

**AGENDA
CITY OF ALLEN
CITY COUNCIL WORKSHOP MEETING
SEPTEMBER 23, 2008 – 6:00 P.M.
COUNCIL CONFERENCE ROOM
ALLEN CITY HALL
305 CENTURY PARKWAY**

Call to Order and Announce a Quorum is Present.

Items of Interest.

1. Briefing Regarding the City of Allen's Participation in a Purchased Power Agreement through the Cities Aggregation Power Project for Long-Term Base Load Electric Supply –
Steve Massey, Community Services Director
2. Committee Updates from City Council Liaisons –
3. Other Items –

Adjourn to Regular Meeting.

- open to the public -

This notice was posted at Allen City Hall, 305 Century Parkway, Allen, Texas, at a place convenient and readily accessible to the public at all times. Said notice was posted on Friday, September 19, 2008, at 5:00 p.m.

Shelley B. George, City Secretary

Allen City Hall is wheelchair accessible. Access to the building and special parking are available at the entrance facing Century Parkway. Requests for sign interpreters or special services must be received forty-eight (48) hours prior to the meeting time by calling the City Secretary at 214.509.4105.

CITY COUNCIL AGENDA COMMUNICATION
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AGENDA DATE: Tuesday, September 23, 2008

SUBJECT: Long Term Electric Contract

STAFF RESOURCE: Steve Massey, Community Services Director
Kevin Hammeke, Finance Director
Pete Smith, City Attorney

BACKGROUND

The City is a member of the Cities Aggregation Power Project (“CAPP”), a non-profit political subdivision corporation aggregator. Created in 2001 in anticipation of the deregulation of the Texas retail electric market, CAPP pools members’ electric power needs in order to negotiate lower, more stable prices through bulk purchasing. CAPP is run by an elected ten member Board of Directors, comprised entirely of city employees and city officials. CAPP currently serves 111 political subdivisions. Steve Massey currently serves on the CAPP Board of Directors.

CAPP and its sister political subdivision corporation aggregator, South Texas Aggregation Project, Inc. (“STAP”), together have more than 150 political subdivision members that purchase in excess of one billion kWh annually. Together CAPP and STAP have member savings that have surpassed \$100 million since the Texas electric market deregulated in 2002.

Although CAPP member savings are significant, the price volatility in the market makes it difficult for CAPP members to accurately budget for power expenditures from year to year. This is because power contract options made available to retail customers like CAPP, regardless of source, have been priced as if the energy was produced exclusively from natural gas-fired plants. The price of natural gas is extremely volatile. Energy experts, including the Chairman of the Public Utility Commission of Texas, agree that the natural gas price volatility will continue over the long term.

In 2005, the CAPP Board authorized its consultants to find alternatives to purchasing the entirety of CAPP power requirements in a market that links the price of all energy to natural gas prices. Several past attempts to get the organization’s base load of power (the power the group continuously consumes 24/7/265) onto a lower cost coal fired power plant contract failed to come to fruition. However, over the last year CAPP negotiated with TXU Energy and subsequently Texas Competitive Energy Holdings (TCEH), the privately held TXU successor corporation, for a long-term contract.

CAPP proposes a Purchased Power Agreement (PPA) for a 24-year commitment of lignite/coal-fired capacity at a fixed price (with slight escalation over the term of the contract) to serve the base load portion of members’ power requirements. CAPP believes that the

contract will lower overall energy costs and provide political subdivisions with an ability to more accurately predict and stabilize the impact of energy prices on annual budgets. Taxpayers benefit because CAPP member cities do not have to cut services or pass higher energy costs on through higher taxes when electricity prices experience volatility and spiking because of fluctuating market prices.

CAPP is preparing to enter into the PPA with several of TCEH's subordinate generation companies; Luminant Generation Company LLC; Big Brown Power Company, LLC; and Oak Grove Management Company, LLC. For simplicity, these specific generating companies will be collectively termed "Luminant" because this is the name of TCEH's overall power generation function. The contract is for up to 150 Megawatts (MW) of base load electric power from seven different electric generating units at three separate locations. CAPP will enter into the contract with these entities on behalf of all CAPP and STAP members that are willing to be allocated a portion of up to 150 MW of base load power from these plants. The allocated portion corresponds to each participating member's energy consumption as a percentage of all participating members' consumption.

This is a unique contract because three-fifths of the cost of electricity over the 24 year contract term is being paid up front by the contract participants. To do this, CAPP will issue taxable bond debt on behalf of the participating cities. This debt issuance is similar to how the North Texas Municipal Water District issues bond debt on behalf of member cities to construct water and sewer facilities. The remaining two-fifths of the power cost are paid for as the electricity is actually consumed on a monthly basis. Despite bond debt payments and issuance costs, the participating cities will initially still be able to beat the current competitive electric rate by about 1-1.5 cents per kilowatt hour. The total bond debt if 150 MW is subscribed by member cities is approximately \$465 million plus about \$42 million to cover the required reserve and issuance costs.

There are actually two contracts involved with this transaction. The PPA is the contract between CAPP and Luminant and this contract was executed on September 10, 2008. The second contract is between each participating city and CAPP. In the City-CAPP contract, Allen will have a specific annual "allocation" of megawatt-hours of electricity that will stay constant throughout the contract term. The City will also be assigned a specific portion of the debt as well as monthly and annual payments for the debt service portion of the PPA.

The City of Allen's base load currently represents 1.03% of the total bond issuance should 150 MW of base load power be subscribed. Our corresponding share of the total bond debt is about \$5 million. The City's CAPP bond debt service would be paid out of the operating budget, not from debt service. The estimated monthly bond debt service would be \$36,553 and the annual bond debt service would be about \$438,632. Our current estimated electric usage for Calendar Year 2009 is 17,676,295 kilowatt hours and the estimated savings from the prevailing electric rate we could otherwise pay in calendar year 2009 is about \$258,000. Only after CAPP determines how many members will participate and their corresponding base load of power can the City-CAPP contract actually be finalized.

Staff is presently investigating the inclusion of the Allen Event Center in the long term contract initiative. We hope to provide the facility's significant electric consumption information to CAPP and have the facility added to the long term contract although it does not begin to draw power until late spring as the facility ramps up for opening in the fall. Should the facility be included in the contract, we can expect our percentage of the bond issuance as well as our bond

debt service payments to increase proportionately. This facility will clearly be the City's most significant electric load once it opens. Of course, both the debt service and electric consumption cost for this facilities power will ultimately be borne by Global Entertainment Corporation.

The PPA will supply about 60 percent of the City's total electric consumption. The remainder of the consumption will be procured as CAPP has previously procured the City's electricity through wholesale price negotiations. The remainder of the electric consumption required beyond the base load is termed the "varying load" and the contract that CAPP will implement to provide this need is termed the "wrap contract."

This CAPP-Luminant contract is the first of its kind in Texas. The CAPP attorneys met with the State Attorney General's office on September 12, 2008, to get the overall contract concept and issuance of debt obligations approved. During a previous meeting with this office, no reservations were expressed about the validity of this contract mechanism.

There are two attachments to this Council communication - a CAPP letter and the CAPP Board's Risk Disclosure memorandum. The CAPP-Luminant PPA agreement (64 pages) the City-CAPP contract (44 pages), and the proposed implementing ordinance will be provided as an enclosure to the long term contract item when it comes before City Council on the Regular Agenda. The City attorney's office has regularly participated in the numerous long term contract meetings that CAPP has held and has reviewed both these detailed contracts.

Risk Disclosure.

Obviously, in the PPA with Luminant the City receives benefit of the power we are purchasing over the entire length of the contract. While the City is not issuing the bonds, we are responsible for [only] our proportionate share on bond repayment costs. The contract is with an entity, Luminant, which currently holds an extremely poor bond rating based on the complicated financing that took TXU Energy private to form TCEH. However, CAPP's debt is secured in a manner equal to the secured loan partner's debt in the leveraged buyout arrangement. As such, CAPP would hold equal first lien on the Luminant assets in the event that Luminant (TCEH) goes bankrupt.

Indeed, this is not the typical arrangement that Cities get involved with because we are not borrowing the money and then purchasing/building real property with the proceeds. We retain some risk throughout the life of the contract that the energy provider cannot or will not continue to provide CAPP energy. CAPP's Bond Counsel helped in preparation of a detailed risk assessment for this transaction that is attached to this Council Communication. The assessment left no stone unturned as to delineating risks of the transaction as that is the bond counsel's obligation. Furthermore, the bond counsel would not assess the relative probability of any particular risk actually happening, so in the discussion all risks may appear equally likely.

CAPP is insulated from most risks because Luminant is required to completely "defease" (pay off) any CAPP's bond debt in the event of a Luminant default. Luminant must also pay an additional \$120 million that can be used to pay off the debt reserve and issuance costs. The \$120 million may also be used to secure replacement electricity.

The City Staff's assessment is that the only meaningful risk associated with this endeavor is

uncertainly concerning what happens when TCEH is required to repay their debts to the leveraged buyout investors seven years after the leveraged buyout occurred. This is approximately six years from now. Logic dictates that an orderly refinancing, issuance of stock, or sell off of assets occur at that time. None of these would cause the PPA to become invalid or cause it to lose its status as secured debt backed by Luminant assets. However, there are scenarios where Luminant/TCEH may find it necessary to stop providing power under the PPA and opt to defease the debt and pay the \$120 million penalty. The current Luminant/TCEH staff asserts that their intent is that the CAPP PPA will survive the refinancing at the seven year point and continue intact. Nonetheless, this consideration continues as a risk to consider in the assessment of the city staff.

Council will wish to review the entire Risk Disclosure letter as the City is required to sign and accept the disclosure as a CAPP-City contract requirement. It may be necessary to have appropriate technical experts assist in responding to potential City Council concerns and questions about the Risk Disclosure as it is a very technical document. Please assure that any risk disclosure concerns are voiced at the workshop meeting so that if necessary staff may secure an expert response before this action appears on the City Council regular agenda.

ATTACHMENT

CAPP Letter

Risk Disclosure



September 11, 2008

To All Cities Aggregation Power Project, Inc. ("CAPP") Members,

Since its inception in 2001, CAPP's main objective has been to collectively address electric purchasing issues for its political subdivisions members in the deregulated market. We are proud that CAPP members have saved more than \$100 million since the Texas market deregulated and that CAPP membership has grown to include 110 political subdivision members.

CAPP BOARD

Chairman –

Jay Doegey,

City of Arlington

Vice Chairman-

Randy Moravec,

City of Addison

Steve Massey,

City of Allen

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Secretary Treasurer –

Mary Bunkley,

City of Arlington

Although CAPP member savings are significant, the price volatility in the market makes it difficult to accurately budget for power expenditures from year to year. Power contract options made available to retail customers like CAPP, regardless of source, have been priced as if the energy was produced exclusively from costly natural gas-fired plants.

For several years the CAPP Board and CAPP consultants have pursued efforts to find a fixed price, long-term contract for at least a portion of CAPP's electric energy needs to bring some sense of stability to the annual budgeting process for members and to achieve pricing that consistently stays below market prices. On July 31st the CAPP Board unanimously approved proceeding with the long-term Purchase Power Agreement ("PPA") with Luminant that will supply a portion of participating CAPP members' power needs for 24 years beginning January 1, 2009.

CAPP's consultants forecast that savings for participating CAPP members will exceed \$1 billion over the life of the contract when measured against market prices for electricity based on natural gas prices. Indicative market prices for 2009 confirm more than \$25 million in savings for members participating in the long-term contract next year.

The CAPP Board's recommendation and belief that the long-term contract will result in lower prices for electricity and member savings was made after carefully weighing the benefits and risks of this transaction. All CAPP Board members are city officials or city employees. The benefits and risks inherent in the long-term contract will impact our respective municipalities. The CAPP Board endorses participation in the long-term contract as the most economically attractive alternative despite these identified risks.

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The decision whether to participate in the long-term contract must be made by individual CAPP members on or before November 5, 2008. To assist members' appraisal of the long-term contract, the attached discussion provides the Board's overview of the long-term power supply plan for participating CAPP members, the CAPP prepayment and long-term pricing, and an evaluation of the risks involved with this transaction.

Also included in this package is a signed copy of the PPA, a copy of the Energy Sales Contract Between CAPP and the City (the "Member Contract") to be completed by each individual member that participates in the long-term contract, a Disclosure Statement of the known risks associated with this arrangement, a model ordinance, and a model staff report.

CAPP Long-Term Power Supply for Participating Members

It is anticipated that the portion of energy provided under the long-term Purchase Power Agreement (“PPA”) will not only drive the overall average cost of power below market prices for members of CAPP who choose to participate, but also the PPA will add price stability to volatile market prices which are based on the price of natural gas.

CAPP and Luminant signed the PPA (included in the package and described below) on or shortly after the Luminant Board meets on September 10, 2008. Under the PPA, CAPP will contract with Luminant Generation Company, LLC and several of its affiliates for 150 MW (to be adjusted up to 175 MW or downward depending upon member participation) of baseload capacity and electric energy. The energy from the baseload capacity will be delivered for CAPP’s use from seven generation units at three different sites.

The energy to be provided under the PPA will supply a portion, but not all, of each participant’s future energy needs for up to 24 years. Specifically, the PPA is designed to serve the recent historic baseload (around the clock, always on) electric needs of participants. This amounts to approximately 150 MW, or about 60 percent of participating members' power needs in 2009. An additional supply agreement (referred to as the “wrap” agreement) of a more traditional one to four year period will be pursued by CAPP in a continuing effort to ensure that all members have adequate power whenever needed, regardless of the amount needed.

CAPP will enter two different supply agreements and will contract with a Retail Electric Provider (“REP”) for billing and other customer services. One supply agreement will be the long-term PPA, described above. The second supply agreement, the wrap agreement, addresses all remaining supply needs in excess of the baseload power provided under the PPA. The wrap agreement also provides power that would otherwise be supplied by the PPA, when the PPA generation units are not adequately producing either because of voluntary outages (scheduled maintenance) or forced outages (unexpected or emergency shutdowns.) The contract with the REP will provide for delivery of the power from the two supply agreements to individual meters.

Ordinance Approves Participation in CAPP Long-Term Power Arrangement

To participate in the long-term power arrangement, CAPP members must pass an ordinance (provided in this package.) The ordinance commits the member to purchase electric power to satisfy a portion of its annual energy needs through the CAPP long-term PPA (discussed below) for up to 24 years. The ordinance also approves the Member Contract (discussed below and included in this package) between CAPP and the individual member.

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Long-Term PPA

CAPP's long-term PPA is a unit-contingent contract with the three subsidiaries of the old TXU Generation Company (now Luminant) that own seven units at three sites. The 150 MW of baseload power will be provided on an equal percentage basis from the seven units.

The PPA is conditioned to the leveraged buyout ("LBO") financing package that took TXU from a publicly traded company to a private company. Under that financing package, Luminant is authorized to make the long-term PPA agreement with CAPP, and to offer CAPP first-lien security interest in all generation and other competitive assets of Luminant and TXU Energy on an equal basis with the secured lenders to the LBO. In addition, CAPP will have a separate guaranty from Texas Competitive Energy Holdings ("TCEH"), the parent company to the affiliates (collectively referred to as "Luminant") that will supply the power under the PPA.

CAPP Member Contract

The CAPP Member Contract is the contract between CAPP and each individual member taking power pursuant to the long-term PPA. The primary purposes of the Member Contract are: (1) to assign energy from portions of the PPA baseload power and the associated debt service under the PPA to each participating member; and (2) to guarantee to bond holders that the debt will be paid. The second purpose will be fulfilled by the Member Contract (see Section 7.2 of the Member Contract) which provides a claim against the ad valorem taxing authority of the political subdivision in the event of non-payment of the assigned debt service obligation.

CAPP's Prepayment and Long-Term Contract Pricing

Prepayment by CAPP and Ad Valorem Tax Pledge by Members

The PPA requires that CAPP prepay three-fifths of the total contract price. CAPP will issue bonds to raise the capital necessary for the prepayment. The prepayment amount is likely to be \$400 million to \$525 million, depending upon how much of the offered 150 MW is committed to participating members. CAPP plans to issue bonds on or before December 23, 2008, and the bonds will be backed by the individual Member Contracts of each participating CAPP member. The ad valorem tax pledge included in the Member Contract and approved by the participating members' individual ordinances serves as security for the bond holders that participating members will meet their debt service obligations over the life of the PPA.

Price Components per kWh for Participating Members

Price for power delivered under PPA:

The initial wholesale price for the portion of electricity delivered pursuant to the long-term PPA will be approximately 5.6¢ per kWh in 2009.

- Approximately 3.5¢ of the 5.6¢ wholesale commodity price represents the member's allocated debt service obligation payment for the capacity amount prepaid by CAPP. This price will remain virtually the same for the life of the PPA.
- The remaining 2.1¢ of the 5.6¢ wholesale commodity price pays for the remaining energy delivered by Luminant that has not already been prepaid. (For ease of reference, this will be described as the "energy component.") The energy component price escalates over the life of the contract as described below.

Fixed, Predictable Escalation Over the Life of the PPA:

The energy component price (the 2.1¢ price of the initial 5.6¢ price) will escalate by three percent (3%) each year over the life of the contract. This equates to approximately one percent (1%) annual escalation of the 5.6¢ per kWh 2009 price.

This means that by 2033, the 24th year of the PPA, the energy component price will be approximately 4.5¢ per kWh. The total price for power delivered under the PPA in 2033 (allocated debt service payment of 3.5¢ plus the 4.5¢ energy component price) will be approximately 8¢ per kWh (as compared to the 5.6¢ per kWh in 2009.)

Price for remaining power needs – the wrap agreement – set more frequently:

Unlike traditional contracts that have served CAPP member needs since 2002, the long-term PPA will not serve the entirety of participating members' power needs. In addition to the baseload power provided by the PPA, which is expected to serve about 60 percent of participating members' needs in 2009, CAPP will arrange for a separate contract (the wrap agreement) that fulfills the remaining supply needs in excess of the baseload power provided under the PPA.

CAPP's designated REP will accept delivery from both suppliers (PPA and wrap contracts) on behalf of all participating members and will arrange delivery of all power to individual meters with the appropriate transmission and distribution utility. All charges other than the monthly debt service payment will be billed by the REP, just as currently done.

Monthly Payments For Participating Members

Two separate monthly payments will be made by participating members:

- Monthly Debt Service Payment to CAPP
A separate monthly debt service payment will be made (probably to a trustee who will hold the payments until the payment date prescribed in the bonds) reflecting the capacity portion (3.5¢ per kWh) of the 5.6¢ per kWh PPA price that represents the participating member's monthly debt service obligation for the prepaid electricity.
- Monthly Electric Account Payment(s) to the REP
CAPP's REP will separately bill each participating member at a "blended" rate per kWh – blending the remaining 2.1¢ energy component price per kWh and the higher market driven price for power under the wrap agreement. The monthly bill will include non-bypassable charges (regulated wires rates).

The CAPP Board will consider proposals from its designated REP for more detailed monthly bills that will reflect power costs allocated under each supply agreement and a savings calculation as well as a total monthly bill.

It will be up to the individual members to determine how they want to treat the debt service portion of their monthly payments. Since the debt service payment is essentially a component of the cost of power, most members will probably treat these payments as operating costs that will be distributed to their various functions, such as streets, utilities, police, etc. In this case a member can take their monthly electric consumption billing from the CAPP REP, obtain a ratio from the kWh associated with a function's account or accounts (e.g., 23% of total monthly electric bill is for water pumping), and then apply the ratio against the monthly debt billing and charge the appropriate function (e.g., 23% to the utility department). Some members may wish to treat the debt portion of the bill as a debt payment paid from their debt service, or interest and sinking fund, in which case no prorated distribution of the billing is necessary.

Evaluation of Risks

The CAPP Board believes that the long-term contract will substantially lower member electric costs and provide a greater degree of budget stability. However, there is no risk-free choice when it comes to contracting for future energy deliveries. While the price for power to be delivered under the PPA is fixed and will not be subject to uncertainties associated with either volatile natural gas prices or potential fuel or capacity supply shortages, there are other risks that each potential participating member must carefully evaluate before committing to the long-term contract. Neither the CAPP Board nor any of its consultants can guarantee future gas prices, the continued linkage between natural gas pricing and electric pricing, or that any participants to the PPA will act in a particular manner.

In the Disclosure Statement included in this package, we name and describe the known risks associated with participation in the long-term contract. It is important that you review the information in the Disclosure Statement. An acknowledgement and acceptance of the risks identified in the Disclosure Statement must occur with the approval of the Member Contract. Additionally, the transaction is dependent upon timely completion of a number of events including approval of signed Member Contracts by the Attorney General, the sale of CAPP bonds, closing the transaction by December 23, 2008, and making the prepayment to Seller in sufficient time to arrange the scheduling of power deliveries to be effective January 1, 2009. Although preliminary communication about the PPA has taken place, CAPP cannot guarantee approval of the Attorney General or acceptance by the financial markets.

To provide context for the risks and uncertainties listed by the Disclosure Statement, the following discussion provides the Board's perspective on some of the identified risks. It is our intention that this information will help you evaluate long-term contract issues. The Board's perception of the known risks is not intended to be a substitute for individual member due diligence, but provides an explanation why the CAPP Board endorses participation in the long-term contract as the most economically attractive alternative despite these identified risks.

The Board's perspective regarding the identified risks is informed by several sources. At least some part of every monthly CAPP Board meeting for the past three years has been spent discussing aspects of the long-term power supply arrangements, including the uncertainties and risks described in the attached Disclosure Statement. In addition to its reliance upon legal advice from CAPP's General Counsel, Geoffrey Gay (Lloyd, Gosselink, Rochelle & Townsend), and the work of CAPP's energy consultants, R.J. Covington, the CAPP Board has retained bond counsel (McCall Parkhurst & Horton) and financial advisors (First Southwest) to arrange and address long-term contract issues, including those related to the prepayment of the capacity received pursuant to the PPA. CAPP's General Counsel has solicited advice from experienced bankruptcy counsel and a lawyer familiar with power contract issues in California.

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The CAPP Board believes, but cannot guarantee that its pursuit of lower prices and known and fixed contract obligations will result in lower prices for electricity compared to market prices over the 24-year term of the PPA and make budgeting for electricity more predictable. Known risks associated with participation in the long-term contract include:

1. Bankruptcy of the Seller

Considering that TXU, the predecessor company to Luminant, was the subject of the largest leveraged buyout in history and is presently operating with more than \$40 billion of debt, issues related to the potential bankruptcy of Luminant or its parent company have received a great deal of scrutiny during the PPA negotiations and as part of the CAPP Board's consideration of the long-term contract.

Of the approximately \$46 billion borrowed to take the publicly traded TXU private, \$26 billion was borrowed from lenders that were provided first-liens against all competitive assets of the former TXU. Lenders with first-liens include Citibank, Goldman Sachs, J. Aron & Company, JP Morgan Chase, Credit Suisse and others. These parties are considered "secured lenders." The remaining \$20 billion was borrowed without providing security.

By signing the PPA, CAPP will become a "Secured Commodity Hedge Counterparty" under the Security Documents. This means that CAPP will be in a first-lien secured position on equal footing with the secured lenders. Thus, CAPP will have a first-lien on all Luminant generation assets including the most valuable asset—Comanche Peak, the two unit nuclear plant near Glen Rose, Texas.

The secured creditors, including CAPP, are protected under the existing Credit Agreement against dilution of the generation assets. Luminant retains the right to replace CAPP's lien at any time with letters of credit, cash or a guaranty from an investment grade rated guarantor.

As part of its consideration of the long-term contract, the CAPP Board evaluated the potential for the supplier's bankruptcy and, if bankrupt, the value of CAPP's position as a first-lien holder. In the event of bankruptcy, the substantial Luminant generation assets will retain value (that value will depend upon current and future projections of natural gas prices at the time of bankruptcy.) While it is impossible to specifically quantify the future value of these generation assets, the CAPP Board was guided by the results of a stress test performed by Standard & Poor's ("S&P") in November 2007 (republished in the Spring of 2008.) S&P's stress test measured the effect on the value of Luminant's collateral in the event of a significant decline in natural gas prices over several years. While the value of the generation assets serving as collateral for the more than \$40 billion in debt declined under these circumstances, S&P concluded that secured creditors (including CAPP) would have a rating of "1" – virtually guaranteeing recovery of all outstanding debt while unsecured creditors would have a rating of "5" – virtually guaranteeing no recovery.

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Other factors the Board considered that may mitigate the likelihood of bankruptcy despite the heavy debt burden include:

- Substantial investment (\$20 billion) of unsecured creditors including Berkshire Hathaway. Given the size of their investment, these unsecured creditors may provide additional loans to avoid the complete loss of investment.
- The fact that Oncor, a regulated subsidiary, is a consistent source of revenues. Oncor is ring-fenced and allegedly protected against bankruptcy of the parent or affiliates, it nonetheless provides dividends and other cash to the parent. Oncor recently announced the sale of a 20 percent equity position for \$1.3 billion.

Bankruptcy of one or more of the sellers could alter the expected economics of the transaction. It is the Board's conclusion that bankruptcy would likely present more of a financial problem than an operational problem. The units supplying power under the PPA are necessary for the support of power on the Texas electric grid. Simultaneous loss of all seven units would cause an economic crisis for the State. Therefore, it is reasonable to assume that the units will continue to generate regardless of ownership and regardless of bankruptcy.

The threat of bankruptcy comes down to whether a bankruptcy judge would set aside all, part, or none of the PPA. The PPA includes a provision that the parties intend for the contract to be honored as a forward contract. Despite this stated intention, it is possible that the bankruptcy judge would set the PPA aside if the determination is made that it is an executory contract. There have been recent cases where bankruptcy courts have taken into consideration "the public interest" in assessing obligations and rights of parties. The energy needs and good faith agreements of 150 political bodies may influence the bankruptcy judge to decide that preservation of the PPA is in the public interest.

2. Governmental assessments on emissions or greenhouse gases

As part of its leveraged buyout, Luminant commits to reduce emissions from its fleet of new and existing plants. The Company's plan includes the installation of in-duct selective catalytic reduction ("SCR") systems at its Martin Lake plant and selective non-catalytic reduction systems at its Monticello and Big Brown plants. Luminant will improve the low-nitrogen oxide burner technology at one of its Monticello units to further reduce nitrogen oxide emissions. External SCR systems will be installed at the Sandow and new Oak Grove units. To reduce sulfur dioxide emissions and mercury emissions, Monticello and Big Brown plants will use coal-cleaning technology. Finally, to reduce mercury emissions, Luminant's entire fleet of plants will use activated carbon injection – a sorbent injection system technology.

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The cost of Luminant's commitment to reduce emissions made pursuant to the LBO is not included in the price paid by members participating in the long-term contract. However, any new governmental assessment on coal generation or greenhouse gases will be passed onto CAPP as a pro-rata share of the power it receives from Luminant.

The CAPP Board's consideration of the benefits and risks of the long-term contract included the likelihood that legislation levying a tax upon carbon dioxide emissions will be enacted at some point in the future. To the extent these charges are imposed on any unit providing power under the PPA, CAPP and the participating members will be responsible for a proportionate share (approximately 3%) of the cost in excess of operating expenses of \$100,000 annually or capital expenses greater than \$1,000,000 over the life of the financing. However, the Board believes but cannot guarantee that new governmental assessments will impact the price of power throughout the United States and will be reflected in the market price of power in the deregulated areas of Texas. As a result, the Board has reason to believe that despite future imposition of new governmental charges made under the PPA, the relative advantage of PPA pricing to market pricing will be preserved.

3. Early termination of the PPA that leaves CAPP and Participating Members owing more (to pay off the debt) than the amortized balance of CAPP's loan

The PPA is a 24-year agreement, but any commercial contract can be breached when a party decides it is economically advantageous to do so. One of the most difficult and contentious parts of the contract negotiations of the PPA was Article 12 – Early Termination.

The favorable pricing associated with the PPA is conditioned on a prepayment of three-fifths of the present value of the entire discounted purchase price. In considering various scenarios that give rise to early termination of the PPA, the CAPP Board's primary concern is that there is adequate protection for the portion of the prepayment associated with the unrealized term of the contract. In the event of early termination by the supplier, damages owed to CAPP include defeasance of the outstanding bond amount previously paid to Luminant. In addition, the PPA provides for liquidated damages not to exceed \$120 million.

If Texas Competitive Energy Holdings ("TCEH") does not or cannot pay any of the damages owed CAPP under the PPA, participating members may owe their prorated share of the approximately \$400 million of CAPP's debt. Whether this hypothetical, worst case termination situation (consistent with the timing, but worse than the circumstances of the S&P stress test), would offset the potential benefit of the PPA's lower than market prices will depend upon the price of natural gas as it relates to the cost of electric power over the course of the next six years.

4. Legislatively mandated changes to the energy market structure

Deregulating the Texas retail electric market was an enormous and extremely difficult undertaking, and key policymakers in Texas have never advocated undoing it. Moreover, dramatic market changes that came about because of the deregulation would make re-

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regulation extremely difficult. For instance, what were previously some of the state's traditional utilities have unbundled into separate entities. It remains unclear how these units could be put back together. Major generation assets have been sold off to unregulated owners and billions of dollars of stranded costs payments have been ordered and are being paid. Undoing those changes would constitute high barriers to re-regulation.

Even in the event of re-regulation of the Texas market or some other dramatic change, it is likely that the legislature would maintain its consistent position that existing contracts for electricity cannot be abrogated.

5. Restructuring or refinancing by Seller that leaves CAPP with collateral of lesser value

The LBO financing package, which places CAPP on a first-lien security basis in all generation and competitive assets, is structured as a seven year deal that terminates in the Fall of 2014. It is possible that the PPA will potentially be in effect for 18 years beyond the financing agreements on which the PPA was predicated. Thus, the Substitute Collateral provisions (Section 9.2) of the PPA take on critical importance as the parties try to anticipate whether the Company will be refinanced, taken public or sold off in bits and pieces before the end of 2014. In the event that the seller replaces CAPP's existing first-lien security interest with a new collateral package when it refinances in 2014, the contract terms require that the new package pass several dilution tests.

The CAPP Board will be diligently reviewing its security position throughout the life of the PPA, and particularly at the time of refinancing. There is nothing in the PPA that prevents CAPP from exercising its right of early termination in the event that the security supporting CAPP's prepayment becomes inadequate. The CAPP Board is hopeful that participating members receive the benefit of this contract for the full 24 years. However, even assuming that the contract is terminated prematurely, CAPP members should be made whole for the payment to Luminant through the defeasance provisions, receive some amount of liquidated damages, and have enjoyed millions of dollars in savings as compared to purchasing power in the retail market.

6. Deliberate non-delivery by Seller of contracted power such that payment of liquidated damages to CAPP for replacement energy potentially exceeds the cap on damages provided in the PPA forcing CAPP to declare an early termination of the PPA

If the supplier intentionally fails to deliver contracted power, CAPP's remedies include the following:

- a. Penalty for failure to maintain 90% availability from the seven units on a rolling three-year average.
- b. Reimbursement for replacement power if the contract energy is available but not provided.

While we have every reason to believe that Luminant will operate in good faith, even in the event of prolonged default or deliberate withholding, CAPP has remedies to protect its prepayment. CAPP can elect to terminate the PPA. This may happen under certain circumstances where the provider fails to supply the contracted power, forcing CAPP to replace the power at current market rates and then seek compensation from seller for the replacement energy. In that situation, CAPP may be forced to declare the contract in default and trigger termination. Because any prior payments for withholding power, in the event of a termination payment to CAPP, are to be used as an offset based on a rolling 3 to 5 year average, it may be necessary for CAPP to defensively terminate the contract prematurely to ensure that damage payments remain adequate to defease CAPP's bond debt.

The Board envisions a constant economic evaluation of whether to proceed with an early termination of the PPA if Luminant starts withholding power. Based upon projections by CAPP's consultants, in the event that Luminant withholds all contracted power, liquidated damages to fully compensate CAPP for procuring replacement power could amount to approximately \$250,000 per day. Even if CAPP waits for 30 days before exercising its right of early termination and Luminant continues to withhold all power for that same period, liquidated damages for 30 days of replacement power amount to \$7.5 million. While the early termination payment owed to CAPP would be reduced by the \$7.5 million already paid by Luminant in this scenario, the early termination damage payments should remain adequate to defease CAPP's bond debt.

To the extent Seller pays liquidated damages for withholding power in a nodal market, CAPP's price of replacement power would be equal to or less than the ERCOT clearing price, which is the price of power TCEH will receive at the same time. Therefore, TCEH should be economically indifferent to fulfilling its PPA obligation to CAPP or withholding power for an alternative sale and paying liquidated damages to CAPP. In other words, the supplier has no incentive to withhold power or fail to meet its obligation to provide power to CAPP.

7. Failure by one or more participating members to appropriate or pay amounts owed for power delivered under the PPA forcing Seller to declare CAPP in default and terminate the transaction

Given that electricity is essential to providing city services, we believe that it is extremely unlikely that a participating member will fail to appropriate or pay for the power delivered. Regardless, the PPA does not contemplate joint and several liability for either the power provider or CAPP. Similarly, there is no joint and several liability for individual members pursuant to the Member Contract. In other words, no participating member of the long-term contract will be required to absorb the liabilities of another participating member.

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8. Technological Advancements/Availability of Inexpensive Natural Gas

The CAPP Board has pursued the long-term contract in order to achieve a great degree of budget stability and predictability for participating members by eliminating some of the price risks associated with natural gas price volatility. Current economic projections indicate that the Board's pursuit of known and fixed contractual obligations for capacity will in fact also result in lower prices for electricity compared to market prices over the 24-year term of the PPA.

In the near term (5 years), no natural gas experts are predicting significant declines in the cost of natural gas. In fact, most experts indicate that natural gas prices are likely to increase, perhaps substantially, as liquefied natural gas becomes part of a worldwide commodity index. The Chairman of the Public Utility Commission of Texas testified earlier this summer that natural gas prices will continue to increase over the next several years. Given that it will take approximately ten years to bring new nuclear power plants on line and that wind power is not reliable for meeting baseload needs addressed in the PPA, the energy market will not likely use any proxy for determining electricity costs other than natural gas for the foreseeable future. Similarly, because of the capital intensive nature of electric infrastructure, it is likely to take years before the market price of electricity is affected by technological advancements.

Nevertheless, the Board is cognizant that sometime during the term of the 24 year contract, the possibility exists that technological advancements may be made in the production of electricity or circumstances may occur such that natural gas prices decline substantially. If the CAPP Board's sole directive is to achieve the lowest possible electric price at all times, then these unknown and unforeseen scenarios may be reason not to commit to any long-term contract. However, potential technological advancements and declining natural gas prices will not diminish the stability and predictability of the power delivered pursuant to the PPA. In fact, the structure of the PPA (supplying a portion of participating members' power needs) enhances CAPP's ability to take advantage of technological advancements or changes in fuel prices, while also providing budgeting stability.

MEMORANDUM

TO: Members of Cities Aggregation Power Project, Inc. and South Texas Aggregation Power Project, Inc.

FROM: Board of Directors, Cities Aggregation Power Project, Inc. ("CAPP")
Board of Directors, South Texas Aggregation Power Project, Inc. ("STAP")

DATE: September 10, 2008

SUBJECT: Risks and Considerations Disclosure to CAPP and STAP Members Potentially Participating in the Long Term Power Purchase Agreement -- **MUST BE ACKNOWLEDGED BY EACH PARTICIPATING MEMBER**

This disclosure memorandum is intended to discuss some of the risks and considerations involved in (i) the proposed long term power purchase agreement ("PPA") between CAPP and Luminant Generation Company, LLC, Big Brown Power Company LLC and Oak Grove Management Company, LLC (collectively, "Seller") to provide electric capacity and energy to the members of CAPP who choose to participate in the financing of the PPA ("Participating Members") and (ii) the proposed CAPP-Participating Member Energy Sales Contract (the "Member Contract"), by which a Participating Member participates in the PPA. Such risks and considerations are not organized in any particular order of importance and each potential Participating Member must review and assess the whole of this memorandum.

THIS MEMORANDUM IS NOT INTENDED TO PROVIDE A DETAILED EXPLANATION OF THE PPA MEMBER CONTRACT OR CAPP CONTRACT REVENUE BOND TRANSACTION OR TO PROVIDE AN ECONOMIC AND BUSINESS ANALYSIS OF SUCH TRANSACTION.

THIS MEMORANDUM IS NOT, AND IS NOT INTENDED TO BE, A COMPLETE DISCUSSION OF ALL MATERIAL RISKS AND CONSIDERATIONS INVOLVED WITH THE PPA AND THE MEMBER CONTRACT. NO REPRESENTATION IS MADE BY CAPP, STAP OR THEIR RESPECTIVE LEGAL COUNSELS AND OTHER CONSULTANTS THAT ALL MATERIAL RISKS AND CONSIDERATIONS ARE DISCUSSED OR DESCRIBED IN THIS MEMORANDUM.

Each potential Participating Member is advised to undertake its own assessment of the PPA, the Member Contract and the contemplated transactions described therein and herein.

Copies of the most current forms of the PPA and the Member Contract are available from CAPP. In addition, this memorandum references certain external documents, reports and filings which CAPP will assist any potential Participating Member in obtaining; however, neither CAPP, STAP, their respective legal counsel and other consultants make any representation or warranty with respect to the information, statements or analysis contained in any such sources, as of the date of any such source or as of the date of this memorandum.

RISKS AND CONSIDERATIONS

PPA

Seller's Leveraged Buyout and Security for Seller's Obligations under PPA

Seller's ultimate parent entity, Energy Future Holdings Company ("EFH"), Energy Future Competitive Holdings Company ("EFCH") and Texas Competitive Electric Holdings Company, LLC ("TCEH"), borrowed approximately \$46 billion in October 2007 to privately purchase, through a leveraged buyout, the publicly traded TXU Corp. ("TXU"), formerly the largest electric utility holding company within ERCOT (the "EFH LBO"). Approximately \$26 billion was borrowed from Citibank, N.A., Goldman Sachs Credit Partners L.P., J. Aron & Company, JPMorgan Chase Bank, N.A., Credit Suisse and other lenders and parties who were provided a first lien security interest in the assets (excluding assets related to Oncor Electric Delivery Company, LLC), Seller and the certain other TCEH affiliates and subsidiaries (collectively, "TCEH Pledged Entities"), including all generation assets formerly owned by TXU. Another approximately \$20 billion was borrowed through unsecured debt of EFH and TCEH. EFH, TCEH and EFCH each have credit ratings below investment grade or "junk" ratings.

For a more complete description of the EFH LBO, EFCH and the associated credit ratings, see the presentation entitled "Energy Future Holdings Post Merger Overview," dated January 7, 2008; the publicly available filings of EFH with the U.S. Securities and Exchange Commission (www.energyfutureholdings.com/financial/) (the "SEC Filings"); and the Standard and Poor's Ratings Service ("S&P") reports of July 15, 2008 and March 21, 2008 (to the extent not superseded by the July 15, 2008 report) relating to EFH and the S&P report of October 11, 2007 (to the extent not superseded by the July 15, 2008 and March 21, 2008 reports) relating to TCEH (collectively, the "S&P Reports"). As to the S&P Reports, such reports reflect only the view of S&P, and CAPP makes no representation as to the appropriateness of such reports. There is no assurance that any of the facts, views or opinions reflected therein will continue for any given period of time or that they will not be revised or withdrawn entirely by S&P, if in the judgment of S&P, circumstances so warrant.

The first lien security interest of the secured lenders/parties are governed by the various documents related to the EFH LBO financing, including the Credit Agreement, the Intercreditor Agreement, the Security Agreement, the Guarantee and the Pledge Agreement as well as other documents (collectively, the "LBO Financing Documents"). The PPA provides, as it relates to CAPP's rights and security with Seller, as follows (for purposes of this paragraph, undefined capitalized terms will have the meanings set forth in the aforementioned Intercreditor Agreement):

1. The PPA is a Secured Commodity Hedge and Power Sales Agreement under the Intercreditor Agreement and, under the LBO Financing Documents, the PPA is a Secured Obligation having a first lien security interest in the pledged assets of the TCEH Pledged Entities *pari passu* (on equal footing) with the other secured lenders. Thus, CAPP will have a

first lien on all pledged assets of the TCEH Pledged Entities including the Martin Lake, Big Brown and Oak Grove electric generation plants (the three electric generation facilities from which the unit contingent electric energy under the PPA are to be provided and collectively referred to as the “PPA Facilities”) as well as Comanche Peak, the two unit nuclear electric generation plant near Glen Rose, Texas and other electric generating facilities owned by the TCEH Pledged Entities.

2. Each TCEH Pledged Entity has executed the Guarantee, guaranteeing the Secured Obligations of any other TCEH Pledged Entity, and such guarantee obligation is also a Secured Obligation. The PPA, as a Secured Obligation, is entitled to the benefits of the Guarantee.
3. The obligations of Seller under the PPA will be secured by an additional guaranty from TCEH.

If Seller defaults under the PPA, CAPP would have a right to allege a default (under the LBO Financing Documents, e.g., the Credit Agreement) pursuant to the Intercreditor Agreement. (A payment default by Seller under the PPA is an event of default under the Credit Agreement to the extent such default exceeds \$200 million; it is assumed that a Seller default under the PPA would exceed such amount through the term of the Credit Agreement of October 2014.) The Intercreditor Agreement provides, however, that it will be up to the Collateral Agent to declare a default. The Collateral Agent could be overruled or as the case may be, directed to initiate proceedings, by a majority of the secured lenders, but CAPP will likely have no real influence over such vote. If Seller defaults under the PPA, CAPP, it is assumed, may proceed against Seller, and against TCEH under its guaranty as an unsecured claim.

The Credit Agreement provides certain protections to the various secured parties under the LBO Financing Documents, including CAPP, wherein the TCEH Pledged Entities have covenanted and agreed to certain borrowing and lien structure restrictions giving the secured parties (and permitted future secured parties) some degree of anti-dilution protection. Reference is made to Article 10 of the Credit Agreement for the various negative covenants of the TCEH Pledged Entities relating to future borrowings and lien structures.

The remaining term of the Credit Agreement is approximately six (6) years and ends in October 2014. Therefore, prior to October 2014, the EFH LBO must be refinanced and the secured parties paid (or otherwise participate in such refinancing), with the exception of CAPP. CAPP, through the PPA, will be the sole secured party under the LBO Financing Documents whose agreement extends past October 2014 (the term of the PPA is through December 2032).

TCEH has represented that, under the LBO Financing Documents, the TCEH Pledged Entities have an obligation to repay at least one percent (1%) of the secured debt annually. It is not known how much additional debt the TCEH Pledged Entities may incur between now and 2014, and CAPP can make no assurances with respect thereto.

If CAPP and Seller each meet their respective obligations under the PPA, the security provisions related to the Seller's obligations under the PPA should not be an issue, other than security to CAPP for Seller's future performance under the PPA. The security for the Seller's obligations under the PPA becomes critically important if Seller fails to perform under the PPA or otherwise defaults under the PPA.

Article 9 of the PPA addresses the security for Seller's obligations under the PPA and reference is made to that article. Within Section 9.2 of the PPA, Seller may, in certain circumstances, substitute the pledged collateral with other collateral such as letters of credit, cash or a guaranty from an investment grade rated guarantor ("Substitute Collateral"). Additionally, Section 9.2 of the PPA provides for Seller to refinance the existing LBO Financing Documents and replace the existing collateral pursuant to a new financing package with new collateral ("New Collateral Refinancing") which permits some dilution from value of the security under the LBO Financing Documents existing immediately prior to such refinancing, and which provides CAPP with a first lien on equal footing with other lenders (subject to other liens which may be permitted by the documents related to the New Collateral Refinancing).

Seller's Financial Strength and Resources through the Term of the PPA

Fundamental to any decision to participate in the transactions contemplated in the PPA and the Member Contract is the financial viability of Seller and the TCEH Pledged Entities over the term of the PPA. While Seller's obligations under the PPA are secured by a first lien security interest in certain assets of the TCEH Pledged Entities, Seller's ability to meet its obligations under the PPA are dependent on its financial resources and viability to perform (as well as its willingness to do so). No assurances can be given regarding the financial strength or viability of Seller, TCEH or the other TCEH Pledged Entities or the ability of such entities to meet their obligations with respect to the PPA and the LBO Financing Documents.

Limitation of Remedies; Damages Available under the PPA

The PPA does not provide for the agreement to be enforced by specific performance against either party thereto (i.e., a court directing (i) Seller to meet their obligations to provide electric energy and capacity under the terms of the agreement or (ii) CAPP to accept and pay for electric energy under the terms of the agreement). To the extent a default is declared and such default is not cured, Seller and CAPP have limited remedies.

It should be noted that if Seller fails to schedule energy for CAPP from the PPA Facilities when such facilities are available or to otherwise provide alternate energy, Seller is required to pay CAPP "liquidated damages" equal to the cost of any replacement energy acquired by CAPP to replace the electric energy withheld by Seller less the energy price as provided in the PPA ("Replacement Damages"); provided, however, Seller's withholding energy, for extended or repeated occasions, is a default under the PPA and CAPP may terminate the PPA in such an event.

The PPA provides a similar provision if CAPP fails to take and pay for electric energy. CAPP is required to pay Seller "Resale Damages" equal to the positive difference, if any, between the energy price as provided in the PPA less the sales price realized by Seller selling such electric energy; provided, however, CAPP's failure to pay for such electric energy, for extended or repeated occasions, is a default under the PPA and Seller may terminate the PPA in such an event. As CAPP will have paid 3/5 of the total electric cost under the PPA as a capacity payment, CAPP believes it is a remote possibility that Resale Damages will ever occur.

Seller and CAPP have also agreed on liquidated damages that do not reflect the actual economic loss of either party at the time of termination of the PPA as a result of a default. The amount of such liquidated damages is explained below.

Upon a Seller default under the PPA and CAPP's election to terminate the PPA, the parties have agreed to liquidated damages through the payment of a Buyer Termination Payment (provided in Article 12 of the PPA and reference is made to such article). Liquidated damages, being the Buyer Termination Payment, is provided to be the amount equal to (i) the percentage of the principal amount of the outstanding CAPP contract revenue bonds from the initial capacity payment made to Seller under the PPA related to the total initial principal amount of the CAPP contract revenue Bonds (Seller is not responsible for any costs of issuance or reserve fund portions of the CAPP contract revenue bond issue) (such percentage amount is referred to as "Seller's Bond Portion"), (ii) plus the greater of (a) the "make whole premium" related to the Seller's Bond Portion or (b) CAPP's economic damages, capped at \$120 million ratably declining over the term of the PPA and (iii) less the aggregate amount of any Replacement Damages paid by Seller to CAPP over (1) the immediately preceding three (3) year period prior to any New Collateral Refinancing or (2) the immediately preceding five (5) year period following a New Collateral Refinancing.

Under the PPA, Seller has the ability to make termination of the agreement more likely by defaulting if it determines that it can enter a more economically advantageous transaction by paying CAPP the Buyer Termination Payment.

Upon a CAPP default under the PPA (presumably related to unmitigated non-appropriations by Participating Members resulting in CAPP's inability to pay Seller for electric energy under the PPA) and Seller's election to terminate the PPA, the parties have agreed to liquidated damages through the payment of a Seller Termination Payment (provided in Article 12 of the PPA). Liquidated damages, being the Seller Termination Payment, is provided to be the amount equal to (i) Seller's economic damages, capped at \$120 million ratably declining over the term of the PPA, (ii) plus the present value of unpaid New Governmental Charges (as defined below) for which CAPP is responsible, (iii) less the aggregate amount of any Resale Damages paid by CAPP to Seller over certain time periods in the PPA, and (iv) plus an amount equal to the unearned portion of the CAPP capacity payment to Seller, determined on a monthly straight line amortization (as opposed to the actual bond amortization schedule) over the term of the PPA. In such an event of CAPP default, CAPP would not be able to defease all of its contract revenue bonds and a portion of each Participating Member's capacity payments under the CAPP-Participating Member Contract will remain, even though such Participating Members will not receive any electric energy through the then terminated PPA.

Value of Seller's First Lien Security Interest Assets

CAPP is not aware of any asset valuation of the TCEH Pledged Entities' collateral undertaken with respect to the EFH LBO financing and there has been no current valuation relating to the PPA. CAPP cannot make any representation regarding the current or future value of collateral pledged under the LBO Financing Documents.

Because the cost of electricity within ERCOT has historically been based on the cost of natural gas as a fuel source, it is assumed the value of the electric generation facilities comprising a substantial portion of the collateral pledged under the LBO Financing Documents, at any point in time, will depend heavily upon the price of natural gas and the assumptions related to the future prices of natural gas. Natural gas prices have been historically volatile and no prediction or estimate can be made regarding the future value of pledged collateral of the TCEH Pledged Entities.

If the value of Seller's assets pledged as security under the PPA decreases, there is no requirement in the PPA for Seller to provide additional collateral to CAPP, and CAPP could experience the situation where the value of the collateral under the LBO Financing Documents is insufficient to cover the Secured Obligations under the LBO Financing Documents, including the PPA. If in the event of Bankruptcy, CAPP decides to terminate the PPA and collateral is insufficient to cover CAPP's security, CAPP would not be able to defease all of its contract revenue bonds and a portion of each Participating Member's capacity payments under the Member Contract will remain, even though such Participating Member will not receive any electric energy through the then terminated PPA.

New Governmental Charges

Under Article 20 of the PPA, CAPP and the Participating Members will be responsible for new governmental charges (taxes and required capital improvements at the PPA Facilities), which include the cost of potential carbon and green house gas remediation and taxes, assessments and other governmental impositions and compliance costs imposed on the PPA Facilities ("New Governmental Charges"). Certain taxes, such as income, employment and margin taxes are excluded.

To the extent these charges are imposed on the PPA Facilities (all of which will be providing electricity to CAPP under the PPA), CAPP and the Participating Members will be responsible for a proportionate share of the cost of any such New Governmental Charges in excess of operating expenses of \$100,000 annually or capital expenses greater than \$1,000,000 over the term of the PPA. Such share of the PPA Facilities allocated to CAPP is approximately three percent (3%). To the extent these New Governmental Charges are imposed, the annual energy cost for which each Participating Member is responsible will increase to cover the proportionate share of such charges.

In the event of a default by CAPP and the PPA's termination, part of the Seller Termination Payment CAPP will be required to pay will be an amount relating to New Governmental Charges. It is important to understand that a termination of the PPA under circumstances of a CAPP default may result in a substantial portion of the CAPP bonds remaining outstanding. In the event of a default by Seller and the PPA's termination, CAPP will not be responsible for any continuing New Governmental Charges.

Risk of Non-Appropriation by Participating Members

The capacity payment from CAPP to Seller under the PPA purchases the electric capacity associated with the contract electricity and is approximately 3/5 of the total cost of electricity under the agreement. The annual capacity charge paid by each Participating Member under the Member Contract will be used to support the CAPP contract revenue bonds. These annual capacity charges will be secured by a pledge of the Participating Member's ad valorem taxes, will be debt under State law and will not be subject to non-appropriation.

The annual energy payment, that is the remaining approximately 2/5 of the total cost of electricity under the PPA, is not secured by taxes, but is subject to annual appropriation by each Participating Member. Under the PPA, CAPP is obligated to purchase electric energy on an annual basis and pay for such electric energy. Under the Member Contract, a Participating Member will make its annual determination whether to purchase such electric energy to which it is entitled (pursuant to its acquisition of a portion of the electricity rights CAPP has obtained under the PPA). This purchase is subject to annual appropriation and dependent on each Participating Member appropriating funds in its annual budget for its share of electric energy under the Member Contract.

