SUBJECT PROPERTY. IF TITLE INSURANCE COVERAGE, WHICH IS NOT PROVIDED BY THIS REPORT, IS NEEDED, SAID COVERAGE IS AVAILABLE THROUGH THE APPLICABLE PROMULGATED POLICY(IES), AT THE SPECIFIED PROMULGATED PREMIUM.

OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS, HAVE BEEN
CHECKED THROUGH JUNE 20, 2023 @ 7:00 A.M..

Lawyers Title Company of Brazos County

By: Tina Long
Tina Long

LOCATION MAP

NORTH

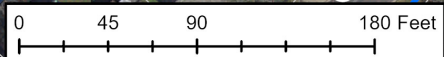
20' WIDE UTILITY EASEMENT
TO BE ABANDONED
2256 SQUARE FEET

ANDERSON STREET

CLEMENT COURT

HOLIK DRIVE

PINE RIDGE DRIVE



FOR OFFICE USE ONLY

CASE NO.: _____
 DATE SUBMITTED: _____
 TIME: _____
 STAFF: _____

ABANDONMENT OF PUBLIC RIGHT-OF-WAY/EASEMENT APPLICATION

MINIMUM SUBMITTAL REQUIREMENTS:

- ☒ Abandonment of Public Right-of-Way/Easement Application Fee. (**Refer to the Planning and Development Fee Schedule for all applicable fees**)
- ☒ Application completed in full. This application form provided by the City of College Station must be used and may not be adjusted or altered. Please attach pages if additional information is provided.
- ☒ All exhibits processed (except for Exhibit No. 4, which will be processed by staff).
- ☒ Title report for property current within ninety (90) days or accompanied by a Nothing Further Certificate current within ninety (90) days. The report must include applicable information such as ownership, liens, encumbrances, etc.
- ☒ For unplatted property, a signed, sealed and dated metes and bounds description and a diagram of the property showing the location of the abandonment.
- ☐ For platted property, a copy of the plat showing the lot, block, subdivision, and recording information.

LOCATION OF RIGHT-OF-WAY/EASEMENT TO BE ABANDONED (include legal description):

1115 Anderson Street - 2.799 Acre Tract called 2.805 acres in Volume 17143, Page 25 OPRBCT

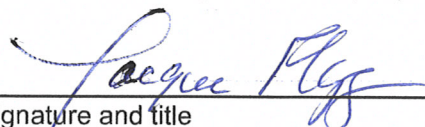
APPLICANT/PROJECT MANAGER'S INFORMATION (Primary contact for the project):

Name A Homebase for Transitioning Foster Youth E-mail ~~brussell@tamu.edu~~ **bdrussell@tamu.edu**
 Street Address 3708 East 29th Street, Suite 1000
 City Bryan State Texas Zip Code 77802
 Phone Number 979-229-8963 Fax Number _____

PROPERTY OWNER'S INFORMATION (ALL owners must be identified. Please attach an additional sheet for multiple owners):

Name A Homebase for Transitioning Foster Youth E-mail ~~brussell@tamu.edu~~ **bdrussell@tamu.edu**
 Street Address: 3708 East 29th Street, Suite 1000
 City Bryan State Texas Zip Code 77802
 Phone Number 979-229-8963 Fax Number _____

The applicant has prepared this application and certifies that the facts stated herein and exhibits attached hereto are true and correct. IF THIS APPLICATION IS FILED BY ANYONE OTHER THAN THE OWNER OF THE PROPERTY, this application must be accompanied by a power of attorney statement of the owner. If there is more than one owner, all owners must sign the application or power of attorney. If the owner is a company, the application must be accompanied by proof of authority for the company's representative to sign the application on its behalf.


 Signature and title _____

7-10-23
 Date _____

TO THE MAYOR AND CITY COUNCIL OF THE CITY OF COLLEGE STATION:

The undersigned hereby makes application for the abandonment of that portion of the above right-of-way particularly described in Exhibit No. 1, attached. In support of this application, the undersigned represents and warrants the following:

1. The undersigned will hold the City of College Station harmless, and indemnify it against all suits, costs, expenses, and damages that may arise or grow out of such abandonment.
2. Attached, marked Exhibit No. 1, is a sealed metes and bounds description of the area sought to be abandoned, prepared by a Registered Public Surveyor.
3. Attached, marked Exhibit No. 2, is a copy of a plat or detailed sketch of that portion of the public right-of-way/easement sought to be abandoned and the surrounding area to the nearest streets in all directions, showing the abutting lots and block, and the subdivision in which the above described right-of- way/easement is situated, together with the record owners of such lots.
4. Attached, marked Exhibit No. 3, is the consent of all public utilities to the abandonment.
5. Attached, marked Exhibit No. 4, is the consent of the City of College Station staff to the abandonment.
6. Attached, marked Exhibit No. 5, is the consent of all the abutting property owners, except the following: (if none, so state)

Name _____ E-mail _____

Street Address _____

City _____ State _____ Zip Code _____

Reason consent was not obtained: _____

If objecting, points of objection:

Name _____ E-mail _____

Street Address _____

City _____ State _____ Zip Code _____

Reason consent was not obtained: _____

If objecting, points of objection:

Name _____ E-mail _____

Street Address _____

City _____ State _____ Zip Code _____

Reason consent was not obtained: _____

If objecting, points of objection:

7. That the abandonment will not result in property that does not have access to public roadways or utilities because:

These easements were servicing the building that was abandoned and demolished on site. they do not provide public roadways or utilities to other property or this property.

8. That there is no current public need or use for the easement or right-of-way because:

These easements were servicing the building that was abandoned and demolished on site. they do not provide public roadways or utilities to other property or this property.

9. That there is no anticipated future public need or use for the easement or right-of-way because:

These easements were servicing the building that was abandoned and demolished on site. they do not provide public roadways or utilities to other property or this property.

10. That all public utilities have access to serve current and future customers because:

Yes, these easement abandonments do not affect public utilities for the current or future customer.

11. Such public right-of-way/easement has been and is being used as follows:

These easements were servicing the building that was abandoned and demolished on site. they do not provide public roadways or utilities to other property or this property.

I swear that all of the information contained in this application is true and correct to the best of my knowledge and belief.

Jacque Flagg, Pres. of Board
Signature and title

7-20-23
Date

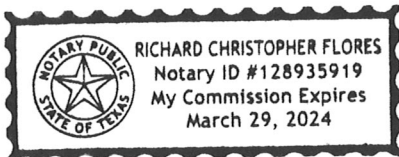
STATE OF TEXAS

§
§
§

ACKNOWLEDGEMENT

COUTY OF BRAZOS

Subscribed and sworn to before me, a Notary Public, this *20th* day of *JULY*, *2023* by
JACQUE FLAGG



[Signature]
Notary Public in and for
the State of Texas

Application for Abandonment of
a Public Right-of-Way/Easement

Location: 1115 Anderson Street

EXHIBIT NO. 1

Attached is a sealed copy of the metes and bounds description of the public right-of-way/easement situated in

Addition/Subdivision to the City of College Station, Brazos County, Texas, sought to be abandoned.

**FIELD NOTES DESCRIPTION
OF A
20' WIDE UTILITY EASEMENT
TO BE ABANDONED
CRAWFORD BURNETT LEAGUE SURVEY, ABSTRACT 7
COLLEGE STATION, BRAZOS COUNTY, TEXAS**

A FIELD NOTES DESCRIPTION OF A 20' WIDE UTILITY EASEMENT DESCRIBED BY CENTERLINE IN VOLUME 468, PAGE 92 OF THE DEED RECORDS OF BRAZOS COUNTY, TEXAS (DRBCT) TO BE ABANDONED IN THE CRAWFORD BURNETT LEAGUE SURVEY, ABSTRACT 7, IN COLLEGE STATION, BRAZOS COUNTY, TEXAS, BEING OVER, ACROSS AND UPON A CALLED 2.805 ACRE TRACT OF LAND DESCRIBED IN A DEED TO A HOME BASE FOR TRANSITIONING YOUTH, INC. RECORDED IN VOLUME 17143, PAGE 25 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS (OPRBCT) BEING PREVIOUSLY DESCRIBED AS A 3 ACRE TRACT RECORDED IN VOLUME 361, PAGE 68 OF THE DEED RECORDS OF BRAZOS COUNTY, TEXAS (DRBCT); SAID 20' WIDE UTILITY EASEMENT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at a 1/2 inch iron rod with a plastic cap stamped "RPLS 1852" found for the north corner of said 2.805 acres;

THENCE, over, across and upon said 2.805 acres for the following five (5) courses and distances:

- 1) **S 00° 18' 58" W**, for a distance of **20.91 feet** to a point for corner being the **POINT OF BEGINNING** hereof;
- 2) **S 44° 53' 25" E**, for a distance of **25.64 feet** to a point for corner;
- 3) **S 06° 22' 03" W**, for a distance of **104.77 feet** to a point for corner (Centerline previously described as S 21° W, 134'), from which City of College Station Monument CS94-220 bears S 33° 30' 27" W, a distance of 2,877.38 feet;
- 4) **N 83° 37' 57" W**, for a distance of **20.00 feet** to a point for corner, from which a 1/2 inch iron rod with a plastic cap stamped "RPLS 1852" found for the west corner of said 2.805 acres bears S 61° 15' 52" W, a distance of 327.04 feet;
- 5) **N 06° 22' 03" E**, for a distance of **120.82 feet** to the **POINT OF BEGINNING** hereof and containing **2,256 square feet**, more or less.

Centerline of existing easement to be abandoned was intended to serve a power pole existing at the time of the original survey which may or may not have been located within the original described easement. No evidence was found showing an alternate location to the existing power pole at the time of this survey.

Surveyed on the ground March 2023 under my supervision. See plat prepared June 2023 for other information. The bearing basis for this survey is based on the Texas State Plane Coordinate System of 1983 (NAD83), Central Zone, Grid North as established from GPS observation using the Leica Smartnet NAD83 (NA2011) Epoch 2010 Multi-year CORS Solution 2 (MYCS2). Distances described herein are surface distances. To obtain grid distances (not grid areas) divide by a combined scale factor of 1.00010475242428 (calculated using GEOID12B). Reference drawing: 23-571-EASEMENT1. REVISED 9-11-23



Application for Abandonment of
a Public Right-of-Way/Easement

Location: 1115 Anderson Street

EXHIBIT NO. 2

Attached is a copy of a plat or detailed sketch of the public right-of-way/easement sought to be abandoned in the above-mentioned application, showing the surrounding area to the nearest streets in all directions, abutting lots, the block or blocks in which the portion of the public right-of-way/easement sought to be vacated is situated, and the addition or subdivision in which the portion of the public right-of-way/easement sought to be abandoned is situated. Also, the names of record owners of the abutting lots are shown.

GENERAL NOTES

BEARING SYSTEM SHOWN HEREON IS BASED ON THE TEXAS COORDINATE SYSTEM OF 1983, CENTRAL ZONE (4203), GRID NORTH AS ESTABLISHED FROM GPS OBSERVATION USING THE LEICA SMARTNET NAD83 (NA2011) EPOCH 2010 MULTI-YEAR CORS SOLUTION 2 (MYC52).

DISTANCES SHOWN HEREON ARE SURFACE DISTANCES UNLESS OTHERWISE NOTED. TO OBTAIN GRID DISTANCES (NOT AREAS) DIVIDE BY A COMBINED SCALE FACTOR OF 1.000104752428 (CALCULATED USING GEOID12B).

(CM) INDICATES CONTROLLING MONUMENT FOUND AND USED TO ESTABLISH PROPERTY BOUNDARIES.

THIS SURVEY PLAT WAS PREPARED WITHOUT THE BENEFIT OF A TITLE COMMITMENT. EASEMENTS AND OTHER MATTERS MAY APPLY.

THIS SURVEY REFLECTS THE BOUNDARY OF THE PROPERTY ONLY. ADDITIONAL IMPROVEMENTS MAY EXIST AND WERE NOT LOCATED AT THE TIME OF THIS SURVEY.

THIS PLAT WAS PREPARED IN CONJUNCTION WITH A FIELD NOTES DESCRIPTION (METES AND BOUNDS). THE PLAT AND FIELD NOTES ARE INTENDED TO BE ONE INSTRUMENT TOGETHER.

LEGEND:

DRBCT = DEED RECORDS OF BRAZOS COUNTY, TEXAS

CONCRETE

ORBCT = OFFICIAL RECORDS OF BRAZOS COUNTY, TEXAS

GRAVEL

OPRBCT = OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS

AERIAL ELECTRIC LINES

WOOD FENCE

UTILITY POLE

123/456 = VOLUME AND PAGE FROM PUBLIC COUNTY RECORDS

N/F = NOW OR FORMERLY

() = RECORD INFORMATION

SURVEYOR'S CERTIFICATE:

I, MICHAEL KONETSKI, R.P.L.S. NO. 6531, DO HEREBY CERTIFY THAT THIS SURVEY SUBSTANTIALLY COMPLIES WITH THE CURRENT TEXAS SOCIETY OF PROFESSIONAL SURVEYORS MANUAL OF PRACTICE REQUIREMENTS FOR A CATEGORY 1B, CONDITION 3, STANDARD LAND SURVEY AS MADE ON THE GROUND UNDER MY SUPERVISION.



Michael Konetski
MICHAEL KONETSKI
REGISTERED PROFESSIONAL
LAND SURVEYOR NO. 6531

REVISED 8/14/2023
CORRECTED EASEMENT TYPES

TSPS STANDARD LAND SURVEY PLAT
OF A PORTION OF A
20' WIDE ELECTRICAL EASEMENT
TO BE ABANDONED
VOLUME 468, PAGE 92 DRBCT
ACROSS A TRACT CALLED TO BE 2.805 ACRES IN
VOLUME 17143, PAGE 25 OPRBCT
CRAWFORD BURNETT LEAGUE SURVEY, ABSTRACT 7
COLLEGE STATION, BRAZOS COUNTY, TEXAS

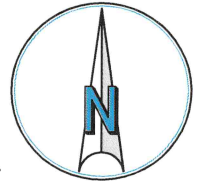


"When one person stands
to gain over another, the
facts must be uncovered"

SCALE: 1 INCH = 20 FEET
SURVEY DATE: 03-02-2023 | PLAT DATE: 06-19-2023
JOB NUMBER: 23-571 | CAD NAME: 23-571-EASEMENT1
POINT FILE: 23-155 (cont); 23-571 (job)
DRAWN BY: MS CHECKED BY: MK
PREPARED BY: KERR SURVEYING, LLC
TBPELS FIRM#10018500
409 N. TEXAS AVENUE, BRYAN, TEXAS 77803
PHONE: (979) 268-3195
SURVEYS@KERRSURVEYING.NET | KERRLANDSURVEYING.COM

POINT OF COMMENCEMENT

1/2 INCH IRON ROD WITH PLASTIC CAP
STAMPED "RPLS 1852" FOUND (CM)



SCALE: 1" = 20'

S 00°18'58" W
20.91'

POINT OF BEGINNING

APPROXIMATE LOCATION OF 20'
WIDE ELECTRICAL EASEMENT
(468/92 DRBCT)

20' WIDE ELECTRICAL
EASEMENT
(~2,256 SQUARE FEET)

N/F
A HOME BASE FOR TRANSITIONING
FOSTER YOUTH, INC.
CALLED 2.805 ACRES
(17143/25 OPRBCT)

APPROXIMATE
LOCATION OF 15'
WIDE ELECTRICAL
EASEMENT
(1364/195 ORBCT)

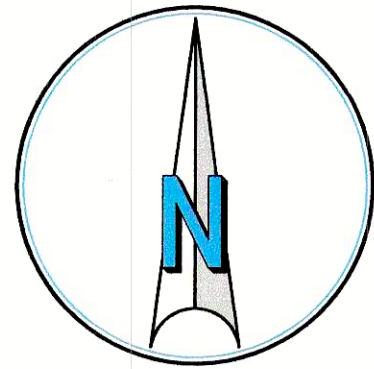
ONE STORY
BRICK BUILDING

ONE STORY
BRICK BUILDING

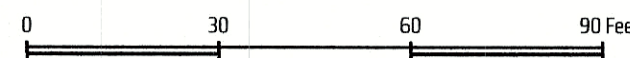
1/2 INCH IRON ROD WITH
PLASTIC CAP STAMPED "RPLS
1852" FOUND (CM) BEARS
S 61°15'52" W 327.04'

N 83°37'57" W
20.00'

CITY OF COLLEGE STATION
MONUMENT (594-220 BEARS
S 33°30'27" W 2.877 38'



SCALE: 1" = 30'



LEGEND:

DRBCT = DEED RECORDS OF BRAZOS COUNTY, TEXAS

ORBCT = OFFICIAL RECORDS OF BRAZOS COUNTY, TEXAS

OPRBCT = OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS

123/456 = VOLUME AND PAGE FROM PUBLIC COUNTY RECORDS

N/F = NOW OR FORMERLY

() = RECORD INFORMATION

(D) = PER DEED, 17143/25 OPRBCT

WATER VALVE
WATER METER
FIRE HYDRANT
SANITARY SEWER MANHOLE
CLEAN OUT
STORM SEWER MANHOLE
STREET SIGN
UTILITY POLE
LIGHT POLE/STANDARD
GUY WIRE
GAS METER
BOLLARD
TELEPHONE PEDESTAL
AERIAL ELECTRIC LINES

WOOD FENCE

CHAIN LINK FENCE

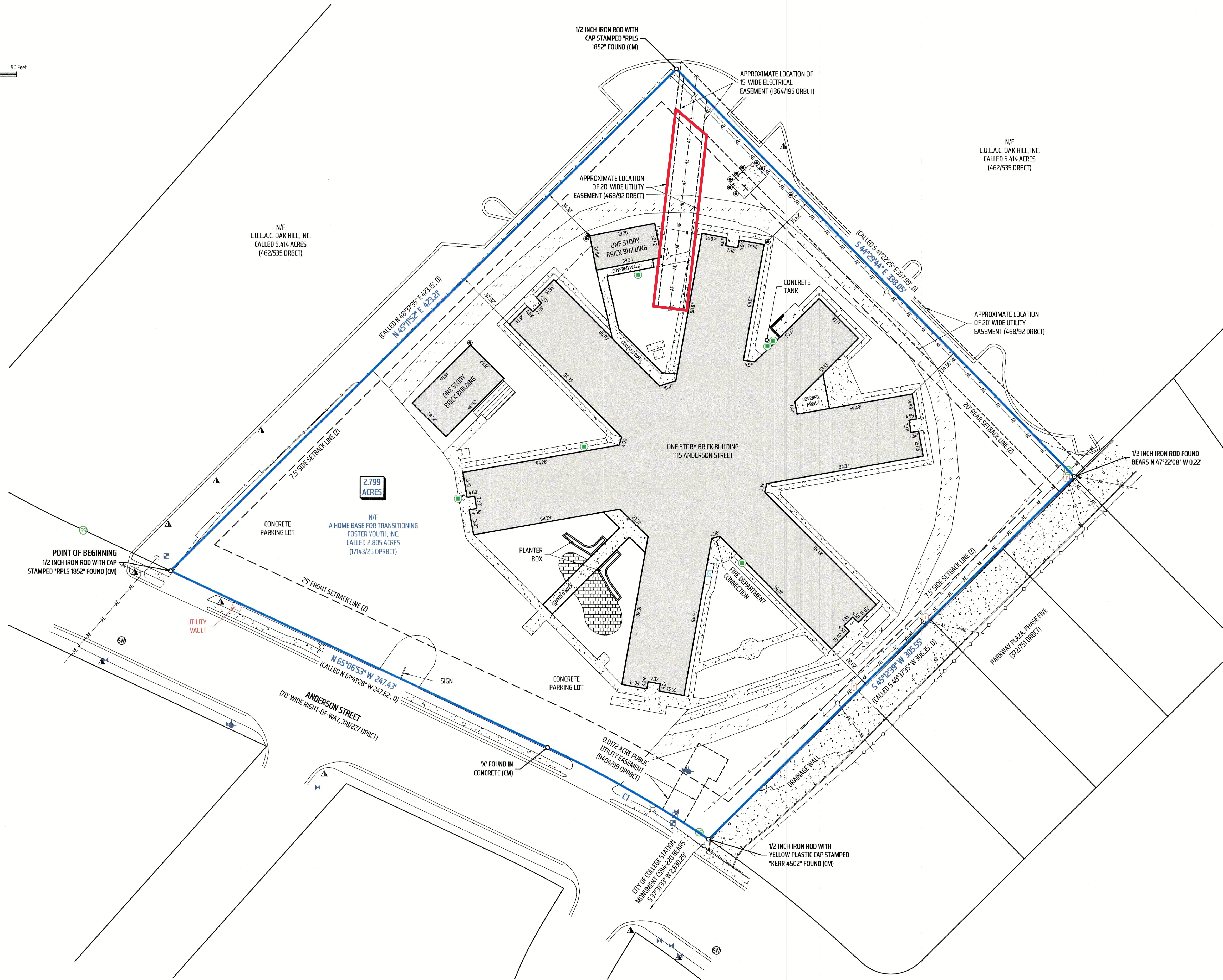
DECK

CONCRETE

GRAVEL

BRICK

CURB



CURVE	RADIUS	ARC LENGTH	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	697.71'	110.21'	09°03'01"	N 60°35'23" W	110.09'
C1 (D)	747.84'	110.19'	08°26'32"	N 57°28'12" W	110.09'

GENERAL NOTES

BEARING SYSTEM SHOWN HEREON IS BASED ON TEXAS COORDINATE SYSTEM OF 1983, CENTRAL ZONE (4203), GRID NORTH AS ESTABLISHED FROM GPS OBSERVATION USING THE LEICA SMARTNET NAD83 (NA2011) EPOCH 2010 MULTI-YEAR CORS SOLUTION 2 (MYCS2).

DISTANCES SHOWN HEREON ARE SURFACE DISTANCES UNLESS OTHERWISE NOTED. TO OBTAIN GRID DISTANCES (NOT AREAS) DIVIDE BY A COMBINED SCALE FACTOR OF 1.000104752428 (CALCULATED USING GEOID12B).

(CM) INDICATES CONTROLLING MONUMENT FOUND AND USED TO ESTABLISH PROPERTY BOUNDARIES.

