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#

February 26, 2026	**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 the Employee of the Year nominees and recognition of the Employee of The Year, the City Impact Award, and the City Leadership Award recipients.

3. Reception.

4. 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, Regular, or Special 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.

4.1. **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. 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.
b. Legal advice regarding easements in the area of Church Avenue and Boyett Street.
c. Legal advice regarding the professional services contract for Southeast Park.

4.2. **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 8 acres of land located at 1508 Harvey Road.
b. Approximately 28 acres of land generally located at Midtown Drive and Corporate Parkway in

the Midtown Business Park.
c. Property located within the Midtown Business Park.

4.3. **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. Zoning Board of Adjustment
b. City Attorney
c. Council Self Evaluation

4.4. **Competitive Matters {Gov't Code Section 551.086);**
Possible action. The City Council may deliberate, vote, or take final action on a competitive matter as that term is defined in Gov't Code Section 552.133 in closed session. The following is a general representation of the subject matter to be considered:
a. Power Supply

4.5. **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 with Corinth Group, Inc.
b. Economic development agreement for a development within the Midtown Business Park relating to baseball fields.
c. Economic development agreement for a development generally located at the intersection of University Drive and College Avenue.
d. Economic development agreement for a development generally located at the intersection of Raymond Stotzer Parkway and State Highway 47.
e. Economic development agreement with College Station Town Center, LP.

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

6. 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.

7. 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.

8. 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.

8.1. Presentation, discussion, and possible action of minutes for:
• February 12, 2026 Council Meeting
Sponsors: Tanya Smith
Attachments: 1. CCM021226 DRAFT Minutes

8.2. Presentation, discussion, and possible action on a construction contract with FW Walton, Inc. for the Utility Customer Service Building Envelope Repair and Maintenance Project in the amount of $117,093 plus the City's contingency in the amount of $23,419 for a total appropriation of $140,512. Approval of this item grants authority for the City Manager to authorize project expenditures up to the City's contingency amount.
Sponsors: Brett Cast , Jennifer Cain
Attachments: 1. UCS Project - FW Walton INC. Contract - Vendor Signed

8.3. Presentation, discussion, and possible action on a construction contract with BH Harris Construction for the construction of a shade shelter, paving, and infrastructure for installing a new pre-purchased pre-manufactured restroom building for the Lincoln Center Area Improvements Project in the amount of $474,128 plus the City's contingency in the amount of $47,412 for a total appropriation of $521,540. Approval of this item grants authority for the City Manager to authorize project expenditures up to the City's contingency amount.
Sponsors: Jennifer Cain
Attachments: 1. Lincoln Center Map
2. Lincoln Center RFP (CSP) 26-027 Bid Summary
3. Lincoln Center Improvements Contract_26300332

8.4. Presentation, discussion, and possible action on a contract with Digitech Computer, LLC. in an amount not-to-exceed $225,000 for EMS billing services, accounts receivable, delinquent accounts collection, medical records requests, fire billing, and other related fire and EMS billing and records services.
Sponsors: Richard Mann
Attachments: 1. 26300297--KJ (CC 2.26.26)

8.5. Presentation, discussion, and possible action regarding the award of a contract to Brazos Paving, Inc. for base failure repairs and pavement reconstruction treatments in an amount not to exceed $6,000,000. This item is for contracted equipment, labor, and materials for standard maintenance activities associated with asphalt streets.
Sponsors: Emily Fisher
Attachments: 1. 26-037 Tabulation
2. 26300344 -- BW (CC 2.26.26)

8.6. Presentation, discussion, and possible action on an annual price agreement with Prime Seventy Real Estate, LLC to purchase (pickup or delivery) on an as-needed basis: Type D Hot Mix Asphalt, Cement Treated Base and Recycled Crushed Concrete Base, and Cement Stabilized Sand for an amount not to exceed $3,616,000 for Asphalt, $1,069,000 for Base, and $51,000 for Sand.

Sponsors: Emily Fisher

Attachments:
1. 26-036 Tabulation
2. 26-036 Annual Price for Hot Mix Cement Stabilized Sand and Base

8.7. Presentation, discussion, and possible action on a construction contract with Fun Abounds Inc. for playground replacement projects at Bee Creek Park and W.A. Tarrow Park in the amount of $398,482.00, plus the City's contingency in the amount of $39,848.20 for a total appropriation of $438,330.20.

Sponsors: Gene Ballew

Attachments:
1. 26300312 -- JU (CC 2.26.26)

8.8. Presentation, discussion, and possible action on the approval of three annual not-to-exceed (NTE) price agreements for various electric warehouse inventory items to: (1) KBS Electrical Distributors, Inc. (KBS) NTE $1,421,109.40; (2) Techline, Inc. (Techline) NTE $729,655.50; and (3) Priester-Mell & Nicholson, Inc. (PMN) NTE $52,750.00. The total cumulative NTE amount for these three price agreements is $2,203,514.90.

Sponsors: Glenn Gavit

Attachments:
1. 26-029 Award Bid Tab (CC 02.26.26)

8.9. Presentation, discussion, and possible action on an annual blanket purchase order for repair parts and repair labor from Siddons-Martin Emergency Group through the BuyBoard in the annual not-to-exceed amount of $250,000.

Sponsors: Mary Ellen Leonard

Attachments:
1. Siddons-Martin Emergency Group, LLC

8.10. Presentation, discussion, and possible action on approving annual tire purchases and retread services from Southern Tire Mart, LLC through the BuyBoard in the annual not-to-exceed amount of $310,000.

Sponsors: Mary Ellen Leonard

Attachments:
1. Southern Tire Mart, LLC

8.11. Presentation, discussion, and possible action regarding an ordinance amending Chapter 38, “Traffic and Vehicles,” Article VI “Traffic Schedules,” Section 38-1014 “Traffic Schedule XIV, No Parking Here to Corner and No Parking at Any Time,” and Chapter 38, “Traffic and Vehicles,” Article VI “Traffic Schedules,” Section 38-1015 “Traffic Schedule XV, Two-Hour Parking,” of the Code of Ordinances of the City of College Station, Texas, by removing on-street parking along sections of Stasney Street and Cross Street and permitting on-street parking along sections of Stasney Street located near 550 Cross Street and 401 Stasney Street.

Sponsors: Carl Ahrens

Attachments:
1. Exhibit Parking Removals and Permitted Parking Feb 26
2. Ordinance Parking Removals and Permits Feb 26

8.12. Presentation, discussion, and possible action on approval of a construction contract with Mongan Painting, LLC for the Carters Creek WWTP Clarifiers 2A, 2B, and 3A Rehabilitation Project in the amount of $439,500, along with a contingency amount of $43,950, resulting in a total appropriation of $483,450. Approval of this item will authorize the City Manager to approve expenditures up to the contingency amount.

Sponsors: Gary Mechler, Stephen Maldonado
Attachments: 1. Contract #26300247
2. Bid Tabulation #26-006

8.13. Presentation, discussion, and possible action regarding an amendment to the real estate contract with The Corinth Group, Inc.
Sponsors: Michael Ostrowski
Attachments: 1. Corinth Contract Amendment

8.14. Presentation, discussion, and possible action on a resolution authorizing the Chief of Police as the authorized official to execute documents necessary for the grant application for grant funds from the Office of the Governor - Homeland Security Division for a Safe Shield Armored Tahoe for the SWAT team.
Sponsors: Billy Couch
Attachments: 1. FY 27 SHSP-LEPTA Grant Resolution

9. Workshop Agenda.

9.1. Presentation, discussion, and possible action on the Midtown Engagement Summary Report.
Sponsors: Heather Wade
Attachments: 1. Midtown Area Community Engagement Summary Report

9.2. Presentation, discussion, and possible action on an update from the College Station Police Department.
Sponsors: Billy Couch
Attachments: 1. 2025 College Station Racial Profiling Report-Compressed

10. Regular Agenda.

10.1. Public Hearing, presentation, discussion, and possible action regarding an ordinance amending the Comprehensive Plan by adopting the updated Economic Development Master Plan.
Sponsors: Michael Ostrowski
Attachments: 1. Ordinance

10.2. Presentation, discussion, and possible action on a Letter of Intent with The Station Baseball, LLC relating to a baseball and softball complex in the Midtown Business Park.
Sponsors: Michael Ostrowski
Attachments: 1. LOI - Baseball and Softball Complex

10.3. Presentation, discussion, and possible action on a resolution authorizing the City Manager to approve expenditures over $100,000 for major tourism events that will stimulate the local economy.
Sponsors: Bryan Woods
Attachments: None

10.4. Presentation, discussion, and possible action regarding the appointment of a Zoning Board of Adjustments Board Chair.
Sponsors: Tanya Smith
Attachments: None

11. 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.

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

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

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

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

14. Adjourn.

The City Council may adjourn into Executive Session to consider any item listed on the agenda if a matter is raised that is appropriate for Executive Session discussion. Executive Session is closed to the public. The City Council may according to the Texas Open Meetings Act adjourn the Open Meeting during the Consent, Workshop or Regular or Special Agendas and return into Executive Session to seek legal advice from the City Attorney regarding any item on the Workshop, Consent or Regular or Special Agendas under Chapter 551, Texas Government Code

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 February 19, 2026 at 5:00 p.m.

City Secretary

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

February 26, 2026
Item No. 8.1.
February 26th Meeting Minutes

Sponsor: Tanya Smith, City Secretary

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action of minutes for:
• February 12, 2026 Council Meeting

Relationship to Strategic Goals:

- Good Governance

Recommendation(s): Recommends Approval.

Summary: N/A

Budget & Financial Summary: None

Attachments:
1. CCM021226 DRAFT Minutes

MINUTES OF THE CITY COUNCIL MEETING
IN-PERSON WITH TELECONFERENCE PARTICIPATION
CITY OF COLLEGE STATION
FEBRUARY 12, 2026

STATE OF TEXAS §
§
COUNTY OF BRAZOS §

Presiding:
John Nichols, Mayor

Council:
Mark Smith
William Wright, Mayor ProTem
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 February 12, 2026, 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, and §551.087-Economic Development, and the College Station City Council convened into Executive Session at 4:00 p.m. on February 12, 2026, to continue discussing matters pertaining to:

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

- 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.
- Legal advice regarding Texas Open Meetings
- Legal advice regarding the professional services contract for Southeast Park.

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

- Approximately 8 acres of land located at 1508 Harvey Road.
- Approximately 28 acres of land generally located at Midtown Drive and Corporate Parkway in the Midtown Business Park.

- Property located within the Midtown Business Park.

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

- City Manager
- City Attorney
- Council Self-Evaluation

2.5. 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 with Corinth Group, Inc.
- Economic development agreement for a development within the Midtown Business Park relating to baseball fields.
- Economic development agreement for a development generally located at the intersection of University Drive and College Avenue.
- Economic development agreement for a development generally located at the intersection of Raymond Stotzer Parkway and State Highway 47.
- Economic development agreement with BCS Urban Living LLC for a property at the terminus of Castle Rock Parkway.

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 6:28 p.m.

The Council instructed staff to bring back a letter of intent (LOI) regarding the baseball fields in Midtown at the February 26, 2026 City Council meeting.

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

Invocation given by Pastor Ben Hailey, College Station Police Department.

5. PRESENTATION - PROCLAMATIONS, AWARDS, AND RECOGNITIONS.

5.1. Presentation of a proclamation recognizing February 2026 as Black History Month.

Mayor Nichols presented a proclamation to Lisa Mouton, Felecia Benford, and Natalyn Samuels with the Brazos Valley Africa American Museum Board, and Barbara Moore with the City of College Station, proclaiming the month of February 2026 as Black History Month.

6. Hear Visitors Comments.

No one signed up to speak for Hear Visitors.

7. CONSENT ITEMS

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

No items were pulled for clarification.

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

- **January 22, 2026 Council Meeting**

7.2. Presentation, discussion, and possible action on the award of a construction contract in the amount of $683,000 to Brazos Valley L4, LLC for Concrete Joint Sealing and Minor Repairs.

7.3. Presentation, discussion, and possible action on a construction contract award to D&S Construction, Inc. in the amount of $200,500 for Drainage Repairs on Graham Road and 600 Ivy Cove.

7.4. Presentation, discussion, and possible action on a contract with API National Service Group Inc, in the amount of $175,000 for fire inspections, monitoring, and repairs.

7.5. Presentation, discussion, and possible action on a deductive change order with Kieschnick General Contractors, Inc, in the amount of $557,172 for the McCulloch Water and Wastewater Rehabilitation Project.

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

8. WORKSHOP ITEMS

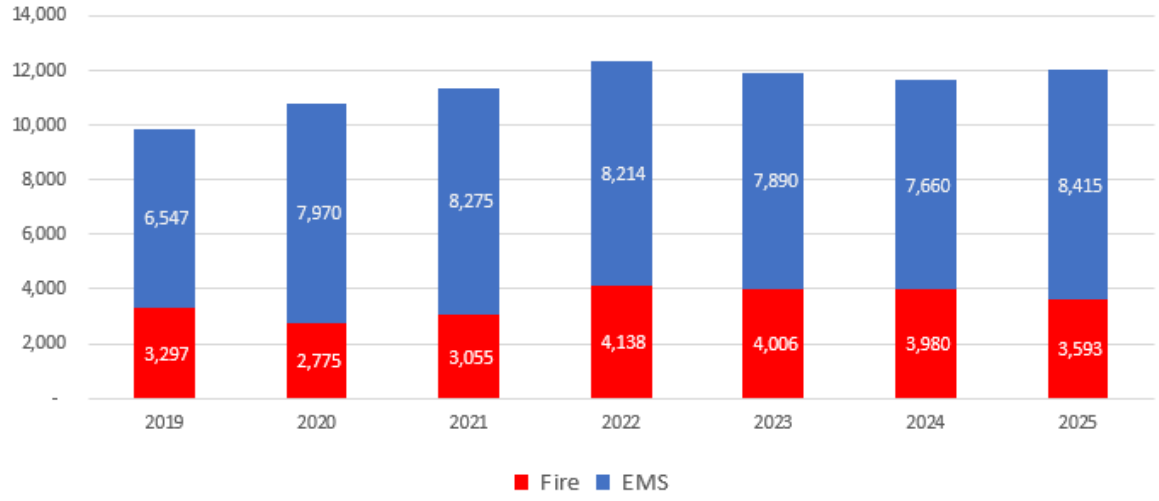
8.1. Presentation, discussion, and possible action on an update from the College Station Fire Department.

Richard Mann, Fire Chief, introduce Command Staff – Assistant Chief Robert Mumford, Chris Kelley, Josh Varner, Fire Marshal Cameron Giordano. EMC Lauren McGrath, CE Supervisor Tommy Shillings.

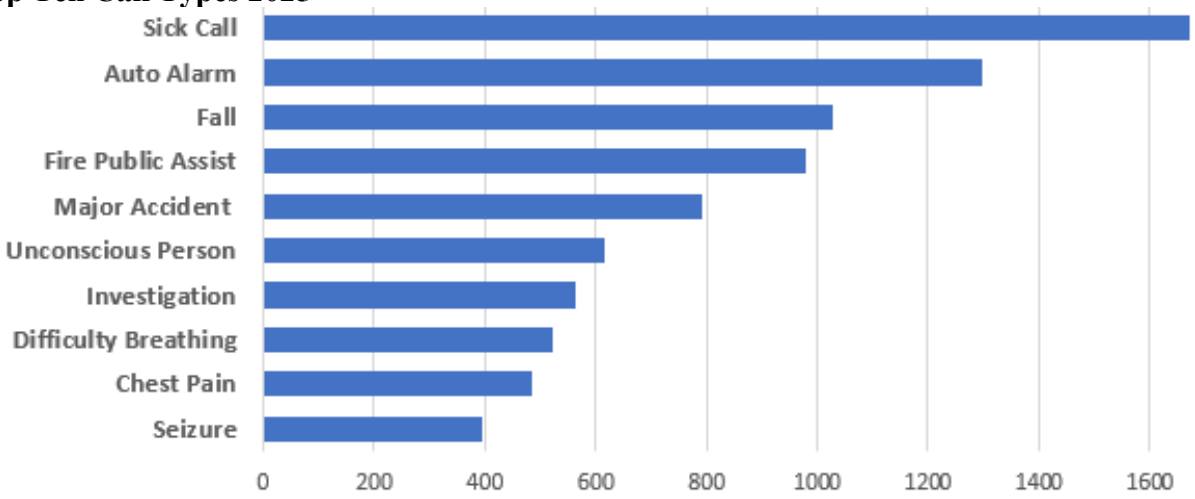
Chief Mann provided an update on calendar year 2025 operations and activities for the College Station Fire Department. He highlighted a steady but slightly increasing call volume since 2022 while response times have improved slightly, coming very close to the goal of the NFPA 1710 standard.

CSFD 2025 Response Times	NFPA 1710 Response Time Standards
Fire – 6:36	Fire – 6:24
EMS – 6:44	EMS – 6:30

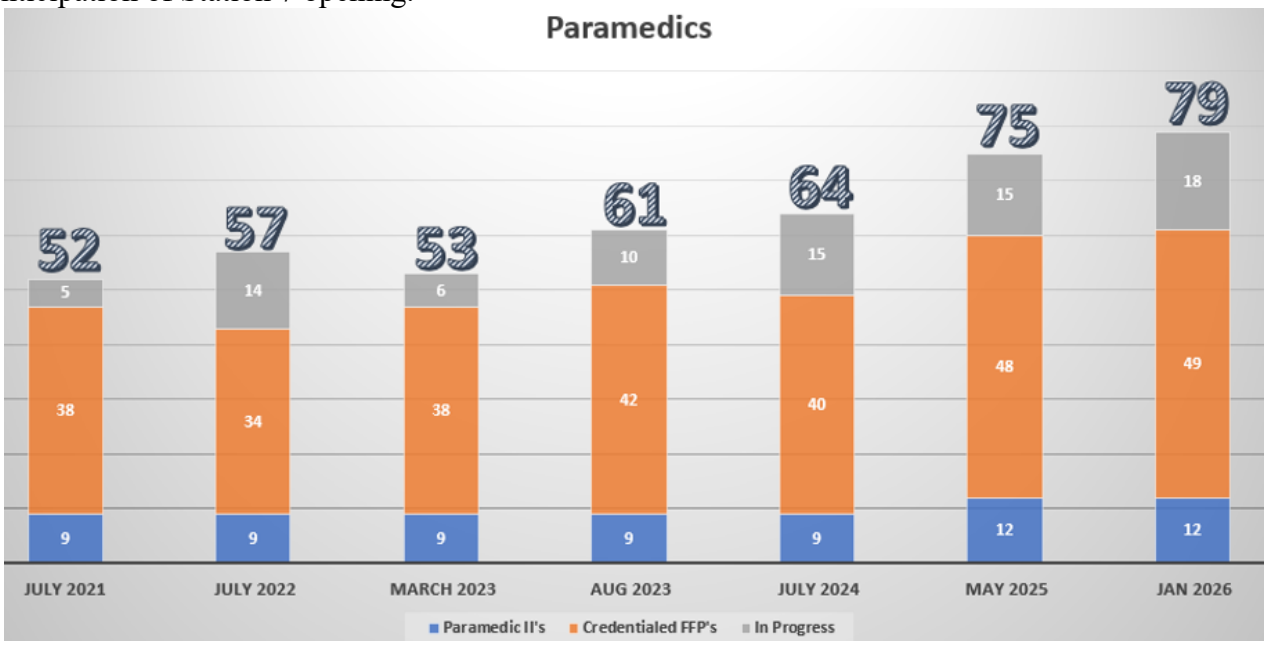
Response Data – Calls for Service



Top Ten Call Types 2025

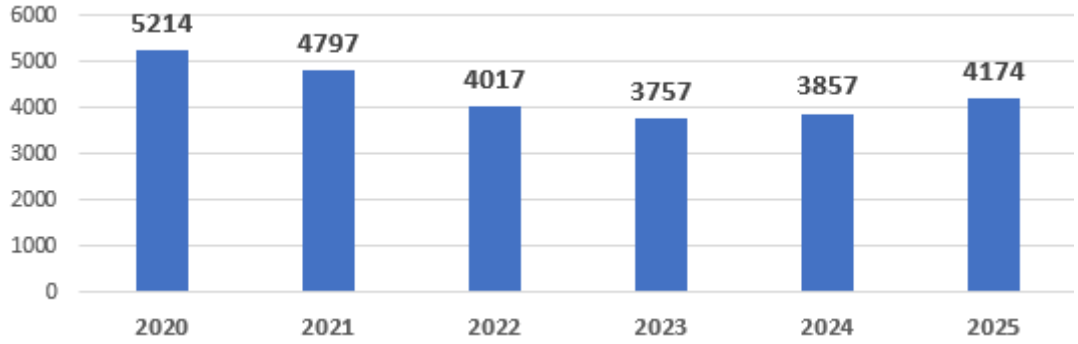


Chief Mann highlighted progress the department has made in staffing paramedics, partially in anticipation of Station 7 opening.



Community Outreach and Code Enforcement activities were highlighted. Community Outreach reported 25,166 interactions at 211 Community Events; 572 citizens were trained in CPR, AED, and Stop-the-Bleed with 38 residences were equipped with smoke alarms. He noted that the dip in Code Cases around 2023 was a direction by Council to focus on over occupancy, with those cases being time intensive. In order of ranking the top 5 violations are parking, trash containers, weeds and grass, accumulation of trash, and junk vehicles.

Code Enforcement Violations



A switch to a 48/96 shift schedule has seen positive outcomes for the city. The alternate 56-hour workweek schedule has seen widespread growth amount mid-sized departments like ours.

- Decrease in overtime
- 11.8% decrease in accidents
- 48.5% increase in training
- 28.7% decrease in unscheduled absenteeism
- Improved morale
    - 93% approval by members; noting the following:
        - Increasing quality of life, work-life balance, physical & mental health
        - Improved family relationships

Training

- Hired 47 members in past 3 years
    - Structured 2-year phase training program
- Trained all members in Active Attack Integrated Response (AAIR)
- Mass Casualty Training
- Advanced EMS Training
- 2026 – Emphasis on Highrise's in the Northgate District
        - 6 existing high-rises, 5 under construction, 2 in planning phase
        - 6,972 beds in NG with 14,000+ estimated by Fall 2027

Chief Mann thanked the council for being forward looking with regards to emergency response vehicles. Long production times necessitate ordering fleet vehicles years in advance to meet today's needs.

Fire Station 7 will be located at 2981 Greens Prairie, the groundbreaking took place April 2025 with a estimated completion and opening in the fall of 2026. Two phases of staffing up for the new station have taken place with a total of 24 members being added through a combination of funding including SAFER grants in 2025 and 2026 for a total of 6.44 million of grant money.

9. REGULAR ITEMS

9.1. Presentation, discussion, and possible action regarding a resolution of support of a proposal received in response to RFI 26-032 for the development of affordable housing in College Station through the Texas Department of Housing and Community Affairs 2026 Low Income Housing Tax Credit allocation process.

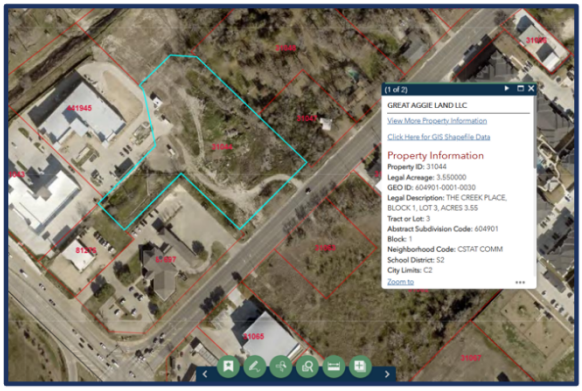
David Brower from Planning and Development highlighted the need for more affordable rentals in College Station, summarized the 9% Low Income Housing Tax Credit program, and detailed the proposal from Woda Cooper Companies, Inc. in response to RFI 26-032. The proposal aims to develop Knoxwood Crossing, a 60-unit affordable housing complex at 2735 South Harvey Mitchel Parkway, with units for families earning 30%-60% of Area Median Income. Without support, the project risks losing its tax credit allocation.

College Station Workforce Housing Need:

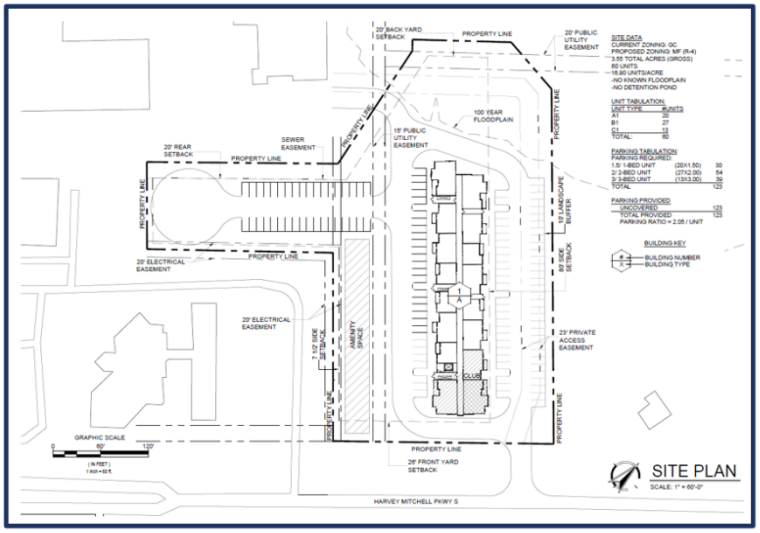
- 58% of College Station renters are cost burdened
    - ❖ Spend more than 30% of monthly income spent on housing
- 35% of College Station renters are severely cost burdened
    - ❖ Spend more than 50% of monthly income spent on housing
- Since 2015, the average College Station home price has increased by 73%, while median family income has only increased by 25.86%

Site Location

- 3.55 acres located at 2735 South Harvey Mitchell Parkway, College Station, Texas 77840
- Brazos County Parcel ID 31044



Proposed Community (Site Plan and AMI Distribution)



Existing Conditions
- Approximately 3.55 acres
- Vacant land

Community Exterior
- 4-Story Elevator Served Building
- Integrated Clubhouse
- Fiber Cement Siding, Brick Veneer

Unit Mix
- 20 - 1 Bedrooms
- 27 - 2 Bedrooms
- 13 - 3 Bedrooms
- 60 total units

Affordable Housing Breakdown
- 30% AMI - 7 units
- 50% AMI - 9 units
- 60% AMI - 44 units

Designed to CPTED Standards
- Comprehensive Lighting
- Landscape Design

Harrison LaHaie from Woda Cooper Companies presented Knoxwood Crossing, a proposed affordable housing development at 2735 S. Harvey Mitchell Parkway. Woda Cooper, established in 1990, is an employee-owned company known for maintaining long-term property ownership and achieving multiple green certifications. In response to the 73% rise in home prices in College Station since 2015, compared to a 25% income increase, they emphasize affordable housing. Knoxwood Crossing will be a four-story building with 60 units: seven for those earning up to 30% of the area's median income, nine for up to 50%, and 44 for up to 60%. Proposed plans for the building would feature brick veneer, cement fiber siding, and crime prevention design standards.

Mayor Nichols opened for Citizen Comments.

Valen Cepak, College Station, expressed his support for the new housing complex and stated that when he served on the Housing Plan Advisory Committee this was one type of project, they found viable. He went on to say that though it doesn't involve ownership, it offers a valuable opportunity for people to save money on rent and potentially prepare for future homeownership.

There being no further comments, Citizen Comments was closed.

MOTION: Upon a motion made by Councilmember Shafer and a second by Councilmember White, the City Council voted seven (7) for and none (0) opposed, to approve Resolution 02-12-26-9.1, the

support of a proposal received in response to RFI 26-032 for the development of affordable housing in College Station through the Texas Department of Housing and Community Affairs 2026 Low Income Housing Tax Credit allocation process. 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.

Nothing to report at this time.

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 White reported on Legislative Engagement Committee.

Mayor Nichols reported on the MPO meeting.

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 McIlhaney requested a future item on micro-mobility regulation options with a focus on community safety.

In accordance with the Texas Government Code the Council reconvened into Executive Session at 7:59 p.m. on February 12, 2026, to continue discussing matters pertaining to:

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

- City Manager

Executive Session recessed at 8:47 p.m.

13. Adjournment.

There being no further business, Mayor Nichols adjourned the meeting of the City Council at 8:47 p.m. on Thursday, February 12, 2026.

_____
John P. Nichols, Mayor

ATTEST:

_____
Tanya Smith, City Secretary

February 26, 2026
Item No. 8.2.
Utility Customer Service Building Envelope Repair and Maintenance Project

Sponsor: Brett Cast , Assistant Director Capital Projects, Jennifer Cain, Director Capital Projects

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action on a construction contract with FW Walton, Inc. for the Utility Customer Service Building Envelope Repair and Maintenance Project in the amount of $117,093 plus the City's contingency in the amount of $23,419 for a total appropriation of $140,512. Approval of this item grants authority for the City Manager to authorize project expenditures up to the City's contingency amount.

Relationship to Strategic Goals:
Core Services and Infrastructure

Recommendation(s): Staff recommends approval of the contract.

Summary: This project includes the repair and sealing of the exterior of the Utility Customer Service Buildings Envelope that has been allowing moisture infiltration into the building. This work will coat the exterior walls of the building in a thick layer of silicone and reseal all the building window units.

The City of College Station received three construction proposals. After the city's review process, FW Walton, Inc. was selected as the most qualified, best value firm for the project.

Budget & Financial Summary: A budget of $4,598,000 is available in the Facilities and Technology Capital Improvement Projects Fund. A total of $96,259 has been expended or encumbered to date, leaving a balance of $4,501,741 for this contract and future costs.

Attachments:
1. UCS Project - FW Walton INC. Contract - Vendor Signed

CONTRACT & AGREEMENT ROUTING FORM

CONTRACT#: 26300349 PROJECT #: GG2401 BID/RFP/RFQ#: 26-040

Project Name / Contract Description: Utility Customer Service Building Envelope Repair and Maintenance

Name of Contractor: F.W. Walton Inc.

CONTRACT TOTAL VALUE: $ 117,093.00 **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)

Funding Account: 41379971-6561

*(If required)**

CRC Approval Date*: N/A **Council Approval Date*:** 02/26/26 **Agenda Item No*:** _____

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

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

SIGNATURES RECOMMENDING APPROVAL

Jennifer Cain BC — 2/13/2026
DEPARTMENT DIRECTOR/ADMINISTERING CONTRACT — DATE

_____ — 2/13/2026
ASST CITY MGR – CFO — DATE

John R. Haislet — 2/13/2026
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 F.W. Walton, Inc. (the "Contractor") for the construction and/or installation of the following:
As described in RFP/CSP 26-040 Utility Customer Services Building Envelope Maintenance and Repair.

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-Three Thousand Four Hundred Nineteen and NO **/100 Dollars ($** 23,419.00).

1.06 Contract Amount. The term "Contract Amount" shall mean the amount of Contractor's lump sum base bid proposal, together with all alternates, as accepted by the City in accordance with the Contractor's Proposal. In the case of a unit price contract, Contract Amount shall mean the sum of the product of all unit prices multiplied by the respective estimated final quantities of work, for all base bid and alternates, as accepted by the City. Except in the event of a duly authorized change order approved by the City as provided in this Agreement, and in consideration of the Contractor's final completion of all Work in conformity with this Agreement, the City shall pay the Contractor an amount not to exceed: One Hundred Seventeen Thousand Ninety-Three and NO **/100 Dollars ($** 117,093.00).

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 Fifty and NO /**100 DOLLARS ($** 250.00 **)** 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

F.W. WALTON, INC.

By: James A. Narvaez

Printed Name: James A. Narvaez

Title: Controller/Treasurer

Date: 2/13/2026

CITY OF COLLEGE STATION

By: _____
City Manager
Date: _____

APPROVED:

John A. Haislet
City Attorney
Date: 2/13/2026

Assistant City Manager/CFO
Date: 2/13/2026

EXHIBIT A
DAVIS BACON WAGE RATES

"General Decision Number: TX20260234 01/02/2026

Superseded General Decision Number: TX20250234

State: Texas

Construction Type: Building

County: Brazos County in Texas.

BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories).

Modification Number	Publication Date
0	01/02/2026

BOIL0074-003 01/01/2025

	Rates	Fringes
BOILERMAKER	$ 33.17	24.92

ELEV0031-003 01/01/2025

	Rates	Fringes
ELEVATOR MECHANIC	$ 53.59	38.435+a+b

FOOTNOTES:

A. 6% under 5 years based on regular hourly rate for all hours worked. 8% over 5 years based on regular hourly rate for all hours worked.

B. Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day; and Veterans Day.

ENGI0178-005 06/01/2020

	Rates	Fringes
POWER EQUIPMENT OPERATOR		
(1) Tower Crane	$ 32.85	13.10
(2) Cranes with Pile Driving or Caisson Attachment and Hydraulic Crane 60 tons and above	$ 28.75	10.60
(3) Hydraulic cranes 59 Tons and under	$ 32.35	13.10

IRON0084-011 06/01/2024

	Rates	Fringes
IRONWORKER, ORNAMENTAL	$ 28.26	8.13

PLUM0068-002 10/01/2024

	Rates	Fringes
PLUMBER	$ 39.98	11.61

PLUM0211-002 10/01/2025

	Rates	Fringes
PIPEFITTER (HVAC Pipe Installation Only)	$ 42.09	12.96

PLUM0286-011 09/01/2025

	Rates	Fringes
PIPEFITTER (Excludes HVAC Pipe Installation)	$ 37.15	16.92

SHEE0054-002 04/01/2020

	Rates	Fringes
SHEET METAL WORKER (HVAC Duct Installation Only)	$ 29.70	13.85

SUTX2014-009 07/21/2014

	Rates	Fringes
BRICKLAYER	$ 20.00	0.00
CARPENTER, Excludes Form Work	$ 14.56	0.00
CEMENT MASON/CONCRETE FINISHER	$ 14.68	0.00
ELECTRICIAN	$ 22.96	4.83
FORM WORKER	$ 11.83	0.00
INSULATOR - MECHANICAL (Duct, Pipe & Mechanical System Insulation)	$ 19.77	7.13
IRONWORKER, REINFORCING	$ 13.35	0.00
IRONWORKER, STRUCTURAL	$ 20.74	5.25
LABORER: Common or General	$ 11.57	0.00
LABORER: Mason Tender - Brick	$ 10.96	0.00
LABORER: Mason Tender - Cement/Concrete	$ 9.93	0.00
LABORER: Pipelayer	$ 12.49	2.13
LABORER: Roof Tearoff	$ 11.28	0.00
OPERATOR: Backhoe/Excavator/Trackhoe	$ 14.33	0.00
OPERATOR: Bobcat/Skid Steer/Skid Loader	$ 13.93	0.00
OPERATOR: Bulldozer	$ 18.29	1.31
OPERATOR: Drill	$ 16.22	0.34
OPERATOR: Forklift	$ 15.00	0.00

OPERATOR: Grader/Blade.....$ 14.34 1.68

OPERATOR: Loader.....$ 14.01 0.44

OPERATOR: Mechanic.....$ 17.52 3.33

OPERATOR: Paver (Asphalt, Aggregate, and Concrete).....$ 16.03 0.00

OPERATOR: Roller.....$ 13.11 0.00

PAINTER (Brush, Roller, and Spray).....$ 13.14 0.00

ROOFER.....$ 13.75 0.00

SHEET METAL WORKER, Excludes HVAC Duct Installation.....$ 14.62 0.00

TILE FINISHER.....$ 11.22 0.00

TILE SETTER.....$ 14.74 0.00

TRUCK DRIVER: Dump Truck.....$ 11.97 1.23

TRUCK DRIVER: Flatbed Truck.....$ 19.65 8.57

TRUCK DRIVER: Semi-Trailer Truck.....$ 12.50 0.00

TRUCK DRIVER: Water Truck.....$ 12.00 4.11

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

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at https://www.dol.gov/agencies/whd/government-contracts.

Note: Executive Order 13658 generally applies to contracts subject to the Davis-Bacon Act that were awarded on or between January 1, 2015 and January 29, 2022, and that have not been renewed or extended on or after January 30, 2022. Executive Order 13658 does not apply to contracts subject only to the Davis-Bacon Related Acts regardless of when they were awarded. If a contract is subject to Executive Order 13658, the

contractor must pay all covered workers at least $13.30 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 2025. The applicable Executive Order minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under Executive Order 13658 is available at www.dol.gov/whd/govcontracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (iii)).

The body of each wage determination lists the classifications and wage rates that have been found to be prevailing for the type(s) of construction and geographic area covered by the wage determination. The classifications are listed in alphabetical order under rate identifiers indicating whether the particular rate is a union rate (current union negotiated rate), a survey rate, a weighted union average rate, a state adopted rate, or a supplemental classification rate.

Union Rate Identifiers

A four-letter identifier beginning with characters other than ""SU"", ""UAVG"", ?SA?, or ?SC? denotes that a union rate was prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2024. PLUM is an identifier of the union whose collectively bargained rate 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. The date, 07/01/2024 in the example, is the effective date of the most current negotiated rate.

Union prevailing wage rates are updated to reflect all changes over time that are reported to WHD in the rates in the collective bargaining agreement (CBA) governing the classification.

Union Average Rate Identifiers

The UAVG identifier indicates that no single rate prevailed for those classifications, but that 100% of the data reported for the classifications reflected union rates. EXAMPLE: UAVG-OH-0010 01/01/2024. UAVG indicates that the rate is a weighted union average rate. OH indicates the State of Ohio. The next number, 0010 in the example, is an internal number used in producing the wage determination. The date, 01/01/2024 in the example, indicates the date the wage determination was updated to reflect the most current union average rate.

A UAVG rate will be updated once a year, usually in January, to reflect a weighted average of the current rates in the collective bargaining agreements on which the rate is based.

Survey Rate Identifiers

The ""SU"" identifier indicates that either a single non-union

rate prevailed (as defined in 29 CFR 1.2) for this classification in the survey or that the rate was derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As a weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SUFL2022-007 6/27/2024. SU indicates the rate is a single non-union prevailing rate or a weighted average of survey data for that classification. FL indicates the State of Florida. 2022 is the year of the 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. The date, 6/27/2024 in the example, indicates the survey completion date for the classifications and rates under that identifier.

?SU? wage rates typically remain in effect until a new survey is conducted. However, the Wage and Hour Division (WHD) has the discretion to update such rates under 29 CFR 1.6(c)(1).

State Adopted Rate Identifiers

The ""SA"" identifier indicates that the classifications and prevailing wage rates set by a state (or local) government were adopted under 29 C.F.R 1.3(g)-(h). Example: SAME2023-007 01/03/2024. SA reflects that the rates are state adopted. ME refers to the State of Maine. 2023 is the year during which the state completed the survey on which the listed classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. The date, 01/03/2024 in the example, reflects the date on which the classifications and rates under the ?SA? identifier took effect under state law in the state from which the rates were adopted.

WAGE DETERMINATION APPEALS PROCESS

1) Has there been an initial decision in the matter? This can be:

a) a survey underlying a wage determination
b) an existing published wage determination
c) an initial WHD letter setting forth a position on a wage determination matter
d) an initial conformance (additional classification and rate) determination

On survey related matters, initial contact, including requests for summaries of surveys, should be directed to the WHD Branch of Wage Surveys. Requests can be submitted via email to davisbaconinfo@dol.gov or by mail to:

Branch of Wage Surveys
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

Regarding any other wage determination matter such as conformance decisions, requests for initial decisions should be directed to the WHD Branch of Construction Wage Determinations. Requests can be submitted via email to BCWD-Office@dol.gov or by mail 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 an initial decision has been issued, then any interested party (those affected by the action) that disagrees with the decision can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Requests for review and reconsideration can be submitted via email to dba.reconsideration@dol.gov or by mail 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 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.

==========

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. 101665728

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

THAT WE, F. W. Walton, Inc., as Principal, hereinafter called "Contractor" and the other subscriber hereto Merchants Bonding Company (Mutual), 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 Seventeen Thousand Ninety-Three Dollars and No /100 Dollars ($ 117,093.00) 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 RFP/CSP 26-040 Utility Customer Services Building Envelope Maintenance and Repair ,

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. 101665728

FOR THE CONTRACTOR:

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

By: _____

Name: Tim Haeper

Title: Vice President

Date: February 26, 2026

(Name of Contractor)

By: _____

Name: F. W. Walton, Inc.

Title: James A. Narvaez - Controller

Date: February 26, 2026

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

By: _____

Name: Donna Weinel

Title: Witness

Date: February 26, 2026

Merchants Bonding Company (Mutual)
(Full Name of Surety)

P.O. Box 14498

Des Moines, Iowa 50306-3498
(Address of Surety for Notice)

By: _____

Name: Jennifer Mitchell

Title: Attorney-in-Fact

Date: February 26, 2026

FOR THE CITY:

REVIEWED:

John A. Haislet 2/13/2026
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. 26300349
Construction Agreement Over $50,000
Form 04-20-2023

MERCHANTS BONDING COMPANY™

POWER OF ATTORNEY

Know All Persons By These Presents, that MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., both being corporations of the State of Iowa, d/b/a Merchants National Indemnity Company (in California only) (herein collectively called the "Companies") do hereby make, constitute and appoint, individually,

Bryan Burkhart; Donna Weinel; G C Blystone Jr; Jennifer Mitchell; Kayla Williams; Mark Smith

their true and lawful Attorney(s)-in-Fact, to sign its name as surety(ies) and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

This Power-of-Attorney is granted and is signed and sealed by facsimile under and by authority of the following By-Laws adopted by the Board of Directors of Merchants Bonding Company (Mutual) on April 23, 2011 and amended August 14, 2015 and April 27, 2024 and adopted by the Board of Directors of Merchants National Bonding, Inc., on October 16, 2015 and amended on April 27, 2024.

"The President, Secretary, Treasurer, or any Assistant Treasurer or any Assistant Secretary or any Vice President shall have power and authority to appoint Attorneys-in-Fact, and to authorize them to execute on behalf of the Company, and attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof."

"The signature of any authorized officer and the seal of the Company may be affixed by facsimile or electronic transmission to any Power of Attorney or Certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligations of the Company, and such signature and seal when so used shall have the same force and effect as though manually fixed."

In connection with obligations in favor of the Florida Department of Transportation only, it is agreed that the power and aut hority hereby given to the Attorney-in-Fact includes any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts required by the State of Florida Department of Transportation. It is fully understood that consenting to the State of Florida Department of Transportation making payment of the final estimate to the Contractor and/or its assignee, shall not relieve this surety company of any of its obligations under its bond.

In connection with obligations in favor of the Kentucky Department of Highways only, it is agreed that the power and authority hereby given to the Attorney-in-Fact cannot be modified or revoked unless prior written personal notice of such intent has been given to the Commissioner-Department of Highways of the Commonwealth of Kentucky at least thirty (30) days prior to the modification or revocation.

In Witness Whereof, the Companies have caused this instrument to be signed and sealed this 29th day of July , 2024 .

MERCHANTS NATIONAL BONDING, INC. -o- 2003 INCORPORATED

MERCHANTS BONDING COMPANY (MUTUAL) -o- 1933 INCORPORATED

MERCHANTS BONDING COMPANY (MUTUAL)
MERCHANTS NATIONAL BONDING, INC.
d/b/a MERCHANTS NATIONAL INDEMNITY COMPANY

By Larry Taylor

President

STATE OF IOWA
COUNTY OF DALLAS ss.

On this 29th day of July 2024 , before me appeared Larry Taylor, to me personally known, who being by me duly sworn did say that he is President of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC.; and that the seals affixed to the foregoing instrument are the Corporate Seals of the Companies; and that the said instrument was signed and sealed in behalf of the Companies by authority of their respective Boards of Directors.

NOTARIAL SEAL IOWA

Penni Miller
Commission Number 787952
My Commission Expires
January 20, 2027

(Expiration of notary's commission does not invalidate this instrument)

Notary Public

I, Elisabeth Sandersfeld, Secretary of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., do hereby certify that the above and foregoing is a true and correct copy of the POWER-OF-ATTORNEY executed by said Companies, which is still in full force and effect and has not been amended or revoked.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the Companies on this 26th day of February , 2026 .

MERCHANTS NATIONAL BONDING, INC. -o- 2003 INCORPORATED

MERCHANTS BONDING COMPANY (MUTUAL) -o- 1933 INCORPORATED

Secretary

POA 0018 (6/24)

MERCHANTS BONDING COMPANY™

MERCHANTS BONDING COMPANY (MUTUAL) • P.O. BOX 14498 • DES MOINES, IOWA 50306-3498
PHONE: (800) 678-8171 • FAX: (515) 243-3854

NOTICE TO BOND HOLDER – RETAIN THIS PAGE FOR YOUR RECORDS

Have a complaint or need help?

If you have a problem with a claim or your premium, call your insurance company or HMO first. If you can't work out the issue, the Texas Department of Insurance may be able to help.

Even if you file a complaint with the Texas Department of Insurance, you should also file a complaint or appeal through your insurance company or HMO. If you don't, you may lose your right to appeal.

To get information or file a complaint with your insurance company or HMO:

Merchants Bonding Company (Mutual)

Call: Compliance Officer at (800) 671-8171
Toll-free: (800) 671-8171
Email: regulatory@merchantsbonding.com
Mail: P.O. Box 14498, Des Moines, Iowa 50306-3498

To get insurance information, you may also contact your agent:

Texas First Insurance

Call: 409-934-8000

Mail:7900 Emmett F Lowry Expy, Texas City, Texas 77591

The Texas Department of Insurance

To get help with an insurance question or file a complaint with the state:

Call with a question: 1-800-252-3439
File a complaint: www.tdi.texas.gov
Email: ConsumerProtection@tdi.texas.gov
Mail: Consumer Protection, MC: CO-CP, Texas Department of Insurance,

¿Tiene una queja o necesita ayuda?

Si tiene un problema con una reclamación o con su prima de seguro, llame primero a su compañía de seguros o HMO. Si no puede resolver el problema, es posible que el Departamento de Seguros de Texas (Texas Department of Insurance, por su nombre en inglés) pueda ayudar.

Aun si usted presenta una queja ante el Departamento de Seguros de Texas, también debe presentar una queja a través del proceso de quejas o de apelaciones de su compañía de seguros o HMO. Si no lo hace, podría perder su derecho para apelar.

Para obtener información o para presentar una queja ante su compañía de seguros o HMO:

Merchants Bonding Company (Mutual)
Llame a: Compliance Officer al (800) 671-8171
Teléfono gratuito: (800) 678-8171
Correo electrónico: regulatory@merchantsbonding.com
Dirección postal: P.O. Box 14498 , Des Moines, Iowa, 50306-3498

El Departamento de Seguros de Texas
Para obtener ayuda con una pregunta relacionada con los seguros o para presentar una queja ante el estado:

Llame con sus preguntas al: 1-800-252-3439
Presente una queja en: www.tdi.texas.gov
Correo electrónico: ConsumerProtection@tdi.texas.gov
Dirección postal: Consumer Protection, MC: CO-CP, Texas Department of Insurance, PO Box 12030, Austin, TX 78711-2030

SUP 0032 TX (11/23)

TEXAS STATUTORY PAYMENT BOND

Bond No. 101665728

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

THAT WE, F. W. Walton, Inc., as Principal, hereinafter called "Principal" and the other subscriber hereto Merchants Bonding Company (Mutual), a corporation organized and existing under the laws of the State of Iowa, 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 Seventeen Thousand Ninety-Three Dollars and No /100 Dollars ($ 117,093.00) 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 26 day of February, 20 26, for RFP/CSP 26-040 Utility Customer Services Building Envelope Maintenance and Repair, 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. 101665728

FOR THE CONTRACTOR:

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

By: _____

Name: Tim Harper

Title: Vice President

Date: February 26, 2026

(Name of Contractor)

By: _____

Name: F. W. Walton, Inc.

Title: James A. Narvaez - Controller

Date: February 26, 2026

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

By: _____

Name: Donna Weinel

Title: Witness

Date: February 26, 2026

Merchants Bonding Company (Mutual)
(Full Name of Surety)

P.O. Box 14498

Des Moines, Iowa 50306-3498
(Address of Surety for Notice)

By: _____

Name: Jennifer Mitchell

Title: Attorney-in-Fact

Date: February 26, 2026

FOR THE CITY:

REVIEWED:

John A. Haislet 2/13/2026
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. 26300349
Construction Agreement Over $50,000
Form 04-20-2023

MERCHANTS BONDING COMPANY™

POWER OF ATTORNEY

Know All Persons By These Presents, that MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., both being corporations of the State of Iowa, d/b/a Merchants National Indemnity Company (in California only) (herein collectively called the "Companies") do hereby make, constitute and appoint, individually,

Bryan Burkhart; Donna Weinel; G C Blystone Jr; Jennifer Mitchell; Kayla Williams; Mark Smith

their true and lawful Attorney(s)-in-Fact, to sign its name as surety(ies) and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

This Power-of-Attorney is granted and is signed and sealed by facsimile under and by authority of the following By-Laws adopted by the Board of Directors of Merchants Bonding Company (Mutual) on April 23, 2011 and amended August 14, 2015 and April 27, 2024 and adopted by the Board of Directors of Merchants National Bonding, Inc., on October 16, 2015 and amended on April 27, 2024.

"The President, Secretary, Treasurer, or any Assistant Treasurer or any Assistant Secretary or any Vice President shall have power and authority to appoint Attorneys-in-Fact, and to authorize them to execute on behalf of the Company, and attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof."

"The signature of any authorized officer and the seal of the Company may be affixed by facsimile or electronic transmission to any Power of Attorney or Certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligations of the Company, and such signature and seal when so used shall have the same force and effect as though manually fixed."

In connection with obligations in favor of the Florida Department of Transportation only, it is agreed that the power and aut hority hereby given to the Attorney-in-Fact includes any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts required by the State of Florida Department of Transportation. It is fully understood that consenting to the State of Florida Department of Transportation making payment of the final estimate to the Contractor and/or its assignee, shall not relieve this surety company of any of its obligations under its bond.

In connection with obligations in favor of the Kentucky Department of Highways only, it is agreed that the power and authority hereby given to the Attorney-in-Fact cannot be modified or revoked unless prior written personal notice of such intent has been given to the Commissioner-Department of Highways of the Commonwealth of Kentucky at least thirty (30) days prior to the modification or revocation.

In Witness Whereof, the Companies have caused this instrument to be signed and sealed this 29th day of July , 2024 .

MERCHANTS NATIONAL BONDING, INC. -o- 2003

MERCHANTS BONDING COMPANY (MUTUAL) -o- 1933

MERCHANTS BONDING COMPANY (MUTUAL)
MERCHANTS NATIONAL BONDING, INC.
d/b/a MERCHANTS NATIONAL INDEMNITY COMPANY

By Larry Taylor

President

STATE OF IOWA
COUNTY OF DALLAS ss.

On this 29th day of July 2024 , before me appeared Larry Taylor, to me personally known, who being by me duly sworn did say that he is President of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC.; and that the seals affixed to the foregoing instrument are the Corporate Seals of the Companies; and that the said instrument was signed and sealed in behalf of the Companies by authority of their respective Boards of Directors.

NOTARIAL SEAL IOWA

Penni Miller
Commission Number 787952
My Commission Expires
January 20, 2027

Notary Public

(Expiration of notary's commission does not invalidate this instrument)

I, Elisabeth Sandersfeld, Secretary of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., do hereby certify that the above and foregoing is a true and correct copy of the POWER-OF-ATTORNEY executed by said Companies, which is still in full force and effect and has not been amended or revoked.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the Companies on this 26th day of February , 2026 .

MERCHANTS NATIONAL BONDING, INC. -o- 2003

MERCHANTS BONDING COMPANY (MUTUAL) -o- 1933

Secretary

POA 0018 (6/24)

MERCHANTS BONDING COMPANY™

MERCHANTS BONDING COMPANY (MUTUAL) • P.O. BOX 14498 • DES MOINES, IOWA 50306-3498
PHONE: (800) 678-8171 • FAX: (515) 243-3854

NOTICE TO BOND HOLDER – RETAIN THIS PAGE FOR YOUR RECORDS

Have a complaint or need help?

If you have a problem with a claim or your premium, call your insurance company or HMO first. If you can't work out the issue, the Texas Department of Insurance may be able to help.

Even if you file a complaint with the Texas Department of Insurance, you should also file a complaint or appeal through your insurance company or HMO. If you don't, you may lose your right to appeal.

To get information or file a complaint with your insurance company or HMO:

Merchants Bonding Company (Mutual)

Call: Compliance Officer at (800) 671-8171
Toll-free: (800) 671-8171
Email: regulatory@merchantsbonding.com
Mail: P.O. Box 14498, Des Moines, Iowa 50306-3498

To get insurance information, you may also contact your agent:

Texas First Insurance

Call: 409-934-8000

Mail: 7900 Emmett F Lowry Expy, Texas City, Texas 77591

The Texas Department of Insurance

To get help with an insurance question or file a complaint with the state:

Call with a question: 1-800-252-3439
File a complaint: www.tdi.texas.gov
Email: ConsumerProtection@tdi.texas.gov
Mail: Consumer Protection, MC: CO-CP, Texas Department of Insurance,

¿Tiene una queja o necesita ayuda?

Si tiene un problema con una reclamación o con su prima de seguro, llame primero a su compañía de seguros o HMO. Si no puede resolver el problema, es posible que el Departamento de Seguros de Texas (Texas Department of Insurance, por su nombre en inglés) pueda ayudar.

Aun si usted presenta una queja ante el Departamento de Seguros de Texas, también debe presentar una queja a través del proceso de quejas o de apelaciones de su compañía de seguros o HMO. Si no lo hace, podría perder su derecho para apelar.

Para obtener información o para presentar una queja ante su compañía de seguros o HMO:

Merchants Bonding Company (Mutual)
Llame a: Compliance Officer al (800) 671-8171
Teléfono gratuito: (800) 678-8171
Correo electrónico: regulatory@merchantsbonding.com
Dirección postal: P.O. Box 14498 , Des Moines, Iowa, 50306-3498

El Departamento de Seguros de Texas
Para obtener ayuda con una pregunta relacionada con los seguros o para presentar una queja ante el estado:

Llame con sus preguntas al: 1-800-252-3439
Presente una queja en: www.tdi.texas.gov
Correo electrónico: ConsumerProtection@tdi.texas.gov
Dirección postal: Consumer Protection, MC: CO-CP, Texas Department of Insurance, PO Box 12030, Austin, TX 78711-2030

SUP 0032 TX (11/23)

EXHIBIT C
CERTIFICATES OF INSURANCE AND ENDORSEMENTS

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 2/10/2026

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:	
Brady, Chapman, Holland & Associates 10055 West Gulf Bank Houston TX 77040	PHONE (A/C, No, Ext): 713-979-9750	FAX (A/C, No): 713-688-7967
	E-MAIL ADDRESS: ecerts@bch-insurance.com	

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Continental Casualty Co. (CNA)	20443
INSURER B : Texas Mutual Insurance Co	22945
INSURER C : Continental Insurance Company	35289
INSURER D : Indian Harbor Ins.	36940
INSURER E : Transportation Insurance Co. (CNA)	20494
INSURER F : Argonaut Insurance Company	19801

INSURED
F.W. Walton, Inc.
FW Walton Dallas, LLC
F.W. Walton San Antonio, LLC
8350 Mosley Road
Houston TX 77075

COVERAGES **CERTIFICATE NUMBER:** 131008136 **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	
E	X **COMMERCIAL GENERAL LIABILITY** [ ] CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: [ ] POLICY [X] PRO-JECT [ ] LOC [ ] OTHER:			4024754873	6/1/2025	6/1/2026	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG Electronic Data Liab	$ 1,000,000 $ 1,000,000 $ 15,000 $ 1,000,000 $ 2,000,000 $ 2,000,000 $ 1,000,000
C	**AUTOMOBILE LIABILITY** X ANY AUTO [ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS X HIRED AUTOS ONLY X NON-OWNED AUTOS ONLY [ ]			4024754906	6/1/2025	6/1/2026	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			4024754890	6/1/2025	6/1/2026	EACH OCCURRENCE AGGREGATE [ ]	$ 5,000,000 $ 5,000,000 $
B F	**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		0001180401 WC929118278984	6/1/2025 6/1/2025	6/1/2026 6/1/2026	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
A D	Inst.Fltr/Builders Risk Equip - Leased/Rented PROF/POLLUTION			4022274271 HO25EXCZ097QTIV	6/1/2025 6/1/2025	6/1/2026 6/1/2026	IF/BR Limit Equip- Lease/Rented PROF/POLLUTION	$4,000,000 $750,000 $2,000,000

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

The policy includes Blanket additional insured on the general liability per form CNA75079XX (Ed. 03/22) and automobile per form CNA63359XX (Ed. 04/12), & Umbrella per form CNA75504XX (Ed/03/15), with a waiver of subrogation on the general liability per form CNA75008XX (Ed.10/16) automobile per form CNA63359XX (Ed. 04/12), Umbrella per form CNA75504XX (Ed. 03/15), and workers compensation per form WC 42 03 04 B, when required by written contract. This insurance is primary and non-contributory as respects general liability form CNA74987XX (Ed. 01/15) & Umbrella form CNA75504XX (Ed. 03/15). Blanket Loss payee on Equipment Floater when required by written contract endorsement G-15028-A (08/89). The Builders Risk includes Blanket Named Insured Endorsement applicable to all owners, architects, engineers, surveyors, contractors, lenders, subcontractors and sub-subcontractors when required by written contract per form G-56015-B (Ed. 11/91). Umbrella follows General Liability, Workers Comp and Auto. 30 Day Notice of Cancellation Applies.

See Attached...

CERTIFICATE HOLDER

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

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

Timothy J. Brady

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AGENCY CUSTOMER ID: _____

LOC #: _____

ADDITIONAL REMARKS SCHEDULE

AGENCY Brady, Chapman, Holland & Associates	**NAMED INSURED** F.W. Walton, Inc. FW Walton Dallas, LLC F.W. Walton San Antonio, LLC 8350 Mosley Road Houston TX 77075
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

NAMED INSURED CONTINUED:
Walton Roofing and Sheetmetal Company

For Project: City of College Station RFP-CSP 26-040
UCS Building Envelope Repair & Maintenance

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Notice: This is a Claims Made and Reported Policy. Subject to its Provisions, this Policy Applies Only to Claims Which are Both First Made by or Against the Insured During the Policy Period and First Reported in Writing to the Insurer During the Policy Period or Within 60 Days After the End of the Policy Period Shown in the Declarations Unless An Optional Extended Reporting Period Applies. Claim Expenses are Included Within and Reduce the Limit of Liability, and are Subject to Any Applicable Self-Insured Retention.

Please Read The Entire Policy Carefully.

Words and phrases that appear in bold print have special meanings that are defined in Section III, **Definitions**.

In consideration of the payment of the premium, and in reliance upon the statements made in the application, materials, and information provided by the **Named Insured**, which are incorporated into this Policy, forms a part hereof, and are a representation upon which this Policy has been issued, the **Insurer** identified in the **Declarations**, herein called the "**Insurer**," agrees with the **Named Insured** as follows:

I. Insuring Agreement

Coverage A - Protective Errors and Omissions

The **Insurer** shall indemnify the **Named Insured** for **Ultimate Loss** on a **Protective Claim**, as established by final judgment or a settlement to which the **Insurer** agrees in writing, in excess of all **Design Professional's Insurance**, provided that:

1. the **Protective Claim** for such **Ultimate Loss** is first made by the **Named Insured** against the **Design Professional** during the **Policy Period** and first reported in writing by the **Named Insured** to the **Insurer** within 60 days after either the end of the **Policy Period** or the end of the Optional Extended Reporting Period, if applicable; and

2. the **Protective Claim** arises out of an actual or alleged negligent act, error or omission performed by the **Design Professional** in the rendering of **Professional Services** on or after the **Retroactive Date** and before the end of the **Policy Period**; and

3. prior to the effective date of the first policy issued to the **Named Insured** by the **Insurer** and continuously renewed, no **Named Insured**, or principal, partner, director, officer, or risk manager of the **Named Insured**, had a basis to believe that any act, error or omission asserted in the **Protective Claim** might reasonably be expected to be the basis of a **Protective Claim**; and

4. the **Named Insured** has made all reasonable efforts to recover all **Ultimate Loss** from all responsible **Design Professionals**.

Coverage B - Professional Liability

The **Insurer** will pay on behalf of the **Insured** all sums in excess of any applicable Self-Insured Retention that the **Insured** is legally obligated to pay as **Damages** or **Claim Expense** because of a **Claim** for an actual or alleged negligent act, error or omission in the rendering of **Professional Services**, provided that:

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1. the **Claim** for such actual or alleged negligent, act, error or omission is first made against the **Insured** during the **Policy Period** and first reported in writing by the **Insured** to the **Insurer** within 60 days after either the end of the **Policy Period** or the end of the Optional Extended Reporting Period, if applicable; and

2. the **Claim** arises out of an actual or alleged negligent, act, error or omission performed by the **Insured**, or by a **Design Professional** for whom the **Insured** is legally responsible, on or after the **Retroactive Date** and before the end of the **Policy Period**; and

3. prior to the effective date of the first policy issued to the **Insured** and continuously renewed by the **Insurer**, no **Named Insured**, or principal, partner, director, officer, or risk manager of the **Insured**, had a basis to believe that any act, error or omission asserted in the **Claim** might reasonably be expected to be the basis of a **Claim**.

Coverage C - Contractor's Pollution Liability

The **Insurer** will pay on behalf of the **Insured** for all **Pollution Loss** or **Claim Expense** in excess of any applicable Self-Insured Retention that the **Insured** is legally obligated to pay as a result of a **Claim** for **Pollution Conditions** arising out of **Contractor Activities**, provided that:

1. the **Claim** for such **Pollution Loss** is first made against the **Insured** during the **Policy Period** and first reported in writing by the **Insured** to the **Insurer** within 60 days after either the end of the **Policy Period** or the end of the Optional Extended Reporting Period, if applicable; and

2. the **Claim** arises out of ongoing or completed **Contractor Activities** performed by the **Insured**, or by others for whom the **Insured** is legally responsible, and the resulting **Pollution Conditions** first commences on or after the **Retroactive Date** and before the end of the **Policy Period**; and

3. prior to the effective date of the first policy issued to the **Insured** and continuously renewed by the **Insurer**, no **Named Insured**, or principal, partner, director, officer, risk manager, or person responsible for environmental affairs of the **Insured**, had a basis to believe that any **Contractor Activities** or **Pollution Condition** asserted in the **Claim** might reasonably be expected to be the basis of a **Claim** for **Pollution Loss**.

II. Supplemental Coverages

The Limits of Liability for each of the following Supplemental Coverages are separate from the Limits of Liability for Coverages A, B, and C in Section I, and payments made under the Supplemental Coverages do not erode the Limits of Liability for Coverages A, B, and C.

A. **Litigation Attendance Reimbursement**

Subject to the Litigation Attendance Limit of Liability stated in Item 3.C. of the **Declarations**, upon written request by the **Named Insured**, the **Insurer** shall reimburse the **Named Insured's** actual loss of earnings and reasonable expenses incurred when any **Insured** attends a hearing, deposition, or trial at the written request of the **Insurer**, in the course of defending a **Claim** seeking sums payable under Coverage B - Professional Liability or Coverage C - Contractor's Pollution Liability of this Policy.

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B. **Disciplinary Proceedings Defense Expense**

Subject to the Disciplinary Proceedings Limit of Liability stated in Item 3.D. of the **Declarations**, upon written request by the **Named Insured** within 60 days after either the end of the **Policy Period** or the end of the Optional Extended Reporting Period, if applicable, the **Insurer** shall retain counsel for the **Insured** and pay such counsel's reasonable and necessary fees and expenses in defense of a disciplinary proceeding first brought against the **Insured** during the **Policy Period**, and arising out of either an actual or alleged negligent, act, error or omission in the rendering of **Professional Services** or **Pollution Conditions** related to **Contractor Activities**, performed by or on behalf of the **Insured** on or after the **Retroactive Date** and before the end of the **Policy Period**.

C. **Subpoena Defense Expense**

Subject to the Subpoena Defense Limit of Liability stated in Item 3.E. of the **Declarations**, upon written request by the **Named Insured** within 60 days after either the end of the **Policy Period** or the end of the Optional Extended Reporting Period, if applicable, the **Insurer** shall retain counsel for the **Insured** and pay such counsel's reasonable and necessary fees and expenses in defense of the **Insured** regarding the production of documents and the preparation for and giving of testimony, in response to a subpoena first served on the **Insured** during the **Policy Period** and arising from **Professional Services** or **Pollution Conditions** related to **Contractor Activities**, performed by or on behalf of the **Insured** on or after the **Retroactive Date** and before the end of the **Policy Period**.

D. **ADA and FHA Defense Expense**

Subject to the ADA and FHA Expense Limit of Liability stated in Item 3.F. of the **Declarations**, upon written request by the **Named Insured** within 60 days after either the end of the **Policy Period** or the end of the Optional Extended Reporting Period, if applicable, the **Insurer** shall retain counsel for the **Insured** and pay such counsel's reasonable and necessary fees and expenses incurred when the **Insured** responds to regulatory or administrative actions first brought against the **Insured** during the **Policy Period** by a government agency under the Americans with Disabilities Act of 1990 (ADA) or the Fair Housing Act (FHA), and alleging a negligent, act, error or omission in the rendering of **Professional Services** by or on behalf of the **Insured**, on or after the **Retroactive Date** and before the end of the **Policy Period**.

E. **Corporate Reputation Rehabilitation**

Subject to the Corporate Reputation Rehabilitation Limit of Liability stated in Item 3.G. of the **Declarations**, upon written request by the **Named Insured** within 60 days after either the end of the **Policy Period** or the end of the Optional Extended Reporting Period, if applicable, the **Insurer** shall pay on behalf of the **Named Insured** the reasonable and necessary fees and expenses subsequently incurred by a public relations firm approved by the **Insurer** to restore an **Insured's** corporate reputation that is damaged as a result of a **Claim** seeking sums payable under Coverage B - Professional Liability or Coverage C - Contractor's Pollution Liability of this Policy. The **Insurer** has the right to require for approval of the public relations firm minimum professional certifications and qualifications

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(e.g., Examination for Accreditation in Public Relations, or Accredited Business Communicator from International Association of Business Communicators).

F. **Bankruptcy of Design Professional**

Subject to the Bankruptcy of **Design Professional** Limit of Liability stated in the Item 3.H. of the **Declarations**, upon written request by the **Named Insured** within 60 days after either the end of the **Policy Period** or the end of the Optional Extended Reporting Period, if applicable, the **Insurer** shall reimburse the **Named Insured** for the reasonable and necessary fees and expenses of bankruptcy counsel in making a **Protective Claim** seeking sums payable under Coverage A - Protective Errors and Omissions under this Policy against a **Design Professional** who has filed for or been put into bankruptcy under the United States Bankruptcy Code, provided that the **Protective Claim**, at least in part, is allowed as against or results in a judgment against the **Design Professional** in favor of the **Named Insured**, which is final and no longer subject to objection or appeal.

G. **Building Information Modeling - Extra Expense**

Subject to the Building Information Modeling Limit of Liability stated in Item 3.I. of the **Declarations**, upon written request by the **Named Insured** within 60 days after either the end of the **Policy Period** or the end of the Optional Extended Reporting Period, the **Insurer** shall reimburse the **Named Insured** for any and all reasonable and necessary additional expense arising from loss of or damage to any information due to inherent malfunction of any software used in connection with any Building Information Modeling system, including but not limited to erroneous calculations or modeling, provided that the malfunction is first discovered during the **Policy Period** and after the system has been put to its intended use in the course of actual construction.

H. **Mitigation of Damages or Pollution Loss**

Subject to the Mitigation of **Damages** or **Pollution Loss** Limit of Liability stated in Item 3. J. of the **Declarations**, the **Insurer** agrees to indemnify the **Insured** against 80% of reasonable and necessary outside fees and direct costs incurred for any corrective action to mitigate or rectify **Professional Services** or **Contractor Activities** that would reasonably be expected to give rise to a **Claim** seeking sums payable under Coverage B - Professional Liability or Coverage C - Contractor's Pollution Liability of this Policy. The **Professional Services** or **Contractor Activities** giving rise to the need for corrective action must have been rendered after the **Retroactive Date** applicable to this coverage, and the **Insured** must provide prompt and prior written notice to the **Insurer** during the **Policy Period** of the **Insured's** proposed corrective action and must present evidence to the **Insurer** of the foregoing requirements and demonstrate the reasonableness and necessity of the proposed corrective action in light of the projected benefit in terms of mitigating or avoiding a covered **Claim**. The **Insured** shall not accept or undertake any corrective action without the express written consent of the **Insurer**, and such consent not to be unreasonably withheld. The **Insurer** is not responsible for indemnifying the **Insured** for corrective action with respect to potential liability for **Damages** or **Pollution Loss** not covered by this Policy. With respect to a Bacterial Event, the insurance as provided herein shall only apply after the affected project has been completed or put to its intended use, whichever is earlier. For purposes of this

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section, Bacterial Event shall mean the actual growth, appearance, release or existence of any mold, fungi, spore or bacteria on any project which may result in a **Pollution Loss**. Furthermore, the **Insurer** shall not be obligated to indemnify the **Insured** for the **Insured's** own profit, overhead or salaries, or for corrective action that is betterment, or for liability for consequential damages arising from the corrective action, including but not limited to: project delay costs, cost overruns, increase in funding costs, or any loss of use.

This Supplemental Coverage provided by the **Insurer** is limited to 80% of the covered corrective action, and responsibility for payment of the remaining 20% balance is retained by and the sole responsibility of the **Insured** and shall be paid by the **Insured**. This 20% obligation of the **Insured** is in addition to the Self-Insured Retention stated in Item 4. of the **Declarations**. In the event there is a **Claim** against the **Insured** arising out of the same **Professional Services** or **Pollution Conditions** for which the **Insured** has previously undertaken corrective action pursuant to the provisions of this Supplemental Coverage, the **Insured's** Self-Insured Retention obligation for such **Claim** shall be reduced to the extent of costs paid by the **Insured** under its Self-Insured Retention stated in Item 4. of the **Declarations**.

III. Definitions

Words stated in the singular will be construed as applying in the plural and vice versa. For purposes of this Policy:

A. **Bodily Injury** means physical injury, sickness, disease, building-related illness, mental anguish, emotional distress, or shock sustained by any person, including death resulting therefrom.

B. **Claim** means a demand, including but not limited to a lawsuit, petition, demand for arbitration, or demand for mediation, seeking money or services. Solely for purposes of Coverage C - Contractor's Pollution Liability, a **Claim** also means a notice of assertion of any actual or potential legal liability or responsibility, including but not limited to lawsuits, petitions, claims by federal, state, or tribal trustees, arbitrations or other alternative dispute resolutions, public agency directives, or potential responsible party letters made against the **Insured**, for a **Pollution Loss**.

A **Claim** is deemed first made for purposes of this Policy when received by any **Insured**.

The term **Claim** as used in the Policy includes a **Protective Claim**.

C. **Claim Expense** means all reasonable and necessary fees, costs, and expenses incurred in the investigation, adjustment, defense and appeal of a **Claim**, if incurred by the **Insurer**, by counsel retained by the **Insurer**, or by the **Insured** with the **Insurer's** prior written consent. Such amounts may include premiums on appeal bonds, attachment bonds or any similar bonds; however, the **Insurer** is not obligated to apply for, secure or furnish any such bond. **Claim Expense** also includes the cost of monitoring medical conditions.

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Claim Expense does not include the salaries of the **Insurer** or the **Insured's** management or personnel, or the fees of independent adjusters. Amounts incurred for settlement or resolution of a **Claim** are not **Claim Expense**.

D. **Cleanup Costs** means costs associated with the investigation, monitoring, or disposal of soil, surface water, groundwater or other contamination, clean up, abatement, containment, capping, or remediation to correct a **Pollution Condition**. **Cleanup Costs** also includes **Restoration Costs**.

E. **Contractor Activities** means:

1. any general construction or construction management activity performed by an **Insured**, including such activity by any entity for whom the **Insured** is legally responsible; or

2. any loading, unloading, delivery or transportation of goods, materials, products, or waste to or from any site where **Contractor Activities** are performed by an **Insured**, including such activity by any entity for whom the **Insured** is legally responsible, as long as such activity is performed by an entity that is properly licensed and in the business of loading, unloading, or transporting goods, materials, products, or waste; or

3. any operation, use, ownership, or maintenance of a land motor vehicle, off-road motor vehicle, mobile equipment, trailer, semi-trailer, watercraft, aircraft, or rolling stock when **Contractor Activities** are performed by an **Insured**, including such activity by any entity for whom the **Insured** is legally responsible.

F. **Damages** means any compensatory sum the **Insured** is legally obligated to pay. Where permitted by law, and where arising out of covered **Damages**, **Damages** includes punitive or exemplary damages and the multiple portion of any multiplied award of **Damages**. **Damages** also includes liquidated damages, but only to the extent of liability the **Insured** would have had in the absence of the agreement for liquidated damages.

Damages does not include: fines, taxes or penalties imposed on the **Insured**; any return, withdrawal or reduction in professional fees; any equitable obligation, including restitution, disgorgement, or the costs of complying with injunctive relief; or the time and expense incurred by the **Insured** in addressing or resolving an actual or potential **Claim**.

I. **Declarations** means the **Declarations** to this Policy noting the Limits, Self-Insured Retentions, **Named Insured**, and other items as applicable, all of which are part of this Policy of insurance.

J. **Design Professional** means those persons or entities retained by or on behalf of an **Insured** and performing: architecture; engineering; contract administration in the course of design services; sprinkler design; fire protection design; life safety design; security systems design; light use, acoustical or signage design; landscaping design; surveying; quantity surveying; material testing; economic, feasibility, technical consulting or technical studies or opinions, or scientific reviews; software design for the purpose of operating or maintaining any building system; interior design or space planning services; or design services to support Leadership in Energy and Environmental Design (LEED) certification

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for a project. **Design Professional** also includes any person or entity for whom the **Insured** is legally responsible and who is performing the services of a **Design Professional**.

K. **Design Professional's Insurance** means all available professional liability insurance policies insuring any **Design Professional**, or any **Design Professional's** subconsultant, or any person or entity for whom the **Design Professional** is legally responsible.

L. **Insured** means:

1. the **Named Insured**; or

2. any fully owned subsidiary corporations or subsidiary limited liability companies of the **Named Insured**, of any tier, in the past, as now constituted or hereafter constituted; or

3. any present or former partner, director, officer, manager, member, shareholder, principal, trustee, or employee of the **Named Insured** solely while acting on behalf of the **Named Insured**; or

4. any **Insured** with regard to its participation in a legal entity, including a joint venture or limited liability company, but solely for the **Named Insured's** legal liability arising out of the performance of **Professional Services** or **Contractor Activities** under the respective legal entity, joint venture, or limited liability company. Such legal entity itself, the joint venture itself, the limited liability company itself, or any other entity other than an **Insured** that is part of either the legal entity, joint venture, or limited liability company are not **Insureds**; or

5. with regard to Coverage C - Contractor's Pollution Liability only, any client of the **Named Insured**, or any entity or person, that the **Named Insured** is obligated to name as an additional insured on this Policy in a written contract, agreement, or permit, executed prior to when the **Claim** was first made, and solely as respects covered **Pollution Loss** caused by the **Named Insured's Contractor Activities**; or

6. any entity which is specifically identified as an **Insured** in the **Declarations** or by endorsement to this Policy; or

7. the estate, heirs, executors, shareholders, administrators or legal representatives of an **Insured** in the event of such **Insured's** death, incapacity, or bankruptcy, or the spouse or legal domestic partner of any **Insured**, but only to the extent such **Insured** would otherwise be provided coverage under this Policy while acting solely on behalf of the **Named Insured**; or

8. any prior entity that has been reported to the **Insurer** prior to when the **Claim** was first made and whose assets, partners, principals, or shareholders were acquired by the **Named Insured**, and for which the **Named Insured** is required to provide liability insurance under a written contract or agreement executed before the **Claim** was first made; or

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9. any entity newly formed or acquired by the **Named Insured** during the **Policy Period** in which the **Named Insured** has more than 50% legal or beneficial interest and over which the **Named Insured** exercises management or financial control and has agreed to provide insurance for such entity prior to the **Claim** being made. However:

   a. Coverage will only be provided for **Claims** arising out of **Professional Services** or **Contractor Activities** performed on or after the date of formation, acquisition, or exercised financial or management control; and

   b. This coverage will expire within 90 days for such entity, or the end of the **Policy Period**, whichever is earlier, unless the **Named Insured** provides written details of such newly acquired entity to the **Insurer** and pays the additional premium requested by the **Insurer**, if any.

K. **Insured Contract** means:

1. 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 the **Insured** or temporarily occupied by the **Insured** with permission of the owner is not an **Insured Contract**; or

2. a sidetrack agreement; or

3. any easement or license agreement; or

4. an obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality; or

5. an elevator maintenance agreement; or

6. that part of any other contract or agreement pertaining to the **Insured's** business (including an indemnification of a municipality in connection with work performed for a municipality) under which the **Insured** assumes the tort liability of another party to pay for **Bodily Injury**, **Property Damage**, or **Pollution Loss** to a third party or organization. This section does not include that part of any contract or agreement that indemnifies an architect, engineer, or surveyor for injury or damage arising out of:

   a. Preparing, approving, or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications; or

   b. Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

   For the purpose of this section, tort liability means only that liability that would be imposed by law in the absence of any contract or agreement. Any assumption of liability beyond that of tort liability specified in this subparagraph (6) shall not be considered to be part of the **Insured Contract**.

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L. **Mediation** means the non-binding facilitation by a neutral third party of a **Claim** resolution.

M. **Named Insured** means the individual, partnership, entity, firm, or the company named in Item 1. of the **Declarations**.

N. **Natural Resource Damage** means physical injury to or destruction of (including the resulting loss of value) land, fish, wildlife, biota, air, water, groundwater, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the fishery conservation zone established by Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et. Seq.)), any state or local government, any foreign government, any Native American tribe or, if such resources are subject to a trust restriction on alienation, any member of a Native American tribe.

O. **Policy Period** means the period from 12:01 a.m. on the effective date of this Policy as set forth in Item 2. of the **Declarations**, to 12:01 a.m. on the earliest of the date of the expiration, termination, or cancellation of this Policy.

P. **Pollution Condition** means the actual or alleged discharge, dispersal, release, seepage, migration, growth, or escape of smoke, soot, fumes, acids, alkalis, toxic chemicals, mold, spores, fungi, microbes, bacteria, legionella pneumophila, asbestos, lead, silica, liquids, gases, contaminants, organic or inorganic pollutants, electromagnetic fields, hazardous substances, hazardous materials, waste materials including medical, infectious, and pathological wastes, or other irritants, into or upon land, any structure on land, the indoor or outdoor atmosphere, any watercourse, or any body of water, including groundwater. Radioactive matter shall also be considered a pollutant, except as otherwise covered or protected by insurance or protections provided pursuant to 42 U.S.C. § 2014(w), as amended, or Section 170 of the Atomic Energy Act of 1954, as amended.

Q. **Pollution Loss** means all amounts the **Named Insured** is legally obligated to pay for **Damages** (including but not limited to **Damages** for **Bodily Injury** or **Property Damage**), **Cleanup Costs**, or **Natural Resource Damage**, caused by a **Pollution Condition**.

R. **Professional Services** means those services performed by a **Design Professional** that the **Insured** is legally responsible for, or by the **Insured** in their capacity as a **Design Professional**, or other professional services that the **Insured** performs for others in their capacity as a Construction Manager, Program Manager, Project Manager, Owner's Representative, Property Manager, Real Estate Broker/Agent, Developer, Leasing Agent, any delegated design responsibility or design assist performed by the **Insured**, including but not limited to constructability reviews or value engineering, or the foregoing services performed by anyone or any entity for which the **Insured** is legally liable. **Professional Services** shall also include services with respect to any Building Information Modeling (BIM) systems, including but not limited to modification, alteration, transfer, protection, manipulation, use, or misuse thereof, or design assist system or program, and **Professional Services** within Integrated Project Delivery (IPD), Public-Private Partnership projects (P3s), or Lean Project Delivery System (LPDS).

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Professional Services also include ordinary technology services provided for others in the course of **Professional Services** described above. Such technology services include the design, development, programming, analysis, training, use, hosting, management, support, and maintenance of any software, database, internet service, or website.

S. **Property Damage** means:

1. Physical injury to or destruction of tangible property, including resulting loss of use thereof; or

2. loss of use of tangible property that has not been physically injured or destroyed; or

3. diminution of third party property value.

T. **Protective Claim** means a **Claim** instituted by the **Insured** against a **Design Professional**. **Protective Claim** does not include a demand or proceeding for non-monetary or injunctive relief.

U. **Restoration Costs** means the reasonable and necessary costs incurred by the **Insured**, with the **Insurer's** prior written consent, to repair, replace, or restore real or personal property to substantially the same condition it was prior to being damaged during work performed in the course of incurring **Cleanup Costs**. **Restoration Costs** do not include costs associated with improvements or betterments.

V. **Retroactive Date(s)** means the date(s) set forth in Item 5. of the **Declarations**.

W. **Ultimate Loss** means any compensatory sum the **Insured** is legally entitled to recover from each responsible **Design Professional**. **Ultimate Loss** includes liquidated damages, but only to the extent of liability the **Design Professional** would have had in the absence of the agreement for liquidated damages.

Ultimate Loss does not include: fines, taxes or penalties imposed on the **Design Professional**; any return, withdrawal or reduction in professional fees; any equitable obligation, including restitution, disgorgement, or the costs of complying with injunctive relief; or the time and expense incurred by the **Design Professional** in addressing or resolving an actual or potential **Claim**.

In the event that multiple **Design Professionals** cause the same or related loss, the amount of **Ultimate Loss** shall not exceed the single loss caused by such multiple **Design Professionals**.

IV. Exclusions

This Policy does not apply and the **Insurer** will not be liable to make payments, defend or indemnify any **Insured** for any **Ultimate Loss**, **Damages**, **Pollution Loss**, **Claim**, or **Claim Expense**, or to pay any amounts pursuant to any Supplemental Coverage, directly or indirectly arising out of any of the following. To the extent an exclusion below applies by reason of the act, error or omission of an **Insured**, it shall also apply to the act, error or omission of anyone retained by an **Insured** or for whom the **Insured** is legally responsible.

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A. For Coverage A - Protective Errors and Omissions only, any attorney's fees and any other costs or expenses incurred by any **Insured** in connection with the making or prosecution of a **Protective Claim**. This exclusion shall not apply to the Supplemental Coverage for Bankruptcy of a **Design Professional**.

B. For Coverage A - Protective Errors and Omissions only, any liability of a **Design Professional** where the **Design Professional** has failed to plead or provide a defense, response, answer, or discovery response, or to take any other procedural step.

This exclusion shall not apply to the amount of **Ultimate Loss** which the **Insured** would have been entitled to recover from the **Design Professional** had such defense, response, answer, or discovery response been pleaded or provided, or such procedural step been taken. In such circumstances, the **Insured** shall prove the extent of **Ultimate Loss** which the **Insured** would have been entitled to recover from the **Design Professional** absent such circumstances.

C. Any design or manufacture of any goods or products which are sold or supplied by the **Insured** or by anyone under license by any **Insured**, including any parts, components, assemblies or equipment installed or incorporated by or on behalf of the **Insured** into the **Insured's** work. This exclusion does not apply to (1) software sold or supplied by the **Insured** to its client in connection with the **Insured's** provision of other **Professional Services** for that client, or (2) goods or products installed or incorporated in the **Insured's** work which have been specially designed by or on behalf of the **Insured** by a qualified **Design Professional** for use in a specific project.

D. Any liability that is insured under a project specific insurance policy, provided, however, that this exclusion shall not apply to the extent the liability is in excess of the limit of liability available under such project specific policy.

E. The cost to repair or replace faulty workmanship in any construction, erection, fabrication, installation, assembly, or manufacturing process, including materials, parts, or equipment furnished in connection therewith, unless the faulty workmanship is caused by the otherwise covered **Professional Services** of a **Design Professional**. This exclusion does not apply to Coverage C - Contractor's Pollution Liability or the Supplemental Coverage for Mitigation of **Damages** or **Pollution Loss**.

F. Any employment obligations, decisions, practices or policies as an employer, including but not limited to, any **Claim** under any worker's compensation, unemployment compensation, employee benefits, or disability benefits law or similar law. Nor does this insurance apply to monopolistic state coverage or states where the **Insured** has rejected coverage for its workers by choosing to be a nonsubscriber. This exclusion shall not apply to the pre-qualification of firms on behalf of a client in the course of Professional Services or to a third party action over against the **Insured** arising from a Bodily Injury due to Pollution Conditions caused by Contractor Activities and resulting in a **Claim**.

G. Actual or alleged discrimination, humiliation, harassment or misconduct, including but not limited to that which is based on an individual's race, religion, color, gender, sexual preference or orientation, national origin, age, disability, or marital status. This exclusion does not apply to an otherwise covered **Claim** brought under the Americans with

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Disabilities Act or the Fair Housing Act, or any similar state or local law or ordinance, or to the Supplemental Coverage for ADA and FHA Defense Expense.

H. Liability under any contract, agreement, express warranty, or guarantee, unless such liability would have existed in the absence of such contract, agreement, express warranty, or guarantee.

Solely for purposes of Coverage C - Contractor's Pollution Liability, this exclusion shall not apply to liability of others assumed under an **Insured Contract**.

I. Any dishonest, fraudulent, criminal, intentionally or knowingly wrongful, or malicious act, error, or omission, or those of an inherently harmful nature, except that this exclusion shall not apply to an **Insured** who did not commit, participate in, or have knowledge of such conduct.

J. Any conduct by an individual, corporation, partnership, or joint venture of which the **Insured** is a partner, director, officer, member, participant, or employee that is not designated in the **Declarations** or by endorsement as an **Insured**.

K. **Claims** made by any **Insured** against any other **Insured**. However, this exclusion shall not apply as respects any entity or person only qualifying as an **Insured** under part (5) of the definition of **Insured** in this Policy.

L. **Claims** made by any individual or entity, or its subrogees or assignees:

1. that wholly or partially owns, controls or operates any **Insured**; or

2. in which any **Insured** has an ownership interest in excess of twenty-five percent (25%); or

3. that is controlled or operated by any **Insured**; or

4. in which any **Insured** is an officer or director; or

5. that is an affiliate of any **Insured**.

With respect to items 2, 3, 4 above, this exclusion shall be limited when the **Claim** is made by a formal joint venture partnership of which the **Insured** is a participant to the **Insured's** percentage of ownership interest in the joint venture, so that the **Insurer** shall only be responsible for that portion of **Damages** or **Pollution Loss** that is the difference between the **Insured's** percentage of ownership interest and the total joint venture ownership interest percentage.

M. **Bodily Injury** or **Property Damage** resulting from any activity in connection with construction means, methods, techniques, sequences, or procedures, or actual construction, erection or fabrication, that is performed by an **Insured** or anyone for whom the **Insured** is legally responsible. This exclusion shall not apply to Coverage C - Contractor's Pollution Liability.

N. Any **Damages**, **Pollution Loss**, or **Ultimate Loss** caused by or resulting from war, invasion, hostilities, acts of foreign enemies, civil war, rebellion, insurrection, military or

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usurped power, martial law, or confiscation by order of any government or public authority.

O. Any location(s) used for the treatment, storage, recycling or disposal of an **Insured's** waste material. This exclusion shall not apply if:

1. the waste material is generated by **Contractor Activities**; and

2. the location(s) is (are) not managed, operated, owned or leased by the **Insured** or any subsidiary or affiliate of the **Insured**; and

3. the location(s) is (are) permitted or licensed by any Federal, State, Local or Provincial authorities to accept such material as of the date of the treatment, storage or disposal.

V. Limits of Liability and Self-Insured Retention

A. **Limits of Liability**

1. Limit of Liability Each **Claim** - Coverages A, B and C: The Limit of Liability of the **Insurer** for the sum of all **Ultimate Loss**, **Damages**, **Pollution Loss**, and **Claims Expense** for each single **Claim** to which this Policy applies shall not exceed the amount stated in Item 3.A. of the **Declarations** for Each **Claim**.

2. Limit of Liability in the Aggregate for the **Policy Period** - Coverages A, B and C: The Limit of Liability of the **Insurer** for the sum of all **Ultimate Loss**, **Damages**, **Pollution Loss**, and **Claims Expense**, for all **Claims** for which this Policy applies shall not exceed the amount stated in Item 3.B. of the **Declarations** as the Aggregate for the **Policy Period**.

3. Litigation Attendance Limit of Liability: The Litigation Attendance Limit of Liability set forth in Item 3.C. of the **Declarations** is the maximum amount payable in the aggregate for all **Insureds** under the Supplemental Coverage provided in Section II.A. of the Policy.

4. Disciplinary Proceedings Defense Limit of Liability: The Disciplinary Proceedings Defense Limit of Liability set forth in Item 3.D. of the **Declarations** is the maximum amount payable under the Supplemental Coverage provided in Section II.B. of the Policy regardless of the number of disciplinary proceedings initiated against **Insureds** during the **Policy Period** or the number of **Insureds** involved in such proceedings.

5. Subpoena Defense Expense Limit of Liability: The Subpoena Defense Expense Limit of Liability set forth in Item 3.E. of the **Declarations** is the maximum amount payable under the Supplemental Coverage provided in Section II.C. of the Policy regardless of the number of subpoenas served on **Insureds** during the **Policy Period** or the number of **Insureds** subject to subpoenas.

6. ADA and FHA Defense Expense Limit of Liability: The ADA and FHA Defense Expense Limit of Liability set forth in Item 3.F. of the **Declarations** is the

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maximum amount payable under the Supplemental Coverage provided in Section II.D. of the Policy regardless of the number of regulatory or administrative actions first brought against the **Insureds** during the **Policy Period** or the number of **Insureds** involved in such regulatory or administrative actions.

7. Corporate Reputation Rehabilitation Limit of Liability: The Corporate Reputation Rehabilitation Limit of Liability set forth in Item 3.G. of the **Declarations** is the maximum amount payable under the Supplemental Coverage provided in Section II.E. of the Policy regardless of the number of **Claims** where expenses are necessary to restore corporate reputation.

8. Bankruptcy of **Design Professional** Limit of Liability: The Bankruptcy of **Design Professional** Limit of Liability set forth in Item 3.H. of the **Declarations** is the maximum amount payable under the Supplemental Coverage provided in Section II.F. of the Policy regardless of the number of **Protective Claims** pursued in Bankruptcy Court or the number of **Design Professionals** involved in such **Protective Claims**.

9. Building Information Modeling Limit of Liability: The Building Information Modeling Limit of Liability set forth in Item 3.I. of the **Declarations** is the maximum amount payable under the Supplemental Coverage provided in Section II.G. of the Policy regardless of the number of Building Information Modeling malfunctions or the number of projects involved.

10. Mitigation of **Damages** or **Pollution Loss** Limit of Liability: The Mitigation of **Damages** or **Pollution Loss** Limit of Liability set forth in Item 3.J. of the **Declarations** is the maximum amount payable under the Supplemental Coverage provided in Section II.H. of the Policy regardless of the number of corrective actions made by the **Insureds**.

B. **Self-Insured Retention**

Where a Self-Insured Retention is shown in the **Declarations** for any Coverage, the **Named Insured** must pay the amount of such Self-Insured Retention for the sum of **Damages**, **Pollution Loss**, and **Claims Expense** covered under such Coverage for each single **Claim** to which this Policy applies before the **Insurer** has any obligation to pay any amounts for that **Claim**. The Limits of Liability set forth in the **Declarations** are in addition to and in excess of any Self-Insured Retention for that Coverage. The **Insurer** shall not be responsible for advancing any monies within the Self-Insured Retention. The Self-Insured Retention shall be uninsured and is not satisfied by payments by another **Insurer**. The **Named Insured** shall promptly pay any obligation within the Self-Insured Retention; if it does not, any other **Insured** may pay the Self-Insured Retention to satisfy this obligation.

Mediation Credit: If the **Insurer** and the **Insured** agree beforehand to attempt to resolve a **Claim** at **Mediation**, and if the **Insurer** and the **Insured** resolve such **Claim** by such **Mediation**, the **Named Insured's** Self-Insured Retention obligation for such **Claim** will be reduced by 50%, subject to a maximum reduction of $25,000.

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VI. Multiple Insureds

The number of **Insureds** covered by this Policy or against whom a **Claim** is made shall not operate to increase the applicable Limits of Liability or number of Self-Insured Retentions.

VII. Multiple Claims

One or more **Claims** arising out of one or more acts, errors, omissions, incidents, or **Pollution Conditions**, or a series thereof, that are related or that involve the same project, will be treated as a single **Claim** subject to:

1. a single Each **Claim** Limit of Liability; and

2. a single Self-Insured Retention; and

shall not operate to increase the **Insurer's** Limits of Liability. All such **Claims** treated as a single **Claim**, whenever made, shall be considered first made on the date the earliest such **Claim** was first made, and only a Policy during whose **Policy Period** the earliest **Claim** was first made shall have any coverage for such **Claims**.

VIII. Defense, Settlement and Cooperation

A. **Defense (Coverages B and C)**

1. Once any applicable Self-Insured Retention has been paid by the **Named Insured**, and if no other applicable insurance has a duty to defend, the **Insurer** has the right and duty to defend the **Insured**, with counsel of our mutual agreement, from a **Claim** seeking sums payable under Coverage B - Professional Liability or Coverage C - Contractor's Pollution Liability of this Policy, even if the allegations of the **Claim** are groundless or false. The **Insurer** shall have no duty to defend **Claims** seeking sums payable under Coverage A - Protective Errors and Omissions or any Supplemental Coverage of this Policy.

2. If the **Insured** and the **Insurer** cannot agree to mutual counsel, the **Insurer** shall have the final right to select defense counsel, but will allow for a 25% Self-Insured Retention credit, up to a maximum of $25,000 per **Claim**, towards the costs of having the **Insured** retain its own counsel for the oversight of the **Claim**. These counsel oversight costs shall first be credited towards the applicable Self-Insured Retention. Counsel selected by the **Insurer** will have the sole right and responsibility for defending the **Insured**.

3. In the event that, notwithstanding the foregoing, the **Insured** is entitled by law to retain independent counsel of its choosing to defend the **Insured** at the **Insurer's** expense and chooses to do so, the attorney fee component of **Claim Expense** shall be limited to the rates the **Insurer** actually pays to counsel it retains in the ordinary course of business in the defense of similar **Claims** in the community where the **Claim** is being defended. In addition, the **Insurer** may require that the independent counsel possess certain minimum qualifications, which may include that the selected counsel have: (1) at least five years of civil litigation experience defending similar **Claims**; and (2) errors

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and omissions coverage. The **Insured** further agrees to require its independent counsel to provide the **Insurer** with information concerning the **Claim** in a timely manner, to respond to the **Insurer's** requests for information concerning the **Claim**, and to comply with **Insurer's** reporting and billing guidelines.

4. The **Insurer** shall have no obligation to pay any **Claim Expense** or to defend any **Claim** after any applicable Limit of Liability has been exhausted by incurred amounts or by payment, or after deposit or tender of the remaining applicable Limit of Liability into court.

B. **Settlement (Coverages B and C)**

The **Insurer** has the right to investigate, conduct negotiations concerning, and, with the **Insured's** written consent, settle any **Claim** seeking sums payable under Coverage B - Professional Liability or Coverage C - Contractor's Pollution Liability of this Policy as the **Insurer** deems expedient. If the **Insured** refuses to consent to a settlement or compromise recommended by the **Insurer** and acceptable to the claimant, then the **Insurer's** Limit of Liability Each **Claim** under this Policy with respect to such **Claim** shall be reduced to the sum of the amount for which the **Claim** could have been settled and all **Claim Expenses** incurred for the **Claim** up to the time the **Insurer** made its settlement or compromise recommendation to the **Insured**.

C. **Duties of Insured (All Coverages)**

As a condition precedent to this insurance, in the event of a **Claim** or reported circumstance:

1. The **Insured** shall promptly forward to the **Insurer** all documents that the **Insured** receives in connection with the **Claim** or circumstance, and will direct all inquiries regarding the **Claim** or circumstance to the **Insurer** or the attorney designated by the **Insurer**.

2. The **Insured** shall cooperate fully with the **Insurer** and its designees in the investigation, defense and settlement of any **Claim** or circumstance, the conduct of suit or any other proceeding, and in securing and enforcing any right of contribution, indemnity, or other recovery that the **Insured** potentially may have; such cooperation includes but is not limited to, when requested, attending any proceedings, assisting in securing evidence and obtaining the attendance and testimony of witnesses, whether in a legal proceeding or in an examination by the **Insurer**; and such cooperation will be without charge to the **Insurer**, except as provided otherwise in the Supplemental Coverage for Litigation Attendance Reimbursement. Such cooperation is agreed by **Insurer** and **Insured** to be in furtherance of their common interest in the **Claim**, such that all such communications shall be protected by all applicable privileges and protections.

3. The **Insured** shall not voluntarily make any payment, assume or admit any liability, consent to any judgment, settle any **Claim**, or incur any **Claim Expense**, without the prior written consent of the **Insurer**. The **Insurer** shall

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not be liable for any payment, assumed or admitted liability, consent judgment, settlement, or **Claim Expense** to which it has not consented. The **Insured** shall not release or compromise any **Claim** it may have against any potentially responsible **Design Professional** without the prior written consent of the **Insurer**. The **Insurer** shall not be liable for **Ultimate Loss** attributable to a **Design Professional** released without such consent.

4. The **Insured** shall obtain the **Insurer's** written consent before exercising any right, assuming any obligation, or making any agreement, with respect to any dispute resolution mechanism or process, including but not limited to rejecting or demanding arbitration.

IX. Reporting

A. Reporting a Claim

As a condition precedent to coverage under this Policy, in the event of a **Claim**, the **Insured** must do the following:

1. Report the **Claim** to the **Insurer** in writing as soon as reasonably possible, which must be during the **Policy Period** or 60 days thereafter, or during any applicable Optional Extended Reporting Period. Reporting should be sent to the **Insurer** at the address stated in the **Claim**s Notice attached to this Policy; and

2. Provide a copy of the **Claim**, if in writing, and specify in the report: the names and addresses of the **Insured** reporting the **Claim**, the persons or entities making the **Claim**, and the persons or entities against whom the **Claim** is made; when the **Claim** was made; the negligent, act, error or omission or **Pollution Condition** that is the subject of the **Claim**; and any other relevant facts or allegations known to the **Insured**.

B. Reporting a Circumstance

For Coverage B - Professional Liability and Coverage C - Contractors Pollution Liability only, if during the **Policy Period**, the **Insured** becomes aware of a circumstance that may reasonably be expected to give rise to a **Claim** covered under the Policy, and if the **Insured** during the **Policy Period** provides to the **Insurer** a written report of the circumstance as soon as practicable containing particulars sufficient to identify the **Insured** and all reasonably obtainable information with respect to:

1. when and how the **Insured** first became aware of such circumstance;

2. any negligent, act, error or omission or **Pollution Condition** asserted or believed to be at issue, and the **Professional Services** or **Contractor Activities** involved in the circumstance;

3. what happened and the dates and entities involved; and

4. the nature of any alleged or potential injury, **Damages**, or **Pollution Loss**;

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then any **Claim** made against the **Insured** arising out of such circumstance shall be deemed to have been made on the date the **Insurer** received the written report of the circumstance. At the **Insurer's** sole discretion and cost, it may elect to investigate any circumstance which is reported; any such costs associated with the investigation of a circumstance prior to a **Claim** being made against the **Insured** will not be considered **Claim Expense**, will not reduce the applicable Self-Insured Retention and shall be paid by the **Insurer** in addition to the Limit of Liability.

X. Optional Extended Reporting Period

If the **Insurer** or **Insured** terminate or non-renew this insurance for any reason, other than nonpayment of premium, the **Insured's** failure to comply with any material term or condition, fraud or material misrepresentation, and if the total premium for this Policy has already been paid in full, then the **Named Insured** shall have the option to pay an additional premium and extend the period by which a **Claim** can be first made by or against the **Insured** and first reported to the **Insurer**, provided that the **Professional Services** or **Pollution Condition** took place on or after the **Retroactive Date** and before the end of the **Policy Period**.

The premium for the Optional Extended Reporting Period shall be: (1) 100% of the annual premium for twelve (12) months of extension; (2) 150% for twenty-four (24) months of extension; or (3) 200% for thirty-six (36) months of extension. The purchase of an Optional Extended Reporting Period shall not be effective unless endorsed herein.

The **Named Insured's** right to purchase the Optional Extended Reporting Period must be exercised by notice in writing to the **Insurer** no later than thirty (30) days after the cancellation or termination date of this Policy. Effective notice must indicate the total Optional Extended Reporting Period desired and must include payment of premium for such period. If such notice and premium are not mailed to the **Insurer** within such thirty (30) days, then the **Insured** is not entitled to purchase an Optional Extended Reporting Period at a later date.

At the commencement of any Optional Extended Reporting Period, the entire premium shall be deemed fully earned. In the event the **Insured** terminates the Optional Extended Reporting Period before its term for any reason, the **Insurer** shall not be obligated to return any portion of the premium.

Although the period during which a **Claim** can be reported to the **Insurer** is extended by virtue of the Optional Extended Reporting Period, this fact shall not in any way increase the Limits of Liability of this Policy.

XI. Conditions

A. **Territory**

This Policy applies to **Claims**, **Claim Expense**, **Ultimate Loss**, **Damages**, or a **Pollution Loss** anywhere in the world.

B. **Audit and Inspection**

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Upon reasonable prior notice, the **Insurer** shall be permitted to audit the **Insured's** final books and records at any time during the **Policy Period** and within three years after the final termination of this Policy, as far as they relate to the subject matter of this Policy. The **Insurer** shall also be permitted to inspect, sample, and/or monitor the **Insured's** operations on a continuing basis. Neither our right to make inspections, sample, and/or monitor, nor the actual undertaking thereof, nor any report thereon shall constitute an undertaking, on behalf of the **Insurer** or others, to determine or warrant that the **Insured's** operations are safe, healthful, conform to acceptable practice, or are in compliance with any law, rule, or regulation.

C. **Subrogation**

In the event of any payment under this Policy, the **Insurer** shall be subrogated to all the **Insured's** rights of recovery thereof. The **Insured** shall execute and deliver all requested instruments and papers in furtherance of such rights to the **Insurer** and do whatever else is reasonably necessary to secure such rights. The **Insured** shall do nothing to waive or prejudice such rights. The **Insurer** shall have priority over the **Insured** in allocation of any recovery, and any amounts recovered in excess of the **Insurer's** total payment and the cost to the **Insurer** of recovery shall be paid to the **Insureds**. The Limit of Liability shall be reinstated by the amount recovered by the **Insurer**, less the cost to the **Insurer** of recovery. However, the **Insurer** waives its rights of subrogation under this Policy against clients of the **Named Insured** to the extent such a waiver is required by a written contract with the **Named Insured** executed prior to the **Claim**.

D. **Changes**

None of the provisions of this Policy will be waived, changed, or modified except by written endorsement issued by the **Insurer** to form a part of this Policy. Notice to any agent of the **Insurer** or knowledge possessed by any such agent or any other person will not act as a waiver or change in any part of this Policy and will not prevent the **Insurer** from asserting any rights under the provisions of this Policy.

E. **Assignment**

It is agreed that the insurance provided herein and the interests of the **Insured** hereunder cannot be transferred or assigned to another party without the express written consent of the **Insurer**.

F. **Cancellation and Termination**

1. This policy may only be cancelled by the **Insurer** for one or more of the following reasons:

   (i) non-payment of premium; or

   (ii) a material misrepresentation or concealment of facts; or

   (iii) a breach of any material provision of this Policy.

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If this Policy is cancelled by the **Insurer**, notice of cancellation will be sent in writing to the **Named Insured**, at the address indicated on the **Declarations**. The **Insurer** will provide such written notice at least ninety (90) days prior to the date such cancellation is to take effect; except that, in the event of cancellation for non-payment of premium, the **Insurer** only will provide fifteen (15) days written notice. If the premium is paid by a premium financing company and the premium financing company, acting under a valid premium finance agreement with the **Insured**, requests cancellation of the policy due to non-payment of premium from the **Insured**, the earned premium shall be computed short-rate of the policy term premium and returned to the premium finance company.

The effective date and hour of cancellation will be stated in such notice. Cancellation by the **Insurer** also cancels the additional 60 days for reporting **Claims**, and any Optional Extended Reporting Period; the **Policy Period**, the additional 60 days for reporting **Claims**, and any Optional Extended Reporting Period will end on that date. If the **Insurer** cancels for the reason specified in subparagraph (i), there shall be no return premium. If the **Insurer** cancels for reasons stated in subparagraphs (ii) or (iii), the earned premium shall be computed pro-rata of the policy term premium. Payment of any return premium shall not be a condition of cancellation.

2. This Policy may be cancelled by the first **Named Insured** for any reason. In the event that the first **Named Insured** cancels the Policy, the earned premium shall be computed short-rate of the policy term premium.

G. **Action Against the Insurer**

No action shall lie against the **Insurer** under Coverage B - Professional Liability and Coverage C - Contractor's Pollution Liability, unless, as a condition precedent thereto, there has been full compliance with all of the terms and conditions of this Policy, and both the **Insured's** liability and the amount of the **Insured's** obligations to pay have been finally determined either by final judgment against the **Insured** after an actual contested trial or by the **Insured's** written agreement with the claimant to which the **Insurer** has given prior written approval.

No action shall lie against the **Insurer** under Coverage A - Protective Errors and Omissions, unless, as a condition precedent thereto, there has been full compliance with all of the terms and conditions of this Policy, and both the **Design Professionals'** liability and the amount of the **Design Professionals'** obligations to pay have been finally determined either by final judgment against the **Design Professionals** after an actual contested trial or by the **Insured's** written agreement with the **Design Professionals** to which the **Insurer** has given prior written approval.

No person, entity or organization shall have any right under this Policy to join the **Insurer** as a party to any action against an **Insured** to determine the **Insured's** liability, nor shall the **Insurer** be brought into such action by an **Insured** or its legal representative. No person, entity, or organization has a right under this Policy to bring the **Insurer** into an action to determine its liability or the **Insured's** liability.

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H. **No Limitation of Liability**

Under Coverage A - Protective Errors and Omissions only, the **Named Insured** shall not limit the liability of any **Design Professional**, except to insurance proceeds, without the express written approval of the **Insurer**.

I. **Bankruptcy of the Insured**

The **Insured's** bankruptcy or insolvency shall not relieve the **Insurer** of its obligations under this Policy.

J. **Authorization Clause**

The first **Named Insured** shall be the sole agent of and shall act on behalf of the **Insureds** for all purposes as to the Policy, including but not limited to the payment or return of premium, receipt and acceptance of any endorsement issued to form a part of this Policy, providing and receiving notice of cancellation, termination, or nonrenewal, the giving of notices and reporting of **Claims** and circumstances, for completing applications and the making of any statements or representations, for making any change to the Policy, and for the exercise or declining to exercise any right under this Policy, including the purchase of an Optional Extended Reporting Period.

K. **Severability of Policy Provisions**

If any material provision or clause of this Policy is declared illegal or unenforceable by any court of competent jurisdiction and cannot be modified to be enforceable, that provision will immediately become null and void, leaving the remainder of this Policy in full force and effect.

L. **Other Insurance**

This Policy is excess over the Self-Insured Retention and any other valid and collectible insurance available to the **Insured**, whether such other insurance is stated to be primary, pro-rata, contributory, excess, contingent, self-insured or otherwise, unless such other insurance is written specifically excess of this Policy by reference in such other policy to the Policy number in this Policy's **Declarations**. When any other insurance has a duty to defend a **Claim**, the **Insurer** will have no duty to defend the **Claim**; if no such other insurance defends the **Claim**, the **Insurer** will have the right but not the duty to defend the **Claim**.

Under Coverage C - Contractor's Pollution Liability only, when the **Named Insured** is required by written contract, written agreement, or permit, executed prior to the **Claim**, to include any person or entity as an additional Insured, such coverage will be provided on a primary and non-contributory basis to the extent so required.

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Blanket Additional Insured - Owners, Lessees or Contractors - with Products-Completed Operations Coverage Endorsement

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

It is understood and agreed as follows:

I. **WHO IS AN INSURED** is amended to include as an **Insured** any person or organization whom you are required by **written contract** to add as an additional insured on this **Coverage Part**, but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** caused in whole or in part by your acts or omissions, or the acts or omissions of those acting on your behalf:

A. In the performance of your ongoing operations subject to such **written contract**; or

B. In the performance of **your work** subject to such **written contract**, but only with respect to **bodily injury** or **property damage** included in the **products-completed operations hazard**, and only if:

1. The **written contract** requires you to provide the additional insured such coverage; and

2. This **Coverage Part** provides such coverage; and

C. Subject always to the terms and conditions of this policy, including the limits of insurance, the Insurer will not provide such additional insured with:

1. Coverage broader than what you are required to provide by the **written contract**; or

2. A higher limit of insurance than what you are required to provide by the **written contract**.

Any coverage granted by this Paragraph **I.** shall apply solely to the extent permissible by law.

II. If the written contract requires additional insured coverage under the 07-04 edition of CG2010 or CG2037, then paragraph **I.** above is deleted in its entirety and replaced by the following:

WHO IS AN INSURED is amended to include as an **Insured** any person or organization whom you are required by **written contract** to add as an additional insured on this **Coverage Part**, but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** caused in whole or in part by your acts or omissions, or the acts or omissions of those acting on your behalf:

A. In the performance of your ongoing operations subject to such **written contract**; or

B. In the performance of **your work** subject to such **written contract**, but only with respect to **bodily injury** or **property damage** included in the **products-completed operations hazard**, and only if:

1. The **written contract** requires you to provide the additional insured such coverage; and

2. This **Coverage Part** provides such coverage.

III. But if the **written contract** requires:

A. Additional insured coverage under the 11-85 edition, 10-93 edition, or 10-01 edition of CG2010, or under the 10-01 edition of CG2037; or

B. Additional insured coverage with “arising out of” language;

then paragraph **I.** above is deleted in its entirety and replaced by the following:

WHO IS AN INSURED is amended to include as an **Insured** any person or organization whom you are required by **written contract** to add as an additional insured on this **Coverage Part**, but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of **your work** that is subject to such **written contract**.

IV. But if the **written contract** requires additional insured coverage to the greatest extent permissible by law, then paragraph **I.** above is deleted in its entirety and replaced by the following:

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Blanket Additional Insured - Owners, Lessees or Contractors - with Products-Completed Operations Coverage Endorsement

WHO IS AN INSURED is amended to include as an **Insured** any person or organization whom you are required by **written contract** to add as an additional insured on this **Coverage Part**, but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of **your work** that is subject to such **written contract**.

V. The insurance granted by this endorsement to the additional insured does not apply to **bodily injury**, **property damage**, or **personal and advertising injury** arising out of:

A. The rendering of, or the failure to render, any professional architectural, engineering, or surveying services, including:

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

2. Supervisory, inspection, architectural or engineering activities; or

B. Any premises or work for which the additional insured is specifically listed as an additional insured on another endorsement attached to this **Coverage Part**.

VI. Under **COMMERCIAL GENERAL LIABILITY CONDITIONS,** the Condition entitled **Other Insurance** is amended to add the following, which supersedes any provision to the contrary in this Condition or elsewhere in this **Coverage Part**:

Primary and Noncontributory Insurance

With respect to other insurance available to the additional insured under which the additional insured is a named insured, this insurance is primary to and will not seek contribution from such other insurance, provided that a **written contract** requires the insurance provided by this policy to be:

1. Primary and non-contributing with other insurance available to the additional insured; or

2. Primary and to not seek contribution from any other insurance available to the additional insured.

But except as specified above, this insurance will be excess of all other insurance available to the additional insured.

VII. Solely with respect to the insurance granted by this endorsement, the section entitled **COMMERCIAL GENERAL LIABILITY CONDITIONS** is amended as follows:

The Condition entitled **Duties In The Event of Occurrence, Offense, Claim or Suit** is amended with the addition of the following:

Any additional insured pursuant to this endorsement will as soon as practicable:

1. Give the Insurer written notice of any **claim**, or any **occurrence** or offense which may result in a **claim**;

2. Send the Insurer copies of all legal papers received, and otherwise cooperate with the Insurer in the investigation, defense, or settlement of the **claim**; and

3. Make available any other insurance, and endeavor to tender the defense and indemnity of any **claim** to any other insurer or self-insurer, whose policy or program applies to a loss that the Insurer covers under this **coverage part**. However, if the **written contract** requires this insurance to be primary and non-contributory, this paragraph **3.** does not apply to other insurance under which the additional insured is a named insured.

The Insurer has no duty to defend or indemnify an additional insured under this endorsement until the Insurer receives written notice of a **claim** from the additional insured.

VIII. Solely with respect to the insurance granted by this endorsement, the section entitled **DEFINITIONS** is amended to add the following definition:

Written contract means a written contract or written agreement that requires you to make a person or organization an additional insured on this **Coverage Part**, provided the contract or agreement:

A. Was executed prior to:

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1. The **bodily injury** or **property damage**; or

2. The offense that caused the **personal and advertising injury**;

for which the additional insured seeks coverage; and

B. Is still in effect at the time of the **bodily injury** or **property damage occurrence** or **personal and advertising injury** offense.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.

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CNA PARAMOUNT

Contractors' General Liability Extension Endorsement

It is understood and agreed that this endorsement amends the **COMMERCIAL GENERAL LIABILITY COVERAGE PART** as follows. If any other endorsement attached to this policy amends any provision also amended by this endorsement, then that other endorsement controls with respect to such provision, and the changes made by this endorsement with respect to such provision do not apply.

TABLE OF CONTENTS

1. Additional Insureds
2. Additional Insured - Primary And Non-Contributory To Additional Insured's Insurance
3. Bodily Injury – Expanded Definition
4. Broad Knowledge of Occurrence/ Notice of Occurrence
5. Broad Named Insured
6. Broadened Liability Coverage For Damage To Your Product And Your Work
7. Contractual Liability - Railroads
8. Electronic Data Liability
9. Estates, Legal Representatives and Spouses
10. Expected Or Intended Injury – Exception for Reasonable Force
11. General Aggregate Limits of Insurance – Per Project
12. In Rem Actions
13. Incidental Health Care Malpractice Coverage
14. Joint Ventures/Partnership/Limited Liability Companies
15. Legal Liability – Damage To Premises / Alienated Premises / Property In The Named Insured's Care, Custody or Control
16. Liquor Liability
17. Medical Payments
18. Non-owned Aircraft Coverage
19. Non-owned Watercraft
20. Personal And Advertising Injury – Discrimination or Humiliation
21. Personal And Advertising Injury - Contractual Liability
22. Property Damage - Elevators
23. Supplementary Payments
24. Unintentional Failure To Disclose Hazards
25. Waiver of Subrogation – Blanket
26. Wrap-Up Extension: OCIP CCIP, or Consolidated (Wrap-Up) Insurance Programs

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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 **H.** 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 **H.** 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. 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.

D. 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, 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

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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.

E. 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.

F. 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.

G. 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.

H. 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**.

2. ADDITIONAL INSURED - PRIMARY AND NON-CONTRIBUTORY TO ADDITIONAL INSURED'S INSURANCE

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. 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** 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 an **employee** designated by any of the above to give such notice.

B. NOTICE OF OCCURRENCE

The **Named Insured's** rights under this **Coverage Part** will not be prejudiced if the **Named Insured** fails to give the Insurer notice of an **occurrence**, offense or **claim** and that failure is solely due to the **Named Insured's** reasonable belief that the **bodily injury** or **property damage** is not covered under this **Coverage Part**. However, the **Named Insured** shall give written notice of such **occurrence**, offense or **claim** to the Insurer as soon as the **Named Insured** is aware that this insurance may apply to such **occurrence**, offense or **claim**.

5. BROAD NAMED INSURED

WHO IS AN INSURED is amended to delete its Paragraph **3.** in its entirety and replace it with the following:

3. Pursuant to the limitations described in Paragraph **4.** below, any organization in which a **Named Insured** has management control:

a. on the effective date of this **Coverage Part**; or

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b. by reason of a **Named Insured** creating or acquiring the organization during the **policy period**,

qualifies as a **Named Insured**, provided that there is no other similar liability insurance, whether primary, contributory, excess, contingent or otherwise, which provides coverage to such organization, or which would have provided coverage but for the exhaustion of its limit, and without regard to whether its coverage is broader or narrower than that provided by this insurance.

But this **BROAD NAMED INSURED** provision does not apply to:

(a) any partnership, limited liability company or joint venture; or

(b) any organization for which coverage is excluded by another endorsement attached to this **Coverage Part**.

For the purpose of this provision, management control means:

A. owning interests representing more than 50% of the voting, appointment or designation power for the selection of a majority of the Board of Directors of a corporation; or

B. having the right, pursuant to a written trust agreement, to protect, control the use of, encumber or transfer or sell property held by a trust.

4. With respect to organizations which qualify as **Named Insureds** by virtue of Paragraph **3.** above, this insurance does not apply to:

a. bodily injury or **property damage** that first occurred prior to the date of management control, or that first occurs after management control ceases; nor

b. personal or advertising injury caused by an offense that first occurred prior to the date of management control or that first occurs after management control ceases.

5. The insurance provided by this **Coverage Part** applies to **Named Insureds** when trading under their own names or under such other trading names or doing-business-as names (dba) as any **Named Insured** should choose to employ.

6. BROADENED LIABILITY COVERAGE FOR DAMAGE TO YOUR PRODUCT AND YOUR WORK

A. Under **COVERAGES**, **Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete exclusions **k.** and **l.** and replace them with the following:

This insurance does not apply to:

k. Damage to Your Product

Property damage to **your product** arising out of it, or any part of it except when caused by or resulting from:

(1) fire;

(2) smoke;

(3) collapse; or

(4) explosion.

l. Damage to Your Work

Property damage to **your work** arising out of it, or any part of it and included in the **products-completed operations hazard**.

This exclusion does not apply:

(1) If the damaged work, or the work out of which the damage arises, was performed on the **Named Insured's** behalf by a subcontractor; or

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(2) If the cause of loss to the damaged work arises as a result of:

(a) fire;

(b) smoke;

(c) collapse; or

(d) explosion.

B. The following paragraph is added to **LIMITS OF INSURANCE**:

Subject to **5.** above, $100,000 is the most the Insurer will pay under **Coverage A** for the sum of **damages** arising out of any one **occurrence** because of **property damage** to **your product** and **your work** that is caused by fire, smoke, collapse or explosion and is included within the **product-completed operations hazard**. This sublimit does not apply to **property damage** to **your work** if the damaged work, or the work out of which the damage arises, was performed on the **Named Insured's** behalf by a subcontractor.

C. This **Broadened Liability Coverage For Damage To Your Product And Your Work** Provision does not apply if an endorsement of the same name is attached to this policy.

7. CONTRACTUAL LIABILITY – RAILROADS

With respect to operations performed within 50 feet of railroad property, the definition of **insured contract** is replaced by the following:

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 a **Named Insured** or temporarily occupied by a **Named Insured** with permission of the owner is not an **insured contract**;

b. A sidetrack agreement;

c. Any easement or license agreement;

d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;

e. An elevator maintenance agreement;

f. That part of any other contract or agreement pertaining to the **Named Insured's** business (including an indemnification of a municipality in connection with work performed for a municipality) under which the **Named Insured** assumes the tort liability of another party to pay for **bodily injury** or **property damage** to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph **f.** does not include that part of any contract or agreement:

(1) 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;

(2) 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 **(1)** above and supervisory, inspection, architectural or engineering activities.

8. ELECTRONIC DATA LIABILITY

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A. Under **COVERAGES**, **Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete exclusion **p. Electronic Data** and replace it with the following:

This insurance does not apply to:

p. Access Or Disclosure Of Confidential Or Personal Information And Data-related Liability

Damages arising out of:

(1) any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information; or

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

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

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

B. The following paragraph is added to **LIMITS OF INSURANCE**:

Subject to **5.** above, $100,000 is the most the Insurer will pay under **Coverage A** for all **damages** arising out of any one **occurrence** because of **property damage** that results from physical injury to tangible property and arises out of **electronic data**.

C. The following definition is added to **DEFINITIONS**:

Electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

D. For the purpose of the coverage provided by this **ELECTRONIC DATA LIABILITY** Provision, the definition of **property damage** in **DEFINITIONS** is replaced by the following:

Property damage means:

a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it;

b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the **occurrence** that caused it; or

c. Loss of, loss of use of, damage to, corruption of, inability to access, or inability to properly manipulate **electronic data**, resulting from physical injury to tangible property. All such loss of **electronic data** shall be deemed to occur at the time of the **occurrence** that caused it.

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

E. If Electronic Data Liability is provided at a higher limit by another endorsement attached to this policy, then the $100,000 limit provided by this **ELECTRONIC DATA LIABILITY** Provision is part of, and not in addition to, that higher limit.

9. ESTATES, LEGAL REPRESENTATIVES, AND SPOUSES

The estates, heirs, legal representatives and **spouses** of any natural person **Insured** shall also be insured under this policy; provided, however, coverage is afforded to such estates, heirs, legal representatives, and **spouses** only for

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claims arising solely out of their capacity or status as such and, in the case of a **spouse**, where such **claim** seeks **damages** from marital community property, jointly held property or property transferred from such natural person **Insured** to such **spouse**. No coverage is provided for any act, error or omission of an estate, heir, legal representative, or **spouse** outside the scope of such person's capacity or status as such, provided however that the **spouse** of a natural person **Named Insured** and the **spouses** of members or partners of joint venture or partnership **Named Insureds** are **Insureds** with respect to such **spouses'** acts, errors or omissions in the conduct of the **Named Insured's** business.

10. EXPECTED OR INTENDED INJURY – EXCEPTION FOR REASONABLE FORCE

Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete the exclusion entitled **Expected or Intended Injury** and replace it with the following:

This insurance does not apply to:

Expected or Intended Injury

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

11. GENERAL AGGREGATE LIMITS OF INSURANCE - PER PROJECT

A. For each construction project away from premises the **Named Insured** owns or rents, a separate Construction Project General Aggregate Limit, equal to the amount of the General Aggregate Limit shown in the Declarations, is the most the Insurer will pay for the sum of:

1. All **damages** under **Coverage A**, except **damages** because of **bodily injury** or **property damage** included in the **products-completed operations hazard**; and

2. All medical expenses under **Coverage C**,

that arise from **occurrences** or accidents which can be attributed solely to ongoing operations at that construction project. Such payments shall not reduce the General Aggregate Limit shown in the Declarations, nor the Construction Project General Aggregate Limit of any other construction project.

B. All:

1. **Damages** under **Coverage B**, regardless of the number of locations or construction projects involved;

2. **Damages** under **Coverage A**, caused by **occurrences** which cannot be attributed solely to ongoing operations at a single construction project, except **damages** because of **bodily injury** or **property damage** included in the **products-completed operations hazard**; and

3. Medical expenses under **Coverage C** caused by accidents which cannot be attributed solely to ongoing operations at a single construction project,

will reduce the General Aggregate Limit shown in the Declarations.

C. The limits shown in the Declarations for Each Occurrence, for Damage To Premises Rented To You and for Medical Expense continue to apply, but will be subject to either the Construction Project General Aggregate Limit or the General Aggregate Limit shown in the Declarations, depending on whether the **occurrence** can be attributed solely to ongoing operations at a particular construction project.

D. When coverage for liability arising out of the **products-completed operations hazard** is provided, any payments for **damages** because of **bodily injury** or **property damage** included in the **products-completed operations hazard** will reduce the Products-Completed Operations Aggregate Limit shown in the Declarations, regardless of the number of projects involved.

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E. If a single construction project away from premises owned by or rented to the **Insured** has been abandoned and then restarted, or if the authorized contracting parties deviate from plans, blueprints, designs, specifications or timetables, the project will still be deemed to be the same construction project.

F. The provisions of **LIMITS OF INSURANCE** not otherwise modified by this endorsement shall continue to apply as stipulated.

12. IN REM ACTIONS

A quasi in rem action against any vessel owned or operated by or for the **Named Insured**, or chartered by or for the **Named Insured**, will be treated in the same manner as though the action were in personam against the **Named Insured**.

13. INCIDENTAL HEALTH CARE MALPRACTICE COVERAGE

Solely with respect to **bodily injury** that arises out of a **health care incident**:

A. Under **COVERAGES**, **Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Insuring Agreement** is amended to replace Paragraphs **1.b.(1)** and **1.b.(2)** with the following:

b. This insurance applies to **bodily injury** provided that the professional health care services are incidental to the **Named Insured's** primary business purpose, and only if:

(1) such **bodily injury** is caused by an **occurrence** that takes place in the **coverage territory**.

(2) the **bodily injury** first occurs during the **policy period**. All **bodily injury** arising from an **occurrence** will be deemed to have occurred at the time of the first act, error, or omission that is part of the **occurrence**; and

B. Under **COVERAGES**, **Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to:

i. add the following to the **Employers Liability** exclusion:

This exclusion applies only if the **bodily injury** arising from a **health care incident** is covered by other liability insurance available to the **Insured** (or which would have been available but for exhaustion of its limits).

ii. delete the exclusion entitled **Contractual Liability** and replace it with the following:

This insurance does not apply to:

Contractual Liability

the **Insured's** actual or alleged liability under any oral or written contract or agreement, including but not limited to express warranties or guarantees.

iii. add the following additional exclusions:

This insurance does not apply to:

Discrimination

any actual or alleged discrimination, humiliation or harassment, including but not limited to **claims** based on an individual's race, creed, color, age, gender, national origin, religion, disability, marital status or sexual orientation.

Dishonesty or Crime

Any actual or alleged dishonest, criminal or malicious act, error or omission.

Medicare/Medicaid Fraud

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any actual or alleged violation of law with respect to Medicare, Medicaid, Tricare or any similar federal, state or local governmental program.

Services Excluded by Endorsement

Any **health care incident** for which coverage is excluded by endorsement.

C. DEFINITIONS is amended to:

i. add the following definitions:

Health care incident means an act, error or omission by the **Named Insured's employees** or **volunteer workers** in the rendering of:

a. **professional health care services** on behalf of the **Named Insured** or

b. Good Samaritan services rendered in an emergency and for which no payment is demanded or received.

Professional health care services means any health care services or the related furnishing of food, beverages, medical supplies or appliances by the following providers in their capacity as such but solely to the extent they are duly licensed as required:

a. Physician;

b. Nurse;

c. Nurse practitioner;

d. Emergency medical technician;

e. Paramedic;

f. Dentist;

g. Physical therapist;

h. Psychologist;

i. Speech therapist;

j. Other allied health professional; or

Professional health care services does not include any services rendered in connection with human clinical trials or product testing.

ii. delete the definition of **occurrence** and replace it with the following:

Occurrence means a **health care incident**. All acts, errors or omissions that are logically connected by any common fact, circumstance, situation, transaction, event, advice or decision will be considered to constitute a single **occurrence**;

iii. amend the definition of **Insured** to:

a. add the following:

the **Named Insured's employees** are **Insureds** with respect to:

(1) **bodily injury** to a co-**employee** while in the course of the co-**employee's** employment by the **Named Insured** or while performing duties related to the conduct of the **Named Insured's** business; and

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(2) **bodily injury** to a **volunteer worker** while performing duties related to the conduct of the **Named Insured's** business;

when such **bodily injury** arises out of a **health care incident**.

the **Named Insured's volunteer workers** are **Insureds** with respect to:

(1) **bodily injury** to a co-**volunteer worker** while performing duties related to the conduct of the **Named Insured's** business; and

(2) **bodily injury** to an **employee** while in the course of the **employee's** employment by the **Named Insured** or while performing duties related to the conduct of the **Named Insured's** business;

when such **bodily injury** arises out of a **health care incident**.

b. delete Subparagraphs **(a)**, **(b)**, **(c) and (d)** of Paragraph **2.a.(1)** of **WHO IS AN INSURED**.

D. The **Other Insurance** condition is amended to delete Paragraph **b.(1)** in its entirety and replace it with the following:

Other Insurance

b. Excess Insurance

(1) To the extent this insurance applies, it is excess over any other insurance, self insurance or risk transfer instrument, whether primary, excess, contingent or on any other basis, except for insurance purchased specifically by the **Named Insured** to be excess of this coverage.

14. JOINT VENTURES / PARTNERSHIP / LIMITED LIABILITY COMPANIES

WHO IS AN INSURED is amended to delete its last paragraph and replace it with the following:

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, except that if the **Named Insured** was a joint venturer, partner, or member of a limited liability company and such joint venture, partnership or limited liability company terminated prior to or during the **policy period**, such **Named Insured** is an **Insured** with respect to its interest in such joint venture, partnership or limited liability company but only to the extent that:

a. any offense giving rise to **personal and advertising injury** occurred prior to such termination date, and the **personal and advertising injury** arising out of such offense first occurred after such termination date;

b. the **bodily injury** or **property damage** first occurred after such termination date; and

c. there is no other valid and collectible insurance purchased specifically to insure the partnership, joint venture or limited liability company; and

If the joint venture, partnership or limited liability company is or was insured under a **consolidated (wrap-up) insurance program**, then such insurance will always be considered valid and collectible for the purpose of paragraph **c.** above. But this provision will not serve to exclude **bodily injury**, **property damage** or **personal and advertising injury** that would otherwise be covered under the **Contractors General Liability Extension Endorsement** provision entitled **WRAP-UP EXTENSION: OCIP, CCIP, OR CONSOLIDATED (WRAP-UP) INSURANCE PROGRAMS**. Please see that provision for the definition of **consolidated (wrap-up) insurance program**.

15. LEGAL LIABILITY – DAMAGE TO PREMISES / ALIENATED PREMISES / PROPERTY IN THE NAMED INSURED'S CARE, CUSTODY OR CONTROL

A. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete exclusion **j. Damage to Property** in its entirety and replace it with the following:

This insurance does not apply to:

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j. Damage to Property

Property damage to:

(1) Property the **Named Insured** owns, rents, or occupies, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;

(2) Premises the **Named Insured** sells, gives away or abandons, if the **property damage** arises out of any part of those premises;

(3) Property loaned to the **Named Insured**;

(4) Personal property in the care, custody or control of the **Insured**;

(5) That particular part of real property on which the **Named Insured** or any contractors or subcontractors working directly or indirectly on the **Named Insured's** behalf are performing operations, if the **property damage** arises out of those operations; or

(6) That particular part of any property that must be restored, repaired or replaced because **your work** was incorrectly performed on it.

Paragraphs **(1), (3)** and **(4)** of this exclusion do not apply to **property damage** (other than damage by fire) to premises rented to the **Named Insured** or temporarily occupied by the **Named Insured** with the permission of the owner, nor to the contents of premises rented to the **Named Insured** for a period of 7 or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in **LIMITS OF INSURANCE**.

Paragraph **(2)** of this exclusion does not apply if the premises are **your work**.

Paragraphs (**3), (4), (5)** and **(6)** of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph **(6)** of this exclusion does not apply to **property damage** included in the **products-completed operations hazard**.

Paragraphs **(3)** and **(4)** of this exclusion do not apply to **property damage** to:

i. tools, or equipment the **Named Insured** borrows from others, nor

ii. other personal property of others in the **Named Insured's** care, custody or control while being used in the **Named Insured's** operations away from any **Named Insured's** premises.

However, the coverage granted by this exception to Paragraphs **(3)** and **(4)** does not apply to:

a. property at a job site awaiting or during such property's installation, fabrication, or erection;

b. property that is **mobile equipment** leased by an **Insured**;

c. property that is an **auto**, aircraft or watercraft;

d. property in transit; or

e. any portion of **property damage** for which the **Insured** has available other valid and collectible insurance, or would have such insurance but for exhaustion of its limits, or but for application of one of its exclusions.

A separate limit of insurance and deductible apply to such property of others. See **LIMITS OF INSURANCE** as amended below.

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B. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete its last paragraph and replace it with the following:

Exclusions **c.** through **n.** do not apply to damage by fire to premises while rented to a **Named Insured** or temporarily occupied by a **Named Insured** with permission of the owner, nor to damage to the contents of premises rented to a **Named Insured** for a period of 7 or fewer consecutive days.

A separate limit of insurance applies to this coverage as described in **LIMITS OF INSURANCE**.

C. The following paragraph is added to **LIMITS OF INSURANCE**:

Subject to **5.** above, $25,000 is the most the Insurer will pay under **Coverage A** for **damages** arising out of any one **occurrence** because of the sum of all **property damage** to borrowed tools or equipment, and to other personal property of others in the **Named Insured's** care, custody or control, while being used in the **Named Insured's** operations away from any **Named Insured's** premises. The Insurer's obligation to pay such **property damage** does not apply until the amount of such **property damage** exceeds $1,000. The Insurer has the right but not the duty to pay any portion of this $1,000 in order to effect settlement. If the Insurer exercises that right, the **Named Insured** will promptly reimburse the Insurer for any such amount.

D. Paragraph **6.**, Damage To Premises Rented To You Limit, of **LIMITS OF INSURANCE** is deleted and replaced by the following:

6. Subject to Paragraph **5.** above, (the Each Occurrence Limit), the Damage To Premises Rented To You Limit is the most the Insurer will pay under **Coverage A** for **damages** because of **property damage** to any one premises while rented to the **Named Insured** or temporarily occupied by the **Named Insured** with the permission of the owner, including contents of such premises rented to the **Named Insured** for a period of 7 or fewer consecutive days. The Damage To Premises Rented To You Limit is the greater of:

a. $500,000; or

b. The Damage To Premises Rented To You Limit shown in the Declarations.

E. Paragraph **4.b.(1)(a)(ii)** of the **Other Insurance** Condition is deleted and replaced by the following:

(ii) That is property insurance for premises rented to the **Named Insured**, for premises temporarily occupied by the **Named Insured** with the permission of the owner; or for personal property of others in the **Named Insured's** care, custody or control;

16. LIQUOR LIABILITY

Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete the exclusion entitled **Liquor Liability**.

This **LIQUOR LIABILITY** provision does not apply to any person or organization who otherwise qualifies as an additional insured on this **Coverage Part**.

17. MEDICAL PAYMENTS

A. **LIMITS OF INSURANCE** is amended to delete Paragraph **7.** (the Medical Expense Limit) and replace it with the following:

7. Subject to Paragraph **5.** above (the Each Occurrence Limit), the Medical Expense Limit is the most the Insurer will pay under **Coverage C – Medical Payments** for all medical expenses because of **bodily injury** sustained by any one person. The Medical Expense Limit is the greater of:

(1) $15,000 unless a different amount is shown here: $N,NNN,NNN,NNN; or

(2) the amount shown in the Declarations for Medical Expense Limit.

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B. Under **COVERAGES**, the **Insuring Agreement** of **Coverage C – Medical Payments** is amended to replace Paragraph **1.a.(3)(b)** with the following:

(b) The expenses are incurred and reported to the Insurer within three years of the date of the accident; and

18. NON-OWNED AIRCRAFT

Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended as follows:

The exclusion entitled **Aircraft, Auto or Watercraft** is amended to add the following:

This exclusion does not apply to an aircraft not owned by any **Named Insured**, provided that:

1. the pilot in command holds a currently effective certificate issued by the duly constituted authority of the United States of America or Canada, designating that person as a commercial or airline transport pilot;

2. the aircraft is rented with a trained, paid crew to the **Named Insured**; and

3. the aircraft is not being used to carry persons or property for a charge.

19. NON-OWNED WATERCRAFT

Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete subparagraph **(2)** of the exclusion entitled **Aircraft, Auto or Watercraft**, and replace it with the following.

This exclusion does not apply to:

(2) a watercraft that is not owned by any **Named Insured**, provided the watercraft is:

(a) less than 75 feet long; and

(b) not being used to carry persons or property for a charge.

20. PERSONAL AND ADVERTISING INJURY –DISCRIMINATION OR HUMILIATION

A. Under **DEFINITIONS**, the definition of **personal and advertising injury** is amended to add the following tort:

Discrimination or humiliation that results in injury to the feelings or reputation of a natural person.

B. Under **COVERAGES**, **Coverage B – Personal and Advertising Injury Liability**, the paragraph entitled **Exclusions** is amended to:

1. delete the Exclusion entitled **Knowing Violation Of Rights Of Another** and replace it with the following:

This insurance does not apply to:

Knowing Violation of Rights of Another

Personal and advertising injury caused by or at the direction of the **Insured** with the knowledge that the act would violate the rights of another and would inflict **personal and advertising injury**. This exclusion shall not apply to discrimination or humiliation that results in injury to the feelings or reputation of a natural person, but only if such discrimination or humiliation is not done intentionally by or at the direction of:

(a) the **Named Insured**; or

(b) any **executive officer**, director, stockholder, partner, member or manager (if the **Named Insured** is a limited liability company) of the **Named Insured**.

2. add the following exclusions:

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This insurance does not apply to:

Employment Related Discrimination

Discrimination or humiliation directly or indirectly related to the employment, prospective employment, past employment or termination of employment of any person by any **Insured**.

Premises Related Discrimination

discrimination or humiliation arising out of the sale, rental, lease or sub-lease or prospective sale, rental, lease or sub-lease of any room, dwelling or premises by or at the direction of any **Insured**.

Notwithstanding the above, there is no coverage for fines or penalties levied or imposed by a governmental entity because of discrimination.

The coverage provided by this **PERSONAL AND ADVERTISING INJURY –DISCRIMINATION OR HUMILIATION** Provision does not apply to any person or organization whose status as an **Insured** derives solely from

Provision **1. ADDITIONAL INSURED** of this endorsement; or

attachment of an additional insured endorsement to this **Coverage Part**.

This **PERSONAL AND ADVERTISING INJURY –DISCRIMINATION OR HUMILIATION** Provision does not apply to any person or organization who otherwise qualifies as an additional insured on this **Coverage Part**.

21. PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY

A. Under **COVERAGES**, **Coverage B –Personal and Advertising Injury Liability**, the paragraph entitled **Exclusions** is amended to delete the exclusion entitled **Contractual Liability**.

B. Solely for the purpose of the coverage provided by this **PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY** provision, the following changes are made to the section entitled **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B:**

1. Paragraph **2.d.** is replaced by the following:

d. The allegations in the **suit** and the information the Insurer knows about the offense alleged in such **suit** are such that no conflict appears to exist between the interests of the **Insured** and the interests of the indemnitee;

2. The first unnumbered paragraph beneath Paragraph **2.f.(2)(b)** is deleted and replaced by the following:

So long as the above conditions are met, attorneys fees incurred by the Insurer in the defense of that indemnitee, necessary litigation expenses incurred by the Insurer, and necessary litigation expenses incurred by the indemnitee at the Insurer's request will be paid as **defense costs**. Such payments will not be deemed to be **damages** for **personal and advertising injury** and will not reduce the limits of insurance.

C. This **PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY** Provision does not apply if **Coverage B –Personal and Advertising Injury Liability** is excluded by another endorsement attached to this **Coverage Part**.

This **PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY** Provision does not apply to any person or organization who otherwise qualifies as an additional insured on this **Coverage Part**.

22. PROPERTY DAMAGE – ELEVATORS

A. Under **COVERAGES**, **Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended such that the **Damage to Your Product** Exclusion and subparagraphs **(3)**, **(4)** and **(6)** of the **Damage to Property** Exclusion do not apply to **property damage** that results from the use of elevators.

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B. Solely for the purpose of the coverage provided by this **PROPERTY DAMAGE – ELEVATORS** Provision, the **Other Insurance** conditions is amended to add the following paragraph:

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis that is Property insurance covering property of others damaged from the use of elevators.

23. SUPPLEMENTARY PAYMENTS

The section entitled **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B** is amended as follows:

A. Paragraph **1.b.** is amended to delete the $250 limit shown for the cost of bail bonds and replace it with a $5,000. limit; and

B. Paragraph **1.d.** is amended to delete the limit of $250 shown for daily loss of earnings and replace it with a $1,000. limit.

24. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

If the **Named Insured** unintentionally fails to disclose all existing hazards at the inception date of the **Named Insured's Coverage Part**, the Insurer will not deny coverage under this **Coverage Part** because of such failure.

25. 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**.

26. WRAP-UP EXTENSION: OCIP, CCIP, OR CONSOLIDATED (WRAP-UP) INSURANCE PROGRAMS

Note: The following provision does not apply to any public construction project in the state of Oklahoma, nor to any construction project in the state of Alaska, that is not permitted to be insured under a **consolidated (wrap-up) insurance program** by applicable state statute or regulation.

If the endorsement **EXCLUSION – CONSTRUCTION WRAP-UP** is attached to this policy, or another exclusionary endorsement pertaining to Owner Controlled Insurance Programs (O.C.I.P.) or Contractor Controlled Insurance Programs (C.C.I.P.) is attached, then the following changes apply:

A. The following wording is added to the above-referenced endorsement:

With respect to a **consolidated (wrap-up) insurance program** project in which the **Named Insured** is or was involved, this exclusion does not apply to those sums the **Named Insured** become legally obligated to pay as **damages** because of:

1. **Bodily injury**, **property damage**, or **personal or advertising injury** that occurs during the **Named Insured's** ongoing operations at the project, or during such operations of anyone acting on the **Named Insured's** behalf; nor

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2. **Bodily injury** or **property damage** included within the **products-completed operations hazard** that arises out of those portions of the project that are not **residential structures**.

B. Condition **4. Other Insurance** is amended to add the following subparagraph **4.b.(1)(c)**:

This insurance is excess over:

(c) Any of the other insurance whether primary, excess, contingent or any other basis that is insurance available to the **Named Insured** as a result of the **Named Insured** being a participant in a **consolidated (wrap-up) insurance program**, but only as respects the **Named Insured's** involvement in that **consolidated (wrap-up) insurance program**.

C. **DEFINITIONS** is amended to add the following definitions:

Consolidated (wrap-up) insurance program means a construction, erection or demolition project for which the prime contractor/project manager or owner of the construction project has secured general liability insurance covering some or all of the contractors or subcontractors involved in the project, such as an Owner Controlled Insurance Program (O.C.I.P.) or Contractor Controlled Insurance Program (C.C.I.P.).

Residential structure means any structure where 30% or more of the square foot area is used or is intended to be used for human residency, including but not limited to:

1. single or multifamily housing, apartments, condominiums, townhouses, co-operatives or planned unit developments; and

2. the common areas and structures appurtenant to the structures in paragraph **1.** (including pools, hot tubs, detached garages, guest houses or any similar structures).

However, when there is no individual ownership of units, **residential structure** does not include military housing, college/university housing or dormitories, long term care facilities, hotels or motels. **Residential structure** also does not include hospitals or prisons.

This **WRAP-UP EXTENSION: OCIP, CCIP, OR CONSOLIDATED (WRAP-UP) INSURANCE PROGRAMS** Provision does not apply to any person or organization who otherwise qualifies as an additional insured on this **Coverage Part**.

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

Changes - Notice of Cancellation or Material Restriction Endorsement

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
EMPLOYEE BENEFITS LIABILITY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
RAILROAD PROTECTIVE LIABILITY COVERAGE PART
STOP GAP LIABILITY COVERAGE PART
TECHNOLOGY ERRORS AND OMISSIONS LIABILITY COVERAGE PART
SPECIAL PROTECTIVE AND HIGHWAY LIABILITY POLICY – NEW YORK DEPARTMENT OF TRANSPORTATION

SCHEDULE	
Number of days notice (other than for nonpayment of premium):	030
Number of days notice for nonpayment of premium:	10
Name of person or organization to whom notice will be sent:	'PER SCHEDULE ON FILE'
Address:	CANCELLATION NOTIFICATION TO THE ABOVE ENTITIES WILL NOT APPLY TO CANCELLATION FOR NON PAYMENT OF PREMIUM X , TX 00000

If no entry appears above, the number of days notice for nonpayment of premium will be 10 days.

It is understood and agreed that in the event of cancellation or any material restrictions in coverage during the **policy period**, the Insurer also agrees to mail prior written notice of cancellation or material restriction to the person or organization listed in the above Schedule. Such notice will be sent prior to such cancellation in the manner prescribed in the above Schedule.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.

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CONTRACTORS EXTENDED COVERAGE ENDORSEMENT - BUSINESS AUTO PLUS

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

I. LIABILITY 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 required by a written contract to name as an additional insured is an **insured** but only with respect to their legal liability for acts or omissions of a person, who qualifies as an **insured** under **SECTION II – WHO IS AN INSURED** and for whom Liability Coverage is afforded under this policy. If required by written contract, this insurance will be primary and non-contributory to insurance on which the additional insured is a Named Insured.

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. (2) and A.2. (4) are revised as follows:

1. In **a.(2),** the limit for the cost of bail bonds is changed from $2,000 to $5,000; and
2. In **a.(4),** the limit for the loss of earnings is changed from $250 to $500 a day.

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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. 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.

B. 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.

C. 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.

D. Hired "Autos"

The following is added to **Section III. Paragraph A.**:

5. Hired "Autos"

If Physical Damage coverage is provided under this policy, and such coverage does not extend to Hired Autos, then Physical Damage coverage is extended to:

a. Any covered **auto** you lease, hire, rent or borrow without a driver; and

b. Any covered **auto** hired or rented by your **employee** without a driver, under a contract in that individual **employee's** name, with your permission, while performing duties related to the conduct of your business.

c. The most we will pay for any one **accident** or **loss** is the actual cash value, cost of repair, cost of replacement or $75,000, whichever is less, minus a $500 deductible for each covered auto. No deductible applies to **loss** caused by fire or lightning.

d. The physical damage coverage as is provided by this provision is equal to the physical damage coverage(s) provided on your owned **autos**.

e. Such physical damage coverage for hired **autos** will:

(1) Include loss of use, provided it is the consequence of an **accident** for which the Named Insured is legally liable, and as a result of which a monetary loss is sustained by the leasing or rental concern.

(2) Such coverage as is provided by this provision will be subject to a limit of $750 per **accident**.

E. Airbag Coverage

The following is added to **Section III, Paragraph B.3.**:

The accidental discharge of an airbag shall not be considered mechanical breakdown.

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F. Electronic Equipment

Section III, Paragraphs B.4.c and B.4.d. are deleted and replaced by the following:

c. Physical Damage Coverage on a covered **auto** also applies to **loss** to any permanently installed electronic equipment including its antennas and other accessories

d. A $100 per occurrence deductible applies to the coverage provided by this provision.

G. Diminution In Value

The following is added to **Section III, Paragraph B.6.**:

Subject to the following, the **diminution in value** exclusion does not apply to:

a. Any covered **auto** of the private passenger type you lease, hire, rent or borrow, without a driver for a period of 30 days or less, while performing duties related to the conduct of your business; and

b. Any covered **auto** of the private passenger type hired or rented by your **employee** without a driver for a period of 30 days or less, under a contract in that individual **employee's** name, with your permission, while performing duties related to the conduct of your business.

c. Such coverage as is provided by this provision is limited to a **diminution in value** loss arising directly out of accidental damage and not as a result of the failure to make repairs; faulty or incomplete maintenance or repairs; or the installation of substandard parts.

d. The most we will pay for **loss** to a covered **auto** in any one accident is the lesser of:

(1) $5,000; or

(2) 20% of the **auto's** actual cash value (ACV).

III. Drive Other Car Coverage – Executive Officers

The following is added to **Sections II and III**:

1. Any **auto** you don't own, hire or borrow is a covered **auto** for Liability Coverage while being used by, and for Physical Damage Coverage while in the care, custody or control of, any of your "executive officers", except:

a. An **auto** owned by that "executive officer" or a member of that person's household; or

b. An **auto** used by that "executive officer" while working in a business of selling, servicing, repairing or parking **autos**.

Such Liability and/or Physical Damage Coverage as is afforded by this provision.

(1) Equal to the greatest of those coverages afforded any covered **auto**; and

(2) Excess over any other collectible insurance.

2. For purposes of this provision, "executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document, and, while a resident of the same household, includes that person's spouse.

Such "executive officers" are **insureds** while using a covered **auto** described in this provision.

IV. BUSINESS AUTO CONDITIONS

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

The following is added to **Section IV, Paragraph A.2.a.**:

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(4) Your **employees** may know of an **accident** or **loss**. This will not mean that you have such knowledge, unless such **accident** or **loss** is known to you or if you are not an individual, to any of your executive officers or partners or your insurance manager.

The following is added to **Section IV, Paragraph A.2.b.**:

(6) Your **employees** may know of documents received concerning a claim or **suit**. This will not mean that you have such knowledge, unless receipt of such documents is known to you or if you are not an individual, to any of your executive officers or partners or your insurance manager.

B. Transfer Of Rights Of Recovery Against Others To Us

The following is added to **Section IV, Paragraph A.5. Transfer Of Rights Of Recovery Against Others To Us**:

We waive any right of recovery we may have, because of payments we make for injury or damage, against any person or organization for whom or which you are required by written contract or agreement to obtain this waiver from us.

This injury or damage must arise out of your activities under a contract with that person or organization.

You must agree to that requirement prior to an **accident** or **loss**.

C. Concealment, Misrepresentation or Fraud

The following is added to **Section IV, Paragraph B.2.**:

Your failure to disclose all hazards existing on the date of inception of this Coverage Form shall not prejudice you with respect to the coverage afforded provided such failure or omission is not intentional.

D. Other Insurance

The following is added to **Section IV, Paragraph B.5.**:

Regardless of the provisions of Paragraphs **5.a.** and **5.d.** above, the coverage provided by this policy shall be on a primary non-contributory basis. This provision is applicable only when required by a written contract.

That written contract must have been entered into prior to **Accident** or **Loss**.

E. Policy Period, Coverage Territory

Section IV, Paragraph B. 7.(5).(a). is revised to provide:

a. 45 days of coverage in lieu of 30 days.