If a Participating Member fails to appropriate in any year, CAPP should have three options to either mitigate or eliminate the potential negative consequences of any such non-appropriation. CAPP presently believes its options include: (i) selling the available electric energy to other Participating Members (or the non-appropriating Participating Member assigning its rights to a willing and appropriating Participating Member); (ii) selling the electric energy into the ERCOT wholesale market through a series of short-term sales; or (iii) requesting Seller to resell the energy. It is anticipated that these options should effectively mitigate the risk of isolated non-appropriation of a small amount of CAPP's electric energy load (recognizing that only 2/5 of the electric energy's cost needs to be realized through such mitigating options). These mitigating options, however, only contemplate isolated non-appropriation by a small number of Participating Members.

If non-appropriation occurs by a significant number of the Participating Members affecting a significant portion of CAPP's aggregated electric load under the PPA, such occurrence may result in CAPP defaulting under the PPA. The most likely reason for such wide scale non-appropriations would be that the cost of the electric energy portion under the PPA and the CAPP-Participating Member Contract is more than the then projected market price for electric energy for an extended period.

In the event that CAPP defaults under the PPA as a result of the failure by some Participating Members to appropriate funds for the purchase of electricity, Seller may declare a default under the PPA and terminate the agreement. In such event, none of the Participating Members will receive electricity under the PPA, without regard to whether a particular member appropriated or non-appropriated for electric energy. Further, no Participating member will have a claim for damages against CAPP.

If CAPP could not sell the electric energy, as described above, TCEH would have the ability to terminate the PPA and demand a Buyer Termination Payment from CAPP, as explained above in the section “PPA – Limitation of Remedies; Damages Available Under the PPA.” This situation would leave the Participating Members with some portion of their debt under the CAPP Participating Member Contract remaining outstanding and the Participating Members would not receive any electric energy under the PPA.

Defeasance of CAPP's Bonds Will Not Be Realized if Seller Defaults in Certain Events

In the event of a Seller default, the Seller will only be responsible for the Seller Bond Portion and, at least the “make whole redemption premium” related thereto. Funds from a Buyer Termination Payment will only partially defease the CAPP contract revenue bonds – the portion of CAPP bonds issued relating to any reserve fund for the CAPP bonds or the portion issued to pay costs of issuance of the CAPP contract revenue bonds will remain outstanding. Under this scenario, the Participating Members could be in a situation where they are levying and collecting an ad valorem tax to make their capacity payment (debt service obligation) to CAPP under the CAPP-Participating Member Contract, although they may no longer be receiving any energy under the PPA. If this were to occur, there is the potential for Participating Members to collectively be responsible for up to approximately \$12 million of CAPP’s remaining contract revenue bonds.

Seller has the ability to offset a portion of the Buyer Termination Payment under the PPA by paying Replacement Damages to CAPP when Seller fails to schedule energy from the units when such energy is available. Such Replacement Damages paid (1) the immediately preceding three (3) year period prior to any New Collateral Refinancing or (2) the immediately preceding five (5) year period following a New Collateral Refinancing will be subtracted from any Buyer Termination Payment owed by Seller. Seller receives a rolling three to five year credit for such Replacement Damages payment, while reducing the potential Buyer Termination Payment to CAPP.

As TCEH=s credit ratings improve, a portion of the amount secured by the first lien security interest decreases in an amount equal to the Credit Threshold (as defined in the PPA). Therefore, if TCEH, as guarantor, were to become more credit-worthy and yet still declare bankruptcy and CAPP terminates the PPA, a portion of the Buyer Termination Payment due to CAPP (the make-whole price of CAPP=s contract revenue bonds) will be an unsecured claim (i.e., not secured by the first lien security interest under the LBO Financing Documents) and CAPP will not have the benefit of the other secured creditors. While the Credit Threshold gives Seller an economic incentive to improve its financial integrity and thus reduce the financial risk

to CAPP, it could also serve to expose CAPP to unsecured credit risk by reducing the amount of CAPP's first lien security.

New Collateral Refinancing/Substitute Collateral

As discussed earlier, CAPP cannot control or predict the future ownership or structure of Seller or the TCEH Pledged Entities. As the LBO Financing Documents expire in October 2014 and will likely be refinanced in some fashion (otherwise the PPA will have been terminated or otherwise secured by Substitute Collateral), no assurances can be given regarding the financing structure related to the New Collateral Refinancing, the value and nature of any related new collateral or the amount and nature of any related debt secured by such collateral. While provisions relating to Substitute Collateral seem to contemplate substitution that is applicable only to CAPP, the PPA does not specifically require such.

The New Collateral Refinancing provision in the PPA, Section 9.2(b), provides that the EFH LBO and the LBO Financing Documents will be refinanced and collateral under the LBO Financing Documents may be replaced with "substantially similar" collateral (to the collateral existing immediately prior to such refinancing) on a continuing "*pari passu*" first lien basis with other lenders. The PPA provides, however, that such lien may be subject to other liens provided for in the documents related to the New Collateral Refinancing.

The PPA provides that the collateral related to a New Collateral Refinancing shall be substantially similar in substance to the collateral existing immediately prior to such refinancing as reasonably determined by Seller in good faith. Further, collateral meeting prescribed dilution tests will be automatically deemed to be "substantially similar." While the dilution tests obligate Seller to maintain an asset valuation to debt ratio equivalent to the ratio in play today, it must be noted that the test functionally excludes swap and hedge transactions of TCEH Pledged Entities. Various TCEH Pledged Entities may continuously and actively engage in such transactions. With such swap and hedge transactions excluded, the protection provided to CAPP by the dilution test cannot be determined until a New Collateral Refinancing occurs. CAPP may be obligated to accept the New Collateral Refinancing securing Seller's obligations under the PPA that may be of less value than the collateral under the LBO Financing Documents immediately prior to such refinancing.

Additionally, the TCEH guaranty of the Seller's obligations under the PPA is required to be in place for the entire term of the PPA and it is anticipated such guaranty will be secured by the collateral relating to the New Collateral Refinancing Substitute Collateral or other acceptable collateral. However, if such guaranty is not secured, CAPP has potential unsecured credit exposure to the extent CAPP must rely on such TCEH guaranty for payment of the PPA.

Unit Contingent Nature of PPA; Extended Force Majeure May Prevent Realization of Economic Benefits

Under the PPA, CAPP is entitled to a portion of the electric capacity from each plant comprising the PPA Facilities. Seller's obligation to provide such capacity and electric energy is conditioned on the respective PPA Facilities plants being capable of operating. To the extent

there are planned outages or unplanned outages which constitute an event of Force Majeure under the PPA, Seller is not obligated to provide electric energy to CAPP from such affected plants. Sellers are required under the PPA (sections 6.3, 12 and 15.6) to operate and maintain the PPA Facilities according to Prudent Industry Practices, which includes all existing and future Laws. However, CAPP has not undertaken any examination or inspection of the PPA Facilities.

If an event of Force Majeure occurs, such as the destruction of a portion of the PPA Facilities contracted for electric supply under the PPA, Seller is partially excused from performing under the PPA and the rights and obligations under the PPA will be suspended. The Participating Members would not be receiving a portion of the contract energy under the CAPP-Participating Member Contract since Seller is not required to provide electric energy to CAPP under the PPA, and CAPP and the Participating Members would have to find other sources of electric energy (including a “wrap” contract) in the event of an extended Force Majeure, while still being liable to pay for its portion of the capacity payment pursuant to the CAPP-Participating Member Contract.

TCEH/Seller Bankruptcy

If Seller files bankruptcy, this will not happen in a vacuum. It likely will be preceded by months of negotiation with threats of filing bankruptcy. There likely will be ample time to renegotiate the PPA if CAPP so desires.

In the event of bankruptcy, the PPA will remain in effect unless it is specifically set aside. Electricity should continue to be provided by the facilities under contract.

The risks of bankruptcy include:

1. Adequacy of collateral in the event of termination. The PPA contains an *ipso facto* clause providing that bankruptcy is a default, giving CAPP the right to terminate the agreement if it desires. The decision of whether to terminate would depend upon the value of assets and market prices for electricity at the time, neither of which can be predicted by CAPP.
2. Whether the PPA will be regarded as a forward contract or an executory agreement. The PPA specifies on its face that it is a “forward contract,” but such statement does not bind a Bankruptcy Court. However, if the contract terms are not honored because the Court concludes the PPA is “executory,” the likely result would be a renegotiated price closer to the then market rate. CAPP cannot predict what a future judge with broad discretion may rule.
3. The forum for bankruptcy may be Delaware, rather than Texas. TCEH is a Delaware corporation, but venue for pledged entities may be elsewhere. Competing courts will likely have to resolve a venue contest.
4. Whether the Court will apply a “business judgment” test (favoring Seller) or a “public interest” test (favoring CAPP). It is unknown whether courts would apply a heightened public interest standard for electrical energy supply to political subdivisions.

Other Risks and Considerations

There are other events or developments that could impact the transactions contemplated in the PPA and Member Contract including:

- future regulatory changes, including actions of the State legislature, Public Utility Commission of Texas and ERCOT affecting the competitive electric utility industry;
- future technological advances in electric generation and transmission such as development of new electric generation resources, including new nuclear power plants, higher efficiency coal and natural gas generation plants, high efficiency electric transmission and/or advances in alternative sources of electricity (wind, solar and etc.);
- discovery of additional large scale natural gas reserves or the development of large scale liquefied natural gas (“LNG”) facilities in the United States to utilize overseas LNG supplies and transportation facilities and/or a sustained long-term decrease of the price of natural gas;
- future environmental regulation of coal-fired electric generation facilities generally could impact the transaction contemplated in the PPA, including New Governmental Charges; and
- financial markets react to various factors that CAPP can neither predict nor control. Savings protections related to the PPA are dependent upon financing and debt issuance costs that in turn will be influenced by interest rates that will depend upon risk perceptions of financial markets. CAPP can offer no assurances regarding what rates will be applicable when debt is issued or ultimately repaid.

MEMBER CONTRACT

Effect on a City's Debt/Bonding Capacity

There is a possibility that the contract could have negative credit rating implications on Participating Members.

General discussions with the various credit rating agencies have occurred and will continue taking place to inform them of the transaction so they can make educated credit rating decisions regarding the Participating Members. It is possible that the capacity payment (debt obligation) of the Participating Members under the Member Contract will adversely impact any given Participating Member's bonding capacity and credit rating by any or all of the rating agencies. Each rating agency will have questions and analysis regarding the structure and there has been no definitive answer regarding how each rating agency will view this obligation. It is possible that each rating agency may view this obligation differently.

Subject to Annual Appropriation Obligation May Be Viewed as a General Obligation

In the event of a non-appropriation by a Participating Member, rating agencies may view the provision of energy to a Participating Member's electric accounts as a governmental function. The Participating Member's failure to appropriate may be considered a default by one or more credit rating agency on the Participating Member's general obligation debt, regardless of the fact that a Participating Member has the choice to appropriate or not. Further risks regarding non-appropriation were addressed in section "PPA - Risk of Non-Appropriation by Participating Members" above.

Obligation to Levy Ad Valorem Tax

As discussed in prior sections above, the Member Contract obligates each Participating Member to pledge ad valorem taxes to pay for its portion of the capacity payment that CAPP is paying to Seller to acquire energy capacity over the 24 year term of the PPA. The capacity payment under the Member Contract is a debt of the Participating Member municipality which is subject to enforcement by a mandamus action brought by the trustee related to CAPP's contract revenue bonds against a Participating Member municipality to levy taxes sufficient within the limits prescribed by law to make such payments.

In the event of a termination of the PPA, there are a number of situations in which CAPP would not be able to defease all of its contract revenue bonds and a portion of each Participating Member's capacity payments under the CAPP-Participating Member Contract would remain, even though such Participating Member will not receive any electric energy through the then terminated PPA. Such situations are discussed above.

Acknowledgment

This Disclosure Memorandum dated September 10, 2008 is acknowledged and accepted by the undersigned on behalf of the Participating Member indicated below. The governing body of such Participating Member has taken official action acknowledging its understanding of the risks and considerations discussed or described in this Disclosure Memorandum and has formally authorized and directed the undersigned to execute this Disclosure Memorandum on behalf of the Participating Member.

	Participating Member
By:	_____
Title:	_____
Date:	_____

**AGENDA
CITY OF ALLEN
CITY COUNCIL REGULAR MEETING
SEPTEMBER 23, 2008 – 7:00 P.M.
COUNCIL CHAMBERS
ALLEN CITY HALL
305 CENTURY PARKWAY**

Call to Order and Announce a Quorum is Present.

Pledge of Allegiance.

Public Recognition.

1. Citizens' Comments. *[The City Council invites citizens to speak to the Council on any topic not on the agenda or not already scheduled for Public Hearing. Prior to the meeting, please complete a "Public Meeting Appearance Card" and present it to the City Secretary. The time limit is three minutes per speaker, not to exceed a total of fifteen minutes for all speakers.]*

Consent Agenda. *[Routine Council business. Consent Agenda is approved by a single majority vote. Items may be removed for open discussion by a request from a Councilmember or member of staff.]*

2. Approve Minutes of the September 9, 2008, Regular Meeting.
3. Set Saturday January 17, 2009, as the Date for the City Council Strategic Planning Session.
4. Adopt an Ordinance Approving a Negotiated Settlement between the Atmos Cities Steering Committee and Atmos Energy Corporation Regarding the Company's Rate Review Mechanism.
5. Adopt a Resolution Amending the Previously Adopted Police, Fire and General Pay Plan by Updating the Pay Plan; and Providing an Effective Date.
6. Adopt a Resolution Designating *The Allen American* as the Official Newspaper of the City of Allen.

7. Adopt a Resolution Determining the Necessity for Acquisition of a Waterline Easement Along Custer Road, and Authorize the City Manager and City Attorney to File Proceedings in Eminent Domain to Acquire Such Property, if Necessary.
8. Adopt a Resolution Accepting the Three-Year Selective Traffic Enforcement Program Grant. for a Total Award Amount of \$259,873.70 with a Matching Amount of \$78,595.70, from the State of Texas, Department of Transportation.
9. Adopt a Resolution and Authorize the City Manager to Execute an Interlocal Agreement with the East Texas Medical Center and Provide an Effective Date with Regards to the 800 MHz Trunked Radio System Owned by the Cities of Allen, Plano and Frisco.
10. Adopt a Resolution and Authorize the City Manager to Execute an Interlocal Agreement with the Town of Prosper and Provide an Effective Date with Regards to the 800 MHz Trunked Radio System Owned by the Cities of Allen, Plano and Frisco.
11. Adopt a Resolution and Authorize the City Manager to Execute an Interlocal Agreement with the Plano Independent School District and Provide an Effective Date with Regards to the 800 MHz Trunked Radio System Owned by the Cities of Allen, Plano and Frisco.
12. Adopt a Resolution and Authorize the City Manager to Execute an Interlocal Agreement with the City of Murphy and Provide an Effective Date with Regards to the 800 MHz Trunked Radio System Owned by the Cities of Allen, Plano and Frisco.
13. Adopt a Resolution Authorizing the City Manager to Execute an Interlocal Cooperation Agreement with Collin County to Permit the Use of Certain Space within the Allen Municipal Court/Parks & Recreation Building for Justice of the Peace Precinct 3 Proceedings Conducted by the Justice of the Peace and Other Collin County Elected Officials.
14. Adopt a Resolution Authorizing the City Manager to Execute an Interlocal Cooperative Agreement by and between Purchasing Solutions Alliance and the City of Allen for City of Allen's Use of Purchasing Solutions Alliance Supplier Contracts.
15. Adopt a Resolution Authorizing the City Manager to Execute an Interlocal Agreement with NTTA Regarding the Intersection of State Highway 121 and Exchange Parkway.
16. Authorize the City Manager to Execute a Professional Services Agreement with Dan B. Chern as the City's Alternate Municipal Court Judge, for a Period of Two Years, Beginning on October 1, 2008.

17. Authorize the City Manager to Execute a Five-Year License Purchase Agreement with Ion Wave Technologies, Inc. for Electronic Purchasing Software through an Interlocal Cooperative Agreement with Purchasing Solutions Alliance for an Amount Not Exceed \$67,000.
18. Authorize the City Manager to Execute a Contract with Mister Sweeper, L.P., for Street Sweeping Services for an Estimated Annual Expenditure of \$92,000 with Three One-Year Renewal Options Under the Same Terms and Conditions.
19. Declare a Vacancy in Place No. 5 on the Allen Parks and Recreation Board.
20. Receive the Summary of Property Tax Collections as of August 2008.
21. Receive the Capital Improvement Program Status Report.

Regular Agenda.

22. Consider Making an Appointment to Fill a Vacancy in Place No. 5 on the Parks and Recreation Board.

Other Business.

23. Items of Interest.
24. Calendar.
 - September 25 — City of Allen and Keep Allen Beautiful Educator Expo
 - October 3 — Chamber of Commerce Golf Classic

Executive Session. (As needed)

Legal, Section 551.071; Property, Section 551.072; Personnel, Section 551.074.
As authorized by Section 551.071(2) of the Texas Government Code, the Workshop Meeting and/or the Regular Agenda may be Convened into Closed Executive Session for the Purpose of Seeking Confidential Legal Advice from the City Attorney on any Agenda Item Listed Herein.

(Closed to Public as Provided in the Texas Government Code.)

25. Reconvene and Consider Action on Items Discussed during Executive Session.

Adjournment.

This notice was posted at Allen City Hall, 305 Century Parkway, Allen, Texas, at a place convenient and readily accessible to the public at all times. Said notice was posted on Friday, September 19, 2008, at 5:00 p.m.

Shelley B. George, City Secretary

Allen City Hall is wheelchair accessible. Access to the building and special parking are available at the entrance facing Century Parkway. Requests for sign interpreters or special services must be received forty-eight (48) hours prior to the meeting time by calling the City Secretary at 214.509.4105.

ALLEN CITY COUNCIL

REGULAR MEETING

SEPTEMBER 9, 2008

Present:

Stephen Terrell, Mayor

Councilmembers:

Debbie Stout, Mayor Pro Tem

Ross Obermeyer

Joey Herald

Robin L. Sedlacek

Gary L. Caplinger

Jeff McGregor

City Staff:

Peter H. Vargas, City Manager

Shelli Siemer, Assistant City Manager

Shelley B. George, City Secretary

Pete Smith, City Attorney

Workshop Session

With a quorum of the Councilmembers present, the Workshop Session of the Allen City Council was called to order by Mayor Terrell at 6:21 p.m. on Tuesday, September 9, 2008, in the Council Conference Room of the Allen City Hall, 305 Century Parkway, Allen, Texas:

- Introduction of Kurt Kizer, President of the Allen Economic Development Corporation
- Preview of Oncor Electric Delivery's CitySmart Program

With no further discussion, the Workshop Session of the Allen City Council was adjourned at 6:58 p.m. on Tuesday, September 9, 2008.

Call to Order and Announce a Quorum is Present

With a quorum of the Councilmembers present, the Regular Meeting of the Allen City Council was called to order by Mayor Terrell at 7:05 p.m. on Tuesday, September 9, 2008, in the Council Chambers of the Allen City Hall, 305 Century Parkway, Allen, Texas.

Pledge of Allegiance

Members of Boy Scout Troop 1299 lead the Pledge of Allegiance.

Public Recognition

1. Citizens' Comments.

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SEPTEMBER 9, 2008**

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Nancy Naigel, 2616 Clublake Trail, McKinney, Texas, representing the Assistance League of Greater Collin County, provided an overview of the services her agency provides to the citizens of Collin County.

- 2. Presentation of a Blue Star Flag to the Family of an Allen Servicewoman Currently Deployed by the U.S. Armed Forces.**
 - Kathy and Dennis Ford, parents of Specialist Rachel Clare Deck of the United States Army
- 3. Presentation of a Proclamation by the Office of the Mayor:**
 - Presentation of a Proclamation to Regent Mae Shaw of the General Benedict dela Galvez Chapter of the National Daughters of the American Revolution Chapter, Proclaiming September 17-23, 2008, as "*Constitution Week*."
- 4. Kurt Kizer, President, Provided the Presentation of the Allen Economic Development Corporation Annual Report.**

Consent Agenda

MOTION: Upon a motion made by Councilmember Caplinger and a second by Mayor Pro Tem Stout, the Council voted seven (7) for and none (0) opposed to adopt the items on the Consent Agenda as follows:

- 5. Approve Minutes of the August 26, 2008, Regular Meeting.**
- 6. Adopt an Ordinance Amending the Code of Ordinances Regarding the Police Department for the Purpose of 'Best Practices' Accreditation.**

ORDINANCE NO. 2761-9-08: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, FOR THE PURPOSE OF ACHIEVING BEST PRACTICES RECOGNITION STATUS FROM THE TEXAS POLICE CHIEF ASSOCIATION'S LAW ENFORCEMENT BEST PRACTICES RECOGNITION PROGRAM BY CODIFYING PRIOR POLICE DEPARTMENT REGULATIONS INTO THE CODE OF ORDINANCES AS DIVISION 1 OF CHAPTER 2 OF THE CODE OF ORDINANCES; BY REDESIGNATING THE POLICE RESERVE AS DIVISION 2 OF CHAPTER 2; PROVIDING A REPEALING CLAUSE; SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

- 7. Adopt a Resolution to Authorize Execution of an Interlocal Agreement with Collin County for Funding of Library Services for an Amount of \$34,088.28.**

RESOLUTION NO. 2762-9-08 (R): A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, APPROVING THE TERMS AND CONDITIONS OF AN INTERLOCAL COOPERATION AGREEMENT BY AND BETWEEN THE CITY OF ALLEN AND COUNTY OF COLLIN, TEXAS, FOR THE FUNDING OF LIBRARY SERVICES; AUTHORIZING ITS EXECUTION BY THE CITY MANAGER OR DESIGNEE; AND PROVIDING AN EFFECTIVE DATE.

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8. **Authorize the City Manager to Execute an Economic Development Agreement with Piedmont Stacy Partners, L.P. to Contribute Funds to Defray a Portion of the Cost to Bury Overhead Utilities along Stacy Road for an Amount not to Exceed \$150,000.**
9. **Authorize the City Manager to Execute a Facilities Agreement with Blue Star Allen Land, L.P. for the Design and Construction of Portions of Watters Road and Ridgeview Drive.**
10. **Accept Required Certifications from Tax Assessor/Collector's Office.**

The motion carried.

Regular Agenda

11. **Adopt an Ordinance Approving the Fiscal Year 2008-2009 Budget, Amending the Fiscal Year 2007-2008 Budget, and Approving the 2009-2013 Capital Improvement Program.**

ORDINANCE NO. 2763-9-08: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, APPROVING AND ADOPTING A BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2008, AND ENDING SEPTEMBER 30, 2009; PROVIDING THAT EXPENDITURES FOR SAID FISCAL YEAR SHALL BE MADE IN ACCORDANCE WITH SAID BUDGET; APPROPRIATING AND SETTING ASIDE THE NECESSARY FUNDS OUT OF THE GENERAL AND OTHER REVENUES FOR SAID FISCAL YEAR FOR THE MAINTENANCE AND OPERATION OF THE VARIOUS DEPARTMENTS AND FOR VARIOUS ACTIVITIES AND IMPROVEMENTS OF THE CITY; APPROPRIATING THE VARIOUS AMOUNTS REQUIRED FOR SUCH BUDGET; PROVIDING FOR RECORDING OF THE ORDINANCE; PROVIDING FOR A REPEALING CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Upon a motion made by Councilmember Obermeyer and a second by Councilmember McGregor, the Council voted seven (7) for and none (0) opposed to adopt Ordinance No. 2763-9-08, as previously captioned, approving the Fiscal Year 2008-2009 budget, amending the Fiscal Year 2007-2008 budget, and approving the 2009-2013 Capital Improvement Program. The motion carried.

MOTION: Upon a motion made by Councilmember Obermeyer and a second by Mayor Pro Tem Stout, the Council voted seven (7) for and none (0) opposed to ratify the increase in property tax revenues reflected in the Fiscal Year 2008-2009 budget. The motion carried.

12. **Adopt an Ordinance Setting the Tax Rate of 55.6 Cents per \$100 Valuation of Property for the 2008-2009 Fiscal Year.**

ORDINANCE NO. 2764-9-08: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, LEVYING THE AD VALOREM TAXES FOR THE TAX YEAR 2008 (FISCAL YEAR 2008-2009) AT A RATE OF \$0.55600 PER ONE HUNDRED DOLLARS (\$100) ASSESSED VALUATION ON ALL TAXABLE PROPERTY WITHIN THE CORPORATE LIMITS OF THE CITY OF ALLEN AS OF JANUARY 1, 2008, TO PROVIDE REVENUE FOR THE PAYMENT OF CURRENT EXPENSES; PROVIDING FOR AN INTEREST AND SINKING FUND FOR ALL OUTSTANDING DEBT OF THE CITY OF ALLEN; PROVIDING FOR DUE AND DELINQUENT DATES TOGETHER WITH PENALTIES AND

**ALLEN CITY COUNCIL
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SEPTEMBER 9, 2008**

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INTEREST; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALING CLAUSE;
AND PROVIDING AN EFFECTIVE DATE.

MOTION: Upon a motion made by Mayor Pro Tem Stout and a second by Councilmember McGregor, the Council voted seven (7) for and none (0) opposed that property taxes be increased by the adoption of a tax rate of 55.6 cents per \$100 valuation of property, and adopt Ordinance No. 2764-9-08, as previously captioned, setting that tax rate for the 2008-2009 Fiscal Year. The motion carried.

Other Business

14. Items of Interest.

The Council recognized Boy Scouts from Troop 1299 in attendance as a requirement for earning their citizenship of community merit badge and a Boy Scout from Troop 79 in attendance as a requirement for earning his communications merit badge.

15. Calendar.

- September 20 — Allen Library Endowment Board Reception
- September 29 — 7th Annual Citizens Police Academy Alumni Association Golf Tournament - Canceled
- October 3 — Chamber of Commerce Golf Classic

The Regular Meeting recessed at 7:41 p.m.

Executive Session

In accordance with the Texas Government Code, the Allen City Council reconvened into Executive Session at 7:55 p.m. on Tuesday, September 9, 2008, in the Council Conference Room, 305 Century Parkway, Allen, Texas, in order to continue discussing matters pertaining to:

- Personnel – Pursuant to Section 551.074 of the Texas Government Code
 - Discuss Appointments to the Following:
 - Board of Adjustment / Building and Standards Commission
 - Planning and Zoning Commission
 - Community Development Corporation
 - Economic Development Corporation
 - Arts of Collin County Commission – The Arts of Collin County Commission appointment was not discussed in Executive Session.

The Executive Session adjourned at 9:18 p.m. on Tuesday, September 9, 2008.

14. Reconvene and Consider Action on Items Discussed during Executive Session.

The Allen City Council reconvened into Regular Meeting at 9:23 p.m. on Tuesday, September 9, 2008. The following action was taken on Agenda Item 13:

13. Motion to Consider Appointments to Fill Expiring Terms and Vacancies on All City Boards, Commissions and Corporations.

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Councilmember Sedlacek presented the slate of nominations as follows:

<u>Animal Shelter Advisory Committee</u>		<u>Expiration Date</u>
Place No. 2	Joey Allette	September 30, 2010
Place No. 4	Bill Ameser	September 30, 2010
<u>Board of Adjustment/Building & Standards Com./Sign Board</u>		<u>Expiration Date</u>
Place No. 2	Alex Kirk	September 30, 2010
Place No. 4	Frank Brown	September 30, 2010
Alternate Place No. 1	Deborah Angell Smith	September 30, 2009
<u>Central Business District Design Review Committee</u>		<u>Expiration Date</u>
Place No. 2	Steve Shaffer	September 30, 2010
<u>Community Development Corporation</u>		<u>Expiration Date</u>
Place No. 2	George Chrisman	September 30, 2010
Place No. 4	Lori Stitt	September 30, 2010
Place No. 6	Cheryl Lawson	September 30, 2010
<u>Economic Development Corporation</u>		<u>Expiration Date</u>
Place No. 3	Kurt Kizer	September 30, 2011
<u>Keep Allen Beautiful</u>		<u>Expiration Date</u>
Place No. 2	Trent Armstrong	September 30, 2010
Place No. 4	Jason Shepard	September 30, 2010
Place No. 6	Kerry Craven	September 30, 2010
Place No. 7	David Buchanan	September 30, 2009
<u>Library Board</u>		<u>Expiration Date</u>
Place No. 1	Tanya Gould	September 30, 2009
Place No. 2	Donna Drews Vanous	September 30, 2010
Place No. 4	Geoffrey Smith	September 30, 2010
Place No. 6	Mark Carpenter	September 30, 2010
<u>Parks and Recreation Board</u>		<u>Expiration Date</u>
Place No. 1	Tony Airhart	September 30, 2009
Place No. 2	Libby Jones	September 30, 2010
Place No. 4	Todd McIntosh	September 30, 2010
Place No. 6	Robert Burgess	September 30, 2010
Place No. 7	Ron Alexander	September 30, 2009
<u>Planning and Zoning Commission</u>		<u>Expiration Date</u>
Place No. 2	James Rushing	September 30, 2010
Place No. 4	Jeff Cocking	September 30, 2010
Place No. 6	Robert Wendland	September 30, 2010
<u>Public Art Committee</u>		<u>Expiration Date</u>
Place No. 2	David Baldwin	September 30, 2010
Place No. 4	Jane Bennett	September 30, 2010
Place No. 6	Sharon Lakes	September 30, 2010

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Health Officer

Dr. John Connolly

Expiration Date

September 30, 2010

MOTION: Upon a motion by Councilmember Obermeyer and a second by Councilmember Herald, the Council voted seven (7) for and none (0) opposed that nominations cease and that the slate of individuals previously nominated be appointed by acclamation to the designated places on the Allen Animal Shelter Advisory Committee, Board of Adjustment/Building and Standards Commission/Sign Control Board, Central Business District Design Review Committee, Allen Community Development Corporation Board, Allen Economic Development Corporation Board, Keep Allen Beautiful Board, Library Board, Parks and Recreation Board, Planning and Zoning Commission, Public Art Committee, and Health Officer, respectively. The motion carried.

Adjourn

MOTION: Upon a motion made by Councilmember Herald and a second by Councilmember Obermeyer, the Council voted seven (7) for and none (0) opposed to adjourn the Regular Meeting of the Allen City Council at 9:25 p.m. on Tuesday, August 26, 2008. The motion carried.

These minutes approved on the 23rd day of September, 2008.

APPROVED:

Stephen Terrell, MAYOR

ATTEST:

Shelley B. George, TRMC, CITY SECRETARY

CITY COUNCIL AGENDA COMMUNICATION
--

AGENDA DATE: Tuesday, September 23, 2008

SUBJECT: Set Saturday, January 17, 2009, as the Date for the Strategic Planning Session with City Council and Executive Staff

STAFF RESOURCE: Peter H. Vargas, City Manager

ACTION PROPOSED: Set Saturday, January 17, 2009, as the date for the City Council Strategic Planning Session

BACKGROUND

Through the annual Strategic Planning process the City Council defines initiatives for the City of Allen over the next five years and sets a direction for the staff. This process allows staff to consider implementation of the strategies during the budget development process. After obtaining feedback from all the City Council members to determine an available date to hold the 2009 Strategic Planning Session, it is recommended that you set Saturday, January 17, 2009, as the date.

STAFF RECOMMENDATION

Staff recommends the City Council set January 17, 2009, as the date for the Strategic Planning Session with City Council.

MOTION

I make a motion to set Saturday, January 17, 2009, as the date for the City Council Strategic Planning Session.

CITY COUNCIL AGENDA COMMUNICATION
--

AGENDA DATE: Tuesday, September 23, 2008

SUBJECT: Negotiated Settlement between the Atmos Cities Steering Committee and Atmos Energy Corporation Regarding the Company's Rate Review Mechanism

STAFF RESOURCE: Shelli Siemer, Assistant City Manager

PREVIOUS COUNCIL ACTION: On January 14, 2008, the City Council adopted an Ordinance Approving a Settlement Agreement with Atmos Energy Corporation Regarding Gas Rates. This Settlement Agreement Included the Establishment of the Rate Review Mechanism to Replace the Previously Contested Annual GRIP Rate Cases.

BACKGROUND

The City, along with 150 other cities served by Atmos Energy Mid-Tex Division (Atmos), is a member of the Atmos Cities Steering Committee (ACSC). On April 14, 2008, Atmos filed with the City an application to increase natural gas rates pursuant to the Rate Review Mechanism (RRM) tariff approved by the City earlier this year through the January Rate Settlement Agreement. The 2008 RRM filing seeks a \$33.5 million rate increase. The City worked with ACSC to analyze the schedules and evidence offered by Atmos to support its request to increase rates.

The Ordinance and attached tariff approving rates that will increase the Company's revenues by \$19.8 million effective October 1, 2008, are the result of negotiation between ACSC and Atmos to resolve issues raised by ACSC during the review and evaluation of the RRM filing. The monthly bill impact for the average residential customer is \$0.81.

The RRM tariff was approved by cities as part of the settlement agreement to resolve Atmos' 2007 rate increase case. Atmos' rate request represents the first filing pursuant to the three-year trial project known as the RRM process. The RRM process was created collaboratively by the Steering Committee and Atmos as an alternative to the GRIP surcharge process. The RRM process allows for a more comprehensive rate review and annual adjustment that will function as a substitute for future GRIP filings during the three-year trial period specified by the tariff.

There are two components to the RRM adjustment. The prospective component adjusts rates for known and measurable changes in O&M and net plant investment. Atmos and ACSC

agreed to cap changes to expenses and invested capital at no more than five percent. The true up component evaluates whether the Company has over or under recovered its earnings for the previous year. For purposes of the RRM true up component, Atmos' rate of return on equity and its capital structure are frozen to avoid the parent company from manipulating the overall rate of return. Also, certain costs are prohibited from recovery through the RRM, making it very clear what can and cannot be included.

STAFF RECOMMENDATION

Consultants working on behalf of ACSC cities have investigated the support for the Company's requested rate increase. While the evidence does not support the \$33.5 million increase requested by the Company, ACSC consultants agree that the Company can justify an increase in revenues of at least \$19.8 million, effective October 1, 2008.

A contested case proceeding before the RRC on the Company's current application will take several months and cost ratepayers millions of dollars in rate case expenses and would not likely produce a request more favorable than that to be produced by the settlement. The ACSC Executive Committee recommends that ACSC members take action to approve the ordinance authorizing new rate tariffs.

BUDGETARY IMPACT

The City is a member of the Atmos Cities Steering Committee and there will be no direct budget impact to the City of Allen as a result of adopting this Agreement establishing the Rate Review rates.

MOTION

I make a motion to adopt Ordinance No. _____ approving a Negotiated Settlement between the Atmos Cities Steering Committee and Atmos Energy Corporation Regarding the Company's Rate Review Mechanism

ATTACHMENT

Proposed Atmos Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ("CITY") APPROVING A NEGOTIATED RESOLUTION BETWEEN THE ATMOS CITIES STEERING COMMITTEE AND ATMOS ENERGY CORP., MID-TEX DIVISION ("ATMOS MID-TEX" OR "THE COMPANY") REGARDING THE COMPANY'S RATE REVIEW MECHANISM FILING IN ALL CITIES EXERCISING ORIGINAL JURISDICTION; DECLARING EXISTING RATES TO BE UNREASONABLE; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT AND FINDING THE RATES TO BE SET BY THE ATTACHED TARIFFS TO BE JUST AND REASONABLE; APPROVING ATMOS' PROOF OF REVENUES; ADOPTING A SAVINGS CLAUSE; DETERMINING THAT THIS ORDINANCE WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND LEGAL COUNSEL.

WHEREAS, the City of Allen, Texas, ("City") is a gas utility customer of Atmos Energy Corp., Mid-Tex Division ("Atmos Mid-Tex" or "the Company"), and a regulatory authority with an interest in the rates and charges of Atmos Mid-Tex; and,

WHEREAS, the City is a member of the Atmos Cities Steering Committee ("ACSC"), a coalition of more than 150 similarly situated cities served by Atmos Mid-Tex that have joined together to facilitate the review and response to natural gas issues affecting rates charged in the Atmos Mid-Tex service area (such participating cities are referred to herein as "ACSC Cities"); and,

WHEREAS, Atmos and ACSC Cities have been in continuing disagreement, dispute, and litigation over the implementation of GRIP surcharges pursuant to Section 104.301 of the Texas Utilities Code; and,

WHEREAS, as part of the negotiations to resolve Atmos' 2007 rate case, ACSC Cities and the Company worked collaboratively to develop the Rate Review Mechanism ("RRM") tariff that allows for an expedited rate review process controlled by Cities as a substitute to the current GRIP process instituted by the Legislature; and,

WHEREAS, the City took action earlier this year to approve a Settlement Agreement with Atmos Mid-Tex resolving the Company's 2007 rate case and authorizing the RRM Tariff; and,

WHEREAS, on or about April 14, 2008, Atmos Mid-Tex filed with the City its first application pursuant to the RRM tariff to increase natural gas rates by approximately \$33.5 million, such increase to be effective in every municipality that has adopted the RRM tariff within its Mid-Tex Division; and,

WHEREAS, ACSC Cities coordinated its review of Atmos' RRM filing and designated a Negotiation Committee made up of ACSC representatives and assisted by ACSC attorneys and consultants to resolve issues identified by ACSC in the Company's RRM filing; and,

WHEREAS, the Company has filed evidence that existing rates are unreasonable and should be changed; and,

WHEREAS, independent analysis by ACSC's rate expert concluded that Atmos is able to justify a rate increase of \$19.8 million; and,

WHEREAS, the ACSC Executive Committee, as well as ACSC lawyers and consultants, recommends ACSC members approve the attached rate tariffs ("Attachment A" to this Ordinance) that will increase the Company's revenue requirement by \$20 million; and,

WHEREAS, the attached tariffs implementing new rates and Atmos' Proof of Revenues ("Attachment B" to this Ordinance) are consistent with the negotiated resolution reached by ACSC Cities (including but not limited to a reduction of the residential customer monthly charge to \$7.00 per month) and are just, reasonable, and in the public interest; and,

WHEREAS, it is the intention of the parties that ACSC Cities receive the benefit of any Settlement Agreement that Atmos enters into with other entities arising out of its RRM or any associated appeals of a decision entered by the Railroad Commission regarding the Company's request to increase rates. The ACSC Cities' acknowledge that the exercise of this right is conditioned upon the ACSC Cities' acceptance of all rates, revenues, terms and conditions of any other Settlement Agreement or associated appeals arising out of the Company's RRM filing *in toto*; and,

WHEREAS, the negotiated resolution of the Company's RRM filing and the resulting rates are, as a whole, is in the public interest.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, THAT:

SECTION 1. The findings set forth in this Ordinance are hereby in all things approved.

SECTION 2. The City Council finds that the existing rates for natural gas service provided by Atmos Mid-Tex are unreasonable and new tariffs and Atmos' proof of revenues, which are attached hereto and incorporated herein as Attachments A and B, are just and reasonable and are hereby adopted.

SECTION 3. To the extent any resolution or ordinance previously adopted by the Council is inconsistent with this Ordinance, it is hereby repealed.

SECTION 4. The meeting at which this Ordinance was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

SECTION 5. If any one or more sections or clauses of this Ordinance is adjudged to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance and the remaining provisions of the Ordinance shall be interpreted as if the offending section or clause never existed.

SECTION 6. If ACSC Cities determine any rates, revenues, terms and conditions, or benefits resulting from a Final Order or subsequent negotiated settlement approved in any proceeding addressing the issues raised in Atmos' RRM filing would be more beneficial to the ACSC Cities than the terms of the attached tariff, then the more favorable rates, revenues, terms and conditions, or benefits shall additionally accrue to the ACSC Cities. Exercise of this right is conditioned upon ACSC Cities' acceptance of all rates, revenues, terms and conditions of any other Settlement Agreement or associated appeals arising out of the Company's RRM filing *in toto*.

SECTION 8. A copy of this Ordinance shall be sent to Atmos Mid-Tex, care of David Park, Vice President Rates and Regulatory Affairs, at Atmos Energy Corporation, 5420 LBJ Freeway, Suite 1800, Dallas, Texas 75240, and to Geoffrey Gay, General Counsel to ACSC, at Lloyd Gosselink Rochelle & Townsend, P.C., P.O. Box 1725, Austin, Texas 78767-1725.

SECTION 9. This Ordinance shall become effective from and after its passage with rates authorized by attached Tariffs to be effective for customer bills delivered on or after October 1, 2008.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 23RD DAY OF SEPTEMBER, 2008.

APPROVED:

Stephen Terrell, MAYOR

APPROVED AS TO FORM:

ATTEST:

Peter G. Smith, CITY ATTORNEY

Shelley B. George, TRMC, CITY SECRETARY

CITY COUNCIL AGENDA COMMUNICATION
--

AGENDA DATE: Tuesday, September 23, 2008

SUBJECT: Amend the City of Allen Police, Fire and General Pay Plan

STAFF RESOURCE: Laura Morrow, Director of Human Resources

PREVIOUS COUNCIL ACTION: Approval of the 2006/2007 Pay Plan through the adoption of the 2006/2007 City of Allen Budget.

ACTION PROPOSED: Adopt A Resolution

BACKGROUND

The City of Allen adopted the Waters Consulting compensation recommendations resulting in the creation of the City of Allen Pay Plan in April 2003. Since that time the City Council has approved the Pay Plan adjustments as part of the budget process on a bi-annual basis.

This year, both the Fire and Police departments requested new structures reflecting a higher entry rate and reduction of pay steps. Human Resources and the two public safety departments worked together to provide new structures that addressed their needs but maintained the City's philosophy of progressing through the steps based on merit.

STAFF RECOMMENDATION

Staff recommends that the City Council adopt a resolution amending the previously adopted Police, Fire And General Pay Plan by updating the pay plan; and providing an effective date.

BUDGETARY IMPACT

Anticipated cost to amend the Police Pay Plan is \$144,588, and the Fire Pay Plan is projected to cost \$159,275.

MOTION

I make a motion to adopt a resolution number _____amending the previously adopted police, fire and general pay plan by updating the pay plan; and providing an effective date of October 1, 2008.

ATTACHMENT

2008/2009 Police Pay Plan
2008/2009 Fire Pay Plan Admin
2008/2009 Fire Pay Plan Shift
2008/2009 General Pay Plan
Proposed Resolution

City of Allen
FY 2009 Police Pay Plan
Effective: October 1, 2008

STEP			1	2	3	4	5	6	7	8	9	10	11	12
GRADE														
Officer I	Hourly	120	22.9222											
	Bi-Weekly		1,833.78											
	Monthly		3,973.18											
	Annual		47,678.18											
Officer II	Hourly	121	24.0682	24.5496	25.0406	25.5414	26.0522	26.5732	27.1047	27.6468	28.1997	28.7637	29.3390	29.9258
	Bi-Weekly		1,925.46	1,963.97	2,003.25	2,043.31	2,084.18	2,125.86	2,168.38	2,211.74	2,255.98	2,301.10	2,347.12	2,394.06
	Monthly		4,171.82	4,255.26	4,340.37	4,427.18	4,515.72	4,606.02	4,698.15	4,792.11	4,887.95	4,985.71	5,085.43	5,187.14
	Annual		50,061.86	51,063.17	52,084.45	53,126.11	54,188.58	55,272.26	56,377.78	57,505.34	58,655.38	59,828.50	61,025.12	62,245.66
Corporal	Hourly	122	28.0739	28.7757	29.4950	30.2323	30.9881	31.7628	32.5568	33.2105				
	Bi-Weekly		2,245.91	2,302.06	2,359.60	2,418.58	2,479.05	2,541.02	2,604.54	2,656.84				
	Monthly		4,866.14	4,987.79	5,112.47	5,240.27	5,371.27	5,505.55	5,643.18	5,756.49				
	Annual		58,393.71	59,853.46	61,349.60	62,883.18	64,455.25	66,066.62	67,718.14	69,077.84				
Sergeant	Hourly	123	32.0166	32.8170	33.6374	34.4783	35.3402	36.2237	36.9510					
	Bi-Weekly		2,561.33	2,625.36	2,690.99	2,758.26	2,827.22	2,897.90	2,956.08					
	Monthly		5,549.54	5,688.28	5,830.48	5,976.24	6,125.64	6,278.78	6,404.84					
	Annual		66,594.53	68,259.36	69,965.79	71,714.86	73,507.62	75,345.30	76,858.08					
Lieutenant	Hourly	124	37.0847	37.8264	38.5829	39.3546	40.1417	40.9445	41.7634					
	Bi-Weekly		2,966.78	3,026.11	3,086.63	3,148.37	3,211.34	3,275.56	3,341.07					
	Monthly		6,428.02	6,556.58	6,687.70	6,821.46	6,957.90	7,097.05	7,238.99					
	Annual		77,136.18	78,678.91	80,252.43	81,857.57	83,494.74	85,164.56	86,867.87					
Captain	Hourly	125	42.6443	43.4972	44.3671	45.2544	46.1595	47.0822	48.0217					
	Bi-Weekly		3,411.54	3,479.78	3,549.37	3,620.35	3,692.76	3,766.58	3,841.74					
	Monthly		7,391.68	7,539.52	7,690.30	7,844.10	8,000.98	8,160.92	8,323.76					
	Annual		88,700.14	90,474.18	92,283.57	94,129.15	96,011.76	97,931.02	99,885.14					
Deputy Chief	Hourly	126	50.0222	51.0226	52.0430	53.0839	54.1456							
	Bi-Weekly		4,001.78	4,081.81	4,163.44	4,246.71	4,331.65							
	Monthly		8,670.51	8,843.92	9,020.79	9,201.21	9,385.24							
	Annual		104,046.17	106,127.00	108,249.44	110,414.51	112,622.84							

CITY OF ALLEN
FY 2009 FIRE PAY PLAN
(2080/Admin)
Effective: October 1, 2008

		STEP	1	2	3	4	5	6	7	8	9	10
		GRADE										
Firefighter/ Paramedic	Hour	530	24.9725	25.4720	25.9918	26.5223	27.0635	27.6157	28.1794	28.7545	29.3414	29.9401
	Bi-week		1,997.80	2,037.76	2,079.34	2,121.78	2,165.08	2,209.26	2,254.35	2,300.36	2,347.31	2,395.21
	Month		4,328.56	4,415.14	4,505.24	4,597.20	4,691.00	4,786.73	4,884.43	4,984.12	5,085.84	5,189.62
	Annual		51,942.71	52,981.65	54,062.92	55,166.39	56,292.05	57,440.78	58,613.16	59,809.48	61,030.04	62,275.42
Fire Prev Spec DOE	Hour	531	27.7878	28.3437	28.9105	29.4887	30.0785	30.6801	31.2937	31.9195	32.5580	33.2091
	Bi-week		2,223.03	2,267.49	2,312.84	2,359.10	2,406.28	2,454.41	2,503.50	2,553.56	2,604.64	2,656.73
	Month		4,816.56	4,912.90	5,011.16	5,111.39	5,213.61	5,317.88	5,424.24	5,532.72	5,643.39	5,756.73
	Annual		57,798.77	58,954.80	60,133.90	61,336.64	62,563.34	63,814.56	65,090.89	66,392.62	67,720.64	69,074.94
Fire Captain	Hour	532	37.1128	37.8551	38.6122	39.3845	40.1722	40.9756				
	Bi-week		2,969.02	3,028.41	3,088.98	3,150.76	3,213.77	3,278.05				
	Month		6,432.88	6,561.56	6,692.79	6,826.64	6,963.18	7,102.44				
	Annual		77,194.58	78,738.68	80,313.43	81,919.72	83,558.14	85,229.25				
Battalion Chief Division Chief	Hour	533	42.2483	43.0933	43.9551	44.8342	45.7308	46.6456				
	Bi-week		3,379.87	3,447.46	3,516.41	3,586.74	3,658.47	3,731.65				
	Month		7,323.04	7,469.51	7,618.89	7,771.26	7,926.68	8,085.24				
	Annual		87,876.52	89,634.07	91,426.66	93,255.16	95,120.17	97,022.84				
Assistant Fire Chief	Hour	534	52.0577	53.0989	54.1608	55.2440						
	Bi-week		4,164.61	4,247.91	4,332.86	4,419.52						
	Month		9,023.34	9,203.82	9,387.87	9,575.63						
	Annual		108,280.02	110,445.79	112,654.48	114,907.55						

CITY OF ALLEN
FY 2009 FIRE PAY PLAN
(2920)
Effective: October 1, 2008

		STEP	1	2	3	4	5	6	7	8	9	10
		GRADE										
Firefighter/ Paramedic	Hour	550	17.7886	18.1444	18.5147	18.8926	19.2781	19.6715	20.0730	20.4827	20.9007	21.3272
	Bi-week		1,997.80	2,037.76	2,079.34	2,121.78	2,165.08	2,209.26	2,254.35	2,300.36	2,347.31	2,395.21
	Month		4,328.56	4,415.14	4,505.24	4,597.20	4,691.00	4,786.73	4,884.43	4,984.12	5,085.84	5,189.62
	Annual		51,942.71	52,981.65	54,062.92	55,166.39	56,292.05	57,440.78	58,613.16	59,809.48	61,030.04	62,275.42
Fire Prev Spec DOE	Hour	551	19.7941	20.1900	20.5938	21.0057	21.4258	21.8543	22.2914	22.7372	23.1920	23.6558
	Bi-week		2,223.03	2,267.49	2,312.84	2,359.10	2,406.28	2,454.41	2,503.50	2,553.56	2,604.64	2,656.73
	Month		4,816.56	4,912.90	5,011.16	5,111.39	5,213.61	5,317.88	5,424.24	5,532.72	5,643.39	5,756.73
	Annual		57,798.77	58,954.80	60,133.90	61,336.64	62,563.34	63,814.56	65,090.89	66,392.62	67,720.64	69,074.94
Fire Captain	Hour	552	26.4365	26.9653	27.5046	28.0547	28.6158	29.1881				
	Bi-week		2,969.02	3,028.41	3,088.98	3,150.76	3,213.77	3,278.05				
	Month		6,432.88	6,561.56	6,692.79	6,826.64	6,963.18	7,102.44				
	Annual		77,194.58	78,738.68	80,313.43	81,919.72	83,558.14	85,229.25				
Battalion Chief	Hour	553	30.0947	30.6966	31.3105	31.9367	32.5754	33.2270				
	Bi-week		3,379.87	3,447.46	3,516.41	3,586.74	3,658.47	3,731.65				
	Month		7,323.04	7,469.51	7,618.89	7,771.26	7,926.68	8,085.24				
	Annual		87,876.52	89,634.07	91,426.66	93,255.16	95,120.17	97,022.84				

