

MURPHY CITY COUNCIL AGENDA  
REGULAR CITY COUNCIL MEETING  
NOVEMBER 13, 2012 AT 6:00 P.M.  
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 November 13, 2012 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

PUBLIC COMMENTS

Colleen Halbert  
Deputy Mayor Pro Tem

CONSENT AGENDA

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.

Dennis Richmond  
Councilmember

Scott Bradley  
Councilmember

Bernard Grant  
Councilmember

Dave Brandon  
Councilmember

- A. Consider and/or act upon the approval of meeting minutes:
  1. October 16, 2012 Regular City Council meeting;
  2. October 25, 2012 Special City Council Meeting; and,
  3. October 30, 2012 City Council Work Session.
- B. Consider and/or act on the application of **Forestar (USA) Real Estate Group, Inc.** requesting approval of a construction plat for Maxwell Creek North Phase 11A on property zoned PD (Planned Development) District No. 00-06-486 and No. 00-06-487 for Single Family Uses. This property is generally located southwest of the intersection of McMillen Road and McCreary.
- C. Consider and/or act on the application of **Forestar (USA) Real Estate Group, Inc.** requesting approval of a construction plat for Maxwell Creek North Phase 11B on property zoned PD (Planned Development) District No. 00-06-486 and No. 00-06-487 for Single Family Uses. This property is generally located southwest of the intersection of McMillen Road and McCreary.
- D. Consider and/or act upon Resolution approving the 2012 tax roll with a total levy of \$8,699,950.81 as certified by Kenneth L. Maun, Tax Assessor Collector for Collin County.
- E. Consider and/ or act upon a resolution authorizing the Mayor to sign the Interlocal Agreement between Collin County and the City of Murphy for the Collin County Funding Assistance Program grant of \$500,000 for the Murphy Regional Hike and Bike Trail Connector Project.

James Fisher  
City Manager

INDIVIDUAL CONSIDERATION

- A. Hold a public hearing and consider and/or act on the application of **Mike Horn**, property owner, requesting approval of an ordinance for a SUP (Specific Use Permit) to allow a drive-thru window for a Braum's Ice Cream Store on property zoned PD (Planned Development) District No. 09-12-823 for Retail and Office Uses on property located on FM 544 between Brand Road and Murphy Road. **ZF 2012-07.**
- B. Consider and/or act on the application of **Mike Horn** requesting approval of a site plan for Braum's Ice Cream Store on property zoned PD (Planned Development) District No. 09-12-823 for Retail and Office Uses on property located on FM 544 between Brand Road and Murphy Road.
- C. Consider and/or act on the application of **Mike Horn** requesting approval of a construction plat for Braum's Ice Cream Store on property zoned PD (Planned Development) District No. 09-12- 823 for Retail and Office Uses on property located on FM 544 between Brand Road and Murphy Road.
- D. Consider and/or act upon approval of the NCTCOG Interlocal Agreement for the TCEQ Solid Waste Implementation Grant Project, authorize \$16,800 of the recycle rebate funds as matching funds for the \$67,200 TCEQ Solid Waste Grant Award to purchase BigBelly solar compactor trash and compactor recycle bins for Murphy Park pavilions, and authorize the City Manager to sign all necessary documents.
- E. Consider and take action, if any, on the renewal notice for Solid Waste Collection and Transportation Agreement with Waste Management of Texas, Inc.
- F. Discussion/review of Water Conservation Plan and Enforcement Ordinances.
- G. Consider and take action, if any, on adding December 31, 2012 as an additional employee holiday in 2012.
- H. Consider and take action, if any, on the proposed revisions to the Code of Ethics of the City of Murphy and the proposed Rules and Procedures of the Ethics Review Commission.
- I. Consider and take action, if any, on an Ordinance concerning the position of the City Secretary.

CITY MANAGER/STAFF REPORTS

North Murphy Road Construction Update  
McCreary Road Construction Update  
TML Annual Conference – November 14-16, Gaylord Texan Conference Center  
Leadership North Texas – November 16  
Holiday Hams to be distributed November 19 at 11:00am  
Chamber Luncheon – November 20

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:

§551.071 Consultation with City Attorney regarding pending litigation or contemplated litigation involving:

- a) George Parker and Parker Tree Services.
- b) Johnny Boles v. City of Murphy, et al., Civil Action No. 4:11-cv-682
- c) Susan Kinder-Alessio v. City of Murphy, et. al., Civil Action No. 4:12-CV-000493-RC-ALM
- d) Michael Cantrell v. City of Murphy, et. al, Cause No. 6:09-cv-225.

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:

§551.071 Consultation with City Attorney regarding pending litigation or contemplated litigation involving:

- e) George Parker and Parker Tree Services.
- f) Johnny Boles v. City of Murphy, et al., Civil Action No. 4:11-cv-682
- g) Susan Kinder-Alessio v. City of Murphy, et. al., Civil Action No. 4:12-CV-000493-RC-ALM
- h) Michael Cantrell v. City of Murphy, et. al, Cause No. 6:09-cv-225.

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, Texas 75094; a place convenient and readily accessible to the public at all times, and said notice was posted on November 9, 2012 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.

Kristi Gilbert, TRMC, CMC, CPM  
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 kgilbert@murphytx.org.

CITY COUNCIL MINUTES  
OCTOBER 16, 2012 REGULAR CITY COUNCIL MEETING

**1. CALL TO ORDER**

Mayor Pro Tem Daugherty called the meeting to order at 6:01p.m.

**2. INVOCATION & PLEDGE OF ALLEGIANCE**

Mayor Pro Tem Daugherty gave the invocation and led the Pledge of Allegiance.

**3. ROLL CALL & CERTIFICATION OF A QUORUM**

City Secretary, Kristi Gilbert, certified a quorum with the following Councilmembers present:

Mayor Bret Baldwin (arrived at 6:10 p.m.)

Mayor Pro Tem John Daugherty

Deputy Mayor Pro Tem Colleen Halbert

Councilmember Scott Bradley

Councilmember Bernard Grant

Councilmember Dave Brandon

Councilmembers absent:

Councilmember Dennis Richmond

**4. PUBLIC COMMENTS**

*Joe Jaynes, 520 E. Corporate, Lewisville* – Mr. James introduced himself as a Collin County Commissioner that serves a precinct other than Murphy and stated that he is also now in government relations for Waste Management. Mr. James promised the ultimate customer service experience with Waste Management as they continue to service the City.

*Jerry Roberts, 521 Seminole Trail* – Mr. Roberts addressed the Council and asked for consideration in revising the City's ordinances to address bee keeping. Mr. Roberts stated that his neighbor has three bee hives on their shared fence that are preventing him from enjoying the use of his property.

**5. PRESENTATION ITEMS**

Mayor Pro Tem Daugherty presented the following:

A proclamation presented to Smokey the Bear, designating October 27, 2012 as Murphy Arbor Day;

A proclamation presented to the City's Green Team designating November 15, 2012 as America Recycles Day in Murphy; and,

A proclamation presented to Relay for Life of Wylie/Sachse/Murphy proclaiming October 2012 as Breast Cancer Awareness Month in Murphy.

Martha Wolffe with Relay for Life expressed her gratitude for the proclamation and shared statistics and data on breast cancer and breast cancer awareness.

Mayor Baldwin arrived at the meeting at 6:10 p.m. and assumed the chair.

**6. CONSENT AGENDA**

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.

- A. Consider and/or act upon the approval of the minutes from the Regular City Council meeting of October 2, 2012.
- B. Consider and/or act on the Final Plat for Murphy Village Addition, Lot 2R, 4 and 5, Block A on property zoned PD (Planned Development) District No. 09-12-823 and No. 09-12-824 for Retail and Office Uses. This property is located at the southeast quadrant of West FM 544 and Brand Road.
- C. Consider and/or act upon approval of Resolution designating investment officers of the City and approving the investment policies for the investment of municipal funds.
- D. Consider and take appropriate action, if any, on the 2013 City of Murphy Holiday Schedule.

**COUNCIL ACTION:**

**APPROVED**

Councilmember Brandon moved to approve the consent agenda as presented. Councilmember Bradley seconded the motion. For: Unanimous. Against: None. The motion carried by a vote of 6 to 0.

**7. INDIVIDUAL CONSIDERATION**

- A. Consider and/or act on the application of Forestar (USA) Real Estate Group, Inc. requesting approval of a site plan for Emerus Emergency Hospital on property zoned PD (Planned Development) District No. 12-07-917 located at the northeast corner of FM 544 and Heritage Parkway.

Deputy Mayor Pro Tem Halbert excused herself from deliberation due to a standing relationship with Methodist Richardson and left the chambers.

The council discussed monument signs, the existing white fence surrounding the Windy Hills Farms subdivision and the use of meandering sidewalks.

**COUNCIL ACTION:**

**APPROVED**

Councilmember Brandon moved to approve the application of Forestar (USA) Real Estate Group, Inc. requesting approval of a site plan for Emerus Emergency Hospital on property zoned PD (Planned Development) District No. 12-07-917 located at the northeast corner of FM 544 and Heritage Parkway. with the following changes: Forestar is to provide a meandering sidewalk on the south side of the property and work with the Windy Hills HOA in an attempt to provide a meandering sidewalk on the west side of the property. Councilmember Bradley seconded the motion. For: Baldwin, Daugherty, Brandon, Bradley and Grant. Against: None. Abstained: Halbert. The motion carried 5-0-1.

- B. Consider and/or act on the application of Forestar (USA) Real Estate Group, Inc. requesting approval of a construction plat for Emerus Emergency Hospital on property zoned PD (Planned Development) District No. 12-07-917 located at the northeast corner of FM 544 and Heritage Parkway.

City Manager James Fisher stated that Deputy Mayor Pro Tem Halbert was continuing to excuse herself.

**COUNCIL ACTION:**

**APPROVED**

Councilmember Brandon moved to approve the application of Forestar (USA) Real Estate Group, Inc. requesting approval of a construction plat for Emerus Emergency Hospital on property zoned PD (Planned Development) District No. 12-07-917 located at the northeast corner of FM 544 and Heritage Parkway. Councilmember Bradley seconded the motion. For: Baldwin, Daugherty, Brandon, Bradley and Grant. Against: None. Abstained: Halbert. The motion carried 5-0-1.

Deputy Mayor Pro Tem Halbert resumed her seat on the dias.

- C. Consider and/or act on the application of Gary Hadley, developer, requesting approval of a site plan for IShine Express Car Wash on property zoned PD (Planned Development) District No. 09-12-823 for Retail and Office Uses on property located on FM 544 between Brand Road and Murphy Road.

The Council held discussion related to signage, the process used in washing and detailing the vehicles and the aesthetics of the vacuum bays located in front of the proposed structure.

**COUNCIL ACTION:**

**APPROVED**

Councilmember Brandon moved to approve the application of Gary Hadley, developer, requesting approval of a site plan for IShine Express Car Wash on property zoned PD (Planned Development) District No. 09-12-823 for Retail and Office Uses on property located on FM 544 between Brand Road and Murphy Road with the exception that staff and Council have final approval on the signage. Councilmember Bradley seconded the motion.

Deputy Mayor Pro Tem Halbert moved to amend the motion to include moving the vacuum bays to the rear of the property. Councilmember Brandon seconded the motion. For: Halbert and Daugherty. Against: Baldwin, Brandon, Bradley and Grant. The motion failed by a vote of 2 to 4.

The Mayor called for a vote on the primary motion to approve the application with the exception that staff have final approval on the signage. For: Baldwin, Daugherty, Brandon, Bradley and Grant. Against: Halbert. The motion carried by a vote of 5 to 1.

- D. Consider and/or act on the application of Gary Hadley, developer, requesting approval of a construction plat for IShine Express Car Wash on property zoned PD (Planned Development) District No. 09-12-823 for Retail and Office Uses on property located on FM 544 between Brand Road and Murphy Road.

**COUNCIL ACTION:**

**APPROVED**

Councilmember Brandon moved to approve the application of Gary Hadley, developer, requesting approval of a construction plat for IShine Express Car Wash on property zoned PD (Planned Development) District No. 09-12-823 for Retail and Office Uses on property located on FM 544 between Brand Road and Murphy Road. Councilmember Bradley seconded the motion. For: Unanimous. Against: None. The motion carried by a vote of 6 to 0.

- E. Consider and take appropriate action, if any, on funding provisions to improve the infrastructure at Central Park to accommodate the Plano Sports Authority Murphy Building.

**COUNCIL ACTION:**

**APPROVED**

Deputy Mayor Pro Tem Halbert moved to approve the allocation of \$600,000 of Municipal Development District Funds for infrastructure improvements for the Plano Sports Authority Murphy building. Councilmember Bradley seconded the motion. For: Unanimous. Against: None. The motion carried by a vote of 6 to 0.

- F. Consider and act approval of Amendments to the Code of Ethics of the City of Murphy; Approval of a Confidentiality and Non-Disclosure Agreement; Approval of Ethics Review Commission Complaint Form; and Approval of City Secretary or designee to assist with preparation, posting and delivery of agendas for the Ethics Review Commission Meetings

Assistant City Attorney Ben Wyse suggested that the Council consider both items F and G concurrently as they relate to each other.

Assistant City Attorney Ben Wyse and Ethics Commission Secretary Angie Eisenzopf presented the Commission's proposed amendments to the Code of Ethics to the Council. The Council held discussions relating to whether City employees should be subject to Ethics Commission investigations, as well as the City Secretary's role in receiving and processing complaints and the agenda process.

**COUNCIL ACTION:**

**APPROVED**

Deputy Mayor Pro Tem Halbert moved to approve the Ethics Review Commission's recommendations A2, A4 and A5 as presented (attached as *Exhibit "A"*). Mayor Pro Tem Daugherty seconded the motion. For: Unanimous. Against: None. The motion carried by a vote of 6 to 0.

Deputy Mayor Pro Tem Halbert moved to approve the Ethics Review Commission's recommendations A3 (attached as *Exhibit "A"*) to be modified to require all City Officials to receive a copy of the Code of Ethics and sign for it. Mayor Pro Tem Daugherty seconded the motion. For: Unanimous. Against: None. The motion carried by a vote of 6 to 0.

Deputy Mayor Pro Tem Halbert moved to approve the Ethics Review Commission's recommendations A1 (attached as *Exhibit "A"*) with the additional requirement that a request to access the city employees must go through the City Manager's office. Mayor Pro Tem Daugherty seconded the motion. For: Unanimous. Against: None. The motion carried by a vote of 6 to 0.

- G. Consider and act on the proposed Rules and Procedures of the Ethics Review Commission.

**COUNCIL ACTION:**

**NO ACTION**

Per the Assistant City Attorney's request, the item was considered in conjunction with item F.

- H. Consider and act on Boards and Commissions, their descriptions and roles and appointment of an interview panel comprised of three council members.

**COUNCIL ACTION:**

**APPROVED**

Deputy Mayor Pro Tem Halbert moved to appoint Councilmember Bradley, Councilmember Brandon and Mayor Pro Tem Daugherty. Councilmember Grant seconded the motion. For: Unanimous. Against: None. The motion carried by a vote of 6 to 0.

Deputy Mayor Pro Tem Halbert moved to approve the descriptions of the Boards and Commissions with the addition the last section of the Composition/Terms of the Animal Shelter Advisory Committee to add "each year during the appointment process in November/December". Councilmember Bradley seconded the motion. For: Unanimous. Against: None. The motion carried by a vote of 6 to 0.

- I. Consider and take action, if any, on the 2012 November and December City Council meeting schedule.

**COUNCIL ACTION:**

**APPROVED**

Councilmember Grant moved to approve November 13<sup>th</sup>, November 27<sup>th</sup>, December 11, 2012 and January 2, 2013 as future council meeting dates. Mayor Pro Tem Daugherty seconded the motion. For: Unanimous. Against: None. The motion carried by a vote of 6 to 0.

**8. CITY MANAGER/STAFF REPORTS**

City Manager, James Fisher provided the Council with a report on the following:

- North Murphy Road
- October 19<sup>th</sup>, Planning and Zoning Training work shop;
- October 25<sup>th</sup>, Ground Breaking for Central Park;
- Early Voting Begins October 22<sup>nd</sup> - City Hall Community Room;
- October 27<sup>th</sup>, Murphy Fire and Rescue Open House;
- October 30<sup>th</sup>, Animal Shelter Work Session;
- November 1<sup>st</sup>, Boards, Commission and Volunteer Appreciation Dinner at 6 pm, Murphy Community Center;
- November 2<sup>nd</sup>, Employee Appreciation and Holiday Luncheon, 11am to 2pm, Murphy Community Center;
- November 6<sup>th</sup>, Election Day

**9. EXECUTIVE SESSION**

At 8:23 p.m. the Mayor convened the City Council into 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 a public officer or employee – City Manager.

**10. RECONVENE INTO REGULAR SESSION**

The Mayor reconvened the City Council into open session at 8:30 p.m., 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 a public officer or employee – City Manager.

**COUNCIL ACTION:**

Councilmember Brandon moved to direct the City Manager and the City Attorney to develop a policy related to the City Manager roles and the City Secretary roles using the City Secretary's job description as a baseline. Mayor Pro Tem Daugherty seconded the motion. For: Unanimous. Against: None. The motion carried by a vote of 6 to 0.

**STAFF DIRECTION**

**11. ADJOURNMENT**

With no further business, the meeting was adjourned at 8:31 p.m.

APPROVED BY:

\_\_\_\_\_  
Bret M. Baldwin, Mayor

ATTEST:

\_\_\_\_\_  
Kristi Gilbert, City Secretary

DRAFT

**Exhibit "A" to the October 16, 2012 City Council Minutes**

CITY OF MURPHY  
Ethics Review Commission

Recommendations, Requests and Notifications

A. Pursuant to the City of Murphy Code, Chapter 2 – Administration, Article IX – Code of Ethics, Section 2-513 (a)(4)(f), the Ethics Review Commission requests the City Council to consider the following recommendations that were approved by the Commission at its meeting held on Thursday, July 19, 2012:

1. Amend Article IX Code of Ethics, Section 2-513, to require all employees and City officials to answer any inquiries of the Ethics Review Commission.
2. Amend Article IX Code of Ethics, Section 2-501 Definitions, to include the Municipal Development District in the definition of "City Official."
3. Amend Article IX Code of Ethics, Section 2-518, to require all City employees and City officials to receive a copy of the Code of Ethics and to sign for their receipt of their copy. [Not just to make it available.]
4. Approve the Confidentiality and Non-Disclosure Agreement approved by the Ethics Review Commission on July 19, 2012.
5. Approve the Ethics Review Commission Ethics Complaint form.

B. Pursuant to City of Murphy Code, Chapter 2 – Administration, Article IX – Code of Ethics, Section 2-513, the Ethics Review Commission requests the following administrative support from the City:

1. City Secretary or designee to receive requests for agenda items outside of an open meeting and to prepare, post, and deliver the agendas for the meetings of the Ethics Review Commission meeting (in order to avoid potential violations of the Open Meetings Act by members of the Commission).

C. Pursuant to City of Murphy Code, Chapter 2 – Administration, Article IX – Code of Ethics, Section 2-513, the Ethics Review Commission advises the City Council of the resignation of Chairperson Gena Misouria effective at the end of the Commission meeting on July 19, 2012; Chairperson Misouria's term would have continued through December 31, 2013.

CITY COUNCIL MINUTES  
OCTOBER 25, 2012 SPECIAL CITY COUNCIL MEETING

**1. CALL TO ORDER**

Mayor Baldwin called the meeting to order at 6:10 p.m.

**2. CERTIFICATION OF A QUORUM**

The following Councilmembers were present:

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

Councilmembers absent: None

**3. EXECUTIVE SESSION**

At 6:11 p.m. the Mayor convened the City Council into 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 a public officer or employee – City Manager.

**4. RECONVENE INTO REGULAR SESSION**

The Mayor reconvened the City Council into open session at 8:50 p.m., 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 a public officer or employee – City Manager.

**COUNCIL ACTION:**

**NO ACTION**

**5. ADJOURNMENT**

With no further business, the meeting was adjourned at 8:50 p.m.

APPROVED BY:

\_\_\_\_\_  
Bret M. Baldwin, Mayor

ATTEST:

\_\_\_\_\_  
Kristi Gilbert, City Secretary

CITY COUNCIL MINUTES  
OCTOBER 30, 2012 SPECIAL CITY COUNCIL MEETING AND WORK SESSION

**1. CALL TO ORDER**

Mayor Pro Tem Daugherty called the meeting to order at 6:06 p.m. in the Homer Adams Room of the Murphy Community Center.

**2. CERTIFICATION OF A QUORUM**

The following Councilmembers were present:

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

Councilmembers absent: Mayor Baldwin

**3. PRESENTATION ITEMS**

Mayor Pro Tem Daugherty opened the floor to Chief GM Cox. Chief Cox reviewed the state law mandates for animal shelters and provided a presentation on the current condition of the Murphy Animal Shelter. The Chief continued by reviewing sheltering statistics and projected growth. The Chief stated that the shelter has a current adoption or return to owner rate of 80%. The Chief stated that build-out numbers indicated an anticipated 385 animals serviced per year.

Deputy Mayor Pro Tem Halbert inquired as to the history of the statistics provided to the Council. Discussion was held with regard to determining whether the proposed facility would be designed for maintenance of animal service activities or utilized as an adoption facility as well.

**4. PUBLIC COMMENTS**

*Dr. Lorraine Chalkley, 1101 N Murphy Road* – Dr. Chalkley stated that she served in the required veterinarian capacity on the Animal Shelter Advisory Committee. Dr. Chalkley stated that she has lived in the Murphy area since 1976 and has witnessed the changes related to the animal shelter. Dr. Chalkley stated the current shelter lacked an isolation area, a treatment room, bathing facilities, internet connection and a public viewing area. Dr. Chalkley stated that she believed that the Animal Control Officer, Tammy Drake, did a fantastic job with the limited facility. She continued by stating that she feels that the City could build a larger facility for a lower price per square foot based on other area construction.

*Beverly Mueller, 1030 Westminister* – Ms. Mueller stated that she was a proud member of the Animal Shelter Advisory Committee, but felt that the committee had been underutilized. Ms. Mueller expressed ideas regarding conducting fundraising events to help finance the shelter.

**5. DISCUSSION**

Mayor Pro Tem Daugherty suggested using the existing facility for storage or quarantine purposes. Councilmember Richmond stated that a decision needed to be made as to whether the facility would be designed for maintenance purposes or as an adoption facility. Councilmember Brandon stated that he felt the old facility should be used for storage and equipment. Councilmember Grant

stated that he would like to see numbers on the cost of retrofitting the existing building. After further discussion, the Council determined that they wanted to 1) look at the reuse of the old facility and the associated costs; 2) review current operations in an upgradeable building with options to become an adoption facility; and 3) move facility plans to current Animal Shelter facility.

**6. ADJOURNMENT**

With no further business, the meeting was adjourned at 8:05 p.m.

APPROVED BY:

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Bret M. Baldwin, Mayor

ATTEST:

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Kristi Gilbert, City Secretary

**Issue**

Consider and/or act on the application of **Forestar (USA) Real Estate Group, Inc.** requesting approval of a construction plat for Maxwell Creek North Phase 11A on property zoned PD (Planned Development) District No. 00-06-486 and No. 00-06-487 for Single Family Uses. This property is generally located southwest of the intersection of McMillen Road and McCreary.

**Background**

The proposed construction plat would allow for the development of an additional phase of the subdivision known as Maxwell Creek North. For this development, the required minimum lot size is 9,000 square feet. The required minimum dwelling unit size is 2,200 square feet.

**Considerations**

1. The proposed builders for this phase are Standard Pacific, KHOV and First Texas.
2. After thorough staff review and submittal revisions by the applicant, all construction plat requirements have been met.

**Board Discussion/Action**

On October 29, 2012, the Planning & Zoning Commission voted unanimously to approve this item.

**Staff Recommendation**

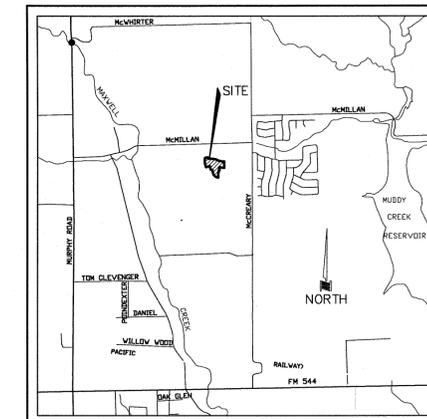
Staff recommends approval of the proposed Construction Plat as submitted.

**Attachments**

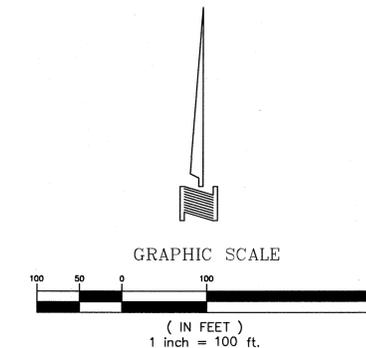
Construction Plat

*Kristen Roberts, Director of Economic and Community Development*

**Submitted By**



LOCATION MAP  
NOT TO SCALE



**LEGEND**  
 VAM=VISIBILITY, ACCESS + MAINTENANCE EASEMENT  
 LAE = LANDSCAPE EASEMENT  
 BL = BUILDING LINE  
 SE = STREET EASEMENT  
 DE = DRAINAGE EASEMENT  
 WSSE = WATER & SANITARY SEWER EASEMENT  
 HOA = HOMEOWNER'S ASSOCIATION  
 SUE = SIDEWALK & UTILITY EASEMENT  
 UE = UTILITY EASEMENT  
 NAE = NO ACCESS EASEMENT  
 D.R.C.C.T. = DEED RECORDS, COLLIN COUNTY, TEXAS  
 M.R.C.C.T. = MAP RECORDS, COLLIN COUNTY, TEXAS  
 DOC. NO. = DOCUMENT NUMBER  
 IRF = IRON ROD FOUND  
 IPF = IRON PIPE FOUND  
 ◇ = DENOTES STREET NAME CHANGE  
 ⊙ = 1/2" IRON ROD FOUND W/ RED PLASTIC CAP STAMPED "W.A.I." (UNLESS OTHERWISE NOTED)  
 ● = 1/2" IRON ROD SET W/ YELLOW PLASTIC CAP STAMPED "DAA" (UNLESS OTHERWISE NOTED)  
 VAM = VISIBILITY & MAINTENANCE EASEMENT  
 WE = WATER LINE EASEMENT  
 FME = FENCE MAINTENANCE EASEMENT  
 NAE = NO ACCESS EASEMENT  
 SWBE = SOUTHWESTERN BELL TELEPHONE, L.P. EASEMENT  
 <CM> = CONTROL MONUMENT  
 MIN FF = MINIMUM FINISHED FLOOR ELEVATION

**NOTES:**  
 1) BASIS OF BEARING DERIVED FROM EAST LINE OF WILLOW RIDGE PHASE ONE ACCORDING TO THE PLAT THEREOF RECORDED IN CABINET M, PAGE 624, MAP RECORDS, COLLIN COUNTY, TEXAS  
 2) ALL LOT CORNERS ARE MONUMENTED WITH A 1/2" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "DAA".  
 3) "X" CUTS SET IN CONCRETE STREET PAVING AT ALL INTERSECTIONS AND POINTS OF CURVATURE.  
 4) LOT 3X (3,076 SF) BLOCK B SHALL BE OWNED AND MAINTAINED BY THE HOA AND SHALL BE FOR LANDSCAPE AND SCREENING PURPOSES.  
 5) 186,524 SQUARE FEET OF STREET RIGHT-OF-WAY (HILLTOP DRIVE, LEEWARD DRIVE, AND WHITewing LANE) IS BEING DEDICATED TO THE CITY OF MURPHY.  
 6) NOTICE: SELLING A PORTION OF THIS ADDITION BY METES AND BOUNDS IS A VIOLATION OF TOWN ORDINANCE AND STATE LAW AND IS SUBJECT TO FINES AND WITHHOLDING OF UTILITIES AND BUILDING PERMITS.  
 7) NO FLOODPLAIN EXISTS ON THE SITE PER FEMA MAP NUMBER 48085C0415J, MAP REVISED JUNE 2, 2009.  
 8) ALL OPEN SPACE LOTS TO BE OWNED AND MAINTAINED BY THE HOA.