V. DEFINITIONS

Section V. paragraph C. is deleted and replaced by the following:

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

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NOTICE OF CANCELLATION TO CERTIFICATEHOLDERS

It is understood and agreed that:

If you have agreed under written contract to provide notice of cancellation to a party to whom the Agent of Record has issued a Certificate of Insurance, and if we cancel a policy term described on that Certificate of Insurance for any reason other than nonpayment of premium, then notice of cancellation will be provided to such Certificateholders at least 30 days in advance of the date cancellation is effective.

If notice is mailed, then proof of mailing to the last known mailing address of the Certificateholder on file with the Agent of Record will be sufficient to prove notice.

Any failure by us to notify such persons or organizations will not extend or invalidate such cancellation, or impose any liability or obligation upon us or the Agent of Record.

All other terms and conditions of the policy remain unchanged

This endorsement, which forms a part of and is for attachment to the policy issued by the designated Insurers, takes effect on the Policy Effective date of said policy at the hour stated in said policy, unless another effective date (the Endorsement Effective Date) is shown below, and expires concurrently with said policy.

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D. Coverage D - Key Employee Exclusions

With respect to **Coverage D – Key Employee**, this insurance does not apply to any actual or alleged:

1. Death or Disability

death or permanent disability of a **key employee** relating to, or arising out of:

a. nuclear reaction or radiation or radioactive contamination, however caused;

b. sickness or disease, including mental illness or mental injury;

c. pregnancy, childbirth, miscarriage or abortion;

d. suicide, attempted suicide or self inflicted bodily injury, while sane or insane;

e. the **key employee's** intoxication, impairment or otherwise being under the influence of alcohol or controlled substances;

f. war, including undeclared or civil war;

g. warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

h. insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

2. Other Expenses

a. expenses the **Named Insured** incurs which the **Named Insured** would not have incurred if the **Named Insured** had used all reasonable means to:

i. find a permanent replacement for the **key employee**; and

ii. reduce or discontinue the **key employee** replacement expense;

as soon as possible after the **Named Insured's** permanent loss of the services of the **key employee** caused by a **covered accident.**

b. additional expenses incurred due to the **Named Insured's** loss of the services of a permanent replacement appointed or hired to replace a **key employee**, however caused. However, this exclusion does not apply if the replacement employee is included in the definition as a **key employee** and the **Named Insured's** loss of the services of the replacement employee is caused by a **covered accident.**

IV. WHO IS AN INSURED

The following persons or organizations are **Insureds.**

A. With respect to **Coverage A - Excess Follow Form Liability**, the **Named Insured** and any persons or organizations included as an insured under the provisions of **underlying insurance** are **Insureds**, and then only for the same coverage, except for limits of insurance, afforded under such **underlying insurance.**

B. With respect to the **Coverage B - Umbrella Liability**:

1. If the **Named Insured** is designated in the Declarations of this Policy as:

a. an individual, the **Named Insured** and the **Named Insured's spouse** are **Insureds**, but only with respect to the conduct of a business of which the **Named Insured** is the sole owner.

b. a partnership or joint venture, the **Named Insured** is an **Insured**. The **Named Insured's** members, the **Named Insured's** partners, and their **spouse**s are also **Insureds**, but only with respect to the conduct of the **Named Insured's** business.

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c. a limited liability company, the **Named Insured** is an **Insured**. The **Named Insured's** members are also **Insureds**, but only with respect to the conduct of the **Named Insured's** business. The **Named Insured's** managers are **Insureds**, but only with respect to their duties as the **Named Insured's** managers.

d. an organization other than a partnership, joint venture or limited liability company, the **Named Insured** is an **Insured**. The **Named Insured's executive officers** and directors are **Insureds**, but only with respect to their duties as the **Named Insured's** officers or directors. The **Named Insured's** stockholders are also **Insureds**, but only with respect to their liability as stockholders.

e. a trust, the **Named Insured** is an **Insured**. The **Named Insured's** trustees are also **Insureds**, but only with respect to their duties as trustees.

2. Each of the following are also **Insureds**:

a. The **Named Insured's volunteer workers** but only while performing duties related to the conduct of the **Named Insured's** business.

b. The **Named Insured's employees**, other than either the **Named Insured's executive officers** (if the **Named Insured** is an organization other than a partnership, joint venture or limited liability company) or the **Named Insured's** managers (if the **Named Insured** is a limited liability company), but only for acts within the scope of their employment by the **Named Insured** or while performing duties related to the conduct of the **Named Insured's** business.

However, none of these **employees** or **volunteer workers** are **Insureds** for:

i. **bodily injury** or **personal and advertising injury**:

(a) to the **Named Insured**, to the **Named Insured's** partners or members (if the **Named Insured** is a partnership or joint venture), to the **Named Insured's** members (if the **Named Insured** is a limited liability company), to a co-**employee** while in the course of his or her employment or performing duties related to the conduct of the **Named Insured's** business, or to the **Named Insured's** other **volunteer workers** while performing duties related to the conduct of the **Named Insured's** business;

(b) to the **spouse**, child, parent, brother or sister of that co-**employee** or **volunteer worker** as a consequence of paragraph **(i)(a)** above;

(c) for which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in paragraph **i. (a)** or **(b)** above; or

(d) arising out of his or her providing or failing to provide professional health care services.

ii. **property damage** to property:

(a) owned, occupied or used by;

(b) rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by;

the **Named Insured**, any of the **Named Insured's employees**, **volunteer workers**, any partner or member (if the **Named Insured** is a partnership or joint venture), or any member (if the **Named Insured** is a limited liability company).

C. With respect to the **Coverage C - Crisis Event Management** and the **Coverage D - Key Employee**, the **Named Insured** is the **Insured.**

V. LIMITS OF INSURANCE

A. Multiple Insureds, claims, claimants

The limits of insurance shown in the Declarations of this Policy and the rules below fix the most the

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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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POLICY NUMBER
C 4022274271

INSURED NAME AND ADDRESS
F. W. WALTON, INC.
8350 MOSLEY ROAD

HOUSTON, TX 77075

POLICY CHANGES
BLANKET NAMED INSURED

This Change Endorsement changes the Policy. Please read it carefully. This Change Endorsement is a part of your Policy and takes effect on the effective date of your Policy, unless another effective date is shown.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET NAMED INSURED ENDORSEMENT

This endorsement modifies insurance provided under the following:

INSTALLATION FLOATER COVERAGE FORM

The following named insureds are added to the Policy:

All owners, architects, engineers, surveyors, contractors,lenders, subcontractors and sub-subcontractors.

Chairman of the Board

Secretary

G-56015-B (ED. 11/91)

TEXAS WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

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

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

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

The premium for this endorsement is shown in the Schedule.

Schedule

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

2. Operations: All Texas operations
3. Premium:
   The premium charge for this endorsement shall be **2.00** percent of the premium developed on payroll in connection with work performed for the above person(s) or organization(s) arising out of the operations described.
4. Advance Premium: Included, see Information Page

This endorsement changes the policy to which it is attached effective on the inception date of the policy unless a different date is indicated below.
(The following "attaching clause" need be completed only when this endorsement is issued subsequent to preparation of the policy.)
This endorsement, effective on 6/1/24 **at 12:01 a.m.** standard time, forms a part of:

Policy no. 0001180401 of Texas Mutual Insurance Company effective on 6/1/25

Issued to: F W WALTON INC

Jeanette Ward

This is not a bill

Authorized representative

NCCI Carrier Code: 29939

5/29/25

WORKERS' COMPENSATION AND EMPLOYERS LIABILITY POLICY

WC 00 03 01
Insured copy

ALTERNATE EMPLOYER ENDORSEMENT

This endorsement applies only with respect to bodily injury to your employees while in the course of special or temporary employment by the alternate employer in the state named in the Schedule. Part One (Workers Compensation Insurance) and Part Two (Employers Liability Insurance) will apply as though the alternate employer is insured.

Under Part One (Workers Compensation Insurance) we will reimburse the alternate employer for the benefits required by the workers compensation law if we are not permitted to pay the benefits directly to the persons entitled to them.

The insurance afforded by this endorsement is not intended to satisfy the alternate employer's duty to secure its obligations under the workers compensation law. We will not file evidence of this insurance on behalf of the alternate employer with any government agency.

We will not ask any other insurer of the alternate employer to share with us a loss covered by this endorsement.

Premium will be charged for your employees while in the course of special or temporary employment by the alternate employer.

The policy may be canceled according to its terms without sending notice to the alternate employer.

Part Four (Your Duties If Injury Occurs) applies to you and the alternate employer. The alternate employer will recognize our right to defend under Parts One and Two and our right to inspect under Part Six.

Schedule

Alternate employer	Address	State of special or temporary employment
ANY SPECIAL OR TEMPORARY EMPLOYER OF EMPLOYEES COVERED UNDER THIS POLICY.	VARIOUS LOCATIONS IN TEXAS ONLY ANY, TX 99999	TX

This endorsement changes the policy to which it is attached effective on the inception date of the policy unless a different date is indicated below.
(The following "attaching clause" need be completed only when this endorsement is issued subsequent to preparation of the policy.)
This endorsement, effective on 6/1/24 **at 12:01 a.m.** standard time, forms a part of:

Policy no. 0001180401 of Texas Mutual Insurance Company effective on 6/1/25

Issued to: F W WALTON INC

Jeanette Ward

This is not a bill

Authorized representative

NCCI Carrier Code: 29939

5/29/25

WORKERS' COMPENSATION AND EMPLOYERS LIABILITY POLICY

WC 42 06 01
Insured copy

TEXAS NOTICE OF MATERIAL CHANGE ENDORSEMENT

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

In the event of cancellation or other material change of the policy, we will mail advance notice to the person or organization named in the Schedule. The number of days advance notice is shown in the Schedule.

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

Schedule

1. Number of days advance notice:	30
2. Notice will be mailed to:	PER LIST ON FILE

This endorsement changes the policy to which it is attached effective on the inception date of the policy unless a different date is indicated below.
(The following "attaching clause" need be completed only when this endorsement is issued subsequent to preparation of the policy.)
This endorsement, effective on 6/1/24 **at 12:01 a.m.** standard time, forms a part of:

Policy no. 0001180401 of Texas Mutual Insurance Company effective on 6/1/25

Issued to: F W WALTON INC

Jeanette Ward

This is not a bill

Authorized representative

NCCI Carrier Code: 29939

5/29/25

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LOSS PAYABLE PROVISIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL INLAND MARINE COVERAGE FORM

SCHEDULE

Location (If Applicable)	Description of Property	Loss Payee (Name & Address)	Provisions Applicable: Loss Payable	Lender's Loss Payable	Contract Of Sale

REFER TO INLAND MARINE LOSS PAYEE SCHEDULE

A. When this endorsement is attached to your Commercial Inland Marine Coverage Form the term Coverage Form in this endorsement is replaced by the term Policy.

B. LOSS PAYABLE

The following is added under the Loss Conditions section of the Commercial Inland Marine Conditions, Paragraph **E.** – Loss Payment:

For Covered Property in which both you and a Loss Payee shown in the above Schedule have an insurable interest, we will:

1. Adjust losses with you; and

2. Pay any claim for loss or damage jointly to you and the Loss Payee, as interests may appear.

C. LENDER'S LOSS PAYABLE

1. The Loss Payee shown in the above Schedule is a creditor (including a mortgageholder or trustee) with whom you have entered a contract for the sale of Covered Property, whose interest in that Covered Property is established by such written contracts as:

a. Bills of lading;

b. Financing statements;

c. Chattel mortgages.

2. For Covered Property in which both you and a Loss Payee have an insurable interest:

a. We will pay for covered loss or damage to each Loss Payee in their order of precedence, as interests may appear;

b. The Loss Payee has the right to receive loss payment even if the Loss Payee has started foreclosure or similar action on the Covered Property;

c. If we deny your claim because of your acts or because you have failed to comply with the terms of the Coverage Form, the Loss Payee will still have the right to receive loss payment if the Loss Payee:

(1) Pays any premium due under this Coverage Form at our request if you have failed to do so;

(2) Submits a signed, sworn proof of loss within 60 days after receiving notice from us of your failure to do so; and

(3) Has notified us of any change in ownership, occupancy or substantial change in risk known to the Loss Payee.

All of the terms of this Coverage Form will then apply directly to the Loss Payee.

d. If we pay the Loss Payee for any loss or damage and deny payment to you because of

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your acts or because you have failed to comply with the terms of this Coverage Form:

(1) The Loss Payee's rights will be transferred to us to the extent of the amount we pay; and

(2) The Loss Payee's rights to recover the full amount of the Loss Payee's claim will not be impaired.

At our option, we may pay to the Loss Payee the whole principle on the debt plus any accrued interest. In this event, you will pay your remaining debt to us.

3. If we cancel this policy, we will give written notice to the Loss Payee at least:

a. 10 days before the effective date of cancellation if we cancel for your non-payment of premium; or

b. 30 days before the effective date of cancellation if we cancel for any other reason.

4. If we do not renew this policy, we will give written notice to the Loss Payee at least 10 days before the expiration date of this policy.

D. CONTRACT OF SALE

1. The Loss Payee shown in the Schedule is a person or organization you have entered a contract with for the sale of Covered Property.

2. For Covered Property in which both you and the Loss Payee have an insurable interest we will:

a. Adjust losses with you; and

b. Pay any claim for loss or damage jointly to you and the Loss Payee, as interests may appear.

3. The following is added under the Loss Condition section of the Commercial Inland Marine Conditions, Paragraph **F.** – Other Insurance:

For Covered Property that is the subject of a contract of sale, the word "you" includes the Loss Payee.

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

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

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

Schedule

Blanket - PA
Where Required By Written Contract

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 Date: 06/01/2025 Policy No. WC 929118278984 Endorsement No.

Policy Effective Date: 06/01/2025 to 06/01/2026 Premium $

Insured: F W WALTON INC

DBA:

Carrier Name / Code: Argonaut Insurance Company

WC 00 03 13
(Ed. 4-84)

Countersigned by _____

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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.

Schedule

Blanket - FL
Where Required By Written Contract

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 Date: 06/01/2025 Policy No. WC 929118278984 Endorsement No.

Policy Effective Date: 06/01/2025 to 06/01/2026 Premium $

Insured: F W WALTON INC

DBA:

Carrier Name / Code: Argonaut Insurance Company

WC 00 03 13
(Ed. 4-84)

Countersigned by _____

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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.

Schedule

Blanket - LA
Where Required By Written Contract

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 Date: 06/01/2025 Policy No. WC 929118278984 Endorsement No.

Policy Effective Date: 06/01/2025 to 06/01/2026 Premium $

Insured: F W WALTON INC

DBA:

Carrier Name / Code: Argonaut Insurance Company

WC 00 03 13
(Ed. 4-84)

Countersigned by _____

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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.

Schedule

Blanket - OK
Where required by written contract

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 Date: 06/01/2025 Policy No. WC 929118278984 Endorsement No.

Policy Effective Date: 06/01/2025 to 06/01/2026 Premium $

Insured: F W WALTON INC

DBA:

Carrier Name / Code: Argonaut Insurance Company

WC 00 03 13
(Ed. 4-84)

Countersigned by _____

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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.

Schedule

Blanket - AL
Where required by written contract

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 Date: 06/01/2025 Policy No. WC 929118278984 Endorsement No.

Policy Effective Date: 06/01/2025 to 06/01/2026 Premium $

Insured: F W WALTON INC

DBA:

Carrier Name / Code: Argonaut Insurance Company

WC 00 03 13
(Ed. 4-84)

Countersigned by _____

© 1983 National Council on Compensation Insurance.

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

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

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

Schedule

Blanket - MS
Where required by written contract

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 Date: 06/01/2025 Policy No. WC 929118278984 Endorsement No.

Policy Effective Date: 06/01/2025 to 06/01/2026 Premium $

Insured: F W WALTON INC

DBA:

Carrier Name / Code: Argonaut Insurance Company

WC 00 03 13
(Ed. 4-84)

Countersigned by _____

© 1983 National Council on Compensation Insurance.

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Schedule

Blanket - NM
Where required by written contract

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

Endorsement Effective Date: 06/01/2025 Policy No. WC 929118278984 Endorsement No.

Policy Effective Date: 06/01/2025 to 06/01/2026 Premium $

Insured: F W WALTON INC

DBA:

Carrier Name / Code: Argonaut Insurance Company

WC 00 03 13
(Ed. 4-84)

Countersigned by _____

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Schedule

Blanket - VA
Where required by written contract

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 Date: 06/01/2025 Policy No. WC 929118278984 Endorsement No.

Policy Effective Date: 06/01/2025 to 06/01/2026 Premium $

Insured: F W WALTON INC

DBA:

Carrier Name / Code: Argonaut Insurance Company

WC 00 03 13
(Ed. 4-84)

Countersigned by _____

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Schedule

Blanket - GA
Where Required By Written Contract

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 Date: 06/01/2025 Policy No. WC 929118278984 Endorsement No.

Policy Effective Date: 06/01/2025 to 06/01/2026 Premium $

Insured: F W WALTON INC

DBA:

Carrier Name / Code: Argonaut Insurance Company

WC 00 03 13
(Ed. 4-84)

Countersigned by _____

© 1983 National Council on Compensation Insurance.

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

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

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

Schedule

Blanket - KS
Where Required By Written Contract

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 Date: 06/01/2025 Policy No. WC 929118278984 Endorsement No.

Policy Effective Date: 06/01/2025 to 06/01/2026 Premium $

Insured: F W WALTON INC

DBA:

Carrier Name / Code: Argonaut Insurance Company

WC 00 03 13
(Ed. 4-84)

Countersigned by _____

© 1983 National Council on Compensation Insurance.

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

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Schedule

Blanket - NC
Where Required by Written Contract

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 Date: 06/01/2025 Policy No. WC 929118278984 Endorsement No.

Policy Effective Date: 06/01/2025 to 06/01/2026 Premium $

Insured: F W WALTON INC

DBA:

Carrier Name / Code: Argonaut Insurance Company

WC 00 03 13
(Ed. 4-84)

Countersigned by _____

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Schedule

Blanket - TN
Where Required By Written Contract

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 Date: 06/01/2025 Policy No. WC 929118278984 Endorsement No.

Policy Effective Date: 06/01/2025 to 06/01/2026 Premium $

Insured: F W WALTON INC

DBA:

Carrier Name / Code: Argonaut Insurance Company

WC 00 03 13
(Ed. 4-84)

Countersigned by _____

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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.

RFP/CSP 26-040 Utility Customer Services Building Envelope Maintenance and Repair incorporated by reference

EXHIBIT E
CONSTRUCTION SCHEDULE

Substantial completion time is 55 days after notice to proceed

EXHIBIT F
SCHEDULE OF VALUES

February 26, 2026
Item No. 8.3.
Lincoln Center Area Improvements, Construction Contract

Sponsor: Jennifer Cain, Director Capital Projects

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action on a construction contract with BH Harris Construction for the construction of a shade shelter, paving, and infrastructure for installing a new pre-purchased pre-manufactured restroom building for the Lincoln Center Area Improvements Project in the amount of $474,128 plus the City's contingency in the amount of $47,412 for a total appropriation of $521,540. Approval of this item grants authority for the City Manager to authorize project expenditures up to the City's contingency amount.

Relationship to Strategic Goals:
Core Services and Infrastructure

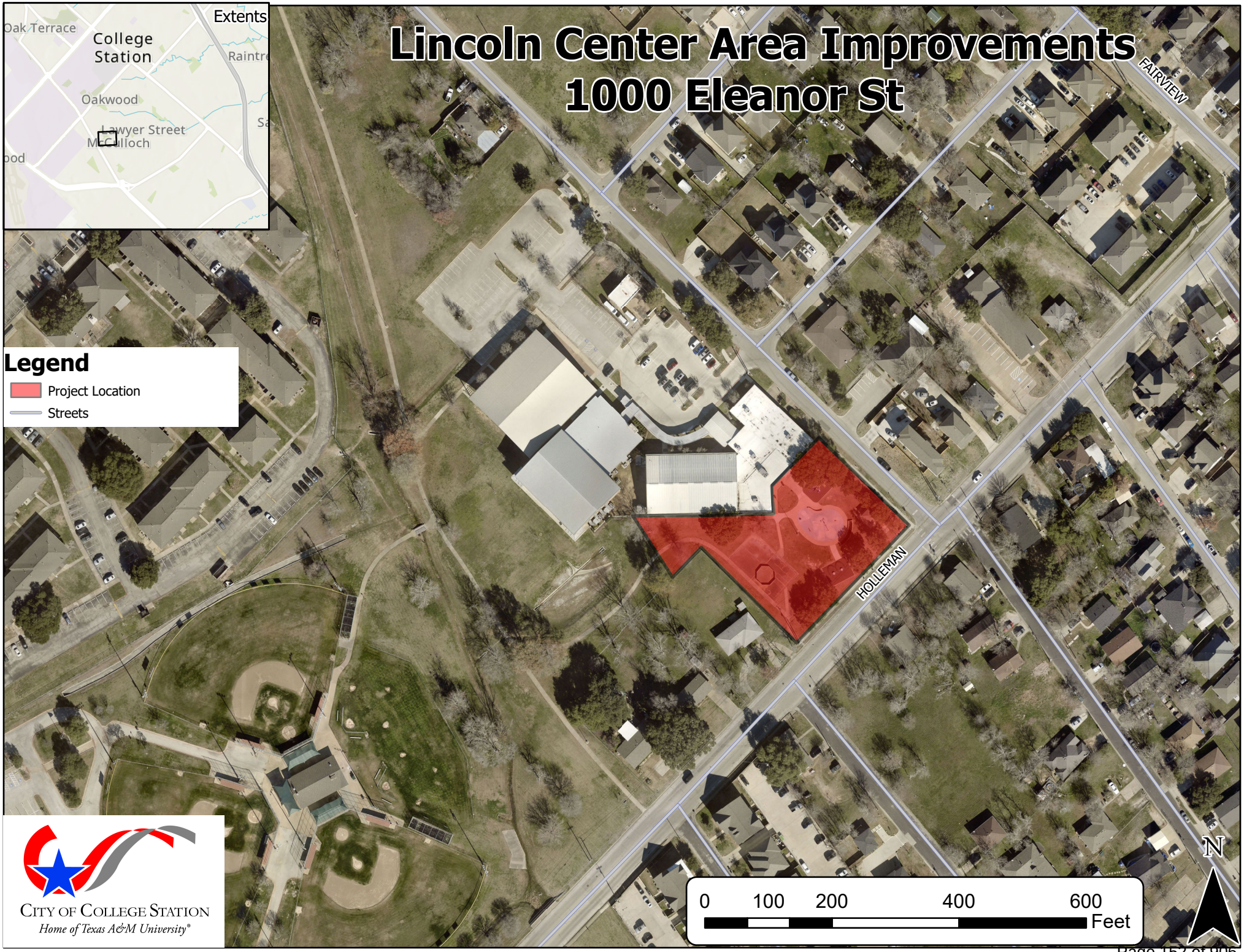
Recommendation(s): Staff recommneds approval.

Summary: This 2022 bond project includes the demolition of some existing paving and infrastructure and the new construction of paving, a new shade shelter, and the infrastructure and site preparation for the installation of a previously purchased restroom building on the Lincoln Center Area Improvements playground area. This construction work will coincide with the delivery of the new restroom building provided by RFL/CorWorth to be installed in the summer of 2026.

City of College Station CIP staff reviewed competitive sealed proposals from six firms and scored these proposals as per the advertised criteria. After the review process, BH Harris Construction was selected as the most qualified, best value firm for this project.

Budget & Financial Summary: Budget in the amount of $1,550,000 is included for this project in the Parks and Recreation Capital Improvement Projects Fund. A total of $493,488.07 has been expended or committed to date, leaving a balance of $1,056,511.93 in the total project budget for this construction contract and future costs.

Attachments:
1. Lincoln Center Map
2. Lincoln Center RFP (CSP) 26-027 Bid Summary
3. Lincoln Center Improvements Contract_26300332


Lincoln Center Area Improvements
1000 Eleanor St
Extents
Oak Terrace
College Station
Oakwood
Lawyer Street
FAIRVIEW
HOLLEMAN
Legend
Project Location
Streets
0
100
200
400
600
Feet
N
City of College Station
Home of Texas A&M University®

TABULATION

RFP (CSP) 26-027 Lincoln Center Area Improvements 1/20/2026

FIRM	BASE PROPOSAL	NUMBER OF CALENDAR DAYS	Total Sum	BOND	Addenda	Certification
Aggieland Construction	$ 574,800.00	193	$ 574,800.00	Y	Y	Y
BH Harris	$ 474,128.00	300	$ 474,128.00	Y	Y	Y
Construction Solution	$ 636,874.61	300	$ 636,874.61	Y	Y	Y
FMG Construction	$ 789,005.00	300	$ 789,005.00	Y	Y	Y
Marek Brothers	$ 600,000.00	300	$ 600,000.00	Y	Y	Y
Tucker Construction	$ 535,730.00	300	$ 535,730.00	Y	Y	Y

CONTRACT & AGREEMENT ROUTING FORM

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

CONTRACT#: 26300332 PROJECT#: PK2308 BID/RFP/RFQ#: 26-027

Project Name / Contract Description: Lincoln Center Area Improvements Project

Name of Contractor: BH Harris Construction, LLC

CONTRACT TOTAL VALUE: $ 474,128.00 **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 #** N/A ☐ **CHANGE ORDER #** N/A ☐ **OTHER** N/A

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

Vendor was chosen as best and lowest responsible bidder meeting specifications on RFP (CSP) 26-027.

Funding is in account code 41389971-6560

CRC Approval Date*: N/A *(If required)** **Council Approval Date*:** 2/26/2026 **Agenda Item No*:** TBD

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

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

SIGNATURES RECOMMENDING APPROVAL

DEPARTMENT DIRECTOR/ADMINISTERING CONTRACT — DATE

ASST CITY MGR – CFO — DATE

LEGAL DEPARTMENT — DATE

APPROVED & EXECUTED

CITY MANAGER — DATE

N/A

MAYOR (if applicable) — DATE

N/A

CITY SECRETARY (if applicable) — DATE

__Original(s) sent to CSO on _____ Scanned into Laserfiche on _____ ____Original(s) sent to Fiscal on _____

CITY OF COLLEGE STATION
STANDARD FORM OF CONSTRUCTION AGREEMENT

This Agreement is entered into by and between the City of College Station, a Texas home-rule municipal corporation (the "City") and BH Harris Construction, LLC (the "Contractor") for the construction and/or installation of the following:
Lincoln Center Area Improvements.

1. DEFINITIONS

1.01 Calendar Day. The term "calendar day" shall mean any day of the week or month, no days being excepted.

1.02 City. The term "City" shall mean and be understood as referring to the City of College Station, Texas.

1.03 City's Consultant. The term "City's Consultant" or "Consultant" shall mean and be understood as referring to the City's design professional(s) for the Project.

1.04 City's Representative. The term "City's Representative" or "Representative" shall mean and be understood as referring to the City Manager or his delegate or delegates, including a project management firm if applicable, who shall act as City's agent.

1.05 Contingency Amount. The term "Contingency Amount" shall mean and be understood as referring to the amount established and appropriated by the City, to be used exclusively by the City and in the City's sole discretion, to pay City-authorized costs associated with Change Orders and other related expenses for this Project. The Contractor agrees that the Contingency Amount, if any, is established by and is for the sole use of the City, that the Contingency Amount is not included in the Contract Amount, and that the Contractor has no right to use or receive any Contingency Amount unless authorized by the City in a written and duly authorized change order. The City's Contingency Amount is: Forty Seven Thousand Four Hundred Twelve and zero /**100 Dollars ($**47,412.00).

1.06 Contract Amount. The term "Contract Amount" shall mean the amount of Contractor's lump sum base bid proposal, together with all alternates, as accepted by the City in accordance with the Contractor's Proposal. In the case of a unit price contract, Contract Amount shall mean the sum of the product of all unit prices multiplied by the respective estimated final quantities of work, for all base bid and alternates, as accepted by the City. Except in the event of a duly authorized change order approved by the City as provided in this Agreement, and in consideration of the Contractor's final completion of all Work in conformity with this Agreement, the City shall pay the Contractor an amount not to exceed: Four Hundred Seventy-Four Thousand One Hundred Twenty-Eight and zero /**100 Dollars ($**474,128.00).

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 Fifty and No /**100 DOLLARS ($** 250.00 **)** 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

BH HARRIS CONSTRUCTION, LLC

By: Braden Harris

Printed Name: Braden Harris

Title: President

Date: 2/18/2026

CITY OF COLLEGE STATION

By: _____
City Manager
Date: _____

APPROVED:

_____
City Attorney
Date: _____

_____
Assistant City Manager/CFO
Date: _____

EXHIBIT A
DAVIS BACON WAGE RATES

Attached...

"General Decision Number: TX20250007 01/03/2025

Superseded General Decision Number: TX20240007

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 $17.75 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 2025.
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 $13.30 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 2025.

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 01/03/2025

SUTX2011-006 08/03/2011

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER (Paving and Structures)	$ 12.56 **	
ELECTRICIAN	$ 26.35	
FORM BUILDER/FORM SETTER		
Paving & Curb	$ 12.94 **	
Structures	$ 12.87 **	
LABORER		
Asphalt Raker	$ 12.12 **	
Flagger	$ 9.45 **	
Laborer, Common	$ 10.50 **	
Laborer, Utility	$ 12.27 **	
Pipelayer	$ 12.79 **	
Work Zone Barricade Servicer	$ 11.85 **	

PAINTER (Structures).....$ 18.34

POWER EQUIPMENT OPERATOR:
Agricultural Tractor.....$ 12.69 **
Asphalt Distributor.....$ 15.55 **
Asphalt Paving Machine.....$ 14.36 **
Boom Truck.....$ 18.36
Broom or Sweeper.....$ 11.04 **
Concrete Pavement
Finishing Machine.....$ 15.48 **
Crane, Hydraulic 80 tons
or less.....$ 18.36
Crane, Lattice Boom 80
tons or less.....$ 15.87 **
Crane, Lattice Boom over
80 tons.....$ 19.38
Crawler Tractor.....$ 15.67 **
Directional Drilling
Locator.....$ 11.67 **
Directional Drilling
Operator.....$ 17.24 **
Excavator 50,000 lbs or
Less.....$ 12.88 **
Excavator over 50,000 lbs...$ 17.71 **
Foundation Drill, Truck
Mounted.....$ 16.93 **
Front End Loader, 3 CY or
Less.....$ 13.04 **
Front End Loader, Over 3 CY.$ 13.21 **
Loader/Backhoe.....$ 14.12 **
Mechanic.....$ 17.10 **
Milling Machine.....$ 14.18 **
Motor Grader, Fine Grade....$ 18.51
Motor Grader, Rough.....$ 14.63 **
Pavement Marking Machine....$ 19.17
Reclaimer/Pulverizer.....$ 12.88 **
Roller, Asphalt.....$ 12.78 **
Roller, Other.....$ 10.50 **
Scraper.....$ 12.27 **
Spreader Box.....$ 14.04 **
Trenching Machine, Heavy....$ 18.48

Servicer.....$ 14.51 **

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

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

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

WELDER.....$ 15.97 **

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

==========

** Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 ($17.75) or 13658 ($13.30). 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 classifications and wage rates that have been found to be prevailing for the type(s) of construction and geographic area covered by the wage determination. The classifications are listed in alphabetical order under rate identifiers indicating whether the particular rate is a union rate (current union negotiated rate), a survey rate, a weighted union average rate, a state adopted rate, or a supplemental classification rate.

Union Rate Identifiers

A four-letter identifier beginning with characters other than ""SU"", ""UAVG"", ?SA?, or ?SC? denotes that a union rate was prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2024. PLUM is an identifier of the union whose collectively bargained rate 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. The date, 07/01/2024 in the example, is the effective date of the most current negotiated rate.

Union prevailing wage rates are updated to reflect all changes over time that are reported to WHD in the rates in the collective bargaining agreement (CBA) governing the classification.

Union Average Rate Identifiers

The UAVG identifier indicates that no single rate prevailed for those classifications, but that 100% of the data reported for the classifications reflected union rates. EXAMPLE: UAVG-OH-0010 01/01/2024. UAVG indicates that the rate is a weighted union average rate. OH indicates the State of Ohio. The next number, 0010 in the example, is an internal number used in producing the wage determination. The date, 01/01/2024 in the example, indicates the date the wage determination was updated to reflect the most current union average rate.

A UAVG rate will be updated once a year, usually in January, to reflect a weighted average of the current rates in the collective bargaining agreements on which the rate is based.

Survey Rate Identifiers

The ""SU"" identifier indicates that either a single non-union rate prevailed (as defined in 29 CFR 1.2) for this classification in the survey or that the rate was derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As a weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SUFL2022-007 6/27/2024. SU indicates the rate is a single non-union prevailing rate or a weighted average of survey data for that classification. FL indicates the State of Florida. 2022 is the year of the 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. The date, 6/27/2024 in the example, indicates the survey completion date for the classifications and rates under that identifier.

?SU? wage rates typically remain in effect until a new survey is conducted. However, the Wage and Hour Division (WHD) has the discretion to update such rates under 29 CFR 1.6(c)(1).

State Adopted Rate Identifiers

The ""SA"" identifier indicates that the classifications and prevailing wage rates set by a state (or local) government were adopted under 29 C.F.R 1.3(g)-(h). Example: SAME2023-007 01/03/2024. SA reflects that the rates are state adopted. ME refers to the State of Maine. 2023 is the year during which the state completed the survey on which the listed classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. The date, 01/03/2024 in the example, reflects the date on which the classifications and rates under the ?SA? identifier took

effect under state law in the state from which the rates were adopted.

WAGE DETERMINATION APPEALS PROCESS

1) Has there been an initial decision in the matter? This can be:

a) a survey underlying a wage determination
b) an existing published wage determination
c) an initial WHD letter setting forth a position on a wage determination matter
d) an initial conformance (additional classification and rate) determination

On survey related matters, initial contact, including requests for summaries of surveys, should be directed to the WHD Branch of Wage Surveys. Requests can be submitted via email to davisbaconinfo@dol.gov or by mail to:

Branch of Wage Surveys
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

Regarding any other wage determination matter such as conformance decisions, requests for initial decisions should be directed to the WHD Branch of Construction Wage Determinations. Requests can be submitted via email to BCWD-Office@dol.gov or by mail 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 an initial decision has been issued, then any interested party (those affected by the action) that disagrees with the decision can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Requests for review and reconsideration can be submitted via email to dba.reconsideration@dol.gov or by mail 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 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.

===

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. 4411388

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

THAT WE, BH Harris Construction, LLC, as Principal, hereinafter called "Contractor" and the other subscriber hereto FCCI Insurance Company, as Surety, do hereby acknowledge ourselves to be held and firmly bound to the City of College Station, a municipal corporation, in the sum of Four Hundred Seventy Four Thousand One Hundred Twenty Eight and Zero /100 Dollars ($ 474,128.00) 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 Lincoln Center Area Improvements,

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. 4411388

FOR THE CONTRACTOR:

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

(Name of Contractor)

By: K. M Hh

Name: Kathleen Harris

Title: Secretary

Date: 2/26/2026

By: [signature]

Name: Braden Harris

Title: President

Date: 2/26/2026

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

By: Fisher Nanninga

Name: Fisher Nanninga

Title: Attorney-In-Fact

Date: 2/26/2026

FCCI Insurance Company
(Full Name of Surety)

6300 University Parkway,
Sarasota FL 34240
(Address of Surety for Notice)

By: Lisa Nanninga

Name: Lisa Nanninga

Title: Witness

Date: 2/26/2026

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. 26300332
Construction Agreement Over $50,000
Form 04-20-2023

TEXAS STATUTORY PAYMENT BOND

Bond No. 4411388

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

THAT WE, BH Harris Construction, LLC, as Principal, hereinafter called "Principal" and the other subscriber hereto FCCI Insurance Company, a corporation organized and existing under the laws of the State of Florida, licensed to business in the State of Texas and admitted to write bonds, as Surety, herein after called "Surety", do hereby acknowledge ourselves to be held and firmly bound to the City of College Station, a municipal corporation, in the sum of Four Hundred Seventy Four Thousand One Hundred Twenty Eight and _____/100 Dollars ($ 474,128.00) 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 26th day of February, 2026, for Lincoln Center Area Improvements,

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. 4411388

FOR THE CONTRACTOR:

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

(Name of Contractor)

By: K. Harris

Name: Kathleen Harris

Title: Secretary

Date: 2/26/2026

By: Braden Harris

Name: Braden Harris

Title: President

Date: 2/26/2026

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

By: Fisher Nanninga

Name: Fisher Nanninga

Title: Attorney-In-Fact

Date: 2/26/2026

FCCI Insurance Company
(Full Name of Surety)

6300 University Parkway,

Sarasota FL 34240
(Address of Surety for Notice)

By: Lisa Nanninga

Name: Lisa Nanninga

Title: Witness

Date: 2/26/2026

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. 26300332
Construction Agreement Over $50,000
Form 04-20-2023

FCCI INSURANCE GROUP

GENERAL POWER OF ATTORNEY

Know all men by these presents: That the FCCI Insurance Company, a Corporation organized and existing under the laws of the State of Florida (the "Corporation") does make, constitute and appoint:

Everett Phipps; Kerri Corbin; Shannon Dickerson; Lisa Nanninga;
Ashley Meece; Fisher Nanninga; Sheri Pinchback

Each, its true and lawful Attorney-In-Fact, to make, execute, seal and deliver, for and on its behalf as surety, and as its act and deed in all bonds and undertakings provided that no bond or undertaking or contract of suretyship executed under this authority shall exceed the sum of (not to exceed $30,000,000.00): $30,000,000.00

This Power of Attorney is made and executed by authority of a Resolution adopted by the Board of Directors. That resolution also authorized any further action by the officers of the Company necessary to effect such transaction.

The signatures below and the seal of the Corporation may be affixed by facsimile, and any such facsimile signatures or facsimile seal shall be binding upon the Corporation when so affixed and in the future with regard to any bond, undertaking or contract of surety to which it is attached.

In witness whereof, the FCCI Insurance Company has caused these presents to be signed by its duly authorized officers and its corporate Seal to be hereunto affixed, this 23rd day of July, 2020.

Attest: _____
Christina D. Welch, President
FCCI Insurance Company

FCCI INSURANCE COMPANY CORPORATE SEAL 1994 FLORIDA

_____
Christopher Shoucair,
EVP, CFO, Treasurer, Secretary
FCCI Insurance Company

State of Florida
County of Sarasota

Before me this day personally appeared Christina D. Welch, who is personally known to me and who executed the foregoing document for the purposes expressed therein.

My commission expires: 2/27/2027

NOTARY PUBLIC STATE OF FLORIDA
PEGGY SNOW
Commission # HH 326535
Expires February 27, 2027

_____
Notary Public

State of Florida
County of Sarasota

Before me this day personally appeared Christopher Shoucair, who is personally known to me and who executed the foregoing document for the purposes expressed therein.

My commission expires: 2/27/2027

NOTARY PUBLIC STATE OF FLORIDA
PEGGY SNOW
Commission # HH 326535
Expires February 27, 2027

_____
Notary Public

CERTIFICATE

I, the undersigned Secretary of FCCI Insurance Company, a Florida Corporation, DO HEREBY CERTIFY that the foregoing Power of Attorney remains in full force and has not been revoked; and furthermore that the February 27, 2020 Resolution of the Board of Directors, referenced in said Power of Attorney, is now in force.

Dated this 26th day of February, 2026

_____
Christopher Shoucair, EVP, CFO, Treasurer, Secretary
FCCI Insurance Company

1-IONA-3592-NA-04, 7/2021

EXHIBIT C
CERTIFICATES OF INSURANCE AND ENDORSEMENTS

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 01/27/2026

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: Kaitlyn Reifel	
Insurors of Texas 225 South Fifth Street Waco TX 76701	PHONE (A/C, No, Ext): (254) 759-3701	FAX (A/C, No): (254) 754-1375
	E-MAIL ADDRESS: kreifel@insurorsoftexas.com	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : Cumis Specialty Insurance Company	
INSURED BH Harris Construction, LLC 4044 Golden Eagle Dr. Bryan TX 77808	INSURER B :	
	INSURER C :	
	INSURER D :	
	INSURER E :	
	INSURER F :	

COVERAGES **CERTIFICATE NUMBER:** 26/27 **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:			PGIA01333-00	01/09/2026	01/09/2027	EACH OCCURRENCE	$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 100,000
							MED EXP (Any one person)	$ 5,000
							PERSONAL & ADV INJURY	$ 1,000,000
							GENERAL AGGREGATE	$ 2,000,000
							PRODUCTS - COMP/OP AGG	$ 2,000,000
								$
	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	$
								$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y / N: N If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		0002141085	02/10/2026	02/10/2027	[X] PER STATUTE [ ] OTH-ER	
							E.L. EACH ACCIDENT	$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE	$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	$ 1,000,000

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

The General Liability policy contains blanket automatic endorsements providing additional insured status & waiver of subrogation to the certificate holder only when there is a written contract between the named insured & certificate holder that requires such status. The Workers Compensation policy includes a blanket automatic endorsement that provides waiver of subrogation status to the certificate holder only when there is a written contract between the named insured & the certificate holder that requires such status.

CERTIFICATE HOLDER

City of College Station
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

Everett Rogers

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AGENCY CUSTOMER ID: 00026182

LOC #:

ADDITIONAL REMARKS SCHEDULE

AGENCY	NAMED INSURED
Insurors of Texas	BH Harris Construction, LLC
POLICY NUMBER	
CARRIER / NAIC CODE	EFFECTIVE DATE:

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: 25 **FORM TITLE:** Certificate of Liability Insurance: Notes

Project: Lincoln Center Area Improvements
Contract 26300332

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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:

COMMERCIAL GENERAL 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.

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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
Any person or organization to which you are obligated by virtue of a written contract to provide insurance such as is afforded by this policy, but only with respect to (1) occurrences taking place after such written contract has been executed and (2) occurrences resulting from work performed by you during the policy period, or occurrences resulting from the conduct of your business during the policy period.	
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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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 to which you are obligated by virtue of written contract to provide insurance such as is afforded by this policy, but only with respect to occurrences taking place after such written contract has been executed.	
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.

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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 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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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:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Person or Organization:

Any person or organization to which you are obligated by virtue of a written contract to provide insurance such as is afforded by this policy, but only with respect to (1) occurrences taking place after such written contract has been executed and (2) occurrences resulting from work performed by you during the policy period, or occurrences resulting from the conduct of your business during the policy period.

(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 (Section **IV** – COMMERCIAL GENERAL LIABILITY 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.

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TexasMutual®

WORKERS' COMPENSATION AND EMPLOYERS LIABILITY POLICY

WC 42 06 01
Insured copy

TEXAS NOTICE OF MATERIAL CHANGE ENDORSEMENT

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

In the event of cancellation or other material change of the policy, we will mail advance notice to the person or organization named in the Schedule. The number of days advance notice is shown in the Schedule.

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

Schedule

1. Number of days advance notice: 30

2. Notice will be mailed to: PER LIST ON FILE

This endorsement changes the policy to which it is attached effective on the inception date of the policy unless a different date is indicated below.
(The following "attaching clause" need be completed only when this endorsement is issued subsequent to preparation of the policy.)
This endorsement, effective on 2/10/26 **at 12:01 a.m.** standard time, forms a part of:

Policy no. 0002141085 of Texas Mutual Insurance Company effective on 2/10/26

Issued to: BH HARRIS CONSTRUCTION LLC

Jeanette Ward

This is not a bill

Authorized representative

NCCI Carrier Code: 29939

2/11/26

TexasMutual®

WORKERS' COMPENSATION AND EMPLOYERS LIABILITY POLICY

WC 42 06 01
Insured copy

TEXAS NOTICE OF MATERIAL CHANGE ENDORSEMENT

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

In the event of cancellation or other material change of the policy, we will mail advance notice to the person or organization named in the Schedule. The number of days advance notice is shown in the Schedule.

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

Schedule

1. Number of days advance notice:	30
2. Notice will be mailed to:	PER LIST ON FILE

This endorsement changes the policy to which it is attached effective on the inception date of the policy unless a different date is indicated below.
(The following "attaching clause" need be completed only when this endorsement is issued subsequent to preparation of the policy.)
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Issued to: BH HARRIS CONSTRUCTION LLC

Jeanette Ward

This is not a bill

Authorized representative

NCCI Carrier Code: 29939

2/11/26

AGENCY CUSTOMER ID: 00026182

LOC #:

ADDITIONAL REMARKS SCHEDULE

Page ____ of ____

AGENCY	NAMED INSURED
Insurors of Texas	BH Harris Construction, LLC
POLICY NUMBER	
CARRIER / NAIC CODE	EFFECTIVE DATE:

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: 25 **FORM TITLE:** Certificate of Liability Insurance: Notes

Project: Lincoln Center Area Improvements
Contract 26300332

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PRIMARY AND NONCONTRIBUTORY – OTHER INSURANCE CONDITION

This endorsement modifies insurance provided under the following:

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PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

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(1) The additional insured is a Named Insured under such other insurance; and

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ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION

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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:

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PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location And Description Of Completed Operations
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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.

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1. Required by the contract or agreement; or

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COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Person or Organization:

Any person or organization to which you are obligated by virtue of a written contract to provide insurance such as is afforded by this policy, but only with respect to (1) occurrences taking place after such written contract has been executed and (2) occurrences resulting from work performed by you during the policy period, or occurrences resulting from the conduct of your business during the policy period.

(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 (Section **IV** – COMMERCIAL GENERAL LIABILITY 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.

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The Hanover Insurance Group®
IHD M276744 00

BH HARRIS CONSTRUCTION, LLC
4044 GOLDEN EAGLE DR
BRYAN, TX 77808

BH HARRIS CONSTRUCTION, LLC
4044 GOLDEN EAGLE DR
BRYAN, TX 77808

BH HARRIS CONSTRUCTION, LLC
4044 GOLDEN EAGLE DR
BRYAN, TX 77808

The Hanover Insurance Group

NEW
Policy Number

COMMERCIAL LINES POLICY
COMMON DECLARATIONS
COMMERCIAL MARINE

Coverage is provided in the: HANOVER INSURANCE COMPANY
440 LINCOLN STREET
WORCESTER, MASSACHUSETTS 01653

POLICY NUMBER	POLICY PERIOD FROM	TO		AGENCY CODE
IHD M276744 00	02/26/2026	02/26/2027	AT 12:01 AM STANDARD TIME AT YOUR MAILING ADDRESS SHOWN ON THE COMMON DECLARATION.	1602390

NAMED INSURED AND MAILING ADDRESS (Street, Town or City, County, State, Zip Code)	AGENT
BH HARRIS CONSTRUCTION, LLC 4044 GOLDEN EAGLE DR BRYAN, TX 77808	INSURORS OF TEXAS GENERAL AGENCY, LTD. 225 S 5TH ST WACO, TX 76701

DESCRIPTION OF BUSINESS

☐ Individual ☐ Corporation ☐ Partnership ☐ Joint Venture ☐ Other:

Business Description: BUILDERS RISK

IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY, WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY. THIS POLICY CONSISTS OF THE FOLLOWING COVERAGE PART(S) FOR WHICH A PREMIUM IS INDICATED. THIS PREMIUM MAY BE SUBJECT TO ADJUSTMENT.

	PREMIUM
• Commercial Property Coverage Part	
• Commercial Crime Coverage Part	
• Commercial Inland Marine Coverage Part	$940.00
• Boiler and Machinery Coverage Part	
• Ocean Marine	
• Terrorism	$26.00

PREMIUM

☒ The total premium of $966.00 is due at inception

☐ The total premium includes a deposit premium subject to adjustment

PAYMENT PLAN:
Direct Bill

See list of Form (s) and Endorsement(s) applicable to all Coverage Part(s) and made a part of this policy at time of issue.

Countersigned:

By _____
Authorized Representative

THESE DECLARATIONS TOGETHER WITH THE COMMON POLICY CONDITIONS, COVERAGE PARTS COVERAGE FORM(S) AND FORMS AND ENDORSEMENTS, IF ANY, ISSUED TO FORM A PART THEREOF, COMPLETE THE ABOVE NUMBERED POLICY.

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FORMS AND ENDORSEMENTS APPLICABLE TO ALL COVERAGE PARTS AND MADE A PART OF THIS POLICY AT TIME OF ISSUE

Form Number	Edition Date	Form Name
Common Forms applicable to All Coverages		
IM 201	05-08	Commercial Marine - Reporting Claims
IM441-1644	05-22	Builders Risk Notice To Policyholder
401-1122	12-23	Texas Complaint Notice To Policyholder
IM441-1045	01-12	Minimum Earned Premium
IM441-1635	01-20	Additional Property Not Covered Endorsement - Construction Type
401-1374	12-20	Disclosure Pursuant To Terrorism Risk Insurance Act
CL 06 00	01-15	Certified Terrorism Loss
CM 00 01	09-04	Commercial Inland Marine Conditions
CM 01 12	06-25	Texas Changes
IL 00 17	11-98	Common Policy Conditions
IL 01 71	06-25	Texas Changes - Loss Payment
IL 02 88	12-19	Texas Changes - Cancellation And Nonrenewal
IM441-1636	03-24	Additional Property Not Covered Endorsement - Project Type
231-0862	07-23	The Hanover Insurance Group Consumer Privacy Notice
401-1337	02-16	Trade Or Economic Sanctions Endorsement
401-1377	06-20	Company Address Listing
401-1403	04-22	Cyber Incident Exclusion
SIG 11 00	11-17	Signature Page
Builders Risk Forms		
IM441-1359	08-16	Builders' Risk Schedule of Coverages
IM441-1352	01-20	Builders' Risk Coverage Form
IM441-1354	08-16	Builder's Risk Delay In Completion Coverages Endorsement
IM441-1381	06-13	Exclusion Of Loss Due To Virus Or Bacteria

Commercial Marine

REPORTING CLAIMS

In the event of a claim losses must be reported by the insured or agent immediately through our National Claims Reporting Line @ 1-800-628-0250.

The caller then presses 2. This delivers the call to our Customer Care Team. Our representative will take the loss report and assign an adjuster.

Losses can also be faxed to us @ 1-800-399-4734.

BUILDERS' RISK
IMPORTANT NOTICE TO POLICYHOLDERS

THIS DISCLOSURE DOES NOT PROVIDE COVERAGE NOR DOES THIS NOTICE REPLACE ANY PROVISIONS OF YOUR POLICY. YOU SHOULD READ YOUR POLICY AND REVIEW YOUR DECLARATIONS PAGE FOR COMPLETE INFORMATION ON THE COVERAGES YOU ARE PROVIDED. IF THERE IS ANY CONFLICT BETWEEN THE POLICY AND THIS NOTICE, THE PROVISIONS OF THE POLICY SHALL PREVAIL.

This notice is to advise you that your Builders' Risk policy is a set term policy and is not automatically extended. The coverage provided under the Builders' Risk Coverage Form will cease as of the expiration date.

We understand that an extension of coverage may be necessary in order to complete the Builders' Risk project. This may be a result of design changes, permitting, weather delays or problems with suppliers or material deliveries. An extension questionnaire with key questions will be issued and we ask that you work with your agent on answering those questions if an extension is necessary. Upon receipt of the completed questionnaire we will review, evaluate and determine if an extension is granted. If we do not receive the questionnaire we are unable to offer an extension.

Have a complaint or need help?

If you have a problem with a claim or your premium, call your insurance company or HMO first. If you can't work out the issue, the Texas Department of Insurance may be able to help.

Even if you file a complaint with the Texas Department of Insurance, you should also file a complaint or appeal through your insurance company or HMO. If you don't, you may lose your right to appeal.

The Hanover Insurance Company

To get information or file a complaint with your insurance company or HMO:

Call:	**Hanover Compliance Department**
Toll-free:	**1-800-446-8379**
Online:	www.Hanover.com
Email:	Complaints@hanover.com
Mail:	The Hanover Insurance Company 440 Lincoln Street Worcester, MA 01653

The Texas Department of Insurance

To get help with an insurance question or file a complaint with the state:

Call with a question: 1-800-252-3439
File a complaint: www.tdi.texas.gov
Email: ConsumerProtection@tdi.texas.gov
Mail: Consumer Protection, MC: CO-OP, Texas Department of Insurance, PO Box 12030, Austin, TX 78711-2030

¿Tiene una queja o necesita ayuda?

Si tiene un problema con una reclamación o con su prima de seguro, llame primero a su compañía de seguros o HMO. Si no puede resolver el problema, es posible que el Departamento de Seguros de Texas (Texas Department of Insurance, por su nombre en inglés) pueda ayudar.

Aun si usted presenta una queja ante el Departamento de Seguros de Texas, también debe presentar una queja a través del proceso de quejas o de apelaciones de su compañía de seguros o HMO. Si no lo hace, podría perder su derecho para apelar.

The Hanover Insurance Company

Para obtener información o para presentar una queja ante su compañía de seguros o HMO:

Llame a:	**Hanover Compliance Department**
Teléfono gratuito:	**1-800-446-8379**
En línea:	www.Hanover.com
Correo electrónico:	Complaints@Hanover.com
Dirección postal:	The Hanover Insurance Company 440 Lincoln Street Worcester, MA 01653

El Departamento de Seguros de Texas

Para obtener ayuda con una pregunta relacionada con los seguros o para presentar una queja ante el estado:

Llame con sus preguntas al: 1-800-252-3439
Presente una queja en: www.tdi.texas.gov
Correo electrónico: ConsumerProtection@tdi.texas.gov
Dirección postal: Consumer Protection, MC: CO-OP, Texas Department of Insurance, PO Box 12030, Austin, TX 78711-2030

IM441-1045 01 12

This endorsement changes
"your" policy
-- PLEASE READ THIS CAREFULLY --

Minimum Earned Premium

(The entries required to complete this endorsement
will be shown below or on the "schedule of coverages".)

In the event of cancellation of this policy or reduction in coverage by "you" the minimum earned premium is $500.

Minimum earned premium is the minimum premium "we" will retain regardless of the cancellation or amendment date of "your" policy.

If "your" policy includes reporting conditions the cancellation or amendment of the policy does not waive "your" reporting requirements as stated in "your" policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL PROPERTY NOT COVERED ENDORSEMENT – CONSTRUCTION TYPE

This endorsement modifies insurance under the following:

BUILDERS' RISK COVERAGE FORM

If checked, the following is added to **A. COVERAGE**, **2. Property Not Covered**:

☒ **Frame** (Construction class 1) – Frame or wood stick construction buildings or structures have exterior roofs, walls and floors of combustible materials. Buildings or structures may have exterior walls of non-combustible construction but floors and roofs are combustible.

☒ **Joisted Masonry** (Construction class 2) – Joisted Masonry means buildings or structures with exterior bearing walls of masonry or fire resistive construction with at least one hour fire rating but with combustible roof and floor.

☐ **Non-Combustible** (Construction class 3) – Non Combustible means buildings or structures with exterior walls, floors and roofs of non-combustible or slow burning materials. Building supports are made of non-combustible or slow burning materials.

☐ **Masonry Non-Combustible** (Construction class 4) – Masonry Non Combustible means buildings or structures with exterior bearing walls of fire resistive construction, not less than 4" thick, with a fire rating of at least one (1) hour. Roofs and floors are constructed of non-combustible or slow burning materials.

☐ **Modified Fire Resistive** (Construction class 5) – Modified Fire Resistive construction means buildings or structures with exterior and interior bearing walls or structural supports, floors and roof of masonry materials with a fire rating of less than two (2) hours but not less than one (1) hour. Structural steel will be protected by applied material affording like fire protection. Masonry materials are at least 4 inches thick.

☐ **Fire resistive** (Construction class 6) – Fire resistive construction means floors, exterior bearing walls or the exterior structural frame that are either of non-combustible materials with a fire rating on 2 hours or more or are a masonry material meeting the following thickness requirements: solid masonry or reinforced concrete at least 4 inches thick; or, hollow masonry materials at least 12 inches thick. All assembled components will have a fire rating of at least two (2) hours.

☒ **Buildings** (Mixed Construction) – Buildings or structures which are of multiple or mixed construction and which, at completion, are composed of 25% or more frame construction, will be classed as Frame – Construction class 1.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED

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THIS NOTICE IS PROVIDED IN RESPONSE TO THE DISCLOSURE REQUIREMENTS OF THE TERRORISM RISK INSURANCE ACT. THIS NOTICE DOES NOT GRANT COVERAGE OR CHANGE THE TERMS AND CONDITIONS OF COVERAGE UNDER THE POLICY. IF THERE IS A CONFLICT BETWEEN THIS NOTICE AND THE POLICY, THE PROVISIONS OF THE POLICY SHALL APPLY.

DISCLOSURE PURSUANT TO TERRORISM RISK INSURANCE ACT

SCHEDULE

DISCLOSURE OF PREMIUM:		
Total Terrorism Premium	**$**	**26.00**
Fire Following Premium	**$**	
Other than Fire Following Premium	**$**	**26.00**

Disclosure of Terrorism Coverage Available

You are hereby notified that under the Terrorism Risk Insurance Act, as amended, you have a right to purchase insurance coverage for losses resulting from "acts of terrorism" defined in Section 102(1) of the Act as follows:

> Any act or acts that are certified by the Secretary of the Treasury, in accordance with the provisions of the federal Terrorism Risk Insurance Act, to be an act of terrorism; to be a violent act or an act that is dangerous to human life, property, or infrastructure; to have resulted in damage within the United States, or outside the United States in the case of certain air carriers or vessels or the premises of a United States mission; and to have been committed by an individual or individuals, as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

The premium charged for this coverage is provided in the **SCHEDULE** above and does not include any charges for the portion of loss that may be covered by the Federal Government as described below. This premium has been added to your policy and unless this form is signed and returned to us to reject terrorism coverage, coverage for Certified Acts of Terrorism is provided by your policy.

Your policy may contain other exclusions which could affect your coverage, such as an exclusion for Nuclear Events or Pollution. **Please read your policy carefully**.

Note for Commercial Property or Commercial Inland Marine Policyholders in Standard Fire States:

In Standard Fire states, terrorism exclusions make an exception for (and therefore provide coverage for) fire losses resulting from an act of terrorism. Any policyholder with a location that we insure in a Standard Fire State that rejects our offer of terrorism coverage in this form will still have coverage with us for fire losses resulting from an act of terrorism.

Explanation of Premium

If a dollar amount is shown for Fire Following Premium in the **SCHEDULE** above that means we insure a location of yours in a Standard Fire State. Fire Following Premium is shown in the **SCHEDULE** above regardless of whether a policyholder with a location that we insure in a Standard Fire State accepts or rejects terrorism coverage with us. Fire Following Premium represents the charge for the coverage we provide for fire losses resulting from acts of terrorism. Fire Following Premium does not include Other Than Fire Following Premium. All Other Than Fire Following Premium is shown in the Other Than Fire Following Premium field in the **SCHEDULE** above.

If a dollar amount is shown for Other Than Fire Following Premium in the **SCHEDULE** above that means you have accepted terrorism coverage with us. Other Than Fire Following Premium represents the charge for terrorism coverage. Other Than Fire Following Premium does not include Fire Following Premium. If applicable, all Fire Following Premium is shown in the Fire Following Premium field in the **SCHEDULE** above.

The dollar amount shown for Total Terrorism Premium in the **SCHEDULE** above represents the sum of premium for Fire Following Premium and Other Than Fire Following Premium.

Disclosure of Federal Participation in Payment of Terrorism Losses

The United States Government, Department of the Treasury, will pay a share of terrorism losses insured under the federal program. The federal share equals 80% of that portion of the amount of such insured losses that exceeds the applicable insurer retention. However, if aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed $100 billion in a calendar year, the Treasury shall not make any payment for any portion of the amount of such losses that exceeds $100 billion.

Cap on Insurer Participation in Payment of Terrorism Losses

If aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed $100 billion in a calendar year and we have met our insurer deductible under the Terrorism Risk Insurance Act, we shall not be liable for the payment of any portion of the amount of such losses that exceeds $100 billion, and in such case insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.

Rejection of Terrorism Insurance Coverage*

☐ I decline to purchase terrorism coverage for certified acts of terrorism. I understand that I will have no coverage for losses resulting from certified acts of terrorism.

	Hanover Insurance
Applicant/Policyholder Signature	Insurance Company
	IHD M276744 00
Print Name	Quote or Policy Number
Date	

*If this policy is a renewal and:

a. You have previously submitted a signed Rejection, you are not required to submit an additional Rejection at this time; or

b. You have previously accepted coverage and now wish to reject, you are required to complete and sign the Rejection of Terrorism Insurance Coverage above.

IHD M276744 00

BUILDERS' RISK SCHEDULE OF COVERAGES

Description of Covered Property:

The following "Building(s) or Structure(s)" under course of construction are covered:

A 1 STORY NON-COMBUSTIBLE CIVIL CONSTRUCTION PROJECT UNDER CONSTRUCTION AT 1000 ELEANOR ST, COLLEGE STATION, TX, 77840.

Limits of Insurance	Limit
☐ If checked, see **Multiple Locations Limits Schedule** for applicable limits	
Limit for any one "Building or Structure"	**$475,000**
Limit for All "Buildings or Structures" at Any One Job Site	**$475,000**
Covered Property in Transit	**$250,000**
Covered Property in Temporary Storage or Off Site Fabrication	**$250,000**
Trees, Plants, Lawns and Shrubs	**$50,000**

Premium:

Annual Premium	**$940**
Term Premium	

Additional Coverages:

Business Personal Property	**$10,000**
Construction Trailers and Contents at Job Site	**$50,000**
Contract Penalty Coverage	**$50,000**
Debris Removal – Additional Limits	**$75,000**
Emergency Removal to Preserve Covered Property	**$10,000**
Expediting Expense	**$100,000**
Expenses to Re-Erect Undamaged Scaffolding, Fences and Signs	**Covered**
Fire Suppression Equipment Recharging	**$50,000**
Fungus, Wet Rot, Dry Rot and Bacteria	**$100,000**

IHD M276744 00

Insufficiency of Limit	**10% of Limit of Insurance / $1,000,000 maximum**
Key Coverage	**$2,500**
Loss Adjustment Expense	**$5,000**
Ordinance or Law Coverage:	
Undamaged portions of the Building or Structure	**Included in Building or Structure Limit**
Demolition Costs and Increased Cost of Construction	**$1,000,000**
Police and Fire Department Service Charge	**$50,000**
Pollutant Clean Up and Removal	**$50,000**
Reward Payment	**$10,000**
Sewer and Drain Back Up Limit	**$100,000**
Valuable Papers and Records	**$50,000**

Coverage Option -- Equipment Breakdown and Testing

Equipment Breakdown and Testing is not automatically provided. Coverage is only provided when we indicate that coverage is provided below.

☒ **Equipment Breakdown and Testing is covered.**

☐ **Property Damage Limits**	**$475,000**
☐ **Delay in Completion Coverage Limits**	**$47,500**
☐ **Equipment Breakdown and Testing Pollutants**	**$50,000**

Optional Coverages:

The following coverages are only applicable when we indicate that coverage is provided below.

☒ Delay in Completion Coverage:

Soft Costs limit	**$47,500**
Loss of Business Income limit	**NOT COVERED**
Loss of Rental Income limit	**NOT COVERED**

IHD M276744 00

Prevention of Access **$100,000**

Deductibles:

Per Occurrence Deductible **$1,000**

Loss of Business Income / Loss of Rents Waiting Period **_____# of Days**

_____ **$_____**

_____ **$_____**

_____ **$_____**

Other Terms & Conditions

PERMISSION TO OCCUPY:

When indicated below, Clause **F.3.f** of the Builder's Risk Coverage Form is not applicable.

☒ **Permission to Occupy is granted**

CERTIFIED TERRORISM LOSS

1. The following definitions are added.

   a. "Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in consultation with the Secretary of Homeland Security, and the Attorney General of the United States:

      1) to be an act of terrorism;
      2) to be a violent act or an act that is dangerous to human life, property, or infrastructure;
      3) to have resulted in damage:

         a) within the United States; or
         b) to an air carrier (as defined in section 40102 of title 49, United States Code); to a United States flag vessel (or a vessel based principally in the United States, on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States), regardless of where the loss occurs; or at the premises of any United States mission;

      4) to have been committed by an individual or individuals, as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion; and
      5) to have resulted in insured losses in excess of five million dollars in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act, as amended.

   b. "Certified terrorism loss" means loss that results from a "certified act of terrorism".

2. The "terms" of any terrorism exclusion that is part of or that is attached to this Coverage Part are amended by the following provision:

   This exclusion does not apply to "certified terrorism loss".

3. The following provision is added.

   If the Secretary of the Treasury determines that the aggregate amount of "certified terrorism loss" has exceeded one hundred billion dollars in a calendar year (January 1 through December 31), and "we" have met "our" insurer deductible under the Terrorism Risk Insurance Act, as amended, "we" will not pay for any portion of "certified terrorism loss" that exceeds one hundred billion dollars. If the "certified terrorism loss" exceeds one hundred billion dollars in a calendar year (January 1 through December 31), losses up to one hundred billion dollars are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury under the Terrorism Risk Insurance Act, as amended.

4. The following provisions are added.

   a. Neither the "terms" of this endorsement nor the "terms" of any other terrorism endorsement attached to this Coverage Part provide coverage for any loss that would otherwise be excluded by this Coverage Part under:

      1) exclusions that address war, military action, or nuclear hazard; or
      2) any other exclusion; and

   b. the absence of any other terrorism endorsement does not imply coverage for any loss that would otherwise be excluded by this Coverage Part under:

      1) exclusions that address war, military action, or nuclear hazard; or
      2) any other exclusion.

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COMMERCIAL INLAND MARINE CONDITIONS

The following conditions apply in addition to the Common Policy Conditions and applicable Additional Conditions in Commercial Inland Marine Coverage Forms:

LOSS CONDITIONS

A. Abandonment

There can be no abandonment of any property to us.

B. Appraisal

If we and you disagree on the value of the property or the amount of loss, either may make written demand for an appraisal of the loss. In this event, each party will select a competent and impartial appraiser. The two appraisers will select an umpire. If they cannot agree, either may request that selection be made by a judge of a court having jurisdiction. The appraisers will state separately the value of the property and amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

1. Pay its chosen appraiser; and
2. Bear the other expenses of the appraisal and umpire equally.

If there is an appraisal, we will still retain our right to deny the claim.

C. Duties In The Event Of Loss

You must see that the following are done in the event of loss or damage to Covered Property:

1. Notify the police if a law may have been broken.
2. Give us prompt notice of the loss or damage. Include a description of the property involved.
3. As soon as possible, give us a description of how, when and where the loss or damage occurred.
4. Take all reasonable steps to protect the Covered Property from further damage, and keep a record of your expenses necessary to protect the Covered Property, for consideration in the settlement of the claim. This will not increase the Limit of Insurance. However, we will not pay for any subsequent loss or damage resulting from a cause of loss that is not a Covered Cause of Loss. Also, if feasible, set the damaged property aside and in the best possible order for examination.
5. You will not, except at your own cost, voluntarily make a payment, assume any obligation, or incur any expense without our consent.
6. As often as may be reasonably required, permit us to inspect the property proving the loss or damage and examine your books and records.

   Also permit us to take samples of damaged and undamaged property for inspection, testing and analysis, and permit us to make copies from your books and records.
7. We may examine any insured under oath, while not in the presence of any other insured and at such times as may be reasonably required, about any matter relating to this insurance or the claim, including an insured's books and records. In the event of an examination, an insured's answers must be signed.
8. Send us a signed, sworn proof of loss containing the information we request to settle the claim. You must do this within 60 days after our request. We will supply you with the necessary forms.
9. Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or suit.
10. Cooperate with us in the investigation or settlement of the claim.

D. Insurance Under Two Or More Coverages

If two or more of this policy's coverages apply to the same loss or damage, we will not pay more than the actual amount of the loss or damage.

E. Loss Payment

1. We will give notice of our intentions within 30 days after we receive the sworn proof of loss.
2. We will not pay you more than your financial interest in the Covered Property.
3. We may adjust losses with the owners of lost or damaged property if other than you. If we pay the owners, such payments will satisfy your claim against us for the owners' property. We will not pay the owners more than their financial interest in the Covered Property.
4. We may elect to defend you against suits arising from claims of owners of property. We will do this at our expense.

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5. We will pay for covered loss or damage within 30 days after we receive the sworn proof of loss if you have complied with all the terms of this Coverage Part and:

a. We have reached agreement with you on the amount of the loss; or

b. An appraisal award has been made.

6. We will not be liable for any part of a loss that has been paid or made good by others.

F. Other Insurance

1. You may have other insurance subject to the same plan, terms, conditions and provisions as the insurance under this Coverage Part. If you do, we will pay our share of the covered loss or damage. Our share is the proportion that the applicable Limit of Insurance under this Coverage Part bears to the Limits of Insurance of all insurance covering on the same basis.

2. If there is other insurance covering the same loss or damage, other than that described in **1.** above, we will pay only for the amount of covered loss or damage in excess of the amount due from that other insurance, whether you can collect on it or not. But we will not pay more than the applicable Limit of Insurance.

G. Pair, Sets Or Parts

1. Pair Or Set

In case of loss or damage to any part of a pair or set we may:

a. Repair or replace any part to restore the pair or set to its value before the loss or damage; or

b. Pay the difference between the value of the pair or set before and after the loss or damage.

2. Parts

In case of loss or damage to any part of Covered Property consisting of several parts when complete, we will only pay for the value of the lost or damaged part.

H. Recovered Property

If either you or we recover any property after loss settlement, that party must give the other prompt notice. At your option, the property will be returned to you. You must then return to us the amount we paid to you for the property. We will pay recovery expenses and the expenses to repair the recovered property, subject to the Limit of Insurance.

I. Reinstatement Of Limit After Loss

The Limit of Insurance will not be reduced by the payment of any claim, except for total loss or damage of a scheduled item, in which event we will refund the unearned premium on that item.

J. Transfer Of Rights Of Recovery Against Others To Us

If any person or organization to or for whom we make payment under this Coverage Part has rights to recover damages from another, those rights are transferred to us to the extent of our payment. That person or organization must do everything necessary to secure our rights and must do nothing after loss to impair them. But you may waive your rights against another party in writing:

1. Prior to a loss to your Covered Property.

2. After a loss to your Covered Property only if, at time of loss, that party is one of the following:

a. Someone insured by this insurance; or

b. A business firm:

(1) Owned or controlled by you; or

(2) That owns or controls you.

This will not restrict your insurance.

GENERAL CONDITIONS

A. Concealment, Misrepresentation Or Fraud

This Coverage Part is void in any case of fraud, intentional concealment or misrepresentation of a material fact, by you or any other insured, at any time, concerning:

1. This Coverage Part;

2. The Covered Property;

3. Your interest in the Covered Property; or

4. A claim under this Coverage Part.

B. Control Of Property

Any act or neglect of any person other than you beyond your direction or control will not affect this insurance.

The breach of any condition of this Coverage Part at any one or more locations will not affect coverage at any location where, at the time of loss or damage, the breach of condition does not exist.

C. Legal Action Against Us

No one may bring a legal action against us under this Coverage Part unless:

1. There has been full compliance with all the terms of this Coverage Part; and

2. The action is brought within 2 years after you first have knowledge of the direct loss or damage.

D. No Benefit To Bailee

No person or organization, other than you, having custody of Covered Property will benefit from this insurance.

E. Policy Period, Coverage Territory

We cover loss or damage commencing:

1. During the policy period shown in the Declarations; and

2. Within the coverage territory.

F. Valuation

The value of property will be the least of the following amounts:

1. The actual cash value of that property;

2. The cost of reasonably restoring that property to its condition immediately before loss or damage; or

3. The cost of replacing that property with substantially identical property.

In the event of loss or damage, the value of property will be determined as of the time of loss or damage.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

TEXAS CHANGES

This endorsement modifies insurance provided under the following:

COMMERCIAL INLAND MARINE COVERAGE PART

A. Loss Condition **B. Appraisal** in the Commercial Inland Marine Conditions is replaced by the following:

B. Appraisal

1. If we and you disagree on the value of the property or the amount of loss, either may make written demand, within 60 days after our receipt of a signed, sworn proof of loss, for an appraisal of the loss. In this event, each party will select a competent and impartial appraiser. The two appraisers will select an umpire. If they cannot agree for 15 days upon such umpire, either may request that selection be made by a judge of a court having jurisdiction. The appraisers will state separately the value of the property and amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

a. Pay its chosen appraiser; and

b. Bear the other expenses of the appraisal and umpire equally.

2. If there is an appraisal:

a. You will still retain your right to bring a legal action against us, subject to the provisions of the Legal Action Against Us Commercial Inland Marine Condition; and

b. We will still retain our right to deny the claim.

B. Paragraph **8.** of Loss Condition **C. Duties In The Event Of Loss** in the Commercial Inland Marine Conditions is replaced by the following:

8. Send us a signed, sworn proof of loss containing the information we request to settle the claim. You must do this within 91 days after our request. We will supply you with the necessary forms.

C. General Condition **A. Concealment, Misrepresentation Or Fraud** in the Commercial Inland Marine Conditions is replaced by the following:

A. Concealment, Misrepresentation Or Fraud

To the extent permitted by Sections 705.003 and 705.004 of the Texas Insurance Code, this Coverage Part is void in any case of fraud, intentional concealment or misrepresentation of a material fact, by you or any other insured, at any time, concerning:

1. This Coverage Part;

2. The Covered Property;

3. Your interest in the Covered Property; or

4. A claim under this Coverage Part.

D. Paragraph **2.** of General Condition **C. Legal Action Against Us** in the Commercial Inland Marine Conditions is replaced by the following:

2. The action is brought within two years and one day from the date the cause of action first accrues. A cause of action accrues on the date of the initial breach of our contractual duties as alleged in the action.

E. Paragraphs **A.5.a.** and **A.5.b.** of the **Coverage Extensions** and Section **F. Definitions** in the Equipment Dealers Coverage Form are deleted.

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COMMON POLICY CONDITIONS

All Coverage Parts included in this policy are subject to the following conditions.

A. Cancellation

1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
   a. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
   b. 30 days before the effective date of cancellation if we cancel for any other reason.
3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
5. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
6. If notice is mailed, proof of mailing will be sufficient proof of notice.

B. Changes

This policy contains all the agreements between you and us concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this policy with our consent. This policy's terms can be amended or waived only by endorsement issued by us and made a part of this policy.

C. Examination Of Your Books And Records

We may examine and audit your books and records as they relate to this policy at any time during the policy period and up to three years afterward.

D. Inspections And Surveys

1. We have the right to:
   a. Make inspections and surveys at any time;
   b. Give you reports on the conditions we find; and
   c. Recommend changes.
2. We are not obligated to make any inspections, surveys, reports or recommendations and any such actions we do undertake relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:
   a. Are safe or healthful; or
   b. Comply with laws, regulations, codes or standards.
3. Paragraphs **1.** and **2.** of this condition apply not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.
4. Paragraph **2.** of this condition does not apply to any inspections, surveys, reports or recommendations we may make relative to certification, under state or municipal statutes, ordinances or regulations, of boilers, pressure vessels or elevators.

E. Premiums

The first Named Insured shown in the Declarations:

1. Is responsible for the payment of all premiums; and
2. Will be the payee for any return premiums we pay.

F. Transfer Of Your Rights And Duties Under This Policy

Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual named insured.

If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

TEXAS CHANGES – LOSS PAYMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL INLAND MARINE COVERAGE PART
CRIME AND FIDELITY COVERAGE PART
EQUIPMENT BREAKDOWN COVERAGE PART

A. Loss Payment

1. With respect to the Crime And Fidelity Coverage Part and Equipment Breakdown Coverage Part, the following conditions are added.

2. With respect to the Commercial Inland Marine Coverage Part, the following conditions replace Item **E. Loss Payment** in the Commercial Inland Marine Loss Conditions:

a. Claims Handling

(1) Within 15 days after we receive written notice of claim, we will:

(a) Acknowledge receipt of the claim. If we do not acknowledge receipt of the claim in writing, we will keep a record of the date, method and content of the acknowledgment;

(b) Begin any investigation of the claim; and

(c) Request a signed, sworn proof of loss, specify the information you must provide and supply you with the necessary forms. We may request more information at a later date, if during the investigation of the claim such additional information is necessary.

(2) We will notify you in writing as to whether:

(a) The claim or part of the claim will be paid;

(b) The claim or part of the claim has been denied, and inform you of the reasons for denial;

(c) More information is necessary; or

(d) We need additional time to reach a decision. If we need additional time, we will inform you of the reasons for such need.

We will provide notification, as described in Paragraphs **(2)(a)** through **(2)(d)** above, within:

(i) 15 business days after we receive the signed, sworn proof of loss and all information we requested; or

(ii) 30 days after we receive the signed, sworn proof of loss and all information we requested, if we have reason to believe the loss resulted from arson.

If we have notified you that we need additional time to reach a decision, we must then either approve or deny the claim within 45 days of such notice.

b. We will pay for covered loss or damage within five business days after:

(1) We have notified you that payment of the claim or part of the claim will be made and have reached agreement with you on the amount of loss; or

(2) An appraisal award has been made.

However, if payment of the claim or part of the claim is conditioned on your compliance with any of the terms of this policy, we will make payment within five business days after the date you have complied with such terms.

c. Catastrophe Claims

If a claim results from a weather-related catastrophe or a major natural disaster, as defined by the Texas Department of Insurance, the claim handling and claim payment deadlines described in Paragraphs **a.** and **b.** above are extended for an additional 15 days.

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d. The term "business day", as used in this endorsement, means a day other than Saturday, Sunday or a holiday recognized by the state of Texas.

B. With respect to the Commercial Inland Marine Coverage Part, the following is added:

We will not be liable for any part of a "loss" that has been paid or made good by others.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

TEXAS CHANGES – CANCELLATION AND NONRENEWAL

This endorsement modifies insurance provided under the following:

COMMERCIAL INLAND MARINE COVERAGE PART
CRIME AND FIDELITY COVERAGE PART
EQUIPMENT BREAKDOWN COVERAGE PART
FARM COVERAGE PART – LIVESTOCK COVERAGE FORM
FARM COVERAGE PART – MOBILE AGRICULTURAL MACHINERY AND EQUIPMENT COVERAGE FORM

A. Paragraph **2.** of the **Cancellation** Common Policy Condition is replaced by the following:

2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation, stating the reason for cancellation, at least 10 days before the effective date of cancellation.

B. The following is added to the **Cancellation** Common Policy Condition:

7. If this policy has been in effect for 60 days or less, we may cancel for any reason except that, under the provisions of the Texas Insurance Code, we may not cancel this policy solely because the policyholder is an elected official.

8. If this policy has been in effect for more than 60 days, or if it is a renewal or continuation of a policy issued by us, we may cancel only for one or more of the following reasons:

a. Fraud in obtaining coverage;

b. Failure to pay premiums when due;

c. An increase in hazard within the control of the insured which would produce an increase in rate;

d. Loss of our reinsurance covering all or part of the risk covered by the policy; or

e. If we have been placed in supervision, conservatorship or receivership and the cancellation is approved or directed by the supervisor, conservator or receiver.

C. The following condition is added:

Nonrenewal

1. We may elect not to renew this policy except that, under the provisions of the Texas Insurance Code, we may not refuse to renew this policy solely because the policyholder is an elected official.

2. If we elect not to renew this policy, we may do so by mailing or delivering to the first Named Insured, at the last mailing address known to us, written notice of nonrenewal, stating the reason for nonrenewal, not later than the 60th day before the expiration date. If notice is mailed or delivered later than the 60th day before the expiration date, this policy will remain in effect until the 61st day after the date on which the notice is mailed or delivered. Earned premium for any period of coverage that extends beyond the expiration date will be computed pro rata based on the previous year's rate.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL PROPERTY NOT COVERED ENDORSEMENT – PROJECT TYPE

This endorsement modifies insurance under the following:

BUILDERS' RISK COVERAGE FORM

The following property is added to **A. COVERAGE**, **2. Property Not Covered**:

Bridges, dams, piers, wharves, towers, wind turbines, air supported structures, and utility projects (solar, gas, landfill methane capture, steam electric, hydro electric, electrical transmission and distribution systems including overhead and underground utility lines, electrical substations, power plants and power generating equipment and related property), laboratories or clean rooms, cannabis or cannabis related industry operations, or bit coin mining stations and operations.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED

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The Hanover Insurance Group
Consumer Privacy Notice

FACTS	WHAT DOES THE HANOVER DO WITH YOUR PERSONAL INFORMATION?

Why?	At The Hanover Insurance Group ("The Hanover"), we are committed to protecting the privacy of the personal information that we collect or maintain. Financial companies choose how they share your personal information. Federal and state law gives consumers the right to limit some but not all sharing. Federal and state law also requires us to tell you how we collect, share, and protect your personal information. Please read this notice carefully to understand what we do.
What?	The types of personal information we collect and may share to provide products and services to you include: ▪ Information you provide to us in your application ▪ Insurance claim history ▪ Information contained in consumer reports to the extent permitted by law We may share information we collect for permissible purposes.
How?	All financial companies need to share customers' personal information for permissible purposes to run their everyday business. When The Hanover shares personal information with a trusted service provider, The Hanover requires the service provider to have processes and procedures in place to protect the information. In the section below, we list the reasons financial companies can share their customers' personal information; the reasons The Hanover chooses to share; and whether you can limit this sharing.

Reasons we can share your personal information	Does The Hanover share?	Can you limit this sharing?
For our everyday business purposes— such as to process your transactions, maintain your account(s), respond to court orders and legal investigations, or report to credit bureaus	Yes	No
For our marketing purposes— to offer our products and services to you	Yes	No
For joint marketing with other financial companies (for products and services not offered by The Hanover)	No	We don't share
For our affiliates' everyday business purposes to provide coverage and services to you— information about your transactions and experiences	Yes	No
For our affiliates' everyday business purposes to provide coverage and services to you— information about your creditworthiness	No	We don't share
For our affiliates to market to you	No	We don't share
For nonaffiliates to market to you	No	We don't share
Questions?	Call [toll-free] 1-800-446-8379 or write to privacy@hanover.com	

The Hanover Insurance Group
Consumer Privacy Notice

Who we are	
Who is providing this notice	This notice is being provided on behalf of the following Hanover Companies: The Hanover Insurance Group, Inc. - AIX Specialty Insurance Company - Allmerica Financial Alliance Insurance Company - Allmerica Financial Benefit Insurance Company - Allmerica Plus Insurance Agency, Inc. - Campmed Casualty & Indemnity Company, Inc. - Citizens Insurance Company of America - Citizens Insurance Company of Illinois - Citizens Insurance Company of the Midwest - Citizens Insurance Company of Ohio - Educators Insurance Agency, Inc. - Hanover Specialty Insurance Brokers, Inc. - The Hanover American Insurance Company – The Hanover Atlantic Insurance Company Ltd - The Hanover Casualty Company - The Hanover Insurance Company – The Hanover National Insurance Company - Massachusetts Bay Insurance Company - NOVA Casualty Company - Opus Investment Management, Inc. - Verlan Fire Insurance Company.

What we do	
How does The Hanover protect my personal information?	To protect your personal information from unauthorized access and use, we use security measures that comply with federal and state laws. These measures include computer and systems safeguards, secured files and buildings, firewall technology and the use of detection software. We have implemented processes and procedures to strengthen protection of our customer information. We limit access to your information to those employees who need access to do their job.
How does The Hanover collect my personal information?	We collect your personal information, for example, when you: ▪ Apply for insurance ▪ Pay insurance premiums or file insurance claims ▪ Provide account information ▪ Access our website We also collect your personal information from third parties, such as consumer reporting agencies and various state department of motor vehicles or similar agencies.
Why can't I limit all sharing?	Federal and state laws give you the right to limit only: ▪ Sharing for affiliates' everyday business purposes- information about your credit worthiness ▪ Affiliates from using your information to market to you ▪ Sharing for nonaffiliates to market to you State laws may give you additional rights to limit sharing. See below for more on your rights under state laws.
What happens when I limit sharing for an account I hold jointly with someone else?	Where "limit the sharing" is available, your choices will apply to everyone on your account.

The Hanover Insurance Group
Consumer Privacy Notice

Definitions	
Affiliates	Companies related by common ownership or control. They can be financial or nonfinancial companies. ▪ The Hanover affiliates are listed in this Consumer Privacy Notice.
Nonaffiliates	Companies not related by common ownership or control. They can be financial or nonfinancial companies. ▪ The Hanover does not share with nonaffiliates so they can market to you.
Joint marketing	A formal agreement between nonaffiliated financial companies that together market financial products or services to you. ▪ The Hanover does not jointly market.

Other important information

California: California residents can review our Privacy Policy for California Residents located at https://www.hanover.com/legal-and-compliance/privacy-center/hanover-insurance-group-privacy-policy#for-california-residents

New York: New York Insurance Law §2612 provides certain rights to victims of domestic violence, including privacy protections and protections from discrimination, each of which is described in the policy located at https://www.hanover.com/legal-and-compliance/privacy-policy/notice-protections-victims-domestic-violence-under-ss2612-new.

As mentioned above, The Hanover may share your personal information for our everyday business purposes—such as to process your transactions and claims, maintain your account(s), respond to court orders and legal investigations, or report to credit bureaus.

The term “Information” means information we collect during an insurance transaction or other interactions you may have with us. We may share your Information with nonaffiliates without your prior authorization as permitted or required by law: for example, we may share your Information with insurance regulatory authorities, law enforcement, and re-insurers and consumer reporting agencies, among other insurance support organizations.

To request access to or deletion of your personal information, send a written letter to: The Hanover Insurance Group, Inc., c/o Chief Privacy Officer, 440 Lincoln Street N435, Worcester, MA 01653. Include your name, address, and your policy, contract, or account number, and describe the information you wish to access or delete. You may correct inaccurate personal information by visiting Hanover.com or calling your agent. We cannot change information other companies, like credit agencies, provide to us. You will need to ask them to change it.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

TRADE OR ECONOMIC SANCTIONS ENDORSEMENT

This insurance does not apply to the extent that trade or economic sanctions or other laws or regulations prohibit us from providing insurance, including, but not limited to, the payment of claims.

ALL OTHER TERMS, CONDITIONS, AND EXCLUSIONS REMAIN UNCHANGED.

IMPORTANT INFORMATION ABOUT YOUR INSURANCE COMPANY

The Home Office address for the Insurance Company shown on the policy Declarations page is:

Allmerica Financial Alliance Insurance Company
(*A Stock Company*)
440 Lincoln Street
Worcester, MA 01653-0002

Allmerica Financial Benefit Insurance Company
(*A Stock Company*)
440 Lincoln Street
Worcester, MA 01653-0002

Campmed Casualty & Indemnity Company, Inc.
(*A Stock Company*)
440 Lincoln Street
Worcester, MA 01653-0002

Citizens Insurance Company of America
(*A Stock Company*)
808 North Highlander Way
Howell, MI 48843-1070

Citizens Insurance Company of Illinois
(*A Stock Company*)
333 West Pierce Road, Suite 300
Itasca, IL 60143-3114

Citizens Insurance Company of the Midwest
(*A Stock Company*)
9229 Delegates Row, Suite 100
Indianapolis, IN 46240-3824

Citizens Insurance Company of Ohio
(*A Stock Company*)
4400 Easton Commons Way, Suite 125
Columbus, OH 43219-6223

The Hanover American Insurance Company
(*A Stock Company*)
440 Lincoln Street
Worcester, MA 01653-0002

The Hanover Insurance Company
(*A Stock Company*)
440 Lincoln Street
Worcester, MA 01653-0002

The Hanover Casualty Company
(*A Stock Company*)
440 Lincoln Street
Worcester, MA 01653-0002

Massachusetts Bay Insurance Company
(*A Stock Company*)
440 Lincoln Street
Worcester, MA 01653-0002

The Hanover New Jersey Insurance Company
(*A Stock Company*)
440 Lincoln Street
Worcester, MA 01653-0002

Verlan Fire Insurance Company
(*A Stock Company*)
440 Lincoln Street
Worcester, MA 01653-0002

Nova Casualty Company
(*A Stock Company*)
440 Lincoln Street
Worcester, MA 01653-0002

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

CYBER INCIDENT EXCLUSION

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM
COMMERCIAL PROPERTY COVERAGE PART
COMMERCIAL INLAND MARINE COVERAGE PART

A. We will not pay for loss or damage caused directly or indirectly by the following. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss.

Cyber Incident

1. Unauthorized access to or use of any computer system (including electronic data).

2. Malicious code, virus or any other harmful code that is directed at, enacted upon or introduced into any computer system (including electronic data) and is designed to access, alter, corrupt, damage, delete, destroy, disrupt, encrypt, exploit, use or prevent or restrict access to or the use of any part of any computer system (including electronic data) or otherwise disrupt its normal functioning or operation.

3. Denial of service attack which disrupts, prevents or restricts access to or use of any computer system, or otherwise disrupts its normal functioning or operation.

B. Fire or Explosion Exception

If a cyber incident as described in **A.1.** through **A.3.** of this exclusion results in fire or explosion, we will pay for the loss or damage caused by that fire or explosion.

C. Vandalism

The following is added to vandalism:

Vandalism does not include a cyber incident as described in section **A.**

D. The terms of the exclusion in section **A.** of this endorsement, or the inapplicability of this exclusion to a particular loss, do not serve to create coverage for any loss that would otherwise be excluded under the above-referenced Coverage Parts or this Policy.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED

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BUILDERS' RISK COVERAGE FORM

Various provisions in this policy restrict coverage. Please read this policy carefully to determine rights, duties and to determine what is and what is not covered.

Throughout this policy, the words "you" and "yours" refer to the Named Insured shown on the Declarations. The words "we", "us", and "ours" refer to the Company providing the insurance.

Other words and phrases used in this Coverage Form have special meanings. These words or phrases will be shown within quotation marks. Refer to section **G. DEFINITIONS** to determine these special meanings.

A. COVERAGE

We will pay for direct physical "loss" to Covered Property caused by or resulting from any Covered Causes of Loss unless the "loss" is excluded or subject to limitations.

1. Covered Property

a. "Buildings or structures" in the course of construction with "construction class" indicated and described on the "schedule of coverages";

b. Construction materials and supplies that will become a permanent part of the completed "buildings or structures" while located at the described construction site or while;

(1) In transit; or

(2) While being fabricated or in temporary storage at any location other than the construction site described on the "schedule of coverages";

c. "Temporary structures"; and

d. Trees, plants, lawns or shrubs that are, or will become, permanently installed by you at the described construction site. We also cover trees, plants, lawns or shrubs while in transit or in temporary storage.

Covered Property described in section **A. COVERAGE, 1.Covered Property** includes your property and the property of others in your care, custody and control for which you are legally liable.

2. Property Not Covered

Covered Property does not include:

a. Any "pre-existing structure";

b. Water or land, including land on which Covered Property is located;

c. Self-propelled vehicles, aircraft or watercraft; contractors' equipment, construction trailers and their contents;

d. Accounts, bills, currency, deeds, evidences of debt, manuscripts, money, notes, securities, stamps or tickets;

e. "Valuable papers and records"; or

f. Contraband or property in the course of illegal transport or trade.

3. Covered Causes of Loss

Covered Cause of Loss means direct physical "loss" caused by or resulting from any cause except those causes of "loss" listed in section **B. EXCLUSIONS** of this Coverage Form.

4. Additional Coverages

a. Business Personal Property

We will pay for direct physical "loss" to your "business personal property" located at your construction site caused by or resulting from a Covered Cause of Loss. We cover such property only if it will not become a permanent part of the "buildings or structures" in the course of construction. The most that we will pay for "loss" in any one occurrence is $10,000.

b. Construction Trailers and Contents at Job Site

We will pay for direct physical "loss" to your owned or leased job site construction trailers and your contents within those trailers caused by or resulting from a Covered Cause of Loss but coverage only

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applies when such property is located at the construction site described on the "schedule of coverages". The most we pay for "loss" to Construction Trailers and Contents at Job Site in any one occurrence is $50,000.

This Additional Coverage cannot be combined with Additional Coverage Business Personal Property.

c. Contract Penalty Coverage

We will pay to cover the "contract penalties" that you incur.

We only cover contract penalties that result from direct physical "loss" to Covered Property caused by or resulting from a Covered Cause of Loss.

The most that we will pay for all "loss" for Contract Penalty in any one occurrence or all occurrences at any one construction site is $25,000.

d. Debris Removal

Following a covered "loss", we will pay your expenses to remove debris of Covered Property covered by this Coverage Form. The "loss" must occur during the policy period. We will pay your debris removal expenses only if they are reported to us in writing within 180 days of the date of the direct physical "loss". The most that we will pay is 25% of the amount that we pay for the direct physical "loss", prior to the application of the policy deductible. Any payment is included within and will not increase the applicable Limit of Insurance.

However, when the debris removal expense is greater than the amount determined above, or when the sum of debris removal expense and the amount we pay for the direct physical "loss" to Covered Property is greater than the applicable Limit of Insurance shown on the "schedule of coverages", we will pay up to an additional $75,000 for debris removal expense.

This Additional Coverage does not apply to expenses to:

(1) Extract "pollutants" from land or water; or

(2) Remove, restore or replace polluted water or land.

e. Emergency Removal to Preserve Covered Property

If it is necessary to move Covered Property that will become a permanent part of the "buildings or structures" from the construction site described on the "schedule of coverages" or from site of fabrication or temporary storage to preserve it from "loss" from a Covered Cause of Loss, we will pay reasonable expenses that you incur to move or store covered property.

The most we will pay in any one occurrence for Emergency Removal to Preserve Covered Property is $10,000. Subject to this sub limit of insurance, we will provide up to 90 days of storage charges.

No deductible applies to this Additional Coverage.

f. Expediting Expense

In the event of direct physical "loss" to Covered Property by a Covered Cause of Loss, we will pay the reasonable and necessary expenses you incur to expedite the temporary repair and the permanent repair or replacement of that Covered Property including additional overtime wages and express or other rapid means of transportation.

The most that we will pay in any one occurrence for Expediting Expense is $100,000.

g. Expenses to Re-erect Undamaged Scaffolding, Fences and Signs

We will pay reasonable expenses that you incur to re-erect or re-install undamaged property covered within the scope of Covered Property, Clause **A. COVERAGE, 1. Covered Property,** paragraph **c.** above, that must be re-erected or re-installed as a result of a Covered Cause of Loss.

The most we pay in any one occurrence for Expenses to Re-Erect Undamaged Scaffolding, Fences and Signs is $10,000.

h. Fire Suppression Equipment Recharging

We will pay reasonable expenses you incur to recharge permanent or temporary "fire protection equipment" located in the covered "buildings or structures" or at the construction site described on the "schedule of coverages". We cover your reasonable costs to recharge fire suppression equipment which discharges as a result of a cause of loss not otherwise covered by this Coverage Form.

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Following equipment discharge covered by this Additional Coverage, we will also pay your costs to repair or replace faulty or deficient valves or controls which are part of the permanent fire suppression system located in the covered "buildings or structures".

We do not pay any cost or expense caused by, resulting from, or which is in any way associated with the deliberate discharge of any system or equipment when such discharge occurs solely for the purpose of inspection, testing or maintenance of the fire suppression system or equipment.

The most we pay for "Fire Protection Equipment" Recharge in any one occurrence, or in all occurrences in any one policy period, is $50,000.

i. Fungus, Wet Rot, Dry Rot and Bacteria – Limited Coverage

The coverage we provide for "fungus", wet rot, dry rot and bacteria is limited. We will pay for:

(1) Direct physical "loss" to Covered Property caused by "fungus", wet rot, dry rot or bacteria, including the cost of removal of the "fungus", wet rot, dry rot or bacteria, and

(2) The cost to tear out and replace any part of the building or other covered property as necessary to gain access to the "fungus", wet rot, dry rot or bacteria; and

(3) The cost of testing performed after removal, repair, replacement or restoration of damaged property is completed.

We only provide the coverage when the "fungus", wet rot, dry rot and bacteria is caused by or results from a "specified cause of loss" other than fire or lightning that occurs during the policy period.

At the time of "loss" and following that occurrence, you must use all reasonable means to save and preserve the property from further damage.

The maximum amount that we will pay under this limited coverage is $100,000.

The Limit of Insurance applicable to Limited Coverage -- "Fungus", Wet Rot, Dry Rot and Bacteria is the most that we will pay in each 12 month policy period beginning with the inception date of this policy. This is the most that we will pay for the total of all "loss", regardless of the number of claims or the types of coverage that we provide. The limit provided is the most that we will pay for all "loss" caused directly by or resulting from or as a consequence of "fungus", wet rot, dry rot or bacteria, regardless of the limit available under any other coverage provided under this policy, including Delay in Completion Coverages, which may apply as a result of the "fungus", wet rot, dry rot or bacteria.

This limit applies even if the "fungus", wet rot, dry rot or bacteria continues to be present or active, or reoccurs, in a later policy period.

The coverage provided under this limited coverage is included within and will not increase the applicable limit of insurance.

This Additional Coverage does not apply to **A. COVERAGE**, **1. Covered Property**, paragraph **d**.

j. Insufficiency of Limit

In the event of a direct physical "loss" to "buildings or structures" caused by or resulting from a Covered Cause of Loss that results in a total loss and the applicable Limit of Insurance is not adequate for the building to be rebuilt to the identical design and specifications as a result of the increased cost of new construction materials or labor expense, we will pay, up to an additional 10% of the Limit of Insurance applicable to that property incurring the total loss. The most that we will pay in any one occurrence, or in all occurrences in any one policy period, is $1,000,000.

This coverage does not apply:

(1) If the "building or structure" is not rebuilt; or

(2) If the "building or structure" is not rebuilt at the described construction site where the total loss occurred; or

(3) If the "building or structure" is replaced by one that is not identical to the "building or structure" that sustained the "loss". An identical building or structure, as used by this clause, means a new building of the same specifications, square footage and floor plan and which is built of substantially identical construction materials and which is intended to be used, upon completion, for the same occupancy as the "building or structure" sustaining covered total loss; or

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(4) If the increased cost of construction materials is caused by or contributed to by the use of any construction materials which are antique or historic; unique, handmade or which have "artistic merit"; or which are not readily available even in the absence of "loss".

This coverage does not apply to any "pre-existing structure" even if coverage for any "pre-existing structure" is provided.

k. Key Coverage

We will pay the reasonable and necessary expenses that you incur to replace keys if they are stolen; rekey, reprogram or replace undamaged locks in a covered "building or structure".

The most we pay in any one occurrence or in any one policy period is $2,500.

l. Loss Adjustment Expense

We will pay those necessary and reasonable expenses that you incur at our direction to determine the amount of covered "loss". We do not cover any loss adjustment expenses that you incur for any of the following:

(1) Payments to public adjusters or any other outside claims expense;

(2) Payments to lawyers or any other legal fees;

(3) Payments to insurance agents or brokers;

(4) Any expenses incurred for an examination under oath, even if required by us;

(5) Any expense incurred in accordance with the appraisal section of the Commercial Inland Marine Conditions; or

(6) Any expense that you incur to prove that a "loss" is covered.

The most we will pay in any one occurrence for Loss Adjustment Expenses is $5,000.

No deductible will apply to this Additional Coverage.

m. Ordinance or Law Coverage

(1) Coverage Applicable To the Undamaged Portions of the Building or Structure

(a) In the event of "loss" to Covered Property by a Covered Cause of Loss, we will pay for "loss" to the undamaged portion of the Covered Property as a consequence of enforcement of any ordinance or law that:

(i) Requires the demolition of parts of the same property not damaged by a Covered Cause of Loss;

(ii) Regulates the construction or repair of the property, or establishes zoning or land use requirements at the construction site; and

(iii) Is in force at the time of "loss".

(b) Coverage for "loss" to the undamaged portion of the Covered Property is included within and is not in addition to the Limit of Insurance applicable to the Covered Property at that construction site.

(2) Demolition Costs

In the event of "loss" to Covered Property by a Covered Cause of Loss, we will pay the cost to demolish and clear the site of the undamaged part of the Covered Property caused by the enforcement of building, zoning or land use ordinance or law.

(3) Increased Cost of Construction

In the event of "loss" to Covered Property by a Covered Cause of Loss, we will pay the increased cost to repair or rebuild damaged parts of the Covered Property as a consequence of the enforcement of building, zoning or land use ordinance or law.

We will only pay if the rebuilt property is intended for the same occupancy.

If an applicable ordinance or law requires relocation to another site, we will pay for the increased cost of construction at that new site.

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(4) Limits Applicable to Demolition Costs and Increased Cost of Construction

The most we will pay for Demolition Cost and Increased Cost of Construction, as provided in paragraphs **(2)** and **(3)** above, is the least of the following:

(a) The amount you actually spend to repair or replace Covered Property; or

(b) The applicable Limit of Insurance shown on the "schedule of coverages".

(5) Other Conditions Applicable to Additional Coverage – Ordinance or Law Coverage

(a) This coverage does not apply to any "pre-existing structure" even if coverage for any "pre-existing structure" is provided.

(b) We will not pay under this Additional Coverage any costs incurred as a consequence of any ordinance or law:

(i) Which requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way to respond to, or assess the effects of "pollutants", "fungus" wet rot, dry rot or bacteria;

(ii) Which requires the demolition, repair, replacement, remodeling or remediation of property due to contamination by "pollutants" or due to the presence, growth, spread, proliferation or any activity of "fungus", wet rot, dry rot or bacteria; or

(iii) If, prior to "loss", you failed to comply with any building code or ordinance regulating the construction of any building or structure.

n. Police and Fire Department Service Charge

When the police or fire department is called to save or protect Covered Property from a Covered Cause of Loss, we will pay up to $50,000 for your liability for police and fire department service charges which are:

(1) Assumed by contract or agreement prior to loss; or

(2) Required by local ordinance.

No Deductible applies to this Additional Coverage.

o. Pollutant Clean Up and Removal

We will pay to extract "pollutants" from land or water at the described construction site if the discharge, dispersal, seepage, migration, release or escape of "pollutants" is caused by or results from a Covered Cause of Loss to Covered Property that occurs during the policy period. The expenses to extract "pollutants" will only be paid if they are reported to us in writing within 180 days of the date of the covered "loss".

This Additional Coverage does not apply to costs to test for, monitor or assess the existence, concentration or effects of "pollutants" in land or water. But we will pay for testing which is performed in the course of extracting the "pollutants" from land or water.

The most we will pay under this Additional Coverage in any one policy period is $50,000.

p. Reward Payment

(1) When we pay for "loss" caused by theft, vandalism or fire, we will reimburse you for any documented payments that you make to others as reward(s), provided these reward payments cause:

(a) The return of your stolen property to the custody of the police or a law enforcement agency; or

(b) The arrest and conviction of any person(s) committing the covered theft, vandalism or fire loss.

(2) We will not cover any reward payment that you make to any of the following:

(a) You or any member of your family;

(b) Any member of the applicable law enforcement agency; or

(c) Any person involved in the crime.

The most we pay in any one policy period is $10,000. You and we will determine the amount of reward we will pay.

q. Sewer and Drain Back Up

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We will pay for direct physical "loss" to Covered Property caused by or resulting from water that backs up or overflows or is otherwise discharged from a sewer, drain, sump, sump pump or related equipment.

Section **B. EXCLUSIONS**,**1.e. Flood and Related Water** applies to this coverage. However, paragraph **e. (4)** does not apply to the extent that this Additional Coverage applies.

The most that we will pay in any one occurrence is $100,000 unless a different Limit of Insurance applicable to Sewer and Drain Back Up is shown on the "schedule of coverages".

r. Valuable Papers and Records

(1) Provided your "valuable papers and records" do not have duplicates, we will pay the reasonable expenses you incur to research, recreate, or restore "valuable papers and records" as a result of direct physical "loss" caused by or resulting from a Covered Cause of Loss that are located on the construction site and which are related to the construction of the "buildings or structures." The "valuable papers and records" covered by this Additional Coverage include "valuable papers and records" in printed, written, electronic or magnetic media format.

(2) If a duplicate of lost or damaged "valuable papers and records" exists, the coverage that we provide is limited. The most that we will pay is the reasonable and necessary cost of blank materials to reproduce property and the labor to transcribe or copy from the undamaged duplicate.

The most we will pay for all "loss" to Valuable Papers and Records in any one occurrence is $50,000.

5. Coverage Option – Equipment Breakdown and Testing

a. Coverage

(1) When we indicate on the "schedule of coverages" that Equipment Breakdown and Testing is covered, we will pay for "loss" caused by or resulting from an "accident" to "covered equipment" which is part of or will become a permanent part of covered "buildings or structures" including during "testing." This Coverage Option does not increase the Limit of Insurance.

If we do not indicate on the "schedule of coverages" that Equipment Breakdown and Testing is covered, we do not provide the coverage.

If an initial "accident" causes other "accidents", all will be considered one "accident". All "accidents" that are the result of the same event will be considered one "accident".

Section **B. EXCLUSIONS**, paragraphs **2.e.**, **2.f.**, **3.a.** and **3.c.** do not apply to the extent that coverage is provided under this coverage option.

(2) "Pollutants"

We will pay for additional cost to repair or replace Covered Property because of contamination by "pollutants" caused by or resulting from an "accident". This includes the additional expenses to clean up or dispose of such property. Additional expenses means those beyond which would have been required had no "pollutants" been involved.

We will also pay for additional loss as described under Delay in Completion Coverage Endorsement caused by contamination by "pollutants".

The most that we will pay for loss, damage or expense under this coverage is $50,000 if shown as covered under Delay in Completion Coverage on the "schedule of coverages". If a different limit is indicated in the Equipment Breakdown and Testing section of the "schedule of coverages", that limit will apply instead of the limit shown above.

(3) If the Delay in Completion Coverage Endorsement is attached to this Builders' Risk Coverage Form, and Delay in Completion is indicated in the Equipment Breakdown and Testing section of the "schedule of coverage", coverage under this Coverage Option is extended to the Delay in Completion Coverage Endorsement, subject to limits as described below.

If Delay in Completion limits are indicated in the Equipment Breakdown and Testing section of the "schedule of coverage", those Delay in Completion limits are the only limits that apply to a "delay in completion" resulting from an "accident".

Refer to the Delay in Completion Coverage Endorsement for a definition of "delay in completion".

b. Additional Exclusions applicable to Coverage Option – Equipment Breakdown and Testing

We exclude any loss, damage or expense:

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(1) To any property not included within the definition of "covered equipment" but only to the extent of the coverage provided by Equipment Breakdown and Testing;

(2) Caused by or resulting from collision or upset;

(3) Caused by or resulting from the following:

(a) Error in calibration, misalignment, arrangement, or any condition which can be corrected by adjustment, cleaning, resetting or tightening; or by performance of maintenance;

(b) Lack of maintenance; or

(c) Defect, programming error, programming limitation, computer virus, malicious code, loss of "data", loss of access, loss of use, loss of functionality or other condition within or involving "data" or "media" of any kind.

But if an "accident" results from **(3)(a)** through **(3)(c)** directly above, we will pay for the additional loss or damage caused by that "accident".

c. If electrical "covered equipment" is damaged by a cause of loss shown in section **B. EXCLUSIONS 1.e. Flood and Related Water**, paragraphs **(1)** through **(6)**, we will pay the reasonable and necessary expenses to dry out such equipment. However, we will pay no more than $10,000 in any one occurrence.

The deductible indicated on the "schedule of coverage" applies.

B. EXCLUSIONS

1. We will not pay for "loss" caused directly or indirectly by any of the following. Such "loss" is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the "loss".

a. Governmental Action

Governmental action means any act of seizure, confiscation or destruction by order of any governmental authority.

But we will pay for acts of destruction ordered by governmental action and taken at the time of a fire to prevent its spread if that fire would be covered under this Coverage Form.

b. Nuclear Hazard

Nuclear Hazard or radiation, or radioactive contamination, however caused.

But if nuclear reaction or radiation, or radioactive contamination, results in fire, we will pay for the loss or damage caused by that fire.

c. War and Military Action

(1) War, including undeclared or civil war;

(2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign, or other authority using military personnel or other agents; or

(3) Insurrection, rebellion, revolution, usurped power or action by governmental authority in hindering or defending against any of these.

d. Earth Movement

(1) Earthquake, including tremors or aftershocks and any earth sinking, rising or shifting relating to such event;

(2) Landslide, including any earth sinking, rising or shifting related to such event;

(3) Mine subsidence, meaning subsidence of a man-made mine, whether or not mining activity has ceased;

(4) Earth sinking, other than "sinkhole collapse", rising or shifting including soil conditions which cause settling, cracking or other disarrangement of foundations or other parts of realty. Soil conditions include contraction, expansion, freezing, thawing, erosion, improperly compacted soil and the action of water under the ground surface.

But if Earth Movement, as described in **d.(1)** through **(4)** above, results in fire or explosion, we will pay for the "loss" or damage caused by that fire or explosion.

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(5) Volcanic eruption, explosion or effusion.

But if volcanic eruption, explosion or effusion results in fire, building glass breakage or volcanic action, we will pay for the "loss" or damage caused by that fire, building glass breakage or volcanic action.

Volcanic Action means direct physical "loss" or damage resulting from the eruption of a volcano when the loss or damage is caused by:

(a) Airborne volcanic blast or airborne shock waves;

(b) Ash, dust or particulate matter; or

(c) Lava flow.

With respect to Volcanic Action as set forth in paragraphs **(5)(a)** through **(c)**, all volcanic eruptions that occur within any 168-hour period will constitute a single occurrence.

Volcanic Action does not include the cost to remove ash, dust or particulate matter that does not cause direct physical loss or damage to the described property.

This exclusion applies regardless of whether any of the above, in paragraphs **(1)** through **(5)** is caused by an act of nature or is otherwise caused.

This exclusion does not apply to Covered Property in transit.

e. Flood and Related Water

(1) Flood;

(2) Surface water, rapid accumulation of run off, waves (including tidal wave and tsunami), tides, tidal water, overflow of any body of water, or spray from any of these, all whether or not driven by wind (including storm surge);

(3) Mudslide or mudflow;

(4) Water that backs up or overflows or is otherwise discharged from a sewer, drain, sump, sump pump or related equipment;

(5) Water under the ground surface pressing on, or flowing or seeping through:

(a) Foundations, walls, floors or paved surfaces;

(b) Basements, whether paved or not; or

(c) Doors, windows or other openings**;** or

(6) Waterborne material carried or otherwise moved by any of the water referred to in paragraphs **(1)**, **(2)**, **(4)** or **(5)**, or material carried or otherwise moved by mudslide or mudflow.

This exclusion applies regardless of whether any of the above, in paragraphs **(1)** through **(6)** is caused by an act of nature or is otherwise caused. An example of a situation to which this exclusion applies is the situation where a dam, levee, seawall or other boundary or containment system fails in whole or in part, for any reason, to contain the water.

But if any of the above, in paragraphs **(1)** through **(6)** results in fire or explosion, we will pay for the loss or damage caused by that fire or explosion.

This exclusion does not apply to Covered Property in transit.

f. Mold

Mold means "fungus", wet rot, dry rot or bacteria.

But we will pay when "fungus," wet rot, dry rot or bacteria is caused by or results from fire or lightning.

g. Ordinance or Law

(1) Except to the extent that coverage may otherwise be provided under **A. Coverage, 4. Additional Coverages m. Ordinance or Law Coverage,** the enforcement of any ordinance or law:

(a) Regulating the construction, use or repair of any property; or

(b) Requiring the tearing down of any property, including the cost of removing its debris.

(2) This exclusion applies whether the loss or damage results from:

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(a) An ordinance or law that is enforced even if the property has not been damaged; or

(b) The increased costs incurred to comply with an ordinance or law in the course of construction, repair, renovation, remodeling or demolition of property, or removal of its debris, following a physical loss or damage to that property.

2. We will not pay for "loss" caused by or resulting from any of the following:

a. Delay, loss of use, loss of market or any other consequential loss.

b. Unexplained disappearance.

c. Shortage found upon taking inventory.

d. Criminal, fraudulent, or dishonest acts by:

(1) You or any of your partners;

(2) Your directors or trustees;

(3) Your authorized representatives or employees;

(4) Anyone else with an interest in the property, or their employees or authorized representatives;

(5) Anyone, other than a carrier for hire, to whom you have entrusted the Covered Property, including their employees, for any purpose:

(a) Whether acting alone or in collusion with others; and

(b) Whether or not occurring during the hours of employment.

This exclusion does not apply to acts of destruction by your employees, but theft by your employees is not covered.

e. Artificially generated electrical current, including electrical arcing, that disturbs electrical devices, appliances or wires; mechanical or electrical breakdown of any machinery, including rupturing or bursting caused by centrifugal force.

But if artificially generated electric current results in fire, we will pay for the loss or damage caused by that fire.

This exclusion applies except as provided for in the Coverage Option - Equipment Breakdown and Testing.

f. Explosion of steam boilers, steam pipes, steam engines or steam turbines owned or leased by you, or operated under your control.

But if explosion of steam boilers, steam pipes, steam engines or steam turbines results in fire or combustion explosion, we will pay for the loss or damage caused by that fire or combustion explosion. We will also pay for loss or damage caused by or resulting from the explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass.

This exclusion applies except as provided for in the Coverage Option - Equipment Breakdown and Testing.

g. Discharge, dispersal, seepage, migration, release or escape of "pollutants" unless the discharge, dispersal, seepage, migration, release or escape is itself caused by any of the "specified cause of loss".

But if the discharge, dispersal, seepage, migration, release or escape of "pollutants" results in a "specified cause of loss", we will pay for the damage caused by that "specified cause of loss".

3. We will not pay for "loss" caused by or resulting from any of the following. But if "loss" by a Covered Cause of Loss results, we will pay for the loss caused by that Covered Cause of Loss.

a. Wear and tear, depreciation, or obsolescence.

b. Settling, cracking, shrinking or expanding.

c. Rust, corrosion, decay, deterioration, hidden or latent defect, inherent vice, or any quality or fault in the property that causes it to damage or destroy itself.

d. Faulty, inadequate or defective:

(1) Planning, zoning, surveying, siting or development;

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(2) Design, specifications, workmanship, repair, construction, renovation, remodeling, grading, or compaction;

(3) Materials used in repair, construction, renovation or remodeling; or

(4) Maintenance of all or part of any covered property at or off the construction site.

But if a "loss" excluded above **d. (1)** through **(4)** results in a Covered Cause of Loss, we will pay for the "loss" caused by or resulting from that Covered Cause of Loss.

We will not pay to correct or make good any fault, inadequacy or defect itself, including any expense required to tear out, tear down, repair or replace any property, or any part of any property, to correct or make good the fault, inadequacy or defect.

We will also not pay for any resulting loss to the property that has the fault, inadequacy or defect until such fault, inadequacy or defect is corrected or made good.

4. We will not pay for "loss" to Trees, Plants, Lawns or Shrubs caused by or resulting from any of the following:

a. Changes in or extremes of temperature or humidity;

b. Freezing;

c. Lack of water or drought;

d. Disease or infestation;

e. Animals;

f. Weight of ice or snow or sleet; or

g. Wind or hail.

C. LIMITS OF INSURANCE

1. The most we will pay for loss or damage in any one occurrence is the applicable Limit of Insurance shown on the "schedule of coverages".

2. Limits of Insurance for Additional Coverages:

a. Apply to any one occurrence; and

b. Are additional Limits of Insurance;

unless stated otherwise.

D. DEDUCTIBLE

We will not pay for "loss" in any one occurrence until the amount of the covered "loss" exceeds the applicable deductible shown on the "schedule of coverages". We will then pay the amount of the "loss" in excess of the applicable deductible, up to the applicable Limit of Insurance.

Unless otherwise stated, if more than one deductible applies to "loss" in any one occurrence, we will apply only the largest applicable deductible.

The deductible does not apply to Covered Property in transit.

E. VALUATION AND LOSS PAYMENT

The valuation provision found in the Commercial Inland Marine General Conditions (CM 00 01) is replaced by the following:

1. In the event of "loss", the value of property will be determined at the time of "loss" in accordance with the following provisions:

a. Replacement cost as of the time of "loss", except as may be otherwise provided. Replacement cost means the cost to repair or replace property at the time of loss without any deduction for depreciation.

We will not pay for any "loss" on a Replacement Cost basis:

(1) Until the lost or damaged property is actually repaired or replaced; and

(2) Unless the repairs or replacement are made as soon as reasonably possibly after the "loss".

b. The value of property that is not repaired or replaced will be based on actual cash value.

This provision does not apply to any "loss" that is smaller than $50,000.

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c. Property of others will be valued at the amount for which you are liable but not more than the replacement cost.

2. We will not pay more for "loss" on a replacement cost basis than the least of the following**:**

a. The cost to repair or replace Covered Property at the same construction site with property of comparable material and quality and which is used for the same purpose;

b. The amount you actually spend to repair or replace Covered Property; or

c. The applicable Limit of Insurance.

If the property is replaced at a location other than the original construction site described on the "schedule of coverages", what we pay will be limited to the cost which would have been incurred had property been rebuilt or replaced at the original construction site.

3. The cost to repair or replace does not include any increased cost attributable to the enforcement of any ordinance or law regulating the use, construction or repair of any property except as provided by the provisions of **A. COVERAGE, 4. Additional Coverages, m. Ordinance or Law Coverage**.

4. Payment for repair or replacement may include reasonable overhead and profit charges or change fees. However, we will not pay more than the lesser of the percentage of overhead and profit, if applicable, or change fees outlined in any contract or change order related to the construction, change or repair of described construction project shown on the "schedule of coverages".

F. ADDITIONAL CONDITIONS

1. Coverage Territory

We insure the Covered Property only while it is located in:

a. The United States of America;

b. Puerto Rico; or

c. Canada.

Subject to the Covered Property In Transit Limit of Insurance, we also cover property being shipped within and between points in paragraph **1.** directly above.

2. Duration of Coverage Clause

This policy is written covering specific "buildings or structures" in the course of construction. The term of this policy reflects information submitted by you. This policy will not be automatically renewed at expiration. If an extension of this policy is necessary, you or your agent must notify us in writing, prior to the expiration of the policy, that the scheduled "buildings or structures" are not yet complete. You must also tell us when, based on standard construction practices, when construction is expected to be completed. We may, at our discretion, offer an extension. If we offer an extension, we will extend the policy for the term and premium that you and we agree upon.

If we agree to an extension, we may amend or modify the original policy terms and conditions that were applicable to your policy. Any changes or modifications must be agreed to by you prior to the extension taking effect. We may also offer the original policy terms and conditions that were applicable to your policy without any change.

3. When Coverage Ends

The coverage provided for Covered Property will end when one of the following first occurs:

a. This policy expires or is cancelled;

b. The "building or structure" is accepted by the purchaser or owner under the contract of construction, even if the owner or purchaser is an insured under this policy;

c. Your interest in the "building or structure" ceases;

d. You abandon construction with no intent to complete it;

e. 90 days after construction on the project is complete; or

f. When the "building or structure":

(1) Is occupied in whole or in part; or

(2) Is put to its intended use.

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4. Unintentional Errors and Omissions

Prior to "loss" you may amend any unintentional error or omission that you make in setting the Limit of Insurance applicable to the "building or structure" provided:

a. The error or omission is unintentional; and

b. It is reported to us in writing as soon as it becomes known to you.

If you amend the Limit of Insurance applicable to any "building or structure" after the inception of coverage, we must agree to change the Limit of Insurance. If we agree, we will charge premium back to the inception date that coverage was first provided for the described "building or structure".

We will not, under any circumstance, amend any Limit of Insurance after a "loss" has occurred.

5. Additional Named Insured

Provided you have agreed to add any of the following persons or organizations as Additional Named Insureds, as evidenced by a written contract that you executed prior to "loss", we cover:

a. Contractors and sub-contractors of every tier; and

b. Owners.

We only cover such persons or organizations to the extent of their financial interest in Covered Property.

We do not cover any architect or engineer or any organization acting as architect or engineer on the project.

6. Mortgage Holder

a. The term mortgage holder includes trustees.

b. We will pay for covered "loss" to buildings or structures to each mortgage holder shown in the Declarations in their order of precedence, as interests may appear.

c. The mortgage holder has the right to receive "loss" payment even if the mortgage holder has started foreclosure or similar actions on property insured under this policy.

d. If we deny your claim because of your acts or because you have failed to comply with the terms of this Coverage Form, the mortgage holder will still have the right to receive loss payment if the mortgage holder:

(1) Pays the premium due under this Coverage Form at our request if you have failed to do so;

(2) Submits a signed, sworn proof of "loss" within 60 days after receiving notice from us of your failure to do so; and

(3) Has notified us of any change in ownership, occupancy or substantial change in the risk known to the mortgage holder.

All of the terms of this Coverage Form will then apply directly to the mortgage holder.

e. If we pay the mortgage holder for any loss or damage and deny payment to you because of your acts or because you have failed to comply with the terms of this Coverage Form:

(1) The mortgage holder's rights under the mortgage will be transferred to us to the extent of the amount that we pay; and

(2) The mortgage holder's right to recover the full amount of the mortgage holder's claim will not be impaired.

At our option, we may pay to the mortgage holder the whole principal on the mortgage plus any accrued interest. In this event, your mortgage and note will be transferred to us and you must pay your remaining mortgage debt to us.

f. If we cancel this policy, we will give written notice to the mortgage holder at least:

(1) 10 days before the effective date of the cancellation if we cancel for your nonpayment of premium; or

(2) 30 days before the effective date of cancellation if we cancel for any other reason.

g. If we do not renew this policy, we will give written notice to the mortgage holder at least 10 days before the expiration date of this policy.

G. DEFINITIONS

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1. "Accident" means direct physical loss or damage to "covered equipment" caused by or resulting from one or more of the following:

a. Mechanical breakdown, including rupture or bursting caused by centrifugal force;

b. Artificially generated electrical current, including electrical arcing that disturbs electrical devices, appliances or wires;

c. Explosion of steam boilers, steam pipes, steam engines or steam turbines owned or leased by you, or operated under your control;

d. Loss or damage to steam boilers, steam pipes, steam turbines, steam engines caused by or resulting from any condition or event inside such equipment;

e. Loss or damage to hot water boilers or other water heating equipment caused by or resulting from any condition or event inside such boilers or equipment; and

f. Any "testing" of "covered equipment".

2. "Artistic merit" means the special value applicable to tangible construction materials primarily because of their historic, rare or unique characteristics. This includes, but is not limited to, stained or art glass windows; antique structural elements incorporated into the new "building or structure" including interior or exterior stone or wood work; antique floors or roof tiles.

3. "Buildings or structures" means structures which are meant to be permanent structures, including grading, excavation, and backfill, foundations, pipes and wiring above or beneath the surface of the ground, machinery, equipment and related property provided such property is, or will become, a permanent part of the completed "building or structure". Also included are appurtenant permanent structures including fences, sidewalks, walkways, driveways, roadways and their related fixtures provided such work is included within the contract of construction and if the values are included within the completed value**.**

4. "Business personal property" means property that is owned by or leased or rented by you from others, that is used by you in your business including office furniture and supplies, computers, and telephone systems.

"Business personal property" does not include "valuable papers and records".

5. "Construction class" means one of the following types of construction developed by Insurance Service Office (ISO):

a. Frame – Construction class 1. Frame or wood stick construction buildings or structures have exterior roofs, walls and floors of combustible materials. Buildings or structures may have exterior walls of non-combustible construction but floors and roofs are combustible.

b. Joisted Masonry – Construction class 2. Joisted Masonry means buildings or structures with exterior bearing walls of masonry or fire resistive construction with at least one hour fire rating but with combustible roof and floor.

c. Non-Combustible – Construction class 3. Non Combustible means buildings or structures with exterior walls, floors and roofs of non-combustible or slow burning materials. Building supports are made of non-combustible or slow burning materials.

d. Masonry Non Combustible – Construction class 4. Masonry Non Combustible means buildings or structures with exterior bearing walls of fire resistive construction, not less than 4" thick, with a fire rating of at least one (1) hour. Roofs and floors are constructed of non-combustible or slow burning materials.

e. Modified Fire Resistive – Construction class 5**.** Modified Fire Resistive construction means buildings or structures with exterior and interior bearing walls or structural supports, floors and roof of masonry materials with a fire rating of less than two (2) hours but not less than one (1) hour. Structural steel will be protected by applied material affording like fire protection. Masonry materials are at least 4 inches thick.

f. Fire resistive – Construction class 6. Fire resistive construction means floors, exterior bearing walls or the exterior structural frame that are either of non-combustible materials with a fire rating on 2 hours or more or are a masonry material meeting the following thickness requirements: solid masonry or reinforced concrete at least 4 inches thick; or, hollow masonry materials at least 12 inches thick. All assembled components will have a fire rating of at least two (2) hours.

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g. Buildings – Mixed Construction. Buildings or structures which are of multiple or mixed construction and which, at completion, are composed of 25% or more frame construction, will be classed as Frame – Construction class 1.

6. "Contract penalties" means those fees or penalties that you, acting as a general contractor, agree to pay as a result of your failure to complete the construction of "buildings or structures" within the timeframe provided by a written contract of construction executed by you in advance of "loss".

7. "Covered equipment" means:

a. Electrical or mechanical equipment that transmits or uses energy;

b. Electrical or mechanical equipment that operates under internal pressure or vacuum, other than weight of its contents;

"Covered equipment" must be located at the construction site described on the "schedule of coverages".

"Covered equipment" does not mean any of the following:

c. Structure, foundation, cabinet, or compartment, including those that cover, hold or support "covered equipment";

d. Sewer piping, buried vessels or piping, or piping forming a part of a sprinkler or fire extinguishing or suppression system;

e. Insulating or refractory material;

f. Water piping, other than boiler feedwater piping, boiler condensate return piping or water piping forming part of a refrigerating or air conditioning system.

g. "Vehicle" or any equipment mounted on a "vehicle";

h. Satellite, spacecraft or any equipment mounted on a satellite or spacecraft; or

i. Dragline, excavation or construction equipment.

8. "Data" means information or instructions stored in digital code capable of being processed by machinery.

9. "Fire protection equipment" means equipment that manually or automatically discharges water, inert gas, or chemicals for the purpose of stopping or controlling a fire. The equipment referred to by this definition may be hand-held fire extinguishing equipment, owned by you or owned by others; permanently installed automatic fire extinguishing system such as an operating automatic sprinkler system within the covered "building or structure".

10. "Fungus" means any type or form of "fungus", mold or mildew, and any mycotoxins, spores, scents or by-products produced or released by fungus; any type or form of algae or lichens.

11. "Loss" means accidental loss or damage.

12. "Media" means material on which "data" is recorded, such as magnetic tapes, hard disks, optical disks, or floppy disks.

13. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes acids, alkalis, chemicals, asbestos, and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

14. "Pre-existing structure" means any "building or structure", or any part of any "building or structure", which existed at the construction site prior to the inception of this policy. This includes any building or structure in course of construction, alteration, renovation or rehabilitation.

15. "Schedule of coverages" means the pages labeled "schedule of coverages" or other declarations or schedules that apply to this coverage.

16. "Sinkhole collapse" means the sudden sinking or collapse of land into underground empty spaces created by the action of water on limestone or dolomite and similar rock formations. This cause of loss does not include the cost of filling sinkholes (except to the extent that such filling is required to repair Covered Property following a Covered Cause of Loss), or sinking or collapse of land into manmade underground cavities.

17. "Specified causes of loss" means any of the following:

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Fire, lightning, explosion, windstorm or hail, smoke, aircraft or vehicles, riot or civil commotion, vandalism, leakage from fire extinguishing equipment, "sinkhole collapse", volcanic action, falling objects, and weight of snow, ice or sleet.

18. "Temporary structures" means false-work, cribbing, construction forms, scaffolding, temporary fences and signs, and similar property built or erected at the construction site shown on the "schedule of coverages" which are used in conjunction with the construction of "buildings and structures".

19. "Testing" means the testing of building systems and components at the construction site, including:

a. Electrical;

b. Pneumatic;

c. Hydrostatic; or

d. Mechanical testing.

20. "Valuable papers and records" means blueprints, designs, records and other specifications in written, printed, electronic or magnetic media format.

21. "Vehicle" means, as respects to Equipment Breakdown and Testing Coverage only, any machinery or apparatus that is used for transportation or moves under its own power. "Vehicle" includes, but is not limited to: car, truck, bus, trailer, train, aircraft, watercraft, forklift, bulldozer, tractor or harvester. However, any property that is stationary, permanently installed at a covered location and that receives electrical power from an external power source will not be considered a "vehicle".

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BUILDERS' RISK DELAY IN COMPLETION COVERAGES ENDORSEMENT

This endorsement modifies the Builders' Risk Coverage Form

A. Coverage

1. Soft Costs—Expenses Covered

We will pay Soft Costs that you incur as a result of a "Delay In Completion". As used by this Endorsement, Soft Costs means those actual additional expenses you necessarily incur which you would not have incurred had there been no loss. The only additional expenses we cover are:

a. Additional interest expense for loans financing construction, repair or reconstruction of the Covered Property. We include any additional interest expense you must pay due to an increase in your interest rate;

b. Reasonable additional advertising or promotional expense;

c. Reasonable additional fees or expenses for architects, engineers, interior designers, attorneys or accountants. We will pay attorney or accountant fees or expenses only to the extent that such fees or expenses are required to repair or replace Covered Property;

d. Additional fees or expenses for required permits or licenses; building inspection fees and related administration expense;

e. Additional insurance premiums due to the necessary extension of the policy term to allow for the repair, reconstruction or completion of the Covered Property;

f. Additional taxes on the scheduled property;

g. Reasonable additional real estate commissions, legal expenses and other expenses that you incur which are necessarily associated with the renegotiation of a lease; and

h. Reasonable General administrative expense(s).

Coverage for Soft Costs will begin on the expected completion date of the "Building or Structure" and end on the date when the Covered Property should reasonably be completed using similar quality materials and using reasonable speed.

We will pay only when a Limit of Insurance is shown on the "Schedule of Coverages" applicable to Delay in Completion Coverage--Soft Cost. If we do not show a Limit of Insurance, we do not provide this coverage.

2. Loss of Rental Income

a. Coverage

We will pay your loss of “Rental Income” as a result of covered loss or damage to Covered Property. Coverage for “Rental Income” will begin at the expiration of the "Waiting Period" and end on the earliest of the following:

1) The date that Covered Property should be repaired, replaced, rebuilt or completed using similar quality materials and reasonable speed; or

2) The date when you have resumed your business operations in whole or in part.

We will pay for loss of “Rental Income” only when a Limit of Insurance is shown on the “Schedule of Coverages” applicable to **Delay in Completion Coverage—Loss of Rental Income**. If we do not show a Limit of Insurance, we do not provide this coverage.

3. Loss of Business Income

a. Coverage

We will pay your loss of “Business Income” as a result of covered loss or damage to Covered Property. Coverage for “Business Income” will begin at the expiration of the "Waiting Period" and end on the earliest of the following:

1) The date that Covered Property should be repaired, replaced, rebuilt or completed using similar quality materials and reasonable speed; or

2) The date when you have resumed your business operations in whole or in part.

We will pay for loss of ”Business Income” only when a Limit of Insurance is shown on the “Schedule of Coverages” applicable to **Delay in Completion Coverage—Loss of business income**. If we do not show a Limit of Insurance, we do not provide this coverage.

4. Extra Expenses to Reduce Payment for Delay in Completion Losses

Following covered “Loss” to Covered Property, we will pay the necessary and reasonable extra expenses that you incur but only to the extent that such expenses reduce the amount of covered “Loss” payable for 1.-3., above. The amount that we pay is included within and does not increase the limit of insurance for any applicable Delay in Completion coverage provided by this Endorsement.

5. Loss from Civil Authority

If a Limit of Insurance is shown on the Builders’ Risk “Schedule of Coverages” for Soft Costs, Loss of “Rental Income” or Loss of “Business Income”, we will extend such coverage for losses that are caused by or result from an action of civil authority which:

a. Prohibits access to the construction site shown on the “Schedule of Coverages”, and

b. Is taken in response to direct physical “Loss” to property, other than property at the scheduled location, due to a Covered Cause of Loss.

Coverage is provided for up to thirty (30) consecutive days from the date of the action taken by the Civil Authority.

6. **Prevention of Access**

If a Limit of Insurance is shown on the Builder's Risk "Schedule of Coverages" for Soft Costs, Loss of "Rental Income" or Loss of "Business Income", we will extend such coverage for losses that are caused by or result from direct physical loss to property, other than Covered Property, which prevents access to a covered "Building or Structure" at the construction site shown on the "Schedule of Coverages". Coverage only applies when the "Loss" preventing access to Covered Property:

a. Is caused by or results from a Covered Cause of "Loss"; and

b. Occurs within one (1) mile of the described construction site where Covered Property is located; and

c. Is not caused by or result from any action of a Civil Authority.

We will not extend this coverage when access to covered "Building or Structure" is prevented for less than 72 consecutive hours. Coverage will only apply up to 30 consecutive days.

The most we pay for all "Loss" from **Prevention of Access** in any one occurrence is the least of the following amounts:

I) $100,000; or

2) The applicable Limit of Insurance.

B. Exclusions Applicable to Delay in Completion Coverages

All of the Exclusions included in the Builders Risk Coverage Form to which this Endorsement is attached apply.

We will also not pay for any loss, damage or expense caused by or resulting from any of the following. We exclude such "Loss" regardless of any other cause or event that contributes concurrently or in any sequence to the "Loss":

1. Suspension, cancellation or lapse of any order, permit, license, contract or lease.

But, if the suspension, cancellation or lapse is directly caused by the suspension of construction of the "Building or Structure" due to "Loss" covered by the Builders' Risk Form to which this endorsement is attached, we will cover your resulting Soft Cost expense, Loss of Rental Income or Loss of Business Income up to the Limits of Insurance provided.

2. Any delay in construction caused by any of the following:

a. Lack of funding or financing;

b. Lack of workforce;

c. lack of action or due diligence by you, or any other person, to repair, reconstruct, or construct covered "Building or Structure" as soon as possible following covered "Loss";

d. Changes in design or change orders, including any change or improvement(s) made independently of the "Loss" which increases the time required for construction, repair or completion of the insured project;

e. Any interference by strikers or any person that affects the repair, reconstruction or construction of the Covered Property; or

f. Weather conditions.

But if weather condition(s) covered by the Builders' Risk Coverage Form cause direct physical damage to Covered Property resulting in a covered "Loss", we will pay for the resulting Soft Cost expense, Loss of "Rental Income" or Loss of "Business Income", up to the Limit of Insurance provided.

3. Any other consequential loss, including the amount that any loss is increased as a result of loss to property at construction site which is not covered property.

C. Limits of Insurance

The most we pay for coverage provided by this Coverage Form in any one occurrence is the applicable Limit of Insurance shown on the "Schedule of Coverages".

D. Additional Conditions applicable to Delay in Completion

1. In the event that you and we do not agree on the amount of the covered loss, we will adjust the claim in accordance with the provisions of **CM 00 01, Commercial Inland Marine Conditions**, **Loss Conditions**, **B**. **Appraisal**.

2. The Coverage(s) we provide under this **Delay in Completion** Endorsement are not limited by the expiration of the Policy.

3. If following covered "Loss", you abandon or cease construction of any construction project for any reason, coverage provided by this Endorsement will not apply.

E. Definitions

The Following are added to **Definitions:**

1. "Business Income" means the sum of:

a) The actual net profit or loss (before income taxes) that you derive from the operation of the completed "Building or Structure"; and

b) The continuing normal operating expenses, including the payroll, of the operation**.**

2. **"Delay in Completion**" means the interruption in construction caused by, resulting, or arising out of a covered "Loss" to Covered Property which delays the completion date of the construction project.

3. "Rental Income" means:

a) The net rental income (net profit or loss before income taxes) that would have been earned or incurred as rental income from tenant occupancy, as furnished and equipped by you;

b) The fair rental value of any portion of the described property that is to be occupied by you; and

c) The continuing normal operating expenses, including the payroll, of the operation**.**

4. "Waiting Period"--The period of time shown on the Declarations in days which:

a) If Covered Property is not completed as of the date of "Loss", begins on the date construction of the "Building or Structure" would have been completed had there been no "Loss. However, if permission to occupy and use has been granted, and the "Building or Structure" is being used for business operations, begins as of the date of "Loss";

b. if construction of Covered Property is completed, as of the date of "Loss".

All other terms, conditions and exclusions of the Policy shall remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION OF LOSS DUE TO VIRUS OR BACTERIA

This endorsement modifies the Builders' Risk Coverage Form

A. The exclusion set forth in Paragraph **B.** applies to all coverage under all Forms and Endorsements that comprise this Policy.

B. We will not pay for loss or damage caused by or resulting from any virus, bacterium or other microorganism that induces or is capable of inducing physical distress, illness or disease.

However, this exclusion does not apply to loss or damage caused by or resulting from "fungus", wet rot or dry rot. Such loss or damage is addressed in a separate exclusion in the above Coverage Form.

C. With respect to any loss or damage subject to the exclusion in Paragraph **B.,** such exclusion supersedes any exclusion relating to "pollutants".

D. The following provisions in the above Coverage Form are hereby amended to remove reference to bacteria:

1. Exclusion of "Fungus", Wet Rot, Dry Rot And Bacteria; and

2. Additional Coverage – Limited Coverage for "Fungus", Wet Rot, Dry Rot And Bacteria, or any endorsement increasing the scope or amount of coverage.

E. The terms of the exclusion in Paragraph **B.,** or the inapplicability of this exclusion to a particular loss, do not serve to create coverage for any loss that would otherwise be excluded under this Coverage Part or Policy.

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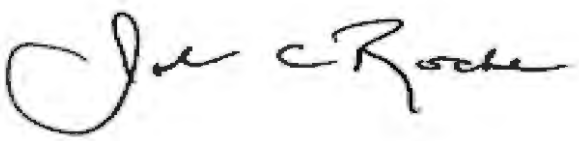
THE ONLY SIGNATURES APPLICABLE TO THIS POLICY ARE THOSE REPRESENTING THE COMPANY NAMED ON THE FIRST PAGE OF THE DECLARATIONS.

In Witness Whereof, this company has caused this policy to be signed by its President and Secretary and countersigned on the declarations page, where required, by a duly authorized agent of the company.



John C. Roche
President

Charles Frederick Cronin
Secretary

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 02/13/2026

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 / PHONE / FAX / E-MAIL	
Service Insurance Group, Inc. PO BOX 5753, BRYAN, TX 77805	CONTACT NAME: Progressive Commercial Lines Customer and Agent Servicing 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 :	
BH Harris Construction, LLC 4044 Golden Eagle Dr Wixon Valley, TX 77808	INSURER C :	
	INSURER D :	
	INSURER E :	
	INSURER F :	

COVERAGES **CERTIFICATE NUMBER:** 417373584845362254D021326T140432 **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)	$ 1,000,000
	☐ ANY AUTO							
	☐ OWNED AUTOS ONLY ☒ SCHEDULED AUTOS	Y	Y	991217643	01/24/2026	01/24/2027	BODILY INJURY (Per person)	$
	☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY						BODILY INJURY (Per accident)	$
							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/MEMBEREXCLUDED? ☐ **(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	See ACORD 101 for additional coverage details.	Y	Y	991217643	01/24/2026	01/24/2027	$	

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
1101 Texas Ave
College Station, TX 77845

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: _____

LOC #: _____

ADDITIONAL REMARKS SCHEDULE

AGENCY		NAMED INSURED
Service Insurance Group, Inc.		BH Harris Construction, LLC 4044 Golden Eagle Dr Wixon Valley, TX 77808
POLICY NUMBER		
991217643		
CARRIER	NAIC CODE	
Progressive County Mutual Insurance Company	29203	EFFECTIVE DATE: 01/24/2026

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	$1,000,000 Combined Single Limit
Uninsured Motorist Property Damage	(included in combined single limit w/$250 Ded)

Description of Location/Vehicles/Special Items

Scheduled autos only

2024 CHEVROLET SILVERADO 2GC4YREY4R1219963	
Comprehensive	$1,000 Ded
Collision	$1,000 Ded
Rental Reimbursement	$40 Per Day ($1,200 Max)
Personal Injury Protection	$5,000 each person
Roadside Assistance	Selected w/$0 Ded
Loan/Lease Gap	25% of the actual cash value
2023 CHEVROLET SUBURBAN 1GNSKGKT5PR425987	
Comprehensive	$1,000 Ded
Collision	$1,000 Ded
Personal Injury Protection	$5,000 each person

Additional Information

Blanket Waiver of Subrogation in favor of the 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. The certificate holder is an additional insured if required by written contract executed by the named insured prior to the occurrence of any loss, per blanket AI endorsement.

This policy is primary and non-contributory as to The City Of College Station regardless of whether Holder is a named insured of any other policy.

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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:

COMMERCIAL GENERAL 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.

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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
Any person or organization to which you are obligated by virtue of a written contract to provide insurance such as is afforded by this policy, but only with respect to (1) occurrences taking place after such written contract has been executed and (2) occurrences resulting from work performed by you during the policy period, or occurrences resulting from the conduct of your business during the policy period.	
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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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 to which you are obligated by virtue of written contract to provide insurance such as is afforded by this policy, but only with respect to occurrences taking place after such written contract has been executed.	
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.

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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 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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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:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Person or Organization:

Any person or organization to which you are obligated by virtue of a written contract to provide insurance such as is afforded by this policy, but only with respect to (1) occurrences taking place after such written contract has been executed and (2) occurrences resulting from work performed by you during the policy period, or occurrences resulting from the conduct of your business during the policy period.

(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 (Section **IV** – COMMERCIAL GENERAL LIABILITY 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.

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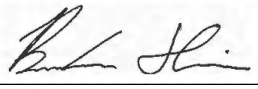
EXHIBIT D
PLANS AND SPECIFICATIONS

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

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: 

Title: President

Typed Name: Braden Harris

Company Name: BH Harris Construction

Phone No.: 979-777-0828

Fax No.:

Email: Bharris@BHHarrisConstruction.com

Proposal Address:

1011 Texas Ave	College Station,	TX	7845
P.O. Box or Street	City	State	Zip

Order Address:

1000 Eleanor St	College Station,	TX	77840
P.O. Box or Street	City	State	Zip

Remit Address:

4044 Golden Eagle Dr.	Bryan,	TX	77808
P.O. Box or Street	City	State	Zip

Federal Tax ID No.: 92-3420325

DUNS No.: 127655647

Date: 1/20/2026

PROPOSAL NO. 26-027

PROPOSAL FORM

Date: 1/20/2026

PROPOSAL FROM: RFP 26-027 : Lincoln Center Area Improvments

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

The Undersigned proposes to furnish all labor, services, materials, tools and necessary equipment for the construction of the Lincoln Center Area Improvement 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.

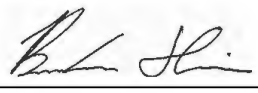
The Undersigned certifies that this Proposal is made in good faith, without collusion or connection with any other person, persons, partnership, company, firm, association, or corporation offering Proposals on this work, for the following sum or prices to wit:

BASE PROPOSAL: Stipulated Total Bid of: ($ 474,128.00)

CALENDAR DAYS: Total number of calendar days to substantial completion is 300 days.

RECEIPT OF ADDENDA
I hereby acknowledge receipt of the following Addenda: 1

CONTRACTOR NAME: BH Harris Construction

CONTRACTOR SIGNATURE: 

February 26, 2026
Item No. 8.4.
EMS Billing

Sponsor: Richard Mann, Chief of Fire and Emergency Services

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action on a contract with Digitech Computer, LLC. in an amount not-to-exceed $225,000 for EMS billing services, accounts receivable, delinquent accounts collection, medical records requests, fire billing, and other related fire and EMS billing and records services.

Relationship to Strategic Goals:

1. Good Governance
2. Core Services

Recommendation(s): Staff recommends approval of this contract.

Summary: This agenda item recommends award of the City's EMS billing services contract to Digitech following completion of a competitive RFP process. If approved, Digitech would replace the City's current provider, Emergicon. Digitech is recommended based on its demonstrated commitment to compliance, industry best practices, and regulatory awareness, supported by its participation in professional organizations that provide ongoing legal and industry updates. The firm offers comprehensive compliance-focused training, automated monitoring and fraud detection systems, and robust quality assurance programs emphasizing daily compliance verification and personnel screening. Digitech also provides EMS billing legal and compliance advisory services, along with secure online portals that allow patients to manage payments and enable administrators to access real-time reporting**.**

Budget & Financial Summary: The current cap for similar services were previously awarded to Emergicon with the same not to exceed amount of $225,000. This is based on a 4.95 % fee for services on funds collected.

Attachments:
1. 26300297--KJ (CC 2.26.26)

CONTRACT & AGREEMENT ROUTING FORM

CONTRACT#: 26300297 PROJECT #: N/A BID/RFP/RFQ#: 26-022

Project Name / Contract Description: Automated Ambulance Billing, Accounts Receivable, and Other Services

Name of Contractor: Digitech Computer LLC

CONTRACT TOTAL VALUE: $ 225,000.00 **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)

Six (6) responses were received for RFP 26-022, two (2) of which were deemed non-responsive. The evaluation committee reviewed and scored the remaining proposals and determined that Digitech Computer LLC was the highest-ranked firm offering the best value.

Funds are available in the General Fund - Accounting Division.

*(If required)**

CRC Approval Date*: 02.02.2026 **Council Approval Date*:** 02.26.2026 **Agenda Item No*:** _____

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

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

SIGNATURES RECOMMENDING APPROVAL

Richard Mann — 2/5/2026
DEPARTMENT DIRECTOR/ADMINISTERING CONTRACT — DATE

[signature] — 2/5/2026
ASST CITY MGR – CFO — DATE

David Purnell — 2/5/2026
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

TECHNOLOGY SERVICES CONTRACT

This Contract is by and between the **City of College Station**, a Texas Municipal Home-Rule Corporation (the "City") Digitech Computer LLC, a New York Corporation (the "Consultant"), whereby Consultant agrees to perform and the City agrees to pay for the work described herein.

ARTICLE I
SCOPE OF SERVICE

1.01 This Contract is for Automated Ambulance Billing, Accounts Receivable, and Other Services addressed in RFP 26-022 (the "Project"). The scope and details of the work to be provided to the City by Consultant for the Project are set forth in **Exhibit "A"** to this Contract and are incorporated as though fully set forth herein by reference (the "Work"). Consultant agrees to perform or cause the performance of all the work described in **Exhibit "A."**

1.02 Consultant agrees to perform the work described in **Exhibit "A"** hereto and the City agrees to pay Consultant a fee based on the rates set forth in **Exhibit "B"** to this Contract for the Work performed by Consultant. The invoices shall be submitted to the City following the 15th day and the last day of each month. The payment terms are net payable within thirty (30) calendar days of the City's receipt of the invoice. Upon termination of this Contract, payments under this paragraph shall cease, provided, however, that Consultant shall be entitled to payments for work performed in accordance with this Contract before the date of termination and for which Consultant has not yet been paid.

ARTICLE II
PAYMENT

2.01 The total amount of payment, including reimbursements, by the City to Consultant for all Work to be performed under this Contract may not, under any circumstances, exceed Two Hundred Twenty-Five Thousand and NO/100 Dollars ($225,000.00).

ARTICLE III
CHANGE ORDERS

3.01 The City may from time to time request changes in the scope and focus of the Work to be conducted by Consultant pursuant to this Contract, provided, however, that any such change that in the opinion of Consultant, the City Manager, or the City's Project Manager varies significantly from the scope of the work set out herein and would entail an increase in cost or expense to the City shall be mutually agreed upon in advance in writing by Consultant and the City's Project Manager.

(a) When the original Contract amount plus all change orders is $100,000 or less, the City Manager or his designee may approve the written change order provided the change order does not increase the total amount set forth in the Contract to more than $100,000. For such contracts, when a change order results in a total contract

amount that exceeds $100,000, the City Council of the City must approve such change order prior to commencement of the services or work; and

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

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

ARTICLE IV
TIME OF PERFORMANCE

4.01 Except as provided in Article XI hereinbelow, the 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 four (4) additional years (five (5) years total). If, for any reason, funds are not appropriated to continue the contract, the contract shall become null and void and shall terminate.

4.02 **Time is of the essence of this Contract.** The Consultant shall be prepared to provide the Work in the most expedient and efficient manner possible in order to complete the work by the times specified.

4.03 Consultant promises to work closely with the City Manager or his designee (the "Project Manager") or other appropriate City officials. Consultant agrees to perform any and all Project-related tasks reasonably required of it by the City in order to fulfill the purposes of the Work to be performed. The Work of Consultant under this Contract may be authorized by the Project Manager in various phases as set forth in **Exhibit "A."**

ARTICLE V
INDEPENDENT CONTRACTOR AND NONSOLICITATION

5.01 Independent Contractor. In all activities or work performed hereunder, the Consultant is an independent contractor and not an agent or employee of the City. The Consultant, as an independent contractor, shall be responsible for the final product contemplated under this Contract. Except for materials furnished by the City, the Consultant shall supply all materials, equipment and labor required for the execution of the Work on the Project. The Consultant shall have ultimate control over the execution of the Work under this Contract. The Consultant shall have the sole obligation to employ, direct, control, supervise, manage, discharge, and compensate all of its employees and subcontractors, and the City shall have no control of or supervision over the employees of the Consultant or any of the Consultant's subcontractors except to the limited extent provided for in this Contract. Consultant shall be liable for any misrepresentations. Any negotiations by the Consultant on the City's behalf are binding on the City only when within the Scope of Work contained herein and approved by the City.

5.02 Nonsolicitation. Consultant recognizes and understands that it will be interacting with City employees when performing Work under this Contract, and that it may cause irreparable harm to the City should one or more City employees perform work for Consultant either directly or indirectly. Because of this, Consultant agrees that it shall not directly or indirectly, personally or through others, solicit or encourage, or attempt to solicit or encourage on Consultant's own behalf or on behalf of any other person or entity for hire or use the work of any employee or other consultant of the City or any of City's agents or officials. Consultant agrees to adhere to this requirement for a minimum of one year following termination of this Contract. This provision shall survive termination of this Contract.

ARTICLE VI
AUTHORIZATION

6.01 The City shall direct Consultant to commence Work on the Project by sending Consultant a "letter of authorization" to begin Work on the Project.

