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: 287 987 474 175 | Passcode: gZw5cS
Phone: 469-480-7460 | Phone Conference: 168 564 318#

December 12, 2024	3:00 PM	City Hall Council Chambers

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

1. Call to Order.

2. Presentation of Employee Service Awards.

3. 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.

3.1. **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. 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.
b. City of College Station v. 47 Oaks, LLC, Cause No. 626-CC, in the County Court at Law No. 2 of Brazos County, Texas.
c. The City of College Station v. The Public Utility Commission of Texas, Cause No. D-1-GN-24-005680 in the 200th District Court, Travis County, Texas.
d. Cynthia Hopkins & Geoffry Hopkins v. City of College Station, Cause No. 23-002880-CV-85 in the 85th District Court, Brazos County Texas.
e. Texas A&M University System v. BVGCD, et al, Cause No. 24-002626-CV-472, in the 472nd District Court, Brazos County.
f. Legal advice related to College Station's water permits issued or pending from the Brazos Valley Groundwater Conservation District and any production or transport permits pending or issued from the Brazos Valley Groundwater Conservation District.
g. Legal advice regarding an ILA with Texas A&M regarding fire service.

3.2. **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. Approximately 1.5 acres of land located 301 Patricia Street and review of the sealed bids submitted under bid number 24-073.
c. Approximately 8 acres of land located at 1508 Harvey Road.
d. Approximately 300 acres generally located at Corporate Parkway and Midtown Drive in the Midtown Business Park.

3.3. **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. Planning and Zoning Commission
b. City Manager
c. Mayor Pro Tem
d. Council Self-Evaluation

3.4. **Economic Incentive Negotiations {Gov't Code Section 551.087};**
Possible action. The City Council may deliberate on commercial or financial information that the City Council has received from a business prospect that the City Council seeks to have locate, stay or expand in or near the city which the City Council in conducting economic development negotiations may deliberate on an offer of financial or other incentives for a business prospect. After executive session discussion, any final action or vote taken will be in public. The following subject(s) maybe discussed:
a. Economic development agreement for a development generally located at the intersection of University Drive East and Tarrow Street.
b. Economic development agreement for a development generally located at the intersection of University Drive and College Avenue.
c. Economic development agreement with Fujifilm Diosynth Biotechnologies Texas, LLC, f/k/a Kalon Biotherapeutics LLC.

3.5. **Deliberation Regarding Security Devices or Security Audits {Section 551.089};**
The City Council may deliberate on security assessments or deployments relating to information resources technology, network security information as described by Section 2059.055(b), or the deployment, or specific occasions for implementation, of security personnel, critical infrastructure, or security devices. The following is a general representation of the subject matter to be considered:
a. Computer network vulnerability and security assessment.

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

5. 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.

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:
- November 22, 2024 Special (Orientation) Meeting
- November 25, 2024 Council Meeting
- November 25, 2024 Executive Session

Sponsors: Tanya Smith
Attachments:
1. SPM112224 DRAFT Minutes (Orientation)
2. CCM112524 DRAFT Minutes
3. EXS112524 DRAFT Minutes

7.2. Presentation, discussion, and possible action regarding adoption of the 2025 Annual Council Calendar.

Sponsors: Tanya Smith
Attachments:
1. 2025 Council Meeting Calendar Draft
2. 2025 Council Meetings and Holidays

7.3. Presentation, discussion, and possible action on rejecting bids and canceling Invitation to Bid (ITB) 25-015 for underground electric cable installation projects.

Sponsors: Timothy Crabb
Attachments:
1. 25-015 Bid Tabulation

7.4. Presentation, discussion, and possible action on approval of the purchase of Current Transformers (CTs) and Potential Transformers (PTs) for the proposed Northwest Substation, from Texas Electric Cooperative, totaling $135,000.

Sponsors: Timothy Crabb
Attachments:
1. 24-091 Award Tab 103124

7.5. Presentation, discussion, and possible action on a bid award and agreement for substation transformer refurbishment services to RESA Services, LLC for $230,695.

Sponsors: Timothy Crabb

Attachments:
1. 24-090 Tabulation
2. 25300130 RESA Services - Vendor Signed

7.6. Presentation, discussion, and possible action on a contract award to Techline Inc. for $232,894 for the City's purchase of concrete pull boxes for Electric Warehouse Inventory.

Sponsors: Timothy Crabb

Attachments:
1. 24-088 Bid Award
2. 24-088 B Bid Award

7.7. Presentation, discussion, and possible action on approval of a design contract with Iteris, Inc., in the amount of $316,657.42 for the design work required to extend fiber optic cabling and controls to the final six traffic signal locations within the City.

Sponsors: Jennifer Cain

Attachments:
1. Traffic Signal Fiber Expansion map
2. Traffic Signal Fiber Expansion - Iteris contract - vendor signed
3. Traffic Signal Fiber Expansion Project List of Responding Firms

7.8. Presentation, discussion, and possible action on approval of a construction contract with Paragon Sports Constructors, LLC. in the amount of $1,209,748 for synthetic turf removal and installation, plus the City's contingency in the amount of $120,974.80 for a total appropriation of $1,330,711.80. Approval of this item grants authority for the City Manager to authorize expenditures up to the City's contingency amount.

Sponsors: Kelsey Heiden

Attachments:
1. 25300190 Paragon Sports Construction, LLC. (1)

7.9. Presentation, discussion, and possible action on the approval of four Master Agreements for Real Estate Appraisal Services: Lowery Property Advisors, LLC; S.T. Lovett & Associates; Allen, Williford & Seale, Inc.; Integra Realty Resources – Fort Worth. Approval of these agreements will authorize the City Manager or his designee to approve Service Orders for each project within the terms of each Master Agreement.

Sponsors: Jennifer Cain

Attachments:
1. Signed - 25300182 - Lowery Property Advisors
2. Signed - 25300183 - S.T. Lovett & Associates
3. Signed - 25300184 - Allen Williford Seale Inc.
4. Signed - 25300185 - Integra Realty Resources

7.10. Presentation, discussion, and possible action on the purchase of three 2000 kVA Pad Mount Transformers for $245,082 from KBS Electrical Distributors Inc. for the Water Wells 10,11,12 and Collection Project.

Sponsors: Jennifer Cain

Attachments:
1. Wells 10,11,12 and Collection Line Map
2. Wells 10,11,12 Transformers 25-009 AWARD

7.11. Presentation, discussion, and possible action on a construction contract with Larry Young Paving, Inc. in the amount of $292,307.40 in Community Development Block Grant funds for construction services for the sidewalk improvement on Foster Avenue between Walton Drive and Francis Drive and between Gilchrist Avenue and George Bush Drive East. Approval of this item grants authority for the City Manager to authorize expenditures up to the City's contingency amount.

Sponsors: Debbie Eller

Attachments: 1. Foster Avenue Location Map
2. Bid Tabulation 25-006
3. 25300173 Larry Young Pacing, Inc. (1)

7.12. Presentation, discussion, and possible action on approval of Change Order No. 3 for the Electric Directional Bore Projects contract with Sterling Global Industries, LLC for an increase of $62,860.50 for a revised contract total of $683,958.94.
Sponsors: Timothy Crabb
Attachments: 1. CO #3 24300644 Bore Projects - Sterling Global

7.13. Presentation, discussion, and possible action regarding a resolution authorizing a grant application in an amount not to exceed $17,000 with the Brazos Valley Council of Governments for the Regional Solid Waste grant program.
Sponsors: Debbie Eller
Attachments: 1. BVCOG Resolution

7.14. Presentation, discussion, and possible action regarding a resolution authorizing the chief of police to execute the grant application and any documents necessary to receive grant funding from the Office of the Governor through the Texas State Crisis Intervention Program.
Sponsors: Billy Couch
Attachments: 1. FY 25 State Crisis Intervention Grant Resolution

7.15. Presentation, discussion, and possible action on approval of an annual contract between the City of College Station and R.R. Cassidy, Inc. for annual Electric Substation Testing and Maintenance, not to exceed $133,000.
Sponsors: Timothy Crabb
Attachments: 1. Contract 25300091 RR Cassidy

7.16. Presentation, discussion, and possible action on a resolution on the interlocal agreement between Bryan, Brazos County, and College Station for expenditures related to the FY 24 JAG Grant.
Sponsors: Billy Couch
Attachments: 1. 6F 2024 JAG MOU_10-18-2024 final ACF

7.17. Presentation, discussion, and possible action regarding a resolution denying an extraterritorial jurisdiction (ETJ) release petition for approximately 8.38 acres of land generally located at 10010 & 10022 State Highway 30.
Sponsors: Anthony Armstrong
Attachments: 1. ETJ Petition Denial Resolution SH 30 Lovett 12-12-24

7.18. Presentation, discussion, and possible action on the Texas Settlement Subdivision Participation and Release Form for the Kroger opioid settlement agreement.
Sponsors: Adam Falco
Attachments: 1. Kroger-Subdivision-Participation-Form

7.19. Presentation, discussion, and possible action on a condemnation settlement agreement with 47 Oaks, LLC for $140,000.
Sponsors: Adam Falco
Attachments: 1. 47 Oaks Settlement Agreement and Release - Seller Signed
2. 47 Oaks Easement Survey

8. Workshop Agenda.

8.1. Presentation, discussion, and possible action on the election of Mayor Pro Tempore.
Sponsors: Tanya Smith
Attachments: None

8.2. Presentation, discussion, and possible action regarding the development and sale of City-owned Northgate property and planning efforts for the redevelopment of the Northgate District.
Sponsors: Bryan Woods
Attachments: None

9. Regular Agenda.

9.1. Public Hearing, presentation, discussion, and possible action regarding an ordinance amending the Comprehensive Plan - Future Land Use & Character Map from Mixed Residential and Natural & Open Areas to Urban Residential for approximately 11 acres at 3182 Holleman Drive South.
Sponsors: Gabriel Schrum
Attachments:
1. Aerial and Small Area Map
2. Background Information
3. Comprehensive Plan Exhibit
4. Applicant's Supporting Information
5. Future Land Use Map
6. Ordinance

9.2. Public Hearing, presentation, discussion, and possible action regarding an ordinance amending Appendix A, Unified Development Ordinance, Article 4, "Zoning Districts," Section 4.2 “Official Zoning Map,” of the Code of Ordinances of the City of College Station, Texas by changing the zoning district boundary from PDD to PDD for approximately 11 acres at 3182 Holleman Drive South, generally located northwest of the intersection of Holleman Drive South and Deacon Drive West.
Sponsors: Gabriel Schrum
Attachments:
1. Aerial and Small Area Map
2. Applicant's Supporting Information
3. Background Information
4. Rezoning Exhibit
5. Bulk Variances Letter
6. Proposed Concept Plan
7. Architectural Standards Exhibit
8. Existing Future Land Use Map
9. Rezoning Map
10. Ordinance

9.3. Presentation, discussion, and possible action on a Design Contract with Pendulum Studio, for $1,611,916 for design services for the Veterans Park Baseball Fields Project.
Sponsors: Jennifer Cain
Attachments:
1. VPAC Ballfields Project List of Responding Firms
2. Pendulum Studio Contract_25300187

9.4. Presentation, discussion, and possible action regarding the appointment of Councilmembers to boards and commissions.
Sponsors: Tanya Smith
Attachments:
1. 2025-2026 Council Appointed Reps

10. Items of Community Interest and Council Calendar.

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

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

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

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

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

13. Adjourn.

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

I certify that the above Notice of Meeting was posted on the website and at College Station City Hall, 1101 Texas Avenue, College Station, Texas, on December 6, 2024 at 5:00 p.m.

Janya Smith

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.”

December 12, 2024
Item No. 7.1.
November 22nd and two for 25th Council Meeting Minutes

Sponsor: Tanya Smith, City Secretary

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action of minutes for:
• November 22, 2024 Special (Orientation) Meeting
• November 25, 2024 Council Meeting
• November 25, 2024 Executive Session

Relationship to Strategic Goals:

- Good Governance

Recommendation(s): Recommends Approval.

Summary: N/A

Budget & Financial Summary: None

Attachments:
1. SPM112224 DRAFT Minutes (Orientation)
2. CCM112524 DRAFT Minutes
3. EXS112524 DRAFT Minutes

MINUTES OF THE CITY COUNCIL SPECIAL (ORIENTATION) MEETING
IN-PERSON
CITY OF COLLEGE STATION
NOVEMBER 22, 2024

STATE OF TEXAS §
§
COUNTY OF BRAZOS §

Present:
John P. Nichols, Mayor

Council:
Mark Smith
William Wright
David White
Melissa McIlhaney
Bob Yancy
Scott Shafer

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

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 at 12:00 p.m. on November 22, 2024, in the Council Chambers of the City of College Station City Hall, 1101 Texas Avenue, College Station, Texas 77840.

2. SPECIAL (ORIENTATION) ITEMS

2.1. Presentation, discussion, and possible action regarding an overview of roles, processes, and procedures; including the Council Manager Form of Government, budget and strategic planning process, and the agenda process.

Bryan Woods, City Manager, stated that today is broad overview of roles, processes, and procedures to include discussion between staff and council on these topics.

Mr. Woods discussed how individual councilmembers may bring forward questions and concerns to the City Manager's Office (CMO) and other staff. Issues that might be brought forward and the names of individual citizens would be subject to the Texas Public Information Act (PIA). If requests are communicated to the CMO before a meeting information may be provided or gathered to help, make meetings more informative and efficient.

City Managers, City Attorneys, City Secretary, and Chief Development Officer provided a brief overview of their personal history and departments duties. An overview of the City Manager Form of Government regarding Council and staff relations (point of contact) was given.

Discussed emailing one or more councilmembers, handling social media, and reaching out to the CMO or Public Communications for information and support before engaging with the media. Council was informed of the flow of information delivered to Council with the Weekly Update, Council Calendar, and City Calendar.

Mayor Nichols recessed the meeting at 2:12 p.m.

The meeting resumed at 2:22 p.m.

A short description of a walking quorum and using care while attending events with other elected officials and discussing city related matters.

Bryan Woods, City Manager, and Jeff Kersten, Assistant City Manager and Chief Financial Officer, gave a summary of our FY25 Budget and the processes. This included discussion of responsibilities, the city's Budget Congress (staff budget meetings), official meetings for engagement and feedback, opportunities for amending the proposed budget before adoption, and regular amendments to the final budget for a fiscal year.

CITY OF COLLEGE STATION
GENERAL FUND SUMMARY FIVE YEAR FORECAST

	FY24 Year-End Estimate	FY25 Approved Budget	FY26 Forecasted	FY27 Forecasted	FY28 Forecasted	FY29 Forecasted
Beginning Fund Balance	$ 80,456,578	$ 86,330,636	$ 82,483,263	$ 77,690,817	$ 75,032,156	$ 72,614,613
Total Revenues	123,598,458	121,061,490	121,848,585	125,134,654	128,235,658	131,571,482
Total Funds Available	$ 204,055,036	$ 207,392,126	$ 204,331,849	$ 202,825,471	$ 203,267,813	$ 204,186,095
Total Operating Expenditures	120,833,203	126,442,437	130,498,548	135,614,406	139,554,798	143,653,984
Total Transfers (Sources) Uses	(13,874,945)	(7,762,810)	(9,995,817)	(14,051,190)	(15,142,997)	(16,329,017)
Total Other (Sources) Uses	10,766,142	6,229,236	6,138,300	6,230,100	6,241,400	6,336,300
Total Expenditures & Transfers	$ 117,724,400	$ 124,908,863	$ 126,641,032	$ 127,793,316	$ 130,653,201	$ 133,661,267
Total Increase (Decrease)*	$ 5,874,058	$ (3,847,373)	$ (4,792,446)	$ (2,658,661)	$ (2,417,543)	$ (2,089,785)
Measurement Focus Increase (Decrease)						
Ending Assigned & Unassigned Fund Balance	$ 86,330,636	$ 82,483,263	$ 77,690,817	$ 75,032,156	$ 72,614,613	$ 70,524,827
Assigned Fund Balances						
Required 20% Reserve (Fiscal Policy)	24,308,803	23,969,310	24,528,206	25,268,663	26,130,640	26,732,253
Reserve for 12 Firefighters	1,731,656	3,531,656	-	-	-	-
Additional reserve for Bond Rating	6,471,389	6,475,815	6,656,842	6,917,225	7,114,810	7,324,514
State Highway 6 Relocation Costs	-	550,000	-	-	-	1,000,000
Matching Grant Dollars Allocation	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000
Additional Economic Incentives	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000
Special Council Requests	120,000	120,000	120,000	120,000	120,000	120,000
Special Elections	100,000	100,000	100,000	100,000	100,000	100,000
Parks TPWD Grant	750,000	750,000	750,000	750,000	750,000	750,000
Future Vehicles	1,500,000	1,500,000	1,500,000	1,500,000	1,500,000	1,500,000
Future Projects	17,200,000	17,200,000	17,200,000	17,200,000	17,200,000	17,200,000
Assigned Fund Balance	$ 54,181,848	$ 56,196,780	52,855,049	53,855,888	54,915,450	56,726,768
Ending Fund Balance (net of assignments)	$ 32,148,788	$ 26,286,483	$ 24,835,768	$ 21,176,267	$ 17,699,163	$ 13,798,060

* Future years include 1-time expenses.

The City Manager's Office also provided definitions of reoccurring and one-time money, how they differentiate and the impact year over year. There was discussion of the fiscal obligations required by law and how some monies are earmarked for specific uses.

2.2. Presentation, discussion, and possible action regarding an update on ongoing and planned capital projects.

A brief discussion of ongoing and future capital projects was had.

3. Executive Session Agenda.

In accordance with the Texas Government Code §551.071-Consultation with Attorney, and §551.072-Real Estate, and §551.087- Economic Incentive Negotiations, and the College Station City Council convened into Executive Session at 4:03 p.m. on November 22, 2024, to continue discussing matters pertaining to:

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

- 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
- The City of College Station v. The Public Utility Commission of Texas, Cause No. D-1-GN-24-005680 in the 200th District Court, Travis County, Texas; and
- Cynthia Hopkins & Geoffry Hopkins v. City of College Station, Cause No. 23-002880-CV-85 in the 85th District Court, Brazos County Texas.
- Texas A&M University System v. BVGCD, et al, Cause No. 24-002626-CV-472, in the 472nd District Court, Brazos County.
- Legal advice related to College Station's water permits issued or pending from the Brazos Valley Groundwater Conservation District and any production or transport permits pending or issued from the Brazos Valley Groundwater Conservation District.
- Darrin Allen v. College Station, et al, Cause No. 24-003101-CV-85, in the 472nd District Court, Brazos County.
- Legal advice regarding the Texas Public Information Act.
- Legal advice regarding the Texas Open Meetings Act.
- Legal advice regarding nepotism and conflicts of interest.
- Legal Advice regarding financial disclosures.

3.2. 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.
- Approximately 1.5 acres of land located 301 Patricia Street and review of the sealed bids submitted under bid number 24-073.
- Approximately 8 acres of land located at 1508 Harvey Road.
- Approximately 300 acres generally located at Corporate Parkway and Midtown Drive in the Midtown Business Park.

3.3. Deliberation on an offer of financial or other incentives for a business prospect that the Council seeks to have locate, stay or expand in or near the City; to wit:

- Economic development agreement for a development generally located at the intersection of University Drive East and Tarrow Street.
- Economic development agreement for a development generally located at the intersection of University Drive and College Avenue.
- Economic development agreement with Fujifilm Diosynth Biotechnologies Texas, LLC, f/k/a Kalon Biotherapeutics LLC.

Executive Session recessed at 5:35 p.m. No action was taken.

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

No items at this time.

5. Adjournment.

There being no further business, Mayor John P. Nichols adjourned the Special (Orientation) Meeting of the City Council at 5:35 p.m. on Friday, November 22, 2024.

_____
John P. Nichols, Mayor

ATTEST:

_____
Tanya Smith, City Secretary

MINUTES OF THE CITY COUNCIL MEETING
IN-PERSON WITH TELECONFERENCE PARTICIPATION
CITY OF COLLEGE STATION
NOVEMBER 25, 2024

STATE OF TEXAS §
§
COUNTY OF BRAZOS §

Present:
John Nichols, Mayor

Council:
Mark Smith
William Wright
David White
Melissa McIlhaney
Bob Yancy
Scott Shafer

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

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

With a quorum present, the meeting of the College Station City Council was called to order by Mayor Nichols via In-Person and Teleconference at 4:00 p.m. on November 25, 2024, in the Council Chambers of the City of College Station City Hall, 1101 Texas Avenue, College Station, Texas 77840. Councilmember Cunha was absent.

2. Executive Session Agenda.

In accordance with the Texas Government Code §551.071-Consultation with Attorney, §551.074-Personnel, §551.076-Security and §551.086-Competitive Matters, and the College Station City Council convened into Executive Session at 4:00 p.m. on November 25, 2024, to continue discussing matters pertaining to:

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

- 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
- The City of College Station v. The Public Utility Commission of Texas, Cause No. D-1-GN-24-005680 in the 200th District Court, Travis County, Texas; and

- Cynthia Hopkins & Geoffry Hopkins v. City of College Station, Cause No. 23-002880-CV-85 in the 85th District Court, Brazos County Texas.
- Texas A&M University System v. BVGCD, et al, Cause No. 24-002626-CV-472, in the 472nd District Court, Brazos County.
- Legal advice related to College Station's water permits issued or pending from the Brazos Valley Groundwater Conservation District and any production or transport permits pending or issued from the Brazos Valley Groundwater Conservation District.
- Legal advice related to entering into a settlement agreement regarding an opioid settlement with Kroger.

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

- Planning and Zoning Commission
- City Manager
- Council Self-Evaluation

2.3 Deliberation on deployment, or specific occasions for implementation, of security personnel or devices or a security audit; to wit:

- Security related to City Hall and Council Chambers.

2.4. Deliberation on a competitive matter as that term is defined in Gov't Code Section 552.133; to wit:

- 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.

Executive Session recessed at 6:02 p.m. No action was taken.

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

5. PRESENTATION - PROCLAMATIONS, AWARDS, AND RECOGNITIONS.

5.1. Presentation proclaiming the month of November 2024 as National Entrepreneurship Month.

Mayor Nichols presented a proclamation to the Brian Piscacek, Will Hayes, and individuals involved with "One Million Cups" proclaiming the month of November 2024 as National Entrepreneurship Month.

6. Hear Visitors Comments.

No one signed up to speak.

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.

Item 7.3, and 7.4 was pulled from Consent for clarification.

(7.3) Gary Mechler, Water Director, explained how the biding process works for the rehabilitation of City-owned Water Well 3, which includes additional alternative bid items 8-A, 9-A, 11-A, 13-A, 14-A, 15-A, 16-A, and 17-A, alongside the base bid. As part of the Water Services Department's asset management program, City-owned wells undergo regular rehabilitation to enhance production, reliability, and efficiency. The rehabilitation process typically involves cleaning well screens, replacing or lowering pumping equipment, and implementing other necessary improvements.

(7.4) Gary Mechler, Water Director, explained the change order language of the Sandy Point Pump Station Wellfield Collection Line Phase 1 project which includes replacing an existing 30-inch wellfield collection line with a 48-inch water line near and within the Sandy Point Pump Station Water Treatment Plant. Additionally, an unforeseen conflict with an existing Wellborn SUD water line necessitates field adjustments to ensure the proper installation of the new 48-inch water line. The water line was missed in the bidding.

(7.5) Carol Cotter, City Engineer, explained the statutory 5-year update was completed on November 22, 2021. Revised land use assumptions and capital improvements plans were adopted including resultant maximum assessable rates and associated collection rates. In July of last year, residential impact fee collection rates were amended to provide for annual increases to water and roadway impact fees, beginning January 1, 2024, and again on January 1st of 2025 and 2026. This report documents the period from April 1, 2024, through September 30, 2024. Other than the programmed increase in collection rates, there have been no major changes in the water, wastewater, or roadway impact fee programs during this reporting period. This report includes a summary of the utility and roadway impact fees collected, transferred, and available for capital improvement projects. It also lists ongoing capital improvement projects partially funded by impact fee revenues. Mrs. Cotter also went over the schedule of upcoming increases of impact fees.

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

- **November 11, 2024 Special Meeting**
- **November 14, 2024 Council Meeting**

7.2. Presentation, discussion, and possible action regarding Ordinance No. 2024-4562 amending Chapter 38, "Traffic and Vehicles," Article II, "Stopping, Standing and Parking," Division 3 "Northgate Area" Section 38-104, of the Code of Ordinances of the City of College Station, Texas, by amending certain sections relating to exemptions.

7.3. Presentation, discussion, and possible action on a construction contract with Weisinger, Inc. for the Water Well No. 3 Rehabilitation project in the amount of $863,025 along with a contingency amount of $86,975 resulting in a total appropriation of $950,000. Approval of this item will authorize the City Manager to approve expenditures up to the contingency amount.

7.4. Presentation, discussion, and possible action on a change order with Elliott Construction, LLC for $125,800 for construction services related to the Sandy Point Pump Station Wellfield Collection Line Ph#1 Rehabilitation project.

7.5. Presentation, discussion, and possible action regarding a Semi-Annual Report on System-Wide Impact Fees for Water, Wastewater, and Roadway.

MOTION: Upon a motion made by Councilmember Wright and a second by Councilmember Smith, the City Council voted seven (7) for and none (0) opposed, to approve the Consent agenda less item 7.5. The motion carried unanimously.

(7.5) **MOTION:** Upon a motion made by Councilmember White and a second by Councilmember Smith, the City Council voted seven (7) for and none (0) opposed, to receive the Semi-Annual Report on System-Wide Impact Fees for Water, Wastewater, and Roadway. The motion carried unanimously.

8. WORKSHOP ITEMS

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

Tradd Mills, Emergency Management Coordinator, provided an update regarding the actions of emergency management for the City of College Station as well as collaboration with partnering agencies.

The Community Emergency Operations Center (Highlights)

- Plans reviewed/updated:
  - ✓ Interjurisdictional - Hazard Mitigation Action Plan (State approved, awaiting FEMA approval)
  - ✓ Annex U: Legal
  - ✓ Annex P: Hazard Mitigation
  - ✓ Basic Emergency Operations Plan
  - ✓ Annex Q: Hazardous Materials and Oil Spill Response
  - ✓ Annex H: Health and Medical Services
- Monitored and maintained situational awareness for forecasted potential threats
- Continue to assist the region as an HSAC committee member, CSISD as a safety and security committee member, LEPC committee member, and VOAD committee member.
- CEOC hosted trainings: G300/400 two times, Basic PIO course in Oct., CS Debris Management Course

9. REGULAR ITEMS

9.1. Public Hearing, presentation, discussion, and possible action regarding Ordinance No. 2024-4563 vacating and abandoning a 0.077-acre portion of a 20-foot-wide public utility easement located along Lots 2-5, Block 25 of the Southern Pointe Subdivision, Section 200, Brazos County, Texas, according to the instrument recorded in Volume 14600, Page 73 of the Official Public Records of Brazos County, Texas.

Regular Items 9.1 and 9.2 were presented together.

9.2. Public Hearing, presentation, discussion, and possible action regarding Ordinance No. 2024-4564 vacating and abandoning a 0.005-acre portion of a 20-foot-wide public utility easement located over, across, and upon Lot 1, Block 25 of the Southern Pointe Subdivision, Section 200, Brazos County, Texas, according to the Easement recorded in Volume 14600, Page 73 of the Official Public Records of Brazos County, Texas.

Lucas Harper, Planning and Development, stated these public utility easement abandonments are being requested by the applicant because of a desire to construct residential homes on lots that are currently occupied by a shared drive and parking for model homes located in the subdivision. The originally dedicated easement was not utilized by utilities and a separate public utility easement (PUE) has been dedicated along the right-of-way frontage to serve existing and future utilities. The existing 50-foot-wide right-of-way of Darlington Avenue will also remain in place to provide access and utilities to the lots. The utility easement is located approximately 120 feet southeast of the intersection of Southern Pointe Parkway and Darlington Avenue, extending across Lots 2-5, Block 25 of the Southern Pointe Subdivision, Section 200, also currently known as 6106-6124 Darlington Avenue.

At approximately 6:55 p.m., Mayor Nichols opened the Public Hearing.

There being no further comments, the Public Hearing was closed at 6:55 p.m.

(9.1) MOTION: Upon a motion made by Councilmember Shafer and a second by Councilmember McIlhaney, the City Council voted seven (7) for and none (0) opposed, to adopt Ordinance No. 2024-4563, vacating and abandoning a 0.077-acre portion of a 20-foot-wide public utility easement located along Lots 2-5, Block 25 of the Southern Pointe Subdivision, Section 200, Brazos County, Texas, according to the instrument recorded in Volume 14600, Page 73 of the Official Public Records of Brazos County, Texas. The motion carried unanimously.

(9.2) MOTION: Upon a motion made by Councilmember McIlhaney and a second by Councilmember Shafer, the City Council voted seven (7) for and none (0) opposed, to adopt Ordinance No. 2024-4564, vacating and abandoning a 0.005-acre portion of a 20-foot-wide public utility easement located over, across, and upon Lot 1, Block 25 of the Southern Pointe Subdivision, Section 200, Brazos County, Texas, according to the Easement recorded in Volume 14600, Page 73 of the Official Public Records of Brazos County, Texas. The motion carried unanimously.

9.3. Public Hearing, presentation, discussion, and possible action regarding Ordinance No. 2024-4565 amending Appendix A, Unified Development Ordinance, Article 4, "Zoning Districts," Section 4.2 "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas by changing the zoning district boundaries from PDD Planned Development District to PDD Planned Development District to amend the concept plan for approximately 11 acres generally located at 424 Northpoint Crossing Drive.

Robin Macias, Planning and Development, stated this the applicant is requesting to amend the concept plan to reduce the amount of required commercial space on the ground floor to 24% or 12,225 square feet for the subject property generally located at the intersection of Texas Avenue and University Drive. The subject property is currently developed as a mixed-use development with retail space on the ground floor and multi-family apartments above in three buildings and multi-family residential in the remaining buildings and located within The Crossing area of the Northeast Gateway Redevelopment Plan. The goals for this area are to build a vibrant and distinct identity for the crossing that embraces an attractive urban form with versatile public spaces and to ensure the availability of residential and commercial opportunities throughout the district. The property was first rezoned in 2012 to PDD Planned Development District and required that the entire ground floor be commercial space. In 2017, a concept plan amendment was approved to reduce the amount of required commercial space to 50% of the ground floor.

Staff recommends denial of the rezoning request for the proposed changes to the Concept Plan. The proposed changes are not in line with the Comprehensive Plan or Northeast Gateway Redevelopment Plan. The Planning and Zoning Commission heard this item at their November 7, 2024 meeting and recommended approval (6-0).

At approximately 7:36 p.m., Mayor Nichols opened the Public Hearing.

Valen Cepak, College Station, came before council to lend his credibility to the request to amend the concept plan as he works with an adjacent property which struggles with the same issues.

There being no further comments, the Public Hearing was closed at 7:37 p.m.

MOTION: Upon a motion made by Councilmember Wright and a second by Councilmember Smith, the City Council voted seven (7) for and none (0) opposed, to adopt Ordinance No. 2024-4565, amending Appendix A, Unified Development Ordinance, Article 4, "Zoning Districts," Section 4.2 "Official Zoning Map," of the Code of Ordinances of the City of College Station, Texas by changing the zoning district boundaries from PDD Planned Development District to PDD Planned Development District to amend the concept plan for approximately 11 acres generally located at 424 Northpoint Crossing Drive. The motion carried unanimously.

9.4. Presentation, discussion, and possible action regarding the appointment of Councilmember to the Council Transportation Committee and Chair to the Bicycle, Pedestrian, and Greenways Advisory Board or designee.

MOTION: Upon a motion made by Councilmember White and a second by Councilmember Wright, the City Council voted seven (7) for and none (0) opposed, to appointed Councilmember Mark Smith as Chair of the Council Transportation Committee. The motion carried unanimously.

MOTION: Upon a motion made by Councilmember Smith and a second by Councilmember Yancy, the City Council voted seven (7) for and none (0) opposed, for the Council Transportation Committee Chair to designate Scott Shafer as Chair to the Bicycle, Pedestrian, and Greenways Advisory Board. The motion carried unanimously.

9.5. Presentation, discussion, and possible action regarding the appointment of a Planning and Zoning Commission Chair.

MOTION: Upon a motion made by Councilmember McIlhaney and a second by Councilmember White, the City Council voted seven (7) for and none (0) opposed, to appoint Jason Cornelius as Chairperson of the Planning and Zoning Commission. The motion carried unanimously.

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

Mayor Nichols reported on the passing of A.C. Vinzant.

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

Councilmember Yancy reported on Health Board.

Mayor Nichols reported on the IGC meeting and the appointment of Councilmember Yancy as incoming Chair.

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

Councilmember Yancy requested a future item for Impact Fees during Strategic Planning.

13. Adjournment.

There being no further business, Mayor Nichols adjourned the meeting of the City Council at 8:00 p.m. on Monday, November 25, 2024.

_____
John P. Nichols, Mayor

ATTEST:

_____
Tanya Smith, City Secretary

MINUTES OF THE CITY COUNCIL MEETING
IN-PERSON
CITY OF COLLEGE STATION
NOVEMBER 25, 2024

STATE OF TEXAS §
§
COUNTY OF BRAZOS §

Present:
John Nichols, Mayor

Council:
Mark Smith
William Wright
David White
Melissa McIlhaney
Bob Yancy
Scott Shafer

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

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

With a quorum present, the meeting of the College Station City Council was called to order by Mayor Nichols via In-Person at 8:00 p.m. on November 25, 2024, 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, §551.074-Personnel, §551.076-Security, §551.086-Competitive Matters, and §551.087-Economic Incentive Negotiations, and the College Station City Council convened into Executive Session at 8:01 p.m. on November 25, 2024, to continue discussing matters pertaining to:

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

- 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
- The City of College Station v. The Public Utility Commission of Texas, Cause No. D-1-GN-24-005680 in the 200th District Court, Travis County, Texas; and

- Cynthia Hopkins & Geoffry Hopkins v. City of College Station, Cause No. 23-002880-CV-85 in the 85th District Court, Brazos County Texas.
- Texas A&M University System v. BVGCD, et al, Cause No. 24-002626-CV-472, in the 472nd District Court, Brazos County.
- Legal advice related to College Station's water permits issued or pending from the Brazos Valley Groundwater Conservation District and any production or transport permits pending or issued from the Brazos Valley Groundwater Conservation District.
- Legal advice related to entering into a settlement agreement regarding an opioid settlement with Kroger.

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.
- Approximately 1.5 acres of land located 301 Patricia Street and review of the sealed bids submitted under bid number 24-073.
- Approximately 8 acres of land located at 1508 Harvey Road.
- Approximately 300 acres generally located at Corporate Parkway and Midtown Drive in the Midtown Business Park.

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

- Planning and Zoning Commission
- City Manager
- Council Self-Evaluation

2.4 Deliberation on deployment, or specific occasions for implementation, of security personnel or devices or a security audit; to wit:

- Security related to City Hall and Council Chambers.

2.5. Deliberation on a competitive matter as that term is defined in Gov't Code Section 552.133; to wit:

- Power Supply

2.6. Deliberation on an offer of financial or other incentives for a business prospect that the Council seeks to have locate, stay or expand in or near the City; to wit:

- Economic development agreement for a development generally located at the intersection of University Drive East and Tarrow Street.
- Economic development agreement for a development generally located at the intersection of University Drive and College Avenue.
- Economic development agreement with Fujifilm Diosynth Biotechnologies Texas, LLC, f/k/a Kalon Biotherapeutics LLC.

3. Reconvene from Executive Session and City Council will take action, if any.

Executive Session recessed at 10:40 p.m. No action was taken.

4. Adjournment.

There being no further business, Mayor Nichols adjourned the meeting of the City Council at 10:40 p.m. on Monday, November 25, 2024.

_____
John P. Nichols, Mayor

ATTEST:

_____
Tanya Smith, City Secretary

December 12, 2024
Item No. 7.2.
2025 Annual Council Calendar

Sponsor: Tanya Smith, City Secretary

Reviewed By CBC:

Agenda Caption: Presentation, discussion, and possible action regarding adoption of the 2025 Annual Council Calendar.

Relationship to Strategic Goals:

- Good Governance

Recommendation(s): Staff recommends adoption of the Annual Calendar.

Summary: The schedule lists the 2nd and 4th Thursdays for the 2025 Council Meeting. Alternate dates will be provided by the Council if scheduling conflicts should arise.

Budget & Financial Summary: None

Attachments:
1. 2025 Council Meeting Calendar Draft
2. 2025 Council Meetings and Holidays

(Subject to Change)
2025 CITY COUNCIL MEETING SCHEDULE

Council Meetings

Thursday, January 9, 2025
Thursday, January 23, 2025

Thursday, February 13, 2025
Thursday, February 27, 2025

Thursday, March 13, 2025
Thursday, March 27, 2025

Thursday, April 10, 2025
Thursday, April 24, 2025

Thursday, May 8, 2025
Thursday, May 22, 2025

Thursday, June 12, 2025
Thursday, June 26, 2025

Thursday, July 10, 2025
Thursday, July 24, 2025

Thursday, August 14, 2025
Thursday, August 28, 2025

Thursday, September 11, 2025
Thursday, September 25, 2025

Thursday, October 9, 2025
Thursday, October 23, 2025

Thursday, November 13, 2025
Monday, November 24, 2025

Thursday, December 11, 2025

2025 Special:

February 18-20	Council Retreat

2025 Events:

March 20-21	TML Midyear Conference	Austin
May TBD	(Tentative) Chamber Washington Trip	Washington (possible conflict)
June 4-6	ITGA Annual Conference (Kent State University)	Kent, Ohio
July 17-18	TML TAMCC Newly Elected City Officials' Orientation	San Antonio
August 7-8	TML TAMCC Newly Elected City Officials' Orientation	Waco
October 29-31	TML Annual Conference and Exhibition	Fort Worth

2025 Budget Meetings:

July 7th	Tentative Special Meeting to Call a Budget Public Hearing
July 14-16	Tentative Council Budget Workshops
July 24	Budget Public Hearing
August 7	Call Public Hearing on Tax Rate – (If Tax Rate Election needed/directed)
August 14	Call Public Hearing on Tax Rate – (If No Tax Rate Election)
August 18	Budget and Tax Rate Adoption – (If Tax Rate Election needed/directed)
August 28	Budget and Tax Rate Adoption – (Assuming No Tax Rate Election)

DRAFT

2025 COUNCIL CALENDAR

1 New Year's Day
(City Offices Closed)
9 Council Meeting
20 M.L. King Jr. Day
(City Offices Closed)
23 Council Meeting

JANUARY						
S	M	T	W	Th	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

13 Council Meeting
18-20 Council Retreat
27 Council Meeting

FEBRUARY						
S	M	T	W	Th	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	

13 Council Meeting
20-21 TML Midyear Conference
27 Council Meeting

MARCH						
S	M	T	W	Th	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

10 Council Meeting
18 Good Friday
(City Offices Closed)
24 Council Meeting

APRIL						
S	M	T	W	Th	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

____ Chamber Washington
(Conflict)
8 Council Meeting
22 Council Meeting
26 Memorial Day
(City offices closed)

MAY						
S	M	T	W	Th	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

4-6 ITGA Conference
12 Council Meeting
19 Juneteenth
(City Offices Closed)
26 Council Meeting

JUNE						
S	M	T	W	Th	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

JULY						
S	M	T	W	Th	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

4 Independence Day
(City offices closed)
__ Tentative Special Mtg
Calling Budget Public Hrg
10 Council Meeting
14-16 Budget Workshops
17-18 TML TAMCC Newly Elected City Officials' Orientation
24 Council Meeting

AUGUST						
S	M	T	W	Th	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

8 Council Meeting
7-8 TML TAMCC Newly Elected City Officials' Orientation
14 Council Meeting
28 Council Meeting

SEPTEMBER						
S	M	T	W	Th	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

1 Labor Day
(City Offices Closed)
11 Council Meeting
25 Council Meeting

OCTOBER						
S	M	T	W	Th	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

9 Council Meeting
23 Council Meeting
29-31 TML Annual Conference

NOVEMBER						
S	M	T	W	Th	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

13 Council Meeting
24 Council Meeting
27 -28 Thanksgiving
(City Offices closed)

DECEMBER						
S	M	T	W	Th	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

11 Council Meeting
22-26 Christmas Holiday's
(City Offices Closed)

Blue=Regular Council Dates Pink = Office Closed **Peach=Council Conferences**

December 12, 2024
Item No. 7.3.
CSU Electric Underground Distribution Cable Installation

Sponsor: Timothy Crabb, Director of Electric

Reviewed By CBC: N/A

Agenda Caption: Presentation, discussion, and possible action on rejecting bids and canceling Invitation to Bid (ITB) 25-015 for underground electric cable installation projects.

Relationship to Strategic Goals:
Financially Sustainable City
Core Services and Infrastructure

Recommendation(s): Staff recommends rejection of the four bids received, and no award for ITB #25-015.

Summary: ITB #25-015 was formally bid and opened on November 20, 2024. Four bids were received and reviewed by Electric staff. Two bids were disqualified because the submission was incomplete and considered non-responsive; the remaining bids significantly exceed the cost anticipated and budgeted for these construction projects. Electric staff is reallocating internal staff to complete the underground cable installation projects.

Budget & Financial Summary: The rejection of ITB #25-015 will have no impact on the Electric budget.

Attachments:
1. 25-015 Bid Tabulation

Event Number	**25-015 Addendum 3**	**Organization**	Brazos Valley e-Marketplace
Event Title	**Electric Distribution Construction for**	**Workgroup**	City of College Station
Event Description	**Underground Cable**	**Event Owner**	Robyn Forsyth
Event Type	**RFP**	**Email**	rforsyth@cstx.gov
Issue Date	**10/24/2024 12:32:55 PM (CT)**	**Phone**	(979) 764-3437
Close Date	**11/20/2024 02:00:00 PM (CT)**	**Fax**	

Responding Supplier	City	State	Response Submitted	Lines Responded	Response Total	Cert	Bid Bond	C Red Lines	V Quali	Addendum 1-3	Clarifications	
Ardent Services, LLC	Covington	LA	11/20/2024 01:53:41 PM (CT)	0	$483,988.13	X	X		X	X		Unresponsive
Sterling Global Industries LLC	Midland	TX	11/20/2024 12:09:33 PM (CT)	0	$513,240.23	X	X		X	√		Unresponsive
KV power, LLC	Andrews	TX	11/20/2024 01:52:15 PM (CT)	0	$544,938.64	√	√		√	√	√	
Primoris T&D Services, LLC	Fort Worth	TX	11/20/2024 12:24:10 PM (CT)	0	$904,840.31	√	√	√	√	√		
				Total Responses	**$2,447,007.31**							

December 12, 2024
Item No. 7.4.
Northwest Substation Current Transformers and Potential Transformers

Sponsor: Timothy Crabb, Director of Electric

Reviewed By CBC: N/A

Agenda Caption: Presentation, discussion, and possible action on approval of the purchase of Current Transformers (CTs) and Potential Transformers (PTs) for the proposed Northwest Substation, from Texas Electric Cooperative, totaling $135,000.

Relationship to Strategic Goals:
Core Services and Infrastructure
Financial Sustainability

Recommendation(s): Staff recommends approval of the purchase of CTs and PTs for Northwest Substation in the amount of $135,000 from Texas Electric Cooperative.

Summary: The equipment purchased through this bid requires a long-lead delivery time from the date of purchase and is planned to be installed during the construction of the Northwest Substation in 2025. Two bids were received for this equipment and were evaluated for price, delivery time, and conformance with CSU specifications. Texas Electric Cooperative is the selected bidder.

Budget & Financial Summary: Funds for this purchase are budgeted in the FY25 Electric Capital Improvement Projects Fund.

Attachments:
1. 24-091 Award Tab 103124

BID#24-091
AWARD
Northwest Substation Material Order for 145 kV CT's & PT's

			KBS ELECTRICAL DIST.						TEXAS ELECTRIC CO-OPERATIVE					
Line #	Description				Estimated	Unit	Extended				Estimated	Unit	Extended	
Item	Work Description	Scope of Work	MFG	Delivery Estimate in Weeks	Quantity	Unit of Measure	Unit Price	Total Extended Price	Manufacturer	Delivery Estimate in Weeks	Quantity	Unit	Unit Price	Total Extended Price
A	145 kV Potential Transformer-Three Winding High Accuracy	•145 kV Maximum operating voltage •Nominal Primary Voltage (L-G): 80.5 kV, Rated Output: 5000 VA •700/7200 and 700-1200:1-1 at 650 kV BIL •Three (3) secondary windings are required on these units per Section 3.b. ii. •Comply w/ ANSI/IEEE C57.13, 0.15S Accuracy Class at Burdens W, X, Y, Z and ZZ •Test Switches – Comply with ANSI C12.9 •Certified no PCB dielectric fluid •Meets or exceeds ERCOT protocols and ERCOT Settlement Metering Operating Guide (May 1, 2024) •Factory certified testing documentation at all Ratios and all Burdens •Meets or exceeds parameters defined in attached detailed specification	TRENCH UT5H-650-138	50-52WEEKS	6	1	$ 16,985.00	$ 101,910.00	Pfiffner Instrument Transformers	28-30 weeks ARO	6	1	$ 11,375.00	$ 68,250.00
B	145 kV Current Transformer-Three Winding High Accuracy	• 145 kV Metering Accuracy, 650 kV BIL • Nominal Service Voltage (Ø-Ø): 138 kV • Maximum: 145 kV • Dual Ratio 100/50:5, Extended Range • Metering High Accuracy, Extended Range 0.15S B1.8, Rating Factor 2.0, both ranges meet or exceed parameters of attached detailed specifications • Accuracy: 0.15S B1.8 Upon both ratios • Frequency: 60 Hz • Temp Rise: 55°C • Factory certified testing documentation at all Ratios and all Burdens • Mechanical Rating: 30 kA at 100:5 (1 second thermal), 15 kA at 50:5 (1 second thermal)	TRENCH IOSK145	52-54WEEKS	6	1	$ 16,265.00	$ 97,590.00	Pfiffner Instrument Transformers	28-30 weeks ARO	6	1	$ 11,125.00	$ 66,750.00
						Total Price	KBS Elec Dist	$199,500.00				Total Cost	TEC	$ 135,000.00

Warranty Provided		months	Warranty Provided	24	months
IN SERVICE		60	IN SERVICE		
MAXIMUM FROM DELIVERY		66	MAXIMUM FROM DELIVERY		
	KBS Elec Dist			TEXAS ELECTRIC CO-OPERATIVE	

December 12, 2024
Item No. 7.5.
CSU Switch Substation Transformer Refurbishment

Sponsor: Timothy Crabb, Director of Electric

Reviewed By CBC: N/A

Agenda Caption: Presentation, discussion, and possible action on a bid award and agreement for substation transformer refurbishment services to RESA Services, LLC for $230,695.

Relationship to Strategic Goals:
Financially Sustainable City
Core Services and Infrastructure

Recommendation(s): Staff recommends that Council approve the award of a contract with RESA Services for Switch Substation transformer refurbishment in the amount of $230,695.

Summary: ITB 24-090 was posted on September 25, 2024, and three sealed bids were received and opened on October 23, 2024. Electric staff reviewed the three proposals for price, professional experience, and references, and RESA Service, LLC is the selected bidder. Once refurbished to like-new condition, this transformer will be placed at the new Northwest Substation.

Budget & Financial Summary: Funds are budgeted and available in the Electric CIP budget.

Attachments:
1. 24-090 Tabulation
2. 25300130 RESA Services - Vendor Signed

BID#24-090
TABULATION OF RESPONDENTS

Event Number	**24-090 Addendum 2**	**Organization**	Brazos Valley e-Marketplace
Event Title	**Switch SubStation**	**Workgroup**	City of College Station
Event Description	**Transformer**	**Event Owner**	Robyn Forsyth
Event Type	ITB	**Email**	rforsyth@cstx.gov
Issue Date	**9/25/2024 04:23:43 PM (CT)**	**Phone**	(979) 764-3437
Close Date	**10/23/2024 02:00:00 PM (CT)**	**Fax**	

Responding Supplier	City	State	Response Submitted	Lines Responded	Response Total
Altitude Energy, LLC	Keenesburg	CO	10/23/2024 10:58:24 AM (CT)	0	$328,914.20
RESA Service, LLC	Houston	TX	10/23/2024 08:08:56 AM (CT)	0	$230,695.00
TransFluid Services, Inc.	Houston	TX	10/23/2024 12:31:20 PM (CT)	0	$229,780.00
			Grand Total Bids		$789,389.20

CONTRACT & AGREEMENT ROUTING FORM

CONTRACT#: 25300130 PROJECT #: _____ BID/RFP/RFQ#: 24-090

Project Name / Contract Description: Switch Substation Transformer Refurbishment

Name of Contractor: RESA Service, LLC

CONTRACT TOTAL VALUE: $ 230,695.00 **Grant Funded** Yes ☐ No ■

If yes, what is the grant number: ☐

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

■ **NEW CONTRACT** ☐ **RENEWAL #** _____ ☐ **CHANGE ORDER #** _____ ☐ **OTHER** _____

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

Funds are available in the Electric Capital Improvement Projects budget.

*(If required)**

CRC Approval Date*: N/A **Council Approval Date*:** 12/12/2024 **Agenda Item No*:** 8.7

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

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

SIGNATURES RECOMMENDING APPROVAL

Timothy Ray Crabb, P.E. — 11/25/2024
DEPARTMENT DIRECTOR/ADMINISTERING CONTRACT — DATE

[signature] — 11/25/2024
ASST CITY MGR – CFO — DATE

John R. Haislet — 11/25/2024
LEGAL DEPARTMENT — DATE

APPROVED & EXECUTED

_____ — _____
CITY MANAGER — DATE

N/A — _____
MAYOR (if applicable) — DATE

N/A — _____
CITY SECRETARY (if applicable) — DATE

9.12.23 UPDATED

CITY OF COLLEGE STATION
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 RESA Service, LLC (the "Contractor") for the construction and/or installation of the following:
College Station Utilities Switch Sub-Station Refurbishment.

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 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: Two Hundred Thirty Thousand, Six Hundred Nintey-Five and 00 /100 Dollars ($ 230,695.00).

1.06 Contract Documents. The term "Contract Documents" shall mean those documents listed in Paragraph 2.01.

1.07 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.

1.08 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.

1.09 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.

1.10 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.

1.11 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").

1.12 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.

1.13 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.

1.14 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.

1.15 Parties. The "parties" are the City and the Contractor.

1.16 Price Escalation/De-Escalation. The terms "price escalation" or "price de-escalation" shall mean that the market for products that are specified herein is considered by both parties to be volatile, and sudden price increases or decreases could occur that are beyond the control of the Contractor, despite its best efforts. Therefore, the parties agree that if there is a bona fide increase or decrease to the Contractor of the material(s) specified herein, the supplier or City may request an equitable adjustment to this contract based on the Producer Price Index for Intermediate Goods, Table B, as it appears in the "Summary Data from the Producer Price Index News Release" as published by the U.S. Department of Labor, Bureau of Labor Statistics. The procedures for Price Escalation and Price De-Escalation are further outlined in Section 16 – Payment.

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 paragraph 2.05, however, shall not relieve the Contractor of any of the obligations set forth in paragraphs 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 paragraphs 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 Paragraphs 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. 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.

(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 Subparagraph.

(b) The City may exercise the rights furnished the City under or pursuant to this Subparagraph 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, 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 Paragraph 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 Paragraph 16.9(a) and (2) changes in the Contractor's costs under Paragraph 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 Paragraph.

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 Paragraph 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.

(b) Claims made or reasonable evidence indicating probable filing of claims by unpaid vendors or other third parties.

(c) Failure of the Contractor to make prompt payments to subcontractors for labor or material or materialmen.

(d) Claims made or reasonable evidence indicating claims will be made for damage to another by the Contractor.

(e) Claims made or reasonable evidence indicating claims will be made for damage to third parties, including adjacent property owners.

(f) Claims made or reasonable evidence indicating claims will be made for unremedied damage to property owned by the City.

(g) City's determination of an amount of liquidated damages.

(h) Charges made for repairs to the Contractor's defective work or repairs made by the City to correct damage to other property.

(i) Other amounts authorized under this Agreement or under any other agreement made between City and Contractor.

(j) 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 Paragraph.

16.12 Price Escalation/De-Escalation. The parties agree that the Contractor has based its bid on certain pricing assumptions of materials to be incorporated into the work specified herein. However, the market for products that are specified herein is considered by both parties to be volatile, and sudden price increases or decreases could occur that are beyond the control of the Contractor, despite its best efforts. Therefore, the parties agree that if there is a bona fide increase or decrease to the Contractor of the material(s) specified herein, the Contractor or City may request an equitable adjustment to this contract based on the Producer Price Index for Intermediate Goods, Table B, as it appears in the "Summary Data from the Producer Price Index News Release" as published by the U.S. Department of Labor, Bureau of Labor Statistics. This index shall be referred to as the materials index.

Bids may only be adjusted semi-annually. Contractors are required to give a 30-day written notice before price increases.

The bid, as submitted herein as part of this Contract, is considered the base price for the materials specified herein as of N/A and shall remain in effect for 6 months hereafter called the **reference base period**. Prices may be adjusted semi-annually each year, based upon the percent changes (whether up or down) in the special index specified herein, between the reference base period N/A and of the most recent year. All calculations for the special index shall be based upon the latest versions of the Producer Price Index data published as of July 20th and January 20th of each year.

Under no circumstances shall the bid prices increase, in aggregate, more than ten percent (10%) during the course of the Contract and any subsequent renewals.

Any Contract awarded with an escalation clause shall be subject to de-escalation provisions in favor of the City in the same or similar manner in the event of cost reductions.

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 Paragraph 1.09 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 Paragraph 1.09 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, CONTRACT TERM, RENEWAL, and EXTENSION

18.01 Time of the Essence. 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 Notice to Proceed. 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 six (6) weeks from the time the contract was fully executed.

18.04 Final Completion. The Work shall reach Final Completion and be ready for final payment within **thirty (30) calendar days** from the date of Substantial Completion.

18.05 Contract Term, Renewal, and Extension. The original term of this Contract shall be for one (1) year from the effective date of this contract. Thereafter, upon the mutual consent of both parties, including budget approval by the City, this Contract may be renewed on an annual basis, under the same terms and conditions, for up to two (2) additional years (three (3) years total). The renewal will be under the same terms and conditions as the original contract; provided, however, that the unit prices bid under the original contract may, by mutual agreement, be increased by no more than ten percent (10%) of the original contract price. In the event a new contract cannot be executed at the anniversary date of the original term or any renewal term, the contract may be renewed month-to-month until a new contract is executed.

18.06 Funding Out Provision. If, for any reason, City funds are not appropriated to continue the contract, the Contract shall become null and void and shall terminate.

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 Paragraph 1.08. 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 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 Paragraph 22 to offset for such stoppage of the Work.

21.03 No payment or compensation of any kind shall be made to the Contractor for damages because of hindrance or delay in the progress of the Work, unless such delays (1) are caused by the actual interference, fraud, bad faith or misrepresentation by the City or its agents, (ii) extend for an unreasonable length of time; or (iii) were not contemplated by the parties at the time of contracting. In the event of any delay entitling Contractor to an increase in Contract Amount, except when due to City's intentional interference or fraud, Contractor's recovery shall be limited as outlined in subsection 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 Texas A&M University weather service; 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 Paragraph 22 of this Agreement, then the Contractor does hereby agree as part of the consideration for the awarding of this Agreement that the City may

permanently withhold from the Contractor's total compensation the sum of Five Hundred and 00 /100 DOLLARS ($ 500.00) for each and every calendar day that the Contractor shall be in default after the time stipulated for Substantial Completion and/or Final Completion, not as a penalty, but as liquidated damages for the breach of this Agreement. It being specifically understood that the assessment of liquidated damages may be made for any failure to meet either or both of the deadlines specified for Substantial Completion and/or Final Completion. The Parties agree to cap the total amount of liquidated damages that may be assessed pursuant to this Section. The total liquidated damages amount shall not exceed ten percent (10%) of the total Contract Amount.

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 (l) 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, 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 (l) 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, or otherwise not in accordance with this Agreement within one (l) 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 (l) 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 (l) year after the installation or completion. The one (l) 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 Paragraph 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 Paragraphs 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 - Waived.

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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 paragraphs (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.

(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 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 Paragraph 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 section 1.11, 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 section 1.12). **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 section 1.10 of 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 paragraphs 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 <u>not</u> 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 Paragraph 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; and/or

(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 Paragraph 38 was wrongful and/or otherwise improper, such termination will be deemed converted to a termination for convenience pursuant to Paragraph 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 Paragraph 39.

43. HIRING

43.01 During the term of this Agreement and for a period of one (1) year thereafter, the Contractor agrees not to solicit for hire any employee or employees of the City that were associated with work specified under this Agreement. In the event that this provision is breached by the Contractor, the Contractor agrees to pay the City damages in the amount equal to twelve (12) months of the employee's total compensation plus any legal expenses associated with enforcement of this provision.

44. ASSIGNMENT

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

45. EFFECTIVE DATE

45.01 This Agreement goes into effect when duly approved by all the parties hereto and is contingent upon Contractor obtaining the bonds required herein.

46. OTHER TERMS

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

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

46.03 Written Notice. Unless otherwise specified, written notice shall be deemed to have been duly served if delivered in person to the individual or to a member of the firm or to any officer of the corporation for whom it is intended or if it is delivered or sent certified mail to the last business address as listed herein. Each party will have the right to change its business address by at least thirty (30) calendar days written notice to the other parties in writing of such change.

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

46.05 Amendment. No amendment to this Agreement shall be effective and binding unless and until it is reduced to writing and signed by duly authorized representatives of both parties.

46.06 Mediation. After receipt of a written notice of a claim, the City may elect to refer the matter to the City's Consultant, City's Representative or another party for review. Contractor will attend meetings called to review and discuss the claims and mitigation of the problem, and shall furnish any reasonable factual backup for the claim requested. The City may also elect to defer consideration of the claim until the Work is completed, in which case the same review options shall be available to the City at the completion of the Work. At any stage, the City, at its sole discretion, is entitled to refer a claim to mediation under the Construction Industry Mediation Rules of the American Arbitration Association, and, if this referral is made, Contractor will take part in the mediation process. The filing, mediation or rejection of a claim does not entitle Contractor to stop performance of the Work. The Contractor shall proceed diligently with performance of the Contract during the pendency of any claim, excepting termination or under City's direction to stop the Work. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. The parties shall share the Mediator's fee and any filing fees equally and the Mediation shall be held in College Station, Texas.

46.07 Arbitration. In the event of a dispute and upon the mutual written consent of both parties, the parties may agree to arbitration without waiving any of their other rights hereunder.

46.08 Choice of Law and Place of Performance. This Agreement has been made under and shall be governed by the laws of the State of Texas. Performance and all matters related thereto shall be in Brazos County, Texas, United States of America.

46.09 Authority to do business. The Contractor represents that it has a certificate of authority, authorizing it to do business in the State of Texas, a registered agent and registered office during the duration of this Agreement.

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

46.11 Waiver. Failure of any party, at any time, to enforce a provision of this Agreement shall in no way constitute a waiver of that provision nor in any way affect the validity of this Agreement, any part hereof, or the right of the City thereafter to enforce each and every provision hereof. No term of this Agreement shall be deemed waived or breach excused unless the waiver shall be in writing and signed by the party claimed to have waived.

Furthermore, any consent to or waiver of a breach will not constitute consent to or waiver of or excuse of any other different or subsequent breach.

46.12 Headings, Gender, Number. The article headings are used in this Agreement for convenience and reference purposes only and are not intended to define, limit, or describe the scope or intent of any provision of this Agreement and shall have no meaning or effect upon its interpretation. Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise.

46.13 Agreement Read. The parties acknowledge that they have had opportunity to consult with counsel of their choice, have read, understand and intend to be bound by the terms and conditions of this Agreement.

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

46.15 Notice of Indemnification. City and Contractor hereby acknowledge and agree that this Agreement contains certain indemnification obligations and covenants.

46.16 Verification No Boycott. To the extent applicable, this Contract is subject to the following:

(a) Boycott Israel. If this Contract is for goods and services subject to § 2270.002 Texas Government Code, Contractor verifies that it i) does not boycott Israel; and ii) will not boycott Israel during the term of this Contract;

(b) Boycott Firearms. If this Contract is for goods and services subject to § 2274.002 Texas Government Code, Contractor verifies that it i) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and ii) will not discriminate during the term of the contract against a firearm entity or firearm trade association; and

(c) Boycott Energy Companies. Subject to § 2274.002 Texas Government Code, Contractor herein verifies that it i) does not boycott energy companies; and ii) will not boycott energy companies during the term of this Contract.

List of Exhibits

- **A.** Wage Rates
- **B.** Performance & Payment Bonds
- **C.** Certificates of Insurance
- **D.** Plans & Specifications
- **E.** Construction Schedule
- **F.** Schedule of Values

RESA SERVICES, LLC

By: Corbin Pillow

Printed Name: Corbin Pillow

Title: Outside Sales Representative

Date: 11/25/2024

CITY OF COLLEGE STATION

By: _____
City Manager
Date: _____

APPROVED:

John A. Haislet
City Attorney
Date: 11/25/2024

Assistant City Manager/CFO
Date: 11/25/2024

EXHIBIT A
DAVIS BACON WAGE RATES

"General Decision Number: TX20220007 02/25/2022

Superseded General Decision Number: TX20210007

State: Texas

Construction Types: Heavy and Highway

Counties: Atascosa, Bandera, Bastrop, Bell, Bexar, Brazos, Burleson, Caldwell, Comal, Coryell, Guadalupe, Hays, Kendall, Lampasas, McLennan, Medina, Robertson, Travis, Williamson and Wilson Counties in Texas.

HEAVY (excluding tunnels and dams, not to be used for work on Sewage or Water Treatment Plants or Lift / Pump Stations in Bell, Coryell, 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 $15.00 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 2022.
If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:	. Executive Order 13658 generally applies to the contract. . The contractor must pay all covered workers at least $11.25 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2022.

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at

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

Modification Number	Publication Date
0	01/07/2022
1	02/25/2022

* SUTX2011-006 08/03/2011

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER (Paving and Structures)	$ 12.56 **	
ELECTRICIAN	$ 26.35	
FORM BUILDER/FORM SETTER		
Paving & Curb	$ 12.94 **	
Structures	$ 12.87 **	
LABORER		
Asphalt Raker	$ 12.12 **	
Flagger	$ 9.45 **	
Laborer, Common	$ 10.50 **	
Laborer, Utility	$ 12.27 **	
Pipelayer	$ 12.79 **	
Work Zone Barricade Servicer	$ 11.85 **	
PAINTER (Structures)	$ 18.34	
POWER EQUIPMENT OPERATOR:		
Agricultural Tractor	$ 12.69 **	
Asphalt Distributor	$ 15.55	
Asphalt Paving Machine	$ 14.36 **	
Boom Truck	$ 18.36	
Broom or Sweeper	$ 11.04 **	
Concrete Pavement Finishing Machine	$ 15.48	
Crane, Hydraulic 80 tons or less	$ 18.36	
Crane, Lattice Boom 80 tons or less	$ 15.87	
Crane, Lattice Boom over 80 tons	$ 19.38	
Crawler Tractor	$ 15.67	
Directional Drilling Locator	$ 11.67 **	
Directional Drilling Operator	$ 17.24	
Excavator 50,000 lbs or Less	$ 12.88 **	
Excavator over 50,000 lbs	$ 17.71	
Foundation Drill, Truck Mounted	$ 16.93	
Front End Loader, 3 CY or Less	$ 13.04 **	
Front End Loader, Over 3 CY	$ 13.21 **	
Loader/Backhoe	$ 14.12 **	
Mechanic	$ 17.10	
Milling Machine	$ 14.18 **	
Motor Grader, Fine Grade	$ 18.51	
Motor Grader, Rough	$ 14.63 **	
Pavement Marking Machine	$ 19.17	

Reclaimer/Pulverizer.....$ 12.88 **
Roller, Asphalt.....$ 12.78 **
Roller, Other.....$ 10.50 **
Scraper.....$ 12.27 **
Spreader Box.....$ 14.04 **
Trenching Machine, Heavy....$ 18.48

Servicer.....$ 14.51 **

Steel Worker
Reinforcing.....$ 14.00 **
Structural.....$ 19.29

TRAFFIC SIGNALIZATION:
Traffic Signal Installation
Traffic Signal/Light Pole
Worker.....$ 16.00

TRUCK DRIVER
Lowboy-Float.....$ 15.66
Off Road Hauler.....$ 11.88 **
Single Axle.....$ 11.79 **
Single or Tandem Axle Dump
Truck.....$ 11.68 **
Tandem Axle Tractor w/Semi
Trailer.....$ 12.81 **

WELDER.....$ 15.97

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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** Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 ($15.00) or 13658 ($11.25). 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. 0264023

THE STATE OF TEXAS §
§ **KNOW ALL MEN BY THESE PRESENTS:**
THE COUNTY OF BRAZOS §

THAT WE, RESA Service, LLC, as Principal, hereinafter called "Contractor" and the other subscriber hereto Berkley 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 Two Hundred Thirty Thousand, Six Hundred Ninety-Five and 00 /100 Dollars ($230,695.00) for the payment of which sum, well and truly to be made to the City of College Station and its successors, the said Contractor and Surety do bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:

WHEREAS, the Contractor has on or about this day executed a Contract in writing with the City of College Station for Switch Station Sub-Station Refurbishment,

all of such Work to be done as set out in full in said Contract Documents therein referred to and adopted by the City Council, all of which are made a part of this instrument as fully and completely as if set out in full herein.

NOW THEREFORE, if the said Contractor shall faithfully and strictly perform Contract in all its terms, provisions, and stipulations in accordance with its true meaning and effect, and in accordance with the Contract Documents referred to therein and shall comply strictly with each and every provision of the Contract, including all warranties and indemnities therein and with this bond, then this obligation shall become null and void and shall have no further force and effect; otherwise the same is to remain in full force and effect.

It is further understood and agreed that the Surety does hereby relieve the City of College Station or its representatives from the exercise of any diligence whatever in securing compliance on the part of the Contractor with the terms of the Contract, including the making of payments thereunder and, having fully considered its Principal's competence to perform the Contract in the underwriting of this Performance Bond, the Surety hereby waives any notice to it of any default, or delay by the Contractor in the performance of his Contract and agrees that it, the Surety, shall be bound to take notice of and shall be held to have knowledge of all acts or omissions of the Contractor in all matters pertaining to the Contract. The Surety understands and agrees that the provision in the Contract that the City of College Station shall retain certain amounts due the Contractor until the expiration of thirty (30) days from the acceptance of the Work is intended for the City's benefit, and the City of College Station shall have the right to pay or withhold such retained amounts or any other amount owing under the Contract without changing or affecting the liability of the Surety hereon in any degree.

It is further expressly agreed by Surety that the City of College Station or its representatives are at liberty at any time, without notice to the Surety, to make any change in the Contract Documents and in the Work to be

done thereunder, as provided in the Contract, and in the terms and conditions thereof, or to make any change in, addition to, or deduction from the Work to be done thereunder; and that such changes, if made, shall not in any way vitiate the obligation in this bond and undertaking or release the Surety therefrom. Surety, for value received, stipulates and agrees that any change in Contract Time or Contract Sum shall not in anywise affect its obligation on this bond and it does hereby waive notice of any such change in Contract Time or Contract Sum.

It is further expressly agreed and understood that the Contractor and Surety will fully indemnify and hold harmless the City of College Station from any liability, loss, cost, expense, or damage arising out of or in connection with the Work done by the Contractor under the Contract. In the event that the City of College Station shall bring any suit or other proceeding at law on the Contract or this bond or both, the Contractor and Surety agree to pay to the City the actual amounts of attorneys' fees incurred by the city in connection with such suit.

This bond and all obligations created hereunder shall be performable in Brazos County, Texas. This bond is given in compliance with the provisions of Chapter 2253 of the Texas Government Code, as amended, which is incorporated herein by this reference. However, all of the express provisions hereof shall be applicable whether or not within the scope of said statute.

Notices required or permitted hereunder shall be in writing and shall be deemed delivered when actually received or, if earlier, on the third day following deposit in a United State Postal Service post office or receptacle, with proper postage affixed (certified mail, return receipt requested), addressed to the respective other party at the address prescribed in the Contract Documents, or at such other address as the receiving party may hereafter prescribe by written notice to the sending party. A copy of surety agent's "Power of Attorney" must be attached hereto.

IN WITNESS THEREOF, the said Contractor and Surety have signed and sealed this instrument on the respective dates written below their signatures and have attached current Power of Attorney.

Bond No. 0264023

FOR THE CONTRACTOR:

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

By: Rita Dieleman
Name: Rita Dieleman
Title: Office Manager
Date: December 12, 2024

(Name of Contractor)

By: RESA Service, LLC Corbin Pillow
Name: Cor Pi
Title: Sales Representative
Date: December 12, 2024

FOR THE SURETY:
ATTEST/WITNESS **(SEAL)**

By:
Name: Ashley Tyree
Title: Team Lead
Date: December 12, 2024

Berkley Insurance Company
(Full Name of Surety)

475 Steamboat Road

Greenwich, CT 06830
(Address of Surety for Notice)

By:
Name: Tyler Durant DeBord
Title: Attorney-In-Fact
Date: December 12, 2024

FOR THE CITY:

REVIEWED:

John A. Haislet
City Attorney

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

City Manager

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

Contract No. 25300130
Electric Construction Services Agreement Over $50,000
Form 08-30-2021

TEXAS STATUTORY PAYMENT BOND

Bond No. 0264023

THE STATE OF TEXAS §
§ **KNOW ALL MEN BY THESE PRESENTS:**
THE COUNTY OF BRAZOS §

THAT WE, RESA Service, LLC, as Principal, hereinafter called "Principal" and the other subscriber hereto Berkley Insurance Company, a corporation organized and existing under the laws of the State of Delaware, 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 Two Hundred Thirty Thousand, Six Hundred Ninety-Five and 00/100 Dollars ($230,695.00) for payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns jointly and severally.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:

WHEREAS, Principal has entered into a certain contract with the City of College Station, dated the 12 day of December, 2024, for Switch Sub-Station Refurbishment,

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. 0264023

FOR THE CONTRACTOR:

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

(Name of Contractor)

By: Rita Dieleman
Name: Rita Dieleman
Title: Office Manager
Date: December 12, 2024

By: RESA Service, LLC Corbin Pillow
Name: Corbin Pillow
Title: Sales Representative
Date: December 12, 2024

FOR THE SURETY:
ATTEST/WITNESS **(SEAL)**

By:
Name: Ashley Tyree
Title: Team Lead
Date: December 12, 2024

Berkley Insurance Company
(Full Name of Surety)
475 Steamboat Road
Greenwich, CT 06830
(Address of Surety for Notice)

By:
Name: Tyler Durant DeBord
Title: Attorney-In-Fact
Date: December 12, 2024

FOR THE CITY:

REVIEWED:

John A. Haislet
City Attorney

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

City Manager

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

Contract No. 25300130
Electric Construction Services Agreement Over $50,000
Form 08-30-2021

POWER OF ATTORNEY
BERKLEY INSURANCE COMPANY
WILMINGTON, DELAWARE

KNOW ALL MEN BY THESE PRESENTS, that BERKLEY INSURANCE COMPANY (the "Company"), a corporation duly organized and existing under the laws of the State of Delaware, having its principal office in Greenwich, CT, has made, constituted and appointed, and does by these presents make, constitute and appoint: ***Stephen Phillip Farmer; Tyler Durant DeBord; or Karl Choltus of Brown & Brown Insurance Services, Inc. of Daytona Beach, FL*** its true and lawful Attorney-in-Fact, to sign its name as surety only as delineated below and to execute, seal, acknowledge and deliver any and all bonds and undertakings, with the exception of Financial Guaranty Insurance, providing that no single obligation shall exceed **Fifty Million and 00/100 U.S. Dollars (U.S.$50,000,000.00),** to the same extent as if such bonds had been duly executed and acknowledged by the regularly elected officers of the Company at its principal office in their own proper persons.

This Power of Attorney shall be construed and enforced in accordance with, and governed by, the laws of the State of Delaware, without giving effect to the principles of conflicts of laws thereof. This Power of Attorney is granted pursuant to the following resolutions which were duly and validly adopted at a meeting of the Board of Directors of the Company held on January 25, 2010:

RESOLVED, that, with respect to the Surety business written by Berkley Surety, the Chairman of the Board, Chief Executive Officer, President or any Vice President of the Company, in conjunction with the Secretary or any Assistant Secretary are hereby authorized to execute powers of attorney authorizing and qualifying the attorney-in-fact named therein to execute bonds, undertakings, recognizances, or other suretyship obligations on behalf of the Company, and to affix the corporate seal of the Company to powers of attorney executed pursuant hereto; and said officers may remove any such attorney-in-fact and revoke any power of attorney previously granted; and further

RESOLVED, that such power of attorney limits the acts of those named therein to the bonds, undertakings, recognizances, or other suretyship obligations specifically named therein, and they have no authority to bind the Company except in the manner and to the extent therein stated; and further

RESOLVED, that such power of attorney revokes all previous powers issued on behalf of the attorney-in-fact named; and further

RESOLVED, that the signature of any authorized officer and the seal of the Company may be affixed by facsimile to any power of attorney or certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligation of the Company; and such signature and seal when so used shall have the same force and effect as though manually affixed. The Company may continue to use for the purposes herein stated the facsimile signature of any person or persons who shall have been such officer or officers of the Company, notwithstanding the fact that they may have ceased to be such at the time when such instruments shall be issued.

IN WITNESS WHEREOF, the Company has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunto affixed this 2nd day of May, 2024.

Attest:
By _____
Philip S. Welt
Executive Vice President & Secretary

Berkley Insurance Company
By _____
Jeffrey M. Hafter
Senior Vice President

STATE OF CONNECTICUT)
) ss:
COUNTY OF FAIRFIELD)

Sworn to before me, a Notary Public in the State of Connecticut, this 2nd day of May, 2024, by Philip S. Welt and Jeffrey M. Hafter who are sworn to me to be the Executive Vice President and Secretary, and the Senior Vice President, respectively, of Berkley Insurance Company.

MARIA C. RUNDBAKEN
NOTARY PUBLIC
CONNECTICUT
MY COMMISSION EXPIRES 04-30-2020

_____
Notary Public, State of Connecticut

CERTIFICATE

I, the undersigned, Assistant Secretary of BERKLEY INSURANCE COMPANY, DO HEREBY CERTIFY that the foregoing is a true, correct and complete copy of the original Power of Attorney; that said Power of Attorney has not been revoked or rescinded and that the authority of the Attorney-in-Fact set forth therein, who executed the bond or undertaking to which this Power of Attorney is attached, is in full force and effect as of this date.

Given under my hand and seal of the Company, this 12th day of December, 2024.

_____
Vincent P. Forte

EXHIBIT C
CERTIFICATES OF INSURANCE AND ENDORSEMENTS

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 11/13/2024

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 Alliant Insurance Services, Inc. 32 Old Slip New York NY 10005 License#: 812008	**CONTACT NAME:** Bryan Dickson **PHONE (A/C, No, Ext):** **FAX (A/C, No):** **E-MAIL ADDRESS:** Bryan.Dickson@alliant.com
INSURED RESA Service, LLC 8723 Fallbrook Drive Houston, TX 77064 RESAPOW-01	**INSURER(S) AFFORDING COVERAGE** / **NAIC #** INSURER A : Hartford Underwriters Insuranc — 30104 INSURER B : Hartford Casualty Insurance Co — 29424 INSURER C : Illinois Union Insurance Compa — 27960 INSURER D : Hartford Fire Ins Co — 19682 INSURER E : — INSURER F : —

COVERAGES **CERTIFICATE NUMBER:** 1823582616 **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	X COMMERCIAL GENERAL LIABILITY	Y	Y	37UEJBE8AJ0	7/15/2024	7/15/2025	EACH OCCURRENCE	$ 1,000,000
	CLAIMS-MADE X OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 1,000,000
							MED EXP (Any one person)	$ 10,000
							PERSONAL & ADV INJURY	$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 2,000,000
	POLICY X PRO-JECT X LOC						PRODUCTS - COMP/OP AGG	$ 2,000,000
	OTHER:							$
B	AUTOMOBILE LIABILITY	Y	Y	37UEJAC6319	7/15/2024	7/15/2025	COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
	X ANY AUTO						BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
B	X UMBRELLA LIAB X OCCUR	Y	Y	37RHHBE8AJX	7/15/2024	7/15/2025	EACH OCCURRENCE	$ 15,000,000
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	$ 15,000,000
	DED X RETENTION $ 10,000							$
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N	N / A	Y	37WEHAW5VU5	7/15/2024	7/15/2025	X PER STATUTE / OTH-ER	
	ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? N (Mandatory in NH)						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
C	Contractor Pollution/E&O			COO G27374876 005	7/15/2024	7/15/2025	Per Occur./Agg: $5M	Retention: $25K
C	Premises Pollution Liab.			PPL G27411848 006	7/15/2024	7/15/2027	Per Occur./Agg: $5M	Retention: $50K

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

The City of College Station, its agents, officials, employees and volunteers are included as Additional Insured with regards to the General Liability, Auto Liability and Umbrella/Excess Liability as required by written contract subject to the policy terms and conditions. Waiver of Subrogation applies with regards to the General Liability, Auto Liability, Workers' Compensation and Umbrella/Excess Liability policies as required by written contract subject to the policy terms and conditions. 30 days notice of cancellation applies, except non payment of premium which is 10 days, with regards to the General Liability, Auto Liability, Workers' Compensation and Umbrella/Excess Liability in accordance with the terms and conditions of the policy.

CERTIFICATE HOLDER

City of College Station
Attn: Risk Manager
PO Box 9960
College Station TX 77842

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

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such amounts are within the "self-insured retention".

B. You agree to arrange for the investigation, defense or settlement of any claim or "suit" in any country where we may be prevented by law from carrying out this agreement. We will pay defense expenses incurred with our written consent in connection with any such claim or "suit" in addition to any applicable limit of insurance. We will also promptly reimburse you for our proper share, but subject to the applicable limit of insurance, of any settlement above the "self-insured retention" made with our written consent.

C. We will have the right to associate at our expense with the "insured" or any underlying insurer in the investigation, defense or settlement of any claim or "suit" which in our opinion may require payment hereunder. In no event, however, will we contribute to the cost and expenses incurred by any underlying insurer.

SECTION III - WHO IS AN INSURED

A. If you are doing business 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, your 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.
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. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees," other than your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts:
   a. Within the scope of their employment by you or while performing duties related to the conduct of your business; and
   b. Only if such "volunteer workers" or "employees" are insureds under "underlying insurance" with limits of liability no less than stated in the Schedule of Underlying Insurance Policies, subject to all the coverage, terms, conditions and limitations of such "underlying insurance".
2. Any person or organization with whom you agreed, because of a written contract, written agreement or because of a permit issued by a state or political subdivision, to provide insurance such as is afforded under this policy, but only with respect to your operations, "your work" or facilities owned or used by you.

   This provision does not apply:
   a. Unless the written contract or written agreement has been executed, or the permit has been issued prior to the "bodily injury," "property damage," or "personal and advertising injury"; and
   b. Unless limits of liability specified in such written contract, written agreement or permit is greater than the limits shown for "underlying insurance"; or
   c. Beyond the period of time required by the written contract or written agreement.
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 his or her duties as such. That representative will have all your rights and duties under this policy.

C. With respect to "auto", any "insured" in the "underlying insurance" is an "insured" under this insurance policy, subject to all the limitations of such "underlying insurance".

D. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain financial interest of more than 50% of the voting stock, will qualify as an "insured" if there is no other similar insurance available to that organization.

However:

1. 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;
2. This insurance does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and

3. This insurance does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

E. Each person or organization, not included as an "insured" in Paragraphs A., B., C., or D., who is an "insured" in the "underlying insurance" is an "insured" under this insurance subject to all the terms, conditions and limitations of such "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.

With respect to any person or organization who is not an "insured" under "underlying insurance", coverage under this policy shall apply only to loss in excess of the amount of the "underlying insurance" or "self-insured retention" applicable to you.

However, coverage afforded by reason of the provisions set forth above applies only to the extent:

(I) Of the scope of coverage provided by the "underlying insurance" but in no event shall coverage be broader than the scope of coverage provided by this policy and any endorsements attached hereto; and

(II) That such coverage provided by the "underlying insurance" is maintained having limits as set forth in the Schedule of Underlying Insurance Policies.

SECTION IV - LIMITS OF INSURANCE

A. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:

1. "Insureds";
2. Claims made or "suits" brought;
3. Persons or organizations making claims or bringing "suits"; or
4. Coverages under which damages are covered under this policy.

B. The Limit of Insurance stated as the General Aggregate Limit is the most we will pay for the sum of "damages", other than "damages":

1. Because of injury or damage included within the "products-completed operations hazard";
2. Because of "bodily injury" by disease to your "employees" arising out of and in the course of their employment by you; and
3. Because of "bodily injury" and "property damage" arising out of the ownership, operations, maintenance, use, entrustment to others, loading or unloading of any "auto".

C. The Limit of Insurance stated as the Products Completed Operations Aggregate Limit is the most we will pay for "damages" because of injury or damage included within the "products-completed operations hazard".

D. The Limit of Insurance stated as the Bodily Injury By Disease Aggregate Limit is the most we will pay for "damages" because of "bodily injury" by disease to your "employees" arising out of and in the course of their employment by you.

E. Subject to **B., C.,** or **D** above, whichever applies, the Each Occurrence Limit is the most we will pay for "damages" because of all "bodily injury", "property damage", and "personal and advertising injury" arising out of any one "occurrence".

F. Our obligations under this insurance end when the applicable Limit of Insurance available is used up. If we pay any amounts for "damages" in excess of that Limit of Insurance, you agree to reimburse us for such amounts.

G. The Limits of Insurance of this policy apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the "policy period" shown in the Declarations. However, if the "policy period" is extended after issuance for an additional period of less than 12 months, the additional period will be deemed part of the last preceding period for the purpose of determining the Limits of Insurance.

SECTION V - NUCLEAR ENERGY LIABILITY EXCLUSION (Broad Form)

A. The insurance does not apply:

1. To "bodily injury" or "property damage":
   - **a.** With respect to which an "insured" under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada or any of their successors, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or
   - **b.** Resulting from the "hazardous properties" of "nuclear material" and with respect to which (a) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (b) the "insured" is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

2. To "bodily injury" or "property damage" resulting from the "hazardous properties" of "nuclear material" if:
   a. The "nuclear material" (a) is at any "nuclear facility" owned by, or operated by or on behalf of, an "insured" or (b) has been discharged or dispersed therefrom;
   b. The "nuclear material" is contained in "spent fuel" or "waste" at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an "insured"; or
   c. The "bodily injury" or "property damage" arises out of the furnishing by an "insured" of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any "nuclear facility", but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion **c.** applies only to "property damage" to such "nuclear facility" and any property thereat.

B. As used in this exclusion:

"Hazardous properties" include radioactive, toxic or explosive properties;

"Nuclear material" means "source material", "special nuclear material" or "by-product material";

"Source material", "special nuclear material" and "by-product material" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof;

"Spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a "nuclear reactor";

"Waste" means any waste material (a) containing "by-product material" other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its "source material" content, and (b) resulting from the operation by any person or organization of any "nuclear facility" included under the first two paragraphs of the definition of "nuclear facility".

"Nuclear facility" means:

(1) Any "nuclear reactor";

(2) Any equipment or device designed or used for **(a)** separating the isotopes of uranium or plutonium, **(b)** processing or utilizing "spent fuel," or **(c)** handling, processing or packaging "waste";

(3) Any equipment or device used for the processing, fabricating or alloying of "special nuclear material" if at any time the total amount of such material in the custody of the "insured" at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;

(4) Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of "waste"; and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations;

"Nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;

"Property damage" includes all forms of radioactive contamination of property.

SECTION VI - CONDITIONS

A. Premium

All premiums for this policy shall be computed in accordance with Item 5 of the Declarations. The premium stated as such in the Declarations is a deposit premium only which shall be credited to the amount of any earned premium. At the close of each "policy period", the earned premium shall be computed for such period, and upon notice thereof to the Named Insured first shown in the Declarations shall become due and payable by such Named Insured.

If the total earned premium for the "policy period" is less than the premium previously paid and more than the minimum premium, we shall return to such Named Insured the unearned portion paid by such Named Insured.

The Named insured first shown in the Declarations shall maintain records of such information as is necessary for premium computation, and shall send copies of such records to us at the end of the "policy period" and at such times during the "policy period" as we may direct.

B. Inspection And Audit

We shall be permitted but not obligated to inspect your property and operations at any time. Neither our right to make inspections, nor the making thereof, nor any report thereon, shall constitute an undertaking on your behalf or for your benefit or that of others to determine or warrant that such property or operations are:

1. Safe;
2. Healthful; or
3. In compliance with any law, rule or regulation.

We may examine and audit your books and records at any time during the "policy period" and extensions thereof and

within three years after the final termination of this policy, insofar as they relate to the subject matter of this policy.

C. Duties In The Event Of Occurrence, Claim Or Suit

1. You must see to it that we are notified as soon as practicable of an "occurrence" which may result in a claim under this policy. This requirement applies only when such "occurrence" is known to any of the following:
   a. You or any additional insured that is an individual;
   b. Any partner, if you or an additional insured are a partnership;
   c. Any manager, if you or an additional insured are a limited liability company;
   d. Any "executive officer" or insurance manager, if you or an additional insured are a corporation;
   e. Any trustee, if you or an additional insured is a trust; or
   f. Any elected or appointed official, if you or an additional insured is a political subdivision or public entity.

   This duty applies separately to you and any additional insured.

   To the extent possible, notice should include:
   a. How, when and where the "occurrence" took place;
   b. The names and addresses of any injured persons and witnesses; and
   c. The nature and location of any injury or damage arising out of the "occurrence" or "offense".
2. If a claim is made or "suit" is brought against any insured, you must:
   a. Immediately record the specifics of the claim or "suit" and the date received; and
   b. Notify us in writing as soon as practicable if the claim is likely to exceed the amount of the "self-insured retention" or "underlying insurance", whichever applies.
3. You and any other involved insured must:
   a. Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit" involving or likely to involve a sum in excess of any "self-insured retention" or "underlying insurance", whichever applies";
   b. Authorize us to obtain records and other information;
   c. Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and
   d. 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 policy or any "underlying insurance" or "self-insured retention" may apply.
4. No insured will, except at that insured's own cost, make or agree to any settlement for a sum in excess of:
   a. The total limits of "underlying insurance"; or
   b. The "self-insured retention" if no "underlying insurance" applies without our consent.
5. No insureds will, except at that insured's own cost, make a payment, assume any obligation, or incur any expenses, other than first aid, without our consent.

D. Assistance And Cooperation Of The Insured

The "insured" shall:

1. Cooperate with us and comply with all the terms and conditions of this policy; and
2. Cooperate with any of the underlying insurers as required by the terms of the "underlying insurance" and comply with all the terms and conditions thereof.

The "insured" shall enforce any right of contribution or indemnity against any person or organization who may be liable to the "insured" because of "bodily injury", "property damage" or "personal and advertising injury" with respect to this policy or any "underlying insurance".

E. Legal Action Against Us

No person or organization has a right under this policy:

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 policy unless all of its terms and those of the "underlying insurance" 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 policy or that are in excess of the limit of liability. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

F. Appeals

In the event the "insured" or the "insured's" underlying insurer elects not to appeal a judgment in excess of the

"underlying insurance" or the "self-insured retention," we may elect to make such appeal, at our cost and expense.

If we so elect, we shall be liable in addition to the applicable Limit of Insurance, for the:

1. Taxable costs;
2. Disbursements; and
3. Additional interest incidental to such appeal;

But in no event will we be liable for "damages" in excess of the applicable aggregate Limit of Insurance.

If a judgment is rendered in excess of the limits of "underlying insurance" and we offer to pay our full share of such judgment, but you or your underlying insurers elect to appeal it, you, your underlying insurers or both will bear:

a. The cost and duty of obtaining any appeal bond;
b. The taxable costs, disbursements and additional interest incidental to such appeal; and
c. Any increase in damages over the amount the matter could have been settled for after the verdict was entered and before the appeal was filed.

G. Other Insurance

This policy shall apply in excess of all "underlying insurance" whether or not valid and collectible. It shall also apply in excess of other valid and collectible insurance (except other insurance purchased specifically to apply in excess of this insurance) which also applies to any loss for which insurance is provided by this policy.

These excess provisions apply, whether such other insurance is stated to be:

1. Primary;
2. Contributing;
3. Excess; or
4. Contingent.

H. Transfer Of Rights Of Recovery Against Others To Us

1. Transfer Of Rights Of Recovery

If the insured has rights to recover all or a part of any payment we have made under this policy, those rights are transferred to us. The insured must do nothing after a loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

a. Recoveries shall be applied to reimburse:
   (1) First, any interest (including the Named Insured) that paid any amount in excess of our limit of liability;
   (2) Second, us, along with any other insurers having a quota share interest at the same level;
   (3) Third, such interests (including the Named Insured) of whom this insurance is excess.

   However, a different apportionment may be made to effect settlement of a claim by agreement signed by all interests.
b. Reasonable expenses incurred in the exercise of rights of recovery shall be apportioned among all interests in the ratio of their respective losses for which recovery is sought.

2. Waiver Of Rights Of Recovery (Waiver Of Subrogation)

If the "insured" has waived any rights of recovery against any person or organization for all or part of any payment we have made under this policy, we also waive that right, provided the "insured" waived their rights of recovery against such person or organization in a contract, agreement or permit that was executed prior to the injury or damage.

I. Changes

This policy contains all the agreements between you and us concerning the insurance afforded. Notice to any agent, or knowledge possessed by any agent or any other person shall not effect a waiver or a change in any part of this policy, or stop us from asserting any rights under the terms of this policy.

The Named Insured first shown in the Declarations is authorized on behalf of all "insureds" to agree with us on changes in the terms of this policy.

If the terms are changed, the changes will be shown in an endorsement issued by us and made a part of this policy.

J. Separation Of Insureds

Except with respect to the Limits of Liability, and any rights or duties specifically assigned in this policy to the Named Insured first shown in the declarations, 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.

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
BLANKET AS REQUIRED BY WRITTEN CONTRACT BLANKET AS REQUIRED BY WRITTEN CONTRACT	
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.

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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.

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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 THAT ENTERED INTO A WRITTEN CONTRACT WITH THE NAMED INSURED REQUIRING SUCH PERSON (S) TO BE NAMED AS AN ADDITIONAL INSURED	
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.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - OPTION I

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Designated Project(s) Or Location(s) Of Covered Operations:
PER WRITTEN CONTRACT	

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

A. With respect to those person(s) or organization(s) shown in the Schedule above when you have agreed in a written contract or written agreement to provide insurance such as is afforded under this policy to them, Subparagraph **f.**, **Any Other Party**, under the **Additional Insureds When Required By Written Contract, Written Agreement Or Permit** Paragraph of **Section II – Who Is An Insured** is replaced with the following:

f. Any Other Party

Any other person or organization who is not an insured under Paragraphs **a.** through **e.** above, 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:

(1) In the performance of your ongoing operations for such additional insured at the project(s) or location(s) designated in the Schedule;

(2) In connection with your premises owned by or rented to you and shown in the Schedule; or

(3) In connection with "your work" for the additional insured at the project(s) or location(s) designated in the Schedule and included within the "products-completed operations hazard", but only if:

(a) The written contract or written agreement requires you to provide such coverage to such additional insured at the project(s) or location(s) designated in the Schedule; and

(b) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

The insurance afforded to the additional insured shown in the Schedule applies:

(1) Only if the "bodily injury" or "property damage" occurs, or the "personal and advertising injury" offense is committed:

(a) During the policy period; and

(b) Subsequent to the execution of such written contract or written agreement; and

(c) Prior to the expiration of the period of time that the written contract or written agreement requires such insurance be provided to the additional insured.

(2) Only to the extent permitted by law; and

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(3) Will not be broader than that which you are required by the written contract or written agreement to provide for such additional insured.

With respect to the insurance afforded to the person(s) or organization(s) that are additional insureds under this endorsement, 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:

(1) The preparing, approving, or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or specifications; or

(2) Supervisory, inspection, architectural or engineering activities.

The limits of insurance that apply to the additional insured shown in the Schedule are described in the Limits Of Insurance section.

How this insurance applies when other insurance is available to the additional insured is described in the Other Insurance Condition in **Section IV – Commercial General Liability Conditions**, except as otherwise amended below.

B. With respect to insurance provided to the person(s) or organization(s) that are additional insureds under this endorsement, the **When You Add Others As An Additional Insured To This Insurance** subparagraph, under the **Other Insurance** Condition of **Section IV – Commercial General Liability Conditions** is replaced with the following:

When You Add Others As An Additional Insured To This Insurance

(a) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract or written agreement that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in Paragraph **(c)** below. This insurance does not apply to other insurance to which the additional insured in the Schedule has been added as an additional insured.

(b) Primary And Non-Contributory To Other Insurance When Required By Contract

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

(i) The additional insured in the Schedule is a Named Insured under such other insurance; and

(ii) You have agreed in 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 in the Schedule.

(c) Method Of Sharing

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

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

All other terms and conditions in the policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - OPTION III

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Designated Project(s) Or Location(s) Of Covered Operations:
BLANKET AS REQUIRED BY WRITTEN CONTRACT	BLANKET AS REQUIRED BY WRITTEN CONTRACT

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

A. With respect to those person(s) or organization(s) shown in the Schedule above when you have agreed in a written contract or written agreement to provide insurance such as is afforded under this policy to them, Subparagraph **f.**, **Any Other Party**, under the **Additional Insureds When Required By Written Contract, Written Agreement Or Permit** Paragraph of **Section II – Who Is An Insured** is replaced with the following:

f. Any Other Party

Any other person or organization who is not an insured under Paragraphs **a.** through **e.**, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused by your acts or omissions or the acts or omissions of those acting on your behalf:

(1) In the performance of your ongoing operations for such additional insured at the project(s) or location(s) designated in the Schedule;

(2) In connection with your premises owned by or rented to you and shown in the Schedule; or

(3) In connection with "your work" for the additional insured at the project(s) or location(s) designated in the Schedule and included within the "products-completed operations hazard", but only if:

(a) The written contract or written agreement requires you to provide such coverage to such additional insured at the project(s) or location(s) designated in the Schedule; and

(b) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

The insurance afforded to the additional insured shown in the Schedule applies:

(1) Only if the "bodily injury" or "property damage" occurs, or the "personal and advertising injury" offense is committed:

(a) During the policy period; and

(b) Subsequent to the execution of such written contract or written agreement; and

(c) Prior to the expiration of the period of time that the written contract or written agreement requires such insurance be provided to the additional insured.

(2) Only to the extent permitted by law; and

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(3) Will not be broader than that which you are required by the written contract or written agreement to provide for such additional insured.

With respect to the insurance afforded to the person(s) or organization(s) that are additional insureds under this endorsement, 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:

(1) The preparing, approving, or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or specifications; or

(2) Supervisory, inspection, architectural or engineering activities.

The limits of insurance that apply to the additional insured shown in the schedule are described in the Limits Of Insurance section.

How this insurance applies when other insurance is available to the additional insured is described in the Other Insurance Condition in **Section IV – Commercial General Liability Conditions**, except as otherwise amended below.

B. With respect to insurance provided to the person(s) or organization(s) that are additional insureds under this endorsement, the **When You Add Others As An Additional Insured To This Insurance** subparagraph, under the Other Insurance Condition of **Section IV – Commercial General Liability Conditions** is replaced with the following:

When You Add Others As An Additional Insured To This Insurance

(a) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract or written agreement that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in Paragraph **(c)** below. This insurance does not apply to other insurance to which the additional insured in the Schedule has been added as an additional insured.

(b) Primary And Non-Contributory To Other Insurance When Required By Contract

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

(i) The additional insured in the Schedule is a Named Insured under such other insurance; and

(ii) You have agreed in 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 in the Schedule.

(c) Method Of Sharing

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

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

All other terms and conditions in the policy remain unchanged.

(3) Tenant Liability

That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner;

(4) Aircraft, Auto Or Watercraft

If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Section I - Coverage A - Bodily Injury And Property Damage Liability;

(5) Property Damage To Borrowed Equipment Or Use Of Elevators

If the loss arises out of "property damage" to borrowed equipment or the use of elevators to the extent not subject to Exclusion j. of Section I - Coverage A - Bodily Injury And Property Damage Liability;

(6) When You Are Added As An Additional Insured To Other Insurance

Any other insurance available to you covering liability for damages arising out of the premises or operations, or products and completed operations, for which you have been added as an additional insured by that insurance; or

(7) When You Add Others As An Additional Insured To This Insurance

Any other insurance available to an additional insured.

However, the following provisions apply to other insurance available to any person or organization who is an additional insured under this coverage part.

(a) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract or written agreement that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in **c.** below.

(b) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract, written agreement, or permit that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs **(a)** and **(b)** do not apply to other insurance to which the additional insured has been added as an additional insured.

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

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

(1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(2) The total of all deductible and self-insured amounts under all that other insurance.

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

c. Method Of Sharing

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

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

5. Premium Audit

a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.

b. 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 and retrospective premiums 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.

6. Representations

a. When You Accept This Policy

By accepting this policy, you agree:

(1) The statements in the Declarations are accurate and complete;

(2) Those statements are based upon representations you made to us; and

(3) We have issued this policy in reliance upon your representations.

b. Unintentional Failure To Disclose Hazards

If unintentionally you should fail to disclose all hazards relating to the conduct of your business that exist at the inception date of this Coverage Part, we shall not deny coverage under this Coverage Part because of such failure.

7. 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.

8. Transfer Of Rights Of Recovery Against Others To Us

a. Transfer Of Rights Of Recovery

If the insured has rights to recover all or part of any payment, including Supplementary Payments, 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. Waiver Of Rights Of Recovery (Waiver Of Subrogation)

If the insured has waived any rights of recovery against any person or organization for all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, we also waive that right, provided the insured waived their rights of recovery against such person or organization in a contract, agreement or permit that was executed prior to the injury or damage.

9. 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 V - DEFINITIONS

1. "Advertisement" means the widespread public dissemination of information or images that has the purpose of inducing the sale of goods, products or services through:

a. (1) Radio;

(2) Television;

(3) Billboard;

(4) Magazine;

(5) Newspaper; or

b. Any other publication that is given widespread public distribution.

However, "advertisement" does not include:

a. The design, printed material, information or images contained in, on or upon the packaging or labeling of any goods or products; or

b. An interactive conversation between or among persons through a computer network.

2. "Advertising Idea" means any idea for an "advertisement".

3. "Asbestos hazard" means an exposure or threat of exposure to the actual or alleged properties of asbestos and includes the mere presence of asbestos in any form.

4. "Auto" means:

a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NOTICE OF CANCELLATION TO CERTIFICATE HOLDER(S)

This policy is subject to the following additional Conditions:

A. If this policy is cancelled by the Company, other than for nonpayment of premium, notice of such cancellation will be provided at least thirty (30) days in advance of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

B. If this policy is cancelled by the Company for nonpayment of premium, or by the insured, notice of such cancellation will be provided within (10) days of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

If notice is mailed, proof of mailing to the last known mailing address of the certificate holder(s) on file with the agent of record or the Company will be sufficient proof of notice.

Any notification rights provided by this endorsement apply only to active certificate holder(s) who were issued a certificate of insurance applicable to this policy's term.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COMMERCIAL AUTOMOBILE BROAD FORM ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

To the extent that the provisions of this endorsement provide broader benefits to the "insured" than other provisions of the Coverage Form, the provisions of this endorsement apply.

1. BROAD FORM INSURED

Paragraph .1. - WHO IS AN INSURED - of Section II - Liability Coverage is amended to add the following:

d. Subsidiaries and Newly Acquired or Formed Organizations

The Named Insured shown in the Declarations is amended to include:

(1) Any legal business entity other than a partnership or joint venture, formed as a subsidiary in which you have an ownership interest of more than 50% 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.

(2) Any organization that is acquired or formed by you and over which you maintain majority ownership. However, the Named Insured does not include any newly formed or acquired organization:

(a) That is a partnership or joint venture,

(b) That is an "insured" under any other policy,

(c) That has exhausted its Limit of Insurance under any other policy, or

(d) 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.

e. Employees as Insureds

(1). Any "employee" of yours while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

f. Lessors as Insureds

(1). The lessor of a covered "auto" while the "auto" is leased to you under a written agreement if:

(a) The agreement requires you to provide direct primary insurance for the lessor and

(b) The "auto" is leased without a driver.

Such a leased "auto" will be considered a covered "auto" you own and not a covered "auto" you hire.

g. Additional Insured if Required by Contract

(1) When you have agreed, in a written contract or written agreement, that a person or organization be added as an additional insured on your business auto policy, such person or organization is an "insured", but only to the extent such person or organization is liable for "bodily injury" or "property damage" caused by the conduct of an "insured" under paragraphs a. or b. of Who Is An Insured with regard to the ownership, maintenance or use of a covered "auto."

The insurance afforded to any such additional insured applies only if the "bodily injury" or "property damage" occurs:

(a) During the policy period, and

(b) Subsequent to the execution of such written contract, and

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(c) Prior to the expiration of the period of time that the written contract requires such insurance be provided to the additional insured.

(2) How Limits Apply

If you have agreed in a written contract or written agreement that another person or organization be added as an additional insured on your policy, the most we will pay on behalf of such additional insured is the lesser of:

(a) The limits of insurance specified in the written contract or written agreement; or

(b) The Limits of Insurance shown in the Declarations.

Such amount shall be a part of and not in addition to Limits of Insurance shown in the Declarations and described in this Section.

(3) Additional Insureds Other Insurance

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity.

However, this provision does not apply to the extent that you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance.

(4) Duties in The Event Of Accident, Claim, Suit or Loss

If you have agreed in a written contract or written agreement that another person or organization be added as an additional insured on your policy, the additional insured shall be required to comply with the provisions in LOSS CONDITIONS 2. - DUTIES IN THE EVENT OF ACCIDENT, CLAIM , SUIT OR LOSS – OF SECTION IV – BUSINESS AUTO CONDITIONS, in the same manner as the Named Insured.

2. Primary and Non-Contributory if Required by Contract

Only with respect to insurance provided to an additional insured in A.1.g. - Additional Insured If Required by Contract, the following provisions apply:

(1) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract or written agreement that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in Other Insurance 5.d.

(2) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs **(1)** and **(2)** do not apply to other insurance to which the additional insured has been added as an additional insured.

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

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

(1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, by the method described in SECTION IV- Business Auto Conditions, B. General Conditions, Other Insurance 5.d.

3. AUTOS RENTED BY EMPLOYEES

Any "auto" hired or rented by your "employee" on your behalf and at your direction will be considered an "auto" you hire.

The SECTION IV- Business Auto Conditions, B. General Conditions, 5. OTHER INSURANCE Condition is amended by adding the following:

e. If an "employee's" personal insurance also applies on an excess basis to a covered "auto" hired or rented by your "employee" on your behalf and at your direction, this insurance will be primary to the "employee's" personal insurance.

4. AMENDED FELLOW EMPLOYEE EXCLUSION

EXCLUSION 5. - FELLOW EMPLOYEE - of SECTION II - LIABILITY COVERAGE does not apply if you have workers' compensation insurance in-force covering all of your "employees".

Coverage is excess over any other collectible insurance.

5. HIRED AUTO PHYSICAL DAMAGE COVERAGE

If hired "autos" are covered "autos" for Liability Coverage and if Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form for any "auto" you own, then the Physical Damage Coverages provided are extended to "autos" you hire or borrow, subject to the following limit.

The most we will pay for "loss" to any hired "auto" is:

(1) $100,000;

(2) The actual cash value of the damaged or stolen property at the time of the "loss"; or

(3) The cost of repairing or replacing the damaged or stolen property,

whichever is smallest, minus a deductible. The deductible will be equal to the largest deductible applicable to any owned "auto" for that coverage. No deductible applies to "loss" caused by fire or lightning. Hired Auto Physical Damage coverage is excess over any other collectible insurance. 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.

We will also cover loss of use of the hired "auto" if it results from an "accident", you are legally liable and the lessor incurs an actual financial loss, subject to a maximum of $1000 per "accident".

This extension of coverage does not apply to any "auto" you hire or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company), or members of their households.

6. PHYSICAL DAMAGE - ADDITIONAL TEMPORARY TRANSPORTATION EXPENSE COVERAGE

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

7. LOAN/LEASE GAP COVERAGE

Under SECTION III - PHYSICAL DAMAGE COVERAGE, in the event of a total "loss" to a covered "auto", we will pay your additional legal obligation for any difference between the actual cash value of the "auto" at the time of the "loss" and the "outstanding balance" of the loan/lease.