THIS SURVEY PLAT WAS PREPARED TO REFLECT THE TITLE REPORT ISSUED BY LAWYERS TITLE COMPANY, GF NO. M2938, EFFECTIVE DATE: 03/21/2023. ITEMS LISTED ARE ADDRESSED AS FOLLOWS:

- UTILITY EASEMENT TO THE CITY OF COLLEGE STATION RECORDED IN VOLUME 468, PAGE 92 (DRBCT) DOES CROSS THIS TRACT AS SHOWN.
- UTILITY EASEMENT TO THE CITY OF COLLEGE STATION RECORDED IN VOLUME 1364, PAGE 195 (ORBCT) DOES CROSS THIS TRACT AS SHOWN.
- PRIVATE EASEMENT AGREEMENT RECORDED IN VOLUME 3081, PAGE 294 (ORBCT) DOES AFFECT THIS TRACT. THIS EASEMENT IS BLANKET IN NATURE AND NOT PLOTTABLE.
- PUBLIC UTILITY EASEMENT TO THE CITY OF COLLEGE STATION RECORDED IN VOLUME 9404, PAGE 99 (OPRBCT) DOES CROSS THIS TRACT AS SHOWN.

ALL OTHER ITEMS ARE NOT SURVEY ITEMS AND/OR ARE NOT ADDRESSED BY THIS PLAT.

THIS PLAT WAS PREPARED IN CONJUNCTION WITH A FIELD NOTES DESCRIPTION (METES AND BOUNDS). THE PLAT AND FIELD NOTES ARE INTENDED TO BE ONE INSTRUMENT TOGETHER.

ZONING SETBACK NOTES

ACCORDING TO THE CITY OF COLLEGE STATION ONLINE ZONING MAP REFERENCED ON 3/20/2023, THIS TRACT IS ZONED GENERAL SUBURBAN (G5) AND IS SUBJECT TO THE FOLLOWING BUILDING SETBACKS (Z) AS SHOWN HEREON:

FRONT SETBACK - 25 FEET
SIDE SETBACK (INTERIOR) - 7.5 FEET
REAR SETBACK - 20 FEET

FLOOD PLAIN NOTES:

THIS TRACT LIES WITHIN FLOOD ZONE 'X' UNSHADED AND DOES NOT LIE WITHIN A SPECIAL FLOOD HAZARD AREA SUBJECT TO THE 1% ANNUAL CHANCE FLOOD (100 YEAR FLOOD PLAIN) ACCORDING TO THE BRAZOS COUNTY FLOOD INSURANCE RATE MAP (FIRM) PANEL NO. 48041C0305F, REVISED DATE: 04-02-2014.

SURVEYOR'S CERTIFICATE:

I, MICHAEL KONETSKI, R.P.L.S. NO. 6531, DO HEREBY CERTIFY THAT THIS SURVEY SUBSTANTIALLY COMPLIES WITH THE CURRENT TEXAS SOCIETY OF PROFESSIONAL SURVEYORS MANUAL OF PRACTICE REQUIREMENTS FOR A CATEGORY 1A, CONDITION 3, LAND TITLE SURVEY AS MADE ON THE GROUND UNDER MY SUPERVISION.

3/23/23
MICHAEL KONETSKI
REGISTERED PROFESSIONAL
LAND SURVEYOR NO. 6531

LAND TITLE SURVEY PLAT
OF A
2.799 ACRE TRACT
CALLED TO BE 2.805 ACRES IN
VOLUME 17143, PAGE 25 OPRBCT
CRAWFORD BURNETT LEAGUE SURVEY, ABSTRACT 7
COLLEGE STATION, BRAZOS COUNTY, TEXAS



"When one person stands
to gain over another, the
facts must be uncovered"

SCALE: 1 INCH = 30 FEET
SURVEY DATE: 03-02-2023 | PLAT DATE: 03-23-2023
JOB NUMBER: 23-155 | CAD NAME: 23-155-TITLE
POINT FILE: 23-155 (cont); 23-155 (job)
DRAWN BY: MS CHECKED BY: MK
PREPARED BY: KERR SURVEYING, LLC
TBPELS FIRM#10018500
409 N. TEXAS AVENUE, BRYAN, TEXAS 77803
PHONE: (979) 268-3195
SURVEYS@KERRSURVEYING.NET | KERRLANDSURVEYING.COM

Application for Abandonment of
a Public Right-of-Way/Easement

Location: 1115 Anderson Street

EXHIBIT NO. 3

The undersigned public utility companies, using or entitled to use, under the terms and provisions of our respective franchises with the City of College Station, that portion of the public right-of-way/utility easement sought to be abandoned in the Application for Abandonment above referred to, do hereby consent to the abandonment of the described portion thereof.

ATMOS ENERGY

By: 
Title: Engineer 3

VERIZON TELEPHONE COMPANY

By: _____
Title: _____

SUDDENLINK COMMUNICATIONS

By: _____
Title: _____

BRYAN TEXAS UTILITIES

By: _____
Title: _____

Application for Abandonment of
a Public Right-of-Way/Easement

Location: 1115 Anderson Street

EXHIBIT NO. 3

The undersigned public utility companies, using or entitled to use, under the terms and provisions of our respective franchises with the City of College Station, that portion of the public right-of-way/utility easement sought to be abandoned in the Application for Abandonment above referred to, do hereby consent to the abandonment of the described portion thereof.

ATMOS ENERGY

By: _____
Title: _____

VERIZON TELEPHONE COMPANY

By: Michael R. Zwernema
Title: OSP Engineer

SUDDENLINK COMMUNICATIONS

By: _____
Title: _____

BRYAN TEXAS UTILITIES

By: _____
Title: _____

Application for Abandonment of
a Public Right-of-Way/Easement

Location: 1115 Anderson Street

EXHIBIT NO. 3

The undersigned public utility companies, using or entitled to use, under the terms and provisions of our respective franchises with the City of College Station, that portion of the public right-of-way/utility easement sought to be abandoned in the Application for Abandonment above referred to, do hereby consent to the abandonment of the described portion thereof.

ATMOS ENERGY

By: _____

Title: _____

VERIZON TELEPHONE COMPANY

By: _____

Title: _____

SUDDENLINK COMMUNICATIONS

By: 

Title: Supervisor Ops - Construction 7.18.23

BRYAN TEXAS UTILITIES

By: _____

Title: _____

Application for Abandonment of
a Public Right-of-Way/Easement

Location: 1115 Anderson Street

EXHIBIT NO. 3

The undersigned public utility companies, using or entitled to use, under the terms and provisions of our respective franchises with the City of College Station, that portion of the public right-of-way/utility easement sought to be abandoned in the Application for Abandonment above referred to, do hereby consent to the abandonment of the described portion thereof.

ATMOS ENERGY

By: _____
Title: _____

VERIZON TELEPHONE COMPANY

By: _____
Title: _____

SUDDENLINK COMMUNICATIONS

By: _____
Title: _____

BRYAN TEXAS UTILITIES

By: Greg BURKHOLDER
Title: Engineering Design Manager

Application for Abandonment of a Public Right-of-Way / Easement

Location: 1115 Anderson Street

EXHIBIT NO.4

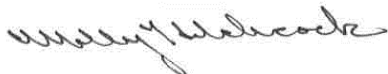
The undersigned, City staff of the City of College Station, certify that they have carefully considered the Application for Abandonment of the public right-of-way/easement referred to above the standpoint of City of College Station ordinances and with respect to recent and future needs of the City of College Station and see no objection to the requested abandonment from the City's standpoint.

X 

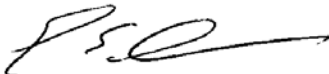
City Engineer
City of College Station

X 

Building Official
City of College Station

X 

Zoning Official
City of College Station

X 

Fire Marshal
City of College Station

X 

Electric Department
City of College Station

X 

Water Services Department
City of College Station

X 

Public Works Director
City of College Station

Application for Abandonment of
a Public Right-of-Way/Easement

Location: 1115 Anderson Street

EXHIBIT NO. 5

The undersigned, owners of property abutting upon that portion of the public right-of-way/easement named and described in the Application for Abandonment of a Public Right-of-Way/Easement referred to above, do hereby consent to such abandonment.

NAME: _____
ADDRESS: _____

NAME: _____
ADDRESS: _____

NAME: _____
ADDRESS: _____

NAME: _____
ADDRESS: _____

Lawyers Title Company of Brazos County
1450 Copperfield Parkway, Suite 100
College Station, TX 77845
Phone: 979-776-3600
Fax: 979-776-2383

TITLE REPORT

Date: June 22, 2023

File No.: GF No. M2953

Record Title at the Effective Date Hereof is Vested in:

A Home Base for Transitioning Foster Youth, Inc., a Texas non-profit corporation doing business as Unlimited Potential

The Land Referred to In this Report is Described as Follows:

TRACT ONE

A FIELD NOTES DESCRIPTION OF A 20' WIDE UTILITY EASEMENT DESCRIBED IN VOLUME 468, PAGE 92 OF THE DEED RECORDS OF BRAZOS COUNTY, TEXAS (DRBCT) TO BE ABANDONED IN THE CRAWFORD BURNETT LEAGUE SURVEY, ABSTRACT 7, IN COLLEGE STATION, BRAZOS COUNTY, TEXAS, BEING OVER, ACROSS AND UPON A CALLED 2.805 ACRE TRACT OF LAND DESCRIBED IN A DEED TO A HOME BASE FOR TRANSITIONING YOUTH, INC. RECORDED IN [VOLUME 17143, PAGE 25](#) OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS (OPRBCT); SAID 20' WIDE UTILITY EASEMENT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at a 1/2 inch iron rod with a plastic cap stamped "RPLS 1852" found for the north corner of said 2.805 acres;

THENCE, over, across and upon said 2.805 acres for the following five (5) courses and distances:

- 1) S 00° 18' 58" W, for a distance of 20.91 feet to a point for corner being the POINT OF BEGINNING hereof;
- 2) S 44° 53' 25" E, for a distance of 25.64 feet to a point for corner;
- 3) S 06° 22' 03" W, for a distance of 104.77 feet to a point for corner, from which City of College Station Monument CS94-220 bears S 33° 30' 27" W, a

distance of 2,877.38 feet;

4) N 83° 37' 57" W, for a distance of 20.00 feet to a point for corner, from which a 1/2 inch iron rod with a plastic cap stamped "RPLS 1852" found for the west corner of said 2.805 acres bears S 61° 15' 52" W, a distance of 327.04 feet;

5) N 06° 22' 03" E, for a distance of 120.82 feet to the POINT OF BEGINNING hereof and containing 2,256 square feet, more or less.

TRACT TWO

A FIELD NOTES DESCRIPTION OF A 15' WIDE UTILITY EASEMENT DESCRIBED IN VOLUME 1364, PAGE 195 OF THE OFFICIAL RECORDS OF BRAZOS COUNTY, TEXAS (ORBCT) TO BE ABANDONED IN THE CRAWFORD BURNETT LEAGUE SURVEY, ABSTRACT 7, IN COLLEGE STATION, BRAZOS COUNTY, TEXAS, BEING OVER, ACROSS AND UPON A CALLED 2.805 ACRE TRACT OF LAND DESCRIBED IN A DEED TO A HOME BASE FOR TRANSITIONING YOUTH, INC. RECORDED IN [VOLUME 17143, PAGE 25](#) OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS (OPRBCT); SAID 15' WIDE UTILITY EASEMENT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at a 1/2 inch iron rod with a plastic cap stamped "RPLS 1852" found for the north corner of said 2.805 acres;

THENCE, over, across and upon said 2.805 acres for the following five (5) courses and distances:

1) S 05° 36' 33" W, for a distance of 23.44 feet to a point for corner being the POINT OF BEGINNING hereof;

2) S 44° 53' 25" E, for a distance of 19.24 feet to a point for corner;

3) S 06° 20' 16" W, for a distance of 106.63 feet to a point for corner, from which City of College Station Monument CS94-220 bears S 33° 28' 01" W, a distance of 2,876.35 feet;

4) N 83° 39' 44" W, for a distance of 15.00 feet to a point for corner, from which a 1/2 inch iron rod with a plastic cap stamped "RPLS 1852" found for the west corner of said 2.805 acres bears S 61° 31' 13" W, a distance of 329.27 feet;

5) N 06° 20' 16" E, for a distance of 118.68 feet to the POINT OF BEGINNING hereof and containing 1,690 square feet, more or less.

NOTE: The Company is prohibited from insuring the area or quantity of the land described herein. Any statement in the above legal description of the area or quantity of land is not a representation that such area or quantity is correct, but is made only for informational and/or identification purposes and does not override Item 2 of Schedule B hereof.

Exceptions:

Utility Easement executed by Brazos Valley Geriatric Center to the City of College Station, Texas, dated November 25, 1980, recorded in [Volume 468, Page 92](#), Deed Records of Brazos County, Texas.

Utility Easement executed by ARA Living Centers of Texas, Inc. to the City of College Station, dated November 1, 1991, recorded in [Volume 1364, Page 195](#), Official Records of Brazos County, Texas.

Multiple Dwelling Unit Right-of-Entry Private Easement Agreement by and between TCA Management Company and Amerra Health Care d/b/a Brazos Valley Geriatric, dated March 31, 1998, recorded in [Volume 3081, Page 294](#), Official Records of Brazos County, Texas.

Public Utility Easement executed by Anderson Re TX, LLC to City of College Station, Texas, dated November 17, 2009, recorded in [Volume 9404, Page 99](#), Official Records of Brazos County, Texas.

All leases, grants, exceptions or reservations of coal, lignite, oil, gas and other minerals, together with all rights, privileges, and immunities relating thereto, appearing in the Public Records whether listed or not. There may be leases, grants exceptions or reservations of mineral interest that are not listed.

Curative Matters:

Vendor's lien retained in Deed executed by SEZER ENTERPRISES, LLC, a Texas limited liability company, to A HOME BASE FOR TRANSITIONING FOSTER YOUTH, INC., a Texas non-profit corporation doing business as UNLIMITED POTENTIAL, dated June 30, 2021, recorded in [Volume 17143, Page 25](#), Official Records of Brazos County, Texas, securing the payment of one note of even date therewith in the principal sum of \$443,016.88, payable to BRAZOS VALLEY CDC, INC., and additionally secured by a Deed of Trust of even date therewith executed by A HOME BASE FOR TRANSITIONING FOSTER YOUTH, INC., a Texas non-profit corporation doing business as UNLIMITED POTENTIAL, to PAUL TURNEY, Trustee, said Deed of Trust filed on June 30, 2021, in [Volume 17143, Page 29](#), Official Records of Brazos County, Texas.

The following note is for informational purposes only:

The following deed(s) affecting said land were recorded within thirty-six (36) months of the date of this report:

Warranty Deed with Vendor's Lien executed by SEZER ENTERPRISES, LLC, a Texas limited liability company, to A HOME BASE FOR TRANSITIONING FOSTER YOUTH, INC., a Texas non-profit corporation doing business as UNLIMITED POTENTIAL, dated June 30, 2021, recorded in [Volume 17143, Page 25](#), Official Records of Brazos County, Texas.

Assumed Name Certificate executed by A Home Base for Transitioning Foster Youth doing business as Unlimited Potential, Inc., dated December 6, 2018, recorded in [Volume 15046, Page 142](#), Official Records of Brazos County, Texas.

THIS REPORT IS ISSUED WITH THE EXPRESS UNDERSTANDING, EVIDENCED BY THE ACCEPTANCE OF SAME, THAT THE UNDERSIGNED, LAWYERS TITLE COMPANY OF BRAZOS COUNTY DOES NOT UNDERTAKE HEREIN TO GIVE OR EXPRESS ANY OPINION AS TO THE VALIDITY OF THE TITLE TO THE PROPERTY ABOVE DESCRIBED, NOR AS TO THE VALIDITY OF ANY OF THE INSTRUMENTS REPORTED HEREIN, INCLUDING THE PURPORTED DEED(S) ESTABLISHING THE RECORD OWNER(S) CITED ABOVE, BUT IS SIMPLY REPORTING BRIEFLY HEREIN, AS TO THE INSTRUMENTS FOUNDS OF RECORD PERTAINING TO THE SUBJECT PROPERTY, AND IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT THIS REPORT IS NEITHER A GUARANTY OR WARRANTY OF THE TITLE. Y ACCEPTANCE OF THIS TITLE REPORT, IT IS UNDERSTOOD THAT THE LIABILITY OF THE ISSUER HEREOF IS EXPRESSLY LIMITED TO \$250.00. THIS SEARCH HAS BEEN LIMITED TO THE ABOVE MATTERS AND THE ABOVE TIME PERIOD AND LAWYERS TITLE COMPANY OF BRAZOS COUNTY HAS NOT SEARCHED FOR, NOR HAS REFLECTED HEREIN, ANY EXAMINATION AS TO TAX SUITS, SPECIAL ASSESSMENTS, CONFLICTS OR OTHER INSTRUMENTS WHICH MAY AFFECT TITLE TO THE SUBJECT PROPERTY. IF TITLE INSURANCE COVERAGE, WHICH IS NOT PROVIDED BY THIS REPORT, IS NEEDED, SAID COVERAGE IS AVAILABLE THROUGH THE APPLICABLE PROMULGATED POLICY(IES), AT THE SPECIFIED PROMULGATED PREMIUM.

OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS, HAVE BEEN
CHECKED THROUGH JUNE 20, 2023 @ 7:00 A.M..

Lawyers Title Company of Brazos County

By: Tina Long
Tina Long

November 9, 2023

Item No. 9.2.

LULAC Oak Hill Apartments Rehabilitation Funding Agreement Amendment

Sponsor: Debbie Eller, Director of Community Services

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding an amendment to a contract with LULAC Oak Hill, Inc. to provide additional funding in the amount of \$585,675.00 of Community Development Block Grant funds for additional funding needed for the complete rehabilitation of LULAC Oak Hill Apartments located at 1105 Anderson.

Relationship to Strategic Goals:

Core Services & Infrastructure, Neighborhood Integrity

Recommendation(s): Staff recommends City Council consider approval of the CDBG Funding Agreement.

Summary: In April 2021, City Council approved a Section 108 Loan application to the U. S. Department of Housing and Urban Development (HUD) for the LULAC Oak Hill Apartment Rehabilitation Project. The loan in the amount of \$2,808,000 was approved by HUD in August 2021. The loan with LULAC Oak Hill, Inc. closed and a contract for funding was executed on October 20, 2023.

The Section 108 loan process required an extended amount of time and the cost of construction increased from the time of the initial bid used for the loan application. The original loan amount is \$2,808,000 and the current bid is \$3,700,569.69, leaving a balance needed of \$892,569.69. LULAC submitted a request for additional funding through a Request for Proposal released in April 2023 for the Development of Affordable Housing. LULAC has requested \$585,675.00 from CDBG funds and LULAC will provide \$306,894.69 for the project.

Staff explored an increase in the original Section 108 loan amount of \$2,808,000 that was approved in 2021 but HUD responded that the amount was not able to be increased as the new request was in a different year than the original loan. Receiving additional funds would require submission of a new loan application. Based on the amount of time to complete the initial loan process, staff reviewed the CDBG funds available and the anticipated expenditures of other projects and determined that allocating additional funds to LULAC would meet the goals identified in the Consolidated Plan and help in meeting the required expenditure requirements.

LULAC Oak Hill apartments is a 50-unit complex that was developed in 1978 for elderly, low-income renter households. The rehabilitation project will be extensive and include interior, exterior, common areas, parking, and amenities, essentially making the apartment complex "like new". The total cost of the complete renovation is \$3,700,569.69. This equates to \$74,011 per unit. The Land Use Restriction Agreement will remain in place for 20 years and ensure that LULAC Oak Hill Apartments will be available for low-income elderly renters for the entire time.

Budget & Financial Summary: \$585,675 in Community Development Block Grant funds is included in the FY2024 Community Development Budget in Rental Housing Rehabilitation.

Attachments:

1. Amended Project Budget
2. Amendment for Additional CDBG Funding

Amended Exhibit B				
Project Budget				
LULAC OAK HILL				
Source and Use of Funds				
SCOPE OF WORK	Expense	Section 108	CDBG	LULAC Funds
CONCRETE	\$ 12,750.00	\$ 12,750.00		
UNIT DEMO	\$ 65,000.00	\$ 65,000.00		
CARPENTRY	\$ 643,453.00	\$ 643,453.00		
ROOFING, GUTTERS & SPOUTS	\$ 166,349.00	\$ 166,349.00		
WINDOWS & SCREENS	\$ 52,500.00	\$ 52,500.00		
EXT DOOR/MILLWORK	\$ 35,800.00	\$ 35,800.00		
CABINETS & INSTALL	\$ 192,000.00	\$ 192,000.00		
LAMINATE & INSTALL	\$ 45,000.00	\$ 45,000.00		
PLUMBING	\$ 175,875.00	\$ 175,875.00		
DRYWALL	\$ 105,000.00	\$ 105,000.00		
TILE & VINYL	\$ 217,543.00	\$ 217,543.00		
ELECTRICAL	\$ 207,500.00	\$ 207,500.00		
ELEC LIGHT PACKAGE	\$ 20,500.00	\$ 20,500.00		
PAINT	\$ 160,000.00	\$ 160,000.00		
HARDWARE	\$ 50,000.00	\$ 50,000.00		
CLEANING	\$ 25,000.00	\$ 25,000.00		
SIGNS	\$ 5,000.00	\$ 5,000.00		
APPLIANCE	\$ 40,860.00	\$ 40,860.00		
PERIMETER FENCE	\$ 72,855.00	\$ 72,855.00		
HVAC	\$ 17,500.00	\$ 17,500.00		
SWPPP	\$ 5,000.00	\$ 5,000.00		
ABATEMENT/ REMOVAL	\$ 15,550.00	\$ 15,550.00		
KCTX Labor/Travel/Stay	\$ 60,000.00	\$ 60,000.00		
Job Site Trailer/Storage Units	\$ 9,200.00	\$ 9,200.00		
		\$ -		
Subtotal Hard Costs	\$ 2,400,235.00			
Contingency (10%)	\$ 240,023.50	\$ 38,128.81	201,894.69	
Total Hard Costs	\$ 2,640,258.50			
		\$ -		
General Requirements (6%)	\$ 158,415.51	\$ 158,415.51		
Overhead (2%)	\$ 52,805.17	\$ 52,805.17		
Profit (6%)	\$ 158,415.51	\$ 158,415.51		
Total Construction	\$ 3,009,894.69			
ALTERNATIVES/OPTIONS				
Emergency pull Switchess	\$ 41,500.00		\$ 41,500.00	
Door & Draw Pulls	\$ 10,000.00		\$ 10,000.00	
Re-Texture Walls	\$ 70,000.00		\$ 70,000.00	
Re-Stripe Parking Lot	\$ 6,500.00		\$ 6,500.00	
ADA Compliant Sidewalks	\$ 18,500.00		\$ 18,500.00	
Metal Permiter Fence/Gates	\$ 34,800.00		\$ 34,800.00	
Electric Gate Operator	\$ 9,200.00		\$ 9,200.00	
Power Wash Brick	\$ 12,300.00		\$ 12,300.00	
Granite Countertops	\$ 59,995.00		\$ 59,995.00	
Asbestos Abatement	\$ 60,000.00		\$ 60,000.00	
Asbestos Abatement Monitoring	\$ 9,880.00		\$ 9,880.00	
Total Construction	\$ 3,342,569.69			
Professional Fees				
Architectural	\$ 30,000.00			\$ 30,000.00
Survey				
Engineering	\$ 10,000.00			\$ 10,000.00
Permits	\$ 11,000.00			\$ 11,000.00
Inspections	\$ 20,000.00		\$ 20,000.00	
Insurance	\$ 12,000.00			\$ 12,000.00
Environmental	\$ 5,000.00			\$ 5,000.00
Other Soft Costs				
Accounting	\$ 15,000.00		\$ 15,000.00	
Legal	\$ 30,000.00			\$ 30,000.00
Title/Recording	\$ 40,000.00			\$ 40,000.00
Soft Cost Contingency	\$ 60,000.00			\$ 60,000.00
Relocation Costs	\$ 75,000.00		\$ 16,105.31	\$ 58,894.69
Developer Fee	\$ 50,000.00			\$ 50,000.00
Total Project Costs	\$ 3,700,569.69	\$ 2,808,000.00	\$ 585,675.00	\$ 306,894.69

**FIRST AMENDMENT TO THE SECTION 108 LOAN AGREEMENT
BETWEEN THE CITY OF COLLEGE STATION AND ELDER- AID, INC.**

This First Amendment to the Section 108 Loan Agreement (“Amendment”), is by and between L.U.L.A.C. Oak Hill, Inc., a Texas non-profit corporation (“LULAC”) and the City of College Station, a Texas Home Rule Municipal Corporation, (“City”).