**CITY OF ALLEN
NON-EXEMPT PAY PLAN
FY 2009**

GRADE	POSITION		MINIMUM	MIDPOINT	MAXIMUM
909	Lifeguard (P/T-not temp)		9.4334	11.7867	14.1400
910	Beverage Clerk	Hour	10.1000	12.6300	15.1500
	Custodian	Bi-weekly	808.00	1,010.40	1,212.00
	Golf Attendant	Month	1,750.67	2,189.20	2,626.00
	Library Page	Annual	21,008.00	26,270.40	31,512.00
	Recreation Specialist I (P/T-not temp)				
911	Water Safety Instructor				
	Maintenance Worker	Hour	10.9585	13.7007	16.4428
	Park Attendant	Bi-weekly	876.68	1,096.06	1,315.42
	Range Attendant	Month	1,899.47	2,374.78	2,850.09
912		Annual	22,793.68	28,497.46	34,201.02
	Shelter Attendant	Hour	11.8978	14.8672	17.8366
		Bi-weekly	951.82	1,189.38	1,426.93
		Month	2,062.29	2,576.98	3,091.68
913		Annual	24,747.42	30,923.78	37,100.13
	Accounting Assistant II	Hour	12.9078	16.1348	19.3617
	Administrative Assistant	Bi-weekly	1,032.62	1,290.78	1,548.94
	Building Technician	Month	2,237.35	2,796.70	3,356.03
	Criminal Analyst	Annual	26,848.22	33,560.38	40,272.34
	Customer Service Rep.				
	Deputy Court Clerk				
	Drafter				
	Fitness Specialist				
	Head Lifeguard				
	Lead Water Safety Instructor				
	Library Clerk				
914	Police Services Technician				
	Police Records Technician				
	Animal Control Officer	Hour	13.9986	17.4983	20.9979
	Buyer	Bi-weekly	1,119.89	1,399.86	1,679.83
	HHW Maintenance Worker	Month	2,426.42	3,033.04	3,639.64
	Lead Custodian	Annual	29,117.09	36,396.46	43,675.63
	Library Specialist				
	Meter Service Technician				
	Production Specialist				
	Pump Station Operator				
915	Senior Administrative Assistant				
	Signs and Markings Technician				
	Account Technician	Hour	15.2611	19.0789	22.8967
	Benefit Technician	Bi-weekly	1,220.89	1,526.31	1,831.74
	Chemical Technician	Month	2,645.26	3,307.01	3,968.76
	Detention Officer	Annual	31,743.09	39,684.11	47,625.14
	Equipment Operator				
	Grant Coordinator				
	Golf Specialist				
	Golf Maintenance Technician				
915	Human Resources Technician				
	Irrigation Technician				

**CITY OF ALLEN
NON-EXEMPT PAY PLAN
FY 2009**

GRADE	POSITION		MINIMUM	MIDPOINT	MAXIMUM
915	Library Associate	Hour	15.2611	19.0789	22.8967
	Parks Maintenance Technician	Bi-weekly	1,220.89	1,526.31	1,831.74
	Payroll Specialist	Month	2,645.26	3,307.01	3,968.76
	Permit Technician	Annual	31,743.09	39,684.11	47,625.14
	Planning Technician				
	Project Technician				
	Property / Evidence Technician				
	Public Safety Officer				
	Recreation Specialist II				
	ROW Utility Coordinator				
	Senior Deputy Court Clerk				
	Senior Customer Service Representative				
	Traffic Signal Technician				
	Utility Locator Technician				
916	Animal Control Supervisor	Hour	16.6347	20.7959	24.9571
	Assistant Golf Superintendent	Bi-weekly	1,330.78	1,663.67	1,996.57
	Buyer II	Month	2,883.35	3,604.62	4,325.90
	Circulation Supervisor	Annual	34,600.18	43,255.47	51,910.77
	Code Enforcement Officer				
	Code Inspector				
	Construction Inspector				
	Crew Leader				
	Drainage Inspector				
	Education Specialist				
	Environmental Health Specialist				
	Executive Assistant to the City Mgr.				
	Irrigation Specialist				
	Marketing Coordinator				
	Municipal Court Supervisor				
	Parks Inspector				
	Parks Specialist				
	Police, Fire, EMS Dispatcher				
917	Accountant	Hour	18.2204	22.7806	27.3407
	Building Maintenance Foreman	Bi-weekly	1,457.63	1,822.45	2,187.26
	Chemical Specialist	Month	3,158.20	3,948.64	4,739.05
	Code Enforcement Supervisor	Annual	37,898.43	47,383.65	56,868.66
	Criminalist				
	Food & Beverage Supervisor				
	Juvenile Case Manager				
	Librarian				
	Marketing Specialist				
	Park Planner				
	Permit Supervisor				
	Planner				
	Plans Examiner				
	Special Events Coordinator				
	Video Production Specialist				
918	Environmental Services Coordinator	Hour	19.8667	24.8309	29.7950
	Senior Signal Technician	Bi-weekly	1,589.34	1,986.47	2,383.60
	Supervising 9-1-1 Dispatcher	Month	3,443.56	4,304.02	5,164.47
		Annual	41,322.74	51,648.27	61,973.60

**CITY OF ALLEN
EXEMPT PAY PLAN
FY 2009**

GRADE	POSITION		MINIMUM	MIDPOINT	MAXIMUM
615	Athletic Program Supervisor	Hour	19.6648	25.0728	30.4808
	Aquatic Program Supervisor	Bi-weekly	1,573.18	2,005.82	2,438.46
	Assistant Golf Professional	Month	3,408.57	4,345.96	5,283.34
	Contract Specialist/Sr. Buyer	Annual	40,902.79	52,151.42	63,400.06
	Management Analyst				
	Public Education Coordinator				
	Senior Librarian				
	Victim Advocate				
	Youth Program Supervisor				
616	Center Supervisor	Hour	22.2924	28.4231	34.5537
	Foreman	Bi-weekly	1,783.39	2,273.85	2,764.30
	Golf Superintendent	Month	3,864.02	4,926.67	5,989.31
	Graduate Civil Engineer	Annual	46,368.19	59,120.05	71,871.75
	Human Resources Manager				
	Library Services Manager				
	Municipal Court Administrator				
	Park Operation Supervisor				
	Risk Manager				
	Senior Accountant				
	Senior Planner				
	Urban Forester				
	Utility Billing Supervisor				
	Video Producer				
	Waste Services Manager				
	Water Conservation Manager				
617	Account Manager	Hour	25.6063	32.6484	39.6904
	Budget Manager	Bi-weekly	2,048.50	2,611.87	3,175.23
	Civil Engineer	Month	4,438.43	5,659.06	6,879.67
	Golf Services Manager	Annual	53,261.10	67,908.67	82,556.03
	Landscape Architect				
	Park Services Manager				
	Public Information Officer				
	Construction Manager				
	Purchasing Manager				
	Recreation Services Manager				
	Resource Development Manager				
	Superintendent				
	Support Services Manager				
	Traffic Engineer				

**CITY OF ALLEN
I.T. PAY PLAN
FY 2009**

GRADE	POSITION		MINIMUM	MIDPOINT	MAXIMUM
713	I T Technician	Hour	17.7663	22.6520	27.5376
		Bi-weekly	1,421.30	1,812.16	2,203.01
		Month	3,079.49	3,926.35	4,773.18
		Annual	36,953.90	47,116.16	57,278.21
714	I T Specialist	Hour	19.6764	25.0876	30.4987
		Bi-weekly	1,574.11	2,007.01	2,439.90
		Month	3,410.58	4,348.52	5,286.44
		Annual	40,926.91	52,182.21	63,437.30
715	GIS Analyst	Hour	21.9396	27.9731	34.0065
		Bi-weekly	1,755.17	2,237.85	2,720.52
		Month	3,802.86	4,848.67	5,894.46
		Annual	45,634.37	58,184.05	70,733.52
716	AS400 System Administrator GIS Administrator Public Safety System Administrator System Administrator	Hour	24.6274	31.4000	38.1726
		Bi-weekly	1,970.19	2,512.00	3,053.81
		Month	4,268.75	5,442.67	6,616.58
		Annual	51,224.99	65,312.00	79,399.01
717	Network Systems Supervisor	Hour	28.5684	36.4247	44.2809
		Bi-weekly	2,285.47	2,913.98	3,542.47
		Month	4,951.86	6,313.62	7,675.36
		Annual	59,422.27	75,763.38	92,104.27

CITY OF ALLEN
SEASONAL/TEMPORARY PAY PLAN
FY 2009

GRADE	POSITION		MINIMUM	MIDPOINT	MAXIMUM
810	Chaperone (Saturday Night Rec Pg) Day Camp Counselor Recreation Specialist I Swim Teaching Assistant Youth After School Activity Leader	Hour	8.0800	10.7555	12.9066
811	Lifeguard Golf Attendant	Hour	9.3357	11.6699	14.0041
812	Library Page Maintenance Worker Water Safety Instructor	Hour	10.1296	12.6619	15.1942
813	Police Records Technician	Hour	10.9905	13.7384	16.4863
814	C.O.A.S.T Assistant Coach	Hour	11.9248	14.9063	17.8877
815	C.O.A.S.T. Head Coach Communications Technician Fitness Specialist Front Desk/Police Intern Library Clerk	Hour	12.9387	16.1732	19.4076
816	Asst. Audio Visual Technician	Hour	20.7660	24.9503	29.1346

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, AMENDING THE POLICE, FIRE AND GENERAL PAY PLAN BY UPDATING THE PAY PLAN; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council did adopt the Waters Consulting compensation recommendations resulting in the City of Allen Pay Plan in April 2003; and,

WHEREAS, the pay plan contemplates that from time to time revisions and amendments should be made to the plan; and,

WHEREAS, it is the responsibility of the City Council to amend the plan.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, THAT:

SECTION 1. Notwithstanding any previous resolution which adopts a pay plan, the pay plan attached as Exhibit "A" hereto is hereby approved and adopted.

SECTION 2. The City Council directs the City Manager, or designee to promulgate this revised plan for the benefit of all City employees.

SECTION 3. The pay plan adopted hereby will continue in full force and effect until amended or repealed by resolution of the City Council.

SECTION 4. This resolution shall become effective upon its passage provided however the pay plan adopted herein shall take effect beginning on October 1, 2008.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 23RD DAY OF SEPTEMBER, 2008.

APPROVED:

Stephen Terrell, MAYOR

ATTEST:

Shelley B. George, CITY SECRETARY

CITY COUNCIL AGENDA COMMUNICATION
--

AGENDA DATE: Tuesday, September 23, 2008

SUBJECT: Adopt a Resolution Designating *The Allen American* as the Official Newspaper of the City of Allen

STAFF RESOURCE: Shelley B. George, City Secretary

PREVIOUS COUNCIL ACTION: Council adopted Resolution No. 2662-9-07(R) designating *The Allen American* as the Official Newspaper for fiscal year 2007-2008.

ACTION PROPOSED: Adopt Proposed Resolution

BACKGROUND

Section 2051.049 of the Texas Government Code provides that the City Council shall select one or more newspapers to publish notices. The City of Allen has contracted with *The Allen American* as its official newspaper since 1982.

STAFF RECOMMENDATION

City Staff recommends the proposed resolution designating *The Allen American* as the official newspaper for fiscal year 2008-2009 be adopted in order to meet the requirements of State Law.

BUDGETARY IMPACT

The Allen American has proposed a rate of \$6.00 per column inch for legal notices. This rate remains unchanged from last fiscal year.

MOTION

I make a motion to adopt Resolution No. _____ designating The Allen American as the official newspaper for legal publications of the City of Allen for fiscal year 2008-2009.

ATTACHMENT

Proposed Resolution

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, DESIGNATING *THE ALLEN AMERICAN* THE OFFICIAL NEWSPAPER OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, FOR FISCAL YEAR 2008-2009; AUTHORIZING THE CITY MANAGER TO CONTRACT WITH *THE ALLEN AMERICAN*; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 2051.049 of the Texas Government Code provides that the City Council shall select one or more newspapers to publish notices; and,

WHEREAS, the City Council of the City of Allen desires to officially designate the official public newspaper of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, THAT:

SECTION 1. The City Council of the City of Allen hereby designates *The Allen American*, a public newspaper in and of the City of Allen, Collin County, Texas, as the official newspaper of said City, the same to continue as such until another is selected, and shall cause to be published therein all ordinances, notices and other matters required by law or by ordinance to be published.

SECTION 2. The City Manager is hereby given authority to contract with *The Allen American* for said newspaper to become the official newspaper of the City of Allen.

SECTION 3. This Resolution shall become effective immediately upon its passage.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 23RD DAY OF SEPTEMBER, 2008.

APPROVED:

Stephen Terrell, MAYOR

ATTEST:

Shelley B. George, CITY SECRETARY

CITY COUNCIL AGENDA COMMUNICATION
--

AGENDA DATE: Tuesday, September 23, 2008

SUBJECT: Land Acquisition for Custer Road 24-inch Waterline (CIP# WA0704)

STAFF RESOURCE: John Baumgartner, Director of Engineering

ACTION PROPOSED: Adopt a Resolution

BACKGROUND

The Gulf Coast Package property is a vacant piece of property located at the southeast corner of Custer Road and Ridgeview Drive. In order to improve citywide water distribution in conformance with the master water distribution pipeline from the Custer Pump Station site, the City is requesting that a 24-inch waterline be constructed. This main would extend from the Custer Pump Station site parallel to Custer Road to the north where it would tie-in to an existing City water main on the north side of Ridgeview Drive.

A boundary and topographic survey was completed in anticipation of land acquisition and the engineering design is in progress for this waterline connector. To facilitate this improvement and its associated construction, an 8,252 sq. ft. waterline easement and 22,298 sq. ft. temporary construction easement are required at the following location:

Address	Legal Description	Total Area	Need
Custer Road at Ridgeview Drive	Jesse H. Gough, Tract 6	13.79 acres	0.189 acres for waterline easement

Staff does not anticipate difficulty in purchasing the property. However, in order to expedite the land acquisition, staff is requesting the permission of the City Council to proceed with eminent domain, in the event an agreement cannot be reached with the property owner.

Acquisition of these easements is necessary to move forward with the installation of the required 24-inch waterline.

STAFF RECOMMENDATION

Adopt a Resolution determining the necessity of easement acquisition for the Custer 24-Inch Waterline Project, and authorize the City Manager and City Attorney to file proceedings in eminent domain to acquire such property, if necessary.

BUDGETARY IMPACT

This item does not have an immediate budgetary impact. There are sufficient funds in the project to acquire the easements. Real estate sales contracts will be brought before Council at a later date.

MOTION

I make a motion to adopt Resolution No. _____ determining the necessity for acquisition of a waterline easement along Custer Road, and authorize the City Manager and City Attorney to file proceedings in eminent domain to acquire such property, if necessary.

ATTACHMENT

Location Map
Easement Document
Proposed Resolution

Gulf Coast Package, Ltd.

**WATERLINE EASEMENT – (0.189 ACRES)
FOR THE CITY OF ALLEN**

**STATE OF TEXAS §
COUNTY OF COLLIN §**

That we, the undersigned ("Grantors"), for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, paid by the City of Allen ("Grantee"), the receipt and sufficiency of which is hereby acknowledged, have granted, sold and conveyed, and by these presents do grant, sell, and convey unto the Grantee, its successors and assigns, an easement on, over, under, in, across and through those certain premises situated in Collin County, Texas, described below, and owned by Grantors, to construct, operate, reconstruct, perpetually maintain and remove facilities for the transportation of waterline utilities, with all incidental equipment, and appurtenances, said premises being described as follows, to-wit:

**MORE PARTICULARLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO AND
MADE PART HEREOF FOR ALL PURPOSES.**

The Grantee herein, its successors and assigns, shall have, and is hereby granted the right of ingress and egress in the premises for all purposes incidental to said grant. **THE GRANTEE SHALL UTILIZE THE EASEMENT FOR THE OPERATION AND MAINTENANCE OF A POTABLE WATER LINE.**

The said Grantors herein, their heirs and assigns, shall have the full right to use and enjoy the said premises covered by said described easement, except for the purpose of erecting buildings or permanent structures on and over said easement. In addition to the consideration above recited for the use of said easement, the Grantee will restore said premises to a condition as good or better than now exists, including, but not limited to, the repair of fences, driveways, drainage channels, terraces, and other improvements damaged through the use of said easement.

TO HAVE AND TO HOLD unto the said City of Allen, its successors and assigns, the above described easement and we do hereby bind ourselves, our heirs, executors, administrators, successors or assigns, to warrant and forever defend all and singular the said premises to the City of Allen, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

WITNESS MY HAND this _____ day of _____, 2008.

GRANTOR: Gulf Coast Package, Ltd.

By: _____

Gulf Coast Package, Ltd.

ACKNOWLEDGMENT

THE STATE OF TEXAS §
 §
COUNTY OF _____ §

 This instrument was acknowledged before me on the ____ day of _____, 2008,
by _____ its _____ of Gulf Coast Package Ltd., a Texas limited
partnership, by _____ its _____ on behalf of said
partnership.

Notary Public in and for the State of Texas

0.189 ACRE WATERLINE EASEMENT

BEING a tract of land situated in the Jesse A. Gough Survey, Abstract No. 347, City of Allen, Collin County, Texas and being part of that certain tract of land conveyed to Gulf Coast Package, LTD., as evidenced by deed recorded in County Clerk's File No. 94-0060164 of the Deed Records of Collin County, Texas and being more particularly described by metes and bounds as follows:

COMMENCING from the intersection of the south line of Ridgeview Drive and the east line of Custer Road, being in the west line of said Gulf Coast Package tract;

THENCE North 89°02'37" East along the south line of Ridgeview Drive, over and across said Gulf Coast Packaging tract a distance of 33.14 feet to the **POINT OF BEGINNING**;

THENCE North 89°02'37" East continuing along the south line of Ridgeview Drive, a distance of 15.00 feet;

THENCE departing the south line of Ridgeview Drive and continuing over and across said Gulf Coast Package tract as follows:

South 00°21'32" East a distance of 294.95 feet to the beginning of a curve to the left;

Along said curve to the left having a delta angle of 02°09'46", a radius of 1,460.00 feet, an arc length of 55.11 feet and a chord bearing and distance of South 04°24'25" East, 55.10 feet to the beginning of a curve to the right;

Along said curve to the right having a delta angle of 04°40'45", a radius of 1,540.06 feet, an arc length of 125.77 feet and a chord bearing and distance of South 03°08'55" East, 125.74 feet;

South 00°48'32" East a distance of 20.82 feet;

South 50°00'13" East a distance of 46.80 feet to the southeast line of said Gulf Coast Package tract and the northwest line of Lot 20, Block A of Custer Meadows Phase A as evidenced by plat recorded in Volume K, Page 853 of the Map Records of Collin County, Texas, conveyed to the City of Allen as evidenced by deed recorded in County Clerk's File No. 98-0057148 of the Deed Records of Collin County, Texas;

THENCE South 41°05'22" West along the southeast line of said Gulf Coast Package tract and the northwest line of said Lot 20, a distance of 15.00 feet;

THENCE North 50°00'13" West departing the southeast line of said Gulf Coast Package tract and the northwest line of said Lot 20, over and across said Gulf Coast Package tract a distance of 53.38 feet;

THENCE continuing over and across said Gulf Coast Packaging tract as follows:

North 00°48'32" West a distance of 27.69 feet to the beginning of a curve to the left;

Along said curve to the left having a delta angle of 04°40'45", a radius of 1,525.06 feet, an arc length of 124.55 feet and a chord bearing and distance of North 03°08'55" West, 124.51 feet to the beginning of a curve to the right;

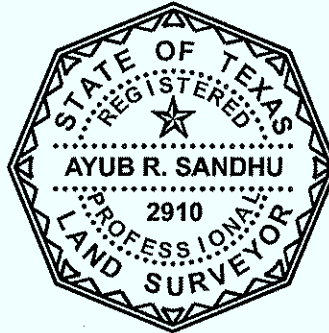
Along said curve to the right having a delta angle of 02°10'40", a radius of 1,475.00 feet, an arc length of 56.06 feet and a chord bearing and distance of North 04°23'58" West, 56.06 feet;

North 00°21'32" West a distance of 295.18 feet to the **POINT OF BEGINNING**;

Containing within the metes recited 0.189 acre (8,252 square feet) of land, more or less.

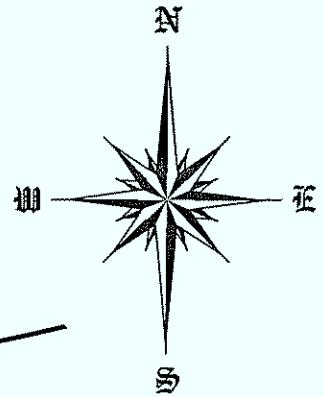
I, Ayub R. Sandhu, a Registered Professional Land Surveyor, hereby certify that the legal description hereon and the accompanying plat represent an actual survey made on the ground under my supervision.

Ayub R. Sandhu 1-28-08
Ayub R. Sandhu, R.P.L.S.
Texas Registration No. 2910

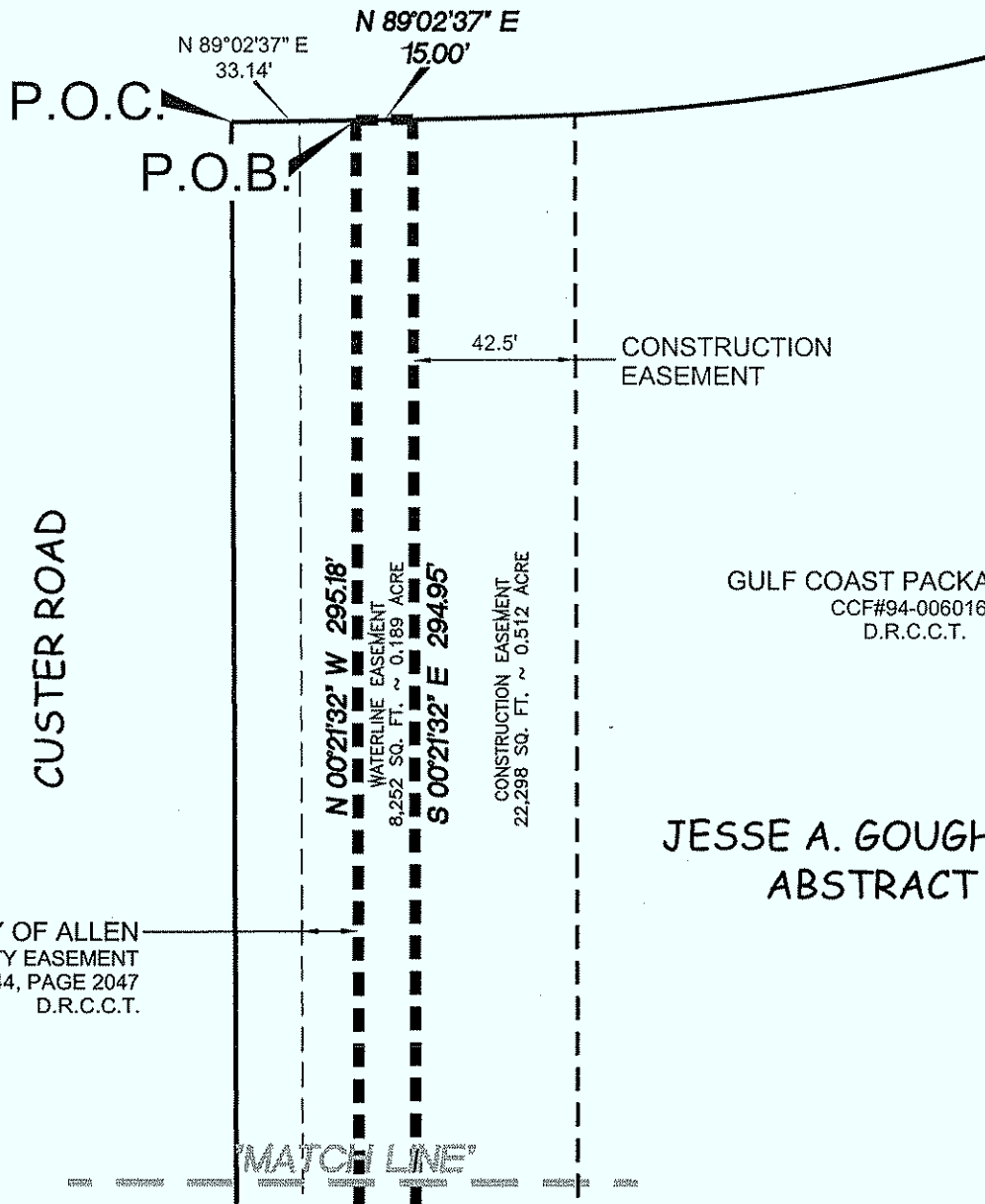


NOTE:

BEARINGS AND DISTANCES SHOWN ARE BASED ON NAD 83, TEXAS STATE PLANE COORDINATE SYSTEM, NORTH CENTRAL ZONE. DISTANCES SHOWN HAVE BEEN MODIFIED TO SURFACE BY APPLYING A FACTOR OF 1.00015271 TO THE STATE PLANE COORDINATES.



RIDGEVIEW DRIVE

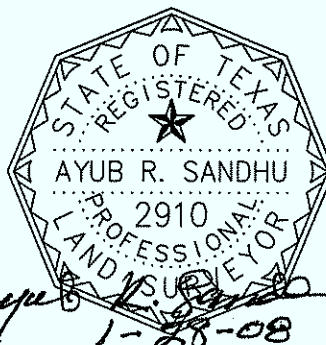


GULF COAST PACKAGE, LTD.
CCF#94-0060164
D.R.C.C.T.

JESSE A. GOUGH SURVEY
ABSTRACT 347

CITY OF ALLEN
15' UTILITY EASEMENT
VOLUME 4644, PAGE 2047
D.R.C.C.T.

EXHIBIT "A"
0.189 ACRE TRACT
(8,252 SQ. FT.)
WATERLINE EASEMENT
JESSE A. GOUGH SURVEY
ABSTRACT No. 347
CITY OF ALLEN
COLLIN COUNTY, TEXAS



DATE: 01-29-08 SCALE: 1" = 50' CADD FILE: EASEMENT EXHIBIT JOB NO.: 301-06-032

NOTE:

BEARINGS AND DISTANCES SHOWN ARE BASED ON NAD 83, TEXAS STATE PLANE COORDINATE SYSTEM, NORTH CENTRAL ZONE. DISTANCES SHOWN HAVE BEEN MODIFIED TO SURFACE BY APPLYING A FACTOR OF 1.00015271 TO THE STATE PLANE COORDINATES.

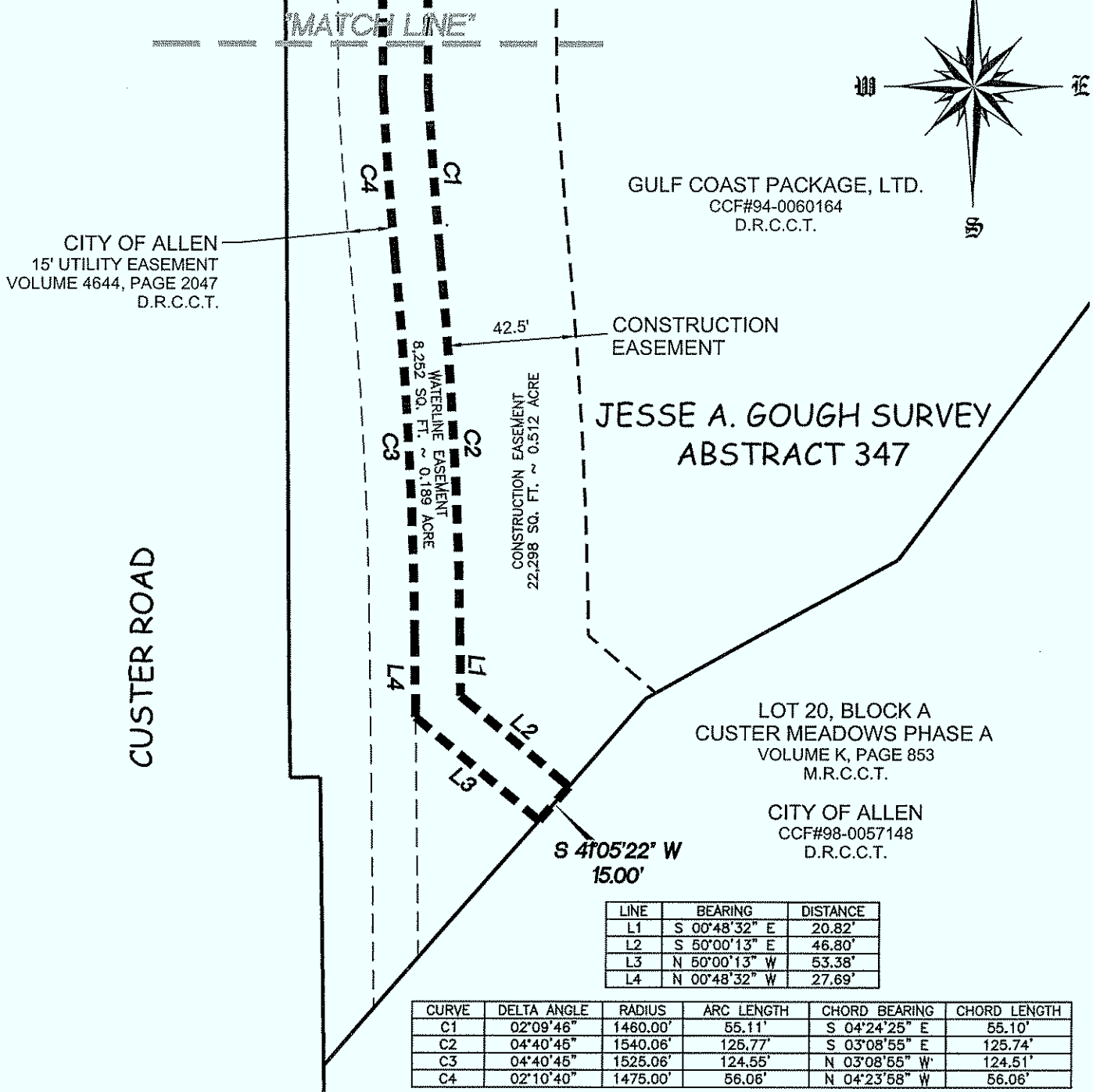
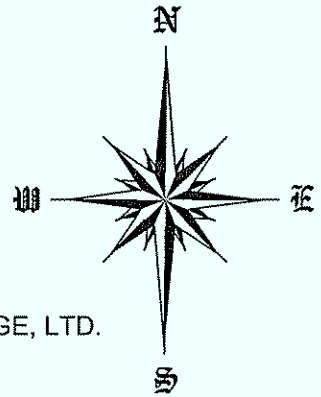
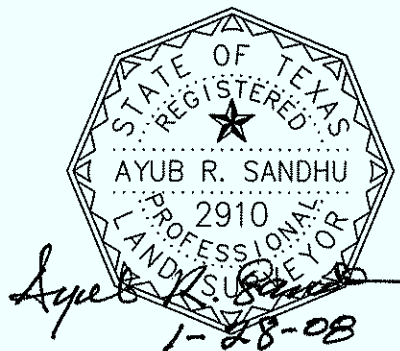


EXHIBIT "A"
0.189 ACRE TRACT
(8,252 SQ. FT.)
WATERLINE EASEMENT
JESSE A. GOUGH SURVEY
ABSTRACT No. 347
CITY OF ALLEN
COLLIN COUNTY, TEXAS



DATE: 01-29-08 SCALE: 1" = 50' CADD FILE: EASEMENT EXHIBIT JOB NO.: 301-06-032

Gulf Coast Package, Ltd.

**TEMPORARY CONSTRUCTION EASEMENT – (0.512 ACRES)
FOR THE CITY OF ALLEN**

**STATE OF TEXAS §
COUNTY OF COLLIN §**

That we, the undersigned ("Grantors"), for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, paid by the City of Allen ("Grantee"), the receipt and sufficiency of which is hereby acknowledged, have granted, sold and conveyed, and by these presents do grant, sell, and convey unto the Grantee, its successors and assigns, a temporary easement on, over, under, in, across and through those certain premises situated in Collin County, Texas, described below, and owned by Grantors, for access during construction of a 24-inch diameter waterline, said premises being described as follows, to-wit:

MORE PARTICULARLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO AND MADE PART HEREOF FOR ALL PURPOSES.

The Grantee herein, its successors and assigns, shall have, and is hereby granted the right of ingress and egress in the premises for all purposes incidental to said grant. THE GRANTEE SHALL UTILIZE THE EASEMENT FOR THE CONSTRUCTION OF A TRANSMISSION WATER LINE. THIS EASEMENT SHALL TERMINATE SIX MONTHS AFTER COMMENCEMENT OF THIS PROJECT OR DECEMBER 31, 2008, WHICHEVER IS EARLIER.

The said Grantors herein, their heirs and assigns, shall have the full right to use and enjoy the said premises covered by said described easement, except for the purpose of erecting buildings or permanent structures on and over said easement. In addition to the consideration above recited for the use of said easement, the Grantee will restore said premises to a condition as good or better than now exists, including, but not limited to, the repair of fences, driveways, drainage channels, terraces, and other improvements damaged through the use of said easement.

TO HAVE AND TO HOLD unto the said City of Allen, its successors and assigns, the above described easement and we do hereby bind ourselves, our heirs, executors, administrators, successors or assigns, to warrant and forever defend all and singular the said premises to the City of Allen, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

WITNESS MY HAND this _____ day of _____, 2008.

GRANTOR: Gulf Coast Package, Ltd.

By: _____

Gulf Coast Package, Ltd.

ACKNOWLEDGMENT

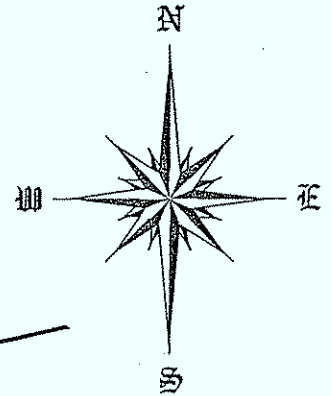
THE STATE OF TEXAS §
 §
COUNTY OF _____ §

 This instrument was acknowledged before me on the ____ day of _____, 2008,
by _____ its _____ of Gulf Coast Package Ltd., a Texas limited
partnership, by _____ its _____ on behalf of said
partnership.

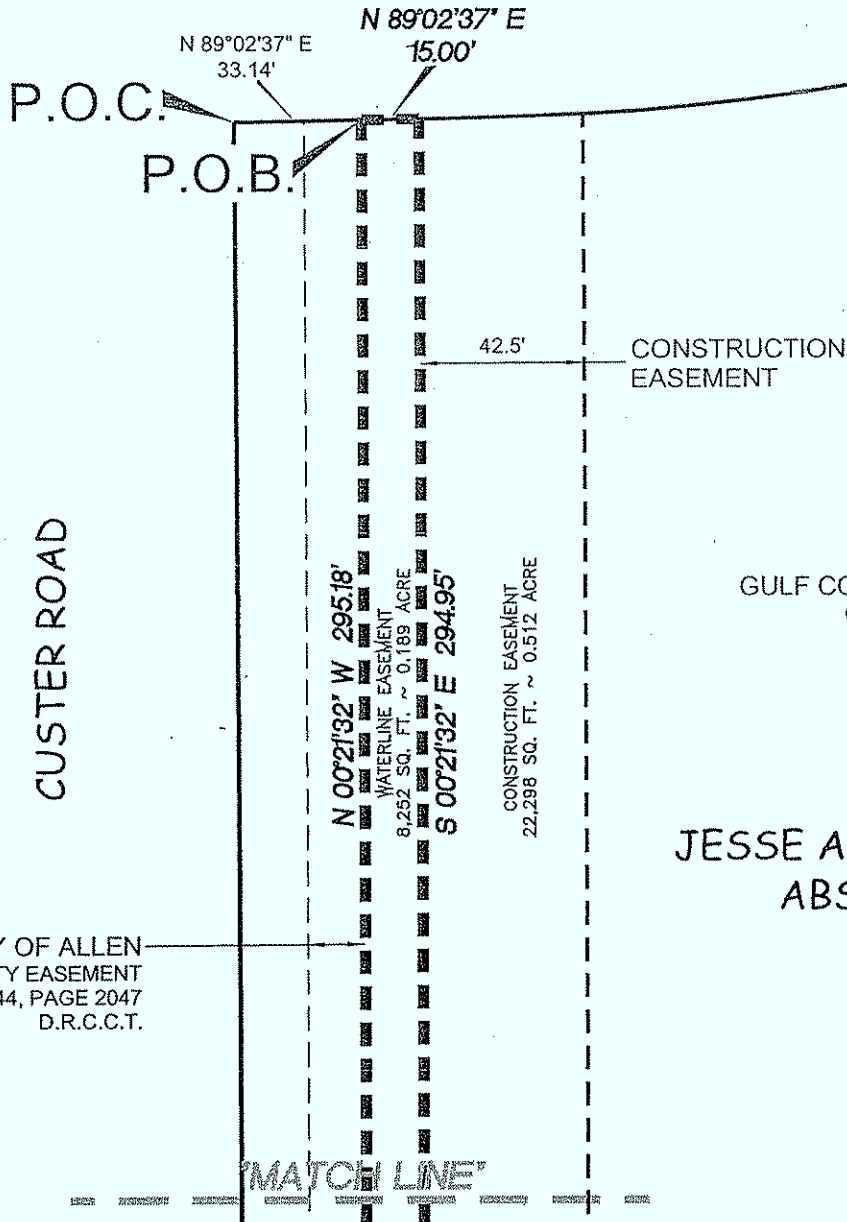
Notary Public in and for the State of Texas

NOTE:

BEARINGS AND DISTANCES SHOWN ARE BASED ON NAD 83, TEXAS STATE PLANE COORDINATE SYSTEM, NORTH CENTRAL ZONE. DISTANCES SHOWN HAVE BEEN MODIFIED TO SURFACE BY APPLYING A FACTOR OF 1.00015271 TO THE STATE PLANE COORDINATES.



RIDGEVIEW DRIVE

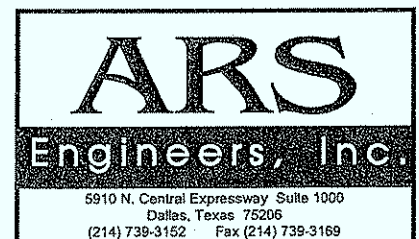
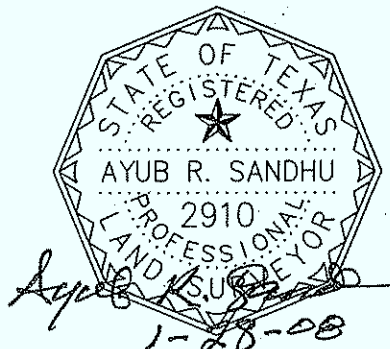


GULF COAST PACKAGE, LTD.
CCF#94-0060164
D.R.C.C.T.

JESSE A. GOUGH SURVEY
ABSTRACT 347

CITY OF ALLEN
15' UTILITY EASEMENT
VOLUME 4644, PAGE 2047
D.R.C.C.T.

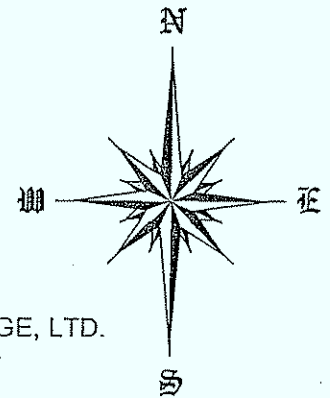
EXHIBIT "A"
0.189 ACRE TRACT
(8,252 SQ. FT.)
WATERLINE EASEMENT
JESSE A. GOUGH SURVEY
ABSTRACT No. 347
CITY OF ALLEN
COLLIN COUNTY, TEXAS



DATE: 01-29-08 SCALE: 1" = 50' CADD FILE: EASEMENT EXHIBIT JOB NO.: 301-06-032

NOTE:

BEARINGS AND DISTANCES SHOWN ARE BASED ON NAD 83, TEXAS STATE PLANE COORDINATE SYSTEM, NORTH CENTRAL ZONE. DISTANCES SHOWN HAVE BEEN MODIFIED TO SURFACE BY APPLYING A FACTOR OF 1.00015271 TO THE STATE PLANE COORDINATES.



CITY OF ALLEN
15' UTILITY EASEMENT
VOLUME 4644, PAGE 2047
D.R.C.C.T.

GULF COAST PACKAGE, LTD.
CCF#94-0060164
D.R.C.C.T.

CONSTRUCTION
EASEMENT

JESSE A. GOUGH SURVEY
ABSTRACT 347

CUSTER ROAD

LOT 20, BLOCK A
CUSTER MEADOWS PHASE A
VOLUME K, PAGE 853
M.R.C.C.T.

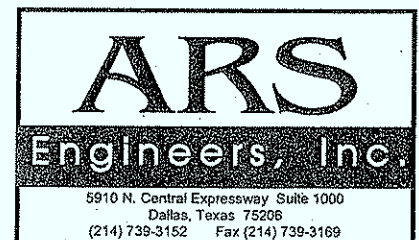
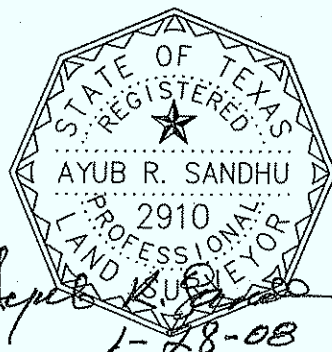
CITY OF ALLEN
CCF#98-0057148
D.R.C.C.T.

S 41°05'22" W
15.00'

LINE	BEARING	DISTANCE
L1	S 00°48'32" E	20.82'
L2	S 50°00'13" E	46.80'
L3	N 50°00'13" W	53.38'
L4	N 00°48'32" W	27.69'

CURVE	DELTA ANGLE	RADIUS	ARC LENGTH	CHORD BEARING	CHORD LENGTH
C1	02°09'46"	1460.00'	55.11'	S 04°24'25" E	55.10'
C2	04°40'45"	1540.06'	125.77'	S 03°08'55" E	125.74'
C3	04°40'45"	1525.06'	124.55'	N 03°08'55" W	124.51'
C4	02°10'40"	1475.00'	56.06'	N 04°23'58" W	56.06'

EXHIBIT "A"
0.189 ACRE TRACT
(8,252 SQ. FT.)
WATERLINE EASEMENT
JESSE A. GOUGH SURVEY
ABSTRACT No. 347
CITY OF ALLEN
COLLIN COUNTY, TEXAS



DATE: 01-29-08 SCALE: 1" = 50' CADD FILE: EASEMENT EXHIBIT JOB NO.: 301-06-032

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, DETERMINING THE NECESSITY FOR THE ACQUISITION OF UTILITY EASEMENTS FOR A NEW 24-INCH WATERLINE BETWEEN CUSTER PUMP STATION AND RIDGEVIEW DRIVE AS DESCRIBED IN THE EXHIBITS ATTACHED HERETO, WITHIN THE CITY OF ALLEN, COLLIN COUNTY, TEXAS; AUTHORIZING THE CITY ATTORNEY TO FILE PROCEEDINGS IN EMINENT DOMAIN TO ACQUIRE THE EASEMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, THAT:

SECTION 1. The City Council of the City of Allen, Texas, hereby finds and determines that a public necessity exists for the welfare of the City and its citizens and it is in the public interest to acquire utility easements for the installation of a 24-inch diameter waterline as described in the exhibits attached hereto, and being made a part hereof for all purposes.

SECTION 2. The City Manager or designee is hereby authorized on behalf of the City to acquire the necessary utility easements, and if necessary to attempt to agree on damages and compensation to be paid to the owners of the property. If the City Manager or designee is unable to acquire the necessary easements or determines that an agreement as to damages and compensation cannot be reached then the City Attorney or designee is hereby authorized to file or cause to be filed against the owners and interested parties of the property, proceedings in eminent domain to acquire such easements.

SECTION 3. If it is later determined that there are any errors in the descriptions contained herein or if later surveys contain more accurate revised descriptions, the City Attorney or designee is authorized to have such errors corrected or revisions made without the necessity of obtaining City Council approval authorizing the condemnation of the corrected or revised property.

SECTION 4. This resolution shall become effective immediately from and after its passage.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 23RD DAY OF SEPTEMBER, 2008.

APPROVED:

Stephen Terrell, MAYOR

ATTEST:

Shelley B. George, CITY SECRETARY

CITY COUNCIL AGENDA COMMUNICATION
--

AGENDA DATE: Tuesday, September 23, 2008

SUBJECT: Selective Traffic Enforcement Program Grant

STAFF RESOURCE: William S. Rushing, Chief of Police
Kenneth Myers, Police Sergeant

PREVIOUS COUNCIL ACTION: The Allen City Council adopted a Resolution authorizing the City Manager to apply for, accept, reject, alter, or terminate the Fiscal Year 2005, 2006, 2007 and 2008 grants from the State of Texas, Department of Transportation, for a Selective Traffic Enforcement Program

ACTION PROPOSED: Adopt a Resolution

BACKGROUND

The Texas Department of Transportation disseminates federal highway grants to local jurisdictions for the enforcement of traffic laws. The Selective Traffic Enforcement Program (STEP) is a comprehensive grant that targets traffic violators who drink and drive, speed and do not wear seatbelts. The STEP grant reimburses local jurisdictions for police officers to work overtime to educate the public and to enforce these laws.

The STEP grant will focus its efforts toward slowing speeders on U.S. Highway 75, McDermott Drive, Exchange Parkway, State Highway 121, Hedgcoxe Road and Alma Drive during all hours of the day. Additionally, the STEP grant will focus City-wide on persons who drink and drive and those who do not wear seatbelts as required by Texas law. STEP seatbelt enforcement will occur City-wide during daylight hours. The STEP program will be enforced from October, 2008 through September, 2011. This is a three-year grant application.

Since the inception of STEP grants, seatbelt compliance in the City of Allen has risen from 76 percent to approximately 90 percent.

STAFF RECOMMENDATION

Staff recommends that the City Council authorize the City Manager to enter into an agreement with the State of Texas, Department of Transportation, to accept the award of a three-year Selective Traffic Enforcement Program grant.

BUDGETARY IMPACT

The Selective Traffic Enforcement Program grant includes reimbursement for overtime. STEP pays the officers' actual overtime rate. The City will match the grant award by paying for officers' fringe benefits when they work STEP overtime. The TxDOT portion for both 2009 and 2010 is approximately \$62,016 with a match not to exceed \$23,599.60. The TxDOT portion for 2011 is approximately \$57,246 with a match not to exceed \$31,396.50.

MOTION

I make a motion to adopt Resolution No. _____ accepting the three-year Selective Traffic Enforcement Program grant, for a total award amount of \$259,873.70 with a matching amount of \$78,595.70, from the State of Texas, Department of Transportation.

ATTACHMENT

Proposed Resolution
Step Grant Agreement

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, AUTHORIZING AN AGREEMENT WITH THE STATE OF TEXAS, TO ACCEPT THE TEXAS DEPARTMENT OF TRANSPORTATION SELECTIVE TRAFFIC ENFORCEMENT PROGRAM (STEP) GRANT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, it is in the best interest of the residents of the City of Allen and neighbors to have safe streets within the incorporated limits of the City of Allen; and,

WHEREAS, the City of Allen's streets become unsafe when vehicles drive in excess of the posted speed limit and when seatbelts are not worn in violation of Texas Law; and,

WHEREAS, the City of Allen also wishes to increase its enforcement efforts relating to drivers who operate motor vehicles on the street and in the neighborhoods under the influence of alcohol and / or narcotics; and,

WHEREAS, it is the desire of the City of Allen to take proactive measures to insure that the citizens and visitors of the City Allen are safe when driving on city streets and highways.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, THAT:

SECTION 1. The City of Allen has agreed that in the event of loss or misuse of the Selective Traffic Enforcement Grant the funds will be returned to the State of Texas, Department of Transportation in part or in full.

SECTION 2. The City Manager is hereby authorized to apply for, accept, reject, alter, or terminate a grant, if awarded, from the State of Texas, Department of Transportation to assist the City of Allen and the Allen Police Department to fund a Selective Traffic Enforcement Program for fiscal years 2009-2011.

SECTION 3. This resolution shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Allen, and it is accordingly so resolved.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 23rd DAY OF SEPTEMBER, 2008

APPROVED:

Stephen Terrell, MAYOR

ATTEST:

Shelley George, CITY SECRETARY

Texas Traffic Safety eGrants

Fiscal Year 2009

Organization Name: City of Allen

Legal Name: City of Allen

Payee Identification Number: 17560049128005

Project Title: STEP 2009 Comprehensive

ID: 2009-AllenPD-S-MYG-Yr1-0022

Period: 10/01/2008 to 09/30/2009

TEXAS TRAFFIC SAFETY PROGRAM GRANT AGREEMENT

THE STATE OF TEXAS
THE COUNTY OF TRAVIS

THIS AGREEMENT IS MADE BY and between the State of Texas, acting by and through the Texas Department of Transportation, hereinafter called the Department and the, **City of Allen** hereinafter called the Subgrantee, and becomes effective then fully executed by both parties. For the purpose of this agreement, the Subgrantee is designated as a(n) **Local Government**.

AUTHORITY: Texas Transportation Code, Chapter 723, the Traffic Safety Act of 1967, and the Highway Safety Performance Plan for the Fiscal Year 2009.

Project Title: **STEP 2009 Comprehensive**

Grant Period: This Grant becomes effective on **10/01/2008** or on the date of final signature of both parties, whichever is later, and ends on **09/30/2011** unless terminated or otherwise modified.

Total Awarded: **\$259,873.70**

Amount Eligible for Reimbursement: **\$181,278.00**

Match Amount: **\$78,595.70**

TEXAS TRAFFIC SAFETY PROGRAM GRANT AGREEMENT

The signatory of the Subgrantee hereby represents and warrants that she/he is an officer of the organization for which she/he has executed this agreement and that she/he has full and complete authority to enter into this agreement on behalf of the organization.

THE SUBGRANTEE

THE STATE OF TEXAS

City of Allen

[Legal Name of Agency]

Executed for the Executive Director and
Approved for the Texas Transportation
Commission for the purpose and effect of
activating and/or carrying out orders,
established policies or work programs
approved and authorized by the Texas
Transportation Commission

By:

By:

[Authorized Signature]

[District Engineer Texas Department of
Transportation]

[Name]

[Name]

[Title]

[Title]

Date: _____

Date: _____

Under the authority of Ordinance or
Resolution Number (for local government):
(If Applicable)

By:

[Resolution Number]

Director, Traffic Operations Division Texas
Department of Transportation (Not required
for local project grants under \$100,000.00)
Date: _____

Program Element Selection

YEAR LONG

- ☒ DWI DWI: Driving While Intoxicated
- ☒ Speed Speed: Speed Enforcement
- ☒ OP OP: Occupant Protection (Safety Belt and Child Safety Seat)
- ☐ ITC ITC: Intersection Traffic Control

WAVE

- ☐ DWI Jurisdiction wide (DWI enforcement effort must be focused at locations where there is an over-representation of alcohol-related crashes and/or DWI arrests)
- ☐ Speed Jurisdiction wide (Speed enforcement should be focused on areas where there is at least a 50% noncompliance with the posted speed limits and/or a higher number of speed-related crashes)
- ☐ OP Jurisdiction wide

CMV

- ☐ Speed, OP and HMV CMV: Commercial Motor Vehicle; HMV: Hazardous Moving Violations

Note: If a DWI component is selected above, an SFST letter is no longer required to be submitted with the proposal.

General Information

Project Title	STEP 2009 Comprehensive
How many years has your organization received funding for this project?	This will be our second year.
Project Director Name	Kenneth Myers
Organization Address	205 W. McDermott Allen, TX 75013
Mailing Address	,
Multi Year Proposal Selection	

Texas Traffic Safety Program

GRANT AGREEMENT GENERAL TERMS AND CONDITIONS

ARTICLE 1. COMPLIANCE WITH LAWS

The Subgrantee shall comply with all federal, state, and local laws, statutes, codes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this Agreement, including, without limitation, workers' compensation laws, minimum and maximum salary and wage statutes and regulations, nondiscrimination laws and regulations, and licensing laws and regulations. When required, the Subgrantee shall furnish the Department with satisfactory proof of its compliance therewith.