"Outstanding balance" means the amount you owe on the loan/lease at the time of "loss" less any amounts representing taxes; overdue payments; penalties, interest or charges resulting from overdue payments; additional mileage charges; excess wear and tear charges; lease termination fees; security deposits not returned by the lessor; costs for extended warranties, credit life Insurance, health, accident or disability insurance purchased with the loan or lease; and carry-over balances from previous loans or leases.

8. AIRBAG COVERAGE

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

The exclusion relating to mechanical breakdown does not apply to the accidental discharge of an airbag.

9. ELECTRONIC EQUIPMENT - BROADENED COVERAGE

a. The exceptions to Paragraphs B.4 - EXCLUSIONS - of SECTION III - PHYSICAL DAMAGE COVERAGE are replaced by the following:

Exclusions **4.c.** and **4.d.** do not apply to equipment designed to be operated solely by use of the power from the "auto's" electrical system that, at the time of "loss", is:

(1) Permanently installed in or upon the covered "auto";

(2) Removable from a housing unit which is permanently installed in or upon the covered "auto";

(3) An integral part of the same unit housing any electronic equipment described in Paragraphs (1) and (2) above; or

(4) Necessary for the normal operation of the covered "auto" or the monitoring of the covered "auto's" operating system.

b. Section III, Physical Damage Coverage, Limit of Insurance, Paragraph C.2. is amended to add the following:

$1,500 is the most we will pay for "loss" in any one "accident" to all electronic equipment (other than equipment designed solely for the reproduction of sound, and accessories used with such equipment) that reproduces, receives or transmits audio, visual or data signals which, at the time of "loss", is:

(1) 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;

(2) Removable from a permanently installed housing unit as described in Paragraph 2.a. above or is an integral part of that equipment; or

(3) An integral part of such equipment.

c. For each covered "auto", should loss be limited to electronic equipment only, our obligation to pay for, repair, return or replace damaged or stolen electronic equipment will be reduced by the applicable deductible shown in the Declarations, or $250, whichever deductible is less.

10. EXTRA EXPENSE - BROADENED COVERAGE

Under Paragraph A. - COVERAGE - of SECTION III - PHYSICAL DAMAGE COVERAGE, we will pay for the expense of returning a stolen covered "auto" to you.

11. GLASS REPAIR - WAIVER OF DEDUCTIBLE

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

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

12. TWO OR MORE DEDUCTIBLES

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

If another Hartford Financial Services Group, Inc. company policy or coverage form that is not an automobile policy or coverage form applies to the same "accident", the following applies:

(1) If the deductible under this Business Auto Coverage Form is the smaller (or smallest) deductible, it will be waived;

(2) If the deductible under this Business Auto Coverage Form is not the smaller (or smallest) deductible, it will be reduced by the amount of the smaller (or smallest) deductible.

13. AMENDED DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS

The requirement in LOSS CONDITIONS 2.a. - DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS - of SECTION IV - BUSINESS AUTO CONDITIONS that you must notify us of an "accident" applies only when the "accident" is known to:

(1) You, if you are an individual;

(2) A partner, if you are a partnership;

(3) A member, if you are a limited liability company; or

(4) An executive officer or insurance manager, if you are a corporation.

14. UNINTENTIONAL FAILURE TO DISCLOSE 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.

15. HIRED AUTO - COVERAGE TERRITORY

SECTION IV, BUSINESS AUTO CONDITIONS, PARAGRAPH B. GENERAL CONDITIONS, 7. - POLICY PERIOD, COVERAGE TERRITORY - is added to include the following:

(6) For short-term hired "autos", the coverage territory with respect to Liability Coverage is anywhere in the world provided that if the "insured's" responsibility to pay damages for "bodily injury" or "property damage" is determined in a "suit," the "suit" is brought in the United States of America, the territories and possessions of the United States of America, Puerto Rico or Canada or in a settlement we agree to.

16. WAIVER OF SUBROGATION

Paragraph 5. TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US - of SECTION IV - BUSINESS AUTO CONDITIONS A. Loss Conditions is amended by adding the following:

We waive any right of recovery we may have against any person or organization with whom you have a written contract that requires such waiver because of payments we make for damages under this Coverage Form.

17. RESULTANT MENTAL ANGUISH COVERAGE

The definition of "bodily injury" in SECTION V-DEFINITIONS, C. is replaced by the following:

"Bodily injury" means bodily injury, sickness or disease sustained by any person, including mental anguish or death resulting from any of these.

18. EXTENDED CANCELLATION CONDITION

Paragraph 2. of the COMMON POLICY CONDITIONS - CANCELLATION - applies except as follows:

If we cancel for any reason other than nonpayment of premium, we will mail or deliver to the first Named Insured written notice of cancellation at least 60 days before the effective date of cancellation.

19. HYBRID, ELECTRIC, OR NATURAL GAS VEHICLE PAYMENT COVERAGE

In the event of a total loss to a "non-hybrid" auto for which Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form, then such Physical Damage Coverages are amended as follows:

a. If the auto is replaced with a "hybrid" auto or an auto powered solely by electricity or natural gas, we will pay an additional 10%, to a maximum of $2,500, of the "non-hybrid" auto's actual cash value or replacement cost, whichever is less,

b. The auto must be replaced and a copy of a bill of sale or new lease agreement received by us within 60 calendar days of the date of "loss,"

c. Regardless of the number of autos deemed a total loss, the most we will pay under this Hybrid, Electric, or Natural Gas Vehicle Payment Coverage provision for any one "loss" is $10,000.

For the purposes of the coverage provision,

a. A "non-hybrid" auto is defined as an auto that uses only an internal combustion engine to move the auto but does not include autos powered solely by electricity or natural gas.

b. A "hybrid" auto is defined as an auto with an internal combustion engine and one or more electric motors; and that uses the internal combustion engine and one or more electric motors to move the auto, or the internal combustion engine to charge one or more electric motors, which move the auto.

20. VEHICLE WRAP COVERAGE

In the event of a total loss to an "auto" for which Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form, then such Physical Damage Coverages are amended to add the following:

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 provision 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.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

Policy Number: 37 WEH AW5VU5 **Endorsement Number:**
Effective Date: 07/15/24 Effective hour is the same as stated on the Information Page of the policy.
Named Insured and Address: RESA POWER LLC
8723 FALLBROOK DR
HOUSTON TX 77064

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

SCHEDULE

Any person or organization for whom you are required by contract or agreement to obtain this waiver from us. Endorsement is not applicable in KY, NH, NJ or for any MO construction risk

Countersigned by _____
Authorized Representative

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT - CALIFORNIA

Policy Number: 37 WEH AW5VU5 **Endorsement Number:**
Effective Date: 07/15/24 Effective hour is the same as stated on the Information Page of the policy.
Named Insured and Address: RESA POWER LLC
8723 FALLBROOK DR
HOUSTON TX 77064

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 2 % of the California workers' compensation premium otherwise due on such remuneration.

SCHEDULE

Person or Organization	**Job Description**
Any person or organization for whom you are required by written contract or agreement to obtain this waiver of rights from us	

Countersigned by _____
Authorized Representative

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

TEXAS WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

Policy Number: 37 WEH AW5VU5 **Endorsement Number:**
Effective Date: 07/15/24 Effective hour is the same as stated on the Information Page of the policy.
Named Insured and Address: RESA POWER LLC
8723 FALLBROOK DR
HOUSTON TX 77064

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. ( ) Special Waiver
   Name of person or organization

   (X) Blanket Waiver
   Any person or organization for whom the Named Insured has agreed by written contract to furnish this waiver.

2. Operations:
   All Texas Operations

3. Premium:
   The premium charge for this endorsement shall be 2 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. PLEASE READ IT CAREFULLY.

NOTICE OF CANCELLATION TO CERTIFICATE HOLDER(S)

Policy Number: 37 WEH AW5VU5 **Endorsement Number:**
Effective Date: 07/15/24 Effective hour is the same as stated on the Information Page of the policy.
Named Insured and Address: RESA POWER LLC
8723 FALLBROOK DR
HOUSTON TX 77064

This policy is subject to the following additional Conditions:

A. If this policy is cancelled by the Company, other than for non-payment of premium, notice of such cancellation will be provided at least thirty (30) days in advance of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

B. If this policy is cancelled by the Company for non-payment of premium, or by the insured, notice of such cancellation will be provided within ten (10) days of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

If notice is mailed, proof of mailing to the last known mailing address of the certificate holder(s) on file with the agent of record or the Company will be sufficient proof of notice.

Any notification rights provided by this endorsement apply only to active certificate holder(s) who were issued a certificate of insurance applicable to this policy's term.

Failure to provide such notice to the certificate holder(s) will not amend or extend the date the cancellation becomes effective, nor will it negate cancellation of the policy. Failure to send notice shall impose no liability of any kind upon the Company or its agents or representatives.

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D. "Legal defense expenses" reduce the Limits of Liability identified in the Declarations to this Policy, and, unless specifically stated otherwise herein, any applicable Limits or Sublimits of Liability identified in any endorsement hereto. "Legal defense expenses" shall also be applied to the "self-insured retention".

E. The Insurer shall present all settlement offers to the "insured". If the Insurer recommends a settlement which is acceptable to a claimant, exceeds any applicable "self-insured retention", is within the Limits of Liability, and does not impose any additional unreasonable burdens on the "insured", and the "insured" refuses to consent to such settlement offer, then the Insurer's duty to defend shall end. Thereafter, the "insured" shall defend such "claim" independently and at the "insured's" own expense. The Insurer's liability shall not exceed the amount for which the "claim" could have been settled if the Insurer's recommendation had been accepted, exclusive of the "self-insured retention".

F. Solely with respect to coverage afforded pursuant to Coverage **D.** of this Policy, in the event that the "named insured" and the Insurer do not agree that the "loss" proposed by the "named insured" is reasonable and necessary, the parties agree to submit such dispute to any standard form of alternative dispute resolution acceptable to the parties. If the parties cannot agree on the particular form of alternative dispute resolution, then the dispute shall be submitted for arbitration via the American Arbitration Association and administered pursuant to its Commercial Arbitration Rules. Judgment on the arbitration award may be entered into any court having jurisdiction.

IV. COVERAGE TERRITORY

The coverage afforded pursuant to this Policy shall only apply to "covered professional services", "covered operations" and "transportation" performed, and "claims" made, within the United States of America.

V. DEFINITIONS

A. "Additional insured" means:

1. Any person or entity specifically endorsed onto this Policy as an "additional insured", if any. Such "additional insured" shall maintain only those rights that are specified by endorsement to this Policy; and

2. All clients, or other persons or entities, which a "named insured" is required by written contract or agreement with its client to secure such coverage, but solely with respect to "covered operations", "completed operations" or "transportation" performed for that client (hereinafter Client Additional Insureds). Such Client Additional Insureds are covered solely with respect to their vicarious liability for a monetary judgment, award or settlement of compensatory damages, including associated "extra damages", to which this insurance applies.

B. "Adverse media coverage" means national or regional news exposure in television, radio, print or internet media that is reasonably likely to have a negative impact on the "insured" with respect to its income, reputation, community relations, public confidence or good will.

C. "Affirmative claim" means a written demand, including, but not limited to, a lawsuit, petition, demand for arbitration, or demand for mediation, instituted by a "named insured" against all applicable "responsible professionals" seeking compensation for its compensatory damages.

"Affirmative claim" does not mean a demand or proceeding for non-monetary or injunctive relief.

D. "Bodily injury" means physical injury, illness, disease, mental anguish, emotional distress, or shock, sustained by any person, including death resulting therefrom, and any prospective medical monitoring costs that are intended to confirm any such physical injury, illness or disease.

E. "Catastrophe management costs" means reasonable and necessary expenses approved by the Insurer, in writing, except for those expenses incurred during the same seven (7) day period associated with "emergency response costs", which have been incurred by the "insured" for the following:

1. Responsive consulting services rendered by a "catastrophe management firm";

2. Printing, advertising, mailing of materials of public relations materials;

3. Travel by directors, officers, employees or agents of the "insured", or the "catastrophe management firm", incurred at the direction of a "catastrophe management firm";

4. To secure the scene of a "pollution condition" or "site environmental condition"; or

basis over the remainder of the "policy period". Notwithstanding the foregoing, in the event a "claim" is first made against an "insured", or a "wrongful act", "pollution condition" or "site environmental condition" is first discovered by an "insured", during the "policy period", to which this insurance may apply, in whole or in part, then any remaining unearned premium, if any, shall be deemed immediately earned upon such event. Any unearned premium amounts due the "first named insured" upon cancellation of this Policy shall be calculated on a *pro rata* basis and refunded within thirty (30) days of the effective date of cancellation.

B. Inspection and Audit

To the extent of the "insured's" ability to provide such access, and with reasonable notice to the "insured", the Insurer shall be permitted, but not obligated, to inspect the "insured's" property and/or operations. Neither the Insurer's right to make inspections, the making of said inspections, nor any report thereon shall constitute an undertaking, on behalf of or for the benefit of the "insured" or others, to determine or warrant that such property or operations are safe or in compliance with applicable law.

The Insurer may examine and audit the "insured's" books and records during this "policy period" and extensions thereof and within three (3) years after the final termination of this Policy.

C. Legal Action Against the Insurer

No person or organization other than an "insured" has a right pursuant to this Policy:

1. To join the Insurer as a party or otherwise bring the Insurer into a suit against any "insured"; or
2. To sue the Insurer in connection with this insurance unless all of the Policy terms have been fully complied with.

A person or organization may sue the Insurer to recover after an agreed settlement or on a final judgment against an "insured". However, the Insurer shall not be liable for amounts that are not payable pursuant to the terms of this Policy or that are in excess of the applicable Limit of Liability. An agreed settlement means a settlement and release of liability signed by the Insurer, the "insured", and the claimant or the claimant's legal representative.

Coverage E.

Notwithstanding the foregoing, and solely with respect to coverage afforded pursuant to Coverage E. of this Policy, no action shall lie against the Insurer unless, as a condition precedent thereto, there has been full compliance with all of the terms and conditions of this Policy, and both the "responsible professionals" liability and the amount of the "responsible professionals'" obligations to pay have been finally determined either by final judgment against the "responsible professionals" after an actual contested "affirmative claim" or by the "named insured's" written settlement with the "responsible professionals" to which the Insurer has given its prior written approval.

D. Bankruptcy

The insolvency or bankruptcy of any "insured", or any "insured's" estate, shall not relieve the Insurer of its obligations pursuant to this Policy. However, any such insolvency or bankruptcy of the "insured", or the "insured's" estate, shall not relieve the "insured" of its "self-insured retention" obligations pursuant to this Policy. This insurance shall not replace any other insurance to which this Policy is excess, nor shall this Policy drop down to be primary, in the event of the insolvency or bankruptcy of any underlying insurer.

E. Subrogation

In the event of any payment pursuant to this Policy by the Insurer, the Insurer shall be subrogated to all of the rights of recovery against any person or organization, and the "insured" shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. All "insureds" shall do nothing to prejudice such rights. Any recovery as a result of subrogation proceedings arising pursuant to this Policy shall accrue first to the "insureds" to the extent of any payments in excess of the limit of coverage; then to the Insurer to the extent of its payment pursuant to the Policy; and then to the "insured" to the extent of the "self-insured retention". Expenses incurred in such subrogation proceedings shall be apportioned among the interested parties in the recovery in the proportion that each interested party's share in the recovery bears to the total recovery.

Notwithstanding the foregoing, the Insurer hereby waives its rights to subrogate against all clients of a "named insured" where such waiver is required by written contract or agreement executed between a "named insured" and such client prior to the relevant "claim" or discovery of a "wrongful act", "pollution condition" or "site environmental condition" to which this insurance applies.

Coverage **E.**

Notwithstanding the foregoing, and solely with respect to coverage afforded pursuant to Coverage **E.** of this Policy,, the "named insured" agrees to provide a written transfer to the Insurer any rights against other "responsible professionals" that the "named insured" obtains pursuant to Section **VII., NOTICE AND COOPERATION**, Subsection **F.**, of this Policy if the "named insured" has reasonably elected not to pursue same in furtherance of its "affirmative claim". The "named insureds" agree not to do anything to prejudice those rights.

F. Representations

By accepting this Policy, the "first named insured" agrees that:

1. The statements in the Declarations, schedules and endorsements to, and Application for, this Policy are accurate and complete;
2. Those statements and representations constitute warranties that the "first named insured" made to the Insurer; and
3. This Policy has been issued in reliance upon the "first named insured's" warranties.

G. Separation of Insureds

Except with respect to the Limits of Liability, Cancellation condition **2.a.**, and any applicable exclusions, this Policy applies:

1. As if each "named insured" were the only "insured"; and
2. Separately to each "named insured" against whom a "claim" is made,

and any fraud, misrepresentation, breach of a condition or violation of any duty (hereinafter Breach) by an "insured" shall not prejudice coverage for any "named insured" pursuant to this Policy, provided that: **1)** such "named insured' did not participate in, know of or assist in such Breach; and **2)** such "named insured" is not a parent, subsidiary, partner, member, director, officer of, employer of or otherwise affiliated with, the "insured" that committed such Breach.

H. Other Insurance

Coverage **A.**

1. If other valid and collectible insurance is available to any "insured" covering a "loss" also covered by this Policy, other than a policy that is specifically written to apply in excess of this Policy, the insurance afforded by this Policy shall apply in excess of and shall not contribute with such other insurance.

Coverages **B.** and **C.**

2. If other valid and collectible insurance is available to any "insured" covering "loss" also covered by this Policy, this insurance shall apply as primary insurance. The Insurer's obligations are not affected unless any other applicable, unaffiliated insurance is also determined to be primary. In that event, the Insurer shall share with the insurer underwriting such other insurance by the method described in Paragraph **2.**, below.

3. *Method of Sharing*

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

If any of the other insurance does not permit contribution by equal shares, the Insurer shall

contribute by limits. Pursuant to this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

4. *Excess*

Notwithstanding anything to the contrary contained herein, any coverage provided by this Policy shall be excess over and shall not contribute with any other policy of insurance issued in relation to a specific project, including, but not limited to, any owner-controlled insurance program, contractor-controlled insurance program, owner's protective policy, wrap-up policy, builder's risk policy, installation risk policy or any other similar insurance, policy or program, whether such other insurance, policy or program is issued on a primary, excess, contributory, contingent or other basis.

Primary Non-Contributory By Contract

5. Notwithstanding the foregoing, and solely with respect to coverage afforded pursuant to Coverage **B.** of this Policy, the insurance afforded by this Policy shall apply as primary to, and not contributory with respect to, any such other insurance that is directly procured by a client for its own benefit.; provided that: **a)** such primary and non-contributory insurance obligation is required by written contract or agreement executed between a "named insured" and such client prior to the relevant "claim" or discovery of a "pollution condition" or "site environmental condition" to which this insurance applies; and **b)** the scope of the Insurer's agreement not to seek contribution, herein, shall be further limited to the specific requirements of such written contract or agreement.

I. Changes and Assignment

Notice to or knowledge possessed by any person shall not effect waiver or change in any part of this Policy or estop the Insurer from asserting any right pursuant to the terms of this Policy. The terms, definitions, conditions, exclusions and limitations of this Policy shall not be waived or changed, and no assignment of any interest in this Policy shall bind the Insurer, except as provided by endorsement and attached to this Policy.

J. Headings

The descriptions in the headings and sub-headings of this Policy are inserted solely for convenience and do not constitute any part of the terms or conditions hereof.

K. Consent

Where the consent of the Insurer, or an "insured", is required pursuant to this Policy, such consent shall not be unreasonably withheld, delayed, conditioned, or denied.

L. Supplementary Payments

With respect to any covered "claim" or "emergency claim" that the Insurer investigates, settles or defends pursuant to this Policy, the insurer shall pay for:

1. All internal expenses incurred by the Insurer;
2. All reasonable expenses incurred by an "insured" at our request to assist us in the investigation, settlement or defense of the "claim" or "emergency claim", including loss of earnings because of time off work, up to the aggregate amount of **five thousand dollars ($5,000)** per "pollution condition" or "site environmental condition";
3. All court costs taxed against the "insured" in a suit, but such costs shall not include attorneys' fees or attorneys' expenses taxed against the "insured"; and
4. Up to **five thousand dollars ($5,000)** in civil fines, sanctions or penalties levied against the "named insured" pursuant to the American with Disabilities Act of 1990 or the Occupational Safety and Health Act. Coverage afforded pursuant to this Supplementary Payment is subject to the internal laws of the applicable jurisdiction regarding the insurability of such fines, sanctions and penalties. The maximum amount that the Insurer shall pay pursuant to this Supplementary Payment shall be **fifteen thousand dollars ($15,000),** regardless of the number of "claims", "emergency responses", "wrongful acts", "pollution conditions" or "site environmental conditions".

The Supplementary Payments identified above shall not be subject to the "self-insured retention" of this Policy, but shall, with the exception of internal expenses incurred by the Insurer in Paragraph **1.**, above,

EXHIBIT D
PLANS AND SPECIFICATIONS

All Specifications are posted as separate documents on Brazosbid.ionwave.net

EXHIBIT E
CONSTRUCTION SCHEDULE

EXHIBIT F
SCHEDULE OF VALUES

CERTIFICATION OF BID

The undersigned affirms that they are duly authorized to execute this contract, that this bid has not been prepared in collusion with any other bidder, and that the contents of this bid have not been communicated to any other bidder prior to the official opening of this bid. Additionally, the undersigned affirms that the firm is willing to sign the enclosed Standard Form of Agreement (if applicable).

Signed By: Corbin Pillow Title: Outside Sales Representative

Typed Name: Corbin Pillow Company Name: RESA Service, LLC.

Phone No.: 434-471-5865 Fax No.: None

Email: corbin.pillow@resapower.com

Bid Address:	4213 Kropf Ave. SW	Canton	OH	44706
	P.O. Box or Street	City	State	Zip
Order Address:	4213 Kropf Ave. SW	Canton	OH	44706
	P.O. Box or Street	City	State	Zip
Remit Address:	8723 Fallbrook Dr.	Houston	TX	77064
	P.O. Box or Street	City	State	Zip

Federal Tax ID No.: 37-1747397

DUNS No.: 07-922-7154

Date: 10/22/2024

No. Agenda Acknowledgement: 2

END OF BID NO. 24-090

*****NO NOT MODIFY THIS FORM*****

BID# 24-090
PROPOSAL WORKSHEET

Switch Substation Transformer Refurbishment

Item	Work Description	Scope of Work	Quantity	Unit	Unit Price Labor	Unit Price Material	Unit Price Total	Total Extended Price
1	Refurbishment of Transformer	Mobilization / De-mobilization FR3 dielectric fluid retrofill LTC Servicing Auxialiary Components' Evaluation Transformer Nameplate & Drawing revisions Other Items As Shown Under the Responsibilities	1	Lot	$ 65,275.00	$ 118,950.00	$ 184,225.00	$ 184,225.00
		Paint Exterior & Rust Removal	1	Lot	$ 19,796.00	$ 9,850.00	$ 29,646.00	$ 29,646.00
2	Electrical Testing & Oil Sampling	Visual Inspection LTC Operation from 16L through 16R Winding Insulation Resistance Core Ground Insulation Resistance Winding Resistance with DETC on set tap and OLTC from 16L to 2R Doble Power Factor Transformer Windings Transformer Bushings Transformer Turns Ratio (TTR) with DETC on set tap and OLTC from 16L to 2R Dissolved Gas Analysis (ASTM D3612) for Main tank & LTC Karl Fischer Moisture Analysis (ASTM D1533) Oil screen Sweep Frequency Response Analysis (SFRA)	1	Lot	$ 14,215.00	$ 1,109.00	$ 15,324.00	$ 15,324.00
		FR3 Receiving Quality control tests	1	Lot	$ 500.00	$ 1,000.00	$ 1,500.00	$ 1,500.00
							Total Cost	$ 230,695.00

Project Duration		
Warranty Provided	12	months
Duration of reconditioning services	2	weeks
Availability date to start reconditioning services	12/2/2024	mm/dd/yyyy

Note: The total cost to be all inclusive for the inspection, evaluation, services per specification, warranty, labor, material, tools, machinery, equipment, personal protection equipment (PPE), reporting/certification requirements, incidentals for the completion of the project, and final payment shall be reconciled with work completed, the total cost less the items of work not completed.

VENDOR: RESA Service, LLC. SIGNED: *Corbin Pillow*

SIGNED BY: Corbin Pillow

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

*1101 Texas Ave * College Station, TX 77840 * (979) 764-3555*
www.cstx.gov

ADDENDUM No. 1
BID No. 24-090

Date: September 27, 2024
To: All Interested Parties
From: Robyn Forsyth, Buyer
Re: Bid No. 24-090
Switch Sub-Station Refurbishment

The correct title of this Bid is "**Switch SubStation Transformer Refurbishment**"

Please acknowledge receipt of this addendum with signature, date, and return with completed bid. Failure to do so may cause your proposal to be considered non-responsive.

Receipt of this BID No. 24-090 Addendum No. 1 is hereby acknowledged.

Corbin Pillow
Authorized Signature

10/22/2024
Date

RESA Service, LLC.
Company Name

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

*1101 Texas Ave * College Station, TX 77840 * (979) 764-3555*
www.cstx.gov

ADDENDUM No. 2
BID No. 24-090

Date: October 14, 2024
To: All Interested Parties
From: Robyn Forsyth, Buyer
Re: Bid No. 24-090
Switch Sub-Station Transformer Refurbishment

Please find attached the Name Plate, Serial numbers and supporting drawings for the Transformer to be refurbished, in this Bid#24-090.

1) **LTC reading** is **33,556**

2) **Pictures of Serial Numbers attached**. Any other serial numbers can be found in the test reports (Exhibit D Appendix C).

3) **"Outline"** of the 'Switch Sub-Station' Transformer, that was erroneously not included in the Bid#24-090 Exhibit D Specifications.

Please acknowledge receipt of this addendum with signature, date, and return with completed bid. Failure to do so may cause your proposal to be considered non-responsive.

Receipt of this BID No. 24-090 Addendum No. 2 is hereby acknowledged.

Corbin Pillow — **Authorized Signature**

10/22/2024 — **Date**

RESA Service, LLC — **Company Name**

AIA Document 310 - 2010 Bid Bond

CONTRACTOR (Name, legal status and address):

RESA Service, LLC
8723 Fallbrook Dr.
Houston, TX 77064

SURETY (Name, legal status and principal place of business):

Berkley Insurance Company
475 Steamboat Road
Greenwich, CT 06830

OWNER (Name, legal status and address):

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

Bond Amount: Five Percent (5%) of Amount of Attached Bid

PROJECT : (Name, location or address, and Project number, if any):

College Station Utilities Switch Sub-Station Refurbishment Bid no. 24-090

The Contractor and Surety are bound to the Owner in the amount set forth above, for the payment of which the Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein. The conditions of this Bond are such that if the Owner accepts the bid of the Contractor within the time specified in the bid documents, or within such time period as may be agreed to by the Owner and Contractor, and the Contractor either (1) enters in to a contract with the Owner in accordance with the terms of such bid, and gives such bond or bonds as may be specified in the bidding or Contract Documents, with a surety admitted in the jurisdiction of the Project and otherwise acceptable to the Owner, for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof; or (2) pays to the Owner the difference, not to exceed the amount of this Bond, between the amount specified in said bid and such larger amount for which the Owner may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect. The Surety hereby waives any notice of an agreement between the Owner and Contractor to extend the time in which the Owner may accept the bid. Waiver of notice by the Surety shall not apply to any extension exceeding sixty (60) days in the aggregate beyond the time for acceptance of bids specified in the bid documents, and the Owner and Contractor shall obtain the Surety's consent for an extension beyond sixty (60) days.

If this Bond is issued in connection with a subcontractor's bid to a Contractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed by the Contractor.

When this Bond has been furnished to comply with a statutory or other legal requirement in the location of the Project, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

Signed and sealed this 17th day of October, 2024

(Witness) (Seal)	RESA Service, LLC (Principal) (Seal)
Emily Hippo (Witness) Emily Hippo (Seal)	(Title) Berkley Insurance Company (Surety) (Title) Tyler Durant DeBord, Attorney-in-Fact

Language conforms to AIA Document A310 Bid Bond
BID70001ZZ0311f

No. BI-262f-el

POWER OF ATTORNEY
BERKLEY INSURANCE COMPANY
WILMINGTON, DELAWARE

KNOW ALL MEN BY THESE PRESENTS, that BERKLEY INSURANCE COMPANY (the "Company"), a corporation duly organized and existing under the laws of the State of Delaware, having its principal office in Greenwich, CT, has made, constituted and appointed, and does by these presents make, constitute and appoint: ***Stephen Phillip Farmer; Tyler Durant DeBord; or Karl Choltus of Brown & Brown Insurance Services, Inc. of Daytona Beach, FL*** its true and lawful Attorney-in-Fact, to sign its name as surety only as delineated below and to execute, seal, acknowledge and deliver any and all bonds and undertakings, with the exception of Financial Guaranty Insurance, providing that no single obligation shall exceed **Fifty Million and 00/100 U.S. Dollars (U.S.$50,000,000.00),** to the same extent as if such bonds had been duly executed and acknowledged by the regularly elected officers of the Company at its principal office in their own proper persons.

This Power of Attorney shall be construed and enforced in accordance with, and governed by, the laws of the State of Delaware, without giving effect to the principles of conflicts of laws thereof. This Power of Attorney is granted pursuant to the following resolutions which were duly and validly adopted at a meeting of the Board of Directors of the Company held on January 25, 2010:

RESOLVED, that, with respect to the Surety business written by Berkley Surety, the Chairman of the Board, Chief Executive Officer, President or any Vice President of the Company, in conjunction with the Secretary or any Assistant Secretary are hereby authorized to execute powers of attorney authorizing and qualifying the attorney-in-fact named therein to execute bonds, undertakings, recognizances, or other suretyship obligations on behalf of the Company, and to affix the corporate seal of the Company to powers of attorney executed pursuant hereto; and said officers may remove any such attorney-in-fact and revoke any power of attorney previously granted; and further

RESOLVED, that such power of attorney limits the acts of those named therein to the bonds, undertakings, recognizances, or other suretyship obligations specifically named therein, and they have no authority to bind the Company except in the manner and to the extent therein stated; and further

RESOLVED, that such power of attorney revokes all previous powers issued on behalf of the attorney-in-fact named; and further

RESOLVED, that the signature of any authorized officer and the seal of the Company may be affixed by facsimile to any power of attorney or certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligation of the Company; and such signature and seal when so used shall have the same force and effect as though manually affixed. The Company may continue to use for the purposes herein stated the facsimile signature of any person or persons who shall have been such officer or officers of the Company, notwithstanding the fact that they may have ceased to be such at the time when such instruments shall be issued.

IN WITNESS WHEREOF, the Company has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunto affixed this 2nd day of May, 2024.

Attest:
By _____
Philip S. Welt
Executive Vice President & Secretary

Berkley Insurance Company
By _____
Jeffrey M. Hafter
Senior Vice President

STATE OF CONNECTICUT)
) ss:
COUNTY OF FAIRFIELD)

Sworn to before me, a Notary Public in the State of Connecticut, this 2nd day of May, 2024, by Philip S. Welt and Jeffrey M. Hafter who are sworn to me to be the Executive Vice President and Secretary, and the Senior Vice President, respectively, of Berkley Insurance Company.

MARIA C. RUNDBAKEN
NOTARY PUBLIC
CONNECTICUT
MY COMMISSION EXPIRES 04-30-2029

_____
Notary Public, State of Connecticut

CERTIFICATE

I, the undersigned, Assistant Secretary of BERKLEY INSURANCE COMPANY, DO HEREBY CERTIFY that the foregoing is a true, correct and complete copy of the original Power of Attorney; that said Power of Attorney has not been revoked or rescinded and that the authority of the Attorney-in-Fact set forth therein, who executed the bond or undertaking to which this Power of Attorney is attached, is in full force and effect as of this date.

Given under my hand and seal of the Company, this 17th day of October, 2024.

_____
Vincent P. Forte

Exceptions.to.Standard.Form.Contract

Section 23.02: RESA Service, LLC. Proposes a 10% CAP at the Contract Amount on Liquidated Damages at $500/day.

All Bills Paid Affidavit

THE STATE OF TEXAS §
§
COUNTY OF BRAZOS §

BEFORE ME, the undersigned authority, on this day personally appeared

_____,

hereinafter referred to as "CONTRACTOR" for all work having been performed at:

_____.

The City of College Station, the owner or agent for owner of said property, has contracted with CONTRACTOR for work to be performed at the address shown herein and evidenced by separate contract, Contract No. _____, hereinafter referred to as the "Contract".

CONTRACTOR now testifies that all work has been completed and all materials are in place as agreed to in the Contract and that ALL BILLS for labor, materials, and other items CONTRACTOR may be responsible for as outlined in the Contract have been PAID IN FULL by CONTRACTOR, except for the following:

CONTRACTOR agrees and understands that if any BILLS, for any items, which CONTRACTOR is responsible for as shown in the Contract, are presented after the signing of this AFFIDAVIT, then CONTRACTOR will be liable for prosecution by law, as well as remaining financially responsible for full payment of ANY and ALL BILLS.

CONTRACTOR further agrees, by the signing of this AFFIDAVIT, that this statement is true and correct, and that this AFFIDAVIT may be used against CONTRACTOR in any and all proceedings at law, civil or criminal.

CONTRACTOR Signature: _____

IF D/B/A, Show Business Name: _____

TITLE: _____

Sworn to and subscribed before me this _____ day of _____, 20__, A.D.

_____

Notary Public in and for State of _____

My Commission Expires:_____

All Bills Paid Affidavit
Form 11-01-18

December 12, 2024
Item No. 7.6.
Purchase of Concrete Pull Boxes for Electric Warehouse Inventory

Sponsor: Timothy Crabb, Director of Electric

Reviewed By CBC: N/A

Agenda Caption: Presentation, discussion, and possible action on a contract award to Techline Inc. for $232,894 for the City's purchase of concrete pull boxes for Electric Warehouse Inventory.

Relationship to Strategic Goals:
Core Services and Infrastructure
Financially Sustainable City

Recommendation(s): Staff recommends award of this purchase with Techline Inc. for $232,894.

Summary: Staff issued Bid #24-088 for concrete pull boxes and three sealed proposals were received and reviewed by Electric Staff to ensure the compliance of needed specifications. Lines 2 through 5 were awarded to Techlin, Inc., and Line 1 was rebid, informally, based on a bidding error. The quotes from the other vendors provided materials that did not meet specifications.

Upon Council approval, staff will issue a purchase order to Techline Inc. for a one-time purchase for Electric Warehouse Inventory.

Budget & Financial Summary: Funds are budgeted and available in the Electrical capital budget.

Attachments:
1. 24-088 Bid Award
2. 24-088 B Bid Award

BID#24-088 BID AWARD

					KBS ELECTRICAL DISTRIBUTORES						TECHLINE INC.					
					Std.		Bidder's	Item			Std.		Bidder's	Item		
Item		Inventory			Pkg.	Unit			Item	Delivery	Pkg.	Unit			Item	Delivery
No.	Description	No.	UOM	Qty.	Qty	Price	MFG	MFG NO.	Total	(weeks)	Qty	Price	MFG	MFG No	Total	(weeks)
1	BOTTOMLESS CONCRETE PULL BOX, 48" X 96" X 48"	285-045-00016	EACH	10	10	$3,260.00	OLD CASTLE	TBD	$ 32,600.00	3-4WKS	1	$18,845.00	Capital Precast	TBD	$ 188,450.00	4WKS
2	CONCRETE PULL BOX, 48" X 96" X 48"	285-045-00017	EACH	22	22	$4,348.00	OLD CASTLE	TBD	$ 95,656.00	3-4WKS	1	$2,990.00	Capital Precast	TBD	$ 65,780.00	4WKS
3	CONCRETE PULL BOX EXTENSION, 48" X 96" X 24"	285-045-00018	EACH	25	25	$2,935.00	OLD CASTLE	TBD	$ 73,375.00	3-4WKS	1	$960.00	Capital Precast	TBD	$ 24,000.00	4WKS
4	CONCRETE PULL BOX REGULAR LID	285-045-00019	EACH	25	25	$5,706.00	OLD CASTLE	TBD	$ 142,650.00	3-4WKS	1	$3,520.00	Capital Precast	TBD	$ 88,000.00	4WKS
5	CONCRETE PULL BOX TRAFFIC RATED LID	285-045-00020	EACH	7	7	$2,218.00	OLD CASTLE	TBD	$ 15,526.00	3-4WKS	1	$4,302.00	Capital Precast	TBD	$ 30,114.00	4WKS
								KBS TTL	$ 359,807.00				Techline TTL		$ 396,344.00	

					TEXAS ELECTRIC CO-OP					
					Std.		Bidder's	Item		
Item		Inventory			Pkg.	Unit			Item	Delivery
No.	Description	No.	UOM	Qty.	Qty	Price	MFG	MFG #	Total	(weeks)
1	BOTTOMLESS CONCRETE PULL BOX, 48" X 96" X 48"	285-045-00016	EACH	10		$3,750.00	Oldcast Infrastructure	1920900	$ 37,500.00	TBD
2	CONCRETE PULL BOX, 48" X 96" X 48"	285-045-00017	EACH	22		$5,000.00	Oldcast Infrastructure	1920900	$ 110,000.00	TBD
3	CONCRETE PULL BOX EXTENSION, 48" X 96" X 24"	285-045-00018	EACH	25		$3,375.00	Oldcast Infrastructure	1920900	$ 84,375.00	TBD
4	CONCRETE PULL BOX REGULAR LID	285-045-00019	EACH	25		$6,562.50	Oldcast Infrastructure	1920900	$ 164,062.50	TBD
5	CONCRETE PULL BOX TRAFFIC RATED LID	285-045-00020	EACH	7	14	$1,375.00	Oldcast Infrastructure	1920900	$ 9,625.00	TBD
								TEC TTL	$ 405,562.50	

See Note pertaining to Specs on Vendor's excel wkbk.

24-088 B BID TABULATION

							TECHLINE INC.					
							Std.		Bidder's	Item		
Item		Inventory	MFG	MFG			Pkg.	Unit			Item	Delivery
No.	Description	No.		NO	UOM	Qty.	Qty	Price	MFG	MFG No	Total	(weeks)
1	BOTTOMLESS CONCRETE PULL BOX, 48" X 96" X 48"	285-045-00016			EACH	10	1	$2,500.00	Capital Precast	TBD	$ 25,000.00	4WKS
									Techline TTL		$ 25,000.00	

December 12, 2024
Item No. 7.7.
Traffic Signal Fiber Expansion Project - Design Phase

Sponsor: Jennifer Cain, Director Capital Projects

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action on approval of a design contract with Iteris, Inc., in the amount of $316,657.42 for the design work required to extend fiber optic cabling and controls to the final six traffic signal locations within the City.

Relationship to Strategic Goals:
Core services and infrastructure.

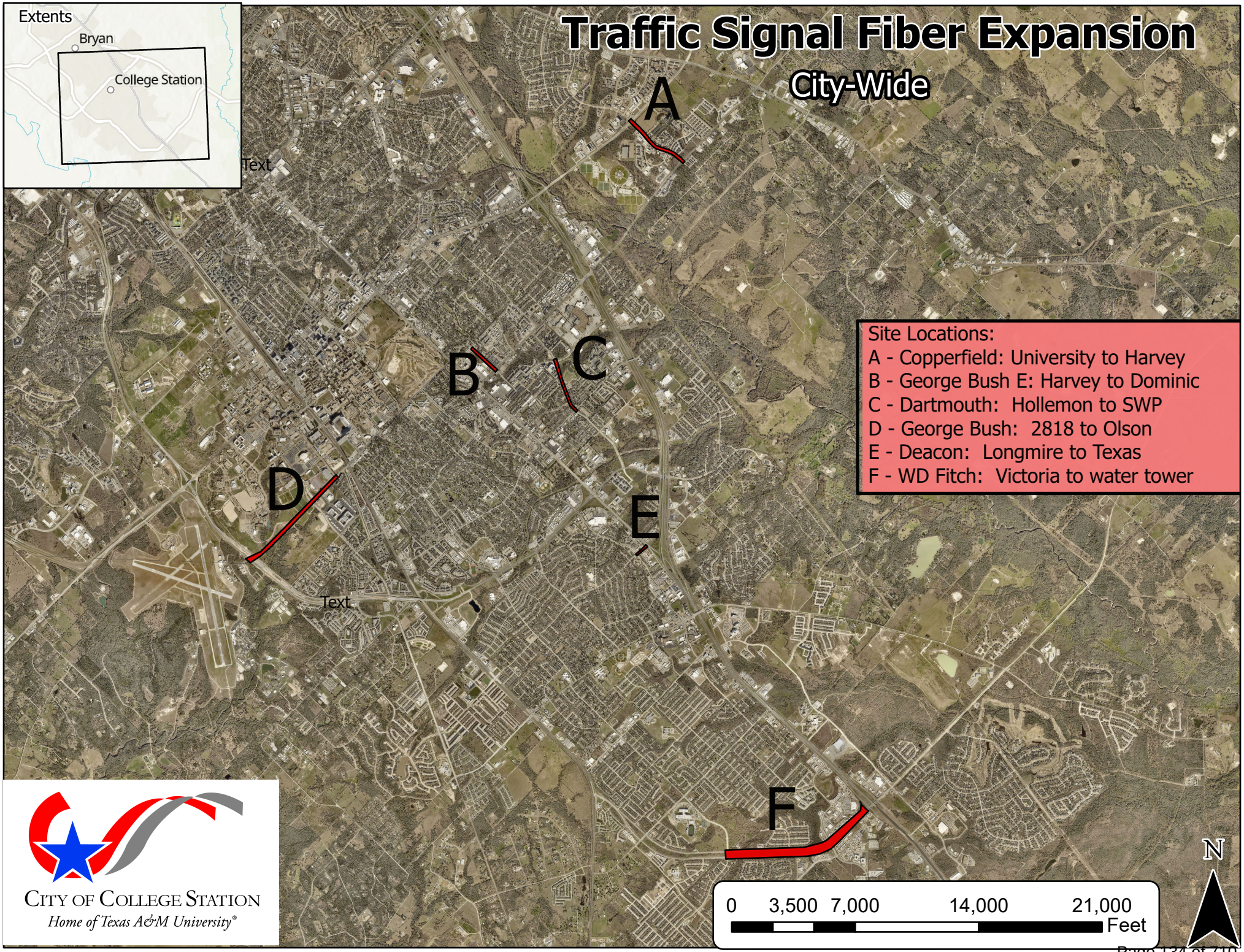
Recommendation(s): Staff recommends approval.

Summary: Under this contract, the design team would assist with the design requirements to locate the closest fiber optic connection point for each of the six traffic signal locations, design the most efficient pathway from that point to the traffic signals, and design final connection/cable splicing details to provide drawings and specifications for bidding this work. These six traffic signals are the last ones still being controlled by radio signal, and long-term planning and implementation for converting all traffic signals to full fiber optic cabling control has been an ongoing effort for several years.

This phase of work was advertised via a Request for Qualifications (RFQ) process. Six firms submitted Statement of Qualifications (SOQ) packages on September 3, 2024. All packages were carefully reviewed by a selection committee on September 19, 2024 and Iteris, Inc. was selected as the recommended firm for this project. After meeting with Iteris, Inc. to determine the full scope of work, Iteris, Inc. developed and submitted a proposal in the amount of $316,657.42 for all work associated with this design effort.

Budget & Financial Summary: Budget in the amount of $575,000 is included for this project in the Facilities and Technologies Capital Improvement Projects Fund. A total of $3,381 has been expended or committed to date, leaving a balance of $571,619 for this design contract and future costs. There will be a future budget transfer to raise the total available budget to $1,100,000.

Attachments:
1. Traffic Signal Fiber Expansion map
2. Traffic Signal Fiber Expansion - Iteris contract - vendor signed
3. Traffic Signal Fiber Expansion Project List of Responding Firms


Traffic Signal Fiber Expansion
City-Wide
Extents
Bryan
College Station
Text
A
B
C
D
E
F
Text
Site Locations:
A - Copperfield: University to Harvey
B - George Bush E: Harvey to Dominic
C - Dartmouth: Hollemon to SWP
D - George Bush: 2818 to Olson
E - Deacon: Longmire to Texas
F - WD Fitch: Victoria to water tower
City of College Station
Home of Texas A&M University®
0 3,500 7,000 14,000 21,000
Feet
N

CONTRACT & AGREEMENT ROUTING FORM

CONTRACT#: 25300178 PROJECT #: CO2500 BID/RFP/RFQ#: 24-082

Project Name / Contract Description: Traffic Signal Fiber Expansion Project as described in RFQ 24-082

Name of Contractor: Iteris, Inc.

CONTRACT TOTAL VALUE: $ 316,657.42 **Grant Funded** Yes ☐ No ■

If yes, what is the grant number: ☐

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

■ **NEW CONTRACT** ☐ **RENEWAL #** _____ ☐ **CHANGE ORDER #** _____ ☐ **OTHER** _____

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

This project was advertised as a Request for Qualifications (RFQ) and six (6) submittal packages were received on September 3, 2024 with Iteris, Inc. being the most qualified and responsive submittal as scored by the selection committee. Their proposal for the work required is for a total of $316,657.42 for the design of 6 separate traffic signal fiber optic cable expansions distributed across the City of College Station. Budget in the amount of $571,619 is available for this contract.

*(If required)**

CRC Approval Date*: N/A **Council Approval Date*:** 12/12/24 **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 — 11/21/2024 DATE

ASST CITY MGR – CFO — 11/21/2024 DATE

John A. Haislet — LEGAL DEPARTMENT — 11/21/2024 DATE

APPROVED & EXECUTED

CITY MANAGER — DATE

N/A — MAYOR (if applicable) — DATE

N/A — CITY SECRETARY (if applicable) — DATE

9.12.23 UPDATED

CITY OF COLLEGE STATION
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 Iteris Inc., a Delaware 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"):

Traffic Signal Fiber Expansion; as described in RFQ 24-082.

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 Three Hundred Sixteen Thousand Six Hundred Fifty-Seven and 42/100 Dollars ($316,657.42).

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: 0 **calendar days** after the authorization to commence planning.

(b) Preliminary Design: 75 **calendar days** after authorization to commence PPD.

(c) Final Design: 105 **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):

March 31, 2026.

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

(a) **Liquidated Damages.**

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

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

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

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

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

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

3.08 The construction budget for this Project, which is established as a condition of this Contract is **$** 571,619.00. 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 "Indemnitee") 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	**Iteris, Inc.**
Attn: Jon Hall	Attn: Vice President Contracts
PO BOX 9960	1700 Carnegie Avenue Ste 100
1101 Texas Ave	Santa Ana, CA 92705
College Station, TX 77842	Fax: 949-270-9401
jhall@cstx.gov	

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 cause by force majeure.

List of Exhibits

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

ITERIS, INC.

By: Cliff Heise

Printed Name: Cliff Heise

Title: Regional Vice President

Date: 11/21/2024

CITY OF COLLEGE STATION

By: _____
City Manager
Date: _____

APPROVED:

John A. Haislet
City Attorney
Date: 11/21/2024

Assistant City Manager/CFO
Date: 11/21/2024

EXHIBIT A
SCOPE OF SERVICES

Reference College Station Fiber Expansion Design Scope of Work as part of Exhibit A.

This Scope of Work represents the activities necessary to deliver Plans, Specification and Engineer's Estimate (PS&E) level package to expand the City's fiber optic network to additional intersections within the City.

Task 1: Project Management/Project Administration

This task includes all project management activities related to the PS&E tasks and activities associated with the City of College Station Fiber Expansion Project.

Task 1.1 – Project Management

This task will consist of the overall management of the project by the assigned project manager and support personnel of Iteris. This task includes the development of monthly progress reports, billing statements, task staffing plans, quality assurance of document deliverables, maintaining project schedule, maintaining project budget, coordinating overall activities of the Project Team, and being the main client point of contact for all project related discussions.

Task 1.2 – Progress Reporting

Throughout the duration of this project, Iteris shall develop monthly progress reports to accompany the invoice. The progress reports shall summarize the progress of each task/sub-task, identify the activities to be accomplished during the next progress period, identify any issues/concerns that could prohibit the accomplishment of future activities. Iteris shall also schedule and conduct recurring project progress report meetings with the Project Team to report project progress, provide opportunity to discuss issues, submit deliverables, receive feedback on submitted items reviewed, and discuss upcoming activities. A summary of "To-Do" items; responsibility, and status of those items will be provided at each meeting. These meetings may be scheduled as teleconferences / web conferences or face to face meetings. Meeting minutes will be produced by Iteris. A kick-off meeting will be held in month 1 of the contract in College Station with City staff, other stakeholders and Iteris staff.

Assumptions:

1. Progress meetings defined in Task 1.2 shall be bi-weekly teleconference/webinar meetings.

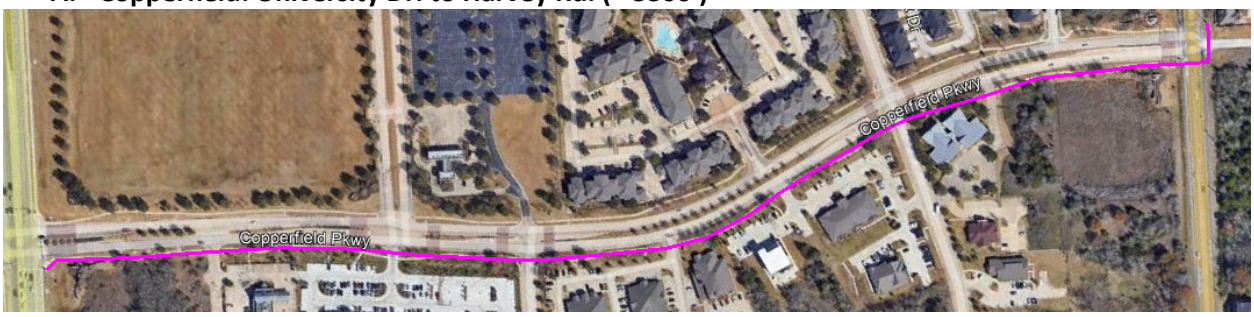
Deliverables (some deliverables may be combined):

1. Monthly Progress Reports
2. Progress Meeting Minutes
3. Project Schedule (including monthly updates)

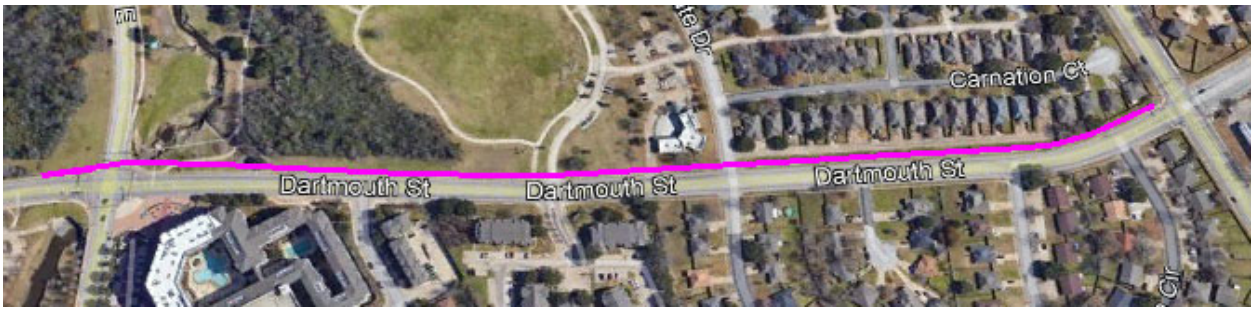
Task 2: Traffic Signal System Fiber Expansion Design

Iteris staff shall develop a complete construction-ready PS&E package for the following corridors identified below.

A. Copperfield: University Dr. to Harvey Rd. (~ 3300')



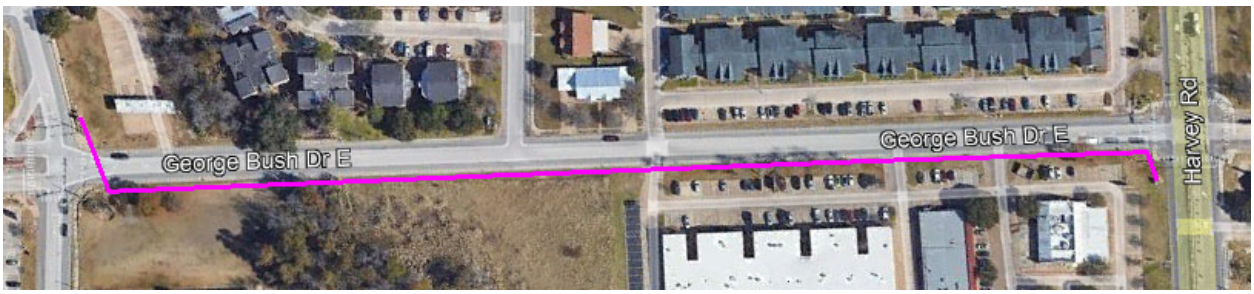
B. **Dartmouth: Holleman to Southwest Pkwy. (~ 2900')**



C. Deacon: Texas to Longmire. (~ 600')

D. George Bush: Harvey Mitchell Pkwy (FM 2818) to Olsen (~ 5800')

E. George Bush E: Harvey Rd to Dominik Dr (~ 1500')



F. William D Fitch: Victoria to Arrington and Arrington to Water Tower (~ 7500)

The following sheets will be developed and included in the plan set. (Sheet counts are estimates and will be finalized during the design process)

1. Title Sheet (1)
2. General/Construction Notes Sheets (2)
3. Index of Sheets (1)
4. Quantity Sheet (1)
5. Design Survey Information Sheets (6)
6. Layout Sheets (30)
7. Detail Sheets (TxDOT and College Station (TBD)
8. Traffic Control Plans (TxDOT Standards)

For this project, the City of College Station Plans of Proposed Communications Improvement Project drawings, dated 7/29/2019 is considered the preliminary design. Drawings developed under this scope of work

Task 2.1 – Preliminary Investigation

1. Review existing drawings.
   a. Iteris will review the preliminary design drawings, field notes and any other data collected during the conceptual design effort from 2019.
   b. Iteris will review any additional as built drawings provided by the City for Civil improvements within the project limits.
2. Site visit to verify existing conditions
   a. Iteris staff will walk the project limits of each corridor to identify the optimal route(s) for the communication infrastructure while taking detailed field notes. Anything of importance or potential constructability concern will be discussed with the City
3. City review meeting
   a. Iteris and the city will meet to discuss field findings and discuss preliminary design for each corridor before developing 60% Plans.

Task 2.2 – Develop PS&E Plans

75% Plans

1. Finalize Base Map
   a. Iteris will review and adjust the utility location and ROW MicroStation file provided by Halff and add in additional elements, if needed.
2. Design
   a. Detailed design will be developed based on field notes, base map data and discussion with the City.
   b. Layout/Plan Sheets for each corridor will be developed and used to represent the design for the PS&E package. Layout sheets will include conductor schedules and any pertinent design information. Quantity information will be shown and follow TxDOT Standard Bid Item codes.
   c. Additional Plan Sheets will be developed in support of the submittal (Title Sheet, General Notes, Index of Sheets, Quantity Sheets, etc.)
   d. Engineers Construction Cost Estimate will be developed using recent bid pricing from TxDOT and City projects.
   e. The preliminary specifications list will be developed using a combination of TxDOT and City specifications. Standard TxDOT Specifications will be used if the City does not have a specification.
3. Utility Coordination (TxDOT, Various Utilities, Easements)
   a. Develop Utility Exhibits and submit to the utility company for review
   b. Any Utility/Easement coordination will begin during the 75% Plan stage to get agreements in place before construction is set to begin.
4. Facilitate 75% Design Review Meeting.
   a. An in-person design meeting will be held to walk through each corridor to discuss design decisions and changes that are to be made for the 100% submittal.

100% Plans

1. Utility Coordination
2. Update all plans to 100% submittal level based on 75% plan review
   a. Finalize Engineers Construction Cost Estimate
   b. Finalize Specification List
3. Finalize Full PS&E Design Package
   a. Package will include Final design layouts (signed and sealed), standards (TxDOT and City), Traffic Control, Engineers Estimate, Project Specifications
   b. All required bid documents will be filled out in accordance with City standards and requirements.
4. Facilitate 100% Design Review Meeting
5. Update PS&E Packet/Sign/Seal/Submit Final PS&E Packet

Assumptions:

1. The City will provide fiber optic cable for contractor to install.
2. The City will splice all fiber optic cable installed.
3. Contractor to include tracer wire within conduit
4. 100 ft of slack at all splice locations

5. Allow 2 weeks for city plan review
6. Survey will be used for base map
7. Unless otherwise covered by a City of College Station Specification, the plans will be developed per TxDOT specifications/standards. (2024 Specification Book)
8. Unless provided by the City of College Station, Engineer Unit Cost will be based on TxDOT Unit Bid Prices.
9. Fiber shall be located underground, in conduit or aerial from City of College Station owned power poles.

Deliverables (some deliverables may be combined):

1. 75% Design Plans, Specifications and Engineer's Estimate
2. 100% Design Plans, Specifications and Engineer's Estimate
3. Signed/Sealed Design Plans, Specifications and Engineer's Estimate

Task 3: Utility Coordination/Subsurface Utility Engineering (SUE)

Services will be performed in a manner consistent with that degree of skill and care ordinarily exercised by members of the same profession currently practicing under similar circumstances and in accordance with ASCE/UESI/CI38-22 "Standard Guidelines for Investigating and Documenting Existing Utilities."

SUE Utility Designations

1. Utility Quality Levels (QL): Utility Quality Levels are defined in cumulative order (least to greatest) as follows:

a. Quality Level D - Quality level value assigned to a utility segment or utility feature after a review and compilation of data sources such as existing records, oral recollections, locations marked by DIGTESS, and data repositories.

b. Quality Level C - Quality level value assigned to a utility segment or utility feature after surveying aboveground (i.e., visible) utility features and using professional judgement to correlate the surveyed locations of these features with those from existing utility records.

c. Quality Level B - Designate: Quality level value assigned to a utility segment or subsurface utility feature whose existence and position is based upon appropriate surface geophysical methods combined with professional judgment and whose location is tied to the project survey datum. Horizontal accuracy of Designated Utilities is 18" (including survey tolerances) unless otherwise indicated for a specific segment of the deliverable. Quality Level B incorporates quality levels C and D information. A composite plot is created.

d. Quality Level A – Locate: Quality level value assigned to a portion (x, y, and z geometry) of a point of a subsurface utility feature that is directly exposed, measured, and whose location and dimensions are tied to the project survey datum. Other measurable, observable, and judged utility attributes are also recorded (per District Best Practices). The utility location must be tied to the project survey datum with an accuracy of 0.1 feet (30-mm) vertical and to 0.2 feet (60-mm) horizontal. As test holes may be requested up front or during the project, test holes done prior to completion of QL D, C, or B deliverables must be symbolized on the QL B deliverable with a call out indicating test holes number. This is in addition to and not in lieu of the test hole.

The Sub Consultant will perform a SUE Quality Level D for all utilities from ROW line to face of curb/edge of pavement on both sides of each roadway as defined in the project limits listed above. Except for the

WB lanes of William D. Fitch Pkwy. – where the Level D will be from the North ROW line to 10 ft past the south edge or pavement of the WB lanes.

The Sub Consultant will also research available right-of-way (ROW) plans to determine the location of the ROW and utility easements within the project limits.

The Sub Consultant will add all utilities, ROW and Easement found into MicroStation base maps that are provided by Iteris. ROW and utility easements depicted in SUE investigation will be taken from record plans, GIS data, parcel maps etc. and shown for reference purposes only.

Utility Coordination

The Utility Coordinator shall perform records research from all available resources. Research shall include information on right-of-way (ROW) easement limits.

It is anticipated the fiber along William D Fitch Pkwy between Victoria Ave to the City of College Station water tower near SH 6 Bypass and along Dartmouth between Holleman and Southwest Pkwy shall be hung on the existing electrical power poles located on the north side of William D Fitch Pkwy and eastside of Dartmouth. The City of College Station owns the electrical power poles and lines. The consultant shall analyze the existing power poles to determine if other communication lines are attached to the poles, identify the owner of those lines and provide calculations to determine if the existing poles can handle additional fiber cables.

Once located, the utility coordinator shall identify all utility companies within the project limits and get contact information for each utility company. The consultant shall identify all public utilities and obtain contact information for each public utility agency.

Once the fiber conduit path has been identified, utility layout exhibits will be developed. These exhibits will be given to the utility company for review and comment in regard to utility conflicts. It is anticipated that the 60% plans shall be sufficient for utility exhibits.

Assumptions:

1. The City of College Station shall provide copies of old plan sets, if available.
2. Anticipate mapping communication/fiber, electric, natural gas, water, wastewater/sanitary sewer, and storm drain/storm sewer, and traffic signals.
3. Iteris will provide the base map MicroStation CADD file to the Sub Consultant to add utility, ROW and easement information.

Deliverables:

1. List of utility company contacts
2. Copies of existing plans used to locate utilities, ROW and easements.
3. Updated electronic files in MicroStation format showing all utilities, ROW and utility easements.

Task 4: System Integration

1. Support CS IT with the reconfiguration and integration efforts

Deliverables (some deliverables may be combined):

1. Provide information about work performed in support of the system integration as part of the progress report that is submitted with the invoice.

Task 5: Construction Support

Iteris will provide construction support services during the construction of the fiber expansion project. Services include:

1. Address design questions during the construction advertisement period and/or pre-bid meeting.
2. Review construction contractor bids to determine if the contractor has addressed all elements of the design.
3. Participate/Facilitate Pre-Construction Meeting and regularly scheduled construction progress meetings.
4. Review and Respond to Request for Information (RFI) submitted by the contractor.
5. Prepare construction change orders, if required due to a RFI.
6. Maintain record of contractor planned vs actual quantities and cost by pay item.
7. Provide on-site construction review during key milestones
8. Support the City in the oversight of punch list items
9. Document fiber infrastructure locations by capturing the coordinates of each ground box, splice cabinet or other appurtenance installed.
10. Develop as-built drawings
11. Update Fiber Optic Schematic

Assumptions:

1. The City shall provide field inspector to monitor contractor's work on a day-to-day basis.
2. The City shall review, approve and track all contractor invoices.

Deliverables:

1. Pre-Bid Comment Table
2. Pre-Construction Meeting Minutes
3. Construction Progress Meeting Minutes
4. RFI Resolution Notices
5. RFI/Change Order Drawings and Associated Documentation related to the RFI/Change Order
6. Contractor Planned v Actual Quantity Table
7. On-Site Construction Review Notices
8. As-Built Drawings, including splice charts
9. Updated Fiber Optic Network Schematic

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 $ N/A 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 See attached Fee Estimate percent ***(*** 0 ***%)*** 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: ($ 316,657.42).

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:

		TASK	ITERIS STAFF									Total Hours	ODCs	Total Cost
			D Hartmann	S Hunter	Q Nguyen	R Wilson	T Nguyen	R Taylor	T Comption	L Tyree				
			Senior PM/ QA-QC	Project Mgr	Design Engineer	Engineer	Integration Specialist	Engineer Tech	Senior Proj Controls	Project Controls	ITERIS TOTAL			
		Fully Burdened Labor Rate	$ 330.00	$ 263.00	$ 231.50	$ 142.00	$ 221.00	$ 115.00	$ 165.50	$ 107.00				
	Task 1	**Project Management and Coordination**	21.00	24.00	0.00	0.00	0.00	0.00	12.00	12.00	$16,512.00	69	$799.42	$17,311.42
		Project Management and Coordination	3	3							$1,779.00	6		
		Prepare Monthly Progress Reports/Invoices	3	3					12	12	$5,049.00	30		
		Facilitate Project Progress Meetings	3	3							$1,779.00	6		
		Prepare/Distribute/File Project Correspondence	3	3							$1,779.00	6		
		Prepare/Distribute Meeting Minutes	3	3							$1,779.00	6		
		Docment Phone/Conference Calls	3	3							$1,779.00	6		
		Coordinate Various Team Member Work	3	6							$2,568.00	9		
		0									$0.00	0		
		0									$0.00	0		
		0									$0.00	0		
	Task 2	**Fiber Expansion Design**	4.00	101.00	446.00	316.00	0.00	0.00	0.00	0.00	$176,004.00	867	$3,332.00	$179,336.00
		Preliminary Investigation									$0.00	0		
		Review Existing Drawings		8	8	8					$5,092.00	24		
		Site Visit		16	16	16					$10,184.00	48		
		Develop Base Map MicroStation Model		1	80						$18,783.00	81		
		75% Design									$0.00	0		
		Title Sheet				8					$1,136.00	8		
		Layout Sheets	1	40	180	160					$75,240.00	381		
		Detail Sheets			8	16					$4,124.00	24		
		Preliminary Quantity Estimate		2	16	8					$5,366.00	26		
		Preliminary Engr Construction Cost	1	2	8	8					$3,844.00	19		
		75% Review Meeting		2	2	2					$1,273.00	6		
		90% Design									$0.00	0		
		Title Sheet									$0.00	0		
		General/Construction Notes Sheets									$0.00	0		
		Index of Sheets									$0.00	0		
		Estimate of Quantity Sheet									$0.00	0		
		Layout Sheets									$0.00	0		
		Detail Sheets									$0.00	0		
		Traffic Control Plans									$0.00	0		
		Revised Quantity Estimate									$0.00	0		
		Revised Engr Construction Cost									$0.00	0		
		90% Review Meeting									$0.00	0		
		100% Design									$0.00	0		
		Title Sheet				2					$284.00	2		
		General/Construction Notes Sheets			8	8					$2,988.00	16		
		Index of Sheets			4	4					$1,494.00	8		
		Estimate of Quantity Sheet			2	4					$1,031.00	6		
		Layout Sheets	1	20	80	40					$29,790.00	141		
		Detail Sheets		2	8	8					$3,514.00	18		
		Traffic Control Plans		2	8	12					$4,082.00	22		
		Revised Quantity Estimate	1	2	8	8					$3,844.00	19		
		Revised Engr Construction Cost		2	8	4					$2,946.00	14		
		100% Review Meeting		2	2						$989.00	4		
		0									$0.00	0		
	Task 3	**Utility Coordination/SUE**	1.00	20.00	64.00	72.00	0.00	0.00	0.00	0.00	$30,630.00	157	$0.00	$30,630.00
		SUE									$0.00	0		
		Iteris Coordination w/Halff		8	8						$3,956.00	16		
		0									$0.00	0		
		Utility Coordination									$0.00	0		
		Develop Utility Exhibits	1	4	24	24					$10,346.00	53		
		Contact Utility Companies		4	16	24					$8,164.00	44		
		Coordinate with Utility Companies		4	16	24					$8,164.00	44		
		0									$0.00	0		
	Task 4	**System Integration**	0	0	0	0	16	0	0	0	$3,536.00	16	$0.00	$3,536.00
		Support College Station Integration Efforts					*16*				$3,536.00	16		
		0									$0.00	0		
	Task 5	**Construction Support**	12	56	84	16	0	0	0	0	$40,406.00	168	$0.00	$40,406.00
		Participate in pre-bid meetings	*4*	*8*	*8*						$5,276.00	20		
		Address contractor pre-bid questions	*4*	*8*	*8*						$5,276.00	20		
		Participate in pre-construction meeting/status meetings	*4*	*8*	*8*						$5,276.00	20		
		Review/Respond to RFIs		*16*	*16*						$7,912.00	32		
		Maintain record of contractor actual v planned quantities		*4*							$1,052.00	4		
		Provide On-Site Construction Reviews Key Milestones			*16*						$3,704.00	16		
		Support Punchlist updates		*8*							$2,104.00	8		
		Document Fiber Infrastructure as-built locations			*12*						$2,778.00	12		
		Create as-built plans			*16*	*16*					$5,976.00	32		
		Update Fiber Schematic		*4*							$1,052.00	4		
		0									$0.00	0		
Task Sub Halff		**Sub: Halff Associates**	*0*	*0*	*0*	*0*	*0*	*0*	*0*	*0*	$0.00	0	$45,438.00	$45,438.00
		Labor (SUE)									$0.00	*0*	*$37,840.00*	
		ODE (SUE)									$0.00	*0*	*$794.00*	
		Labor (PM)									$0.00	*0*	*$6,804.00*	
		Total Labor Hours	38	201	594	404	16	0	12	12	$267,088.00	1277	$49,569.42	$316,657.42
												TOTAL		$316,657.42

Halff

SUE and SURVEY FEE Summary

POSITION DESCRIPTION	Sr. Project Manager			
HOURLY RATE	$283.50			
Project Administration and Coordination Services				
Prepare Monthly Invoices, Progress Reports and Updated Project Schedule	16			$4,536.00
Monthly Project Coordination Meetings with Iteris	8			$2,268.00
			Project Admiistration and Coordination Services Sub-total	**$6,804.00**
SUE Services (see SUE tab)				
			SUE Services Labor Sub-total	**$37,840.00**
			SUE Services Expenses Sub-total	**$794.00**
			SUE Services Sub-total	**$38,634.00**
			SUE and SURVEY SERVICES TOTAL	**$45,438.00**

Halff
SUE Project Summary

Team Unit Special Considerations (project standards, field accessibility, review process, schedule)		LABOR (HOURLY RATES)									
		QC Manager	SUE Manager	Field Manager	EIT	SUE/Survey Coordinator	Sr CADD Tech	CADD Tech	Sr Contract Specialist	Clerical /Admin	Unit Total
Hourly Rate		**$315.00**	**$252.00**	**$163.00**	**$126.00**	**$135.00**	**$131.00**	**$110.00**	**$126.00**	**$84.00**	
PROJECT TASKS	**Total Time Per Task (Hours):**	**4**	**16**	**40**	**40**	**8**	**48**	**120**	**2**	**2**	**$37,840.00**
Project Quality Control	4	4									$1,260.00
SUE Management	16		16								$4,032.00
QA/QC for Field Investigations	40			40							$6,520.00
Record Research and CADD QC	40				40						$5,040.00
Record Research and CADD	8					8					$1,080.00
CADD Work	168						48	120			$19,488.00
Recoord research	4								2	2	$420.00
PROHECT EXPENSES		Quantity	Rate	Unit							**$794.00**
Lodging/Hotel		2	$110.00	Night							$220.00
Lodging/Hotel Taxes/Fees		2	$35.00	Night							$70.00
Per-Diem/Meals		4	$59.00	Day							$236.00
Mileage		400	$0.67	Mile							$268.00
										ESTIMATE TOTAL	**$38,634.00**

EXHIBIT C
CERTIFICATE(S) OF INSURANCE

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 11/20/2024

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 Woodruff-Sawyer & Co. 2 Park Plaza, #500 Irvine CA 92614	**CONTACT NAME:** WS Certificates **PHONE (A/C, No, Ext):** 844-972-6326 **FAX (A/C, No):** **E-MAIL ADDRESS:** Certificates@woodruffsawyer.com
INSURED ITERINC-01 Iteris, Inc. 1700 Carnegie Avenue, Suite 100 Santa Ana CA 92705-5551	**INSURER(S) AFFORDING COVERAGE** / **NAIC #** **INSURER A :** Continental Insurance Company 35289 **INSURER B :** American Casualty Company of Reading 20427 **INSURER C :** Valley Forge Insurance Company 20508 **INSURER D :** Lexington Insurance Company 19437 **INSURER E :** **INSURER F :**

COVERAGES **CERTIFICATE NUMBER:** 657905812 **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	X **COMMERCIAL GENERAL LIABILITY** [ ] CLAIMS-MADE [X] OCCUR X BI Ded. None GEN'L AGGREGATE LIMIT APPLIES PER: [ ] POLICY [X] PRO-JECT [X] LOC [ ] OTHER:	Y	Y	6057362701	4/1/2024	4/1/2025	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG 	$ 2,000,000 $ 1,000,000 $ 15,000 $ 2,000,000 $ 4,000,000 $ 4,000,000 $
C	**AUTOMOBILE LIABILITY** X ANY AUTO [ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS [ ] HIRED AUTOS ONLY [ ] NON-OWNED AUTOS ONLY	Y	Y	6057362682	4/1/2024	4/1/2025	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) Owned/Hired Comp/Coll	$ 1,000,000 $ $ $ $ Ded's $1000
A	X **UMBRELLA LIAB** X OCCUR **EXCESS LIAB** [ ] CLAIMS-MADE [ ] DED X RETENTION $ 10,000			6057362679	4/1/2024	4/1/2025	EACH OCCURRENCE AGGREGATE 	$ 25,000,000 $ 25,000,000 $
A B	**WORKERS COMPENSATION AND EMPLOYERS' LIABILITY** Y / N ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? N **(Mandatory in NH)** If yes, describe under DESCRIPTION OF OPERATIONS below	N / A	Y	6057544401 6057544415	4/1/2024 4/1/2024	4/1/2025 4/1/2025	X PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ 1,000,000 $ 1,000,000 $ 1,000,000
D	Architects and Engineers Professional Liability Claims Made Form			015136071	4/1/2024	4/1/2025	Aggregate Limit Each Claim Limit SIR	$5,000,000 $5,000,000 $500,000

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

Re: Contract Number: 25300178
Project Name: Traffic Signal Fiber Expansion.

City of College Station is included as Additional Insured as respects General Liability and Auto Liability on a Primary and Non-contributory basis with a waiver of subrogation to the extent provided in the attached forms.

Notice of Cancellation applies with respects General Liability, Auto Liability and Workers Compensation to the extent provided in the attached forms.

CERTIFICATE HOLDER

City of College Station
Attn: Risk Management
PO Box 9960
College Station, TX 77842

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

Zoe Overbay

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after the end of the **Policy Period**, of its election of the Optional Extended Reporting Period set forth in Item 7. of the Declarations and include the corresponding additional premium with such written election. Once in place, the Optional Extended Reporting Period cannot be cancelled by the **First Named Insured** or the **Company** and the additional premium shall be fully earned. The Optional Extending Reporting Period must be endorsed onto this policy.

3. The Optional Extended Reporting Period applies to a **Claim** which is first made against the **Insured** during the Optional Extended Reporting Period because of a **Breach of Professional Duty** which first takes on or after the Retroactive Date shown in Item 6. of the Declarations and prior to the end of the **Policy Period**. Such **Claim** must be reported to the **Company**, as soon as practicable, but no later than (60) days after the end of the Optional Extended Reporting Period. The Optional Extended Reporting Period shall commence at the end of **Policy Period.**

4. If this policy is succeeded by another claims-made professional liability policy, then coverage provided under the Optional Extended Reporting Period shall be excess over such other professional liability policy.

5. The quotation of a different premium, Deductible or Self-Insured Retention, limit(s) of insurance or differing terms and conditions for renewal does not constitute a non-renewal for the purpose of this provision.

The Optional Extended Reporting Period shall not increase, reinstate or renew the Limits of Insurance under this Policy.

N. OTHER INSURANCE

This insurance shall be excess over any other valid insurance, whether collectible or not, and whether provided on a primary, excess, contingent or any other basis, provided that such insurance is not specifically written to be excess over this policy.

O. SOLE AGENT

The **First Named Insured** is the appointed and irrevocable agent for all **Insureds**, including, for the purpose of receipt of any notice of cancellation, notice of nonrenewal (if applicable), negotiation and agreement to any endorsement and the payment or return of any premium under this policy.

P. SUBROGATION

In the event of any payment under this policy, the **Company** shall be subrogated to all the **Insured's** rights of recovery therefor against any person or organization and the **Insured** shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The **Insured** shall do nothing after the **Insured** becomes aware of a circumstance that reasonably could give rise to a **Claim** to prejudice such rights. The **Company** agrees to waive this right of subrogation against the client of the **Insured** to the extent that the **Insured** had, prior to a **Claim**, a written agreement to waive such rights.

Q. SERVICE OF SUIT

CNA

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXTENDED COVERAGE ENDORSEMENT – BA PLUS

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

I. LIABILTY COVERAGE

A. Who Is An Insured

The following is added to **Section II, Paragraph A.1., Who Is An Insured:**

1. a. Any incorporated entity of which the Named Insured owns a majority of the voting stock on the date of inception of this Coverage Form; **provided that**,

b. The insurance afforded by this provision **A.1.** does not apply to any such entity that is an "insured" under any other liability "policy" providing "auto" coverage.

2. Any organization you newly acquire or form, other than a limited liability company, partnership or joint venture, and over which you maintain majority ownership interest.

The insurance afforded by this provision **A.2.:**

a. Is effective on the acquisition or formation date, and is afforded only until the end of the policy period of this Coverage Form, or the next anniversary of its inception date, whichever is earlier.

b. Does not apply to:

(1) "Bodily injury" or "property damage" caused by an "accident" that occurred before you acquired or formed the organization; or

(2) Any such organization that is an "insured" under any other liability "policy" providing "auto" coverage.

3. Any person or organization that you are obligated to provide Insurance where required by a written contract or agreement is an insured, but only with respect to legal responsibility for acts or omissions of a person for whom Liability Coverage is afforded under this policy.

4. 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.

"Policy," as used in this provision **A. Who Is An Insured,** includes those policies that were in force on the inception date of this Coverage Form but:

1. Which are no longer in force; or

2. Whose limits have been exhausted.

B. Bail Bonds and Loss of Earnings

Section II, Paragraphs A.2.a.(2) and A.2.a.(4) are revised as follows:

1. In **a.(2),** the limit for the cost of bail bonds is increased from $2,000 to $5,000, and

2. In **a.(4),** the limit for the loss of earnings is increased from $250 to $500 a day.

C. Fellow Employee

Section II, Paragraph B.5 does not apply.

Such coverage as is afforded by this provision C. is excess over any other collectible insurance.

II. PHYSICAL DAMAGE COVERAGE

A. Towing

Section III. Paragraph A.2., is revised to include Light Trucks up to 10,000 pounds G.V.W.

B. Glass Breakage – Hitting A Bird Or Animal – Falling Objects Or Missiles

The following is added to **Section III, Paragraph A.3.:**

With respect to any covered "auto," any deductible shown in the Declarations will not apply to glass breakage if such glass is repaired, in a manner acceptable to us, rather than replaced.

C. Transportation Expenses

Section III, Paragraph A.4.a. is revised, with respect to transportation expense incurred by you, to provide:

a. $60 per day, in lieu of $20; subject to

b. $1,800 maximum, in lieu of $600.

D. Loss of Use Expenses

Section III, Paragraph A.4.b. is revised, with respect to loss of use expenses incurred by you, to provide:

a. $1,000 maximum, in lieu of $600.

E. Personal Property

The following is added to **Section III, Paragraph A.4.**

c. We will pay up to $500 for loss to **Personal Property** which is:

(1) Owned by an "insured"; and

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4. Loss Payment – Physical Damage Coverages

At our option, we may:

a. Pay for, repair or replace damaged or stolen property;

b. Return the stolen property, at our expense. We will pay for any damage that results to the "auto" from the theft; or

c. Take all or any part of the damaged or stolen property at an agreed or appraised value.

If we pay for the "loss", our payment will include the applicable sales tax for the damaged or stolen property.

5. Transfer Of Rights Of Recovery Against Others To Us

If any person or organization to or for whom we make payment under this Coverage Form has rights to recover damages from another, those rights are transferred to us. That person or organization must do everything necessary to secure our rights and must do nothing after "accident" or "loss" to impair them.

B. General Conditions

1. Bankruptcy

Bankruptcy or insolvency of the "insured" or the "insured's" estate will not relieve us of any obligations under this Coverage Form.

2. Concealment, Misrepresentation Or Fraud

This Coverage Form is void in any case of fraud by you at any time as it relates to this Coverage Form. It is also void if you or any other "insured", at any time, intentionally conceals or misrepresents a material fact concerning:

a. This Coverage Form;

b. The covered "auto";

c. Your interest in the covered "auto"; or

d. A claim under this Coverage Form.

3. Liberalization

If we revise this Coverage Form to provide more coverage without additional premium charge, your policy will automatically provide the additional coverage as of the day the revision is effective in your state.

4. No Benefit To Bailee – Physical Damage Coverages

We will not recognize any assignment or grant any coverage for the benefit of any person or organization holding, storing or transporting property for a fee regardless of any other provision of this Coverage Form.

5. Other Insurance

a. For any covered "auto" you own, this Coverage Form provides primary insurance. For any covered "auto" you don't own, the insurance provided by this Coverage Form is excess over any other collectible insurance. However, while a covered "auto" which is a "trailer" is connected to another vehicle, the Covered Autos Liability Coverage this Coverage Form provides for the "trailer" is:

(1) Excess while it is connected to a motor vehicle you do not own; or

(2) Primary while it is connected to a covered "auto" you own.

b. For Hired Auto Physical Damage Coverage, any covered "auto" you lease, hire, rent or borrow is deemed to be a covered "auto" you own. However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto."

c. Regardless of the provisions of Paragraph **a.** above, this Coverage Form's Covered Autos Liability Coverage is primary for any liability assumed under an "insured contract."

d. When this Coverage Form and any other Coverage Form or policy covers on the same basis, either excess or primary, we will pay only our share. Our share is the proportion that the Limit of Insurance of our Coverage Form bears to the total of the limits of all the Coverage Forms and policies covering on the same basis.

6. Premium Audit

a. The estimated premium for this Coverage Form is based on the exposures you told us you would have when this policy began. We will compute the final premium due when we determine your actual exposures. The estimated total premium will be credited against the final premium due and the first Named Insured will be billed for the balance, if any. The due date for the final premium or retrospective premium is the date shown as the due date on the bill. If the estimated total premium exceeds the final premium due, the first Named Insured will get a refund.

b. If this policy is issued for more than one year, the premium for this Coverage Form will be computed annually based on our rates or premiums in effect at the beginning of each year of the policy.

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1. ADDITIONAL INSUREDS

a. **WHO IS AN INSURED** is amended to include as an **Insured** any person or organization described in paragraphs **A.** through **K.** below whom a **Named Insured** is required to add as an additional insured on this **Coverage Part** under a written contract or written agreement, provided such contract or agreement:

(1) is currently in effect or becomes effective during the term of this **Coverage Part**; and

(2) was executed prior to:

(a) the **bodily injury** or **property damage**; or

(b) the offense that caused the **personal and advertising injury**,

for which such additional insured seeks coverage.

b. However, 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) a higher limit of insurance than required by such contract or agreement; or

(2) coverage broader than required by such contract or agreement, and in no event broader than that described by the applicable paragraph **A.** through **K.** below.

Any coverage granted by this endorsement shall apply only to the extent permissible by law.

A. Controlling Interest

Any person or organization with a controlling interest in a **Named Insured**, but only with respect to such person or organization's liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of:

1. such person or organization's financial control of a **Named Insured**; or

2. premises such person or organization owns, maintains or controls while a **Named Insured** leases or occupies such premises;

provided that the coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

B. Co-owner of Insured Premises

A co-owner of a premises co-owned by a **Named Insured** and covered under this insurance but only with respect to such co-owner's liability for **bodily injury**, **property damage** or **personal and advertising injury** as co-owner of such premises.

C. Grantor of Franchise

Any person or organization that has granted a franchise to a **Named Insured**, but only with respect to such person or organization's liability for **bodily injury**, **property damage** or **personal and advertising injury** as grantor of a franchise to the **Named Insured**.

D. Lessor of Equipment

Any person or organization from whom a **Named Insured** leases equipment, but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** caused, in whole or in part, by the **Named Insured's** maintenance, operation or use of such equipment, provided that the **occurrence** giving rise to such **bodily injury**, **property damage** or the offense giving rise to such **personal and advertising injury** takes place prior to the termination of such lease.

E. Lessor of Land

Any person or organization from whom a **Named Insured** leases land but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of the ownership,

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maintenance or use of such land, provided that the **occurrence** giving rise to such **bodily injury**, **property damage** or the offense giving rise to such **personal and advertising injury** takes place prior to the termination of such lease. The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

F. Lessor of Premises

An owner or lessor of premises leased to the **Named Insured**, or such owner or lessor's real estate manager, but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of the ownership, maintenance or use of such part of the premises leased to the **Named Insured**, and provided that the **occurrence** giving rise to such **bodily injury** or **property damage**, or the offense giving rise to such **personal and advertising injury**, takes place prior to the termination of such lease. The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

G. Mortgagee, Assignee or Receiver

A mortgagee, assignee or receiver of premises but only with respect to such mortgagee, assignee or receiver's liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of the **Named Insured's** ownership, maintenance, or use of a premises by a **Named Insured**.

The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

H. State or Governmental Agency or Subdivision or Political Subdivisions – Permits

A state or governmental agency or subdivision or political subdivision that has issued a permit or authorization but only with respect to such state or governmental agency or subdivision or political subdivision's liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of:

1. the following hazards in connection with premises a **Named Insured** owns, rents, or controls and to which this insurance applies:

a. the existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoistaway openings, sidewalk vaults, street banners, or decorations and similar exposures; or

b. the construction, erection, or removal of elevators; or

c. the ownership, maintenance or use of any elevators covered by this insurance; or

2. the permitted or authorized operations performed by a **Named Insured** or on a **Named Insured's** behalf.

The coverage granted by this paragraph does not apply to:

a. **Bodily injury**, **property damage** or **personal and advertising injury** arising out of operations performed for the state or governmental agency or subdivision or political subdivision; or

b. **Bodily injury** or **property damage** included within the **products-completed operations hazard**.

With respect to this provision's requirement that additional insured status must be requested under a written contract or agreement, the Insurer will treat as a written contract any governmental permit that requires the **Named Insured** to add the governmental entity as an additional insured.

I. Trade Show Event Lessor

1. With respect to a **Named Insured's** participation in a trade show event as an exhibitor, presenter or displayer, any person or organization whom the **Named Insured** is required to include as an additional insured, but only with respect to such person or organization's liability for **bodily injury**, **property damage** or **personal and advertising injury** caused by:

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a. the **Named Insured's** acts or omissions; or

b. the acts or omissions of those acting on the **Named Insured's** behalf,

in the performance of the **Named Insured's** ongoing operations at the trade show event premises during the trade show event.

2. The coverage granted by this paragraph does not apply to **bodily injury** or **property damage** included within the **products-completed operations hazard**.

J. Vendor

Any person or organization but only with respect to such person or organization's liability for **bodily injury** or **property damage** arising out of **your products** which are distributed or sold in the regular course of such person or organization's business, provided that:

1. The coverage granted by this paragraph does not apply to:

a. **bodily injury** or **property damage** for which such person or organization is obligated to pay **damages** by reason of the assumption of liability in a contract or agreement unless such liability exists in the absence of the contract or agreement;

b. any express warranty unauthorized by the **Named Insured**;

c. any physical or chemical change in any product made intentionally by such person or organization;

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 any inspections, adjustments, tests or servicing that such person or organization has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;

f. demonstration, installation, servicing or repair operations, except such operations performed at such person or organization's premises in connection with the sale of a product;

g. products which, after distribution or sale by the **Named Insured**, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for such person or organization; or

h. **bodily injury** or **property damage** arising out of the sole negligence of such person or organization for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

(1) the exceptions contained in Subparagraphs **d.** or **f.** above; or

(2) such inspections, adjustments, tests or servicing as such person or organization has agreed with the **Named Insured** 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 Paragraph **J.** does not apply to any insured person or organization, from whom the **Named Insured** has acquired such products, nor to any ingredient, part or container, entering into, accompanying or containing such products.

3. This Paragraph **J.** also does not apply:

a. to any vendor specifically scheduled as an additional insured by endorsement to this **Coverage Part**;

b. to any of **your products** for which coverage is excluded by endorsement to this **Coverage Part**; nor

c. if **bodily injury** or **property damage** included within the **products-completed operations hazard** is excluded by endorsement to this **Coverage Part**.

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K. Other Person Or Organization / Your Work

Any person or organization who is not an additional insured under Paragraphs **A.** through **J.** above. Such additional insured is an **Insured** solely for **bodily injury**, **property damage** or **personal and advertising injury** for which such additional insured is liable because of the **Named Insured's** acts or omissions.

The coverage granted by this paragraph does not apply to any person or organization:

1. who is specifically scheduled as an additional insured on another endorsement to this **Coverage Part**; nor

2. for **bodily injury** or **property damage** included within the **products-completed operations hazard** except to the extent all of the following apply:

a. this **Coverage Part** provides such coverage;

b. the written contract or agreement described in the opening paragraph of this **ADDITIONAL INSUREDS** Provision requires the **Named Insured** to provide the additional insured such coverage; and

c. the **bodily injury** or **property damage** results from **your work** that is the subject of the written contract or agreement, and such work has not been excluded by endorsement to this **Coverage Part**.

2. ADDITIONAL INSURED - PRIMARY AND NON-CONTRIBUTORY TO ADDITIONAL INSURED'S INSURANCE

A. The **Other Insurance** Condition in the **COMMERCIAL GENERAL LIABILITY CONDITIONS** Section is amended to add the following paragraph:

If the **Named Insured** has agreed in writing in a contract or agreement that this insurance is primary and non-contributory relative to an additional insured's own insurance, then this insurance is primary, and the Insurer will not seek contribution from that other insurance. For the purpose of this Provision **2.**, the additional insured's own insurance means insurance on which the additional insured is a named insured.

B. With respect to persons or organizations that qualify as additional insureds pursuant to paragraph **1.K.** of this endorsement, the following sentence is added to the paragraph above:

Otherwise, and notwithstanding anything to the contrary elsewhere in this Condition, the insurance provided to such person or organization is excess of any other insurance available to such person or organization.

3. BODILY INJURY – EXPANDED DEFINITION

Under **DEFINITIONS**, the definition of **bodily injury** is deleted and replaced by the following:

Bodily injury means physical injury, sickness or disease sustained by a person, including death, humiliation, shock, mental anguish or mental injury sustained by that person at any time which results as a consequence of the physical injury, sickness or disease.

4. BROAD KNOWLEDGE OF OCCURRENCE/ NOTICE OF OCCURRENCE

Under **CONDITIONS**, the condition entitled **Duties in The Event of Occurrence, Offense, Claim or Suit** Condition is amended to add the following provisions:

A. BROAD KNOWLEDGE OF OCCURRENCE

The **Named Insured** must give the Insurer or the Insurer's authorized representative notice of an **occurrence**, offense or **claim** only when the **occurrence**, offense or **claim** is known to a natural person **Named Insured**, to a partner, executive officer, manager or member of a **Named Insured**, or to an **employee** designated by any of the above to give such notice.

B. NOTICE OF OCCURRENCE

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21. WAIVER OF SUBROGATION - BLANKET

Under **CONDITIONS**, the condition entitled **Transfer Of Rights Of Recovery Against Others To Us** is amended to add the following:

The Insurer waives any right of recovery the Insurer may have against any person or organization because of payments the Insurer makes for injury or damage arising out of:

1. the **Named Insured's** ongoing operations; or
2. **your work** included in the **products-completed operations hazard**.

However, this waiver applies only when the **Named Insured** has agreed in writing to waive such rights of recovery in a written contract or written agreement, and 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**.

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.

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or organization which may be liable to the **Insured** because of injury or damage to which this insurance may also apply; and

vi. will not voluntarily make a payment, except at its own cost, assume any obligation, or incur any expense, other than for first aid, without the Insurer's prior consent.

3. Cooperation

With respect to both **Coverage A - Excess Follow Form Liability** and **Coverage B – Umbrella Liability**, the **Named Insured** will cooperate with the Insurer in addressing all **claims** required to be reported to the Insurer in accordance with this paragraph **O. Notice of Claims/Crisis Management Event/Covered Accident,** and refuse, except solely at its own cost, to voluntarily, without the Insurer's approval, make any payment, admit liability, assume any obligation or incur any expense related thereto.

P. Notices

Any notices required to be given by an **Insured** shall be submitted in writing to the Insurer at the address set forth in the Declarations of this Policy.

Q. Other Insurance

If the **Insured** is entitled to be indemnified or otherwise insured in whole or in part for any **damages** or **defense costs** by any valid and collectible **other insurance** for which the **Insured** otherwise would have been indemnified or otherwise insured in whole or in part by this Policy, the limits of insurance specified in the Declarations of this Policy shall apply in excess of, and shall not contribute to a **claim**, **incident** or such event covered by such **other insurance.**

With respect to **Coverage A – Excess Follow Form Liability** only, if:

a. the **Named Insured** has agreed in writing in a contract or agreement with a person or entity that this insurance would be primary and would not seek contribution from any other insurance available;

b. Underlying Insurance includes that person or entity as an additional insured; and

c. Underlying Insurance provides coverage on a primary and noncontributory basis as respects that person or entity;

then this insurance is primary to and will not seek contribution from any insurance policy where that person or entity is a named insured.

R. Premium

All premium charges under this Policy will be computed according to the Insurer's rules and rating plans that apply at the inception of the current **policy period**. Premium charges may be paid to the Insurer or its authorized representative.

S. In Rem Actions

A quasi *in rem* action against any vessel owned or operated by or for a **Named Insured**, or chartered by or for a **Named Insured**, will be treated in the same manner as though the action were *in personam* against the **Named Insured.**

T. Separation of Insureds

Except with respect to the limits of insurance, and any rights or duties specifically assigned in this Policy to the **First Named Insured**, this insurance applies:

1. as if each **Named Insured** were the only **Named Insured**; and

2. separately to each **Insured** against whom a **claim** is made.

U. Transfer of Interest

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Assignment of interest under this policy shall not bind the Insurer unless its consent is endorsed hereon.

V. Unintentional Omission

Based on Insurer's reliance on the **Named Insured's** representations as to existing hazards, if the **Named Insured** should unintentionally fail to disclose all such hazards at the effective date of this Policy, the Insurer will not deny coverage under this Policy because of such failure.

W. Waiver of Rights of Recovery

The Insurer waives any right of recovery it may have against any person or organization because of payments the Insurer makes under this Policy if the **Named Insured** has agreed in writing to waive such rights of recovery in a contract or agreement, and only if the contract or agreement:

1. is in effect or becomes effective during the **policy period**; and
2. was executed prior to loss**.**

VII. DEFINITIONS

For purposes of this Policy, words in bold face type, whether expressed in the singular or the plural, have the meaning set forth below.

Advertisement means a notice that is broadcast or published to the general public or specific market segments about the **Named Insured's** goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:

A. notices that are published include material placed on the Internet or on similar electronic means of communication; and

B. regarding web-sites, only that part of a web-site that is about the **Named Insured's** goods, products or services for the purposes of attracting customers or supporters is considered an **advertisement.**

Aircraft means any machine or device that is capable of atmospheric flight.

Arbitration proceeding means a formal alternative dispute resolution proceeding or administrative hearing to which an **Insured** is required to submit by statute or court rule or to which an **Insured** has submitted with the Insurer's consent.

Asbestos means the mineral in any form whether or not the asbestos was at any time airborne as a fiber, particle or dust, contained in or formed a part of a product, structure or other real or personal property, carried on clothing, inhaled or ingested, or transmitted by any other means.

Authorized Insured means any **executive officer**, member of the **Named Insured's** risk management or in-house general counsel's office, or any **employee** authorized by the **Named Insured** to give or receive notice of a **claim.**

Auto means:

A. a land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or

B. any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

However, **auto** does not include **mobile equipment.**

Bodily injury means bodily injury, sickness or disease sustained by a person, including death, humiliation, shock, mental anguish or mental injury sustained by that person at any time which results as a consequence of the bodily injury, sickness or disease.

Claim means a:

A. suit; or

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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.

Any person or organization for which the employer has agreed by written contract, executed prior to loss, may execute a waiver of subrogation. However, for purposes of work performed by the employer in Missouri, this waiver of subrogation does not apply to any construction group of classifications as designated by the waiver of right to recover from others (subrogation) rule in our manual.

Schedule

Any Person or Organization on whose behalf you are required to obtain this waiver of our right to recover from under a written contract or agreement.

The premium charge for the endorsement is reflected in the 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.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DESIGNATED INSURED FOR COVERED AUTOS LIABILITY COVERAGE

This endorsement modifies insurance provided under the following:

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

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

This endorsement identifies person(s) or organization(s) who are "insureds" for Covered Autos Liability Coverage under the Who Is An Insured provision of the Coverage Form. This endorsement does not alter coverage provided in the Coverage Form.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured: Iteris, Inc.

Endorsement Effective Date: 4/1/2024

SCHEDULE

Name Of Person(s) Or Organization(s):

City of College Station
Attn: Risk Management
PO Box 9960
College Station, TX 77842

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

Each person or organization shown in the Schedule is an "insured" for Covered Autos Liability Coverage, but only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in Paragraph **A.1.** of Section **II** – Covered Autos Liability Coverage in the Business Auto and Motor Carrier Coverage Forms and Paragraph **D.2.** of Section **I** – Covered Autos Coverages of the Auto Dealers Coverage Form.

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NOTICE OF CANCELLATION OR MATERIAL CHANGE – DESIGNATED PERSON OR ORGANIZATION

It is understood and agreed that this endorsement amends the **BUSINESS AUTO COVERAGE FORM** as follows:

In the event of cancellation or material change that reduces or restricts the insurance provided by this Coverage Form, we agree to send prior notice of cancellation or material change to the person or organization scheduled below at the address scheduled below. This endorsement does not amend our obligation to notify the Named Insured of cancellation as described in the Common Policy Conditions or in another endorsement attached to this policy.

SCHEDULE

1. Number of days advance notice:

30 Days if we cancel for non-payment of premium.

____ Days if the policy is cancelled for any other reason, or if coverage is restricted or reduced by endorsement.

2. Person or Organization's Name and Address

Name:	City of College Station
Attention:	Risk Management
Street Address:	PO Box 9960
City, State, ZIP:	College Station, TX 77842
e-mail address*	

***** Enter an e-mail address if delivery of notice by e-mail is acceptable. Otherwise written notice will be sent by mail.

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.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

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

This endorsement modifies insurance provided under the following:

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

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

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured: Iteris, Inc.

Endorsement Effective Date: 4/1/2024

SCHEDULE

Name(s) Of Person(s) Or Organization(s):
City of College Station
Attn: Risk Management
PO Box 9960
College Station, TX 77842

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

The **Transfer Of Rights Of Recovery Against Others To Us** condition does not apply to the person(s) or organization(s) shown in the Schedule, but only to the extent that subrogation is waived prior to the "accident" or the "loss" under a contract with that person or organization.

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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
City of College Station Attn: Risk Management PO Box 9960 College Station, TX 77842	
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.

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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 shown in the Declarations;

whichever is less.

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

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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):	30
Number of days notice for nonpayment of premium:	
Name of person or organization to whom notice will be sent:	City of College Station
Address:	Attn: Risk Management PO Box 9960 College Station, TX 77842

If no entry appears above, the number of days notice for nonpayment of premium will be 10 days.

****NOTE TO I.T.: NO LIMITATION ON THE NUMBER OF ROWS. THE SCHEDULE SHOULD BE REPEATABLE****

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.

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CNA PARAMOUNT

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:
City of College Station Attn: Risk Management
PO Box 9960 College Station, TX 77842

(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.

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

Schedule

City of College Station
Attn: Risk Management
PO Box 9960
College Station, TX 77842

The premium charge for the endorsement is reflected in the 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.

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NOTICE OF CANCELLATION OR MATERIAL CHANGE ENDORSEMENT

This endorsement modifies insurance provided under the **WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY:**

In the event of cancellation or material change that reduces or restricts coverage during the policy period, we agree to send prior written notice in the manner prescribed, to the person or organization listed in the Schedule.

SCHEDULE

1. **Number of days advance notice**: 30

   For nonpayment of premium:

2. **For any other reason:**

3. **Name and Address of Person or Organization:**

   City of College Station
   Attn: Risk Management
   PO Box 9960
   College Station, TX 77842

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: CNA87380XX (11-2016)
Endorsement Effective Date 4/1/2024

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Traffic Signal Fiber Expansion Project

Project CO2500

RFQ 24-082

Firms Responding on September 3, 2024:

1. ADB Companies, LLC
2. Avenue Consultants, Inc.
3. Colliers Engineering & Design, Inc.
4. Halff Associates, Inc.
5. ITERIS, Inc.
6. Kimley-Horn, Inc.

December 12, 2024
Item No. 7.8.
Synthetic turf replacement at Veterans Park and Athletic Complex

Sponsor: Kelsey Heiden

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action on approval of a construction contract with Paragon Sports Constructors, LLC. in the amount of $1,209,748 for synthetic turf removal and installation, plus the City's contingency in the amount of $120,974.80 for a total appropriation of $1,330,711.80. Approval of this item grants authority for the City Manager to authorize expenditures up to the City's contingency amount.

Relationship to Strategic Goals:
Core Services and Infrastructure

Recommendation(s): Staff recommends approval and award of the construction contract with Paragon Sports Constructors, LLC., for the Synthetic Turf Removal, Installation, Drainage, and Contingency on Fields 7 & 8.

Summary: The synthetic turf on fields 7 and 8 at Veterans Park and Athletic Complex was installed in 2012 and opened for play in 2013. The fields are 12 years old and have reached their useful life (8-10 years). Under this contract, the existing synthetic turf would be removed, and new synthetic turf would be installed. The original subsurface infrastructure would remain.

The new turf will include in-laid markings for full size soccer, youth soccer and flag football fields. Included in the price is standard sand and rubber turf infill with Geofill cooling layer.

The addition of in-laid markings will improve operational efficiencies, removing the staff time it takes to paint and remove the fields markings in preparation for the seasonal games and various tournaments. Additionally, the Geofill cooling layer will assist with reducing the infill temperature.

The existing synthetic turf is Shaw Sports Turf. It is staff's recommendation to replace the existing turf with the same Shaw Sports Turf product. Staff is satisfied with the overall performance, durability and low maintenance requirements of Shaw Turf and believe continuing to use this brand is the best option for the City.

Paragon Sports Constructors, LLC is the exclusive distributor and installer of Shaw Sports Turf products in Texas.

This project will utilize the BuyBoard Purchasing Cooperative of which Paragon Sports Constructors is a member, BuyBoard # 737-24.

In addition to the synthetic turf removal and replacement, the contract price includes the drainage alternate of $25,000 to address minor drainage improvements outside of synthetic field.

Budget & Financial Summary: City Council approved a budget amendment on September 26, 2024, allocating $3,000,000 HOT funds for this project.

Attachments:

1. 25300190 Paragon Sports Construction, LLC. (1)

CONTRACT & AGREEMENT ROUTING FORM

CONTRACT#: 25300190 PROJECT #: PK2412 BID/RFP/RFQ#: N/A

Project Name / Contract Description: Synthetic Turf Replacement at Fields 7 & 8 and Drainage Alternate at Veterans Park (BuyBoard Cooperative #737-24)

Name of Contractor: Paragon Sports Constructors, LLC

CONTRACT TOTAL VALUE: $ 1,209,748 **Grant Funded** Yes ☐ No ☐

If yes, what is the grant number: ☐

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

■ **NEW CONTRACT** ☐ **RENEWAL #** _____ ☐ **CHANGE ORDER #** _____ ☐ **OTHER** _____

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

Contract is for synthetic turf replacement at Fields 7 & 8 at Veteran Park. Purchase/Service will be made through BuyBoard Contract 737-24.

Purchasing through a cooperative or "interlocal contract" satisfies the Texas state law requirement of local governments to seek competitive procurement for the purchase of goods or services.

Funding Account: (PK2412) 41389971-6561

*(If required)**

CRC Approval Date*: _____ **Council Approval Date*:** 12/12/24 **Agenda Item No*:** _____

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

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

SIGNATURES RECOMMENDING APPROVAL

Kelsey Heiden — 12/6/2024
DEPARTMENT DIRECTOR/ADMINISTERING CONTRACT — DATE

[signature] — 12/6/2024
ASST CITY MGR – CFO — DATE

David Parnell — 12/6/2024
LEGAL DEPARTMENT — DATE

APPROVED & EXECUTED

_____ — _____
CITY MANAGER — DATE

N/A — _____
MAYOR (if applicable) — DATE

N/A — _____
CITY SECRETARY (if applicable) — DATE

9.12.23 UPDATED

CITY OF COLLEGE STATION
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 Paragon Sports Constructors, LLC (the "Contractor") for the construction and/or installation of the following:
Synthetic Turf Replacement for Fields 7 & 8 and Drainage Alternate for Veterans Park (BuyBoard #737-24) .

1. DEFINITIONS

1.01 Calendar Day. The term "calendar day" shall mean any day of the week or month, no days being excepted.

1.02 City. The term "City" shall mean and be understood as referring to the City of College Station, Texas.

1.03 City's Consultant. The term "City's Consultant" or "Consultant" shall mean and be understood as referring to the City's design professional(s) for the Project.

1.04 City's Representative. The term "City's Representative" or "Representative" shall mean and be understood as referring to the City Manager or his delegate or delegates, including a project management firm if applicable, who shall act as City's agent.

