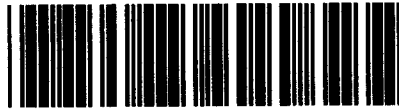




Control Number: 44069



Item Number: 57

Addendum StartPage: 0

House Bill (HB) 1600 and Senate Bill (SB) 567 83<sup>rd</sup>  
Legislature, Regular Session, transferred the functions  
relating to the economic regulation of water and sewer  
utilities from the TCEQ to the PUC effective  
September 1, 2014

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2015 JAN -7 AM 9:37

**SETTLEMENT AGREEMENT**PUBLIC UTILITY COMMISSION  
FILING CLERK

This Settlement Agreement (the "Agreement") is made and entered into by and between the City of College Station, Texas ("College Station") and Stella H. Wilkes ("Wilkes") for the purposes and consideration set forth herein. College Station and Wilkes are sometimes together referred to herein as the "Parties" and each a "Party."

**RECITALS**

WHEREAS, College Station is a home rule city, a municipal corporation organized and operating in accordance with the laws of the State of Texas; and

WHEREAS, Wilkes owns certain property (the "Wilkes Property"), which property is more fully shown in the attached Exhibit "A"; and

WHEREAS, College Station filed with the Texas Commission on Environmental Quality (TCEQ) an application to amend Certificate of Convenience and Necessity No. 20126 ("CCN No. 20126") ("College Station Application"), which College Station Application is pending; and

WHEREAS, Wilkes filed with the TCEQ a protest to the approval of the College Station Application; and

WHEREAS, the College Station Application has been docketed with the TCEQ and the State Office of Administrative Hearings as TCEQ Docket No. 2005-2092-UCR and SOAH Docket No. 582-06-1697 ("Contested Docket"), respectively; and

WHEREAS, College Station and Wilkes mutually desire to resolve the dispute between them regarding the College Station Application; and

WHEREAS, College Station and Wilkes mutually desire to enter into this Agreement setting forth the terms and conditions pursuant to which College Station will exclude the Wilkes Property, as well as the property of other landowners who have requested to be excluded and who are listed in Exhibit A (the "Other Property Owners") from the College Station Application and Wilkes will withdraw her protest and request for hearing.

NOW, THEREFORE, in consideration of the promises, mutual agreements, and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in settlement of disputed claims, College Station and Wilkes hereby agree as follows:

**I.****Settlement of TCEQ Dispute**

1.1 Within ten (10) business days after the Parties approve this Agreement, College Station will file an amendment to the College Station Application to exclude the Wilkes Property and the property of the Other Property Owners (collectively referred to as "Excluded

Properties") from the College Station Application, such Excluded Properties being identified on the map, photograph, or drawing attached as Exhibit "A". After approval of this Agreement, College Station will not amend the College Station Application to include the Excluded Properties.

1.2 Within five (5) business days after Wilkes receives notice from College Station that it has amended the College Station Application in the manner described in paragraph 1.1 above, Wilkes will file a motion withdrawing her hearing request and protest of College Station's Application, and requesting the Administrative Law Judge dismiss Wilkes as a Party in the Contested Docket. A copy of the Motion to Withdraw is attached as Exhibit B. After approval of this Agreement, Wilkes will not take any action, directly or indirectly, protesting the College Station Application, except as provided in paragraph 2.2.

## **II.**

### **Term and Termination of Agreement**

2.1 Unless otherwise terminated pursuant to the provisions hereof, this Agreement shall remain in full force and effect until such time as the Commissioners or Executive Director of the TCEQ issues a final order on the College Station Application that does not include the Excluded Properties within College Station's wastewater service area (TCEQ Order).

2.2 Notwithstanding anything in this Agreement to the contrary, in the event that the TCEQ Order is not entered, this Agreement shall automatically terminate and be of no further force and effect. In such case, Wilkes may renew her protest.

2.3 This Agreement may otherwise be terminated only upon written consent of Wilkes and College Station.

## **III.**

### **Miscellaneous**

3.1 No agreements, other than this Agreement, now exist or have ever existed between College Station and Wilkes concerning the subject matter of this Agreement.