ARTICLE 2. STANDARD ASSURANCES

The Subgrantee hereby assures and certifies that it will comply with the regulations, policies, guidelines, and requirements, including 49 CFR (Code of Federal Regulations), Part 18; 49 CFR, Part 19 (OMB [Office of Management and Budget] Circular A-110); OMB Circular A-87; OMB Circular A-102; OMB Circular A-21; OMB Circular A-122; OMB Circular A-133; and the Department's Traffic Safety Program Manual, as they relate to the application, acceptance, and use of federal or state funds for this project. Also, the Subgrantee assures and certifies that:

- A. It possesses legal authority to apply for the grant; and that a resolution, motion, or similar action has been duly adopted or passed as an official act of the applicant's governing body, authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.
- B. It and its subcontractors will comply with Title VI of the Civil Rights Act of 1964 (Public Law 88-352), as amended, and in accordance with that Act, no person shall discriminate, on the grounds of race, color, sex, national origin, age, religion, or disability.
- C. It will comply with requirements of the provisions of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970, as amended; 42 USC (United States Code) §§4601 et seq.; and United States Department of Transportation (USDOT) regulations, "Uniform Relocation and Real Property Acquisition for Federal and Federally Assisted Programs," 49 CFR, Part 24, which provide for fair and equitable treatment of persons displaced as a result of federal and federally assisted programs.
- D. It will comply with the provisions of the Hatch Political Activity Act, which limits the political activity of employees. (See also Article 25, Lobbying Certification.)
- E. It will comply with the federal Fair Labor Standards Act's minimum wage and overtime requirements for employees performing project work.
- F. It will establish safeguards to prohibit employees from using their positions for a

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purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

- G. It will give the Department the access to and the right to examine all records, books, papers, or documents related to this Grant Agreement.
- H. It will comply with all requirements imposed by the Department concerning special requirements of law, program requirements, and other administrative requirements.
- I. It recognizes that many federal and state laws imposing environmental and resource conservation requirements may apply to this Grant Agreement. Some, but not all, of the major federal laws that may affect the project include: the National Environmental Policy Act of 1969, as amended, 42 USC §§4321 et seq.; the Clean Air Act, as amended, 42 USC §§7401 et seq. and sections of 29 USC; the Federal Water Pollution Control Act, as amended, 33 USC §§1251 et seq.; the Resource Conservation and Recovery Act, as amended, 42 USC §§6901 et seq.; and the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 USC §§9601 et seq. The Subgrantee also recognizes that the U.S. Environmental Protection Agency, USDOT, and other federal agencies have issued, and in the future are expected to issue, regulation, guidelines, standards, orders, directives, or other requirements that may affect this Project. Thus, it agrees to comply, and assures the compliance of each contractor and each subcontractor, with any such federal requirements as the federal government may now or in the future promulgate.
- J. It will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973, 42 USC §4012a(a). Section 102(a) requires, on and after March 2, 1975, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any federal financial assistance for construction or acquisition purposes for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards. The phrase "federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any form of direct or indirect federal assistance.
- K. It will assist the Department in its compliance with Section 106 of the National Historic Preservation Act of 1966 as amended (16 USC 470 et seq.), Executive Order 11593, and the Antiquities Code of Texas (National Resources Code, Chapter 191).
- L. It will comply with Chapter 573 of the Texas Government Code by ensuring that no officer, employee, or member of the Subgrantee's governing board or the Subgrantee's subcontractors shall vote or confirm the employment of any person related within the second degree of affinity or third degree by consanguinity to any member of the governing body or to any other officer or employee authorized to employ or supervise such person. This prohibition shall not prohibit the employment of a person described in Section 573.062 of the Texas Government Code.
- M. It will ensure that all information collected, assembled, or maintained by the applicant relative to this project shall be available to the public during normal business hours in compliance with Chapter 552 of the Texas Government Code,

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unless otherwise expressly provided by law.

- N. If applicable, it will comply with Chapter 551 of the Texas Government Code, which requires all regular, special, or called meetings of governmental bodies to be open to the public, except as otherwise provided by law or specifically permitted in the Texas Constitution.

ARTICLE 3. COMPENSATION

- A. The method of payment for this Agreement will be based on actual costs incurred up to and not to exceed the limits specified in the Project Budget. The amount included in the Project Budget will be deemed to be an estimate only and a higher amount can be reimbursed, subject to the conditions specified in paragraph B hereunder. If the Project Budget specifies that costs are based on a specific rate, per-unit cost, or other method of payment, reimbursement will be based on the specified method.
- B. All payments will be made in accordance with the Project Budget.

The Subgrantee's expenditures may overrun a budget category (I, II, or III) in the approved Project Budget without a grant (budget) amendment, as long as the overrun does not exceed a total of five (5) percent per year of the maximum amount eligible for reimbursement (TxDOT) in the attached Project Budget for the current fiscal year. This overrun must be off-set by an equivalent underrun elsewhere in the Project Budget.

If the overrun is five (5) percent or less, the Subgrantee must provide written notification to the Department, through the TxDOT Electronic Grants Management System (eGrants) messaging system, prior to the Request for Reimbursement being approved. The notification must indicate the amount, the percent over, and the specific reason(s) for the overrun.

Any overrun of more than five (5) percent of the amount eligible for reimbursement (TxDOT) in the attached Project Budget requires an amendment of this Grant Agreement.

The maximum amount eligible for reimbursement shall not be increased above the Grand Total TxDOT Amount in the approved Project Budget, unless this Grant Agreement is amended, as described in Article 5 of this Agreement.

For Selective Traffic Enforcement Program (STEP) grants *only*: In the Project Budget, Subgrantees are not allowed to use underrun funds from the TxDOT amount of (100) Salaries, Subcategories A, "Enforcement," or B, "PI&E Activities," to exceed the TxDOT amount listed in Subcategory C, "Other." Also, Subgrantees are not allowed to use underrun funds from the TxDOT amount of (100) Salaries, Subcategories A, "Enforcement," or C, "Other," to exceed the TxDOT amount listed in Subcategory B, "PI&E Activities." The TxDOT amount for Subcategory B, "PI&E Activities," or C, "Other," can only be exceeded within the 5 percent flexibility, with

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- underrun funds from Budget Categories II or III.
- C. To be eligible for reimbursement under this Agreement, a cost must be incurred in accordance with the Project Budget, within the time frame specified in the Grant Period of this Grant Agreement, attributable to work covered by this Agreement, and which has been completed in a manner satisfactory and acceptable to the Department.
 - D. Federal or TxDOT funds cannot supplant (replace) funds from any other sources. The term “supplanting,” refers to the use of federal or TxDOT funds to support personnel or an activity already supported by local or state funds.
 - E. Payment of costs incurred under this Agreement is further governed by one of the following cost principles, as appropriate, outlined in the Federal Office of Management and Budget (OMB) Circulars:
 - A-21, Cost Principles for Educational Institutions;
 - A-87, Cost Principles for State, Local, and Indian Tribal Governments; or,
 - A-122, Cost Principles for Nonprofit Organizations.
 - F. The Subgrantee agrees to submit monthly or quarterly Requests for Reimbursement, as designated in this Grant Agreement, within thirty (30) days after the end of the billing period. The Request for Reimbursement and appropriate supporting documentation must be submitted through eGrants.
 - G. The Subgrantee agrees to submit the final Request for Reimbursement under this Agreement within forty-five (45) days of the end of the grant period.
 - H. Payments are contingent upon the availability of appropriated funds.
 - I. Project agreements supported with federal or TxDOT funds are limited to the length of this Grant Period specified in this Grant Agreement. If the Department determines that the project has demonstrated merit or has potential long-range benefits, the Subgrantee may apply for funding assistance beyond the initial Agreement period. Preference for funding will be given to those projects for which the Subgrantee has assumed some cost sharing, those which propose to assume the largest percentage of subsequent project costs, and those which have demonstrated performance that is acceptable to the Department.

ARTICLE 4. LIMITATION OF LIABILITY

Payment of costs incurred hereunder is contingent upon the availability of funds. If at any time during this Grant Period, the Department determines that there is insufficient funding to continue the project, the Department shall so notify the Subgrantee, giving notice of intent to terminate this Agreement, as specified in Article 11 of this Agreement. If at the end of a federal fiscal year, the Department determines that there is sufficient funding and performance to continue the project, the Department may so notify the Subgrantee to continue this agreement.

ARTICLE 5. AMENDMENTS

This Agreement may be amended prior to its expiration by mutual written consent of both parties, utilizing the Grant Agreement Amendment in eGrants. Any amendment must be executed by the parties within the Grant Period, as specified in this Grant Agreement.

ARTICLE 6. ADDITIONAL WORK AND CHANGES IN WORK

If the Subgrantee is of the opinion that any assigned work is beyond the scope of this Agreement and constitutes additional work, the Subgrantee shall promptly notify the Department in writing through eGrants system messaging. If the Department finds that such work does constitute additional work, the Department shall so advise the Subgrantee and a written amendment to this Agreement will be executed according to Article 5, Amendments, to provide compensation for doing this work on the same basis as the original work. If performance of the additional work will cause the maximum amount payable to be exceeded, the work will not be performed before a written grant amendment is executed.

If the Subgrantee has submitted work in accordance with the terms of this Agreement but the Department requests changes to the completed work or parts thereof which involve changes to the original scope of services or character of work under this Agreement, the Subgrantee shall make such revisions as requested and directed by the Department. This will be considered as additional work and will be paid for as specified in this Article.

If the Subgrantee submits work that does not comply with the terms of this Agreement, the Department shall instruct the Subgrantee to make such revisions as are necessary to bring the work into compliance with this Agreement. No additional compensation shall be paid for this work.

The Subgrantee shall make revisions to the work authorized in this Agreement, which are necessary to correct errors or omissions appearing therein, when required to do so by the Department. No additional compensation shall be paid for this work.

The Department shall not be responsible for actions by the Subgrantee or any costs incurred by the Subgrantee relating to additional work not directly associated with or prior to the execution of an amendment.

ARTICLE 7. REPORTING AND MONITORING

Not later than thirty (30) days after the end of each reporting period, the Subgrantee shall submit a performance report through eGrants. For short-term projects, only one report submitted by the Subgrantee at the end of the project may be required. For longer projects, the Subgrantee will submit reports at least quarterly and preferably monthly. The frequency of the performance reports is established through negotiation between the Subgrantee and the program or project manager.

For Selective Traffic Enforcement Programs (STEPs), performance reports must be submitted monthly.

The performance report will include, as a minimum: (1) a comparison of actual accomplishments to the objectives established for the period, (2) reasons why established objectives and performance measures were not met, if appropriate, and (3) other pertinent information, including, when appropriate, an analysis and explanation of cost underruns,

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overruns, or high unit costs.

The Subgrantee shall submit the Final Performance Report through eGrants within thirty (30) days after completion of the grant.

The Subgrantee shall promptly advise the Department in writing, through eGrants messaging, of events that will have a significant impact upon this Agreement, including:

- A. Problems, delays, or adverse conditions, including a change of project director or other changes in Subgrantee personnel, that will materially affect the ability to attain objectives and performance measures, prevent the meeting of time schedules and objectives, or preclude the attainment of project objectives or performance measures by the established time periods. This disclosure shall be accompanied by a statement of the action taken or contemplated and any Department or federal assistance needed to resolve the situation.
- B. Favorable developments or events that enable meeting time schedules and objectives sooner than anticipated or achieving greater performance measure output than originally projected.

ARTICLE 8. RECORDS

The Subgrantee agrees to maintain all reports, documents, papers, accounting records, books, and other evidence pertaining to costs incurred and work performed hereunder, (hereinafter called the records), and shall make such records available at its office for the time period authorized within the Grant Period, as specified in this Grant Agreement. The Subgrantee further agrees to retain said records for four (4) years from the date of final payment under this Agreement, until completion of all audits, or until pending litigation has been completely and fully resolved, whichever occurs last.

Duly authorized representatives of the Department, the USDOT, the Office of the Inspector General, Texas State Auditor, and the Comptroller General shall have access to the records. This right of access is not limited to the four (4) year period but shall last as long as the records are retained.

ARTICLE 9. INDEMNIFICATION

To the extent permitted by law, the Subgrantee, if other than a government entity, shall indemnify, hold, and save harmless the Department and its officers and employees from all claims and liability due to the acts or omissions of the Subgrantee, its agents, or employees. The Subgrantee also agrees, to the extent permitted by law, to indemnify, hold, and save harmless the Department from any and all expenses, including but not limited to attorney fees, all court costs and awards for damages incurred by the Department in litigation or otherwise resisting such claims or liabilities as a result of any activities of the Subgrantee, its agents, or employees.

Further, to the extent permitted by law, the Subgrantee, if other than a government entity, agrees to protect, indemnify, and save harmless the Department from and against all

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claims, demands, and causes of action of every kind and character brought by any employee of the Subgrantee against the Department due to personal injuries or death to such employee resulting from any alleged negligent act, by either commission or omission on the part of the Subgrantee.

If the Subgrantee is a government entity, both parties to this Agreement agree that no party is an agent, servant, or employee of the other party and each party agrees it is responsible for its individual acts and deeds, as well as the acts and deeds of its contractors, employees, representatives, and agents.

ARTICLE 10. DISPUTES AND REMEDIES

This Agreement supercedes any prior oral or written agreements. If a conflict arises between this Agreement and the Traffic Safety Program Manual, this Agreement shall govern.

The Subgrantee shall be responsible for the settlement of all contractual and administrative issues arising out of procurement made by the Subgrantee in support of Agreement work. Disputes concerning performance or payment shall be submitted to the Department for settlement, with the Executive Director or his or her designee acting as final referee.

ARTICLE 11. TERMINATION

This Agreement shall remain in effect until the Subgrantee has satisfactorily completed all services and obligations described herein and these have been accepted by the Department, unless:

- This Agreement is terminated in writing with the mutual consent of both parties; or
- There is a written thirty (30) day notice by either party; or
- The Department determines that the performance of the project is not in the best interest of the Department and informs the Subgrantee that the project is terminated immediately.

The Department shall compensate the Subgrantee for only those eligible expenses incurred during the Grant Period specified in this Grant Agreement which are directly attributable to the completed portion of the work covered by this Agreement, provided that the work has been completed in a manner satisfactory and acceptable to the Department. The Subgrantee shall not incur nor be reimbursed for any new obligations after the effective date of termination.

ARTICLE 12. INSPECTION OF WORK

The Department and, when federal funds are involved, the US DOT, or any authorized representative thereof, have the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed hereunder and the premises in which it is being performed.

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If any inspection or evaluation is made on the premises of the Subgrantee or its subcontractor, the Subgrantee shall provide and require its subcontractor to provide all reasonable facilities and assistance for the safety and convenience of the inspectors in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work.

ARTICLE 13. AUDIT

The Subgrantee shall comply with the requirements of the Single Audit Act of 1984, Public Law (PL) 98-502, ensuring that the single audit report includes the coverage stipulated in OMB Circular A-133, "Audits of States, Local Governments, and Other Non-Profit Organizations."

The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under this Agreement or indirectly through a subcontract under this Agreement. Acceptance of funds directly under this Agreement or indirectly through a subcontract under this Agreement acts as acceptance of the authority of the State Auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

ARTICLE 14. SUBCONTRACTS

A subcontract in excess of \$25,000 may not be executed by the Subgrantee without prior written concurrence by the Department. Subcontracts in excess of \$25,000 shall contain all applicable terms and conditions of this Agreement. No subcontract will relieve the Subgrantee of its responsibility under this Agreement.

ARTICLE 15. GRATUITIES

Texas Transportation Commission policy mandates that employees of the Department shall not accept any benefit, gift, or favor from any person doing business with or who, reasonably speaking, may do business with the Department under this Agreement. The only exceptions allowed are ordinary business lunches and items that have received the advanced written approval of the Department's Executive Director.

Any person doing business with or who reasonably speaking may do business with the Department under this Agreement may not make any offer of benefits, gifts, or favors to Department employees, except as mentioned here above. Failure on the part of the Subgrantee to adhere to this policy may result in termination of this Agreement.

ARTICLE 16. NONCOLLUSION

The Subgrantee warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Subgrantee, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a

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bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement. If the Subgrantee breaches or violates this warranty, the Department shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover the full amount of such fee, commission, brokerage fee, contingent fee, or gift.

ARTICLE 17. CONFLICT OF INTEREST

The Subgrantee represents that it or its employees have no conflict of interest that would in any way interfere with its or its employees' performance or which in any way conflicts with the interests of the Department. The Subgrantee shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the Department's interests.

ARTICLE 18. SUBGRANTEE'S RESOURCES

The Subgrantee certifies that it presently has adequate qualified personnel in its employment to perform the work required under this Agreement, or will be able to obtain such personnel from sources other than the Department.

All employees of the Subgrantee shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee of the Subgrantee who, in the opinion of the Department, is incompetent or whose conduct becomes detrimental to the work, shall immediately be removed from association with the project.

Unless otherwise specified, the Subgrantee shall furnish all equipment, materials, supplies, and other resources required to perform the work.

ARTICLE 19. PROCUREMENT AND PROPERTY MANAGEMENT

The Subgrantee shall establish and administer a system to procure, control, protect, preserve, use, maintain, and dispose of any property furnished to it by the Department or purchased pursuant to this Agreement in accordance with its own property management procedures, provided that the procedures are not in conflict with the Department's property management procedures or property management standards and federal standards, as appropriate, in:

- 49 CFR, Part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," or
- 49 CFR, Part 19 (OMB Circular A-110), "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations."

ARTICLE 20. OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY

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Upon completion or termination of this Grant Agreement, whether for cause or at the convenience of the parties hereto, all finished or unfinished documents, data, studies, surveys, reports, maps, drawings, models, photographs, etc. prepared by the Subgrantee, and equipment and supplies purchased with grant funds shall, at the option of the Department, become the property of the Department. All sketches, photographs, calculations, and other data prepared under this Agreement shall be made available, upon request, to the Department without restriction or limitation of their further use.

- A. Intellectual property consists of copyrights, patents, and any other form of intellectual property rights covering any data bases, software, inventions, training manuals, systems design, or other proprietary information in any form or medium.
- B. *All rights to Department.* The Department shall own all of the rights (including copyrights, copyright applications, copyright renewals, and copyright extensions), title and interests in and to all data, and other information developed under this contract and versions thereof unless otherwise agreed to in writing that there will be joint ownership.
- C. *All rights to Subgrantee.* Classes and materials initially developed by the Subgrantee without any type of funding or resource assistance from the Department remain the Subgrantee's intellectual property. For these classes and materials, the Department payment is limited to payment for attendance at classes.

ARTICLE 21. SUCCESSORS AND ASSIGNS

The Department and the Subgrantee each binds itself, its successors, executors, assigns, and administrators to the other party to this Agreement and to the successors, executors, assigns, and administrators of such other party in respect to all covenants of this Agreement. The Subgrantee shall not assign, sublet, or transfer interest and obligations in this Agreement without written consent of the Department through eGrants messaging.

ARTICLE 22. CIVIL RIGHTS COMPLIANCE

- A. Compliance with regulations: The Subgrantee shall comply with the regulations relative to nondiscrimination in federally-assisted programs of the USDOT: 49 CFR, Part 21; 23 CFR, Subchapter C; and 41 CFR, Parts 60-74, as they may be amended periodically (hereinafter referred to as the Regulations). The Subgrantee agrees to comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 and as supplemented by the U.S. Department of Labor regulations (41 CFR, Part 60).
- B. Nondiscrimination: The Subgrantee, with regard to the work performed during the period of this Agreement, shall not discriminate on the grounds of race, color, sex, national origin, age, religion, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment.
- C. Solicitations for subcontracts, including procurement of materials and equipment: In all solicitations either by competitive bidding or negotiation made by the Subgrantee for work to be performed under a subcontract, including procurements of materials and leases of equipment, each potential subcontractor or supplier shall be notified

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by the Subgrantee of the Subgrantee's obligations under this Agreement and the regulations relative to nondiscrimination on the grounds of race, color, sex, national origin, age, religion, or disability.

- D. Information and reports: The Subgrantee shall provide all information and reports required by the regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Department or the USDOT to be pertinent to ascertain compliance with such regulations or directives. Where any information required of the Subgrantee is in the exclusive possession of another who fails or refuses to furnish this information, the Subgrantee shall so certify to the Department or the US DOT, whichever is appropriate, and shall set forth what efforts the Subgrantee has made to obtain the requested information.
- E. Sanctions for noncompliance: In the event of the Subgrantee's noncompliance with the nondiscrimination provision of this Agreement, the Department shall impose such sanctions as it or the US DOT may determine to be appropriate.
- F. Incorporation of provisions: The Subgrantee shall include the provisions of paragraphs A. through E. in every subcontract, including procurements of materials and leases of equipment, unless exempt by the regulations or directives. The Subgrantee shall take such action with respect to any subcontract or procurement as the Department may direct as a means of enforcing such provisions, including sanctions for noncompliance. However, in the event a Subgrantee becomes involved in, or is threatened with litigation with a subcontractor or supplier as a result of such direction, the Subgrantee may request the Department to enter into litigation to protect the interests of the state; and in addition, the Subgrantee may request the United States to enter into such litigation to protect the interests of the United States.

ARTICLE 23. DISADVANTAGED BUSINESS ENTERPRISE

It is the policy of the Department and the USDOT that Disadvantaged Business Enterprises, as defined in 49 CFR Part 26, shall have the opportunity to participate in the performance of agreements financed in whole or in part with federal funds. Consequently, the Disadvantaged Business Enterprise requirements of 49 CFR Part 26, apply to this Agreement as follows:

- The Subgrantee agrees to insure that Disadvantaged Business Enterprises, as defined in 49 CFR Part 26, have the opportunity to participate in the performance of agreements and subcontracts financed in whole or in part with federal funds. In this regard, the Subgrantee shall make good faith efforts in accordance with 49 CFR Part 26, to insure that Disadvantaged Business Enterprises have the opportunity to compete for and perform agreements and subcontracts.
- The Subgrantee and any subcontractor shall not discriminate on the basis of race, color, sex, national origin, or disability in the award and performance of agreements funded in whole or in part with federal funds.

These requirements shall be included in any subcontract.

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Failure to carry out the requirements set forth above shall constitute a breach of this Agreement and, after the notification of the Department, may result in termination of this Agreement by the Department, or other such remedy as the Department deems appropriate.

ARTICLE 24. DEBARMENT/SUSPENSION

- A. The Subgrantee certifies, to the best of its knowledge and belief, that it and its principals:
1. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any federal department or agency;
 2. Have not within a three (3) year period preceding this Agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a federal, state, or local public transaction or contract under a public transaction; violation of federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 3. Are not presently indicted or otherwise criminally or civilly charged by a federal, state, or local governmental entity with commission of any of the offenses enumerated in paragraph A. 2. of this Article; and
 4. Have not, within a three (3) year period preceding this Agreement, had one or more federal, state, or local public transactions terminated for cause or default.
- B. Where the Subgrantee is unable to certify to any of the statements in this Article, such Subgrantee shall attach an explanation to this Agreement.
- C. The Subgrantee is prohibited from making any award or permitting any award at any tier to any party which is debarred or suspended or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549, Debarment and Suspension.
- D. The Subgrantee shall require any party to a subcontract or purchase order awarded under this Grant Agreement to certify its eligibility to receive federal grant funds, and, when requested by the Department, to furnish a copy of the certification.

ARTICLE 25. LOBBYING CERTIFICATION

The Subgrantee certifies to the best of his or her knowledge and belief that:

- A. No federally appropriated funds have been paid or will be paid by or on behalf of the

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Subgrantee to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

- B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the party to this Agreement shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. The Subgrantee shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

ARTICLE 26. CHILD SUPPORT STATEMENT

Unless the Subgrantee is a governmental or non-profit entity, the Subgrantee certifies that it either will go to the Department's website noted below and complete the Child Support Statement or already has a Child Support Statement on file with the Department . The Subgrantee is responsible for keeping the Child Support Statement current and on file with that office for the duration of this Agreement period. The Subgrantee further certifies that the Child Support Statement on file contains the child support information for the individuals or business entities named in this grant. Under Section 231.006, Family Code, the Subgrantee certifies that the individual or business entity named in this Agreement is not ineligible to receive the specified grant or payment and acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate.

The form for the Child Support Statement is available on the Internet at:
<http://www.dot.state.tx.us/cso/default.htm>.

RESPONSIBILITIES OF THE SUBGRANTEE:

- A. Carry out all performance measures established in the grant, including fulfilling the law enforcement objectives by implementing the Operational Plan contained in this Grant Agreement.
- B. Submit all required reports to the Department (TxDOT) fully completed with the most current information, and within the required times, as defined in **Article 3** and **Article 7** of the General Terms and Conditions of this Grant Agreement. This includes reporting to the Department on progress, achievements, and problems in monthly Performance Reports and attaching necessary source documentation to support all costs claimed in Requests for Reimbursement (RFR).
- C. Attend Department-approved grant management training.
- D. Attend meetings according to the following:
 - 1. The Department will arrange for meetings with the Subgrantee to present status of activities and to discuss problems and the schedule for the following quarter's work.
 - 2. The project director or other appropriate qualified persons will be available to represent the Subgrantee at meetings requested by the Department.
- E. Support grant enforcement efforts with public information and education (PI&E) activities. Salaries being claimed for PI&E activities must be included in the budget.
- F. When applicable, all newly developed PI&E materials must be submitted to the Department for written approval, through the TxDOT Electronic Grants Management System (eGrants) system messaging, prior to final production. Refer to the Traffic Safety Program Manual regarding **PI&E procedures**.
- G. For out of state travel expenses to be reimbursable, the Subgrantee must have obtained the written approval of the Department, through eGrants system messaging, prior to the beginning of the trip. Grant approval does not satisfy this requirement. For Department district-managed grants, the Subgrantee must have obtained written Department district approval, through eGrants system messaging, for travel and related expenses if outside of the district boundaries.
- H. Maintain verification that all expenses, including wages or salaries, for which reimbursement is requested is for work exclusively related to this project.
- I. Ensure that this grant will in no way supplant (replace) funds from other sources. Supplanting refers to the use of federal funds to support personnel or any activity already supported by local or state funds.
- J. Ensure that each officer working on the STEP project will complete an officer's daily

City of Allen
STEP 2009 Comprehensive

report form. The form should include at a minimum: name, date, badge or identification number, type of grant worked, grant site number, mileage (including starting and ending mileage), hours worked, type of citation issued or arrest made, officer and supervisor signatures.

K. Ensure that no officer above the rank of Lieutenant (or equivalent title) will be reimbursed for enforcement duty, unless the Subgrantee received specific written authorization from the Department, through eGrants system messaging, prior to incurring costs.

L. Subgrantee may work additional STEP enforcement hours on holidays or special events not covered under the Operational Plan. However, additional work must be approved in writing by the Department, through eGrants system messaging, prior to enforcement. Additional hours must be reported in the Performance Report for the time period for which the additional hours were worked.

M. If an officer makes a STEP-related arrest during the shift, but does not complete the arrest before the shift is scheduled to end, the officer can continue working under the grant to complete that arrest.

N. Subgrantees with a traffic unit will utilize traffic personnel for this grant, unless such personnel are unavailable for assignment.

O. Prior to conducting speed enforcement, the Subgrantee must select and survey enforcement sites that comply with existing state mandated speed limits in accordance with the Texas Transportation Code, Sections 545.352 through 545.356.

P. Officers assigned to speed sites should be trained in the use of radar or laser speed measurement devices.

Q. The Subgrantee should have a safety belt use policy. If the Subgrantee does not have a safety belt use policy in place, a policy should be implemented, and a copy maintained for verification during the grant year.

R. Officers working DWI enforcement must be trained in the National Highway Traffic Safety Administration/International Association of Chiefs of Police Standardized Field Sobriety Testing (SFST). In the case of a first year subgrantee, the officers must be trained, or scheduled to be SFST trained, by the end of the grant year. For second or subsequent year grants, all officers working DWI enforcement must be SFST trained.

S. The Subgrantee should have a procedure in place for contacting and using drug recognition experts (DREs) when necessary.

T. The Subgrantee is encouraged to use the DWI On-line Reporting System available through the Buckle Up Texas Web site at www.buckleuptexas.com.

RESPONSIBILITIES OF THE DEPARTMENT:

A. Monitor the Subgrantee's compliance with the performance obligations and fiscal requirements of this Grant Agreement using appropriate and necessary monitoring and inspections, including but not limited to:

- review of periodic reports
- physical inspection of project records and supporting documentation
- telephone conversations
- e-mails and letters
- quarterly review meetings
- eGrants system messaging

B. Provide program management and technical assistance.

C. Attend appropriate meetings.

D. Reimburse the Subgrantee for all eligible costs as defined in the project budget. Requests for Reimbursement will be processed up to the maximum amount payable as indicated in the project budget.

E. Perform an administrative review of the project at the close of the grant period to:

- Ascertain whether or not the project objectives were met
- Review project accomplishments (performance measures completed, targets achieved)
- Document any progress towards self-sufficiency
- Account for any approved Program Income earned and expended
- Identify exemplary performance or best practices

Goals and Objectives

Goal: To increase effective enforcement and adjudication of traffic safety-related laws to reduce fatal and serious injury crashes

Strategies: Increase enforcement of traffic safety-related laws.
Increase public education and information campaigns.

Goal: To reduce the number of DWI-related crashes, injuries, and fatalities

Strategy: Increase enforcement of DWI laws.

Goal: To increase occupant restraint use in all passenger vehicles and trucks

Strategy: Increase enforcement of occupant protection laws.

☒ I agree to the above goals and strategies.

Baseline Information

Baseline Year (12 months) From 1/1/2004 to 12/31/2004

Baseline Measure	Baseline Number	
Number of Driving While Intoxicated (DWI) arrests	185	
Number of speed citations	4945	
Number of safety belt citations	361	
Number of child safety seat citations	27	
Number of alcohol-related crashes	23	
Number of speed-related crashes	218	
	Baseline Number	Month/Year of Survey
Percentage of speed compliance	15 %	02/08
Percentage of safety belt usage	91 %	02/08
Attach Speed survey data	https://www.dot.state.tx.us/apps/egrants/_Upload/30527-Speed Stats.pdf	
Attach Safety Belt survey data	https://www.dot.state.tx.us/apps/egrants/_Upload/30527-Seatbelt Stats.pdf	
Support Document not included in Survey Data		

Law Enforcement Objective/Performance Measure

Objective/Performance Measure	Target Number
1. Number and type citations/arrests to be issued under STEP	
a. Increase DWI arrests by	25
b. Increase speed citations by	3300
c. Increase safety belt citations by	400
d. Increase child safety seat citations by	50
2. Proposed total number of traffic related crashes	
a. Reduce the number of alcohol-related crashes to	20
b. Reduce the number of speed-related crashes to	215
3. Increase speed compliance	
a. Increase the speed compliance rate to	17%
4. Increase safety belt usage	
a. Increase the safety belt usage rate among drivers and front seat passengers to	93%
5. Number of Enforcement Hours	1420

Note:

Nothing in this agreement shall be interpreted as a requirement, formal or informal, that a peace officer issue a specified or predetermined number of citations in pursuance of the Subgrantee's obligations hereunder.

In addition to the STEP enforcement activities, the subgrantee must maintain baseline non-STEP funded citation and arrest activity due to the prohibition of supplanting

Step Indicator	3.12
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PI&E Objective Performance/Measure

Object/Performance Measure	Target Number
Support Grant efforts with a public information and education (PI&E) program	
a. Conduct presentations	5
b. Conduct media exposures (e.g. news conferences, news releases, and interviews)	6
c. Conduct community events (e.g. health fairs, booths)	2
d. Produce the following number of public information and education materials	0
e. Number of public information and education materials distributed	2500

Operational Plan

<input type="checkbox"/> Not Applicable (Click on this check-box if this is a Multi-Year proposal and if you would like to use the Yr1 Operational Plan)				
Site Number	Type	Site Description	Survey Results (Compliance Percentage)	Enforcement Period
1	OP	Jurisdiction Wide	91	7 days a week daylight hours only
2	Speed	US 75 South City Limits to the North City Limits 4.1 Miles N/B and 6.2 Miles S/B 6 lane divide highway - 65 MPH	11	7 days a week 24 hours a day
3	Speed	SH 121 Between Custer Rd. and US 75 (E/B only)	11	7 days a week 24 hours a day
4	Speed	McDermott Dr. Between US 75 and Custer Rd 3.2 Miles - 40 MPH	19	7 days a week 24 hours a day
5	Speed	Exchange Pkwy. Between Alma Dr. and Angel Dr. 4.1 Miles - 45 MPH	21	7 days a week 24 hours a day

City of Allen
STEP 2009 Comprehensive

6	Speed	Stacy Road Between SH 121 and US 75 2.2 Miles - 45 MPH	10	7 days a week 24 hours a day
7	DWI	Jurisdiction wide		Thursday thru Saturday 10PM - 2AM

City of Allen
STEP 2009 Comprehensive

Budget Summary

Budget Category		TxDOT	Match	Total
Category I - Labor Costs				
(100)	Salaries:	\$57,560.00	\$0	\$57,560.00
(200)	Fringe Benefits:	\$0	\$23,599.60	\$23,599.60
	Sub-Total:	\$57,560.00	\$23,599.60	\$81,159.60
Category II - Other Direct Costs				
(300)	Travel:	\$3,956.00	\$0	\$3,956.00
(400)	Equipment:			\$0
(500)	Supplies:			\$0
(600)	Contractual Services:			\$0
(700)	Other Miscellaneous:	\$500.00	\$0	\$500.00
	Sub-Total:	\$4,456.00	\$0	\$4,456.00
Total Direct Costs:		\$62,016.00	\$23,599.60	\$85,615.60
Category III - Indirect Costs				
(800)	Indirect Cost Rate:			\$0
Summary				
	Total Labor Costs:	\$57,560.00	\$23,599.60	\$81,159.60
	Total Direct Costs:	\$4,456.00	\$0	\$4,456.00
	Total Indirect Costs:			\$0
Grand Total		\$62,016.00	\$23,599.60	\$85,615.60
	Fund Sources (Percent Share):	72.44%	27.56%	

Salary and cost rates will be based on the rates submitted by the Subgrantee in its grant application in eGrants.

Texas Traffic Safety eGrants

Fiscal Year 2009

Organization Name: City of Allen

Legal Name: City of Allen

Payee Identification Number: 17560049128005

Project Title: STEP 2009 Comprehensive

ID: 2010-AllenPD-S-MYG-Yr2-0024

Period: 10/01/2009 to 09/30/2010

Program Element Selection

YEAR LONG

- ☒ DWI DWI: Driving While Intoxicated
- ☒ Speed Speed: Speed Enforcement
- ☒ OP OP: Occupant Protection (Safety Belt and Child Safety Seat)
- ☐ ITC ITC: Intersection Traffic Control

WAVE

- ☐ DWI Jurisdiction wide (DWI enforcement effort must be focused at locations where there is an over-representation of alcohol-related crashes and/or DWI arrests)
- ☐ Speed Jurisdiction wide (Speed enforcement should be focused on areas where there is at least a 50% noncompliance with the posted speed limits and/or a higher number of speed-related crashes)
- ☐ OP Jurisdiction wide

CMV

- ☐ Speed, OP and HMV CMV: Commercial Motor Vehicle; HMV: Hazardous Moving Violations

Note: If a DWI component is selected above, an SFST letter is no longer required to be submitted with the proposal.

General Information

Project Title STEP 2009 Comprehensive

How many years has your organization received funding for this project? This will be our third year.

Project Director Name Kenneth Myers

Organization Address 205 W. McDermott
Allen, TX 75013

Mailing Address

,

Multi Year Proposal Selection 2009-AllenPD-S-MYG-Yr1-0022

Goals and Objectives

Goal: To increase effective enforcement and adjudication of traffic safety-related laws to reduce fatal and serious injury crashes

Strategies: Increase enforcement of traffic safety-related laws.
Increase public education and information campaigns.

Goal: To reduce the number of DWI-related crashes, injuries, and fatalities

Strategy: Increase enforcement of DWI laws.

Goal: To increase occupant restraint use in all passenger vehicles and trucks

Strategy: Increase enforcement of occupant protection laws.

☒ I agree to the above goals and strategies.

Baseline Information

Baseline Year (12 months) From 1/1/2004 to 12/31/2004

Baseline Measure	Baseline Number	
Number of Driving While Intoxicated (DWI) arrests	185	
Number of speed citations	4945	
Number of safety belt citations	361	
Number of child safety seat citations	27	
Number of alcohol-related crashes	23	
Number of speed-related crashes	218	
	Baseline Number	Month/Year of Survey
Percentage of speed compliance	15 %	02/08
Percentage of safety belt usage	91 %	02/08
Attach Speed survey data	https://www.dot.state.tx.us/apps/egrants/_Upload/40094-Speed Stats.pdf	
Attach Safety Belt survey data	https://www.dot.state.tx.us/apps/egrants/_Upload/40094-Seatbelt Stats.pdf	
Support Document not included in Survey Data		

Law Enforcement Objective/Performance Measure

Objective/Performance Measure	Target Number
1. Number and type citations/arrests to be issued under STEP	
a. Increase DWI arrests by	27
b. Increase speed citations by	3300
c. Increase safety belt citations by	400
d. Increase child safety seat citations by	50
2. Proposed total number of traffic related crashes	
a. Reduce the number of alcohol-related crashes to	19
b. Reduce the number of speed-related crashes to	212
3. Increase speed compliance	
a. Increase the speed compliance rate to	18%
4. Increase safety belt usage	
a. Increase the safety belt usage rate among drivers and front seat passengers to	93.5%
5. Number of Enforcement Hours	1420

Note:

Nothing in this agreement shall be interpreted as a requirement, formal or informal, that a peace officer issue a specified or predetermined number of citations in pursuance of the Subgrantee's obligations hereunder.

In addition to the STEP enforcement activities, the subgrantee must maintain baseline non-STEP funded citation and arrest activity due to the prohibition of supplanting

Step Indicator	3.14
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PI&E Objective Performance/Measure

Object/Performance Measure	Target Number
Support Grant efforts with a public information and education (PI&E) program	
a. Conduct presentations	5
b. Conduct media exposures (e.g. news conferences, news releases, and interviews)	6
c. Conduct community events (e.g. health fairs, booths)	2
d. Produce the following number of public information and education materials	0
e. Number of public information and education materials distributed	2500

Operational Plan

<input checked="" type="checkbox"/> Not Applicable (Click on this check-box if this is a Multi-Year proposal and if you would like to use the Yr1 Operational Plan)				
Site Number	Type	Site Description	Survey Results (Compliance Percentage)	Enforcement Period
1	OP	JURISDICTION WIDE	91	7 DAYS A WEEK DAYLIGHT HOURS
2	SPEED	US 75 SOUTH CITY LIMITS TO NORTH CITY LIMITS 4.1 MILES N/B 6.2 MILES S/B 6 LANE DIVIDED HWY - 65 MPH	11	7 DAYS A WEEK 24 HOURS A DAY
3	SPEED	SH 121 - BETWEEN US 75 AND CUSTER RD 5.6 MILES - 55MPH	11	7 DAYS A WEEK 24 HOURS A DAY
4	SPEED	McDERMOTT DR BETWEEN US 75 AND CUSTER ROAD 3.2 MILES - 40 MPH	19	7 DAYS A WEEK 24 HOURS A DAY
5	SPEED	EXCHANGE PARKWAY BETWEEN ALMA DR. AND ANGEL DR. 4.1 MILES - 45 MPH	21	7 DAYS A WEEK 24 HOURS A DAY

City of Allen
STEP 2009 Comprehensive

6	SPEED	STACY ROAD BETWEEN SH 121 AND US 75 2.2 MILES - 45 MPH	10	7 DAYS A WEEK 24 HOURS A DAY
7	DWI	JURISDICTION WIDE		Thursday - Saturday 10PM - 2AM

City of Allen
STEP 2009 Comprehensive

Budget Summary

Budget Category		TxDOT	Match	Total
Category I - Labor Costs				
(100)	Salaries:	\$57,560.00	\$0	\$57,560.00
(200)	Fringe Benefits:		\$23,599.60	\$23,599.60
	Sub-Total:	\$57,560.00	\$23,599.60	\$81,159.60
Category II - Other Direct Costs				
(300)	Travel:	\$3,956.00	\$0	\$3,956.00
(400)	Equipment:			\$0
(500)	Supplies:			\$0
(600)	Contractual Services:			\$0
(700)	Other Miscellaneous:	\$500.00	\$0	\$500.00
	Sub-Total:	\$4,456.00	\$0	\$4,456.00
Total Direct Costs:		\$62,016.00	\$23,599.60	\$85,615.60
Category III - Indirect Costs				
(800)	Indirect Cost Rate:			\$0
Summary				
	Total Labor Costs:	\$57,560.00	\$23,599.60	\$81,159.60
	Total Direct Costs:	\$4,456.00	\$0	\$4,456.00
	Total Indirect Costs:			\$0
Grand Total		\$62,016.00	\$23,599.60	\$85,615.60
	Fund Sources (Percent Share):	72.44%	27.56%	

Salary and cost rates will be based on the rates submitted by the Subgrantee in its grant application in eGrants.

Texas Traffic Safety eGrants

Fiscal Year 2009

Organization Name: City of Allen

Legal Name: City of Allen

Payee Identification Number: 17560049128005

Project Title: STEP 2009 Comprehensive

ID: 2011-AllenPD-S-MYG-Yr3-0029

Period: 10/01/2010 to 09/30/2011

Program Element Selection

YEAR LONG

- ☒ DWI DWI: Driving While Intoxicated
- ☒ Speed Speed: Speed Enforcement
- ☒ OP OP: Occupant Protection (Safety Belt and Child Safety Seat)
- ☐ ITC ITC: Intersection Traffic Control

WAVE

- ☐ DWI Jurisdiction wide (DWI enforcement effort must be focused at locations where there is an over-representation of alcohol-related crashes and/or DWI arrests)
- ☐ Speed Jurisdiction wide (Speed enforcement should be focused on areas where there is at least a 50% noncompliance with the posted speed limits and/or a higher number of speed-related crashes)
- ☐ OP Jurisdiction wide

CMV

- ☐ Speed, OP and HMV CMV: Commercial Motor Vehicle; HMV: Hazardous Moving Violations

Note: If a DWI component is selected above, an SFST letter is no longer required to be submitted with the proposal.

General Information

Project Title STEP 2009 Comprehensive

How many years has your organization received funding for this project? This will be our fourth year.

Project Director Name Kenneth Myers

Organization Address 205 W. McDermott
Allen, TX 75013

Mailing Address

,

Multi Year Proposal Selection 2009-AllenPD-S-MYG-Yr1-0022

Goals and Objectives

Goal: To increase effective enforcement and adjudication of traffic safety-related laws to reduce fatal and serious injury crashes

Strategies: Increase enforcement of traffic safety-related laws.
Increase public education and information campaigns.

Goal: To reduce the number of DWI-related crashes, injuries, and fatalities

Strategy: Increase enforcement of DWI laws.

Goal: To increase occupant restraint use in all passenger vehicles and trucks

Strategy: Increase enforcement of occupant protection laws.

☒ I agree to the above goals and strategies.

Baseline Information

Baseline Year (12 months) From 1/1/2004 to 12/31/2004

Baseline Measure	Baseline Number	
Number of Driving While Intoxicated (DWI) arrests	185	
Number of speed citations	4945	
Number of safety belt citations	361	
Number of child safety seat citations	27	
Number of alcohol-related crashes	23	
Number of speed-related crashes	218	
	Baseline Number	Month/Year of Survey
Percentage of speed compliance	15 %	02/08
Percentage of safety belt usage	91 %	02/08
Attach Speed survey data	https://www.dot.state.tx.us/apps/egrants/_Upload/40590-Speed Stats.pdf	
Attach Safety Belt survey data	https://www.dot.state.tx.us/apps/egrants/_Upload/40590-Seatbelt Stats.pdf	
Support Document not included in Survey Data		

Law Enforcement Objective/Performance Measure

Objective/Performance Measure	Target Number
1. Number and type citations/arrests to be issued under STEP	
a. Increase DWI arrests by	27
b. Increase speed citations by	3345
c. Increase safety belt citations by	410
d. Increase child safety seat citations by	55
2. Proposed total number of traffic related crashes	
a. Reduce the number of alcohol-related crashes to	19
b. Reduce the number of speed-related crashes to	214
3. Increase speed compliance	
a. Increase the speed compliance rate to	19%
4. Increase safety belt usage	
a. Increase the safety belt usage rate among drivers and front seat passengers to	93.5%
5. Number of Enforcement Hours	1420

Note:

Nothing in this agreement shall be interpreted as a requirement, formal or informal, that a peace officer issue a specified or predetermined number of citations in pursuance of the Subgrantee's obligations hereunder.

In addition to the STEP enforcement activities, the subgrantee must maintain baseline non-STEP funded citation and arrest activity due to the prohibition of supplanting

Step Indicator	3.19
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PI&E Objective Performance/Measure

Object/Performance Measure	Target Number
Support Grant efforts with a public information and education (PI&E) program	
a. Conduct presentations	5
b. Conduct media exposures (e.g. news conferences, news releases, and interviews)	6
c. Conduct community events (e.g. health fairs, booths)	2
d. Produce the following number of public information and education materials	0
e. Number of public information and education materials distributed	2500

Operational Plan

☒

Not Applicable (Click on this check-box if this is a Multi-Year proposal and if you would like to use the Yr1 Operational Plan)

Site Number	Type	Site Description	Survey Results (Compliance Percentage)	Enforcement Period

City of Allen
STEP 2009 Comprehensive

Budget Summary

Budget Category		TxDOT	Match	Total
Category I - Labor Costs				
(100)	Salaries:	\$53,790.00	\$2,860.00	\$56,650.00
(200)	Fringe Benefits:		\$23,226.50	\$23,226.50
	Sub-Total:	\$53,790.00	\$26,086.50	\$79,876.50
Category II - Other Direct Costs				
(300)	Travel:	\$2,956.00	\$5,310.00	\$8,266.00
(400)	Equipment:			\$0
(500)	Supplies:			\$0
(600)	Contractual Services:			\$0
(700)	Other Miscellaneous:	\$500.00		\$500.00
	Sub-Total:	\$3,456.00	\$5,310.00	\$8,766.00
Total Direct Costs:		\$57,246.00	\$31,396.50	\$88,642.50
Category III - Indirect Costs				
(800)	Indirect Cost Rate:			\$0
Summary				
	Total Labor Costs:	\$53,790.00	\$26,086.50	\$79,876.50
	Total Direct Costs:	\$3,456.00	\$5,310.00	\$8,766.00
	Total Indirect Costs:			\$0
Grand Total		\$57,246.00	\$31,396.50	\$88,642.50
	Fund Sources (Percent Share):	64.58%	35.42%	

Salary and cost rates will be based on the rates submitted by the Subgrantee in its grant application in eGrants.

CITY COUNCIL AGENDA COMMUNICATION
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AGENDA DATE: Tuesday, September 23, 2008

SUBJECT: Interlocal Agreement with the East Texas Medical Center for the 800 MHz Trunked Radio System

STAFF RESOURCE: William S. Rushing, Chief of Police

PREVIOUS COUNCIL ACTION: Approved prior Interlocal Agreements between the East Texas Medical Center and the cities of Allen, Plano and Frisco for the use of the jointly owned 800 MHz trunked radio system

ACTION PROPOSED: Adopt a resolution and authorize the execution of an interlocal agreement.

BACKGROUND

The cities of Allen, Frisco, and Plano jointly own, operate, and maintain an 800 MHz trunked communications system for the purpose of providing radio communications in support of its emergency ambulance operations. The East Texas Medical Center currently leases certain portions of the radio system for their Public Safety services. The proposed interlocal agreement has been revised and provides for a 1-year extension.

STAFF RECOMMENDATION

Staff recommends that City Council approve a resolution authorizing the City Manager to execute an interlocal agreement with the East Texas Medical Center and to provide an effective date with regards to the 800 MHz trunked radio system owned by the cities of Allen, Plano and Frisco.

BUDGETARY IMPACT

The Interlocal Agreement does not impact the projected budget of the radio system. There is no change to the fee structure.

MOTION

I make a motion to adopt Resolution No. _____ authorizing the City Manager to execute an interlocal agreement with the East Texas Medical Center and to provide an effective date with regards to the 800 MHz trunked radio system owned by the cities of Allen, Plano and Frisco.

ATTACHMENT

Proposed Resolution
East Texas Medical Center Interlocal Agreement

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, APPROVING THE TERMS AND CONDITIONS OF THE ATTACHED INTERLOCAL COOPERATION AGREEMENTS BY AND AMONG THE CITIES OF ALLEN, FRISCO, AND PLANO, WITH THE EAST TEXAS MEDICAL CENTER FOR THE USE OF THE TRUNKED RADIO SYSTEM OWNED BY THE CITIES OF ALLEN, FRISCO, AND PLANO; AUTHORIZING EXECUTION OF THE INTERLOCAL AGREEMENTS BY THE CITY MANAGER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, authorizes governmental entities to contract with each other to perform government functions and services under the terms thereof; and,

WHEREAS, the City Council has been presented with the attached Interlocal Cooperation Agreements (“Agreements”) by and among the Cities of Allen, Frisco, and Plano, with the East Texas Medical Center, for the use of the 800 MHz trunked radio system owned by the Cities of Allen, Frisco, and Plano; and,

WHEREAS, the attached Agreements serve a valid public purpose of governmental services including public safety in that the use of the radio system allows emergency services personnel to communicate thereby protecting the health, safety and welfare of residents; and,

WHEREAS, upon full review and consideration of the attached Agreements, and all matters attendant and related thereto, the City Council is of the opinion that the terms and conditions of the attached Agreements should be approved, and that the City Manager should be authorized to execute the attached Agreements on behalf of the City of Allen.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, THAT:

SECTION 1. The terms and conditions of the attached Agreements having been reviewed by the City Council of the City of Allen, Texas, and are hereby in all things approved.

SECTION 2. The City Manager is hereby authorized to execute the attached Agreements and all other documents in connection therewith on behalf of the City of Allen, Texas.

SECTION 3. This Resolution shall become effective from and after its passage.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 23rd DAY OF SEPTEMBER, 2008.

APPROVED:

Stephen Terrell, MAYOR

ATTEST:

Shelley B. George, CITY SECRETARY

AGREEMENT BETWEEN THE CITIES OF ALLEN, FRISCO, PLANO AND THE EAST TEXAS MEDICAL CENTER FOR USE OF THE ALLEN, FRISCO, AND PLANO 800 MHz TRUNKED COMMUNICATIONS SYSTEM

The **CITIES OF PLANO, TEXAS, ALLEN, TEXAS, AND FRISCO, TEXAS**, all municipal corporations, (hereinafter referred to as "Cities"), and the **EAST TEXAS MEDICAL CENTER** a hospital non-profit corporation (hereinafter referred to as "ETMC"), agree as follows:

WHEREAS, The Cities of Allen, Frisco, and Plano jointly own, operate, and maintain an 800 MHz trunked communications system (hereinafter referred to as "System") for the purpose of providing radio communications in support of its governmental operations; and

WHEREAS, ETMC wishes to use the Cities' System to provide emergency medical services to the South East Collin County Coalition; and

WHEREAS, the Cities hereby consent to such use of the System by ETMC, and recognizes that such use benefits the public health and welfare.

NOW, THEREFORE, the Cities and ETMC, for and in consideration of the recitals set forth above and terms and conditions below, agree as follows:

I. TERM

The term of this Agreement is for a period of one (1) year, beginning on the 1st day of October 2008, and ending on the 30th day of September 2009, with an optional one (1) year automatic renewal, unless terminated earlier by either party in accordance with the terms of this Agreement. Unless terminated by either Plano or ETMC, as set forth hereafter, this agreement shall automatically renew yearly without further action until its automatic termination on the 30th day of September, 2010.

II. OBLIGATIONS OF PARTIES

2.01 Plano shall provide ETMC with a block of 160 radio identification numbers (aliases).

2.02 ETMC shall use the System in accordance with this Agreement to provide interoperability of communications by and between ETMC and its users on the System only for the purpose of conducting governmental operations specifically identified herein.

2.03 When using the System, ETMC shall abide by all applicable federal, state, and local laws, rules, and regulations, including any rules and regulations of Allen, Frisco, and Plano Radio System. When ETMC is using the System for interoperability with Talkgroups other than those provided for by this Agreement, ETMC shall also abide by the rules for such Talkgroups.