**LOT LINE TABLE**

LINE	BEARING	LENGTH
T1	S88°46'32"W	89.75'
T2	S88°46'32"W	95.00'
T3	S89°49'17"E	73.82'
T4	S86°09'55"E	89.34'
T5	S82°08'59"E	89.34'
T6	S78°08'02"E	89.34'
T7	S74°07'05"E	89.34'
T8	S70°06'09"E	89.34'
T9	S66°05'12"E	89.34'
T10	S64°07'53"E	91.12'
T11	S67°58'15"E	88.16'
T12	S72°05'43"E	88.16'
T13	S78°13'11"E	88.16'
T14	S80°20'40"E	88.16'
T15	S84°28'08"E	88.16'
T16	S88°35'36"E	88.16'
T17	N89°20'40"E	93.71'

**ROADWAY LINE TABLE**

LINE	BEARING	DISTANCE
T19	S19°27'11"E	129.80'
T20	N88°46'32"E	235.14'
T21	N89°20'40"E	85.21'
T22	N76°54'04"E	25.00'
T23	N88°46'32"E	134.41'
T24	N89°20'40"E	85.21'

**ROADWAY CURVE TABLE**

CURVE	DELTA	RADIUS	TANGENT	LENGTH	CHORD
C1	27°49'14"	1205.00'	298.44'	585.10'	S05°32'34"E 579.37'
C2	28°20'53"	1420.00'	358.83'	702.57'	S77°03'39"E 695.42'
C3	27°46'07"	1080.00'	266.96'	523.42'	S76°46'16"E 518.32'
C4	11°52'28"	250.00'	26.00'	51.81'	N82°50'18"E 51.72'
C5	28°20'53"	1130.00'	285.39'	559.09'	S77°03'39"E 553.40'
C6	27°46'07"	1370.00'	338.64'	663.97'	S76°46'16"E 657.49'

**BOUNDARY CURVE TABLE**

CURVE	DELTA	RADIUS	TANGENT	LENGTH	CHORD
C7	13°48'23"	330.00'	39.95'	79.52'	S73°33'31"E 79.33'
C8	1°53'09"	1020.00'	16.79'	33.57'	S11°02'29"W 33.57'

**CONSTRUCTION PLAT  
 MAXWELL CREEK NORTH  
 PHASE 11A**  
 23.348 ACRES  
 72 RESIDENTIAL LOTS  
 ZONED PD 00-06-486 & 00-06-487  
 AN ADDITION TO THE CITY OF MURPHY  
 C A McMILLAN SURVEY, ABSTRACT NO. 588  
 COLLIN COUNTY, TEXAS

SEPTEMBER 2012 SCALE: 1"=100'

OWNER  
**FORESTAR (USA) REAL ESTATE GROUP, INC.**  
 14755 PRESTON ROAD #710  
 DALLAS, TEXAS 75254

ENGINEER  
**DOWDEY, ANDERSON & ASSOCIATES, INC.**  
 5225 Village Creek Drive, Suite 200 Plano, Texas 75093 972-931-0694  
 STATE REGISTRATION NUMBER: F-399

OWNER'S CERTIFICATE AND DEDICATION

STATE OF TEXAS §
COUNTY OF COLLIN §

WHEREAS, We, Forestar (USA) Real Estate Group, Inc., is the sole owner of all that certain tract of land situated in the C.A. McMillan Survey, Abstract Number 588, Collin County, Texas and Being a portion of that tract of land conveyed to Lumberman's Investment Corporation, according to the document filed of records in Volume 4683, Page 2968 Land records of Collin County, Texas, and being more particularly described as follows:

BEGINNING at a 1/2" iron rod with red plastic cap stamped "W.A.I." found for the Southeast corner of Lot 19, Block O, Maxwell Creek North, Phase 10C1, an addition to the City of Murphy, according to the plat filed of record in Book 2012, Page 46, Map Records of Collin County, Texas, and a Westerly corner of Maxwell Creek North, Phase 5A, an addition to the Town of Murphy, according to the plat filed of record in Book 2007, Page 680, Map Records of Collin County, Texas, for the Northeast corner said Lumberman's tract;

THENCE with the West line of said Phase 5A the following ten (10) courses and distance:

SOUTH 00° 39' 20" EAST, a distance of 120.03 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

SOUTH 89° 20' 40" WEST, a distance of 8.50 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

SOUTH 00° 39' 20" EAST, a distance of 50.00 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

NORTH 89° 20' 40" EAST, a distance of 8.50 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

SOUTH 00° 39' 20" EAST, a distance of 240.00 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

SOUTH 89° 20' 40" WEST, a distance of 8.50 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

SOUTH 00° 39' 20" EAST, a distance of 50.00 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

NORTH 89° 20' 40" EAST, a distance of 8.50 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

SOUTH 00° 39' 20" EAST, a distance of 41.32 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract at the beginning of a curve to the left having a radius of 330.0 feet, a central angle of 13° 48' 23" and a chord bearing and distance of SOUTH 07° 33' 31" EAST, 79.33 feet;

With said West line and said curve to the left an arc distance of 79.52 feet to a 1/2" iron rod with red plastic cap stamped "W.A.I." found for the Northeast corner of Lot 16, Block S, Maxwell Creek North, Phase 10B, an addition to the Town of MURPHY according to the plat filed of record in Book 2012, Page 09, Map records of Collin County, Texas;

THENCE SOUTH 89° 21' 45" WEST, with the North line of said Phase 10B, a distance of 103.48 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract in said North line at the beginning of a curve to the right having a radius of 1515.00 feet, a central angle of 13° 13' 51", and a chord bearing and distance of NORTH 84° 01' 19" WEST, 349.07 feet;

With said curve to the right an arc distance of 349.85 feet to a 1/2" iron rod with red plastic cap stamped "W.A.I." found for the Northwest corner of said Phase 10B same being the Northwest corner of Lot 20, Block S of said Phase;

THENCE over and across the above mentioned Lumberman's tract the following twelve (12) courses and distances:

NORTH 75° 41' 58" WEST, a distance of 90.27 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

NORTH 72° 17' 06" WEST, a distance of 90.28 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

NORTH 68° 52' 09" WEST, a distance of 90.32 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

NORTH 64° 58' 31" WEST, a distance of 117.98 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

NORTH 65° 45' 51" WEST, a distance of 89.38 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

NORTH 70° 57' 54" WEST, a distance of 89.38 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

NORTH 76° 09' 58" WEST, a distance of 89.38 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

NORTH 81° 22' 01" WEST, a distance of 89.38 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

NORTH 86° 34' 04" WEST, a distance of 89.38 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

SOUTH 89° 09' 35" WEST, a distance of 94.59 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

SOUTH 88° 46' 32" WEST, a distance of 88.34 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

SOUTH 19° 27' 11" EAST, a distance of 114.79 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract and being the Northeast corner of Maxwell Creek North, Phase 10B, an addition to the City of Murphy, according to the plat filed of record in Book 2012, Page 09, Map Records of Collin County, Texas;

THENCE with the Northern line of said Phase 10B the following four (4) courses and distances:

SOUTH 70° 33' 02" WEST, a distance of 50.00 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

SOUTH 19° 26' 58" EAST, a distance of 9.70 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract at the beginning of a curve to the left, having a radius of 865.00 feet, a central angle of 07° 51' 00" and a chord bearing and distance of SOUTH 74° 28' 32" WEST, 118.42 feet;

With said curve to the left an arc distance of 118.51 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

SOUTH 70° 33' 02" WEST, a distance of 1.86 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

THENCE over and across the above mentioned Lumberman's tract the following nine (9) courses and distances:

NORTH 19° 27' 09" WEST, a distance of 103.16 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

NORTH 18° 40' 56" WEST, a distance of 95.76 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

NORTH 14° 27' 28" WEST, a distance of 93.73 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

NORTH 10° 32' 30" WEST, a distance of 93.72 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

NORTH 06° 48' 46" WEST, a distance of 93.72 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

NORTH 02° 51' 22" WEST, a distance of 93.75 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

NORTH 01° 20' 58" EAST, a distance of 93.75 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

NORTH 05° 17' 32" EAST, a distance of 93.75 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

NORTH 07° 33' 40" EAST, a distance of 118.25 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract in the South line of Windy Knoll Drive and the South line of Maxwell Creek North, Phase 10A, an addition to the City of Murphy, according to the plat filed of record in Book 2012, Page 71, Map Records of Collin County, Texas;

THENCE with the South line of said Phase 10A and the South line of the above mentioned Phase 10C1 the following eight (8) courses and distances:

NORTH 88° 46' 32" EAST, a distance of 128.07 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract at the beginning of a curve to the right, having a radius of 1020.00 feet, a central angle of 01° 53' 09" and a chord bearing and distance of SOUTH 11° 10' 29" WEST, 33.57 feet;

With said curve to the right an arc distance of 33.57 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract at the beginning of a curve to the left, having a radius of 1230.00 feet, a central angle of 03° 45' 00" and a chord bearing and distance of SOUTH 10° 14' 33" WEST, 80.49 feet;

With said curve to the left an arc distance of 80.50 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

SOUTH 81° 37' 56" EAST, a distance of 50.00 feet to a 1/2" iron rod with red plastic cap stamped "W.A.I." found for a corner of this tract;

NORTH 88° 46' 32" EAST, a distance of 194.72 feet to a 1/2" iron rod with red plastic cap stamped "W.A.I." found for a corner of this tract at the beginning of a curve to the right, having a radius of 1565.00 feet, a central angle of 28° 20' 39" and a chord bearing and distance of SOUTH 77° 03' 46" EAST, 766.33 feet;

With said curve to the right an arc distance of 774.20 feet to a 1/2" iron rod with red plastic cap stamped "W.A.I." set for a corner of this tract at the beginning of a curve to the left, having a radius of 935.00 feet, a central angle of 27° 46' 00" and a chord bearing and distance of SOUTH 76° 46' 07" EAST, 448.70 feet;

With said curve to the left an arc distance of 453.12 feet to a 1/2" iron rod with red plastic cap stamped "W.A.I." found for a corner of this tract;

NORTH 89° 20' 53" EAST, a distance of 93.84 feet to the POINT OF BEGINNING and containing 23.348 acres of land, more or less.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESNETS:

That Forestar (USA) Real Estate Group, Inc., acting herein by and through his(its) duly authorized officer(s), does hereby adopt this plat designating the herein above described property as MAXWELL CREEK NORTH, PHASE 11A, an addition to the City of Murphy, Texas, and does hereby dedicate, in fee simple, to the public use City of Murphy, Texas, forever, the streets, rights-of-way, and other public improvements shown thereon. The streets and alleys, if any, are dedicated for street purposes. The easements and public use areas, as shown, are dedicated, for the public use forever, for the purposes indicated on this plat. No buildings, fences, trees, shrubs or other improvements or growths shall be constructed or placed upon, over or across the easements as shown, except that landscape improvements may be placed in landscape easements, if approved by the City Council of the City of Murphy. In addition, utility easements may also be used for the mutual use and accommodation of all public utilities desiring to use or using the same unless the easement limits the use to particular utilities, said use by public utilities being subordinate to the public's and City of Murphy's use thereof. The City of Murphy and public utility entities shall have the right to remove and keep removed all or parts of any buildings, fences, trees shrubs or other improvements or growths which may in any way endanger or interfere with the construction, maintenance, or efficiency of their respective systems in said easements. The City of Murphy and public utility entities shall at all times have the full right of ingress and egress to or from their respective easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining, reading meters, and adding to or removing all or parts their respective systems without the necessity at any time procuring permission from anyone.

This plat approved subject to all platting ordinances, rules, regulations and resolutions of the City of Murphy, Texas.

WITNESS, my hand, this the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

BY:

Thomas H. Burleson, Executive Vice President

Printed Name and Title

STATE OF TEXAS §
COUNTY OF COLLIN §

BEFORE ME, the undersigned, a Notary Public in and for the State of Texas on this day personally appeared Sean Patton, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purpose and considerations therein expressed and in the capacity therein stated.

GIVEN under my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

Notary Public in and for the State of Texas

SURVEYORS CERTIFICATE

KNOW ALL MEN BY THESE PRESENTS:

That I, Sean Patton, do hereby certify that I prepared this plat and the field notes made a part thereof from an actual and accurate survey of the land and that the corner monuments shown thereon were properly placed under my personal supervision, in accordance with the Subdivision Regulations of the Town of Prosper, Texas.

Dated this the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

SEAN PATTON
Registered Professional Land Surveyor No. 5660

STATE OF TEXAS §
COUNTY OF COLLIN §

BEFORE ME, the undersigned, a Notary Public in and for the State of Texas on this day personally appeared Sean Patton, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purpose and considerations therein expressed and in the capacity therein stated.

GIVEN under my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

Notary Public in and for the State of Texas

FINAL PLAT

Approved by the City of Murphy for filing at the office of the County Clerk of Collin County, Texas.

RECOMMENDED BY:

Signature of Chairperson

APPROVED BY:

Signature of Mayor

ATTEST:

City Secretary

Planning and Zoning Commission
City of Murphy, Texas

Date of Recommendation

City Council
City of Murphy, Texas

Date of Approval

Date

NOTICE: Selling a portion of this addition by metes and bounds is a violation of City ordinance and State Law, and is subject to fines and withholding of utilities and building permits.

The area or areas shown on the plat as "VAM" (Visibility, Access and Maintenance) Easements(s) are hereby given and granted to the City, its successors and assigns, as an easement to provide visibility, right of access for maintenance upon and across said VAM Easement. The City shall have the right but not the obligation to maintain any and all landscaping within the VAM Easement. Should the City exercise this maintenance right, then it shall be permitted to remove and dispose of any and all landscaping improvements, including without limitation, any trees, shrubs, flowers, ground cover and fixtures. The City may withdraw maintenance of the VAM Easement at any time. The ultimate maintenance responsibility for the VAM Easement shall rest with the owners. No building, fence, shrub, tree or other improvements or growths, which in any way may endanger or interfere with the visibility, shall be constructed in, on, over or across the Easement. The City shall also have the right but not the obligation to add any landscape improvements to the VAM Easement, to erect any traffic control devices or signs on the VAM Easement and to remove any obstruction thereon. The City, its successors, assigns, or agents shall have the right and privilege at all times to enter upon the VAM Easement or any part thereof for the purposes and with all rights and privileges set forth herein.

CONSTRUCTION PLAT
MAXWELL CREEK NORTH
PHASE 11A
23.348 ACRES
72 RESIDENTIAL LOTS
ZONED PD 00-06-486 & 00-06-487
AN ADDITION TO THE CITY OF MURPHY
C A McMILLAN SURVEY, ABSTRACT NO. 588
COLLIN COUNTY, TEXAS
SEPTEMBER 2012 SCALE: 1"=100'
OWNER
FORESTAR (USA) REAL ESTATE GROUP, INC.
14755 PRESTON ROAD #710
DALLAS, TEXAS 75254

ENGINEER
DOWDEY, ANDERSON & ASSOCIATES, INC.
5225 Village Creek Drive, Suite 200 Plano, Texas 75093 972-931-0694
STATE REGISTRATION NUMBER: F-399

**Issue**

Consider and/or act on the application of **Forestar (USA) Real Estate Group, Inc.** requesting approval of a construction plat for Maxwell Creek North Phase 11B on property zoned PD (Planned Development) District No. 00-06-486 and No. 00-06-487 for Single Family Uses. This property is generally located southwest of the intersection of McMillen Road and McCreary.

**Background**

The proposed construction plat would allow for the development of an additional phase of the subdivision known as Maxwell Creek North. For this development, the required minimum lot size is 9,000 square feet. The required minimum dwelling unit size is 2,200 square feet.

**Considerations**

1. The proposed builders for this phase are Standard Pacific, KHOV and First Texas.
2. After thorough staff review and submittal revisions by the applicant, all construction plat requirements have been met.

**Board Discussion/Action**

On October 29, 2012, the Planning & Zoning Commission voted unanimously to approve this item.

**Staff Recommendation**

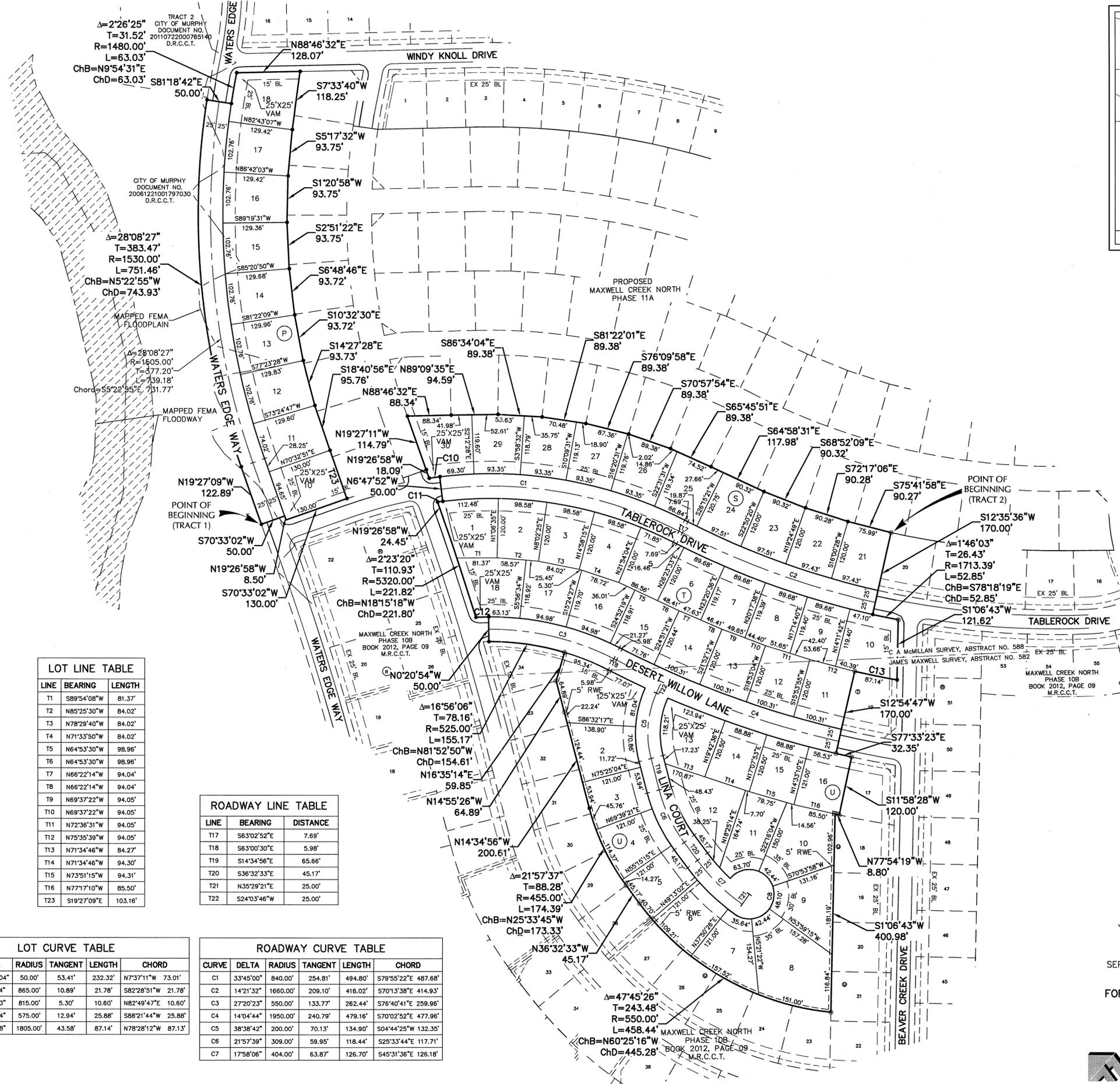
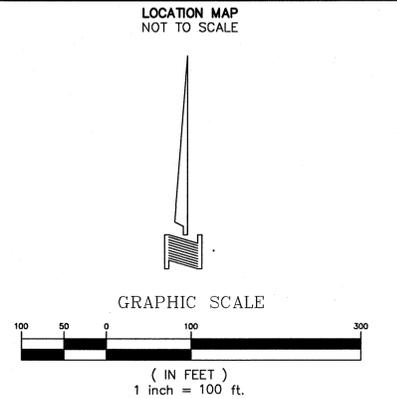
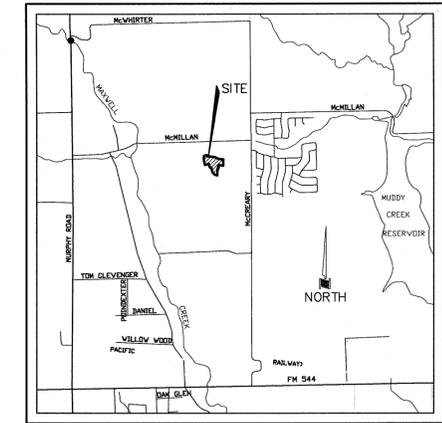
Staff recommends approval of the proposed Construction Plat as submitted.

**Attachments**

Construction Plat

*Kristen Roberts, Director of Economic and Community Development*

**Submitted By**



NOTES:  
 1) BASIS OF BEARING DERIVED FROM EAST LINE OF WILLOW RIDGE PHASE ONE ACCORDING TO THE PLAT THEREOF RECORDED IN CABINET M, PAGE 624, MAP RECORDS, COLLIN COUNTY, TEXAS  
 2) ALL LOT CORNERS ARE MONUMENTED WITH A 1/2" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "DAA".  
 3) "X" CUTS SET IN CONCRETE STREET PAVING AT ALL INTERSECTIONS AND POINTS OF CURVATURE.  
 4) LOT 3X (3,076 SF) BLOCK B SHALL BE OWNED AND MAINTAINED BY THE HOA AND SHALL BE FOR LANDSCAPE AND SCREENING PURPOSES.  
 5) 156,788 SQUARE FEET OF STREET RIGHT-OF-WAY (WATERS EDGE WAY, TABLEROCK DRIVE, DESERT WILLOW LANE, AND LINA COURT) IS BEING DEDICATED TO THE CITY OF MURPHY.  
 6) NOTICE: SELLING A PORTION OF THIS ADDITION BY METES AND BOUNDS IS A VIOLATION OF TOWN ORDINANCE AND STATE LAW AND IS SUBJECT TO FINES AND WITHHOLDING OF UTILITIES AND BUILDING PERMITS.  
 7) FLOODPLAIN EXISTS ON THE SITE PER FEMA MAP NUMBER 4805C0415J, MAP REVISED JUNE 2, 2009.  
 8) ALL OPEN SPACE LOTS TO BE OWNED AND MAINTAINED BY THE HOA.

LINE	BEARING	LENGTH
T1	S89°54'08"W	81.37'
T2	N85°25'30"W	84.02'
T3	N78°29'40"W	84.02'
T4	N71°33'50"W	84.02'
T5	N64°53'30"W	98.96'
T6	N64°53'30"W	98.96'
T7	N66°22'14"W	94.04'
T8	N66°22'14"W	94.04'
T9	N69°37'22"W	94.05'
T10	N69°37'22"W	94.05'
T11	N72°36'31"W	94.05'
T12	N75°35'39"W	94.05'
T13	N71°34'46"W	84.27'
T14	N71°34'46"W	94.30'
T15	N73°51'15"W	94.31'
T16	N77°17'10"W	85.50'
T23	S19°27'09"E	103.16'

LINE	BEARING	DISTANCE
T17	S63°02'52"E	7.69'
T18	S63°00'30"E	5.98'
T19	S14°34'56"E	65.66'
T20	S36°32'33"E	45.17'
T21	N35°29'21"E	25.00'
T22	S24°03'46"W	25.00'

CURVE	DELTA	RADIUS	TANGENT	LENGTH	CHORD
CB	266°13'04"	50.00'	53.41'	232.32'	N7°37'11"W 73.01'
C10	1°26'34"	865.00'	10.89'	21.78'	S82°28'51"W 21.78'
C11	0°44'43"	815.00'	5.30'	10.60'	N82°49'47"E 10.60'
C12	2°34'44"	575.00'	12.94'	25.88'	S88°21'44"W 25.88'
C13	2°45'58"	1805.00'	43.58'	87.14'	N78°28'12"W 87.13'

CURVE	DELTA	RADIUS	TANGENT	LENGTH	CHORD
C1	33°45'00"	840.00'	254.81'	494.80'	S79°56'22"E 487.68'
C2	14°21'32"	1660.00'	209.10'	416.02'	S70°13'38"E 414.93'
C3	27°20'23"	550.00'	133.77'	262.44'	S76°40'41"E 259.96'
C4	14°04'44"	1950.00'	240.79'	479.16'	S70°02'52"E 477.96'
C5	38°38'42"	200.00'	70.13'	134.90'	S04°44'25"W 132.35'
C6	21°57'39"	309.00'	59.95'	118.44'	S25°33'44"E 117.71'
C7	17°58'06"	404.00'	63.87'	126.70'	S45°31'36"E 126.18'

**LEGEND**  
 RWE = RETAINING WALL EASEMENTS TO BE MAINTAINED BY HOMEOWNER  
 VAM = VISIBILITY, ACCESS, & MAINTENANCE EASEMENT  
 LAE = LANDSCAPE EASEMENT  
 BL = BUILDING LINE  
 SE = STREET EASEMENT  
 DE = DRAINAGE EASEMENT  
 WSSE = WATER & SANITARY SEWER EASEMENT  
 HOA = HOMEOWNER'S ASSOCIATION  
 SUE = SIDEWALK & UTILITY EASEMENT  
 UE = UTILITY EASEMENT  
 NAE = NO ACCESS EASEMENT  
 D.R.C.C.T. = DEED RECORDS, COLLIN COUNTY, TEXAS  
 M.R.C.C.T. = MAP RECORDS, COLLIN COUNTY, TEXAS  
 DOC. NO. = DOCUMENT NUMBER  
 IRF = IRON ROD FOUND  
 IPF = IRON PIPE FOUND  
 ◇ = DENOTES STREET NAME CHANGE  
 ⊙ = 1/2" IRON ROD FOUND W/ RED PLASTIC CAP STAMPED "W.A.I." (UNLESS OTHERWISE NOTED)  
 ● = 1/2" IRON ROD SET W/ YELLOW PLASTIC CAP STAMPED "DAA" (UNLESS OTHERWISE NOTED)  
 VAM = VISIBILITY & MAINTENANCE EASEMENT  
 WE = WATER LINE EASEMENT  
 FME = FENCE MAINTENANCE EASEMENT  
 NAE = NO ACCESS EASEMENT  
 SWBE = SOUTHWESTERN BELL TELEPHONE, L.P. EASEMENT  
 <CM> = CONTROL MONUMENT  
 MIN FF = MINIMUM FINISHED FLOOR ELEVATION

**CONSTRUCTION PLAT  
 MAXWELL CREEK NORTH  
 PHASE 11B**  
 18.992 ACRES  
 53 RESIDENTIAL LOTS  
 ZONED PD 00-06-486  
 AN ADDITION TO THE CITY OF MURPHY  
 JAMES MAXWELL SURVEY, ABSTRACT NO. 582  
 C A McMILLAN SURVEY, ABSTRACT NO. 588  
 COLLIN COUNTY, TEXAS  
 SEPTEMBER 2012 SCALE: 1"=100'  
 OWNER  
**FORESTAR (USA) REAL ESTATE GROUP, INC.**  
 14755 PRESTON ROAD #710  
 DALLAS, TEXAS 75254  
 ENGINEER  
**DOWDEY, ANDERSON & ASSOCIATES, INC.**  
 5225 Village Creek Drive, Suite 200 Plano, Texas 75093 972-931-0694  
 STATE REGISTRATION NUMBER: F-399

OWNER'S CERTIFICATE AND DEDICATION

STATE OF TEXAS §
COUNTY OF COLLIN §

WHEREAS, We, Forestar (USA) Real Estate Group, Inc., ARE the sole owner of all that certain tracts of land situated in the James Maxwell Survey, Abstract Number 582 and the C.A. McMillan Survey, Abstract Number 588, Collin County, Texas and Being a portion of that tract of land conveyed to Lumberman's Investment Corporation, according to the document filed of records in Volume 4683, Page 2968 Land records of Collin County, Texas, and being more particularly described as follows:

TRACT 1

BEGINNING at a 1/2" iron rod with yellow plastic cap stamped "DAA" set for the Northwest corner of Maxwell Creek North, Phase 10B, an addition to the City of Murphy, according to the plat filed of record in Book 2012, Page 09, Map records of Collin County, Texas, same being the most Westerly Southwest corner of said Lumberman's tract;
THENCE with the West lines of said Lumberman's tract the following four (4) courses and distances:

NORTH 19° 27' 09" WEST, a distance of 122.89 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract at the beginning of a curve to the right, having a radius of 1530.00 feet, a central angle of 28° 08' 27" and a chord bearing and distance of NORTH 05° 22' 55" WEST, 743.93 feet;

With said curve to the right an arc distance of 751.46 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for the most Westerly Northwest corner of this tract;

SOUTH 81° 18' 42" EAST, a distance of 50.00 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for an interior "ell" corner of this tract at the beginning of a curve to the right, having a radius of 1480.00 feet, a central angle of 02° 26' 25" and a chord bearing and distance of NORTH 09° 54' 31" EAST, 63.03 feet;

With said curve to the right an arc distance of 63.03 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set, in the South line of Windy Knoll Drive, for the most Northern Northwest corner of this tract;

THENCE NORTH 88° 46' 32" EAST, with said South line, a distance of 128.07 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for the Northeast corner of this tract;

THENCE leaving said South line, over and across the above mentioned Lumberman's tract the following nine (9) courses and distances:

SOUTH 07° 33' 40" WEST, a distance of 118.25 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

SOUTH 05° 17' 32" WEST, a distance of 93.75 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

SOUTH 01° 20' 58" WEST, a distance of 93.75 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

SOUTH 02° 51' 22" EAST, a distance of 93.75 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

SOUTH 06° 48' 46" EAST, a distance of 93.72 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

SOUTH 10° 32' 30" EAST, a distance of 93.72 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

SOUTH 14° 27' 28" EAST, a distance of 93.73 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

SOUTH 18° 40' 56" EAST, a distance of 95.76 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

SOUTH 19° 27' 09" EAST, a distance of 103.16 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set in a Southerly line of the above mentioned Lumberman's tract, for the Southeast corner of this tract;

THENCE with said Southerly line the following three (3) courses and distances:

SOUTH 70° 33' 02" WEST, a distance of 130.00 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

NORTH 19° 26' 58" WEST, a distance of 8.50 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

SOUTH 70° 33' 02" WEST, a distance of 50.00 feet to the POINT OF BEGINNING and containing 3.675 acres of land, more or less.

