



MURPHY CITY COUNCIL AGENDA
REGULAR CITY COUNCIL MEETING
SEPTEMBER 20, 2011 AT 6:00 PM
206 NORTH MURPHY ROAD
MURPHY, TEXAS 75094

NOTICE is hereby given of a meeting of the City Council of the City of Murphy, Collin County, State of Texas, to be held on September 20, 2011 at Murphy City Hall for the purpose of considering the following items. The City Council of the City of Murphy, Texas, reserves the right to meet in closed session on any of the items listed below should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

CALL TO ORDER

INVOCATION & PLEDGE OF ALLEGIANCE

Bret Baldwin
Mayor

ROLL CALL & CERTIFICATION OF A QUORUM

John Daugherty
Mayor Pro Tem

PRESENTATIONS

Colleen Halbert
Deputy Mayor Pro Tem

- Presentation by Ms. Donna Jenkins – History of Murphy

PUBLIC COMMENTS

Dennis Richmond
Councilmember

CONSENT AGENDA

Scott Bradley
Councilmember

All consent agenda items are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Councilmember so requests, in which event the item will be removed from the Consent Agenda and voted on separately.

Bernard Grant
Councilmember

- A. Approval of the Minutes from the September 6, 2011 Regular City Council Meeting.
- B. Consider and/or act upon approval of a resolution designating investment officers of the City and approving the investment policies for the investment of municipal funds.

Dave Brandon
Councilmember

INDIVIDUAL CONSIDERATION

1. Consider and/or act upon approval of an ordinance adopting the fiscal year 2011-2012 budget and appropriating funds to a sinking fund to pay interest and principal on the City's indebtedness, and appropriating funds to support the City of Murphy for the fiscal year beginning on October 1, 2011 and ending on September 30, 2012.
2. Consider and/or act upon ratifying the property tax revenue increase reflected in the 2011-2012 fiscal year budget.
3. Consider and/or act upon approval of an ordinance levying ad valorem taxes for use and support of the municipal government of the City of Murphy for the fiscal year beginning October 1, 2011 and ending September 30, 2012.

James Fisher
City Manager

4. Consider and/or act upon authorizing the City Manager to enter into an agreement with Emergicon, LLC for the provision of Emergency Medical Services (EMS) billing services; and, for the purchase of ESO Solutions for an electronic patient care reporting system.
5. Consider and/or act upon approval of a resolution nominating one to five candidates to serve on the Collin County Central Appraisal District Board of Directors for a two year term beginning January 1, 2012.

DISCUSSION ITEMS

6. Discussion regarding the use of electronic devices for City Council.

CITY MANAGER/STAFF REPORTS

- September 24 –Maize Days

EXECUTIVE SESSION

The City Council will hold a closed Executive Session pursuant to the provisions of Chapter 551, Subchapter D, Texas Government Code, in accordance with the authority contained in:

- §551.074 Personnel Matters – to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the Municipal Judge.
- §551.071 Consultation with City Attorney regarding pending litigation or contemplated litigation or settlement offer involving *Michael Cantrell v. City of Murphy, et al.*, Cause No. 6:09-cv-225.
- §551.071 Consultation with City Attorney regarding pending or contemplated litigation regarding Patrick Greene claim.
- §551.072. Deliberation regarding real property; to deliberate the purchase, exchange, lease, or value of real property.

RECONVENE INTO REGULAR SESSION

The City Council will reconvene into Regular Session, pursuant to the provisions of Chapter 551, Subchapter D, Texas Government Code, to take any action necessary regarding:

- §551.074 Personnel Matters – to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the Municipal Judge.

- §551.071 Consultation with City Attorney regarding pending litigation or contemplated litigation or settlement offer involving *Michael Cantrell v. City of Murphy, et al.*, Cause No. 6:09-cv-225.
- §551.071 Consultation with City Attorney regarding pending or contemplated litigation regarding Patrick Greene claim.
- §551.072. Deliberation regarding real property; to deliberate the purchase, exchange, lease, or value of real property.

ADJOURNMENT

I certify that this is a true and correct copy of the Murphy City Council Meeting Agenda and that this notice was posted on the designated bulletin board at Murphy City Hall, 206 North Murphy Road, Murphy, TX 75094; a place convenient and readily accessible to the public at all times, and said notice was posted on September 16, 2011 by 5:00 p.m. and will remain posted continuously for 72 hours prior to the scheduled meeting pursuant to Chapter 551 of the Texas Government Code.

Aimee Nemer, TRMC, MMC
City Secretary

In compliance with the American with Disabilities Act, the City of Murphy will provide for reasonable accommodations for persons attending public meetings at City Hall. Requests for accommodations or interpretive services must be received at least 48 hours prior to the meeting. Please contact the City Secretary at 972.468.4011 or anemer@murphytx.org

DRAFT

**MINUTES
REGULAR CITY COUNCIL MEETING
CITY OF MURPHY
206 North Murphy Road
Murphy, Texas**

**September 6, 2011
6:00 P.M.**

CALL TO ORDER

Mayor Baldwin called the meeting to order at 6:00 p.m.

INVOCATION & PLEDGE OF ALLEGIANCE

Mayor Baldwin gave the invocation and led the Pledge of Allegiance.

ROLL CALL & CERTIFICATION OF A QUORUM

Secretary Nemer certified a quorum with the following:

Council Present

Mayor Baldwin
Mayor Pro Tem John Daugherty
Deputy Mayor Pro Tem Colleen Halbert
Councilmember Scott Bradley
Councilmember Bernard Grant
Councilmember Dave Brandon

Councilmember Dennis Richmond arrived at 6:04 p.m.

PROCLAMATIONS & PRESENTATIONS

- **Proclamation for Emergency Preparedness Month** –Presented by Mayor Baldwin to Chief Lee
- **Presentation of Certificates to the Community Emergency Response Team (CERT)**
Presentation by Chief Lee
- **Maize Days Update** –Presentation by Kristen Roberts and Keri Kirkwood
- **Proclamation recognizing Murphy resident Jennifer Madu** –Presentation by Mayor Pro Tem John Daugherty

CONSENT AGENDA

A. Approval of the Minutes from the Special Meeting of August 30, 2011.

Council Action

A motion to approve the Minutes as presented was made by Councilmember Daugherty, seconded by Councilmember Richmond. A vote was taken and passed, 7-0.

PUBLIC COMMENTS

Mr. Darl Coe addressed Council requesting to know when the playground tarp at the Aviary Park would be replaced. He stated that it has been missing for four months.

PUBLIC HEARINGS

- 1. Hold a public hearing and consider and/or act upon approval of an ordinance approving the application of ALLEN AND LOUCKS VENTURE, L.P. requesting approval of a SUP (Specific Use Permit) for a Drive-In Window for a restaurant on property zoned PD (Planned Development) District for Retail Uses on property located on 121 East FM 544, east of North Murphy Road. (ZF2001-03)**

Council Discussion

There was significant discussion regarding traffic, parking, and the request for a drive through window. Council requested the applicant (Einstein's) to be present at the next meeting.

Public Hearing

Mayor Baldwin opened the public hearing at 6:44 p.m. Ms. Maggie Whitt spoke in favor of the request. Mr. Keith Patton spoke stating he was not opposed to the drive-through, but would prefer the traffic issues be addressed first. With no further public comments, Mayor Baldwin closed the public hearing at 6:48 p.m.

Council Action

A motion to postpone this item to October 4 was made by Councilmember Daugherty and seconded by Councilmember Bradley. A vote was taken and passed, 7-0.

- 2. Hold a public hearing and consider and/or act upon approval of an ordinance amending Chapter 28, Development Standards, of the Code of Ordinances.**

Council Discussion

Council discussed the following:

- Political signs –overall size allowed
- Wind devices –height; feather flags
- 28.2 –clarification on definitions for vehicular signs
- 28.22 –clarification on second monument sign for fast food restaurants
- 28.53 –Residential Fences, permitting for repair, HOA approval, city inspections
- 28.154 –Landscaping –clarification on requirement for rain sensors
- 28.157 –Landscaping –clarification on tree requirement –front or backyard
- 28.131 –Exterior Construction Standards –material used by Christian Brothers

Public Hearing

Mayor Baldwin opened the public hearing at 7:14 p.m. Mr. Don Kiertscher addressed Council regarding section 28.53 –Residential Fences, stating that he is in favor of the new revisions and expressed concerns about the City over-regulating residential fence repair.

Council Action

There was no action on this item.

- 3. Hold a public hearing on the proposed fiscal year 2011-2012 City of Murphy budget.**

Public Hearing

Mayor Baldwin opened the public hearing at 7:32 p.m. The following public comments were submitted.

Mr. John Wideman addressed Council commenting on the transfer from savings. He said to keep it a rainy day fund and if it has to be used, then prioritize the items for public safety and items that are visible to the residents. Mr. Wideman also said to use the funds to pay down debt.

Mr. Roger St. Martin addressed Council with comments about what is too much debt and what is too much reserve. He stated the City should not enter into any more debt.

Mr. Owais Siddiqui addressed Council stating that it is important to look at the Reserve Fund as a savings account – not just for a rainy day. Mr. Siddiqui said that the City should be using the fund for needed expenditures. He commented that 20% in reserves is a good number.

Mr. Keith Patton addressed Council and spoke in opposition of several technology related expenses in the budget as well as a carport for the Police Department.

Mr. Ray Cross addressed Council requesting that Council consider a tax freeze for senior citizens and keep the tax rate low.

With no further public comments, Mayor Baldwin closed the public hearing at 7:51 p.m.

Council Action

Mayor Baldwin announced that the vote on the proposed fiscal year 2011-2012 budget will take place on Tuesday, September 20, 2011 at 6:00 p.m. in the City Council Chambers at Murphy City Hall, 206 North, Murphy Road, Murphy, Texas.

4. Hold a public hearing on the proposed tax rate of \$0.5725 per \$100 valuation.

Public Hearing

Mayor Baldwin opened the public hearing at 8:02 p.m. The following public comments were submitted.

Mr. Wayne Fox spoke in opposition of a tax increase. Mr. Fox also addressed Council regarding the issues and corrections to the utility easement in the Timbers.

Mr. Vic Fey spoke in opposition to a tax increase. He asked Council to find appropriate cuts.

Mr. John Wideman spoke in opposition to a tax increase. He stated that a tax increase would have great psychological impact and he has confidence that City staff can make the budget work without a tax increase.

With no further comments, Mayor Baldwin closed the public hearing at 8:19 p.m.

Council Discussion

Councilmember Halbert explained that the debt service rate is set by the County. She also commented that when Council voted to approve the issuance of the third set of bonds, no citizens spoke in opposition. Councilmember Halbert stated that 83% of citizens voted in favor of the bonds in 2008. She explained that those bonds were supposed to bring a \$0.08 tax increase over three years but there has only been less than \$0.04.

Councilmember Brandon stated he wished there was a statement letting voters know that the approval of bonds will impact your taxes. He stated that a bond is like a loan and you have to pay it back.

Councilmember Brandon said that when the third tranche of bonds were issued, he didn't hear any comments from citizens.

Councilmember Bradley explained that the proposed budget and tax increase is a culmination of several weeks of debate on the budget, stating that \$400,000.00 had been cut from the budget before the current proposed budget was presented. Councilmember Bradley stated that he is very cognizant of the impact of a tax increase, but he does not think it is a good idea to continue pushing off capital items. Mr. Bradley said the City is very healthy financially.

Mayor Baldwin stated that he appreciates everyone's thoughts, comments, and concerns. He said that because the Council is fiscally responsible, they will continue to look at ways that make sense to reduce.

Council Action

Mayor Baldwin announced that the vote on the proposed tax rate of \$0.5725 will take place on Tuesday, September 20, 2011 at 6:00 p.m. in the City Council Chambers at Murphy City Hall, 206 North, Murphy Road, Murphy, Texas.

INDIVIDUAL CONSIDERATION

5. Consider and/or act upon the proposed FY12 Annual Budget, proposed tax rate, and the proposed Capital.

Council Discussion

Councilmember Brandon requested to discuss the following cuts which would reduce the transfer from reserves to \$340,000.00.

Carport
Treadmill
Criminal Trespass Module
Wireless Access Points
Fire Department Captain Vehicle
Identity Management
Enterprise Wireless
Reduce IT Consulting Expenses by \$10,000.00
DNS Management

Council proceeded to discuss the pros and cons of cutting these items. Mayor Baldwin and Councilmember's Halbert, Daugherty, Grant, and Richmond agreed that if they are looking for places to cut, the carport would be a good place to start. The IT items and Fire Captain Vehicle were also discussed. IT Manager Wendle Medford addressed Council and explained the need for the requested items. Fire Chief Mark Lee also addressed Council and explained the need for the Fire Captain vehicle.

City Manager Fisher asked for clarification as to whether Council was cutting the budget to reduce the budget, or cutting the budget to eliminate a tax increase.

Councilmember Brandon stated it was not his goal to have no tax increase. He stated his goal was to reduce the budget and reduce the transfer out of savings.

There was significant discussion regarding a tax increase, overhauling the budget after several weeks of discussion, reserve transfer, amount in reserves, and the use of reserves for capital expenditures.

The discussion ended with City Manager Fisher requesting that Council take some time to consider the discussion before giving staff direction.

Council Action

There was no action on this item.

- 6. Consider and/or act upon a request by residents of The Ranch subdivision to amend Ordinance No. 03-10-590, Planned Development for The Gables and The Ranch, specifically regarding accessory buildings.**

Public Comments

Public comments were submitted by the following.

Mr. Michael Teamann addressed Council and presented a citizens petition requesting to remove the masonry restriction for accessory buildings in Planned Development Ordinance No. 03-10-590.

Mr. John Wideman was also in favor of removing the masonry restriction as well as reviewing the entire PD.

Mr. Don Kiertscher addressed Council and requested that specific Planned Developments be reviewed and revised rather than revising the Development Standards in the Code of Ordinances regarding accessory buildings.

Council Action

Council directed staff to review all Planned Developments for consistency and proceed with the public hearing process.

- 7. Consider and/or act on the application of Todd Spencer requesting approval of a Construction Plat as a Final Plat, being part of the Daniel Herring Survey, Abstract No. 402, containing 12.22 acres of land, being located on 425 Moonlight Drive, east of South Murphy Road.**

Council Action

A motion was made by Councilmember Halbert to approve, seconded by Councilmember Daugherty. A vote was taken and passed, 7-0.

- 8. Consider and/or act upon approval of an ordinance amending the Murphy Code of Ordinances Chapter 30, Article II (Smoking) Section 21, Definitions; Section 23, Smoking prohibited in certain public areas; Section 27, where smoking is not prohibited, adding a new section, Section 28, to provide for air circulation and ventilation; providing for a penalty not to exceed five hundred dollars (\$500) for each offense; providing severability, repealer, and savings clauses; and providing an effective date.**

Council Action

There was no action on this item. Council and staff requested to postpone due to the lateness of the hour.

DISCUSSION ITEMS

- 9. Discussion regarding the use and purchase electronic devices for City Council in support of paperless agenda packets.**

Council Action

There was no action on this item. Council and staff requested to postpone due to the lateness of the hour.

10. Discussion and update on 4A and 4B Boards budget approval for City Council submittal.

Council Action

There was no action on this item. Council and staff requested to postpone due to the lateness of the hour.

CITY MANAGER/STAFF REPORTS

City Manager reported on the following:

- **September 20 – Chamber Lunch**
- **September 20 – Adoption of Budget & Tax Rate**
- **September 24 – Maize Days**

EXECUTIVE SESSION

The City Council will hold a closed Executive Session pursuant to the provisions of Chapter 551, Subchapter D, Texas Government Code, in accordance with the authority contained in:

- §551.074 **Personnel Matters – to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the Municipal Judge.**
- §551.071 **Consultation with City Attorney regarding pending litigation or contemplated litigation or settlement offer involving *Michael Cantrell v. City of Murphy, et al.*, Cause No. 6:09-cv-225.**
- §551.071 **Consultation with City Attorney regarding pending or contemplated litigation regarding Patrick Greene claim.**
- §551.072 **Deliberation regarding real property; to deliberate the purchase, exchange, lease, or value of real property.**

Council Action

Mayor Baldwin convened into Executive Session at 10:32 p.m.

RECONVENE INTO REGULAR SESSION

The City Council will reconvene into Regular Session, pursuant to the provisions of Chapter 551, Subchapter D, Texas Government Code, to take any action necessary regarding:

- §551.074 **Personnel Matters – to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the Municipal Judge.**

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§551.071 Consultation with City Attorney regarding pending litigation or contemplated litigation or settlement offer involving *Michael Cantrell v. City of Murphy, et al.*, Cause No. 6:09-cv-225.

§551.071 Consultation with City Attorney regarding pending or contemplated litigation regarding Patrick Greene claim.

§551.072 Deliberation regarding real property; to deliberate the purchase, exchange, lease, or value of real property.

Council Action

Mayor Baldwin reconvened into Regular Session at 10:59. There was no action as a result of the Executive Session.

ADJOURNMENT

With no further business, the meeting was adjourned at 11:00 p.m.

APPROVED BY:

Bret M. Baldwin, Mayor

ATTEST:

Aimee Nemer, City Secretary

Issue

Consider and/or act upon approval of a resolution designating investment officers of the City and approving the investment policies for the investment of municipal funds.

Background

The current investment policy was adopted by Resolution on October 4, 2010. The investment policy should be reviewed and approved annually by City Council. There are no changes to the current policy.

This policy determines the way financial investments are handled for the City and authorizes the City Manager and Director of Finance as the designated investment officers. The City banking depository is required to adhere to those investment policies and repurchase agreement terms authorized in the policy.

Investment officers are required to attend training on public funds investing at least every two years. The City Manager and Director of Finance have attended the required training.

Staff Recommendation

Staff recommends approval.

Attachments

- 1) Resolution
- 2) Exhibit A – Investment Policy
- 3) Public Funds Investment Act

Linda Truitt, Finance Director
Submitted By

James Fisher, City Manager
City Manager Approval

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MURPHY, TEXAS, DESIGNATING INVESTMENT OFFICERS OF THE CITY; APPROVING THE INVESTMENT POLICIES FOR THE INVESTMENT OF MUNICIPAL FUNDS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council recognizes the necessity of utilizing the public funds entrusted to it by the citizens of Murphy in the most advantageous manner so as to maximize the benefit of those funds for the citizens of Murphy, Texas; and

WHEREAS, the City Council recognizes the necessity of protecting the principal of those funds and ensure the ready accessibility of such funds; and

WHEREAS, section 2256.005(b) of the Texas Government Code, as amended, requires the City to adopt a written investment policy regarding the investment of City funds which emphasizes safety of principal and liquidity; addresses investment diversification, yield, maturity, and the quality and capability of investment management; and

WHEREAS, pursuant to section 2256.005(f) of the Texas Government Code, as amended, City Council may designate by ordinance or resolution, one or more City officers or City employees as investment officer who shall be responsible for the investment of the City's funds consistent with the City's investment policy and the laws of the State of Texas; and

WHEREAS, the City Council desires to adopt regulations governing the investment of the funds entrusted to it by the citizens of Murphy, Texas.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MURPHY, TEXAS, AS FOLLOWS:

Section 1. That the foregoing recitals are hereby found to be true and correct findings of the City of Murphy, Texas, and are fully incorporated into the body of this resolution.

Section 2. That the City of Murphy does appoint the Finance Director as the primary Investment Officer and the City Manager as the secondary Investment Officer. The designated Investment Officers will attend such training and at such times as is necessary to maintain the State standard of competency for an Investment Officer.

Section 3. That the City of Murphy does hereby adopt Texas Government Code, Chapter 2256, Public Funds Investment Act, in its entirety, as the rule and guide for the investment of such public funds as are entrusted to it and are deemed suitable for investment purposes. The Investment Policy attached hereto as *Exhibit A* ("Investment Policy of the City of Murphy, Texas"), and made a part hereof for all purposes is hereby adopted as the Investment Policy of the City of Murphy, Texas, as required by Chapter 2256 of the Texas Government Code.

Section 4. If any word, section, article, phrase, paragraph, sentence, clause, or portion of this resolution or application thereto to any person or circumstance is held to be invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portion of this ordinance; and the City Council hereby declares it would have passed such remaining portions of this ordinance despite such invalidity which remaining portions shall remain in full force and effect.

Section 5. This resolution shall become effective from and after its passage.

DULY RESOLVED by the City Council of the City of Murphy, Texas, on this the 20th day of September, 2011.

Bret M. Baldwin, Mayor
City of Murphy

ATTEST:

Aimee Nemer, City Secretary
City of Murphy

APPROVED AS TO FORM AND LEGALITY:

Wm. Andrew Messer, City Attorney
City of Murphy

EXHIBIT A

**INVESTMENT POLICY
OF THE
CITY OF MURPHY, TEXAS**

I. POLICY STATEMENT

The purpose of this document is to set forth specific investment policy and strategy guidelines for the City of Murphy in order to achieve the goals of safety, liquidity, yield, and public trust for all investment activity. This policy serves to satisfy the statutory requirements of the Public Funds Investment Act, Chapter 2256 of the Texas Government Code, as amended.

The receipt of a market rate of return will be secondary to the requirements for safety and liquidity. It is the intent of the City to be in complete compliance with local law and the Texas Public Funds Investment Act (the "Act"). The earnings from investment will be used in a manner that best serves the interests of the City.

II. OBJECTIVES OF INVESTMENT POLICIES

The primary objectives of the City's investment program in order of priority shall be preservation and safety of principal, liquidity, diversification and yield. Investments are to be chosen in a manner which promotes diversity by market sector, credit and maturity. All investments shall be designed and managed in a manner responsive to the public trust and consistent with State and Local law.

(a) SAFETY OF PRINCIPAL:

The foremost and primary objective of the City's investment program is the preservation and safety of capital of the overall portfolio. Each investment transaction will seek first to ensure that capital losses are avoided, whether the loss occurs from the default of a security or from erosion of market value. The objectives will be to mitigate credit risk and interest rate risk. To control credit risk, investments should be limited to the safest types of securities. Financial institutions, broker/dealers and advisers who serve as intermediaries, shall be pre-qualified by the City. The credit ratings of investment pools and individual securities will be monitored to assure compliance with this policy and state law.

To control interest rate risk, the City will structure the investment portfolio so that securities mature to meet cash requirements for ongoing operations and will monitor marketable securities daily. Should an issuer experience a single step downgrade of its credit rating by a nationally recognized credit rating agency within 90 days of the position's maturity, the Investment Officer may approve the holding of the security to maturity.

(b) LIQUIDITY:

The City's investment portfolio will remain sufficiently liquid to enable the City to meet operating requirements that might be reasonably anticipated. Liquidity will be achieved by matching investment maturities with forecasted cash flow funding requirements, by investing in securities with active secondary markets and by diversification of maturities and call dates. Furthermore, since all possible cash demands

cannot be anticipated, the portfolio, or portions thereof may be placed in money market mutual funds or local government investment pools, which offer same day liquidity for short-term funds.

(c) DIVERSIFICATION:

Diversification of the portfolio will include diversification by maturity and market sector and will include the use of a number of broker/dealers for diversification and market coverage. Competitive bidding will be used on sale and purchase.

(c) YIELD:

The City's investment portfolio will be designed with the objective of regularly meeting or exceeding the average rate of return on three month U.S. Treasury Bills. The investment program will seek to augment returns above this threshold consistent with risk constraints identified herein, cash flow characteristics of the portfolio and prudent investment principles. Investments are limited to relatively low risk securities in anticipation of earning a fair return relative to the risk being assumed. Marketable securities shall not be sold prior to maturity with the following exceptions:

- (1) A security with declining credit may be sold early to minimize loss of principal.
- (2) A security swap that would improve the quality, yield or target duration in the portfolio.
- (3) Liquidity needs of the portfolio require that the security be sold.
- (4) If market conditions present an opportunity for the City to benefit from the sale.

Funds held for future capital projects will be invested in such a way as to try to produce enough income to offset inflationary construction cost increases. However, such funds will never be unduly exposed to market price risks that would jeopardize the assets available to accomplish their stated objective, or be invested in a manner inconsistent with applicable federal and state regulations. Yields on debt proceeds that are not exempt from federal arbitrage regulations are limited to the arbitrage yield of the debt obligation. Investment officials will seek to preserve principal and maximize the yield of these funds in the same manner as all other city funds. However, it is understood that if the yield achieved by the city is higher than the arbitrage yield, positive arbitrage income will be averaged over a five year period and netted against any negative arbitrage Income and the net amount shall be rebated to the federal government as required by current federal regulations.

(d) PUBLIC TRUST:

All participants in the investment process will seek to act responsibly as

custodians of the public trust. Investment officials will avoid any transactions that might impair public confidence in the City's ability to govern effectively. The governing body recognizes that in a diversified portfolio, occasional measured losses due to market volatility are inevitable, and must be considered within the context of the overall portfolio's investment return, provided that adequate diversification has been implemented. The Investment Officer shall adhere to the City of Murphy Code of Conduct and City Charter.

III. PRUDENT INVESTOR RULE

- (a) The standard of prudence to be applied by the investment officer shall be the "prudent investor" rule as provided in section 2256.006 of the Texas Government Code, as amended. This section states, "[i]nvestments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived."
- (b) Investment officers acting in accordance with written procedures and exercising due diligence, shall not be held personally liable for a specific security's credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and appropriate action is taken to control adverse developments. The City will perform a compliance audit of management controls on investments and adherence to investment policies annually. Pursuant to section 2256.006(b) of the Texas Government Code, as amended, in determining whether an investment officer has exercised prudence with respect to an investment decision, the determination shall be made taking into consideration: (1) the investment of all funds, or funds under the City's control, over which the officer had responsibility rather than a consideration as to the prudence of a single investment; and (2) whether the investment decision was consistent with the written investment policy of the City of Murphy.
- (b) In accordance with section 2256.008 of the Texas Government Code, as amended, the Investment Officers shall attend ten (10) hours of investment training within twelve (12) months of assuming duties and ten (10) hours within every succeeding two (2) years. The investment training session shall be provided by an independent source approved by the Investment Review Committee. Training must include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with the Act.