2.04 ETMC must make written requests to the System Manager for the activation of radios on the System, which must include the model and serial number of the radio, the name of the user, and the required Talkgroups.

2.05 ETMC shall be responsible for furnishing, programming and maintaining all its radios.

2.06 ETMC may program all of its base-station radios and up to one hundred (100) mobile/portable units with the applicable Talkgroups. Programming additional units will require the permission of the Cities.

2.07 ETMC may operate no more than two (2) mobile/portable units on their Talkgroup at any one time.

2.08 ETMC shall operate on Allen, Frisco, and Plano joint system ONLY for purposes related to their provision of emergency medical services to the member cities of the South East Collin County Coalition. Any other use by ETMC is prohibited.

III. FEES

3.01 The fees assessed against ETMC and due annually for the services and use of the System are as follows:

(1)	Lease radio airtime (per month, per radio)	\$ 8.56
(2)	Lease Talkgroup (per month, per Talkgroup)	\$ 126.26
(3)	Contract services (per month)	\$ 126.26
(4)	Radio Alias Fee (per month, per radio)	\$ 48.12

None of the charges listed above include the cost of maintenance of mobiles, portables, or control stations/points.

The Cities may increase these fees at the beginning of each renewal period by an amount not to exceed seven percent (7%) of the previous year's fees. The Cities will provide 120 days notice to ETMC before increasing the fees.

Total Fees for Annual Service

The Cities will calculate the annual fee due based upon two (2) current radio units in service and one (1) Talkgroup. This amount is subject to change when ETMC adds or deletes the number of radios and/or Talkgroups in service.

IV. PAYMENT DUE

ETMC agrees to pay the Cities the annual fees specified under **Article III**, within thirty (30) days of the receipt of the invoice. Should ETMC add radios or Talkgroups to the service within a term, ETMC agrees to pay the additional fees(s) due within thirty (30) days of invoice.

V. TERMINATION

5.01 Termination of this Agreement may occur by any of the following:

- (a) Either party may terminate this Agreement at any time by giving ninety (90) days advance written notice. ETMC shall pay for all fees incurred through the effective date of termination.
- (b) If the Cities permanently discontinue operation of the System, this Agreement shall terminate on the date of discontinuance without further notice.
- (c) In the event of any default of any term, this Agreement may be terminated at either party's discretion if the default is not cured within ten (10) days of receipt of written notice identifying the reason for such default.

VI. INDEMNIFICATION

Contractor shall release, defend, indemnify and hold harmless the Cities and its officers, agents and employees from and against all damages, injuries (including death), claims, property damages (including loss of use), losses, demands, suits, judgments and costs, including attorney's fees and expenses, in any way arising out of, related to, or resulting from the performance of the work or caused by the negligent act or omission of Contractor, its officers, agents, employees, subcontractors, licensees, invitees or any other third parties for whom Contractor is legally responsible (hereinafter "Claims"). Contractor is expressly required to defend the Cities against all such Claims.

In their sole discretion, the Cities shall have the right to select or to approve defense counsel to be retained by Contractor in fulfilling its obligation hereunder to defend and indemnify the Cities, unless such right is expressly waived by the Cities in writing. The Cities reserve the right to provide a portion or all of its own defense; however, the Cities are under no obligation to do so. Any such action by the Cities is not to be construed as a waiver of Contractor's obligation to defend the Cities or as a waiver of Contractor's obligation to indemnify the Cities pursuant to this Contract. Contractor shall retain the Cities approved defense counsel within seven (7) business days of Cities' written notice that Cities are invoking the right to indemnification under this Contract. If Contractor fails to retain Counsel within such time period, the Cities shall have the right to retain defense counsel on their own behalf, and Contractor shall be liable for all costs incurred by Cities.

VII. ASSIGNMENT AND SUBLETTING

ETMC agrees to retain control and to give full attention to the fulfillment of this Agreement; ETMC cannot assign or sublet this Agreement without the prior written consent of a

majority of the Cities. Further, ETMC cannot sublet any part or feature of the work to anyone objectionable to the Cities. ETMC also agrees that the subletting of any portion or feature of the work, or materials required in the performance of this Agreement, does not relieve ETMC from its full obligations to the Cities as provided by this Agreement.

VIII. ENTIRE AGREEMENT

This Agreement represents the entire and integrated agreement between the Cities and ETMC and supersedes all prior negotiations, representations and/or agreements, either written or oral. The parties may amend this Agreement only by written instrument signed by ETMC and the Cities, except that execution of an amendment for assignment or subletting only requires the signature of a majority of the Cities.

IX. NOTICES

Unless notified otherwise in writing, all notices required to be given to either party shall be in writing and delivered in person or sent by certified mail to the respective parties at the following addresses:

ETMC Representative:

Anthony J. Myers
Vice President
East Texas Medical Center
352 South Glenwood Avenue
Tyler, Texas 75702
(903) 535-5800

Plano Representative:

Director of Public Safety
Communications
City of Plano
P.O. Box 860358
Plano, TX 75086-0358
(972) 941-7931

Allen Representative:

Police Chief
City of Allen
305 W. McDermott
Allen, Texas 75013

Frisco Representative:

Police Chief
City of Frisco
8750 McKinney Road
Frisco, Texas 75034

X. AUTHORITY TO SIGN/CITY COUNCIL AUTHORIZATION

The undersigned officer and/or agents of the parties hereto are the properly authorized officials and have the necessary authority to execute this Agreement on behalf of the parties hereto. Cities have executed this Agreement pursuant to duly authorized action of the City Council of Plano on _____, 200__, the City of Allen on _____, 200__, and the City of Frisco on _____, 200__. ETMC has executed this Agreement on _____, 200__.

XI. SEVERABILITY

The provisions of this Agreement are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this Agreement is for any reason held to be contrary to the law or contrary to any rule or regulation having the force and effect of the law, such decisions shall not affect the remaining portions of the Agreement. However, upon the occurrence of such event, either party may terminate this Agreement by giving the other party thirty (30) days written notice.

XII. VENUE

This Agreement and any of its terms or provisions, as well as the rights and duties of the parties hereto, shall be governed by the laws of the State of Texas. The parties agree that this Agreement shall be enforceable in Collin County, Texas, and, if legal action is necessary, exclusive venue shall lie in Collin County, Texas.

XIII. INTERPRETATION OF AGREEMENT

Although this Agreement is drafted by the Cities, this is a negotiated document. Should any part of this Agreement be in dispute, the parties agree that the Agreement shall not be construed more favorably for either party.

XIV. REMEDIES

No right or remedy granted herein or reserved to the parties is exclusive of any right or remedy granted by law or equity; but each shall be cumulative of every right or remedy given hereunder. No covenant or condition of this Agreement may be waived without the express written consent of the parties. It is further agreed that one (1) or more instances of forbearance by either party in the exercise of its respective rights under this Agreement shall in no way constitute a waiver thereof.

XV. SUCCESSORS AND ASSIGNS

The parties each bind themselves, their respective successors, executors, administrators and assigns to the other party to this contract. Neither party will assign, sublet, subcontract or transfer any interest in this Agreement without the prior written consent of the other party. No assignment, delegation of duties or subcontract under this Agreement will be effective without the written consent of both parties.

EXECUTED this the ____ day of _____, 200__.

EAST TEXAS MEDICAL CENTER

BY: _____
Name: _____
Title: _____

CITY OF PLANO, TEXAS

BY: _____
Thomas H. Muehlenbeck
City Manager

APPROVED AS TO FORM:

Diane C. Wetherbee, City Attorney

CITY OF ALLEN, TEXAS

BY: _____
Peter H. Vargas, City Manager

APPROVED AS TO FORM:

Peter G. Smith, City Attorney

CITY OF FRISCO, TEXAS

BY: _____
George A. Purefoy, City Manager

APPROVED AS TO FORM:

Rebecca H. Brewer, City Attorney

ACKNOWLEDGMENTS

STATE OF TEXAS)
)
COUNTY OF _____)

This instrument was acknowledged before me on the ____ day of _____, 200__, by _____. _____, of **EAST TEXAS MEDICAL CENTER**, a hospital non-profit corporation, on behalf of such corporation.

Notary Public, State of Texas

STATE OF TEXAS)
)
COUNTY OF COLLIN)

THOMAS H. MUEHLENBECK, City Manager of the **CITY OF PLANO, TEXAS**, a home-rule municipal corporation, on behalf of such corporation, acknowledged this instrument before me on the _____ day of _____, 200__.

Notary Public, State of Texas

STATE OF TEXAS)
)
COUNTY OF COLLIN)

This instrument was acknowledged before me on the _____ day of _____, 200__ by **PETER VARGAS**, City Manager, of the **CITY OF ALLEN, TEXAS**, and a _____, on behalf of such _____.

Notary Public, State of Texas

ACKNOWLEDGMENTS

STATE OF TEXAS)
)
COUNTY OF COLLIN)

This instrument was acknowledged before me on the _____ day of _____, 200__ by **GEORGE PUREFOY**, City Manager of the **CITY OF FRISCO, TEXAS**, a _____, on behalf of such _____.

Notary Public, State of Texas

CITY COUNCIL AGENDA COMMUNICATION
--

AGENDA DATE: Tuesday, September 23, 2008

SUBJECT: Interlocal Agreement with the Town of Prosper for the 800 MHz Trunked Radio System

STAFF RESOURCE: William S. Rushing, Chief of Police

PREVIOUS COUNCIL ACTION: Approved prior interlocal agreements between the Town of Prosper and the cities of Allen, Plano, and Frisco for the use of the jointly owned 800 MHz trunked radio system.

ACTION PROPOSED: Adopt a resolution and authorize the execution of an interlocal agreement.

BACKGROUND

The cities of Allen, Frisco, and Plano jointly own, operate, and maintain an 800 MHz trunked communications system for the purpose of providing radio communications in support of its governmental operations. The Town of Prosper currently leases certain portions of the radio system for their Public Safety services. The proposed interlocal agreement has been revised and provides for a 1-year extension.

STAFF RECOMMENDATION

Staff recommends that City Council approve a resolution authorizing the City Manager to execute an interlocal agreement with the Town of Prosper and to provide an effective date with regards to the 800 MHz trunked radio system owned by the cities of Allen, Plano and Frisco.

BUDGETARY IMPACT

The interlocal agreement does not impact the projected budget of the radio system. There is no change to the fee structure.

MOTION

I make a motion to adopt Resolution No. _____ authorizing the City Manager to execute an interlocal agreement with the Town of Prosper and provide an effective date with regards to the 800 MHz trunked radio system owned by the cities of Allen, Plano and Frisco.

ATTACHMENT

Proposed Resolution
Prosper Interlocal Agreement

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, APPROVING THE TERMS AND CONDITIONS OF THE ATTACHED INTERLOCAL COOPERATION AGREEMENTS BY AND AMONG THE CITIES OF ALLEN, FRISCO, AND PLANO, WITH THE CITY OF PROSPER FOR THE USE OF THE TRUNKED RADIO SYSTEM OWNED BY THE CITIES OF ALLEN, FRISCO, AND PLANO; AUTHORIZING EXECUTION OF THE INTERLOCAL AGREEMENTS BY THE CITY MANAGER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, authorizes governmental entities to contract with each other to perform government functions and services under the terms thereof; and,

WHEREAS, the City Council has been presented with the attached Interlocal Cooperation Agreements (“Agreements”) by and among the Cities of Allen, Frisco, and Plano, with the City of Prosper, for the use of the 800 MHz trunked radio system owned by the Cities of Allen, Frisco, and Plano; and,

WHEREAS, the attached Agreements serve a valid public purpose of governmental services including public safety in that the use of the radio system allows emergency personnel to communicate thereby protecting the health, safety and welfare of residents; and,

WHEREAS, upon full review and consideration of the attached Agreements, and all matters attendant and related thereto, the City Council is of the opinion that the terms and conditions of the attached Agreements should be approved, and that the City Manager should be authorized to execute the attached Agreements on behalf of the City of Allen.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, THAT:

SECTION 1. The terms and conditions of the attached Agreements having been reviewed by the City Council of the City of Allen, Texas, and are hereby in all things approved.

SECTION 2. The City Manager is hereby authorized to execute the attached Agreements and all other documents in connection therewith on behalf of the City of Allen, Texas.

SECTION 3. This Resolution shall become effective from and after its passage.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 23rd DAY OF SEPTEMBER, 2008.

APPROVED:

Stephen Terrell, MAYOR

ATTEST:

Shelley B. George, CITY SECRETARY

**AGREEMENT BETWEEN THE CITIES OF ALLEN, FRISCO, PLANO AND THE
TOWN OF PROSPER FOR THE USE OF THE ALLEN, FRISCO, AND PLANO 800 MHz
TRUNKED RADIO COMMUNICATIONS SYSTEM**

The **CITIES OF PLANO, TEXAS, ALLEN, TEXAS, AND FRISCO, TEXAS**, all municipal corporations, (hereinafter referred to as “Cities”) and the **TOWN OF PROSPER**, a Home Rule municipality, (hereinafter referred to as “Prosper”), agree as follows:

WHEREAS, the Cities and Prosper are political subdivisions within the State of Texas, each of which engages in the provision of governmental services for the benefit of their citizens; and

WHEREAS, the Interlocal Cooperation Act under Chapter 791 of the Texas Government Code (the “Act”) provides authority for local governments of the State of Texas to enter into Interlocal agreements with each other regarding governmental functions and services as set forth in the Act; and

WHEREAS, the cities of Allen, Frisco, and Plano jointly own, operate, and maintain an 800 MHz trunked communications system exclusive of the radios owned individually by each city (hereinafter referred to as “System”) for the purpose of providing radio communications in support of its governmental operations; and

WHEREAS, Prosper wishes to use certain portions of the System for its governmental operations; and

WHEREAS, the use of the System in the provision of governmental services benefits the public health and welfare, promotes efficiency and effectiveness of local governments, and is of mutual concern to the contracting parties; and

WHEREAS, Prosper and the Cities have current funds available to satisfy any fees and costs required pursuant to this Agreement.

NOW, THEREFORE, the Cities and Prosper, for and in consideration of the recitals set forth above and terms and conditions below, agree as follows:

I. TERM

The term of this Agreement is for a period of one (1) year, beginning on the 1st day of October 2008, and ending on the 30th day of September 2009, with an optional one (1) year automatic renewal, unless terminated earlier by either party in accordance with the terms of this Agreement. Unless terminated by either Plano or Prosper, as set forth hereafter, this agreement shall automatically renew yearly without further action until its automatic termination on the 30th day of September, 2010.

II. OBLIGATIONS OF PROSPER

2.01 Prosper shall use the System in accordance with this Agreement to provide integration of communications by Prosper between its users on the System for governmental operations.

2.02 When using the System, Prosper shall abide by all applicable federal and state laws and regulations, including any regulations of the Allen, Frisco, and Plano Radio System. When Prosper uses the System for interoperability with Talkgroups other than those provided for by this Agreement, Prosper will also abide by the user rules of those Talkgroups.

2.03 Prosper must provide a written request to the System Manager to activate radios on the System. Such request must include the model and serial number of the radio, the name of the user, and identifying Talkgroups required in the radio.

2.04 Prosper is responsible for furnishing all its radios, which are compatible with the 800 MHz SmartNet Trunking system, and for the maintenance of the same.

III. OBLIGATIONS OF CITIES

3.01 The Cities will lease to Prosper three (3) Talkgroups, which are a primary level of communication for users on the System (hereinafter referred to as "Talkgroup"), comparable to a channel on a conventional radio system, for the exclusive use of Prosper. Talkgroups will be established for Prosper by Plano.

3.02 The Plano System Manager will not activate radios on Prosper Talkgroups nor make changes to Prosper radios without first receiving authorization from the designated representative of Prosper, unless in the opinion of Plano, such action is necessary to eliminate harmful interference.

3.03 Plano is also responsible for:

- (1) Coordinating Talkgroups into announcement groups;
- (2) Grouping of Talkgroups to allow transmitting and receiving on all associated Talkgroups (Announcement group) as required by Prosper;
- (3) The operation, maintenance, and control of the System.

IV. FEES

The fees assessed against Prosper and due annually for services and use of the System are as follows:

- | | | |
|-----|--|---------|
| (1) | * Lease radio airtime (per radio, per month) | \$ 8.56 |
| (2) | Lease Talkgroup (per Talkgroup, per month) | \$62.97 |
| (3) | Contract services (per month) | \$96.30 |

* Includes Two Announcement Groups

None of the charges listed above include the cost of maintenance of mobiles, portables, or control stations/points.

The Cities may increase these fees at the beginning of each renewal period by an amount not to exceed seven percent (7%) of the previous year's fees. The Cities will provide 120 days notice to Prosper before increasing the fees.

Total Fees for Annual Service

The Cities will calculate the annual fee due based upon forty-two (42) current radio units in service and three (3) Talkgroups. This amount is subject to change when Prosper adds or deletes the number of radios and/or Talkgroups in service. Prosper must notify Allen, Frisco, and Plano in writing of any addition or deletion of radios and/or Talkgroups.

V. PAYMENT DUE

Prosper agrees to pay the Cities the annual fees specified under Article IV. within thirty (30) days of the receipt of the invoice. Should Prosper add radios or Talkgroups to the service within a term, Prosper agrees to pay the additional fee(s) due within thirty (30) days of invoice. All payments for expenses incurred as a result of the performance of this Agreement shall be made only from current revenues legally available to each respective party.

VI. TERMINATION

- 6.01 Termination of this Agreement may occur by any of the following:
- (1) Either party may terminate this Agreement at any time by giving ninety (90) days advance written notice. Prosper shall pay for all fees incurred through the effective date of termination.
 - (2) If the Cities permanently discontinue the operation of its System, this Agreement shall terminate on the date of discontinuance without further notice.
 - (3) In the event of any default of any term, either party may forfeit this Agreement at its discretion if the default is not cured within ten (10) days of written notice.

VII. RELEASE AND HOLD HARMLESS

Each party does hereby agree to waive all claims against, release, and hold harmless the other party and its respective officials, officers, agents, employees, in both their public and private capacities, from any and all liability, claims, suits, demands, losses, damages, attorneys fees, including all expenses of litigation or settlement, or causes of action which may arise by reason of injury to or death of any person or for loss of, damage to, or loss of use of any property arising out of or in connection with this Agreement. In the event that a claim is filed, each party is responsible for its proportionate share of liability.

VIII. IMMUNITY

In the execution of this Agreement, none of the parties waive, nor shall be deemed hereby to have waived, its sovereign immunity or any legal or equitable defense to any form of liability. The parties by entering into this Agreement do not create any obligations, express or implied, other than those set forth herein, and this Agreement shall not create any rights in parties not signatories hereto.

IX. ASSIGNMENT

Prosper agrees to retain control and to give full attention to the fulfillment of this Agreement; Prosper cannot assign or sublet this Agreement without the prior written consent of a

majority of the Cities. Further, Prosper cannot sublet any part or feature of the work to anyone objectionable to the Cities. Prosper also agrees that the subletting of any portion or feature of the work, or materials required in the performance of this Agreement, does not relieve Prosper from its full obligations to the Cities as provided by this Agreement.

X. ENTIRE AGREEMENT

This Agreement represents the entire and integrated agreement between the Cities and Prosper, and supersedes all prior negotiations, representations and/or agreements, either written or oral. The parties may amend this Agreement only by written instrument signed by Prosper and the Cities, except that execution of an amendment for assignment or subletting only requires the signature of a majority of the Cities.

XI. NOTICES

Unless notified otherwise in writing, all notices are required to be given to either party in writing and delivered in person or send via certified mail to the other party at the following respective addresses:

Prosper Representative:

Town Administrator
Town of Prosper
P.O. Box 307
Prosper, Texas 75078
972-347-2304

Allen Representative:

Police Chief
City of Allen
305 W. McDermott
Allen, Texas 75013

Plano Representative:

Director, Public Safety Communications
City of Plano
P.O. Box 860358
Plano, Texas 75086-0358
972-941-7931

Frisco Representative:

Police Chief
City of Frisco
8750 McKinney Road
Frisco, Texas 75034

XII. AUTHORITY TO SIGN/CITY COUNCIL AUTHORIZATION

The undersigned officer and/or agents of the parties hereto are the properly authorized officials and have the necessary authority to execute this Agreement on behalf of the parties hereto. Cities have executed this Agreement pursuant to duly authorized action of the City Council of Plano on _____, 200__, the City of Allen on _____, 200__, and the City of Frisco on _____, 200__. Prosper has executed this Agreement pursuant to duly authorized City Council Resolution No. _____, dated _____, 200__.

XIII. SEVERABILITY

The provisions of this Agreement are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this Agreement is for any reason held to be contrary to the law or

contrary to any rule or regulation having the force and effect of the law, such decisions shall not affect the remaining portions of the Agreement. However, upon the occurrence of such event, either party may terminate this Agreement by giving the other party thirty (30) days written notice.

XIV. VENUE

This Agreement and any of its terms or provisions, as well as the rights and duties of the parties hereto, shall be governed by the laws of the State of Texas. The parties agree that this Agreement shall be enforceable in Collin County, Texas, and, if legal action is necessary, exclusive venue shall lie in Collin County, Texas.

XV. INTERPRETATION OF AGREEMENT

Although this Agreement is drafted by the Cities, this is a negotiated document. Should any part of this Agreement be in dispute, the parties agree that the Agreement shall not be construed more favorably for either party.

XVI. REMEDIES

No right or remedy granted herein or reserved to the parties is exclusive of any right or remedy granted by law or equity; but each shall be cumulative of every right or remedy given hereunder. No covenant or condition of this Agreement may be waived without the express written consent of the parties. It is further agreed that one (1) or more instances of forbearance by either party in the exercise of its respective rights under this Agreement shall in no way constitute a waiver thereof.

XVII. SUCCESSORS AND ASSIGNS

The parties each bind themselves, their respective successors, executors, administrators and assigns to the other party to this contract. Neither party will assign, sublet, subcontract or transfer any interest in this Agreement without the prior written consent of the other party. No assignment, delegation of duties or subcontract under this Agreement will be effective without the written consent of all parties.

EXECUTED on the dates indicated below:

TOWN OF PROSPER, TEXAS

BY: _____

Town Administrator

APPROVED AS TO FORM:

_____, City Attorney

CITY OF PLANO, TEXAS

BY: _____
Thomas H. Muehlenbeck
City Manager

APPROVED AS TO FORM:

Diane C. Wetherbee, City Attorney

CITY OF ALLEN, TEXAS

BY: _____
Peter H. Vargas, City Manager

APPROVED AS TO FORM:

Peter G. Smith, City Attorney

CITY OF FRISCO, TEXAS

BY: _____
George A. Purefoy, City Manager

APPROVED AS TO FORM:

Rebecca H. Brewer, City Attorney

ACKNOWLEDGEMENTS

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

This instrument was acknowledged before me on the ____ day of _____,
200__, by _____, Town Administrator of the **TOWN OF PROSPER,**
TEXAS, a home-rule municipality, on behalf of such municipality.

Notary Public, State of Texas

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

This instrument was acknowledged before me on the ____ day of _____,
200__, by **THOMAS H. MUEHLENBECK**, City Manager of the
CITY OF PLANO, TEXAS, a home-rule municipal corporation, on behalf of such corporation.

Notary Public, State of Texas

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

This instrument was acknowledged before me on the ____ day of _____,
200__, by **PETER H. VARGAS**, City Manager of the **CITY OF ALLEN, TEXAS**, a
_____, on behalf of such _____.

Notary Public, State of Texas

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

This instrument was acknowledged before me on the ____ day of _____,
200__, by **GEORGE A. PUREFOY**, City Manager of the **CITY OF FRISCO, TEXAS**, a
_____, on behalf of such _____.

Notary Public, State of Texas

CITY COUNCIL AGENDA COMMUNICATION
--

AGENDA DATE: Tuesday, September 23, 2008

SUBJECT: Interlocal Agreement with the Plano Independent School District for the 800 MHz Trunked Radio System

STAFF RESOURCE: William S. Rushing, Chief of Police

PREVIOUS COUNCIL ACTION: Approved prior interlocal agreements between the Plano Independent School District and the cities of Allen, Plano and Frisco for the use of the jointly owned 800 MHz trunked radio system.

ACTION PROPOSED: Adopt a resolution and authorize the execution of an interlocal agreement.

BACKGROUND

The cities of Allen, Frisco, and Plano jointly own, operate, and maintain an 800 MHz trunked communications system for the purpose of providing radio communications in support of its operations. The Plano Independent School District currently leases certain portions of the radio system for their school district operations. The proposed interlocal agreement has been revised and provides for a 1-year extension.

STAFF RECOMMENDATION

Staff recommends that City Council approve a resolution authorizing the City Manager to execute an interlocal agreement with the Plano Independent School District and to provide an effective date with regards to the 800 MHz trunked radio system owned by the cities of Allen, Plano and Frisco.

BUDGETARY IMPACT

The interlocal agreement does not impact the projected budget of the radio system. There is no change to the fee structure.

MOTION

I make a motion to adopt Resolution No. _____ authorizing the City Manager to execute an interlocal agreement with the Plano Independent School District and to provide an effective date with regards to the 800 MHz trunked radio system owned by the cities of Allen, Plano and Frisco.

ATTACHMENT

Proposed Resolution
PISD Interlocal Agreement

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, APPROVING THE TERMS AND CONDITIONS OF THE ATTACHED INTERLOCAL COOPERATION AGREEMENTS BY AND AMONG THE CITIES OF ALLEN, FRISCO, AND PLANO, WITH THE PLANO INDEPENDENT SCHOOL DISTRICT FOR THE USE OF THE TRUNKED RADIO SYSTEM OWNED BY THE CITIES OF ALLEN, FRISCO, AND PLANO; AUTHORIZING EXECUTION OF THE INTERLOCAL AGREEMENTS BY THE CITY MANAGER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, authorizes governmental entities to contract with each other to perform government functions and services under the terms thereof; and,

WHEREAS, the City Council has been presented with the attached Interlocal Cooperation Agreements ("Agreements") by and among the Cities of Allen, Frisco, and Plano, with the Plano Independent School District, for the use of the 800 MHz trunked radio system owned by the Cities of Allen, Frisco, and Plano; and,

WHEREAS, the attached Agreements serve a valid public purpose of governmental services including public safety in that the use of the radio system allows school district personnel to communicate thereby protecting the health, safety and welfare of residents / students; and,

WHEREAS, upon full review and consideration of the attached Agreements, and all matters attendant and related thereto, the City Council is of the opinion that the terms and conditions of the attached Agreements should be approved, and that the City Manager should be authorized to execute the attached Agreements on behalf of the City of Allen.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, THAT:

SECTION 1. The terms and conditions of the attached Agreements having been reviewed by the City Council of the City of Allen, Texas, and are hereby in all things approved.

SECTION 2. The City Manager is hereby authorized to execute the attached Agreements and all other documents in connection therewith on behalf of the City of Allen, Texas.

SECTION 3. This Resolution shall become effective from and after its passage.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 23rd DAY OF SEPTEMBER, 2008.

APPROVED:

Stephen Terrell, MAYOR

ATTEST:

Shelley B. George, CITY SECRETARY

**AGREEMENT BETWEEN THE CITIES OF ALLEN, FRISCO, PLANO AND THE
PLANO INDEPENDENT SCHOOL DISTRICT FOR THE USE OF THE ALLEN,
FRISCO, AND PLANO 800 MHz TRUNKED RADIO COMMUNICATIONS SYSTEM**

The **CITIES OF PLANO, TEXAS, ALLEN, TEXAS, AND FRISCO, TEXAS**, all municipal corporations, (hereinafter referred to as "Cities") and the **PLANO INDEPENDENT SCHOOL DISTRICT**, a school district formed under the laws of the State of Texas, (hereinafter referred to as "PISD"), agree as follows:

WHEREAS, the Cities and PISD are political subdivisions within the State of Texas, each of which engages in the provision of governmental services for the benefit of their citizens; and

WHEREAS, the Interlocal Cooperation Act under Chapter 791 of the Texas Government Code (the "Act") provides authority for local governments of the State of Texas to enter into Interlocal agreements with each other regarding governmental functions and services as set forth in the Act; and

WHEREAS, the cities of Allen, Frisco, and Plano jointly own, operate, and maintain an 800 MHz trunked communications system exclusive of the radios owned individually by each city (hereinafter referred to as "System") for the purpose of providing radio communications in support of its governmental operations; and

WHEREAS, PISD wishes to use certain portions of the System for its governmental operations; and

WHEREAS, the use of the System in the provision of governmental services benefits the public health and welfare, promotes efficiency and effectiveness of local governments, and is of mutual concern to the contracting parties; and

WHEREAS, PISD and the Cities have current funds available to satisfy any fees and costs required pursuant to this Agreement.

NOW, THEREFORE, the Cities and PISD, for and in consideration of the recitals set forth above and terms and conditions below, agree as follows:

I. TERM

The term of this Agreement is for a period of one (1) year, beginning on the 1st day of October 2008, and ending on the 30th day of September 2009, with an optional one (1) year automatic renewal, unless terminated earlier by either party in accordance with the terms of this Agreement. Unless terminated by either Plano or PISD, as set forth hereafter, this agreement shall automatically renew yearly without further action until its automatic termination on the 30th day of September, 2010.

II. OBLIGATIONS OF PISD

2.01 PISD shall use the System in accordance with this Agreement to provide integration of communications by PISD between its users on the System for governmental operations.

2.02 When using the System, PISD shall abide by all applicable federal and state laws and regulations, including any regulations of the Allen, Frisco, and Plano Radio System. When PISD uses the System for interoperability with Talkgroups other than those provided for by this Agreement, PISD will also abide by the user rules of those Talkgroups.

2.03 PISD must provide a written request to the System Manager to activate radios on the System. Such request must include the model and serial number of the radio, the name of the user, and identifying Talkgroups required in the radio.

2.04 PISD is responsible for furnishing all its radios, which are compatible with the 800 MHz SmartNet Trunking system, and for the maintenance of the same.

III. OBLIGATIONS OF CITIES

3.01 The Cities will lease to PISD nine (9) Talkgroups, which are a primary level of communication for users on the System (hereinafter referred to as "Talkgroup"), comparable to a channel on a conventional radio system, for the exclusive use of PISD. Talkgroups will be established for PISD by Plano.

3.02 The Plano System Manager will not activate radios on PISD Talkgroups nor make changes to PISD radios without first receiving authorization from the designated representative of PISD, unless in the opinion of Plano, such action is necessary to eliminate harmful interference.

3.03 Plano is also responsible for:

- (1) Coordinating Talkgroups into announcement groups;
- (2) Grouping of Talkgroups to allow transmitting and receiving on all associated Talkgroups (Announcement group) as required by PISD;
- (3) The operation, maintenance, and control of the System.

IV. FEES

The fees assessed against PISD and due annually for services and use of the System are as follows:

(1)	* Lease radio airtime (per radio, per month)	\$ 8.56
(2)	Lease Talkgroup (per Talkgroup, per month)	\$62.97
(3)	Administrative and Technical fee (per month)	\$1,374.95

* Includes Two Announcement Groups

None of the charges listed above include the cost of maintenance of mobiles, portables, or control stations/points.

The Cities may increase these fees at the beginning of each renewal period by an amount not to exceed seven percent (7%) of the previous year's fees. The Cities will provide 120 days notice to PISD before increasing the fees.

Total Fees for Annual Service

The Cities will calculate the annual fee due based upon three hundred and seventy-five (375) current radio units in service and nine (9) Talkgroups. This amount is subject to change when PISD adds or deletes the number of radios and/or Talkgroups in service. PISD must notify Allen, Frisco, and Plano in writing of any addition or deletion of radios and/or Talkgroups.

V. PAYMENT DUE

PISD agrees to pay the Cities the annual fees specified under Article IV. within thirty (30) days of the receipt of the invoice. Should PISD add radios or Talkgroups to the service within a term, PISD agrees to pay the additional fee(s) due within thirty (30) days of invoice. All payments for expenses incurred as a result of the performance of this Agreement shall be made only from current revenues legally available to each respective party.

VI. TERMINATION

- 6.01 Termination of this Agreement may occur by any of the following:
- (1) Either party may terminate this Agreement at any time by giving ninety (90) days advance written notice. PISD shall pay for all fees incurred through the effective date of termination.
 - (2) If the Cities permanently discontinue the operation of its System, this Agreement shall terminate on the date of discontinuance without further notice.
 - (3) In the event of any default of any term, either party may forfeit this Agreement at its discretion if the default is not cured within ten (10) days of written notice.

VII. RELEASE AND HOLD HARMLESS

Each party does hereby agree to waive all claims against, release, and hold harmless the other party and its respective officials, officers, agents, employees, in both their public and private capacities, from any and all liability, claims, suits, demands, losses, damages, attorneys fees, including all expenses of litigation or settlement, or causes of action which may arise by reason of injury to or death of any person or for loss of, damage to, or loss of use of any property arising out of or in connection with this Agreement. In the event that a claim is filed, each party is responsible for its proportionate share of liability.

VIII. IMMUNITY

In the execution of this Agreement, none of the parties waive, nor shall be deemed hereby to have waived, its sovereign immunity or any legal or equitable defense to any form of liability. The parties by entering into this Agreement do not create any obligations, express or implied, other than those set forth herein, and this Agreement shall not create any rights in parties not signatories hereto.

IX. ASSIGNMENT

PISD agrees to retain control and to give full attention to the fulfillment of this

Agreement; PISD cannot assign or sublet this Agreement without the prior written consent of a majority of the Cities. Further, PISD cannot sublet any part or feature of the work to anyone objectionable to the Cities. PISD also agrees that the subletting of any portion or feature of the work, or materials required in the performance of this Agreement, does not relieve PISD from its full obligations to the Cities as provided by this Agreement.

X. ENTIRE AGREEMENT

This Agreement represents the entire and integrated agreement between the Cities and PISD, and supersedes all prior negotiations, representations and/or agreements, either written or oral. The parties may amend this Agreement only by written instrument signed by PISD and the Cities, except that execution of an amendment for assignment or subletting only requires the signature of a majority of the Cities.

XI. NOTICES

Unless notified otherwise in writing, all notices are required to be given to either party in writing and delivered in person or send via certified mail to the other party at the following respective addresses:

PISD Representative:

Director of Auxiliary Services
Plano Independent School District
6600 Alma Drive
Plano, Texas 75023
972-519-8282

Allen Representative:

Police Chief
City of Allen
305 W. McDermott
Allen, Texas 75013

Plano Representative:

Director, Public Safety Communications
City of Plano
P.O. Box 860358
Plano, Texas 75086-0358
972-941-7931

Frisco Representative:

Police Chief
City of Frisco
8750 McKinney Road
Frisco, Texas 75034

XII. AUTHORITY TO SIGN/CITY COUNCIL AUTHORIZATION

The undersigned officer and/or agents of the parties hereto are the properly authorized officials and have the necessary authority to execute this Agreement on behalf of the parties hereto. Cities have executed this Agreement pursuant to duly authorized action of the City Council of Plano on _____, 200__, the City of Allen on _____, 200__, and the City of Frisco on _____, 200__. PISD has executed this Agreement pursuant to duly authorized City Council Resolution No. _____, dated _____, 200__.

XIII. SEVERABILITY

The provisions of this Agreement are severable. If any paragraph, section, subdivision,

sentence, clause, or phrase of this Agreement is for any reason held to be contrary to the law or contrary to any rule or regulation having the force and effect of the law, such decisions shall not affect the remaining portions of the Agreement. However, upon the occurrence of such event, either party may terminate this Agreement by giving the other party thirty (30) days written notice.

XIV. VENUE

This Agreement and any of its terms or provisions, as well as the rights and duties of the parties hereto, shall be governed by the laws of the State of Texas. The parties agree that this Agreement shall be enforceable in Collin County, Texas, and, if legal action is necessary, exclusive venue shall lie in Collin County, Texas.

XV. INTERPRETATION OF AGREEMENT

Although this Agreement is drafted by the Cities, this is a negotiated document. Should any part of this Agreement be in dispute, the parties agree that the Agreement shall not be construed more favorably for either party.

XVI. REMEDIES

No right or remedy granted herein or reserved to the parties is exclusive of any right or remedy granted by law or equity; but each shall be cumulative of every right or remedy given hereunder. No covenant or condition of this Agreement may be waived without the express written consent of the parties. It is further agreed that one (1) or more instances of forbearance by either party in the exercise of its respective rights under this Agreement shall in no way constitute a waiver thereof.

XVII. SUCCESSORS AND ASSIGNS

The parties each bind themselves, their respective successors, executors, administrators and assigns to the other party to this contract. Neither party will assign, sublet, subcontract or transfer any interest in this Agreement without the prior written consent of the other party. No assignment, delegation of duties or subcontract under this Agreement will be effective without the written consent of all parties.

EXECUTED on the dates indicated below:

**PLANO INDEPENDENT SCHOOL
DISTRICT**

BY: _____

Name: _____

Title: _____

APPROVED AS TO FORM:

School District Attorney

CITY OF PLANO, TEXAS

BY: _____
Thomas H. Muehlenbeck
City Manager

APPROVED AS TO FORM:

Diane C. Wetherbee, City Attorney

CITY OF ALLEN, TEXAS

BY: _____
Peter H. Vargas, City Manager

APPROVED AS TO FORM:

Peter G. Smith, City Attorney

CITY OF FRISCO, TEXAS

BY: _____
George A. Purefoy, City Manager

APPROVED AS TO FORM:

Rebecca H. Brewer, City Attorney

ACKNOWLEDGEMENTS

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

This instrument was acknowledged before me on the ____ day of _____, 200__, by _____, **PLANO INDEPENDENT SCHOOL DISTRICT**, a Texas Public School on behalf of such entity.

Notary Public, State of Texas

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

This instrument was acknowledged before me on the ____ day of _____, 200__, by **THOMAS H. MUEHLENBECK**, City Manager of the **CITY OF PLANO, TEXAS**, a home-rule municipal corporation, on behalf of such corporation.

Notary Public, State of Texas

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

This instrument was acknowledged before me on the ____ day of _____, 200__, by **PETER H. VARGAS**, City Manager of the **CITY OF ALLEN, TEXAS**, a _____, on behalf of such _____.

Notary Public, State of Texas

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

This instrument was acknowledged before me on the ____ day of _____, 200__, by **GEORGE A. PUREFOY**, City Manager of the **CITY OF FRISCO, TEXAS**, a _____, on behalf of such _____.

Notary Public, State of Texas

CITY COUNCIL AGENDA COMMUNICATION
--

AGENDA DATE: Tuesday, September 23, 2008

SUBJECT: Interlocal Agreement with the City of Murphy for the 800 MHz Trunked Radio System

STAFF RESOURCE: William S. Rushing, Chief of Police

PREVIOUS COUNCIL ACTION: Approved prior interlocal agreements between the City of Murphy and the cities of Allen, Plano, and Frisco for the use of the jointly owned 800 MHz trunked radio system

ACTION PROPOSED: Adopt a resolution and authorize the execution of an interlocal agreement.

BACKGROUND

The cities of Allen, Frisco, and Plano jointly own, operate, and maintain an 800 MHz trunked communications system for the purpose of providing radio communications in support of its governmental operations. The City of Murphy currently leases certain portions of the radio system for their Public Safety services. The proposed interlocal agreement has been revised and provides for a 1-year extension.

STAFF RECOMMENDATION

Staff recommends that City Council approve a resolution authorizing the City Manager to execute an interlocal agreement with the City of Murphy and to provide an effective date with regards to the 800 MHz trunked radio system owned by the cities of Allen, Plano and Frisco.

BUDGETARY IMPACT

The interlocal agreement does not impact the projected budget of the radio system. There is no change to the fee structure.

MOTION

I make a motion to adopt Resolution No. _____ authorizing the City Manager to execute an interlocal agreement with City of Murphy and to provide an effective date with regards to the 800 MHz trunked radio system owned by the cities of Allen, Plano and Frisco.

ATTACHMENT

Proposed Resolution
Murphy Interlocal Agreement

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, APPROVING THE TERMS AND CONDITIONS OF THE ATTACHED INTERLOCAL COOPERATION AGREEMENTS BY AND AMONG THE CITIES OF ALLEN, FRISCO, AND PLANO, WITH THE CITY OF MURPHY FOR THE USE OF THE TRUNKED RADIO SYSTEM OWNED BY THE CITIES OF ALLEN, FRISCO, AND PLANO; AUTHORIZING EXECUTION OF THE INTERLOCAL AGREEMENTS BY THE CITY MANAGER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, authorizes governmental entities to contract with each other to perform government functions and services under the terms thereof; and,

WHEREAS, the City Council has been presented with the attached Interlocal Cooperation Agreements (“Agreements”) by and among the Cities of Allen, Frisco, and Plano, with the City of Murphyr, for the use of the 800 MHz trunked radio system owned by the Cities of Allen, Frisco, and Plano; and,

WHEREAS, the attached Agreements serve a valid public purpose of governmental services including public safety in that the use of the radio system allows emergency personnel to communicate thereby protecting the health, safety and welfare of residents; and,

WHEREAS, upon full review and consideration of the attached Agreements, and all matters attendant and related thereto, the City Council is of the opinion that the terms and conditions of the attached Agreements should be approved, and that the City Manager should be authorized to execute the attached Agreements on behalf of the City of Allen.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, THAT:

SECTION 1. The terms and conditions of the attached Agreements having been reviewed by the City Council of the City of Allen, Texas, and are hereby in all things approved.

SECTION 2. The City Manager is hereby authorized to execute the attached Agreements and all other documents in connection therewith on behalf of the City of Allen, Texas.

SECTION 3. This Resolution shall become effective from and after its passage.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 23rd DAY OF SEPTEMBER, 2008.

APPROVED:

Stephen Terrell, MAYOR

ATTEST:

Shelley B. George, CITY SECRETARY

**AGREEMENT BETWEEN THE CITIES OF ALLEN, FRISCO, PLANO AND THE CITY
OF MURPHY FOR THE USE OF THE ALLEN, FRISCO, AND PLANO 800 MHz
TRUNKED RADIO COMMUNICATIONS SYSTEM**

The **CITIES OF PLANO, TEXAS, ALLEN, TEXAS, AND FRISCO, TEXAS**, all municipal corporations, (hereinafter referred to as "Cities") and the **CITY OF MURPHY**, a home-rule corporation, (hereinafter referred to as "Murphy"), agree as follows:

WHEREAS, the Cities and Murphy are political subdivisions within the State of Texas, each of which engages in the provision of governmental services for the benefit of their citizens; and

WHEREAS, the Interlocal Cooperation Act under Chapter 791 of the Texas Government Code (the "Act") provides authority for local governments of the State of Texas to enter into Interlocal agreements with each other regarding governmental functions and services as set forth in the Act; and

WHEREAS, the cities of Allen, Frisco, and Plano jointly own, operate, and maintain an 800 MHz trunked communications system exclusive of the radios owned individually by each city (hereinafter referred to as "System") for the purpose of providing radio communications in support of its governmental operations; and

WHEREAS, Murphy wishes to use certain portions of the System for its governmental operations; and

WHEREAS, the use of the System in the provision of governmental services benefits the public health and welfare, promotes efficiency and effectiveness of local governments, and is of mutual concern to the contracting parties; and

WHEREAS, Murphy and the Cities have current funds available to satisfy any fees and costs required pursuant to this Agreement.

NOW, THEREFORE, the Cities and Murphy, for and in consideration of the recitals set forth above and terms and conditions below, agree as follows:

I. TERM

The term of this Agreement is for a period of one (1) year, beginning on the 1st day of October 2008, and ending on the 30th day of September 2009, with an optional one (1) year automatic renewal, unless terminated earlier by either party in accordance with the terms of this Agreement. Unless terminated by either Plano or Murphy, as set forth hereafter, this agreement shall automatically renew yearly without further action until its automatic termination on the 30th day of September, 2010.

II. OBLIGATIONS OF MURPHY

2.01 Murphy shall use the System in accordance with this Agreement to provide integration of communications by Murphy between its users on the System for governmental operations.

2.02 When using the System, Murphy shall abide by all applicable federal and state laws and regulations, including any regulations of the Allen, Frisco, and Plano Radio System. When Murphy uses the System for interoperability with Talkgroups other than those provided for by this Agreement, Murphy will also abide by the user rules of those Talkgroups.

2.03 Murphy must provide a written request to the System Manager to activate radios on the System. Such request must include the model and serial number of the radio, the name of the user, and identifying Talkgroups required in the radio.

2.04 Murphy is responsible for furnishing all its radios, which are compatible with the 800 MHz SmartNet Trunking system, and for the maintenance of the same.

III. OBLIGATIONS OF CITIES

3.01 The Cities will lease to Murphy eight (8) Talkgroups, which are a primary level of communication for users on the System (hereinafter referred to as "Talkgroup"), comparable to a channel on a conventional radio system, for the exclusive use of Murphy. Talkgroups will be established for Murphy by Plano.

3.02 The Plano System Manager will not activate radios on Murphy Talkgroups nor make changes to Murphy radios without first receiving authorization from the designated representative of Murphy, unless in the opinion of Plano, such action is necessary to eliminate harmful interference.

3.03 Plano is also responsible for:

- (1) Coordinating Talkgroups into announcement groups;
- (2) Grouping of Talkgroups to allow transmitting and receiving on all associated Talkgroups (Announcement group) as required by Murphy;
- (3) The operation, maintenance, and control of the System.

IV. FEES

The fees assessed against Murphy and due annually for services and use of the System are as follows:

- | | | |
|-----|--|---------|
| (1) | * Lease radio airtime (per radio, per month) | \$ 8.56 |
| (2) | Lease Talkgroup (per Talkgroup, per month) | \$62.97 |
| (3) | Contract services (per month) | \$96.30 |

* Includes Two Announcement Groups

None of the charges listed above include the cost of maintenance of mobiles, portables, or control stations/points.

The Cities may increase these fees at the beginning of each renewal period by an amount not to exceed seven percent (7%) of the previous year's fees. The Cities will provide 120 days notice to Murphy before increasing the fees.

Total Fees for Annual Service

The Cities will calculate the annual fee due based upon eighty-nine (89) current radio units in service and eight (8) Talkgroups. This amount is subject to change when Murphy adds or deletes the number of radios and/or Talkgroups in service. Murphy must notify Allen, Frisco, and Plano in writing of any addition or deletion of radios and/or Talkgroups.

V. PAYMENT DUE

Murphy agrees to pay the Cities the annual fees specified under Article IV. within thirty (30) days of the receipt of the invoice. Should Murphy add radios or Talkgroups to the service within a term, Murphy agrees to pay the additional fee(s) due within thirty (30) days of invoice. All payments for expenses incurred as a result of the performance of this Agreement shall be made only from current revenues legally available to each respective party.

VI. TERMINATION

- 6.01 Termination of this Agreement may occur by any of the following:
- (1) Either party may terminate this Agreement at any time by giving ninety (90) days advance written notice. Murphy shall pay for all fees incurred through the effective date of termination.
 - (2) If the Cities permanently discontinue the operation of its System, this Agreement shall terminate on the date of discontinuance without further notice.
 - (3) In the event of any default of any term, either party may forfeit this Agreement at its discretion if the default is not cured within ten (10) days of written notice.

VII. RELEASE AND HOLD HARMLESS

Each party does hereby agree to waive all claims against, release, and hold harmless the other party and its respective officials, officers, agents, employees, in both their public and private capacities, from any and all liability, claims, suits, demands, losses, damages, attorneys fees, including all expenses of litigation or settlement, or causes of action which may arise by reason of injury to or death of any person or for loss of, damage to, or loss of use of any property arising out of or in connection with this Agreement. In the event that a claim is filed, each party is responsible for its proportionate share of liability.

VIII. IMMUNITY

In the execution of this Agreement, none of the parties waive, nor shall be deemed hereby to have waived, its sovereign immunity or any legal or equitable defense to any form of liability. The parties by entering into this Agreement do not create any obligations, express or implied, other than those set forth herein, and this Agreement shall not create any rights in parties not signatories hereto.

IX. ASSIGNMENT

Murphy agrees to retain control and to give full attention to the fulfillment of this Agreement; Murphy cannot assign or sublet this Agreement without the prior written consent of a

majority of the Cities. Further, Murphy cannot sublet any part or feature of the work to anyone objectionable to the Cities. Murphy also agrees that the subletting of any portion or feature of the work, or materials required in the performance of this Agreement, does not relieve Murphy from its full obligations to the Cities as provided by this Agreement.

X. ENTIRE AGREEMENT

This Agreement represents the entire and integrated agreement between the Cities and Murphy, and supersedes all prior negotiations, representations and/or agreements, either written or oral. The parties may amend this Agreement only by written instrument signed by Murphy and the Cities, except that execution of an amendment for assignment or subletting only requires the signature of a majority of the Cities.

XI. NOTICES

Unless notified otherwise in writing, all notices are required to be given to either party in writing and delivered in person or send via certified mail to the other party at the following respective addresses:

Murphy Representative:

City Manager
City of Murphy
205 N. Murphy Road
Murphy, Texas 75094
972-424-6021

Allen Representative:

Police Chief
City of Allen
305 W. McDermott
Allen, Texas 75013

Plano Representative:

Director, Public Safety Communications
City of Plano
P.O. Box 860358
Plano, Texas 75086-0358
972-941-7931

Frisco Representative:

Police Chief
City of Frisco
8750 McKinney Road
Frisco, Texas 75034

XII. AUTHORITY TO SIGN/CITY COUNCIL AUTHORIZATION

The undersigned officer and/or agents of the parties hereto are the properly authorized officials and have the necessary authority to execute this Agreement on behalf of the parties hereto. Cities have executed this Agreement pursuant to duly authorized action of the City Council of Plano on _____, 200__, the City of Allen on _____, 200__, and the City of Frisco on _____, 200__. Murphy has executed this Agreement pursuant to duly authorized City Council Resolution No. _____, dated _____, 200__.

XIII. SEVERABILITY

The provisions of this Agreement are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this Agreement is for any reason held to be contrary to the law or

contrary to any rule or regulation having the force and effect of the law, such decisions shall not affect the remaining portions of the Agreement. However, upon the occurrence of such event, either party may terminate this Agreement by giving the other party thirty (30) days written notice.

XIV. VENUE

This Agreement and any of its terms or provisions, as well as the rights and duties of the parties hereto, shall be governed by the laws of the State of Texas. The parties agree that this Agreement shall be enforceable in Collin County, Texas, and, if legal action is necessary, exclusive venue shall lie in Collin County, Texas.

XV. INTERPRETATION OF AGREEMENT

Although this Agreement is drafted by the Cities, this is a negotiated document. Should any part of this Agreement be in dispute, the parties agree that the Agreement shall not be construed more favorably for either party.

XVI. REMEDIES

No right or remedy granted herein or reserved to the parties is exclusive of any right or remedy granted by law or equity; but each shall be cumulative of every right or remedy given hereunder. No covenant or condition of this Agreement may be waived without the express written consent of the parties. It is further agreed that one (1) or more instances of forbearance by either party in the exercise of its respective rights under this Agreement shall in no way constitute a waiver thereof.

XVII. SUCCESSORS AND ASSIGNS

The parties each bind themselves, their respective successors, executors, administrators and assigns to the other party to this contract. Neither party will assign, sublet, subcontract or transfer any interest in this Agreement without the prior written consent of the other party. No assignment, delegation of duties or subcontract under this Agreement will be effective without the written consent of all parties.