TRACT 2

BEGINNING at a 1/2" iron rod with red plastic cap stamped "W.A.I." found for the Northwest corner of Lot 20, Block S, Maxwell Creek North, Phase 10B, an addition to the City of Murphy, according to the plat filed of record in Book 2012, Page 09, Map Records of Collin County, Texas, same being an interior "ell" corner of said Lumberman's tract;
THENCE with the common lines of said Lumberman's Tract and Maxwell Creek North, Phase 10B the following twenty-four (24) courses and distances:

SOUTH 12° 35' 36" WEST, a distance of 170.00 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract at the beginning of a curve to the left, having a radius of 1713.39, a central angle of 01° 46' 03" and a chord bearing and distance of SOUTH 78° 18' 19" EAST, 52.85 feet;

With said curve to the right an arc distance of 52.85 feet to a 1/2" iron rod with red plastic cap stamped "W.A.I." found for a corner of this tract;

SOUTH 01° 06' 43" WEST, a distance of 121.62 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract at the beginning of a curve to the right, having a radius of 1805.00 feet, a central angle of 02° 45' 58" and a chord bearing and distance of NORTH 78° 28' 12" WEST, 87.13 feet;

With said curve to the right an arc distance of 87.14 feet to a 1/2" iron rod with red plastic cap stamped "W.A.I." found for a corner of this tract;

SOUTH 12° 54' 47" WEST, a distance of 170.00 feet to a 1/2" iron rod with red plastic cap stamped "W.A.I." found for a corner of this tract;

SOUTH 77° 33' 23" EAST, a distance of 32.35 feet to a 1/2" iron rod with red plastic cap stamped "W.A.I." found for a corner of this tract;

SOUTH 11° 58' 28" WEST, a distance of 120.00 feet to a 1/2" iron rod with red plastic cap stamped "W.A.I." found for a corner of this tract;

NORTH 77° 54' 19" WEST, a distance of 8.80 feet to a 1/2" iron rod with red plastic cap stamped "W.A.I." found for a corner of this tract;

SOUTH 01° 06' 43" WEST, a distance of 400.98 feet to a 1/2" iron rod with red plastic cap stamped "W.A.I." found for the common South corner of the above mentioned Lumberman's tract and Phase 10B for a corner of this tract at the beginning of a curve to the right, having a radius of 550.00 feet a central angle of 47° 45' 26" and a chord bearing and distance of NORTH 60° 25' 16" WEST, 445.28 feet;

With said curve to the right an arc distance of 458.44 feet to a 1/2" iron rod with red plastic cap stamped "W.A.I." found for a corner of this tract;

NORTH 36° 32' 33" WEST, a distance of 45.17 feet to a 1/2" iron rod with red plastic cap stamped "W.A.I." found for a corner of this tract at the beginning of a curve to the right, having a radius of 455.00, a central angle of 21° 57' 37" and a chord bearing and distance of NORTH 25° 33' 45" WEST, 173.33 feet;

With said curve to the right an arc distance of 174.39 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

NORTH 14° 34' 56" WEST, a distance of 200.61 feet to a 1/2" iron rod with red plastic cap stamped "W.A.I." found for a corner of this tract;

NORTH 14° 55' 26" WEST, a distance of 64.89 feet to a 1/2" iron rod with red plastic cap stamped "W.A.I." found for a corner of this tract;

NORTH 16° 35' 14" EAST, a distance of 59.85 feet to a 1/2" iron rod with red plastic cap stamped "W.A.I." found for a corner of this tract at the beginning of a curve to the left, having a radius of 525.00, a central angle of 16° 56' 06" and a chord bearing and distance of NORTH 81° 52' 50" WEST, 154.61 feet;

With said curve to the left an arc distance of 155.17 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

NORTH 00° 20' 54" WEST, a distance of 50.00 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract at the beginning of a curve to the left, having a radius of 575.00 feet, a central angle of 02° 34' 44" and a chord bearing and distance of SOUTH 88° 21' 44" WEST, 25.88 feet;

With said curve to the left and arc distance of 25.88 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract at the beginning of a curve to the left, having a radius of 5320.00 feet, a central angle of 02° 23' 20" and a chord bearing and distance of NORTH 18° 15' 18" WEST, 221.80 feet;

With said curve to the left an arc distance of 221.82 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

NORTH 19° 26' 58" WEST, a distance of 24.45 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract at the beginning of a curve to the right, having a radius of 815.00 feet, a central angle of 00° 44' 43" and a chord bearing and distance of NORTH 82° 49' 47" EAST, 10.60 feet;

With said curve to the right an arc distance of 10.60 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

NORTH 06° 47' 52" WEST, a distance of 50.00 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract at the beginning of a curve to the left, having a radius of 865.00 feet, a central angle of 01° 26' 34" and a chord bearing and distance of SOUTH 82° 28' 51" WEST, 21.78 feet;

With said curve to the left and arc distance of 21.78 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

NORTH 19° 26' 58" WEST, a distance of 18.09 feet to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a Westerly, Northeast corner of the above mentioned Phase 10B and a corner of this tract;

THENCE over and across the above mentioned Lumberman's tract the following twelve (12) courses and distances:

NORTH 19° 27' 11" WEST, a distance of 114.79 to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

NORTH 88° 46' 32" EAST, a distance of 88.34 to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

NORTH 89° 09' 35" EAST, a distance of 94.59 to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

SOUTH 86° 34' 04" EAST, a distance of 89.38 to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

SOUTH 81° 22' 01" EAST, a distance of 89.38 to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

SOUTH 76° 09' 58" EAST, a distance of 89.38 to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

SOUTH 70° 57' 54" EAST, a distance of 89.38 to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

SOUTH 65° 45' 51" EAST, a distance of 89.38 to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

SOUTH 64° 58' 31" EAST, a distance of 117.98 to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

SOUTH 68° 52' 09" EAST, a distance of 90.32 to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

SOUTH 72° 17' 06" EAST, a distance of 90.28 to a 1/2" iron rod with yellow plastic cap stamped "DAA" set for a corner of this tract;

SOUTH 75° 41' 58" EAST, a distance of 90.27 to the POINT OF BEGINNING and containing 15.317 acres of land, more or less.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESNETS:

That Forestar (USA) Real Estate Group, Inc., acting herein by and through his(its) duly authorized officer(s), does hereby adopt this plat designating the herein above described property as MAXWELL CREEK NORTH, PHASE 11B, an addition to the City of Murphy, Texas, and does hereby dedicate, in fee simple, to the public use City of Murphy, Texas, forever, the streets, rights-of-way, and other public improvements shown thereon. The streets and alleys, if any, are dedicated for street purposes. The easements and public use areas, as shown, are dedicated, for the public use forever, for the purposes indicated on this plat. No buildings, fences, trees, shrubs or other improvements or growths shall be constructed or placed upon, over or across the easements as shown, except that landscape improvements may be placed in landscape easements, if approved by the City Council of the City of Murphy. In addition, utility easements may also be used for the mutual use and accommodation of all public utilities desiring to use or using the same unless the easement limits the use to particular utilities, said use by public utilities being subordinate to the public's and City of Murphy's use thereof. The City of Murphy and public utility entities shall have the right to remove and keep removed all or parts of any buildings, fences, trees shrubs or other improvements or growths which may in any way endanger or interfere with the construction, maintenance, or efficiency of their respective systems in said easements. The City of Murphy and public utility entities shall at all times have the full right of ingress and egress to or from their respective easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining, reading meters, and adding to or removing all or parts of their respective systems without the necessity at any time procuring permission from anyone.

This plat approved subject to all platting ordinances, rules, regulations and resolutions of the City of Murphy, Texas.

WITNESS, my hand, this the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

BY:

Thomas H. Burlison, Executive Vice President

Printed Name and Title

STATE OF TEXAS §
COUNTY OF COLLIN §

BEFORE ME, the undersigned, a Notary Public in and for the State of Texas on this day personally appeared Sean Patton, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purpose and considerations therein expressed and in the capacity therein stated.

GIVEN under my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

Notary Public in and for the State of Texas

SURVEYORS CERTIFICATE

KNOW ALL MEN BY THESE PRESENTS:

That I, Sean Patton, do hereby certify that I prepared this plat and the field notes made a part thereof from an actual and accurate survey of the land and that the corner monuments shown thereon were properly placed under my personal supervision, in accordance with the Subdivision Regulations of the Town of Prosper, Texas.

Dated this the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

SEAN PATTON
Registered Professional Land Surveyor No. 5660

STATE OF TEXAS §
COUNTY OF COLLIN §

BEFORE ME, the undersigned, a Notary Public in and for the State of Texas on this day personally appeared Sean Patton, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purpose and considerations therein expressed and in the capacity therein stated.

GIVEN under my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

Notary Public in and for the State of Texas

FINAL PLAT

Approved by the City of Murphy for filing at the office of the County Clerk of Collin County, Texas.

RECOMMENDED BY: Planning and Zoning Commission
City of Murphy, Texas

Signature of Chairperson Date of Recommendation

APPROVED BY: City Council
City of Murphy, Texas

Signature of Mayor Date of Approval

ATTEST: City Secretary Date

NOTICE: Selling a portion of this addition by metes and bounds is a violation of City ordinance and State Law, and is subject to fines and withholding of utilities and building permits.

The area or areas shown on the plat as "VAM" (Visibility, Access and Maintenance) Easements(s) are hereby given and granted to the City, its successors and assigns, as an easement to provide visibility, right of access for maintenance upon and across said VAM Easement. The City shall have the right but not the obligation to maintain any and all landscaping within the VAM Easement. Should the City exercise this maintenance right, then it shall be permitted to remove and dispose of any and all landscaping improvements, including without limitation, any trees, shrubs, flowers, ground cover and fixtures. The City may withdraw maintenance of the VAM Easement at any time. The ultimate maintenance responsibility for the VAM Easement shall rest with the owners. No building, fence, shrub, tree or other improvements or growths, which in any way may endanger or interfere with the visibility, shall be constructed in, on, over or across the Easement. The City shall also have the right but not the obligation to add any landscape improvements to the VAM Easement, to erect any traffic control devices or signs on the VAM Easement and to remove any obstruction thereon. The City, its successors, assigns, or agents shall have the right and privilege at all times to enter upon the VAM Easement or any part thereof for the purposes and with all rights and privileges set forth herein.

CONSTRUCTION PLAT
MAXWELL CREEK NORTH
PHASE 11B
18.992 ACRES
53 RESIDENTIAL LOTS
ZONED PD 00-06-486

AN ADDITION TO THE CITY OF MURPHY
JAMES MAXWELL SURVEY, ABSTRACT NO. 582
C A McMILLAN SURVEY, ABSTRACT NO. 588
COLLIN COUNTY, TEXAS

SEPTEMBER 2012 SCALE: 1"=100'

OWNER
FORESTAR (USA) REAL ESTATE GROUP, INC.
14755 PRESTON ROAD #710
DALLAS, TEXAS 75254

ENGINEER
DOWDEY, ANDERSON & ASSOCIATES, INC.
5225 Village Creek Drive, Suite 200 Plano, Texas 75093 972-931-0694
STATE REGISTRATION NUMBER: F-399

Y:\12012015\11BFP-Avg\_Layout (2).10/17/2012 2:58:38 PM InRoad, Dowdey, Anderson & Associates, Inc., BC

**City Council Meeting  
November 13, 2012**

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**Issue**

Consider and/or act upon Resolution approving the 2012 tax roll with a total levy of \$8,699,950.81 as certified by Kenneth L. Maun, Tax Assessor Collector for Collin County.

**Staff Resource/Department**

Linda Truitt – Finance Director

**Key Focus Area**

Finance, Tax

**Summary**

The 2012 appraisal roll was certified to the City by the Chief Appraiser of the Collin Central Appraisal District and approved by the City Council on August 7, 2012. The tax roll consists of the approved tax rate (\$0.5700) applied to the taxable appraisal values (\$1,526,307,177). This total levy includes funding for both maintenance and operations of the City and debt service.

**Background/History**

The City contracts with the Collin County Tax Assessor Collector for assessment and collection of property taxes. The Tax Assessor Collector calculates the total tax levy and submits this to the City for approval by the governing body. Approval of the tax roll is required by Section 26.09 of the Texas Property Tax Code.

The 2012 appraisal roll was certified to the City by the Chief Appraiser of the Collin Central Appraisal District and approved by the City Council on August 7, 2012. The tax roll consists of the approved tax rate (\$0.5700) applied to the taxable appraisal values (\$1,526,307,177). This total levy includes funding for both maintenance and operations of the City and debt service.

**Financial Considerations**

N/A

**Action Requested**

Approval of Resolution approving the 2012 tax roll and total tax levy as certified by Kenneth L. Maun, Tax Assessor Collector for Collin County.

**Attachments**

- 1) Resolution
- 2) Correspondence from Tax Assessor

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MURPHY, TEXAS, CONCERNING THE APPROVAL OF THE 2012 TAX ROLL WITH A TOTAL LEVY OF \$8,699,950.81**

**WHEREAS** The City of Murphy has a taxable levy in the amount of \$8,699,950.81 as certified by Kenneth L. Maun, Collin County Tax Assessor Collector, for the 2011 tax year,

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

**SECTION 1.** Section 26.09 of the Texas Property Tax Code requires submittal of the tax roll to the governing body for approval.

**SECTION 2.** The City Council approves the tax roll with a total levy in the amount of \$8, 699,950.81 for 2012 tax year for the City of Murphy.

**DULY RESOLVED** by the City Council of the City of Murphy, Collin County, Texas on this 13<sup>th</sup> day of November, 2012.

APPROVED:

\_\_\_\_\_  
BRET M. BALDWIN, Mayor

ATTEST:

\_\_\_\_\_  
KRISTI GILBERT, City Secretary



**KENNETH L. MAUN**  
**TAX ASSESSOR COLLECTOR**  
COLLIN COUNTY  
2300 Bloomdale Road  
P.O. Box 8046  
McKinney, TX 75070-8046  
(972) 547-5020  
METRO (972) 424-1460 ext. 5020  
FAX (972) 547-5040  
Email: kmaun@collincountytexas.gov

**RECEIVED**

**OCT 1 2012**

**City Manager's Office**

October 3, 2012

Bret Baldwin, Mayor  
City of Murphy  
206 North Murphy Road  
Murphy, TX 75094

Dear Bret Baldwin,

Attached is the 2012 Tax Roll Summary for the City of Murphy.

Submission of the 2012 Tax Roll to your governing body for approval, in accordance with *Texas Property Tax Code*, Section 26.09, will constitute the 2012 Tax Roll for City of Murphy.

Please provide my office a copy of your ordinance approving the Tax Roll at your earliest convenience. While this is a formality in the Texas Property Tax Code, we do want to fulfill the requirements of the law and do appreciate your cooperation.

If you have any questions, please let me know.

Sincerely,

Kenneth L. Maun  
Tax Assessor Collector

Cc: Linda Truitt, Finance Director  
James Fisher, City Manager  
Steven Ventura, Assistant Finance Director

## 2012 TAX ROLL SUMMARY

21 - MURPHY CITY

	Amount	Count
NUMBER OF ACCOUNTS		6,443
MARKET VALUES		
ROLLCODE: PERSONAL		
Personal	\$35,021,054	
ROLLCODE: REAL		
Agriculture	\$8,514,592	
Improvement	\$1,043,996,495	
Improvement Non-Home Site	\$68,919,788	
Land	\$339,079,270	
Land Aq Land	\$21,630	
Land Non-Home Site	\$96,548,452	
<b>TOTAL MARKET VALUE</b>	<b>\$1,592,101,281</b>	
DEFERRALS		
Aq	\$8,514,592	26
<b>TOTAL DEFERRALS</b>	<b>\$8,514,592</b>	
EXEMPTIONS		
Cap Adjustment	\$426,937	28
Disabled	\$3,187,500	66
Disabled Veteran	\$3,984,703	78
Full	\$25,371,515	137
Nominal Value	\$6,792	25
Over 65	\$24,278,690	497
Solar/Wind	\$23,375	1
<b>TOTAL EXEMPTIONS</b>	<b>\$57,279,512</b>	
<b>GRAND TOTAL FOR DEFERRALS AND EXEMPTIONS</b>	<b>\$65,794,104</b>	
<b>TOTAL MARKET VALUE</b>	<b>\$1,592,101,281</b>	
<b>TAXABLE VALUE</b>	<b>\$1,526,307,177</b>	
ROLLCODE: PERSONAL		
Levy	\$199,581.37	431
ROLLCODE: REAL		
Levy	\$8,500,369.44	6,012
<b>TOTAL LEVY</b>	<b>\$8,699,950.81</b>	
<b>LEVY LOST DUE TO FROZEN</b>	<b>\$0.00</b>	

**Issue**

Consider and/or act upon a resolution authorizing the Mayor to sign the Interlocal Agreement between Collin County and the City of Murphy for the Collin County Funding Assistance Program grant of \$500,000 for the Murphy Regional Hike and Bike Trail Connector project.

**Staff Resource / Department**

Kim Lenoir, Director of Parks and Public Works

**Summary**

The Murphy Regional Hike and Bike Trail Connector project is adjacent to the Timbers Nature Preserve Park (TNPP) project which includes renovations of City Park, Bunny Run and a new hike and bike trail on the ONCOR easement. The City of Murphy applied for a \$600,000 Collin County Funding Assistance Program grant in June 2012 and was awarded a \$500,000 grant in October 2012. This grant is designated for the Murphy Regional Connector Trail planned for the ONCOR easement including only a 10' wide concrete trail and pedestrian bridge, as needed. The 4' wide asphalt trail was not awarded by the grant.

**Background/History**

The Timbers Nature Preserve Park (TNPP) is a 2008 bond-funded project that is now in the permitting phase. The master plan was completed in December 2010. On October 4, 2011, City Council authorized HOK to proceed with construction plans for the TNPP project. The Council members discussed their priorities as follows: drainage improvements/management, ball fields, trails, and the Bunny Run area to stay natural. HOK agreed to take that direction and revise the park plans to meet those priorities. On April 17, 2012, the City Council approved the revised Park design from HOK and authorized submittal of the required permits, which are still under review.

HOK presented a follow-up to the permitting process and lease agreement with ONCOR on September 4, 2012. Additional environmental work may need to be done before permits are released. Once the permits and the ONCOR lease agreement are approved, staff will request that Council review a proposed project and authorize bidding.

**Financial Considerations**

The Collin County Funding Assistance Program awarded a \$500,000 grant in October 2012 for the Murphy Regional Connector Trail planned for the ONCOR easement. City Council has designated \$600,000 from the 2008 Trail Bond Funds as City Matching Funds.

Below is the layout for the total estimated construction costs including the Collin County Funding Assistance Program Grant and the City Matching Funds from the 2008 Trail Bond Funds.

**Collin County Funding Assistance Program Grant**

	<b>Application \$600,000</b>	<b>Awarded \$500,000</b>
10' Wide Concrete Trail from S. Murphy Rd to McCreary Rd	\$ 224,077	\$ 200,000
150' Pedestrian Bridge	313,760	300,000
4' Wide Asphalt Trail from S. Murphy Rd to McCreary Rd	100,606	-
<b>Total Cost</b>	<b>\$ 638,443</b>	<b>\$ 500,000</b>

**City Matching Funds: Budgeted \$600,000 from 2008 Bond Trail Funds**

Grading/Drainage Work	\$ 380,000
Extend Trail Additional 572' from S. Maxwell Creek Rd to McCreary Rd	40,612
Relocate Existing Bridge	65,000
Restore/Add Nature, Concrete Loop, and Connector Trails	100,000
Regional Trail Overage (Application vs. Awarded)	37,837
<b>Total Cost</b>	<b>\$ 623,449</b>

**Total Estimated Construction Cost** **\$ 1,123,449**

This project is proposed to be bid with TNPP improvements once the ONCOR Easement Lease Agreement and Environmental Permits are reviewed, approved, and presented. Staff will prepare alternatives, if needed, at this time.

**Action Requested/Staff Recommendation**

Staff recommends a motion to approve the resolution as presented.

**Attachments**

- 1) Resolution

**RESOLUTION NO. 12-R-XXX  
CITY OF MURPHY, COLLIN COUNTY, TEXAS  
COLLIN COUNTY PARKS AND OPEN SPACE  
PROJECT FUNDING ASSISTANCE  
RESOLUTION AUTHORIZING INTERLOCAL AGREEMENT**

**A RESOLUTION OF THE CITY OF MURPHY, TEXAS HEREINAFTER REFERRED TO AS “APPLICANT,” DESIGNATING CERTAIN OFFICIALS AS BEING RESPONSIBLE FOR, ACTING FOR AND ON BEHALF OF THE APPLICANT IN DEALING WITH THE COLLIN COUNTY PARKS AND OPEN SPACE PROJECT FUNDING ASSISTANCE PROGRAM, HEREINAFTER REFERRED TO AS “DEPARTMENT,” FOR THE PURPOSE OF APPROVING THE INTERLOCAL AGREEMENT FOR THE COLLIN COUNTY PARKS AND OPEN SPACE PROJECT FUNDING ASSISTANCE PROGRAM, HEREINAFTER REFERRED TO AS THE “PROGRAM”; CERTIFYING THAT THE APPLICANT WILL ACCEPT THE \$500,000 AWARD TO CONSTRUCT THE MURPHY REGIONAL TRAIL CONNECTOR / ONCOR EASEMENT PROJECT.**

**WHEREAS**, the Applicant is fully eligible to receive under the Program; and

**WHEREAS**, the Applicant is desirous of authorizing an official sign the Interlocal Agreement concerning the Program;

**BE IT RESOLVED BY THE APPLICANT:**

**SECTION 1:** That the Applicant hereby certifies that they are eligible to receive assistance under the Program, and that notice of the application has been posted according to local public hearing requirements.

**SECTION 2:** That the Applicant hereby certifies that the matching share for this application is readily available at this time.

**SECTION 3:** That the Applicant hereby authorizes and directs its Mayor, Bret Baldwin to sign the Interlocal Agreement.

**PASSED, APPROVED AND ADOPTED** by the City Council of the City of Murphy, Texas, on this the 13<sup>th</sup> day of November, 2012.

---

**Bret M. Baldwin, Mayor  
City of Murphy**

**ATTEST:**

---

**Kristi Gilbert, City Secretary**  
**City of Murphy**

**City Council**  
**November 13, 2012**

**Issue**

Hold a public hearing and consider and/or act on the application of **Mike Horn**, property owner, requesting approval of an ordinance for a SUP (Specific Use Permit) to allow a drive-thru window for a Braum's Ice Cream Store on property zoned PD (Planned Development) District No. 09-12-823 for Retail and Office Uses on property located on FM 544 between Brand Road and Murphy Road. **ZF 2012-07**

**Background**

The applicant is proposing to build a Braum's Ice Cream Store on the subject property. The property is currently zoned PD (Planned Development) District No. 09-12-823 for Retail and Office Uses. The PD (Planned Development) District was subsequently amended in 2003 to allow Private School as a permitted use. The PD (Planned Development) District was additionally amended in 2011 to allow an assisted living facility as a permitted use.

**Consideration**

1. The PD (Planned Development) District No. 09-12-823 allows for a Restaurant (Drive-in) by SUP (Specific Use Permit).
2. A public hearing notification for this proposed zoning change was published in the newspaper as well as notification being mailed to the property owners included in the required 200 feet notification radius. To date, no responses were received.

**Board Discussion/Action**

On September 24, 2012, the Planning & Zoning Commission considered this item. They had several questions for the applicant such as locations of buffers, the drive-thru speaker and working hours of the restaurant. The Planning & Zoning Commission voted to approve the SUP for Braum's drive thru with a vote of 5-1.

**Staff Recommendation**

Staff recommends approval of an ordinance allowing a SUP (Specific Use Permit) for a drive-thru window for a Braum's Ice Cream Store on property zoned PD (Planned Development) District No. 09-12-823 for Retail and Office Uses.

**Attachments**

Location Map

Proposed Ordinance

Exhibit B – SUP Conditions

Planned Development District Conditions

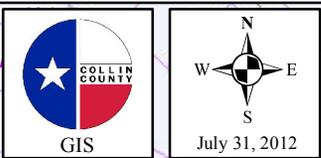
Exhibit C - Proposed Site Plan (Exhibits C, D and E are considered for action in subsequent item)

Exhibit D - Proposed Landscape Plan

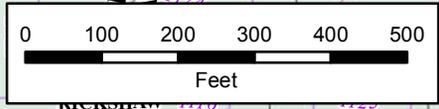
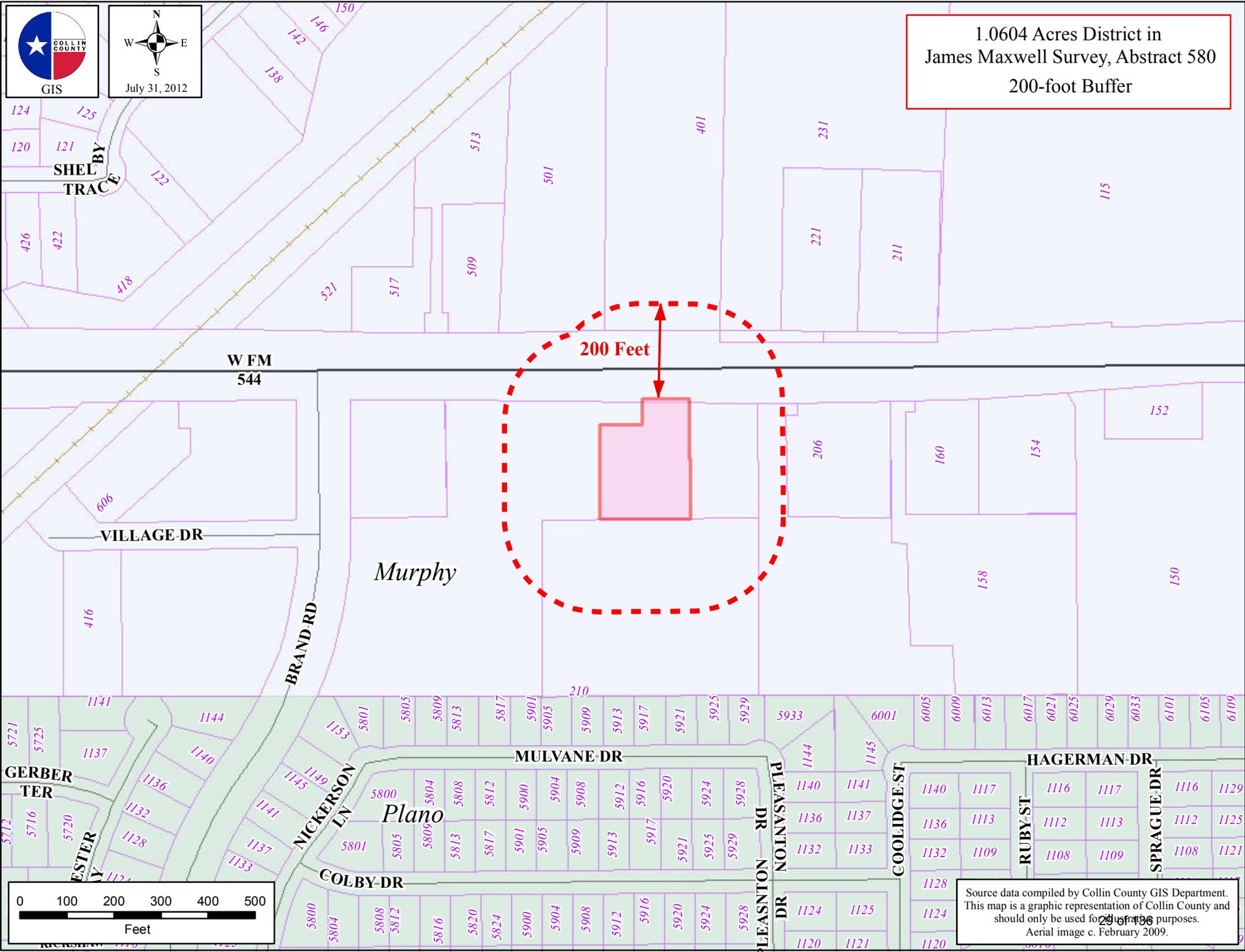
Exhibit E - Proposed Elevations

*Kristen Roberts, Director of Economic and Community Development*

**Submitted By**



1.0604 Acres District in  
James Maxwell Survey, Abstract 580  
200-foot Buffer



Source data compiled by Collin County GIS Department.  
This map is a graphic representation of Collin County and  
should only be used for informational purposes.  
Aerial image c. February 2009.

**ORDINANCE \_\_-\_\_-\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MURPHY, COLLIN COUNTY, TEXAS, AMENDING ITS COMPREHENSIVE ZONING ORDINANCE AND MAP, CHAPTER 86 OF THE CITY OF MURPHY CODE OF ORDINANCES BY APPROVING A SPECIFIC USE PERMIT FOR A RESTAURANT (DRIVE-IN) ON PROPERTY ZONED PLANNED DEVELOPMENT DISTRICT FOR RETAIL USES ON APPROXIMATELY 1.0604 ACRES OUT OF THE JAMES MAXWELL SURVEY, ABSTRACT NO. 580, LOCATED IN THE CITY OF MURPHY, COLLIN COUNTY, TEXAS AND MORE PARTICULARLY DESCRIBED ON EXHIBIT “A” ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE FOR ALL PURPOSES, APPROVING SPECIFIC USE PERMIT STANDARDS HERETO AS EXHIBIT “B”; PROVIDING A SEVERABILITY CLAUSE, PROVIDING A PENALTY CLAUSE, AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Planning and Zoning Commission of the City of Murphy and the City Council of the City of Murphy, in compliance with the laws of the State of Texas, have given the requisite notices by publication and otherwise, and have held due hearings and afforded a full and fair hearing to all property owners generally and to all persons interested, and the City Council of the City of Murphy is of the opinion and finds that said changes should be granted and that the Comprehensive Zoning Ordinance should be amended;

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

**Section 1.** That the Comprehensive Zoning Ordinance and Map of the City of Murphy, Texas, be, and the same are hereby, amended so as to approve a Specific Use Permit for a Restaurant (Drive-In) on property zoned PD (Planned Development) District for Retail Uses for the property described as 1.0604 acres, more or less, in the James Maxwell Survey, Abstract No. 580, in the City of Murphy, Collin County, Texas, and more particularly described in Exhibit “A” attached hereto and made part hereof for all purposes.

**Section 2.** That the development standards for this Specific Use Permit are attached hereto as Exhibit “B”, and the same are hereby approved for said Specific Use Permit as required by Section 86-635(b), of the City of Murphy, Texas Code of Ordinances.

**Section 3.** That Chapter 86 of the City of Murphy Code of Ordinances, as amended, shall be and remain in full force and effect save and except as amended by this Ordinance.

**Section 4.** If any word, section, article, phrase, paragraph, sentence, clause or portion of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect, for any reason, the validity of the remaining portions of the Comprehensive Zoning Ordinance, Chapter 86 of the City of Murphy Code of Ordinances, and the remaining portions shall remain in full force and effect.

**Section 5.** Any person, firm or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction, in the municipal court of the City of Murphy, Texas, shall be punished by a fine not to exceed the sum of two thousand dollars (\$2,000.00) for each offense, and each and every day any such violation shall continue shall be deemed to constitute a separate offense.