IV. INVESTMENT PORTFOLIO

The City of Murphy shall invest in such investments as are lawful as enumerated in Texas Government Code, Chapter 2256, Public Funds Investment Act, sections 2256.009 through 2256.016. The City reserves the right to further restrict the types of investments which can be made. No investment shall be made until it shall have a full and detailed explanation to the Council and approval given therefore by a majority vote of the Council then present. Assets

of the City of Murphy may be invested in the following instruments if deemed an authorized investment pursuant to the Public Funds Investment Act, Chapter 2256, Texas Government Code, and includes the following:

- (a) obligations of the United States of America, its agencies and instrumentalities, not to exceed two years to stated maturity, excluding mortgage-backed securities;
- (b) direct obligations of the State of Texas or its agencies and instrumentalities;
- (c) collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States, the underlying security for which is guaranteed by an agency or instrumentality of the United States;
- (d) other obligations, the principal and interest of which are unconditional guaranteed or insured by, or backed by the full faith and credit of, the State of Texas or the United States or the respective agencies and instrumentalities;
- (e) obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent;
- (f) certificates of deposits issued by a state or national bank domiciled in the state or a savings and loan association domiciled in this state and is guaranteed or insured by the Federal Deposit Insurance Corporation or its successor or the National Credit Union Insurance Fund or its successor secured by obligations that are described in A through E above, to include certificates of deposit purchased through the CDARS program with a Texas bank;
- (g) a fully collateralized signed master repurchase agreement provided the repurchase agreement approved by City Council: has a defined termination date; is secured by obligations described in A above; security's market value must be a minimum of 102% of the principal value of the repurchase agreement; requires the securities being purchased by the City to be pledged to the City, held in the City's name, and deposited at the time the investment is made with the City or with a third party selected and approved by the entity; and is placed through a primary government securities dealer, as defined by the Federal Reserve, or a financial institution doing business in this state; the safekeeping portion of the agreement shall define the City's rights to collateral in case of default, bankruptcy or closing and shall establish a perfected security interest in compliance with Federal and State regulations;
- (h) an authorized securities lending program;
- (i) an authorized banker's acceptance; financial institution serving as City depository will be required to sign a depository agreement with the City and the City's safekeeping agent;
- (j) commercial paper which has a stated maturity of 270 days or fewer from the date of its

issuance; is rated not less than A-1 or P-1 or an equivalent rating by at least: two (2) nationally recognized credit rating agencies; or one (1) nationally recognized credit rating agency and is fully secured by an irrevocable letter of credit issued by a bank organized and existing under the laws of the United States or any state;

- (k) an authorized no-load money market mutual fund which is registered with and regulated by the Securities and Exchange Commission; provides the investing entity with a prospectus and other information required by the Securities Exchange Act of 1934 (15 U.S.C. Section 78a et seq.) or the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.); has a dollar-weighted average stated maturity of 90 days or fewer; and includes in its investment objectives the maintenance of a stable net asset value of \$1 for each share;
- (l) guaranteed investment contract is an authorized investment for bond proceeds if the guaranteed investment contract: has a defined termination date; is secured by obligations described in A above, and is pledged to the City and deposited with the City or with a third party selected and approved by the City; and
- (m) an eligible investment pool if the City Council of the City of Murphy by ordinance, or resolution authorizes investment in the particular pool.

V. TERM OF INVESTMENTS

The maximum maturity of any individual security the City may invest in shall be five (5) years.

VI. MONITORING OF THE MARKET VALUE OF INVESTMENTS

The Investment Officer(s), with the help of City Council, as needed, shall determine the market value of each investment and of all collateral pledged to secure deposits of City funds at least quarterly and at a time as close as practicable to the closing of the reporting period for the investments. Such values shall be included on the investment report. The following methods shall be used:

- (a) Certificates of deposit shall be valued at their face value plus any accrued but unpaid interest;
- (b) Shares in money market mutual funds and investment pools shall be valued at par plus any accrued but unpaid interest;
- (c) Other investment securities with a remaining maturity of one year or less may be valued in any of the following ways:

- (1) the lower of two bids obtained from securities broker/dealers for such security;
 - (2) the average of the bid and asked prices for such investment security as published in *The Wall Street Journal* or *The New York Times*;
 - (3) the bid price published by any nationally recognized security pricing service; or
 - (4) the market value quoted by the seller of the security or the owner of such collateral.
- (d) Other investment securities with a remaining maturity of greater than one year shall be valued at the lower of two bids obtained from securities broker/dealers for such security, unless two bids are not available, in which case the securities may be valued in any manner provided in this section.

VII. MISCELLANEOUS PROVISIONS

For funds invested in a pooled fund group, the maximum dollar-weighted average maturity allowance is two (2) years. This average is subject to change as necessary to maintain the maximum rate of return. Any such change must be approved by a majority vote of the City Council then present prior to being made effective.

All transactions, excepting those for mutual funds or investment pool funds, shall be settled on a delivery versus payment basis.

GOVERNMENT CODE

TITLE 10. GENERAL GOVERNMENT

SUBTITLE F. STATE AND LOCAL CONTRACTS AND FUND MANAGEMENT

CHAPTER 2256. PUBLIC FUNDS INVESTMENT

SUBCHAPTER A. AUTHORIZED INVESTMENTS FOR GOVERNMENTAL ENTITIES

Sec. 2256.001. SHORT TITLE. This chapter may be cited as the Public Funds Investment Act.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.002. DEFINITIONS. In this chapter:

(1) "Bond proceeds" means the proceeds from the sale of bonds, notes, and other obligations issued by an entity, and reserves and funds maintained by an entity for debt service purposes.

(2) "Book value" means the original acquisition cost of an investment plus or minus the accrued amortization or accretion.

(3) "Funds" means public funds in the custody of a state agency or local government that:

(A) are not required by law to be deposited in the state treasury; and

(B) the investing entity has authority to invest.

(4) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(5) "Investing entity" and "entity" mean an entity subject to this chapter and described by Section 2256.003.

(6) "Investment pool" means an entity created under this code to invest public funds jointly on behalf of the entities that participate in the pool and whose investment objectives in order of priority are:

(A) preservation and safety of principal;

(B) liquidity; and

(C) yield.

(7) "Local government" means a municipality, a county, a school district, a district or authority created under Section 52(b)

(1) or (2), Article III, or Section 59, Article XVI, Texas Constitution, a fresh water supply district, a hospital district, and any political subdivision, authority, public corporation, body politic, or instrumentality of the State of Texas, and any nonprofit corporation acting on behalf of any of those entities.

(8) "Market value" means the current face or par value of an investment multiplied by the net selling price of the security as quoted by a recognized market pricing source quoted on the valuation date.

(9) "Pooled fund group" means an internally created fund of an investing entity in which one or more institutional accounts of the investing entity are invested.

(10) "Qualified representative" means a person who holds a position with a business organization, who is authorized to act on behalf of the business organization, and who is one of the following:

(A) for a business organization doing business that is regulated by or registered with a securities commission, a person who is registered under the rules of the National Association of Securities Dealers;

(B) for a state or federal bank, a savings bank, or a state or federal credit union, a member of the loan committee for the bank or branch of the bank or a person authorized by corporate resolution to act on behalf of and bind the banking institution;

(C) for an investment pool, the person authorized by the elected official or board with authority to administer the activities of the investment pool to sign the written instrument on behalf of the investment pool; or

(D) for an investment management firm registered under the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-1 et seq.) or, if not subject to registration under that Act, registered with the State Securities Board, a person who is an officer or principal of the investment management firm.

(11) "School district" means a public school district.

(12) "Separately invested asset" means an account or fund of a state agency or local government that is not invested in a pooled fund group.

(13) "State agency" means an office, department, commission, board, or other agency that is part of any branch of state

government, an institution of higher education, and any nonprofit corporation acting on behalf of any of those entities.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1454, Sec. 1, eff. Sept. 1, 1999.

Sec. 2256.003. AUTHORITY TO INVEST FUNDS; ENTITIES SUBJECT TO THIS CHAPTER. (a) Each governing body of the following entities may purchase, sell, and invest its funds and funds under its control in investments authorized under this subchapter in compliance with investment policies approved by the governing body and according to the standard of care prescribed by Section 2256.006:

- (1) a local government;
- (2) a state agency;
- (3) a nonprofit corporation acting on behalf of a local government or a state agency; or
- (4) an investment pool acting on behalf of two or more local governments, state agencies, or a combination of those entities.

(b) In the exercise of its powers under Subsection (a), the governing body of an investing entity may contract with an investment management firm registered under the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-1 et seq.) or with the State Securities Board to provide for the investment and management of its public funds or other funds under its control. A contract made under authority of this subsection may not be for a term longer than two years. A renewal or extension of the contract must be made by the governing body of the investing entity by order, ordinance, or resolution.

(c) This chapter does not prohibit an investing entity or investment officer from using the entity's employees or the services of a contractor of the entity to aid the investment officer in the execution of the officer's duties under this chapter.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1454, Sec. 2, eff. Sept. 1, 1999.

Sec. 2256.004. APPLICABILITY. (a) This subchapter does not apply to:

- (1) a public retirement system as defined by Section 802.001;
- (2) state funds invested as authorized by Section 404.024;
- (3) an institution of higher education having total endowments of at least \$95 million in book value on May 1, 1995;
- (4) funds invested by the Veterans' Land Board as authorized by Chapter 161, 162, or 164, Natural Resources Code;
- (5) registry funds deposited with the county or district clerk under Chapter 117, Local Government Code; or
- (6) a deferred compensation plan that qualifies under either Section 401(k) or 457 of the Internal Revenue Code of 1986 (26 U.S.C. Section 1 et seq.), as amended.

(b) This subchapter does not apply to an investment donated to an investing entity for a particular purpose or under terms of use specified by the donor.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 505, Sec. 24, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1421, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 8.21, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1454, Sec. 3, eff. Sept. 1, 1999.

Sec. 2256.005. INVESTMENT POLICIES; INVESTMENT STRATEGIES; INVESTMENT OFFICER. (a) The governing body of an investing entity shall adopt by rule, order, ordinance, or resolution, as appropriate, a written investment policy regarding the investment of its funds and funds under its control.

(b) The investment policies must:

- (1) be written;
- (2) primarily emphasize safety of principal and liquidity;
- (3) address investment diversification, yield, and maturity and the quality and capability of investment management; and
- (4) include:
 - (A) a list of the types of authorized investments in which the investing entity's funds may be invested;
 - (B) the maximum allowable stated maturity of any individual investment owned by the entity;
 - (C) for pooled fund groups, the maximum dollar-

weighted average maturity allowed based on the stated maturity date for the portfolio;

(D) methods to monitor the market price of investments acquired with public funds; and

(E) a requirement for settlement of all transactions, except investment pool funds and mutual funds, on a delivery versus payment basis.

(c) The investment policies may provide that bids for certificates of deposit be solicited:

- (1) orally;
- (2) in writing;
- (3) electronically; or
- (4) in any combination of those methods.

(d) As an integral part of an investment policy, the governing body shall adopt a separate written investment strategy for each of the funds or group of funds under its control. Each investment strategy must describe the investment objectives for the particular fund using the following priorities in order of importance:

- (1) understanding of the suitability of the investment to the financial requirements of the entity;
- (2) preservation and safety of principal;
- (3) liquidity;
- (4) marketability of the investment if the need arises to liquidate the investment before maturity;
- (5) diversification of the investment portfolio; and
- (6) yield.

(e) The governing body of an investing entity shall review its investment policy and investment strategies not less than annually. The governing body shall adopt a written instrument by rule, order, ordinance, or resolution stating that it has reviewed the investment policy and investment strategies and that the written instrument so adopted shall record any changes made to either the investment policy or investment strategies.

(f) Each investing entity shall designate, by rule, order, ordinance, or resolution, as appropriate, one or more officers or employees of the state agency, local government, or investment pool as investment officer to be responsible for the investment of its funds consistent with the investment policy adopted by the entity. If the

governing body of an investing entity has contracted with another investing entity to invest its funds, the investment officer of the other investing entity is considered to be the investment officer of the first investing entity for purposes of this chapter. Authority granted to a person to invest an entity's funds is effective until rescinded by the investing entity, until the expiration of the officer's term or the termination of the person's employment by the investing entity, or if an investment management firm, until the expiration of the contract with the investing entity. In the administration of the duties of an investment officer, the person designated as investment officer shall exercise the judgment and care, under prevailing circumstances, that a prudent person would exercise in the management of the person's own affairs, but the governing body of the investing entity retains ultimate responsibility as fiduciaries of the assets of the entity. Unless authorized by law, a person may not deposit, withdraw, transfer, or manage in any other manner the funds of the investing entity.

(g) Subsection (f) does not apply to a state agency, local government, or investment pool for which an officer of the entity is assigned by law the function of investing its funds.

Text of subsec. (h) as amended by Acts 1997, 75th Leg., ch. 685, Sec. 1

(h) An officer or employee of a commission created under Chapter 391, Local Government Code, is ineligible to be an investment officer for the commission under Subsection (f) if the officer or employee is an investment officer designated under Subsection (f) for another local government.

Text of subsec. (h) as amended by Acts 1997, 75th Leg., ch. 1421, Sec.

3

(h) An officer or employee of a commission created under Chapter 391, Local Government Code, is ineligible to be designated as an investment officer under Subsection (f) for any investing entity other than for that commission.

(i) An investment officer of an entity who has a personal

business relationship with a business organization offering to engage in an investment transaction with the entity shall file a statement disclosing that personal business interest. An investment officer who is related within the second degree by affinity or consanguinity, as determined under Chapter 573, to an individual seeking to sell an investment to the investment officer's entity shall file a statement disclosing that relationship. A statement required under this subsection must be filed with the Texas Ethics Commission and the governing body of the entity. For purposes of this subsection, an investment officer has a personal business relationship with a business organization if:

(1) the investment officer owns 10 percent or more of the voting stock or shares of the business organization or owns \$5,000 or more of the fair market value of the business organization;

(2) funds received by the investment officer from the business organization exceed 10 percent of the investment officer's gross income for the previous year; or

(3) the investment officer has acquired from the business organization during the previous year investments with a book value of \$2,500 or more for the personal account of the investment officer.

(j) The governing body of an investing entity may specify in its investment policy that any investment authorized by this chapter is not suitable.

(k) A written copy of the investment policy shall be presented to any person offering to engage in an investment transaction with an investing entity or to an investment management firm under contract with an investing entity to invest or manage the entity's investment portfolio. For purposes of this subsection, a business organization includes investment pools and an investment management firm under contract with an investing entity to invest or manage the entity's investment portfolio. Nothing in this subsection relieves the investing entity of the responsibility for monitoring the investments made by the investing entity to determine that they are in compliance with the investment policy. The qualified representative of the business organization offering to engage in an investment transaction with an investing entity shall execute a written instrument in a form acceptable to the investing entity and the business organization substantially to the effect that the business organization has:

(1) received and reviewed the investment policy of the entity; and

(2) acknowledged that the business organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the entity and the organization that are not authorized by the entity's investment policy, except to the extent that this authorization is dependent on an analysis of the makeup of the entity's entire portfolio or requires an interpretation of subjective investment standards.

(l) The investment officer of an entity may not acquire or otherwise obtain any authorized investment described in the investment policy of the investing entity from a person who has not delivered to the entity the instrument required by Subsection (k).

(m) An investing entity other than a state agency, in conjunction with its annual financial audit, shall perform a compliance audit of management controls on investments and adherence to the entity's established investment policies.

(n) Except as provided by Subsection (o), at least once every two years a state agency shall arrange for a compliance audit of management controls on investments and adherence to the agency's established investment policies. The compliance audit shall be performed by the agency's internal auditor or by a private auditor employed in the manner provided by Section 321.020. Not later than January 1 of each even-numbered year a state agency shall report the results of the most recent audit performed under this subsection to the state auditor. Subject to a risk assessment and to the legislative audit committee's approval of including a review by the state auditor in the audit plan under Section 321.013, the state auditor may review information provided under this section. If review by the state auditor is approved by the legislative audit committee, the state auditor may, based on its review, require a state agency to also report to the state auditor other information the state auditor determines necessary to assess compliance with laws and policies applicable to state agency investments. A report under this subsection shall be prepared in a manner the state auditor prescribes.

(o) The audit requirements of Subsection (n) do not apply to assets of a state agency that are invested by the comptroller under Section 404.024.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 685, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1421, Sec. 3, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1454, Sec. 4, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 785, Sec. 41, eff. Sept. 1, 2003.

Sec. 2256.006. STANDARD OF CARE. (a) Investments shall be made with judgment and care, under prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of the person's own affairs, not for speculation, but for investment, considering the probable safety of capital and the probable income to be derived. Investment of funds shall be governed by the following investment objectives, in order of priority:

- (1) preservation and safety of principal;
- (2) liquidity; and
- (3) yield.

(b) In determining whether an investment officer has exercised prudence with respect to an investment decision, the determination shall be made taking into consideration:

- (1) the investment of all funds, or funds under the entity's control, over which the officer had responsibility rather than a consideration as to the prudence of a single investment; and
- (2) whether the investment decision was consistent with the written investment policy of the entity.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.007. INVESTMENT TRAINING; STATE AGENCY BOARD MEMBERS AND OFFICERS. (a) Each member of the governing board of a state agency and its investment officer shall attend at least one training session relating to the person's responsibilities under this chapter within six months after taking office or assuming duties.

(b) The Texas Higher Education Coordinating Board shall provide the training under this section.

(c) Training under this section must include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with this chapter.

(d) An investment officer shall attend a training session not less than once in a two-year period and may receive training from any independent source approved by the governing body of the state agency. The investment officer shall prepare a report on this subchapter and deliver the report to the governing body of the state agency not later than the 180th day after the last day of each regular session of the legislature.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 73, Sec. 1, eff. May 9, 1997; Acts 1997, 75th Leg., ch. 1421, Sec. 4, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1454, Sec. 5, eff. Sept. 1, 1999.

Sec. 2256.008. INVESTMENT TRAINING; LOCAL GOVERNMENTS. (a) Except as provided by Subsections (b) and (e), the treasurer, the chief financial officer if the treasurer is not the chief financial officer, and the investment officer of a local government shall:

(1) attend at least one training session from an independent source approved by the governing body of the local government or a designated investment committee advising the investment officer as provided for in the investment policy of the local government and containing at least 10 hours of instruction relating to the treasurer's or officer's responsibilities under this subchapter within 12 months after taking office or assuming duties; and

(2) except as provided by Subsections (b) and (e), attend an investment training session not less than once in a two-year period and receive not less than 10 hours of instruction relating to investment responsibilities under this subchapter from an independent source approved by the governing body of the local government or a designated investment committee advising the investment officer as provided for in the investment policy of the local government.

(b) An investing entity created under authority of Section 52 (b), Article III, or Section 59, Article XVI, Texas Constitution, that has contracted with an investment management firm under Section 2256.003(b) and has fewer than five full-time employees or an investing entity that has contracted with another investing entity to invest the entity's funds may satisfy the training requirement

provided by Subsection (a)(2) by having an officer of the governing body attend four hours of appropriate instruction in a two-year period. The treasurer or chief financial officer of an investing entity created under authority of Section 52(b), Article III, or Section 59, Article XVI, Texas Constitution, and that has fewer than five full-time employees is not required to attend training required by this section unless the person is also the investment officer of the entity.

(c) Training under this section must include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with this chapter.

(d) Not later than December 31 each year, each individual, association, business, organization, governmental entity, or other person that provides training under this section shall report to the comptroller a list of the governmental entities for which the person provided required training under this section during that calendar year. An individual's reporting requirements under this subsection are satisfied by a report of the individual's employer or the sponsoring or organizing entity of a training program or seminar.

(e) This section does not apply to a district governed by Chapter 36 or 49, Water Code.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 5, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1454, Sec. 6, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 69, Sec. 4, eff. May 14, 2001.

Sec. 2256.009. AUTHORIZED INVESTMENTS: OBLIGATIONS OF, OR GUARANTEED BY GOVERNMENTAL ENTITIES. (a) Except as provided by Subsection (b), the following are authorized investments under this subchapter:

(1) obligations, including letters of credit, of the United States or its agencies and instrumentalities;

(2) direct obligations of this state or its agencies and instrumentalities;

(3) collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States, the

underlying security for which is guaranteed by an agency or instrumentality of the United States;

(4) other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, this state or the United States or their respective agencies and instrumentalities;

(5) obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent; and

(6) bonds issued, assumed, or guaranteed by the State of Israel.

(b) The following are not authorized investments under this section:

(1) obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal;

(2) obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest;

(3) collateralized mortgage obligations that have a stated final maturity date of greater than 10 years; and

(4) collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1454, Sec. 7, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 558, Sec. 1, eff. Sept. 1, 2001.

Sec. 2256.010. AUTHORIZED INVESTMENTS: CERTIFICATES OF DEPOSIT AND SHARE CERTIFICATES. (a) A certificate of deposit or share certificate is an authorized investment under this subchapter if the certificate is issued by a depository institution that has its main office or a branch office in this state and is:

(1) guaranteed or insured by the Federal Deposit Insurance Corporation or its successor or the National Credit Union Share Insurance Fund or its successor;

(2) secured by obligations that are described by Section 2256.009(a), including mortgage backed securities directly issued by a federal agency or instrumentality that have a market value of not less than the principal amount of the certificates, but excluding those mortgage backed securities of the nature described by Section 2256.009 (b); or

(3) secured in any other manner and amount provided by law for deposits of the investing entity.

(b) In addition to the authority to invest funds in certificates of deposit under Subsection (a), an investment in certificates of deposit made in accordance with the following conditions is an authorized investment under this subchapter:

(1) the funds are invested by an investing entity through a depository institution that has its main office or a branch office in this state and that is selected by the investing entity;

(2) the depository institution selected by the investing entity under Subdivision (1) arranges for the deposit of the funds in certificates of deposit in one or more federally insured depository institutions, wherever located, for the account of the investing entity;

(3) the full amount of the principal and accrued interest of each of the certificates of deposit is insured by the United States or an instrumentality of the United States;

(4) the depository institution selected by the investing entity under Subdivision (1) acts as custodian for the investing entity with respect to the certificates of deposit issued for the account of the investing entity; and

(5) at the same time that the funds are deposited and the certificates of deposit are issued for the account of the investing entity, the depository institution selected by the investing entity under Subdivision (1) receives an amount of deposits from customers of other federally insured depository institutions, wherever located, that is equal to or greater than the amount of the funds invested by the investing entity through the depository institution selected under Subdivision (1).

Amended by Acts 1995, 74th Leg., ch. 32, Sec. 1, eff. April 28, 1995; Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 6, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. [128](#), Sec. 1, eff. September 1, 2005.

Sec. 2256.011. AUTHORIZED INVESTMENTS: REPURCHASE AGREEMENTS.

(a) A fully collateralized repurchase agreement is an authorized investment under this subchapter if the repurchase agreement:

(1) has a defined termination date;

(2) is secured by obligations described by Section 2256.009

(a)(1); and

(3) requires the securities being purchased by the entity to be pledged to the entity, held in the entity's name, and deposited at the time the investment is made with the entity or with a third party selected and approved by the entity; and

(4) is placed through a primary government securities dealer, as defined by the Federal Reserve, or a financial institution doing business in this state.

(b) In this section, "repurchase agreement" means a simultaneous agreement to buy, hold for a specified time, and sell back at a future date obligations described by Section 2256.009(a)(1), at a market value at the time the funds are disbursed of not less than the principal amount of the funds disbursed. The term includes a direct security repurchase agreement and a reverse security repurchase agreement.

(c) Notwithstanding any other law, the term of any reverse security repurchase agreement may not exceed 90 days after the date the reverse security repurchase agreement is delivered.

(d) Money received by an entity under the terms of a reverse security repurchase agreement shall be used to acquire additional authorized investments, but the term of the authorized investments acquired must mature not later than the expiration date stated in the reverse security repurchase agreement.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.0115. AUTHORIZED INVESTMENTS: SECURITIES LENDING

PROGRAM. (a) A securities lending program is an authorized investment under this subchapter if it meets the conditions provided by this section.

(b) To qualify as an authorized investment under this subchapter:

(1) the value of securities loaned under the program must be not less than 100 percent collateralized, including accrued income;

(2) a loan made under the program must allow for termination at any time;

(3) a loan made under the program must be secured by:

(A) pledged securities described by Section 2256.009;

(B) pledged irrevocable letters of credit issued by a bank that is:

(i) organized and existing under the laws of the United States or any other state; and

(ii) continuously rated by at least one nationally recognized investment rating firm at not less than A or its equivalent; or

(C) cash invested in accordance with Section:

(i) 2256.009;

(ii) 2256.013;

(iii) 2256.014; or

(iv) 2256.016;

(4) the terms of a loan made under the program must require that the securities being held as collateral be:

(A) pledged to the investing entity;

(B) held in the investing entity's name; and

(C) deposited at the time the investment is made with the entity or with a third party selected by or approved by the investing entity;

(5) a loan made under the program must be placed through:

(A) a primary government securities dealer, as defined by 5 C.F.R. Section 6801.102(f), as that regulation existed on September 1, 2003; or

(B) a financial institution doing business in this state; and

(6) an agreement to lend securities that is executed under this section must have a term of one year or less.