6.02 Upon receipt of the letter of authorization to begin Work on the implementation of the Project, Consultant shall meet with the City for the purpose of determining the nature of the Project, including but not limited to the following: meeting with the City's staff to coordinate Project goals, schedules, and deadlines; coordinating data collection; briefing the City's management staff; documenting study assumptions, methodologies and expectations; devising the criteria to be met for both interim goals and final completion of the Work.

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

ARTICLE VII
WARRANTY

7.01 As an experienced and qualified professional, Consultant warrants that the Work provided by Consultant reflects high professional and industry standards, procedures, and performances. Consultant warrants the design, preparation of drawings, the designation or selection of materials and equipment, the selection and supervision of personnel, the fitness and operation of its recommendations, and the performance of other work under this Contract, pursuant to a high standard of performance in the field in which Consultant works. Consultant warrants that it will exercise diligence and due care and perform in a good and workmanlike manner all of the work pursuant to this Contract. Approval or acceptance by the City of any of Consultant's work product under this Contract shall not constitute, or be deemed, a release of the responsibility and liability of Consultant, its employees, agents, or associates for the exercise of skill and diligence necessary to fulfill Consultant's responsibilities under this Contract. Nor shall the City's approval or acceptance be deemed to be the assumption of responsibility by the City for any defect or error in the Project's Work products prepared by Consultant, its employees, associates, agents, or subconsultants.

7.02 Consultant shall keep the City informed of the progress of the Work and shall guard against any defects or deficiencies in its work.

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

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

ARTICLE VIII
INDEMNIFICATION AND RELEASE

8.01 Indemnity. The Consultant agrees to indemnify, defend, and hold harmless the City, its officers, employees, volunteers and agents (separately and collectively referred to in this paragraph as "Indemnitee"), from and against any and all claims, losses, damages, causes of action, suits, judgments, settlements made by Indemnitee, and liability of every kind, including all expenses of litigation, court costs, attorney's fees, and other reasonable costs for damage to or loss of use of any property, for injuries to, or sickness or death of any person, including but not limited to Consultant, any of its subconsultants of any tier, or of any employee or invitee of Consultant or of any such subconsultants, that is caused by, arises out of, related to, or in connection with, the negligence of and/or negligent performance of this Contract by Consultant or by any such subconsultants of any tier, under this Contract. There shall be no additional indemnification other than as set forth in this section. All other provisions regarding the same subject matter shall be declared void and of no effect.

8.02 It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of the indemnification obligation under Paragraph 8.01, such legal limitations are made a part of the indemnification obligation and shall operate to amend the indemnification obligation to the minimum extent necessary to bring the provision into conformity with the requirements of such limitations, and as so modified, the indemnification obligation shall continue in full force and effect.

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

8.04 Limitation. Consultant's liability hereunder is limited to the amounts covered by the insurance required by this Agreement.

ARTICLE IX
INSURANCE

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

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

(a) Commercial General Liability.

(b) Business Automobile Liability.

(c) Workers' Compensation/Employer's Liability.

(d) Professional Liability.

(e) Cyber Liability.

9.03 Certificates of Insurance. For each of these policies, the policy shall be endorsed to show the Consultant's insurance coverage as primary with respect to the City, its officials, agents, employees, and volunteers. Any insurance or self-insurance carried or obtained by the City, its officials, agents, employees, or volunteers, shall be considered in excess of the Consultant's insurance and shall not contribute to it. No term or provision of the indemnification provided by the Consultant to the City pursuant to this Contract shall be construed or interpreted as limiting or otherwise affecting the terms of the insurance coverage. All Certificates of Insurance and endorsements shall be furnished to the City's Representative at the time of execution of this Contract, on the most current State of Texas Department of Insurance-approved forms, attached hereto as **Exhibit C**, and approved by the City *before* work commences.

9.04 Additional Insurance. The Consultant shall include all subconsultants as Additional Insureds under its policies or shall furnish separate certificates and endorsements for each subconsultant. Coverages for subconsultants shall be subject to all requirements stated herein.

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

(a) Only licensed insurance carriers authorized to do business in the State of Texas shall be accepted.

(b) Deductibles shall be listed on the certificate of insurance and are acceptable only on an "occurrence" basis.

(c) "Claims made" policies are not accepted, except for Professional Liability insurance.

(d) Coverage shall not be suspended, voided, canceled, or reduced in coverage or in limits of liability except after thirty (30) calendar days written notice has been given to the City of College Station.

(e) The Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent. Each certificate shall contain the following provisions and warranties:

i. The licensed insurance company is authorized to do business in the State of Texas

ii. The insurance policy is underwritten on forms provided by the Texas State Board of Insurance or ISO

iii. All endorsements and coverages are included according to the requirements of this Contract

iv. The form of notice of cancellation, termination, or change in coverage provisions is specified in this attachment

(f) The City of College Station, its officials, agents, employees, and volunteers are to be named as Additional Insureds on the Commercial General Liability and Business Automobile Liability Policies. The coverages shall contain no special limitations

on the scope of protection afforded the City, its officials, agents, employees, and volunteers.

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

(a) Coverage shall be written by a carrier rated "A: VIII" or better in accordance with the current A. M. Best Key Rating Guide.

(b) Minimum limits of liability of $1,000,000 per occurrence per project with a $2,000,000 annual aggregate limit.

(c) Coverage shall be at least as broad as Insurance Service's Office (ISO) Number CG 00 01.

(d) No coverage shall be excluded from the standard policy without notification of individual exclusions being attached for the City's review and acceptance.

(e) The coverage shall not exclude: premises/operations; independent contracts; products/completed operations; contractual liability (insuring the indemnity provided herein); and Host Liquor Liability.

(f) The City shall be named as Additional Insured and policies endorsed to waive rights of subrogation and to be primary and non-contributory with regard to any self-insurance or insurance policy held by the City.

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

(a) Coverage shall be written by a carrier rated "A:VIII" or better in accordance with the current A.M. Best Key Rating Guide.

(b) Minimum Combined Single Limit of $1,000,000 per occurrence for bodily injury and property damage.

(c) The Business Auto Policy must show Symbol 1 in the Covered Autos portion of the liability section in Item 2 of the declarations page.

(d) The coverage shall include owned, leased, or rented autos, non-owned autos, any autos and hired autos.

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

(a) Employer's Liability limits of $1,000,000 for each accident is required.

(b) "Texas Waiver of Our Right to Recover from Others Endorsement, WC 42 03 04" shall be included in this policy.

(c) Texas must appear in Item 3A of the Workers' Compensation coverage or Item 3C must contain the following: All States except those listed in Item 3A and the States of NV, ND, OH, WA, WV, and WY.

9.09 Professional Liability requirements. The following Professional Liability requirements shall apply:

(a) Coverage shall be written by a carrier rated "A:VIII" or better in accordance with the current A. M. Best Key Rating Guide.

(b) Minimum limits of liability of $1,000,000 per occurrence and $2,000,000 aggregate, with a maximum deductible of $100,000 unless otherwise agreed in writing by both parties. Financial statements shall be furnished to the City upon request.

(c) Consultant must continuously maintain professional liability insurance with prior acts coverage for a minimum of two years after completion of the Project or termination of this Contract, as may be amended, whichever occurs later. Coverage under any renewal policy shall include a retroactive date that precedes the earlier of the effective date of this Contract or the first performance of work for the Project. The purchase of an extended discovery period or an extended reporting period on this policy will not be sufficient to comply with the obligations hereunder.

9.10 Cyber Liability. Minimum limits of $5,000,000 for third party losses. Coverage must include:

(a) Event Management;

(b) Unauthorized Access/use;

(c) Computer Virus;

(d) Denial of Service Attack;

(e) Libel, Cyber-libel, Slander, Product Disparagement;

(f) Violation of Right of Privacy;

(g) Regulatory Costs;

(h) Privacy Costs- Privacy Injury and Identity Theft;

(i) Programming Errors & Omissions Liability;

(j) Replacement or Restoration of Electronic Data (First Person);

(k) Extortion Threats;

(l) Business Income and Extra Expense (to $1 million);

(m) Public Relations Expense; and

(n) Security Breach Expense.

ARTICLE X
TECHNOLOGY REQUIREMENTS

10.01 Cloud Provider. When some or all of the Consultant's Work involve being a Cloud Provider, the following shall apply:

(a) **Security Policies and Procedures.** The Consultant shall provide the City with copies of its information security policies and procedures within three (3) business days upon City's request covering:

i. Data Classification and privacy;

ii. Security training and awareness;

iii. Systems administration, patching and configuration;

iv. Incident response;

v. Managing workstations, mobile devices, and antivirus applications;

vi. Backups, disaster recovery and business partners and contractors;

vii. Audit and testing schedules;

viii. Requirements for third-party business partners and contractors;

ix. Compliance with information security or privacy laws, rules, regulations, or standards;

x. Evidence of background checks that support security of sensitive or confidential information;

xi. Disclosure of previous data breaches; and

xii. Any other relevant information regarding security policies or procedures.

(b) **Industry Best Practices.** Consultant must provide all services using the best commercially-available security technology and techniques according to industry best practices and standards; the City's security standards, policies and procedures including those relating to fraud prevention and detection and any other inappropriate system and network use or access, including:

i. Providing secure (SSL, HTTPS, or similar) access to all levels of users as defined by the City via the internet;

ii. Having controls meeting applicable laws and the latest Framework for Improving Critical Infrastructure Cyber security from National Institute of Standards and Technology (NIST) or compatible industry security frameworks;

iii. Completely testing and applying patches for hardware bios/firmware, bare metal operating systems (e.g., VMware ESXi), virtualized server operating systems, and software products before release; and

iv. Having all servers providing work to the City solely physically located within the continental United States of America. Contractor must house all

servers and equipment in an operational environment meeting industry standards including a climate-controlled room with a fire and security hazard detection system and a network and electrical redundancy system, including backup Uninterruptable Power Supply (UPS) and automatic fail-over stand-by generators and physical security.

(c) Data Breach.

i. **Notice.** Consultant must immediately notify the City by telephone and email no later than twenty-four (24) hours if there is a reasonable probability of a data security incident. Consultant must send a written letter following up on the data security incident within forty-eight (48) hours following a data breach. The Consultant must:

1. Cooperate with the City's request to investigate and resolve the incident in a timely manner;
2. Promptly implement necessary remedial measures; and
3. Document responsive actions taken related to the data breach, including any post-incident review and actions taken to make changes in business practices in providing the work, if necessary.

ii. Consultant Agreement Breach. If a data breach results from Consultant's breach of the Contract, Consultant must:

1. Bear any costs associated with the investigation and resolution of the data breach
2. Notify individuals, regulators and all others required by Identity Theft Enforcement and Protection Act in the Texas Business and Commerce Code Chapter 521 Unauthorized Use of Identifying Information;
3. Engage a credit monitoring service or identity protection service;
4. Publish a website or toll-free number and call center for affected individuals as required by state or federal law;
5. Complete all corrective actions as reasonably determined based on root cause; and
6. Send the City written findings and remedial measures from the data breach.

(d) Preventive Security Procedures. Consultant must:

i. Provide on-going software updates as they become available complying with the defined maintenance windows. The Consultant must completely test updates; including any bug fixes, patches, and other improvements;

ii. Monitor system and error logs and perform preventive maintenance to minimize and predict system problems, including initiating and completing an appropriate response;

iii. Conduct a third-party independent security/vulnerability assessment at its own expense at least annually and submit the results of such assessment to the City;

iv. Agree to third-party application and vulnerability security scans and schedules;

v. Comply with the City's directions/resolutions to remediate security/vulnerability assessment results aligning with City Security Vulnerability Assessment Standards;

vi. Limit logical and physical access to all system components and provide access only to those individuals with a business need for work provided. Individuals who have access to systems and data must have a criminal background check;

vii. Annually audit the data center through an independent third-party auditor. Audit results must form part of the Consultant's applicable Service Organization Control (SOC) report. The audit results must comply with industry standard controls for data security and disaster recovery that the Consultant shall report to the City in writing; and

viii. Take all necessary measures to protect the data and encryption keys including, but not limited to the off-site servers daily backup according to industry best practices and encryption techniques.

(e) Disaster Recovery. Consultant must comply with any and all City disaster recovery and resiliency protocols to prevent system interruption. In the event of system breach, Consultant shall notify the City and restore the system within twenty-four (24) hours from discovery of breach.

(f) Closeout.

i. Agreement Expiration. When the Agreement term expires or terminates, and at any other time at the City's written request, Consultant must promptly return to the City all intellectual and physical property subject to the Agreement including, but not limited to system configuration data and information in file or document formats in the Contractor's possession or control.

ii. Access. The City will have access to export and retrieve its data for no less than ninety (90) days after the Agreement expiration or termination date. The City must be able to access its data at any time during the Agreement term in a readily readable, structured, and documented format, such as CSV-format or MicroSoft SQL. The Consultant must provide the City transition work after Agreement expiration or termination at Consultant's then-current and generally-charged hourly rates.

iii. Data Removal. At the City's request upon Agreement expiration or termination, the Consultant must remove, delete, purge, overwrite or otherwise render inaccessible within a reasonable time, all City data remaining on Consultant's servers to the extent possible based on the then-

current technology available. Contractor must provide the City a written and signed statement confirming data has been deleted, purged, overwritten, or otherwise rendered inaccessible. If the Contract is renewed for more than 10 years, data over 10 years old may be destroyed and discarded on a rolling basis. The Consultant will not otherwise delete the City's data without City's prior written consent.

10.02 Premise Solutions. When some or all of the Consultant's Work involve providing Premise Solutions, the following shall apply:

(a) Requirements: Contract must:

i. Provide the City with its security architecture. The security architecture must at a minimum meet applicable laws and the latest Cybersecurity Framework for Improving Critical Infrastructure from National Institute of Standards and Technology (NIST) or compatible industry security frameworks;

ii. Have data access limited to only required support service;

iii. Evidence of background checks that support security of the City's sensitive or confidential information;

iv. Notify the City within twenty-four (24) hours when any patches resulting from security vulnerability and threats become available;

v. Provide City with all applicable security assessments, audits and certifications related to system security annually;

vi. Train City staff on security-related procedures regarding system operation and maintenance; and

vii. Take all necessary measures to protect the City's data and data encryption when applicable.

(b) Data Breach.

i. **Notice.** Consultant must immediately notify the City by telephone and email no later than twenty-four (24) hours if there is a reasonable probability of a data security incident. Consultant must send a written letter following up on the data security incident within forty-eight (48) hours following a data breach. The Consultant must:

1. Cooperate with the City's request to investigate and resolve the incident in a timely manner;

2. Promptly implement necessary remedial measures; and

3. Document responsive actions taken related to the data breach, including any post-incident review and actions taken to change business practices in providing the work, if necessary.

ii. **Consultant Agreement Breach.** If a data breach results from Consultant's breach of this Agreement, Consultant must:

1. Bear any costs associated with the investigation and resolution of the data breach;
2. Notify individuals, regulators and all others required by Identity Theft Enforcement and Protection Act in the Texas Business and Commerce Code Chapter 521 Unauthorized Use of Identifying Information;
3. Engage a credit monitoring service;
4. Publish a website or a toll-free number and call center for affected individuals as required by state or federal law;
5. Complete all corrective actions as reasonably determined based on root cause; and
6. Send the City written findings and remedial measures from the data breach.

(c) Data Removal. At the City's request upon Agreement expiration or termination, the Consultant must remove, delete, purge, overwrite or otherwise render inaccessible within a reasonable time, all City data remaining on Consultant's servers to the extent possible based on the then-current technology available. Consultant must provide the City a written and signed statement confirming data has been deleted, purged, overwritten, or otherwise rendered inaccessible. The Consultant will not otherwise delete the City's data without City's prior written consent.

10.03 Background Checks. The Consultant agrees to assume all responsibility for and to perform background checks on all its employees, agents and assigns working on the Project. Such background checks include but are not limited to, criminal records and civil judgments, professional license verifications, motor vehicle records, social security number, court records, military service records, other public records reports, and verifications of employment, and education. This must be done prior to such individuals commencing their work on the Project. Consultant agrees to produce any and all background checks information as described herein when requested to the City. To the degree allowed by applicable law, City agrees to keep such information confidential.

10.04 Change Management. Any major change to the system shall be authorized and approved by the City. The changes will follow the change management process outlined by the City and in accordance with this Contract. All enhancements and upgrades shall be included in the change management scope of work. All changes will be reasonably tested by the vendor in accordance with the requirements of the City. All major upgrades with exception to emergency

upgrades, such as to address a vulnerability, will be scheduled on a calendar and back-out plans presented to the City.

10.05 Work Completion. Unless explicitly provided for otherwise in this Contract or expressly mutually agreed upon by the parties in writing, the Work will be considered complete when it functions in the City's current technology environment.

ARTICLE XI
TERMINATION

11.01 At any time, the City may terminate the Project for convenience, in writing. At such time, the City shall notify Consultant, in writing, who shall cease work immediately. Consultant shall be compensated for the work performed. In the event that the City terminates this Contract for convenience, the City shall pay Consultant for the work performed and expenses incurred prior to the date of termination.

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

ARTICLE XII
MISCELLANEOUS TERMS

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

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

CITY:	**CONSULTANT:**
City of College Station	DIGITECH COMPUTER LLC
Attn: Joshua Varner	Attn: Walter C Pickett II, CEO
P.O. Box 9960	480 Bedford Road, Suite C-202
College Station, Texas 77842	Chappaqua, NY, 10514
jvarner@cstx.gov	contracts@digitechcomputer.com

12.03 Performance of Work. Consultant, its employees, associates or subconsultants shall perform all the Work hereunder. Consultant agrees that all of its associates, employees, or

subconsultants who work on this Project shall be fully qualified and competent to do the Work described hereunder. Consultant shall undertake the Work and complete it in a timely manner.

12.04 Compliance. The Consultant shall comply with all applicable federal, state, and local statutes, regulations, ordinances, and other laws, including but not limited to the Immigration Reform and Control Act (IRCA). The Consultant may not knowingly obtain the labor or work of an unauthorized alien. The Consultant, not the City, must verify eligibility for employment as required by IRCA.

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

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

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

12.08 Prioritization. Consultant 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 Consultant to this Contract as exhibits that conflict with such laws, or that conflict with the terms and conditions herein excluding the additions by Consultant. In either case, the applicable law or the applicable provision of this Consultant excluding such conflicting addition by Consultant shall prevail. The parties understand this section comprises part of this Contract without necessity of additional consideration.

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

12.10 Bound by Terms. The parties acknowledge that they have read, understood, and intend to be bound by the terms and conditions of this Contract.

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

12.12 No Boycott Israel. To the extent applicable, this Contract is subject to the following:

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

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

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

List of Exhibits

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

DIGITECH COMPUTER LLC

By: Walt Pickett

Printed Name: Walt Pickett

Title: Chief Executive Officer

Date: 2/5/2026

CITY OF COLLEGE STATION

By: _____

City Manager

Date: _____

APPROVED:

David Purnell

City Attorney

Date: 2/5/2026

Assistant City Manager/CFO

Date: 2/5/2026

Exhibit A
Scope of Work

Scope of work to include EMS Billing Services, HazMat Billing Services, and ASPP as determined annually, see attached proposal response below for more details….

TAB B - RATES AND EXPENSES

1. Provide a proposed fee schedule broken down by task (scope of work outlined above). Express your administrative fee in a lump sum not-to-exceed maximum amount and separate price for travel and related expenses (if applicable).

We are offering a fee of 4.95% of Net Collected Revenue[1] for EMS billing services. Fees for Repeat Inspections, Repeat False Alarms, HazMat Billing, and ASPP services are offered separately, per RFP requirements below.

Billing	Fee Type	Fee	Minimum Fee
EMS Billing Services	Percentage of Net Collections	4.95%	N/A
Repeat Inspection Billing	Flat Fee	$15/Inspection	N/A
Repeat False Alarm Billing	Flat Fee	$15/False Alarm	N/A
HazMat Billing	Flat Fee	$25/HazMat Billing	N/A
ASPP	Percentage of Collections	4.95%	$10,000

We have prepared this proposal under several basic assumptions, including the following:

- All billing, collection, and transport data provided by the City in its RFP is accurate and it is understood by both parties that Digitech has relied on the City's data for pricing purposes. If services are added or changed, Digitech reserves the right to renegotiate contracted fees.
- The City will provide reasonably complete demographic information as part of your Patient Care Reports, and it is understood that crews will make best efforts to provide insurance information, social security numbers, and other demographic information.
- The City will provide any remittance information received through a different account from the EMS lockbox[2] in a timely manner, including a listing of the ACH deposits by deposit date, referencing the carrier.
- The City will review claims and mark them as "ready for billing" within 10 days of the date of service.

[1] Net Collected Revenue is defined as total collected revenue less refunds.
[2] Digitech requires the establishment of a bank lockbox to receive and process payments.

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- After the contract award, good faith negotiations will take place during which both the City and Digitech can discuss and negotiate specific requirements of the RFP.

SUMMARY OF FEATURES INCLUDED IN DIGITECH'S PRICE

- All hardware and software required by Digitech personnel to perform the City's medical transport billing and collection accurately and efficiently
- All mailing forms and envelopes necessary to perform all billing functions
- Any postage necessary to mail billing or other information to patients, insurance companies, third parties, and attorneys
- All costs associated with mailing of Notices of Privacy Practices
- Availability of a national toll free 800 number for patients, City personnel, insurance companies, attorneys, and third parties to call for information or discussion of account status
- All fees related to our national database searches for patient demographic information
- All fees related to the electronic submission of claims
- All fees related to sending electronic surveys
- All fees and expenses associated with the hosting of our application
- All credit card processing fees
- An electronic interface to the City's ePCR system or to any future ePCR system chosen by the City during the term of the contract
- All fees associated with lockbox setup and management
- Ongoing review of ePCR documentation by qualified Digitech staff
- Ongoing review and analysis of rates, policies, and procedures with City officials
- Documentation compliance training for City medics through the Digitech Learning Center
- Regular meetings for review of performance on a mutually agreed upon schedule

2. Firm shall incur no travel or related expenses chargeable to the City without prior approval by an authorized City representative.

Digitech will not charge for any travel or related expenses.

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3. Consultants may submit proposals on any task or combination of tasks, and may propose alternate payment methods (ie: hourly rates). However, expenses not specifically listed will not be considered.

Digitech understands and agrees. We are not proposing any alternate payment methods.

4. The actual contract amount will be negotiated after the consultant has been selected and the scope of work finalized.

Digitech understands and agrees.

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TAB C - METHODOLOGY

SCOPE OF WORK RESPONSES

1. Proposals must include a narrative description of the Firms' plan for accomplishing the work and services to be provided to the City.

In this section we have structured our response around the Scope of Work presented in the RFP.

The successful contractor will provide billing and accounts receivable services for the City's Ambulance and Emergency Medical Services (EMS). The successful contractor will furnish an all-inclusive system that includes equipment, products, materials, supervision and labor required to provide a comprehensive, automated medical billing accounts receivable system. The City of College Station is also seeking qualified firms to manage false alarm billing, repeat inspection billing, and HazMat billing.

Digitech has carefully reviewed the scope of work and fully understands the City's all-inclusive requirements. We can confirm that we are committed to partnering with the City to meet or exceed all of the RFP requirements. This commitment applies to all aspects of our work and the ethics and integrity with which we conduct our business.

Digitech's only focus is ambulance billing, with approximately 650 employees in varying roles including: implementation teams, billing experts, compliance staff, customer service, training, supplemental payments, and more.

Throughout this section, we address each item in the RFP's Scope of Work section. We understand your stated requirements, and describe basic elements of Digitech's solution here:

- **Billing platform**. Ambulance Commander is the platform that powers our high-quality billing process. It's 100% created and owned by Digitech; we've refined and perfected the technology over the course of 41+ years. We will use Ambulance Commander to process your claims, and you will use the platform to run reports, monitor KPIs, manage documents, and provide account access to your patients.
- **Billing process**. We will provide a comprehensive, compliant billing process from receipt of the patient care report to final claim disposition. We will make use of certified coders and a dedicated Quality Assurance team to ensure that the City's claims are handled compliantly.
- **Fire billing**. We will process fire billing for a wide range of incident types, such as false alarms, permit inspections, HAZMAT calls, vehicle fires, and other billable activities.
- **Project plan**. Digitech's time-tested implementation plan is the foundation for an efficient transition and our successful partnership. We will use our technology to ensure a well-organized, speedy rollout of services with no interruption in cash flow to your organization.

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- **Communication plan**. At the outset of the project, we establish communications between Digitech project leaders and your project leaders. This includes meetings via web conference, detailed and documented implementation plan updates, email exchanges, and phone calls. After the implementation we will continue to provide collaborative and consultative services, including analytical support, projections, and analysis.
- **Management plan**. We will provide a centralized, one-team, one-system approach offers a senior management group with hundreds of years of combined ambulance billing experience and an IT team whose only function is to develop, upgrade, and maintain Ambulance Commander. Digitech's Quality Assurance team is made up of staff members who have backgrounds as EMTs, paramedics, nurses, or EMS billing professionals.
- **Transparent reporting**. Digitech's reporting system will provide real-time data to City administrators, enabling total transparency and accountability. Every aspect of our process is available and viewable, and our clients can see exactly what we see.
- **Customizable invoicing**. Our invoicing process will align with the City's requirements, and our customer service practices will align with the City's goal to provide high-quality care to your constituents.
- **ePCR integration expertise**. We have extensive experience with the integration of third-party software systems which can include ePCR, dispatch systems, bank lockbox accounts for timely payment, receiving hospital patient systems, etc. These critical integrations allow for the seamless transmission of data and are supported 24/7 by our in-house team of programmers and systems engineers.
- **TASSP services**. We will compile and file the reports to manage all aspects of the Ambulance Supplemental Payment Program. Digitech has prepared cost reports for departments of all sizes across the State of Texas.
- **Employee training**. To ensure that all employees who are involved in the billing process are confident in their knowledge of patient care documentation, Digitech will provide comprehensive and ongoing training on both documentation and HIPAA compliance. Training is available online through the Digitech Learning Center, onsite with our trainers, or in a train-the-trainer format and can be delivered in any combination of resources that suits the needs of the City.
- **Redundant disaster plan**. We offer a state-of-the-art IT framework that includes hosting, complete redundancy, and a fully implemented disaster recovery plan. Redundancy, a Tier 3 data center, mirrored databases, server virtualization, and a secondary data center make up the infrastructure that has yielded 99.999% uptime over the last five years. Our plans prepare assets required to recover from catastrophes quickly, so that the City will not experience data loss or cash flow interruption.

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- **Proprietary value-adds**. We will provide unique, proprietary, value-added services that help to recover maximum revenue from your ambulance claims. We offer tools like our award-winning PCR Lens, our data quality reporting solution which can be leveraged to improve the productivity and efficiency of your medics. It aggregates the pre-hospital data from your agency's EMS responses as they come to Digitech as Patient Care Reports. PCR Lens then displays the data in an interactive user interface. These unique, proprietary, value-added services that help to recover maximum revenue from your ambulance claims.

We recognize that implementation of a project of the scale and complexity that is required by this RFP demands attention to detail, proactive communication, careful planning, and follow-through on commitments. We are confident that our expertise and experience will enable Digitech to meet the challenges of this project and provide maximum revenue, enhanced reporting capabilities, and fully integrated systems.

All proposals must provide a statement that the firm complies with all applicable Federal, State, and local laws and regulations as they apply to the services being provided, including maintaining confidentiality for all medical and patient information in accordance with the Health Insurance Portability and Accountability Act (HIPAA) of 1996, the Health Information Technology for Economic and Clinical Health Act (HITECH) of 2009, and the HIPAA Omnibus Rule of 2013. Awarded vendor will be expected to provide an Associate Business Agreement.

Digitech has provided this statement on the Certification Page and here. Our compliance plans and collections policies adhere fully to all local, state, and federal laws and regulations regarding collections, financial transactions, privacy, and "standards of reasonable care" for information handling, management, and destruction. This includes full compliance with Fair Debt Collection Practices Act, Fair and Accurate Credit Transactions Act, Fair Credit Reporting Act, Gramm-Leach-Bliley Act, Family Educational Rights and Privacy Acts and Children's On-Line Privacy Protection Act. Digitech is committed to the highest ethical standards. We prioritize staying ahead of regulatory requirements and changes, as well as maintaining the resources we need to integrate compliance within our billing and collection activities, training, and quality management programs.

Digitech agrees to enter into an Associate Business Agreement with the City.

HIPAA COMPLIANCE

Digitech is responsible for ensuring the privacy and security of all patient information we receive or use under both the Privacy Rule and the Security Rule of the Health Insurance Portability and Accountability Act of 1996.

We are committed to ensuring that our privacy and security policies, procedures, and training are up to date and effective in safeguarding the confidentiality, integrity, and availability of all protected health information received, maintained, and transmitted by our company. We will adjust our policies and procedures accordingly based on periodic reviews and evaluations of our privacy protection systems.

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Digitech is fully compliant with all applicable HIPAA requirements. We have implemented a comprehensive HIPAA compliance program that incorporates:

- Membership in organizations that provide research and updates on current legal and best practice guidelines.
- Incorporation of detailed compliance awareness and procedures within all training systems and at all levels. Training covers regulatory requirements as well as procedures and processes developed by Digitech, including electronic configurations, business rules, and communication rules to ensure compliance with all regulatory, privacy, and security requirements.
- Automated tracking and monitoring systems including automated fraud indicator flags, compliance tracking, and intrusion detection and prevention.
- Quality assurance programs that focus on daily compliance management and verification.
- Comprehensive personnel screening and monitoring.
- Comprehensive binding terms and conditions within contracts between Digitech and suppliers.
- Outreach security and compliance assistance and training for both suppliers and customers.
- Legal and compliance advisory services.

All proposals must include specifics on the Firm's ability to provide billing services under laws and regulations specific to Texas. Address these specifics in Qualifications and experience (Tab A), Methodology (Tab C), and References (Tab E).

Digitech will comply with all Texas laws and regulations. Our Texas experience allows us to work closely with Texas associations and legislators to address issues swiftly and to the benefit of our Texas clients.

Our experience is discussed in Tabs A, C, and E.

Proposals should specify all required hardware, peripherals, software installation, testing, training, annual program updates, maintenance fees, secure data transfer protocols, and any other services and related costs associated with the following scope of work. Services shall include, but are not limited to:

Medical Billing and Related Services

The successful contractor shall provide options for electronic delivery of Patient Care Reports from the ESO collection system to the contractor's billing system. Such options may include, but are not limited to, a text file with associated layout format requirement, Adobe PDF Patient Care Reports, billing contractor login to the ESO ePCR system to process data from there, etc. The City shall not utilize "hard copy" means of delivery to the billing contractor. Further the contractor shall:

Receive electronic patient care reports from the City.

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We will receive electronic patient care reports from the City. Pre-hospital patient care reports and all associated transport data are uploaded into Digitech's system via Secure File Transfer Protocol. This process is typically completed within two to three hours each morning via an import routine written by Digitech for specific ePCR systems.

Our routines are unique in that we import *all* the information from the PCR system.

Digitech has import routines for every major ePCR system on the market, including ESO. Our routines are unique in that we import all the information from the PCR system, not just the information required for billing. This greatly increases our ability to provide reporting and analytics that directly relate your finances to your patient care. Incident numbers, transport numbers, and individual record numbers (when multiple vehicles respond to the same incident) are all recorded and associated with the claim number we assign.

On a regular basis, we perform a reconciliation to make sure that all patient care records have been imported into Ambulance Commander, our billing platform. This process, along with your own reconciliation process of matching an ePCR to each run, ensures that all billable transports dispatched have been transferred.

Once the PCR data has been reconciled, our billers can see all critical transport data, including the dispatch data, the crew data, the unit data, and so on. They can also see the PCR itself which contains the details of the patient assessment, the treatments and interventions provided, and the narrative entered by the responding medic. With this information, they begin the next step in the billing process – Verification.

Verify, gather, and/or correct missing or incorrect patient or insurance information as required to complete the billing process.

Digitech will gather and correct missing or incorrect information during our verification process. We define verification as the process of finding missing billing and demographic information and confirming the accuracy of the current data. Our verifiers do the following:

- Access multiple public and private databases to locate missing patient information.
- Contact patients by phone to get insurance information when necessary.
- Contact admitting hospitals to get patient information that we then use to find insurance information with our demographic search tools. When possible, we build electronic bridges to hospitals and directly query databases or transfer patient demographic and insurance data.
- Use clearinghouses to find or verify insurance and demographic information.

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- Provide invoicing forms with a simple insurance information section and return envelope, which makes it easy for three patients to return demographic and insurance information to Digitech by mail.
- Provide web portals for each client where patients can check the status of their accounts, make payments, update demographic profiles, provide signatures, and input insurance information.

USING PUBLIC AND PRIVATE DATABASES

Digitech uses our proprietary Sleuth search solution to connect to multiple large databases. Its search algorithms use any available data to locate additional demographic information. Our goal is to find the patient's social security number, which we then submit to other databases to find insurance information.

USING CLEARINGHOUSES

Using the demographic information available, verifiers use our automated tools to search large clearinghouse databases to find or verify available insurance information and determine eligibility. This process also allows us to identify secondary insurance that field personnel will almost never obtain, and that even the receiving hospitals may not be able to provide. We validate Medicare, Medicaid, and all insurances daily for all the claims that we receive.

In addition to verification of insurance information on file, we validate patient insurance status by feeding the verified social security number into our insurance polling system which queries insurance companies in search of a policy number associated with that social security number. Digitech uses Experian and other such databases for this process. We typically complete this validation of patient insurance status in a matter of hours on the same day the trip information was downloaded.

> Digitech's technological approach to EMS billing was key for us. We realized we needed a billing solution that was both efficient and scalable, and we're confident in Digitech's ability to cover our needs now and into the future. Their advanced billing systems will take a load off of the Department's shoulders and ultimately enable us to put more resources into training and equipment.
>
> **ALEXANDER J. PERRICONE**
> Deputy Chief, EMS, Retired
> Baltimore City Fire

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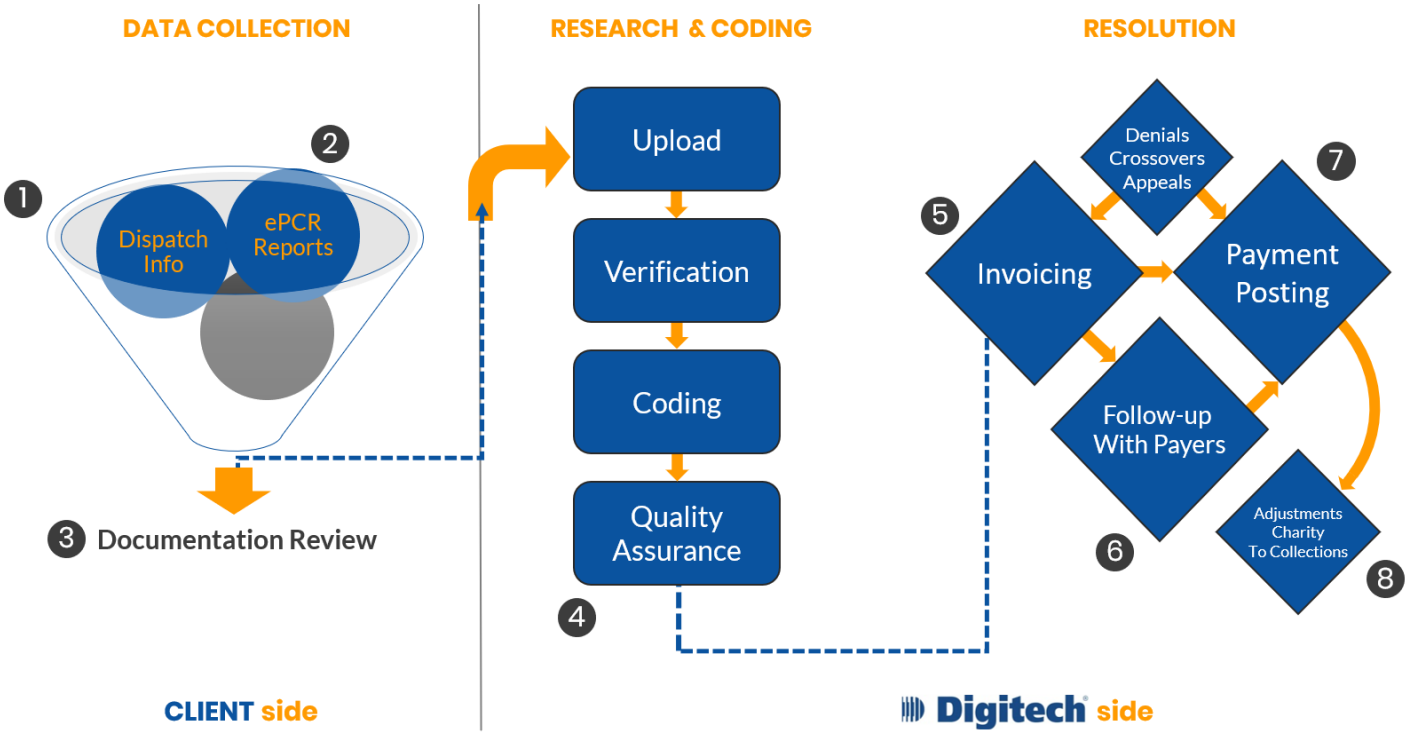
Prepare and submit accurate and complete invoices and all insurance forms and filings to all governmental, commercial and private insurance carriers.

Digitech will submit claims to all payers, including Medicare, Medicaid, and commercial insurance. Our process for creating and billing claims can be broken down into three stages: Data Collection, Research and Coding, and Resolution. In this section we outline the steps within these phases.



1. Dispatch information is captured by the ePCR application and becomes part of the data we import with the call record. Unlike many other billing companies, Digitech imports ALL of the data and makes it available for analysis.

2. The Patient Care Report is created by your responding providers on scene, during transport, at the destination, or as soon as possible after the call.

3. Usually, the client reviews the ePCR data prior to releasing it to the billing company. This review should happen as soon as possible after the call. Steps 1, 2, and 3 happen on the client's side.

4. Digitech imports the call records from the ePCR server. Typically, this happens first thing every day. Once the ePCRs are imported into Ambulance Commander and reconciled, billing process activities begin: verification of demographic and insurance information, determination of eligibility, and research to gather missing information. Once the claims have been verified, Digitech's coders review level of service, medical necessity compliance, signature compliance, narrative, and mileage.

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Verification and editing of claims is usually completed within 24 hours of receipt of ePCR data. We build electronic interfaces with your area hospitals as appropriate.

5. At this stage claims are ready to be invoiced. There is a circular dynamic created here because remittance processing often results in claims returning to the invoicing function for re-billing to secondary and tertiary payers, for denied claims to be corrected and resubmitted, for appeals processing, or for balances to be invoiced directly to patients. Approximately 98% of the compliant claims completed by our clients make it through the Data Upload, Verification, and Editing processes so that they are invoiced within 24 business hours of being received. Digitech will prepare invoices according to the rates and timelines you establish, e.g., open accounts invoiced at 30, 60, and 90 days.

6. Commercial payers, Medicare, and Medicaid are invoiced electronically within 24 hours of claims being edited. Private pay patients are sent an initial invoice within three business days of receipt of ePCR data in those cases where we have exhausted all efforts to locate and verify insurance coverage. We follow up on commercial claims every 20 days until they are resolved.

7. Remittances are processed immediately as they are received, and claims are crossed over to secondary and tertiary payers when additional coverage is available. Denials and appeals are processed within 24 hours of our receipt of remittance advice.

8. When all efforts to collect have been exhausted, Digitech will write off or adjust claims in accordance with policies we have agreed upon with you, e.g., upon sending accounts to your designated collection agency. Uncollectible claims will be adjusted after an amount of time set by the client—usually 120 days.

Surrounding and overseeing all claims processing and collection activities is Digitech's active compliance program, consisting of regular internal and external audits and daily oversight by our dedicated Quality Assurance team.

Prepare and mail invoices to patients or other third-party payers who is responsible for co-pays and/or deductibles, private pay and uninsured patients.

Our patient and other responsible payers invoicing will follow your required six-month schedule. We will follow up with patient or the patient's third party for collection of the receivable for a period of six months after payments cease by the 10th of the seventh month.

We use mailers specially designed to make it easy for patients to return valid insurance information. Our patient invoicing process is as follows:

+ Once we have exhausted all efforts to locate and verify insurance coverage for a patient, an initial invoice is sent, usually within 48 hours of our receipt of the ePCR data.

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- A statement (s) of account is generated and mailed to the patient's responsible party after the original invoice and followed up with a phone call.
- When a patient account is not paid, Digitech sends a pre-collection notice in accordance with mutually agreed policies and again follows up with a telephone call.
- Patient accounts that remain unpaid after an agreed upon number of days are sent to collections or adjusted in accordance with your policies.

We employ a positive customer service approach in dealing with overdue accounts and do not engage in any form of debtor harassment, improper language, or unreasonable conduct at any point.

Include the following information on all invoices for services rendered:

Account number
Invoice number
Invoice date
Name of patient
Name of responsible party (if different from patient)
Complete address
Date of transport
Cost of transport including cost breakdown (flat fee and mileage)
Incident number
Transport mileage from and to
Insurance coverage and instructions (if applicable)
Contractor's billing inquiry number

Digitech will include the required elements on City invoices and will customize the invoices to the City's specifications.

Provide electronic claims processing as required for Medicare and Medicaid.

Digitech will file directly and electronically with both Medicare and Medicaid.

INVOICING MEDICARE OR MEDICAID

Digitech is focused on compliance. Depending on applicable laws and regulations, before sending claims to Medicare or Medicaid we will verify that the:

- Level of service is correct
- Correct modifiers have been applied
- Signatures have been obtained
- Supporting Physician Certification Statements for non-emergency transports are attached
- Medical necessity of the transport is correctly documented
- Mileage is correct

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Maintain all records and patient information in a safe and secure manner that will allow inspection and audit by the City of College Station or its authorized agents.

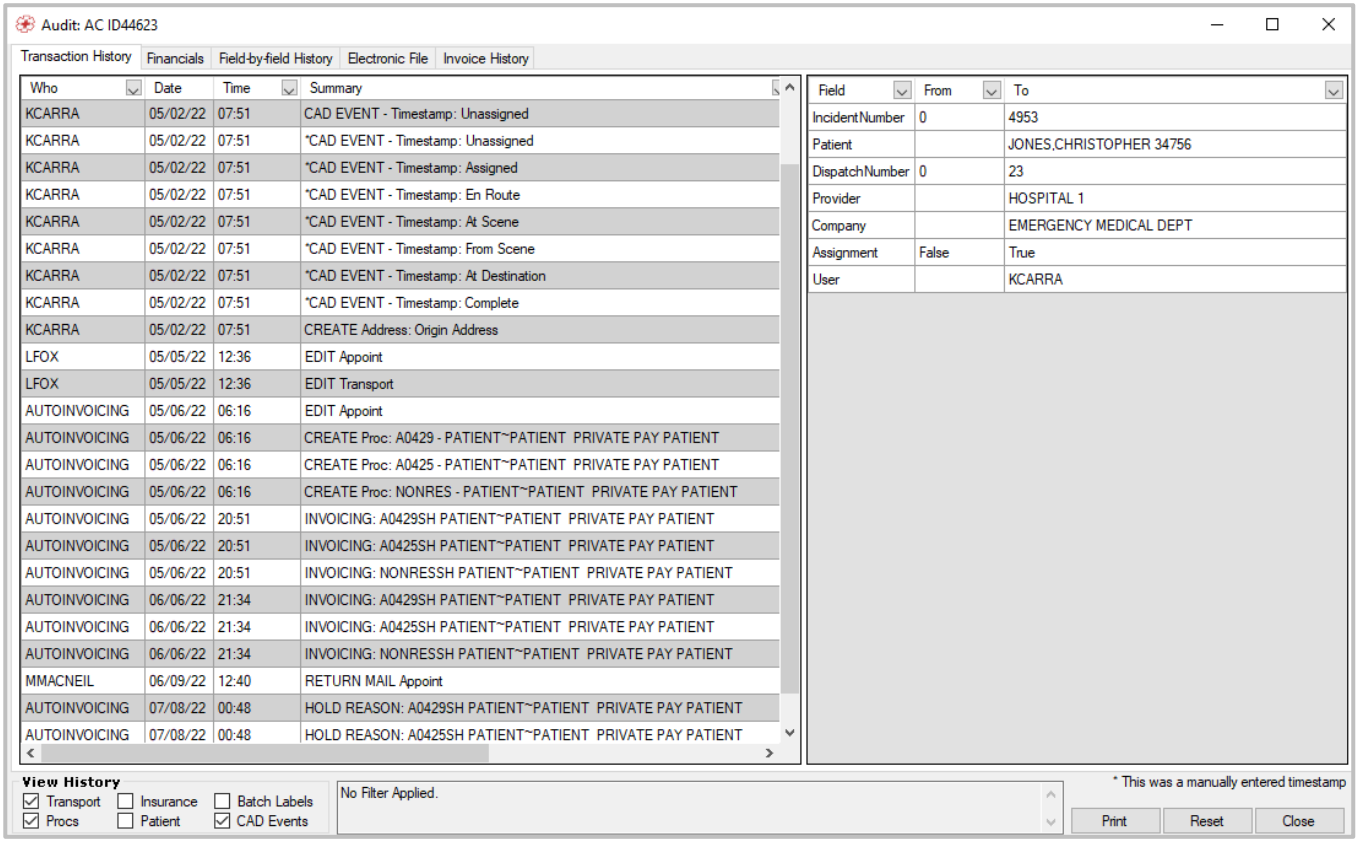
All records at Digitech will remain safe and secure. Nothing is more critical or more essential than the security and privacy of the Protected Health Information (PHI) that we handle every day. We have committed significant resources to provide our clients the highest quality hardware, software, security, and backup systems.

24/7 ACCESS TO PLATFORM

It's important to us that our clients always know exactly what's going on with the data they've entrusted to us. That's why all authorized personnel will have 24/7 real-time access to the Ambulance Commander billing platform. Real-time reporting features will enable you to keep an up-to-date picture of financial and operational statistics at your fingertips. You can track the big picture with summarized totals or drill down to the individual patient, claim, or transaction level whenever desired.

AUDIT TRAIL IN AMBULANCE COMMANDER

Auditing is baked into every solution, feature, and process in Ambulance Commander. All data change details and system events are tracked by our platform's audit trail, including data entry, record modification, and billing events. Integrity of this audit trail is vital to the platform for support, research, and compliance purposes. Ambulance Commander users can in no way manufacture or edit audit trail records from within the platform and can only access audit trail data through read-only interfaces.



Audit trail showing every activity in every claim record

Include the firm's policies and procedures for system backup and recovery.

To ensure your operations remain uninterrupted, even in the face of a disaster, Digitech has established a comprehensive Data Recovery and Business Continuity Plan. These plans are fully aligned with HIPAA Security Rule standards and are built to protect your data, maintain service availability, and restore functionality quickly. We define clear recovery point and recovery time objectives, backed by a proven incident response framework to safeguard continuity at all times.

RESILIENT INFRASTRUCTURE

Digitech's systems are hosted across geographically redundant, enterprise-grade data centers. Our primary facility is a Tier III certified site audited for SOC 2 Type II, HIPAA, PCI-DSS, and other frameworks. A secondary site provides full failover capability, ensuring ongoing access and service continuity.

Our architecture is designed to minimize data loss and downtime through near-continuous replication and rapid recovery protocols. Service availability is supported by systems engineered for 99.999% uptime.

OPERATIONAL CONTINUITY

All data is regularly backed up and monitored. In the event of a disruption, failover systems are engaged automatically, ensuring minimal interruption to client services. Testing, validation, and documentation are integral to our approach.

PROVEN READINESS

Digitech's disaster recovery framework is not theoretical. It is routinely tested through simulated failover events, documented policy reviews, and team-based response exercises. These efforts ensure that recovery procedures are well-understood, effective, and ready to be implemented without delay.

Redundancy, a tier 3 data center, server virtualization, and a secondary data center make up the infrastructure that has yielded 99.999% uptime over the last five years.

Mail a citizen survey form, at the City's request, with a return, self-addressed and postage paid envelope with original invoices. Surveys will be no more than one page and will not exceed 8.5 x 11 inches. Electronic surveys may also be utilized in conjunction with electronic billing.

Digitech will mail patient surveys as required by the City and will collate patient responses. All postage and envelopes are included and the page will not exceed 8.5x11 inches. These surveys will provide important feedback on both our performance and the performance of your transporting crews.

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While we can fulfill the requirement for paper surveys, our experience has shown that online surveys offer many advantages over mailed surveys: complete anonymity, no data entry, speed of response, ease of modification and analysis, and environmental consciousness. They also generate a higher response rate from a strong sampling of the clients transported.

Make available Customer Service Representatives to assist patients and/or third-party payees in all billing inquiries.

Digitech will provide your patients and/or third-party payees with a toll-free telephone number for customer service and patient inquiries. We have staff onsite in customer service positions during our normal business hours of 8 am – 5 pm ET.

After-hours calls are directed to our user-friendly voice mail service that allows patients to leave information for follow-up by our Customer Service Representatives. Calls are returned to patients the next business day. On weekends and holidays, patient voicemail and email communications are checked at least once per day.

SUPPORT AVAILABLE TO YOU

Because emergency service providers are always on the job, Digitech's support team is on call around the clock for you. During our normal business hours of 8am – 5pm ET, Monday through Friday, our support team is available to respond to any questions that you may have.

Outside of business hours, you can reach the Digitech team by phone to handle any urgent technical needs. Senior Management provides direct contact information to our clients, including personal mobile numbers, to enable the escalation of any issue to the highest levels of attention that may be required.

> We couldn't be happier with Digitech. Completely aside from the increase in collections, the people at Digitech have been very responsive whenever any type of issue has arisen, and have implemented custom features and specialized reports whenever we asked for them. There's no question that the partnership has led to better care for our patients and better standards of care across our department.
>
> **GARY LUDWIG**
> Former Deputy Chief
> Memphis Fire Department, TN

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Accounts Receivable

All patient account payments (checks, cash, money orders, credit cards) are to be payable to City of College Station and will be deposited electronically in the City's depository account or lock box without withholding any contractor fees, expenses, or commissions.

Further the contractor shall:

Receive payments made payable to the City of College Station directly from the patient or other responsible party and governmental, commercial and/or private insurance companies.

Digitech will not withhold fees, expenses, or commissions when accepting payments on behalf of the City. Remittances are received and processed through a bank lockbox[3] . A lockbox facilitates the payment process in the following ways:

- All payments will be immediately credited to your account. Digitech will never have control over your cash.
- All payments will be immediately credited to the patient's account.
- The bank will image all documentation so that both parties can view payment details at any time.
- The lockbox simplifies the process of reconciling deposits. Once a payment is received, often in the form of an Explanation of Benefits, funds are immediately posted to your account. Cash is reconciled every day. We never have unapplied accounts.

> The City of Houston was profoundly pleased to discover that Digitech does not carry an unapplied funds account. We rest easy knowing that every dollar is correctly allocated.
>
> **LATOYA JASPER**
> Former Deputy Assistant Director, Finance
> City of Houston, TX

[3] Digitech requires the establishment of a bank lockbox to receive and process payments.

List acceptable payment methods on the invoice and include the following options. Proposals must list the payment methods proposed:

Mail in payment made payable to the City of College Station with coupon (contractors')

All acceptable payment methods will be listed on the invoice. Invoices will have a payment coupon.

Mail in payments or electronic funds payments are acceptable forms of payment.

PAYMENT VIA PAPER CHECK

- Paper checks are received in a PDF format with the scanned check followed by the EOB.
- Each paid claim is pulled into Digitech's general posting function using the invoice number included with the payment.
- The payment is posted by procedure code for insurance.
- If the insurance carrier provides 835 Electronic Remittance Advice files, the payment is posted using the 835.
- If there is no 835-remittance available, the payment is posted in general posting.
- Any remaining balance after receipt of payment from insurance providers will be appealed or crossed over to the next payer, depending on the contract the City may have with the payer or the specific type of insurance plan.

PAYMENT VIA ELECTRONIC FUNDS TRANSFER

- Electronic funds transfer payments are sent to Digitech by the client or made available to us via login to your lockbox.
- All electronic funds transfer payments are posted via 835 ERA files.
- Each deposit date is balanced using a spreadsheet listing out the totals for the lockbox deposit and each carrier that pays via electronic funds transfer.
- Any amount that is not posted by Digitech is shown on the remittance spreadsheet as Non-Digitech Cash.
- Each day's report will show total amounts for both Digitech and Non-Digitech payments arranged by payment source (lockbox or electronic funds transfer).

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Call a toll-free number and provide payment information to a contractor clerk.

Calling in with account information is not offered. Digitech is PCI DSS compliant, and accepting credit card information over the phone is against PCI DSS compliance policy. Our preferred payment method for payments is to connect our payment portal to the clients' credit card merchant processor. Patients access their account information through our secure and convenient online interface. Through our portal, patients can provide insurance or demographic information and review the status of their account. Credit and debit card payments, including payments via health saving account and flexible savings cards, can also be made through Portal's 256-bit SSL self-service payment interface. All credit card transactions processed for you will be handled in compliance with Payment Card Industry Data Security Standard regulations.

Patient card transactions are PCI DSS compliant

PCI DSS COMPLIANT

Portal information and capabilities are presented in **Appendix B**.

Post payments, adjustments, refunds/credits and re-submission of insurance provider claims to each patient account. The contractor will be required to correct/update all patient information while posting these transactions.

Digitech agrees with these requirements.

Document and Refund Overpayments

Perform pre-collection services on unpaid accounts. Contractor shall follow up with patient or patient's third party for collection of the receivable for a period of six (6) months after payments cease by the 10th of the seventh month. Example: If service is rendered on January 1, the collection period begins on February 1 and by August 10 the receivable is turned over to a collection agency. Contractors will be allowed to retain any account if payments are made pursuant to an agreed upon schedule.

Compliant claims make it through pre collection activities data upload, verification, and editing so that they are invoiced within 24 business hours of being received.

Digitech will prepare invoices according to the rates and timelines you establish. Please see the response to the item *Prepare and mail invoices to patients or other third-party payers who is responsible for co-pays and/or deductibles, private pay and uninsured patients.* for additional detail.

REFUNDS AND OVERPAYMENTS

Digitech's established method of processing refunds is as follows:

1. We submit a refund request to the client.
2. The client writes the refund check and notifies Digitech.
3. Digitech makes the financial adjustment to the account.

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All work performed under this contract shall be of the highest professional standards and shall in every respect meet or exceed standard industry practice and comply with the Fair Debt Collection Practices Act. No harassing or "strong-arm" collection tactics shall be employed.

While performing services on your behalf, Digitech commits to the highest level of professionalism in patient interactions. We provide clients a toll-free telephone number for customer service and patient inquiries. We have bilingual (English and Spanish) staff onsite in customer service positions during our normal business hours of 8am – 5pm ET and utilize translation services for other languages as necessary.

After-hours calls are directed to our user-friendly voicemail service that allows patients to leave information for follow-up by our Customer Service Representatives (CSR). Calls are returned to patients the next business day. On weekends and holidays, patient voicemail and email communications are checked at least once per day.

In customer service as in all our operations, Digitech is committed to the highest ethical standards. Our CSRs are experts at dealing with patient issues and are well trained and knowledgeable in EMS billing practices and procedures. Your calls will be answered with a custom greeting such as, “College Station EMS” and patients are counseled through every step of the payment process.

Digitech personnel will ensure that all patient interactions are professional and friendly. Sensitivity to your organization’s reputation is our foremost consideration. We pride ourselves on our exceptional customer service. We invite you to contact any of our clients to ask how they feel about the way we handle their patients.

We comply with the Fair Debt Collection Practices Act. And no harassing or "strong-arm" collection tactics will be employed.

I want you to know that I believe Digitech’s staff to be one the best organizations I have worked with – friendly, professional, and very timely with our requests.

KRISTI GARLAND
Treasury Accountant
City of Des Moines, IA

The City of College Station is open to alternative approaches to accounts receivables and collections if the new approach is more efficient and effective than listed above for both parties.

Digitech understands. Digitech has offered an alternative approach to the requirement requesting the ability to call in with payment account information (Item “*Call a toll-free number and provide payment information to a contractor clerk*”).

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Delinquent Account Collections

The City is interested in obtaining proposals that include delinquent account collections not collected during the initial billing process as outlined in this RFP, please describe the collection process. Contractors may provide other alternative recommendations that the firm would use for debt collection on delinquent accounts. Please submit expenses for these services separately from other services outlined in this RFP.

When we have not been able to make any contact or retrieve any kind of insurance information for a patient, Digitech will adjust claims according to your policies. We will prepare and transmit a file containing the claim data to your designated debt collection agency in a format and on a schedule determined jointly between Digitech, the collections agency, and the City.

Digitech has experience with collection agencies across the nation and while we prefer to keep our relationships with collection services at arm's length to avoid any appearance of conflict of interest. We would be happy to recommend services that we have found to be reputable.

Reporting

The successful contractor will provide sample of all standard reports available through their system via an internet-based reporting system. These reports shall include, but are not limited to the following:

Distribution of Charges and Collections -This report will track the charges, payments and insurance class mix of all patients for a given month. (Provide sample of this report)

Aged Receivable Report -This report will have outstanding invoices sorted by date for current, thirty, sixty, ninety and over ninety days. This report will provide totals for these categories. (Provide sample of this report)

Patient Alpha Listing -This report lists all invoices alphabetically by patient name. (Provide sample of this report)

Monthly Payment Listing -This report lists payments, bad checks, required charge offs, and refunds posted to each patient's account. (Provide sample of this report)

Overpayment Reports -This report lists all patients due refunds as a result of overpayment of accounts. (Provide sample of SSAE 18 report with the application and an updated one every year).

Proposals should list all standard reports available and any custom reporting expenses must be disclosed.

Digitech will provide all the reports you request. With Ambulance Commander's customizable reporting engine, your team can:

- Spot documentation issues before they cause denials
- Build reports without IT support
- Reports can be filtered, customized, and exported in multiple formats (PDF, Excel, XML, etc.)
- Monitor collection trends in real time
- View dashboards tailored for both front-line supervisors and executive leadership

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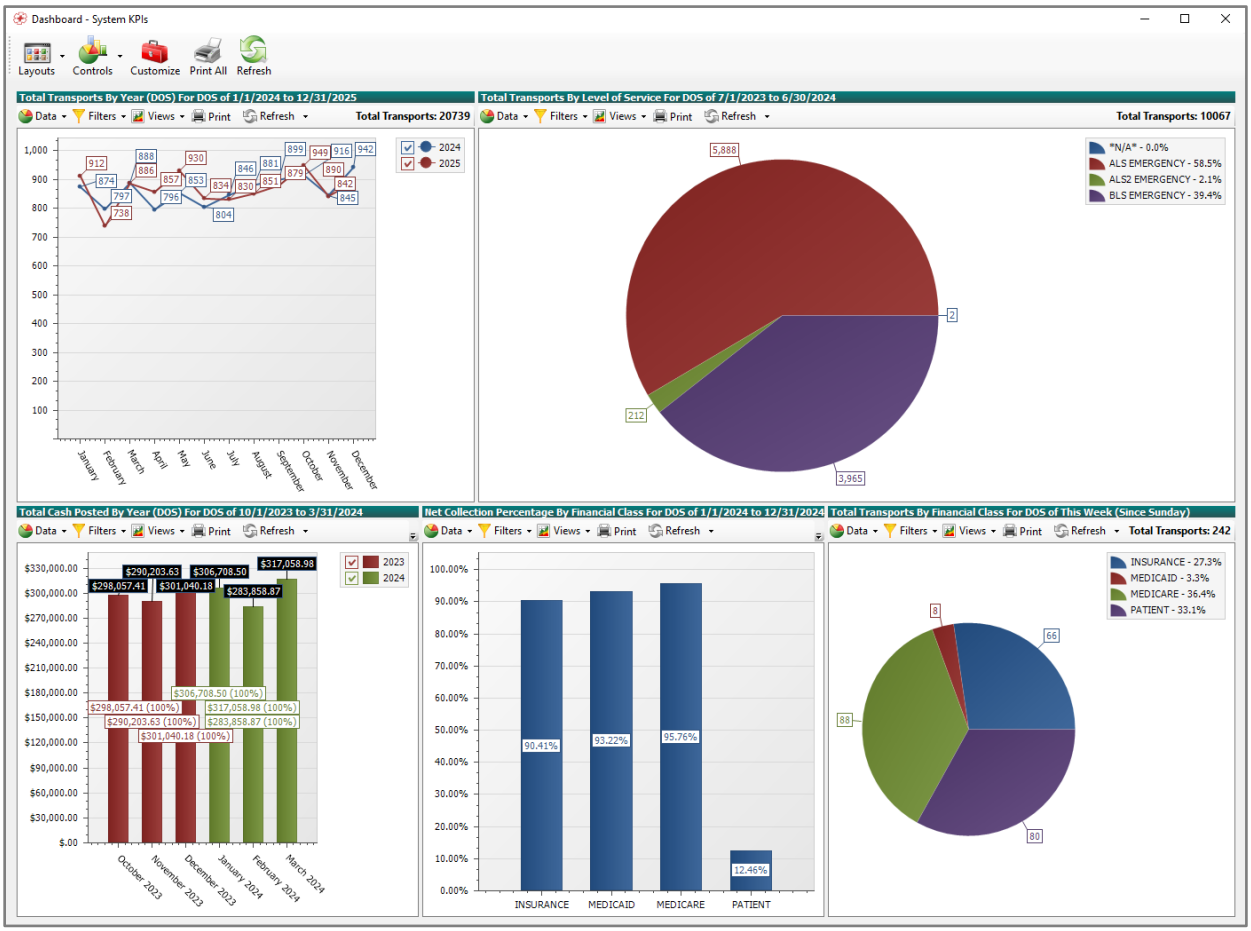
- Compare performance by provider, unit, payer, or service type
- If you need something that doesn't exist, our data team can build custom reports, often within 24 hours

REAL-TIME REPORTING WITH REAL-WORLD RESULTS

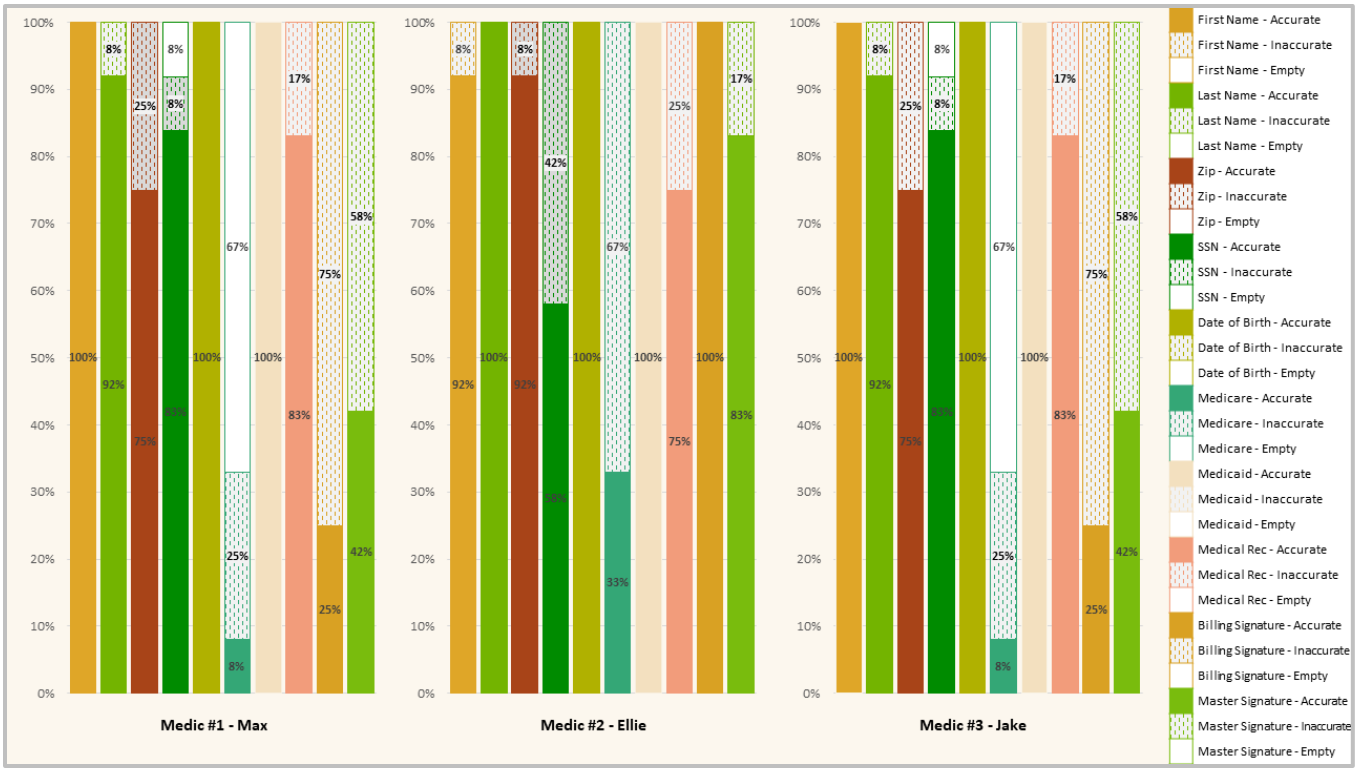
With real-time, internet-based access to the data that drives your operations, your leadership team can spot trends, monitor performance, and zero in on the details that matter most without waiting for end-of-month reports. Our secure, always-available platform gives you the confidence that every number is accurate and complete. By acting on insights from Ambulance Commander, you can recover missed revenue, work more efficiently, and strengthen the financial health of your EMS agency year after year.

Ambulance Commander also includes two powerful tools in **Dashboard** and **PCR Lens**:

- **Dashboard** gives you real-time visibility into KPIs, financials, and claim status. No IT request required.
- **PCR Lens** provides a quality window into your field documentation, helping you identify training needs, reduce coding errors, and improve compliance.



Digitech's Dashboard



Digitech's PCR Lens

SAMPLE REPORTS AND PACKAGES

For additional detail about our reporting suite, including a list of standard monthly reports as well as report samples, please see **Appendix C**.

The Contractor shall respond to all requests for reports or supporting documentation within seventy-two (72) hours of request.

We will also provide all the reports and documentation you request within 72 hours. If you have specialized reporting requirements that are not already provided or cannot be created through our report generators, we will customize a reasonable number of reports needed at no cost. You will have access to the reporting experts on our staff, including Max Dekle, our Data Analytics Specialist, and Mitch Holder, our Senior Vice President of Analytics. We will make sure you have all the reporting tools necessary to effectively monitor and analyze your data.

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> Their reporting system, combined with the Dashboard, provides access to all of our data on a real-time basis which enhances the decision-making process.
>
> **NEIL J. DEPASCAL, JR., CPA**
> Deputy Assistant Director, CFO
> Houston Fire Department, TX

Responding to Requests for Medical Records

The Contractor will handle all aspects of the City's EMS account management including responding to all requests for medical records and subpoenas for law enforcement.

Digitech will manage all account management and requests for the City's account. We will use the following applications:

RECEIVING AND PROCESSING PATIENT RECORD REQUESTS- CHARTSWAP

Digitech uses ChartSwap as a repository for attorneys to request invoices, medical records, etc. for the clients they represent. The attorney's request typically consists of a letter detailing the nature of their request and a HIPAA form signed by the patient. After Digitech reviews the request, the attorney will be charged a fee based on the number of pages to be included in the document. The fee is inclusive of searching, handling, copying, and mailing costs.

DOCUMENT MANAGEMENT SOLUTION - SECUREDOCS

SecureDocs® SecureDocs is Digitech's document storage and management solution that will bring efficiency to our partnership. Together, we use SecureDocs to easily store, organize, and retrieve documents related to your transports and claims. This includes letters, legal materials, or any other important documentation.

SecureDocs replaces paper filing systems by providing one-click access to documentation. Using Optical Character Recognition and barcode recognition technologies, SecureDocs offers full text search capability for all scanned images, simplifying the process of locating, viewing, printing, or emailing important documentation. It's safe and compliant, meeting all HIPAA standards and secured by 256-bit Secure Socket Layer encoding and barcode technologies. All images are stored and backed up on servers maintained by Digitech.

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The Contractor will ensure before any medical records are disclosed to any person, the request is reviewed for legal compliance and depending on the type of request, it has a proper a subpoena signed by a judge, an executed authorization, court order signed by a judge or satisfactory assurances according to HIPAA and TMRA.

Digitech understands and will comply.

Ambulance Service Supplemental Payment Program

The Contractor and will work with the City to analyze and report costs that will allow City to realize revenue related to the Ambulance Supplemental Payment Program as administered by Texas Health and Human Services Commission (HHSC). The Contractor's services will include:

Providing support to the City to prepare and submit application requests on behalf of the City to secure eligibility to participate in the Ambulance Supplemental Payment Program.

Digitech has prepared cost reports for departments of all sizes across the State of Texas. Since 2012, we have generated customized reporting for the ASPP. We have seen the program reimbursement mechanisms shift throughout the last decade – from reimbursement for Medicaid Fee-for-Service (FFS) only up until February 2012; then with the implementation of the 1115 Waiver, we saw expansion of ASPP reimbursement to Medicaid FFS, Medicaid Managed Care, and Uninsured from March 2012 to September 2019.

With the exception of the continuous threats to the ASPP funding pool, the most recent shift, limiting reimbursement to uninsured charity care, has perhaps caused our clients the most consternation.

Along with many of our clients who participated in the ASPP over the last decade, we also had concerns about the viability of the program following the introduction of charity care requirements and continuous threats to the funding pool. However, we have successfully integrated into our billing processes a propensity to pay solution to automate checks for charity care eligibility, and, with recent news that Texas' 1115 Waiver would remain in effect through 2030, the future of the ASPP is bright.

Digitech has managed the implementation of charity care policies and ASPP reporting for dozens of providers in Texas. We are confident that the process that we outline below will work for the City of College Station.

CHARITY CARE INTERFACE

One of the most critical steps to ASPP reporting is ensuring that the charity care policy and procedures in place for the City 1) meet Federal and state guidelines and 2) optimize revenues.

We have completed extensive testing with multiple credit bureau sources, and we can offer data to support revisions to the current charity care policy, if necessary, and also establish a direct credit bureau interface in our proprietary Ambulance Commander billing platform. We believe that this offers our clients a unique benefit that few, if any, billing vendors can match. The credit bureau results are almost instantaneous, and they provide a reliable alternative to consumer-stated income.

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With our propensity to pay solution, we improve efficiencies by assessing patient income in a seamless manner without any consumer interaction required. Our interface also ensures that consumers' privacy is protected at all times and there are no adverse impacts to consumers' credit scores.

Conduct webinar training and providing helpdesk support including full email and phone support to assist the City in preparation of cost reports.

Your ASPP project lead, David Mead, will be available to support you through every step of the ASPP reporting process. You will be provided with his email and mobile phone number and you will also receive contact information for a backup resource on the Cost Recovery Solutions Team. David and his team will respond quickly, usually within 24 hours or less, to any ASPP-related inquiries.

We will offer training to City staff upon request, but our goal is to establish a transparent process in which we take the ASPP reporting burden off of City staff. City staff involved in the project will be required to complete HHSC's mandated training on an annual basis starting with the FY25 cost reporting cycle.

We foresee most of our communication to be through email. However, we will set up virtual meetings as needed for annual project kickoffs and cost report closeouts. We will also plan onsite meetings on an annual or biennial basis.

Conducting comprehensive analysis of the billing reports ensuring that key data elements such as dates of service and procedure codes, including charges and payments related to Medicaid Fee- for-service, Medicaid Managed Care, and Uninsured are screened and accurately accounted for in the cost report.

Since 2012, we have generated customized reporting for the ASPP.

One of the strengths of utilizing our Ambulance Commander billing platform is the reporting capabilities. We have developed customized reports that will pull, in real time, the billing data required for the ASPP cost report. In addition, you will have access to pull reports at any time throughout the year to monitor trends in uninsured charity care adjustments.

Preparing annual cost reports on behalf of the City utilizing web-based applications in order to allow the City to realize incremental revenue under the Ambulance Supplemental Payment Program.

Once the charity care process is handled, we will move on to processing data and preparing the annual cost report. Digitech will compile and file the reports to manage all aspects of the ASPP for the City.

Your ASPP project lead, David Mead, has more than a dozen years of experience in working through the fine details of cost reporting – utilizing 2 CFR Part 200 to identify allowable costs, developing appropriate cost allocation methodologies, and preparing the billing data, working files, and cost report for submission to HHSC.

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COST ALLOCATION METHODOLOGIES

We will develop appropriate cost allocation methodologies. This is a critical step in the completion of the cost report. Because a majority of costs for fire-based EMS departments are “shared” between EMS, fire and other activities, it is important that these costs are allocated appropriately.

There is no one-size-fits-all methodology that is utilized for allocation of shared costs.

We will analyze the City’s data and determine the optimal approach to allocation of costs. While we recognize the value in consistency in reporting, we also understand that Computer-Aided Dispatch (CAD) systems and reporting capabilities change, service areas change, and service mixes change. We review the options for cost allocation each year to ensure that we are complying with regulations and helping our clients achieve the best results. Other vendors in this market, looking to minimize their own resource and time commitments to customized CAD data analysis, will not consider alternatives for allocation of costs.

We will prepare all working files and present a draft cost report to the City. Working files serve as the bridge from source data to the calculations in the cost report, and they provide backup for any audit inquiries. Digitech believes that it is important and necessary that our process is fully transparent so that the City can have the confidence that when they sign off on the final cost report, they understand what they are certifying.

Following the presentation of the working files and draft cost report, we will solicit feedback from the City and make revisions necessary to finalize the initial cost report submission package. We find that there are few, if any, changes required to the cost report at this stage, but we prefer to build in a minimum of 5-10 working days to incorporate final edits.

Prior to submission of the cost report, our team works to identify any alarming trends in the data; these are critical to identify up front because we want to understand what could generate questions during HHSC desk reviews and Federal audits. We have always conducted trend analysis with billing, cost, and response data prior to submission of our clients’ cost reports in Texas and elsewhere.

QUALITY ASSURANCE (QA) – THE HUMAN ELEMENT

The key to effective automation is knowing when not to automate. Digitech’s cost determination process of identifying allowable costs is not automated. Our experts review every cost to determine the correct allocation to apply. We take a similar hands-on approach to our analysis of depreciation. As discussed above, we also take a detailed look at the CAD data and the allocation alternatives each reporting period. We do not sacrifice the quality of your report to save ourselves time or effort.

Our QA process is split into three different phases.

- The first level of QA occurs when we receive the data. We do a first pass to examine the data and ensure that it meets the cost reporting requirements.

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- The second level occurs when we input the data into our tools. We review the data to ensure that all source data is uploaded into our tools and that all classifications of costs are accurate. Additionally, we conduct trend analysis to review for any noteworthy year-to-year variances.
- The final level of QA takes place following the data entry into State of Texas Automated Information Reporting Systems (STAIRS), the online application through which ASPP participants are required to use to submit their cost reports. In early 2026, we anticipate STAIRS being replaced by a new platform: STEPS (State of Texas Electronic Provider System).

It's all about diving into the details. We take a painstaking approach – you can trust that our reporting is accurate.

While we believe that we employ superior technology in our billing processes, we also understand that detailed manual data analysis is an integral part of cost reporting. We will never sacrifice quality or compliance for the sake of increasing productivity. We believe that the quality of your cost report matters.

Providing Medicaid subject matter expertise and representation during the HHSC review and approval of the submitted cost reports.

When we say that you will receive the attention and dedicated support from a cost reporting expert, we mean it. We do not farm out work to a team of entry-level data analysts who may not be familiar with complex Medicaid regulations. The preparation of your cost report will be completed by skilled finance and accounting professionals under the vigilant oversight of an EMS cost reporting expert David Mead, with more than a dozen years of experience in Texas.

Drafting responses, providing supporting documentation to conduct comprehensive billing reconciliations as required during HHSC desk review processes.

We will promptly respond to audit requests from HHSC auditors, CMS, or the Office of the Inspector General (OIG). Because we will have working files readily available, we don't anticipate any issues with responding to auditors in a timely manner. In the unlikely event that the desk review or audit results require further action, we will incorporate revisions as needed into the cost report and work with the City to certify and submit a final cost report.

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As our billing vendor, Digitech also serves as a valuable partner in our annual TASPP reporting process. Digitech's reporting system and their ability to create reports based on changing program and regulatory needs has been a great asset for our department. We can rely on Digitech to collect the data needed to complete each cost report process and know that we'll be in full compliance.

MELISSA STAPLES
Public Safety Operations Analyst
Mesquite Fire Department, Texas

Working with the City to present updates and status reports to community stakeholders, as necessary, to help educate and inform them on the progress of this initiative.

We will present results of cost report audits to City stakeholders, showing our commitment to demonstrate full transparency to City leadership. We want to address any of the City's questions or concerns prior to submission of the cost report to HHSC, but if there are any issues that arise during the audit process, we will keep the City engaged.

Acting as a liaison between HHSC and the City to address any questions and keep the clients informed on changes in state and federal regulations.

We will keep the City apprised of national trends in cost recovery programs and any potential impacts on the ASPP. We will offer the City with guidance and support on future Medicaid payment reforms and their relation to the ASPP and participation in any other Medicaid supplemental payment programs that may be established in Texas in the future.

The Contractor will work closely with the City throughout the cost reporting implementation process and will require regular contact with the City' s operational and financial staff.

We make a commitment to our clients to keep them connected and engaged in the supplemental payment program. To kick off the cost reporting process each period, we set up one-on-one time with our clients to establish a schedule, discuss future meeting plans, and to review the data request. Our goal is to ensure that our clients are as involved in the process as they choose to be. We tailor our communication plan to meet each client's unique needs.

In consideration of the Texas Ambulance Service Supplemental Payment Program (TASSPP) service performed by the Contractor, the City will pay Contractor a percentage fee of the total revenue collected by the City. All revenue due to the City from the Ambulance Supplemental Payment Program shall be paid in full directly from the State of Texas.

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The total cost for managing the program will be a percentage of the additional dollars collected through the supplemental payment programs. Our success is tied directly to how successful we are at helping the City recover ASPP funding.

We propose a fee of 4.95% of the supplemental funding received by the City for each reporting period. The contingency fee is all-inclusive and there are no other implementation or administrative fees associated with our services. Furthermore, we will not invoice the City for any portion of the fee until City has received payment in full from the State of Texas.

The College Station Fire Department is also interested in streamlining the billing process for these additional services:

Repeat False Alarm Billing

The City is interested in obtaining proposals that include billing for repeat false alarms. Please describe the collection process and other alternatives the firm recommends for billing false alarms. Please submit expenses for these billing services separately from other services outlined in this RFP.

Repeat Inspection Billing

The City is interested in obtaining proposals that include billing for multiple inspections. Please describe the collection process and other alternatives the firm recommends for billing when the fire marshal's office determines a third inspection is warranted. Please submit expenses for these billing services separately from other services outlined in this RFP.

HazMat Billing

The City is interested in obtaining proposals that include billing for HazMat mitigation. Please describe the collection process and other alternatives the firm recommends for billing HazMat incidents. Please submit expenses for these billing services separately from other services outlined in this RFP.

Current Hazardous Materials Billing Rates have been formally adopted by Resolution No.08-28-25- 9.4 dated August 28,2025

Level I response - Claim will include engine response, first responder assignment, perimeter establishment, evacuations, set-up, and command. $300 per hour with a 1-hour minimum plus consumables at market value.

Level II response - Claim will include engine response, first responder assignment, hazmat certified team and appropriate equipment, perimeter establishment, evacuations, set-up and command, Level A or B suit donning, breathing air and detection equipment. Set-up and removal of decontamination center. $600 per hour with a 2-hour minimum plus consumables at market value.

Digitech offers billing support for non-EMS, fire-related services, including repeat false alarms, repeat inspections, and hazardous materials (HazMat) responses. Our flexible Ambulance Commander platform and experienced team can accommodate these additional services with minimal ramp-up time, provided the necessary documentation is made available.

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These billing programs will be implemented in close collaboration with the City to ensure alignment with your local ordinances and operational protocols.

REPEAT FALSE ALARM BILLING

Digitech can support the City in billing for repeat false alarms, following the direction and criteria established by College Station. Our platform is capable of handling claims related to a range of fire service calls, including false alarms, and routing those claims through a billing cycle modeled after our proven EMS processes. Bills are sent directly to the responsible party and followed up on up to three times. If payment is not received, Digitech will notify the City for guidance on further steps.

We understand the importance of compliance and transparency in any new billing program and will work with the City to establish a mutually agreeable process during onboarding. Expenses for false alarm billing will be invoiced separately from EMS billing services, as requested.

REPEAT INSPECTION BILLING

For multiple fire inspections, such as a third inspection triggered by noncompliance, Digitech can process claims upon receipt of the relevant inspection documentation. Our relevant experience includes managing fire inspection billing workflows for other agencies through our Ambulance Commander platform. We will create and verify claims based on information supplied by the City, then generate bills and follow up on payments according to the agreed-upon schedule.

Digitech's billing team, which handles thousands of fire inspection claims annually, will collaborate with College Station to define remittance options, handle discrepancies, and ensure an efficient collections process. Expenses for these services will be billed separately from EMS billing.

HAZMAT BILLING

Digitech is prepared to process HazMat remediation claims using City-provided documentation and billing rates. Our platform can accommodate the City's adopted HazMat billing structure (Resolution No. 08-28-25-9.4), including Level I and Level II responses and the inclusion of consumables at market value.

To initiate billing, we rely on documentation from the fire department, including on-scene reports, approvals, and incident details. Once a claim is created, bills are sent to the responsible party with up to three follow-ups. Non-response will be referred to the City for direction. As with the other services, HazMat billing will be invoiced separately.

By leveraging Digitech's flexible billing capabilities and proven processes, the City of College Station can turn these complex fire-related incidents into a manageable revenue stream. These optional services offer a pathway to cost recovery that supports public safety operations without overburdening City resources. We're committed to delivering a solution to College Station that is compliant, transparent, and tailored to your goals.

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Digitech's customer service is phenomenal. In fact, now that I think about it, it's better than that which I receive from any of my vendors.

WILL SMITH
Assistant Finance Director
Bryan Fire Department, TX

Training

The Contractor shall be responsible for onsite training, at time of contract execution and periodically throughout the term of the contract, to ensure that all College Station Fire Department personnel and Fiscal Services staff are trained regarding documentation, charges, applicable health care laws and regulations as it relates to the billing process. The successful contractor must provide a minimum of seven training manuals for all aspects of the system functionality.

Digitech will provide onsite training to ensure fire department personnel are trained at the time of contract execution and ongoing. We offer training on various parts of the revenue cycle management process to ensure our mutual success.

Once training has been completed, you may identify a systems administrator who will have access to set up new employees with the appropriate permissions and security or change any user's level of security at any time. This level of system control will enhance your data security because you can control the specific level of access needed for individual employees.

Training on the Ambulance Commander platform includes learning how to access and create reports, (for evaluation and forecasting) and research individual claims, and review and audit collections activity. While we provide you detailed reports regularly, it's also critical to us to make sure you know that you can see anything that happens on any claim at any time, and that you're able to track the status of collections at any point in the process.

We provide a comprehensive combination of onsite and online training to ensure efficient access and use of the Ambulance Commander platform.

DOCUMENTATION TRAINING

Digitech provides documentation training to help your medics improve their documentation and understand the importance of creating complete and compliant patient care reports. These skills are important and valuable as they affect the billing cycle, but also because EMS is becoming more integrated into the larger healthcare sphere.

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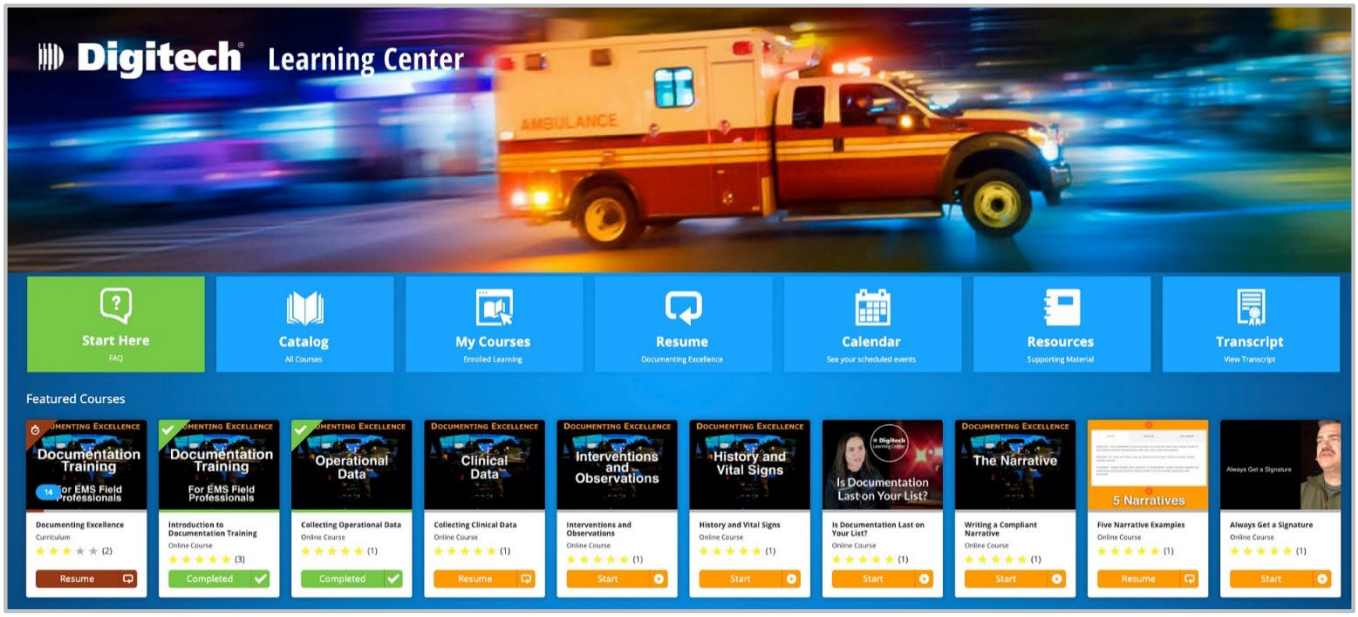
We will provide online documentation training to all your medics on a mutually determined schedule.

Digitech Learning Center

To deliver documentation training, we offer a powerful resource in the form of the Digitech Learning Center (DLC). The documentation compliance course covers all aspects of data collection and documentation of pre-hospital patient care, including operational data, clinical data, history and vital signs, interventions and observations, billing data, and writing complete and compliant narratives.

The DLC's programs are designed for busy EMTs, firefighters, and paramedics who can do the work at their convenience—on the job, in a coffee shop, at home, or wherever there's a free moment and good Wi-Fi. Mobile devices and desktop systems all work equally well to consume the training.

The coursework is supplemented by an array of resources and references participants can use to further advance their documentation skills. Onscreen instructors include EMTs and paramedics from Digitech's staff, and material for the courses was developed in conjunction with our seasoned ambulance coders and Quality Assurance experts along with seasoned Emergency Medical Services professionals at Digitech who understand the components and the value of clean, compliant patient care reports.



Home page of the Digitech Learning Center

Payment

In consideration of the Automated Ambulance Billing, Accounts Receivable, Delinquent Account Collections, and Responding to Requests for Medical Records services performed, the City will pay the Contractor a fixed fee of the total amount collected. The Contractor will be paid monthly upon receipt a detailed account invoice. Payment will be based on a percentage of net sums received (gross receipts less refunds) by the City for deposit.

Digitech understands and agrees.

DETAILED PROJECT PLAN

2. Proposals must indicate a clear understanding of the scope of work, including a detailed project plan for this engagement outlying major tasks and responsibilities, time frames, and staff assigned for each category of the scope of work identified above.

As outlined in our responses to Item 1 in this section, we have addressed each requirement in the Scope of Work to demonstrate our clear understanding of the project. Below offers an overview of Digitech's implementation.

DIGITECH'S IMPLEMENTATION PROCESS

Digitech's time-tested implementation plan is the foundation for an efficient transition and our successful partnership. We use our technology to ensure a well-organized, speedy rollout of services with no interruption in cash flow to your organization.

At the outset of the project, we establish communications between Digitech project leaders and your project leaders. This includes meetings via web conference, detailed and documented implementation plan updates, email exchanges, and phone calls. Your active participation is required to provide crucial information for registrations. We will also need your cooperation in authorizing Digitech to sign registration forms to meet the timeline.

The figure on the following page shows the key elements of implementation. All three phases– Discovery, Installation and Configuration, and Testing and Acceptance – can be completed in 60 days or less.

1. Implementation begins at contract execution with the Discovery phase, guided by our New Client Checklist.
2. During the Installation and Configuration phase, we set up key components of the system and establish relationships with your stakeholders to ensure successful operations.
3. During Testing and Acceptance, we train your users and test all aspects of the Ambulance Commander setup to make sure it is working according to your requirements.

Once the Testing and Acceptance phase is complete, we reach the Go-Live milestone, and Digitech will begin billing and collection activities on your behalf. Details of each phase follow.

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> The implementation was impressively quick and effective, and Digitech's reports are providing new insights into our finances and operations. The basics are great, but the detail is amazing.
>
> **DOROTHY POPE**
> Accounts Receivable Manager
> City of Norfolk – Department of Finance

Discovery Phase

Digitech's implementation process begins with the Discovery Phase, where we will work with you to complete our New Client Checklist (NCC). The NCC is a complete list of all the data we require to enroll your agency with processors, as well as identify and document business rules, rates, and special processes of your organization. We will provide all credentialing services necessary to ensure successful enrollment with all government and commercial payers.

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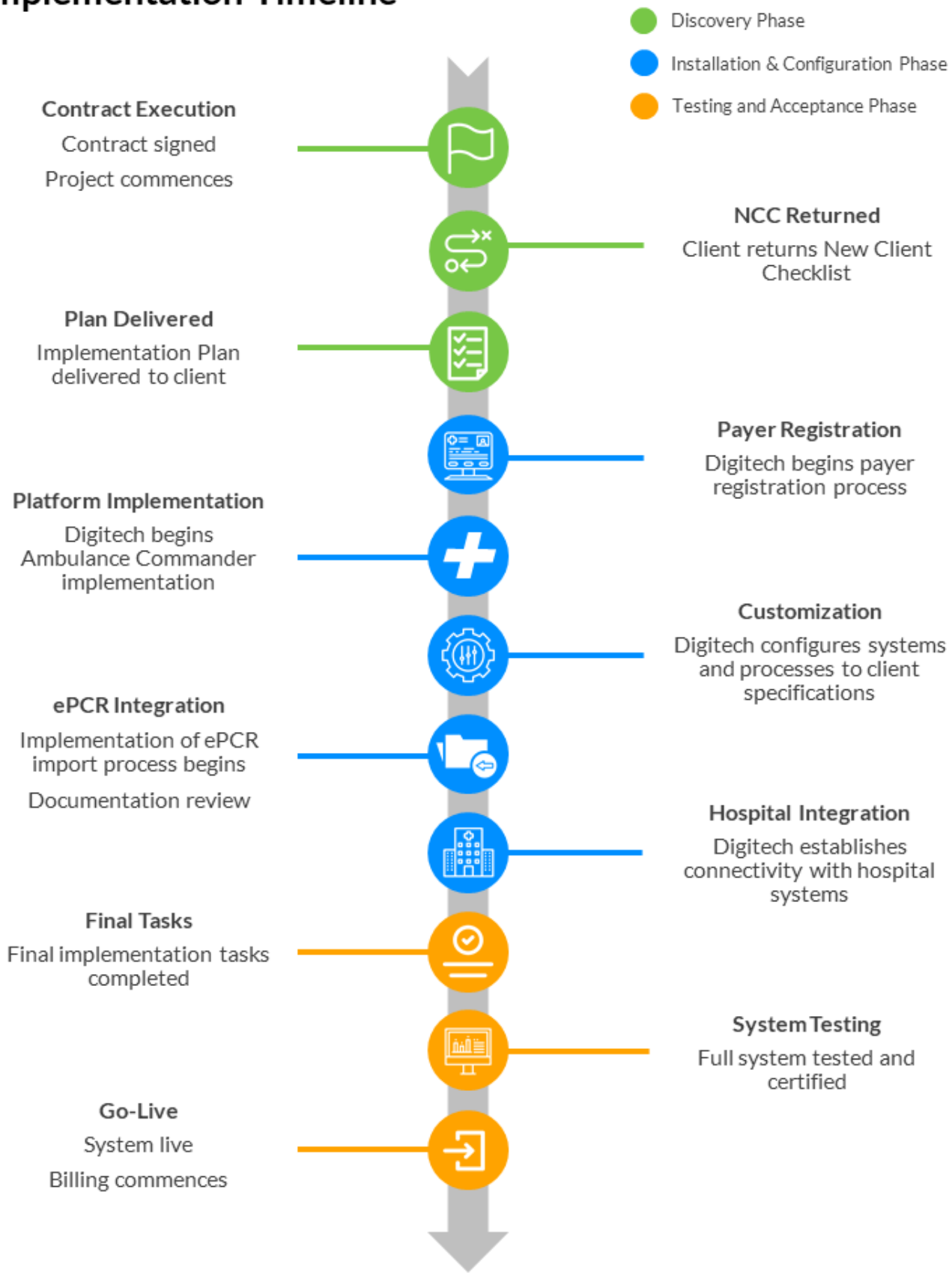
Implementation Timeline



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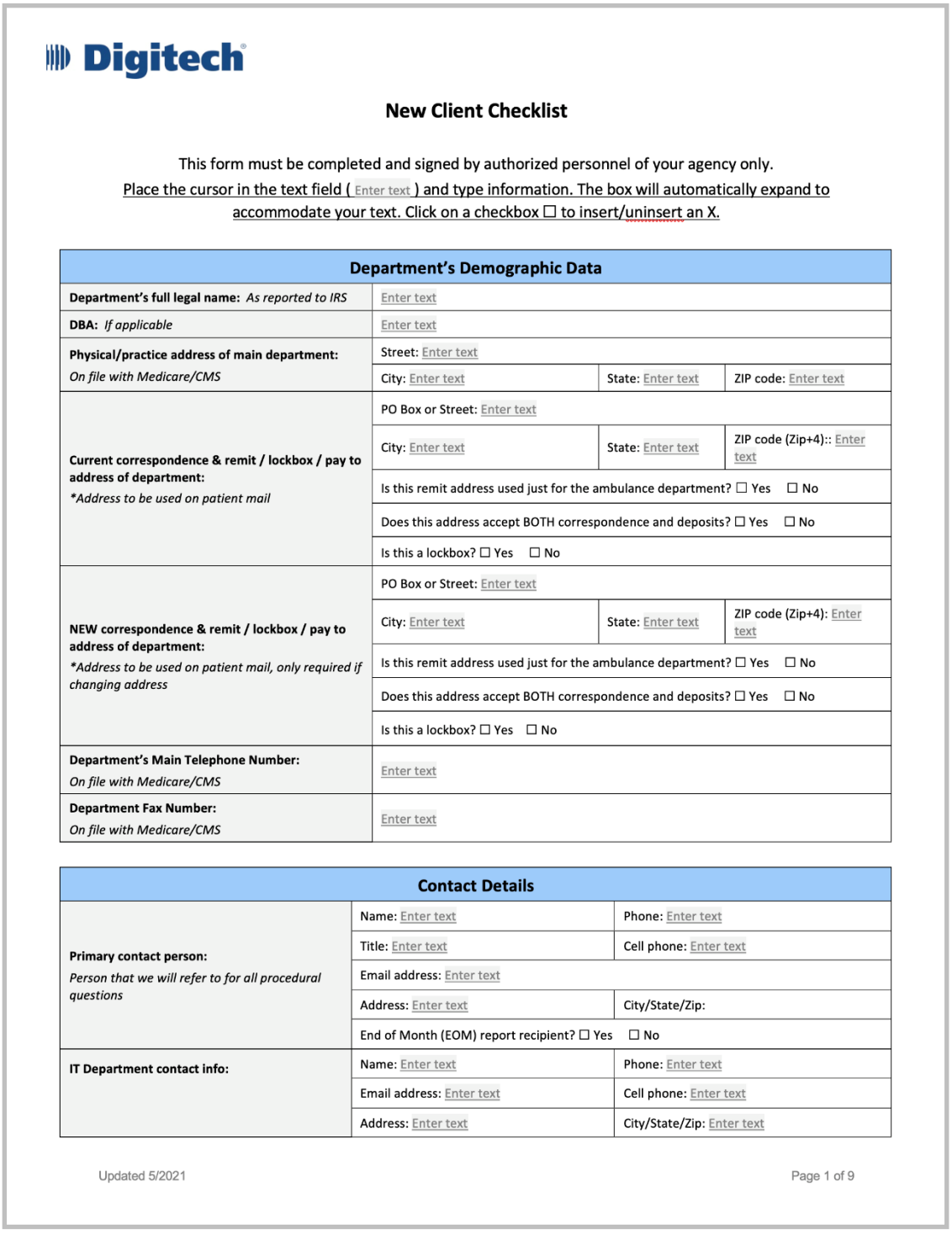
Using this information gathered during the Discovery Phase, we complete a detailed written implementation plan to cover all the activities of the later phases, begin to set up the billing system, and enable our billing department to review the information required to establish the proper procedures to begin billing for you. We work closely with you to complete the NCC document quickly.



Digitech

New Client Checklist

This form must be completed and signed by authorized personnel of your agency only.
Place the cursor in the text field (Enter text) and type information. The box will automatically expand to accommodate your text. Click on a checkbox ☐ to insert/uninsert an X.

Department's Demographic Data			
Department's full legal name: *As reported to IRS*	Enter text		
DBA: *If applicable*	Enter text		
Physical/practice address of main department: *On file with Medicare/CMS*	Street: Enter text		
	City: Enter text	State: Enter text	ZIP code: Enter text
Current correspondence & remit / lockbox / pay to address of department: **Address to be used on patient mail*	PO Box or Street: Enter text		
	City: Enter text	State: Enter text	ZIP code (Zip+4):: Enter text
	Is this remit address used just for the ambulance department? ☐ Yes ☐ No		
	Does this address accept BOTH correspondence and deposits? ☐ Yes ☐ No		
	Is this a lockbox? ☐ Yes ☐ No		
NEW correspondence & remit / lockbox / pay to address of department: **Address to be used on patient mail, only required if changing address*	PO Box or Street: Enter text		
	City: Enter text	State: Enter text	ZIP code (Zip+4): Enter text
	Is this remit address used just for the ambulance department? ☐ Yes ☐ No		
	Does this address accept BOTH correspondence and deposits? ☐ Yes ☐ No		
	Is this a lockbox? ☐ Yes ☐ No		
Department's Main Telephone Number: *On file with Medicare/CMS*	Enter text		
Department Fax Number: *On file with Medicare/CMS*	Enter text		

Contact Details		
Primary contact person: *Person that we will refer to for all procedural questions*	Name: Enter text	Phone: Enter text
	Title: Enter text	Cell phone: Enter text
	Email address: Enter text	
	Address: Enter text	City/State/Zip:
	End of Month (EOM) report recipient? ☐ Yes ☐ No	
IT Department contact info:	Name: Enter text	Phone: Enter text
	Email address: Enter text	Cell phone: Enter text
	Address: Enter text	City/State/Zip: Enter text

Updated 5/2021 Page 1 of 9

Sample Page of Digitech's New Client Checklist

Installation and Configuration Phase

Installation and Configuration begins with the installation of the Ambulance Commander platform and any customizations identified as a result of the NCC research. The process of tailoring, customizing, and refining our service is iterative and collaborative because we want to make sure that all elements will meet your needs. For example, we will work directly with your team to ensure that information systems, reporting formats, and information exchange processes are fully aligned with the requirements of the contract. The design of the solution and specifications for integration of billing services, communications, and ePCR functions will be well documented prior to System Testing to support review and approval.

During this phase we complete initial setup tasks with external stakeholders, including processor registrations, hospital interfaces, and your systems. We also prepare customized patient correspondence.

The process is managed using our detailed implementation plan which lists every task, the task owner, the current status of the task, and the estimated completion date. Weekly conference calls based around the implementation plan ensure that every task required for Go-Live is completed.

I. New Client Startup Tasks						
Task	Dependents	Owners	Start	Status	ETA	Completed
1. Sign contract		Digitech Client		Open		
2. Send welcome package – New Client Checklist, Digitech Roster	I.1	Digitech		Open		
3. Complete and return New Client Checklist	I.2	Client		Open		
4. Complete Internal Billing Service Checklist	I.3	Digitech		Open		
5. Update Pedestal Client Master with basic agency and contact information	I.3	Digitech		Open		
6. Update Pedestal with Client Vendors, Billing IDs, and Processors	I.3	Digitech		Open		
7. Send initial Implementation Plan	I.4	Digitech		Open		
8. Update version control board	I.3	Digitech		Open		
9. Update SOC1, 3.12 Business to Business Transmission Document	I.4	Digitech		Open		
10. Hospital Access	I.4	Digitech		Open		

Sample Page of Digitech's Client Implementation Plan, which drives the agenda of weekly conference calls

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Testing and Acceptance Phase

When all system components have been installed, tailored, and configured, we begin Testing and Acceptance. In this phase, we test all components and connections to ensure that they meet contract requirements and the data standards required by all stakeholders. During this time, we also conduct user training so that your team will have qualified testers to implement the final Acceptance Test. Digitech will develop a Test Plan jointly with you to ensure all contract requirements are met. We will use that plan during Acceptance Testing to guide testing and to evaluate results. We will work closely with you to manage any discrepancies uncovered in Acceptance Testing, correcting and retesting as needed. Upon successful completion of Acceptance Testing, we will achieve the Go-Live milestone, transitioning to live operations and full responsibility for your billing and collection from that point.

Digitech will provide you with training as needed to ensure efficient access and use of the Ambulance Commander platform. Training will be provided in a "Train-the-Trainer" format allowing you to instruct other staff on the system as needed. Once the training has been completed, you may identify a systems administrator who will have access to set up new employees with the appropriate permissions and security or change any employee's level of security at any time. This level of system control will enhance your data security by providing the specific level of access needed by employees who are utilizing the system.

Because all systems will be tested by Digitech and certified by your team prior to the Go-Live date, you can be confident you will enjoy error-free billing and collections from the beginning of the project.

Once Digitech has assumed responsibility for all aspects of the billing and collection process, we will begin the final implementation phase. While all systems will be fully tested and all processes thoroughly vetted prior to the Go-Live date, there can be unanticipated issues that crop up, or opportunities to improve business processes that could not be foreseen without some actual experience with the system. Therefore, we use the period following Go-Live until the first full month's reporting is completed to monitor the system closely and jointly with you. Further system monitoring and process improvements will continue throughout the term of the contract.

The implementation was a methodical and well thought out process. Digitech made what could be a difficult transition a smooth one by handling all the payer enrollments, integrations, and system setup. Their implementation plan clearly laid out all the required tasks and who was responsible for each task with ETAs, and it was updated weekly so we could watch the progress.

TAMARA NILMEIER
Former Director of EMS and Physician Revenue Cycle
Grady Health System – Atlanta, GA

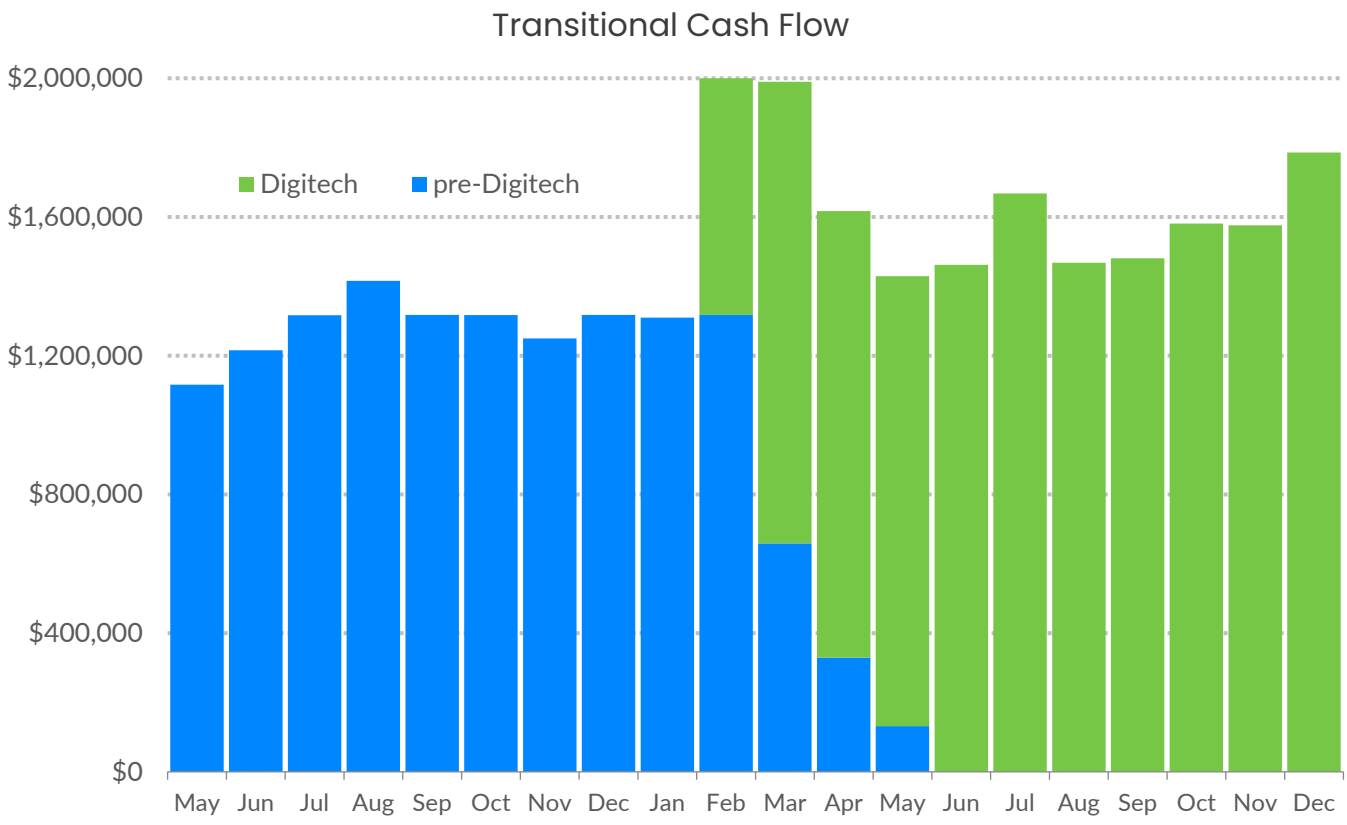
© Digitech Computer LLC

Our solution allows Digitech to file 97% of claims within 48 hours of receipt of trip information, allowing you to realize maximum cash flow early in the collection cycle. We will deliver professional customer service while we maintain, support, and continually improve the overall processing service in accordance with your objectives and obtain the maximum financial results on your behalf. Working jointly, we can identify any bottlenecks and work together to reduce or eliminate them, achieving the levels of service and collection sought.

NO CASH FLOW INTERRUPTION DURING IMPLEMENTATION

Our goals during the implementation process are to minimize interruptions of your normal processes, minimize your resources required, and avoid any disruption to your cash flow. With careful planning, attention to detail, and clear communication, we will achieve these goals together. Beyond normal operating expenses, you will have no other known costs associated with implementation.

Cash flow often increases during the critical early months of our service to you. For example, during our implementation with Memphis Fire Rescue, cash flow increased during the first months of the contract because Digitech was processing claims in one to two days, while the prior vendor was taking up to 30 days to get claims out. With more cash flow, you can focus your resources on patient care and other operational priorities.



Cash flow when Digitech implemented in Memphis. Collections often jump as we begin processing claims.

A comprehensive project plan outlining major tasks and responsibilities is provided in **Appendix D**.

PROJECT REPORTS

3. Proposals shall identify progress reports that will be made available during the process and key decision points.

Progress Reports will be presented to the City during periodic management meetings. Digitech relies on a regular degree of communication throughout our contract. Even after your implementation is complete, your Client Relations Manager, Amy Bachmann, will be heavily involved and will schedule meetings. Some topics of the meetings are review monthly reports and billing activity, address any service issues you may be having, and coordinate documentation training for additional education opportunities. These meetings are designed to offer a review of the success and potential areas of improvement Digitech can provide.

DUTIES AND RESPONSIBILITIES

4. Proposals shall clearly distinguish the Firms' duties and responsibilities and those of the City. Absence of this distinction shall mean the Firm is assuming full responsibility for all tasks.

For the billing process, we require minimal assistance from you to perform services on your behalf. What we do require is within the scope of normal provision of EMS billing services:

Roles and Responsibilities of Digitech and the City of College Station

The City of College Station	Digitech
• Provide all necessary source data (PCRs, face sheets, insurance info, etc.) • Notify Digitech promptly of missing or corrected data	• Receive and process source data • Maintain records and files as needed
• Allow access to relevant systems/data • Cooperate with onboarding and integration efforts	• Provide billing software and tools • Ensure system availability for client use
• Ensure initial data collection complies with relevant laws	• Comply with HIPAA, Texas, and federal regulations • Maintain audit trails and confidentiality
• Inform community on how to contact billing services if needed	• Provide patient customer service support • Handle billing inquiries and complaints
• Deposit funds collected • Notify Digitech of adjustments/refunds	• Process claims • Apply payments, reconcile, report collections

© Digitech Computer LLC

EXHIBIT A
BUSINESS ASSOCIATE AGREEMENT

BUSINESS ASSOCIATE AGREEMENT BETWEEN CITY OF COLLEGE STATION, TX AND DIGITECH COMPUTER LLC.

This Business Associate Agreement ("Agreement") between City of College Station, TX and Digitech Computer LLC is executed to ensure that Digitech Computer LLC will appropriately safeguard protected health information ("PHI") that is created, received, maintained, or transmitted on behalf of City of College Station, TX in compliance with the applicable provisions of Public Law 104-191 of August 21, 1996, known as the Health Insurance Portability and Accountability Act of 1996, Subtitle F – Administrative Simplification, Sections 261, *et seq*., as amended ("HIPAA"), and with Public Law 111-5 of February 17, 2009, known as the American Recovery and Reinvestment Act of 2009, Title XII, Subtitle D – Privacy, Sections 13400, *et seq.*, the Health Information Technology and Clinical Health Act, as amended (the "HITECH Act").

A. General Provisions

1. Meaning of Terms. The terms used in this Agreement shall have the same meaning as those terms defined in HIPAA.

2. Regulatory References. Any reference in this Agreement to a regulatory section means the section currently in effect or as amended.

3. Interpretation. Any ambiguity in this Agreement shall be interpreted to permit compliance with HIPAA.

B. Obligations of Business Associate. Digitech Computer LLC, agrees that it will:

1. Not use or further disclose PHI other than as permitted or required by this Agreement or as required by law;

2. Use appropriate safeguards and comply, where applicable, with the HIPAA Security Rule with respect to electronic protected health information ("e- PHI") and implement appropriate physical, technical and administrative safeguards to prevent use or disclosure of PHI other than as provided for by this Agreement;

3. Report to City of College Station, TX any use or disclosure of PHI not provided for by this Agreement of which it becomes aware, including any security incident (as defined in the HIPAA Security Rule) and any breaches of unsecured PHI as required by 45 CFR §164.410. Breaches of unsecured PHI shall be reported to City of College Station, TX without unreasonable delay but in no case later than 60 days after discovery of the breach;

4. In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), ensure that any subcontractors that create, receive, maintain, or transmit PHI on behalf of Digitech Computer, LLC agree to the same restrictions, conditions, and requirements that apply to Digitech Computer, LLC with respect to such information;

5. Make PHI in a designated record set available to City of College Station, TX and to an individual who has a right of access in a manner that satisfies City of College Station, TX's obligations to provide access to PHI in accordance with 45 CFR §164.524 within 30 days of a request;

6. Make any amendment(s) to PHI in a designated record set as directed by City of College Station, TX, or take other measures necessary to satisfy City of College Station, TX's obligations under 45 CFR §164.526;

7. Maintain and make available information required to provide an accounting of disclosures to City of College Station, TX or an individual who has a right to an accounting within 60 days and as necessary to satisfy City of College Station, TX's obligations under 45 CFR §164.528;

8. To the extent that Digitech Computer LLC is to carry out any of City of College Station, TX's obligations under the HIPAA Privacy Rule, Digitech Computer LLC shall comply with the requirements of the Privacy Rule that apply to City of College Station, TX when it carries out that obligation;

9. Make its internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Digitech Computer LLC on behalf of City of College Station, TX, available to the Secretary of the of Health and Human Services for purposes of determining Digitech Computer LLC and City of College Station, TX's compliance with HIPAA and the HITECH Act;

10. Restrict the use or disclosure of PHI if City of College Station, TX notifies Digitech Computer LLC of any restriction on the use or disclosure of PHI that City of College Station, TX has agreed to or is required to abide by under 45 CFR §164.522; and

11. If City of College Station, TX is subject to the Red Flags Rule (found at 16 CFR §681.1 et seq.), Digitech Computer, LLC agrees to assist City of College Station, TX in complying with its Red Flags Rule obligations by: (a) implementing policies and procedures to detect relevant Red Flags (as defined under 16 C.F.R. §681.2); (b) taking all steps necessary to comply with the policies and procedures of City of College Station, TX's Identity Theft Prevention Program; (c) ensuring that any agent or third party who performs services on its behalf in connection with covered accounts of City of College Station, TX agrees to implement reasonable policies and procedures designed to detect, prevent, and mitigate the risk of identity theft; and (d) alerting City of College Station, TX of any Red Flag incident (as defined by the Red Flag Rules) of which it becomes aware, the steps it has taken to mitigate any potential harm that may have occurred, and provide a report to City of College Station, TX of any threat of identity theft as a result of the incident.

C. Permitted Uses and Disclosures by Business Associate. The specific uses and disclosures of PHI that may be made by Digitech Computer LLC on behalf of City of College Station, TX include:

1. The preparation of invoices to patients, carriers, insurers and others responsible for payment or reimbursement of the services provided by City of College Station, TX to its patients;

2. Preparation of reminder notices and documents pertaining to collections of overdue accounts;

3. The submission of supporting documentation to carriers, insurers and other payers to substantiate the healthcare services provided by City of College Station, TX to its patients or to appeal denials of payment for the same; and

4. Other uses or disclosures of PHI as permitted by HIPAA necessary to perform the services that Digitech Computer LLC has been engaged to perform on behalf of City of College Station, TX.

D. Termination

1. City of College Station, TX may terminate this Agreement if City of College Station, TX determines that Digitech Computer LLC has violated a material term of the Agreement.

2. If either party knows of a pattern of activity or practice of the other party that constitutes a material breach or violation of the other party's obligations under this Agreement, that party shall take reasonable steps to cure the breach or end the violation, as applicable, and, if such steps are unsuccessful, terminate the Agreement if feasible.

3. Upon termination of this Agreement for any reason, Digitech Computer LLC shall return to City of College Station, TX or destroy all PHI received from City of College Station, TX, or created, maintained, or received by Digitech Computer LLC on behalf of City of College Station, TX that Digitech Computer LLC still maintains in any form. Digitech Computer LLC shall retain no copies of the PHI. If return or destruction is infeasible, the protections of this Agreement will extend to such PHI.

DIGITECH COMPUTER LLC	**CITY OF COLLEGE STATION**
By: Walt Pickett	By:_____
Title: Chief Executive Officer	Title:_____
Date: 2/5/2026	Date:_____

Exhibit B
Payment Terms

Payment is a fixed fee in the amount listed in Article II of this Contract. This amount shall be payable by the City pursuant to the schedule listed below and upon completion of the work and written acceptance by the City.

Schedule of Payment for each phase:

NTE: $225,000.00

Exhibit C
Certificates of Insurance

CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY) 01/12/2026

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).

Holder Identifier :

PRODUCER
Aon Risk Services Northeast, Inc.
Columbus OH Office
8940 Lyra Drive
Suite 250
Columbus OH 43240 USA

CONTACT NAME:
PHONE (A/C. No. Ext): (866) 283-7122 **FAX (A/C. No.):** (800) 363-0105
E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A:	ProAssurance Specialty Insurance Company	17400
INSURER B:	Federal Insurance Company	20281
INSURER C:	Travelers Property Cas Co of America	25674
INSURER D:	Columbia Casualty Company	31127
INSURER E:		
INSURER F:		

INSURED
Digitech Computer LLC
5000 Bradenton Avenue
Dublin, OH 43017 USA

COVERAGES **CERTIFICATE NUMBER:** 570117607107 **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.

Limits shown are as requested

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
B	X **COMMERCIAL GENERAL LIABILITY** CLAIMS-MADE / X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY / X PRO-JECT / X LOC OTHER:	Y	Y	36073395MWU	12/01/2025	12/01/2026	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 Excluded
B	**AUTOMOBILE LIABILITY** ANY AUTO OWNED AUTOS ONLY / SCHEDULED AUTOS X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY	Y	Y	(25)7363-09-65	12/01/2025	12/01/2026	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$1,000,000
B	X **UMBRELLA LIAB** / X OCCUR **EXCESS LIAB** / CLAIMS-MADE DED / X RETENTION			78197881 SIR applies per policy terms & conditions	12/01/2025	12/01/2026	EACH OCCURRENCE AGGREGATE	$10,000,000 $10,000,000
C	**WORKERS COMPENSATION AND EMPLOYERS' LIABILITY** ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N: N **(Mandatory in NH)** If yes, describe under DESCRIPTION OF OPERATIONS below	N / A	Y	UB1X36498A25I3G	12/01/2025	12/01/2026	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
A	Products Liability			N25OH380021	12/01/2025	12/01/2026	Aggregate Limit Agg Deductible Per Occ Comp/Op	$10,000,000 $150,000 $10,000,000

Certificate No : 570117607107

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 in accordance with the policy provisions of the General Liability and Automobile Liability policies. General Liability and Automobile Liability policies evidenced herein are Primary and Non-Contributory to other insurance available to an Additional Insured, but only in accordance with the policy's provisions. A Waiver of Subrogation is granted in favor of the City of College Station in accordance with the policy provisions of the General Liability, Automobile Liability and Workers Compensation policies. Umbrella Policy is follow form to the General Liability and Automobile Liability policies. Should General Liability and Automobile Liability policies be cancelled before the expiration date thereof, the policy provisions will govern how notice of

CERTIFICATE HOLDER

City of College Station
Attn: Risk Management
P.O. Box 9960
College Station TX 77842 USA

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

Aon Risk Services Northeast, Inc.

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AGENCY CUSTOMER ID: 570000037575

LOC #:

ADDITIONAL REMARKS SCHEDULE

AGENCY	NAMED INSURED
Aon Risk Services Northeast, Inc.	Digitech Computer LLC
POLICY NUMBER: See Certificate Number: 570117607107	
CARRIER: See Certificate Number: 570117607107 / NAIC CODE	EFFECTIVE DATE:

ADDITIONAL REMARKS

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

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER	
INSURER	
INSURER	
INSURER	

ADDITIONAL POLICIES If a policy below does not include limit information, refer to the corresponding policy on the ACORD certificate form for policy limits.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS	
	OTHER							
A	Products Liability			N25OH380021	12/01/2025	12/01/2026	Per Occ Deductible	$50,000
D	Cyber Liability			652283973 Cyber Media SIR applies per policy terms & conditions	12/01/2025	12/01/2026	Limit	$5,000,000
							SIR	$500,000
							Aggregate	$5,000,000
D	E&O - Technology			652283973 Technology & PL SIR applies per policy terms & conditions	12/01/2025	12/01/2026	Limit	$5,000,000
							SIR	$500,000
							Aggregate	$3,000,000

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AGENCY CUSTOMER ID: 570000037575

LOC #:

ADDITIONAL REMARKS SCHEDULE

AGENCY	NAMED INSURED
Aon Risk Services Northeast, Inc.	Digitech Computer LLC
POLICY NUMBER See Certificate Number: 570117607107	
CARRIER See Certificate Number: 570117607107	NAIC CODE
	EFFECTIVE DATE:

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: ACORD 25 **FORM TITLE:** Certificate of Liability Insurance

Additional Description of Operations / Locations / Vehicles:

cancellation may be delivered to certificate holders in accordance with the policy provisions of each policy.

ACORD 101 (2008/01)

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Who Is An Insured
(continued)

Life Science Product Service Contractors

Persons (other than your employees) or organizations acting as life science product service contractors for you are insureds; but they are insureds only if you are obligated (pursuant to a written contract or agreement between you and such person or organization) to provide them with such insurance as is afforded by this policy.

However, such a person or organization is an insured only:

- with respect to their liability for damages for bodily injury or property damage resulting from activities within the scope of a life science product service to which this insurance applies;
- to the extent such contract or agreement requires the person or organization to be afforded status as an insured; and
- for such activities that did not occur, in whole or in part, before the execution of the contract or agreement.

No person or organization is an insured under this provision with respect to any:

- assumption of liability (of another person or organization) by them in a contract or agreement. This limitation does not apply to the liability for damages for injury or damage, to which this insurance applies, that such person or organization would have in the absence of such contract or agreement.
- representation or warranty unauthorized by you.
- reckless or willful violation of any law or regulation.
- chemical or physical change in your product made intentionally by the person or organization.

Further, no person or organization from whom you have acquired your product, or any container, ingredient or part accompanying, entering into or containing your product, is an insured under this provision.

Other Persons Or Organizations Pursuant To Contract Or Agreement

Persons or organizations that you are obligated pursuant to a contract or agreement to provide with such insurance as is afforded by this policy are insureds.

However, such a person or organization is an insured only:

- to the extent such contract or agreement requires the person or organization to be afforded status as an insured; and
- for such activities that did not occur, in whole or in part, before the execution of the contract or agreement.

No person or organization is an insured under this provision:

A. that is more specifically identified under any other provision of the Who Is An Insured section (regardless of any limitation applicable thereto).

B. with respect to any:

1. assumption of liability (of another person or organization) by them in a contract or agreement. This limitation does not apply to the liability for damages for injury or damage, to which this insurance applies, that such person or organization would have in the absence of such contract or agreement.
2. representation or warranty unauthorized by you.

CHUBB®

Policy Conditions

Endorsement

Policy Period	DECEMBER 1, 2025TO DECEMBER 1,2026
Effective Date	DECEMBER 1,2025
Policy Number	3607-33-95
Insured	SARNOVA, INC
Name of Company	FEDERAL INSURANCE COMPANY
Date Issued	DECEMBER 1,2025

This Endorsement applies to the following forms:

COMMON POLICY CONDITIONS

Conditions

Under Conditions, the following condition is added.

Notice Of Cancellation To Scheduled Persons Or Organizations When We Cancel

When we cancel this policy for any reason, other than non-payment of premium, we will notify person(s) or organization(s) shown in the Schedule at least 30 days in advance of the cancellation date.

Any failure by us to notify such person(s) or organization(s) will not:

- impose any liability or obligation of any kind upon us; or
- invalidate such cancellation.

Schedule

If you are obligated, pursuant to a written contract or agreement, to provide person(s) or organization(s) with notice of cancellation, then we will notify such person(s) or organization(s) provided that within 15 days of the date we send notice of cancellation to the first named insured, the first named insured or producer of record provides us with a spreadsheet containing the name, mailing address and, if available, e-mail address of the person(s) or organization(s).

All other terms and conditions remain unchanged.

Conditions

Legal Action Against Us (continued)

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured obtained after an actual:

- trial in a civil proceeding; or
- arbitration or other alternative dispute resolution proceeding;

but we will not be liable for damages that are not payable under the terms and conditions of this insurance or that are in excess of the applicable Limits Of Insurance.

Other Insurance

If valid and collectible other insurance is available to any insured or other qualifying interest (under this insurance) for loss we would otherwise cover under this insurance, then our obligations are limited as follows.

Primary Insurance

This insurance is primary, except to the extent that the Excess Insurance provision described below applies.

If this insurance is primary, then our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in the Method of Sharing provision below.

However, if you are obligated pursuant to a written contract or agreement to provide a person or organization that is included in the Who Is An Insured section of this contract with primary insurance such as is afforded by this policy, then this insurance is primary and we will not seek contribution from insurance available to such person or organization.

Excess Insurance

A. This insurance is excess over any other insurance (whether primary, excess, contingent or on any other basis), including any other insurer's antecedent or replacement of this insurance or any such other insurance:

   1. that is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar insurance for your work.
   2. that applies to property damage to a premises rented to you or occupied by you.
   3. that applies to property damage to property of others.
   4. if the loss arises out of aircraft, autos or watercraft.
   5. if the loss arises out of hazardous substances, pollutants or pollution.
   6. if the loss arises out of any rendering of or failure to render any professional service, advice or instruction.
   7. that applies to advertising injury or personal injury.
   8. under which any insured or other qualifying interest (under this insurance) is included as an insured or other qualifying interest under such other insurance.
   9. under any Property section of this policy.
   10. that applies to injury or damage that occurs, in whole or in part, after the end of the policy period shown in the Declarations of this insurance.

Conditions
(continued)

Separation Of Insureds

Except with respect to the Limits Of Insurance, and any rights or duties specifically assigned in this insurance to the person or organization first named in the Declarations (first named insured), this insurance applies:

- as if each named insured were the only named insured; and
- separately to each insured against whom claim is made or suit is brought.

Transfer Or Waiver Of Rights Of Recovery Against Others

We will waive the right of recovery we would otherwise have had against another person or organization, for loss to which this insurance applies, provided the insured has waived their rights of recovery against such person or organization in a contract or agreement that is executed before such loss.

To the extent that the insured's rights to recover all or part of any payment made under this insurance have not been waived, 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.

Your Right To Claim Information

We will provide the person or organization first named insured in the Declarations (first named insured) the following information relating to this and any preceding coverage we have issued to you during the previous three years:

- a list or other record of each occurrence or offense, not previously reported to any other insurer, of which we were notified in accordance with the provisions of the Condition titled Duties In The Event Of Occurrence, Offense, Claim Or Suit. We will include the date and brief description of the occurrence or offense if that information was in the notice we received.
- a summary by policy year, of payments made and amounts reserved, stated separately, under any applicable aggregate limit.

Amounts reserved are based on our judgment. They are subject to change and should not be regarded as ultimate settlement values. You must not disclose this information to any claimant or any claimant's representative without our consent.

We will provide this information only if we receive a written request from the first named insured within 60 days after the end of the policy period. Then, we will provide this information within 45 days of receipt of the request.

We compile claim information for our own business purposes and exercise reasonable care in doing so. In providing this information to the first named insured, we make no representations or warranties to any insured, insurer or others to whom this information is furnished by or on behalf of any insured. Cancellation or nonrenewal will be effective even if we inadvertently provide inaccurate information.

COMMERCIAL AUTOMOBILE

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
This endorsement modifies the Business Auto Coverage Form.

1. EXTENDED CANCELLATION CONDITION
Paragraph A.2.b. – CANCELLATION - of the COMMON POLICY CONDITIONS form IL 00 17 is deleted and replaced with the following:
b. 60 days before the effective date of cancellation if we cancel for any other reason.

2. BROAD FORM INSURED

A. Subsidiaries and Newly Acquired or Formed Organizations As Insureds
The Named Insured shown in the Declarations is amended to include:
1. Any legally incorporated subsidiary in which you own more than 50% of the voting stock on the effective date of the Coverage Form. However, the Named Insured does not include any subsidiary that is an "insured" under any other automobile policy or would be an "insured" under such a policy but for its termination or the exhaustion of its Limit of Insurance.
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 an "insured" under any other automobile policy;
(b) That has exhausted its Limit of Insurance under any other policy; or
(c) 180 days or more after its acquisition or formation by you, unless you have given us written 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.

B. Employees as Insureds
Paragraph A.1. – WHO IS AN INSURED – of SECTION II – LIABILITY COVERAGE is amended to add the following:
d. Any "employee" of yours while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

C. Lessors as Insureds
Paragraph A.1. – WHO IS AN INSURED – of SECTION II – LIABILITY COVERAGE is amended to add the following:
e. The lessor of a covered "auto" while the "auto" is leased to you under a written agreement if:
(1) The agreement requires you to provide direct primary insurance for the lessor; and
(2) The "auto" is leased without a driver.
Such leased "auto" will be considered a covered "auto" you own and not a covered "auto" you hire.
However, the lessor is an "insured" only for "bodily injury" or "property damage" resulting from the acts or omissions by:
1. You;
2. Any of your "employees" or agents; or
3. Any person, except the lessor or any "employee" or agent of the lessor, operating an "auto" with the permission of any of 1. and/or 2. above.

CI. Persons And Organizations As Insureds Under A Written Insured Contract
Paragraph A.1 – WHO IS AN INSURED – of SECTION II – LIABILITY COVERAGE is amended to add the following:
f. Any person or organization with respect to the operation, maintenance or use of a covered "auto", provided that you and such person or organization have agreed under an express provision in a written "insured contract", written agreement or a written permit issued to you by a governmental or public authority to add such person or organization to this policy as an "insured"
However, such person or organization is an "insured" only:

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(1) with respect to the operation, maintenance or use of a covered "auto"; and
(2) for "bodily injury" or "property damage" caused by an "accident" which takes place after:
(a) You executed the "insured contract" or written agreement; or
(b) The permit has been issued to you.

3. **FELLOW EMPLOYEE COVERAGE**
EXCLUSION B.5. - FELLOW EMPLOYEE – of SECTION II – LIABILITY COVERAGE does not apply.

4. **PHYSICAL DAMAGE – ADDITIONAL TEMPORARY TRANSPORTATION EXPENSE COVERAGE**
Paragraph A.4.a. – TRANSPORTATION EXPENSES – of SECTION III – PHYSICAL DAMAGE COVERAGE is amended to provide a limit of $50 per day for temporary transportation expense, subject to a maximum limit of $1,000.

5. **AUTO LOAN/LEASE GAP COVERAGE**
Paragraph A. 4. – COVERAGE EXTENSIONS - of SECTION III – PHYSICAL DAMAGE COVERAGE is amended to add the following:
c. Unpaid Loan or Lease Amounts
In the event of a total "loss" to a covered "auto", we will pay any unpaid amount due on the loan or lease for a covered "auto" minus:
1. The amount paid under the Physical Damage Coverage Section of the policy; and
2. Any:
a. Overdue loan/lease payments at the time of the "loss";
b. Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage;
c. Security deposits not returned by the lessor:
d. Costs for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan or lease; and
e. Carry-over balances from previous loans or leases.

We will pay for any unpaid amount due on the loan or lease if caused by:
1. Other than Collision Coverage only if the Declarations indicate that Comprehensive Coverage is provided for any covered "auto";
2. Specified Causes of Loss Coverage only if the Declarations indicate that Specified Causes of Loss Coverage is provided for any covered "auto"; or
3. Collision Coverage only if the Declarations indicate that Collision Coverage is provided for any covered "auto.

6. **RENTAL AGENCY EXPENSE**
Paragraph A. 4. – COVERAGE EXTENSIONS – of SECTION III – PHYSICAL DAMAGE COVERAGE is amended to add the following:
d. Rental Expense
We will pay the following expenses that you or any of your "employees" are legally obligated to pay because of a written contract or agreement entered into for use of a rental vehicle in the conduct of your business:
MAXIMUM WE WILL PAY FOR ANY ONE CONTRACT OR AGREEMENT:
1. $2,500 for loss of income incurred by the rental agency during the period of time that vehicle is out of use because of actual damage to, or "loss" of, that vehicle, including income lost due to absence of that vehicle for use as a replacement;
2. $2,500 for decrease in trade-in value of the rental vehicle because of actual damage to that vehicle arising out of a covered "loss"; and
3. $2,500 for administrative expenses incurred by the rental agency, as stated in the contract or agreement.
4. $7,500 maximum total amount for paragraphs 1., 2. and 3. combined.

7. **EXTRA EXPENSE – BROADENED COVERAGE**
Paragraph A.4. – COVERAGE EXTENSIONS – of SECTION III – PHYSICAL DAMAGE COVERAGE is amended to add the following:
e. Recovery Expense
We will pay for the expense of returning a stolen covered "auto" to you.

8. **AIRBAG COVERAGE**
Paragraph B.3.a. - EXCLUSIONS – of SECTION III – PHYSICAL DAMAGE COVERAGE does not apply to the accidental or unintended discharge of an airbag. Coverage is excess over any other collectible insurance or warranty specifically designed to provide this coverage.

9. **AUDIO, VISUAL AND DATA ELECTRONIC EQUIPMENT - BROADENED COVERAGE**
Paragraph C.1.b. – LIMIT OF INSURANCE - of SECTION III - PHYSICAL DAMAGE is deleted and replaced with the following:
b. $2,000 is the most we will pay for "loss" in any one "accident" to all electronic 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

10. **GLASS REPAIR – WAIVER OF DEDUCTIBLE**

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COMMERCIAL AUTOMOBILE

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NOTICE OF CANCELLATION (OTHER THAN NONPAYMENT OF PREMIUM) SCHEDULED PERSON(S) OR ORGANIZATION(S)

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
BUSINESS AUTO PHYSICAL DAMAGE COVERAGE FORM
GARAGE COVERAGE FORM
TRUCKERS COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to the coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

SCHEDULE

Name of Person(s) or Organization(s):
IF YOU ARE OBLIGATED, PURSUANT TO A WRITTEN CONTRACT OR AGREEMENT, TO PROVIDE PERSONS OR ORGANIZATIONS WITH NOTICE OF CANCELLATION, THEN WE WILL NOTIFY SUCH PERSONS OR ORGANIZATIONS PROVIDED THAT WITHIN 15 DAYS OF THE DATE WE SEND NOTICE OF CANCELLATION TO THE FIRST NAMED INSURED, THE FIRST NAMED INSURED OR PRODUCER OF RECORD PROVIDES US WITH A SPREADSHEET CONTAINING THE NAME, MAILING ADDRESS AND, IF AVAILABLE, E-MAIL ADDRESS OF THE PERSONS OR ORGANIZATIONS.

Address:

Under Common Policy Conditions the following condition is added:

NOTICE OF CANCELLATION (OTHER THAN NONPAYMENT OF PREMIUM) SCHEDULED PERSON(S) OR ORGANIZATION(S)

When we cancel this policy for any reason other than nonpayment of premium, we will notify the person(s) or organization(s) described in the SCHEDULE at least 30 days in advance of the cancellation date.

Any failure by us to notify such person(s) or organization(s) will not:

- Impose any liability or obligation of any kind upon us; or
- Invalidate such cancellation.

POLICY NUMBER: (22)7363-09-65

COMMERCIAL AUTO
16-02-0316 Ed. 10 14

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NON-CONTRIBUTORY LIABILITY INSURANCE

This endorsement modifies insurance provided under the following:

BUSINESS AUTO 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: SARNOVA, INC
Endorsement Effective Date: 12/01/2022

SCHEDULE

Name(s) Of Person(s) Or Organization(s): PERSONS OR ORGANIZATIONS THAT YOU ARE OBLIGATED, PURSUANT TO A CONTRACT OR AGREEMENT BETWEEN YOU AND SUCH PERSON OR ORGANIZATION, TO PROVIDE PRIMARY AND NON-CONTRIBUTORY INSURANCE.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The following is added to Item 5. – "**Other Insurance**" of Item B. – "**General Conditions**" under Section IV – "**Business Auto Conditions**":

e. Regardless of the provisions of Paragraph 5.a. through d. above, for any liability arising out of the ownership, maintenance, use, rental, lease, loan, hire or borrowing by an "insured" of a covered "auto" for which an "insured" is contractually obligated to provide primary insurance coverage to a client, this Coverage Form will be primary and non-contributory with respect to the Persons or Organizations in the schedule, regardless of the availability or existence of other collectible insurance under any other Coverage Form or policy that applies on a primary basis.

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.

11. TWO OR MORE DEDUCTIBLES

Paragraph D.- DEDUCTIBLE – of SECTION III – PHYSICAL DAMAGE COVERAGE is amended to add the following:
If this Coverage Form and any other Coverage Form or policy issued to you by us 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; or
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.

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

Paragraph A.2.a. - DUTIES IN THE EVENT OF AN ACCIDENT, CLAIM, SUIT OR LOSS of SECTION IV - BUSINESS AUTO CONDITIONS is deleted and replaced with the following:

a. In the event of "accident", claim, "suit" or "loss", you must promptly notify us when the "accident" is known to:
   (1) You or your authorized representative, if you are an individual;
   (2) A partner, or any authorized representative, if you are a partnership;
   (3) A member, if you are a limited liability company; or
   (4) An executive officer, insurance manager, or authorized representative, if you are an organization other than a partnership or limited liability company.

Knowledge of an "accident", claim, "suit" or "loss" by other persons does not imply that the persons listed above have such knowledge.
Notice to us should include:
(1) How, when and where the "accident" or "loss" occurred;
(2) The "insured's" name and address; and
(3) To the extent possible, the names and addresses of any injured persons or witnesses.

13. WAIVER OF SUBROGATION

Paragraph A.5. - TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US of SECTION IV – BUSINESS AUTO CONDITIONS is deleted and replaced with the following:
5. We will waive the right of recovery we would otherwise have against another person or organization for "loss" to which this insurance applies, provided the "insured" has waived their rights of recovery against such person or organization under a contract or agreement that is entered into before such "loss".

To the extent that the "insured's" rights to recover damages for all or part of any payment made under this insurance has not been waived, 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. At our request, the insured will bring suit or transfer those rights to us and help us enforce them.

14. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

Paragraph B.2. – CONCEALMENT, MISREPRESENTATION or FRAUD of SECTION IV – BUSINESS AUTO CONDITIONS - is deleted and replaced with the following:
If you unintentionally fail to disclose any hazards existing at the inception date of your policy, we will not void coverage under this Coverage Form because of such failure.

15. AUTOS RENTED BY EMPLOYEES

Paragraph B.5. - OTHER INSURANCE of SECTION IV – BUSINESS AUTO CONDITIONS - is amended to add the following:

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

16. HIRED AUTO – COVERAGE TERRITORY

Paragraph B.7.b.(5). - POLICY PERIOD, COVERAGE TERRITORY of SECTION IV – BUSINESS AUTO CONDITIONS is deleted and replaced with the following:

(5) A covered "auto" of the private passenger type is leased, hired, rented or borrowed without a driver for a period of 45 days or less; and

17. RESULTANT MENTAL ANGUISH COVERAGE

Paragraph C. of - SECTION V – DEFINITIONS is deleted and replaced by the following:
"Bodily injury" means bodily injury, sickness or disease sustained by any person, including mental anguish or death as a result of the "bodily injury" sustained by that person.

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TRAVELERS

ONE TOWER SQUARE
HARTFORD CT 06183

WORKERS COMPENSATION AND EMPLOYERS LIABILITY POLICY

ENDORSEMENT WC 00 03 13 (00) - 001

POLICY NUMBER: **UB-1X36498A-25-I3-G**

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 any one not named in the Schedule.

SCHEDULE

DESIGNATED PERSON:

DESIGNATED ORGANIZATION:

ANY PERSON OR ORGANIZATION FOR WHICH THE INSURED HAS AGREED BY WRITTEN CONTRACT EXECUTED PRIOR TO LOSS TO FURNISH THIS WAIVER.

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.

February 26, 2026
Item No. 8.5.
Base Failure and Pavement Reconstruction Contract

Sponsor: Emily Fisher, Director of Public Works

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding the award of a contract to Brazos Paving, Inc. for base failure repairs and pavement reconstruction treatments in an amount not to exceed $6,000,000. This item is for contracted equipment, labor, and materials for standard maintenance activities associated with asphalt streets.

Relationship to Strategic Goals:
1. Core services and Infrastructure

Recommendation(s): Staff recommends awarding the contract to Brazos Paving, Inc. in the amount of $6,000,000.

Summary: In response to bid #23-017, the city received three competitive sealed bids for base failure repairs and road reconstruction treatments for the City of College Station street maintenance program. The contract is being awarded to the lowest qualified bidder, Brazos Paving, Inc. for an amount not to exceed $6,000,000.

This agreement shall remain in full force and effect with firm fixed bid prices for the period of one (1) year. Upon completion of the initial contract term, and upon the mutual agreement of both parties, the initial contract may be renewed for up to two (2) additional one (1) year terms (three (3) years total).

Budget & Financial Summary: Funds are budgeted and available in the Roadway Maintenance Fund.

Attachments:
1. 26-037 Tabulation
2. 26300344 -- BW (CC 2.26.26)

CITY OF COLLEGE STATION

City of College Station - Purchasing Division
Bid Tabulation for #26-037
"Base Failures Repairs and Reconstruction"
Open Date: Friday, January 30, 2026 @ 2:00 p.m.

				Brazos Paving, Inc		Texas Materials dba Gulf Coast		Knife River Corporation South		Larry Young Paving, Inc.	
ITEM	QTY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
Section 1											
1	50,000.00	Ton	Asphalt, Hot Mix, Type D, Installed, 2-3 inches thick in accordance with Section 32 12 16 of the "Bryan/College Station Unified Design Specifications"	$107.50	$5,375,000.00	$130.00	$6,500,000.00	$128.00	$6,400,000.00	$138.25	$6,912,500.00
2	10,000.00	Gallon	Emulsion, (MC-30) Installed	$3.75	$37,500.00	$4.65	$46,500.00	$10.80	$108,000.00	$4.00	$40,000.00
3	10,000.00	Gallon	Emulsion, (Ultra-Tack by Blacklidge or equivalent) Installed	$4.50	$45,000.00	$4.65	$46,500.00	$6.95	$69,500.00	$4.00	$40,000.00
4	25,000.00	Sq Yd	Base Failure Repairs, performance of 8" full depth base failure repair w/ type B Hotmix prior to road reconstruction as specified. Pricing should include all material and labor costs.	$51.65	$1,291,250.00	$90.00	$2,250,000.00	$106.30	$2,657,500.00	$39.00	$975,000.00
5	25,000.00	Sq Yd	Base Failure Repairs, performance of 8" full depth base failure repair w/ type B Hotmix prior to road reconstruction as specified. Pricing should include all material and labor costs.	$27.25	$681,250.00	$60.00	$1,500,000.00	$85.50	$2,137,500.00	$21.00	$525,000.00
			Section 1 - TOTAL	$7,430,000.00		$10,343,000.00		$11,372,500.00		$8,492,500.00	
Section 2 - As Needed											
6	1	Sq Yd	When Required by City, mill and excavate the depleted asphalt up to 2 inches in depth. Contractor will retain asphalt millings.	$3.00	$3.00	$5.00	$5.00	$3.00	$3.00	$3.00	$3.00
7	1	Sq Yd	When Required by City, mill and excavate the depleted asphalt up to 2 inches in depth. Contractor will deliver the asphalt millings to the City's stockpile area at 2613 Texas Ave.	$3.50	$3.50	$5.50	$5.50	$3.50	$3.50	$3.50	$3.50
8	1	Sq Yd	Repair any base failure that occurs before or during paving operation.	$32.25	$32.25	$90.00	$90.00	$106.30	$106.30	$87.00	$87.00
9	1	Ton	Delivery of HMAC to site for installation by City Crews. Vendor must be able to deliver using tandem axle bob-tail trucks.	$98.00	$98.00	$108.00	$108.00	$94.50	$94.50	$95.00	$95.00
			Section 2 - As Needed	$136.75		$198.00		$207.30		$188.50	
Certification of Bid				✓		✓		✓		✓	
Bid Bond				✓		✓		✓		✓	
Acknowledgement of Addendums				✓		✓		✓		✓	

CONTRACT & AGREEMENT ROUTING FORM

CONTRACT#: 26300344 PROJECT #: _____ BID/RFP/RFQ#: 26-037

Project Name / Contract Description: Annual pricing for base failure repairs and road reconstruction treatments.

Name of Contractor: Brazos Paving, Inc.

CONTRACT TOTAL VALUE: $ 6,000,000.00 **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)

Funding is budgeted in the Streets Maintenance General Fund Account 1001040-0740 and the Roadway Maintenance account39131798-5315

*(If required)**

CRC Approval Date*: n/a **Council Approval Date*:** 02/26/26 **Agenda Item No*:** _____

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

Insurance Certificates: _____ **Performance Bond:** BW **Payment Bond:** BW **Info Tech:** _____

SIGNATURES RECOMMENDING APPROVAL

_____ _____
DEPARTMENT DIRECTOR/ADMINISTERING CONTRACT DATE

_____ _____
ASST CITY MGR – CFO DATE

_____ _____
LEGAL DEPARTMENT DATE

APPROVED & EXECUTED

_____ _____
CITY MANAGER DATE

N/A _____ _____
MAYOR (if applicable) DATE

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

9.12.23 UPDATED

CITY OF COLLEGE STATION
STANDARD FORM OF CONSTRUCTION AGREEMENT

This Agreement is entered into by and between the City of College Station, a Texas home-rule municipal corporation (the "City") and BRAZOS PAVING INC. (the "Contractor") for the construction and/or installation of the following:
As described in ITB 26-037, Annual Price Agreeemnt for Base Failure Repairs & Road Reconstruction.

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: zero
and no **/100 Dollars ($** 0.00).

1.06 Contract Amount. The term "Contract Amount" shall mean the amount of Contractor's lump sum base bid proposal, together with all alternates, as accepted by the City in accordance with the Contractor's Proposal. In the case of a unit price contract, Contract Amount shall mean the sum of the product of all unit prices multiplied by the respective estimated final quantities of work, for all base bid and alternates, as accepted by the City. Except in the event of a duly authorized change order approved by the City as provided in this Agreement, and in consideration of the Contractor's final completion of all Work in conformity with this Agreement, the City shall pay the Contractor an amount not to exceed: Six Million
and NO **/100 Dollars ($** 6,000,000.000).

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 Zero and NO **/100 DOLLARS ($** 0.00 **)** 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

BRAZOS PAVING, INC.

By:_____

Printed Name:_____

Title:_____

Date:_____

CITY OF COLLEGE STATION

By:_____
City Manager
Date: _____

APPROVED:

_____
City Attorney
Date: _____

_____
Assistant City Manager/CFO
Date: _____

EXHIBIT A
DAVIS BACON WAGE RATES

"General Decision Number: TX20260291 01/02/2026

Superseded General Decision Number: TX20250291

State: Texas

Construction Type: 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.

HIGHWAY CONSTRUCTION PROJECTS

Modification Number	Publication Date
0	01/02/2026

SATX2025-004 11/15/2023

	Rates	Fringes
Agricultural Tractor Operator	$ 19.14	0.00
Asphalt Distributor Operator	$ 24.07	0.00
Asphalt Paving Machine Operator	$ 22.12	0.00
Asphalt Raker	$ 19.40	0.00
Boom Truck Operator	$ 27.82	0.00
Broom or Sweeper Operator	$ 18.09	0.00
Concrete Finisher, Paving and Structures	$ 20.61	0.00
Concrete Pavement Finishing Machine Operator	$ 22.81	0.00
Concrete Saw Operator	$ 25.97	0.00
Crane Operator, Hydraulic 80 tons or less	$ 29.24	0.00
Crane Operator, Lattice Boom 80 Tons or Less	$ 26.47	0.00
Crane Operator, Lattice Boom Over 80 Tons	$ 28.87	0.00
Crawler Tractor Operator	$ 20.92	0.00
Directional Drilling Locator	$ 21.39	0.00
Directional Drilling Operator	$ 25.19	0.00
Electrician	$ 30.54	0.00
Excavator Operator, 50,000 pounds or less	$ 22.93	0.00
Excavator Operator, Over 50,000 pounds	$ 22.90	0.00
Flagger	$ 15.52	0.00
Form Builder/Setter, Structures	$ 20.63	0.00

Form Setter, Paving & Curb	$ 19.18	0.00
Foundation Drill Operator, Truck Mounted	$ 24.28	0.00
Front End Loader Operator, 3 CY or Less	$ 20.33	0.00
Front End Loader Operator, Over 3 CY	$ 20.20	0.00
Laborer, Common	$ 17.52	0.00
Laborer, Utility	$ 19.05	0.00
Loader/Backhoe Operator	$ 20.32	0.00
Mechanic	$ 26.15	0.00
Milling Machine Operator	$ 21.73	0.00
Motor Grader Operator, Fine Grade	$ 26.56	0.00
Motor Grader Operator, Rough	$ 22.95	0.00
Off Road Hauler	$ 17.52	0.00
Painter, Structures	$ 23.76	0.00
Pavement Marking Machine Operator	$ 22.00	0.00
Pipelayer	$ 19.23	0.00
Reclaimer/Pulverizer Operator	$ 19.05	0.00
Reinforcing Steel Worker	$ 22.46	0.00
Roller Operator, Asphalt	$ 20.24	0.00
Roller Operator, Other	$ 17.52	0.00
Scraper Operator	$ 17.52	0.00
Servicer	$ 23.75	0.00
Sign Erector	$ 17.52	0.00
Spreader Box Operator	$ 19.31	0.00
Traffic Signal/Light Pole Worker	$ 21.99	0.00
Truck Driver Lowboy Float	$ 25.96	0.00
Truck Driver, Single Axle	$ 19.70	0.00
Truck Driver, Single or Tandem Axle Dump Truck	$ 20.91	0.00
Truck Driver, Tandem Axle Tractor with Semi Trailer	$ 21.71	0.00
Welder	$ 23.38	0.00
Work Zone Barricade Servicer	$ 17.75	0.00

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

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at https://www.dol.gov/agencies/whd/government-contracts.

Note: Executive Order 13658 generally applies to contracts subject to the Davis-Bacon Act that were awarded on or between January 1, 2015 and January 29, 2022, and that have not been renewed or extended on or after January 30, 2022. Executive Order 13658 does not apply to contracts subject only to the Davis-Bacon Related Acts regardless of when they were awarded. If a contract is subject to Executive Order 13658, the contractor must pay all covered workers at least $13.30 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 2025. The applicable Executive Order minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under Executive Order 13658 is available at www.dol.gov/whd/govcontracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (iii)).