EXECUTED on the dates indicated below:

CITY OF MURPHY, TEXAS

BY: _____

City Manager

APPROVED AS TO FORM:

_____, City Attorney

CITY OF PLANO, TEXAS

BY: _____
Thomas H. Muehlenbeck
City Manager

APPROVED AS TO FORM:

Diane C. Wetherbee, City Attorney

CITY OF ALLEN, TEXAS

BY: _____
Peter H. Vargas, City Manager

APPROVED AS TO FORM:

Peter G. Smith, City Attorney

CITY OF FRISCO, TEXAS

BY: _____
George A. Purefoy, City Manager

APPROVED AS TO FORM:

Rebecca H. Brewer, City Attorney

ACKNOWLEDGEMENTS

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

This instrument was acknowledged before me on the ____ day of _____, 200__, by _____, City Manager of the **CITY OF MURPHY, TEXAS**, a home-rule corporation, on behalf of such municipality.

Notary Public, State of Texas

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

This instrument was acknowledged before me on the ____ day of _____, 200__, by **THOMAS H. MUEHLENBECK**, City Manager of the **CITY OF PLANO, TEXAS**, a home-rule municipal corporation, on behalf of such corporation.

Notary Public, State of Texas

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

This instrument was acknowledged before me on the ____ day of _____, 200__, by **PETER H. VARGAS**, City Manager of the **CITY OF ALLEN, TEXAS**, a _____, on behalf of such _____.

Notary Public, State of Texas

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

This instrument was acknowledged before me on the ____ day of _____, 200__, by **GEORGE A. PUREFOY**, City Manager of the **CITY OF FRISCO, TEXAS**, a _____, on behalf of such _____.

Notary Public, State of Texas

CITY COUNCIL AGENDA COMMUNICATION
--

AGENDA DATE: Tuesday, September 23, 2008

SUBJECT: Interlocal Cooperation Agreement with Collin County for Justice of the Peace Precinct 3 Proceedings

STAFF RESOURCE: Kevin Hammeke, Finance Director
Peter H. Vargas, City Manager

PREVIOUS COUNCIL ACTION: September 12, 2006, Resolution No. 2555-9-06(R) authorized the City Manager to execute a one-year Interlocal Cooperation Agreement with Collin County regarding the use of certain space within the Allen Municipal Court facilities.

September 25, 2007, Resolution No. 2660-9-07(R) authorized the City Manager to execute a one-year Interlocal Cooperation Agreement with Collin County regarding the use of certain space within the Allen Municipal Court facilities.

ACTION PROPOSED: Adopt a Resolution

BACKGROUND

For the past two years, Judge John Payton has utilized space in the Allen Municipal Court/Parks & Recreation Building to conduct Justice of the Peace proceedings, in particular truancy issues with Allen students.

Attached is an Interlocal Cooperation Agreement (ILA) between the City of Allen and Collin County to permit the County's use of the Municipal Court Room. The proposed use will not change from the current use. The use will be limited and restricted to Mondays and Fridays from 8:00 a.m. to 5:00 p.m. and Wednesdays and Thursdays after 5:00 p.m. The County's use of the Community Room will be limited and restricted to Wednesdays from 1:00 p.m. to 5:00 p.m. unless there is a conflict with the election schedule. The City Secretary use of the Community Room will take priority over any County use. This agreement will be in effect through September 30, 2009.

The County Commissioner's Court approved the agreement at their August 26, 2008 meeting.

STAFF RECOMMENDATION

Staff recommends the approval of the Resolution and Interlocal Cooperation Agreement.

BUDGETARY IMPACT

The County shall pay a \$10 'use fee'.

MOTION

I make a motion to adopt Resolution No. _____ authorizing the City Manager to execute an Interlocal Cooperation Agreement with Collin County to permit the use of certain space within the Allen Municipal Court/Parks & Recreation Building for Justice of the Peace Precinct 3 proceedings conducted by the Justice of the Peace and other Collin County elected officials.

ATTACHMENT

Interlocal Agreement with Collin County
Proposed Resolution

STATE OF TEXAS	§	Amended and Restated
	§	Interlocal Cooperation Agreement
COUNTY OF COLLIN	§	

This Amended and Restated Interlocal Cooperation Agreement ("Agreement") is by and between the City of Allen, Texas, ("Allen") and Collin County, Texas, ("County") acting by and through their authorized officers.

RECITALS:

WHEREAS, the Parties previously entered into that certain Interlocal Cooperation Agreement dated September 27, 2007 ("the Original Agreement"); and

WHEREAS, the City and the County desire to amend the Original Agreement by amending the terms and conditions contained in Article III, Use of Facilities; and

WHEREAS, the parties desire to amend and restate the Original Agreement as set forth herein;

NOW THEREFORE, in consideration of the foregoing and other consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

Article I
Purpose

The purpose of this Agreement is to permit the use of certain space within the Allen Municipal Court Facilities and Community Room located within the Allen Municipal Court/Parks & Recreation Building at 301 Century Parkway, Allen, Texas, (the "Facilities") for Justice of the Peace proceedings conducted by a Justice of the Peace and other Collin County elected officials.

Article II
Term

2.1 The term of this Agreement shall begin on the last date of execution hereof ("Effective Date") and end on September 30, 2009 ("Expiration Date"), unless sooner terminated as provided herein.

2.2 This Agreement shall terminate upon any one of the following:

- (a) by written agreement of the parties;
- (b) Expiration Date; or
- (c) by either party in the event the other party breaches any of the terms or conditions of this Agreement and such breach is not cured within thirty (30) days after written notice thereof.

Article III
Use of Facilities

3.1 The County is granted the use of the Facilities for the conduct of Justice of the Peace proceedings conducted by a Justice of the Peace in accordance with the following terms and conditions:

- (a) The County shall have the right to use and have access to the public and common areas, the court room, the Community Room, the break room, the Associate Judge's Office and a front window for use by a cashier provided by a Justice of the Peace within the Facilities;
- (b) The County shall pay a use fee in the amount of Ten Dollars and No/100 (\$10.00) to be paid on the Effective Date. The County and Justice of the Peace shall not be charged for any utilities or for telephone or fax usage.
- (c) The Justice of the Peace shall be permitted to use the Associate Judge's Office within the Facilities;
- (d) The City will permit the use of office furniture, copy machine, telephones, faxes and computers located within the Facilities to the extent that such use does not interfere with the operation of the Allen Municipal Court or the use of the Community Room for election purposes;
- (e) The County and Justice of the Peace shall not supervise, direct, interfere with or use City personnel at anytime;
- (f) The Justice of the Peace shall provide all personnel necessary for the conduct of Justice of the Peace proceedings in the Facilities including but not limited to court clerks, cashiers, prosecutors, court reporters and bailiffs;
- (g) The County use of the Municipal Court Room is limited and restricted to Mondays and Fridays between the hours of 8:00 a.m. and 5:00 p.m. and Wednesdays and Thursdays after 5:00 p.m. of each calendar week that are not City holidays during the term of this Agreement. On Mondays and Fridays, all Court proceedings and customer transactions are to be completed prior to 5:00 p.m. When proceedings are held after 5:00 p.m., the Justice of the Peace shall be responsible for locking the doors to the Allen Municipal Court and securing the Facilities;
- (h) The Allen Municipal Court use of the Facilities shall control and take priority over any County use;
- (i) The County use of the Community Room is limited and restricted to Wednesdays from 1:00 p.m. to 5:00 p.m. of each calendar week that are not City holidays during the term of this Agreement, unless there is a conflict with the election schedule. Exhibit "A" reflects the dates when the Community Room will be required for election purposes and will not be available for Justice of the Peace use. Additional dates may be added to the election schedule as needed;
- (j) City Secretary use of the Community Room for elections shall control and take priority over any County use;
- (k) The Justice of the Peace will be provided a key or other means of access to the Associate Judge's Office after normal business hours;

- (l) The Justice of the Peace shall, prior to commencement of use of the Facilities, provide to the City in writing a list of Court personnel that will be using the Facilities and shall provide the City with written notice of any change in such personnel; and
- (m) Justice of Peace Court personnel shall abide by the provisions contained in the City of Allen Administrative Directive regarding dress code policy which is attached hereto as Exhibit "B" and as may be amended from time to time;
- (n) Food and drinks are not prohibited in the Courtroom;
- (o) Only the Justice of the Peace and Court personnel are permitted within the secured areas of the Facilities;
- (p) Cases filed in the Municipal Court of the City of Allen will remain within the jurisdiction of the Municipal Court and shall not be transferred to the Justice of the Peace Precinct 3 Court; and
- (q) No other use shall be permitted other than for Justice of the Peace Precinct 3 Court proceedings set forth herein.

Article IV Indemnification

To the extent allowed by law, each party agrees to release, defend, indemnify, and hold harmless the other (and its officers, agents, and employees) from and against all claims or causes of action for injuries (including death), property damages (including loss of use), and any other losses, demands, suits, judgments, and costs, including reasonable attorney's fees and expenses, in any way arising out of, related to, or resulting from its performance under this Agreement, or caused by its negligent acts or omissions (or those of its respective officers, agents, employees, or any other third parties for whom it is legally responsible) in connection with performing this Agreement. This Agreement and the indemnity provided herein is not intended to and shall not create any cause of action for the benefit of third parties or any person not a party to this Agreement. It is expressly understood and agreed that, in the execution of this agreement, no party waives, nor shall be deemed hereby to have waived any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions. By entering into this Agreement, the parties do not create any obligations, express or implied, other than those set forth herein, and this Agreement shall not create any rights in parties not signatories hereto.

Article V Miscellaneous

5.1 **Assignment.** This Agreement may not be assigned by any party hereto without the prior written consent of the other party.

5.2 **Notice.** Any notice, demand or request required or permitted to be delivered hereunder shall be deemed received when delivered in person or sent by United States Mail, postage prepaid, certified mail, or by hand-delivery or facsimile transmission addressed to the party at the address set forth below:

If intended for City of Allen:

City of Allen
Attn: Peter H. Vargas
City Manager
One Allen Civic Plaza
305 Century Parkway
Allen, Texas 75013

With copy to:

Peter G. Smith
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
1800 Lincoln Plaza
500 N. Akard
Dallas, Texas 75201

If intended for County:

Judge Keith Self
Collin County
210 S. McDonald, Ste. 625
McKinney, Texas 75069

Any party may, at any time, by written notice to the other party, designate different or additional persons or different addresses for the getting of notices hereunder.

5.3 **Amendment**. This Agreement may be amended by the mutual written agreement of both parties hereto.

5.4 **Severability**. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect the other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in this Agreement.

5.5 **Governing Law**. The validity of this Agreement and any of its terms and provisions as well as the rights and duties of the parties, shall be governed by the laws of the State of Texas; and venue for any action concerning this Agreement shall be in the State District Court of Collin County, Texas. The parties agree to submit to the jurisdiction of said court.

5.6 **Entire Agreement**. This Agreement represents the entire agreement among the parties with respect to the subject matter covered by this Agreement. There is no other collateral, oral or written agreement between the parties that in any manner relates to the subject matter of this Agreement.

5.7 **Recitals**. The recitals to this Agreement are incorporated herein.

5.8 **Exhibits**. The exhibits to this Agreement are incorporated herein.

5.9 **Counterparts**. This Agreement may be executed in any number of counterparts, each of whom shall be deemed an original and constitute one and the same instrument.

5.10 **Survival of Covenants**. Any of the representations, warranties, covenants, and obligations of the parties, as well as any rights and benefits of the parties, pertaining to a period of time following the termination of this Agreement shall survive termination.

EXECUTED this ____ day of _____, 2008.

City of Allen, Texas

By: _____
Peter H. Vargas, City Manager

Attest:

By: _____
Shelley George, City Secretary

Approved As To Form:

By: _____
Peter G. Smith, City Attorney

EXECUTED this ____ day of _____, 2008.

Collin County, Texas

By:  _____
Keith Self, County Judge

EXHIBIT "A"

Election Schedule
2008-2009

On the following dates, the Community Room will be used for voting purposes only:

October 15 – November 5, 2008 – Presidential Election

April 16 – May 11, 2009 – City of Allen General Election
(May 21 – June 15, 2009 – Date of Runoff, if needed)

There is the possibility of a runoff if there are three candidates for one position and no candidate receives over 50.1% of the vote.

October 15 – November 4, 2009 – Uniform Election Date

JUSTICE OF THE PEACE PRECINCT 3
JUDGE PAYTON

OCTOBER 2008					
SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
			1 JP#3 COURT* 1 P.M. - 5 P.M. COMMUNITY RM EVENING COURT AFTER 5 P.M. COURT ROOM	2 EVENING COURT AFTER 5 P.M. COURT ROOM	3 TRUANCY 8 A.M. - 5 P.M. COURT ROOM
5	6 TRUANCY 8 A.M. - 5 P.M. COURT ROOM	7	8 JP#3 COURT* 1 P.M. - 5 P.M. COMMUNITY RM EVENING COURT AFTER 5 P.M. COURT ROOM	9 EVENING COURT AFTER 5 P.M. COURT ROOM	10 TRUANCY 8 A.M. - 5 P.M. COURT ROOM
12	13 TRUANCY 8 A.M. - 5 P.M. COURT ROOM	14	15 ELECTION 1 P.M. - 5 P.M. COMMUNITY RM NOT AVAILABLE EVENING COURT AFTER 5 P.M. COURT ROOM	16 EVENING COURT AFTER 5 P.M. COURT ROOM	17 TRUANCY 8 A.M. - 5 P.M. COURT ROOM
19	20 TRUANCY 8 A.M. - 5 P.M. COURT ROOM	21	22 ELECTION 1 P.M. - 5 P.M. COMMUNITY RM NOT AVAILABLE EVENING COURT AFTER 5 P.M. COURT ROOM	23 EVENING COURT AFTER 5 P.M. COURT ROOM	24 TRUANCY 8 A.M. - 5 P.M. COURT ROOM
26	27 TRUANCY 8 A.M. - 5 P.M. COURT ROOM	28	29 ELECTION 1 P.M. - 5 P.M. COMMUNITY RM NOT AVAILABLE EVENING COURT AFTER 5 P.M. COURT ROOM	30	31

*Community Room will be available for Justice of the Peace Precinct 3 use unless there is a conflict with Election schedule.

EXHIBIT "B"

CITY OF ALLEN ADMINISTRATIVE DIRECTIVE	
SUBJECT: DRESS CODE POLICY	NUMBER: 1
EFFECTIVE DATE: November 1, 2006	
AMENDS/SUPERSEDES:	APPROVED:
MAY 22, 2000	PETER H. VARGAS, CITY MANAGER

**DRESS CODE POLICY
FOR ALL OFFICE EMPLOYEES**

The City's objective, in establishing a dress code, is to enable employees to project a professional, business-like image when working with the public. Employees of the City of Allen are expected to be neat, well-groomed, and appropriately dressed each day. Employees should be aware that some individuals have sensitivity to odors and fragrances, and to use good judgment in regard to this. The City of Allen has the right to expect and does expect all employees to have sufficient pride in their work and their association with the City of Allen and to exercise mature discretion in appearance, dress, and demeanor. Since opinions about what constitutes appropriate attire vary, the City has established the following guidelines.

GUIDELINES

Business Professional dress is required for all public meetings unless otherwise specified by the City Manager. Employees attending seminars should dress appropriately as they are representing the City of Allen.

Business Professional attire is required Monday through Friday for all Department Directors and Assistant Directors and staff members in the executive offices. However, Business Casual is allowed as an option for Friday Dress.

BUSINESS PROFESSIONAL	
APPROPRIATE ATTIRE	NOT APPROPRIATE ATTIRE
Long- or short-sleeved dress shirt and tie	Business Casual attire
Dress slacks, dress shirt, sport coat/blazer and tie	
Suit, dress shirt and tie	
Attire coordinated around conservative suits (panted or skirted), dresses, pant suits	

"OPTIONAL" FRIDAY DRESS	
APPROPRIATE ATTIRE	NOT APPROPRIATE ATTIRE
Business Casual attire	All items listed as "not appropriate" under Business Casual attire
Appropriate business footwear including dress shoes with socks or hosiery	
City of Allen logo polo or long-sleeved shirts, may include City of Allen logo denim shirts.	

Business Casual is allowed Monday through Friday for all employees, except Directors and Assistant Directors and staff members in the executive offices, and uniformed personnel, during regularly scheduled business hours. Because all casual clothing is not suitable for the office, these guidelines will help you determine what is appropriate to wear to work. Clothing that works well for the beach, yard work, dance clubs, exercise sessions, and sports contests are not appropriate for a professional appearance at work.

BUSINESS CASUAL	
APPROPRIATE ATTIRE	NOT APPROPRIATE ATTIRE
Traditional business attire	Anything denim (jeans, shirts, skirts and dresses), also includes colored denim, shorts, capri pants, cropped pants, cargo pants, skorts, gauchos or split skirts of any kind
Dockers style, dress cords and dress slacks	Sweatpants, sweat suits, nylon jogging suits or sport cover-ups
Long- or short sleeved shirts or blouses, golf shirts, polo shirts with collars or banded collared shirts, turtleneck shirts	T-shirts or sweatshirts; City Board/Commission t-shirts or sweatshirts only be allowed on certain occasions as designated by the appropriate Department Head
Dress blouses or shells (not t-shirts) with suits, slacks or skirts	Halter, tank, tube, backless or midriff tops. Sleeveless anything (except when worn with a jacket or sweater). Mini-skirts that are more than four inches above the knee, sun dresses, skorts or spaghetti-strap dresses.
Loose knit pants with blazer or appropriate	Spandex pants, leggings or tight knit pants
Blazers, sport coats, sweaters, vests, cardigans	
Appropriate business footwear including dress shoes with socks or hosiery	Athletic shoes, sneakers, flip-flops; sandals or clogs.

"OPTIONAL" FRIDAY DRESS	
Everything on the Business Casual list	All items listed as "not appropriate" except where noted as "appropriate" under Friday Dress
City of Allen logo polo or long-sleeved shirts may include City of Allen logo denim shirts.	

NOTE: Male employees are allowed neatly trimmed facial hair.

Any accessories, including jewelry, must be conservative in keeping with a business environment.

City of Allen logo and long-sleeved shirts must conform to certain specifications. Allowable styles, colors and purchasing information will be forwarded to the Department Heads. These shirts will not be provided by the City.

Questions as to the appropriateness of apparel or appearance should be directed to the employee's supervisor and/or applicable Management Team Member. The City of Allen reserves the right to determine if an employee's attire is not in keeping with this policy, and if so, the employee may be asked to return home to change to proper attire. This time may be charged to vacation leave, or if the employee has none, leave without pay.

TIPS FOR OFFICE DRESS

Remember, the goal is for all employees to project a professional image. Any dirty, wrinkled, revealing, frayed, or ill-fitting clothing is inappropriate. Extreme fashion trends are unacceptable. A good rule of thumb – if you question whether an item is acceptable, it probably is not.

EXCEPTIONS

Exceptions to these guidelines may apply where the position warrants and must be approved jointly by the City Manager and the Director of Human Resources. Exceptions may be made to comply with laws related to disability accommodation, or religious beliefs or practices, on a case-by-case basis. Employees with medical conditions that require clothing items that are not allowed under this policy should get medical certification from their primary care physician.

Jeans and athletic shoes may be worn under special circumstances with the approval of the City Manager. Special event t-shirts may be worn the workday preceding the event and the day of the event.

Seasonal exceptions: Walking shorts (appropriate length of 2-3 inches above the knee) are allowed to be worn by employees working outdoors during specified times as designated by the appropriate Department Head and the City Manager (i.e., Parks and Recreation, Community Services, Engineering). Shoes may be allowed to be worn without socks or hosiery due to extreme heat of the summer months as specified by the City Manager.

certain items from the appropriate attire lists.

ENFORCEMENT

Supervisors are to enforce these guidelines of dress and speak to employees who report to work in inappropriate clothing. If the employee continues to violate this policy, disciplinary action may be taken.

Note: Uniformed Personnel and Recreation Facility Personnel should refer to the dress code specific to their department, as approved by the City Manager.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, APPROVING THE TERMS AND CONDITIONS OF AN INTERLOCAL AGREEMENT BY AND BETWEEN THE CITY OF ALLEN, TEXAS AND COUNTY OF COLLIN COUNTY REGARDING THE USE OF CERTAIN SPACE WITHIN THE ALLEN MUNICIPAL COURT FACILITIES; AUTHORIZING ITS EXECUTION BY THE CITY MANAGER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council has been presented a proposed Interlocal Cooperation Agreement by and between the City of Allen, Texas, and the County of Collin to enter into an agreement regarding the use of certain space within the Allen Municipal Court Facilities (the "Agreement"); and

WHEREAS, upon full review and consideration of the Agreement, and all matters related thereto, the City Council is of the opinion and finds that the terms and conditions thereof should be approved, and that the City Manager should be authorized to execute the Agreement on behalf of the City of Allen, Texas.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, THAT:

SECTION 1. The Agreement having been reviewed by the City Council of the City of Allen, Texas, and found to be acceptable and in the best interest of the City and its citizens, be, and the same is hereby, all things approved, and the City Manager is hereby authorized to execute the Agreement on behalf of the City of Allen, Texas.

SECTION 2. This Resolution shall become effective immediately from and after its passage.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 23RD DAY OF SEPTEMBER, 2008.

APPROVED:

Stephen Terrell, MAYOR

APPROVED AS TO FORM:

ATTEST:

Peter G. Smith, CITY ATTORNEY
(PGS 30753)

Shelley B. George, CITY SECRETARY

CITY COUNCIL AGENDA COMMUNICATION
--

AGENDA DATE: Tuesday, September 23, 2008

SUBJECT: Interlocal Cooperative Agreement by and between Purchasing Solutions Alliance

STAFF RESOURCE: Debra Morris, Purchasing Manager

ACTION PROPOSED: Adopt a Resolution

BACKGROUND

Chapter 791 of the Texas Government Code, as amended, authorizes Interlocal agreements between local government agencies to perform governmental functions and services such as streets, roads, and drainage; and Section 701.025 of the Texas Government Code permits Interlocal agreements between local governments for the purchase of goods and services and also satisfies the requirements of local governments to seek competitive bids for purchase of such goods and services through Supplier Contracts.

On January 9th, 2008, the Brazos Valley Council of Government's Board of Directors unanimously approved a resolution creating the Purchasing Solutions Alliance (PSA), a purchasing cooperative for public agencies.

The purpose of the PSA is to identify qualified vendors of goods and services, to comply with state bidding requirements, and to relieve the burdens of governmental purchasing by realizing economies of scale.

STAFF RECOMMENDATION

Staff recommends that the City Council adopt a Resolution to authorizing the City Manager to execute of an Interlocal Cooperative Agreement with Purchasing Solutions Alliance for the City of Allen's use of Purchasing Solutions Alliance supplier contracts.

MOTION

I make a motion to adopt Resolution No. _____ authorizing the City Manager to execute an Interlocal Cooperative Agreement by and between Purchasing Solutions Alliance (Brazos Valley Council of Government) and the City of Allen for City of Allen's use of Purchasing Solutions Alliance Supplier Contracts.

ATTACHMENT

PSA Interlocal Agreement
Proposed Resolution

Purchasing Solutions Alliance

a purchasing cooperative for public agencies



INTERLOCAL PURCHASING AGREEMENT

THIS INTERLOCAL AGREEMENT ("ILA"), made and entered into pursuant to the Texas Interlocal Cooperation Act, Chapter 791, Texas Government Code (the "Act"), by and between the Brazos Valley Council of Governments, hereinafter referred to as "BVCOG," having its principal place of business at 3991 East 29th St., Bryan, Texas 77803, and _____, a local government, a state agency, or a non-profit corporation created and operated to provide one or more governmental functions and services, hereinafter referred to as "Cooperative Member," having its principal place of business at _____

WHEREAS, BVCOG is a regional planning commission and political subdivision of the State of Texas operating under Chapter 391, Texas Local Government Code; and

WHEREAS, pursuant to the Act, BVCOG is authorized to contract with eligible entities to perform governmental functions and services, including the purchase of goods and services; and

WHEREAS, in reliance on such authority, BVCOG has instituted a cooperative purchasing program, hereinafter referred to as the "*Purchasing Solutions Alliance*" or "*PSA*," under which it contracts with eligible entities under the Act; and

WHEREAS, Cooperative Member has represented that it is an eligible entity under the Act, that its governing body has authorized this Agreement on _____ (Date), and that it desires to contract with BVCOG on the terms set forth below;

NOW, THEREFORE, BVCOG and the Cooperative Member do hereby agree as follows:

ARTICLE 1: LEGAL AUTHORITY

The Cooperative Member represents and warrants to BVCOG that it is eligible to contract with BVCOG under the Act for the purposes recited herein because it is one of the following: a local government, as defined in the Act (a county, a municipality, a special district, or other political subdivision of the State of Texas or any other state, or a combination of two or more of those entities, a state agency (an agency of the State of Texas as defined in Section 771.002 of the Texas Government Code, or a similar agency of another state), or a non-profit corporation created and operated to provide one or more governmental functions and services, and it possesses adequate legal authority to enter into this Agreement.

ARTICLE 2: APPLICABLE LAWS

BVCOG and the Cooperative Member agree to conduct all activities under this Contract in accordance with all applicable rules, regulations, and ordinances and laws in effect or promulgated during the term of this Agreement.

ARTICLE 3: WHOLE AGREEMENT

This Agreement and any attachments, as provided herein, constitute the complete agreement between the parties hereto, and supersede any and all oral and written agreements between the parties relating to matters herein.

ARTICLE 4: PERFORMANCE PERIOD

This Agreement shall be effective when signed by the last party whose signing makes the Agreement fully executed and will remain in full force and effect for one (1) year. This Agreement shall automatically renew for successive one-year terms unless sooner terminated in accordance with the provisions of this Agreement. The conditions set forth below shall apply to the initial term and all renewals. Notwithstanding this provision, any party may modify or terminate this Agreement as provided in Article(s) 7 or 8.

ARTICLE 5: SCOPE OF SERVICES

The Cooperative Member appoints BVCOG its true and lawful purchasing agent for the purchase of certain products and services through the *Purchasing Solutions Alliance* cooperative purchasing program. All purchases hereunder shall be in accordance with Texas statutes and procedures governing competitive bids and competitive proposals and in accordance with specifications and contract terms established by BVCOG, and at the prices available and published by BVCOG. Ownership (title) to products purchased through contracts awarded pursuant to the *PSA* program shall transfer directly from the contractor to the Cooperative Member. Nothing in this Agreement shall prevent the Cooperative Member from purchasing and/or accepting and awarding bids, proposals and contracts subject to this Agreement on its own behalf.

ARTICLE 6: PAYMENTS

Upon delivery of goods or services purchased and presentation of a properly documented invoice, the Cooperative Member shall promptly, and in any case within thirty (30) days, pay the vendor and/or contractor the full amount of the invoice. All payments for goods or services will be made from current revenues available to the paying party. In no event shall BVCOG have any financial liability to the Cooperative Member for any goods or services Cooperative Member procures through its *PSA* program.

ARTICLE 7: CHANGES AND AMENDMENTS

This Agreement may be amended only by a written amendment executed by both parties, except that any alternations, additions, or deletions to the terms of this Agreement which are required by changes in Federal and State law or regulations are automatically incorporated into this Agreement without written amendment hereto and shall become effective on the date designated by such law or regulation. BVCOG reserves the right to make changes in the scope of products and services offered through the *PSA* cooperative purchasing program to be performed hereunder.

ARTICLE 8: TERMINATION PROCEDURES

BVCOG or the Cooperative Member may cancel this Agreement at any time upon thirty (30) days written notice by certified mail to the other party to this Agreement. The obligations of the Cooperative Member, including obligations to pay any vendor or contractor for all goods and/or services purchased under this Agreement, shall survive such cancellation, as well as any other obligation incurred under this Agreement, until performed or discharged by the Cooperative Member.

ARTICLE 9: SEVERABILITY

All parties agree that should any provision of this Agreement be determined to be invalid or unenforceable, such determination shall not affect any other term of this Agreement, which shall continue in full force and effect.

ARTICLE 10: FORCE MAJEURE

To the extent that either party to this Agreement shall be wholly or partially prevented from the performance within the term specified of any obligation or duty placed on such party by reason of or through strikes, stoppage of labor, riot, fire, flood, acts of war, insurrection, accident, order of any court, act of God, or specific cause reasonably beyond the party's control and not attributable to its neglect or nonfeasance, in such event, the time for the performance of such obligation or duty shall be suspended until such disability to perform is removed; provided, however, force majeure shall not excuse an obligation solely to pay funds. Determination of force majeure shall rest solely with BVCOG.

ARTICLE 11: CONSENT TO SUIT

Nothing in this Agreement will be construed as a waiver or relinquishment by either party of its right to claim such exemptions, privileges and immunities as may be provided by law.

ARTICLE 12: MISCELLANEOUS

a. This Agreement has been made under and shall be governed by the laws of the State of Texas. Venue and jurisdiction of any suit or cause of action arising under, or in connection with, this Agreement shall lie exclusively in Brazos County, Texas.

b. The persons executing this Agreement hereby represent that they have authorization to sign on behalf of their respective entities.

c. This Agreement and the rights and obligations contained herein may not be assigned by either party without the prior written approval of the other party to this Agreement.

THIS INSTRUMENT HAS BEEN EXECUTED IN TWO ORIGINALS BY THE PARTIES HERETO AS FOLLOWS:

Brazos Valley Council of Governments
Purchasing Solutions Alliance
3991 East 29th St.
Bryan, Texas 77802

BVCOG Executive Director or Designee

Signature of Executive Director or Designee

Date: _____

Roger D. Dempsey

Attest: *PSA* Program Manager

Attest: _____

Signature of *PSA* Program Manager

Date: _____

Name of Cooperative Member

Mailing Address

City, State, ZIP Code

Name & Title of Chief Elected Official

By: _____

Signature of Chief Elected Official

Date: _____

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, APPROVING THE TERMS AND CONDITIONS OF AN INTERLOCAL AGREEMENT BY AND BETWEEN THE CITY OF ALLEN, TEXAS, AND PURCHASING SOLUTIONS ALLIANCE, A BRAZOS VALLEY COUNCIL OF GOVERNMENT'S COOPERATIVE PURCHASING NETWORK, PROVIDING FOR A COOPERATIVE PURCHASING PROGRAM FOR GOODS AND SERVICES; DESIGNATING THE CITY MANAGER, OR DESIGNEE, AS OFFICIAL REPRESENTATIVE OF THE CITY IN MATTERS RELATING TO THE PROGRAM; AND AUTHORIZING THE CITY MANAGER, OR DESIGNEE, TO EXECUTE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council has been presented a proposed Interlocal Agreement by and between the City of Allen, Texas, and Purchasing Solutions Alliance, a Brazos Valley Council of Government's cooperative purchasing network, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (herein called "Agreement"); and,

WHEREAS, upon full review and consideration of the Agreement and all matters attendant and related thereto, the City Council is of the opinion that the terms and conditions thereof should be approved and that the City Manager, or designee, shall be authorized to execute it on behalf of the City of Allen.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, THAT:

SECTION 1. The terms and conditions of the Agreement, having been reviewed by the City Council of the City of Allen and found to be acceptable and in the best interests of the City of Allen and its citizens, are hereby in all things approved.

SECTION 2. The City Manager, or designee, of the City of Allen, under the direction of the City Council of the City of Allen, is hereby designated as the official representative to act for the City in all matters relating to the Cooperative Purchasing Program including the designation of specific contracts in which the City desires to participate.

SECTION 3. The City Manager, or designee, is hereby authorized to execute the Agreement and all other documents in connection therewith on behalf of the City of Allen, substantially according to the terms and conditions set forth in this Agreement.

SECTION 4. This resolution shall become effective from and after its passage.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 23RD DAY OF SEPTEMBER, 2008.

APPROVED:

Stephen Terrell, MAYOR

ATTEST:

Shelley B. George, CITY SECRETARY

CITY COUNCIL AGENDA COMMUNICATION
--

AGENDA DATE: Tuesday, September 23, 2008

SUBJECT: Interlocal Agreement Regarding the Intersection of State Highway 121 and Exchange Parkway

STAFF RESOURCE: John Baumgartner, Director of Engineering

ACTION PROPOSED: Adopt a Resolution

BACKGROUND

The Exchange Parkway Interchange with SH121 is a part of the thoroughfare plan for Allen, McKinney and Collin County. Initially, the concept was for Exchange Parkway to be built over SH121 and was not included in the plans for SH121. In April North Texas Tollway Authority, Collin County and the cities of McKinney and Allen met and looked at the steps necessary to refine the design and include an interchange at Exchange Parkway in the current construction of the main lanes of SH121 in addition to how to fund the changes.

The parties agreed:

1. NTTA will redesign the project so that SH121 at Exchange Parkway will pass over Exchange Parkway, with Exchange Parkway remaining on grade.
2. The City will reimburse NTTA for one-sixth (1/6) of the actual design and construction costs of the redesign, not to exceed \$1.5 million. The City of McKinney and Collin County will have a similar one-sixth (1/6) obligation, with NTTA responsible for the remaining costs and everything over \$9,000,000.
3. Our share of the funding is due by July 1, 2010.
4. NTTA is responsible for building Exchange Parkway under SH121 and signaling the intersection. These improvements will come after the main lanes are completed in early 2010.

STAFF RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute an Interlocal Agreement with NTTA regarding the intersection of State Highway 121 and Exchange Parkway.

BUDGETARY IMPACT

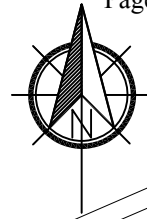
The total estimated project cost for the intersection is \$9,000,000 with the City's share one-sixth (1/6) the cost, not to exceed \$1.5 million. We would propose using \$1,000,000 of proceeds approved in the 2007-2013 Bond Program or project matches and \$500,000 from the Stacy Road project (now partially funded with regional toll revenues). We would recommend selling those bonds in time to meet the July 1, 2010 obligation (see attached spreadsheet).

MOTION

I make a motion to adopt Resolution No. _____ authorizing the City Manager to execute an Interlocal Agreement with NTTA regarding the intersection of State Highway 121 and Exchange Parkway.

ATTACHMENT

Location Map
CIP Expenditures
ILA Agreement
Proposed Resolution



SH 121

EXCHANGE PKWY

RIDGEVIEW DRIVE

LAMPASA DRIVE

KIRBY LANE

NUT SPRINGS DRIVE

2007-2013 CAPITAL IMPROVEMENT PROGRAM

G.O. BOND EXPENDITURES PER YEAR

PROPOSED REVISIONS FOR 2009 and 2010 (as of September 15, 2008) By JRB

PROJECT TITLE	2007	2008	2009	2010	2011	2012	2013
Public Facilities							
Service Center	\$0	\$2,000,000	\$12,500,000	\$0	\$0		
Existing Facilities Renovation							
Existing facilities upgrade	\$0	\$0	\$0	\$350,000	\$350,000	\$250,000	\$750,000
Streets and Drainage							
Stacy Road			\$0	\$1,500,000			
Bethany Drive				\$125,000	\$1,475,000		
Country Brook Lane	\$400,000						
Chaparral Bridge and realignment	\$1,100,000			\$500,000			
Contingency, Match for other roadway partnership opportunities				\$0	\$0	\$0	\$0
Watters Road New Opportunity		\$500,000	\$500,000				
SH 121/Exchange Interchange New Opportunity				\$1,500,000			
CBD Streets and Infrastructure				\$500,000	\$500,000	\$500,000	\$500,000
Median Improvements, Street lights & landscaping - 5 year program					\$500,000	\$600,000	
Street/Alley Repairs - 5 year program	\$640,000	\$0	\$600,000	\$660,000	\$200,000	\$500,000	\$400,000
Drainage Improvements - 5 year program					\$200,000	\$200,000	\$100,000
Ridgeview Drive	\$700,000	\$4,660,000	\$0	\$1,140,000	\$2,000,000	\$1,000,000	\$500,000
Ridgeview Drive/ US 75 Interchange Replacement		\$0	\$0	\$600,000	\$2,400,000		
Parks and Recreation							
Community Park Land Acquisition	\$2,900,000	\$200,000		\$2,900,000	\$1,000,000		
Athletic Complex			\$400,000	\$3,100,000			
Neighborhood Park Development				\$500,000			
Allen Environmental Discovery Center				\$500,000			
Celebration Park Phase 2	\$1,250,000	\$1,500,000					
Rowlett Creek Community Park	\$0	\$0	\$400,000	\$2,600,000			
Public Art Master Plan Implementation ~ 2% of G.O. Bond Issuance	200,000	0	690,000		500,000		
Public Safety							
Upgrade Public Safety Communication Sy	\$850,000	\$0	\$4,000,000	\$1,650,000			
Fire Station #5	\$750,000	\$625,000					
Jail Expansion Facility/HVAC	\$400,000		\$300,000	\$0			
Fire Station #6	\$200,000				\$400,000	\$1,830,000	\$1,650,000
Animal Control Facility		\$150,000	\$850,000		\$0		
Public Safety Training Center	\$0	\$300,000	\$1,900,000				
Annual Totals:	\$9,390,000	\$9,935,000	\$22,140,000	\$18,125,000	\$9,525,000	\$4,880,000	\$3,900,000
GRAND TOTAL:	\$77,895,000						

**City of Allen, Texas
Projected G.O. Bond Issuances**

	June 2008	June 2009	June 2010	June 2011	June 2012	June 2013
Arts of Collin County Parks - 1999 final Year 2 - 2007 election	\$ - \$ 250,000 \$ 9,935,000					
Arts of Collin County Year 3 - 2007 election		\$ 13,265,000 \$ 22,140,000				
Arts of Collin County Year 4 - 2007 election			\$ 3,420,000 \$ 18,125,000			
Arts of Collin County Year 5 - 2007 election				\$ 755,000 \$ 9,525,000		
Year 6 - 2007 election					\$ 5,380,000	
Year 7 - 2007 election						\$ 3,900,000
TOTALS	\$ 10,185,000	\$ 35,405,000	\$ 21,545,000	\$ 10,280,000	\$ 5,380,000	\$ 3,900,000

**INTERLOCAL AGREEMENT BY AND BETWEEN
THE CITY OF ALLEN
AND
THE NORTH TEXAS TOLLWAY AUTHORITY
REGARDING THE INTERSECTION OF
STATE HIGHWAY 121 AND EXCHANGE PARKWAY**

9/__/08

**INTERLOCAL AGREEMENT BY AND BETWEEN
THE CITY OF ALLEN
AND
THE NORTH TEXAS TOLLWAY AUTHORITY
REGARDING THE INTERSECTION OF
STATE HIGHWAY 121 AND EXCHANGE PARKWAY**

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**INTERLOCAL AGREEMENT BY AND BETWEEN
THE CITY OF ALLEN
AND
THE NORTH TEXAS TOLLWAY AUTHORITY
REGARDING THE INTERSECTION OF
STATE HIGHWAY 121 AND EXCHANGE PARKWAY**

THIS INTERLOCAL AGREEMENT (“Agreement”), by and between the **NORTH TEXAS TOLLWAY AUTHORITY**, a regional tollway authority and a political subdivision of the State of Texas, acting by and through the its Board of Directors, hereinafter identified as the “Authority,” and the **CITY OF ALLEN**, a Texas home rule municipality, acting by and through its duly elected City Council, hereinafter identified as “the City,” is to be effective as of the ____ day of September, 2008.

RECITALS

WHEREAS, the Authority is authorized to study, evaluate, design, acquire, construct, maintain, repair, and operate turnpike projects within the counties of Dallas, Collin, Denton and Tarrant pursuant to Chapter 366 of the Texas Transportation Code, as amended (the “Regional Tollway Authority Act”); and

WHEREAS, the Authority and the Texas Department of Transportation have entered into that certain Project Agreement dated as of October 18, 2007 relating to a continuous express lane toll project along the current route of State Highway 121 extending approximately from Business SH 121 in Denton County to U.S. 75 in Collin County, a total length of approximately twenty-six (26) miles (the “Project”), and

WHEREAS, the Authority is currently designing, constructing, and operating the Project; and

WHEREAS, one or more of the Local Governments (hereinafter defined) is constructing a cross-street that will intersect with the Project, which will be known as “Exchange Parkway” (the planned location and configuration of said street being hereinafter referred to as “Exchange Parkway,” notwithstanding that such facility has not yet been fully constructed, and said intersection being hereinafter referred to as the “Intersection”); and

WHEREAS, the City, the City of Allen, and Collin County (collectively, the “Local Governments”) have requested a modification to the current design and construction of the

Project at the Intersection with Exchange Parkway so that the Project shall be constructed over Exchange Parkway (said modification as described in the Plans [hereinafter defined] being referred to as the “Redesign”); and

WHEREAS, the Authority has agreed to design and construct the Intersection in accordance with the Redesign, on and subject to the terms and conditions set forth in this Agreement; and

WHEREAS, the City has agreed to contribute to the payment of the design and construction costs of the Redesign as hereinafter set forth; and

WHEREAS, the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, authorizes local governmental entities to contract with one another to perform governmental functions and services under the terms thereof, and the Authority and the City have determined that mutual benefits and advantages can be obtained by further formalizing their agreement as to the separate and distinct issues of importance to them regarding the Redesign.

AGREEMENT

NOW, THEREFORE, in consideration of these premises and of the mutual covenants and agreements of the parties hereto to be by them respectively kept and performed as hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, the Authority and the City agree as follows:

ARTICLE I. THE REDESIGN

A. The Redesign

The current design of the Intersection of the Project and Exchange Parkway provides that the Project will remain at grade and Exchange Parkway will be designed to pass over the Project. The parties hereby agree that the Project will be redesigned and constructed such that the Project will pass over Exchange Parkway, which one or more of the Local Governments will finish constructing at grade at a later date. The Authority has prepared the preliminary plans for the Intersection, which are set forth on Exhibit A attached hereto and incorporated by reference (the “Preliminary Plans”). The City hereby acknowledges that it approves the Redesign as described in the Preliminary Plans and agrees that it will not object to non-material design changes, if any,

incorporated into the final plans for the Project's Intersection with Exchange Parkway (the "Plans"). The Authority agrees that unless otherwise agreed by the City, the final Plans shall be substantially similar to the Preliminary Plans, and the Authority shall provide the City with copies of the final Plans when they are available.

ARTICLE II. COST SHARING

A. Contributions of the City

The City will reimburse the Authority for the lesser of (i) One Million Five Hundred Thousand Dollars (\$1,500,000.00) or (ii) one sixth (1/6) of the actual design and construction costs of the Redesign (as applicable, the "City Obligation") in accordance with the reimbursement schedule set forth below.

B. Reimbursement to the Authority

Upon completion of the construction of the Intersection in accordance with the Plans, the Authority will provide the City with a written statement of the total cost increases resulting from designing and constructing the Intersection in accordance with the Redesign and will notify the City of the final amount of the City Obligation (the "Payment Notice"). The City will pay the entire amount of the City Obligation without offset or deduction, as set forth in the Payment Notice, on or before July 1, 2010. The City reimbursement to the Authority shall be from current revenue or other lawfully available funds.

ARTICLE III. GENERAL PROVISIONS

A. Mutual Cooperation

The City and the Authority hereby agree to cooperate fully with each other to permit the Authority to design, construct, operate, and maintain the Intersection in accordance with the Plans. The City agrees to grant to the Authority at no cost to the Authority right-of-way or other property owned or controlled by the City necessary or desirable for the construction, operation, and maintenance of the Project at the Intersection with Exchange Parkway, including temporary construction easements (if any) required during construction of the Intersection. The Authority and the City shall each consult and fully cooperate with the other party to ensure that its

respective facilities at the Intersection are not operated, maintained, expanded or modified in any manner that interferes with the other party's facilities. This subsection is not intended, and shall not be construed, to waive or otherwise limit any rights or obligations the Authority or the City may have by statute.

B. Construction of Exchange Parkway

Understanding that the design and construction has commenced on the portions of Exchange Parkway located within the City's corporate limits at the Intersection of Exchange Parkway with the Project, which are set forth on Exhibit B attached hereto and incorporated by reference (the "City's Plans"), the City shall contact the Authority and thereafter take all steps the Authority reasonably deems necessary or desirable to ensure that future design changes, construction, maintenance and operation of Exchange Parkway does not impair or interfere with the design, construction, operation or maintenance of the Project. The City shall submit any material plan changes for Exchange Parkway to the Authority for the Authority's review, and the applicable construction contract shall not be let unless and until the Authority approves the plan changes in writing, such approval not to be unreasonably withheld or delayed. Thereafter, Exchange Parkway where it intersects with and crosses under the Project shall be constructed in accordance with the approved plans, and the Authority shall have the right to make such inspections and testing it desires to confirm same. The City also shall cause its staff and consultants to continue to meet and communicate with the Authority regularly during the remaining design and construction phases of Exchange Parkway, and the Authority shall reasonably cooperate with the City in advancing such design and construction provided the same complies with the provisions of this subsection III.B.

C. Signalization.

- (1) In consideration of the City's performance of its obligations under this Agreement, the Authority shall provide for the design, construction and installation of temporary and permanent traffic signalization at the portions of the Intersection within the City's corporate limits necessitated by the construction of the Project. The Authority shall design, prepare and issue construction plans and specifications, take bids, award contracts and purchase orders, install and test (or cause the same to be done) any temporary or permanent traffic signalization systems for at the Intersection, and also shall install and/or relocate, at its sole

expense, any traffic signals, conduit, controllers or any other related facilities that may be required at the Intersection for or as a result of the construction of the Project (collectively, the "Signalization Work"). Thereafter, the City (either itself or by agreement with TxDOT) shall be responsible for the operation and maintenance of said traffic signalization systems. The Signalization Work shall include the Authority's provision, at its cost, of the standard TxDOT signal kit, plus "Opticom® units."

- (2) The City shall ensure that, once completed, its traffic signalization systems do not impede or interfere with the operation of the Project, including, without limitation, access to or egress from the Turnpike Lanes. The Authority shall keep the City reasonably informed of the Authority's design and construction plans in furtherance thereof. Upon completion of the Signalization Work, the City agrees (either itself or by agreement with TxDOT) to operate, police and maintain the described traffic signalization systems at no cost to the Authority and to assume the responsibility for provision of all electrical power required for signal operations, including that required during construction and test periods.
- (3) This subsection III.C. sets forth the Authority's sole obligation regarding the Signalization Work and nothing contained in this Agreement shall in any way impose upon or create for the Authority any responsibility for (i) the proper operation of traffic signalization along the Project within the corporate limits of the City or (ii) the police enforcement required for securing compliance with the traffic signals described in this Agreement.

D. Utility Clearances and Relocations.

- (1) The City agrees to maintain a utility clear zone by prohibiting the subsequent issuance of any utility permits that would conflict with the design and construction of the Intersection. With respect to the overpass structure to be constructed for the passage of the Project's controlled access lanes (the "Turnpike Lanes") over Exchange Parkway, the utility clear zone shall extend not less than seventy-five feet (75') from the Turnpike Lanes centerline (for a utility clear zone of not less than one hundred fifty feet [150'] total). This utility clear zone shall be located between four feet (4') and twelve feet (12') behind the back of curb of the

through traffic lanes (ultimate width) of the cross street. The City shall be responsible for relocating any utilities or other surface or subsurface improvements and facilities that the Authority determines to be in conflict with the utility clear zone.

ARTICLE IV. MISCELLANEOUS

A. Term of Agreement

The term of this Agreement shall commence on the effective date set forth above and end on the complete performance by the parties hereto of all provisions of this Agreement.

B. Subsequent Agreements

The City agrees to enter into such subsequent agreement(s) with the Authority as may be necessary or desirable for either the construction, operation and maintenance of the Intersection or to ensure the physical integrity of the Project. Although the precise terms of the Subsequent Agreements shall be negotiated at a later time, none of those terms shall conflict with any provision of this Agreement, absent the specific agreement of the parties to the contrary, and all such Subsequent Agreements otherwise shall be consistent with the terms and provisions hereof.

C. Exchange Parkway

Notwithstanding any provision of this Agreement, this Agreement creates no duty or obligation on the part of the Authority with respect to the design and construction of Exchange Parkway. The Authority's only obligation under this Agreement pertains to the design and construction of the Project.

D. Notices

In each instance under this Agreement in which one party is required or permitted to give notice to the others, such notice shall be deemed given (1) when delivered in hand, (2) one (1) business day after being deposited with a reputable overnight air courier service, or (3) three (3) business days after being mailed by United States mail, registered or certified mail, return receipt requested, postage prepaid, and, in all events, addressed as follows:

In the case of the City:

City of Allen
Attn: City Manager
305 Century Parkway
Allen, Texas 75013

In the case of the Authority:

By hand delivery or air courier:

North Texas Tollway Authority
Attn: Jorge Figueredo, Ph.D., Executive Director
5900 W. Plano Parkway, Suite 100
Plano, Texas 75093

By mail:

North Texas Tollway Authority
Attn: Jorge Figueredo, Ph.D., Executive Director
P.O. Box 260729
Plano, Texas 75026

Any party hereto may from time to time change its address for notification purposes by giving the other parties prior written notice of the new address and the date upon which it will become effective.

E. Relationship of the Parties; No Joint Enterprise

Nothing in this Agreement is intended to create, nor shall be deemed or construed by the parties or by any third party as creating, (1) the relationship of principal and agent, partnership or joint venture between the City and/or the Authority or (2) a joint enterprise between the City, the Authority and/or any other party. Without limiting the foregoing, the purposes for which the City and the Authority have entered into this Agreement are separate and distinct, and there are no pecuniary interests, common purposes and/or equal rights of control among the parties hereto.

F. Successors and Assigns

This Agreement shall bind, and shall be for the sole and exclusive benefit of, the respective parties and their legal successors. Other than as provided in the preceding sentence,

no party shall assign, sublet or transfer its respective interests in this Agreement without the prior written consent of the other parties to this Agreement, unless otherwise provided by law.

G. Severability

If any provision of this Agreement, or the application thereof to any entity or circumstance, is rendered or declared illegal for any reason and shall be invalid or unenforceable, the remainder of this Agreement and the application of such provision to other entities or circumstances shall not be affected thereby, but shall be enforced to the greatest extent permitted by applicable law.

H. Written Amendments

Any change in the agreement, terms and/or responsibilities of the parties hereto must be enacted through a written amendment. No amendment to this Agreement shall be of any effect unless in writing and executed by all of the parties.

I. Limitations

All covenants and obligations of the City and the Authority under this Agreement shall be deemed valid covenants and obligations of said entities, and no officer, director, or employee of the City or the Authority shall have any personal obligations or liability hereunder.

J. Sole Benefit

This Agreement is entered into for the sole benefit of the City, the Authority and their respective successors, and nothing in this Agreement or in any approval subsequently provided by either party hereto shall be construed as giving any benefits, rights, remedies or claims to any other person, firm, corporation or other entity, including, without limitation, the public in general.

K. Authorization

Each party to this Agreement represents to the other that it is fully authorized to enter into this Agreement and to perform its obligations hereunder, and that no waiver, consent, approval, or authorization from any third party is required to be obtained or made in connection with the execution, delivery or performance of this Agreement. Each signatory on behalf of the City and the Authority, as applicable, represents that he or she is fully authorized to bind that entity to the terms of this Agreement.

L. Venue

The provisions of this Agreement shall be construed in accordance with the laws and court decisions of the State of Texas, and exclusive venue for any legal actions arising hereunder shall be in the State District Court of Collin County, Texas. The parties agree to submit to the personal and subject matter jurisdiction of said court.

M. Interpretation

No provision of this Agreement shall be construed against or interpreted to the disadvantage of any party by any court, other governmental or judicial authority, or arbitrator by reason of such party having or being deemed to have drafted, prepared, structured or dictated such provision.

N. Waiver

No delay or omission by either party hereto to exercise any right or power hereunder shall impair such right or power or be construed as a waiver thereof. A waiver by either of the parties hereto of any of the covenants, conditions or agreements to be performed by the other or any breach thereof shall not be construed to be a waiver of any succeeding breach thereof or of any other covenant, condition or agreement herein contained.