**Section 6.** This Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and Charter in such cases provide.

**PASSED, APPROVED AND ADOPTED** this the 13<sup>th</sup> day of November 2012.

---

Bret M. Baldwin, Mayor  
City of Murphy

ATTEST:

---

Kristi Gilbert, City Secretary  
City of Murphy

**METE AND BOUNDS DESCRIPTION**

BEING a tract of land situated in the J. Maxwell Survey, Abstract No. 580, City of Murphy, Collin County, Texas, and being part of a called 134.84 acre tract described in a deed to McBirney-544 Joint Venture recorded in Volume 2844, Page 123, Deed records of Collin County, Texas and being more particularly described by mete and bounds as follows;

COMMENCING at the 1/2 inch iron found at the corner of the Northwest corner of this tract, and also being northeast of Lot 3, Western Bank and Trust recorded in Document number 2001-0088379 Deed recorded of Collin County, Texas

THENCE N 89°37'34" E, a distance of 184.62 feet to a corner;

THENCE N 89°53'46" E, a distance of 159.73 feet to POINT OF BEGINNING;

THENCE N 89°53'46" E, a distance of 133.02 feet to a corner;

THENCE S 00°22'28" E, a distance of 255.00 feet to a corner;

THENCE S 89°53'46" W, a distance of 194.12 feet to a corner;

THENCE N 00°22'28" W, a distance of 200.78 feet to a corner;

THENCE N 90°00'00" E, a distance of 60.94 feet to a corner;

THENCE N 00°08'14" W, a distance of 64.39 feet to POINT OF BEGINNING and containing 48,181 square feet or 1.080 acres of land, more or less.

Y:\2011\12\11\14.MVL\EXHIBIT-BRAUM.dwg



17819 DANFORTH ROAD, SUITE 210  
DALLAS, TEXAS 75232  
(972) 248-0281 FAX (972) 248-0281  
TX T.A.P.E. REGISTRATION # 7-008974  
T.S.P.L.S. FIRM REGISTRATION NO. 100433

**OWNER**  
**McBIRNEY-544 JOINT VENTURE**  
8300 TOWN & COUNTRY BLVD  
SUITE 200  
FRISCO, TX 78034  
(214) 618-8800

**EXHIBIT MAP  
FOR  
LOT 7, BLOCK "A"  
SITUATED IN THE  
JAMES MAXWELL SURVEY, ABSTRACT NO. 580  
CITY OF MURPHY, COLLIN COUNTY, TEXAS  
MAY 29, 2012  
SHEET 2 OF 2**

**EXHIBIT B**

**ZONING FILE NO. 2012-07**

**West FM 544, east of Brand Road**

**SPECIFIC USE PERMIT FOR DRIVE-THRU RESTAURANT**

- I. **Statement of Purpose:** The purpose of this Specific Use Permit is to allow a Drive-Thru Restaurant compatible with the surrounding area.
- II. **Statement of Effect:** This Specific Use Permit shall not affect any regulation found in the City of Murphy Code of Ordinances, Ordinance No. 06-12-708, as amended, except as specifically provided herein.
- III. **General Regulations:** All regulations of PD (Planned Development) District No. 09-12-823 shall apply, except as otherwise specified in this ordinance.
- IV. **Development Plans:**
  - A. Site Plan: Development shall be in general conformance with the approved site plan set forth in Exhibit C; however, in the event of conflict between the site plan and the conditions, the conditions shall prevail.
  - B. Landscape Plan: Development shall be in general conformance with the approved landscape plan set forth in Exhibit D; however, in the event of conflict between the landscape plan and the conditions, the conditions shall prevail.
  - C. Exterior Elevation Plan: Development shall be in general conformance with the approved exterior elevations as set forth in Exhibit E; however, in the event of conflict between the exterior elevations and the conditions, the conditions shall prevail.

**ORDINANCE NO. 09-12-823**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MURPHY, COLLIN COUNTY, TEXAS, AMENDING ITS COMPREHENSIVE ZONING ORDINANCE AND MAP, CHAPTER 86 OF THE CITY OF MURPHY CODE OF ORDINANCES BY CHANGING THE ZONING CLASSIFICATION ON APPROXIMATELY 25.33 ACRES OUT OF THE JAMES MAXWELL SURVEY, ABSTRACT NO. 580, LOCATED IN THE CITY OF MURPHY, COLLIN COUNTY, TEXAS AND MORE PARTICULARLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE FOR ALL PURPOSES, FROM PD (PLANNED DEVELOPMENT) DISTRICT FOR MIXED USE RETAIL, COMMERCIAL, AND OFFICE USES TO PD (PLANNED DEVELOPMENT) DISTRICT FOR RETAIL AND OFFICE USES WITH CONDITIONS HERETO DESCRIBED AS EXHIBIT "B"; PROVIDING A SEVERABILITY CLAUSE, PROVIDING A PENALTY CLAUSE, AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Planning and Zoning Commission of the City of Murphy and the City Council of the City of Murphy, in compliance with the laws of the State of Texas, have given the requisite notices by publication and otherwise, and have held due hearings and afforded a full and fair hearing to all property owners generally and to all persons interested, and the City Council of the City of Murphy is of the opinion and finds that said changes should be granted and that the Comprehensive Zoning Ordinance should be amended;

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

**Section 1.** That the Comprehensive Zoning Ordinance and Map of the City of Murphy, Texas, be, and the same are hereby, amended so as to change the zoning classification from PD (Planned Development) District for Mixed Use Retail, Commercial and Office Uses to PD (Planned Development) District for Retail and Office Uses with conditions for the property described as 25.33 acres, more or less, in the James Maxwell Survey, Abstract No. 580, in the City of Murphy, Collin County, Texas, and more particularly described in Exhibit "A" attached hereto and made part hereof for all purposes.

**Section 2.** That the development standards for this Planned Development District are attached hereto as Exhibit “B”, and the same are hereby approved for said Planned Development District as required by Section 86-603, of the City of Murphy, Texas Code of Ordinances.

**Section 3.** That Chapter 86 of the City of Murphy Code of Ordinances, as amended, shall be and remain in full force and effect save and except as amended by this Ordinance.

**Section 4.** If any word, section, article, phrase, paragraph, sentence, clause or portion of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect, for any reason, the validity of the remaining portions of the Comprehensive Zoning Ordinance, Chapter 86 of the City of Murphy Code of Ordinances, and the remaining portions shall remain in full force and effect.

**Section 5.** Any person, firm or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction, in the municipal court of the City of Murphy, Texas, shall be punished by a fine not to exceed the sum of two thousand dollars (\$2,000.00) for each offense, and each and every day any such violation shall continue shall be deemed to constitute a separate offense.

**Section 6.** This Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and Charter in such cases provide.

PASSED, APPROVED AND ADOPTED this the 7th day of December, 2009.

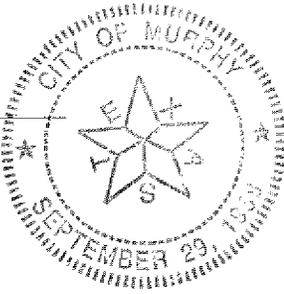


Bret M. Baldwin, Mayor  
City of Murphy

ATTEST:



Aimee Nemer, City Secretary  
City of Murphy



**METES AND BOUNDS DESCRIPTION**  
for  
**LOT 2, BLOCK A**  
A 12.488 Acres Tract of Land  
**MURPHY VILLAGE ADDITION**  
James W. Maxwell Survey, Abstract No. 580  
City of Murphy  
Collin County, Texas

**WHEREAS McBRINEY -544 JOINT VENTURE**, is the owner of a tract situated in the James Maxwell Survey, Abstract No. 580, in the City of Murphy, Collin County, Texas, being Lot 2, Block A of MURPHY VILLAGE ADDITION an addition to the City of Murphy, Collin, County, Texas, according to the deed thereof recorded in volume 2644, page 123 of the Map Records of Collin County, Texas, and being more particularly described as follows:

**BEGINNING** at a ½" iron rod found in the northwesterly corner of Lot 4R, Block D, MURPHY VILLAGE ADDITION an addition to the City of Murphy, Collin, County, Texas, according to the plat thereof recorded in Cabinet B, Slide 442 of the Map Records of Collin County, Texas, same being the northeasterly corner of beforementioned Lot 2, Block A;

THENCE South 00 degree 49 minute 20 second West, a distance of 632.85 feet to a ½ iron rod found for a corner;

THENCE North 89 degree 10 minute 40 second West, a distance of 998.50 feet to a ½ iron rod found for a corner;

THENCE continuing along the centerline of curve to the right having a central angle of 23 degree 16 minute 21 second, a radius of 905.00 feet, and a tangent of 186.37 feet, on a chord bearing and distance of North 12 degree 17 minute 47 second East 365.07 feet, along the East Right-of-way line of Brand Road, a distance of 367.60 feet to a ½" iron rod found for a corner;

THENCE North 00 degree 39 minute 36 second East, along East line of Brand Road, a distance of 20.00 feet to a ½" iron rod found for a corner;

THENCE South 89 degree 20 minute 24 second East, a distance of 200.00 feet to a ½" iron rod found for a corner;

THENCE North 00 degree 39 minute 36 second East, a distance of 255.00 feet to a ½" iron rod found for a corner;

THENCE South 89 degree 20 minute 24 second East, along F.M. Highway 544 Road, a distance of 184.62 feet to a ½" iron rod found for a corner;

THENCE South 89 degree 04 minute 12 second East, along Southerly line of F.M. Highway 544 Road, a distance of 542.04 feet to the **POINT OF BEGINNING** and containing 12.488 acres or 543,959 square feet of land more or less.

**METES AND BOUNDS DESCRIPTION**  
**for**  
**Block "B"**  
**A 9.046 Acers Tract of Land**  
**MURPHY VILLAGE ADDITION**  
**James W. Maxwell Survey, Abstract No. 580**  
**City of Murphy**  
**Collin County, Texas**

WHEREAS McBRINEY -544 JOINT VENTURE, is the owner of a tract situated in the James Maxwell Survey, Abstract No. 580, in the City of Murphy, Collin County, Texas, being Lot 1-6, Block B of MURPHY VILLAGE ADDITION an addition to the City of Murphy, Collin, County, Texas, according to the deed thereof recorded in volume 2003, page 207 of the Map Records of Collin County, Texas, and being more particularly described as follows:

**BEGINNING** at the ½" iron rod found at the corner of the southeast corner of this tract, and also being northeast of a Woodlands of Plano Tract also being in the south line of Brand Road 110 feet right-of-way (R.O.W);

THENCE North 89 degree 10 minute 40 second West with said city Limit line of Plano and Murphy, Texas as described in City of Plano Ordinance Number 73-4-1, recorded in Volume 861, Page 537, Deed Records of Collin County, Texas, for a distant of 903.88 feet to iron found for a corner;

THENCE along the curve to the left having a central angle of 02 degree 14 minute 28 second, a radius of 5,679.97 feet, and a tangent distant of 99.74 feet, a chord bearing of North 49 degree 14 minute 02 second East and a chord distance of 199.45 feet, for a curve length of 199.46 feet to ½" iron rod found for a corner of the said DART tract;

THENCE North 48 degree 14 minute 43 second East, along the northeast line of said DART tract, for a distant of 747.88 feet to ½" iron rod found for a corner;

THENCE South 89 degree 20 minute 24 second East, along the southeast line of F.M. 544 Road, for a distant of 294.32 feet to ½" iron rod found for a corner of the said Brand Road;

THENCE North 00 degree 39 minute 36 second West, along the southwest line of said Brand Road for a distant of 275.00 feet to ½" iron rod found for a corner;

THENCE along the curve to the right having a central angle of 00 degree 09 minute 53 second, a radius of 795.00 feet, and a tangent distant of 14.90 feet, a chord bearing of South 01 degree 45 minute 02 second W and a chord distance of 30.03 feet, for a curve length of 30.04 feet to ½" iron rod set for a corner;

THENCE along the curve to the right having a central angle of 24 degree 31 minute 46 second, a radius of 795.00 feet, and a tangent distant of 172.84 feet, a chord bearing of South 15 degree 05 minute 52 second West and a chord distance of 337.76 feet, for a curve length of 340.36 feet to the **POINTOF BEGINNING** and containing 394,037 or 9.046 acres;

**METES AND BOUNDS DESCRIPTION**  
for  
Block "C"  
A 3.799 Acers Tract of Land  
**MURPHY VILLAGE ADDITION**  
James W. Maxwell Survey, Abstract No. 580  
City of Murphy  
Collin County, Texas

**WHEREAS McBRINEY -544 JOINT VENTURE**, is the owner of a tract situated in the James Maxwell Survey, Abstract No. 580, in the City of Murphy, Collin County, Texas, being Lot 1, Block C of MURPHY VILLAGE ADDITION an addition to the City of Murphy, Collin, County, Texas, according to the deed thereof recorded in volume 2644, page 123 of the Map Records of Collin County, Texas, and being more particularly described as follows:

**BEGINNING** at a highway monument find for a corner at the intersection of the east line of a 100-foot right-of-way dedicated to Dallas Area Rapid Transit by deed recorded in Volume 3424, Page 126, Deed Records of Collin County, Texas with the south line of F.M. 544 (variable width right-of-way);

**THENCE** South 48 degree 14 minute 43 second West for a distance of 613.63 feet to a ½" iron found for a corner;

**THENCE** continuing along the centerline of curve to the right having a central angle of 2 degree 18 minute 41 second, a radius of 5,679.97 feet, and a tangent of 114.58 feet, on a chord bearing and distance of of South 49 degree 24 minute 03 second West 229.11 feet, along the East Right-of-way line of Brand Road, a distance of 229.13 feet to a ¼" iron rod found for a corner;

**THENCE** North 03 degree 04 minute 40 second E for a distance of 545.45 feet to a ½" iron found for a corner;

**THENCE** North 88 degree 45 minute 22 second East, along Southerly line of F.M. Highway 544 Road, a distance of 602.59 feet to the **POINT OF BEGINNING** and containing 3.799 acres or 165,468 square feet of land more or less.

## EXHIBIT B

### ZONING FILE NO. 2009-10 FM 544 and Brand Road PLANNED DEVELOPMENT CONDITIONS

- I. **Statement of Intent:** The intent of this Planned Development District is to provide high quality mixed-use, primarily retail, development that is consistent with the Comprehensive Plan and that is beneficial and complementary to the City of Murphy in terms of visual identity.
- II. **Statement of Purpose:** The purpose of this Planned Development District is to ensure that any development that occurs within the area designated by this Planned Development encourage a mixed-use application including, but not limited to the following.
- Restaurants;
  - Upscale retail shops and boutiques;
  - Assisted Living;
  - Medical Facilities;
  - Service Businesses
- III. **Statement of Effect:** This Planned Development shall not affect any regulation found in the City of Murphy Code of Ordinances, Ordinance No. 06-12-708, as amended, except as specifically provided herein.
- IV. **General Regulations:** All regulations of the R (Retail) District set forth in Article III, Division 14 of the Code of Ordinances are included by reference and shall apply, except as otherwise specified by this ordinance.
- V. **Development Plans:**
- A. Concept Plan: Development shall be in general conformance with the approved concept plan set forth in Exhibit C; however, in the event of conflict between the concept plan and the conditions, the conditions shall prevail.
- B. Site Plan: A site plan shall be submitted in accordance with the requirements set forth in Article II, Division 5 of the City of Murphy Code of Ordinances. The site plan may be for all or any part of the land within the Planned Development District.
- VI. **Specific Regulations:**
- A. Permitted Uses. The following uses shall be permitted.
1. Amusement Services (Indoor) (SUP)
  2. Antique Shop (household items only)
  3. Art Dealer/Gallery
  4. Artist Studio
  5. Assisted Living
    - a. Senior Living (SUP)
    - b. Assisted Living (SUP)
    - c. Nursing Convalescent Home (SUP)
  6. Automobile Driving School (SUP)

7. Automotive Repair (Major) (SUP)
8. Automotive Repair (Minor)
9. Bakery (Retail)
10. Bank/Credit Union (SUP) (allowed by right at the SE corner of FM 544 and Brand Road)
11. Barber/Beauty Shop
12. Barber/Beauty Shop College (SUP)
13. Bed and Breakfast Inn (SUP)
14. Book Store
15. Cafeteria
16. Car Wash (Full Service)
17. Child Care Center, Kindergarten or Pre-School
18. Church/Place of Worship
19. Clinic (Medical)
20. Computer Sales
21. Confectionary Store (Retail)
22. Convenience Store with Gasoline (SUP)
23. Department Store
24. Dinner Theater
25. Electronics - Retail
26. Financial Services (Advice/Invest)
27. Florist
28. Furniture Sales (Indoor)
29. Governmental Building (Municipal, State or Federal)
30. Grocery Store (SUP)
31. Hardware Store
32. Health Club (SUP)
33. Hospital (Acute Care)
34. Hospital (Chronic Care)
35. Full Service Hotel/Motel (SUP)
36. Limited Service Hotel/Motel (SUP)
37. Insurance Agency Offices
38. Landscape Nursery
39. Laundry/Dry Cleaning (Drop Off/Pickup Only)
40. Motion Picture Theater
41. Needlework Shop
42. Offices (as allowed in Office zoning districts)
43. Park and/or Playground (Public)
44. Pet Shop/Supplies
45. Pharmacy (SUP) (allowed by right at the SE corner of FM 544 and Brand Road)
46. Photo Studio
47. Photocopying/Duplicating
48. Real Estate Offices
49. Restaurant
50. Restaurant (Drive-In) (SUP)
51. Retail Store
52. Retail Store (Drive-In) (SUP)
53. School, K through 12 (Public)

**EXHIBIT B**

54. Shoe Repair
55. Skating Rink (Ice) (SUP)
56. Tailor Shop
57. Theater (Live Drama)
58. Theater (Movie)
59. Tire Dealership
60. Travel Agency
61. Veterinarian Hospital

B. Area and Yard Regulations:

1. Setbacks From Property Lines Adjacent To Streets:
  - a. Building Setbacks - No building of any kind and no part thereof shall be placed within the following setback lines:
    - i. Minimum 40 feet from FM 544, Brand Road and Village Drive.
    - ii. Minimum 15 feet from all other roadways/access roads.
  - b. Landscape Setbacks
    - i. Minimum 25 feet from FM 544 and Brand Road.
    - ii. Minimum 10 feet from all other roadways/access roads.
2. Setbacks From Property Lines Not Adjacent To Streets:
  - a. Building Setbacks – No building of any kind and no part thereof shall be placed within the following setback lines:
    - i. Minimum 10 feet from rear and side lines except where buildings on adjacent lots abut each other. In the case of abutting buildings, the building setback shall be 0 feet.
    - ii. Minimum 50 feet abutting residential districts for single story buildings not exceeding 45 feet in height. All pad sites along FM 544 shall have a maximum average height of 30 feet.
    - iii. Maximum 50 feet along the KCS/DART right-of-way along the west property line.
3. There is no maximum building size as long as fire standards and other site requirements, such as parking and landscaping, etc. are met.

C. Parking, Driveways & Sidewalks:

1. Parking areas shall not be permitted within any landscape buffer strip.
2. Fire lanes, driveway, loading areas and access easements shall be paved in accordance with the minimum design standards of the City of Murphy codes and ordinances.
3. The number of required parking spaces shall be dependent upon the use and shall meet the requirements of the City of Murphy Code of

**EXHIBIT B**

Ordinances. No required parking space may be occupied by signs, cart corrals, merchandise, or display items at any time.

4. Sidewalks along FM 544 shall be a minimum of 8 feet in width. Sidewalks along Brand Road and Village Drive shall be 6 feet in width.

D. Loading and Unloading

1. Truck loading berths and apron space shall not be located on the street side of any building, however, and exceptions can be addressed during site plan approval. In those instances where 3 or more sides of the building face dedicated streets, the loading berth shall be screened from view.
2. Truck loading berths and apron space shall not be located within any required setback or landscape buffer strip.

E. Minimum Exterior Construction Standards, Building Materials and Design – Exterior Construction and Design Requirements shall be architecturally compatible and comply with the following.

1. All structures, including all building elevations, shall be constructed utilizing a unified design that is substantially consistent with or contains architectural design elements including but not limited to the following.
  - a. Canopies and awnings.
  - b. Outdoor patios.
  - c. Display windows/decorative windows.
  - d. Architectural details (such as decorative tile or brick work) integrated into the building façade.
  - e. Integrated planters or wing walls that incorporate landscape and/or sitting areas
  - f. Articulated cornice line.
  - g. Peaked roof form.
  - h. Accent materials (minimum 15% of exterior facade)
  - i. Other architectural features as approved with the site plan.
2. At least two masonry materials shall be used in addition to glass on any single building. The following masonry materials shall be allowed.
  - a. Brick
  - b. Cast Stone
  - c. Decorative concrete tilt wall
  - d. EIFS and Stucco (limited to no more than 12% total)
  - e. Stone
  - f. Wrought Iron (for decorative overhangs)

**EXHIBIT B**

3. Color schemes shall reflect a certain quality and expression consistent with the architectural character and design of the structure. Accent colors may be used to identify architectural features or highlight details. The use of primary or garish colors shall not be predominately used on the exterior facade of any structure.
  4. Stand fans, skylights, cooling towers, communication towers, satellite dishes, vents, and any other structures or equipment, whether located on the roof or elsewhere, shall be architecturally compatible or effectively shielded from view from any public or private dedicated street by an architecturally sound method.
  5. Each commercial building, complex of buildings, or separate commercial business enterprises shall have a trash bin on the premises adequate to handle the trash and waste items generated, manufactured, or acquired thereon by such commercial activities. The sorting, handling, moving, storing, removing and disposing of all waste materials must be housed or screened from view.
  6. Building roofs shall be so designed and constructed to prevent water ponding and to shed water in a reasonable amount of time. Built-up roofs and roof-top items which include equipment, piping, flashing, and other items shall be maintained for continuity of the roof appearance.
  7. Roof top equipment, piping, flashing, and other items on the roof shall be screened by a perimeter parapet wall so as not to be visible from roadways.
  8. In all cases, mechanical equipment on roofs and outcroppings should be clad by a like building material or painted with a color scheme similar to the principal structure walls or roof.
- F. Landscape Standards. Landscaping shall be compatible and comply with the standards set forth in the Code of Ordinances, except as provided below.
1. All landscaping shall use a unified design for the entire Tract. Landscaping shall be required on all developments within the Planned Development District and shall be complete prior to the issuance of any certificate of occupancy or final building inspection for the development. An automatic underground irrigation system shall be installed and maintained for all required landscaping and shall be in place and operable at time of planting.
  2. A landscape buffer shall be provided 25 feet in depth adjacent to the right-of-way of FM 544, 25 in depth adjacent to Brand Road and ten (10) feet in depth adjacent to all other roads (includes public streets and private access drives) as measured from the back of curb of the public or private street to the back of curb of any site paving. No parking may be placed within any landscape buffer. Pedestrian easements may be located within a landscape buffer. The width of the sidewalk may be included in the calculation of the buffer depth for 25 foot buffers, but may not be included in the calculation of the buffer depth for ten (10) foot buffers.

## EXHIBIT B

3. A landscape buffer shall be provided for an average of 15 25 feet in depth adjacent to the KCS/DART Railroad right-of-way.
  4. Parking Lots:
    - a. A minimum percentage of the parking area shall be landscaped according to the following requirements. Such landscaping shall be distributed within the parking area, occurring within medians, islands, or peninsulas. All such landscape areas shall be protected by concrete curbing or other acceptable devices which prohibit vehicular access to landscaped areas. Bumper overhang shall not be included as part of required landscaping. A permeable area no less than four (4) feet by four (4) feet shall be provided surrounding each tree located in a surface parking area.
      1. A total of five (5) percent of the interior of the entire parking lot regardless of location, shall be landscaped. One large tree or three (3) ornamental trees from the Plant List, shall be provided for each twelve (12) parking spaces, and planted within the five (5) percent area. Trees shall be distributed so that bays of parking spaces shall not exceed eighteen (18) spaces in length.
- G. Screening. Screening shall comply with the standards set forth in the Code of Ordinances, except as provided below.
1. All screening at the rear of the property will be a live screen where required. Plant materials shall conform to the standards of the approved plant list in Section 50 and the current edition of the "American Standard for Nursery Stock" (as amended), published by the American Association of Nurserymen. Bald Cyprus trees are excluded from the approved list. The existing railroad berm will also serve as a natural screen between the nonresidential and residential districts.
  2. All truck docks/loading areas for anchor stores with a footprint greater than 100,000 square feet shall be screened from view through the use of 12-foot all masonry walls (which are the same colors and materials as main building). All other screening of the rear of the site shall be living screens (eight foot height and at least 75 percent capacity within four years of planting unless such areas are screened from public views by a building).
  3. Outside seasonal displays shall be permitted with the Planned Development District.
- H. Site Lighting. Lighting shall comply with the standards set forth in the Code of Ordinances, except as provided below.
1. Lighting should be provided for vehicular, pedestrian, signage, architectural and site features.
  2. Site lighting fixtures used along entrance driveways and parking areas shall be uniform and a consistent design within the development. Lighting standards for illuminating these areas shall be no taller than 40 feet high.

However, the height of all light standards shall be subject to review of the lighting plan during the Site Plan review.

3. The pattern of light pooling from each fixture shall be carefully considered to provide smooth, even lighting of driveways and parking, while eliminating light intrusion into adjacent property outside of the planned development district. Parking areas shall have a minimum of 3-foot candles initial and a minimum average of 2-foot candle on a maintained basis. Light sources shall be metal halide, mercury vapor or of similar color. Yellow/orange source lights are prohibited from use. Incandescent source lighting should be considered for pedestrian areas and near buildings.
  4. Pedestrian walkways, courts, gardens and entrance areas shall be illuminated to enhance the pedestrian qualities of the development. Low level fixtures should complement the architectural design and focus on quality landscape lighting that will enhance the development.
  5. General illumination shall commence one half hour before sunset and last until the Building Site is closed for the evening. Parking structures and pedestrian walkways shall be illuminated during all hours of darkness and when poor weather conditions warrant.
- I. Signage and Graphics: Signage shall comply with the standards set forth in the Code of Ordinances, except as provided below.
1. General
    - a. Single Tenant Monument signs - One (1) monument sign shall be allowed on each pad site and shall be limited to a maximum sign area of 50 square feet and a maximum structure area of 80 square feet.
    - b. Multi Tenant Monument signs - One (1) multi tenant monument sign shall be allowed in Block C as shown on the concept plan and shall be limited to a maximum sign area of 100 square feet and a maximum structure area of 200 square feet.
    - c. Pylon signs – Two (2) pylon signs shall be permitted in Block A and one (1) pylon sign shall be permitted in Block B. Each pylon sign shall be limited to a maximum sign area of 350 square feet and a maximum structure area of 600 square feet.
  2. Single Tenant Monument Signs
    - a. Monument signs shall identify individual tenants or uses within a pad site. Monument signs shall be a maximum of seven (7) feet tall.
    - b. All single tenant monument signs shall be double-sided, internally illuminated Plexiglas sign panels contained within a masonry structure. Single tenant monument signage may also be lit by ground mounted flood lighting or internal letter illumination either face lit or reverse channel lit. Light fixtures should be screened from view in front of the sign.

## EXHIBIT B

- c. Monument signs shall be located at a setback distance of not less than eight (8) feet from the right-of-way line of any adjacent street and incorporated within the landscaping area or buffer.
  - d. Construction of monument signs shall include a base of material compatible with the material used for buildings.
- 3. Multi Tenant Monument Sign
  - a. The multi tenant monument sign shall identify individual tenants or uses within the Planned Development District. The multi tenant monument sign shall be a maximum of ten (10) feet tall.
  - b. All multi tenant monument signs shall be double-sided, internally illuminated Plexiglas sign panels contained within a masonry structure. Multi tenant monument signage may also be lit by ground mounted flood lighting or internal letter illumination either face lit or reverse channel lit. Light fixtures should be screened from view in front of the sign.
  - c. Monument signs shall be located at a setback distance of not less than eight (8) feet from the right-of-way line of any adjacent street and incorporated within the landscaping area or buffer.
  - d. Construction of monument signs shall include a base of material compatible with the material used for buildings.
- 4. Pylon Signs
  - a. Pylon signs shall be constructed at a height not to exceed twenty-five (35) feet.
  - b. The base of a pylon sign shall be located at a setback distance of not less than eight (8) feet from the right-of-way line of any adjacent street and may be incorporated within the landscaping area or buffer.
  - c. All pylon signs shall be double-sided, internally illuminated Plexiglas sign panels contained within a masonry structure. Pylon signs may also be lit by ground mounted flood lighting or internal letter illumination either face lit or reverse channel lit. Light fixtures should be screened from view in front of the sign.
  - d. Construction of pylon signs shall include a base of material compatible with the material used for buildings.
- 5. Temporary Marketing Signage
  - a. Four (4) quality temporary marketing signs shall be permitted for the proposed development. These signs shall for a term of twelve (12) months from the date of installation.
  - b. The maximum signage area will be 96 square feet. The maximum height shall be 10 8 feet.

## EXHIBIT B

- c. All other temporary signage not specifically referred to in the Signage Criteria package or in this section shall comply with the City of Murphy standards.
- d. Temporary signs are not required to be constructed of the material used for buildings.

J. Open Space

- 1. The proposed development should make a positive impact to the City by providing defined public spaces and activity centers so that varied activities are encouraged within these areas. This can be accomplished through the incorporation of open spaces that become public amenities and that provide interest within the Tract at the pedestrian level.
- 2. Outdoor Seating. Any establishment serving food for consumption on-premises is encouraged to provide an outdoor seating area and shall be approved with the site plan. The outdoor seating area may be included as a portion of the 5% open space requirement as stated in (b.) below.
- 3. An additional 5% of open space is required in addition to the landscape, setback, and parking lot island requirements. The additional 5% may be located adjacent to the required setbacks or landscaping at the ROW and property lines or in front or in some cases to the side of the structure. The additional open space percentage may not include the building footprint or vehicular parking lot. This area and associated amenities shall be approved on the site plan. At least one of the following amenities shall be located within the additional 5% open space area and count towards the required percentage.
  - a. Water feature, such as a fountain or detention pond with constant water level.
  - b. Plaza or courtyard with art sculpture piece.
  - c. Outdoor patio or gazebo with seating area.
  - d. Other areas for pedestrian congregation, as may be approved on the site plan.
- 4. Outside seasonal displays shall be permitted with the Planned Development District.