The body of each wage determination lists the classifications and wage rates that have been found to be prevailing for the type(s) of construction and geographic area covered by the wage determination. The classifications are listed in alphabetical order under rate identifiers indicating whether the particular rate is a union rate (current union negotiated rate), a survey rate, a weighted union average rate, a state adopted rate, or a supplemental classification rate.

Union Rate Identifiers

A four-letter identifier beginning with characters other than ""SU"", ""UAVG"", ?SA?, or ?SC? denotes that a union rate was prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2024. PLUM is an identifier of the union whose collectively bargained rate 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. The date, 07/01/2024 in the example, is the effective date of the most current negotiated rate.

Union prevailing wage rates are updated to reflect all changes over time that are reported to WHD in the rates in the collective bargaining agreement (CBA) governing the

classification.

Union Average Rate Identifiers

The UAVG identifier indicates that no single rate prevailed for those classifications, but that 100% of the data reported for the classifications reflected union rates. EXAMPLE: UAVG-OH-0010 01/01/2024. UAVG indicates that the rate is a weighted union average rate. OH indicates the State of Ohio. The next number, 0010 in the example, is an internal number used in producing the wage determination. The date, 01/01/2024 in the example, indicates the date the wage determination was updated to reflect the most current union average rate.

A UAVG rate will be updated once a year, usually in January, to reflect a weighted average of the current rates in the collective bargaining agreements on which the rate is based.

Survey Rate Identifiers

The ""SU"" identifier indicates that either a single non-union rate prevailed (as defined in 29 CFR 1.2) for this classification in the survey or that the rate was derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As a weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SUFL2022-007 6/27/2024. SU indicates the rate is a single non-union prevailing rate or a weighted average of survey data for that classification. FL indicates the State of Florida. 2022 is the year of the 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. The date, 6/27/2024 in the example, indicates the survey completion date for the classifications and rates under that identifier.

?SU? wage rates typically remain in effect until a new survey is conducted. However, the Wage and Hour Division (WHD) has the discretion to update such rates under 29 CFR 1.6(c)(1).

State Adopted Rate Identifiers

The ""SA"" identifier indicates that the classifications and prevailing wage rates set by a state (or local) government were adopted under 29 C.F.R 1.3(g)-(h). Example: SAME2023-007 01/03/2024. SA reflects that the rates are state adopted. ME refers to the State of Maine. 2023 is the year during which the state completed the survey on which the listed classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. The date, 01/03/2024 in the example, reflects the date on which the classifications and rates under the ?SA? identifier took effect under state law in the state from which the rates were adopted.

WAGE DETERMINATION APPEALS PROCESS

1) Has there been an initial decision in the matter? This can be:

a) a survey underlying a wage determination
b) an existing published wage determination
c) an initial WHD letter setting forth a position on a wage determination matter
d) an initial conformance (additional classification and rate) determination

On survey related matters, initial contact, including requests for summaries of surveys, should be directed to the WHD Branch of Wage Surveys. Requests can be submitted via email to

davisbaconinfo@dol.gov or by mail to:

Branch of Wage Surveys
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

Regarding any other wage determination matter such as conformance decisions, requests for initial decisions should be directed to the WHD Branch of Construction Wage Determinations. Requests can be submitted via email to BCWD-Office@dol.gov or by mail 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 an initial decision has been issued, then any interested party (those affected by the action) that disagrees with the decision can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Requests for review and reconsideration can be submitted via email to dba.reconsideration@dol.gov or by mail 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 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.

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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. B3307229

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

THAT WE, Brazos Paving, Inc, as Principal, hereinafter called "Contractor" and the other subscriber hereto The Cincinnati Casualty Company, as Surety, do hereby acknowledge ourselves to be held and firmly bound to the City of College Station, a municipal corporation, in the sum of Six Million and NO /100 Dollars ($ 6,000,000.00) 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 As described in ITB 26-037, Annual Price Agreeemnt for Base Failure Repairs & Road Reconstruction, 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. B3307229

FOR THE CONTRACTOR:

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

BRAZOS PAVING, INC.
(Name of Contractor)

By: Billy Prewitt

Name: Billy Prewitt

Title: Sr. V.P.

Date: February 26, 2026

By: [signature]

Name: [signature]

Title: President

Date: February 26, 2026

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

By: Lisa Marroquin

Name: Lisa Marroquin

Title: Lead Account Manager

Date: February 26, 2026

The Cincinnati Casualty Company
(Full Name of Surety)

6200 South Gilmore Road

Fairfield, OH 45014
(Address of Surety for Notice)

By: Stephanie Lucien

Name: Stephanie Lucien

Title: Attorney-in-Fact

Date: February 26, 2026

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. 26300344
Construction Agreement Over $50,000
Form 04-20-2023

TEXAS STATUTORY PAYMENT BOND

Bond No. B3307229

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

THAT WE, Brazos Paving, Inc, as Principal, hereinafter called "Principal" and the other subscriber hereto The Cincinnati Casualty Company, a corporation organized and existing under the laws of the State of OH, 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 Six Million and NO /100 Dollars ($ 6,000,000.00) 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 26 day of FEBRUARY, 20 26, for As described in ITB 26-037, Annual Price Agreeemnt for Base Failure Repairs & Road Reconstruction, 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. B3307229

FOR THE CONTRACTOR:

BRAZOS PAVING, INC.

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

(Name of Contractor)

By: Billy Prewitt

Name: Billy Prewitt

Title: Sr. V.P.

Date: February 26, 2026

By: Martin Sachse

Name: Martin Sachse

Title: President

Date: February 26, 2026

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

By: Lisa Marroquin

Name: Lisa Marroquin

Title: Lead Account Manager

Date: February 26, 2026

The Cincinnati Casualty Company
(Full Name of Surety)

6200 South Gilmore Road

Fairfield, OH 45014
(Address of Surety for Notice)

By: Stephanie Lucien

Name: Stephanie Lucien

Title: Attorney-in-Fact

Date: February 26, 2026

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. 26300344
Construction Agreement Over $50,000
Form 04-20-2023

THE CINCINNATI INSURANCE COMPANY
THE CINCINNATI CASUALTY COMPANY

Fairfield, Ohio

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That THE CINCINNATI INSURANCE COMPANY and THE CINCINNATI CASUALTY COMPANY, corporations organized under the laws of the State of Ohio, and having their principal offices in the City of Fairfield, Ohio (herein collectively called the "Companies"), do hereby constitute and appoint

Vladimir Chemadurov; Rob Eppers; Michelle McCall; Russell Gourgues; Lauren Wood; Randi Meche; Lisa Marroquin; James R. Jackson; Mike Chatelain and/or Stephanie Lucien

of Houston, Texas
their true and legal Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign, execute, seal and deliver on behalf of the Companies as Surety, any and all bonds, policies, undertakings or other like instruments, as follows:

Any such obligations in the United States, up to
Fifty Million and No/100 Dollars ($50,000,000.00).

This appointment is made under and by authority of the following resolutions adopted by the Boards of Directors of The Cincinnati Insurance Company and The Cincinnati Casualty Company, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the President or any Senior Vice President be hereby authorized, and empowered to appoint Attorneys-in-Fact of the Company to execute any and all bonds, policies, undertakings, or other like instruments on behalf of the Corporation, and may authorize any officer or any such Attorney-in-Fact to affix the corporate seal; and may with or without cause modify or revoke any such appointment or authority. Any such writings so executed by such Attorneys-in-Fact shall be binding upon the Company as if they had been duly executed and acknowledged by the regularly elected officers of the Company.

RESOLVED, that the signature of the President or any Senior Vice President and the seal of the Company may be affixed by facsimile on any power of attorney granted, and the signature of the Secretary or Assistant Vice-President and the Seal of the Company may be affixed by facsimile to any certificate of any such power and any such power of certificate bearing such facsimile signature and seal shall be valid and binding on the Company. Any such power so executed and sealed and certified by certificate so executed and sealed shall, with respect to any bond or undertaking to which it is attached, continue to be valid and binding on the Company.

IN WITNESS WHEREOF, the Companies have caused these presents to be sealed with their corporate seals, duly attested by their President or any Senior Vice President this 16th day of March, 2021.

THE CINCINNATI INSURANCE COMPANY
THE CINCINNATI CASUALTY COMPANY

STATE OF OHIO)SS:
COUNTY OF BUTLER)

On this 16th day of March, 2021 before me came the above-named President or Senior Vice President of The Cincinnati Insurance Company and The Cincinnati Casualty Company, to me personally known to be the officer described herein, and acknowledged that the seals affixed to the preceding instrument are the corporate seals of said Companies and the corporate seals and the signature of the officer were duly affixed and subscribed to said instrument by the authority and direction of said corporations.

Keith Collett, Attorney at Law
Notary Public – State of Ohio
My commission has no expiration date.
Section 147.03 O.R.C.

I, the undersigned Secretary or Assistant Vice-President of The Cincinnati Insurance Company and The Cincinnati Casualty Company, hereby certify that the above is the Original Power of Attorney issued by said Companies, and do hereby further certify that the said Power of Attorney is still in full force and effect.

Given under my hand and seal of said Companies at Fairfield, Ohio, this 26th day of February , 2026 .

TEXAS IMPORTANT NOTICE

To obtain information or make a complaint:

You may call our toll-free telephone number for information or to make a complaint at:

1-800-635-7521

You may also write to us at:

The Cincinnati Insurance Companies
6200 South Gilmore Road
Fairfield, Ohio 45014 - 5141

or

The Cincinnati Insurance Companies
P.O. Box 145496
Cincinnati, Ohio 45250-5496

You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights or complaints at:

1-800-252-3439

You may write the Texas Department of Insurance:

P.O. Box 149104
Austin, TX 78714-9104
FAX# (512) 475-1771
Web: http://www.tdi.state.tx.us
E-mail: ConsumerProtection@tdi.state.tx.us

PREMIUM OR CLAIM DISPUTES: Should you have a dispute concerning your premium or about a claim you should contact the agent first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

ATTACH THIS NOTICE TO YOUR POLICY: This notice is for information only and does not become a part or condition of the attached document.

EXHIBIT C
CERTIFICATES OF INSURANCE AND ENDORSEMENTS

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 2/3/2026

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 Marsh & McLennan Agency LLC 2500 City West Boulevard Suite 2400 Houston TX 77042	**CONTACT NAME:** Kelly M. Bell **PHONE (A/C, No, Ext):** 713-780-6632 **FAX (A/C, No):** **E-MAIL ADDRESS:** Kelly.M.Bell@MarshMMA.com
INSURED BRAZOPAVIN Brazos Paving, Inc. BPI Materials, LLC PO Box 714 Bryan TX 77806	**INSURER(S) AFFORDING COVERAGE** / **NAIC #** **INSURER A :** National Union Fire Ins Co PittsburghPA — 19445 **INSURER B :** New Hampshire Insurance Company — 23841 **INSURER C :** Hanover Insurance Company — 22292 **INSURER D :** **INSURER E :** **INSURER F :**

COVERAGES **CERTIFICATE NUMBER:** 249613479 **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 X LOC OTHER:			3960905	3/1/2025	3/1/2026	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG 	$ 5,000,000 $ 300,000 $ 25,000 $ 5,000,000 $ 10,000,000 $ 10,000,000 $
A	**AUTOMOBILE LIABILITY** X ANY AUTO OWNED AUTOS ONLY / SCHEDULED AUTOS HIRED AUTOS ONLY / NON-OWNED AUTOS ONLY			6401559	3/1/2025	3/1/2026	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) 	$ 5,000,000 $ $ $ $
	UMBRELLA LIAB OCCUR EXCESS LIAB CLAIMS-MADE DED RETENTION $						EACH OCCURRENCE AGGREGATE 	$ $ $
B	**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		WC067960974	3/1/2025	3/1/2026	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
C	Contractors Equipment			RHDJ88996400	11/1/2024	3/1/2026	Scheduled Newly Acquired Leased/Rented	$3,085,368 $1,000,000 $600,000

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

The General Liability and Automobile Liability policies include automatic Additional Insured endorsements that provides additional insured status only where such status is required by a written contract. Coverage for the Additional Insured under the General Liability and Automobile Liability policies is Primary and Non-contributory only where required by written contract. Additional Insured under the General Liability includes ongoing and completed operations, each, if required by written contract. The General Liability, Automobile Liability, Workers' Compensation policies include a Blanket Waiver of Subrogation endorsement in favor of certificate where such status is required by a written contract. The Excess Liability policy is follow form for the additional insured and waiver of subrogation only where required by written contract. 30 Day Notice of Cancellation included if required by written contract.
Re: Annual Base Failure and Road Reconstruction - Contract No: 26300344
Additional Insureds - The City of College Station, its agents, officials, employees and volunteers - applies per the Blanket Additional Insured endorsement which grants additional insured status only where such status is required by a written contract.

CERTIFICATE HOLDER

City of College Station
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

Brett Herrington

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POLICY NUMBER: GL 3960905
Effective: 3-01-2025 **COMMERCIAL GENERAL LIABILITY**

CG 02 24 10 93

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ ITCAREFULLY.

EARLIER NOTICE OF CANCELLATION PROVIDED BY US

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Number of Days' Notice 90

(If no entry appears above, information required to complete this Schedule will be shown in the Declarations as applicable to this endorsement.)

For any statutorily permitted reason other than nonpayment of premium, the number of days required for notice of cancellation, as provided in paragraph **2.** of either the CANCELLATION Common Policy Condition or as amended by an applicable state cancellation endorsement, is increased to the number of days shown in the Schedule above.

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.

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ENDORSEMENT

This endorsement, effective 12:01 A.M **03/01/2025** forms a part of

policy No. **GL 396-09-05** issued to **BRAZOS PAVING, INC.**

by **NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA**

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 FORM

SCHEDULE

NAME OF PERSON OR ORGANIZATION:

Any person or organization whom you become obligated to include as an additional insured as a result of any contract or agreement you have entered into that requires use of 97838 04/08 or its equivalent.

Location and Description of Completed Operations:

Per the written contract or agreement.

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to the endorsement.)

A. SECTION II -WHO IS AN INSURED is amended to include as an insured;

The person or organization shown in the schedule, but only with respect to liability arising out of your ongoing operations performed for that additional insured.

B. With respect to the insurance afforded to these additional insureds, **SECTION I - COVERAGES, COVERAGE A - BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. - Exclusions,** is amended to include the following additional exclusion;

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

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

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

All other terms and conditions remain unchanged.

Authorized Representative

ENDORSEMENT

This endorsement, effective 12:01 A.M. **03/01/2025** forms a part of

policy No. **GL 396-09-05** issued to **BRAZOS PAVING, INC.**

by **NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA**

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 FORM

SCHEDULE

NAME OF ADDITIONAL INSURED PERSON OR ORGANIZATION:

Any person or organization whom you become obligated to include as an additional insured as a result of any contract or agreement you have entered into that requires use of 97837 04/08 or its equivalent.

LOCATION AND DESCRIPTION OF COMPLETED OPERATIONS:

Per the written contract or agreement

ADDITIONAL PREMIUM:

(If No entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to the endorsement.)

SECTION II - WHO IS AN INSURED is amended to include as an insured;

The person or organization shown in the Schedule, but only with respect to liability arising out of "your work" at the location designated and described in the schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

All other terms and conditions remain unchanged.

Authorized Representative

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – MANAGERS OR LESSORS OF PREMISES

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Designation Of Premises (Part Leased To You): ANY PREMISES OR PART THEREOF LEASED TO YOU.
Name Of Person(s) Or Organization(s) (Additional Insured): ANY PERSON OR ORGANIZATION FROM WHOM YOU LEASE PREMISES OR WHO MANAGES PREMISES YOU OWN AND TO WHOM YOU BECOME OBLIGATED TO INCLUDE AS AN ADDITIONAL INSURED UNDER THIS POLICY AS A RESULT OF ANY LEASE OR MANAGEMENT AGREEMENT YOU ENTER INTO WITH SUCH PARTIES.
Additional Premium: $ INCLUDED
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 you or those acting on your behalf in connection with the ownership, maintenance or use of that part of the premises leased to you and shown in the Schedule and subject to the following additional exclusions:

This insurance does not apply to:

1. Any "occurrence" which takes place after you cease to be a tenant in that premises.

2. Structural alterations, new construction or demolition operations performed by or on behalf of the person(s) or organization(s) shown in the Schedule.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and

2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

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 – VENDORS

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) (Vendor)	Your Products
VENDORS WHO SELL OR DISTRIBUTE YOUR PRODUCTS.	ALL PRODUCTS
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 any person(s) or organization(s) (referred to throughout this endorsement as vendor) shown in the Schedule of this endorsement, but only with respect to liability for "bodily injury" or "property damage" arising out of "your products" shown in the Schedule of this endorsement which are distributed or sold in the regular course of the vendor's business.

However:

1. The insurance afforded to such vendor only applies to the extent permitted by law; and

2. If coverage provided to the vendor is required by a contract or agreement, the insurance afforded to such vendor will not be broader than that which you are required by the contract or agreement to provide for such vendor.

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

1. The insurance afforded the vendor does not apply to:

a. "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;

b. Any express warranty unauthorized by you;

c. Any physical or chemical change in the product made intentionally by the vendor;

d. Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

e. Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of 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

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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:

(1) The exceptions contained in Subparagraphs **d.** or **f.;** or

(2) 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.

C. With respect to the insurance afforded to these vendors, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the vendor is required by a contract or agreement, the most we will pay on behalf of the vendor 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 – MORTGAGEE, ASSIGNEE OR RECEIVER

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name(s) Of Person(s) Or Organization(s)	Designation Of Premises
ANY PERSON OR ORGANIZATION CONTRACTUALLY REQUIRING STATUS AS AN ADDITIONAL INSURED STATUS AS THE MORTGAGEE, ASSIGNEE, OR RECEIVER.	ANY PREMISES OR PART THEREOF LEASED TO YOU
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 their liability as mortgagee, assignee or receiver and arising out of the ownership, maintenance or use of the premises by you and shown in the Schedule.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and

2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. This insurance does not apply to structural alterations, new construction and demolition operations performed by or for that person or organization.

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 – LESSOR OF LEASED EQUIPMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):
ANY PERSON OR ORGANIZATION CONTRACTUALLY REQUIRING ADDITIONAL INSURED STATUS AS A LESSOR UNDER THE TERMS OF AN EQUIPMENT LEASING CONTRACT YOU ENTER INTO WITH SUCH PERSON OR ORGANIZATION.
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 your maintenance, operation or use of equipment leased to you by such person(s) or organization(s).

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, this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

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.

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

This endorsement modifies insurance provided under the following:

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

SCHEDULE

Name of Person(s) Or Organization(s):
PURSUANT TO APPLICABLE WRITTEN CONTRACT OR AGREEMENT YOU ENTER INTO.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

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

We waive any right of recovery against the person(s) or organization(s) shown in the Schedule above because of payments we make under this Coverage Part. Such waiver by us applies only to the extent that the insured has waived its right of recovery against such person(s) or organization(s) prior to loss. This endorsement applies only to the person(s) or organization(s) shown in the Schedule above.

© Insurance Services Office, Inc., 2018

This endorsement, effective 12:01 A.M. 03-01-2025 forms a part of

Policy No. CA 6401559 issued to Brazos Paving, Inc.

by: NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LIMITED ADVICE OF CANCELLATION PROVIDED VIA E-MAIL TO ENTITIES OTHER THAN THE FIRST NAMED INSURED

This policy is amended as follows:

In the event that the **Insurer** cancels this policy for any reason other than non-payment of premium, and

1. the cancellation effective date is prior to this policy's expiration date;

2. the **First Named Insured** is under an existing contractual obligation to notify a certificate holder when this policy is canceled (hereinafter, the "Certificate Holder(s)") and has provided to the **Insurer**, either directly or through its broker of record, the email address of a contact at each such entity; and

3. the **Insurer** received this information after the **First Named Insured** receives notice of cancellation of this policy and prior to this policy's cancellation effective date, via an electronic spreadsheet that is acceptable to the **Insurer,**

the **Insurer** will provide advice of cancellation (the "Advice") via e-mail to each such Certificate Holders within **3 0** days after the **First Named Insured** provides such information to the **Insurer**; provided, however, that if a specific number of days is not stated above, then the Advice will be provided to such Certificate Holder(s) as soon as reasonably practicable after the **First Named Insured** provides such information to the **Insurer**.

Proof of the **Insurer** emailing the Advice, using the information provided by the **First Named Insured**, will serve as proof that the **Insurer** has fully satisfied its obligations under this endorsement.

This endorsement does not affect, in any way, coverage provided under this policy or the cancellation of this policy or the effective date thereof, nor shall this endorsement invest any rights in any entity not insured under this policy.

The following Definitions apply to this endorsement:

1. **First Named Insured** means the Named Insured shown on the Declarations Page of this policy.
2. **Insurer** means the insurance company shown in the header on the Declarations page of this policy.

All other terms, conditions and exclusions shall remain the same.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

ENDORSEMENT

This endorsement, effective 12:01 A.M. 03/01/2025 **forms a part of Policy No.** CA 6401559

issued to Brazos Paving, Inc.

By NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA.

ADDITIONAL INSURED - WHERE REQUIRED UNDER CONTRACT OR AGREEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

SCHEDULE

ADDITIONAL INSURED:

"Any person or organization for whom you are contractually bound to provide Additional Insured status but only to the extent of such person or organizations liability arising out of the use of a covered "auto".

I. **SECTION II - LIABILITY COVERAGE, A. Coverage, 1. – Who Is Insured,** is amended to add:

d. Any person or organization, shown in the schedule above, to whom you become obligated to include as an additional insured under this policy, as a result of any contract or agreement you enter into which requires you to furnish insurance to that person or organization of the type provided by this policy, but only with respect to liability arising out of use of a covered "auto". However, the insurance provided will not exceed the lesser of:

(1) The coverage and/or limits of this policy, or

(2) The coverage and/or limits required by said contract or agreement.

_____

AUTHORIZED REPRESENTATIVE

87950 (09/14)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

ENDORSEMENT

This endorsement, effective 12:01 A.M. 03/01/2025 **forms a part of**

Policy No. CA 6401559 **issued to** Brazos Paving, Inc.

By NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

Section IV - Business Auto Conditions, A. - Loss Conditions, 5. - Transfer of Rights of Recovery Against Others to Us, is amended to add**:**

However, we will waive any right of recovery we have against any person or organization with whom you have entered into a contract or agreement because of payments we make under this Coverage Form arising out of an "accident" or "loss" if:

(1) The "accident" or "loss" is due to operations undertaken in accordance with the contract existing between you and such person or organization; and (2) The contract or agreement was entered into prior to any "accident" or "loss".

No waiver of the right of recovery will directly or indirectly apply to your employees or employees of the person or organization, and we reserve our rights or lien to be reimbursed from any recovered funds obtained by any injured employee.

_____

AUTHORIZED REPRESENTATIVE

62897 (6/95)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LESSOR – ADDITIONAL INSURED AND LOSS PAYEE

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: Brazos Paving, Inc.
Endorsement Effective Date: 03/01/2025

SCHEDULE

Insurance Company: NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA	
Policy Number: CA 6401559	**Effective Date:** 03-01-2025
Expiration Date: 03-01-2026	
Named Insured: Brazos Paving, Inc.	
Address: 7601 W State Hwy 21 Bryan, TX 77807	
Additional Insured (Lessor):	
Address:	
Designation Or Description Of "Leased Autos":	ALL “AUTOS” UNDER A LEASING OR RENTAL AGREEMENT BETWEEN THE “INSURED” AND THE LESSOR LISTED ABOVE AS THE ADDITIONAL INSURED THAT REQUIRES DIRECT PRIMARY INSURANCE.

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Coverages	Limit Of Insurance
Covered Autos Liability	**$ 2,000,000 Each "Accident"**
Comprehensive	**Actual Cash Value Or Cost Of Repair, Whichever Is Less, Minus $ 250 Deductible For Each Covered "Leased Auto"**
Collision	**Actual Cash Value Or Cost Of Repair, Whichever Is Less, Minus $ 500 Deductible For Each Covered "Leased Auto"**
Specified Causes Of Loss	**Actual Cash Value Or Cost Of Repair, Whichever Is Less, Minus $ Deductible For Each Covered "Leased Auto"**
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Coverage

1. Any "leased auto" designated or described in the Schedule will be considered a covered "auto" you own and not a covered "auto" you hire or borrow.

2. For a "leased auto" designated or described in the Schedule, the **Who Is An Insured** provision under **Covered Autos Liability Coverage** is changed to include as an "insured" the lessor named in the Schedule. However, the lessor is an "insured" only for "bodily injury" or "property damage" resulting from the acts or omissions by:

a. You;

b. Any of your "employees" or agents; or

c. Any person, except the lessor or any "employee" or agent of the lessor, operating a "leased auto" with the permission of any of the above.

3. The coverages provided under this endorsement apply to any "leased auto" described in the Schedule until the expiration date shown in the Schedule, or when the lessor or his or her agent takes possession of the "leased auto", whichever occurs first.

B. Loss Payable Clause

1. We will pay, as interest may appear, you and the lessor named in this endorsement for "loss" to a "leased auto".

2. The insurance covers the interest of the lessor unless the "loss" results from fraudulent acts or omissions on your part.

3. If we make any payment to the lessor, we will obtain his or her rights against any other party.

C. Cancellation

1. If we cancel the policy, we will mail notice to the lessor in accordance with the Cancellation Common Policy Condition.

2. If you cancel the policy, we will mail notice to the lessor.

3. Cancellation ends this agreement.

D. The lessor is not liable for payment of your premiums.

E. Additional Definition

As used in this endorsement:

"Leased auto" means an "auto" leased or rented to you, including any substitute, replacement or extra "auto" needed to meet seasonal or other needs, under a leasing or rental agreement that requires you to provide direct primary insurance for the lessor.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

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

(The following " attaching clause" need be completed only when this endorsement is issued subsequent to preparation of the policy). This endorsement, effective 12:01 AM **03/01/2025**

forms a part of Policy No. **WC 067960974** Issued to **Brazos Paving, Inc.**

By New Hampshire Insurance Company

LIMITED ADVICE OF CANCELLATION PROVIDED VIA E-MAIL TO ENTITIES OTHER THAN THE NAMED INSURED (WORKERS' COMPENSATION ONLY)

This policy is amended as follows:

In the event that the **Insurer** cancels this policy for any reason other than non-payment of premium, and

1. the cancellation effective date is prior to this policy' s expiration date;

2. the **Named Insured** or, if applicable, any other employers named in Item 1 of the Information Page is under an existing contractual obligation to notify a certificate holder when this policy is canceled (hereinafter, the " Certificate Holder(s)") and the **Named Insured** has provided to the **Insurer**, either directly or through its broker of record, the email address of a contact at each such entity; and

3. the **Insurer** received this information after the **Named Insured** receives notice of cancellation of this policy and prior to this policy' s cancellation effective date, via an electronic spreadsheet that is acceptable to the **Insurer**,

the **Insurer** will provide advice of cancellation (the " Advice") via e-mail to each such Certificate Holders within **30** days after the **Named Insured** provides such information to the **Insurer**; provided, however, that if a specific number of days is not stated above, then the Advice will be provided to such Certificate Holder(s) as soon as reasonably practicable after the **Named Insured** provides such information to the **Insurer**.

Proof of the **Insurer** emailing the Advice, using the information provided by the **First Named Insured**, will serve as proof that the **Insurer** has fully satisfied its obligations under this endorsement.

This endorsement does not affect, in any way, coverage provided under this policy or the cancellation of this policy or the effective date thereof, nor shall this endorsement invest any rights in any entity not insured under this policy.

The following definitions apply to this endorsement:

1. **Named Insured** means the insured first named employer in Item 1 of the Information Page of this policy.

2. **Insurer** means the insurance company shown in the header on the Information Page of this policy.

All other terms, conditions and exclusions shall remain the same.

AUTHORIZED REPRESENTATIVE

TEXAS WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

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.)

This endorsement, effective 12:01 AM **03/01/2025** forms a part of Policy No. **WC067960974**

Issued to **Brazos Paving, Inc.**

By **New Hampshire Insurance Company**

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

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

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

The premium for this endorsement is shown in the Schedule.

Schedule

1. ( ) Specific Waiver

   Name of person or organization

   (X) Blanket Waiver

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

2. Operations:

3. Premium:

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

4. Advance Premium:

Countersigned by _

Authorized Representative

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

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.

AS STATED IN SPECIFICATION 26-037

EXHIBIT E
CONSTRUCTION SCHEDULE

This contract shall become effective from date of acceptance and approval by the City of College Station. It shall remain in full force and effect with firm fixed bid prices for a period of twelve (12) months. With the option to renewal for two (2) additional one (1) year terms.

EXHIBIT F
SCHEDULE OF VALUES

February 26, 2026
Item No. 8.6.
Annual Price Agreement for Type D Hot Mix Asphalt, Cement Treated and Recycled Crushed Concrete Base, and Cement Stabilized Sand

Sponsor: Emily Fisher, Director of Public Works

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action on an annual price agreement with Prime Seventy Real Estate, LLC to purchase (pickup or delivery) on an as-needed basis: Type D Hot Mix Asphalt, Cement Treated Base and Recycled Crushed Concrete Base, and Cement Stabilized Sand for an amount not to exceed $3,616,000 for Asphalt, $1,069,000 for Base, and $51,000 for Sand.

Relationship to Strategic Goals:
1. Core Services and Infrastructure

Recommendation(s): Staff recommends approval of the annual price agreement.

Summary: This item is to enter into price agreements for various materials used by Public Works' Street Maintenance Division. In the past, the city requested bids for each material separately. For this year, we have combined these bids into one in an effort to streamline the process. Bid No. 26-036 received three responsive bidders, with Prime Seventy Real Estate, LLC being the lowest in all categories.

This agreement shall remain in full force and effect with firm fixed bid prices for the period of one (1) year. Upon completion of the initial contract term and upon the mutual agreement of both parties, the initial contract may be renewed for up to two (2) additional one (1) year terms (three (3) years total).

Budget & Financial Summary: Funds are budgeted and available in both the Roadway Maintenance Fund and Public Works' Street Maintenance fund.

Attachments:
1. 26-036 Tabulation
2. 26-036 Annual Price for Hot Mix Cement Stabilized Sand and Base

CITY OF COLLEGE STATION
ITB 26-036
Annual Pricing to Purchase of Hot Mix Type D, Cement Treated Base (4%) and Cement Stabilized Sand
Bid Opening: January 27, 2026 at 2:00PM CT

				BRAZOS PAVING, INC		CORTEX CONSTRUCTION		Prime Seventy Real Estate, LLC.	
Line #	**Description**	**QTY**	**UOM**	**Unit**	**Extended**	**Unit**	**Extended**	**Unit**	**Extended**
1	Asphalt, Hot-Mix, Type D, in accordance with TSDHPT 1993 Standard Specs Item #340 To be picked up by City Crews	9000	TON	$ 87.00	$ 783,000.00	$ 105.00	$ 945,000.00	$ 83.00	$ 747,000.00
2	Asphalt, Hot-Mix, Type D, in accordance with TSDHPT 1993 Standard Specs Item #340 To be Delivered to job site as requested.	6000	TON	$ 95.50	$ 573,000.00	$ 107.00	$ 642,000.00	$ 92.00	$ 552,000.00
3	Asphalt, Hot-Mix, Type D, in accordance with TSDHPT 1993 Standard Specs Item #340 To be picked up by City Crews	15000	TON	$ 87.00	$ 1,305,000.00	$ 105.00	$ 1,575,000.00	$ 83.00	$ 1,245,000.00
4	Asphalt, Hot-Mix, Type D, in accordance with TSDHPT 1993 Standard Specs Item #340 To be Delivered to job site as requested.	10000	TON	$ 95.50	$ 955,000.00	$ 107.00	$ 1,070,000.00	$ 92.00	$ 920,000.00
5	Emergency Requests after 6:00 p.m. Monday thru Friday or anytime Saturday and Sunday - Asphalt, Hot-Mix, Type D, in accordance with TSDHPT 1993 Standard Specs Item #340 - To be picked up by City Crews	1	TON	$ 135.00	$ 135.00	$ 155.00	$ 155.00	$ 120.00	$ 120.00
6	Emergency Requests after 6:00 p.m. Monday thru Friday or anytime Saturday and Sunday - Asphalt, Hot-Mix, Type D, in accordance with TSDHPT 1993 Standard Specs Item #340 - To be Delivered to job site as requested.	1	TON	$ 143.50	$ 143.50	$ 155.00	$ 155.00	$ 130.00	$ 130.00
7	Vendor Mileage from College Station Public Works: 310 Krenek Tap Rd, College Station, TX 77840	1	Mileage		13.80	$	-	$	12.80
	Total Price Catergory #1 - Hot Mix Type D.				**$3,616,000.00**		**$4,232,000.00**		**$3,464,000.00**
	Miles Per Google				**13.80**		**0.00**		**12.80**
Catgory #2 Cement stabilized Base (4%)									
Line #	**Description**	**QTY**	**UOM**	**Unit**	**Extended**	**Unit**	**Extended**	**Unit**	**Extended**
1	TYPE A Cement Treated Base (4%) FOB: To be Picked up by City CrewsType A material must meet the requirements in Item 247, TXDOT Specifications.	2000	TON	$ 58.00	$ 116,000.00	$ 65.00	$ 130,000.00	$ 42.50	$ 85,000.00
2	TYPE A Cement Treated Base (4%)FOB:To be Delivered to job site as requested.Type A material must meet the requirements in Item 247, TXDOT Specifications.	2000	TON	$ 66.50	$ 133,000.00	$ 86.00	$ 172,000.00	$ 51.50	$ 103,000.00
	Subtotal Type A Cement Treated Base 4%			$	249,000.00	$	302,000.00	$	188,000.00
3	Type D Grade 1 Cement Treated (4%) Recycled Crushed Concrete BaseFOB: To be Picked up by City Crews Crushed concrete containing gravel will be considered Type D materialThis product must meet the requirements 2014 TXDOT Specifications.	8000	TON	$ 47.00	$ 376,000.00	$ 65.00	$ 520,000.00	$ 32.00	$ 256,000.00
4	Type D Grade 1 Cement Treated (4%) Recycled Crushed Concrete BaseFOB: To be Delivered to job site as requested.Crushed concrete containing gravel will be considered Type D materialThis product must meet the requirements 2014 TXDOT Specifications.	8000	TON	$ 55.50	$ 444,000.00	$ 86.00	$ 688,000.00	$ 41.00	$ 328,000.00
	Subtotal Type D Cement Treated Base 4%			$	820,000.00	$	1,208,000.00	$	584,000.00
5	Emergency Requests after 6:00 p.m. Monday thru Friday or anytime Saturday and Sunday 1	1	TON	$	1,200.00	$	136.00	$	750.00
	Total Price Catergory #2 - Cement stabilized Base (4%)				**$1,069,000.00**		**$1,510,000.00**		**$772,000.00**
Catgory #3	**Cement Stabilized Sand**								
Line #	**Description**	**QTY**	**UOM**	**Unit**	**Extended**	**Unit**	**Extended**	**Unit**	**Extended**
1	To be picked up by City Crew	1000	TON	$34.00	$34,000.00	$54.00	$54,000.00	$29.50	$29,500.00
2	To be Delivered to job site as requested.	400	TON	$42.50	$17,000.00	$86.00	$34,400.00	$38.50	$15,400.00
3	Emergency Requests after 6:00 p.m. Monday thru Friday or anytime Saturday and Sunday 1	1	TON	$	1,200.00	$	136.00	$	750.00
	Total Price Catergory #3 - Cement Stabilized Sand				**$51,000.00**		**$88,400.00**		**$44,900.00**
	Acknowled Addendum				Y		Y		Y
	Bid Bond				n/a		n/a		n/a
	Certification				Y		Y		Y
	Notes						Vendor is 184 miles from Public Works		

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

1101 Texas Avenue
College Station, TX 77840
www.cstx.gov

SPECIFICATION FOR ANNUAL PRICING TO PURCHASE (PICKUP OR DELIVERY) ON AN AS NEEDED BASIS OF HOT MIX TYPE D, CEMENT TREATED BASE AND CEMENT STABILIZED SAND
BID NO. 26-036
BID OPENING DATE: Tuesday, January 27, 2026 @ 2:00 P.M. CT

INTRODUCTION

The City of College Station is soliciting bids for the purchase of Annual pricing to purchase Pickup or Delivery on an as needed basis of Hot Mix Type D, Cement Treated Base (4%) and Cement Stabilized Sand, in accordance with the following definitions, terms and conditions of bidding. Should this bid contain the City's standard contract terms, conditions and insurance requirements, they will be attached as Exhibit A.

The City of College Station reserves the right to select multiple-qualified contractors to accomplish all the services outlined in this bid. The City of College Station reserves the right to award based on category.

Electronic response packages, in the format prescribed herein, shall be uploaded to Brazos Valley e-Marketplace **("Bidding Portal") until 2:00 p.m. CT on Tuesday, January 27, 2026,** after which time all bids will be publicly opened and read aloud at City Hall – Purchasing Division (1101 Texas Avenue, College Station TX, 77840). Individuals interested in observing the bid opening may attend in person or virtually via Microsoft Teams Meeting. Bidders are solely responsible for ensuring bids are successfully uploaded to the Bidding Portal prior to the stated submission deadline. Bids not submitted by the time the Bidding Portal officially closes this ITB will not be accepted by any other means.

In order to ensure a fair and objective evaluation, all questions and inquiries related to this Invitation to Bid shall be addressed **in writing** via the Q&A feature available through the **Bidding Portal**. The deadline for written questions is **2:00 p.m. CT on Tuesday, January 20, 2026.**

NOTE: Solicitation opportunities are posted on the Brazos Valley e-Marketplace **("Bidding Portal")**. Some solicitations, but not all, are conducive to receipt of response packages via the Bidding Portal. Uploaded responses are encrypted and remain effectively locked until the due date and time. To download solicitation documents, upload proposals and to submit questions online, vendors must be registered with the **Bidding Portal**. To register, please visit the Brazos Valley e-Marketplace website and click on ***Supplier Registration***. (Please note that the City of College Station is not responsible for high internet

traffic/demand at or near the time the response packages are due and that firms submitting their response package during peak traffic times risk their submittal not being received by the due date and time.

MICROSOFT TEAMS MEETING ACCESS INFORMATION

Bid Opening 26-036, for Annual Pricing to Purchase (pick-up or delivery) of Hot Mix Type D. , Cement Treated Base and Stabilized Sand

Microsoft Teams Need help?
Join the meeting now
Meeting ID: 242 561 054 073 0
Passcode: ra92oL3E

DEFINITIONS, TERMS AND CONDITIONS

The following instructions apply to all bids and become a part of terms and conditions of any bid submitted to the City of College Station Purchasing Division, unless otherwise specified elsewhere in this bid request. All bidders are required to be informed of these Terms and Conditions and will be held responsible for having done so:

Definitions

In order to simplify the language throughout this bid, the following definitions shall apply:

BID vs. PROPOSAL – For the purpose of this ITB, the terms "Bid" and "Proposal" shall be equivalent.
CITY OF COLLEGE STATION – Same as City.
CITY COUNCIL – The elected officials of the City of College Station, Texas given the authority to exercise such powers and jurisdiction of all City business as conferred by the State Constitution and Laws.
CONTRACT – An agreement between the City and a Supplier to furnish supplies and/or services over a designated period of time during which repeated purchases are made of the commodity specified.
CONTRACTOR – The successful Bidder(s) of this bid request.
CITY – The government of the City of College Station, Texas.
NO-CONTACT PERIOD – The period of time from the date a bid is issued until a contract is executed. If the City withdraws the bid or rejects all bids with the stated intention to reissue the same or a similar bid for the same or similar project, the no-contact period continues during the time period between the withdrawal and reissue.
OWNER - City of College Station
SUB-CONTRACTOR – Any contractor hired by the Contractor or Supplier to furnish materials and services specified in this bid request.
SUPPLIER – Same as Contractor.

Acceptance

Upon acceptance and approval by the City Council, or their designated official, this bid effects a working contract between the City and the successful bidder for the period designated. A City of College Station Purchase Order is required prior to the delivery of any goods or services provided to the City.

All bids will remain subject to acceptance, for 90 days after the date of the Bid opening.

Receipt of Bids
Bid packages must be uploaded to the Bidding Portal prior to the specified time and date to be accepted. Do not wait until the last minute to upload bid packages. Please allow no less than one (1) hour before the submission deadline to begin the upload process. Bid packages not submitted by the time the Bidding Portal officially closes this ITB will not be accepted by any other means.

Addenda
If it becomes necessary to revise any part of this bid, a written addendum will be provided to all bidders. Owner is not bound by any oral representations, clarifications, or changes made in the written specification by Owner's employees, unless such clarification of change is provided to bidders in written addendum form from the Purchasing Agent. Addenda will be transmitted to all that are known to have received a copy of the bid documents and specifications. However, it shall be the sole responsibility of the Bidder to verify issuance of any addenda to check all avenues of document availability prior to the opening date and time. Bidder shall acknowledge receipt of all addenda.

Advertisement
The Invitation to Bid as advertised will be considered an inclusion of the specifications and conditions.

Applicable Laws
All bidders will comply with all Federal, State, and local laws relative to conducting business in the City of College Station. The laws of the state of Texas will govern as to the interpretation, validity, and effect of this bid, its award and any contract entered into.

Assignments
It is agreed that the successful bidder will not assign, transfer, convey or otherwise dispose of the contract or its right, title or interest in or to the same, or any part thereof, without previous written consent of Owner and any sureties.

Award of Contract
Contract may be awarded to the bidder who provides goods or services at the best value for the City. In determining the best value for the City, the City may consider, but is not necessarily limited to, the following factors:

a. Conformity to specifications;
b. the purchase price, including payment discount terms, and including current applicable tariffs (if any) in existence as of the effective date of the Contract;
c. the reputation of the bidder and of the bidder's goods or services;
d. the quality of the bidder's goods or services;
e. the extent to which the goods or services meet the City's needs;
f. the bidder's past relationship with the City;
g. the impact on the ability of the City to comply with laws and rules relating to contracting with historically underutilized businesses and nonprofit organizations employing persons with disabilities;
h. delivery terms;
i. payment terms;
j. availability of repair and maintenance parts;
k. financial condition;

l. products or services that have a lesser or reduced effect on human health and the environment when compared with competing products and services that serve the same purpose. This comparison may consider raw materials acquisition, product, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal of the product or service;
m. the total long-term cost to the City to acquire the bidder's goods or services; and
n. any relevant criteria specifically listed in this request for bid.

Although the cost of products to be provided is an essential part of the Bid, the City is not obligated to award a contract on the sole basis of cost.

Bidder Conduct

To ensure a fair, equitable and competitive bid process for all participating Bidders, during the No-Contact Period Bidders and individual(s) acting on a Bidder's behalf are prohibited from communicating with any City official, City employee or City agent other than the authorized contact person(s) in the Purchasing Division.

This prohibition expressly includes any communication with any City Official, City employee or City agent that is intended to or that is reasonably likely to:

a) advance the interests of the Bidder;
b) discredit the bid of another Bidder;
c) encourage the City to cancel the Bid process;
d) encourage the City to reject all of the bids received; or
e) directly or indirectly ask, influence or persuade any City official, City employee, City agent or City board, committee or body to favor or oppose, recommend or not recommend, vote for or against, consider or not consider, or take action or refrain from taking action on any vote, decision or agenda item regarding the Bid.

Bidders may be disqualified and rejection of Bid may be recommended for violating this provision. Further, Bidders violating this section may be subject to the City's Vendor Suspension and Debarment Policy.

This provision does not prevent a Bidder from filing a formal bid protest in accordance with the City's policy and procedures, making public statements to the City Council convened for a regularly scheduled session after the official selection has been made and placed on the City Council agenda for action or to a City Council committee convened to discuss a recommendation regarding the Bid. See Chapter 17 of the online Purchasing Policy Manual for details regarding Bid Protests.

Brand Names

Whenever in this invitation, any particular materials, process and /or equipment are indicated or specified by patent, proprietary or brand name, or by name of manufacture, such wording will be deemed to be used for the purpose of facilitating description of the material, process and/or equipment desired and will be deemed to be followed by the words "or equal."

Business Practices
Minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, creed, sex, or national origin in consideration for an award.

Cancellation
The City reserves the right to cancel this contract or any portion thereof immediately should supplier's delivery or service be unsatisfactory or for supplier's failure to comply with terms stated in the contract.

Certification
Bids must be completed and submitted on the forms included within the specifications of this bid. The Certification of Bid form must be fully completed and submitted with bids. Bids lacking the required Certification form may be considered non-responsive and may be rejected.

Collusion
Advanced disclosures of any information to any particular bidder which gives that particular bidder any advantage over any other interested bidder in advance of the opening of bids, whether in response to advertising or an informal request for bids, made or permitted by a member of the governing body or an employee or representative thereof, will cause to void all proposals of that particular bid solicitation or request.

Communication
The City shall not be responsible for any verbal communication between any employee of the City and potential bidder(s). Only written specifications and price quotations will be considered.

Confidentiality
Public agencies in Texas are subject to the Public Information Act.

Delivery
All prices quoted shall be F.O.B. City of College Station. No freight or delivery charges will be accepted unless shown on bid.

Electronic Documents
Bidders may be supplied with the original documents in electronic form to aid in the preparation of bid(s). By accepting these electronic documents, Bidders agree not to edit or change the language or format of these documents. Submission of a proposal by Bidder signifies full agreement with this requirement.

Exceptions
The bidder will note any exceptions to the conditions of this bid on company letterhead. If no exceptions are stated, it will be understood that all general and specific conditions will be complied with, without exception.

Term of Contract
This contract shall become effective from date of acceptance and approval by the City of College Station. It shall remain in full force and effect with firm fixed bid prices for the period of one (1) year.

Extension of Contract

Upon completion of the term of the original contract and upon the mutual agreement of both parties, the original contract may be renewed for up to two (2) additional one (1) year terms [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. Requests for unit price increases shall be in writing and accompanied with sufficient supporting documentation that shows cause substantiating the need for such price adjustment. The City reserves the right to accept or reject requests for unit price increases. 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.

Escalation/De-Escalation

The parties agree that the Vendor 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 could occur that are beyond the control of the Vendor, despite its best efforts. Therefore, the parties agree that if there is a bona fide price increase to the Vendor of the material(s) specified herein, the Vendor may request an equitable adjustment to this contract, subject to evaluation and approval by the City, on a case-by-case basis. Any such request must be accompanied with sufficient supporting documentation, a letter explaining the need for such price adjustment, and a signed affidavit, given under the penalty of perjury that the information submitted is true and correct. Presenting falsified records, making false statements, or submitting false affidavits to a governmental entity is a crime and will be prosecuted to the fullest extent authorized by law.

Any contract that has had a price increase by way of the escalation clause shall be subject to de-escalation in the same or similar manner in the event of cost reductions to the Vendor. Vendor shall notify the City at the time when the Vendor's costs for the materials specified herein reduce due to stabilization in the market at which time prices for item(s) in this contract shall be reduced accordingly. Failure by the Vendor to notify the City of a decrease in costs for the materials for which the Vendor was granted a price adjustment may result in immediate termination of this contract and a five (5) year debarment from participating in future City contract opportunities. The City shall not be obligated to pay the Vendor the difference between the contract price and the price adjustment.

Tariffs

a. Tariff Defined. For purposes of this Contract, "Tariff" means any new, increased, or modified import duty, tax, or levy imposed by the United States federal government under the Harmonized Tariff Schedule of the United States (HTSUS) after the effective date of this contract.
b. Eligibility to Request Price Adjustment. If Tariffs change during the term of this Contract and directly impact the cost of products, goods, materials, or a clearly defined component part thereof required for performance of this contract, the Contractor may request a price adjustment if the net change in cost attributable solely to such Tariff change exceeds five percent (5%) of the material impacted. The Contractor is limited to one price adjustment per quarter.
c. Contractor's Request for Price Adjustment. If the Contractor is requesting a price adjustment, it must submit (1) a written request to the City and (2) evidence of: (i) the unit price paid by Contractor as of the date of award for the good or raw material used to furnish the goods to

the City under this Contract, (ii) the applicability of the Tariff to the specific good or raw material, and (iii) Contractor's payment of the increased Tariff (either directly or through an increase to the cost paid for the good or raw material). The evidence submitted shall be sufficient to allow the City to verify that the Tariff is the direct cause of the price change. The City may request, and the Contractor shall provide, additional documentation reasonably necessary to verify the Contractor's request, including, but not limited to, an official final copy of the paid Entry Summary filed with United States Custom and Border Protection (CBP), (CBP Form 7501).

d. Calculation of Price Adjustments, Increased. If approved by the City, the amount of any adjustment shall equal the difference between the actual material cost incurred and 105% of the baseline cost. Adjustments shall be limited to the affected materials and shall not exceed fifteen percent (15%) of the initial contract price.
e. Calculation of Price Adjustments, Decreased. If the Tariff is repealed or reduced prior to termination of this Contract, the increase in the City's Contract price shall be reduced by the same amount and adjusted accordingly within ten (10) business days.

Financial Condition
Contractor must provide audited financial statements, *if* requested, to the City.

Fiscal Funding
This contract includes fiscal funding provisions. If, for any reason, funds are not appropriated to continue this contract, said contract shall become null and void.

Forms
Bid proposals will be submitted on the forms provided by Owner. All figures must be written in ink or typewritten. However, mistakes may be crossed out, corrections inserted adjacent thereto and initiated in ink by the person signing the proposal. When discrepancies occur between words and figures, the words shall govern.

Indemnification
The successful bidder agrees by entering into this contract, to defend, indemnify and hold Owner harmless from any and all causes of action or claims of damages arising out of or related to bidder's performance under this contract.

Independent Contractor
Nothing in this bid is intended nor shall be construed to create an employer/employee relationship between the contracting parties.

Insurance
Successful bidder agrees to provide proof of insurance meeting the City's requirements as detailed in Exhibit A.

Interlocal Agreement
Successful bidder agrees to extend prices and terms to all entities who have entered or will enter into joint purchasing interlocal cooperation agreement(s) with the City of College Station.

Notification
The City of College Station uses multiple channels for the notification and dissemination of all invitations to bid. Approved methods of dissemination include: City of College Station website or the City of College Station Purchasing office. The receipt of solicitations through any other means may result in the receipt of incomplete specifications or addenda which could ultimately render your bid non-compliant. City of College Station accepts no responsibility for the receipt or notifications of solicitations through any other source.

Management
Should there be a change in ownership or management, the contract shall be canceled unless a mutual agreement is reached with the new owner or manager to continue the contract with its present provisions and prices. This contract is nontransferable by either party.

Payment Terms
Invoices must be submitted by the vendor in duplicate to the City of College Station, Accounting Dept., P.O. Box 9973, College Station, Texas 77842-0973. Vendors are encouraged to email invoices to vendorinvoiceentry@cstx.gov . If invoices are subject to cash discount, discount period to be taken from the date of completion of order or date of receipt of invoice, whichever occurs last regardless of whether or not correct discount terms appear on invoice. All invoices to be paid in full within 30 days after satisfactory delivery and billing unless otherwise specified or mutually agreed upon before orders are placed. The City will not be liable for payment of invoices received six (6) months after order completion.

Prompt Payment
Discounts for prompt payment offered may be taken into consideration during bid evaluation. Terms of payment offered will be reflected in the space provided on the bid proposal form.

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. The City's decision to use the virtual card payment method will be discussed with the bidder recommended for award prior to the execution of an agreement or purchase order. The City may also choose by written agreement to use electronic funds transfers for payments. If so, vendors must complete an authorization form and submit it to our Accounts Payable Division. Forms may be requested from and submitted to Accounts Payable via email at vendorinvoiceentry@cstx.gov.

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.

Priority of Documents
In the event there are inconsistencies between the general provisions and other bid terms or conditions contained herein, the latter will take precedence.

Quantities
Quantities indicated in the Bid are estimated based upon the best available information. The City reserves the right to increase or decrease the quantities by any amount deemed necessary to meet its needs without any adjustments in the unit prices bid.

Reimbursements
There is no expressed or implied obligation for the City of College Station to reimburse responding firms for any expenses incurred in preparing bids in response to this Invitation to Bid and the City of College Station will not reimburse responding firms for these expenses, nor will the City of College Station pay any subsequent costs associated with the provision of additional information or presentation, or to procure a contract for these goods or services.

Reservations
The City reserves the right to accept or reject in part or in whole, any bids submitted, and to waive any technicalities for the best interest of the City. The City reserves the right to reject any bid that does not fully respond to each specified item.

Samples
Samples of items shall be furnished, if requested by the Owner, without charge, and if not destroyed, shall upon request be returned at the bidder's expense.

Satisfaction
Acceptance of merchandise, work, or equipment provided shall be made by the City at the sole discretion of the City Council. All terms and conditions of the contract, and specifications must be satisfactorily met; including the submission to the City of any and all documentation as may be required before award recommendation will be submitted to City Council.

Severability
The invalidity or unenforceability of any provision hereof shall not affect the validity or enforceability of any other provision.

Standard Contracts
Should this bid include any of the City's Standard Contracts (Attachment A), all bidders shall be required to thoroughly read and understand the terms, conditions and provisions in these documents. The successful bidder shall be responsible for compliance with these terms and conditions. In the event that this bid is awarded to your company, the executed contract and purchase order subsequently issued will become the official documents to supply product(s) or services(s) to City. All required Certificates of Insurance and endorsements will be required before award recommendation is taken to City Council. Any exceptions taken to City's standard contracts may cause bid to be considered non-responsive.

Tax Exempt
Owner is exempt from State Retail Tax and Federal Excise Tax. The price bid must be net, exclusive of taxes.

Title and Risk of Loss
Title and Risk of Loss of the goods shall not pass to the City until the City actually accepts and takes possession of the goods at the point or points of the delivery.

Unit Prices
Prices should be itemized and must include tariffs (if any) in existence as of the effective date of the Contract. Unit prices shall be set to no more than four (4) decimal places. The Owner reserves the right to award by item, category, or by total bid. If there are discrepancies between unit prices and extension, the unit price will prevail.

Venue
Any resulting contract shall be governed by and construed and enforced in accordance with the laws of the State of Texas

Withdrawal
Bidders may request withdrawal of a posted sealed proposal prior to the scheduled bid opening time, provided the request for withdrawal submitted to the Purchasing Agent in writing. Owner reserves the right to reject any and all bids by reason of this request.

Personal Interest
College Station City Charter Article XII: General Provision; Section 116. Members of the City Council and officers and employees of the City shall comply with state law pertaining to conflicts of interest of local government officials, including TEXAS LOCAL GOVERNMENT CODE, Chapter 171. Any willful violation of this section shall constitute malfeasance in office and any officer or employee guilty thereof shall thereby forfeit his office or position. Any violation of this section with the knowledge expressed or implied of the person or corporation contracting with the City shall render the contract voidable by the City Council or City Manager.

No Boycott Israel
To the extent this transaction is considered a contract for goods or services subject to §2271.002 Texas Government Code, Vendor verifies that it (i) does not boycott Israel; and (ii) will not boycott Israel during the term of the provision of such goods or services.

No Boycott Firearms
To the extent this transaction is considered a contract for goods or services subject to §2274.002 Texas Government Code, Vendor 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 provision of such goods or services.

No Boycott Energy Companies
To the extent this transaction is considered a contract for goods or services subject to §2274.002 Texas Government Code, Vendor herein verifies that it (i) does not boycott energy companies; and (ii) will not boycott energy companies during the term of the provision of such goods or services.

Disclosure of Interested Parties
Contracting hereunder may require compliance with §2252.908 Texas Government Code/Disclosure of Interested Parties for contracts that (1) require an action or vote by the City Council before the contract may be signed; or (2) has a value of at least $1 million. The law provides that a governmental entity may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties to the governmental entity at the time the business entity submits the signed contract to the governmental entity or state agency. For purposes of this section, the following definitions apply:

“Interested party” means a person who has a controlling interest in a business entity with whom the City contracts or who actively participates in facilitating the contract or negotiating the terms of the contract, including a broker intermediary, advisor, or attorney for the business entity.

"Controlling interest" means: (1) an ownership interest or participating interest in a business entity by virtue of units, percentage, shares, stock, or otherwise that exceeds 10 percent; (2) membership on the board of directors or other governing body of a business entity of which the board or other governing body is composed of not more than 10 members; or (3) service as an officer of a business entity that has four or fewer officers, or service as one of the four officers most highly compensated by a business entity that has more than four officers.

"Intermediary," means a person who actively participates in the facilitation of the contract or negotiating the contract, including a broker, adviser, attorney, or representative of or agent for the business entity who:

1. Receives compensation from the business entity for the person's participation;
2. Communicates directly with the City on behalf of the business entity regarding the contract; and
3. Is not an employee of the business entity.

The process as implemented by the Texas Ethics Commission (“TEC”) is as follows:

1. The disclosure of interested parties must be performed using the Texas Ethics Commission’s electronic filing application listing each interested party of which the business entity is aware on Form 1295, obtaining a certification of filing number for this form from the TEC, and printing a copy of it to submit to the City.
2. The copy of Form 1295 submitted to the City must contain the unique certification number from the TEC. The form must be filed with the City pursuant to §2252.908 Texas Government Code, “at the time the business entity submits the signed contract” to the City.

The City, in turn, will electronically acknowledge the filed Form 1295 not later than the 30th day after the date the City receives the Form 1295 from the business entity. Once a Form 1295 is acknowledged, it will be posted to the Texas Ethics Commission’s website.

Assembly

The unit(s) shall be completely assembled, adjusted, and all equipment including standard and supplemental equipment installed, and the unit made ready for continuous operation unless otherwise specified in bid document.

Bid Literature

Bidders must submit with their bid or have on file the latest printed literature and detailed specifications on equipment or material the bidder proposes to furnish. Any catalog, brand name, or manufacturer's reference used is considered to be descriptive-not restrictive and is indicative of the type and quality the City desires to purchase.

Delivery (for CEMENT STABILIZED SAND AND CEMENT TREATED BASE 4%)

All deliveries are to be made F.O.B. City of College Station, ATTN Public Works, 300 Krenek Tap Road, College Station, TX 77845 or location of project site, during regular working days, and between the hours of 8:00 a.m. and 4:00 p.m., unless otherwise requested by the City.

Delivery (Hot Mix Only)

All deliveries are to be made F.O.B. City of College Station, via tandem axle bob-tail trucks. Ordered materials shall be delivered to the specified project location within 24 hours after receiving of request. Deliveries will be accepted during normal business days and hours which are Monday through Friday between the hours of 8:00 a.m. to 4:00 p.m. In emergency situations, the City reserves the right to order materials after normal business hours. The City of College Station desires that the Awarded Vendor's location is less than forty (40) miles from College Station Public Work Operations, located at 300 William King Cole, College Station TX 77842.

General Requirements/Response Time:

The Contractor shall use only workers experienced in installing and removing pavement markings. The Contractor and its employees shall abide by all City of College Station safety rules. Safety equipment and apparel are to be utilized as needed to meet all state and federal requirements. In addition, selected Vendor must be able to supply materials within twenty-four (24) hours of notification. For Emergency after hour's request: The City reserves the right to request asphalt after hours if needed.

Inspection:

Successful bidder shall make inspections with a designated College Station representative upon request and furnish a written plan of action as to how and when correction of discrepancies will be accomplished in order to eliminate complaints. Unsatisfactory work shall ordinarily be corrected for re-inspection after 24 hours or based on the magnitude of the task, after a reasonable span of time allowed for correction. The successful bidders shall have a regular systematic inspection by the supervisor to maximize efficiency at all times. The City of College Station reserves the right to make periodic unannounced inspections without the successful bidder being present. If after inspection, problem areas are not corrected within 24 hours or within a reasonable span of time, and another source must be contacted to make corrections, changes for such services shall be deducted for failure to perform in keeping with terms of this contract.

Pick-Up
Asphalt, hot mix, type D is to be in accordance with TXDHPT 1993 Standard Specs, Item #340 picked up by City crews. Rap and Ras (shingles) use will not be permitted in pavement surface courses. Only HMAC- Type D will be accepted unless prior arrangements have been made.

- Plant to start up for a minimum of 50 tons if no other company is needing mix
- The city trucks shall not have to wait more than 30 minutes to be loaded.

Emergency after hour's request: The City Reserves the right to request asphalt after hours if needed. The City of College Station desires that the Awarded Vendor's location is less than forty (40) miles from College Station Public Work Operations, located at 300 William King Cole, College Station TX 77842.

Quality:
The equipment furnished under these specifications shall be of quality workmanship and material. The bidder represents that all equipment offered under these specifications shall be new. USED, SHOPWORN, DEMONSTRATOR, PROTOTYPE, OR DISCONTINUED MODELS ARE NOT ACCEPTABLE.

Regulations and Standards
The unit(s) provided shall meet or exceed all Federal and State of Texas safety, health, lighting, and noise regulations and standards in effect and applicable to equipment furnished at the time of manufacture.

Substitute or "Equal" items
The materials and equipment described in the Bidding Documents establish a standard of required function, dimension, appearance and quality to be met by any proposed substitution. No substitution will be considered unless written request for approval has been submitted by the Bidder via the Q&A feature available through the Bidding Portal by the specified deadline to submit written requests for clarification. Each such request shall include the name of the material or equipment for which it is to be substituted and a Complete description of the proposed substitute including drawings, cuts, performance and test data and any other information necessary for an evaluation. A statement setting forth any changes in other materials, equipment or work that incorporation of the substitute would require shall be included. The burden of proof of the merit of the proposed substitute is upon the Bidder. The City's Representative decision of approval or disapproval of a proposed substitution shall be final. If Owner's Representative approves any proposed substitution before the date for receipt of bids, such approval will be set forth in an Addendum issued to all prospective Bidders. Bidders shall not rely upon approvals made in any other manner.

Vendor's Sales Territory
City waives any responsibility or liability for vendors bidding products or services "outside" their authorized territory by manufacturer or product line. Any vendor bidding outside an approved manufacturer line does so at his own risk and discretion. Vendor shall comply with all sales terms according to original bid and purchase order regardless of claim or dispute with product line representatives.

Warranty
Warranty shall be for both labor and materials for a minimum period of one (1) year on any products or services provided to the City, unless specified and agreed upon otherwise.

Workmanship

All parts not specifically mentioned which are necessary for the unit to be complete and ready for operation or which are normally furnished as standard equipment shall be furnished by the successful bidder. All parts shall conform in strength, quality, and workmanship to the accepted standards of the industry.

Variations

Any variation from these specifications must be indicated on the Bid or on a separate attachment to the Bid. This sheet shall be labeled as such.

SPECIFICATION ASPHALT, HOT MIX, TYPE D

Asphalt, Hot Mix, Type D: in accordance with TSDHPT 1993 Standard Specifications, Item #340

Location: City of College Station desires to award these contracts to a company less than forty (40) miles from College Station Public Works Operations, located at 300 William King Cole, College Station 77842; due to Response or Pick up Times, and Product Effectiveness.

SPECIFICATION CEMENT TREATED BASE (PLANT-MIXED)

The Cement Treaded Base (CTB) materials and placement shall conform to the requirements outlined in ITEM 276, 247 and ITEM 421 of the STANDARD SPECIFICATIONS FOR CONSTRUCTION AND MAINTENANCE OF HIGHWAYS, STREETS, AND BRIDGES (hereinafter 2014 TxDOT Specifications), except as modified herein.

Cement Treated Base (4%):

Description. This Item shall govern the construction of a Hydraulic cement treated base (CTB) course composed of gravel base material, Hydraulic cement, and water that is mixed at a central mixing plant and constructed in accordance with the typical sections, lines, grades and thicknesses shown on the plans.

Materials. Materials shall conform to the following requirements:

(1) Base Aggregate Materials. The sand and gravel aggregate used in the cement treated base mix shall be "plant mix" material meeting, Type A, Grade 2 the graduation requirements indicated in Table 1. Gradation tests shall be performed at the direction of the City and shall be obtained from the conveyor belt at the mixing plant.

(2) Water. Water shall conform to the requirements of Item 421, "Hydraulic Cement Concrete," of the 2014 TxDOT Specifications.

TABLE 1. GRADATION REQUIREMENTS FOR CTB MIX

SIEVE SIZE	ALLOWABLE RANGE OF PERCENT PASSING Percent to percent	
Size or Number	Minimum	Maximum
1"	100	100
#4	40	90
#200	0	10

NOTES:

Gradation shall be determined by the "wet" sieve method (ASTM D 422)

In addition, the materials shall meet the following Atterberg limit requirements:

LL < or = 30

PI < or = 7

SPECIFICATION 135 - CEMENT STABILIZED SAND

MATERIALS

Cement: Type I Portland Cement conforming to ASTM C150.

Sand: Clean durable sand meeting grading requirements for fine aggregates of ASTM C33, and the following requirements:

Classified as SW, SP, or SM by the United Soil Classification System as ASTM D2487.
Deleterious materials:
Clay lumps, ASTM C142; less than 0.5 percent.
Lightweight pieces, ASTM C123; less than 5.0 percent.
Organic impurities, ASTM C40; color no darker than standard color.
Plasticity index of 4 or less when tested in accordance with ASTM D4318.
Water: Potable water, free of oils, acids, alkalies, organic matter, or other deleterious substances, meeting requirements of ASTM C94.

DESIGN REQUIREMENTS

Design sand-cement mixture to produce a minimum unconfined compressive strength of 50 pounds per square inch in 48 hours and 100 pounds per square inch in 7 days when compacted to 95% in accordance to ASTM D558 and when cured in accordance with ASTM D1632, and tested in accordance with ASTM D1633.

Mixing

Thoroughly mix sand, cement, and water in proportions specified by the Design Requirements using a pugmill-type mixer. The plant shall be equipped with automatic weight controls to ensure correct mix proportions.

Stamp batch ticket at plant with time of loading directly after mixing. Material not placed and compacted within 4 hours after mixing shall be rejected.

BID PRICING

Bidder agrees to provide the goods specified herein in accordance with the specifications, terms and conditions of this Invitation to Bid at the following firm fixed unit bid prices. Unit prices shall include all costs associated with the delivery of the goods to the City. Please initial all corrections and do not round totals. If there are discrepancies between unit price and totals, the unit price will prevail.

City reserves the right to award this bid in the manner deemed to provide the best value to the City. The City may award by line item, by category, or award all line items to a single bidder. The City's determination of best value and its decision to award multiple bidders or to a single bidder shall be final.

Estimated Quantities and Expenditures: Quantities listed in this solicitation, including any estimated annual expenditures, are based on the City's best available information and historical usage. These quantities and/or dollar amounts are provided solely for bidding purposes and are not to be construed as a commitment by the City to purchase or pay for any minimum or maximum amount of goods or services. The City reserves the right to increase or decrease quantities as needed to meet actual requirements, without any adjustment in unit price. Orders will be placed on an as-needed basis and at the City's sole discretion.

The Bid Pricing form is posted to the online Bidding Portal as a separate Excel document. The Bid Pricing Form shall be fully completed and included in bid submission. Leaving a line without a price will be considered a zero (0) and cannot be changed at a later day. All Fields must be complete.

REFERENCES

Provide three (3) relevant references demonstrating successful delivery of similar commodities. Include client/organization name, representative's name, email address and phone number, and service dates. This form must be fully completed and included in bid submission.

1.

2.

3.

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: _____ Title:_____

Typed Name: _____ Company Name:_____

Phone No.: _____ Fax No.:_____

Email: _____

Vendor Address:_____
P.O. Box or Street City State Zip

Remit Address:_____
P.O. Box or Street City State Zip

Company is a publicly traded entity, including a wholly owned subsidiary of the business entity: _____ Yes _____ No

Federal Tax ID No.: _____

DUNS No.:_____

Date:_____

Number of Addenda is hereby acknowledged: _____

NOTE: This form must be fully completed and included in bid submissions.

END OF RFP NO.26-036

*****THIS FORM MUST BE FULLY COMPLETED AND INCLUDED IN BID SUBMISSION*****

EXHIBIT A

Insurance Requirements

During the term of this Agreement, Vendor's insurance policies shall provide evidence on the most current State of Texas Department of Insurance-approved certificate of liability insurance of the following insurance coverage:

Commercial General Liability
Business Automobile Liability
Workers' Compensation

I. General Policy Requirements

A. Insurance Carriers must be licensed and authorized to do business in the State of Texas, and must be A. M. Best-rated A- VIII or better.
B. Coverage shall not be canceled, non-renewed or reduced in limits of liability until thirty (30) days prior written notice has been given to the City of College Station.
C. No coverage shall be excluded from the standard policy without notification of individual exclusions being attached for review and acceptance.
D. Contractor shall be responsible for any deductibles on any policies.
E. Policies (except Workers Compensation) shall be endorsed to name the City of College Station, its officers, agents, employees and volunteers, as Additional Insured.
F. Policies shall be endorsed to show Contractor's policies are primary to the City's self-insurance or any insurance obtained by the City.
G. An endorsement Waiving Subrogation Rights shall be provided in favor of the City on all policies
H. Contractor is responsible for any deductibles which may exist on policies obtained in compliance with the terms of this Agreement.
I. Certificates of Insurance and endorsements shall be attached hereto as Exhibit C, shall be furnished to the City's Representative at the time of execution of this Agreement, and shall be approved by the City before work commences.

II. Policy-specific Requirements

A. Commercial General Liability
   1. Limit of liability of $500,000.00 per occurrence for bodily injury and property damage with an annual aggregate limit of $1,000,000.
   2. The coverage shall include, but not be limited to the following: premises/operations with separate aggregate; independent contracts; products/completed operations; contractual liability (insuring the indemnity provided herein) Host Liquor Liability, Personal & Advertising Liability; and Explosion, Collapse, and Underground coverage where appropriate.
B. Business Automobile Liability
   1. Minimum Combined Single Limit of $1,000,000 per occurrence for bodily injury & property damage.
   2. Business Auto Policy must show Symbol 1 in the Covered Autos Portion of the liability section in Item 2 of the declarations page.
   3. The coverage shall include owned autos, leased or rented autos, non-owned autos, any autos and hired autos.
   4. Pollution Liability coverage shall be provided by endorsement MCS-90, with a limit of $1,000,000.00.
C. Workers compensation insurance shall include the following terms:
   1. Employers' Liability minimum limits of $500,000 for each accident/each disease/each employee.
   2. "Texas Waiver of Our Right to Recover From Others Endorsement, WC 42 03 04".
   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.

February 26, 2026
Item No. 8.7.
Playground Replacement Projects at Bee Creek Park and W.A. Tarrow Park

Sponsor: Gene Ballew, Assistant Director Parks & Recreation

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action on a construction contract with Fun Abounds Inc. for playground replacement projects at Bee Creek Park and W.A. Tarrow Park in the amount of $398,482.00, plus the City's contingency in the amount of $39,848.20 for a total appropriation of $438,330.20.

Relationship to Strategic Goals:
Core Services and Infrastructure.

Recommendation(s): Staff recommends approval and award of the construction contract with Fun Abounds Inc. for the demo and installation of playgrounds at Bee Creek Park and W.A. Tarrow Park using the BuyBoard purchasing cooperative.

Summary: The playground units at Bee Creek Park and W.A. Tarrow Park were identified for replacement and improvement based on their age and condition. Staff worked with Fun Abounds Inc. utilizing their BuyBoard contract, existing relationship and continuity of the Playcraft systems in our parks to create designs for each of the parks.

This project will utilize the BuyBoard Purchasing Cooperative, of which Fun Abounds Inc. are members. (BuyBoard #781-25). Contingent upon City Council approval, the playground equipment / services will be procured through BuyBoard Contract #781-25. BuyBoard is a cooperative purchasing program that provides competitively solicited contracts for use by governmental agencies. Each BuyBoard contract is awarded following a formal solicitation process that fully complies with state and local competitive procurement statutes. By utilizing an existing BuyBoard contract, the City leverages volume-based pricing and discounts, reduced administrative costs, and increased procurement efficiency.

Fun Abounds is using custom designed playground units by Burke at each of the parks. We worked with them on design, and each park will receive an upgrade from the existing units. It is our goal to coordinate with BuyBoard companies for playground replacement for consideration on providing the appropriate design for each park and consistent ability for replacement parts. The companies we are working with have the ability to design, remove existing units, surface, and replace them with new units within their company structure.

We are using a different BuyBoard company than was used on the previous three playground replacements, Playwell.

Budget & Financial Summary: Funding for this project is from both the Capital Park Improvement Revolver and Parkland Dedication Zone 1 Fund. The Parkland Dedication Zone 1 Fund has $41,275 to contribute towards the Bee Creek playground and $57,207 to contribute to the W.A. Tarrow playground. The total for Bee Creek Park is $191,275 and the total for W.A. Tarrow is $207,207 for a grand total for equipment and installation of $398,482.

Attachments:
1. 26300312 -- JU (CC 2.26.26)

CONTRACT & AGREEMENT ROUTING FORM

CONTRACT#: 26300312 PROJECT #: PK2503 BID/RFP/RFQ#: N/A

Project Name / Contract Description: Playground Replacement Projects at Bee Creek and WA Tarrow Park (BuyBoard Contract # 781-25)

Name of Contractor: Fun Abounds, Inc.

CONTRACT TOTAL VALUE: $ 398,482.00 **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)

Playground Replacement Projects at Bee Creek and WA Tarrow Park utilizing the BuyBoard purchasing cooperative Contract 781-25. Purchasing through a cooperative or "interlocal contract" satisfies the Texas state law requirement of local government to seek competitive procurement for the purchase of goods and services.

Funding Source: Bee Creek: $150,000 - PK2503 Revolver Fund, $41,275-Parkland Dedication Zone1

WA Tarrow: $150,000 - PK2503 Revolver Fund, $57,207- Parkland Dedication Fund Zone1

*(If required)**

CRC Approval Date*: N/A **Council Approval Date*:** 2/26/26 **Agenda Item No*:** _____

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

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

SIGNATURES RECOMMENDING APPROVAL

_____ _____
DEPARTMENT DIRECTOR/ADMINISTERING CONTRACT DATE

_____ _____
ASST CITY MGR – CFO DATE

_____ _____
LEGAL DEPARTMENT DATE

APPROVED & EXECUTED

_____ _____
CITY MANAGER DATE

N/A _____ _____
MAYOR (if applicable) DATE

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

9.12.23 UPDATED

CITY OF COLLEGE STATION
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 Fun Abounds, Inc. (the "Contractor") for the construction and/or installation of the following:
Playground Replacement Projects at Bee Creek and WA Tarrow Park (BuyBoard # 781-25).

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: Thirty-Nine Thousand Eight Hundred Forty-Eight and 20 **/100 Dollars ($** 39,848.20).

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: Three Hundred Ninety-Eight Thousand Four Hundred Eighty-Two and 00 **/100 Dollars ($** 398,482.00).

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

FUN ABOUNDS, INC.

By: Ellie Mason

Printed Name: Ellie Mason

Title: Operations Manager

Date: 02/03/26

CITY OF COLLEGE STATION

By: _____
City Manager
Date: _____

APPROVED:

_____
City Attorney
Date: _____

_____
Assistant City Manager/CFO
Date: _____

EXHIBIT A
DAVIS BACON WAGE RATES

"General Decision Number: TX20260007 01/02/2026

Superseded General Decision Number: TX20250007

State: Texas

Construction Type: Heavy

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) Construction Projects

Modification Number	Publication Date
0	01/02/2026

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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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.

Note: Executive Order 13658 generally applies to contracts subject to the Davis-Bacon Act that were awarded on or between January 1, 2015 and January 29, 2022, and that have not been renewed or extended on or after January 30, 2022. Executive Order 13658 does not apply to contracts subject only to the Davis-Bacon Related Acts regardless of when they were awarded. If a contract is subject to Executive Order 13658, the contractor must pay all covered workers at least $13.30 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 2025. The applicable Executive Order minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under Executive Order 13658 is available at www.dol.gov/whd/govcontracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (iii)).

The body of each wage determination lists the classifications and wage rates that have been found to be prevailing for the type(s) of construction and geographic area covered by the wage determination. The classifications are listed in alphabetical order under rate identifiers indicating whether the particular rate is a union rate (current union negotiated rate), a survey rate, a weighted union average rate, a state adopted rate, or a supplemental classification rate.

Union Rate Identifiers

A four-letter identifier beginning with characters other than ""SU"", ""UAVG"", ?SA?, or ?SC? denotes that a union rate was prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2024. PLUM is an identifier of the union whose collectively bargained rate 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. The date, 07/01/2024 in the example, is the effective date of the most current negotiated rate.

Union prevailing wage rates are updated to reflect all changes over time that are reported to WHD in the rates in the collective bargaining agreement (CBA) governing the classification.

Union Average Rate Identifiers

The UAVG identifier indicates that no single rate prevailed for those classifications, but that 100% of the data reported for the classifications reflected union rates. EXAMPLE: UAVG-OH-0010 01/01/2024. UAVG indicates that the rate is a

weighted union average rate. OH indicates the State of Ohio. The next number, 0010 in the example, is an internal number used in producing the wage determination. The date, 01/01/2024 in the example, indicates the date the wage determination was updated to reflect the most current union average rate.

A UAVG rate will be updated once a year, usually in January, to reflect a weighted average of the current rates in the collective bargaining agreements on which the rate is based.

Survey Rate Identifiers

The ""SU"" identifier indicates that either a single non-union rate prevailed (as defined in 29 CFR 1.2) for this classification in the survey or that the rate was derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As a weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SUFL2022-007 6/27/2024. SU indicates the rate is a single non-union prevailing rate or a weighted average of survey data for that classification. FL indicates the State of Florida. 2022 is the year of the 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. The date, 6/27/2024 in the example, indicates the survey completion date for the classifications and rates under that identifier.

?SU? wage rates typically remain in effect until a new survey is conducted. However, the Wage and Hour Division (WHD) has the discretion to update such rates under 29 CFR 1.6(c)(1).

State Adopted Rate Identifiers

The ""SA"" identifier indicates that the classifications and prevailing wage rates set by a state (or local) government were adopted under 29 C.F.R 1.3(g)-(h). Example: SAME2023-007 01/03/2024. SA reflects that the rates are state adopted. ME refers to the State of Maine. 2023 is the year during which the state completed the survey on which the listed classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. The date, 01/03/2024 in the example, reflects the date on which the classifications and rates under the ?SA? identifier took effect under state law in the state from which the rates were adopted.

WAGE DETERMINATION APPEALS PROCESS

1) Has there been an initial decision in the matter? This can be:

a) a survey underlying a wage determination
b) an existing published wage determination
c) an initial WHD letter setting forth a position on a wage determination matter
d) an initial conformance (additional classification and rate) determination

On survey related matters, initial contact, including requests for summaries of surveys, should be directed to the WHD Branch of Wage Surveys. Requests can be submitted via email to davisbaconinfo@dol.gov or by mail to:

Branch of Wage Surveys
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

Regarding any other wage determination matter such as conformance decisions, requests for initial decisions should be directed to the WHD Branch of Construction Wage Determinations. Requests can be submitted via email to BCWD-Office@dol.gov or by mail 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 an initial decision has been issued, then any interested party (those affected by the action) that disagrees with the decision can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Requests for review and reconsideration can be submitted via email to dba.reconsideration@dol.gov or by mail 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 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.

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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. 101770481

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

THAT WE, Fun Abounds, Inc., as Principal, hereinafter called "Contractor" and the other subscriber hereto Merchants National Bonding, Inc., 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 Three Hundred Ninety-Eight Thousand Four Hundred Eighty-Two and 00 /100 Dollars ($398,482.00) 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 Playground Replacement Projects at Bee Creek and WA Tarrow Park (BuyBoard # 781-25),

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. 101770481

FOR THE CONTRACTOR:

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

By: Ellie Mason

Name: Ellie Mason

Title: Operations Manager

Date: 02/26/26

Fun Abounds, Inc.
(Name of Contractor)

By: [signature]

Name: Leigh Walden

Title: President

Date: 02/26/26

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

By: [signature]

Name: Michael Hotchkiss

Title: COO

Date: 02/26/26

Merchants National Bonding, Inc.
(Full Name of Surety)

P.O. Box 14498, DES MOINES, IOWA 50306-3498

(Address of Surety for Notice)

By: [signature]

Name: Maryana Zhuk

Title: Attorney-in-Fact

Date: 02/26/26

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. 26300312
Construction Agreement Over $50,000
Form 04-20-2023

TEXAS STATUTORY PAYMENT BOND

Bond No. 101770481

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

THAT WE, Fun Abounds. Inc., as Principal, hereinafter called "Principal" and the other subscriber hereto Merchants National Bonding, Inc., a corporation organized and existing under the laws of the State of Iowa, 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 Three Hundred Ninety-Eight Thousand Four Hundred Eighty-Two and 00/100 Dollars ($398,482.00) 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 26 day of February, 2026, for Playground Replacement Projects at Bee Creek and WA Tarrow Park (BuyBoard # 781-25), 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. 101770481

FOR THE CONTRACTOR:

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

By: Ellie Mason
Name: Ellie Mason
Title: Operations Manager
Date: 02/26/26

Fun Abounds, Inc.
(Name of Contractor)

By: [signature]
Name: Leigh Walden
Title: President
Date: 02/26/26

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

By: [signature]
Name: Michael Hotchkiss
Title: COO
Date: 02/26/26

Merchants National Bonding, Inc.
(Full Name of Surety)

P.O. Box 14498, DES MOINES, IOWA 50306-3498
(Address of Surety for Notice)

By: [signature]
Name: Maryana Zhuk
Title: Attorney-in-Fact
Date: 02/26/26

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. 26300312
Construction Agreement Over $50,000
Form 04-20-2023

MERCHANTS BONDING COMPANY™

POWER OF ATTORNEY

Know All Persons By These Presents, that MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., both being corporations of the State of Iowa, and MERCHANTS NATIONAL INDEMNITY COMPANY , an assumed name of Merchants National Bonding, Inc., (herein collectively called the "Companies") do hereby make, constitute and appoint, individually,

Maryana Zhuk

their true and lawful Attorney(s)-in-Fact, to sign its name as surety(ies) and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

This Power-of-Attorney is granted and is signed and sealed by facsimile under and by authority of the By-Laws adopted by the Board of Directors of the Companies.

"The President, Secretary, Treasurer, or any Assistant Treasurer or any Assistant Secretary or any Vice President shall have power and authority to appoint Attorneys-in-Fact, and to authorize them to execute on behalf of the Company, and attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof."

"The signature of any authorized officer and the seal of the Company may be affixed by facsimile or electronic transmission to any Power of Attorney or Certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligations of the Company, and such signature and seal when so used shall have the same force and effect as though manually fixed."

In connection with obligations in favor of the Florida Department of Transportation only, it is agreed that the power and authority hereby given to the Attorney-in-Fact includes any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts required by the State of Florida Department of Transportation. It is fully understood that consenting to the State of Florida Department of Transportation making payment of the final estimate to the Contractor and/or its assignee, shall not relieve this surety company of any of its obligations under its bond.

In connection with obligations in favor of the Kentucky Department of Highways only, it is agreed that the power and authority hereby given to the Attorney-in-Fact cannot be modified or revoked unless prior written personal notice of such intent has been given to the Commissioner - Department of Highways of the Commonwealth of Kentucky at least thirty (30) days prior to the modification or revocation.

In Witness Whereof, the Companies have caused this instrument to be signed and sealed this 26th day of February , 2026 .

MERCHANTS BONDING COMPANY (MUTUAL) INCORPORATED -o- 1933

MERCHANTS NATIONAL BONDING, INC. INCORPORATED -o- 2003

MERCHANTS NATIONAL INDEMNITY COMPANY CALIFORNIA

MERCHANTS BONDING COMPANY (MUTUAL)
MERCHANTS NATIONAL BONDING, INC.
MERCHANTS NATIONAL INDEMNITY COMPANY

By Larry Taylor

President

STATE OF IOWA
COUNTY OF DALLAS ss.

On this 26th day of February 2026 , before me appeared Larry Taylor, to me personally known, who being by me duly sworn did say that he is President of MERCHANTS BONDING COMPANY (MUTUAL), MERCHANTS NATIONAL BONDING, INC., and MERCHANTS NATIONAL INDEMNITY COMPANY; and that the seals affixed to the foregoing instrument are the Corporate Seals of the Companies; and that the said instrument was signed and sealed in behalf of the Companies by authority of their respective Boards of Directors.

NOTARIAL SEAL IOWA

Penni Miller
Commission Number 787952
My Commission Expires
January 20, 2027

Notary Public

(Expiration of notary's commission does not invalidate this instrument)

I, Elisabeth Sandersfeld, Secretary of MERCHANTS BONDING COMPANY (MUTUAL), MERCHANTS NATIONAL BONDING, INC., and MERCHANTS NATIONAL INDEMNITY COMPANY do hereby certify that the above and foregoing is a true and correct copy of the POWER-OF-ATTORNEY executed by said Companies, which is still in full force and effect and has not been amended or revoked.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the Companies on this 26th day of February , 2026 .

MERCHANTS BONDING COMPANY (MUTUAL) INCORPORATED -o- 1933

MERCHANTS NATIONAL BONDING, INC. INCORPORATED -o- 2003

MERCHANTS NATIONAL INDEMNITY COMPANY CALIFORNIA

Secretary

POA 0018 (5/25)

MERCHANTS BONDING COMPANY™

MERCHANTS BONDING COMPANY (MUTUAL) • MERCHANTS NATIONAL BONDING, INC.
P.O. BOX 14498 · DES MOINES, IOWA 50306-3498 · (800) 678-8171 · (515) 243-3854 FAX

Please send all notices of claim on this bond to:

Merchants Bonding Company (Mutual) / Merchants National Bonding, Inc.
P.O. Box 14498
Des Moines, Iowa 50306-3498

(515) 243-8171
(800) 678-8171

Physical Address: 6700 Westown Parkway, West Des Moines, Iowa 50266

EXHIBIT C
CERTIFICATES OF INSURANCE AND ENDORSEMENTS

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 1/12/2026

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
Hotchkiss Insurance Agency, LLC
13430 Northwest Freeway
Suite 600
Houston TX 77040

CONTACT NAME: Terri Lawhorn
PHONE (A/C, No, Ext): 800-899-9810 **FAX (A/C, No):** 713-956-0331
E-MAIL ADDRESS: certs@hotchkissinsurance.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Central Mutual Insurance Company	20230
INSURER B : Texas Mutual Insurance Company	524210
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED FUNABOU-01
fun abounds, inc
114 Venice Street
Sugar Land TX 77478

COVERAGES **CERTIFICATE NUMBER:** 1980156024 **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:			CLP8997805	4/19/2025	4/19/2026	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** X ANY AUTO OWNED AUTOS ONLY SCHEDULED AUTOS X HIRED AUTOS ONLY X NON-OWNED AUTOS ONLY			BAP8998130	4/19/2025	4/19/2026	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) 	$ 1,000,000 $ $ $ $
A	X **UMBRELLA LIAB** X OCCUR **EXCESS LIAB** CLAIMS-MADE DED X RETENTION $ 0			CXS8998131	4/19/2025	4/19/2026	EACH OCCURRENCE AGGREGATE 	$ 2,000,000 $ 2,000,000 $
B	**WORKERS COMPENSATION AND EMPLOYERS' LIABILITY** Y / N ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y **(Mandatory in NH)** If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		0001321422	3/9/2025	3/9/2026	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 includes additional insured endorsements, (8-1932 07/14) that provides additional insured status for ongoing and completed operations to the certificate holder only when required by written contract.
The auto policy includes a blanket additional insured endorsement when required by written contract per (3-2546 11/20).
The auto policy includes a special endorsement with Primary and Noncontributory wording, per (CA0449 11/16).
The general liability, auto and workers compensation policies includes a blanket waiver of subrogation endorsement when required by written contract.
The general liability policy includes a special endorsement with Primary and Noncontributory wording as required by written contract (8-1834 12/04).
The workers compensation policy excludes coverage for Leigh Walden per endorsement WC420304B.

CERTIFICATE HOLDER

City of College Station
Risk Management Department
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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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NONCONTRIBUTORY – OTHER INSURANCE CONDITION

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

A. The following is added to the **Other Insurance** Condition in the Business Auto Coverage Form and the **Other Insurance – Primary And Excess Insurance Provisions** in the Motor Carrier Coverage Form and supersedes any provision to the contrary:

This Coverage Form's Covered Autos Liability Coverage is primary to and will not seek contribution from any other insurance available to an "insured" under your policy provided that:

1. Such "insured" is a Named Insured under such other insurance; and

2. You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to such "insured".

B. The following is added to the **Other Insurance** Condition in the Auto Dealers Coverage Form and supersedes any provision to the contrary:

This Coverage Form's Covered Autos Liability Coverage and General Liability Coverages are primary to and will not seek contribution from any other insurance available to an "insured" under your policy provided that:

1. Such "insured" is a Named Insured under such other insurance; and

2. You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to such "insured".

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BAP PLUS COVERAGE ENDORSEMENT

This endorsement modifies insurance provided under the:

BUSINESS AUTO COVERAGE FORM

These coverages are subject to the terms and conditions applicable to coverage in this policy except as provided below.

A. Hired Auto Physical Damage Coverage

1. If hired "autos" are covered "autos" for Liability Coverage in this policy or another policy provided by us 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, subject to the following limit.

The most we will pay for "loss" to any hired "auto" is **$75,000** or Actual Cash Value or Cost of Repair, 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. Subject to the above limit, and deductible, we will provide coverage equal to the broadest coverage applicable to any covered "auto" you own.

2. Changes In Liability Coverage:

The following is added to the Who Is An Insured Provision:

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.

3. Changes In General Conditions:

Paragraph **5.b.** of the Other Insurance Condition in the Business Auto and Business Auto Physical Damage Coverage Forms are replaced by the following:

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

1. Any covered "auto" you lease, hire, rent or borrow; and

2. Any covered "auto" hired or rented by your "employee" under a contract in that individual "employee's" name, with your permission, while performing duties related to the conduct of your business.

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

B. Hired Auto Physical Damage - Additional Loss of Use Expenses

Paragraph **A.4.b.** of **SECTION III** -**PHYSICAL DAMAGE COVERAGE** is amended to provide a limit of **$85 per day** and a **maximum limit of $1,350.**

C. Physical Damage - Additional 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.**

D. Towing and Labor Costs Coverage

We will pay up to $200 for towing and labor costs incurred each time an owned "auto" is disabled. However, the labor must be performed at the place of disablement.

E. Parked Auto Collision Coverage (Waiver of Deductible) The deductible does not apply to "loss" caused by collision to such covered "auto" while it is:

1. In the charge of an "insured";

2. Legally parked; and

3. Unoccupied.

The total amount of the damage to the covered “auto” must exceed the deductible shown in the Declarations or Change Endorsement.

This provision does not apply to any “loss” if the covered “auto” is in the charge of any person or organization engaged in the automobile business.

F. Rental Reimbursement Coverage

When there is a “loss” to a covered “auto,” we will pay for rental reimbursement expenses incurred by you for the rental of an “auto.” Payment applies in addition to the otherwise applicable amount of each coverage you have on a covered “auto.” No deductibles apply to this coverage.

This coverage applies only:

1. For those expenses incurred during the policy period beginning 24 hours after the loss;

2. To necessary and actual expenses incurred;

3. To a “loss” for which we also pay a “loss” under Physical Damage Coverage - Comprehensive Coverage, Specified Causes of Loss Coverage or Collision Coverage; and

4. If there are no spare or reserve “autos” available to you for your operations.

Our payment will be limited to that period of time reasonably required to repair or replace the covered “auto.” We will pay up to **$75 per day** to a **maximum of $1,500.** If “loss” results from total theft of a covered “auto” we will pay under this coverage only that amount of rental reimbursement expenses which are not already provided under the Physical Damage Coverage Extension.

G. Difference in Value Coverage - Loan/Lease Gap

1. PHYSICAL DAMAGE COVERAGE, is amended by the addition of the following:

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

1) The amount paid under the Policy's Physical Damage Coverage; and

2) Any:

i) Overdue or any deferred loan/lease payments at the time of "loss";

ii) Financial penalties imposed under the lease for excessive use, abnormal wear and tear or high mileage;

iii) Security deposits not returned by the lessor;

iv) Costs for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan or lease; and

v) Carry-over balances from previous loans or leases.

For the purposes of this endorsement, the following is added to the Other Insurance Condition in the Business Auto Coverage Form:

The insurance provided by this Auto Loan/Lease GAP Coverage is excess over any other collectible insurance including but not limited to any coverage provided by or purchased from the lessor or any financial institution.

H. Glass Repair - Waiver of Deductible

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

No deductible applies to the cost of repairing or replacing damaged glass.

I. Employees as Insureds Paragraph **A.1 - Who is an Insured of SECTION II - COVERED AUTOS LIABILITY COVERAGE** is amended to add:

d. Any employee of yours while using a covered “auto” you don't own, hire or borrow in your business or your personal affairs. Coverage is excess over any other collectible insurance.

J. Fellow Employee Coverage

The Fellow Employee Exclusion contained in **SECTION II - COVERED AUTOS LIABILITY COVERAGE** does not apply.

K. Doubled Automobile Medical Payments Coverage

If you have purchased Automobile Medical Payments Coverage, the limit of insurance for that coverage as shown in the Declarations or Change Endorsement will be doubled in the event an "insured" is injured in an "accident" while within an "auto" and is:

1. Wearing a seat belt; or

2. The "auto" is equipped with passive restraints.

L. Waiver Of Transfer Of Rights Of Recovery Against Others To Us

The **TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US, SECTION IV CONDITION 5.,** is amended by the addition of the following:

The Transfer Of Rights Of Recovery Against Others To Us Condition does not apply to any person(s) or organization(s) for whom you are required to waive subrogation with respect to the coverage provided under this Coverage Form, but only to the extent that subrogation is waived:

1. Under a written contract or agreement with such person(s) or organization(s); and

2. Prior to the "accident" or the "loss".

M. Additional Insured - Automatic Status

1. Any "leased auto" will be considered a covered "auto" you own and not a covered "auto" you hire or borrow.

2. Paragraph **A.1 - Who is an Insured of SECTION II - COVERED AUTOS LIABILITY COVERAGE** is amended to include as an insured any person or organization (called additional insured) whom you are required to add as an additional insured on this policy under:

A written contract, permit or agreement, and

a. Currently in effect or becoming effective during the term of this policy; and

b. Executed prior to the "bodily injury," "property damage," "personal injury and advertising injury."

3. The insurance provided to the additional insured is limited as follows:

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

4. Additional Definition

As used in this endorsement:

"Leased auto" means an "auto" leased or rented to you, including any substitute, replacement or extra "auto" needed to meet seasonal or other needs, under a leasing or rental agreement that requires you to provide direct primary insurance for the lessor.

N. Loss Payee - Lessor

1. We will pay, as interest may appear, you and the lessor for "loss" to a "leased auto."

2. The insurance covers the interest of the lessor unless the "loss" results from fraudulent acts or omission on your part.

3. If we make any payment to the lessor, we will obtain his or her rights against any other party.

4. Additional Definition

As used in this endorsement:

"Leased auto" means an "auto" leased or rented to you, including any substitute, replacement or extra "auto" needed to meet seasonal or other needs, under a leasing or rental agreement that requires you to provide direct primary insurance for the lessor.

O. Tapes, Records and Discs Coverage SECTION III - PHYSICAL DAMAGE COVERAGE is amended as follows:

1. The exclusion referring to tapes, records, discs or other similar audio, visual or data electronic devices designed for use with audio, visual or data electronic equipment does not apply.

2. The following is added to Paragraph A. Coverage:

Under Comprehensive Coverage we will pay for “loss” to tapes, records, discs or other similar devices used with audio, visual or data electronic equipment. We will pay only if the tapes, records, discs or other similar audio, visual or data electronic devices:

a. Are your property or that of a family member, and

b. Are in a covered “auto” at the time of “loss.”

3. The most we will pay for “loss” is $250.

4. No Physical Damage Coverage deductible applies to this coverage.

P. Audio, Visual and Data Electronic Equipment Coverage

SECTION III - PHYSICAL DAMAGE COVERAGE is amended as follows:

1. The sublimit in Paragraph **C.1.b**. of the Limit Of Insurance provision is increased to $2,500.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF PRIMARY AND EXCESS PROVISIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

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 either primary or primary and noncontributing. Where required by contract, we will consider any other insurance maintained by the additional insured for injury or damage covered by this endorsement to be excess and noncontributing with this insurance.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

TEXAS GENERAL LIABILITY PLUS ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

This endorsement amends the policy by adding the following; please read each section carefully.

EMPLOYEE BENEFITS LIABILITY COVERAGE

ADDITIONAL INSURED - OWNERS, LESSEES, OR CONTRACTORS - AUTOMATIC STATUS
ADDITIONAL INSURED - MANAGERS OR LESSORS OF PREMISES - AUTOMATIC STATUS
ADDITIONAL INSURED - LESSOR OF LEASED EQUIPMENT - AUTOMATIC STATUS
ADDITIONAL INSURED - VENDORS - AUTOMATIC STATUS
INCLUDE DIRECTORS OR TRUSTEES ON COMMITTEES AS EMPLOYEES
WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHER TO US
NEWLY FORMED OR ACQUIRED ORGANIZATIONS
NOTICE OF OCCURRENCE, KNOWLEDGE OF OCCURRENCE, UNINTENTIONAL OMISSION
VOLUNTARY PROPERTY DAMAGE
NON-OWNED WATERCRAFT AND NON-OWNED AIRCRAFT LIABILITY
FIRE, SPRINKLER LEAKAGE OR EXPLOSION
POLLUTION COVERAGE FOR UPSET OF MOBILE EQUIPMENT
AGGREGATE LIMITS OF INSURANCE AMENDMENT
SUPPLEMENTARY PAYMENTS - HIGHER LIMITS
REASONABLE FORCE EXPANSION - PROPERTY DAMAGE
LOST KEY COVERAGE
PERSONAL AND ADVERTISING INJURY DEFINITION AMENDED

These modifications are subject to the terms and conditions applicable to coverage in the policy except as provided below.

A. Employee Benefits Liability Coverage

The following is added to Section I - Coverages: EMPLOYEE BENEFITS LIABILITY COVERAGE.

1. Insuring Agreement.

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

1) The amount we will pay for damages is limited as described in SECTION **III** LIMITS OF INSURANCE for Employee Benefits Liability Coverage and

2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements.

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

b. This insurance applies to damages only if:

1) The act, error or omission is negligently committed in the “administration” of your “employee benefit program”;

2) The act, error or omission is caused by an “occurrence” that takes place in the “coverage territory”; and

3) The act, error or omission occurs during the policy period.

2. Exclusions

This insurance does not apply to:

a. Dishonesty or Fraud

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

b. Bodily Injury, Property Damage, or Personal and Advertising Injury

"Bodily injury," "property damage" or "personal and advertising injury."

c. Failure to Perform a Contract

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

d. Insufficiency of Funds

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

e. Inadequacy of Performance of Investment/Advice Given to Participate

Any "claim" or "suit" based upon:

1) Failure of any investment to perform;
2) Errors in providing information on past performance of investment vehicles; or
3) Advice given to any person to participate or not to participate in any plan included in the "employee benefit program."

f. Workers Compensation and Similar Laws

Damages arising out of any "claim" related to any workers compensation, unemployment compensation insurance, social security or disability benefits law or any similar law.

g. ERISA

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

h. Available Benefits

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

i. Taxes, Fines or Penalties

1) Taxes, fines or penalties, including those imposed under the Internal Revenue Code or any similar state or local law; or
2) Loss or damages arising out of the imposition of such taxes, fines or penalties.

j. Employment-Related Practices

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

3. Supplementary Payments - Coverages A and B

For the purposes of the coverage provided by Employee Benefits Liability Coverage, the Supplementary Payments - Coverages **A** and **B** apply except for Paragraphs **1.b.** and **2.**

SECTION II - WHO IS AN INSURED, Paragraphs **2.** and **3.** are replaced by the following for Employee Benefits Liability Coverage:

2. Each of the following is also an insured:

a. Each of your "employees" who is or was authorized to administer your "employee benefit program."

b. Any persons, organizations or "employees" having proper temporary authorization to administer your "employee benefit program" if you die, but only until your legal representative is appointed.

c. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Endorsement.

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

a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier.

b. Coverage under this provision does not apply to any act, error or omission that occurred before you acquired or formed the organization.

SECTION III - LIMITS OF INSURANCE is replaced by the following for the Employee Benefits Liability Coverage:

1) The Limits of Insurance shown below and the rules below fix the most we will pay regardless of the number of:

a) Insureds;

b) "Claims" made or "suits" brought;

c) Persons or organizations making "claims" or bringing "suits";

d) Acts, error or omissions which result in loss; or

e) Benefits included in your "employee benefit program."

2) $2,000,000 is the most we will pay for all damages because of acts, errors or omissions committed in the "administration" of your "employee benefit program."

3) Subject to the above Limit, $1,000,000 is the most we will pay for all damages sustained by any one "employee," including damages sustained by such "employee's" dependents and beneficiaries, as a result of:

a) An act, error or omission; or

b) A series of acts, errors or omissions

negligently committed in the "administration" of your "employee benefit program."

However, the amount paid under this endorsement shall not exceed, and will be subject to, the limits and restrictions that apply to the payment of benefits in any plan included in the "employee benefit program."

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

4. Deductible

a. Our obligation to pay damages on behalf of the insured applies only to the amount of damages in excess of $1,000. The limits of insurance shall not be reduced by the amount of this deductible.

b. The deductible amount applies to all damages sustained by any one "employee," including such "employee's" dependents and beneficiaries, because of all acts, errors or omissions to which this insurance applies.

c. The terms of this insurance, including those with respect to:

1) Our right and duty to defend any "suits" seeking those damages; and

2) Your duties, and the duties of any other involved insured, in the event of an act, error or omission, "claim" or "suit"

apply irrespective of the application of the deductible amount.

d. We may pay any part or all of the deductible amount to effect settlement of any "claim" or "suit" and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as we have paid.

SECTION IV - CONDITIONS, Paragraphs **2.** and **4.** are replaced by the following for the Employee Benefits Liability Coverage:

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

a. You must see to it that we are notified as soon as practicable of an act, error or omission which may result in a "claim." To the extent possible, notice should include:

1) What the act, error or omission was and when it occurred; and

2) The names and addresses of anyone who may suffer damages as a result of the act, error or omission.

b. If a "claim" is made or "suit" is brought against any insured, you must:

1) Immediately record the specifics of the "claims" or "suit" and the date received; and

2) Notify us as soon as practicable.

You must see to it that we receive written notice of the "claim" or "suit" as soon as practicable.

c. You and any other involved insured must:

1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "claim" or "suit";

2) Authorize us to obtain records and other information;

3) Cooperate with us in the investigation or settlement of the "claim" or defense against the "suit"; and

4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of an act, error or omission to which this insurance may also apply.

d. No insured will, except at the insured's own cost, voluntarily make a payment, assume any obligation or incur any expense without our consent.

4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under this endorsement, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when **b.** below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in **c.** below.

b. Excess Insurance

Any other primary insurance available to you covering acts, errors or omissions for which you have 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 may 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 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.

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 limits of insurance of all insurers.

SECTION V - DEFINITIONS is amended by adding the following definitions for Employee Benefits Liability Coverage:

1. "Administration" means:

a. Providing information to "employees," including their dependents and beneficiaries, with respect to eligibility for or scope of "employee benefit programs";

b. Handling records in connection with the "employee benefit program"; or

c. Effecting, continuing or terminating any "employee's" participation in any benefit included in the "employee benefit program."

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

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

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

4. "Employee benefit program" means a program providing some or all of the following benefits to "employees," whether provided through a "cafeteria plan" or otherwise.

a. Group life insurance; group accident or health insurance; dental, vision and hearing plans; and flexible spending accounts; provided that no one other than an "employee" may subscribe to such benefits and such benefits are made generally available to those "employees" who satisfy the plan's eligibility requirements;

b. Profit sharing plans, employee savings plans, employee stock ownership plans, pension plans and stock subscription plans, provided that no one other than an "employee" may subscribe to such benefits and such benefits are made generally available to all "employees" who are eligible for such benefits;

c. Unemployment insurance, social security benefits, workers compensation and disability benefits;

d. Vacation plans, including buy and sell programs; leave of absence programs, including military, maternity, family and civil leave; tuition assistance plans; transportation and health club subsidies.

SECTION V - DEFINITIONS - the definition of "employee" and "suit" is replaced for Employee Benefits Liability Coverage by the following:

"Employee" means a person actively employed, formerly employed, on leave of absence or disabled, or retired. "Employee" includes a "leased worker." "Employee" does not include a "temporary worker."

"Suit" means a civil proceeding in which damages because of an act, error or omission to which this insurance applies are alleged. "Suit" includes:

a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or

b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

B. Additional Insured - Owners, Lessees, or Contractors - Automatic Status (not applicable to Employee Benefits Liability Coverage)

1. Section **II** - Who Is An Insured is amended to include as an additional insured any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy and any other person or organization you are required to add as an additional insured under the contract or agreement. Such person or organization is an additional insured only with respect to liability for "bodily injury," "property damage" or "personal and advertising injury" caused, in whole or in part, by:

a. Your acts or omissions; or

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

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

Except as provided for in the exception to **2.b.** below, a person's or organization's status as an additional insured under this endorsement ends when your operations for that additional insured are completed.

However, the insurance afforded to such additional insured described above:

a. only applies to the extent permitted by law; and

b. will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

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

This insurance does not apply to:

a. "Bodily injury," "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

1) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions,

reports, surveys, field orders, change orders or drawings and specifications; or

2) Supervisory, inspection, architectural or engineering activities.

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

b. "Bodily injury" or "property damage" occurring after:

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

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

However, exclusion **b.** does not apply when in conflict with the requirements of a written contract or agreement.

3. The most we will pay on behalf of the additional insured is the amount of insurance required by the contract or agreement you have entered into with the additional insured or the amount of insurance available under the applicable Limits of Insurance shown in the Declarations or Change Endorsement, whichever is less. These Limits of Insurance are inclusive and not in addition to the Limits of Insurance shown in the Declarations or Change Endorsement.

C. Additional Insured - Managers or Lessors of Premises - Automatic Status (not applicable to Employee Benefits Liability Coverage)

1. Section **II** - Who Is An Insured is amended to include as an insured any person or organization when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy, but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and subject to the following additional exclusions:

This insurance does not apply to:

a. Any "occurrence" which takes place after you cease to be a tenant in that premises.

b. Structural alterations, new construction or demolition operations performed by or on behalf of the additional insured.

However, the insurance afforded to such additional insured described above:

a. only applies to the extent permitted by law; and

b. will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

2. The most we will pay on behalf of the additional insured is the amount of insurance required by the contract or agreement you have entered into with the additional insured or the amount of insurance available under the applicable Limits of Insurance shown in the Declarations or Change Endorsement, whichever is less. These Limits of Insurance are inclusive and not in addition to the Limits of Insurance shown in the Declarations or Change Endorsement.

D. Additional Insured - Lessor of Leased Equipment - Automatic Status (not applicable to Employee Benefits Liability Coverage)

1. Section **II** - Who Is An Insured is amended to include as an additional insured any person or organization from whom you lease equipment when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy. Such person or organization is an insured only with respect to liability for "bodily injury," "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.

However, the insurance afforded to such additional insured described above:

a. only applies to the extent permitted by law; and

b. will not be broader than that which you are required by the contract or agreement to provide for

such additional insured.

A person's or organization's status as an additional insured under this endorsement ends when their contract or agreement with you for such leased equipment ends.

2. With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

3. The most we will pay on behalf of the additional insured is the amount of insurance required by the contract or agreement you have entered into with the additional insured or the amount of insurance available under the applicable Limits of Insurance shown in the Declarations or Change Endorsement, whichever is less. These Limits of Insurance are inclusive and not in addition to the Limits of Insurance shown in the Declarations or Change Endorsement.

E. Additional Insured Vendors - Automatic Status (not applicable to Employee Benefits Liability Coverage)

1. Section **II** - Who Is An Insured is amended to include as an insured any person or organization (referred to below as vendor) when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy, but only with respect to "bodily injury" or "property damage" arising out of "your products" shown in the Schedule, Declarations or Change Endorsement which are distributed or sold in the regular course of the vendor's business.

However, the insurance afforded to such additional insured described above:

a. only applies to the extent permitted by law; and

b. will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

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

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. An 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:

1) The exceptions contained in Sub-paragraphs **d.** or **f.**; or

2) 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.

3. 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.

4. The most we will pay on behalf of the vendor is the amount of insurance required by the contract or agreement you have entered into with the additional insured or the amount of insurance available under the applicable Limits of Insurance shown in the Declarations or Change Endorsement, whichever is less. These Limits of Insurance are inclusive and not in addition to the Limits of Insurance shown in the Declarations or Change Endorsement.

F. Include Directors Or Trustees On Committees As Employees (not applicable to Employee Benefits Liability Coverage)

SECTION V - DEFINITIONS is amended by the addition of the following to definition **5.**:

"Employee" also includes any of your directors or trustees acting as a member of any of your elected or appointed committees to perform on your behalf specific, as distinguished from general, directorial acts.

G. Waiver Of Transfer Of Rights Of Recovery Against Others To Us

The TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US, SECTION **IV** CONDITION **8.**, is amended by the addition of the following:

We waive any right of recovery we may have against any person or organization because of payments we make for 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 which, before the loss, you have agreed in writing to waive your right of recovery.

H. Newly Formed or Acquired Organizations (not applicable to Employee Benefits Liability Coverage)

SECTION II - WHO IS AN INSURED is amended to include any organization you newly acquire or form, other than a partnership or joint venture, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

1. Coverage under this provision is afforded only until 180 days after you acquire or form theorganization or the end of the policy period, whichever is earlier.

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

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

I. Notice Of Occurrence, Knowledge of Occurrence, Unintentional Omission

The following is added to SECTION IV.2. - DUTIES IN THE EVENT OF OCCURRENCE, OFFENSE, CLAIM OR SUIT:

e. Notice of Accident/Occurrence

When you report to your Workers Compensation carrier the occurrence of any accident which later develops into a liability claim covered under this policy, failure to report the accident to us at the time of occurrence is not in violation of the Conditions of this policy. However, as soon as you are definitely made aware of the fact that the particular accident is a liability claim rather than a Workers Compensation claim prompt notification must be given to us.

f. Unintentional Errors and Omissions

The insurance afforded by this policy is not invalidated by any unintentional errors, omissions or improper description of premises or your unintentional failure to disclose all hazards existing at inception date of the policy.

g. Knowledge of Accident/Occurrence

Knowledge of an accident/occurrence by your agent, servant or employee is not knowledge by you unless an executive officer of your Corporation received such notice from its agent, servant or employee.

J. Voluntary Property Damage

1. We will pay, at your request, for loss due to "Property Damage" to property of others caused by you, or while in your possession, arising out of your business operations.

2. "Loss" means unintentional damage or destruction but does not include disappearance, theft, or loss of use.

3. Limits of Insurance - The most we will pay for "loss" under the Voluntary Property Damage is **$2,500** for each "occurrence." The most we will pay for the sum of all damages because of "Property Damage" is an annual policy aggregate limit of **$25,000.**

4. Deductible - We will not pay for "loss" in any one "occurrence" until the amount of "loss" exceeds **$250.**

We may pay any part or all of the deductible amount to effect settlement of any "claim" or "suit" and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as we have paid.

5. The insurance under the Voluntary Property Damage shall not apply:

a. To “loss” of property at premises owned, rented, leased, operated, or used by you;

b. To “loss” of property while in transit;

c. To “loss” of property owned by, rented to, leased to, borrowed by or used by you;

d. To the cost of repairing or replacing (1) any work defectively or incorrectly done, (2) any product manufactured, sold or supplied by you, unless the “Property Damage” is caused directly by you after delivery of the product or completion of the work and resulting from a subsequent undertaking;

e. To “loss” of property included within the “Products/Completed Operations Hazard”;

f. To “loss” of property which is an “auto” or “mobile equipment.”

g. To “loss” of property caused by “pollutants.”

6. In the event of “loss” covered by this endorsement, you shall, if requested by us, replace the property or furnish the labor and materials necessary for repairs thereto at your actual cost, excluding profit or overhead charges.

K. Non-Owned Watercraft Liability and Non-Owned Aircraft Liability

SECTION I - COVERAGE A, exclusion **2.g.** is replaced by the following:

g. “Bodily injury” or “property damage” arising out of the ownership, maintenance, use or entrustment to others of any aircraft, “auto” or watercraft owned or operated by or rented or loaned to any insured. Use includes operations and “loading or unloading.” This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the “occurrence” which caused the “bodily injury” or “property damage” involved the ownership, maintenance, use or entrustment to others of any aircraft, “auto” or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

1) A watercraft while ashore on premises you own or rent;

2) A watercraft you do not own that is:

a) Less than 60 feet long; and

b) Not being used to carry persons or property for a charge;

3) Parking an “auto” on, or on the ways next to, premises you own or rent, provided that “auto” is not owned by or rented or loaned to you or the insured;

4) Liability assumed under any “insured contract” for the ownership, maintenance or use of aircraft or watercraft; or

5) “Bodily injury” or “property damage” arising out of:

a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of “mobile equipment” if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged; or

b) The operation of any of the machinery or equipment listed in paragraph f.2) or f.3) of the definition of “mobile equipment.”

L. Fire, Sprinkler Leakage Or Explosion

1. SECTION I - GENERAL LIABILITY COVERAGES is amended as follows:

a. The last paragraph of **2. Exclusions** under **A. Bodily Injury and Property Damage Liability** is replaced by the following:

Exclusions c. through q. do not apply to damage by fire, sprinkler leakage or explosion to premises while rented to you or temporarily occupied by you with permission of the owner.

A separate limit of insurance applies to this coverage as described in Section III - Limits of Insurance.

But the Limit for Damage to Premises Rented To You shown in the Declaration will apply to all damage proximately caused by the same event, whether such damage results from fire, sprinkler leakage or explosion or any combination of the three.

b. **Section III - Limits of Insurance** is amended to replace paragraph 6. with the following:

6. Subject to Paragraph 5. above, the Damage To Premises Rented to You Limit is the most we will pay under Paragraph A. Bodily Injury And Property Damage Liability for damages

because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, sprinkler leakage, or explosion, while rented to you or temporarily occupied by you with permission of the owner.

But the Limit of Insurance shown in the Declaration will apply to all damage proximately caused by the same event whether such damage results from fire, sprinker leakage or explosion or any combination of the three.

2. The Damage to Premises Rented To You Limit is $300,000 unless a higher limit is shown on the declaration or change endorsement.

3. Paragraph 4.b. of the Other Insurance is amended as follows:
The term "Fire" in Paragraph B. (1)(a)(i) is replaced by "Fire, Sprinkler Leakage, or Explosion"

4. Section 9.a. under SECTION V - DEFINITIONS is amended as follows:
The term "fire" is replaced by "fire, sprinkler leakage, or explosion"

M. Pollution Coverage For Upset of Mobile Equipment

The Insuring Agreement for “property damage” liability with respect to your operations is extended as follows:

1. We will pay those sums which you become legally obligated to pay for “property damage” caused directly by immediate, abrupt and accidental upset, overturn or collision of your “mobile equipment” while transporting “pollutants” which are intended for and normally used in your operations. The operations must be in compliance with local, state, and federal ordinances and laws.

2. EXCLUSIONS

a. With regard only to the coverage provided by this extension K., SECTION I - COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions, f. is deleted and replaced by the following for this extension only:

f. Pollution

Any loss, cost or expense arising out of any:

1) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, “pollutants”; or

2) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of “pollutants.”

3) Premises, site or location which is or was at any time owned, rented or loaned to any insured.

N. Aggregate Limits Of Insurance (not applicable to Employee Benefits Liability Coverage)

The General Aggregate Limit under SECTION III - LIMITS OF INSURANCE, Paragraph 2. applies separately to each of your “location(s)” owned by or rented to you or “project(s)” away from “location(s)” owned by or rented to you.

“Location” and/or “project” 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.

O. Supplementary Payments - Higher Limits

Under SECTION I - SUPPLEMENTARY PAYMENTS - COVERAGES A AND B:

Paragraph **1.b.** is replaced by the following:

Up to $2000 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

Paragraph **1.d.** is replaced by the following:

All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or “suit,” including actual loss of earnings up to $400 a day because of time off from work.

P. Reasonable Force Expansion - Property Damage

Exclusion 2.a. of Coverage A is replaced with the following:

a. Expected Or Intended Injury

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

Q. Lost Key Coverage

1. SECTION I - COVERAGES
COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY

Exclusion **2.j.4)** Personal property in the care, custody or control of the insured is amended to add:

However, coverage for property of others in the care, custody or control of the insured is provided for the loss of keys which are in the possession of the insured or his "employees" subject to the following additional provisions:

a. The insurance afforded with respect to Lost Key Coverage shall not apply to "property damage" caused by misappropriation, secretion, conversion, infidelity or any dishonest act on the part of any insured or his employees or agents;

b. Our liability for all damages because of "property damage" to which this coverage applies shalbe limited to the actual cost of keys, adjustment of locks to accept new keys or, if required, new locks including cost of their installation. Subject to such limitation, our total liability for all damages as the result of any one occurrence shall not exceed $25,000. Each claim is subject to a $250 deductible.

2. SECTION II - WHO IS AN INSURED
The following is added to item **2.a.2)b):**

However, coverage is provided for the loss of keys which are in the possession of the insured or his"employees," subject to the following additional provisions:

a. The insurance afforded with respect to Lost Key Coverage shall not apply to "property damage" caused by misappropriation, secretion, conversion, infidelity or any dishonest act on the part of any insured or his "employees" or agents;

b. Our liability for all damages because of "property damage" to which this coverage applies shall be limited to the actual cost of keys, adjustment of locks to accept new keys or, if required, new locks including cost of their installation. Subject to such limitation, our total liability for all damages as the result of any one occurrence shall not exceed $25,000. Each claim is subject to a $250 deductible.

R. Personal and Advertising Injury Definition

Under SECTION V – DEFINITIONS, 14.c. is replaced with the following:

The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person or organization occupies, committed by or on behalf of its owner, landlord or lessor.

S. The following is added to SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, 4. OTHER INSURANCE:

When this General Liability Plus endorsement provides coverage and such coverage is also provided by any other provision of this policy:

a. There shall be no duplication of the Limits of Insurance.

b. Any loss payment made under such other provisions shall reduce by such loss payments the Limits of Insurance available under the General Liability Plus endorsement.

T. SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS is amended by adding:

LIBERALIZATION

If we adopt a change in our Comprehensive General Liability Coverage forms or rules that would broaden the coverage without extra charge, the broader coverage will apply to this Coverage Form. It will apply when the change becomes effective in your state.

TexasMutual®
WORKERS' COMPENSATION INSURANCE

WORKERS' COMPENSATION AND EMPLOYERS LIABILITY POLICY

WC 42 03 04 B
Insured copy

TEXAS WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

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

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

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

The premium for this endorsement is shown in the Schedule.

Schedule

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

2. Operations: All Texas operations
3. Premium:
   The premium charge for this endorsement shall be **2.00** percent of the premium developed on payroll in connection with work performed for the above person(s) or organization(s) arising out of the operations described.
4. Advance Premium: Included, see Information Page

This endorsement changes the policy to which it is attached effective on the inception date of the policy unless a different date is indicated below.
(The following "attaching clause" need be completed only when this endorsement is issued subsequent to preparation of the policy.)
This endorsement, effective on 3/9/25 **at 12:01 a.m.** standard time, forms a part of:

Policy no. 0001321422 of Texas Mutual Insurance Company effective on 3/9/25

Issued to: FUN ABOUNDS INC

Jeanette Ward

This is not a bill

Authorized representative

NCCI Carrier Code: 29939

2/26/25

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.

Playground Replacement Projects at Bee Creek and WA Tarrow Park utilizing BuyBoard purchasing cooperative Contract # 781-25.

Funding will come from PK2503 Revolver Fund and Parkland Dedication Zone 1 Fund.

W.A. Tarrow Park Playground Project cost is $207,207.00
Bee Creek Park Playground Project cost is $191,275.00

Below is a breakdown of each playground and associated costs:

fun abounds, inc.
114 Venice
Sugar Land, TX. 77478
855-226-8637 phone
281-265-0043 Fax
Leigh Walden, President
lwalden@fabplaygrounds.com
www.fabplaygrounds.com

Estimate

Date	Estimate #
1/14/2026	12272

Norman Cue
Playground Specialist
North Houston/East Texas
norman@fabplaygrounds.com
832-808-9600

We are pleased to provide this estimate for

City of College Station PARD
1000 Krenek Tap Rd.
College Station, TX 77840

Ship to:

Note: Installer will bring equipment with them.

Rep	Terms	Project
NGC	Net 30	W. A. Tarrow Pa...

Item	Description	Qty	Rate	Total
	W.A. Tarrow Park Playground Project (107 Holleman Dr, College Station, TX 77840)			
BuyBoard Number	Buyboard 781-25		0.00	0.00
	Playground Equipment, Installation, and Freight			
Burke	BCI Burke Custom Playground See drawing 125-200310-1		99,837.00	99,837.00
Burke	Surface Mounted Equipment		1,997.00	1,997.00
Installation	Installation		31,027.00	31,027.00
Freight	Freight (Truckload)		4,625.00	4,625.00
	Subtotal of Equipment, Installation, and Freight			137,486.00
	Construction/Site Prep Materials & Labor			
Demo	Demo of existing equipment		7,398.00	7,398.00
Demo	Removal/Disposal of PIP - 2900 SF (this includes demo and hauling off)		13,203.00	13,203.00

Thank you for allowing us to submit this proposal.

Subtotal

Sales Tax..

Total

PLEASE NOTE: Order will be placed upon receipt of signed quote or purchase order, color selections, and down payment.
Thank you! We appreciate the opportunity to earn your business!

City of Houston WBE
(Women's Business Enterprise)
Certificate #20-2-11596

Signature

We are proud of a job well done and may spotlight your project on our social media. If we do not have your permission to do so, please notify us. Thank you!

fun abounds, inc.
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Sugar Land, TX. 77478
855-226-8637 phone
281-265-0043 Fax
Leigh Walden, President
lwalden@fabplaygrounds.com
www.fabplaygrounds.com

Estimate

Date	Estimate #
1/14/2026	12272

Norman Cue
Playground Specialist
North Houston/East Texas
norman@fabplaygrounds.com
832-808-9600

We are pleased to provide this estimate for

City of College Station PARD
1000 Krenek Tap Rd.
College Station, TX 77840

Ship to:

Note: Installer will bring equipment with them.

Rep	Terms	Project
NGC	Net 30	W. A. Tarrow Pa...

Item	Description	Qty	Rate	Total
Saw Cutting	Saw cutting prep for new playgrounds (saw cut and backfill holes with concrete)		2,276.00	2,276.00
	Subtotal of Site Prep			22,877.00
Bonded Rubber	Bonded Rubber Materials & Labor SYS-009 4.0 System, SpectraTurf Bonded Provide & install a total of 2,900 SF of 4.0" UNIFORM thickness Bonded Rubber Mulch safety surfacing. 4.0" thickness Bonded Rubber Mulch is rated for an 8'-0" max. fall height. Bonded rubber mulch Color to be Black, Red, Brown, Green, or Gold (Sagebrush). NO GRAPHICS OR COLOR PATTERNS INCLUDED.		54,230.00	54,230.00
	Subtotal of Bonded Rubber			54,230.00
Bonds	Bonds		2,798.00	2,798.00
Discount	10% off equipment Discount		-10,184.00	-10,184.00

Thank you for allowing us to submit this proposal.

Subtotal	$207,207.00
Sales Tax..	$0.00
Total	$207,207.00

PLEASE NOTE: Order will be placed upon receipt of signed quote or purchase order, color selections, and down payment.
Thank you! We appreciate the opportunity to earn your business!

City of Houston WBE
(Women's Business Enterprise)
Certificate #20-2-11596

Signature _____

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Sugar Land, TX. 77478
855-226-8637 phone
281-265-0043 Fax
Leigh Walden, President
lwalden@fabplaygrounds.com
www.fabplaygrounds.com

Estimate

Date	Estimate #
1/14/2026	12507

Norman Cue
Playground Specialist
North Houston/East Texas
norman@fabplaygrounds.com
832-808-9600

We are pleased to provide this estimate for

City of College Station PARD
1000 Krenek Tap Rd.
College Station, TX 77840

Ship to:

Note: Installer will bring equipment with them.

Rep	Terms	Project
NGC	Net 30	Bee Creek Park ...

Item	Description	Qty	Rate	Total
	Bee Creek Park Playground Project (1900 Anderson St, College Station, TX 77840)			
BuyBoard Number	Buyboard 781-25		0.00	0.00
	Playground Equipment, Installation, and Freight			
Burke	BCI Burke Custom Playground See drawing 125-197426-2		86,245.00	86,245.00
Surface Mount Brackets	Surface Mount Equipment		2,050.00	2,050.00
Installation	Installation of Equipment (includes trip charges and saw cutting)		27,443.00	27,443.00
Freight	Freight (Truckload)		4,637.00	4,637.00
	Subtotal of Equipment, Installation, and Freight			120,375.00
	Construction/Site Prep Materials & Labor			
Demo	Demo of two playgrounds in existing concrete sub-base		9,902.00	9,902.00

Thank you for allowing us to submit this proposal.

Subtotal

Sales Tax..

Total

PLEASE NOTE: Order will be placed upon receipt of signed quote or purchase order, color selections, and down payment.
Thank you! We appreciate the opportunity to earn your business!

City of Houston WBE
(Women's Business Enterprise)
Certificate #20-2-11596

Signature

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Estimate

Date	Estimate #
1/14/2026	12507

Norman Cue
Playground Specialist
North Houston/East Texas
norman@fabplaygrounds.com
832-808-9600

We are pleased to provide this estimate for

City of College Station PARD
1000 Krenek Tap Rd.
College Station, TX 77840

Ship to:

Note: Installer will bring equipment with them.

Rep	Terms	Project
NGC	Net 30	Bee Creek Park ...

Item	Description	Qty	Rate	Total
Demo	Removal/Disposal of PIP - 2810 SF (this includes demo and hauling off)		12,748.00	12,748.00
Saw Cutting	Saw cutting prep for new playgrounds (saw cut and backfill holes with concrete)		2,561.00	2,561.00
	Subtotal of Site Prep			25,211.00
Bonded Rubber	Bonded Rubber Materials & Labor SYS-009 4.0 System, SpectraTurf Bonded Provide & install a total of 2,810 SF of 4.0" UNIFORM thickness Bonded Rubber Mulch safety surfacing. 4.0" thickness Bonded Rubber Mulch is rated for an 8'-0" max. fall height. Bonded rubber mulch Color to be Black, Red, Brown, Green, or Gold (Sagebrush). NO GRAPHICS OR COLOR PATTERNS INCLUDED.		52,422.00	52,422.00
	Subtotal of Bonded Rubber			52,422.00
Bonds	Bonds		2,626.00	2,626.00

Thank you for allowing us to submit this proposal.

Subtotal

Sales Tax..

Total

PLEASE NOTE: Order will be placed upon receipt of signed quote or purchase order, color selections, and down payment.
Thank you! We appreciate the opportunity to earn your business!

City of Houston WBE
(Women's Business Enterprise)
Certificate #20-2-11596

Signature

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www.fabplaygrounds.com

Estimate

Date	Estimate #
1/14/2026	12507

Norman Cue
Playground Specialist
North Houston/East Texas
norman@fabplaygrounds.com
832-808-9600

We are pleased to provide this estimate for

City of College Station PARD
1000 Krenek Tap Rd.
College Station, TX 77840

Ship to:

Note: Installer will bring equipment with them.

Rep	Terms	Project
NGC	Net 30	Bee Creek Park ...

Item	Description	Qty	Rate	Total
Discount	fun abounds Discount		-9,359.00	-9,359.00

Thank you for allowing us to submit this proposal.

Subtotal	$191,275.00
Sales Tax..	$0.00
Total	$191,275.00

PLEASE NOTE: Order will be placed upon receipt of signed quote or purchase order, color selections, and down payment.
Thank you! We appreciate the opportunity to earn your business!

City of Houston WBE
(Women's Business Enterprise)
Certificate #20-2-11596

Signature _____

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Burke
PLAY THAT MOVES YOU.
BCIBURKE.COM • 800.266.1250

W.A. TARROW PARK PLAYGROUND

PROPOSAL #:125-200310-1

3D Designer: Heidi

EVOLUTION® ARCH SWINGS

COBRA SLIDE® FUSION

SERENITY SPOT®

90 DEGREE OVERHEAD

NICHE CAPSULE NANO™

PISTON PANEL

VICTORY CLIMBER

W.A. TARROW PARK PLAYGROUND

805 Montclair Ave | College Station, TX 77840

fun abounds
114 Venice Street | Sugar Land, TX 77478 | 281-793-8002

April 23, 2025

Stephan Richardson
City of College Station Parks and Recreation
1000 Krenek Tap Rd
College Station, TX 77840-5082

Dear Stephan Richardson:

fun abounds is delighted to provide City of College Station Parks and Recreation with this playground equipment proposal.

This design was developed with your specific needs in mind, and we look forward to discussing this project further with you to ensure your complete satisfaction. fun abounds is confident that this proposal will satisfy City of College Station Parks and Recreation's functional, environmental, and safety requirements -- and most importantly -- bring joy and excitement to the children and families directly benefiting from your new playground.

You have our personal commitment to support this project and your organization in every manner possible, and we look forward to developing a long-standing relationship with City of College Station Parks and Recreation. We appreciate your consideration and value this opportunity to earn your business.

Sincerely,

Norman Cue
Sales Representative

fun abounds
114 Venice Street
Sugar Land, TX 77478
www.fabplaygrounds.com
www.bciburke.com

Phone: 281-793-8002
Fax: 281-265-0043
Email: norman@fabplaygrounds.com

COOPERATIVE PURCHASING OPTIONS

PLAYGROUNDS WITHOUT ALL THE PAPERWORK

Purchasing with contracts may sound intimidating, but getting your community playspace doesn't need to be a painful process of writing specifications, issuing RFP's and jumping through hoops – it can be simplified – we promise! As you continue planning for your new playground, review the Purchasing Contracts offered through our partners.

EQUALIS GROUP

Equalis is an innovative cooperative purchasing organization that believes in the power of partnership and that when you work together you achieve more. The basic premise of the Equalis cooperative purchasing organization is to leverage the combined buying power of all members for better pricing and favorable contract terms. Equalis Group uses the lead agency model for competitively bid contracts, provides our participants the savings they expect and offers efficiencies and peace of mind within the procurement process. It is our mission to continuously improve the measurable and meaningful impact of cooperative services for everyone throughout the supply chain.

GOVMVMT

GOVMVMT is a non-profit group purchasing organization that meets the highest industry standards while putting the public's interest at the forefront of everything they do. Each one of GOVMVMT's first-class suppliers has consciously joined their mission to create the most credible, ethical, and public agency-focused non-profit cooperative purchasing program in the country.

GSA

Federal parks, child development programs, military bases and other agencies are a major priority for BCI Burke, and agencies can purchase Burke playgrounds through Burke's GSA contract for installation virtually anywhere in the world.

OMNIA PARTNERS

OMNIA Partners, Public Sector (Subsidiary National IPA) is the largest and most experienced organization in purchasing and supply chain management. Comprised of participants and suppliers in the public sector, we bring together industry-leading buying power and world-class suppliers to offer an extensive portfolio of competitively solicited and publicly awarded contracts and partnerships. OMNIA Partners is proud to offer more value and resources to state and local government, higher education, K-12 education and non-profits.

SOURCEWELL

As a leader in cooperative purchasing, Sourcewell is passionate about helping members fulfill their public service missions. Sourcewell builds strong relationships with members and vendors to develop practical solutions together.

The easiest way to Join Our Movement is to call your local Representative at 800.266.1250 or v**isit bciburke.com/rep**.
Our passion is bringing play to communities like yours and we can't wait to help you get started!

equalis GROUP

GSA Contract Holder

GOVMVMT

OMNIA PARTNERS

Sourcewell Awarded Contract
Contract # 010521-BUR

BCIBURKE.COM Burke 800.266.1250

FEATURED PLAY EVENTS

VIPER® SLIDE
The Viper Slide can't be tamed, but kids love trying! Viper's exciting twisty and fast serpentine action is guaranteed to generate incredible high-energy fun and safe, healthy play.

---

90 Degree Overhead
Overhead events build upper body strength and endurance, improve eye-hand coordination and elevate children's self-confidence.

3-In-A-Row Panel
Play panels offer opportunities for all children to develop skills, have fun and spend time learning outside. 3-In-A-Row is a way to bring games to the playground and teach cooperation.

Serenity Spot
Learn. Socialize. Sit. Relax. Play. Engage. All this and more are the purpose behind the creation of the Serenity Spot. Within a playspace sometimes a child, caregiver or parent needs a comfortable place to step away and still be part of the playspace.

DESIGN SUMMARY

fun abounds is very pleased to present this Proposal for consideration for the W.A. Tarrow Park Playground located in College Station. BCI Burke Company, LLC has been providing recreational playground equipment for over 100 years and has developed the right mix of world-class capabilities to meet the initial and continuing needs of EZDesign.Proposal.Models.Company. We believe our proposal will meet or exceed your project's requirements and will deliver the greatest value to you.

The following is a summary of some of the key elements of our Proposal:

- Project Name: W.A. Tarrow Park Playground
- Project Number: 125-200310-1
- User Capacity: 96
- Age Groups: 5 to 12
- Dimensions: 87' 10" x 47' 9"
- Designer: Christine Pitts

fun abounds has developed a custom playground configuration based on the requirements as they have been presented for the W.A. Tarrow Park Playground playground project. Our custom design will provide a safe and affordable playground environment that is aesthetically pleasing, full of fun for all users and uniquely satisfies your specific requirements. In addition, proposal # 125-200310-1 has been designed with a focus on safety, and is fully compliant with ASTM F1487 and CPSC playground safety standards.

We invite you to review this proposal for the W.A. Tarrow Park Playground project and to contact us with any questions that you may have.

Thank you in advance for giving us the opportunity to make this project a success.

SERIES: Burke Basics | Nucleus | Intensity

SITE PLAN VIEW

GROUP:
Structure|Freestanding

DESIGNED FOR AGES:
5 to 12

W.A. Tarrow Park Playground
College Station, TX 77840

Burke
PLAY THAT MOVES YOU

04/23/2025

fun abounds

125-200310-1

Designer: Christine Pitts

OVERALL BOUNDING OF USE ZONES
Area: 4196.2 sq.ft.
Perimeter: 271.3 ft.

STRUCTURE SIZE: 87' 10"x87' 11"

POST SIZE(S): 6"

**The space requirements shown here are to ASTM standards. Requirements for other standards may be different.

PLAYGROUND ACCESSIBILITY (Provided/Required)

TOTAL EVENTS	ELEVATED EVENTS	TRANSFER ACCESSIBLE EVENTS	RAMP ACCESSIBLE EVENTS	GROUND EVENTS	TYPES OF GROUND EVENTS
25	12 / 6	11 / 0	0 / 0	8 / 4	4 / 3

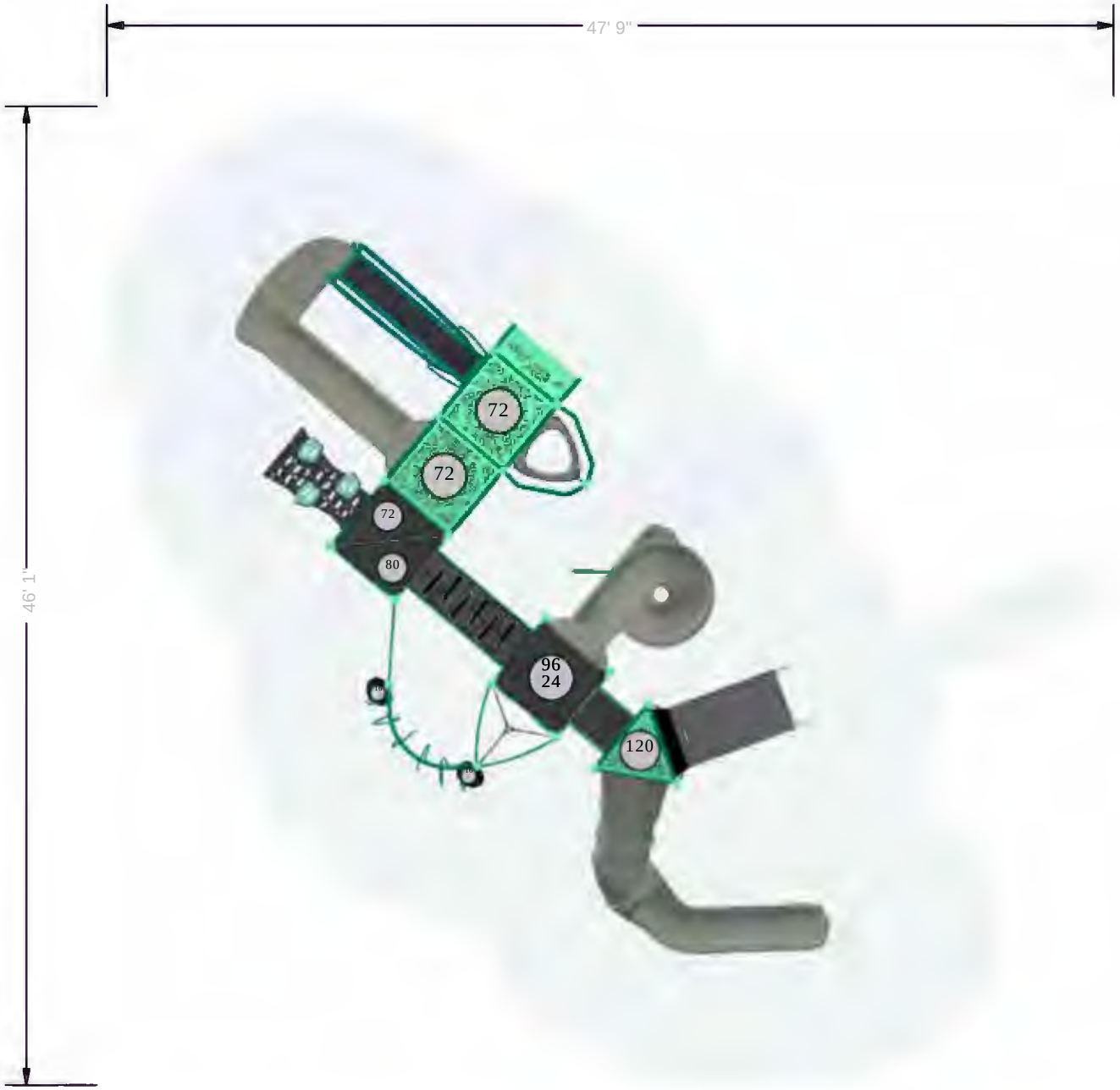
The use and layout of play components identified in this plan conform to the CPSC guildelines. U.S. CPSC recommends the separation of age groups in playground layouts.

Warning: Accessible safety surfacing material is required beneath and around this equipment that is compliant with ASTM, CPSC, and ADAAG requirements.

BCI BURKE COMPANY, LLC | PO BOX 549 FOND DU LAC, WI 54936-0549 | 920.921.9220 | BCIBURKE.COM

SERIES Nucleus | Intensity

SITE PLAN VIEW



OVERALL BOUNDING OF USE ZONES **The space requirements shown here are to ASTM standards. Requirements for other standards may be different.

Area: 4196.2 sq.ft.
Perimeter: 271.3 ft.

STRUCTURE SIZE: 72' 10"x87' 11"

POST SIZE(S): 6"

PLAYGROUND ACCESSIBILITY (Provided/Required)

TOTAL EVENTS	ELEVATED EVENTS	TRANSFER ACCESSIBLE EVENTS	RAMP ACCESSIBLE EVENTS	GROUND EVENTS	TYPES OF GROUND EVENTS
25	12 / 6	11 / 0	0 / 0	8 / 4	4 / 3

The use and layout of play components identified in this plan conform to the CPSC guildelines. U.S. CPSC recommends the separation of age groups in playground layouts.

Warning: Accessible safety surfacing material is required beneath and around this equipment that is compliant with ASTM, CPSC, and ADAAG requirements.

GROUP:
Structure

DESIGNED FOR AGES:
5 to 12

W.A. Tarrow Park Playground
College Station, TX 77840

Burke
PLAY THAT MOVES YOU.

04/23/2025

fun abounds

125-200310-1

Designer: Christine Pitts

BCI BURKE COMPANY, LLC | PO BOX 549 FOND DU LAC, WI 54936-0549 | 920.921.9220 | BCIBURKE.COM

SERIES Burke Basics

SITE PLAN VIEW

GROUP:
Freestanding

DESIGNED FOR AGES:
5 to 12

W.A. Tarrow Park Playground
College Station, TX 77840

Burke
PLAY THAT MOVES YOU.

04/23/2025

fun abounds

125-200310-1

Designer: Christine Pitts

OVERALL BOUNDING OF USE ZONES
Area: 4196.2 sq.ft.
Perimeter: 271.3 ft.

STRUCTURE SIZE: 28' 10"x87' 11"

POST SIZE(S): 6"

**The space requirements shown here are to ASTM standards. Requirements for other standards may be different.

PLAYGROUND ACCESSIBILITY (Provided/Required)

TOTAL EVENTS	ELEVATED EVENTS	TRANSFER ACCESSIBLE EVENTS	RAMP ACCESSIBLE EVENTS	GROUND EVENTS	TYPES OF GROUND EVENTS
25	12 / 6	11 / 0	0 / 0	8 / 4	4 / 3

The use and layout of play components identified in this plan conform to the CPSC guildelines. U.S. CPSC recommends the separation of age groups in playground layouts.

Warning: Accessible safety surfacing material is required beneath and around this equipment that is compliant with ASTM, CPSC, and ADAAG requirements.

BCI BURKE COMPANY, LLC | PO BOX 549 FOND DU LAC, WI 54936-0549 | 920.921.9220 | BCIBURKE.COM

ITEM	COMP.	DESCRIPTION
1	270-0130	SQUARE PLATFORM
2	470-0966	360 LOOP
3	270-0301	SPLIT SQUARE PLATFORMCLOSURE PLATE
4	370-0867	TREE BRANCH CLIMBER-3
5	370-0210	TERREX CLIMBER
6	470-0831	VIPER SPIRAL 96 W/O HOOD
7	470-0805	SLIDE HOOD, HIGH SIDE WALL
8	370-1747	ROPE TRIANGLE CLIMBER, 24" TO 96"
9	270-0120	EVOLUTION UNITARY ENCLOSURE
10	370-1677	90 DEGREE OVERHEAD, NUCLEUS
11	370-1608	OVISTEP LAUNCH PAD
12	370-0039	EVOLUTION 24" TRANSITION STAIR W/ BARRIERS
13	270-0129	TRIANGLE PLATFORM
14	470-0353	COBRA SLIDE FUSION LEFT 120"
15	570-2714	EVOLUTION 2.5' OPENING BARRIER
16	370-0224	VICTORY CLIMBER
17	470-0017	EVOLUTION TRIANGLE APEX ROOF
18	570-1884	TRIGON SPOT
19	470-0811	EVOLUTION ROOF END PLATE
20	470-0008	EVOLUTION SIDE ROOF SUPPORT, LEFT
21	470-0006	EVOLUTION BOTTOM ROOF SUPPORT, SINGLE
22	470-0009	EVOLUTION SIDE ROOF SUPPORT, RIGHT
23	570-1858	3-IN-A-ROW PANEL, ABOVE PLATFORM
24	370-0016	GRAB BAR ASSEMBLY
25	370-1740	PATHWAY CLIMBER, 64"-72"
26	370-0872	TREE BRANCH CLIMBER 80"
27	570-2736	PISTON PANEL
28	470-0976	NICHE CAPSULE™ NANO, 72"
29	470-0015	EVOLUTION SQUARE ROOF
30	570-1882	TRIGON TOWER CLIMBER, 64"-72"
31	470-0868	SERENITY SPOT, TO ROOF
32	470-0004	EVOLUTION TOP ROOF SUPPORT, DOUBLE

SERIES: Nucleus | Intensity

COMPONENT VIEW

GROUP:
Structure

DESIGNED FOR AGES:
5 to 12

W.A. Tarrow Park Playground
College Station, TX 77840

Burke
PLAY THAT MOVES YOU.