Added by Acts 2003, 78th Leg., ch. 1227, Sec. 1, eff. Sept. 1, 2003.

Sec. 2256.012. AUTHORIZED INVESTMENTS: BANKER'S ACCEPTANCES.

A bankers' acceptance is an authorized investment under this subchapter if the bankers' acceptance:

(1) has a stated maturity of 270 days or fewer from the date of its issuance;

(2) will be, in accordance with its terms, liquidated in full at maturity;

(3) is eligible for collateral for borrowing from a Federal Reserve Bank; and

(4) is accepted by a bank organized and existing under the laws of the United States or any state, if the short-term obligations of the bank, or of a bank holding company of which the bank is the largest subsidiary, are rated not less than A-1 or P-1 or an equivalent rating by at least one nationally recognized credit rating agency.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.013. AUTHORIZED INVESTMENTS: COMMERCIAL PAPER.

Commercial paper is an authorized investment under this subchapter if the commercial paper:

(1) has a stated maturity of 270 days or fewer from the date of its issuance; and

(2) is rated not less than A-1 or P-1 or an equivalent rating by at least:

(A) two nationally recognized credit rating agencies; or

(B) one nationally recognized credit rating agency and is fully secured by an irrevocable letter of credit issued by a bank organized and existing under the laws of the United States or any state.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.014. AUTHORIZED INVESTMENTS: MUTUAL FUNDS. (a) A

no-load money market mutual fund is an authorized investment under this subchapter if the mutual fund:

(1) is registered with and regulated by the Securities and

Exchange Commission;

(2) provides the investing entity with a prospectus and other information required by the Securities Exchange Act of 1934 (15 U.S.C. Section 78a et seq.) or the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.);

(3) has a dollar-weighted average stated maturity of 90 days or fewer; and

(4) includes in its investment objectives the maintenance of a stable net asset value of \$1 for each share.

(b) In addition to a no-load money market mutual fund permitted as an authorized investment in Subsection (a), a no-load mutual fund is an authorized investment under this subchapter if the mutual fund:

(1) is registered with the Securities and Exchange Commission;

(2) has an average weighted maturity of less than two years;

(3) is invested exclusively in obligations approved by this subchapter;

(4) is continuously rated as to investment quality by at least one nationally recognized investment rating firm of not less than AAA or its equivalent; and

(5) conforms to the requirements set forth in Sections 2256.016(b) and (c) relating to the eligibility of investment pools to receive and invest funds of investing entities.

(c) An entity is not authorized by this section to:

(1) invest in the aggregate more than 15 percent of its monthly average fund balance, excluding bond proceeds and reserves and other funds held for debt service, in mutual funds described in Subsection (b);

(2) invest any portion of bond proceeds, reserves and funds held for debt service, in mutual funds described in Subsection (b); or

(3) invest its funds or funds under its control, including bond proceeds and reserves and other funds held for debt service, in any one mutual fund described in Subsection (a) or (b) in an amount that exceeds 10 percent of the total assets of the mutual fund.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 7, eff. Sept. 1, 1997; Acts

1999, 76th Leg., ch. 1454, Sec. 8, eff. Sept. 1, 1999.

Sec. 2256.015. AUTHORIZED INVESTMENTS: GUARANTEED INVESTMENT CONTRACTS. (a) A guaranteed investment contract is an authorized investment for bond proceeds under this subchapter if the guaranteed investment contract:

(1) has a defined termination date;

(2) is secured by obligations described by Section 2256.009 (a)(1), excluding those obligations described by Section 2256.009(b), in an amount at least equal to the amount of bond proceeds invested under the contract; and

(3) is pledged to the entity and deposited with the entity or with a third party selected and approved by the entity.

(b) Bond proceeds, other than bond proceeds representing reserves and funds maintained for debt service purposes, may not be invested under this subchapter in a guaranteed investment contract with a term of longer than five years from the date of issuance of the bonds.

(c) To be eligible as an authorized investment:

(1) the governing body of the entity must specifically authorize guaranteed investment contracts as an eligible investment in the order, ordinance, or resolution authorizing the issuance of bonds;

(2) the entity must receive bids from at least three separate providers with no material financial interest in the bonds from which proceeds were received;

(3) the entity must purchase the highest yielding guaranteed investment contract for which a qualifying bid is received;

(4) the price of the guaranteed investment contract must take into account the reasonably expected drawdown schedule for the bond proceeds to be invested; and

(5) the provider must certify the administrative costs reasonably expected to be paid to third parties in connection with the guaranteed investment contract.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 8, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1454, Sec. 9, 10, eff. Sept. 1, 1999.

Sec. 2256.016. AUTHORIZED INVESTMENTS: INVESTMENT POOLS. (a) An entity may invest its funds and funds under its control through an eligible investment pool if the governing body of the entity by rule, order, ordinance, or resolution, as appropriate, authorizes investment in the particular pool. An investment pool shall invest the funds it receives from entities in authorized investments permitted by this subchapter.

(b) To be eligible to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must furnish to the investment officer or other authorized representative of the entity an offering circular or other similar disclosure instrument that contains, at a minimum, the following information:

(1) the types of investments in which money is allowed to be invested;

(2) the maximum average dollar-weighted maturity allowed, based on the stated maturity date, of the pool;

(3) the maximum stated maturity date any investment security within the portfolio has;

(4) the objectives of the pool;

(5) the size of the pool;

(6) the names of the members of the advisory board of the pool and the dates their terms expire;

(7) the custodian bank that will safekeep the pool's assets;

(8) whether the intent of the pool is to maintain a net asset value of one dollar and the risk of market price fluctuation;

(9) whether the only source of payment is the assets of the pool at market value or whether there is a secondary source of payment, such as insurance or guarantees, and a description of the secondary source of payment;

(10) the name and address of the independent auditor of the pool;

(11) the requirements to be satisfied for an entity to deposit funds in and withdraw funds from the pool and any deadlines or other operating policies required for the entity to invest funds in and withdraw funds from the pool; and

(12) the performance history of the pool, including yield, average dollar-weighted maturities, and expense ratios.

(c) To maintain eligibility to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must furnish to the investment officer or other authorized representative of the entity:

(1) investment transaction confirmations; and

(2) a monthly report that contains, at a minimum, the following information:

(A) the types and percentage breakdown of securities in which the pool is invested;

(B) the current average dollar-weighted maturity, based on the stated maturity date, of the pool;

(C) the current percentage of the pool's portfolio in investments that have stated maturities of more than one year;

(D) the book value versus the market value of the pool's portfolio, using amortized cost valuation;

(E) the size of the pool;

(F) the number of participants in the pool;

(G) the custodian bank that is safekeeping the assets of the pool;

(H) a listing of daily transaction activity of the entity participating in the pool;

(I) the yield and expense ratio of the pool;

(J) the portfolio managers of the pool; and

(K) any changes or addenda to the offering circular.

(d) An entity by contract may delegate to an investment pool the authority to hold legal title as custodian of investments purchased with its local funds.

(e) In this section, "yield" shall be calculated in accordance with regulations governing the registration of open-end management investment companies under the Investment Company Act of 1940, as promulgated from time to time by the federal Securities and Exchange Commission.

(f) To be eligible to receive funds from and invest funds on behalf of an entity under this chapter, a public funds investment pool created to function as a money market mutual fund must mark its portfolio to market daily, and, to the extent reasonably possible, stabilize at a \$1 net asset value. If the ratio of the market value of the portfolio divided by the book value of the portfolio is less

than 0.995 or greater than 1.005, portfolio holdings shall be sold as necessary to maintain the ratio between 0.995 and 1.005.

(g) To be eligible to receive funds from and invest funds on behalf of an entity under this chapter, a public funds investment pool must have an advisory board composed:

(1) equally of participants in the pool and other persons who do not have a business relationship with the pool and are qualified to advise the pool, for a public funds investment pool created under Chapter 791 and managed by a state agency; or

(2) of participants in the pool and other persons who do not have a business relationship with the pool and are qualified to advise the pool, for other investment pools.

(h) To maintain eligibility to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must be continuously rated no lower than AAA or AAA-m or at an equivalent rating by at least one nationally recognized rating service.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 9, eff. Sept. 1, 1997.

Sec. 2256.017. EXISTING INVESTMENTS. An entity is not required to liquidate investments that were authorized investments at the time of purchase.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.46(a), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1421, Sec. 10, eff. Sept. 1, 1997.

Sec. 2256.019. RATING OF CERTAIN INVESTMENT POOLS. A public funds investment pool must be continuously rated no lower than AAA or AAA-m or at an equivalent rating by at least one nationally recognized rating service or no lower than investment grade by at least one nationally recognized rating service with a weighted average maturity no greater than 90 days.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1421, Sec. 11, eff. Sept. 1, 1997.

Sec. 2256.020. AUTHORIZED INVESTMENTS: INSTITUTIONS OF HIGHER

EDUCATION. In addition to the authorized investments permitted by this subchapter, an institution of higher education may purchase, sell, and invest its funds and funds under its control in the following:

(1) cash management and fixed income funds sponsored by organizations exempt from federal income taxation under Section 501 (f), Internal Revenue Code of 1986 (26 U.S.C. Section 501(f));

(2) negotiable certificates of deposit issued by a bank that has a certificate of deposit rating of at least 1 or the equivalent by a nationally recognized credit rating agency or that is associated with a holding company having a commercial paper rating of at least A-1, P-1, or the equivalent by a nationally recognized credit rating agency; and

(3) corporate bonds, debentures, or similar debt obligations rated by a nationally recognized investment rating firm in one of the two highest long-term rating categories, without regard to gradations within those categories.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.0201. AUTHORIZED INVESTMENTS; MUNICIPAL UTILITY.

(a) A municipality that owns a municipal electric utility that is engaged in the distribution and sale of electric energy or natural gas to the public may enter into a hedging contract and related security and insurance agreements in relation to fuel oil, natural gas, coal, nuclear fuel, and electric energy to protect against loss due to price fluctuations. A hedging transaction must comply with the regulations of the Commodity Futures Trading Commission and the Securities and Exchange Commission. If there is a conflict between the municipal charter of the municipality and this chapter, this chapter prevails.

(b) A payment by a municipally owned electric or gas utility under a hedging contract or related agreement in relation to fuel supplies or fuel reserves is a fuel expense, and the utility may credit any amounts it receives under the contract or agreement against fuel expenses.

(c) The governing body of a municipally owned electric or gas utility or the body vested with power to manage and operate the municipally owned electric or gas utility may set policy regarding

hedging transactions.

(d) In this section, "hedging" means the buying and selling of fuel oil, natural gas, coal, nuclear fuel, and electric energy futures or options or similar contracts on those commodities and related transportation costs as a protection against loss due to price fluctuation.

Added by Acts 1999, 76th Leg., ch. 405, Sec. 48, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. [7](#), Sec. 1, eff. April 13, 2007.

Sec. 2256.0202. AUTHORIZED INVESTMENTS: MUNICIPAL FUNDS FROM MANAGEMENT AND DEVELOPMENT OF MINERAL RIGHTS. (a) In addition to other investments authorized under this subchapter, a municipality may invest funds received by the municipality from a lease or contract for the management and development of land owned by the municipality and leased for oil, gas, or other mineral development in any investment authorized to be made by a trustee under Subtitle B, Title 9, Property Code (Texas Trust Code).

(b) Funds invested by a municipality under this section shall be segregated and accounted for separately from other funds of the municipality.

Added by Acts 2009, 81st Leg., R.S., Ch. [1371](#), Sec. 1, eff. September 1, 2009.

Sec. 2256.0205. AUTHORIZED INVESTMENTS; DECOMMISSIONING TRUST.

(a) In this section:

(1) "Decommissioning trust" means a trust created to provide the Nuclear Regulatory Commission assurance that funds will be available for decommissioning purposes as required under 10 C.F.R. Part 50 or other similar regulation.

(2) "Funds" includes any money held in a decommissioning trust regardless of whether the money is considered to be public funds under this subchapter.

(b) In addition to other investments authorized under this subchapter, a municipality that owns a municipal electric utility that is engaged in the distribution and sale of electric energy or natural

gas to the public may invest funds held in a decommissioning trust in any investment authorized by Subtitle B, Title 9, Property Code.

Added by Acts 2005, 79th Leg., Ch. [121](#), Sec. 1, eff. September 1, 2005.

Sec. 2256.021. EFFECT OF LOSS OF REQUIRED RATING. An investment that requires a minimum rating under this subchapter does not qualify as an authorized investment during the period the investment does not have the minimum rating. An entity shall take all prudent measures that are consistent with its investment policy to liquidate an investment that does not have the minimum rating.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.022. EXPANSION OF INVESTMENT AUTHORITY. Expansion of investment authority granted by this chapter shall require a risk assessment by the state auditor or performed at the direction of the state auditor, subject to the legislative audit committee's approval of including the review in the audit plan under Section 321.013.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 2003, 78th Leg., ch. 785, Sec. 42, eff. Sept. 1, 2003.

Sec. 2256.023. INTERNAL MANAGEMENT REPORTS. (a) Not less than quarterly, the investment officer shall prepare and submit to the governing body of the entity a written report of investment transactions for all funds covered by this chapter for the preceding reporting period.

(b) The report must:

- (1) describe in detail the investment position of the entity on the date of the report;
- (2) be prepared jointly by all investment officers of the entity;
- (3) be signed by each investment officer of the entity;
- (4) contain a summary statement, prepared in compliance with generally accepted accounting principles, of each pooled fund group that states the:

(A) beginning market value for the reporting period;

(B) additions and changes to the market value during the period;

(C) ending market value for the period; and

(D) fully accrued interest for the reporting period;

(5) state the book value and market value of each separately invested asset at the beginning and end of the reporting period by the type of asset and fund type invested;

(6) state the maturity date of each separately invested asset that has a maturity date;

(7) state the account or fund or pooled group fund in the state agency or local government for which each individual investment was acquired; and

(8) state the compliance of the investment portfolio of the state agency or local government as it relates to:

(A) the investment strategy expressed in the agency's or local government's investment policy; and

(B) relevant provisions of this chapter.

(c) The report shall be presented not less than quarterly to the governing body and the chief executive officer of the entity within a reasonable time after the end of the period.

(d) If an entity invests in other than money market mutual funds, investment pools or accounts offered by its depository bank in the form of certificates of deposit, or money market accounts or similar accounts, the reports prepared by the investment officers under this section shall be formally reviewed at least annually by an independent auditor, and the result of the review shall be reported to the governing body by that auditor.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1421, Sec. 12, eff. Sept. 1, 1997.

Sec. 2256.024. SUBCHAPTER CUMULATIVE. (a) The authority granted by this subchapter is in addition to that granted by other law. Except as provided by Subsection (b), this subchapter does not:

(1) prohibit an investment specifically authorized by other law; or

(2) authorize an investment specifically prohibited by other law.

(b) Except with respect to those investing entities described in Subsection (c), a security described in Section 2256.009(b) is not an authorized investment for a state agency, a local government, or another investing entity, notwithstanding any other provision of this chapter or other law to the contrary.

(c) Mortgage pass-through certificates and individual mortgage loans that may constitute an investment described in Section 2256.009 (b) are authorized investments with respect to the housing bond programs operated by:

(1) the Texas Department of Housing and Community Affairs or a nonprofit corporation created to act on its behalf;

(2) an entity created under Chapter 392, Local Government Code; or

(3) an entity created under Chapter 394, Local Government Code.

Added by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.025. SELECTION OF AUTHORIZED BROKERS. The governing body of an entity subject to this subchapter or the designated investment committee of the entity shall, at least annually, review, revise, and adopt a list of qualified brokers that are authorized to engage in investment transactions with the entity.

Added by Acts 1997, 75th Leg., ch. 1421, Sec. 13, eff. Sept. 1, 1997.

Sec. 2256.026. STATUTORY COMPLIANCE. All investments made by entities must comply with this subchapter and all federal, state, and local statutes, rules, or regulations.

Added by Acts 1997, 75th Leg., ch. 1421, Sec. 13, eff. Sept. 1, 1997.

SUBCHAPTER B. MISCELLANEOUS PROVISIONS

Sec. 2256.051. ELECTRONIC FUNDS TRANSFER. Any local government may use electronic means to transfer or invest all funds collected or controlled by the local government.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.052. PRIVATE AUDITOR. Notwithstanding any other law, a state agency shall employ a private auditor if authorized by the legislative audit committee either on the committee's initiative or on request of the governing body of the agency.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995.

Sec. 2256.053. PAYMENT FOR SECURITIES PURCHASED BY STATE. The comptroller or the disbursing officer of an agency that has the power to invest assets directly may pay for authorized securities purchased from or through a member in good standing of the National Association of Securities Dealers or from or through a national or state bank on receiving an invoice from the seller of the securities showing that the securities have been purchased by the board or agency and that the amount to be paid for the securities is just, due, and unpaid. A purchase of securities may not be made at a price that exceeds the existing market value of the securities.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 8.67, eff. Sept. 1, 1997.

Sec. 2256.054. DELIVERY OF SECURITIES PURCHASED BY STATE. A security purchased under this chapter may be delivered to the comptroller, a bank, or the board or agency investing its funds. The delivery shall be made under normal and recognized practices in the securities and banking industries, including the book entry procedure of the Federal Reserve Bank.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 8.68, eff. Sept. 1, 1997.

Sec. 2256.055. DEPOSIT OF SECURITIES PURCHASED BY STATE. At the direction of the comptroller or the agency, a security purchased under this chapter may be deposited in trust with a bank or federal reserve bank or branch designated by the comptroller, whether in or outside the state. The deposit shall be held in the entity's name as evidenced by a trust receipt of the bank with which the securities are deposited.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995;
Acts 1997, 75th Leg., ch. 1423, Sec. 8.69, eff. Sept. 1, 1997.

Issue

Consider and/or act upon approval of an ordinance adopting the fiscal year 2011-2012 budget and appropriating funds to a sinking fund to pay interest and principal on the City's indebtedness, and appropriating funds to support the City of Murphy for the fiscal year beginning on October 1, 2011 and ending on September 30, 2012.

Background

The budget is adopted annually by the governing body of the City for revenues and expenditures of City funds. The City Charter requires the Council to adopt a budget for the next fiscal year at least ten days prior to the beginning of that fiscal year. The budget must be adopted prior to adoption of the tax rate. Several meetings were held with City Council to discuss and review the proposed budget. Two budget hearings were held on August 30th and September 6th for public input.

The following adjustments have been incorporated in the FY 2012 Budgets:

General Fund - \$1,600 for computer equipment was removed from capital in the Fire Department.

Utility Fund - \$69,400 was added to Water Distribution for the increase of required water purchases.

4A Economic Development Corporation – budget increased by \$73,700 by adding a full time employee with benefits and the remodel of offices for Economic Development.

4B Community Development Corporation – budget increased by \$732,000 for the purchase of capital outlay.

Financial Considerations

Adoption of the annual budget constitutes the proposed revenues and expenditures as approved by the governing body for the fiscal year.

THIS BUDGET WILL RAISE MORE TOTAL PROPERTY TAXES THAN LAST YEAR'S BUDGET BY \$268,998 OR 3.24%, AND OF THAT AMOUNT \$158,268 IS TAX REVENUE TO BE RAISED FROM NEW PROPERTY ADDED TO THE ROLL THIS YEAR.

Staff Recommendation

Staff recommends approval of the Ordinance adopting a budget for the 2011-2012 fiscal year.

Recommended Motion:

Motion to approve an ordinance adopting the budget for the fiscal year beginning October 1, 2011 and ending September 30, 2012 and making the appropriations as reflected in said budget.

Attachments

- 1) Consolidated Budget Summary
- 2) General Fund Summary
- 3) Utility Fund Summary
- 4) 4A Economic Development Corporation Fund Summary
- 5) 4B Community Development Corporation Fund Summary
- 6) Ordinance
- 7) Exhibit "A" attachment - budget

Linda Truitt, Finance Director
Submitted By

James Fisher, City Manager
City Manager Approval

**City of Murphy
Consolidated Budget Summary
FY 2012**

| | General Fund | Utility and Impact Funds | Special Revenue Funds | General Debt Service | Capital Projects | Total |
|------------------------------|----------------------|-----------------------------|-----------------------------|-------------------------|---------------------|----------------------|
| REVENUES: | | | | | | |
| Property Taxes | \$ 4,792,200 | | | \$ 3,846,000 | | \$ 8,638,200 |
| Franchise Taxes | 949,500 | | | | | 949,500 |
| Sales Tax Collections | 1,000,000 | | 1,000,000 | | | 2,000,000 |
| Charges for Current Services | | 6,458,500 | | | | 6,458,500 |
| Permits & Licenses | 570,900 | | | | | 570,900 |
| Court Revenue | 616,200 | | | | | 616,200 |
| Interest | 6,200 | 3,400 | 2,000 | 2,500 | 15,000 | 29,100 |
| Solid Waste | 824,600 | | | | | 824,600 |
| Other Revenue | 629,200 | 311,200 | | | 832,576 | 1,772,976 |
| Transfers In | 1,300,000 | | | | | 1,300,000 |
| Total Revenues | \$ 10,688,800 | \$ 6,773,100 | \$ 1,002,000 | \$ 3,848,500 | \$ 847,576 | \$ 23,159,976 |

| | General Fund | Utility and Impact Funds | Special Revenue Funds | General Debt Service | Capital Projects | Total |
|---------------------------|----------------------|-----------------------------|-----------------------------|-------------------------|----------------------|----------------------|
| EXPENDITURES: | | | | | | |
| General Government | \$ 2,753,300 | \$ 401,650 | \$ 1,466,080 | | | \$ 4,621,030 |
| Public Safety | 5,300,360 | | | | | 5,300,360 |
| Community Services | 421,030 | | | | | 421,030 |
| Public Works | 917,600 | 5,402,600 | | | 7,437,000 | 13,757,200 |
| Parks and Recreation | 1,174,060 | | | | 5,686,300 | 6,860,360 |
| Debt Service | | | | 3,974,600 | | 3,974,600 |
| Transfers Out | 450,000 | 850,000 | | | | 1,300,000 |
| Total Expenditures | \$ 11,016,350 | \$ 6,654,250 | \$ 1,466,080 | \$ 3,974,600 | \$ 13,123,300 | \$ 36,234,580 |

City of Murphy
FY 2012 Budget Summary

| | FY09 | FY10 | FY11 | FY12 |
|--|------------------|------------------|------------------|-------------------|
| General Fund | Actual | Actual | Projected | Requested |
| Beginning Fund Balance | 926,295 | 1,647,610 | 2,584,630 | 2,754,020 |
| Revenues | | | | |
| Total Property Taxes | 4,790,766 | 4,980,612 | 4,695,000 | 4,792,200 |
| Total Sales Tax | 795,139 | 873,012 | 905,000 | 1,000,000 |
| Total Franchise Tax | 809,385 | 702,436 | 831,500 | 949,500 |
| Total Permits & Licenses | 578,888 | 618,845 | 553,700 | 570,900 |
| Total Other Revenue | 539,557 | 632,382 | 561,200 | 635,400 |
| Total Court Revenue | 445,272 | 448,633 | 485,000 | 550,000 |
| Total Solid Waste | 738,486 | 785,000 | 817,100 | 824,600 |
| Total Revenues | 8,697,492 | 9,040,920 | 8,848,500 | 9,322,600 |
| Transfer from Utility Fund | 850,000 | 850,000 | 850,000 | 850,000 |
| Transfer from Reserves | | | | 450,000 |
| Total Other Sources | 850,000 | 850,000 | 850,000 | 1,300,000 |
| Revenues & Other Sources Less Expenditures & Other (Uses) | 9,547,492 | 9,890,920 | 9,698,500 | 10,622,600 |
| Category Expenses | | | | |
| Total Personnel Services | 5,714,245 | 5,470,459 | 5,729,600 | 6,201,950 |
| Total Materials & Supplies | 422,903 | 393,547 | 512,910 | 627,800 |
| Total Contractual Services | 2,476,036 | 2,558,589 | 2,814,300 | 3,027,250 |
| Total Capital Outlay | 123,888 | 476,492 | 472,300 | 654,150 |
| Transfer | - | 54,813 | - | |
| Total Expenses | 8,737,071 | 8,953,900 | 9,529,110 | 10,511,150 |

City of Murphy
FY 2012 Budget Summary

| General Fund | FY09 Actual | FY10 Actual | FY11 Projected | FY12 Requested |
|-------------------------------|------------------------|------------------------|---------------------------|---------------------------|
| Transfer Out | 89,106 | | | 450,000 |
| Revenues less Expenses | 721,315 | 937,020 | 169,390 | (338,550) |
| Ending Fund Balance | 1,647,610 | 2,584,630 | 2,754,019 | 2,415,470 |
| Departmental Expenses | | | | |
| Total Administration | 356,410 | 372,619 | 426,300 | 412,700 |
| Total Human Resources | 124,623 | 124,512 | 147,000 | 149,800 |
| Total Information Technology | 178,781 | 191,395 | 501,450 | 607,730 |
| Total City Council | 269,532 | 284,317 | 250,100 | 277,800 |
| Total City Secretary | 211,450 | 141,415 | 179,850 | 147,600 |
| Total Finance | 350,015 | 372,532 | 389,450 | 394,500 |
| Total Fire | 1,927,746 | 1,907,987 | 1,978,150 | 2,331,420 |
| Total Public Works | 223,039 | 209,800 | 238,200 | 246,400 |
| Total Facilities | 324,959 | 347,337 | 378,800 | 383,500 |
| Total Community Services | 487,534 | 440,354 | 475,550 | 421,030 |
| Total Police | 2,607,240 | 2,803,685 | 2,743,560 | 2,901,640 |
| Total Animal Control | 68,406 | 72,563 | 63,850 | 67,300 |
| Total Recreation | | | | 322,460 |
| Total Parks | 767,027 | 855,925 | 902,300 | 851,600 |
| Total Municipal Court | 231,020 | 205,178 | 204,550 | 324,470 |
| Total Solid Waste | 609,288 | 624,281 | 650,000 | 671,200 |
| Total Expenses | 8,737,071 | 8,953,900 | 9,529,110 | 10,511,150 |
| Reserves | | | | |
| Revenue Less Expenses | 810,421 | 937,020 | 169,390 | 111,450 |
| Transfer Out | 89,106 | | | 450,000 |
| Ending Fund Balance | 1,647,610 | 2,584,630 | 2,754,020 | 2,415,470 |