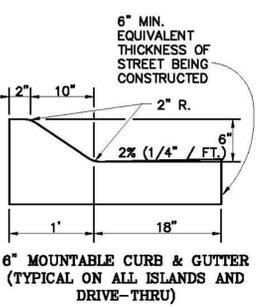
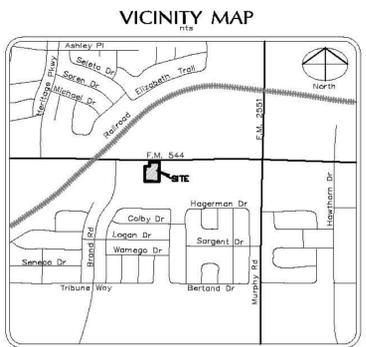
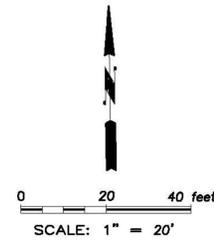
VII. **Special Regulations:**

- 1. Traffic Impact Analysis: A Traffic Impact Analysis (TIA) shall be performed prior to site plan approval for any portion of the subject property.
- 2. Utility/Power Lines: New utility distribution and service lines for individual business establishments, buildings, signs and for any other site development features shall be placed underground.
- 3. Pedestrian Streetscape: Pedestrian spaces throughout the Planned Development District shall be treated with amenities that are selected based upon their ability to unify the streetscape and shall be established on the overall

concept plan for each Tract. These features shall include, but are not limited to, benches, trash receptacles, bicycle racks, lighting poles, etc.

4. Cross-Access Requirement: A joint access (i.e. – ingress, egress) easement shall be required to minimize the number of driveway openings along FM 544. The location(s) of access easement(s) shall be shown on the site plan and shall comply with the Texas Department of Transportation (TxDOT) Access Management Standards.
5. Building Placement/Orientation: Buildings shall be placed in a manner that is conducive to a pedestrian-oriented atmosphere, wherever possible. Any building within 200 feet of FM 544 shall either face such right-of-way or shall have a façade facing such right-of-way that is in keeping with the character of the building's main façade.





PARKING REQUIREMENTS		
USE	REQUIRED	PROPOSED
RESTAURANT (2,277 SF)	1 SPACE/100 SF = 23	54 SPACES INC. 3 HC
GROCERY/RETAIL (2,710 SF)	1 SPACE/200 SF = 14	
TOTAL 4,987 SF	37 SPACES INC. 2 HC	

**NOTES**

cirs = 1/2" iron rod with orange plastic cap stamped "PIBURN PARTNERS" set for corner

ipf = iron pipe found for corner

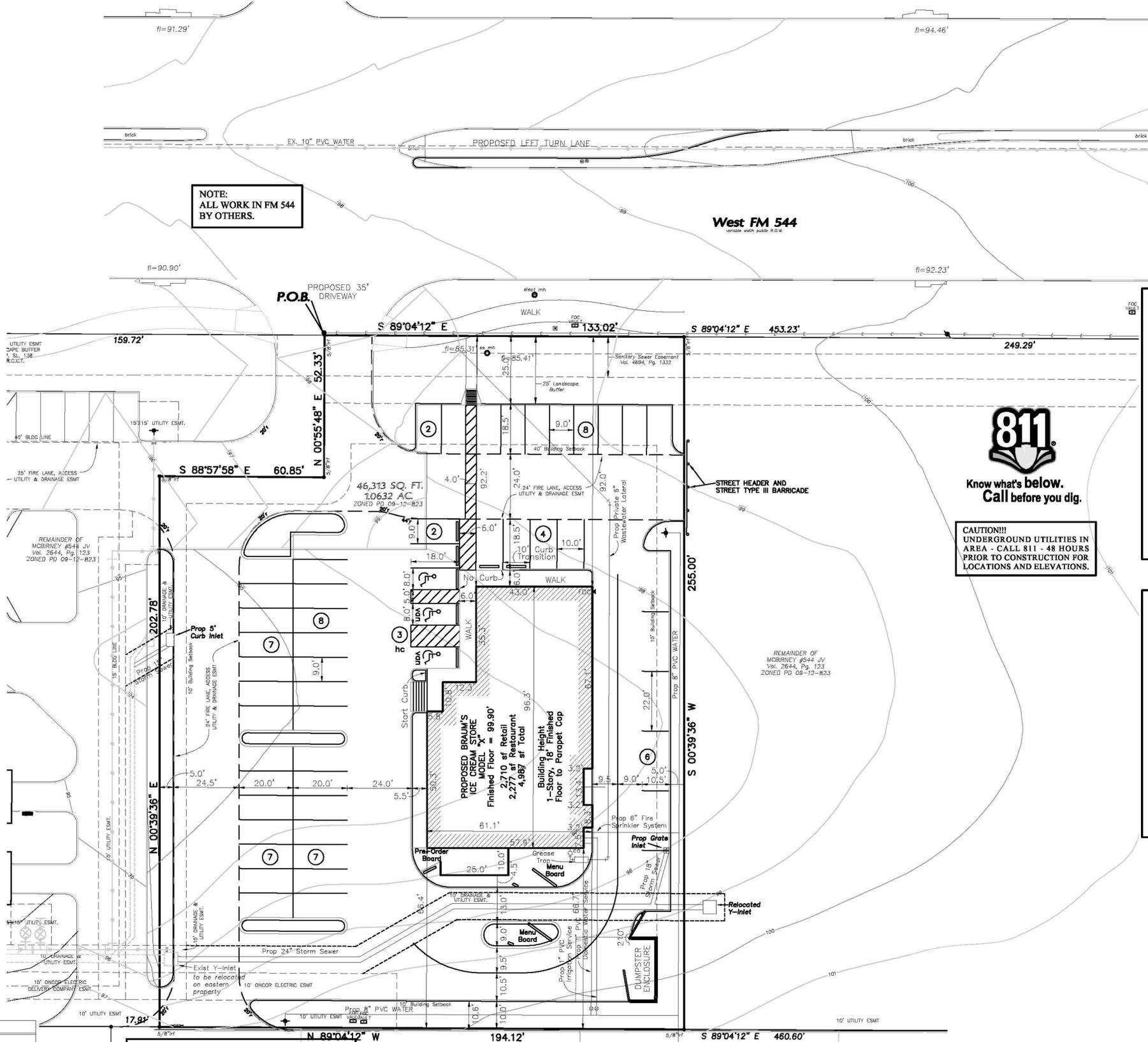
lrf = iron rod found for corner

x fnd = x cut in concrete found for corner

alum man = TxDOT aluminum monument found for corner

cm = controlling monument

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**NOTE:**  
ALL WORK IN FM 544  
BY OTHERS.

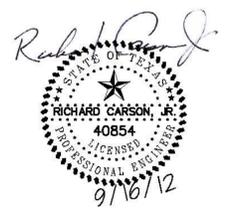
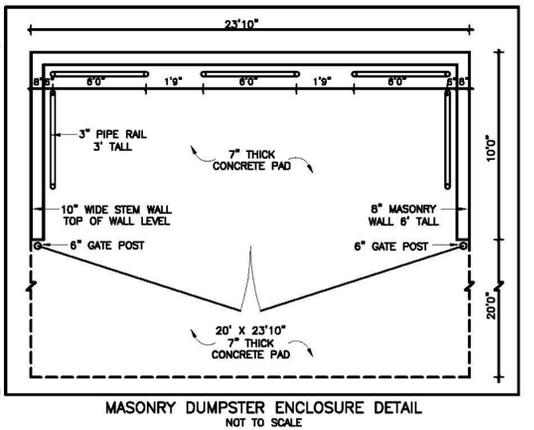
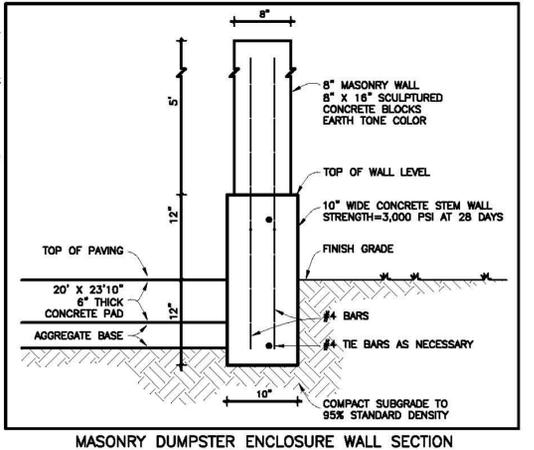
**NOTE:**  
WRITTEN RELEASE REQUIRED FOR PROPOSED  
IMPROVEMENTS WITHIN EXISTING EASEMENT.



**CAUTION!!!**  
UNDERGROUND UTILITIES IN  
AREA - CALL 811 - 48 HOURS  
PRIOR TO CONSTRUCTION FOR  
LOCATIONS AND ELEVATIONS.

**Site Plan Notes**

- All dimensions shown hereon are back of curb and face of building.
- Sign dimensions, details and electrical service shall be coordinated by the developer.
- The contractor shall coordinate with the developer for site lighting, pole heights and fixture types.
- Accessible routes shall be constructed in accordance with the current approved TAS Manual and all other applicable City, State & Federal regulations.
- All building dimensions to be verified with approved Foundation Plan.
- Fire lanes shall maintain a minimum of 14' overhead clearance at all times.
- Fire lanes shall not exceed a 6% grade.
- Fire lanes must be installed and striped before vertical construction can begin and fire lanes must be maintained at all times (501.4).
- Knox box (Secured key system) is required at the front entry door and riser room door (if not located on the same side of structure).
- Radio communications must be adequate throughout all buildings. Ordinance 34-32, Section 511.1 states:  
In all new and existing buildings in which the type of construction or distance from an operation emergency services antenna or dispatch site does not provide adequate frequency or signal strength as determined by the code official, the building owner shall be responsible for providing the equipment, installation and maintenance of said equipment in a manner to strengthen the radio signal. The radio signal shall meet the minimum input/output strengths according to the emergency radio system's provider and system manager.
- All work to be to City of Murphy Standards and Specifications.
- All construction to be in accordance with Braum's Ice Cream and Dairy Operation and Maintenance Manual.



**Piburn & Carson, LLC**  
9535 Forest Ln., Suite 229  
Dallas, Texas 75243  
Ph: (214) 328-3500 Fax: (214) 328-3512  
www.piburncarson.com email@piburncarson.com

**PIBURN & CARSON**

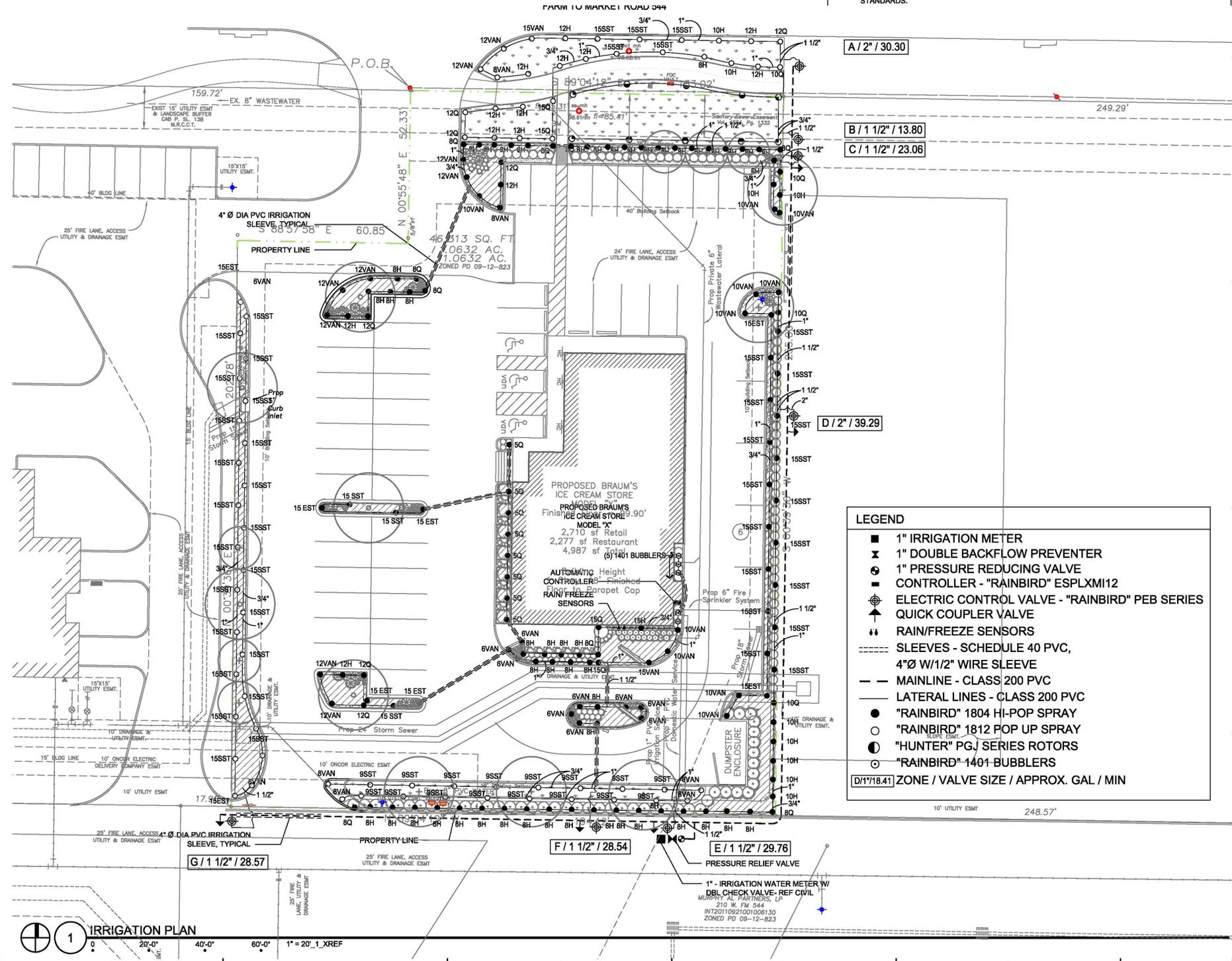
**Site Plan**  
Braum's Model "X"  
Lot 7, Block A, Murphy Village Addition  
City of Murphy, Collin County, Texas

Scale: 1" = 20'  
Date: September 16, 2012  
Field Tech: J.H.  
Office Tech: M.P.  
Project Manager: Davison  
Project No.: 12092

**2**  
**PIBURN & CARSON**  
OF 8

Plot: Oct 22, 2012 - 1:54pm, shimmelhaever  
 Last Save: Sep 04, 2012 - 2:29pm  
 File: E:\1012142.L00 braum's murphy\10 CD\10-02 cad\braum's murphy\Sheets\Landscape\L-103 Irrigation Plan.dwg

- ### GENERAL IRRIGATION NOTES
1. PLAN IS SHOWN AS A CONCEPT AND COST DOCUMENT. VARIATIONS IN LAYOUT ALLOWED PROVIDED THAT 100 PERCENT COVERAGE IS OBTAINED. INSTALLATION TO BE BY LICENSED LANDSCAPE IRRIGATOR WHO IS RESPONSIBLE FOR FINAL HYDRAULICS AND SYSTEM INTEGRITY.
  2. SYSTEM IS DESIGNED FOR A STATIC CITY WATER PRESSURE OF 55 PSI WITH 30 PSI AT THE HEADS. VERIFY ON SITE, AND ADJUST SYSTEM AS MAYBE REQUIRED DUE TO PRESSURE VARIANCE.
  3. APPROVED EQUAL IRRIGATION EQUIPMENT BRANDS MAY BE SUBSTITUTED FOR THOSE ABOVE WITH OWNER'S APPROVAL.
  4. CONTRACTOR TO PROVIDE "AS-BUILT" DRAWINGS, OPERATION INSTRUCTIONS AND ONE YEAR SYSTEM WARRANTY TO OWNER.
  5. LATERAL PIPING SHALL HAVE A MINIMUM OF 8" OF COVER. MAINLINE AND PIPING UNDER PAVING SHALL HAVE A MINIMUM OF 12" COVER.
  6. VALVES AND PIPING SOMETIMES SHOWN IN PAVEMENT FOR CLARITY. INSTALL IN SOFTSCAPE AREA.
  7. VERIFY AUTOMATIC CONTROLLER LOCATION INSIDE OF BUILDING TO BE ACCEPTABLE. POWER TO BE PROVIDED TO CONTROLLER BY OTHERS.
  8. ALL 24 VOLT VALVE WIRING SHALL BE A MINIMUM OF UF-14 GAUGE SINGLE CONDUCTOR. WIRE SPLICES SHALL BE PERMANENT AND WATERPROOF.
  9. INSTALL FREEZE AND RAIN SENSORS.
  10. PROJECT SHALL CONFORM WITH ALL APPLICABLE STATE AND LOCAL LAWS, ORDINANCES, AND STANDARDS.



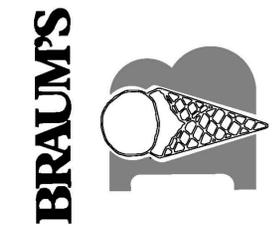
### LEGEND

- 1" IRRIGATION METER
- ⊗ 1" DOUBLE BACKFLOW PREVENTER
- ⊕ 1" PRESSURE REDUCING VALVE
- ⊞ CONTROLLER - "RAINBIRD" ESPLXMI12
- ⊕⊕ ELECTRIC CONTROL VALVE - "RAINBIRD" PEB SERIES QUICK COUPLER VALVE
- ⊕⊕ RAIN/FREEZE SENSORS
- SLEEVES - SCHEDULE 40 PVC, 4"Ø W/1/2" WIRE SLEEVE
- - - MAINLINE - CLASS 200 PVC
- - - LATERAL LINES - CLASS 200 PVC
- "RAINBIRD" 1804 HI-POP SPRAY
- "RAINBIRD" 1812 POP UP SPRAY
- "HUNTER" PGJ SERIES ROTORS
- "RAINBIRD" 1401 BUBBLERS

[D/1 1/2"/18.41] ZONE / VALVE SIZE / APPROX. GAL / MIN



**Braum's Murphy**  
 HWY NO. 544 & BRAND ROAD  
 MURPHY, TEXAS, 75094



04 September 2012

**BENNETT - BENNER - PETTIT**  
 ARCHITECTS + PLANNERS  
 500 West Seventh Street, Suite 1400  
 Fort Worth, Texas 76102  
 Tel 817.335.4991 Fax 817.877.1861  
 www.bbptx.com

Project No: 12142.00  
 Issue Date: 04 September 2012  
 Rev. Description Date

plotted by: Sam Himmelhaever  
 date-time: 10/22/2012 1:54 PM

**IRRIGATION PLAN**

**L-103**



CONSULTANTS

CONTRACTOR:	STRUCTURAL:	MECHANICAL:	ELECTRICAL:	CIVIL:
	PROTOTYPE DESIGN: PINDERGRAD ENGINEERING 1802 NORTH FERN OKLAHOMA CITY, OK 73102	PROTOTYPE DESIGN: JUNYNE ENGINEERING 1236 SW 28TH STREET OKLAHOMA CITY, OK 73102	PROTOTYPE DESIGN: TMD ENGINEER L DESIGN 6320 SONOMA LAKE OFFICE PARK EDMOND, OK 73013	

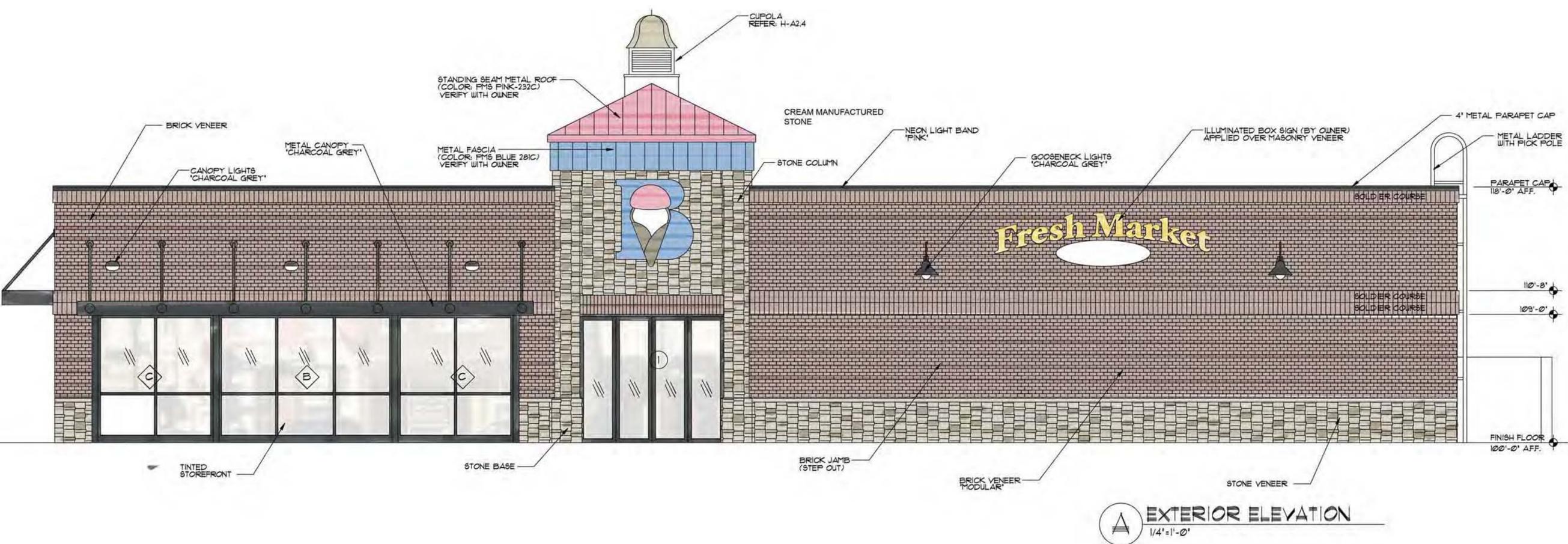
<b>BRAUM'S</b> ICE CREAM AND DAIRY STORES	PROJECT NO. 2033
PROJECT LOCATION MURPHY, TEXAS	MODEL 'X' - 48" X 80"

DATE: JULY 12, 2021	REVISION DATE:
DRAWING	
EXTERIOR ELEVATIONS	
COPYRIGHT © 2021	
ELLIOTT ARCHITECTS, INC.	

Sheet	OF
<b>A3.1</b>	



**B EXTERIOR ELEVATION**  
 1/4" = 1'-0"



**A EXTERIOR ELEVATION**  
 1/4" = 1'-0"

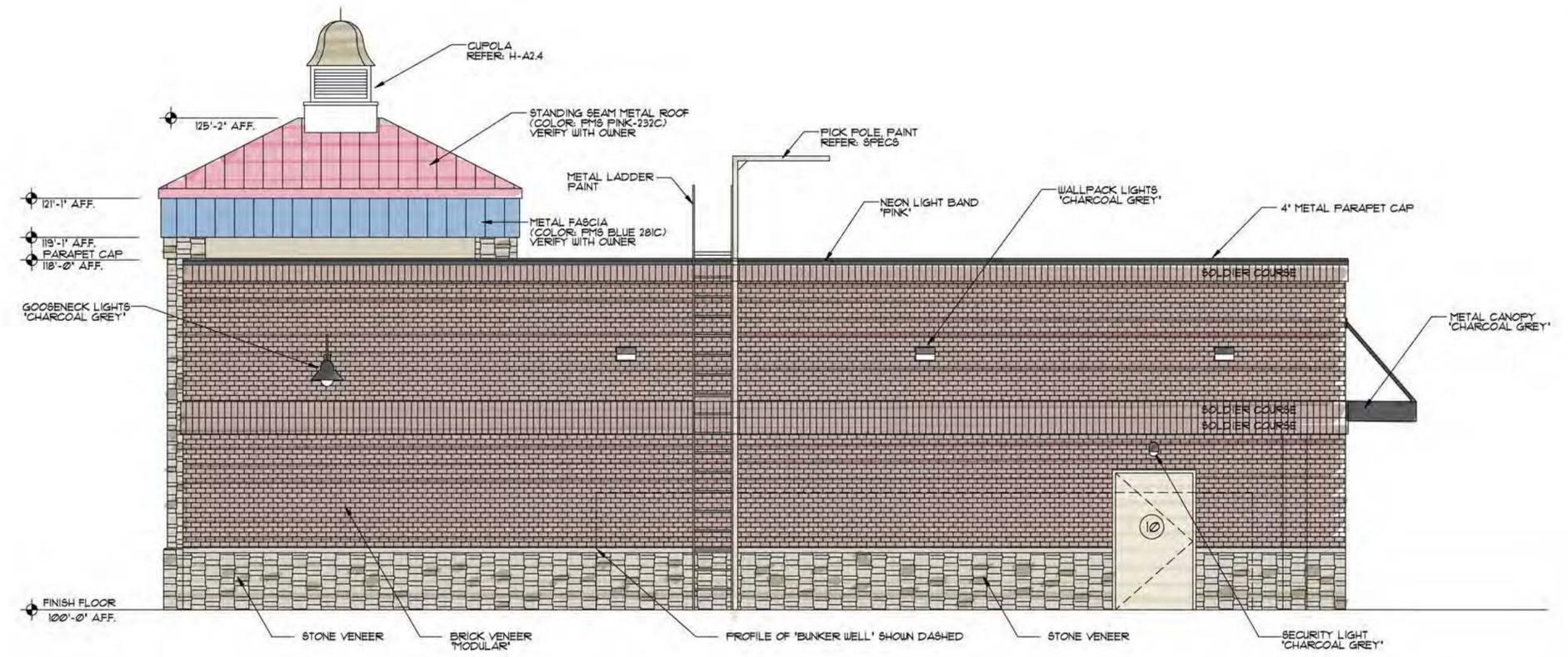
CONSULTANTS

CONSULTANT	DISCIPLINE	NAME	ADDRESS	CITY	STATE	ZIP
CONTRACTOR						
STRUCTURAL	PROTOTYPE DESIGN	FEUNDERGRAF ENGINEERING	1102 NORTH PEN	OKLAHOMA CITY, OK	73106	33106
MECHANICAL	PROTOTYPE DESIGN	WYNE ENGINEERING	1236 SW 28TH STREET	OKLAHOMA CITY, OK	73109	73109
ELECTRICAL	PROTOTYPE DESIGN	MDT ENGINEERS & DESIGN	1301 SONOMA LAKE	EDMOND, OK	73032	73032
CIVIL						

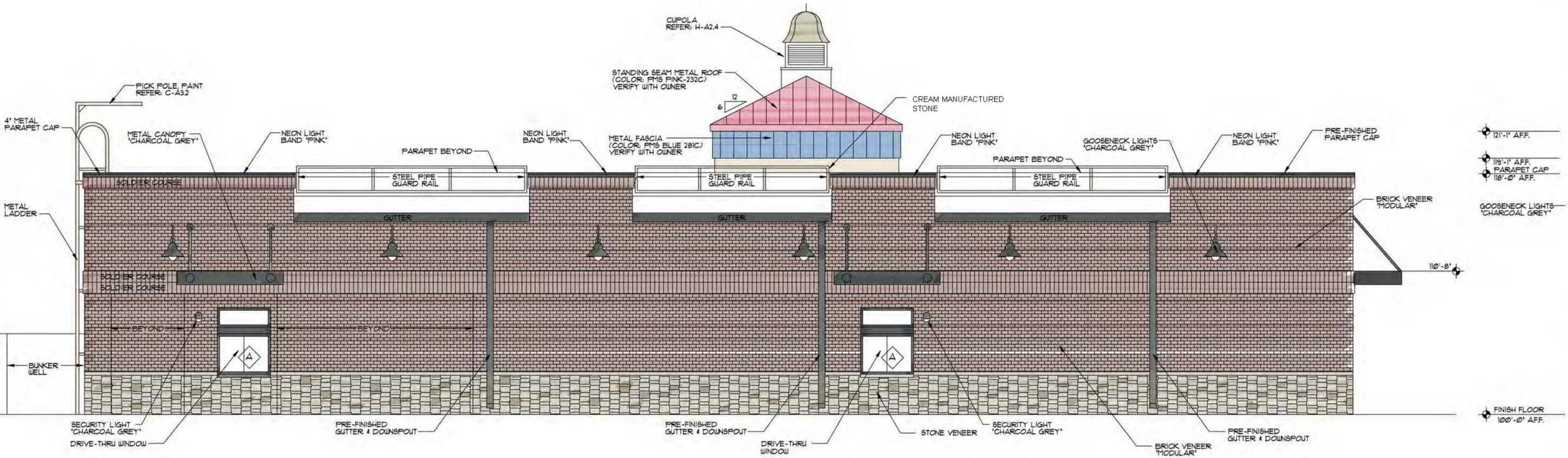
**BRAUM'S**  
 ICE CREAM AND DAIRY STORES  
 PROJECT NO. 2023  
 MODEL 'X' - 4981 SGT  
 PROJECT LOCATION  
 MURPHY, TEXAS

REVISION DATE	DESCRIPTION

DATE	DRAWING
JULY 12, 2023	EXTERIOR ELEVATIONS



**B EXTERIOR ELEVATION**  
 1/4" = 1'-0"



**A EXTERIOR ELEVATION**  
 1/4" = 1'-0"

**Issue**

Consider and/or act on the application of **Mike Horn** requesting approval of a site plan for Braum's Ice Cream Store on property zoned PD (Planned Development) District No. 09-12-823 for Retail and Office Uses on property located on FM 544 between Brand Road and Murphy Road.

**Background**

The applicant has submitted a site plan, building elevation plans and landscape plans for approval that would allow for development of Braum's Ice Cream Store on this site.

The subject property is currently undeveloped and is bordered by Orchard Park Assisted Living to the south, Brand Road to the west, FM 544 to the north and retail to the east.

**Considerations**

1. After thorough staff review and submittal revisions by the applicant, the proposed site plan has met required standards; including parking and a configuration and circulation pattern that would allow a functional drive-thru window.
2. After thorough staff review and submittal revisions by the applicant, the proposed landscape plan has met requirement standards. Staff requested that the applicant increase the density of their landscaping and that it be strong and sustainable in addition to complimenting the overall development of Murphy Village.
  - a. The landscape architect added 2 redbuds and an Austrian pine.
  - b. Staff understands that the easements onsite can create an obstacle for a denser landscaping.
  - c. Following Planning & Zoning Commission recommendations, the landscape architect increased the landscape buffer between the proposed Braum's and Orchard Park.
3. After thorough staff review and submittal revisions by the applicant, the proposed building elevation plan has met requirement standards.
4. The monument signage section of the Planned Development District No. 09-12-823 is being reviewed by staff and the property owner to ensure appropriate and consistent monument signage throughout the development.