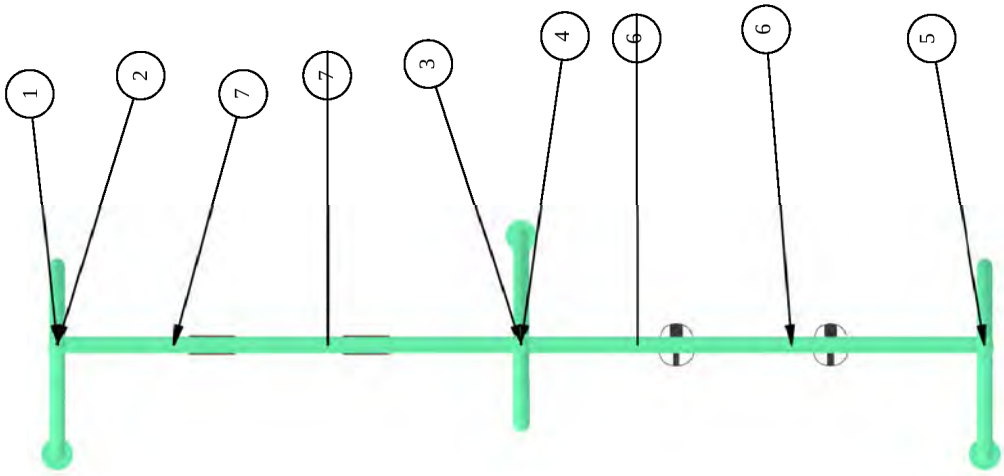
04/23/2025

fun abounds
125-200310-1

Designer: Christine Pitts

BCI BURKE COMPANY, LLC | PO BOX 549 FOND DU LAC, WI 54936-0549 | 920.921.9220 | BCIBURKE.COM

ITEM	COMP.	DESCRIPTION
1	550-0228	EVOLUTION ARCH SWING
2	550-0228 -END_R	EVOLUTION ARCH SWING
3	550-0229	EVOLUTION ARCH SWING ADDED BAY
4	550-0228 -MID	EVOLUTION ARCH SWING
5	550-0228 -END_L	EVOLUTION ARCH SWING
6	550-0099	TOT SEAT, 7' & 8' SINGLE, STD CHAIN
7	550-0103	BELT SEAT, 7' SINGLE, STD CHAIN



SERIES Burke Basics

COMPONENT VIEW

GROUP:
Freestanding

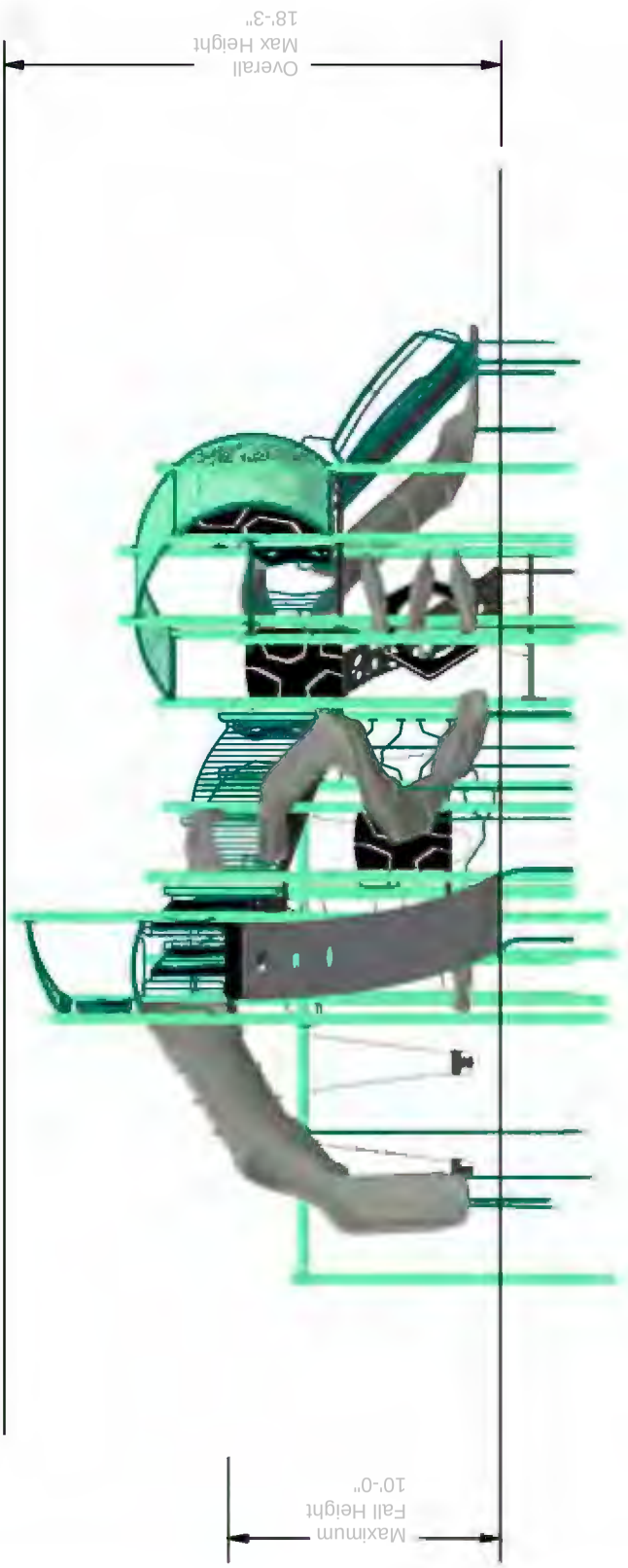
W.A. Tarrow Park Playground
College Station, TX 77840

04/23/2025

fun abounds
125-200310-1

DESIGNED FOR AGES:
5 to 12

Designer: Christine Pitts



SERIES Burke Basics | Nucleus | Intensity

ELEVATION VIEW

GROUP:
Structure|Freestanding

DESIGNED FOR AGES:
5 to 12

W.A. Tarrow Park Playground

College Station, TX 77840

04/23/2025

fun abounds

125-200310-1

Designer: Christine Pitts

SERIES Nucleus | Intensity

ELEVATION VIEW

GROUP:
Structure

DESIGNED FOR AGES:
5 to 12

W.A. Tarrow Park Playground

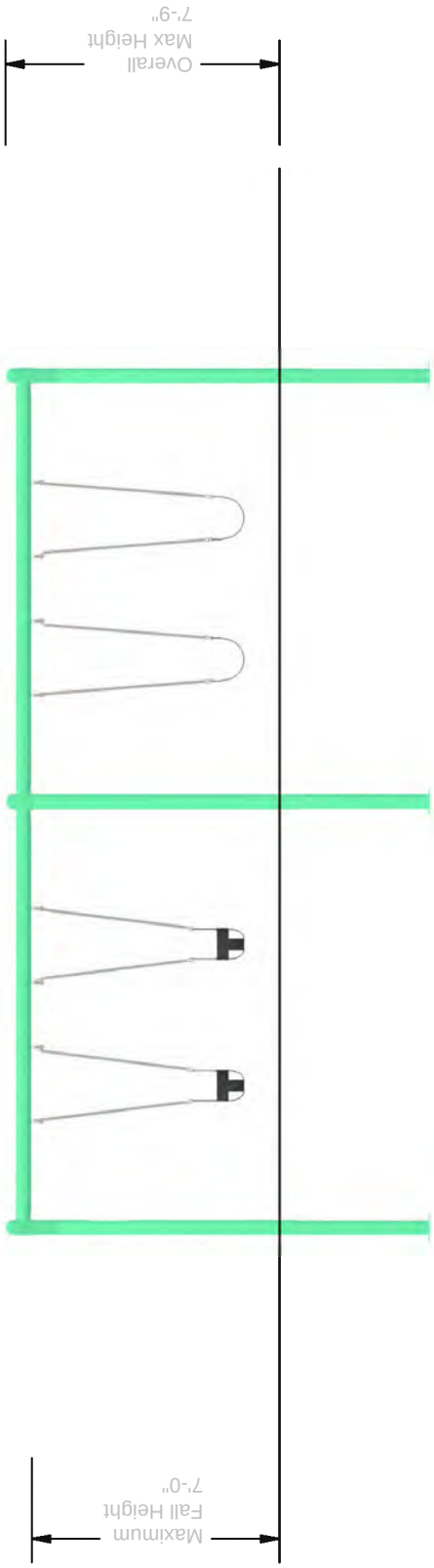
College Station, TX 77840

04/23/2025

fun abounds

125-200310-1

Designer: Christine Pitts



SERIES Burke Basics

ELEVATION VIEW

GROUP:
Freestanding

DESIGNED FOR AGES:
5 to 12

W.A. Tarrow Park Playground

College Station, TX 77840

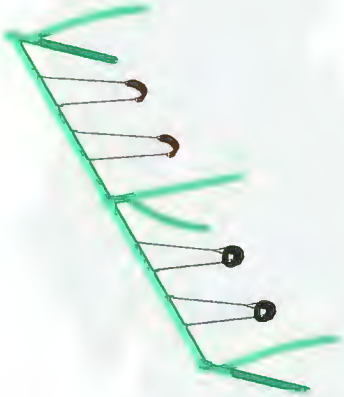
04/23/2025

fun abounds

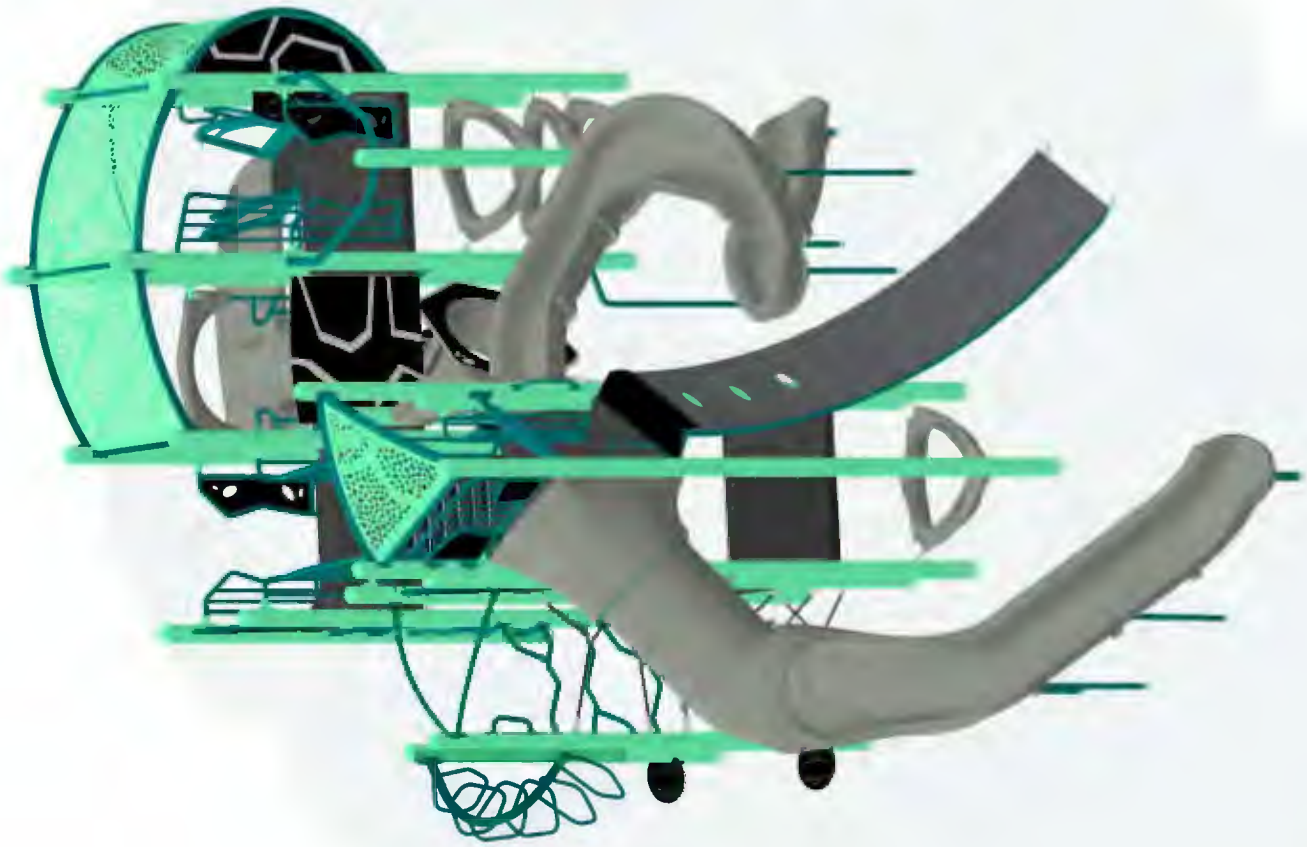
125-200310-1

Designer: Christine Pitts

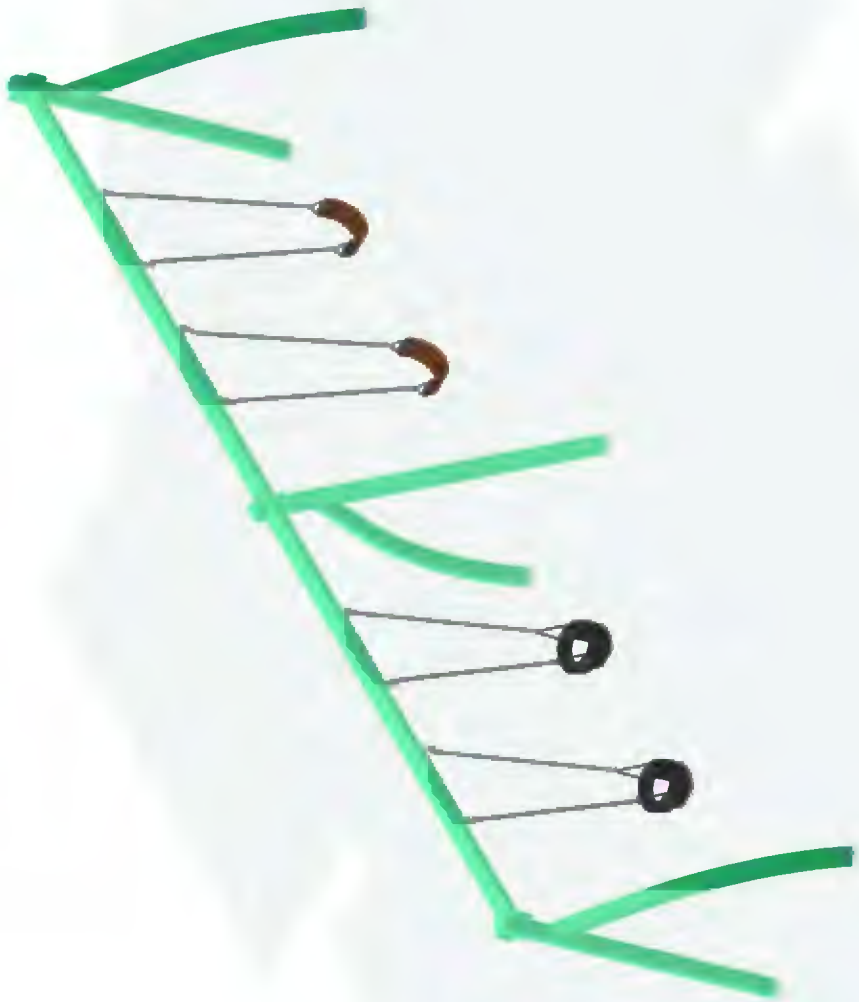
Burke
PLAY THAT MOVES YOU.



SERIES Burke Basics | Nucleus | Intensity		**ISOMETRIC VIEW**
GROUP: Structure|Freestanding **DESIGNED FOR AGES:** 5 to 12	**W.A. Tarrow Park Playground** College Station, TX 77840 Burke PLAY THAT MOVES YOU.	04/23/2025 **fun abounds** **125-200310-1** Designer: Christine Pitts



SERIES Nucleus | Intensity		ISOMETRIC VIEW
GROUP: Structure	**W.A. Tarrow Park Playground**	04/23/2025
	College Station, TX 77840	**fun abounds**
DESIGNED FOR AGES: 5 to 12	Burke PLAY THAT MOVES YOU.	**125-200310-1**
		Designer: Christine Pitts



SERIES Burke Basics		**ISOMETRIC VIEW**
GROUP: Freestanding	**W.A. Tarrow Park Playground**	04/23/2025
	College Station, TX 77840	**fun abounds**
DESIGNED FOR AGES: 5 to 12	Burke PLAY THAT MOVES YOU.	**125-200310-1**
		Designer: Christine Pitts

PROPOSAL 125-200310-1 | 4/23/2025 | 2025 PRICING

The play components identified in this proposal are IPEMA certified. The use and layout of these components conform to the requirements of ASTM F1487 and CPSC. To verify product certification, visit www.ipema.org.

The space requirements shown in this proposal are to ASTM standards. Requirements for other standards may be different.

Structure

Intensity

Component No.	Description	Qty	User Cap.	Ext. User Cap.	Weight	Ext. Weight
370-0867	TREE BRANCH CLIMBER-3	1	2	2	24	24
370-1608	OVISTEP LAUNCH PAD	2	1	2	10	20
370-1677	90 DEGREE OVERHEAD, NUCLEUS	1	6	6	44	44

Nucleus

Component No.	Description	Qty	User Cap.	Ext. User Cap.	Weight	Ext. Weight
072-0500-132C	5" OD X 132" CAPPED POST	1	0	0	69	69
072-0500-148C	5" OD X 148" CAPPED POST	1	0	0	78	78
072-0500-156C	5" OD X 156" CAPPED POST	1	0	0	82	82
072-0500-164C	5" OD X 164" CAPPED POST	1	0	0	86	86
072-0500-172C	5" OD X 172" CAPPED POST	1	0	0	90	90
072-0500-180C	5" OD X 180" CAPPED POST	2	0	0	94	188
072-0500-184C	5" OD X 184" CAPPED POST	4	0	0	96	384
072-0500-188C	5" OD X 188" CAPPED POST	2	0	0	99	198
072-0500-200C	5" OD X 200" CAPPED POST	2	0	0	105	210
072-0502-176S	5" OD X 176" SWAGED POST	2	0	0	92	184
072-0502-188S	5" OD X 188" SWAGED POST	1	0	0	99	99
072-5503-48T	5" OD X 48" TOP ALUMINUM CAPPED POST	1	0	0	10	10
072-5503-60T	5" OD X 60" TOP ALUMINUM CAPPED POST	1	0	0	13	13
072-5503-76T	5" OD X 76" TOP ALUMINUM CAPPED POST	1	0	0	15	15
270-0120	EVOLUTION UNITARY ENCLOSURE	4	0	0	34	136
270-0129	TRIANGLE PLATFORM	1	2	2	48	48
270-0130	SQUARE PLATFORM	4	6	24	106	424
270-0301	SPLIT SQUARE PLATFORMCLOSURE PLATE	1	4	4	108	108
370-0016	GRAB BAR ASSEMBLY	2	0	0	6	12
370-0039	EVOLUTION 24" TRANSITION STAIR W/ BARRIERS	1	4	4	181	181
370-0210	TERREX CLIMBER	1	12	12	326	326
370-0224	VICTORY CLIMBER	1	1	1	328	328

Component No.	Description	Qty	User Cap.	Ext. User Cap.	Weight	Ext. Weight
370-0872	TREE BRANCH CLIMBER 80"	1	4	4	33	33
370-1740	PATHWAY CLIMBER, 64"-72"	1	3	3	116	116
370-1747	ROPE TRIANGLE CLIMBER, 24" TO 96"	1	4	4	61	61
470-0004	EVOLUTION TOP ROOF SUPPORT, DOUBLE	1	0	0	14	14
470-0006	EVOLUTION BOTTOM ROOF SUPPORT, SINGLE	2	0	0	13	26
470-0008	EVOLUTION SIDE ROOF SUPPORT, LEFT	3	0	0	16	48
470-0009	EVOLUTION SIDE ROOF SUPPORT, RIGHT	3	0	0	16	48
470-0015	EVOLUTION SQUARE ROOF	2	0	0	42	84
470-0017	EVOLUTION TRIANGLE APEX ROOF	1	0	0	21	21
470-0353	COBRA SLIDE FUSION LEFT 120"	1	3	3	338	338
470-0805	SLIDE HOOD, HIGH SIDE WALL	1	0	0	32	32
470-0811	EVOLUTION ROOF END PLATE	1	0	0	12	12
470-0831	VIPER SPIRAL 96 W/O HOOD	1	4	4	270	270
470-0868	SERENITY SPOT, TO ROOF	1	2	2	292	292
470-0966	360 LOOP	1	6	6	557	557
470-0976	NICHE CAPSULE™ NANO, 72"	1	2	2	112	112
570-1858	3-IN-A-ROW PANEL, ABOVE PLATFORM	1	2	2	45	45
570-1882	TRIGON TOWER CLIMBER, 64"-72"	1	3	3	123	123
570-1884	TRIGON SPOT	1	1	1	31	31
570-2714	EVOLUTION 2.5' OPENING BARRIER	1	0	0	37	37
570-2736	PISTON PANEL	1	1	1	47	47
670-0427	5" OD X 11 GA POST EXTENSION	3	0	0	10	30

Total User Capacity: 92
Total Weight: 5,735 lbs
Total Price: $94,000

Freestanding

Burke Basics

Component No.	Description	Qty	User Cap.	Ext. User Cap.	Weight	Ext. Weight
550-0099	TOT SEAT, 7' & 8' SINGLE, STD CHAIN	2	1	2	12	24
550-0103	BELT SEAT, 7' SINGLE, STD CHAIN	2	1	2	9	18
550-0228	EVOLUTION ARCH SWING	1	0	0	399	399
550-0229	EVOLUTION ARCH SWING ADDED BAY	1	0	0	240	240

Total User Capacity: 4
Total Weight: 681 lbs
Total Price: $5,837

Special Notes:

Prices do not include freight, unloading, material storage, site excavation/preparation, removal of existing equipment, removal of excess soil from footing holes, site security, safety surfacing, installation, or sales tax (if applicable). Prices are based on standard colors per CURRENT YEAR BCI Burke Catalog. Custom colors, where available, would be an extra charge. **Pricing is valid for 30 days from the date of this proposal.**

PROPOSAL 125-200310-1 | 4/23/2025 | 2025 PRICING

COLOR SELECTION LIST | Default Color Option

GROUP 1 (Structure)

Accessory:	Aqua
HDPE 1 Color:	Black
HDPE 2 Color:	Black-Gray-Black
Platform:	Gray
Post:	Mint
Rotomold Plastic:	Granite

GROUP 2 (Freestanding)

Accessory:	Aqua
HDPE 1 Color:	Black
HDPE 2 Color:	Black-Gray-Black
Platform:	Gray
Post:	Mint
Rotomold Plastic:	Granite

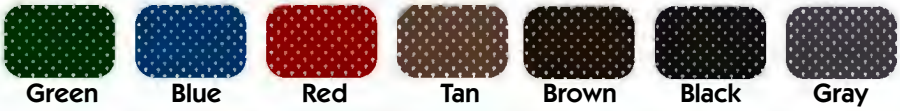
COLORS THAT MOVE YOU

POWDER COAT PAINT

PLATFORMS

SOLIS HUE TOPPERS

TRADITIONAL SERIES SITE AMENITIES



ROCKIT CLIMBERS

HDPE PLASTIC PANELS

SHADE CANOPIES

ROTOMOLD PLASTIC

VISIT BCIBURKE.COM/COLOR TO CUSTOMIZE YOUR PLAYGROUND COLORS!

Burke
PLAY THAT MOVES YOU.
BCIBURKE.COM • 800.266.1250

BEE CREEK PARK PLAYGROUND

PROPOSAL #: 125-197426-2-R3

Fun Abounds™
Creating playground memories filled with fun!

36 Designer: Felicia

April 07, 2025

Stephan Richardson
City of College Station Parks and Recreation
1000 Krenek Tap Rd
College Station, TX 77840-5082

Dear Stephan Richardson:

fun abounds is delighted to provide City of College Station Parks and Recreation with this playground equipment proposal.

This design was developed with your specific needs in mind, and we look forward to discussing this project further with you to ensure your complete satisfaction. fun abounds is confident that this proposal will satisfy City of College Station Parks and Recreation's functional, environmental, and safety requirements -- and most importantly -- bring joy and excitement to the children and families directly benefiting from your new playground.

You have our personal commitment to support this project and your organization in every manner possible, and we look forward to developing a long-standing relationship with City of College Station Parks and Recreation. We appreciate your consideration and value this opportunity to earn your business.

Sincerely,

Norman Cue
Sales Representative

fun abounds
114 Venice Street
Sugar Land, TX 77478
www.www.fabplaygrounds.com
www.bciburke.com

Phone: 281-793-8002
Fax: 281-265-0043
norman@fabplaygrounds.com

COOPERATIVE PURCHASING OPTIONS

1900 Anderson St | College Station, TX 77840-4688

PLAYGROUNDS WITHOUT ALL THE PAPERWORK

Purchasing with contracts may sound intimidating, but getting your community playspace doesn't need to be a painful process of writing specifications, issuing RFP's and jumping through hoops – it can be simplified – we promise! As you continue planning for your new playground, review the Purchasing Contracts offered through our partners.

EQUALIS GROUP

Equalis is an innovative cooperative purchasing organization that believes in the power of partnership and that when you work together you achieve more. The basic premise of the Equalis cooperative purchasing organization is to leverage the combined buying power of all members for better pricing and favorable contract terms. Equalis Group uses the lead agency model for competitively bid contracts, provides our participants the savings they expect and offers efficiencies and peace of mind within the procurement process. It is our mission to continuously improve the measurable and meaningful impact of cooperative services for everyone throughout the supply chain.

GOVMVMT

GOVMVMT is a non-profit group purchasing organization that meets the highest industry standards while putting the public's interest at the forefront of everything they do. Each one of GOVMVMT's first-class suppliers has consciously joined their mission to create the most credible, ethical, and public agency-focused non-profit cooperative purchasing program in the country.

GSA

Federal parks, child development programs, military bases and other agencies are a major priority for BCI Burke, and agencies can purchase Burke playgrounds through Burke's GSA contract for installation virtually anywhere in the world.

OMNIA PARTNERS

OMNIA Partners, Public Sector (Subsidiary National IPA) is the largest and most experienced organization in purchasing and supply chain management. Comprised of participants and suppliers in the public sector, we bring together industry-leading buying power and world-class suppliers to offer an extensive portfolio of competitively solicited and publicly awarded contracts and partnerships. OMNIA Partners is proud to offer more value and resources to state and local government, higher education, K-12 education and non-profits.

SOURCEWELL

As a leader in cooperative purchasing, Sourcewell is passionate about helping members fulfill their public service missions. Sourcewell builds strong relationships with members and vendors to develop practical solutions together.

The easiest way to Join Our Movement is to call your local Representative at 800.266.1250 or **visit bciburke.com/rep**. Our passion is bringing play to communities like yours and we can't wait to help you get started!

equalis GROUP

GSA Contract Holder

GOVMVMT

OMNIA PARTNERS

Sourcewell Awarded Contract

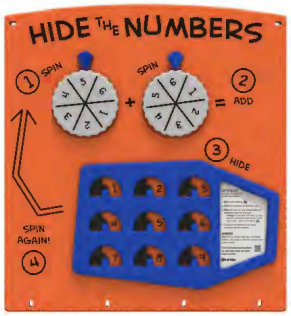
Contract # 010521-BUR

BCIBURKE.COM Burke 800.266.1250

FEATURED PLAY EVENTS

VIPER® SLIDE

The Viper Slide can't be tamed, but kids love trying! Viper's exciting twisty and fast serpentine action is guaranteed to generate incredible high-energy fun and safe, healthy play.



Hide the Numbers Game

Cognitive development and cooperative play shine with the Hide the Numbers Game! A great way to encourage intergenerational play and help children learn numbers, addition and strategy, this panel will bring educational fun to any playspace!

Athletic Arch

Climbers provide several developmental benefits to children, building upper body strength along with boosting balance and coordination while they play.

DESIGN SUMMARY

fun abounds is very pleased to present this Proposal for consideration for the Bee Creek Park Playground located in College Station. BCI Burke Company, LLC has been providing recreational playground equipment for over 100 years and has developed the right mix of world-class capabilities to meet the initial and continuing needs of City of College Station Parks and Recreation. We believe our proposal will meet or exceed your project's requirements and will deliver the greatest value to you.

The following is a summary of some of the key elements of our Proposal:

- Project Name: Bee Creek Park Playground
- Project Number: 125-197426-2
- User Capacity: 115
- Age Groups: 5 to 12, 2 to 5, 2 to 12
- Dimensions: 86' 10"x37' 8"
- Designer Name: Levi Schepp

fun abounds has developed a custom playground configuration based on the requirements as they have been presented for the Bee Creek Park Playground playground project. Our custom design will provide a safe and affordable playground environment that is aesthetically pleasing, full of fun for all users and uniquely satisfies your specific requirements. In addition, proposal # 125-197426-2 has been designed with a focus on safety, and is fully compliant with ASTM F1487 and CPSC playground safety standards.

We invite you to review this proposal for the Bee Creek Park Playground playground project and to contact us with any questions that you may have.

Thank you in advance for giving us the opportunity to make this project a success.

SERIES Nucleus | Burke Basics | Intensity

SITE PLAN VIEW

GROUP:
5-12 Structure|NU-3687|FS Panel|Freestanding

DESIGNED FOR AGES:
5 to 12, 2 to 5, 2 to 12

Bee Creek Park Playground
College Station, TX 77840-4688

Burke
PLAY THAT MOVES YOU

Proposal | 25-[illegible]-2 | 4/7/2025

04/07/2025

fun abounds

125-197426-2

Designer: Levi Schepp

OVERALL BOUNDING OF USE ZONES
Area: 3274.7 sq.ft.
Perimeter: 249.1 ft.
STRUCTURE SIZE: 39' 9"x86' 11"
POST SIZE(S): 3"

**The space requirements shown here are to ASTM standards. Requirements for other standards may be different.

PLAYGROUND ACCESSIBILITY (Provided/Required)

TOTAL EVENTS	ELEVATED EVENTS	TRANSFER ACCESSIBLE EVENTS	RAMP ACCESSIBLE EVENTS	GROUND EVENTS	TYPES OF GROUND EVENTS
22	13 / 7	13 / 0	0 / 0	9 / 4	4 / 3

The use and layout of play components identified in this plan conform to the CPSC guildelines. U.S. CPSC recommends the separation of age groups in playground layouts.

Warning: Accessible safety surfacing material is required beneath and around this equipment that is compliant with ASTM, CPSC, and ADAAG requirements.

1900 Anderson St | College Station, TX 77840-4688

P.O. BOX 4426 | FOND DU LAC, WI 54936-0549 | 920.921.9220 | BCIBURKE.COM

SERIES Nucleus | Burke Basics

SITE PLAN VIEW

GROUP:
5-12 Structure

DESIGNED FOR AGES:
5 to 12

Bee Creek Park Playground
College Station, TX 77840-4688

Burke
PLAY THAT MOVES YOU

Proposal | 125-197426-2 | 4/7/2025

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04/07/2025

fun abounds

125-197426-2

Designer: Levi Schepp

1900 Anderson St | College Station, TX 77840-4688

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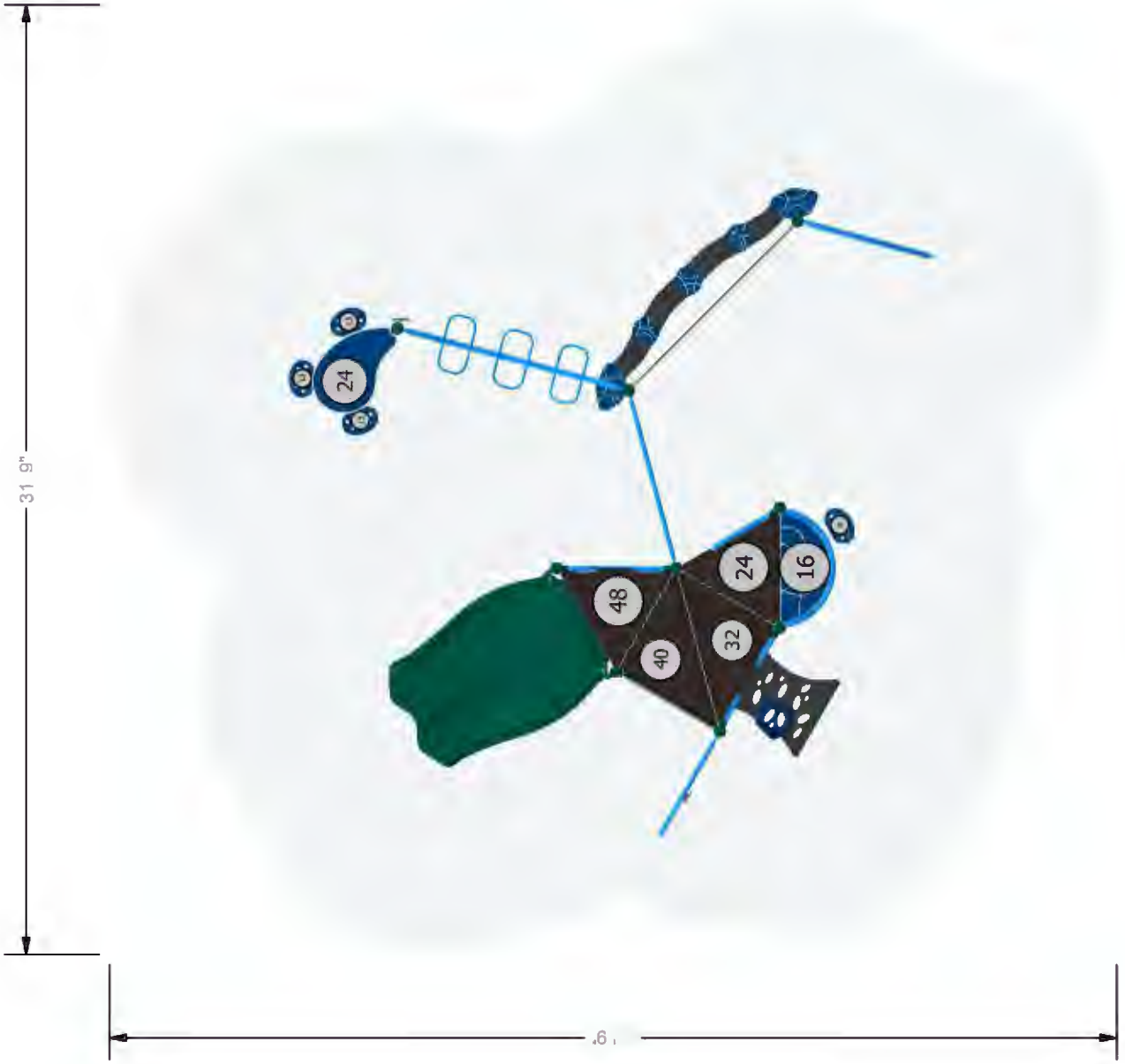

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STRUCTURE SIZE: 9'x86' 11"
POST SIZE(S):

Warning: Accessible safety surfacing material is required beneath and around this equipment that is compliant with ASTM, CPSC, and ADAAG requirements.

SERIES Nucleus | Intensity | Burke Basics

SITE PLAN VIEW

GROUP:
NU-3687

DESIGNED FOR AGES:
2 to 5

Bee Creek Park Playground
College Station, TX 77840-4688

04/07/2025

fun abounds
125-197426-2

Designer: Levi Schepp

BCI BURKE COMPANY, LLC | PO BOX 249 FOND DU LAC, WI 54936-0549 | 920.921.9220 | BCIBURKE.COM

The use and layout of may components identified in this plan conform to the CPSC guidelines. U.S. CPSC recommends the separation of age groups in playground layouts.

PLAYGROUND ACCESSIBILITY (Provided/Required)

TOTAL EVENTS	ELEVATED EVENTS	TRANSFER ACCESSIBLE EVENTS	RAMP ACCESSIBLE EVENTS	GROUND EVENTS	TYPES OF GROUND EVENTS
22	13 / 7	13 / 0	0 / 0	9 / 4	4 / 3

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Area: 3274.7 sq.ft.
Perimeter: 249.1 ft.

STRUCTURE SIZE: 9'x86' 11"

POST SIZE(S):

Warning: Accessible safety surfacing material is required beneath and around this equipment that is compliant with ASTM, CPSC, and ADAAG requirements.

SERIES Nucleus

SITE PLAN VIEW

GROUP:
FS Panel

DESIGNED FOR AGES:
5 to 12

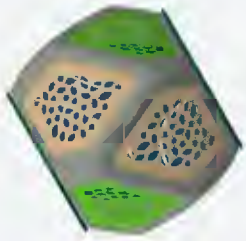
Bee Creek Park Playground
College Station, TX 77840-4688

Burke
PLAY THAT MOVES YOU.

04/07/2025

fun abounds
125-197426-2

Designer: Levi Schepp



5' 4"

15' 4"

The use and layout of play components identified in this plan conform to the CPSC guidelines. U.S. CPSC recommends the separation of age groups in playground layouts.

PLAYGROUND ACCESSIBILITY (Provided/Required)

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SERIES Burke Basics

SITE PLAN VIEW

GROUP:
Freestanding

DESIGNED FOR AGES:
2 to 12

Bee Creek Park Playground
College Station, TX 77840-4688

Burke
PLAY THAT MOVES YOU.

04/07/2025

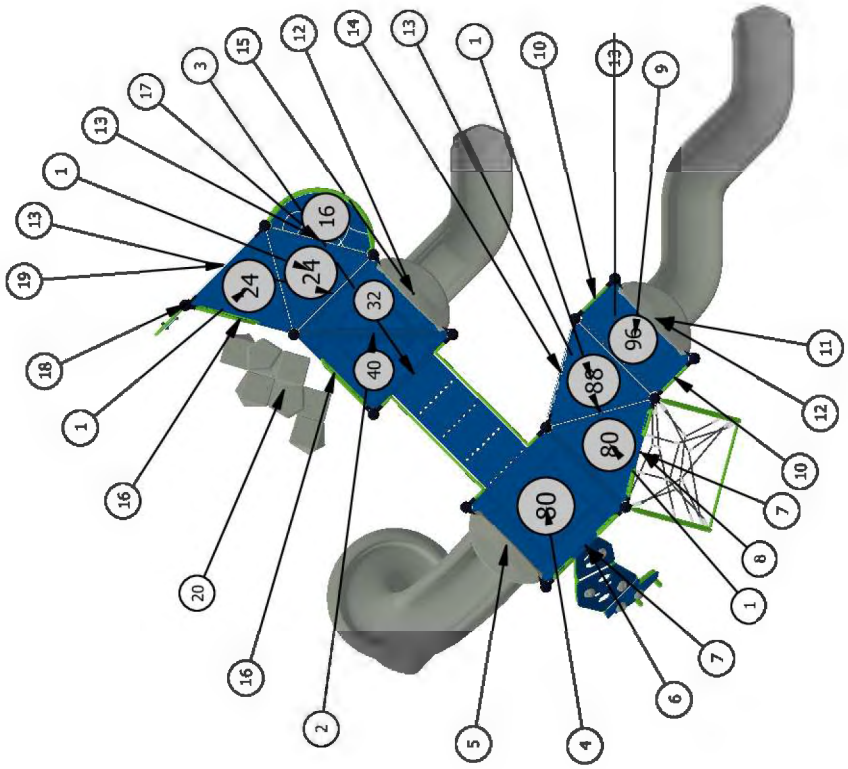
fun abounds
125-197426-2

Designer: Levi Schepp

BCI BURKE COMPANY, LLC | PO BOX 549 FOND DU LAC, WI 54936-0549 | 920.921.9220 | BCIBURKE.COM

1900 Anderson St | College Station, TX 77840-4688

ITEM	COMP.	DESCRIPTION
1	270-0129	TRIANGLE PLATFORM
2	270-0301	SPLIT SQUARE PLATFORMCLOSURE PLATE
3	370-0041	EVOLUTION 40" TRANSITION STAIR W/ BARRIERS
4	270-0130	SQUARE PLATFORM
5	470-0872	EXTREME TWIST SPIRAL SLIDE
6	370-0235	FORMIS LADDER 80
7	270-0120	EVOLUTION UNITARY ENCLOSURE
8	370-1702	NUCLEUS CORE ARCH CLIMBER
9	270-0291	HALF PLATFORM W/SUPPORT
10	570-0072	EVOLUTION HALF BARRIER
11	470-0856	CSA VIPER S 96 W/O HOOD
12	470-0805	SLIDE HOOD, HIGH SIDE WALL
13	270-0009	8" CLOSURE PLATE, ELLIPSE
14	570-2713	HIDE THE NUMBERS PANEL
15	470-0816	VIPER L 32 W/O HOOD
16	270-0122	EVOLUTION OFFSET ENCLOSURE
17	470-0075	CRESCENT PLATFORM
18	570-2707	RAIN CRESCENT PANEL
19	570-2662	CRAZY MAZE 2-SIDED PLAY PANEL
20	560-2709	EKO BUNDLE



SERIES Nucleus | Burke Basics

COMPONENT VIEW

GROUP:
5-12 Structure

DESIGNED FOR AGES:
5 to 12

Bee Creek Park Playground
College Station, TX 77840-4688

04/07/2025

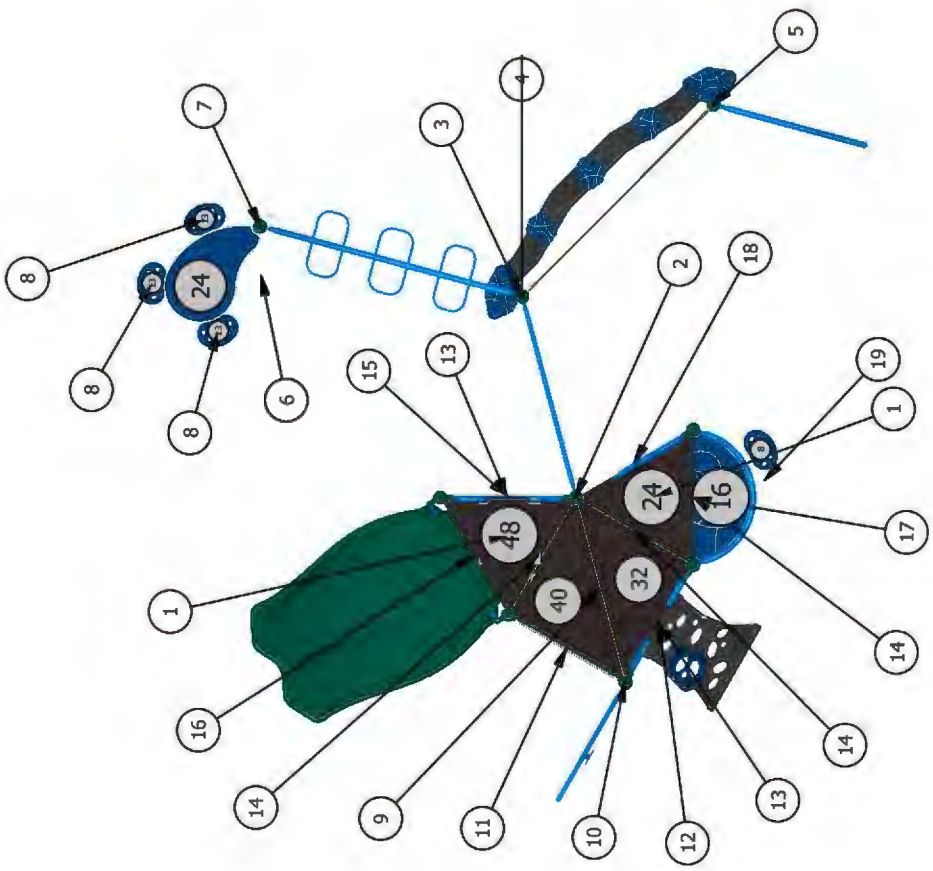
fun abounds
125-197426-2

Designer: Levi Schepp

BCI BURKE COMPANY, LLC PO BOX 549 FOND DU LAC, WI 54936-0549 | 920.921.9220 | BCIBURKE.COM

1900 Anderson St | College Station, TX 77840-4688

ITEM	COMP.	DESCRIPTION
1	270-0129	TRIANGLE PLATFORM
2	370-0203	LINX CLIMBER
3	370-0181	PATHWAY LINK, POST TO POST
4	370-0030	ATHLETIC ARCH 2-5
5	370-0842	APEX HOLE CLIMBER 2-5
6	580-1370	NUCLEUS LIL NOVO BEAN TABLE
7	570-2746	SPIN SINGLE POST ACTIVITY
8	580-1355	LIL NOVO BEAN BENCH
9	270-0301	SPLIT SQUARE PLATFORMCLOSURE PLATE
10	570-2703	COLLISION RING PANEL
11	570-0848	SIGNING 2-SIDED PLAY PANEL
12	370-1742	PATHWAY CLIMBER, 24"-32"
13	270-0120	EVOLUTION UNITARY ENCLOSURE
14	270-0009	8" CLOSURE PLATE, ELLIPSE
15	370-0862	TREE BRANCH CLIMBER 48"
16	470-0755	LUGE SLIDE, 48"-56"
17	470-0075	CRESCENT PLATFORM
18	270-0122	EVOLUTION OFFSET ENCLOSURE
19	580-1364	LIL NOVO BEAN STEP



SERIES Nucleus | Intensity | Burke Basics — **COMPONENT VIEW**

GROUP:
NU-3687

DESIGNED FOR AGES:
2 to 5

Bee Creek Park Playground
College Station, TX 77840-4688

04/07/2025

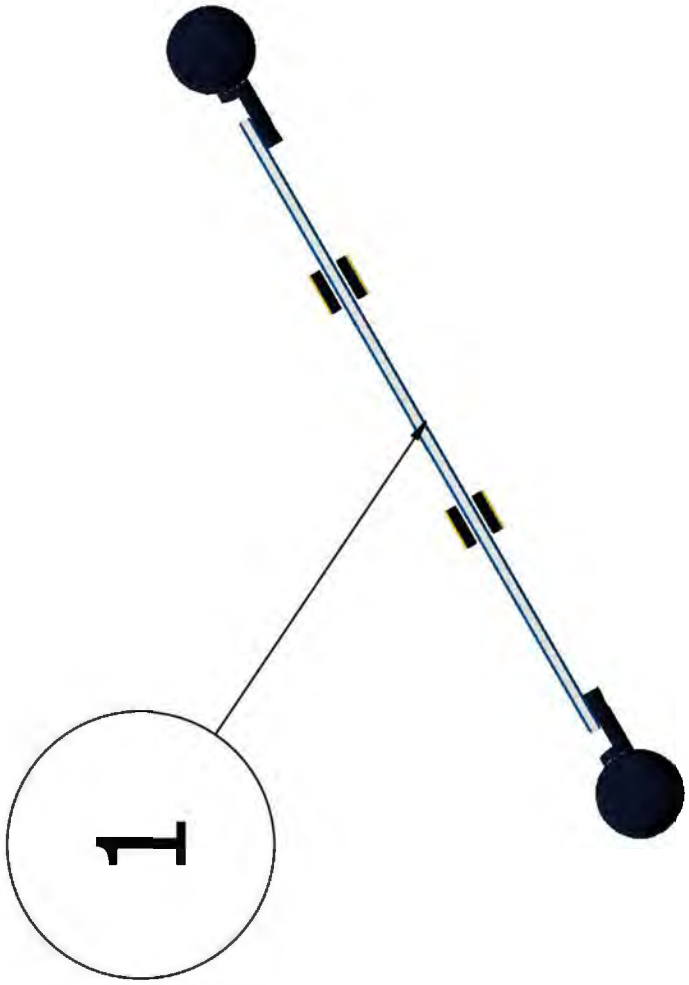
fun abounds
125-197426-2

Designer: Levi Schepp

Burke
PLAY THAT MOVES YOU

BCI BURKE COMPANY, LLC P.O. BOX 549 FOND DU LAC, WI 54936-0549 | 920.921.9220 | BCIBURKE.COM

ITEM	COMP.	DESCRIPTION
1	570-2663	BEE PANEL, BELOW PLATFORM



SERIES Nucleus

COMPONENT VIEW

GROUP:
FS Panel

DESIGNED FOR AGES:
5 to 12

Bee Creek Park Playground
College Station, TX 77840-4688

Burke
PLAY THAT MOVES YOU

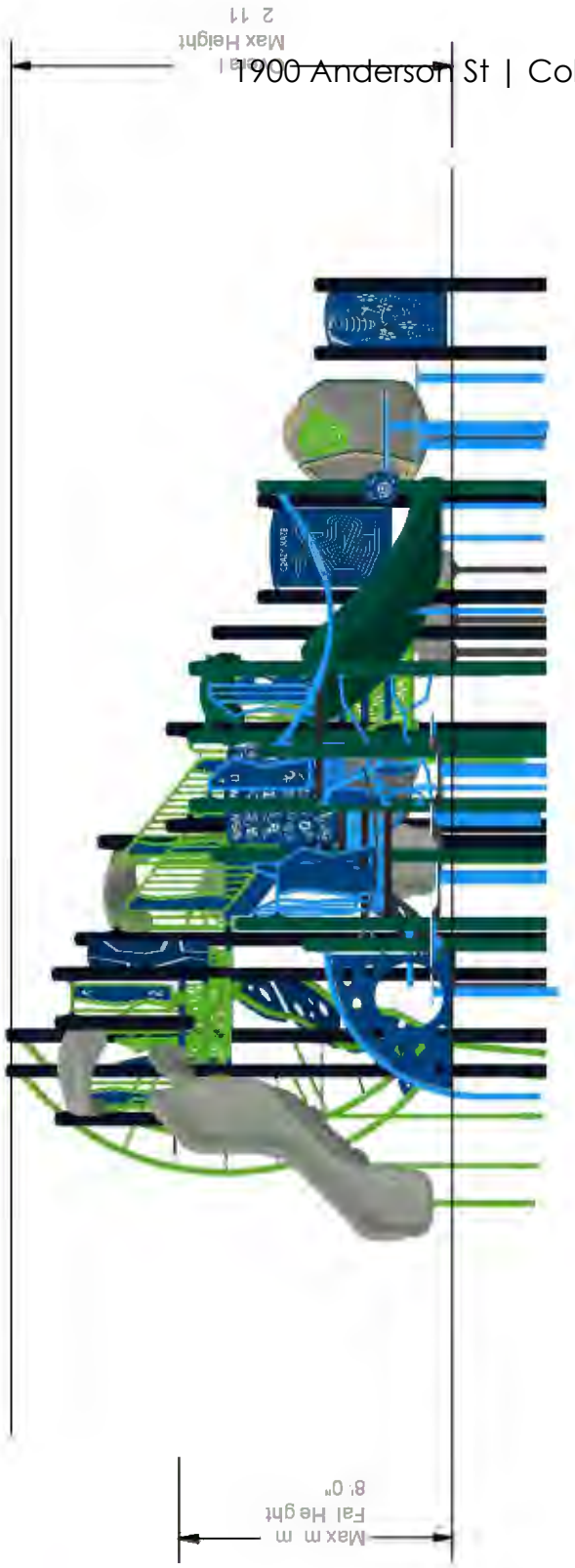
04/07/2025

fun abounds
125-197426-2

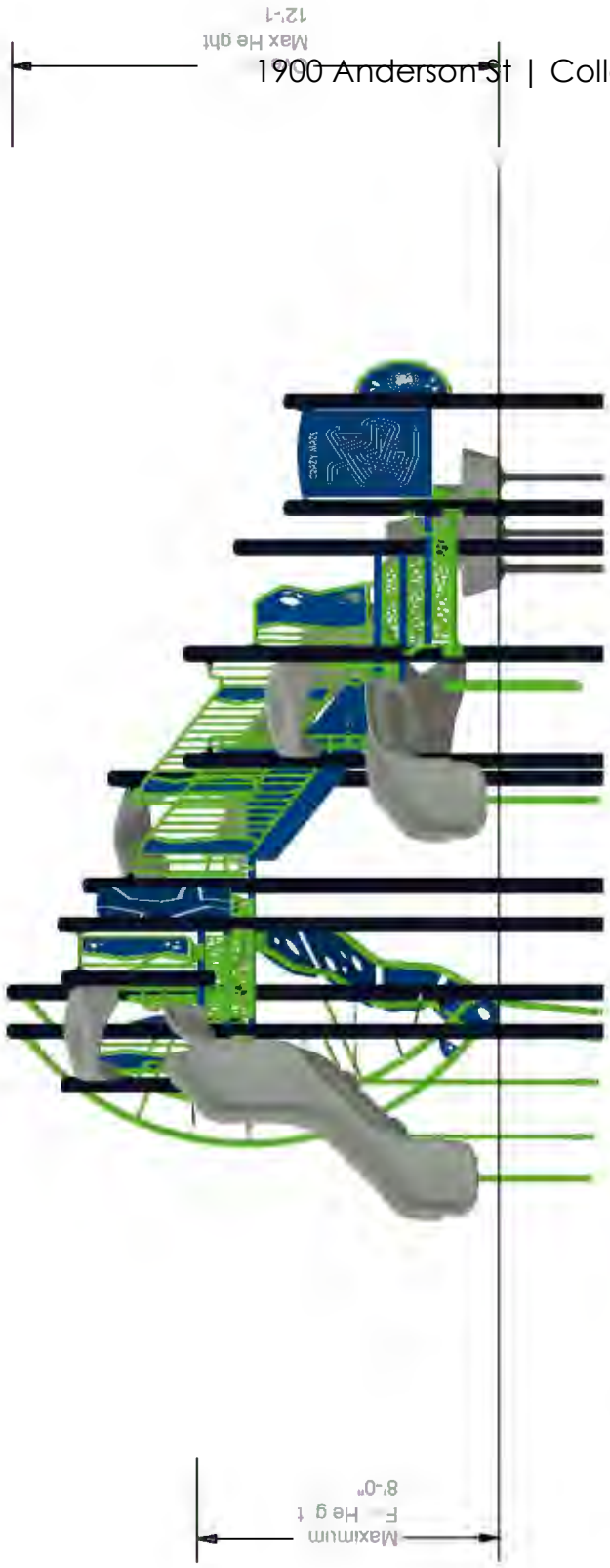
Designer: Levi Schepp

ITEM	COMP.	DESCRIPTION
1	560-0073	NIDO SPINNER

SERIES Burke Basics		COMPONENT VIEW
GROUP: Freestanding	**Bee Creek Park Playground** College Station, TX 77840-4688	04/07/2025
DESIGNED FOR AGES: 2 to 12	Burke PLAY THAT MOVES YOU.	**fun abounds 125-197426-2** Designer: Levi Schepp

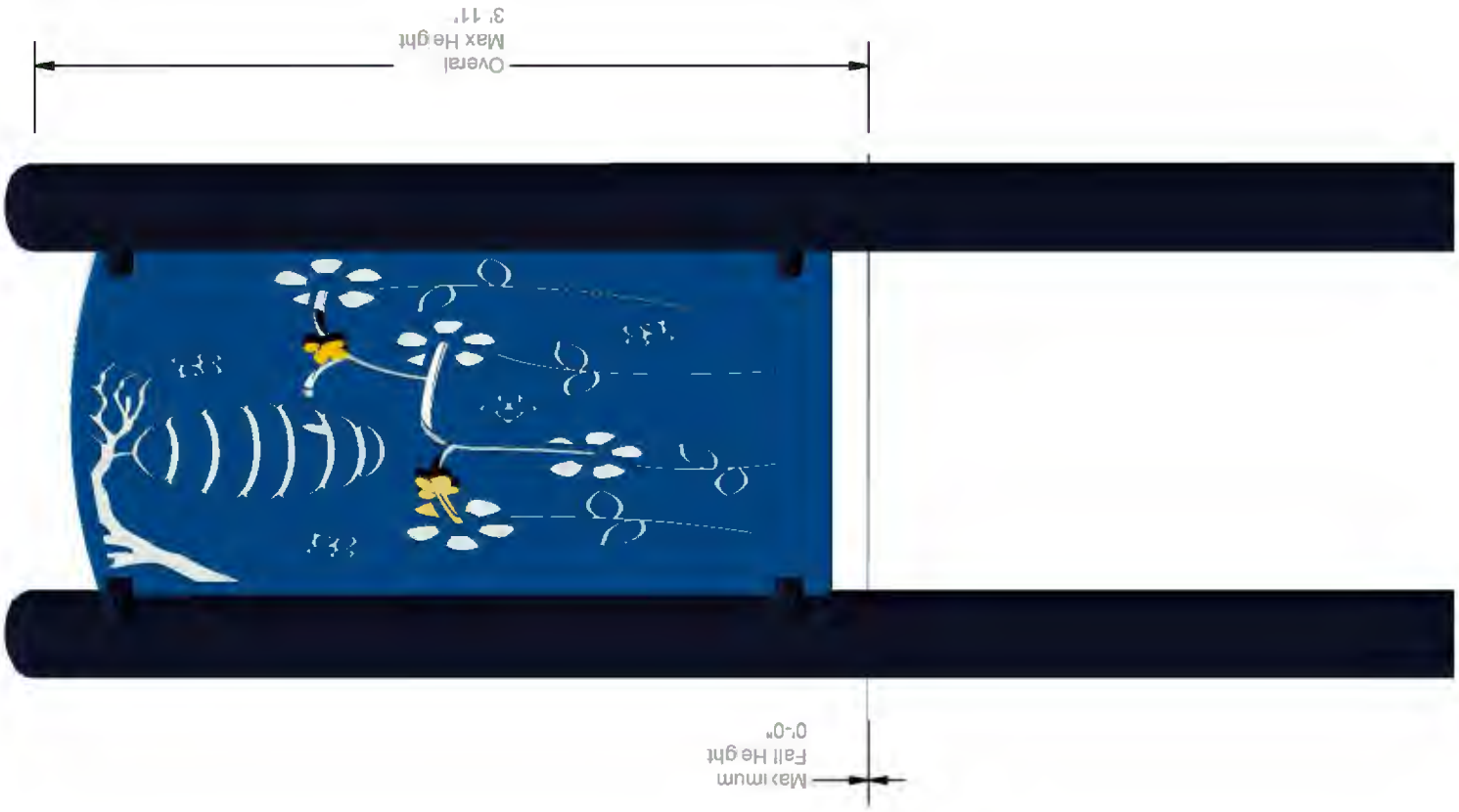


SERIES Nucleus | Burke Basics | Intensity		**ELEVATION VIEW**
GROUP: 5-12 Structure|NU-3687|FS Panel|Freestanding **DESIGNED FOR AGES:** 5 to 12, 2 to 5, 2 to 12	**Bee Creek Park Playground** College Station, TX 77840-4688 Burke PLAY THAT MOVES YOU	04/07/2025 **fun abounds** **125-197426-2** Designer: Levi Schepp

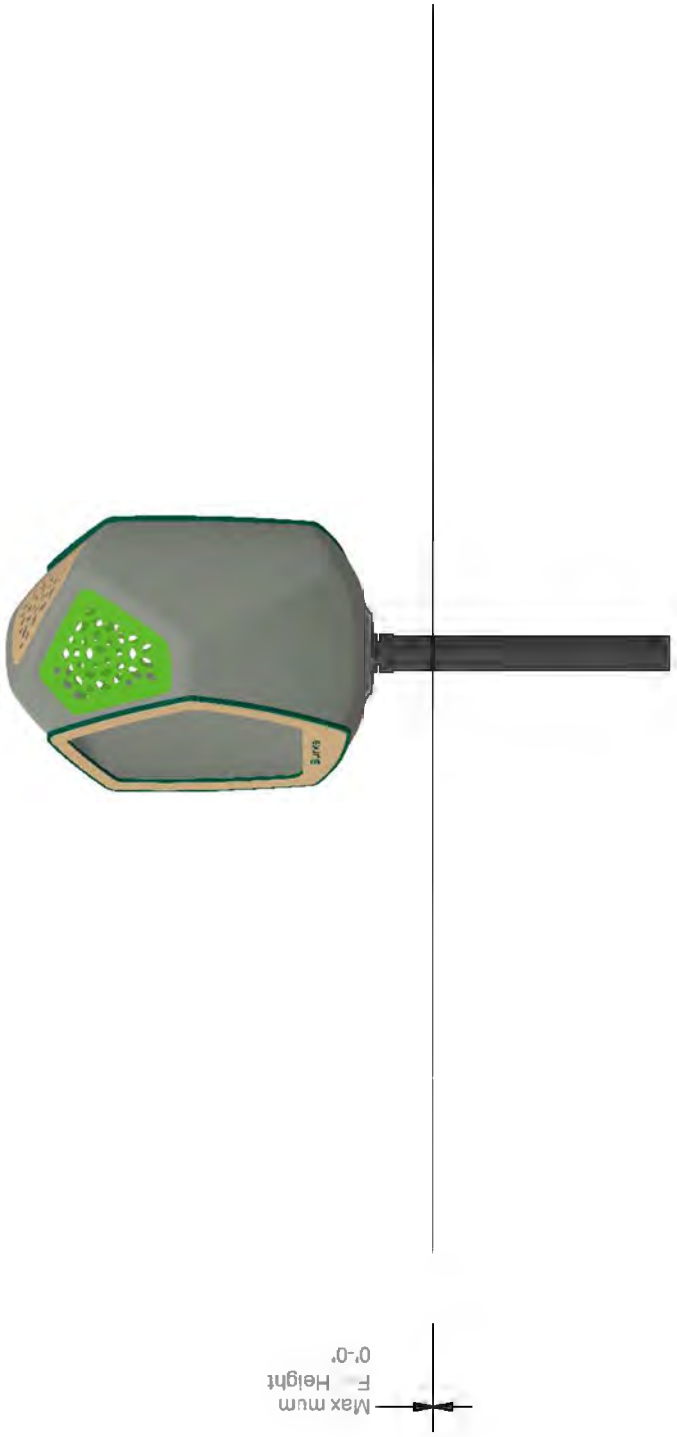


SERIES Nucleus | Burke Basics		**ELEVATION VIEW**
GROUP: 5-12 Structure **DESIGNED FOR AGES:** 5 to 12	**Bee Creek Park Playground** College Station, TX 77840-4688 Burke PLAY THAT MOVES YOU	04/07/2025 **fun abounds** **125-197426-2** Designer: Levi Schepp

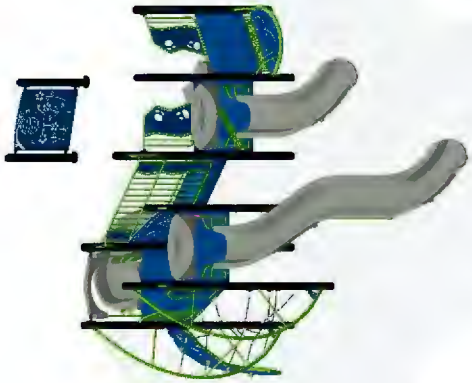
SERIES	Nucleus | Intensity | Burke Basics	ELEVATION VIEW
GROUP: NU-3687	**Bee Creek Park Playground**	04/07/2025
DESIGNED FOR AGES: 2 to 5	College Station, TX 77840-4688	**fun abounds** **125-197426-2**
	Burke PLAY THAT MOVES YOU	Designer: Levi Schepp



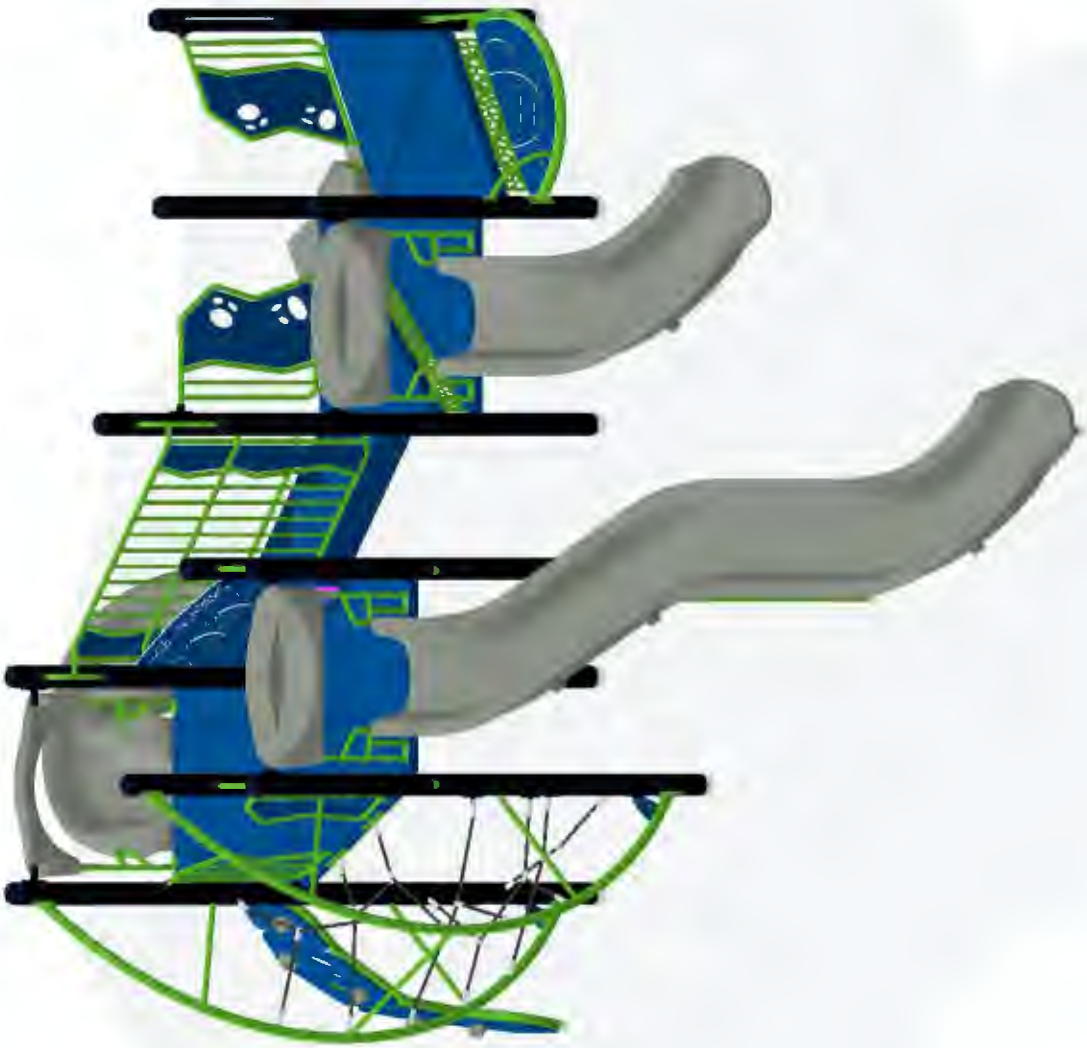
SERIES Nucleus		ELEVATION VIEW
GROUP: FS Panel	**Bee Creek Park Playground** College Station, TX 77840-4688	04/07/2025
DESIGNED FOR AGES: 5 to 12	Burke PLAY THAT MOVES YOU	**fun abounds** **125-197426-2** Designer: Levi Schepp



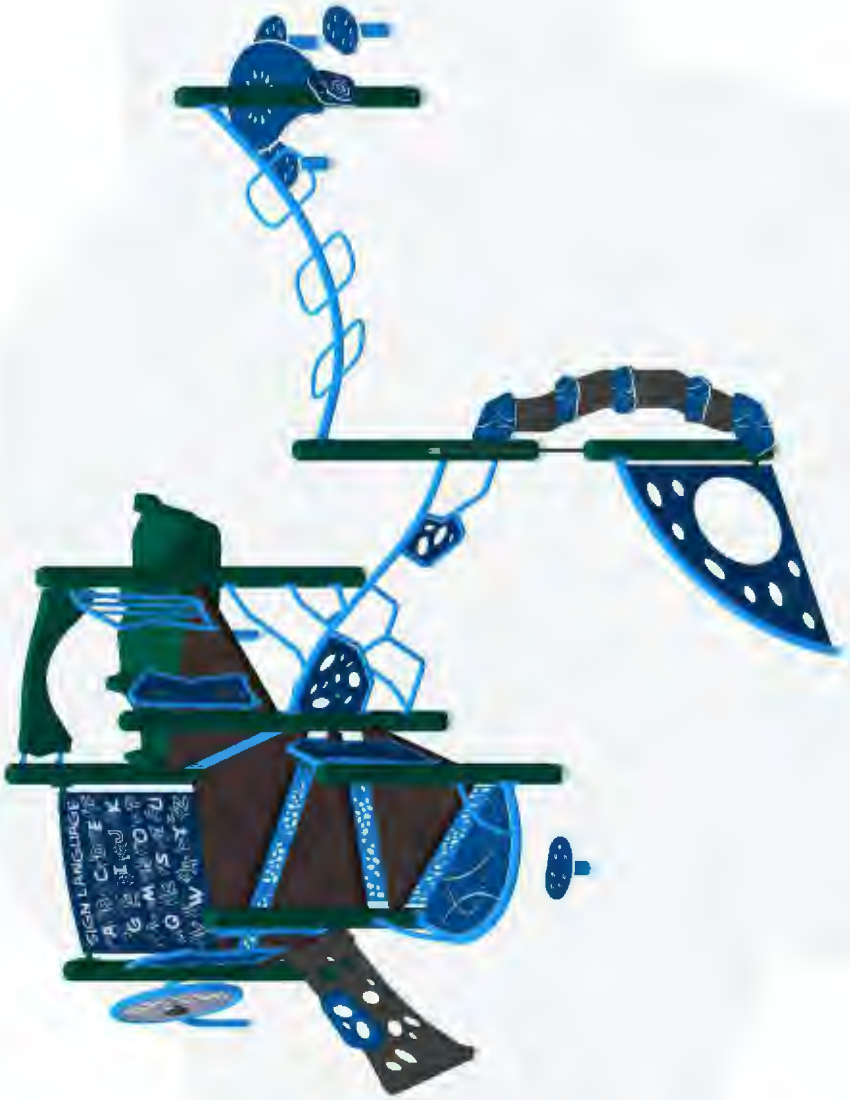
SERIES	Burke Basics	ELEVATION VIEW
GROUP: Freestanding	Bee Creek Park Playground College Station, TX 77840-4688	04/07/2025
DESIGNED FOR AGES: 2 to 12	Burke PLAY THAT MOVES YOU	fun abounds 125-197426-2 Designer: Levi Schepp



SERIES	Nucleus | Burke Basics | Intensity	ISOMETRIC VIEW
GROUP: 5-12 Structure|NU-3687|FS Panel|Freestanding **DESIGNED FOR AGES:** 5 to 12, 2 to 5, 2 to 12	**Bee Creek Park Playground** College Station, TX 77840-4688 Burke PLAY THAT MOVES YOU	04/07/2025 **fun abounds** **125-197426-2** Designer: Levi Schepp



SERIES Nucleus | Burke Basics		ISOMETRIC VIEW
GROUP: 5-12 Structure **DESIGNED FOR AGES:** 5 to 12	**Bee Creek Park Playground** College Station, TX 77840-4688 Burke PLAY THAT MOVES YOU	04/07/2025 **fun abounds** **125-197426-2** Designer: Levi Schepp



SERIES Nucleus | Intensity | Burke Basics		**ISOMETRIC VIEW**
GROUP: NU-3687	**Bee Creek Park Playground**	04/07/2025
	College Station, TX 77840-4688	**fun abounds**
DESIGNED FOR AGES: 2 to 5	Burke PLAY THAT MOVES YOU	**125-197426-2**
		Designer: Levi Schepp

SERIES Nucleus		ISOMETRIC VIEW
GROUP: FS Panel	**Bee Creek Park Playground** College Station, TX 77840-4688	04/07/2025
DESIGNED FOR AGES: 5 to 12	Burke PLAY THAT MOVES YOU	**fun abounds** **125-197426-2** Designer: Levi Schepp

SERIES	Burke Basics	ISOMETRIC VIEW
GROUP: Freestanding	Bee Creek Park Playground College Station, TX 77840-4688	04/07/2025
DESIGNED FOR AGES: 2 to 12	Burke PLAY THAT MOVES YOU	fun abounds 125-197426-2 Designer: Levi Schepp

Proposal 125-197426-2 | 4/7/2025 | 2025 Pricing

The play components identified in this proposal are IPEMA certified. The use and layout of these components conform to the requirements of ASTMF1487. To verify product certification, visit www.ipema.org.

The space requirements shown in this proposal are to ASTM standards. Requirements for other standards may be different.

5-12 Structure

Nucleus

Component No.	Description	Qty	User Cap.	Ext. User Cap.	Weight	Ext. Weight
072-0500-100C	5" OD X 100" CAPPED POST	2	0	0	53	106
072-0500-108C	5" OD X 108" CAPPED POST	1	0	0	57	57
072-0500-116C	5" OD X 116" CAPPED POST	1	0	0	61	61
072-0500-132C	5" OD X 132" CAPPED POST	2	0	0	69	138
072-0500-156C	5" OD X 156" CAPPED POST	2	0	0	82	164
072-0500-164C	5" OD X 164" CAPPED POST	1	0	0	86	86
072-0500-172C	5" OD X 172" CAPPED POST	1	0	0	90	90
072-0500-188C	5" OD X 188" CAPPED POST	2	0	0	99	198
270-0009	8" CLOSURE PLATE, ELLIPSE	4	0	0	8	32
270-0120	EVOLUTION UNITARY ENCLOSURE	2	0	0	34	68
270-0122	EVOLUTION OFFSET ENCLOSURE	2	0	0	34	68
270-0129	TRIANGLE PLATFORM	4	2	8	48	192
270-0130	SQUARE PLATFORM	1	6	6	106	106
270-0291	HALF PLATFORM W/SUPPORT	1	3	3	69	69
270-0301	SPLIT SQUARE PLATFORMCLOSURE PLATE	1	4	4	108	108
370-0041	EVOLUTION 40" TRANSITION STAIR W/ BARRIERS	1	8	8	301	301
370-0235	FORMIS LADDER 80	1	6	6	115	115
370-1702	NUCLEUS CORE ARCH CLIMBER	1	7	7	265	265
470-0075	CRESCENT PLATFORM	1	1	1	52	52
470-0805	SLIDE HOOD, HIGH SIDE WALL	2	0	0	32	64
470-0816	VIPER L 32 W/O HOOD	1	2	2	89	89
470-0856	CSA VIPER S 96 W/O HOOD	1	4	4	203	203
470-0872	EXTREME TWIST SPIRAL SLIDE	1	2	2	217	217
570-0072	EVOLUTION HALF BARRIER	2	0	0	26.6	53.2
570-2662	CRAZY MAZE 2-SIDED PLAY PANEL	1	2	2	44	44
570-2707	RAIN CRESCENT PANEL	1	1	1	16	16
570-2713	HIDE THE NUMBERS PANEL	1	2	2	69	69
670-0422	HALF DECK UPPER POST 5" OD	2	0	0	26	52

5-12 Structure

Burke Basics

Component No.	Description	Qty	User Cap.	Ext. User Cap.	Weight	Ext. Weight
560-2709	EKO BUNDLE	1	6	6	148	148

Total User Capacity: 62
Total Weight: 3243 lbs.
Total Price: $51,808

Freestanding

Burke Basics

Component No.	Description	Qty	User Cap.	Ext. User Cap.	Weight	Ext. Weight
560-0073	NIDO SPINNER	1	2	2	185	185

Total User Capacity: 2
Total Weight: 187 lbs.
Total Price: $4,250

FS Panel

Nucleus

Component No.	Description	Qty	User Cap.	Ext. User Cap.	Weight	Ext. Weight
072-0500-80C	5" OD X 80" CAPPED POST	2	0	0	42	84
570-2663	BEE PANEL, BELOW PLATFORM	1	4	4	46.5	46.5

Total User Capacity: 4
Total Weight: 131 lbs.
Total Price: $2,230

NU-3687

Nucleus

Component No.	Description	Qty	User Cap.	Ext. User Cap.	Weight	Ext. Weight
072-0500-100C	5" OD X 100" CAPPED POST	3	0	0	53	159
072-0500-108C	5" OD X 108" CAPPED POST	1	0	0	57	57
072-0500-116C	5" OD X 116" CAPPED POST	1	0	0	61	61
072-0500-124C	5" OD X 124" CAPPED POST	3	0	0	65	195
072-0500-84C	5" OD X 84" CAPPED POST	1	0	0	44	44
270-0009	8" CLOSURE PLATE, ELLIPSE	3	0	0	8	24
270-0120	EVOLUTION UNITARY ENCLOSURE	2	0	0	34	68
270-0122	EVOLUTION OFFSET ENCLOSURE	1	0	0	34	34
270-0129	TRIANGLE PLATFORM	2	2	4	48	96
270-0301	SPLIT SQUARE PLATFORMCLOSURE PLATE	1	4	4	108	108
370-0181	PATHWAY LINK, POST TO POST	1	10	10	161	161
370-0203	LINX CLIMBER	1	3	3	112	112

370-0862	TREE BRANCH CLIMBER 48"	1	2	2	17	17
370-1742	PATHWAY CLIMBER, 24"-32"	1	1	1	84	84
470-0075	CRESCENT PLATFORM	1	1	1	52	52
470-0755	LUGE SLIDE, 48"-56"	1	4	4	198	198
570-0848	SIGNING 2-SIDED PLAY PANEL	1	2	2	44	44
570-2746	SPIN SINGLE POST ACTIVITY	1	1	1	4.2	4.2

NU-3687

Intensity

Component No.	Description	Qty	User Cap.	Ext. User Cap.	Weight	Ext. Weight
370-0030	ATHLETIC ARCH 2-5	1	3	3	46	46
370-0842	APEX HOLE CLIMBER 2-5	1	2	2	55	55
570-2703	COLLISION RING PANEL	1	1	1	48	48

NU-3687

Burke Basics

Component No.	Description	Qty	User Cap.	Ext. User Cap.	Weight	Ext. Weight
580-1355	LIL NOVO BEAN BENCH	3	1	3	28	84
580-1364	LIL NOVO BEAN STEP	1	1	1	28	28
580-1370	NUCLEUS LIL NOVO BEAN TABLE	1	5	5	60	60

Total User Capacity: 47
Total Weight: 1839 lbs.
Total Price: $27,957

Special Notes:
Prices do not include freight, unloading, material storage, site excavation/preparation, removal of existing equipment, removal of excess soil from footing holes, site security, safety surfacing, installation, or sales tax (if applicable). Prices are based on standard colors per CURRENT YEAR BCI Burke Catalog. Custom colors, where available, would be an extra charge. **Pricing is valid for 30 days from the date of this proposal.**

Proposal 125-197426-2 | 4/7/2025 | 2025 Pricing

COLOR SELECTION LIST | R1-Forest

GROUP 1 (5-12 Structure)

Deck:	Blue
Post:	Navy
Acc:	Lime
Flat:	Blue
Plastic:	Granite
Panel:	Blue-White-Blue

GROUP 2 (Freestanding)

Acc:	Lime | Tan
Panel:	Blue-White-Blue | Tan-Green-Tan
Plastic:	Granite

GROUP 3 (FS Panel)

Post:	Navy
Panel:	Yellow-Black-Yellow | Blue-White-Blue

GROUP 4 (NU-3687)

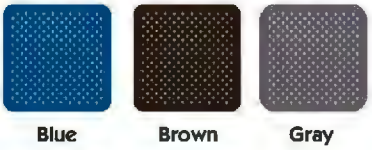
Deck:	Brown
Flat:	Blue
Acc:	Sky
Post:	Green
Panel:	Blue-White-Blue
Plastic:	Green

COLORS THAT MOVE YOU

1900 Anderson St | College Station, TX 77840-4688

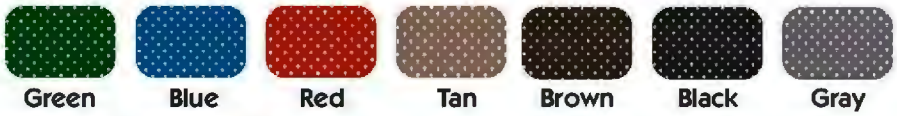
POWDER COAT PAINT

PLATFORMS



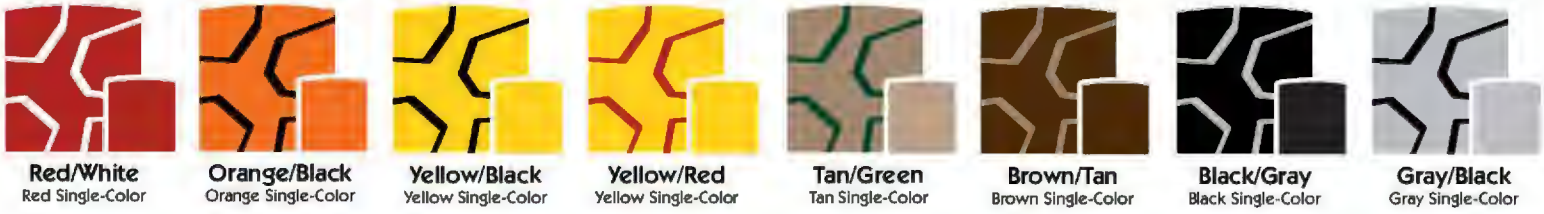
SOLIS HUE TOPPERS

TRADITIONAL SERIES SITE AMENITIES



ROCKIT CLIMBERS

HDPE PLASTIC PANELS



SHADE CANOPIES

ROTOMOLD PLASTIC

VISIT BCIBURKE.COM/COLOR TO CUSTOMIZE YOUR PLAYGROUND COLORS!

Burke
PLAY THAT MOVES YOU.
BCIBURKE.COM • 800.266.1250

BEE CREEK PARK PLAYGROUND

PROPOSAL #: 125-197426-2-R3

Fun Abounds™
"Creating playground memories filled with fun"

3 Designer: Felicia

BEE CREEK PARK PLAYGROUND

1900 Anderson St | College Station, TX 77840-4688

fun abounds
114 Venice Street | Sugar Land, TX 77478 | 281-793-8002

April 07, 2025

Stephan Richardson
City of College Station Parks and Recreation
1000 Krenek Tap Rd
College Station, TX 77840-5082

Dear Stephan Richardson:

fun abounds is delighted to provide City of College Station Parks and Recreation with this playground equipment proposal.

This design was developed with your specific needs in mind, and we look forward to discussing this project further with you to ensure your complete satisfaction. fun abounds is confident that this proposal will satisfy City of College Station Parks and Recreation's functional, environmental, and safety requirements -- and most importantly -- bring joy and excitement to the children and families directly benefiting from your new playground.

You have our personal commitment to support this project and your organization in every manner possible, and we look forward to developing a long-standing relationship with City of College Station Parks and Recreation. We appreciate your consideration and value this opportunity to earn your business.

Sincerely,

Norman Cue
Sales Representative

fun abounds
114 Venice Street
Sugar Land, TX 77478
www.www.fabplaygrounds.com
www.bciburke.com

Phone: 281-793-8002
Fax: 281-265-0043
norman@fabplaygrounds.com

COOPERATIVE PURCHASING OPTIONS

1900 Anderson St | College Station, TX 77840-4688

PLAYGROUNDS WITHOUT ALL THE PAPERWORK

Purchasing with contracts may sound intimidating, but getting your community playspace doesn't need to be a painful process of writing specifications, issuing RFP's and jumping through hoops – it can be simplified – we promise! As you continue planning for your new playground, review the Purchasing Contracts offered through our partners.

EQUALIS GROUP

Equalis is an innovative cooperative purchasing organization that believes in the power of partnership and that when you work together you achieve more. The basic premise of the Equalis cooperative purchasing organization is to leverage the combined buying power of all members for better pricing and favorable contract terms. Equalis Group uses the lead agency model for competitively bid contracts, provides our participants the savings they expect and offers efficiencies and peace of mind within the procurement process. It is our mission to continuously improve the measurable and meaningful impact of cooperative services for everyone throughout the supply chain.

GOVMVMT

GOVMVMT is a non-profit group purchasing organization that meets the highest industry standards while putting the public's interest at the forefront of everything they do. Each one of GOVMVMT's first-class suppliers has consciously joined their mission to create the most credible, ethical, and public agency-focused non-profit cooperative purchasing program in the country.

GSA

Federal parks, child development programs, military bases and other agencies are a major priority for BCI Burke, and agencies can purchase Burke playgrounds through Burke's GSA contract for installation virtually anywhere in the world.

OMNIA PARTNERS

OMNIA Partners, Public Sector (Subsidiary National IPA) is the largest and most experienced organization in purchasing and supply chain management. Comprised of participants and suppliers in the public sector, we bring together industry-leading buying power and world-class suppliers to offer an extensive portfolio of competitively solicited and publicly awarded contracts and partnerships. OMNIA Partners is proud to offer more value and resources to state and local government, higher education, K-12 education and non-profits.

SOURCEWELL

As a leader in cooperative purchasing, Sourcewell is passionate about helping members fulfill their public service missions. Sourcewell builds strong relationships with members and vendors to develop practical solutions together.

The easiest way to Join Our Movement is to call your local Representative at 800.266.1250 or **visit bciburke.com/rep**.
Our passion is bringing play to communities like yours and we can't wait to help you get started!

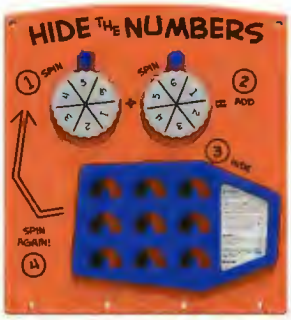
equalis GROUP | GSA Contract Holder | GOVMVMT | OMNIA PARTNERS | Sourcewell Awarded Contract

BCIBURKE.COM Burke 800.266.1250

FEATURED PLAY EVENTS

VIPER® SLIDE

The Viper Slide can't be tamed, but kids love trying! Viper's exciting twisty and fast serpentine action is guaranteed to generate incredible high-energy fun and safe, healthy play.



Hide the Numbers Game

Cognitive development and cooperative play shine with the Hide the Numbers Game! A great way to encourage intergenerational play and help children learn numbers, addition and strategy, this panel will bring educational fun to any playspace!

Athletic Arch

Climbers provide several developmental benefits to children, building upper body strength along with boosting balance and coordination while they play.

DESIGN SUMMARY

fun abounds is very pleased to present this Proposal for consideration for the Bee Creek Park Playground located in College Station. BCI Burke Company, LLC has been providing recreational playground equipment for over 100 years and has developed the right mix of world-class capabilities to meet the initial and continuing needs of City of College Station Parks and Recreation. We believe our proposal will meet or exceed your project's requirements and will deliver the greatest value to you.

The following is a summary of some of the key elements of our Proposal:

- Project Name: Bee Creek Park Playground
- Project Number: 125-197426-2
- User Capacity: 115
- Age Groups: 5 to 12, 2 to 5, 2 to 12
- Dimensions: 86' 10"x37' 8"
- Designer Name: Levi Schepp

fun abounds has developed a custom playground configuration based on the requirements as they have been presented for the Bee Creek Park Playground playground project. Our custom design will provide a safe and affordable playground environment that is aesthetically pleasing, full of fun for all users and uniquely satisfies your specific requirements. In addition, proposal # 125-197426-2 has been designed with a focus on safety, and is fully compliant with ASTM F1487 and CPSC playground safety standards.

We invite you to review this proposal for the Bee Creek Park Playground playground project and to contact us with any questions that you may have.

Thank you in advance for giving us the opportunity to make this project a success.

OVERALL BOUNDING OF USE ZONES
Area: 3274.7 sq.ft.
Perimeter: 249.1 ft.
STRUCTURE SIZE: 39' 9"x86' 11"
POST SIZE(S):

Note: The space requirements shown here are to ASTM standards. Requirements for other standards may be different.

PLAYGROUND ACCESSIBILITY (Provided/Required)

TOTAL EVENTS	ELEVATED EVENTS	TRANSFER ACCESSIBLE EVENTS	RAMP ACCESSIBLE EVENTS	GROUND EVENTS	TYPES OF GROUND EVENTS
22	13 / 7	13 / 0	0 / 0	9 / 4	4 / 3

The use and layout of play components identified in this plan conform to the CPSC guidelines. U.S. CPSC recommends the separation of age groups in playground layouts.

Warning: Accessible safety surfacing material is required beneath and around this equipment that is compliant with ASTM, CPSC, and ADAAG requirements.

SERIES Nucleus | Burke Basics | Intensity

SITE PLAN VIEW

GROUP:
5-12 Structure|NU-3687|FS Panel|Freestanding

DESIGNED FOR AGES:
5 to 12, 2 to 5, 2 to 12

Bee Creek Park Playground
College Station, TX 77840-4688

Burke
PLAY THAT MOVES YOU.

04/07/2025

fun abounds
125-197426-2

Designer: Levi Schepp

Proposal | Src: BCI4426.zan, 4/1/2025 | 525 FOND DU LAC, WI 54936-0549 | 920.921.9220 | BCIBURKE.COM

1900 Anderson St | College Station, TX 77840-4688

SERIES Nucleus | Burke Basics

SITE PLAN VIEW

GROUP:
5-12 Structure

DESIGNED FOR AGES:
5 to 12

Bee Creek Park Playground
College Station, TX 77840-4688

Burke
PLAY THAT MOVES YOU.

Proposal 125-197426-2 | Burke LLC, 1 Burke Way, P.O. Box 249, FOND DU LAC, WI 54936-0549 | 920.921.9220 | BCIBURKE.COM

04/07/2025

fun abounds
125-197426-2

Designer: Levi Schepp

1900 Anderson St | College Station, TX 77840-4688

OVERALL BOUNDING OF USE ZONES
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TOTAL EVENTS	ELEVATED EVENTS	TRANSFER ACCESSIBLE	RAMP ACCESSIBLE	GROUND EVENTS	TYPES OF GROUND EVENTS
22	13 / 7	13 / 0	0 / 0	9 / 4	4 / 3

The use and layout of play components identified on this plan conform to the CPSC guidelines. U.S. CPSC recommends the separation of age groups in playground layouts.

Warning: Accessible safety surfacing material is required beneath and around this equipment that is compliant with ASTM, CPSC, and ADAAG requirements.

31' 9"

46'

The use and layout of play components identified on this plan conform to the CPSC guidelines. U.S. CPSC recommends the separation of age groups in playground layouts.

PLAYGROUND ACCESSIBILITY (Provided/Required)

TOTAL EVENTS	ELEVATED EVENTS	TRANSFER ACCESSIBLE EVENTS	RAMP ACCESSIBLE EVENTS	GROUND EVENTS	TYPES OF GROUND EVENTS
22	13 / 7	13 / 0	0 / 0	9 / 4	4 / 3

OVERALL BOUNDING OF USE ZONES **The space requirements shown here are to ASTM standards. Requirements for other standards may be different.

Area: 3274.7 sq.ft.
Perimeter: 249.1 ft.
STRUCTURE SIZE: 9'x86' 11"
POST SIZE(S):

Warning: Accessible safety surfacing material is required beneath and around this equipment that is compliant with ASTM, CPSC, and ADAAG requirements.

SERIES Nucleus | Intensity | Burke Basics

SITE PLAN VIEW

GROUP:
NU-3687

DESIGNED FOR AGES:
2 to 5

Bee Creek Park Playground
College Station, TX 77840-4688

Burke
PLAY THAT MOVES YOU.

04/07/2025

fun abounds
125-197426-2

Designer: Levi Schepp

BCI BURKE COMPANY, LLC | PO BOX 549 FOND DU LAC, WI 54936-0549 | 920.921.9220 | BCIBURKE.COM

The use and layout of play components identified on this plan conform to the CPSC guidelines. U.S. CPSC recommends the separation of age groups in playground layouts.

PLAYGROUND ACCESSIBILITY (Provided/Required)

TOTAL EVENTS	ELEVATED EVENTS	TRANSFER ACCESSIBLE	RAMP ACCESSIBLE	GROUND EVENTS	TYPES OF GROUND EVENTS
22	13 / 7	13 / 0	0 / 0	9 / 4	4 / 3

OVERALL BOUNDING OF USE ZONES **The space requirements shown here are to ASTM standards. Requirements for other standards may be different.

Area: 3274.7 sq.ft.
Perimeter: 249.1 ft.
STRUCTURE SIZE: 9'x86' 11"
POST SIZE(S):

Warning: Accessible safety surfacing material is required beneath and around this equipment that is compliant with ASTM, CPSC, and ADAAG requirements.

SERIES Nucleus

SITE PLAN VIEW

GROUP:
FS Panel

DESIGNED FOR AGES:
5 to 12

Bee Creek Park Playground
College Station, TX 77840-4688

04/07/2025

fun abounds
125-197426-2

Designer: Levi Schepp

Burke
PLAY THAT MOVES YOU.

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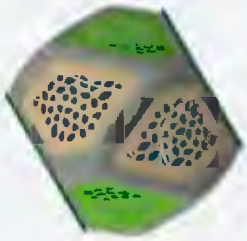


5' 4"

15' 4"

The use and layout of play components identified on this plan conform to the CPSC guidelines. U.S. CPSC recommends the separation of age groups in playground layouts.

PLAYGROUND ACCESSIBILITY (Provided/Required)

TOTAL EVENTS	ELEVATED EVENTS	TRANSFER ACCESSIBLE EVENTS	RAMP ACCESSIBLE EVENTS	GROUND EVENTS	TYPES OF GROUND EVENTS
22	13 / 7	13 / 0	0 / 0	9 / 4	4 / 3

OVERALL BOUNDING OF USE ZONES **The space requirements shown here are to ASTM standards. Requirements for other standards may be different.

Area: 3274.7 sq.ft.
Perimeter: 249.1 ft.
STRUCTURE SIZE: 9'x86' 11"
POST SIZE(S):

Warning: Accessible safety surfacing material is required beneath and around this equipment that is compliant with ASTM, CPSC, and ADAAG requirements.

SERIES Burke Basics

SITE PLAN VIEW

GROUP:
Freestanding

DESIGNED FOR AGES:
2 to 12

Bee Creek Park Playground
College Station, TX 77840-4688

Burke
PLAY THAT MOVES YOU.

04/07/2025

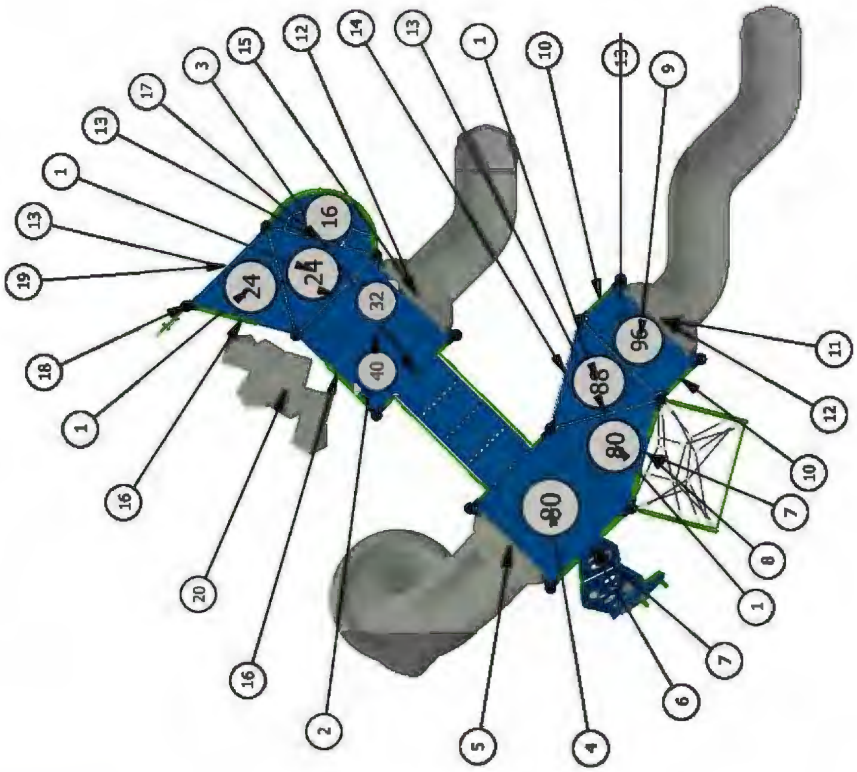
fun abounds
125-197426-2

Designer: Levi Schepp

BCI BURKE COMPANY, LLC | PO BOX 2549 FOND DU LAC, WI 54936-0549 | 920.921.9220 | BCIBURKE.COM

1900 Anderson St | College Station, TX 77840-4688

ITEM	COMP.	DESCRIPTION
1	270-0129	TRIANGLE PLATFORM
2	270-0301	SPLIT SQUARE PLATFORMCLOSURE PLATE
3	370-0041	EVOLUTION 40" TRANSITION STAIR W/ BARRIERS
4	270-0130	SQUARE PLATFORM
5	470-0872	EXTREME TWIST SPIRAL SLIDE
6	370-0235	FORMIS LADDER 80
7	270-0120	EVOLUTION UNITARY ENCLOSURE
8	370-1702	NUCLEUS CORE ARCH CLIMBER
9	270-0291	HALF PLATFORM W/SUPPORT
10	570-0072	EVOLUTION HALF BARRIER
11	470-0856	CSA VIPER S 96 W/O HOOD
12	470-0805	SLIDE HOOD, HIGH SIDE WALL
13	270-0009	8" CLOSURE PLATE, ELLIPSE
14	570-2713	HIDE THE NUMBERS PANEL
15	470-0816	VIPER L 32 W/O HOOD
16	270-0122	EVOLUTION OFFSET ENCLOSURE
17	470-0075	CRESCENT PLATFORM
18	570-2707	RAIN CRESCENT PANEL
19	570-2662	CRAZY MAZE 2-SIDED PLAY PANEL
20	560-2709	EKO BUNDLE



SERIES Nucleus | Burke Basics

COMPONENT VIEW

GROUP:
5-12 Structure

DESIGNED FOR AGES:
5 to 12

Bee Creek Park Playground
College Station, TX 77840-4688

Burke
PLAY THAT MOVES YOU

04/07/2025

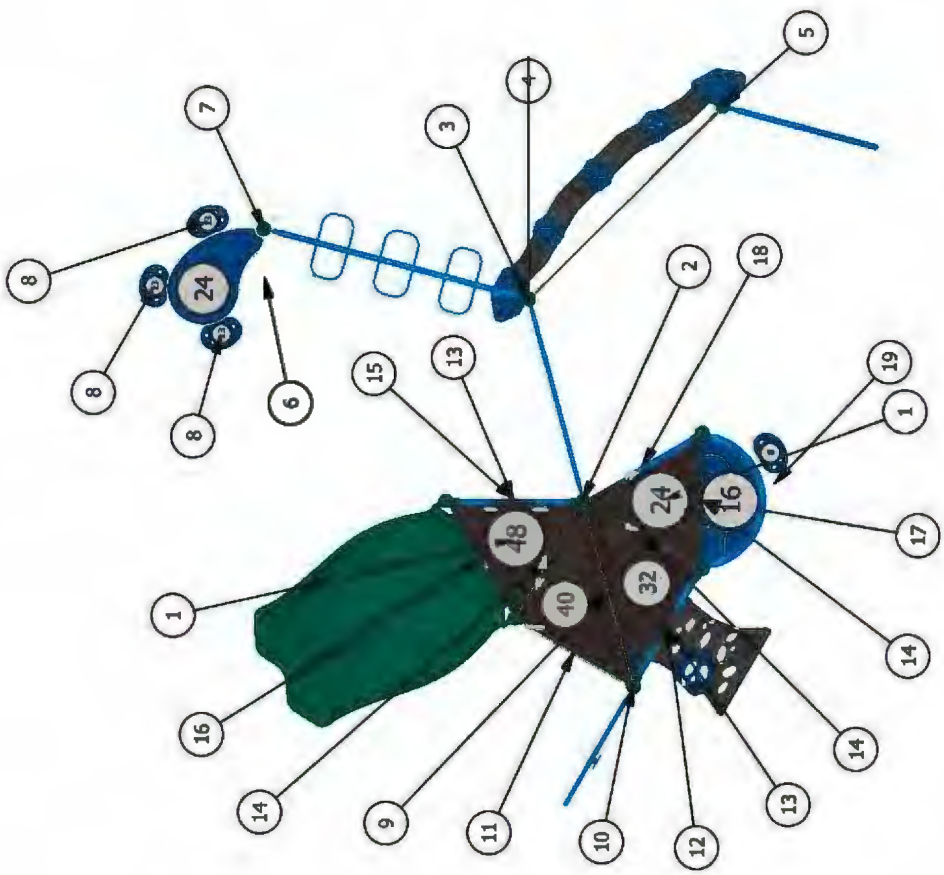
fun abounds
125-197426-2

Designer: Levi Schepp

BCI BURKE COMPANY, LLC | PO BOX 549 FOND DU LAC, WI 54936-0549 | 920.921.9220 | BCIBURKE.COM

1900 Anderson St | College Station, TX 77840-4688

ITEM	COMP.	DESCRIPTION
1	270-0129	TRIANGLE PLATFORM
2	370-0203	LINX CLIMBER
3	370-0181	PATHWAY LINK, POST TO POST
4	370-0030	ATHLETIC ARCH 2-5
5	370-0842	APEX HOLE CLIMBER 2-5
6	580-1370	NUCLEUS LIL NOVO BEAN TABLE
7	570-2746	SPIN SINGLE POST ACTIVITY
8	580-1355	LIL NOVO BEAN BENCH
9	270-0301	SPLIT SQUARE PLATFORMCLOSURE PLATE
10	570-2703	COLLISION RING PANEL
11	570-0848	SIGNING 2-SIDED PLAY PANEL
12	370-1742	PATHWAY CLIMBER, 24"-32"
13	270-0120	EVOLUTION UNITARY ENCLOSURE
14	270-0009	8" CLOSURE PLATE, ELLIPSE
15	370-0862	TREE BRANCH CLIMBER 48"
16	470-0755	LUGE SLIDE, 48"-56"
17	470-0075	CRESCENT PLATFORM
18	270-0122	EVOLUTION OFFSET ENCLOSURE
19	580-1364	LIL NOVO BEAN STEP



SERIES Nucleus | Intensity | Burke Basics — **COMPONENT VIEW**

GROUP:
NU-3687

DESIGNED FOR AGES:
2 to 5

Bee Creek Park Playground
College Station, TX 77840-4688

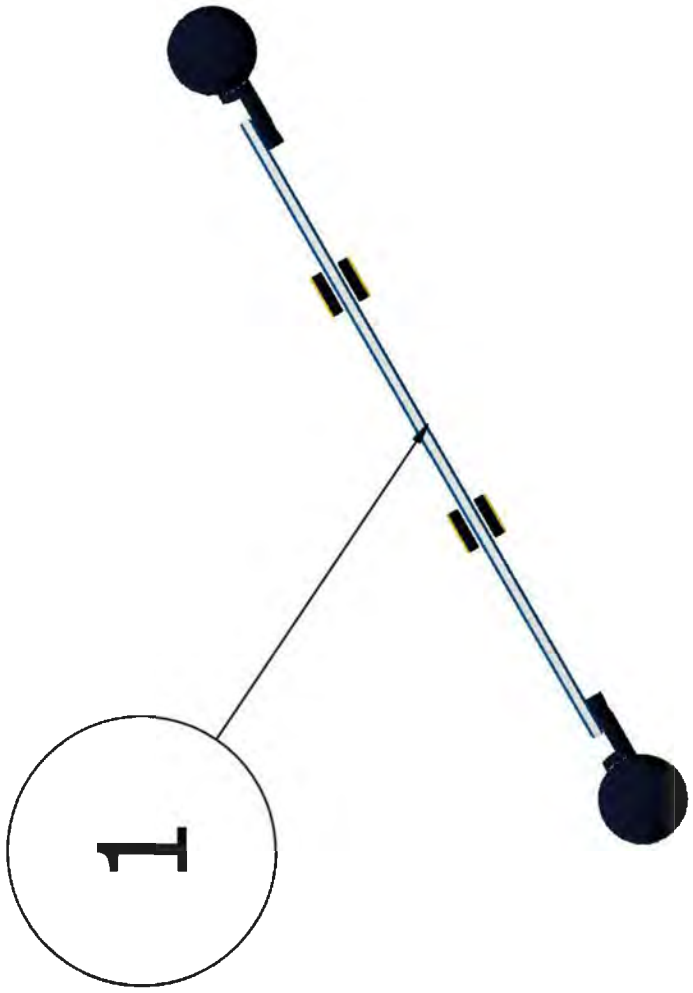
04/07/2025

fun abounds
125-197426-2

Designer: Levi Schepp

BCI BURKE COMPANY, LLC | PO BOX 549 FOND DU LAC, WI 54936-0549 | 920.921.9220 | BCIBURKE.COM

ITEM	COMP.	DESCRIPTION
1	570-2663	BEE PANEL, BELOW PLATFORM



SERIES Nucleus

COMPONENT VIEW

GROUP:
FS Panel

DESIGNED FOR AGES:
5 to 12

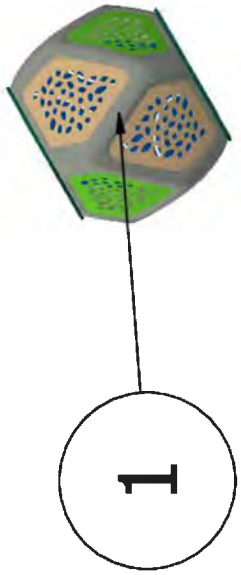
Bee Creek Park Playground
College Station, TX 77840-4688

04/07/2025

fun abounds
125-197426-2

Designer: Levi Schepp

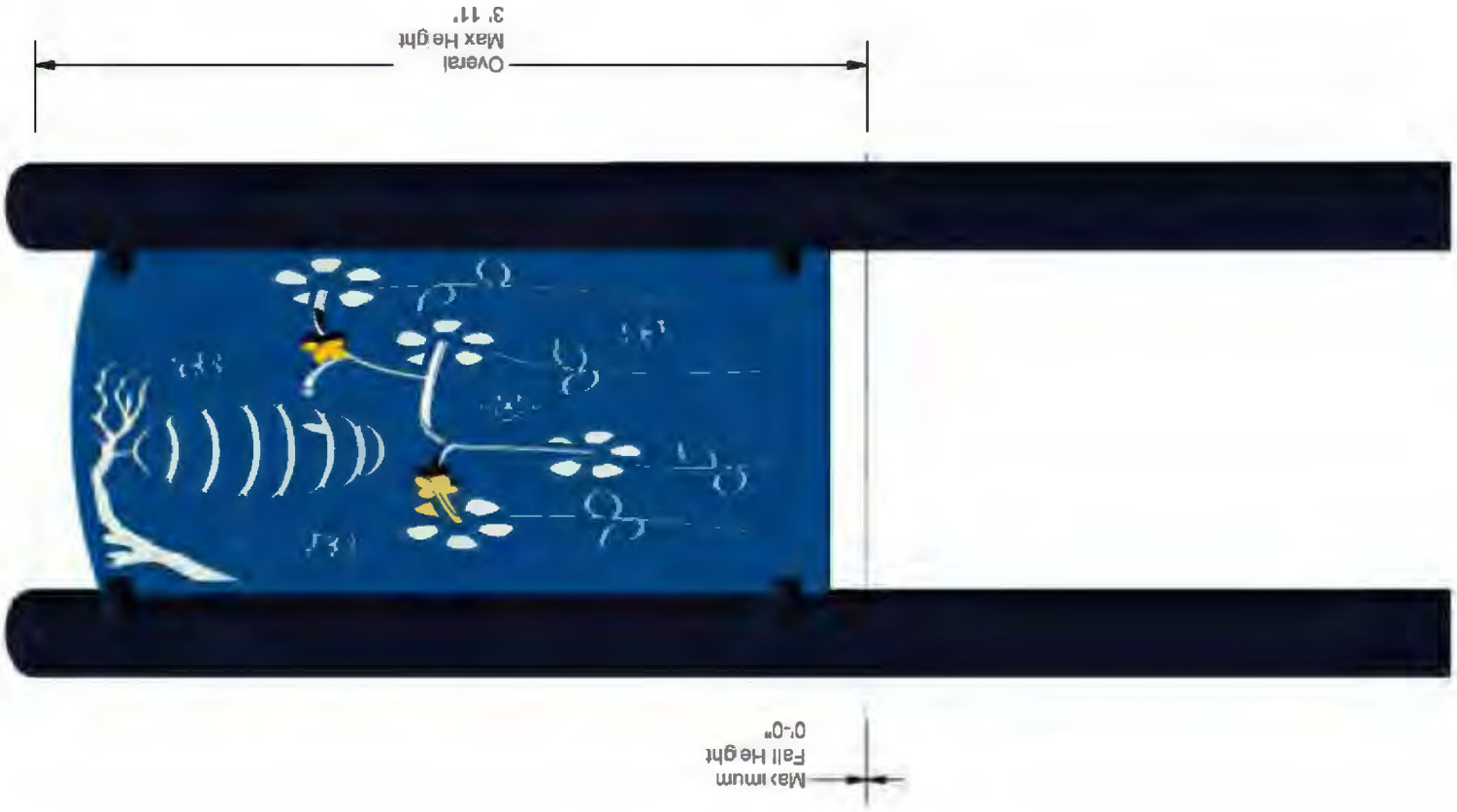
ITEM	COMP.	DESCRIPTION
1	560-0073	NIDO SPINNER



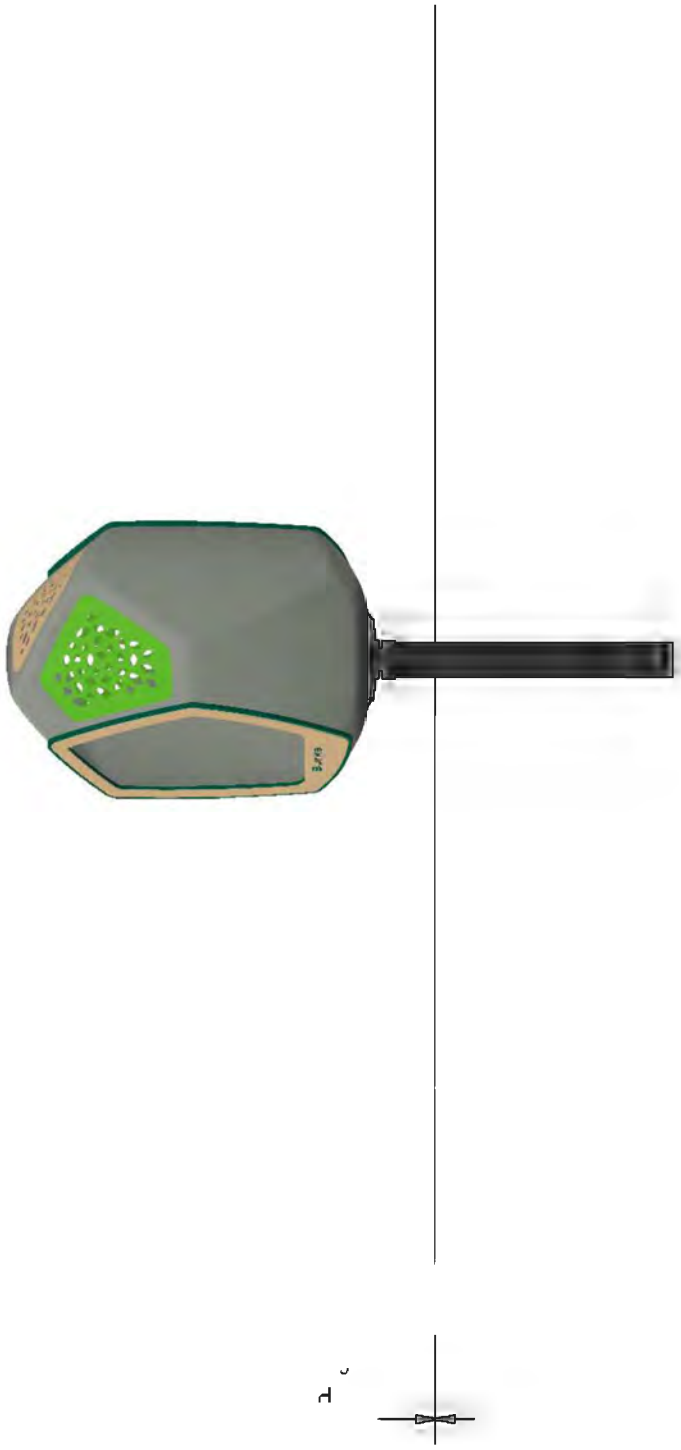
SERIES Nucleus | Burke Basics | Intensity		**ELEVATION VIEW**
GROUP: 5-12 Structure|NU-3687|FS Panel|Freestanding **DESIGNED FOR AGES:** 5 to 12, 2 to 5, 2 to 12	**Bee Creek Park Playground** College Station, TX 77840-4688 Burke PLAY THAT MOVES YOU	04/07/2025 **fun abounds** **125-197426-2** Designer: Levi Schepp

SERIES Nucleus | Burke Basics		**ELEVATION VIEW**
GROUP: 5-12 Structure	**Bee Creek Park Playground** College Station, TX 77840-4688	04/07/2025
DESIGNED FOR AGES: 5 to 12	Burke PLAY THAT MOVES YOU	**fun abounds** **125-197426-2** Designer: Levi Schepp

SERIES Nucleus | Intensity | Burke Basics		ELEVATION VIEW
GROUP: NU-3687	**Bee Creek Park Playground** College Station, TX 77840-4688	04/07/2025
DESIGNED FOR AGES: 2 to 5	Burke PLAY THAT MOVES YOU	**fun abounds** **125-197426-2** Designer: Levi Schepp

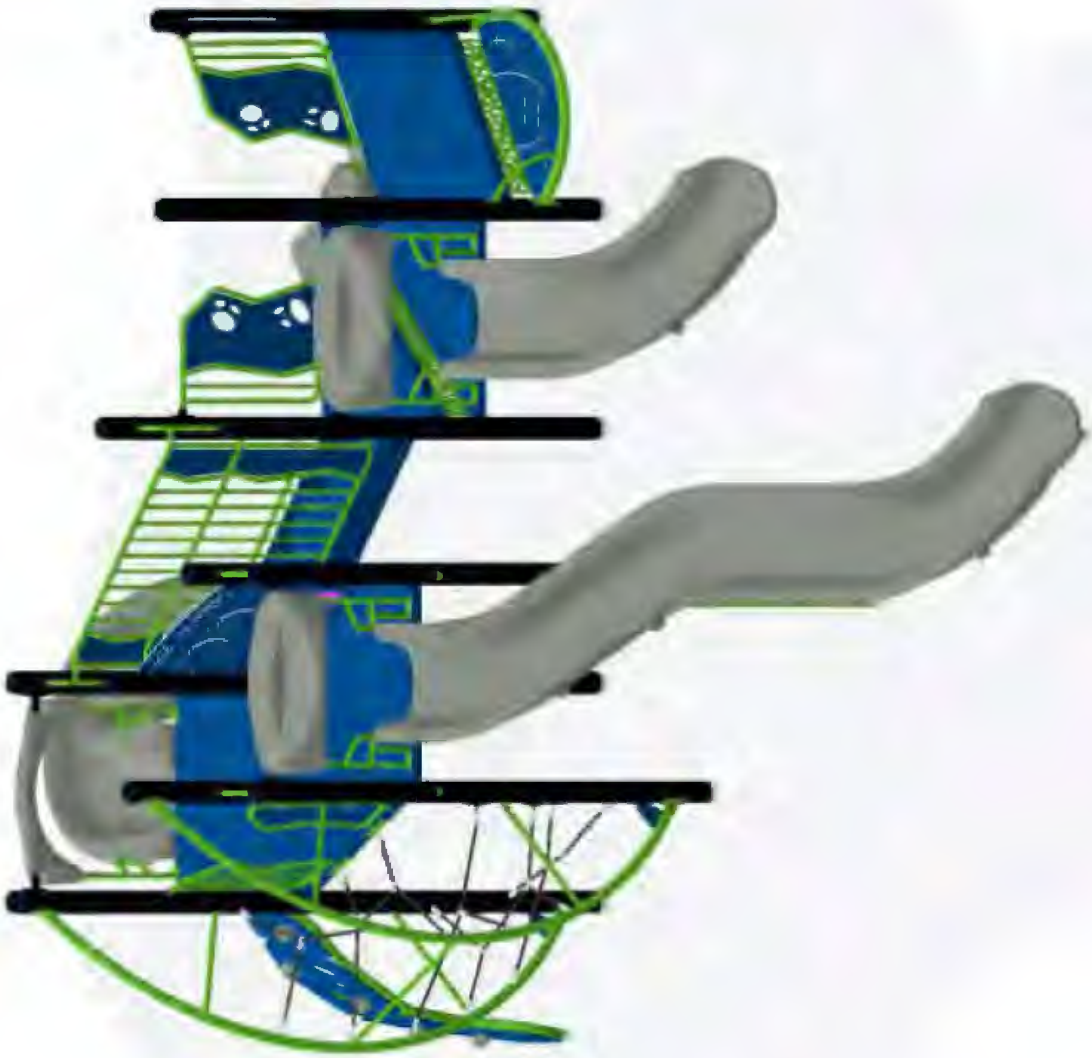


SERIES Nucleus		ELEVATION VIEW
GROUP: FS Panel	**Bee Creek Park Playground** College Station, TX 77840-4688	04/07/2025
DESIGNED FOR AGES: 5 to 12	Burke PLAY THAT MOVES YOU	**fun abounds** **125-197426-2** Designer: Levi Schepp



SERIES Burke Basics		**ELEVATION VIEW**
GROUP: Freestanding	**Bee Creek Park Playground**	04/07/2025
	College Station, TX 77840-4688	**fun abounds**
DESIGNED FOR AGES: 2 to 12	Burke PLAY THAT MOVES YOU.	**125-197426-2**
		Designer: Levi Schepp

SERIES Nucleus | Burke Basics | Intensity		ISOMETRIC VIEW
GROUP: 5-12 Structure|NU-3687|FS Panel|Freestanding	**Bee Creek Park Playground** College Station, TX 77840-4688	04/07/2025
DESIGNED FOR AGES: 5 to 12, 2 to 5, 2 to 12	Burke PLAY THAT MOVES YOU	**fun abounds** **125-197426-2** Designer: Levi Schepp



SERIES	Nucleus | Burke Basics	ISOMETRIC VIEW
GROUP: 5-12 Structure	**Bee Creek Park Playground** College Station, TX 77840-4688	04/07/2025
DESIGNED FOR AGES: 5 to 12	Burke PLAY THAT MOVES YOU	**fun abounds** **125-197426-2** Designer: Levi Schepp

SERIES	Nucleus | Intensity | Burke Basics	ISOMETRIC VIEW
GROUP: NU-3687	**Bee Creek Park Playground** College Station, TX 77840-4688	04/07/2025
DESIGNED FOR AGES: 2 to 5	Burke PLAY THAT MOVES YOU	**fun abounds** **125-197426-2** Designer: Levi Schepp

SERIES Nucleus		ISOMETRIC VIEW
GROUP: FS Panel	**Bee Creek Park Playground** College Station, TX 77840-4688	04/07/2025
DESIGNED FOR AGES: 5 to 12	Burke PLAY THAT MOVES YOU	**fun abounds** **125-197426-2** Designer: Levi Schepp

SERIES	Burke Basics	ISOMETRIC VIEW
GROUP: Freestanding	**Bee Creek Park Playground** College Station, TX 77840-4688	04/07/2025
DESIGNED FOR AGES: 2 to 12	Burke PLAY THAT MOVES YOU.	**fun abounds** **125-197426-2** Designer: Levi Schepp

Proposal 125-197426-2 | 4/7/2025 | 2025 Pricing

The play components identified in this proposal are IPEMA certified. The use and layout of these components conform to the requirements of ASTMF1487. To verify product certification, visit www.ipema.org.

The space requirements shown in this proposal are to ASTM standards. Requirements for other standards may be different.

5-12 Structure

Nucleus

Component No.	Description	Qty	User Cap.	Ext. User Cap.	Weight	Ext. Weight
072-0500-100C	5" OD X 100" CAPPED POST	2	0	0	53	106
072-0500-108C	5" OD X 108" CAPPED POST	1	0	0	57	57
072-0500-116C	5" OD X 116" CAPPED POST	1	0	0	61	61
072-0500-132C	5" OD X 132" CAPPED POST	2	0	0	69	138
072-0500-156C	5" OD X 156" CAPPED POST	2	0	0	82	164
072-0500-164C	5" OD X 164" CAPPED POST	1	0	0	86	86
072-0500-172C	5" OD X 172" CAPPED POST	1	0	0	90	90
072-0500-188C	5" OD X 188" CAPPED POST	2	0	0	99	198
270-0009	8" CLOSURE PLATE, ELLIPSE	4	0	0	8	32
270-0120	EVOLUTION UNITARY ENCLOSURE	2	0	0	34	68
270-0122	EVOLUTION OFFSET ENCLOSURE	2	0	0	34	68
270-0129	TRIANGLE PLATFORM	4	2	8	48	192
270-0130	SQUARE PLATFORM	1	6	6	106	106
270-0291	HALF PLATFORM W/SUPPORT	1	3	3	69	69
270-0301	SPLIT SQUARE PLATFORMCLOSURE PLATE	1	4	4	108	108
370-0041	EVOLUTION 40" TRANSITION STAIR W/ BARRIERS	1	8	8	301	301
370-0235	FORMIS LADDER 80	1	6	6	115	115
370-1702	NUCLEUS CORE ARCH CLIMBER	1	7	7	265	265
470-0075	CRESCENT PLATFORM	1	1	1	52	52
470-0805	SLIDE HOOD, HIGH SIDE WALL	2	0	0	32	64
470-0816	VIPER L 32 W/O HOOD	1	2	2	89	89
470-0856	CSA VIPER S 96 W/O HOOD	1	4	4	203	203
470-0872	EXTREME TWIST SPIRAL SLIDE	1	2	2	217	217
570-0072	EVOLUTION HALF BARRIER	2	0	0	26.6	53.2
570-2662	CRAZY MAZE 2-SIDED PLAY PANEL	1	2	2	44	44
570-2707	RAIN CRESCENT PANEL	1	1	1	16	16
570-2713	HIDE THE NUMBERS PANEL	1	2	2	69	69
670-0422	HALF DECK UPPER POST 5" OD	2	0	0	26	52

5-12 Structure

Burke Basics

Component No.	Description	Qty	User Cap.	Ext. User Cap.	Weight	Ext. Weight
560-2709	EKO BUNDLE	1	6	6	148	148

Total User Capacity: 62
Total Weight: 3243 lbs.
Total Price: $51,808

Freestanding

Burke Basics

Component No.	Description	Qty	User Cap.	Ext. User Cap.	Weight	Ext. Weight
560-0073	NIDO SPINNER	1	2	2	185	185

Total User Capacity: 2
Total Weight: 187 lbs.
Total Price: $4,250

FS Panel

Nucleus

Component No.	Description	Qty	User Cap.	Ext. User Cap.	Weight	Ext. Weight
072-0500-80C	5" OD X 80" CAPPED POST	2	0	0	42	84
570-2663	BEE PANEL, BELOW PLATFORM	1	4	4	46.5	46.5

Total User Capacity: 4
Total Weight: 131 lbs.
Total Price: $2,230

NU-3687

Nucleus

Component No.	Description	Qty	User Cap.	Ext. User Cap.	Weight	Ext. Weight
072-0500-100C	5" OD X 100" CAPPED POST	3	0	0	53	159
072-0500-108C	5" OD X 108" CAPPED POST	1	0	0	57	57
072-0500-116C	5" OD X 116" CAPPED POST	1	0	0	61	61
072-0500-124C	5" OD X 124" CAPPED POST	3	0	0	65	195
072-0500-84C	5" OD X 84" CAPPED POST	1	0	0	44	44
270-0009	8" CLOSURE PLATE, ELLIPSE	3	0	0	8	24
270-0120	EVOLUTION UNITARY ENCLOSURE	2	0	0	34	68
270-0122	EVOLUTION OFFSET ENCLOSURE	1	0	0	34	34
270-0129	TRIANGLE PLATFORM	2	2	4	48	96
270-0301	SPLIT SQUARE PLATFORMCLOSURE PLATE	1	4	4	108	108
370-0181	PATHWAY LINK, POST TO POST	1	10	10	161	161
370-0203	LINX CLIMBER	1	3	3	112	112

370-0862	TREE BRANCH CLIMBER 48"	1	2	2	17	17
370-1742	PATHWAY CLIMBER, 24"-32"	1	1	1	84	84
470-0075	CRESCENT PLATFORM	1	1	1	52	52
470-0755	LUGE SLIDE, 48"-56"	1	4	4	198	198
570-0848	SIGNING 2-SIDED PLAY PANEL	1	2	2	44	44
570-2746	SPIN SINGLE POST ACTIVITY	1	1	1	4.2	4.2

NU-3687

Intensity

Component No.	Description	Qty	User Cap.	Ext. User Cap.	Weight	Ext. Weight
370-0030	ATHLETIC ARCH 2-5	1	3	3	46	46
370-0842	APEX HOLE CLIMBER 2-5	1	2	2	55	55
570-2703	COLLISION RING PANEL	1	1	1	48	48

NU-3687

Burke Basics

Component No.	Description	Qty	User Cap.	Ext. User Cap.	Weight	Ext. Weight
580-1355	LIL NOVO BEAN BENCH	3	1	3	28	84
580-1364	LIL NOVO BEAN STEP	1	1	1	28	28
580-1370	NUCLEUS LIL NOVO BEAN TABLE	1	5	5	60	60

Total User Capacity: 47
Total Weight: 1839 lbs.
Total Price: $27,957

Special Notes:
Prices do not include freight, unloading, material storage, site excavation/preparation, removal of existing equipment, removal of excess soil from footing holes, site security, safety surfacing, installation, or sales tax (if applicable). Prices are based on standard colors per CURRENT YEAR BCI Burke Catalog. Custom colors, where available, would be an extra charge. **Pricing is valid for 30 days from the date of this proposal.**

Proposal 125-197426-2 | 4/7/2025 | 2025 Pricing

COLOR SELECTION LIST | R1-Forest

GROUP 1 (5-12 Structure)

Deck:	Blue
Post:	Navy
Acc:	Lime
Flat:	Blue
Plastic:	Granite
Panel:	Blue-White-Blue

GROUP 2 (Freestanding)

Acc:	Lime | Tan
Panel:	Blue-White-Blue | Tan-Green-Tan
Plastic:	Granite

GROUP 3 (FS Panel)

Post:	Navy
Panel:	Yellow-Black-Yellow | Blue-White-Blue

GROUP 4 (NU-3687)

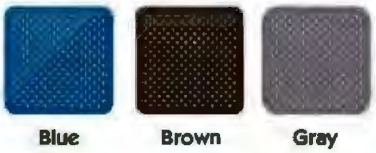
Deck:	Brown
Flat:	Blue
Acc:	Sky
Post:	Green
Panel:	Blue-White-Blue
Plastic:	Green

COLORS THAT MOVE YOU

1900 Anderson St | College Station, TX 77840-4688

POWDER COAT PAINT

PLATFORMS



SOLIS HUE TOPPERS

TRADITIONAL SERIES SITE AMENITIES

ROCKIT CLIMBERS

HDPE PLASTIC PANELS

SHADE CANOPIES

ROTOMOLD PLASTIC

VISIT BCIBURKE.COM/COLOR TO CUSTOMIZE YOUR PLAYGROUND COLORS!

EXHIBIT E
CONSTRUCTION SCHEDULE

Project completion date is June 30, 2026 from notice to proceed.

February 26, 2026
Item No. 8.8.
Annual Price Agreement for Various Electric Inventory Items

Sponsor: Glenn Gavit

Reviewed By CBC: N/A

Agenda Caption: Presentation, discussion, and possible action on the approval of three annual not-to-exceed (NTE) price agreements for various electric warehouse inventory items to: (1) KBS Electrical Distributors, Inc. (KBS) NTE $1,421,109.40; (2) Techline, Inc. (Techline) NTE $729,655.50; and (3) Priester-Mell & Nicholson, Inc. (PMN) NTE $52,750.00. The total cumulative NTE amount for these three price agreements is $2,203,514.90.

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

Recommendation(s): Staff recommends award of this purchase with KBS in the amount not to exceed $1,421,109.40, Techline in the amount not to exceed $729,655.50, and PMN in the amount not to exceed $52,750.00, for total annual price agreements of $2,203,514.90. This purchase aligns with historical years' activity for Electrical warehouse needs.

Summary: Staff issued Bid #26-029 on December 12, 2025, for Annual Price Agreement for Purchase of Various Electric Inventory Items and the Bid was opened on January 09, 2026. Three (3) sealed proposals were received and Electric staff reviewed for compliance of required specifications, pricing, and delivery times.

Purchase Orders will be issued to vendors as inventory restock is required.

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

Attachments:
1. 26-029 Award Bid Tab (CC 02.26.26)

CITY OF COLLEGE STATION
ITB #26-029 "ANNUAL PRICE AGREEMENT FOR VARIOUS MATERIALS
01/9/26 @ 2:00 P.M.

Item #	Description			Bidder Provided Data		QTY	EXT	Bidder Provided Data		QTY	EXT	Bidder Provided Data		QTY	Extended
		CSU Provided Data		KBS ELECTRICAL DISTRIBUTION				TECHLINE				PRIESTER-MELL & NICHOLSON, INC			
A-1	350MCM INSU SECONDARY BAR	Preferred Manufacturer	HOMAC	Manufacturer	POLARIS			Manufacturer	HOMAC			Manufacturer	Utilco		
		Preferred Catalog Number	CSW6350SLC	Catalog Number	PSMTLSC350-6SLP			Catalog Number	CSW6350SLC			Catalog Number	PTF6-350CJNUSLP		
		Alternates Accepted	YES	Delivery	STOCK			Delivery	STK-5WKS			Delivery	STOCK - 6 WEEKS		
		Inventory Item #	285-008-00007	Unit Price	$ 25.16	500	$ 12,580.00	Unit Price	$ 25.15	500	$ 12,575.00	Unit Price	$ 22.50	500	$11,250.00
A-2	500MCM INSU SECONDARY BAR	Preferred Manufacturer	HOMAC	Manufacturer	POLARIS			Manufacturer	HOMAC			Manufacturer			
		Preferred Catalog Number	EZC6500-SLC	Catalog Number	PSMTLESC500-6SLP			Catalog Number	EZC6500-SLC			Catalog Number			
		Alternates Accepted	YES	Delivery	STOCK			Delivery	3-5WKS			Delivery			
		Inventory Item #	285-008-00008	Unit Price	$ 39.20	300	$ 11,760.00	Unit Price	$ 46.35	300	$ 13,905.00	Unit Price	$ -	300	
A-3	500 INSULATED PEDESTAL SECONDARY BAR	Preferred Manufacturer	HOMAC	Manufacturer	HOMAC			Manufacturer	HOMAC			Manufacturer			
		Preferred Catalog Number	RAB65C	Catalog Number	RAB65C			Catalog Number	RAB65C			Catalog Number			
		Alternates Accepted	NO	Delivery	2WKS			Delivery	6-8WKS			Delivery			
		Inventory Item #	285-008-00012	Unit Price	$ 69.10	300	$ 20,730.00	Unit Price	$ 75.15	300	$ 22,545.00	Unit Price	$ -	300	$ -
A-4	1000 MCM T-OP II T-BODY	Preferred Manufacturer	COOPER	Manufacturer	COOPER			Manufacturer	No Bid			Manufacturer			
		Preferred Catalog Number	TP615HH27TC	Catalog Number	TP615HH27TC			Catalog Number	No Bid			Catalog Number			
		Alternates Accepted	NO	Delivery	STOCK			Delivery	No Bid			Delivery			
		Inventory Item #	285-022-00036	Unit Price	$ 450.00	400	$ 180,000.00	Unit Price	No Bid	400	$ -	Unit Price	$ -	400	$ -
A-5	1/0 URD PRIMARY SPLICE	Preferred Manufacturer	3M	Manufacturer	3M			Manufacturer	3M			Manufacturer			
		Preferred Catalog Number	5411A-CI 1/0	Catalog Number	5411A-CI 1/0			Catalog Number	5411A-CI 1/0			Catalog Number			
		Alternates Accepted	NO	Delivery	STOCK			Delivery	STK-5WKS			Delivery			
		Inventory Item #	285-076-00002	Unit Price	$ 97.59	150	$ 14,638.50	Unit Price	$ 52.50	150	$ 7,875.00	Unit Price	$ -	150	$ -
A-6	SPLICE RE-JACKETING KIT, COLD SHRINK TYPE, FOR 1/0	Preferred Manufacturer	3M	Manufacturer	3M			Manufacturer	3M			Manufacturer			
		Preferred Catalog Number	SJ-2FB (ONLY)	Catalog Number	SJ-2FB			Catalog Number	SJ-2FB			Catalog Number			
		Alternates Accepted	NO	Delivery	STOCK			Delivery	1wk			Delivery			
		Inventory Item #	285-076-00005	Unit Price	$ 115.95	150	$ 17,392.50	Unit Price	$ 82.50	150	$ 12,375.00	Unit Price	$ -	150	$ -
A-7	1000 MCM AL CABLE SPLICE - 3M - QS4-15JCN-QCI-500-1000	Preferred Manufacturer	3M	Manufacturer	3M			Manufacturer	3M			Manufacturer			
		Preferred Catalog	QS4-15JCN-QCI-5	Catalog Number	QS4-15JCN-QCI-5			Catalog Number	QS4-15JCN-QCI-500-1000			Catalog Number			
		Alternates Accepted	NO	Delivery	STOCK			Delivery	4-6wks			Delivery			
		Inventory Item #	285-076-00007	Unit Price	$ 850.00	200	$ 170,000.00	Unit Price	$ 712.50	200	$142,500.00	Unit Price	$ -	200	$ -
A-8	URD LOADBREAK ELBOW W/VALVE ARRESTER	Preferred Manufacturer	COOPER	Manufacturer	COOPER			Manufacturer	Elastimold			Manufacturer			
		Preferred Catalog Number	3238018C10M	Catalog Number	32380189C10M			Catalog Number	167ESA10			Catalog Number			
		Alternates Accepted	YES	Delivery	STOCK			Delivery	Stk			Delivery			
		Inventory Item #	285-082-00005	Unit Price	$ 89.95	200	$ 17,990.00	Unit Price	$ 126.45	200	$ 25,290.00	Unit Price	$ -	200	$ -
A-9	1000 MCM Termination kit - w/Mounting Bracket and Shearbolt Lug. 3M #7655-S-4-1000-CSU	Preferred Manufacturer	3M	Manufacturer	3M			Manufacturer	3M			Manufacturer			
		Preferred Catalog Number	7655-S-4-1000-C	Catalog Number	7655-S-4-100-C			Catalog Number	7655-S-4-1000-CSU			Catalog Number			
		Alternates Accepted	NO	Delivery	STOCK			Delivery	4wks			Delivery			
		Inventory Item #	285-082-00010	Unit Price	$ 490.00	200	$ 98,000.00	Unit Price	$ 440.90	200	$ 88,180.00	Unit Price	$ -	200	$ -

		CSU Provided Data		KBS ELECTRICAL DISTRIBUTION				TECHLINE				PRIESTER-MELL & NICHOLSON, INC			
A-10	1/0 - #2 Termination Kit w/Top Seal Insulator, Transition Connector, and Mounting Bracket 3M 7652-S-4-TI-CSU	Preferred Manufacturer	3M	Manufacturer	3M			Manufacturer	3M			Manufacturer			
		Preferred Catalog Number	7652-S-4-TI-CSU	Catalog Number	7652-S-4-TI-CSU			Catalog Number	7652-S-4-TI-CSU			Catalog Number			
		Alternates Accepted	NO	Delivery	STOCK			Delivery	2-4wks			Delivery			
		Inventory Item #	285-082-00016	Unit Price	$ 164.95	200	$ 32,990.00	Unit Price	$ 185.00	200	$ 37,000.00	Unit Price	$ -	200	$ -
A-11	PARKING STAND ARRESTER 10 KV MOV GAPPED	Preferred Manufacturer	COOPER	Manufacturer	COOPER			Manufacturer	Elastimold			Manufacturer			
		Preferred Catalog Number	3237686C10M	Catalog Number	3237686C10M			Catalog Number	167PSA10			Catalog Number			
		Alternates Accepted	YES	Delivery	STOCK			Delivery	24-26wks			Delivery			
		Inventory Item #	285-082-00022	Unit Price	$ 297.00	100	$ 29,700.00	Unit Price	$ 375.00	100	$ 37,500.00	Unit Price	$ -	100	$ -
A-12	1/0 LOADBREAK ELBOW with JACKET SEAL	Preferred Manufacturer	ELASTIMOLD	Manufacturer	COOPER			Manufacturer	ELASTIMOLD			Manufacturer			
		Preferred Catalog Number	162LRJS-C5240	Catalog Number	LE215CC06T			Catalog Number	162LRJS-C5240			Catalog Number			
		Alternates Accepted	NO	Delivery	STOCK			Delivery	Stock -16wks			Delivery			
		Inventory Item #	285-082-00028	Unit Price	$ 64.95	1000	$ 64,950.00	Unit Price	$ 64.15	1000	$ 64,150.00	Unit Price	$ -	1000	$ -
A-13	INSERT BUSHING	Preferred Manufacturer	ELASTIMOLD	Manufacturer	COOPER			Manufacturer	ELASTIMOLD			Manufacturer			
		Preferred Catalog Number	1601A4	Catalog Number	LBI215			Catalog Number	1601A4			Catalog Number			
		Alternates Accepted	YES	Delivery	STOCK			Delivery	stk-10wks			Delivery			
		Inventory Item #	285-095-00006	Unit Price	$ 35.95	1000	$ 35,950.00	Unit Price	$ 38.00	1000	$ 38,000.00	Unit Price	$ -	1000	$ -
A-14	FAULT TRACKER, 1 PH, AUTO TIME RESET,W/8'CABLE LEAD	Preferred Manufacturer	SmartGrid	Manufacturer	SMARTGRID			Manufacturer	SmartGrid			Manufacturer			
		Preferred Catalog Number	FI-3CS04NC-M-F	Catalog Number	FI-3CS04NC-M-F			Catalog Number	FI-3CS04NC-M-F			Catalog Number			
		Alternates Accepted	NO	Delivery	10WKS			Delivery	8-10 wks			Delivery			
		Inventory Item #	285-111-00001	Unit Price	$ 153.00	500	$ 76,500.00	Unit Price	$ 156.00	500	$ 78,000.00	Unit Price	$ -	500	$ -
A-15	MULE TAPE 2500LB STRENGTH 3000FT REEL	Preferred Manufacturer	Fibertek	Manufacturer	DURALINE			Manufacturer	Orion Ropeworks			Manufacturer			
		Preferred Catalog Number	WP2500-3	Catalog Number	WP2500			Catalog Number	64P2500-03000-0			Catalog Number			
		Alternates Accepted	YES	Delivery	STOCK			Delivery	Stock			Delivery			
		Inventory Item #	M280-095-00001	Unit Price	$ 119.00	50	$ 5,950.00	Unit Price	$ 175.00	50	$ 8,750.00	Unit Price	$ -	50	$ -
A-16	200 AMP DUST CAP	Preferred Manufacturer	ELASTIMOLD	Manufacturer	COOPER			Manufacturer	ELASTIMOLD			Manufacturer			
		Preferred Catalog Number	160DRG	Catalog Number	LPC215			Catalog Number	160DRG			Catalog Number			
		Alternates Accepted	YES	Delivery	STOCK			Delivery	stk-30wks			Delivery			
		Inventory Item #	369-095-00007	Unit Price	$ 30.89	300	$ 9,267.00	Unit Price	$ 40.80	300	$ 12,240.00	Unit Price	$ -	300	$ -
Group B Materials - Overhead Cable and Pole Accessories															
B-1	RISER POLE ARRESTER 10 KV	Preferred Manufacturer	OHIO BRASS	Manufacturer	COOPER			Manufacturer	OHIO BRASS			Manufacturer			
		Preferred Catalog Number	PVR-221609-7324	Catalog Number	URS10050A1A1B1A			Catalog Number	221609-7324			Catalog Number			
		Alternates Accepted	YES	Delivery	STOCK			Delivery	6-8wks			Delivery			
		Inventory Item #	285-003-00005	Unit Price	$ 57.00	250	$ 14,250.00	Unit Price	$ 96.00	250	$ 24,000.00	Unit Price	$ -	250	$ -
B-2	ARRESTER & BRACKET FOR POLEMOUNT TRANSFORMERS	Preferred Manufacturer	Cooper	Manufacturer	COOPER			Manufacturer	2137097533			Manufacturer			
		Preferred Catalog	UHS10050A1C1D	Catalog Number	UHS10050A1C1D1A			Catalog Number	213709-7314			Catalog Number			
		Alternates Accepted	YES	Delivery	STOCK			Delivery	6-8 wks			Delivery			
		Inventory Item #	285-003-00001	Unit Price	$ 51.50	200	$ 10,300.00	Unit Price	$ 78.75	200	$ 15,750.00	Unit Price	$ -	200	$ -
B-3	OFF POLE ARRESTER HUBBELL 602009BOX1003 (ONLY)	Preferred Manufacturer	HUBBELL	Manufacturer	N/B			Manufacturer	HUBBELL			Manufacturer			
		Preferred Catalog Number	602009BOX1003	Catalog Number				Catalog Number	602009BOX1003			Catalog Number			
		Alternates Accepted	YES	Delivery				Delivery	24wks			Delivery			
		Inventory Item #	285-003-00006	Unit Price	$ -	100	$ -	Unit Price	$ 237.50	100	$ 23,750.00	Unit Price	$ -	100	$ -

		CSU Provided Data		KBS ELECTRICAL DISTRIBUTION				TECHLINE				PRIESTER-MELL & NICHOLSON, INC				
B-4	POLYMER BELL INSULATOR 35 KV CLEVIS I	Preferred Manufacturer	SALISBURY	Manufacturer	SALISBURY			Manufacturer	HUBBELL			Manufacturer	ARP			Korean manufacturer
		Preferred Catalog Number	9503U-SI	Catalog Number	9503-USI			Catalog Number	4010250215			Catalog Number	ARP-35SKCE-S			
		Alternates Accepted	YES	Delivery	STOCK			Delivery	STK			Delivery	4-6 weeks initially			
		Inventory Item #	285-035-00008	Unit Price	$ 15.95	400	$ 6,380.00	Unit Price	$ 17.95	400	$ 7,180.00	Unit Price	$ 15.00	400	$ 6,000.00	
B-5	35 KV POLYMER INSULATOR WITH "VISE TOP"	Preferred Manufacturer	PREFORMED	Manufacturer	PREFORMED			Manufacturer	PREFORMED			Manufacturer	Preformed			
		Preferred Catalog	IP-35-VTU2	Catalog Number	IP-35-VTU2			Catalog Number	IP-35-VTU2 ONLY			Catalog Number	IP-=35-VTU2			
		Alternates Accepted	NO	Delivery	STOCK			Delivery	4-6 wks			Delivery	4-6 weeks initially			
		Inventory Item #	285-035-00013	Unit Price	$ 27.39	750	$ 20,542.50	Unit Price	$ 27.00	750	$ 20,250.00	Unit Price	$ 28.00	750	$21,000.00	
B-6	100A POLYMER CUT-OUT OPEN TYPE	Preferred Manufacturer	MACLEAN	Manufacturer	ALUMAFORM			Manufacturer	HUBBELL			Manufacturer				
		Preferred Catalog Number	SC15HG116-BD	Catalog Number	CSG15-100A-110-CX-16KA			Catalog Number	C710114PX			Catalog Number				
		Alternates Accepted	YES	Delivery	STOCK			Delivery	10wks			Delivery				
		Inventory Item #	285-028-00001	Unit Price	$ 95.00	450	$ 42,750.00	Unit Price	$ 138.13	450	$ 62,158.50	Unit Price	$ -	450	$ -	
B-7	LARGE DEAD-END SHOE 477	Preferred Manufacturer	MACLEAN	Manufacturer	MACLEAN			Manufacturer	HUBBELL			Manufacturer				
		Preferred Catalog Number	#HDSO-88	Catalog Number	HDSO-88			Catalog Number	ADEZ88N			Catalog Number				
		Alternates Accepted	YES	Delivery	STOCK			Delivery	2-4WKS			Delivery				
		Inventory Item #	285-047-00077	Unit Price	$ 19.50	300	$ 5,850.00	Unit Price	$ 20.40	300	$ 6,120.00	Unit Price	$ -	300	$ -	
B-8	CONDUIT STANDOFF BRACKET	Preferred Manufacturer	Barfield	Manufacturer	ALUMAFORM			Manufacturer	Barfield			Manufacturer				
		Preferred Catalog Number	BASOCL6-12H	Catalog Number	6CSO12			Catalog Number	BASOCL6-12H			Catalog Number				
		Alternates Accepted	NO	Delivery	STOCK			Delivery	7 wks			Delivery				
		Inventory Item #	285-047-00108	Unit Price	$ 54.49	500	$ 27,245.00	Unit Price	$ 43.00	500	$ 21,500.00	Unit Price	$ -	500	$ -	
B-9	BOLT CLAMP FOR METAL BANDING STRAP	Preferred Manufacturer	BAND-IT	Manufacturer	USABAND			Manufacturer	No Bid			Manufacturer				
		Preferred Catalog Number	D50489	Catalog Number	812504			Catalog Number	No Bid			Catalog Number				
		Alternates Accepted	NO	Delivery	STOCK			Delivery	No Bid			Delivery				
		Inventory Item #	285-047-00120	Unit Price	$ 14.95	500	$ 7,475.00	Unit Price	No Bid	500	$ -	Unit Price	$ -	500	$ -	
B-10	UTILI-FOAM 5 CUBIC FT KIT	Preferred Manufacturer	POLY-SET	Manufacturer	POLY-SET			Manufacturer	BMK			Manufacturer	POLY-SET			
		Preferred Catalog Number	PS225W	Catalog Number	PS225W			Catalog Number	BMK03PS			Catalog Number	PS225W			
		Alternates Accepted	YES	Delivery	STOCK			Delivery	STK			Delivery	STOCK			
		Inventory Item #	285-065-00019	Unit Price	$ 84.00	500	$ 42,000.00	Unit Price	$ 89.00	500	$ 44,500.00	Unit Price	$ 79.00	500	$39,500.00	
B-11	One-Piece Wildlife Protector RELIAGUARD BC16005 (ONLY)	Preferred Manufacturer	RELIAGUARD	Manufacturer	N/B			Manufacturer	RELIAGUARD			Manufacturer				
		Preferred Catalog Number	BC16005	Catalog Number				Catalog Number	BC16005			Catalog Number				
		Alternates Accepted	NO	Delivery				Delivery	stk			Delivery				
		Inventory Item #	M285-102-00003	Unit Price	$ -	1000	$ -	Unit Price	$ 19.40	1000	$ 19,400.00	Unit Price	$ -	1000	$ -	
B-12	1/0 H-TAP COPPER CONNECTOR	Preferred Manufacturer	BLACKBURN	Manufacturer	BLACKBURN			Manufacturer	BLACKBURN			Manufacturer				
		Preferred Catalog Number	CF1010-1(ONLY)	Catalog Number	CF1010-1			Catalog Number	CF1010-1			Catalog Number				
		Alternates Accepted	NO	Delivery	STOCK			Delivery	stk			Delivery				
		Inventory Item #	M285-022-00003	Unit Price	$ 3.59	500	$ 1,795.00	Unit Price	$ 3.30	500	$ 1,650.00	Unit Price	$ -	500	$ -	
B-13	477 TO 477 SHOOT-ON CONNECTOR	Preferred Manufacturer	AMP	Manufacturer	AMP			Manufacturer	AMP			Manufacturer				
		Preferred Catalog Number	#1-602031-3 (ON	Catalog Number	1-602031-3			Catalog Number	#1-602031-3			Catalog Number				
		Alternates Accepted	NO	Delivery	STOCK			Delivery	10 wks			Delivery				
		Inventory Item #	M285-022-00012	Unit Price	$ 39.85	50	$ 1,992.50	Unit Price	$ 47.89	50	$ 2,394.50	Unit Price	$ -	50	$ -	

		CSU Provided Data		KBS ELECTRICAL DISTRIBUTION				TECHLINE				PRIESTER-MELL & NICHOLSON, INC			
B-14	XFORMER GROUNDING LUG #8 SOL. TO 2/0 STR., BRONZE	Preferred Manufacturer	HUBBELL	Manufacturer	LINE HARDWARE			Manufacturer	HUBBELL			Manufacturer	Penn-Union		
		Preferred Catalog Number	GTCS34A	Catalog Number	TGL208			Catalog Number	GTCS34A			Catalog Number	GSE020		
		Alternates Accepted	YES	Delivery	STOCK			Delivery	STK			Delivery	stock - 8 weeks		
		Inventory Item #	M285-022-00026	Unit Price	$ 4.69	500	$ 2,345.00	Unit Price	$ 8.95	500	$ 4,475.00	Unit Price	$ 4.00	500	$ 2,000.00
B-15	477 AAC AMPACT STIRRUP	Preferred Manufacturer	Ampact	Manufacturer	AMP			Manufacturer	Ampact			Manufacturer			
		Preferred Catalog Number	#602047 (ONLY)	Catalog Number	602047			Catalog Number	#602047			Catalog Number			
		Alternates Accepted	NO	Delivery	STOCK			Delivery	10 wks			Delivery			
		Inventory Item #	M285-047-00082	Unit Price	$ 79.80	80	$ 6,384.00	Unit Price	$ 84.52	80	$ 6,761.60	Unit Price	$ -	80	$ -
B-16	CUT-OUT PROTECTOR WITH FASTENERS	Preferred Manufacturer	HUBBELL	Manufacturer	N/B			Manufacturer	HUBBELL			Manufacturer			
		Preferred Catalog Number	CC101	Catalog Number				Catalog Number	CC101			Catalog Number			
		Alternates Accepted	YES	Delivery				Delivery	STK			Delivery			
		Inventory Item #	M285-028-00003	Unit Price	$ -	500	$ -	Unit Price	$ 36.50	500	$ 18,250.00	Unit Price	$ -	500	$ -
B-17	5/8" GROUND ROD CLAMP	Preferred Manufacturer	FARGO	Manufacturer	N/B			Manufacturer	FARGO			Manufacturer			
		Preferred Catalog Number	GC268 (ONLY)	Catalog Number				Catalog Number	GC268			Catalog Number			
		Alternates Accepted	NO	Delivery				Delivery	STK-2WKS			Delivery			
		Inventory Item #	M285-047-00025	Unit Price	$ -	750	$ -	Unit Price	$ 16.70	750	$ 12,525.00	Unit Price	$ -	750	$ -
B-18	PG CLAMP	Preferred Manufacturer	Hubbell	Manufacturer	N/B			Manufacturer	Hubbell			Manufacturer			
		Preferred Catalog Number	LC811AXB	Catalog Number				Catalog Number	LC811AXB			Catalog Number			
		Alternates Accepted	NO	Delivery				Delivery	STK-2WKS			Delivery			
		Inventory Item #	M285-047-00030	Unit Price	$ -	400	$ -	Unit Price	$ 8.07	400	$ 3,228.00	Unit Price	$ -	400	$ -
B-19	SMALL HOTLINE CLAMP	Preferred Manufacturer	MACLEAN	Manufacturer	MACLEAN			Manufacturer	Hubbell			Manufacturer			
		Preferred Catalog Number	C1520	Catalog Number	C1520			Catalog Number	BC20			Catalog Number			
		Alternates Accepted	YES	Delivery	STOCK			Delivery	STK			Delivery			
		Inventory Item #	M285-047-00027	Unit Price	$ 11.89	250	$ 2,972.50	Unit Price	$ 18.75	250	$ 4,687.50	Unit Price	$ -	250	$ -
B-20	FARGO CONNECTORS, #8 - #2	Preferred Manufacturer	HUBBELL	Manufacturer	N/B			Manufacturer	HUBBELL			Manufacturer			
		Preferred Catalog Number	GA9003GLSS	Catalog Number				Catalog Number	GA9003GAA/GA9003GLSS			Catalog Number			
		Alternates Accepted	NO	Delivery				Delivery	STK			Delivery			
		Inventory Item #	M285-022-00061	Unit Price	$ -	250	$ -	Unit Price	$ 9.50	250	$ 2,375.00	Unit Price	$ -	250	$ -
B-21	SNAP-ON COVER FOR FARGO CONNECTORS, #6 SOL - 336	Preferred Manufacturer	HUBBELL	Manufacturer	N/B			Manufacturer	HUBBELL			Manufacturer			
		Preferred Catalog Number	GA9000B3	Catalog Number				Catalog Number	GA9000B3			Catalog Number			
		Alternates Accepted	NO	Delivery				Delivery	STK			Delivery			
		Inventory Item #	M285-022-00062	Unit Price	$ -	250	$ -	Unit Price	$ 4.80	250	$ 1,200.00	Unit Price	$ -	250	$ -
B-22	FARGO CONNECTORS, #6 - 2/0	Preferred Manufacturer	HUBBELL	Manufacturer	N/B			Manufacturer	HUBBELL			Manufacturer			
		Preferred Catalog Number	GA9020GLSS	Catalog Number				Catalog Number	GA9020GLSS			Catalog Number			
		Alternates Accepted	NO	Delivery				Delivery	STK			Delivery			
		Inventory Item #	M285-022-00063	Unit Price	$ -	250	$ -	Unit Price	$ 12.44	250	$ 3,110.00	Unit Price	$ -	250	$ -
B-23	FARGO CONNECTORS, SMALL PG	Preferred Manufacturer	HUBBELL	Manufacturer	N/B			Manufacturer	HUBBELL			Manufacturer			
		Preferred Catalog Number	GC8002PGL	Catalog Number				Catalog Number	GC8002PGL			Catalog Number			
		Alternates Accepted	NO	Delivery				Delivery	2-4WKS			Delivery			
		Inventory Item #	M285-022-00064	Unit Price	$ -	250	$ -	Unit Price	$ 16.50	250	$ 4,125.00	Unit Price	$ -	250	$ -

		CSU Provided Data		KBS ELECTRICAL DISTRIBUTION				TECHLINE				PRIESTER-MELL & NICHOLSON, INC				
B-24	SNAP-ON COVERS FOR FARGO CONNECTORS, 4/0 - 600	Preferred Manufacturer	HUBBELL	Manufacturer	N/B			Manufacturer	HUBBELL			Manufacturer				
		Preferred Catalog Number	GA9000B4	Catalog Number				Catalog Number	GA9000B4			Catalog Number				
		Alternates Accepted	NO	Delivery				Delivery	2WKS			Delivery				
		Inventory Item #	M285-022-00065	Unit Price	$ -	250	$ -	Unit Price	$ 11.50	250	$ 2,875.00	Unit Price	$ -	250	$ -	
B-25	FARGO CONNECTORS, #2 - 800	Preferred Manufacturer	HUBBELL	Manufacturer	N/B			Manufacturer	HUBBELL			Manufacturer				
		Preferred Catalog Number	GA9843GLSS	Catalog Number				Catalog Number	GA9843GLSS			Catalog Number				
		Alternates Accepted	NO	Delivery				Delivery	STK			Delivery				
		Inventory Item #	M285-022-00066	Unit Price	$ -	250	$ -	Unit Price	$ 34.95	250	$ 8,737.50	Unit Price	$ -	250	$ -	
B-26	STREETLIGHT FOUNDATION	Preferred Manufacturer	CHANCE	Manufacturer	SALCO			Manufacturer	CHANCE			Manufacturer				Unacceptable Alternate - 4" diameter as opposed to 10"
		Preferred Catalog Number	T1122833	Catalog Number	LF40056CEG06096V-DP			Catalog Number	T1122833			Catalog Number				
		Alternates Accepted	NO	Delivery	4-6WKS			Delivery	6-8WKS			Delivery				
		Inventory Item #	210-085-00001	Unit Price	$ 312.40	80	$ 24,992.00	Unit Price	$ 1,050.00	80	$ 84,000.00	Unit Price	$ -	80	$ -	
Group C Materials - Pull Boxes and Utility Enclosures																
C-1	PULL BOX, 36"X60"X48", POLYMER CONCRETE/FIBER	Preferred Manufacturer	Hubbell	Manufacturer	OLD CASTLE			Manufacturer	Hubbell			Manufacturer				
		Preferred Catalog	A143660529XH1	Catalog Number	36 X 60 X 48 PULL BOX			Catalog Number	A143660529XH1			Catalog Number				
		Alternates Accepted	YES	Delivery	28WEEKS			Delivery	6 weeks			Delivery				
		Inventory Item #	285-045-00007	Unit Price	$ 2,881.50	50	$ 144,075.00	Unit Price	$ 3,185.00	50	$159,250.00	Unit Price	$ -	50	$ -	
C-2	PULL BOX, 48"X96"X48", CONSTRUCTED OF POLYMER	Preferred Manufacturer	HUBBELL	Manufacturer	OLD CASTLE			Manufacturer	HUBBELL			Manufacturer				
		Preferred Catalog	A1B4896518XH1	Catalog Number	PC4896-72			Catalog Number	A1B4896518XH1			Catalog Number				
		Alternates Accepted	YES	Delivery	28WEEKS			Delivery	6 weeks			Delivery				
		Inventory Item #	285-045-00008	Unit Price	$ 5,451.55	30	$ 163,546.50	Unit Price	$ 7,271.00	30	$218,130.00	Unit Price	$ -	30	$ -	
C-3	PULL BOX EXTENSION 48"X96"X24"	Preferred Manufacturer	HUBBELL	Manufacturer	OLD CASTLE			Manufacturer	HUBBELL			Manufacturer				
		Preferred Catalog	B1B489624T	Catalog Number	FRP4896-24			Catalog Number	B1B489624T			Catalog Number				
		Alternates Accepted	YES	Delivery	28WEEKS			Delivery	6 weeks			Delivery				
		Inventory Item #	285-045-00012	Unit Price	$ 3,109.00	30	$ 93,270.00	Unit Price	$ 3,112.00	30	$ 93,360.00	Unit Price	$ -	30	$ -	
C-4	SECONDARY PEDESTAL	Preferred Manufacturer	NORDIC	Manufacturer	OLD CASTLE			Manufacturer	NORDIC			Manufacturer				
		Preferred Catalog	PSP-151530-MG	Catalog Number	1220A3HE1C0			Catalog Number	PSP-151530-MG			Catalog Number				
		Alternates Accepted	YES	Delivery	5-6WEEKS			Delivery	STOCK			Delivery				
		Inventory Item #	285-045-00009	Unit Price	$ 203.00	250	$ 50,750.00	Unit Price	$ 195.00	250	$ 48,750.00	Unit Price	$ -	250	$ -	
C-5	TRANSFORMER PAD, MOLDED FIBERGLASS	Preferred Manufacturer	Highline	Manufacturer	OLD CASTLE			Manufacturer	NORDIC			Manufacturer				
		Preferred Catalog	HL374315-2224	Catalog Number	HL374315-2224			Catalog Number	CBP-37-43-15A-MG-22X24			Catalog Number				
		Alternates Accepted	YES	Delivery	6-8WEEKS			Delivery	8 wks			Delivery				
		Inventory Item #	210-017-00001	Unit Price	$ 307.25	100	$ 30,725.00	Unit Price	$ 358.00	100	$ 35,800.00	Unit Price	$ -	100	$ -	
C-6	TRANSFORMER PAD, POLYMER CONCRETE, THROW DOWN	Preferred Manufacturer	DIVERSITEC	Manufacturer	DIVERITEC			Manufacturer	DIVERSITEC			Manufacturer	Diversitech			
		Preferred Catalog	F4242-3CL1224	Catalog Number	F4242-32CL1224			Catalog Number	F4242-32CL1224			Catalog Number	F4242-32CL1224			
		Alternates Accepted	YES	Delivery	STOCK			Delivery	1-2 wks			Delivery	1-2 weeks			
		Inventory Item #	210-017-00002	Unit Price	$ 138.95	50	$ 6,947.50	Unit Price	$ 171.00	50	$ 8,550.00	Unit Price	$ 160.00	50	$ 8,000.00	

		CSU Provided Data		KBS ELECTRICAL DISTRIBUTION				TECHLINE				PRIESTER-MELL & NICHOLSON, INC			
Group D Materials - Fiberglass Crossarms															
D-1	**8' DEADEND CROSSARM FIBER GLASS W/MOUNTING**	**Preferred Manufacturer**	SHAKESPEAR	**Manufacturer**	MACLEAN			**Manufacturer**	SHAKESPEAR			**Manufacturer**			
		Preferred Catalog	IDB096G12242	**Catalog Number**	PY08SD0032ESM			**Catalog Number**	IDB096G12242			**Catalog Number**			
		Alternates Accepted	YES	**Delivery**	4-6WKS			**Delivery**	10-12wks			**Delivery**			
		Inventory Item #	285-047-00088	**Unit Price**	**$ 339.00**	100	$ 33,900.00	**Unit Price**	**$ 322.00**	100	$ 32,200.00	**Unit Price**	**$ -**	100	$ -
D-2	**8' STANDARD CROSSARM FIBERGLASS, W/MOUNTING**	**Preferred Manufacturer**	SHAKESPEAR	**Manufacturer**	MACLEAN			**Manufacturer**	SHAKESPEAR			**Manufacturer**			
		Preferred Catalog	STB096N12602	**Catalog Number**	PS08ST004			**Catalog Number**	STB096N12602			**Catalog Number**			
		Alternates Accepted	YES	**Delivery**	4-6WKS			**Delivery**	10-12wks			**Delivery**			
		Inventory Item #	285-047-00093	**Unit Price**	**$ 157.00**	100	$ 15,700.00	**Unit Price**	**$ 185.00**	100	$ 18,500.00	**Unit Price**	**$ -**	100	$ -
D-3	**10' STANDARD CROSSARM FIBERGLASS, W/MOUNTING**	**Preferred Manufacturer**	SHAKESPEAR	**Manufacturer**	MACLEAN			**Manufacturer**	SHAKESPEAR			**Manufacturer**			
		Preferred Catalog	STB120N12602	**Catalog Number**	PS10ST005			**Catalog Number**	STB120N12602			**Catalog Number**			
		Alternates Accepted	YES	**Delivery**	4-6WKS			**Delivery**	10-12wks			**Delivery**			
		Inventory Item #	285-047-00094	**Unit Price**	**$ 177.00**	150	$ 26,550.00	**Unit Price**	**$ 214.00**	150	$ 32,100.00	**Unit Price**	**$ -**	150	$ -
D-4	**10' DEADEND CROSSARM FIBERGLASS**	**Preferred Manufacturer**	SHAKESPEAR	**Manufacturer**	MACLEAN			**Manufacturer**	SHAKESPEAR			**Manufacturer**			
		Preferred Catalog	IDB120G12242	**Catalog Number**	PY10SD0052ESM			**Catalog Number**	IDB120G12242			**Catalog Number**			
		Alternates Accepted	YES	**Delivery**	4-6WKS			**Delivery**	10-12wks			**Delivery**			
		Inventory Item #	285-047-00099	**Unit Price**	**$ 355.00**	75	$ 26,625.00	**Unit Price**	**$ 361.00**	75	$ 27,075.00	**Unit Price**	**$ -**	75	$ -
Group E Materials - Streetlight Fixtures															
E-1	**LED 50 COBRAHEAD BRNZ AEL ACC P304 MVOLT D4I R2 3K BZ 20K XL NL P7 NBR(only)**	**Preferred Manufacturer**	American Electric	**Manufacturer**	N/B			**Manufacturer**	American Electric Lighting (AE			**Manufacturer**			
		Preferred Catalog Number	ATBS-G-MVOLT-R2-3K-BZ-NL-XL-	**Catalog Number**				**Catalog Number**	ACC P304 MVOLT D4I R2 3K BZ 20K XL NL P7 NBR			**Catalog Number**			
		Alternates Accepted	NO	**Delivery**				**Delivery**	4-8wks			**Delivery**			
		Inventory Item #	285-056-00015	**Unit Price**	**$ -**	50	$ -	**Unit Price**	**$ 240.00**	50	$ 12,000.00	**Unit Price**	**$ -**	50	$ -
E-2	**LED 118 COBRAHEAD BRNZ AEL ACM P607 MVOLT D4I R3 2B 4K BZ 20K XL NL P7 NBR**	**Preferred Manufacturer**	American Electric	**Manufacturer**	N/B			**Manufacturer**	American Electric Lighting (AE			**Manufacturer**			
		Preferred Catalog	ATBM-F-MVOLT-	**Catalog Number**				**Catalog Number**	ACM P607 MVOLT D4I R3 2B			**Catalog Number**			
		Alternates Accepted	NO	**Delivery**				**Delivery**	4-8wks			**Delivery**			
		Inventory Item #	285-056-00017	**Unit Price**	**$ -**	25	$ -	**Unit Price**	**$ 445.00**	25	$ 11,125.00	**Unit Price**	**$ -**	25	$ -
E-3	**LED 210 COBRAHEAD BRNZ AEL ACL P127 MVOLT D4I R3 4B 4K BZ 20K XL NL P7 NBR**	**Preferred Manufacturer**	American Electric	**Manufacturer**	N/B			**Manufacturer**	American Electric Lighting (AE			**Manufacturer**			
		Preferred Catalog	ATBL-D-MVOLT-	**Catalog Number**				**Catalog Number**	ACL P127 MVOLT D4I R3 4B			**Catalog Number**			
		Alternates Accepted	NO	**Delivery**				**Delivery**	4-8wks			**Delivery**			
		Inventory Item #	285-056-00018	**Unit Price**	**$ -**	25	$ -	**Unit Price**	**$ 691.00**	25	$ 17,275.00	**Unit Price**	**$ -**	25	$ -
E-4	**LED DECORATIVE LIGHT FIXTURE HOLOPHANE AWDE3 P40 40K MVOLT MS BZ AL3 CL NL1X1 DE UA RFD317874**	**Preferred Manufacturer**	Holophane	**Manufacturer**				**Manufacturer**	Holophane			**Manufacturer**			
		Preferred Catalog	AWDE2P5040KA	**Catalog Number**				**Catalog Number**	AWDE3 P40 40K MVOLT MS			**Catalog Number**			
		Alternates Accepted	NO	**Delivery**				**Delivery**	6 weeks			**Delivery**			
		Inventory Item #	285-056-00016	**Unit Price**	**$ -**	100	$ -	**Unit Price**	**$ 1,150.00**	100	$115,000.00	**Unit Price**	**$ -**	100	$ -

		CSU Provided Data		KBS ELECTRICAL DISTRIBUTION				TECHLINE				PRIESTER-MELL & NICHOLSON, INC			
Group F Materials - Motor Operators and LineScope Sensors															
F-1	**MOTOR OPERATORS - RECIPROCATING MOTION**	**Preferred Manufacturer**	C/P	**Manufacturer**	CLEAVELAND PRICE			**Manufacturer**	C/P			**Manufacturer**			
		Preferred Catalog	#CB29AA04G001	**Catalog Number**	C29B1013G001			**Catalog Number**	C29B1013G001			**Catalog Number**			
		Alternates Accepted	NO	**Delivery**	40-42WEEKS			**Delivery**	36-38 wks			**Delivery**			
		Inventory Item #	285-079-00014	**Unit Price**	**$ 9,556.00**	10	$ 95,560.00	**Unit Price**	**$ 10,640.00**	10	$106,400.00	**Unit Price**	**$ -**	10	$ -
F-2	**MOTOR OPERATORS - TORSIONAL MOTION**	**Preferred Manufacturer**	C/P	**Manufacturer**	CLEAVELAND PRICE			**Manufacturer**	C/P			**Manufacturer**			
		Preferred Catalog	CB28AA11G01	**Catalog Number**	C28B1099G001			**Catalog Number**	C28B1099G001			**Catalog Number**			
		Alternates Accepted	NO	**Delivery**	40-42WEEKS			**Delivery**	36-38 wks			**Delivery**			
		Inventory Item #	285-079-00015	**Unit Price**	**$ 8,503.97**	20	$ 170,079.40	**Unit Price**	**$ 9,490.00**	20	$189,800.00	**Unit Price**	**$ -**	20	$ -
F-3	**LINEPROBE CURRENT AND VOLTAGE SENSORS 15KV (SET OF 3) Cleaveland/Price LineScope LineProbe for**	**Preferred Manufacturer**	C/P	**Manufacturer**	CLEAVELAND PRICE			**Manufacturer**	C/P			**Manufacturer**			
		Preferred Catalog	see description	**Catalog Number**	LPC015LG15			**Catalog Number**	LPC015LG15			**Catalog Number**			
		Alternates Accepted	NO	**Delivery**	40-42WEEKS			**Delivery**	36-38 wks			**Delivery**			
		Inventory Item #	285-079-00017	**Unit Price**	**$ 6,442.00**	20	$ 128,840.00	**Unit Price**	**$ 7,190.00**	20	$143,800.00	**Unit Price**	**$ -**	20	$ -
					Grand Total	**$**	**2,002,239.90**		**Grand Total**	**$**	**2,275,002.60**		**Grand Total**	**$**	**87,750.00**
					AWARD TOTAL	**$**	**1,421,109.40**		**AWARD TOTAL**	**$**	**729,655.50**		**AWARD TOTAL**	**$**	**52,750.00**

February 26, 2026
Item No. 8.9.
Emergency Response Vehicle Parts and Services

Sponsor: Mary Ellen Leonard, Director of Fiscal Services

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action on an annual blanket purchase order for repair parts and repair labor from Siddons-Martin Emergency Group through the BuyBoard in the annual not-to-exceed amount of $250,000.