1.05 Contingency Amount. The term "Contingency Amount" shall mean and be understood as referring to the amount established and appropriated by the City, to be used exclusively by the City and in the City's sole discretion, to pay City-authorized costs associated with Change Orders and other related expenses for this Project. The Contractor agrees that the Contingency Amount, if any, is established by and is for the sole use of the City, that the Contingency Amount is not included in the Contract Amount, and that the Contractor has no right to use or receive any Contingency Amount unless authorized by the City in a written and duly authorized change order. The City's Contingency Amount is: One Hundred Twenty Thousand Nine Hundred Seventy-Four and 80 **/100 Dollars ($**120,974.80).

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 Two Hundred Nine Thousand Seven Hundred Forty-Eight and 00 **/100 Dollars ($**1,209,748.00).

1.07 Contract Documents. The term "Contract Documents" shall mean those documents listed in Section 2.01.

1.08 Contractor. The term "Contractor" shall mean the person(s), partnership, or corporation who has agreed to perform the Work contemplated in this Agreement and the other Contract Documents.

1.09 Contractor's Proposal. The term "Contractor's Proposal" shall mean the document provided by the Contractor in response to, and shall include all information required by the City's Request for Proposal/Invitation to Bid for the Project.

1.10 Extra Work. The term "Extra Work" shall mean and include work that is **not** covered or contemplated by the Contract Documents but that may be required by City's Representative and approved by the City in writing ***prior*** to the work being done by the Contractor.

1.11 Final Completion. The term "Final Completion" shall mean that all the Work has been completed, all final punch list items have been inspected and satisfactorily completed, all payments to materialmen and subcontractors have been made, all documentation and warranties have been submitted, and all closeout documents have been executed and approved by the City.

1.12 Hazardous Substance. The term "Hazardous Substance" shall mean and include any element, constituent, chemical, substance, compound, or mixture, which is defined as a hazardous substance by any local, state or federal law, rule, ordinance, by-law, or regulation pertaining to environmental regulation, contamination, clean-up or disclosure, including, without limitation, The Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), The Resource Conservation and Recovery Act ("RCRA"), The Toxic Substances Control Act ("TSCA"), The Clean Water Act ("CWA"), The Clean Air Act ("CAA"), and the Marine Protection Research and Sanctuaries Act ("MPRSA"), The Occupational Safety and Health Act ("OSHA"), The Superfund Amendments and Reauthorization Act of 1986 ("SARA"), or other state superlien or environmental clean-up or disclosure statutes including all state and local counterparts of such laws (all such laws, rules and regulations being referred to collectively as "Environmental Laws").

1.13 Environmental Laws. The term "Environmental laws" shall mean collectively, any local, state or federal law, rule, ordinance, by-law, or regulation pertaining to environmental regulation, contamination, clean-up or disclosure, including, without limitation, The Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), The Resource Conservation and Recovery Act ("RCRA"), The Toxic Substances Control Act ("TSCA"), The Clean Water Act ("CWA"), The Clean Air Act ("CAA"), and the Marine Protection Research and Sanctuaries Act ("MPRSA"), The Occupational Safety and Health Act ("OSHA"), The Superfund Amendments and Reauthorization Act of 1986 ("SARA"), or other state superlien or environmental clean-up or disclosure statutes including all state and local counterparts of such laws.

1.14 Interpretation of Phrases. Whenever the words "directed", "permitted", "designated", "required", "considered necessary", "prescribed", or words of like import are used, it is understood that the direction, requirement, permission, order, designation, or prescription of City's Representative is intended. Similarly, the words "approved", "acceptable", "satisfactory", or words of like import shall mean approved by, accepted by, or satisfactory to City's Representative.

1.15 Nonconforming work. The term "nonconforming work" shall mean Work or any part thereof that is rejected by City's Representative as not conforming with the Contract Documents.

1.16 Parties. The "parties" are the City and the Contractor.

1.17 Project. The term "Project" shall mean the construction of an improvement to real property where the Work comprises either whole or a part of such construction and which may include construction by the City or separate contractors.

1.18 Project Manager. The term "Project Manager" shall mean the Contractor's Project Manager. The Project Manager shall assist the City in performing various administrative and oversight duties relating to the Work, subject to limitations in authority that must be verified by Contractor.

1.19 Subcontractor. The term "subcontractor" shall mean and include only those hired by and having a direct contract with Contractor for performance of work on the Project. The City shall have no responsibility to any subcontractor employed by a Contractor for performance of work on the Project, and all subcontractors shall look exclusively to the Contractor for any payments due.

1.20 Substantially Completed. The term "Substantially Completed" means that in the opinion of the City's Representative the Project, including all systems and improvements, is in a condition to serve its intended purpose but still may require minor miscellaneous work and adjustment. Final payment of the Agreement Price, including retainage, however, shall be withheld until Final Completion and acceptance of the Work by the City. Acceptance by the City shall not impair or waive any warranty obligation of Contractor.

1.21 Work. The term "Work" as used in this Agreement shall mean the construction and services required by the Contract Documents and Exhibits, including any duly authorized change orders, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill its obligations. The Work may constitute the whole or a part of the Project. The Work includes but is not limited to all labor, parts, supplies, skill, supervision, transportation, services, and other facilities and all other items needed to produce, construct, and fully complete the Project.

1.22 Working Day. A "working day" means any day not including Saturdays, Sundays, or legal holidays.

2. CONTRACT DOCUMENTS

2.01 The Contract Documents and their priority shall be as follows:

- **(a)** This signed Agreement.
- **(b)** Addendum to this Agreement.
- **(c)** General Conditions, as may be applicable.
- **(d)** Special Conditions, as may be applicable.
- **(e)** Specifications, including the technical specifications set out at BCS Unified Design Guidelines ("Specifications").
- **(f)** Plans.
- **(g)** Instructions to Bidders and any other notices to Bidders or Contractor.
- **(h)** Performance bond, Payment bonds, Bid bonds and Special bonds.
- **(i)** Contractor's Proposal.

2.02 Where applicable, the Contractor will be furnished three (3) sets of plans, specifications, and related Contract Documents for its use during construction. Plans and Specifications provided for use during construction shall be furnished directly to the Contractor only.

2.03 The Contractor shall distribute copies of the Plans and Specifications to suppliers and subcontractors as necessary. The Contractor shall keep one (1) copy of the Plans and Specifications accessible at the work site with the latest revisions noted thereon. For proper execution of the Work contemplated by this Agreement, additional sets of drawings, plans and specifications may be purchased by the Contractor.

2.04 All drawings, specifications, and copies thereof furnished by the City shall not be re-used on other work, and with the exception of one (1) copy of the signed Contract Documents, all documents, including sets of the Plans and Specifications and "as built" drawings, are to be returned to the City on request at the completion of the Work. All Contract Documents, models, mockups, or other representations are the property of the City.

2.05 In the event of inconsistencies within or between parts of the Contract Documents, the Contractor shall (1) provide the better quality or greater quantity of Work, or (2) comply with the more stringent requirement, either or both in accordance with the City's interpretation. The terms and conditions of this Section 2.05, however, shall not relieve the Contractor of any of the obligations set forth in Sections 8.01. and 8.02 of this Agreement.

3. AWARD OF CONTRACT

3.01 Upon the notice of intent to award of the contract by the City, the parties shall execute this Agreement, and the Contractor shall deliver to City's Representative all documents, bonds, and certificates of insurance required herein.

3.02 Time is of the essence of this Agreement. Accordingly, the Contractor shall be prepared to perform the Work in the most expedient and efficient possible manner in order to complete the Work by the times specified in this Agreement for Substantial Completion and Final Completion. In addition, the Contractor's work on the Project shall be commenced on the date to be specified in the City's written notice to proceed. **The notice to proceed may not be given, nor may any Work be commenced, until this Agreement is fully executed and complete, including all required exhibits and other attachments, particularly those required under Sections 27 and 28 (Insurance & Bonds).**

4. CITY'S REPRESENTATIVE

4.01 The Contractor shall forward all communications, written or oral, to the City through the City's Representative.

4.02 The City's Representative may periodically review and inspect the Work of the Contractor.

4.03 The City's Representative shall appoint, from time to time, such subordinate supervisors or inspectors as City's Representative may deem proper to inspect the Work performed under this Agreement and ensure that said Work is performed in accordance with the Plans and Specifications.

4.04 The City's Representative shall interpret questions concerning the Contract Documents. The City's inspector has authority to reject any of the Work for failure to comply with the Contract Documents and/or applicable laws.

4.05 Should the Contractor object to any orders by any subordinate supervisor or inspector, the Contractor may, within two (2) days from receipt of such order, make written appeal to City's Representative for his decision.

5. INDEPENDENT CONTRACTOR

5.01 In all activities or services performed hereunder, the Contractor is an independent contractor and not an agent or employee of the City. The Contractor, as an independent contractor, shall be responsible for the final product contemplated under this Agreement. Except for materials furnished by the City, the Contractor shall supply all materials, equipment and labor required for the execution of the Work. The Contractor shall have ultimate control over the execution of the Work under this Agreement. The Contractor shall have the sole obligation to employ, direct, control, supervise, manage, discharge, and compensate all of its employees and subcontractors, and the City shall have no control of or supervision over the employees of the Contractor or any of the Contractor's subcontractors except to the limited extent provided for in this Agreement.

5.02 Standard of Care. The Work shall be performed in a good and workmanlike manner, and in accordance with this Agreement, and all applicable laws, codes, and regulations. The construction of the Project is subject to amendments and adjustments to the Contract required by any applicable changes in regulations or requested or approved by in writing by the City. If at any time during the progress of the Work the Contractor becomes aware of any errors or omissions in the Plans or Specifications for this Project or that the Agreement deviates from applicable legal requirements, Contractor shall promptly provide written notice thereof to the City. The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention.

5.03 The Contractor shall retain personal control and shall give its personal attention to the faithful prosecution and completion of the Work and fulfillment of this Agreement. The Contractor shall be responsible for and have control over construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work. The subletting of any portion or feature of the Work or materials required in the performance of this Agreement shall not relieve the Contractor from its obligations to the City under this Agreement. The Contractor shall appoint and keep on the Project site during the progress of the Work, including at all times subcontractors are present at the Project site, a competent English speaking Project Manager and/or superintendent and any necessary assistants, all satisfactory to City's Representative, to act as the Contractor's representative and to supervise its employees and subcontractors. All directions given to the Project Manager and/or superintendent shall be binding as if given to the Contractor. Adequate supervision by competent and reasonable representatives of the Contractor is essential to the proper performance of the Work, and lack of such supervision shall be grounds for suspending the operations of the Contractor and is a breach of this Agreement.

5.04 Unless otherwise stipulated, the Contractor shall provide and pay for all labor, materials, tools, equipment, transportation, facilities, and drawings, including engineering, and any other services necessary or reasonably incidental to the performance of the Work by the Contractor. Any additional work, material, or equipment needed to meet the intent of this provision shall be supplied by the Contractor ***without*** claim for additional payment, even though not specifically mentioned herein.

5.05 Any injury or damage to the Contractor or the Project caused by an act of God, natural cause, a party or entity not privy to this Agreement, or other force majeure shall be assumed and borne by the Contractor.

6. DISORDERLY EMPLOYEES

The Contractor agrees to employ only orderly and competent employees skillful in the performance of the type of work required, and agrees that whenever City's Representative shall inform the Contractor in writing that any person or persons on the Project are, in his opinion, incompetent, unfaithful, or disorderly, such person or person shall be discharged from the Project and shall not again be re-employed on the site or the Project without City's Representative's written permission.

7. HOURS OF WORK

The Contractor may work Monday through Friday from 7 a.m. to 6 p.m., exclusive of Saturdays, Sundays, or legal holidays. The Contractor may work overtime, weekends, and holidays only when approved in advance by the City's Representative. The time for Substantial Completion shall not be affected in any way by inclusion of this section or by the City's consent or lack of consent to work outside of the times specified in this Agreement.

8. NATURE OF THE WORK

8.01 It is understood and agreed that the Contractor has, by careful examination, studied and compared the Plans and other Contract Documents, satisfied itself as to the nature and location of the Work, the conditions of

the ground and soil, the nature of any structures, the character, quality, and quantity of the material to be utilized, the character of equipment and facilities needed for and during the prosecution of the Work, the time needed to complete the Work, Contractor's ability to meet all deadlines and schedules required by this Agreement, the general and local conditions, including but not limited to weather, and all other matters that in any way affect the Work under this Agreement. These obligations are for the purpose of facilitating construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, any errors, inconsistencies or omissions discovered, or which reasonably should have been discovered by the Contractor shall be reported promptly to the City as a request for information in such form as the City may require. However, the Contractor shall not perform any act or do any Work that places the safety of persons at risk or potentially damages materials or equipment used in the Project, and the Contractor shall do nothing that would render any test or tests erroneous.

8.02 Any design errors or omissions noted by the Contractor shall be reported promptly to the City, but it is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional unless otherwise specifically provided in the Contract Documents. Any nonconformity discovered by or which reasonably should have been discovered or made known to the Contractor shall be reported promptly to the City.

8.03 If the Contractor fails to perform the obligations of Sections 8.01. and 8.02., the Contractor shall pay such costs and damages to the City as would have been avoided if the Contractor had performed such obligations. The Contractor shall not be liable to the City for damages resulting from errors, inconsistencies or omissions in the Contract Documents or for differences between field measurements or conditions and the Contract Documents unless the Contractor recognized or reasonably should have recognized such error, inconsistency, omission or difference and knowingly failed to report it to the City.

9. POST-AGREEMENT AWARD MEETINGS

9.01 Prior to the commencement of the Work, the parties shall meet and attend a post-agreement award meeting at the time and place determined by City's Representative. At the post-agreement award meeting, the parties shall meet, discuss, and finalize all schedules, including commencement date, and/or specifications submitted for review. No later than ten (10) days prior to the post-agreement award meeting, the Contractor shall submit to City's Representative the following documents:

(a) Schedule for performance of the Work ("Construction Schedule"). Project Schedule contemplated, including the starting and ending date, as well as an indication of the completion of stages of Work hereunder. Such document, once approved by the City and, if applicable, the City's Consultant shall be incorporated into this Agreement as a Contract Document and attached hereto as **Exhibit E**. If not accepted, the Construction Schedule shall be promptly revised by the Contractor in accordance with the recommendations of the City and Consultant and resubmitted for acceptance. The Construction Schedule shall not be modified except by written change order. Additional days or changes to the number of days in the Construction Schedule shall also be by written change order. After a written change order is approved and fully executed by all parties, the Contractor shall submit an updated Construction Schedule that reflects changes authorized by approved change orders. The Construction Schedule shall not exceed time limits current under the Contract Documents, shall be submitted with each pay application, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.

(b) The names and addresses of all proposed subcontractors in writing.

(c) Schedules of the starting and ending dates of subcontractors and the scope of Work contemplated for subcontractors.

(d) Name, local office, phone number and addresses and, home phone numbers for the Contractor and its Project Superintendent/Manager.

(e) For construction projects, four (4) copies of all shop and/or setting drawings or schedules for the submission thereof, including PDF/electronic versions and CAD files.

(f) Where applicable, materials procurement schedules and material supplier names, addresses and phone numbers.

9.02 The City's Representative, within five (5) working days after the initial post-agreement award conference or any other meetings, may submit minutes of the meeting to the Contractor. The Contractor shall thereafter have five (5) working days to review the minutes and make its objections, changes, or reductions thereto in writing. The Contractor shall thereafter sign the minutes and promptly return them to City's Representative. Where there is disagreement, City's Representative will make the final determination.

10. PROGRESS OF WORK

10.01 The Construction Schedule shall be in a detailed precedence-style critical path method ("CPM") or primavera-type format satisfactory to the City and the Consultant. The Construction Schedule shall also (i) provide a graphic representation of all activities and events that will occur during performance of the Work; (ii) identify each phase of construction and occupancy; and (iii) set forth dates that are critical in ensuring the timely and orderly completion of the Work in accordance with the requirements of the Contract Documents (hereinafter referred to as "Milestone Dates"). If not accepted, the Construction Schedule shall be promptly revised by the Contractor in accordance with the recommendations of the City and Consultant and resubmitted for acceptance.

10.02 Further, the parties shall be subject to the following:

(a) The Contractor shall submit a Construction Schedule and schedule of values at the initial post-agreement award meeting and subsequent meetings.

(b) City's Representative shall be entitled to make objections to the Contractor's Construction Schedule submitted herein. The Contractor shall promptly resubmit a revised Construction Schedule to City's Representative.

(c) The Project Superintendent/Manager shall coordinate its activities with City's Representative. If required by the City, the Contractor shall provide a weekly schedule of planned activities, which may be reviewed on a daily basis.

(d) The Contractor shall submit, at such time as may reasonably be requested by City's Representative, additional schedules that shall list the order in which the Contractor proposes to carry on the Work with dates at which the Contractor will start the several parts of the Work and the estimated dates of completion of the several parts.

(e) The Contractor shall attend additional meetings called by City's Representative upon twenty-four (24) hours written notice unless otherwise agreed in writing by the parties.

(f) When the City is having other work done, either by agreement or by its own force, City's Representative may direct the time and manner of work done under this Agreement so that conflicts will be avoided and the various work being done by and for the City shall be coordinated.

(g) In the event that it is determined by the City that the progress of the Work is not in accordance with the approved Construction Schedule, the City may so inform the Contractor and require the Contractor to take such action as is necessary to insure completion of the Project within the time specified.

10.03 The process of approving the Construction Schedule and updates to the Construction Schedule shall not constitute a warranty by the City that any non-Contractor milestones or activities will occur as set out in the Construction Schedule. Approval of the Construction Schedule does not constitute a commitment by the City to furnish any City-furnished information or material any earlier than the City would otherwise be obligated to furnish that information or material under the Contract Documents. Failure of the Work to proceed in the sequence scheduled by Contractor shall not alone serve as the basis for a claim for additional compensation or time. In the event there is interference with the Work which is beyond its control, Contractor shall attempt to reschedule the Work in a manner that will hold the additional time and costs beyond its control to a minimum. The Contractor shall monitor the progress of the Work for conformance with the requirements of the Construction Schedule and shall promptly advise the City of any delays or potential delays. In the event the Construction Schedule indicates any delays, the Contractor shall propose an affirmative plan to correct the delay. In no event shall any adjustment to the Construction Schedule constitute an adjustment in the Contract Time, any Milestone Date or the Contract Sum unless any such adjustment is agreed to by the City and authorized pursuant to Change Order.

10.04 The Contractor shall also prepare a submittal schedule promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, and shall submit the schedule(s) for the Consultant's approval. The Consultant's approval shall not unreasonably be delayed or withheld. The submittal schedule shall (i) be coordinated with the Contractor's Construction Schedule; and (ii) allow the Consultant reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

10.05 In the event the City determines that the performance of the Work, as of a Milestone Date or otherwise, has not progressed or reached the level of completion required by the Contract Documents, the City shall have the right to order the Contractor to take corrective measures necessary to expedite the progress of construction, including, without limitation, (i) working additional shifts or overtime; (ii) supplying additional manpower, equipment, and facilities; and (iii) other similar measures (hereinafter referred to collectively as "Extraordinary Measures"). Such Extraordinary Measures shall continue until the progress of the Work complies with the stage of completion required by the Contract Documents. The City's right to require Extraordinary Measures is solely for the purpose of ensuring the Contractor's compliance with the Construction Schedule.

(a) The Contractor shall not be entitled to an adjustment in the Contract Sum in connection with Extraordinary Measures required by the City under or pursuant to this Subsection.

(b) The City may exercise the rights furnished the City under or pursuant to this Subsection as frequently as the City deems necessary to ensure that the Contractor's performance of the Work will comply with any Milestone Date or completion date set forth in the Contract Documents.

10.06 Work Stoppage. If in the judgment of either the City or City's Representative any of the Work or materials furnished is not in strict accordance with this Agreement or any portion of the Work is being performed

so as to create a hazardous condition, they may, in their sole discretion, order the Work of the Contractor or any subcontractor wholly or partially stopped until any objectionable person, work, or material is removed from the premises. Such stoppage or suspension shall neither invalidate any of the Contractor's performance obligations under this Agreement, including the time of performance and deadlines therefore, nor will any extra charge be allowed the Contractor by reason of such stoppage or suspension.

11. SITE CONDITIONS AND MANAGEMENT

11.01 Where the Contractor is working around or in existing structures, it shall verify conditions at the site, including but not limited to, door openings and passages. Any items constructed or manufactured off-site or outside of buildings shall be done so that they are not too bulky for existing facilities. The Contractor shall provide special apparatus as required to handle any such items. All special handling equipment charges shall be at the Contractor's expense. Further, Contractor shall include in its price for the Work, all labor, materials, equipment and/or engineering services required to protect the adjacent properties and/or structures from damage due to performance of the Work.

11.02 The Contractor shall be responsible for all power, light, and water required to perform the Work.

11.03 Throughout the progress of the Work, the Contractor shall keep the working area free from debris of all types, and remove from premises all rubbish, resulting from any work being done by him. At the completion of the Work, the Contractor shall leave the premises in a clean and finished condition. Any failure to do so may be remedied and charged back to the Contractor.

11.04 Layout of Work. Except as specifically provided herein, the Contractor shall lay out all Work in a manner acceptable to City's Representative in accordance with applicable City of College Station codes and ordinances. City's Representative will review the Contractor's layout of all structures and any other layout work done by the Contractor at the construction meeting, or at the Contractor's request, but this review does not relieve the Contractor of the responsibility of accurately locating all Work in accordance with the Plans and Specifications.

11.05 Lines and Grades. All lines and grades shall be furnished by the Contractor. Benchmarks and control stakes have been provided by the City's Representative. All benchmarks and control stakes shall be carefully preserved by the Contractor. In case of destruction or removal of the same by the Contractor, its subcontractors, or employees, such stakes, marks, etc. shall be replaced by the Contractor at the Contractor's expense. If the Contractor fails to do so, the City may do so and charge back the Contractor. Additional construction staking as needed for the Work, including lines and grades, shall be the sole responsibility of the Contractor, and the Contractor shall receive no extra time or compensation therefor.

11.06 The Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as any information furnished by the City, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the City and the Consultant any errors, inconsistencies or omissions discovered by or made known to the Contractor. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents. Contractor acknowledges the City does not represent nor warrant the accuracy or completeness of information provided by the City related to existing conditions and locations of existing utilities and services. Such information if provided, is provided to the Contractor as a matter of convenience and does not substitute for the Contractor using due diligence to reasonably observe and or to

access space to determine errors, inconsistencies or omissions. In all cases of interconnection of the Work with existing conditions, Contractor shall verify at the site all dimensions relating to such existing conditions.

11.07 Contractor's Structures. The building or locating of structures or the erection of tents or other forms of protection will be permitted only at such places as City's Representative shall permit. The Contractor shall not damage the property where such structures are allowed and shall at all times maintain sanitary conditions in and about such structures in a manner satisfactory to the City. The City may charge the Contractor for any damage or injury to the City, its property, or third persons as a result of the location or use of such structures.

11.08 The Contractor and any entity over whom the Contractor has control shall not erect any sign on the Project site without the prior written consent of the City.

11.09 City may have other work related to the Project performed at the Project site during the time the Work is performed. Contractor should schedule its Work to coordinate with the work of other contractors and utilities with the understanding that some of that work may be performed at times other than as set out in the Contract Documents or as otherwise anticipated. City will endeavor to have such other work performed so as not to unduly interfere with Contractor's performance when Contractor notifies City of specific reasonable needs well in advance of those needs and where it is possible to do so. In the event of substantial delay caused by another contractor or a utility, after advance notice of its needs by Contractor, Contractor will be entitled to make a claim for an extension of time as provided herein.

11.10 When two or more contractors, including Contractor, are employed on related or adjacent work or obtain materials from the same material source, or when work must be completed by one contractor before another can begin, each shall conduct his operations in such a manner as not to cause any unnecessary delay or hindrance to the other. Each contractor, including Contractor if applicable, shall be responsible to the other for all damage to work, to persons, or to property caused to the other by his operations, and for loss caused the other due to unreasonable or unjustified delays or failure to finish the work or portions thereof, or furnish materials within the time requested. Should Contractor cause damage to the work or property of any separate contractor at the Project site, or should any claim arising out of Contractor's separate contractor at the Project site, or should any claim arising out of Contractor's performance of the Work be made by any separate contractor against Contractor, City or other consultants, or any other person, Contractor shall promptly attempt to settle with such other contractor by agreement, or to otherwise resolve the dispute. **Contractor shall, to the fullest extent permitted by applicable laws, indemnify and hold City harmless from and against all claims, damages, losses and expenses (including, but not limited to, fees of architects, attorneys and other professionals and court costs) arising directly, indirectly or consequentially out of any action, legal or equitable, brought by any separate contractor against City to the extent based on a claim arising out of Contractor's negligence.**

12. MATERIALS

12.01 Materials or work described in words that when so applied have well-known technical or trade meaning shall be held to refer to such recognized standards. All work shall be done and all materials furnished in strict conformity with this Agreement, the other Contract Documents, and recognized industry standards. When specific products, systems or items of equipment are referred to in the Contract Documents, any ancillary devices necessary for connecting the products, systems or items of equipment shall also be provided. When standards, codes, manufacturer's instructions and guarantees are required by the Contract Documents, the current edition at the time of Contract execution shall apply, unless another edition is specified in the Contract Documents. References to standards, codes, manufacturer's instructions and guarantees shall apply in full, except (1) they do not supersede more stringent standards set out in the Contract Documents, and (2) any exclusions or waivers that are inconsistent with the Contract Documents do not apply.

12.02 All materials shall be approved by the City prior to purchase by the Contractor. Unless otherwise specified herein, the Contractor shall purchase all materials and equipment outright and shall not subject the materials and equipment utilized in the Project to any conditional sales agreement, bailment, lease, or other agreement reserving unto seller any right, title, or interest therein. Title to all materials, but not risk of loss, shall pass to the City upon delivery to the Project.

12.03 Where the City deems it necessary to supply materials, it may furnish to the Contractor the list of materials set forth in the attached "List of City Furnished Materials". Upon receipt of said materials, the Contractor shall immediately furnish to the City a written receipt. Moreover, the Contractor shall, on behalf of the City, accept delivery of the materials set forth in the attached "List of Materials Ordered by the City". Under such circumstances, the Contractor shall promptly forward to the City for payment the supplier's invoice together with the Contractor's receipt in writing for such materials.

(a) Upon acceptance of the materials furnished or ordered by the City, the Contractor warrants that it shall properly handle, transport, store and safeguard the materials.

(b) Further, the Contractor shall repair, repaint or replace any and all materials or any part thereof damaged or stolen while in its possession. Such materials are considered to be in the Contractor's possession from the moment the Contractor either accepts delivery of the materials or signs a receipt accepting delivery of said materials until the Project is accepted by the City's Representative.

(c) Before transporting any of the materials furnished or ordered by the City, the Contractor shall establish to the City's satisfaction that it has obtained insurance against losses, theft, damage, equal to or greater than the amounts spent by the City in securing said materials. It shall be incumbent upon the Contractor to verify the cost of materials.

(d) The City shall not be obligated to furnish materials in excess of the quantities, size, kind, and type set forth in the attached List of City Furnished Materials and List of Materials Ordered by the City. If the City furnishes, and the Contractor accepts, materials in excess thereof, the values of such excess materials shall be their actual cost as stated by the City.

(e) Upon delivery, the Contractor shall promptly receive, unload, transport, and handle all materials and equipment on the List of Materials Ordered by the City at its expense and shall be responsible for all shipping costs.

12.04 Materials and supplies shall be new and of good quality. Upon request, the Contractor shall supply proof of quality and manufacturer. No refurbished, reconditioned, or other previously utilized materials or supplies will be used without the prior signed authorization of City's Representative. The Contractor may utilize substitutes of equal quality and function only upon the prior written authorization of the City's Representative. The City's Representative may require documentation as to quality and function, including manufacturer's specifications, to insure that the proposed substitute is equal to the required material or supply. The City's Representative shall have sole discretion over the use of substitute materials and supplies. Contractor shall bear the risk of any delay in performance caused by submitting substitutions.

12.05 Only materials and equipment which are to be used directly in the Work shall be brought to and stored on the Project site by the Contractor. After equipment is no longer required for the Work, it shall be promptly removed from the Project site. Protection of construction material and equipment stored at the Project site from weather, theft, damage and all other perils is solely the responsibility of the Contractor.

12.06 Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the Work by the Contractor or a subcontractor, sub-subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

12.07 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

12.08 Samples are physical examples that illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

12.09 Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. Their purpose is to demonstrate the way by which the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals.

12.10 The Contractor shall review for compliance with the Contract Documents, approve and submit to the City's Consultant Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents in accordance with the submittal schedule approved by the City's Consultant or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the City or of separate contractors.

12.11 By submitting Shop Drawings, Product Data, Samples and similar submittals, the Contractor represents to the City and City's Consultant that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

12.12 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the respective submittal has been approved by the City's Consultant.

12.13 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the City's Consultant's approval of Shop Drawings, Product Data, Samples or similar submittals unless the Contractor has specifically informed the City's Consultant in writing of such deviation at the time of submittal and (1) the City's Consultant has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples or similar submittals by the City's Consultant's approval thereof.

12.14 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples or similar submittals, to revisions other than those requested by the City's Consultant on previous submittals. In the absence of such written notice, the City's Consultant's approval of a resubmission shall not apply to such revisions.

12.15 Contractor shall be liable for and the City may withhold from Contractor's payments any amount of additional fees charged by City's Consultant for excessive resubmittal review.

13. ENTRY, OBSERVATION, TESTING & POSSESSION

13.01 The City reserves the right to enter the Project site or sites by such employee(s) or agent(s) as it may elect for the purpose of inspecting the work. The City further reserves the right to enter the Project site or sites for the purpose of performing such collateral work as the City may desire.

13.02 The City's Representative shall have the right, at all reasonable times, to observe and test the work. The Contractor shall make necessary arrangements and provide proper facilities and access for such observation and testing at any location where the Work or any part thereof is in preparation or progress. The Contractor shall ascertain the scope of any observation that may be contemplated by City's Representative and shall give ample notice as to the time each part of the Work will be ready for observation.

13.03 The City's Representative may require Contractor to remove, dismantle, or uncover completed work. If the work is not in accordance with the Plans, Specifications, or other Contract Documents, the Contractor shall pay the costs of repair and restoration of the work required to be removed, dismantled, or uncovered. Unless Contractor is obligated to provide advance notice of inspection, prior to covering up the work, and fails to do so, if said work is in accordance with the -Plans, -Specifications, and other Contract Documents, the City shall pay the costs of repair and restoration of the work.

13.04 City shall have the right to take possession of and use any completed or partially completed portions of the Project prior to the time for completing the entire Project or such portions which may not have expired. The parties agree and understand that possession and use shall not constitute an acceptance of any work not completed in accordance with this Agreement**.** Further, insurance changes required to keep Contractor's insurance in effect shall be the responsibility of Contractor.

14. REJECTED WORK

14.01 All work deemed not in conformity with this Agreement as determined by the City in its sole discretion, may be rejected by the City. City's Representative may reject any work found to be defective or not in accordance with the Contract Documents, regardless of the stage of the work's completion or the time or place of discovery of such defects or inconsistencies and regardless of whether City's Representative has previously accepted the work through oversight or otherwise. Neither observations nor inspections, tests, or approvals made by City's Representative, or other persons authorized under this Agreement to make such observations, inspections, tests, or approvals, shall relieve the Contractor from the obligation to perform the Work in accordance with the requirements of this Agreement and the other Contract Documents.

14.02 If the work or any part thereof is rejected by the City, it shall be deemed by City's Representative as not in conformity with this Agreement. Any remedial action required, as set forth herein, shall be at the Contractor's expense, as follows:

(a) The Contractor may be required, at the City's option, after notice from City's Representative, to remedy such work so that it shall be in full compliance with this Agreement. All rejected work or materials shall be immediately replaced in order to conform with this Agreement.

(b) If the City deems it inexpedient to correct work damaged or not done in accordance with this Agreement, an equitable deduction from the agreed sum may be made by the City at the City's sole discretion.

14.03 If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of written notice from the City to commence and continue correction of such default or neglect with diligence and promptness, the City may, without prejudice to other remedies the City may have, correct such deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, including City's expenses and compensation for the City's Consultant's additional services made necessary by such default, neglect or failure. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the City.

15. SUBCONTRACTING & SUBCONTRACTORS

15.01 The Contractor agrees that it will retain personal control and will give its personal attention to the fulfillment of this Agreement. The Contractor further agrees that subletting of any portion or feature of the Work or materials required in the performance of this Agreement shall not relieve the Contractor from its full obligation to the City as provided by this Agreement.

15.02 Subcontractors must be approved by City's Representative prior to hiring or beginning any work on the Project. If City's Representative judges any subcontractor to be failing to perform the Work in strict accordance with the drawings and specifications, the Contractor, after due notice, shall discharge the same, but this shall in no way release the Contractor from its obligations and responsibility under this Agreement. Every subcontractor shall be bound by the terms and provisions of this Agreement and the Contract Documents as far as applicable to their work. Contractor's subcontract agreement shall provide that subcontractors shall assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the subcontractor's Work, which the Contractor, by these Documents, assumes toward the City and Consultant. The Contractor shall be fully responsible to the City for the acts and omissions of its subcontractors. Nothing contained herein shall create any contractual or employment relations between any subcontractor and the City.

16. PAYMENT

16.01 The City stipulates that it is an exempt organization as defined by the Limited Sales, Excise and Use Tax Act and, as such, is exempt from the payment of the sales tax on materials and supplies used in the performance of this Agreement. The Contractor shall issue exemption certificates to its suppliers and subcontractors in lieu of said sales tax for all such materials and supplies, and said exemption certificates must comply with the State Comptroller's Ruling No. 95-0.07 and shall be subject to the provision of the State Comptroller's Ruling No. 95-0.09, effective October 1, 1969.

16.02 Progress Payment Applications. The Contractor shall submit applications for payment as provided for herein. Applications for payment will be processed by City's Representative. Before the first Application for Payment, the Contractor shall submit to the City a schedule of values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the City may require ("Schedule of Values"). The Schedule of Values shall not overvalue early job activities and shall follow the trade divisions of the Specifications so far as possible. Modifications must be approved by City. This schedule, unless objected to by the City, shall be incorporated into this Agreement as a Contract Document and attached hereto as **Exhibit F**. The Schedule of Values shall be used as a basis for reviewing the Contractor's Applications for Payment. On or before the 15th day of each month, the Contractor shall submit to City's Representative, for approval or modification, an updated Project Schedule and a statement, backed by the Schedule of Values, showing as completely as practicable the total value of the actual work performed by the Contractor and accepted by the City up to and including the last day of the ***preceding*** month. The statement shall also include the value of all materials

not previously submitted for payment which have been delivered to the site but have not yet been incorporated into the Work.

16.03 Progress Payments. On or before the **30th** calendar day following the City's receipt of a progress payment application made in conformity with Section 16.02, the City shall pay to the Contractor the approved amount of the progress payment based on the Contractor's applications for payment, and the recommendation and approval of City's Representative. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage of Work completed by the Contractor and approved by the City, but in each case less the aggregate of payments previously made, less retainage, and less amounts as City's Representative shall determine and the City may withhold in accordance with this Agreement. Upon Final Completion, including the delivery of all close out documents, such as "as built" drawings, warranties, guarantees, required additional materials, releases, operation and maintenance manuals, and acceptance of the Work in accordance with this Agreement, the City shall pay the remainder of the balance due under this Agreement, less any sums withheld under other terms of this Agreement and less the retainage, which shall be retained for a period of thirty (30) calendar days from the date of Final Completion. Acceptance of retainage by Contractor shall constitute a Waiver and Release of all claims by Contractor.

☑ **16.04 Retainage.** From each approved statement, the City shall retain until final payment, ten percent (10%), where the full contract amount is less than $400,000.00, and five percent (5%), where the full contract amount is $400,000.00 or more. The City may also retain from each approved statement any other sums authorized under the terms of this Agreement.

OR:

☐ **16.04 Retainage.** This section has been removed. No retainage will be deducted.

16.05 If the actual amount of work to be done and the materials to be furnished differ from estimates and where the basis for payment is the unit price method, then payment shall be for the actual amount of accepted work done and materials furnished on the Project.

16.06 Reduction in the scope or quantity of work on unit price items shall merely reduce the number of units. In the event that materials have been delivered prior to notice of such reduction, the City will have the option either to pay freight & transportation costs and any re-stocking charges actually incurred by the Contractor or to purchase the materials. The Contractor shall never be entitled to anticipated or lost profits on the deleted or reduced portion of a job, whether bid on a unit price or lump sum basis.

16.07 The Contractor shall have the sole obligation to pay any and all charges or fees and give all notices necessary to and incidental to the lawful prosecution of the Work hereunder. The Contractor shall not and shall have no authority whatsoever to obligate the City to make any payments to another party nor make any promises or representation of any nature on behalf of the City, without the specific written approval of the City.

16.08 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the City may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

16.09 Unless otherwise provided in the Contract Documents:

(a) Allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;

(b) Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Contract Amount but not in the allowances; and

(c) Whenever costs are more than or less than allowances, the Contract Amount shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 16.9(a) and (2) changes in the Contractor's costs under Section 16.9(b).

16.10 Suspension of Payments. The City, at any time, may suspend monthly progress payments on the Work if it determines that the projected liquidated damages may exceed retainage. The City, at any time, may suspend monthly progress payments if it believes that the Contractor will not complete the Work due to actual default or that the Contractor has represented or done some act that indicates that it will not complete the Work in accordance with this Agreement or within the time period submitted in its bid. Provided, however, City is in no way obligated to Contractor's surety to withhold payment pursuant to the provisions of this Section.

16.11 Withhold Funds. Regardless of any bond, the City may, on account of subsequently discovered evidence and in addition to the retainage withheld under Section 16.04, withhold funds or nullify all or part of any acceptance or certificate to such extent as may be necessary to protect itself from loss on account of any of the following, or as otherwise provided in this Agreement:

(a) Defective work other than defects in design provided to Contractor by a person other than Contractor's agents, contractors, fabricators, or suppliers, or its consultants, of any tier for non-critical infrastructure.

(b) Failure to timely disclose in writing to the City of a known defect, inaccuracy, inadequacy, or insufficiency in the plans, specifications or other design documents.

(c) Claims made or reasonable evidence indicating probable filing of claims by unpaid vendors or other third parties.

(d) Failure of the Contractor to make prompt payments to subcontractors for labor or material or materialmen.

(e) Claims made or reasonable evidence indicating claims will be made for damage to another by the Contractor.

(f) Claims made or reasonable evidence indicating claims will be made for damage to third parties, including adjacent property owners.

(g) Claims made or reasonable evidence indicating claims will be made for unremedied damage to property owned by the City.

(h) City's determination of an amount of liquidated damages.

(i) Charges made for repairs to the Contractor's defective work or repairs made by the City to correct damage to other property.

(j) Other amounts authorized under this Agreement or under any other agreement made between City and Contractor.

(k) Corrections of mistakes, errors and overpayments in relation to prior pay applications and payments.

Provided, however, City is in no way obligated to Contractor's surety to withhold payment pursuant to the provisions of this Section.

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 (1) are caused by the actual interference, fraud, bad faith or misrepresentation by the City or its agents, (ii) extend for an unreasonable length of time; or (iii) were not contemplated by the parties at the time of contracting. In the event of any delay entitling Contractor to an

increase in Contract Amount, except when due to City's intentional interference or fraud, Contractor's recovery shall be limited as outlined in Section 21.04 below. The City's reasonable exercise of any of its rights or remedies under the Contract, regardless of the extent or frequency, shall not under any circumstances be construed as interference with the Contractor's performance of the Work.

21.04 In the event of delays resulting from changes ordered in the Work by the City or other delays caused by the City or for the City's convenience, the Contractor may apply to the City for recovery of incidental damages resulting from increased storage costs or other costs necessary to protect the value of the Work. In no event shall any consequential or other damages be allowed or any other charges or claims be made by the Contractor for hindrances or delays resulting from any other cause.

22. EXTENSIONS OF TIME

22.01 The Contractor has submitted its proposal in full recognition of the time required for the completion of this Project, taking into consideration all factors including, but not limited to the average climatic range and industrial conditions. The Contractor has considered the liquidated damage provision of this Agreement and understands and agrees that it shall not be entitled to, nor will it request, an extension of time for either Substantial Completion or Final Completion, except when the Work has been delayed by one or more of the following:

(a) An act or neglect of the City, the City's Representative, employees of the City, or other contractors employed by the City;

(b) By changes ordered in the Work, or reductions thereto approved in writing;

(c) By "rain days" (days with rainfall in excess of one-tenth of an inch) during the term of this Agreement that exceed the average number of rain days for such term for this locality, both as determined by the National Weather Service Forecast Office for Easterwood Airport in College Station, Texas (KCLL/CLL); or

(d) By other causes that the City and the Contractor agree may reasonably justify delay and that were beyond the Contractor's reasonable control and ability to estimate, predict, or avoid, such as delays caused by unforeseen labor disputes, fire, natural disasters, acts of war, and other rare and unpredictable events. This term does **not** include normal delays incident to the delivery of materials, tools, or labor that reasonably could have been predicted and/or accounted for in the Contractor's Proposal or decision to bid.

22.02 If one or more of the foregoing conditions is present, the Contractor may apply in writing for an extension of time, within thirty (30) days of the occurrence of the event causing the delay, submitting therewith all written justification as may be required by the City's Representative. Within ten (10) calendar days after receipt of a written request for an extension of time, which is supported by all requested documentation, the City shall, in writing and in its sole discretion, grant or deny the request. Under no circumstances shall any extension of time by the City be valid and binding unless it is in writing and in conformity with the other terms of this Agreement.

23. LIQUIDATED DAMAGES

23.01 The time for the Substantial and Final Completion of the Work described herein are reasonable times for the completion of each, taking into consideration all conditions, including but not limited to the average climatic conditions and usual industrial conditions prevailing in this locality. The amount of liquidated damages for the Contractor's failure to meet the deadlines for Substantial and/or Final Completion are fixed and agreed on by the Contractor because of the impracticability and extreme difficulty in fixing and ascertaining the actual damages

that the City would in such an event sustain. The amounts to be charged are agreed to be damages the City would sustain and shall be retained by the City from current periodic estimates for payment or from final payment.

23.02 As a result of the difficulty in estimation, calculation and ascertainment of City's damages due to a failure of Contractor to achieve timely completion of the Work, if the Contractor should neglect, fail, or refuse to either Substantially Complete or Finally Complete the Work within the time herein specified, or any proper extension thereof granted by the City's Representative pursuant to the terms of Section 22 of this Agreement, then the Contractor does hereby agree as part of the consideration for the awarding of this Agreement that the City may permanently withhold from the Contractor's total compensation the sum of Two Hundred and 00 **/100 DOLLARS ($** 200.00 **)** for each and every calendar day that the Contractor shall be in default after the time stipulated for Substantial Completion and/or Final Completion, not as a penalty, but as liquidated damages for the breach of this Agreement. It being specifically understood that the assessment of liquidated damages may be made for any failure to meet either or both of the deadlines specified for Substantial Completion and/or Final Completion.

24. CHARGES FOR INJURY OR REPAIR

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

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

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

25. WARRANTY

25.01 Upon issuance of a certificate of Final Completion, the Contractor warrants for a period of one (l) 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 (l) 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 (l) 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 (l) 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 (l) year after the installation or completion. The one (l) 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

PARAGON SPORTS CONSTRUCTORS, LLC

By: _____

Printed Name: WILLIAM CHAFFE

Title: PRESIDENT

Date: 12/3/2024

CITY OF COLLEGE STATION

By: _____
City Manager
Date: _____

APPROVED:

David Parnell
City Attorney
Date: 12/6/2024

Assistant City Manager/CFO
Date: 12/6/2024

EXHIBIT A
DAVIS BACON WAGE RATES

"General Decision Number: TX20240007 01/05/2024

Superseded General Decision Number: TX20230007

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)(1).

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 $17.20 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 2024.
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 $12.90 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 2024.

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.

Modification Number | Publication Date
0 | 01/05/2024

SUTX2011-006 08/03/2011

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER (Paving and Structures)	$ 12.56 **	
ELECTRICIAN	$ 26.35	
FORM BUILDER/FORM SETTER		
Paving & Curb	$ 12.94 **	
Structures	$ 12.87 **	
LABORER		
Asphalt Raker	$ 12.12 **	
Flagger	$ 9.45 **	
Laborer, Common	$ 10.50 **	
Laborer, Utility	$ 12.27 **	
Pipelayer	$ 12.79 **	
Work Zone Barricade Servicer	$ 11.85 **	
PAINTER (Structures)	$ 18.34	
POWER EQUIPMENT OPERATOR:		
Agricultural Tractor	$ 12.69 **	
Asphalt Distributor	$ 15.55 **	
Asphalt Paving Machine	$ 14.36 **	
Boom Truck	$ 18.36	
Broom or Sweeper	$ 11.04 **	
Concrete Pavement Finishing Machine	$ 15.48 **	
Crane, Hydraulic 80 tons or less	$ 18.36	
Crane, Lattice Boom 80 tons or less	$ 15.87 **	
Crane, Lattice Boom over 80 tons	$ 19.38	
Crawler Tractor	$ 15.67 **	
Directional Drilling Locator	$ 11.67 **	
Directional Drilling Operator	$ 17.24	
Excavator 50,000 lbs or Less	$ 12.88 **	
Excavator over 50,000 lbs	$ 17.71	
Foundation Drill, Truck Mounted	$ 16.93 **	
Front End Loader, 3 CY or Less	$ 13.04 **	
Front End Loader, Over 3 CY	$ 13.21 **	
Loader/Backhoe	$ 14.12 **	
Mechanic	$ 17.10 **	
Milling Machine	$ 14.18 **	
Motor Grader, Fine Grade	$ 18.51	
Motor Grader, Rough	$ 14.63 **	
Pavement Marking Machine	$ 19.17	
Reclaimer/Pulverizer	$ 12.88 **	

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      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 ($17.20) or 13658
  ($12.90).  Please see the Note at the top of the wage
  determination for more information. Please also note that the
  minimum wage requirements of Executive Order 14026 are not
  currently being enforced as to any contract or subcontract to
  which the states of Texas, Louisiana, or Mississippi, including
  their agencies, are a party.

  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
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(29CFR 5.5 (a) (1) (iii)).

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 DECISION"

1. Payment greater than prevailing wage rate as listed within this document not prohibited per Texas Government Code, Chapter 2258, Prevailing Wage Rates, Subchapter A. General Provisions.

2. Not less than the following hourly rates shall be paid for the various classifications of work required by this project. Workers in classifications where rates are not identified shall be paid not less than the general prevailing rate of "laborer" for the various classifications of work therein listed.

3. The hourly rate for legal holiday and overtime work shall not be less than one and one-half (1 & 1/2) times the base hourly rate.

4. The rates listed are journeyman rates. Helpers may be used on the project and may be compensated at a rate determined mutually by the worker and employer, commensurate with the experience and skill of the worker but not at a rate less than 60% of the journeyman's wage as shown. Apprentices (enrolled in a federally certified apprentice program) may be used at the percentage rates of the journeyman scale stipulated in their apprenticeship agreement. At no time shall a journeyman supervise more than two (2) apprentices or helpers. All apprentices or helpers shall be under the direct supervision of a journeyman working as a crew.

5. Except for Heavy/Highway Construction, building construction wage rates shall be paid to all workers except those workers engaged in site work and construction beyond five feet of buildings.

EXHIBIT B
PERFORMANCE AND PAYMENT BONDS

TEXAS STATUTORY PAYMENT BOND

COPY

Bond No. PB11509802214

THE STATE OF TEXAS §
§ **KNOW ALL MEN BY THESE PRESENTS:**
THE COUNTY OF BRAZOS §

THAT WE, Paragon Sports Constructors, LLC, as Principal, hereinafter called "Principal" and the other subscriber hereto Philadelphia Indemnity Insurance Company, a corporation organized and existing under the laws of the State of Pennsylvania, 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 Two Hundred Nine Thousand Seven Hundred Forty-Eight and 00/100 Dollars ($1,209,748.00) for payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns jointly and severally.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:

WHEREAS, Principal has entered into a certain contract with the City of College Station, dated the 12 day of December, 20 24, for Synthetic Turf Replacement for Fields 7 & 8 and Drainage Alternate at Veterans Park (BuyBoard #737-24), 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. PB115098022414

COPY

FOR THE CONTRACTOR:

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

PARAGON SPORTS CONSTRUCTORS, LLC
(Name of Contractor)

By: Andrea Hall
Name: Andrea N. Hall
Title: Contract Administrator
Date: 12/12/24

By: Rex Shelley
Name: Rex Shelley
Title: VP of Estimating
Date: 12/12/24

FOR THE SURETY:
ATTEST/WITNESS **(SEAL)**

By: Denise Rangel
Name: Denise Rangel
Title: Administrative Assistant
Date: 12/12/24

Philadelphia Indemnity Insurance Company
(Full Name of Surety)
One Bala Plaza, Suite 100
Bala Cynwyd, PA 19004
(Address of Surety for Notice)

By: Fred A. Thetford, IV
Name: Fred A. Thetford, IV
Title: Attorney-in-Fact
Date: 12/12/24

FOR THE CITY:

REVIEWED:

David Parnell 12/6/2024
City Attorney

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

City Manager

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

Contract No. 25300190
Construction Agreement Over $50,000
Form 04-20-2023

PERFORMANCE BOND

COPY

Bond No. PB11509802214

THE STATE OF TEXAS §
§ **KNOW ALL MEN BY THESE PRESENTS:**
THE COUNTY OF BRAZOS §

THAT WE, Paragon Sports Constructors, LLC, as Principal, hereinafter called "Contractor" and the other subscriber hereto Philadelphia Indemnity 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 Two Hundred Nine Thousand Seven Hundred Forty-Eight and 00 /100 Dollars ($ 1,209,748.00) for the payment of which sum, well and truly to be made to the City of College Station and its successors, the said Contractor and Surety do bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:

WHEREAS, the Contractor has on or about this day executed a Contract in writing with the City of College Station for Synthetic Turf Replacement for Fields 7 & 8 and Drainage Alternate at Veterans Park (BuyBoard #737-24), 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

COPY

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. PB11509802214

COPY

FOR THE CONTRACTOR:

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

By: Andrea Hall

Name: Andrea N. Hall

Title: Contract Administrator

Date: 12/12/24

PARAGON SPORTS CONSTRUCTORS, LLC
(Name of Contractor)

By: Rex Shelley

Name: Rex Shelley

Title: VP of Estimating

Date: 12/12/24

FOR THE SURETY:
ATTEST/WITNESS **(SEAL)**

By: Denise Rangel

Name: Denise Rangel

Title: Administrative Assistant

Date: 12/12/24

Philadelphia Indemnity Insurance Company
(Full Name of Surety)

One Bala Plaza, Suite 100

Bala Cynwyd, PA 19004
(Address of Surety for Notice)

By: Fred A. Thetford, IV

Name: Fred A. Thetford, IV

Title: Attorney-in-Fact

Date: 12/12/24

FOR THE CITY:

REVIEWED:

David Parnell 12/6/2024
City Attorney

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

City Manager

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

Contract No. 25300190
Construction Agreement Over $50,000
Form 04-20-2023

COPY

PHILADELPHIA INDEMNITY INSURANCE COMPANY
One Bala Plaza, Suite 100
Bala Cynwyd, PA 19004-0950

Power of Attorney

KNOW ALL PERSONS BY THESE PRESENTS: That **PHILADELPHIA INDEMNITY INSURANCE COMPANY** (the Company), a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, does hereby constitute and appoint **Jared Young, Fred A. Thetford, Jr., Tom Young, and/or Fred A. Thetford IV of Contract Bond Agency, LLC.,** its true and lawful Attorney-in-fact with full authority to execute on its behalf bonds, undertakings, recognizances and other contracts of indemnity and writings obligatory in the nature thereof, issued in the course of its business and to bind the Company thereby, in an amount not to exceed **$50,000,000.**

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of PHILADELPHIA INDEMNITY INSURANCE COMPANY on the 14th of November 2016.

RESOLVED: That the Board of Directors hereby authorizes the President or any Vice President of the Company: (1) Appoint Attorney(s) in Fact and authorize the Attorney(s) in Fact to execute on behalf of the Company bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof and to attach the seal of the Company thereto; and (2) to remove, at any time, any such Attorney-in-Fact and revoke the authority given. And, be it

FURTHER RESOLVED: That the signatures of such officers and the seal of the Company may be affixed to any such Power of Attorney or certificate relating thereto by facsimile, and any such Power of Attorney so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.

IN TESTIMONY WHEREOF, PHILADELPHIA INDEMNITY INSURANCE COMPANY HAS CAUSED THIS INSTRUMENT TO BE SIGNED AND ITS CORPORATE SEALTO BE AFFIXED BY ITS AUTHORIZED OFFICE THIS 5TH DAY OF OCTOBER 2024.

(Seal)

John Glomb, President & CEO
Philadelphia Indemnity Insurance Company

On this 5th day of October, 2024 before me came the individual who executed the preceding instrument, to me personally known, and being by me duly sworn said that he is the therein described and authorized officer of the **PHILADELPHIA INDEMNITY INSURANCE COMPANY**; that the seal affixed to said instrument is the Corporate seal of said Company; that the said Corporate Seal and his signature were duly affixed.

Commonwealth of Pennsylvania - Notary Seal
Vanessa Mckenzie, Notary Public
Delaware County
My commission expires November 3, 2028
Commission number 1366394
Member, Pennsylvania Association of Notaries

Notary Public: Vanessa McKenzie

residing at: Linwood, PA

My commission expires: November 3, 2028

I, Edward Sayago, Corporate Secretary of PHILADELPHIA INDEMNITY INSURANCE COMPANY, do hereby certify that the foregoing resolution of the Board of Directors and the Power of Attorney issued pursuant thereto on the 5th day October 2024 are true and correct and are still in full force and effect. I do further certify that John Glomb, who executed the Power of Attorney as President, was on the date of execution of the attached Power of Attorney the duly elected President of PHILADELPHIA INDEMNITY INSURANCE COMPANY.

In Testimony Whereof I have subscribed my name and affixed the facsimile seal of each Company this 12th day of December, 20 2024 .

Edward Sayago, Corporate Secretary
PHILADELPHIA INDEMNITY INSURANCE COMPANY

IMPORTANT NOTICE

To obtain information or make a complaint: You may call the Surety's toll free telephone number for information or to make a complaint at:

1-877-438-7459

You may also write Philadelphia Indemnity Insurance Company at:

One Bala Plaza, Suite 100
Bala Cynwyd, PA 19004
Attention: Senior Vice President and Director of Surety

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:

P.O. Box 149104
Austin, TX 78714-9104
Fax# 512-475-1771
Web: http://www.tdi.state.tx.us
Email: ConsumerProtection@tdi.state.tx.us

PREMIUM OR CLAIM DISPUTES: Should you have a dispute concerning your premium or about a claim, you should contact the Surety first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

ATTACH THIS NOTICE TO YOUR POLICY: This notice is for information only and does not become a part or condition of the attached document.

ADVISO IMPORTANTE

COPY

Para obener informacion o para someter una queja: Usted puede llamar al numero de telefono gratis de para informacion o para someter una queja al:

1-877-438-7459

Usted tanbien puede escribir a Philadelphia Indemnity Insurance Company at:

One Bala Plaza, Suite 100
Bala Cynwyd, PA 19004
Attention: Senior Vice President and Director of Surety

Puede comunicarse con el Departamento de Seguros de Texas para obtener information acerca de companias, coberturas, derechos o quejas al:

1-800-252-3439

Puede escribir al Departmento de Seguros de Texas:

P.O. Box 149104
Austin, TX 78714-9104
Fax# 512-475-1771
Web: http://www.tdi.state.tx.us
Email: ConsumerProtection@tdi.state.tx.us

DISPUTAS SOBRE PRIMAS 0 RECLAMOS: Si tiene una disputa concerniente a su prima o a un reclamo, debe comunicarse con el Surety primero. Si no se resuelve la disputa, puede entonces comunicarrse con el departamento (TDI).

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

EXHIBIT C
CERTIFICATES OF INSURANCE AND ENDORSEMENTS

Client#: 1078787 PARAGSPO1

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 11/12/2024

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
USI Southwest Dallas /CL
14241 Dallas Pkwy STE 700
Dallas, TX 75254
214 443-3100

CONTACT NAME: Kara Kennady
PHONE (A/C, No, Ext): 214 443-3100 **FAX (A/C, No):** 214 443-3900
E-MAIL ADDRESS: kara.kennady@usi.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Cincinnati Casualty Company	28665
INSURER B : Cincinnati Insurance Company	10677
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
Paragon Sports Constructors, LLC
5001 Saunders Road
Fort Worth, TX 76119

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	X COMMERCIAL GENERAL LIABILITY			EPP0650211	06/01/2024	06/01/2025	EACH OCCURRENCE	$1,000,000
	CLAIMS-MADE X OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$100,000
							MED EXP (Any one person)	$5,000
							PERSONAL & ADV INJURY	$1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$2,000,000
	POLICY X PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$2,000,000
	OTHER:							$
A	AUTOMOBILE LIABILITY			EPP0650211	06/01/2024	06/01/2025	COMBINED SINGLE LIMIT (Ea accident)	$1,000,000
	X ANY AUTO						BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
A	X UMBRELLA LIAB X OCCUR			EPP0650211	06/01/2024	06/01/2025	EACH OCCURRENCE	$5,000,000
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	$5,000,000
	DED RETENTION $							$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N	N / A		EWC0650214	06/01/2024	06/01/2025	X PER STATUTE OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? N						E.L. EACH ACCIDENT	$1,000,000
	(Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$1,000,000
							E.L. DISEASE - POLICY LIMIT	$1,000,000
A	Leased/Rented Equipment Installation Fltr			EPP0650211	06/01/2024	06/01/2025	$550,000 Per Occurence $550,00 Max Per Item $2,500,000 Per Project	

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

The General Liability and Auto Liability policies Include an automatic Additional Insured endorsement that provides Additional Insured status to the Certificate Holder only when there is a written contract that requires such status, and only with regard to work performed on behalf of the named insured. The General Liability, Auto Liability and Workers Compensation policies provide a Blanket Waiver of Subrogation in favor of the same, when required by written contract. The General Liability and Auto Liability policies (See Attached Descriptions)

CERTIFICATE HOLDER

City of College Station
PO BOX 9960
College Station, TX 77842

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

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DESCRIPTIONS (Continued from Page 1)

contain a special endorsement with "Primary and Noncontributory" wording.
Umbrella Policy is Follow Form.

EXHIBIT D
PLANS AND SPECIFICATIONS

If the plans and specifications from the RFP/CSP are not physically inserted here, then they are fully incorporated into this contract by reference.

EXHIBIT E
CONSTRUCTION SCHEDULE

Project completion date is January 31, 2025 once Notice to Proceed is given.

CITY OF COLLEGE STATION VETERANS PARK SYNTHETIC TURF REPLACEMENT PROPOSAL BUYBOARD #737-24

REVISED DATE:	NOVEMBER 20,2024
Owner:	CITY OF COLLEGE STATION
Project:	CITY OF COLLEGE STATION VETERANS PARK TURF REPLACEMENT MULTIPLE FIELDS
Address:	3101 Harvey Road, College Station, TX 77845
Plans:	N/A
Specs:	N/A

SYNTHETIC TURF REPLACEMENT FIELDS 7 AND 8

Paragon Sports Constructors will perform the following scope of work with specialized equipment designed for the removal and installation of new synthetic turf:

1. PSC will provide labor, equipment, and supervision.
2. PSC will provide insurance.
3. PSC will remove and dispose of approximate 217,000 sq ft of existing synthetic turf.
4. PSC will inspect existing turf sub grade for any possible repair issues and regrade for planarity
5. PSC will inspect existing turf nailer.
6. PSC will install Shaw Legion Pro 2.25" synthetic turf with all markings in laid for soccer markings in laid for full size soccer, small soccer and flag football field
7. PSC will provide and install standard sand and rubber turf infill with Geofill cooling layer

Synthetic Turf Removal and Installation Base Bid: $1,184,748.00

DRAINAGE ALTERNATE

1. PSC will include an allowance for drainage revisions and improvements outside synthetic field

Synthetic Turf Improvements Outside Field Allowance: $ 25,000.00

EXCLUSIONS

1. Sales Taxes
2. Liquidated Damages
3. Demolition and earthwork
4. Subgrade stabilization
5. All concrete
6. Fencing
7. Bleachers
8. Scoreboards

9. New irrigation systems
10. New utilities or water lines
11. Electrical
12. Conduit
13. Permits and fees

PROPOSAL CONDITIONS and QUALIFICATIONS

1. This proposal assumes PSC shall have clear and reasonable access to the work for equipment and materials.
2. PSC understands there may be more than one mobilization for this project.
3. This proposal assumes PSC standard wage rate for labor (Davis-Bacon or their Governmental wage scales are not included in the pricing above).
4. Due to continuing fluctuations in the cost of materials beyond our control, PSC reserves the right to verify material pricing prior to execution of a contract if a contract is not awarded within 60 days of the date of this proposal.
5. Unless specifically stated otherwise, this proposal assumes that all construction testing and third-party inspection will be contracted and paid for by the owner or general contractor. PSC will coordinate inspections and make all work available for testing; PSC can provide a separate proposal for this work if desired.

INSURANCE POLICY COVERAGES

Workers Comp: Bodily Injury	$1,000,000 ea accident
Workers Comp: Disease	$1,000,000 policy limit
General Liability: General Aggregate	$2,000,000 policy limit
General Liability: Personal/Advert. Injury	$1,000,000 policy limit
General Liability: Each Occurrence	$1,000,000 policy limit
Additional Excess Umbrella	$5,000,000 policy limit

PROPOSAL CONFIRMATION

SIGNED:

Paragon Sports Constructors
Name: William Chaffe
Title: President
Email: wchaffe@paragon-sports.com
Phone: (817) 916-5000

December 12, 2024
Item No. 7.9.
Real Estate Appraisal Services

Sponsor: Jennifer Cain, Director Capital Projects

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action on the approval of four Master Agreements for Real Estate Appraisal Services: Lowery Property Advisors, LLC; S.T. Lovett & Associates; Allen, Williford & Seale, Inc.; Integra Realty Resources – Fort Worth. Approval of these agreements will authorize the City Manager or his designee to approve Service Orders for each project within the terms of each Master Agreement.

Relationship to Strategic Goals:
Core Services and Infrastructure

Recommendation(s): Staff recommends approval.

Summary: Typical appraisal assignments for the City include the appraisal of public utility easements, public access easements, and temporary construction easements; the appraisal of partial fee simple takings; and the appraisal of whole tracts including park land and other municipal properties.

Since 2009, the City has issued six Requests for Proposal or Qualifications for Real Estate Appraisal Services, resulting in annual contracts with the option to renew the contracts for up to two years.

This year the City has selected four firms to provide appraisal services in anticipation of several upcoming capital improvements projects and other land related projects. Ten proposals were received in response to Request for Qualifications for Professional Real Estate Appraisal Services, RFQ No. 25-001. Based on cumulative rankings resulting from evaluations of the proposals, the following real estate appraisal firms have been selected to prepare real estate appraisal reports and provide real estate consulting services to the City:

- Lowery Property Advisors, LLC
- S.T. Lovett & Associates
- Allen, Williford & Seale, Inc.
- Integra Realty Resources – Fort Worth

Each agreement will have a not to exceed amount of $60,000 and the option to renew the contract for up to two (2) additional one (1) year terms (total of three (3) years).

Budget & Financial Summary: Funds for appraisal services are budgeted for in the various accounts out of which the easements, right-of-way and/or land will be purchased. In the case of easement and/or right-of-way purchases for capital projects, the funds are budgeted as part of the capital projects.

Attachments:
1. Signed - 25300182 - Lowery Property Advisors
2. Signed - 25300183 - S.T. Lovett & Associates

3. Signed - 25300184 - Allen Williford Seale Inc.
4. Signed - 25300185 - Integra Realty Resources

CONTRACT & AGREEMENT ROUTING FORM

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

CONTRACT#: 25300182 PROJECT#: n/a BID/RFP/RFQ#: 25-001

Project Name / Contract Description: Real Estate Appraisal Services - Master Agreement

One of four agreements to prepare real estate appraisal reports and provide real estate consulting services for the City.

Name of Contractor: Lowery Property Advisors, LLC

CONTRACT TOTAL VALUE: $ 60,000.00

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

Debarment Check ☐ Yes ☐ No ■ N/A
Section 3 Plan Incl. ☐ Yes ☐ No ■ N/A

Davis Bacon Wages Used ☐ Yes ☐ No ■ N/A
Buy America Required ☐ Yes ☐ No ■ N/A
Transparency Report ☐ Yes ☐ No ■ N/A

■ **NEW CONTRACT** ☐ **RENEWAL #** _____ ☐ **CHANGE ORDER #** _____ ☐ **OTHER** _____

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

As a result of a Request for Qualifications for Professional Real Estate Appraisal Services, four firms have been selected to prepare real estate appraisal reports and provide real estate consulting services for the City. Each of the four master agreements will have a not to exceed amount of $60,000. Funds are budgeted within various project accounts. In the case of land purchases (including right-of-way and easements) for capital projects, the funds are budgeted as part of the capital projects.

*(If required)**
CRC Approval Date*: N/A **Council Approval Date*:** 12/12/24 **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 — 12/5/2024
DEPARTMENT DIRECTOR/ADMINISTERING CONTRACT — DATE

LEGAL DEPARTMENT — DATE

ASST CITY MGR – CFO — DATE

APPROVED & EXECUTED

CITY MANAGER — DATE

N/A
MAYOR (if applicable) — DATE

N/A
CITY SECRETARY (if applicable) — DATE

__Original(s) sent to CSO on _____ Scanned into Laserfiche on _____ ____Original(s) sent to Fiscal on _____

MASTER AGREEMENT
REAL ESTATE APPRAISAL SERVICES

This Master Agreement is by and between the **City of College Station**, a Texas Home-Rule Municipal Corporation (the "City") and Lowery Property Advisors, LLC. a Texas limited liability company, (the "Contractor"), whereby Contractor agrees to perform professional real estate appraisal 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 Real Estate Appraisal Services described more fully in Contractor's response to RFQ No.25-001 as set forth in **Exhibit "A"**. The scope and details of the work to be provided to the City by Contractor are in each Service Order, a form of which is 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 Contractor under this Agreement may be authorized by the Project Manager in various phases as set forth in a service order similar in substantially the form as attached hereto as **Exhibit "B"**.

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. The invoices shall be submitted to the City upon satisfactory completion of all work specified in the Service Order which, unless expressly provided for otherwise by the City, shall be upon submittal of the final approved appraisal report(s). 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 Agreement shall not exceed Sixty Thousand and No/100 Dollars ($60,000.00). There is no minimum amount to be paid by the City to the Contractor under this Agreement.

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 Agreement, 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) **City Manager Approval.** When the original Agreement 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 Agreement to more than $100,000. For such contracts, when a change order results in a total Agreement amount that exceeds $100,000, the City Council of the City must approve such change order prior to commencement of the services or work.

(b) **City Council Approval.** When the original Agreement 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. For such Agreements, when a change order exceeds $50,000, the City Council of the City must approve such change order prior to commencement of the services or work. The sum of all change orders may not exceed 25% of the original Agreement amount.

(c) **Increase in Scope.** Any request by the Contractor for an increase in the Scope of Services and an increase in the amount named in Article I of this Agreement 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.

(d) **Dispute.** 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 Agreement, 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. This Agreement will go into effect be effective when duly approved by the parties hereto except as provided in Article VI herein below. The original term shall be for one (1) year. After the original term, with the written mutual consent of both parties, including budget approval by the City, this Agreement may be renewed on an annual basis, under the same terms and conditions, for up to **two (2) additional years for a total of three (3) years**. If, for any reason, funds are not appropriated to continue the Agreement, the Agreement shall become null and void and shall terminate.

1.07 Performance. 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. The work of Contractor under this Agreement may be authorized by the Project Manager in various phases as set forth in **Exhibit "B"**.

1.08 Independent Contractor. 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 on the Project. 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. Contractor shall be liable for any misrepresentations.

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 Agreement 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; documenting study assumptions and methodologies; devising the format for any interim reports and the final report to the City.

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 Agreement, 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 Agreement, 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 Agreement. Approval or acceptance by the City of any of Contractor's work product under this Agreement 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 Agreement; 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 Agreement, 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 Agreement. Such indemnity shall apply regardless of whether the claims, losses, damages, causes of action, suits, or liability arise in whole or in part from the negligence of the City, any other party indemnified hereunder, the Contractor, or any third party. 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 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, limits and endorsements required are as set forth below:

5.02 Types. During the term of this Agreement Contractor'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.

5.03 Certificate of Insurance. For each of these policies, the Contractor's insurance coverage shall be 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 Contractor's insurance and shall not contribute to it. No term or provision of the indemnification provided by the Contractor to the City pursuant to this Agreement 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 Agreement, attached hereto as **Exhibit "C"**, and approved by the City *before* work commences.

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

(a) Only insurance carriers licensed and 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 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 company or its authorized agent on the most current State of Texas Department of Insurance-approved forms.

(f) The City of College Station, its officials, agents, employees, and volunteers are to be named 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, employees, and volunteers.

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 Combined Single Limit of $500,000 per occurrence per project for bodily injury and property damage with a $1,000,000 annual aggregate limit.

(c) Coverage shall be at least as broad as Insurance Service's Office Number CG 00 01.

(d) No coverage shall be excluded from the standard policy without notification of individual exclusions being attached for review and acceptance.

(e) The coverage shall include but not be limited to premises/operations; independent Agreements; products/completed operations; and contractual liability (insuring the indemnity provided herein

(f) The City shall be listed as Additional Insured, and the policy shall be endorsed to waive rights of subrogation, to be primary and non-contributory with regard to any self-insurance or insurance policy held by the City.

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, leased or rented autos, non-owned autos, any autos and hired autos.

5.07 Workers' Compensation/Employer's Liability Insurance requirements. Workers' Compensation/Employer's Liability insurance shall include the following terms:

(a) Employer's Liability limits of $1,000,000 for each accident are required.

(b) "Texas Waiver of Our Right to Recover From Others Endorsement, WC 42 03 04" shall be included in this policy.

(c) Texas must appear in Item 3A of the 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.

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 occurrence and $1,000,000 aggregate, with a maximum deductible of $100,000.00. Financial statements shall be furnished to the City upon request

(c) Contractor 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 Agreement, 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 Agreement 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.

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 Agreement 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 Agreement shall be construed to relieve the Contractor of liability to the City for damages sustained by the City or because of any breach of Agreement 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 Conflict of Interest. This Article 7 shall survive the termination or expiration of this Agreement until a written release has been provided by the City. Contractor may not appraise (either directly, or as a review appraiser), act as a consultant, land agent or real estate agent regarding the same subject property:

(a) for another client whose interests are potentially adverse to the City.

(b) for a client planning to participate in the bidding process when the City sells or leases property.

(c) for an opposing party in litigation in which the City is a party or potential party.

ARTICLE VIII

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

8.02 Notice. 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:	**Contractor:**
City of College Station	Lowery Property Advisors
Attn: Mark McAuliffe	Attn: Mario Caro
P.O. Box 9960	105 Decker Court Ste 1000
College Station, Texas 77842	Irving, Texas 75062

8.03 Compliance 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.

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

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

8.06 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.

8.07 Prioritization. Contractor and City agree that City is a political subdivision of the State of Texas and is thus subject to certain laws. Because of this there may be documents or

portions thereof added by Contractor to this 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.

8.08 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.

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

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

8.11 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 Consultant herein verifies that it i) does not boycott energy companies; and ii) will not boycott energy companies during the term of this Contract.

Exhibits.

A. Scope of Work
B. Service Order
C. Fee Schedule
D. Certificate of Insurance

S.T. LOVETT & ASSOCIATES

By: Mario Caro

Printed Name: Mario Caro

Title: Sr Managing Director

Date: 12/5/2024

CITY OF COLLEGE STATION

By: _____
City Manager
Date: _____

APPROVED:

_____
City Attorney
Date: _____

_____
Assistant City Manager / CFO
Date: _____

Exhibit A
Scope of Work

RFQ No. 25-001, is incorporated by reference into this contract by reference.

Exhibit B
Service Order

The Master Agreement _____ entered into by and between the City of College Station and _____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:

CITY OF COLLEGE STATION

By:_____ By:_____

Printed Name:_____ Printed Name:_____

Title:_____ Title:_____

Date:_____ Date:_____

Exhibit C
Fee Schedule Rate Report

Assignment fees shall be based on the Fee Schedule listed below. Payment shall be a fixed "not to exceed" amount as described in each Service Order. This amount shall be payable by the City pursuant to the terms of this Agreement and upon completion of the services and written acceptance by the City.

Fee Schedule per Report and with Discount for Multiple Parcels or Reports: **Multiple, similar parcels**

1. Commercial or industrial tract (whole) **$3,000 - $5,000; $2,500 multiples**
   a. Commercial or industrial tract (partial taking)
      i. With damages **$4,000 - $6,000; $3,500 multiples**
      ii. Without damages **$3,000 - $4,500; $2,500 multiples**
   b. Urban or rural residential (whole) **$3,500 - $5,000; $3,000 multiples**
   c. Urban or rural residential (partial taking)
      i. With damages **$4,000 - $7,000; $4,000 multiples**
      ii. Without damages **$3,500 - $5,000; $3,500 multiples**
   d. Mixed-use (whole) **$5,000 - $9,500; $5,000 multiples**
   e. Mixed-use (partial taking)
      i. With damages **$6,000 - $15,000; $6,000 multiples**
      ii. Without damages **$6,000 - $9,500; $6,000 multiples**
   f. Multi-family improved (whole) **$6,000 - $9,500; $6,000 multiples**
   g. Multi-family improved (partial taking)
      i. With damages **$6,000 - $15,000; $6,000 multiples**
      ii. Without damages **$5,000 - $12,000; $5,000 multiples**
   h. Flood plain (whole) **$3,000 - $5,000; $3,000 multiples**

2. Hourly rate of each person in the Firm (i.e. Principal, Staff Appraiser, Secretary, etc.) for testimony and special assignments. Assignments paid based on hourly rates will be set per this fee schedule and will not be negotiated once incorporated into the Master Agreement.

   Principal/Project Leader: **$250/hour**
   Staff Appraiser: **$200/hour**
   Staff Appraiser (trainee): **$150/hour**
   Administrative staff: **N/A**

3. **Please note that expenses for office supplies, copies, postage, cell phone usage, mileage, other travel related expenses, etc. shall not be chargeable to the City.**

Exhibit D
Certificates of Insurance

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 11/21/2024

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	CONTACT NAME:	
THE POLICY SOURCE LLC 921 W NEW HOPE DR 501 CEDAR PARK, TX 78613 (888) 661-3938	PHONE (A/C, No, Ext): (888) 661-3938	FAX (A/C, No): (877) 872-7604
	E-MAIL ADDRESS: service.center@travelers.com	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : THE TRAVELERS INDEMNITY COMPANY OF CONNECTICUT	
INSURED LOWERY PROPERTY ADVISORS, LLC 105 DECKER CT STE 1000 IRVING, TX 75062	INSURER B :	
	INSURER C :	
	INSURER D :	
	INSURER E :	
	INSURER F :	

COVERAGES **CERTIFICATE NUMBER:** 004258513441423 **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	[X] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: [X] POLICY [ ] PRO-JECT [ ] LOC [ ] OTHER:	X		680-9R077781-24	09/13/2024	09/13/2025	EACH OCCURRENCE	$2,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$300,000
							MED EXP (Any one person)	$5,000
							PERSONAL & ADV INJURY	$2,000,000
							GENERAL AGGREGATE	$4,000,000
							PRODUCTS - COMP/OP AGG	$4,000,000
								$
	AUTOMOBILE LIABILITY [ ] ANY AUTO [ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS [ ] HIRED AUTOS ONLY [ ] NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident)	$
							BODILY INJURY (Per person)	$
							BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
								$
	[ ] UMBRELLA LIAB [ ] OCCUR [ ] EXCESS LIAB [ ] CLAIMS-MADE [ ] DED [ ] RETENTION $						EACH OCCURRENCE	$
							AGGREGATE	$
								$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? [ ] (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A					[ ] PER STATUTE [ ] OTH-ER	
							E.L. EACH ACCIDENT	$
							E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
AS RESPECTS TO GENERAL LIABILITY, CITY OF COLLEGE STATION, ITS OFFICIALS, AGENTS, AND EMPLOYEES ARE ADDITIONAL INSURED PER FORM BLANKET ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS, CG D1 05, BUT ONLY AS RESPECTS TO WORK PERFORMED BY THE INSURED.

CERTIFICATE HOLDER

CITY OF COLLEGE STATION
PO BOX 9960
COLLEGE STATION, TX 77842

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

Renan M. Beltran

© 1988-2015 ACORD CORPORATION. All rights reserved.

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 11/19/2024

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	CONTACT NAME: Progressive Commercial Lines Customer and Agent Servicing	
THE POLICY SOURCE, LLC 921 W NEW HOPE #501, CEDAR PARK, TX 78613	PHONE (A/C, No, Ext): 1-800-444-4487	FAX (A/C, No):
	E-MAIL ADDRESS: progressivecommercial@email.progressive.com	
	INSURER(S) AFFORDING COVERAGE	**NAIC #**
	INSURER A : Progressive County Mutual Insurance Company	29203
INSURED	INSURER B :	
MARK LOWERY DBA: Lowery Property Advisors 105 Decker Ct 1000 Irving, TX 75062	INSURER C :	
	INSURER D :	
	INSURER E :	
	INSURER F :	

COVERAGES **CERTIFICATE NUMBER:** 702151070268330501D111924T163959 **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	
	COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☐ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC ☐ OTHER:						EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG $	$ $ $ $ $ $ $
A	**AUTOMOBILE LIABILITY** ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☒ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY	Y	Y	956074835	02/18/2024	02/18/2025	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) $	$2,000,000 $ $ $ $
	☐ **UMBRELLA LIAB** ☐ OCCUR ☐ **EXCESS LIAB** ☐ CLAIMS-MADE ☐ DED ☐ RETENTION $						EACH OCCURRENCE AGGREGATE $	$ $ $
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBEREXCLUDED? ☐ **(Mandatory in NH)** If yes, describe under DESCRIPTION OF OPERATIONS below	N / A					☐ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ $ $
A	See ACORD 101 for additional coverage details.	Y	Y	956074835	02/18/2024	02/18/2025	$	

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

CERTIFICATE HOLDER

CITY OF COLLEGE STATION
PO Box 9960, 1101 Texas Ave
College Station, TX 77842

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

Mark Powell

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AGENCY CUSTOMER ID: _____

LOC #: _____

ADDITIONAL REMARKS SCHEDULE

AGENCY		NAMED INSURED
THE POLICY SOURCE, LLC		MARK LOWERY DBA: Lowery Property Advisors 105 Decker Ct 1000 Irving, TX 75062
POLICY NUMBER		
956074835		
CARRIER	NAIC CODE	
Progressive County Mutual Insurance Company	29203	EFFECTIVE DATE: 02/18/2024

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: 25 **FORM TITLE:** Certificate of Liability Insurance

Additional Coverages

Insurance coverage(s)	Limits
Uninsured/Underinsured Motorist	$2,000,000 Combined Single Limit
Uninsured Motorist Property Damage	(included in combined single limit w/$250 Ded)

Description of Location/Vehicles/Special Items

Scheduled autos only

2021 BMW X7 5UXCW2C08M9H35296

Comprehensive	$1,000 Ded
Collision	$1,000 Ded
Rental Reimbursement	$50 Per Day ($1,500 Max)
Personal Injury Protection	$2,500 each person
Roadside Assistance	Selected w/$0 Ded

Liability coverage may not apply to all scheduled vehicles.

Additional Information

Blanket Waiver of Subrogation in favor of certificate holder, but only if party to a written waiver agreement executed by the named insured, as required by contract, prior to the occurrence of any loss.

Certificate holder is listed as an Additional Insured.

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CERTIFICATE OF LIABILITY INSURANCE

Acct#: 2985972

DATE (MM/DD/YYYY): 12/04/2024

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 Lockton Companies, LLC 2100 Ross Ave, Suite 1400 Dallas, TX 75201	**CONTACT NAME:** **PHONE (A/C, No, Ext):** 214-771-4411 **FAX (A/C, No):** **E-MAIL ADDRESS:** REI.Certs@onedigital.com
	INSURER(S) AFFORDING COVERAGE / **NAIC #** **INSURER A :** Indemnity Insurance Company of North America / 43575
INSURED **Lowery Property Advisors, LLC** **105 Decker Ct** **Ste 1000** **Irving, TX 75062**	**INSURER B :** **INSURER C :** **INSURER D :** **INSURER E :** **INSURER F :**

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

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☐ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC ☐ OTHER:						EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG [blank]	$ $ $ $ $ $ $
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ ALL OWNED AUTOS ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ☐ NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) [blank]	$ $ $ $ $
	UMBRELLA LIAB ☐ OCCUR **EXCESS LIAB** ☐ CLAIMS-MADE ☐ DED ☐ RETENTION $						EACH OCCURRENCE AGGREGATE [blank]	$ $ $
A	**WORKERS COMPENSATION AND EMPLOYERS' LIABILITY** Y / N ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? ☐ **(Mandatory in NH)** If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		C58942339	10/01/2024	10/01/2025	X PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ 1,000,000 $ 1,000,000 $ 1,000,000

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

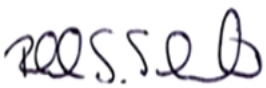
CERTIFICATE HOLDER

City of College Station
ATTN: Risk Management
PO Box 9960
College Station TX 77842

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



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ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 12/4/2024

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.

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PRODUCER Insureon, Division of Specialty Program Group LLC / DBA SPG Insurance Solutions LLC in CA 203 N. LaSalle St., 20th Floor, Chicago, IL 60601	**CONTACT NAME:** **PHONE (A/C, No, Ext):** (800) 688-1984 **FAX (A/C, No):** 312-690-4123 **E-MAIL ADDRESS:**
	INSURER(S) AFFORDING COVERAGE / **NAIC #** **INSURER A :** Scottsdale Indemnity Company / 15580 **INSURER B :** **INSURER C :** **INSURER D :** **INSURER E :** **INSURER F :**
INSURED Lowery Property Advisors 105 Decker Court, Suite 1000, Irving, TX, 75062	

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.

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	COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☐ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC ☐ OTHER:						EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG $	$ $ $ $ $ $ $
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ ALL OWNED AUTOS ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ☐ NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) $	$ $ $ $ $
	UMBRELLA LIAB ☐ OCCUR **EXCESS LIAB** ☐ CLAIMS-MADE ☐ DED ☐ RETENTION $						EACH OCCURRENCE AGGREGATE $	$ $ $
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? ☐ N / A **(Mandatory in NH)** If yes, describe under DESCRIPTION OF OPERATIONS below						☐ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ $ $
A	Professional Liability (Errors and Omissions)			EKI3525088	6/26/2024	6/26/2025	Occurrence/Aggregate	$1,000,000 / $2,000,000

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

CERTIFICATE HOLDER

City of College Station, Risk Management
PO Box 9960
College Station, TX 77842

CANCELLATION

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AUTHORIZED REPRESENTATIVE

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CONTRACT & AGREEMENT ROUTING FORM

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

CONTRACT#: 25300183 PROJECT#: n/a BID/RFP/RFQ#: 25-001

Project Name / Contract Description: Real Estate Appraisal Services - Master Agreement

One of four agreements to prepare real estate appraisal reports and provide real estate consulting services for the City.

Name of Contractor: S.T. Lovett & Associates

CONTRACT TOTAL VALUE: $ 60,000.00

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

Debarment Check ☐ Yes ☐ No ■ N/A
Section 3 Plan Incl. ☐ Yes ☐ No ■ N/A

Davis Bacon Wages Used ☐ Yes ☐ No ■ N/A
Buy America Required ☐ Yes ☐ No ■ N/A
Transparency Report ☐ Yes ☐ No ■ N/A

■ **NEW CONTRACT** ☐ **RENEWAL #** _____ ☐ **CHANGE ORDER #** _____ ☐ **OTHER** _____

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

As a result of a Request for Qualifications for Professional Real Estate Appraisal Services, four firms have been selected to prepare real estate appraisal reports and provide real estate consulting services for the City. Each of the four master agreements will have a not to exceed amount of $60,000. Funds are budgeted within various project accounts. In the case of land purchases (including right-of-way and easements) for capital projects, the funds are budgeted as part of the capital projects.

*(If required)**
CRC Approval Date*: n/a **Council Approval Date*:** 12/12/24 **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 — 12/5/2024
DEPARTMENT DIRECTOR/ADMINISTERING CONTRACT — DATE

LEGAL DEPARTMENT — DATE

ASST CITY MGR – CFO — DATE

APPROVED & EXECUTED

CITY MANAGER — DATE

n/a
MAYOR (if applicable) — DATE

n/a
CITY SECRETARY (if applicable) — DATE

__Original(s) sent to CSO on _____ Scanned into Laserfiche on _____ ____Original(s) sent to Fiscal on _____

MASTER AGREEMENT
REAL ESTATE APPRAISAL SERVICES

This Master Agreement is by and between the **City of College Station**, a Texas Home-Rule Municipal Corporation (the "City") and S.T. Lovett & Associates, a sole proprietorship, (the "Contractor"), whereby Contractor agrees to perform professional real estate appraisal 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 Real Estate Appraisal Services described more fully in Contractor's response to RFQ No.25-001 as set forth in **Exhibit "A"**. The scope and details of the work to be provided to the City by Contractor are in each Service Order, a form of which is 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 Contractor under this Agreement may be authorized by the Project Manager in various phases as set forth in a service order similar in substantially the form as attached hereto as **Exhibit "B"**.

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. The invoices shall be submitted to the City upon satisfactory completion of all work specified in the Service Order which, unless expressly provided for otherwise by the City, shall be upon submittal of the final approved appraisal report(s). 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 Agreement shall not exceed Sixty Thousand and No/100 Dollars ($60,000.00). There is no minimum amount to be paid by the City to the Contractor under this Agreement.

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 Agreement, 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) **City Manager Approval.** When the original Agreement 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 Agreement to more than $100,000. For such contracts, when a change order results in a total Agreement amount that exceeds $100,000, the City Council of the City must approve such change order prior to commencement of the services or work.

(b) **City Council Approval.** When the original Agreement 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. For such Agreements, when a change order exceeds $50,000, the City Council of the City must approve such change order prior to commencement of the services or work. The sum of all change orders may not exceed 25% of the original Agreement amount.

(c) **Increase in Scope.** Any request by the Contractor for an increase in the Scope of Services and an increase in the amount named in Article I of this Agreement 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.

(d) **Dispute.** 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 Agreement, 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. This Agreement will go into effect be effective when duly approved by the parties hereto except as provided in Article VI herein below. The original term shall be for one (1) year. After the original term, with the written mutual consent of both parties, including budget approval by the City, this Agreement may be renewed on an annual basis, under the same terms and conditions, for up to **two (2) additional years for a total of three (3) years**. If, for any reason, funds are not appropriated to continue the Agreement, the Agreement shall become null and void and shall terminate.

1.07 Performance. 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. The work of Contractor under this Agreement may be authorized by the Project Manager in various phases as set forth in **Exhibit "B"**.

1.08 Independent Contractor. 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 on the Project. 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. Contractor shall be liable for any misrepresentations.

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 Agreement 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; documenting study assumptions and methodologies; devising the format for any interim reports and the final report to the City.

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 Agreement, 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 Agreement, 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 Agreement. Approval or acceptance by the City of any of Contractor's work product under this Agreement 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 Agreement; 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 Agreement, 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 Agreement. Such indemnity shall apply regardless of whether the claims, losses, damages, causes of action, suits, or liability arise in whole or in part from the negligence of the City, any other party indemnified hereunder, the Contractor, or any third party. 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 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, limits and endorsements required are as set forth below:

5.02 Types. During the term of this Agreement Contractor'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.

5.03 Certificate of Insurance. For each of these policies, the Contractor's insurance coverage shall be 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 Contractor's insurance and shall not contribute to it. No term or provision of the indemnification provided by the Contractor to the City pursuant to this Agreement 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 Agreement, attached hereto as **Exhibit "C"**, and approved by the City *before* work commences.

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

(a) Only insurance carriers licensed and 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 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 company or its authorized agent on the most current State of Texas Department of Insurance-approved forms.

(f) The City of College Station, its officials, agents, employees, and volunteers are to be named 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, employees, and volunteers.

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 Combined Single Limit of $500,000 per occurrence per project for bodily injury and property damage with a $1,000,000 annual aggregate limit.

(c) Coverage shall be at least as broad as Insurance Service's Office Number CG 00 01.

(d) No coverage shall be excluded from the standard policy without notification of individual exclusions being attached for review and acceptance.

(e) The coverage shall include but not be limited to premises/operations; independent Agreements; products/completed operations; and contractual liability (insuring the indemnity provided herein

(f) The City shall be listed as Additional Insured, and the policy shall be endorsed to waive rights of subrogation, to be primary and non-contributory with regard to any self-insurance or insurance policy held by the City.

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, leased or rented autos, non-owned autos, any autos and hired autos.

5.07 Workers' Compensation/Employer's Liability Insurance requirements. Workers' Compensation/Employer's Liability insurance shall include the following terms:

(a) Employer's Liability limits of $1,000,000 for each accident are required.

(b) "Texas Waiver of Our Right to Recover From Others Endorsement, WC 42 03 04" shall be included in this policy.

(c) Texas must appear in Item 3A of the 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.

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 occurrence and $1,000,000 aggregate, with a maximum deductible of $100,000.00. Financial statements shall be furnished to the City upon request

(c) Contractor 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 Agreement, 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 Agreement 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.

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 Agreement 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 Agreement shall be construed to relieve the Contractor of liability to the City for damages sustained by the City or because of any breach of Agreement 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 Conflict of Interest. This Article 7 shall survive the termination or expiration of this Agreement until a written release has been provided by the City. Contractor may not appraise (either directly, or as a review appraiser), act as a consultant, land agent or real estate agent regarding the same subject property:

(a) for another client whose interests are potentially adverse to the City.

(b) for a client planning to participate in the bidding process when the City sells or leases property.

(c) for an opposing party in litigation in which the City is a party or potential party.

ARTICLE VIII

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

8.02 Notice. 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:	**Contractor:**
City of College Station	S.T. Lovett & Associates
Attn: Mark McAuliffe	Attn: Steve Lovett
P.O. Box 9960	3600 Lovett Lane
College Station, Texas 77842	College Station, Texas 77845

8.03 Compliance 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.

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

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

8.06 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.

8.07 Prioritization. Contractor and City agree that City is a political subdivision of the State of Texas and is thus subject to certain laws. Because of this there may be documents or

portions thereof added by Contractor to this 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.

8.08 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.

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

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

8.11 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 Consultant herein verifies that it i) does not boycott energy companies; and ii) will not boycott energy companies during the term of this Contract.

Exhibits.

A. Scope of Work
B. Service Order
C. Fee Schedule
D. Certificate of Insurance

S.T. LOVETT & ASSOCIATES

By: Steve Lovett

Printed Name: Steve Lovett

Title: Owner

Date: 12/5/2024

CITY OF COLLEGE STATION

By: _____
City Manager
Date: _____

APPROVED:

_____
City Attorney
Date: _____

_____
Assistant City Manager / CFO
Date: _____

Exhibit A
Scope of Work

RFQ 25-001, is incorporated by reference into this contract.

Exhibit B
Service Order

The Master Agreement _____ entered into by and between the City of College Station and _____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:

CITY OF COLLEGE STATION

By:_____ By:_____

Printed Name:_____ Printed Name:_____

Title:_____ Title:_____

Date:_____ Date:_____

Exhibit C
Fee Schedule Rate Report

Assignment fees shall be based on the Fee Schedule listed below. Payment shall be a fixed "not to exceed" amount as described in each Service Order. This amount shall be payable by the City pursuant to the terms of this Agreement and upon completion of the services and written acceptance by the City.

Fee Schedule per Report and with Discount for Multiple Parcels or Reports:

1. Commercial or industrial tract (whole)
    a. Commercial or industrial tract (partial taking)
        i. With damages
        ii. Without damages
    b. Urban or rural residential (whole)
    c. Urban or rural residential (partial taking)
        i. With damages
        ii. Without damages
    d. Mixed-use (whole)
    e. Mixed-use (partial taking)
        i. With damages
        ii. Without damages
    f. Multi-family improved (whole)
    g. Multi-family improved (partial taking)
        i. With damages
        ii. Without damages
    h. Flood plain (whole)

2. Hourly rate of each person in the Firm (i.e. Principal, Staff Appraiser, Secretary, etc.) for testimony and special assignments. Assignments paid based on hourly rates will be set per this fee schedule and will not be negotiated once incorporated into the Master Agreement.

3. **Please note that expenses for office supplies, copies, postage, cell phone usage, mileage, other travel related expenses, etc. shall not be chargeable to the City.**

S.T. LOVETT & ASSOCIATES
APPRAISALS, BROKERAGE & RIGHT-OF-WAY ACQUISITIONS

Professional Services
Fee Schedule

Effective January 1st, 2025

Category I:

Appraisal, consulting and right-of-way acquisition services. Typical fees charged for appraisal reports specific to eminent domain proceedings by property type. A 5% to 20% per parcel discount will be applicable to multi-parcel projects having (5) parcels or more. The discount will depend upon the number of parcels, similarity of property types, and character and nature of the acquisition.

Commercial or Industrial Tract (Whole):	$3,000 to $5,750
Commercial or Industrial Tract (Partial Taking):	
With Damages	$4,650 to $7,400
Without Damages	$4,125 to $6,875
Urban or Rural Residential (Whole):	$1,650 to $3,000
Urban or Rural Residential (Partial Taking):	
With Damages	$2,475 to $3,850
Without Damages	$2,200 to $3,575
Mixed-use (Whole):	$3,000 to $5,775
Mixed-use (Partial Taking):	
With Damages	$4,675 to $7,400
Without Damages	$4,125 to $6,875
Multi-family improved (Whole):	$3,900 to $7,500
Multi-family improved (Partial Taking):	
With Damages	$5,250 to $8,500
Without Damages	$4,675 to $8,000
Flood plain (Whole):	$2,750 to $5,775

Category II: Consultations, Depositions, Pretrial Preparation and Testimony. Billed at an hourly rate.

Classification	Rate per hour
Principal Appraiser	$225.00
Appraisal Assistant	$ 55.00

Category III: Reimbursable Expenses. None

3600 Lovett Lane, College Station, Texas 77845 • Office: 979.774.8943 • Cell: 979.220.2104 • Email: stevelovett@verizon.net

Exhibit D
Certificates of Insurance

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 11/18/2024

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

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

PRODUCER ANCO Insurance PO Box 3889 Bryan TX 77805	**CONTACT NAME:** **PHONE (A/C, No, Ext):** 979-776-2626 **FAX (A/C, No):** 979-774-5372 **E-MAIL ADDRESS:** ancocentral@anco.com
INSURED STLOVET-01 Steven T. Lovett Dba S.t. Lovett & Associates 3600 Lovett Lane Bryan TX 77845	**INSURER(S) AFFORDING COVERAGE** / **NAIC #** **INSURER A :** Travelers Casualty Insurance C — 31194 **INSURER B :** Travelers Indemnity Company Of — 25682 **INSURER C :** **INSURER D :** **INSURER E :** **INSURER F :**

COVERAGES **CERTIFICATE NUMBER:** 83670889 **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	X **COMMERCIAL GENERAL LIABILITY** ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC ☐ OTHER:			6801929P629	11/9/2024	11/9/2025	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG $	$ 1,000,000 $ 300,000 $ 5,000 $ 1,000,000 $ 2,000,000 $ 2,000,000 $
A	**AUTOMOBILE LIABILITY** ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY			6801929P629	11/9/2024	11/9/2025	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) $	$ 1,000,000 $ $ $ $
	☐ **UMBRELLA LIAB** ☐ OCCUR ☐ **EXCESS LIAB** ☐ CLAIMS-MADE ☐ DED ☐ RETENTION $						EACH OCCURRENCE AGGREGATE $	$ $ $
B	**WORKERS COMPENSATION AND EMPLOYERS' LIABILITY** Y / N ☐ ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? **(Mandatory in NH)** If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		UB6J656856	11/9/2024	11/9/2025	☐ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ 1,000,000 $ 1,000,000 $ 1,000,000
A	Commercial Property			6801929P629	11/9/2024	11/9/2025		

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

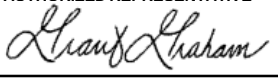
CERTIFICATE HOLDER

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

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



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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 11/18/2024

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 LIA ADMINISTRATORS & INSURANCE SERVICES PO BOX 1319 SANTA BARBARA, CA 93102-1319	CONTACT NAME: TINA TANNER PHONE (A/C, No, Ext): 805-963-6624 FAX (A/C, No): 805-962-0652 E-MAIL ADDRESS: TINA@LIABILITY.COM
INSURED LOVETT, S. T. & ASSOCIATES STEVEN TRENT LOVETT 3600 LOVETT LANE COLLEGE STATION, TX 77845	INSURER(S) AFFORDING COVERAGE — NAIC # INSURER A : ASPEN AMERICAN INSURANCE COMPANY — 43460 INSURER B : INSURER C : INSURER D : INSURER E : INSURER F :

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

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$
	☐ CLAIMS-MADE ☐ OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$
							MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$
	☐ POLICY ☐ PRO-JECT ☐ LOC						PRODUCTS - COMP/OP AGG	$
	☐ OTHER:							$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$
	☐ ANY AUTO						BODILY INJURY (Per person)	$
	☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
	UMBRELLA LIAB ☐ OCCUR						EACH OCCURRENCE	$
	EXCESS LIAB ☐ CLAIMS-MADE						AGGREGATE	$
	☐ DED ☐ RETENTION $							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N						☐ PER STATUTE ☐ OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? ☐ (Mandatory in NH)	N / A					E.L. EACH ACCIDENT	$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$
A	PROFESSIONAL LIABILITY			AAI009167-10	11/09/2024	11/09/2025	$1,000,000 EACH CLAIM $2,000,000 AGGREGATE	

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

REAL ESTATE APPRAISERS PROFESSIONAL LIABILITY INSURANCE

RETROACTIVE DATE: 11/09/2009

CERTIFICATE HOLDER

CITY OF COLLEGE STATION
ATTN: RISK MANAGER
P.O. BOX 9960
COLLEGE STATION, TX 77842

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

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MASTER AGREEMENT
REAL ESTATE APPRAISAL SERVICES

This Master Agreement is by and between the **City of College Station**, a Texas Home-Rule Municipal Corporation (the "City") and Allen, Williford and Seale, Inc., a Texas Corporation (the "Contractor"), whereby Contractor agrees to perform professional real estate appraisal 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 Real Estate Appraisal Services described more fully in Contractor's response to RFQ No. 25-001 as set forth in **Exhibit "A"**. The scope and details of the work to be provided to the City by Contractor are in each Service Order, a form of which is 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 Contractor under this Agreement may be authorized by the Project Manager in various phases as set forth in a service order similar in substantially the form as attached hereto as **Exhibit "B"**.

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. The invoices shall be submitted to the City upon satisfactory completion of all work specified in the Service Order which, unless expressly provided for otherwise by the City, shall be upon submittal of the final approved appraisal report(s). 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 Agreement shall not exceed Sixty Thousand and NO/100 Dollars ($60,000.00_). There is no minimum amount to be paid by the City to the Contractor under this Agreement.

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 Agreement, 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) **City Manager Approval.** When the original Agreement 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 Agreement to more than $100,000. For such contracts, when a change order results in a total Agreement amount that exceeds $100,000, the City Council of the City must approve such change order prior to commencement of the services or work.

(b) **City Council Approval.** When the original Agreement 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. For such Agreements, when a change order exceeds $50,000, the City Council of the City must approve such change order prior to commencement of the services or work. The sum of all change orders may not exceed 25% of the original Agreement amount.

(c) **Increase in Scope.** Any request by the Contractor for an increase in the Scope of Services and an increase in the amount named in Article I of this Agreement 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.

(d) **Dispute.** 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 Agreement, 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. This Agreement will go into effect be effective when duly approved by the parties hereto except as provided in Article VI herein below. The original term shall be for one (1) year. After the original term, with the written mutual consent of both parties, including budget approval by the City, this Agreement may be renewed on an annual basis, under the same terms and conditions, for up to **two (2) additional years for a total of three (3) years**. If, for any reason, funds are not appropriated to continue the Agreement, the Agreement shall become null and void and shall terminate.

1.07 Performance. 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. The work of Contractor under this Agreement may be authorized by the Project Manager in various phases as set forth in **Exhibit "B"**.

1.08 Independent Contractor. 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 on the Project. 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. Contractor shall be liable for any misrepresentations.

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 Agreement 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; documenting study assumptions and methodologies; devising the format for any interim reports and the final report to the City.

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 Agreement, 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 Agreement, 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 Agreement. Approval or acceptance by the City of any of Contractor's work product under this Agreement 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 Agreement; 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 Agreement, 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 Agreement. Such indemnity shall apply regardless of whether the claims, losses, damages, causes of action, suits, or liability arise in whole or in part from the negligence of the City, any other party indemnified hereunder, the Contractor, or any third party. 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 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, limits and endorsements required are as set forth below:

5.02 Types. During the term of this Agreement Contractor'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.

5.03 Certificate of Insurance. For each of these policies, the Contractor's insurance coverage shall be 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 Contractor's insurance and shall not contribute to it. No term or provision of the indemnification provided by the Contractor to the City pursuant to this Agreement 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 Agreement, attached hereto as **Exhibit "C"**, and approved by the City *before* work commences.

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

(a) Only insurance carriers licensed and 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 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 company or its authorized agent on the most current State of Texas Department of Insurance-approved forms.

(f) The City of College Station, its officials, agents, employees, and volunteers are to be named 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, employees, and volunteers.

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 Combined Single Limit of $500,000 per occurrence per project for bodily injury and property damage with a $1,000,000 annual aggregate limit.

(c) Coverage shall be at least as broad as Insurance Service's Office Number CG 00 01.

(d) No coverage shall be excluded from the standard policy without notification of individual exclusions being attached for review and acceptance.

(e) The coverage shall include but not be limited to premises/operations; independent Agreements; products/completed operations; and contractual liability (insuring the indemnity provided herein

(f) The City shall be listed as Additional Insured, and the policy shall be endorsed to waive rights of subrogation, to be primary and non-contributory with regard to any self-insurance or insurance policy held by the City.

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, leased or rented autos, non-owned autos, any autos and hired autos.

5.07 Workers' Compensation/Employer's Liability Insurance requirements. Workers' Compensation/Employer's Liability insurance shall include the following terms:

(a) Employer's Liability limits of $1,000,000 for each accident are required.

(b) "Texas Waiver of Our Right to Recover From Others Endorsement, WC 42 03 04" shall be included in this policy.

(c) Texas must appear in Item 3A of the 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.

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 occurrence and $1,000,000 aggregate, with a maximum deductible of $100,000.00. Financial statements shall be furnished to the City upon request

(c) Contractor 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 Agreement, 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 Agreement 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.

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 Agreement 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 Agreement shall be construed to relieve the Contractor of liability to the City for damages sustained by the City or because of any breach of Agreement 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 Conflict of Interest. This Article 7 shall survive the termination or expiration of this Agreement until a written release has been provided by the City. Contractor may not appraise (either directly, or as a review appraiser), act as a consultant, land agent or real estate agent regarding the same subject property:

(a) for another client whose interests are potentially adverse to the City.

(b) for a client planning to participate in the bidding process when the City sells or leases property.

(c) for an opposing party in litigation in which the City is a party or potential party.

ARTICLE VIII

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

8.02 Notice. 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:	**Contractor:**
City of College Station	Allen, Williford & Seale, Inc.
Attn: Mark McAuliffe	Attn: David R. Bethel
P.O. Box 9960	11999 Katy Freeway Suite 400
College Station, Texas 77842	Houston, TX 77079

8.03 Compliance 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.

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

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

8.06 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.

8.07 Prioritization. Contractor and City agree that City is a political subdivision of the State of Texas and is thus subject to certain laws. Because of this there may be documents or

portions thereof added by Contractor to this 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.

8.08 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.

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

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

8.11 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 Consultant herein verifies that it i) does not boycott energy companies; and ii) will not boycott energy companies during the term of this Contract.

Exhibits.

A. Scope of Work
B. Service Order
C. Certificates of Insurance

ALLEN, WILLIFORD & SEALE, INC.

By:

Printed Name: David R. Bethel

Title: Principal

Date: 11/20/2024

CITY OF COLLEGE STATION

By: _____
City Manager
Date: _____

APPROVED:

_____
City Attorney
Date: _____

_____
Assistant City Manager / CFO
Date: _____

Exhibit A
Scope of Work

RFQ 25-001 are fully incorporated into this contract by reference.