O. Entire Agreement

This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof. There are no representations, understandings or agreements relative hereto which are not fully expressed in this Agreement.

P. Counterparts

This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all such counterparts shall constitute one single agreement between the parties.

Q. Headings

The article and section headings used in this Agreement are for reference and convenience only, and shall not enter into the interpretation hereof.

IN WITNESS WHEREOF, the City and the Authority have executed this Agreement on the dates shown below, to be effective on the date listed above.

THE CITY:

CITY OF ALLEN

ATTEST:

By: _____

Name: Shelley George

Title: City Secretary

Name: Peter H. Vargas

Title: City Manager

APPROVED AS TO FORM:

City Attorney

THE AUTHORITY:

NORTH TEXAS TOLLWAY AUTHORITY

ATTEST:

Ruby Franklin
Secretary

Jorge Figueredo, Ph.D.
Executive Director

Date: _____

APPROVED AS TO FORM:

Locke Lord Bissell & Liddell LLP

By: _____
James T. Rain

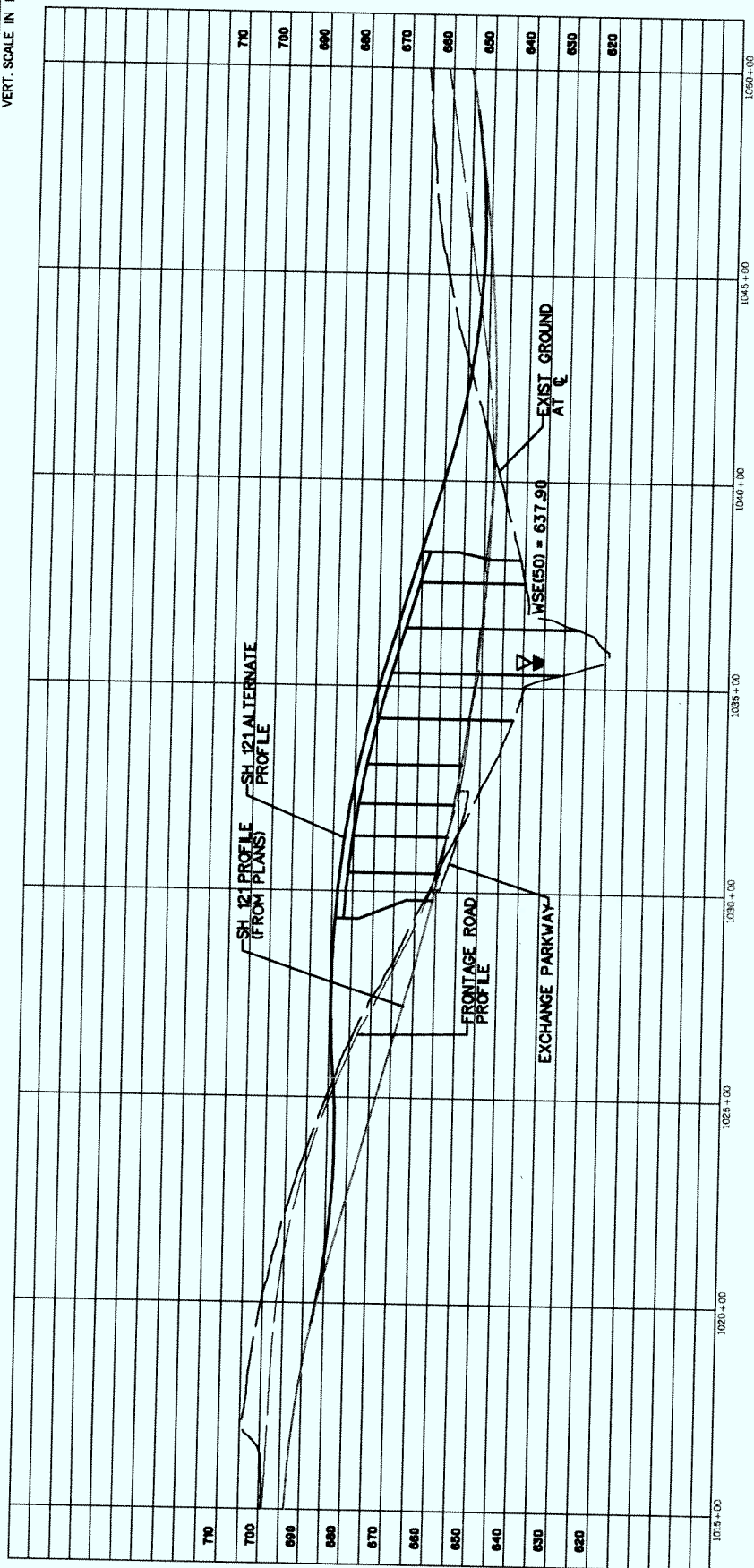
EXHIBIT A
PRELIMINARY PLANS FOR THE REDESIGN

[attached]

EXHIBIT B
CITY'S PLANS FOR EXCHANGE PARKWAY

[attached]

0 100 200 400
HORIZ. SCALE IN FEET
0 10 20 30 40
VERT. SCALE IN FEET

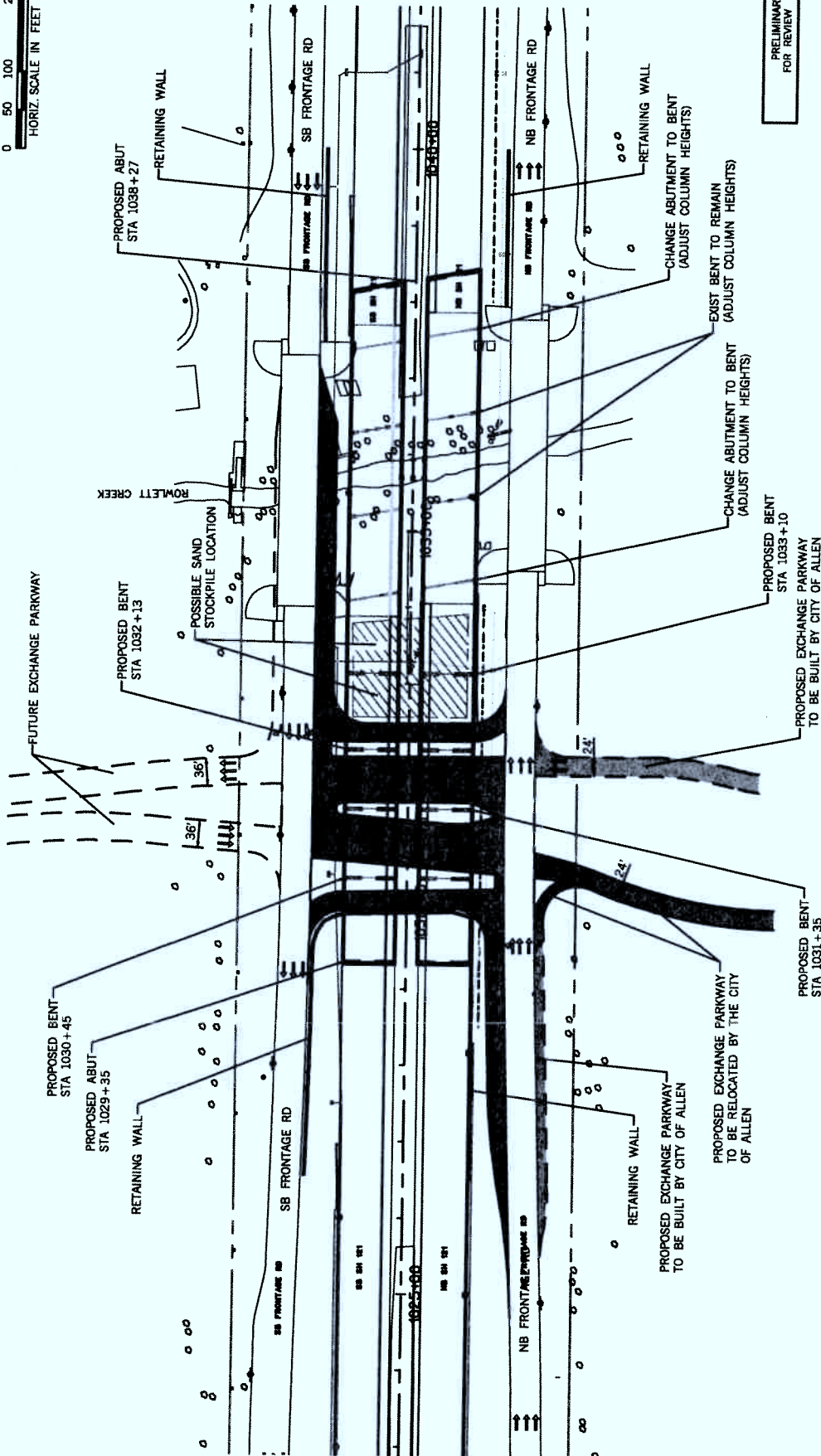


PRELIMINARY
FOR REVIEW ONLY

STATE	ROUTE	SECTION
MS	121	3N
SH 121 SEGMENT 3N		
NORTH TEXAS TOLLWAY AUTHORITY		
EXCHANGE PARKWAY OVERPASS ALTERNATE EXHIBIT A		
HALFF		
DATE	BY	CHECKED BY
10/22/08	J. J. J.	J. J. J.
CONTRACT NO. 02228-08(1)-01-P2-PN-MET 1 OF 1		



0 50 100 200
HORIZ. SCALE IN FEET



PRELIMINARY
FOR REVIEW ONLY

SH 121 SEGMENT 3N



EXCHANGE PARKWAY
OVERPASS ALTERNATIVE
EXHIBIT A

HALFF

NO.	DATE	BY	CHKD	APP'D
1	12/10/08	J. J. J.		
2	12/10/08	J. J. J.		
3	12/10/08	J. J. J.		

CONTRACT NO. 02238-01/02-03-04-05-06-07-08-09-10-11-12-13-14-15-16-17-18-19-20-21-22-23-24-25-26-27-28-29-30-31-32-33-34-35-36-37-38-39-40-41-42-43-44-45-46-47-48-49-50-51-52-53-54-55-56-57-58-59-60-61-62-63-64-65-66-67-68-69-70-71-72-73-74-75-76-77-78-79-80-81-82-83-84-85-86-87-88-89-90-91-92-93-94-95-96-97-98-99-100

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, APPROVING THE TERMS AND CONDITIONS OF INTERLOCAL AGREEMENTS BY AND BETWEEN THE CITY OF ALLEN, TEXAS, AND THE NORTH TEXAS TOLLWAY AUTHORITY AUTHORIZING PARTICIPATION IN THE DESIGN AND CONSTRUCTION OF THE EXCHANGE PARKWAY AND SH-121 INTERSECTION, AUTHORIZING ITS EXECUTION BY THE CITY MANAGER OR DESIGNEE, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Allen, Texas, has been presented a proposed Interlocal Agreement by and between the City of Allen, Texas, Texas, and the North Texas Tollway Authority a copy of which is attached hereto and incorporated herein by reference (herein called "Agreement"); and,

WHEREAS, upon full review and consideration of the Agreement, and all matters related thereto, the City Council is of the opinion and finds that the terms and conditions thereof should be approved, and that the City Manager or designee should be authorized to execute the Agreement on behalf of the City of Allen, Texas.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, THAT:

SECTION 1. The terms and conditions of the Agreement, having been reviewed by the City Council of the City of Allen and found to be acceptable and in the best interests of the City of Allen and its citizens, be, and the same is hereby, in all things approved.

SECTION 2. The City Manager or designee, under the direction of the City Council of the City of Allen, is hereby designated as the official representative to act for the City in all matters relating to the construction of intersection of Exchange Parkway and SH-121.

SECTION 3. The City Manager or designee is hereby authorized to execute the Agreement and all other documents in connection therewith on behalf of the City of Allen, substantially according to the terms and conditions set forth in this Agreement.

SECTION 4. This Resolution shall become effective from and after its passage.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 23RD DAY OF SEPTEMBER, 2008.

APPROVED:

Stephen Terrell, MAYOR

ATTEST:

Shelley B. George, CITY SECRETARY

CITY COUNCIL AGENDA COMMUNICATION
--

AGENDA DATE: Tuesday, September 23, 2008

SUBJECT: Professional Services Agreement with Dan B. Chern as Alternate Municipal Judge

STAFF RESOURCE: Kevin Hammeke, Finance Director
Linda Hopper, Municipal Court Judge

PREVIOUS COUNCIL ACTION: September 26, 2006, Council approved a professional services agreement with Dan B. Chern as Alternate Municipal Judge.

ACTION PROPOSED: Authorize the City Manager to execute a professional services agreement with Dan B. Chern as Alternate Municipal Judge.

BACKGROUND

Judge Chern has been the Alternate Judge since October 1, 2005, and his current contract will expire at the end of September 2008. The Alternate Judge performs judicial services every other weekend for the City. The Alternate Judge may also perform judicial duties in assisting Judge Hopper with warrant round ups and may perform other court related duties in the absence of Judge Hopper.

Judge Hopper and the City's Finance Director are recommending that a two-year contract be executed with Dan B. Chern for the Alternate Judge position and associated duties. Judge Chern has expressed an interest in continuing in the capacity as Alternate Municipal Judge.

The proposed contract stipulates a performance review after one year. The proposed contract also includes an adjustment to the compensation to be effective for the second year of the proposed contract. Any adjustment that begins October 1, 2009 will be included in the Fiscal Year 2010 budget.

STAFF RECOMMENDATION

Staff recommends that the City Council authorize the City Manager to execute a professional services agreement with Dan B. Chern as Alternate Municipal Judge.

BUDGETARY IMPACT

The Municipal Court budget will cover the costs associated with the Alternate Municipal Court Judge contract.

MOTION

I make a motion to authorize the City Manager to execute a professional services agreement with Dan B. Chern as the City's Alternate Municipal Court Judge, for a period of two years, beginning on October 1, 2008.

ATTACHMENT

Professional Services Agreement with Dan B. Chern

THE STATE OF TEXAS	§	
	§	PROFESSIONAL SERVICES AGREEMENT
COUNTY OF COLLIN	§	

This agreement (the "Agreement") is made by and between the City of Allen, Collin County, Texas, (the "City"), and Dan B. Chern (hereinafter "Chern").

RECITALS:

WHEREAS, the City desires to engage and provide for the compensation of Chern, as an independent contractor and not as an employee, to serve as the Alternate Municipal Court Judge as provided by the City Charter and State Law; and

WHEREAS, Chern desires to provide services to the City as an Alternate Municipal Court Judge on the terms and conditions provided in this Agreement;

NOW THEREFORE, in exchange for the mutual covenants set forth herein and other valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties agree as follows:

Section 1. Scope of Services

The City hereby engages Chern, and Chern hereby agrees to provide services as the Alternate Municipal Court Judge every other calendar weekend during the term hereof in the capacity of a magistrate serving in the absence of the Municipal Court Judge, to preside over the municipal court in the absence of the Judge of the Municipal Court, and to assist the Municipal Court Judge with the City's warrant round ups as scheduled.

It is further understood that the Alternate Judge services will not be needed during the Jail Renovation Project that is scheduled for the approximate time period of October 24th through December 15, 2008, with the exception of the absence of Judge Hopper at any time during the stated time period.

Section 2. Term

Chern shall provide services to the City as Alternate Municipal Court Judge beginning October 1, 2008 through and including September 30, 2010. A performance and contract review shall be conducted annually. This Agreement shall automatically terminate without notice in the event Chern resigns or is removed from office as the Alternate Municipal Court Judge by the City Council. In the event of resignation or removal from office, Chern shall be paid for his services rendered as of the date of termination. Nothing contained herein shall be construed to limit or prohibit the City Council from removing Chern as the Alternate Municipal Court Judge or to terminate this Agreement under the City Charter and applicable State Law.

Section 3. Compensation

City agrees to pay Chern for services rendered herein the sum of \$175.00 for each calendar weekend for which Chern provides services during the fiscal year October 1, 2008 through September 30, 2009. City agrees to pay Chern for services rendered herein the sum of \$185.00 for each calendar weekend for which Chern provides services during the fiscal year October 1, 2009 through September 30, 2010. In the event, Chern is requested to preside as Municipal Court Judge in the absence of the Judge of the Municipal Court, the City agrees to pay Chern the additional sum of \$70.00 per hour for this service during the fiscal year October 1, 2008 through September 30, 2009. In the event, Chern is requested to preside as Municipal Court Judge in the absence of the Judge of the Municipal Court, the City agrees to pay Chern the additional sum of \$75.00 per hour for this service during the fiscal year October 1, 2009 through September 30, 2010. The City shall provide payment for services within 15 days of submittal of an invoice to the City's Finance Department.

It is understood and agreed that the Chern will not receive compensation as the Alternate Municipal Court Judge when the jail is closed during the Jail Renovation Project mentioned in Section 1 above, except when performing services resulting from the absence of Judge Hopper.

Section 4. Notice

Any notice required or permitted to be delivered hereunder shall be deemed received when sent by United States mail, postage prepaid, certified mail, return receipt requested, addressed to City or Chern as the case may be at the address set forth below the signature of the party.

Section 5. Entire Agreement

This Agreement constitutes the sole and only agreement of the parties and supersedes any prior understandings or written or oral agreements between the parties respecting this subject matter.

Section 6. Successor and Assigns

This Agreement shall be binding on and inure to the benefit of the parties to it and their respective heirs, executors, administrators, legal representatives, successors, and permitted assigns.

Section 7. Governing Law

This Agreement is governed by the laws of the State of Texas; and venue for any action concerning this Agreement shall be in Collin County, Texas.

Section 8. Amendment

This Agreement may be amended by the mutual written agreement of the parties.

Section 9. Legal Construction

In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

Section 10. Independent Contractor

It is understood and agreed by and between the parties that Chern, in satisfying the conditions of this Agreement, is acting independently, and that the City does not assume any responsibility or liability to any third-party in connection with these actions. All services to be performed by Chern pursuant to this Agreement shall be in the capacity of an independent contractor, and not as an agent or employee of the City. Chern shall supervise the performance of his services and shall be entitled to control the manner and means by which his services are to be performed, subject to the terms of this Agreement. The City agrees during the term of this Agreement, at its costs, to obtain and maintain public official liability insurance covering the acts and omissions by Chern in the scope of his duties and responsibilities as alternate municipal court judge.

Section 11. Training

Chern agrees to participate in all required professional training related to the position of Alternate Municipal Court Judge. The City shall pay for all local (within the DFW metro area) training that has been approved in advance by the City Manager or designee.

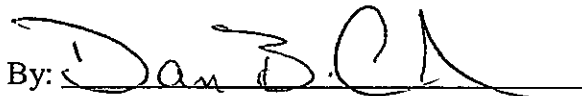
Section 12. Effective Date

This Agreement shall become effective October 1, 2008.

EXECUTED this _____ day of _____, 2008.

DAN B. CHERN

CITY OF ALLEN, TEXAS

By: 

By: _____

Dan B. Chern
Alternate Municipal Court Judge

Peter H. Vargas
City Manager

1220 Shadetree Lane
Allen, Texas 75013

305 Century Parkway
Allen, Texas 75013

ATTEST:

By: _____
/s/ Shelley B. George, TRMC, CITY SECRETARY

CITY COUNCIL AGENDA COMMUNICATION
--

AGENDA DATE: Tuesday, September 23, 2008

SUBJECT: Electronic Purchasing Software

STAFF RESOURCE: Debra Morris, Purchasing Manager
Sid Hudson, Director of Information Technology
Joanne Stoehr, Assistant Director of Finance

ACTION PROPOSED: Authorize the City Manager to execute a five-year license purchase agreement.

BACKGROUND

Currently all City purchases occur using a traditional paper based process. Benefits of technology now provide web based software which provides one centralized system for all bidding processes, eliminating data scattered across paper documents, work processors, spreadsheets and address books. Automation also improves the communication between all parties involved.

Through the interlocal agreement with Purchasing Solutions Alliance, the City has selected Ion Wave Technologies, Inc. to move the City to electronic bidding. Ion Wave's Enterprise Sourcing Suite of products consists of web based supplier registration and management, electronic bidding and quoting, interactive bid response, event monitoring and management, tabulation and bid award. Other organizations in the area currently using this software are the City of McKinney, Plano I.S.D., Lovejoy I.S.D. and Collin County Community College.

STAFF RECOMMENDATION

Staff recommends that the City Council authorize the City Manager to execute a five-year license purchase agreement with Ion Wave Technologies, Inc. for electronic purchasing software.

BUDGETARY IMPACT

Total cost for the five-year license purchase agreement is \$67,000 with \$35,000 budgeted in the General Fund for fiscal year 2008 and \$8,000 each year for four years for the maintenance and support.

MOTION

I make a motion to authorize the City Manager to execute a five-year license purchase agreement with Ion Wave Technologies, Inc. for electronic purchasing software through an interlocal cooperative agreement with Purchasing Solutions Alliance for an Amount Not to Exceed \$67,000.

ATTACHMENT

Ion Wave Technologies, Inc. License Purchase Agreement



THIS MASTER LICENSE AND SERVICES AGREEMENT (the "Agreement"), is made and entered into as of this the 1st day of October, 2008 ("Effective Date"), by and between Ion Wave Technologies, Inc., a Missouri corporation having its principal offices located at 3045 South Scenic, Suite 104, Springfield, Missouri 65807 ("IWT") and the City of Allen having its principal offices located at 305 Century Parkway, Allen, TX 75013 ("Client").

WHEREAS, IWT is engaged in the business of the development, marketing, and support of Internet based software of all types.

NOW THEREFORE, in consideration of the premises, covenants, and mutual promises contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties do hereby agree as follows:

1. Software Licensing and Use

- 1.1 License Grant. In accordance with and subject to the terms and conditions provided herein and in consideration of payment of the license fees set forth in any Exhibit A, IWT hereby grants to Client and Client accepts from IWT a non-exclusive, non-transferable license to use the IWT products specified in Exhibit A, collectively or individually referred to as the "Licensed Products", solely for its internal business purposes. Any rights not granted herein are reserved to IWT.
- 1.2 Access. Access to and usage of the Licensed Products shall be limited to Client's internal business purposes, specifically defined as the operation of Client's purchasing department. Access to the Licensed Products shall be limited to the Client end user community, as defined in Exhibit A. Unless specified in Exhibit A, Client will not permit others, including but not limited to subsidiaries, affiliates, and contractors, to access or use the Licensed Products, nor will Client use the Licensed Products on their behalf.
- 1.3 Use Limits. Client is prohibited from performing any load testing against IWT's hosted production environments, without the prior express written permission of IWT. Client is prohibited from reverse engineering, decompiling, and disassembling the Licensed Products.
- 1.4 Work Products. Any Work Products, as defined below, that are software, shall be subject to the same license limitations of this Agreement and any additional limitations as set forth in any Exhibit hereto.
- 1.5 Rent, Lease, and Sublicense Restrictions. Client shall not rent, lease, sublicense, grant a security interest in, or otherwise transfer the Client's right to use and possess the Licensed Products, in whole or part.
- 1.6 Copies and Proprietary Notices. Any Licensed Products, together with any accompanying technical or system documentation that is delivered to Client pursuant to this Agreement shall not be copied, except that one (1) copy may be made for backup or archival purposes, provided any such copy is clearly marked as proprietary to IWT, licensed to Client, and contains IWT's proprietary notices. Client shall be permitted to make additional copies of documentation specifically designated for training of end users. Client shall not remove any proprietary notices or labels on the Licensed Products or its documentation.
- 1.7 Violation. Violation of any provision of this Section 1 shall breach the Agreement and be the basis for immediate termination of this Agreement and the corresponding license grant to the Licensed Products with no refund to Client of fees paid to IWT.

2. Maintenance and Support

Support Services. Subject to the payment of the applicable licensing and support fees as set forth in Exhibit A, IWT shall provide Client with the maintenance and support services as set forth in Exhibit B of this Agreement ("Support Services") for the Licensed Products. Exhibit B may be updated from time to time at IWT's sole discretion and upon sixty (60) days written notice to Client, provided said updates do not materially diminish the Support Services provided to Client without Client's consent.

Payment and Term. Provided that this Agreement and the license for the applications which the Support Services are to be performed, IWT will provide Support Services as specified in Exhibit B of this Agreement for the support fees indicated in Exhibit A. In the event (i) IWT has not received payment for the next annual period's applicable license or support fees, prior to the last day of the current term; and/or (ii) this Agreement and/or the license is no longer in effect, Support Services shall be discontinued.

On-Site Services. Support Services do not include any on-site services. At Client's request, IWT may provide technical, operational or other assistance or consulting in excess of the standard Support Services at IWT's standard hourly rate then in effect.

3. Professional Services

Professional Services. IWT shall provide Client with professional consulting services as described in the Statements of Work ("SOW") to be attached as Exhibit C hereto ("Professional Services"), which SOW by its express terms shall amend this Agreement. Any additional services beyond those described in any Exhibit C shall be at the mutual, written agreement of the parties.

Client Obligations. In order to facilitate the provision of the Professional Services by IWT, Client shall have installed the recommended hardware and software and will have completed the required preparatory work described in the Exhibit(s) attached hereto.

Contact Person. Each party will appoint in writing, in the applicable Exhibit, an employee or agent of such party to act as the "Contact Person" for all communications between the parties related to the Professional Services. Each party may change its Contact Person upon written notice to the other.

4. **Proprietary Rights**

Ownership. Client acknowledges and agrees that, as between Client and IWT, IWT is the sole and exclusive owner of all right, title and interest in and to the Licensed Products, as well as all alterations, modifications, additions, and derivative works made with respect to the Licensed Products and all work products produced from the Professional Services performed under the SOW ("Work Products"). Except as expressly permitted or required hereby: (i) Client shall have no right or license to the Licensed Products or Work Products; and (ii) Client shall not use, reproduce, publish, or make available to others, modify, or create any derivative works of, all or any part of the Licensed Products or Work Products.

License Rights. Nothing in this Agreement or any Exhibit hereto shall in anyway enlarge or extend Client's license rights in the Licensed Products, with respect to the materials that IWT delivers to Client pursuant to any SOW.

Client Data. Any client data and any materials or equipment furnished to IWT by Client in connection with any of the Professional Services provided under an Exhibit shall be deemed proprietary to Client.

Trademarks. All trademarks, service marks, trade names and logos of IWT appearing on or within the Licensed Products or Work Products used in connection with the Support Services or the Professional Services provided by IWT are the property of IWT and Client shall not use them without IWT's prior written approval.

5. **Fees and Payment Terms**

Fees. Client will pay IWT the fees as set forth in the Exhibits. Except for initial payments, which payments, unless provided otherwise, shall be due and payable upon the execution of this Agreement and any Exhibit hereto, IWT will submit to Client an invoice for the amounts due. Unless provided otherwise, all invoices submitted by IWT shall be due and payable in full, without reduction for any offset, withholding or other claims, within thirty (30) days of the date thereof. Any amounts payable to IWT hereunder, which are not paid when due, shall thereafter bear interest at the rate of one and one-half percent (1.5%) per month or the maximum amount permitted by applicable law, whichever is less. Taxes. Fees do not include any taxes. Client shall be responsible for all applicable taxes, including VAT and regulatory fees of any kind imposed by any government on any deliverable provided under this Agreement, provided, however that IWT shall be responsible for all taxes based solely upon IWT's income. If Client is exempt from the payment of any such taxes, upon execution of this Agreement, Client must provide IWT with a valid tax exemption certificate (or documentation proving exemption acceptable to the taxing jurisdiction); otherwise, absent proof of Client's direct payment of such tax amounts to the applicable taxing authority, IWT will invoice Client for and Client will pay to IWT all such tax amounts. Client shall indemnify and hold IWT harmless in the event any taxing authority seeks to collect any tax, required to be paid by Client pursuant to this section, from IWT.

Travel Expenses. Unless otherwise specified in the Exhibits, IWT shall be reimbursed by Client for all reasonable travel and living expenses and travel time. IWT shall invoice Client for such actual expenses monthly or on such other schedule at IWT's sole discretion.

Non-Payment. As opposed to exercising its right to terminate an Exhibit or this Agreement in its entirety, IWT may, at IWT's sole discretion, suspend performance of any obligations under the applicable Exhibit for nonpayment, but only until such time as payment is made.

Currency. All fees are stated in US dollars and are payable in US currency.

Invoices. All invoices to Client shall be mailed to the following address, which may be changed from time to time, provided Client provides IWT with written notice of such change:

Client Name: City of Allen
Attn: Accounts Payable
305 Century Parkway
Allen, TX 75013

6. **Term and Termination**

Term and Termination. The term of this Agreement shall commence on the Effective Date and will run for the periods as indicated in the Exhibits.

Termination for Breach. This Agreement may be terminated by either party upon a breach by the other party of any material term of the Agreement or its Exhibits, which breach is not cured (unless such breach is incapable of cure, such as breach of the restrictions on use and license grant described herein or of any confidentiality agreement between the parties hereto) within thirty (30) days of written notice of the breach. Upon termination for breach, all use and access to the Licensed Products shall cease and Client shall immediately return to IWT or destroy all copies of the Licensed Products, together with all documentation and any other IWT proprietary information in its possession. Furthermore, Client shall provide IWT a certification from an officer of Client that all Licensed Products, documentation, and all copies thereof, have been returned to IWT or destroyed in accordance with this Agreement.

Effects of Termination. Upon termination or expiration of this Agreement for reasons other than the breach of this Agreement: (i) all use and access to products licensed on a term basis shall cease and Client shall immediately return to IWT or destroy all copies of the term licensed products, together with all documentation and any other IWT

proprietary information in its possession. Client shall provide IWT a certification from an officer of Client that all term licensed products and all associated documentation, have been returned to IWT or destroyed in accordance with this Agreement. (ii) all use and access to products licensed on a perpetual basis shall continue, subject to the terms of this Agreement and any Exhibits, including but not limited to, the provisions for access and use of the Licensed Products (Section 1), Proprietary Rights (Section 4), Warranties and Indemnification (Section 7), and Confidentiality (Section 8). Upon termination or expiration of this Agreement, all Support Services and Professional Services as discussed in this Agreement or any Exhibits will cease.

7. Warranties, Indemnity, and Limitations

Licensed Products Warranty. IWT warrants that it is the owner of the Licensed Products or otherwise has the right and authority to grant the licenses to Client, which are provided for herein. IWT represents that for the entire term covered by the Support Services ("Warranty Period") that the Licensed Products will substantially perform in accordance with and as specified in the applicable documentation when operated in the designated environment. IWT does not represent that the functions contained in the Licensed Products will meet Client's requirements or that the Licensed Products will operate uninterrupted or error free. In the event that Client does not pay the required Support Services fees or this Agreement is terminated, Client agrees that all warranty provisions and associated remedies shall be terminated.

Limitations of Warranty. IWT's warranties in this Section 7 shall only apply to the IWT Products developed by IWT or its affiliates. All other Licensed Products shall be provided by IWT "AS IS." Notwithstanding anything to the contrary in this Section 7.2, IWT shall assign to Client any warranty granted by the supplying party for the Licensed Products, to the extent of IWT's right to do so.

Remedy. During the Warranty Period, IWT's entire liability and Client's sole remedy for any reproducible, substantive error(s) in the unmodified IWT Application as reported in writing by Client shall be that IWT, at its option, will use its reasonable good faith efforts to correct the error(s), or, upon return of the Licensed Product and accompanying documentation to IWT, terminate this Agreement or the applicable license to the Licensed Product, as the case may be, and refund to Client a sum equal to a portion of the license fees paid, prorated on a monthly basis for the period in which the application was rendered unusable, for the Licensed Product for which the license is terminated.

Services Warranty. IWT represents and warrants that it is experienced in providing the Professional Services and Support Services described herein and further warrants that it will perform the Professional Services and Support Services in a good, workmanlike, and professional manner. Client's remedy for breach of the foregoing warranties shall be the re-performance of the relevant Professional Services free of charge.

Disclaimer. In no event will IWT be liable for any loss of profits, loss of use, business interruption, loss of data, cost of cover, or indirect, special, incidental, or consequential damages of any kind in connection with or arising out of the furnishing, performance or use of the Licensed Products, Professional Services and/or Support Services provided to Client under this Agreement as applicable, whether arising in contract or tortious conduct, or any other legal theory, including negligence, or whether arising from mistakes, omissions, interruptions deletion of files, errors, defects, viruses or other malicious code, delays in operation of transmission, or the use or performances of a Work Product, or the delay or failure of performance the Professional and/or Support Services provided under this Agreement, even if IWT has been advised of the possibility of such damages.

Limited Warranty. THE ABOVE IS A LIMITED WARRANTY AND IT IS THE ONLY WARRANTY MADE BY IWT. EXCEPT AS EXPRESSLY SET FORTH HEREIN, IWT MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NONINFRINGEMENT, AND IWT HEREBY DISCLAIMS THE SAME.

Exception to Warranty. IWT'S WARRANTY OBLIGATIONS SHALL NOT APPLY IF THE LICENSED PRODUCTS OR SOFTWARE WORK PRODUCT'S FAILURE TO PERFORM IN ACCORDANCE WITH ITS FUNCTIONAL SPECIFICATIONS IS CAUSED BY: (I) THIRD PARTY SOFTWARE LICENSED BY CLIENT; (II) CLIENT'S USE OF OR ACCESS TO THE LICENSED PRODUCTS OTHER THAN AS INTENDED OR IN VIOLATION OF THIS AGREEMENT; OR (III) UNAUTHORIZED MODIFICATIONS MADE TO THE IWT LICENSED PRODUCTS OR SOFTWARE WORK PRODUCT BY CLIENT.

Indemnification. (a) By IWT. IWT shall indemnify, defend and hold harmless Client against any loss, damage or expense incurred by Client as a result of claims, actions, or proceedings brought by any third party alleging infringement by a IWT Licensed Product or a Work Product, of copyright, trademark, patent, or other proprietary rights, and against its reasonable attorneys' fees and any money damages or costs awarded in respect of any such claim(s) and any suit arising from any such claim(s); provided, however, that (i) Client shall have given IWT prompt written notice of such claim, demand, suit or action; (ii) Client shall cooperate with said defense by complying with IWT's reasonable instructions and requests to Client in connection with said defense; and (iii) IWT shall have control of the defense of such claim, suit, demand, or action and the settlement or compromise thereof. Further, IWT shall have no liability for any infringement action or claim that is based upon or arising from the matters described in this paragraph if the applicable Licensed Product or Work Product is modified or altered by a party other than IWT or is used for a purpose other than that for which it is intended or as set forth in the appropriate documentation. If a temporary or permanent injunction is obtained against Client's use of the Licensed Product or Work Product as a result of the matters described in this paragraph, IWT shall, at its option and expense, either procure for Client the right to continue using the Licensed Product or Work Product or replace or modify the Licensed Product or Work Product or infringing portion thereof so that it no longer infringes the alleged proprietary right. In the event that IWT concludes, in its sole discretion, that such procurement, replacement or modification is not reasonably practical, IWT may terminate the applicable Exhibit and/or

this Agreement without penalty and refund that portion of the Fees attributable to the infringing product, prorated on a monthly basis. Client shall cease all use of a Licensed Product or Work Product for which a refund is given. This paragraph sets forth the exclusive remedy of Client against IWT, and IWT's exclusive obligation, with respect to any action or claim described herein. (b) By Client. Client shall indemnify, defend and hold harmless IWT against any loss, damage or expense incurred by IWT as a result of claims, actions, or proceedings arising from any bodily harm or injury suffered by IWT's employees or agents in the performance of Services or maintenance at any of the Client's facilities or the allegation of infringement or actual infringement by Client of any copyright, patent, trademark, trade secret, or other proprietary right of any third party. Client will indemnify IWT against its reasonable attorneys' fees incurred in connection with such claim(s), any money damages or costs awarded in respect of any such claim(s) and any suit arising from any such claim(s). Client shall be entitled to have sole control over the defense of such claim, unless the claim involves or relates to an intellectual property right of IWT in which case IWT may elect to have sole control over the defense of such claim as described in the preceding paragraph, and such election by IWT shall have no effect upon Client's obligations to indemnify and hold harmless hereunder. If Client does not assume sole control over the defense of such claim as provided in this section, IWT may participate in such defense and IWT shall have the right to defend the claim in such manner, as it may deem appropriate, at the cost and expense of Client.

Limitation of Liability. IN NO EVENT WILL IWT'S LIABILITY ARISING FROM OR RELATING TO THIS AGREEMENT EXCEED THE AGGREGATE AMOUNT OF PAYMENTS RECEIVED BY IWT FROM CLIENT UNDER THE EXHIBIT GIVING RISE TO THE CLAIM. ADDITIONALLY, IN NO EVENT WILL IWT BE LIABLE FOR ANY CLAIM BROUGHT BY CLIENT MORE THAN ONE (1) YEAR AFTER THE CAUSE OF ACTION AROSE OR REASONABLY SHOULD HAVE BEEN DISCOVERED.

8. Confidentiality

Obligations. "Confidential Information" shall mean any proprietary information which is specifically marked as proprietary or confidential and which is disclosed by either party to the other in any form in connection with this Agreement. During the term of this Agreement and for a period of five (5) years after the date of termination of this Agreement or for a period of five (5) years after the termination of use of the Licensed Products, whichever period is longer, each party: (i) shall treat as confidential all Confidential Information provided by the other party; (ii) shall not use such Confidential Information except as expressly permitted under the terms of this Agreement or otherwise previously authorized in writing by the disclosing party; (iii) shall implement reasonable procedures to prohibit the disclosure, unauthorized duplication, reverse engineering, disassembly, decompiling, misuse or removal of such Confidential Information; and (iv) shall not disclose such Confidential Information to any third party. Without limiting the foregoing, each of the parties shall use at least the same procedures and degree of care to prevent the disclosure of Confidential Information as it uses to prevent the disclosure of its own confidential information of like importance, and shall in any event use no less than reasonable procedures and a reasonable degree of care.

Exceptions. Notwithstanding the above, neither party shall have liability to the other with regard to any Confidential Information that: (i) was generally available to the public at the time it was disclosed, or becomes generally available to the public through no fault of the receiver; (ii) was known to the receiving party at the time of disclosure as shown by written records in existence at the time of disclosure; (iii) was developed independently by the receiving party prior to the disclosure, as shown by written records in existence prior to the disclosure; (iv) is disclosed with the prior written approval of the disclosing party; (v) becomes known to the receiving party from a source other than the disclosing party without breach of this Agreement by the receiving party and in a manner which is otherwise not in violation of the disclosing party's rights; or (vi) is disclosed pursuant to the order or requirement of a court, administrative agency, or other governmental body, provided that the receiving party shall provide reasonable advance notice to enable the disclosing party to seek a protective order or otherwise prevent such disclosure and further provided that any such disclosure shall not destroy or diminish the confidential status of such Confidential Information.

9. Miscellaneous

Force Majeure. Neither party shall be liable to the other by reason of any failure of performance hereunder (except failure to pay) if such failure arises out of causes beyond such party's reasonable control, despite the reasonable efforts and without the fault or negligence of such party. Without limiting the generality of the foregoing, IWT shall not be liable to Client in any way for any failure or delay in the performance of its obligations hereunder which failure is caused, directly or indirectly, by the failure of any matter for which Client is responsible under this Agreement or which is a suspension of services for Client's failure to pay.

Assignment. Neither party may assign this Agreement without the prior written consent of the other, which consent will not be unreasonably withheld. Notwithstanding the foregoing, IWT may assign this Agreement to any entity acquiring substantially all of its stock or assets or the assets to which this Agreement or any Exhibit relates.

Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Missouri, without regard to conflicts of law principles.

Exhibits. Each Exhibit to this Agreement shall incorporate the terms of this Agreement. In the event of any conflict between the terms of this Agreement and the terms of any Exhibit, the terms of this Agreement shall control unless an Exhibit expressly provides otherwise. Additional Exhibits added to this Agreement from time to time by the mutual written agreement of the parties shall be numbered sequentially under the letters of the respective Exhibit title (e.g. Exhibit A Licensed Products shall be A-1, A-2, etc.) and each shall be in addition to the previous Exhibit.

Records & Audits. IWT, its agents or representatives, shall have the right to conduct a technical audit of Client's records, for the express purpose of determining whether Client is in compliance with the terms of this Agreement.

Should IWT find that Client is not in compliance, Client shall pay the additional damages as may be due plus a five percent (5%) penalty.

Independent Contractor. IWT is an independent contractor and, except as specifically contemplated in any Exhibit to this Agreement, is not an agent or employee of, and has no authority to bind, Client by contract or otherwise. IWT will perform the Services under the general direction of Client, but IWT will determine, in IWT's sole discretion, the manner and means by which the Services are accomplished. Client has no right or authority to control the manner or means by which the Services are accomplished.

Waiver. No delay or omission by either party to exercise any right or power unless in writing and signed by the party waiving rights it has under this Agreement shall impair or be construed as a waiver of such right or power. A waiver by either party of any covenant or breach shall not be construed to be a waiver of any succeeding breach or of any other covenant.

Notices. Any notice required to be sent to a party under this Agreement will be in writing, shall be sent by: facsimile; first-class mail return receipt requested; personal delivery; or overnight courier to the Address for Notices given for that party below, and shall be considered delivered upon proof of such delivery. Either party may change its notice address by giving written notice to the other party.

If to IWT:

Ion Wave Technologies, Inc.
3045 South Scenic, Suite 104
Springfield, Missouri 65807
Phone: 417-823-7773
Fax: 417-823-7778

If to Client:

City of Allen
Attn: Purchasing
305 Century Parkway
Allen, TX 75013

Severability. If any provision of this Agreement is held to be unenforceable, then both parties shall be relieved of all obligations arising under such provision, but only to the extent that such provision is unenforceable, and this Agreement shall be deemed amended by modifying such provision to the extent necessary to make it enforceable while preserving its intent or, if that is not possible, by substituting another provision that is enforceable and achieves the same objective and economic result. It is expressly understood and agreed that each provision of this Agreement that provides for a limitation of liability, disclaimer of warranties, indemnification or exclusion or damages or other remedies are intended to be enforced as such. Further, it is expressly understood and agreed that in the event any remedy under this Agreement is determined to have failed its essential purpose, all limitations of liability and exclusions of damages or other remedies shall remain in effect.

Non-Solicitation. IWT and Client agree that the employees of IWT and Client may possess technical abilities that are in great demand and further agree that each party has incurred substantial expense in recruiting and training such employees and would incur even greater expense if required to replace any such employee. Therefore, IWT and Client each agree not to recruit, either directly or indirectly, a present employee of the other during the term of this Agreement or any other agreement between them, and for one year following termination of all such agreements, without the express written consent of the other party. Upon breach of this provision, the breaching party agrees to pay the other two times the yearly compensation of the affected employee. This remedy provided in this paragraph shall be the only monetary remedy for breach of the terms of this paragraph. Neither party is prevented from seeking equitable relief for breach of this paragraph.

Survival. Payment obligations and any other provisions, which by their terms or their nature are intended to survive, shall survive the expiration or termination of this Agreement.

Entire Agreement and Amendment. This Agreement, with all Exhibits, is the entire agreement between the parties with respect to its subject matter, and supersedes and replaces any prior agreement between the parties with respect to said subject matter and there are no other representations, understandings or agreements between the parties relative to such subject matter. Amendments or waivers of any provision of this Agreement or its Exhibits shall be valid only as clearly identified as such, in writing and signed by the parties. No purchase order submitted by Client, even if accepted by IWT, shall be deemed to modify any terms of this Agreement, unless IWT has expressly stated in writing its intent to do so.

IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed by its duly authorized representative.

IWT - Ion Wave Technologies, Inc.	Client:
Signed:	Signed:
Printed Name: Darren C. Henderson	Printed Name:
Printed Title: Chief Executive Officer	Printed Title:
Date: 10/01/2008	Date:

Exhibit A Licensed Products

1. **License Grant.** IWT Grants to Client, in accordance with and subject to the terms and conditions set forth in this Agreement, a license to the IWT products as specified below:
 - (i) IWT Enterprise Sourcing Suite subject to the following terms and restrictions:
 - The license grant beginning October 1, 2008, shall be for a perpetual basis for use by client's purchasing division employees.
 - The Enterprise Sourcing Suite license shall include the Online Bidding (RFx), Reverse Auction, and Supplier Management/Registration Modules.
 - The cost of the perpetual license shall be \$35,000.
2. **Support Services.** IWT will provide Support Services to the Client, in accordance with and subject to the terms and conditions set forth in this Agreement, as specified below:
 - (i) Software Enhancements and Upgrades for the licensed modules are included with paid Support & Maintenance Services subscription.
 - (ii) Client agrees to subscribe to IWT's Support Services for a term of five (5) years following the execution date of this Agreement.
 - (iii) IWT will provide support to up to three of Client's designated support contacts.
 - (iv) Support and Maintenance and Hosting Services Pricing:
 - IWT will provide Support and Maintenance and Hosting Services as detailed in Exhibit B for the products listed above for five (5) years, beginning upon the execution of this Agreement.
 - Client will be responsible for payment of \$32,000 for Support and Maintenance and Hosting Services fees for the term above as shown in the payment schedule below.
3. **Payment.** Payment for the annual license fees shall be due as follows:

Initial Annual Fees:

 - (i) \$17,500 due upon execution of this Agreement.
 - (ii) \$17,500 due upon the go-live of the solution, defined as the date when the system is ready for initial production use by the Client.

Subsequent Annual Fees:

 - (i) \$8,000 Annual Support and Maintenance, and Hosting Fees due October 1, 2009 for the service period 10/01/2009 to 09/30/2010.
 - (ii) \$8,000 Annual Support and Maintenance, and Hosting Fees due October 1, 2010 for the service period 10/01/2010 to 09/30/2011.
 - (iii) \$8,000 Annual Support and Maintenance, and Hosting Fees due October 1, 2011 for the service period 10/01/2011 to 09/30/2012.
 - (iv) \$8,000 Annual Support and Maintenance, and Hosting Fees due October 1, 2012 for the service period 10/01/2012 to 09/30/2013.

IN WITNESS WHEREOF, each party hereto has caused this Exhibit to be executed and amended to the Agreement by its duly authorized representative.

IWT - Ion Wave Technologies, Inc.	Client
Signed:	Signed:
Printed Name: Darren C. Henderson	Printed Name:
Printed Title: Chief Executive Officer	Printed Title:
Date: 10-01-2008	Date:

Exhibit B

Support Services

1. IWT shall (a) use commercially reasonable efforts to provide Client with maintenance and support services ("Support Services") via telephone, facsimile, electronic mail, or other electronic means, at IWT's discretion, from the hours of 8:00 a.m. to 6:00 p.m. Central Time Monday through Friday (excluding IWT Holidays, which typically consist of New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and the Friday immediately following Thanksgiving, Christmas Eve, and Christmas Day), and 24x7 access for reporting Level 1 (as defined below) situations, to a designated, authorized, qualified, and trained user of the IWT Products ("Client Contact") and to one (1) designated, authorized, qualified, and trained user of the IWT Products designated as Client Contact's backup ("Backup Client Contact") (collectively referred to as "Client Support Contact"); and (b) use commercially reasonable efforts to correct reproducible errors or malfunctions to enable the IWT Products to substantially perform in accordance with and as specified in the accompanying documentation.
2. IWT shall use commercially reasonable efforts to deliver a solution or action plan to correct reported errors that IWT categorizes as: (i) "Level 1 Catastrophic" within eight (8) business hours of receipt of the reported error. "Level 1 Catastrophic" is defined as a condition in which the IWT Products are partially or totally inoperative, including but not limited to, total system failure, data loss, data corruption, or a processing of functions and processes so slow as to render the application unusable, or any Level 2 error where a reasonable alternative work process cannot be established; (ii) "Level 2 High Impact" within the next scheduled production release of the IWT Products or within one hundred-twenty (120) days from the date error was logged with IWT, whichever shall first occur. "Level 2 High Impact" is defined as any error that results in the usability of the product being restricted and for which a reasonable alternative work process can be established; (iii) "Level 3 Non-Critical," which errors IWT shall use commercially reasonable efforts to correct within the next scheduled production release of the IWT Products. "Level 3 Non-Critical" is defined as any error wherein one or more functions do not operate optimally, but where impact on functionality and/or usability is agreed by Client and IWT to be minor and result in a mutually acceptable disruption to Client's workflow process; and (iv) "Level 4 Cosmetic," which errors IWT shall use commercially reasonable efforts to correct within the next scheduled production release of the IWT Application, at IWT's sole discretion. "Level 4 Cosmetic" is defined as any error that cannot be categorized as belonging to any higher severity level, including but not limited to a cosmetic or documentation error.
3. IWT shall provide all extensions, enhancements, and other changes, which are logical improvements to a IWT Product and to which IWT makes generally available on a commercial basis, without charge, to any other licensee of the IWT Product ("Updates"). Updates do not include any new software products that are then made generally available on a commercial basis as separate, price-listed options or additions to an IWT Product nor do they include any Professional Services Fees that may be required for implementation.
4. IWT shall have no obligation to provide Support Services except to Client Support Contact and only with respect to the unmodified Supported Releases. When an IWT Product is deployed in conjunction with other software products, including but not limited to web servers, browsers, databases, and operating systems, IWT is not responsible for providing Support Services for these other products, or for ensuring correct interoperability with these products.
5. Client shall use commercially reasonable efforts to assist IWT in reproducing the specific situation in which a IWT Product, standing alone, demonstrates a failure to substantially conform in all material respects to the functional specifications set forth in its accompanying documentation ("Defect"). Client Support Contact shall conduct reasonable and adequate research with respect to a Defect or related issue prior to contacting IWT for assistance.

Hosting Services

1. IWT shall use commercially reasonable efforts to make all hosted IWT Products available to Client for at least ninety-nine percent (99%) of the time (determined monthly), seven (7) days a week, twenty-four (24) hours per day, not including any unavailability that: (i) lasts less than fifteen (15) minutes; (ii) results from regularly scheduled IWT maintenance; (iii) results from failure of Client's hardware or software; (iv) results from the failure of a communication service or other outside service or equipment not within the control of IWT; or (v) is beyond the reasonable control of IWT ("Service Availability").

EXHIBIT C STATEMENT OF WORK ("SOW")

1. Introduction

Client seeks to implement the IWT Enterprise Sourcing solution (the "Solution"). The primary objective of the project is to configure and implement the Solution for the Client's initial affiliate partner. This will be done in a way that utilizes the standard features of the Solution and is based on the Solution standard configurations.

This SOW describes the scope of services and the services investment necessary to complete the Solution implementation project. IWT Professional Services will use commercially reasonable efforts in a manner consistent with software industry standard guidelines and as outlined in this SOW to provide the guidance and expertise necessary to help Client successfully implement the Solution.

2. Summary of IWT Responsibilities

The following major activities are included in the scope of this project and will be performed by IWT:

- (i) Coordinate and lead all meetings, workshops, and training sessions.
- (ii) Provide up to three web-based training sessions to Client's full-time employees.
- (iii) Provide project management, including coordination and management activities, issue tracking, and weekly status reporting to Client.
- (iv) Coordinate Client acceptance testing.
- (v) Provide configuration guides to the Client offering configuration choices, including IWT's standard commodity code structure.
- (vi) After initial training is completed, prepare the Solution for go-live.
- (vii) Provide issue resolution according to the severity levels and response times as outlined in the Agreement.

3. Summary of Client Responsibilities

Client agrees to undertake at its sole expense, the following responsibilities:

- (i) Assignment of an internal dedicated project manager to manage the Solution and its implementation.
- (ii) Coordinate internal participation in project related meetings.
- (iii) Provide materials and facilities for project related activities, including Internet-capable machines for training sessions.
- (iv) Purchase, install, and validate any third-party software required.
- (v) Develop and implement test scripts for acceptance of the Solution.
- (vi) Plan, coordinate, and participate in training sessions.
- (vii) Plan and direct the production deployment (Go-live).