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

Recommendation(s): Staff recommends approval of an annual blanket purchase order to purchase various repair parts and services from Siddons-Martin Emergency Group through the BuyBoard Purchasing Cooperative contract number 746-24. The estimated annual expenditure of $250,000 is based on the average amount spent on repair parts and services since January 2023 and the anticipated needs for existing vehicles and new vehicles being added to inventory this fiscal year.

Summary: BuyBoard is a purchasing cooperative for public agencies. All products and services available for purchase through BuyBoard contracts have been competitively bid and awarded and satisfy any State law requirements relating to competitive bids or proposals. Contingent upon Council approval, a blanket purchase order will be issued for the term of February 27th, 2026 through February 26th, 2027.

Budget & Financial Summary: Purchases of fire apparatus parts are made through an inventory account as budgeted and available in the Fleet Maintenance Funds. Charges are made to the Fire Department for fire apparatus vehicle maintenance and repairs based on the average annual cost for each piece of equipment.

Attachments:
1. Siddons-Martin Emergency Group, LLC

P.O. Box 400, Austin, Texas 78767
800.695.2919 • info@buyboard.com • buyboard.com

Electronic Delivery

Jeff Doran
Siddons Martin Emergency Group, LLC
1362 E Richey Rd.
Houston, TX 77073

Welcome to BuyBoard!

Re: *Notice of The Local Government Purchasing Cooperative Contract Award;* Proposal Invitation No. 746-24, Fire Service Apparatus Vehicles

Congratulations, The Local Government Purchasing Cooperative (Cooperative) has awarded your company a BuyBoard® contract based on the above-referenced Proposal Invitation. The contract is effective for an initial one-year term of October 1, 2024 through September 30, 2025, and may be subject to two possible one-year renewals. Please refer to the Proposal Invitation for the contract documents, including the General Terms and Conditions of the Contract.

To review the items your company has been awarded, please review Proposal Tabulation No. 746-24 at: www.buyboard.com/vendor. Only items marked as awarded to your company are included in this contract award, and only those awarded items may be sold through the BuyBoard contract. All sales must comply with the contract terms and must be at or below the awarded pricing as set forth in the General Terms and Conditions.

The contract will be posted on the BuyBoard website as an online electronic catalog(s). **You are reminded that, in accordance with the General Terms and Conditions, all purchase orders must be processed through the BuyBoard**. Except as expressly authorized in writing by the Cooperative's administrator, you are not authorized to process a purchase order received directly from a Cooperative member that has not been processed through the BuyBoard or provided to the Cooperative. If you receive a purchase order directly from a Cooperative member that you have reason to believe has not been received by the Cooperative or processed through the BuyBoard, you must promptly forward a copy of the purchase order by email to info@buyboard.com.

A list of Cooperative members is available on the buyboard.com website. Once the contract is active, the BuyBoard vendor relations staff will be contacting you to assist with the resources available and to provide any support you may need as an awarded BuyBoard vendor.

On behalf of the Cooperative, we appreciate your interest in the Cooperative and we are looking forward to your participation in the program. If you have any questions, feel free contact me at bids@buyboard.com.

Sincerely,

Leigh Clover, Bid Analyst
Texas Association of School Boards, Inc.,
Administrator for The Local Government Purchasing Cooperative

Vendor Contract Information Summary

Vendor	Siddons Martin Emergency Group, LLC
Contact	Jeffrey Doran
Phone	1-800-784-6806
Email	omt@siddons-martin.com
Vendor Website	www.siddons-martin.com
TIN	27-4333590
Address Line 1	1362 East Richey
Vendor City	Houston
Vendor Zip	77073
Vendor State	TX
Vendor Country	USA
Delivery Days	10
Freight Terms	FOB Destination
Payment Terms	net due upon delivery
Shipping Terms	Freight prepaid by vendor and added to invoice
Ship Via	Other
Designated Dealer	No
EDGAR Received	Yes
Service-disabled Veteran Owned	No
Minority Owned	No
Women Owned	No
National	No
No Foreign Terrorist Orgs	Yes
No Israel Boycott	Yes
MWBE	No
ESCs	All Texas Regions
States	All States
Contract Name	Fire Service Apparatus Vehicles
Contract No.	746-24
Effective	10/01/2024
Expiration	09/30/2027
Accepts RFQs	Yes
Service Fee Note	Vehicle purchase orders are subject to a $1500 service fee
Return Policy	Parts may be returned unused, and the vehicle may not be returned

February 26, 2026
Item No. 8.10.
Auto and Truck Tire Purchases

Sponsor: Mary Ellen Leonard, Director of Fiscal Services

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action on approving annual tire purchases and retread services from Southern Tire Mart, LLC through the BuyBoard in the annual not-to-exceed amount of $310,000.

Relationship to Strategic Goals:

Recommendation(s): Staff recommends approval to purchase new tires and retread services from Southern Tire Mart, LLC through the BuyBoard Purchasing Cooperative contract number 729-24. The estimated annual expenditure of $310,000 is based on the average amount spent on new tire and retread services since January 2023 and the anticipated needs for existing vehicles and new vehicles being added to inventory this fiscal year.

Summary: Southern Tire Mart, LLC is BuyBoard's contractor for the sale of new tires and retread services. BuyBoard is a purchasing cooperative for public agencies. All products and services available for purchase through BuyBoard contracts have been competitively bid and awarded and satisfy any State law requirements relating to competitive bids or proposals. Contingent upon Council approval, a blanket contract will be issued for the term of February 27th, 2026 through February 26th, 2027.

Budget & Financial Summary: Funds are available and budgeted in the Fleet Maintenance fund which is funded by all other departments.

Attachments:
1. Southern Tire Mart, LLC

P.O. Box 400, Austin, Texas 78767
800.695.2919 • info@buyboard.com • buyboard.com

January 24, 2024

Sent Via Email: gov-sales@stmtires.com

Richard Conwill
Southern Tire Mart LLC
800 Highway 98
Columbia, MS 39429

Welcome to BuyBoard!

Re: *Notice of The Local Government Purchasing Cooperative Contract Award;* Proposal Invitation No. 729-24, Tires, Tubes, Supplies and Equipment

Congratulations, The Local Government Purchasing Cooperative (Cooperative) has awarded your company a BuyBoard® contract based on the above-referenced Proposal Invitation. The contract is effective for an initial one-year term of March 1, 2024, through February 28, 2025, and may be subject to two possible one-year renewals. Please refer to the Proposal Invitation for the contract documents, including the General Terms and Conditions of the Contract.

To review the items your company has been awarded, please review Proposal Tabulation No. 729-24 at: www.buyboard.com/vendor. Only items marked as awarded to your company are included in this contract award, and only those awarded items may be sold through the BuyBoard contract. All sales must comply with the contract terms and must be at or below the awarded pricing as set forth in the General Terms and Conditions.

The contract will be posted on the BuyBoard website as an online electronic catalog(s). **You are reminded that, in accordance with the General Terms and Conditions, all purchase orders must be processed through the BuyBoard**. Except as expressly authorized in writing by the Cooperative's administrator, you are not authorized to process a purchase order received directly from a Cooperative member that has not been processed through the BuyBoard or provided to the Cooperative. If you receive a purchase order directly from a Cooperative member that you have reason to believe has not been received by the Cooperative or processed through the BuyBoard, you must promptly forward a copy of the purchase order by email to info@buyboard.com.

A list of Cooperative members is available on the buyboard.com website. Once the contract is active, the BuyBoard vendor relations staff will be contacting you to assist with the resources available and to provide any support you may need as an awarded BuyBoard vendor.

On behalf of the Cooperative, we appreciate your interest in the Cooperative and we are looking forward to your participation in the program. If you have any questions, feel free contact me at bids@buyboard.com.

Sincerely,

Stacy Finn

Stacy Finn, Bid Analyst
Texas Association of School Boards, Inc.,
Administrator for The Local Government Purchasing Cooperative

P.O. Box 400, Austin, Texas 78767
800.695.2919 • info@buyboard.com • buyboard.com

January 13, 2026

Sent via email to: gov-sales@stmtires.com

Richard Conwill
Southern Tire Mart LLC
800 Highway 98
Columbia, MS 39429

Re: Tires, Tubes, Supplies and Equipment
BuyBoard Contract 729-24

The Local Government Purchasing Cooperative (BuyBoard) awarded your company a contract under Tires, Tubes, Supplies and Equipment, Contract 729-24, for which the current term is set to expire February 28, 2026. At this time, the BuyBoard is renewing your contract through February 28, 2027. This will be the final renewal of this contract.

All discounts, terms, and conditions of your contract will remain the same. If you agree to this renewal, there is nothing you need to do. However, if you do not agree to this renewal, you must notify me via email at contractadmin@buyboard.com prior to the start of the renewal term.

If you have questions or comments concerning this renewal, please contact me as soon as possible at contractadmin@buyboard.com. We appreciate your interest in The Local Government Purchasing Cooperative.

Sincerely,

Jim Tulberg

Jim Tulberg
Contract Administrator

final renewal v.02.13.2020

Vendor Contract Information Summary

Vendor	Southern Tire Mart LLC
Contact	Richard Conwill
Phone	877-786-4681
Email	gov-sales@stmtires.com
TIN	06-1689011
Address Line 1	800 Highway 98
Vendor City	Columbia
Vendor Zip	39429
Vendor State	MS
Vendor Country	USA
Delivery Days	10
Freight Terms	FOB Destination
Payment Terms	NET 30
Shipping Terms	Freight prepaid by vendor and added to invoice
Ship Via	Company Truck
Designated Dealer	No
EDGAR Received	Yes
Service-disabled Veteran Owned	No
Minority Owned	No
Women Owned	No
National	No
No Foreign Terrorist Orgs	Yes
No Israel Boycott	Yes
MWBE	No
ESCs	All Texas Regions
States	Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Louisiana, Mississippi, Nevada, New Mexico, Oklahoma, South Carolina, Tennessee, Texas, Utah
Contract Name	Tires, Tubes, Supplies and Equipment
Contract No.	729-24
Effective	03/01/2024
Expiration	02/28/2027
Accepts RFQs	Yes
Quote Reference Number	729-24

February 26, 2026
Item No. 8.11.
Presentation, discussion, and possible action regarding an ordinance amending Chapter 38, "Traffic and Vehicles," Article VI "Traffic Schedules," Section 38-1014 "Traffic Schedule XIV, No Parking Here to Corner and No Parking at Any Time," and Chapter 38, "Traffic and Vehicles," Article VI "Traffic Schedules," Section 38-1015 "Traffic Schedule XV, Two-Hour Parking," of the Code of Ordinances of the City of College Station, Texas, by removing on-street parking along sections of Stasney Street and Cross Street and permitting on-street parking along sections of Stasney Street located near 550 Cross Street and 401 Stasney Street.

Sponsor: Carl Ahrens, Staff Planner

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding an ordinance amending Chapter 38, "Traffic and Vehicles," Article VI "Traffic Schedules," Section 38-1014 "Traffic Schedule XIV, No Parking Here to Corner and No Parking at Any Time," and Chapter 38, "Traffic and Vehicles," Article VI "Traffic Schedules," Section 38-1015 "Traffic Schedule XV, Two-Hour Parking," of the Code of Ordinances of the City of College Station, Texas, by removing on-street parking along sections of Stasney Street and Cross Street and permitting on-street parking along sections of Stasney Street located near 550 Cross Street and 401 Stasney Street.

Relationship to Strategic Goals:

- Core Services and Infrastructure
- Improving Mobility

Recommendation(s): Staff recommends approval of this item.

Summary: The proposed ordinance provides no parking anytime along the northeast side of Stasney Street 319 feet northwest of the Cross Street and Stasney Street intersection, removing parking on the Southwest side of Stasney street 242 feet southeast of the Cross Street and Stasney Street intersection, and both sides of Cross Street between Stasney Street and Tauber Street. The development is also proposing an ordinance to permit parking on the southwest side of Stasney Street 305 feet northwest of the Cross Street and Stasney Street intersection, and on the northeast side of Stasney Street between Church Avenue and Cross Street. Due to the developer flipping the sides of the street that parking is permitted along Stasney Street, there is not expected to be any on-street parking spaces lost in this section. The parking removal is needed to ensure the Fire Department has adequate fire access to the proposed high-rise project at the corner of Church Avenue and First Street. The high-rise project will include parking for their project within their building.

The applicant held a public meeting on the evening of February 3, 2026 to discuss the removal of the on-street parking. The applicant emailed property owners and residents in the vicinity of the project. There was one attendant from the public that came in support of the development.

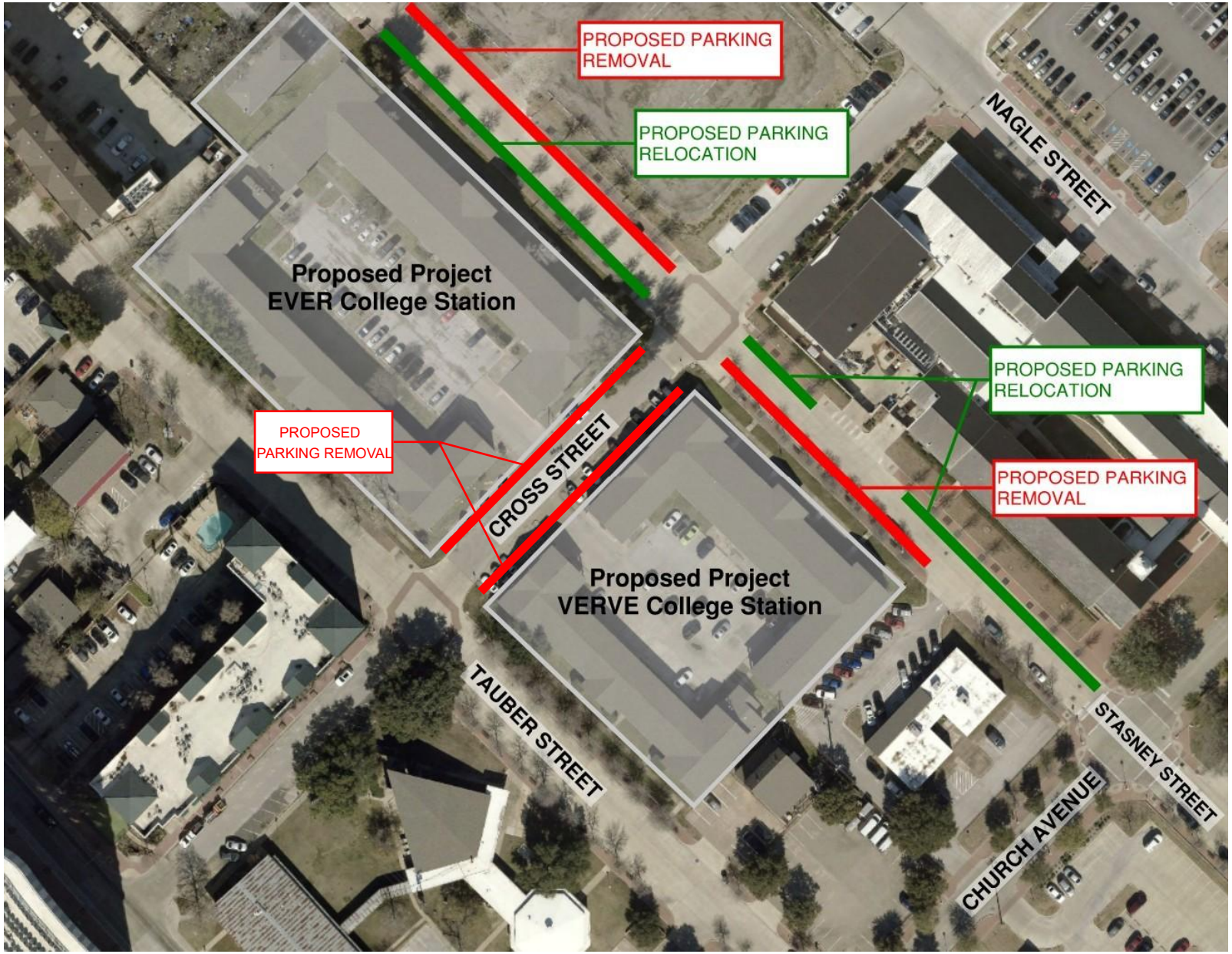
Budget & Financial Summary:

Attachments:
1. Exhibit Parking Removals and Permitted Parking Feb 26

2. Ordinance Parking Removals and Permits Feb 26

Parking Removals and Permitted Parking

City Council February 26, 2026


PROPOSED PARKING REMOVAL
PROPOSED PARKING RELOCATION
NAGLE STREET
Proposed Project
EVER College Station
PROPOSED PARKING RELOCATION
PROPOSED PARKING REMOVAL
CROSS STREET
PROPOSED PARKING REMOVAL
Proposed Project
VERVE College Station
TAUBER STREET
STASNEY STREET
CHURCH AVENUE

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 38, "TRAFFIC AND VEHICLES," ARTICLE VI "TRAFFIC SCHEDULES," SECTION 38-1014 "TRAFFIC SCHEDULE XIV, NO PARKING HERE TO CORNER AND NO PARKING AT ANY TIME," AND AMENDING CHAPTER 38 "TRAFFIC AND VEHICLES," ARTICLE VI "TRAFFIC SCHEDULES," SECTION 38-1015 "TRAFFIC SCHEDULE XV, TWO HOUR PARKING," OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY AMENDING CERTAIN SECTIONS AS SET OUT 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 Chapter 38, "Traffic and Vehicles," Article VI "Traffic Schedules," Section 38-1014 "Traffic Schedule XIV, No Parking Here to Corner and No Parking at Any Time," of the Code of Ordinances of the City of College Station, Texas, be amended as set out in **Exhibit "A"** attached hereto and made a part of this Ordinance for all purposes.

PART 2: That Chapter 38, "Traffic and Vehicles," Article VI "Traffic Schedules," Section 38-1015 "Traffic Schedule XV, Two-Hour Parking," of the Code of Ordinances of the City of College Station, Texas, be amended as set out in **Exhibit "B"** attached hereto and made a part of this Ordinance for all purposes.

PART 3: 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 4: That any person, corporation, organization, government, governmental subdivision or agency, business trust, estate, trust, partnership, association and any other legal entity violating any of the provisions of this Ordinance upon a finding of liability thereof shall be deemed liable for a civil offense and punished with a civil penalty of not less than one dollar ($1.00) and not more than two thousand dollars ($2,000.00) or upon conviction thereof guilty of a misdemeanor, shall be punished by a fine of not less than twenty five dollars ($25.00) and not more than five hundred dollars ($500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PART 5: 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 26th day of February, 2026.

ATTEST: **APPROVED:**

_____ _____

City Secretary **Mayor**

APPROVED:

_____

City Attorney

Exhibit A

That Chapter 38, "Traffic and Vehicles," Article VI. "Traffic Schedules", Section 38-1014 "Traffic Schedule XIV, No Parking Here to Corner and No Parking at Any Time," is hereby amended **by adding the following**:

Traveling on	***Between***	***Travel Direction***	
Stasney Street	319 feet Northwest of Cross Street and Stasney Street	Northwest	No parking any time
Stasney Street	242 feet Southeast of Cross Street and Stasney Street	Southeast	No parking any time
Cross Street	Stasney Street and Tauber Street	All Directions	No parking any time

Exhibit B

That Chapter 38, "Traffic and Vehicles," Article VI. "Traffic Schedules", Section 38-1015 "Traffic Schedule XV, Two-Hour Parking," is hereby amended **by adding the following**:

Traveling on	***Between***	***Travel Direction***	***24-Hours 7 Days***
Stasney Street	305 feet Northwest of Cross Street and Stasney Street	Southeast	X
Stasney Street	Church Avenue and Cross Street	Northwest	X

February 26, 2026
Item No. 8.12.
Carters Creek WWTP Clarifiers 2A, 2B, and 3A Rehabilitation

Sponsor: Gary Mechler, Director of Water, Stephen Maldonado, Assistant Director of Water

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action on approval of a construction contract with Mongan Painting, LLC for the Carters Creek WWTP Clarifiers 2A, 2B, and 3A Rehabilitation Project in the amount of $439,500, along with a contingency amount of $43,950, resulting in a total appropriation of $483,450. Approval of this item will authorize the City Manager to approve expenditures up to the contingency amount.

Relationship to Strategic Goals:

1. Core Service and Infrastructure
2. Financially Sustainable City

Recommendation(s): Staff recommends approval.

Summary:

The City of College Station owns and operates two large wastewater treatment plants. Both facilities, including the Carter's Creek Wastewater Treatment Plant, utilize clarifiers as a key treatment process that allows solids to settle from wastewater. Several clarifiers at this plant require rehabilitation because their coating systems have reached the end of their useful service life. Recoating is needed to protect the underlying structures and ensure the clarifiers continue to operate safely and effectively.

The proposed work includes cleaning, repairing, and recoating the clarifiers, as well as replacing existing weirs. This contract covers the rehabilitation of Clarifiers 2A and 2B and the feed well of Clarifier 3A at the Carter's Creek WWTP, including the base bid and alternative bid items 1A, 4A, and 5A.

Budget & Financial Summary: This contract will be funded through wastewater capital funds.

Attachments:
1. Contract #26300247
2. Bid Tabulation #26-006

CONTRACT & AGREEMENT ROUTING FORM

CONTRACT#: 26300247 PROJECT #: WW1900006 BID/RFP/RFQ#: 26-006

Project Name / Contract Description: Carters Creek WWTP Clarifiers 2A, 2B, and 3A Rehabilitation

Name of Contractor: Mongan Painting LLC

CONTRACT TOTAL VALUE: $ 439,500 **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)

The project currently has $297,899 available for this contract with a pending $180,000 transfer to cover the remainder of expenses.

*(If required)**

CRC Approval Date*: n/a **Council Approval Date*:** 2/26/26 **Agenda Item No*:** _____

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

Insurance Certificates: DDV **Performance Bond:** BW **Payment Bond:** BW **Info Tech:** n/a

SIGNATURES RECOMMENDING APPROVAL

Gary Mechler — 2/3/2026
DEPARTMENT DIRECTOR/ADMINISTERING CONTRACT — DATE

[signature] — 2/3/2026
ASST CITY MGR – CFO — DATE

John A. Haislet — 2/3/2026
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 MONGAN PAINTING, LLC. (the "Contractor") for the construction and/or installation of the following:
As described in ITB 26-006 Carter Creek Clarifiers 2A, 2B and 3A Rehabilitation Base bid and .

1. DEFINITIONS

1.01 Calendar Day. The term "calendar day" shall mean any day of the week or month, no days being excepted.

1.02 City. The term "City" shall mean and be understood as referring to the City of College Station, Texas.

1.03 City's Consultant. The term "City's Consultant" or "Consultant" shall mean and be understood as referring to the City's design professional(s) for the Project.

1.04 City's Representative. The term "City's Representative" or "Representative" shall mean and be understood as referring to the City Manager or his delegate or delegates, including a project management firm if applicable, who shall act as City's agent.

1.05 Contingency Amount. The term "Contingency Amount" shall mean and be understood as referring to the amount established and appropriated by the City, to be used exclusively by the City and in the City's sole discretion, to pay City-authorized costs associated with Change Orders and other related expenses for this Project. The Contractor agrees that the Contingency Amount, if any, is established by and is for the sole use of the City, that the Contingency Amount is not included in the Contract Amount, and that the Contractor has no right to use or receive any Contingency Amount unless authorized by the City in a written and duly authorized change order. The City's Contingency Amount is: Forty-Three Thousand Nine Hundred Fifty and NO **/100 Dollars ($** 43,950.00).

1.06 Contract Amount. The term "Contract Amount" shall mean the amount of Contractor's lump sum base bid proposal, together with all alternates, as accepted by the City in accordance with the Contractor's Proposal. In the case of a unit price contract, Contract Amount shall mean the sum of the product of all unit prices multiplied by the respective estimated final quantities of work, for all base bid and alternates, as accepted by the City. Except in the event of a duly authorized change order approved by the City as provided in this Agreement, and in consideration of the Contractor's final completion of all Work in conformity with this Agreement, the City shall pay the Contractor an amount not to exceed: Four Hundred Thirty-NineThousand Five Hundred and NO **/100 Dollars ($** 439,500.00).

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 Fifty and NO /**100 DOLLARS ($**250.00**)** 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

MONGAN PAINTING, LLC.

By: Billy Konczak

Printed Name: Billy Konczak

Title: Regional Manager

Date: 2/3/2026

CITY OF COLLEGE STATION

By: _____
City Manager
Date: _____

APPROVED:

John A. Haislet
City Attorney
Date: 2/3/2026

_____
Assistant City Manager/CFO
Date: 2/3/2026

EXHIBIT A
DAVIS BACON WAGE RATES

"General Decision Number: TX20260033 01/02/2026

Superseded General Decision Number: TX20250033

State: Texas

Construction Type: Heavy Dredging

Counties: Texas Statewide.

DREDGING PROJECTS ALONG THE TEXAS GULF COAST AREA INCLUDING ALL PUBLIC CHANNELS, HARBORS, RIVERS, TRIBUTARIES AND THE GULF INTRACOASTAL WATERWAYS

Modification Number	Publication Date
0	01/02/2026

SUTX1994-001 01/18/1994

The following rates were revised pursuant to 29 CFR 1.6(c)(1) on 02/07/2025.

	Rates	Fringes
Derrick Operator	$ 16.85	
Dozer Operator	$ 16.85	
Dredge 16"" and Over		
DECKHAND	$ 16.85	
DREDGE TENDER OPERATOR	$ 16.85	
FIREMAN	$ 16.85	
FIRST ASSISTANT ENGINEER	$ 16.85	
LEVERMAN	$ 16.85	
OILER	$ 16.85	
SECOND ASSISTANT ENGINEER	$ 16.85	
SHOREMAN	$ 16.85	
THIRD ASSISTANT ENGINEER	$ 16.85	
TRUCK DRIVER	$ 16.85	
WELDER	$ 16.85	
Dredge Under 16""		
DECKHAND	$ 16.85	
DREDGE TENDER OPERATOR	$ 16.85	
LEVERMAN	$ 16.85	
OILER	$ 16.85	
WELDER	$ 16.85	
Hydraulic Dredging		
FIRST COOK	$ 16.85	
HANDYMAN	$ 16.85	
JANITOR - CABIN PERSON	$ 16.85	
MESS PERSON	$ 16.85	
SECOND COOK	$ 16.85	
Marsh Buggy Dragline		
OILER	$ 16.85	
OPERATOR	$ 16.85	

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

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide

employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at https://www.dol.gov/agencies/whd/government-contracts.

Note: Executive Order 13658 generally applies to contracts subject to the Davis-Bacon Act that were awarded on or between January 1, 2015 and January 29, 2022, and that have not been renewed or extended on or after January 30, 2022. Executive Order 13658 does not apply to contracts subject only to the Davis-Bacon Related Acts regardless of when they were awarded. If a contract is subject to Executive Order 13658, the contractor must pay all covered workers at least $13.30 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 2025. The applicable Executive Order minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under Executive Order 13658 is available at www.dol.gov/whd/govcontracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (iii)).

The body of each wage determination lists the classifications and wage rates that have been found to be prevailing for the type(s) of construction and geographic area covered by the wage determination. The classifications are listed in alphabetical order under rate identifiers indicating whether the particular rate is a union rate (current union negotiated rate), a survey rate, a weighted union average rate, a state adopted rate, or a supplemental classification rate.

Union Rate Identifiers

A four-letter identifier beginning with characters other than ""SU"", ""UAVG"", ?SA?, or ?SC? denotes that a union rate was prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2024. PLUM is an identifier of the union whose collectively bargained rate 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. The date, 07/01/2024 in the example, is the effective date of the most current negotiated rate.

Union prevailing wage rates are updated to reflect all changes over time that are reported to WHD in the rates in the collective bargaining agreement (CBA) governing the classification.

Union Average Rate Identifiers

The UAVG identifier indicates that no single rate prevailed for those classifications, but that 100% of the data reported for the classifications reflected union rates. EXAMPLE:

UAVG-OH-0010 01/01/2024. UAVG indicates that the rate is a weighted union average rate. OH indicates the State of Ohio. The next number, 0010 in the example, is an internal number used in producing the wage determination. The date, 01/01/2024 in the example, indicates the date the wage determination was updated to reflect the most current union average rate.

A UAVG rate will be updated once a year, usually in January, to reflect a weighted average of the current rates in the collective bargaining agreements on which the rate is based.

Survey Rate Identifiers

The ""SU"" identifier indicates that either a single non-union rate prevailed (as defined in 29 CFR 1.2) for this classification in the survey or that the rate was derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As a weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SUFL2022-007 6/27/2024. SU indicates the rate is a single non-union prevailing rate or a weighted average of survey data for that classification. FL indicates the State of Florida. 2022 is the year of the 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. The date, 6/27/2024 in the example, indicates the survey completion date for the classifications and rates under that identifier.

?SU? wage rates typically remain in effect until a new survey is conducted. However, the Wage and Hour Division (WHD) has the discretion to update such rates under 29 CFR 1.6(c)(1).

State Adopted Rate Identifiers

The ""SA"" identifier indicates that the classifications and prevailing wage rates set by a state (or local) government were adopted under 29 C.F.R 1.3(g)-(h). Example: SAME2023-007 01/03/2024. SA reflects that the rates are state adopted. ME refers to the State of Maine. 2023 is the year during which the state completed the survey on which the listed classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. The date, 01/03/2024 in the example, reflects the date on which the classifications and rates under the ?SA? identifier took effect under state law in the state from which the rates were adopted.

WAGE DETERMINATION APPEALS PROCESS

1) Has there been an initial decision in the matter? This can be:

a) a survey underlying a wage determination
b) an existing published wage determination
c) an initial WHD letter setting forth a position on a wage determination matter
d) an initial conformance (additional classification and rate) determination

On survey related matters, initial contact, including requests for summaries of surveys, should be directed to the WHD Branch of Wage Surveys. Requests can be submitted via email to davisbaconinfo@dol.gov or by mail to:

Branch of Wage Surveys
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

Regarding any other wage determination matter such as conformance decisions, requests for initial decisions should be directed to the WHD Branch of Construction Wage Determinations. Requests can be submitted via email to BCWD-Office@dol.gov or by mail 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 an initial decision has been issued, then any interested party (those affected by the action) that disagrees with the decision can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Requests for review and reconsideration can be submitted via email to dba.reconsideration@dol.gov or by mail 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 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.

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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. HGMW-A15-3432

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

THAT WE, Mongan Painting, LLC, as Principal, hereinafter called "Contractor" and the other subscriber hereto Hudson 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 Four Hundred Fifty-Six Thousand Five Hundred and NO /100 Dollars ($456,500.00) for the payment of which sum, well and truly to be made to the City of College Station and its successors, the said Contractor and Surety do bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:

WHEREAS, the Contractor has on or about this day executed a Contract in writing with the City of College Station for As described in ITB 26-006 Carter Creek Clarifiers 2A, 2B and 3A Rehabilitation,

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. HGMW-A15-3432

FOR THE CONTRACTOR:

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

By: _____

Name: Billy J. Kopniak

Title: Regional Manager

Date: February 26, 2026

MONGAN PAINTING, LLC.

By: James Brooks

Name: James Brooks

Title: Regional Director

Date: February 26, 2026

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

By: Ginger Sass

Name: Ginger Sass

Title: Witness

Date: February 26, 2026

Hudson Insurance Company
(Full Name of Surety)

100 William Street, 5th Floor

New York, NY 10038
(Address of Surety for Notice)

By: _____

Name: James M. King

Title: Attorney-In-Fact

Date: February 26, 2026

FOR THE CITY:

REVIEWED:

John A. Haislet 2/3/2026
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. 26300247
Construction Agreement Over $50,000
Form 04-20-2023

TEXAS STATUTORY PAYMENT BOND

Bond No. HGMW-A15-3432

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

THAT WE, Mongan Painting, LLC, as Principal, hereinafter called "Principal" and the other subscriber hereto Hudson 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 Four Hundred Fifty-Six Thousand Five Hundred and NO /100 Dollars ($456,500.00) 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 26th day of February, 2026, for As described in ITB 26-006 Carter Creek Clarifiers 2A, 2B and 3A Rehabilitation, 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. HGMW-A15-3432

FOR THE CONTRACTOR:

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

MONGAN PAINTING, LLC

By: _____
Name: Billy J. Kovarik
Title: Regional Manager
Date: February 26, 2026

By: _____
Name: James Brooks
Title: Regional Director
Date: February 26, 2026

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

By: _____
Name: Ginger Sass
Title: Witness
Date: February 26, 2026

Hudson Insurance Company
(Full Name of Surety)
100 William Street, 5th Floor
New York, NY 10038
(Address of Surety for Notice)

By: _____
Name: James M. King
Title: Attorney-In-Fact
Date: February 26, 2026

FOR THE CITY:

REVIEWED:

John A. Haislet 2/3/2026
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. 26300247
Construction Agreement Over $50,000
Form 04-20-2023

HUDSON INSURANCE GROUP

HGMW-A15-3432

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That HUDSON INSURANCE COMPANY, a corporation of the State of Delaware, with offices at 100 William Street, New York, New York, 10038, has made, constituted and appointed, and by these presents, does make, constitute and appoint

Robert T. Cirone, James M. King, Jacob J. Buss, Thomas L. King, Seth Weedin

of the State of Nebraska

its true and lawful Attorney(s)-In-Fact, at New York, New York, each of them alone to have full power to act without the other or others, to make, execute and deliver on its behalf, as Surety, bonds and undertakings given for any and all purposes, also to execute and deliver on its behalf as aforesaid renewals, extensions, agreements, waivers, consents or stipulations relating to such bonds or undertakings provided, however, that no single bond or undertaking shall obligate said Company for any portion of the penal sum thereof in excess of the sum of Twenty Five Million Dollars ($25,000,000.00).

Such bonds and undertakings when duly executed by said Attorney(s)-In-Fact, shall be binding upon said Company as fully and to the same extent as if signed by the President of said Company under its corporate seal attested by its Secretary.

In Witness Whereof, HUDSON INSURANCE COMPANY has caused these presents to be of its Senior Vice President thereunto duly authorized, on this 1st day of November, 2025 at New York, New York.

(Corporate seal)

HUDSON INSURANCE COMPANY

Attest.....
Karen L. Colonna
Corporate Secretary

By.....
Andrew A. Dickson
Senior Vice President

STATE OF NEW YORK
COUNTY OF NEW YORK, SS.

On the 1st day of November, 20 25 before me personally came Andrew A. Dickson to me known, who being by me duly sworn did depose and say that he is a Senior Vice President of HUDSON INSURANCE COMPANY, the corporation described herein and which executed the above instrument, that he knows the seal of said Corporation, that the seal affixed to said instrument is such corporate seal, that it was so affixed by order of the Board of Directors of said Corporation, and that he signed his name thereto by like order.

(Notarial Seal)

ANN M. MURPHY
NOTARY PUBLIC
STATE OF NEW YORK

.....
ANN M. MURPHY
Notary Public, State of New York
No. 01MU6067553
Qualified in Nassau County
Commission Expires December 10, 2029

CERTIFICATION

STATE OF NEW YORK
COUNTY OF NEW YORK SS.

The undersigned Karen L Colonna hereby certifies:

That the original resolution, of which the following is a true and correct copy, was duly adopted by unanimous written consent of the Board of Directors of Hudson Insurance Company dated July 27th, 2007, and has not since been revoked, amended or modified:

"RESOLVED, that the President, the Executive Vice Presidents, the Senior Vice Presidents and the Vice Presidents shall have the authority and discretion, to appoint such agent or agents, or attorney or attorneys-in-fact, for the purpose of carrying on this Company's surety business, and to empower such agent or agents, or attorney or attorneys-in-fact, to execute and deliver, under this Company's seal or otherwise, bonds obligations, and recognizances, whether made by this Company as surety thereon or otherwise, indemnity contracts, contracts and certificates, and any and all other contracts and undertakings made in the course of this Company's surety business, and renewals, extensions, agreements, waivers, consents or stipulations regarding undertakings so made; and

FURTHER RESOVLED, that the signature of any such Officer of the Company and the Company's seal may be affixed by facsimile to any power of attorney or certification given for the execution of any bond, undertaking, recognizance, contract of indemnity or other written obligation in the nature thereof or related thereto, such signature and seal when so used whether heretofore or hereafter, being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed."

THAT the above and foregoing is a full, true and correct copy of Power of Attorney issued by said Company, and of the whole of the original and that the said Power of Attorney is still in full force and effect and has not been revoked, and furthermore that the Resolution of the Board of Directors, set forth in the said Power of Attorney is now in force.

Witness the hand of the undersigned and the seal of said Corporation this 26th day of February, 2026.

(Corporate seal)

By.....
Karen L. Colonna, Corporate Secretary

Page 6 / 6

EXHIBIT C
CERTIFICATES OF INSURANCE AND ENDORSEMENTS

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 12/19/2025

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 INSPRO, a Marsh & McLennan Agency LLC, Company 4000 Pine Lake Road Lincoln NE 68506	**CONTACT NAME:** Becca Dingwell **PHONE (A/C, No, Ext):** 402-483-4500 **FAX (A/C, No):** **E-MAIL ADDRESS:** becca.dingwell@marshmma.com
INSURED MONGAPAINT Mongan Painting LLC PO Box 515 Cherokee IA 51012	**INSURER(S) AFFORDING COVERAGE** — **NAIC #** **INSURER A :** Union Insurance Company — 25844 **INSURER B :** XL Specialty Insurance Company — 37885 **INSURER C :** NAVIGATORS INSURANCE COMPANY — 42307 **INSURER D :** **INSURER E :** **INSURER F :**

COVERAGES **CERTIFICATE NUMBER:** 137914087 **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 PD Ded: $500 GEN'L AGGREGATE LIMIT APPLIES PER: POLICY [X] PRO-JECT [ ] LOC OTHER:			CPA326941124	10/15/2025	10/15/2026	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 $ 10,000 $ 1,000,000 $ 2,000,000 $ 2,000,000 $
A	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY / SCHEDULED AUTOS X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY			CPA326941124	10/15/2025	10/15/2026	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) $	$ 1,000,000 $ $ $ $
A	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED X RETENTION $ $0			CPA326941124	10/15/2025	10/15/2026	EACH OCCURRENCE AGGREGATE $	$ 5,000,000 $ 5,000,000 $
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBEREXCLUDED? (Mandatory in NH) Y/N: Y / N/A If yes, describe under DESCRIPTION OF OPERATIONS below			RWC300181002	7/1/2025	7/1/2026	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
C	Pollution Liability			CH25ECPZ0LHUJIC	6/21/2025	6/21/2026	Limit	$2,000,000

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

PER POLICY 891BE10904 - UMBRELLA EXCESS - OCC LIMIT: 3,000,000 AGG LIMIT: 3,000,000 FOLLOW FORM

City of College Station are additional insured on a primay & non-contributory basis with respect to the General Liability and Auto Liability coverages as required by contract or agreement. Waiver of subrogation applies in favor of City of College Station with respect to the General Liability, Auto Liability, Umbrella Liability, and Workers Compensation coverage as required by contract or agreement. Umbrella is follow form.

CERTIFICATE HOLDER

City of College Station
PO Box 9973
1101 Texas Avenue
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

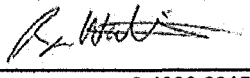

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EXHIBIT D
PLANS AND SPECIFICATIONS

If the plans and specifications from the RFP/CSP are not physically inserted here, then they are fully incorporated into this contract by reference.

As described in ITB 26-006 Carter Creek Clarifier 2A, 2B and 3A Rehabilitation

EXHIBIT E
CONSTRUCTION SCHEDULE

Substantial Completion is 180 days from notice to proceed.

EXHIBIT F
SCHEDULE OF VALUES

City of College
ITB 26-006
Carter Creek Clarifiers 2A, 2B and 3A Rehabilitation
Opening Tuesday, November 4, 2025 at 2:00pm CT

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.

Item No.	Description	No. of Units	Total Price
BASE BID ITEMS			
1	Mobilization & Bonds	Lump Sum	10,000
2	Furnish material and labor to rehabilitate Clarifier 2A per the Technical Specifications	Lump Sum	151,000
3	Furnish material and labor to rehabilitate Clarifier 2B per the Technical Specifications	Lump Sum	142,000
4	Furnish material and labor to rehabilitate Clarifier 3A per the Technical Specifications	Lump Sum	35,000
		TOTAL BASE BID	338,000
Item No.	**Description**	**No. of Units**	
Alternate Bid Items			
1	Provide labor and materials for replacement of scraper blades on either clarifier (+/-)	Lump Sum	(+)17,000 per clarifier
2	Provide approved alternate coating system in lieu of the specified coating system for clarifier 2A (+/-)	Lump Sum	(-)2,000
3	Provide approved alternate coating system in lieu of the specified coating system for clarifier 2B (+/-)	Lump Sum	(-)2,000
4	Provide additional pricing to replace weir trough on Clarifier 2A (+/-)	Lump Sum	(+)33,750
5	Provide additional pricing to replace weir trough on Clarifier 2B (+/-)	Lump Sum	(+)33,750
		TOTAL BASE BID(+/-) alternates 1-5	435,500

City of College Station

City of College
ITB 26-006
Carter Creek Clarifiers 2A, 2B and 3A Rehabilitation
Opening Wednesday,
November 11, 2025 at 2:00pm CT

				CROM CFG INDUSTRIES, LLC		MONGAN PAINTING	
ITEM	QTY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
Basebid							
1	1	LS	Mobilization & Bonds	$30,000.00	$30,000.00	$10,000.00	$10,000.00
2	1	LS	Furnish material and labor to rehabilitate Clarifier 2A per the Technical Specifications	$127,000.00	$127,000.00	$151,000.00	$151,000.00
3	1	LS	Furnish material and labor to rehabilitate Clarifier 2B per the Technical Specifications	$148,000.00	$148,000.00	$142,000.00	$142,000.00
4	1	LS	Furnish material and labor to rehabilitate Clarifier 3A per the Technical Specifications	$128,000.00	$128,000.00	$35,000.00	$35,000.00
			TOTAL BASE BID - ALL ITEMS	$433,000.00		$338,000.00	
BID ALTERNATE 1							
1	1	LS	Provide labor and materials for replacement of scraper blades on either clarifier (+/-)	$10,000.00	$10,000.00	$17,000.00	$17,000.00
2	1	LS	Provide approved alternate coating system in lieu of the specified coating system for clarifier 2A (+/-)	$0.00	$0.00	-$2,000.00	-$2,000.00
3	1	LS	Provide approved alternate coating system in lieu of the specified coating system for clarifier 2B (+/-)	$0.00	$0.00	-$2,000.00	-$2,000.00
4	1	LS	Provide additional pricing to replace weir trough on Clarifier 2A (+/-)	$70,000.00	$70,000.00	$33,750.00	$33,750.00
5	1	LS	Provide additional pricing to replace weir trough on Clarifier 2B (+/-)	$80,000.00	$80,000.00	$33,750.00	$33,750.00
			ALTERNATE 1 - TOTAL ADD OR DEDUCT	$160,000.00		$80,500.00	
			BASE BID (+/-) ALTERNATES	$593,000.00		$418,500.00	
			Completion #180 of Days	Y		Y	
			Acknowled Addendum	Y		Y	
			Bid Bond	Y		Y	
			Certification	Y		Y	

February 26, 2026
Item No. 8.13.
The Corinth Group, Inc. - Real Estate Contract - Amendment 7

Sponsor: Michael Ostrowski, Chief Development Officer

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding an amendment to the real estate contract with The Corinth Group, Inc.

Relationship to Strategic Goals:

- Diverse & Growing Economy

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

Summary: On January 9, 2025, the City entered into a real estate contract with The Corinth Group, Inc for the sale of a portion of Block A, Phase One, within the Midtown Business Park. The property is intended for future commercial development. Corinth plans to construct a retail development featuring multiple buildings and a central plaza designed to create a distinctive public area and activate the surrounding area. Discussions continue regarding the general layout and design, and a separate development agreement will be executed at closing.

This marks the seventh amendment to the real estate contract, each focused on adjusting the feasibility timeline and allowing continued negotiations concerning the plaza and the City's potential involvement. The first amendment, executed on April 10, 2025, revised the timeline for the City to provide a draft of proposed restrictive covenants. Subsequent amendments extended the feasibility period.

Feasibility was further extended by City Council through an amendment dated September 11, 2025, by 180 days to March 11, 2026, with the City Manager authorized to execute each 60-day extension within the period.

With expiration approaching and the extensions permitted under the previous amendment exhausted, staff are bringing this item to the City Council to authorize additional time to work through the negotiations with the developer on prospective retailers, the development agreement, and restrictive covenants.

Budget & Financial Summary: Each optional 60-day period requires an additional $10,000 fee from the buyer. Other financial terms of the real estate contract are unaffected by this amendment to extend feasibility.

Attachments:
1. Corinth Contract Amendment

CONTRACT & AGREEMENT ROUTING FORM

CONTRACT#: 25300259 Amd7 PROJECT #: N/A BID/RFP/RFQ#: N/A

Project Name / Contract Description: 7th Amendment to the Real Estate Contract with The Corinth Group, Inc

Name of Contractor: The Corinth Group, Inc.

CONTRACT TOTAL VALUE: $ 10,000 fee per optional 60-day **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** Amendment

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

Item presented to the City Council to authorize additional time to work through the negotiations with the developer.

Each optional 60-day period requires an additional $10,000 fee from the buyer. Other financial terms of the real estate contract are unaffected by this amendment to extend feasibility.

*(If required)**

CRC Approval Date*: N/A **Council Approval Date*:** 2/26/26 **Agenda Item No*:** 8.14

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

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

SIGNATURES RECOMMENDING APPROVAL

_____ _____
DEPARTMENT DIRECTOR/ADMINISTERING CONTRACT DATE

_____ _____
ASST CITY MGR – CFO DATE

_____ _____
LEGAL DEPARTMENT DATE

APPROVED & EXECUTED

_____ _____
CITY MANAGER DATE

N/A
_____ _____
MAYOR (if applicable) DATE

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

9.12.23 UPDATED

SEVENTH AMENDMENT TO THE REAL ESTATE CONTRACT BETWEEN

CITY OF COLLEGE STATION AND THE CORINTH GROUP, INC.

180 DAY EXTENSION AGREEMENT

THIS SEVENTH AMENDMENT to the REAL ESTATE CONTRACT is made and entered into on February 26, 2026 ("Effective Date"), is by and between **CITY OF COLLEGE STATION**, a Texas Home Rule Municipal Corporation, situated in Brazos County, Texas ("SELLER") and **THE CORINTH GROUP, INC.**, a Texas corporation ("BUYER").

WHEREAS, SELLER and BUYER entered into a Real Estate Contract dated January 10, 2025, as amended by that First Amendment to Real Estate Contract dated April 10, 2025 and Second Amendment to Real Estate Contract dated July 10, 2025, and Third Amendment to Real Estate Contract dated August 14, 2025, Fourth Amendment to Real Estate Contract dated September 11, 2025, Fifth Amendment to Real Estate Contract dated November 11, 2025, and Sixth Amendment to Real Estate Contract dated January 10, 2026 (collectively, the "Agreement") in which BUYER agreed to purchase from SELLER a fee simple interest in and to all that certain lot, tract or parcel of land lying and being approximately 13 acres of the 28.666 acre tract being Lot One, Block "A" of the MIDTOWN BUSINESS PARK PHASE ONE, an addition to the City of College Station, Brazos County, Texas, according to the Plat of record in Volume 17484, Page 40 in the Official Records of Brazos County, Texas, ("Property"); and

WHEREAS, SELLER and BUYER entered into the First Amendment to Real Estate Contract dated April 10, 2025 in which SELLER and BUYER agreed to extend for an additional sixty (60) days the time period for SELLER to provide BUYER with a proposed draft of the Declaration of Restrictive Covenants as required by Section 10.3, "Restrictive Covenants", of the Agreement; and

WHEREAS, SELLER and BUYER entered into the Second Amendment to Real Estate Contract dated July 10, 2025 in which SELLER and BUYER agreed to extend the Feasibility Period for an additional thirty (30) days to August 13, 2025 and deposit with the Title Company an Extension in the sum of $10,000.00 in accordance with Section 1.9; and

WHEREAS, SELLER and BUYER entered into the Third Amendment to Real Estate Contract dated August 14, 2025 in which SELLER and BUYER agreed to extend the Feasibility Period for an additional thirty (30) days to September 12, 2025 and deposit with the Title Company an Extension in the sum of $10,000.00 in accordance with Section 1.9; and

WHEREAS, SELLER and BUYER entered into the Fourth Amendment to Real Estate Contract dated September 11, 2025 in which SELLER and BUYER agreed to extend the Feasibility Period for an additional one hundred eighty (180) days to March 11, 2026, in three (3) sixty (60) day feasibility increments expiring on November 11, 2025, January 10, 2026, and March 11, 2026, and deposit with the Title Company an Extension Fee in the sum of $10,000.00 for each of the three (3) feasibility increments in accordance with Section 1.9; and

WHEREAS, SELLER and BUYER entered into the Fifth Amendment to Real Estate Contract dated November 11, 2025 in which SELLER and BUYER agreed to extend the Feasibility Period for an additional sixty (60) days to January 10, 2026, this extension being the second 60-day extension allowed under the Fourth Amendment, and deposit with the Title Company an Extension Fee in the sum of $10,000.00 in accordance with Section 1.9; and

WHEREAS, SELLER and BUYER entered into the Sixth Amendment to Real Estate Contract dated January 10, 2026 in which SELLER and BUYER agreed to extend the Feasibility Period for an additional sixty (60) days to March 11, 2026, this extension being the third and final 60-day extension allowed under the Fourth Amendment, and deposit with the Title Company an Extension Fee in the sum of $10,000.00 in accordance with Section 1.9; and

WHEREAS, SELLER and BUYER now desire to further extend the Feasibility Period as allowed in the Agreement for a 180-day feasibility extension; and

NOW, THEREFORE, in consideration of the promises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, SELLER and BUYER agree as follows:

1. Notwithstanding anything to the contrary set forth in Section 1.9 of the Agreement, SELLER and BUYER agree that the Feasibility Period is hereby extended to September 8, 2026, which is an extension of an additional one hundred eighty (180) days, such extension is in sixty (60) day increments approved in writing by the City Manager and BUYER, providing BUYER a total Feasibility Period of six hundred (600) days from Opening of Escrow. The BUYER agrees to deposit with Title Company an Extension Fee in the sum of Ten Thousand and No/100 Dollars ($10,000.00) for every extension for a total of three (3) Extension Fee deposits, within three (3) business days following the expiration of the Feasibility Period in accordance with Section 1.9(b).

2. The three (3) sixty-day feasibility increments expiration dates are May 11, 2026, July 10, 2026, and September 8, 2026.

3. SELLER and BUYER agree the Agreement is modified as stated above. All other terms and conditions shall remain unchanged and in full force and effect.

4. Capitalized terms used but not defined herein shall have the meaning set forth in the Agreement.

[*Signatures Follow on Next Page*]

SELLER:

CITY OF COLLEGE STATION, TEXAS
a Texas Home Rule Municipal Corporation

By: _____
City Manager
Date: _____

APPROVED:

_____
Assistant City Manager/CFO
Date: _____

_____
City Attorney
Date: _____

BUYER:

THE CORINTH GROUP, INC., a Texas Corporation

By: Arthur Brousseau
Arthur Brousseau, Vice President
Date: 2/19/2026

February 26, 2026
Item No. 8.14.
Police Department Grant Resolution

Sponsor: Billy Couch

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action on a resolution authorizing the Chief of Police as the authorized official to execute documents necessary for the grant application for grant funds from the Office of the Governor - Homeland Security Division for a Safe Shield Armored Tahoe for the SWAT team.

Relationship to Strategic Goals:
Good governance
Financial sustainability

Recommendation(s): Staff recommends approval.

Summary: This grant will provide 100% funding for the purchase of a Safe Shield Armored Tahoe for the police SWAT team. This Safe Shield Armored Tahoe will be utilized for felony vehicle take-downs, operational deployment options, and dignitary protection escorts while providing enhanced safety for officers inside the vehicles due to the ballistic resistant capabilities of the vehicles.

Budget & Financial Summary: The cost of the Safe Shield Armored Tahoe is $125,000. The grant application is asking for the full price of the Safe Shield Armored Tahoe including the emergency vehicle operation package and ballistic protected windows and doors. If the grant is awarded, it is expected that it will cover 100% of the cost associated with this project. No cash match required.

Attachments:
1. FY 27 SHSP-LEPTA 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 HOMELAND SECURITY GRANTS DIVISION FOR GRANT FUNDS FOR THE PURCHASE OF A SAFE SHIELD ARMORED TAHOE 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 SWAT Team be operated for 2027; and

WHEREAS, the City of College Station agrees to provide applicable matching funds for the Safe Shield Armored Tahoe as required by the Office of the Governor Homeland Security Grants Division application; and

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

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

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of College Station hereby approves the submission of the Safe Shield Armored Tahoe application grant application to the Office of the Governor, Homeland Security Grants Division.

PART 1: That the City Council hereby authorizes the Chief of Police as the authorized official to execute documents necessary for the submission of the Safe Shield Armored Tahoe application, with Application Number **5888501**, for Homeland Security Grants Division 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 Safe Shield Armored Tahoe grant application on behalf of the City of College Station.

PART 3: That the Assistant Director of Finance is the designated Financial Officer for this grant.

PART 4: That the City of College Station agrees in the event of loss or misuse of the funds, the City of College Station assures the funds will be returned in full.

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

ADOPTED this _____day of_____, 2026.

ATTEST: **APPROVED:**

_____ **_____**
City Secretary **Mayor**

APPROVED:

_____
City Attorney

February 26, 2026
Item No. 9.1.
Midtown Engagement Summary Report.

Sponsor: Heather Wade, Principal Planner

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action on the Midtown Engagement Summary Report.

Relationship to Strategic Goals:

- Good Governance
- Financially Sustainable City
- Core Services and Infrastructure
- Neighborhood Integrity
- Diverse Growing Economy
- Improving Mobility
- Sustainable City

Recommendation(s): N/A

Summary: The City of College Station conducted a community workshop on November 18, 2025, to gather public input on the future of the Midtown Area and the adjacent Business Center. Approximately 75 participants engaged in an interactive mapping exercise, written comments, and direct discussions with staff. Overall, the engagement showed strong internal consistency across participants and methods. Community input demonstrated clear alignment around several priorities, including investment in parks and recreation, preservation of wooded areas and neighborhood buffers, improved trail and pedestrian connectivity, and support for growth when it is well-located and compatible with surrounding neighborhoods. While some topics generated differing opinions, most notably the location and design of baseball facilities, areas of disagreement were localized and place-specific rather than widespread. These areas reflected competing but valid community goals, such as balancing recreation, development intensity, and neighborhood protection. The results of this engagement provide a clear, community-informed foundation to guide future discussions for Midtown, helping to identify areas of strong consensus as well as locations where additional design refinement or policy guidance may be needed.

Budget & Financial Summary:

Attachments:

1. Midtown Area Community Engagement Summary Report

Midtown Area Community Engagement Summary Report

City of College Station – Planning & Development Services
November 18, 2025, Community Workshop

Introduction & Purpose

The City of College Station hosted a community workshop on November 18, 2025, to gather public input on the future of the Midtown Area and the adjacent Business Center area. The purpose of the engagement was to understand community priorities related to land use, public investment, recreation, connectivity, and neighborhood compatibility as the City evaluates long-term planning options and economic development opportunities for Midtown.

Participants were invited to share ideas, concerns, and preferences through interactive mapping exercises, direct conversations with staff, and written comments. The input summarized in this report will inform future efforts and help shape potential policy directions for the Midtown area.

Engagement Overview

Event Details

- Date: Tuesday, November 18, 2025
- Location: City Hall Council Chambers
- Format: Open-house workshop with mapping exercise
- Approximately 75 Participants: Community members, neighborhood residents, business owners, and City staff

The workshop included:

- A brief introduction and background presentation
- Informational stations staffed by City departments (planning, parks, transportation, economic development) and one station staffed by the private developer of Midtown City Center/Midtown Reserve
- An interactive mapping exercise allowing participants to draw, write, and annotate their ideas directly on maps
- Written comment cards and informal discussion opportunities

Mapping Exercise

Community input collected through the November 18, 2025, workshop included a robust interactive mapping exercise. Participants were invited to draw, annotate, and comment

directly on large-format (11”x17”) maps of the Midtown Area and the Business Center Area, identifying preferred land uses, desired public investments (e.g., roads, trails, signage, parks), and locations of concern or opportunity. This exercise encouraged spatial thinking and allowed participants to visually express preferences and tradeoffs rather than relying solely on written or verbal feedback.

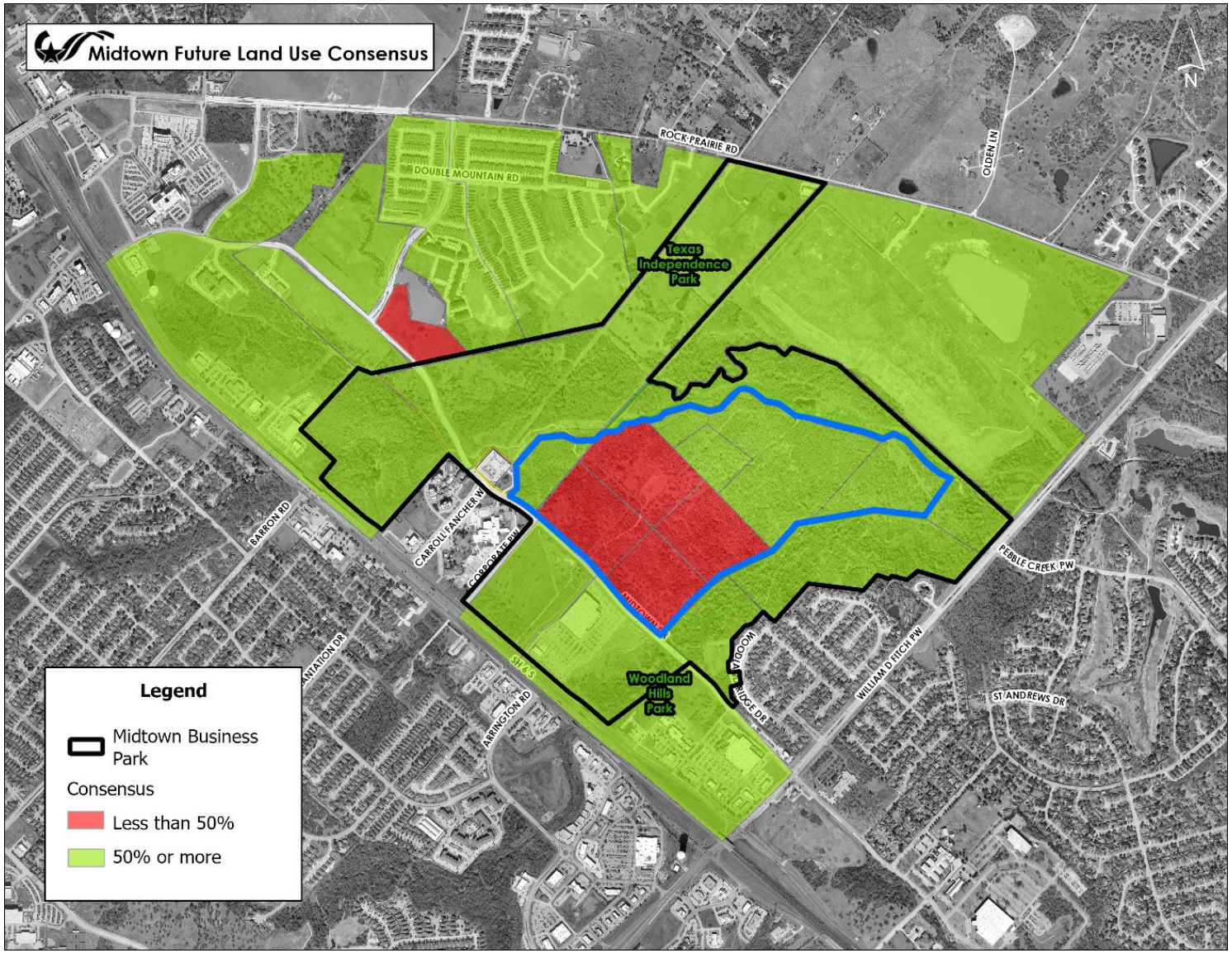
Summary of Community Input – Map-Based Analysis

This section summarizes the synthesized results of those map-based inputs and explains how the information was analyzed and interpreted. We received 32 total annotated maps, 82 map comments, 43 written comment cards and a (1) feedback presentation. Rather than presenting individual comments, the maps in this report highlight spatial patterns, areas of alignment, and locations of differing priorities across participants.

Midtown Future Land Use Consensus Map

The Future Land Use Consensus Map illustrates where participants generally agreed or disagreed on future land use direction. Green represents areas where at least half of participants proposed the same or similar future land use. Red areas represent where less than 50% consensus exists, identifying areas where proposals were more varied, indicating lower agreement.

Most of Midtown shows strong consensus. Much of the area is shaded green, indicating that participants largely aligned on broad land use direction. Low-consensus areas are limited and concentrated, suggesting that disagreement is localized and not systemic. The disagreement areas concentrated along Midtown Drive within the Business Center area and Northwest of the Midtown Drive and Town Lake Drive intersection. These locations reflect areas where multiple legitimate planning objectives may overlap, such as recreation, development, buffering, and access.


Midtown Future Land Use Consensus
N
ROCK PRAIRIE RD
DOUBLE MOUNTAIN RD
OLDEN LN
Texas Independence Park
BARRON RD
CARROLL FANCHER WY
CORPORATE PW
PEBBLE CREEK PW
WILLIAM D FITCH PW
ST ANDREWS DR
ARRINGTON RD
SH 6
Woodland Hills Park
Legend
Midtown Business Park
Consensus
Less than 50%
50% or more

Midtown Future Land Use Level of Conflict Map

The Future Land Use Level of Conflict Map provides additional detail by showing the degree of variation in land use proposals for each area.

This map shows how much disagreement exists, measured by the number of different Future Land Use (FLU) categories proposed for each area:

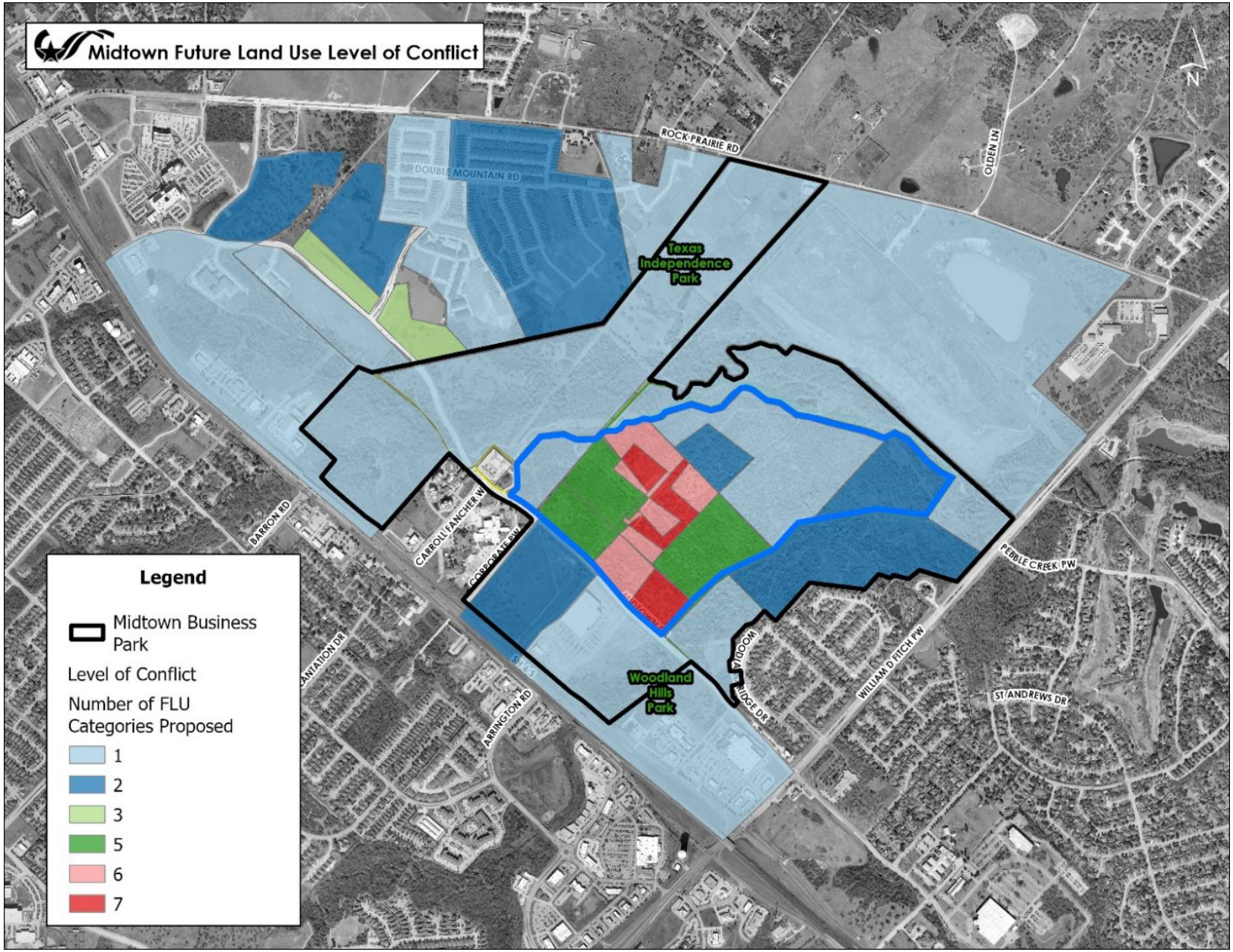
- Light blue (1 category): Very low conflict, strong alignment
- Darker blues/greens (2–5 categories): Moderate variation
- Red (6–7 categories): High conflict, many competing ideas

Low conflict dominates most of the area. Large portions of Midtown show only one or two proposed FLU categories, reinforcing that community preferences are relatively stable. High conflict is concentrated, not widespread. The highest conflict areas occur in the Business Center area, specifically the edge location along Midtown Drive and the middle interior of that area.

These conflict areas reflect competing priorities among residents such as:

- Recreation vs. development
- Neighborhood buffering vs. high intensity uses
- Baseball fields vs. green space protection

Disagreement is situational and place-specific, not widespread. Areas of conflict correspond to locations where multiple valid community goals intersect.


Midtown Future Land Use Level of Conflict
N
ROCK PRAIRIE RD
DOUBLE MOUNTAIN RD
OLDEN LN
Texas Independence Park
Woodland Hills Park
BARRON RD
CARROLL FANCHER WY
CORPORATE PW
ARRINGTON RD
WOODRIDGE DR
WILLIAM D FITCH PW
PEBBLE CREEK PW
ST ANDREWS DR
Legend
Midtown Business Park
Level of Conflict
Number of FLU Categories Proposed
1
2
3
5
6
7

Midtown Future Land Use Proposed – Full Consensus Map

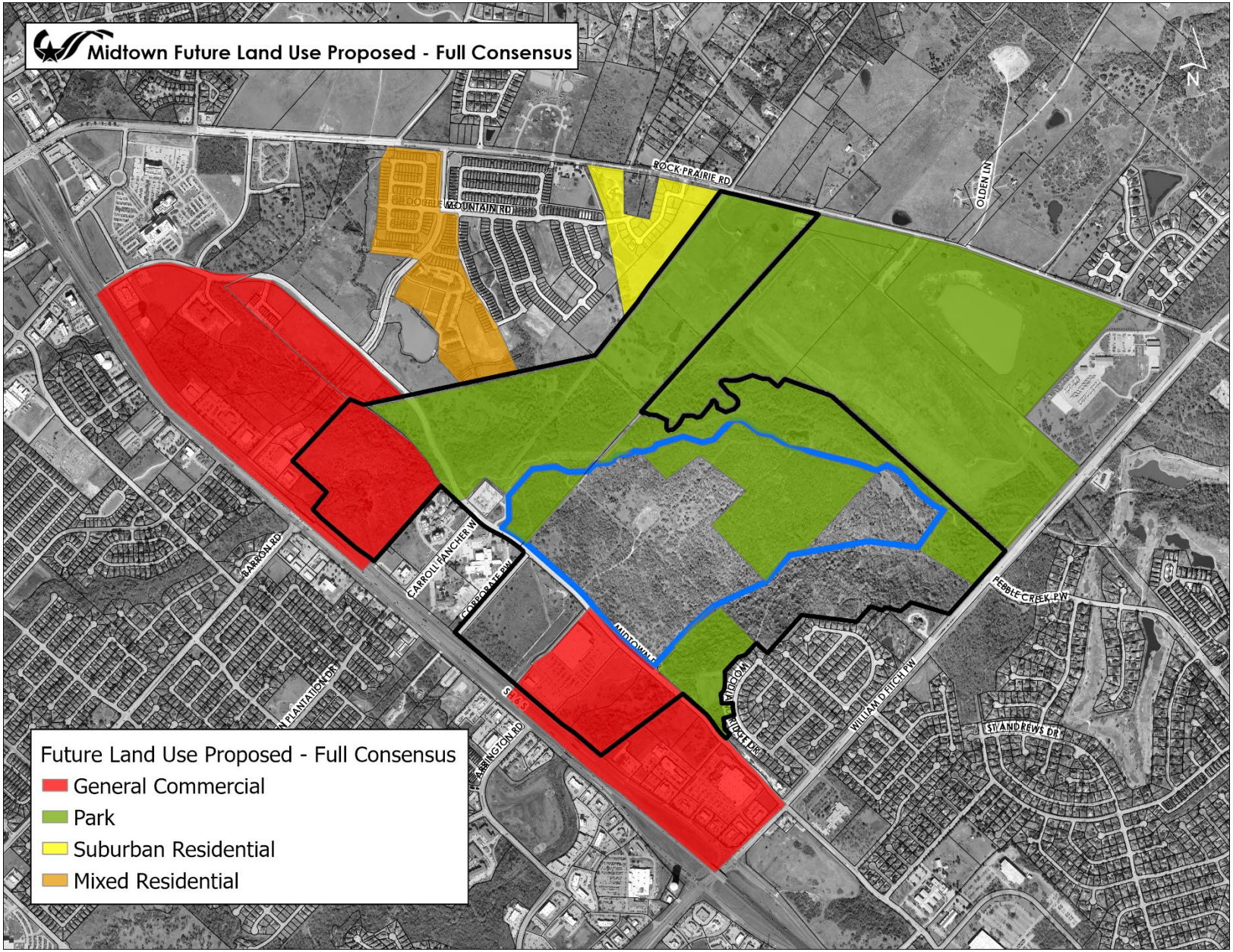
The Full Consensus Map shows areas where unanimous agreement was expressed.

The legend shows:

- Red – Commercial: Concentrated along major roadways and existing commercial corridors.
- Green – Park: Large, contiguous areas identified for recreation, open space, and preservation.
- Yellow – Suburban: Transitional residential areas, generally near existing neighborhoods.
- Orange – Mixed Residential: Targeted areas where a blend of residential uses is appropriate.

Large, uninterrupted areas of full consensus are associated with park and recreation uses, underscoring the strength of community support for open space and amenities. General commercial uses are clearly location-specific and align with major roadways and existing development patterns. Mixed residential uses appear only in limited areas, suggesting support when appropriately located rather than broadly distributed. Suburban land uses frequently function as buffers between higher-intensity uses and established neighborhoods.

Where full consensus exists, community preferences are clear, context-aware, and strongly oriented toward recreation, buffering, and corridor-based development.

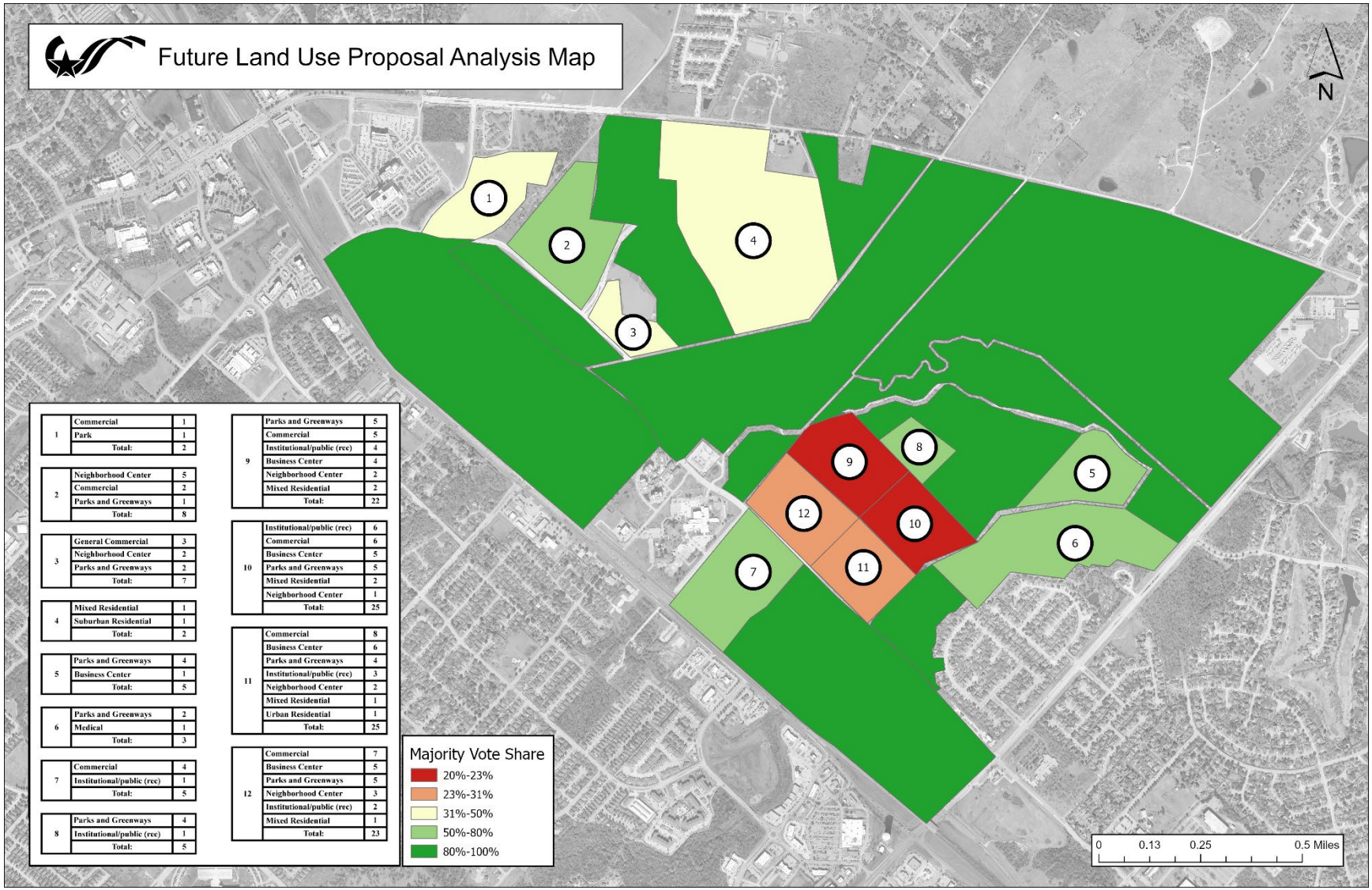

Midtown Future Land Use Proposed - Full Consensus
N
ROCK PRAIRIE RD
MOUNTAIN RD
OLDEN LN
BARRON RD
CARROLL FANCHER W
FORBORATE PW
MIDTOWN
PLANTATION DR
SH 6 S
ARLINGTON RD
AIDEEN
WILLIAM P HIGH PW
PEBBLE CREEK PW
ST ANDREWS DR
Future Land Use Proposed - Full Consensus
General Commercial
Park
Suburban Residential
Mixed Residential

Midtown Future Land Use Proposal Voting Map

The Proposal Voting Map reflects how frequently specific land use proposals were selected in each area. This map highlights areas that received repeated, reinforcing input rather than isolated suggestions. Higher concentrations of similar proposals indicate areas where participants consistently identified preferred outcomes. These patterns align closely with the consensus and conflict maps, reinforcing the reliability of the synthesized results.

Area Number	Land Use Category	Number of Votes
	Commercial	1
	Park	1
1	Total	2
	Neighborhood Center	5
	Commercial	2
	Parks & Greenways	1
2	Total	8
	General Commercial	3
	Neighborhood Center	2
	Parks & Greenways	2
3	Total	7
	Mixed Residential	1
	Suburban Residential	1
4	Total	2
	Parks & Greenways	4
	Business Center	1
5	Total:	5
	Parks & Greenways	2
	Medical	1
6	Total	3
	Commercial	4
	Institutional/public	1
7	Total	5
	Parks & Greenways	4
	Institutional/public	1
8	Total	5

Area Number	Land Use Category	Number of Votes
	Parks & Greenways	5
	Commercial	5
	Institutional/public	4
	Business Center	4
	Neighborhood Center	2
	Mixed Residential	2
9	Total	22
	Institutional/public	6
	Commercial	6
	Business Center	5
	Parks & Greenways	5
	Mixed Residential	2
	Neighborhood Center	1
10	Total	25
	Commercial	8
	Business Center	6
	Parks & Greenways	4
	Institutional/public	3
	Neighborhood Center	2
	Mixed Residential	1
	Urban Residential	1
11	Total	25
	Commercial	7
	Business Center	5
	Parks & Greenways	5
	Neighborhood Center	3
	Institutional/public	2
	Mixed Residential	1
12	Total	23



1	Commercial	1
	Park	1
	Total:	2

2	Neighborhood Center	5
	Commercial	2
	Parks and Greenways	1
	Total:	8

3	General Commercial	3
	Neighborhood Center	2
	Parks and Greenways	2
	Total:	7

4	Mixed Residential	1
	Suburban Residential	1
	Total:	2

5	Parks and Greenways	4
	Business Center	1
	Total:	5

6	Parks and Greenways	2
	Medical	1
	Total:	3

7	Commercial	4
	Institutional/public (rec)	1
	Total:	5

8	Parks and Greenways	4
	Institutional/public (rec)	1
	Total:	5

9	Parks and Greenways	5
	Commercial	5
	Institutional/public (rec)	4
	Business Center	4
	Neighborhood Center	2
	Mixed Residential	2
	Total:	22

10	Institutional/public (rec)	6
	Commercial	6
	Business Center	5
	Parks and Greenways	5
	Mixed Residential	2
	Neighborhood Center	1
	Total:	25

11	Commercial	8
	Business Center	6
	Parks and Greenways	4
	Institutional/public (rec)	3
	Neighborhood Center	2
	Mixed Residential	1
	Urban Residential	1
	Total:	25

12	Commercial	7
	Business Center	5
	Parks and Greenways	5
	Neighborhood Center	3
	Institutional/public (rec)	2
	Mixed Residential	1
	Total:	23

Midtown Signage and Infrastructure Proposal Map

The Signage and Infrastructure Map captures proposed locations for public investment, including:

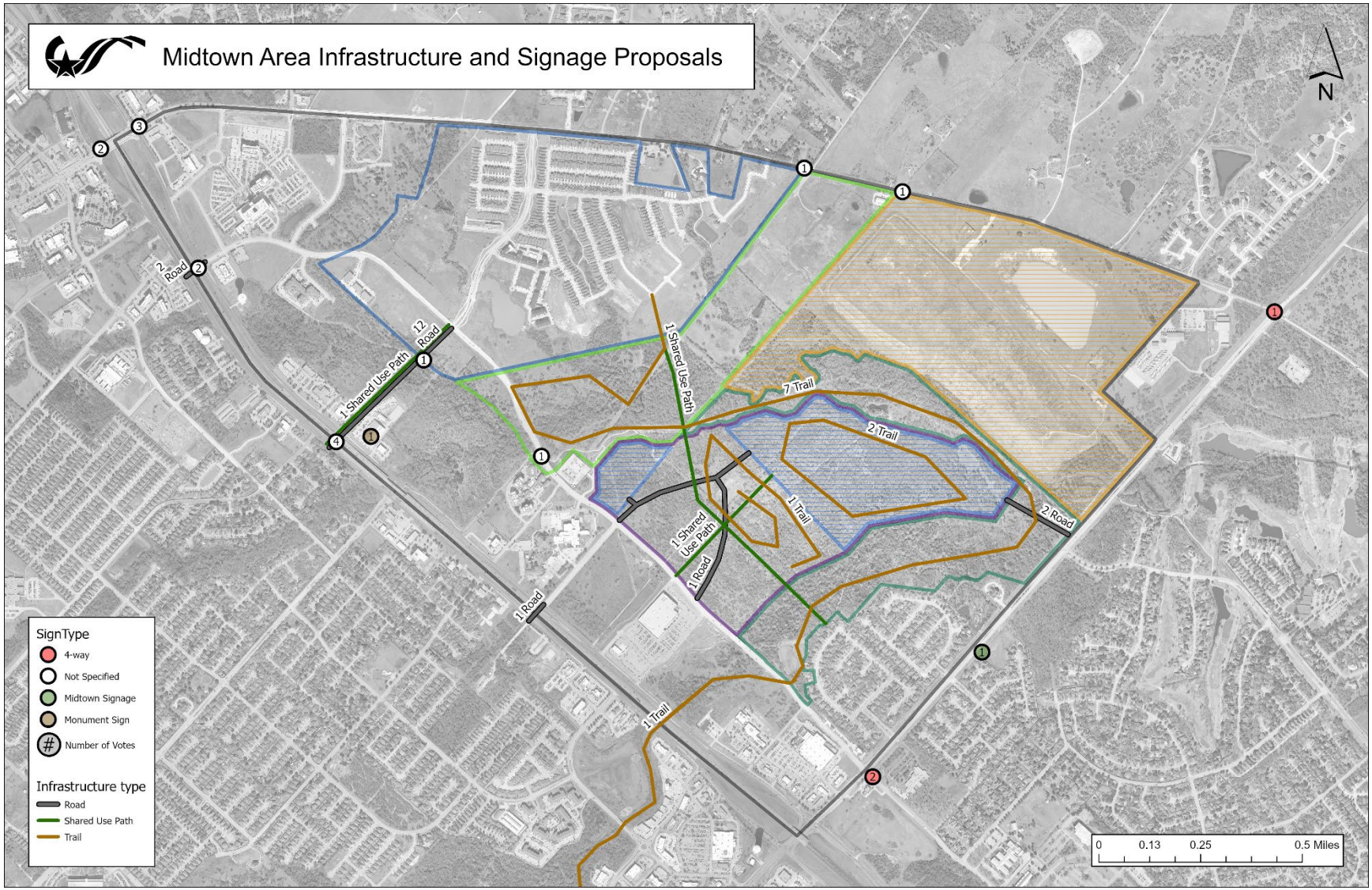
- Gateway and wayfinding signage
- Trail and pedestrian connections
- Road extensions and access improvements

Participants consistently identified the need for:

- Clear Midtown identity and signage, particularly along major corridors
- Improved trail connectivity between neighborhoods, Texas Independence Park, and the Business Center
- Strategic road improvements that enhance access without encouraging neighborhood cut-through traffic

Proposed infrastructure investments frequently align with areas identified as opportunity zones, reinforcing the relationship between land use, access, and placemaking.

Community members see infrastructure and signage as essential tools for shaping Midtown's identity, connectivity, and functionality.


Midtown Area Infrastructure and Signage Proposals
N
2 Road
12 Road
1 Shared Use Path
1 Shared Use Path
7 Trail
2 Trail
1 Trail
1 Shared Use Path
1 Road
2 Road
1 Road
1 Trail
SignType
4-way
Not Specified
Midtown Signage
Monument Sign
Number of Votes
Infrastructure type
Road
Shared Use Path
Trail
0 0.13 0.25 0.5 Miles

Key Themes & Findings

Recreation and Parks: A Top Priority

Recreation emerged as the strongest and most consistent theme across all input.

Community members expressed strong interest in:

- A recreation center serving families, youth, and multiple age groups
- Expanded park amenities, including courts, playgrounds, and flexible open space
- Improved trail connections linking neighborhoods, Texas Independence Park, and the Business Center

Many participants emphasized the value of centrally located recreational amenities that reduce travel time and provide affordable options for local families.

Preservation of Wooded Areas and Buffers

Protection of existing wooded areas was one of the most clearly articulated priorities.

Participants repeatedly requested:

- Preservation of trees and natural areas
- Strong landscape buffers between development and existing neighborhoods
- Consideration of nature preserves or greenway corridors, particularly along neighborhood edges

This theme was closely tied to concerns about neighborhood compatibility, environmental quality, and long-term livability.

Baseball Fields: Supported with a Focus on "Where and How?"

Baseball fields generated the most debate among participants. While the existence of baseball fields in the area is generally supported, there was broad discussion that location and buffering matter significantly.

Input reflected two primary perspectives:

- Support for consolidating or relocating baseball fields into a dedicated sports complex within the interior portion of the business center site to allow for appropriate buffers and transitions to adjacent existing neighborhoods
- Strong opposition to baseball fields directly adjacent to existing homes, citing concerns about noise, lighting, traffic, and tournament activity

Connectivity and Mobility

Participants consistently highlighted the need for improved connectivity, with a strong emphasis on pedestrian and bicycle safety.

Common requests included:

- Safe bike and pedestrian crossings
- Trail connections between Midtown neighborhoods, parks, and activity centers
- Traffic calming near residential areas
- Caution against creating new vehicle cut-through routes through neighborhoods

Overall, the community supported connectivity improvements that prioritize safety and multimodal access.

Land Use Preferences

Community members expressed support for a balanced mix of uses, with location-sensitive placement.

Key preferences included:

- Mixed-use and neighborhood-serving commercial along Midtown Drive and SH 6
- Restaurants, coffee shops, and local retail rather than large, big-box uses
- Medical and employment uses compatible with nearby healthcare facilities
- Limited, context-sensitive residential development with appropriate transitions and buffers

Participants emphasized that land use decisions should respect existing neighborhoods while allowing Midtown to evolve as a distinct destination.

Neighborhood Compatibility

Neighborhood compatibility functioned as a core filter for evaluating all proposed ideas.

Repeated concerns included:

- Avoiding incompatible uses next to single-family neighborhoods
- Preventing excessive traffic impacts
- Preserving neighborhood character through buffering, building transitions, and thoughtful site design

This theme cut across recreation, land use, and transportation discussions.

Opportunity Areas Identified

Based on recurring map markings and comments, several opportunity areas consistently emerged:

- Midtown Drive Corridor: Potential spine for walkable mixed-use and neighborhood-serving commercial
- SH 6 Frontage: Appropriate location for higher-intensity commercial or employment uses

- Business Center Interior: Opportunity for recreation facilities, sports complexes, or civic anchors
- Texas Independence Park Interface: Expansion of trails, recreation, and park connectivity

These areas reflect where participants see the greatest potential for coordinated investment and placemaking.

SH 6 Frontage	*Commercial / employment / medical*
Midtown Drive Corridor	*Walkable mixed-use spine*
Business Center Interior	*Recreation + civic anchor opportunity*
Texas Independence Park Interface	*Expanded parks & trail connections*
Woodland Hills Edge	*Preserved buffer / greenway*

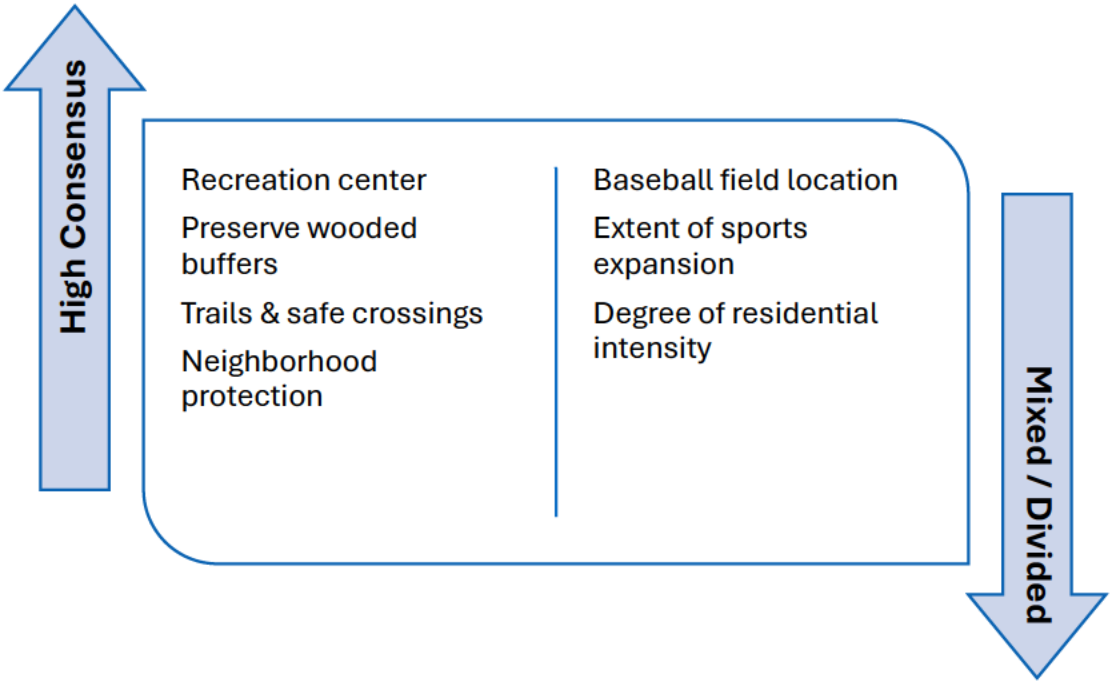
Participants consistently identified specific corridors and edges as appropriate for different roles.

Overall Takeaways

The Midtown engagement revealed a community that is:

- Highly supportive of recreation and park investment
- Strongly protective of neighborhoods and natural areas
- Open to growth when it is well-located, buffered, and thoughtfully designed
- Interested in making Midtown a distinct, connected, and family-friendly destination

While some topics, particularly baseball field location, generated differing opinions, there was clear alignment around principles: compatibility, connectivity, preservation, and quality of life.



The debate was not whether baseball belongs in Midtown, but where and how it relates to nearby neighborhoods.

Next Steps

The feedback summarized in this report will be used to:

- Inform future planning and policy discussions
- Evaluate potential land use and infrastructure scenarios
- Identify areas for further technical analysis or targeted outreach

Additional engagement opportunities may be pursued as planning efforts advance and more detailed concepts are developed.

Appendix

Workshop Materials

Mapping Exercise

Take a Map and Give us your Input!

Instructions: Grab a map and tell us what you envision for the Midtown Area. Draw, write, and design as you see fit!

Prompts:

1. What types of land uses do you want to see?
2. What do you want to see the City invest in (e.g., signs, roads, etc.)?
3. Where should those investments go?

Additional poster resources and references are provided on the back and side walls, and staff is available to answer questions.

Suggested Color Key	
Land Use Category	**Color**
Business Center	Purple
General Commercial	Red
Institutional/Public	Grey
Medical	Blue
Mixed Residential	Orange
Parks & Greenways	Green
Neighborhood Center	Brown
Neighborhood Commercial	Pink
Suburban Residential	Yellow
Urban Residential	Black

Suggested Symbols

(S) = Signage

[i] = Infrastructure

COLLEGE STATION MIDTOWN COMMUNITY WORKSHOP

TUESDAY, NOV. 18
6 P.M.

CITY HALL COUNCIL CHAMBERS

Share your ideas and help guide the future of the Midtown area and the City's 200-acre parcel.

City of College Station
Home of Texas A&M University®

Mapping Exercise

The workshop will begin with an introduction to the area, covering its history, vision, and next steps. Afterwards, the mapping exercise will open, and multiple topic tables will be available for Q&A.

Instructions: Grab a map and tell us what you envision for the Midtown Area. Draw, write, and design what you would like to see!

Prompts:

1. What types of land uses do you want to see?
2. What do you want to see the City invest in (e.g., signs, roads, etc.)?
3. Where should those investments go?

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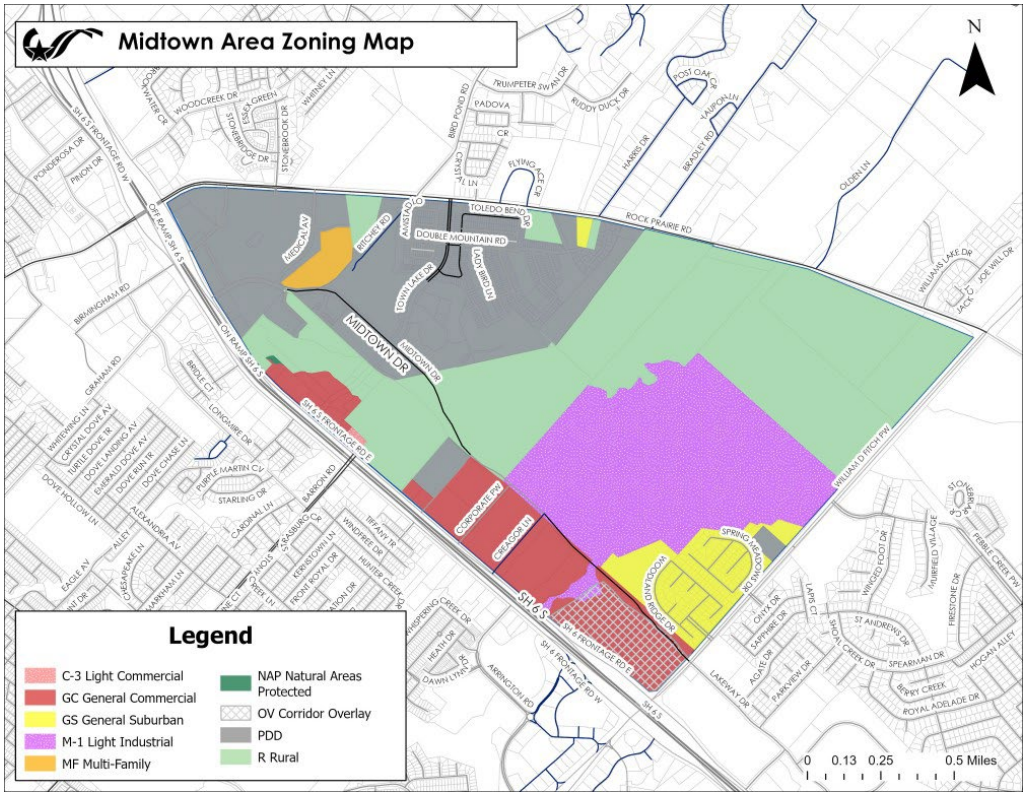
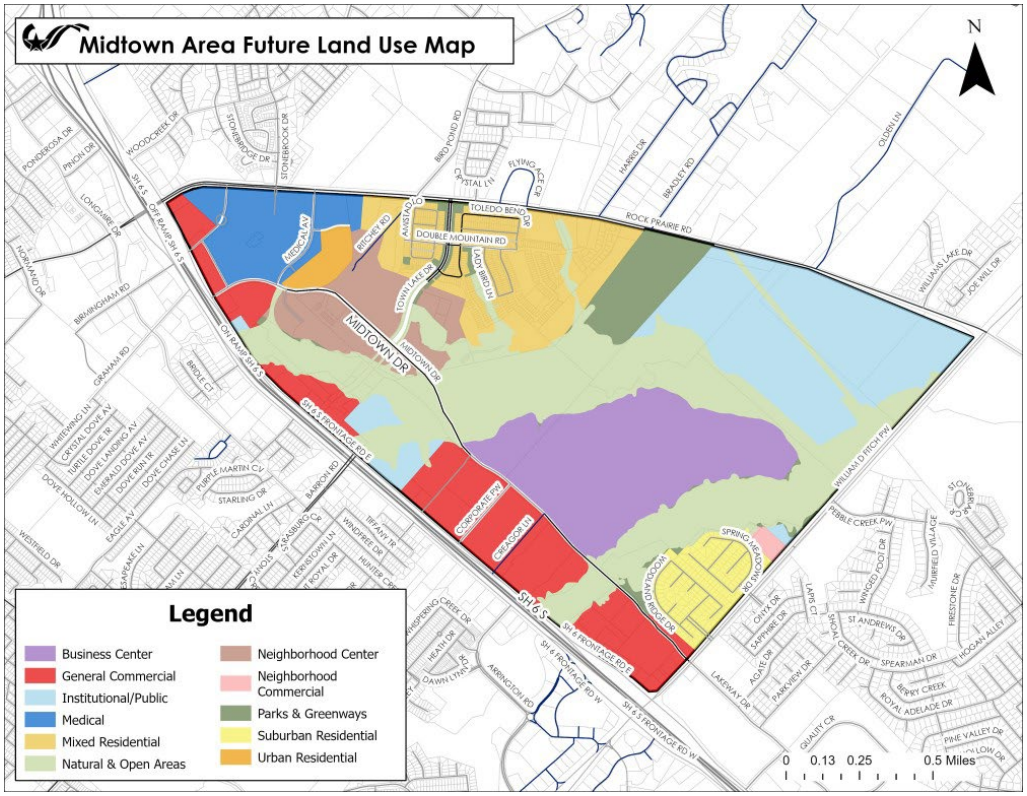
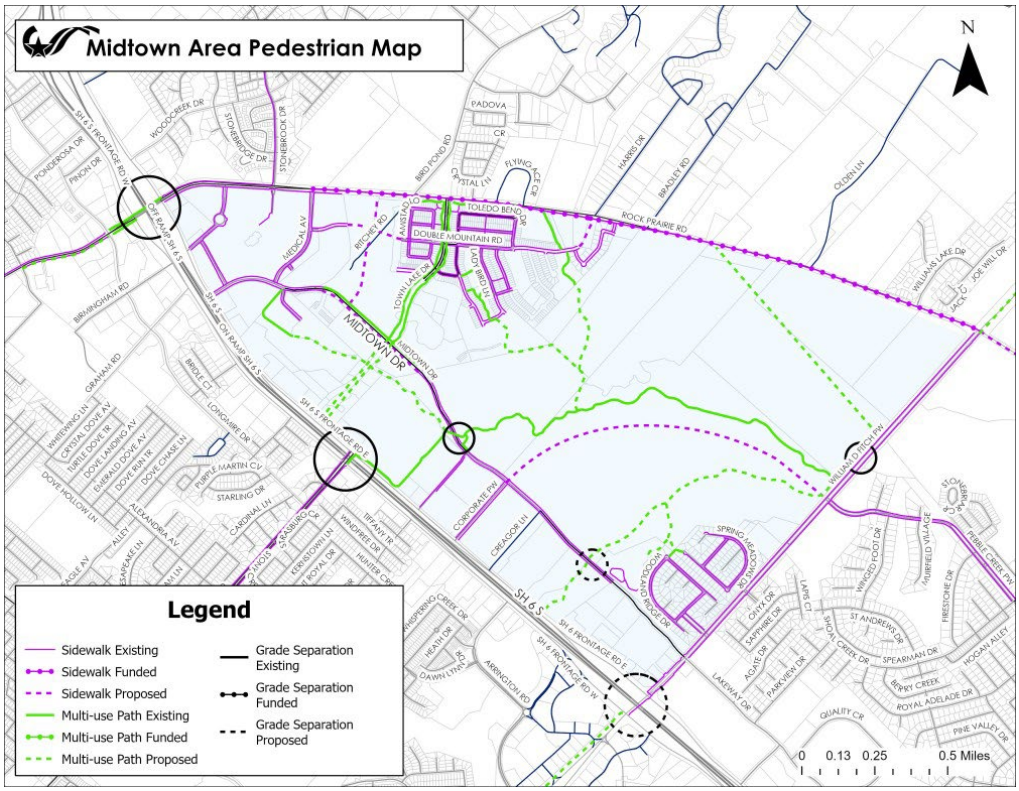
Suggested Symbols

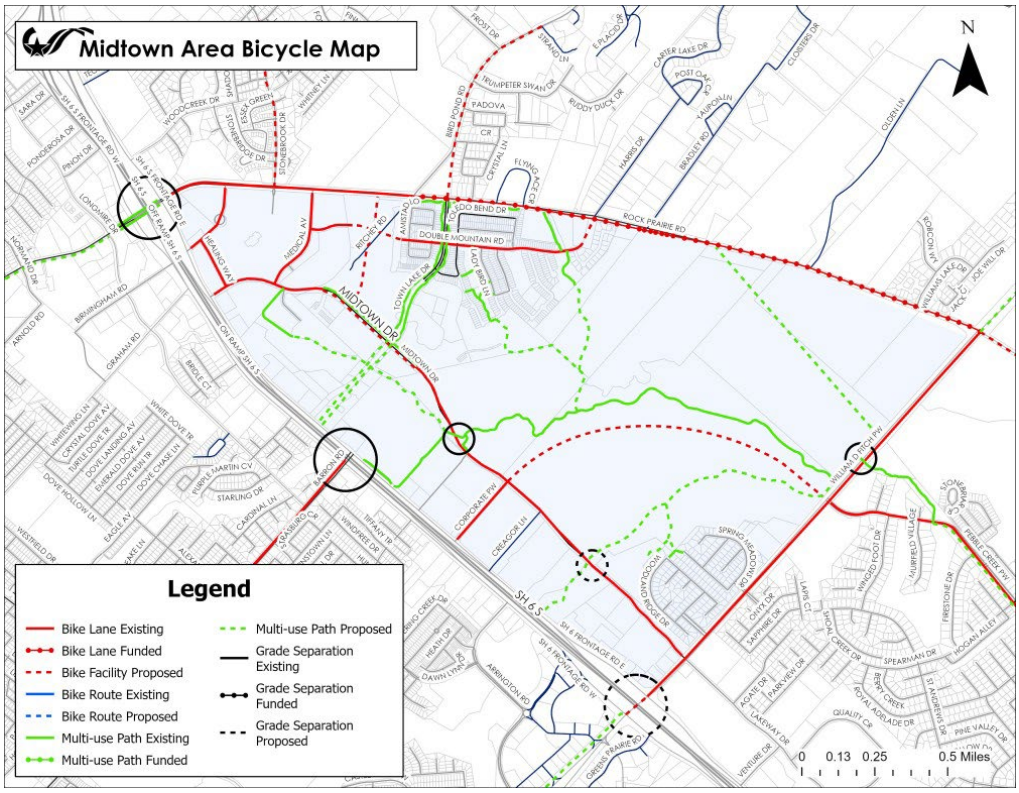
S = Signage

i = Infrastructure


Midtown Area Zoning Map
N
Legend
C-3 Light Commercial
GC General Commercial
GS General Suburban
M-1 Light Industrial
MF Multi-Family
NAP Natural Areas Protected
OV Corridor Overlay
PDD
R Rural
0 0.13 0.25 0.5 Miles
MIDTOWN DR
SH 6 S
DOUBLE MOUNTAIN RD
ROCK PRAIRIE RD
WILLIAM D FITCH PW
CORPORATE PW
GREENSON LN
MEDICAL AV
BITCHET RD
TOWN LAKE DR
LADY BIRD LN
SPRING MEADOW CIR
WOODVIEW RIDGE DR


Midtown Area Future Land Use Map
N
Legend
Business Center
General Commercial
Institutional/Public
Medical
Mixed Residential
Natural & Open Areas
Neighborhood Center
Neighborhood Commercial
Parks & Greenways
Suburban Residential
Urban Residential
0 0.13 0.25 0.5 Miles
MIDTOWN DR
SH 6 S
DOUBLE MOUNTAIN RD
ROCK PRAIRIE RD
WILLIAM D FITCH PW
CORPORATE PW
GREENSON LN
MEDICAL AV
BITCHET RD
TOWN LAKE DR
LADY BIRD LN
SPRING MEADOW CIR
WOODVIEW RIDGE DR


Midtown Area Pedestrian Map
N
Legend
Sidewalk Existing
Sidewalk Funded
Sidewalk Proposed
Multi-use Path Existing
Multi-use Path Funded
Multi-use Path Proposed
Grade Separation Existing
Grade Separation Funded
Grade Separation Proposed
MIDTOWN DR
SH 6 S
0 0.13 0.25 0.5 Miles


Midtown Area Bicycle Map
N
Legend
Bike Lane Existing
Bike Lane Funded
Bike Facility Proposed
Bike Route Existing
Bike Route Proposed
Multi-use Path Existing
Multi-use Path Funded
Multi-use Path Proposed
Grade Separation Existing
Grade Separation Funded
Grade Separation Proposed
MIDTOWN DR
SH 6 S
0 0.13 0.25 0.5 Miles

Additional Resources

Comments

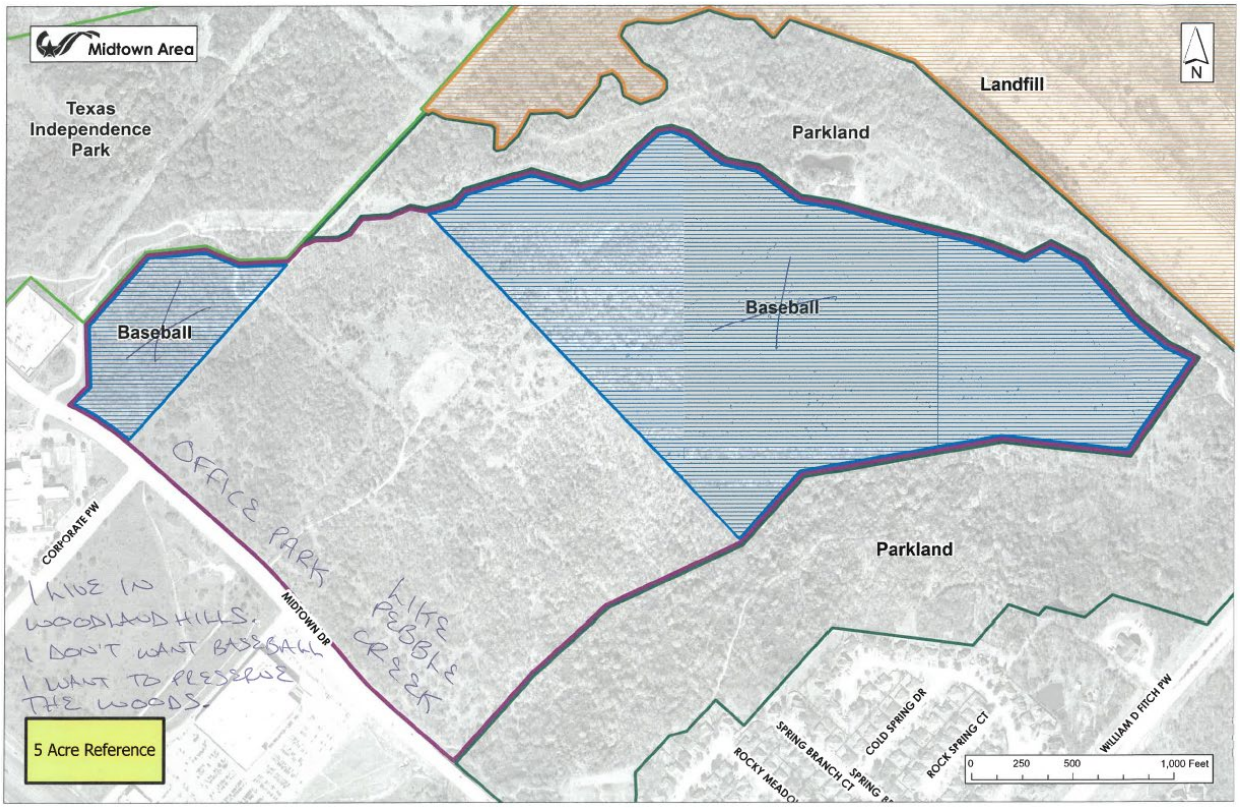
Midtown Workshop Comment Cards
1.) Finish Town Lake to bypass / 2.) Connect Woodland Hills and Spring Meadows to Lick Creek Greenway Trail / 3.) Midtown Signage / Branding / 4.) Lean into baseball -> rec center?
Stop thinking of people who don't live here. Stop attracting people who don't live here. Make something for the residents. Family can stay all day and evening. Outdoor dining, community green for live music, hanging out, farmers market. Community center for the people who live here.
I'd love to see an indoor pool / recreation center. Langford could make use of senior programs that include aquatics. Maybe an event center that could be rented out as a wedding venue that makes use of the surrounding woods. Maybe Great Wolf Lodge nestled in the forest. Work w/ the natural landscape and turn it into an asset.
Road connectivity from baseball sections surrounding the purple tract is needing consideration. Connectivity between Rock Prairie Rd and Midtown Dr on the peripheral is something that should be considered. Consideration of conference center and future public transit.
Bring Townlake Road to Hwy 6 frontage Road!
1.) Public transportation connectivity for the whole BCS city as well as the area we are discussing now / 2.) Parking lot should be constructed close to the commercial area
Need 3-way stop on Carroll Fancher to discourage + slow traffic on this private road. Townlake Extension Midtown - Hwy 6. [redacted]
We should have a Wild Bird unlimited Store since College Station is a Bird City. Can help whole area be more Bird Friendly
Signs/ Landmarks, City to work w/ Developer to help Recruit Businesses, Conference Center
Signs and Special landmarks to boost Midtown development
If you have those two baseball areas that are separated. If park space, trails, retail go in, ensure safe, Family Friendly connectivity w/ Independence Park.
It would benefit the community to know specifics of things like easements, soil testing, drainage issues, impact on traffic schools etc. WHEN announcing the plan for development of a section of land. All the news about proposed ballpark did not include mention of Parkland (on 5-acre reference map tonight) to remain between ballpark & spring meadows. / -Longterm Plan for Landfill - Options? / -Status of Parkland that failed Baseball Fields/ - What is Plan Process -Soil Samples - Lay of Land
Play into the medical corridor by adding health related businesses + activities. Rec center + Whole Foods + Farmers markets + Physical Therapy offices plus trails, plus baseball. It's a win win for whole health
We miss places like Harvey Washbangers - Hang out, Over 100 runners weekly who met there then ran. Community + health and outdoors working together.
A recreation Center with surrounding green space and trails right outside the door is highly attractive. And that green space could be like Pearl & San Antonio or music space etc.
My thoughts on the 120 acres would be a YMCA for the area, some sort of community centers. Or a conference centers. All of this can be cohesive (connecting the Midtown trails w/ texas independence Park, then to baseball fields and this development.
MAKE SURE BALLFIELDS HAVE ENOUGH PARKING. FOR THE HUNDREDS OF FAMILIES THAT WILL BE ATTENDING THE MANY GAMES ON ANY WEEKEND (+ WEEKDAYS)
Recommendations For General Commercial / 1.) Lean Into The Baseball Fields; Give People A Reason To Stay + Things To Do So That The Businesses Can Thrive For The Residents To Use When The Tourism Isn't Here / 2.) Restaurants: Study how Austin, TX + Denver, CO Have Restaurants w/ Excellent Outdoor Patios + Playgrounds To Actually Enjoy Being At A Restaurant; Examples : Waterloo Icehouse, Angels Icehouse, Cork Collective, Biergartens, + Distilleries, Brewery / 3.) "A True Health Club" * Think Rec Center (Public) ,

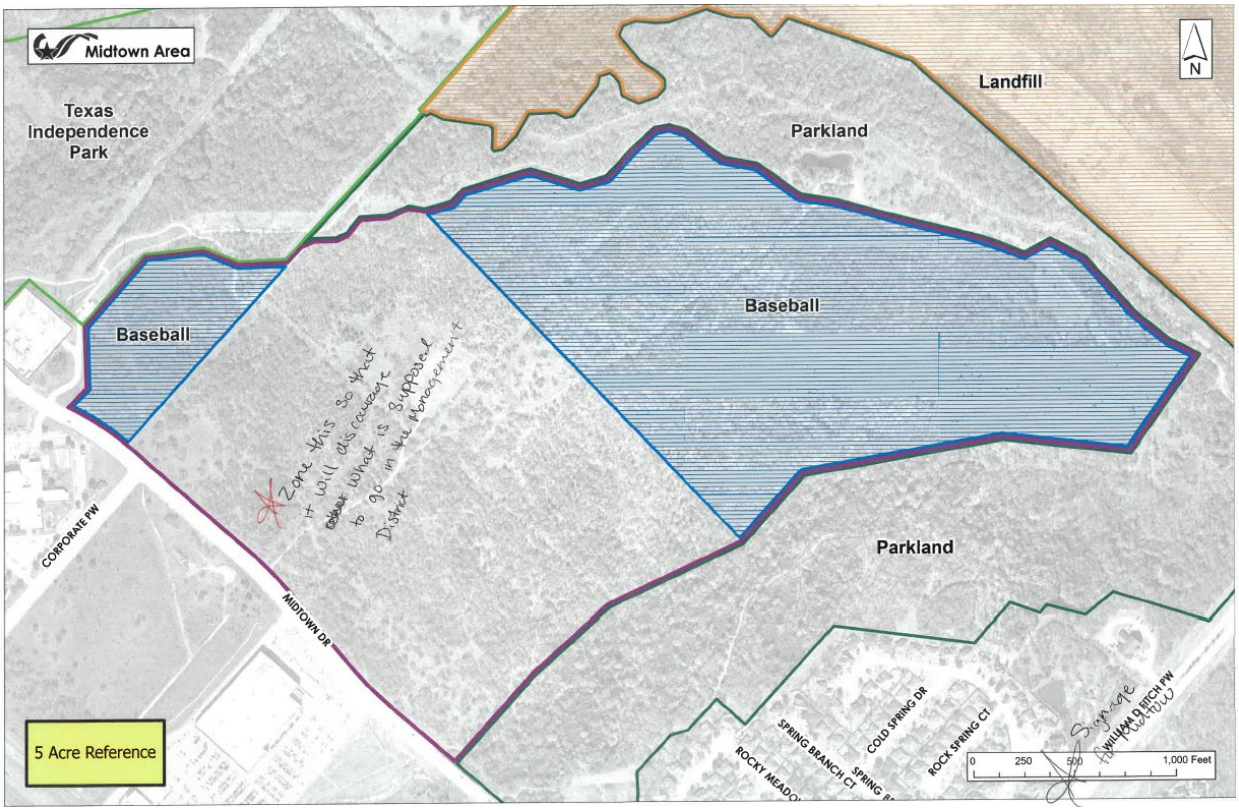
Lifetime Fitness (Private) , - Gym, Carsio, B-Ball, Hot Tubs, Saunas, Steam Rooms, ETC, - 24 Hours!! / 4.) Greenspace Remains Important / 5.) Trail Connections From Spring Meadows / [redacted]
Complete Town Lake Dr. to Hwy 6 , Doing retail in the city-owned tract will sink Midtown. Retail should go in Midtown, + business park should go by baseball fields, Maybe hotels in cs-owned tract , rec center would be good either in cs-owned land or Midtown (with indoor pool) maybe partner w/ BSW, Keep trails throughout business park w/ buffer around trails
Recreation center somewhere in the Midtown Complex. Possible partnership with BS+W?, Prioritize retail development on N end of Midtown Dr. before the area around the baseball fields, Hotels to support college game day + Baseball tournaments in City owned zone
For this remaining land: No more strip centers, we need a fully designed commercial space that is uniquely attractive to businesses, not just more strip centers that will stay half full / Please consider Path for bike + pedestrian path connecting Spring meadows/ woodland hills through this area and to the Texas Independence Park.
Breweries and baseball have gone together since the beginning. It fits "light industrial" and plays into the theme while serving as a community space. Distillery and winery for variety.
Market space similar to "The Pearl" in San Antonio, with unique walkable shops, force people to walk.
Bentonville has a beautiful indoor outdoor art museum that's totally free, I go every time
Recreation center. Imagine, you have 1 kid who has baseball practice at 5:30, you can walk over to the Rec and put your 3yr old in the rec's 1hr day care and get in a fitness class. It's a parent's dream.
A whole foods or Central Market for this higher SES area would go over well, bring jobs, etc.
1.) Signage needs to be placed on the outside parameter of the entire midtown area. I want this to be the next century square / 2.) something should generate retail + restaurants and encourage development in MMD / 3.) Ball parks need to be open to public /4.) Aggressive Economic incentives for MMD / 5.) Trader Joes (give whatever city $$ up for it) / 6.) Town lake to SH 6 (Now)
Commercial - We need a Trader Joe's or something similar as an Anchor store - Century Square - Type of area in the neighborhood area
Neighborhood Center - To better promote senior activities, it is important to have an indoor aquatic center. Seniors can't use Lick Creek Parkway and there are no pools (outside of TruFit - UGH!) - Feel Free to tier membership levels in order to participate - Please make it Indoor for use all year - Thank you
Please End the MMD / Suggest adding a splash pad to TX independence park - there are many young families + not enough splash pads here (+ its TX!)/ try and save green space + make it walkable in the acreage by the baseball fields
A YMCA - community focused fitness (indoor, day camps, after school programming, indoor swimming, lovely to be connected to the sidewalks and bike paths
Hello, thank you for the information. I would prefer a quiet area. No Baseball. I would prefer a quiet office park like pebble creek. How light pollution. How noise pollution .
Extend Town Lake Dr. to Harley Davidson / Rec center/ Amphitheater / community center/ Spa/ signage
Repaint the water tower to town / Extend Town Lake to SH 6 and add monument / Extend Midtown trails to meet up with others / Male markers on trails - name - signage on trails / End the MMD/ Adult "Century Square" @ Midtown
Expand Town Lake Drive to Highway 6 first so development has a place to grow around it / Incentive retail + shopping to be developed in the MMD district first / Office Space is always needed and should go on the city land by the proposed baseball fields or single family home or apartments/ By the Baseball fields we

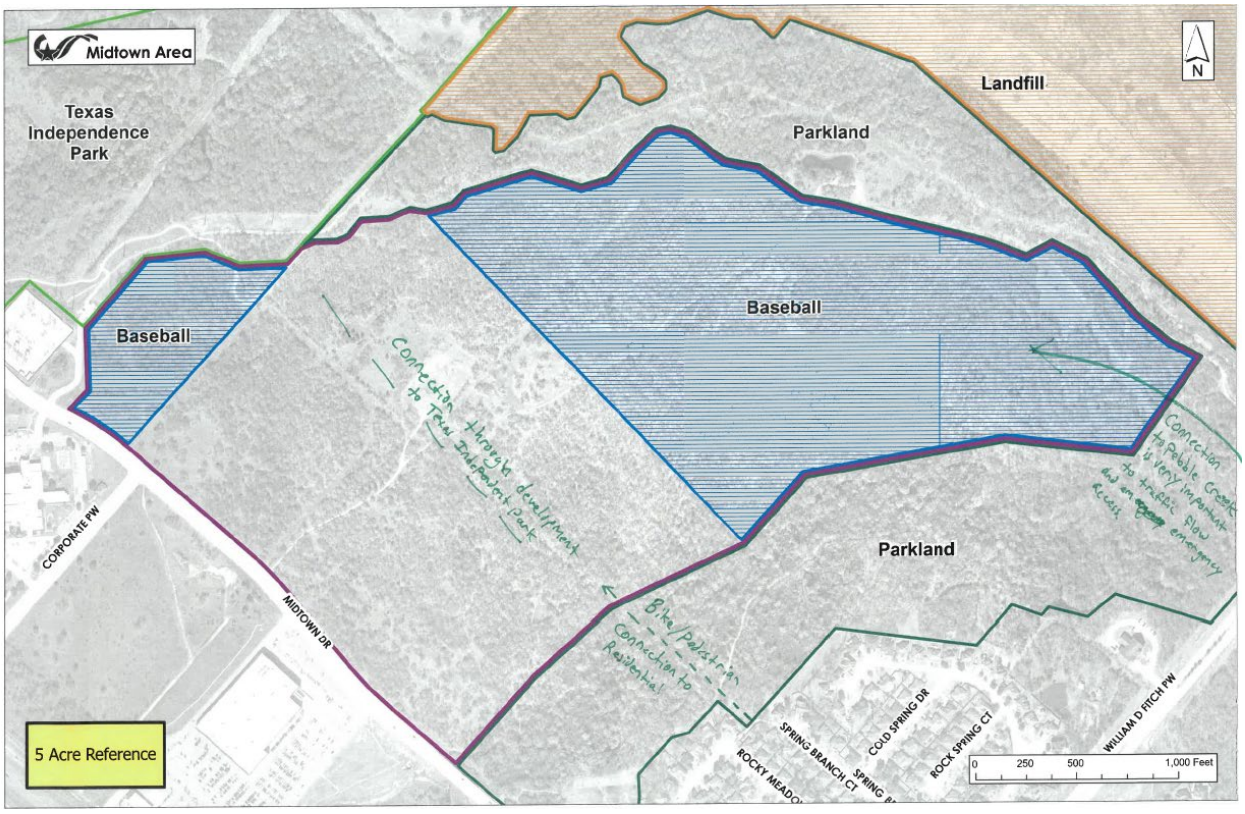
will need more hotels built out in South College Station to support the tourism the fields are trying to bring to the area
SHADE - IT IS HOT / Ensure a buffer exists for the Lick Creek multi-use path that ensures the trees and shade are maintained
Baseball complex/ Will it be softball as well? / If they have tournaments, what other fields will they use - city does not allow fields to be used for outside tournaments / will there be use for city use? / Will cages be open to public to use for free?
1.) Road from Midtown to HWY 6 access road / 2.) Monuments Identifying Midtown / 3.) Baseball - all the way fast - Bombers First - Fields later - Look bike path
More unpaired + paired multi-use paths would be great! There needs to be a safe connector between Texas Independence Park and adjacent parkland. Trails cutting through flood plain land would be an efficient use of otherwise non-useful space. More natural areas please!!! Plenty of trees along multi-use paths
Is there still a chance for the city rec center to be in Midtown? / Pool ?
More trees - less concrete. Connect natural areas with trails. Keep areas less sculpted more natural
In the Park - will there be pickleball courts? More people play pickleball than disc golf? When will the park be done?
1.) Manage wild hog population on current city property + for future use / 2.) make multiple fail access points / 3.) lighting on trails
1.) continuation of Town Lake to TX6 - Move out on Texas Independence Park / 2.) Signage at Townlake + TX6 /3.) YMCA / 4.) Amphitheater / 5.) Lick Creek Connection

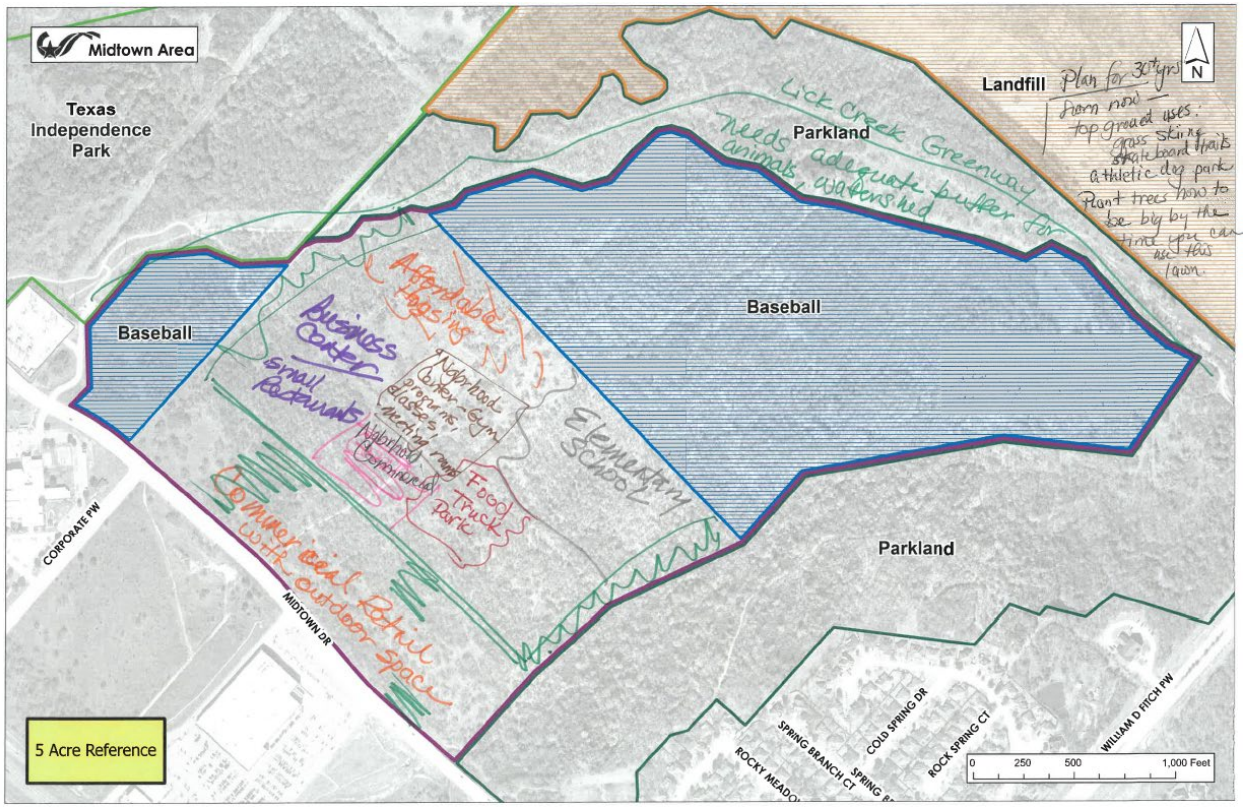
Annotated Maps

Business Center Maps

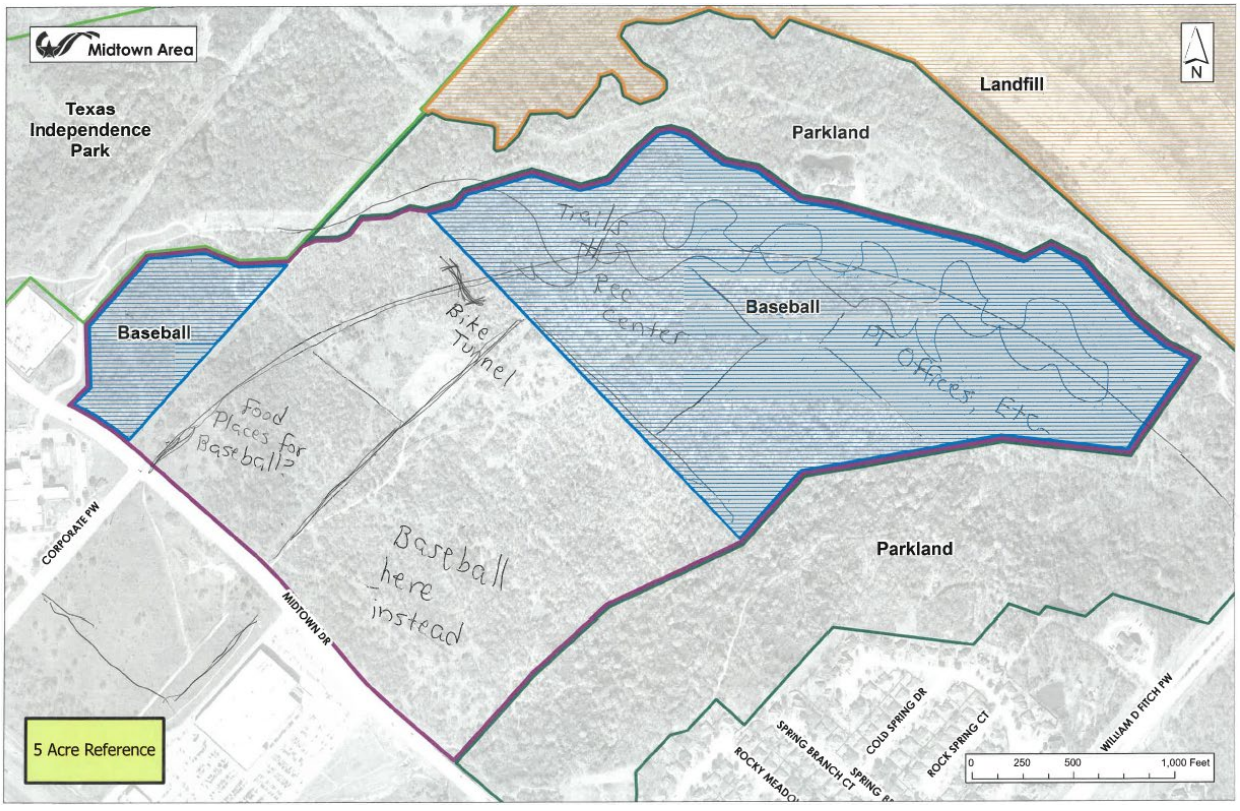




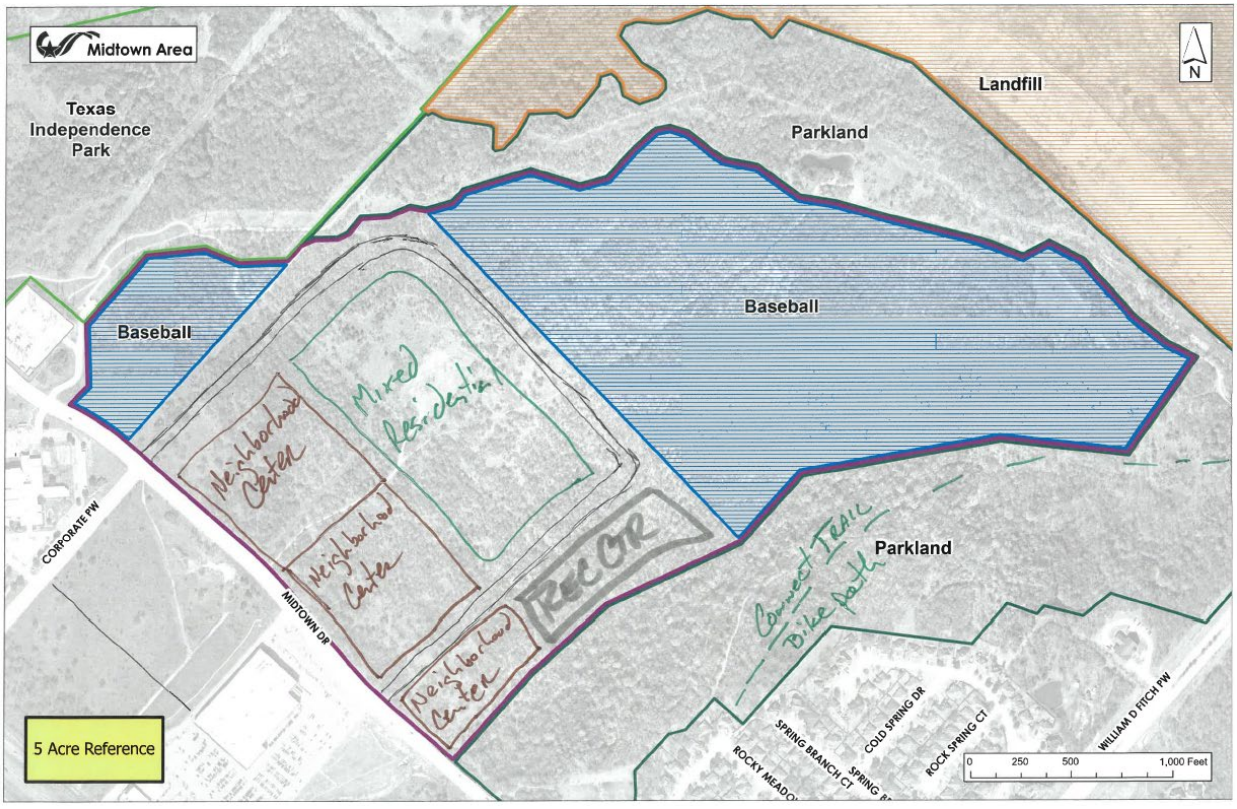

Midtown Area
Texas Independence Park
Landfill
Parkland
Baseball
Baseball
Parkland
Connection through development to Texas Independence Park
Connection to Pebble Creek is very important to traffic flow and emergency access
Bike/Pedestrian Connection to Residential
CORPORATE PW
MIDTOWN DR
SPRING BRANCH CT
COLD SPRING DR
ROCK SPRING CT
WILLIAM D FITCH PW
5 Acre Reference
0 250 500 1,000 Feet
N

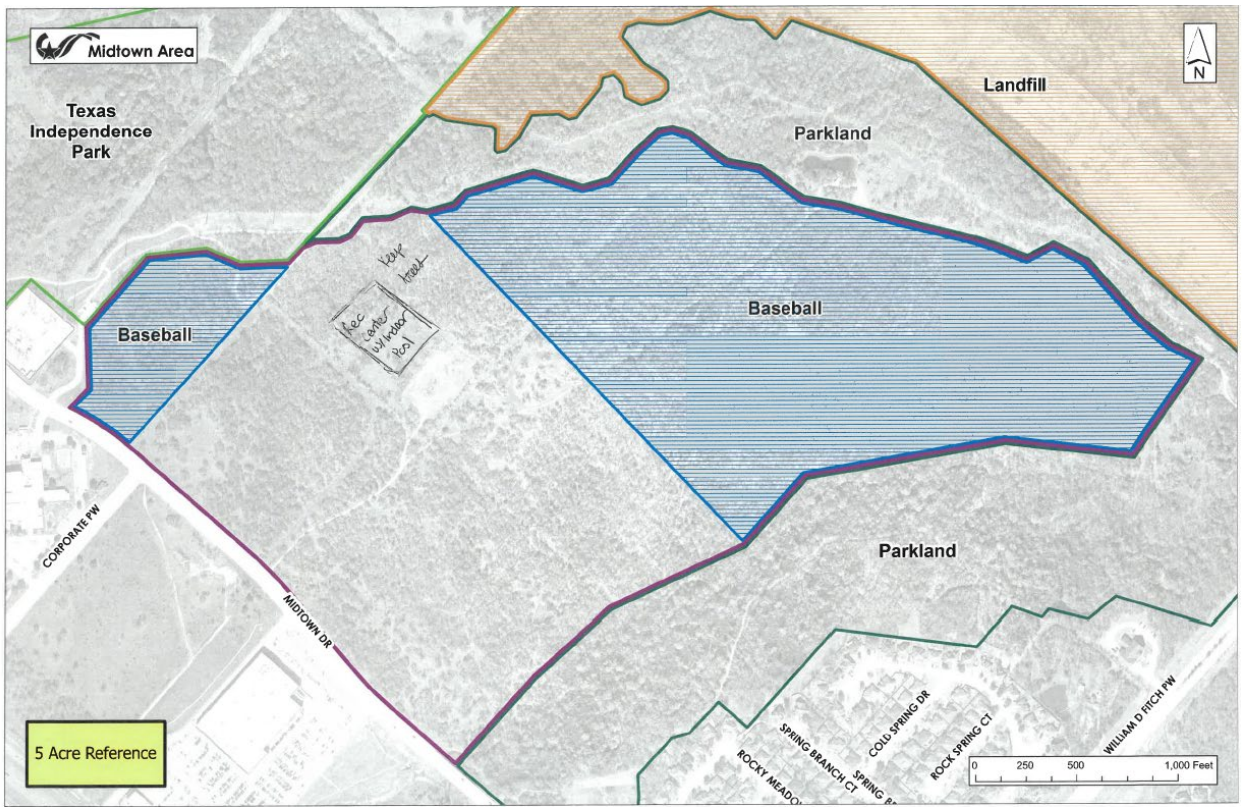

Midtown Area
Texas Independence Park
Landfill
Plan for 30+ yrs from now — top greased uses. grass skiing skateboard trails athletic dog park Plant trees now to be big by the time you can use this land
Lick Creek Greenway
Needs adequate buffer for animals, watershed
Parkland
Baseball
Baseball
Parkland
Affordable housing
Business Center
small Restaurant
Neighborhood Center - Gym programs, classes, meeting room
Food Truck Park
Elementary School
Commercial Retail with outdoor space
CORPORATE PW
MIDTOWN DR
SPRING BRANCH CT
COLD SPRING DR
ROCK SPRING CT
WILLIAM D FITCH PW
5 Acre Reference
0 250 500 1,000 Feet
N