WHEREAS, the Section 108 Loan Agreement dated October 20, 2022 by and between LULAC and the City (the “Loan Agreement”), provided for a loan up to TWO MILLION EIGHT HUNDRED EIGHT THOUSAND AND 00/100 DOLLARS (\$2,808,000.00) to LULAC for the rehabilitation of affordable housing located at 1105 Anderson, College Station (the “Loan Funds”); and

WHEREAS, project costs to complete the renovations have increased beyond the Loan Funds; and

WHEREAS, the City desires to provide an additional FIVE HUNDRED EIGHTY-FIVE THOUSAND SIX HUNDRED SEVENTY FIVE AND 00/100 DOLLARS (\$585,675.00) of funding to LULAC through funds provided by the Community Development Block Grant (hereinafter “CDBG”) program administered by the U.S. Department of Housing and Urban Development (hereinafter “HUD”) (Federal Award Identification B21MC4800007 and Federal Award Date 10/1/2021) (the “Grant Funds”); and

NOW THEREFORE, in consideration of the mutual promises hereinafter contained, LULAC and the City agree to amend the Loan Agreement as follows:

1. **Amendment of Project Budget.** The Project Budget, attached to the Loan Agreement as Exhibit B, is hereby replaced with the Amended Exhibit B, attached hereto. The expenses set forth therein shall be paid from the sources identified therein.
2. **Defined Terms.** Terms defined in the Loan Agreement shall have the same meaning as set forth therein, unless otherwise specified in this Amendment.
3. **Use of the Grant Funds.** LULAC will complete the rehabilitation project contemplated by the Loan Agreement in accordance with the original scope of work. The Project shall be completed by September 30, 2024.
4. **Payment of Grant Funds.** During the City’s Fiscal Year Budget 2024, City shall reimburse LULAC in an amount not to exceed Five Hundred Eighty-Five Thousand Six Hundred Seventy-Five and 00/100 Dollars (\$585,675.00), for the services and expenditures identified on the revised Project Budget, attached hereto as Amended Exhibit B.

No Grant Funds will be disbursed until the City receives the Reimbursement Request Form along with all required receipts, bills, payroll records, cancelled checks, and other proofs of expenditures, as required by the City, in its sole discretion. LULAC may not request funds under this Agreement

until the funds are needed for the payment of eligible costs. The amount of each request must be limited to the amount of money needed to pay eligible costs actually incurred and may not include amounts for prospective or future needs. Unexpended funds may be reallocated. Unexpended funds will remain in the possession of City.

The City retains the right, in its sole discretion, to recapture and seek full reimbursement from LULAC for any funds used for prohibited activities, prohibited purposes, or uses of funds which cause a breach of this Agreement.

5. **Period of Affordability.** The affordable housing requirements of this Agreement shall continue for a period of twenty (20) years (the “Affordability Period”). LULAC agrees to impose restrictive covenants on the Property in the form of a Land Use Restriction Agreement (“LURA”). The LURA will be in a form approved by the City and will continue for the duration of the Affordability Period.

6. **Beneficiary Populations.** Direct services provided by LULAC under this Agreement must benefit residents of College Station whose annual family income is at or below 80% of the median family income for the College Station Metropolitan Statistical Area as established by the HUD Income Limits.

Annually or as tenant occupancy changes, whichever occurs earlier, LULAC will submit to the City a copy of the lease and proof of income of the tenants occupying the units. This information will be submitted for the duration of the Affordability Period as noted in the Land Use Restriction Agreement.

LULAC may not prohibit a Section 8 tenant from occupying a funded unit. LULAC is not prohibited from conducting a background check on credit history or criminal history.

7. **Verification of Income.** Verification of income will be pursuant to 24 CFR 5.609. LULAC shall document income verification for low-income beneficiaries receiving assistance through programs supported by CDBG funds and may use the following documents for verification.

- (a) W-2 Forms.
- (b) 1040 Forms.
- (c) Pay check stubs

In lieu of the above documents, LULAC may substitute:

- (a) Documentation of client participation in other programs of public assistance including Temporary Assistance for Needy Families Program (TANF), Supplemental Security Income (SSI), Food Stamps, Low-Income Energy Assistance, Title XX General Assistance, Public Housing, Section 8 Rental Assistance, Job Training Partnership Act (JTPA) or similar income tested programs

having the income qualification criteria at least as restrictive as that used under the Section 8 low-income limit established by HUD;

- (b) Evidence that the assisted person is homeless; or
- (c) A notice that the assisted person is a referral from a state, county or local employment agency or other entity that agrees to refer individuals it determines to be low and moderate-income persons based on HUD's criteria and agrees to maintain documentation supporting these determinations.

Recipients of services designed to meet critical emergency needs such as, assistance to abused children, battered spouses, elderly persons, severely disabled adults, homeless persons, illiterate adults, persons living with AIDS and migrant farm workers do not need to meet an income test.

7. **Program Income.** LULAC shall report annually all program income (as defined at 24 CFR 570.500(a)) generated by activities carried out with CDBG funds made available under this Agreement. The use of program income by the LULAC shall comply with the requirements set forth at 24 CFR 570.504. By way of further limitations, LULAC may use such income during the term of this Agreement for activities permitted under this Agreement and shall reduce requests for additional funds by the amount of any such program income balances on hand. All unexpended program income shall be returned to the City at the end of the Agreement period. Any interest earned on cash advances from the U.S. Treasury and from funds held in a revolving fund account is not program income and shall be remitted promptly to the City.

8. **Records and Reports.** LULAC shall maintain fiscal records and supporting documents to verify all expenditures of funds under the terms of this Agreement. Said documentation shall conform to HUD and the City's accounting practices. Said documentation and accounting principles shall comply with 2 CFR Part 200, including the utilization of adequate internal controls.

LULAC shall maintain written records and supporting documents as required under this Agreement for all applicable, generally accepted, and required administrative and operating policies. LULAC shall maintain such records, accounts, reports, files or other documents for a minimum of four (4) years beginning with the submission of the Consolidated Annual Performance and Evaluation Report for the fiscal year 2024. City and HUD's right to access LULAC's files shall continue during this period and for as long as the records are retained past the minimum four (4) year period by LULAC.

LULAC shall provide the City and HUD representatives with reasonable access during regular business hours to any financial records, tenant records, administrative reports, board documentation, files, or other papers belonging to or in use by LULAC.

9. **Amendment.** This Amendment is governed by and construed in accordance with the terms and conditions of the Loan Agreement.

IN WITNESS WHEREOF, the parties have executed this First Amendment as of the date of the last party signing.

L.U.L.A.C. OAK HILL, INC.

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

CITY OF COLLEGE STATION

By: _____
City Manager
Date: _____

APPROVED:

City Attorney
Date: _____

Assistant City Manager / CFO
Date: _____

Amended Exhibit B				
Project Budget				
LULAC OAK HILL				
Source and Use of Funds				
SCOPE OF WORK	Expense	Section 108	CDBG	LULAC Funds
CONCRETE	\$ 12,750.00	\$ 12,750.00		
UNIT DEMO	\$ 65,000.00	\$ 65,000.00		
CARPENTRY	\$ 643,453.00	\$ 643,453.00		
ROOFING, GUTTERS & SPOUTS	\$ 166,349.00	\$ 166,349.00		
WINDOWS & SCREENS	\$ 52,500.00	\$ 52,500.00		
EXT DOOR/MILLWORK	\$ 35,800.00	\$ 35,800.00		
CABINETS & INSTALL	\$ 192,000.00	\$ 192,000.00		
LAMINATE & INSTALL	\$ 45,000.00	\$ 45,000.00		
PLUMBING	\$ 175,875.00	\$ 175,875.00		
DRYWALL	\$ 105,000.00	\$ 105,000.00		
TILE & VINYL	\$ 217,543.00	\$ 217,543.00		
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ELEC LIGHT PACKAGE	\$ 20,500.00	\$ 20,500.00		
PAINT	\$ 160,000.00	\$ 160,000.00		
HARDWARE	\$ 50,000.00	\$ 50,000.00		
CLEANING	\$ 25,000.00	\$ 25,000.00		
SIGNS	\$ 5,000.00	\$ 5,000.00		
APPLIANCE	\$ 40,860.00	\$ 40,860.00		
PERIMETER FENCE	\$ 72,855.00	\$ 72,855.00		
HVAC	\$ 17,500.00	\$ 17,500.00		
SWPPP	\$ 5,000.00	\$ 5,000.00		
ABATEMENT/ REMOVAL	\$ 15,550.00	\$ 15,550.00		
KCTX Labor/Travel/Stay	\$ 60,000.00	\$ 60,000.00		
Job Site Trailer/Storage Units	\$ 9,200.00	\$ 9,200.00		
		\$ -		
Subtotal Hard Costs	\$ 2,400,235.00			
Contingency (10%)	\$ 240,023.50	\$ 38,128.81	201,894.69	
Total Hard Costs	\$ 2,640,258.50			
		\$ -		
General Requirements (6%)	\$ 158,415.51	\$ 158,415.51		
Overhead (2%)	\$ 52,805.17	\$ 52,805.17		
Profit (6%)	\$ 158,415.51	\$ 158,415.51		
Total Construction	\$ 3,009,894.69			
ALTERNATIVES/OPTIONS				
Emergency pull Switchess	\$ 41,500.00		\$ 41,500.00	
Door & Draw Pulls	\$ 10,000.00		\$ 10,000.00	
Re-Texture Walls	\$ 70,000.00		\$ 70,000.00	
Re-Stripe Parking Lot	\$ 6,500.00		\$ 6,500.00	
ADA Compliant Sidewalks	\$ 18,500.00		\$ 18,500.00	
Metal Permiter Fence/Gates	\$ 34,800.00		\$ 34,800.00	
Electric Gate Operator	\$ 9,200.00		\$ 9,200.00	
Power Wash Brick	\$ 12,300.00		\$ 12,300.00	
Granite Countertops	\$ 59,995.00		\$ 59,995.00	
Asbestos Abatement	\$ 60,000.00		\$ 60,000.00	
Asbestos Abatement Monitoring	\$ 9,880.00		\$ 9,880.00	
Total Construction	\$ 3,342,569.69			
Professional Fees				
Architectural	\$ 30,000.00			\$ 30,000.00
Survey				
Engineering	\$ 10,000.00			\$ 10,000.00
Permits	\$ 11,000.00			\$ 11,000.00
Inspections	\$ 20,000.00		\$ 20,000.00	
Insurance	\$ 12,000.00			\$ 12,000.00
Environmental	\$ 5,000.00			\$ 5,000.00
Other Soft Costs				
Accounting	\$ 15,000.00		\$ 15,000.00	
Legal	\$ 30,000.00			\$ 30,000.00
Title/Recording	\$ 40,000.00			\$ 40,000.00
Soft Cost Contingency	\$ 60,000.00			\$ 60,000.00
Relocation Costs	\$ 75,000.00		\$ 16,105.31	\$ 58,894.69
Developer Fee	\$ 50,000.00			\$ 50,000.00
Total Project Costs	\$ 3,700,569.69	\$ 2,808,000.00	\$ 585,675.00	\$ 306,894.69

November 9, 2023

Item No. 9.3.

HWY 6 Condemnation of Public Utility Easements - Clarke & Wyndham, Inc., et. al.

Sponsor: Jennifer Cain, Director Capital Projects

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action on a resolution of the City Council of the City of College Station, Texas, determining that a public utility easement containing approximately 0.449 acres of land is needed and needs to be acquired from Clarke & Wyndham, Inc.; Real Alchemy, L.P.; Real Alchemy 1, L.P.; and JPJ Investments for the construction, operation, and maintenance of a public utility easement, as a part of the utility relocations required by the upcoming widening of State Highway 6 by the Texas Department of Transportation ("TxDOT"); and authorizing the institution of eminent domain proceedings.

Relationship to Strategic Goals:

Core Services and Infrastructure

Recommendation(s): Staff recommends approval.

Summary: TxDOT is currently designing a project to widen State Highway 6, from State Highway 21 in Bryan to just north of State Highway 40 in College Station. Construction of the TxDOT project is planned to begin in July 2024 and utilities must be relocated as soon as possible to facilitate TxDOT's proposed construction schedule.

An initial offer of \$57,236.00, which was based on an appraisal report completed by Allen, Williford & Seale Inc., was made for the needed easement on April 26, 2023 and a final offer was made on October 23, 2023. The representative for the landowners is unwilling to enter into negotiations with the City. Therefore, acquisition by eminent domain is needed to acquire the easement in a timely manner.

Budget & Financial Summary: An approved budget is included for this project in the Electric Fund. There is a sufficient balance remaining for this easement acquisition and future costs.

Attachments:

1. Resolution Authorizing Eminent Domain - Clark & Wyndham Inc. et al.
2. Clarke & Wyndham, et al. easement exhibit 11-1-2023

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, DETERMINING THAT A PUBLIC UTILITY EASEMENT CONTAINING APPROXIMATELY 0.449 ACRES OF LAND IS NEEDED AND NEEDS TO BE ACQUIRED FROM CLARKE & WYNDHAM, INC., ET AL., FOR THE CONSTRUCTION, OPERATION, AND MAINTENANCE OF A PUBLIC UTILITY EASEMENT AND AUTHORIZING THE INSTITUTION OF EMINENT DOMAIN PROCEEDINGS.

WHEREAS, the City Council of the City of College Station now finds and determines that public convenience and necessity requires the City of College Station to acquire a permanent public utility easement over and across a tract of land totaling approximately 0.449 acres for the public purpose of the construction, operation, and maintenance of a public utility easement in the City of College Station, Texas. A more specific description of said public utility easement is attached hereto as Exhibit A and made a part hereof (herein after the “Land”); and

WHEREAS, the City of College Station, through its duly authorized representatives, has negotiated with the owner of the Land for the purchase of the Land for the purpose stated herein and has been unable to agree with such owner as to the fair cash market value thereof and damages, if any, to obtain the necessary property rights required by the City of College Station; and

WHEREAS, the City Council of the City of College Station has authorized the City Manager or his designee to make an offer to the owner of the Land for the purchase of the same based upon its appraised value, and such offer has been made and the owner has refused to accept such final offer; now therefore,

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

Section 1. The facts and recitals set forth in the preamble of this resolution are hereby found to be true and correct.

Section 2. The City Council of the City of College Station finds that, in compliance with Chapter 21 of the Texas Property Code, a bona fide offer has been made by duly authorized representatives of the City for the acquisition of a public utility easement over and across the herein described Land, and that said offer was not accepted, and that the only way for the City of College Station to acquire such interest in the Land is through the filing of eminent domain proceedings.

Section 3. The City Council hereby finds and determines that a public use and necessity exists for the City of College Station to construct, operate, and maintain a public utility easement and to acquire the necessary property rights in the Land as allowed by law, together with all necessary appurtenances, additions and improvements on, over, under, and through those certain lots, tracts or parcels of land.

Section 4. The City Attorney, or his designee, is hereby authorized to bring eminent domain proceedings on behalf of the City of College Station under applicable provisions of law, whether provided by §251.001 of the Texas Local Government Code, as amended, Chapter 21 of the Texas Property Code, or by any other provision of law, against the owner or owners of the Land, to-wit: Clarke & Wyndham, Inc.; Real Alchemy, L.P.; Real Alchemy 1, L.P.; JPJ Investments, a Texas general partnership; and any other person or entity who may have any interest in the Land.

PASSED, APPROVED, AND RESOLVED this _____ day of _____, 2023.

John Nichols
Mayor

ATTEST:

City Secretary

APPROVED AS TO FORM:

City Attorney

Exhibit A

Proposed Easement
 Lots 4 & 5, Block One
 Sutton Place
 College Station, Texas
 October 2022

All of that certain tract or parcel of land lying and being situated in the Morgan Rector league, abstract no. 46, in College Station, Brazos County, Texas, being part of Lots 4 and 5, Block One of Sutton Place as described by the plat recorded in volume 401, page 402 of the Deed Records of Brazos County, Texas, generally being a variable-width strip of land across the northwest boundary of said Lots, and being more particularly described as follows:

Beginning at the west corner of said Lot 5, also being an inside corner of Lot 2, Block 2 of Post Oak Mall as described by the replat recorded in volume 517, page 689 of the Deed Records of Brazos County, Texas, from where a 1/2" iron rod with a red plastic cap stamped "M.McCLURE RPLS 2859" found in a southeast right-of-way line of Holleman Drive bears N 52° 49' W – 6.9 feet, and City of College Station GPS monument no. 127 bears N 75° 57' 53" E – 1696.5 feet;

Thence along the northwest boundary lines of said Lot 5, also being southeast lines of said Lot 2 of the Post Oak Mall subdivision, as follows:

N 39° 33' 48" E – 331.02 feet to a 5/8" iron rod found at an angle point;
 and N 42° 06' 20" E – 74.76 feet to the northeast corner point of this easement tract, in the right-of-way arc (radius 50.00 ft.) of Sutton Place (public right-of-way), from where a 5/8" iron rod found (bent) at or near the northeast corner point of Lot 2 bears N 42° 33'E – 7.4 feet;

Thence along the said right-of-way arc, in a counter-clockwise direction, through a central angle of 93° 49' 53", the chord of which bears S 13° 19' 49" E – 73.04 feet, to the east corner of this described easement tract;

Thence S 42° 20' 40" W – 360.94 feet, through said Lots 4 and 5, to the south corner of this described easement tract in a southwest line of Lot 5 and northeast line of said Lot 2 of the Post Oak Mall subdivision;

Thence N 51° 54' 50" W – 44.06 feet, along the said common Lot line and subdivision boundary, to the Point of Beginning and containing 0.449 acre (19,568 sq. ft.) of land more or less.

Bearings are Texas State Plane, Central Zone, NAD-83(CORS) datum, based on City of College Station GPS control monuments no. 1 and no. 120 (N 63° 55' 14" E).

See separate survey plat dated October 2022.



BASELINE

DCCM

Baseline | DCCM | Txsurv F-10030200
1701 SW Pkwy, Ste 104, College Station, TX 77840
979.693.2777 | BaselineSurveyors.net

Replat of Lot 4 & 5
Block 1, Post Oak Mall
vol. 752, pg. 573

Lot 4-AR

Block 1, Lot 4-AR of the
Post Oak Mall Subdivision
vol. 15084, pg. 34

Survey Control Note:
City of CS GPS mon. no. 127
bears N 75°57'53" E - 1696.5'
from Point of Beginning (P.O.B.)

Lot 5-A
Block 1

10' Electric Easement
vol. 517, pg. 689 (plot)
(also on Lot 2, Block 2)

1/2" R/L cap found
1/4" R/L cap found
1/4" R/L cap found

P.O.B.
(lot corner)

Holleman Drive
variable-width R.O.W.
vol. 477, pg. 147 (plot)

Proposed Easement
0.449 acre (19,566 sq ft.)

Lot 4
Block One

Lot 3-R
(vol. 11610
pg. 120)

Sutton Place
vol. 401, pg. 402

Lot 5
Block One

Drainage, Access, Pedestrian
& Bicycle Path Easements
vol. 4611, pg. 79 (CoCS)

20' San. Sewer Easement
vol. 335, pg. 469 (CoCS)

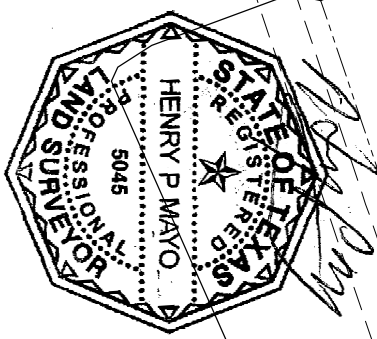
Temporary Construction
Easement (dated 2002)
vol. 4611, pg. 69 (CoCS)

40' "Road R.O.W."
dedicated by plot
vol. 477, pg. 147
(considered by CoCS
to be vacated)

Drainage, Access, Pedestrian
& Bicycle Path Easement
vol. 4611, pg. 92 (CoCS)

Southcreek Phase I
vol. 2205, pg. 243

Wolf Pen Creek
Drainage and
Pedestrian Access
Dedication



Proposed Easement
Lots 4 & 5, Sutton Place
Morgan Rector league A-46
College Station, Texas



Oct. 2022

Bearings are TX State Plane, Central
Zone NAD83 datum, based on GPS
observations checked to City of CS
GPS control monuments no. 127
and no. 120 (S 43°22'14" W).