City of Murphy
FY2012 Proposed Budget Summary

| | FY09 Actual | FY10 Actual | FY11 Budget | FY11 Projected | FY12 Requested |
|---------------------------------------|------------------------|------------------------|------------------------|---------------------------|---------------------------|
| WATER/SEWER FUND REVENUES | | | | | |
| TOTAL OTHER REVENUE | 177,524 | 134,901 | 143,600 | 120,300 | 131,500 |
| TOTAL WATER REVENUE | 2,820,278 | 3,320,521 | 3,700,000 | 4,000,000 | 5,000,000 |
| TOTAL SEWER REVENUE | 1,790,323 | 1,330,500 | 1,500,000 | 1,300,000 | 1,330,000 |
| TOTAL REVENUES | 4,788,125 | 4,785,923 | 5,343,600 | 5,420,300 | 6,461,500 |
| EXPENSES | | | | | |
| TOTAL PERSONNEL SERVICES | 707,778 | 717,120 | 732,200 | 718,800 | 940,950 |
| TOTAL MATERIALS & SUPPLIES | 329,585 | 92,257 | 122,100 | 173,350 | 172,200 |
| TOTAL CONTRACTUAL SERVICES | 2,545,174 | 2,413,867 | 2,914,600 | 2,847,300 | 3,409,700 |
| TOTAL CAPITAL OUTLAY | 315 | 4,288 | 24,000 | 12,000 | 21,000 |
| TOTAL DEBT SERVICE | 16,204 | 657,724 | 657,600 | 658,300 | 661,100 |
| Total Water & Sewer Fund | 3,599,055 | 3,885,256 | 4,450,500 | 4,409,750 | 5,204,950 |
| Transfer to General Fund | 850,000 | 850,000 | 850,000 | 850,000 | 850,000 |
| Total Expenses & Transfers | 4,449,055 | 4,735,256 | 5,300,500 | 5,259,750 | 6,054,950 |
| Revenues less Expenses | 339,070 | 50,666 | 43,100 | 160,550 | 406,550 |
| DEPARTMENT | | | | | |
| TOTAL WATER DISTRIBUTION | 2,507,646 | 2,685,159 | 2,922,400 | 2,994,150 | 3,611,500 |
| TOTAL WASTEWATER COLLECTION | 717,922 | 860,850 | 1,133,300 | 1,054,650 | 1,191,800 |
| TOTAL CUSTOMER SERVICE | 373,488 | 339,247 | 394,800 | 360,950 | 401,650 |
| Total Department | 3,599,055 | 3,885,256 | 4,450,500 | 4,409,750 | 5,204,950 |
| Transfer to General Fund | 850,000 | 850,000 | 850,000 | 850,000 | 850,000 |
| Total Expenses | 4,449,055 | 4,735,256 | 5,300,500 | 5,259,750 | 6,054,950 |
| Revenues less Expenses | 339,070 | 50,666 | 43,100 | 160,550 | 406,550 |

**City of Murphy
FY2012 Proposed Budget**

| | FY09 Actual | FY10 Actual | FY11 Budget | FY11 Projected | FY12 Requested |
|--|------------------------|------------------------|------------------------|---------------------------|---------------------------|
| 32 -4 A SALES TAX REVENUES | | | | | |
| NON-PROPERTY TAXES | | | | | |
| 4000-4060-0000 4 A SALES TAX | 395,536 | 375,000 | 452,500 | 452,500 | 500,000 |
| TOTAL NON-PROPERTY TAXES | 395,536 | 375,000 | 452,500 | 452,500 | 500,000 |
| OTHER REVENUE | | | | | |
| 4000-4305-0000 INTEREST INCOME | 5,761 | 5,000 | 1,000 | 950 | 1,000 |
| TOTAL OTHER REVENUE | 5,761 | 5,000 | 1,000 | 950 | 1,000 |
| TOTAL REVENUES | 401,297 | 380,000 | 453,500 | 453,450 | 501,000 |
| PERSONNEL SERVICES | | | | | |
| 5000-1001-0000 SALARIES | 15,672 | 39,261 | 67,200 | 66,600 | 90,000 |
| 5000-1005-0000 OVERTIME | - | - | - | - | - |
| 5000-1007-0000 PART TIME | | | | | 20,000 |
| 5000-1006-0000 LONGEVITY | 16 | - | 50 | 50 | 50 |
| 5000-1009-0000 TMRS | 1,482 | 4,586 | 7,700 | 7,900 | 9,800 |
| 5000-1011-0000 SOCIAL SECURITY | 175 | 583 | 1,100 | 1,050 | 2,930 |
| 5000-1012-0000 GROUP INSURANCE | 2,718 | 3,916 | 13,500 | 10,200 | 18,500 |
| TOTAL PERSONNEL SERVICES | 20,063 | 48,346 | 89,550 | 85,800 | 141,280 |
| MATERIALS & SUPPLIES | | | | | |
| 5000-2101-0000 GENERAL OFFICE SUPPLIES | 96 | 246 | 500 | 500 | 500 |
| 5000-2102-0000 MAGAZINES/MAPS/BOOKS | 95 | - | - | - | 500 |
| 5000-2208-0000 PHOTOGRAPHIC SUPPLIES | - | - | - | - | - |
| 5000-2209-0000 UNIFORMS | 86 | 441 | 500 | 985 | 600 |
| 5000-2401-0000 MINOR TOOLS & EQPT. | - | 280 | 300 | 300 | 300 |
| 5000-2403-0000 COMPUTER HARD. & SOFT. | 43 | 1,784 | - | 1,575 | - |
| TOTAL MATERIALS & SUPPLIES | 320 | 2,752 | 1,300 | 3,360 | 1,900 |
| CONTRACTUAL SERVICES | | | | | |
| 5000-3101-0000 AUDITING AND ACCOUNTING | 1,000 | 1,000 | 1,200 | 1,200 | 1,200 |
| 5000-3102-0000 CONSULTANT SERVICES | 212 | 105 | 4,000 | 32,000 | - |
| 5000-3103-0000 LEGAL SERVICES | 6,982 | 10,818 | 5,000 | 5,000 | 10,000 |
| 5000-3111-0000 SOFTWARE MAINTENANCE | | | | 3,000 | |
| 5000-3199-0000 CONTRACT LABOR | - | - | - | - | - |
| 5000-3201-0000 TELEPHONE EXPENSES | - | - | - | - | - |
| 5000-3202-0000 POSTAGE & FREIGHT | 469 | 131 | 800 | 100 | 500 |
| 5000-3203-0000 TRAVEL AND TRAINING | 5,702 | 11,773 | 10,500 | 8,000 | 10,500 |
| 5000-3301-0000 AD. AND PUBLIC NOTICES | - | 381 | - | - | - |

**City of Murphy
FY2012 Proposed Budget**

| | FY09 Actual | FY10 Actual | FY11 Budget | FY11 Projected | FY12 Requested |
|--|------------------------|------------------------|------------------------|---------------------------|---------------------------|
| 5000-3302-0000 PRINTING AND BINDING | 2,503 | 219 | 3,100 | 3,100 | 3,500 |
| 5000-3405-0000 WORKERS COMPENSATION | 69 | 11 | 300 | 50 | 300 |
| 5000-3407-0000 UNEMPLOYMENT INS. | 5,096 | - | - | - | - |
| 5000-3601-0000 BLDG/STRUCTURE IMPVTS. | | | - | - | 8,000 |
| 5000-3703-0000 CELL/PAGERS/RADIOS | | | 1,800 | 900 | 300 |
| 5000-3901-0000 DUES & MEMBERSHIP | 100 | 885 | 1,000 | 1,000 | 1,000 |
| 5000-3910-0000 ADMINISTRATIVE COSTS | 25,000 | 25,000 | 25,000 | 25,000 | 25,000 |
| 5000-3995-0000 INCENTIVES | 64,955 | - | 200,000 | 110,000 | 200,000 |
| 5000-3996-0000 MURPHY MARKETPLACE INC | - | - | - | - | - |
| 5000-3998-0000 UNEXPENDED PROMOTIONAL EX | - | 15,512 | - | - | - |
| 5000-3999-0000 PROMOTIONAL EXPENSE | 74,840 | 42,043 | 45,300 | 45,300 | 50,000 |
| TOTAL CONTRACTUAL SERVICES | 186,928 | 107,879 | 298,000 | 234,650 | 310,300 |
| CAPITAL OUTLAY | | | | | |
| 5000-4205-00000 STREET IMPROVEMENTS | 450,000.00 | - | - | - | - |
| 5000-4390-0000 COMPUTER HARDWARE | - | - | 1,000 | 900 | 3,000 |
| 5000-XXXX-0000 MAXWELL CREEK ROAD | - | - | - | - | - |
| TOTAL CAPITAL OUTLAY | 450,000 | - | 1,000 | 900 | 3,000 |
| TOTAL 32-4 A SALES TAX | 657,311 | 158,976 | 389,850 | 324,710 | 456,480 |
| REVENUE OVER/(UNDER) EXPENDITURES | (256,013) | 221,024 | 63,650 | 128,740 | 44,520 |
| BEGINNING FUND BALANCE 10-01 | 661,027 | 405,013 | 626,037 | 626,037 | 754,777 |
| ENDING FUND BALANCE 09-30 | 405,013 | 626,037 | 689,687 | 754,777 | 799,297 |

City of Murphy
Proposed FY 2012 Budget

| | FY09 Actual | FY10 Actual | FY11 Budget | FY11 Projected | FY12 Requested |
|--|------------------------|------------------------|------------------------|---------------------------|---------------------------|
| 34 -4 B SALES TAX FUND | | | | | |
| REVENUES | | | | | |
| NON-PROPERTY TAXES | | | | | |
| 4000-4060-0000 4 B SALES TAX | 395,536 | 432,080 | 452,500 | 452,500 | 500,000 |
| TOTAL NON-PROPERTY TAXES | 395,536 | 432,080 | 452,500 | 452,500 | 500,000 |
| OTHER REVENUE | | | | | |
| 4000-4305-0000 INTEREST INCOME | 6,504 | 1,509 | 1,500 | 1,300 | 1,000 |
| TOTAL OTHER REVENUE | 6,504 | 1,509 | 1,500 | 1,300 | 1,000 |
| TOTAL REVENUES | 402,039 | 433,589 | 454,000 | 453,800 | 501,000 |
| 34 -4 B SALES TAX FUND | | | | | |
| PERSONNEL SERVICES | | | | | |
| 5000-1001-0000 SALARIES | 23,703 | 31,026 | 45,500 | 39,760 | 45,000 |
| 5000-1005-0000 OVERTIME | 974 | - | - | 200 | 1,000 |
| 5000-1006-0000 LONGEVITY | 32 | 16 | 100 | 50 | 100 |
| 5000-1009-0000 TMRS | 2,137 | 3,227 | 5,200 | 4,506 | 5,000 |
| 5000-1011-0000 SOCIAL SECURITY | 309 | 397 | 800 | 577 | 700 |
| 5000-1012-0000 GROUP INSURANCE | 4,626 | 4,997 | 11,100 | 7,850 | 6,600 |
| TOTAL PERSONNEL SERVICES | 31,780 | 39,663 | 62,700 | 52,944 | 58,400 |
| MATERIALS & SUPPLIES | | | | | |
| 5000-2101-0000 GENERAL OFFICE SUPPLIES | 109 | - | 500 | 500 | 500 |
| 5000-2102-0000 MAGAZINES/MAPS/BOOKS | 95 | - | 200 | - | 200 |
| 5000-2209-0000 UNIFORMS | - | - | 750 | 100 | 800 |
| 5000-2401-0000 MINOR TOOLS & EQPT. | - | - | - | - | - |
| 5000-2403-0000 COMPUTER HARD. & SOFT | 875 | - | - | - | - |
| TOTAL MATERIALS & SUPPLIES | 1,078 | - | 1,450 | 600 | 1,500 |
| CONTRACTUAL SERVICES | | | | | |
| 5000-3101-0000 AUDITING AND ACCOUNTING | 1,000 | 1,000 | 1,500 | 1,200 | 1,500 |
| 5000-3102-0000 CONSULTANT SERVICES | 150 | 725 | 10,000 | - | - |
| 5000-3102-1160 CONSULTANT - MUNICIPAL COMP | | 12,000 | | | |
| 5000-3103-0000 LEGAL SERVICES | 3,155 | 752 | 1,000 | 100 | 1,000 |
| 5000-3112-0000 ISSUANCE COSTS | | | | 32,000 | |
| 5000-3199-0000 CONTRACT LABOR | - | - | - | - | - |
| 5000-3201-0000 TELEPHONE EXPENSES | - | - | - | - | - |
| 5000-3202-0000 POSTAGE & FREIGHT | 806 | - | 100 | - | 100 |

City of Murphy
Proposed FY 2012 Budget

| | FY09 Actual | FY10 Actual | FY11 Budget | FY11 Projected | FY12 Requested |
|--|------------------------|------------------------|------------------------|---------------------------|---------------------------|
| 5000-3203-0000 TRAVEL AND TRAINING | 4,744 | 1,785 | 8,000 | 3,000 | 5,000 |
| 5000-3301-0000 AD. AND PUBLIC NOTICES | 503 | 579 | 500 | - | 1,000 |
| 5000-3302-0000 PRINTING AND BINDING | 1,128 | - | 200 | - | 200 |
| 5000-3405-0000 WORKERS COMPENSATION | 83 | 12 | 200 | 100 | 200 |
| 5000-3407-0000 UNEMPLOYMENT INS | 5,292 | - | - | - | - |
| 5000-3703-0000 CELL/PAGERS/RADIOS | | 313 | 500 | 1,100 | 300 |
| 5000-3901-0000 DUES & MEMBERSHIP | 50 | 950 | 1,200 | 1,100 | 1,200 |
| 5000-3910-0000 ADMINISTRATIVE COSTS | 25,000 | 25,000 | 25,000 | 25,000 | 25,000 |
| 5000-3996-0000 MURPHY MARKETPLACE INC | - | - | - | - | - |
| 5000-3998-0000 UNEXPENDED PROMOTIONAL EX | - | - | - | - | - |
| 5000-3999-0000 PROMOTIONAL EXPENSE | 79,009 | 87,490 | 45,250 | 55,150 | 50,000 |
| TOTAL CONTRACTUAL SERVICES | 120,920 | 130,605 | 93,450 | 118,750 | 85,500 |
| CAPITAL OUTLAY | | | | | |
| 5000-4305-0000 SPECIAL EQUIPMENT | 106,949 | 29,215 | 65,000 | 65,000 | 182,000 |
| 5000-4305-5000 SPECIAL EQUIPMENT - ATHLECTIC | | - | | 1,700 | - |
| 5000-4308-0000 RECREATION EQPT. | | 3,098 | | | - |
| 5000-4390-0000 COMPUTER HARDWARE | | - | 2,500 | 1,000 | - |
| 5000-4601-0000 FM 544 MEDIAN PROJECT | 10,647 | - | | | - |
| 5000-4601-1017 GABLES PARK | 301,000 | - | | | - |
| 5000-4601-1400 COMMUNITY CENTER | | - | 500,000 | 101,200 | 250,000 |
| 5000-4601-1XXX MUNICIPAL COMPLEX PARK | | | | | 300,000 |
| TOTAL CAPITAL OUTLAY | 418,596 | 32,313 | 567,500 | 168,900 | 732,000 |
| DEBT SERVICE | | | | | |
| 5000-5001-0000 PRINCIPAL | | | | | 120,000 |
| 5000-5002-0000 INTEREST | | | | 8,900 | 12,200 |
| TOTAL DEBT SERVICE | | | | 8,900 | 132,200 |
| TOTAL EXPENDITURES | 572,375 | 202,581 | 725,100 | 350,094 | 1,009,600 |
| REVENUE & OTHER SOURCES OVER/ (UNDER) EXPENDITURES & OTHER (USES) | (170,335) | 231,009 | (271,100) | 103,706 | (508,600) |
| BEGINNING FUND BALANCE 10-01 | 740,133 | 569,798 | 800,807 | 800,807 | 904,513 |
| ENDING FUND BALANCE 09-30 | 569,798 | 800,807 | 529,707 | 904,513 | 395,913 |

ORDINANCE NO. _____

AN ORDINANCE MAKING APPROPRIATIONS FOR THE SUPPORT OF THE CITY OF MURPHY, TEXAS, FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2011, AND ENDING SEPTEMBER 30, 2012; APPROPRIATING MONEY TO A SINKING FUND TO PAY INTEREST AND PRINCIPAL ON THE CITY'S INDEBTEDNESS; AND ADOPTING THE ANNUAL BUDGET OF THE CITY OF MURPHY, TEXAS, FOR THE 2011-2012 FISCAL YEAR.

WHEREAS, an annual budget for the fiscal year beginning October 1, 2011 and ending September 30, 2012 has been duly created by the City Manager of the City of Murphy, Texas, in accordance with sections 102.002 and 102.003 of the Local Government Code; and

WHEREAS, the budget officer for the City of Murphy filed the proposed budget, attached as *Exhibit A*, in the office of the City Secretary on or before August 9, 2011 and the proposed budget was made available for public inspection by the taxpayers in accordance with section 102.005(b) of the Local Government Code; and

WHEREAS, section 7.05 of the City of Murphy Home-Rule Charter requires the Public Hearing on the Budget be published at least once in the official newspaper of the City, and on the official City website; and

WHEREAS, the budget, attached as *Exhibit A*, for the fiscal year beginning October 1, 2011, and ending September 30, 2012, was duly presented to the City Council by the City Manager and two Public Hearings were ordered by the City Council and a Public Notice of said hearings was caused to be given by the City Council and said notice was published in the Murphy Monitor and the Dallas Morning News and said Public Hearings were held according to said notice; and

WHEREAS, a public hearing was held by the Murphy City Council on August 30, 2011 and September 6, 2011 in accordance with section 102.006 of the Local Government Code and section 7.05 of the City of Murphy Home-Rule Charter at which time all citizens and parties of interest were given the opportunity to be heard regarding the proposed 2011-2012 fiscal year budget.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MURPHY, TEXAS, THAT:

Section 1: That all of the above premises are found to be true and correct and are incorporated into the body of this Ordinance as if copied in their entirety.

Section 2: That the appropriations for the fiscal year beginning October 1, 2011, and ending September 30, 2012, for the, support of the General Debt Services of the City of Murphy, Texas, expenditures shown in the City's fiscal year 2011-2012 budget, a copy of which is

attached hereto as *Exhibit A*.

Section 3: That the budget, as shown in words and figures in *Exhibit A*, and the City's pay plan are hereby approved in all respects and the budget is adopted at the departmental level as the City's budget for the fiscal year beginning October 1, 2011, and ending September 30, 2012.

Section 4: That there is appropriated the amount shown in said budget necessary to provide for a sinking fund for the payment of the principal and interest and the retirement of the bonded debt.

Section 5: That this Ordinance shall take effect and be enforced from and after its passage.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Murphy, Texas, on this 20th day of September, 2011.

Bret Baldwin, Mayor
City of Murphy

ATTEST:

Aimee Nemer, City Secretary
City of Murphy

APPROVED AS TO FORM AND LEGALITY:

Wm. Andrew Messer, City Attorney

EXHIBIT A

Issue

Consider and/or act upon ratifying the property tax revenue increase reflected in the 2011-2012 fiscal year budget.

Background

The budget is adopted annually by the governing body of the City of Murphy for revenues and expenditures of City funds. Legislation requires two votes by the City Council when the budget will raise more property tax revenue than was generated in the previous year. The first vote is to adopt a budget. The second vote by the City Council is to ratify the property tax revenue increase reflected in the budget.

Adoption of the annual budget constitutes the proposed revenues and expenditures as approved by the governing body for the fiscal year.

Financial Considerations

THIS BUDGET WILL RAISE MORE TOTAL PROPERTY TAXES THAN LAST YEAR'S BUDGET BY \$268,998 OR 3.24%, AND OF THAT AMOUNT \$158,268 IS TAX REVENUE TO BE RAISED FROM NEW PROPERTY ADDED TO THE ROLL THIS YEAR.

Staff Recommendation

Staff recommends that City Council ratify the property tax revenue increase reflected in the 2011-2012 fiscal year budget.

Recommended Motion:

Motion to approve ratifying the property tax revenue increase reflected in the budget for the 2011-2012 fiscal year.

Linda Truitt, Finance Director
Submitted By

James Fisher, City Manager
City Manager Approval

Issue

Consider and/or act upon approval of an ordinance levying ad valorem taxes for use and support of the municipal government of the City of Murphy for the fiscal year beginning October 1, 2011 and ending September 30, 2012.

Background

The property tax rate must be approved and adopted by the governing body of the City by September 30, 2011. The Collin County Tax Office collects the property taxes for the City and has requested the adopted tax rate by September 19, 2011 in order to mail tax statements in October. However, the County has extended the date to September 21st.

Financial Considerations

Property taxes fund the debt service obligations of the City and account for a large portion of the general fund revenue.

Staff Recommendation

Staff recommends approval of the Ordinance adopting a tax rate of \$0.572500 per \$100 valuation for the 2011-2012 fiscal year.

Recommended Motion:

I move that the property tax rate be increased by the adoption of a tax rate of \$0.572500, which is effectively a 1.74 percent increase in the tax rate, and to approve an ordinance fixing and levying municipal ad valorem taxes for the fiscal year beginning October 1, 2011 and ending on September 30, 2012, and for each fiscal year thereafter until otherwise provided.

Attachments

- 1) Ordinance

Linda Truitt, Finance Director
Submitted By

James Fisher, City Manager
City Manager Approval

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MURPHY, TEXAS, LEVYING AD VALOREM TAXES FOR USE AND SUPPORT OF THE MUNICIPAL GOVERNMENT OF THE CITY OF MURPHY, TEXAS FOR THE 2011-2012 FISCAL YEAR; PROVIDING FOR APPORTIONING EACH LEVY AND SPECIFIC PURPOSES; PROVIDING WHEN TAXES SHALL BECOME DUE AND WHEN SAME SHALL BECOME DELINQUENT IF NOT PAID.

WHEREAS, Section 26.05 of the Texas Tax Code requires that the City of Murphy, Texas, adopt a tax rate for the next fiscal year by September 30, 2011; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MURPHY, TEXAS, THAT:

Section 1: That there is hereby levied and there shall be collected for the use and support of the municipal government of the City of Murphy for the 2011-2012 fiscal year, upon all property, real, personal and mixed, within the corporate limits of said City subject to taxation, a tax of **\$0.572500** on each \$100 valuation of property, said tax being so levied and apportioned to the specific purposes here set forth:

- a. For the maintenance and support of the General Government (General Fund) for the fiscal year 2011-2012, **\$0.317493** on each \$100 valuation of property. **THIS TAX RATE WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE. THE TAX RATE WILL EFFECTIVELY BE RAISED BY 0.41 PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A \$100,000 HOME BY APPROXIMATELY \$0.05.**
- b. For debt services for the fiscal year 2011-2012, **\$0.255007** on each \$100 valuation of property. **THIS TAX RATE WILL RAISE TAXES FOR DEBT SERVICE MORE THAN LAST YEAR'S TAX RATE. THE TAX RATE WILL INCREASE THE TAXES PAID FOR DEBT SERVICE ON A \$100,000 HOME BY APPROXIMATELY \$7.45.**

Section 2: That taxes levied under this ordinance shall be due October 1, 2011, and if not paid on or before January 31, 2012, shall immediately become delinquent.

Section 3: All taxes shall become a lien upon the property against which assessed, and the City Tax Collector, or designee, of the City of Murphy, is hereby authorized and empowered to enforce the collection of such taxes according to the Constitution and laws of the State of Texas and Ordinances of the City of Murphy, Texas. Shall, by virtue of the tax rolls, fix

and establish a lien by levying upon such property, whether real or personal, for the payment of said taxes, penalty and interest and the interest and penalty collected from such delinquent taxes shall be apportioned to the General Fund of the City of Murphy. All delinquent taxes shall bear interest from date of delinquency at the rate as prescribed by State Law.

Section 4: That the City Manager or his designee shall put the following notice on the homepage of the City's Internet website:

There is hereby levied and there shall be collected for the use and support of the municipal government of the City of Murphy for the 2011-2012 fiscal year, upon all property, real, personal and mixed, within the corporate limits of said City subject to taxation, a tax of **\$0. 572500** on each \$100 valuation of property, said tax being so levied and apportioned to the specific purposes here set forth:

“City of Murphy ADOPTED A TAX RATE THAT WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR’S TAX RATE. THE TAX RATE WILL EFFECTIVELY BE RAISED BY 0.41 PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPEATIONS ON A \$100,000 HOME BY APPROXIMATELY \$0.05.”