Exhibit B
Service Order

The Master Agreement 25300184 entered into by and between the City of College Station and Allen, Williford and Seale, Inc. 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:

ALLEN, WILLIFORD & SEALE, INC.	**CITY OF COLLEGE STATION**
By: David R. Bethel	By:
Printed Name: David R. Bethel	Printed Name:
Title: Principal	Title:
Date: 11/20/2024	Date:

Exhibit C
Fee Schedule Rate Report

Assignment fees shall be based on the Fee Schedule listed below. Payment shall be a fixed "not to exceed" amount as described in each Service Order. This amount shall be payable by the City pursuant to the terms of this Agreement and upon completion of the services and written acceptance by the City.

Fee Schedule per Report and with Discount for Multiple Parcels or Reports:

1. Commercial or industrial tract (whole)
    a. Commercial or industrial tract (partial taking)
        i. With damages
        ii. Without damages
    b. Urban or rural residential (whole)
    c. Urban or rural residential (partial taking)
        i. With damages
        ii. Without damages
    d. Mixed-use (whole)
    e. Mixed-use (partial taking)
        i. With damages
        ii. Without damages
    f. Multi-family improved (whole)
    g. Multi-family improved (partial taking)
        i. With damages
        ii. Without damages
    h. Flood plain (whole)

2. Hourly rate of each person in the Firm (i.e. Principal, Staff Appraiser, Secretary, etc.) for testimony and special assignments. Assignments paid based on hourly rates will be set per this fee schedule and will not be negotiated once incorporated into the Master Agreement.

3. **Please note that expenses for office supplies, copies, postage, cell phone usage, mileage, other travel related expenses, etc. shall not be chargeable to the City.**

Appraisal Fees - Allen, Williford & Seale, Inc.		
Property Type	**Fee (One Tract)**	**Discount for Multiple Tracts**
Commercial or Industrial Tract		
Whole	$7,000	10%-30%
Commercial or Industrial Tract		
Partial With Damages	$8,000	10%-30%
Partial Without Damages	$7,500	10%-30%
Urban or Rural Residential		
Whole	$4,500	10%-30%
Urban or Rural Residential		
Partial With Damages	$5,500	10%-30%
Partial Without Damages	$5,000	10%-30%
Mixed-Use		
Whole	$7,000	10%-30%
Mixed-Use		
Partial With Damages	$8,000	10%-30%
Partial Without Damages	$7,500	10%-30%
Multi-Family Improved		
Whole	$6,500	10%-30%
Multi-Family Improved		
Partial With Damages	$7,500	10%-30%
Partial Without Damages	$7,000	10%-30%
Flood Plain		
Whole	$4,000	10%-30%

AWS RATE SHEET

AWS appraisal, consulting, and expert witness fees are based on time and expenses. Appraisal services will be associated with inspection, data collection and report preparation. Litigation and support services will include expert witness testimony or any other litigation support that may be required. The hourly rates are as follows.

Description	Hourly Rate
Staff Appraiser	**$150.00**
State Certified Appraiser	**$200.00**
MAI/Senior Manager	**$250.00**
Principal	**$300.00**
Litigation	**$350.00**

In addition to our fees, we will bill appropriate expenses to include: exhibits, sales data, photographs, delivery, faxes, copying, documentation, travel and per diem. Expenses will be billed on actual expenditures.

January 1, 2024

Exhibit D
Certificates of Insurance

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 11/19/2024

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	CONTACT NAME: Cathy Crowe	
ARC Excess & Surplus, LLC 2205 Riverstone Boulevard, Suite 204 Canton, GA 30114	PHONE (A/C, No, Ext): 404-474-4301	FAX (A/C, No): 404-474-0226
	E-MAIL ADDRESS: ccrowe@arcxssouth.com	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : Arch Insurance Company	11150
INSURED Allen, Williford & Seale, Inc. 11999 Katy Freeway Suite 400 Houston TX 77079	INSURER B :	
	INSURER C :	
	INSURER D :	
	INSURER E :	
	INSURER F :	

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

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$
	☐ CLAIMS-MADE ☐ OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$
							MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$
	☐ POLICY ☐ PRO-JECT ☐ LOC						PRODUCTS - COMP/OP AGG	$
	OTHER:							$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$
	☐ ANY AUTO						BODILY INJURY (Per person)	$
	☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
	☐ UMBRELLA LIAB ☐ OCCUR						EACH OCCURRENCE	$
	☐ EXCESS LIAB ☐ CLAIMS-MADE						AGGREGATE	$
	☐ DED ☐ RETENTION $							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N						☐ PER STATUTE ☐ OTH-ER	
	ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? ☐	N / A					E.L. EACH ACCIDENT	$
	(Mandatory in NH)						E.L. DISEASE - EA EMPLOYEE	$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - POLICY LIMIT	$
A	Professional Liability (Claims Made)			SPL0065143-03	05/01/2024	05/01/2025	Each Claim	$1,000,000
							Aggregate	$1,000,000

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

COVERAGE IS STRICTLY SUBJECT TO ALL POLICY TERMS, LIMITS, CONDITIONS AND EXCLUSIONS

CERTIFICATE HOLDER

City of College Station
PO BOX 9960
College Station, Texas 77842

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

Todd Horwitz

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CERTIFICATE OF LIABILITY INSURANCE

Acct#: 1180410

DATE (MM/DD/YYYY): 08/23/2024

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 LOCKTON COMPANIES, LLC 3657 Briarpark Dr., Suite 700 Houston, TX 77042	**CONTACT NAME:** **PHONE (A/C, No, Ext):** 888-828-8365 **FAX (A/C, No):** **E-MAIL ADDRESS:** insperitycerts@locktonaffinity.com
	INSURER(S) AFFORDING COVERAGE / **NAIC #** **INSURER A :** Indemnity Insurance Company of North America / 43575
INSURED **ALLEN, WILLIFORD & SEALE, INC.** **11999 KATY FWY STE 400** **HOUSTON, TX 77079-1607**	**INSURER B :** **INSURER C :** **INSURER D :** **INSURER E :** **INSURER F :**

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

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☐ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC ☐ OTHER:						EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG 	$ $ $ $ $ $ $
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ ALL OWNED AUTOS ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ☐ NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) 	$ $ $ $ $
	UMBRELLA LIAB ☐ OCCUR **EXCESS LIAB** ☐ CLAIMS-MADE ☐ DED ☐ RETENTION $						EACH OCCURRENCE AGGREGATE 	$ $ $
A	**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		C7228401A	10/01/2024	10/01/2025	X PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ 1000000 $ 1000000 $ 1000000

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

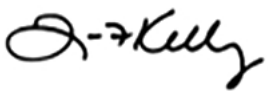
CERTIFICATE HOLDER

City of College Station
PO BOX 9960
College Station TX 77842

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



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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 05/06/2024

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	CONTACT NAME:	
Liberty Mutual Insurance PO BOX 188065 Fairfield OH 45018	PHONE (A/C, No, Ext): 800-962-7132	FAX (A/C, No): 800-845-3666
	E-MAIL ADDRESS: BusinessService@LibertyMutual.com	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : Ohio Security Insurance Company	24082
INSURED ALLEN WILLIFORD & SEALE INC 11999 Katy Fwy Ste 400 Houston TX 77079	INSURER B : The Ohio Casualty Insurance Company	24074
	INSURER C : The Ohio Casualty Insurance Company	24074
	INSURER D :	
	INSURER E :	
	INSURER F :	

COVERAGES **CERTIFICATE NUMBER:** 0353727421 **REVISION NUMBER:** 2016-03

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	[X] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS-MADE [X] OCCUR [X] Businessowners GEN'L AGGREGATE LIMIT APPLIES PER: [X] POLICY [X] PRO-JECT [X] LOC [ ] OTHER:	X	X	BZS57278934	05/07/2024	05/07/2025	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,000 $ 1,000,000 $ 15,000 $ 1,000,000 $ 2,000,000 $ 2,000,000
B	AUTOMOBILE LIABILITY [ ] ANY AUTO [ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS [X] HIRED AUTOS ONLY [X] NON-OWNED AUTOS ONLY			BAO57278934	05/07/2024	05/07/2025	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
C	[X] UMBRELLA LIAB [X] OCCUR [ ] EXCESS LIAB [ ] CLAIMS-MADE [ ] DED [X] RETENTION $ 10,000	X	X	USO57278934	05/07/2024	05/07/2025	EACH OCCURRENCE AGGREGATE	$ 5,000,000 $ 5,000,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N [N] (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A					[ ] PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ $ $

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

See DOO additional remarks

CERTIFICATE HOLDER

City of College Station
Po Box 9960
College Station TX 77842

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

Curtis Luken

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AGENCY CUSTOMER ID: 57278934

LOC #:

ADDITIONAL REMARKS SCHEDULE

AGENCY	NAMED INSURED
Liberty Mutual Insurance	ALLEN WILLIFORD & SEALE INC 11999 Katy Fwy Ste 400 Houston TX 77079
POLICY NUMBER	
BZS57278934	
CARRIER / **NAIC CODE**	
Ohio Security Insurance Company / 24082	**EFFECTIVE DATE:** 05/07/2024

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: 0025 **FORM TITLE:** 2016-03

City of College Station is Additional Insured if required by written contract or written agreement, subject to Businessowners Liability Extension, Blanket Additional Insured Provision per BP7996. This Policy is Primary and we will not ask for contribution of the Policy issued to the Additional Insured per BP1488. Waiver of Subrogation Applies per form BP0497. *30 Day Notice of Cancellation *10 Day Notice of Cancellation for Cancellation for Non-Payment of Premium per BP8945.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BUSINESSOWNERS LIABILITY EXTENSION ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

Below is a summarization of the coverages provided by this endorsement. No coverages are given by this summary. Actual coverage descriptions are within this endorsement.

SECTION	SUBJECT
A.	Supplementary Payments Bail Bonds Loss Of Earnings
B.	Broadened Coverage For Damage To Premises Rented To You
C.	Incidental Medical Malpractice Injury
D.	Mobile Equipment
E.	Blanket Additional Insured (Owners, Contractors Or Lessors)
F.	Newly Formed Or Acquired Organizations
G.	Aggregate Limits
H.	Duties In The Event Of Occurrence, Offense, Claim Or Suit
I.	Liability And Medical Expenses Definitions Bodily Injury Insured Contract Personal And Advertising Injury

Section II – Liability is amended as follows:

A. Supplementary Payments

Section **A.1. Business Liability** is modified as follows:

1. The $250 limit shown in Paragraph **A.1.f.(1)(b) Coverage Extension – Supplementary Payments** for the cost of bail bonds is replaced by a $3,000 limit.

2. The $250 limit shown in Paragraph **A.1.f.(1)(d) Coverage Extension – Supplementary Payments** for reasonable expenses and loss of earnings is replaced by a $500 limit.

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B. Broadened Coverage For Damage To Premises Rented To You

1. The last paragraph of Section **B.1. Exclusions – Applicable To Business Liability Coverage** is replaced by the following:

With respect to the premises which are rented to you or temporarily occupied by you with the permission of the owner, Exclusions **c., d., e., g., h., k., l., m., n.** and **o.** do not apply to "property damage".

2. Paragraph **D.2. Liability And Medical Expenses Limits Of Insurance** is replaced by the following:

The most we will pay under this endorsement for the sum of all damages because of all "property damage" to premises while rented to you or temporarily occupied by you with the permission of the owner is the Limit of Insurance shown in the Declarations.

3. Paragraph **D.3. Liability And Medical Expenses Limits Of Insurance** does not apply.

C. Incidental Medical Malpractice Injury

1. Paragraph **(4)** under Paragraph **B.1.j. Exclusions – Applicable To Business Liability Coverage – Professional Services** does not apply to "Incidental Medical Malpractice Injury" coverage.

2. With respect to this endorsement, the following is added to Section **F. Liability And Medical Expenses Definitions**:

a. "Incidental Medical Malpractice Injury" means bodily injury arising out of the rendering of or failure to render, during the policy period, the following services:

(1) Medical, surgical, dental, x-ray or nursing service or treatment or the furnishing of food or beverages in connection therewith; or

(2) The furnishing or dispensing of drugs or medical, dental or surgical supplies or appliances.

b. This coverage does not apply to:

(1) Expenses incurred by the insured for first-aid to others at the time of an accident and the Duties in the Event of Occurrence, Offense, Claim or Suit Condition is amended accordingly.

(2) Any insured engaged in the business or occupation of providing any of the services described under **a.** above.

(3) Injury caused by any indemnitee if such indemnitee is engaged in the business or occupation of providing any of the services described under **a.** above.

D. Mobile Equipment

Section **C. Who Is An Insured** is amended to include any person driving "mobile equipment" with your permission.

E. Blanket Additional Insured (Owners, Contractors Or Lessors)

1. Section **C. Who Is An Insured** is amended to include as an insured any person or organization whom you are required to name as an additional insured on this policy under a written contract or written agreement. The written contract or agreement must be:

a. Currently in effect or becoming effective during the term of this policy; and

b. Executed prior to the "bodily injury", "property damage", or "personal and advertising injury".

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2. The insurance afforded to the additional insured is limited as follows:

a. The person or organization is only an additional insured with respect to liability arising out of:

(1) Real property, as described in a written contract or written agreement, you own, rent, lease, maintain or occupy; and

(2) Caused in whole or in part by your ongoing operations performed for that insured.

b. The Limit of Insurance applicable to the additional insured are those specified in the written contract or written agreement or the limits available under this policy, as stated in the Declarations, whichever are less. These limits are inclusive of and not in addition to the Limit of Insurance available under this policy.

c. The insurance afforded to the additional insured does not apply to:

(1) Liability arising out of the sole negligence of the additional insured;

(2) "Bodily injury", "property damage", "personal and advertising injury", or defense coverage under the Supplementary Payments section of the policy arising out of an architect's, engineer's or surveyor's rendering of or failure to render any professional services including:

(a) The preparing or approving of maps, shop drawings, opinions, reports, surveys, field orders, change orders, or drawings and specifications; and

(b) Supervisory, inspection, architectural or engineering activities.

(3) Any "occurrence" that takes place after you cease to be a tenant in the premises described in the Declarations; or

(4) Structural alterations, new construction or demolition operations performed by or for the person or organization designated in the Declarations.

3. Any coverage provided hereunder shall be excess over any other valid and collectible insurance available to the additional insured whether primary, excess, contingent or on any other basis unless a contract specifically requires that this insurance be primary or you request that it apply on a primary basis.

F. Newly Formed Or Acquired Organizations

The following is added to Section **C. Who Is An Insured**:

Any business entity acquired by you or incorporated or organized by you under the laws of any individual state of the United States of America over which you maintain majority ownership interest exceeding fifty percent. Such acquired or newly formed organization will qualify as a Named Insured if there is no similar insurance available to that entity. However:

1. Coverage under this provision is afforded only until the 180th day after the entity was acquired or incorporated or organized by you or the end of the policy period, whichever is earlier;

2. Section **A.1. Business Liability** does not apply to:

a. "Bodily injury" or "property damage" that occurred before the entity was acquired or incorporated or organized by you; and

b. "Personal and advertising injury" arising out of an offense committed before the entity was acquired or incorporated or organized by you.

3. Records and descriptions of operations must be maintained by the first Named Insured.

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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.

G. Aggregate Limits

The following is added to Paragraph **D.4. Aggregate Limits** Liability and Medical Expenses Limits Of Insurance:

1. The Aggregate Limits apply separately to each of the "locations" owned by or rented to you or temporarily occupied by you with the permission of the owner.

2. The Aggregate Limits also apply separately to each of your projects away from premises owned by or rented to you.

For the purpose of this endorsement only, "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.

H. Duties In The Event Of Occurrence, Offense, Claim Or Suit

1. Paragraph **E.2.a. Duties In The Event Of Occurrence, Offense, Claim Or Suit** Liability And Medical Expenses General Condition applies only when the "occurrence" is known to any insured listed in Paragraph **C.1. Who Is An Insured** or any "employee" authorized by you to give or receive notice of an "occurrence" or claim.

2. Paragraph **E.2.b. Duties In The Event Of Occurrence, Offense, Claim Or Suit** Liability And Medical Expenses General Condition will not be considered breached unless the breach occurs after such claim or "suit" is known to any insured listed under Paragraph **C.1. Who Is An Insured** or any "employee" authorized by you to give or receive notice of an "occurrence" or claim.

I. Section **F. Liability And Medical Expenses Definitions** is modified as follows:

1. Paragraph **F.3.** is replaced by the following:

3. "Bodily Injury" means bodily injury, sickness, disease, or incidental medical malpractice injury sustained by a person, and includes mental anguish resulting from any of these; and including death resulting from any of these at any time.

2. Paragraph **F.9.** is replaced by the following:

9. "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 damage by fire 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;

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f. That part of any other contract or agreement pertaining to your business (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" or "property damage" to a third person or organization, provided the "bodily injury" or "property damage" is caused, in whole or in part, by you or by those acting on your behalf. However, such part of a contract or agreement shall only be considered an "insured contract" to the extent your assumption of the tort liability is permitted by law. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph **f.** does not include that part of any contract or agreement:

(1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing;

(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; or

(3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in **(2)** above and supervisory, inspection, architectural or engineering activities.

3. Paragraph **F.14.b. Personal And Advertising Injury** is replaced by the following:

b. Malicious prosecution or abuse of process;

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NONCONTRIBUTORY – OTHER INSURANCE CONDITION

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

The following is added to Paragraph **H. Other Insurance** of **Section III – Common Policy Conditions** 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.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE*

Name Of Person Or Organization:
City of College Station
PO Box 9960,College Station TX 77842

Paragraph **K. Transfer Of Rights Of Recovery Against Others To Us in Section III - Common Policy Conditions** is amended by the addition of the following:

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

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

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

1. Name: City of College Station
2. Mailing Address or Email Address: PO Box 9960, College Station TX 77842.
3. Number of Days Advance Notice: 30
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The following is added to **Section III – Common Policy Conditions**:

A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule above. In no event will the notice to the person or organization scheduled above exceed the notice to the first named insured.

B. Our obligation to send notice to the person or organization listed in the Schedule above will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

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CONTRACT & AGREEMENT ROUTING FORM

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

CONTRACT#: 25300185 PROJECT#: n/a BID/RFP/RFQ#: 25-001

Project Name / Contract Description: Real Estate Appraisal Services - Master Agreement

One of four agreements to prepare real estate appraisal reports and provide real estate consulting services for the City.

Name of Contractor: Integra Realty Resources - Fort Worth, LLC

CONTRACT TOTAL VALUE: $ 60,000.00

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

Debarment Check ☐ Yes ☐ No ■ N/A
Section 3 Plan Incl. ☐ Yes ☐ No ■ N/A

Davis Bacon Wages Used ☐ Yes ☐ No ■ N/A
Buy America Required ☐ Yes ☐ No ■ N/A
Transparency Report ☐ Yes ☐ No ■ N/A

■ **NEW CONTRACT** ☐ **RENEWAL #** _____ ☐ **CHANGE ORDER #** _____ ☐ **OTHER** _____

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

As a result of a Request for Qualifications for Professional Real Estate Appraisal Services, four firms have been selected to prepare real estate appraisal reports and provide real estate consulting services for the City. Each of the four master agreements will have a not to exceed amount of $60,000. Funds are budgeted within various project accounts. In the case of land purchases (including right-of-way and easements) for capital projects, the funds are budgeted as part of the capital projects.

*(If required)**

CRC Approval Date*: _____ **Council Approval Date*:** 12/12/24 **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 — 12/5/2024
DEPARTMENT DIRECTOR/ADMINISTERING CONTRACT — DATE

_____ — _____
LEGAL DEPARTMENT — DATE

_____ — _____
ASST CITY MGR – CFO — DATE

APPROVED & EXECUTED

_____ — _____
CITY MANAGER — DATE

n/a — _____
MAYOR (if applicable) — DATE

n/a — _____
CITY SECRETARY (if applicable) — DATE

__Original(s) sent to CSO on _____ Scanned into Laserfiche on _____ ____Original(s) sent to Fiscal on _____

MASTER AGREEMENT
REAL ESTATE APPRAISAL SERVICES

This Master Agreement is by and between the **City of College Station**, a Texas Home-Rule Municipal Corporation (the "City") and Integra Realty Resources-Fort Worth, LLC, (the "Contractor"), whereby Contractor agrees to perform professional real estate appraisal 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 Real Estate Appraisal Services described more fully in Contractor's response to RFQ No.25-001 as set forth in **Exhibit "A"**. The scope and details of the work to be provided to the City by Contractor are in each Service Order, a form of which is 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 Contractor under this Agreement may be authorized by the Project Manager in various phases as set forth in a service order similar in substantially the form as attached hereto as **Exhibit "B"**.

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. The invoices shall be submitted to the City upon satisfactory completion of all work specified in the Service Order which, unless expressly provided for otherwise by the City, shall be upon submittal of the final approved appraisal report(s). 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 Agreement shall not exceed Sixty Thousand and No/100 Dollars ($60,000.00). There is no minimum amount to be paid by the City to the Contractor under this Agreement.

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 Agreement, 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) **City Manager Approval.** When the original Agreement 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 Agreement to more than $100,000. For such contracts, when a change order results in a total Agreement amount that exceeds $100,000, the City Council of the City must approve such change order prior to commencement of the services or work.

(b) **City Council Approval.** When the original Agreement 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. For such Agreements, when a change order exceeds $50,000, the City Council of the City must approve such change order prior to commencement of the services or work. The sum of all change orders may not exceed 25% of the original Agreement amount.

(c) **Increase in Scope.** Any request by the Contractor for an increase in the Scope of Services and an increase in the amount named in Article I of this Agreement 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.

(d) **Dispute.** 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 Agreement, 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. This Agreement will go into effect be effective when duly approved by the parties hereto except as provided in Article VI herein below. The original term shall be for one (1) year. After the original term, with the written mutual consent of both parties, including budget approval by the City, this Agreement may be renewed on an annual basis, under the same terms and conditions, for up to **two (2) additional years for a total of three (3) years**. If, for any reason, funds are not appropriated to continue the Agreement, the Agreement shall become null and void and shall terminate.

1.07 Performance. 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. The work of Contractor under this Agreement may be authorized by the Project Manager in various phases as set forth in **Exhibit "B"**.

1.08 Independent Contractor. 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 on the Project. 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. Contractor shall be liable for any misrepresentations.

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 Agreement 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; documenting study assumptions and methodologies; devising the format for any interim reports and the final report to the City.

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 Agreement, 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 Agreement, 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 Agreement. Approval or acceptance by the City of any of Contractor's work product under this Agreement 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 Agreement; 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 Agreement, 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 Agreement. Such indemnity shall apply regardless of whether the claims, losses, damages, causes of action, suits, or liability arise in whole or in part from the negligence of the City, any other party indemnified hereunder, the Contractor, or any third party. 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 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, limits and endorsements required are as set forth below:

5.02 Types. During the term of this Agreement Contractor'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.

5.03 Certificate of Insurance. For each of these policies, the Contractor's insurance coverage shall be 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 Contractor's insurance and shall not contribute to it. No term or provision of the indemnification provided by the Contractor to the City pursuant to this Agreement 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 Agreement, attached hereto as **Exhibit "C"**, and approved by the City *before* work commences.

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

(a) Only insurance carriers licensed and 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 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 company or its authorized agent on the most current State of Texas Department of Insurance-approved forms.

(f) The City of College Station, its officials, agents, employees, and volunteers are to be named 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, employees, and volunteers.

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 Combined Single Limit of $500,000 per occurrence per project for bodily injury and property damage with a $1,000,000 annual aggregate limit.

(c) Coverage shall be at least as broad as Insurance Service's Office Number CG 00 01.

(d) No coverage shall be excluded from the standard policy without notification of individual exclusions being attached for review and acceptance.

(e) The coverage shall include but not be limited to premises/operations; independent Agreements; products/completed operations; and contractual liability (insuring the indemnity provided herein

(f) The City shall be listed as Additional Insured, and the policy shall be endorsed to waive rights of subrogation, to be primary and non-contributory with regard to any self-insurance or insurance policy held by the City.

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, leased or rented autos, non-owned autos, any autos and hired autos.

5.07 Workers' Compensation/Employer's Liability Insurance requirements. Workers' Compensation/Employer's Liability insurance shall include the following terms:

(a) Employer's Liability limits of $1,000,000 for each accident are required.

(b) "Texas Waiver of Our Right to Recover From Others Endorsement, WC 42 03 04" shall be included in this policy.

(c) Texas must appear in Item 3A of the 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.

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 occurrence and $1,000,000 aggregate, with a maximum deductible of $100,000.00. Financial statements shall be furnished to the City upon request

(c) Contractor 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 Agreement, 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 Agreement 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.

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 Agreement 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 Agreement shall be construed to relieve the Contractor of liability to the City for damages sustained by the City or because of any breach of Agreement 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 Conflict of Interest. This Article 7 shall survive the termination or expiration of this Agreement until a written release has been provided by the City. Contractor may not appraise (either directly, or as a review appraiser), act as a consultant, land agent or real estate agent regarding the same subject property:

(a) for another client whose interests are potentially adverse to the City.

(b) for a client planning to participate in the bidding process when the City sells or leases property.

(c) for an opposing party in litigation in which the City is a party or potential party.

ARTICLE VIII

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

8.02 Notice. 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: Mark McAuliffe
P.O. Box 9960
College Station, Texas 77842

Contractor:
Integra Realty Resources-
Fort Worth, LLC
Attn: Brent Pitts
7080 Camp Bowie Blvd
Fort Worth, Texas 776116

8.03 Compliance 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.

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

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

8.06 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.

8.07 Prioritization. Contractor and City agree that City is a political subdivision of the State of Texas and is thus subject to certain laws. Because of this there may be documents or

portions thereof added by Contractor to this 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.

8.08 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.

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

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

8.11 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 Consultant herein verifies that it i) does not boycott energy companies; and ii) will not boycott energy companies during the term of this Contract.

Exhibits.

A. Scope of Work
B. Service Order
C. Fee Schedule
D. Certificate of Insurance

INTEGRA REALTY RESOURCES-FORT WORTH, LLC

By: Brent Pitts

Printed Name: Brent Pitts

Title: Managing Director

Date: 12/5/2024

CITY OF COLLEGE STATION

By: _____
City Manager
Date: _____

APPROVED:

_____
City Attorney
Date: _____

_____
Assistant City Manager / CFO
Date: _____

Exhibit A
Scope of Work

RFQ 25-001, is incorporated by reference into this contract.

Exhibit B
Service Order

The Master Agreement _____ entered into by and between the City of College Station and _____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:

CITY OF COLLEGE STATION

By:_____ By:_____

Printed Name:_____ Printed Name:_____

Title:_____ Title:_____

Date:_____ Date:_____

Exhibit C
Fee Schedule Rate Report

Assignment fees shall be based on the Fee Schedule listed below. Payment shall be a fixed "not to exceed" amount as described in each Service Order. This amount shall be payable by the City pursuant to the terms of this Agreement and upon completion of the services and written acceptance by the City.

Fee Schedule per Report and with Discount for Multiple Parcels or Reports:

1. Commercial or industrial tract (whole)
    a. Commercial or industrial tract (partial taking)
        i. With damages
        ii. Without damages
    b. Urban or rural residential (whole)
    c. Urban or rural residential (partial taking)
        i. With damages
        ii. Without damages
    d. Mixed-use (whole)
    e. Mixed-use (partial taking)
        i. With damages
        ii. Without damages
    f. Multi-family improved (whole)
    g. Multi-family improved (partial taking)
        i. With damages
        ii. Without damages
    h. Flood plain (whole)

2. Hourly rate of each person in the Firm (i.e. Principal, Staff Appraiser, Secretary, etc.) for testimony and special assignments. Assignments paid based on hourly rates will be set per this fee schedule and will not be negotiated once incorporated into the Master Agreement.

3. **Please note that expenses for office supplies, copies, postage, cell phone usage, mileage, other travel related expenses, etc. shall not be chargeable to the City.**

Fee Schedule	Single Parcel	Multiple Parcels (Each)
Commercial / Industrial Tracts		
Whole	$4,000	$3,500
Partial (Damages)	$4,000	$3,500
Partial (No Damages)	$3,000	$2,500
Urban / Rural Residential		
Whole	$3,500	$3,000
Partial (Damages)	$3,500	$3,000
Partial (No Damages)	$2,500	$2,000
Mixed-Use		
Whole	$4,000	$3,500
Partial (Damages)	$4,000	$3,500
Partial (No Damages)	$3,000	$2,500
Multi-Family Improved		
Whole	$4,500	$4,000
Partial (Damages)	$4,500	$4,000
Partial (No Damages)	$3,000	$2,500
Flood Plain		
Whole	$2,500	$2,000

Hourly Rates		**Personnel**
Senior Managing Director	$250	Jason Jackson, MAI
Managing Director	$250	Brent Pitts, MAI, AI-GRS, R/W-AC
Senior Director	$250	Trevor Vallejo, MAI
		David Brooks, Cale Dodson, Caitlin Duncan, Mitch Etter, Andrew Everett, Parker Grudt, Janet Kiker, Laura
Associate Director	$200	Williams, Reed Simpson
Analyst	$150	Leanna Fair, Josh Ramirez, Ben Thomas
Office Manager	$75	Lyndsey Williams

Exhibit D
Certificates of Insurance

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 11/19/2024

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 Higginbotham Insurance Agency, Inc. 500 W. 13th Street Fort Worth TX 76102 License#: 2081754	**CONTACT NAME:** Alicia Berry **PHONE (A/C, No, Ext):** 817-347-6955 **FAX (A/C, No):** 817-347-6981 **E-MAIL ADDRESS:** aberry@higginbotham.net
INSURED Integra Realty Resources-FW, LLC 7080 Camp Bowie Blvd Fort Worth TX 76116 INTEREA-04	**INSURER(S) AFFORDING COVERAGE** — **NAIC #** **INSURER A :** Hartford Underwriters Insurance Company — 30104 **INSURER B :** Nautilus Insurance Company — 17370 **INSURER C :** Hartford Fire Insurance Company — 19682 **INSURER D :** **INSURER E :** **INSURER F :**

COVERAGES **CERTIFICATE NUMBER:** 649447230 **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	X **COMMERCIAL GENERAL LIABILITY** [ ] CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY [ ] PRO-JECT [ ] LOC [ ] OTHER:			46SBMAY1M0L	6/23/2024	6/23/2025	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG 	$ 1,000,000 $ 1,000,000 $ 10,000 $ 1,000,000 $ 2,000,000 $ 2,000,000 $
	AUTOMOBILE LIABILITY [ ] ANY AUTO [ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS [ ] HIRED AUTOS ONLY [ ] NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) 	$ $ $ $ $
B	[ ] **UMBRELLA LIAB** X OCCUR X **EXCESS LIAB** [ ] CLAIMS-MADE [ ] DED [ ] RETENTION $			AN1314993	6/23/2024	6/23/2025	EACH OCCURRENCE AGGREGATE 	$ 2,000,000 $ 2,000,000 $
C	**WORKERS COMPENSATION AND EMPLOYERS' LIABILITY** Y / N ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? [ ] **(Mandatory in NH)** If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		46WECAY2YRV	6/23/2024	6/23/2025	X PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ 1,000,000 $ 1,000,000 $ 1,000,000

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

The General Liability policy include a blanket automatic additional insured endorsement that provides additional insured status and a blanket waiver of subrogation endorsement to the certificate holder only when there is a written contract that requires such status.

The General Liability policy has a blanket Primary & Non-Contributory endorsement that affords that coverage to certificate holders only where there is a written contract that requires such status.

The Excess policy follows form.

See Attached...

CERTIFICATE HOLDER

City of College Station
PO Box 9960
College TX 77842

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

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AGENCY CUSTOMER ID: INTEREA-04

LOC #:

ADDITIONAL REMARKS SCHEDULE

AGENCY	NAMED INSURED
Higginbotham Insurance Agency, Inc.	Integra Realty Resources-FW, LLC 7080 Camp Bowie Blvd Fort Worth TX 76116
POLICY NUMBER	
CARRIER / NAIC CODE	EFFECTIVE DATE:

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: 25 **FORM TITLE:** CERTIFICATE OF LIABILITY INSURANCE

Certificate holder is complete to include: The City of College Station, its officials, agents, employees, and volunteers

The General Liability and Workers Comp policies includes an endorsement providing that 30 days notice of cancellation will be furnished to the certificate holder.

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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 11/18/2024

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	CONTACT NAME: Rachel Beane	
Cordell & Company Insurance Agency	PHONE (A/C, No, Ext): (817) 924-4236	FAX (A/C, No): (817) 921-0170
P O Box 12129	E-MAIL ADDRESS: Rachel@cordellinsurance.com	
Fort Worth TX 76110-8129	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : Mercury Insurance Group	16810
INSURED	INSURER B :	
Intergra Realty Resources	INSURER C :	
7080 Camp Bowie Blvd	INSURER D :	
	INSURER E :	
Fort Worth TX 76116	INSURER F :	

COVERAGES **CERTIFICATE NUMBER:** Master 24-25 **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	
	COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$
	☐ CLAIMS-MADE ☐ OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$
							MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$
	☐ POLICY ☐ PRO-JECT ☐ LOC						PRODUCTS - COMP/OP AGG	$
	☐ OTHER:							$
A	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$ 500,000
	☐ ANY AUTO						BODILY INJURY (Per person)	$
	☐ OWNED AUTOS ONLY ☒ SCHEDULED AUTOS			BA420000019602	03/01/2024	03/01/2025	BODILY INJURY (Per accident)	$
	☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
	☒ 19						Uninsured motorist	$ 500,000
	☐ UMBRELLA LIAB ☐ OCCUR						EACH OCCURRENCE	$
	☐ EXCESS LIAB ☐ CLAIMS-MADE						AGGREGATE	$
	☐ DED ☐ RETENTION $							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N						☐ PER STATUTE ☐ OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? ☐ (Mandatory in NH)	N / A					E.L. EACH ACCIDENT	$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$

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

The City of College Station, its officials, agents, employees, and volunteers are included as additional insured for Commercial Auto Liability as their interests may appear and if required by written contract according to policy terms, conditions and exclusions.

CERTIFICATE HOLDER

City of College Station
PO Box 9960
College Station TX 77842

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

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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 11/19/2024

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

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

PRODUCER Arthur J. Gallagher Risk Management Services, LLC 500 N Brand Boulevard, Suite 100 Glendale CA 91203 License#: 0D69293	**CONTACT NAME:** Armineh Hovanesian **PHONE (A/C, No, Ext):** 818-539-2300 **FAX (A/C, No):** 818-539-1804 **E-MAIL ADDRESS:** LARealEstateCerts@ajg.com
INSURED Integra Realty Resources - Fort Worth, LLC 7080 Camp Bowie Boulevard Fort Worth, TX 76116 INTEREA-03	**INSURER(S) AFFORDING COVERAGE** / **NAIC #** **INSURER A :** Underwriters at Lloyd's, London — 32727 **INSURER B :** Bridgeway Insurance Company — 12489 **INSURER C :** **INSURER D :** **INSURER E :** **INSURER F :**

COVERAGES **CERTIFICATE NUMBER:** 1395473752 **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	
	COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☐ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC ☐ OTHER:						EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ $ $ $ $ $
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ $ $ $
	UMBRELLA LIAB ☐ OCCUR **EXCESS LIAB** ☐ CLAIMS-MADE ☐ DED ☐ RETENTION $						EACH OCCURRENCE AGGREGATE	$ $
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? ☐ **(Mandatory in NH)** If yes, describe under DESCRIPTION OF OPERATIONS below	N / A					☐ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ $ $
B A	Errors & Omissions *Prof Liab Ded Reimbursement	Y Y	Y Y	8GA7PL0002040-02 PRFDR 46-APP200-30692-201	3/14/2024 3/14/2024	3/14/2025 3/14/2025	Each Claim/Aggregate Each Claim/Aggregate*	$2M / $10M $150,000

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

RE: 7080 Camp Bowie Boulevard, Fort Worth, TX 76116 - Evidence only.

*Policy is subject to $25,000 Self Insured Retention/Deductible payable by local office.
This certificate of insurance is not a policy of insurance and does not affirmatively or negatively amend, extend or alter the coverage afforded by the policy to which the certificate of insurance makes reference.

Additional Insured status as required by written contract.

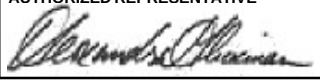
CERTIFICATE HOLDER

City of College Station
PO Box 9960
College TX 77842

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



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December 12, 2024
Item No. 7.10.
2000 kVA Pad Mount Transformers for Wells Project

Sponsor: Jennifer Cain, Director Capital Projects

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action on the purchase of three 2000 kVA Pad Mount Transformers for $245,082 from KBS Electrical Distributors Inc. for the Water Wells 10,11,12 and Collection Project.

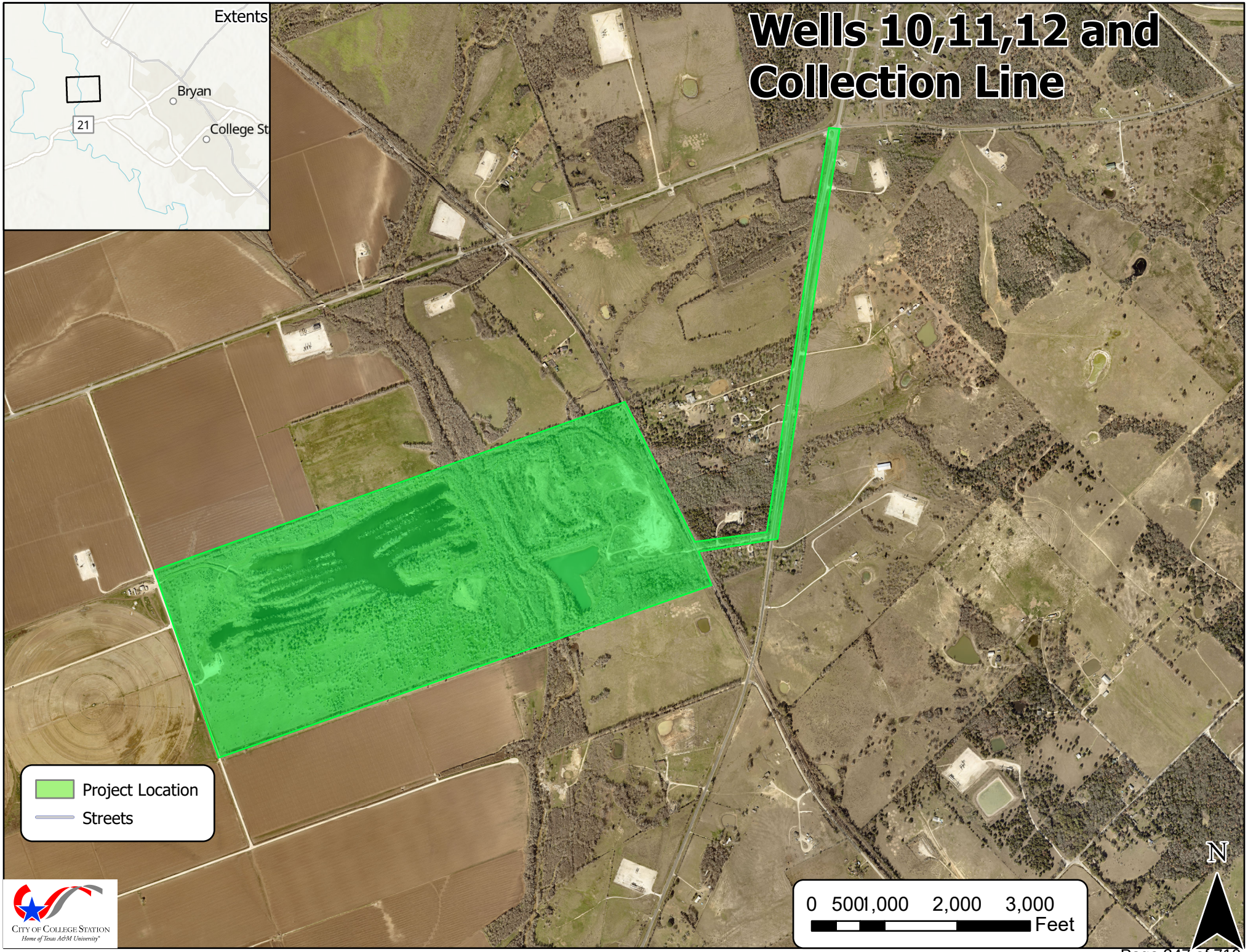
Relationship to Strategic Goals:
Core Services and Infrastructure

Recommendation(s): Staff recommends approval.

Summary: The City is purchasing pad mounted electrical transformers for Water Wells 10,11, and 12. The bid for the transformers was put out by CSU but will be paid using Water Well project funds. These are typically long lead time items and the City is trying to avoid delays in construction.

Budget & Financial Summary: A combined budget of $69,300,000 is available in the Water Capital Improvement Projects Fund. A combined total of $8,442,020 has been expended or committed to date, leaving a combined balance of $60,857,980 for this contract and future expenses.

Attachments:
1. Wells 10,11,12 and Collection Line Map
2. Wells 10,11,12 Transformers 25-009 AWARD


Wells 10,11,12 and Collection Line
Extents
Bryan
College St
21
Project Location
Streets
0 500 1,000 2,000 3,000
Feet
N
City of College Station
Home of Texas A&M University®

BID#25-009 AWARD
2000 kVA TRansformers for Well Projects

Line #	Description	Voltage	QTY	UOM	Sunbelt Solomon Svcs LLC		KBS ELECTRICAL DIST.		JAFAR PRO LLC		Texas Electric Coop		TransFluid Svcs, Inc.	
	2000 kVA Pad-Mounted Transformer	4160	3	EA	Unit	Extended	Unit	Extended	Unit	Extended	Unit	Extended	Unit	Extended
					$80,400.00	$241,200.00	$81,694.00	$245,082.00	$88,295.00	$264,885.00	$100,091.25	$300,273.75	$100,250.00	$300,750.00
					Total Price	$241,200.00	Total Price	$245,082.00	Total Price	$264,885.00	Total Price	$300,273.75	Total Price	$300,750.00

Line #	Description	Voltage	QTY	UOM	MP Predictive Technologies Inc.		ECB Solutions LLC		Blackstar Diversified Enterprises		EHV Solutions, LLC.		Expanse Electrical Co.	
	2000 kVA Pad-Mounted Transformer	4160	3	EA	Unit	Extended	Unit	Extended	Unit	Extended	Unit	Extended	Unit	Extended
					$110,000.00	$330,000.00	$116,000.00	$348,000.00	$125,406.00	$376,218.00	$128,835.00	$386,505.00	$146,005.00	$438,015.00
					Total Price	$330,000.00	Total Price	$348,000.00	Total Price	$376,218.00	Total Price	$386,505.00	Total Price	$438,015.00

Line #	Description	Voltage	QTY	UOM	Techline, Inc.		NuVolt Group LLC		Larson Electronics LLC		Technology Intl, Inc.	
	2000 kVA Pad-Mounted Transformer	4160	3	EA	Unit	Extended	Unit	Extended	Unit	Extended	Unit	Extended
					$156,500.00	$469,500.00	$165,000.00	$495,000.00	$229,915.27	$689,745.81	$264,971.00	$794,913.00
					Total Price	$469,500.00	Total Price	$495,000.00	Total Price	$689,745.81	Total Price	$794,913.00

December 12, 2024
Item No. 7.11.
Foster Avenue Sidewalk Improvements

Sponsor: Debbie Eller, Director of Community Services

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 $292,307.40 in Community Development Block Grant funds for construction services for the sidewalk improvement on Foster Avenue between Walton Drive and Francis Drive and between Gilchrist Avenue and George Bush Drive East. Approval of this item grants authority for the City Manager to authorize expenditures up to the City's contingency amount.

Relationship to Strategic Goals:
Core Services and Infrastructure

Recommendation(s): Staff recommends approval of this contract.

Summary: This project involves the construction of sidewalks on Foster Avenue to include segments from Walton Drive to Francis Drive and from Gilchrist Avenue to George Bush Drive East. The Bicycle, Pedestrian, and Greenways Master Plan identified these proposed sidewalk improvements as a higher priority. Community Development Block Grant funds were available for this sidewalk improvement project. These segments are highly used routes for pedestrians and bicyclists and the sidewalk improvements will enhance safety and usability. These segments are approximately 0.24 miles and 0.15 miles in length. This project will aid in the flow of foot traffic within a Low-to-Moderate Income Census Tract and better connect these communities to vital infrastructure along Texas Avenue.

Four bids were received in response to Request for Proposal #25-006. The lowest bid was withdrawn by the contractor. Larry Young Paving, Inc. was the next lowest responsible bidder. Construction is expected to take approximately 90 - 120 days.

Budget & Financial Summary: Community Development Block Grant funds in the amount of $290,307.40 are available in the Community Development fund.

Attachments:
1. Foster Avenue Location Map
2. Bid Tabulation 25-006
3. 25300173 Larry Young Pacing, Inc. (1)

Foster Avenue Rehabilitation Sites
HARRINGTON AVENUE
FRANCIS DRIVE
WALTON DRIVE
BROOKS AVENUE
GILCHRIST AVENUE
JAMES PARKWAY
PURYEAR DRIVE
MILNER DRIVE
BOLTON AVENUE
FOSTER AVENUE
TEXAS AVENUE
SOUTH TEXAS STREET
MOSS STREET
GEORGE BUSH DRIVE EAST
KYLE AVENUE
DOMINIK DRIVE
UNIVERSITY OAKS BOULEVARD
Legend
Foster Avenue Rehabilitation Sites

CITY OF COLLEGE STATION
BID TABULATION #25-006
FOSTER AVENUE SIDEWALK IMPROVEMENTS
Bid Opening: Tuesday, November 5, 2024 @ 2:00 pm CT

				Brazos Valley L4 LLC (North Zulch, TX)		Norman Construction Services LLC (Wellborn, TX)		Larry Young Paving, Inc. (College Station, TX)		Palomares Construction Inc. (Bryan, TX)	
Item No.	Description	Quantity	Unit	Unit Price	Total	Unit Price	Total	Unit Price	Total	Unit Price	Total
General Items											
1	Mobilization and Overhead; including, but not limited to set-up, project overhead, construction staking, and any other related items pertinent to the completion of the project not included in other bid items.	1	LS	$ 31,000.00	$ 31,000.00	$ 33,020.00	$ 33,020.00	$ 17,000.00	$ 17,000.00	**$ 2,000.00**	**$ 2,000.00**
2	Erosion and Sedimentation Control, including check dams, gravel filter bags, NOI, NOT, Storm Water Pollution Prevention Plan, Inspection Reports, etc. Item includes installation, maintenance and removal. Complete and in place.	1	LS	$ 5,000.00	$ 5,000.00	$ 12,250.00	$ 12,250.00	$ 9,400.00	$ 9,400.00	$ 1,000.00	$ 1,000.00
3	Traffic Control, including all necessary signage and personnel to execute traffic control procedures. Complete and in place.	1	LS	$ 50,000.00	$ 50,000.00	$ 18,250.00	$ 18,250.00	$ 9,000.00	$ 9,000.00	$ 3,000.00	$ 3,000.00
			General Items Sub-Total		$ 86,000.00		$ 63,520.00		$ 35,400.00		**$ 6,000.00**
Demolition											
4	Neatly Sawcut, Demolish, Remove, & Properly Dispose of Existing Concrete Pavement, All Thicknesses. Contractor to provide all required materials and labor.	3,096	SF	$ 7.00	$ 21,672.00	$ 8.00	$ 24,768.00	$ 2.40	$ 7,430.40	$ 5.00	$ 15,480.00
5	Neatly Sawcut, Demolish, Remove, & Properly Dispose of Existing Croncrete Curb and Gutter. Contractor to provide all requried materials and labor.	82	LF	$ 25.00	$ 2,050.00	$ 15.00	$ 1,230.00	$ 11.75	$ 963.50	$ 20.00	$ 1,640.00
6	Neatly Sawcut, Demolish, Remove, & Properly Dispose of Existing Sidewalk, All Thicknesses. Contractor to provide all required materials and labor.	108	SF	$ 10.00	$ 1,080.00	$ 5.00	$ 540.00	$ 2.50	$ 270.00	$ 9.00	$ 972.00
7	Relocation of Landscape Boulders (24" - 30" Diameter). Contractor to provide all required materials and labor.	3	EA	$ 500.00	$ 1,500.00	$ 200.00	$ 600.00	$ 490.00	$ 1,470.00	$ 150.00	$ 450.00
8	Tree Trimming up to 14' in height. Contractor to provide all required materials and labor.	3	EA	$ 1,000.00	$ 3,000.00	$ 4,500.00	$ 13,500.00	$ 750.00	$ 2,250.00	$ 200.00	$ 600.00
9	Remove Existing Mailbox, Post, and Footing. Contractor to provide all required materials and labor.	10	EA	$ 500.00	$ 5,000.00	$ 400.00	$ 4,000.00	$ 295.00	$ 2,950.00	$ 100.00	$ 1,000.00
10	Tree Removal, and Stump Grinding. Contractor to coordinate with City Utilities Director. Contractor to provide all required materials and labor.	6	EA	$ 500.00	$ 3,000.00	$ 6,500.00	$ 39,000.00	$ 1,100.00	$ 6,600.00	$ 500.00	$ 3,000.00
11	Demolition and Removal of Landscape Pavers to include any spoils removal.	3	EA	$ 1,000.00	$ 3,000.00	$ 500.00	$ 1,500.00	$ 250.00	$ 750.00	$ 100.00	$ 300.00
			Demolition Sub-Total		$ 40,302.00		$ 85,138.00		$ 22,683.90		$ 23,442.00
12	Furnish and Install 4" Thick Reinforced Concreete Sidewalk. Complete and in place. Contractor to provide all required materials and labor including subgrade preparation.	11810	SF	$ 7.00	$ 82,670.00	$ 8.00	$ 94,480.00	$ 8.60	$ 101,566.00	$ 11.00	$ 129,910.00
13	Furnish and Install 6" Reinforced Concrete Curb Dowelled Into Existing Pavement. Complete and in place. Contractor to provide all required materials and labor including subgrade preparation.	25	LF	$ 100.00	$ 2,500.00	$ 25.00	$ 625.00	$ 19.50	$ 487.50	$ 20.00	$ 500.00
14	Funish and Install 6" Thick Reinforced Concrete Pavement for Driveway Reconstruction. Complete and in place. Contractor to provide all requried materials and labor including subgrade preparation.	3096	SF	$ 7.00	$ 21,672.00	$ 15.00	$ 46,440.00	$ 13.25	$ 41,022.00	$ 12.50	$ 38,700.00
15	Funish and Install Type C1 Sidewalk Curb Wall (Max 12" Height). Complete and in place. Contractor to provide all required materials and labor including subgrade preparation.	338	LF	$ 44.50	$ 15,041.00	$ 35.00	$ 11,830.00	$ 71.00	$ 23,998.00	$ 25.00	$ 8,450.00
16	Furnish and Install Ambulator Ramp (Detail SW2-01). Complete and in place. Contractor to provide all required materials and labor including subgrade preparation.	2	EA	$ 1,500.00	$ 3,000.00	$ 3,500.00	$ 7,000.00	$ 1,750.00	$ 3,500.00	$ 2,500.00	$ 5,000.00
17	Furnish and Install Ambuatory Ramp (Type 5-Blended Transition). Complete and in place. Contractor to provide all required materials and labor.	1	EA	$ 2,500.00	$ 2,500.00	$ 4,800.00	$ 4,800.00	$ 6,900.00	$ 6,900.00	$ 2,500.00	$ 2,500.00
18	Relocation of existing signage. Includes Three (3) No Parking Signs, Two (2) No Left turn and One (1) No Right Turn Signs. Complete and in place. Contractor to provide all required material and labor.	6	EA	$ 500.00	$ 3,000.00	$ 1,200.00	$ 7,200.00	$ 240.00	$ 1,440.00	$ 200.00	$ 1,200.00
19	Furnish and Install New Residential Mailbox, Post, and Footing. Complete and in place. Contractor to provide all required materials and labor.	11	EA	$ 500.00	$ 5,500.00	$ 1,500.00	$ 16,500.00	$ 790.00	$ 8,690.00	$ 250.00	$ 2,750.00
			Site Improvements Sub-Total		$ 135,883.00		$ 188,875.00		$ 187,603.50		$ 189,010.00

CITY OF COLLEGE STATION
BID TABULATION #25-006
FOSTER AVENUE SIDEWALK IMPROVEMENTS
Bid Opening: Tuesday, November 5, 2024 @ 2:00 pm CT

Utility Infrastructure Improvements											
20	Adjust Existing Water Valves Flush with Finish Grade, to include all required materials, labor and equipment for a complete and functional operation.	6	EA	$ 500.00	$ 3,000.00	$ 950.00	$ 5,700.00	$ 250.00	$ 1,500.00	$ 300.00	$ 1,800.00
21	Adjust Existing Water Meter Flush with Finish Grade and Vault, to include all required materials, labor and equipment for a complete and functional operation.	3	EA	$ 200.00	$ 600.00	$ 1,100.00	$ 3,300.00	$ 375.00	$ 1,125.00	$ 300.00	$ 900.00
22	Adjust Existing Sanitary Sewer Clean Out Flush with Finished Grade and Install a Bronze Cap, to include all required materials, labor and equipment for a complete and functional operation.	1	EA	$ 250.00	$ 250.00	$ 750.00	$ 750.00	$ 755.00	$ 755.00	$ 400.00	$ 400.00
Utility Infrastructure Improvements Sub-Total					$ 3,850.00	$ 10,300.00	$ 9,750.00		$ 3,380.00		$ 3,100.00
Electrical Infrastructure Improvements											
23	Relocate Existing Street Light and Pole Base, to include all required materials, labor and equipment. Complete and in place.	3	EA	$ 5,000.00	$ 15,000.00	$ 8,500.00	$ 25,500.00	$ 3,700.00	$ 11,100.00	$ 7,500.00	$ 22,500.00
Electrical Infrastructure Improvements Sub-Total					$ 15,000.00		$ 25,500.00		$ 11,100.00		$ 22,500.00
Landscaping Improvements & SWPP Elements											
24	Furnish and Install Tree Fertilizer, to include all required materials, labor and equipment. Complete and in place.	7	EA	$ 1,429.00	$ 10,003.00	$ 1,500.00	$ 10,500.00	$ 290.00	$ 2,030.00	$ 500.00	$ 3,500.00
25	Irrigation Lines To Be Cut and Capped @ Right-of-Way, to include all required materials, labor and equipment. Complete and in place.	1	LS	$ 1,000.00	$ 1,000.00	$ 9,000.00	$ 9,000.00	$ 5,700.00	$ 5,700.00	$ 1,500.00	$ 1,500.00
26	Root Pruning To Be Preformed by Licensed Arborist, to include all required materials, labor and equipment. Complete and in place.	7	EA	$ 1,429.00	$ 10,003.00	$ 1,100.00	$ 7,700.00	$ 430.00	$ 3,010.00	$ 250.00	$ 1,750.00
27	Furnish and Install Tree Protection Fencing and Hardware By Licensed Arborist, to include all required materials, labor and equipment. Complete and in place.	10	EA	$ 1,000.00	$ 10,000.00	$ 1,900.00	$ 19,000.00	$ 440.00	$ 4,400.00	$ 100.00	$ 1,000.00
28	Finish Grading, Site Cleanup, and Sod Replacement, to include all required materials, labor and equipment. Complete and in place.	1	LS	$ 25,000.00	$ 25,000.00	$ 26,750.00	$ 26,750.00	$ 17,000.00	$ 17,000.00	$ 5,000.00	$ 5,000.00
Landscaping Improvements & SWPP Elements Sub-Total					$ 56,006.00		$ 72,950.00		$ 32,140.00		$ 12,750.00
TOTAL BASE BID				**$337,041.00**		**$445,733.00**		**$292,307.40**		**$256,802.00**	
Certification Received				**Y**		**Y**		**Y**		**Y**	
Total Number of Addenda is hereby acknowledged				**Y**		**Y**		**Y**		**Y**	
Bond				**Y**		**Y**		**Y**		**Y**	
SECTION 3 COMPLIANCE CERTIFICATION				**Y**		**Y**		**Y**		**Y**	
***Should there be discrepancies between unit prices and totals, the unit price shall prevail.**											

CONTRACT & AGREEMENT ROUTING FORM

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

CONTRACT#: 25300173 PROJECT#: CD2405 BID/RFP/RFQ#: 25-006

Project Name / Contract Description: Foster Avenue Sidewalk Improvements

Name of Contractor: Larry Young Paving, Inc.

CONTRACT TOTAL VALUE: $ 292,307.40

Grant Funded ■ Yes ☐ No
If yes, what is the grant number: B-23-MC-48-0007

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

■ **NEW CONTRACT** ☐ **RENEWAL #** _____ ☐ **CHANGE ORDER #** _____ ☐ **OTHER** _____

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

This project was formally advertised as an Invitation to Bid (ITB) and opened on November 5th. Four (4) bids were received with Larry Young Paving, Inc. being the lowest, qualified, responsible and responsive bidder. Project will be funded in it's entirety by the City's Communuity Development Block Grant (CDBG) funds. Contract includes a 10% contingency to pay City-authorized costs associated with this project should the need arise.

*(If required)**
CRC Approval Date*: 12/3/24 **Council Approval Date*:** 12/12/24 **Agenda Item No*:** _____

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

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

SIGNATURES RECOMMENDING APPROVAL

Debbie Eller — 12/6/2024
DEPARTMENT DIRECTOR/ADMINISTERING CONTRACT — DATE

David Parnell — 12/6/2024
LEGAL DEPARTMENT — DATE

[signature] — 12/6/2024
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:
Foster Avenue Sidewalk Improvements; as described in ITB 25-006.

1. DEFINITIONS

1.01 Calendar Day. The term "calendar day" shall mean any day of the week or month, no days being excepted.

1.02 City. The term "City" shall mean and be understood as referring to the City of College Station, Texas.

1.03 City's Consultant. The term "City's Consultant" or "Consultant" shall mean and be understood as referring to the City's design professional(s) for the Project.

1.04 City's Representative. The term "City's Representative" or "Representative" shall mean and be understood as referring to the City Manager or his delegate or delegates, including a project management firm if applicable, who shall act as City's agent.

1.05 Contingency Amount. The term "Contingency Amount" shall mean and be understood as referring to the amount established and appropriated by the City, to be used exclusively by the City and in the City's sole discretion, to pay City-authorized costs associated with Change Orders and other related expenses for this Project. The Contractor agrees that the Contingency Amount, if any, is established by and is for the sole use of the City, that the Contingency Amount is not included in the Contract Amount, and that the Contractor has no right to use or receive any Contingency Amount unless authorized by the City in a written and duly authorized change order. The City's Contingency Amount is: Twenty-Nine Thousand Two Hundred Thirty and 74/100 Dollars ($29,230.74).

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: Two Hundred Ninety-TwoThousand Three Hundred Seven and 40/100 Dollars ($292,307.40).

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 (1) are caused by the actual interference, fraud, bad faith or misrepresentation by the City or its agents, (ii) extend for an unreasonable length of time; or (iii) were not contemplated by the parties at the time of contracting. In the event of any delay entitling Contractor to an

increase in Contract Amount, except when due to City's intentional interference or fraud, Contractor's recovery shall be limited as outlined in Section 21.04 below. The City's reasonable exercise of any of its rights or remedies under the Contract, regardless of the extent or frequency, shall not under any circumstances be construed as interference with the Contractor's performance of the Work.

21.04 In the event of delays resulting from changes ordered in the Work by the City or other delays caused by the City or for the City's convenience, the Contractor may apply to the City for recovery of incidental damages resulting from increased storage costs or other costs necessary to protect the value of the Work. In no event shall any consequential or other damages be allowed or any other charges or claims be made by the Contractor for hindrances or delays resulting from any other cause.

22. EXTENSIONS OF TIME

22.01 The Contractor has submitted its proposal in full recognition of the time required for the completion of this Project, taking into consideration all factors including, but not limited to the average climatic range and industrial conditions. The Contractor has considered the liquidated damage provision of this Agreement and understands and agrees that it shall not be entitled to, nor will it request, an extension of time for either Substantial Completion or Final Completion, except when the Work has been delayed by one or more of the following:

(a) An act or neglect of the City, the City's Representative, employees of the City, or other contractors employed by the City;

(b) By changes ordered in the Work, or reductions thereto approved in writing;

(c) By "rain days" (days with rainfall in excess of one-tenth of an inch) during the term of this Agreement that exceed the average number of rain days for such term for this locality, both as determined by the National Weather Service Forecast Office for Easterwood Airport in College Station, Texas (KCLL/CLL); or

(d) By other causes that the City and the Contractor agree may reasonably justify delay and that were beyond the Contractor's reasonable control and ability to estimate, predict, or avoid, such as delays caused by unforeseen labor disputes, fire, natural disasters, acts of war, and other rare and unpredictable events. This term does **not** include normal delays incident to the delivery of materials, tools, or labor that reasonably could have been predicted and/or accounted for in the Contractor's Proposal or decision to bid.

22.02 If one or more of the foregoing conditions is present, the Contractor may apply in writing for an extension of time, within thirty (30) days of the occurrence of the event causing the delay, submitting therewith all written justification as may be required by the City's Representative. Within ten (10) calendar days after receipt of a written request for an extension of time, which is supported by all requested documentation, the City shall, in writing and in its sole discretion, grant or deny the request. Under no circumstances shall any extension of time by the City be valid and binding unless it is in writing and in conformity with the other terms of this Agreement.

23. LIQUIDATED DAMAGES

23.01 The time for the Substantial and Final Completion of the Work described herein are reasonable times for the completion of each, taking into consideration all conditions, including but not limited to the average climatic conditions and usual industrial conditions prevailing in this locality. The amount of liquidated damages for the Contractor's failure to meet the deadlines for Substantial and/or Final Completion are fixed and agreed on by the Contractor because of the impracticability and extreme difficulty in fixing and ascertaining the actual damages

that the City would in such an event sustain. The amounts to be charged are agreed to be damages the City would sustain and shall be retained by the City from current periodic estimates for payment or from final payment.

23.02 As a result of the difficulty in estimation, calculation and ascertainment of City's damages due to a failure of Contractor to achieve timely completion of the Work, if the Contractor should neglect, fail, or refuse to either Substantially Complete or Finally Complete the Work within the time herein specified, or any proper extension thereof granted by the City's Representative pursuant to the terms of Section 22 of this Agreement, then the Contractor does hereby agree as part of the consideration for the awarding of this Agreement that the City may permanently withhold from the Contractor's total compensation the sum of One Hundred and 00/**100 DOLLARS ($**100.00**)** 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 (l) 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 (l) 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 (l) 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 (l) 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 (l) year after the installation or completion. The one (l) 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.

46.18 Federal and State Regulation Compliance. Contractor shall comply with any and all applicable state, federal, and local laws, ordinances, regulations and codes, including, but not limited to those incorporated herein as **Exhibit G**.

List of Exhibits

- **A.** Wage Rates
- **B.** Performance & Payment Bonds
- **C.** Certificates of Insurance
- **D.** Plans & Specifications
- **E.** Construction Schedule
- **F.** Schedule of Values
- **G.** Federal Regulation Compliance

LARRY YOUNG PAVING, INC.

By: Herbert L. Young Jr.

Printed Name: Herbert L. Young Jr.

Title: Predident

Date: 12/6/2024

CITY OF COLLEGE STATION

By: _____
City Manager
Date: _____

APPROVED:

David Parnell
City Attorney
Date: 12/6/2024

Assistant City Manager/CFO
Date: 12/6/2024

EXHIBIT A
DAVIS BACON WAGE RATES

WORKER RIGHTS

UNDER THE DAVIS-BACON ACT

FOR LABORERS AND MECHANICS WORKING ON FEDERAL OR FEDERALLY ASSISTED CONSTRUCTION PROJECTS

The law requires employers to display this poster where employees can readily see it.

PREVAILING WAGES

You must be paid not less than the wage rate listed in the Davis-Bacon Wage Decision posted with this Notice for the work you perform.

OVERTIME

You must be paid not less than one and one-half times your basic rate of pay for all hours worked over 40 in a work week. There are few exceptions.

ENFORCEMENT

Contract payments can be withheld to ensure workers receive wages and overtime pay due, and liquidated damages may apply if overtime pay requirements are not met. Davis-Bacon contract clauses allow contract termination and debarment of contractors from future federal contracts for three years. A contractor who falsifies certified payroll records or induces wage kickbacks may be subject to civil or criminal prosecution, fines and/or imprisonment.

APPRENTICES

Apprentice rates apply only to apprentices properly registered under approved Federal or State apprenticeship programs.

RETALIATION

The law prohibits discharging or otherwise retaliating against workers for filing a complaint, cooperating in an investigation, or testifying in a proceeding under the Davis-Bacon and Related Acts.

PROPER PAY

If you do not receive proper pay, or require further information on the applicable wages, contact the Contracting Officer listed below:

Eric Barton
City of College Station
Community Services
1101 Texas Avenue
PO Box 9960
College Station, TX 77842
(979) 764-3778
vbarton@cstx.gov

or contact the U.S. Department of Labor's Wage and Hour Division.

WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

1-866-487-9243
TTY: 1-877-889-5627
www.dol.gov/whd

WH1321 REV 10/17

DERECHOS DEL EMPLEADO
BAJO LA LEY DAVIS-BACON

PARA OBREROS Y MECÁNICOS EMPLEADOS EN PROYECTOS DE CONSTRUCCIÓN FEDERAL O CON ASISTENCIA FEDERAL

SALARIOS PREVALECIENTES

No se le puede pagar menos de la tasa de pago indicada en la Decisión de Salarios Davis-Bacon fijada con este Aviso para el trabajo que Ud. desempeña.

SOBRETIEMPO

Se le ha de pagar no menos de tiempo y medio de su tasa básica de pago por todas las horas trabajadas en exceso de 40 en una semana laboral. Existen pocas excepciones.

CUMPLIMIENTO

Se pueden retener pagos por contratos para asegurarse que los obreros reciban los salarios y el pago de sobretiempo debidos, y se podría aplicar daños y perjuicios si no se cumple con las exigencias del pago de sobretiempo. Las cláusulas contractuales de Davis-Bacon permiten la terminación y exclusión de contratistas para efectuar futuros contratos federales hasta tres años. El contratista que falsifique los registros certificados de las nóminas de pago o induzca devoluciones de salarios puede ser sujeto a procesamiento civil o criminal, multas y/o encarcelamiento.

APRENDICES

Las tasas de aprendices sólo se aplican a aprendices correctamente inscritos bajo programas federales o estatales aprobados.

PAGO APROPIADO

Si Ud. no recibe el pago apropiado, o precisa de información adicional sobre los salarios aplicables, póngase en contacto con el Contratista Oficial que aparece abajo:

Eric Barton
City of College Station
Community Services
1101 Texas Avenue
PO Box 9960
College Station, TX 77842
(979) 764-3778
vbarton@cstx.gov

o póngase en contacto con la División de Horas y Salarios del Departamento de Trabajo de los EE.UU.

DIVISIÓN DE HORAS Y SALARIOS
DEPARTAMENTO DE TRABAJO DE LOS EE.UU.

1-866-487-9243
TTY: 1-877-889-5627
www.dol.gov/whd

WH1321 SPA REV 10/17

"General Decision Number: TX20240007 01/05/2024

Superseded General Decision Number: TX20230007

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)(1).

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 $17.20 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 2024.
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 $12.90 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 2024.

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.

Modification Number Publication Date

0 01/05/2024

SUTX2011-006 08/03/2011

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER (Paving and Structures)	$ 12.56 **	
ELECTRICIAN	$ 26.35	
FORM BUILDER/FORM SETTER		
Paving & Curb	$ 12.94 **	
Structures	$ 12.87 **	
LABORER		
Asphalt Raker	$ 12.12 **	
Flagger	$ 9.45 **	
Laborer, Common	$ 10.50 **	
Laborer, Utility	$ 12.27 **	
Pipelayer	$ 12.79 **	
Work Zone Barricade Servicer	$ 11.85 **	
PAINTER (Structures)	$ 18.34	
POWER EQUIPMENT OPERATOR:		
Agricultural Tractor	$ 12.69 **	
Asphalt Distributor	$ 15.55 **	
Asphalt Paving Machine	$ 14.36 **	
Boom Truck	$ 18.36	
Broom or Sweeper	$ 11.04 **	
Concrete Pavement Finishing Machine	$ 15.48 **	
Crane, Hydraulic 80 tons or less	$ 18.36	
Crane, Lattice Boom 80 tons or less	$ 15.87 **	
Crane, Lattice Boom over 80 tons	$ 19.38	
Crawler Tractor	$ 15.67 **	
Directional Drilling Locator	$ 11.67 **	
Directional Drilling Operator	$ 17.24	
Excavator 50,000 lbs or Less	$ 12.88 **	
Excavator over 50,000 lbs	$ 17.71	
Foundation Drill, Truck Mounted	$ 16.93 **	
Front End Loader, 3 CY or Less	$ 13.04 **	
Front End Loader, Over 3 CY	$ 13.21 **	
Loader/Backhoe	$ 14.12 **	
Mechanic	$ 17.10 **	
Milling Machine	$ 14.18 **	
Motor Grader, Fine Grade	$ 18.51	
Motor Grader, Rough	$ 14.63 **	
Pavement Marking Machine	$ 19.17	
Reclaimer/Pulverizer	$ 12.88 **	
Roller, Asphalt	$ 12.78 **	
Roller, Other	$ 10.50 **	
Scraper	$ 12.27 **	
Spreader Box	$ 14.04 **	
Trenching Machine, Heavy	$ 18.48	
Servicer	$ 14.51 **	

Steel Worker
Reinforcing.....$ 14.00 **
Structural.....$ 19.29

TRAFFIC SIGNALIZATION:
Traffic Signal Installation
Traffic Signal/Light Pole
Worker.....$ 16.00 **

TRUCK DRIVER
Lowboy-Float.....$ 15.66 **
Off Road Hauler.....$ 11.88 **
Single Axle.....$ 11.79 **
Single or Tandem Axle Dump
Truck.....$ 11.68 **
Tandem Axle Tractor w/Semi
Trailer.....$ 12.81 **

WELDER.....$ 15.97 **

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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** Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 ($17.20) or 13658 ($12.90). Please see the Note at the top of the wage determination for more information. Please also note that the minimum wage requirements of Executive Order 14026 are not currently being enforced as to any contract or subcontract to which the states of Texas, Louisiana, or Mississippi, including their agencies, are a party.

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) (iii)).

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 DECISION"

1. Payment greater than prevailing wage rate as listed within this document not prohibited per Texas Government Code, Chapter 2258, Prevailing Wage Rates, Subchapter A. General Provisions.

2. Not less than the following hourly rates shall be paid for the various classifications of work required by this project. Workers in classifications where rates are not identified shall be paid not less than the general prevailing rate of "laborer" for the various classifications of work therein listed.

3. The hourly rate for legal holiday and overtime work shall not be less than one and one-half (1 & 1/2) times the base hourly rate.

4. The rates listed are journeyman rates. Helpers may be used on the project and may be compensated at a rate determined mutually by the worker and employer, commensurate with the experience and skill of the worker but not at a rate less than 60% of the journeyman's wage as shown. Apprentices (enrolled in a federally certified apprentice program) may be used at the percentage rates of the journeyman scale stipulated in their apprenticeship agreement. At no time shall a journeyman supervise more than two (2) apprentices or helpers. All apprentices or helpers shall be under the direct supervision of a journeyman working as a crew.

5. Except for Heavy/Highway Construction, building construction wage rates shall be paid to all workers except those workers engaged in site work and construction beyond five feet of buildings.

EXHIBIT B
PERFORMANCE AND PAYMENT BONDS

PERFORMANCE BOND

Bond No. 4478439

THE STATE OF TEXAS §
§ **KNOW ALL MEN BY THESE PRESENTS:**
THE COUNTY OF BRAZOS §

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 Two Hundred Ninety-TwoThousand Three Hundred Seven and 40 /100 Dollars ($ 292,307.40) 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 Foster Avenue Sidewalk Improvements; as described in ITB 25-006,

all of such Work to be done as set out in full in said Contract Documents therein referred to and adopted by the City Council, all of which are made a part of this instrument as fully and completely as if set out in full herein.

NOW THEREFORE, if the said Contractor shall faithfully and strictly perform Contract in all its terms, provisions, and stipulations in accordance with its true meaning and effect, and in accordance with the Contract Documents referred to therein and shall comply strictly with each and every provision of the Contract, including all warranties and indemnities therein and with this bond, then this obligation shall become null and void and shall have no further force and effect; otherwise the same is to remain in full force and effect.

It is further understood and agreed that the Surety does hereby relieve the City of College Station or its representatives from the exercise of any diligence whatever in securing compliance on the part of the Contractor with the terms of the Contract, including the making of payments thereunder and, having fully considered its Principal's competence to perform the Contract in the underwriting of this Performance Bond, the Surety hereby waives any notice to it of any default, or delay by the Contractor in the performance of his Contract and agrees that it, the Surety, shall be bound to take notice of and shall be held to have knowledge of all acts or omissions of the Contractor in all matters pertaining to the Contract. The Surety understands and agrees that the provision in the Contract that the City of College Station shall retain certain amounts due the Contractor until the expiration of thirty (30) days from the acceptance of the Work is intended for the City's benefit, and the City of College Station shall have the right to pay or withhold such retained amounts or any other amount owing under the Contract without changing or affecting the liability of the Surety hereon in any degree.

It is further expressly agreed by Surety that the City of College Station or its representatives are at liberty at any time, without notice to the Surety, to make any change in the Contract Documents and in the Work to be

done thereunder, as provided in the Contract, and in the terms and conditions thereof, or to make any change in, addition to, or deduction from the Work to be done thereunder; and that such changes, if made, shall not in any way vitiate the obligation in this bond and undertaking or release the Surety therefrom. Surety, for value received, stipulates and agrees that any change in Contract Time or Contract Sum shall not in anywise affect its obligation on this bond and it does hereby waive notice of any such change in Contract Time or Contract Sum.

It is further expressly agreed and understood that the Contractor and Surety will fully indemnify and hold harmless the City of College Station from any liability, loss, cost, expense, or damage arising out of or in connection with the Work done by the Contractor under the Contract. In the event that the City of College Station shall bring any suit or other proceeding at law on the Contract or this bond or both, the Contractor and Surety agree to pay to the City the actual amounts of attorneys' fees incurred by the city in connection with such suit.

This bond and all obligations created hereunder shall be performable in Brazos County, Texas. This bond is given in compliance with the provisions of Chapter 2253 of the Texas Government Code, as amended, which is incorporated herein by this reference. However, all of the express provisions hereof shall be applicable whether or not within the scope of said statute.

Notices required or permitted hereunder shall be in writing and shall be deemed delivered when actually received or, if earlier, on the third day following deposit in a United State Postal Service post office or receptacle, with proper postage affixed (certified mail, return receipt requested), addressed to the respective other party at the address prescribed in the Contract Documents, or at such other address as the receiving party may hereafter prescribe by written notice to the sending party. A copy of surety agent's "Power of Attorney" must be attached hereto.

IN WITNESS THEREOF, the said Contractor and Surety have signed and sealed this instrument on the respective dates written below their signatures and have attached current Power of Attorney.

Bond No. 4478439

FOR THE CONTRACTOR:

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

By: _____

Name: Tracy Lang

Title: Witness

Date: 12/12/24

Larry Young Paving, Inc
(Name of Contractor)

By: _____

Name: Herbert L. Young, Jr.

Title: President

Date: 12/12/24

FOR THE SURETY:
ATTEST/WITNESS **(SEAL)**

By: _____

Name: Kristi Zientek

Title: Witness

Date: 12/12/24

Markel Insurance Company
(Full Name of Surety)

9500 Arboretum Blvd, Suite 400

Austin, TX 78759
(Address of Surety for Notice)

By: _____

Name: Alexandria Petroski

Title: Attorney-In-Fact

Date: 12/12/24

FOR THE CITY:

REVIEWED:

David Purnell 12/6/2024
City Attorney

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

_____
City Manager

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

Contract No. 25300173
Construction Agreement Over $50,000
Form 04-20-2023

TEXAS STATUTORY PAYMENT BOND

Bond No. 4478439

THE STATE OF TEXAS §
§ **KNOW ALL MEN BY THESE PRESENTS:**
THE COUNTY OF BRAZOS §

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 Texas, 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 Two Hundred Ninety-TwoThousand Three Hundred Seven and 40 /100 Dollars ($292,307.40) 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 12 day of December, 2024, for Foster Avenue Sidewalk Improvements; as described in ITB 25-006, 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. 4478439

FOR THE CONTRACTOR:

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

Larry Young Paving, Inc.
(Name of Contractor)

By: _____

Name: Tracy Lang

Title: Witness

Date: 12/12/24

By: _____

Name: Herbert L. Young, Jr.

Title: President

Date: 12/12/24

FOR THE SURETY:
ATTEST/WITNESS **(SEAL)**

By: _____

Name: Kristi Zientek

Title: Witness

Date: 12/12/24

Markel Insurance Company
(Full Name of Surety)

9500 Arboretum Blvd, Suite 400

Austin, TX 78759
(Address of Surety for Notice)

By: _____

Name: Alexandria Petroski

Title: Attorney-In-Fact

Date: 12/12/24

FOR THE CITY:

REVIEWED:

David Pumell 12/6/2024
City Attorney

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

_____
City Manager

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

Contract No. 25300173
Construction Agreement Over $50,000
Form 04-20-2023

POA# 4221009

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 23rd day of August , 2024 .

SureTec Insurance Company

By: _____
Michael C. Keimig, President

Markel Insurance Company

By: _____
Lindey Jennings, Vice President

State of Texas
County of Harris:

On this 23rd day of August , 2024 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 proceeding 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: _____
Chelsea Turner, Notary Public
My commission expires 7/6/2028

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 12th day of December , 2024 .

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

ACORD

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 11/18/2024

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	CONTACT NAME:	
Rollo Insurance Group, Inc 1500 Earl Rudder Freeway S College Station, TX 77840	PHONE (A/C, No, Ext): (979) 307-7700	FAX (A/C, No):
	E-MAIL ADDRESS: jon.ellison@rolloinsurance.com	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : Allied World Surplus Lines Ins Co	24319
INSURED	INSURER B : Axis Surplus Insurance Co	26620
Larry Young Paving, Inc. Silver Hill Equipment Co., LLC PO Box 11779 College Station, TX 77842	INSURER C : Texas Mutual Insurance Company	22945
	INSURER D : Endurance American Specialty Insurance Company	41718
	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	X COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$ 1,000,000
	CLAIMS-MADE X OCCUR			6004-1871	8/23/2024	8/23/2025	DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 100,000
							MED EXP (Any one person)	$ 5,000
							PERSONAL & ADV INJURY	$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 2,000,000
	X POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$ 2,000,000
	OTHER:							$
A	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
	X ANY AUTO			6000-1744	8/23/2024	8/23/2025	BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
							Deductible	$ 5,000
B	UMBRELLA LIAB X OCCUR						EACH OCCURRENCE	$ 2,000,000
	X EXCESS LIAB CLAIMS-MADE			P-001-003796890-01	8/23/2024	8/23/2025	AGGREGATE	$ 2,000,000
	DED RETENTION $							$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						X PER STATUTE / OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N: Y (Mandatory in NH)	N / A		0001311091	8/23/2024	8/23/2025	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
A	Excess Liability			0314-3893	8/23/2024	8/23/2025	Excess Liability	3,000,000
D	Excess Liability			ELD30043365101	8/23/2024	8/23/2025	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)

Contract No. 25300173

The general liability, automobile liability, and Umbrella policy include a blanket automatic additional insured provision that provides additional insured status to the certificate holder, when there is a written contract between the named insured and the certificate holder that requires such status. Waiver of Subrogation as required by written contract. Insurance is Primary and Non Contributory.

Workers Comp policy contains a blanket waiver of subrogation

CERTIFICATE HOLDER

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

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

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EXHIBIT D
PLANS AND SPECIFICATIONS

If plans and specifications from ITB 25-006 are not physically inserted here then they become fully incorporated into this contract by reference.

EXHIBIT E
CONSTRUCTION SCHEDULE

EXHIBIT F
SCHEDULE OF VALUES

Construction project will consist of total base bid with 90-120 calendar days to substantial completion from notice to proceed.

CERTIFICATION OF BID

The undersigned affirms that they are duly authorized to execute this contract, that this bid has not been prepared in collusion with any other bidder, and that the contents of this bid have not been communicated to any other bidder prior to the official opening of this bid. Additionally, the undersigned affirms that the firm is willing to sign the enclosed Standard Form of Agreement without modifications.

Signed By: _____ Title: COO

Typed Name: Mark Schinzler Company Name: Larry Young Paving, Inc.

Phone No.: (979) 823-4888 Fax No.: (979) 823-4884

Email: m.schinzler@larryyoungpaving.com

Bid Address: PO Box 11779 College Station TX 77842
P.O. Box or Street City State Zip

Order Address: 1852 Silver Hill Rd. Bryan TX 77807
P.O. Box or Street City State Zip

Remit Address: PO Box 11779 College Station TX 77842
P.O. Box or Street City State Zip

Federal Tax ID No.: 20-3237385

DUNS No.: 1608 643 057

Date: 10.29.24

END OF BID #25-006

CONTRACTOR'S PROPOSAL
AND
ALTERNATES (if applicable)

BID SUMMARY
BID NO. 25-006

The Undersigned proposes to furnish all labor, services, materials, tools and necessary equipment for the Foster Avenue Sidewalk Improvements Projects and to perform the work required for the construction of said project at the location set out by the Plans and Specifications, in strict accordance with the Contract Documents.

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

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

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

The successful bidder agrees to execute the City's standard contract, included herein for reference.

Foster Avenue Sidewalk Improvements Projects

Base Proposal: Total Base Bid ($ 292,307.40)

CALENDAR DAYS: TOTAL number of calendar days to substantial completion 90-120 Days.

Number of Addenda is hereby acknowledged 3

Company Name: Larry Young Paving, Inc.

Signed By: _____

Printed Name: Mark Schinzler

CITY OF COLLEGE STATION
BID #25-006
FOSTER AVENUE SIDEWALK IMPROVEMENTS
Bid Opening: Tuesday, October 29, 2024 @ 2:00 pm CT

The undersigned proposes to furnish all labor, services, materials, tools, and necessary equipment for the Work. Type or write legibly in blue or black ink. A unit price is required for all bid items. If there are discrepancies between unit prices and totals, the unit price will prevail. Initial all corrections and do not round totals.

Item No.	Description	Quantity	Unit	Unit Price	Total
General Items					
1	Mobilization and Overhead; including, but not limited to set-up, project overhead, construction staking, and any other related items pertinent to the completion of the project not included in other bid items.	1	LS	$ 17,000.00	$ 17,000.00
2	Erosion and Sedimentation Control, including check dams, gravel filter bags, NOI, NOT, Storm Water Pollution Prevention Plan, Inspection Reports, etc. Item includes installation, maintenance and removal. Complete and in place.	1	LS	$ 9,400.00	$ 9,400.00
3	Traffic Control, including all necessary signage and personnel to execute traffic control procedures. Complete and in place.	1	LS	$ 9,000.00	$ 9,000.00
				General Items Sub-Total	$ 35,400.00
Demolition					
4	Neatly Sawcut, Demolish, Remove, & Properly Dispose of Existing Concrete Pavement, All Thicknesses. Contractor to provide all required materials and labor.	3,096	SF	$ 2.40	$ 7,430.40
5	Neatly Sawcut, Demolish, Remove, & Properly Dispose of Existing Croncrete Curb and Gutter. Contractor to provide all requried materials and labor.	82	LF	$ 11.75	$ 963.50
6	Neatly Sawcut, Demolish, Remove, & Properly Dispose of Existing Sidewalk, All Thicknesses. Contractor to provide all required materials and labor.	108	SF	$ 2.50	$ 270.00
7	Relocation of Landscape Boulders (24" - 30" Diameter). Contractor to provide all required materials and labor.	3	EA	$ 490.00	$ 1,470.00
8	Tree Trimming up to 14' in height. Contractor to provide all required materials and labor.	3	EA	$ 750.00	$ 2,250.00
9	Remove Existing Mailbox, Post, and Footing. Contractor to provide all required materials and labor.	10	EA	$ 295.00	$ 2,950.00
10	Tree Removal, and Stump Grinding. Contractor to coordinate with City Utilities Director. Contractor to provide all required materials and labor.	6	EA	$ 1,100.00	$ 6,600.00
11	Demolition and Removal of Landscape Pavers to include any spoils removal.	3	EA	$ 250.00	$ 750.00
				Demolition Sub-Total	$ 22,683.90
Site Improvements					
12	Furnish and Install 4" Thick Reinforced Concreete Sidewalk. Complete and in place. Contractor to provide all required materials and labor including subgrade preparation.	11810	SF	$ 8.60	$ 101,566.00
13	Furnish and Install 6" Reinforced Concrete Curb Dowelled Into Existing Pavement. Complete and in place. Contractor to provide all required materials and labor including subgrade preparation.	25	LF	$ 19.50	$ 487.50
14	Funish and Install 6" Thick Reinforced Concrete Pavement for Driveway Reconstruction. Complete and in place. Contractor to provide all requried materials and labor including subgrade preparation.	3096	SF	$ 13.25	$ 41,022.00
15	Funish and Install Type C1 Sidewalk Curb Wall (Max 12" Height). Complete and in place. Contractor to provide all required materials and labor including subgrade preparation.	338	LF	$ 71.00	$ 23,998.00
16	Furnish and Install Ambulator Ramp (Detail SW2-01). Complete and in place. Contractor to provide all required materials and labor including subgrade preparation.	2	EA	$ 1,750.00	$ 3,500.00
17	Furnish and Install Ambuatory Ramp (Type 5-Blended Transition). Complete and in place. Contractor to provide all required materials and labor.	1	EA	$ 6,900.00	$ 6,900.00
18	Relocation of existing signage. Includes Three (3) No Parking Signs, Two (2) No Left turn and One (1) No Right Turn Signs. Complete and in place. Contractor to provide all required material and labor.	6	EA	$ 240.00	$ 1,440.00
19	Furnish and Install New Residential Mailbox, Post, and Footing. Complete and in place. Contractor to provide all required materials and labor.	11	EA	$ 790.00	$ 8,690.00
				Site Improvements Sub-Total	$ 187,603.50

Utility Infrastructure Improvements					
20	Adjust Existing Water Valves Flush with Finish Grade, to include all required materials, labor and equipment for a complete and functional operation.	6	EA	$ 250.00	$ 1,500.00
21	Adjust Existing Water Meter Flush with Finish Grade and Vault, to include all required materials, labor and equipment for a complete and functional operation.	3	EA	$ 375.00	$ 1,125.00
22	Adjust Existing Sanitary Sewer Clean Out Flush with Finished Grade and Install a Bronze Cap, to include all required materials, labor and equipment for a complete and functional operation.	1	EA	$ 755.00	$ 755.00
				Utility Infrastructure Improvements Sub-Total	$ 3,380.00
Electrical Infrastructure Improvements					
23	Relocate Existing Street Light and Pole Base, to include all required materials, labor and equipment. Complete and in place.	3	EA	$ 3,700.00	$ 11,100.00
				Electrical Infrastructure Improvements Sub-Total	$ 11,100.00
Landscaping Improvements & SWPP Elements					
24	Furnish and Install Tree Fertilizer, to include all required materials, labor and equipment. Complete and in place.	7	EA	$ 290.00	$ 2,030.00
25	Irrigation Lines To Be Cut and Capped @ Right-of-Way, to include all required materials, labor and equipment. Complete and in place.	1	LS	$ 5,700.00	$ 5,700.00
26	Root Pruning To Be Preformed by Licensed Arborist, to include all required materials, labor and equipment. Complete and in place.	7	EA	$ 430.00	$ 3,010.00
27	Furnish and Install Tree Protection Fencing and Hardware By Licensed Arborist, to include all required materials, labor and equipment. Complete and in place.	10	EA	$ 440.00	$ 4,400.00
28	Finish Grading, Site Cleanup, and Sod Replacement, to include all required materials, labor and equipment. Complete and in place.	1	LS	$ 17,000.00	$ 17,000.00
				Landscaping Improvements & SWPP Elements Sub-Total	$ 32,140.00
TOTAL BASE BID					
				TOTAL	$ 292,307.40

CONTRACTOR NAME: Larry Young Paving Inc.

CONTRACTOR SIGNATURE: Matt Young

Total Number of Addenda is hereby acknowledged 3

EXHIBIT G
FEDERAL REGULATION COMPLIANCE

This Exhibit is attached to Contract No. 25300173, by and between the City of College Station ("City") and Larry Young Paving, Inc. ("Contractor"), and is incorporated into said Contract. The provisions below are required, and the language is not negotiable. If any provision below conflicts with the City's terms and conditions, including any attachments, schedules, or exhibits to the City's Contract or purchase order, the provisions below take priority to the extent a provision is required by federal law; otherwise, the order of precedence set forth in the Contract or purchase order applies. Hyperlinks and legal references are provided for convenience only; broken hyperlinks or typographical errors will not relieve Contractor from compliance with the law.

Some or all of the following may apply depending on the Contract amount, subject matter of the Contract, source of funding and so on. Contractor assumes full responsibility for complying with the requirements set forth below in accordance with applicable law, as amended.

The Contract or purchase order to which this Exhibit is attached is made using federal funds provided to the City of College Station, Texas by the US Department of Housing and Urban Development ("HUD") through the Community Development Block Grant ("CDBG") (Federal Award Identification B-23-MC-48-0007 and Federal Award Date 10/1/23).

The following terms and conditions apply to you, the contractor or vendor, as a contractor of the City of College Station, Texas, according to the requirements, stipulations, and limitations attached to the funding received from the Federal Government for this Contract or purchase order; by CDBG and its implementing regulations; and as established by HUD. The entire preamble of this Exhibit is incorporated fully into this Exhibit.

1.01. Breach by Contractor; Termination for Cause. In the event of a breach of this Contract by Contractor, the City shall have the immediate right to terminate this Contract by notifying Contractor of such breach. Contractor shall be compensated only for the work or services already performed at the time Contractor is notified of such breach. The City may withhold payments to the Contractor for the purpose of setoff until the exact amount of damages due to the City from the Contractor is determined and paid.

1.02. Federally Assisted Construction. If this Contract is for "construction work" or is a "federally assisted construction contract" as these terms are defined in 41 CFR 60 and 41 CFR 60-1.3, the following provisions will apply:

A. Equal Employment Opportunity. During the performance of this Contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.

(4) The Contractor will send to each labor union or representative of workers with which Contractor has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

> Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering

agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

1.03. Davis-Bacon Act (Prevailing Wage)

If this Contract is a **prime construction contract** in excess of $2,000, the Contractor (and its Subcontractors) must comply with the Davis-Bacon Act (40 USC 3141-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"), and during performance of this Contract the Contractor agrees as follows:

A. All transactions regarding this contract shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. The contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.

B. Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.

C. Additionally, contractors are required to pay wages not less than once a week.

1.04. Compliance with Copeland "Anti-Kickback" Act.

If this Contract is a contract for construction or repair work in excess of $2,000 where the Davis-Bacon Act applies, the Contractor must comply with the Copeland "Anti- Kickback" Act (40 USC 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"), which prohibits the Contractor and subrecipients from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled, and during performance of this Contract the Contractor agrees as follows:

A. Contractor. The Contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 CFR Part 3 as may be applicable, which are incorporated by reference into this Contract.

B. Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

C. Breach. A breach of the contract clauses above may be grounds for termination of the Contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

1.05. Compliance with Contract Work Hours and Safety Standards Act.

If the Contract is in excess of $100,000 the Contractor must comply with 40 USC 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5), as applicable, and during performance of this Contract the Contractor agrees as follows:

(1) **Overtime Requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph (A) of this section the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (A) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (A) of this section.

(3) Withholding for Unpaid Wages and Liquidated Damages. The City shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (B) of this section.

(4) **Subcontracts.** The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (A) through (D) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (A) through (D) of this section.

1.06. Rights to Inventions Made Under a Contract or Agreement

If the Contract is funded by a federal "funding agreement" as defined under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

1.07. Clean Air Act and Federal Water Pollution Control Act.

If this Contract is in excess of $150,000, the Contractor must comply with all applicable standards, orders, and regulations issued under the Clean Air Act (42 USC 7401-7671q) and the Federal Water Pollution Control Act (33 USC 1251-1387), and during performance of this Contract the Contractor agrees as follows:

In the event this Contract is for more than $150,000, the following provisions apply:

A. Clean Air Act

(1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C.§ 7401 et seq.

(2) The Contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the Texas Commission on Environmental Quality, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) The Contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA or the applicable federal awarding agency.

B. Federal Water Pollution Control Act

(1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

(2) The Contractor agrees to report each violation to the City and understands and agrees that the City will in turn, report each violation as required to assure notification to the Texas Commission on Environmental Quality, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) The Contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA or the applicable federal awarding agency.

1.08. Debarment and Suspension.

A "contract award" (see 2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (51 FR 6370; February 21, 1986) and 12689 (54 FR 34131; August 18, 1989), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. In the event this Contract is a "covered transaction" for the purposes of 2 CFR Part 180 and 2 CFR Part 3000, the following provisions shall apply:

A. This Contract is a covered transaction for purposes of 2 CFR Part 180 and 2 CFR Part 3000. As such the Contractor is required to verify that none of the Contractor, its principals (defined at 2 CFR § 180.995), or its affiliates (defined at 2 CFR § 180.905) are excluded (defined at 2 CFR § 180.940) or disqualified (defined at 2 CFR § 180.935).

B. The Contractor must comply with 2 CFR Part 180, subpart C and 2 CFR Part 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

C. This certification is a material representation of fact relied upon by the City. If it is later determined that the Contractor did not comply with 2 CFR Part 180, subpart C and 2 CFR Part 3000, subpart C, in addition to remedies available to the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

D. Contractor agrees to comply with the requirements of 2 CFR Part 180, subpart C and 2 CFR Part 3000, subpart C while this Contract is in effect and further agrees to include a provision requiring such compliance in its lower tier covered transactions.

1.09. Byrd Anti-Lobbying Certification. In the event this Contract is for $100,000 or more, the following provision will apply:

A. Contractors who apply or bid for an award of $100,000 or more shall file the following required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-

Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

B. Required Certification for Contracts, Grants, Loans, and Cooperative Agreements.

"The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $ 10,000 and not more than $ 100,000 for each such failure.

The Contractor, Larry Young Paving, Inc., certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 USC § 3801 et seq., apply to this certification and disclosure, if any.

Herbert L. Young Jr.

Signature of Contractor's Authorized Official

Herbert L. Young Jr. Predident

Name and Title of Contractor's Authorized Official

12/6/2024

Date

1.10. Domestic Preferences for Procurements.

A. § 200.322 of 2 CFR 200 requires a Contractor, as appropriate and to the extent consistent with law, and to the greatest extent practicable under a Contract involving a Federal award or Federal funds, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

B. For purposes of the above section:

(1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

1.11. Procurement of Recovered Materials.

Under 2 CFR 200.323, Contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. In the event this Contract is for more than $10,000, the following provision applies:

A. In the performance of this Contract, the Contractor shall make maximum use of products containing recovered materials that are EPA designated items unless the product cannot be acquired:

(1) Competitively within a timeframe providing for compliance with the contract performance schedule;

(2) Meeting contract performance requirements; or

(3) At a reasonable price.

B. Information about this requirement, along with the list of EPA designated items, is available at EPA's Comprehensive Procurement Guidelines website, https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program.

C. The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

1.12. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment.

A. Contractor, as part of this Contract and project, is prohibited from obligating or expending Federal funds to:

(1) Procure or obtain;

(2) Extend or renew a contract to procure or obtain; or

(3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

1. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
2. Telecommunications or video surveillance services provided by such entities or using such equipment.
3. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

1.13. Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms.

A. The prime Contractor, if subcontracts are to be let, must take the affirmative steps listed below and in paragraphs (b)(1) through (5) of Section § 200.321 located in 2 CFR 200.

B. Affirmative steps must include:

(1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

(4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and

(5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

1.14. Access to Records.

A. The Contractor agrees to provide the City, the US Department of Treasury, the Comptroller General of the United States, or any of their authorized representatives, access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

B. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

C. The Contractor agrees to provide the City, US Department of Treasury, Comptroller General of the United States, or any of their authorized representatives, access to construction or other work sites pertaining to the work being completed under the Contract.

1.15. Federal Seal, Logo, and Flags. The Contractor shall not use any Federal Government seal(s), logos, crests, or reproductions of flags or likenesses of any Federal Government agency officials without specific Federal Government pre-approval.

1.16. Changes. The Contract provisions regarding modifications, change orders, notices, or amendments to the Contract shall control.

1.17. Compliance with Federal Law, Regulations, and Executive Orders. The Contractor acknowledges that Federal Government funds will be used to fund this Contract. The Contractor will comply with all federal law, regulations, executive orders, US Department of Treasury policies, procedures, and directives.

1.18. No Obligation by Federal Government. The Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to the non-Federal entity, City, contractor, or any other party pertaining to any matter resulting from the Contract.

1.19. Fraud and False Statements. The Contractor acknowledges that 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this Contract.

December 12, 2024
Item No. 7.12.
Change Order No. 3 for Directional Bore Projects

Sponsor: Timothy Crabb, Director of Electric

Reviewed By CBC: N/A

Agenda Caption: Presentation, discussion, and possible action on approval of Change Order No. 3 for the Electric Directional Bore Projects contract with Sterling Global Industries, LLC for an increase of $62,860.50 for a revised contract total of $683,958.94.

Relationship to Strategic Goals:
Core Services & Infrastructure

Recommendation(s): Staff recommends approving the change order increasing the Directional Bore Contract by $62,860.50.

Summary: After work began on the five original directional bore projects, underground jobsite conditions and infrastructure configurations warranted additional work. Added scope includes items such as tree root removal, supplemental conduit tie-ins, more bore footages, and an additional pull box installation. Change Orders 1 and 2 totaled a contract increase of approximately $6,000, however the additional cost of the items included in Change Order 3, $62,860.50, requires City Council review and approval. Change Order #3 would result in a revised contract total of $693,958.94.

Budget & Financial Summary: Funds are budgeted and available in the Electric CIP budget.

Attachments:
1. CO #3 24300644 Bore Projects - Sterling Global

CONTRACT & AGREEMENT ROUTING FORM

CONTRACT#: 24300644 CO 3 PROJECT #: _____ BID/RFP/RFQ#: 24-056

Project Name / Contract Description: Electric Distribution Directional Bore Projects
Changes to Penberthy, East Holleman and Tarrow Projects

Name of Contractor: Sterling Global Industries, LLC

CONTRACT TOTAL VALUE: $ 693,958.94 **Grant Funded** Yes ☐ No ■

If yes, what is the grant number: ☐

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

☐ **NEW CONTRACT** ☐ **RENEWAL #** _____ ■ **CHANGE ORDER #** 3 ☐ **OTHER** _____

BUDGETARY AND FINANCIAL INFORMATION (Include number of bids solicited, number of bids received, funding source, budget vs. actual cost, summary tabulation)
Funds are budgeted and available in the Electric Operating and Capital Funds.

*(If required)** 12/12/24
CRC Approval Date*: N/A **Council Approval Date*:** ~~11/25/24~~ **Agenda Item No*:** 7.6

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

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

SIGNATURES RECOMMENDING APPROVAL

Timothy Ray Crabb, P.E. — 11/20/2024
DEPARTMENT DIRECTOR/ADMINISTERING CONTRACT — DATE

[signature] — 11/20/2024
ASST CITY MGR – CFO — DATE

John A. Haislet — 11/19/2024
LEGAL DEPARTMENT — DATE

APPROVED & EXECUTED

_____ — _____
CITY MANAGER — DATE

N/A — _____
MAYOR (if applicable) — DATE

N/A — _____
CITY SECRETARY (if applicable) — DATE

9.12.23 UPDATED

CHANGE ORDER NO. 3 DATE: 11/11/2024 Contract No. 24300644
PO No. n/a PROJECT: Electric Directional Bore Projects ITB 24-056

OWNER:
City of College Station
P.O. Box 9960
College Station, Texas 77842

CONTRACTOR:
Sterling Global Industries, LLC

PURPOSE OF THIS CHANGE ORDER:
A. Adding Tie Conduits and Bore Footage

ITEM NO	UNIT	DESCRIPTION	UNIT PRICE	ORIGINAL QUANTITY	REVISED QUANTITY	ADDED COST
CO#3 - 2	1	Penberthy Tie-in, additional bore footage & tie-ins	$26,303.00	0	1	$26,303.00
CO#3 - 3	1	East Holleman, additional pull box & tie-ins	$14,757.50	0	1	$14,757.50
CO#3 - 4	1	Tarrow Tie, additional tie-ins	$21,800.00	0	1	$21,800.00
		-		0	1	$0.00
		-				
					TOTAL	$62,860.50

THE NET AFFECT OF THIS CHANGE ORDER RESULTS IN AN OVERALL 11.03% INCREASE.

CO #3 :	**LINE 1**	**Penberthy Tie-in, additional bore footage & tie-ins**	$26,303.00
	LINE 2	**East Holleman, additional pull box & tie-ins**	$14,757.50
	LINE 3	**Tarrow Tie, additional tie-ins**	$21,800.00
	LINE 4	**-**	$0.00
	LINE 5	**-**	$0.00
TOTAL CHANGE ORDER 3			$62,860.50

RF

ORIGINAL CONTRACT AMOUNT	$625,000.00		
CHANGE ORDER NO. 1	$550.00	0.09%	CHANGE
CHANGE ORDER NO. 2	$5,548.44	0.89%	CHANGE
CHANGE ORDER NO. 3	$62,860.50	10.06%	CHANGE
		0.00%	CHANGE
		0.00%	CHANGE
		0.00%	CHANGE
REVISED CONTRACT AMOUNT	$693,958.94	11.03%	TOTAL CHANGE

MD

ORIGINAL CONTRACT TIME		Days
		Days
Revised Contract Time	0	Days

APPROVED

Harrison Westmoreland 11/19/2024
CONSTRUCTION CONTRACTOR Date

Nathan McCray 11/20/2024
PROJECT MANAGER Date

Timothy Ray Crabb, P.E. 11/20/2024
DEPARTMENT DIRECTOR Date

11/20/2024
ASST CITY MGR - CFO Date

CITY MANAGER Date

STERLING

Change Order Request Form

Project Name:	Penberthy Tie
Change Order #:	#2
Date:	11/8/2024
Original PO#	24300644

Description of Change

This is going back to the origional design with pull box installed per College Station with and added 96 foot of bore and pull box installed in sidewalk.

Cost Breakdown

Description	Mhrs	Labor $	Material $	Equipment $	Total $
Extra Bore Footage (96')		$ 75.00	$ 49.25		$ 11,928.00
Concrete Removal (sidewalk)		$ 5,875.00			$ 5,875.00
Concrete Repair (sidewalk)		$ 8,500.00			$ 8,500.00

Notes/Clarifications

new total for this location is $54,997.50

Total Change Order $:	$26,303.00	Approved		Not Approved	

Sterling Representative: Michael Stricker Date: 11/8/2024

Client Representative: Date:

STERLING

Change Order Request Form

Project Name:	East Holleman
Change Order #:	#3
Date:	10/25/2024
Original PO#	24300644

Description of Change

Added Pull Box and tie-into existing Conduits

Cost Breakdown

Description	Mhrs	Labor $	Material $	Equipment $	Total $
Install Pull Box w/ Skirt		$ 1.00			$ 8,625.00
Locate and tie in Existing Conduits		$ 1.00			$ 4,600.00
Open Ditch / existing utilities		$ 1.00			$ 843.75
2" & 4" Conduit			$ 688.75		$ 688.75

Notes/Clarifications

Total Change Order $:	$14,757.50	Approved		Not Approved

Sterling Representative: Date:

Client Representative: Date:

STERLING

Change Order Request Form

Project Name:	Tarrow Tie
Change Order #:	#4
Date:	10/25/2024
Original PO#	24300644

Description of Change

added ties-into existing conduits

Cost Breakdown

Description	Mhrs	Labor $	Material $	Equipment $	Total $
Detail #1		$ 1.00			$ 6,500.00
Detail #2		$ 1.00			$ 6,500.00
Detail #3		$ 1.00			$ 6,500.00
Misc Material for tie in	1		$ 500.00		$ 500.00
Misc.for Traffic control/barriers	1		$ 1,800.00		$ 1,800.00

Notes/Clarifications

Total Change Order $:	$21,800.00	Approved		Not Approved

Sterling Representative: Date:

Client Representative: Date:

December 12, 2024
Item No. 7.13.
Regional Solid Waste Grant Resolution

Sponsor: Debbie Eller, Director of Community Services

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding a resolution authorizing a grant application in an amount not to exceed $17,000 with the Brazos Valley Council of Governments for the Regional Solid Waste grant program.