All existing easements may not be
shown.

Title Commitments GF No. 222307
and 222308, dated June 2022 from
University Title Co. was relied upon
for existing easement research.

Due to lack of found monuments,
a land title survey by McClure &
Browne dated June 2022 was relied
upon for some boundaries of the
Sutton Place lots.

See separate metes and bounds
description prepared with this plat.

Utility Relocations for SH 6 Widening
Proposed Easement from
Clarke & Wyndham, Inc., et al



HOLLEMAN DR E

Proposed Public
Utility Easement
0.449 ac (19,568 sf)

EARL RUDDER FW S

OFF RAMP EARL RUDDER FW S

Notice: The accuracy of this data is limited to the validity and accuracy of available data, and therefore the City makes no representation or warranties as to the accuracy of the data. Any party using the data does so at their own risk. This data is produced pursuant to the Texas Public Information Act. Map created by Ashley Dorsett on 08/04/2023.

0 150 300 Feet

November 9, 2023

Item No. 9.4.

HWY 6 Widening Utility Relocates Condemnation of Public Utility Easements - Post Oak Mall

Sponsor: Jennifer Cain, Director Capital Projects

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action on a resolution of the City Council of the City of College Station, Texas, determining that a public utility easement containing three parcels, totaling approximately 1.49 acres of land, is needed and needs to be acquired from POM-College Station, LLC, for the construction, operation, and maintenance of a public utility easement, as a part of the utility relocations required by the upcoming widening of State Highway 6 by the Texas Department of Transportation ("TxDOT"); and authorizing the institution of eminent domain proceedings.

Relationship to Strategic Goals:

Core Services and Infrastructure

Recommendation(s): Staff recommends approval.

Summary:

TxDOT is currently designing a project to widen State Highway 6, from State Highway 21 in Bryan to just north of State Highway 40 in College Station. Construction of the TxDOT project is planned to begin in July 2024 and utilities must be relocated as soon as possible to facilitate TxDOT's proposed construction schedule.

POM-College Station, LLC, the landowner, has requested condemnation of the needed easements to facilitate and expedite acquisition due to required lienholder consent, as well as the consent of multiple tenants. The landowner has indicated that they are agreeable to the initial offer of \$467,057, which was based on an appraisal report completed by Allen, Williford & Seale Inc., for the three easements.

Budget & Financial Summary:

A budget of \$1,480,000 is included in the Water Capital Improvement Project Fund (WA2205). A total of \$367,144 has been expended or committed to date, leaving a balance of \$1,112,856 for this easement acquisition (\$10,944 plus associated costs) and future costs.

An approved budget is included for this project in the Electric Fund. There is a sufficient balance remaining for this easement acquisition (\$456,113 plus associated costs) and future costs.

Attachments:

1. Resolution Authorizing Eminent Domain - POM College Station LLC
2. POM easement exhibit 11-1-2023

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS, DETERMINING THAT A PUBLIC UTILITY EASEMENT CONTAINING THREE PARCELS, TOTALING APPROXIMATELY 1.49 ACRES OF LAND, IS NEEDED AND NEEDS TO BE ACQUIRED FROM POM-COLLEGE STATION, LLC, FOR THE CONSTRUCTION, OPERATION, AND MAINTENANCE OF A PUBLIC UTILITY EASEMENT AND AUTHORIZING THE INSTITUTION OF EMINENT DOMAIN PROCEEDINGS.

WHEREAS, the City Council of the City of College Station now finds and determines that public convenience and necessity requires the City of College Station to acquire a permanent public utility easement over and across three tracts of land totaling approximately 1.49 acres for the public purpose of the construction, operation, and maintenance of a public utility easement in the City of College Station, Texas. More specific descriptions of said public utility easements are attached hereto as Exhibits A-1, A-2, and A-3 and made a part hereof (herein after the “Land”); and

WHEREAS, the City of College Station, through its duly authorized representatives, has negotiated with the owners of the Land for the purchase of the Land for the purpose stated herein and has been unable to agree with such owners as to the fair cash market value thereof and damages, if any, to obtain the necessary property rights required by the City of College Station; and

WHEREAS, the City Council of the City of College Station has authorized the City Manager or his designee to make an offer to the owners of the Land for the purchase of the same based upon its appraised value, and such offer has been made and the owner has refused to accept such final offer; now therefore,

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

Section 1. The facts and recitals set forth in the preamble of this resolution are hereby found to be true and correct.

Section 2. The City Council of the City of College Station finds that, in compliance with Chapter 21 of the Texas Property Code, a bona fide offer has been made by duly authorized representatives of the City for the acquisition of a public utility easement over and across the herein described Land, and that said offer was not accepted, and that the only way for the City of College Station to acquire such interest in the Land is through the filing of eminent domain proceedings.

Section 3. The City Council hereby finds and determines that a public use and necessity exists for the City of College Station to construct, operate, and maintain a public utility easement and to acquire the necessary property rights in the Land as allowed by law, together with all necessary appurtenances, additions and improvements on, over, under, and through those certain lots, tracts or parcels of land.

Section 4. The final offer heretofore made to the owner for the purchase of the Land is in all things hereby ratified and confirmed.

Section 5. The City Attorney, or his designee, is hereby authorized to bring eminent domain proceedings on behalf of the City of College Station under applicable provisions of law, whether provided by §251.001 of the Texas Local Government Code, as amended, Chapter 21 of the Texas Property Code, or by any other provision of law, against the owner or owners of the Land, to-wit: POM-College Station, LLC and any other person or entity who may have any interest in the Land.

PASSED, APPROVED, AND RESOLVED this _____ day of _____, 2023.

John Nichols
Mayor

ATTEST:

City Secretary

APPROVED AS TO FORM:

City Attorney

EXHIBIT A-1

Proposed Easement
 Lot 4-AR, Block 1
 Post Oak Mall
 College Station, Texas
 December 2022

All of that certain tract or parcel of land lying and being situated in the Morgan Rector league, abstract no. 46, in College Station, Brazos County, Texas, being part of Lot 4-AR, Block 1 of Post Oak Mall Subdivision as described by the replat recorded in volume 15084, page 34 of the Official Public Records of Brazos County, Texas, generally being a triangular tract of land near the north corner of Lot 4-AR, contiguous with the proposed future right-of-way lines of State Highway Nos. 6 and 30, and being more particularly described as follows:

Beginning at point in the northeast boundary of said Lot 4-AR, where the said future right-of-way line of Highway no. 6 intersects with the current right-of-way line, from where a 1/2" iron rod with a yellow plastic cap stamped "KERR 4502" found at an angle point in the northeast boundary of Lot 4-AR bears N 30° 41' 20" W – 149.36 feet, and City of College Station GPS monument no. 127 bears S 44° 23' 25" E – 2829.4 feet;

Thence N 33° 32' 59" W – 104.74 feet, along the future southwest right-of-way line of Highway no. 6 through said Lot 4-AR, to the most northerly corner of this described easement tract;

Thence S 71° 41' 44" W – 30.09 feet, through said Lot 4-AR along another future right-of-way line, to the west corner of this described easement tract;

Thence S 48° 00' 00" E – 116.33 feet, through said Lot 4-AR, to the Point of Beginning and containing 1,520 sq. ft. (0.035 acre) of land more or less.

Bearings are Texas State Plane, Central Zone, NAD-83(CORS) datum, based on City of College Station GPS control monuments no. 127 and no. 120 (S 43° 22' 14" W).

See separate survey plat dated December 2022.

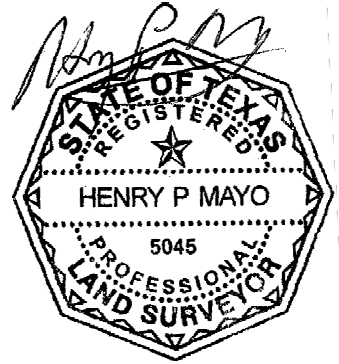


BASELINE

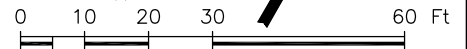
DCCM

Baseline | DCCM | TxSurv F-10030200
1701 SW Pkwy, Ste 104, College Station, TX 77840
979.693.2777 | BaselineSurveyors.net

State Hwy. 30
(Harvey Road)
120' R.O.W.
vol. 200, pg 351



Dec. 2022



Bearings are TX State Plane, Central Zone NAD83 datum, based on GPS observations checked to City of CS GPS control monuments no. 127 and no. 120 (S 43°22'14" W).

All existing easements may not be shown.

Title Commitment GF No. 222304 dated June 2022 from University Title Co. was relied upon for existing easement research. No existing easements listed with defined locations fall within the limits of this exhibit plat, other than those shown and labeled.

See separate metes and bounds description prepared with this plat.

Proposed Easement
1,520 sq.ft. (0.035 acre)

Lot 4-AR
Block 1

Block 1, Lot 4-AR
Post Oak Mall
vol. 15084, pg. 34

15' Public Access Easement
vol. 15084, pg. 34 (plat)

* from P.O.B.
S 29°59'E-78.3' to 5/8"IR/cap
"COTTON SURVEYING" and
S 29°41'E-78.5' to 5/8"IR/alum. cap
"PAULSON SURVEYING, INC RPS 2099"

N 30°41'20"W-149.36'
P.O.B. to IR found
to 2 iron rods
found disturbed *

P.O.B.

State Hwy. 6
(Earl Rudder Fwy.)
variable R.O.W.
vol. 270, pg. 133

Survey Control Note:
City of CS GPS mon. no. 127
bears S 44°23'25" E - 2829.4'
from Point of Beginning (P.O.B.)

Proposed Easement
Block 1, Lot 4-AR, Post Oak Mall
Morgan Rector league A-46
College Station, Texas

Lot 1
Block 1

EXHIBIT A-2

Proposed Easement
 Lot 4-AR, Block 1
 Post Oak Mall
 College Station, Texas
 November 2022

All of that certain tract or parcel of land lying and being situated in the Morgan Rector league, abstract no. 46, in College Station, Brazos County, Texas, being part of Lot 4-AR, Block 1 of Post Oak Mall Subdivision as described by the replat recorded in volume 15084, page 34 of the Official Public Records of Brazos County, Texas, generally being a variable-width strip of land in the east corner of Lot 4-AR, contiguous with the right-of-way lines of Holleman Drive and State Highway No. 6, and being more particularly described as follows:

Beginning at 1/2" iron rod with a yellow plastic cap stamped "KERR 4502" found at the east corner of said Lot 4-AR, at the intersection of a southwest right-of-way line of State Highway No. 6 and the northwest right-of-way boundary of Holleman Drive as dedicated by the said replat of Post Oak Mall Subdivision, from where City of College Station GPS monument no. 127 bears S 60° 11' 00" E – 1015.2 feet;

Thence S 14° 17' 45" W – 8.33 feet, along a northwest right-of-way line of Holleman Drive to its intersection with the northwest line of that existing 30 ft. wide Utility Easement described in volume 390, page 735 of the Deed Records of Brazos County, Texas;

Thence S 42° 13' 03" W – 506.43 feet, through said Lot 4-AR, along the said northwest line of the existing 30 ft. wide easement tract to its intersection with a southeast line of Lot 4-AR, being another northwest right-of-way line of Holleman Drive as dedicated by the said replat of Post Oak Mall Subdivision, from where a 1/2" iron rod with a yellow plastic cap stamped "KERR 4502" found at a point of curvature in the said right-of-way boundary bears N 51° 54' 41" E – 94.2 feet;

Thence S 51° 54' 41" W – 98.91 feet, along the said common Lot and right-of-way line, to the west corner point of this described easement tract, from where a 1/2" iron rod with a yellow plastic cap stamped "KERR 4502" found at an angle point bears S 51° 54' 41" W – 78.2 feet;

Thence N 38° 18' 05" E – 576.34 feet, through said Lot 4-AR, to an angle point of this described easement tract;

Thence N 30° 42' 15" W – 84.00 feet, through said Lot 4-AR parallel and 50 feet from its northeast boundary and the said southwest right-of-way line of State Highway No. 6, to a corner of this described easement tract;

Thence N 59° 17' 45" E – 50.00 feet, through said Lot 4-AR, to the most northerly corner of this described easement tract in the said common Lot and highway right-of-way line;

Thence S 30° 42' 15" E – 123.16 feet, along the said common Lot and highway right-of-way line, to the Point of Beginning and containing 0.605 acre (26,334 sq. ft.) of land more or less.

Bearings are Texas State Plane, Central Zone, NAD-83(CORS) datum, based on City of College Station GPS control monuments no. 127 and no. 120 (S 43° 22' 14" W).

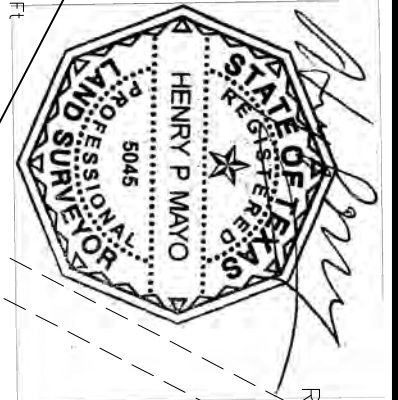
See separate survey plat dated November 2022.



BASELINE

DCCM

Baseline | DCCM | TxSurv F-10030200
1701 SW Pkwy, Ste 104, College Station, TX 77840
979.693.2777 | BaselineSurveyors.net

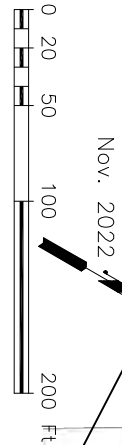


Replat of Lots 3 and 4 - Block 1
Post Oak Mall Subdivision
vol. 529, pg. 17

Lot 3
Block 1

15' Public Access Easement
vol. 15084, pg. 34 (plat)

Lot 4-AR



Bearings are TX State Plane, Central Zone NAD83 datum, based on GPS observations checked to City of CS GPS control monuments no. 127 and no. 120 (S 43°22'14" W).

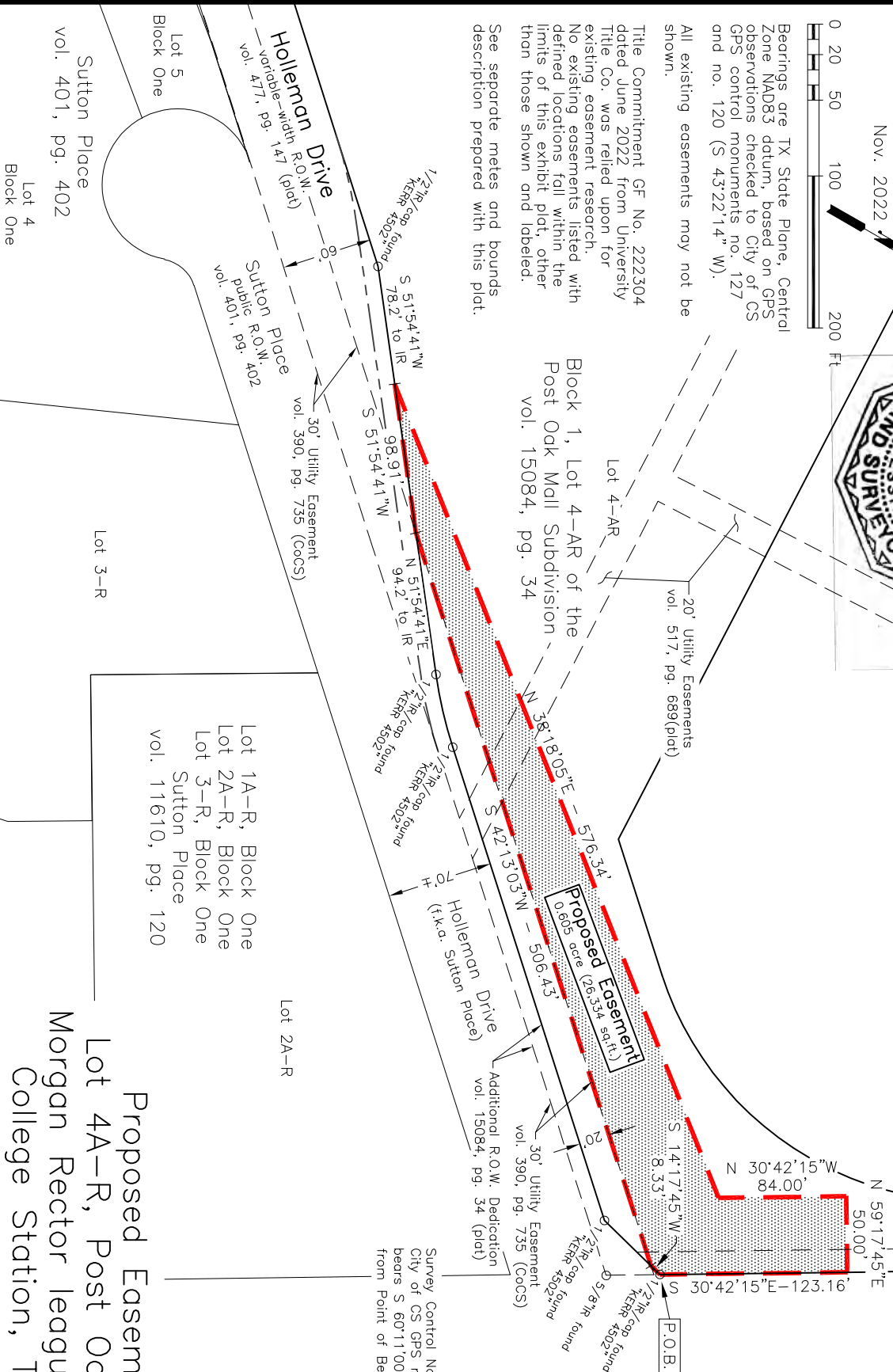
All existing easements may not be shown.

Title Commitment GF No. 222304 dated June 2022 from University Title Co. was relied upon for existing easement research. No existing easements listed within defined locations fall within the limits of this exhibit plat, other than those shown and labeled.

See separate metes and bounds description prepared with this plat.

State Highway No. 6
variable-width R.O.W.

Survey Control Note:
City of CS GPS mon. no. 127
bears S 60°11'00" E - 1015.2'
from Point of Beginning (P.O.B.)



Proposed Easement
Lot 4A-R, Post Oak Mall
Morgan Rector league A-46
College Station, Texas

EXHIBIT A-3

Proposed Easement
 Lot 5-A, Block 1
 Post Oak Mall
 College Station, Texas
 November 2022

All of that certain tract or parcel of land lying and being situated in the Morgan Rector league, abstract no. 46, in College Station, Brazos County, Texas, being part of Lot 5-A, Block 1 of Post Oak Mall Subdivision as described by the replat recorded in volume 752, page 573 of the Official Records of Brazos County, Texas, generally being an L-shaped, variable-width strip of land in the southwest corner of Lot 5-A, contiguous with boundary lines of that 6.50 acre tract described in the deed to the City of College Station recorded in volume 389, page 28 of the Deed Records of Brazos County, Texas, and being more particularly described as follows:

Beginning at 1/2" iron rod found at a west corner of said Lot 5-A, also being the inside corner of the said 6.50 acre tract, from where City of College Station GPS monument no. 127 bears N 82° 34' 40" E – 2924.7 feet;

Thence N 42° 45' 30" E – 350.15 feet, along a common line of said Lot 5-A and the 6.50 acre tract, to a 1/2" iron rod found at an east corner of the 6.50 acre tract;

Thence S 47° 14' 30" E – 37.50 feet, through said Lot 5-A, to an east corner of this described easement tract;

Thence S 42° 45' 30" W – 323.13 feet, through said Lot 5-A, parallel and 37.50 feet southeast of a previously-described line, to an inside corner of this described easement tract;

Thence S 48° 27' 17" E – 333.00 feet and S 47° 35' 09" E – 503.14 feet, through said Lot 5-A, to the southeast corner of this described easement tract in the southeast boundary of Lot 5-A and northwest right-of-way boundary of Holleman Drive;

Thence S 42° 18' 47" W – 27.50 feet, along said common Lot and right-of-way line, to the most southerly corner of Lot 5-A and this described easement tract, from where a 1/2" iron rod found at the east corner of the U.S.D.A. Subdivision, as described by plat recorded in volume 8255, page 284 of the Official Public Records of Brazos County, Texas, bears S 46° 12' W – 100.1 feet;

Thence N 47° 52' 14" W – 873.82 feet, along a southwest line of said Lot 5-A and a northeast line of said 6.50 acre tract, to the Point of Beginning and containing 0.850 acre (37,015 sq. ft.) of land more or less.

Bearings are Texas State Plane, Central Zone, NAD-83(CORS) datum, based on City of College Station GPS control monuments no. 127 and no. 120 (S 43° 22' 14" W).

See separate survey plat dated November 2022.



Notice: The accuracy of this data is limited to the validity and accuracy of available data, and therefore the City makes no representation or warranties as to the accuracy of the data. Any party using the data does so at their own risk. This data is produced pursuant to the Texas Public Information Act. Map created by Ashley Dorsett on 08/16/2023.

HARVEY RD



**Proposed Public
Utility Easement
0.035 ac (1,520 sf)
POM ESMT #1**

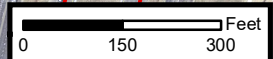
**Utility Relocations for SH 6 Widening
Proposed Easements from
POM-College Station, LLC**

**Proposed Public
Utility Easement
0.850 ac (37,015 sf)
POM ESMT #2**

**Proposed Public
Utility Easement
0.605 ac (26,334 sf)
POM ESMT #3**

HOLLEMAN DR E

OFF RAMP EARL RUDDER FW S
EARL RUDDER FW S
ON RAMP EARL RUDDER FW S



November 9, 2023
Item No. 9.5.
College Station Business Center Real Estate Contract

Sponsor: Brian Piscacek, Economic Development Manager

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding a Real Estate Contract with HFLPI-College Station LLC for the sale of approximately 11.642 acres in the College Station Business Center generally located near the intersection of Gateway Boulevard and Lakeway Drive for the price of \$3,489,000.

Relationship to Strategic Goals:

- Diverse & Growing Economy

Recommendation(s): Staff recommends approval of the real estate contract.