“IN ADDITION, THE CITY OF MURPHY, TEXAS ADOPTED A TAX RATE OF \$0.255007 THAT WILL RAISE MORE TAXES FOR DEBT SERVICE THAN LAST YEAR’S TAX RATE. THE TAX RATE WILL INCREASE THE TAXES PAID FOR DEBT SERVICE ON A \$100,000 HOME BY APPROXIMATELY \$7.45.”

Section 5: That this Ordinance shall take effect and be enforced from and after its passage.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Murphy, Texas, on this 20th day of September, 2011.

Bret M. Baldwin, Mayor
City of Murphy

ATTEST:

Aimee Nemer, City Secretary
City of Murphy

APPROVED AS TO FORM AND LEGALITY:

Wm. Andrew Messer, City Attorney

Issue

Consider and/or act upon authorizing the City Manager to enter into an agreement with Emergicon, LLC for the provision of Emergency Medical Services (EMS) billing services; and, for the purchase of ESO Solutions for an electronic patient care reporting system.

Background

The current contract was with Southwest General Services, Inc (SGS). which is a company that is no longer in business. All assets were assigned to Municipal Computing Services (MCS). This transfer of assets was not with the permission of the City of Murphy as required in the contractual agreement. The current vendor has absorbed many of the employees from the previous firm yet the principals have changed.

The current contract provides 12.5% of funds collected to the billing company. In return, we receive the use of two toughbook computers for electronic Patient Care Reporting (ePCR). The vendor provides the maintenance on these computers and the software use. The City of Murphy does not own any licenses for the use of the software.

The current signed contract with SGS would have expired on September 30, 2011. The asset holder, MCS, has made no contact to renegotiate the contract; nor has the City of Murphy expressed a desire to renew the contract due to unfamiliarity with the new company. The city has confirmed that some of the former SGS employees now work for MCS. The web site for the new vendor seems to be under construction so information is minimal. That web site is www.MunicipalComputing.com for your reference.

Murphy Fire Rescue looked at some other EMS billing agencies such as Digitech. This agency is the successful bidder for the City of Plano EMS billing services. In conversations with Digitech, they felt that the transport volume that Murphy has would not be sufficient enough income for their company. The ROI was not high enough.

Fire Departments that had previously been with Intermedix were contacted as to the reasons that they left. They relayed that the data collection with Intermedix was mainly for billing purposes and not for data analysis. Murphy Fire Rescue is looking for a data collection system that easily allows analysis of that data collected first and foremost; and, one that the billing agency can use, too.

Emergicon seems to have an interest in maximizing collectables for the City of Murphy through following not only the quick payment monies, but also paying attention to the accounts and maximizing the hard to collect monies as well. Their company procedures for ambulance billing leads to greater successful collections. Attention to detail and familiarity with Texas Insurance laws are what allows Emergicon to realize the higher collection rates.

Financial Considerations

The City of Murphy would receive billing services at the rate of 5% of funds collected. The City would become responsible for the purchase of a different ePCR package from ESO Solutions at a cost of \$14,068 (CAD interface in FY2012 budget).

In FY 2010 – 2011 through the end of July, the city has paid SGS / MCS 12.5% of \$131,230.06 for a total payment of \$16,404. At 5% the City would have paid \$6,562 for a savings of \$9,842 for the period of October 2010 – July 2011. When data from October 2009 – September 2010 the realized savings comparison is as follows:

| | |
|-------------------------------------|--------------|
| Collected for City of Murphy by SGS | \$167,344.44 |
| 12.5% Commission Paid to SGS | \$20,918.06 |
| 5% for Comparison | \$8,367.22 |
| Savings on Collectibles | \$12,550.84 |

The current fee schedule will be looked at in the winter months to insure compliance with federal law. Any adjustments required will be brought to council as soon as possible.

Other Considerations

Should the council make a decision to approve this item as presented, the Murphy Fire Rescue Department will proceed to obtain an interface for the ePCR to our Computer Aided Dispatch system as budgeted in the FY2012 proposed budget.

Other cities using Emergicon, LLC for EMS billing services for a period greater than 12 months are:

- The Colony
- Little Elm
- Flower Mound
- Mansfield
- Lewisville (for aging accounts only)

Board/Staff Recommendation

Staff recommends authorizing the City Manager to enter into a contract agreement with Emergicon, LLC for the provision of Emergency Medical Services (EMS) billing services; and, for the purchase of ESO Solutions for an electronic patient care reporting system.

Attachments

- 1) Emergicon Proposal
- 2) Emergicon Service Agreement
- 3) ESO Subscription
- 4) ESO Quote for Services

Mark Lee, Fire Chief
Submitted By

James Fisher, City Manager
City Manager Approval



9 September 2011

Mark Lee
Fire Chief
City of Murphy
206 N. Murphy Road
Murphy, Texas 75094

RE: Emergicon EMS Billing and Collection Services

Dear Chief Lee,

It is a pleasure to present to the City of Murphy a proposal for EMS Billing and Collection Services. Emergicon is the best choice for the City of Murphy as we have been for many North Texas cities. Emergicon was founded specifically to assist municipal based EMS providers improve their collections, understand their exposure through legal compliance and provide exceptional customer service. Emergicon serves as more than a billing contractor to our clients by partnering with each of them in managing their EMS billing. Emergicon focuses on documentation, compliance, changes in the law and payor relationships to manage what is often misidentified as a simple billing role. Emergicon's clients continue to be our best selling tool to new clients by reinforcing our commitment to the highest level of service and record cash collections.

Emergicon is compliant with all Federal, State and local laws and regulations as they apply to the services that Emergicon offers. This includes the Health Insurance Portability and Accountability Act of 1996 and the Identity Theft Red Flags and Address Discrepancies under the Fair and Accurate Credit Transaction Act of 2003.

I appreciate your time and consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chris Turner", with a horizontal line extending to the right.

Christopher Turner
President & CEO
Emergicon, L.L.C.



A. Introduction

Emergicon is pleased to propose EMS Billing and Collection Services to the City of Murphy. We understand Murphy is interested in contracting with a billing agency that can provide a full billing solution that maximizes collections with excellent customer service, while maintaining compliance with all federal, state and local laws. Our client references are our best asset and we encourage potential clients to speak with them.

Christopher Turner, MHA, formed Emergicon in 2006. Prior to founding Emergicon, Christopher Turner was the Chief Financial Officer for CareFlite. While at CareFlite, Christopher increased cash collection by more than \$6 Million by restructuring the entire billing process, implementing an ePCR solution and performing ongoing CQI on patient billing. Christopher has additional experience in emergency medicine having been a director at EmCare and UnitedHealthCare. Christopher has hired staff that have EMS operational as well as EMS billing backgrounds. With a combined thirty-five years as EMS Provider and managers of EMS provider-based billing, Emergicon management has experience that cannot be duplicated. It is this professional experience and the learned ability to apply the clinical disciplines such as CQI and peer review to EMS billing that lead to the creation and success of Emergicon.

Since our inception in 2006, Emergicon has built our reputation on three things: record cash collections for our clients, compliant EMS billing and excellent customer service. Emergicon achieves record cash collections by a combination of EMS billing experience with attention to detail on claims processing and a process of continuous quality improvement we call Claims Recovery. Claims recovery also allows us to continually monitor ourselves, trend data and offer recurrent training. Emergicon also provides routine feedback to our clients regarding individual claims, changes in the law or other issues as they arise. Emergicon only serves clients in Texas as this allows us to offer the best possible local service.

Emergicon has performed consulting work for numerous EMS agencies to review their billing service provider and the associated billing and reimbursement process. Each time one of the key findings hampering reimbursement is the lack of claim follow up. The primary problem with a lack of claim follow up is that the patient becomes the default payor. The patient is the last place a billing service should look for money and mistakenly doing so leads to a host of problems. Politically, asking patients or residents for money is unpopular, Medicaid patients cannot be balance billed by law and Medicare claims that are improperly filed and denied pose a compliance risk. Emergicon has numerous success stories where we have brought patients back from collections and gotten their claims paid by both governmental and non-governmental payors.



B. Billing Process Overview

Compliant Patient Billing

The way to achieve maximum reimbursement while staying compliant with all federal and state laws is to employ the process that Emergicon recommends in this RFP. Emergicon couples Billing Services with a Claims Recovery CQI process that revisits claims multiple times. Ninety percent of all EMS claims are filed correctly and paid the first time. It is the remaining ten percent of claims that require additional work related to secondary filings, accident details, proper payor information that raises reimbursement and avoids filing the claim improperly.

Lack of payor identification is one of the primary reasons that claims are mishandled or denied. Emergicon's resources enable up front payor identification resulting in faster claims processing, minimal patient intrusion (thus avoiding undue burdens on the citizens) and most importantly fast claims payment. Emergicon offers a more personalized approach to payor research avoiding common errors leading to incorrect patient identification that occur by using software specific insurance verification searches.

There are two mistakes made by billing services that put their clients at risk: 1) Not maintaining ongoing compliance (Medicare is federal law, not an insurance plan) and 2) Accepting just the "low hanging fruit".

1. ***Medicare is federal law***, not insurance. Emergicon utilizes ongoing training, certification and an internal process of review to focus on compliance. This is coupled with a formal QI process administered by our Billing Manager. Emergicon provides recurrent training to our staff, written feedback to our clients and offers documentation training focusing on compliance and changes in the law. Emergicon routinely sends our staff to training at ABC3, TAA and Zoll's Summit to further their education. Further, Emergicon is in process to certify each of our billers as a Certified Ambulance Coder through the National Academy of Ambulance Coding. Lastly, Emergicon is working with the premier legal firm in the country to establish an ongoing annual process of review.
2. ***Accepting just the "low hanging fruit"***. Most national billing companies rely on volume of claims processed. Unfortunately, this tactic puts the City at risk for non-compliant billing and patient complaints. The only way to bill EMS effectively is the way EMS functions in the field – one patient at a time triaged, treated and transported. In the case of EMS billing the claim is reviewed, coded and billed and then followed up upon.

Emergicon has numerous examples where our competitors rely on volume, rather than quality of billing to earn their commission. Hundreds of claims identified as "Unknown", hospitals sent bills addressed to "Charity Care" and lapsed provider enrollment. These are unacceptable business practices, but far too common for larger, national billing contractors.



Allowable Reimbursement

Emergicon reviews and updates our systems with any changes to the Medicare and Medicaid fee schedule annually or when legislation changes the rates. Further, Emergicon monitors private insurance companies for changes in payment adjudication that could positively or negatively affect the City. Emergicon will provide recommendations to the City regarding the City's fee schedule to maximize reimbursement. Typically, this is done during RFP award or annually during the City's budget period, but can be done at any time.

HIPAA Compliance

Emergicon meets all the mandated HIPAA guidelines for Protected Health Information (PHI) and security. Emergicon utilizes Zoll's RescueNet Billing product to send HIPAA compliant (ANSI X12) electronic transactions, translate HIPAA defined denial codes, track HIPAA compliance for each patient account and run reports to monitor HIPAA logs. Further, Emergicon has a full time staff to handle all requests for medical records on the City's behalf.

Billing process workflow

Emergicon uses an approach to billing claims that focuses on accuracy the first time the bill is sent and systematic follow-up. Accuracy is a key component of good billing, from documentation in the field, to capturing the correct Medicare number, to coding and billing. Emergicon is routinely engaged to perform analysis of other billing companies, which has allowed us to further identify potential weaknesses in the billing process. As a result of experience and ongoing analysis, Emergicon has what we can prove to be the very best billing process that maximizes collections. Emergicon proposes to bill for the City of Murphy EMS all known payors, including Medicare, Medicaid, Commercial Insurance, Auto Insurance, Workers Compensation and Attorney pays.

Step One: The Emergicon billing process begins immediately after runs are imported by Emergicon personnel from the City's ePCR system (ESO Solutions as part of this RFP response). Emergicon's Zoll Data RescueNet time and dates stamps any records and then imports the claims into our systems. All date is verified and compared to any patient log for the day.

Step Two: Face sheets, payor information, demographics or other missing data is requested from the receiving facility by fax or mail depending on the preferred method of the receiving facility. If information is not received within 24 hours an Emergicon staff member calls the facility. If information is not received within 48 hours, the request is resent and an Emergicon staff member calls the facility.

Step Three: Each claim is reviewed, coded and billed electronically through the Availity clearinghouse. The only claims not billed electronically are Medicaid, which are billed via the internet directly to Medicaid which provides reimbursement on the claims the following check cycle which is one week, reducing risks of denials and getting immediate payment status. Every



week, a report is sent to the City for all accounts billed including the run number, run date, patient name, insurer and gross charges.

Step Four: Follow-up and claim analysis

Medicare: Clean Medicare claims will pay by electronic remit in fourteen days. On the fifteenth day, any unpaid Medicare claim is reviewed and compared to other claims sent in the same batch. Medicare is called and the status of the claim is obtained and the claim is appealed or refiled as necessary. A Medicare co-pay statement is issued to patients for their 20% patient responsibility.

Commercial Insurance: Commercial insurance claims typically take thirty-five to forty-five days to pay. Proper claim submission is confirmed as part of the electronic billing process. If forty days have passed with no payment an Emergicon staff member calls the commercial payor and status of the claim is checked. If the claim is still processing, an Emergicon staff will talk to a live person at the insurance company. Emergicon staff have the experience in communicating with commercial insurance carriers to decrease delays in payment from them. Texas Department of Insurance regulations cite specific claims processing rules which, if not met is punishable by fines and restitution by insurance carriers. Emergicon's staff skills, experience and attention to detail enables reduction in claims waiting to pay and ensure prompt pay laws are followed, thus increasing cash flow exponentially.

Medicaid: Emergicon's process of filing Medicaid claims online immediately giving a paid or denied status prevents these claims from sitting on an A/R, which increases risk for filing and appeal deadlines. If a claim is filed online and a denied status is received, the claim can be immediately appealed online or the following Friday when the remit is available.

Private Pay: Private pay patients are sent a Private Pay statement within five days of the date of transport requesting insurance information and notifying of the balance due.

Step Five: Claim payments, explanation of benefits and remittance advices are reviewed daily from the lockbox. Claims are reviewed for denials, low pays and no pays. Medicare and Medicaid pay from the approved federal and state schedules. As payments are posted the contractual allowance (the difference between the charge and the allowable amount per federal law) is posted for Medicare and Medicaid accounts. The patient will have received an Explanation of Benefits by the time the letter is received and understand their obligation for payment.

A common mistake made by billing companies is to accept payment by commercial insurers and post the difference between the charge and the payment, less any co-pay, to contractual allowance as is done with Medicare and Medicaid. At Emergicon, low pays are identified as less than 100% of charges by commercial insurance. Low pays and no pays are follow-up by phone with the commercial insurance payor and appealed over the phone. This often results in a second



payment in fourteen days from the patient's insurance, thereby reducing the burden on the patient.

All denied claims are routed to Emergicon's Billing Manager. The Billing Manager reviews the denials, makes notations and visit with the biller on why the claim was denied. This process allows for ongoing education, tracking of denials by biller and denial code (reason) and changes in payor methodology. It is common to see payors adjust not only the products sold in insurance, by the way claims are adjudicate as well in an effort to reduce payments of claims, particularly to non-contracted (City) providers.

C. Collection and Customer Services Processes

Once an account is identified as Private Pay, Emergicon begins a thorough and effective process to bill the patient. Before a statement is mailed, the patient's address is verified through a skip-tracing database. Emergicon uses a series of statements and phone calls to reach the patient for payment. If Emergicon determines that the patient cannot pay their balance in one lump sum, monthly payment arrangements are made (according to the City's fiscal policy).

Collection process workflow

Step One: As soon as a patient is identified as Private Pay, Emergicon sends a Private Pay statement or calls the patient requesting insurance information. For patients owing only deductibles or co-pays, Emergicon sends a Patient Responsibility statement once primary payment is received.

Step Two: If no contact is made between Emergicon and the patient within thirty days, another statement is sent citing a lack of response for thirty days. During this time, skip tracing can be initiated for patients with invalid contact information. If at any point, insurance information is received from the patient, Emergicon bills the patient's insurance with the new information.

Step Three: Assuming no contact from the patient has been made after another thirty days, a sixty day past due statement is sent citing lack of response and requesting payment. During this time, skip tracing can be initiated for patients with invalid contact information.

Step Four: A final statement is sent ninety days from the date of transport demanding contact or payment in fifteen days. After fifteen days has been exhausted, a full 120 days has passed from the date of transport.

Step Five: For accounts that have not been paid or a payment plan established, the account can be placed with the City of Murphy's third party collections contractor.

Third Party Collections



Emergicon will gladly work with any third party collection agency of the City's choosing. Emergicon is able to transmit data to the third party collection agency of the City's choosing in a variety of electronic formats, including .xls, .xml, .csv, .dat, etc. Emergicon recommends quarterly write-offs to collections, but will prepare the write-off reports as often as monthly.

Client Services

Patients are offered multiple options to contact Emergicon. Emergicon provides two convenient phone numbers – 1-877-902-2060 and 972-602-2060 as well as an e-mail address billing@emergicon.net for patients. Customer Service Representatives are available 8:00am to 6:00pm to assist patients. Emergicon willingly accepts debit and credit card payment from patients to facilitate prompt payment. Further, Emergicon is working on an online payment portal for patients to make online payments and view their account and anticipates this to be complete by late 2011. Emergicon does not pass the cost of credit card processing onto the City of Murphy. Lastly, Emergicon will gladly work with any walk-in payment locations of the City's choosing.

D. References

City of Cedar Hill

EMS Chief – Kevin Cunningham
1212 W. Beltline Road
Cedar Hill, Tx 75104
979-291-1011 Phone
Kevin.cunningham@cedarhilltx.com

Town of Flower Mound

EMS Chief – Kevin Trimble
3838 Forums Drive
Flower Mound, Tx 75028
972-822-0397 Phone
kevin.trimble@flower-mound.com

City of Mansfield

Assistant Chief - Eric Peterson
1305 E. Broad Street
Mansfield, Tx 76063
817-276-4790 Phone
Eric.peterson@mansfield-tx.gov

City of Carrollton

Division Manager - Norma Miller
1945 E. Jackson Road
Carrollton, Tx 75006
972-466-3535 Phone
norma.miller@cityofcarrollton.com

City of Farmers Branch

EMS Chief – Stephen Bock
13333 Hutton Drive
Farmers Branch, Tx 75234
972-919-2647 Phone
Stephen.bock@farmersbranch.info

E. Commission

Emergicon has been able to maximize collections and remain compliant with all federal, state and local laws for each of our clients. Emergicon reviews each patient transport and bills the claim based on the paramedic's documentation regarding the condition of the patient and treatments en route. Emergicon will bill all levels of service to include SCT (if applicable),



ALS2, ALS – Emergent, BLS – Emergent and Treatment no Transport. Emergicon will maximize collections to the extent legally possible. Emergicon will bill a mix of ALS2, ALS-emergent and BLS-emergent transports as per federal guidelines. Our experience with other cities typically includes increased reimbursement, decreased patient complaints and auditable and defensible billing practices.

Emergicon proposes a commission of five percent (5%) for EMS Billing and Collection Services, to include an ePCR solution.

F. Reports

Emergicon strives to exceed our clients' expectations with regard to operational and performance reporting. Emergicon closes the previous month's activity and sends reports electronically each month by the 5th business day. However, Emergicon is able to send reports on a daily, weekly or monthly basis. Emergicon offers more than 200 standard reports, but has trained personnel onsite to create custom reports at no charge to the City. Custom reports are created in Crystal and can be exported in a number of formats including .pdf and .xls. Most custom reports can be created and sent the same day as requested. If the report proves to be more complex, Emergicon utilizes Zoll's support services to create reports and generates reports within three working days. Reports can be by individual patient, resident, non-resident, payor class or any other combination of factors. As a local company, Emergicon is able to meet regularly with the City to present monthly reports, review changes in the law, reimbursement or any other aspects of the billing and collection process.

G. Summary

Emergicon welcomes the opportunity to propose EMS billing and collection services for the City of Murphy. Emergicon continues to work to improve our service and processes to serve our clients. Recurrent training, education and ongoing quality improvement are the tools we employ to insure our clients are receiving the model service they deserve from a billing contractor. Emergicon truly believes that we offer the best billing and collection services to the City of Murphy and encourages the city to contact the references provided.



EMERGICON SERVICE AGREEMENT

This Service Agreement (this “Agreement”) is entered into by and between Emergicon, LLC, a Texas corporation (“Emergicon”), and the City of Murphy, Texas hereto (the “Provider”).

RECITALS

WHEREAS, Emergicon provides billing and collections services, and other support services (the “Services”) to local government agencies, municipalities, fire departments, ambulance providers, and medical emergency services;

WHEREAS, Provider, as part or all of its overall activities, provides emergency and/or non-emergency medical and ambulance services, including emergency medical responses, and other patient encounters and/or patient ambulance transportation (the “Ambulatory Services”); and

WHEREAS, Provider is desirous of obtaining the Services of Emergicon.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties hereto agree as follows:

ARTICLE ONE

TERM AND TERMINATION

1.01 Term. Subject to the terms and conditions set forth herein and except as provided in Section 1.02, the initial term of this Agreement shall be for a period of three (3) years from the date of this Agreement (such initial term, together with all extensions thereof, shall be referred to herein as the “Term”). This Agreement may be renewed at the end of the current Term for two additional one (1) year periods.

1.02 Termination. Notwithstanding any provision of this Agreement to the contrary, this Agreement may be terminated by either party, without cause and without liability (except for continuing obligations during such period), upon thirty (30) days advance written notice to the other party.

1.03 Obligations During Notice Period. During the 30-day notice period specified in Sections 1.02, Emergicon shall be entitled to receive compensation for all Accounts (as defined in Section 2.01) billed and collected with respect to the Services and for all other activities performed pursuant to this Agreement, and shall be entitled, after the end of the termination period to receive compensation for all amounts billed during the termination period but not collected until after the end of the termination period.

1.04 Obligations on Termination. Upon termination of the Agreement, for whatever cause, Emergicon will immediately return all original medical records to Provider and shall, at Emergicon’s sole discretion, provide to Provider a digital copy all records related to Provider.

1.05 Mailing of Notices. Any notice required or permitted pursuant to this Agreement shall be in writing and shall be deemed sufficient when delivered personally or sent by telegram or fax or forty-eight (48) hours after being deposited in the U.S. mail, as certified or registered mail, with postage prepaid, addressed as follows:

(a) If to the Provider:

City of Murphy
206 N. Murphy Road
Murphy, Texas 75094
Attention: City Manager
Fax:

If to Emergicon:

Emergicon, LLC
PO Box 180446
Dallas, Texas 75218
Attention: Christopher Turner
Fax: 214-328-0749

Each party shall be entitled to specify a different address by giving five days' written notice to the other party. All such notices and communications shall be deemed to be received the same day if by fax (provided the sender has a fax machine/fax database generated proof of receipt) and in three (3) business days if by mail.

ARTICLE TWO

BILLING & COLLECTIONS

2.01 Billing. During the Term, Emergicon shall be responsible for the billing of charges and fees relating to the Services as directed by and provided by Provider, including, but not limited to, private insurance, Medicare, Medicaid, and other governmental programs relating to:

- (a) patient encounters that occur during the Term; and
- (b) other patient encounters forwarded to Emergicon for billing.

(Note: each set of such charges and fees for the Services related to an individual patient encounter may be referred to herein as an "Account" or, collectively, the "Accounts").

2.02 Compensation. In consideration for Emergicon providing the Provider with the agreed upon billing services described in this article, the Provider will pay Emergicon Five Percent (5%) of the total amount collected on the account. The fee will be payable monthly within 30 days of receipt of invoice.

2.03 Collection Efforts.

a) If active collection efforts with respect to any account have been unsuccessful for 120 days or more, Emergicon shall have the right to terminate collection efforts with respect to such account and close the account as an unpaid debt. In addition, Emergicon may terminate or suspend collection efforts if Provider has supplied Emergicon with incomplete or inaccurate patient information. In either event, Emergicon shall upon termination or suspension, immediately forward to Provider all records of Emergicon collection efforts, at no charge to Provider, and cease all collection activity.

b) If Provider instructs Emergicon to continue collection efforts on an account after previous efforts have been unsuccessful for 120 days, Emergicon shall be compensated and paid for the collection efforts on said account in accordance with the following schedule: 20% of the total amount collected on the account.

c) If Provider instructs Emergicon to collect on an account(s) initially billed by another Contractor, Emergicon shall be compensated and paid for the collection efforts on said account in accordance with the following schedule: 22% of the total amount collected on the account.

All fees shall be payable monthly within thirty (30) days of receipt of invoice.

2.04 Records of Patient Encounters.

(a) Emergicon shall use its reasonable best efforts to bill all Accounts within three (3) business days of such patient encounter. Such records shall be deemed to be the property of Provider, but Emergicon shall have the right to duplicate and retain paper or electronic copies of the records. If the records exist only in electronic form, each electronic copy shall be deemed to be an original for the purposes of this Agreement. Provider shall have no obligation to forward original medical records during the 30-day notice period regarding termination as set forth in Paragraph 1.02.

(b) Provider acknowledges that Emergicon has no responsibility for complying with all provisions of Title 42 C.F.R. Section 410.40 which states, in part, that an ambulance service bears the responsibility for obtaining Physician Certification Statements (“PCS’s”). Provider further understands and concurs that Emergicon is neither an ambulance service nor an ambulance provider within the definitions as set forth by the Centers for Medicare and Medicaid Services.

2.05 Activity Reports. Emergicon shall provide to Provider summary and detail monthly reports of all billing activities that occurred during the preceding month as requested by the Provider by the fifth (5th) business day of the month.

2.06 Information Received by Provider. To the extent that Provider receives payments or original copies of documentation directly, Provider shall forward to Emergicon copies of checks, Explanations of Benefits and/or other documentation within five (5) days of the date of receipt of payment by Provider.