3.2 This Agreement shall be binding on College Station and Wilkes and shall be binding on and inure to the benefit of the successors and assigns of the respective Parties to this Agreement. Wilkes is not an agent or representative of the Other Property Owners who have each received letters acknowledging their request to be excluded and thus does not purport to act on behalf of these other property owners as shown in Exhibit A.

3.3 This Agreement is the entire agreement between the parties hereto with respect to the subject matter hereof. No modifications of this Agreement shall be of any force and effect whatsoever, except as by subsequent modification in writing signed by the Parties.

3.4 Any notice required or permitted to be given under this Agreement by one Party to the other shall be in writing and the same shall be deemed to have been served and given if (i)

delivered in person to the address set forth below for the Party to whom the notice is given or (ii) placed in the United States mail by certified mail, postage prepaid and return receipt requested, addressed to the party to whom the notice is given at the address set forth below. Notice shall be effective upon receipt. In the case of the notice required in Paragraph 1.2 College Station shall attach a copy of the amended College Station Application to TCEQ.

The address for the City of College Station for all purposes under this Agreement and for all notices herein shall be:

City of College Station  
P.O. Box 9960  
College Station, Texas 77842  
Attn: City Manager

The address for Wilkes for all purposes under this Agreement and for all notices herein shall be:

Stella H. Wilkes  
9552 River Road  
College Station, TX 77845

From time to time, any Party may designate another address within the United States for all purposes of this Agreement by giving the other Party not less than ten (10) calendar days advance notice of such change of address in accordance with the provisions hereof.

3.5 The section and paragraph headings contained in this Agreement are for reference purposes only and do not affect in any way the meanings or interpretations of this Agreement.

3.6 This Agreement is performable in Brazos County, Texas. Any action at law or in equity brought to enforce any provision of this Agreement shall be brought in a court of competent jurisdiction with venue in Brazos County, Texas.

3.7 In the event of a default hereunder by any Party, any other Party shall be entitled to seek damages, specific performance, injunctive relief, or any other remedy to which it might be entitled in law or at equity.

3.8 Whenever the context requires, the gender of all words herein shall include the masculine, feminine and neuter, and the number of all words shall include the singular and the plural.

3.9 If any provision in this Agreement shall for any reason be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein and in lieu thereof shall be substituted a new provision that is as near to the intent of the Parties without being invalid, illegal or unenforceable.

3.10 The Parties hereto covenant and agree that they shall execute and deliver such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out the intent of this Agreement.

3.11 This Agreement may be executed in multiple originals, either copy of which shall be considered to be an original.

3.12 This Agreement shall be effective on the date of execution below.

3.13 The persons executing this Agreement covenant that they are fully authorized to sign under the name and in the capacity in which they sign.

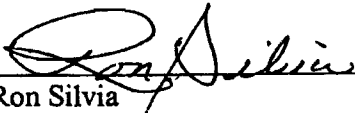
3.14 The Parties agree that nothing in this Agreement shall create any third-party beneficiary rights for any person.

3.15 In the event of any suit between College Station and Wilkes to enforce or interpret the terms of this Agreement or any suit concerning the subject matter of this Agreement, then the prevailing Party shall recover its reasonable attorney's fees, expert witness fees, and all other costs and expenses incurred in resolving the suit from the non-prevailing Party.

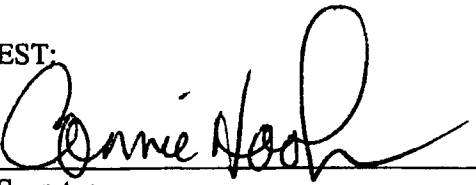
3.16 Time is of the essence in the performance of the terms of this Agreement.

EXECUTED, EFFECTIVE, AND AGREED TO by the parties hereto on the last date of execution by College Station and \_\_\_\_\_.