Summary: Comprising the southwest corner of the intersection of Gateway Boulevard and Lakeway Drive and adjacent to State Highway 6, Lot 1R is a 5.635 acre lot, and Lot 2 is a 6.007 acre lot in Block 6, Phase Two of the College Station Business Center. The real estate contract is for the sale of the property to HFLPI-COLLEGE STATION, LLC for \$3,489,000 with proposed uses including warehousing/distribution and office.

Budget & Financial Summary: Net proceeds from the sale will be allocated to the General Fund's fund balance.

Attachments:

1. Real Estate Contract_CSBC

REAL ESTATE CONTRACT

THIS CONTRACT OF SALE ("**Real Estate Contract**") is made by and between the **CITY OF COLLEGE STATION, TEXAS**, a Texas Home Rule Municipal Corporation, situated in Brazos County, Texas ("**SELLER**"), and **HFLPI-COLLEGE STATION, LLC**, a Texas limited liability company ("**BUYER**"), upon the terms and conditions and for the consideration set forth herein.

ARTICLE I PURCHASE AND SALE

1.1 SELLER agrees to sell and convey by Special Warranty Deed and BUYER agrees to purchase and pay for:

a fee simple interest in and to all those certain lots, tracts or parcels of land, lying and being situated in Brazos County, Texas and being Lot One "R" (1R) and Lot Two (2), Block Six (6), THE BUSINESS CENTER AT COLLEGE STATION, PHASE TWO, an addition to the City of College Station, Brazos County, Texas, according to the Resubdivision and Final Plat recorded in Volume 15639, Page 231, of the Official Public Records of Brazos County, Texas, a copy of said Resubdivision and Final Plat attached hereto as **EXHIBIT A** (the "**Land**") together with all and singular the rights and appurtenances pertaining to the Land, including all right, title and interest of SELLER in and to adjacent roads, streets, alleys or rights-of-way, all easements benefitting the Land, and all utility rights and reservations with respect to the Land (all of such real property, rights, titles, interests and appurtenances being herein referred to together as the "**Property**"), for the consideration and subject to the terms, provisions, and conditions set forth herein.

1.2 City Council Approval. SELLER warrants and represents that this Real Estate Contract to sell and purchase the Property has been approved by vote of the City Council of the City of College Station, Texas, such approval reflected by the signature of SELLER'S representatives to this Real Estate Contract.

1.3 The SELLER has provided a Commitment for Title Insurance (the "**Title Commitment**") to insure title to BUYER pursuant to this Real Estate Contract, a copy of which is attached hereto as **EXHIBIT B** and made a part hereof for all intents and purposes.

1.4 The SELLER has provided a copy of the Final Plat (being a replat) of THE BUSINESS CENTER AT COLLEGE STATION, PHASE TWO, BLOCK 6, LOTS 1R & 2-5, an addition to the City of College Station, Brazos County, Texas, recorded in Volume 15639, Page 231, of the Official Public Records of Brazos County, Texas, out of which 6.007 acres comprising Lot 1R and 5.635 acres comprising Lot 2, Block 6 is the LAND to be conveyed to BUYER, as shown in **EXHIBIT A**.

1.5 BUYER may at its cost order and obtain a Phase 1 Environmental Site Assessment (a “Phase 1”) and if such Phase 1 recommends a Phase 2 Environmental Site Assessment BUYER may at its cost obtain such Phase 2 Environmental Site Assessment. BUYER may also at its cost order and obtain a current survey of the Property.

1.6 The parties agree that SELLER shall be responsible for and shall pay at Closing any real estate taxes and/or assessments on the Property for years prior to the year in which the Closing occurs, and any real estate taxes and/or assessments on the Property for the current year, as of Closing shall be prorated as of the Closing Date (as defined below) and shall be adjusted in cash at the Closing, with SELLER being responsible for all such taxes and assessments for periods prior to the Closing date. SELLER is a tax-exempt entity. BUYER agrees and understands that SELLER assumes no responsibility for rollback taxes, if any.

1.7 **Feasibility.**

(a) **Feasibility Period.** BUYER requires adequate time to complete due diligence. BUYER shall have a **feasibility period of seventy-five (75) days** from Opening of Escrow as defined below (the “**Feasibility Period**”) to conduct pre-marketing studies, engineering, environmental, feasibility, zoning, land plan or land use studies or reviews, inspections, investigations, and reviews of the Property. BUYER and its employees, agents and/or independent contractors may come upon said Property at any time during the Feasibility Period (and thereafter until the Closing or termination of this Real Estate Contract) in connection with the BUYER’S review of the Property (provided that BUYER shall indemnify and hold harmless SELLER from and against any and all liability, responsibility, or damages incurred or sustained by SELLER as a result of the actions of BUYER, its employees, agents or independent contractors in connection therewith, but not the mere discovery of an existing condition on the Property). If the Closing does not occur (other than due to SELLER’S default), BUYER shall, at its expense, promptly repair and restore any damage to the Property caused by BUYER and/or its agents in connection with such inspections, studies, or tests. **BUYER hereby agrees to indemnify, defend, and hold SELLER harmless from and against all loss, cost, damage, claims or cause of action actually incurred by SELLER or asserted against SELLER, arising from personal injury or property damage on the Land to the extent caused by actions taken at the Property by BUYER or its agents, engineers or consultants, but not arising from the mere discovery or non-negligent disturbance of an existing condition on the Land.** SELLER acknowledges that BUYER intends to conduct an investigation of the Property, which may include examination of any and all documentation with respect to the Property, examination of the title to the Property, conduct tests to determine the presence or absence of hazardous waste, asbestos, radon and other similar materials and substances, and determine the compliance of the Property with all applicable laws, rules, codes and regulations. **Notwithstanding anything contained herein to the contrary,** BUYER’S repair and indemnification obligations pursuant to this Section shall survive Closing hereunder or termination of this Real Estate Contract, as the case may be. On or before ten (10) days after the Opening of Escrow, Seller

shall provide to Buyer copies of any previous environmental assessments, geotechnical reports, studies, or analyses made on or relating to the Property, any plats of the Property, and copies of current utility capacity letters for the Property.

- (b) **Extending the Feasibility Period.** The SELLER and BUYER may in writing extend the Feasibility Period by thirty (30) days beyond the initial 75-day period. In the event of such extension, BUYER will deposit an additional ONE HUNDRED DOLLARS (\$100.00) of Earnest Money with Title Company on or before three (3) business days after the expiration of the initial 75-day Feasibility Period or any subsequent Feasibility Period extension period. The SELLER warrants and represents that the City Manager has the authority to agree to and execute any further Feasibility Period extension agreements.

1.8 Governmental Approvals.

- (a) During the Feasibility Period (and thereafter until the Closing or termination of this Real Estate Contract) as part of BUYER'S due diligence, BUYER may pursue, at BUYER'S sole cost and expense, such governmental consents or approvals regarding the Property with respect to BUYER'S proposed development ("**Governmental Approvals**") and contact appropriate governmental authorities according to applicable law regarding the Property; provided, however, that BUYER shall pay all fees and expenses incurred by BUYER in attempting to obtain any Governmental Approvals. At BUYER'S request, SELLER shall provide reasonable assistance to the BUYER regarding Governmental Approvals.
- (b) BUYER acknowledges that SELLER is a Texas Home Rule Municipal Corporation with regulatory authority over land use and building applications, including subdivision, zoning, development, and construction on real property within College Station city limits.
- (c) **THE BUYER RECOGNIZES AND EXPRESSLY AGREES THAT THE SELLER IS NOT OBLIGATED BY VIRTUE OF THIS AGREEMENT TO APPROVE ANY APPLICATION OR REQUEST FOR GOVERNMENTAL APPROVALS WHICH SELLER OR BUYER MAY SUBMIT TO A GOVERNMENTAL BODY AND CERTIFIES AND ACKNOWLEDGES THAT SELLER HAS NOT MADE ANY REPRESENTATIONS TO OR AGREEMENTS WITH BUYER THAT SELLER WILL GRANT ANY GOVERNMENTAL APPROVALS SUBMITTED BY BUYER OR SELLER. HOWEVER, NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, SELLER AGREES THAT IT WILL FOLLOW THE SAME ORDINANCES AND POLICIES WITH RESPECT TO THE PROPERTY FOR ANY SUCH APPROVALS THAT IT WOULD FOLLOW FOR SIMILAR REQUESTS FOR SIMILAR APPROVALS WITH RESPECT TO SIMILAR PROPERTIES OR OTHER BUYERS OR OWNERS.**

1.9 On or before the expiration of the Feasibility Period, BUYER shall provide the SELLER and the Title Company with written notice that either (i) the Property is acceptable and BUYER desires to consummate the transaction contemplated herein or (ii) the Property is not acceptable and BUYER elects to terminate this Real Estate Contract. **Notwithstanding anything herein to the contrary**, BUYER'S failure to give SELLER timely notice of (ii) above shall be deemed BUYER'S timely notification of (i) above.

1.10 The sale of the PROPERTY shall be made by a Special Warranty Deed in the form attached hereto as **EXHIBIT C**.

ARTICLE II PURCHASE PRICE

2.1 The purchase price for said Property shall be the amount of **THREE MILLION FOUR HUNDRED EIGHTY-NINE THOUSAND AND NO/100 DOLLARS (\$3,489,000.00)** (the "**Purchase Price**").

2.2 The Purchase Price shall be payable in full at Closing, subject to application of the Earnest Money (as defined below) to the Purchase Price and the other adjustments and prorations provided in this Real Estate Contract.

ARTICLE III EARNEST MONEY AND FEASIBILITY FEE

3.1 Earnest Money. BUYER agrees, within three (3) business days after the full execution and delivery of this Real Estate Contract by BUYER and SELLER, to deposit with SOUTH LAND TITLE, LLC at 3800 Cross Park Drive, Bryan, Texas 77802 (the "**Title Company**") as an earnest money deposit, the sum of **THIRTY THOUSAND AND NO/100 DOLLARS (\$30,000.00)** in cash or immediately-available funds (the "**Earnest Money**"). The date on which the Title Company gives notice to SELLER and BUYER that it has received such Earnest Money is referred to herein as "**Opening of Escrow**". The Title Company shall be directed to invest the Earnest Money in an interest-bearing account mutually acceptable to SELLER and BUYER. Any interest earned on this account shall be added to the Earnest Money and considered a part of the Earnest Money. The Earnest Money shall be credited to the Purchase Price at Closing.

If BUYER terminates this Real Estate Contract for any reason in BUYER'S sole discretion by written notice to SELLER on or before the end of the Feasibility Period, or if the transaction contemplated by this Real Estate Contract fails to close by reason of default or breach of SELLER (or the failure of a condition precedent), the Earnest Money shall be returned to BUYER. Should BUYER determine not to go forward with purchasing the Property, BUYER'S sole recourse (except in the event of a default or breach by SELLER) shall be to terminate this Real Estate Contract prior to the expiration of the Feasibility Period (or later if such election to terminate is in connection with the failure of a condition precedent or a default or breach by SELLER) and receive the return of the Earnest Money as provided above. If the transaction contemplated by this Real Estate Contract fails to close by reason of default or breach of BUYER, then SELLER shall be entitled to receive from the Title Company and retain the Earnest Money as liquidated damages

and as SELLER'S sole and exclusive remedy against BUYER. Upon BUYER and SELLER'S joint written notice to the Title Company of the termination of this Real Estate Contract, the Title Company shall disburse such Earnest Money and any accrued interest thereon to BUYER and/or SELLER as instructed therein, provided that if BUYER terminates this Real Estate Contract prior to the expiration of the Feasibility Period, the Earnest Money and any accrued interest thereon shall be disbursed by the Title Company to BUYER without requirement of any release or instruction from Seller.

3.2 Feasibility Fee. On or before seven (7) business days after the Opening of Escrow, BUYER will deliver to SELLER the sum of **ONE THOUSAND AND NO/100 DOLLARS (\$1,000.00)** in cash or immediately available funds ("**Feasibility Fee**") as the required fee for the Feasibility Period as defined herein above. This Feasibility Fee is non-refundable, and it will not be a credit to the Purchase Price.

ARTICLE IV REPRESENTATIONS AND WARRANTIES OF SELLER

4.1 SELLER hereby represents and warrants to BUYER as of the Opening of Escrow and as of the Closing Date that:

- (a)** SELLER has the full right, power, and authority to enter into and perform its obligations under this Real Estate Contract and all requisite action necessary to authorize SELLER to enter into this Real Estate Contract and to carry out SELLER'S obligations hereunder has been obtained or on or before Closing will have been taken.

THERE ARE NO WARRANTIES OR REPRESENTATIONS BY SELLER OTHER THAN THOSE EXPRESSLY SET FORTH IN THIS REAL ESTATE CONTRACT, THE SPECIAL WARRANTY DEED TO BE EXECUTED AND DELIVERED AT CLOSING AND/OR IN ANY OTHER CLOSING DOCUMENTS EXECUTED AND DELIVERED BY SELLER (COLLECTIVELY, THE "EXPRESS WARRANTIES").

BUYER ACKNOWLEDGES THAT, EXCEPT FOR THE EXPRESS WARRANTIES, SELLER HAS NOT MADE AND DOES NOT MAKE ANY REPRESENTATIONS AS TO THE PHYSICAL CONDITION OF THE PROPERTY, OR ANY OTHER MATTER AFFECTING OR RELATED TO THE PROPERTY. BUYER EXPRESSLY AGREES THAT TO THE MAXIMUM EXTENT PERMITTED BY LAW, EXCEPT FOR THE EXPRESS WARRANTIES, THE PROPERTY WILL BE CONVEYED "AS IS" AND "WITH ALL FAULTS", AND SELLER EXPRESSLY DISCLAIMS, AND BUYER ACKNOWLEDGES AND ACCEPTS THAT, SELLER HAS DISCLAIMED, OTHER THAN THE EXPRESS WARRANTIES, ANY AND ALL REPRESENTATIONS, WARRANTIES OR GUARANTIES OF ANY KIND, ORAL OR WRITTEN EXPRESS OR IMPLIED CONCERNING THE PROPERTY, INCLUDING WITHOUT

LIMITATION, (I) THE VALUE, CONDITION, MERCHANTABILITY, HABITABILITY, MARKETABILITY, PROFIT-ABILITY, SUITABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE, OF THE PROPERTY, (II) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS, IF ANY, INCORPORATED INTO ANY IMPROVEMENTS ON THE PROPERTY HEREIN CONVEYED, AND (III) THE MANNER OF REPAIR, QUALITY OF REPAIR, STATE OF REPAIR OR LACK OF REPAIR OF ANY SUCH IMPROVEMENTS.

**ARTICLE V
REPRESENTATIONS AND WARRANTIES OF BUYER**

5.1 BUYER represents and warrants to SELLER as of the Opening of Escrow and as of the Closing Date that:

- (a)** BUYER has the full right, power, and authority to purchase the Property from SELLER as provided in this Real Estate Contract and to carry out BUYER'S obligations under this Real Estate Contract and all requisite action necessary to authorize BUYER to enter into this Real Estate Contract and to carry out BUYER'S obligations hereunder has been obtained or on or before Closing will have been taken.

**ARTICLE VI
CLOSING**

6.1 The closing of this purchase and sale (the "**Closing**") shall be held at SOUTH LAND TITLE, LLC, within thirty (30) days from the expiration of the Feasibility Period, as it may be extended as provided in Section 1.7(b) (the "**Closing Date**"). SELLER and BUYER may mutually agree, in writing, to extend the Closing Date, but in no event shall the Closing be extended later than March 1, 2024. SELLER warrants and represents that the City Manager is authorized to extend the Closing Date on behalf of SELLER.

6.2 At the Closing, SELLER shall:

- (a)** Deliver to BUYER the duly executed and acknowledged Special Warranty Deed conveying the PROPERTY, free and clear of any and all liens and encumbrances, except for those recorded documents listed on Schedule B of the Title Commitment attached as **EXHIBIT B** as it may be amended prior to Closing, and those additional reservations and matters set forth in the Special Warranty Deed attached hereto as **EXHIBIT C**.
- (b)** Execute and deliver to the Title Company and Affidavit as to Debts, Liens and Possession sufficient so that the Title Company will omit from the Title Policy (as defined below) any exceptions for "Rights of parties in possession", "Rights of tenants under leases", any liens and any Schedule C exceptions on the Title Commitment as applicable (the "**Seller's Affidavit**").

- (c) Deliver exclusive possession of the Property to BUYER subject only to the rights of third parties listed in the Title Policy.
- (d) At BUYER'S election, deliver to BUYER, at BUYER'S expense, an Owner Policy of Title Insurance insuring indefeasible title issued by South Land Title, LLC on a title insurance underwriter acceptable to BUYER, in BUYER'S favor in the full amount of the Purchase Price (the "**Title Policy**"), insuring BUYER'S fee simple interest in the Land subject only to such exceptions as shown on Schedule B of the Title Commitment attached as **EXHIBIT B** as it may be amended prior to Closing, and as amended based on the Seller's Affidavit, all as approved by the Title Company and BUYER, and those additional easements, reservations and other matters set forth in the Special Warranty Deed attached hereto as **EXHIBIT C**.
- (e) Pay PCR Brokerage Houston, LLC dba Partners ("**BUYER'S Broker**") a real estate commission in connection with this transaction in the amount of three percent (3%) of the Purchase Price (BUYER'S Broker has advised BUYER to obtain an abstract of title or a title insurance policy).
- (f) Pay SELLER'S Broker and/or Real Estate Commission fees, if any.
- (g) Pay the SELLER'S expenses or attorney fees.
- (h) Receive the Purchase Price, net of any adjustments or prorations hereunder.

6.3 Upon such performance by SELLER at closing, BUYER shall:

- (a) Pay the Purchase Price, subject to credit for the Earnest Money and any adjustments or prorations hereunder.
- (b) If BUYER elects to get a new survey of the PROPERTY, pay the cost of the new survey of the PROPERTY, and pay any additional premium or charge for the survey/boundary deletion in the Title Policy, and/or issuance of endorsement(s) to the Title Policy, if the deletion or endorsement is requested by BUYER.
- (c) If BUYER elects to acquire a Title Policy, pay the cost of the title policy premium for a Title Policy insuring indefeasible title issued by South Land Title, LLC on a title insurance underwriter acceptable to BUYER,, in BUYER'S favor in the full amount of the purchase price, insuring BUYER'S fee simple interest in the PROPERTY subject only to such exceptions as shown on the Title Commitment attached as **EXHIBIT B** as it may be modified as provided above and those additional easements, reservations and other matters set forth in the Special Warranty Deed attached hereto as **EXHIBIT C**.
- (d) Pay South Land Title, LLC's reasonable and customary escrow fees.

- (e) Pay the reasonable and customary cost for tax certificates.
- (e) Pay the costs to obtain, deliver and record all documents to be recorded at Closing relative to any lien BUYER may obtain for the purchasing of the Property.
- (f) Pay the costs to record all documents recorded at Closing for the purchase of the Property.
- (g) Pay the BUYER'S expenses and attorney fees.
- (h) Pay any and all other reasonable and customary closing costs of a buyer of real property in Brazos County, Texas.

ARTICLE VII SPECIAL CONDITIONS

7.1 The Special Warranty Deed will contain the following reservations and information, and the following **AS IS** language:

GRANTOR hereby reserves for itself, its successors and assigns, all of the Reserved Groundwater Rights. As used in this Special Warranty Deed, the following terms shall have the following meanings: Groundwater – All of the underground water, percolating water, artesian water, and any other water from any and all reservoirs, formations, depths and horizons beneath the surface of the earth, excluding underflow or flow in a defined subterranean channel; Reserved Groundwater - All of the Groundwater now or in the future located in, on or under the Property. Reserved Groundwater Rights - All of the Reserved Groundwater, together with the right to explore for, drill for, pump, develop, withdraw, produce and transport the Reserved Groundwater and Groundwater produced from other properties, from surface locations other than on the Property, including, without limitation, all personal property rights and entitlements relating to or applicable to the Reserved Groundwater, including, without limitation, permits, licenses, historical use entitlements, wells, pumps, and infrastructure; provided that Grantor agrees for itself, its successors and assigns that, notwithstanding anything herein to the contrary, none of Grantor, its successors or assigns shall have any right of ingress or egress on or across the surface of the Property including without limitation for the purposes of exploration, development, production or transportation of such Groundwater, it being expressly contemplated by the parties to this instrument that any production of such Groundwater shall be from the surface of other property located at least 500 feet from every point on the boundary of the Property.

GRANTOR hereby reserves unto itself, its successors and assigns, any and all oil, gas and other minerals in, on or under the Property described on the attached **EXHIBIT A**; provided that Grantor agrees for itself, its successors and assigns that, notwithstanding anything herein to the contrary, none of Grantor, its successors or assigns shall have any right of ingress or egress on or across the surface of the Property for the purposes of exploration, development, production or transportation of such oil, gas or other minerals, it being expressly contemplated by the parties to this instrument that any production of

such minerals shall be from the surface of other property located at least 500 feet from every point on the boundary of the Property and that there shall be no development of any minerals that would require mining, shaft mining, pit mining or any other kind of mining that would require utilization of the surface of the Property or the surface of other property located less than 500 feet from every point on the boundary of the Property, or through the pooling of such mineral interests for the development with adjacent parcels.

GRANTOR waives for itself, its successors and assigns all rights with respect to the surface of the PROPERTY and no owner of the mineral estate shall ever have rights of ingress or egress except as may have been reserved by GRANTOR'S predecessors in title.