Relationship to Strategic Goals:
Core Services and Infrastructure

Recommendation(s): Staff recommends approval

Summary: The City of College Station ("City"), in partnership with the Off Campus Student Services (OCSS) office at Texas A&M University and local non-profit organizations, is planning an event in May 2025 entitled "Haul and Help." The event will allow students who are moving to donate usable household items and furniture at three locations in College Station. The locations will be manned by City staff, OCSS staff, and local non-profits who will collect usable items to provide to clients or sell through their local resale stores. The purpose is twofold: reducing the amount of solid waste going to the landfill and recycling usable items and getting them into the hands of people who need them.

An additional initiative will work to reduce illegal accumulations and encourage appropriate disposal of waste through planned neighborhood clean-up events. These will be planned for areas identified by Code Enforcement in conjunction with Neighborhood Services.

These events and initiatives meet the following goals and objectives identified in the Regional Solid Waste Plan.
Goal #1: Ensure the availability of disposal in the BVCOG region to manage municipal solid waste after source reduction, recycling, and composting has occurred.
Objective #1B: Support local efforts to identify areas with litter and illegal disposal problems and encourage implementation of future and current enforcement programs to address those problems.
Goal #3: Reduce the amount of municipal solid waste generated and disposed of by maximizing source reduction and recycling, to the extent feasible, through voluntary approaches.
Objective #3A: Encourage public education and outreach programs that achieve public awareness and knowledge of solid waste management options and solutions.
Objective #3B: Encourage programs to facilitate the development and maintenance of local source reduction, waste minimization, recycling, and compositing programs within the regions, thus, conserving disposal capacity and resources to the extent technically and economically feasible.

Budget & Financial Summary: Additional grant funding not to exceed $17,000.00 in the Community Development fund.

Attachments:
1. BVCOG Resolution

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF COLLEGE STATION, TEXAS, APPROVING AND AUTHORIZING A GRANT APPLICATION WITH THE BRAZOS VALLEY COUNCIL OF GOVERNMENTS FOR A REGIONAL SOLID WASTE GRANT PROGRAM.

WHEREAS, the Brazos Valley Council of Governments ("BVCOG") is directed by the Texas Commission on Environmental Quality ("TCEQ") to administer solid waste grant funds for implementation in BVCOG's adopted regional solid waste management plan; and

WHEREAS, the City of College Station, Texas, will host the "Haul and Help" event in conjunction with the Off Campus Student Services Department at Texas A&M University and local non-profit organizations who can recycle usable household items; and

WHEREAS, the goals identified in the Regional Solid Waste Management Plan align with the purpose of the Haul and Help event, which is to reduce the amount of municipal solid waste generated and disposed of by minimizing source reduction and recycling through voluntary approaches; and

WHEREAS, the City of College Station, Texas will hold local neighborhood clean-up events to meet the Regional Plan objective to support efforts to identify areas with litter and illegal disposal problems and encourage implementation of future and current enforcement programs to address those problems; and

WHEREAS, the City of College Station, Texas, is qualified to apply for grant funds under the Request for Applications; and

WHEREAS, the City of College Station will comply with the grant requirements of the Brazos Valley Council of Governments, the Texas Commission on Environmental Quality, and The State of Texas**.** now, therefore:

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

PART 1: That the City Council hereby approves a Regional Solid Waste Grant Program application for funding in an amount not to exceed $17,000.00.

PART 2: That the City Council hereby authorizes and designates the City Manager or their designee to sign all required applications, certifications, evaluations, and other forms required by BVCOG or TCEQ on behalf of the City of College Station.

PART 3: The grant funds and any grant funded equipment or facilities will be used only for the purposes for with they are intended under the grant.

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

ADOPTED this 12th day of December 2024.

ATTEST: **APPROVED:**

_____ _____

City Secretary **Mayor**

APPROVED:

_____

City Attorney

December 12, 2024
Item No. 7.14.
Resolution to accept FY 25 State Crisis Intervention grant funds

Sponsor: Billy Couch

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding a resolution authorizing the chief of police to execute the grant application and any documents necessary to receive grant funding from the Office of the Governor through the Texas State Crisis Intervention Program.

Relationship to Strategic Goals:
Good governance

Recommendation(s): Staff recommends approval of the grant to receive the funds.

Summary: The grant will allow the police department to support two full-time officers to handle mental health crisis calls for service as well as proactively contact these consumers to ensure they stay out of crisis. This is an effort to reduce strain on patrol, better handle mental health consumers, and refocus some of the police department's efforts on education and threat assessment. The grant covers the full cost of two officers and 1 vehicle for FY 25 with the option to apply for the grant again for FY 26.

Budget & Financial Summary: No matching funds required. Total amount awarded is $464,552. This covers the cost of two full-time positions with salary, benefits, and overtime. A vehicle is also covered in the cost of the grant, as well as all necessary equipment and training.

Attachments:
1. FY 25 State Crisis Intervention Grant Resolution

RESOLUTION NO._____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLLEGE STATION AUTHORIZING THE CHIEF OF POLICE TO EXECUTE APPLICATION NECESSARY DOCUMENTS TO SUBMIT TO THE OFFICE OF THE GOVERNOR FOR GRANT FUNDS FOR FUNDING THROUGH THE TEXAS STATE CRISIS INTERVENTION GRANT PROGRAM ON BEHALF OF THE CITY AND TO ACT ON ITS BEHALF WITH RESPECT TO ANY ISSUES ARISING DURING THE APPLICATION PROCESS.

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 Mental Health Crisis Response Team project be operated for FY 2025; and

WHEREAS, the City Council of College Station agrees to provide applicable matching funds for the State Crisis Intervention Grant Program as required by the Office of the Governor application; and

WHEREAS, the City Council 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 Council 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 State Crisis Intervention Grant Program grant application to the Office of the Governor.

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 State Crisis Intervention Grant Program application, with Application Number **5118001**, 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 State Crisis Intervention Grant Program grant application on behalf of the City of College Station.

PART 3: That the City Council 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 to the Office of the Governor.

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

ADOPTED this _____day of_____, 2024.

ATTEST: **APPROVED:**

_____ **_____**
City Secretary **Mayor**

APPROVED:

_____
City Attorney

December 12, 2024
Item No. 7.15.
Annual Substation Testing and Maintenance

Sponsor: Timothy Crabb, Director of Electric

Reviewed By CBC: N/A

Agenda Caption: Presentation, discussion, and possible action on approval of an annual contract between the City of College Station and R.R. Cassidy, Inc. for annual Electric Substation Testing and Maintenance, not to exceed $133,000.

Relationship to Strategic Goals:
Core Services and Infrastructure

Recommendation(s): Staff recommends approval of the annual agreement in the amount of $133,000 with the option for two, one-year renewals for the same amount.

Summary: The Annual Substation Maintenance Contract is for NERC mandated Testing and Maintenance of critical electric substation devices and equipment.

The Annual Substation Maintenance was originally sent out through RFP 24-038, however, no bids were received and the RFP was rejected. The substation maintenance work was resolicited through RFP 24-076 and opened on September 26, 2024. R.R. Cassidy was the sole response, and based on the evaluation of the proposal, R.R. Cassidy, Inc. meets the overall evaluation factors with reasonable pricing. To note, R.R. Cassidy, Inc. included an exhaustive pricing list for the services they provide, however, the City's annual budget for substation maintenance is $133,000, and the agreement will be an annual, not-to-exceed amount of $133,000, with the option for two, one-year renewals for $133,000 each.

Budget & Financial Summary: Funds for this item are budgeted for in the Electric Capital Improvements and Maintenance Project Funds.

Attachments:
1. Contract 25300091 RR Cassidy

CONTRACT & AGREEMENT ROUTING FORM

CONTRACT#: 25300091 PROJECT #: _____ BID/RFP/RFQ#: 24-076

Project Name / Contract Description: Annual Substation Testing and Maintenance

Name of Contractor: R.R.Cassidy, Inc.

CONTRACT TOTAL VALUE: $ 133,000.00 **Grant Funded** Yes ☐ No ☒

If yes, what is the grant number: ☐

Debarment Check ☐ Yes ☒ No ☐ N/A
Section 3 Plan Incl. ☐ Yes ☒ No ☐ N/A

Davis Bacon Wages Used ☐ Yes ☒ No ☐ N/A
Buy America Required ☐ Yes ☒ No ☐ N/A
Transparency Report ☐ Yes ☒ No ☐ N/A

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

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

Funds are budgeted and available in the Electric Operating Fund.

*(If required)**

CRC Approval Date*: N/A **Council Approval Date*:** 11/25/24 **Agenda Item No*:** _____

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

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

SIGNATURES RECOMMENDING APPROVAL

_____ _____
DEPARTMENT DIRECTOR/ADMINISTERING CONTRACT DATE

_____ _____
ASST CITY MGR – CFO DATE

_____ _____
LEGAL DEPARTMENT DATE

APPROVED & EXECUTED

_____ _____
CITY MANAGER DATE

N/A _____ _____
MAYOR (if applicable) DATE

N/A _____ _____
CITY SECRETARY (if applicable) DATE

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 R.R.Cassidy, Inc. (the "Contractor") for the construction and/or installation of the following:
Annual Substation Testing and Maintenance.

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 Contract Amount. The term "Contract Amount" shall mean the amount of Contractor's lump sum base bid proposal, together with all alternates, as accepted by the City in accordance with the Contractor's Proposal. In the case of a unit price contract, Contract Amount shall mean the sum of the product of all unit prices multiplied by the respective estimated final quantities of work, for all base bid and alternates, as accepted by the City. Except in the event of a duly authorized change order approved by the City as provided in this Agreement, and in consideration of the Contractor's final completion of all Work in conformity with this Agreement, the City shall pay the Contractor an amount not to exceed: One Hundred Thirty-Three Thousand and 00 **/100 Dollars ($** 133,000.00 **)**.

1.06 Contract Documents. The term "Contract Documents" shall mean those documents listed in Paragraph 2.01.

1.07 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.

1.08 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.

1.09 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.

1.10 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.

1.11 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").

1.12 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.

1.13 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.

1.14 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.

1.15 Parties. The "parties" are the City and the Contractor.

1.16 Price Escalation/De-Escalation. The terms "price escalation" or "price de-escalation" shall mean that the market for products that are specified herein is considered by both parties to be volatile, and sudden price increases or decreases could occur that are beyond the control of the Contractor, despite its best efforts. Therefore, the parties agree that if there is a bona fide increase or decrease to the Contractor of the material(s) specified herein, the supplier or City may request an equitable adjustment to this contract based on the Producer Price Index for Intermediate Goods, Table B, as it appears in the "Summary Data from the Producer Price Index News Release" as published by the U.S. Department of Labor, Bureau of Labor Statistics. The procedures for Price Escalation and Price De-Escalation are further outlined in Section 16 – Payment.

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 paragraph 2.05, however, shall not relieve the Contractor of any of the obligations set forth in paragraphs 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 paragraphs 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 Paragraphs 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. 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.

(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 Subparagraph.

(b) The City may exercise the rights furnished the City under or pursuant to this Subparagraph 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, 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 Paragraph 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 Paragraph 16.9(a) and (2) changes in the Contractor's costs under Paragraph 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 Paragraph.

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 Paragraph 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.

(b) Claims made or reasonable evidence indicating probable filing of claims by unpaid vendors or other third parties.

(c) Failure of the Contractor to make prompt payments to subcontractors for labor or material or materialmen.

(d) Claims made or reasonable evidence indicating claims will be made for damage to another by the Contractor.

(e) Claims made or reasonable evidence indicating claims will be made for damage to third parties, including adjacent property owners.

(f) Claims made or reasonable evidence indicating claims will be made for unremedied damage to property owned by the City.

(g) City's determination of an amount of liquidated damages.

(h) Charges made for repairs to the Contractor's defective work or repairs made by the City to correct damage to other property.

(i) Other amounts authorized under this Agreement or under any other agreement made between City and Contractor.

(j) 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 Paragraph.

16.12 Price Escalation/De-Escalation. The parties agree that the Contractor has based its bid on certain pricing assumptions of materials to be incorporated into the work specified herein. However, the market for products that are specified herein is considered by both parties to be volatile, and sudden price increases or decreases could occur that are beyond the control of the Contractor, despite its best efforts. Therefore, the parties agree that if there is a bona fide increase or decrease to the Contractor of the material(s) specified herein, the Contractor or City may request an equitable adjustment to this contract based on the Producer Price Index for Intermediate Goods, Table B, as it appears in the "Summary Data from the Producer Price Index News Release" as published by the U.S. Department of Labor, Bureau of Labor Statistics. This index shall be referred to as the materials index.

Bids may only be adjusted semi-annually. Contractors are required to give a 30-day written notice before price increases.

The bid, as submitted herein as part of this Contract, is considered the base price for the materials specified herein as of October 1, 2024 and shall remain in effect for 6 months hereafter called the **reference base period**. Prices may be adjusted semi-annually each year, based upon the percent changes (whether up or down) in the special index specified herein, between the reference base period October 1, 2024 and of the most recent year. All calculations for the special index shall be based upon the latest versions of the Producer Price Index data published as of July 20th and January 20th of each year.

Under no circumstances shall the bid prices increase, in aggregate, more than ten percent (10%) during the course of the Contract and any subsequent renewals.

Any Contract awarded with an escalation clause shall be subject to de-escalation provisions in favor of the City in the same or similar manner in the event of cost reductions.

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 Paragraph 1.09 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 Paragraph 1.09 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, CONTRACT TERM, RENEWAL, and EXTENSION

18.01 Time of the Essence. 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 Notice to Proceed. 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.

18.04 Final Completion. The Work shall reach Final Completion and be ready for final payment within **thirty (30) calendar days** from the date of Substantial Completion.

18.05 Contract Term, Renewal, and Extension. The original term of this Contract shall be for one (1) year from the effective date of this contract. Thereafter, upon the mutual consent of both parties, including budget approval by the City, this Contract may be renewed on an annual basis, under the same terms and conditions, for up to two (2) additional years (three (3) years total). The renewal will be under the same terms and conditions as the original contract; provided, however, that the unit prices bid under the original contract may, by mutual agreement, be increased by no more than ten percent (10%) of the original contract price. In the event a new contract cannot be executed at the anniversary date of the original term or any renewal term, the contract may be renewed month-to-month until a new contract is executed.

18.06 Funding Out Provision. If, for any reason, City funds are not appropriated to continue the contract, the Contract shall become null and void and shall terminate.

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 Paragraph 1.08. 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 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 Paragraph 22 to offset for such stoppage of the Work.

21.03 No payment or compensation of any kind shall be made to the Contractor for damages because of hindrance or delay in the progress of the Work, unless such delays (1) are caused by the actual interference, fraud, bad faith or misrepresentation by the City or its agents, (ii) extend for an unreasonable length of time; or (iii) were not contemplated by the parties at the time of contracting. In the event of any delay entitling Contractor to an increase in Contract Amount, except when due to City's intentional interference or fraud, Contractor's recovery shall be limited as outlined in subsection 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 Texas A&M University weather service; 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 Paragraph 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 Four Hundred and 00 **/100 DOLLARS ($** 400.00 **)** 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 (l) 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, 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 (l) 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, or otherwise not in accordance with this Agreement within one (l) 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 (l) 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 (l) year after the installation or completion. The one (l) 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 Paragraph 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 Paragraphs 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. 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 paragraphs (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.

(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 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 Paragraph 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 section 1.11, 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 section 1.12). **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 section 1.10 of 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 paragraphs 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 <u>not</u> 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 Paragraph 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; and/or

(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 Paragraph 38 was wrongful and/or otherwise improper, such termination will be deemed converted to a termination for convenience pursuant to Paragraph 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 Paragraph 39.

43. HIRING

43.01 During the term of this Agreement and for a period of one (1) year thereafter, the Contractor agrees not to solicit for hire any employee or employees of the City that were associated with work specified under this Agreement. In the event that this provision is breached by the Contractor, the Contractor agrees to pay the City damages in the amount equal to twelve (12) months of the employee's total compensation plus any legal expenses associated with enforcement of this provision.

44. ASSIGNMENT

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

45. EFFECTIVE DATE

45.01 This Agreement goes into effect when duly approved by all the parties hereto and is contingent upon Contractor obtaining the bonds required herein.

46. OTHER TERMS

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

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

46.03 Written Notice. Unless otherwise specified, written notice shall be deemed to have been duly served if delivered in person to the individual or to a member of the firm or to any officer of the corporation for whom it is intended or if it is delivered or sent certified mail to the last business address as listed herein. Each party will have the right to change its business address by at least thirty (30) calendar days written notice to the other parties in writing of such change.

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

46.05 Amendment. No amendment to this Agreement shall be effective and binding unless and until it is reduced to writing and signed by duly authorized representatives of both parties.

46.06 Mediation. After receipt of a written notice of a claim, the City may elect to refer the matter to the City's Consultant, City's Representative or another party for review. Contractor will attend meetings called to review and discuss the claims and mitigation of the problem, and shall furnish any reasonable factual backup for the claim requested. The City may also elect to defer consideration of the claim until the Work is completed, in which case the same review options shall be available to the City at the completion of the Work. At any stage, the City, at its sole discretion, is entitled to refer a claim to mediation under the Construction Industry Mediation Rules of the American Arbitration Association, and, if this referral is made, Contractor will take part in the mediation process. The filing, mediation or rejection of a claim does not entitle Contractor to stop performance of the Work. The Contractor shall proceed diligently with performance of the Contract during the pendency of any claim, excepting termination or under City's direction to stop the Work. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. The parties shall share the Mediator's fee and any filing fees equally and the Mediation shall be held in College Station, Texas.

46.07 Arbitration. In the event of a dispute and upon the mutual written consent of both parties, the parties may agree to arbitration without waiving any of their other rights hereunder.

46.08 Choice of Law and Place of Performance. This Agreement has been made under and shall be governed by the laws of the State of Texas. Performance and all matters related thereto shall be in Brazos County, Texas, United States of America.

46.09 Authority to do business. The Contractor represents that it has a certificate of authority, authorizing it to do business in the State of Texas, a registered agent and registered office during the duration of this Agreement.

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

46.11 Waiver. Failure of any party, at any time, to enforce a provision of this Agreement shall in no way constitute a waiver of that provision nor in any way affect the validity of this Agreement, any part hereof, or the right of the City thereafter to enforce each and every provision hereof. No term of this Agreement shall be deemed waived or breach excused unless the waiver shall be in writing and signed by the party claimed to have waived.

Furthermore, any consent to or waiver of a breach will not constitute consent to or waiver of or excuse of any other different or subsequent breach.

46.12 Headings, Gender, Number. The article headings are used in this Agreement for convenience and reference purposes only and are not intended to define, limit, or describe the scope or intent of any provision of this Agreement and shall have no meaning or effect upon its interpretation. Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise.

46.13 Agreement Read. The parties acknowledge that they have had opportunity to consult with counsel of their choice, have read, understand and intend to be bound by the terms and conditions of this Agreement.

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

46.15 Notice of Indemnification. City and Contractor hereby acknowledge and agree that this Agreement contains certain indemnification obligations and covenants.

46.16 Verification No Boycott. To the extent applicable, this Contract is subject to the following:

(a) Boycott Israel. If this Contract is for goods and services subject to § 2270.002 Texas Government Code, Contractor verifies that it i) does not boycott Israel; and ii) will not boycott Israel during the term of this Contract;

(b) Boycott Firearms. If this Contract is for goods and services subject to § 2274.002 Texas Government Code, Contractor verifies that it i) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and ii) will not discriminate during the term of the contract against a firearm entity or firearm trade association; and

(c) Boycott Energy Companies. Subject to § 2274.002 Texas Government Code, Contractor herein verifies that it i) does not boycott energy companies; and ii) will not boycott energy companies during the term of this Contract.

List of Exhibits

- **A.** Wage Rates
- **B.** Performance & Payment Bonds
- **C.** Certificates of Insurance
- **D.** Plans & Specifications
- **E.** Construction Schedule
- **F.** Schedule of Values

R.R.CASSIDY

By: Jeremy Swanton

Printed Name: Jeremy Swanton

Title: VP Relay/Field Services

Date: 11/21/2024

CITY OF COLLEGE STATION

By: _____
City Manager
Date: _____

APPROVED:

_____
City Attorney
Date: _____

_____
Assistant City Manager/CFO
Date: _____

EXHIBIT A
DAVIS BACON WAGE RATES

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.

"General Decision Number: TX20220007 02/25/2022

Superseded General Decision Number: TX20210007

State: Texas

Construction Types: Heavy and Highway

Counties: Atascosa, Bandera, Bastrop, Bell, Bexar, Brazos, Burleson, Caldwell, Comal, Coryell, Guadalupe, Hays, Kendall, Lampasas, McLennan, Medina, Robertson, Travis, Williamson and Wilson Counties in Texas.

HEAVY (excluding tunnels and dams, not to be used for work on Sewage or Water Treatment Plants or Lift / Pump Stations in Bell, Coryell, 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 $15.00 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 2022.
If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:	. Executive Order 13658 generally applies to the contract. . The contractor must pay all covered workers at least $11.25 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2022.

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at

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

Modification Number	Publication Date
0	01/07/2022
1	02/25/2022

* SUTX2011-006 08/03/2011

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER (Paving and Structures)	$ 12.56 **	
ELECTRICIAN	$ 26.35	
FORM BUILDER/FORM SETTER		
Paving & Curb	$ 12.94 **	
Structures	$ 12.87 **	
LABORER		
Asphalt Raker	$ 12.12 **	
Flagger	$ 9.45 **	
Laborer, Common	$ 10.50 **	
Laborer, Utility	$ 12.27 **	
Pipelayer	$ 12.79 **	
Work Zone Barricade Servicer	$ 11.85 **	
PAINTER (Structures)	$ 18.34	
POWER EQUIPMENT OPERATOR:		
Agricultural Tractor	$ 12.69 **	
Asphalt Distributor	$ 15.55	
Asphalt Paving Machine	$ 14.36 **	
Boom Truck	$ 18.36	
Broom or Sweeper	$ 11.04 **	
Concrete Pavement Finishing Machine	$ 15.48	
Crane, Hydraulic 80 tons or less	$ 18.36	
Crane, Lattice Boom 80 tons or less	$ 15.87	
Crane, Lattice Boom over 80 tons	$ 19.38	
Crawler Tractor	$ 15.67	
Directional Drilling Locator	$ 11.67 **	
Directional Drilling Operator	$ 17.24	
Excavator 50,000 lbs or Less	$ 12.88 **	
Excavator over 50,000 lbs	$ 17.71	
Foundation Drill, Truck Mounted	$ 16.93	
Front End Loader, 3 CY or Less	$ 13.04 **	
Front End Loader, Over 3 CY	$ 13.21 **	
Loader/Backhoe	$ 14.12 **	
Mechanic	$ 17.10	
Milling Machine	$ 14.18 **	
Motor Grader, Fine Grade	$ 18.51	
Motor Grader, Rough	$ 14.63 **	
Pavement Marking Machine	$ 19.17	

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      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 ($15.00) or 13658
 ($11.25).  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"

EXHIBIT B
PERFORMANCE AND PAYMENT BONDS

PERFORMANCE BOND

Bond No. K41974126

THE STATE OF TEXAS §
§ **KNOW ALL MEN BY THESE PRESENTS:**
THE COUNTY OF BRAZOS §

THAT WE, R.R.Cassidy , Inc., as Principal, hereinafter called "Contractor" and the other subscriber hereto Federal Insurance Company, as Surety, do hereby acknowledge ourselves to be held and firmly bound to the City of College Station, a municipal corporation, in the sum of One Hundred Thirty-Three Thousand and 00 /100 Dollars ($133,000.00) for the payment of which sum, well and truly to be made to the City of College Station and its successors, the said Contractor and Surety do bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:

WHEREAS, the Contractor has on or about this day executed a Contract in writing with the City of College Station for Annual Substation Testing and Maintenance,

all of such Work to be done as set out in full in said Contract Documents therein referred to and adopted by the City Council, all of which are made a part of this instrument as fully and completely as if set out in full herein.

NOW THEREFORE, if the said Contractor shall faithfully and strictly perform Contract in all its terms, provisions, and stipulations in accordance with its true meaning and effect, and in accordance with the Contract Documents referred to therein and shall comply strictly with each and every provision of the Contract, including all warranties and indemnities therein and with this bond, then this obligation shall become null and void and shall have no further force and effect; otherwise the same is to remain in full force and effect.

It is further understood and agreed that the Surety does hereby relieve the City of College Station or its representatives from the exercise of any diligence whatever in securing compliance on the part of the Contractor with the terms of the Contract, including the making of payments thereunder and, having fully considered its Principal's competence to perform the Contract in the underwriting of this Performance Bond, the Surety hereby waives any notice to it of any default, or delay by the Contractor in the performance of his Contract and agrees that it, the Surety, shall be bound to take notice of and shall be held to have knowledge of all acts or omissions of the Contractor in all matters pertaining to the Contract. The Surety understands and agrees that the provision in the Contract that the City of College Station shall retain certain amounts due the Contractor until the expiration of thirty (30) days from the acceptance of the Work is intended for the City's benefit, and the City of College Station shall have the right to pay or withhold such retained amounts or any other amount owing under the Contract without changing or affecting the liability of the Surety hereon in any degree.

It is further expressly agreed by Surety that the City of College Station or its representatives are at liberty at any time, without notice to the Surety, to make any change in the Contract Documents and in the Work to be

done thereunder, as provided in the Contract, and in the terms and conditions thereof, or to make any change in, addition to, or deduction from the Work to be done thereunder; and that such changes, if made, shall not in any way vitiate the obligation in this bond and undertaking or release the Surety therefrom. Surety, for value received, stipulates and agrees that any change in Contract Time or Contract Sum shall not in anywise affect its obligation on this bond and it does hereby waive notice of any such change in Contract Time or Contract Sum.

It is further expressly agreed and understood that the Contractor and Surety will fully indemnify and hold harmless the City of College Station from any liability, loss, cost, expense, or damage arising out of or in connection with the Work done by the Contractor under the Contract. In the event that the City of College Station shall bring any suit or other proceeding at law on the Contract or this bond or both, the Contractor and Surety agree to pay to the City the actual amounts of attorneys' fees incurred by the city in connection with such suit.

This bond and all obligations created hereunder shall be performable in Brazos County, Texas. This bond is given in compliance with the provisions of Chapter 2253 of the Texas Government Code, as amended, which is incorporated herein by this reference. However, all of the express provisions hereof shall be applicable whether or not within the scope of said statute.

Notices required or permitted hereunder shall be in writing and shall be deemed delivered when actually received or, if earlier, on the third day following deposit in a United State Postal Service post office or receptacle, with proper postage affixed (certified mail, return receipt requested), addressed to the respective other party at the address prescribed in the Contract Documents, or at such other address as the receiving party may hereafter prescribe by written notice to the sending party. A copy of surety agent's "Power of Attorney" must be attached hereto.

IN WITNESS THEREOF, the said Contractor and Surety have signed and sealed this instrument on the respective dates written below their signatures and have attached current Power of Attorney.

Bond No. K41974126

FOR THE CONTRACTOR: R.R. CASSIDY

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

(Name of Contractor)

By: Jennifer Ricard
Name: Jennifer Ricard
Title: Compliance Director
Date: Nov. 14, 2024

By:
Name: Gordon Abboud
Title: President
Date: Nov. 14, 2024

FOR THE SURETY:
ATTEST/WITNESS **(SEAL)**

By:
Name: Rhonda Tischofer
Title: Witness
Date: Nov. 14, 2024

Federal Insurance Company
(Full Name of Surety)
202B Hall's Mill Road
Whitehouse Station, NJ 08889
(Address of Surety for Notice)

By:
Name: Michelle Anne McMahon
Title: Attorney-in-Fact
Date: Nov. 14, 2024

FOR THE CITY:

REVIEWED:

City Attorney

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

City Manager

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

Contract No. ~~24300091~~ 25300091
Electric Construction Services Agreement Over $50,000
Form 08-30-2021

CHUBB

Power of Attorney

Federal Insurance Company | Vigilant Insurance Company | Pacific Indemnity Company
Westchester Fire Insurance Company | ACE American Insurance Company

Know All by These Presents, that **FEDERAL INSURANCE COMPANY**, an Indiana corporation, **VIGILANT INSURANCE COMPANY**, a New York corporation, **PACIFIC INDEMNITY COMPANY**, a Delaware corporation, **WESTCHESTER FIRE INSURANCE COMPANY** and **ACE AMERICAN INSURANCE COMPANY** corporations of the Commonwealth of Pennsylvania, do each hereby constitute and appoint Jonathan Gleason, Michelle Anne McMahon, Doritza Mojica, Sarah Murtha, Joshua Sanford and Connor Wolpert of Hartford, Connecticut ----------

each as their true and lawful Attorney-in-Fact to execute under such designation in their names and to affix their corporate seals to and deliver for and on their behalf as surety thereon or otherwise, bonds and undertakings and other writings obligatory in the nature thereof (other than bail bonds) given or executed in the course of business, and any instruments amending or altering the same, and consents to the modification or alteration of any instrument referred to in said bonds or obligations.

In Witness Whereof, said **FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, PACIFIC INDEMNITY COMPANY, WESTCHESTER FIRE INSURANCE COMPANY** and **ACE AMERICAN INSURANCE COMPANY** have each executed and attested these presents and affixed their corporate seals on this **5th** day of **August, 2024.**

Rupert HD Swindells, Assistant Secretary

Warren Eichhorn, Vice President

STATE OF NEW JERSEY
County of Hunterdon ss.

On this **5th** day of **August, 2024** before me, a Notary Public of New Jersey, personally came Rupert HD Swindells and Warren Eichhorn, to me known to be Assistant Secretary and Vice President, respectively, of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, PACIFIC INDEMNITY COMPANY, WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY, the companies which executed the foregoing Power of Attorney, and the said Rupert HD Swindells and Warren Eichhorn, being by me duly sworn, severally and each for himself did depose and say that they are Assistant Secretary and Vice President, respectively, of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, PACIFIC INDEMNITY COMPANY, WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY and know the corporate seals thereof, that the seals affixed to the foregoing Power of Attorney are such corporate seals and were thereto affixed by authority of said Companies; and that their signatures as such officers were duly affixed and subscribed by like authority.

Notarial Seal

Albert Contursi
NOTARY PUBLIC OF NEW JERSEY
No 50202369
Commission Expires August 22,2027

Notary Public

CERTIFICATION

Resolutions adopted by the Boards of Directors of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY on August 30, 2016; WESTCHESTER FIRE INSURANCE COMPANY on December 11, 2006; and ACE AMERICAN INSURANCE COMPANY on March 20, 2009:

"RESOLVED, that the following authorizations relate to the execution, for and on behalf of the Company, of bonds, undertakings, recognizances, contracts and other written commitments of the Company entered into in the ordinary course of business (each a "Written Commitment"):

(1) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized to execute any Written Commitment for and on behalf of the Company, under the seal of the Company or otherwise.

(2) Each duly appointed attorney-in-fact of the Company is hereby authorized to execute any Written Commitment for and on behalf of the Company, under the seal of the Company or otherwise, to the extent that such action is authorized by the grant of powers provided for in such person's written appointment as such attorney-in-fact.

(3) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized, for and on behalf of the Company, to appoint in writing any person the attorney-in-fact of the Company with full power and authority to execute, for and on behalf of the Company, under the seal of the Company or otherwise, such Written Commitments of the Company as may be specified in such written appointment, which specification may be by general type or class of Written Commitments or by specification of one or more particular Written Commitments.

(4) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized, for and on behalf of the Company, to delegate in writing to any other officer of the Company the authority to execute, for and on behalf of the Company, under the Company's seal or otherwise, such Written Commitments of the Company as are specified in such written delegation, which specification may be by general type or class of Written Commitments or by specification of one or more particular Written Commitments.

(5) The signature of any officer or other person executing any Written Commitment or appointment or delegation pursuant to this Resolution, and the seal of the Company, may be affixed by facsimile on such Written Commitment or written appointment or delegation.

FURTHER RESOLVED, that the foregoing Resolution shall not be deemed to be an exclusive statement of the powers and authority of officers, employees and other persons to act for and on behalf of the Company, and such Resolution shall not limit or otherwise affect the exercise of any such power or authority otherwise validly granted or vested."

I, Rupert HD Swindells, Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, PACIFIC INDEMNITY COMPANY, WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY (the "Companies") do hereby certify that

(i) the foregoing Resolutions adopted by the Board of Directors of the Companies are true, correct and in full force and effect,
(ii) the foregoing Power of Attorney is true, correct and in full force and effect.

Given under my hand and seals of said Companies at Whitehouse Station, NJ, this November 14th, 2024

Rupert HD Swindells, Assistant Secretary

IN THE EVENT YOU WISH TO VERIFY THE AUTHENTICITY OF THIS BOND OR NOTIFY US OF ANY OTHER MATTER, PLEASE CONTACT US AT:
Telephone (908) 903- 3493 Fax (908) 903- 3656 e-mail: surety@chubb.com

Combined: FED-VIG-PI-WFIC-AAIC (rev. 11-19)

TEXAS STATUTORY PAYMENT BOND

Bond No. K41974126

THE STATE OF TEXAS §
§ **KNOW ALL MEN BY THESE PRESENTS:**
THE COUNTY OF BRAZOS §

THAT WE, R.R.Cassidy , Inc., as Principal, hereinafter called "Principal" and the other subscriber hereto Federal Insurance Company, a corporation organized and existing under the laws of the State of Indiana, licensed to business in the State of Texas and admitted to write bonds, as Surety, herein after called "Surety", do hereby acknowledge ourselves to be held and firmly bound to the City of College Station, a municipal corporation, in the sum of One Hundred Thirty-Three Thousand and 00/100 Dollars ($133,000.00) for payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns jointly and severally.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:

WHEREAS, Principal has entered into a certain contract with the City of College Station, dated the 14th day of November, 2024, for Annual Substation Testing and Maintenance, 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. K41974126

FOR THE CONTRACTOR: R.R. Cassidy, Inc. XXXXXXXXXXXXXXX

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

(Name of Contractor)

By: Jennifer Ricard
Name: Jennifer Ricard
Title: Compliance Director
Date: Nov. 14, 2024

By:
Name: Gordon Abboud
Title: President
Date: Nov. 14, 2024

FOR THE SURETY:
ATTEST/WITNESS **(SEAL)**

By:
Name: Rhonda Tischofer
Title: Witness
Date: Nov. 14, 2024

Federal Insurance Company
(Full Name of Surety)

202B Hall's Mill Road
Whitehouse Station, NJ 08889
(Address of Surety for Notice)

By:
Name: Michelle Anne McMahon
Title: Attorney-in-Fact
Date: Nov. 14, 2024

FOR THE CITY:

REVIEWED:

City Attorney

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

City Manager

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

Contract No. ~~24300091~~ 25300091
Electric Construction Services Agreement Over $50,000
Form 08-30-2021

CHUBB

Power of Attorney

Federal Insurance Company | Vigilant Insurance Company | Pacific Indemnity Company
Westchester Fire Insurance Company | ACE American Insurance Company

Know All by These Presents, that **FEDERAL INSURANCE COMPANY**, an Indiana corporation, **VIGILANT INSURANCE COMPANY**, a New York corporation, **PACIFIC INDEMNITY COMPANY**, a Delaware corporation, **WESTCHESTER FIRE INSURANCE COMPANY** and **ACE AMERICAN INSURANCE COMPANY** corporations of the Commonwealth of Pennsylvania, do each hereby constitute and appoint Jonathan Gleason, Michelle Anne McMahon, Doritza Mojica, Sarah Murtha, Joshua Sanford and Connor Wolpert of Hartford, Connecticut ----------

each as their true and lawful Attorney-in-Fact to execute under such designation in their names and to affix their corporate seals to and deliver for and on their behalf as surety thereon or otherwise, bonds and undertakings and other writings obligatory in the nature thereof (other than bail bonds) given or executed in the course of business, and any instruments amending or altering the same, and consents to the modification or alteration of any instrument referred to in said bonds or obligations.

In Witness Whereof, said **FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, PACIFIC INDEMNITY COMPANY, WESTCHESTER FIRE INSURANCE COMPANY** and **ACE AMERICAN INSURANCE COMPANY** have each executed and attested these presents and affixed their corporate seals on this **5th** day of **August, 2024.**

Rupert HD Swindells, Assistant Secretary

Warren Eichhorn, Vice President

STATE OF NEW JERSEY
County of Hunterdon ss.

On this **5th** day of **August, 2024** before me, a Notary Public of New Jersey, personally came Rupert HD Swindells and Warren Eichhorn, to me known to be Assistant Secretary and Vice President, respectively, of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, PACIFIC INDEMNITY COMPANY, WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY, the companies which executed the foregoing Power of Attorney, and the said Rupert HD Swindells and Warren Eichhorn, being by me duly sworn, severally and each for himself did depose and say that they are Assistant Secretary and Vice President, respectively, of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, PACIFIC INDEMNITY COMPANY, WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY and know the corporate seals thereof, that the seals affixed to the foregoing Power of Attorney are such corporate seals and were thereto affixed by authority of said Companies; and that their signatures as such officers were duly affixed and subscribed by like authority.

Notarial Seal

Albert Contursi
NOTARY PUBLIC OF NEW JERSEY
No 50202369
Commission Expires August 22,2027

Notary Public

CERTIFICATION

Resolutions adopted by the Boards of Directors of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY on August 30, 2016; WESTCHESTER FIRE INSURANCE COMPANY on December 11, 2006; and ACE AMERICAN INSURANCE COMPANY on March 20, 2009:

"RESOLVED, that the following authorizations relate to the execution, for and on behalf of the Company, of bonds, undertakings, recognizances, contracts and other written commitments of the Company entered into in the ordinary course of business (each a "Written Commitment"):

(1) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized to execute any Written Commitment for and on behalf of the Company, under the seal of the Company or otherwise.

(2) Each duly appointed attorney-in-fact of the Company is hereby authorized to execute any Written Commitment for and on behalf of the Company, under the seal of the Company or otherwise, to the extent that such action is authorized by the grant of powers provided for in such person's written appointment as such attorney-in-fact.

(3) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized, for and on behalf of the Company, to appoint in writing any person the attorney-in-fact of the Company with full power and authority to execute, for and on behalf of the Company, under the seal of the Company or otherwise, such Written Commitments of the Company as may be specified in such written appointment, which specification may be by general type or class of Written Commitments or by specification of one or more particular Written Commitments.

(4) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized, for and on behalf of the Company, to delegate in writing to any other officer of the Company the authority to execute, for and on behalf of the Company, under the Company's seal or otherwise, such Written Commitments of the Company as are specified in such written delegation, which specification may be by general type or class of Written Commitments or by specification of one or more particular Written Commitments.

(5) The signature of any officer or other person executing any Written Commitment or appointment or delegation pursuant to this Resolution, and the seal of the Company, may be affixed by facsimile on such Written Commitment or written appointment or delegation.

FURTHER RESOLVED, that the foregoing Resolution shall not be deemed to be an exclusive statement of the powers and authority of officers, employees and other persons to act for and on behalf of the Company, and such Resolution shall not limit or otherwise affect the exercise of any such power or authority otherwise validly granted or vested."

I, Rupert HD Swindells, Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, PACIFIC INDEMNITY COMPANY, WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY (the "Companies") do hereby certify that

(i) the foregoing Resolutions adopted by the Board of Directors of the Companies are true, correct and in full force and effect,
(ii) the foregoing Power of Attorney is true, correct and in full force and effect.

Given under my hand and seals of said Companies at Whitehouse Station, NJ, this November 14th, 2024

Rupert HD Swindells, Assistant Secretary

IN THE EVENT YOU WISH TO VERIFY THE AUTHENTICITY OF THIS BOND OR NOTIFY US OF ANY OTHER MATTER, PLEASE CONTACT US AT:
Telephone (908) 903- 3493 Fax (908) 903- 3656 e-mail: surety@chubb.com

Combined: FED-VIG-PI-WFIC-AAIC (rev. 11-19)

GENERAL SURETY RIDER

To be attached and form a part of

Bond No.	K41974126
For	ANNUAL SUBSTATION TESTING AND MAINTENANCE
Dated effective	11/25/2024 (MONTH, DAY, YEAR)
Executed by	R.R. Cassidy, Inc., as Principal, (PRINCIPAL)
And by	Federal Insurance Company, as Surety, (SURETY)
And in favor of	City of College Station (OBLIGEE)

In consideration of the mutual agreements herein contained the Principal and the Surety hereby consent to changing

INFORMATION	FROM	TO
Term Effective Date	11/14/2024	11/25/2024
Contract Date	11/14/2024	11/25/2024

Nothing herein contained shall vary, alter or extend any provision or condition of this bond except as herein expressly stated.

This rider is effective 11/14/2024
(MONTH, DAY, YEAR)

Signed and Sealed 11/14/2024
(MONTH, DAY, YEAR)

R.R. Cassidy, Inc.
PRINCIPAL

BY _____
TITLE

Federal Insurance Company
SURETY

BY _____
Cheryl M. Husted ATTORNEY-IN-FACT

CHUBB

Power of Attorney

Federal Insurance Company | Vigilant Insurance Company | Pacific Indemnity Company
Westchester Fire Insurance Company | ACE American Insurance Company

Know All by These Presents, that **FEDERAL INSURANCE COMPANY**, an Indiana corporation, **VIGILANT INSURANCE COMPANY**, a New York corporation, **PACIFIC INDEMNITY COMPANY**, a Delaware corporation, **WESTCHESTER FIRE INSURANCE COMPANY** and **ACE AMERICAN INSURANCE COMPANY** corporations of the Commonwealth of Pennsylvania, do each hereby constitute and appoint **Michelle Anne McMahon**

Surety Bond No. K41974126

Obligee: City of College Station

each as their true and lawful Attorney-in-Fact to execute under such designation in their names and to affix their corporate seals to and deliver for and on their behalf as surety thereon or otherwise, bonds and undertakings and other writings obligatory in the nature thereof (other than bail bonds) given or executed in the course of business, and any instruments amending or altering the same, and consents to the modification or alteration of any instrument referred to in said bonds or obligations.

In Witness Whereof, said **FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, PACIFIC INDEMNITY COMPANY, WESTCHESTER FIRE INSURANCE COMPANY** and **ACE AMERICAN INSURANCE COMPANY** have each executed and attested these presents and affixed their corporate seals on this 1st day of **October, 2024**.

Rupert HD Swindells, Assistant Secretary

Warren Eichhorn, Vice President

STATE OF NEW JERSEY
County of Hunterdon ss.

On this 1st day of **October, 2024** before me, a Notary Public of New Jersey, personally came Rupert HD Swindells and Warren Eichhorn, to me known to be Assistant Secretary and Vice President, respectively, of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, PACIFIC INDEMNITY COMPANY, WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY, the companies which executed the foregoing Power of Attorney, and the said Rupert HD Swindells and Warren Eichhorn, being by me duly sworn, severally and each for himself did depose and say that they are Assistant Secretary and Vice President, respectively, of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, PACIFIC INDEMNITY COMPANY, WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY and know the corporate seals thereof, that the seals affixed to the foregoing Power of Attorney are such corporate seals and were thereto affixed by authority of said Companies; and that their signatures as such officers were duly affixed and subscribed by like authority.

Notarial Seal

Albert Contursi
NOTARY PUBLIC OF NEW JERSEY
No 50202369
Commission Expires August 22,2027

Notary Public

CERTIFICATION

Resolutions adopted by the Boards of Directors of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY on August 30, 2016; WESTCHESTER FIRE INSURANCE COMPANY on December 11, 2006; and ACE AMERICAN INSURANCE COMPANY on March 20, 2009:

"RESOLVED, that the following authorizations relate to the execution, for and on behalf of the Company, of bonds, undertakings, recognizances, contracts and other written commitments of the Company entered into in the ordinary course of business (each a "Written Commitment"):

(1) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized to execute any Written Commitment for and on behalf of the Company, under the seal of the Company or otherwise.

(2) Each duly appointed attorney-in-fact of the Company is hereby authorized to execute any Written Commitment for and on behalf of the Company, under the seal of the Company or otherwise, to the extent that such action is authorized by the grant of powers provided for in such person's written appointment as such attorney-in-fact.

(3) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized, for and on behalf of the Company, to appoint in writing any person the attorney-in-fact of the Company with full power and authority to execute, for and on behalf of the Company, under the seal of the Company or otherwise, such Written Commitments of the Company as may be specified in such written appointment, which specification may be by general type or class of Written Commitments or by specification of one or more particular Written Commitments.

(4) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized, for and on behalf of the Company, to delegate in writing to any other officer of the Company the authority to execute, for and on behalf of the Company, under the Company's seal or otherwise, such Written Commitments of the Company as are specified in such written delegation, which specification may be by general type or class of Written Commitments or by specification of one or more particular Written Commitments.

(5) The signature of any officer or other person executing any Written Commitment or appointment or delegation pursuant to this Resolution, and the seal of the Company, may be affixed by facsimile on such Written Commitment or written appointment or delegation.

FURTHER RESOLVED, that the foregoing Resolution shall not be deemed to be an exclusive statement of the powers and authority of officers, employees and other persons to act for and on behalf of the Company, and such Resolution shall not limit or otherwise affect the exercise of any such power or authority otherwise validly granted or vested."

I, Rupert HD Swindells, Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, PACIFIC INDEMNITY COMPANY, WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY (the "Companies") do hereby certify that

(i) the foregoing Resolutions adopted by the Board of Directors of the Companies are true, correct and in full force and effect.
(ii) the foregoing Power of Attorney is true, correct and in full force and effect.

Given under my hand and seals of said Companies at Whitehouse Station, NJ, this November 14, 2024.

Rupert HD Swindells, Assistant Secretary

IN THE EVENT YOU WISH TO VERIFY THE AUTHENTICITY OF THIS BOND OR NOTIFY US OF ANY OTHER MATTER, PLEASE CONTACT US AT:
Telephone (908) 903-3493 Fax (908) 903-3656 e-mail: surety@chubb.com

EXHIBIT C
CERTIFICATES OF INSURANCE AND ENDORSEMENTS

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 5/1/2025 — 10/30/2024

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 Lockton Companies, LLC Lockton Companies, LLC 3657 BRIARPARK DRIVE, SUITE 700 HOUSTON TX 77042	CONTACT NAME: PHONE (A/C, No, Ext): FAX (A/C, No): E-MAIL ADDRESS:
INSURED 1491643 R.R. Cassidy, Inc. A QUANTA SERVICES COMPANY PO Box 80231 Baton Rouge LA 70898	INSURER(S) AFFORDING COVERAGE — NAIC # INSURER A : Old Republic Insurance Company — 24147 INSURER B : ACE Property and Casualty Insurance Company — 20699 INSURER C : --- SEE ATTACHMENT --- INSURER D : INSURER E : INSURER F :

COVERAGES **CERTIFICATE NUMBER:** 21107596 **REVISION NUMBER:** XXXXXXX

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	X COMMERCIAL GENERAL LIABILITY	Y	Y	MWZY 313093 24	5/1/2024	5/1/2025	EACH OCCURRENCE	$ $5,000,000
A	CLAIMS-MADE X OCCUR			MWZX 313095 24	5/1/2024	5/1/2025	DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 1,000,000
							MED EXP (Any one person)	$ Excluded
							PERSONAL & ADV INJURY	$ $1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ $6,000,000
	POLICY X PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$ $5,000,000
	OTHER:							$
A	AUTOMOBILE LIABILITY	Y	Y	MWTB 313092 24.	5/1/2024	5/1/2025	COMBINED SINGLE LIMIT (Ea accident)	$ 5,000,000
A	X ANY AUTO			MWZX 313091 24	5/1/2024	5/1/2025	BODILY INJURY (Per person)	$ XXXXXXX
	X OWNED AUTOS ONLY — SCHEDULED AUTOS						BODILY INJURY (Per accident)	$ XXXXXXX
	X HIRED AUTOS ONLY — X NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$ XXXXXXX
								$ XXXXXXX
B	X UMBRELLA LIAB X OCCUR	Y	Y	XEU G27972032 009	5/1/2024	5/1/2025	EACH OCCURRENCE	$ 1,000,000
	EXCESS LIAB — CLAIMS-MADE						AGGREGATE	$ 1,000,000
	DED RETENTION $							$ XXXXXXX
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N		Y	MWC 313094 24	5/1/2024	5/1/2025	X PER STATUTE OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? N / A						E.L. EACH ACCIDENT	$ 5,000,000
	(Mandatory in NH)						E.L. DISEASE - EA EMPLOYEE	$ 5,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - POLICY LIMIT	$ 5,000,000
C	Property	N	N	See Attached	5/1/2024	5/1/2025	See Attached	

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

CERTIFICATE HOLDER

21107596
City of College Station
Attn: Risk Manager
PO Box 9960
College Station TX 77842

CANCELLATION See Attachments

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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Additional Insured in favor of The City of College Station, its agents, officials, employees and volunteers (on all policies except Workers' Compensation/EL) where and to the extent required by written contract. Waiver of Subrogation in favor of The City of College Station, its agents, officials, employees and volunteers on all policies where and to the extent required by written contract and only where permissible by law. The Insurance afforded to the Additional Insured as described in this Certificate of Insurance for work performed by the Named Insured is primary and non-contributory to any similar coverage maintained by the Additional Insured where and to the extent required by contract. 30 Day Notice of Cancellation is included on all policies.

Builder's Risk / Contractor's Equipment / Real & Personal Property
Policy Term: May 1, 2024 to May 1, 2025

Insurers:

Security	Policy Number(s)	Line	A.M. Best Rating
Starr Surplus Lines Insurance Company	SLSTPTY12041824/ ITH11994124/ SLOCON113947001	30%	A
General Security Indemnity Company of Arizona	FA0071813-2024-1	10%	A+
Great Lakes Insurance SE, MR F&C London	ENCST2400116	15%	A+
Swiss Re International Se, UK	ENCST2400116	10%	A
Underwriting Syndicate at Lloyd's – AXS 1686 (AXIS)	ENCST2400116	10%	A
Zurich Commercial Insurance UK	ENCST2400116	8%	A+
Aviva Insurance Company	ENCST2400116	17%	A

SECTION I — BUILDER'S RISK

Limit of Liability

USD 150,000,000 any one **OCCURRENCE*** for any **INSURED PROJECT*;** plus
As declared To and agreed by Insurers for an individual **INSURED PROJECT*** in respect of Delay in Completion, subject to a maximum of 30% of the amount of the estimated contract value for the relevant **INSURED PROJECT*** in the aggregate

Annual Aggregate Limits of Liability

EARTHQUAKE*
USD 25,000,000 Within the entire state of California
USD 50,000,000 Within all other **EARTHQUAKE ZONE 1***
FLOOD*
USD 25,000,000 Within **FLOOD ZONE 1***
USD 50,000,000 Within U.S. Territories & Possessions, and the Commonwealth of Puerto Rico
NAMED WINDSTORM*
USD 50,000,000 Within **WIND ZONE 1***

SECTION II — CONTRACTOR'S EQUIPMENT & PROPERTY FOR RIGGING

Limits of Liability

USD 50,000,000 any one **OCCURRENCE*** in respect of **CONTRACTOR'S EQUIPMENT***
USD 5,000,000 any one **OCCURRENCE*** in respect of **PROPERTY FOR RIGGING***

Annual Aggregate Limits of Liability

EARTHQUAKE*
USD 10,000,000 Within the entire state of California
USD 25,000,000 Within all other **EARTHQUAKE ZONE 1***
FLOOD*
USD 25,000,000 Within **FLOOD ZONE 1***
USD 50,000,000 Within U.S. Territories & Possessions, and the Commonwealth of Puerto Rico
NAMED WINDSTORM*
USD 25,000,000 Within **WIND ZONE 1***

SECTION III — Real & Personal Property

Limit of Liability

USD 50,000,000 any one **OCCURRENCE***

Annual Aggregate Limits of Liability

EARTHQUAKE*
USD 10,000,000 Within the entire state of California
USD 25,000,000 Within all other **EARTHQUAKE ZONE 1***
FLOOD*
USD 25,000,000 Within **FLOOD ZONE 1***
USD 50,000,000 Within U.S. Territories & Possessions, and the Commonwealth of Puerto Rico
NAMED WINDSTORM*
USD 25,000,000 Within **WIND ZONE 1***

POLICY NUMBER:MWZY 313093 24

COMMERCIAL GENERAL LIABILITY
CG 20 10 12 19

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
The City of College Station, its agents, officials, employees and volunteers	TX
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.

POLICY NUMBER:MWZY 313093 24

COMMERCIAL GENERAL LIABILITY
CG 20 37 12 19

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
The City of College Station, its agents, officials, employees and volunteers	TX
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.

Policy Number: MWZY 313093 24

COMMERCIAL GENERAL LIABILITY
CG 20 01 12 19

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.

POLICY NUMBER:MWZY 313093 24

COMMERCIAL GENERAL LIABILITY
CG 24 04 12 19

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

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

This endorsement modifies insurance provided under the following:

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

SCHEDULE

Name Of Person(s) Or Organization(s):
The City of College Station, its agents, officials, employees and volunteers
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

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

We waive any right of recovery against the person(s) or organization(s) shown in the Schedule above because of payments we make under this Coverage Part. Such waiver by us applies only to the extent that the insured has waived its right of recovery against such person(s) or organization(s) prior to loss. This endorsement applies only to the person(s) or organization(s) shown in the Schedule above.

IL 10 (12/06) OLD REPUBLIC INSURANCE COMPANY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED/DESIGNATED INSURED AMENDMENT - PRIMARY AND NON-CONTRIBUTORY

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

SCHEDULE

Designated Person(s) or Organization(s):

The City of College Station, its agents, officials, employees and volunteers
Insured's Name:R.R. Cassidy, Inc. A QUANTA SERVICES COMPANY Signature Line:

WHO IS AN INSURED (**SECTION II**) is amended to include the person(s) or organization(s) shown in the above Schedule, but only with respect to "accidents" arising out of work being performed for such person(s) or organization(s).

As respects any person(s) or organization(s) shown in the above Schedule with whom you have agreed in a written contract to provide primary insurance on a non-contributory basis, this insurance will be primary to and non-contributing with any other insurance available to such person(s) or organizations(s).

IL 10 (12/06) OLD REPUBLIC INSURANCE COMPANY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
GARAGE COVERAGE FORM
MOTOR CARRIER COVERAGE FORM
TRUCKERS COVERAGE FORM

SCHEDULE

Name of Person or Organization:

The City of College Station, its agents, officials, employees and volunteers
Insured's Name:R.R. Cassidy, Inc. A QUANTA SERVICES COMPANY Signature Line:

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

The Transfer Of Rights Of Recovery Against Others To Us Condition is changed by adding the following:

We waive any right of recovery we may have against the person(s) or organization(s) shown in the Schedule because of payments we make for injury or damage. This waiver applies only to the person or organization shown in the Schedule.

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. (X) Specific Waiver
   The City of College Station, its agents, officials, employees and volunteers

   ( ) 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: Included

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. Endorsement No.

Insured Premium

Insurance Company **OLD REPUBLIC INSURANCE COMPANY**

Countersigned By Craig R. Smiddy

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WC 42 03 04 B
(Ed 6-14)

EXHIBIT D
PLANS AND SPECIFICATIONS

CSP RFP#24-076
Scope/Anticipated Service Deliverables

Provide available services, qualifications, and rates to perform on-site scheduled testing and maintenance of substation equipment per NETA, IEEE, and NERC standards.

I. Test Reporting Requirements

1. Test report format will follow NETA standards. All electronic test results shall be individual to the piece of equipment being tested and must be in a format that is readily importable into PDF or Excel document.
2. A site visit written report should be discussed with appropriate supervisory and management personnel at the end of each visit.
3. The report should contain the test data, a discussion of conditions at the time and recommendations to improve the systems.
4. Annual report summarizing service performed, findings, and recommendations for corrective actions or improvements along with budgetary cost estimates for planning purposes.

II. Scope of Work and Pricing:

The City of College Station would like to secure firm pricing for the following tasks. Unless specified, contractor is responsible for all material, material handling and disposal.

Category A: General Substation Equipment

138KV Circuit Switchers: Please review reference note 1 for a complete overview of the scope of work to be performed for the items below. Proposed replacement pricing to be understood as owner furnished equipment.

Task A.1: 138KV Circuit Switchers Replacement - Replace a single phase of circuit switcher.

Task A.2: 138KV Circuit Switchers Replacement - Replace entire 3 phase circuit switcher assembly.

138KV Air-Break switches: Please review reference note 2 for a complete overview of the scope of work to be performed for all the items below. Proposed replacement pricing to be understood as owner furnished equipment.

Task A.3: 138KV Air-Break switches - Replace entire manual air-break switch.

- Test, align and lubricate components for proper operation.
- Insulation test of insulators

Task A.4: 138KV Air-Break switches – Retire motor operator from existing switch and add HOGO to make it a manually operated group air break switch.

- Test, align and lubricate components for proper operation.
- Insulation test of insulators

Task A.5: 138KV Air-Break switches – Existing Switch Maintenance.

- Test, align and lubricate components for proper operation.
- Insulation test of insulators

Station DC Supply: Please review reference note 3 for a complete overview of the scope of work to be performed for the items below. Proposed replacement pricing to be understood as owner furnished equipment.

Task A.6: Battery Chargers - Replace 130V DC battery chargers serving lead-acid battery bank. Find DC ground and verify no ground fault on charger.

Task A.7: Battery Chargers - Test and verify output and functionality of existing battery chargers. Find DC ground and verify no ground fault on charger.

Task A.8: Battery Bank – Perform Capacity Test of entire battery bank.

Task A.9: Individual Battery Cells - Replacement of failed individual cells in a battery bank.

Generator Transfer Switch: Please review reference note 4 for a complete overview of the scope of work to be performed for the items below. Proposed replacement pricing to be understood as owner furnished equipment.

Task A.10: Generator Transfer Switch Replacement: Replace existing generator Automatic Transfer Switch (ATS), and test to verify functionality in the field and communication to SCADA.

Task A.11: Existing generator transfer switch maintenance***:*** Test to verify functionality in the field and communication to SCADA.

Category B: Transformer Maintenance

Nitrogen Leak Remediation: Contractor to provide all materials and labor.

Task B.1: Total Re-gasket of an entire 25 MVA substation transformer (All potential leak spots such as bushing openings, manhole openings, etc.) and refill with nitrogen.

Task B.2: Total Re-gasket of an entire 15 MVA substation transformer (All potential leak spots such as bushing openings, manhole openings, etc.) and refill with nitrogen.

Transformer Testing: Please review reference note 5 for additional information about the transformer testing.

Task B.3: Transformer testing program to including the following tests:

1. Power Factor Testing with Doble test set
2. SFRA

3. Leakage Reactance
4. Winding Resistance
5. Core ground
6. TTR
7. Sudden Pressure per PRC-005-6 Table 5
8. CTs per section **7.10.1** (MRCT or EZCT)

Category C: 15 kV Breaker Maintenance

ABB Breaker Replacement: Replace existing ABB Model III 15KV breaker with ABB RMAG 15KV breaker. Please review reference note 6 for a complete overview of the scope of work to be performed for the items below. Proposed replacement pricing to be understood as owner furnished equipment

Task C.1: Replace and commission ABB 15 kV breaker to meet NETA requirements as well as COCS standards. Commissioning process to include, but not limited to, the following:

1. Contact Resistance
2. HiPot
3. CT Ratio test

Task C.2: Testing of existing ABB RMAG 15KV breakers. Perform the following tests on the existing breakers:

1. Contact Resistance
2. HiPot
3. CT Ratio test (MRCT or EZCT)

Category D: Transmission Breaker Testing

138KV SF6 GCB Testing: Please refer reference note 7 for a complete overview of the testing requirements. All test results must be in PowerDB format. **Please reference Table 100.13 for SF6 gas test limits.**

Task D.1: Testing to be performed on 24 GCBs across the system. The testing to include the following tests:

1. Doble Test
2. Contact resistance
3. Timing Test
4. Dew Point
5. CT Ratio test (MRCT or EZCT)

Sample and Test SF6 in Circuit Switchers and Circuit breakers. Please reference Table 100.13 (Table E) for SF6 gas test limits.

Task D.2: Circuit Switchers (16 units) - Test for purity and overall condition assessment. Identify high risk assets . All test results must be in PDF or Excel format.

Task D.3: Circuit Switcher - Price to recondition SF6 based on assessment of purity and leakage.

Task D.4: Circuit breakers (24 units). Test for purity and overall condition assessment. Identify high risk assets. All test results must be in PDF or Excel format.

Task D.5: Circuit breakers - Price to recondition SF6 based on assessment of purity and leakage.

Category E: Protective Relay Testing

Testing of Relays: Please refer reference note 7 for a complete overview of the testing requirements for the relays below. All reports to include "As Found" and "As Left" settings.

Task E.1: Electromechanical relays (96)

Task E.2: Microprocessor relays (45)

Category F: PRC-005-6 Transmission Line Testing (Trip Testing)

Task F.1: Test control circuitry from CT to relay to trip coil. Please review reference note 8 and PRC-005-6 Tables 1-5 for a complete overview of the testing requirements.

Category G: Hourly Rates

Vendor will need to provide hourly rates (including equipment, trucks etc.) for the following:

G.1. Certified welder, capable of welding aluminum.

G.2. Draftsman

G.3. Engineer

G.4. Equipment Operator

G.5. Mobilization rate for maintenance crew (round trip from Contractor yard to CSU jobsite)

G.6. Mobilization rate for maintenance equipment (round trip from Contractor yard to CSU jobsite)

G.7. Hourly rates for all other employees involved in bid work. Can be a written response as to list out all applicable job rates not mentioned above.

G.8. Hourly rates for equipment including construction and testing equipment. Can be a written response as to list out all applicable equipment for the nature of the job.

III. Task Schedule:

1. The Schedule below indicates the service and testing requirements for equipment categories for each year in an effort to spread the total cost over a 3-year period.
2. The quantities identified in the schedule below are only indicative. The actual quantities and the timings are subjected to change.
3. All work is expected to be completed during off-peak months, October – April, unless otherwise required due to emergency or agreement with COCS.
4. All substations and equipment will be energized, unless arranged with COCS.
5. Any transmission and transformer outages required to complete testing must be scheduled with COCS, and are dependent on a clearance from ERCOT. COCS requests at least two weeks' notice for transmission outages, which must be scheduled and approved by ERCOT. Transmission outages may be canceled by ERCOT, which will require work to be rescheduled.
6. Work is generally completed Monday-Friday, 8:00am-4:30pm. Weekend and afterhours work may be allowed at the discretion of COCS.
7. Vendor will provide a detailed schedule of events within 1-month of a purchase order issue date for the contract year.

Task Schedule

Category A: General Substation Equipment			
Task	**Year 1**	**Year 2**	**Year 3**
A.1	1	0	0
A.2	1	0	0
A.3	2	2	2
A.4	2	2	0
A.5	4	1	4
A.6	0	1	0
A.7	3	3	0
A.8	3	3	3
A.9	3	2	0
A.10	1	1	0
A.11	4	5	0

Category B: Transformer Maintenance			
Task	**Year 1**	**Year 2**	**Year 3**
B.1	1	1	1
B.2	1	0	0
B.3	3	4	3

Category C: 15kV Breaker Maintenance			
Task	**Year 1**	**Year 2**	**Year 3**
C.1	2	2	2
C.2	10	10	10

Category D: Transmission Breaker Testing			
Task	**Year 1**	**Year 2**	**Year 3**
D.1	8	8	8
D.2	1	0	0
D.3	0	2	2
D.4	0	2	0
D.5	0	4	4

Category E: Protective Relay Testing			
Task	**Year 1**	**Year 2**	**Year 3**
E.1	0	0	96
E.2	15	15	15

Category F: PRC-005-6 Transmission Line Testing (Trip Testing)			
Task	**Year 1**	**Year 2**	**Year 3**
F.1	2	2	2

Category G: Hourly Rates Rate	
G.1	
G.2	
G.3	
G.4	
G.5	
G.6 G.7	
Material Markup Percentage:	

IV. Reference Notes

Reference Note 1: 138 KV Circuit switchers

Reference NETA MTS Standard **Section 7.7 Circuit Switchers**

a) Sec. 7.7 A. - Visual and Mechanical inspection shall be performed before testing
b) Sec. 7.7 B. – Electrical Testing shall be performed in accordance to the standard
c) Sec. 7.7 C. – Any inspection issues shall be noted, and recommendations made
    i) Any issues that need to/can be resolved before Electrical testing shall be performed
d) Sec. 7.7 D. – All testing values shall be noted, and any necessary recommendations made
    i) Any corrections that can be made during this time shall be performed

Reference Note 2: 138 KV Air Break Switches (GOAB)

Reference NETA MTS Standard **Sec. 7.5.1.3 Switches, Air, Medium and High-Voltage, Open**

e) Sec. 7.5.1.3 A. - Visual and Mechanical inspection shall be performed before testing
f) Sec. 7.5.1.3 B. – Electrical Testing shall be performed in accordance to the standard
g) Sec. 7.5.1.3 C. – Any inspection issues shall be noted, and recommendations made
    i) Any issues that need to/can be resolved before Electrical testing shall be performed
h) Sec. 7.5.1.3 D. – All testing values shall be noted, and any necessary recommendations made
    i) Any corrections that can be made during this time shall be performed

Reference Note 3: Station DC Supply/Battery Chargers

Reference NETA MTS Standard **Sec. 7.18.2. Direct-Current Systems, Chargers , 7.18.1.1 Direct-Current Systems, Batteries, Flooded Lead-Acid, and PRC-005-6 Table(s)** that are applicable.

i) Sec. 7.18.2 A. - Visual and Mechanical inspection shall be performed before testing
j) Sec. 7.18.2 B. – Electrical Testing shall be performed in accordance to the standard
k) Sec. 7.18.2 C. – Any inspection issues shall be noted, and recommendations made
    i) Any issues that need to/can be resolved before Electrical testing shall be performed
l) Sec. 7.18.2 D. – All testing values shall be noted, and any necessary recommendations made
    i) Any corrections that can be made during this time shall be performed

Reference Note 4: Automatic Transfer Switch

Reference NETA MTS Standard **Sec. 7.22.2 Emergency Systems, Automatic Transfer Switches**

m) Sec. 7.22.2 A. - Visual and Mechanical inspection shall be performed before testing
n) Sec. 7.22.2 C. – Any inspection issues shall be noted, and recommendations made
    i) Any issues that need to/can be resolved before Electrical testing shall be performed
o) Sec. 7.22.2 B. – Electrical Testing shall be performed in accordance to the standard
p) Sec. 7.22.2 D. – All testing values shall be noted, and any necessary recommendations made
    i) Any corrections that can be made during this time shall be performed

Reference Note 5: Transformer Maintenance

Reference NETA MTS Standard **Sec. 7.2.2 Transformers, Liquid-filled**

q) Sec. 7.2.2 A. - Visual and Mechanical inspection shall be performed before testing
r) Sec. 7.2.2 C. – Any inspection issues shall be noted, and recommendations made
    i) Any issues that need to/can be resolved before Electrical testing shall be performed
s) Sec. 7.2.2 B. – Electrical Testing shall be performed in accordance to the standard
t) Sec. 7.2.2 D. – All testing values shall be noted, and any necessary recommendations made
    i) Any corrections that can be made during this time shall be performed

Reference Note 6: 15 kV Breaker Maintenance

Reference NETA MTS Standard **Sec. 7.6.3 Circuit Breaker, Vacuum, Medium-Voltage**

u) Sec. 7.6.3 A. - Visual and Mechanical inspection shall be performed before testing
v) Sec. 7.6.3 B. – Electrical Testing shall be performed in accordance to the standard
w) Sec. 7.6.3 C. – Any inspection issues shall be noted, and recommendations made
    i) Any issues that need to/can be resolved before Electrical testing shall be performed
x) Sec. 7.6.3 D. – All testing values shall be noted, and any necessary recommendations made
    i) Any corrections that can be made during this time shall be performed

Reference Note 7: Transmission Breaker Testing

Reference NETA MTS Standard **Sec. 7.6.4 Circuit Breakers, SF6**

y) Sec. 7.6.4 A. - Visual and Mechanical inspection shall be performed before testing
z) Sec. 7.6.4 B. – Electrical Testing shall be performed in accordance to the standard
aa) Sec. 7.6.4 C. – Any inspection issues shall be noted, and recommendations made
    i) Any issues that need to/can be resolved before Electrical testing shall be performed
bb) Sec. 7.6.4 D. – All testing values shall be noted, and any necessary recommendations made
    i) Any corrections that can be made during this time shall be performed

Reference Note 8: Relay Testing

Reference NETA MTS **Sec. 7.9.1, 7.9.2,** and **PRC-005-6 Table 1-5**

cc) Sec. 7.9.1, 7.9.2 A. - Visual and Mechanical inspection shall be performed before testing
dd) Sec. 7.9.1, 7.9.2 B. – Electrical Testing shall be performed in accordance to the standard
ee) Sec. 7.9.1, 7.9.2 C. – Any inspection issues shall be noted, and recommendations made
    i) Any issues that need to/can be resolved before Electrical testing shall be performed
ff) Sec. 7.9.1, 7.9.2 D. – All testing values shall be noted, and any necessary recommendations made
    i) Any corrections that can be made during this time shall be performed

Reference Note 9: Transmission Line Testing

Reference any previous mentioned NETA Standards that apply for devices in the protection circuits. Also, the following NETA MTS standards listed.

gg) Sec. 7.10.1 – Current Transformer
hh) Sec. 7.10.2 – Voltage/Potential Transformer
ii) PRC-005-6 Tables that are applicable

V. Reference Tables:

Table A: Transformer Diagnostic Tests

Transformer Tests	Acceptance Criteria: Initial/Normal Operation	Initial Test	Routine Maintenance	Reference
Insulation power factor	< 0.5% @ 20° C	Yes	Yes	IEEE C57.12.90
10kV Excitation, primary ○	2-high, 1-low pattern	Yes	Yes	Doble
Bushing C1 & C2 power factor ○	C1: < 0.5%, C2: < 1.0% or < 2X variation from nameplate or <50% rate of change from previous test	Yes	Yes	IEEE C57.19.00
Bushing hot-collar test ○	±10% from similar bushings	Yes	Yes	Doble
Surge arrestors watts-loss	±10% from similar arresters	Yes	No	Doble
Core ground DC resistance Core ground power factor	≥1 MΩ per kV HV@ 500V DC < 1.0% @ 20° C	Yes	No	Megohmmeter M4000 Doble
DC winding resistance ○	±1.0% from other windings	Yes	No	IEEE C57.12.90 clause 5
Frequency Response Analysis (FRA)	Similar pattern for all windings	Yes	Yes	IEEE C57.149/D4
Leakage reactance	±5% from nameplate	Yes	Yes	Doble M4000/ M4100 @ 0.5 to 5 Amps
Turns ratio ○	±0.5% from nameplate	Yes	Yes	IEEE C57.12.90

- For bushings with capacitance taps. Power factor limits to be used as a general guide, individual bushing types may vary.
- For bushings without capacitance taps
- Perform test on maximum DETC tap position and from LTC taps 1R to 16L
- Perform test on all DETC tap positions and on LTC taps 1R to 16L; exercise DETC through all taps during the course of this test

➢ Table B: Transformer Oil and Gas Space Tests

Oil Quality Tests	Acceptance Criteria: Initial Acceptance	Acceptance Criteria: Normal Operation	Initial Test	Routine Maintenance	Reference
Power factor	< 0.1% @ 20° C <1% @ 100° C	< 0.5% @ 20° C <5% @ 100° C	Yes Yes	Yes Yes	ASTM D924
Dielectric strength	>30kV □ >30kV □	>26kV □ > 26kV □	Yes	Yes	ASTM D1816 ASTM D877
Interfacial tension	Minimum of 30 @ 20° C	>24 @ 20° C for 69kV >26 @ 20° C for 138kV >30 @ 20° C for 345kV	Yes	Yes	ASTM D971
Acidity	< 0.03	< 0.2	Yes	Yes	ASTM D974
Moisture	< 35 PPM for 69kV < 25 PPM for 138kV <20 PPM for 345kV	< 35 PPM for 69kV < 25 PPM for 138kV <20 PPM for 345kV	Yes	Yes	ASTM D1533
Corrosive Sulfur	None present	None present	Yes	No	ASTM D1275B
Passivator	Unit dependent	> 20 PPM	No	Yes	
Furan	<10 PPB 2-furfural □	DP > 400 □	No	Yes	Chendong
Total Combustible gas (TCG)	< 0.05%	< 0.5%	Yes	Yes	IEEE C57.104
Dissolved gas analysis (DGA)	Normal limits	Normal limits	Yes	Yes	IEC605.99 IEEE C57.104

- Sealed/Nitrogen blanketed units: use ASTM D1816 with 40 mil gap
- Desiccant/Free breathers: use ASTM D877
- DP (Degree of Polymerization) calculated by the Chendong equation:
- Estimated DP = ([log[2-furfural in mg/kg] – 1.5)/-0.0035
- PPB: parts per billion

Table C: Oil Treatment Specifications

After Oil is Re-conditioned

H_2	5 ppm or less	Water	Less than 10 ppm
CH_4	5 ppm or less	Dielectric Strength	38 kV minimum per ASTM D-1816
C_2H_2	0 ppm	IFT	36 dynes/cm
CO	20 ppm or less	Acid Number	0.3 mg KOH/gm max.
CO_2	300 ppm or less	O_2 Inhibitor	0.3% by oil wt. min.
O_2	4000 ppm or less		

Table D: LTC Oil and Gas Space Tests

Oil/Gas Space Tests	Acceptance Criteria: Initial/Normal Operation	Initial Test	Routine Maintenance	Reference
Dielectric strength	> 30kV: D1816 w/40 mil gap □ > 30kV: D877 □	Yes	Yes	ASTM D1816 ASTM D877
Interfacial tension	Minimum of 24 @ 20° C	Yes	Yes	ASTM D971
Acidity	< 0.3	Yes	Yes	ASTM D974
Moisture	< 40 PPM (50% saturation)	Yes	Yes	ASTM D1533
Dissolved gas analysis (DGA)	Normal limits for LTC type	Yes	Yes	Doble

Table E: SF6 Gas Tests

Test	Method	Limits
Water Content	ASTM D2029	8.3 ppmv MAX
Hydrolysable Fluorides	ASTM D2284	0.3 ppmw MAX
Air	ASTM D2685	500 ppmw MAX
Carbon Tetrafluoride	ASTM D2685	500 ppmw MAX
Assay (Purity)	-----	99.8% min, weight

PROPOSAL PRICING PER YEAR TASK

Task Schedule

Input your unit cost here

Category A: General Substation Equipment				Total Number of Task Units
Task	Year 1	Year 2	Year 3	
A.1	1	0	0	1
A.2	1	0	0	1
A.3	2	2	2	6
A.4	2	2	0	4
A.5	4	1	4	9
A.6	0	1	0	1
A.7	3	3	0	6
A.8	3	3	3	9
A.9	3	2	0	5
A.10	1	1	0	2
A.11	4	5	0	9
				53

Year 1 Unit Price	Year 1 Costs	Year 2 Unit Price	Year 2 Costs	Year 3 Unit Price	Year 3 Costs	Total Contract Costs	Category A
$ -	$ -	$ -	$ -	$ -	$ -	$ -	Task Total
$ -	$ -	$ -	$ -	$ -	$ -	$ -	Task Total
$ -	$ -	$ -	$ -	$ -	$ -	$ -	Task Total
$ -	$ -	$ -	$ -	$ -	$ -	$ -	Task Total
$ -	$ -	$ -	$ -	$ -	$ -	$ -	Task Total
$ -	$ -	$ -	$ -	$ -	$ -	$ -	Task Total
$ -	$ -	$ -	$ -	$ -	$ -	$ -	Task Total
$ -	$ -	$ -	$ -	$ -	$ -	$ -	Task Total
$ -	$ -	$ -	$ -	$ -	$ -	$ -	Task Total
$ -	$ -	$ -	$ -	$ -	$ -	$ -	Task Total
$ -	$ -	$ -	$ -	$ -	$ -	$ -	Task Total
	$ -		$ -		$ -	$ -	Totals by Year
				Category A		$ -	Grand TTL

Category B: Transformer Maintenance				Number of Task Units
Task	Year 1	Year 2	Year 3	
B.1	1	1	1	3
B.2	1	0	0	1
B.3	3	4	3	10
				14

Year 1 Unit Price	Year 1 Costs	Year 2 Unit Price	Year 2 Costs	Year 3 Unit Price	Year 3 Costs	Contract Costs	Category B
$ -	$ -	$ -	$ -	$ -	$ -	$ -	Task Total
$ -	$ -	$ -	$ -	$ -	$ -	$ -	Task Total
$ -	$ -	$ -	$ -	$ -	$ -	$ -	Task Total
	$ -		$ -		$ -	$ -	Totals by Year
				Category B		$ -	Grand TTL

Category C: 15kV Breaker Maintenance				Number of Task Units
Task	Year 1	Year 2	Year 3	
C.1	2	2	2	6
C.2	10	10	10	30
				36

Year 1 Unit Price	Year 1 Costs	Year 2 Unit Price	Year 2 Costs	Year 3 Unit Price	Year 3 Costs	Contract Costs	Category E
$ -	$ -	$ -	$ -	$ -	$ -	$ -	Task Total
$ -	$ -	$ -	$ -	$ -	$ -	$ -	Task Total
	$ -		$ -		$ -	$ -	Totals by Year
				Category C		$ -	Grand TTL

PROPOSAL PRICING PER YEAR TASK

Category D: Transmission Breaker Testing				Total Number of Task Units
Task	Year 1	Year 2	Year 3	
D.1	8	8	8	24
D.2	1	0	0	1
D.3	0	2	2	4
D.4	0	2	0	2
D.5	0	4	4	8
				39

Year 1 Unit Price	Year 1 Costs	Year 2 Unit Price	Year 2 Costs	Year 3 Unit Price	Year 3 Costs	Total Contract Costs	Category E
$ -	$ -	$ -	$ -	$ -	$ -	$ -	Task Total
$ -	$ -	$ -	$ -	$ -	$ -	$ -	Task Total
$ -	$ -	$ -	$ -	$ -	$ -	$ -	Task Total
$ -	$ -	$ -	$ -	$ -	$ -	$ -	Task Total
$ -	$ -	$ -	$ -	$ -	$ -	$ -	Task Total
	$ -		$ -		$ -	$ -	Totals by Year
				Category D		$ -	Grand TTL

Category E: Protective Relay Testing				Total Number of Task Units
Task	Year 1	Year 2	Year 3	
E.1	0	0	96	96
E.2	15	15	15	45
				141

Year 1 Unit Price	Year 1 Costs	Year 2 Unit Price	Year 2 Costs	Year 3 Unit Price	Year 3 Costs	Total Contract Costs	Category E
$ -	$ -	$ -	$ -	$ -	$ -	$ -	Task Total
$ -	$ -	$ -	$ -	$ -	$ -	$ -	Task Total
	$ -		$ -		$ -	$ -	Totals by Year
				Category E		$ -	Grand TTL

Category F: PRC-005-6 Transmission Line Testing (Trip Testing)				Total Number of Task Units
Task	Year 1	Year 2	Year 3	
F.1	2	2	2	6
				6

Year 1 Unit Price	Year 1 Costs	Year 2 Unit Price	Year 2 Costs	Year 3 Unit Price	Year 3 Costs	Total Contract Costs	Category F
$ -	$ -	$ -	$ -	$ -	$ -	$ -	Task Total
	$ -		$ -		$ -	$ -	Totals by Year
				Category F		$ -	Grand TTL

Category G: Hourly Rates	
	Rate
G.1	
G.2	
G.3	
G.4	
G.5	
G.6	
G.7	
Material Markup Percentage:	

Year 1 Total	Year 2 Total	Year 3 Total	24-076 TTL TASKS
67	70	152	289

$ -

Signature of Proposer Date

TTL Proposal

Company

24-076 PROPOSAL PRICING

	Year 1 Total		Year 2 Total		Year 3 Total	24-076 TTL PROPOSAL	
	$ -		$ -		$ -	$ -	

CSP RFP#24-076
ANNUAL SUB-STATION MAINTENANCE TESTING

Task Schedule

Category A: General Substation Equipment				Number of Task Units
Task	Year 1	Year 2	Year 3	
A.1	1	0	0	1
A.2	1	0	0	1
A.3	2	2	2	6
A.4	2	2	0	4
A.5	4	1	4	9
A.6	0	1	0	1
A.7	3	3	0	6
A.8	3	3	3	9
A.9	3	2	0	5
A.10	1	1	0	2
A.11	4	5	0	9
				53

Category B: Transformer Maintenance				Number of Task Units
Task	Year 1	Year 2	Year 3	
B.1	1	1	1	3
B.2	1	0	0	1
B.3	3	4	3	10
				14

Category C: 15kV Breaker Maintenance				Number of Task Units
Task	Year 1	Year 2	Year 3	
C.1	2	2	2	6
C.2	10	10	10	30
				36

Category D: Transmission Breaker Testing				Number of Task Units
Task	Year 1	Year 2	Year 3	
D.1	8	8	8	24
D.2	1	0	0	1
D.3	0	2	2	4
D.4	0	2	0	2
D.5	0	4	4	8
				39

CSP RFP#24-076
ANNUAL SUB-STATION MAINTENANCE TESTING

Category E: Protective Relay Testing				Number of Task Units
Task	Year 1	Year 2	Year 3	
E.1	0	0	96	96
E.2	15	15	15	45
				141

Category F: PRC-005-6 Transmission Line Testing (Trip Testing)				Total Number of Task Units
Task	Year 1	Year 2	Year 3	
F.1	2	2	2	6
				6

Category G: Hourly Rates		
	Rate	
G.1		
G.2		
G.3		
G.4		
G.5		
G.6		
G.7		
Material Markup Percentage:		

Year 1 Total	Year 2 Total	Year 3 Total
67	**70**	**152**

EXHIBIT E
CONSTRUCTION SCHEDULE

EXHIBIT F
SCHEDULE OF VALUES

A QUANTA SERVICES COMPANY

www.rrcassidy.com
(713) 299-8431
TX Office: 8876 Winzer Rd, Beaumont, TX 77705
LA Office: 37471 LA-427, Prairieville, LA 70769

To:

Date: September 26, 2024

City of College Station

Purchasing Division – City Hall
PO Box 9960
1101 Texas Avenue
College Station, Texas 77842

Dear City of College Station,

We are pleased to submit our bid for the **Annual Substation Testing and Maintenance Contract**, as outlined in the request for proposals dated 09/26/2024. At R.R. Cassidy, we pride ourselves on delivering high-quality, cost-effective solutions in the Relay/Field Services sector, and we believe that our team is uniquely qualified to meet the needs of this project.

Our bid package includes all required documents, including:

- Contractor Certification
- Contractor Proposal Form
- Qualifications of Contractor
- Contractor's Financial resources
- Proposal Bid Bond
- Any other relevant attachments (e.g., QA/QC Program, safety protocols)

We have carefully reviewed the project specifications and are confident in our ability to execute the work to your satisfaction. Our track record of completing similar projects on time and within budget reflects our commitment to excellence.

We welcome the opportunity to further discuss our proposal and are available at your convenience for any questions or clarifications you may require. Thank you for considering R.R. Cassidy for this important project. We look forward to the possibility of working together and contributing to its successful completion.

Jeremy Swanton

Jeremy Swanton, Vice President Relay/Field Services

Direct Contact Information

Phone: (713) 299-8431
Email: jeremy.swanton@rrcassidy.com

CERTIFICATION OF PROPOSAL

The undersigned affirms that they are duly authorized to execute the City of College Station Construction Agreement, that this Proposal has not been prepared in collusion with any other Offeror, and that the contents of this Proposal have not been communicated to any other Offeror prior to the official opening of this Proposal. Additionally, the undersigned affirms that the firm is willing to sign the enclosed City of College Station Construction Agreement.

Signed By: Jeremy Swanton

Title: VP Relay/Field Services

Typed Name: Jeremy Swanton

Company Name: R.R. Cassidy

Phone No.: (713) 299-8431

Fax No.: n/a

Email: jeremy.swanton@rrcassidy.com

Proposal Address:

37471 LA-427	Prairieville	TX	70769
P.O. Box or Street	City	State	Zip

Order Address:

37471 LA-427	Prairieville	TX	70769
P.O. Box or Street	City	State	Zip

Remit Address:

37471 LA-427	Prairieville	TX	70769
P.O. Box or Street	City	State	Zip

Federal Tax ID No.: 720957920

Date: 09/26/2024

PROPOSAL NO. 24-076

PROPOSAL FORM

Date: 09/25/2024

PROPOSAL FROM: R.R. Cassidy, Inc.

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

The Undersigned proposes to furnish all labor, services, materials, tools and necessary equipment for the testing, maintenance and/or replacement of substation equipment, and to perform the work required at the location set out by the Plans and Specifications, in strict accordance with the Contract Documents.

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

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

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

BASE PROPOSAL: Stipulated Grand Total Proposal of: ($ 1,762,386.16)

Year 1 $ 460,819.39 Year 2 $ 486,130.53

Year 3 $ 815,436.24

CALENDAR DAYS: Total number of calendar days to substantial completion, Per Project is **14 days**.

RECEIPT OF ADDENDA
I hereby acknowledge receipt of the following Addenda: Jeremy Swanton

CONTRACTOR NAME: R.R. Cassidy, Inc.

CONTRACTOR SIGNATURE: Jeremy Swanton, VP Relay/Field Services

CSP RFP #24-076

RR CASSIDY PROPOSAL PRICING PER YEAR TASK

Task Schedule

Input your unit cost here

Category A: General Substation Equipment				
Task	Year 1	Year 2	Year 3	Total Number of Task Units
A.1	1	0	0	1
A.2	1	0	0	1
A.3	2	2	2	6
A.4	2	2	0	4
A.5	4	1	4	9
A.6	0	1	0	1
A.7	3	3	0	6
A.8	3	3	3	9
A.9	3	2	0	5
A.10	1	1	0	2
A.11	4	5	0	9
				53

Year 1 Unit Price	Year 1 Costs	Year 2 Unit Price	Year 2 Costs	Year 3 Unit Price	Year 3 Costs	Total Contract Costs	Category A
$ 4,488.53	$ 4,488.53	$ 4,488.53	$ -	$ 4,488.53	$ -	$ 4,488.53	Task Total
$ 7,373.29	$ 7,373.29	$ 7,373.29	$ -	$ 7,373.29	$ -	$ 7,373.29	Task Total
$ 6,305.23	$ 12,610.46	$ 6,305.23	$ 12,610.46	$ 6,305.23	$ 12,610.46	$ 37,831.38	Task Total
$ 3,929.54	$ 7,859.08	$ 3,929.54	$ 7,859.08	$ 3,929.54	$ -	$ 15,718.16	Task Total
$ 2,911.38	$ 11,645.52	$ 2,911.38	$ 2,911.38	$ 2,911.38	$ 11,645.52	$ 26,202.42	Task Total
$ 7,867.91	$ -	$ 7,867.91	$ 7,867.91	$ 7,867.91	$ -	$ 7,867.91	Task Total
$ 3,933.96	$ 11,801.88	$ 3,933.96	$ 11,801.88	$ 3,933.96	$ -	$ 23,603.76	Task Total
$ 14,753.56	$ 44,260.68	$ 14,753.56	$ 44,260.68	$ 14,753.56	$ 44,260.68	$ 132,782.04	Task Total
$ 1,573.26	$ 4,719.78	$ 1,573.26	$ 3,146.52	$ 1,573.26	$ -	$ 7,866.30	Task Total
$ 5,550.20	$ 5,550.20	$ 5,550.20	$ 5,550.20	$ 5,550.20	$ -	$ 11,100.40	Task Total
$ 3,995.22	$ 15,980.88	$ 3,995.22	$ 19,976.10	$ 3,995.22	$ -	$ 35,956.98	Task Total
	$ 126,290.30		**$ 115,984.21**		**$ 68,516.66**	$ 310,791.17	Totals by Year
					Category A	$ 310,791.17	Grand TTL

Category B: Transformer Maintenance				
Task	Year 1	Year 2	Year 3	Total Number of Task Units
B.1	1	1	1	3
B.2	1	0	0	1
B.3	3	4	3	10
				14

Year 1 Unit Price	Year 1 Costs	Year 2 Unit Price	Year 2 Costs	Year 3 Unit Price	Year 3 Costs	Total Contract Costs	Category B
$ 37,372.31	$ 37,372.31	$ 37,372.31	$ 37,372.31	$ 37,372.31	$ 37,372.31	$ 112,116.93	Task Total
$ 37,372.31	$ 37,372.31	$ 37,372.31	$ -	$ 37,372.31	$ -	$ 37,372.31	Task Total
$ 15,735.82	$ 47,207.46	$ 15,735.82	$ 62,943.28	$ 15,735.82	$ 47,207.46	$ 157,358.20	Task Total
	$ 121,952.08		**$ 100,315.59**		**$ 84,579.77**	$ 306,847.44	Totals by Year
					Category B	$ 306,847.44	Grand TTL

Category C: 15kV Breaker Maintenance				
Task	Year 1	Year 2	Year 3	Total Number of Task Units
C.1	2	2	2	6
C.2	10	10	10	30
				36

Year 1 Unit Price	Year 1 Costs	Year 2 Unit Price	Year 2 Costs	Year 3 Unit Price	Year 3 Costs	Total Contract Costs	Category E
$ 6,364.40	$ 12,728.80	$ 6,364.40	$ 12,728.80	$ 6,364.40	$ 12,728.80	$ 38,186.40	Task Total
$ 4,328.09	$ 43,280.90	$ 4,328.09	$ 43,280.90	$ 4,328.09	$ 43,280.90	$ 129,842.70	Task Total
	$ 56,009.70		**$ 56,009.70**		**$ 56,009.70**	$ 168,029.10	Totals by Year
					Category C	$ 168,029.10	Grand TTL

RR CASSIDY PROPOSAL PRICING PER YEAR TASK

Category D: Transmission Breaker Testing				
Task	Year 1	Year 2	Year 3	Total Number of Task Units
D.1	8	8	8	24
D.2	1	0	0	1
D.3	0	2	2	4
D.4	0	2	0	2
D.5	0	4	4	8
				39

Year 1 Unit Price	Year 1 Costs	Year 2 Unit Price	Year 2 Costs	Year 3 Unit Price	Year 3 Costs	Total Contract Costs	Category E
$ 7,043.89	$ 56,351.12	$ 7,043.89	$ 56,351.12	$ 7,043.89	$ 56,351.12	$ 169,053.36	Task Total
$ 8,392.44	$ 8,392.44	$ 8,392.44	$ -	$ 8,392.44	$ -	$ 8,392.44	Task Total
$ 6,693.16	$ -	$ 6,693.16	$ 13,386.32	$ 6,693.16	$ 13,386.32	$ 26,772.64	Task Total
$ 12,588.66	$ -	$ 12,588.66	$ 25,177.32	$ 12,588.66	$ -	$ 25,177.32	Task Total
$ 6,770.63	$ -	$ 6,770.63	$ 27,082.52	$ 6,770.63	$ 27,082.52	$ 54,165.04	Task Total
	$ 64,743.56		**$ 121,997.28**		**$ 96,819.96**	$ 283,560.80	Totals by Year
				Category D		$ 283,560.80	Grand TTL

Category E: Protective Relay Testing				
Task	Year 1	Year 2	Year 3	Total Number of Task Units
E.1	0	0	96	96
E.2	15	15	15	45
				141

Year 1 Unit Price	Year 1 Costs	Year 2 Unit Price	Year 2 Costs	Year 3 Unit Price	Year 3 Costs	Total Contract Costs	Category E
$ 4,350.90	$ -	$ 4,350.90	$ -	$ 4,350.90	$ 417,686.40	$ 417,686.40	Task Total
$ 4,875.43	$ 73,131.45	$ 4,875.43	$ 73,131.45	$ 4,875.43	$ 73,131.45	$ 219,394.35	Task Total
	$ 73,131.45		**$ 73,131.45**		**$ 490,817.85**	$ 637,080.75	Totals by Year
				Category E		$ 637,080.75	Grand TTL

Category F: PRC-005-6 Transmission Line Testing (Trip Testing)				
Task	Year 1	Year 2	Year 3	Total Number of Task Units
F.1	2	2	2	6
				6

Year 1 Unit Price	Year 1 Costs	Year 2 Unit Price	Year 2 Costs	Year 3 Unit Price	Year 3 Costs	Total Contract Costs	Category F
$ 9,346.15	$ 18,692.30	$ 9,346.15	$ 18,692.30	$ 9,346.15	$ 18,692.30	$ 56,076.90	Task Total
	$ 18,692.30		**$ 18,692.30**		**$ 18,692.30**	$ 56,076.90	Totals by Year
				Category F		$ 56,076.90	Grand TTL

Category G: Hourly Rates			
	Rate		
G.1	91.05		
G.2	109.3242		
G.3	190.95		
G.4	108.01		
G.5	691.75		
G.6	68.34		
G.7	Electrical Superin	$147.88	
G.7	Electrical Forema	$108.01	
G.7	Electrical Journey	$90.59	
G.7	Electrical Journey	$76.28	
G.7	Apprentice 3rd Cl	$59.60	
G.7	Apprentice 4th Cl	$52.97	
G.7	Laborer	$49.82	
G.7	Relay Specialist	$201.85	
G.7	Commissioning S	$182.56	
G.7	Field Engineer III	$189.12	
G.7	Field Engineer II	$171.59	
G.7	Field Engineer I	$157.69	
G.7	Relay Supervisor	$166.10	
G.7	Relay Foreman	$150.33	
G.7	Relay Tech III	$144.34	

RR CASSIDY PROPOSAL PRICING PER YEAR TASK

G.7	Relay Tech II	$137.60	
G.7	Relay Tech I	$109.32	
G.8	3/4 Ton Pick Up T	$28.92	
G.8	1/2 Ton Pick Up T	$26.92	
G.8	Utility Trailer, Hea	$35.97	
G.8	Lowboy Trailer	$14.40	
G.8	Mini Excavator	$84.23	
G.8	Bob Cat	$60.53	
G.8	10kw Generator	$16.25	
G.8	Man lift	$103.09	
G.8	Doble M4000 and	$35.58	
G.8	Doble F6150 and	$35.58	
G.8	Doble TDR9000 a	$35.58	
G.8	Vanguard EZ CT	$16.18	
G.8	Raytech Ductor a	$16.18	
G.8	High Voltage HiP	$16.18	
G.8	Dilo SF6 Gas Ana	$7.76	
G.8	SF6 gassing equi	$5.18	
G.8	Dilo Megacart (on-board storage)	$1,200.00	
G.8	Fiber Splicing & F	$38.76	
G.8	Ground Grid Test	$16.18	
G.8	Portable Toilet ar	$162.50	
G.8	Roll-off dumpster	$237.50	
Material Markup Percentage:			10%

Year 1 Total	Year 2 Total	Year 3 Total	24-076 TTL TASKS
67	70	152	289

24-076 PROPOSAL PRICING

	Year 1 Total		Year 2 Total		Year 3 Total	24-076 TTL PROPOSAL	
	$ 460,819.39		$ 486,130.53		$ 815,436.24	$ 1,762,386.16	

Jeremy Swanton — 9/24/2024 — $ 1,762,386.16

Signature of Proposer — **Date** — **TTL Proposal**

R.R. Cassidy

Company

CSP RFP#24-076
ANNUAL SUB-STATION MAINTENANCE TESTING
RR CASSIDY
Task Schedule

Category A: General Substation Equipment				Number of Task Units
Task	Year 1	Year 2	Year 3	
A.1	1	0	0	1
A.2	1	0	0	1
A.3	2	2	2	6
A.4	2	2	0	4
A.5	4	1	4	9
A.6	0	1	0	1
A.7	3	3	0	6
A.8	3	3	3	9
A.9	3	2	0	5
A.10	1	1	0	2
A.11	4	5	0	9
				53

Category B: Transformer Maintenance				Number of Task Units
Task	Year 1	Year 2	Year 3	
B.1	1	1	1	3
B.2	1	0	0	1
B.3	3	4	3	10
				14

Category C: 15kV Breaker Maintenance				Number of Task Units
Task	Year 1	Year 2	Year 3	
C.1	2	2	2	6
C.2	10	10	10	30
				36

Category D: Transmission Breaker Testing				Number of Task Units
Task	Year 1	Year 2	Year 3	
D.1	8	8	8	24
D.2	1	0	0	1
D.3	0	2	2	4
D.4	0	2	0	2
D.5	0	4	4	8
				39

CSP RFP#24-076
ANNUAL SUB-STATION MAINTENANCE TESTING
RR CASSIDY

Category E: Protective Relay Testing				Number of Task Units
Task	Year 1	Year 2	Year 3	
E.1	0	0	96	96
E.2	15	15	15	45
				141

Category F: PRC-005-6 Transmission Line Testing (Trip Testing)				Total Number of Task Units
Task	Year 1	Year 2	Year 3	
F.1	2	2	2	6
				6

Category G: Hourly Rates	
	Rate
G.1	
G.2	
G.3	
G.4	
G.5	
G.6	
G.7	
Material Markup Percentage:	

Year 1 Total	Year 2 Total	Year 3 Total
67	**70**	**152**

CHUBB

Surety
202B Halls Mill Road, PO Box 1650
Whitehouse Station, NJ 08889-1650

O + 908.903.3485
F + 908.903.3656

Federal Insurance Company

Bid Bond

Bond No. Bid Bond Amount $ 5%

Know All Men By These Presents,

That we, R.R. Cassidy, Inc.

1608 Margaret Street Houston, TX 77093 (hereinafter called the Principal),

as Principal, and FEDERAL INSURANCE COMPANY, a corporation duly organized under the laws of the State of Indiana, (hereinafter called the Surety), as Surety, are held and firmly bound unto

City of College Station
1101 Texas Avenue College Station , TX 77840 (hereinafter called the Obligee),

in the sum of Five Percent of Amount Bid Dollars
($ 5%), for the payment of which we, the said Principal and said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

Sealed with our seals and dated this 25th day of September, 2024

WHEREAS, the Principal has submitted a bid, dated September 26, 2024
for CSP Bid No. 24-076; Annual Substation Testing & Maintenance Contract

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the Obligee shall accept the bid of the Principal and the Principal shall enter into a contract with the Obligee in accordance with such bid and give bond with good and sufficient surety for the faithful performance of such contract, or in the event of the failure of the Principal to enter into such contract and give such bond, if the Principal shall pay to the Obligee the difference, not to exceed the penalty hereof, between the amount specified in said bid and the amount for which the Obligee may legally contract with another party to perform the work covered by said bid, if the latter amount be in excess of the former, then this obligation shall be null and void, otherwise to remain in full force and effect.

R.R. Cassidy, Inc.
Principal

By: _____

FEDERAL INSURANCE COMPANY INDIANA

Federal Insurance Company

By: Cheryl M. Husted
Cheryl M. Husted Attorney-in-Fact

Chubb. Insured.℠

Form 15-02-0002-FED (Rev. 4/17)

1

CHUBB

Power of Attorney

Federal Insurance Company | Vigilant Insurance Company | Pacific Indemnity Company
Westchester Fire Insurance Company | ACE American Insurance Company

Know All by These Presents, that **FEDERAL INSURANCE COMPANY**, an Indiana corporation, **VIGILANT INSURANCE COMPANY**, a New York corporation, **PACIFIC INDEMNITY COMPANY**, a Wisconsin corporation, **WESTCHESTER FIRE INSURANCE COMPANY** and **ACE AMERICAN INSURANCE COMPANY** corporations of the Commonwealth of Pennsylvania, do each hereby constitute and appoint **Cheryl M. Husted**

Surety Bond No. Bid Bond

Obligee: City of College Station

each as their true and lawful Attorney-in-Fact to execute under such designation in their names and to affix their corporate seals to and deliver for and on their behalf as surety thereon or otherwise, bonds and undertakings and other writings obligatory in the nature thereof (other than bail bonds) given or executed in the course of business, and any instruments amending or altering the same, and consents to the modification or alteration of any instrument referred to in said bonds or obligations.

In Witness Whereof, said **FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, PACIFIC INDEMNITY COMPANY, WESTCHESTER FIRE INSURANCE COMPANY** and **ACE AMERICAN INSURANCE COMPANY** have each executed and attested these presents and affixed their corporate seals on this **1st** day of **April, 2024.**

Rupert HD Swindells, Assistant Secretary

Warren Eichhorn, Vice President

STATE OF NEW JERSEY
County of Hunterdon ss.

On this **1st** day of **April, 2024** before me, a Notary Public of New Jersey, personally came Rupert HD Swindells and Warren Eichhorn, to me known to be Assistant Secretary and Vice President, respectively, of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, PACIFIC INDEMNITY COMPANY, WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY, the companies which executed the foregoing Power of Attorney, and the said Rupert HD Swindells and Warren Eichhorn, being by me duly sworn, severally and each for himself did depose and say that they are Assistant Secretary and Vice President, respectively, of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, PACIFIC INDEMNITY COMPANY, WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY and know the corporate seals thereof, that the seals affixed to the foregoing Power of Attorney are such corporate seals and were thereto affixed by authority of said Companies; and that their signatures as such officers were duly affixed and subscribed by like authority.

Notarial Seal

Albert Contursi
NOTARY PUBLIC OF NEW JERSEY
No 50202369
Commission Expires August 22,2027

Notary Public

CERTIFICATION

Resolutions adopted by the Boards of Directors of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY on August 30, 2016; WESTCHESTER FIRE INSURANCE COMPANY on December 11, 2006; and ACE AMERICAN INSURANCE COMPANY on March 20, 2009:

"RESOLVED, that the following authorizations relate to the execution, for and on behalf of the Company, of bonds, undertakings, recognizances, contracts and other written commitments of the Company entered into in the ordinary course of business (each a "Written Commitment"):

(1) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized to execute any Written Commitment for and on behalf of the Company, under the seal of the Company or otherwise.

(2) Each duly appointed attorney-in-fact of the Company is hereby authorized to execute any Written Commitment for and on behalf of the Company, under the seal of the Company or otherwise, to the extent that such action is authorized by the grant of powers provided for in such person's written appointment as such attorney-in-fact.

(3) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized, for and on behalf of the Company, to appoint in writing any person the attorney-in-fact of the Company with full power and authority to execute, for and on behalf of the Company, under the seal of the Company or otherwise, such Written Commitments of the Company as may be specified in such written appointment, which specification may be by general type or class of Written Commitments or by specification of one or more particular Written Commitments.

(4) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized, for and on behalf of the Company, to delegate in writing to any other officer of the Company the authority to execute, for and on behalf of the Company, under the Company's seal or otherwise, such Written Commitments of the Company as are specified in such written delegation, which specification may be by general type or class of Written Commitments or by specification of one or more particular Written Commitments.

(5) The signature of any officer or other person executing any Written Commitment or appointment or delegation pursuant to this Resolution, and the seal of the Company, may be affixed by facsimile on such Written Commitment or written appointment or delegation.

FURTHER RESOLVED, that the foregoing Resolution shall not be deemed to be an exclusive statement of the powers and authority of officers, employees and other persons to act for and on behalf of the Company, and such Resolution shall not limit or otherwise affect the exercise of any such power or authority otherwise validly granted or vested."

I, Rupert HD Swindells, Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, PACIFIC INDEMNITY COMPANY, WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY (the "Companies") do hereby certify that

(i) the foregoing Resolutions adopted by the Board of Directors of the Companies are true, correct and in full force and effect,
(ii) the foregoing Power of Attorney is true, correct and in full force and effect.

Given under my hand and seals of said Companies at Whitehouse Station, NJ, this September 25, 2024

Rupert HD Swindells, Assistant Secretary

IN THE EVENT YOU WISH TO VERIFY THE AUTHENTICITY OF THIS BOND OR NOTIFY US OF ANY OTHER MATTER, PLEASE CONTACT US AT:
Telephone (908) 903-3493 Fax (908) 903-3656 e-mail: surety@chubb.com

All Bills Paid Affidavit

THE STATE OF TEXAS §
§
COUNTY OF BRAZOS §

BEFORE ME, the undersigned authority, on this day personally appeared

_____,

hereinafter referred to as "CONTRACTOR" for all work having been performed at:

_____.

The City of College Station, the owner or agent for owner of said property, has contracted with CONTRACTOR for work to be performed at the address shown herein and evidenced by separate contract, Contract No. _____, hereinafter referred to as the "Contract".

CONTRACTOR now testifies that all work has been completed and all materials are in place as agreed to in the Contract and that ALL BILLS for labor, materials, and other items CONTRACTOR may be responsible for as outlined in the Contract have been PAID IN FULL by CONTRACTOR, except for the following:

CONTRACTOR agrees and understands that if any BILLS, for any items, which CONTRACTOR is responsible for as shown in the Contract, are presented after the signing of this AFFIDAVIT, then CONTRACTOR will be liable for prosecution by law, as well as remaining financially responsible for full payment of ANY and ALL BILLS.

CONTRACTOR further agrees, by the signing of this AFFIDAVIT, that this statement is true and correct, and that this AFFIDAVIT may be used against CONTRACTOR in any and all proceedings at law, civil or criminal.

CONTRACTOR Signature: _____

IF D/B/A, Show Business Name: _____

TITLE: _____

Sworn to and subscribed before me this _____ day of _____, 20__, A.D.