CITY OF COLLEGE STATION, TEXAS


By:   
Name: Ron Silvia  
Title: Mayor  
Date: 11-1-06

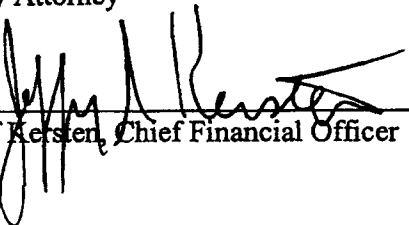
ATTEST:

  
City Secretary

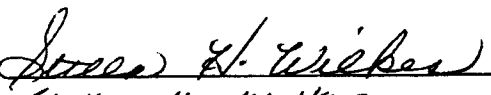
APPROVED:

  
Glenn Brown, City Manager

  
City Attorney

  
Jeff Kersten, Chief Financial Officer

STELLA H. WILKES

By:   
Name: Stella H. Wilkes  
Title: Property Owner/Party  
Date: September 27, 2006

**EXHIBIT "A"**

**Map is attached**

EXCLUDED PROPERTY OWNERS

1. ANTHONY MARK & CHARLA
2. ANTHONY MARK & CHARLA
3. BAUR PAUL SCOTT JR
4. BECK JOHN V & ELISE L
5. BECK JOHN V & ELISE L
6. BECK JOHN V & ELISE L
7. BRUFFET OSCAR JAMES & MARINDA JO
8. BRUFFET OSCAR JAMES & MARINDA JO
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44. BRUFFET OSCAR JAMES & MARINDA JO
45. BRUFFET OSCAR JAMES & MARINDA JO

6 September 2006

City of College Station ETJ  
City of College Station City Limits

Proposed College Station  
Wastewater CCN Addition

College Station CCN 20126

College Station, Texas 77842





**Exhibit B**

**SOAH DOCKET NO. 582-06-1697  
TCEQ DOCKET NO. 2005-2092-UCR**

**APPLICATION OF THE CITY OF § BEFORE THE STATE OFFICE  
COLLEGE STATION TO AMEND §  
CERTIFICATE OF CONVENIENCE § OF  
AND NECESSITY NO. 20126  
IN BRAZOS COUNTY, TEXAS § ADMINISTRATIVE HEARINGS**

**WITHDRAWAL OF PROTEST**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:

Stella H. Wilkes files this Withdrawal of Protest of the City of College Station's ("College Station") application to amend its sewer Certificate of Convenience and Necessity ("CCN") and in support thereof shows the following:

**BACKGROUND AND FACTS**

Stella H. Wilkes and College Station have entered into a settlement agreement under which College Station has amended its CCN application to delete from its application the property of Stella Wilkes, as well as other property owners requested to be deleted identified in Exhibit A.

**WITHDRAWAL OF PROTEST**

Stella Wilkes withdraws her protest of College Station's application and requests to be dismissed as a party to this proceeding.

Respectfully submitted,

STELLA H. WILKES  
9552 River Road  
College Station, TX 77845  
(979) 268-0254

By:

  
Stella H. Wilkes

**CERTIFICATE OF SERVICE**

I hereby certify, by my signature below, that a true and correct copy of the above and foregoing was forwarded via First Class Mail, hand delivery or facsimile on the 11 day of November, 2006, to those persons on the attached mailing list.

  
Stella H. Wilkes

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2015 JAN -7 AM 9:38

PUBLIC UTILITY COMMISSION  
FILING CLERK

**EXHIBIT "A"**

**Map is attached**

- EXCLUDED PROPERTY OWNERS**
- 1 ANTHONY MARK & CHARLA
  - 2 ANTONIO SUEB & BERTH SHAFRE
  - 3 BAUR PAUL SCHULZ JR
  - 4 BECK JOHN W & ELISEN L
  - 5 BECK JOHN W & ELISEN L
  - 6 BRACK MILLY M
  - 7 BRUFFET OSCAR JAMES & MARINDA JO
  - 8 BRUFFET OSCAR JAMES & MARINDA JO
  - 9 BRUFFET OSCAR JAMES & MARINDA JO
  - 10 COOK SAMMY C
  - 11 CROOKS RICHARD M & JULIANNE GARFAR
  - 12 CROOKS RICHARD M & JULIANNE GARFAR
  - 13 CROOKS RICHARD M & JULIANNE GARFAR
  - 14 EDMONDSON BRETT STEPHEN & STEPHANI
  - 15 GALLAGHER ROBERT A & PATRICIA A
  - 16 GATLIN DELBERT M & MARLYN
  - 17 GORRER VAN LINDA
  - 18 GORRER VAN LINDA
  - 19 GORRER VAN LINDA
  - 20 GRUMWELER LEO AND C
  - 21 HALL CHARLES L
  - 22 HALL CHARLES L
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**6 September 2006**