2.07 Support Services. Emergicon will provide patients and personnel of Provider with telephone support services during normal business hours (Monday - Friday from 9:00 a.m. to 5:00 p.m.) except on public holidays or other holidays as established by Emergicon.

2.08 Obligation for Payment. Payment in accordance with this Article Two shall be due and owing to Emergicon by Provider for all Accounts collected during the Term and collected after the Term but billed during the Term by Emergicon regardless of whether payment was made to Emergicon or to Provider. Emergicon and Provider agree that the purpose of this Section is to guarantee that Emergicon is the only provider engaging in billing services on behalf of Provider.

ARTICLE THREE

INDEMNIFICATION AND FIDELITY BOND

3.01 Emergicon's Indemnification. Emergicon shall indemnify and hold harmless Provider from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from Emergicon's performance of activities pursuant to this Agreement, but only to the extent caused by the willful misconduct or the negligent acts or omissions of Emergicon. The indemnification provided for herein shall not be applicable to any claim of adjustment or request for reimbursement made by an insurance company or any servicing agency for Medicare or Medicaid that may be made as the result of an audit of claims made or governmental regulations or laws, including Emergicon's fees charged, except for any adjustments or claims for reimbursement made as a direct result of Emergicon's error.

3.02 Fidelity Bond. Emergicon shall keep and maintain during the term of this Agreement a fidelity bond with a qualified insurer of no less than \$10,000.00.

3.03 Insurance. Emergicon shall keep and maintain during the term of this Agreement Errors & Omissions Liability insurance with a qualified insurer of no less than \$1,000,000.00.

ARTICLE FOUR

CONFIDENTIALITY

4.01 Property of Emergicon. Provider agrees that Emergicon's equipment, computer hardware and software, billing and collection processing, and other related systems and equipment are the property and trade secrets of Emergicon, and that Provider will not release any information regarding such trade secrets to any third party without the prior written consent of Emergicon.

4.02 Fact of Contractual Relationship May Be Disclosed. Notwithstanding the foregoing, either party may, without the prior written consent of the other party, disclose the existence of a contractual relationship between the parties.

ARTICLE FIVE

AUDITS

5.01 Accurate Books and Records. During the Term and for a period of three (3) years thereafter, each party agrees to maintain accurate books and records associated with the billing and collections made the subject of this Agreement.

5.02 Right to Audit. Upon reasonable written notice, either party may audit the books and records of the other party insofar and only insofar as such books and records relate or pertain directly to this Agreement. Such audit shall be conducted at the office of the party being audited, shall be during normal business hours, and shall be at the sole cost and expense of the party conducting the audit.

5.03 Penalty for Underpayment. If an audit reveals that a party has failed to pay any amount or portion of any amount due or payable under this Agreement and such amount is in excess of Twenty Thousand Dollars (\$20,000.00), the party being audited shall pay to the auditing party the full cost of the audit and the full amount due or payable plus interest at the rate of ten percent (10%) per annum from the date(s) of non-payment.

ARTICLE SIX

PROTECTED HEALTH INFORMATION

6.01 HIPAA Compliance. Emergicon shall carry out obligations under this Agreement in compliance with the privacy regulations pursuant to Public Law 104-191 of August 21, 1996, known as the Health Insurance Portability and Accountability Act of 1996, Subtitle F – Administrative Simplification, Sections 261, et seq., as amended (“HIPAA”), to protect the privacy of any personally identifiable protected health information (“PHI”) that is collected, processed or learned as a result of the services provided pursuant to this Agreement. In conformity therewith, Emergicon agrees that it shall:

- a) Not use or further disclose PHI except as permitted under this Agreement or required by law;
- b) Use appropriate safeguards to prevent use or disclosure of PHI except as permitted by this Agreement.
- c) Mitigate, to the extent practicable, any harmful effect that is known to Emergicon of a use or disclosure of PHI by Emergicon in violation of this Agreement;
- d) Report to Provider any use or disclosure of PHI not provided for by this Agreement of which Emergicon becomes aware;
- e) Ensure that agents or subcontractors to whom Emergicon provides PHI, or who have access to PHI, agree to the same restrictions and conditions that apply to Emergicon with respect to such PHI;
- f) Make PHI available to Provider and to the individual who has a right of access as required under HIPAA within ten (10) days of the request by Provider on behalf of the individual;

- g) Incorporate any amendments to PHI when notified to do so by Provider;
- h) Provide an accounting of all uses or disclosures of PHI made by Emergicon as required under the HIPAA privacy rule within sixty (60) days; and
- i) Make its internal practices, books and records relating to the use and disclosure of PHI available to the Secretary of the Department of Health and Human Services for purposes of determining Emergicon's and Provider's compliance with HIPAA.

6.02 HIPAA Disclosures. The specific uses and disclosures of PHI that may be made by Emergicon on behalf of Provider include:

- a) The preparation of invoices to patients, carriers, insurers and others responsible for payment or reimbursement of the services provided by Provider to its patients;
- b) Preparation of reminder notices and documents pertaining to collections of overdue Accounts;
- c) The submission of supporting documentation to carriers, insurers and other payers to substantiate the health care services provided by Provider to its patients or to appeal denials of payments for same;
- d) The preparation and release of medical records to patients or their legal representatives as permitted by HIPAA privacy rule;
- e) Uses required for the proper management of Emergicon as a business associate; and
- f) Other uses or disclosures of PHI as permitted by HIPAA privacy rule.

ARTICLE SEVEN

MISCELLANEOUS

7.01 No Waiver. The failure of either party to insist upon strict performance of any provision of this Agreement shall not be construed as a waiver of any subsequent breach of the same or similar nature.

7.02 Provisions Construed Separately. The parties agree that each provision of this Agreement shall be construed as separable and divisible from every other provision and that the enforceability of any one provision shall not limit the enforceability, in whole or in part, of any other provision hereof. In the event that a court of competent jurisdiction determines that any term or provision herein shall be invalid or unenforceable, the remaining terms and provisions of this Agreement shall not be affected thereby, and shall be interpreted as if the invalid term or provision were not a part hereof.

7.03 Final Agreement. This Agreement sets forth the entire, final and complete understanding between the parties hereto relevant to the subject matter of this Agreement. No

waiver or modification of any of the terms or conditions of this Agreement shall be effective unless in writing and signed on behalf of both parties.

7.04 Performance of Agreement, Venue; Choice of Law. Provider understands and agrees that Emergicon will be performing this contract in Dallas County, Texas. The venue for any disputes or causes of action that may arise out of this Agreement is the state and county courts located in Dallas County, Texas. The provisions of this Agreement shall be determined in accordance with the laws of the State of Texas excluding the choice of law provisions thereof.

7.05 Headings. The headings of this Agreement are for ease of reference only and are not intended to limit or restrict the terms hereof.

7.06 Binding Nature of Agreement. This Agreement is binding upon the heirs, legal representatives, successors and assigns of the parties hereto.

7.07 Compliance with Laws Generally. Emergicon shall comply with all applicable laws, orders, rules, or regulations of all governmental agencies bearing on its performance hereunder. If so requested by Provider, Emergicon shall submit appropriate evidence of such compliance.

7.08 Independent Contractor. It is understood and agreed that Emergicon is an independent contractor. Nothing herein contained shall be construed to create any partnership, joint venture, or joint enterprise between the parties.

7.09 Non-Profit Status Determination Letter. If Provider is a not-for-profit entity, Provider shall provide a duplicate of its letter determining its not-for-profit status with the Internal Revenue Service. In providing such letter, Provider further represents and warrants to Emergicon that it has done every act necessary to maintain its not-for-profit status with the Internal Revenue Service and is not aware of any pending, threatened or actual revocation of its not-for-profit status.

7.10 Appendices. Emergicon and Provider may enter into various appendices to this Agreement from time to time and at any time regarding additional services. Such appendices shall be considered part of this Agreement as if set forth herein at length unless such appendix provides otherwise.

7.11 Assignment. Neither party shall assign or otherwise transfer this Agreement, any interest in this Agreement, or any right or obligation hereunder to any other party without the written consent of the other party.

7.12 Attorneys' Fees. Should it become necessary for either party to employ an attorney to enforce any of the terms and conditions hereof, including the collection of fees, either party shall do so at their sole cost and expense.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Emergicon and the Provider have executed this Agreement on the _____ day of _____ 20__

EMERGICON, L.L.C.

The City of Murphy

By: _____

By: _____

Name: Christopher Turner
Title: President & CEO

Name: James Fisher
Title: City Manager

SUBSCRIPTION AGREEMENT

This Subscription Agreement (the “Agreement”) is made as of the date of last execution below (the “Effective Date”) and entered into by and between ESO Solutions, Inc., a Texas corporation with its principal place of business at 3005 South Lamar Blvd., Suite D 109-372, Austin, Texas 78704 (hereinafter referred to as “ESO”), and Murphy Fire Department, with its principal place of business at 206 N. Murphy Rd., Murphy, TX 75094 (hereinafter referred to as “Customer”), with reference to the following:

WHEREAS, ESO is in the business of providing electronic patient care reporting services to businesses and municipalities which provide emergency patient care, and Customer desires to obtain the services from ESO, all upon the terms and conditions set forth herein.

NOW THEREFORE, Customer and ESO hereby mutually agree as follows:

- 1. Services.** ESO shall provide to Customer, during the Term, the “Services” selected by Customer on Exhibit A attached hereto.
- 2. Term.** The Term of the Agreement shall commence on the Effective Date and shall terminate one year after the Effective Date. The Agreement shall automatically renew for successive renewal terms of one year each, unless one party gives the other party written notice that the Agreement will not renew, at least thirty (30) days prior to the end of the then-current Term.
- 3. Subscription Fees, Invoices and Payment Terms.**
 - a. Subscription Fees.** Customer shall pay to ESO the Subscription Fees for the Services as indicated on Exhibit A, and for ePCR, Customer shall pay an estimate of the annual Subscription Fees in accordance with subparagraph b. below. Customer will be invoiced for the yearly Subscription Fees on an annual basis, in advance, and all invoices shall be payable within thirty (30) days.
 - b. Estimated Subscription Fees for ePCR.** Customer shall pay to ESO the annual Estimated Subscription Fees for the ePCR Suite as indicated in Exhibit A. At least once every year ESO may evaluate Customers average annual call volume and increase or decrease the Customer’s next invoice based on changes in Customer call volume.
 - c. Payment of Invoices.** Customer shall pay invoices received from ESO within thirty (30) days after the receipt of the invoice (the “Due Date”).
 - d. Disputed Invoices.** If Customer in good faith disputes any portion of any ESO invoice, Customer shall submit to ESO, by the Due Date, full payment of the undisputed portion of the invoice and written documentation identifying and substantiating the disputed amount. If Customer does not report a dispute within thirty (30) days following the Due Date of the applicable invoice, Customer shall have waived its right to dispute that invoice. Any disputed amounts determined to be payable to ESO shall be due within ten (10) days of the resolution of the dispute.

4. Termination.

- a. Termination by Customer for Cause. If ESO fails to perform a material obligation under this Agreement and does not remedy such failure within thirty (30) days following written notice from Customer (“ESO Default”), Customer may terminate this Agreement without any further liability except for the payment of all accrued but unpaid Subscription Fees. If ESO is unable to provide Service(s) for ninety (90) consecutive days due to a Force Majeure event as defined in Section 12a, *Force Majeure*, Customer may terminate the affected Service(s) without liability to ESO.
- b. Termination by ESO for Customer Default. ESO may terminate this Agreement with no further liability if (i) Customer fails to make payment as required under this Agreement and such failure remains uncorrected for five (5) days following written notice from ESO, or (ii) Customer fails to perform any other material obligation under this Agreement and does not remedy such failure within fifteen (15) days following written notice from ESO (hereinafter collectively referred to as “Customer Default”). In the event of a Customer Default, ESO shall have the right to (i) terminate this Agreement; (ii) suspend all Service(s) being provided to Customer, (iii) terminate the right to use the Software on the web or mobile devices (iv) apply interest to the amount past due, at the rate of one and one-half percent (1½%) (or the maximum legal rate, if less) of the unpaid amount per month; (v) offset any amounts that are owed to Customer by ESO against the past due amount then owed to ESO, and/or (vi) take any action in connection with any other right or remedy ESO may have under this Agreement, at law or in equity. If this Agreement is terminated due to a Customer Default, Customer shall remain liable for all Subscription Fees and other charges due to ESO. In addition, Customer agrees to pay ESO’s reasonable expenses (including attorney and collection agency fees) incurred in enforcing ESO’s rights in the event of a Customer Default.

5. Delivery of Data upon Expiration or Termination of Agreement. Within thirty (30) days after the expiration of this Agreement or the termination of this Agreement pursuant to Section 4a above, ESO will deliver to Customer its data, in machine readable format, on tape or on CD, at Customer’s option. Customer shall reimburse ESO for the cost of the tape(s) on which Customer’s data is delivered to Customer. If Customer wants the data to be delivered in a medium other than tape or CD, ESO shall do its best to accommodate Customer, provided Customer shall provide the medium on which the data is to be provided and shall pay for any additional cost incurred by ESO in accommodating this request.

6. System Maintenance. In the event ESO determines that it is necessary to interrupt the Services or that there is a potential for Services to be interrupted for the performance of system maintenance, ESO will use good-faith efforts to notify Customer prior to the performance of such maintenance and will schedule such maintenance during non-peak hours (midnight to 6 a.m. local time). In no event shall interruption for system maintenance constitute a failure of performance by ESO.

7. Access to Internet. Customer is solely responsible for obtaining and providing for its own broadband connections and/or connections to the Internet, and ESO makes no representations regarding the advisability of any provider or particular network to Customer. Customer’s network and Internet access must meet the minimum requirements set forth in Paragraph 8 below.

8. Mobile Software Use and Support. If Customer elects to use ESO’s proprietary ESO Pro Software (the “Software”) on mobile devices, the provisions of this Section 8 shall apply.

- a. Use of Software. Subject to the terms, conditions and restrictions in this Agreement and in exchange for the per unit Mobile Software Interface Fees, ESO hereby grants to Customer non-exclusive, world-wide, non-transferable rights, for the term of this Agreement, to use and copy (for installation and backup purposes only) the Software to the units for which the Mobile Software Interface has been purchased.
- b. Ownership and Restrictions. This Agreement does not convey any rights of ownership in or title to the Software or any copies thereof. All right, title and interest in the Software and any copies or derivative works thereof will remain the property of ESO. Customer will not: (a) disassemble, reverse engineer or

modify the Software; (b) allow any third party to use the Software; (c) use the Software as a component in any product or service provided by Customer to a third party; (d) transfer, sell, assign, or otherwise convey the Software; (e) remove any proprietary notices placed on or contained within the Software; or (f) copy the Software except for backup purposes. Customer will keep the Software free and clear of all claims, liens, and encumbrances.

- c. **Mobile Software Interface Fee.** The Mobile Software Interface Fee is non-refundable. The Software shall be considered accepted upon delivery to Customer.
- d. **Support and Updates.** During the term of this Agreement, ESO shall provide to Customer the support services and will meet the service levels as set forth on Exhibit B attached hereto. ESO will also provide to Customer Updates, in accordance with Exhibit B.
- e. **Other Services.** Upon request by Customer, ESO may provide services related to the Software other than the standard support described above, at ESO's then-current labor rates. This may include on-site consultation, customization, and initial technical assistance and training for the purpose of installing the Software and training selected personnel on the use and support of the Software. ESO will undertake reasonable efforts to accommodate any written request by Customer for such professional services.
- f. **Title.** ESO hereby represents and warrants to Customer that ESO is the owner of the Software or otherwise has the right to grant to Customer the rights set forth in this Agreement. In the event any breach or threatened breach of the foregoing representation and warranty, Customer's sole remedy shall be to require ESO to either: i) procure, at ESO's expense, the right to use the Software, ii) replace the Software or any part thereof that is in breach and replace it with Software of comparable functionality that does not cause any breach.
- g. **Indemnification by Customer.** Customer will defend and indemnify ESO from any and all claims brought against ESO by third parties and will hold ESO harmless from all corresponding losses incurred by ESO arising out of or related to (i) Customer's misuse of the Software, (ii) any services provided by Customer to third parties, or (iii) Customer's negligence or inaction in connection with the services it provides to third parties.

9. Limitation of Liability. NOTWITHSTANDING ANY OTHER PROVISION HEREOF, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, RELIANCE, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES (INCLUDING BUT NOT LIMITED TO DAMAGES FOR LOST PROFITS, LOST REVENUES OR COST OF PURCHASING REPLACEMENT SERVICES) ARISING OUT OF OR RELATING TO THIS AGREEMENT. ADDITIONALLY, ESO SHALL NOT BE LIABLE TO CUSTOMER FOR ANY ACTUAL DAMAGES IN EXCESS OF THE AGGREGATE AMOUNT THAT ESO HAS PRIOR TO SUCH TIME COLLECTED FROM CUSTOMER WITH RESPECT TO SERVICES DELIVERED HEREUNDER. FURTHERMORE, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER, EITHER IN CONTRACT OR IN TORT, FOR PROTECTION FROM UNAUTHORIZED ACCESS OF CUSTOMER DATA OR FROM UNAUTHORIZED ACCESS TO OR ALTERATION, THEFT OR DESTRUCTION OF CUSTOMER DATA FILES, PROGRAMS, PROCEDURE OR INFORMATION NOT CONTROLLED BY ESO, THROUGH ACCIDENT OR FRAUDULENT MEANS OR DEVICES.

10. Acknowledgements and Disclaimer of Warranties. Customer acknowledges that ESO cannot guarantee that there will never be any outages in ESO's network and that no credits shall be given in the event Customer's access to ESO's network is interrupted. UNLESS OTHERWISE SPECIFIED HEREIN, ESO MAKES NO WARRANTY TO CUSTOMER OR ANY OTHER PERSON OR ENTITY, WHETHER EXPRESS, IMPLIED OR STATUTORY, AS TO THE DESCRIPTION, QUALITY, MERCHANTABILITY, COMPLETENESS OR FITNESS FOR ANY PURPOSE, OF ANY SERVICE OR SOFTWARE PROVIDED HEREUNDER OR DESCRIBED HEREIN, OR AS TO ANY OTHER MATTER (INCLUDING WITHOUT LIMITATION

THAT THERE WILL BE NO IMPAIRMENT OF DATA), ALL OF WHICH WARRANTIES BY ESO ARE HEREBY EXCLUDED AND DISCLAIMED.

- 11. Confidential Information.** “Confidential Information” shall mean all information disclosed in writing by one party to the other party that is clearly marked “CONFIDENTIAL” or “PROPRIETARY” by the disclosing party at the time of disclosure. Confidential Information does not include any information that (i) was already known by the receiving party free of any obligation to keep it confidential at the time of its disclosure; (ii) becomes publicly known through no wrongful act of the receiving party; (iii) is rightfully received from a third person without knowledge of any confidential obligation; (iv) is independently acquired or developed without violating any of the obligations under this Agreement; or (v) is approved for release by written authorization of the disclosing party.

A recipient of Confidential Information shall not disclose the information to any person or entity except for the recipients and/or its employees, contractors and consultants who have a need to know such Confidential Information. The recipient may disclose Confidential Information pursuant to a judicial or governmental request, requirement or order; provided that the recipient shall take all reasonable steps to give prior notice to the disclosing party.

Confidential Information shall not be disclosed to any third party without the prior written consent of the owner of the Confidential Information. The recipient shall use Confidential Information only for purposes of this Agreement and shall protect Confidential Information from disclosure using the same degree of care used to protect its own Confidential Information, but in no event less than a reasonable degree of care. Confidential Information shall remain the property of the disclosing party and shall be returned to the disclosing party or destroyed upon request of the disclosing party. Because monetary damages may be insufficient in the event of a breach or threatened breach of the foregoing provisions, the affected party may be entitled to seek an injunction or restraining order in addition to such other rights or remedies as may be available under this Agreement, at law or in equity, including but not limited to monetary damages.

12. Miscellaneous.

- a. Force Majeure. Neither party shall be liable to the other, nor deemed in default under this Agreement if and to the extent that such party’s performance of this Agreement is delayed or prevented by reason of Force Majeure, which is defined for this Agreement to mean an event that is beyond the reasonable control of the party affected and occurs without such party’s fault or negligence.
- b. Entire Agreement and Governing Law. This Agreement and any Business Associate Agreement (as that term is used in the Health Insurance Portability and Accountability Act and related regulations) that is executed by the parties constitute the entire agreement between ESO and Customer pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings in connection herewith. Unless otherwise specified herein, this Agreement may be modified or supplemented only by an instrument in writing executed by each party. This Agreement shall be governed by the laws of the State of Texas without regard to its principles of choice of law.
- c. Arbitration. Any controversy or claim arising out of or relating to this Agreement, or a breach of this Agreement, shall be finally settled by arbitration in Austin, Texas, and shall be resolved under the laws of the State of Texas. The arbitration shall be conducted before a single arbitrator, who may be a private arbitrator, in accordance with the commercial rules and practices of the American Arbitration Association then in effect. Any award, order or judgment pursuant to such arbitration shall be deemed final and binding and may be enforced in any court of competent jurisdiction. The arbitrator may, as part of the arbitration award, permit the substantially prevailing party to recover all or part of its attorney’s fees and other out-of-pocket costs incurred in connection with such arbitration. All arbitration proceedings shall be conducted on a confidential basis.

- d. No Press Releases without Consent. Neither party may use the other party's name or trademarks, or issue any publicity or make any public statements concerning the other party or the existence or content of this Agreement, without the other party's prior written consent. Notwithstanding, Customer agrees that ESO may use Customer's name and logo in ESO sales presentations, without Customer's prior written consent, during the Term of this Agreement, but only for the purposes of identifying the Customer as a customer of ESO. Likewise, Customer may use ESO's name and logo to identify ESO as a vendor or provided for Customer.
- e. Assignment. Customer may only assign this Agreement if it has received the prior written consent to such assignment from ESO, which consent shall not be unreasonably withheld.
- f. Compliance with Laws. Both parties shall comply with and give all notices required by all applicable federal, state and local laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the performance of this Agreement.
- g. Notices. All notices and other communications hereunder shall be in writing and shall be deemed to have been duly given as of the date of delivery or confirmed facsimile or email transmission. Notices must be delivered or sent to the parties' respective addresses set forth above.
- h. Taxes. Unless otherwise required by law, Customer will be responsible for and will remit (or will reimburse ESO for) all taxes of any kind, including sales, use, duty, customs, withholding, property, value-added, and other similar federal, state or local taxes (other than taxes based on ESO's net income) imposed in connection with the provision of Services or the use of the Software provided to Customer under this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date last written below.

ESO SOLUTIONS, INC.

Customer:

By:

By:

Name: Chris Dillie

Name:

Title: President/CEO

Title:

Date:

Date:

Telephone: 866.766.9471 x 1022

Telephone:

Email: chris.dillie@esosolutions.com

Email:

EXHIBIT A
SOFTWARE ANNUAL FEE SCHEDULE

Customer hereby selected the following ESO Services, at the fees indicated:

| Quote Details | | | |
|----------------------------------|-------------|----------|-------------|
| Product | Sales Price | Quantity | Total Price |
| ePCR Suite w/Quality Management | \$5,795.00 | 1.00 | \$5,795.00 |
| QuickSpeak | \$99.00 | 2.00 | \$198.00 |
| ePCR Mobile | \$695.00 | 2.00 | \$1,390.00 |
| Interface - Billing | \$0.00 | 1.00 | \$0.00 |
| Interface - CAD | \$5,995.00 | 1.00 | \$5,995.00 |
| Interface - Monitor | \$3,995.00 | 1.00 | \$3,995.00 |
| Services - Training | \$995.00 | 2.00 | \$1,990.00 |
| Services - Training Travel Costs | \$700.00 | 1.00 | \$700.00 |
| Total Price | | | \$20,063.00 |

PAYMENT TERMS AND PAYMENT MILESTONES

The ePCR subscription year will begin upon execution of the Subscription Agreement or upon the commencement of active work on software implementation, whichever date comes later. Customer will be invoiced for full payment of goods and services upon execution of Subscription Agreement.

EXHIBIT B

SUPPORT SERVICES AND SERVICE LEVELS

This Exhibit describes the software support services (“Support Services”) that ESO will provide and the service levels that ESO will meet.

1. Definitions.

Unless defined otherwise herein, capitalized terms used in this Exhibit shall have the same meaning as set forth in the Agreement.

- (a) “Customer Service Representative” shall be the person at ESO designated by ESO to receive notices of Errors encountered by Customer that Customer’s Administrator has been unable to resolve.
- (b) “Error” means any failure of the Software to conform in any material respect with its published specifications.
- (c) “Error Correction” means a bug fix, patch, or other modification or addition that brings the Software into material conformity with its published performance specifications.
- (d) “Priority A Error” means an Error that renders the Software inoperative or causes a complete failure of the Software.
- (e) “Priority B Error” means an Error that substantially degrades the performance of the Software or materially restricts Customer’s use of the Software.
- (f) “Priority C Error” means an Error that causes only a minor impact on Customer’s use of the Software.
- (g) “Update” means any new commercially available or deployable version of the Software, which may include Error Corrections, enhancements or other modifications, issued by ESO from time to time to its Customers.
- (h) “Normal Business Hours” means 8:00 am to 5:00 pm Monday through Friday, Central Time Zone.