_____

Notary Public in and for State of _____

My Commission Expires:_____

All Bills Paid Affidavit
Form 11-01-18

December 12, 2024
Item No. 7.16.
FY 24 JAG Grant ILA between Bryan, College Station, and Brazos County

Sponsor: Billy Couch

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action on a resolution on the interlocal agreement between Bryan, Brazos County, and College Station for expenditures related to the FY 24 JAG Grant.

Relationship to Strategic Goals:
Good governance

Recommendation(s): Recommend the MOU be signed and returned to the City of Bryan.

Summary: The City of Bryan (Police) has applied for the JAG Grant funds (formula grant based on crime stats) for our county. The City of College Station is listed as a sub awardee on the grant. Brazos County also must sign off on the agreement, and they are pledged to get 15% of each agency's funds to utilize which is standard. After the 15% allocation, the City of College Station (Police) are allocated $14,370.10 to be used for criminal justice purposes. The funds will be utilized for crime scene equipment and training equipment for active shooters.

Budget & Financial Summary: College Station is allocated $14,370.10 after providing 15% to Brazos County. All funds will be disbursed by the City of Bryan as reimbursements after the funds have been spent. Invoices will need to be provided to the grant manager, Lt. James Murphy with Bryan PD.

Attachments:
1. 6F 2024 JAG MOU_10-18-2024 final ACF

Docusign Envelope ID: A8E2CA06-5731-48BD-9B29-090B9E9CE105

INTERLOCAL AGREEMENT BETWEEN BRAZOS COUNTY, THE CITY OF COLLEGE STATION, AND THE CITY OF BRYAN FOR THE 2024 BYRNE JUSTICE ASSISTANCE GRANT (JAG) PROGRAM AWARD

This Agreement is made and entered into by and between Brazos County, Texas ("County"), acting through its Commissioners' Court, the City of College Station ("College Station"), a Texas home-rule municipal corporation, acting through its City Council; and the City of Bryan, Texas ("Bryan"), a Texas home-rule municipal corporation, acting through its City Council.

WHEREAS, the County, College Station, and Bryan intend to submit a joint application for grant funds under the U.S. Department of Justice's 2024 Edward Byrne Memorial Justice Assistance Grant Program ("JAG"); and

WHEREAS, as a condition precedent to receiving a JAG award, the County, College Station, and Bryan are required to enter into an inter-local agreement designating one joint applicant to serve as the applicant/fiscal agent for the joint funds; and

WHEREAS, the parties agree that Bryan will serve as the applicant/fiscal agent for the joint application; and

WHEREAS, Chapter 791 of the Texas Government Code, also known as the Interlocal Cooperation Act, authorizes all local governments to contract with each other to perform governmental functions or services; and

WHEREAS, the parties represent that each is independently authorized to perform the functions or services contemplated by this Agreement; and

WHEREAS, each governing body, in performing governmental functions or in paying for the performance of governmental functions hereunder, shall make that performance or those payments from current revenues legally available to that party; and

WHEREAS, each governing body finds that the performance of this Agreement is in the best interests of all parties, that the undertaking will benefit the public, and that the division of costs fairly compensates the performing party for the services or functions under this Agreement; and

WHEREAS, the parties find that upon receipt of the JAG award, it is in their best interest to allocate the JAG award according to the dollar amounts and purposes indicated in this Agreement;

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

Docusign Envelope ID: A8E2CA06-5731-48BD-9B29-090B9E9CE105

1. Bryan agrees to pay the County a total of $6,578.40 from the JAG funds.

2. The County agrees to use the $6,578.40 for the purpose of supporting local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, information technology, research and evaluation activities that will improve or enhance law enforcement programs.

3. Bryan agrees to pay College Station a total of $14,370.10 from the JAG funds.

4. College Station agrees to use $14,370.10 for the purpose of supporting local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, information technology, research and evaluation activities that will improve or enhance law enforcement programs.

5. Bryan agrees to retain a total of $22,907.50 from the JAG funds.

6. Bryan agrees to use $22,907.50 for the purpose of supporting local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, information technology, research and evaluation activities that will improve or enhance law enforcement programs.

7. The parties to this Agreement do not intend for any third party to obtain a right by virtue of this Agreement.

8. By entering into this Agreement, the parties do not intend to create any obligations express or implied other than those set out herein; further, this Agreement shall not create any rights in any party not a signatory hereto.

9. No party shall have the right to direct or control the conduct of the other parties with respect to the duties and obligations of each party under the terms of this Agreement.

10. Each entity shall ensure that all applicable laws and ordinances have been satisfied.

11. **Effective Date and Term**. This Agreement shall be effective when signed by the last party who's signing makes the Agreement fully executed and will remain in full force and effect for the four (4) year term of the 2024 JAG program award.

12. **Indemnification.** Subject to the limitations as to damages and liability under the Texas Tort Claims Act, and without waiving its governmental immunity, each party to this Agreement agrees to hold harmless each other, its governing board, officers, agents and employees for any liability, loss, damages, claims or causes of action caused, or asserted to be caused, directly or indirectly by any other party to this Agreement, or any of its officers, agents or employees as a result of its performance under this Agreement.

Docusign Envelope ID: A8E2CA06-5731-48BD-9B29-090B9E9CE105

13. **Consent to Suit**. Nothing in this Agreement will be construed as a waiver or relinquishment by any party of its right to claim such exemptions, privileges and immunities as may be provided by law.

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

15. **Written Notice**. Unless otherwise specified, written notice shall be deemed to have been duly served if delivered in person or sent by certified mail to the business address as listed herein.

CITY OF BRYAN	**CITY OF COLLEGE STATION**	**BRAZOS COUNTY**
City Manager	City Manager	County Judge
City of Bryan	City of College Station	Brazos County
300 South Texas Ave	P. O. Box 9960	200 South Texas Ave., Ste. 332
Bryan, Texas 77803	College Station, Texas 77842	Bryan, Texas 77803

16. **Entire Agreement**. It is understood that this Agreement contains the entire agreement between the parties and supersedes any and all prior agreements, arrangements, or understandings between the parties relating to the subject matter. Nor oral understandings, statements, promises, or inducements contrary to the terms of this Agreement exist. This Agreement cannot be changed or terminated orally. No verbal agreement or conversation with any officer, agent, or employee of any party before or after the execution of this Agreement shall affect or modify any of the terms or obligations hereunder.

17. **Amendment.** No Amendment to this Agreement shall be effective and binding unless and until it is reduced to writing and signed by duly authorized representatives of both parties.

18. **Texas Law.** This Agreement has been made under and shall be governed by the laws of the State of Texas.

19. **Place of Performance.** Performance and all matters related thereto shall be in Brazos County, Texas, United States of America.

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

21. **Waiver.** Failure of any party, at any time, to enforce a provision of this Agreement, shall in no way constitute a waiver of that provision, nor in anyway affect the validity of this Agreement, any part hereof, or the right of either party thereafter to enforce each and every

Docusign Envelope ID: A8E2CA06-5731-48BD-9B29-090B9E9CE105

provision hereof. No term of this Agreement shall be deemed waived or breach excused unless the waiver shall be in writing and signed by the party claimed to have waived. Furthermore, any consent to or waiver of a breach will not constitute consent to or waiver of or excuse any other different or subsequent breach.

22. **Agreement Read**. The parties acknowledge that they have read, understand and intend to be bound by the terms and conditions of this Agreement.

23. **Assignment.** This Agreement and the rights and obligations contained herein may not be assigned by any party without the prior written approval of the other parties to this Agreement.

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

[SIGNATURE PAGES FOLLOW]

Docusign Envelope ID: A8E2CA06-5731-48BD-9B29-090B9E9CE105

EXECUTED this the 19th day of November, 2024.

CITY OF BRYAN

APPROVED:

Bobby Gutierrez
Bobby Gutierrez, Mayor

APPROVED FOR COUNCIL:

Kean Register
Kean Register, City Manager

ATTEST:

Melissa Brunner
Melissa Brunner, City Secretary

APPROVED AS TO FORM:

Thomas A Leeper
Thomas A. Leeper, City Attorney

Docusign Envelope ID: A8E2CA06-5731-48BD-9B29-090B9E9CE105

EXECUTED this the _____ day of _____, 2024.

CITY OF COLLEGE STATION

APPROVED:

_____
Mayor

ATTEST:

_____
City Secretary

APPROVED FOR COUNCIL:

_____
City Manager

APPROVED AS TO FORM:

_____
City Attorney

_____
Assistant City Attorney/CFO

Docusign Envelope ID: A8E2CA06-5731-48BD-9B29-090B9E9CE105

EXECUTED this the _____ day of _____, 2024.

COUNTY OF BRAZOS

APPROVED:

_____
County Judge

ATTEST:

_____
County Clerk

APPROVED AS TO FORM:

_____
Counsel for Brazos County

December 12, 2024
Item No. 7.17.
ETJ Release Petition - 10010 & 10022 SH 30

Sponsor: Anthony Armstrong, Director of Planning and Development

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding a resolution denying an extraterritorial jurisdiction (ETJ) release petition for approximately 8.38 acres of land generally located at 10010 & 10022 State Highway 30.

Relationship to Strategic Goals:
- Good Governance
- Sustainable City

Recommendation(s): The purpose of the extraterritorial jurisdiction (ETJ) of municipalities is to promote and protect the general health, safety, and welfare of people residing in and adjacent to the city. After review, staff has determined that the removal of these properties from the City's ETJ will have a negative effect on the general health, safety and welfare of people residing in and adjacent to the City. Mainly, the removal would cause negative impacts to the health, safety, and welfare in administering emergency services to these areas, as well as impacting the orderly subdivision and development of land.

Staff recommends denial of the ETJ release petition.

Staff was not contacted by the petitioner, nor able to make contact.

Summary: Texas Senate Bill 2038 (SB 2038), which is a new statute that conflicts with current statutory law, allows property owners in the extraterritorial jurisdiction (ETJ) to leave the City's ETJ through a petition or election. The ETJ is a set area outside the city limits (College Station's ETJ is 5 miles from the city limits) in which the city can exercise certain legal powers, such as regulating subdivisions. SB 2038 has since been codified under Chapter 42 Subchapter D of the Texas Local Government Code.

SUBCHAPTER D. RELEASE OF AREA BY PETITION OF LANDOWNER OR RESIDENT FROM EXTRATERRITORIAL JURISDICTION
Sec. 42.101. APPLICABILITY. This subchapter does not apply to an area located:
(1) within five miles of the boundary of a military base, as defined by Section 43.0117, at which an active training program is conducted;
(2) in an area that was voluntarily annexed into the extraterritorial jurisdiction that is located in a county:
(A) in which the population grew by more than 50 percent from the previous federal decennial census in the federal decennial census conducted in 2020; and
(B) that has a population greater than 240,000;
(3) within the portion of the extraterritorial jurisdiction of a municipality with a population of more than 1.4 million that is:
(A) within 15 miles of the boundary of a military base, as defined by Section 43.0117, at which an active training program is conducted; and
(B) in a county with a population of more than two million;

(4) in an area designated as an industrial district under Section 42.044; or
(5) in an area subject to a strategic partnership agreement entered into under Section 43.0751.
Added by Acts 2023, 88th Leg., R.S., Ch. 106 (S.B. 2038), Sec. 1, eff. September 1, 2023.

Sec. 42.102. AUTHORITY TO FILE PETITION FOR RELEASE. (a) A resident of an area in a municipality's extraterritorial jurisdiction may file a petition with the municipality in accordance with this subchapter for the area to be released from the extraterritorial jurisdiction.
(b) The owner or owners of the majority in value of an area consisting of one or more parcels of land in a municipality's extraterritorial jurisdiction may file a petition with the municipality in accordance with this subchapter for the area to be released from the extraterritorial jurisdiction.
Added by Acts 2023, 88th Leg., R.S., Ch. 106 (S.B. 2038), Sec. 1, eff. September 1, 2023.
Sec. 42.103. APPLICABILITY OF OTHER LAW. Chapter 277, Election Code, applies to a petition requesting removal under this subchapter.
Added by Acts 2023, 88th Leg., R.S., Ch. 106 (S.B. 2038), Sec. 1, eff. September 1, 2023.
Sec. 42.104. PETITION REQUIREMENTS. (a) A petition requesting release under this subchapter must be signed by:
(1) more than 50 percent of the registered voters of the area described by the petition as of the date of the preceding uniform election date; or
(2) a majority in value of the holders of title of land in the area described by the petition, as indicated by the tax rolls of the applicable central appraisal district.
(b) A person filing a petition under this subchapter must satisfy the signature requirement described by Subsection (a) not later than the 180th day after the date the first signature for the petition is obtained.
(c) A signature collected under this section must be in writing.
(d) The petition must include a map of the land to be released and describe the boundaries of the land to be released by:
(1) metes and bounds; or
(2) lot and block number, if there is a recorded map or plat.
Added by Acts 2023, 88th Leg., R.S., Ch. 106 (S.B. 2038), Sec. 1, eff. September 1, 2023.
Sec. 42.105. RESULTS OF PETITION. (a) A petition requesting removal under this subchapter shall be verified by the municipal secretary or other person responsible for verifying signatures.
(b) The municipality shall notify the residents and landowners of the area described by the petition of the results of the petition. The municipality may satisfy this requirement by notifying the person who filed the petition under Section 42.102.
(c) If a resident or landowner obtains the number of signatures on the petition required under Section 42.104 to release the area from the municipality's extraterritorial jurisdiction, the municipality shall immediately release the area from the municipality's extraterritorial jurisdiction.
(d) If a municipality fails to take action to release the area under Subsection (c) by the later of the 45th day after the date the municipality receives the petition or the next meeting of the municipality's governing body that occurs after the 30th day after the date the municipality receives the petition, the area is released by operation of law.
(e) Notwithstanding any other law, an area released from a municipality's extraterritorial jurisdiction under this section may not be included in the extraterritorial jurisdiction or the corporate boundaries of a municipality, unless the owner or owners of the area subsequently request that the area be included in the municipality's extraterritorial jurisdiction or corporate boundaries.
Added by Acts 2023, 88th Leg., R.S., Ch. 106 (S.B. 2038), Sec. 1, eff. September 1, 2023.

In addition to the above statute, 42.023 of the Texas Local Government Code requires the governing body of the municipality to give its written consent by ordinance or resolution if it desires to reduce its

ETJ area:

Sec. 42.023. REDUCTION OF EXTRATERRITORIAL JURISDICTION. The extraterritorial jurisdiction of a municipality may not be reduced unless the governing body of the municipality gives its written consent by ordinance or resolution, except:
(1) in cases of judicial apportionment of overlapping extraterritorial jurisdictions under Section 42.901;
(2) in accordance with an agreement under Section 42.022(d); or
(3) as necessary to comply with Section 42.0235.

Budget & Financial Summary: N/A

Attachments:
1. ETJ Petition Denial Resolution SH 30 Lovett 12-12-24

RESOLUTION NO._____

A RESOLUTION OF THE CITY OF COLLEGE STATION, TEXAS, DENYING HIGHWAY 30 BUSINESS CENTER LLC'S PETITION FOR REMOVAL OF PROPERTY FROM THE EXTRATERRITORIAL JURISDICTION OF THE CITY OF COLLEGE STATION AND DENYING THE CITY'S CONSENT TO THE REDUCTION OF THE CITY'S EXTRATERRITORIAL JURISDICTION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on November 24, 2024, Steve Lovett, Managing Member of Highway 30 Business Center, LLC ("Petitioner") submitted a petition attached as **Exhibit "A"** ("Petition") for releasing property from the City of College Station's extraterritorial jurisdiction ("ETJ"); and

WHEREAS, the property sought to be released is located at 10010 and 10022 SH 30, College Station, Texas and described by metes and bounds in **Exhibit "A"** ("Property"); and

WHEREAS, pursuant to Texas Local Government Code Section 42.023, the City's ETJ may only be reduced if the City Council has exercised its legislative authority consenting to reducing the City's ETJ by ordinance or resolution; and

WHEREAS, pursuant to Texas Constitution, Article II, Section 1, landowners may not be delegated legislative authority to remove their property from the City's ETJ without the City Council's consent by ordinance or resolution; and

WHEREAS, Texas Local Government Code Chapter 42 Subchapter D. (SB 2038) is an unconstitutional delegation of the City's legislative authority and conflicts with the City's grant of legislative discretion under Local Government Code Section 42.023; and

WHEREAS, it is in the best interest of the City to deny the Petition and the removal of the Property from the City's ETJ, and to any reduction in size of the City's ETJ; and deny any action under Texas Local Government Code Chapter 42 Subchapter D. (SB 2038); now therefore,

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

PART 1: The above recitals are adopted as findings of the City Council.

PART 2: The Petition for Release of the Property in **Exhibit "A"** from the City's ETJ is denied and the Property remains in the City's ETJ.

PART 3: The City denies any written consent by ordinance or resolution or action under Texas Local Government Code Chapter 42 Subchapter D. (SB 2038) to remove the Property from the City's ETJ and any reduction in size of the City's ETJ.

PART 4: That this resolution shall become effective immediately after passage and approval.

ADOPTED this 12th day of December 2024.

ATTEST: **APPROVED:**

City Secretary **Mayor**

APPROVED:

City Attorney

EXHIBIT A

Tract 1:

Approximately 1.77-acre tract or parcel of land lying and being situated in the Maria Kegans Survey, Abstract No. 28, Brazos County, Texas.

Tract 2:

Approximately a 6.61-acre tract of a called 44.26-acre tract of land, described in a Deed to Canyon Creek Partners, Ltd., recorded in Volume 5639, Page 26 of the Official Public Records of Brazos County, Texas in the Maria Kegans Survey, Abstract 28, Brazos County, Texas.

November 19, 2024

Adam C. Falco
College Station City Attorney
1101 Texas Avenue
College Station, Texas 77843

Via: Certified Mail Return Receipt Requested Receipt No: **7018 3090 0001 2830 0947**

Re: Petition for Release from the Extraterritorial Jurisdiction of the City of College Station

Dear Mr. Falco,

1. **Steven Trent Lovett** acting as the Managing Member for **Highway 30 Business Center LLC** ("Owner") files this Petition pursuant to TEX. LOC. GOV'T CODE § 42.102.

2. **Highway 30 Business Center LLC** owns property within the extraterritorial jurisdiction of the City of College Station located at **10010 & 10022 SH 30, College Station, Texas 77845**, PID's **12150 & 12152** (the "Property"). *See* Exhibit A (Deed and Property Map).

3. Owner hereby Petitions the City of College Station to release Owner's Property from its extraterritorial jurisdiction.

4. Pursuant to TEX. LOC. GOV'T CODE § 42.102, an owner or owners of majority in value of an area in a municipality's extraterritorial jurisdiction may file a petition with the municipality to be released from the extraterritorial jurisdiction, if the owner's property in question meets the applicability requirements of TEX. LOC. GOV'T CODE § 42.101 and the petition requirements of TEX. LOC. GOV'T CODE § 42.104.

5. Owner's Property meets the applicability requirements of TEX. LOC. GOV'T CODE § 42.101.

6. As set forth in Exhibit B, Affidavit of Owner, and as set forth in TEX. LOC. GOV'T CODE § 42.101, the undersigned swears that the Property is not:

   (1) within five miles of the boundary of a military base, as defined by TEX. LOC. GOV'T CODE § 43.0117, at which an active training program is conducted;

   (2) in an area that was voluntarily annexed into the extraterritorial jurisdiction that is located in a county:

      (A) in which the population grew by more than 50 percent from the previous federal decennial census in the federal decennial census conducted in 2020, and

      (B) that has a population greater than 240,000;

   (3) within the portion of the extraterritorial jurisdiction of a municipality with a population of more than 1.4 million that is:

      (A) within 15 miles of the boundary of a military base, as defined by TEX. LOC. GOV'T CODE § 43.0117, at which an active training program is conducted, and

      (B) in a county with a population of more than 2 million;

   (4) in an area designated as an industrial district under TEX. LOC. GOV'T CODE § 42.044; or

   (5) in an area subject to a strategic partnership agreement entered into under TEX. LOC. GOV'T CODE § 43.0751.

7. This Petition meets the requirements of TEX. LOC. GOV'T CODE § 42.104.

8. As required by TEX. LOC. GOV'T CODE § 42.104(a)(2), Owner's value in the Property constitutes more than 50% of the value of the Property, as indicated by the tax rolls of the Brazos Central Appraisal District.

9. As required by TEX. LOC. GOV'T CODE § 42.104(a)(2), the signature page accompany this Petition includes the signatures of 100% of the Property's owners in value, which is more than 50%.

10. As required by TEX. LOC. GOV'T CODE § 42.103, the signature is valid pursuant to TEX. ELEC. CODE § 277.002.

11. This Petition contains, in addition to the signature:

    (A) the signer's printed name;

    (B) the signer's:

        (i) date of birth; or

        (ii) voter registration number and,

        (iii) county of registration;

    (C) the signer's residence address; and

    (D) the date of signing.

12. As required by TEX. LOC. GOV'T CODE § 42.104(b), Owner filing this Petition satisfied the signature requirement within 180 days after the date the first signature for the Petition was obtained.

13. As required by TEX. LOC. GOV'T CODE § 42.104(c), the signature collected under this section is in writing.

14. As required by TEX. LOC. GOV'T CODE § 42.104(d), this Petition includes the deed for the land to be released in Exhibit A, which describes the boundaries of the land to be released by: (1) metes and bounds; or (2) lot and block number, if there is a recorded map or plat. Exhibit A also includes a map of the land to be released.

15. As required by TEX. LOC. GOV'T CODE § 42.105(a), the City must verify this Petition upon receipt; shall notify the residents and landowners of the area described by the petition of the results of the petition, or shall notify Owner, who filed this Petition under Section 42.102.

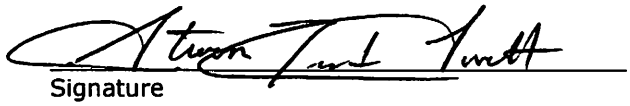
16. Pursuant to TEX. LOC. GOV'T CODE § 42.105(c), because Owner has obtained the number of signatures on the Petition required under Section 42.104 to release the area from the extraterritorial jurisdiction of the City of College Station, the City must immediately release the area—Owner's Property—from the City's extraterritorial jurisdiction.

17. Pursuant to TEX. LOC. GOV'T CODE § 42.105(d), if the City fails to take action to release Owner's Property from the City's ETJ by the later of the 45th day after the date the municipality receives the petition or the next meeting of the City's governing body that occurs after the 30th day after the date the City receives this petition, the area—Owner's Property—is released by operation of law.

Highway 30 Business Center LLC

By: **Steve Trent Lovett**
Printed Name

Its: **Managing Member**
Title


Signature

05/03/1960
Date of birth

1040614716
Voter Registration Number

Brazos
Voter county of registration

3600 Lovett Lane, College Station, TX 77845
Residence address

11/18/24
Date of signing

RECORDING PAID FOR BY: LOVETT (rpw)

Doc 01008867 Bk OR Vol 8782 Pg 199

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: December 27th, 2006

Grantor: STEVEN TRENT LOVETT and wife, ANN LOVETT

Grantee: HIGHWAY 30 BUSINESS CENTER, LLC, a Texas limited liability company

Grantee's Mailing Address: c/o Steven T. Lovett, Managing Member/Chairman
3600 Lovett Lane
College Station, Texas 77845

Consideration: TEN AND NO/100 DOLLARS ($10.00) and other good and valuable consideration

Property (including any improvements):

Field Notes of a 1.77 acre tract or parcel of land lying and being situated in the Maria Kegans Survey, Abstract No. 28, Brazos County, Texas, and being part of the 3 acre tract described in the deed from H. P. Spradling, et ux, to Albert A. Schultz and wife, Maydell Schultz, as recorded in Volume 141, Page 225, of the Deed Records of Brazos County, Texas, and being more particularly described as follows:

COMMENCING at the 6" creosote post fence corner marking the east corner of the called 0.021 acre tract described in the deed from A. A. Schultz, et ux to Brazos County, Texas, (for County Road purposes), recorded in Volume 2105, Page 163 of the Official Records of Brazos County, Texas, same being the intersection of the existing southeast right-of-way line of Nunn Jones Road with the existing southwest right-of-way of State Hwy. No. 30;

THENCE along the southwest right-of-way line of State Highway No. 30, same being the southwest line of the 0.10 acre tract described in the deed from A. A. Schultz, et ux to the State of Texas (for Hwy. No. 30 right-of-way purposes), adjacent to a fence as follows:

S 60 degrees 42' 59" E 117.86 feet to a 1/2" iron rod found near a chain link fence corner marking the east corner of 0.46 acre tract described in the Gift Deed to Delana M. Jackson and husband, William L. Jackson, recorded in Volume 2451, Page 230 of the Official Records of Brazos County, Texas, and the Place of Beginning of this description:

S 60 degrees 42' 59" E 26.32 feet to a concrete right-of-way marker:

S 62 degrees 14' 39" E 180.10 feet to a 1/2" iron rod set, an 8" creosote post fence corner bears S 38 degrees 33' W - 1.0 feet, said 1/2" iron rod being in the southeast line of the beforementioned Schultz 3 acre tract;

THENCE S 30 degrees 28' 26" W along the common line between the beforementioned Schultz 3 acre tract and the 50 acre tract described in the Deed to Joseph Milton Graham, recorded in Volume 121, Page 153, of the Deed Records of Brazos County, Texas, adjacent to a fence, for a distance of 385.46 feet to an 8" creosote post fence corner found marking the south corner of the 3 acre tract (same being the south corner of a 1-1/2 acre First Tract described in Volume 85, Page 41);

THENCE N 61 DEGREES 00'00" W continue along the common line between the beforementioned Schultz 3 acre tract and the Graham 50 acre tract, adjacent to a fence, for a distance of 195.95 feet to a 1/2" iron rod found at chain link fence corner marking the south corner of the beforementioned 0.46 acre tract;

THENCE N 28 degrees 55' 20' E along the southeast line of the beforementioned 0.46 acre tract, adjacent to a chain link fence, for a total distance of 381.55 feet to the Place of Beginning, containing 1.77 acres of land, more or less.

Reservations from Conveyance:

SAVE AND EXCEPT, Grantor reserves for himself, his heirs and assigns: (i) all of the oil, gas, liquid hydrocarbons, residue gas, the products and by products of the foregoing and all minerals, if any, which Grantor presently owns that are in, on, or under the above described Property situated in Brazos County, Texas, and that may be produced from it, without either the right to enter onto the surface of the Property or the right of ingress and egress onto the Property for mining, drilling, exploring, operating and developing the Property for oil, gas and other minerals or for removing them from the Property. Nothing herein, however, restricts or prohibits the pooling or unitization of the portion of the mineral estate owned by Grantor with land other than the Property or the exploration or production of the oil, gas and other minerals by means of wells that are drilled or mines that open on land other than the Property but enter or bottom under the Property, provided that these operations in no manner interfere with the surface or subsurface support of any improvements constructed or to be constructed on the Property; and (ii) all groundwater, being all underground water, percolating water, artesian water and other waters from any and all reservoirs, formations, depths and horizons beneath the surface of the earth, in, under or that may be produced from the Property (the "Groundwater Estate") that Grantor presently owns, without either the right to enter onto the surface of the Property or the right of ingress and egress onto the Property for any purpose relating to Grantor's interests in the Groundwater Estate or to extract water relating to Grantor's interest in the Groundwater Estate. Nothing herein, however, restricts or prohibits the pooling or unitization of the portion of the Groundwater Estate owned by Grantor with land other than the Property or the exploration or production of water by means of wells that are drilled on the surface of land other than the Property but enter or bottom under the Property, provided that these operations in no manner interfere with the surface of subsurface support of any improvements constructed or to be constructed on the Property.

Exceptions to Conveyance and Warranty:

This conveyance is made subject to all valid and subsisting easements, restrictions, rights of way, conditions, exceptions, reservations, and covenants of whatsoever nature of record, if any, and also to the zoning laws and other restrictions, regulations, ordinances and statutes of municipal or other governmental authorities applicable to and enforceable against the described property.

Grantor, for the Consideration and subject to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty, grants, sells, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any way belonging, to have and to hold it to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs and successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty, by, through, or under Grantor, but not otherwise.

When the context requires, singular nouns and pronouns include the plural.

STEVEN TRENT LOVETT

ANN LOVETT

Doc Bk Vol Pg
01008867 OR 8782 201

STATE OF TEXAS

COUNTY OF BRAZOS

This instrument was acknowledged before me on the 27 day of December, 2006, by Steven Trent Lovett and Ann Lovett.

Mark Edwin McAuliffe
NOTARY PUBLIC, State of Texas
Notary's name printed:
Mark Edwin McAuliffe
My commission expires: 20 Aug 2009

Filed for Record in:
BRAZOS COUNTY

On: Aug 28,2008 at 02:20P

As a
Recordings

Document Number: 01008867

Amount 19.00

Receipt Number - 349161
By
Kim Green

STATE OF TEXAS COUNTY OF BRAZOS
I hereby certify that this instrument was filed on the date and time stamped hereon by me and was duly recorded in the volume and page of the Official Public records of:

BRAZOS COUNTY

as stamped hereon by me.

Aug 28,2008

HONORABLE KAREN McQUEEN, COUNTY CLERK
BRAZOS COUNTY

RECORDING PAID FOR BY: Lovett
AFTER RECORDING RETURN TO:
O. E. Elmore
1021 University Drive East
College Station, Texas 77840

PREPARED IN THE LAW OFFICE OF:
HOELSCHER, LIPSEY, ELMORE & BENN, P.C.
1021 University Drive East
College Station, Texas 77840
OEE/

GENERAL WARRANTY DEED

Steven Trent Lovett and wife, Ann Lovett
to Highway 30 Business Center, LLC, a Texas limited liability Company

PLUS 44.26 ACRES:

Bill & Return to
University Title Company
P.O. Drawer DT
College Station, Texas 77841
GF# 83563KR

RECORDING PAID FOR BY: UTC #0008356; CANYON.SWD (JH)

Doc	Bk	Vol	Pg
01017621	OR	8919	260

Notice of Confidentiality Rights: If you are a natural person, you may remove or strike any or all of the following information from any instrument that transfers an interest in real property before it is filed for record in the public records: your social security number or your driver's license number.

SPECIAL WARRANTY DEED WITH VENDOR'S LIEN

Date: January 6, 2009

Grantor: CANYON CREEK INTERESTS, LTD., SUCCESSOR BY AMENDMENT TO CANYON CREEK PARTNERS, LTD.

Grantee: HIGHWAY 30 BUSINESS CENTER, LLC

Grantee's Mailing Address: 3400 Loretta Lane College Station, TX 77845

Consideration: TEN AND NO/100 DOLLARS ($10.00) and other good and valuable consideration, CASH and a note of even date executed by Grantee and payable to the order of COMPASS BANK in the principal amount of SEVEN HUNDRED NINETY-SIX THOUSAND TWO HUNDRED FIFTY AND NO/DOLLARS ($796,250.00). The note is secured by a first and superior vendor's lien and superior title retained in this deed by Grantor, which is hereby transferred to COMPASS BANK and by a first-lien deed of trust of even date from Grantee to Ben Hayes Riggs, Trustee.

Property (including any improvements):

A metes and bounds description of a certain 44.26 acre tract of land, being all of a called 44.24 acre tract described in a Deed to Canyon Creek Partners, Ltd., recorded in Volume 5639, Page 26 of the Official Public Records of Brazos County (O.P.R.B.C.), in the Maria Kegans Survey, Abstract No. 28, Brazos County, Texas said 44.26 acres being more particularly described as follows (all bearings being based on a call of North 45° 14' 25" East along the commencing call of a utility easement described in an Agreed Final Judgment to the City of College Station, recorded in Volume 7876, Page 247 of the O.P.R.B.C.);

BEGINNING at the 1/2-inch iron rod found in the southwesterly base of a 48-inch oak tree in the northeasterly right-of-way line of Nunn-Jones Road (right-of-way varies) for the most southerly corner of the herein described tract and the most westerly corner of a called 2.00-acre tract described in a Deed to Leonard L. Muesse and Lily K. Muesse, recorded in Volume 1396, Page 22 of the O.P.R.B.C.;

THENCE North 16° 02 '14" West, 1357.50 feet (called North 12° 33' 13" West, 1257.70 feet) along the northeasterly right-of-way line of said Nunn-Jones Road and generally following a fence line, to a 5/8-inch iron rod with cap stamped "Jones & Carter, Inc.", set at an angle point in said right-of-way;

THENCE North 18° 54' 33" East, 299.69 feet (called North 22° 09' 44" East, 299.33 feet) continuing along the northeasterly right-of-way line of Nunn-Jones Road and generally following a fence line, to a cross-tie fence post found for corner (as called), from which a chain link fence corner bears North 57° East, 0.7 feet, said corner also being the southwest corner of a called 0.65-acre tract

described in a Deed to William L. Jackson and Delana M. Jackson, recorded in Volume 517, Page 46 of Brazos County Deed Records (B.C.D.R.);

THENCE South 65° 31' 31" East, 324.94 feet (called South 62° 01' 53" East, 324.62 feet), leaving the northeasterly right-of-way line of Nunn-Jones Road along the southerly line of said called 0.65-acre tract and the southerly line of a called 1.77-acre tract described in a Deed to Highway 30 Business Center, LLC, recorded in Volume 8782, Page 199, in the O.P.R.B.C. to a 5/8-inch iron rod with cap stamped "Jones & Carter, Inc.", set at a 8-inch creosote fence corner post found for an interior corner of the herein described tract and the southeasterly corner of said called 1.77-acre tract;

THENCE North 25° 49' 24" East, 385.56 feet (called North 29° 20' 49" East, 383.73 feet) along the southeasterly line of said called 1.77-acre tract, to a 5/8-inch iron rod with cap stamped "Jones & Carter, Inc.", set in the southwesterly right-of-way line of State Highway 30 (right-of-way width varies, and widened by Deed recorded in Volume 1029, Page 432, of the O.P.R.B.C.) a found concrete monument bears North 66° 15' 15" West, 180.06 feet;

THENCE along the southwesterly right-of-way line of said State Highway 30 and along northeasterly lines of the herein described tract, following four (4) courses and distances:

1. South 66° 45' 01" East, 320.54 feet (called South 63° 42' 12" East, 320.00 feet) to a found concrete monument;
2. South 65° 44' 38" East, 482.80 feet (called South 62° 33' 27" East, 482.80 feet) to a 5/8-inch iron rod with cap stamped "Jones & Carter, Inc.", set for corner, a found 5/8-inch iron rod bears North 23° East, 0.45 feet;
3. South 60° 50' 26" East, at 23.92 feet, pass a found broken concrete monument, 1.91 feet left of line, and continue in all 274.50 feet, to a 5/8-inch iron rod with cap stamped "Jones & Carter, Inc.", set for corner, a found 3/8-inch iron rod bears North 64° East, 0.30 feet;
4. South 59° 31' 26" East, at 38.87 feet, pass a found 5/8-inch iron rod, 0.25 feet left of line, and a found broken concrete monument, 2.28 feet left of line, and continue in all 48.11 feet, to a 5/8-inch iron rod with cap stamped "Jones & Carter, Inc.", set for the most northerly northeast corner of the herein described tract and the northwest corner of the residue of a called 8-acre tract described in a Deed to Patricia R. Pierce, recorded in Volume 1947, Page 80, O.P.R.B.C., a found 1/2-inch iron rod bears South 41° 33' West, 0.22 feet, and a found 5/8-inch iron rod bears South 59° 31' 26" East, 443.00 feet;

THENCE South 41° 33' 27" West, 595.87 feet (called South 44° 58' 51" West, 595.41 feet), leaving the southerly right-of-way line of said State Highway 30 along the northwesterly line of said Pierce tract and a northwesterly line of a called 4.35-acre tract described in a Deed to BACC Enterprises, Inc., recorded in Volume 8472, Page 273, O.P.R.B.C., to a 5/8-inch iron rod with cap stamped "Jones & Carter, Inc.", set for corner for an interior corner of the herein described tract and the southwesterly corner of said BACC Enterprises, tract;

THENCE South 58° 54' 02" East (called South 55° 17' 36" East), at 393.43 feet, passing two 3/8-inch iron rods, 0.44 feet left of line, and continue in all 525.20 feet (called 523.89 feet), to a 5/8-inch iron rod with cap stamped "Jones & Carter, Inc.", set for corner in a southwesterly line of a called 2.00-acre tract described in a Deed to Patricia Fowler and Kurk Fowler, recorded in Volume 3742, Page 262, O.P.R.B.C., said called 2-acre tract being a portion of Lot 2, Block 3 of Deerfield Estates, recorded in Volume 376, Page 779, B.C.D.R., a found 1" iron pipe bears South 13° East, 0.5 feet;

THENCE South 38° 50' 59" West, 82.69 feet (called South 41° 30' 53" West, 81.30 feet) to a 5/8-inch iron rod found at the southwest corner of said called 2.00-acre tract and the northwest corner of called 4.73-acre tract described in a Deed to Thomas D. Vasovski, recorded in Volume 4692, Page 16 of the O.P.R.B.C.;

THENCE South 41° 52' 35" West, along the northwesterly line of said Block 3 of Deerfield Estates, at 211.55 feet, pass a found 5/8-inch iron rod on line, at 499.99 feet, pass a found 1/2-inch iron rod on line for the most westerly corner of said Vasovski tract and the most northerly corner of a called 2.19-acre tract (Tract 3-D) described in a Deed to Thomas H. Walton and Bonnie Y. Walton, recorded in Volume 4982, Page 227 of the O.P.R.B.C., at 731.27 feet, pass a found 1/2-inch iron rod on line for a common corner of said called 2.19-acre tract and a called 2.15-acre tract (Tract 3-E) also described in said Deed to Thomas H. Walton and Bonnie Y. Walton, and continue in all 902.02

feet, to a 3/8-inch iron rod found for the most southerly southeast corner of the herein described tract, the most westerly corner of said called 2.15-acre tract and the northeasterly corner of a called 2.77-acre tract described in a Deed to Frank W. Lawrence and Bonnie Lawrence, recorded in Volume 2735, Page 210 of the O.P.R.B.C., and an interior corner of said Block 3, Deerfield Estates;

THENCE North 48° 25' 24" West, (called North 44° 58' 19" West, 277.43 feet, and North 45° 01' 56" West, 243.49 feet) continuing along a northeasterly line of said Block 3, Deerfield Estates, at 277.07 feet, pass a found 3/8-inch iron rod, 0.20 feet right of line, for the most northerly corner of said called 2.77 acre tract, and the most westerly corner of the aforementioned called 2.00-acre Muesse tract and continue in all a distance of 520.56 feet, to a 3/8-inch iron rod found for the most northerly corner said Muesse tract and an interior corner of the herein described tract;

THENCE South 45° 22' 43" West, 298.79 feet (called South 48° 47' 30" West, 298.79 feet), along the northwesterly line of said Muesse tract and of said Block 3, Deerfield Estates to the POINT OF BEGINNING, CONTAINING 44.26 acres (1,928,172 square feet) of land of Brazos County, Texas, a shown on a Land Title Survey, Job Number C0045-001-00, on file in the office of Jones & Carter, Inc. in College Station, Texas.

Reservations from Conveyance:

None.

Exceptions to Conveyance and Warranty:

1. Varying Width Easement on the northeast side from J.M. Graham to City of Bryan dated February 25, 1988 recorded in Volume 1075, Page 775, Official Records, Brazos County, Texas; as shown on survey prepared on September 22, 2008, under the supervision of Larry DeLange, R.P.L.S. #4578.

2. Terms, Conditions, and Stipulations in the Agreement by and between City of College Station and Canyon Creek Partners, Ltd. dated August 30, 2006 recorded in Volume 7561, Page 213, Official Records, Brazos County, Texas.

3. Easement awarded in Judgment bisects property from City of College Station to Canyon Creek Partners, Ltd. and First Ag Credit, FLCA dated March 23, 2007 recorded in Volume 7876, Page 247, Official Records, Brazos County, Texas; as shown on survey prepared on September 22, 2008, under the supervision of Larry DeLange, R.P.L.S. #4578.

4. Oil and Gas Lease, and all terms, conditions and stipulations therein wherein Lessor is Joseph Milton Graham, et ux and Lessee is GSI Oil & Gas, Inc. dated August 2, 1991 recorded in Volume 1345, Page 60, Official Records, Brazos County, Texas.

5. Affidavit of Non Production by James D. Lampley, Jr. dated November 11, 2008 recorded in Volume 8819, Page 258, Official Records, Brazos County, Texas.

Grantor, for the Consideration and subject to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty, grants, sells, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any way belonging, to have and to hold it to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs and successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof when the claim is by, through, or under Grantor but not otherwise, except as to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty.

When the context requires, singular nouns and pronouns include the plural.

Ad valorem taxes for the current year have been prorated as of the date of delivery of this deed, and the Grantee by its acceptance hereof covenants and agrees to pay all ad valorem taxes upon the property from and including taxes for the year 2009.

CANYON CREEK INTERESTS, LTD., SUCCESSOR BY AMENDMENT TO CANYON CREEK PARTNERS, LTD.

acted for by

AMERICAN COLLEGIATE HOUSING CORPORATION, a Texas corporation

By: _____
William Sullivan, Vice President

STATE OF TEXAS

COUNTY OF BRAZOS

This instrument was acknowledged before me on the 6th day of January, 2009, by William Sullivan, Vice President of American Collegiate Housing Corporation, a Texas corporation, general partner for CANYON CREEK INTERESTS, LTD., SUCCESSOR BY AMENDMENT TO CANYON CREEK PARTNERS, LTD.

MIKE GENTRY
Notary Public, State of Texas
My Commission Expires
MAY 17, 2012

_____
NOTARY PUBLIC, State of Texas
Notary's name printed:
_____
My commission expires: _____

Filed for Record in:
BRAZOS COUNTY
On: Jan 07,2009 at 02:14P
As a
NO LABEL RECORDING
Document Number: 01017621
Amount 23.00
Receipt Number - 357036
By
Cathy Barcelona

STATE OF TEXAS
I hereby certify that this instrument was filed on the date and time stamped hereon by me and was duly recorded in the volume and page of the Official Public records of:
BRAZOS COUNTY
as stamped hereon by me.
Jan 07,2009
HONORABLE KAREN McQUEEN, COUNTY CLERK
BRAZOS COUNTY

RECORDING PAID FOR BY: UTC 00083563
AFTER RECORDING RETURN TO:

PREPARED IN THE LAW OFFICE OF:
HOELSCHER, LIPSEY & ELMORE, P.C.
1021 University Drive East
College Station, Texas 77840
WCL F:\USER\Jaime\RE\UTC\CANYON.83563.swd.wpdjln

SPECIAL WARRANTY DEED WITH VENDOR'S LIEN

CANYON CREEK INTERESTS, LTD., SUCCESSOR BY AMENDMENT TO CANYON CREEK PARTNERS, LTD.
to HIGHWAY 30 BUSINESS CENTER, LLC

LESS 37.65 ACRES:

Bill & Return to
University Title Company
P.O. Drawer DT
College Station, Texas 77841

Doc# 01017764 | OR | Vol 8921 | Pg 200

GF# 84043KR

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE ~~OR STRIKE ANY~~ OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

SPECIAL WARRANTY DEED

Date:	January 7, 2009
Grantor:	**Highway 30 Business Center, LLC, a Texas limited liability company**
Grantor's Mailing Address:	**3600 Lovett Lane, College Station, Texas 77845**
Grantee:	**Mark Dudley**
Grantee's Mailing Address:	**11370 State Highway 30, College Station, Texas 77845**
Consideration:	**TEN AND NO/100 DOLLARS ($10.00) and other good and valuable consideration**
Property (including any improvements):	**All that certain tract or parcel of land in Brazos County Texas containing 37.65 acres of land, more or less, and more particularly described on attached Exhibit "A".**

Reservations from Conveyance:

For purposes of the below described Reservations from Conveyance, the term Groundwater shall have the following meaning: All of the underground water, percolating water, artesian water, and any other water from any and all depths and reservoirs, formations, depths and horizons beneath the surface of the Property, excluding underflow or flow in a defined subterranean channel, **SAVE AND EXCEPT**, Groundwater, as that term is used herein, shall not include underground water, percolating water, artesian water, and any other water from any and all depths and reservoirs, formations, depths and horizons beneath the surface of the Property that may be produced for use on the surface of land from which it is taken.

For Grantor and Grantor's heirs, successors, and assigns forever, a reservation of an undivided 41.22% of all Groundwater in and under and that may be produced from the Property. If the Groundwater estate is subject to existing production or an existing license, the production, the license, and all benefits from it are allocated between Grantor and Grantee in proportion to their ownership in the Groundwater estate.

For Grantor and Grantor's heirs, successors, and assigns forever, a reservation of an undivided 41.22% of all oil, gas, and other minerals in and under and that may be produced from the Property. Grantor makes this reservation based on the understanding that Grantor owns 100% of the oil, gas, and other minerals in and under and that may be produced from the Property and it is Grantor's express intent to reserve 41.22% of 100% of the oil, gas and other minerals in and under and that may be produced from the Property. It is further Grantor's intent to convey 58.78% of the oil, gas and other minerals in and under and that may be produced from the Property to Grantee. If it is determined at a later date that Grantor owned less than 100% of the oil, gas and other minerals in and under and that may be produced from the Property at the time of this reservation, it is the Grantor's intent to reserve 41.22% of the oil, gas and other minerals that Grantor owned at the time of this reservation. It is further Grantor's intent that if, at the time of this reservation, Grantor owned less than 100% of the oil, gas and other minerals in and under

and that may be produced from the Property, to convey 58.78% of the oil, gas and other minerals Grantor owned at the time of this reservation to Grantee.

Grantor waives and conveys to Grantee the right of ingress and egress to and from the surface of the Property relating to the portion of the mineral estate and Groundwater estate owned by Grantor.

Nothing herein, however, restricts or prohibits the pooling or unitization of the portion of the mineral estate or Groundwater estate owned by Grantor with land other than the Property; or the exploration or production of the oil, gas, and other minerals or Groundwater by means of wells that are drilled or mines that open on land other than the Property but enter or bottom under the Property, provided that these operations in no manner interfere with the surface or subsurface support of any improvements constructed or to be constructed on the Property.

Exceptions to Conveyance and Warranty:

a. Easement from J.M. Graham to City of Bryan, dated February 25, 1988, recorded in Volume 1075, Page 775 of the Official Records, Brazos County, Texas.

b. Terms, Conditions, and Stipulations in the Agreement by and between City of College Station and Canyon Creek Partners, Ltd., dated August 30, 2006, recorded in Volume 7561, Page 213, Official Records, Brazos County, Texas.

c. Easement awarded in Judgment from City of College Station to Canyon Creek Partners, Ltd. and First Ag Credit, FLCA, dated March 23, 2007, recorded in Volume 7876, Page 247, Official Records, Brazos County, Texas.

d. Oil and Gas Lease, and all terms, conditions and stipulations therein, by and between Joseph Milton Graham, et ux to GSI Oil & Gas, Inc., dated August 2, 1991, recorded in Volume 1345, Page 60, Official Records, Brazos County, Texas.

e. Affidavit of Non Production by James D. Lampley, Jr. dated November 11, 2008 recorded in Vol. Volume 8819 ~~Page~~ 258, Official Records, Brazos County, Texas
or CC# 01017620

Grantor, for the Consideration and subject to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty, grants, sells, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any way belonging, to have and to hold it to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs and successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof when the claim is by, through, or under Grantor but not otherwise, except as to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty.

Subject to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty Grantor and Grantor's heirs, successors, and assigns grants a non-exclusive, perpetual, easement to Grantee for the benefit of the Property over, on, and across all that certain tract or parcel of land in Brazos County Texas containing 0.2297 acres of land, more or less, and more particularly described on **Exhibit "B"** which is attached hereto (the "**Easement Property**") to provide free and uninterrupted pedestrian and vehicular ingress and egress to and from State Highway 30. The easement is appurtenant to and runs with the Property. The owner of the fee title to the Easement Property shall be responsible for the maintenance of any driveway improvements constructed on the Easement Property.

When the context requires, singular nouns and pronouns include the plural.

GRANTOR:

Highway 30 Business Center, LLC, a Texas limited liability company

By: _____
Steven Trent Lovett, Managing Member

STATE OF TEXAS

COUNTY OF BRAZOS

This instrument was acknowledged before me on January 7, 2009, by **Steven Trent Lovett, Managing Member of Highway 30 Business Center, LLC, a Texas limited liability company.**

MIKE GENTRY
Notary Public, State of Texas
My Commission Expires
MAY 17, 2012

_____
Notary Public, State of Texas

PREPARED IN THE LAW OFFICE OF
West, Webb, Allbritton & Gentry, P.C.
1515 Emerald Plaza
College Station, Texas 77845
(Michael H. Gentry)

EXHIBIT "A"

A **METES AND BOUNDS** description of a certain 37.65 acre tract of land, being a portion of a called 44.24 acre tract described in a deed to Canyon Creek Partners, Ltd., recorded in Volume 5639, Page 26 of the Official Public Records of Brazos County (O.P.R.B.C.), in the Maria Kegans Survey, Abstract No. 28, Brazos County, Texas said 37.65 acres being more particularly described as follows (all bearings being based on a call of North 45°14'25" East along the commencing call of a utility easement described in an Agreed Final Judgment to the City of College Station, recorded in Volume 7876, Page 247 of the O.P.R.B.C.);

BEGINNING a 1/2-inch iron rod found in the southwesterly base of a 48-inch oak tree in the northeasterly right-of-way line of Nunn-Jones Road (right-of-way varies) for the most southerly corner of the herein described tract and the most westerly corner of a called 2.00-acre tract described in a deed to Leonard L. Muesse and Lily K. Muesse, recorded in Volume 1396, Page 22 of the O.P.R.B.C.;

THENCE, North 16°02'14" West, 1357.50 feet (called North 12°33'13" West, 1357.50 feet) along the northeasterly right-of-way line of said Nunn-Jones Road and generally following a fence line, to a 5/8-inch iron rod with cap stamped "Jones & Carter, Inc.", set at an angle point in said right-of-way;

THENCE, North 18°54'33" East, 22.27 feet (called North 22°09'44" East,) continuing along the northeasterly right-of-way line of Nunn-Jones Road and generally following a fence line, to a 5/8-inch iron rod with cap stamped "Jones & Carter, Inc.", set for the most westerly northwest corner of the herein described tract;

THENCE, leaving the northeasterly right-of-way line of said Nunn-Jones Road and severing said called 44.24 acre tract, along the following five (5) courses and distances:

1. South 65°39'34" East, 380.42 feet, to a 5/8-inch iron rod with cap stamped "Jones & Carter, Inc.", set for corner;

2. Along the arc of a 100.00-foot radius, non-tangent curve to the right, having a central angle of 91°46'51", an arc length of 160.19 feet, and a chord which bears North 76°32'01" East, a distance of 143.60 feet, to a 5/8-inch iron rod with cap stamped "Jones & Carter, Inc.", set for corner;

3. North 25°49'24" East, 186.98 feet, to a 5/8-inch iron rod with cap stamped "Jones & Carter, Inc.", set for corner;

4. South 65°31'31" East, 200.08 feet, to a 5/8-inch iron rod with cap stamped "Jones & Carter, Inc.", set for corner; and

5. North 25°49'24" East, 392.72 feet, to a 5/8-inch iron rod with cap stamped "Jones & Carter, Inc.", set for corner in the southwesterly right-of-way line of State Highway 30 (right-of-way width varies, and widened by deed recorded in Volume 1029, Page 432, of the O.P.R.B.C.) a found concrete monument bears North 65°44'38" West, 79.81 feet;

THENCE, along the southwesterly right-of-way line of said State Highway 30 and along northeasterly lines of the herein described tract, the following three (3) courses and distances:

1. South 65°44'38" East, 402.99 feet (called South 62°33'27" East) to a 5/8-inch iron rod with cap stamped "Jones & Carter, Inc.", set for corner, a found 5/8-inch iron rod bears North 23° East, 0.45 feet;

2. South 60°50'26" East, at 23.92 feet, pass a found broken concrete monument, 1.91 feet left of line, and continue in all 274.50 feet, to a 5/8-inch iron rod with cap stamped "Jones & Carter, Inc.", set for corner, a found 3/8-inch iron rod bears North 64° East, 0.30 feet;

3. South 59°31'26" East, at 38.87 feet, pass a found 5/8-inch iron rod, 0.25 feet left of line, and a found broken concrete monument, 2.28 feet left of line, and continue in all 48.11 feet, to a 5/8-inch iron rod with cap stamped "Jones & Carter, Inc.", set for the most northerly northeast corner of the herein described tract and the northwest corner of the residue of a called 8-acre tract described in a deed to Patricia R. Pierce, recorded in Volume 1947, Page 80, O.P.R.B.C., a found 1/2-inch iron rod bears South 41°33' West, 0.22 feet, and a found 5/8-inch iron rod bears South 59°31'26" East, 443.00 feet;

THENCE, South 41°33'27" West, 595.87 feet (called South 44°58'51" West, 595.41 feet), leaving the southerly right-of-way line of said State Highway 30 along the northwesterly line of said Pierce tract and a northwesterly line of a called 4.35-acre tract described in a deed to BACC Enterprises, Inc., recorded in Volume 8472, Page 273, O.P.R.B.C., to a 5/8-inch iron rod with cap stamped "Jones & Carter, Inc.", set for corner for an interior corner of the herein described tract and the southwesterly corner of said BACC Enterprises tract;

THENCE, South 58°54'02" East (called South 55°17'36" East), at 393.43 feet, passing two 3/8-inch iron rods, 0.44 feet left of line, and continue in all 525.20 feet (called 523.89 feet), to a 5/8-inch iron rod with cap stamped "Jones & Carter, Inc.", set for corner in a northwesterly line of a called 2.00-acre tract described in a deed to Patricia Fowler and Kurk Fowler, recorded Volume 3742, Page 262, O.P.R.B.C., said called 2-acre tract being a portion of Lot 2, Block 3 of Deerfield Estates, recorded in Volume 376, Page 779, B.C.D.R., a found 1" iron pipe bears South 13° East, 0.5 feet;

THENCE, South 38°50'59" West, 82.69 feet (called South 41°30'53" West, 81.30 feet) to a 5/8-inch iron rod found at the southwest corner of said called 2.00-acre tract and the northwest corner of called 4.73-acre tract described in a deed to Thomas D. Vasovski, recorded in Volume 4692, Page 16 of the O.P.R.B.C.;

THENCE, South 41°52'35" West, along the northwesterly line of said Block 3 of Deerfield Estates, at 211.55 feet, pass a found 5/8-inch iron rod on line, at 499.99 feet, pass a found 1/2-inch iron rod on line for the most westerly corner of said Vasovski tract and the most northerly corner of a called 2.19-acre tract (Tract 3-D) described in a deed to Thomas H. Walton and Bonnie Y. Walton, recorded in Volume 4982, Page 227 of the O.P.R.B.C., at 731.27 feet, pass a found 1/2-inch iron rod on line for a common corner of said called 2.19-acre tract and a called 2.15-acre tract (Tract 3-E) also described in said deed to Thomas H. Walton and Bonnie Y. Walton, and continue in all 902.02 feet, to a 3/8-inch iron rod found for the most southerly southeast corner of the herein described tract, the most westerly corner of said called 2.15-acre tract and the northeasterly corner of a called 2.77-acre tract described in a deed to Frank W. Lawrence and Bonnie Lawrence, recorded in Volume 2735, Page 210 of the O.P.R.B.C., and an interior corner of said Block 3, Deerfield Estates;

THENCE, North 48°25'24" West, (called North 44°58'19" West, 277.43 feet, and North 45°01'56" West, 243.49 feet) continuing along a northeasterly line of said Block 3, Deerfield Estates, at 277.07 feet, pass a found 3/8-inch iron rod, 0.20 feet right of line, for the most northerly corner of said called 2.77 acre tract, and the most westerly corner of the aforementioned called 2.00-acre Muesse tract and continue in all a distance of 520.56 feet, to a 3/8-inch iron rod found for the most northerly corner said Muesse tract and an interior corner of the herein described tract;

THENCE, South 45°22'43" West, 298.79 feet (called South 48°47'30" West, 298.79 feet), along the northwesterly line of said Muesse tract and of said Block 3, Deerfield Estates to the **POINT**

OF BEGINNING, CONTAINING 37.65 acres (1,640,141 square feet) of land in Brazos County, Texas, as shown on a Land Title Survey, Job Number C0045-001-00, on file in the office of Jones & Carter, Inc. in College Station, Texas.

EXHIBIT B

A **METES AND BOUNDS** description of a certain 0.2297-acre tract of land, being a portion of a called 44.24 acre tract described in a deed to Canyon Creek Partners, Ltd., recorded in Volume 5639, Page 26 of the Official Public Records of Brazos County (O.P.R.B.C.), in the Maria Kegans Survey, Abstract No. 28, Brazos County, Texas said 0.2297 acres being more particularly described as follows (all bearings being based on a call of North 45°14'25" East along the commencing call of a utility easement described in an Agreed Final Judgment to the City of College Station, recorded in Volume 7876, Page 247 of the O.P.R.B.C.);

COMMENCING at a 5/8-inch iron rod with "Jones & Carter, Inc." set in the south right-of-way line of State Highway 30 (variable width right-of-way) for the northwesterly corner of said 44.24 acre tract, said corner also being the northeasterly corner of a called 1.77-acre tract described in a deed to Highway 30 Business Center, LLC, recorded in Volume 8782, Page 199, of the O.P.R.B.C.;

THENCE, South 66°45'01" East, 200.20 feet, along the southerly right-of-way line of State Highway 30, to the **POINT OF BEGINNING** of the herein described tract

THENCE, continuing along the southerly right-of-way line of State Highway 30, as follows:

South 66°45'01" East, 120.33 feet, to a concrete highway monument found for a corner;

South 65°44'38" East, 79.81 feet, to the northeast corner of the herein described tract;

THENCE, South 25°49'24" West, 50.02 feet, leaving the southerly right-of-way of said State Highway 30, to a point for a corner;

THENCE, North 65°44'38" West, 78.01 feet, to a point for a corner;

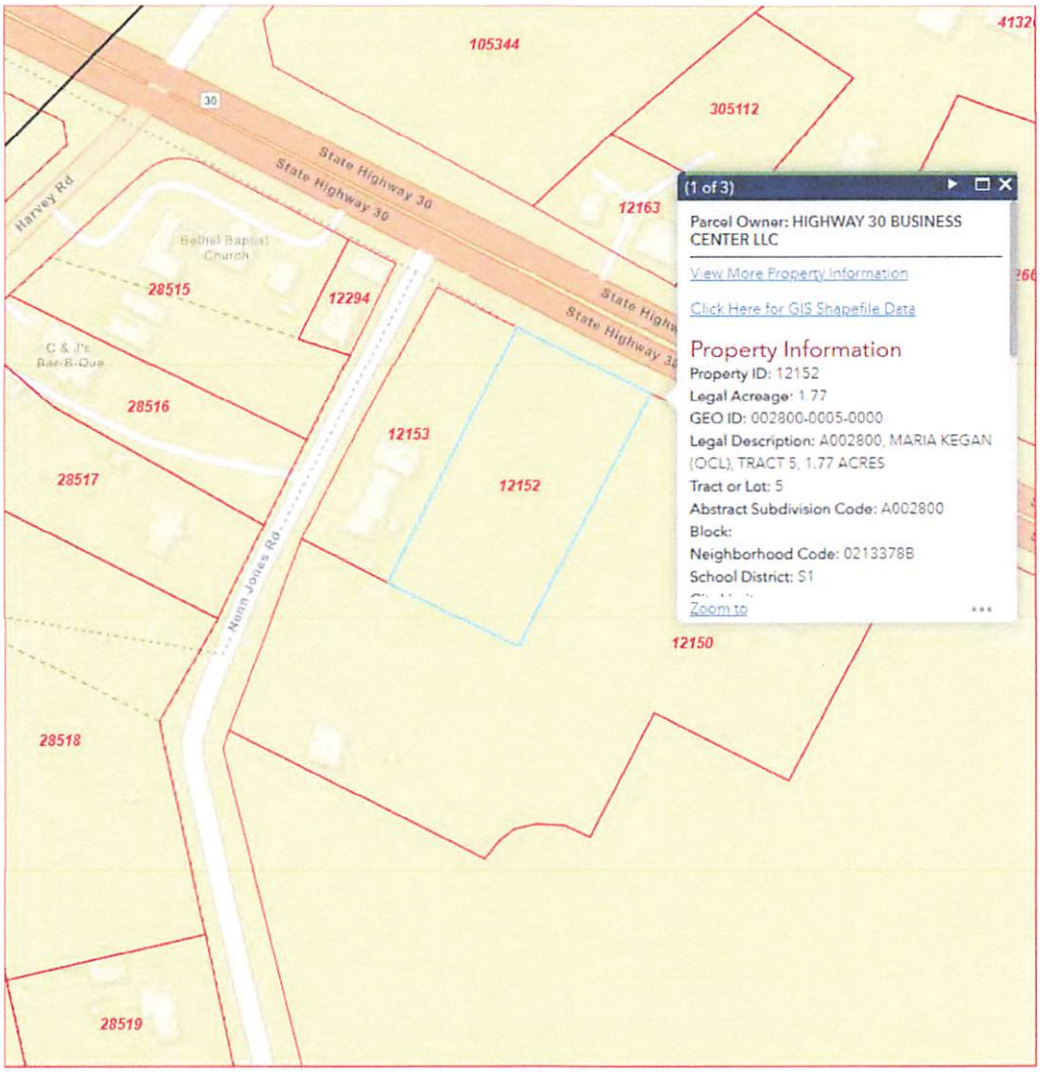
THENCE, North 66°45'01" West, 122.14 feet, to a point for a corner;

THENCE, North 25°49'24" East, 50.05 feet, to the **POINT OF BEGINNING,** and containing a computed area of 0.2297 acres (10,008 square feet) as shown on an exhibit map, Job Number C0045-001-00, contained herein and on file in the office of Jones & Carter, Inc. in College Station, Texas.

Filed for Record in:
BRAZOS COUNTY
On: Jan 09,2009 at 02:08P
As a
NO LABEL RECORDING
Document Number: 01017764
Amount 35.00
Receipt Number - 357214
By
Cynthia Rincon

STATE OF TEXAS COUNTY OF BRAZOS
I hereby certify that this instrument was filed on the date and time stamped hereon by me and was duly recorded in the volume and page of the Official Public records of:
BRAZOS COUNTY
as stamped hereon by me.
Jan 09,2009
HONORABLE KAREN MCQUEEN, COUNTY CLERK
BRAZOS COUNTY

1.77 ACRES


105344
305112
12163
30
State Highway 30
State Highway 30
Harvey Rd
Bethel Baptist Church
28515
12294
C & J's Bar-B-Que
28516
28517
12153
12152
North Jones Rd
12150
28518
28519
(1 of 3)
Parcel Owner: HIGHWAY 30 BUSINESS CENTER LLC
View More Property Information
Click Here for GIS Shapefile Data
Property Information
Property ID: 12152
Legal Acreage: 1.77
GEO ID: 002800-0005-0000
Legal Description: A002800, MARIA KEGAN (OCL), TRACT 5, 1.77 ACRES
Tract or Lot: 5
Abstract Subdivision Code: A002800
Block:
Neighborhood Code: 0213378B
School District: S1
Zoom to

44.26 ACRES – 37.65 ACRES = 6.61 ACRES

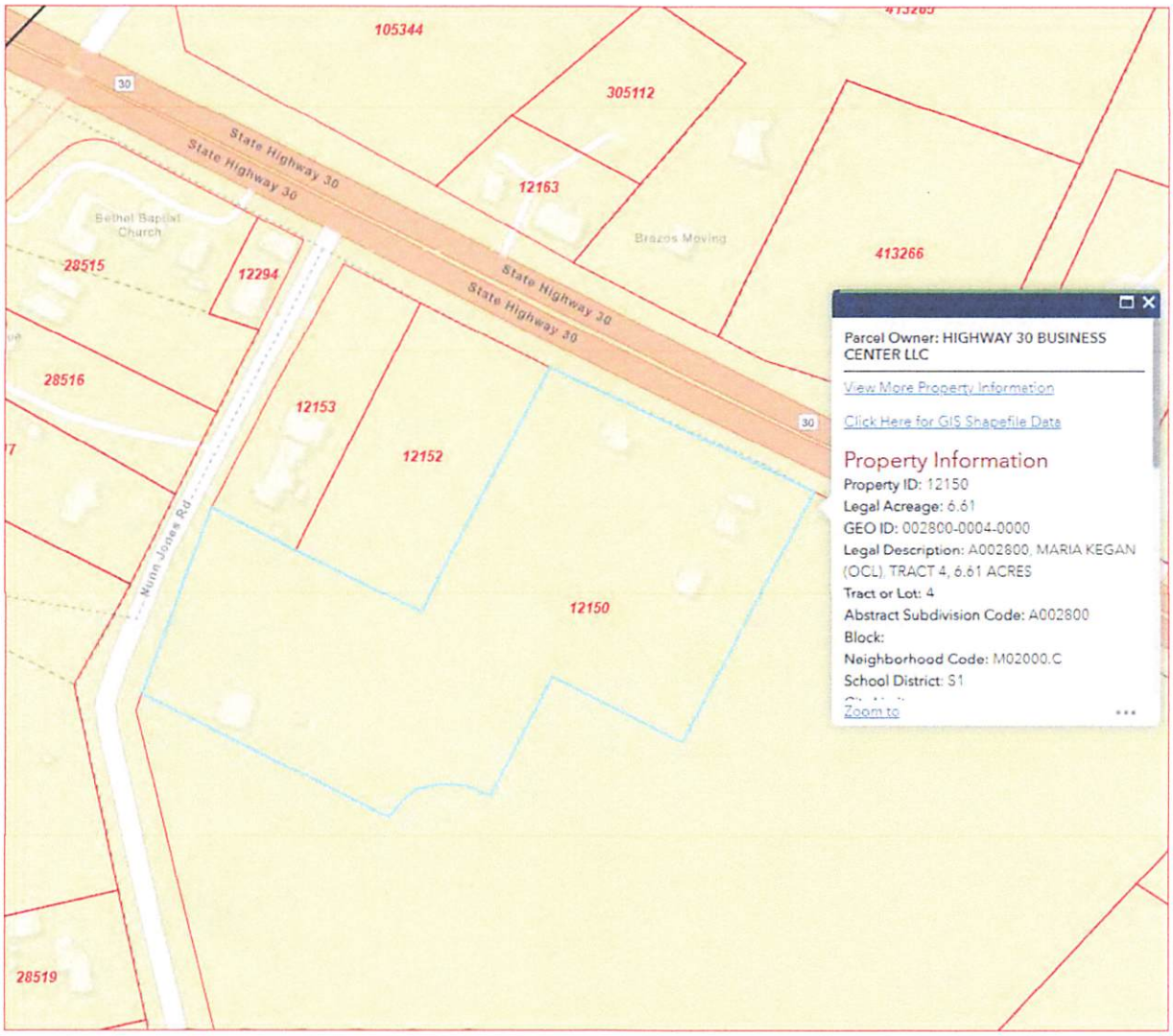


EXHIBIT B
AFFIDAVIT OF (NAME OF LANDOWNER) IN SUPPORT OF
PETITION FOR RELEASE FROM THE EXTRATERRITORIAL JURISDICTION OF THE CITY OF (CITY NAME)

Before me, the undersigned authority, on this day personally appeared, **Steven Trent Lovett**, who under oath stated as follows:

1. My name is **Steven Trent Lovett**. I am over eighteen (18) years of age and am legally competent to make this affidavit, which is true and correct, and is made voluntarily and not under duress.

2. As the Managing Member of **Highway 30 Business Center LLC**, I am authorized to submit this Petition on its behalf.

3. **Highway 30 Business Center LLC** is a property owner in the extraterritorial jurisdiction of the City of College Station. Its property is located at the following addresses: **10010 & 10022 SH 30, College Station, Texas 77845, PID's 12150 & 12152** (the "Property").

4. There is one owner of the Property: **Highway 30 Business Center LLC**. **Highway 30 Business Center LLC** owns 100% of the interest in the Property.

5. I swear that the Property is not: (1) within five miles of the boundary of a military base, as defined by Tex. Loc. Gov't Code § 43.0117, at which an active training program is conducted; (2) in an area that was voluntarily annexed into the extraterritorial jurisdiction that is located in a county: (a) in which the population grew by more than 50 percent from the previous federal decennial census in the federal decennial census conducted in 2020, and (b) that has a population greater than 240,000; (3) within the portion of the extraterritorial jurisdiction of a municipality with a population of more than 1.4 million that is: (a) within 15 miles of the boundary of a military base, as defined by Tex. Loc. Gov't Code § 43.0117, at which an active training program is conducted, and (b) in a county with a population of more than 2 million; (4) in an area designated as an industrial district under Tex. Loc. Gov't Code § 42.044; or (5) in an area subject to a strategic partnership agreement entered into under Tex. Loc. Gov't Code § 43.0751.

6. I swear that the petition contains my valid and true (1) signature, (2) printed name, (3) date of birth; voter registration number; county of voter registration, (4) residence address, and (5) date of which I signed such petition.

7. I swear that I satisfied the signature requirement of Tex. Loc. Gov't Code § 42.104(b) within 180 days following the date the first signature for the petition was obtained.

Steven Trent Lovett, Managing Member

Sworn and subscribed to before me on this the **19th day of November 2024.**

JESSICA HUNN NOTARY PUBLIC STATE OF TEXAS ID # 134993499 EXPIRES 07-16-2028

Notary Public in and for the State of Texas

December 12, 2024
Item No. 7.18.
Kroger Opioid Settlement

Sponsor: Adam Falco, City Attorney

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action on the Texas Settlement Subdivision Participation and Release Form for the Kroger opioid settlement agreement.

Relationship to Strategic Goals:
Good Governance

Recommendation(s): Staff recommends approval of the participation and release form to join the Kroger settlement agreement as the City has done with the previous opioid settlement agreements.

Summary: Texas, along with a broad coalition of states and subdivisions, has now reached final agreements with twelve companies to resolve legal claims for their role in the opioid crisis. The newest agreement is with retail pharmacy Kroger. Four agreements are with opioid manufacturers Johnson & Johnson, Endo, Teva, and Allergan. There is a separate agreement with three major pharmaceutical distributors: AmerisourceBergen, Cardinal Health, and McKesson, as well as a settlement reached through bankruptcy with Mallinckrodt, a manufacturer and distributor. Finally, there are three separate settlements with pharmacies: CVS, Walgreens, and Walmart.

The Council has previously approved the Texas Term Sheet in October 2021 that was prepared by the State of Texas outlining the terms of any settlement.

The City has received approximately $96k related to the previous settlements to combat the opioid crisis.

Budget & Financial Summary: Settlement Funds allocated for the Opioid Crisis.

Attachments:
1. Kroger-Subdivision-Participation-Form

Exhibit A

TEXAS SETTLEMENT SUBDIVISION PARTICIPATION AND RELEASE FORM

Political Subdivision: City of College Station	Texas
Authorized Official: John P. Nichols, Mayor	
Address 1: P.O. Box 9960 1101 Texas Ave.	
Address 2:	
City, State, Zip: College Station, TX 77842	
Phone: 979-764-3500	
Email: jnichols@cstx.gov	

The governmental entity identified above ("Texas Political Subdivision"), in order to obtain and in consideration for the benefits provided to the Texas Political Subdivision pursuant to the Kroger Texas Settlement Agreement and Full Release of All Claims dated October 30, 2024 ("Kroger Texas Settlement"), and acting through the undersigned authorized official, hereby elects to participate in the Kroger Texas Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Texas Political Subdivision above is aware of and has reviewed the Kroger Settlement Agreement, understands that all terms in this Participation and Release Form have the meanings defined therein, and agrees that by executing this Participation and Release Form, the Texas Political Subdivision elects to participate in the Kroger Texas Settlement and become a Participating Texas Political Subdivision as provided therein.

2. The Texas Political Subdivision shall immediately cease any and all litigation activities as to the Released Entities and Released Claims and, within 14 days of executing this Participation and Release Form, its counsel shall work with Kroger's counsel to dismiss with prejudice any Released Claims that it has filed.

3. The Texas Political Subdivision agrees to the terms of the Kroger Texas Settlement pertaining to Texas Political Subdivisions as provided therein.

4. By agreeing to the terms of the Kroger Texas Settlement and becoming a Releasor, the Texas Political Subdivision is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date of the Release.

5. The Texas Political Subdivision agrees to use any monies it received through the Kroger Texas Settlement solely for the purposes provided therein.

6. The Texas Political Subdivision submits to the exclusive jurisdiction and authority of the Texas Consolidated Litigation Court as defined in the Kroger Texas Settlement. For the avoidance of doubt, nothing contained in this Participation and Release Form, or the Kroger Texas Settlement, constitutes consent to jurisdiction, express or implied, over the Texas Political Subdivision or its selected counsel to the jurisdiction of any other court (including without limitation MDL 2804, the MDL 2804 Fee Panel, the MDL 2804 Enforcement Committee, or the Court in which any Texas Consent Judgment is filed) for any purpose whatsoever.

7. The Texas Political Subdivision, as a Participating Texas Subdivision, has the right to enforce the Kroger Texas Settlement in the Texas Consolidated Litigation Court as provided therein.

8. The Texas Political Subdivision, as a Participating Texas Subdivision, hereby becomes a Releasor for all purposes in the Kroger Texas Settlement, including but not limited to all provisions of Section V (Release), and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Texas Political Subdivision hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entities in any forum whatsoever. The releases provided for in the Kroger Texas Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entity the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Texas Political Subdivision to release claims. The Kroger Texas Settlement shall be a complete bar to any Released Claim.

9. The Texas Political Subdivision hereby takes on all rights and obligations of a Participating Texas Subdivision as set forth in the Kroger Texas Settlement.

10. In connection with the releases provided for in the Kroger Texas Settlement, each Texas Political Subdivision expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

> **General Release; extent.** A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Texas Political Subdivision hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Kroger Texas Settlement.

11. The Texas Political Subdivision acknowledges, agrees, and understands that the Maximum Texas Settlement Amount to be paid under the Kroger Texas Settlement for the benefit of the Participating Texas Political Subdivision, is less than or equal to the amount, in the aggregate, of the Alleged Harms allegedly suffered by the governmental entity, constitutes restitution and remediation for damage or harm allegedly caused by Kroger in order to restore, in whole or part, the governmental entity to the same position or condition that it would be in had it not suffered the Alleged Harms; and constitutes restitution and remediation for damage or harm allegedly caused by the potential violation of a law and/or is an amount paid to come into compliance with the law.

12. Nothing herein is intended to modify in any way the terms of the Kroger Texas Settlement Agreement, to which the Texas Political Subdivision hereby agrees. To the extent this Participation and Release Form is interpreted differently from the Kroger Texas Settlement, the Kroger Texas Settlement controls.

I have all necessary power and authorization to execute this Participation and Release Form on behalf of the Texas Political Subdivision.

Signature: _____
Name: John P. Nichols
Title: Mayor, City of College Station, Texas
Date: _____

December 12, 2024
Item No. 7.19.
47 Oaks Settlement Agreement

Sponsor: Adam Falco, City Attorney

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action on a condemnation settlement agreement with 47 Oaks, LLC for $140,000.

Relationship to Strategic Goals:
Good Governance

Recommendation(s): Staff recommends approval of the settlement agreement to settle the condemnation suit to pay for and take possession of the easement needed for the City's electric substation.

Summary: This is a 40 ft. wide easement for communication and an electric distribution lines from a 47-acre tract owned by 47 Oaks, LLC. This easement is needed as part of the new CSU substation that will be built to the west of Hwy 47 to help feed the BioCorridor area. The easement area is approximately 0.714 acres.

The City and the landowner have negotiated a settlement to the condemnation lawsuit. After negotiations failed to purchase the easement, the City followed the statutory process to initiate condemnation. After the special commissioners determined the value of the easement, the City objected to the awarded amount and then negotiated this settlement to pay $140,000 for the easement.

Budget & Financial Summary: Funds are available in the Electric Capital Budget.

Attachments:
1. 47 Oaks Settlement Agreement and Release - Seller Signed
2. 47 Oaks Easement Survey

NO. 626-CC

THE CITY OF COLLEGE STATION, TEXAS	§	**IN THE COUNTY COURT**
	§	
	§	
Plaintiff,	§	
	§	
	§	
v.	§	**AT LAW NUMBER 2**
	§	
	§	
47 OAKS, LLC	§	
	§	
	§	
Defendant.	§	**OF BRAZOS COUNTY, TEXAS**

SETTLEMENT AGREEMENT AND RELEASE OF ALL CLAIMS

THIS SETTLEMENT AGREEMENT AND RELEASE OF ALL CLAIMS (the "Agreement") is made and entered into by and between the City of College Station, Texas ("College Station") and 47 Oaks, LLC ("47 Oaks") all collectively referred to as the "Parties."

WHEREAS, College Station, Plaintiff, is a home-rule municipal corporation organized and operating under the laws of the State of Texas, and having the right of eminent domain and power of condemnation; and

WHEREAS, 47 Oaks owns approximately 47.31 acres of land situated in the John H. Jones League (Abstract No. 26) in Brazos County, Texas over which College Station seeks to acquire a 0.714 acre electric and communication easement which is more particularly described in the metes and bounds description attached hereto as **Exhibit "A"** and incorporated herein for all purposes (the "Electric and Communication Easement"); and

WHEREAS, College Station seeks to acquire the Electric and Communication Easement for the construction of improvements, operation, and maintenance of an Electric and Communication Easement as a part of the Northwest Electric Substation Project to provide electric utility service to the northwest section of the City of College Station, Texas (the "Project"); and

WHEREAS, on or about June 22, 2023, an Original Petition was filed by College Station against 47 Oaks, in Brazos County Court at Law No. 2, Brazos County, Texas; and

WHEREAS, the Parties want to resolve all claims, including but not limited to, any and all claims and causes of action relating to or arising out of any contention that could be asserted by any of the Parties in the above styled and numbered proceeding; and

NOW, THEREFORE, for and in consideration of the mutual promises set forth herein, the Parties have agreed to the following terms:

1. 47 Oaks and College Station hereby release and forever discharge each other, their respective officials, agents, servants, employees, and attorneys, of and from any and all claims, demands, damages (both pecuniary and non-pecuniary), actions, causes of actions, attorneys' fees, expenses, court costs, compensation, and all consequential damages, including diminution in value, and all costs and expenses incurred by any other party its agents, servants, employees, and attorneys, including attorneys' fees and expert witness fees, purchase or construction costs, engineering, surveying, or land-planning fees or costs, or suits in equity, of whatsoever kind or nature, whether heretofore or hereafter accruing or whether or not now known or not known to the Parties, with respect to the above styled and numbered condemnation proceeding.

2. 47 Oaks agrees to convey the Electric and Communication Easement to College Station by the Electric and Communication Easement attached hereto as **Exhibit "B"** and incorporated herein by this reference.

3. College Station agrees to pay to 47 Oaks the total sum of $140,000.00 in exchange for the Electric and Communication Easement. Said payment shall be made by issuance of a check in the amount of $140,000.00 from the City of College Station, Texas payable to 47 Oaks, LLC, by electronic funds transfer (EFT). The EFT will be processed and paid by College Station within 14 days after the College Station City Council approves this Agreement and it is fully executed, and after 47 Oaks submits a complete vendor packet to the City of College Station.

4. Each Party to this Agreement is acting voluntarily and on its own free will; and is in no way relying upon any promise, warranty, representation, or agreement of any kind whatsoever, made directly or indirectly, by any agent, employee, or attorney of any other Party or any person or firm in privity with any other Party being; and both College Station and 47 Oaks understand that this is a full, final and complete settlement of all claims of any kind or character whatsoever, both known or unknown, arising out of those matters described herein, subject to compliance with Section 3 of this Agreement which shall remain a continuing obligation of College Station until payment in full is made.

5. This Agreement is made solely for the purpose of avoiding further costly litigation and for making peace under the facts and circumstances of this particular case, and in entering into this Agreement, neither Party is in any way admitting liability, but both Parties are expressly denying liability.

6. Both Parties hereby covenant and agree not to sue or institute or cooperate in the institution, commencement, filing or prosecution of any suit, administrative proceeding, demand, claim, or cause of action, whether asserted individually or derivatively, against the other Party relating to any and all matters made the subject of this Agreement, including specifically issues over the right to take or the amount of compensation paid to 47 Oaks under the terms of this Agreement, unless litigation is necessary to enforce the terms of said Agreement.

7. Each Party to this Agreement warrants and represents that it has read the above and foregoing Agreement, and each Party to this Agreement understands that it is a full, final, and complete settlement and release of all claims held, owned, or possessed in any capacity whatsoever by each releasing Party as against each released Party, except as may otherwise be stated herein.

8. Contemporaneous with the final settlement of all claims by the execution of this Agreement, and payment of $140,000.00 by EFT by the City of College Station, Texas as set forth under the terms in Paragraph 3 above, all Parties shall by and through their attorneys of record seek dismissal of this litigation. It is the express intent of the Parties to this Agreement that, except as may be necessary to enforce the terms of this Agreement, neither Party shall be exposed to any further liabilities, including claims and suits for damages relating to the matters herein described, by any other Party or their successors or assigns, or legal representatives.

9. The Parties warrant that no claims, demands, damages, actions, causes of action or suits in equity hereby released have been assigned to any third party, and that this Agreement is executed without reliance on any statement or representation made by any third party that is not contained herein.

10. The undersigned each warrant that no inducements have been made to any of them on behalf of the Parties released hereby, and that in deciding to release its claims and to execute this Agreement, the Parties have relied solely and only upon their own judgment, and their attorneys' legal expertise.

11. This Agreement shall be deemed to have been jointly prepared by all Parties hereto, and no ambiguity of this Agreement shall be construed against any Party based upon the identity of the author of this Agreement or any portion thereof.

12. This Agreement shall be governed, construed, interpreted, and the rights of the Parties determined, in accordance with the laws of the State of Texas.

13. The statements and representations contained herein are to be considered contractual in nature and not merely recitations of fact.

14. In the event any one or more of the provisions of this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity shall not affect any other provision herein.

15. All references herein in the singular shall be construed to include the plural where applicable, the masculine to include the feminine and neuter genders, and all covenants, agreements, and obligations herein assumed by the Parties shall be deemed to be joint and several covenants, agreements, and obligations of the several persons named herein.

16. This Agreement shall be binding on each and every Party to this Agreement, and their successors, officers, directors, employees, assigns, heirs, executors, administrators, agents, legal representatives, and any of the companies or entities associated with them as owners, subsidiaries, or any other related capacity with respect to any and all of the claims that each Party may have, or has brought against the other Party.

17. Each of the signatories signing this Agreement represents and warrants that it is authorized to execute this Agreement and bind its principals to the terms and provisions hereof.

Each Party warrants that any action required to be taken in order for this Agreement to be binding on it has been duly and properly taken prior to the execution of this Agreement.

18. This Agreement shall be binding on and inure to the benefit of the successors and assigns of the Parties hereto.

19. The representations, warranties, covenants, and agreements set forth herein shall survive the execution hereof.

20. This Agreement may be executed in multiple counterparts, each which taken together shall constitute one and the same instrument. The Parties agree that this Agreement contains the entire understanding of the Parties and that no prior agreements, representations, warranties, or understandings, whether written or oral, will be enforceable.

21. The Parties hereto mutually and simultaneously by these presents authorize and direct their respective attorneys to execute and deliver for entry such instruments as may be necessary to obtain dismissal of the above-mentioned litigation, with prejudice, to the rights of all Parties, each Party bearing its own attorney's fees and costs. The Parties agree that the settlement date shall be the date of the execution of this Agreement.

22. Each Party hereto acknowledges that it has read and understands the effect of the above and foregoing mutual Agreement and executes same of its own free will and accord for the purposes and consideration set forth.

23. Each Party hereto agrees to bear its own attorney's fees and expenses incurred in connection with this action.

IN WITNESS WHEREOF, the Parties have executed this Agreement effective this _____ day of _____, 202___.

The City of College Station, Texas

By: _____
Mayor
Date: _____

ATTEST:

_____
City Secretary
Date: _____

APPROVED:

_____
City Manager
Date: _____

_____
Assistant City Manager/CFO
Date: _____

_____
City Attorney
Date: _____

ACKNOWLEDGMENT

THE STATE OF TEXAS §
§
COUNTY OF BRAZOS §

BEFORE ME, the undersigned authority, on this day personally appeared **John P. Nichols, Mayor of the City of College Station,** Texas, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated, and as the act and deed of the City.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this _____ day of _____, 202__.

_____
Notary Public In and For the State of Texas
My Commission Expires: _____

Executed this _____ day of _____, 202__.

47 OAKS, LLC

By: _____

Name: Michael G. Patranella

Title: Manager

Date: 11-22-2024

ACKNOWLEDGMENT

THE STATE OF TEXAS §
§
COUNTY OF BRAZOS §

BEFORE ME, the undersigned authority, on this day personally appeared Michael G. Patranella _____, Manager of 47 Oaks, LLC, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated, and as the act and deed of the City.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this 22nd day of November, 2024.

_____
Notary Public In and For the State of Texas
My Commission Expires: 03-31-2027

ASHLEY DORSETT
Notary Public, State of Texas
Comm. Expires 03-31-2027
Notary ID 126047026

EXHIBIT A

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

Proposed 40' Easement
47 Oaks, LLC Tract
John H. Jones league A-26
Bryan and College Station, Texas
August 2018 (revised Feb. 2020)

All of that certain tract or parcel of land lying and being situated in the John H. Jones league (abstract no. 26) in Brazos County, Texas, being part of that 47.31 acre tract conveyed to 47 Oaks, LLC by deed recorded in volume 7828, page 120 of the Official Public Records of Brazos County, Texas, being a 40 ft. wide strip of land lying adjacent and northwest of an existing City of Bryan (BTU) power transmission line which is covered by that right-of-way easement recorded in volume 208, page 475 of the Deed Records of Brazos County, Texas, and more particularly described as follows:

Beginning at a 3/8" iron rod found in the southwest boundary of the said 47.31 acre tract, marking the common corner of that 2.674 acre tract described in the deed to the City of College Station recorded in volume 15040, pg. 46 and the remainder of 300 acres conveyed to Larry Wayne Armstrong and Rebekah Armstrong Petrie by deed recorded in volume 3476, page 183 of the Official Public Records of Brazos County, Texas, from where City of College Station GPS control monument no. 203 bears S 34° 28' 40" E – 1504.4 feet.

Thence N 41° 09' 06" E – 768.63 feet across the said 47.31 acre to the most northerly corner of this described easement tract in the said south right-of-way line of State Highway no. 47 (Riverside Parkway);

Thence S 72° 21' 59" E – 43.62 feet, along the north boundary of the said 47.31 acre tract and the said right-of-way line, to the most easterly corner of this described easement tract from where a TXDOT concrete right-of-way marker (type 1) bears S 72° 22' E – 73.7 feet;

Thence S 41° 09' 06" W – 786.86 feet, across the said 47.31 acre tract, approximately 21 feet northwest and parallel to the said existing BTU power transmission line, to the south corner of this described easement tract at a point in the common line of the 47.31 acre tract and the said 2.674 acre City tract, from where a TXDOT concrete right-of-way marker (type 1) found at the south corner of the 47.31 acre tract in the northwest line of F.M. 60 bears S 47° 39' 54"E – 1433.6 feet;

Thence N 47° 39' 54" W – 40.01 feet, along said common property line, to the Point of Beginning and containing 0.714 acres of land more or less.

Bearings are Texas State Plane, NAD83 Central Zone datum, based on City of College Station GPS control monument no. 203 and no. 165 (N 49°19'46" E).

See exhibit plat prepared with this description.

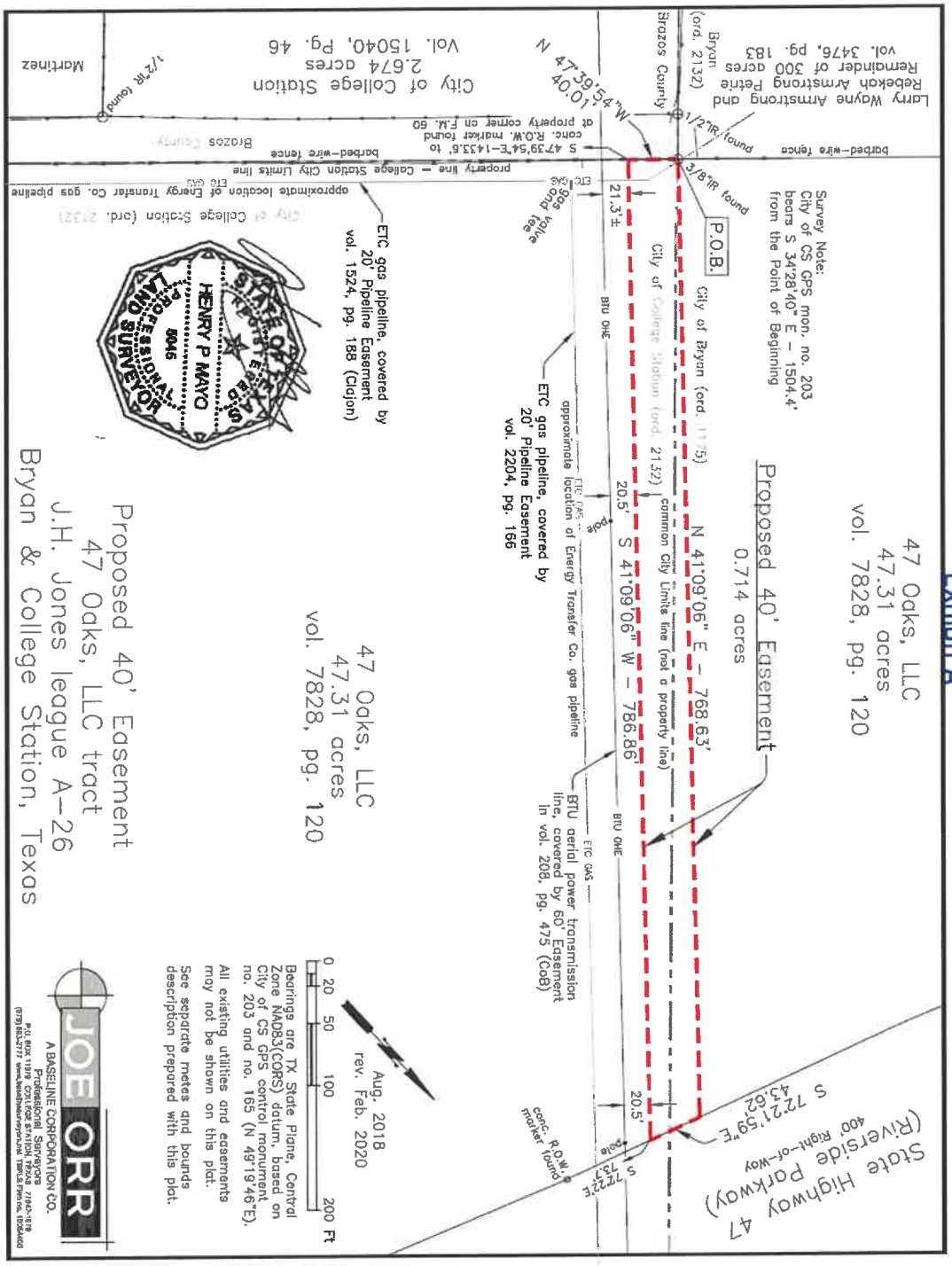


EXHIBIT A
47 Oaks, LLC
47.31 acres
vol. 7828, pg. 120
Proposed 40' Easement
0.714 acres
State Highway 47
(Riverside Parkway)
400' Right-of-way
Larry Wayne Armstrong and
Rebekah Armstrong Fettie
Remainder of 300 acres
vol. 3476, pg. 183
Bryan (ord. 2132)
Brazos County
City of College Station
2.674 acres
vol. 15040, Pg. 46
Martinez
barbed-wire fence
1/2"IR found
3/8"IR found
P.O.B.
Survey Note:
City of CS GPS mon. no. 203
bears S 34°28'40" E - 1504.4'
from the Point of Beginning
City of Bryan (ord. 1175)
City of College Station (ord. 2132) common City Limits line (not a property line)
N 41°09'06" E - 768.63'
S 41°09'06" W - 786.86'
20.5'
21.3'±
BTU ONE
ETC GAS
ETC gas pipeline, covered by
20' Pipeline Easement
vol. 1524, pg. 188 (Clajon)
approximate location of Energy Transfer Co. gas pipeline
BTU aerial power transmission
line, covered by 60' Easement
in vol. 208, pg. 475 (CoB)
S 72°21'59"E
43.62'
S 72°21'37"E
pole
concr. marker found
R.O.W.
Aug. 2018
rev. Feb. 2020
0 20 50 100 200 Ft
Bearings are TX State Plane, Central
Zone NAD83(CORS) datum, based on
City of CS GPS control monument
no. 203 and no. 165 (N 49°19'46"E).
All existing utilities and easements
may not be shown on this plat.
See separate metes and bounds
description prepared with this plat.
JOE ORR
A BASELINE CORPORATION CO.
Professional Surveyors
P.O. BOX 11979, COLLEGE STATION, TEXAS 77842-1979
(979) 693-2777 www.baselinesurveyors.com TBPELS Firm no. 10064400
Proposed 40' Easement
47 Oaks, LLC tract
J.H. Jones league A-26
Bryan & College Station, Texas
47 Oaks, LLC
47.31 acres
vol. 7828, pg. 120
ETC gas pipeline, covered by
20' Pipeline Easement
vol. 2204, pg. 166
HENRY P MAYO
5045
REGISTERED
PROFESSIONAL
LAND SURVEYOR
STATE OF TEXAS

Exhibit B

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

ELECTRIC AND COMMUNICATION EASEMENT

DATE: _____, 202___

GRANTOR: **47 OAKS, LLC**

GRANTOR'S MAILING ADDRESS: (including County)
1505 South College Avenue
Brazos County
Bryan, Texas 77801

GRANTEE: **CITY OF COLLEGE STATION, TEXAS**

GRANTEE'S MAILING ADDRESS: (including County)
P. O. Box 9960
Brazos County
College Station, Texas 77842

CONSIDERATION: Ten Dollars ($10.00) and other good and valuable consideration.

PROPERTY:

All of that certain tract or parcel of land lying and being situated in the John H. Jones league (abstract no. 26) in Brazos County, Texas, being part of that 47.31 acre tract conveyed to 47 Oaks, LLC by deed recorded in volume 7828, page 120 of the Official Public Records of Brazos County, Texas, being a 40 ft. wide strip of land lying adjacent and northwest of an existing City of Bryan (BTU) power transmission line which is covered by that right-of-way easement recorded in volume 208, page 475 of the Deed Records of Brazos County, Texas, and is more particularly described by metes and bounds description attached hereto as **EXHIBIT A**.

This conveyance shall grant the rights herein specified only as to that portion of the above-described Property more particularly described on the attached **EXHIBIT A**, known as the "Easement Area", to erect, construct, install, and thereafter use, operate, inspect, repair, maintain, reconstruct, modify and remove the following:

Only underground electric transmission and distribution lines,
access facilities, and related equipment;
Only Grantee-owned underground communication and fiber optic lines,
access facilities, and related equipment.

upon, over, and across the said Property as described and any ways, streets, roads, or alleys abutting same; and to cut, trim, and control the growth of trees and other vegetation on and in the Easement Area or on adjoining property of GRANTOR, which might interfere with or threaten the operation and maintenance of any public utility equipment, accessories, or operations. It being understood and agreed that any and all equipment and facilities placed upon said Property shall remain the property of GRANTEE.

GRANTOR hereby expressly acknowledges that it is the owner of this property.

GRANTOR expressly subordinates all rights of surface use, incident to the mineral estate owned by GRANTOR, to the above-described uses of said surface by GRANTEE. GRANTOR will provide GRANTEE with the names and addresses of all lenders, if any, and agrees to lender's subordinations on behalf of GRANTEE, if any.

SPECIAL PROVISIONS:

(1) The Electric and Communication Easement will in part be used in conjunction with the City's SH-47 Electric Substation project. Development of the substation project is in the initial planning stages and will develop over several years.

(2) The City has determined that it would be advantageous to have upgraded 3-phase electric primary power at the substation site before substation construction begins and for testing purposes during construction. As such, the City has determined that when funding is available, it would be in the City's best interest to complete the underground bore under SH-47 and extend 3-phase electric primary power from the east side of SH-47, across the Easement Area portion of Grantor's subject property, and terminating at the new SH-47 Electric Substation project site. Once the 3-phase electric primary power has been installed under SH-47 and across the Easement Area to the SH-47 Electric Substation project site, 3-phase power will be available in the portions of this property located within the City of College Station Electric CCN and College Station electric service territory.

(3) The electric and communication facilities in the Easement Area will be underground, with the exception of transformers, switchgear, pull boxes, and related appurtenances. The Grantee will cooperate with the Grantor during the planning stage to locate above-ground appurtenances to avoid known and planned driveways and streets.

(4) Subject to vertical separation distances required to protect and maintain the integrity of the electric and communication facilities in the Easement Area, and in locations that do not directly interfere with the electric and communication facilities, Grantor, upon 60 days advanced written notice to Grantee and the submittal of plans and profiles of the proposed crossing to Grantee, will be allowed to:

a. cross the Easement Area at a 45-degree (or greater) angle to provide drainage and various other utilities, and
b. plant small shallow root landscaping, but no trees and no other types of deep root vegetation within the Easement Area.

(5) After the Grantee completes construction and installation of the electric and communication facilities in the Easement Area, Grantor, upon 60 days advanced written notice to Grantee and the submittal of plans and profiles of the proposed utilities to Grantee, will be allowed to install utilities parallel to Grantee's existing utilities at a minimum separation distance of fifteen (15) feet from Grantee's underground electric and communication facilities.

RESERVATIONS AND RESTRICTIONS:

a. Rights of Parties in Possession.

b. 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 interest that are not listed.

c. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting title that would be disclosed by an accurate and complete land survey of the land.

d. Blanket Easement:
From: Gainer B. Jones
To: City of Bryan
Dates: April 23, 1937
Recorded: Volume 98, Page 601, Deed Records, Brazos County, Texas.

e. Easement:
From: Myrte B. Jones, et al
To: City of Bryan
Dated: September 15, 1960
Recorded: Volume 208, Page 475, Deed Records, Brazos County, Texas.

f. Easement:
From: Gainer B. Jones Trust, et al
To: GTE Southwest Incorporated
Dated: August 25, 1989

Recorded: Volume 1142, Page 494, Official records, Brazos County, Texas.

g. Pipeline Easement:
From: Gainer B. Jones, Jr.
To: Clajon Gas Company, L.P.
Dated: January 30, 1992
Recorded: Volume 1524, Page 188, Official Records, Brazos County, Texas.

h. Right of Way Easement:
From: Gainer B. Jones, Jr.
To: Ferguson Burleson County Gas Gathering System
Dated: January 24, 1994
Recorded: Volume 2204, Page 166, Official Records, Brazos County, Texas

i. Mineral and Royalty Reservation in Deed:
By: Kathleen S. Jones, et al
To: 47 Oaks, LLC
Dated: February, 2007
Recorded: Volume 7828, Page 120, Official Records, Brazos County, Texas. Title to said interest has not been investigated subsequent to the date of the aforesaid instrument.

j. Memorandum of Oil and Gas Lease, and all terms, conditions and stipulations therein:
Lessor: The Jones Family Trust
Lessee: Petroedge Energy III, LLC
Dated: October 15, 2014
Recorded: Volume 12331, Page 285, Official Records, Brazos County, Texas. Title to said interest has not been investigated subsequent to the date of the aforesaid instrument.

k. Memorandum of Oil and Gas Lease, and all terms, conditions and stipulations therein:
Lessor: The Jones Family Trust
Lessee: Eli Rebich
Dates: February 7, 2017
Recorded: Volume 13884, Page 238, Official Records, Brazos County, Texas. Title to said interest has not been investigated subsequent to the date of the aforesaid instrument.

TO HAVE AND TO HOLD, the rights and interests herein described unto the CITY OF COLLEGE STATION, TEXAS, and its successors and assigns, forever, and GRANTOR does hereby bind itself, its successors and assigns to warrant and forever defend, all and singular, these rights and interests unto the CITY OF COLLEGE STATION, TEXAS, and its successors and assigns, against every person whomsoever lawfully claiming, or to claim same, or any part thereof.

By: _____

_____
Printed Name and Title

APPROVED AS TO FORM
THIS DOCUMENT MAY NOT
BE CHANGED WITHOUT
RE-SUBMISSION FOR APPROVAL.

_____
City Attorney

THE STATE OF TEXAS

ACKNOWLEDGMENT

COUNTY OF BRAZOS

This instrument was acknowledged before me on this _____ day of _____, 202__, by _____.

_____
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, TX 77842-9960

AFTER RECORDING, RETURN TO:
City of College Station
City Attorney's Office
P.O. Box 9960
College Station, TX 77842-9960

EXHIBIT A

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

Proposed 40' Easement
47 Oaks, LLC Tract
John H. Jones league A-26
Bryan and College Station, Texas
August 2018 (revised Feb. 2020)

All of that certain tract or parcel of land lying and being situated in the John H. Jones league (abstract no. 26) in Brazos County, Texas, being part of that 47.31 acre tract conveyed to 47 Oaks, LLC by deed recorded in volume 7828, page 120 of the Official Public Records of Brazos County, Texas, being a 40 ft. wide strip of land lying adjacent and northwest of an existing City of Bryan (BTU) power transmission line which is covered by that right-of-way easement recorded in volume 208, page 475 of the Deed Records of Brazos County, Texas, and more particularly described as follows:

Beginning at a 3/8" iron rod found in the southwest boundary of the said 47.31 acre tract, marking the common corner of that 2.674 acre tract described in the deed to the City of College Station recorded in volume 15040, pg. 46 and the remainder of 300 acres conveyed to Larry Wayne Armstrong and Rebekah Armstrong Petrie by deed recorded in volume 3476, page 183 of the Official Public Records of Brazos County, Texas, from where City of College Station GPS control monument no. 203 bears S 34° 28' 40" E – 1504.4 feet.

Thence N 41° 09' 06" E – 768.63 feet across the said 47.31 acre to the most northerly corner of this described easement tract in the said south right-of-way line of State Highway no. 47 (Riverside Parkway);

Thence S 72° 21' 59" E – 43.62 feet, along the north boundary of the said 47.31 acre tract and the said right-of-way line, to the most easterly corner of this described easement tract from where a TXDOT concrete right-of-way marker (type 1) bears S 72° 22' E – 73.7 feet;

Thence S 41° 09' 06" W – 786.86 feet, across the said 47.31 acre tract, approximately 21 feet northwest and parallel to the said existing BTU power transmission line, to the south corner of this described easement tract at a point in the common line of the 47.31 acre tract and the said 2.674 acre City tract, from where a TXDOT concrete right-of-way marker (type 1) found at the south corner of the 47.31 acre tract in the northwest line of F.M. 60 bears S 47° 39' 54"E – 1433.6 feet;

Thence N 47° 39' 54" W – 40.01 feet, along said common property line, to the Point of Beginning and containing 0.714 acres of land more or less.

Bearings are Texas State Plane, NAD83 Central Zone datum, based on City of College Station GPS control monument no. 203 and no. 165 (N 49°19'46" E).

See exhibit plat prepared with this description.