**Staff Recommendation**

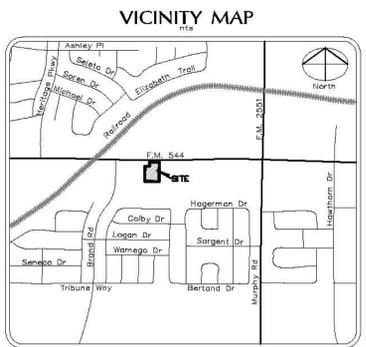
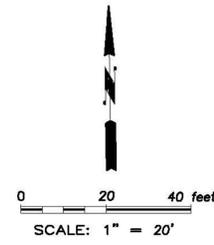
Staff recommends approval of the proposed Site Plan, Landscape Plans and Building Elevation Plans as submitted.

**Attachments**

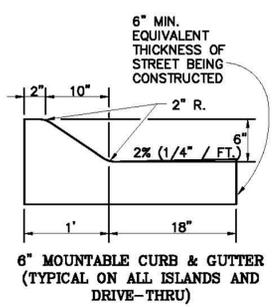
Site Plan  
Landscape Plans

Building Elevation Plans

*Kristen Roberts, Director of Economic and Community Development*  
**Submitted By**



- LEGEND**
- o property corner
  - ♿ handicap parking
  - o manhole
  - o water meter
  - o water valve
  - o fire hydrant
  - o power pole
  - o horn
  - o guy wire
  - aerial power line
  - water line
  - sanitary sewer line
  - storm sewer line

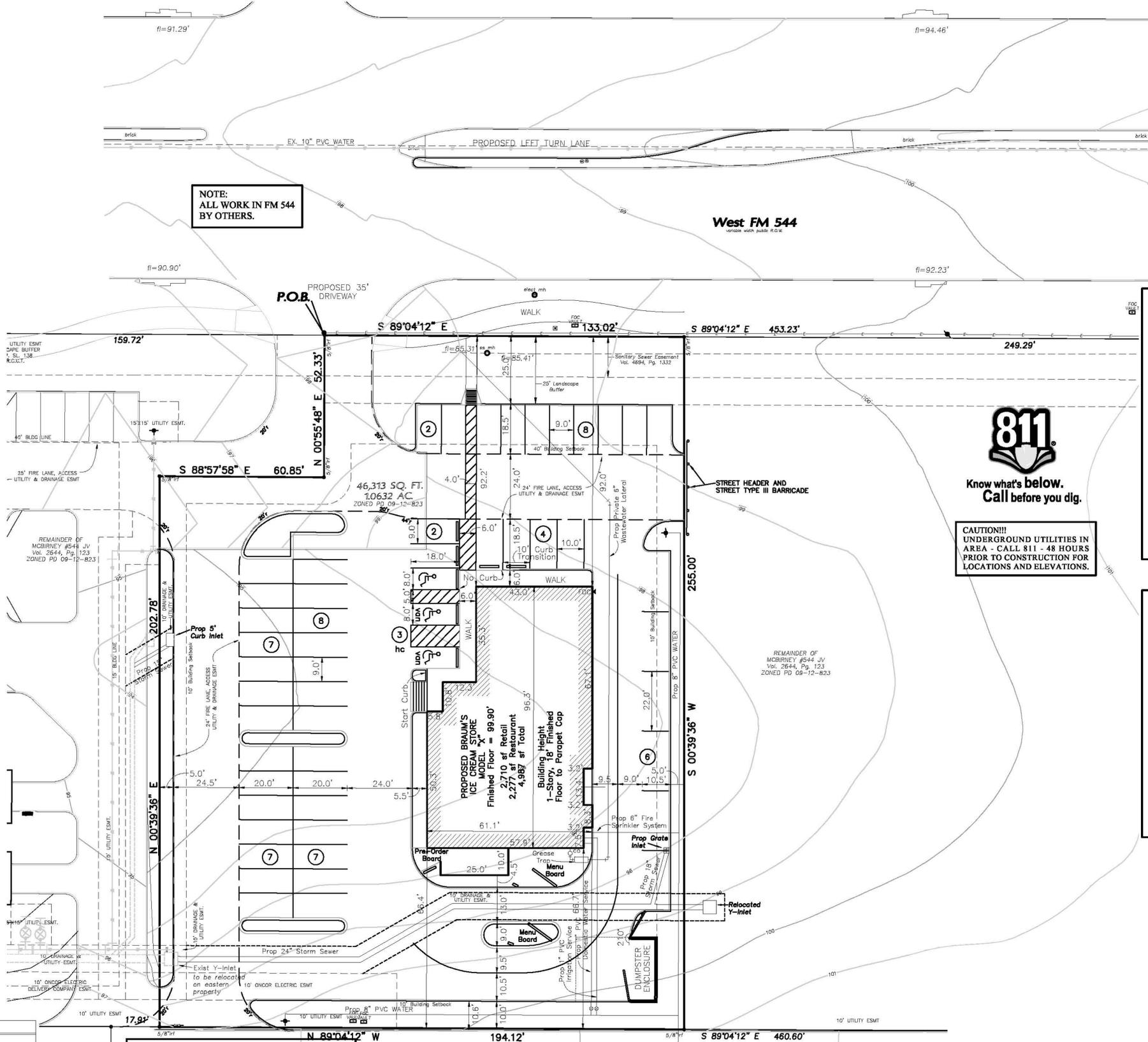


**PARKING REQUIREMENTS**

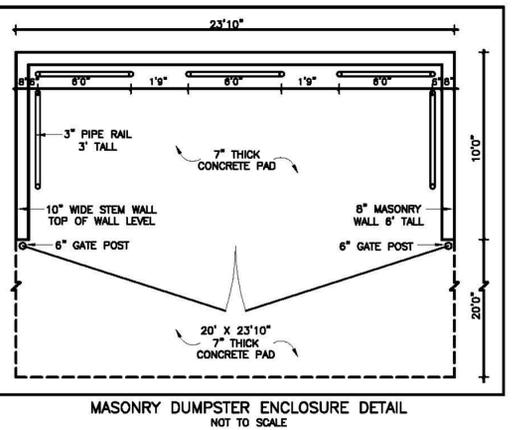
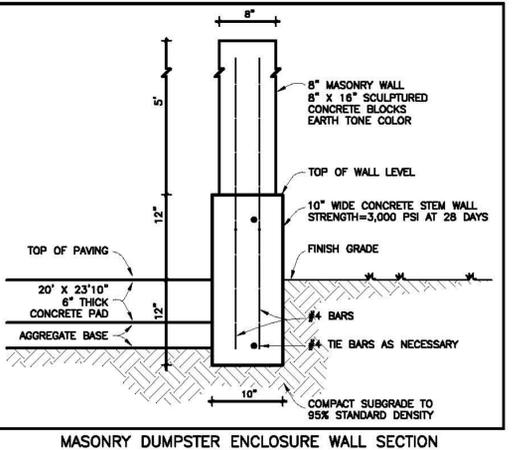
USE	REQUIRED	PROPOSED
RESTAURANT (2,277 SF)	1 SPACE/100 SF = 23	54 SPACES INC. 3 HC
GROCERY/RETAIL (2,710 SF)	1 SPACE/200 SF = 14	
TOTAL 4,987 SF	37 SPACES INC. 2 HC	

- NOTES**
- cirs = 1/2" iron rod with orange plastic cap stamped "PIBURN PARTNERS" set for corner
  - ipf = iron pipe found for corner
  - lrf = iron rod found for corner
  - x fnd = x cut in concrete found for corner
  - alum man = TxDOT aluminum monument found for corner
  - cm = controlling monument

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- Site Plan Notes**
1. All dimensions shown hereon are back of curb and face of building.
  2. Sign dimensions, details and electrical service shall be coordinated by the developer.
  3. The contractor shall coordinate with the developer for site lighting, pole heights and fixture types.
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  10. Radio communications must be adequate throughout all buildings. Ordinance 34-32, Section 511.1 states: In all new and existing buildings in which the type of construction or distance from an operation emergency services antenna or dispatch site does not provide adequate frequency or signal strength as determined by the code official, the building owner shall be responsible for providing the equipment, installation and maintenance of said equipment in a manner to strengthen the radio signal. The radio signal shall meet the minimum input/output strengths according to the emergency radio system's provider and system manager.
  11. All work to be to City of Murphy Standards and Specifications.
  12. All construction to be in accordance with Braum's Ice Cream and Dairy Operation and Maintenance Manual.



**NOTE:**  
WRITTEN RELEASE REQUIRED FOR PROPOSED IMPROVEMENTS WITHIN EXISTING EASEMENT.

MURPHY AL PARTNERS, LP  
210 W. FM 544  
INTX010927001098130  
ZONED PD 09-12-823

*Richard Carson, Jr.*  
SEAL OF THE STATE OF TEXAS  
RICHARD CARSON, JR.  
40854  
LICENSED PROFESSIONAL ENGINEER  
9/16/12

**Piburn & Carson, LLC**  
9535 Forest Ln., Suite 229  
Dallas, Texas 75243  
Ph: (214) 328-3500 Fax: (214) 328-3512  
www.piburncarson.com email@piburncarson.com  
Surveying Firm #100871-00 Engineering Firm #1-13324

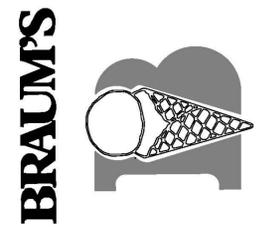
**Site Plan**  
Braum's Model "X"  
Lot 7, Block A, Murphy Village Addition  
City of Murphy, Collin County, Texas

Scale: 1" = 20"  
Date: September 16, 2012  
Field Tech: J.H.  
Office Tech: M.P.  
Project Manager: Davison  
Project No.: 12092

**SHEET**  
2  
PIBURN & CARSON

- ### GENERAL IRRIGATION NOTES
1. PLAN IS SHOWN AS A CONCEPT AND COST DOCUMENT. VARIATIONS IN LAYOUT ALLOWED PROVIDED THAT 100 PERCENT COVERAGE IS OBTAINED. INSTALLATION TO BE BY LICENSED LANDSCAPE IRRIGATOR WHO IS RESPONSIBLE FOR FINAL HYDRAULICS AND SYSTEM INTEGRITY.
  2. SYSTEM IS DESIGNED FOR A STATIC CITY WATER PRESSURE OF 55 PSI WITH 30 PSI AT THE HEADS. VERIFY ON SITE, AND ADJUST SYSTEM AS MAYBE REQUIRED DUE TO PRESSURE VARIANCE.
  3. APPROVED EQUAL IRRIGATION EQUIPMENT BRANDS MAY BE SUBSTITUTED FOR THOSE ABOVE WITH OWNER'S APPROVAL.
  4. CONTRACTOR TO PROVIDE "AS-BUILT" DRAWINGS, OPERATION INSTRUCTIONS AND ONE YEAR SYSTEM WARRANTY TO OWNER.
  5. LATERAL PIPING SHALL HAVE A MINIMUM OF 8" OF COVER. MAINLINE AND PIPING UNDER PAVING SHALL HAVE A MINIMUM OF 12" COVER.
  6. VALVES AND PIPING SOMETIMES SHOWN IN PAVEMENT FOR CLARITY. INSTALL IN SOFTSCAPE AREA.
  7. VERIFY AUTOMATIC CONTROLLER LOCATION INSIDE OF BUILDING TO BE ACCEPTABLE. POWER TO BE PROVIDED TO CONTROLLER BY OTHERS.
  8. ALL 24 VOLT VALVE WIRING SHALL BE A MINIMUM OF UF-14 GAUGE SINGLE CONDUCTOR. WIRE SPLICES SHALL BE PERMANENT AND WATERPROOF.
  9. INSTALL FREEZE AND RAIN SENSORS.
  10. PROJECT SHALL CONFORM WITH ALL APPLICABLE STATE AND LOCAL LAWS, ORDINANCES, AND STANDARDS.

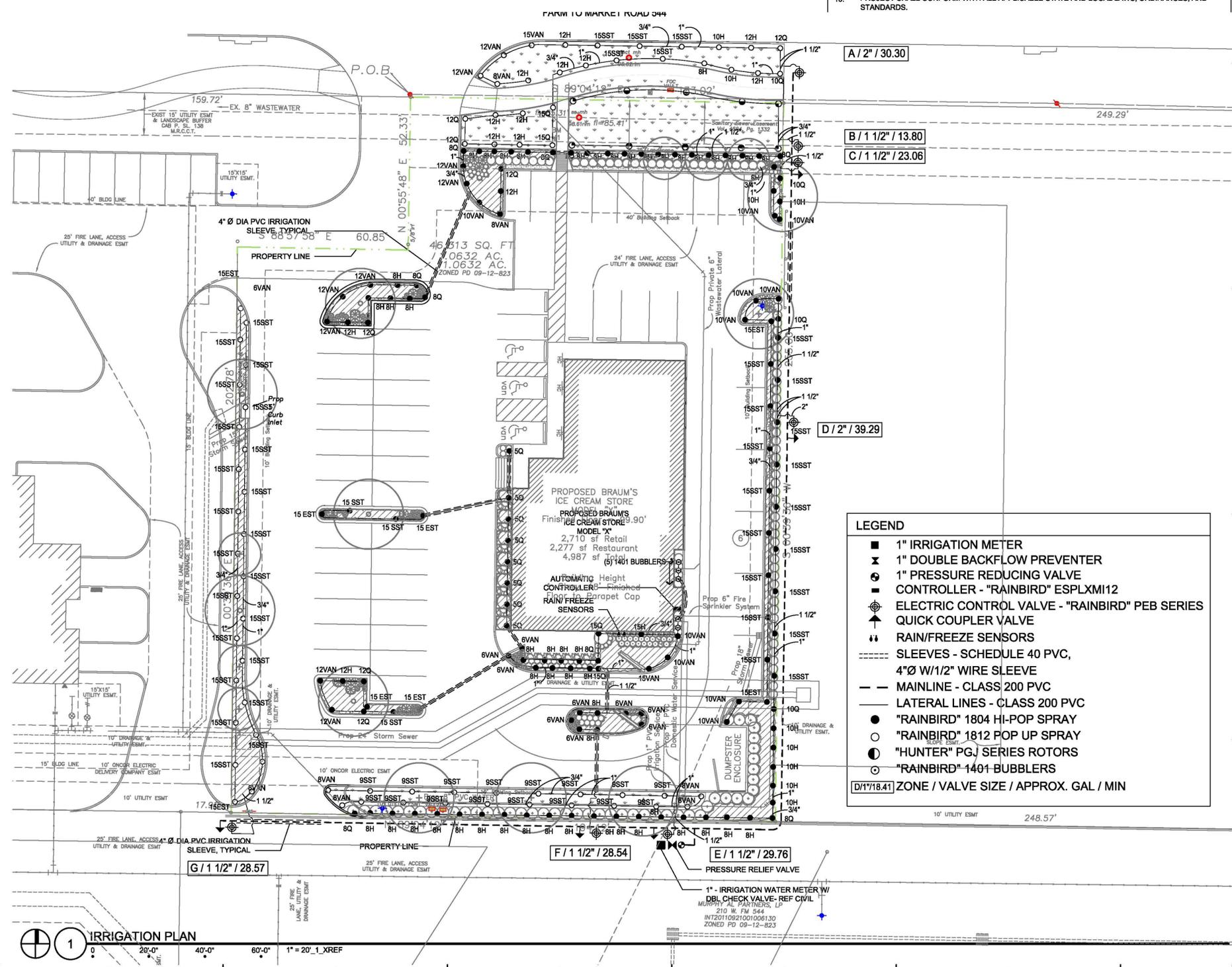
**Braum's Murphy**  
 HWY NO. 544 & BRAND ROAD  
 MURPHY, TEXAS, 75094



**BENNETT - BENNER - PETTIT**  
 ARCHITECTS + PLANNERS  
 500 West Seventh Street, Suite 1400  
 Fort Worth, Texas 76102  
 Tel 817.335.4991 Fax 817.877.1861  
 www.bbptx.com

Project No: 12142.00  
 Issue Date: 04 September 2012  
 Rev. Description Date

plotted by: Sam Himmelhaver  
 date-time: 10/22/2012 1:54 PM



### LEGEND

- 1" IRRIGATION METER
- ⊗ 1" DOUBLE BACKFLOW PREVENTER
- ⊕ 1" PRESSURE REDUCING VALVE
- ⊞ CONTROLLER - "RAINBIRD" ESPLXMI12
- ⊕⊕ ELECTRIC CONTROL VALVE - "RAINBIRD" PEB SERIES QUICK COUPLER VALVE
- ⊕⊕ RAIN/FREEZE SENSORS
- SLEEVES - SCHEDULE 40 PVC, 4"Ø W/1/2" WIRE SLEEVE
- - - MAINLINE - CLASS 200 PVC
- - - LATERAL LINES - CLASS 200 PVC
- "RAINBIRD" 1804 HI-POP SPRAY
- "RAINBIRD" 1812 POP UP SPRAY
- ⊕ "HUNTER" PGJ SERIES ROTORS
- "RAINBIRD" 1401 BUBBLERS

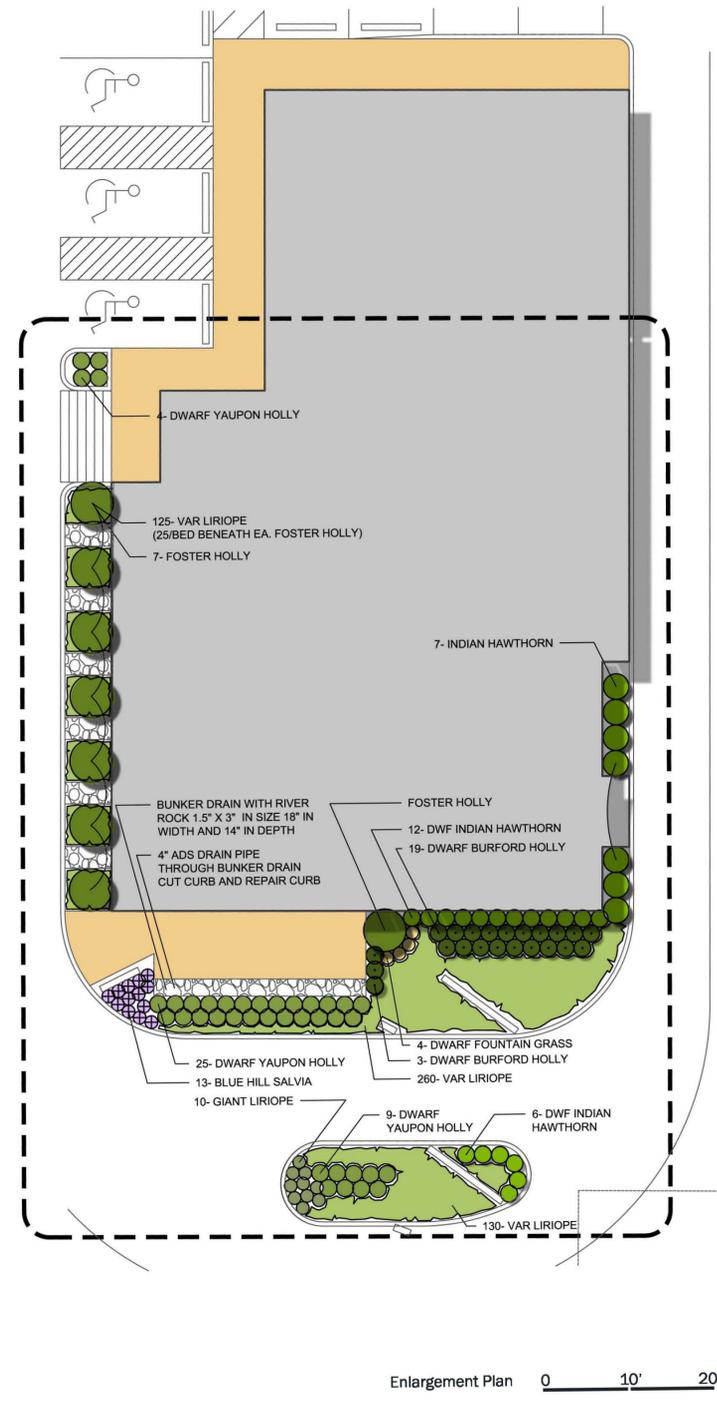
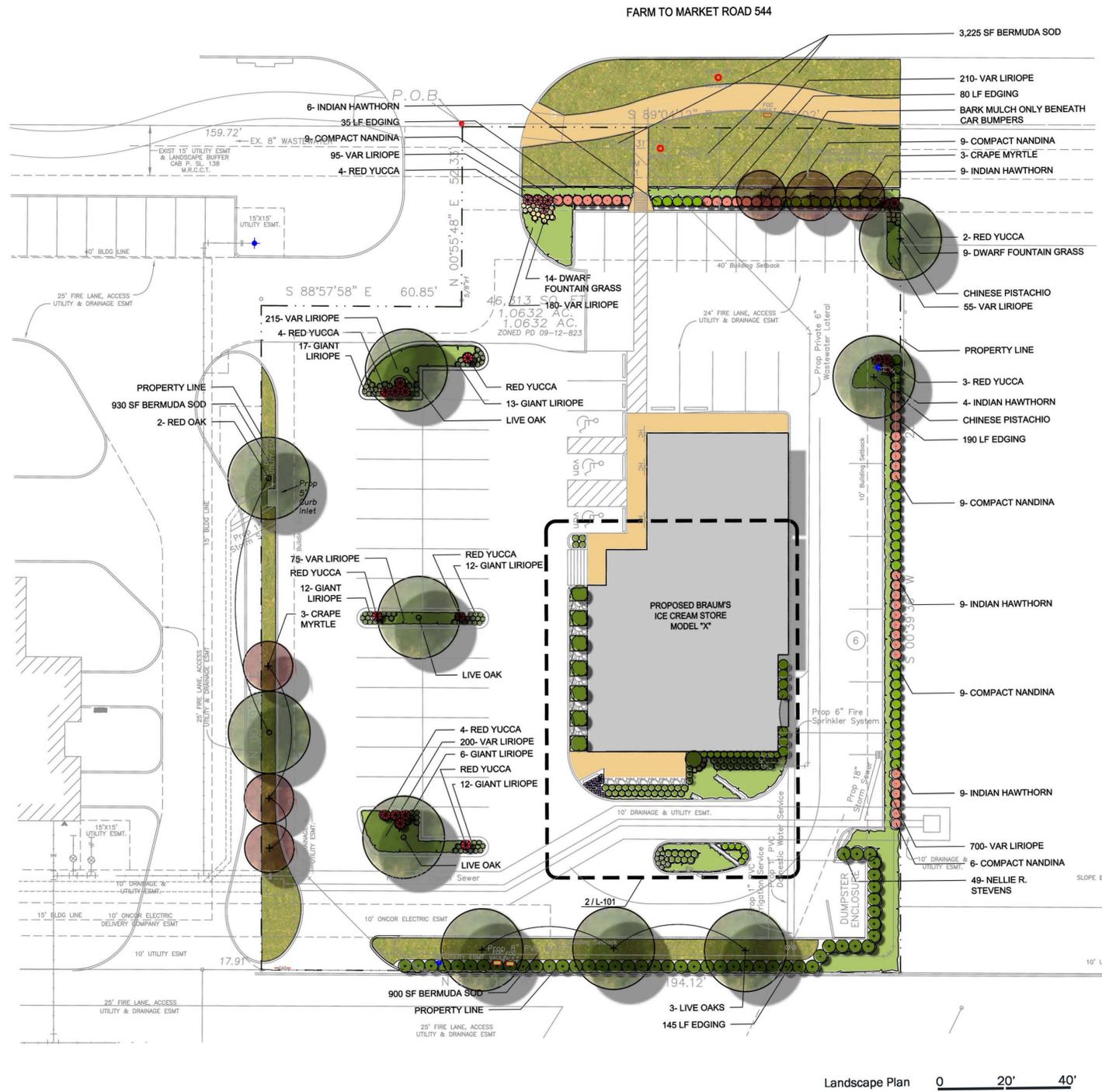
[D/1 1/2"/18.41] ZONE / VALVE SIZE / APPROX. GAL / MIN

**IRRIGATION PLAN**  
 1  
 1" = 20' 1\_XREF

**IRRIGATION PLAN**

**L-103**

Plot: Oct 22, 2012 - 1:54pm, shimmelhaver  
 Last Save: Sep 04, 2012 - 2:29pm  
 File: E:\1012142.00 braum's murphy\10 CD\10-02 cad\braum's murphy\Sheets\Landscape\L-103 Irrigation Plan.dwg



CONSULTANTS

CONTRACTOR:	STRUCTURAL:	MECHANICAL:	ELECTRICAL:	CIVIL:
	PROTOTYPE DESIGN: PONDERRUP ENGINEERING 1802 NORTH FERN OKLAHOMA CITY, OK 73102	PROTOTYPE DESIGN: JUNYNE ENGINEERING 1236 SW 28TH STREET OKLAHOMA CITY, OK 73102	PROTOTYPE DESIGN: TMD ENGINEER L DESIGN 6320 SONOMA LAKE OFFICE PARK EDMOND, OK 73013	

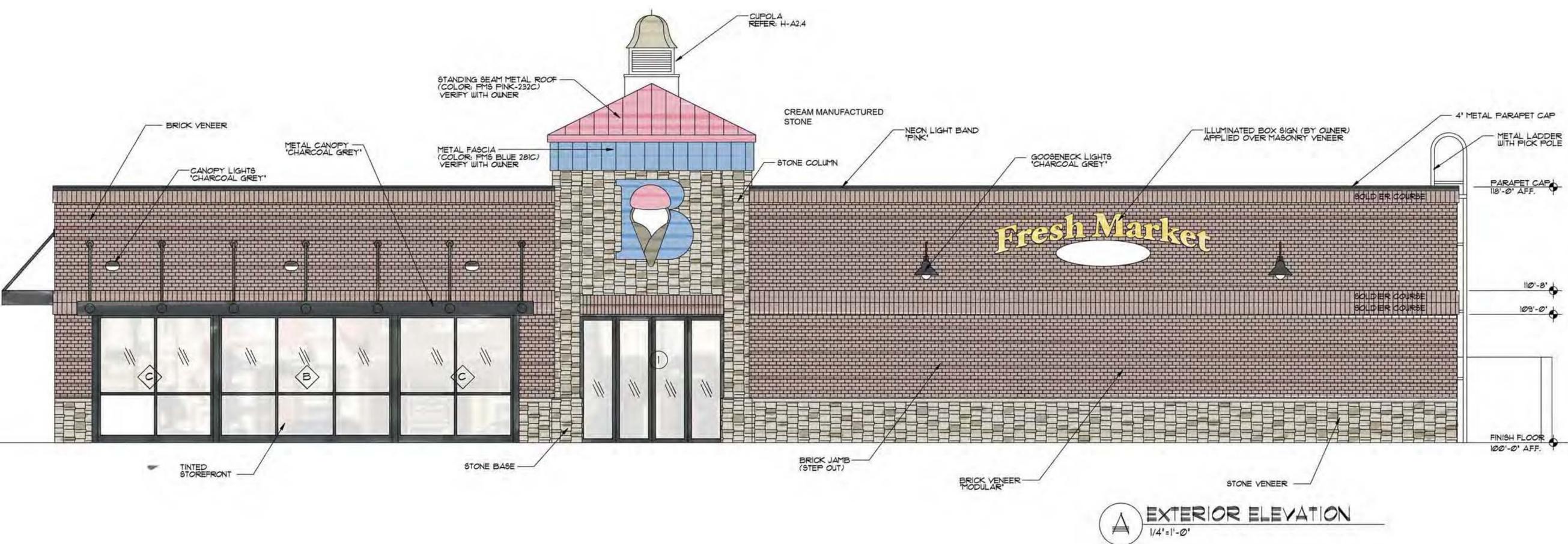
<b>BRAUM'S</b> ICE CREAM AND DAIRY STORES	PROJECT NO. 2033
PROJECT LOCATION MURPHY, TEXAS	MODEL 'X' - 488' 80FT

DATE: JULY 12, 2021	REVISION DATE:
DRAWING	
EXTERIOR ELEVATIONS	
COPYRIGHT © 2021	
ELLIOTT ARCHITECTS, INC.	

Sheet	OF
<b>A3.1</b>	



**B EXTERIOR ELEVATION**  
 1/4" = 1'-0"



**A EXTERIOR ELEVATION**  
 1/4" = 1'-0"



**Issue**

Consider and/or act on the application of **Mike Horn** requesting approval of a construction plat for Braum's Ice Cream Store on property zoned PD (Planned Development) District No. 09-12-823 for Retail and Office Uses on property located on FM 544 between Brand Road and Murphy Road.

**Background**

The proposed Construction Plat would allow for the development process of Braum's Ice Cream Store on this site to move forward.

**Considerations**

1. After thorough staff review and submittal revisions by the applicant, all construction plat requirements have been met.

**Board Discussion/Action**

On September 24, 2012, the Planning & Zoning Commission voted unanimously to approve this item.

**Staff Recommendation**

Staff recommends approval of the proposed Construction Plat as submitted.

**Attachments**

Construction Plat

*Kristen Roberts, Director of Economic and Community Development*

**Submitted By**



**Issue**

Consider and/or act upon approval of the NCTCOG Interlocal Agreement for the TCEQ Solid Waste Implementation Grant Project, authorize \$16,800 of the recycle rebate funds as matching funds for the \$67,200 TCEQ Solid Waste Grant Award to purchase BigBelly solar compactor trash and compactor recycle bins for Murphy Park pavilions, and authorize the City Manager to sign all necessary documents.

**Staff Resource / Department**

James Fisher, City Manager  
Kim Lenoir, Director of Parks & Public Works

**Summary**

The City Council authorized the TCEQ Solid Waste Grant submission on June 19, 2012. The Council also authorized using recycle rebate funds for the City match of approximately \$12,798 in this grant application.

When writing the grant submission, staff discovered a newer product available from BigBelly: a solar compacting recycle bin. These bins have been well received by the public and are a great labor cost-saving tool for the park crew. The grant application remained at 10 units, with the City purchasing 2, but the overall price increased due to the additional expense of adding the solar compacting recycle bin. The 10 additional units will complete the program where all Murphy parks will have a solar compacting trash and recycle bins for each park pavilion.