4. Technical Requirements

Client will be responsible for procurement, installation, and operational verification of all software, software licenses, equipment, and hardware required to support the Solution in the production deployment. This includes:

- (i) Web Browsers. Client will be responsible for procurement, installation, and operational verification of all web browser licenses. IWT will provide its minimum browser requirements during the Workshops.
- (ii) Network Performance. Client is responsible for maintaining the satisfactory network performance needed to conduct the deployment of the production system.
- (iii) IWT may modify any of the above hardware and software requirements from time to time, upon ninety (90) days written notice to Client.

5. Project Organization and Operating Procedures

- (i) Project Organization. Client and IWT agree to assign dedicated staff to perform their respective project activities.
- (ii) Change Control Process. IWT projects follow a standard change control process. If during the course of a project, a scope change is identified, then the IWT project manager will document the change and associated cost or schedule impacts on a change authorization form. Once documented, the IWT project manager reviews the change with the Client project manager. Scope changes are defined as any modification to the agreed scope of a project, including but not limited to requirements, software modules, configuration changes, project delays and enhancements or modifications to the product. Scope changes can require modification to cost, schedule, quality or other project deliverables and therefore require sign-off from the Client project manager. No work on scope changes will be conducted until sign off is obtained. Changes that impact scope require approval from the IWT project manager and the Client project manager.
- (iii) Acceptance Process. Client will review any Work Product requiring explicit acceptance within five (5) business days of delivery and will document required adjustments. If IWT does not receive notice within the defined five-day period, each Work Product will be considered accepted. Within five (5) days, IWT will provide a revised Work

Product that incorporates the agreed adjustments. In the event that Client does not accept the revised Work Product, the parties may agree to repeat this review and acceptance process one additional time. If disputes remain after repeating the acceptance process, the project team will refer these to IWT's and the Client's executive teams for resolution.

- (iv) Work Location. Unless otherwise specified, Client and IWT will perform all work at their respective locations.

6. Project Investment

Project Payment Schedule

Payment Item	Amount	Payment Schedule
Mobilization Fee	\$0.00	Remitted to IWT upon the start of the project.
Go-Live Fee	\$0.00	Remitted to IWT upon the preparation of the system for Go-Live following training and configuration.
Total Services	\$0.00	
Travel and Administrative Expenses Estimate	-0-	No travel is expected for this engagement.

IN WITNESS WHEREOF, each party hereto has caused this Exhibit to be executed and amended to the Agreement by its duly authorized representative.

IWT - Ion Wave Technologies, Inc.	Client:
Signed:	Signed:
Printed Name: Darren C. Henderson	Printed Name:
Printed Title: Chief Executive Officer	Printed Title:
Date: 10/01/2008	Date:

CITY COUNCIL AGENDA COMMUNICATION
--

AGENDA DATE: Tuesday, September 23, 2008

SUBJECT: Street Sweeping Services Contract

STAFF RESOURCE: Jimmy Knipp, Assistant Director
of Community Services
Debra Morris, Purchasing Manager

ACTION PROPOSED: Authorize the City Manager to execute a contract for street sweeping services.

BACKGROUND

For several years now, the City of Allen has utilized the City of Plano street sweeping contract for sweeping Arterial and Collector roadways throughout the city. This service originally satisfied the need to keep the City of Allen roadways cleaner, and now is actually an important portion of the National Pollution Discharge Elimination System (NPDES) permit being applied for by the Engineering Department. This sweeping contract also includes City owned parking lots, major intersections, the removal of sand that the City staff distributes during snow and ice events, and emergency situations.

The City of Allen previously piggybacked the Collin County Governmental Purchasers Contract, with the lead agency being the City of Plano. Recently, the contract was re-bid and awarded to Mister Sweeper. The contract is for a period of one year from the date the contract is signed, with three one-year renewal options under the same terms and conditions.

The City of Plano, a member of the Collin County Governmental Purchasers Forum, approved bid number 2008-94-C Street Sweeping Services by Council action. The City of Allen approved Resolution No. 1648-10-98(R), which allows participation in any contract a member of the Collin County Governmental Purchasers Forum approves.

STAFF RECOMMENDATION

Authorize the City Manager to execute a contract with Mister Sweeper, L.P., for street sweeping services for an estimated annual expenditure of \$92,000 with three one-year renewal options under the same terms and conditions.

BUDGETARY IMPACT

The estimated expenditure of \$92,000 is budgeted for in the Drainage Fund.

MOTION

I make a motion to authorize the City Manager to execute a contract with Mister Sweeper, L.P., for street sweeping services for an estimated annual expenditure of \$92,000 with three one-year renewal options under the same terms and conditions.

ATTACHMENT

Bid Summary
City of Plano Council Agenda Item

2008-94-C
STREET SWEEPING SERVICES

COMBINED MATRIX		POINTS	WEIGHTED SCORE	POINTS	WEIGHTED SCORE	POINTS	WEIGHTED SCORE	POINTS	WEIGHTED SCORE	POINTS	WEIGHTED SCORE	POINTS	WEIGHTED SCORE
Evaluation Criteria	Weighting	Harman Commercial Services Inc	Harman Commercial Services Inc	Mister Sweeper LP	Mister Sweeper LP	Great American Sweeping Inc.	Great American Sweeping Inc.	Mr. Dirt of Texas	Mr. Dirt of Texas	R Response Delivery Service	R Response Delivery Service	ISI Contracting Inc.	ISI Contracting Inc.
Equipment and Facilities	30%	1.00	0.30	5.00	1.50	3.00	0.90	5.00	1.50	2.30	0.69	4.30	1.29
Work history and experience	20%	3.70	0.74	4.70	0.94	3.00	0.60	4.00	0.80	2.70	0.54	3.00	0.60
Route List and Work Plan	10%	3.00	0.30	3.00	0.30	3.00	0.30	3.00	0.30	3.00	0.30	3.00	0.30
Price	40%	4.91	1.96	5.00	2.00	4.67	1.87	4.55	1.82	3.56	1.42	2.85	1.14
TOTAL	100%		3.30		4.74		3.67		4.42		2.95		3.33

	With Pricing	Without Pricing
Mister Sweeper LP	4.74 \$158,662.33	2.74
Great American Sweeping Inc.	4.67 \$169,889.54	1.8
Mr. Dirt of Texas	4.55 \$174,377.05	2.6
ISI Contracting Inc.	3.33	2.19
Harman Commercial Services Inc	3.30	1.34
R Response Delivery Service	2.95	1.53

2008-94-C
STREET SWEEPING SERVICES
Cost Formula

Vendor	Low Bid	Next Low Bid		Possible Points	Price Points
Mister Sweeper LP	158662.33			5	5.00
Harman Commercial Services Inc	158662.33	161614.44	0.98	5	4.91
Great American Sweeping Inc.	158662.33	169889.54	0.93	5	4.67
Mr. Dirt of Texas	158662.33	174377.05	0.91	5	4.55
R Response Delivery Service	158662.33	222741.80	0.71	5	3.56
ISI Contracting Inc.	158662.33	277911.01	0.57	5	2.85



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY			Reviewed by Purchasing	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory			Reviewed by Budget	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date: 7/28/08			Reviewed by Legal	<input type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Purchasing			Initials	Date
Department Head	Mike Ryan			Executive Director	
Dept Signature:				City Manager	
Agenda Coordinator (include phone #): Nancy Corwin X7137					
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input checked="" type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER					
CAPTION					
Award/Rejection of Bid/Proposal for Bid No. 2008-94-C to establish an annual contract for Street Sweeping Services to MISTER SWEEPER Inc. in the estimated annual amount of \$158,662.33.					
FINANCIAL SUMMARY					
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP					
FISCAL YEAR:	07/08, 08/09, 09/10, 10/11	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget		0	0	0	0
Encumbered/Expended Amount		0	0	0	0
This Item		0	0	0	0
BALANCE		0	0	0	0
FUND(s): MUNICIPAL DRAINAGE FUND (047)					
COMMENTS: This item approves price quotes. Expenditures will be made in the Municipal Drainage cost center within the approved appropriations. The estimated annual amount is \$158,662. Funding for the street sweeping agreement is included in the approved FY 2007-08 Operating Budget. STRATEGIC PLAN GOAL: Street Sweeping relates to the to the City's goals of "Service Excellence" and "Safe, Efficient Travel".					
SUMMARY OF ITEM					
(Annual Contract with Renewals)					
Staff recommends proposal of MISTER SWEEPER LP in the estimated annual amount of \$158,662 be accepted as the best value meeting specifications; conditioned upon timely execution of any necessary contract documents. This will establish an annual contract with three (3) City optional renewal periods for Street Sweeping Services.					
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies		
Award Memo, Bid Recap					

CITY COUNCIL AGENDA COMMUNICATION
--

AGENDA DATE: Tuesday, September 23, 2008

SUBJECT: Declare a Vacancy in Place No. 5 on the Allen Parks and Recreation Board.

STAFF RESOURCE: Shelley B. George, City Secretary

ACTION PROPOSED: Declare Vacancy

BACKGROUND

On September 9, 2008, Cheryl Lawson was appointed to the Allen Community Development Corporation, thereby creating a vacancy on the Allen Parks and Recreation Board.

MOTION

I move to declare a vacancy in Place No. 5 on the Allen Parks and Recreation Board.

Kenneth L Maun
Tax Assessor/Collector
Collin County
P O Box 8046
McKinney Tx 75070

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Monthly Collection Status Report
August 2008

City of Allen #06

	Collections Month of August	Cumulative Total 10/1/07 thru 8/29/08	% of Collections
Current Tax Year Collections			
Base M&O	\$64,764.83	28,065,806.05	101.90%
Base I&S	19,793.25	8,577,407.94	
Base I&S Bond			
P&I M&O	8,628.26	112,067.84	
P&I I&S	2,636.90	34,250.14	
P&I I&S Bond			
Attorney Fee	14,268.43	37,983.57	
Subtotal	<u>\$110,091.67</u>	<u>\$36,827,515.54</u>	102.41%
Delinquent TaxYears Collections			
Base M&O	\$8,348.52	380,059.50	
Base I&S	4,171.64	171,360.19	
Base I&S Bond			
P&I M&O	3,905.81	79,390.09	
P&I I&S	2,015.30	39,706.36	
P&I I&S Bond			
Attorney Fee	3,158.07	84,931.98	
Other>	0.00	0.00	
Subtotal	<u>\$21,599.34</u>	<u>\$755,448.12</u>	2.10%
Combined Current & Delinquent:			
Base M&O	\$73,113.35	\$28,445,865.55	
Base I&S	\$23,964.89	\$8,748,768.13	
Base I&S Bond			
P&I M&O	12,534.07	191,457.93	
P&I I&S	4,652.20	73,956.50	
P&I I&S Bond			
Attorney Fee	17,426.50	122,915.55	
Other>	0.00	0.00	
Total Collections	<u><u>\$131,691.01</u></u>	<u><u>\$37,582,963.66</u></u>	104.52%
			100.00%
Original 2007 Tax Levy		<u><u>\$35,959,334.67</u></u>	

Kenneth L. Maun
Tax Assessor/Collector
Collin County
P O Box 8046
McKinney Tx 75070

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Cumulative Comparative Collection Status Report
August 2008

City of Allen #06

	Collections thru August 2008	% Collections	Collections thru August 2007	% Collections
Current Tax Year Collections				
Base M&O + I&S	\$36,643,213.99	101.90%	\$32,151,239.83	98.41%
P&I M&O + I&S	146,317.98		128,989.57	
Attorney Fee	37,983.57		34,215.48	
Subtotal	<u>\$36,827,515.54</u>	102.41%	<u>\$32,314,444.88</u>	98.91%
Delinquent Tax Years Collections				
Base M&O + I&S	\$551,419.69		\$792,031.62	
P&I M&O + I&S	119,096.45		59,482.28	
Attorney Fee	84,931.98		52,652.60	
Other>	0.00		0.00	
Subtotal	<u>\$755,448.12</u>	2.10%	<u>\$904,166.50</u>	2.77%
Combined Current & Delinquent:				
Base M&O + I&S	\$37,194,633.68		\$32,943,271.45	
P&I M&O + I&S	265,414.43		188,471.85	
Attorney Fee	122,915.55		86,868.08	
Other	0.00		0.00	
Total Collections	<u><u>\$37,582,963.66</u></u>	104.52%	<u><u>\$33,218,611.38</u></u>	101.67%
Adjusted 2006 Tax Levy			<u><u>\$32,671,927.74</u></u>	100.00%
Original 2007 Tax Levy	<u><u>\$35,959,334.67</u></u>	100.00%		

Kenneth L Maun
Tax Assessor/Collector
Collin County
P O Box 8046
McKinney Tx 75070

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Levy Outstanding Status Report
August 2008

City of Allen #06

	Current Tax Year	Delinquent Tax Years
Current Month:		
Tax Levy Remaining as of 7/31/08	\$348,045.68	\$261,756.48
Base M&O Collections	84,558.08	12,520.16
Supplement/Adjustments	-529.15	0.00
Write-off	0.00	0.00
Remaining Levy as of 8/29/08	<u>\$262,958.45</u>	<u>\$249,236.32</u>
Cumulative (From 10/01/07 thru 8/29/08)		
Original 2006 Tax Levy (as of 10/01/07)	\$35,959,334.67	\$773,041.82
Base M&O + I&S Collections	36,643,213.99	551,419.69
Supplement/Adjustments	946,906.22	27,614.19
Write-off	68.45	0.00
Remaining Levy as of 8/29/08	<u>\$262,958.45</u>	<u>\$249,236.32</u>

Kenneth L Maun
Tax Assessor/Collector
Collin County
P O Box 8046
McKinney Tx 75070

Monthly Distribution Report
August 2008

City of Allen #06

	Distribution Month of August	Distribution 10/1/07 thru 8/29/08
Weekly Remittances:		
Week Ending 8/1/08	\$13,165.74	\$4,830,159.32
Week Ending 8/8/08	39,186.69	\$6,160,152.00
Week Ending 8/15/08	21,244.82	\$8,129,224.00
Week Ending 8/22/08	\$8,586.54	\$11,997,845.98
Week Ending 8/29/08	32,079.72	\$6,342,097.39
Total Weekly Remittances	<u>\$114,263.51</u>	<u>\$37,459,478.69</u>
Overpayment from Prior Month	\$0.00	\$0.00
Manual Adjustment Refund	\$0.00	\$0.00
Commission Paid Delinquent Attorney	\$17,426.50	\$122,915.55
Entity Collection Fee	\$0.00	\$0.00
Judgement Interest	0.00	\$0.00
5% CAD Rendition Penalty	1.00	\$569.42
Total Disbursements	<u><u>\$131,691.01</u></u>	<u><u>\$37,582,963.66</u></u>
Carryover to Next Month	\$0.00	\$0.00



CAPITAL IMPROVEMENT PROJECTS

Prepared by Finance Department

Active Status

Date: 9/12/2008

Project Number	Project Description	Funding Sources	Completion Date	Project Estimate	Total Encumbrance & Expenditures	Percent Expended
CD0201	HERITAGE GLD HISTORIC VLG	NON-BONDS, CDC, GRANT	9/30/2009	\$1,202,284	\$1,147,368	95.4%
DR0602	BOWLING ALLEY DRAINAGE	GO BOND & NON-BONDS	1/31/2009	\$500,000	\$435,284	87.1%
DR0701	ROWLETT CREEK FLOODPLAIN	NON-BONDS	9/30/2009	\$35,000	\$30,132	86.1%
DR0801	BUCKINGHAM DRAINAGE REHAB	NON-BONDS	9/30/2009	\$23,003	\$0	0.0%
DR0802	RIDGEVIEW DRIVE	NON-BONDS	9/30/2009	\$101,448	\$0	0.0%
DR0803	FOUNTAIN GATE ALLEY DRAIN	NON-BONDS	9/30/2009	\$23,004	\$0	0.0%
EC0801	EVENT CENTER BUILDING	CDC BONDS	10/29/2009	\$25,000,000	\$15,082,598	60.3%
EC0802	EVENT CTR PARKING GARAGE	CDC BONDS	2/20/2010	\$7,000,000	\$7,000,000	100.0%
EC0803	EVENT CTR INFRASTRUCTURE	EDC BONDS	2/20/2010	\$13,095,545	\$13,095,545	100.0%
IS0703	IT DATA CENTER @CITY HALL	NON-BONDS	9/30/2009	\$512,500	\$510,276	99.6%
IT0701	IT MASTER PLAN	NON-BONDS	9/30/2009	\$510,000	\$0	0.0%
IT0801	IT PUBLIC SAFETY WIRELESS	GO BONDS	9/30/2010	\$20,000	\$20,000	100.0%
LB0601	LIBRARY DONOR WALL	NON-BONDS	9/30/2009	\$35,000	\$0	0.0%
PR0202	HILLSIDE PARK	CDC, GO BOND, NON-BOND	9/30/2009	\$569,064	\$3,700	0.7%
PR0204	TREE FARM	CDC	12/30/2008	\$48,000	\$0	0.0%
PR0302	JUPITER PARK	GO BOND	9/30/2009	\$785,156	\$20,990	2.7%
PR0305	ENTRY & MONUMENT SIGNAGE	CDC, GO BOND	9/30/2009	\$75,304	\$6,039	8.0%
PR0402	DAYSRING NATURE PRESERVE	CDC, PARK DEDICATION FEES	9/30/2009	\$300,330	\$5,787	1.9%
PR0405	TRAILS CONSTRUCTION, PH 3	CDC, GO BOND, NON-BONDS	9/30/2010	\$722,570	\$342,198	47.4%
PR0406	ALLENWOOD PARK DEVELOPMNT	GO BOND, CDC, PARKLAND	4/30/2009	\$1,130,682	\$1,027,306	90.9%
PR0408	PUBLIC ART	NON-BONDS	9/30/2009	\$6,400	\$0	0.0%
PR0418	HERITAGE VILLAGE LANDSCAP	NON-BONDS	9/30/2009	\$25,000	\$0	0.0%
PR0504	ALLEN BARK PARK	CDC	9/30/2009	\$247,000	\$25,830	10.5%
PR0508	FOX HOLLOW RECREATION A.	CDC	4/30/2009	\$72,000	\$0	0.0%
PR0509	FORD POOL REDEVLPMNT PLAN	CDC	12/31/2008	\$100,000	\$74,500	74.5%
PR0514	6 CITIES TRL CONNECTION 8	CDC,GO BOND,NON-BONDS,GR	9/30/2009	\$654,222	\$71,300	10.9%
PR0601	BATTING CAGES & WARM UP	CDC	6/30/2009	\$75,000	\$583	0.8%
PR0602	CMPTR CNTRLs/IRRIG+LIGHTS	CDC	12/31/2008	\$139,000	\$138,995	100.0%
PR0603	CELEBRATION #2 SPRAYGRD	CDC, GO BOND	9/30/2009	\$172,875	\$124,545	72.0%
PR0604	COUNTRY MEADOW PARK IMP#2	CDC, PARKLAND, BOND, NON B	6/30/2009	\$126,400	\$13,265	10.5%
PR0609	BETHANY LAKES VETERAN'S	CDC	5/30/2010	\$25,000	\$25,000	100.0%
PR0611	PARKS & REC MASTER PLAN	BONDS	9/30/2009	\$30,000	\$0	0.0%
PR0615	CHASE OAKS IMPROVEMENT II	CDC	9/30/2010	\$1,135,392	\$240,923	21.2%
PR0701	PARK LAND ACQUISITION #3	GO BONDS	9/30/2010	\$3,244,288	\$1,043	0.0%
PR0702	WINDRIDGE NEIGHBORHOOD PK	PARKLAND FEE	12/30/2008	\$160,000	\$144,320	90.2%
PR0703	SHADOW LAKES GREENBELT	CDC	12/30/2008	\$150,000	\$0	0.0%
PR0704	JFRC RENOVATION PHASE 1	CDC	9/30/2009	\$50,000	\$23,582	47.2%
PR0705	PARK COMP SECURITY SYSTEM	CDC	9/30/2009	\$150,000	\$0	0.0%
PR0706	MOLSEN FARM MASTER PLAN	CDC	5/30/2009	\$25,000	\$25,000	100.0%
PR0707	SHADE STRUC @ BALLFIELDS	CDC	9/30/2009	\$236,802	\$215,512	91.0%
PR0709	ASP II BRIDGE DECK	GO BOND, GRANT, CDC	12/30/2008	\$51,488	\$2,995	5.8%
PR0710	YOUTH CENTER CUST COUNTER	NON-BONDS	9/30/2009	\$6,500	\$0	0.0%
PR0711	WATER FORD PARK PH 5 NP	GO BONDS,PARK DEDICATION	9/30/2010	\$745,350	\$745,349	100.0%
PR0801	SHADE @ CELEBRATION PARK	CDC	9/30/2009	\$100,000	\$0	0.0%



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PR0804	MOLSEN FARM DRIVE	CDC	5/30/2009	\$150,000	\$0	0.0%
PR0805	BETHANY LAKES PIER	CDC	9/30/2009	\$85,000	\$0	0.0%
PR0808	POLICE MONUMENT SIGN	CDC, NON-BOND	12/31/2008	\$43,386	\$34,279	79.0%
PR0809	SHELLEY FARM NEIGHBH PARK	PARKLAND	9/30/2009	\$6,000	\$6,000	100.0%
PR0810	CELEBRATION PASS PED TRL	CDC, GRANT	12/31/2009	\$91,224	\$48,000	52.6%
PR0812	WATTERS BRANCH BRIDGE	CDC	9/30/2009	\$50,000	\$36,000	72.0%
PR0813	CANCER WALK OF HOPE	NON-BOND	5/30/2009	\$40,000	\$1,200	3.0%
PR0814	PUBLIC ART BONDS FUND	BONDS	9/30/2010	\$196,501	\$0	0.0%
PR0815	CELEBRATION PARK PHASE II	GO-BOND, CDC	12/31/2009	\$500,000	\$270,735	53.8%
PS0601	FIRE STATION #5	NON-BONDS, BONDS	9/30/2010	\$3,778,726	\$489,322	12.9%
PS0701	SERVICE CENTER	NON-BONDS	9/30/2011	\$2,356,461	\$1,360,137	57.7%
PS0801	JAIL EXPANSION	GO BONDS	9/30/2009	\$746,407	\$702,284	94.1%
PS0802	ANIMAL SHELTER EXPANSION	GO BONDS	2/28/2010	\$147,719	\$14,000	9.5%
PS0803	FIRE STATION #6	GO BONDS	9/30/2012	\$196,501	\$0	0.0%
ST0110	SH5, EXCHANGE-STACY	GO BOND & NON-BOND	9/30/2009	\$1,404,518	\$1,340,928	95.5%
ST0312	SIGNAL UPGRADE/COM.SYSTEM	GO BOND & NON-BOND	9/30/2009	\$295,000	\$293,376	99.4%
ST0316	FM 2551	FACILITY AGREEMENT	9/30/2010	\$553,080	\$0	0.0%
ST0317	N BETHANY LAKES ST IMPRVM	FACILITY AGREEMENT	9/30/2009	\$100,000	\$0	0.0%
ST0501	EXCHANGE, WATTERS-W.BRANCH	FACILITY AGRMNT, NON-BONDS	9/30/2009	\$2,450,000	\$2,365,880	96.6%
ST0503	EXCHANGE PK, TWN CRK-SH121	FACILITY AGRM, NON-BONDS	9/30/2010	\$3,363,814	\$1,980,745	58.9%
ST0601	FIRE STA 2&3 EMERG SIGNAL	NON-BONDS	9/30/2009	\$135,653	\$131,286	96.8%
ST0603	STACY RD-US 75 TO GREENVI	NON-BONDS, FCLTY AG	9/30/2009	\$635,652	\$540,560	85.0%
ST0608	STACY-WATTERS TRAFFIC SIG	ROADWAY IMPACT FEES	9/30/2009	\$150,000	\$140,317	93.9%
ST0610	ANGEL PARKWAY, PH III	GO BONDS, NON-BOND, FAC AGR	9/30/2009	\$860,564	\$807,321	93.8%
ST0701	ALLEN DRIVE, PHASE 3	GO BOND, NON-BONDS	9/30/2009	\$456,527	\$362,327	79.4%
ST0702	EXCHANGE PKWY SIGNALS	ROADWAY IMPACT FEES	9/30/2009	\$152,000	\$144,781	95.3%
ST0704	STACY PII-GREENV TO ANGEL	NON-BONDS	10/31/2011	\$52,500	\$0	0.0%
ST0709	COUNTRY BROOK LANE	NON-BONDS	9/30/2009	\$398,501	\$398,003	99.9%
ST0710	RIDGEVIEW DRIVE	ROADWAY IMPACT FEES	12/31/2008	\$44,000	\$44,000	100.0%
ST0711	MAIN STREET LANDSCAPING	NON-BONDS	9/30/2009	\$320,000	\$292,392	91.4%
ST0713	STREET LIGHTS PAHSE II	NON-BONDS	9/30/2009	\$17,752	\$0	0.0%
ST0714	EXCHANGE/STACY RAMP REVER	EDC BONDS	2/20/2010	\$1,905,482	\$1,875,482	98.4%
ST0797	SIDEWALK REPAIRS FY2007	NON-BONDS	9/30/2009	\$1,000	\$113	11.3%
ST0801	RIDGEVIEW-CUSTER TO ALMA	GO BONDS	3/30/2010	\$5,276,887	\$588,500	11.2%
ST0802	WATTERS RD BOSSY TO RIDGE	NON-BONDS	9/30/2010	\$492,459	\$201,363	40.9%
ST0805	STREET & ALLEY REPAIR	NON-BONDS	11/30/2008	\$300,000	\$246,900	82.3%
ST0806	ALMA IMP ROWLETT/TATUM	NON-BONDS	9/30/2009	\$246,696	\$0	0.0%
ST0809	BETHANY TRAFFIC SIGNALS	NON-BONDS	9/30/2009	\$14,250	\$8,750	61.4%
ST0810	TRAFFIC SIGNAL RETIMING	NON-BONDS	9/30/2009	\$6,740	\$6,740	100.0%
ST0811	2009 TRAFFIC SIGNALS	NON-BONDS	12/31/2009	\$300,000	\$0	0.0%
ST0812	FY09 STREET & ALLEY REPAIR	NON-BONDS	9/30/2009	\$51,271	\$0	0.0%
ST9904	CHAPARRAL BRIDGE	GO BOND, NON-BONDS, FCLTY	9/30/2010	\$1,572,025	\$382,313	24.3%
WA0118	ALLENWOOD SANITARY SEWER	NON-BONDS	9/30/2009	\$1,211,714	\$1,065,124	87.9%
WA0240	CUSTER RD PMP STA#3 EXPNS	W&S BOND, NON-BONDS, IMPACT	3/30/2009	\$6,003,821	\$5,737,963	95.6%



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WA0301	TWN CREEKS 36" WTRLINE 6B	NON-BONDS, IMPACT FEES	9/30/2009	\$818,237	\$818,237	100.0%
WA0305	OVERSIZING W/S	NON-BONDS, IMPACT FEES	9/30/2010	\$250,000	\$131,109	52.4%
WA0335	WESTSIDE WATERLINE	W&S BOND, NON-BONDS, IMPACT	9/30/2009	\$3,500,460	\$3,484,358	99.5%
WA0340	CUSTER/RIDGEVIEW WATERLIN	NON-BONDS	9/30/2009	\$100,000	\$0	0.0%
WA0401	US75 LIFT STA +12"FRC MN	NON-BONDS	9/30/2011	\$450,054	\$0	0.0%
WA0601	JUPITER RD SEWER REPLACEM	NON-BONDS	9/30/2009	\$573,500	\$491,143	85.6%
WA0602	EXCHANGE PARKWAY WATERLIN	NON-BONDS	9/30/2009	\$84,000	\$72,502	86.3%
WA0703	BEACON HILL/MCDERMOTT W/L	NON-BONDS	10/31/2008	\$51,317	\$1,200	2.3%
WA0704	CUSTER ROAD WATERLINE	NON-BONDS	3/30/2009	\$55,000	\$44,090	80.2%
WA0802	FAIR MEADOW SANITARY SEWE	NON-BONDS	11/20/2008	\$144,000	\$128,477	89.2%
WA0803	LIFT STATION IMPROVEMENTS	NON-BONDS	9/30/2009	\$40,000	\$16,750	41.9%
WA0804	PUMP STATION IMPROVEMENTS	NON-BONDS	9/30/2009	\$50,000	\$36,322	72.6%
WA0805	HILLSIDE WATER TOWER	IMPACT FEES	6/30/2010	\$4,534,676	\$233,200	5.1%
WA0806	STACY TANK CATHODIC PROTE	NON-BONDS	9/30/2009	\$10,000	\$9,813	98.1%
WA0807	HIGH MEADOWS SEWER LINE	NON-BONDS	3/27/2009	\$125,000	\$81,900	65.5%
WA0808	WATERLINE REPLACEMENT	NON-BONDS	9/30/2009	\$750,000	\$0	0.0%
WA0809	PUMP STATION REHABILITATI	NON-BONDS	9/30/2009	\$25,000	\$0	0.0%
WA0810	LIFT STATION REHABILITATI	NON-BONDS	9/30/2009	\$15,000	\$0	0.0%
WA9998	WATER/SEWER REPLACEMENT	NON-BONDS	9/30/2009	\$500,000	\$0	0.0%



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CD0102	88	FIRE & WEATHER SAFETY TRL	9/30/2001	\$39,722	\$39,722
CD0401	628	HISTORICAL VLG LAND	9/30/2004	\$126,549	\$126,549
DR0311	742	TWIN CREEKS DRAINAGE	9/30/2005	\$703,849	\$703,847
DR0401	703	DRAINAGE REPLACEMENTS	9/30/2005	\$72,991	\$72,991
DR0601	1096	FOREST GROVE	9/12/2008	\$18,993	\$18,992
DR9301	576	MUSTANG CREEK	9/30/2003	\$1,123,034	\$1,123,034
DR9905	445	HILLSIDE DRAINAGE	9/30/2004	\$252,944	\$252,944
DR9906	339	HISTORIC DAM	9/30/2003	\$333,226	\$333,226
ED0201	322	MILLENIU TECH	9/30/2002	\$963,788	\$963,588
ED0301	318	MILLENIU TECH, PH 2	6/7/2006	\$1,017,817	\$1,017,817
ED0302	628	CENTURY @ BUTLER LAND	6/7/2006	\$597,488	\$587,361
ED8900	862	RIDGEMONT	9/30/2006	\$547,613	\$547,613
ED8910	768	MILLENIU CORPORATE CNTR	6/7/2006	\$3,277,340	\$3,277,340
G05011	697	SW GRAPPLE TRUCK	9/30/2005	\$89,473	\$89,410
IS0305	313	IT CONDUIT/PHONE SYS,PH1	9/30/2005	\$80,240	\$80,240
IS0306	998	IT CONDUIT/PHONE SYS,PH2	12/20/2007	\$83,225	\$83,225
IS0406	388	CIVIC BLDGS IMPRV, PH3	9/30/2005	\$52,666	\$52,666
IS0501	866	SERVICE CTR LAND ACQUISIT	8/31/2006	\$2,451,091	\$2,451,091
IS0503	850	PUMP STATION PWR FACTOR C	9/7/2006	\$27,666	\$27,666
IS0504	313	CITY HALL BLDG IMPROVEMNT	2/28/2006	\$18,802	\$18,800
IS0505	545	NATATORIUM POWER FACTOR C	3/22/2006	\$30,000	\$30,000
IS0601	877	CITY HALL REMODEL 2006	6/20/2007	\$29,700	\$29,700
IS0602	387	CITY HALL ANNEX RMDL 2006	3/22/2007	\$19,722	\$19,720
IS0702	377	FIRE STATION #2 ROOF	9/21/2007	\$50,038	\$50,038
IS0704	984	FIRE STATION #1 CARPET	9/21/2007	\$14,535	\$14,534
IS0705	984	FIRE STATION #1 WRK ROOM	9/21/2007	\$2,301	\$2,301
LB0101	693	MAIN LIBRARY	8/31/2006	\$11,855,075	\$11,855,075
LB0401	848	LIBRARY-ADAPTIVE RE-USE	9/30/2007	\$1,162,673	\$1,162,672
LB0501	863	LIBRARY BOOKS	8/25/2006	\$100,000	\$99,999
LB0701	885	MAIN LIBRARY PHASE II	9/6/2007	\$7,533	\$7,532
PR0002	575	NATATORIUM	9/30/2003	\$9,983,369	\$9,983,369
PR0003	357	BETHANY LAKES AMEN.BLDG.	9/30/2003	\$355,158	\$355,146
PR0004	580	CELEBRATION PARK	9/30/2003	\$6,797,817	\$6,797,814
PR0005	743	TRAILS CONSTRUCTION	11/4/2005	\$606,464	\$606,464
PR0006	334	MEDIAN BEAUTIFICATION	9/30/2002	\$131,333	\$131,333
PR0007	561	ALLEN STA PRK PH.1B	9/30/2003	\$640,777	\$640,777
PR0008	420	GLNDVR,BETHNY,TWNCRK	9/30/2003	\$803,452	\$803,452
PR0009	233	BOLIN/SUNCREEK PRK	9/30/2002	\$866,922	\$866,922
PR0011	227	CITY HALL LANDSCAPE PH2	9/30/2002	\$455,665	\$455,665

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PR0101	233	BOLIN PARK FENCE	9/30/2002	\$85,408	\$85,408
PR0102	746	ALLEN STATION PARK, PH 2	6/4/2007	\$6,571,744	\$6,545,273
PR0103	456	HERITAGE HOUSE TRAINDEPOT	9/30/2003	\$605,706	\$605,706
PR0104	864	CIVIC CENTER PLAZA	8/18/2006	\$1,709,740	\$1,701,446
PR0105	987	SPRING MEADOWS PARK	1/2/2008	\$574,240	\$574,238
PR0106	764	COM. PARK ACQUISITION #1	3/30/2006	\$2,860,834	\$2,860,834
PR0107	368	LOST CREEK PARK	9/30/2003	\$310,140	\$310,140
PR0109	566	FORD EAST PARK RENOVATION	9/30/2005	\$232,147	\$232,147
PR0110	566	FORD WEST PLAYGROUND	9/30/2003	\$47,937	\$47,937
PR0111	570	CTTNWOOD BEND PLAYGROUND	9/30/2003	\$58,629	\$58,007
PR0112	432	REED PARK PLAYGROUND	9/30/2003	\$65,847	\$65,846
PR0113	369	CELEBRATION PLAYGROUND	9/30/2003	\$206,276	\$206,277
PR0114	391	PARK ACQUISITION #2	9/30/2003	\$587,080	\$587,080
PR0115	711	STACY RIDGE PARK	9/30/2005	\$557,444	\$557,444
PR0116	359	MAIN ST LANDSCAPING	9/30/2003	\$205,907	\$205,907
PR0117	577	VALCON SYSTEM	9/30/2003	\$130,207	\$130,207
PR0201	896	COLLIN SQUARE GREENBELT	12/14/2006	\$4,700	\$4,700
PR0203	716	STORY PARK	9/30/2005	\$609,312	\$609,312
PR0206	376	FIRE STA #1 REMODEL	9/30/2004	\$123,736	\$123,736
PR0207	336	SIX CITIES TRAIL	9/30/2002	\$7,500	\$7,500
PR0211	301	BLUFF @ LOST CREEK PH 2	9/30/2002	\$300,000	\$300,000
PR0303	1011	PARK SIGNAGE	1/15/2008	\$56,336	\$56,336
PR0304	696	WATTERS CREEK TRAIL	9/30/2005	\$231,979	\$231,979
PR0306	233	BOLIN/SUNCREEK PARK PH2	9/30/2003	\$3,927	\$3,927
PR0307	389	FORD POOL RENOVATION	9/30/2003	\$83,753	\$83,317
PR0308	840	SENIOR CITIZENS CENTER	9/7/2007	\$4,807,328	\$4,804,321
PR0309	660	TWN CRK 3, IRRIGATION	9/30/2004	\$39,723	\$39,723
PR0401	820	LOST CREEK, PH 3	12/30/2005	\$340,000	\$340,000
PR0403	865	CELEBRATION ADDITIONS #1	8/18/2006	\$483,282	\$400,404
PR0407	432	REED PARK, PH 2	9/30/2005	\$10,900	\$10,320
PR0409	904	NATATORIUM PH 1B	1/2/2007	\$5,000	\$4,850
PR0410	456	HERITAGE CNTR,PH1B	9/30/2004	\$21	\$21
PR0412	817	GLENDOVER NP, PH2	12/31/2005	\$277,024	\$277,024
PR0413	818	BETHANY RIDGE NP, PH2	12/31/2005	\$173,514	\$173,514
PR0414	819	DAYSRING NP (TWN CRK)	12/31/2005	\$39,208	\$39,208
PR0415	740	QUAIL RUN PARK	8/16/2006	\$403,664	\$403,664
PR0419	937	JUPITER RD STORAGE FAC	6/22/2007	\$36,331	\$36,331
PR0420	748	GOLF COURSE-TAX EXEMPT	7/3/2007	\$5,350,272	\$5,350,268
PR0422	765	GOLF COURSE-TAXABLE	9/30/2006	\$919,887	\$919,883

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PR0503	821	BETHANY LAKES PLAYGROUND	12/31/2005	\$114,201	\$114,201
PR0505	911	HERITAGE PARK BRIDGE	3/14/2007	\$184,255	\$184,255
PR0507	1012	BRIDGEWATER CROSSING R.A.	1/17/2008	\$120,653	\$120,652
PR0511	390	FORD PARK EAST IMPRVMNTS	9/30/2005	\$2,505	\$2,505
PR0512	383	J FARMER RCQTBL CT REPLCM	9/30/2005	\$51,899	\$51,899
PR0513	744	COTTONWOOD PARK PH 1B	9/30/2005	\$4,750	\$4,750
PR0605	870	BETHANY LAKES DISCGOLF EQ	9/7/2006	\$21,071	\$21,070
PR0607	849	CHASE OAKS CLUBHOUSE IMP	12/31/2007	\$175,619	\$175,618
PR0608	859	FORD PARK WEST-HOCKY WALL	8/30/2006	\$24,980	\$24,980
PR0610	1079	HOCKEY STORAGE FACILITY	8/19/2008	\$5,000	\$5,000
PR0612	871	RESERVATION MESSAGE BOARD	9/7/2006	\$4,880	\$4,880
PR0613	1003	CHASE OAKS PAVILION ENCLO	12/14/2007	\$210,800	\$210,799
PR0708	989	EX EQUIPMENT @ JFRC & DRN	6/2/2008	\$275,790	\$275,790
PR0722	986	GOLF COURSE-TAXABLE PH 2	12/26/2007	\$19,811	\$19,811
PR0802	1077	FORD SOFTBALL IMPROVEMENT	8/12/2008	\$59,366	\$59,366
PR0803	1047	DRN UV H2O TREATMENT PKG	3/31/2008	\$60,650	\$60,650
PR0807	1076	TWIN CREEK NP	8/7/2008	\$485,000	\$465,190
PR0811	1043	BOLIN PARK ACCESSIBILITY	3/25/2008	\$12,178	\$12,178
PR3S03	0	SUMMER SOUNDS CONCERT SER	9/22/2004	\$105,257	\$117,692
PS0001	388	POLICE BLDG EXPANSION	9/30/2003	\$4,628,393	\$4,628,393
PS0004	546	CENTRAL FIRE STATION	9/30/2003	\$4,300,041	\$4,300,041
PS0201	730	FIRE STA APPARATUS	9/30/2005	\$349,981	\$349,981
PS0301	629	EMERGENCY MGMT WARNG SYST	9/30/2005	\$294,713	\$294,713
PS0302	374	EXHST SYS STA3&4	9/30/2003	\$17,110	\$17,110
PS0304	546	CNTRL FIRE ST GARAGE	9/30/2004	\$143,452	\$143,452
PS0305	630	CNTRL FIRE STA RENVATION	9/30/2004	\$31,902	\$31,902
PS0306	691	FIRE STA 2 3&4 RENVATION	9/30/2005	\$37,700	\$36,975
PS0401	388	POLICE STA ADDITIONS	9/30/2004	\$60,867	\$60,867
PS0402	927	PARKING LOT EXPNSN-POLICE	4/16/2007	\$245,443	\$245,442
PS0403	546	FIRE STATION IMPRVMNT	9/30/2005	\$11,980	\$11,980
ST0035	574	ANGEL PKWY & MALONE	9/30/2003	\$3,290,404	\$3,290,404
ST0036	574	ANGEL PKWY,BY DVLPR	9/30/2003	\$131,042	\$131,042
ST0101	728	ALLEN HTS,BTHNY-PRKMEDIAN	9/30/2005	\$345,000	\$333,385
ST0111	761	FM2170E, ALLEN HTS-FM2551	9/12/2007	\$7,014,185	\$7,014,185
ST0113	854	BETHANY E, US75-ALLEN HTS	5/8/2006	\$3,915,419	\$3,915,419
ST0123	671	E EXCHANGE,SH5-1378	9/30/2004	\$3,014,641	\$3,014,641
ST0127	367	SGNL LT-CNTRY@MCDRM	9/30/2003	\$445,783	\$445,783
ST0136	672	ALMA DR,TATUM-BELAIR	9/30/2004	\$1,181,982	\$1,181,982
ST0137	330	WATTERS RD, PH I	9/30/2002	\$351,626	\$351,626

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ST0141	395	ASPHALT PAVEMENT,PH I	9/30/2003	\$361,382	\$361,381
ST0142	556	CONCRETE ALLEY REPLCMNT	9/30/2003	\$672,824	\$672,823
ST0146	195	MAIN/MALONE INTERSECTION	9/30/2002	\$150,000	\$148,279
ST0148	231	101 S BUTLER,ASBSTS	9/30/2002	\$14,086	\$14,086
ST0201	396	SH 5 SIDEWALKS, PH2	9/30/2003	\$314,059	\$314,059
ST0202	876	ALLEN DRIVE	9/27/2006	\$3,036,182	\$3,036,182
ST0203	674	ST MARY'S DRIVE	9/30/2004	\$550,731	\$550,729
ST0204	360	STREET LIGHT INSTALLATION	9/30/2003	\$425,933	\$425,933
ST0205	361	ASH DRIVE	9/30/2003	\$320,736	\$320,735
ST0206	193	TEN OAKS	9/30/2002	\$58,880	\$58,880
ST0207	670	BETHANY SIGNAL	9/30/2004	\$151,140	\$151,140
ST0249	1089	ALLEN CENTRAL DRIVE	9/10/2008	\$48,116	\$48,116
ST0301	731	RIDGEMONT DRIVE	9/30/2005	\$824,510	\$824,510
ST0302	652	ASPHLT RPLCMNT PH2	9/30/2004	\$648,681	\$648,681
ST0304	364	RIDGEVIEW, US75-STACY RD	9/30/2004	\$228,000	\$227,250
ST0306	895	ANGEL PKWY, LANDSCAPE& LT	11/20/2006	\$418,831	\$418,830
ST0309	664	CONCRETE ALLEY PH 11	9/30/2004	\$476,646	\$476,035
ST0310	766	ALLEN DRIVE, PHASE 2	9/7/2006	\$674,124	\$674,124
ST0311	1058	INTERSECTION IMPROVEMENTS	4/30/2008	\$95,194	\$95,193
ST0313	628	BEL AIR DR ROW	9/30/2004	\$186,099	\$186,099
ST0315	767	BETHANY DRIVE EAST	12/8/2006	\$1,825,519	\$1,825,519
ST0318	351	BTHNY @AYLSBY SGNL	9/30/2004	\$74,840	\$74,840
ST0319	373	RDGVIEW/RWLT CR BRG	9/30/2003	\$74,376	\$74,375
ST0320	673	EXCHNGE PKWY@RVRCST	9/30/2004	\$92,298	\$92,298
ST0321	657	TRAFFIC SIGNALS	9/30/2004	\$130,700	\$130,700
ST0338	703	CONCRETE REPLACEMENTS	9/30/2005	\$835,525	\$835,525
ST0403	812	ST. MARY DRIVE, PH 2	2/10/2006	\$617,417	\$617,417
ST0404	853	HEDGCOXE RD,DCHSS-LNGWOOD	5/2/2006	\$144,283	\$144,282
ST0406	672	BEL AIR - ALMA SIGNAL	9/30/2005	\$106,916	\$106,916
ST0407	739	TWIN CREEKS 7A1 AND 7A2	9/30/2005	\$133,380	\$133,380
ST0415	720	WATTERS RD,TWN CRK-WTRAIL	9/30/2005	\$244,935	\$244,935
ST0416	940	HILLSIDE/WNDRDGE ST.LIGHT	7/5/2007	\$7,248	\$7,248
ST0504	855	LED SIGNAL LIGHTS	5/11/2006	\$42,027	\$42,026
ST0505	979	RIDGEVIEW/CUSTER INTRSCN	8/31/2007	\$153,014	\$153,014
ST0506	739	TEN OAKS LANDSCAPE	9/30/2005	\$25,000	\$24,210
ST0507	1090	ST. MARY DRIVE, PH 3	9/10/2008	\$2,007,891	\$2,007,890
ST0508	856	MCDERMOTT/75 INTERSECTION	5/11/2006	\$158,835	\$158,835
ST0509	822	McDRMTT@ALLEN DR INTRSCN	2/20/2006	\$132,508	\$132,508
ST0604	935	DUCHES AND HEDGCOXE	6/21/2007	\$120,958	\$120,958



CAPITAL IMPROVEMENT PROJECTS

Prepared by Finance Department

Closed to Fixed Assets

Date: 9/12/2008

Project Number	Fixed Assets #	Project Description	Completion Date	Project Estimate	Project Total Costs
ST0606	941	CUMBERLAND CROSSING	7/5/2007	\$43,954	\$43,953
ST0607	939	SHALLOWATER BRIDGE	7/2/2007	\$180,000	\$180,000
ST0697	892	SIDEWALK	9/30/2006	\$17,308	\$17,308
ST0703	923	WINDRIDGE EXCHANGE PKWY	3/22/2007	\$78,432	\$78,431
ST0705	1091	ALMA/HEDGCOXE	9/9/2008	\$480,000	\$410,322
ST0706	1083	JUPITER RD SEWER REPLACE	9/5/2008	\$193,810	\$193,809
ST0707	954	US 75/SH 121 ROW	9/9/2008	\$150,000	\$150,000
ST0708	980	MCDERMOTT TURN LANE	9/12/2007	\$25,044	\$25,044
ST0712	1092	2551/MAIN ST SIDEWALKS	9/12/2008	\$19,613	\$19,612
ST0715	1093	HEDGCOXE ROAD	9/10/2008	\$400,000	\$370,051
ST0717	1094	MCDERMOTT PAVEMENT REHABI	9/10/2008	\$348,729	\$348,728
ST9508	719	SH5 MEDIANS,CHP-XCH	9/30/2005	\$1,367,605	\$1,367,605
ST9512	229	MCDERMOTT,CUSTER-US75	9/30/2002	\$11,638,037	\$11,638,037
ST9809	572	COLLECTOR SIDEWALKS	9/30/2003	\$559,631	\$559,225
ST9828	230	ALMA DR, EXCHANGE-SH121	9/30/2002	\$3,566,608	\$3,566,608
ST9829	538	STACY RD,US75-SH121	9/30/2003	\$9,672,319	\$9,672,319
ST9903	541	BETHANY WEST	9/30/2003	\$5,671,564	\$5,671,564
ST9918	366	WATTERS,BETHANY-MCDERMOTT	9/30/2003	\$1,689,394	\$1,689,394
WA0009	228	LOST CREEK LIFT STATION	9/30/2001	\$88,000	\$87,879
WA0016	87	HIGHPOINT WATER LINE	9/30/2001	\$57,271	\$57,271
WA0027	560	ALLEN HTS IMPROVEMENTS	9/30/2003	\$1,170,306	\$1,170,302
WA0030	537	ALLEN HTS,PH II WATERLINE	9/30/2003	\$1,205,493	\$1,205,491
WA0036	579	STACY RD PUMP STA#2	9/30/2003	\$5,130,942	\$5,130,942
WA0112	872	PRESTIGE CIR WATER TOWER	9/12/2006	\$4,165,604	\$4,165,604
WA0120	632	LOST CREEK RANCH PH2A	9/30/2004	\$348,230	\$348,230
WA0132	557	S.C.A.D.A.	9/30/2003	\$352,456	\$352,456
WA0133	356	HEDGCOXE WATERLINE	9/30/2003	\$255,881	\$255,881
WA0134	356	OVERSIZING W&S	9/30/2003	\$14,654	\$14,654
WA0214	392	WATERLINE REPLACEMENT	9/30/2003	\$124,375	\$124,375
WA0215	677	OLA SEWER/LIFT STA.	9/30/2004	\$936,723	\$936,720
WA0216	578	COTTONWOOD CREEK SEWER	9/30/2003	\$835,838	\$835,838
WA0217	731	RIDGEMONT SEWERLINE	9/30/2005	\$225,000	\$225,000
WA0218	308	STACY RIDGE LIFT STATION	9/30/2002	\$218,550	\$218,550
WA0219	358	BETHANY RIDGE LIFTSTATION	9/30/2003	\$113,616	\$113,616
WA0302	735	WATER TOWER SECURITYLIGHT	9/30/2005	\$423,572	\$423,572
WA0303	676	FAIRVIEW WSTWTR INTR	9/30/2004	\$104,682	\$104,682
WA0402	698	36" WATERLINE TC6A	9/30/2005	\$211,242	\$211,242
WA0403	811	ST. MARY DRIVE, PH 2	2/9/2006	\$83,000	\$82,798
WA0407	739	TWIN CREEKS 7A1 AND 7A2	9/30/2005	\$237,435	\$237,435

Report: N:\Finance\Accounting Division\Project Accounting\Report Masters\CIP Completed Projects.imr



CAPITAL IMPROVEMENT PROJECTS

Prepared by Finance Department

Closed to Fixed Assets

Date: 9/12/2008

Project Number	Fixed Assets #	Project Description	Completion Date	Project Estimate	Project Total Costs
WA0415	720	WATTERS RD-QUAIL RUN	9/30/2005	\$29,470	\$29,470
WA0507	936	ST MARY DR PH III WATER	6/20/2007	\$57,000	\$57,000
WA0511	932	EAST MAIN WATER LINE	6/12/2007	\$1,554,666	\$1,554,666
WA0701	579	STACY RD GROUND STORAGE	9/12/2007	\$555,816	\$555,816
WA0702	1095	COUNTRY CLUB WATERLINE	9/9/2008	\$97,442	\$96,121
WA0801	1084	ALLEN DRIVE PHASE III	9/5/2008	\$161,198	\$161,198
WA9822	226	PUMP STA #3 & 2 TNK	9/30/2002	\$9,552	\$9,552
WA9923	224	LNDSCP 2 ELEV TANK	9/30/2002	\$6,645	\$6,645
WA9925	225	CUSTER PMP ST3 LDSC	9/30/2002	\$89,488	\$89,488
WA9931	636	ALMA,TATUM-BELAIR	9/30/2004	\$20,921	\$20,920
Total Expenditures:				\$177,970,841	

CITY COUNCIL AGENDA COMMUNICATION
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AGENDA DATE: Tuesday, September 23, 2008

SUBJECT: Consider Making an Appointment to Fill a
Vacancy in Place No. 5 on the Parks and
Recreation Board

STAFF RESOURCE: Shelley B. George, City Secretary

ACTION PROPOSED: Appointment to Fill a Vacancy

BACKGROUND

The Council has declared a vacancy in Place No. 5 on the Parks and Recreation Board.

MOTION

Upon the recommendation of the Nominating Committee, I make a motion to appoint _____ to complete the unexpired term in Place No. 5 on the Parks and Recreation Board and to set a term expiration date of September 30, 2009.