☒ City of College Station ETJ

☒ City of College Station City Limits

☐ Protest Letters

☐ Proposed College Station Wastewater CCN Addition

☐ College Station CCN 20126

City of College Station  
College Station, Texas 77842



**Exhibit B**

**SOAH DOCKET NO. 582-06-1697  
TCEQ DOCKET NO. 2005-2092-UCR**

**APPLICATION OF THE CITY OF § BEFORE THE STATE OFFICE  
COLLEGE STATION TO AMEND §  
CERTIFICATE OF CONVENIENCE § OF  
AND NECESSITY NO. 20126  
IN BRAZOS COUNTY, TEXAS § ADMINISTRATIVE HEARINGS**

**WITHDRAWAL OF PROTEST**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:

Stella H. Wilkes files this Withdrawal of Protest of the City of College Station's ("College Station") application to amend its sewer Certificate of Convenience and Necessity ("CCN") and in support thereof shows the following:

**BACKGROUND AND FACTS**

Stella H. Wilkes and College Station have entered into a settlement agreement under which College Station has amended its CCN application to delete from its application the property of Stella Wilkes, as well as other property owners requested to be deleted identified in Exhibit A.

**WITHDRAWAL OF PROTEST**

Stella Wilkes withdraws her protest of College Station's application and requests to be dismissed as a party to this proceeding.

Respectfully submitted,

STELLA H. WILKES  
9552 River Road  
College Station, TX 77845  
(979) 268-0254

By: \_\_\_\_\_  
Stella H. Wilkes

**CERTIFICATE OF SERVICE**

I hereby certify, by my signature below, that a true and correct copy of the above and foregoing was forwarded via First Class Mail, hand delivery or facsimile on the \_\_\_\_\_ day of \_\_\_\_\_, 2006, to those persons on the attached mailing list.

\_\_\_\_\_  
Stella H. Wilkes

**MAILING LIST  
CITY OF COLLEGE STATION  
SOAH DOCKET NO. 582-06-1697  
TCEQ DOCKET NO. 2005-2092-UCR**

**State Office of Administrative Hearings**

Honorable Lilo D. Pomerleau  
Administrative Law Judge  
State Office of Administrative Hearings  
300 West 15<sup>th</sup> Street, Suite 504  
Austin, TX 78701  
(512) 475-4993  
(512) 475-4994 (Fax)

**City of College Station**

Bill Dugat  
Bickerstaff, Heath, Pollan & Caroom  
816 Congress Avenue, Suite 1700  
Austin, TX 78701  
(512) 472-8021  
(512) 320-5638 (Fax)

**Office of Public Interest Counsel**

Blas J. Coy, Jr.  
Office of Public Interest Counsel, MC-103  
P.O. Box 13087  
Austin, TX 78711-3087  
(512) 239-6363  
(512) 239-6377 (Fax)

**Office of the Chief Clerk**

LaDonna Castanuela  
Office of the Chief Clerk  
P.O. Box 13087  
Austin, TX 78711-3087  
(512) 239-3300  
(512) 239-3311 (Fax)

**Wellborn Special Utility District**

Leonard H. Dougal  
Jackson Walker, LLP  
100 Congress Avenue, Suite 1100  
Austin, TX 78701  
(512) 236-2000  
(512) 236-2002 (Fax)

**Main Street Homes - CS**

Mark Zeppa  
Law Offices of Mark H. Zeppa, P.C.  
4833 Spicewood Springs Road  
Suite 202  
Austin, TX 78759-8436  
(512) 346-4011  
(512) 346-6847 (Fax)

**TCEQ Executive Director**

Paul Tough, Staff Attorney  
TCEQ, Environmental Law Division  
P.O. Box 13087, MC-173  
Austin, TX 78711  
(512) 239-6996  
(512) 239-0606 (Fax)