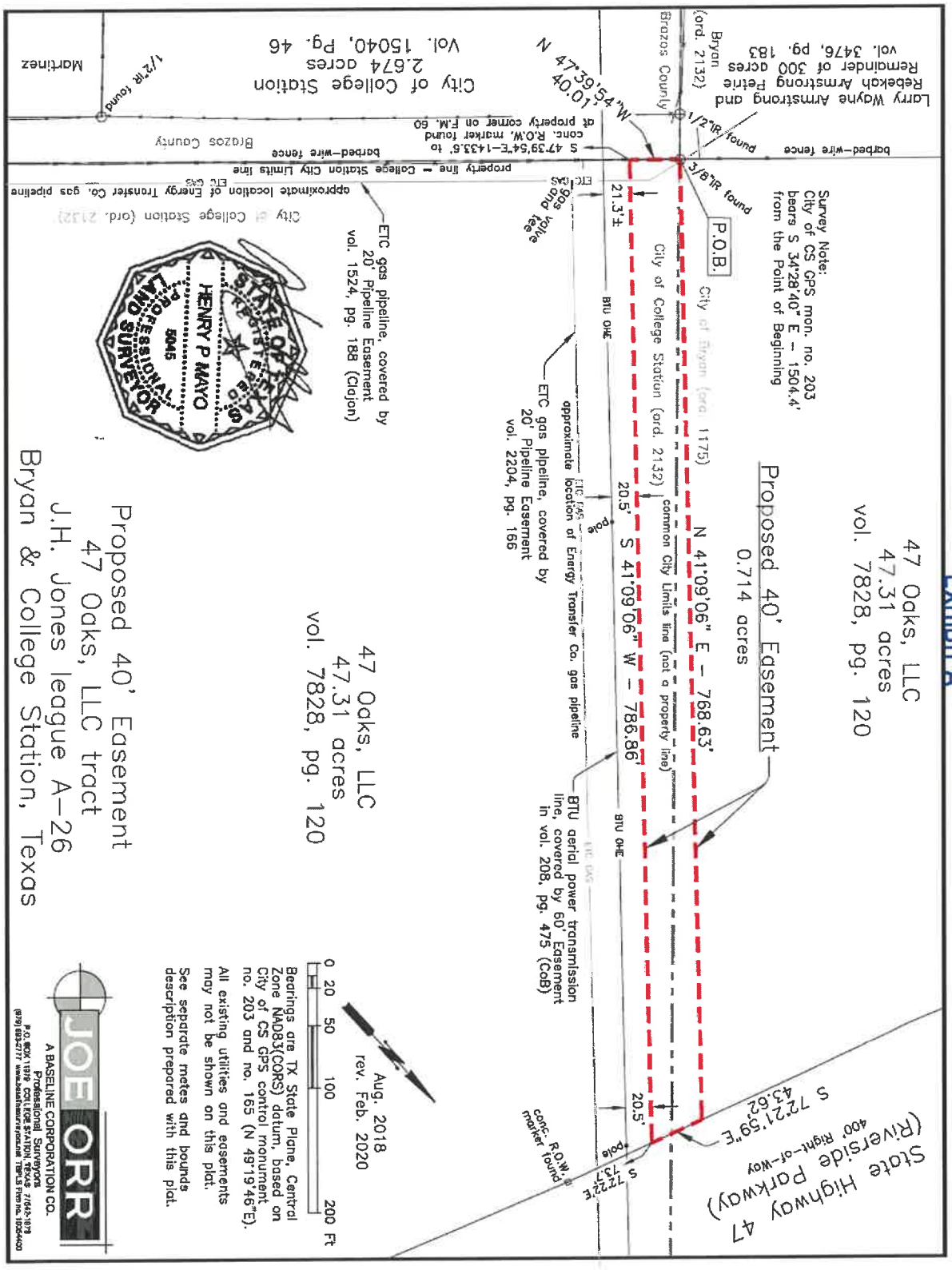


EXHIBIT A
47 Oaks, LLC
47.31 acres
vol. 7828, pg. 120
Proposed 40' Easement
0.714 acres
Survey Note:
City of CS GPS mon. no. 203
bears S 34°28'40" E - 1504.4'
from the Point of Beginning
P.O.B.
3/8"IR found
1/2"IR found
barbed-wire fence
Larry Wayne Armstrong and
Rebekah Armstrong Petrie
Remainder of 300 acres
vol. 3476, pg. 183
Bryan
(ord. 2132)
Brazos County
City of College Station
2.674 acres
Vol. 15040, Pg. 46
N 47°39'54"W
40.01'
S 47°39'54"E-1433.6' to
conc. R.O.W. marker found
at property corner on F.M. 60
barbed-wire fence
Brazos County
Martinez
1/2"IR found
property line - College Station City Limits line
approximate location of Energy Transfer Co. gas pipeline
ETC gas pipeline, covered by
20' Pipeline Easement
vol. 1524, pg. 188 (Clojon)
City of College Station (ord. 2132)
City of Bryan (ord. 1175)
N 41°09'06" E - 768.63'
common City Limits line (not a property line)
21.3'±
20.5'
S 41°09'06" W - 786.86'
BTU OHE
pole
ETC gas pipeline, covered by
20' Pipeline Easement
vol. 2204, pg. 166
BTU aerial power transmission
line, covered by 60' Easement
in vol. 208, pg. 475 (CoB)
State Highway 47
(Riverside Parkway)
400' Right-of-Way
S 72°21'59"E
423.62'
S 72°22'
23.3'
pole
conc. marker found
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J.H. Jones league A-26
Bryan & College Station, Texas
HENRY P MAYO
5045
REGISTERED
PROFESSIONAL
LAND SURVEYOR
STATE OF TEXAS
Aug. 2018
rev. Feb. 2020
0 20 50 100 200 Ft
Bearings are TX State Plane, Central
Zone NAD83(CORS) datum, based on
City of CS GPS control monument
no. 203 and no. 165 (N 49°19'46"E).
All existing utilities and easements
may not be shown on this plat.
See separate metes and bounds
description prepared with this plat.
JOE ORR
A BASELINE CORPORATION CO.
Professional Surveyors
P.O. BOX 1876 COLLEGE STATION, TEXAS 77842-1876
(979) 693-3777 www.baselinecorp.com TBPLS Firm No. 10024400

Joe Orr, Inc.
A BASELINE CORPORATION CO.
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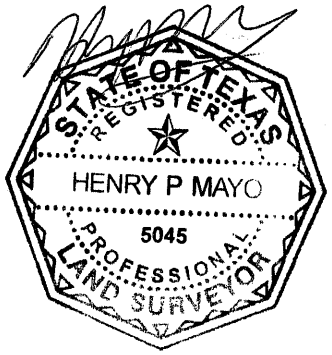

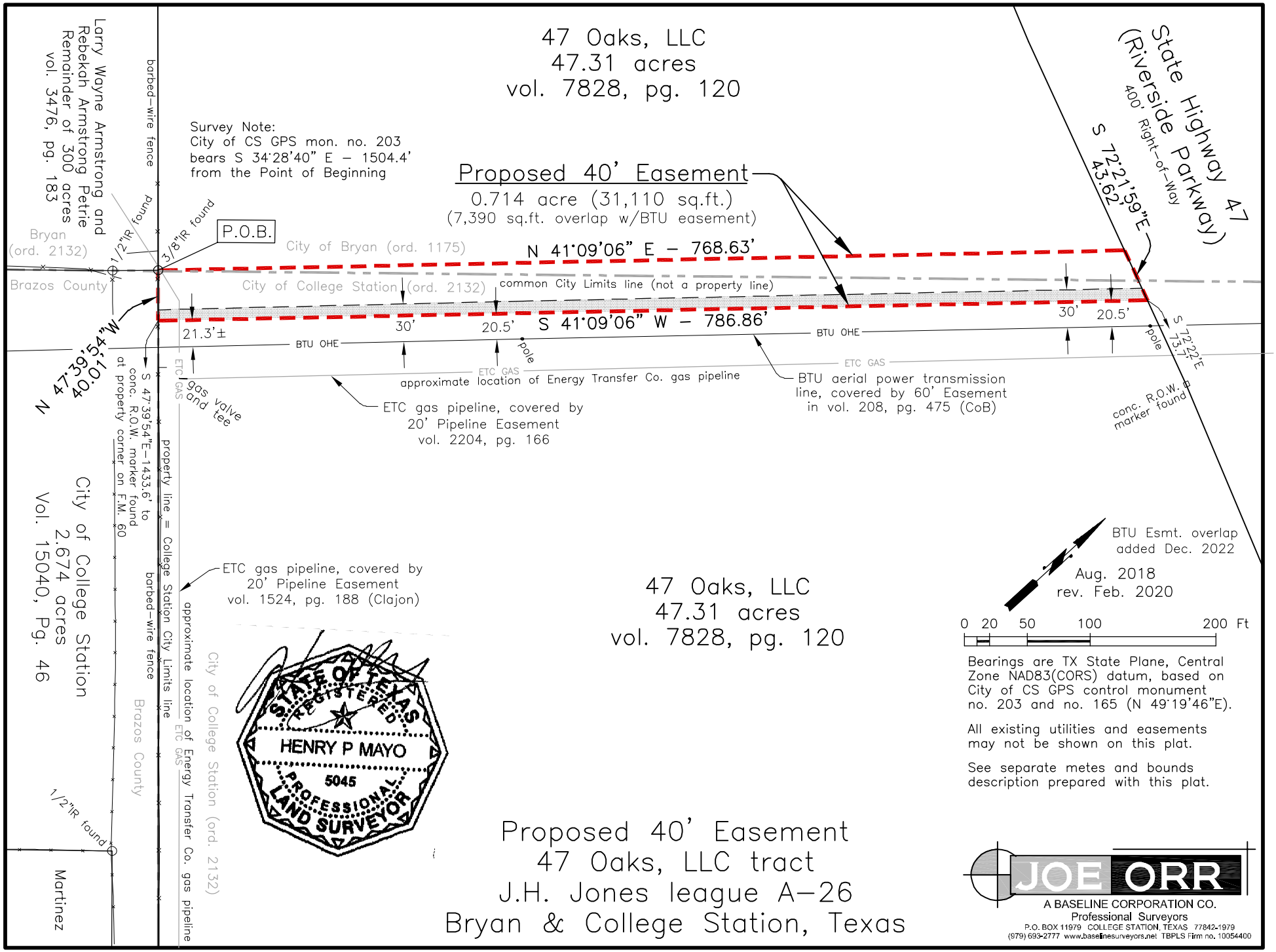
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bears S 34°28'40" E – 1504.4'
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Proposed 40' Easement
0.714 acre (31,110 sq.ft.)
(7,390 sq.ft. overlap w/BTU easement)
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S 41°09'06" W – 786.86'
S 72°21'59"E
43.62'
State Highway 47
(Riverside Parkway)
400' Right-of-Way
P.O.B.
3/8"IR found
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BTU OHE
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added Dec. 2022
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(979) 693-2777 www.baselinesurveyors.net TBPLS Firm no. 10054400

December 12, 2024
Item No. 8.1.
Mayor Pro Tempore

Sponsor: Tanya Smith, City Secretary

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action on the election of Mayor Pro Tempore.

Relationship to Strategic Goals:

- Good Governance

Recommendation(s): None

Summary: After each election or the beginning of each year, one of the council members shall be elected Mayor Pro Tem and shall hold the office for one year. It is the responsibility of the Mayor Pro Tem to act as Mayor during the disability or absence of the Mayor. In this capacity, the Mayor Pro Tem has the rights conferred upon the Mayor.

Budget & Financial Summary: None

Attachments:
None

December 12, 2024
Item No. 8.2.
Northgate Area Discussion

Sponsor: Bryan Woods, City Manager

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding the development and sale of City-owned Northgate property and planning efforts for the redevelopment of the Northgate District.

Relationship to Strategic Goals:

Recommendation(s):

Summary: Council requested a future agenda item regarding a small area plan for the area around Northgate. Also included is a discussion of the City-owned property in Northgate.

Budget & Financial Summary:

Attachments:
None

December 12, 2024
Item No. 9.1.
Cadence Creek Comprehensive Plan Amendment

Sponsor: Gabriel Schrum

Reviewed By CBC: Planning & Zoning Commission

Agenda Caption: Public Hearing, presentation, discussion, and possible action regarding an ordinance amending the Comprehensive Plan - Future Land Use & Character Map from Mixed Residential and Natural & Open Areas to Urban Residential for approximately 11 acres at 3182 Holleman Drive South.

Relationship to Strategic Goals:

- Diverse Growing Economy

Recommendation(s): This item was heard at the November 21st, 2024 Planning and Zoning Commission meeting where the Commission voted 4-0 to recommend approval.

Summary: The applicant is requesting an amendment to the Comprehensive Plan Future Land Use and Character Map from Mixed Residential and Natural and Open Areas to Urban Residential for approximately eleven acres located northwest of the intersection of Holleman Drive South and Deacon Drive West. The Comprehensive Plan Future Land Use designates the subject properties immediately adjacent to the north as Mixed Residential, to the east across Holleman Dr S as Mixed Residential, to the south Suburban Residential and Natural & Open Areas, and to the west as Suburban Residential. This Comprehensive Plan Amendment is in preparation for a rezoning of the property to allow for a mix of multi-family and single-family products in this area. It is the applicant's intent to develop an adult 55+ year old community consisting of single-story duplex cottages and a multi-story apartment building on the subject property.

REVIEW CRITERIA

1. Changed or changing conditions in the subject area of the City:

The subject property and properties to the north and east are designated as Mixed Residential. The Mixed Residential land use designation is generally for areas that are appropriate for a range of moderate-density residential development in various forms including townhomes, duplexes, small multifamily buildings, and limited small-lot single family. These areas are currently developed with duplexes and townhomes.

The properties to the south and west are designated as Suburban Residential. Suburban Residential areas are primarily single-family residential areas that consist of low to moderate-density single-family lots. These areas tend to provide new residential areas or expanding existing developments, with pedestrian and vehicular connectivity between adjacent developments. The area to the west is developed with single family homes and to the south is currently undeveloped land.

There is a rezoning request accompanying this Comp Plan Amendment for a proposed zoning district of PDD Planned Development District with a base zoning of MF Multi-Family. The proposed development will have cottage style structures and a single 3-4 story apartment building in which the

height and total units would exceed the allowance of the Mixed Residential land use designation.

This request to change the land use designation of the subject property from Mixed Residential to Urban Residential would allow for the development of a range of high-density multifamily and attached residential development in various forms including townhomes, apartment buildings, mixed use buildings, and limited non-residential uses that are compatible with the surrounding area.

2. Compatibility with the existing uses, development patterns, and character of the immediate area concerned, the general area, and the City as a whole:
The applicant is requesting an amendment to the Future Land Use & Character Map to Urban Residential and has also requested a rezoning to PDD Planned Development District with a base zoning of MF Multi-Family. The intent of Urban Residential is to accommodate a wide range of attractive multifamily housing for a diverse population. Buildings may be clustered and grouped and the overall setback from the street varies but is generally consistent within the development. The subject property is located just northwest of the intersection of Holleman Dr S and Deacon Dr W on the periphery of the Mission Ranch Subdivision. This area experiences development as Mission Ranch continues constructing the undeveloped phases and the Barracks expanding. The owners and developers are looking to maintain the similar built environment and aesthetic of Mission Ranch within this development. This property would be compatible with existing uses, development patterns, and overall character of zoned properties in the area.

The applicant held a neighborhood meeting on October 15, 2024. All property owners within 200 feet of the subject property were notified of the neighborhood meeting, and approximately 34 people were in attendance. Attendees expressed general concerns regarding the traffic from this development, and overall had general inquiries about the project. There were not concerns regarding the land use change being requested. The proposal is compatible with the character of the area as it allows for a single family development style on the perimeter of the proposal and multifamily structure in the center that is compatible with the surrounding area.

3. Impact on environmentally sensitive and natural areas:
There is no portion of the subject property that is designated as FEMA floodplain. The applicant has stated, “There are a few non-jurisdictional drainage ditches within the property. The site design will take these drainage ways into consideration. All development will follow City codes and ordinances and will not have adverse impacts on surrounding areas.”.

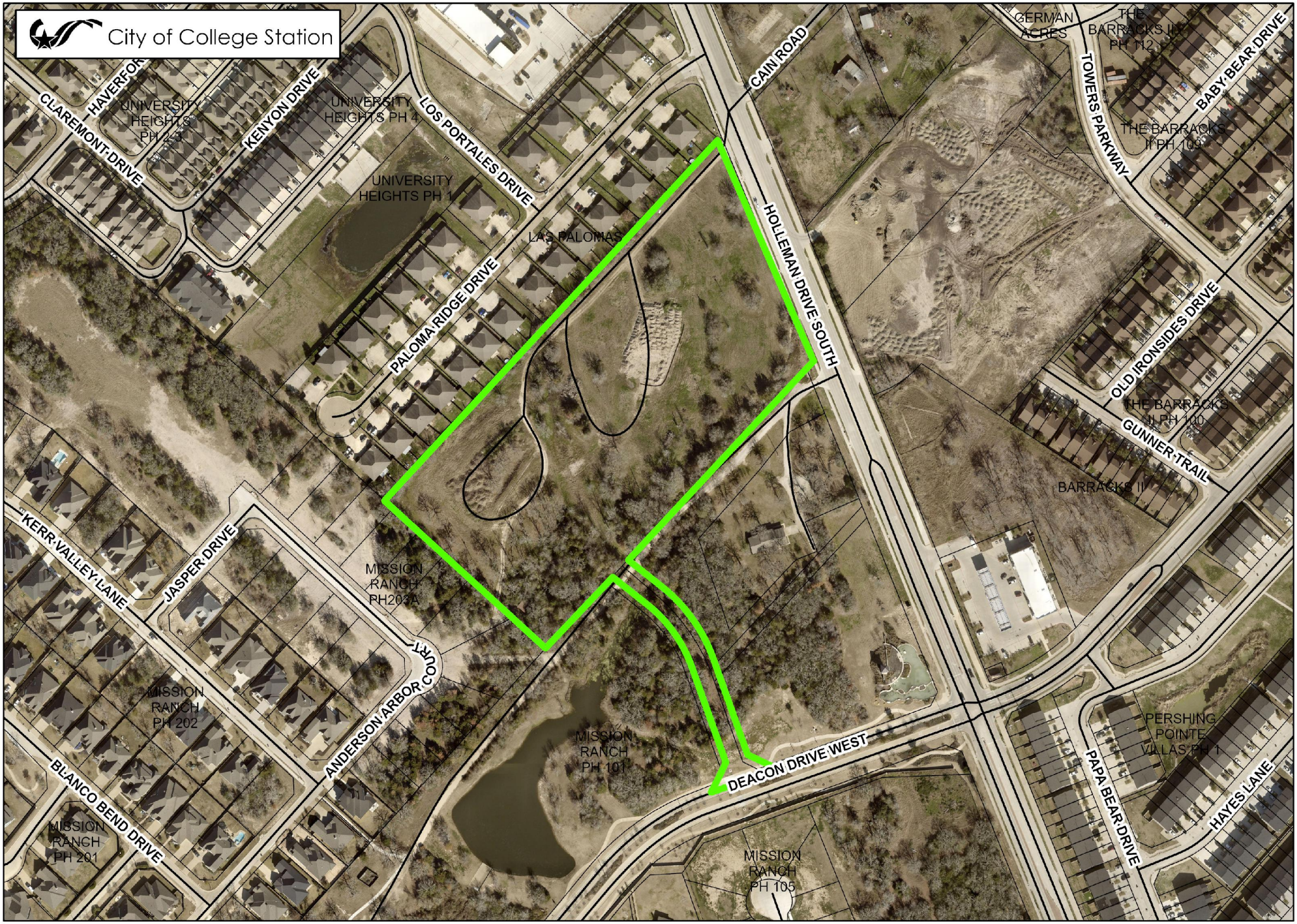
4. Impacts on infrastructure including water, wastewater, drainage, and the transportation network:
Water services will be provided by Wellborn SUD and wastewater services will be provided by the City of College Station. There is adequate water and sanitary sewer capacity to support the proposed amendment. The subject property has Hopes Creek Tributary 13 running through a portion of it. Drainage and any other infrastructure required with the site development shall be designed and constructed in accordance with the BCS Unified Design Guidelines.

The subject property has frontage to Holleman Dr S, a 4 lane minor arterial on the Thoroughfare Plan, and an access point will be constructed out to Deacon Dr W, a 2 lane minor collector. The applicant intends to take their main access for the site off of Deacon Dr W and provide a secondary access point off of Holleman Dr S. A traffic impact analysis was not required for the proposed request as the anticipated traffic volume falls below the threshold of 150 trips in the peak hour that would require a TIA to be performed.

5. Consistency with the goals and strategies set forth in the Comprehensive Plan:
The intent of College Station's Comprehensive Plan is to create distinctive places, vibrant districts, attractive neighborhoods, revitalized gateways and corridors, and conserved natural areas. The proposed amendment to Urban Residential, defined as areas that accommodate a wide range of attractive multifamily housing for a diverse population fits the intent, goals, and strategic actions identified in the Comprehensive Plan.

Budget & Financial Summary: N/A

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



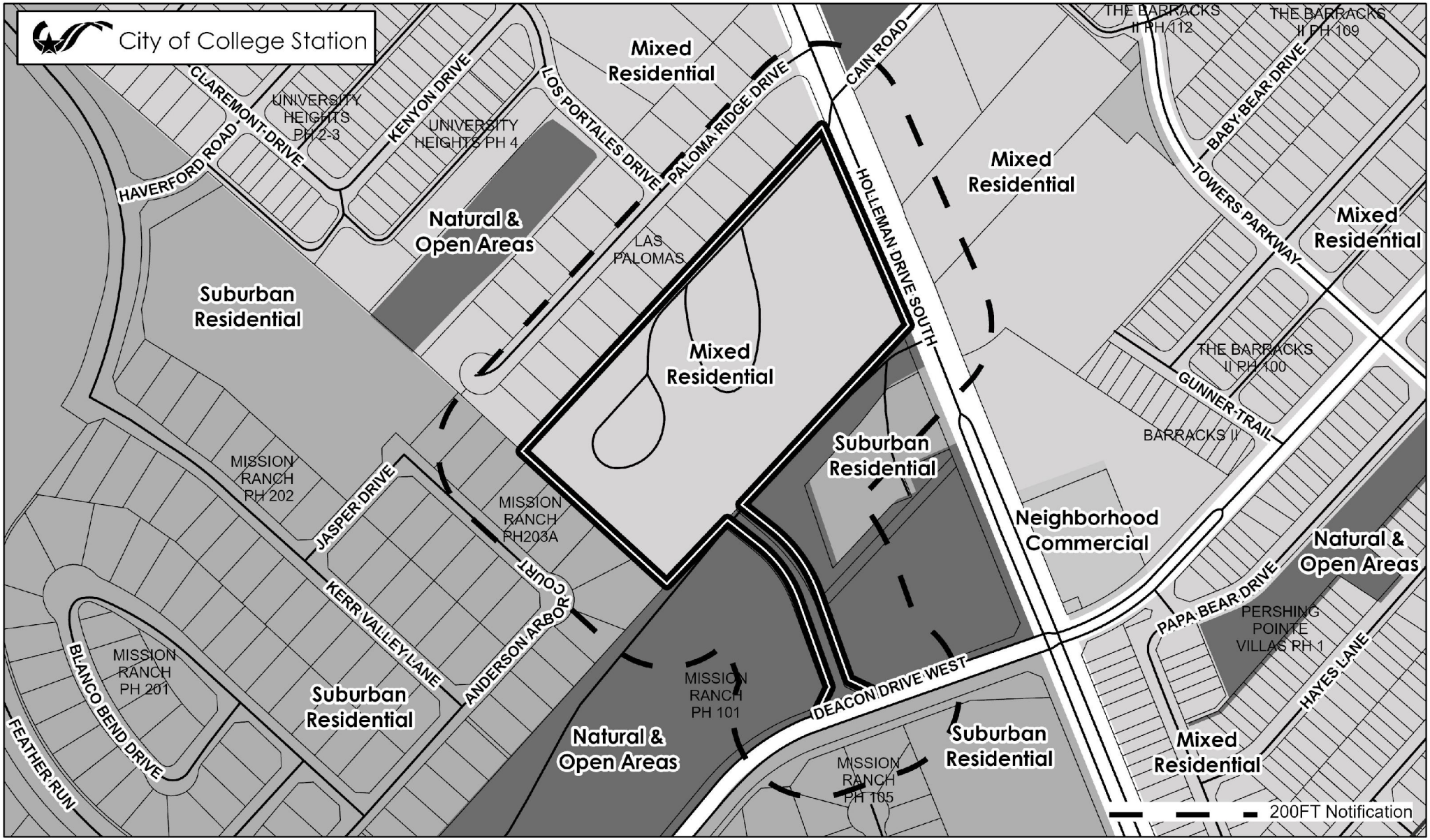
NORTH

0 265 530 Feet

CADENCE CREEK AT MISSION RANCH

Case: CPA2024-000007

COMPREHENSIVE PLAN AMENDMENT



FUTURE LAND USE DISTRICTS (In Grayscale)

Residential
- Urban Residential
- Mixed Residential
- Suburban Residential
- Estate Residential
- Rural
- Neighborhood Conservation

Non-Residential
- General Commercial
- Neighborhood Commercial
- Business Center
- Medical

Combined Centers
- Urban Center
- Neighborhood Center

Other
- Institutional/Public
- TAMU
- Parks & Greenways
- Natural & Open Areas
- Redevelopment Areas

NORTH 0 325 650 Feet

CADENCE CREEK AT MISSION RANCH

Case: CPA2024-000007 COMPREHENSIVE PLAN AMENDMENT

BACKGROUND INFORMATION

NOTIFICATIONS

Advertised Commission Hearing Date: November 21, 2024
Advertised Council Hearing Date: December 12, 2024

The following neighborhood organizations that are registered with the City of College Station's Neighborhood Services have received a courtesy letter of notification of this public hearing:

Barracks Townhomes HOA

Property owner notices mailed: 54

Contacts in support: None at the time of this report
Contacts in opposition: None at the time of this report
Inquiry contacts: None at the time of this report

ADJACENT LAND USES

Direction	Comprehensive Plan	Zoning	Land Use
North	Mixed Residential	MH - Middle Housing with HOO - High Occupancy Overlay	Duplexes
South	Natural & Open Areas	RS - Restricted Suburban	Undeveloped
East	Mixed Residential (across Holleman Dr S)	R - Rural	Holleman Dr S (Minor Arterial)
West	Suburban Residential	RS - Restricted Suburban	Single-Family detached

DEVELOPMENT HISTORY

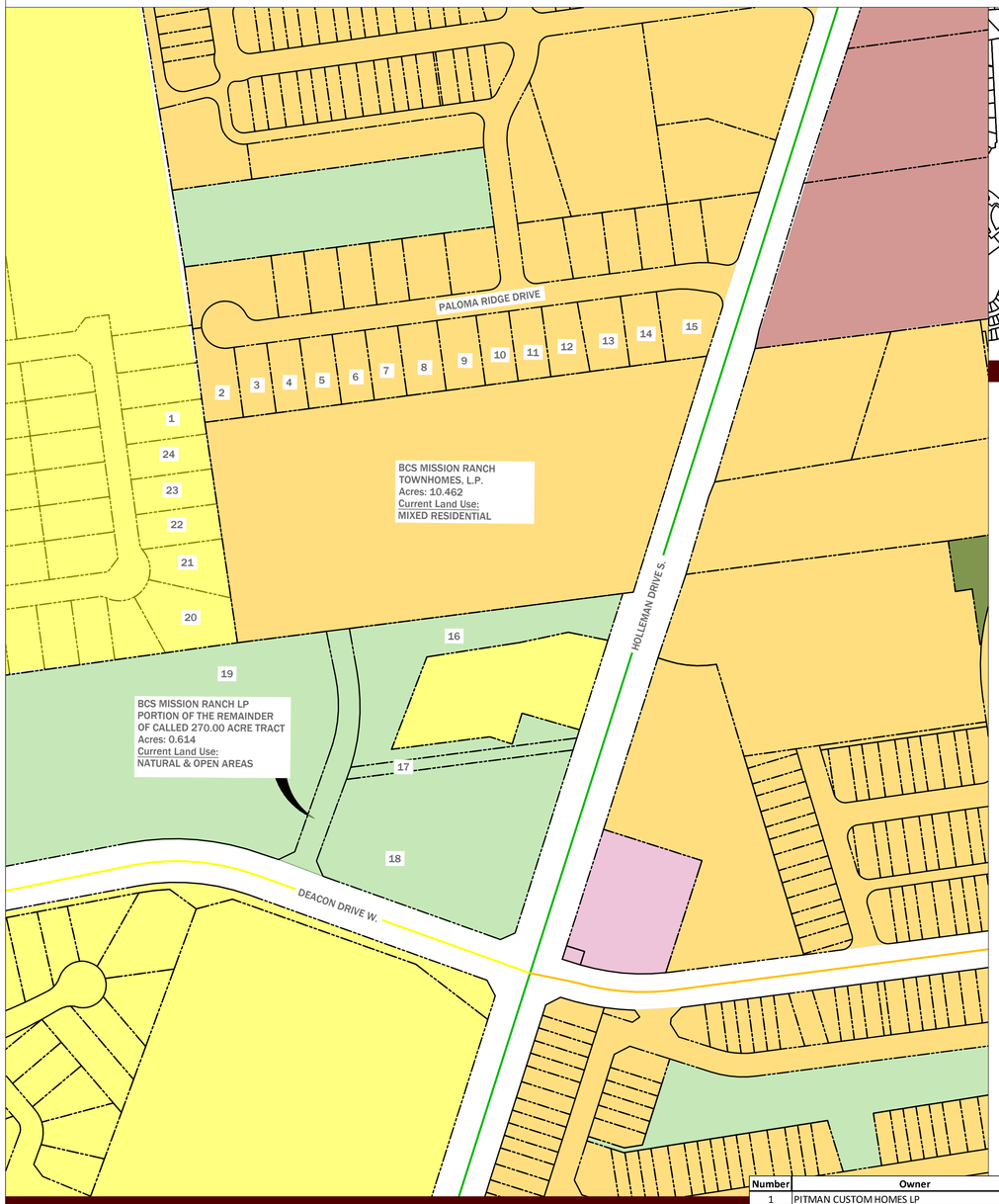
Annexed: November 2002

Zoning: A-O Agricultural-Open (upon annexation 2008)
A-O Agricultural to R-3 Townhouse (2008)
R-3 Townhouse to R-4 Multi-Family Residential (2012)
R-4 Multi-Family Residential to PDD base zoning T Townhouse (2021)

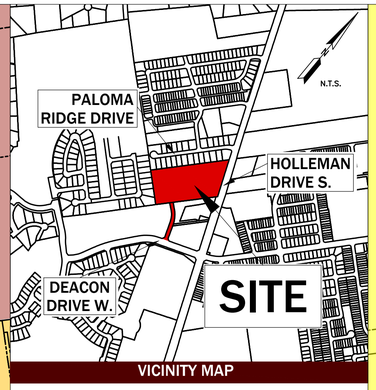
Final Plat: Unplatted

Site Development: Undeveloped

PROJECT BENCHMARK:



EXISTING

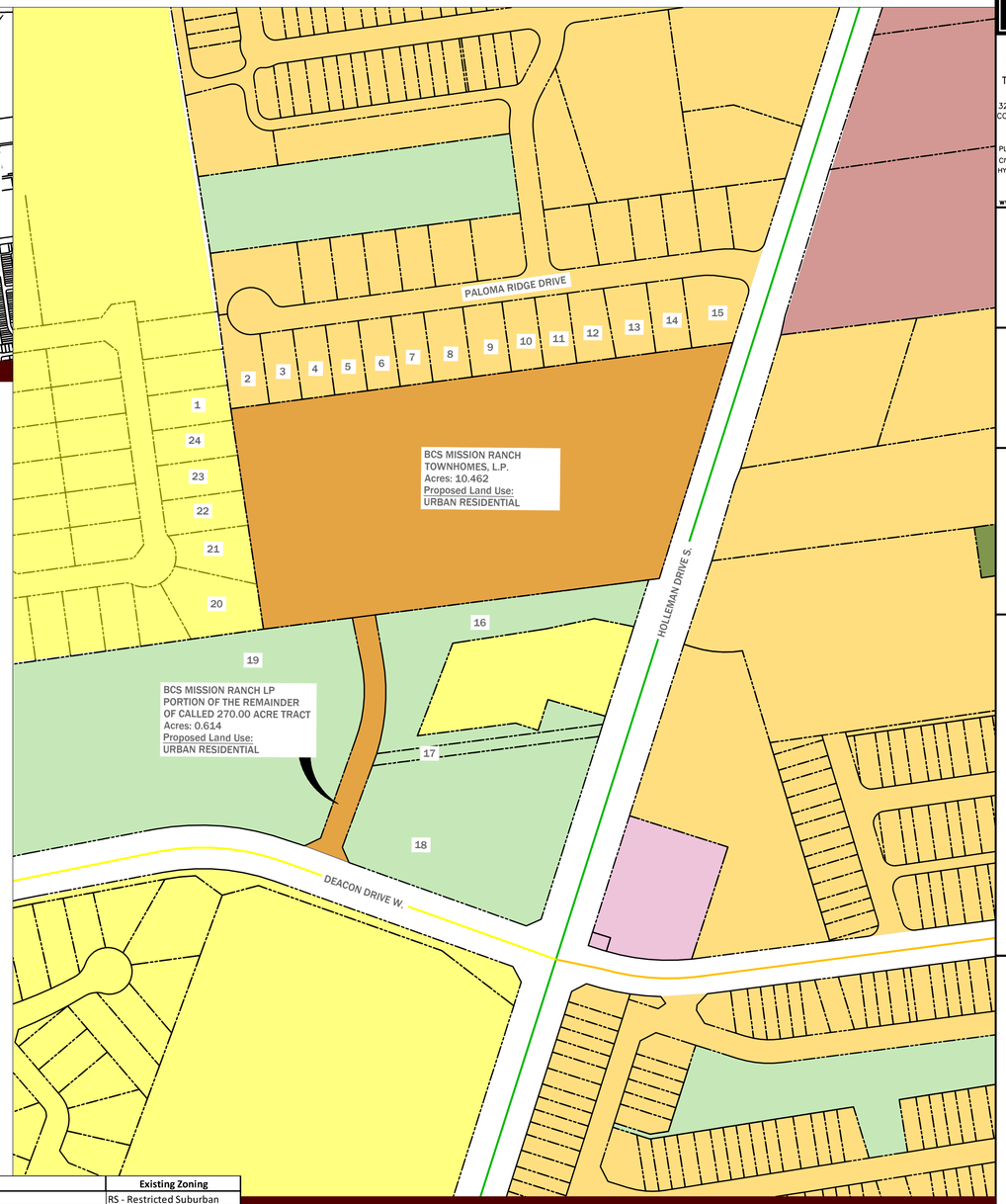


VICINITY MAP

Scale:
1 inch = 150 feet

LEGEND

- PROPERTY LINE
- 2–LANE MINOR COLLECTOR
- 2–LANE MAJOR COLLECTOR
- 4–LANE MINOR ARTERIAL
- URBAN RESIDENTIAL
- MIXED RESIDENTIAL
- NATURAL & OPEN AREAS
- SUBURBAN RESIDENTIAL
- NEIGHBORHOOD CENTER
- NEIGHBORHOOD COMMERCIAL
- PARKS & GREENWAYS



PROPOSED

Number	Owner	Legal Description	Existing Zoning
1	PITMAN CUSTOM HOMES LP	MISSION RANCH PH 203A, BLOCK 14, LOT 23	RS - Restricted Suburban
2	LEATHAM DAVID & MICHELLE REV LIVING TRUST	LAS PALOMAS, BLOCK 1, LOT 14	MH - Middle Housing
3	LEATHAM AMI DAWN	LAS PALOMAS, BLOCK 1, LOT 13	MH - Middle Housing
4	AGGIE NOOKS LLC SERIES PALOMA RIDGE	LAS PALOMAS, BLOCK 1, LOT 12	MH - Middle Housing
5	EQUITY TRUST COMPANY	LAS PALOMAS, BLOCK 1, LOT 11	MH - Middle Housing
6	RATLIFF LOGAN D AND KELLY M	LAS PALOMAS, BLOCK 1, LOT 10	MH - Middle Housing
7	BVB PROPERTY I LLC	LAS PALOMAS, BLOCK 1, LOT 9	MH - Middle Housing
8	BUCHANAN HEATHER	LAS PALOMAS, BLOCK 1, LOT 8	MH - Middle Housing
9	ROSENBERGER DONALD L & MARY KAY	LAS PALOMAS, BLOCK 1, LOT 7	MH - Middle Housing
10	EVANS DOROTHY	LAS PALOMAS, BLOCK 1, LOT 6	MH - Middle Housing
11	HOBBS WILLIAM H	LAS PALOMAS, BLOCK 1, LOT 5	MH - Middle Housing
12	HAYES JODI & JERRAL Y	LAS PALOMAS, BLOCK 1, LOT 4	MH - Middle Housing
13	WIDE JON BARIN & KIMBERLY DAWN	LAS PALOMAS, BLOCK 1, LOT 3	MH - Middle Housing
14	PATKE JONATHAN DOUGLAS	LAS PALOMAS, BLOCK 1, LOT 2	MH - Middle Housing
15	T & K ISLAND PROPERTIES	LAS PALOMAS, BLOCK 1, LOT 1	MH - Middle Housing
16	BCS MISSION RANCH LP	MISSION RANCH PH 101, LOT COMMON AREA 1A (PT OF), ACRES 1.777	RS - Restricted Suburban
17	MISSION RANCH COMMUNITY ASSOCIATION INC	MISSION RANCH PH 101, LOT COMMON AREA 1A (PT OF), ACRES 0.27	RS - Restricted Suburban
18	MISSION RANCH COMMUNITY ASSOCIATION INC	MISSION RANCH PH 101, LOT COMMON AREA 1A (PT OF), ACRES 3.23	RS - Restricted Suburban
19	MISSION RANCH COMMUNITY ASSOCIATION INC	MISSION RANCH PH 101, BLOCK 35, LOT COMMON AREAS 1B & 3-6, ACRES 16.007	RS - Restricted Suburban
20	BCS MISSION RANCH LP	MISSION RANCH PH 203A, BLOCK 14, LOT 18	RS - Restricted Suburban
21	BCS MISSION RANCH LP	MISSION RANCH PH 203A, BLOCK 14, LOT 19	RS - Restricted Suburban
22	BCS MISSION RANCH LP	MISSION RANCH PH 203A, BLOCK 14, LOT 20	RS - Restricted Suburban
23	REECE HOMES LLC	MISSION RANCH PH 203A, BLOCK 14, LOT 21	RS - Restricted Suburban
24	PITMAN CUSTOM HOMES LP	MISSION RANCH PH 203A, BLOCK 14, LOT 22	RS - Restricted Suburban

NOTES:

1. *In accordance with FEMA'S FLOOD INSURANCE RATE MAP panel 48041C0305F, the site does not lie within the 100-year floodplain boundary, Effective Date : 4/2/2014*

MITCHELL M&M MORGAN
T.979.260.6963
F.979.260.3564
TX. FIRM # F-1443
3204 EARL RUDDER FWY. S.
COLLEGE STATION, TX 77845
PLAN & DESIGN SPECIALISTS IN
CIVIL ENGINEERING • HYDRAULICS
HYDROLOGY • UTILITIES • STREETS
SITE PLANS • SUBDIVISIONS
www.mitchellandmorgan.com

For Interim Review Only
These documents are not intended for regulatory, bidding, or permit purposes.
Veronica P.B. Morgan, P.E.
No. 77689

APRIL 2024
Drawn By: MGF
Checked By: VPBM

Prepared For:
Coldwell Companies
9995 Barker Cypress Road,
Suite 250
Cypress, TX 77433

Revisions

COMPREHENSIVE PLAN AMENDMENT MAP

CADENCE CREEK AT MISSION RANCH

CPA

COMP PLAN APPLICATION
SUPPORTING INFORMATION

Name of Project: CADENCE CREEK AT MISSION RANCH (CPA2024-000007)

Address: 3182 HOLLEMAN DR S

Legal Description: A000701, CRAWFORD BURNETT (ICL), TRACT 22.1, 10.432 ACRES, & ASSOCIATED BPP

Total Acreage: 11.046

Applicant: MITCHELL & MORGAN

Property Owner: BCS MISSION RANCH TOWNHOMES LP

What element of the Comprehensive Plan and at what location is requested to be amended?

We are requesting an amendment to the Land Use and Character portion of the Comprehensive Plan for 11.046 acres of land located within the Mission Ranch Development Community.

What is the amendment requested?

We are requesting that the Land Use and Character designation be amended from Mixed Residential and Natural & Open Areas to Urban Residential.

What is the reason for the amendment?

There continues to be a need for active Senior Living (55-plus) housing in College Station. It is the desire of the Mission Ranch Community developers to provide an option to their residents and others in the community to age in place when they are ready to downsize their existing housing. The subject property is currently land use planned for Mixed Residential. The proposed development has units that would fit the Mixed Residential but one building onsite, a 3 - 4 story apartment style building, exceeds the allowable height and number of total units for Mixed Residential, thus the request for Urban Residential.

How will this change be compatible with the existing uses, development patterns, and character of the immediate area concerned, the general area, and the city as a whole?

With each passing year, the over 55 population in College Station increases as retirees return to Aggieland and baby boomers increase in age. It is a desire of that demographic to downsize their living. Currently, there is a lack of facilities to accommodate this growing population in College Station. The majority of these residents move to similar facilities in Bryan. We are proposing to build a unique product that is significantly less dense than allowed in the Urban Residential land use that is designed specifically for active seniors.

Explain the impact on environmentally sensitive and natural areas and infrastructure, including water, wastewater, drainage and transportation network.

The subject property is surrounded by an existing mix of residential units and natural open areas. The nearby residential is a mixture of single-family homes within the Mission Ranch Community, adjacent rental properties and a commercial Airbnb rental facility. Additional residential for active seniors is a compatible use within this area, and provides a good transition from multi-family rentals to the single-family neighborhood. This development is part of the Mission Ranch Community, and it is being developed by the same developer who will oversee the design and construction with the same meticulous care to protect the overall neighborhood character within the Mission Ranch Community. We can all agree that the Mission Ranch Community is an exemplary development within the City of College Station and is arguably unmatched when it comes to character and aesthetics.

Explain how this change will be consistant with the goals and strategies set forth in the Comprehensive Plan.

The subject property is surrounded by an existing mix of residential units and natural open areas. The nearby residential is a mixture of single-family homes within the Mission Ranch Community, adjacent rental properties and a commercial Airbnb rental facility. Additional residential for active seniors is a compatible use within this area, and provides a good transition from multi-family rentals to the single-family neighborhood. This development is part of the Mission Ranch Community, and it is being developed by the same developer who will oversee the design and construction with the same meticulous care to protect the overall neighborhood character within the Mission Ranch Community. We can all agree that the Mission Ranch Community is an exemplary development within the City of College Station and is arguably unmatched when it comes to character and aesthetics.

List any other reasons to support this zone change.

N/A

List any other additional properties.

Not Applicable.

EXISTING
Future Land Use

PROPOSED
Future Land Use

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF COLLEGE STATION, TEXAS, AMENDING THE OFFICIAL CITY OF COLLEGE STATION COMPREHENSIVE PLAN BY AMENDING THE COMPREHENSIVE PLAN – FUTURE LAND USE & CHARACTER MAP FROM MIXED RESIDENTIAL AND NATURAL & OPEN AREAS TO URBAN RESIDENTIAL FOR APPROXIMATELY 11 ACRES OF LAND, GENERALLY LOCATED AT 3182 HOLLEMAN DRIVE SOUTH; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND CONTAINING OTHER PROVISIONS RELATED THERETO.

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

PART 1: That the "Official City of College Station Comprehensive Plan" is hereby amended by adding new Subsection "E.1.i." of Exhibit "A" thereto as set out in Exhibit "A" attached hereto and made a part hereof; as set out in Exhibit "B" attached hereto and made a part hereof.

PART 2: That if any provisions of any section of this Ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this Ordinance, which shall remain in full force and effect.

PART 3: That this Ordinance shall take effect immediately from and after its passage.

PASSED, ADOPTED and APPROVED this _____ day of ____, 2024.

ATTEST: **APPROVED:**

_____ _____

City Secretary **Mayor**

APPROVED:

_____

City Attorney

EXHIBIT A

That Ordinance No.4303 adopting the "Official City of College Station Comprehensive Plan" as amended, is hereby amended by adding Subsection "E.1.i." to Exhibit "A" of said plan for Exhibit "A" to read in its entirety as follows:

A. Comprehensive Plan

The Official City of College Station Comprehensive Plan (Ordinance 4303) is hereby adopted and consists of the following:

1. Plan Foundation;
2. Distinctive Places;
3. Strong Neighborhoods;
4. A Prosperous Economy;
5. Engaging Spaces;
6. Integrated Mobility;
7. Exceptional Services;
8. Managed Growth;
9. Collaborative Partnerships; and
10. Plan Implementation

B. Master Plans

The following Master Plans are hereby adopted and made a part of the Official City of College Station Comprehensive Plan:

1. The Northgate Redevelopment Plan dated November 1996;
2. The Revised Wolf Pen Creek Master Plan dated 1998;
3. Northgate Redevelopment Implementation Plan dated July 2003;
4. Bicycle, Pedestrian, and Greenways Master Plan dated January 2010;
5. Parks, Recreation, and Open Spaces Master Plan dated July 2011;
6. Medical District Master Plan dated October 2012;
7. Economic Development Master Plan dated May 2020;
8. The Water System Master Plan dated April 2017; and
9. The Wastewater System Master Plan dated April 2017; and
10. Northeast Gateway Redevelopment Plan dated September 2023; and
11. Wellborn District Plan dated October 2023.

C. Master Plan Amendments

The following Master Plan Amendments to the Official City of College Station Comprehensive Plan are as follows:

1. Expiring the East College Station Transportation Study dated May 2005 – Ordinance 4404, dated November 10, 2022.
2. Expiring the Central College Station Neighborhood Plan dated June 2010 – Ordinance 4404, dated November 10, 2022.
3. Expiring the Eastgate Neighborhood Plan dated June 2011 – Ordinance 4404, dated November 10, 2022.
4. Expiring the Southside Area Neighborhood Plan dated August 2012 – Ordinance 4404, dated November 10, 2022.
5. Expiring the South Knoll Neighborhood Plan dated September 2013 – Ordinance 4404, dated November 10, 2022.
6. Amended as shown in the Northeast Gateway Redevelopment Plan for Map 5.4 Proposed Bicycle Facilities and Map 5.5 Proposed Pedestrian Facilities within the Bicycle, Pedestrian, and Greenways Master Plan – Ordinance 4470, dated September 28, 2023.
7. Amended as shown in the Wellborn District Plan for Map 5.4 Proposed Bicycle Facilities and Map 5.5 Proposed Pedestrian Facilities within the Bicycle, Pedestrian, and Greenways Master Plan – Ordinance 4474, dated October 12, 2023.

D. Text Amendments

The following Text Amendments to the Official City of College Station Comprehensive Plan are as follows:

1. Text Amendments:
    a. *Chapter 2. Distinctive Places* by amending the text regarding the Neighborhood Center future land use description, intent, and generally appropriate zoning districts – Ordinance 4351, dated April 28, 2022.
    b. *Chapter 2. Distinctive Places* by amending the text regarding the Planning Areas description to remove expired plans – Ordinance 4404, dated November 10, 2022.
    c. *Chapter 2. Distinctive Places* by amending the text regarding the Planning Areas description to rename the Texas Avenue & University Drive (FM 60) Redevelopment Area to the Northeast Gateway Redevelopment Plan – Ordinance 4470, dated September 28, 2023.

d. *Chapter 2. Distinctive Places* by amending the text regarding the Planning Areas description to update it to the Wellborn District Plan, to revise the Future Land Use & Character descriptions to remove the Wellborn future land use and incorporate it and the Wellborn-specific zoning districts into the Neighborhood Commercial, Suburban Residential, and Estate Residential future land use descriptions and generally appropriate zoning districts – Ordinance 4474, dated October 12, 2023.

E. Map Amendments

The following Map Amendments to the Official City of College Station Comprehensive Plan are as follows:

1. Future Land Use & Character Map:
    a. Approximately 5 acres of land generally located at 2354 Barron Road from Suburban Residential to Neighborhood Commercial – Ordinance 4365, dated June 23, 2022.
    b. Approximately 17 acres of land generally located at 400 Double Mountain Road from Medical to Urban Residential – Ordinance 4378, dated August 11, 2022.
    c. Approximately 0.19 acres of land generally located at 106 Southland Street from Suburban Residential to Neighborhood Commercial – Ordinance 4388, dated September 8, 2022.
    d. Approximately 2.611 acres of land, generally located at 100 - 170 Graham Road from Business Center to Neighborhood Commercial – Ordinance 4435, dated May 15, 2023.
    e. Amended as shown in the Northeast Gateway Redevelopment Plan – Ordinance 4470, dated September 28, 2023..
    f. Amended as shown in the Wellborn District Plan – Ordinance 4474, dated October 12, 2023.
    g. Approximately 3.25 acres of land generally located west of the intersection of Nantucket Drive and State Highway 6 S from Suburban Residential and Natural and Open Areas to Neighborhood Commercial and Natural and Open Areas – Ordinance 4520, dated May 23, 2024.
    h. Approximately 3 acres of land generally located at located at 116 and 120 Morgans Lane from Urban Residential to General Commercial.
    i. Approximately 11 acres of land generally located at 3182 Holleman Drive South from Mixed Residential and Natural & Open Areas to Urban Residential.

2. Planning Areas Map:
    a. Removing the Central College Station Neighborhood Plan, Eastgate Neighborhood Plan, Southside Area Neighborhood Plan, and South Knoll Neighborhood Plan – Ordinance 4404, dated November 10, 2022.

b. Renaming the Texas Avenue & University Drive (FM 60) Redevelopment Area to the Northeast Gateway Redevelopment Plan – Ordinance 4470, dated September 28, 2023.
c. Renaming the Wellborn Community Plan to the Wellborn District Plan – Ordinance 4474, dated October 12, 2023.

3. Functional Classification & Context Class Map:
   a. Amended as shown in the Northeast Gateway Redevelopment Plan – Ordinance 4470, dated September 28, 2023.
   b. Amended as shown in the Wellborn District Plan – Ordinance 4474, dated October 12, 2023.

F. General

1. **Conflict.** All parts of the Comprehensive Plan and any amendments thereto shall be harmonized where possible to give effect to all. Only in the event of an irreconcilable conflict shall the later adopted ordinance prevail and then only to the extent necessary to avoid such conflict. Ordinances adopted at the same city council meeting without reference to another such ordinance shall be harmonized, if possible, so that effect may be given to each.

2. **Purpose.** The Comprehensive Plan is to be used as a guide for growth and development for the entire City and its Extraterritorial Jurisdiction ("ETJ"). The Comprehensive Plan depicts generalized locations of proposed future land uses, including thoroughfares, bicycle and pedestrian ways, parks, greenways, and waterlines, and sewer lines that are subject to modification by the City to fit local conditions and budget constraints.

3. **General nature of Future Land Use.** The Comprehensive Plan, in particular the Future Land Use & Character Map and any adopted amendments thereto, shall not be, nor be considered, a zoning map, shall not constitute zoning regulations or establish zoning boundaries, and shall not be site or parcel specific but shall be used to illustrate generalized locations.

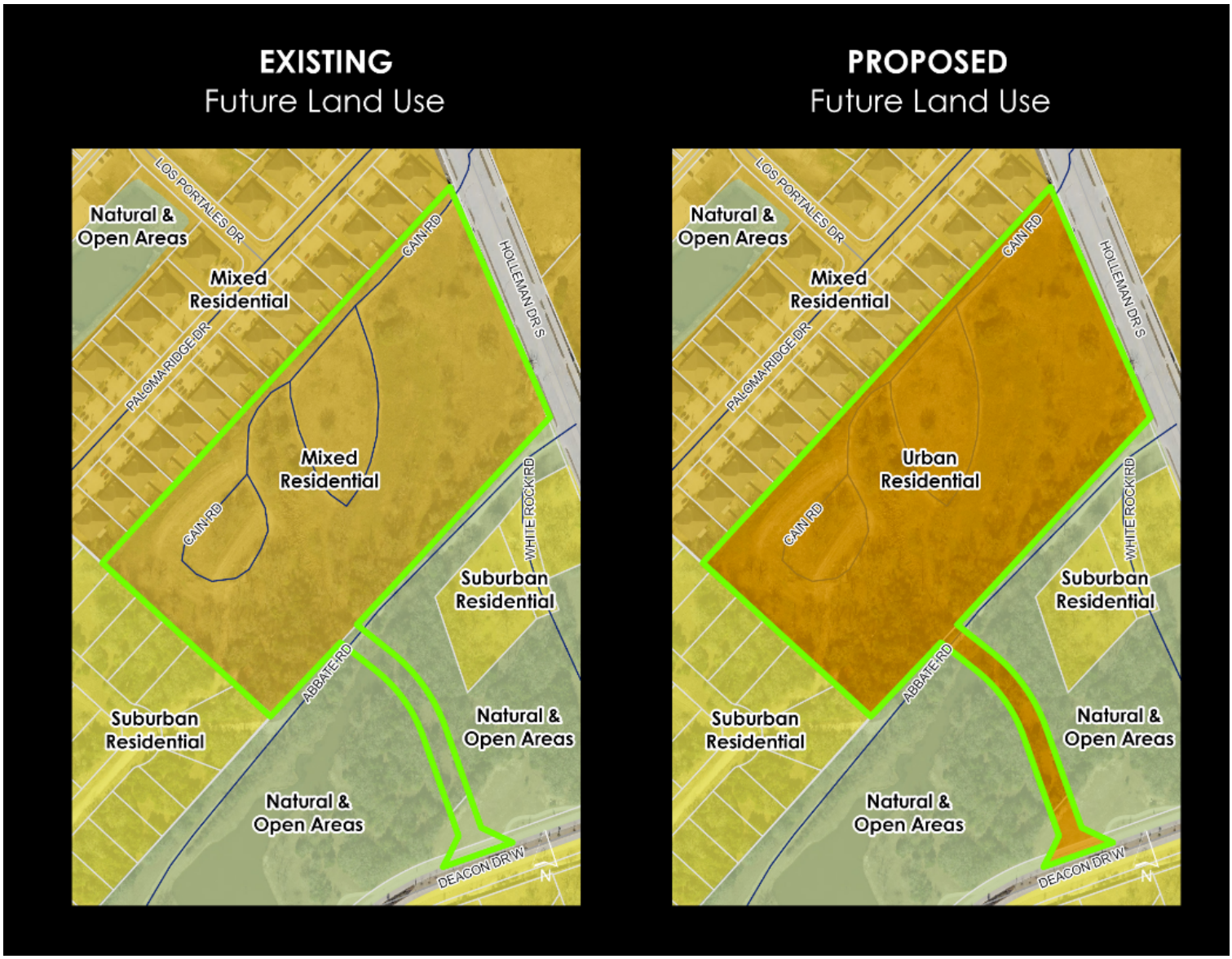
4. **General nature of College Station Comprehensive Plan.** The Comprehensive Plan and any additions, amendments, master plans and subcategories thereto depict same in generalized terms including future locations; and are subject to modifications by the City to fit local conditions, budget constraints, cost participation, and right-of-way availability that warrant further refinement as development occurs. Linear routes such as thoroughfares, bikeways, pedestrian ways, greenways, waterlines, and sewer lines

that are a part of the Comprehensive Plan may be relocated by the City 1,000 feet from the locations shown in the Comprehensive Plan without being considered an amendment thereto.

5. **Reference.** The term College Station Comprehensive Plan includes all of the above in its entirety as if presented in full herein, and as same may from time to time be amended.

EXHIBIT B

That the "Official City of College Station Comprehensive Plan" is hereby amended by amending a portion of the map titled "Future Land Use & Character" from Mixed Residential to Urban Residential for the following property:



December 12, 2024
Item No. 9.2.
Cadence Creek Rezoning

Sponsor: Gabriel Schrum

Reviewed By CBC: Planning & Zoning Commission

Agenda Caption: Public Hearing, presentation, discussion, and possible action regarding an ordinance amending Appendix A, Unified Development Ordinance, Article 4, "Zoning Districts," Section 4.2 “Official Zoning Map,” of the Code of Ordinances of the City of College Station, Texas by changing the zoning district boundary from PDD to PDD for approximately 11 acres at 3182 Holleman Drive South, generally located northwest of the intersection of Holleman Drive South and Deacon Drive West.

Relationship to Strategic Goals:

- Diverse Growing Economy

Recommendation(s): This item was heard at the November 21st, 2024 Planning and Zoning Commission meeting where the Commission voted 5-0 to recommend approval.

Summary: This request is to rezone the subject property from PDD Planned Development District with a base zoning of T Townhouse to PDD Planned Development District with a base zoning of MF Multi-Family. The proposed Concept Plan shows the general building and parking layout of the site as well as a sidewalk connection out onto Deacon Dr W. The proposed concept plan will reduce the buffer at the northern and western property lines with the applicant's intent to develop smaller single-family-sized cottages that are adjacent to existing single-family homes and a multistory building in the middle. They will additionally provide increased landscaping, increased caliper size of plantings, wider sidewalks along the entry drive, increased architectural standards on the development, restrict building height, and provide increased fencing along Holleman Dr. S.

REZONING REVIEW CRITERIA

1. Whether the proposal is consistent with the Comprehensive Plan:

The Comprehensive Plan Future Land Use and Character Map designates the subject property as Mixed Residential and Natural and Open Areas. There is an associated Comprehensive Plan Amendment (CPA2024-00007) with this rezoning request to change the Land Use to Urban Residential. The Comprehensive Plan generally describes the Mixed Residential land use designation as follows:

These areas are appropriate for a mix of moderate-density residential development, including townhomes, duplexes, small multifamily buildings (3-12 units), and limited small-lot single-family homes. They are appropriate for residential infill and redevelopment that allows the original character to evolve.

The intent of the district is to:

- Accommodate a walkable pattern of small lots, small blocks, and well-connected street patterns with incorporated streetscape features such as sidewalks, street trees, and lighting.

- Support neighborhoods with a mix of housing types

The Comprehensive Plan generally describes the Natural and Open Areas land use designation as follows:

Areas that represent a constraint to development and that should be conserved for their natural function or open space qualities. These areas can include floodplains, riparian buffers, common areas, and open space.

The zoning districts that are generally appropriate within this land use within the Suburban Residential and Natural and Open Areas include: Duplex, townhouse, middle housing, and limited-scale single-family

This application is in conjunction with a Comprehensive Plan amendment to change the future land use designation from Mixed Residential and Natural and Open Areas to Urban Residential.

The Comprehensive Plan generally describes the Urban Residential land use designation as follows:

Areas that are appropriate for a range of high-density multifamily and attached residential development in various forms including townhomes, apartment buildings, mixed-use buildings, and limited non-residential uses that are compatible with the surrounding area.

The proposed zoning district of PDD Planned Development District with a base zoning of MF Multi Family would be in line with the proposed amendment to the Comprehensive Plan (CPA2024-00007).

The City of College Station's adopted Housing Action Plan identifies goals and strategies that create and incentivize more housing units and diverse housing types for not just the current, but future community members. This request aligns with this overall Plan and its guiding goal, as it intends to provide the community with multiple housing options such as apartment homes and cottages that help enrich the housing stock and the surrounding area as well. It additionally helps promote Strategy 1 of the Housing Action Plan as it encourages increased density where it can be supported with appropriate standards, infrastructure, and services, impacts managed appropriately, and helps provide a diverse range of housing stock that supports the needs of various life stages, abilities, and age groups.

2. Whether the uses permitted by the proposed zoning district will be appropriate in the context of the surrounding area:

The property has frontage to Holleman Dr S and will have an access point constructed out to Deacon Dr W. Adjacent properties are zoned MH Middle Housing with a HOO High Occupancy Overlay to the north, R Rural, and T Townhouse to the east across Holleman Dr S, and RS Restricted Suburban to the south and west.

The MF Multi Family zoning district is intended to for areas having intense development. This district is flexible and allows for townhomes, single-unit dwellings, two-unit dwellings, multi-family buildings, and optional mixed-use development.

The adjacent lots to the north are duplexes, to the east across Holleman Dr S are townhomes or undeveloped, to the south is vacant/undeveloped land and to the west is developed as residential

single family detached homes.

The proposed zoning district is appropriate for the surrounding area as residential development continues to grow from the southwest at Mission Ranch and to the east with the Barracks. The proposed zoning district will be appropriate with the accompanying comprehensive plan amendment to Urban Residential.

3. Whether the property to be rezoned is physically suitable for the proposed zoning district:

The size and location of the subject property is suitable for developments allowed within this proposed zoning district. The site has adequate space to meet the minimal dimensional standards for the base zoning districts of MF Multi Family.

4. Whether there is available water, wastewater, stormwater, and transportation facilities generally suitable and adequate for uses permitted by the proposed zoning district:

The existing water and wastewater infrastructure is adequate to support the needs of this development. Drainage and any other infrastructure required with the site development shall be designed and constructed in accordance with the BCS Unified Design Guidelines. The subject property has frontage to Holleman Dr S, a 4 lane minor arterial on the Thoroughfare Plan, and a access point will be constructed out to Deacon Dr W, a 2 lane minor collector. The applicant intends to take main access for the site off of Deacon Dr W but will have a secondary access point from Holleman Dr S. A traffic impact analysis was not required for the proposed request as the anticipated traffic volume falls below the threshold of 150 trips in the peak hour that would require a TIA to be performed. The applicant did provide additional information within the bulk variance letter that indicated the trips generated by this development (Land Use Code 252 Senior Housing) will provide 58% less per day than Multi Family low rise (Land Use Code 220).

5. The marketability of the property:

The applicant has stated that there is a market for townhomes in this community but this area would be more conducive to a 55+ active adult community given the proximity to the Mission Ranch subdivision. They have also indicated that housing of all types is in high demand and with the growing 55+ active adult demographic in this community, this property is suitable for this type of development, given its location and surrounding uses.

REVIEW OF CONCEPT PLAN

The Concept Plan provides an illustration of the general layout of the proposed building areas as well as other site related features. In proposing a PDD, an applicant may also request variations to the general platting and site development standards provided that those variations are outweighed by demonstrated community benefits of the proposed development. The Unified Development Ordinance provides the following review criteria as the basis for reviewing PDD Concept Plans:

1. The proposal will constitute an environment of sustained stability and will be in harmony with the character of the surrounding area;
2. The proposal is in conformity with the policies, goals, and objectives of the Comprehensive Plan, and any subsequently adopted Plans, and will be consistent with the intent and purpose of this Section;
3. The proposal is compatible with existing or permitted uses on abutting sites and will not

adversely affect adjacent development;
4. Every dwelling unit need not front on a public street but shall have access to a public street directly or via a court, walkway, public area, or area owned by a homeowners association;
5. The development includes provision of adequate public improvements, including, but not limited to, parks, schools, and other public facilities;
6. The development will not be detrimental to the public health, safety, welfare, or materially injurious to properties or improvements in the vicinity; and
7. The development will not adversely affect the safety and convenience of vehicular, bicycle, or pedestrian circulation in the vicinity, including traffic reasonably expected to be generated by the proposed use and other uses reasonably anticipated in the area considering existing zoning and land uses in the area.

The applicant held a required neighborhood meeting for the Comprehensive Plan Amendment where they presented the rezoning request and concept plan with desired modifications and benefits.

Purpose and Intent:
The Planned Development District for this property outlines the purpose, intent, and community benefit of the proposed development, which is to provide a community designed for active adults aged 55 and better with 1-2 bedroom apartment homes and cottages.

The Concept Plan offers several community benefits to mitigate impacts the development may have on the adjacent residential development.

Base Zoning and Meritorious Modifications:
The Planned Development District has a base zoning of MF Multi-Family.

At the time of site plan, the project will need to meet all applicable site development standards and platting requirements of the Unified Development Ordinance for the base zoning district, except where meritorious modifications are granted with the PDD zoning.

The applicant is requesting the following meritorious modifications:
- Removal of the buffering requirement of MF Multi Family to SF Single Family as required in Section 7.7.F of the UDO. The requirement of a MF development buffering to a SF Development is a 10’ buffer with a fence. They will provide a 5’ buffer with plantings of a 2-inch caliper canopy tree for every other building with a minimum 6’ wood fence along both the north and west property lines.
- Removal of the 2:1 Low-Density Residential Height Protection due to the base zoning being MF Multi Family as required in Section 7.2.G of the UDO for the single-story-duplex cottages on the site. They state that these will structures will be single story with a maximum eave height of 15’ and a maximum building height of 30’.
- Modifying of the Multi Family zoning district standards according to UDO Section 5.2.A to the following setbacks:

Minimum Front Setback: 10’
Minimum Side Street Setback: 10’
Minimum Side Setback: 10’
Minimum Rear Setback 10’

The applicant is requesting that the front setback be the property line facing Deacon Dr.

• Reduce the required amount of off street parking according to UDO Section 7.3.C from 1.5 parking spaces per one-bedroom units and 2 spaces per two-bedroom units. They are requesting for the requirement to be 1.1 parking spaces per bedroom.

Community Benefits:
The applicant is proposing the following community benefits:
1. By right the maximum height on the multistory building can be 75', applicant will reduce that height by 10' and will be limited to 65'.
2. The property will provide 25% additional landscaping points above the required points per Section 7.6.C.
3. They will increase the minimum tree caliper size on site to 2" and greater, as well as provide a minimum tree caliper size of 3" along the entry drive from Deacon Dr.
4. An increased width of 8' on the sidewalk along the entry drive out to Deacon Dr W to connect to the existing Bike Path on Deacon Dr W which is be depicted on the Concept Plan.
5. Provide architectural standards of the proposed development:

a. Multi-Story Building – Stone to 1-1/3 in height with the remainder being fiber cement siding
b. Cottages- 4' of stone between the garage and front door with the remainder being fiber cement siding.

6. Upgraded fencing along Holleman Dr S with the standards below:

a. Minimum 6' stained wood fence: 6' planks with pressure treated kick board along the bottom, 4" trim and 2" cap on top.
b. 7' stone columns with a stone cap on the corners with a minimum of 6 stone columns along Holleman Dr. S

These community benefits will help offset the requested modifications by enhancing the architectural features of the buildings and fencing to maintain a neighborhood aesthetic, increasing the landscaping and plantings on site, providing a limit on height for the multi-story building, increasing the sidewalk width, and allowing connectivity to the adjacent developed subdivision.

Budget & Financial Summary: N/A

Attachments:
1. Aerial and Small Area Map
2. Applicant's Supporting Information
3. Background Information
4. Rezoning Exhibit
5. Bulk Variances Letter
6. Proposed Concept Plan
7. Architectural Standards Exhibit
8. Existing Future Land Use Map
9. Rezoning Map
10. Ordinance

ZONING DISTRICTS (In Grayscale)

Residential

R	Rural
WE	Wellborn Estate
E	Estate
WRS	Wellborn Restricted Suburban
RS	Restricted Suburban
GS	General Suburban
D	Duplex
T	Townhome
MH	Middle Housing
MF	Multi-Family
MU	Mixed-Use
MHP	Manufactured Home Pk.

Non-Residential

NAP	Natural Area Protected
O	Office
SC	Suburban Commercial
WC	Wellborn Commercial
GC	General Commercial
CI	Commercial Industrial
BP	Business Park
BPI	Business Park Industrial
C–U	College and University

Planned Districts

P-MUD	Planned Mixed-Use Dist.
PDD	Planned Develop. Dist.

Design Districts

WPC	Wolf Pen Creek Dev. Cor.
NG–1	Core Northgate
NG–2	Transitional Northgate
NG–3	Residential Northgate

Overlay Districts

OV	Corridor Ovr.
RDD	Redevelopment District
HOO	High Occupancy Ovr.
ROO	Restricted Occupancy Ovr.
NPO	Nbrhd. Prevailing Ovr.
NCO	Nbrhd. Conservation Ovr.
HP	Historic Preservation Ovr.

Retired Districts

R-1B	Single Family Residential
R-4	Multi-Family
R-6	High Density Multi-Family
C-3	Light Commercial
RD	Research and Dev.
M-1	Light Industrial
M-2	Heavy Industrial

NORTH

0 370 740 Feet

CADENCE CREEK @ MISSION RANCH – SENIOR LIVING COMMUNITY

Case: REZ2024-000022

REZONING

REZONING APPLICATION
SUPPORTING INFORMATION

Name of Project: CADENCE CREEK @ MISSION RANCH – SENIOR LIVING COMMUNITY (REZ2024 -000022)

Address: 3182 HOLLEMAN DR S

Legal Description: A000701, CRAWFORD BURNETT (ICL), TRACT 22.1, 10.432 ACRES, & ASSOCIATED BPP

Total Acreage: 11.046

Applicant:: Mitchell & Morgan, LLP C/O Veronica Morgan

Property Owner: BCS MISSION RANCH TOWNHOMES LP

List the changed or changing conditions in the area or in the City which make this zone change necessary.

There continues to be a heavy demand for housing of all types in College Station as the population steadily and rapidly increases. This area designated on the Comprehensive Plan as Mixed Residential and Natural/Open Space, is one of the few properties remaining in College Station where a mix of housing types, one story cottages with a low-rise apartment style building contained within the center of the property would be viable.

The current zoning on the property is PDD-Planned Development with T-Townhouse base, which was placed on the property in 2021. This zone change to PDD-MF base is necessary because in the center of this proposed development is a low rise (3-4 story) apartment style building. Although the single-story cottage style buildings, which will ring the perimeter of the property and be adjacent to single family and duplex units, the taller structure will necessitate an Urban Residential Comprehensive Plan designation and a Multi-Family base for the PDD rezoning.

Indicate whether or not this zone change is in accordance with the Comprehensive Plan. If it is not, explain why the Plan is incorrect.

This rezoning request is being submitted concurrently with a Comprehensive Plan request for an Urban Residential designation. If that Comprehensive Plan amendment is approved this zone change will be in accordance with the Comprehensive Plan.

How will this zone change be compatible with the present zoning and conforming uses of nearby property and with the character of the neighborhood?

The current zoning district could work on this property, however there is an increased demand for 55+ active adult living. This use would be a quiet neighbor and would be more suitable on this tract than townhomes given its location near the single-family development of Mission Ranch.

Explain the suitability of the property for uses permitted by the rezoning district requested.

Housing of all types is in high demand and with the growing 55+ active adult demographic in this community, this property is suitable for this type development, given its location and surrounding uses.

Explain the suitability of the property for uses permitted by the current zoning district.

Housing of all types is in high demand and with the growing 55+ active adult demographic in this community, this property is suitable for this type development, given its location and surrounding uses.

Explain the marketability of the property for uses permitted by the current zoning district.

As stated above, there is a market for townhomes in this community but this area would be more conducive to a 55+ active adult community given the proximity to the Mission Ranch subdivision.

List any other reasons to support this zone change.

N/A

BACKGROUND INFORMATION

NOTIFICATIONS

Advertised Commission Hearing Date: November 21, 2024
Advertised Council Hearing Date: December 12, 2024

The following neighborhood organizations that are registered with the City of College Station's Neighborhood Services have received a courtesy letter of notification of this public hearing:

Barracks Townhomes HOA

Property owner notices mailed: 54

Contacts in support: None at the time of this report
Contacts in opposition: None at the time of this report
Inquiry contacts: None at the time of this report

ADJACENT LAND USES

Direction	Comprehensive Plan	Zoning	Land Use
North	Mixed Residential	MH - Middle Housing with HOO - High Occupancy Overlay	Duplexes
South	Natural & Open Areas	RS - Restricted Suburban	Undeveloped
East	Mixed Residential (across Holleman Dr S)	R - Rural	Holleman Dr S (Minor Arterial)
West	Suburban Residential	RS - Restricted Suburban	Single-Family detached

DEVELOPMENT HISTORY

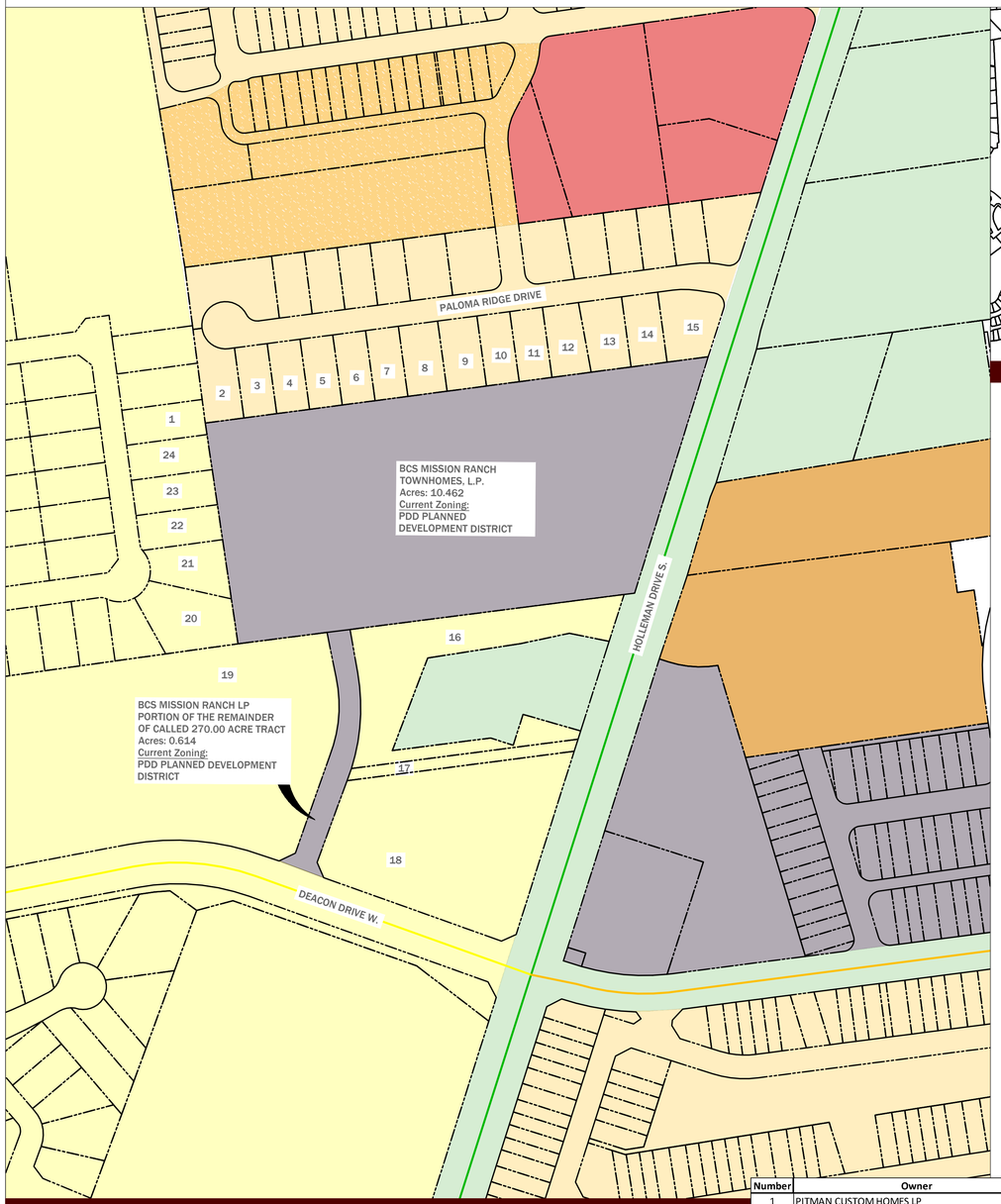
Annexed: November 2002

Zoning: A-O Agricultural-Open (upon annexation 2008)
A-O Agricultural to R-3 Townhouse (2008)
R-3 Townhouse to R-4 Multi-Family Residential (2012)
R-4 Multi-Family Residential to PDD base zoning T Townhouse (2021)

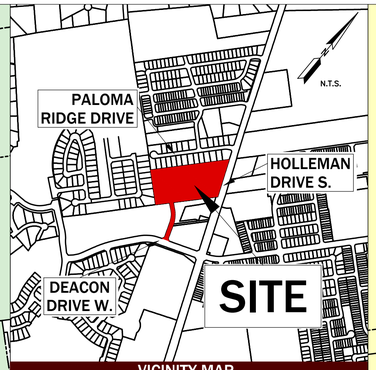
Final Plat: Unplatted

Site Development: Undeveloped

PROJECT BENCHMARK:



EXISTING

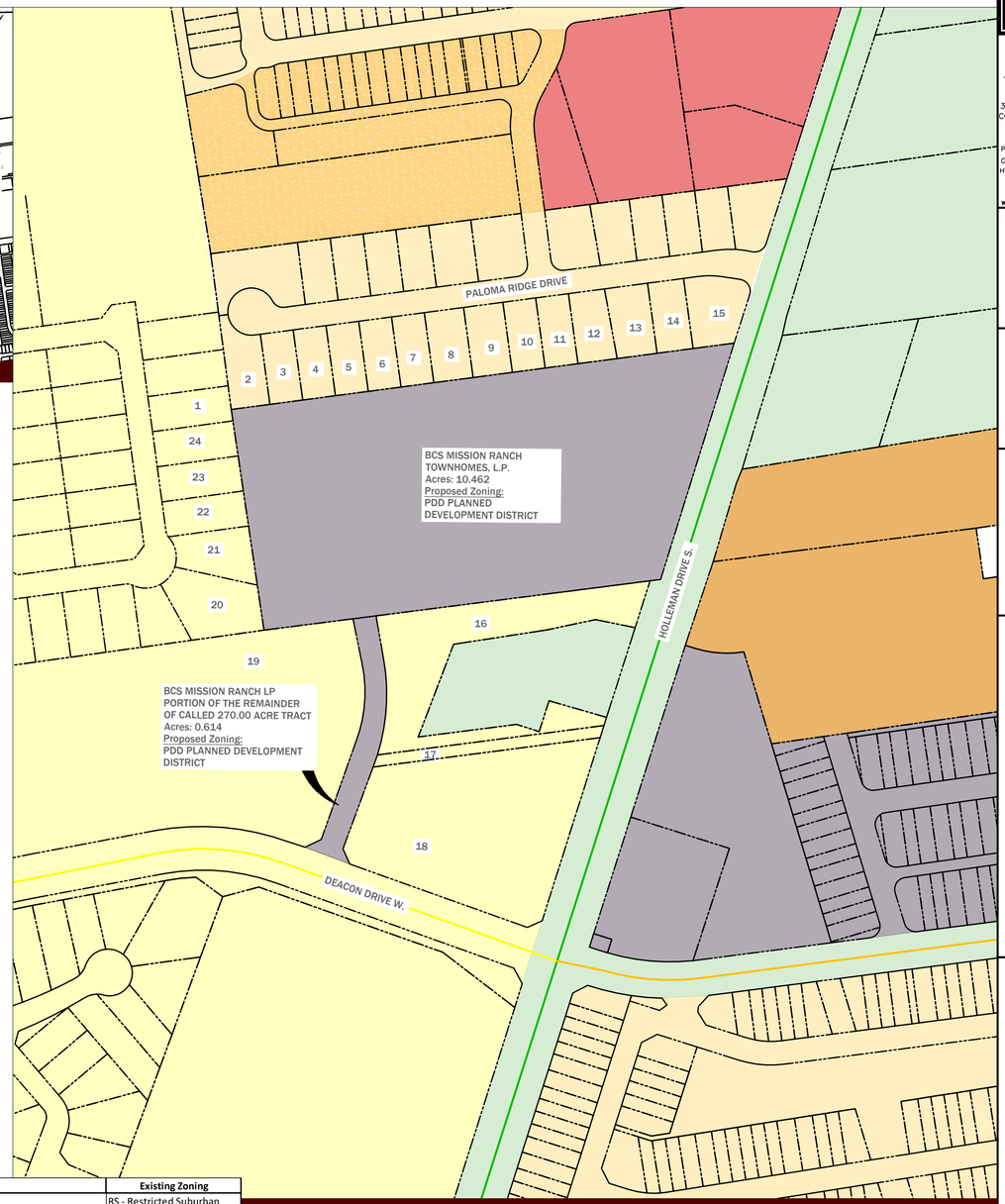


VICINITY MAP

Scale:
1 inch = 150 feet

LEGEND

- PROPERTY LINE
- 2–LANE MINOR COLLECTOR
- 2–LANE MAJOR COLLECTOR
- 4–LANE MINOR ARTERIAL
- RS RESTRICTED RESIDENTIAL
- PDD PLANNED DEVELOPMENT DISTRICT
- MF MULTI–FAMILY
- MH MIDDLE HOUSING
- T TOWNHOUSE
- R RURAL
- GC GENERAL COMMERCIAL



PROPOSED

Number	Owner	Legal Description	Existing Zoning
1	PITMAN CUSTOM HOMES LP	MISSION RANCH PH 203A, BLOCK 14, LOT 23	RS - Restricted Suburban
2	LEATHAM DAVID & MICHELLE REV LIVING TRUST	LAS PALOMAS, BLOCK 1, LOT 14	MH - Middle Housing
3	LEATHAM AMI DAWN	LAS PALOMAS, BLOCK 1, LOT 13	MH - Middle Housing
4	AGGIE NOOKS LLC SERIES PALOMA RIDGE	LAS PALOMAS, BLOCK 1, LOT 12	MH - Middle Housing
5	EQUITY TRUST COMPANY	LAS PALOMAS, BLOCK 1, LOT 11	MH - Middle Housing
6	RATLIFF LOGAN D AND KELLY M	LAS PALOMAS, BLOCK 1, LOT 10	MH - Middle Housing
7	BVB PROPERTY I LLC	LAS PALOMAS, BLOCK 1, LOT 9	MH - Middle Housing
8	BUCHANAN HEATHER	LAS PALOMAS, BLOCK 1, LOT 8	MH - Middle Housing
9	ROSENBERGER DONALD L & MARY KAY	LAS PALOMAS, BLOCK 1, LOT 7	MH - Middle Housing
10	EVANS DOROTHY	LAS PALOMAS, BLOCK 1, LOT 6	MH - Middle Housing
11	HOBBS WILLIAM H	LAS PALOMAS, BLOCK 1, LOT 5	MH - Middle Housing
12	HAYES JODI & JERRAL Y	LAS PALOMAS, BLOCK 1, LOT 4	MH - Middle Housing
13	WIDE JON BARIN & KIMBERLY DAWN	LAS PALOMAS, BLOCK 1, LOT 3	MH - Middle Housing
14	PATKE JONATHAN DOUGLAS	LAS PALOMAS, BLOCK 1, LOT 2	MH - Middle Housing
15	T & K ISLAND PROPERTIES	LAS PALOMAS, BLOCK 1, LOT 1	MH - Middle Housing
16	BCS MISSION RANCH LP	MISSION RANCH PH 101, LOT COMMON AREA 1A (PT OF), ACRES 1.777	RS - Restricted Suburban
17	MISSION RANCH COMMUNITY ASSOCIATION INC	MISSION RANCH PH 101, LOT COMMON AREA 1A (PT OF), ACRES 0.27	RS - Restricted Suburban
18	MISSION RANCH COMMUNITY ASSOCIATION INC	MISSION RANCH PH 101, LOT COMMON AREA 1A (PT OF), ACRES 3.23	RS - Restricted Suburban
19	MISSION RANCH COMMUNITY ASSOCIATION INC	MISSION RANCH PH 101, BLOCK 35, LOT COMMON AREAS 1B & 3-6, ACRES 16.007	RS - Restricted Suburban
20	BCS MISSION RANCH LP	MISSION RANCH PH 203A, BLOCK 14, LOT 18	RS - Restricted Suburban
21	BCS MISSION RANCH LP	MISSION RANCH PH 203A, BLOCK 14, LOT 19	RS - Restricted Suburban
22	BCS MISSION RANCH LP	MISSION RANCH PH 203A, BLOCK 14, LOT 20	RS - Restricted Suburban
23	REECE HOMES LLC	MISSION RANCH PH 203A, BLOCK 14, LOT 21	RS - Restricted Suburban
24	PITMAN CUSTOM HOMES LP	MISSION RANCH PH 203A, BLOCK 14, LOT 22	RS - Restricted Suburban

NOTES:

1. *In accordance with FEMA'S FLOOD INSURANCE RATE MAP panel 48041C0305F, the site does not lie within the 100-year floodplain boundary, Effective Date : 4/2/2014*

MITCHELL M&M MORGAN
T.979.260.6963
F.979.260.3564
TX. FIRM # F-1443
3204 EARL RUDDER FWY. S.
COLLEGE STATION, TX 77845
PLAN & DESIGN SPECIALISTS IN
CIVIL ENGINEERING • HYDRAULICS
HYDROLOGY • UTILITIES • STREETS
SITE PLANS • SUBDIVISIONS
www.mitchellandmorgan.com

For interim Review Only
These documents are not intended for regulatory bidding or permit purposes.
Wenonah B. Morgan, P.E.
No. 77689

APRIL 2024
Drawn By: MGF
Checked By: WBM

Prepared For:
Coldwell Communities
9995 Barker Cypress Road,
Suite 250
Cypress, TX 77433

Revisions

REZONING MAP
CADENCE CREEK AT MISSION RANCH

RZ

MITCHELL M&M MORGAN

City of College Station
Planning & Development Services
City of College Station
P.O. Box 9960
College Station, TX 77842

November 8, 2024

Re: 3445 Cain Road – Cadence Creek - Caldwell 55+ Active Adult Community (PDD w/ MF Base Rezoning) – Revision 1

To Whom it May Concern,

Caldwell Communities is proud to be the developer of Mission Ranch, which was voted the best Master Planned Community in Brazos Valley 3 years in a row. With the same vision to enrich lives through our master planned communities, Caldwell Companies has developed Cadence Creek Communities, focused on enriching the lives of active adults as they age in place, build community, and live a maintenance free lifestyle close to family and friends. We desire to develop Cadence Creek Mission Ranch. We currently have 2 similar Cadence Creek communities in the Houston area, one of which just won the HAA Senior Living Property of the Year. Our goal is to offer College Station's 55+ community a great place to live, with a maintenance-free lifestyle, while being close to family and grandchildren.

Understanding that we must choose a base zoning district for the residential development upon which we base all variance requests, we have chosen Multi-Family (MF) for this Planned Development District. We are requesting the following bulk variances to the Multi-Family (MF) development standards:

1. **Request to buffer the development as single family adjacent to single family and not multi-family adjacent to single family.**

   The UDO requires a ten-foot (10') planting buffer and a fence along the northern and western property lines that abut the Mission Ranch and Paloma Ridge Subdivisions because the zoning base in our PDD is multi-family. The driving factor for this zoning base is to allow for one common lot and a mix of residential unit types to serve the 55-plus senior community. The proposed unit type that is to be located along the northern and western property lines are all duplex cottages, which are a single-family use per the UDO. Single-family is not required to buffer against single-family per the code. We are offering a five-foot (5') buffer against the adjacent single-family subdivision with the plantings contained in that buffer of one 2-inch caliper canopy tree every other building. We will be providing a minimum six-foot (6') wood fence along both of these property lines with the development.

2. **Request a variance to the 2:1 height ratio between multi-family and single-family residential.**

   The UDO requires Low Density Residential Height Protection along the northern and western property lines that abut the Mission Ranch and Paloma Ridge Subdivisions because the zoning base in our PDD is multi-family.

   As stated above, the driving factor for this zoning base is to allow for one common lot and a mix of residential unit types to serve the 55-plus senior community. The proposed unit type that is to

be located along the northern and western property lines are all single-story duplex cottages, which are a single-family use per the UDO. Single-family is not required to provide height protection against adjacent single-family uses. With this request, we would ask that the 2:1 height ratio not apply to the duplex cottages on this project for this reason. All of these duplex cottages will be single story structures with a maximum eave height of 15 feet and a maximum building height of 30 feet.

3. **Request a variance to the Front Setback, Side Street Setback, and the Rear Setback.**

The multi-family zoning district requires the following standard setbacks:

- Minimum Front Setback – 15'
- Maximum Front Setback - None
- Minimum Side Setback – 7.5'
- Minimum Side Street Setback – 15'
- Minimum Rear Setback – 20'

With this request, we would like to request that all setbacks be set at ten-feet (10'). The Front Setback, Side Street Setback, and the Rear Setback would be reduced to ten-feet (10') while the Side Setback would increase to ten-feet (10').

Additionally, with this request, we are asking that the front setback be defined as the side facing Deacon Drive and the remaining setbacks defined accordingly. Staff's interpretation is the front setback be defined as that along Holleman Drive South. Our desire is the development will be oriented with the main entry drive, entry signage and address from Deacon Drive. The development is designed to serve the 55-plus senior community. It is important that the primary access drive be located on Deacon Drive (a 2-lane Minor Collector) and not from Holleman Drive South (a 4-lane Minor Arterial) for the health and safety of the tenants. The driveway to Holleman Drive South is for secondary access purposes only.

4. **Request a variance to the required amount of off-street parking.**

Minimum parking requirements for Multi-Family (MF) require one and a half (1.5) parking spaces per one-bedroom units and two (2) parking spaces per two-bedroom units. Currently, Caldwell Companies has constructed and is currently operating 2 similar projects in the Houston area, Cadence Creek Gosling (CCG) and Cadence Creek Town Lake (CCTL). Because of the demographic occupying this type project they have found that the parking ratio for their units does not approach the City of College Station requirements. In an effort to not have a "sea" of parking onsite and instead utilize that area for greenspace, we are seeking a variance to the required number of off-street parking spaces based upon actual parking data from these other projects.

The design for these 2 projects was based upon the following criteria:

> *CCG: 1.38 spaces/unit, or 1.09 spaces/bedroom*
> *CCTL: 1.32 spaces/unit, or 1.00 spaces/bedroom*
> *With an average parking ratio used in these designs of 1.35 spaces/unit, or 1.05 spaces/bedroom*

Caldwell Companies has found that every resident does not have a vehicle and many of their 2-bedroom units only have one resident. The following data was based on percent occupied and assumes that they will have the same ratio until stabilization. CCG is 92% occupied and CCTL is almost 70% occupied, which makes this data set based on over 340 occupied units.

Assuming full occupancy and assuming every resident has one car in these 2 projects, the number of vehicles that would be onsite are as follows:

CCG: 1.31 vehicles/unit, or 1.03 vehicles/bedroom
CCTL: 1.27 vehicles/unit, or 0.96 vehicles/bedroom
Average: 1.29 vehicles/unit, or 1.00 vehicles/bedroom

Assuming full occupancy and using actual data based upon registered vehicles onsite in these 2 projects the following are the vehicles per bedroom ratios:

CCG: 0.94 vehicles/unit, or 0.74 vehicles/bedroom
CCTL: 1.05 vehicles/unit, or 0.80 vehicles/bedroom
Average: 0.99 vehicles/unit, or 0.77 vehicles/bedroom

It is in our best interest to provide sufficient parking onsite for our residents. Our request is to provide a parking ratio of 1.1 parking spaces/bedroom in this project, which exceeds the parking of our previous 2 projects. We believe that ratio will adequately serve the number of units constructed on this project.

As stated in the UDO, the purpose of the Planned Development district is to promote and encourage innovative development that is sensitive to surrounding land uses and to the natural environment. A PDD may be used to permit new or innovative concepts in land utilization not permitted by other zoning districts. Finally, the PD District allows development to vary from certain development standards so long as there are community benefits which outweigh the requested modifications. We believe that this project offers a desired development opportunity and its community benefits outweigh modifications being requested.

The Cadence Creek community, designed for active adults aged 55 and better, offers numerous benefits to the Bryan/College Station community:

1. It prioritizes aging-in-place support with 1- and 2-bedroom apartment homes and cottages, and amenities for comfort and convenience. Resort-style amenities like a clubhouse, demonstration kitchen, dining room, and various social spaces enhance quality of life and foster community. Entertainment options include a game room, theater, art studio, and a courtyard with a year-round heated pool. Outdoor activities are supported by a bocce ball court, event lawn, outdoor grill area, and fire pit. A dog park promotes a pet-friendly environment, while health and wellness are encouraged through physical activity and social interaction. Additionally, Cadence Creek offers maintenance-free living to support a lock-and-leave lifestyle. The goal of the robust lifestyle program facilitated by a dedicated lifestyle director is to build community and eliminate isolation, supporting a long and healthy life. Overall, Cadence Creek enriches the community by offering tailored amenities and fostering connections for a fulfilling lifestyle.
2. The use of a multi-story building combined with the cottages provide for a multiple housing offering to the marketplace, for some people the convenience of a multi-story building with all amenities is appealing, while to others, the cottages offer a 'single family detached" concept with private yards and personal outdoor spaces.
3. The Concept Plan is designed to be considerate of the adjacent residential developments by utilizing building types and sizes that are similar in nature (single-family residential size and height) to the adjacent developments. The multi-story building is designed closer to the property line that is adjacent to an existing Mission Ranch common area and open space thus buffering the project well from the adjacent development to the south.
4. Cottages will create a small neighborhood ambiance and scale, all interconnected with sidewalks to the various site amenities and the multi-story building.

5. Sidewalks within the Cadence Creek development will be connected to the Mission Ranch open space and trail system via the sidewalk connection along the entrance drive to Deacon Drive, increasing the offering of recreational opportunities to the Cadence Creek residences. This will increase the overall community integration between Mission Ranch and Cadence Creek communities allowing for a true aging in place experience. We envision grandchildren and adult children in Mission Ranch and nearby communities walking or riding their bikes to visit grandparents at Cadence Creek, and vice versa. With this in mind, we offer to increase the proposed sidewalk along the entrance drive to eight-feet (8') to allow connectivity to the existing bike path on Deacon Drive. The only exception to this extra width will be at the culvert crossing where the sidewalk may need to narrow slightly.
6. Reduced parking ratios for this market segment are of benefit from the standpoint of reduced paving / parking areas and increased open space/planting areas, making it a more sustainable project.
7. Cadence Creek will also have a lower traffic impact on the overall community compared to a traditional multi-family project which has currently been permitted for this site. Using the Institute of Transportation Engineers traffic generation rates and using the land use code of 252 for Senior Housing, the trip generation rate in the PM peak is 0.33 trips/dwelling units. Using the land use code 220 for Multi-family Low Rise, the trip generation rate is 0.56 in the PM peak thereby generating a total of 58% more trips per day when using the multi-family land use.
8. The proposed location of the multi-story building is approximately one hundred and fifty feet (150') from the northern property line adjacent to the Paloma Ridge Subdivision. This distance would allow for a maximum building height of seventy-five feet (75'). With this request, we are offering to set a maximum height of seventy feet (65') on this building, which would provide a ten-foot (10') height reduction.
9. We offer to provide 25% additional landscaping points above the required points for the proposed development.
10. We offer to increase the minimum tree caliper size on site to two-inches (2") and greater. Additionally, we offer to provide a minimum tree caliper size of three-inches (3") along the main entry drive from Deacon Drive.
11. We offer to provide the following architectural standards for the proposed development:
    a. For the Multistory building, we will provide stone to 1-1/3 stories in height with the remainder being fiber cement siding (Hardie or similar).
    b. For the Cottages buildings, we will provide four-feet (4') of stone between the garage and front door with the remainder being fiber cement siding (Hardie or similar).

Architectural examples below:

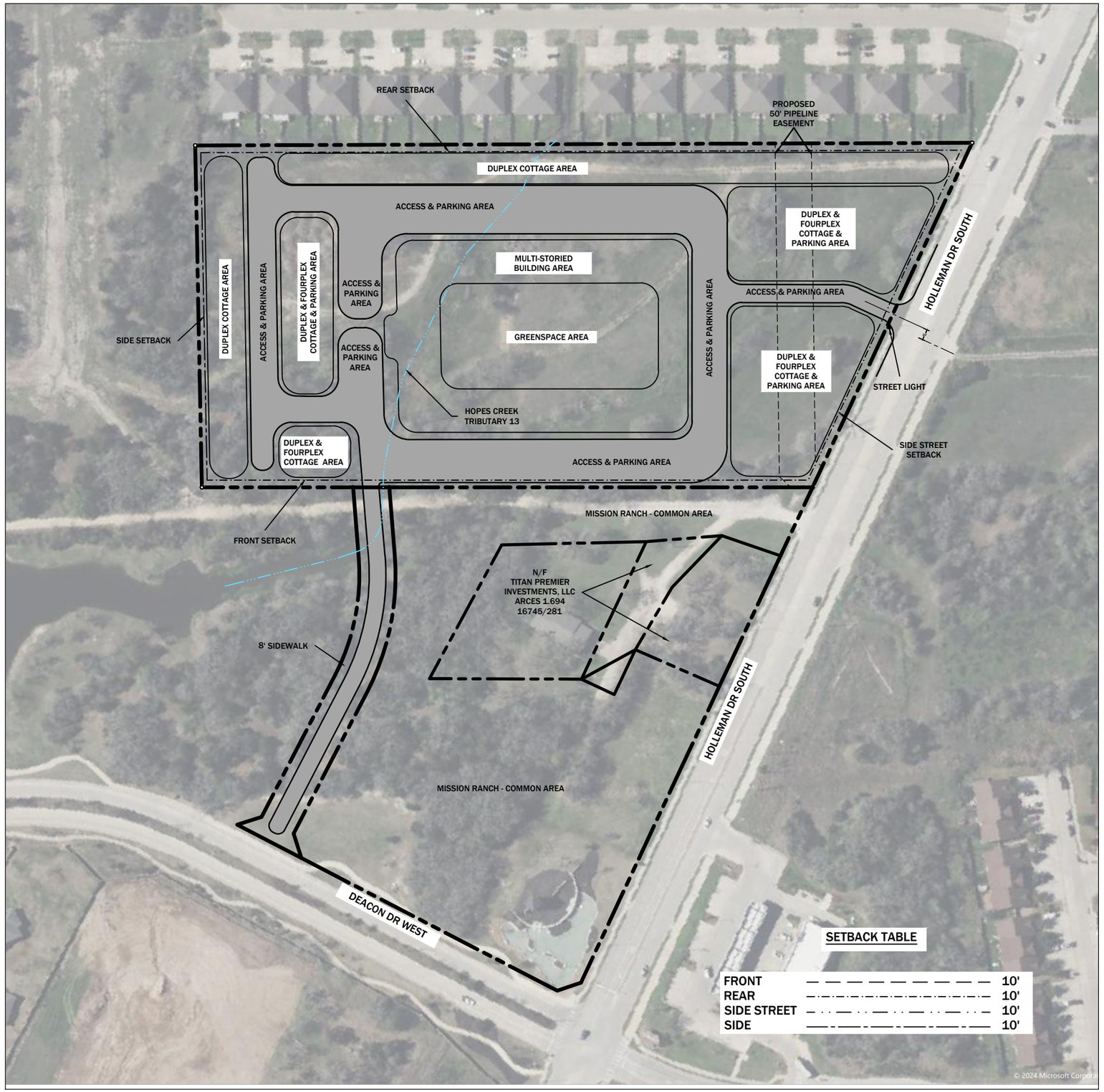
12. We offer to upgrade the project fencing along Holleman Drive.
    a. We will provide minimum 6' stained wood fence: 6' planks with a pressure treated kick board along the bottom, 4" trim and 2" cap on top.
    b. We will provide 7' stone columns with a stone cap at the corners with a minimum of six (6) stone columns along Holleman Drive.

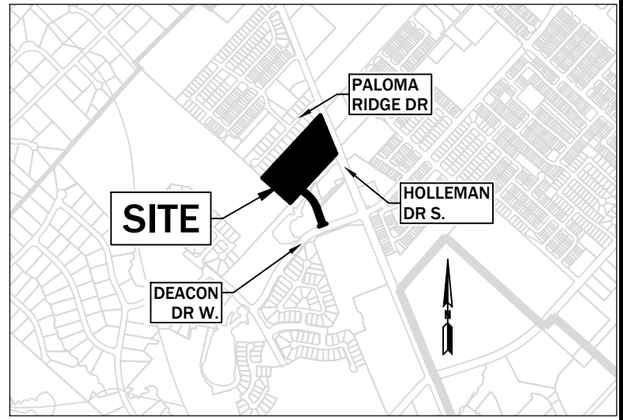
    Fence example below:

Thank you very much. If you have any questions, please do not hesitate to call.

Sincerely,

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





VICINITY MAP
N.T.S.

N.T.S.

NOTES:

OWNER: BCS MISSION RANCH TOWNHOME
C/O TODD JOHNSON

LEGAL DESCRIPTION: 10.432 ACRE TRACT, A 0.614 ACRE TRACT
MISSION RANCH PHASE 101
VOLUME 14856, PAGE 163
COLLEGE STATION, BRAZOS COUNTY, TEXAS

1. TOTAL SITE AREA: 11.046 ACRES
2. THIS SITE IS NOT LOCATED IN A FEMA REGULATED 100-YEAR FLOODPLAIN PER FEMA MAP PANEL #48041C0305F DATED 4/2/2014.
3. THE DEVELOPMENT WILL NOT INCLUDE PARKS, GREENWAYS, CONSERVATION AREAS, OR SCHOOLS.
4. ALL SITE LIGHTING WILL COMPLY WITH CITY OF COLLEGE STATION ORDINANCES.
5. SEE BULK VARIANCES LETTER FOR MERITORIOUS MODIFICATIONS.
6. ALL DUPLEX AND FOURPLEX COTTAGES SHALL BE SINGLE STORY.

For Interim Review Only
These documents are not intended for construction, bidding, or permit purposes.
Prepared by:
Veronica J.B. Morgan, P.E.
No. 77689

MARCH 2024
Designed by: VJBM
Drawn By: TAM
Checked By: VJBM

Revisions

MITCHELL MORGAN
T.979.260.6963
F.979.260.3564
TX. FIRM # F-1443
3204 EARL RUDDER FWY S
COLLEGE STATION, TX 77845
PLAN & DESIGN SPECIALISTS IN CIVIL ENGINEERING • HYDRAULICS HYDROLOGY • UTILITIES • STREETS SITE PLANS • SUBDIVISIONS
www.mitchellandmorgan.com

CONCEPT PLAN
CADENCE CREEK at MISSION RANCH

CP

11. We offer to provide the following architectural standards for the proposed development:
    a. For the Multistory building, we will provide stone to 1-1/3 stories in height with the remainder being fiber cement siding (Hardie or similar).
    b. For the Cottages buildings, we will provide four-feet (4') of stone between the garage and front door with the remainder being fiber cement siding (Hardie or similar).

Architectural examples below:

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    Fence example below:

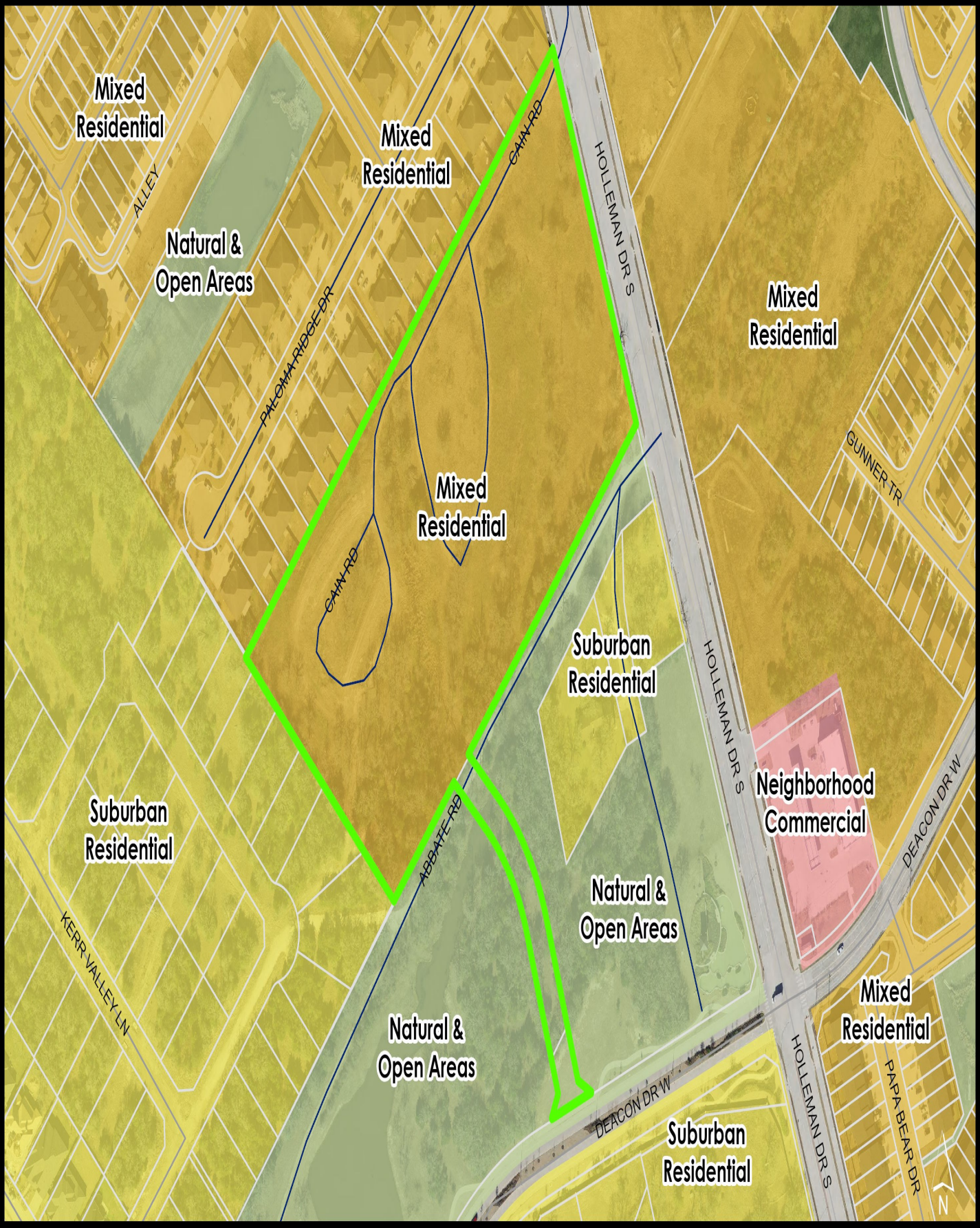
Thank you very much. If you have any questions, please do not hesitate to call.