On November 6, 2012, the City was notified that we received the grant in the amount of \$67,200. This project will be bid, and award will return to City Council for consideration.

**Financial Considerations**

The Recycle Rebate Fund has approximately \$35,000 and has budgeted \$10,000 in FY2013 for Green Team activities. Estimated cost is that 10 units will cost \$84,000, with Murphy purchasing 2 units as match for this grant at \$16,800 which is to be allocated from the Murphy Recycle Rebate Fund.

**Action Requested**

Authorize the City Manager to sign the NCTCOG Interlocal Agreement and use \$16,800 from the Recycle Rebate Fund to provide the necessary matching funds.

**Attachments**

- 1) NCTCOG Interlocal Agreement
- 2) City Council Agenda Item Cover Sheet, 06/19/12
- 3) Murphy City Council Minutes, Page 4, 06/19/12

**NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS  
INTERLOCAL AGREEMENT FOR SOLID WASTE IMPLEMENTATION GRANT PROJECT**

This Interlocal Agreement is entered into by and between the parties named below. Neither the Texas Commission on Environmental Quality (TCEQ) nor the State of Texas is a party to this Agreement.

**I. CONTRACTING PARTIES:**

The Funding Agency: **North Central Texas Council of Governments**  
Herein referred to as **“NCTCOG”**

Funds Recipient: **City of Murphy, Texas**  
Herein referred to as **“FUNDS RECIPIENT”**

**II. SERVICES TO BE PERFORMED**

For the **City of Murphy, Big Belly Recycling/Trash Containers@Parks Project**, the FUNDS RECIPIENT shall complete all work as specified or indicated in “Attachment A - Work Program and Schedule of Deliverables” of FUNDS RECIPIENT.

**III. FUNDING AMOUNT**

The funding amount under this Interlocal Agreement is a minimum of: **\$67,200.00 (Sixty-seven thousand two hundred dollars)**. The budget details are in Attachment C.

**IV. TERM OF CONTRACT**

This Interlocal Agreement is effective **November 5, 2012** and shall terminate **June 28, 2013**. This Interlocal Agreement shall immediately terminate at the end of any state fiscal year for which the Texas Legislature fails to appropriate funds necessary to perform this agreement.

This Interlocal Agreement must be signed and executed **forty-five (45) days** from the effective date stated above.

In the event funding is not available, the parties further agree that NCTCOG has no further obligation to pay and FUNDS RECIPIENT has no further duty to perform under terms of this Agreement.

**V. ADDITIONAL CONTRACT PROVISIONS**

See Attachment B - Schedule for Reimbursement and Reporting, Attachment D - Special Provisions, and Attachment E - General Provisions.

**VI. ENTIRE CONTRACT:** This Interlocal Agreement, including all Attachments, represents the entire contract between the contracting parties. Any changes or modifications to this Interlocal Agreement must be in writing. Funds for this subcontract are currently available from the Texas Solid Waste Disposal and Transportation Revenue Fee, as proscribed in Texas Health and Safety Code Chapter 361.014. Due to demands upon the source for funds necessary to protect the health and safety of the public, it is possible that the funds contained in the Municipal Solid Waste Disposal Account, as proscribed in Texas Health and Safety Code Chapter 361.014(d), will be depleted or reduced prior to completion of this Interlocal Agreement. The parties agree that all funding arranged under this Interlocal Agreement is subject to sufficient funds in the Municipal Solid Waste Disposal Account.

NCTCOG has certified, and the FUNDS RECIPIENT certifies that each has the authority to perform the services contracted for by authority granted in the “Regional Planning Act of 1965,” Texas Local Government Code, Chapter 391 and “The Interlocal Cooperation Act,” Texas Government Code, Chapter 791.

**COUNCIL OF GOVERNMENTS**

**North Central Texas Council of Governments**

Funding Agency

\_\_\_\_\_  
Signature

Mike Eastland  
Name

Executive Director  
Title

\_\_\_\_\_  
Date

**PROJECT FUNDS RECIPIENT**

**City of Murphy, Texas**

Local Government

\_\_\_\_\_  
Signature

James Fisher  
Name

City Manager  
Title

\_\_\_\_\_  
Date

**LIST OF ATTACHMENTS**

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**ATTACHMENT B.** SCHEDULE FOR REIMBURSEMENT AND REPORTING .....2

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**APPENDICES:**

- SUMMARY/RESULTS REPORT OF GRANT-FUNDED PROJECT
- STATUS OF COMPLETION OF WORK TASKS FORM
- RESULTS REPORT FORMS
  
- REIMBURSEMENT REQUEST FORM plus SUPPLEMENTAL FORM(s)
  
- REQUEST FOR BUDGET REVISION FORM
  
- RELEASE OF CLAIMS

All forms listed are located at the following website:  
[http://www.nctcog.org/envir/SEELT/funding/report\\_forms.asp](http://www.nctcog.org/envir/SEELT/funding/report_forms.asp)

## Attachment A. Work Program and Schedule of Deliverables

### **Goal (Sec II.A.1): TIME TO RECYCLE**

**Objective 1D:** Expand commercial recycling effort in governments across the region;

**Action Recommendations:** Target specific activity groups, such as parks and recreation facilities, to establish waste minimization and recycling programs.

This project application is to purchase eight (8) solar trash and recycle compactors units, priced at \$8,400 each, for a total of \$67,200. Even though not required, the city proposes to match the grant by purchasing two (2) additional solar trash and recycle compactors units, priced at \$8,400 each, for a total of \$16,800. This will complete our recycle program with a total of 14 dual service units available, at least one trash and recycle unit at each park picnic pavilion (10) in the city.

### **Scope of Work:**

1. Execution of the Interlocal Agreement with NCTCOG; FY2012-2013 Second Call for Projects – City Council Approval – November 6, 2012
2. Solicit/Advertise for Bids for the purchase of 10 units – November / December 2012
3. Submit Quarterly Report – December 2012
4. Award bid for purchase of 10 units – City Council Approval – January 15, 2013
5. Order, receive, and install in city parks 10 units – March/April 2013
6. Pay invoices and Submit Quarterly Report – March 2013
7. Prepare close-out documents for reimbursements – May 2013
8. Submit Quarterly Report – June 2013
9. All expenditures and activities completed – June 28, 2013
10. Final reporting, reimbursement request and release of all claims – August 2, 2013

All work for this project will be completed by Kim Lenoir, Director of Parks and Public Works. She has 20 years experience in managing and completing similar grant projects and programs.

## Attachment B. Schedules for Requests for Reimbursement and Quarterly Status Reports

### 1. REQUESTS FOR REIMBURSEMENT

The FUNDS RECIPIENT must submit a “Request for Reimbursement” at least quarterly (**even if no funds were spent**), but not more frequently than once a month, for reimbursement of actual allowable costs. Requests for Reimbursement may be submitted monthly and are not associated with the Status Report schedule. All Requests for Reimbursement shall be submitted in accordance with the requirements identified in Attachment D, Article 04 “Reimbursement Procedures” of this Interlocal Agreement.

The final Request for Reimbursement must include a Release of Claims as indicated under Attachment E. Article 09, “Release of Claims” of this Interlocal Agreement.

### 2. STATUS REPORTS

The following represents the reporting schedule for projects funded in **Fiscal Year 2012 and 2013**.

<b>FY2012-13 SECOND CALL FOR PROJECTS</b>	<b>REPORTING PERIOD</b>
<b>QUARTERLY DUE DATES FOR GRANT SUMMARY/RESULTS REPORT</b>	
Quarterly Grant Summary/Results Report #1 <b>Due Monday, December 10, 2012</b>	October 1, 2012 through November 30, 2012 <i>(8 WEEKS)</i>
Quarterly Grant Summary/Results Report #2 <b>Due Monday, March 11, 2013</b>	December 3, 2012 through February 28, 2013 <i>(12 WEEKS)</i>
Quarterly Grant Summary/Results Report #3 Note: Must incur <u>ALL EXPENDITURES AND ALL ACTIVITIES COMPLETED</u> by close of business 5:00 pm CENTRAL TIME.  <b>Due Friday, June 28, 2013</b>	March 4, 2013 through June 28, 2013 <i>(16 WEEKS)</i>
Submit : Final Results Report Final Reimbursement Release of Claims  <b>Due Friday, August 2, 2013</b>	<i>Original signatures required on all paperwork and submitted to NCTCOG at 616 Six Flags Drive, Arlington, TX 76011, <u>ATTENTION: LIZ ZECCKINE</u> by close of business 5:00 p.m. CENTRAL TIME.</i>
(YEAR LATER) Follow-Up Results Report: <b>Due Friday, August 1, 2014</b>	This report will be cumulative results. One (1) year after completion of the project, upon NCTCOG request.

### Attachment C. Budget and Detailed Cost Sheets

Note: This Budget information is taken directly from the Project Application.

BUDGET ITEM	PROJECT FUNDING AMOUNT	IN-KIND SERVICES	TOTAL PROJECT
1. Personnel/salaries	\$	\$	\$0.00
2. Fringe benefits	\$	\$	\$0.00
3. Travel	\$	\$	\$0.00
4. Supplies	\$	\$	\$0.00
5. Equipment	\$67200.00	\$16800.00	\$84000.00
6. Construction	\$	\$	\$0.00
7. Contractual	\$	\$	\$0.00
8. Other	\$	\$	\$0.00
Total direct charges (sum of lines 1-8)	\$67200.00	\$16800.00	\$84000.00
9. Indirect charges	\$	\$	\$0.00
Total Cost (sum of 1-9)	\$67200.00	\$16800.00	\$84000.00

**LIST IN-KIND SERVICES HERE:**

In-kind or Matching Funds Contributions: \$16,800

Local government contribution(s) through in-kind or matching services is encouraged.

If approved, the City of Murphy would also purchase two additional units (\$8,400 ea) for a grand total of 10 units. Murphy will use the local recycle rebate funds to purchase the two units.

**DETAILED BUDGET SHEET - Line(s) 1, 2 and/or 10: Personnel/Salaries/Fringe Benefits/Indirect Rate**

This budget sheet should be completed if any expenses are entered for Personnel/Salaries on Line 1 of the Project Budget Summary; otherwise omit. \$ \_\_\_\_\_

In the space below, list the names and titles of individuals whose salaries are paid for in all or in part from project funds. Also indicate if funds are for a new or existing employee.

[Click here to enter text.](#)

If your budget lists fringe benefits (line 2) and indirect costs (line 10), you also must provide the following information:

- ◆ What is your fringe benefit rate: \_\_\_\_\_%
- ◆ What is your indirect charge rate\*: \_\_\_\_\_%

\* In accordance with the Uniform Grant Management Standards (UGMS), indirect charges may be authorized if the applicant has a negotiated indirect cost rate agreement signed within the past 24 months by a federal cognizant agency or by a state single audit coordinating agency. Alternatively, the applicant may be authorized to recover up to 10% of direct salary and wage costs (excluding overtime, shift premiums, and fringe benefits) as indirect costs, subject to adequate documentation. If you have an approved cost allocation plan, please enclose documentation of your approved indirect rate.

DETAILED BUDGET SHEET - Line 3: **Project-Funded Travel**

This budget sheet should be completed if any expenses are entered for travel on Line 3 of the Project Budget Summary; otherwise omit. \$\_\_\_\_\_

The following is an itemized list of the types of travel expenses expected, identifying the parties and purposes involved. In general, all travel is within the North Central Texas region or within Texas. All proposed travel outside Texas **must** be specifically listed and will need specific approval from NCTCOG and TCEQ. **For Registration Fees, see “Other” Detailed Budget page.**

[Click here to enter text.](#)

**DETAILED BUDGET SHEET - Line 4: Project-Funded Supplies**

This budget sheet should be completed if any expenses are entered for supplies on Line 4 of your Project Budget Summary; otherwise omit. \$\_\_\_\_\_

This type of expenditures must generally relate to the routine purchase of office supplies (paper, pencils, staple, etc.) or other goods that are consumed in a relatively short period of time in the regular performance of general office activities. **(Expenses for food and alcoholic or non-alcoholic beverages are not allowable.)**

**The following is an itemized list of the general types of supplies and their cost that are intended to be purchased with project funding:**

<u>Item</u>	<u>Unit Cost</u>	<u>Total Cost</u>
-------------	------------------	-------------------

**DETAILED BUDGET SHEET - Line 5: Project-Funded Equipment**

This budget sheet should be completed if any expenses are entered for equipment on Line 5 of the Project Budget Summary; otherwise omit. \$67,200.00

Equipment includes all non-construction related, tangible property having a unit acquisition cost of **\$5,000** or more, with an estimated useful life of over one-year. All equipment purchases must be pre-approved by NCTCOG.

<u>Equipment (description, type, model, etc.)</u>	<u># of Units</u>	<u>Costs per Unit</u>
BigBelly Compacting Duo (trash and recycling) \$8,400 ea	8	\$67,200.00

**DETAILED BUDGET SHEET - Line 6: Project-Funded Construction**

This budget sheet should be completed if any expenses are entered for construction on Line 6 of the Project Budget Summary; otherwise omit. \$\_\_\_\_\_

All construction projects **must** be pre-approved by NCTCOG. Construction costs include facility design, site preparation, and facility construction. Indicate clearly whether construction services are provided by the FUNDS RECIPIENT or through subcontracts for outside services.

Expenses budgeted under this category should be for costs related to the enhancement or building of permanent facilities. Appropriate costs that may be included are:

- the cost of materials and labor connected to the construction project;
- the cost of equipment attached to the permanent structure; and the cost of planning the project; and,
- any subcontracts, including contracts for services, performed as part of the construction.

All local government municipal laws and regulations, including UGMS, for bidding and contracting for services must be followed.

**The following is an itemized list of construction expenses associated with the funded project, with as many specifications as possible:**

<b>Construction (and related expenses)</b>	<b>Costs</b>
--	--------------

**DETAILED BUDGET SHEET - Line 7: Project-Funded Contractual**

This budget sheet should be completed if any expenses are entered for contractual services on Line 7 of the Project Budget Summary; otherwise omit. \$\_\_\_\_\_

All contractual expenses **must** be pre-approved by NCTCOG. Expenses included under this category should be for costs for professional services or tasks provided by a firm or individual who is not employed by the FUNDS RECIPIENT other than those related to construction. All local government municipal laws and regulations, including UGMS, for bidding and contracting for services must be followed during the project period.

Any expenses (including legal fees, staff time, travel and communications) related in any way to drafting legislation, lobbying for legislation, or other political activities are **not** allowable under this program.

**The following is an itemized list of the contractual expenses associated with the funded project, with as many specifications as possible:**

**Contractual**

**Costs**

**DETAILED BUDGET SHEET -Item 8: Project-Funded Other Expenses**

This budget sheet should be completed if any expenses are entered under "Other" on Line 8 of the Project Budget Summary; otherwise omit.

"Other" expenses are those for items or services that do not readily fit into any of the previous budget categories.

The following is an itemized list of other expenses:

- \$ \_\_\_\_\_ Postage/delivery
- \$ \_\_\_\_\_ Telephone/Fax
- \$ \_\_\_\_\_ Utilities
- \$ \_\_\_\_\_ Printing/reproduction
- \$ \_\_\_\_\_ Advertising/public notices
- \$ \_\_\_\_\_ Signage
- \$ \_\_\_\_\_ Training (registration fees, etc.)
- \$ \_\_\_\_\_ Office space and equipment rentals
- \$ \_\_\_\_\_ Basic office furnishings (desks, chairs, filing cabinets, etc.)
- \$ \_\_\_\_\_ Books and reference materials
- \$ \_\_\_\_\_ Computer hardware (under \$5,000 & not listed under equipment category)
- \$ \_\_\_\_\_ Computer software
  
- \$ \_\_\_\_\_ **Miscellaneous ALL Other Expenses**  
 (Separately itemize these expenses below, For example: 96-gallon recycling roll carts @ \$50.73 ea, 700 units = \$35,511.00)

<u><b>Item</b></u>	<u><b># of Units</b></u>	<u><b>Cost</b></u>
--------------------	--------------------------	--------------------

\$0.00	TOTAL "Other" expenses, equal to the amount entered on Line 8 of the Budget Summary.
--------	--

## Attachment D. Special Provisions

### Article 01: Purpose of the Interlocal Agreement

The purpose of this Interlocal Agreement is to implement the provisions of §361.014(b) of the Texas Health and Safety Code, regarding the distribution of solid waste fee revenue funds in support of local and regional solid waste projects consistent with the regional solid waste management plans adopted by NCTCOG and TCEQ. This Interlocal Agreement is to perform specific tasks identified by NCTCOG's Resource Conservation Council (RCC) among several top-ranked local project proposals during the FY2012-2013 grant funding cycle.

### Article 02: Limitations and Reporting Requirements

Pursuant to §391 of the Local Government Code, funds received under this Interlocal Agreement will be expended only subject to the limitations and reporting requirements similar to those set forth in this Article:

- Audit and Reporting Requirements that the FUNDS RECIPIENT annually report to the Governor, §391.0095 of the Local Government Code, and 1 TAC §5.83 and §5.87, Governor's Office Regulations.
- FUND RECIPIENT'S Indirect Costs must comply with §391.0115 of the Local Government Code, and 1 TAC §5.86, Governor's Office Regulations.
- Restrictions on FUNDS RECIPIENT Travel Cost, §391.0115 of the Local Government Code, and 1 TAC §5.86, Governor's Office Regulations.
- Restrictions on Use of Alcoholic Beverages, §391.0115 of the Local Government Code, and 1 TAC §5.86, Governor's Office Regulations.
- Restrictions on Lobbying and Nepotism, §391.0116 of the Local Government Code, and 1 TAC §5.89, Governor's Office Regulations.
- Salary Administration Provisions and Schedules and Position Classification Schedules, §391.0117 of the Local Government Code, and 1 TAC §5.85, Governor's Office Regulations.
- General Limitations on Expenditures, §6.01 of SB 1, General Appropriations Act, 79<sup>th</sup> Legislative Session.

### Article 03. Financial Obligation

The FUNDS RECIPIENT is responsible for ensuring that expenditure amounts remain within the total budget limits. The FUNDS RECIPIENT must maintain records and documentation materials consistent with the requirements of this Attachment D "Special Provisions," the Uniform Grant and Contract Management Act, Texas Government Code, §§783.001 et. seq., and the Uniform Grant Management Standards, 1 Texas Administrative Code (TAC), §§5.141 et. seq. (collectively, "UGMS"). The FUNDS RECIPIENT must also follow up on any problems identified through its financial monitoring program.

In consideration of full and satisfactory performance hereunder, NCTCOG will be liable to the FUNDS RECIPIENT in an amount equal to the actual costs incurred by the FUNDS RECIPIENT in rendering such performance, subject to the following limitations:

NCTCOG is not liable for expenditures made in violation of Attachment E, Article 24, which outlines supplemental funding standards as defined by TCEQ. NCTCOG is not liable for any costs incurred by FUNDS RECIPIENT in the performance of this Interlocal Agreement that have not been billed to NCTCOG within **thirty (30) calendar days** following termination of this Interlocal Agreement.

NCTCOG is not liable to the FUNDS RECIPIENT for costs incurred or performance rendered by FUNDS RECIPIENT before commencement of this agreement or after termination of this Interlocal Agreement.

Except as specifically authorized by NCTCOG in writing, NCTCOG is liable only for expenditures made in compliance with the cost principles and administrative requirements set forth in this Interlocal Agreement, stated guidelines and applicable rules and regulations.

Failure on the part of the FUNDS RECIPIENT to comply with the conditions set forth in this Interlocal Agreement shall be the basis for termination of the Interlocal Agreement and/or the revocation of any unexpended or inappropriately expended funds.

#### **Article 04: Reimbursement Procedures**

All payments for approved project expenditures shall be on a cost reimbursement basis only. NCTCOG reserves the right to withhold or deny payments of funds awarded under this Interlocal Agreement due to incomplete, incorrect, or inconsistent reports or tasks required under this Interlocal Agreement, until the FUNDS RECIPIENT satisfactorily completes, revises, or corrects such services or reports.

Request for Reimbursement (Summary of Project Expenditures): For expenditures already incurred, the FUNDS RECIPIENT shall submit a request for reimbursement **at least quarterly**, but no more frequently than once per month, by the tenth (10<sup>th</sup>) calendar day following the end of each month for which expenditures are claimed. The FUNDS RECIPIENT must use the required Reimbursement Request Form, with appropriate itemized Supplemental Forms A through E submitted with an original signature.

All requests for reimbursement shall provide sufficient documentation, including:

- copy of purchase order(s),
- copy of invoice(s),
- check number and/or electronic transfer number under which payment was made, and
- information concerning the costs incurred to enable NCTCOG to ascertain the eligibility of a particular expenditure to enable subsequent audits.

Specific guidelines and requirements are given later in this Attachment D for each category of allowed expenditures, in the Articles labeled "Personnel," "Supplies," "Equipment," "Travel," etc.

The FUNDS RECIPIENT may account for expenses incurred and request reimbursement of outlays under a cash or accrual basis, as defined and authorized by the UGCMA. Under this Interlocal Agreement, an eligible reimbursement cost must have been incurred within the time period indicated on the Reimbursement Request Form; shall have been already paid; or incurred by the last day of the Interlocal Agreement period of performance.

Payments: Upon review and approval of each Report of Pass-Through Grant Expenditures, NCTCOG will make payment to FUNDS RECIPIENT, as soon as practicable. The Final Request for Reimbursement must be submitted at the end of the Interlocal Agreement period of performance and must include a Release of Claims.

## **Article 05. Budget Category Adjustments**

The FUNDS RECIPIENT may expend funds in excess of those listed for a particular budget category within the approved budget without requiring a formal amendment to this Interlocal Agreement, if:

The FUNDS RECIPIENT adheres to all other requirements of this Interlocal Agreement, concerning obtaining prior written authorization;

- The cumulative dollar amount of all excess expenditures among direct budget categories is equal to or less than 5% of the total budget amount.
- Sufficient funds are available in other budget categories to cover the excess expenditures.
- The transfer will maintain or further the scope and objective of the project as funded by this Agreement. NCTCOG will make the final determination if a transfer furthers the scope and objective of a project.
- The FUNDS RECIPIENT notifies NCTCOG as soon as practical of the deviation from the budget categories.
- Budget category adjustments/changes for Personnel/Salaries, Equipment, Contractual, Construction and Other expenditures must receive prior written authorization from NCTCOG. In order to receive approval for a budget category adjustment, FUNDS RECIPIENT must complete and submit a Request For Budget Revision form as well as a memorandum explaining the requested budget revision(s).

## **Article 06. Project Reporting Requirements**

The FUNDS RECIPIENT shall prepare and submit to NCTCOG, a written progress report concerning performance under this Interlocal Agreement documenting the accomplishments and units of work performed under the Scope of Services of this Agreement. The "Summary/Results Report of Implementation Project" form must be submitted using the forms provided. The "Summary/Results Report of Implementation Project" form will be due to NCTCOG on the days indicated under the Schedule for Reimbursement and Reporting in Attachment B.

The FUNDS RECIPIENT'S Summary/Results Report of Implementation Project report shall contain adequate descriptions of all project activities performed in order to allow NCTCOG to evaluate compliance with the provisions of this project. Performance information concerning timelines in meeting the schedule for required reports will be maintained by NCTCOG and shared with members of the RCC.

In particular, any legal research and related legal activities shall be clearly detailed in the progress reports in order to assure NCTCOG that the activities are not prohibited under Attachment E, Article 24, of this Interlocal Agreement. The FUNDS RECIPIENT shall comply with any reasonable request by NCTCOG for additional information on activities conducted in order for NCTCOG to adequately monitor the FUNDS RECIPIENT'S progress in completing the requirements of and adhering to the provisions of this Interlocal Agreement.

A Final Report shall be provided in conjunction with the final request for payment under this Interlocal Agreement. In this Final Report, the FUNDS RECIPIENT shall certify, in writing, the satisfactory completion of all activities and deliverables required under this Interlocal Agreement.

Reimbursement payments under this Interlocal Agreement may be withheld by NCTCOG until such time as any past due progress reports are received. The Final Report shall consist of the same forms used for the Summary/Results Report of Implementation Project form and the supplemental detailed forms for this project's funding category. The Final Report shall include information on the progress

during the last quarter of the project as well as cumulative information from the beginning of the project through its completion.

The FUNDS RECIPIENT also agrees to provide NCTCOG one or more “Follow-up Results” Report(s) documenting the continued impact of this funded project beyond the end date of this Agreement. The Follow-up Results Report(s) will be required on a schedule to be provided by NCTCOG, approximately one year after the end of the project funding cycle. The Follow-up Results Report form will be provided by NCTCOG to the FUNDS RECIPIENT later in the funding cycle.

The FUNDS RECIPIENT agrees to provide, throughout the life of the project, additional reports (as requested by NCTCOG) to document the project’s continued results at the culmination of the project.

Timeliness in completing reporting requirements will be monitored by NCTCOG and reported to the RCC. If the FUNDS RECIPIENT’S is not able to submit a scheduled progress report on time, the FUNDS RECIPIENT must contact NCTCOG Project Representative for a report extension due date prior to the original submittal date. If the FUNDS RECIPIENT fails to submit the Summary/Results Report of Implementation Project form to NCTCOG’s Project Representative upon notice/reminder, this matter will be brought to the attention of NCTCOG’s RCC for further resolution. Failure to comply with the requirements of this Article shall constitute a breach of this Interlocal Agreement.

#### **Article 07. Performance Measures**

The timeliness of meeting reporting requirements and completion of the original Work Program and Timeline will be monitored by NCTCOG and reported to the RCC. Performance on reporting requirement information will be considered as an evaluation criteria for future Requests for Applications. As such, the FUNDS RECIPIENT is cautioned to meet all of the reporting requirements as outlined in Attachment B of this Interlocal Agreement. Prior written notification must be provided to NCTCOG in the event that the FUNDS RECIPIENT is unable to comply with the reporting requirements.

#### **Article 08. Identification of the Funding Source**

The FUNDS RECIPIENT must acknowledge the financial support of NCTCOG and the State of Texas whenever work is funded, in whole or part, through this Interlocal Agreement. This includes using the following notation on the front cover, title page, surface of recycling bins or carts, vehicle wraps, vehicles, pencils, pens, T-shirts, stickers, electronic devices, all mechanical equipment, etc.:

***“Prepared in cooperation with the North Central Texas Council of Governments through funding from the Texas Commission on Environmental Quality.”***

Tangible items where surface space is limited may utilize the TCEQ logo or the phrase “Funded by TCEQ.” Consult with NCTCOG Project Representative to obtain TCEQ logo and for guidance on the proper display.

#### **Article 09. Personnel**

In addition to the project funding reimbursement request, all outlays that fall within the “Personnel/Salaries” category of the budget shall be itemized by the FUNDS RECIPIENT on Supplemental Reimbursement Request Form A. For Personnel/Salaries expenditures, the FUNDS RECIPIENT is expected to maintain signed time sheets that can serve to verify the total, overall hours of staff time directly billed to this Interlocal Agreement. Payments from funds provided under this Interlocal Agreement for accruals such as vacation, sick leave, severance pay, or other accruals are

allowed only for time during which the employee was employed and performing work under this Interlocal Agreement.

The FUNDS RECIPIENT employee positions covered in this Interlocal Agreement are listed in Attachment C. The FUNDS RECIPIENT must notify and seek approval from NCTCOG for any changes in personnel whose salaries are funded under this Interlocal Agreement.

#### **Article 10. Travel**

Only the employees of the FUNDS RECIPIENT assigned to the project should receive reimbursement for travel expenses. All travel for which expenses are claimed must be in connection with the tasks and activities required under this Interlocal Agreement, and shall be in compliance with the State Travel Regulation and Restrictions on Travel Costs as outlined in §391.0115 of the Local Government Code. Except as provided for in this Interlocal Agreement as indicated under Attachment C of the program budget, the FUNDS RECIPIENT shall obtain prior written authorization from NCTCOG for reimbursement from the travel expense budget category of any travel expenses for persons not employed by the FUNDS RECIPIENT, and for travel by any employee not included in Attachment C of the program budget.

Out-of-state travel should not normally be allowed and will require prior written approval from NCTCOG and TCEQ, prior to the travel event. In order for travel expenses to be reimbursed under the conditions of this Interlocal Agreement, the FUNDS RECIPIENT shall comply with the State Travel Regulations as required by Section 33, Article IX, H.B. 1, and any Restrictions on Travel Costs as outlined in §391.0115 of the Local Government Code.

Documentation should, at a minimum, be consistent with the State Travel Regulations and any restrictions on travel cost. The purpose of the travel shall be documented and supported with any of the appropriate records, such as automobile mileage totals for the reporting period (gasoline receipts will not be accepted for privately owned vehicles), actual receipts for hotel accommodations, public transportation receipts, airline receipts, meal receipts, etc. The reimbursement request must include the itemization of travel expenses on Supplemental Reimbursement Request Form A. The FUNDS RECIPIENT is not required to submit a daily or incidental mileage log as a part of Supplemental Reimbursement Request Form A. However, mileage trip logs documenting amount of miles traveled per day or per trip, the FUNDS RECIPIENT must maintain destination and purpose of trip as part of the FUNDS RECIPIENT'S records. Such mileage logs must be made available upon request by NCTCOG or TCEQ.

#### **Article 11. Equipment**

For the purposes of this Interlocal Agreement, equipment is defined as those items with a unit acquisition cost of \$5,000 or greater. All equipment expenses are subject to prior approval by NCTCOG before purchase.

Subject to the obligations and conditions set forth in this Interlocal Agreement, title to real property and equipment (together hereafter referred to in this Article as "property") acquired under this Interlocal Agreement by the FUNDS RECIPIENT will vest upon acquisition or construction.

Subject to the provisions of this Interlocal Agreement and as otherwise provided by State statutes, property acquired or replaced under this Interlocal Agreement shall be used for the duration of its normally expected useful life to support the purposes of this Interlocal Agreement whether or not the original projects or programs continue to be supported by state funds.

The FUNDS RECIPIENT shall not allow to a third party a security interest in any original or replacement property purchased or constructed with funds made available to the FUNDS RECIPIENT under this Interlocal Agreement.