GRANTEE ACKNOWLEDGES THAT GRANTOR HAS NOT MADE AND DOES NOT MAKE ANY REPRESENTATIONS AS TO THE PHYSICAL CONDITION OF THE PROPERTY, OR ANY OTHER MATTER AFFECTING OR RELATED TO THE PROPERTY, OTHER THAN THE EXPRESS WARRANTIES AND/OR REPRESENTATIONS OF GRANTOR SET FORTH HEREIN, IN THE REAL ESTATE CONTRACT DATED ____, 2023 BETWEEN GRANTOR AND GRANTEE, AS IT MAY HAVE BEEN AMENDED, AND/OR IN ANY OTHER CLOSING DOCUMENT OF EVEN DATE HERewith (COLLECTIVELY, THE "EXPRESS WARRANTIES"). GRANTEE EXPRESSLY AGREES THAT TO THE MAXIMUM EXTENT PERMITTED BY LAW, AND EXCEPT FOR THE EXPRESS WARRANTIES, THE PROPERTY IS CONVEYED "AS IS" AND "WITH ALL FAULTS", AND GRANTOR EXPRESSLY DISCLAIMS, AND GRANTEE ACKNOWLEDGES AND ACCEPTS THAT GRANTOR HAS DISCLAIMED, EXCEPT FOR THE EXPRESS WARRANTIES, ANY AND ALL REPRESENTATIONS, WARRANTIES OR GUARANTIES OF ANY KIND, ORAL OR WRITTEN, EXPRESS OR IMPLIED CONCERNING THE PROPERTY, INCLUDING WITHOUT LIMITATION (I) THE VALUE, CONDITION, MERCHANTABILITY, HABITABILITY, MARKETABILITY, PROFITABILITY, SUITABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE, OF THE PROPERTY (II) THE MANNER OR QUALITY OF THE CONSTRUCTION, OR THE MATERIALS, IF ANY, INCORPORATED INTO THE CONSTRUCTION, OF ANY IMPROVEMENTS TO THE PROPERTY AND (III) THE MANNER OF REPAIR, QUALITY OF REPAIR, STATE OF REPAIR OR LACK OF REPAIR OF ANY SUCH IMPROVEMENTS. BY GRANTEE'S ACCEPTANCE OF THIS DEED, GRANTEE REPRESENTS THAT GRANTEE HAS MADE OR HAS HAD THE OPPORTUNITY TO MAKE (I) ALL INSPECTIONS OF THE PROPERTY TO DETERMINE ITS VALUE AND CONDITION DEEMED NECESSARY OR APPROPRIATE BY GRANTEE, INCLUDING, WITHOUT LIMITATION, INSPECTIONS FOR THE PRESENCE OF ASBESTOS, PESTICIDE RESIDUES, HAZARDOUS WASTE AND OTHER HAZARDOUS MATERIALS AND (II) INVESTIGATIONS TO DETERMINE WHETHER ANY PORTION OF THE PROPERTY LIES WITHIN ANY FLOOD HAZARD AREA AS DETERMINED BY THE U.S. ARMY CORPS OF ENGINEERS OR OTHER APPLICABLE AUTHORITY.

7.2 Notwithstanding anything herein to the contrary, in the event that at any time prior to the Closing or termination of this Real Estate Contract, any portion of the Property becomes the subject of an actual or threatened taking by power of eminent domain (a “**Taking**”), SELLER shall give BUYER prompt written notice thereof and BUYER shall have the right to terminate Real Estate Contract by written notice to SELLER given within ten (10) days after receipt by BUYER of such written notice from SELLER. In the event of such termination the Earnest Money shall be refunded to BUYER. In the event of a Taking and BUYER does not elect to terminate this Real Estate Contract, SELLER shall assign to BUYER at Closing all proceeds and/or rights to proceeds which SELLER has received and/or is entitled to receive in connection with such TAKING.

ARTICLE VIII BREACH BY BUYER

8.1 In the event BUYER fails to fully and timely perform any of BUYER’S obligations under this Real Estate Contract or fails to consummate the sale of the PROPERTY for any reason except SELLER’S default or a failure of a condition precedent as stated in this Real Estate Contract, SELLER may, as its sole and exclusive remedy, terminate this Real Estate Contract and receive the Earnest Money from the Title Company as liquidated damages.

ARTICLE IX BREACH BY SELLER

9.1 In the event SELLER fails to consummate the conveyance of the PROPERTY when required hereunder or otherwise breaches this Real Estate Contract (SELLER being in default and BUYER not being in default hereunder), BUYER shall have the right to:

- (a)** Receive the return of the Earnest Money and terminate this Real Estate Contract; and/or
- (b)** Bring suit against SELLER for specific performance or for actual damages, including expectancy and incidental damages.

ARTICLE X MISCELLANEOUS

10.1 Survival of Covenants: Any of the representations, warranties, covenants, and agreements of the parties, as well as any rights and benefits of the parties, pertaining to the period of time following the Closing Date, shall survive the closing and shall not be merged by deed or otherwise be extinguished.

10.2 Notice: Any notice required or permitted to be delivered by this Real Estate Contract shall be deemed received when sent by United States mail, postage prepaid, certified mail, return receipt requested, addressed to SELLER or BUYER, as the case may be, at the addresses set forth below:

BUYER: **HFLPI-COLLEGE STATION, LLC**
10555 Westpark Drive
Houston, Texas 77042
Attn: Richard O. Hunton, Jr.
Telephone: 713-266-3900
Email: rjhunton@huntongroup.com

**ATTORNEY
FOR BUYER:** **SCHLANGER SILVER LLP**
109 North Post Oak Lane, Suite 300
Houston, Texas 77024
Attn: Louis E. Silver
Telephone: 713-735-8515
Email: lsilver@schlangersilver.com

SELLER: **CITY OF COLLEGE STATION**
Attention: Adam C. Falco, City Attorney
City Attorney's Office
P. O. Box 9960
College Station, Texas 77842
Telephone: 979-764-3507
Email: afalco@cstx.gov

10.3 Texas Law to Apply: This Real Estate Contract shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created by this Real Estate Contract are to be performed in Brazos County, Texas.

10.4 Parties Bound: This Real Estate Contract shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns. The persons executing this Real Estate Contract do so in their capacities as set forth below and in no other capacity whatsoever, and such persons shall have no personal liability for executing this Real Estate Contract in a representative capacity. All such liability is limited to the principal for which they execute this document as a representative. Buyer may assign this Real Estate Contract without the consent of Seller if such assignment is to an affiliate of Buyer. Except as provided above, any other assignment of this Real Estate Contract by Buyer shall require the consent of Seller.

10.5 Invalid Provision: In case any one or more of the provisions contained in this Real Estate Contract shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Real Estate Contract, and this Real Estate Contract shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in the Real Estate Contract. In lieu of such

illegal, invalid or unenforceable provision, there shall be added automatically as part of this Real Estate Contract a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable.

10.6 Construction: The parties acknowledge that each party and its counsel have reviewed and revised this Real Estate Contract and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Real Estate Contract or any amendments or exhibits hereto.

10.7 Prior Agreements Superseded: This Real Estate Contract embodies the entire agreement of the parties and supersedes any and all prior understandings or written or oral agreements between the parties respecting subject matter within and may only be amended or supplemented by an instrument in writing executed by the party against whom enforcement is sought.

10.8 Time of Essence: Time is of the essence with respect to all matters and deadlines in this Real Estate Contract. **Notwithstanding anything herein to the contrary**, if the date on which any deadline in this Real Estate Contract would fall is a Saturday, Sunday or any day which is a national holiday or a Texas banking holiday, such deadline shall be extended to the first subsequent day which is not a Saturday, Sunday, national holiday or Texas banking holiday.

10.9 Gender: Words of any gender used in this Real Estate Contract shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise.

10.10 Multiple Counterparts: This Real Estate Contract may be executed in a number of identical counterparts. If so executed, each of the counterparts shall, collectively, constitute but one agreement. In making proof of this Real Estate Contract it shall not be necessary to produce or account for more than one counterpart.

10.11 Real Estate Contract Execution. SELLER warrants and represents that this Real Estate Contract by SELLER to sell the Property has been approved by vote of the City Council of the City of College Station, Texas; such approval reflected by the signature of SELLER'S representative to this Real Estate Contract.

10.12 Memorandum of Real Estate Contract. Upon request of either party, both parties shall promptly execute a memorandum of this agreement suitable for filing of record.

10.13 Survival. Warranties and representations made by SELLER or BUYER in this Real Estate Contract shall survive the Closing.

LIST OF EXHIBITS:

EXHIBIT A Copy of Final Plat (being a replat) of THE BUSINESS CENTER AT COLLEGE STATION, PHASE TWO, BLOCK 6, LOTS 1R & 2-5, an addition to the City of College Station, Brazos County, Texas, recorded in Volume 15639, Page 231, of the Official Public Records of Brazos County, Texas

EXHIBIT B South Land Title, LLC Title Commitment with an effective date of June 2, 2023

EXHIBIT C Special Warranty Deed

EXECUTED on this the _____ day of _____, 2023.

SELLER:

CITY OF COLLEGE STATION, TEXAS
a Texas Home Rule Municipal Corporation

By: _____

Mayor

Date: _____

BUYER:

HFLPI-COLLEGE STATION, LLC
a Texas limited liability company

By: _____

Richard O. Hunton, Jr., Manager

Date: _____

ATTEST:

City Secretary

Date: _____

APPROVED:

City Manager

Date: _____

Assistant City Manager/CFO

Date: _____

City Attorney

Date: _____

THE STATE OF TEXAS §
§ ACKNOWLEDGMENT
COUNTY OF HARRIS §

This instrument was acknowledged before me on the ____ day of _____, 2023,
by Richard O. Hunton, Jr. Manager of HFLPI-COLLEGE STATION, LLC, a Texas limited
liability company on behalf of said limited liability company.

NOTARY PUBLIC in and for the State of Texas

THE STATE OF TEXAS §
§ ACKNOWLEDGMENT
COUNTY OF BRAZOS §

This instrument was acknowledged before me on the ____ day of _____, 2023,
by JOHN P. NICHOLS, as Mayor of the CITY OF COLLEGE STATION, TEXAS, a Texas Home
Rule Municipal Corporation, on behalf of said municipality.

NOTARY PUBLIC in and for the State of Texas

EXHIBIT A

Copy of Final Plat (being a replat) of THE BUSINESS CENTER AT COLLEGE STATION, PHASE TWO, BLOCK 6, LOTS 1R & 2-5, an addition to the City of College Station, Brazos County, Texas, recorded in Volume 15639, Page 231, of the Official Public Records of Brazos County, Texas

EXHIBIT B

South Land Title, LLC Title Commitment effective June 2, 2023

COMMITMENT FOR TITLE INSURANCE (T-7)

ISSUED BY

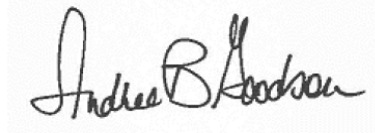
TEXAN TITLE INSURANCE COMPANY

We, TEXAN TITLE INSURANCE COMPANY, will issue our title insurance policy or policies (the Policy) to You (the proposed insured) upon payment of the premium and other charges due, and compliance with the requirements in Schedule C. Our Policy will be in the form approved by the Texas Department of Insurance at the date of issuance, and will insure your interest in the land described in Schedule A. The estimated premium for our Policy and applicable endorsements is shown on Schedule D. There may be additional charges such as recording fees, and expedited delivery expenses.

This Commitment ends ninety (90) days from the effective date, unless the Policy is issued sooner, or failure to issue the Policy is our fault. Our liability and obligations to you are under the express terms of this Commitment and end when this Commitment expires.

THE FOLLOWING COMMITMENT FOR TITLE INSURANCE IS NOT VALID UNLESS YOUR NAME AND THE POLICY AMOUNT ARE SHOWN IN SCHEDULE A, AND OUR AUTHORIZED REPRESENTATIVE HAS COUNTERSIGNED BELOW.

Countersigned by:

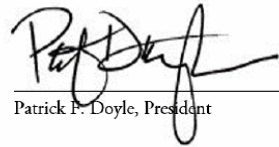


Authorized Countersignature
South Land Title, LLC

Company Name



Texan Title Insurance Company


Patrick F. Doyle, President

CONDITIONS AND STIPULATIONS

1. If you have actual knowledge of any matter which may affect the title or mortgage covered by this Commitment, that is not shown in Schedule B, you must notify us in writing. If you do not notify us in writing, our liability to you is ended or reduced to the extent that your failure to notify us affects our liability. If you do notify us, or we learn of such matter, we may amend Schedule B, but we will not be relieved of liability already incurred.
2. Our liability is only to you, and others who are included in the definition of Insured in the Policy to be issued. Our liability is only for actual loss incurred in your reliance on this Commitment to comply with its requirements or to acquire the interest in the land. Our liability is limited to the amount shown in Schedule A of this Commitment and will be subject to the following terms of the Policy: Insuring Provisions, Conditions and Stipulations, and Exclusions.

All notices required to be given the Company and any statement in writing required to be furnished the Company shall be addressed to it at 6710 Stewart Road, Suite 300, Galveston, Texas 77551.

File No. BC2312582
Commitment of Title Insurance (T-7) - Version 1/3/14

TEXAN TITLE INSURANCE COMPANY

IMPORTANT INFORMATION FOR INFORMATION, OR TO MAKE A COMPLAINT CALL OUR TOLL-FREE TELE- PHONE NUMBER 1-866-55-TEXAN ALSO YOU MAY CONTACT THE TEXAS DEPARTMENT OF INSURANCE AT 1-800-252-3439 to obtain information on: 1. filing a complaint against an insurance company or agent, 2. whether an insurance company or agent is licensed, 3. complaints received against an insurance company or agent. 4. policyholder rights, and 5. a list of consumer publications and services available through the Department. YOU MAY ALSO WRITE TO THE TEXAS DEPARTMENT OF INSURANCE P.O. BOX 149104 AUSTIN, TEXAS 78714-9104 FAX NO. (512) 490-1007	AVISO IMPORTANTE PARA INFORMACION, O PARA SOMETER UNA QUEJA LLAME AL NUMERO GRATIS 1-866-55-TEXAN TAMBIEN PUEDE COMUNICARSE CON EL DEPARTAMENTO DE SEGUROS DE TEXAS AL 1-800-252-3439 para obtener informacion sobre: 1. como someter una queja en contra de una compania de seguros o agente de seguros, 2. si una compania de seguros o agente de seguros tiene licencia, 3. quejas recibidas en contra de una compania de seguros o agente de seguros, 4. los derechos del asegurado, y 5. una lista de publicaciones y servicios para consumidores disponibles a traves del Departamento. TAMBIEN PUEDE ESCRIBIR AL DEPARTAMENTO DE SEGUROS DE TEXAS P.O. BOX 149104 AUSTIN, TEXAS 78714-9104 FAX NO. (512) 490-1007
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File No. BC2312582
Commitment of Title Insurance (T-7) - Version 1/3/14

TEXAN TITLE INSURANCE COMPANY
TEXAS TITLE INSURANCE INFORMATION

Title insurance insures you against loss resulting from certain risks to your title. The commitment for Title Insurance is the title insurance company's promise to issue the title insurance policy. The commitment is a legal document. You should review it carefully to completely understand it before your closing date.	El seguro de titulo le asegura en relacion a perdidas resultantes de ciertos riesgos que pueden afectar el titulo de su propiedad. El Compromiso para Seguro de Titulo es la promesa de la compania aseguradora de titulos de emitir la poliza de seguro de titulo. El Compromiso es un documento legal. Usted debe leerlo cuidadosamente y entenderlo completamente antes de la fecha para finalizar su transaccion.
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Your commitment for Title Insurance is a legal contract between you and us. The Commitment is not an opinion or report of your title. It is a contract to issue you a policy subject to the Commitment's terms and requirements.

Before issuing a Commitment for Title Insurance (the Commitment) or a Title Insurance Policy (the Policy), the title insurance Company (the Company) determines whether the title is insurable. This determination has already been made. Part of that determination involves the Company's decision to insure the title except for certain risks that will not be covered by the Policy. Some of these risks are listed in Schedule B of the attached Commitment as Exceptions. Other risks are stated in the Policy as Exclusions. These risks will not be covered by the Policy. The Policy is not an abstract of title nor does a Company have an obligation to determine the ownership of any mineral interest.

MINERALS AND MINERAL RIGHTS may not be covered by the Policy. The Company may be unwilling to insure title unless there is an exclusion or an exception as to Minerals and Mineral Rights in the Policy. Optional endorsements insuring certain risks involving minerals, and the use of improvements (excluding lawns, shrubbery and trees) and permanent buildings may be available for purchase. If the title insurer issues the title policy with an exclusion or exception to the minerals and mineral rights, neither this Policy, nor the optional endorsements, ensure that the purchaser has title to the mineral rights related to the surface estate.

Another part of the determination involves whether the promise to insure is conditioned upon certain requirements being met. Schedule C of the Commitment lists these requirements that must be satisfied, or the Company will refuse to cover them. You may want to discuss any matters shown in Schedules B and C of the Commitment with an attorney. These matters will affect your title and your use of the land.

When your Policy is issued, the coverage will be limited by the Policy's Exceptions, Exclusions and Conditions, defined below.

- **EXCEPTIONS** are title risks that a Policy generally covers but does not cover in a particular instance. Exceptions are shown on Schedule B or discussed in Schedule C of the Commitment. They can also be added if you do not comply with the Conditions section of the Commitment. When the Policy is issued, all Exceptions will be on Schedule B of the Policy.
- **EXCLUSIONS** are title risks that a Policy generally does not cover. Exclusions are contained in the Policy but not shown or discussed in the Commitment.
- **CONDITIONS** are additional provisions that qualify or limit your coverage. Conditions include your responsibilities and those of the Company. They are contained in the Policy but not shown or discussed in the Commitment. The Policy Conditions are not the same as the Commitment Conditions.

You can get a copy of the policy form approved by the Texas Department of Insurance by calling the Title Insurance Company at 1-866-55-TEXAN or by calling the title insurance agent that issued the Commitment. The Texas Department of Insurance may revise the policy form from time to time.

You can also get a brochure that explains the policy from the Texas Department of Insurance by calling 1-800-252-3439.

Before the Policy is issued, you may request changes in the Policy. Some of the changes to consider are:

- Request amendment of the "area and boundary" exception (Schedule B, paragraph 2). To get this amendment, you must furnish a survey and comply with other requirements of the Company. On the Owner's Policy, you must pay an additional premium for the amendment. If the survey is acceptable to the Company and if the Company's other requirements are met, your Policy will insure

File No. BC2312582
Commitment of Title Insurance (T-7) - Version 1/3/14

you against loss because of discrepancies or conflicts in boundary lines, encroachments or protrusions, or overlapping of improvements. The Company may then decide not to insure against specific boundary or survey problems by making special exceptions in the Policy. Whether or not you request amendment of the "area and boundary" exception, you should determine whether you want to purchase and review a survey if a survey is not being provided to you.

- Allow the Company to add an exception to "rights of parties in possession". If you refuse this exception, the Company or the title insurance agent may inspect the property. The Company may except to and not insure you against the rights of specific persons, such as renters, adverse owners or easement holders who occupy the land. The Company may charge you for the inspection. If you want to make your own inspection, you must sign a Waiver of Inspection form and allow the Company to add this exception to your Policy.

The entire premium for a Policy must be paid when the Policy is issued. You will not owe any additional premiums unless you want to increase your coverage at a later date and the Company agrees to add an Increased Value Endorsement.

File No. BC2312582
Commitment of Title Insurance (T-7) - Version 1/3/14

COMMITMENT FOR TITLE INSURANCE T-7

ISSUED BY

TEXAN TITLE INSURANCE COMPANY

SCHEDULE A

Effective Date: **June 2, 2023, 8:00 am**

GF No. **BC2312582**

Commitment issued **June 9, 2023,**

1. The policy or policies to be issued are:
 - a. OWNER'S POLICY OF TITLE INSURANCE (Form T-1)
(Not applicable for improved one-to-four family residential real estate)
Policy Amount: **\$3,489,000.00**
PROPOSED INSURED: **TBD**
 - b. TEXAS RESIDENTIAL OWNER'S POLICY OF TITLE INSURANCE
ONE-TO-FOUR FAMILY RESIDENCES (Form T-1R)
Policy Amount:
PROPOSED INSURED:
 - c. LOAN POLICY OF TITLE INSURANCE (Form T-2)
Policy Amount:
PROPOSED INSURED:
Proposed Borrower:
 - d. TEXAS SHORT FORM RESIDENTIAL LOAN POLICY OF TITLE INSURANCE (Form T-2R)
Policy Amount:
PROPOSED INSURED:
Proposed Borrower:
 - e. LOAN TITLE POLICY BINDER ON INTERIM CONSTRUCTION LOAN (Form T-13)
Binder Amount:
PROPOSED INSURED:
Proposed Borrower:
 - f. OTHER
Policy Amount:
PROPOSED INSURED:
2. The interest in the land covered by this Commitment is: **Fee Simple**
3. Record title to the land on the Effective Date appears to be vested in:

City of College Station, a municipal home rule corporation
4. Legal description of land:
Being all that certain lot, tract or parcel of land, lying and being situated in Brazos County, Texas, and being Lot One "R" (1R) and Two (2) Block Six (6), THE BUSINESS CENTER AT COLLEGE STATION, PHASE TWO, an addition to the City of College Station, Brazos County, Texas, according to the Resubdivision and Final Plat recorded in [Volume 15639, Page 231](#), Official Records of Brazos County, Texas.

**COMMITMENT FOR TITLE INSURANCE T-7
ISSUED BY**

GF No. BC2312582

**TEXAN TITLE INSURANCE COMPANY
SCHEDULE B**

EXCEPTIONS FROM COVERAGE

In addition to the Exclusions and Conditions and Stipulations, your Policy will not cover loss, costs, attorney's fees, and expenses resulting from:

1. The following restrictive covenants of record itemized below (We must either insert specific recording data or delete this exception):

Volume 15639, Page 231 (on plat), Volume 15667, page 143 and 195, of the Official Records of Brazos County, Texas, but omitting any covenant, condition or restriction, if any, based on race, color, religion, sex, handicap, familial status or national origin unless and only to the extent that the covenant, condition or restriction (a) is exempt under Title 42 of the United States Code, or (b) relates to handicap, but does not discriminate against handicapped persons.

2. Any discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments or protrusions, or any overlapping of improvements.
3. Homestead or community property or survivorship rights, if any of any spouse of any insured. (Applies to the Owner's Policy only.)
4. Any titles or rights asserted by anyone, including, but not limited to, persons, the public, corporations, governments or other entities,
 - a. to tidelands, or lands comprising the shores or beds of navigable or perennial rivers and streams, lakes, bays, gulfs or oceans, or
 - b. to lands beyond the line of the harbor or bulkhead lines as established or changed by any government, or
 - c. to filled-in lands, or artificial islands, or
 - d. to statutory water rights, including riparian rights, or
 - e. to the area extending from the line of mean low tide to the line of vegetation, or the rights of access to that area or easement along and across that area.(Applies to the Owner's Policy only.)
5. Standby fees, taxes and assessments by any taxing authority for the year 2023, and subsequent years; and subsequent taxes and assessments by any taxing authority for prior years due to change in land usage or ownership, but not those taxes or assessments for prior years because of an exemption granted to a previous owner of the property under Section 11.13, Texas Tax Code, or because of improvements not assessed for a previous tax year. (If Texas Short Form Residential Loan Policy of Title Insurance (T-2R) is issued, that policy will substitute "which become due and payable subsequent to Date of Policy" in lieu of "for the year year 2023 and subsequent years.")
6. The terms and conditions of the documents creating your interest in the land.
7. Materials furnished or labor performed in connection with planned construction before signing and delivering the lien document described in Schedule A, if the land is part of the homestead of the owner. (Applies to the Loan Title Policy Binder on Interim Construction Loan only, and may be deleted if satisfactory evidence is furnished to us before a binder is issued.)
8. Liens and leases that affect the title to the land, but that are subordinate to the lien of the insured mortgage. (Applies to Loan Policy (T-2) only.)