Sincerely,

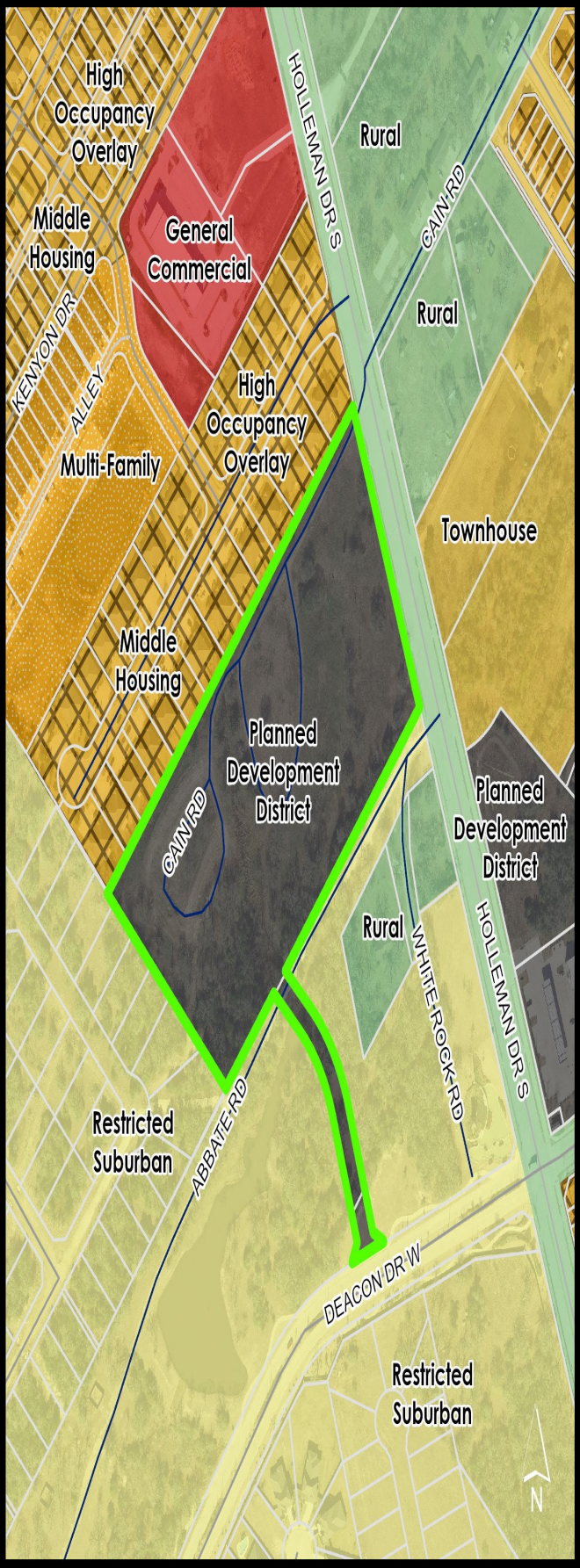
Veronica J.B. Morgan, PE, CFM
Managing Partner

EXISTING

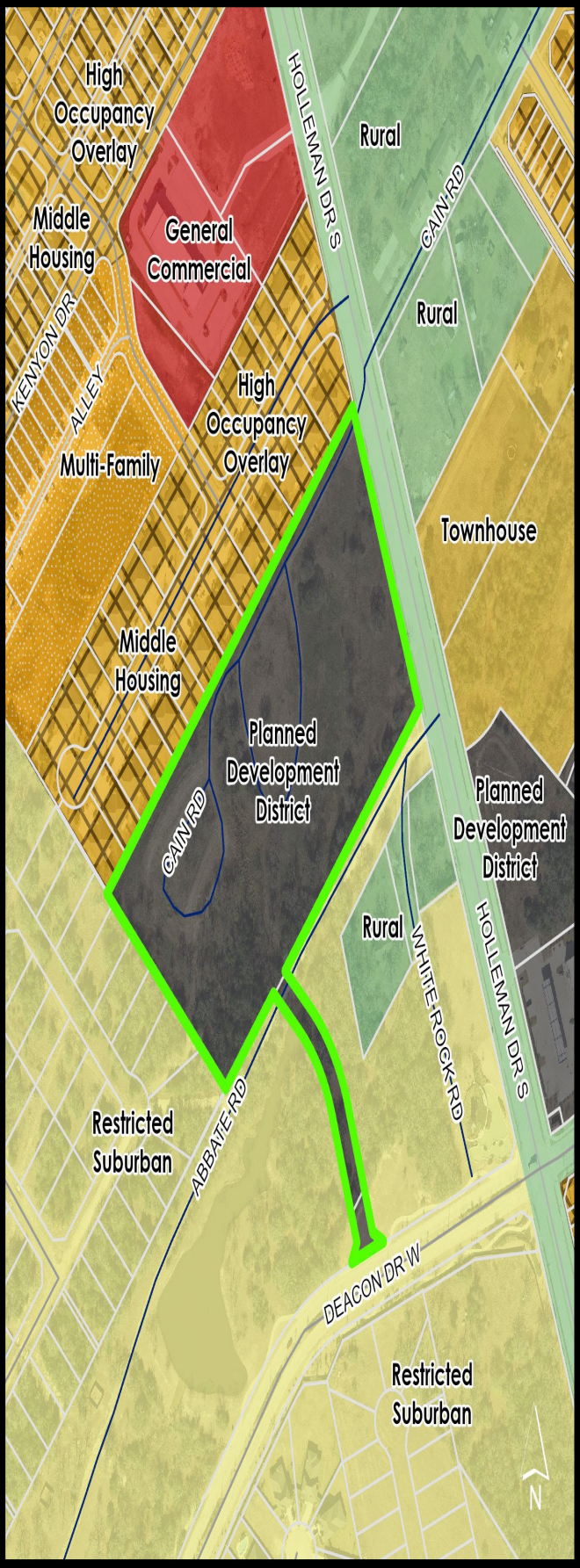
Future Land Use



EXISTING
Zoning



PROPOSED
Zoning



ORDINANCE NO. _____

AN ORDINANCE AMENDING APPENDIX A "UNIFIED DEVELOPMENT ORDINANCE," ARTICLE 4 "ZONING DISTRICTS," SECTION 4.2, "OFFICIAL ZONING MAP" OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING THE APPROXIMATELY 11.046 ACRE TRACT OF LAND LYING AND BEING SITUATED IN THE CRAWFORD BURNETT SURVEY, ABSTRACT NO. 7, GENERALLY LOCATED AT 3182 HOLLEMAN DRIVE SOUTH, AS DESCRIBED BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

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

PART 1: That Appendix A "Unified Development Ordinance," Article 4 "Zoning Districts," Section 4.2 "Official Zoning Map" of the Code of Ordinances of the City of College Station, Texas, be amended as set out in **Exhibit "A"**, **Exhibit "B", Exhibit "C", and Exhibit "D"** attached hereto and made a part of this Ordinance for all purposes.

PART 2: If any provision of this Ordinance or its application to any person or circumstances is held invalid or unconstitutional, the invalidity or unconstitutionality does not affect other provisions or application of this Ordinance or the Code of Ordinances of the City of College Station, Texas, that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this Ordinance are severable.

PART 3: That any person, corporation, organization, government, governmental subdivision or agency, business trust, estate, trust, partnership, association and any other legal entity violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not less than twenty five dollars ($25.00) and not more than five hundred dollars ($500.00) or more than two thousand dollars ($2,000) for a violation of fire safety, zoning, or public health and sanitation ordinances, other than the dumping of refuse. Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PART 4: This Ordinance is a penal ordinance and becomes effective ten (10) days after its date of passage by the City Council, as provided by City of College Station Charter Section 35.

PASSED, ADOPTED, and APPROVED this 12th day of December 2024.

ATTEST: **APPROVED:**

_____ _____

City Secretary **Mayor**

APPROVED:

_____

City Attorney

Exhibit A

That Appendix A "Unified Development Ordinance," Article 4 "Zoning Districts," Section 4.2, "Official Zoning Map" of the Code of Ordinances of the City of College Station, Texas, is hereby amended as follows:

The following property is rezoned from PDD (Townhouse) to PDD (Multi-Family):

METES AND BOUNDS DESCRIPTION
OF AN
11.046 ACRE TRACT
CRAWFORD BURNETT SURVEY, A-7
COLLEGE STATION, BRAZOS COUNTY, TEXAS

METES AND BOUNDS DESCRIPTION OF ALL THAT CERTAIN TRACT OF LAND LYING AND BEING SITUATED IN THE CRAWFORD BURNETT SURVEY, ABSTRACT NO. 7, COLLEGE STATION, BRAZOS COUNTY, TEXAS. SAID TRACT BEING A PORTION OF THE REMAINDER OF A CALLED 270.800 ACRE TRACT OF LAND AS DESCRIBED BY A DEED TO BCS MISSION RANCH LP RECORDED IN VOLUME 13842, PAGE 179 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS AND ALL OF A 10.462 ACRE TRACT OF LAND AS DESCRIBED BY A DEED TO BCS MISSION RANCH TOWNHOMES, L.P. RECORDED IN VOLUME 14791, PAGE 155 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS.

SAID TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 5/8 INCH IRON ROD WITH PLASTIC CAP STAMPED 'KERR 4502' FOUND (Y:10194065.21, X:3557365.69) ON THE SOUTHWEST LINE OF HOLLEMAN DRIVE SOUTH (R.O.W. WIDTH VARIES) MARKING THE EAST CORNER OF SAID 10.462 ACRE TRACT AND THE NORTH CORNER OF COMMON AREA NO. 1A, MISSION RANCH PHASE 101 AS SHOWN ON THE PLAT RECORDED IN VOLUME 14856, PAGE 163 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS. COORDINATES AND BEARING SYSTEM SHOWN HEREIN ARE NAD83 (TEXAS STATE PLANE CENTRAL ZONE GRID NORTH) BASE ON THE PUBLISHED COORDINATES OF THE CITY OF COLLEGE STATION CONTROL MONUMENT CS94-117 (Y:10191793.14, X:3559913.46) AND AS ESTABLISHED BY GPS OBSERVATION. DISTANCES SHOWN HEREIN ARE GRID DISTANCES. TO DETERMINE SURFACE DISTANCES MULTIPLY BY A COMBINED SCALE FACTOR OF 1.0000957 (CALCULATED USING GEOID12B);

THENCE: S 42° 57' 11" W ALONG THE COMMON LINE OF SAID 10.462 ACRE TRACT AND SAID COMMON AREA NO. 1A FOR A DISTANCE OF 584.69 FEET (PLAT CALL: S 44° 59' 54" W – 584.78 FEET, 14856/163) TO A ½ INCH IRON ROD WITH PLASTIC CAP STAMPED 'KERR 4502' SET MARKING THE WEST CORNER OF SAID COMMON AREA 1A AND THE NORTH CORNER OF SAID PORTION OF THE REMAINDER OF 270.800 ACRE TRACT;

THENCE: ALONG THE COMMON LINE OF SAID COMMON AREA NO. 1A AND SAID REMAINDER OF 270.800 ACRE TRACT FOR THE FOLLOWING CALLS:

S 51° 37' 25" E FOR A DISTANCE OF 93.66 FEET (PLAT CALL: S 49° 35' 04" E – 93.67 FEET, 14856/163) TO A ½ INCH IRON ROD WITH PLASTIC CAP STAMPED 'KERR 4502' SET MARKING THE BEGINNING OF A CLOCKWISE CURVE HAVING A RADIUS OF 349.97 FEET;

ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 31° 58' 56" FOR AN ARC DISTANCE OF 195.35 FEET (CHORD BEARS: S 35° 37' 57" E – 192.83 FEET) TO A ½ INCH IRON ROD WITH PLASTIC CAP STAMPED 'KERR 4502' SET MARKING THE END POINT OF SAID CURVE;

S 19° 38' 30" E FOR A DISTANCE OF 220.64 FEET (PLAT CALL: S 17° 36' 09" E – 220.66 FEET, 14856/163) TO A ½ INCH IRON ROD WITH PLASTIC CAP STAMPED 'KERR 4502' SET;

S 64° 38' 30" E FOR A DISTANCE OF 35.35 FEET (PLAT CALL: S 62° 36' 09" E – 35.36 FEET, 14856/163) TO A ½ INCH IRON ROD WITH PLASTIC CAP STAMPED 'KERR 4502' SET ON THE NORTHWEST LINE OF DEACON DRIVE WEST (90' R.O.W.) MARKING THE SOUTHWEST CORNER OF SAID COMMON AREA NO. 1A;

THENCE: S 70° 21' 30" W ALONG THE NORTHWEST LINE OF DEACON DRIVE WEST FOR A DISTANCE

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OF 99.99 FEET (PLAT CALL: S 72° 23' 51" W – 100.00 FEET, 14856/163) TO A ½ INCH IRON ROD WITH PLASTIC CAP STAMPED 'KERR 4502' SET MARKING THE SOUTHEAST CORNER OF COMMON AREA NO. 1B, MISSION RANCH PHASE 101 AS SHOWN ON SAID PLAT, 14856/163;

THENCE: ALONG THE COMMON LINE OF SAID COMMON AREA NO. 1B AND SAID REMAINDER OF 270.800 ACRE TRACT FOR THE FOLLOWING CALLS:

N 25° 21' 30" E FOR A DISTANCE OF 35.35 FEET (PLAT CALL: N 27° 23' 51" E – 35.36 FEET, 14856/163) TO A ½ INCH IRON ROD WITH PLASTIC CAP STAMPED 'KERR 4502' SET;

N 19° 38' 30" W FOR A DISTANCE OF 220.64 FEET (PLAT CALL: N 17° 36' 09" W – 220.66 FEET, 14856/163) TO A ½ INCH IRON ROD WITH PLASTIC CAP STAMPED 'KERR 4502' SET MARKING THE BEGINNING OF A COUNTER-CLOCKWISE CURVE HAVING A RADIUS OF 299.97 FEET;

ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 31° 58' 56" FOR AN ARC DISTANCE OF 167.44 FEET (CHORD BEARS: N 35° 37' 57" W – 165.28 FEET) TO A ½ INCH IRON ROD WITH PLASTIC CAP STAMPED 'KERR 4502' SET MARKING THE END POINT OF SAID CURVE;

N 51° 37' 25" W FOR A DISTANCE OF 97.67 FEET (PLAT CALL: N 49° 35' 04" W – 93.68 FEET, 14856/163) TO A ½ INCH IRON ROD WITH PLASTIC CAP STAMPED 'KERR 4502' SET ON THE SOUTHEAST LINE OF SAID 10.432 ACRE TRACT MARKING THE NORTH CORNER OF SAID COMMON AREA NO. 1B;

THENCE: S 42° 57' 33" W ALONG THE COMMON LINE OF SAID 10.432 ACRE TRACT AND SAID COMMON AREA NO. 1B FOR A DISTANCE OF 209.02 FEET (PLAT CALL: S 44° 59' 54" W – 209.17 FEET, 14856/163) TO A ½ INCH IRON ROD FOUND MARKING THE SOUTH CORNER OF SAID 10.432 ACRE TRACT AND THE EAST CORNER OF A PORTION OF SAID REMAINDER OF 270.800 ACRE TRACT;

THENCE: N 48° 09' 00" W ALONG THE COMMON LINE OF SAID 10.432 ACRE TRACT AND SAID REMAINDER OF 270.800 ACRE TRACT FOR A DISTANCE OF 472.47 FEET (DEED CALL: N 48° 11' 31" W – 472.47 FEET, 14791/155) TO A ½ INCH IRON ROD FOUND MARKING THE WEST CORNER OF SAID 10.432 ACRE TRACT AND THE SOUTH CORNER OF LOT 14, BLOCK ONE, LAS PALOMAS SUBDIVISION AS SHOWN ON THE PLAT RECORDED IN VOLUME 7367, PAGE 53 OF THE OFFICIAL PUBLIC RECORDS OF BRAZOS COUNTY, TEXAS;

THENCE: N 42° 45' 49" E ALONG THE COMMON LINE OF SAID 10.432 ACRE TRACT AND SAID LAS PALOMAS SUBDIVISION FOR A DISTANCE OF 1073.52 FEET (DEED CALL: N 42° 45' 56" E – 1073.50 FEET, 14791/155) TO A POINT MARKING THE NORTH CORNER OF SAID 10.432 ACRE TRACT AND THE EAST CORNER OF LOT 1, BLOCK ONE, OF SAID LAS PALOMAS SUBDIVISION. FOR REFERENCE, A ½ INCHI RON ROD FOUND BENT BEARS: S 42° 31' 05" W FOR A DISTANCE OF 0.38 FEET;

THENCE: S 22° 11' 07" E ALONG THE SOUTHWEST LINE OF HOLLEMAN DRIVE SOUTH FOR A DISTANCE OF 524.58 FEET (DEED CALL: S 22° 13' 07" E – 524.49 FEET, 14791/155) TO THE **POINT OF BEGINNING** CONTAINING 11.046 ACRES OF LAND, MORE OR LESS, AS SURVEYED ON THE GROUND SEPTEMBER 2018. SEE PLAT PREPARED OCTOBER 2018, FOR MORE DESCRIPTIVE INFORMATION.

BRAD KERR
REGISTERED PROFESSIONAL
LAND SURVEYOR No. 4502

\\JOBS\18-527\18-527.docx

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Exhibit B - Zoning Map

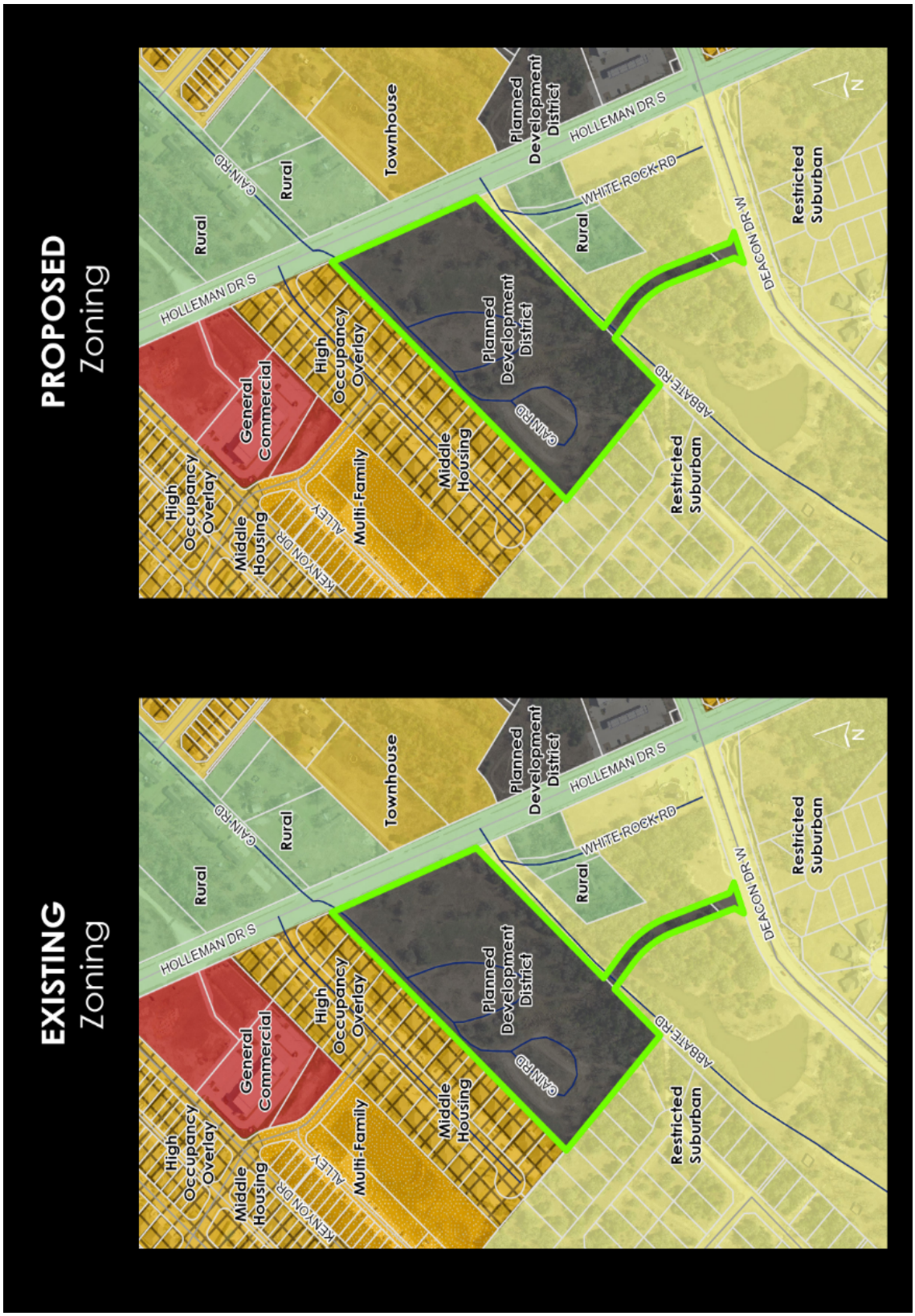


Exhibit C – Meritorious Modifications and Community Benefits

Purpose, Intent and Community Benefits:
The Planned Development District for this property outlines the purpose, intent, and community benefit of the proposed development, which is to provide a community designed for active adults aged 55 and better with 1-2 bedroom apartment homes and cottages.

Base Zoning and Meritorious Modifications
The Planned Development District has a base zoning of MF Multi-Family.

At the time of site plan, the project will need to meet all applicable site development standards and platting requirements of the Unified Development Ordinance for the base zoning district, except where meritorious modifications are granted with the PDD zoning.

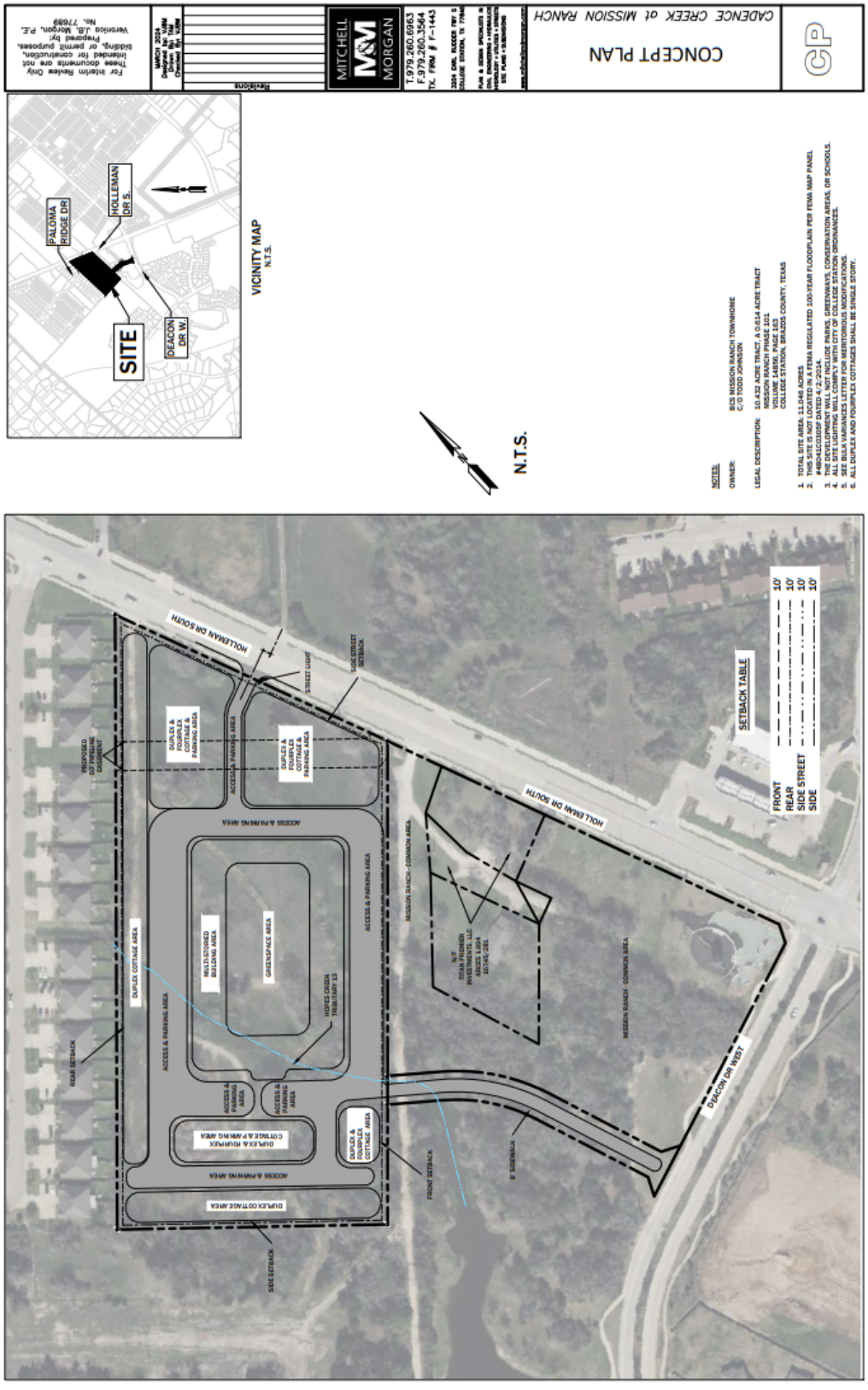
The applicant is requesting the following meritorious modifications:
• Removal of the buffering requirement of MF Multi Family to SF Single Family as required in Section 7.7.F of the UDO. The requirement of a MF development buffering to a SF Development is a 10' buffer with a fence. They will provide a 5' buffer with plantings of a 2-inch caliper canopy tree for every other building with a minimum 6' wood fence along both the north and west property lines.
• Removal of the 2:1 Low-Density Residential Height Protection due to the base zoning being MF Multi Family as required in Section 7.2.G of the UDO for the single-story-duplex cottages on the site. They state that these will structures will be single story with a maximum eave height of 15' and a maximum building height of 30'.
• Modifying of the Multi Family zoning district standards according to UDO Section 5.2.A to the following setbacks:

Minimum Front Setback: 10'
Minimum Side Street Setback: 10'
Minimum Side Setback: 10'
Minimum Rear Setback 10'
The applicant is requesting that the front setback be the property line facing Deacon Dr.

• Reduce the required amount of off street parking according to UDO Section 7.3.C from 1.5 parking spaces per one-bedroom units and 2 spaces per two-bedroom units. They are requesting for the requirement to be 1.1 parking spaces per bedroom.

Community Benefits:
The applicant is proposing the following community benefits:
1. By right the maximum height on the multistory building can be 75', applicant will reduce that height by 10' and will be limited to 65'.
2. The property will provide 25% additional landscaping points above the required points per Section 7.6.C.
3. They will increase the minimum tree caliper size on site to 2" and greater, as well as provide a minimum tree caliper size of 3" along the entry drive from Deacon Dr.
4. An increased width of 8' on the sidewalk along the entry drive out to Deacon Dr W to connect to the existing Bike Path on Deacon Dr W which is be depicted on the Concept Plan.
5. Provide architectural standards of the proposed development:
a. Multi-Story Building – Stone to 1-1/3 in height with the remainder being fiber cement siding
b. Cottages- 4' of stone between the garage and front door with the remainder being fiber cement siding.
6. Upgraded fencing along Holleman Dr S with the standards below:
a. Minimum 6' stained wood fence: 6' planks with pressure treated kick board along the bottom, 4" trim and 2" cap on top.
b. 7' stone columns with a stone cap on the corners with a minimum of 6 stone columns along Holleman Dr. S

Exhibit D – Concept Plan



December 12, 2024
Item No. 9.3.
Veterans Park Baseball Fields Design Contract

Sponsor: Jennifer Cain, Director Capital Projects

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action on a Design Contract with Pendulum Studio, for $1,611,916 for design services for the Veterans Park Baseball Fields Project.

Relationship to Strategic Goals:
Core Services and Infrastructure

Recommendation(s): Staff recommends approval.

Summary: The project and contract involves the design of three (3) new baseball fields located at Veterans Park, 3101 Harvey Road. All three fields will be 365' to center field, with the capability of playing different age groups on them. In addition, one of the three fields will be designed as a championship field. The championship field will have increased seating, locker rooms and more, that will set itself apart from the other two fields.

Pendulum was selected through Request for Qualifications No. 24-067. A total of twelve (12) Submission of Qualifications (SOQ) were received on July 30, 2024. Of the twelve responses, three (3) were invited for interviews. After evaluations and interviews, Pendulum Studio was selected as the most qualified for this project.

Budget & Financial Summary: Budget in the amount of $12,000,000 is included for this project in the Parks Capital Improvement Projects Fund. A total of $357 has been expended or committed to date, leaving $11,999,643 for this contract and related costs. The final project budget will be established during the design process.

Attachments:
1. VPAC Ballfields Project List of Responding Firms
2. Pendulum Studio Contract_25300187

VPAC Ballfields Design

RFQ 24-067

Firms Responding on July 30, 2024:

1. Burditt Land|Place
2. Covey Planning & Landscape Architecture
3. Diverse Studio
4. Goodwin-Lasiter-Strong
5. Halff Associates, Inc.
6. Kimley-Horn, Inc.
7. Norris Design
8. PBK Architects, Inc.
9. Pendulum Studio
10. Plan North Architectural Co.
11. TBG Partners
12. VLK Architects, Inc.

CONTRACT & AGREEMENT ROUTING FORM

CONTRACT#: 25300187 PROJECT #: PK2502 BID/RFP/RFQ#: 24-067

Project Name / Contract Description: Veterans Park Baseball Fields

Name of Contractor: Pendulum Studio, LLC.

CONTRACT TOTAL VALUE: $ 1,611,916.00 **Grant Funded** Yes ☐ No ■

If yes, what is the grant number: ☐

Debarment Check ☐ Yes ☐ No ■ N/A
Section 3 Plan Incl. ☐ Yes ☐ No ■ N/A

Davis Bacon Wages Used ☐ Yes ☐ No ■ N/A
Buy America Required ☐ Yes ☐ No ■ N/A
Transparency Report ☐ Yes ☐ No ■ N/A

■ **NEW CONTRACT** ☐ **RENEWAL #** _____ ☐ **CHANGE ORDER #** _____ ☐ **OTHER** _____

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

PK2502 / 41389971-6561

A total of twelve (12) SOQ where submitted on this project.

*(If required)**

CRC Approval Date*: n/a **Council Approval Date*:** 12/12/24 **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 — 12/5/2024
DEPARTMENT DIRECTOR/ADMINISTERING CONTRACT — DATE

ASST CITY MGR – CFO — DATE

LEGAL DEPARTMENT — DATE

APPROVED & EXECUTED

CITY MANAGER — DATE

n/a
MAYOR (if applicable) — DATE

n/a
CITY SECRETARY (if applicable) — DATE

9.12.23 UPDATED

CITY OF COLLEGE STATION
PROFESSIONAL SERVICES CONTRACT
(REGARDING CONSTRUCTION MANAGER AT RISK PROJECT)

This Contract ("Contract" or "Agreement") is between the **City of College Station**, a Texas home-rule municipal corporation, (the "City") and **Pendulum Studio, LLC,**, a Limited Liability 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 hereinbelow, 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: Project programming, preparing schematics, design development, preparing construction documents and construction administration for:Veterans Parks Ballfields Projected located at 3101 Harvey Road, College Station, Texas for the City of College Station, Texas (the "Project").

1.02 As used in this Contract unless otherwise designated (and whether the term or phrase appears in capital letters, quotations, or bold or italicized print): (a) **"City"** means the City of College Station, Texas, a Texas home-rule municipality, including its elected officials (including its City Council), appointed officials, employees, agents and consultants (other than the Consultant and the Construction Manager), volunteers, assigns, and successors in interest; **(b) "Construction Manager"** means a Construction Manager at Risk as described in this Contract; **(c) "Consultant"** means the Texas licensed architect or Texas architectural firm and/or the Texas licensed engineer or engineering firm which sign this Contract as a Party providing the herein described professional services for the Project, including their directors, partners, officers, members, managers, employees, consultants or subconsultants, agents, permitted assigns, and successors in interest; **(d) "Party"** means a signing Party to this Contract; and **(e)** the past, present, or future tense shall each include the other, the masculine or feminine gender shall each include the other, and the singular and plural number shall each include the other where necessary for a correct meaning. All documents attached to or referenced by this Contract are incorporated by reference for all purposes.

ARTICLE II
Payment and Construction Cost

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 One Million Six Hundred Eleven Thousand Nine Hundred Sixteen **and no/100 Dollars ($1,611,916.00).**

2.02 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.

2.03 The construction budget for this Project, which is established as a condition of this Contract is **$**20,000,000.00. This construction budget shall not be exceeded unless the amount is changed in writing by the City.

ARTICLE III
Time of Performance

3.01 The Consultant shall perform with the professional skill and care ordinarily provided by competent Texas engineers or architects practicing in the same or similar locality and under the same or similar circumstances and professional license. 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.

(a) **Conceptual Design:**28 **calendar days** after the authorization to commence planning.

(b) **Preliminary Design:112 calendar days** after authorization to commence development.

(c) **Final Design:70 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): 210.

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 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 control and agrees are as expeditious as are prudent considering the ordinary professional skill and care of a competent engineer or architect, shall not be exceeded without written approval from the City.

3.04 The Consultant's services for the Project shall consist of all the services required to be performed by Consultant, Consultant's employees and Consultant's consultants under the terms of this Contract. Such services include: (a) normal or basic civil, structural, mechanical and electrical engineering services, plumbing, food service, acoustical and landscape services; (b) any other design services that are normally or customarily furnished and reasonably necessary for the Project; (c) (i) schematic (or conceptual) design phase services, (ii) design development phase services, (iii) construction document phase services, (iv) procurement phase services, (v) construction phase services, (vi) evaluation of work services, including the review and certification

of requests for and payments proposed to contractors or other service, equipment, or material providers, (vii) project completion services, and (viii) supplemental and/or additional services requested by the City; and (d) all other services herein described to be provided by the Consultant to the City for the Project. The Consultant shall contract and employ at its expense consultants (or subconsultants) necessary for the design of the Project, and such 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 satisfactory to the City who shall, so long as employed by Consultant and acceptable to the City, remain in charge of professional services through completion and 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 their compliance with all applicable state, federal, or local (including the City) 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.

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 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 contract documents, 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, "City of College Station Standard Form of Agreement Between City and Construction Manager at Risk" ("CMAR Agreement") for the construction contract between the City and the Construction Manager. 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. The Consultant shall assist the City with all phases of the procurement and engagement of the Construction Manager, including assistance with the review of, consultation regarding, and any proposed modifications regarding the CMAR Agreement.

6.04 The Consultant shall provide the City and Construction Manager at Risk ("CMAR") with complete contract documents sufficient to be advertised for bids by the CMAR. 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 for Subcontractors

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

7.02 The Consultant shall review the Construction Manager's 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.

7.03 Where substitutions are requested by a Construction Manager, the Consultant shall review the substitution requested with the City and make a recommendation to the City to either approve or disapprove such substitution(s).

ARTICLE VIII
Construction

8.01 The Consultant shall be a representative of, and shall advise and consult with, the City **(a)** during construction, and **(b)** at the City's direction from time to time during the correction or

warranty period described in the construction contract or CMAR Agreement. 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 Project site, to inspect the progress and quality of the executed work of the Construction Manager and its contractors and 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 exercise the utmost care and diligence 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 with 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 the Construction Manager 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 the Construction Manager 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 Manager in accordance with the contract documents.

8.06 The Consultant shall issue all instructions of the City to the Construction Manager 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, but not later than twenty (20) calendar days after a written request, render such interpretations and clarifications in writing 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 Manager and recommend to the City, in writing, payments to the Construction Manager 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 Manager 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 Manager that the checklist items designated by the Consultant for completion have been completed, the Consultant shall inspect the Project site to verify final completion.

8.09 The Consultant shall not be responsible for the work of the Construction Manager or any of its subcontractors, except that the Consultant shall be responsible for the Construction Manager'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 two on-site inspections 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 Manager and City in obtaining an Occupancy Permit by accompanying governing officials during inspections of the Project if requested to do so by the City.

8.14 The Standard Form of Agreement between City and Construction Manager at Risk is attached hereto as **Exhibit "D"** and incorporated herein by reference. The Consultant shall comply with all terms and conditions pertaining to the Architect as set out in the final and executed version of said agreement. In the event of an inconsistency between a term or condition in this Contract and the agreement between City and Construction Manager at Risk, the agreement between City and Construction Manager at Risk shall control.

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 City personnel. The Consultant shall not execute change orders on behalf of the City or otherwise alter the financial scope of the Project.

9.02 When the original Contract amount plus all change orders is less than $100,000, 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.

9.03 When the original contract amount plus all change orders is equal to or greater than $100,000, the City Manager or its 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.

9.04 Any request by the Consultant for an increase in the Scope of Services and an increase in the amount listed in Article II 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 One (1) sets of physical hard-copy plans and specifications, and digital files of the same. It is hereby agreed that additional copies shall be provided to the City at the City's expense. The Consultant shall provide the City One (1) sets 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 Manager 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 also furnish one set of digital files representing the final as-built mylars.

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 Texas 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 Texas 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 its professional services. 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 their personal property, while in the vicinity of the Project site or any of the work being done on the site 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 and Release. Pursuant to Section 271.904 of the Texas Local Government Code and other authority, the Parties agree as follows:

(a) The Consultant, as the indemnitor, shall indemnify, defend, and hold harmless the City against liability for all damage or liability (including all monetary damages and judgments, legal or equitable relief, costs, expenses, court costs, interest, reasonable attorney's fees, and just and lawful offsets and credits) regarding the Project to the extent that said damage or liability is caused by or results from an act of negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier, and committed by said indemnitor or said indemnitor's agent, consultant under contract, or another entity over which said indemnitor exercises control; however, this indemnitor obligation expressly does not apply when the damage, liability, claim or judgment is based wholly or partly on the negligence of, fault of, or breach of contract by the City, the City's employee or agent, or other person or entity over which the City exercises control.

(b) Regarding this RELEASE, the Consultant (as the Indemnitor) 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 work on the Project performed by the Consultant, 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 said claims, demands, and causes of action are covered in whole or in part by insurance. In the event of injury, death, property damage, or loss suffered by the Consultant, 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 not apply when such injury, death, loss, or damage was caused in whole or in part by the intentional or willful act, negligence, or gross negligence of the City.

(c) Notwithstanding anything stated to the contrary in this Paragraph 10.05, it is required that: (a) the City shall be included as an additional insured under the Consultant's general liability insurance policy, and the Consultant shall provide any and all defenses to the City as provided by that policy; and (b) the Consultant, and a licensed engineer or registered architect performing the professional services of an engineer or architect under the Agreement on behalf of the Consultant, shall perform those professional services (i) with the professional skill and care ordinarily provided by competent Texas engineers or architects practicing under the same or similar circumstances and professional license, and (ii) as expeditiously as is prudent considering the ordinary professional skill and care of a competent Texas engineer or architect.

(d) The Consultant's indemnification and release obligations in this Paragraph 10.05 shall survive termination, completion, abandonment and final payment.

10.06 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, coverages, limits and endorsements required are as set forth below. During the term of this Contract all of Consultant's insurance 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) Excess Liability.

(d) Workers' Compensation/Employer's Liability.
(e) Professional Liability.

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

(a) Insurance is to be placed with insurers authorized to conduct business in the state of Texas with a current A.M. Best rating of no less than A: VII, unless otherwise accepted in writing by the City. The insurance policies provided by the insurance company/companies are to be underwritten on forms that have been authorized by the Texas Department of Insurance or ISO. Original endorsements affecting coverage required by this Agreement shall be furnished with the certificates of insurance.

(b) Self-insured retentions must be declared to and approved by the City in writing. The City may require the Consultant to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or City. The CGL and any policies, including Excess liability policies, may not be subject to a self-insured retention ("SIR") or deductible that exceeds $25,000 unless approved in writing by City. All deductibles and SIRs shall be the sole responsibility of Consultant or subcontractor who procured such insurance and shall not apply to the Indemnified Additional Insured Parties. City may deduct from any amounts otherwise due Consultant to fund the SIR/deductible. Policies shall NOT contain any self-insured retention (SIR) provision that limits the satisfaction of the SIR to the Named Insured. The policy must also provide that Defense costs, including the Allocated Loss Adjustment Expenses, will satisfy the SIR or deductible. City reserves the right to obtain a copy of any policies and endorsements.

(c) "Claims Made" policies are not accepted, except for Professional Liability.

(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) For any claims related to this project, the Consultant's insurance coverage shall be primary and non-contributory insurance coverage at least as broad as ISO CG 20 01 04 13 regarding the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute to it. This requirement shall also apply to any Excess or Umbrella liability policies.

(f) Consultant hereby agrees to waive rights of subrogation which any insurer of Consultant may acquire from Consultant by virtue of the payment of any loss. Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Consultant, its employees, agents and subcontractors.

(g) Consultant shall furnish the City with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this Agreement and a copy of the Declarations and Endorsements Pages of the CGL and any Excess policies listing all policy endorsements. All certificates and endorsements and copies of the Declarations & Endorsements pages are to be received and approved by the City before work commences. However, failure to obtain the required documents prior to the Work beginning shall not waive the Consultant's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time. City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

(h) Consultant shall require and verify that all subcontractors maintain insurance meeting all requirements stated in this Agreement, and Consultant shall ensure that City is an additional insured on insurance required from subcontractors. For CGL coverage, subcontractors shall provide coverage with a form at least as broad as CG 20 38 04 13.

(i) If applicable, CGL & Excess/Umbrella liability policies for any construction related work, including, but not limited to, maintenance, service, or repair work, shall continue coverage for a minimum of five (5) years for Completed Operations liability coverage. Such Insurance must be maintained, and evidence of insurance must be provided for at least five (5) years after completion of the Work and related obligations thereafter.

(j) City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other circumstances.

(k) The City of College Station, its officers, officials, employees, agents, and volunteers are to be covered as additional insureds on the Business Automobile Liability policy, the Excess Liability/Umbrella policy, and the CGL policy, with respect to liability arising out of work or operations performed by or on behalf of the Consultant including materials, parts, or equipment furnished in connection with such work or operations and automobiles owned, leased, hired, or borrowed by or on behalf of the Consultant. The coverages shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees, agents, or volunteers. General liability coverage can be provided in the form of an endorsement to the Consultant's insurance, at least as broad as ISO Form:

1. CG 20 10 and CG 11 85; **or**
2. **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 forms (if later revisions used).

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

(a) Minimum Limit of $2,000,000 per occurrence for bodily injury and property damage with a $4,000,000 annual aggregate.

(b) Coverage shall be at least as broad as Insurance Service's Office Number CG 00 01.

(c) No coverage shall be deleted 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), Host Liquor Liability and where exposures exist, "Explosion Collapse and Underground" (XCU) coverage.

11.05 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 $2,000,000 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.

11.06 Excess Liability. The following Excess Liability requirements shall apply:

(a) The Consultant may use Umbrella or Excess Liability Policies to provide the liability limits as required in this Agreement. This form of insurance will be acceptable provided that all Primary and Umbrella or Excess Liability Policies shall provide all the insurance coverages required by this Agreement, including, but not limited to, primary and non-contributory, additional insured, Self-Insured Retentions (SIRs), indemnity, and defense requirements.

(b) The Umbrella or Excess policies shall be provided on a true "following form" or broader coverage basis, with coverage at least as broad as provided on the underlying Commercial General Liability insurance. No insurance policies maintained by the Additional Insureds, whether primary or excess, and which also apply to a loss covered hereunder, shall be called upon to contribute to a loss until the Consultant's primary and excess liability policies are exhausted.

11.07 Additional Insured. Those policies set forth in Paragraphs 11.04 Commercial (General) Liability, 11.05 Business Automobile Liability and 11.06 Excess Liability shall contain an endorsement listing the City as Additional Insured and further providing that the Consultant'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 Consultant in compliance with the terms of this Agreement. Consultant 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.

11.08 Workers' Compensation/Employer's Liability Insurance requirements. The following Workers' Compensation requirements shall apply; and whenever the term "Contractor" is used same shall be construed to refer to "Consultant" herein:

(a) Pursuant to the requirements set forth in Title 28, Section 110.110 of the Texas Administrative Code, all employees of the Contractor, 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) The worker's compensation 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, this Contract, the bid specifications 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:

A. 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.

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 paragraphs (a) - (g), with the certificates of coverage to be provided to the person for whom they are providing services.

J. 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.

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

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

(a) Coverage shall be written by a carrier rated "A: VII" or better in accordance with the current A. M. Best Key Rating Guide.

(b) Minimum of $2,000,000 per occurrence and $2,000,000 aggregate, with a maximum deductible of $200,000.00. 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 three (3) years after completion of the Project or termination of this Contract, as may be amended and 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 Project 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) (said total documents called "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 Work Product, 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 regarding the Project. The City shall be furnished and permitted to retain reproducible copies and electronic versions of Consultant's Work Product and other aforesaid and related documents and information pertaining 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 or subconsultants 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 XII of the Contract. The drawings, specifications and other documents prepared by the Consultant and Consultant's sub-consultants for this Project shall become the property of the City whether the Project is completed or not. The City shall be

furnished and permitted to retain reproducible copies and electronic versions of Consultant's drawings, specifications and other documents.

12.04 The Project 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 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 subconsultants 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 to perform the site adaptation and other architectural services involved in reuse of the prototype, that architect 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 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. The Consultant shall commit its sub-consultants to the terms of this subparagraph.

12.05 In the event of termination of this Contract for any reason, the City shall receive all original Project documents (as described in this Article XII) 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 and Liquidated Damages

13.01 The City may, through the exercise of its sole discretion and best business judgment, terminate this Contract, with or without cause, at any time upon **thirty (30)** calendar days written notice to the Consultant. Upon the Consultant's receipt of such notice, the Consultant shall cease work immediately. The Consultant, in the event of said termination, shall be compensated pursuant to this Agreement for the Project services satisfactorily performed prior to the termination date, provided Consultant is not in default of this Contract regarding the provision of said services.

13.02 If the Consultant commits conduct, an act, or omission which constitutes a breach or default of the Contract, the City may: (a) terminate this Contract, and if so, the Consultant will be compensated for its Contract approved Project services satisfactorily performed prior to the termination date, provided Consultant is not in default of this Contract regarding the provision of said services; and/or (b) initiate and complete litigation against the Consultant, and against all other necessary or desired Parties (including Consultant's sureties), for the City's recovery, upon the exercise of its discretion, of all remedies, claims and causes of action (whether legal, equitable, or mixed), and all damages, as allowed by law and this Contract, including without limitation

Contract termination, the recovery of all actual and consequential damages, and the recovery of the City's incurred attorney's fees, expenses, court costs, interest, and all just and lawful offsets and credits.

13.03 Regarding the application of liquidated damages, upon the exercise of the City's discretion, the Parties agree as follows:

(a) The time for the completion of all work described in this Agreement is 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.

(b) 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 for 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.

13.04 No term or provision of this Contract shall be construed to relieve the Consultant of liability to the City for all damages and recoveries sustained by the City because of any breach of this Contract committed by the Consultant in performing this Contract, or because of the intentional act, omission and/or negligence or gross negligence committed by the Consultant in performing this Contract. Notwithstanding anything to the contrary stated in this Contract, the City may withhold payments to the Consultant for the purpose of setoff until the exact amount of damages or other recoveries due the City from the Consultant are determined and paid.

ARTICLE XIV
Dispute Resolution

14.01 No suit shall be filed by a Party regarding a dispute arising under or related to this Contract unless the Parties first attempt to submit the dispute to mediation pursuant to Chapter 2009 of the Texas Government Code and Chapter 154 of the Texas Civil Practice and Remedies Code. Notwithstanding anything to the contrary stated in this Contract, however, a Party may file suit solely for injunction or mandamus relief regarding an

aforesaid dispute without first submitting that dispute to mediation. The mediation shall be held in Brazos County, Texas within 30 days of a Party sending notice to the other Party requesting mediation, unless otherwise agreed in writing by the Parties. Each Party shall pay its own expenses incurred for the mediation, including attorney fees, mediator fees, and travel expenses. The mediator shall be selected by the Parties' agreement; however, should they fail to agree on a mediator, the dispute shall be submitted to the following public institution for assignment of a mediator and the holding of the mediation at that institution: Aggie Dispute Resolution Program, Texas A&M University School of Law, 1515 Commerce Street, Fort Worth, Texas 76102-6509, ((800) 733-9529 telephone).

ARTICLE XV
Miscellaneous Terms

15.01 Choice of Laws and Venue. The Parties expressly agree that: (a) this Contract shall be governed and interpreted pursuant to the laws of the State of Texas; (b) the performance and work performed under this Contract for the Project shall be expressly performed in Brazos County, Texas, United States of America; and (c) venue for any lawsuit or legal proceeding regarding or relating to this Contract or Project shall be in a court of competent jurisdiction in Brazos County, Texas, United States of America, or the appropriate United States District Court designated for said county.

15.02 Notice. Written notice required under this Contract shall be deemed to have been served only if in writing and hand-delivered to the addressees and addresses set out below, or if delivered by courier or delivered by United States Postal Service mail (certified USPS mail delivery required) to that address:

CITY OF COLLEGE STATION
Attn: Rusty Warncke
P.O. Box 9960
College Station, Texas 77842

Pendulum Studio, LLC.
Attn: Jonathan O'Neil Cole
1512 Holmes Street
Kansas City, MO 64108

A Party may change its notice address by providing written notice to the other Party in the manner described above.

15.03 No Waiver. 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. Notwithstanding anything to the contrary stated in this Contract, no waiver of a default of this Contract occurs if the non-defaulting Party fails to immediately declare a default or otherwise delays in taking any action regarding a default committed by the defaulting Party of this Contract.

15.04 Entire Agreement. This Contract with all attached exhibits and incorporated by reference documents represents the entire and integrated agreement between the City and the 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. Copies

of this fully executed Contract shall be effective as the original.

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

15.06 Invalidity. If any provision of this Contract shall be held to be invalid, illegal or unenforceable by a court or other tribunal of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

15.07 Prioritization. Contractor and City agree that City is a political subdivision of the State of Texas and is thus subject to certain laws. Because of this there may be documents or portions thereof added by Contractor to this 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.

15.08 Governmental Immunity. Notwithstanding anything to the contrary stated in this Contract, the Parties acknowledge and agree that this Contract is subject to the proper application of, and to all protections afforded to the City pursuant to, the doctrine of governmental immunity under Texas law.

15.09 Compliance with Laws. The Consultant, its agents, employees, and subcontractors 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 governments, boards, bureaus, and agencies. The Consultant must obtain all necessary permits and licenses required in completing the services required by this Contract.

15.10 Acknowledgement. The Parties acknowledge that they have read, understood, and intend to be bound by the terms and conditions of this Contract.

15.11 Effective Date. The effective date of this Contract is the date the last signing Party executes this Contract.

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

15.13 Verification of No Boycott and Conflicts Disclosure. To the extent made applicable by controlling law, this Contract is subject to the following:

(a) No Boycott of Israel. Pursuant to applicable provisions of Chapter 2271 of the Texas Government Code, the Contractor verifies that it (i) does not boycott Israel, and (ii) will not boycott Israel during the term of this Agreement;

(b) No Boycott of Firearms. Pursuant to applicable provisions of Chapter 2274 of the Texas Government Code, the 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 Agreement against a firearm entity or firearm trade association;

(c) No Boycott of Energy Companies. Pursuant to applicable provisions of Chapter 2276 of the Texas Government Code, the Contractor verifies that it (i) does not boycott energy companies, and (ii) will not boycott energy companies during the term of this Agreement; and

(d) Conflicts Disclosure. Before the approval of this Contract, and in timely performance with the statutes hereafter described, the Contractor has submitted to the City: (i) a properly executed Form CIQ/Conflicts of Interest Questionnaire pursuant to Chapter 176 of the Texas Local Government Code and other authority; and (ii) a properly executed Form 1295/Texas Ethics Commission Certificate of Interested Parties pursuant to Section 2252.908 of the Texas Government Code.

15.14 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.

15.15 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.** Scope of Services
- **B.** Payment Terms
- **C.** Certificates of Insurance
- **D.** Construction Manager at Risk Agreement

PENDULUM STUDIO, LLC.

By: Jonathan O'Neil Cole

Printed Name: Jonathan O'Neil Cole

Title: Managing Member

Date: 12/5/2024

CITY OF COLLEGE STATION

By: _____
City Manager
Date: _____

APPROVED:

_____
City Attorney
Date: _____

_____
Assistant City Manager/CFO
Date: _____

Exhibit "A"
Scope of Services

1. Consultant shall prepare for City's review and approval the following service deliverables:

1.1 Conceptual Design

1.1.01 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.

1.1.02 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.

1.1.03 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.

1.2 Preliminary Design

1.2.01 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.

1.2.02 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.

1.2.03 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.

1.3 Final Design

1.3.01 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.

1.3.02 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.

1.3.03 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, "City of College Station Standard Form of Agreement Between City and Construction Manager at Risk" for the construction contract between the City and the Construction Manager. 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. The Consultant shall assist the City with all phases of the procurement and engagement of the Construction Manager, including assistance with the review of, consultation regarding, and any proposed modifications regarding the CMAR Agreement.

1.3.04 The Consultant shall provide the City and Construction Manager at Risk ("CMAR") with complete contract documents sufficient to be advertised for bids by the CMAR. 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.

1.3.05 The Construction Documents shall include or be included with the following: (a) the Consultant's (or other design professional's) seal thereon, as the drafter of such drawings and specifications, and (b) a written certification stating that to the best of the Consultant's knowledge, the Construction Documents conform to Contract Documents as well as the Design Development Documents for the Project. The Consultant shall also provide renderings of all public spaces and exterior finishes to facilitate the Parties' review of the Construction Documents.

Exhibit "B"
Payment Terms

Compensation is based on ***actual*** hours of work/time devoted to providing the described professional services. **The Consultant is paid at the rates per service, or employee shown below.** The City will reimburse the Consultant for ***actual,*** non-salary expenses (or authorized reimbursable expenses) at the not to exceed amount of Twenty Thousand and (NO) ($20,000.00) percent ***(0%)*** above the Consultant's actual costs, or at the rates set forth below. Unless amended by a duly authorize written change order, the Agreement Sum or Total Payment for all invoices on this project, including both salary and non-salary expenses, shall not exceed the following amount :($1,611,916.00) (see section 2.01).

Concept Design	Pendulum	$33,596.00 – *All Vertical Construction*
Architect of Record	Pendulum	$810,000.00 – *All Vertical Construction*
Interior Design	Pendulum	$45,000.00 – *All Interior Spaces*
Graphics & Wayfinding	Pendulum	$10,000.00 – *Design & Coordination*
FF&E	Pendulum	$15,000.00 – *Furniture & Equip.*

Subconsultant Fees Not to Exceed as follows:

Food Service Design	Capital Food Service	$25,000.00 – *Concession & Equipment* Playing
Field Design	Kimley-Horn	$111,153.00 – *All Playing Fields* MEP/FP
Engineering	River MEP	$96,900.00 - *All Vertical Construction* Structural
Engineering	Thornton Tomasetti	$180,500.00 – *All Vertical Construction.* Civil
Engineering	Kimley-Horn	$204,313.00 – *All Site Construction*
Geotechnical Engineering	ECS	$6,500.00 - *All Site Construction* Environmental
Services	Kimley-Horn	$8,500.00 - *All Site Construction* Landscape
Architecture	Kimley-Horn	$13,078.00 – *All site Construction* Acoustical/Low
Voltage	Datacom Design	$32,376.00 - *All Vertical Construction*

Exhibit "C"
Certificate(s) of Insurance

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 11/27/2024

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
AssuredPartners Design Professionals Insurance Services, LLC
3697 Mt. Diablo Blvd, Suite 230
Lafayette CA 94549

License#: 6003745

CONTACT NAME: Jessica Sharpe
PHONE (A/C, No, Ext): 360-598-5010 **FAX (A/C, No):** 360-598-5010
E-MAIL ADDRESS: jessica.sharpe@assuredpartners.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Sentinel Insurance Company	11000
INSURER B : Great Midwest Insurance Company	18694
INSURER C : KINSALE INSURANCE COMPANY	38920
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
Pendulum Studio LLC
1512 Holmes Street
Kansas City MO 64108

12793

COVERAGES **CERTIFICATE NUMBER:** 746283369 **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	X **COMMERCIAL GENERAL LIABILITY** CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY X PRO-JECT LOC OTHER:	Y	Y	52SBWPW7975	3/27/2024	3/27/2025	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG 	$ 2,000,000 $ 1,000,000 $ 10,000 $ 2,000,000 $ 4,000,000 $ 4,000,000 $
A	**AUTOMOBILE LIABILITY** ANY AUTO OWNED AUTOS ONLY SCHEDULED AUTOS X HIRED AUTOS ONLY X NON-OWNED AUTOS ONLY	Y	Y	52SBWPW7975	3/27/2024	3/27/2025	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) 	$ 2,000,000 $ $ $ $
A	X **UMBRELLA LIAB** X OCCUR **EXCESS LIAB** CLAIMS-MADE DED X RETENTION $ 10,000	Y	Y	52SBWPW7975	3/27/2024	3/27/2025	EACH OCCURRENCE AGGREGATE 	$ 3,000,000 $ 3,000,000 $
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? **(Mandatory in NH)** If yes, describe under DESCRIPTION OF OPERATIONS below	N / A					PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ $ $
B C	Professional Liab: Claims Made Professional Liability Excess			AEGM000006304 01001993522	1/30/2024 1/30/2024	1/30/2025 1/30/2025	$2,000,000 Per Claim $5,000,000 Per Claim	$2,000,000 Per Agg $5,000,000 Per Agg

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
The certificate holder is an additional insured per the attached.
Insured owns no company vehicles; therefore, hired/non-owned auto is the maximum coverage that applies.
The Umbrella Policy is follow form to its underlying Policies: General Liability/Auto Liability/Employers Liability.
Project: Veterans Park project, Contract #25300187.
The City of College Station, its officers, officials, employees, agents, and volunteers are additional insureds per the attached. General Liability is Primary/Non-Contributory per the attached. Insurance coverage includes waiver of subrogation per the attached endorsement(s). 30 days Notice of Cancellation per the attached.

CERTIFICATE HOLDER

City of College Station
Attn: Risk Management
PO Box 9960
College Station TX 77842

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
Jessica Sharpe

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Kansas City's IRS Certified PEO
10975 Grandview Drive Suite 200 | Corporate Woods | Overland Park, KS 66210
Phone: 913.383.2999 | Fax: 913.383.2949

January 30, 2024

Re: Pendulum Studio LLC

To Whom It May Concern:

This letter confirms a relationship between Axcet HR Solutions and Pendulum Studio LLC. Axcet HR Solutions is a Certified Professional Employment Organization (CPEO) which contracts with businesses to handle payroll, benefits, workers' compensation, and human resources. Under this agreement, Axcet HR Solutions assumes the role of an administrative employer of record. Pendulum Studio LLC has been a client of Axcet HR Solutions under this agreement since 2019.

If you have any questions, please do not hesitate to contact our office.

Steve Donovan

Director of Risk Management

(b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

b. Real Estate Manager

Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.

c. Temporary Custodians Of Your Property

Any person or organization having proper temporary custody of your property if you die, but only:

(1) With respect to liability arising out of the maintenance or use of that property; and

(2) Until your legal representative has been appointed.

d. Legal Representative If You Die

Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this insurance.

e. Unnamed Subsidiary

Any subsidiary and subsidiary thereof, of yours 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 Part.

The insurance afforded herein for any subsidiary not shown in the Declarations as a named insured does not apply to injury or damage with respect to which an insured under this insurance is also an insured under another policy or would be an insured under such policy but for its termination or upon the exhaustion of its limits of insurance.

3. Newly Acquired Or Formed Organization

Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain financial interest of more than 50% of the voting stock, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier; and

b. Coverage under this provision does not apply to:

(1) "Bodily injury" or "property damage" that occurred; or

(2) "Personal and advertising injury" arising out of an offense committed

before you acquired or formed the organization.

4. Operator Of Mobile Equipment

With respect to "mobile equipment" registered in your name under any motor vehicle registration law, any person is an insured while driving such equipment along a public highway with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the equipment, and only if no other insurance of any kind is available to that person or organization for this liability. However, no person or organization is an insured with respect to:

a. "Bodily injury" to a co-"employee" of the person driving the equipment; or

b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

5. Operator of Nonowned Watercraft

With respect to watercraft you do not own that is less than 51 feet long and is not being used to carry persons for a charge, any person is an insured while operating such watercraft with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the watercraft, and only if no other insurance of any kind is available to that person or organization for this liability.

However, no person or organization is an insured with respect to:

a. "Bodily injury" to a co-"employee" of the person operating the watercraft; or

b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

52SBWPW7975

6. Additional Insureds When Required By Written Contract, Written Agreement Or Permit

The person(s) or organization(s) identified in Paragraphs **a.** through **f.** below are additional insureds when you have agreed, in a written

contract, written agreement or because of a permit issued by a state or political subdivision, that such person or organization be added as an additional insured on your policy, provided the injury or damage occurs subsequent to the execution of the contract or agreement, or the issuance of the permit.

A person or organization is an additional insured under this provision only for that period of time required by the contract, agreement or permit.

However, no such person or organization is an additional insured under this provision if such person or organization is included as an additional insured by an endorsement issued by us and made a part of this Coverage Part, including all persons or organizations added as additional insureds under the specific additional insured coverage grants in Section **F.** – Optional Additional Insured Coverages.

a. Vendors

Any person(s) or organization(s) (referred to below as vendor), but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

(1) The insurance afforded to the vendor is subject to the following additional exclusions:

This insurance 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 the products;

(f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

(g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

(h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

(i) The exceptions contained in Subparagraphs **(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.

b. Lessors Of Equipment

(1) Any person or organization from whom you lease equipment; but only with respect to their liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.

(2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after you cease to lease that equipment.

c. Lessors Of Land Or Premises

(1) Any person or organization from whom you lease land or premises, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land or premises leased to you.

(2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:

(a) Any "occurrence" which takes place after you cease to lease that land or be a tenant in that premises; or

(b) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

d. Architects, Engineers Or Surveyors

(1) Any architect, engineer, or surveyor, 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 connection with your premises; or

(b) In the performance of your ongoing operations performed by you or on your behalf.

(2) 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 the failure to render any professional services by or for you, including:

(a) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or

(b) Supervisory, inspection, architectural or engineering activities.

e. Permits Issued By State Or Political Subdivisions

(1) Any state or political subdivision, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

(2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:

(a) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or

(b) "Bodily injury" or "property damage" included within the "products-completed operations hazard".

f. Any Other Party

(1) Any other person or organization who is not an insured under Paragraphs **a.** through **e**. above, 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;

(b) In connection with your premises owned by or rented to you; or

(c) In connection with "your work" and included within the "products-completed operations hazard", but only if

(i) The written contract or written agreement requires you to provide such coverage to such additional insured; and

(ii) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

(2) With respect to the insurance afforded to these additional insureds, 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 failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or

(b) Supervisory, inspection, architectural or engineering activities.

The limits of insurance that apply to additional insureds are described in Section **D.** – Limits Of Insurance.

How this insurance applies when other insurance is available to an additional insured is described in the Other Insurance Condition in Section **E.** – Liability And Medical Expenses General Conditions.

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.

D. LIABILITY AND MEDICAL EXPENSES LIMITS OF INSURANCE

1. The Most We Will Pay

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

c. Persons or organizations making claims or bringing "suits".

2. Aggregate Limits

The most we will pay for:

a. Damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard" is the Products-Completed Operations Aggregate Limit shown in the Declarations.

b. Damages because of all other "bodily injury", "property damage" or "personal and advertising injury", including medical expenses, is the General Aggregate Limit shown in the Declarations.

This General Aggregate Limit applies separately to each of your "locations" owned by or rented to you.

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

This General Aggregate limit does not apply to "property damage" to premises while rented to you or temporarily occupied by you with permission of the owner, arising out of fire, lightning or explosion.

3. Each Occurrence Limit

Subject to **2.a.** or **2.b** above, whichever applies, the most we will pay for the sum of all damages because of all "bodily injury", "property damage" and medical expenses arising out of any one "occurrence" is the Liability and Medical Expenses Limit shown in the Declarations.

The most we will pay for all medical expenses because of "bodily injury" sustained by any one person is the Medical Expenses Limit shown in the Declarations.

4. Personal And Advertising Injury Limit

Subject to **2.b.** above, the most we will pay for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization is the Personal and Advertising Injury Limit shown in the Declarations.

5. Damage To Premises Rented To You Limit

The Damage To Premises Rented To You Limit is the most we will pay under Business Liability Coverage for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, lightning or explosion, while rented to you or temporarily occupied by you with permission of the owner.

In the case of damage by fire, lightning or explosion, the Damage to Premises Rented To You Limit applies to all damage proximately caused by the same event, whether such damage results from fire, lightning or explosion or any combination of these.

6. How Limits Apply To Additional Insureds

The most we will pay on behalf of a person or organization who is an additional insured under this Coverage Part is the lesser of:

a. The limits of insurance specified in a written contract, written agreement or permit issued by a state or political subdivision; or

b. The Limits of Insurance shown in the Declarations.

Such amount shall be a part of and not in addition to the Limits of Insurance shown in the Declarations and described in this Section.

If more than one limit of insurance under this policy and any endorsements attached thereto applies to any claim or "suit", the most we will pay under this policy and the endorsements is the single highest limit of liability of all coverages applicable to such claim or "suit". However, this paragraph does not apply to the Medical Expenses limit set forth in Paragraph **3.** above.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, 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.

E. LIABILITY AND MEDICAL EXPENSES GENERAL CONDITIONS

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

2. Duties In The Event Of Occurrence, Offense, Claim Or Suit

a. Notice Of Occurrence Or Offense

You or any additional insured must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

(1) How, when and where the "occurrence" or offense 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 "occurrence" or offense.

b. Notice Of Claim

If a claim is made or "suit" is brought against any insured, you or any additional insured must:

(1) Immediately record the specifics of the claim or "suit" and the date received; and

(2) Notify us as soon as practicable.

You or any additional insured must see to it that we receive a written notice of the claim or "suit" as soon as practicable.

c. Assistance And Cooperation Of The Insured

You and any other involved insured must:

(1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";

(2) Authorize us to obtain records and other information;

(3) Cooperate with us in the investigation, 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 that may be liable to the insured because of injury or damage to which this insurance may also apply.

d. Obligations At The Insured's Own Cost

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.

e. Additional Insured's Other Insurance

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity.

However, this provision does not apply to the extent that you have agreed in a written contract, written agreement or permit that this insurance is primary and non-contributory with the additional insured's own insurance.

f. Knowledge Of An Occurrence, Offense, Claim Or Suit

Paragraphs **a.** and **b.** apply to you or to any additional insured only when such "occurrence", offense, claim or "suit" is known to:

(1) You or any additional insured that is an individual;

(2) Any partner, if you or an additional insured is a partnership;

(3) Any manager, if you or an additional insured is a limited liability company;

(4) Any "executive officer" or insurance manager, if you or an additional insured is a corporation;

(5) Any trustee, if you or an additional insured is a trust; or

(6) Any elected or appointed official, if you or an additional insured is a political subdivision or public entity.

This Paragraph **f.** applies separately to you and any additional insured.

3. Financial Responsibility Laws

a. When this policy is certified as proof of financial responsibility for the future under the provisions of any motor vehicle financial responsibility law, the insurance provided by the policy for "bodily injury" liability and "property damage" liability will comply with the provisions of the law to the extent of the coverage and limits of insurance required by that law.

b. With respect to "mobile equipment" to which this insurance applies, we will provide any liability, uninsured motorists, underinsured motorists, no-fault or other coverage required by any motor vehicle law. We will provide the required limits for those coverages.

4. Legal Action Against Us

No person or organization has a right under this Coverage Form:

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 Form 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 insurance 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 and the claimant or the claimant's legal representative.

5. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this policy 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 a claim is made or "suit" is brought.

6. Representations

a. When You Accept This Policy

By accepting this policy, you agree:

(1) The statements in the Declarations are accurate and complete;

(2) Those statements are based upon representations you made to us; and

(3) We have issued this policy in reliance upon your representations.

b. Unintentional Failure To Disclose Hazards

If unintentionally you should fail to disclose all hazards relating to the conduct of your business at the inception date of this Coverage Part, we shall not deny any coverage under this Coverage Part because of such failure.

7. Other Insurance

If other valid and collectible insurance is available for a loss we cover under this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when **b.** below applies. If other insurance is also primary, we will share with all that other insurance by the method described in **c.** below.

b. Excess Insurance

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

(1) Your Work

That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

(2) Premises Rented To You

That is fire, lightning or explosion insurance for premises rented to you or temporarily occupied by you with permission of the owner;

(3) Tenant Liability

That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner;

(4) Aircraft, Auto Or Watercraft

If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion **g.** of Section **A.** – Coverages.

(5) Property Damage To Borrowed Equipment Or Use Of Elevators

If the loss arises out of "property damage" to borrowed equipment or the use of elevators to the extent not subject to Exclusion **k.** of Section **A.** – Coverages.

(6) When You Are Added As An Additional Insured To Other Insurance

That is other insurance available to you covering liability for damages arising out of the premises or operations, or products and completed operations, for which you have been added as an additional insured by that insurance; or

(7) When You Add Others As An Additional Insured To This Insurance

That is other insurance available to an additional insured.

However, the following provisions apply to other insurance available to any person or organization who is an additional insured under this Coverage Part:

(a) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract, written agreement or permit that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in **c.** below.

(b) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract, written agreement or permit that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs **(a)** and **(b)** do not apply to other insurance to which the additional insured has been added as an additional insured.

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

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

(1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(2) The total of all deductible and self-insured amounts under all that other insurance.

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

c. Method Of Sharing

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

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

8. Transfer Of Rights Of Recovery Against Others To Us

a. Transfer Of Rights Of Recovery

If the insured has rights to recover all or part of any payment, including Supplementary Payments, 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. This condition does not apply to Medical Expenses Coverage.

b. Waiver Of Rights Of Recovery (Waiver Of Subrogation)

If the insured has waived any rights of recovery against any person or organization for all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, we also waive that right, provided the insured waived their rights of recovery against such person or organization in a contract, agreement or permit that was executed prior to the injury or damage.

Exhibit "D"
City of College Station
Standard Form of Agreement between
City and Construction Manager at Risk

If the plans and specifications from the RFQ 24-067 are not physically inserted here, then they are fully incorporated into this contract by reference.

See the attached Scope of Services in more detail attached.

November 8, 2024

Mr. Rusty Warncke
Project Manager, Capital Projects
City of College Station
P.O. Box 9960 College Station, TX 77842-9960

Re: Veterans Park

Dear Rusty,

Thank you for the opportunity to offer professional design services associated with the proposed addition to Veterans Park located in College Station, TX at 3101 Harvey Road. It is our understating the City of College Station requires assistance with programming and documentation of three (3) new fully synthetic baseball fields, with related programmed amenities that include, restrooms, concessions, and operational support facilities. This letter shall serve as a formal letter agreement (the "Agreement") between Pendulum Studio LLC ("Pendulum" or "Architect of Record"), and City of College Station, TX ("Owner") in connection with the Services.

1. **Definition of Terms**

Owner:	City of College Station
Architect:	Pendulum Studio LLC

2. **Project Description**

Pendulum's work product to date has reviewed and priced by construction trade partners to determine a budget for the facility – see exhibit A of this agreement. It has been determined that the overall budget for the project shall not exceed $15 Million (fifteen Million Dollars and Zero Cent) which anticipates a vertical construction (bricks and mortar) budget of approximately $12 Million (twelve million dollars and zero cent). The program to date includes the following:

Home Team Clubhouse – Approximately 1,700 sf

- Thirty-Two (32) lockers
- Six (5) standard shower heads, one (1) ADA shower stall
- Two (2) lavatories
- Two (2) water closets
- Two (2) Urinals
- Small training area
- Office/mgr. locker
- Office/mgr. water closet and lavatory
- Small storage room

Visiting Team Clubhouse – Approximately 1,700 sf

- Thirty-Two (32) lockers
- Six (5) standard shower heads, one (1) ADA shower stall
- Two (2) lavatories
- Two (2) water closets
- Two (2) Urinals
- Small training area

- Office/mgr. locker
- Office/mgr. water closet and lavatory
- Small storage room

Concession Stand

- Four (4) points of sale
- Steel roll down doors – two (2) at 8'-0" x 4'-8" or one (1) at 16'-0" x 4'-8" + solid surface countertop

Public Hospitality Facilities

- Separate Restrooms for Men and Women with appropriate fixture ratio per applicable International and local building code requirements for Type A5 facilities

Field Maintenance Facility and Batting/Pitching Building

- Two (2) covered batting/pitching lanes with a minimum height of 12'-6" clear netting (accommodating 6" netting sag) free and clear of superstructure and/or lighting and other mechanical/plumbing lines
- Approximately 1600 sf for campus maintenance equipment (mowers, rollers, gators, etc.)

Press Box Facilities – Second Floor

- Compact/small, enclosed area with two (2) enclosed rooms for radio, one (1) open area for Public Address (PA) system control, and one (1) open area for potential press seating (field facing plastic laminate counter)

Premium Area – Second Floor

- Enclosed area (approximately 950 sf) with small bar and open space for lounge seating
- Exterior deck area (approximately 1200 sf) with direct lines of sight to the playing field surface

Second Batting/Pitching Tunnel

- Two (2) enclosed batting/pitching tunnels (20 x 80 each – includes perimeter netting circulation) with direct/secure access from visitor and home clubhouses.

Seating Bowl Capacity – Feature Field

- Approximately 2,000 seats (fixed armchair seating)
- Shade structure(s) TBD
- Two (2) traditional dugouts
- Field Dimensions 325 (RF), 400(CF), 325(LF)
- Home bullpen 20 x 80
- Visitor bullpen 20 x 80

Non-Feature Fields

- Two (2) non-feature fields with dimensions of 325 (RF), 400 (CF), 325 (LF). Seating and security lighting TBD

Technology

- Video Board at Feature Field
- Wi-Fi connectivity, CAT 6 internet

Site Features

- Parking – approximately 170 spaces (1.7 acres)
- Site paving and flatwork
- Field lighting at all fields

1. Services

Pendulum will provide the following professional services in connection with the Project:

3.1 PART A - CONCEPT DESIGN & FEE

Pendulum collaborate with City of College Station staff and appointed stakeholders to gather input and establish a final campus/site program that aligns with the proposed project budget.

We anticipate the programming and concept phase of the project to require four (4) weeks of collaborative effort from the time of Notice-To-Proceed (NTP). For all the Services described in Part A of this agreement, Owner shall pay Pendulum Studio a total fee in the amount of $33,596.00 (Thirty-Three Thousand Five Hundred Ninety-Six Dollars and Zero Cent).

Programming and Concept:	224 Hours	@ $150/hr =	$33,596.00
Total			**$33,596.00**

3.2 PART B - SCHEMATIC DESIGN

In this phase of documentation Pendulum and design team members shall confirm site conditions upon receipt of site, utility, and geotechnical surveys. Any required adjustments to the documents shall be made upon notice to proceed following the Concept Design phase. Our Schematic Design scope of work shall include the following:

Code Abstract – Building Department Review:

a. Review of building code issues with local building officials as represented in the approved concept design.

Planning and Zoning Review:

a. N/A

Soil Borings and Report:

a. Assistance with identification of geotechnical services per AIA G-602

Site Survey

a. Assistance with identification of Survey services per AIA G-601

Schematic Design – Drawing Deliverables:

1. Preliminary Code Report.
2. Program Area Summaries.
3. On-Site utility studies and drainage systems.
4. Preliminary selection of building systems and materials.
5. Written structural framing solutions including foundation options.
6. Written concept design solutions for heating, ventilation, and air conditioning, plumbing and fire protection including general space requirements.
7. Written conceptual design solutions for power, lighting, telephone, fire detection and alarms, electronic communications including general space

requirements.
8. Written conceptual design solutions for sound system.
9. Double line floor plans at all levels
10. Basic building sections at all unique areas
11. Preliminary wall sections
12. Preliminary building elevations
13. Series of architectural sketches and three-dimensional vignettes that describe design scope for pricing.

SD – Program/Budget Reconciliation:

1. Reconciliation of the schematic design estimate to the schematic design program areas. Identify changes made from the concept design budget for the Work.

Schematic Design Approval:

1. Design presentation to gain Owner approval of Schematic Design including authorization to proceed with Design Development
2. Update Architect's Schedule

3.3 PART B – SCHEMATIC DESIGN SERVICES NOT INCLUDED

1. Architectural Design Development Drawings
2. Architectural Construction Documents
3. Existing As-Built Conditions (any structures present on site).
4. Surveying, Construction Staking
5. Pump station or other specialized utility design
6. Environmental Studies
7. Environmental Abatement
8. Geotechnical engineering contract administration/management
9. Concession/kitchen equipment and design of engineered connection to utilities, sewer, venting, etc.

3.4 PART B – SCHEMATIC DESIGN SCHEDULE

We propose the following schedule:
Complete Schematic Design Documentation Eight Weeks (8)

3.5 PART B – SCHEMATIC DESIGN FEE

For all the Services described in Part B of this agreement, all disciplines, (Owner shall pay Pendulum Studio a total fee in the amount of **$311,664.00** (Three Hundred Eleven Thousand Six Hundred Sixty-Four Dollars and Zero Cent).

Anticipated Draw Schedule		
100% Schematic Design:		$311,664.00
Total	**100%**	**$311,664.00**

Schematic Design Hourly Rates are as follows:

Firm	Scope	Rate ($/hr)	Hrs	Fee
Pendulum	AOR	$ 150.00	1,376	$ 206,402.00
	Interior Design			$ -
	Graphics/Wayfinding			$ -
	FF&E			$ -

Kimley-Horn	Playing Field	$ 232.50	86	$ 20,000.00
	Civil Engineering		130	$ 30,300.00
	Environmental		37	$ 8,500.00
	Landscape Architecture			
Thornton Tomasetti	Structural	$ 203.00	133	$ 27,075.00
River MEP	MEP, FA	$ 195.00	26	$ 5,100.00
DataCom	Low Voltage	$ 142.00	33	$ 4,662.00
ECS	Geotechnical	$ 150.00	43	$ 6,500.00
Capital	Food Service	$ 100.00	31	$ 3,125.00
	Total		**1,896**	**$ 311,664.00**

3.6 PART C – DESIGN DEVELOPMENT

1. Upon Owner approval and notice to proceed with Part C of this Agreement, the Design Development Phase, Pendulum shall review the Schematic Design with Building Department and then proceed with the following:

Drawing Deliverables:

1. Utility modifications (if needed) sized, identified, and coordinated with local utility companies.
2. Preliminary site grading plan (at required locations)
3. Architectural plans sections and elevations.
4. Typical architectural construction details
5. Three-dimensional wire frame model
6. Exterior building material (as required at specific locations)
7. Structural framing solution identified, and major structural component sized.
8. Foundation design completed
9. Mechanical, electrical, and plumbing systems and equipment located, sized and capacities identified.

Design Development - Interiors:
1. Initial selection of interior finish materials identified.
2. Technical specifications.

Design Development - Project Manual:
1. Draft of CSI Division Technical Specifications Sections in Three-Part Format identifying the initial selection of site and building materials and systems.

Program Reconciliation:
Final reconciliation of program areas to the schematic budget.

Design Development Approval:
1. Design presentations to gain Owner approval of Design Development including authorization to proceed with Construction Documents.
2. Update Architect's Schedule.

3.7 PART C – DESIGN DEVELOPMENT SCHEDULE

We propose the following schedule:

Design Development Documentation Eight Weeks (8)

3.8 PART C – DESIGN DEVELOPMENT FEE

For all the Services described in Part C of this agreement, Owner shall pay Pendulum Studio a total fee in the amount of **$467,496.00** (Four Hundred Sixty-Seven Thousand Four Hundred Ninety-Six Dollars and Zero Cent).

Anticipated Draw Schedule		
Project Initiation		$0
50% Design Development:		$233,748.00
100% Design Development:		$233,748.00
Total	**100%**	**$467,496.00**

Design Development Hourly Rates are as follows:

Firm	Scope	Rate ($/hr)	Hrs	Fee
Pendulum	AOR	$ 150.00	1763	$ 264,427.00
	Interior Design		133	$ 20,000.00
	Graphics/Wayfinding		17	$ 2,500.00
	FF&E		33	$ 5,000.00
Kimley-Horn	Playing Field	$ 232.50	116	$ 27,000.00
	Civil Engineering		237	$ 55,050.00
	Environmental			
	Landscape Architecture		18	$ 4,078.00
Thornton Tomasetti	Structural	$ 203.00	222	$ 45,125.00
River MEP	MEP, FA	$ 195.00	183	$ 35,700.00
DataCom	Low Voltage	$ 142.00	43	$ 6,116.00
ECS	Geotechnical	$ 150.00	0	$ -
Capital	Food Service	$ 100.00	25	$ 2,500.00
	Total		**2790**	**$ 467,496.00**

3.9 PART D – CONSTRUCTION DOCUMENTS

1. Upon Owner approval and notice to proceed with Part D of this Agreement Pendulum shall begin Preparation of Bidding Documents for the project by completing and detailing the approved Design Development submittal including the following optional services selected by the Owner.

CD – Interiors:

1. Preparation of Bidding Documents for interiors and general identified in CSI divisions.

CD – Project Manual:

1. Finalize Technical Specification Sections.

Construction Documents Approval:

1. Design presentations to gain Owner approval of Construction Documents approval including authorization to bid the Work.
2. Update Architect's Schedule

3.10 PART D – CONSTRUCTION DOCUMENTS SCHEDULE

We propose the following schedule (includes two-week holiday break):
Construction Documentation Ten Weeks (10)

3.11 PART D – CONSTRUCTION DOCUMENTS FEE

For all the Services described in Part D of this agreement, Owner shall pay Pendulum Studio a total fee in the amount of $447,496.00 (Four Hundred Forty-Seven Thousand Four Hundred Ninety-Six Dollars and Zero Cent).

Anticipated Draw Schedule		
Project Initiation		$0
50% Construction Documents:		$223,748.00
100% Construction Documents:		$223,748.00
Total	**100%**	**$447,496.00**

Construction Documents Hourly Rates are as follows:

Firm	Scope	Rate ($/hr)	Hrs	Fee
Pendulum	AOR	$ 150.00	1000	$ 149,996.00
	Interior Design		133	$ 20,000.00
	Graphics/Wayfinding		30	$ 4,500.00
	FF&E		67	$ 10,000.00
Kimley-Horn	Playing Field	$ 232.50	244	$ 56,653.00
	Civil Engineering		214	$ 49,690.00
	Environmental			
	Landscape Architecture		26	$ 6,000.00
Thornton Tomasetti	Structural	$ 203.00	400	$ 81,225.00
River MEP	MEP, FA	$ 195.00	262	$ 51,000.00
DataCom	Low Voltage	$ 142.00	95	$ 13,432.00
ECS	Geotechnical	$ 150.00	0	
Capital	Food Service	$ 100.00	50	$ 5,000.00
	Total		**2519**	**$ 447,496.00**

3.12 PART E – BIDDING

1. Assist the Owner in bidding the Work including attendance at a Pre-bid conference, issuing addenda, receiving bids, making recommendation for award and review of Contract for Construction.

Bidding – Interiors:

1. Assist the Owner in bidding the Work including attendance at a Pre-bid conference, issuing addenda, receiving bids, making recommendation for award and review of Contract for Construction.

3.13 PART E – BIDDING SCHEDULE

We propose the following schedule:

Bidding	Four Weeks (4)

3.14 PART E – BIDDING FEE

For all the Services described in Part E of this agreement, Owner shall pay Pendulum Studio a total fee in the amount of $20,000.00 (Twenty Thousand Dollars and Zero Cent).

Anticipated Draw Schedule		
Project Initiation		$0
Bidding (allowance):		$20,000.00
Total	**100%**	**$20,000.00**

Bidding Hourly Rates are as follows:

Firm	Scope	Rate ($/hr)	Hrs	Fee
Pendulum	AOR	$ 150.00	52	$ 7,821.00
	Interior Design		17	$ 2,500.00
	Graphics/Wayfinding		3	$ 500.00
	FF&E		3	$ 500.00
Kimley-Horn	Playing Field	$ 232.50	6	$ 1,500.00
	Civil Engineering		0	
	Environmental		0	
	Landscape Architecture		0	
Thornton Tomasetti	Structural	$ 203.00	12	$ 2,500.00
River MEP	MEP, FA	$ 195.00	13	$ 2,500.00
DataCom	Low Voltage	$ 142.00	11	$ 1,554.00
ECS	Geotechnical	$ 150.00	0	
Capital	Food Service	$ 100.00	6	$ 625.00
	Total		**124**	**$ 20,000.00**

3.15 PART F – CONSTRUCTION ADMINISTRATION

Construction Startup

1. Attend preconstruction conferences.
2. Issue a set of conformance Construction Documents that include addenda and approved substitutions.
3. Assist in Building Permit process.

Construction Startup – Interiors

1. Attend preconstruction conferences.
2. Issue a set of conformance Construction Documents that include addenda and approved substitutions.
3. Assist in Building Permit process.

Construction Administration

1. Attend Construction Progress Meeting Virtually.
2. Attend Construction Coordination Meetings Virtually.

Monthly Site Visits:

1. Observation Services consisting of visits to the site on a regular basis to become familiar with the progress and quality of the Work completed and to determine if the Work, when completed, is in accordance with Contract Documents and to ensure that the Work is progressing as required by the construction schedule approved by the Owner. The Owner shall be provided with reports and communications in conjunction with Pendulum's regular site visits. Site visits shall occur on an as-needed basis upon the agreement of the Parties but not to exceed one site visit bi-monthly.

Administer Payment & Changes in Work:

1. Review and approve monthly payment applications from Contractor.
2. Preparation, reproduction and distribution of Drawings and Specifications to describe Work to be added, deleted, or modified.
3. Review of proposals from Contractors for reasonableness of quantities and costs of labor and materials.
4. Negotiations with Contractors on Owner's behalf relative to costs of Work proposed, added, deleted, or modified.
5. Assisting in the preparation of appropriate Modifications of the Contracts for Construction.
6. Coordination of communications, approvals, notifications, and record keeping relative to changes in the Work.

Submittal Review, Contractor Questions:

1. Processing of submittal, including receipt, review of, and appropriate action on Shop Drawings, Product Data, Samples, and other submittal required by the Contract Documents.
2. Review of claims, disputes or other matters between the Owner and Contractor relating to the execution or progress of the Work as provided in the Contract Documents.
3. Rendering written decisions within a reasonable time and following the procedures set forth in the Agreement between the Owner and Architect.
4. Preparation, reproduction and distribution of supplemental drawings, Specifications, and interpretations in response to request for clarification by Contractors or the Owner.
5. Forwarding Owner's instructions and providing guidance to the Contractors on the Owner's behalf relative to changed requirements and schedule revisions.

Project Closeout:

1. A detailed inspection with the Owner's representative for conformity of the Work to the Contract Documents to verify the list submitted by the Contractors of items to be completed or corrected.
2. Determination of the amounts to be withheld until final completion.
3. Securing and receipt of consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payments.
4. Issuance of Certificates of Substantial Completion.
5. Inspection upon notice by the Contractor of deficiencies found in follow-up

inspection, if any.

6. Final inspection with the Owner's representative to verify final completion of the Work.
7. Receipt and transmittal of warranties, affidavits, receipts, releases and waivers of liens or bond indemnifying the Owner against liens.
8. Review of O&M Manuals and Close-Out Documents.

3.16 PART F – CONSTRUCTION ADMINISTRATION SCHEDULE

We propose the following schedule:

Construction	Fifty-Two Weeks (52)

3.16 PART F – CONSTRUCTION ADMINISTRATION FEE

For all the Services described in Part F of this agreement, Owner shall pay Pendulum Studio a total fee in the amount of $311,664.00 (Three Hundred Eleven Thousand Six Hundred Sixty-Four Dollars and Zero Cent).

Anticipated Draw Schedule		
Project Initiation		$0
Weekly Billing - Billed Monthly		$5,993.54
Total	**100%**	**$311,664.00**

Construction Administration Hourly Rates are as follows:

Firm	Scope	Rate ($/hr)	Hrs	Fee
Pendulum	AOR	$ 150.00	1578	$ 236,627.00
	Interior Design		33	$ 5,000.00
	Graphics/Wayfinding		3	$ 500.00
	FF&E		0	$ -
Kimley-Horn	Playing Field	$ 232.50	32	$ 7,500.00
	Civil Engineering		60	$ 13,900.00
	Environmental		0	
	Landscape Architecture		13	$ 3,000.00
Thornton Tomasetti	Structural	$ 203.00	133	$ 27,075.00
River MEP	MEP, FA	$ 195.00	52	$ 10,200.00
DataCom	Low Voltage	$ 142.00	47	$ 6,612.00
ECS	Geotechnical	$ 150.00	0	
Capital	Food Service	$ 100.00	13	$ 1,250.00
	Total		**1964**	**$ 311,664.00**

3.17 FEE SUMMARY BY PHASE

Pendulum has broken its proposed fee into Part A to F to provide the Owner with the ability to execute work in stages by milestones as follows:

Concept Design	Pendulum	$33,596.00 – *All Vertical Construction*
Architect of Record	Pendulum	$810,000.00 – *All Vertical Construction*

Interior Design	Pendulum	$45,000.00 – *All Interior Spaces*
Graphics & Wayfinding	Pendulum	$10,000.00 – *Design & Coordination*
FF&E	Pendulum	$15,000.00 – *Furniture & Equip.*

Subconsultant Fees Not to Exceed as follows:

Food Service Design	Capital Food Service	25,000.00 – *Concession & Equipment*
Playing Field Design	Kimley-Horn	$111,153.00 – *All Playing Fields*
MEP/FP Engineering	River MEP	$96,900.00 - *All Vertical Construction*
Structural Engineering	Thornton Tomasetti	$180,500.00 – *All Vertical Construction.*
Civil Engineering	Kimley-Horn	$204,313.00 – *All Site Construction*
Geotechnical Engineering	ECS	$6,500.00 - *All Site Construction*
Environmental Services	Kimley-Horn	$8,500.00 - *All Site Construction*
Landscape Architecture	Kimley-Horn	$13,078.00 – *All site Construction*
Acoustical/Low Voltage	DataCom Design	$32,376.00 - *All Vertical Construction*
Fee Grand Total (Not to Exceed)		**$1,591,916.00**

3.19 EXCLUSIONS

Services NOT currently included in the schedule of fees above are as follows:

- Survey & Construction Staking (TBD at the appropriate design phase)

2. **Reimbursable Expenses**

Expenses incurred in the performance of the design services are NOT included in stated design fee listed above and shall be reimbursed upon Owner approval with ZERO markup.

Invoices for services rendered shall be billed monthly not to exceed $20,000 for the project. Pendulum Studio's invoices will be accompanied by sufficient supporting documentation as reasonably requested by Owner. All undisputed amounts properly invoiced by Pendulum Studio will be paid within thirty (30) days following Owner's receipt of such invoice, with interest at a rate of 1.5% per month applicable to such amounts that are not paid when due.

3. Additional Services

A. Unless otherwise agreed upon by the parties pursuant to a new or separate contract, Additional Services beyond the scope of this Agreement and agreed upon by the Owner will be provided at the standard hourly rate listed below:

Principal In Charge:	$250/hr
Project Manager:	$150/hr
Project Architect:	$120/hr
Interior Designer:	$110/hr
Revit Technician:	$100/hr
Clerical:	$45/hr

B. Additional Services shall apply when the Design Consultant, having begun the services described in this proposal, is required to increase scope or length of services due to significant delays or modifications to the original project schedule.

C. Architectural Animations shall be considered an Additional Service upon Owner request - at the following rate:
Rendered Animation and Additional Still Images Allowance: $10,000

4. Lead Architect

Pendulum Studio designates Jonathan O'Neill Cole as its Lead Architect in providing the Services hereunder. The Lead Architect shall be responsible for coordinating, scheduling, and supervising the performance of the Services through completion of the same and shall be the person responsible for communicating on behalf of Pendulum Studio, with Owner, the Other Contractors, and other persons or entities involved with the Project. The Lead Architect shall not be changed without the prior approval of Owner, which approval Owner may withhold at its sole discretion.

5. Project Personnel

Principal-In-Charge/Lead Architect – Jonathan Cole
Project Manager – Cedric Lowe
Designer – Isabela Gorgati
Project Architect – Tanner Cobb
Senior Project Designer – Neill Scheiter

EXHIBIT A
DRAFT CONCEPTUAL BUILDING PROGRAM

VETERANS PARK SPORTS BUILDING PROGRAM

PROGRAM AREA	NO.	QTY	SF	TOTAL SF	NOTES
OPEN AIR PROGRAM AMENITIES					
Parking		200	435.6	87,120	
Seating Inventory					
Fixed Armchair Seating		2,000	6	12,000	
Group Seating - Fixed		200	12	2,400	
Group Seating - Picnic		500	12	6,000	
Brass Berm seating		500	10	5,000	
Sub-Total		3,200		25,400	
Open Air Circulation					
Open Concourse		600	25	15,000	
Sub-Total				15,000	
Training Facilities					
Playing Field				135,000	
Bullpen		2	1800	3,600	
Batting/Pitching Lane 1				1,200	
Batting/Pitching Lane 2				1,200	
Sub-Total				141,000	
Total Open Air Program				**268,520**	
ENCLOSED PROGRAM AMENITIES					
Grounds Maintenance					
General Storage				1,000	
Maintenance Building		1	1200	1,200	
Sub-Total				**2,200**	
Public Restrooms					
Restroom - Men		3	222	666	
Restroom - Women		3	255	765	
Restroom - Family		3	65	195	
Sub-Total				**1,626**	
Food Service & Equipment					
Concession Stand		2	723	1,446	*10 POS*
Commissary Storage		1	1200	1,200	
Bar/Cart POS		4	50	200	
Sub-Total				**2,846**	

Locker Room Facilities

Home Entry	84
Home Lockers	799
Home Grooming	425
Home Mgr Office	172
Home Mgr Grooming	121
Home Training	176
Home Janitor	51
Home MEP	78
Sub-Total	**1,905**
Visitor Lobby	84
Visitor Lockers	799
Visitor Grooming	457
Visitor Manager	172
Visitor Manager Grooming	121
Visitor Training	176
Visitor Janitor	51
Visitor MEP	78
Sub-Total	**1,937**
Auxiliary Lobby	0
Auxiliary Lockers	0
Auxiliary Grooming	0
Auxiliary Manager	0
Auxiliary Manager Grooming	0
Auxiliary Training	0
Auxiliary Janitor	0
Auxiliary MEP	0
Sub-Total	**0**
Umpire/Officials Entry	80
Umpire/Officials Locker	160
Umpire/Officials Grooming	175
Sub-Total	**415**

Retail Store

Retail Sales Area	1,000
Retail Sales Office	120
Retail Storage	300
Sub-Total	**1,420**

Team Administration

Multi-Purpose Room			800
Storage			150
Administration MEP			200
Restroom			80
Restroom			80
Office 01			120
Office 02			120
Office 03			120
Office 04			120
Office 05			120
Conference Room			225
Circulation			500
Sub-Total			**2,635**

Press Box

Press Work Room			300
Scoreboard Control Room			250
Home Radio			120
Away Radio			120
Writing Press			200
Press Circulation			350
Sub-Total			**1,340**

Premium Amenities

Suite Restroom - Men			80
Suite Restroom - Women			80
Premium Suite	4	225	900
Storage			200
Pantry			300
Circulation			350
Sub-Total			**1,910**

PROGRAM SUMMARY

Total Enclosed Area		18,234
Circulation	5%	912
Interior Wall Thickness	2%	365
MEP	10%	1,915
Enclosed Program Grand Total		**21,425**
Total Acreage Required		**7**

December 12, 2024
Item No. 9.4.
Council-Appointed Board and Commission Representatives

Sponsor: Tanya Smith, City Secretary

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding the appointment of Councilmembers to boards and commissions.

Relationship to Strategic Goals:
Good Governance

Recommendation(s): None

Summary: This is an opportunity for Councilmembers to consider whether they wish to continue serving on a particular board or volunteer for another. The list of Council Appointed Representatives that could possibly be retiring are indicated with a yellow highlight, which was provided separately.

Budget & Financial Summary: None

Attachments:
1. 2025-2026 Council Appointed Reps

2025-2026 Council Appointed Representatives

The following individuals are appointed by the City Council to represent the City of College Station on joint committees with other governmental agencies and community groups.

Aggieland Humane Society – (2-year terms)

Dianne Marlow	Appointed 1/24
Jim Bob Arnold, Assistant Police Chief	Appointed 1/24

Arts Council of the Brazos Valley (3-year terms)

Elizabeth Cunha	Appointed 1/24-1/27 – appoint for 2-yr unexpired Dec. 2024
New appointments in February (Citizens)	
Sara Mirza	Appointed 1/23-1/25 – appointment for January 2025
Warren L. Finch	Appointed 1/23-1/26

BioCorridor Board - (2-year terms)

Linda Harvell	Appointed 1/24 – appoint for 1-yr unexpired Dec. 2024
P&Z Commission	
Aron Collins	Appointed 3/24
Bobby Mirza	Appointed 3/24

Blinn College Brazos County Advisory Committee – no appointments currently.

Brazos Appraisal District – (1-year term)

Susan Marie Pesl	Appointed 1/25-1/26

Brazos County Health Department – (2-year term)

Bob Yancy	Appointed 1/23 – appointment in December 2024
Linda Harvell	Appointed 1/24 – appoint for 1-yr unexpired Dec. 2024

Brazos Valley Community Emergency Operations Center Policy Advisory Board

John Nichols	Appointed 1/23
Linda Harvell (Alternate)	Appointed 1/23 – appointment in December 2024

Brazos Valley Council of Governments Board of Directors

John Nichols	Appointed 1/23

Brazos Valley Council of Gov't Intergovernmental Committee – (2-year terms)

John Nichols	Appointed 1/23-1-25
Mark Smith	Appointed 1/23-1-25

Brazos Valley Economic Development Corporation – (3-year terms)

John Nichols	Appointed 1/24-1/27
Dennis Maloney	Appointed 1/24-1/27
Jeremy Osborne	Appointed 10/23-5/24 (unexpired term) w reappointment of a 3-year term.

Brazos Valley Groundwater District – (4-year terms by Resolution)

Gary Mechler	Appointed 1/23-12/26

Brazos Valley Solid Waste Management Agency Board of Directors

John Nichols (Chair)	Appointed 1/23-1/26 (3-yr term)
Mark Smith	Appointed 1/24-1/27 (3-yr term)
Bill Lartigue	Appointed 12/23-12/26 (3-yr term)

Brazos Valley Wide Area Communications System

William Wright	Appointed 1/23

Brazos Transit District ((2)–4-year terms)

John Nichols	Appointed 11/23

Bryan/College Station Metropolitan Planning Organization – (Policy Board)

John Nichols	(Serves until end of term)

Keep Brazos Beautiful

Caroline Ask	Appointed 3/21

Regional Mobility Authority Board CS Representative – (4-year term)

Veronica Morgan	Appointed 12/20-12/24 - appointment in December 2024

Regional Transportation Committee for Council of Governments

Bob Yancy	Appointed 1/23

RELLIS External Advisory Council – no appointments currently.

Sisters Cities

Dennis Maloney	Appointed 1/23-1/26 - appoint for ***1***-yr unexpired Dec. 2024

Spring Creek Local Government Corporation Services – (2-year terms)

John Nichols	Appointed 1/23-1/25
Bob Yancy	Appointed 1/23-1/25
Mark Smith	Appointed 1/23-1/25
Appointments were placed on Hold	
Jason O. Cornelius (P&Z Citizen)	Appointed 1/22-1/24 (1-year unexpired term)
Jane Kee (Citizen)	Appointed 2/17; 01/20-1/22; 1/22-1/24

INTERNAL COMMITTEES
1-year terms

Architectural Advisory Committee

John Nichols	Appointed 01/23 - appointment for December 2024
Elizabeth Cunha	Appointed 01/23 - appointment for December 2024
Linda Harvell	Appointed 01/23 - appointment for December 2024
Joe Fix (Citizen)	Appointed 01/24
Jonathan Winkler (Citizen)	Appointed 01/23 - appointment for January 2025

Audit Committee – (2-yr term)

John Nichols (Chair)	Appointed 01/23 - appointment for December 2024
Linda Harvell	Appointed 01/24 - appointment for 1-yr unexpired term
Mark Smith	Appointed 01/23 - appointment for December 2024
Nicolo LoGalbo (Citizen)	Appointed 01/24
Michelle McMillin (Citizen)	Appointed 01/23 - appointment for January 2025

Budget and Finance

John Nichols	Appointed 01/24 - appointment for December 2024
Elizabeth Cunha	Appointed 01/24 - appointment for December 2024
Dennis Maloney	Appointed 01/24 - appointment for December 2024

College Station History Sub-Committee

Linda Harvell	Appointed 01/24 - appointment for December 2024
William Wright	Appointed 01/24 - appointment for December 2024
Dennis Maloney	Appointed 01/24 - appointment for December 2024

College Station Tourism Advisory Committee (CMO's appointed positions)

Susan Ballabina	Appointed 2021
Hege Kalaouze	Appointed 2021
Bill Peel	Appointed 2021
Hunter Goodwin	Appointed 2021
Robert Halzweiss	Appointed 2021
Greg Stafford	Appointed 2021
Salm Ismail	Appointed 2021
Meredith McAuliffe	Appointed 2021
Jenny Davis	Appointed 2021

Compensation and Benefits

John Nichols, Mayor	Appointed 01/24 - appointment for December 2024
Bob Yancy	Appointed 01/24 - appointment for December 2024
Mark Smith	Appointed 01/24 - appointment for December 2024

Economic Development

John Nichols, Chair	Appointed 01/24 - appointment for December 2024
Bob Yancy	Appointed 01/24 - appointment for December 2024
William Wright	Appointed 01/24 - appointment for December 2024

Transportation and Mobility

Scott Shafer	(BPG Chair)	Appointed 11/24
Mark Smith	(Trans Chair)	Appointed 11/24
Linda Harvell		Appointed 01/24 - appointment for December 2024

(BPG Chair was designated to Shafer by Smith)

December 12, 2024
Item No. 10.1.
Items of Community Interest and Council Calendar

Sponsor: City Council

Reviewed By CBC: City Council

Agenda Caption: Items of Community Interest and Council Calendar: The Council may discuss upcoming events and 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.

Relationship to Strategic Goals:

- Good Governance

Recommendation(s): None.

Summary: A current calendar of upcoming community events can be found in more detail at cstx.gov/calendar and official meetings or public notices are posted at cstx.gov/agendas.

Meetings and events from the days of December 12th thru January 9th:
December 14 – Wreaths Across America 10th Anniversary
December 14 – Salvation Army - Mayor Ring Off
December 17 – Brazos County Groundbreaking Ceremony - Medical Examiner's Office
December 18 – Exploring History Luncheons
December 19 – Planning & Zoning Commission Meeting
December 21 – Holiday Artisan Market
December 23-27 – City Offices Closed - Christmas Holiday's
January 1 – City Offices Closed - New Year's Day
January 7 – Zoning Board of Adjustments
January 8 – Legislative Affairs Committee Meeting
January 9 – Rock Prairie Management District No. 2
January 9 – Business After Hours
January 9 – Council Meeting Day

Budget & Financial Summary: None.

Attachments:
None

December 12, 2024
Item No. 11.1.
Council Reports on Committees, Boards, and Commissions

Sponsor: City Council

Reviewed By CBC: City Council

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

Relationship to Strategic Goals:
Good Governance

Recommendation(s): Review meetings attended.

Summary: Animal Shelter Board, Arts Council of Brazos Valley, Architectural Advisory Committee, Audit Committee, Bond Citizens Advisory Committee, Bicycle, Pedestrian, and Greenways Advisory Board, Bio-Corridor Board of Adjustments, Brazos County Health Dept., Brazos Valley Council of Governments, Brazos Valley Economic Development Corporation, Bryan/College Station Chamber of Commerce, Budget and Finance Committee, BVSWMA, BVWACS, Census Committee Group, Compensation and Benefits Committee, Experience Bryan-College Station, Design Review Board, Economic Development Committee, Gulf Coast Strategic Highway Coalition, Historic Preservation Committee, Interfaith Dialogue Association, Intergovernmental Committee, Joint Relief Funding Review Committee, Landmark Commission, Library Board, Metropolitan Planning Organization, Operation Restart, Parks and Recreation Board, Planning and Zoning Commission, Research Valley Technology Council, Regional Transportation Committee for Council of Governments, Sister Cities Association, Spring Creek Local Government Corporation, Transportation and Mobility Committee, TAMU Student Senate, Texas Municipal League, Walk with the Mayor, YMCA, Zoning Board of Adjustments. (Notice of Agendas posted on City Hall bulletin board.)

Budget & Financial Summary: None.

Attachments:
None