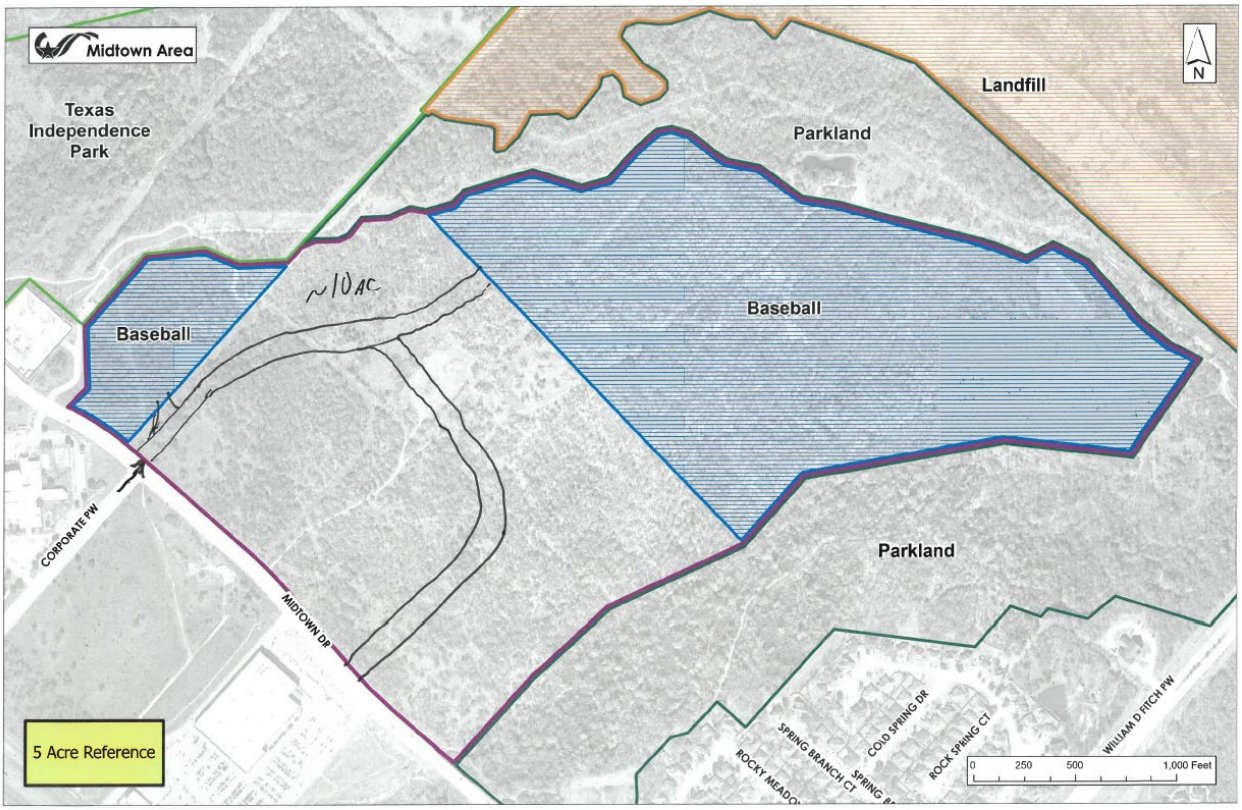
Midtown Area
Texas Independence Park
Landfill
Parkland
Baseball
Baseball
Parkland
CHILD SAFE CROSSING(S)
MOVE BASEBALL HERE
REC CENTER
TRAILS
ONE HEALTH
MED center Health, outdoor/environment Sports, Fitness
FOOD TRUCKS
CORPORATE PW
MIDTOWN DR
5 Acre Reference
SPRING BRANCH CT
COLD SPRING DR
ROCK SPRING CT
WILLIAM D FITCH PW
0 250 500 1,000 Feet
N

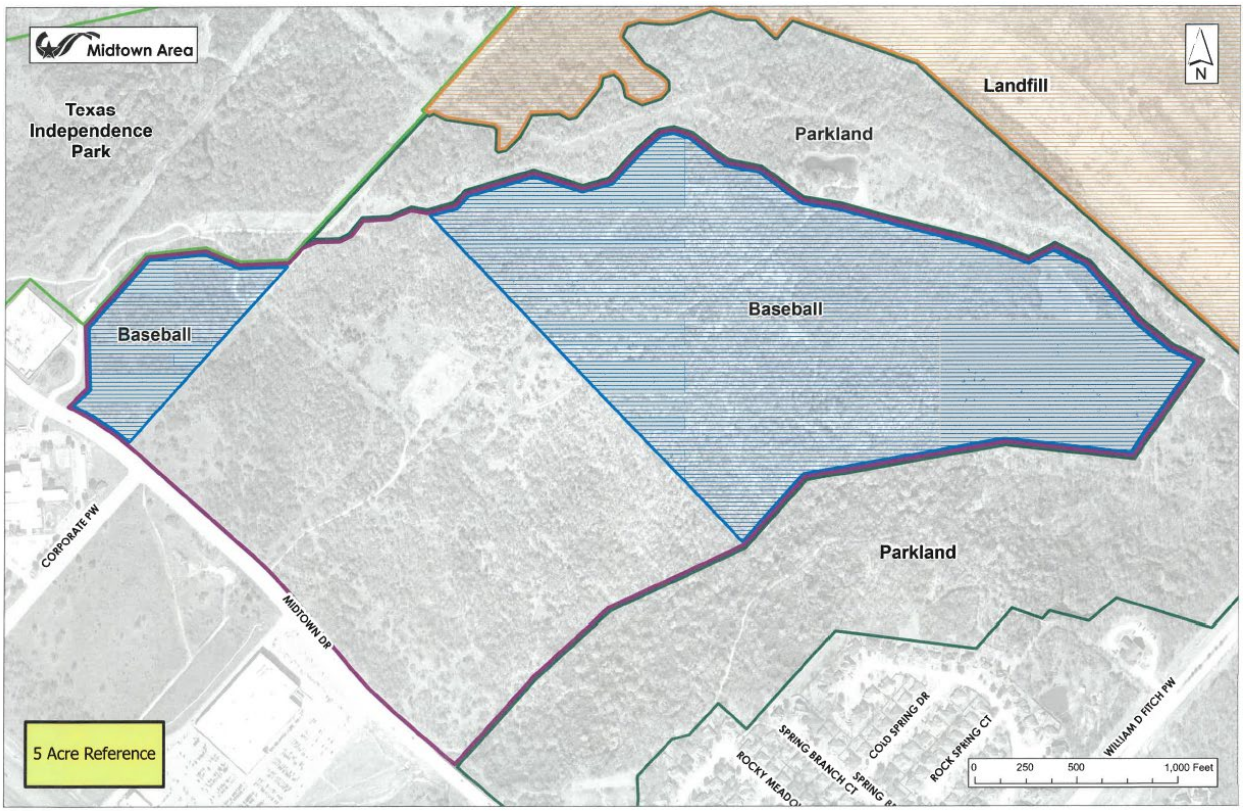

Midtown Area
Texas Independence Park
Landfill
Parkland
Baseball
Baseball
Parkland
Trails to Rec Center
Bike Tunnel
Food Places for Baseball?
Baseball here instead
FT Officer, Etc
CORPORATE PW
MIDTOWN DR
5 Acre Reference
SPRING BRANCH CT
COLD SPRING DR
ROCK SPRING CT
WILLIAM D FITCH PW
0 250 500 1,000 Feet
N

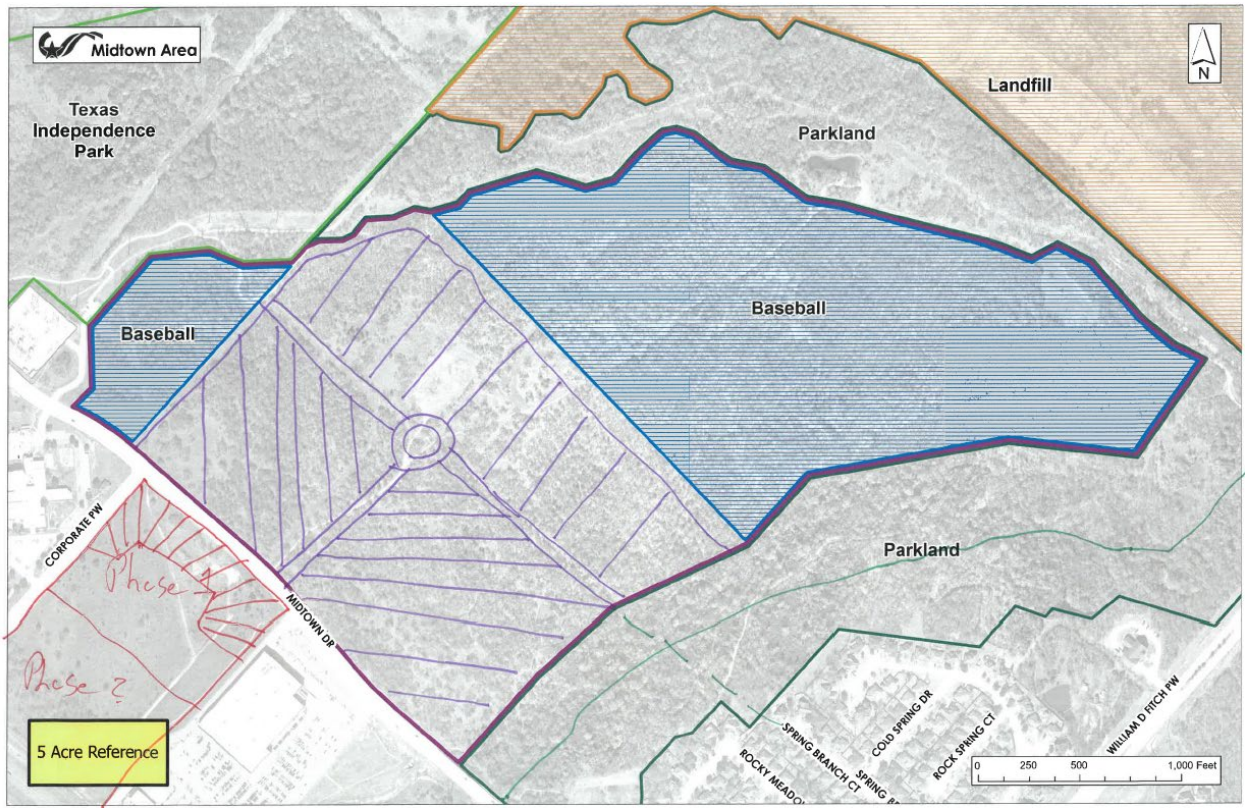
Midtown Area
Texas Independence Park
Landfill
Parkland
Baseball
All baseball
Parkland & Trails
Parkland
Baseball
Rec Ctr
Rec.
5 Acre Reference
CORPORATE PW
MIDTOWN DR
COLD SPRING DR
SPRING BRANCH CT
ROCK SPRING CT
WILLIAM D FITCH PW
0 250 500 1,000 Feet
N


Midtown Area
Texas Independence Park
Landfill
Parkland
Baseball
Baseball
Mixed Residential
Neighborhood Center
Neighborhood Center
Neighborhood Center
REC CTR
Connect Trail
Bike path
Parkland
5 Acre Reference
CORPORATE PW
MIDTOWN DR
COLD SPRING DR
SPRING BRANCH CT
ROCK SPRING CT
WILLIAM D FITCH PW
0 250 500 1,000 Feet
N

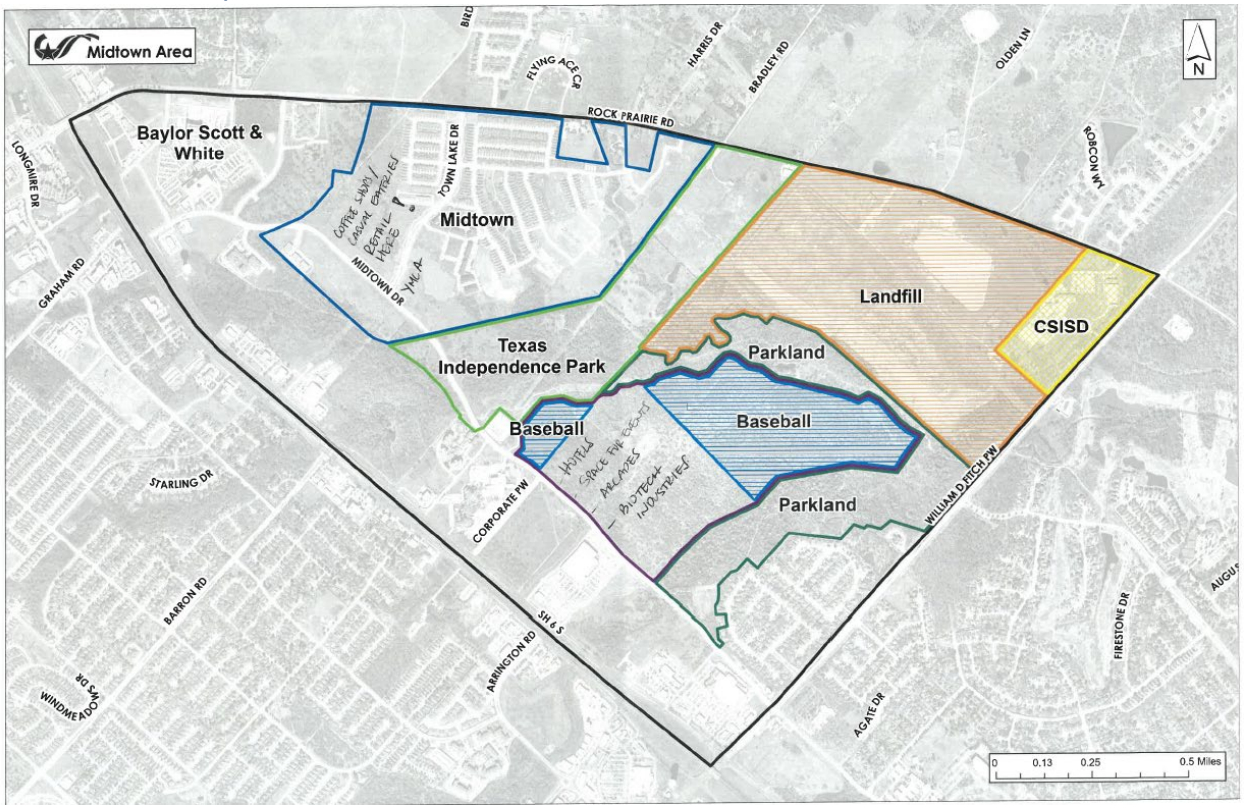

Midtown Area
Texas Independence Park
Landfill
Parkland
Baseball
Baseball
Parkland
CORPORATE PW
MIDTOWN DR
5 Acre Reference
COLD SPRING DR
ROCK SPRING CT
WILLIAM D FITCH PW
0 250 500 1,000 Feet
N

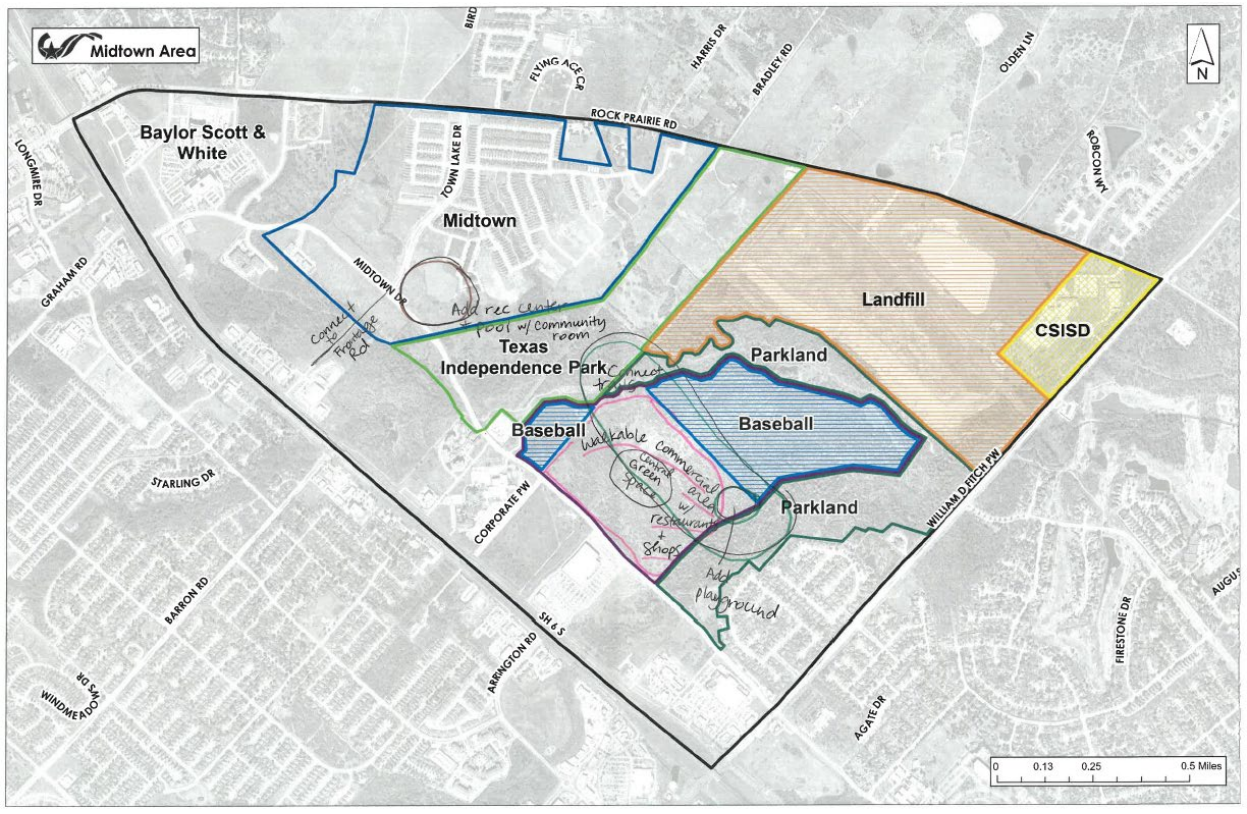

Midtown Area
Texas Independence Park
Landfill
Parkland
~10 AC
Baseball
Baseball
Parkland
CORPORATE PW
MIDTOWN DR
5 Acre Reference
COLD SPRING DR
ROCK SPRING CT
WILLIAM D FITCH PW
0 250 500 1,000 Feet
N

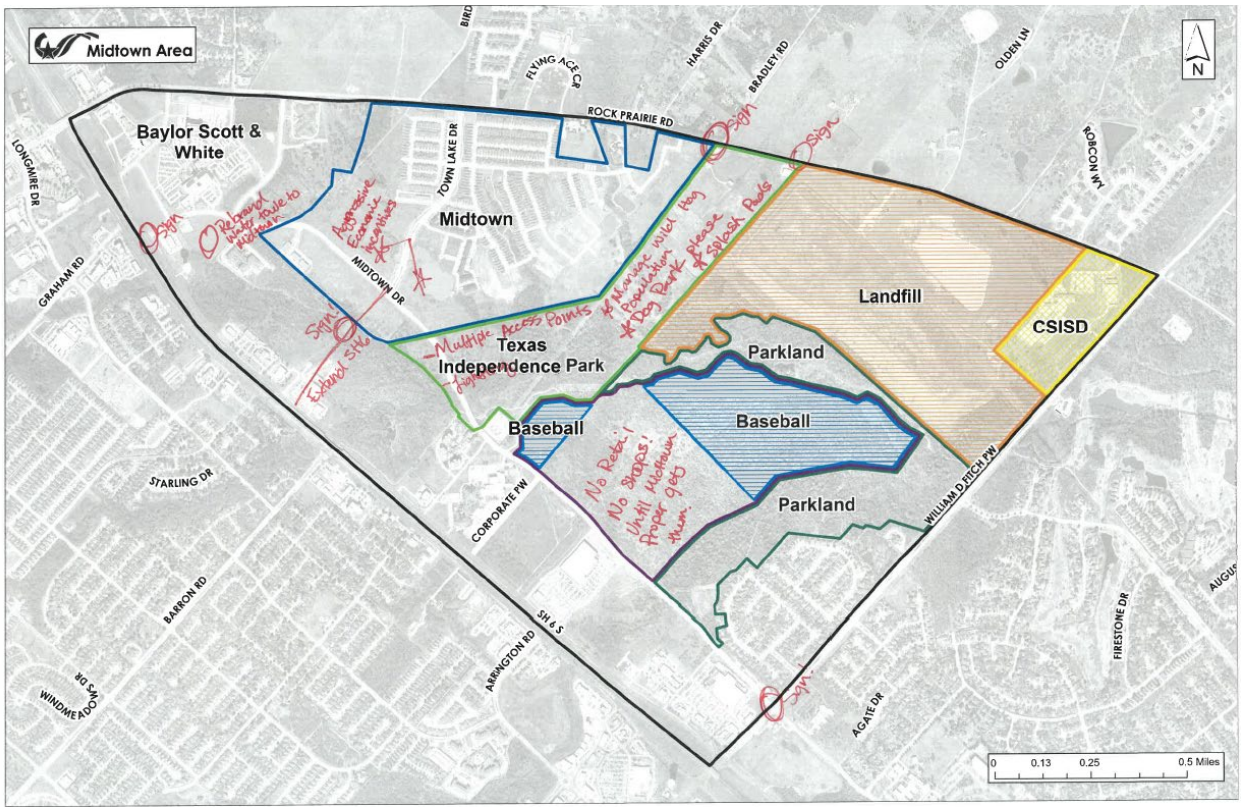

Midtown Area
Texas Independence Park
Landfill
Parkland
Baseball
Baseball
Parkland
CORPORATE PW
MIDTOWN DR
5 Acre Reference
COLD SPRING DR
ROCK SPRING CT
WILLIAM D FITCH PW
SPRING BRANCH CT
0 250 500 1,000 Feet
N

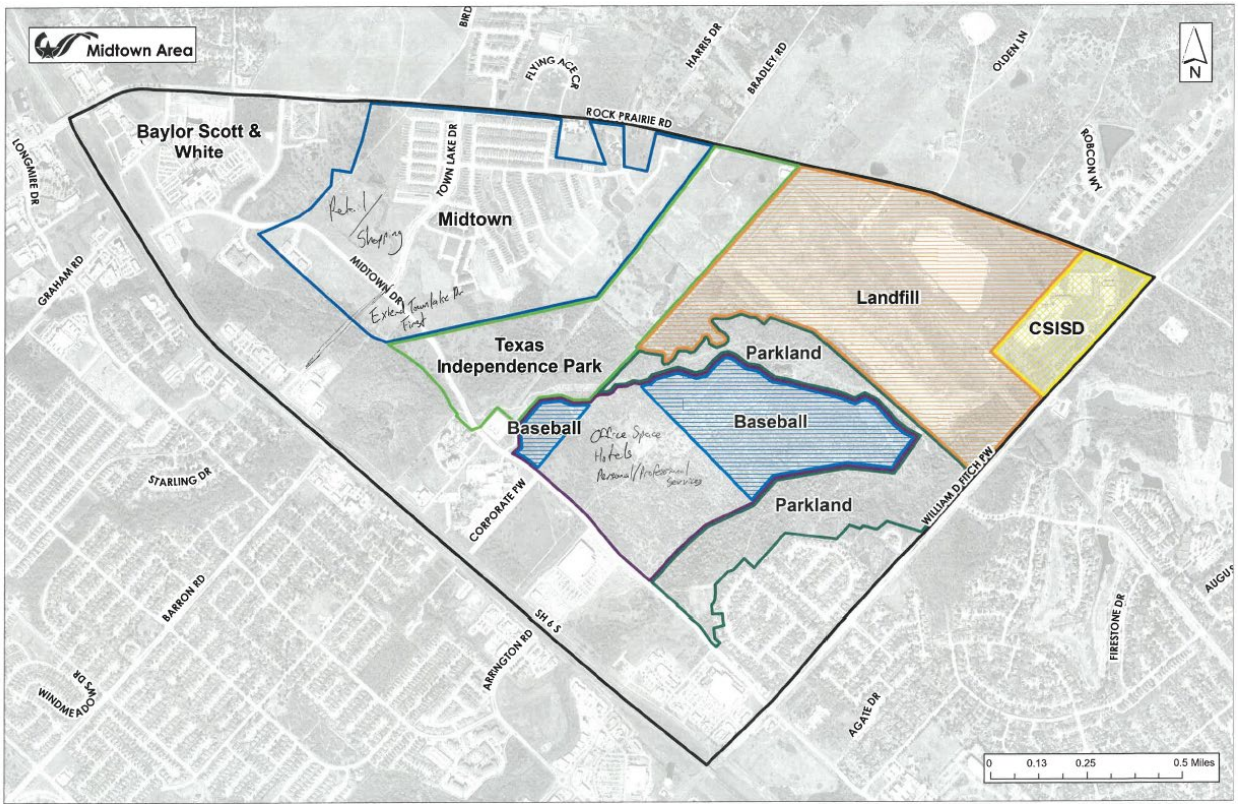

Midtown Area
Texas Independence Park
Landfill
Parkland
Baseball
Baseball
Parkland
CORPORATE PW
MIDTOWN DR
Phase 1
Phase 2
5 Acre Reference
COLD SPRING DR
ROCK SPRING CT
WILLIAM D FITCH PW
SPRING BRANCH CT
0 250 500 1,000 Feet
N

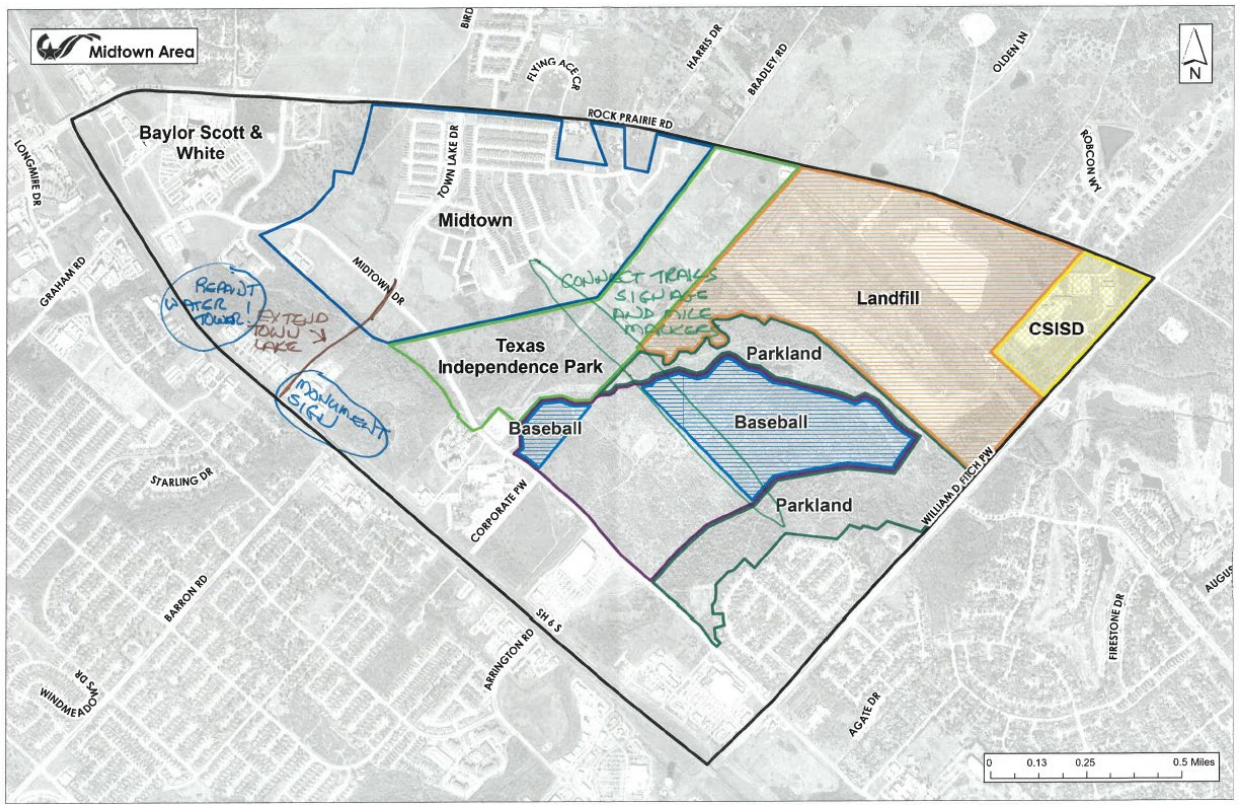
Midtown Area Maps

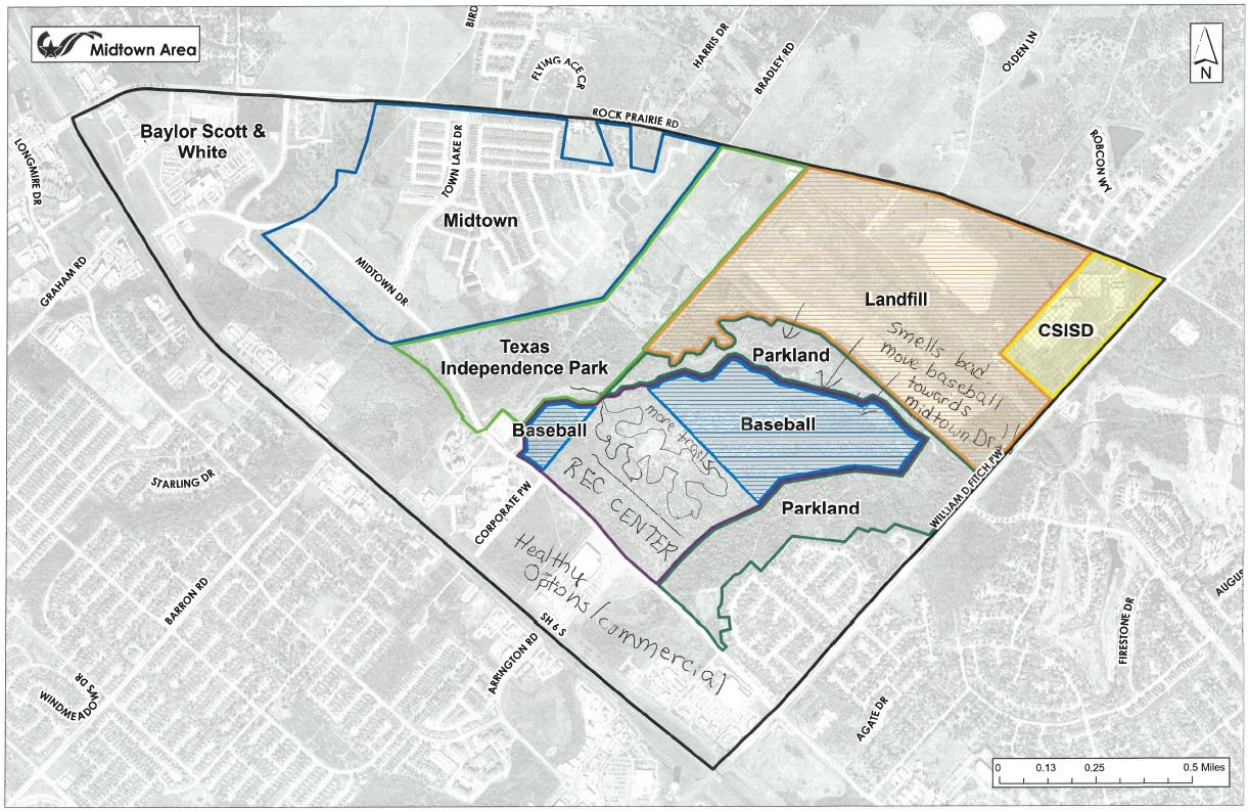


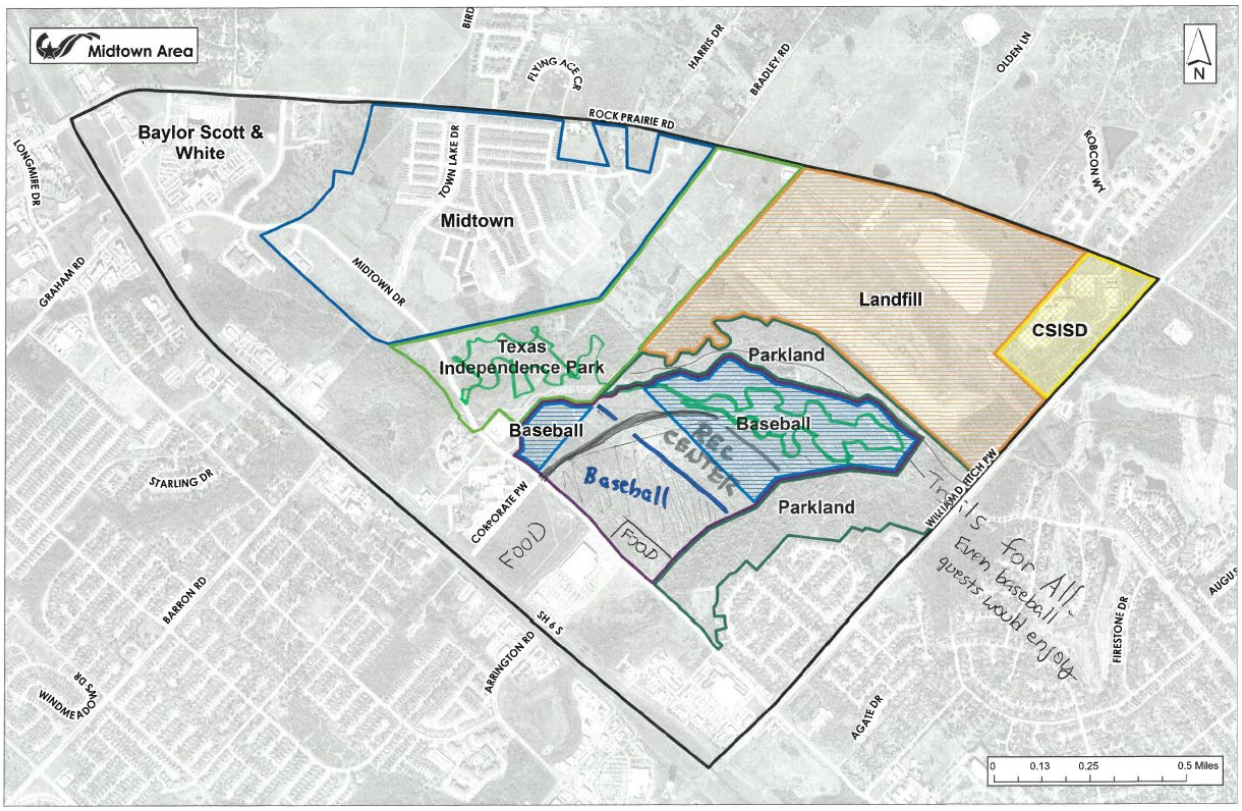


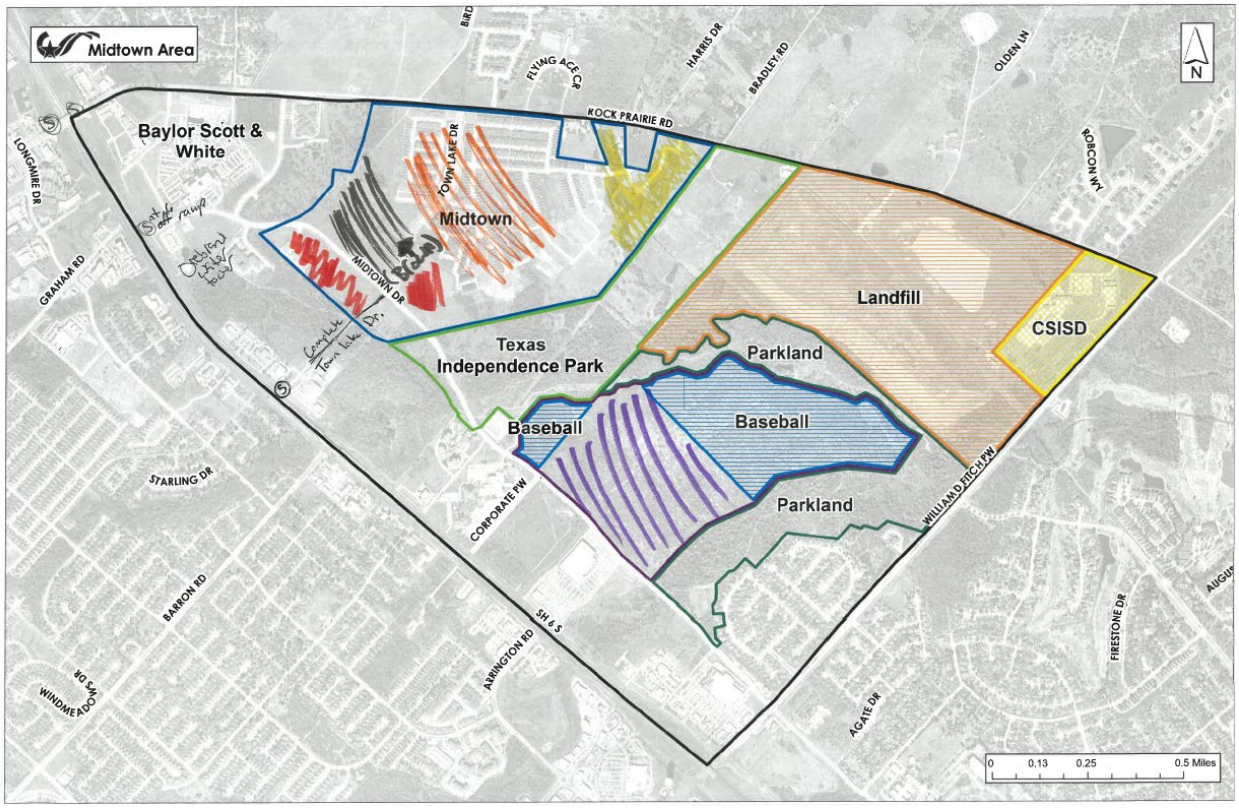

Midtown Area
Baylor Scott & White
Midtown
Texas Independence Park
Landfill
CSISD
Parkland
Baseball
Baseball
Parkland
ROCK PRAIRIE RD
TOWN LAKE DR
MIDTOWN DR
BIRD
FLYING ACE CIR
HARRIS DR
BRADLEY RD
OLDEN LN
RORCON WY
LONGMIRE DR
GRAHAM RD
STARLING DR
BARRON RD
CORPORATE FW
SH 6 S
ARMSTRONG RD
WINDMEADOWS DR
AGATE DR
FIRESTONE DR
WILLIAM D FITCH PW
N
0 0.13 0.25 0.5 Miles


Midtown Area
Baylor Scott & White
Midtown
Texas Independence Park
Landfill
CSISD
Parkland
Baseball
Baseball
Parkland
ROCK PRAIRIE RD
TOWN LAKE DR
MIDTOWN DR
BIRD
FLYING ACE CIR
HARRIS DR
BRADLEY RD
OLDEN LN
RORCON WY
LONGMIRE DR
GRAHAM RD
STARLING DR
BARRON RD
CORPORATE FW
SH 6 S
ARMSTRONG RD
WINDMEADOWS DR
AGATE DR
FIRESTONE DR
WILLIAM D FITCH PW
N
0 0.13 0.25 0.5 Miles


Midtown Area
Baylor Scott & White
Midtown
Texas Independence Park
Landfill
CSISD
Parkland
Baseball
Baseball
Parkland
ROCK PRAIRIE RD
TOWN LAKE DR
MIDTOWN DR
CORPORATE FW
WILLIAM D FITCH PW
SH 6 S
ARRINGTON RD
LONGMIRE DR
GRAHAM RD
STARLING DR
BARRON RD
WINDMEADOWS DR
AGATE DR
FIRESTONE DR
HARRIS DR
BRADLEY RD
OLDEN LN
FLYING ACE CR
N
0 0.13 0.25 0.5 Miles


Midtown Area
Baylor Scott & White
Midtown
Texas Independence Park
Landfill
CSISD
Parkland
Baseball
Baseball
Parkland
ROCK PRAIRIE RD
TOWN LAKE DR
MIDTOWN DR
CORPORATE FW
WILLIAM D FITCH PW
SH 6 S
ARRINGTON RD
LONGMIRE DR
GRAHAM RD
STARLING DR
BARRON RD
AGATE DR
FIRESTONE DR
HARRIS DR
BRADLEY RD
OLDEN LN
FLYING ACE CR
N
0 0.13 0.25 0.5 Miles


Midtown Area
Baylor Scott & White
Midtown
Texas Independence Park
Landfill
CSISD
Parkland
Baseball
Baseball
Baseball
Parkland
Food
Food
ROCK PRAIRIE RD
TOWN LAKE DR
MIDTOWN DR
LONGMIRE DR
GRAHAM RD
STARLING DR
BARRON RD
CORPORATE PW
SH 6 S
ARRINGTON RD
WINDMEADOWS DR
BIRD
FLYING ACE CIR
HARRIS DR
BRADLEY RD
OLDEN LN
RORCON WY
WILLIAM D FITCH PW
AGATE DR
FIRESTONE DR
N
0 0.13 0.25 0.5 Miles


Midtown Area
Baylor Scott & White
Midtown
Texas Independence Park
Landfill
CSISD
Parkland
Baseball
Baseball
Parkland
ROCK PRAIRIE RD
TOWN LAKE DR
MIDTOWN DR
LONGMIRE DR
GRAHAM RD
STARLING DR
BARRON RD
CORPORATE PW
SH 6 S
ARRINGTON RD
WINDMEADOWS DR
BIRD
FLYING ACE CIR
HARRIS DR
BRADLEY RD
OLDEN LN
RORCON WY
WILLIAM D FITCH PW
AGATE DR
FIRESTONE DR
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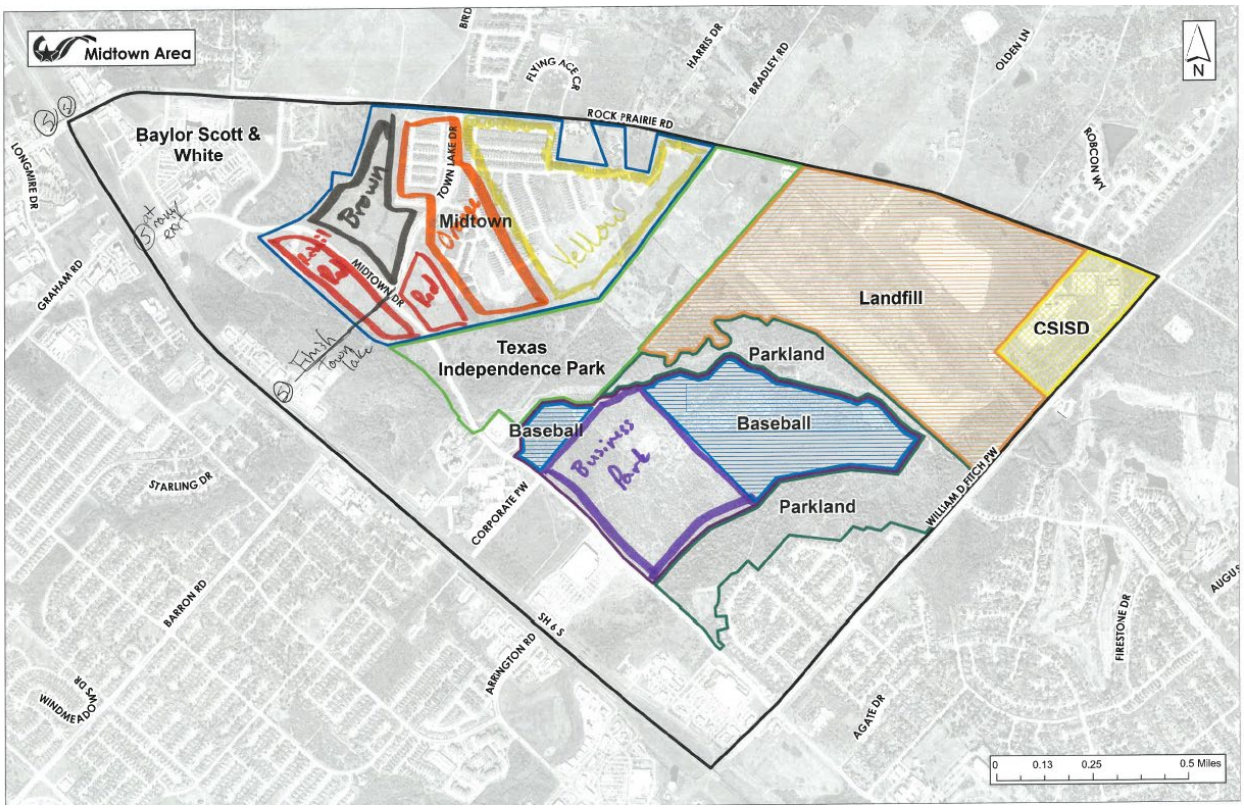
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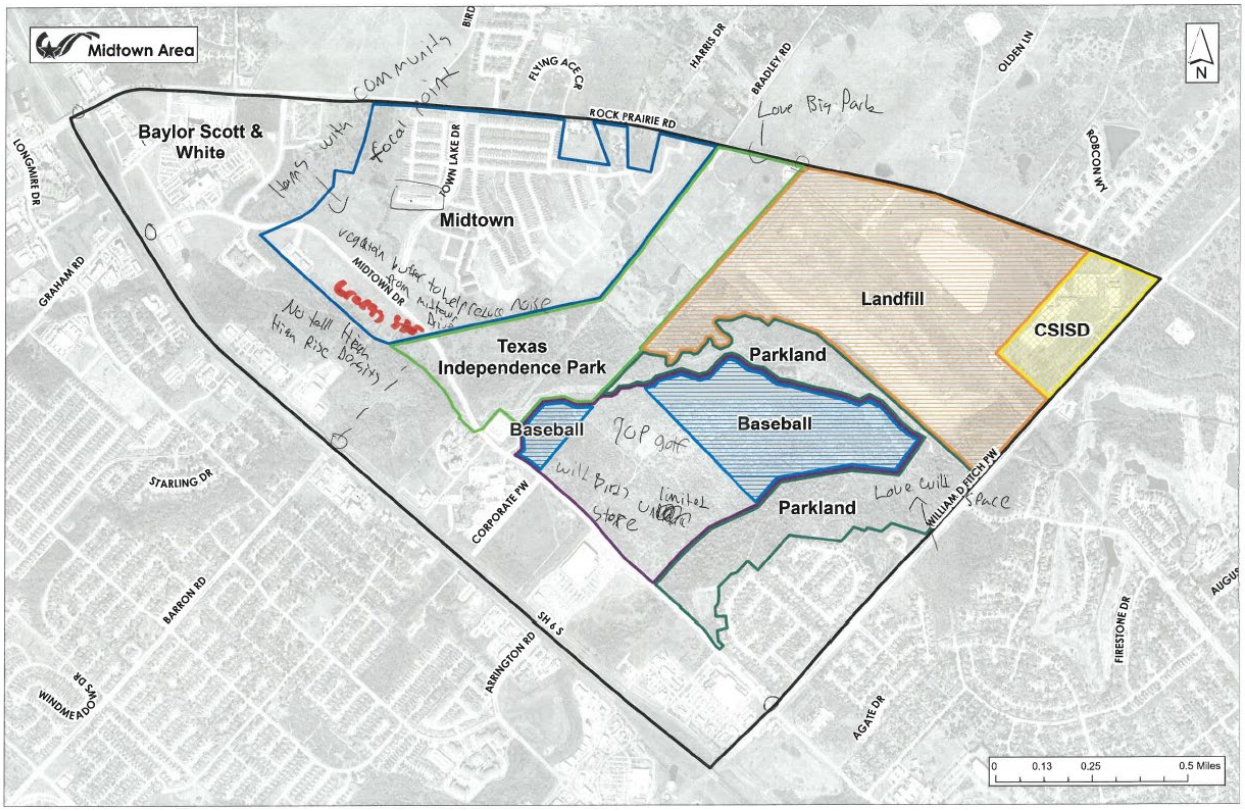
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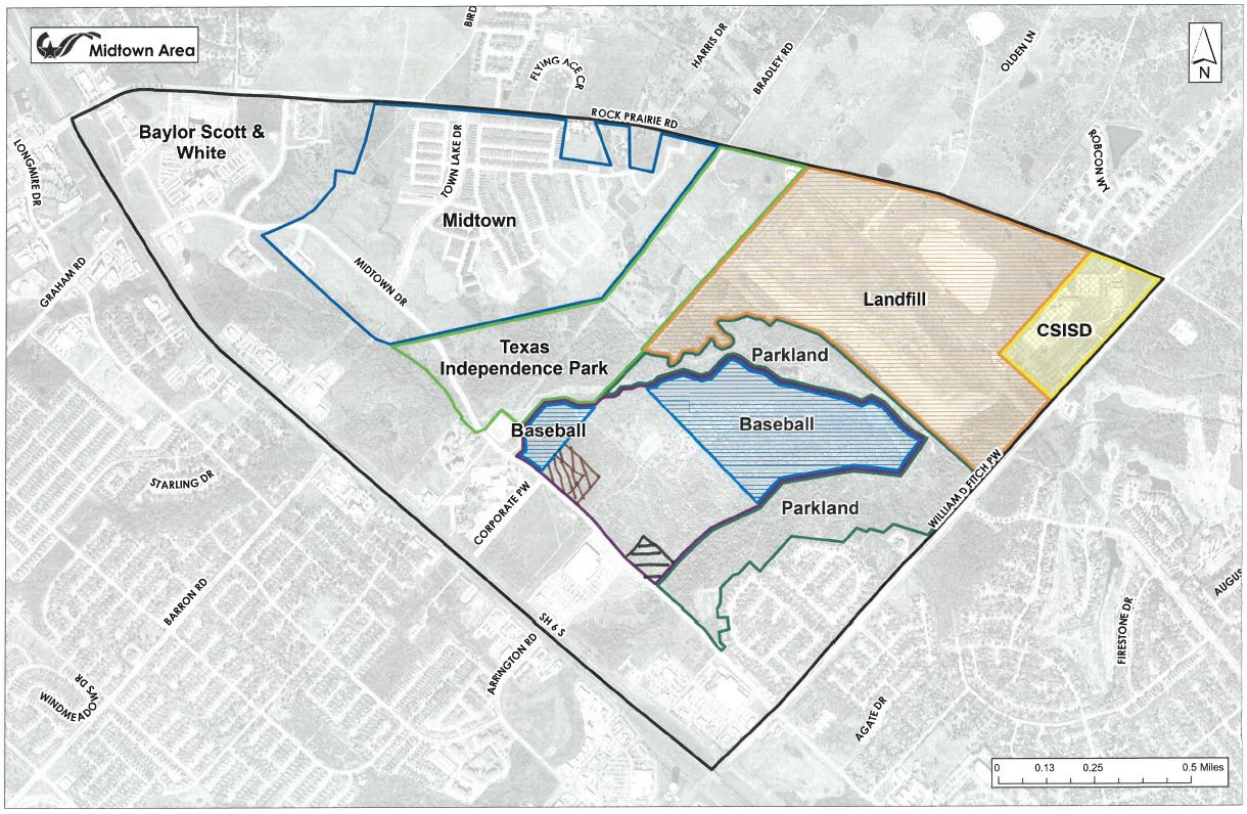
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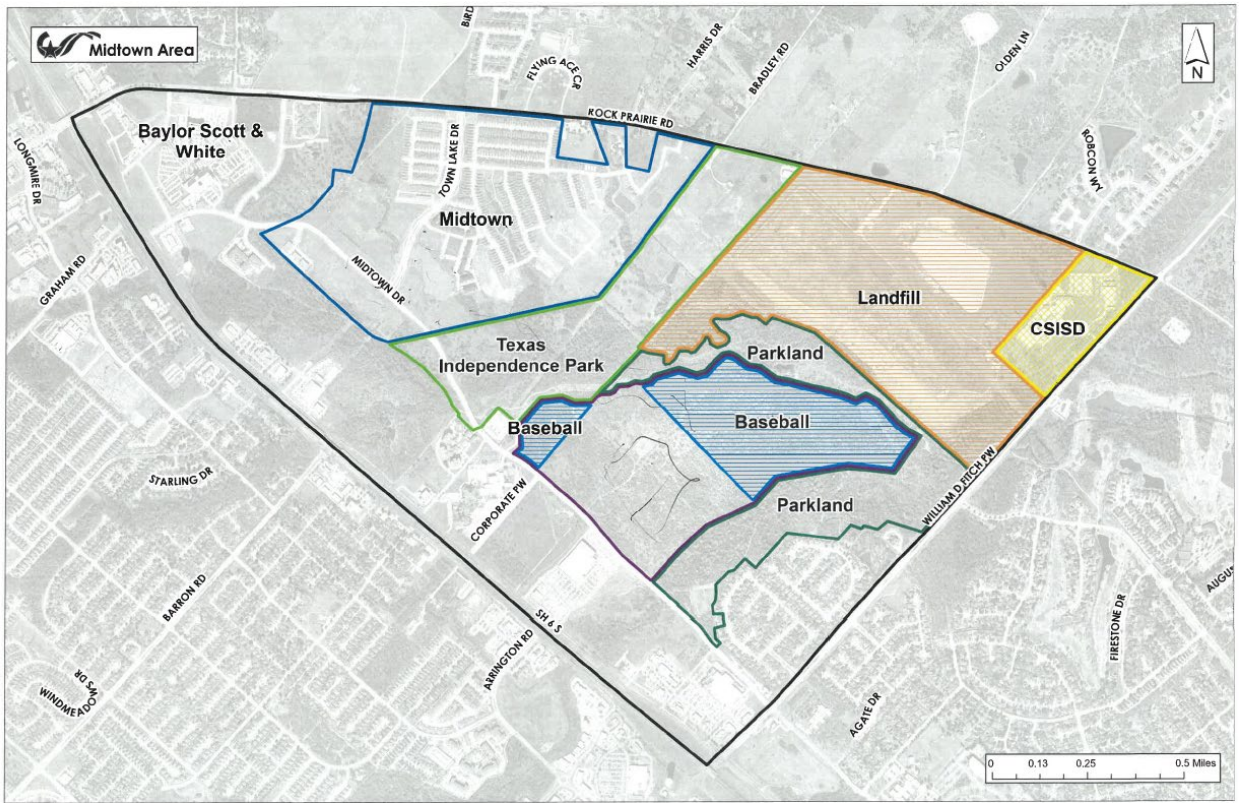
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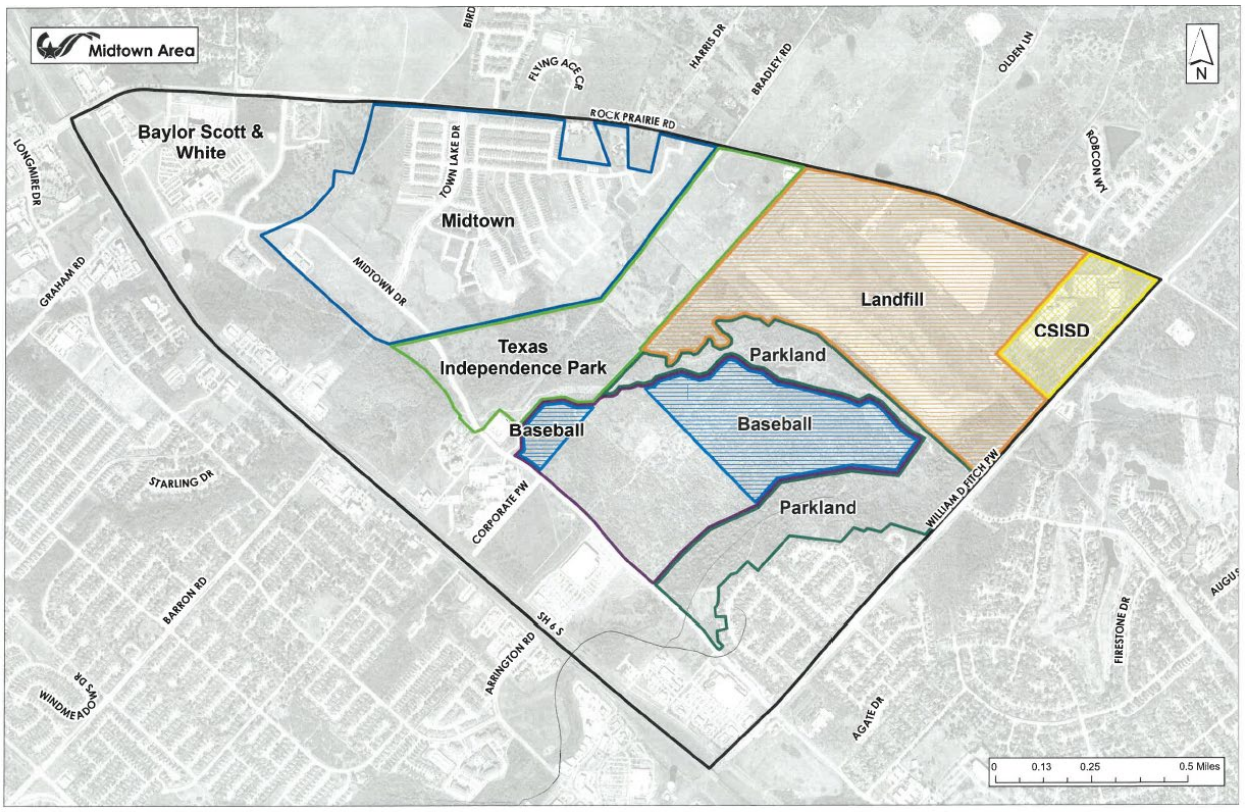
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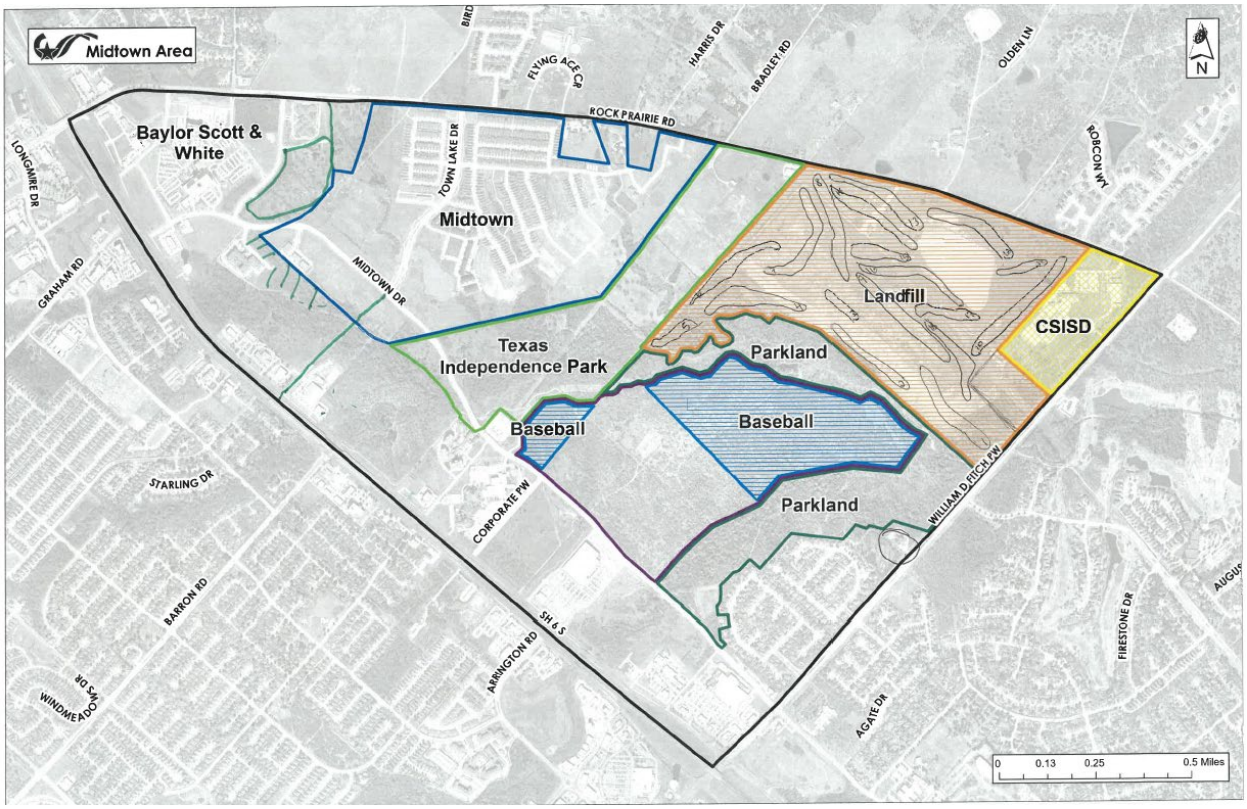
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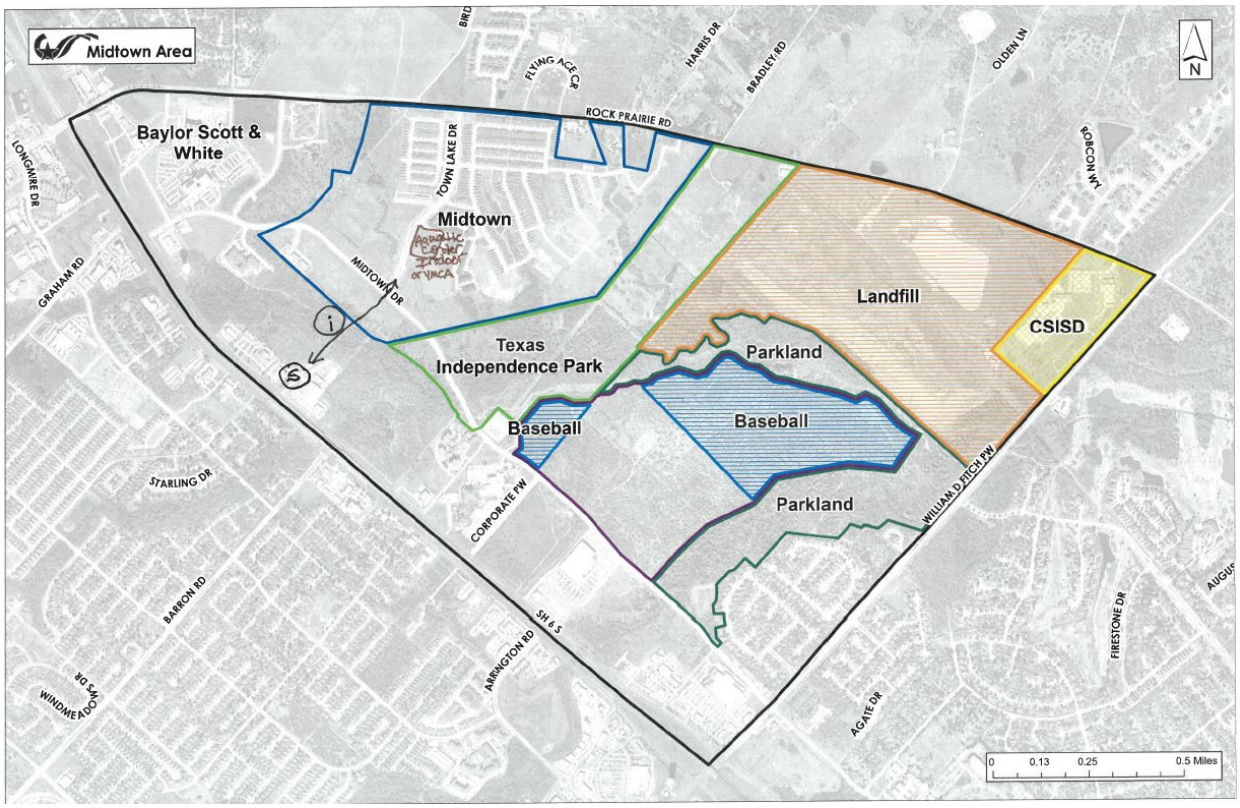
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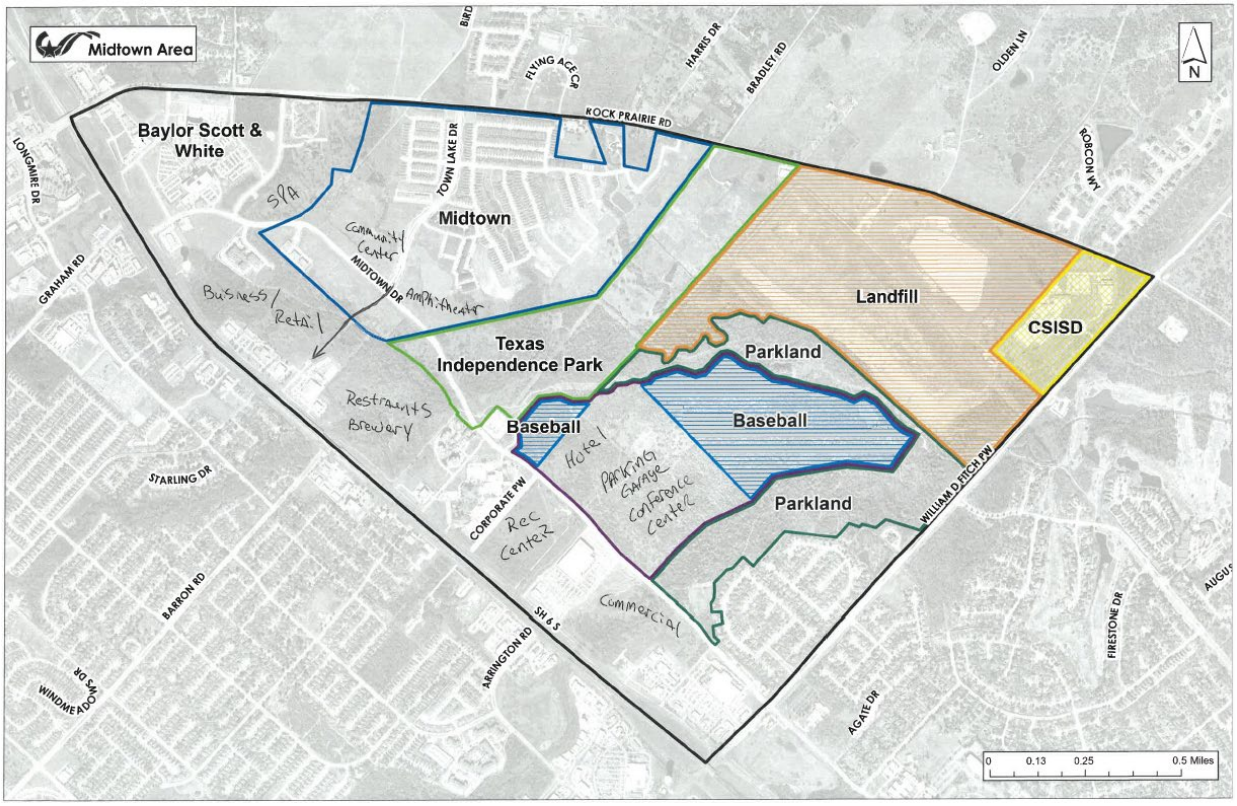
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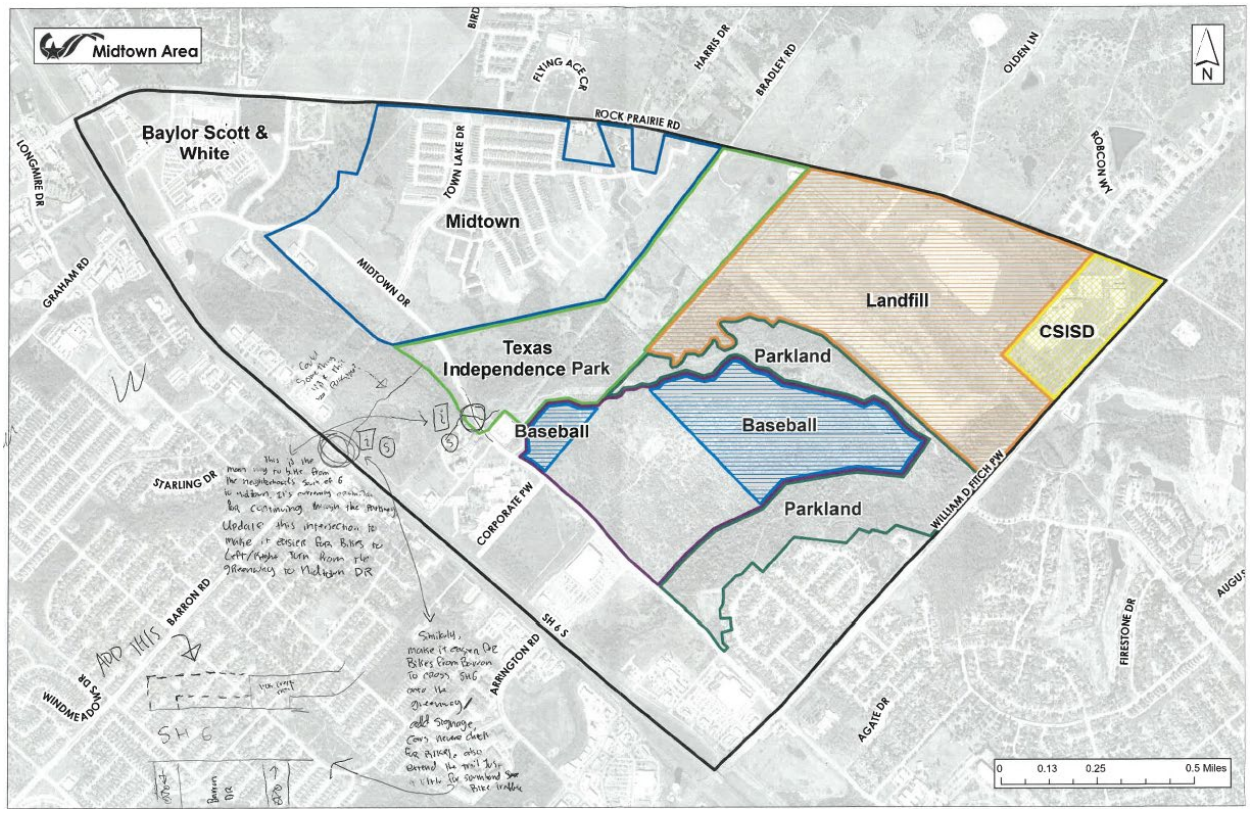
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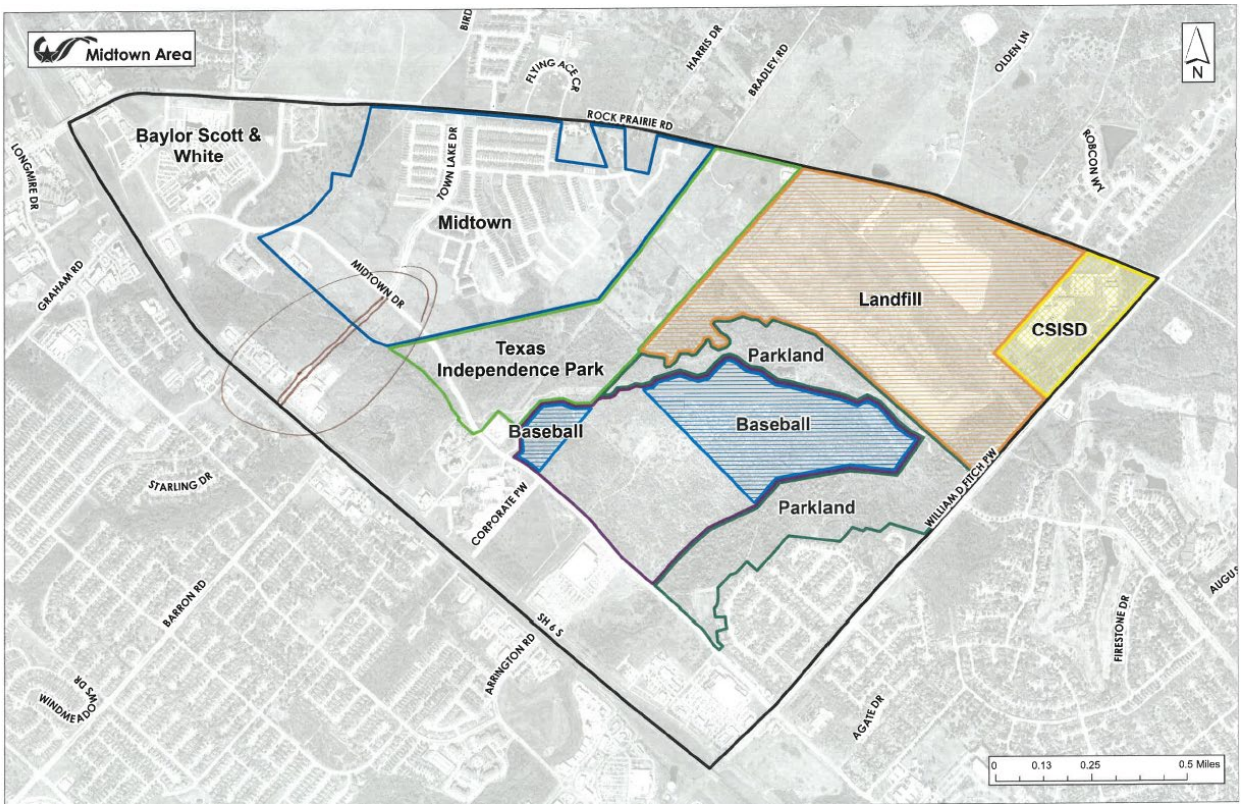
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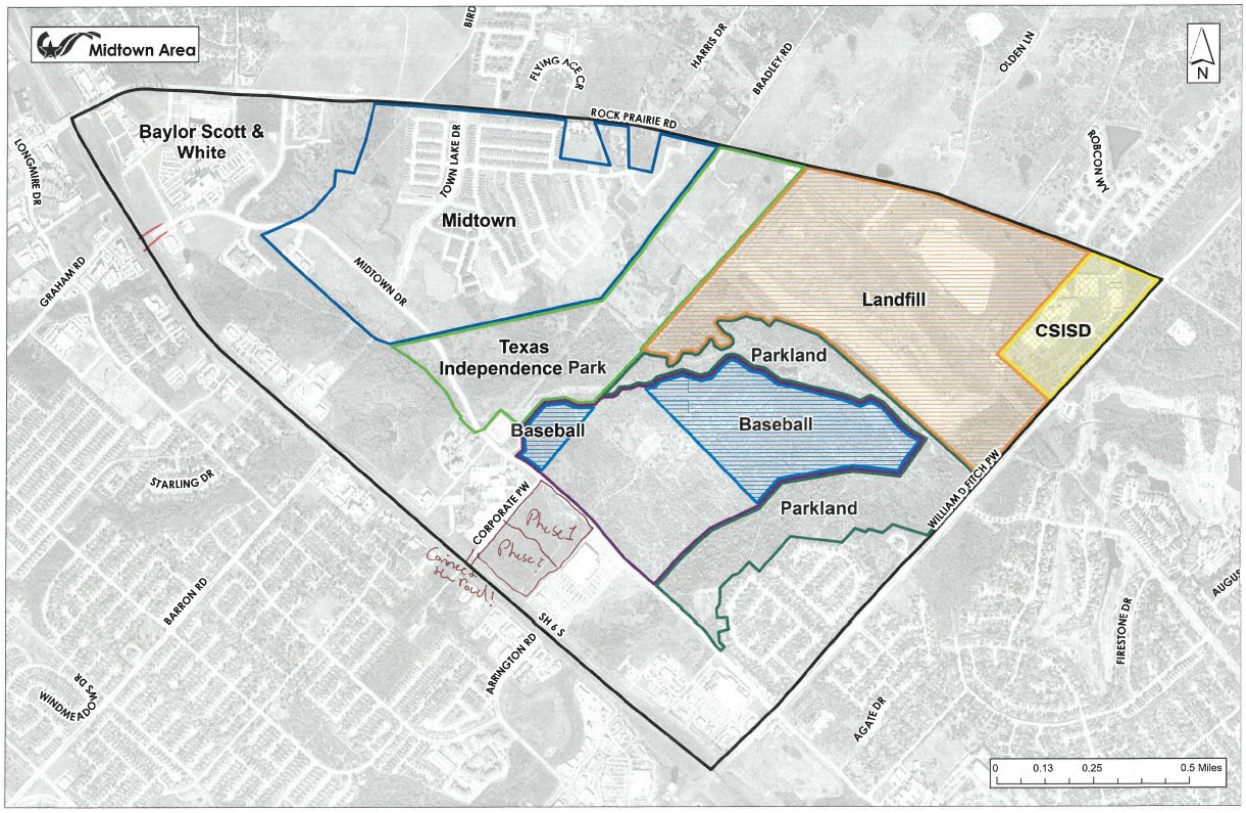
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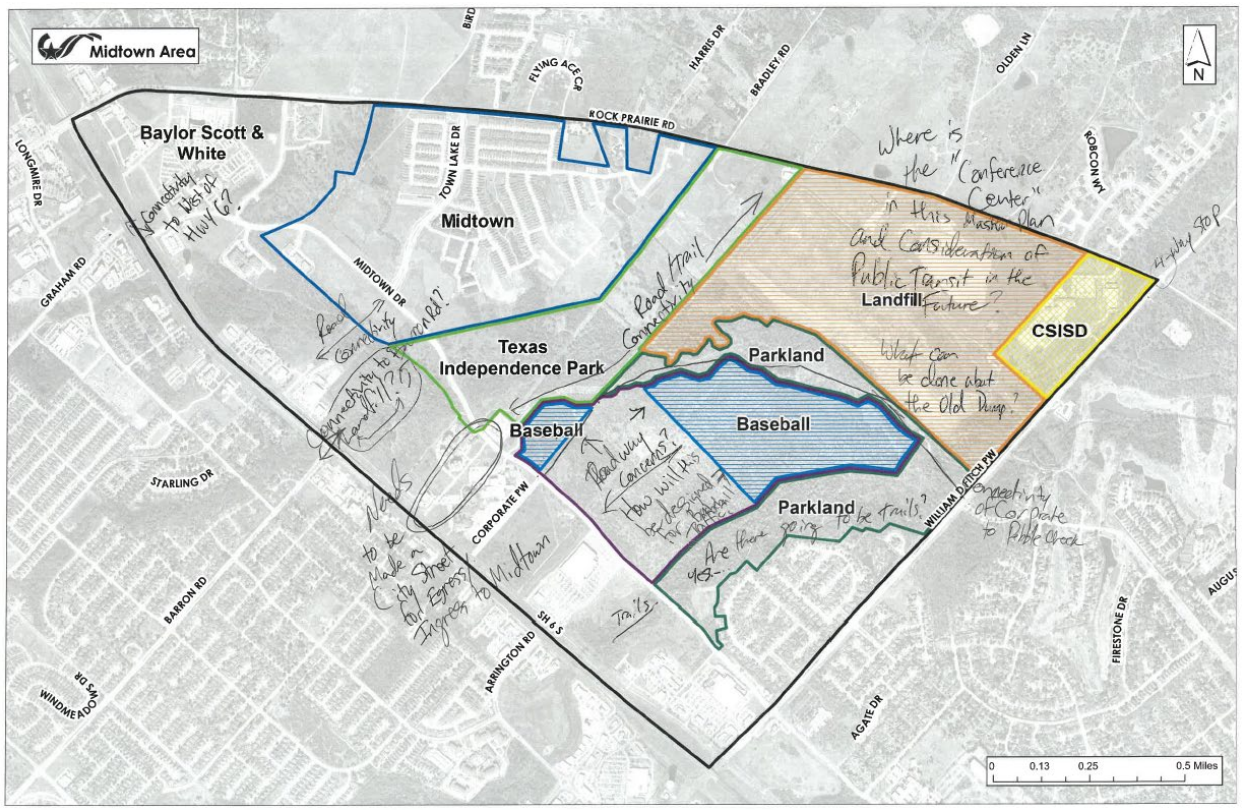
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Where is the "Conference Center" in this Master Plan and Consideration of Public Transit in the Future?
What can be done with the Old Dump?
Road / Trail Connectivity?
Connectivity to West of Hwy 6?
Connectivity to Landfill???
Needs to be Made a City Street for Egress/Ingress to Midtown
Trails?
Are there going to be trails?
Yes
Connectivity of Corporate to Public Good
4-Way Stop
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February 26, 2026
Item No. 9.2.
Update from the College Station Police Department

Sponsor: Billy Couch

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action on an update from the College Station Police Department.

Relationship to Strategic Goals:
- Good Governance

Recommendation(s): Receive the report and provide feedback.

Summary: Update on calendar year 2025 operations and activities for the College Station Police Department.

Budget & Financial Summary: None.

Attachments:
None

COLLEGE STATION POLICE DEPARTMENT

2025 RACIAL PROFILING REPORT

DEL CARMEN Consulting®

LAW ENFORCEMENT EXPERTS

"Dr. Alex del Carmen's work on racial profiling exemplifies the very best of the Sandra Bland Act, named after my daughter. My daughter's pledge to fight for injustice is best represented in the high quality of Dr. del Carmen's reports which include, as required by law, the data analysis, audits, findings and recommendations. I commend the agencies that work with him as it is clear that they have embraced transparency and adherence to the law."

-Quote by Geneva Reed (Mother of Sandra Bland)

February 5, 2026

College Station City Council
1101 Texas Ave.
College Station, TX 77840

Dear Distinguished Members of the City Council,

The Texas Racial Profiling Law, originally enacted by the Texas Legislature in 2001, was designed to address concerns regarding racial profiling practices in law enforcement. Throughout the preceding calendar year, the College Station Police Department, in full compliance with statutory requirements, systematically collected and reported traffic and motor vehicle-related contact data for the express purpose of identifying, evaluating, and addressing any potential concerns regarding racial profiling practices within the department.

Since its initial enactment, the Texas Racial Profiling Law has undergone significant legislative modifications. During the 2009 legislative session, the law was amended to incorporate additional data collection and reporting requirements. Subsequently, in 2017, the Texas Legislature passed two landmark pieces of legislation: House Bill 3051, which standardized racial and ethnic classification categories, and the Sandra Bland Act (Senate Bill 1849), which substantially expanded data collection mandates and analytical requirements. The Sandra Bland Act represents the most comprehensive legislative framework in Texas history pertaining to law enforcement contact data requirements. I am pleased to confirm that the College Station Police Department has satisfied all statutory requirements, and the documentation contained herein demonstrates full compliance with these legislative mandates.

This annual report is organized into distinct sections, each addressing specific components of the compliance framework. Section One contains the table of contents, providing navigational guidance throughout the document. Section Two presents documentation demonstrating the College Station Police Department's compliance with the procedural requirements established under the Texas Racial Profiling Law, including evidence of mandatory training protocols for all sworn personnel on racial profiling prevention, as well as the institutionalization of formal compliment and complaint processes as required by statute.

Section Three contains comprehensive statistical data pertaining to motor vehicle-related contacts, as defined by applicable law, occurring between January 1, 2025, and December 31, 2025. This section includes the Tier 2 reporting form, which must be submitted to the Texas Commission on Law Enforcement (TCOLE) and the local governing authority by March 1 of each calendar year. All data presented in this report was compared against the Fair Roads Standard, a baseline measure derived from U.S. Census Bureau data. The analytical findings and corresponding recommendations are presented in detail within this section.

The final section of this report contains reference materials, including the original text of Senate Bill 1074 (the Texas Racial Profiling Law) and the Sandra Bland Act (current governing law). Additionally, this section includes a comprehensive listing of compliance requirements established by TCOLE. The findings documented in this report substantiate the College Station Police Department's ongoing commitment to full compliance with the Texas Racial Profiling Law and its commitment to constitutional policing practices.

Respectfully submitted,

Alex del Carmen, Ph.D.
Criminologist

TABLE OF CONTENTS

INTRODUCTION

Letter to Council Members 2

Table of Contents 3

RESPONDING TO THE LAW

Public Education on Filing Compliments and Complaints 4

Racial Profiling Course Number 3256 5

Reports on Compliments and Racial Profiling Complaints 10

Tier 2 Data (Includes tables) 11

ANALYSIS AND INTERPRETATION OF DATA

Tier 2 Motor Vehicle-Related Contact Analysis 21

Comparative Analysis 23

Summary of Findings 24

Checklist 25

LEGISLATIVE AND ADMINISTRATIVE ADDENDUM

TCOLE Guidelines 27

The Texas Law on Racial Profiling 32

Modifications to the Original Law 39

Racial and Ethnic Designations 47

The Sandra Bland Act 48

College Station Police Department Racial Profiling Policy 63

Informing the Public on the Process of Filing a Compliment or Complaint with the College Station Police Department

The Texas Racial Profiling Law requires that police agencies provide information to the public regarding the manner in which to file a compliment or racial profiling complaint. In an effort to comply with this particular component, the College Station Police Department launched an educational campaign aimed at informing the public on issues relevant to the racial profiling complaint process.

The police department made available, in the lobby area and on its web site, information relevant to filing a compliment and complaint on a racial profiling violation by a College Station Police Department Police Officer. In addition, each time an officer issues a citation, ticket or warning, information on how to file a compliment or complaint is given to the individual cited. This information is in the form of a web address (including in the document issued to the citizen), which has instructions and details specifics related to the compliment or complaint processes.

It is believed that through these efforts, the community has been properly informed of the new policies and the complaint processes relevant to racial profiling.

All College Station Police Officers have been instructed, as specified in the Texas Racial Profiling Law, to adhere to all Texas Commission on Law Enforcement (TCOLE) training and the Law Enforcement Management Institute of Texas (LEMIT) requirements. To date, all sworn officers of the College Station Police Department have completed the TCOLE basic training on racial profiling. The main outline used to train the officers of College Station Police Department has been included in this report.

It is important to recognize that the Chief of the College Station Police Department has also met the training requirements, as specified by the Texas Racial Profiling Law, in the completion of the LEMIT program on racial profiling. The satisfactory completion of the racial profiling training by the sworn personnel of the College Station Police Department fulfills the training requirement as specified in the Education Code (96.641) of the Texas Racial Profiling Law.

Racial Profiling 3256

Instructor's Note:

You may wish to teach this course in conjunction with Asset Forfeiture 3255 because of the related subject matter and applicability of the courses. If this course is taught in conjunction with Asset Forfeiture, you may report it under Combined Profiling and Forfeiture 3257 to reduce data entry.

Abstract

This instructor guide is designed to meet the educational requirement for racial profiling established by legislative mandate: 77R-SB1074.

Target Population: Licensed law enforcement personnel in Texas

Prerequisites: Experience as a law enforcement officer

Length of Course: A suggested instructional time of 4 hours

Material Requirements: Overhead projector, chalkboard and/or flip charts, video tape player, handouts, practical exercises, and demonstrations

Instructor Qualifications: Instructors should be very knowledgeable about traffic stop procedures and law enforcement issues

Evaluation Process and Procedures

An examination should be given. The instructor may decide upon the nature and content of the examination. It must, however, sufficiently demonstrate the mastery of the subject content by the student.

Reference Materials

Reference materials are located at the end of the course. An electronic copy of this instructor guide may be downloaded from our web site at http://www.tcleose.state.tx.us.

Racial Profiling 3256

1.0 RACIAL PROFILING AND THE LAW

1.1 UNIT GOAL: The student will be able to identify the legal aspects of racial profiling.

1.1.1 LEARNING OBJECTIVE: The student will be able to identify the legislative requirements placed upon peace officers and law enforcement agencies regarding racial profiling.

Racial Profiling Requirements:

Racial profiling CCP 3.05
Racial profiling prohibited CCP 2.131
Law enforcement policy on racial profiling CCP 2.132
Reports required for traffic and pedestrian stops CCP 2.133
Liability CCP 2.136
Racial profiling education for police chiefs Education Code 96.641
Training program Occupations Code 1701.253
Training required for intermediate certificate Occupations Code 1701.402
Definition of "race or ethnicity" for form Transportation Code 543.202

A. Written departmental policies

1. Definition of what constitutes racial profiling
2. Prohibition of racial profiling
3. Complaint process
4. Public education
5. Corrective action
6. Collection of traffic-stop statistics
7. Annual reports

B. Not prima facie evidence

C. Feasibility of use of video equipment

D. Data does not identify officer

E. Copy of complaint-related video evidence to officer in question

F. Vehicle stop report

1. Physical description of detainees: gender, race or ethnicity
2. Alleged violation
3. Consent to search
4. Contraband
5. Facts supporting probable cause
6. Arrest
7. Warning or citation issued

G. Compilation and analysis of data

H.Exemption from reporting – audio/video equipment

I. Officer non-liability

J. Funding

K. Required training in racial profiling

1. Police chiefs

2. All holders of intermediate certificates and/or two-year-old licenses as of 09/01/2001 (training to be completed no later than 09/01/2003) – see legislation 77R-SB1074

1.1.2 LEARNING OBJECTIVE: The student will become familiar with Supreme Court decisions and other court decisions involving appropriate actions in traffic stops.

A. Whren v. United States, 517 U.S. 806, 116 S.Ct. 1769 (1996)

1. Motor vehicle search exemption
2. Traffic violation acceptable as pretext for further investigation
3. Selective enforcement can be challenged

B. Terry v. Ohio, 392 U.S. 1, 88 S.Ct. 1868 (1968)

1. Stop & Frisk doctrine
2. Stopping and briefly detaining a person
3. Frisk and pat down

C. Other cases

1. Pennsylvania v. Mimms, 434 U.S. 106, 98 S.Ct. 330 (1977)
2. Maryland v. Wilson, 117 S.Ct. 882 (1997)
3. Graham v. State, 119 MdApp 444, 705 A.2d 82 (1998)
4. Pryor v. State, 122 Md.App. 671 (1997) cert. denied 352 Md. 312, 721 A.2d 990 (1998)
5. Ferris v. State, 355 Md. 356, 735 A.2d 491 (1999)
6. New York v. Belton, 453 U.S. 454 (1981)

2.0 RACIAL PROFILING AND THE COMMUNITY

2.1 UNIT GOAL: The student will be able to identify logical and social arguments against racial profiling.

2.1.1 LEARNING OBJECTIVE: The student will be able to identify logical and social arguments against racial profiling.

A. There are appropriate reasons for unusual traffic stops (suspicious behavior, the officer's intuition, MOs, etc.), but police work must stop short of cultural stereotyping and racism.

B. Racial profiling would result in criminal arrests, but only because it would target all members of a race randomly – the minor benefits would be far outweighed by the distrust and anger towards law enforcement by minorities and the public as a whole.

C. Racial profiling is self-fulfilling bad logic: if you believed that minorities committed more crimes, then you might look for more minority criminals, and find them in disproportionate numbers.

D. Inappropriate traffic stops generate suspicion and antagonism towards officers and make future stops more volatile – a racially-based stop today can throw suspicion on tomorrow's legitimate stop.

E. By focusing on race, you would not only be harassing innocent citizens, but overlooking criminals of all races and backgrounds – it is a waste of law enforcement resources.

3.0 RACIAL PROFILING VERSUS REASONABLE SUSPICION

3.1 UNIT GOAL: The student will be able to identify the elements of both inappropriate and appropriate traffic stops.

3.1.1 LEARNING OBJECTIVE: The student will be able to identify elements of a racially motivated traffic stop.

A. Most race-based complaints come from vehicle stops, often since race is used as an inappropriate substitute for drug courier profile elements

B. "DWB" – "Driving While Black" – a nickname for the public perception that a Black person may be stopped solely because of their race (especially with the suspicion that they are a drug courier), often extended to other minority groups or activities as well ("Driving While Brown," "Flying While Black," etc.)

C. A typical traffic stop resulting from racial profiling

1. The vehicle is stopped on the basis of a minor or contrived traffic violation which is used as a pretext for closer inspection of the vehicle, driver, and passengers

2. The driver and passengers are questioned about things that do not relate to the traffic violation

3. The driver and passengers are ordered out of the vehicle

4. The officers visually check all observable parts of the vehicle

5. The officers proceed on the assumption that drug courier work is involved by detaining the driver and passengers by the roadside

6. The driver is asked to consent to a vehicle search – if the driver refuses, the officers use other procedures (waiting on a canine unit, criminal record checks, license-plate checks, etc.), and intimidate the driver (with the threat of detaining him/her, obtaining a warrant, etc.)

3.1.2 LEARNING OBJECTIVE: The student will be able to identify elements of a traffic stop which would constitute reasonable suspicion of drug courier activity.

A. Drug courier profile (adapted from a profile developed by the DEA)

1. Driver is nervous or anxious beyond the ordinary anxiety and cultural communication styles
2. Signs of long-term driving (driver is unshaven, has empty food containers, etc.)
3. Vehicle is rented
4. Driver is a young male, 20-35
5. No visible luggage, even though driver is traveling
6. Driver was over-reckless or over-cautious in driving and responding to signals
7. Use of air fresheners

B. Drug courier activity indicators by themselves are usually not sufficient to justify a stop

3.1.3 LEARNING OBJECTIVE: The student will be able to identify elements of a traffic stop which could constitute reasonable suspicion of criminal activity.

A. Thinking about the totality of circumstances in a vehicle stop

B. Vehicle exterior

1. Non-standard repainting (esp. on a new vehicle)
2. Signs of hidden cargo (heavy weight in trunk, windows do not roll down, etc.)
3. Unusual license plate suggesting a switch (dirty plate, bugs on back plate, etc.)
4. Unusual circumstances (pulling a camper at night, kids' bikes with no kids, etc.)

C. Pre-stop indicators

1. Not consistent with traffic flow
2. Driver is overly cautious, or driver/passengers repeatedly look at police car
3. Driver begins using a car- or cell-phone when signaled to stop
4. Unusual pull-over behavior (ignores signals, hesitates, pulls onto new street, moves objects in car, etc.)

D. Vehicle interior

1. Rear seat or interior panels have been opened, there are tools or spare tire, etc.
2. Inconsistent items (anti-theft club with a rental, unexpected luggage, etc.)

Resources

Proactive Field Stops Training Unit – Instructor's Guide, Maryland Police and Correctional Training Commissions, 2001. (See Appendix A.)

Web address for legislation 77R-SB1074

Report on Compliments and Racial Profiling Complaints

Report on Complaints

The following table contains data regarding officers that have been the subject of a complaint, during the time period of 1/1/25-12/31/25 based on allegations outlining possible violations related to the Texas Racial Profiling Law. The final disposition of the case is also included.

A check above indicates that the College Station Police Department has not received any complaints, on any members of its police services, for having violated the Texas Racial Profiling Law during the time period of 1/1/25-12/31/25.

Complaints Filed for Possible Violations of The Texas Racial Profiling Law

Complaint Number	Alleged Violation	Disposition of the Case

Additional Comments:
.

Tables Illustrating Motor_Vehicle-Related Contacts

TIER 2 DATA

TOTAL STOPS: 27,597

STREET ADDRESS OR APPROXIMATE LOCATION OF STOP.

City Street	26,342
US Highway	0
State Highway	1,111
County Road	0
Private Property	144

WAS RACE OR ETHNICITY KNOWN PRIOR TO STOP?

Yes	3,371
No	24,226

RACE OR ETHNICITY

Alaska Native/American Indian	23
Asian/Pacific Islander	1,629
Black	5,286
White	15,383
Hispanic/Latino	5,276

GENDER

Female Total: 11,219

Alaska Native/American Indian	8
Asian/Pacific Islander	522
Black	2,019
White	6,750
Hispanic/Latino	1,920

Male Total: 16,378

Alaska Native/American Indian	15
Asian/Pacific Islander	1,107
Black	3,267
White	8,633
Hispanic/Latino	3,356

REASON FOR STOP?

Violation of Law Total: 2,056

Alaska Native/American Indian	1
Asian/Pacific Islander	95
Black	498
White	1,039
Hispanic/Latino	423

Pre-existing Knowledge Total: 601

Alaska Native/American Indian	1
Asian/Pacific Islander	11
Black	236
White	209
Hispanic/Latino	144

Moving Traffic Violation Total: 18,420

Alaska Native/American Indian	12
Asian/Pacific Islander	1,185
Black	3,211
White	10,587
Hispanic/Latino	3,425

TIER 2 DATA

Vehicle Traffic Violation Total: 6,520

Alaska Native/American Indian	9
Asian/Pacific Islander	338
Black	1,341
White	3,548
Hispanic/Latino	1,284

WAS SEARCH CONDUCTED?

	YES	NO
Alaska Native/American Indian	0	23
Asian/Pacific Islander	14	1,615
Black	345	4,941
White	223	15,160
Hispanic/Latino	139	5,137
TOTAL	**721**	**26,876**

REASON FOR SEARCH?

Consent Total: 126

Alaska Native/American Indian	0
Asian/Pacific Islander	1
Black	49
White	47
Hispanic/Latino	29

Contraband (in plain view) Total: 24

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	4
White	15
Hispanic/Latino	5

Probable Cause Total: 482

Alaska Native/American Indian	0
Asian/Pacific Islander	7
Black	255
White	135
Hispanic/Latino	85

Inventory Total: 9

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	2
White	3
Hispanic/Latino	4

Incident to Arrest Total: 80

Alaska Native/American Indian	0
Asian/Pacific Islander	6
Black	35
White	23
Hispanic/Latino	16

TIER 2 DATA

WAS CONTRABAND DISCOVERED?

	YES	NO
Alaska Native/American Indian	0	0
Asian/Pacific Islander	6	8
Black	212	133
White	147	76
Hispanic/Latino	76	63
TOTAL	**441**	**280**

Did the finding result in arrest?

	YES	NO
Alaska Native/American Indian	0	0
Asian/Pacific Islander	1	5
Black	55	157
White	22	125
Hispanic/Latino	18	58
TOTAL	**96**	**345**

DESCRIPTION OF CONTRABAND

Drugs Total: 257

Alaska Native/American Indian	0
Asian/Pacific Islander	1
Black	159
White	51
Hispanic/Latino	46

Currency Total: 0

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	0
White	0
Hispanic/Latino	0

Weapons Total: 8

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	3
White	3
Hispanic/Latino	2

Alcohol Total: 89

Alaska Native/American Indian	0
Asian/Pacific Islander	2
Black	18
White	52
Hispanic/Latino	17

Stolen Property Total: 0

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	0
White	0
Hispanic/Latino	0

Other Total: 87

Alaska Native/American Indian	0
Asian/Pacific Islander	3
Black	32
White	41
Hispanic/Latino	11

RESULT OF THE STOP

Verbal Warning Total: 859

Alaska Native/American Indian	6
Asian/Pacific Islander	38
Black	269
White	329
Hispanic/Latino	217

Written Warning Total: 17,986

Alaska Native/American Indian	13
Asian/Pacific Islander	995
Black	3,859
White	9,736
Hispanic/Latino	3,383

Citation Total: 8,512

Alaska Native/American Indian	4
Asian/Pacific Islander	590
Black	1,036
White	5,259
Hispanic/Latino	1,623

Written Warning and Arrest Total: 183

Alaska Native/American Indian	0
Asian/Pacific Islander	5
Black	99
White	40
Hispanic/Latino	39

Citation and Arrest Total: 28

Alaska Native/American Indian	0
Asian/Pacific Islander	1
Black	8
White	11
Hispanic/Latino	8

Arrest Total: 29

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	15
White	8
Hispanic/Latino	6

TIER 2 DATA

ARREST BASED ON

Violation of Penal Code Total: 145

Alaska Native/American Indian	0
Asian/Pacific Islander	4
Black	72
White	43
Hispanic/Latino	26

Violation of Traffic Law Total: 12

Alaska Native/American Indian	0
Asian/Pacific Islander	1
Black	4
White	3
Hispanic/Latino	4

Violation of City Ordinance Total: 0

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	0
White	0
Hispanic/Latino	0

Outstanding Warrant Total: 83

Alaska Native/American Indian	0
Asian/Pacific Islander	1
Black	46
White	13
Hispanic/Latino	23

Was physical force used resulting in bodily injury during the stop?

	YES	NO
Alaska Native/American Indian	0	23
Asian/Pacific Islander	0	1,629
Black	1	5,285
White	0	15,383
Hispanic/Latino	0	5,276
TOTAL	**1**	**27,596**

Tables Illustrating Motor Vehicle Related Contact Data

Table 1. Citations and Warnings

Race/ Ethnicity	All Contacts	Citations	Verbal Warning	Written Warning	Contact Percent	Citation Percent	Verbal Percent	Written Percent
Alaska Native/ American Indian	23	4	6	13	0%	0%	1%	0%
Asian/ Pacific Islander	1,629	591	38	995	6%	7%	4%	6%
Black	5,286	1,044	269	3,859	19%	12%	31%	21%
White	15,383	5,270	329	9,736	56%	62%	38%	54%
Hispanic/ Latino	5,276	1,631	217	3,383	19%	19%	25%	19%
TOTAL	27,597	8,540	859	17,986	100%	100%	100%	100%

Table 2. Motor Vehicle Contacts and Fair Roads Standard Comparison

Comparison of motor vehicle-related contacts with households that have vehicle access.

Race/Ethnicity	Contact Percentage	Households with Vehicle Access
Alaska Native/American Indian	0%	0%
Asian/Pacific Islander	6%	9%
Black	19%	5%
White	56%	74%
Hispanic/Latino	19%	10%
TOTAL	100%	98%

Table 3. Motor Vehicle Searches and Arrests.

Race/Ethnicity	Searches	Consent Searches	Arrests
Alaska Native/American Indian	0	0	0
Asian/Pacific Islander	14	1	6
Black	345	49	122
White	223	47	59
Hispanic/Latino	139	29	53
TOTAL	721	126	240

Table 4. Instances Where Peace Officers Used Physical Force Resulting in Bodily Injury

Instances Where Peace Officers Used Physical Force that Resulted in Bodily Injury	Arrest	Location of Stop	Reason for Stop	Bodily Harm
1	10/22/25	100 Wellborn Road N	Violation of Traffic Law	Suspect

Table 5. Search Data

Race/ Ethnicity	Searches	Contraband Found Yes	Contraband Found No	Arrests	Percent Searches	Percent Contraband Found	Percent No Contraband	Percent Arrest
Alaska Native/ American Indian	0	0	0	0	0%	0%	0%	0%
Asian/ Pacific Islander	14	6	8	6	2%	1%	3%	3%
Black	345	212	133	122	48%	48%	48%	51%
White	223	147	76	59	31%	33%	27%	25%
Hispanic/ Latino	139	76	63	53	19%	17%	23%	22%
TOTAL	721	441	280	240	100%	100%	100%	100%

Table 6. Report on Audits.

The following table contains data regarding the number and outcome of required data audits during the period of 1/1/25-12/31/25.

Audit Data	Number of Data Audits Completed	Date of Completion	Outcome of Audit
1	1	03/01/25	Data was valid and reliable
2	1	06/01/25	Data was valid and reliable
3	1	09/01/25	Data was valid and reliable
4	1	12/01/25	Data was valid and reliable

ADDITIONAL COMMENTS:

Table 7. Instance Where Force Resulted in Bodily Injury.

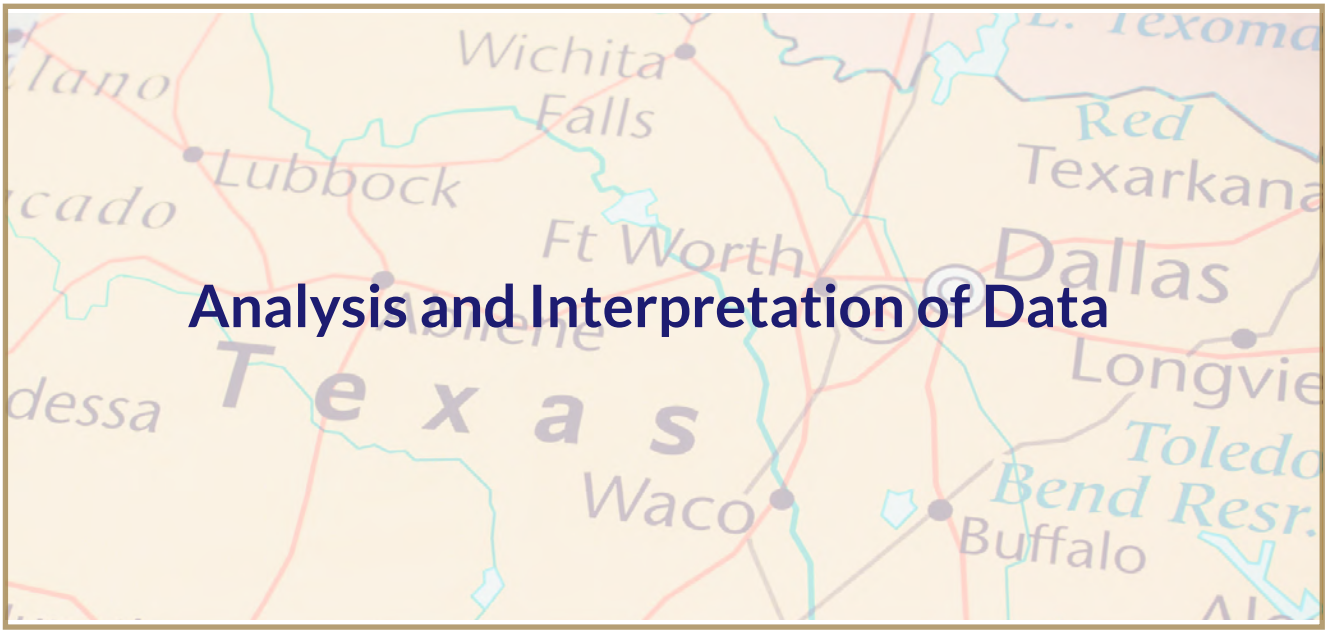
Race/Ethnicity	Number	Percent
Alaska Native/American Indian	0	0%
Asian/Pacific Islander	0	0%
Black	1	100%
White	0	0%
Hispanic/Latino	0	0%
TOTAL	1	100%

Table 8. Reason for Arrests from Vehicle Contact

Race/ Ethnicity	Violation of Penal Code	Violation of Traffic Law	Violation of City Ordinance	Outstanding Warrant	Percent Penal Code	Percent Traffic Law	Percent City Ordinance	Percent Warrant
Alaska Native/ American Indian	0	0	0	0	0%	0%	0%	0%
Asian/Pacific Islander	4	1	0	1	3%	8%	0%	1%
Black	72	4	0	46	50%	33%	0%	55%
White	43	3	0	13	30%	25%	0%	16%
Hispanic/ Latino	26	4	0	23	18%	33%	0%	28%
TOTAL	145	12	0	83	100%	100%	0%	100%

Table 9. Contraband Hit Rate

Race/ Ethnicity	Searches	Contraband Found Yes	Contraband Hit Rate	Search Percent	Contraband Percent
Alaska Native/ American Indian	0	0	0%	0%	0%
Asian/ Pacific Islander	14	6	43%	2%	1%
Black	345	212	61%	48%	48%
White	223	147	66%	31%	33%
Hispanic/Latino	139	76	55%	19%	17%



Analysis and Interpretation of Data

Legislative Background and Statutory Framework

In 2001, the Texas Legislature enacted Senate Bill 1074, establishing the Texas Racial Profiling Law. This legislation became effective on January 1, 2002, and required all law enforcement agencies in Texas to collect traffic-related contact data and submit annual reports to their respective local governing authorities by March 1 of each calendar year. The original statutory framework remained substantially unchanged until 2009, when the Texas Legislature passed House Bill 3389, introducing significant amendments to the data collection and reporting requirements.

The 2009 legislative amendments, which took effect on January 1, 2010, expanded the definition of reportable contacts to include all motor vehicle-related encounters resulting in the issuance of a citation or custodial arrest. Additionally, the amended statute required law enforcement officers to document whether they possessed knowledge of the individual's race or ethnicity prior to initiating the detention. The 2009 legislation also mandated the inclusion of "Middle Eastern" as a distinct racial and ethnic classification category and established TCOLE as the central repository for annual data submissions.

In 2017, the Texas Legislature enacted two significant pieces of legislation affecting racial profiling data collection requirements. House Bill 3051 eliminated the Middle Eastern classification category and standardized racial and ethnic designations to align with federal reporting standards. Concurrently, the Sandra Bland Act (Senate Bill 1849) was passed and signed into law, representing the most comprehensive legislative mandate in Texas history regarding law enforcement contact data requirements. The Sandra Bland Act, which became effective on January 1, 2018, not only expanded data collection requirements but also mandated detailed analytical assessments addressing the following statutory elements:

1. A comparative analysis of compiled information pursuant to Article 2.133, including:

a. Evaluation and comparison of motor vehicle stops within the applicable jurisdiction between persons recognized as racial or ethnic minorities and persons not recognized as racial or ethnic minorities;

b. Examination of the disposition of motor vehicle stops conducted by agency personnel, categorized according to the race or ethnicity of affected persons, including any searches resulting from stops within the applicable jurisdiction;

c. *Evaluation and comparison of searches resulting from motor vehicle stops within the applicable jurisdiction and documentation of whether contraband or other evidence was discovered during the course of such searches.*

2. *Documentation of all complaints filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.*

Analytical Methodology and Baseline Considerations

In accordance with the Texas Racial Profiling Law and Sandra Bland Act requirements, the College Station Police Department commissioned an independent analysis of its 2025 motor vehicle contact data. The analytical framework employed in this study incorporated two distinct methodological approaches. The primary analysis involved a comprehensive evaluation of all motor vehicle-related contact data collected during the 2025 reporting period. This analysis measured, as required by statute, the number and percentage of contacts involving individuals classified as White, Black, Hispanic or Latino, Asian and Pacific Islander, and Alaska Native and American Indian, who encountered law enforcement during motor vehicle-related contacts resulting in the issuance of citations, warnings, or custodial arrests.

The Tier 2 data analysis encompassed multiple variables including, but not limited to: the number and percentage of contacts by race and ethnicity; gender distribution; documented reason for the stop; geographic location of the encounter; search activity including search type classification; outcome of the contact; legal basis for any resulting arrest; and any use of physical force resulting in bodily injury. This comprehensive data collection framework enables a thorough assessment of departmental practices and facilitates identification of any patterns warranting further examination.

The analytical framework employed in this report utilized a comparative methodology that assessed 2025 motor vehicle contact data against an established demographic baseline. It should be noted that considerable scholarly debate exists regarding the appropriate baseline measure for analyzing motor vehicle-related contact data. Among available baseline measures, the College Station Police Department accepted the recommendation to employ the Fair Roads Standard as the primary comparative benchmark. This particular baseline is derived from U.S. Census Bureau data (2020) pertaining to the number of households with vehicle access, controlled for the race and ethnicity of heads of households.

It is important to acknowledge the methodological limitations inherent in utilizing census-derived baseline data for racial profiling analysis. Census data encompasses all residents within a given jurisdiction, regardless of their status within the driving population. Furthermore, census data captures information exclusively pertaining to municipal residents, thereby excluding individuals who may have encountered the College Station Police Department during the reporting period but reside outside jurisdictional boundaries. In certain municipalities, contacts with non-residents constitute a substantial proportion of all motor vehicle-related encounters recorded during any given reporting period.

In 2002, prominent civil rights organizations in Texas advocated for the adoption of the Fair Roads Standard as the preferred baseline measure for all law enforcement agencies conducting racial profiling analyses. These standard compares census data specific to "households" with vehicle access against "contacts," which represent individual-level counts. This methodological approach introduces the potential for ecological fallacy, as household-level data is being compared with individual-level contact data. Notwithstanding these limitations, the College Station Police Department elected to employ this comparison methodology to demonstrate institutional commitment to transparency and community accountability. The Fair Roads Standard data utilized in this analysis is specific to the jurisdiction of College Station.

Tier 2 Motor Vehicle-Related Contact Analysis (2025)

Examination of the enhanced Tier 2 data collected during the 2025 reporting period reveals distinct patterns in motor vehicle-related contacts. The demographic distribution of contacts indicates that the majority of motor vehicle-related encounters involved White individuals, followed by Black individuals. Among all individuals contacted by law enforcement, the greatest number of citations were issued to White and Hispanic individuals, followed by Black individuals. With respect to written warnings, the majority were issued to White individuals, with Black individuals representing the second largest recipient group.

Analysis of search and arrest data reveals that the majority of searches were conducted involving Black individuals. When examining search methodology, the greatest number of consent searches involved Black and White individuals. Similarly, the majority of custodial arrests involved Black individuals. Overall, the preponderance of searches resulted in the discovery of contraband. Among searches that yielded contraband, the majority involved Black individuals, followed by White individuals. Among searches that did not produce contraband, the majority involved Black individuals.

Arrest data indicates that the majority of custodial arrests involved Black individuals. Among arrests originating from alleged violations of the Texas Penal Code, the majority involved Black individuals. With respect to use of force, the department reports one instance where physical force was used resulting in bodily injury during the reporting period.

Comparative Analysis

A comprehensive comparative analysis was conducted examining 2025 motor vehicle contact data against census data pertaining to households within College Station that reported vehicle access in the 2020 Census. This analysis produced the following findings:

The percentage of White, Asian, and American Indian individuals who came into contact with law enforcement was equal to or lower than the percentage of White, Asian, and American Indian households within College Station that reported vehicle access in the most recent census enumeration. Conversely, the data revealed that a higher percentage of Black and Hispanic individuals came into contact with law enforcement compared to the percentage of Black and Hispanic households that reported vehicle access.

The contraband discovery rate analysis reveals that among all searches conducted during the 2025 reporting period, White individuals demonstrated the highest contraband hit rate, followed by Black and Hispanic individuals respectively. This indicates that among all searches performed, the highest percentage of searches resulting in contraband discovery involved White individuals. The lowest contraband discovery rate was observed among Asian individuals.

Summary of Findings

As mandated by the current Texas Racial Profiling Law, law enforcement agencies are required to conduct data audits to validate the accuracy and reliability of reported data. In compliance with this requirement, the College Station Police Department engaged Del Carmen Consulting, LLC to perform independent data audits consistent with normative statistical practices and methodological standards. As documented in the accompanying audit report, the validation process confirms that the data submitted is both valid and reliable.

Furthermore, as required by statute, this report includes a comprehensive analysis of search activity, including documentation of whether contraband was discovered as a result of searches while controlling for the race and ethnicity of searched individuals. The search analysis demonstrates that the College Station Police Department is engaging in search practices consistent with prevailing national trends in law enforcement and does not reveal patterns indicative of discriminatory practices.

Based upon the analytical findings presented in this report, the following recommendations are offered to ensure continued compliance and institutional best practices:

1. Continue to collect and evaluate supplementary motor vehicle contact data elements, including but not limited to documented basis for probable cause searches and detailed contraband classification, which may prove valuable in assessing the nature and circumstances of law enforcement contacts with all individuals.
2. Commission an independent analysis of contact and search data during the upcoming reporting period to maintain analytical continuity and identify any emerging trends.
3. Continue to commission periodic data audits to ensure data integrity and verify that collected data is consistent with reported data, thereby maintaining the validity and reliability of all submissions.

Conclusion

The comprehensive data analysis presented in this report serves as documented evidence that the College Station Police Department has achieved full compliance with the Texas Racial Profiling Law and all associated statutory requirements. This report demonstrates that the department has:

- Implemented and maintains a comprehensive racial profiling policy in accordance with statutory requirements;
- Established and publicized procedures for members of the public to file compliments or complaints regarding officer conduct;
- Commissioned periodic data audits to ensure the validity and reliability of all collected and reported data;
- Collected and commissioned independent analysis of all required Tier 2 data elements; and
- Ensured that the practice of racial profiling is expressly prohibited and will not be accepted or tolerated within the organization.

The College Station Police Department remains committed to constitutional policing practices, equitable treatment of all individuals, and continued compliance with all applicable state and federal requirements pertaining to racial profiling prevention and reporting.

APPENDICES

[This section should include the following reference materials:]

- Original text of Senate Bill 1074 (Texas Racial Profiling Law)
- Sandra Bland Act (Senate Bill 1849) - Current governing law
- TCOLE compliance requirements and guidelines
- Agency racial profiling policy documentation
- Training documentation and certifications
- Complaint and compliment procedure documentation
- Data audit methodology and validation results
- Tier 2 data collection forms and submission confirmation

LEGISLATIVE & ADMINISTRATIVE

TCOLE GUIDELINES

Guidelines for Compiling and Reporting Data under Senate Bill 1074

Background

Senate Bill 1074 of the 77th Legislature established requirements in the Texas Code of Criminal Procedure (TCCP) for law enforcement agencies. The Commission developed this document to assist agencies in complying with the statutory requirements.

The guidelines are written in the form of standards using a style developed from accreditation organizations including the Commission on Accreditation for Law Enforcement Agencies (CALEA). The standards provide a description of ***what*** must be accomplished by an agency but allows wide latitude in determining ***how*** the agency will achieve compliance with each applicable standard.

Each standard is composed of two parts: the standard statement and the commentary. The *standard statement* is a declarative sentence that places a clear-cut requirement, or multiple requirements, on an agency. The commentary supports the standard statement but is not binding. The commentary can serve as a prompt, as guidance to clarify the intent of the standard, or as an example of one possible way to comply with the standard.

Standard 1

Each law enforcement agency has a detailed written directive that:

- clearly defines acts that constitute racial profiling;
- strictly prohibits peace officers employed by the agency from engaging in racial profiling;
- implements a process by which an individual may file a complaint with the agency if the individual believes a peace officer employed by the agency has engaged in racial profiling with respect to the individual filing the complaint;
- provides for public education relating to the complaint process;
- requires appropriate corrective action to be taken against a peace officer employed by the agency who, after investigation, is shown to have engaged in racial profiling in violation of the agency's written racial profiling policy; and
- requires the collection of certain types of data for subsequent reporting.

Commentary

Article 2.131 of the TCCP prohibits officers from engaging in racial profiling, and article 2.132 of the TCCP now requires a written policy that contains the elements listed in this standard. The article also specifically defines a law enforcement agency as it applies to this statute as an " agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make traffic stops in the routine performance of the officers' official duties."

The article further defines race or ethnicity as being of "a particular descent, including Caucasian, African, Hispanic, Asian, or Native American." The statute does not limit the required policies to just these ethnic groups.

This written policy is to be adopted and implemented no later than January 1, 2002.

Standard 2

Each peace officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic, or who stops a pedestrian for any suspected offense reports to the employing law enforcement agency information relating to the stop, to include:

- a physical description of each person detained, including gender and the person's race or ethnicity, as stated by the person, or, if the person does not state a race or ethnicity, as determined by the officer's best judgment;
- the traffic law or ordinance alleged to have been violated or the suspected offense;
- whether the officer conducted a search as a result of the stop and, if so, whether the person stopped consented to the search;
- whether any contraband was discovered in the course of the search, and the type of contraband discovered;
- whether probable cause to search existed, and the facts supporting the existence of that probable cause;
- whether the officer made an arrest as a result of the stop or the search, including a statement of the offense charged;
- the street address or approximate location of the stop; and
- whether the officer issued a warning or citation as a result of the stop, including a description of the warning or a statement of the violation charged.

Commentary

The information required by 2.133 TCCP is used to complete the agency reporting requirements found in Article 2.134. A peace officer and an agency may be exempted from this requirement under Article 2.135 TCCP Exemption for Agencies Using Video and Audio Equipment. An agency may be exempt from this reporting requirement by applying for the funds from the Department of Public Safety for video and audio equipment and the State does not supply those funds. Section 2.135 (a)(2) states, "the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a) (1) (A) and the agency does not receive from the state funds for video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose."

Standard 3

The agency compiles the information collected under 2.132 and 2.133 and analyzes the information identified in 2.133.

Commentary

Senate Bill 1074 from the 77th Session of the Texas Legislature created requirements for law enforcement agencies to gather specific information and to report it to each county or municipality served. New sections of law were added to the Code of Criminal Procedure regarding the reporting of traffic and pedestrian stops. Detained is defined as when a person stopped is not free to leave.

Article 2.134 TCCP requires the agency to compile and provide and analysis of the information collected by peace officer employed by the agency. The report is provided to the governing body of the municipality or county no later than March 1 of each year and covers the previous calendar year.

There is data collection and reporting required based on Article 2.132 CCP (tier one) and Article 2.133 CCP (tier two).

The minimum requirements for "tier one" data for traffic stops in which a citation results are:

1) the race or ethnicity of individual detained (race and ethnicity as defined by the bill means of "a particular descent, including Caucasian, African, Hispanic, Asian, or Native American");
2) whether a search was conducted, and if there was a search, whether it was a consent search or a probable cause search; and
3) whether there was a custody arrest.

The minimum requirements for reporting on "tier two" reports include traffic and pedestrian stops. Tier two data include:

1) the detained person's gender and race or ethnicity;
2) the type of law violation suspected, e.g., hazardous traffic, non-hazardous traffic, or other criminal investigation (the Texas Department of Public Safety publishes a categorization of traffic offenses into hazardous or non-hazardous);
3) whether a search was conducted, and if so whether it was based on consent or probable cause;
4) facts supporting probable cause;
5) the type, if any, of contraband that was collected;
6) disposition of the stop, e.g., arrest, ticket, warning, or release;
7) location of stop; and
8) statement of the charge, e.g., felony, misdemeanor, or traffic.

Tier one reports are made to the governing body of each county or municipality served by the agency an annual report of information if the agency is an agency of a county, municipality, or other political subdivision of the state. Tier one and two reports are reported to the county or municipality not later than March 1 for the previous calendar year beginning March 1, 2003. Tier two reports include a comparative analysis between the race and ethnicity of persons detained to see if a differential pattern of treatment can be discerned based on the disposition of stops

including searches resulting from the stops. The reports also include information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling. An agency may be exempt from the tier two reporting requirement by applying for the funds from the Department of Public Safety for video and audio equipment and the State does not supply those funds [See 2.135 (a)(2) TCCP].

Reports should include both raw numbers and percentages for each group. Caution should be exercised in interpreting the data involving percentages because of statistical distortions caused by very small numbers in any particular category, for example, if only one American Indian is stopped and searched, that stop would not provide an accurate comparison with 200 stops among Caucasians with 100 searches. In the first case, a 100% search rate would be skewed data when compared to a 50% rate for Caucasians.

Standard 4

If a law enforcement agency has video and audio capabilities in motor vehicles regularly used for traffic stops, or audio capabilities on motorcycles regularly used to make traffic stops, the agency:

- adopts standards for reviewing and retaining audio and video documentation; and
- promptly provides a copy of the recording to a peace officer who is the subject of a complaint on written request by the officer.

Commentary

The agency should have a specific review and retention policy. Article 2.132 TCCP specifically requires that the peace officer be promptly provided with a copy of the audio or video recordings if the officer is the subject of a complaint and the officer makes a written request.

Standard 5

Agencies that do not currently have video or audio equipment must examine the feasibility of installing such equipment.

Commentary

None

Standard 6

Agencies that have video and audio recording capabilities are exempt from the reporting requirements of Article 2.134 TCCP and officers are exempt from the reporting requirements of Article 2.133 TCCP provided that:

- the equipment was in place and used during the proceeding calendar year; and
- video and audio documentation is retained for at least 90 days.

Commentary

The audio and video equipment and policy must have been in place during the previous calendar year. Audio and video documentation must be kept for at least 90 days or longer if a complaint has been filed. The documentation must be retained until the complaint is resolved. Peace officers are not exempt from the requirements under Article 2.132 TCCP.

Standard 7

Agencies have citation forms or other electronic media that comply with Section 543.202 of the Transportation Code.

Commentary

Senate Bill 1074 changed Section 543.202 of the Transportation Code requiring citations to include:

- race or ethnicity, and
- whether a search of the vehicle was conducted and whether consent for the search was obtained.

The Texas Law on Racial Profiling

S.B. No. 1074 - An Act relating to the prevention of racial profiling by certain peace officers.
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 2, Code of Criminal Procedure, is amended by adding Articles 2.131 through 2.138 to read as follows:

Art. 2.131. RACIAL PROFILING PROHIBITED. A peace officer may not engage in racial profiling.

Art. 2.132. LAW ENFORCEMENT POLICY ON RACIAL PROFILING. (a) In this article:

(1) "Law enforcement agency" means an agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make traffic stops in the routine performance of the officers' official duties.

(2) "Race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, or Native American descent.

(b) Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

(1) clearly define acts constituting racial profiling;

(2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;

(3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;

(4) provide public education relating to the agency's complaint process;

(5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;

(6) require collection of information relating to traffic stops in which a citation is issued and to arrests resulting from those traffic stops, including information relating to:

(A) the race or ethnicity of the individual detained; and

(B) whether a search was conducted and, if so, whether the person detained consented to the search; and

(7) require the agency to submit to the governing body of each county or municipality served by the agency an annual report of the information collected under Subdivision (6) if the agency is an agency of a county, municipality, or other political subdivision of the state.

(c) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling.

(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make traffic stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make traffic stops. If a law enforcement agency installs video or audio equipment as provided by this subsection, the

policy adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

(e) A report required under Subsection (b)(7) may not include identifying information about a peace officer who makes a traffic stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the collection of information as required by a policy under Subsection (b)(6).

(f) On the commencement of an investigation by a law enforcement agency of a complaint described by Subsection (b)(3) in which a video or audio recording of the occurrence on which the complaint is based was made, the agency shall promptly provide a copy of the recording to the peace officer who is the subject of the complaint on written request by the officer.

Art. 2.133. REPORTS REQUIRED FOR TRAFFIC AND PEDESTRIAN STOPS. (a) In this article:

(1) "Race or ethnicity" has the meaning assigned by Article 2.132(a).

(2) "Pedestrian stop" means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.

(b) A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic or who stops a pedestrian for any suspected offense shall report to the law enforcement agency that employs the officer information relating to the stop, including:

(1) a physical description of each person detained as a result of the stop, including:

(A) the person's gender; and

(B) the person's race or ethnicity, as stated by the person or, if the person does not state the person's race or ethnicity, as determined by the officer to the best of the officer's ability;

(2) the traffic law or ordinance alleged to have been violated or the suspected offense;

(3) whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;

(4) whether any contraband was discovered in the course of the search and the type of contraband discovered;

(5) whether probable cause to search existed and the facts supporting the existence of that probable cause;

(6) whether the officer made an arrest as a result of the stop or the search, including a statement of the offense charged;

(7) the street address or approximate location of the stop; and

(8) whether the officer issued a warning or a citation as a result of the stop, including a description of the warning or a statement of the violation charged.

Art. 2.134. COMPILATION AND ANALYSIS OF INFORMATION COLLECTED.

(a) In this article, "pedestrian stop" means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.

(b) A law enforcement agency shall compile and analyze the information contained in each report received by the agency under Article 2.133. Not later than March 1 of each year, each local law enforcement agency shall submit a report containing the information compiled

during the previous calendar year to the governing body of each county or municipality served by the agency in a manner approved by the agency.

(c) A report required under Subsection (b) must include:

(1) a comparative analysis of the information compiled under Article 2.133 to:

(A) determine the prevalence of racial profiling by peace officers employed by the agency; and

(B) examine the disposition of traffic and pedestrian stops made by officers employed by the agency, including searches resulting from the stops; and

(2) information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

(d) A report required under Subsection (b) may not include identifying information about a peace officer who makes a traffic or pedestrian stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the reporting of information required under Article 2.133(b)(1).

(e) The Commission on Law Enforcement Officer Standards and Education shall develop guidelines for compiling and reporting information as required by this article.

(f) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling.

Art. 2.135. EXEMPTION FOR AGENCIES USING VIDEO AND AUDIO EQUIPMENT. (a) A peace officer is exempt from the reporting requirement under Article 2.133 and a law enforcement agency is exempt from the compilation, analysis, and reporting requirements under Article 2.134 if:

(1) during the calendar year preceding the date that a report under Article 2.134 is required to be submitted:

(A) each law enforcement motor vehicle regularly used by an officer employed by the agency to make traffic and pedestrian stops is equipped with video camera and transmitter-activated equipment and each law enforcement motorcycle regularly used to make traffic and pedestrian stops is equipped with transmitter-activated equipment; and

(B) each traffic and pedestrian stop made by an officer employed by the agency that is capable of being recorded by video and audio or audio equipment, as appropriate, is recorded by using the equipment; or

(2) the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a)(1)(A) and the agency does not receive from the state funds or video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose.

(b) Except as otherwise provided by this subsection, a law enforcement agency that is exempt from the requirements under Article 2.134 shall retain the video and audio or audio documentation of each traffic and pedestrian stop for at least 90 days after the date of the stop. If a complaint is filed with the law enforcement agency alleging that a peace officer employed by the agency has engaged in racial profiling with respect to a traffic or pedestrian stop, the agency shall retain the video and audio or audio record of the stop until final disposition of the complaint.

(c) This article does not affect the collection or reporting requirements under Article 2.132.

Art. 2.136. LIABILITY. A peace officer is not liable for damages arising from an act relating to the collection or reporting of information as required by Article 2.133 or under a policy adopted under Article 2.132.

Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT.

(a) The Department of Public Safety shall adopt rules for providing funds or video and audio equipment to law enforcement agencies for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), including specifying criteria to prioritize funding or equipment provided to law enforcement agencies. The criteria may include consideration of tax effort, financial hardship, available revenue, and budget surpluses. The criteria must give priority to:

(1) law enforcement agencies that employ peace officers whose primary duty is traffic enforcement;

(2) smaller jurisdictions; and

(3) municipal and county law enforcement agencies.

(b) The Department of Public Safety shall collaborate with an institution of higher education to identify law enforcement agencies that need funds or video and audio equipment for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A). The collaboration may include the use of a survey to assist in developing criteria to prioritize funding or equipment provided to law enforcement agencies.

(c) To receive funds or video and audio equipment from the state for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency needs funds or video and audio equipment for that purpose.

(d) On receipt of funds or video and audio equipment from the state for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency has installed video and audio equipment as described by Article 2.135(a)(1)(A) and is using the equipment as required by Article 2.135(a)(1).

Art. 2.138. RULES. The Department of Public Safety may adopt rules to implement Articles 2.131-2.137.

SECTION 2. Chapter 3, Code of Criminal Procedure, is amended by adding Article 3.05 to read as follows:

Art. 3.05. RACIAL PROFILING. In this code, "racial profiling" means a law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity.

SECTION 3. Section 96.641, Education Code, is amended by adding Subsection (j) to read as follows:

(j) As part of the initial training and continuing education for police chiefs required under this section, the institute shall establish a program on racial profiling. The program must include an examination of the best practices for:

(1) monitoring peace officers' compliance with laws and internal agency policies relating to racial profiling;

(2) implementing laws and internal agency policies relating to preventing racial profiling; and

(3) analyzing and reporting collected information.

SECTION 4. Section 1701.253, Occupations Code, is amended by adding Subsection (e) to read as follows:

(e) As part of the minimum curriculum requirements, the commission shall establish a statewide comprehensive education and training program on racial profiling for officers licensed under this chapter. An officer shall complete a program established under this subsection not later than the second anniversary of the date the officer is licensed under this chapter or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier.

SECTION 5. Section 1701.402, Occupations Code, is amended by adding Subsection (d) to read as follows:

(d) As a requirement for an intermediate proficiency certificate, an officer must complete an education and training program on racial profiling established by the commission under Section 1701.253(e).

SECTION 6. Section 543.202, Transportation Code, is amended to read as follows:

Sec. 543.202. FORM OF RECORD. (a) In this section, "race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, or Native American descent.

(b) The record must be made on a form or by a data processing method acceptable to the department and must include:

(1) the name, address, physical description, including race or ethnicity, date of birth, and driver's license number of the person charged;

(2) the registration number of the vehicle involved;

(3) whether the vehicle was a commercial motor vehicle as defined by Chapter 522 or was involved in transporting hazardous materials;

(4) the person's social security number, if the person was operating a commercial motor vehicle or was the holder of a commercial driver's license or commercial driver learner's permit;

(5) the date and nature of the offense, including whether the offense was a serious traffic violation as defined by Chapter 522;

(6) whether a search of the vehicle was conducted and whether consent for the search was obtained;

(7) the plea, the judgment, and whether bail was forfeited;

(8) [~~(7)~~] the date of conviction; and

(9) [~~(8)~~] the amount of the fine or forfeiture.

SECTION 7. Not later than January 1, 2002, a law enforcement agency shall adopt and implement a policy and begin collecting information under the policy as required by Article 2.132, Code of Criminal Procedure, as added by this Act. A local law enforcement agency shall first submit information to the governing body of each county or municipality served by the agency as required by Article 2.132, Code of Criminal Procedure, as added by this Act, on March 1, 2003. The first submission of information shall consist of information compiled by the agency during the period beginning January 1, 2002, and ending December 31, 2002.

SECTION 8. A local law enforcement agency shall first submit information to the governing body of each county or municipality served by the agency as required by Article 2.134, Code of Criminal Procedure, as added by this Act, on March 1, 2004. The first submission of information shall consist of information compiled by the agency during the period beginning January 1, 2003, and ending December 31, 2003.

SECTION 9. Not later than January 1, 2002:

(1) the Commission on Law Enforcement Officer Standards and Education shall establish an education and training program on racial profiling as required by Subsection (e), Section 1701.253, Occupations Code, as added by this Act; and

(2) the Bill Blackwood Law Enforcement Management Institute of Texas shall establish a program on racial profiling as required by Subsection (j), Section 96.641, Education Code, as added by this Act.

SECTION 10. A person who on the effective date of this Act holds an intermediate proficiency certificate issued by the Commission on Law Enforcement Officer Standards and Education or has held a peace officer license issued by the Commission on Law Enforcement Officer Standards and Education for at least two years shall complete an education and training program on racial profiling established under Subsection (e), Section 1701.253, Occupations Code, as added by this Act, not later than September 1, 2003.

SECTION 11. An individual appointed or elected as a police chief before the effective date of this Act shall complete a program on racial profiling established under Subsection (j), Section 96.641, Education Code, as added by this Act, not later than September 1, 2003.

SECTION 12. This Act takes effect September 1, 2001

_____ _____

President of the Senate Speaker of the House

I hereby certify that S.B. No. 1074 passed the Senate on April 4, 2001, by the following vote: Yeas 28, Nays 2; May 21, 2001, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 22, 2001, House granted request of the Senate; May 24, 2001, Senate adopted Conference Committee Report by a viva-voce vote.

_____
Secretary of the Senate

I hereby certify that S.B. No. 1074 passed the House, with amendments, on May 15, 2001, by a non-record vote; May 22, 2001, House granted request of the Senate for appointment of Conference Committee; May 24, 2001, House adopted Conference Committee Report by a non-record vote.

_____
Chief Clerk of the House

Approved:

_____
Date

_____
Governor

Modifications to the Original Law (H.B. 3389)

Amend CSHB 3389 (Senate committee report) as follows:

(1) Strike the following SECTIONS of the bill:

(A) SECTION 8, adding Section 1701.164, Occupations Code (page 4, lines 61-66);

(B) SECTION 24, amending Article 2.132(b), Code of Criminal Procedure (page 8, lines 19-53);

(C) SECTION 25, amending Article 2.134(b), Code of Criminal Procedure (page 8, lines 54-64);

(D) SECTION 28, providing transition language for the amendments to Articles 2.132(b) and 2.134(b), Code of Criminal Procedure (page 9, lines 40-47).

(2) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS of the bill accordingly: SECTION ____. Article 2.132, Code of Criminal Procedure, is amended by amending Subsections (a),(b), (d), and (e) and adding Subsection (g) to read as follows:

(a) In this article:

(1) "Law enforcement agency" means an agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make motor vehicle[~~traffic~~] stops in the routine performance of the officers' official duties.

(2) "Motor vehicle stop" means an occasion in which a peace officer stops a motor vehicle for an alleged violation of a law or ordinance.

(3) "Race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, [~~or~~] Native American, or Middle Eastern descent.

(b) Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

(1) clearly define acts constituting racial profiling;

(2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;

(3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;

(4) provide public education relating to the agency's complaint process;

(5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;

(6) require collection of information relating to motor vehicle [~~traffic~~] stops in which a citation is issued and to arrests made as a result of [~~resulting from~~] those [~~traffic~~] stops, including information relating to:

(A) the race or ethnicity of the individual detained; and

(B) whether a search was conducted and, if so, whether the individual [~~person~~] detained consented to the search; and

(C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; and

(7) require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit [~~to the governing body of each county or~~

~~municipality served by the agency~~] an annual report of the information collected under Subdivision (6) to:

(A) the Commission on Law Enforcement Officer Standards and Education; and

(B) the governing body of each county or municipality served by the agency, if the agency is an agency of a county, municipality, or other political subdivision of the state.

(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make motor vehicle [~~traffic~~] stops and transmitter activated equipment in each agency law enforcement motorcycle regularly used to make motor vehicle [~~traffic~~] stops. If a law enforcement agency installs video or audio equipment as provided by this subsection, the policy adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

(e) A report required under Subsection (b)(7) may not include identifying information about a peace officer who makes a motor vehicle [~~traffic~~] stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the collection of information as required by a policy under Subsection (b)(6).

(g) On a finding by the Commission on Law Enforcement Officer Standards and Education that the chief administrator of a law enforcement agency intentionally failed to submit a report required under Subsection (b)(7), the commission shall begin disciplinary procedures against the chief administrator.

SECTION ____. Article 2.133, Code of Criminal Procedure, is amended to read as follows:

Art. 2.133. REPORTS REQUIRED FOR MOTOR VEHICLE [~~TRAFFIC AND PEDESTRIAN~~] STOPS. (a) In this article, "race[~~:~~

[~~(1) "Race~~] or ethnicity" has the meaning assigned by Article 2.132(a).

[~~(2) "Pedestrian stop" means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.~~]

(b) A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance [~~regulating traffic or who stops a pedestrian for any suspected offense~~] shall report to the law enforcement agency that employs the officer information relating to the stop, including:

(1) a physical description of any [~~each~~] person operating the motor vehicle who is detained as a result of the stop, including:

(A) the person's gender; and

(B) the person's race or ethnicity, as stated by the person or, if the person does not state the person's race or ethnicity, as determined by the officer to the best of the officer's ability;

(2) the initial reason for the stop [~~traffic law or ordinance alleged to have been violated or the suspected offense~~];

(3) whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;

(4) whether any contraband or other evidence was discovered in the course of the search and a description [~~the type~~] of the contraband or evidence [~~discovered~~];

(5) the reason for the search, including whether:

(A) any contraband or other evidence was in plain view;

(B) any probable cause or reasonable suspicion existed to perform the search; or

(C) the search was performed as a result of the towing of the motor vehicle or the arrest of any person in the motor vehicle [~~existed and the facts supporting the existence of that probable cause~~];
(6) whether the officer made an arrest as a result of the stop or the search, including a statement of whether the arrest was based on a violation of the Penal Code, a violation of a traffic law or ordinance, or an outstanding warrant and a statement of the offense charged;
(7) the street address or approximate location of the stop; and
(8) whether the officer issued a written warning or a citation as a result of the stop[~~, including a description of the warning or a statement of the violation charged~~].
SECTION ____. Article 2.134, Code of Criminal Procedure, is amended by amending Subsections (a) through (e) and adding Subsection (g) to read as follows:
(a) In this article:
(1) "Motor vehicle[~~, "pedestrian~~] stop" has the meaning assigned by Article 2.132(a) [~~means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest~~].
(2) "Race or ethnicity" has the meaning assigned by Article 2.132(a).
(b) A law enforcement agency shall compile and analyze the information contained in each report received by the agency under Article 2.133. Not later than March 1 of each year, each [~~local~~] law enforcement agency shall submit a report containing the incident-based data [~~information~~] compiled during the previous calendar year to the Commission on Law Enforcement Officer Standards and Education and, if the law enforcement agency is a local law enforcement agency, to the governing body of each county or municipality served by the agency [~~in a manner approved by the agency~~].
(c) A report required under Subsection (b) must be submitted by the chief administrator of the law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, and must include:
(1) a comparative analysis of the information compiled under Article 2.133 to:
(A) evaluate and compare the number of motor vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are not recognized as racial or ethnic minorities [~~determine the prevalence of racial profiling by peace officers employed by the agency~~]; and
(B) examine the disposition of motor vehicle [~~traffic and pedestrian~~] stops made by officers employed by the agency, categorized according to the race or ethnicity of the affected persons, as appropriate, including any searches resulting from [~~the~~] stops within the applicable jurisdiction; and
(2) information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.
(d) A report required under Subsection (b) may not include identifying information about a peace officer who makes a motor vehicle [~~traffic or pedestrian~~] stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the reporting of information required under Article 2.133(b)(1).
(e) The Commission on Law Enforcement Officer Standards and Education, in accordance with Section 1701.162, Occupations Code, shall develop guidelines for compiling and reporting information as required by this article.

(g) On a finding by the Commission on Law Enforcement Officer Standards and Education that the chief administrator of a law enforcement agency intentionally failed to submit a report required under Subsection (b), the commission shall begin disciplinary procedures against the chief administrator.

SECTION ____. Article 2.135, Code of Criminal Procedure, is amended to read as follows:

Art. 2.135. PARTIAL EXEMPTION FOR AGENCIES USING VIDEO AND AUDIO EQUIPMENT. (a) A peace officer is exempt from the reporting requirement under Article 2.133 and the chief administrator of a law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, is exempt from the compilation, analysis, and reporting requirements under Article 2.134 if:

(1) during the calendar year preceding the date that a report under Article 2.134 is required to be submitted:

(A) each law enforcement motor vehicle regularly used by an officer employed by the agency to make motor vehicle [~~traffic and pedestrian~~] stops is equipped with video camera and transmitter-activated equipment and each law enforcement motorcycle regularly used to make motor vehicle [~~traffic and pedestrian~~] stops is equipped with transmitter-activated equipment; and

(B) each motor vehicle [~~traffic and pedestrian~~] stop made by an officer employed by the agency that is capable of being recorded by video and audio or audio equipment, as appropriate, is recorded by using the equipment; or

(2) the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a)(1)(A) and the agency does not receive from the state funds or video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose.

(b) Except as otherwise provided by this subsection, a law enforcement agency that is exempt from the requirements under Article 2.134 shall retain the video and audio or audio documentation of each motor vehicle [~~traffic and pedestrian~~] stop for at least 90 days after the date of the stop. If a complaint is filed with the law enforcement agency alleging that a peace officer employed by the agency has engaged in racial profiling with respect to a motor vehicle [~~traffic or pedestrian~~] stop, the agency shall retain the video and audio or audio record of the stop until final disposition of the complaint.

(c) This article does not affect the collection or reporting requirements under Article 2.132.

(d) In this article, "motor vehicle stop" has the meaning assigned by Article 2.132(a).

SECTION ____. Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.1385 to read as follows:

Art. 2.1385. CIVIL PENALTY. (a) If the chief administrator of a local law enforcement agency intentionally fails to submit the incident-based data as required by Article 2.134, the agency is liable to the state for a civil penalty in the amount of $1,000 for each violation. The attorney general may sue to collect a civil penalty under this subsection.

(b) From money appropriated to the agency for the administration of the agency, the executive director of a state law enforcement agency that intentionally fails to submit the incident-based

data as required by Article 2.134 shall remit to the comptroller the amount of $1,000 for each violation.

(c) Money collected under this article shall be deposited in the state treasury to the credit of the general revenue fund.

SECTION ____. Subchapter A, Chapter 102, Code of Criminal Procedure, is amended by adding Article 102.022 to read as follows:

Art. 102.022. COSTS ON CONVICTION TO FUND STATEWIDE REPOSITORY FOR DATA RELATED TO CIVIL JUSTICE. (a) In this article, "moving violation" means an offense that:

(1) involves the operation of a motor vehicle; and

(2) is classified as a moving violation by the Department of Public Safety under Section 708.052, Transportation Code.

(b) A defendant convicted of a moving violation in a justice court, county court, county court at law, or municipal court shall pay a fee of 10 cents as a cost of court.

(c) In this article, a person is considered convicted if:

(1) a sentence is imposed on the person;

(2) the person receives community supervision, including deferred adjudication; or

(3) the court defers final disposition of the person's case.

(d) The clerks of the respective courts shall collect the costs described by this article. The clerk shall keep separate records of the funds collected as costs under this article and shall deposit the funds in the county or municipal treasury, as appropriate.

(e) The custodian of a county or municipal treasury shall:

(1) keep records of the amount of funds on deposit collected under this article; and

(2) send to the comptroller before the last day of the first month following each calendar quarter the funds collected under this article during the preceding quarter.

(f) A county or municipality may retain 10 percent of the funds collected under this article by an officer of the county or municipality as a collection fee if the custodian of the county or municipal treasury complies with Subsection (e).

(g) If no funds due as costs under this article are deposited in a county or municipal treasury in a calendar quarter, the custodian of the treasury shall file the report required for the quarter in the regular manner and must state that no funds were collected.

(h) The comptroller shall deposit the funds received under this article to the credit of the Civil Justice Data Repository fund in the general revenue fund, to be used only by the Commission on Law Enforcement Officer Standards and Education to implement duties under Section 1701.162, Occupations Code.

(i) Funds collected under this article are subject to audit by the comptroller.

SECTION ____. (a) Section 102.061, Government Code, as reenacted and amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, is amended to conform to the amendments made to Section 102.061, Government Code, by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, and is further amended to read as follows:

Sec. 102.061. ADDITIONAL COURT COSTS ON CONVICTION IN STATUTORY COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a statutory county court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

(1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . $20;

(2) a fee for services of the clerk of the court (Art. 102.005, Code of Criminal Procedure) . . . $40;

(3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . $25;
(4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . $3;
(5) a juvenile delinquency prevention and graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . $50 [~~$5~~]; [~~and~~]
(6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed $5; and
(7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . $0.10.
(b) Section 102.061, Government Code, as amended by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, is repealed. Section 102.061, Government Code, as reenacted and amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, to reorganize and renumber that section, continues in effect as further amended by this section.
SECTION ____. (a) Section 102.081, Government Code, as amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, is amended to conform to the amendments made to Section 102.081, Government Code, by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, and is further amended to read as follows:
Sec. 102.081. ADDITIONAL COURT COSTS ON CONVICTION IN COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a county court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

(1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . $20;
(2) a fee for clerk of the court services (Art. 102.005, Code of Criminal Procedure) . . . $40;
(3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . $25;
(4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . $3;
(5) a juvenile delinquency prevention and graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . $50 [~~$5~~]; [~~and~~]
(6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed $5; and
(7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . $0.10.
(b) Section 102.081, Government Code, as amended by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, is repealed. Section 102.081, Government Code, as amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, to reorganize and renumber that section, continues in effect as further amended by this section.
SECTION ____. Section 102.101, Government Code, is amended to read as follows:
Sec. 102.101. ADDITIONAL COURT COSTS ON CONVICTION IN JUSTICE COURT: CODE OF CRIMINAL PROCEDURE. A clerk of a justice court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:
(1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . $3;
(2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . $3;
(3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of $3;

(4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . $4;
(5) a fee for technology fund on a misdemeanor offense (Art. 102.0173, Code of Criminal Procedure) . . . $4;
(6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed $5;
(7) a fee on conviction of certain offenses involving issuing or passing a subsequently dishonored check (Art. 102.0071, Code of Criminal Procedure) . . . not to exceed $30; [~~and~~]
(8) a court cost on conviction of a Class C misdemeanor in a county with a population of 3.3 million or more, if authorized by the county commissioners court (Art. 102.009, Code of Criminal Procedure) . . . not to exceed $7; and
(9) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . $0.10.
SECTION ____. Section 102.121, Government Code, is amended to read as follows:
Sec. 102.121. ADDITIONAL COURT COSTS ON CONVICTION IN MUNICIPAL COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a municipal court shall collect fees and costs on conviction of a defendant as follows:
(1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . $3;
(2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . $3;
(3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of $3;
(4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . $3;
(5) a fee for technology fund on a misdemeanor offense (Art. 102.0172, Code of Criminal Procedure) . . . not to exceed $4; [~~and~~]
(6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed $5; and
(7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . $0.10.
SECTION ____. Subchapter D, Chapter 1701, Occupations Code, is amended by adding Section 1701.164 to read as follows:
Sec. 1701.164. COLLECTION OF CERTAIN INCIDENT-BASED DATA SUBMITTED BY LAW ENFORCEMENT AGENCIES. The commission shall collect and maintain incident-based data submitted to the commission under Article 2.134, Code of Criminal Procedure, including incident-based data compiled by a law enforcement agency from reports received by the law enforcement agency under Article 2.133 of that code. The commission in consultation with the Department of Public Safety, the Bill Blackwood Law Enforcement Management Institute of Texas, the W. W. Caruth, Jr., Police Institute at Dallas, and the Texas Police Chiefs Association shall develop guidelines for submitting in a standard format the report containing incident-based data as required by Article 2.134, Code of Criminal Procedure.
SECTION ____. Subsection (a), Section 1701.501, Occupations Code, is amended to read as follows:
(a) Except as provided by Subsection (d), the commission shall revoke or suspend a license, place on probation a person whose license has been suspended, or reprimand a license holder for a violation of:
(1) this chapter;

(2) the reporting requirements provided by Articles 2.132 and 2.134, Code of Criminal Procedure; or

(3) a commission rule.

SECTION ____. (a) The requirements of Articles 2.132, 2.133, and 2.134, Code of Criminal Procedure, as amended by this Act, relating to the compilation, analysis, and submission of incident-based data apply only to information based on a motor vehicle stop occurring on or after January 1, 2010.

(b) The imposition of a cost of court under Article 102.022, Code of Criminal Procedure, as added by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

Racial and Ethnic Designations (H.B. 3051)

H.B. No. 3051 - An Act relating to the categories used to record the race or ethnicity of persons stopped for or convicted of traffic offenses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 2.132(a)(3), Code of Criminal Procedure, is amended to read as follows:

(3) "Race or ethnicity" means the following categories:

(A) Alaska native or American Indian;

(B) [~~of a particular descent, including Caucasian, African, Hispanic,~~] Asian or Pacific Islander;

(C) black;

(D) white; and

(E) Hispanic or Latino [~~, Native American, or Middle Eastern descent~~].

SECTION 2. Section 543.202(a), Transportation Code, is amended to read as follows:

(a) In this section, "race or ethnicity" means the following categories:

(1) Alaska native or American Indian;

(2) [~~of a particular descent, including Caucasian, African, Hispanic,~~] Asian or Pacific Islander;

(3) black;

(4) white; and

(5) Hispanic or Latino [~~, or Native American descent~~].

SECTION 3. This Act takes effect September 1, 2017.

_____ _____

President of the Senate Speaker of the House

I certify that H.B. No. 3051 was passed by the House on May 4, 2017, by the following vote: Yeas 143, Nays 2, 2 present, not voting.