2. Customer Obligations.

Customer will provide at least one administrative employee (the “Administrator” or “Administrators”) who will handle all requests for first-level support from Customer’s employees with respect to the Software. Such support is intended to be the “front line” for support and information about the Software to Customer’s employees. ESO will provide training, documentation, and materials to the Administrators to enable the Administrators to provide technical support to Customer’s employees. The Administrators will refer any Errors to ESO’s Customer Service Representative that the Administrators cannot resolve, pursuant to Section 3 below; and the Administrators will assist ESO in gathering information to enable ESO to identify problems with respect to reported Errors.

3. Support Services.

- (a) *Scope.* As further described herein, the Support Services consist of: (i) Error Corrections that the Administrator is unable to resolve, and (ii) periodic delivery of Error Corrections and Updates. The Support Services will be available to Customer during normal business hours, to the extent practicable. Priority A Errors encountered outside normal business hours may be communicated to the Customer Service Representative via telephone or email. Priority B and C Errors encountered outside normal business hours shall be communicated via email.
- (b) *Procedure.*
 - (i) *Report of Error.* In reporting any Error, the Customer’s Administrator will describe to ESO’s Customer Service Representative the Error in reasonable detail and the circumstances under which the Error occurred or is occurring; the Administrator will initially classify the Error as a Priority A, B or C Error. ESO reserves the right to reclassify the Priority of the Error.
 - (ii) *Efforts Required.* ESO shall exercise commercially reasonable efforts to correct any Error reported by the Administrator in accordance with the priority level assigned to such Error by the Administrator. Errors shall be communicated to ESO’s Customer Service Representative after hours as indicated below, depending on the priority level of the Error. In the event of an Error, ESO will within the time periods set forth below, depending upon the priority level of the Error, commence verification of the Error; and, upon verification, will commence Error Correction. ESO will work diligently to verify the Error and, once an Error has been verified, and until an Error Correction has been provided to the Administrator, shall use

commercially reasonable, diligent efforts to provide a workaround for the Error as soon as reasonably practicable. ESO will provide the Administrator with periodic reports on the status of the Error Correction on the frequency as indicated below.

| Priority of Error | Communicating Error to ESO outside Normal Business Hours | Time in Which ESO Will Commence Verification | Frequency of Periodic Status Reports |
|-------------------|--|--|--------------------------------------|
| Priority A | Telephone or email | Within 8 hours of notification | Every 4 hours until resolved |
| Priority B | Email | Within 1 business day of notification | Every 6 hours until resolved |
| Priority C | Email | Within two calendar weeks of notification | Every week until resolved |

4. ESO Server Administration.

(a) ESO is responsible for maintenance of Server hardware. Server administration includes:

- (i) Monitoring and Response
- (ii) Service Availability Monitoring
- (iii) Backups
- (iv) Maintenance
 - A. Microsoft Patch Management
 - B. Security patches to supported applications and related components
 - C. Event Log Monitoring
 - D. Log File Maintenance
 - E. Drive Space Monitoring
- (v) Security
- (vi) Virus Definition & Prevention
- (vii) Firewall

EXHIBIT C
BUSINESS ASSOCIATES AGREEMENT

This Agreement (this "Agreement") is made and entered into as of the contract execution date by and between **ESO Solutions Inc.**, ("Business Associate") a State of Texas corporation, and Murphy Fire Department ("Covered Entity").

WHEREAS, Business Associate acknowledges that Covered Entity has in its possession data that contains individual identifiable health information as defined by Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191 ("HIPAA") and the regulations promulgated thereunder; and

WHEREAS, Business Associate and Covered Entity are parties to an agreement (the "Service Agreement"), pursuant to which the fulfillment of the Parties' obligations thereunder necessitates the exchange of, or access to, data including individual identifiable health information,

NOW, THEREFORE, in consideration of the mutual promises and covenants hereinafter contained, the Parties agree as follows:

ARTICLE 1
DEFINITIONS

Terms used, but not otherwise defined, in this Agreement shall have the meanings set forth below.

- 1.1 "HHS Transaction Standard Regulation" means the Code of Federal Regulations ("CFR") at Title 45, Sections 160 and 162.
- 1.2 "Individual" means the subject of PHI or, if deceased, his or her personal representative.
- 1.3 "Parties" shall mean the Covered Entity and Business Associate. (Covered Entity and Business Associate, individually, may be referred to as a "Party.")
- 1.4 "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.
- 1.5 "PHI" shall have the same meaning as the term "protected health information in 45 CFR §160.103, limited to the information created or received by Business Associate from or on behalf of the Covered Entity.
- 1.6 "Required By Law" shall have the same meaning as "required by law" in 45 CFR §164.501.
- 1.7 "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.

ARTICLE 2
CONFIDENTIALITY

- 2.1 Obligations and Activities of Business Associate. Business Associate agrees as follows:
 - (a) not to use or further disclose PHI other than as permitted or required by this Agreement or as Required By Law;
 - (b) to establish, maintain, and use appropriate safeguards to prevent use or disclosure of the PHI other than as permitted herein;
 - (c) to report to Covered Entity any use, access or disclosure of the PHI not provided for by this Agreement, or any misuse of the PHI, including but not limited to systems compromises of which

- it becomes aware, and to mitigate, to the extent practicable, any harmful effect that is known to Business Associate as a result thereof;
- (d) to enforce and maintain appropriate policies, procedures, and access control mechanisms to ensure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Business Associate on behalf of Covered Entity agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information. The access and privileges granted to any such agent shall be the minimum necessary to perform the assigned functions;
 - (e) to provide access, at the request of Covered Entity, and in the time and manner reasonable designated by Covered Entity, to PHI in a Designated Record Set (as defined in the Privacy Rule), to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 CFR §164.524;
 - (f) to make any amendment(s) to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR §164.526 at the request of Covered Entity or an Individual, and in the time and manner reasonably requested by Covered Entity;
 - (g) to make internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Covered Entity available to the Covered Entity, or at the request of the Covered Entity to the Secretary, in a time and manner reasonably requested by Covered Entity or designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule;
 - (h) to document such disclosures of PHI, and information related to such disclosures, as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR §164.528;
 - (i) to provide to Covered Entity or an Individual, in a time and manner reasonably requested by Covered Entity, information collected in accordance with Section 2.1(i) above to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR §164.528;
 - (j) to promptly notify Covered Entity of all actual or suspected instances of deliberate unauthorized attempts (both successful and unsuccessful) to access PHI;
 - (k) to maintain and enforce policies, procedures and processes to protect physical access to hardware, software and/or media containing PHI (e.g., hardcopy, tapes, removable media, etc.) against unauthorized physical access during use, storage, transportation, disposition and /or destruction;
 - (l) to ensure that access controls in place to protect PHI and processing resources from unauthorized access are controlled by two-factor identification and authentication: a user ID and a Token, Password or Biometrics.

2.2 Disclosures Required By Law.

In the event that Business Associate is required by law to disclose PHI, Business Associate will immediately provide Covered Entity with written notice and provide Covered Entity an opportunity to oppose any request for such PHI or to take whatever action Covered Entity deems appropriate.

2.3 Specific Use and Disclosure Provisions.

- (a) Except as otherwise limited in this Agreement, Business Associate may use PHI only to carry out the legal responsibilities of the Business Associate under the Service Agreement.
- (b) Except as otherwise limited in this Agreement, Business Associate may only disclose PHI (i) as Required By Law, or (ii) in the fulfillment of its obligations under the Service Agreement and provided that Business Associate has first obtained (A) the consent of Covered Entity for such disclosure, (B) reasonable assurances from the person to whom the information is disclosed that the PHI will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and (C) reasonable assurances from the person to

whom the information is disclosed that such person will notify the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

2.4 Obligations of Covered Entity.

- (a) Covered Entity shall notify Business Associate of any limitations in its notice of privacy practices of Covered Entity in accordance with 45 CFR §164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
- (b) Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by an Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosures of PHI.
- (c) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR §164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.
- (d) For any PHI received by Covered Entity from Business Associate on behalf of a third party or another covered entity, Covered Entity agrees to be bound to the obligations and activities of Business Associate enumerated in Section 2.1 as if, and to the same extent, Covered Entity was the named Business Associate hereunder.

2.5 Permissible Requests by Covered Entity.

Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by the Covered Entity.

2.6 Policy and Procedure Review.

Upon request, Business Associate shall make available to Covered Entity any and all documentation relevant to the safeguarding of PHI including but not limited to current policies and procedures, operational manuals and/or instructions, and/or employment and/or third party agreements.

ARTICLE 3 SECURITY

3.1 Government Healthcare Program Representations.

Business Associate hereby represents and warrants to Covered Entity, its shareholders, members, directors, officers, agents, or employees that Business Associate has not been excluded or has not been served a notice of exclusion or has not been served with a notice of proposed exclusion, or has not committed any acts which are cause for exclusion from participation in, or had any sanctions, or civil or criminal penalties imposed under, any federal or state healthcare program, including, but not limited to, Medicare or Medicaid, and has not been convicted, under federal or state law (including without limitation a plea of nolo contendere or participation in a first offender deterred adjudication or other arrangement whereby a judgment of conviction has been withheld), of a criminal offense related to (a) the neglect or abuse of a patient, (b) the delivery of an item or service, including the performance of management or administrative services related to the delivery of an item or service, under a federal or state healthcare program, (c) fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct in connection with the delivery of a healthcare item or service or with respect to any act or omission in any program operated by or financed in whole or in part by any federal, state or local government agency, (d) the unlawful, manufacture, distribution, prescription, or dispensing of a controlled substance, or (e) interference with or obstruction of any investigation into any criminal offense described in (a) through (d) above. Business Associate

further agrees to notify Covered Entity immediately after Business Associate becomes aware that the foregoing representation and warranty may be inaccurate or may be incorrect.

3.2 Security Procedures.

Each Party shall employ security procedures that comply with HIPAA and all other applicable state and federal laws and regulations (collectively, the "Law") and that are commercially reasonable, to ensure that transactions, notices, and other information that are electronically created, communicated, processed, stored, retained or retrieved are authentic, accurate, reliable, complete and confidential. Moreover, each Party shall, and shall require any agent or subcontractor involved in the electronic exchange of data to:

- (a) require its agents and subcontractors to provide security for all data that is electronically exchanged between Covered Entity and Business Associate;
- (b) provide, utilize, and maintain equipment, software, services and testing necessary to assure the secure and reliable transmission and receipt of data containing PHI;
- (c) maintain and enforce security management policies and procedures and utilize mechanisms and processes to prevent, detect, record, analyze, contain and resolve unauthorized access attempts to PHI or processing resources;
- (d) maintain and enforce policies and guidelines for workstation use that delineate appropriate use of workstations to maximize the security of data containing PHI;
- (e) maintain and enforce policies, procedures and a formal program for periodically reviewing its processing infrastructure for potential security vulnerabilities;
- (f) implement and maintain, and require its agents and subcontractors to implement and maintain, appropriate and effective administrative, technical and physical safeguards to protect the security, integrity and confidentiality of data electronically exchanged between Business Associate and Covered Entity, including access to data as provided herein. Each Party and its agents and subcontractors shall keep all security measures current and shall document its security measures implemented in written policies, procedures or guidelines, which it will provide to the other Party upon the other Party's request.

ARTICLE 4 EXCHANGE OF STANDARD TRANSMISSIONS

4.1 Obligations of the Parties. Each of the Parties agrees that for the PHI,

- (a) it will not change any definition, data condition or use of a data element or segment as proscribed in the HHS Transaction Standard Regulation.
- (b) it will not add any data elements or segments to the maximum denied data set as proscribed in the HHS Transaction Standard Regulation.
- (c) it will not use any code or data elements that are either marked "not used" in the HHS Standard's implementation specifications or are not in the HHS Transaction Standard's implementation specifications.
- (d) it will not change the meaning or intent of any of the HHS Transaction Standard's implementation specifications.

4.2 Incorporation of Modifications to HHS Transaction Standards.

Each of the Parties agrees and understands that from time-to-time, HHS may modify and set compliance dates for the HHS Transaction Standards. Each of the Parties agrees to incorporate by reference into this Agreement any such modifications or changes.

4.3 Business Associate Obligations.

- (a) Business Associate shall not submit duplicate transmissions unless so requested by Covered Entity.
- (b) Business Associate shall only perform those transactions that are authorized by Covered Entity. Furthermore, Business Associate assumes all liability for any damage, whether direct or indirect, to the electronic data or to Covered Entity's systems caused by Business Associate's unauthorized use of such transactions.
- (c) Business Associate shall hold Covered Entity harmless from any claim, loss or damage of any kind, whether direct or indirect, whether to person or property, arising out of or related to (1) Business Associate's use or unauthorized disclosure of the electronic data; or (2) Business Associate's submission of data, including but not limited to the submission of incorrect, misleading, incomplete or fraudulent data.
- (d) Business Associate agrees to maintain adequate back-up files to recreate transmissions in the event that such recreations become necessary. Back-up tapes shall be subject to this Agreement to the same extent as original data.
- (e) Business Associate agrees to trace lost or indecipherable transmissions and make reasonable efforts to locate and translate the same. Business Associate shall bear all costs associated with the recreation of incomplete, lost or indecipherable transmissions if such loss is the result of an act or omission of Business Associate.
- (f) Business Associate shall maintain, for seven (7) years, true copies of any source documents from which it produces electronic data.
- (g) Except encounter data furnished by Business Associate to Covered Entity, Business Associate shall not (other than to correct errors) modify any data to which it is granted access under this Agreement or derive new data from such existing data. Any modification of data is to be recorded, and a record of such modification is to be retained by Business Associate for a period of seven (7) years.
- (h) Business Associate shall not disclose security access codes to any third party in any manner without the express written consent of Covered Entity. Business Associate furthermore acknowledges that Covered Entity may change such codes at any time without notice. Business Associate shall assume responsibility for any damages arising from its disclosure of the security access codes or its failure to prevent any third party use of the system without the express written consent of Covered Entity.
- (i) Business Associate shall maintain general liability coverage, including coverage for general commercial liability, for a limit of not less than one million dollars, as well as other coverage as Covered Entity may require, to compensate any parties damaged by Business Associate's negligence. Business Associate shall provide evidence of such coverage in the form of a certificate of insurance and agrees to notify Covered Entity and/or HOI immediately of any reduction or cancellation of such coverage.

- (j) Business Associate agrees to conduct testing with Covered Entity to ensure delivery of files that are HIPAA-AS Compliant and to accommodate Covered Entity's specific business requirements.

4.4 Confidential and Proprietary Information

- (a) Proprietary Information

Business Associate acknowledges that it will have access to certain proprietary information used in Covered Entity's business. Covered Entity's proprietary information derives its commercial value from the fact that it is not available to competitors or any third parties, and the disclosure of this information would or could impair Covered Entity's competitive position or otherwise prejudice its ongoing business. Business Associate agrees to treat as confidential, and shall not use for its own commercial purpose or any other purpose, Covered Entity's proprietary information. Business Associate shall safeguard Covered Entity's proprietary information against disclosure except as may be expressly permitted herein. Such proprietary information includes, but is not limited to, confidential information concerning the business operations or practices of Covered Entity, including specific technology processes or capabilities.

ARTICLE 5 MISCELLANEOUS

5.1 Indemnification.

Each Party agrees to indemnify the other for any damages, costs, expenses or liabilities, including legal fees and costs, arising from or related to a breach of such Party's obligations hereunder.

5.2 Term and Termination.

- (a) Term. The Term of this Agreement shall be effective as of the date first written above, and shall terminate when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
- (b) Termination for Cause. Upon a material breach by Business Associate of its obligation hereunder, Covered Entity may (i) terminate this Agreement and the Service Agreement; and (ii) report the violation to the Secretary.
- (c) Effect of Termination.
 - (i) Except as provided in paragraph 5.2(c)(ii), upon termination of this Agreement, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.
 - (ii) In the event that Business Associate determines that returning the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon Covered Entity's agreement that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and

disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.

5.3 Disputes.

Any controversy or claim arising out of or relating to the Agreement will be finally settled by compulsory arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("AAA"), except for injunctive relief as described below.

5.4 Injunctive Relief.

Notwithstanding any rights or remedies provided for in Section 5.3, Covered Entity retains all rights to seek injunctive relief to prevent the unauthorized use or disclosure of PHI by Business Associate or any agent, contractor or third party that received PHI from Business Associate.

5.5 Regulatory References.

A reference in this Agreement to a section in the Privacy Rule means the section as in effect or as amended.

5.6 Amendment.

The Parties agree to take such action as is necessary to amend this Agreement from time to time to the extent necessary for Covered Entity to comply with the requirements of HIPAA and its regulations. All amendments to this agreement shall be in writing and signed by both parties.

5.7 Survival.

The respective rights and obligations of Business Associate and Covered Entity under Sections 4.4, 5.1 and 5.2(c) of this Agreement shall survive the termination of this Agreement.

5.8 Limitation of Damages.

Other than liabilities under Section 5.1, neither party shall be liable to the other for any special, incidental, exemplary, punitive or consequential damages arising from or as a result of any delay, omission, or error in the electronic transmission or receipt of any information pursuant to this Agreement, even if the other Party has been advised of the possibility of such damages.

5.9 Interpretation.

Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy Rule.



ESO Solutions
3005 South Lamar Ave
Suite D 109-372
Austin, TX 78704

Tel: 866.766.9471
Fax: 512.687.5190

Quote Prepared For

| | | | |
|-----------------|--|-----------------|--------------------------------|
| Account Name | Murphy Fire Department | Quote Number | 00000088 |
| Billing Address | 206 N. Murphy Rd Murphy, Texas 75094 USA | Created Date | 8/8/2011 |
| | | Expiration Date | 9/8/2011 |
| Contact Name | Mark Lee | Prepared By | Brad Cottrell |
| Phone | (972) 468-4320 | Phone | 866-766-9471 x1192 |
| Email | mlee@murphytx.com | E-mail | brad.cottrell@esosolutions.com |

Quote Details

| Product | Sales Price | Quantity | Total Price |
|----------------------------------|--------------------|----------|--------------------|
| ePCR Suite w/Quality Management | \$5,795.00 | 1.00 | \$5,795.00 |
| QuickSpeak | \$99.00 | 2.00 | \$198.00 |
| ePCR Mobile | \$695.00 | 2.00 | \$1,390.00 |
| Interface - Billing | \$0.00 | 1.00 | \$0.00 |
| Interface - CAD | \$5,995.00 | 1.00 | \$5,995.00 |
| Interface - Monitor | \$3,995.00 | 1.00 | \$3,995.00 |
| Services - Training | \$995.00 | 2.00 | \$1,990.00 |
| Services - Training Travel Costs | \$700.00 | 1.00 | \$700.00 |
| | Total Price | | \$20,063.00 |

Notes

1. Further terms and conditions for purchase apply as defined in the ESO Subscription Agreement.
2. If your organization is not tax exempt, sales tax will be added where applicable.
3. If applicable, additional charges from your billing/CAD vendor may apply & should be discussed with that vendor.
4. The ePCR subscription rate is based upon call volume and will be re-evaluated on an annual basis.



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Suite D 109-372
Austin, TX 78704

Tel: 866.766.9471
Fax: 512.687.5190

Optional Items

ESO Solutions strives to provide our customers with options that meet their individual needs. The following options can be mixed and matched to meet your needs.

- ESO Quick Speak
 - \$99.00 – Annual subscription price per mobile device

- ESO Billing Extracts
 - \$1,995 – Standard NEMSIS Extract
 - \$2,995 – Zoll RescueNet Extract
 - \$2,995 – Ortivus Extract
 - TBD – Other Billing Extract

- ESO Computer Aided Dispatch (CAD) Interface
 - \$5,995 – Standard CAD Interface that meets ESO API
 - \$7,995 – ESO maps data to meet the ESO API
 - \$9,995 – ESO develops complete interface

- Cardiac Monitor Interface
 - \$3,995 – Phillips MRX, Zoll E or M Series and Physio-Control LP12 or LP15

- Training
 - \$995 Per Day

- Travel Estimates (per Day)
 - Travel costs are subject to change based on amount of notice given by customer for training dates and associated airfare.

Issue

Consider and/or act upon approval of a resolution nominating one to five candidates to serve on the Collin County Central Appraisal District Board of Directors for a two year term beginning January 1, 2012.

Background

CCCAD contacted the City and advised that the City will have 27 votes to cast in the election of the Board of Directors. The term will be for two years. The current board members are:

Ronald Carlisle
Leo Fitzgerald
Ken Maun
Wayne Mayo
Gary Rodenbaugh
Roy Wilshire

The City of Murphy was allowed 23 votes in 2009 and cast all 23 votes to nominate Wayne Mayo. Nominations must be made in an open meeting and by resolution then delivered to CCCAD by October 15, 2011.

Attachments

- 1) Resolution
- 2) Correspondence from CCAD
- 3) Director Qualifications

Joy Hart, Executive Assistant
Submitted By

James Fisher, City Manager
City Manager Approval

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MURPHY, COLLIN COUNTY, TEXAS NOMINATING ONE TO FIVE QUALIFIED CANDIDATES TO SERVE ON THE COLLIN COUNTY CENTRAL APPRAISAL DISTRICT BOARD OF DIRECTORS FOR A TWO YEAR TERM BEGINNING JANUARY 1, 2012.

WHEREAS, the City of Murphy being located within Collin County, Texas ; and

WHEREAS, the City of Murphy elected to utilize the services of Collin County Central Appraisal District; and

WHEREAS, the City of Murphy would like to nominate one to five candidate(s) who meet the Collin County Central Appraisal District Board of Directors qualifications.

NOW , THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MURPHY, THAT THE CITY NOMINATES THE FOLLOWING QUALIFIED CANDIDATE(S) AS FOLLOWS:

Section 1. Nominee(s)

Nominee: _____
Nominee: _____
Nominee: _____
Nominee: _____
Nominee: _____

DULY RESOLVED by the City Council of the City of Murphy on this 20th day of September, 2011.

Bret M. Baldwin, Mayor
City of Murphy

ATTEST:

Aimee Nemer, City Secretary
City of Murphy



Collin Central Appraisal District

James Fisher, City Manager
City of Murphy
206 N. Murphy
Murphy, TX 75094

August 15, 2011

RECEIVED

AUG 16 2011

City Manager's Office

RE: Election of Central Appraisal District of Collin County Board of Directors.

Dear Mr. Fisher:

Please be advised that the City of Murphy will have 27 votes to cast in the election of the Board of Directors for the Central Appraisal District of Collin County. The terms will be for two years beginning January 1, 2012.

Each voting unit may nominate one to five candidates. Nominations must be made in an open meeting.

A written resolution from the presiding officer should include the name and address of each candidate nominated. The resolution must be delivered to the Chief Appraiser before October 15, 2011.

Sincerely,

Bo Daffin
Chief Appraiser

Enclosure

DIRECTOR QUALIFICATIONS

An appraisal district director must reside in the appraisal district for at least two years immediately preceding the date he or she takes office.

A person may serve on the governing body of a taxing unit in the appraisal district that is; a city councilman, school board trustee, county commissioner, or other board member, and still be eligible to serve as a director. The common-law doctrine of incompatibility (holding offices that have conflicting demands on the holder) does not prohibit the same person from holding both offices. There is no limit to the number of elected officials that may serve on the board.

An employee of a taxing unit within the appraisal district may not serve as a director. The only time that a taxing unit's employee may serve is if that employee is also an elected official or member of the governing body. For example, a city councilman who is employed as the school business manager may serve as a director.

A person may not serve as a director if he or she is related to someone who appraises property for use in proceedings before the appraisal review board or in subsequent court proceedings, or represents property owners in such proceedings.

A person may not serve on the board of directors if that person has a substantial interest in a business entity which has a contract with the appraisal district or, in the case of a taxing unit, has a contract related to the performance of an activity governed by the Tax Code. (Example- a partner in a law firm engaged in collecting delinquent taxes for a taxing unit.)

In considering individuals to serve as directors, taxing units should look for expertise in such areas as accounting, finance, management, personnel administration, contracts, computers, real estate, or taxation.

Issue

Discussion regarding the use of electronic devices for City Council.

Background

The City has been discussing going paperless for over a year and now is targeting November 2011 as the effective date. Beginning with the November 1st agenda, the City Council will no longer receive hard copies of the City Council agenda packet. Staff has been using Ipads for the past year and can see the advantage of using them for City Council packets. The Ipads or other electronic device can be set up to hold maps, documents, policies and other vital information right at your fingertips. The challenge is that until you commit 100% to go paperless, you will always keep one foot in the hard real paper world. I am one of those and I am working real hard to leave the pen/paper world.

The idea of paperless has been around awhile and several government entities have been very successful in doing this. I am not proposing this change because of other cities. I am proposing this change because it allows us to be more efficient with our time, our documents and with our environmental resources.

Staff Recommendation

Council direction is requested.

Attachments

- 1) Article from **Government Technology**, April 5, 2011 – *The Do's and Don'ts of Making a Paperless City Council*;
- 2) Article from **Texas Town & City**, February 2011 – *Boerne is One Tech-Smart City*;
- 3) Article from **Daily Press**, July 11, 2010 – *iPads eliminate paper, save money for localities*;
- 4) Article from **Public Management**, October 2006 – *Paperless Agendas 101*.

James Fisher, City Manager
Submitted By

James Fisher, City Manager
City Manager Approval

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The Do's and Don'ts of Making a Paperless City Council

April 5, 2011 Brian Heaton

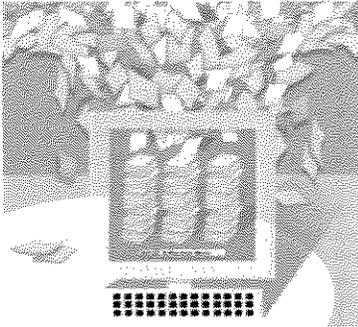


Illustration by Tom McKeith
Illustration by Tom McKeith

Sacramento, Calif., has joined the growing number of cities whose council agenda materials are completely electronic. How did the city do it? Officials shared a litany of useful tips on how to make the conversion, during a seminar Monday, April 4.