Continuation of Schedule B

GF No. **BC2312582**

9. The Exceptions from Coverage and Express Insurance in Schedule B of the Texas Short Form Residential Loan Policy of Title Insurance (T-2R). (Applies to Texas Short Form Residential Loan Policy of Title Insurance (T-2R) only.) Separate exceptions 1 through 8 of this Schedule B do not apply to the Texas Short Form Residential Loan Policy of Title Insurance (T-2R).
10. The following matters and all terms of the documents creating or offering evidence of the matters (We must insert matters or delete this exception.):
- a. **Rights of Parties in possession.**
 - b. **Subject to any and all visible and/or apparent easements over, under or across subject property, which a survey or physical inspection may disclose.**
 - c. **Any encroachment, encumbrance violation, variation or adverse circumstance affecting the title that would be disclosed by an accurate and complete land survey of the land.**
 - d. **Any portion of the subject property lying within the boundaries of a public or private roadway, whether dedicated or not.**
 - e. **All leases, grants, exceptions or reservations of coal, lignite, oil, gas and other minerals, together with all rights, privileges and immunities relating thereto, appearing in the Public Records whether listed in Schedule B or not. There may be leases, grants, exceptions or reservations of mineral interests that are not listed.**
 - f. **Rights of tenants, as tenants only, under existing lease agreements affecting the land.**
 - g. **Easements and Building lines, as shown by the plat of said subdivision recorded in [Volume 15639, Page 231](#), Official Records of Brazos County, Texas.**
 - h. **Easement from E. S. Wickes to Humble Pipeline Co., dated July 7, 1919, recorded in [Volume 48, page 614](#), Deed Records of Brazos County, Texas.**
 - i. **Easement from C. E. Jones to Humble Pipeline Co., dated July 22, 1919, recorded in [Volume 49, page 25](#), Deed Records of Brazos County, Texas.**
 - j. **Easement from J.E. Marsh to Gulf States Utilities Company, dated April 1, 1947, recorded in [Volume 129, page 496](#), Deed Records of Brazos County, Texas.**
 - k. **Easement from C. Edgar Jones to Gulf States Utilities Company, dated May 14, 1947, recorded in [Volume 130, page 152](#), Deed Records of Brazos County, Texas.**
 - l. **Easement in Deed from Holloway Sand & gravel Co., Inc. to Howard L. Perry, dated June 1, 1973, recorded in [Volume 316, page 416](#), Deed Records of Brazos County, Texas.**
 - m. **Easement from Kenneth M. Morris, Trustee to Clajon Gas Company, dated January 27, 1981, recorded in [Volume 473, page 65](#), Deed Records of Brazos County, Texas.**
 - n. **Easement from J. A. C. Developers, Inc. to General Telephone Company of the Southwest, dated February 2, 1984, recorded in [Volume 650, page 77](#), Official Records of Brazos County, Texas.**
 - o. **Easement from W.D. Fitch to City of College Station, dated January 2, 1985, recorded in [Volume 754, page 138](#), Official Records of Brazos County, Texas.**
 - p. **Easement from W.D. Fitch to City of College Station, dated July 31, 1985, recorded in [Volume 904, page 22](#),**

FORM T-7: Commitment for Title Insurance

Page 3

Official Records of Brazos County, Texas.

- q. Easement from City of College Station to City of Bryan, dated October 23, 1997, recorded in [Volume 2960, page 109](#), Official Records of Brazos County, Texas.
- r. Easement from City of College Station to Pebble Creek Development, Co., dated September 24, 1999, recorded in [Volume 3618, page 83](#), Official Records of Brazos County, Texas.
- s. Mineral reservation in Deed from Sally N. White et al to E. S. Wilkes, dated August 24, 1918, recorded in [Volume 46, page 626](#), Deed Records of Brazos County, Texas. Title to this reservation has not been traced subsequent to the date of the above-cited instrument.
- t. Mineral reservation as shown in deed from Ed S. Wickes, et al to J.E. Marsh, dated April 28, 1940 and recorded in [Volume 103, page 279](#), Deed Records of Brazos County, Texas. Title to this reservation has not been traced subsequent to the date of the above-cited instrument.
- u. Mineral reservation in Deed from C. Edgar Jones to Navasota Land & Cattle Company, dated October 12, 1961, recorded in [Volume 215, page 227](#), Deed Records of Brazos County, Texas. Title to this reservation has not been traced subsequent to the date of the above-cited instrument.
- v. Royalty Reservation from Grace H. Marsh to Michigan International Speedway, Inc., dated March 19, 1969, recorded in [Volume 277, page 84](#), Deed Records, Brazos County, Texas. Title to this reservation has not been traced subsequent to the date of the above-cited instrument.
- w. Mineral reservation in Deed from Kenneth M. Morris, Trustee to Jerry D. Spearman, dated June 23, 1981, recorded in [Volume 487, page 199](#), Deed Records of Brazos County, Texas. Title to this reservation has not been traced subsequent to the date of the above-cited instrument.
- x. Mineral reservation as shown in deed from Kenneth M. Morris, Trustee to R.F. Spearman, dated June 23, 1981 and recorded in [Volume 487, page 204](#), Deed Records; subject to release of surface rights as set forth in instrument recorded in [Volume 1025, Page 826](#), Official Records, both being of Brazos County, Texas. Title to this reservation has not been traced subsequent to the date of the above-cited instrument.
- y. Royalty Deeds from Grace H. Marsh, to Louise M. Reeves, Trustee dated December 30, 1981, recorded in [Volume 504, pages 677 and 681](#), Deed Records of Brazos County, Texas. Title to these mineral interests has not been traced subsequent to the date of the above-cited instruments.
- z. Mineral Deed from Kenneth M. Morris, Trustee to Howard L. Terry, et al, dated March 19, 1991, recorded in [Volume 1252, page 211](#), Official Records of Brazos County, Texas. Title to this mineral interest has not been traced subsequent to the date of the above-cited instrument.
- aa. Mineral/Royalty Deed from D. E. Roberson et ux to The Robyn's Nest Family Revocable Trust, dated September 26, 2000, recorded in [Volume 3979, page 181](#), Official Records of Brazos County, Texas. Title to this mineral interest has not been traced subsequent to the date of the above-cited instrument.
- bb. Mineral/Royalty Deed from Henry O. Boswell, Jr et ux to Dome Lake Investment, LP, dated April 13, 2005, recorded in [Volume 6751, page 16](#), Official Records of Brazos County, Texas. Title to this mineral interest has not been traced subsequent to the date of the above-cited instrument.
- cc. Mineral Deed from Dorothy Abbott to Donna Janette Baldwin, dated January 4, 2014, recorded in [Volume 11791, page 190](#), Official Records of Brazos County, Texas. Title to this mineral interest has not been traced subsequent to the date of the above-cited instrument.

**COMMITMENT FOR TITLE INSURANCE T-7
ISSUED BY**

GF No. **BC2312582**

**TEXAN TITLE INSURANCE COMPANY
SCHEDULE C**

Your Policy will not cover loss, costs, attorneys' fees, and expenses resulting from the following requirements that will appear as Exceptions in Schedule B of the Policy, unless you dispose of these matters to our satisfaction, before the date the Policy is issued:

1. Documents creating your title or interest must be approved by us and must be signed, notarized and filed for record.
2. Satisfactory evidence must be provided that:
 - a. no person occupying the land claims any interest in that land against the persons named in paragraph 3 of Schedule A,
 - b. all standby fees, taxes, assessments and charges against the property have been paid,
 - c. all improvements or repairs to the property are completed and accepted by the owner, and that all contractors, sub-contractors, laborers and suppliers have been fully paid, and that no mechanic's, laborer's or materialmen's liens have attached to the property,
 - d. there is legal right of access to and from the land,
 - e. (on a Loan Policy only) restrictions have not been and will not be violated that affect the validity and priority of the insured mortgage.
3. You must pay the seller or borrower the agreed amount for your property or interest.
4. Any defect, lien or other matter that may affect title to the land or interest insured, that arises or is filed after the effective date of this Commitment.
5. NOTE: Procedural Rule P-27 as provided for in Article 9.39A of the Texas Insurance Code requires that "Good Funds" be received and deposited before a Title Agent may disburse from its Trust Fund Account.
6. **NOTE: We find no outstanding liens of record affecting the subject property. Inquiry should be made concerning the existence of any unrecorded lien or other indebtedness which could give rise to any security interest claim in the subject property.**
7. **Provide evidence of authority of the Representative of the City of College Station, a municipal home rule corporation, to act on behalf of same in execution of documents required to consummate the instant transaction.**
8. **Company requires proof that the subject property qualified for each ad valorem tax exemption that was granted to it for the last five tax years.**
9. **Company will require tax certificates on the subject property showing all taxes paid up to and including the year 2022.**
10. **Company will require a properly executed Waiver of Inspection.**
11. **Company requires an Affidavit as to Debts and Liens to be executed at closing.**
12. **"The title insurance policy being issued to you contains an Arbitration Provision. It allows you or the**

FORM T-7: Commitment for Title Insurance

Page 6

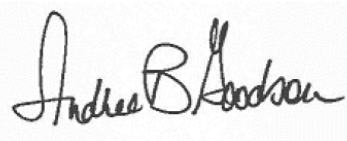
Company to require arbitration if the amount of Insurance is \$2,000,000 or less. If you want to retain your right to sue the Company in case of a dispute over a claim, you must request deletion of the Arbitration Provision before the policy is issued. If you are the purchaser in the transaction and elect deletion of the Arbitration Provision, a form will be presented to you at closing for execution. If you are the lender in the transaction and desire deletion of the Arbitration Provision, please inform us through your Closing Instructions."

The following is for informational purposes only:

The current vesting deed is as follows:

Warranty Deed executed by College Station Economic Development Foundation, a non-profit corporation to City of College Station, a municipal home rule corporation, dated December 3, 1991, recorded in [Volume 1385, page 14](#), Official Records of Brazos County, Texas.

Countersigned
South Land Title, LLC



By:
Authorized Counter Signature

COMMITMENT FOR TITLE INSURANCE

SCHEDULE D

GF No. **BC2312582**

Effective Date: **June 2, 2023, 8:00 am**

Pursuant to the requirements of Rule P-21, Basic Manual of Rules, Rates and Forms for the writing of Title Insurance in the State of Texas, the following disclosures are made:

1. The following individuals are directors and/or officers, as indicated, of the Title Insurance Company issuing this Commitment

- (a) The Title Insurance Company, **Texan Title Insurance Company**, is wholly owned by Texan Title Holdings, LLC. Individuals, partnerships, corporations, trusts or other entities owning ten percent (10%) or more of Texan Title Holdings, LLC:

Patrick F. Doyle - 100%

- (b) The directors of Texan Title Insurance Company are Patrick F. Doyle, Jessica R. Carper, Jeffrey A. Adams and Russell Sugg

- (c) The president, executive or senior vice-president, secretary and treasurer of Texan Title Insurance Company:

Patrick F. Doyle - Chief Executive Officer and President
Jessica R. Carper - Senior Vice President and Treasurer
Jeffrey A. Adams - General Counsel and Secretary
J. Brandon Linscomb - Senior Vice President
Russell Sugg - Executive Vice President

2. The issuing Title Insurance Agent, **South Land Title, LLC** a Texas Limited Liability Company, whose members owning or controlling, directly or indirectly, 1% or more of said company (or owning or controlling 10% or more of an entity that owns 1% or more of the Agent), and managers are listed below:

Patrick F. Doyle, President
Jessica R. Carper, Treasurer

South Land Title, LLC is owned 100% by Texan Title Holdings, LLC which is owned 100% by Patrick F. Doyle.

3. You are entitled to receive advance disclosure of settlement charges in connection with the proposed transaction to which this commitment relates. Upon your request, such disclosure will be made to you. Additionally, the name of any person, firm or corporation receiving a portion of the premium from the settlement of this transaction will be disclosed on the closing or settlement statement.

You are further advised that the estimated title premium* is:

Owner's Policy	<u>\$16,352.00</u>
Loan Policy	<u>\$0.00</u>
Endorsement Charges	<u>\$0.00</u>
Other	<u>\$0.00</u>
Total	<u>\$16,352.00</u>

Of this total amount: 15% will be paid to the policy issuing Title Insurance Company; 85% will be retained by the issuing Title Insurance Agent; and the remainder of the estimated premium will be paid to other parties as follows:

<u>Amount</u>	<u>To Whom</u>	<u>For Services</u>
---------------	----------------	---------------------

" *The estimated premium is based upon information furnished to us as of the date of this Commitment for Title Insurance. Final determination of the amount of the premium will be made at closing in accordance with the Rules and Regulations adopted by the Commissioner of Insurance."

COMMITMENT FOR TITLE INSURANCE (Form T-7)

TEXAS TITLE INSURANCE INFORMATION

Title insurance insures you against loss resulting from certain risks to your title.

The commitment for Title Insurance is the title insurance company's promise to issue the title insurance policy. The commitment is a legal document. You should review it carefully to completely understand it before your closing date.

El seguro de título le asegura en relación a pérdidas resultantes de ciertos riesgos que pueden afectar el título de su propiedad.

El Compromiso para Seguro de Título es la promesa de la compañía aseguradora de títulos de emitir la póliza de seguro de título. El Compromiso es un documento legal. Usted debe leerlo cuidadosamente y entenderlo completamente antes de la fecha para finalizar su transacción.

Your Commitment of Title insurance is a legal contract between you and us. The Commitment is not an opinion or report of your title. It is a contract to issue you a policy subject to the Commitment's terms and requirements.

Before issuing a Commitment for Title Insurance (the Commitment) or a Title Insurance Policy (the Policy), the Title Insurance Company (the Company) determines whether the title is insurable. This determination has already been made. Part of that determination involves the Company's decision to insure the title except for certain risks that will not be covered by the Policy. Some of these risks are listed in Schedule B of the attached Commitment as Exceptions. Other risks are stated in the Policy as Exclusions. These risks will not be covered by the Policy. The Policy is not an abstract of title nor does a Company have an obligation to determine the ownership of any mineral interest.

- **MINERALS AND MINERAL RIGHTS** may not be covered by the Policy. The Company may be unwilling to insure title unless there is an exclusion or an exception as to Minerals and Mineral Rights in the Policy. Optional endorsements insuring certain risks involving minerals, and the use of improvements (excluding lawns, shrubbery and trees) and permanent buildings may be available for purchase. If the title insurer issues the title policy with an exclusion or exception to the minerals and mineral rights, neither this Policy, nor the optional endorsements, ensure that the purchaser has title to the mineral rights related to the surface estate.

Another part of the determination involves whether the promise to insure is conditioned upon certain requirements being met. Schedule C of the Commitment lists these requirements that must be satisfied or the Company will refuse to cover them. You may want to discuss any matters shown in Schedules B and C of the Commitment with an attorney. These matters will affect your title and your use of the land.

When your policy is issued, the coverage will be limited by the Policy's Exceptions, Exclusions and Conditions, defined below.

- **EXCEPTIONS** are title risks that a Policy generally covers but does not cover in a particular instance. Exceptions are shown on Schedule B or discussed in Schedule C of the Commitment. They can also be added if you do not comply with the Conditions section of the Commitment. When the Policy is issued, all Exceptions will be on Schedule B of the Policy.

- **EXCLUSIONS** are title risks that a Policy generally does not cover. Exclusions are contained in the Policy but not shown or discussed in the Commitment.

- **CONDITIONS** are additional provisions that qualify or limit your coverage. Conditions include your responsibilities and those of the Company. They are contained in the Policy but not shown or discussed in the Commitment. The Policy Conditions are not the same as the Commitment Conditions.

You can get a copy of the policy form approved by the Texas Department of Insurance by calling the Title Insurance Company at or by calling the title insurance agent that issued the Commitment. The Texas Department of Insurance may revise the policy form from time to time.

You can also get a brochure that explains the policy from the Texas Department of Insurance by calling 1-800-252-3439.

Before the Policy is issued, you may request changes in the policy. Some of the changes to consider are:

- Request amendment of the "area and boundary" exception (Schedule B, paragraph 2). To get this amendment, you must furnish a survey and comply with other requirements of the Company. On the Owner's Policy, you must pay an additional premium for the amendment. If the survey is acceptable to the Company and if the Company's other requirements are met, your Policy will insure you against loss because of discrepancies or conflicts in boundary lines, encroachments or protrusions, or overlapping of improvements. The Company may then decide not to insure against specific boundary or survey problems by making special exceptions in the Policy. Whether or not you request amendment of the "area and boundary" exception, you should determine whether you want to purchase and review a survey if a survey is not being provided to you.
- Allow the Company to add an exception to "rights of parties in possession." If you refuse this exception, the Company or the title insurance agent may inspect the property. The Company may except to and not insure you against the rights of specific persons, such as renters, adverse owners or easement holders who occupy the land. The Company may charge you for the inspection. If you want to make your own inspection, you must sign a Waiver of Inspection form and allow the Company to add this exception to your Policy.

The entire premium for a Policy must be paid when the Policy is issued. You will not owe any additional premiums unless you want to increase your coverage at a later date and the Company agrees to add an Increased Value Endorsement.

DELETION OF ARBITRATION PROVISION

(Not applicable to the Texas Residential Owner's Policy)

ARBITRATION is a common form of alternative dispute resolution. It can be a quicker and cheaper means to settle a dispute with your Title Insurance Company. However, if you agree to arbitrate, you give up your right to take the Title Insurance Company to court and your rights to discovery of evidence may be limited in the arbitration process. In addition, you cannot usually appeal an arbitrator's award.

Your policy contains an arbitration provision (shown below). It allows you or the Company to require arbitration if the amount of insurance is \$2,000,000 or less. If you want to retain your right to sue the Company in case of a dispute over a claim, you must request deletion of the arbitration provision before the policy is issued. You can do this by signing this form and returning it to the Company at or before the closing of your real estate transaction or by writing to the Company.

The arbitration provision in the Policy is as follows:

"Either the Company or the Insured may demand that the claim or controversy shall be submitted to arbitration pursuant to the Title Insurance Arbitration Rules of the American Land Title Association ("Rules"). Except as provided in the Rules, there shall be no joinder or consolidation with claims or controversies of other persons. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Insured arising out of or relating to this policy, any service in connection with its issuance or the breach of a policy provision, or to any other controversy or claim arising out of the transaction giving rise to this policy. All arbitrable matters when the Amount of Insurance is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Insured, unless the Insured is an individual person (as distinguished from an Entity). All arbitrable matters when the Amount of Insurance is in excess of \$2,000,000 shall be arbitrated only when agreed to by both the Company and the Insured. Arbitration pursuant to this policy and under the Rules shall be binding upon the parties. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court of competent jurisdiction."

SIGNATURE

DATE

Texan Title Insurance Company

Premium Amount	Rate Rules	Property Type	County Code	Liability at Reissue Rate	6	7	8
1 \$16,352.00	2 1000	3 3	4 41	5			

DISCLOSURE TO SELLER, BUYER/BORROWER ABOUT
PATRICK F. DOYLE AND DOYLE LAW FIRM, PLLC

I. REPRESENTATION OF INTERESTS

In connection with the transaction you are closing today, a document of conveyance and/or curative documents have been prepared on behalf of Seller and Buyer/Borrower, and/or a loan has been obtained from a lending institution (or individual owner under an owner-finance) to finance all or part of the purchase price of Borrower's property, or to refinance an earlier loan made to Borrower, or which Borrower assumed, that is secured on the subject property. Seller, Buyer/Borrower or and/or lender is using the services of the law firm of **DOYLE LAW FIRM, PLLC** in the preparation of various legal instruments and loan documents in connection with this transaction, and you must pay for such services. By signing below, Borrower is acknowledging that **DOYLE LAW FIRM, PLLC** has not represented Borrower's interests or given Borrower any legal advice concerning the contract to sell and purchase the property, if applicable, or otherwise related to the property or to the legal instruments and loan documents executed in connection with the home loan transaction or the closing of the transaction itself.

II. RELATIONSHIP OF PATRICK F. DOYLE AND DOYLE LAW FIRM, PLLC

PATRICK F. DOYLE is the sole owner of the law firm of **DOYLE LAW FIRM, PLLC**.

III. RELATIONSHIP OF TITLE COMPANY AND PATRICK F. DOYLE

PATRICK F. DOYLE is the sole owner of **Texan Title Holdings, LLC**, which is the parent company of **SOUTH LAND TITLE, LLC**, located in Bryan, Texas

IV. RELATIONSHIP OF TAX SERVICE PROVIDER AND PATRICK F. DOYLE

PATRICK F. DOYLE is the sole owner of **Realty Tax Search, Inc.**, which provides ad valorem tax searches, and collects, stores and disseminates such information regarding your transaction, and collects a standard fee for services related thereto.

V. FREEDOM TO HIRE A LAWYER

By signing below, each party hereto acknowledges that they have had the opportunity to consult independent counsel or hire an attorney to represent them regarding this transaction and its consequences.

VI. OBLIGATION TO PAY LEGAL FEES

By signing below, each party acknowledges that they must pay at the time of closing, or on demand, the legal fees of **DOYLE LAW FIRM, PLLC** as each party may have agreed to pay in the contract of sale and purchase or in the loan application or any other document they may have signed. The charges for the services of **DOYLE LAW FIRM, PLLC** are set forth on the closing statement or settlement statement furnished by the closing agent. You have not been charged any fee for preparation of any Truth-in-Lending Statement or RESPA Good Faith Estimate of closing costs. Attached hereto as Exhibit "A" and incorporated herein is **PATRICK F. DOYLE**'s Affiliated Business Arrangement Disclosure Statement, which sets forth **DOYLE LAW FIRM, PLLC**'s relationship to **PATRICK F. DOYLE** and Settlement Service Charge or range of charges.