_____

Chief Clerk of the House

I certify that H.B. No. 3051 was passed by the Senate on May 19, 2017, by the following vote: Yeas 31, Nays 0.

_____

Secretary of the Senate

APPROVED: _____

Date

_____

Governor

The Sandra Bland Act
(S.B. 1849)

S.B. No. 1849

An Act relating to interactions between law enforcement and individuals detained or arrested on suspicion of the commission of criminal offenses, to the confinement, conviction, or release of those individuals, and to grants supporting populations that are more likely to interact frequently with law enforcement.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. SHORT TITLE

SECTION 1.01. SHORT TITLE. This Act shall be known as the Sandra Bland Act, in memory of Sandra Bland.

ARTICLE 2. IDENTIFICATION AND DIVERSION OF AND SERVICES FOR PERSONS SUSPECTED OF HAVING A MENTAL ILLNESS, AN INTELLECTUAL DISABILITY, OR A SUBSTANCE ABUSE ISSUE

SECTION 2.01. Article 16.22, Code of Criminal Procedure, is amended to read as follows:

Art. 16.22. EARLY IDENTIFICATION OF DEFENDANT SUSPECTED OF HAVING MENTAL ILLNESS OR INTELLECTUAL DISABILITY [MENTAL RETARDATION]. (a)(1) Not later than 12 [72] hours after receiving credible information that may establish reasonable cause to believe that a defendant committed to the sheriff's custody has a mental illness or is a person with an intellectual disability [mental retardation], including observation of the defendant's behavior immediately before, during, and after the defendant's arrest and the results of any previous assessment of the defendant, the sheriff shall provide written or electronic notice of the information to the magistrate. On a determination that there is reasonable cause to believe that the defendant has a mental illness or is a person with an intellectual disability [mental retardation], the magistrate, except as provided by Subdivision

(2), shall order the local mental health or intellectual and developmental disability [mental retardation] authority or another qualified mental health or intellectual disability [mental retardation] expert to:

(A) collect information regarding whether the defendant has a mental illness as defined by Section 571.003,

Health and Safety Code, or is a person with an intellectual disability [mental retardation] as defined by Section 591.003, Health and Safety Code, including information obtained from any previous assessment of the defendant; and

(B) provide to the magistrate a written assessment of the information collected under Paragraph (A).

(2) The magistrate is not required to order the collection of information under Subdivision

(1) if the defendant in the year preceding the defendant's applicable date of arrest has been determined to have a mental illness or to be a person with an intellectual disability [mental retardation] by the local mental health or intellectual and developmental disability [mental retardation] authority or another mental health or intellectual disability [mental retardation] expert described by Subdivision

(1). A court that elects to use the results of that previous determination may proceed under Subsection (c).

(3) If the defendant fails or refuses to submit to the collection of information regarding the defendant as required under Subdivision (1), the magistrate may order the defendant to submit to an examination in a mental health facility determined to be appropriate by the local mental health or intellectual and developmental disability [mental retardation] authority for a reasonable period not to exceed 21 days. The magistrate may order a defendant to a facility operated by the Department of State Health Services or the Health and Human Services Commission [Department of Aging and Disability Services] for examination only on request of the local mental health or intellectual and developmental disability [mental retardation] authority and with the consent of the head of the facility. If a defendant who has been ordered to a facility operated by the Department of State Health Services or the Health and Human Services Commission [Department of Aging and Disability Services] for examination remains in the facility for a period exceeding 21 days, the head of that facility shall cause the defendant to be immediately transported to the committing court and placed in the custody of the sheriff of the county in which the committing court is located. That county shall reimburse the facility for the mileage and per diem expenses of the personnel required to transport the defendant calculated in accordance with the state travel regulations in effect at the time.

(b) A written assessment of the information collected under Subsection (a)(1)(A) shall be provided to the magistrate not later than the 30th day after the date of any order issued under Subsection (a) in a felony case and not later than the 10th day after the date of any order issued under that subsection in a misdemeanor case, and the magistrate shall provide copies of the written assessment to the defense counsel, the prosecuting attorney, and the trial court. The written assessment must include a description of the procedures used in the collection of information under Subsection (a)(1)(A) and the applicable expert's observations and findings pertaining to:

(1) whether the defendant is a person who has a mental illness or is a person with an intellectual disability [mental retardation];

(2) whether there is clinical evidence to support a belief that the defendant may be incompetent to stand trial and should undergo a complete competency examination under Subchapter B, Chapter 46B; and

(3) recommended treatment.

(c) After the trial court receives the applicable expert's written assessment relating to the defendant under Subsection (b) or elects to use the results of a previous determination as described by Subsection (a)(2), the trial court may, as applicable:

(1) resume criminal proceedings against the defendant, including any appropriate proceedings related to the defendant's release on personal bond under Article 17.032;

(2) resume or initiate competency proceedings, if required, as provided by Chapter 46B

or other proceedings affecting the defendant's receipt of appropriate court-ordered mental health or intellectual disability [mental retardation] services, including proceedings related to the defendant's receipt of outpatient mental health services under Section 574.034, Health and Safety Code; or

(3) consider the written assessment during the punishment phase after a conviction of the offense for which the defendant was arrested, as part of a presentence investigation report, or in connection with the impositions of conditions following placement on community supervision, including deferred adjudication community supervision.

(d) This article does not prevent the applicable court from, before, during, or after the collection of information regarding the defendant as described by this article: (1) releasing a defendant who has a mental illness [mentally ill] or is a person with an intellectual disability [mentally retarded defendant] from custody on personal or surety bond; or

(2) ordering an examination regarding the defendant's competency to stand trial.

SECTION 2.02. Chapter 16, Code of Criminal Procedure, is amended by adding Article 16.23 to read as follows:

Art. 16.23. DIVERSION OF PERSONS SUFFERING MENTAL HEALTH CRISIS OR SUBSTANCE ABUSE ISSUE. (a) Each law enforcement agency shall make a good faith effort to divert a person suffering a mental health crisis or suffering from the effects of substance abuse to a proper treatment center in the agency's jurisdiction if:

(1) there is an available and appropriate treatment center in the agency's jurisdiction to which the agency may divert the person;

(2) it is reasonable to divert the person;

(3) the offense that the person is accused of is a misdemeanor, other than a misdemeanor involving violence; and

(4) the mental health crisis or substance abuse issue is suspected to be the reason the person committed the alleged offense.

(b) Subsection (a) does not apply to a person who is accused of an offense under Section 49.04, 49.045, 49.05, 49.06, 49.065,
49.07, or 49.08, Penal Code.

SECTION 2.03. Section 539.002, Government Code, is amended to read as follows:

Sec. 539.002. GRANTS FOR ESTABLISHMENT AND EXPANSION OF COMMUNITY COLLABORATIVES. (a) To the extent funds are appropriated to the department for that purpose, the department shall make grants to entities, including local governmental entities, nonprofit community organizations, and faith-based community organizations, to establish or expand community collaboratives that bring the public and private sectors together to provide services to persons experiencing homelessness, substance abuse issues, or [and] mental illness. [The department may make a maximum of five grants, which must be made in the most populous municipalities in this state that are located in counties with a population of more than one million.] In awarding grants, the department shall give special consideration to entities:

(1) establishing [a] new collaboratives; or

(2) establishing or expanding collaboratives thatserve two or more counties, each with a population of less than 100,000 [collaborative].

(b) The department shall require each entity awarded a grant under this section to:

(1) leverage additional funding from private sources in an amount that is at least equal to the amount of the grant awarded under this section; [and]

(2) provide evidence of significant coordination and collaboration between the entity, local mental health authorities, municipalities, local law enforcement agencies, and other community stakeholders in establishing or expanding a community collaborative funded by a grant awarded under this section; and

(3) provide evidence of a local law enforcement policy to divert appropriate persons from jails or other detention facilities to an entity affiliated with a community collaborative for the purpose of providing services to those persons.

SECTION 2.04. Chapter 539, Government Code, is amended by adding Section 539.0051 to read as follows:

Sec. 539.0051. PLAN REQUIRED FOR CERTAIN COMMUNITY COLLABORATIVES. (a) The governing body of a county shall develop and make public a plan detailing:

(1) how local mental health authorities, municipalities, local law enforcement agencies, and other community stakeholders in the county could coordinate to establish or expand a community collaborative to accomplish the goals of Section 539.002;

(2) how entities in the county may leverage funding from private sources to accomplish the goals of Section 539.002 through the formation or expansion of a community collaborative; and

(3) how the formation or expansion of a community collaborative could establish or support resources or services to help local law enforcement agencies to divert persons who have been arrested to appropriate mental health care or substance abuse treatment.

(b) The governing body of a county in which an entity that received a grant under Section 539.002 before September 1, 2017, is located is not required to develop a plan under Subsection (a).

(c) Two or more counties, each with a population of less than 100,000, may form a joint plan under Subsection (a).

ARTICLE 3. BAIL, PRETRIAL RELEASE, AND COUNTY JAIL STANDARDS

SECTION 3.01. The heading to Article 17.032, Code of Criminal Procedure, is amended to read as follows:

Art. 17.032. RELEASE ON PERSONAL BOND OF CERTAIN [MENTALLY ILL] DEFENDANTS WITH MENTAL ILLNESS OR INTELLECTUAL DISABILITY.

SECTION 3.02. Articles 17.032(b) and (c), Code of Criminal Procedure, are amended to read as follows:

(b) A magistrate shall release a defendant on personal bond unless good cause is shown

otherwise if the:

(1) defendant is not charged with and has not been previously convicted of a violent offense;

(2) defendant is examined by the local mental health or intellectual and developmental disability [mental retardation] authority or another mental health expert under Article 16.22 [of this code];

(3) applicable expert, in a written assessment submitted to the magistrate under Article 16.22:

(A) concludes that the defendant has a mental illness or is a person with an intellectual disability [mental retardation] and is nonetheless competent to stand trial; and

(B) recommends mental health treatment or intellectual disability treatment for the defendant, as applicable; and

(4) magistrate determines, in consultation with the local mental health or intellectual and developmental disability [mental retardation] authority, that appropriate community-based mental health or intellectual disability [mental retardation] services for the defendant are available through the [Texas] Department of State [Mental] Health Services [and Mental Retardation] under Section 534.053, Health and Safety Code, or through another mental health or intellectual disability [mental retardation] services provider.

(c) The magistrate, unless good cause is shown for not requiring treatment, shall require as a condition of release on personal bond under this article that the defendant submit to outpatient or inpatient mental health or intellectual disability [mental retardation] treatment as recommended by the local mental health or intellectual and developmental disability [mental retardation] authority if the defendant's:

(1) mental illness or intellectual disability [mental retardation] is chronic in nature; or

(2) ability to function independently will continue to deteriorate if the defendant is not treated.

SECTION 3.03. Article 25.03, Code of Criminal Procedure, is amended to read as follows:

Art. 25.03. IF ON BAIL IN FELONY. When the accused, in case of felony, is on bail at the time the indictment is presented, [it is not necessary to serve him with a copy, but] the clerk shall [on request] deliver a copy of the indictment [same] to the accused or the accused's [his] counsel[,] at the earliest possible time.

SECTION 3.04. Article 25.04, Code of Criminal Procedure, is amended to read as follows:

Art. 25.04. IN MISDEMEANOR. In misdemeanors, the clerk shall deliver a copy of the indictment or information to the accused or the accused's counsel at the earliest possible time before trial [it shall not be necessary before trial to furnish the accused with a copy of the indictment or information; but he or his counsel may demand a copy, which shall be given as early as possible

SECTION 3.05. Section 511.009(a), Government Code, as amended by Chapters 281 (H.B. 875), 648 (H.B. 549), and 688 (H.B. 634), Acts of the 84th Legislature, Regular Session, 2015, is reenacted and amended to read as follows:

(a) The commission shall:

(1) adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails;

(2) adopt reasonable rules and procedures establishing minimum standards for the custody, care, and treatment of prisoners;

(3) adopt reasonable rules establishing minimum standards for the number of jail supervisory personnel and for programs and services to meet the needs of prisoners;

(4) adopt reasonable rules and procedures establishing minimum requirements for programs of rehabilitation, education, and recreation in county jails;

(5) revise, amend, or change rules and procedures if necessary;

(6) provide to local government officials consultation on and technical assistance for county jails;

(7) review and comment on plans for the construction and major modification or renovation of county jails;

(8) require that the sheriff and commissioners of each county submit to the commission, on a form prescribed by the commission, an annual report on the conditions in each county jail within their jurisdiction, including all information necessary to determine compliance with state law, commission orders, and the rules adopted under this chapter;

(9) review the reports submitted under Subdivision (8) and require commission employees to inspect county jails regularly to ensure compliance with state law, commission orders, and rules
and procedures adopted under this chapter;

(10) adopt a classification system to assist sheriffs and judges in determining which defendants are low-risk and consequently suitable participants in a county jail work release program under Article 42.034, Code of Criminal Procedure;

(11) adopt rules relating to requirements for segregation of classes of inmates and to capacities for county jails;

(12) require that the chief jailer of each municipal lockup submit to the commission, on a form prescribed by the commission, an annual report of persons under 17 years of age securely detained in the lockup, including all information necessary to determine compliance with state law concerning secure confinement of children in municipal lockups;

(13) at least annually determine whether each county jail is in compliance with the rules and procedures adopted under this chapter;

(14) require that the sheriff and commissioners court of each county submit to the commission, on a form prescribed by the commission, an annual report of persons under 17 years of age securely detained in the county jail, including all information necessary to determine compliance with state law concerning secure confinement of children in county jails;

(15) schedule announced and unannounced inspections of jails under the commission's jurisdiction using the risk assessment plan established under Section 511.0085 to guide the inspections process;

(16) adopt a policy for gathering and distributing to jails under the commission's jurisdiction information regarding:

(A) common issues concerning jail administration;

(B) examples of successful strategies for maintaining compliance with state law and the rules,

standards, and procedures of the commission; and
(C) solutions to operational challenges for jails;

(17) report to the Texas Correctional Office on Offenders with Medical or Mental Impairments on a jail's compliance with Article 16.22, Code of Criminal Procedure;

(18) adopt reasonable rules and procedures establishing minimum requirements for jails to:
(A) determine if a prisoner is pregnant; and
(B) ensure that the jail's health services plan addresses medical and mental health care, including nutritional requirements, and any special housing or work assignment needs for persons who are confined in the jail and are known or determined to be pregnant;

(19) provide guidelines to sheriffs regarding contracts between a sheriff and another entity for the provision of food services to or the operation of a commissary in a jail under the commission's jurisdiction, including specific provisions regarding conflicts of interest and avoiding the appearance of impropriety; [and]

(20) adopt reasonable rules and procedures establishing minimum standards for prisoner visitation that provide each prisoner at a county jail with a minimum of two in-person, noncontact visitation periods per week of at least 20 minutes duration each;

(21) [(20)] require the sheriff of each county to:
(A) investigate and verify the veteran status of each prisoner by using data made available from the Veterans Reentry Search Service (VRSS) operated by the United States Department of Veterans Affairs or a similar service; and
(B) use the data described by Paragraph (A) to assist prisoners who are veterans in applying for federal benefits or compensation for which the prisoners may be eligible under a program administered by the United States Department of Veterans Affairs;

(22) [(20)] adopt reasonable rules and procedures regarding visitation of a prisoner at a county jail by a guardian, as defined by Section 1002.012, Estates Code, that:
(A) allow visitation by a guardian to the same extent as the prisoner's next of kin, including placing the guardian on the prisoner's approved visitors list on the guardian's request and providing the guardian access to the prisoner during a facility's standard visitation hours if the prisoner is otherwise eligible to receive visitors; and
(B) require the guardian to provide the sheriff with letters of guardianship issued as provided by Section 1106.001, Estates Code, before being allowed to visit the prisoner; and

(23) adopt reasonable rules and procedures to ensure the safety of prisoners, including rules and procedures that require a county jail to:
(A) give prisoners the ability to access a mental health professional at the jail through a telemental health service 24 hours a day;
(B) give prisoners the ability to access a health professional at the jail or through a telehealth service 24 hours a day or, if a health professional is unavailable at the jail or through a telehealth service, provide for a prisoner to be transported to access a health professional; and
(C) if funding is available under Section 511.019, install automated electronic sensors or cameras to ensure accurate and timely in-person checks of cells or groups of cells confining at-risk individuals.

SECTION 3.06. Section 511.009, Government Code, is amended by adding Subsection (d) to read

as follows:

(d) The commission shall adopt reasonable rules and procedures establishing minimum standards regarding the continuity of prescription medications for the care and treatment of prisoners. The rules and procedures shall require that a qualified medical professional shall review as soon as possible any prescription medication a prisoner is taking when the prisoner is taken into custody.

SECTION 3.07. Chapter 511, Government Code, is amended by adding Sections 511.019, 511.020, and 511.021 to read as follows:

Sec. 511.019. PRISONER SAFETY FUND. (a) The prisoner safety fund is a dedicated account in the general revenue fund.

(b) The prisoner safety fund consists of:

(1) appropriations of money to the fund by the legislature; and

(2) gifts, grants, including grants from the federal government, and other donations received for the fund.

(c) Money in the fund may be appropriated only to the commission to pay for capital improvements that are required under Section 511.009(a)(23).

(d) The commission by rule may establish a grant program to provide grants to counties to fund capital improvements described by Subsection (c). The commission may only provide a grant to a county for capital improvements to a county jail with a capacity of not more than 96 prisoners.

Sec. 511.020. SERIOUS INCIDENTS REPORT. (a) On or before the fifth day of each month, the sheriff of each county shall report to the commission regarding the occurrence during the preceding month of any of the following incidents involving a prisoner in the county jail:

(1) a suicide;

(2) an attempted suicide;

(3) a death;

(4) a serious bodily injury, as that term is defined by Section 1.07, Penal Code;

(5) an assault;

(6) an escape;

(7) a sexual assault; and

(8) any use of force resulting in bodily injury, as that term is defined by Section 1.07, Penal Code.

(b) The commission shall prescribe a form for the report required by Subsection (a).

(c) The information required to be reported under Subsection (a)(8) may not include the name or other identifying information of a county jailer or jail employee.

(d) The information reported under Subsection (a) is public information subject to an open records request under Chapter 552.

Sec. 511.021. INDEPENDENT INVESTIGATION OF DEATH OCCURRING IN COUNTY JAIL. (a) On the death of a prisoner in a county jail, the commission shall appoint a law enforcement agency, other

than the local law enforcement agency that operates the county jail, to investigate the death as soon as possible.

(b) The commission shall adopt any rules necessary relating to the appointment of a law enforcement agency under Subsection (a), including rules relating to cooperation between law enforcement agencies and to procedures for handling evidence.

SECTION 3.08. The changes in law made by this article to Article 17.032, Code of Criminal Procedure, apply only to a personal bond that is executed on or after the effective date of this Act. A personal bond executed before the effective date of executed, and the former law is continued in effect for that purpose.

SECTION 3.09. Not later than January 1, 2018, the Commission on Jail Standards shall:

(1) adopt the rules and procedures required by Section 511.009(d), Government Code, as added by this article, and the rules required by Section 511.021(b), Government Code, as added by this article; and

(2) prescribe the form required by Section 511.020(b), Government Code, as added by this article.

SECTION 3.10. Not later than September 1, 2018, the Commission on Jail Standards shall adopt the rules and procedures required by Section 511.009(a)(23), Government Code, as added by this article. On and after September 1, 2020, a county jail shall comply with any rule or procedure adopted by the Commission on Jail Standards under that subdivision.

SECTION 3.11. To the extent of any conflict, this Act prevails over another Act of the 85th Legislature, Regular Session, 2017, relating to non-substantive additions to and corrections in enacted codes.

ARTICLE 4. PEACE OFFICER AND COUNTY JAILER TRAINING

SECTION 4.01. Chapter 511, Government Code, is amended by adding Section 511.00905 to read as follows:

Sec. 511.00905. JAIL ADMINISTRATOR POSITION; EXAMINATION REQUIRED. (a) The Texas Commission on Law Enforcement shall develop and the commission shall approve an examination for a person assigned to the jail administrator position overseeing a county jail.

(b) The commission shall adopt rules requiring a person, other than a sheriff, assigned to the jail administrator position overseeing a county jail to pass the examination not later than the 180th day after the date the person is assigned to that position. The rules must provide that a person who fails the examination may be immediately removed from the position and may not be reinstated until the person passes the examination.

(c) The sheriff of a county shall perform the duties of the jail administrator position at any time there is not a person available who satisfies the examination requirements of this

section.

(d) A person other than a sheriff may not serve in the jail administrator position of a county jail unless the person satisfies the examination requirement of this section.

SECTION 4.02. Section 1701.253, Occupations Code, is amended by amending Subsection (j) and adding Subsection (n) to read as follows: commission shall require an officer to complete a 40-hour statewide education and training program on de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments. An officer shall complete the program not later than the second anniversary of the date the officer is licensed under this chapter or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier. An officer may not satisfy the requirements of this subsection [section] or Section 1701.402(g) by taking an online course on de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments.

(n) As part of the minimum curriculum requirements, the commission shall require an officer to complete a statewide education and training program on de-escalation techniques to facilitate interaction with members of the public, including techniques for limiting the use of force resulting in bodily injury.

SECTION 4.03. Section 1701.310(a), Occupations Code, is amended to read as follows:

(a) Except as provided by Subsection (e), a person may not be appointed as a county jailer, except on a temporary basis, unless the person has satisfactorily completed a preparatory training program, as required by the commission, in the operation of a county jail at a school operated or licensed by the commission. The training program must consist of at least eight hours of mental health training approved by the commission and the Commission on Jail Standards.

SECTION 4.04. Section 1701.352(b), Occupations Code, is amended to read as follows:

(b) The commission shall require a state, county, special district, or municipal agency that appoints or employs peace officers to provide each peace officer with a training program at least once every 48 months that is approved by the commission and consists of:

(1) topics selected by the agency; and

(2) for an officer holding only a basic proficiency certificate, not more than 20 hours of education and training that contain curricula incorporating the learning objectives developed by the commission regarding:

(A) civil rights, racial sensitivity, and cultural diversity;

(B) de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments; [and]

(C) de-escalation techniques to facilitate interaction with members of the public, including techniques for limiting the use of force resulting in bodily injury; and

(D) unless determined by the agency head to be inconsistent with the officer's assigned duties:

(i) the recognition and documentation of cases that involve child abuse or neglect, family violence, and sexual assault; and

(ii) issues concerning sex offender characteristics.

SECTION 4.05. Section 1701.402, Occupations Code, is amended by adding Subsection (n) to read

as follows:

(n) As a requirement for an intermediate proficiency certificate or an advanced proficiency certificate, an officer must complete the education and training program regarding de-escalation techniques to facilitate interaction with members of the public established by the commission under Section 1701.253(n).

SECTION 4.06. Not later than March 1, 2018, the Texas Commission on Law Enforcement shall develop and the Commission on Jail Standards shall approve the examination required by Section 511.00905, Government Code, as added by this article.

SECTION 4.07. (a) Not later than March 1, 2018, the Texas Commission on Law Enforcement shall establish or modify training programs as necessary to comply with Section 1701.253, Occupations Code, as amended by this article.

(b) The minimum curriculum requirements under Section 1701.253(j), Occupations Code, as amended by this article, apply only to a peace officer who first begins to satisfy those requirements on or after April 1, 2018.

SECTION 4.08. (a) Section 1701.310, Occupations Code, as amended by this article, takes effect January 1, 2018.

(b) A person in the position of county jailer on September 1, 2017, must comply with Section 1701.310(a), Occupations Code, as amended by this article, not later than August 31, 2021.

ARTICLE 5. MOTOR VEHICLE STOPS, RACIAL PROFILING, AND ISSUANCE OF CITATIONS

SECTION 5.01. Article 2.132, Code of Criminal Procedure, is amended by amending Subsections (b) and (d) and adding Subsection (h) to read as follows:

(b) Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

(1) clearly define acts constituting racial profiling;

(2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;

(3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;

(4) provide public education relating to the agency's compliment and complaint process, including providing the telephone number, mailing address, and e-mail address to make a compliment or complaint with respect to each ticket, citation, or warning issued by a peace officer;

(5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;

(6) require collection of information relating to motor vehicle stops in which a ticket, citation, or warning is issued and to arrests made as a result of those stops, including information

relating to:
(A) the race or ethnicity of the individual detained;
(B) whether a search was conducted and, if so, whether the individual detained consented to the search; [and]
(C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual;
(D) whether the peace officer used physical force that resulted in bodily injury, as that term is defined by Section 1.07, Penal Code, during the stop;
(E) the location of the stop; and
(F) the reason for the stop; and

(7) require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit an annual report of the information collected under Subdivision (6) to:
(A) the Texas Commission on Law Enforcement; and
(B) the governing body of each county or municipality served by the agency, if the agency is an agency of a county, municipality, or other political subdivision of the state.

(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make motor vehicle stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make motor vehicle stops. The agency also shall examine the feasibility of equipping each peace officer who regularly detains or stops motor vehicles with a body worn camera, as that term is defined by Section 1701.651, Occupations Code. If a law enforcement agency installs video or audio equipment or equips peace officers with body worn cameras as provided by this subsection, the policy adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

(h) A law enforcement agency shall review the data collected under Subsection (b)(6) to identify any improvements the agency could make in its practices and policies regarding motor vehicle stops.

SECTION 5.02. Article 2.133, Code of Criminal Procedure, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance shall report to the law enforcement agency that employs the officer information relating to the stop, including:

(1) a physical description of any person operating the motor vehicle who is detained as a result of the stop, including:
(A) the person's gender; and
(B) the person's race or ethnicity, as stated by the person or, if the person does not state the person's race or ethnicity, as determined by the officer to the best of the officer's ability;

(2) the initial reason for the stop;

(3) whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;

(4) whether any contraband or other evidence was discovered in the course of the search

and a description of the contraband or evidence;

(5) the reason for the search, including whether:

(A) any contraband or other evidence was in plain view;

(B) any probable cause or reasonable suspicion existed to perform the search; or

(C) the search was performed as a result of the towing of the motor vehicle or the arrest of any person in the motor vehicle;

(6) whether the officer made an arrest as a result of the stop or the search, including a statement of whether the arrest was based on a violation of the Penal Code, a violation of a traffic law or ordinance, or an outstanding warrant and a statement of the offense charged;

(7) the street address or approximate location of the stop; [and]

(8) whether the officer issued a verbal or written warning or a ticket or citation as a result of the stop; and

(9) whether the officer used physical force that resulted in bodily injury, as that term is defined by Section 1.07, Penal Code, during the stop.

(c) The chief administrator of a law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, is responsible for auditing reports under Subsection (b)

to ensure that the race or ethnicity of the person operating the motor vehicle is being reported.

SECTION 5.03. Article 2.134(c), Code of Criminal Procedure, is amended to read as follows:

(c) A report required under Subsection (b) must be submitted by the chief administrator of the law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, and must include:

(1) a comparative analysis of the information compiled under Article 2.133 to:

(A) evaluate and compare the number of motor vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are not recognized as racial or ethnic minorities; [and]

(B) examine the disposition of motor vehicle stops made by officers employed by the agency, categorized according to the race or ethnicity of the affected persons, as appropriate, including any searches resulting from stops within the applicable jurisdiction; and

(C) evaluate and compare the number of searches resulting from motor vehicle stops within the applicable jurisdiction and whether contraband or other evidence was discovered in the course of those searches; and

(2) information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

SECTION 5.04. Article 2.137, Code of Criminal Procedure, is amended to read as follows:

Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT. (a) The Department of Public Safety shall adopt rules for providing funds or video and audio equipment to law enforcement agencies for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras [as described by Article 2.135(a)(1)(A)], including specifying criteria to prioritize funding or equipment provided to law enforcement agencies. The criteria may include consideration of tax effort, financial hardship,

available revenue, and budget surpluses. The criteria must give priority to:

(1) law enforcement agencies that employ peace officers whose primary duty is traffic enforcement;

(2) smaller jurisdictions; and

(3) municipal and county law enforcement agencies.

(b) The Department of Public Safety shall collaborate with an institution of higher education to identify law enforcement agencies that need funds or video and audio equipment for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras [as described by Article 2.135(a)(1)(A)]. The collaboration may include the use of a survey to assist in developing criteria to prioritize funding or equipment provided to law enforcement agencies.

(c) To receive funds or video and audio equipment from the state for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras [as described by Article 2.135(a)(1)(A)], the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency needs funds or video and audio equipment for that purpose.

(d) On receipt of funds or video and audio equipment from the state for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras [as described by Article 2.135(a)(1)(A)], the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency has taken the necessary actions to use and is using [installed] video and audio equipment and body worn cameras for those purposes [as described by Article 2.135(a)(1)(A) and is using the equipment as required by Article 2.135(a)(1)].

SECTION 5.05. Article 2.1385(a), Code of Criminal Procedure, is amended to read as follows:

(a) If the chief administrator of a local law enforcement agency intentionally fails to submit the incident-based data as required by Article 2.134, the agency is liable to the state for a civil penalty in an [the] amount not to exceed $5,000 [of $1,000] for each violation. The attorney general may sue to collect a civil penalty under this subsection.

SECTION 5.06. Article 2.135, Code of Criminal Procedure, is repealed.

SECTION 5.07. Articles 2.132 and 2.134, Code of Criminal Procedure, as amended by this article, apply only to a report covering a calendar year beginning on or after January 1, 2018.

SECTION 5.08. Not later than September 1, 2018, the Texas Commission on Law Enforcement shall:

(1) evaluate and change the guidelines for compiling and reporting information required under Article 2.134, Code of Criminal Procedure, as amended by this article, to enable the guidelines to better withstand academic scrutiny; and

(2) make accessible online:

(A) a downloadable format of any information submitted under Article 2.134(b), Code of Criminal

Procedure, that is not exempt from public disclosure under Chapter 552, Government Code; and (B) a glossary of terms relating to the information to make the information readily understandable to the public. This Act takes effect September 1, 2017.

_____ _____ President of the Senate Speaker of the House

I hereby certify that S.B. No. 1849 passed the Senate on May 11, 2017, by the following vote: Yeas 31, Nays 0.

_____

Secretary of the Senate

I hereby certify that S.B. No. 1849 passed the House on May 20, 2017, by the following vote: Yeas 137, Nays 0, one present not voting.

ARTICLE 6. EFFECTIVE DATE

SECTION 6.01. Except as otherwise provided by this Act,

Approved:

_____

Date

_____

Governor

_____

Chief Clerk of the House

COLLEGE STATION
POLICE DEPARTMENT
RACIAL PROFILING POLICY

COLLEGE STATION POLICE DEPARTMENT
POLICY MANUAL - CHAPTER 65

BIASED BASED POLICING

REVISION DATE: 01/05/2024

The practice of bias based policing by law enforcement personnel undermines legitimate law enforcement efforts and may lead to claims of civil rights violations. It often alienates citizens and may foster distrust of law enforcement within the community.

This directive reaffirms the department's commitment to unbiased policing by identifying specific acts that would be considered bias based policing and outlining procedures to address requirements of Article 2.131-137 of the Texas Code of Criminal Procedure.

This directive does not prohibit police personnel from stopping or detaining individuals if a specific report exists in which an individual's race, national origin, citizenship, religion, ethnicity, age, gender, sexual orientation is an identifying factor in determining the existence of probable cause for taking police action.

POLICY:

Members of the College Station Police Department will not engage in any activities that are discriminatory or indicative of the practice of bias based policing. Personnel will focus on the behavior of individuals and/or specific suspect information in taking police action. Individuals will not be targeted for enforcement action, detention, field contacts, asset seizure and forfeiture, or interdiction solely on the basis of race, ethnic background, national origin, citizenship, gender, sexual orientation, religion, economic status, age, cultural group or any other identifiable group. Appropriate corrective action will be taken, after investigation, against any employee who engages in bias based policing. Such an investigation may result in disciplinary action up to and including termination. LE 1.2.9.a

DEFINITIONS:

1. Bias Based Profiling - The targeting of an individual for enforcement action, detention or interdiction based solely on a trait common to a group of people. This includes, but is not limited to, race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group or any other identifiable group. For purpose of this directive the term "racial profiling" is a part of Biased Based Profiling.
2. Race or Ethnicity – means White (W), Black (B), Hispanic (W/H), Asian (A), Pacific Islander (P), Alaskan Native or American Indian (I)
3. Motor Vehicle Stop – An occasion in which a sworn officer stops a motor vehicle for an alleged violation of a law or ordinance.
4. Seizure - Taking of property from an individual without the individual's consent or any restriction of an individual's liberty without the individual's consent. A detention will be considered a seizure, as will an arrest. Seizure also includes any filing of documents with the District Attorney for the purpose of asset forfeiture.

PROCEDURE:

1. Reporting Requirements
   a. Motor vehicle stops
      (1) Article 2.132(b)(6) of the Texas Code of Criminal Procedure requires a departmental policy on racial profiling requiring collection of information relating to motor vehicle stops in which a ticket, citation, or warning is issued; and to arrests made as a result of those stops. Article 2.133 of the Texas Code of Criminal Procedure requires that specific data are collected in a report for each motor vehicle stop for an alleged violation of a law or ordinance, including information relating to:
         (a) the gender of the individual detained;

(b) the race or ethnicity of the individual detained;
(c) whether the peace officer knew the race or ethnicity of the individual prior to detention;
(d) the initial reason for the stop;
(e) the location of the stop;
(f) whether a search was conducted and, if so, whether the person detained consented to the search;
(g) whether contraband or other evidence was discovered, and a description of such;
(h) the reason for the search, including whether: contraband was in plain view; any probable cause or reasonable suspicion existed to perform the search; the search was performed as a result of towing the vehicle or arrest of any person in the vehicle;
(i) whether the peace officer used physical force that resulted in bodily injury, as defined by Section 1.07, Texas Penal Code, during the stop; SEE: Chapter - 42 Use of Force

(2) The required data to satisfy the applicable Articles of Texas Code of Criminal Procedure shall be collected by this department.

c. Compliant Warning (Verbal & Written), Citation and Search forms are available in Brazos Tech.

d. Compliant Arrest and FIR forms are available in RMS.

e. The reporting, processing, and documentation of seizure cases related to asset forfeitures shall follow the guidelines established in Chapter 40 - Search and Seizure.

2. Responsibilities

a. Officers engaged in traffic enforcement

(1) Responsible for ensuring audio/video recording equipment is fully operational throughout their tour of duty. Any equipment failures or repairs needed should be immediately reported to the on duty shift supervisor as soon as possible.

(2) Conduct motor vehicle stops in a professional manner as outlined in Chapter 33 - *Traffic Safety*.

(3) Responsible for ensuring all required fields on associated reports are completed.

(4) Ensure that all documentation is turned in at the end of their tour of duty.

b. Supervisors of Officers engaged in traffic enforcement

(1) Traffic enforcement will be accompanied by consistent, ongoing supervisory oversight to ensure officers do not go beyond the parameters of reasonableness in conducting such activities.

(2) Supervisors shall randomly review the BWC and In-car video data of their subordinates as part of their monthly video reviews with the intent to determine compliance with this policy, Chapter 62 – Audio and Video Recording, and other applicable directives. At a minimum, three BWC video reviews per officer per month shall be conducted. The three videos shall be from three separate cases. In-car videos are available in Axon Performance and should be reviewed with the relevant BWC video when appropriate. Any significant issues should be addressed through the officer's chain of command. LE 1.2.9.a

(3) The supervisor's review of In-Car and BWC data shall be documented monthly on Axon Performance and reviewed periodically by the appropriate chain of command.

c. Recruiting & Training Lieutenant LE 1.2.9.b

(1) Will ensure all affected department personnel are trained on bias based profiling issues as determined appropriate by the Texas Commission on Law Enforcement.

d. Internal Affairs Supervisor

(1) The Internal Affairs Administrator is responsible for investigating any complaints of bias based profiling filed against any member of the College Station Police Department as outlined in Chapter 26 - Internal Affairs.

(2) If a video or audio recording was made of an incident, which is the basis of a complaint, the Internal Affairs Administrator or his designee will provide a copy of the recording to the officer who is the subject of the complaint upon the officer's written request. The request is to be made in memo form, routed through the chain of command to the Chief of Police.

(3) Ensure an annual documented comparative analysis is done of the data collected for motor vehicle stops and arrests resulting from motor vehicle stops (tier 1 reporting) and a separate comparative analysis for any data collected on motor vehicle stops due to non-operational or unavailable audio/video equipment (tier 2 reporting). LE 1.2.9.c

(a) Analysis for each report will be based on a calendar year.

(b) Summary reports of the analysis must be submitted to the office of the Chief of Police, the City Council, and TCOLE before March 1st of each year.

(c) The reports must include:

i. A determination of the prevalence of bias based profiling

ii. An examination of the disposition of motor vehicle stops, including searches resulting from the stops

iii. Information relating to each complaint filed within the department alleging bias based profiling.

iv. The report may not include identifying information about an officer or about the person stopped.

v. Any corrective measures taken.

vi. A review of citizen’s concerns, if any.

(4) Will review and update department brochures as needed, which serve to educate the public about the internal affairs complaint process.

(5) May make recommendations to the department training committee, or the recruiting and training division based on findings of summary reports.

e. Public Information Officer

The Public Information Officer will annually post a statement in the local newspaper outlining the Department's internal affairs complaint process. The statement will specifically include the process by which a member of the public may file a complaint if the individual believes an employee of our department has engaged in bias based profiling with respect to the individual.

f. Department Web page Master

The Department's web page master will maintain a statement on the website outlining the Department's internal affairs complaint process. The statement will specifically include the process by which a member of the public may file a complaint if the individual believes an employee of our department has engaged in racial profiling with respect to the individual.

3. Training Requirements LE 1.2.9.b
   a. Officers are responsible for adherence to all Texas Commission on Law Enforcement (TCOLE) training and the Law Enforcement Management Institute of Texas (LEMIT) requirements as mandated by law.
   b. Training on Biased Based Policing, including legal aspects, is required with the following frequency:
      (1) All sworn employees shall receive initial training during orientation.
      (2) All sworn employees shall receive annual training.

4. Complaint Investigation
   a. All complaints alleging Biased Based Policing will be readily accepted in accordance to Chapter 26 - *Complaints/Internal Affairs*.
   b. If practical, any video and/or audiotapes associated with a biased-based policing complaint shall be forwarded through the chain of command with the complaint.

5. Public Education: Required by Article 2.132(b)(4) of the Texas Code of Criminal Procedure
   a. This department will inform the public of its compliment and complaint process including: telephone number, mailing address, and email address with respect to each ticket, citation or warning issued. Methods that may be utilized to inform the public include but are not limited to television, radio, service or civic presentations, brochures, internet, social media as well as governing board meetings.
   b. Additionally, information will be made available as appropriate in languages other than English.

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For additional questions regarding the information presented in this report, please contact:

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February 26, 2026
Item No. 10.1.
Economic Development Master Plan

Sponsor: Michael Ostrowski, Chief Development Officer

Reviewed By CBC: Planning & Zoning Commission

Agenda Caption: Public Hearing, presentation, discussion, and possible action regarding an ordinance amending the Comprehensive Plan by adopting the updated Economic Development Master Plan.

Relationship to Strategic Goals:

- Good Governance
- Financial Sustainability
- Core Services & Infrastructure
- Neighborhood Integrity
- Diverse & Growing Economy
- Improving Mobility
- Sustainable City

Recommendation(s): Staff recommends approval of the Comprehensive Plan Amendment as presented. The Economic Development Committee reviewed the draft plan on February 2, 2026, and recommended moving it forward to the Planning & Zoning Commission. The Planning & Zoning Commission will hear the Comprehensive Plan amendment on February 19, 2026. A Final Written Report of the Commission's recommendation will be provided to City Council at the meeting.

Summary: The proposed ordinance would adopt an updated Economic Development Master Plan as a component of the City's Comprehensive Plan. The inaugural Economic Development Master Plan was adopted in 2013, with a more recent update in 2020. This plan will provide a comprehensive roadmap for economic growth and development, tailored to the unique needs and opportunities of College Station, over the next five years.

City staff engaged with TIP Strategies, Inc., to capitalize on this potential, designing a plan to chart a course for long-term sustainability through close collaboration with key stakeholders. Through expansive engagement from community leaders across private, public, and nonprofit sectors, along with insights from baseline and competitive data analysis, TIP developed this planning document which identifies four critical strategic focus areas: 1) establishing a distinct identity through dynamic districts; 2) building industry to diversify the tax base; 3) fostering innovation to establish College Station as a business and entrepreneurship hub; and 4) providing the ignition for the City to lead as a proactive convener.

These goal areas are reinforced through measures to track, achieve, and communicate implementation successes, and the plan outlines core strategic action items and associated tactics, as well as aspirational case studies.

Budget & Financial Summary: Implementation of the master plan will require strategic investments.

Attachments:

1. Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF COLLEGE STATION, TEXAS, AMENDING THE OFFICIAL CITY OF COLLEGE STATION COMPREHENSIVE PLAN BY AMENDING THE ECONOMIC DEVELOPMENT MASTER PLAN; 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 amending Subsection B.7, the Economic Development Master Plan, thereto as set out in Exhibit "B" attached hereto and made a part hereof.

PART 2: That the "College Station Comprehensive Plan" is hereby amended by amending the Economic Development Master Plan as set out in Exhibit "B" attached hereto and made a part hereof.

PART 3: 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 4: That this Ordinance shall take effect immediately from and after its passage.

PASSED, ADOPTED and APPROVED this _____ day of ____, 2026.

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 replacing subsection B.7 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 February 2026;
8. The Water System Master Plan dated April 2017;
9. The Wastewater System Master Plan dated April 2017;
10. Northeast Gateway Redevelopment Plan dated September 2023;
11. Wellborn District Plan dated October 2023; and
12. Housing Action Plan dated September 2024.

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 – Ordinance 4525, dated June 27, 2024.
    i. Approximately 11 acres of land generally located at 3182 Holleman Drive South from Mixed Residential and Natural & Open Areas to Urban Residential – Ordinance 4566, dated December 12, 2024.

j. Approximately 1.047 acres of land generally located at 3423 Cain Road and 3197 Holleman Drive South from Mixed Residential to General Commercial – Ordinance 4571, dated January 23, 2025.
k. Approximately 3.60 acres of land generally located at 3768 McCullough Road from Estate Residential to Neighborhood Commercial – Ordinance 4578, dated February 27, 2025
l. Approximately 2.752 acres of land generally located at 2360 Harvey Mitchell Parkway South from General Commercial to Urban Residential – Ordinance 4596, dated June 12, 2025.
m. Approximately 2.5 acres of land generally located south of the intersection of University Drive East and East Crest Drive from General Commercial to Urban Residential – Ordinance 4609, dated August 14, 2025.

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 "Comprehensive Plan of the City of College Station" is hereby amended by amending the Economic Development Master Plan to read in its entirety as follows:

City of College Station
Home of Texas A&M University®

ECONOMIC DEVELOPMENT MASTER PLAN

February 2026

ACKNOWLEDGMENTS

TIP Strategies would like to thank the City of College Station's elected officials, the members of the project steering committee, the City Council's Economic Development Committee, the City's Planning and Zoning Commission, and the staff of the Economic Development and Tourism Department for providing guidance and feedback that shaped this plan. The TIP Strategies team members are also grateful to the many residents and businesses of the City of College Station who shared their thoughts and contributed valuable insights during the engagement process.

CITY OF COLLEGE STATION STAFF

Economic Development and Tourism Department

- Michael Ostrowski, Chief Development Officer
- Brian Piscacek, Assistant Director Economic Development
- Jeremiah Cook, Assistant Director Tourism
- Wende Ragonis Anderson, Economic Development Manager
- Stacey Vasquez, Economic Development Coordinator
- Jennifer Luna, District Manager

ELECTED OFFICIALS

- John Nichols, Mayor
- Mark Smith, City Council, Place 1
- William Wright, City Council, Place 2
- David White, City Council, Place 3
- Melissa McIlhaney, City Council, Place 4
- Bob Yancy, City Council, Place 5
- Scott Shafer, City Council, Place 6

PROJECT STEERING COMMITTEE MEMBERS

- John Nichols, Economic Development Committee
- William Wright, Economic Development Committee
- Bob Yancy, Economic Development Committee
- Jason Cornelius, Planning and Zoning Commission
- Cortney Phillips, Tourism Committee
- Rebekka Dudensing, Texas A&M University
- Barry Moore, Local Business Representative
- Caleb Holt, Local Business Representative
- Katherine Kleemann, Local Business Representative
- Jason Jennings, Local Business Representative

CONSULTING TEAM

TIP Strategies, Inc., is a privately held Austin-based firm providing consulting and advisory services to public and private sector clients. Established in 1995, the firm has spent 30 years partnering with communities, turning insights into strategies that shape tomorrow. Its core competencies are strategic planning for economic development, talent strategies, organizational development, resiliency planning, and equity initiatives.

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CONTENTS

The College Town of Texas 1
Strategic Priorities 1
From Analysis to Action 2
Foundational Insights 3
Strategic Action Plan 5
Goal 1. Identity 6
Goal 2. Industry 12
Goal 3. Innovation 18
Goal 4. Ignition 23
Planning Context 28
Background Review 28
Engagement Process 30
SWOT Analysis 31

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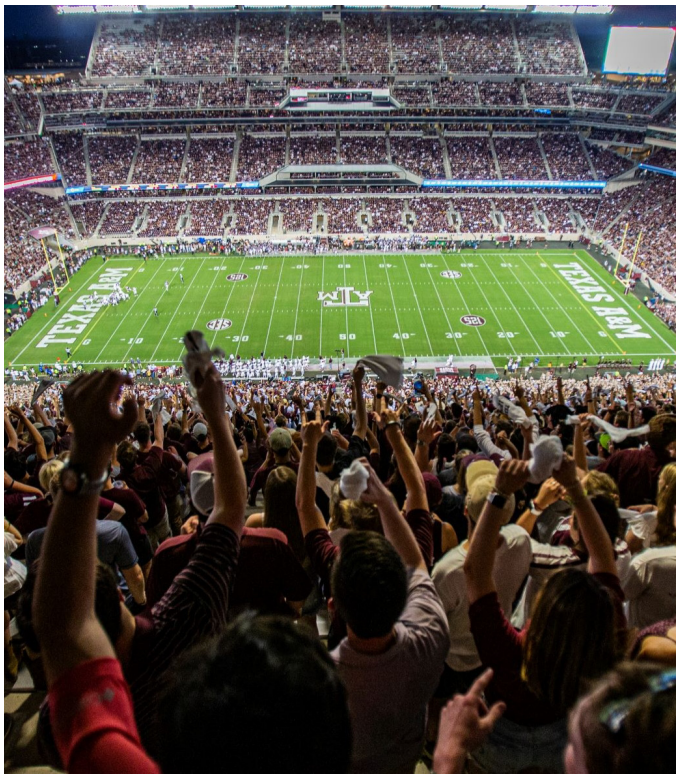
THE COLLEGE TOWN OF TEXAS



For most, the mention of College Station generates a singular, immediate association: Texas A&M University (Texas A&M). To be known globally for a premier Research 1 (R1) institution grants enviable name recognition and baseline economic stability. However, this powerful brand obscures the City's compelling appeal to broader audiences, especially prime stakeholders without a relationship to the university who can contribute to economic prosperity. Strategically positioned in the Texas Triangle[1] and served by a regional airport, the City is a commercial hub with deep retail density. Intellectual capital is equally robust, encompassing not only Texas A&M's flagship campus but also Texas A&M—RELLIS, Blinn College, and emergent innovation networks. When combined with real estate development, redevelopment, infill potential, and a high quality of place, these advantages form a dynamic value proposition.

Recognizing the need to capitalize on this potential, the City of College Station (the City) engaged TIP Strategies (TIP) to facilitate the preparation of an economic development master plan. The primary objective was to chart a course for long-term sustainability, moving beyond growth as a mere byproduct of university expansion, toward a future where the City is the active architect of its economy. Through close collaboration with leadership and stakeholders, the team developed a strategy to diversify the tax base and reclaim a unique local identity—preserving its quality, family-oriented lifestyle benefits while advancing redevelopment to meet the demands of a modern city.

STRATEGIC PRIORITIES

A central component of the planning process involved an assessment of College Station's competitive position. Texas A&M is the City's greatest economic driver, but it also creates structural vulnerabilities. With the need for increased economic sustainability in mind, the action plan addresses four priorities identified through extensive research and stakeholder engagement.

1. **Fiscal sustainability through diversification.** Texas A&M drives a massive visitor economy, creating sales tax revenue through athletics, conferences, and the student body. It also anchors world-class research and development (R&D) and attracts significant federal spending. But the fiscal trade-off is real. As a tax-exempt entity, the university dominates local land use, consuming significant acreage and requiring City infrastructure without contributing to the property tax base. This reality makes tax base diversification a necessity. To fund the high quality of life that residents expect, the City must aggressively and creatively pursue private commercial and industrial development to balance the ledger.

[1] The term Texas Triangle refers to the megaregion consisting of Dallas-Fort Worth, Houston, San Antonio, and Austin.

2. **Quality of place via redevelopment.** The immense student population creates a paradox: it drives economic activity but exerts massive pressure on the local housing market, often driving up costs and altering the character of family-oriented neighborhoods. The solution lies in a strategy of building up versus building out. By prioritizing density and infill redevelopment in targeted zones near Texas A&M, the City can meet student demand efficiently while creating a protective buffer for the low-density neighborhoods that residents cherish.
3. **Access to research assets.** Texas A&M offers unmatched research assets and access to federal R&D funding. However, a disconnect remains between the value generated on campus and the local private sector. Local business owners often find the sheer scope of the university—including its labs and entrepreneurship centers—daunting to navigate. A priority of this plan is to bridge this gap, turning the campus into an accessible engine that fuels local business growth and innovation at all levels.
4. **Workforce pipeline beyond former students.** While the Aggie network is extensive and loyal, a healthy local economy requires a diverse workforce. Attracting talent outside of this network is currently difficult, and additional sources of talent are crucial to filling employer workforce gaps. This need is acute in skilled trades, technical fields, and essential mid-level roles that do not require a bachelor's degree. To support a diversified industrial base, the City must broaden its appeal to attract the full spectrum of talent required by modern employers. Regional partnerships will be needed to address the current and future talent needs of employers.

FROM ANALYSIS TO ACTION

This plan is the road map for navigating the complexities of hosting a major research institution. It solves for the gap between current potential and future reality, guiding College Station from its traditional role as a university-centric college town into a premier, independent destination for business and talent. The strategy is built on a framework of four reinforcing goals: establishing a distinct **Identity** through dynamic districts; building **Industry** to diversify the tax base; fostering **Innovation** to establish College Station as a business and entrepreneurship hub; and providing the **Ignition** for the City to lead as a proactive convener. By aligning partners—including Texas A&M, Brazos County, its sister city Bryan, the Greater Brazos Partnership, and innovation partners—around these shared objectives, College Station can secure a sustainable and prosperous economic future.

Figure 1. ***Economic Development Master Plan*** **Framework**

FOUNDATIONAL INSIGHTS

Over the course of nine months, the planning team worked closely with stakeholders across College Station to identify the City's key assets, challenges, and opportunities. This collaborative process was designed to clarify a shared vision for College Station's economic future and to inform the goals and strategies of the *Economic Development Master Plan* (EDMP). Through a combination of stakeholder engagement, data analysis, and peer benchmarking, the team developed a comprehensive understanding of the City's current position within the Texas Triangle and the national landscape, as well as its distinct potential as a vibrant university community. A detailed account of the planning process and findings are provided in the Planning Context section, which includes an overview of TIP's technical review, engagement approach, and analysis of the City's core strengths, weaknesses, opportunities, and threats (SWOT).

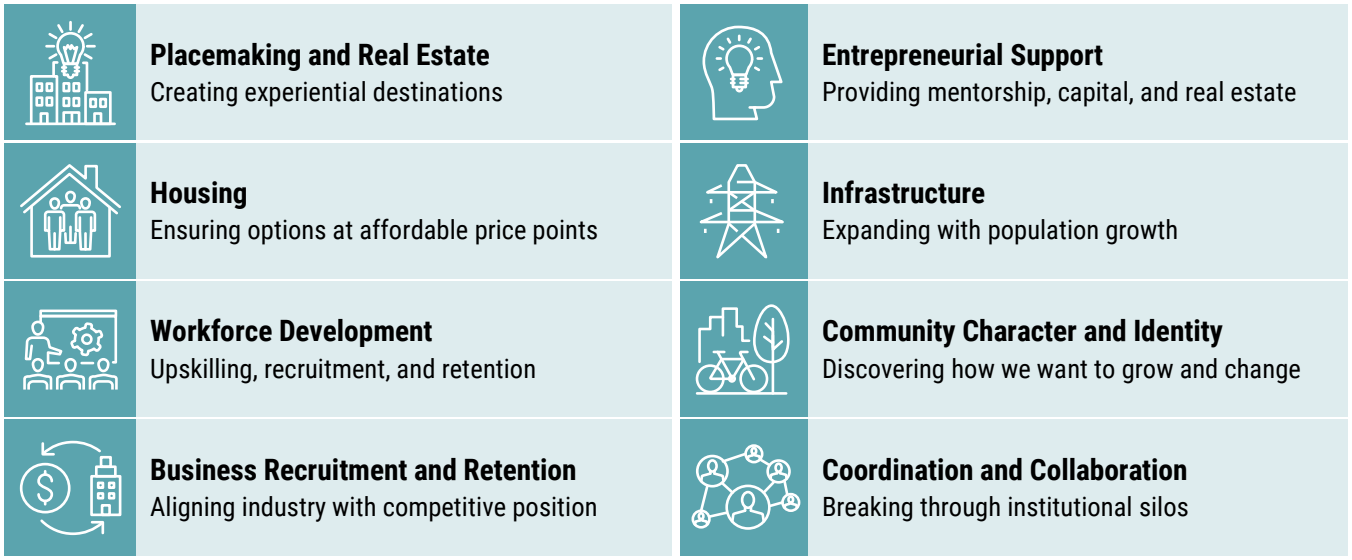
What Was Learned from Stakeholders

TIP engaged over 140 stakeholders through a comprehensive process, ranging from roundtables to site visits (refer to the Engagement Process section). Participants represented sectors such as business, higher education, entrepreneurship, and local government, among others. The insights collected served to substantiate existing data, identify common priorities, and uncover new avenues for collaboration.

Eight key themes emerged from these discussions (see Figure 2). Stakeholders emphasized the need to create distinctive destinations and experiential developments, expand affordable housing options, and strengthen workforce development and talent retention efforts. They underscored the importance of aligning business recruitment with College Station's competitive strengths and expanding entrepreneurial support systems through mentorship, capital, and real estate access. Infrastructure capacity, community character, and interorganizational collaboration also surfaced as cross-cutting priorities.

Together, these themes reflect both the community's aspirations and its desire to balance continued growth with addressing critical needs, strengthening the City as a place to live, work, visit, and study.

Figure 2. Themes and Priorities from Stakeholder Engagement



What Was Learned from the Data

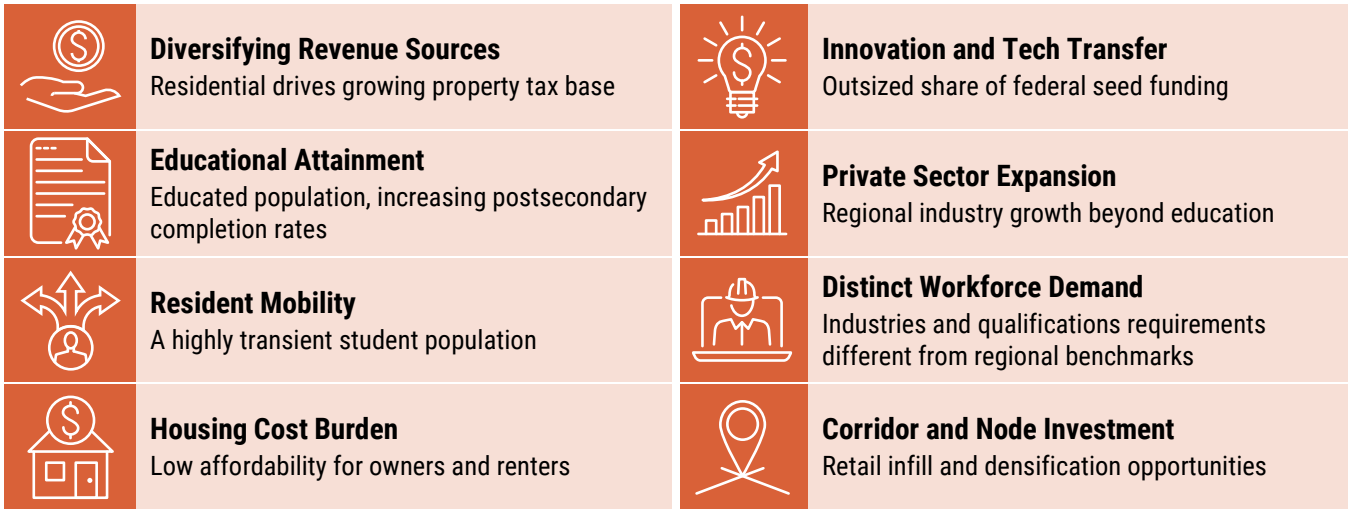
TIP conducted a strategic analysis of College Station's competitive position with comparisons to Brazos County, the College Station–Bryan, Texas, Metropolitan Statistical Area (MSA), the Texas Triangle (defined for this purpose as the 50+ counties located along or within the interstate corridors of I-10, I-35, and I-45), the state of Texas, and the US, as well as a selection of peer communities both national and within the Texas Triangle. Initial data collection began during TIP's discovery phase, and the analytical work continued into the engagement's final phase. In addition to a baseline analysis of the City's population and demographic trends, TIP prepared an analysis of College Station's innovation infrastructure, including its workforce pipeline, talent demand, and capital investment. TIP also prepared an analysis of the City's fiscal trends and commercial real estate profiles. An in-depth, interactive data visualization, *City of College Station, Texas, Innovation & Strategic Analysis*, was delivered separately. Key findings from this quantitative analysis are outlined in Figure 3.

Findings from this analysis reinforced many of the qualitative insights (see Figure 2). The presence of a major research institution in College Station is unmistakable in the data. Texas A&M led the Texas Triangle in postsecondary completions from 2013 to 2023, and the research and development activities of local companies resulted in nearly $290 million in federal seed funding for science and tech-driven small businesses from 2010 to 2024, a sum comparable to that of Houston over the same period. Education is predictably the City's largest and most in-demand industry, though in recent years College Station has seen significant local growth in its robust Healthcare sector and traded industry clusters like Business Services and Distribution & Electronic Commerce. While job postings in College Station demonstrate a relatively high demand for candidates with a four-year college education, the City's large share of residents who possess a bachelor's degree or higher suggests the presence of a highly educated and skilled workforce.

Despite a sizeable pool of existing talent, the population of College Station is naturally transient given the large student enrollment at Texas A&M: more than 35 percent of the City's residents are estimated to have arrived within the past year. The high cost of housing, in large part due to cost pressures from retiring former students, is a barrier to the long-term retention of both homeowners and renters, representing an area in which College Station can address by implementing its *Housing Action Plan.* Additionally, the City has several key infill and densification opportunities. Investment in these sites will allow College Station to cultivate an identity distinct from the university by providing retail opportunities for the nonstudent population, while also diversifying municipal revenue sources and shifting the tax burden away from residential property owners.

These insights helped define strategic imperatives focused on diversifying revenue sources, expanding workforce pathways, and maximizing innovation assets linked to Texas A&M and entrepreneurship partners.

Figure 3. Key Findings from the Quantitative Analysis



STRATEGIC ACTION PLAN

Organized by **four distinct, mutually reinforcing goals,** the EDMP's strategies are designed to translate vision into action by activating competitive strengths, addressing limiting factors, and capturing decisive opportunities that sustain long-term economic vitality for the City of College Station. Case studies were compiled to profile best practices related to each goal area, helping inform the plan. To support implementation of the plan, a matrix was provided separately to staff, highlighting roles, responsibilities, timelines, prioritization, and resourcing.

Each goal area also includes **performance measures** that will help the City track, achieve, and communicate implementation successes. These measures are organized by two categories: (1) community indicators that can be used to track citywide macro-trends and (2) programmatic metrics, which are designed to measure the direct outcomes of specific actions, programs, or initiatives implemented by the City and its partners. Anchoring each goal in clear indicators and metrics ensures the following strategies, actions, and tactics remain data-driven, accountable, and focus on delivering measurable returns for the community.

From the outset of the planning process, **regional and local collaborations** with other economic development stakeholders were identified as essential to the success of the City's economic development strategy, captured primarily by the fourth goal: Ignition. To implement this plan successfully, the City must reinforce its existing partnerships, embark on new ones, and clarify roles and responsibilities, ensuring that essential economic development partners work in alignment with the EDMP's overarching strategic goals.

The need for expanded resourcing, as required by the EDMP, also highlights the **creative use of financial incentive tools.** These tools can be deployed by the City or existing economic development partners, including access to tax relief, grants and loans, geographic-based development incentives, and nonfinancial programs and services, like technical assistance or fast-track permitting. Reviewing the City's commitments to resourcing is critical to ensure major tools, like employer incentive agreements, are structured to support implementation.

GOAL 1. IDENTITY

Cultivate university and community synergies to create dynamic, authentic districts that attract residents, businesses, students, and visitors.

A community's identity often frames first impressions, and College Station's identity is deeply connected to Texas A&M—an attractor of nationally and globally competitive talent, a platform for excellence in research, sports, and culture, and driver of millions of dollars in annual tourism spending. Overreliance on Texas A&M, however, can limit broader economic potential for opportunities lacking connections to the Aggie experience. Additionally, the City's growing community faces several challenges, including rising housing costs, a projected shortfall of more than 4,000 residential units by 2030,[2] and the outmigration of mid-career young professionals—all highlighting the need to offer a wider variety of lifestyles and related amenities. Land availability further constrains strategic economic growth, with limited sites currently zoned or positioned for office or industrial uses.

COMMUNITY INDICATORS

- Tax revenue from new development/redevelopment projects
- Annual retail sales tax
- Annual hotel tax revenues
- Total new retail/restaurant, industrial, and office space added
- Number of new residential units added to the market
- Annual economic impact of tourism-based activity on the local economy

METRICS

- Development projects application review time
- Estimated return on investment (ROI) for real estate projects
- Number of marketing touchpoints for districts (e.g., web, social media, and print media)

The City must leverage the high visibility of Texas A&M—especially its student base and tourism draw—without becoming exclusively defined by it. College Station should strengthen the City's balance between the benefits of a university-focused character and the needs of a growing community. By preserving land for employment uses, creating distinctive places, and cultivating environments that appeal to businesses, residents, and visitors both with and without direct ties to campus life, College Station's identity can shape long-term economic opportunity.

Strategies and Actions

1.1. Establish distinctive, place-based districts to anchor assets that promote balance and synergies between on-campus and off-campus communities, enhancing talent retention across all age groups.

1.1.1. Resident-University Convergence. Cultivate intentional interactions between College Station's campus-oriented and off-campus communities into the City's overall district planning.

- Support the implementation of the *Greater Northgate Small Area Plan Engagement Report* to brand and promote the district for university-community oriented nightlife, plus daytime entertainment, recreation, shopping, and dining uses. Encourage historical and architectural preservation standards, public safety improvements, and urban beautification features.
- Support implementation of the *Northeast Gateway Redevelopment Plan*. Leverage the district's position to create lasting impressions of College Station's overall identity.
- Continue to ensure that zoning regulations and permitting processes support district-specific community visions and mixed-use development where appropriate. For districts adjacent to Texas A&M, prioritize building high-density housing as close to campus as possible to reduce student reliance on cross-City transportation routes, relieve pressure on overall housing costs, and increase foot traffic to businesses walkable from nearby student areas.

[2] City of College Station. *Housing Action Plan.* Page 27.

1.1.2. **Off-Campus Lifestyle.** Define and support districts in south College Station that can attract family-oriented and retiree audiences.

- Support implementation of the *Wellborn District Plan*.
- Build on the momentum of residential growth in southeastern parts of the City to cultivate identities for retail districts such as Midtown, Caprock Crossing, and Tower Point.

1.1.3. **Mid-Career Professional.** Attract and retain working, young professionals in the early-to-mid-career age range both with and without children—distinct from recent graduates with little to no work experience—to support existing districts (e.g., Midtown) as well as future districts.

- Engage Texas A&M on an initiative to survey former students in the target demographic about quality-of-place assets—including amenities, entertainment, recreation, and job opportunities—to inform district planning. Ensure qualities of mixed-use districts are represented, and leverage Texas A&M former student associations and major events for survey deployment.
- Deploy online marketing assets to promote district identity and lifestyle offerings to this audience (see action 4.2.1).

1.1.4. **Sports Innovation and Entertainment.** Use the upcoming Midtown baseball field complex to develop the Midtown Business Park into a sports innovation and entertainment district.

- Rezone the district to maximize the sports facility as an anchor for a mixed-use district, including Class A office, R&D, retail, hospitality, and entertainment businesses.
- Position the Midtown district in business attraction marketing to attract primary job growth in sports innovation, human performance, and related medical and biotech industries.
- Maximize visitor and resident spending via adjacent shopping, dining, beverage, hospitality, recreation, and year-round events assets.
- Work with the Texas A&M Sidney and J.L. Huffines Institute for Sports Medicine and Human Performance and Baylor Scott & White Health to bring science, medicine, and innovation assets to Midtown, priming the district for growth.

MIDTOWN DISTRICT

The Midtown Business Park consists of 252 acres. In late 2025, the City Council began considering a proposal to develop approximately 80 of those acres into a youth baseball and softball complex.

Related Strategies and Actions

2.1. Target Attraction and Retention

1.1.4. Sports Innovation and Entertainment

1.2.2. Small Area Planning

3.3.1. Innovation Districts

4.2.1. Marketing and Branding

Related Case Studies

- Titletown Entertainment District and TitletownTech in Green Bay
- US Performance Center at UNC-Charlotte
- Boone Pickens Human Performance Innovation Complex at OSU

- Develop a relationship with the Texas A&M athletics department to market the Midtown district as a gameday hub across Aggie sporting events and sports innovation center of excellence.

1.1.5. **Grant Programs.** Develop and identify grant programs to assist small businesses, innovation initiatives, cultural programming, and infrastructure improvements within districts.

- Create a Business Improvement Grant Program to support innovative uses of underutilized sites and to encourage infill development, prioritizing opportunities that strengthen district identities. Eligible projects could include façade enhancements, property modernization, walkability, public access, etc.
- Expand the Strong and Sustainable Neighborhood Grant Program to invest in place-based districts, enabling businesses and residents to jointly apply for funds that support community-benefit improvements.

1.1.6. **Planning Coordination.** Ensure planning efforts are coordinated between and within districts.

- Publish an annual "State of the Districts" report detailing progress, upcoming initiatives, and opportunities for engagement, reinforcing transparency and community trust.
- Support the creation of City district councils, comprised of representatives from local education institutions, businesses, resident groups, and City officials to coordinate district planning, events, and shared investments within a structure that fosters dialogue and joint decision-making.
- Promote events and programming that appeal to the on-campus and off-campus communities represented in College Station's culture, including its former student retiree community. For example, highlight farmers markets, public art/cultural programming, and nonprofit/civic organization activities in partnership with local businesses and organizations to help shape each district's identity.
- Design and implement a district branding toolkit to unify the visual identity of each district and strengthen the unique appeal to residents, students, and visitors.
- Launch a District Influencers program, recruiting local volunteers and students to promote district activities, businesses, and visitor engagement.
- Invest in multimodal connectivity, wayfinding, and signage between and within districts to increase connectivity and enhance each district's identity and accessibility.

1.2. Launch a City real estate strategy that prioritizes prime site opportunities that can spark additional investment in the City and contribute to economic, housing, retail, and other real estate goals.

1.2.1. **Development and Redevelopment.** Create a process to identify, acquire, prepare, and market sites for shovel-ready development and redevelopment.

- Promote redevelopment for retail, housing, office, entertainment, hospitality, and other uses to help encourage infill in key commercial and mixed-used districts.
- Prioritize preserving real estate opportunities that could provide additional Class A commercial office space, medical office space, innovation space (wet labs, creative office space, flex space), and light industrial space for R&D or small/medium-sized manufacturing uses.
- Develop real estate acquisition and transaction guidelines, which clarify under what conditions the City will engage in real estate actions to advance specific economic development goals, improving the City's responsiveness to opportunities, promoting public accountability, and providing community transparency through stakeholder engagement. Align these guidelines to the small areas identified in action 1.2.2.

1.2.2. Advance small area planning processes for specific districts of College Station with identified site opportunities, including the following areas.

- *Midtown Business Park.* Launch a request for expressions of interest (RFEI) to gauge demand, test ideas, and ultimately select a real estate development partner to create a high-quality sport innovation and entertainment district encompassing the new ballfields with new amenities, jobs, and investment. Include a feasibility study to assess hotel and visitor accommodation development in Midtown, positioning the district as a visitor hub in south College Station.
- *Harvey Road.* As part of the ongoing small area planning process, elevate the use of catalytic sites to spark additional business investment.
- *Innovation Districts.* See action 3.3.1.

1.2.3. **Developer Relationships.** Engage the regional, statewide, and national real estate developer, broker, and investor communities to communicate the typical site needs of target industry companies, especially to improve planning for prime industrial and commercial sites, like in the College Station portion of the Lake Walk/BioCorridor area (see action 4.1.2).

1.2.4. **Industrial Business Park.** Determine the feasibility of a new large-scale, Class A industrial and manufacturing business park (1,000 acres or larger) in the extraterritorial jurisdiction near eastern College Station.

- Conduct a land purchase analysis that evaluates annexation opportunities and service costs to support industry recruitment.
- Identify partners and collaborate with utility providers, landowners, developers, and employers to examine land banking site opportunities.

1.3. Position College Station as a destination for year-round tourism and asset activation that increases room nights and visitor investment.

1.3.1. **Tourism Strategy.** Implement the City of College Station's *Tourism Strategic Plan* to position the City as a premier academic conference destination, collaborate with Texas A&M on event management, enhance the student/visitor experience, support Texas A&M faculty and staff recruitment, and promote on-campus and off-campus audience programming (e.g., Santa's Wonderland) equally.

1.3.2. **District Highlights.** Integrate district-driven events, programming, and overall marketing efforts (see actions 1.1.6 and 4.2.1) into the Visit College Station website.

1.3.3. **Balanced Event Schedule.** Create a year-round events strategy that balances Texas A&M athletic events with community-led festivals, cultural events, seasonal programming, and target industry or association events.

- Use the Texas A&M+Visit College Station Event Management Partnership recommended in the City of College Station's *Tourism Strategic Plan* to implement the strategy.

1.3.4. **City-University Coordination.** Establish a City–Texas A&M joint initiative to identify opportunities for shared investment, promotion, and use of facilities and events to enhance tourism.

1.4. Enhance specific quality-of-life factors through connectivity and place-based initiatives.

1.4.1. **Housing Affordability.** Prioritize housing affordability for people in all phases of life and implement the *Housing Action Plan* recommendations.

1.4.2. **Green Infrastructure.** Invest in green infrastructure that supports amenities such as parks, green spaces, and tree canopy.

- Expand bike, pedestrian, and trail networks to improve access between districts, the Texas A&M campus, and other nodes of activity.
- Establish green corridors connecting parks, green spaces, and recreational facilities across districts, encouraging healthy lifestyles and environmental stewardship.

1.4.3. **Parking Management.** Implement parking management guidance in high-activity areas, such as Northgate and Century Square, to improve wayfinding and access to businesses and amenities.

Green Bay, Wisconsin | Titletown Entertainment District

Anchored by Lambeau Field, home of the Green Bay Packers, the Titletown Entertainment District is a 45-acre mixed-use redevelopment led by the Packers, leveraging major sporting events to maximize tourist and resident spending, spark innovation and venture capital investment, and retain skilled talent with urban amenities. The district combines professional sports entertainment, townhouses, gameday activities, shopping, dining, breweries, parks, year-round events, and residential-serving amenities with sports medicine, human performance, venture capital, and innovation assets. Major tenants include the Lodge Kohler luxury hotel and a 50K+ square-foot sports medicine and orthopedics facility focused on athletic performance, injury prevention, treatment, and therapy. A key asset enabling year-round events is a 10-acre public plaza that hosts summer programming and transforms into a winter ice-skating rink. The Packers also leverage the district for TitletownTech, their seed-stage venture capital partnership with Microsoft, to invest in startups in Wisconsin and the Midwest, fostering an innovation ecosystem.

Stillwater, Oklahoma | Boone Pickens Human Performance Innovation Complex

The Boone Pickens Human Performance Innovation Complex at Oklahoma State University is a major land grant research and health innovation initiative that will house the Human Performance and Nutrition Research Institute and collaborate across academic, medical, and athletic disciplines to improve health outcomes statewide. Construction officially broke ground in October 2025 and the facility is being designed with cutting-edge laboratories, experimental living labs within the training environment, and shared research spaces adjacent to Boone Pickens Stadium in Stillwater. Funded through a combination of public and private support—including $50 million from the state of Oklahoma via the American Rescue Plan Act and a $25 million legacy gift from the T. Boone Pickens Foundation—the fundraising goal for the complex is $100 million, with $105 million raised to date.

Charlotte, North Carolina | United States Performance Center

The United States Performance Center (USPC) in Charlotte is a public-private sports science and high-performance training initiative focused on elite athlete development, sports science research, and innovation in close partnership with University of North Carolina at Charlotte (UNC–Charlotte). Founded in 2012, USPC aims to attract Olympic athletes, national governing bodies, and elite programs to the Charlotte region, integrating sport performance with research and community engagement. It has developed high-performance training facilities on and near UNC–Charlotte's campus, including an elite USA Archery training site that combines national-level training infrastructure with university research capabilities. The initiative received $55 million in state support, providing funding for resources like facilities and equipment, building the infrastructure needed to host competitions generating significant room nights and exposure.

Sugar Land, Texas | Redevelopment for Placemaking

The City of Sugar Land's Economic Development and Redevelopment Department prioritizes high-potential redevelopment projects in its business marketing. Three key districts are positioned for investment: the Imperial Historic District (anchored by the former Imperial Sugar refinery), Lake Pointe Redevelopment District (anchored by former Fluor campus), and Sugar Land Town Square (anchored by City Hall). Community awareness and input are central to ensuring each district's placemaking reflects Sugar Land's identity, and each has undergone visioning processes to determine area-specific uses. Dedicated websites share project timelines and updates with the public and developers. A public awareness campaign—"Redevelopment Never Ends"—reinforces the importance of redevelopment to residents and leads to engagement opportunities, including resources to organize block parties using the City's Sugar Cube block party trailer. Sugar Land also offers three related grant programs: the Retail Refresh Grant, the Fostering Unique Neighborhoods (F.U.N.) Grant, and the Great Homes initiative.

Mesa, Arizona | Retail Attraction and Development

The City of Mesa's retail attraction and development strategy uses marketing and outreach, property promotion, and redevelopment incentives to attract private investment. Tools like *The Retail Review* newsletter and retail marketing to developers showcase retail sites with strong demographics, traffic, and income data in eight districts, including four redevelopment areas. Incentives such as the Government Property Lease Excise Tax reduce operating costs in redevelopment areas, paired with local and state programs that spur growth. For effective redevelopment coordination at the City, Mesa organized a cross-departmental team composed of its Economic Development, Development Services, and Urban Transformation offices. In its first year, Mesa's retail strategy has resulted in 30 new prospects, six retailer locations, and several new retail-focused, catalytic projects.

GOAL 2. INDUSTRY

Expand a thriving foundation of businesses and industries to create a diversified tax base and enhance economic opportunity.

COMMUNITY INDICATORS

- Job creation/growth
- Labor force participation rate
- Revenue growth of local businesses
- Tax base growth/diversification

METRICS

- Number of meetings with corporate site selectors, real estate professionals, landowners, etc.
- Number of in-person visits to existing businesses in College Station
- Ratings of the business climate in the community

Economic resilience depends on diversifying the City's economy beyond an education and hospitality-heavy employment base. College Station has significant advantages to build on, such as the workforce development assets at Blinn College and the National Center for Therapeutics Manufacturing (NCTM), in addition to the cutting-edge research and development enterprise led by Texas A&M's flagship campus and distributed across the state. The City's highly educated workforce, its location in the Texas Triangle, and its emerging industrial base, especially in life sciences and biotech, grant it a strong foundation for private sector growth. However, Texas A&M's recent college graduates cannot carry the full weight of the City's workforce needs. About one-half of all job postings in College Station require less than a four-year college degree, a number that is higher for both the MSA and the Texas Triangle region. Each of these benchmarks represent a broad mix of industries and employer demands, indicating a need for College Station to develop its local workforce below the four-year graduate level as the City seeks to diversify its industrial base.

College Station must position the City as a competitive location for business recruitment and retention, sustain efforts to provide a more balanced labor market, and grow the small businesses that enhance the City's identity. Altogether, these strategies are essential to broadening the City's fiscal base, connecting residents to quality jobs, and ensuring prosperity for all types of businesses and residents.

Strategies and Actions

2.1. Focus attraction and retention efforts on strategic growth areas and target industries that align with College Station's competitive position, including healthcare; life sciences and biotech; professional services; aerospace, defense, and energy; and retail and hospitality (see Figure 4, page 13, for more on target industries).

2.1.1. Healthcare. Identify and support underserved markets for medical specialties.

- Partner with Baylor Scott & White Health, CHI St. Joseph Health College Station Hospital, Texas A&M Health Science Center, and the Texas A&M Naresh K. Vashisht College of Medicine to identity opportunities.
- Leverage the public health policy resources at Texas A&M School of Public Health, as well as the Texas A&M Bush School of Government and Public Service, for gap analysis.

2.1.2. Life Sciences, Biotech, and Animal Health. Develop business attraction opportunities by working with local companies, related Texas A&M centers and institutes, and statewide assets, especially in the Houston area.

- Highlight proximity to Texas A&M's relevant, graduate-level programs as a competitive advantage.
- Partner with FUJIFILM Biotechnologies, Matica Biotechnology, the NCTM, the Texas A&M College of Medicine, the Texas A&M Center for Innovation in Advanced Development and Manufacturing, and the Animal Reproductive Biotechnology Center at Texas A&M—RELLIS to identify companies.

- Partner with biomedical organizations across the Brazos Valley and Gulf Coast regions to foster the biotechnology ecosystem. Partners can include Greater Houston Partnership, Texas Healthcare & Bioscience Institute, regional workforce education partners, and InnovATEBIO.
- Leverage system-wide assets outside of College Station, like the Texas A&M Institute of Biosciences and Technology in Houston and various Texas A&M AgriLife Research institutes for insight.

2.1.3. **Professional Services.** Position College Station's proximity to Texas A&M and its steady production of educated talent to recruit professional, technical, and engineering services.

- Use existing networks to connect with professional services providers looking to expand their Texas operations, such as smaller accounting firms in the greater Houston area.
- Identify national firms with regular recruiting cycles seeking to establish regional offices near major universities.

Figure 4. Target Industry Overview

HEALTHCARE	**Description.** Includes hospitals, healthcare provider offices, clinics, and related assets like the Texas A&M Health Science Center, the Texas A&M College of Medicine, and the Baylor Scott & White Cancer Center—College Station. **Niches.** Specialty care, especially oncology, geriatric healthcare, women's healthcare, pediatrics, and veteran healthcare services, building on College Station's proximity to the Houston area.
LIFE SCIENCES, BIOTECH, & ANIMAL HEALTH	**Description.** Includes biology-related R&D, biomanufacturing, and innovative biotechnology companies for both human and animal health applications, such as agri-tech. **Niches.** Wider varieties of agri-tech applications in both the modern farming (e.g., drone applications) and the animal health industries, as well as related suppliers and service providers (e.g., clean rooms).
PROFESSIONAL SERVICES	**Description.** Represents a combination of two existing targets: Professional Services, and Technology and Innovation, which includes research and development firms, software development companies. Although many innovative companies are professional services providers, science and tech-driven entrepreneurs can also fall under different target sectors (e.g., small, advanced manufacturers). **Niches.** Financial, real estate, and software/information technology service providers. For example, some semiconductor, advanced manufacturing, and engineering services fall under this category.
AEROSPACE, NATIONAL SECURITY, & ENERGY	**Description.** An emerging target, including defense hardware, advanced air mobility, energy, hypersonic, space-related, and public safety technologies, in alignment with the Greater Brazos Partnership, local innovation partners, and statewide Texas A&M assets like the Texas A&M Engineering Extension Service (TEEX), the Texas A&M Engineering Experiment Station (TEES), and the Texas A&M—RELLIS campus. **Niches.** Specialized knowledge and innovation focused companies, especially aerospace engineering and cybersecurity firms, government and defense contractors, first-responder technology companies, defense industrial base support organizations, and related R&D firms, including small, science and tech-driven entrepreneurs.
RETAIL, HOSPITALITY, & ENTERTAINMENT	**Description.** Includes food and beverage, hotel accommodations, conference and event spaces, and clothing/general merchandising. **Niches.** Sports tourism, conference-supporting opportunities, and neighborhood-serving, experiential retail and entertainment, which promote diversity in place-based experiences.

Source(s): TIP Strategies, Inc.

2.1.4. **Aerospace, National Security, and Energy.** Focus on improving Class A office space availability that fits the needs of aerospace engineering and cybersecurity firms, government and defense contractors, first-responder technology companies, defense industrial base support organizations, and related research and development firms, including small, science and tech-driven entrepreneurs working with the US Department of War.

- Coordinate with the Greater Brazos Partnership and the companies at the Texas A&M—RELLIS campus (including the small nuclear modular reactor cluster) to attract advanced manufacturing component suppliers, supporting regional growth of the target cluster (see action 4.2.6).
- Tap into opportunities spurred by space industry investments and expansion projects in Brownsville-Starbase area, West Texas, within the Texas Triangle, and across the state to attract knowledge and innovation focused firms in this sector (see action 4.2.8).
- Develop relationships with Texas-based national security and defense innovation leaders, such as the newly created US Army Transformation and Training Command and the Austin-based National Security Innovation Council, to identify specialized office needs and leads from out-of-state markets like the Washington, DC, metro area.
- Recruit outposts of major aerospace companies with a large Texas presence—such as Lockheed Martin, Bell, Boeing, SpaceX, etc.—by targeting their research and development programs.
- Leverage Texas A&M's system-wide assets, like the Texas A&M Space Institute at the NASA Johnson Space Center in Houston, as target attraction intelligence sources.
- Use the presence of national security assets like the Bush Combat Development Complex at Texas A&M—RELLIS, the National Emergency Response and Recovery Training Center at TEEX, and BlueForge Alliance to promote the City as friendly to defense and national security companies.

2.1.5. **Retail, Hospitality, and Entertainment.** Build on existing, key retail districts including Caprock Crossing, Century Square, Jones Crossing, Midtown, Tower Point, and University Town Center.

- Continue the City's partnership with The Retail Coach to identify opportunities.
- Leverage redevelopment supports referenced in action 1.2.1 and refreshed web presence referenced in action 4.2.1 as attraction resources.

2.1.6. **Industry Attraction.** Conduct outreach and marketing, attend industry events, and lead or participate in local business roundtables focused on coordinating real estate assets, workforce skills, and suppliers, as appropriate across target sector industries.

2.1.7. **Business Retention.** Create a business retention and expansion (BRE) program that includes an annual business survey and regular site visits to gather insights about business needs and growth opportunities.

- Gather data about opportunities and challenges for Texas A&M-related industry engagement to position the City as a resource for helping local businesses navigate the Texas A&M system.

2.1.8. **Concierge Process.** Build a concierge permitting and development review process that connects applicants in target industries with City staff to reduce barriers and ensure compliance with standards.

2.2. Enhance long-term and short-term workforce and talent development efforts to meet industry demand.

2.2.1. **Local Talent Pipelines**. Promote the development of early-stage talent pipelines, which help retain local youth who want to live and work in the Bryan-College Station MSA by collaborating with Blinn

College, College Station and Bryan Independent School Districts (ISDs), and Workforce Solutions Brazos Valley.

- Support student and young professional engagement through the expansion of internships, mentorships, networking events, and career pathways, especially efforts to increase career awareness in high-demand sectors.
- Promote work-based learning models and career and technical education at local high schools. For example, work with K–12 and postsecondary educators to determine training equipment needs and encourage donations from local companies.
- Improve community awareness of employers with entry-level hiring opportunities to help local talent develop relevant work experience.
- Collaborate with local workforce and business partners to launch an online Try Before You Hire portal for employer-focused internship, apprenticeship, and other hiring resources.
- Develop a community job board in collaboration with the Bryan/College Station Chamber of Commerce. The job board should build on the Talent Hub web and social media presence recommended in action 4.2.1 to enhance local talent retention in addition to talent attraction.

2.2.2. Targeted Workforce Development.

Work with the NCTM, Blinn College, Workforce Solutions Brazos Valley, and other Texas A&M assets to scale up short-term training and non-degree credentials that meet immediate workforce needs in target industries, with a focus on healthcare, life sciences, and biotech needs below the bachelor's degree level.

- Support NCTM's efforts to implement the Texas Regional Industrial Biomanufacturing Education Certification (TRIBEC) across the state (see action 4.2.2).
- Support employer alignment with training programs through business and education partner convenings, employer participation in workplace exposure activities for students and job seekers, and workforce readiness workshops focused on digital literacy, employability skills, and emerging technologies like artificial intelligence.
- Encourage upskilling and reskilling initiatives to help experienced workers gain credentials or finish their postsecondary education via short-term pathways, especially adult workers with either a high school diploma or equivalent, or some college education but no degree.
- Develop a relationship with the Animal Reproductive Biotechnology Center at Texas A&M—RELLIS to determine additional workforce development opportunities related to animal health.
- Continue to encourage employer participation in technical program development across training providers, including TEES centers (especially NCTM), TEEX, and Blinn College to ensure programs meet industry needs.

2.2.3. **Partner Alignment.** Convene workforce roundtables with economic development, education and workforce stakeholders, and employer stakeholders to align training and credentialing with industry demand.

- Include the City of Bryan, the Greater Brazos Partnership, College Station and Bryan ISDs, Blinn College, Workforce Solutions Brazos Valley, Texas A&M—RELLIS, the Brazos Valley Council of Governments, relevant research institutes, and target industry employers in roundtables.

2.3. Support the growth of existing small businesses and local market-serving entrepreneurs[3] as important contributors to the City's identity.

2.3.1. **Support Program.** Establish a small business support program that facilitates an annual business survey and serves as a resource for technical assistance and access to capital.

- Promote the program by partnering with the Bryan/College Station Chamber of Commerce on the Small Business Series, expanding into workshops on specific topics.

2.3.2. **Small Business Guide.** Revise the "Connect with Resource Partners" page of the Grow College Station website into a comprehensive small business guide, which includes technical assistance and capital access programs.

- Highlight information from small business support organizations, funders, events, coworking spaces, and other resources available online.

2.3.3. **Market Access.** Improve the perception of College Station as a place for small business growth by linking retail and service businesses to place-based districts, strengthening local identity, and expanding market access.

- Work with the Bryan/College Station Chamber of Commerce, Brazos Valley Small Business Development Center (SBDC), and the local 1 Million Cups chapter to coordinate small business initiatives with regional economic development strategies and retail activation in districts.
- Integrate small businesses into district branding and promotion by featuring them in marketing materials, district landing pages, and coordinated outreach that highlights retail and service offerings.
- Support cross-district business visibility by aligning local events, activations, and district programming to drive customer traffic to small businesses.
- Facilitate joint marketing and promotion among businesses within and across districts to expand customer reach and reinforce each district's identity.
- Enhance wayfinding, signage, and mobility connections that make it easier for residents, students, and visitors to access district-based small businesses.
- Leverage redevelopment and infill opportunities to position small businesses in high-visibility locations that capture unmet market demand and strengthen district vitality.
- Connect small businesses to City resources and technical assistance to streamline expansion, improve competitiveness, and support entry into district markets.

2.3.4. **Buy-Local Efforts.** Promote buy-local initiatives that encourage residents, employers, and visitors to support small businesses in College Station.

[3] Small business entrepreneurs are distinct from science- and tech-based entrepreneurs, described in the Innovation goal, as they serve local markets, have fewer needs for capital and intellectual property, and have modest growth expectations compared to tech startups.

Greater Kansas City Area, Missouri–Kansas | Animal Health Corridor

Greater Kansas City's Animal Health Corridor, an initiative of the Kansas City Area Development Council (KCADC), spans from Manhattan, Kansas, to Columbia, Missouri. The bistate area is home to over 300 animal health companies and over 90 contract research organizations. The Corridor supports target industry growth through multiple strategic initiatives: mapping corridor assets; hosting the annual Animal Health Summit to connect startups with investors; promoting career development through the Explore Animal Health Careers platform, offering detailed animal health career pathways for students, educators, and job seekers; and working with regional universities and technical schools to design curriculum with employer needs in mind. It also facilitates public-private partnerships, R&D collaborations, and site selection support through the KCADC.

Statewide, North Carolina | BioWork Certificate

The BioWork certificate program, delivered through the North Carolina Community College System's BioNetwork, is a short-term (typically 136–148 credit hours) industry-recognized program that trains entry-level process technicians in biotechnology, pharmaceutical, and chemical manufacturing. It teaches foundational skills—including the US Food and Drug Administration Current Good Manufacturing Practices, safety, process control, equipment operation, and quality systems—that support life sciences-related manufacturers. BioWork is offered in flexible formats (in-person, hybrid, online) and articulates into longer degree pathways or apprenticeships with partnering companies, helping participants transition into work or advance professionally. Partnerships with community colleges and industry help ensure curriculum reflects workforce demand while student support includes résumé building and job search assistance. The BioNetwork spans 14 community colleges offering the standardized curriculum and links to broader K–12 STEM (science, technology, engineering, and mathematics) outreach, jobs fairs, and career exploration resources, creating a pipeline from early education to skilled employment.

Georgetown, Texas | Small Business Guide

The City of Georgetown supports small business growth through a comprehensive Small Business Guide that helps owners navigate permitting, financing, market data, and emergency preparedness, complemented by an easy-to-follow checklist for business planning, structure, funding sources, and incentives. The guide includes demographic and land use resources to help owners assess market opportunities and locate sites. The City also hosts an annual Small Business Week with workshops covering topics such as business planning, managing cash flow, hiring, social media marketing, lending, and risk management, providing practical training and tools. These efforts are reinforced by collaboration with the Georgetown Chamber of Commerce, which delivers advocacy, connections, and educational resources for local firms.

GOAL 3. INNOVATION

Establish College Station as a hub for science and tech-driven entrepreneurship, R&D, business formation and growth, and wraparound support.

The local presence of an R1 research institution is central to College Station's innovation potential. While the Industry goal broadens the City's overall economic mix, this goal supports science- and technology-based employers, from startups to mature firms. The distinction matters. Innovation-driven companies rely on specialized research capacity, creativity-enabling facilities, and a depth of educated talent embodying a risk-tolerant spirit that few communities possess. Yet, translating this potential into economic growth outcomes demands robust connections between the other components—venture capital, mentorship, networking, competitions, venture summits, entrepreneurial skills development, and office space—that drive successful startup communities.

COMMUNITY INDICATORS

- Startup business retention and formation rates
- Growth in incubator, accelerator, coworking, wet lab space (by square footage or by number of entities)
- New patents/intellectual property registered
- Amount of investment in high-growth enterprises, including funding from SBIR, STTR, and private equity

METRICS

- Number of innovation and entrepreneurship events/workshops/summits, plus attendance
- Number of startup founders participating in local incubation or accelerator spaces
- Number of startup founders receiving technical assistance

A coordinated approach to supporting startups at different stages of growth will be essential. Retaining promising firms emerging from the university, attracting companies from competitive markets, and fully leveraging opportunities through local innovation networks that cut across target industries are critical elements of this approach. These strategies aim to align accelerator programming, leverage tech transfer resources, facilitate partnerships, and position contract research opportunities competitively. A coordinated effort can also spur development of the flexible office, light industrial, and creative makerspace resources needed to bridge the gap between emergent opportunity and economic impact.

Strategies and Actions

3.1. Retain and expand local science and tech-driven employers in College Station across all industry types, with particular attention to target sectors (see Figure 4, page 13).

3.1.1. **BRE Expansion.** Expand collaborations with Texas A&M, Blinn College, and other regional educational institutions to support companies with accessing technology transfer, commercialization, and research initiatives as part of the BRE program (see action 2.1.6).

- Identify a City point of contact and relevant partner organizations that can assist the engagement of faculty and researchers with evaluating new commercialization opportunities in collaboration with the technology transfer and new ventures office, Texas A&M Innovation.
- Segment university resources by industry type, elevating awareness of target sector R&D testing facilities, especially the laboratories and research centers associated with TEES (see action 4.2.2).
- Partner with Texas A&M Innovation to market intellectual property available for licensing across the system through its various websites and campus resources.
- Develop a resource guide to help local companies and Texas A&M researchers access non-dilutive capital to commercialize research via federal non-dilutive capital programs. Resources include the Texas Manufacturing Assistance Center, the Brazos Valley SBDC, the University of

Texas at San Antonio SBDC Center for Government Contracting, and the Center for Defense Innovation, which is part of Capital Factory located in Austin.

3.1.2. Startup Real Estate. Inventory existing real estate product for differently sized science and tech-driven companies to identify missing assets (e.g., wet lab space for life sciences) and inform development and redevelopment efforts across the City (see strategy 1.2).

3.1.3. Targeted Retention. Use College Station's local accelerator programs and their cohort members as a source of BRE intelligence, fostering strong relationships to better understand their needs and prioritize them in related activities.

- Help local science and tech-driven entrepreneurs grow by using College Station's target sector attraction efforts (see action 2.1.6) to enhance supply chains and strengthen clusters.
- Participate in local innovation events to help facilitate and foster connections among local companies and entrepreneurship resources.
- Ensure accelerator program companies are connected to available real estate and prioritized in the City's concierge review process (see action 2.1.8) when expanding in College Station.

3.2. Attract science and tech-driven employers from competitive markets by showcasing College Station's innovation ecosystem assets across target sectors.

3.2.1. Lead Identification. Identify companies by using funding data from Texas Triangle metro area venture capital firms and program reports from federal non-dilutive capital sources, such as the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs.

- Focus on life sciences, biotech, aerospace, defense, and energy sector Phase II and III recipients in major Texas metros. Later-phase recipients of SBIR/STTR awards represent more established companies, whereas Phase I recipients represent the proof-of-concept stage of development.

3.2.2. Attraction Marketing. Adapt target sector marketing materials (see action 4.2.1) to science and tech-driven employer prospects.

- Highlight competitive assets, like Texas A&M's research and testing facilities, industry-specific contacts available through local networks, available coworking, creative, and flex space, mentorship, and funding networks, etc.

3.2.3. Local Networks. Promote local accelerator programs as landing pad programs that support relocation and expansion of innovative companies.

- Fold local program offerings into target sector attraction efforts (see strategy 2.1) to further enhance the City's overall economic development value proposition.
- Help connect international firms to regulatory assistance available through the Brazos Valley SBDC, the Texas A&M Department of Global Engagement, and the Texas International Business Accelerator at the University of Texas at San Antonio.

INNOVATION ECOSYSTEMS

Innovation ecosystems often feature common elements, like research universities, competition and event organizations, entrepreneurship programming, regional capital, and emergent participants.

In College Station, ecosystem partners include the following.

- Texas A&M Innovation
- McFerrin Center for Entrepreneurship
- Blinn College business programs
- Bryan-College Station Plug and Play Center
- The Cannon
- Aggie Angel Network
- Aggie 100
- Brazos Valley SBDC
- Local 1 Million Cups chapter

3.2.4. Value Proposition. Empower ecosystem partners to pitch a concise and confident message about the City's advantages and relocation process. Texas A&M stakeholders can especially help represent the City's economic development efforts by using system-wide venture capital networks as a source of prospect leads.

3.3. Enhance innovation ecosystem components that support science and tech-based entrepreneurs, also known as startups, to facilitate business growth.

3.3.1. Innovation Districts. Determine potential locations for one or multiple innovation districts.[4]

- When planning, combine and co-locate assets such as coworking and Class A office space, maker spaces, R&D facilities, offices for locally based funders, investors, and local mentorship, networking, and training organizations.
- Consider the former College Station City Police Department building as a potential anchor for an innovation district, in addition to the Texas A&M Research Park. Classrooms could be leveraged as entrepreneurship skills development and event/programming facilities for the innovation community to use.

INNOVATION DISTRICTS

Innovation districts are a place-based approach to densifying ecosystem assets in an urban area. Science and tech-based entrepreneurship and applied research are often core to their identity. As part of district planning, multiple buildings, flexible spaces, and dedicated facilities are typically tailored to startup company and programming needs in a walkable, tech-campus environment. Public-partnership models are essential to collaborate on district development with real estate, industry, and ecosystem partners, including community nonprofits.

Related Potential Sites

- Former City Police Department building
- Midtown district
- Texas A&M Research Park

3.3.2. Former Student Relocation. Develop and promote a former student relocation guide for startups who are seeking to invest in College Station or are considering returning to the area to increase the availability of experienced entrepreneurial talent, mentors, and angel funders. Ensure the guide is integrated into Talent Hub marketing efforts (see action 4.2.1).

3.3.3. Venture Capital. Support venture capital network development by helping ecosystem partners introduce investors to the College Station community and leading startups.

3.3.4. Target Sector Resources. Collaborate with ecosystem partners to promote and enhance sector-specific office and lab space, research and testing facilities, and accelerator programming.

- Promote TEES contract research and lab bench resources available through its research laboratories and centers, especially NCTM and various national security, advanced manufacturing, and energy-related facilities.
- Highlight the Texas A&M Bioscience Business Accelerator as a resource to emergent healthcare, life sciences, and biotech entrepreneurs.
- Advocate to expand accelerator programming in alignment with College Station's target industries, especially healthcare, life sciences, biotech, and agri-tech.

[4] The Brookings Institution's 2014 paper, *The Rise of Innovation Districts: A New Geography of Innovation in America*, is a helpful reference on the defining characteristics and advantages of innovation districts. This seminal work has been revisited by the Global Institute on Innovation Districts, including updated research conducted by the original Brookings team.

3.3.5. **Competitions and Events.** Ensure the City is represented in entrepreneurship and innovation summits/events, which bring together innovation stakeholders, including seed funding providers and venture capital firms, to showcase Aggie and local inventors. Highlight those located in the area as a distinct category.

- Organize reverse pitch competitions in collaboration with the City of Bryan, Brazos County, Texas A&M, and Blinn College. Instead of traditional competitions where startups pitch business ideas, reverse pitch events showcase problem statements identified by the community to encourage ideation and business formation in response to existing needs and challenges.

3.3.6. **Mentorship Resources.** Collaborate with partners to enhance or create startup entrepreneurship mentorship programming that includes access to regular workshops, training, and office hours. Office hours can be facilitated via a hybrid model to encourage virtual mentor participation from qualified serial entrepreneurs and angel investors.

3.3.7. **Skills Development.** Promote small business and entrepreneurship skills development training to students, researchers, and non-Texas A&M affiliated entrepreneurs in collaboration with partners.

3.3.8. **Real Estate Product.** Use the science and tech-driven employer real estate inventory results (see action 3.1.2) to inform and adapt the City's real estate strategy with the aim of helping startups and entrepreneurs grow by filling gaps in available real estate types they rely on (see strategy 1.2). For example, integrate Class A office, coworking, and/or flex spaces into place-based district planning, especially near campus.

Austin, Texas | Reverse Pitch Competitions

In partnership with the Austin Young Chamber, the US Business Council for Sustainable Development, and the University of Texas at Austin Herb Kelleher Entrepreneurship Center, the City of Austin's Resource Recovery conducts an annual Reverse Pitch Competition as part of its circular economy program, innovatively addressing waste reduction by flipping traditional pitch competitions. Instead of entrepreneurs pitching to investors, local businesses and nonprofits present their hard-to-recycle materials to entrepreneurs, challenging them to develop profitable reuse ventures. The program matches waste generators—including companies with materials like polycarbonate sheets, vinyl record trimmings, and fabric samples—with environmentally conscious innovators. Participants receive mentorship to refine their concepts before competing for two $10,000 innovation prizes: one for new ventures (Seed Stage) and one for existing businesses (Growth Stage). Past winners exemplify the program's success. POLYMart transformed HID Global's plastic waste into affordable eyewear, while re:3D launched a designer furniture line using 3D printing technology. This collaboration is an example of how reverse pitch competitions can be implemented in tandem with city service delivery to encourage innovation, job creation, and economic activity.

Lubbock, Texas | Texas Tech University Innovation Hub and Programs

The Texas Tech University Innovation Hub at Research Park offers an integrated innovation ecosystem with over 44,000 square feet of collaborative workspace, cohort-based and incubation-style programming across startup growth stages, and strong community engagement. It supports early-stage ventures through early-stage competitions, National Science Foundation Innovation Corps cohorts, prototype funds, and events like Discoveries to Impact that connect founders with investors and partners. Additional resources include the Texas Tech Accelerator, a year-long cohort program providing up to $40,000 in seed funding, tailored workshops on business fundamentals, mentorship from industry leaders, and access to a broad network of former students and partners to help scale startups. The Innovate Texas Tech Mentor Program, based on the Massachusetts Institute of Technology Venture Mentoring Service model, pairs founders with experienced mentors, offering diverse expertise from marketing to fundraising. The hub also houses the One Health Incubator for life sciences startups, providing specialized facilities, tailored guidance, and industry connections to support commercialization.

Greater Austin Area, Texas | Opportunity Austin Global & Innovation Programs

Opportunity Austin (OA) drives innovation and capital growth by integrating global outreach, investment attraction, and ecosystem development to position the Austin region for startup growth. It facilitates global capital recruitment through targeted capital market trips and relationship building with regional and international investors, venture capital firms, and private equity, expanding funding flows into local startups. OA's Innovation Ecosystem platform aggregates investment data and company profiles on over 4,400 startups, 5,200 funding rounds, and 1,000 investors, providing real-time ecosystem mapping and helping match capital to opportunities. OA's strategy has additional international components focused on technical assistance. The Soft-Landing Program and its Global Austin Launch Pad provide tailored support, market insights, regulatory guidance, and workspace to help international startup firms enter US markets. OA also offers an Export Assistance Program that helps startups and established companies alike access global markets, alongside recognition events like the annual A-LIST Awards that celebrate innovation success.

Athens, Georgia | University of Georgia Innovation District

The University of Georgia's Innovation District is a place-based approach to connecting academic research, entrepreneurship programs, and physical spaces to accelerate innovation, commercialization, and community engagement associated with university research. It delivers six core functions—intellectual property licensing and advising, faculty-driven startup support, development programs for founders, basic entrepreneurship courses for students, and experiential learning integration, and business engagement with industry partners—to guide ideas from discovery to market. The district has launched hands-on initiatives like the Innovation Bootcamp, which equips participants with commercialization skills and mentorship, and the Faculty Innovation Fellows program, which trains faculty as innovation ambassadors to expand entrepreneurial culture across colleges. Outcomes reported by the university's Innovation District include over 200 companies launched and 1,200 products introduced to market.

GOAL 4. IGNITION

Position the City of College Station as a proactive, strategic leader that collaborates with local and regional partners to optimize implementation.

Especially in a community like College Station, economic sustainability is dependent on resource deployment, information sharing, and ongoing coordination between various economic development stakeholders. The success of the EDMP will be influenced by the City's alignment with key partners—not just local actors, but also statewide leaders—working across workforce development, business recruitment, and cross-regional strategy. The overlap in critical asset ownership, roles, and responsibilities among regional economic development entities makes shared contributions and mutual accountability critical to energizing the EDMP's implementation.

COMMUNITY INDICATORS

- Jobs created in College Station because of regional partnerships
- Additional transportation routes (air, luxury bus) between Texas Triangle cities
- Increase in working population aged 25–34

METRICS

- Number of intergovernmental touchpoints
- Attendance at industry conferences, local and regional alliance meetings and events
- Number of "hits" to talent attraction specific webpages and social media
- Number of community engagement events and number of participants

College Station must refine the relationships, structures, commitments, and practices that underscore a proactive approach to economic development. Through regular, collaborative forums, coordinated marketing, resource optimization, and consistent public engagement, the City will optimize the success of its highest-stakes priorities like property redevelopment, industry recruitment, innovation partnerships, and long-term land use.

Strategies and Actions

4.1. Ensure the effectiveness of the EDMP by enhancing partnerships with local and regional partners through regular communications and collaborations.

4.1.1. **Economic Development Roles.** Clarify roles and responsibilities with key partners—City of Bryan, Brazos County, the Brazos Valley Council of Governments, the Greater Brazos Partnership, and Texas A&M's Economic Development & Community Impact department— for plan implementation.

- Convene ad hoc roundtables with partners to address shared challenges, opportunities, and coordinate efforts. Use the existing intergovernmental meetings as a starting point.
- Work with the Greater Brazos Partnership and education and training providers to define workforce development leadership roles in each target sector (see action 2.2.3).
- Advocate for a Bryan-College Station Talent Task Force, in collaboration with the Greater Brazos Partnership, comprised of education and workforce development stakeholders who respond to business attraction and retention projects to highlight available workforce resources.

4.1.2. **Lake Walk/BioCorridor.** Position the available property within the City for target sector recruitment, especially professional services, life sciences, agri-tech, and related innovation assets.

- Work with the City of Bryan, Texas A&M, the developer, and City stakeholders to reduce multi-jurisdictional complexity, address infrastructure challenges, and improve site readiness for target sector recruitment.

4.1.3. **Innovation Roundtable.** Launch a quarterly entrepreneurship and innovation roundtable with local and regional partners.

- Use the roundtable to advance collaborative small business, entrepreneurship, and innovation efforts like regional showcases, startup networking, entrepreneurship workshops, unified business support systems, corporate engagement, and ecosystem mapping.
- Encourage information sharing about new developments, resources, facilities, and programming, as well as to coordinate implementation of long-term efforts like innovation districts.

4.2. Position College Station as a strong regional and state-level economic leader and business-friendly community.

4.2.1. Launch a marketing and branding campaign with tailored, audience-specific components, using a refreshed economic development web presence.

- *Business Attraction.* Establish a marketing toolkit that promotes shovel-ready sites and redevelopment opportunities in strategic growth areas aligned with target industries. As an example, create target sector briefs that combine real estate sites (e.g., Providence Park), workforce development, research facility, and tourism assets as appropriate for site selectors and developers.
- *District Promotion.* Elevate the unique assets, character, and community of each district, especially key redevelopment districts through a refreshed economic development website. Ensure the refresh enables district development, attracts real estate developers specializing in redevelopment to priority areas, and builds on tourism assets.
- *Talent Attraction.* Position College Station as a welcoming and inclusive community for everyone, including non-Aggies, by launching a Talent Hub stylized web portal and social media campaign. Highlight the career opportunities in the innovation economy (e.g., Texas A&M's leadership in artificial intelligence), specific quality-of-place factors like recreation, shopping, and dining, and the vibrant cultural and civic community, especially the City's diverse international presence.
- *Former Student Recruitment.* Support target sector employers by tapping into professional and former student associations associated with specific sectors. Use the Talent Hub web portal as a resource to attract former students back to College Station.

- *Statewide Leadership.* Position College Station as an economic anchor for the state of Texas, emphasizing industry growth, Texas A&M and Blinn College, Easterwood Airport, and diverse quality-of-place assets.

4.2.2. **Talent Concierge Partnership.** Engage and incentivize community partners to operate a talent integration-focused concierge service that aids employers, including Texas A&M, in attracting and retaining talent. The program should offer relocation guidance, community navigation, and family-support resources for competitive candidates, spouses, and new hires—contributing to stronger employer recruitment outcomes and improved community connection.

- Focus on closing the deal for hiring mid- to high-level positions, especially C-Suite and tenure-track faculty positions in the case of Texas A&M.
- Encourage personalized introductions, customized community tours, and other support to help individuals access the community resources most relevant to their needs and to encourage successful community integration.
- Structure the incentive to ensure the program becomes financially self-sustaining over time, such as a tiered membership model offered to employers.
- Align talent attraction messaging with the Talent Hub portal and campaign.

4.2.3. TEES and TEEX Opportunities.
Maximize industry growth and visitor spending opportunities spurred by the research, development, and training activities at TEES and TEEX by positioning the City's economic development team as a resource.

- Develop relationships with contacts at each of the research centers, testing facilities, and laboratories associated with TEES, prioritizing target sector-relevant resources, to connect TEES resources to local innovation companies (see action 3.1.1).
- Collaborate with TEEX organizers to promote College Station's retail, hospitality, and entertainment sector among visitors drawn by TEEX programming, including its industry summits and training delivered locally.

4.2.4. NCTM Promotion. Elevate College Station as a statewide leader in life sciences and biotech workforce development training by elevating awareness of NCTM.

- Help NCTM implement the statewide TRIBEC training program by fostering relationships with statewide leaders, emphasizing the certification's benefits to the Texas economy.
- Determine the potential for Blinn College to partner with NCTM's workforce training efforts and expand in College Station, with a focus on recruiting residents to training programs.

4.2.5. Easterwood Airport. Position Easterwood Airport as a gateway to the region by improving its connectivity within and beyond the City.

- Support expanding nonstop passenger routes to additional destinations such as Houston and Austin, eventually including other major business hubs outside of Texas.
- Encourage multimodal connections to the airport by incorporating transit providers like intercity luxury bus services and local campus bus routes.

4.2.6. Regional Attraction. Coordinate with the Greater Brazos Partnership and state partners on lead generation, economic development policies, and marketing.

- Continue to align the City's target industries with the Greater Brazos Partnership to encourage growth of regional clusters, especially in emergent technology areas.
- Keep regional and state partners informed as policies, funding, and programs that support College Station's target industries and workforce initiatives develop.

4.2.7. **Industry Events.** Ensure College Station representation at Texas A&M events and conferences (e.g., the annual Texas Semiconductor Summit), as well as trade shows, site selector events, and industry association conferences that support target industries and economic development priorities.

- Tap into the Aggie 100 network of top business leaders and its events as a source of attraction leads.
- Host site selector and business attraction events to showcase College Station.

4.2.8. **Major Projects.** Pursue a Texas Triangle supply chain strategy to attract suppliers, service providers, and investment aligned with the City's targets that taps into expansions across the state.

- Develop relationships with Texas economic development organizations, especially the regional entities in the urban metros (Dallas Regional Chamber, the Greater Houston Partnership, Opportunity Austin, and San Antonio's greater:SATX Regional Economic Partnership) and emerging leaders attracting major target sector related investments.
- Ensure College Station's participation in statewide economic development conferences like YTexas, elevating the City's competitiveness.

4.3. Equip the City's Economic Development team with tools, resources, and structure to deliver results in implementation of the EDMP.

4.3.1. **Implementation Monitoring.** Maintain City Economic Development Committee meetings to support momentum, accountability, and transparency of the EDMP's implementation.

4.3.2. **Staffing Review.** Conduct an annual peer city benchmark study, which includes revenues, resource allocations, organizational structure, strategic goals, initiatives, and key performance indicators (KPIs) in peer university communities in Texas like Waco, Lubbock, and San Marcos. Target especially innovation communities outside of major urban metro areas in the US.

4.3.3. **Return on Investment.** Review the City's economic development related financial commitments periodically to external organizations to evaluate the return on investment in the context of the City's established metrics for tracking progress.

4.4. Bring awareness to the community about the City's economic development goals and the importance of specific topics, like redevelopment and innovation.

4.4.1. **Community Transparency.** Use existing City programming to share progress and engage stakeholders, businesses, and residents with the EDMP.

- Revamp the Business Over Breakfast series concept to explore opportunities to add value to implementation of the EDMP.

4.4.2. **Topical Awareness.** Educate the community about the activities, initiatives, and priorities of the economic development department, especially regarding land use, financial sustainability, and long-term economic growth.

- Encourage temporary uses and pop-up events on vacant or underutilized sites to test concepts and build momentum for district planning or redevelopment implementation.
- Host "Meet the Project" events to connect residents with redevelopment efforts (e.g., Midtown, Harvey Road Corridor Redevelopment Plan, and the Innovation District).

4.4.3. **Peer Learning.** Organize annual peer city tours for public and private sector leaders and stakeholders to participate in learning visits, which spotlight successful redevelopment, place-based, and innovation best practices.

Frisco, Texas | Frisco Talent Task Force

The Frisco Talent Task Force, a partnership initiated by the Frisco Economic Development Corporation, supports business attraction and retention in the local area. The partnership includes Workforce Solutions for North Central Texas, the local school district, Collin College, and the University of North Texas. Because the task force involves multiple education and workforce partners, each entity can help businesses understand how best to leverage each talent development resource appropriately. As a result, financial services company TIAA reported that local workforce partners significantly influenced its decision to expand in Frisco. The task force meets quarterly and has engaged 25 companies as of 2024.

Houston, Texas | Houston Spaceport

The Houston Spaceport, a federally licensed, urban, commercial spaceport at Ellington Airport, uses its Federal Aviation Administration designation to attract and grow commercial space and aerospace firms. Houston Spaceport is one of four existing spaceports located in Texas (not including the announced Central Texas Spaceport in Cedar Park), providing specialized infrastructure, which enables launch and landing capabilities for the space industry. Houston's spaceport offers proximity to NASA Johnson Space Center and integrated R&D, manufacturing, and training opportunities on a 400-acre campus. Aerospace companies like Axiom Space, Intuitive Machines, Venus Aerospace, and Collins Aerospace are co-located with cutting-edge research and education partners, as well as production, testing, and mission operations. The spaceport fosters a dense innovation cluster, whose companies have landed billions in contracts and created nearly 2,000 jobs in a decade. Financing tools related to the commercial space industry in Texas include the Space Exploration & Aeronautics Research Fund available through the Texas Space Commission and the Spaceport Trust Fund through the Texas Economic Development & Tourism Office.

Rochester, New York | CampusROC Talent Hub

The Greater Rochester Chamber launched CampusROC in 2020 as a regional branding initiative to position the greater Rochester region as both a top choice for college attendance and a desirable place for graduates to live and work. The program offers a one-stop hub (CampusROC.org) where students explore regional opportunities and employers access resources such as the Internship in a Box. This guide is designed to help resource-limited organizations establish meaningful internships that strengthen their employer brand, build diverse talent pipelines, and convert interns into full-time hires. By aligning employer needs, student ambitions, and regional asset promotion under a common platform, CampusROC helps the Chamber connect local businesses directly to emerging talent.

PLANNING CONTEXT

TIP's three-phase planning model—discovery, opportunity, implementation—guided the preparation of the EDMP. A review of prior plans, extensive stakeholder engagement, and a comprehensive quantitative analysis provided a solid foundation for the plan. Major insights (highlighted in Foundational Insights, beginning on page 3) formed the basis of an analysis of College Station's strengths, weaknesses, opportunities, and threats. Additional details on these tasks and a summary of the SWOT analysis are presented in this section.

BACKGROUND REVIEW

At the outset of the engagement, TIP reviewed existing economic development-related plans and studies for the City. This section summarizes the plans reviewed, demonstrating how this plan is informed by the goals and objectives previously identified by the City and its regional stakeholders.

TIP began by identifying preliminary strategic concepts during the discovery phase to guide the review. These draft strategic concepts (see Figure 5) represent recurring themes found throughout the reviewed plans and studies. An inventory signifying how each document contains recommendations or findings that align with these preliminary concepts is summarized in this section. These concepts were revisited during the development of the Strategic Action Plan and interwoven throughout the goal framework as specific topics of interest.

Figure 5. Alignment with Preliminary Strategic Concepts

LEGEND	
H	**HOUSING AFFORDABILITY** • Increase affordable and workforce housing options.
P	**PLACEMAKING** • Develop nonstudent serving areas of the city. • Create mixed-use and experiential developments through infill and densification. • Identify catalyst sites for development and redevelopment.
I	**INFRASTRUCTURE** • Equip infrastructure to support population growth and business development.
T	**TARGET INDUSTRIES AND BUSINESS ATTRACTION** • Prioritize target sectors aligned with College Station's competitive position for business attraction. • Become a regional hub for medical services and facilities.
E	**ENTREPRENEURIAL SUPPORT** • Provide mentorship, capital, and real estate to leverage a large, educated population. • Increase commercialization and entrepreneurship opportunities available to Texas A&M students.
L	**LOCAL IDENTITY** • Develop a local identity beyond Texas A&M.
C	**INSTITUTIONAL COORDINATION** • Cultivate partnerships between local businesses and students. • Grow early career opportunities.

Figure 6. Plan Alignment Summary
Overview and relationship to preliminary strategic concepts

PRIOR PLAN	RELATIONSHIP TO CONCEPTS
City of College Station *College Station Comprehensive Plan (2021)* A comprehensive plan serving as both a statement of the community's future vision and a guide for its future growth.	H P I T E L C
City of College Station *College Station Comprehensive Plan: Evaluation and Appraisal Report (2025)* A checkup on the comprehensive plan by identifying the plan's successes and shortcomings and recommending appropriate modifications in response to changing conditions.	H P I T E L C
City of College Station *Existing Conditions Report (2019–2023)* A report that is part of the periodic evaluation of the comprehensive plan. This report provides a snapshot of the current conditions that exist in College Station between 2019 and 2023.	H P I T E L C
City of College Station *Economic Development Master Plan (2020)* Details the City's competitive position, outlines strategic economic initiatives for five years, and proposes immediate economic development projects.	H P I T E L C
Texas A&M University *Texas A&M Strategic Plan 2020–2025* A near-term guide for the university's continued growth, centered around six broad priorities.	H P I T E L C
College Station City Council *City Council 2024 Strategic Plan* A framework for the City's annual budget process, paired with high-level goals, specific objectives, and detailed actions.	H P I T E L C
City of College Station *Greater Northgate Small Area Plan Engagement Report (2025)* Based on extensive stakeholder engagement, a plan reflecting the community's aspirations for the Greater Northgate area.	H P I T E L C
City of College Station *Northeast Gateway Redevelopment Plan (2023)* A strategy aimed at creating a cohesive, welcoming Northeast Gateway Redevelopment Area and supporting the growing population adjacent to Texas A&M.	H P I T E L C
City of College Station *Wellborn District Plan (2023)* A plan that aims to create a cohesive Wellborn District that reflects both its residents' vision for the community's future and its unique character.	H P I T E L C
City of College Station *Housing Action Plan (2024)* The plan builds on the City's comprehensive plan by identifying local trends, tools, and resources to support implementation of affordable housing strategies.	H P I T E L C
Greater Brazos Partnership *The Greater Brazos Region Report 2025* High-level economic and demographic snapshot of each of the five counties in the Greater Brazos Region—Brazos, Burleson, Grimes, Robertson, and Washington—along with a brief narrative.	H P I T E L C

Source(s): TIP Strategies, Inc.

ENGAGEMENT PROCESS

Input from community leaders across private, public, and nonprofit sectors is critical to the success of any visioning process, and over 140 participants contributed to this plan.[5] Community input is particularly important for the EDMP, as its priorities and associated responsibilities impact multiple organizations and chart a course for the City's economic prosperity. At the beginning of the strategic planning process, TIP worked with the City's Economic Development Department to design the approach to stakeholder engagement, which involved several methods (see Figure 7). Central to the stakeholder engagement process was a project steering committee and the City Council's Economic Development Committee, which were each convened at major milestones.

Figure 7. Engagement Process Overview

140+ COMMUNITY TOUCHPOINTS	85+ LEADERSHIP TOUCHPOINTS	65+ PARTICIPANTS IN ROUNDTABLES	20+ ORGANIZATIONS INTERVIEWED	3 SITE VISITS CONDUCTED
Connections made during EDMP project outreach.	Business Over Breakfast Event • City Council, Economic Development Committee, and Planning and Zoning Commission Updates • Steering Committee Meetings	Business Retention & Expansion • City Staff • Economic Sustainability • Education & Workforce • Entrepreneurship & Innovation • Infrastructure & Real Estate Development	In-depth conversations with leaders in local government, higher education, entrepreneurship, and business.	In-person consultant trips, including site visits to potential and emerging development sites, commercial areas, and quality-of-place amenities.

Source(s): TIP Strategies, Inc.

[5] TIP's tally of community touchpoints includes the total number of roundtable and interview participants and an estimate of the June 2025 Business Over Breakfast event attendees. The tally is a general figure, focused on the number of unique participants, as several residents provided input at multiple touchpoints during the project.

SWOT ANALYSIS

During the project's initial phase, the consulting team gathered qualitative input from local and regional stakeholders concerning economic development issues. In addition, TIP conducted quantitative data analyses to understand College Station's competitive position in the region. The results of these efforts informed the following SWOT analysis. Findings from the analysis are summarized in Figure 8.

Figure 8. Summary of SWOT Analysis for College Station, Texas

Strengths
Assets and resources to build on

- Texas A&M
- Location within Texas Triangle
- Proximity to major metros
- Regional hub for retail and amenities
- Sense of community
- Lower cost of living compared with nation
- Appeal to families
- Texas A&M venture funds
- Blinn College, small business certification and technical training
- City parks
- Tourism assets
- Aggie network

Weaknesses
Potential limits to economic growth

- Large transient student population
- Limited attraction and retention for early career professionals
- Few starter commercial properties for entrepreneurs
- Housing affordability
- Overreliance on Texas A&M for employment and local identity
- Lack of traditional downtown experience
- Limited local transit outside of Texas A&M
- Office and industrial availability
- Comparatively low wages

Opportunities
Competitive advantages, positive trends

- Develop nonstudent serving areas of the city
- Infill and densification, mixed-use and experiential developments
- Increase private sector diversification
- Connect workers to development/mentorship opportunities
- Invest in work-based learning, career, and technical education (CTE)
- Connect job seekers to local resources
- Leverage large pool of potential entrepreneurs
- Proximity to research, testing, and production resources (NCTM, Semiconductor Institute, Texas A&M—RELLIS campus)
- Texas A&M enrollment growth pause
- Develop a local identity beyond Texas A&M
- Become regional hub for medical services

Threats
Unfavorable factors, trends (often external)

- Housing affordability
- Perception of Bryan as more business friendly
- Losing workers, residents to emerging Houston-area suburbs
- Infrastructure networks struggling to support growth
- Silos between organizations
- Inadequate medical services for growing population
- Shrinking greenfield opportunities
- Lack of employment opportunities for young professionals
- Impact of federal funding cuts on R&D opportunities
- Concerns about growth and change, balance with sense of community

Source(s): TIP Strategies, Inc.

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February 26, 2026
Item No. 10.2.
Baseball and Softball Complex

Sponsor: Michael Ostrowski, Chief Development Officer

Reviewed By CBC: N/A

Agenda Caption: Presentation, discussion, and possible action on a Letter of Intent with The Station Baseball, LLC relating to a baseball and softball complex in the Midtown Business Park.

Relationship to Strategic Goals:

- Financial Sustainability
- Core Services & Infrastructure
- Diverse & Growing Economy

Recommendation(s): Staff recommends acceptance of the LOI as a framework for negotiations and authorization to proceed with drafting a formal Economic Development Agreement consistent with the terms outlined herein.

Summary: The City of College Station has been exploring opportunities to expand its sports tourism and recreational offerings to enhance economic development and community amenities. The proposed Baseball & Softball Complex project represents a significant step toward achieving these goals.

The concept involves a partnership with The Station Baseball, LLC (Developer) to create a Sports Resort Park that would include a state-of-the-art Baseball & Softball Complex and complementary hospitality amenities. The Baseball & Softball Complex would feature nine synthetic turf fields, including a championship-level field, designed to host tournaments as well as Brazos Valley Bombers home games. The hospitality component would include cabins, RV spaces, and recreational amenities to support visitors and tournament participants.

Based on the number of tournaments projected, this project could generate substantial economic benefits, including increased tourism, hotel occupancy, and local spending. Preliminary estimates suggest an annual economic impact of approximately $28 million, driven primarily by tournament activity and visitor spending.

The proposed LOI serves as a framework for negotiations and outlines key terms for a future Chapter 380 Economic Development Agreement. It is important to note that the LOI is non-binding and does not obligate the City or the Developer to proceed until a formal agreement is approved. The LOI provides a basis for evaluating feasibility, defining roles and responsibilities, and establishing performance measures to ensure public benefit.

If approved, the LOI would initiate a process where the Developer submits detailed documentation, including a business plan, financial statements, and an independent market study. This information will allow the City to assess the viability of the project before committing to any formal agreement.

Key Proposed Terms:

Land Incentives

- 63-acre lease for Baseball & Softball Complex Site; option for 10-year extension if performance metrics are met.
- 30-acre sale for hospitality amenities at $20,000 per acre.

City Financial Incentives

- Up to $20 million reimbursement for public-purpose improvements (fields, infrastructure, utilities).
- 10-year property tax abatement for Baseball & Softball Complex improvements only.
- Clawbacks for non-performance; no City funds for hospitality site.
- City responsible for off-site utilities and roadway improvements.

Developer Commitments

- Raise $10–$20 million in equity and secure financing for $35–$50 million total project cost.
- Responsible for cost overruns, operations, maintenance, and long-term capital replacements.
- Maintain a 12-month debt service reserve and ensure no more than $30 million debt on the Baseball & Softball Complex Site.

Public Access & Community Benefits

- Public access Monday-Friday during evening hours at rates comparable to City facilities.
- City access on available weekends; Developer to provide a 6-12 month rolling calendar of events.
- Construction of public trails, noise buffering, and dark-sky lighting standards.
- Brazos Valley Bombers granted access to Championship Field for home games under a separate use agreement.

Economic Impact

- Developer to host approximately 30 tournaments annually within 3 years.
- Estimated economic impact: $28 million annually (subject to market conditions).
- Tournament hotel stays required within College Station city limits.

Operations & Facility Management

- Developer responsible for all daily operations, staffing, and maintenance.
- Developer to prioritize tournament programming and maintain high facility standards.
- City retains inspection rights to ensure compliance with maintenance requirements.

Capital Responsibility

- Developer responsible to maintain a capital reserve fund.
- City may contribute to future improvements at its discretion, subject to performance metrics.

Next Steps

- Council consideration of LOI approval as a framework for negotiations.
- Developer to submit required documentation (business plan, financials, etc.) within 30 days.
- Developer to submit required market study (approximately 90 days).
- City to evaluate feasibility and negotiate definitive agreements, including a Chapter 380 Economic Development Agreement.

Budget & Financial Summary: While no funds are expended as part of this Letter of Intent, if the City does move forward with the project as stated, the financial impact would be as follows: $20 million cash incentive, land incentives, and infrastructure construction to service the site and surrounding property.

Attachments:

1. LOI - Baseball and Softball Complex

BASEBALL AND SOFTBALL COMPLEX LETTER OF INTENT

This Letter of Intent ("LOI") is entered into, by and between **The Station Baseball, LLC** ("Developer") and the **City of College Station** ("City"), collectively referred to as the "Parties."

1. Purpose.

a. This LOI's purpose is to outline the Parties' desire to negotiate in good faith a future agreement for the Developer to design, construct, manage, and operate a Sports Resort Park, which includes:

i. Baseball and Softball Complex Site including baseball and softball aspects with a minimum of nine (9) fully synthetic turf fields, including one (1) championship level field, on a portion of leased land, and

ii. Hospitality and Amenities Site including amenities, hospitality accommodations, pool, trails, field house and training facility on a portion of land to be owned by the Developer.

b. The future agreements must identify the economic benefits to the City, including recreational activities for the public and for the hosting of baseball and softball tournaments benefiting the health and welfare of the residents and promoting economic growth, and must detail the partnership structure, land terms, ownership and maintenance, funding and incentives, public access and community benefits, operations and facility management, long-term capital responsibility, and project name and branding.

Developer shall furnish comprehensive documentation, as specified in **Attachment A**, including but not limited to its business plan, pro forma financial statements, relevant experience, and any additional information reasonably requested by the City for the purpose of evaluating the viability of the proposed project. **Such documentation shall be delivered to the City within thirty (30) days following the execution of this Letter of Intent, to enable the City to make a determination regarding the feasibility of the project.**

Before the City's determination of feasibility, the Developer shall provide to the City, an independent third-party market study to validate the assumptions used in the proforma and to determine project feasibility. It is anticipated that the market study will be completed in approximately ninety (90) days following the execution of this LOI.

2. **Economic Development Agreement.**

   a. **Economic Development Agreement:** Partnership would be formalized through a Chapter 380 Economic Development Agreement that primarily promotes a public purpose relating to economic development by attracting visitors and promoting tourism to the City. The agreement must include provisions that grants the City sufficient legal control over the leased Baseball and Softball Complex Site to ensure the public purpose is accomplished and the City receives the intended return public benefit. Through the agreement, the City would lease the Baseball and Softball Complex Site and convey the Hospitality & Amenities Site, which shall be owned and controlled by the Developer, subject to the economic development terms of the Chapter 380 Agreement to ensure the public purpose is accomplished and the City receives the return public benefit.

   b. **Land Incentives.**

      i. **Total Acreage:** 96 acres.

      ii. **Sports Resort Park:** The Sports Resort Park is comprised of the (i) Baseball and Softball Complex Site and (ii) Hospitality and Amenities Site as described herein.

      iii. **Baseball and Softball Complex Site**: 63 acres leased to Developer at a nominal rate for the Baseball and Softball Complex Site and public amenities for a period not to exceed 50 years. All improvements on the site shall revert to City ownership at the end of the lease. The Developer shall have the option to extend the ground lease for an additional ten (10)-year term with additional consideration, provided the Developer is not in material default and has met the economic and operational performance parameters established in the definitive agreement, which shall be objective, measurable, and commercially reasonable.

      iv. **Hospitality and Amenities Site:** 30 acres at a price of $20,000 per acre for cabins, RVs, and other customary hospitality, lodging, food and beverage, recreational, entertainment, and ancillary commercial uses that support or complement the Baseball and Softball Complex Site, which must provide the City the intended return public benefit.

   c. **City Financial Incentives.**

      i. The City shall commit up to $20 million cash on a reimbursement basis for baseball and softball complex improvements, infrastructure, onsite utilities and roadway improvements, and public amenities supporting the Baseball and Softball Complex Site only. Reimbursement of these funds will only occur after completion of project milestones furthering a public purpose as outlined in the Economic Development Agreement. The Economic Development Agreement will not violate the Texas Constitution or Texas Law. City Financial Incentives must be spent on and tied to uses that serve a public purpose, and under no circumstances shall City Financial Incentives be applied to any expenses associated with the Hospitality and Amenities

Site. Claw backs to protect the City's cash and land incentives will be established to address terms that are not met or breached by the Developer.

ii. **The City's commitment of $20 million as described in this LOI is a cash only commitment furthering a public purpose. The City will not agree to incur any debt towards this project or extend its credit in violation of the Texas Constitution or Texas Law.**

iii. The City shall be responsible for providing or funding off-site utility extensions and roadway improvements necessary to provide access to and serve the project site.

iv. **Such City commitment is on a reimbursement basis only, after completion of public purposes that further the specific performance measures, milestones and sufficient claw backs if terms are not met or breached.**

v. The City shall provide up to a 100% ten-year City property tax abatement for the Baseball and Softball Complex Site improvements only. No tax abatement shall apply to the Hospitality and Amenities Site. To qualify for the abatement, the property must be a qualifying property under the Texas Tax Code, the Developer must meet the specific description of the improvements to be made as determined later, limits on property uses consistent with encouraging development, and provisions for recapturing property tax revenue if the Developer fails to make required improvements and the specific performance requirements outlined in the future Development Agreement and as further detailed in Section 5.b. The Developer will also be required to submit quarterly reports to certify compliance. Failure to meet these performance requirements will result in a proportional reduction in the tax abatement, equal to the percentage of unmet performance obligations.

vi. Developer shall ensure no more than $30 million of debt shall be allocated to the Baseball and Softball Complex Site and any improvements on such site. In no case shall Developer have the right to mortgage the leased land.

vii. The City may participate in, but is not committed to, and subject to future agreements, budget availability, and legal authority, funding certain future long-term capital replacements, including field and turf replacement, associated solely with the leased facilities and not with any Developer-owned hospitality or amenities sites. The Parties anticipate that the allocation of responsibility for future capital replacements or improvements may be addressed in greater detail in the definitive agreements based on project performance, public use, and available funding, recognizing that the leased baseball and softball facilities are intended to remain open for public use throughout the life of the project.

viii. The commitments in this section are non-binding and while the City intends to negotiate in good-faith, the financial commitments remain subject to negotiation of final agreements and the legislative discretion of the City Council.

3. Developer Funding & Capital Structure.

a. Developer to raise approximately $10-20 million in private equity, including partnerships and investor capital plus commercial lending to achieve approximately $35-50 million in requisite funding. Developer shall obtain all private financing commitments within sixty (60) days after reaching a general agreement on the terms of a draft Economic Development Agreement.

b. Developer to be solely responsible for cost overruns not covered by City-funded items.

c. Developer responsible for all operations, maintenance, and ongoing management of the Sports Resort Park.

d. Developer to maintain a minimum of 12-months debt service payments in a separate account for the Baseball and Softball Complex Site.

e. To protect public funds, any City's leasehold interests and property interests associated with the project shall not be subordinate to third-party liens or security interests.

4. Public Access & Community Benefits.

a. Developer to provide public access to the Baseball and Softball Complex Site Monday–Friday during designated hours at rates that do not exceed those at comparable City facilities and agreed to by the City Council. Developer cannot restrict users, unless agreed to by the City.

b. Developer to provide the City access to the Baseball and Softball Complex Site on weekends when the Baseball and Softball Complex Site is not being used by Developer. Developer shall provide City with a 6-12 month rolling calendar detailing the weekends with planned events or tournaments, so the City has at least sufficient notice for which weekends are available.

c. Developer shall, to the extent reasonably feasible and consistent with the approved project design, build and maintain public trails, down-lighting, noise-buffering landscaping, and community-benefit improvements to integrate, protect and safeguard the surrounding area and neighborhoods from noise and lighting from the Sports Resort Park.

d. Developer to maintain limited noise pollution standards, environmental buffers, and dark-sky-friendly lighting.

e. Developer to construct additional trails to connect to the existing City trail network (final distance to be determined).

5. Brazos Valley Bombers Use of Championship Field.

a. As part of the City's support for the project, Developer shall provide the Brazos Valley Bombers with access to the Championship Field and related amenities for the purpose of hosting their regularly scheduled home games pursuant to mutually agreed dates, times, and operating terms established in advance.

b. The general terms of a use agreement governing such access shall be incorporated into a use agreement and/or Lease Agreement. The use agreement may be structured as a tri-party agreement among the City, Developer, and Brazos Valley Bombers, or as a separate agreement between the Developer and Brazos Valley Bombers.

c. Any Bombers use shall be subject to the overall tournament and event calendar, reasonable facility availability, and customary downtime for maintenance and repairs. While Developer will prioritize the Bombers' use of the Championship Field during their regular season home games, the Bombers shall have no exclusive rights to the Sports Resort Park, and Developer shall retain the right to schedule other tournaments, events, and permitted uses of the facilities.

6. Baseball and Softball Complex Site Design.

a. The Parties shall collaborate on the general design of the Baseball and Softball Complex Site, generally consistent with the concept shown in **Attachment B**, as may be updated in the future Economic Development Agreement.

b. City approval shall be required for all major improvements to the Baseball and Softball Complex Site, and such approval shall not be unreasonably withheld. Major improvements include, but are not limited to, fields, buildings, parking areas, access drives, and other comparable improvements.

7. Operations & Facility Management.

a. Developer is responsible for all daily operations, including maintenance and any repairs, staffing, utilities, programming, scheduling, safety, and security related to the Sports Resort Park.

b. Developer shall use commercially reasonable efforts to secure and program tournament play at the Sports Resort Park, recognizing that tournament activity is a primary revenue driver for the project. Developer intends to prioritize hosting tournaments and, within three (3) years of operation, to target approximately thirty (30) tournaments per year hosted by reputable tournament directors or organizations. The Parties acknowledge and expect that the project will generate significant economic benefits for the City and surrounding area. The City has estimated that such economic impact could be up to approximately $28 million annually; however, the Parties acknowledge that actual results may vary based on market conditions and other factors outside the Developer's control. Specific performance requirements will be included in the forthcoming Development Agreement. Developer

shall require all tournament hotel room blocks or stays to be at hotels located in the city limits of College Station.

8. Long-Term Capital Responsibility.

a. Developer is responsible for all long-term capital replacements for the Sports Resort Park, including turf field replacement every 6–8 years. The Parties acknowledge that the Sports Resort Park located on the leased premises serve a public purpose, and the City may through an Economic Development Agreement if specific performance measures are met contribute to future improvement costs. The City retains sole discretion in deciding to financially participate in future capital replacements or improvements. If no City funding is provided, the Developer will bear full responsibility for all long-term capital replacements.

b. Developer shall keep the Baseball and Softball Complex in a well-maintained condition. The Baseball and Softball Complex will be subject to inspection by the City to make sure this condition is met.

c. Developer shall establish and thereafter maintain a capital replacement reserve program specifically for the capital replacement and improvement items for the baseball and softball fields (the "Field Capital Replacement Account"). Such reserve may be funded through cash reserves, a line of credit, or other commercially reasonable sources of capital, and shall remain under Developer's control. The funding level of the Field Capital Replacement Account shall be determined in good faith based on commercially reasonable life-cycle assumptions and anticipated timing. The specific funding amounts and timing shall be further identified in the forthcoming agreements.

9. Project Name & Branding.

a. Project Name and Branding: City and Developer shall jointly agree to a name for the Baseball and Softball Complex, as well as the general branding. Developer shall have naming rights for the individual fields. The Sports Resort Park name must include "College Station" into the name as to serve as national recognition. In no evert shall any name go against the City's interest or the mission statement of the City.

b. Sponsorship Revenue: Developer shall retain all sponsorship revenue associated with the Sports Resort Park, unless otherwise agreed in writing. Any sponsorship rights or revenue sharing related solely to the Bombers' home-game use of the Championship Field shall be addressed in a separate written agreement with the Bombers, and shall not extend to other tournaments, events, or park-wide sponsorships.

10. Texas Public Information Act. City and Developer acknowledge and agree that the City is subject to the Texas Public Information Act, Texas Government Code, Chapter 552, as hereafter amended, and the Texas Open Meetings Act, Texas Government Code, Chapter 551, as hereafter amended and City shall comply with both Acts. Any release of any information, pursuant to any law including the Texas Public Information Act or the Texas Open Meetings

Act, shared under this LOI or future agreements whether confidential or not, for the avoidance of doubt is not a breach of this LOI or future agreements. Any documents or records requested by a third party and ordered to be released by the Texas Attorney General under applicable provisions of the Texas Public Information Act after submittal by the City to the Texas Attorney General for an opinion on disclosure, will not be considered a breach of this LOI or future agreements by the City; provided, however, the City will, to the extent legally permissible, notify the Developer in writing of such potential disclosure to enable the Developer to seek at their cost submit a brief to the Attorney General, a protective order or otherwise prevent or limit such disclosure.

11. **Negotiations.** The Parties agree to negotiate in good faith toward a definitive future agreement, using the terms outlined herein as the foundation for further discussions. While this LOI is not legally binding, it reflects a formal commitment to advancing negotiations.

12. **Expiration & Governing Law.** This LOI shall remain in effect until a formal agreement is approved or until terminated in writing by either Party. This LOI shall be governed by the laws of the State of Texas.

ADOPTED this 26th day of February, 2026.

ATTEST: **APPROVED:**

_____ _____

City Secretary **Mayor**

The undersigned affirms that they are duly authorized to execute this Letter of Intent on behalf of the Developer and that information provided by the Developer is true and correct.

Signed By: _____ Date:_____

Typed Name: Thomas Rodgers Jr

Title: Representative of South 7's LLC

Company Name: The Station Baseball, LLC

Phone No.: 979-492-5472

Email: thestationbaseball@gmail.com

Address: 4346 Alexis Court, College Station, TX 77845

Federal Tax ID No.: 41-4345000

Attachment A: Required Information

Exhibit A – Introduction/Key Personnel

1. Developer's years in business with a description of Developer's and any partners the Developer may have, including the firm including size, legal name of the entity, location(s), number and nature of the professional staff to be assigned to undertake the Sports Resort Park with a brief resume for each key person and partner.

Exhibit B – Experience

1. Description of experience of the Developer undertaking the Sports Resort Park of similar size and scope.

Exhibit C –Project

1. A narrative description including a pro forma, estimated expenses and funding, of the Developer's business plan for Sports Resort Park, including timeline, estimated value of development, and any other particular components.
2. Clearly distinguish the Developer's duties and responsibilities and those of the City.
3. A site plan or rendering of the proposed Sports Resort Park.

Exhibit D – Financials

1. Explanation of proposed financing sources to complete the Sports Resort Park including official and binding letters of financial stability of the Developer from a reputable financial institution stating that the Sports Resort Park is viable.

Exhibit E – References

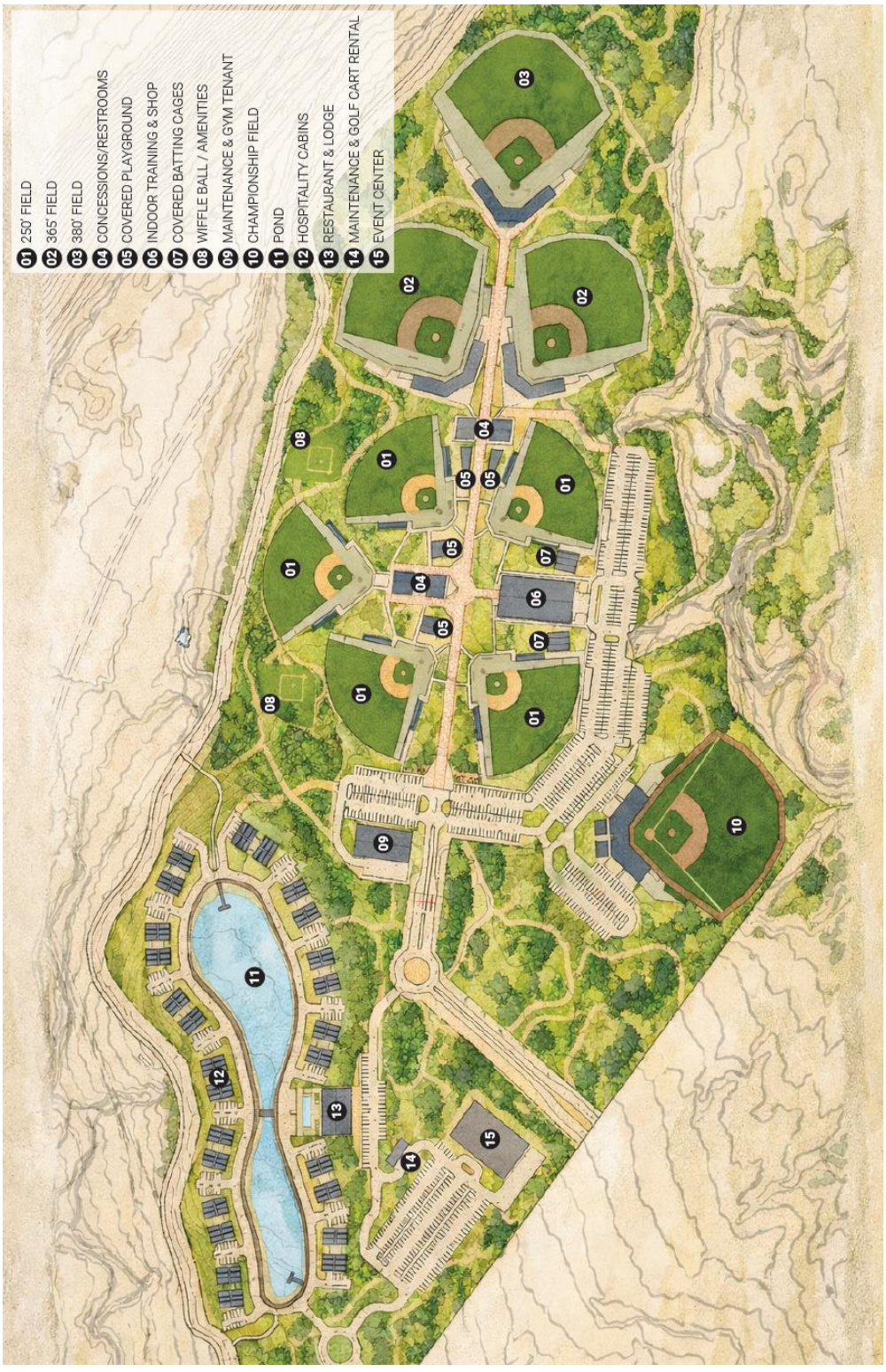
1. Reference list, including at least three (3) applicable references for the Developer and any partners. Include name, title and contact information for each reference, as well as a brief description of the specific services provided.

Exhibit F – Conflicts and Disclosures

1. The Developer and any partners must disclose any direct or indirect business interest they or any partners have with the City.
2. The Developer and any partners must disclose any legal or perceived conflicts they or any partners may have with the City.
3. The Developer and any partners must disclose the nature, details and outcome of any litigation or claims they are involved with within the last 10 years, including any claims with the City.

Attachment B: Baseball and Softball Complex Site Concept

For preliminary Letter of Intent purposes only; subject to modification and final approval under the terms of the forthcoming Economic Development Agreement



February 26, 2026
Item No. 10.3.
Major Tourism Events

Sponsor: Bryan Woods, City Manager

Reviewed By CBC: N/A

Agenda Caption: Presentation, discussion, and possible action on a resolution authorizing the City Manager to approve expenditures over $100,000 for major tourism events that will stimulate the local economy.

Relationship to Strategic Goals:
Diverse & Growing Economy

Recommendation(s): Staff recommends the City Council have discussion on this item and provide direction.

Summary: The current expenditure authorization allows the City Manager to approve expenditures of $100,000 or less. While this limit has generally been sufficient for most tourism-related activities, large-scale events often require commitments that exceed this threshold. These events are critical for promoting tourism and driving economic development within the city. Some opportunities for major tourism events require rapid responses to secure participation or hosting rights, and the existing $100,000 cap can delay decision-making because additional approvals are needed for higher amounts. This delay may result in missed opportunities for the city to attract events that generate significant economic impact. Authorizing the City Manager to approve expenditures exceeding $100,000 for large-scale tourism events when quick turnaround is necessary will provide the flexibility needed to remain competitive and responsive. This authority would only be exercised when time is of the essence, and any agreements entered into under this authorization would still be presented to the City Council for ratification. Expenditures will be funded through the Hotel Occupancy Tax Fund, and any commitments will be evaluated for return on investment and alignment with city goals.

Budget & Financial Summary:

Attachments:
None

February 26, 2026
Item No. 10.4.
Zoning Board of Adjustments Board Chair Appointment

Sponsor: Tanya Smith, City Secretary

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding the appointment of a Zoning Board of Adjustments Board Chair.

Relationship to Strategic Goals:

- Good Governance

Recommendation(s): None

Summary: The item under consideration is to fill the vacant seat of Chair with another member of the Zoning Board of Adjustments. This position became available following the resignation of James Hutchins due to unforeseen circumstances.

Budget & Financial Summary: None

Attachments:
None

February 26, 2026
Item No. 11.1.
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 February 27th thru March 26th:

February 27 - Economic Development Master Plan Implementation Workshop
February 28 - Junior Achievement of the Brazos Valley 12th Annual Trivia Bowl
February 28 - Mexican Border Service Statue Dedication
March 2 - Historic Preservation Committee Meeting
March 3 - Council Legislative Engagement Committee Meeting
March 3 - Zoning Board of Adjustments Meeting
March 4-6 - 2026 TML Midyear Conference
March 4 - Legislative Affairs Committee Meeting
March 4 - Tourism Committee Meeting
March 5 - Planning & Zoning Commission Meeting
March 9 - Bicycle, Pedestrian & Greenways Meeting
March 11 - Food Truck Wednesday
March 12 - Rock Prairie Management District No. 2
March 13 - Design Review Board Meeting
March 16 - Interlocal Government Committee Meeting
March 17 - Council Transportation & Mobility Committee
March 18 - Exploring History Luncheon
March 19 - Brazos County Board of Health Board Meeting
March 19 - Planning & Zoning Commission Meeting
March 19 - Chamber’s 28th Annual Crawfish Boil
March 23 - Audit Committee Meeting
March 24 - Council Budget and Finance Committee Meeting
March 24 - Ribbon Cutting - Unlimited Potential

March 25 - Housing Plan Advisory Committee Meeting
March 25 - Food Truck Wednesday
March 26 - Chamber Day 2026
March 26 - City Council Meeting Day

Budget & Financial Summary: None.

Attachments:
None

February 26, 2026
Item No. 12.1.
Council Reports on Committees, Boards, and Commissions

Sponsor: City Council

Reviewed By CBC: City Council

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

Relationship to Strategic Goals:
Good Governance

Recommendation(s): Review meetings attended.

Summary: Aggieland Humane Society, The Art Center of Brazos Valley, Architectural Advisory Committee, Audit Committee, Bicycle, Pedestrian, and Greenways Advisory Board, Bio-Corridor Board of Adjustments, Brazos County Health Dept., Brazos Valley Council of Governments, Brazos Transit District, Brazos Valley Economic Development Corporation, Brazos Valley Council of Gov't Board of Directors, Bryan/College Station Chamber of Commerce, Budget and Finance Committee, BVSWMA, BVWACS, CDBG Public Service Agency Funding Review Committee, Census Committee Group, Compensation and Benefits Committee, Comprehensive Plan Evaluation Committee, Construction Board of Adjustments & Building and Construction Standards Commission, Design Review Board, Economic Development Committee, Gulf Coast Strategic Highway Coalition, Historic Preservation Committee, Housing Plan Advisory Committee, Intergovernmental Local Committee, Keep Brazos Beautiful, Legislative Engagement Committee, 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, Tourism Committee, YMCA, Zoning Board of Adjustments. (Notice of Agendas posted on City Hall bulletin board.)

Budget & Financial Summary: None.

Attachments:
None