Chief among Sacramento's strategy, according to Assistant City Clerk Dawn Bullwinkel, who led the project, was to move beyond the thought of just digitizing a paper product. The clerk's office stepped back and took a close look at all work processes, identifying how they could be more efficient before moving forward.

"If you try to clone exactly what you do today, without shaking out the bugs, you won't be as successful," Bullwinkel said. "We stepped outside the norm and basically examined and re-engineered the way we do business. This didn't require expensive equipment or tools, but did require an open mind and a brave heart."

The presentation, called *The Journey to Digital Delivery and Greater Transparency*, was a preview of what will be shown by the city clerk's office at next month's International Institute of Municipal Clerks 2011 Annual Conference in Nashville, Tenn. The two-hour discussion covered best practices useful to other local government offices and agencies considering a digital approach.

Some of the key points included:

Digital delivery is not an IT initiative — own the process and partner with IT professionals.

Don't worry about 100 percent consensus, it'll never happen.

Have a clear vision and goals — why go digital?

Get buy-in from key stakeholders.

Start a pilot program — it'll turn into practice.

Provide a digital product that users can't live without.

Avoid feedback derailing.

Be available 24/7 for support.

Bullwinkel was adamant that 100 percent consensus about moving to digital delivery isn't likely to happen. So instead of waiting, she stressed the importance of pushing forward and avoiding being derailed by naysayers.

"The biggest challenge is change management," Bullwinkel explained. "If you want everything to be perfect you'll never get ahead. Listen to feedback, but don't get caught up in the negativity."

Benefits Spurred Change

The Sacramento City Council went all-digital with its meeting materials in January 2010, providing hard copies of documents only for the public. The council uses an "ePacket," which is a PDF containing all meeting documents. Council members retrieve the ePacket from a cloud-based service. In the meetings, the council uses a variety of tablet devices to read and annotate the materials, including the iPad.

"People need to understand that this isn't something we're doing to be hip on technology," said Councilmember Steve Cohn in a prerecorded video interview. "We're doing it to improve transparency, service and accessibility to the public."

Although the city clerk's office began moving toward digital documentation in 2005, it wasn't until the City Council expressed an interest in exploring digital delivery in 2009 that the transition began in earnest. But once staff had that opening, Bullwinkel said they ran with it.

Change didn't happen overnight, and it wasn't easy. Cohn explained that former city Councilmember Robbie Waters, who was also a former Sacramento County sheriff, had never really used a computer when digital delivery was suggested. But after seeing the cost savings and benefits to the public, he realized it was detrimental to the public to hold back. Waters tried it.

"It takes a lot of courage and is a big risk because you're bucking the mainstream," added Sacramento City Clerk Shirley Concolino. "We were old school in the city clerk's office, and it wasn't what our customers wanted."

Establish Rapport

Bullwinkel added that an emphasis on building relationships with the city's IT staff and a willingness to be accessible to council members helped the City Council overcome any hesitation about digital delivery of its agenda materials. She also focused on the necessity of empowering city council members, offering them an array of digital devices.

"When you retire your paper packets, don't tell [council members] they have to use an iPad," Bullwinkel cautioned. "Some people hate Apple, so you can say, 'Our tablet of choice is the iPad, but we also have [these other devices].' Hold a demo and start creating an environment where someone can choose."

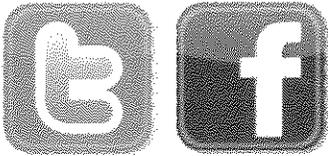
It didn't hurt matters that the first device council members used was free. The assistant city clerk said

the clerk's office shifted its production fund that was being used for paper and distribution and bought each of the council members their first digital device, just to get the ball rolling.

Despite the success, Bullwinkel said the digital experience must be continually improved. She said weekly meetings are held just to see if there is something else the staff can do to provide a better product.

But one thing is for certain — she'd never go back to paper.

"If you can get through the mire, your life will be much easier," Bullwinkel added.



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other

By Pamela Bransford

Public Relations Coordinator, City of Boerne

The City of Boerne is a technologically savvy city when it comes to public safety, public utilities, and administrative operations. The city has been using state-of-the-art technology for a wide variety of municipal and utility operations for many years and continues adding new technology tools as they become available.

The Boerne City Council and senior staff members use iPads to download and review meeting agendas and background materials. The utilities billing and customer service departments promote online and electronic draft services for utility payments. IP (Internet Protocol) surveillance cameras are installed at park facilities and most city government buildings. The administration department electronically manages records according to state guidelines, and staff is continually seeking grants to obtain the latest and greatest technology tools for the Emergency Operations Center.

These are just a few examples of technology initiatives enabling the City of Boerne to operate more efficiently, which ultimately saves time and taxpayer money. Some of the more significant technology projects are constantly being evaluated and upgraded to maximize information management, communications, accuracy, and customer service. A handful of more than 20 major technology initiatives are featured below.

Advanced Metering Infrastructure and Automated Meter Reading

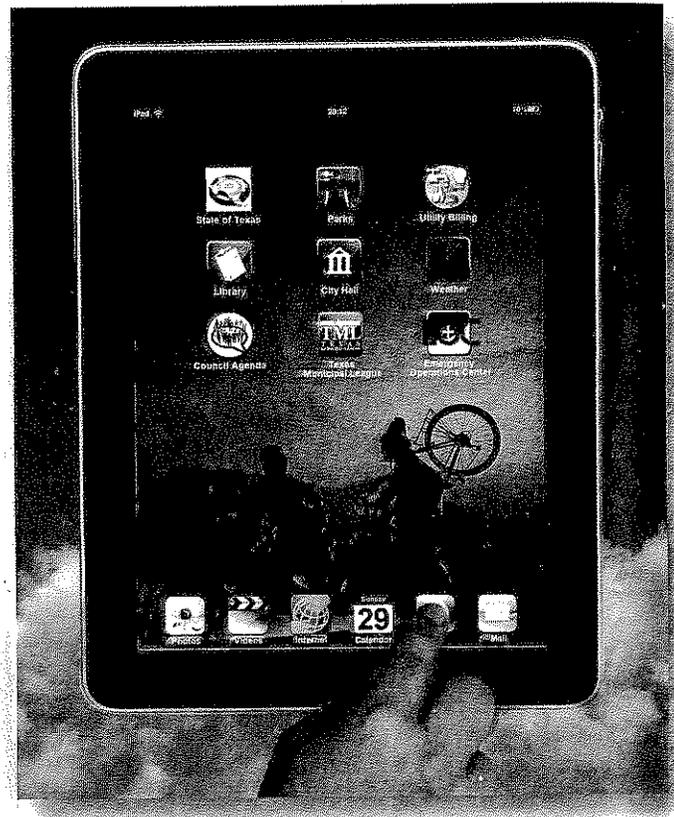
The City of Boerne is one of only a few Texas cities that actually owns and operates four utilities—electric,

natural gas, water, and wastewater—for nearly 11,000 residents. In 2007, the city began looking into an Advanced Metering Infrastructure (AMI), an Automated Meter Reading (AMR) system with a goal of remotely reading all the city's electric, water, and natural gas meters. The objectives were:

- To deploy a system that is technologically advanced and open to updates and additions of new AMI technologies as they become available;
- To find a system that would be easy to use by the city billing department and utility work crews, and with efficient installation procedures;
- To provide the city with information on power quality and power outages; and
- To provide as much useful data to utility customers as possible related to leak detection, resource conservation, consumption history, and savings opportunities.

In addition, the city desired to provide this utility technology upgrade at a reasonable cost. The city budgeted \$1.5 million for project implementation over a five-year period.

This new meter reading technology monitors a household's electricity, gas, and water usage and relays that



information to the Utility Billing Office. As we proceed with implementation, this information will be available on the city's Web site so utility consumers can monitor their energy use and conserve their resources.

In September 2008, after a lengthy review of several proposals from qualified providers, the city council approved a contract with Tantalus Systems Corporation and Badger Metering. Tantalus provides electric metering and foundation for the radio network to transmit data from the meters to a central data collection base. Badger provides the water and gas meters and transmitters to be integrated with the Tantalus infrastructure.

As recommended by other larger public utilities that have implemented AMI/AMR, the project began with a

pilot phase that included installation of approximately 350 electric, 300 water, and 90 natural gas meters in locations furthest from the central data collection point at city hall. This small sampling uncovered some issues that would have caused major setbacks if the AMI meters had been installed throughout the entire system.

City staff took extra time to ensure that the meter installations were completed correctly and systematically throughout the pilot areas. A few complications soon arose from the data reads. Data from the "water only" area was sporadic and incomplete, and natural gas reads were few in number. The data collectors turned out to be the culprits within the "water only" reads, and an output frequency glitch on the natural gas modules was preventing the data from reaching the collectors.

Once these issues were resolved, the system began providing reliable, useable billing data, and customers in the pilot areas began receiving bills generated from the AMI system reads. The billing piece of the project continues to be dependable as the city moves forward with meter

installations citywide. Project completion is slated for 2013.

In the short time since the pilot, the city has successfully assisted many customers with historical and time-of-use consumption data. The new system also provides the city with power outage information, along with power quality reporting in the areas being currently read.

Public Safety

The police car video system used by the Boerne Police Department is from L3 Mobilevision. It is a DVR mounted inside the patrol car that uses a flashcard storing 8-32 hours of high quality D1 video. The city's information technology department staff installed Wireless Access Points at the Police department for efficient video transfer.

At the end of each shift, the officers wirelessly transfer the videos to a secure server at headquarters. The video recorder, which is set to pre-record 30 seconds and post-record 30 seconds, is triggered by speed, or when the lights, siren, and/or microphone are activated. The server maintains records and keeps track of users,

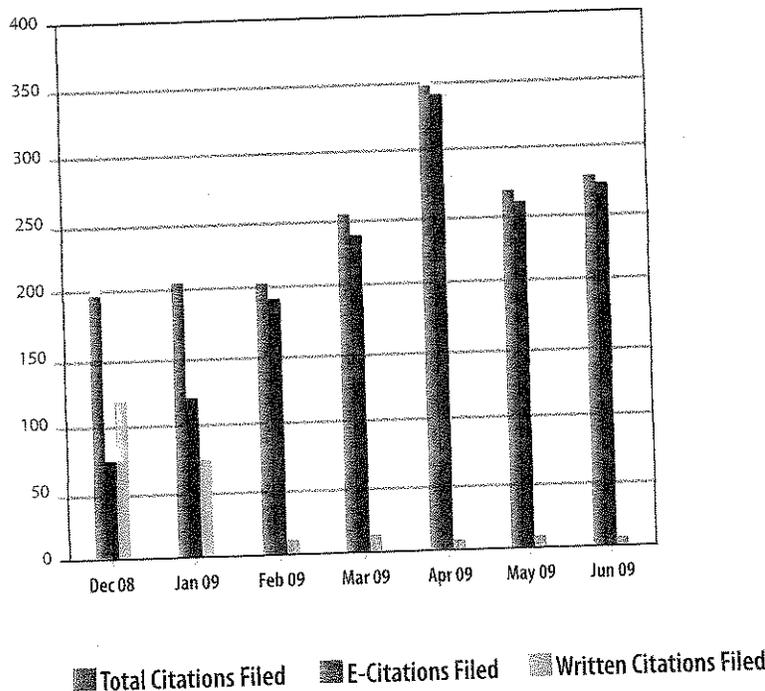
provides videos for court use, and can create a "video history" back to a specific date. In addition, the system includes a USB feature allowing officers to log into the system to label the videos by name and/or patrol car number.

"From an evidence viewpoint, the system we use is far superior to the old tape systems," noted Boerne Police Chief Gary Miller. "Because the video is always running, when an officer activates his red lights the recorder will go back 30 to 45 seconds and save the recorded data from that point on. So we have video of the violator running the stop sign or weaving down the road. Prosecutors love it, and I enjoy the moments when a person who received a citation sits in my office and views the video clearly showing them busting through the red light," Miller added. "A clerk produces a copy and sends it to the prosecutor with any criminal or traffic cases."

The in-car DVR is also IP addressable, so IT staff can connect to the camera from a secure location—such as the Emergency Operations Center—through a VPN (virtual private network) for a "live" view of an incident. This can be especially helpful during weather-related events such as floods or other emergencies, because multiple staff members can view the scene without needing to be physically at the location.

Another real time saver for the police and municipal court staff is the electronic ticket writer. This technology tool provides a more accurate citation, and defendants have a "print out" that is easier to read.

Since the city's police force began using the electronic ticket writers in 2008, municipal court staff time spent deciphering and entering handwritten citations has decreased by nearly 95 percent. Staff time saved from manual data entry used to process handwritten citations has resulted in significant efficiencies to better



manage other municipal court daily tasks, such as preparing citation files, assisting customers, processing court notices, mail, Internet/phone credit card payments, jail paperwork, faxes, docket preparation, and trial settings. Using this technology has delayed the need to hire additional court clerks to process citations.

Public Works SCADA (Supervisory Control and Data Acquisition)

Approximately four years ago, the Public Works Department began installing SCADA technology to allow for automated operation of the water distribution system. "As the city grows and uses more water, the three water sources used in Boerne require a higher level of control to respond to changing demand," said Public Works Director Michael Mann, P.E. Without automation, system adjustments would eventually require

additional full-time personnel to operate the system using three daily shifts. Using SCADA to integrate the water sources reduces the need for constant operator attention and helps keep after-hours monitoring requirements to a minimum. This advanced technology automatically isolates problems and improves staff response time when a problem is identified.

Public Library

Boerne's new public library will open this summer, and staff is taking advantage of technology upgrades to improve workflow and customer service, and to reduce costs.

RFID (Radio Frequency Identification) tags will be placed inside library materials, allowing multiple items to be checked in and out at the same time. Patrons benefit by having greater access to staff. Library staff will have more time to assist patrons with their information

needs, because time spent managing inventory is reduced.

Self-Check and PC and Print Management software tools give patrons the freedom to manage their library needs, improve library service, and save time and money overall. Ultimately, the city's human resources are used in a more efficient and cost-effective manner.

City Council

For years, staff spent nearly 400 hours per year organizing and copying agendas and supporting documentation for city council information binders, and physically delivering these to the six members twice monthly. New iPads were issued to the councilmembers six months ago, and so far the city has saved more than 200 employee hours and more than 75 reams of paper. The city councilmembers are notified by e-mail that the agenda and background materials are available to be downloaded onto their iPad at their own convenience. They also use these at the city council meetings for quick access to the information during staff presentations.

Boerne City Manager Ron Bowman is excited that technology solutions are improving the way we do business. "We want to take advantage of every opportunity to improve efficiency, enhance customer service, and save money," he says. Bowman credits all of the city's department heads, and especially the Information Technology team, for being proactive and seeking the most effective technology tools for everyday municipal and utility operations. "Our staff embraced technology many years ago and has never been reluctant to try new ways of doing business."

"As stewards of our community's tax dollars, we will continue finding ways to use technology in our daily operations, because our customers expect first-rate service," adds Bowman. ★



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dailypress.com/news/williamsburg/dp-nws-williamsburg-ipad-20100711,0,4356575.story**dailypress.com****iPads eliminate paper, save money for localities****Hampton, now Williamsburg toss out printed agendas for latest technology**By Dan Parsons, dparsons@dailypress.com | 247-7840

10:15 PM EDT, July 11, 2010

WILLIAMSBURG

— Perhaps unexpected from a town famous for its 18th century roots, Williamsburg this week joined other communities stepping confidently into the 21st century by forsaking paper city council agendas in favor of the latest technological communications tool – the Apple iPad.

"We move into the future," said newly installed Mayor Clyde Haulman after the unanimous vote on Thursday to purchase the tablet computers for council members.

City Council's decision to save money and go green by saving thousands of sheets of paper a month mirrors a move Hampton made. That city chose to go paperless and begin using iPads in May. Nearly every Peninsula locality has made some effort to reduce paper consumption, though only a few have bought tablet computers or e-readers for their elected officials.

But "with this new technology come new opportunities for abuse," said Megan Rhyne, executive director of the Virginia Coalition for Open Government. The iPad platform can support applications that could be used to communicate during meetings outside the public view, Rhyne worries.

"I really do understand the cost savings, and the practical reality that very few of these localities provide printed copies to the public anymore," Rhyne said. "But some of those applications could make it easy for instant messaging and other communication, basically a meeting within a meeting without the public knowing."

Those communications would be subject to a public records request under state Freedom of Information laws, though no procedure for their collection or declaration has been established, Rhyne said.

At the moment, localities seem transfixed by the potential cost savings of eliminating paper.

Williamsburg spends about \$2,000 a year on printing council packets for regular meetings and work sessions, according to City manager Jack Tuttle.

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Last year, the city printed 1,716 pages of agendas. Multiply that by 20 for copies used by council members and staff and the total grows to 34,320 sheets, or about 69 reams of paper. While cutting costs is a priority, printed agenda packets will remain available upon request at no charge, said city spokeswoman Kate Hoving.

An iPad costs about \$600. Buying them for five Williamsburg council members is a one-time cost of \$3,000, so the computers should pay for themselves in 18 months.

The Hampton City Council anticipates saving \$18,000 a year in printing costs, though council members have not yet used them in a regular meeting. Mayor Molly Joseph Ward has used her own iPad, however, "with great success."

"We used to get these huge agenda packets," Ward said. "I was able to navigate through my agenda materials with great ease and success. There are a number of different applications which allow you to take notes, highlight. It's great."

James City County still prints agendas for its seven supervisors, but has cut costs elsewhere. By publishing the annual progress report online, James City saves \$6,500 annually. The quarterly newsletter cost \$7,325 a year until it went digital this year.

York County has saved about \$13,400 per year by eliminating printed agendas for non-board members and printed minutes, county spokeswoman Christie Phillippsaid. York supervisors have used online agendas since 2005, which saves \$2,500 annually. Publishing the county's staff newsletter online rather than in print saves another \$4,000 a year, Phillips said.

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Va cities use iPad to go paperless

By DAN PARSONS

The Daily Press

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WILLIAMSBURG, Va.

Perhaps unexpected from a town famous for its 18th century roots, Williamsburg this week joined other communities stepping confidently into the 21st century by forsaking paper city council agendas in favor of the latest technological communications tool the Apple iPad.

"We move into the future," said newly installed Mayor Clyde Haulman after the unanimous vote on Thursday to purchase the tablet computers for council members.

City Council's decision to save money and go green by saving thousands of sheets of paper a month mirrors a move Hampton made. That city chose to go paperless and begin using iPads in May. Nearly every Peninsula locality has made some effort to reduce paper consumption, though only a few have bought tablet computers or e-readers for their elected officials.

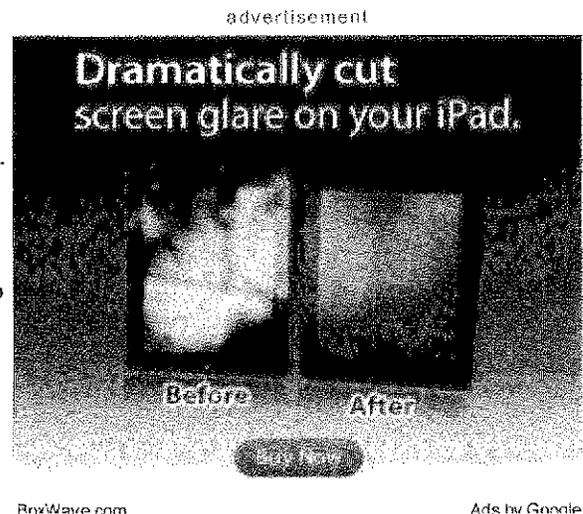
But "with this new technology come new opportunities for abuse," said Megan Rhyne, executive director of the Virginia Coalition for Open Government. The iPad platform can support applications that could be used to communicate during meetings outside the public view, Rhyne worries.

"I really do understand the cost savings, and the practical reality that very few of these localities provide printed copies to the public anymore," Rhyne said. "But some of those applications could make it easy for instant messaging and other communication, basically a meeting within a meeting without the public knowing."

Those communications would be subject to a public records request under state Freedom of Information laws, though no procedure for their collection or declaration has been established, Rhyne said.

At the moment, localities seem transfixed by the potential cost savings of eliminating paper.

Williamsburg spends about \$2,000 a year on printing council packets for regular meetings and work sessions, according to City manager Jack Tuttle.



Last year, the city printed 1,716 pages of agendas. Multiply that by 20 for copies used by council members and staff and the total grows to 34,320 sheets, or about 69 reams of paper. While cutting costs is a priority, printed agenda packets will remain available upon request at no charge, said city spokeswoman Kate Hoving.

An iPad costs about \$600. Buying them for five Williamsburg council members is a one-time cost of \$3,000, so the computers should pay for themselves in 18 months.

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PAPERLESS AGENDAS 101

Paperless agendas are a hot topic in local government, and rightly so. The agenda process, in its traditional paper form, is tedious and inefficient. Every action—from compilation to distribution—has room for improvement.

Most agenda solutions concentrate on providing a consistent method for submitting agenda items, routing those items for approval, and, in the end, compiling and publishing the agenda and supporting material (attachments) to electronic media such as a Web site or a CD.

Some applications even provide drafting tools for attachments and minutes, audio and video modules, legislative voting tracking, hand-held electronic voting devices for council and commission members, and dedicated meeting interfaces for the public who attend the actual meetings.

Today's buzzwords—paperless agendas, agenda automation, and agenda management—all refer to solutions that are similar, although some solutions are more robust than others. Today's market offers three distinct types of solutions that can be tailored to every locality's budget and needs.

WHAT SOLUTIONS ARE AVAILABLE?

Fully customized solution. Many communities have developed their own in-house solutions. Some have developed fairly robust tools to manage the agenda process, but most local setups comprise only network drives, e-mail traffic with attachments, and internal manual processes that make use of basic office software tools. These localities can be considered innovators in the paperless-agenda world, but new software packages offer greater customization, tracking, and consistency.

Customizable solutions in today's market allow internal IT staff or a vendor to replicate current agenda layouts, item-submission-form layouts, minutes layouts, and the approval process currently in use by the local government. Localities tend to be particular about

their agendas and perhaps unwilling to change their processes to meet the requirements of a software package. Customizable solutions mold the software around existing processes. These solutions are the most costly, but they can provide what a community wants and needs.

Out-of-the-box solution. The term "out of the box" means the solution comes with configuration tools and can be installed and deployed quickly and easily. The customer is able to configure and modify the agenda program internally, when needed. These packages do not offer the flexibility of a total customized solution, but they usually satisfy the needs of most small and medium-sized localities.

Some of these solutions offer more robust configuration tools than others, but a community should be prepared to modify its agenda process to fit the out-of-the-box product. If a community chooses this route, it needs to analyze available products carefully and pick the one that comes closest to fitting current needs and processes.

Hosted solution. Hosted solutions—commonly called ASPs, which stands for application service providers—are becoming more popular in all aspects of technology. With a hosted solution, a local government leases or rents the software from a vendor for a yearly or a monthly fee. The vendor, in turn, maintains the software on servers and gives the local government secure access to the application. The locality benefits from low entry costs, no hardware requirements and costs, and continued availability of its scarce in-house technical resources.

Hosted agenda solutions offer only limited customization, but they provide standard configuration options that will

satisfy a large portion of small and medium-sized localities. The most attractive aspects of a hosted solution are the lower cost and the technology support provided by the vendor.

Regardless of solution, some considerations are universal:

- **Web-based setup.** All three types—not only the hosted solution—can be Web based. This means they can be set up on the intranet and no software is required to be installed on each PC throughout the local government, which allows for easy maintenance of the solution and upgrades. Because the agenda process touches every department in a community, a Web-based solution is the easiest to maintain and support. In addition, licensing tends to be cheaper. Licensing depends on the solution chosen, and it is something that should be a serious consideration. An unlimited license is preferable since everyone in the organization will be required to use the application to submit agenda items. Licensing models that limit the use of the solution based on users, viewers, and so forth will be frustrating, and it will be hard for the locality to determine how many licenses are needed up front, let alone having to purchase more licenses in the future when needed. Just because a solution is "Web-based /Thin Client Software" does not mean it comes with unlimited licensing. This is an important question to ask during the selection process.
- **Work flow and approval process.** The system needs to accommodate both defined work flows and push work flows. In a defined work flow, agenda items follow a predetermined path. A push work flow can handle ad hoc items and allows routing

PAPERLESS AGENDA SOLUTIONS

| Solutions | Degree of customization | Cost |
|------------------|--------------------------------|--------|
| Fully customized | Totally customizable | \$\$\$ |
| Out of the box | Limited to configuration tools | \$\$ |
| Hosted (ASP) | Most limited | \$ |

FYI

(pushing) items for approval when no predetermined path exists.

- **User friendly.** To gain acceptance across every department, the solution must be understandable to all users. Bells and whistles are great, but they cannot be too complicated or difficult to learn. Mirror the current process as much as possible, and keep the presentation as simple as possible.

Vendor and product selection. The agenda market is a hot market, and many new players will enter and depart. Some vendors lack financial stability and will fail. Others will not be able to gain market share and will eventually leave the market or provide poor support. It is important that your community chooses a vendor it trusts—one who has a solid reputation in working with local governments.

As the market matures, only trustworthy vendors with good solutions will remain. Agenda management solutions—an exciting area that offers improved efficiency and time savings for local governments—will continue to evolve and improve over the next few years. The market will have reached maturity when three to five primary suppliers offer reasonably priced, stable products.

—Donny Barstow
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