**Stella H. Wilkes**

Stella H. Wilkes  
9552 River Road  
College Station, TX 77845  
(979) 268-0254

**Paul Clarke; J.W. McFarlane,  
Trustee; Edward & Sue Valenta;  
Mary Chester Dubois Trust &  
Lionel Pierre II Trust; Eliza  
Wooten Ryder; Sean Eubanks;  
Duckhaven HOA; Duckhaven,  
Ltd.; Peach Creek Partners, Ltd.;  
Indian Lakes HOA; McFarlane  
Interests, Ltd.; Smiling Mallard  
Development, Ltd.**

Robin A. Melvin  
Graves, Dougherty, Hearon & Moody  
401 Congress Avenue, Suite 2200  
Austin, TX 78701  
(512) 480-5688  
(512) 480-5888 (Fax)

2P

**Stella H. Wilkes  
9552 River Road  
College Station, TX  
77845  
November 11, 2006**

**Honorable Lilo D. Pomerleau  
Administrative Law Judge  
State Office of Administrative Hearings  
300 West 15<sup>th</sup> Street, Suite 504  
Austin, TX 78701**

**Re: SOAH Docket No. 582-06-1697; Application from the City of  
College Station to Amend Certificate of Convenience and Necessity  
["CCN"] No. 20126 in Brazos County; Application No. 35106-C**

**CN:600732598**

**Dear Judge Pomerleau**

**On October 23, 2006, the College Station City Council approved a  
Settlement Agreement between the City and Stella Wilkes and other land-  
owners in SOAH Docket No. 582-06-1697. Under the terms of the Settlement  
Agreement, College Station revises its Application to Amend its Sewer CCN  
to delete the properties of Stella Wilkes and other landowners whose property  
locations are identified in the Exhibit A to the Settlement Agreement.  
The specific landowners and property locations to be removed from College  
Station's Application are identified on the enclosed map. I am enclosing a copy  
of the Withdrawal of Protest Statement by myself.**

**Please contact me if there is any question as to correct procedure.**

**The signed agreement from the City of College Station was received by me on  
November 10, 2006.**

**Sincerely,**

  
**Stella H. Wilkes**

RECEIVED  
ST. 11.11.06  
11 11 06 37





# College Station Utilities

***Reliable, Affordable, Community Owned***

P.O. Box 9960 • 1601 Graham Road • College Station, TX 77842

Phone: 979-764-3660 • FAX: 979-764-3452

November 8, 2006

RE: City of College Station Application to Amend CCN No. 20126, Application No. 35107-C

CERTIFIED MAIL # 7003 1010 003 1995 9440

Stella Wilkes  
9552 River Road  
College Station, TX 77845

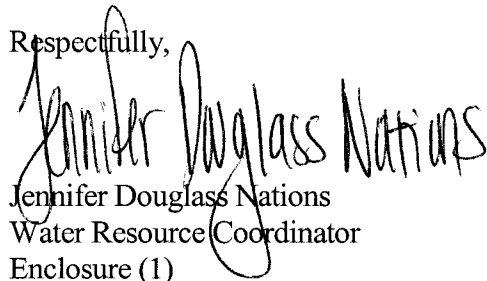
Dear Ms. Wilkes,

I am pleased to submit the enclosed signed Settlement Agreement between yourself and the City of College Station regarding the City of College Station's application to amend its Wastewater Certificate of Convenience and Necessity (CCN) No. 20126.

The College Station City Council approved this Agreement at its October 23, 2006 regular meeting, and the Mayor signed the Agreement on November 1, 2006. As stated in Paragraph 1.2 of the Agreement, the next step is for you to submit your Withdrawal of Protest to the TCEQ and the parties listed in Exhibit B. The timeline for this step is five (5) business days from the date that you receive this letter. Weekends and holidays do not count as business days.

If you have any questions, or if I can be of further assistance, please feel free to call me at 764-6223.

Respectfully,



Jennifer Douglass Nations  
Water Resource Coordinator  
Enclosure (1)