VII. DESCRIPTION OF LEGAL SERVICES

In representing the lender's interest in this loan transaction, **DOYLE LAW FIRM, PLLC** provided a variety of services of a legal nature. **DOYLE LAW FIRM, PLLC** reviews as necessary the sales contract, survey, title report or commitment of title insurance, various documents of record such as restrictions and easements, and typically prepares such instruments as the Note, Deed of Trust, Affidavits and various miscellaneous documents required by the lender.

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Furthermore, each party hereto acknowledges that **DOYLE LAW FIRM, PLLC** may have prepared certain documents upon the request of **South Land Title, LLC**, and has not in any manner, undertaken to assist or render legal advice to the undersigned, with respect to this transaction. The attorney preparing the documents represents **South Land Title, LLC**.

Each party hereto has been provided with an opportunity to examine the title commitment issued by the title company in this transaction, and is satisfied with the contents of such commitment. Further, each party hereto agrees and understands that this transaction is not "closed" until all disbursements are made on behalf of all parties. In the event there are any additional charges for anyone furnishing services, requiring payoff, or by any taxing authority, each party hereto will pay such charges upon written request.

The undersigned understand and agree that the parties may allocate payment of legal fees between themselves as they may agree.

VIII. ACKNOWLEDGEMENT/WHAT SIGNING THIS MEANS

By signing below, you acknowledge to the lender, **DOYLE LAW FIRM, PLLC** and **PATRICK F. DOYLE** that you have received a copy of this disclosure, that you have read all of the above statements, that you understand them, and that what has been stated in this disclosure is accurate and truthful. Furthermore, you acknowledge that you have read this disclosure form and understand that **PATRICK F. DOYLE** is referring you to purchase the settlement services as described herein on **Exhibit "A"** and may receive a financial or other benefits as the result of this referral.

{00028567.DOC}

EXHIBIT "A"

AFFILIATED BUSINESS ARRANGEMENT DISCLOSURE STATEMENT
NOTICE

FROM: PATRICK F. DOYLE

GF#: BC2312582

This is to give you notice that PATRICK F. DOYLE has a business relationship with and ownership interest in REALTY TAX SEARCH, INC. and TEXAN TITLE HOLDINGS, LLC, which is the parent company of SOUTH LAND TITLE, LLC. PATRICK F. DOYLE, sole owner of the law firm of DOYLE LAW FIRM, PLLC, is also the sole owner of TEXAN TITLE HOLDINGS, LLC, which is the parent company of SOUTH LAND TITLE, LLC (real estate closing services).

Set forth below is the estimated charge or range of charges of the settlement services listed. You are NOT required to use the listed providers as a condition for closing your transaction of the subject property. THERE ARE OTHER SETTLEMENT SERVICE PROVIDERS AVAILABLE WITH SIMILAR SERVICES. YOU ARE FREE TO SHOP AROUND TO DETERMINE THAT YOU ARE RECEIVING THE BEST SERVICES AND THE BEST RATE FOR THESE SERVICES.

Provider and Settlement Services Charge or Range of Charges:

SOUTH LAND TITLE, LLC	(premium fees as set by State Board of Insurance and vary depending on value of transaction and credits available to consumer)
-----------------------	---

Realty Tax Search	\$81.19
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ACKNOWLEDGEMENT

I/we have read this disclosure form, and understand that Patrick F. Doyle is referring me/us to purchase the above-described settlement services and may receive a financial or other benefit as the result of this referral.

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**SOUTH LAND TITLE, LLC
PRIVACY POLICY**

PURPOSE OF THIS NOTICE

Title V of the Gramm-Leach-Bliley Act (GLBA) generally prohibits any financial institution, directly or through its affiliates, from sharing nonpublic personal information about you with a non-affiliated third party unless the institution provides you with a notice of its privacy policies and practices, such as the type of information that it collects about you and the categories of persons or entities to whom it may be disclosed. In compliance with the GLBA, we are providing you with this document, which notifies you of the privacy policies and practices of **SOUTH LAND TITLE, LLC**.

We may collect nonpublic personal information about you from the following sources:

- Information we receive from you, such as on applications or other forms
- Information about your transactions we secure from our files, or from our affiliates or others
- Information we receive from a consumer reporting agency
- Information that we receive from others involved in your transaction, such as the real estate agent or lender

Unless it is specifically stated otherwise in an amended Privacy Policy Notice, no additional nonpublic personal information will be collected about you.

WE DO NOT DISCLOSE ANY NONPUBLIC PERSONAL INFORMATION ABOUT OUR CUSTOMERS OR FORMER CUSTOMERS TO ANYONE, EXCEPT AS PERMITTED BY LAW.

WE RESTRICT ACCESS TO NONPUBLIC PERSONAL INFORMATION ABOUT YOU TO THOSE EMPLOYEES WHO NEED TO KNOW THAT INFORMATION TO PROVIDE THE PRODUCTS OR SERVICES REQUESTED BY YOU OR YOUR LENDER.

WE MAINTAIN PHYSICAL, ELECTRONIC, AND PROCEDURAL SAFEGUARDS THAT COMPLY WITH APPROPRIATE FEDERAL AND STATE REGULATIONS.

NO PERSON, ENTITY OR FIRM WHO IS NOT A PARTY TO YOUR CONTRACT IS PERMITTED TO RECEIVE ANY INFORMATION FROM THIS COMPANY ON ANY MATTER RELATED TO YOUR CONTRACT.

**DOYLE LAW FIRM, PLLC
PRIVACY POLICY NOTICE**

PURPOSE OF THIS NOTICE

Title V of the Gramm-Leach-Bliley Act (GLBA) generally prohibits any financial institution, directly or through its affiliates, from sharing nonpublic personal information about you with a nonaffiliated third party unless the institution provides you with a notice of its privacy policies and practices, such as the type of information that it collects about you and the categories of persons or entities to whom it may be disclosed. In compliance with the GLBA, we are providing you with this document, which notifies you of the privacy policies and practices of **DOYLE LAW FIRM, PLLC**

We may collect nonpublic personal information about you from the following sources:

- Information we receive from you, such as on applications or other forms
- Information about your transactions we secure from our files, or from our affiliates or others
- Information we receive from a consumer reporting agency
- Information that we receive from others involved in your transaction, such as the real estate agent or lender

Unless it is specifically stated otherwise in an amended Privacy Policy Notice, no additional nonpublic personal information will be collected about you.

WE DO NOT DISCLOSE ANY NONPUBLIC PERSONAL INFORMATION ABOUT YOU WITH ANYONE FOR ANY PURPOSE THAT IS NOT SPECIFICALLY PERMITTED BY LAW.

We restrict access to nonpublic personal information about you to those employees who need to know that information in order to provide products or services to you. We maintain physical, electronic and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

EXHIBIT C
Special Warranty Deed

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

SPECIAL WARRANTY DEED

DATE: _____, 202__

GRANTOR: THE CITY OF COLLEGE STATION, TEXAS,
a Texas Home Rule Municipal Corporation

GRANTOR's MAILING ADDRESS: P. O. Box 9960
(including county) Brazos County
College Station, Texas 77842

GRANTEE: HFLPI-COLLEGE STATION, LLC, a Texas limited liability company

GRANTEE'S MAILING ADDRESS: 10555 Westpark Drive
(including county) Harris County
Houston, Texas 77042

CONSIDERATION: TEN AND NO/ Dollars (\$10.00) and other good and valuable consideration

PROPERTY:

Being all that certain lot, tract or parcel of land lying and being situated in Brazos County, Texas, and being Lot One "R" (1R) and Lot Two (2), Block Six (6), THE BUSINESS CENTER AT COLLEGE STATION, PHASE TWO, an addition to the City of College Station, Brazos County, Texas, according to the Resubdivision and Final Plat recorded in Volume 15639, Page 231, of the Official Public Records of Brazos County, Texas (the "Land"), together with all and singular the rights and appurtenances pertaining to the Land, including all right, title and interest of GRANTOR as owner of the Land in and to adjacent roads, streets, alleys or rights-of-way, all easements benefitting the Land, and all utility rights and reservations with respect to the Land.

RESERVATIONS FROM AND EXCEPTIONS TO CONVEYANCE AND WARRANTY:

1. Restrictive covenants, terms, conditions, stipulations, easements and building lines as shown on Final Plat of The Business Center at College Station, Phase Two, Block 6, Lots 1R and 2-5, recorded in Volume 15639, Page 231, Official Public Records of Brazos County, Texas.
2. Terms, conditions and stipulations contained in Declaration of Covenants and Restrictions for The Business Center at College Station dated November 1, 2019, recorded in Volume 15667, Page 143, Official Public Records of Brazos County, Texas.
3. Terms, conditions and stipulations contained in Declaration of Restrictive Covenants of The Business Center at College Station, Phase Two, Block 6, Lots 1R & 2-5 Subdivision, dated November 1, 2019, recorded in Volume 15667, Page 195, Official Public Records of Brazos County, Texas.
4. Easement dated July 7, 1919, from E. S. Wickes to Humble Pipe Line Company, recorded in Volume 48, Page 614, Deed Records of Brazos County, Texas.
5. Easement dated July 22, 1919, from C.E. Jones to Humble Pipe Line Company, recorded in Volume 49, Page 25, Deed Records of Brazos County, Texas.
6. Easement dated April 1, 1947, from J. E. Marsh and Grace H. Marsh to Gulf States Utilities Company, recorded in Volume 129, Page 496, Deed Records of Brazos County, Texas.
7. Easement dated May 14, 1947, from C. Edgar Jones to Gulf States Utilities Company, recorded in Volume 130, Page 152, Deed Records of Brazos County, Texas.
8. Easement reserved in Deed dated June 1, 1973, from Holloway Sand & Gravel Company, Inc. and Holloway Construction Company to Howard L. Terry, T. J. Collins and Duncan Properties, recorded in Volume 316, Page 416, Deed Records of Brazos County, Texas.
9. Pipeline Easement dated January 27, 1981, from Kenneth M. Morris, Trustee to Clajon Gas Company, recorded in Volume 473, Page 65, Deed Records of Brazos County, Texas.

10. Easement and Right of Way dated February 2, 1984, from J.A.C. Developers Inc. to General Telephone Company of the Southwest, recorded in Volume 650, Page 77, Official Records of Brazos County, Texas.
11. Utility Easement dated January 2, 1985, from W. D. Fitch to the City of College Station, Texas, recorded in Volume 754, Page 138, Official Records of Brazos County, Texas.
12. Utility Easement dated July 31, 1986, from W. D. Fitch to the City of College Station, Texas, recorded in Volume 904, Page 22, Official Records of Brazos County, Texas.
13. Right-Of-Way Easement dated October 23, 1997, from the City of College Station, Texas to the City of Bryan, Texas, recorded in Volume 2960, Page 109, Official Public Records of Brazos County, Texas.
14. Utility Easement dated September 24, 1999, from the City of College Station, Texas to Pebble Creek Development Co., recorded in Volume 3618, Page 83, Official Public Records of Brazos County, Texas.
15. Mineral reservation set out in Deed dated August 24, 1918, from James C. White, Sallie N. White, Robert L. White, Fay W. Rodes and G. E. Rodes to E. S. Wicks, recorded in Volume 46, Page 626, Deed Records of Brazos County, Texas.
16. Mineral reservation set out in Deed dated April 28, 1940, from Edna Wickes Wilkerson, I. O. Wilkerson, Henry G. Wickes, Ed S. Wickes, for himself and as survivor in community of himself and his deceased wife, Annie Wickes, W. C. Mitchell, Anne Lile Wickes Mitchell, W. M. Wickes and John Wickes to J. E. Marsh, recorded in Volume 103, Page 279, Deed Records of Brazos County, Texas.
17. Mineral reservation set out in Deed dated October 12, 1961, from C. Edgar Jones to Navasota Land & Cattle Company, recorded in Volume 215, Page 227, Deed Records of Brazos County, Texas.
18. Royalty reservation set out in Deed dated March 19, 1969, from Grace H. Marsh, Individually and as Independent Executrix of the Estate of J. E. Marsh, deceased to Michigan International Speedway, Inc., recorded in Volume 277, Page 84, Deed Records of Brazos County, Texas.
19. Mineral reservation set out in Warranty Deed dated June 23, 1981, from Kenneth M. Morris, Trustee to Jerry D. Spearman, recorded in Volume 487, Page 199, Deed Records of Brazos County, Texas.

20. Mineral reservation set out in Warranty Deed dated June 23, 1981, from Kenneth M. Morris, Trustee to R. F. Spearman, recorded in Volume 487, Page 204, Deed Records of Brazos County, Texas.
21. Release of Surface Rights dated January 28, 1988, from Kenneth M. Morris, Trustee to W. D. Fitch, Area Progress Corporation and College Station Economic Development Foundation, recorded in Volume 1025, Page 826, Official Records of Brazos County, Texas.
22. Royalty Deed dated December 30, 1981, from Grace H. Marsh to Louise M. Reeves, Trustee, recorded in Volume 504, Page 677, Deed Records of Brazos County, Texas.
23. Royalty Deed dated December 30, 1981, from Grace H. Marsh to Louise M. Reeves, Trustee, recorded in Volume 504, Page 681, Deed Records of Brazos County, Texas.
24. Mineral Deed dated March 19, 1991 but effective January 27, 1991, from Kenneth M. Morris, Trustee to Howard L. Terry, D. K. Royal, Duncan Properties, a partnership, E. Hal Dickson, D. E. Roberson, Gene R. Mendel, L. E. Richey and Vernon F. Runnels, recorded in Volume 1252, Page 211, Official Records of Brazos County, Texas.
25. Mineral and Royalty Deed dated September 26, 2000, from D. E. Roberson and wife, Carolyn M. Roberson to The Robyns' Nest Family Revocable Trust, recorded in Volume 3979, Page 181, Official Public Records of Brazos County, Texas.
26. Mineral and Royalty Deed dated April 13, 2005, from Henry O. Boswell, Jr. and wife, Jean S. Boswell to Dome Lake Investment, L.P., recorded in Volume 6751, Page 16, Official Public Records of Brazos County, Texas.
27. Gift Mineral Deed dated January 4, 2014, from Dorothy Abbott by her attorney in fact, Donna Baldwin to Donna Janette Baldwin, recorded in Volume 11791, Page 190, Official Public Records of Brazos County, Texas.

GRANTOR hereby reserves for itself, its successors and assigns, all of the Reserved Groundwater Rights. As used in this Special Warranty Deed, the following terms shall have the following meanings: Groundwater – All of the underground water, percolating water, artesian water, and any other water from any and all reservoirs, formations, depths and horizons beneath the surface of the earth, excluding underflow or flow in a defined subterranean channel; Reserved Groundwater - All of the Groundwater now or in the future located in, on or under the Property. Reserved Groundwater Rights - All of the Reserved Groundwater, together with the right to explore for, drill for, pump, develop, withdraw, produce and transport the Reserved Groundwater and Groundwater produced from other

properties, from surface locations other than on the Property, including, without limitation, all personal property rights and entitlements relating to or applicable to the Reserved Groundwater, including, without limitation, permits, licenses, historical use entitlements, wells, pumps, and infrastructure; provided that Grantor agrees for itself, its successors and assigns that, notwithstanding anything herein to the contrary, none of Grantor, its successors or assigns shall have any right of ingress or egress on or across the surface of the Property including without limitation for the purposes of exploration, development, production or transportation of such Groundwater, it being expressly contemplated by the parties to this instrument that any production of such Groundwater shall be from the surface of other property located at least 500 feet from every point on the boundary of the Property.

GRANTOR hereby reserves unto itself, its successors and assigns, any and all oil, gas and other minerals in, on or under the Property described on the attached **EXHIBIT A**; provided that Grantor agrees for itself, its successors and assigns that, notwithstanding anything herein to the contrary, none of Grantor, its successors or assigns shall have any right of ingress or egress on or across the surface of the Property for the purposes of exploration, development, production or transportation of such oil, gas or other minerals, it being expressly contemplated by the parties to this instrument that any production of such minerals shall be from the surface of other property located at least 500 feet from every point on the boundary of the Property and that there shall be no development of any minerals that would require mining, shaft mining, pit mining or any other kind of mining that would require utilization of the surface of the Property or the surface of other property located less than 500 feet from every point on the boundary of the Property, or through the pooling of such mineral interests for the development with adjacent parcels.

GRANTOR waives for itself, its successors and assign all rights with respect to the surface of the PROPERTY and no owner of the mineral estate shall ever have rights of ingress or egress except as may have been reserved by GRANTOR'S predecessors in title.

GRANTEE ACKNOWLEDGES THAT GRANTOR HAS NOT MADE AND DOES NOT MAKE ANY REPRESENTATIONS AS TO THE PHYSICAL CONDITION OF THE PROPERTY, OR ANY OTHER MATTER AFFECTING OR RELATED TO THE PROPERTY, OTHER THAN THE EXPRESS WARRANTIES AND/OR REPRESENTATIONS OF GRANTOR SET FORTH HEREIN THE REAL ESTATE CONTRACT DATED ____, 2023 BETWEEN GRANTOR AND GRANTEE, AS IT MAY HAVE BEEN AMENDED, AND/OR IN ANY OTHER CLOSING DOCUMENT OF EVEN DATE HERewith (COLLECTIVELY, THE "EXPRESS WARRANTIES"). GRANTEE EXPRESSLY AGREES THAT TO THE MAXIMUM EXTENT PERMITTED BY LAW, AND EXCEPT FOR THE EXPRESS WARRANTIES, THE PROPERTY IS CONVEYED "AS IS" AND "WITH ALL FAULTS", AND GRANTOR EXPRESSLY DISCLAIMS, AND GRANTEE ACKNOWLEDGES AND ACCEPTS THAT GRANTOR HAS DISCLAIMED, EXCEPT FOR THE EXPRESS WARRANTIES, ANY AND ALL REPRESENTATIONS, WARRANTIES OR GUARANTIES OF ANY KIND, ORAL OR WRITTEN, EXPRESS OR IMPLIED CONCERNING THE PROPERTY, INCLUDING WITHOUT LIMITATION (I) THE VALUE, CONDITION, MERCHANTABILITY, HABITABILITY, MARKETABILITY, PROFITABILITY,

SUITABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE, OF THE PROPERTY (II) THE MANNER OR QUALITY OF THE CONSTRUCTION, OR THE MATERIALS, IF ANY, INCORPORATED INTO THE CONSTRUCTION, OF ANY IMPROVEMENTS TO THE PROPERTY AND (III) THE MANNER OF REPAIR, QUALITY OF REPAIR, STATE OF REPAIR OR LACK OF REPAIR OF ANY SUCH IMPROVEMENTS. BY GRANTEE'S ACCEPTANCE OF THIS DEED, GRANTEE REPRESENTS THAT GRANTEE HAS MADE OR HAS HAD THE OPPORTUNITY TO MAKE (I) ALL INSPECTIONS OF THE PROPERTY TO DETERMINE ITS VALUE AND CONDITION DEEMED NECESSARY OR APPROPRIATE BY GRANTEE, INCLUDING, WITHOUT LIMITATION, INSPECTIONS FOR THE PRESENCE OF ASBESTOS, PESTICIDE RESIDUES, HAZARDOUS WASTE AND OTHER HAZARDOUS MATERIALS AND (II) INVESTIGATIONS TO DETERMINE WHETHER ANY PORTION OF THE PROPERTY LIES WITHIN ANY FLOOD HAZARD AREA AS DETERMINED BY THE U.S. ARMY CORPS OF ENGINEERS OR OTHER APPLICABLE AUTHORITY.

GRANTOR, for the consideration and subject to the reservations from and exceptions to conveyance and warranty recited above, **GRANTS, SELLS, and CONVEYS** to **GRANTEE** the Property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold it to **GRANTEE and GRANTEE's** successors, legal representatives and assigns forever. **GRANTOR** binds **GRANTOR and GRANTOR's** legal representatives, successors and assigns to warrant and forever defend all and singular the property to **GRANTEE and GRANTEE's** successors, legal representatives and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through, or under **GRANTOR** but not otherwise, and except as to the reservations from and exceptions to conveyance and warranty recited above.

When the context requires, singular nouns and pronouns include the plural.

CITY OF COLLEGE STATION, TEXAS

By: _____

Mayor

ATTEST:

City Secretary

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

This instrument was acknowledged before me on the _____ day of _____, 2023. By John P. Nichols, as Mayor of the City of College Station, a Texas Home Rule Municipal Corporation, on behalf of said municipality.

NOTARY PUBLIC in and for the State of Texas

PREPARED IN THE OFFICE OF:
City of College Station
City Attorney's Office
P. O. Box 9960
College Station, Texas 77842-9960

RETURN ORIGINAL DOCUMENT TO:
City of College Station
City Attorney's Office
P. O. Box 9960
College Station, Texas 77842-9960

November 9, 2023
Item No. 12.1.
Council Reports on Committees, Boards, and Commissions

Sponsor: City Council

Reviewed By CBC: City Council

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

Relationship to Strategic Goals:

Good Governance

Recommendation(s): Review meetings attended.

Summary: Animal Shelter Board, Arts Council of Brazos Valley, Architectural Advisory Committee, Audit Committee, Bond Citizens Advisory Committee, Bicycle, Pedestrian, and Greenways Advisory Board, Bio-Corridor Board of Adjustments, Brazos County Health Dept., Brazos Valley Council of Governments, Brazos Valley Economic Development Corporation, Bryan/College Station Chamber of Commerce, Budget and Finance Committee, BVSWMA, BVWACS, Census Committee Group, Compensation and Benefits Committee, Experience Bryan-College Station, Design Review Board, Economic Development Committee, Gulf Coast Strategic Highway Coalition, Historic Preservation Committee, Interfaith Dialogue Association, Intergovernmental Committee, Joint Relief Funding Review Committee, Landmark Commission, Library Board, Metropolitan Planning Organization, Operation Restart, Parks and Recreation Board, Planning and Zoning Commission, Research Valley Technology Council, Regional Transportation Committee for Council of Governments, Sister Cities Association, Spring Creek Local Government Corporation, Transportation and Mobility Committee, TAMU Student Senate, Texas Municipal League, Walk with the Mayor, YMCA, Zoning Board of Adjustments. (Notice of Agendas posted on City Hall bulletin board.)

Budget & Financial Summary: None.

Attachments:

None