The use of property acquired under this Interlocal Agreement, both during the term of this Interlocal Agreement and for the useful life of the property or until compensation is provided to TCEQ for the applicable percentage share of the fair market value of the property, shall be in compliance with §361.014(b) of the Texas Health & Safety Code Annotated, which directs that a project or service funded under this program must promote cooperation between public and private entities and may not be otherwise readily available or create a competitive advantage over a private industry that provides recycling or solid waste services.

The FUNDS RECIPIENT may develop and use their own property management systems, which must conform to all applicable federal, state, and local laws, rules and regulations. If an adequate system for accounting for property owned by the FUNDS RECIPIENT is not in place or is not used properly, the Property Accounting System Manual issued by the State Comptroller of Public Accounts will be used as a guide for establishing such a system. The property management system used by the FUNDS RECIPIENT must meet the requirements set forth in this Section.

Property records must be maintained that include a description of the property, a serial number or other identification number, the source of the property, who holds title, the acquisition date, and the cost of the property, percentage of state participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.

A physical inventory of all equipment acquired or replaced under this Interlocal Agreement shall be conducted no less frequently than once every two years and the results of such inventories reconciled with the appropriate property records. Property control procedures utilized by the FUNDS RECIPIENT shall include adequate safeguards to prevent loss, damage, or theft of the acquired property. Any loss, damage, or theft shall be investigated. The FUNDS RECIPIENT shall develop and carry out a program of property maintenance as necessary to keep both originally acquired and any replaced property in good condition, and to utilize proper sales procedures to ensure the highest possible return, in the event such property is sold.

Certain types of equipment are classified as "controlled assets" and are subject to annual revision. In accordance with the UGMS, the FUNDS RECIPIENT should contact the Texas Comptroller of Public Accounts' property accounting staff or review the Comptroller's state Property Accounting User Manual available on the Internet, for the most current listing. Firearms shall be maintained on the FUNDS RECIPIENT'S inventory system irrespective of cost, and the following equipment with costs between \$500 and \$5,000 shall be maintained on the inventory system: (1) stereo systems, (2) still and video cameras, (3) facsimile machines, (4) VCRs and VCR/DVD/TV combinations; (5) cellular and portable telephones.; and, (6) computer hardware.

The FUNDS RECIPIENT may, for the purpose of replacing property acquired under this Interlocal Agreement, either trade in or sell the property and use the proceeds of such trade-in or sale to offset the cost of acquiring needed replacement property.

The FUNDS RECIPIENT agrees that if a determination is made that any property acquired with funds provided under this Interlocal Agreement with a current per-unit fair market value of \$5,000 or more is no longer needed for the originally authorized purpose, TCEQ has the right to require disposition of the property by the FUNDS RECIPIENT in accordance with the provisions of this Article.

When during the useful life of property acquired with project funds under this Interlocal Agreement by the FUNDS RECIPIENT and with a current per-unit fair market value of \$5,000 or more, the property is no longer needed for the originally authorized purpose the FUNDS RECIPIENT agrees to request disposition instructions from TCEQ. When property acquired by a FUNDS RECIPIENT with project funds provided by TCEQ under this Interlocal Agreement is no longer needed for the originally authorized purpose, the FUNDS RECIPIENT agrees that this Interlocal Agreement will require NCTCOG to request disposition instructions from the FUNDS RECIPIENT or, if NCTCOG is no longer administering a Regional Solid Waste Implementation Project Program, TCEQ.

NCTCOG shall, in turn, request authorization from TCEQ to provide disposition instructions to the FUNDS RECIPIENT. Disposition instructions shall solicit, at a minimum, information on the source and amount of funds used in acquiring the property, the date acquired, the fair market value and how the value was determined (e.g., by appraisal, bids, etc.), and the proposed use of the proceeds. The assessment of whether to authorize the proposed disposition of the property must include a determination that the disposition plan will comply with the private industry provisions of §361.014(b) of the Texas Health Safety Code Annotated.

In cases where the FUNDS RECIPIENT fails to take appropriate disposition actions, TCEQ may direct NCTCOG to take excess and disposition actions. The disposition instructions may provide for one of the alternatives as set forth in this Section.

Retain title, sell, or otherwise disposed of with no obligation to compensate TCEQ or, in the case of a FUNDS RECIPIENT. Retain title after compensating TCEQ or, in the case of an implementation project funding recipient, NCTCOG. If NCTCOG is compensated by a FUNDS RECIPIENT for property acquired using funds provided under this Interlocal Agreement, NCTCOG will in turn compensate TCEQ or, upon authorization by TCEQ, use those funds for other projects or activities that support this or similar future programs conducted by TCEQ. The amount due will be computed by applying the percentage of state-funded participation in the cost of the original purchase to the fair market value of the property.

Sell the property and compensate TCEQ or, in the case of project funding recipient, NCTCOG. If NCTCOG is compensated by a FUNDS RECIPIENT for property acquired using funds provided under this Interlocal Agreement, NCTCOG will in turn compensate TCEQ or, upon authorization by TCEQ, use those funds for other projects or activities that support the goals of this or similar future programs conducted by TCEQ. The amount due will be calculated by applying TCEQ percentage of participation in the cost of the original purchase to the proceeds of the sale after deduction of any actual and reasonable selling and fixing-up expenses. If the project is still active, the net proceeds from sale may be offset against the original cost of the property. When the FUNDS RECIPIENT is directed to sell property, sales procedures shall be followed that provide for competition to the extent practicable and result in the highest possible return.

Transfer title to TCEQ or, in the case of an implementation project funds recipient, NCTCOG, or to a third-party designated/approved by TCEQ. If the FUNDS RECIPIENT participated financially in the original purchase of the property, the FUNDS RECIPIENT may be authorized payment from the receiving party of an amount calculated by applying the percentage of the participation in the original purchase of the property to the current fair market value of the property.

Items of property with a current per-unit fair market value of less than \$5,000 may be retained, sold or otherwise disposed of by the FUNDS RECIPIENT with no further obligation to TCEQ. Methods used to determine per-unit fair market value must be documented, kept on file and made available to TCEQ upon request.

A request for reimbursement for equipment must include itemized Supplemental Reimbursement Request Form B.

## **Article 12. Contractual Expenses**

No contractual expenditures are eligible for reimbursement under this Interlocal Agreement, unless such contracts' scope of work has been approved ahead of time, in writing, by NCTCOG. Any amendments to the FUNDS RECIPIENT'S subcontract authorization for reimbursement under this Interlocal Agreement, whether or not such subcontract required NCTCOG's pre-approval, which will result in or require substantive changes to any of the tasks required to be performed under this Interlocal Agreement, must be approved in writing by NCTCOG.

Examples of contractual expenses include professional (subcontracted) services. The FUNDS RECIPIENT is expected to conform to the appropriate bidding and contracting laws and regulations according to the FUNDS RECIPIENT'S own internal policies and procedures. In addition, the FUNDS RECIPIENT is required to maintain documentation that the costs incurred for contractual expenses (including subcontract expenses) were reasonable and necessary. Please note the specific guidance applicable to project restrictions, especially regarding projects that require a TCEQ permit or registration.

All outlays that fall within the "Contractual" category of the budget shall be itemized by the FUNDS RECIPIENT on the Supplemental Reimbursement Request Form B, to accompany the Reimbursement Request Form. In addition, the FUNDS RECIPIENT shall attach, for each item listed, legitimate documentation that (1) further identifies the specific cost; (2) clearly identifies the vendor or subcontractor who provided the materials or services; and (3) confirms the reimbursable materials listed.

Supporting documentation shall include a purchase order marked "received/paid" and an invoice similarly marked, plus a copy of the check under which payment for the expense was made. In the case of subcontractor services, the supporting documentation shall consist of a dated invoice marked "received/paid" showing the amount billed to the FUNDS RECIPIENT, indicating any "past due" amount from previous invoices and a copy of the check.

## **Article 13. Construction**

Expenses budgeted under this category should be for costs related to the enhancement or building of permanent facilities. Examples include: facility design, site preparation and facility construction, including slabs, paving, awning, attendant shelters with sanitation facilities, fencing and lighting, containment berms, and electronic data-recording equipment.

The FUNDS RECIPIENT shall obtain and pay for all construction permits and licenses. The FUNDS RECIPIENT shall also pay all charges of utility owners for connections to the work and for charges associated with capital costs related thereto, such as plant investment fees.

The FUNDS RECIPIENT is expected to conform to the appropriate bidding process according to the FUNDS RECIPIENT'S own internal policies and procedures. In addition, the FUNDS RECIPIENT is required to maintain documentation to support that the cost incurred were reasonable and necessary. Appropriate costs that may be included are:

- a. The costs of planning the project.
- b. The cost of materials and labor connected to the construction project.
- c. The cost of equipment attached to the permanent structure; and
- d. Any subcontracts (including contracts for services) performed as part of the construction.

All outlays that fall within the “Construction” category of the budget shall be itemized by the FUNDS RECIPIENT on the Supplemental Reimbursement Request Form C, to accompany the Reimbursement Request Form. In addition, the FUNDS RECIPIENT shall attach, for each item listed, legitimate supporting documentation that (1) further identifies the specific cost; (2) clearly identifies the vendor or subcontractor who provided the materials or services; and (3) confirms the reimbursable materials listed. The supporting documentation shall include a copy of the purchase order marked “received/paid”, and an invoice similarly marked plus a copy of the check. In the case of subcontractor services, the supporting documentation shall consist of a dated invoice showing the amount billed to the FUNDS RECIPIENT and any “past due” amount from previous invoices marked “received/paid” indicating the check number. In addition, the FUNDS RECIPIENT is subject to all the requirements related to Title to Equipment and Construction Facilities, as indicated in Attachment D, Article 11.

#### **Article 14. Consumable Supplies**

Expenses shall be for non-construction related costs for goods and materials having a unit acquisition cost (including freight) of less than \$1,000. Such expenditures shall generally relate to the routine purchase of office supplies (paper, pencils, and staplers) or other goods, which are consumed by the FUNDS RECIPIENT in a relatively short period of time, in the regular performance of the general activities funded under this Interlocal Agreement. FUNDS RECIPIENT is expected to conform to the appropriate bid process for purchases according to the FUNDS RECIPIENT’S own internal policies and procedures.

Non-routine expenditures of goods and materials, not falling under the definition of Supplies, should be charged to the “Other” expense category. Supporting documentation shall include whatever is necessary to show that the work was performed and the expense incurred. Supporting documentation for reimbursement must include verification that the cost has been paid by the FUNDS RECIPIENT, a copy of the purchase order (if issued) and a copy of the invoice. A request for reimbursement for supplies must include itemized expenses on the Supplemental Reimbursement Request Form D.

#### **Article 15. Other Expenses**

No expenses under the “Other” budget category, including computer hardware or software purchases not included under the “Equipment” budget category, shall be eligible for reimbursement under this Interlocal Agreement, unless approved ahead of time, in writing, by NCTCOG.

The “Other” expenses as identified in Attachment C of the Project Budget are allowed. The restrictions set forth in the Uniform Grant and Contract Management Standards apply. All expenses

budgeted under this “Other” category shall be itemized by the project funds recipient when requesting reimbursement. Some expenses that may be appropriate include:

a. Postage/delivery	g. Office space
b. Telephone/Fax	h. Basic office furnishings
c. Utilities	i. Legal costs
d. Printing/reproduction	j. Vehicle maintenance
e. Advertising/Public notices	k. Any others
f. Signage	

The expenses under this budget category must receive NCTCOG’s written approval prior to purchase. Again, for these “other” expenditures, documentation for reimbursement must show that the expenses were incurred (a copy of the check), and shall include purchase orders if issued and invoices, or receipts marked “received/paid.” Any Request for Reimbursement must include an itemization of the expenses, using the Reimbursement Request Form.

**Article 16. Indirect Expenses**

Indirect costs rates under this Interlocal Agreement shall comply with all provisions of §391.0115 of the Texas Local Government Code relating to the restrictions on commission costs, and the FUNDS RECIPIENT shall advise NCTCOG in writing in the event such compliance will necessitate a reduction or other change to the indirect cost rate(s) set forth in the budget identified under Attachment C.

The Indirect Cost Rate(s) included under Attachment C shall remain in effect subject to formal approval by either a federal cognizant agency, a state coordinating agency based on a recent audit performed by an independent auditor, or another funding entity, that specifically examines and reports the indirect cost rate for the FUNDS RECIPIENT accounting period(s) covered under this Interlocal Agreement. The FUNDS RECIPIENT agrees to reimburse NCTCOG any overpayments received as a result of any final audit finding.

In the event that the FUNDS RECIPIENT’S federal cognizant agency, or state coordinating agency approves, prior to the termination date of this Agreement, determines a final audited indirect cost rate which is different from the indirect rate set forth in this Interlocal Agreement, the FUNDS RECIPIENT and NCTCOG may negotiate a new contract budget and incorporate such into this Interlocal Agreement by way of a contract change. Nothing in this section, or the results of any indirect cost audit or final indirect cost rate approval, shall cause NCTCOG to owe the FUNDS RECIPIENT more than the FUNDS RECIPIENT amount shown in budget set forth in Attachment C.

**Article 17. In-kind Services**

In reference to the performance of the FUNDS RECIPIENT under this Interlocal Agreement, In-kind Services shall be for staff or services directly involved with the work related activities as defined in the approved work plan.

In-kind Services as defined in the approved Project Budget will be tracked separately with the understanding that in the event that such services and/or contributions are not provided during the term of this Interlocal Agreement, NCTCOG may terminate the Interlocal Agreement for non-compliance.

The FUNDS RECIPIENT shall track In-kind Services separately from project funding and shall itemize those costs on the required Supplemental Reimbursement Request Form E, which shall be submitted with each Request for Reimbursement Form.

**Article 18. Project Contacts**

NCTCOG hereby designates the person in Article 18 of this Attachment as the individual authorized to give direction to the FUNDS RECIPIENT for the purposes of this Interlocal Agreement. The NCTCOG Project Representative shall not be deemed to have authority to bind NCTCOG in contract unless NCTCOG's Executive Director has delegated that person to have such authority.

The FUNDS RECIPIENT shall identify as its Project Representative, the person authorized to receive direction from NCTCOG, to manage the work being performed, and to act on behalf of the FUNDS RECIPIENT. The FUNDS RECIPIENT'S Project Representative shall not be deemed to have authority to bind the FUNDS RECIPIENT in contract unless the FUNDS RECIPIENT, in writing, specifically specifies such authority to NCTCOG.

Either party may change its Project Representative as the need arises. In addition, the Project Representative of either party may further delegate his or her authority if necessary, including any delegation of authority to a new Project Representative. The party making any change in the Project Representative shall provide written notice of the change to the other party.

NCTCOG hereby designates the individual below as the person to give direction to the FUNDS RECIPIENT as Project Representative of NCTCOG:

**Sandra Barba, Environment & Development Planner  
Environment and Development Department  
P. O. Box 5888  
Arlington, Texas 76005-5888  
TEL (817) 608-2368 FAX (817) 695-9191  
Email: sbarba@nctcog.org**

The FUNDS RECIPIENT hereby designates the individual named below as the person authorized to receive direction from NCTCOG, to manage the work being performed, and to act on behalf of the FUNDS RECIPIENT as the Project Representative:

Project Representative  
**Kim Lenoir,  
Director of Parks and Public Works  
206 North Murphy Road  
Murphy, Texas 75094  
TEL (972) 468-4068 FAX (972) 468-4168  
Email: klenoir@murphytx.org**

Alternate Contact to Project Representative:  
**James Fisher,  
City Manager  
206 North Murphy Road  
Murphy, Texas 75094  
TEL (972) 468-4000 FAX (972) 468-4031  
Email: jfisher@murphytx.org**

The FUNDS RECIPIENT designates the following location for record access and review:

**City of Murphy  
206 North Murphy Road  
Murphy, Texas 75094**

## Attachment E. General Provisions

### Article 01. Eligible Project Funding Recipients

Only those local and regional political subdivisions located within the State of Texas as listed below are eligible to receive funding from NCTCOG for an implementation project:

- Cities;
- Counties;
- Public schools through their school districts and school districts (does not include universities or post secondary educational institutions);
- Other general and special law districts created in accordance with state law, and with the authority and responsibility for water quality protection or municipal solid waste management, to include river authorities; and,
- Councils of government.

Local and regional political subdivisions that are subject to the payment of state solid waste disposal fees and whose fee payments are in arrears, as determined by TCEQ, are not eligible to receive implementation project funding from NCTCOG. TCEQ shall provide, on a quarterly basis, NCTCOG a list of entities for which fee payments are in arrears. NCTCOG shall allow a potential implementation project applicant that is listed as being in arrears in its fee payments the opportunity to provide documentation of payment of the fees owed to the state. If the potential applicant provides NCTCOG with documentation of payment of the fees, such as a canceled check or receipt from the state, or waiver of the fee in question, NCTCOG may consider that applicant to be eligible to receive implementation project funding under this Interlocal Agreement.

### Article 02. Responsibilities of the FUNDS RECIPIENT

The FUNDS RECIPIENT shall be responsible for the professional quality, technical accuracy, timely completion and the coordination of all services and other work furnished by the FUNDS RECIPIENT under this Interlocal Agreement.

The FUNDS RECIPIENT shall perform such services as may be necessary to accomplish the work required under this Interlocal Agreement, in accordance with the FUNDING AGENCY and contractual requirements and any and all applicable law.

NCTCOG may require the FUNDS RECIPIENT to correct and revise any errors, omissions or other deficiencies in any reports or services provided by the FUNDS RECIPIENT to ensure that such reports and services fulfill the purposes of this Interlocal Agreement. The FUNDS RECIPIENT shall make the required corrections or revisions without additional cost to NCTCOG.

Neither NCTCOG's review, approval or acceptance of, nor payment for any of the services shall be construed to operate as a waiver of any rights under this Interlocal Agreement or of any cause of action arising out of the performance of this Interlocal Agreement; and the FUNDS RECIPIENT shall be, and remain liable in accordance with applicable law for all damages to NCTCOG, including reasonable attorney's fees and court costs caused by the FUNDS RECIPIENT'S negligent performance of any of the services furnished under this Interlocal Agreement.

The obligations of the FUNDS RECIPIENT under this Article are in addition to the FUNDS RECIPIENT'S other express or implied assurances under this Interlocal Agreement or applicable law.

### **Article 03. Oversight of Solid Waste Implementation Project Program**

NCTCOG staff, through its designated Project Representative, is responsible for managing the solid waste implementation project program, for negotiating the work scope of services, the budget, and the term of the Interlocal Agreement. NCTCOG staff will review and authorize Requests for Reimbursement, review progress reports and will undertake site visits.

In addition, NCTCOG's RCC, the regional solid waste advisory committee under the Executive Board, will oversee the comprehensive implementation project program assure compliance with state requirements and achievement of regional objectives. Other oversight duties of the RCC will include arbitration of projects as necessary and review and approval of key contract amendments.

### **Article 04. Standards for Implementation Projects**

The following standards and limitations apply to all implementation project activities funded under this Agreement. The FUNDS RECIPIENT is responsible for ensuring compliance of these standards in the following project categories.

Local Enforcement. This category consists of projects that contribute to the prevention of illegal dumping of municipal solid waste, including liquid wastes. Under this category, funding recipients may investigate illegal dumping problems; enforce laws and regulations pertaining to the illegal dumping of municipal solid waste, including liquid waste; establish a program to monitor the collection and transport of municipal liquid wastes, through administration of a manifesting system; and educate the public on illegal dumping laws and regulations. Examples of categories eligible for funding include equipment such as vehicles, communications equipment, and surveillance equipment as well as program administration expenses, such as salaries/fringe benefits, office supplies and equipment, travel, training, and vehicle maintenance. Also eligible for funding is protective gear, supplies and educational materials. Funding limitations specific to this category are set forth in this Section.

Funds may not be provided to any law enforcement agency regulated by Chapter 415, Texas Government Code, unless: (a) the law enforcement agency is in compliance with all rules developed by the Commission on Law Enforcement Standards and Education pursuant to Chapter 415, Texas Government Code; or (b) the Commission on Law Enforcement Officer Standards and Education certifies that the requesting agency is in the process of achieving compliance with such rules.

When funding is to be provided for salaries of local enforcement officers, the FUNDS RECIPIENT must certify that at least one of the officers has attended or will attend within the term of the funding TCEQ's Criminal Environmental Law Enforcement Training or equivalent training.

Local enforcement vehicles and related enforcement equipment purchased entirely with funds provided under this Agreement may only be used for activities to enforce laws and regulations pertaining to littering and illegal dumping, and may not be used for other code enforcement or law enforcement activities. Vehicles and equipment that are only partially funded must be dedicated for use in local enforcement activities for a percentage of time equal to the proportion of the purchase expense funded.

Entities receiving funds for a local enforcement officer, enforcement vehicles, and/or related equipment for use by an enforcement officer, must investigate major illegal dumping problems, on both public and private property, in addition to investigating general litter problems on public property.

Entities receiving funds to conduct a local enforcement program must cooperate with TCEQ's regional investigative staff in identifying and investigating illegal dumping problems. Lack of cooperation with TCEQ staff may constitute a reason to withhold future funding to that entity for local enforcement activities.

Funds may not be used for investigation and enforcement activities related to the illegal dumping of industrial and/or hazardous waste. Instances where industrial or hazardous waste is discovered at a site do not preclude the investigation of that site, so long as the intent and focus of the investigation and enforcement activities are on the illegal dumping of municipal solid waste.

Source Reduction and Recycling. This category includes projects that provide a direct and measurable effect on reducing the amount of municipal solid waste going into landfills, by diverting various materials from the municipal solid waste stream for reuse or recycling, or by reducing waste generation at the source. Funded activities may include: facility design and construction; equipment, such as chippers, balers, crushers, recycling and composting containers, trailers, forklifts, and trucks; program administration expenses, such as salaries/fringe benefits, office supplies and equipment, travel, and training; and, educational materials, printing and advertisement expenses. Funding limitations specific to this category are set forth in this Section.

Programs and projects funded under this category shall have as a goal and be designed to provide a measurable effect on reducing the amount of municipal solid waste being disposed of in landfills.

Any program or project funded with the intent of demonstrating the use of products made from recycled and/or reused materials shall have as its primary purpose the education and training of residents, governmental officials, private entities, and others to encourage a market for using these materials.

Projects funded under this Interlocal Agreement may not include programs dedicated to the collection and/or recycling of automotive wastes, to include scrap tires, used oil, oil filters, antifreeze, or lead-acid batteries. This restriction includes the purchase of equipment to shred or split scrap tires. However, this restriction does not apply to the ancillary collection of these materials as part of a comprehensive Household Hazardous Waste Collection facility or program.

Local Solid Waste Management Plans. This category includes projects to develop and have adopted by TCEQ a local solid waste management plan, in accordance with Subchapter D, §363 of the Texas Health & Safety Code, as implemented by TCEQ rule, 30 TAC Chapter 330, Subchapter O, or to amend an existing local solid waste management plan that has been adopted by TCEQ. Funding limitations applicable to this category are set forth in this Section. The local planning area must be consistent with one or a combination of local solid waste management planning sub-regions identified by NCTCOG in the regional solid waste management plan. Funding provided under this category may not be used for final engineering work, designs, or construction plans. At least one year should be allowed for the completion and adoption of the local plan.

Citizens' Collection Stations and "Small" Registered Transfer Stations. This category includes projects to construct and equip citizens' collection stations, as these facilities are defined under 30 TAC §330.2, TCEQ Regulations. Municipal solid waste transfer stations that qualify for registration under §330.4(d)(1) - (3) or §330.4(r) of TCEQ Regulations may also be funded. The costs associated with operating a citizens' collection station once it is completed may not be funded. The design and construction of small municipal solid waste and liquid waste transfer stations that qualify for registration under §330.4(d) or §330.4(r), TCEQ Regulations, may be funded. Other permitted or registered transfer stations may not be funded.

A municipal solid waste transfer facility may be eligible for a registration if it serves a municipality with a population of less than 50,000, or a county with a population of less than 85,000, or is used in the transfer of 125 tons or less of municipal solid waste per day. A liquid waste transfer station may qualify for a registration if it will receive less than 32,000 gallons or less per day. The costs associated with operating a transfer station once it is completed may not be funded.

Funds may be used for projects funded for these types of facilities shall include consideration of an integrated approach to solid waste management, to include providing recycling services at the site, if appropriate to the management system in place. Funds may also be used for periodic community collection events, held not more frequently than four times per year, to provide for collection of residential waste materials for which there is not a readily-available collection alternative, such as large and bulky items that are not picked up under the regular collection system.

Transfer stations that qualify for a registration solely due to their location within a permitted municipal solid waste facility, under §330.4(d)(4), may not be funded.

Municipal solid waste transfer stations that qualify for a registration only under the provisions of §330.4(q) of the Municipal Solid Waste regulations allowing for registration of facilities that recover 10% or more of the waste stream for reuse or recycling, but not also under the provisions of §330.4(d) of the Municipal Solid Waste regulations, may not be funded. However, those components of a transfer facility dedicated to the reuse or recycling activities may qualify for funding under the source reduction and recycling grant category.

Municipal solid waste transfer stations that are used only in the transfer of grease trap waste, grit trap waste, septage, or other similar liquid waste, and which qualify for registration under §330.4(r) of the Municipal Solid Waste Regulations may be funded under this category. Specifically, §330.4(r) of the regulations allows for registration of a liquid waste transfer facility that will receive 32,000 gallons a day or less.

Only the costs necessary to construct the facility and/or purchase and install necessary equipment may be funded. Costs associated with operating a facility once it is completed may not be funded.

Transfer stations that require a registration must have already received that registration from the TCEQ before a grant may be awarded.

Household Hazardous Waste Management. This category includes projects that provide a means for the collection, recycling or reuse, and/or proper disposal of household hazardous waste (HHW), including household chemicals and other materials. Projects may include collection events, consolidation and transportation costs associated with collection activities, recycling and/or reuse of materials; proper disposal of materials; permanent collection facilities, and education and public awareness programs. Funds may also be used to support Texas Country Cleanup events, conducted in conjunction with TCEQ. Funding limitations specific to this category are set forth in this Section.

Projects under this category must be coordinated with TCEQ HHW program staff, and all applicable laws, regulations, guidelines, and reporting requirements must be followed.

Funds provided under this Interlocal Agreement may not be used for programs and activities related to the collection and management of commercial, industrial, and hazardous wastes.

Funds provided under this Interlocal Agreement may not be used for programs and activities solely related to the management of scrap tires, used oil, oil filters, antifreeze, lead-acid batteries, or other special wastes excluded from disposal in municipal solid waste landfills. However, collection of these

materials may be included as part of a comprehensive HHW collection and management program, so long as that is not the sole intent of the program.

Technical Studies. This category includes projects which include the collection of pertinent data, analysis of issues and needs, evaluation of alternative solutions, public input, and recommended actions, to assist in making solid waste management decisions at the local level. Projects under this category may also include research and investigations to determine the location and boundaries of closed municipal solid waste landfills in support of the regional solid waste landfill inventory program. Funding limitations specific to this category are set forth in this Section.

All technical studies shall be consistent with the adopted regional solid waste management plan, and prepared in accordance with the Content and Format Guidelines provided by TCEQ.

Funding may not be used for final engineering work, designs, or construction plans.

A landfill or landfiling may be the topic of a technical study only if it is part of an overall, integrated solid waste management system. However, this restriction does not apply to research related to an inventory of closed municipal solid waste landfill sites.

Litter/Illegal Dumping Cleanups and Community Cleanup Events. This category includes ongoing and periodic activities to clean up litter and illegal dumping of municipal solid waste, to include lake and river cleanup events conducted in conjunction with TCEQ's and Keep Texas Beautiful Lake and River Cleanup Program. Projects included under this category may include general community cleanup events designed to involve the residents and community in periodic cleanup of litter and trash within the community as well as waste removal; disposal or recycling of the removed materials; fencing and barriers; and signage. Placement of trash collection receptacles in public areas with chronic littering problems is also included. Reuse or recycling options should be considered for managing the materials collected, to the extent feasible. Funding limitations specific to this category are set forth in this Section.

Lake and River Cleanup events must be coordinated with TCEQ's cleanup program staff and/or the Keep Texas Beautiful organization, which is contracted by TCEQ to administer the Lake and River Cleanup program.

Projects funded to clean up litter or illegal dumping on private property must be conducted through a local government sponsor. Funds may not be provided directly to a private landowner or other private responsible party for cleanup expenses. The local government sponsor must either contract for and oversee the cleanup work, or conduct the work with its own employees and equipment.

The costs for cleanup of hazardous waste that may be found at a municipal solid waste site must be funded from other sources, unless a waiver from this restriction is granted by TCEQ to deal with immediate threats to human health or the environment.

The costs for cleanup of Class 1 non-hazardous industrial waste that may be found at a municipal solid waste site must be funded from other sources, unless a waiver from this restriction is granted by TCEQ to deal with immediate threats to human health or the environment. The cleanup of Class 2 and 3 non-hazardous industrial wastes that may be found at a municipal solid waste site may be funded in conjunction with the cleanup of the municipal solid waste found at a site.

All notification, assessment, and cleanup requirements pertaining to the release of wastes or other chemicals of concern, as required under federal, state, and local laws and regulations, including

30 TAC Chapter 330, TCEQ's MSW Regulations, and 30 TAC Chapter 350, TCEQ's Risk Reduction Regulations, must be complied with as part of any activities funded under this Interlocal Agreement.

All materials cleaned up using grant funds must be disposed of properly or otherwise properly managed in accordance with all applicable laws and regulations. To the extent feasible, it is recommended that materials removed from a site be reused or recycled. For projects to clean up large amounts of materials, NCTCOG may consider withholding at least ten (10) percent of the reimbursements under this Interlocal Agreement until documentation is provided that the cleanup work has been completed and the materials properly managed.

Periodic community collection events, to provide for collection and proper disposal of non-recyclable residential waste materials for which there is not a readily available collection alternative, are eligible. This type of project may not include regular solid waste collection activities, such as weekly waste collection. Funded collection events may be held no more frequently than four times per year, and must only be intended to provide residents an opportunity to dispose of hard-to-collect materials, such as large and bulky items that are not picked up under the regular collection system, and might otherwise be illegally dumped. Funding limitations specific to this category are set forth in this Section.

Educational and Training Projects. Educational components are encouraged under the other categories in order to better ensure public participation in projects; those educational components should be funded as part of those projects and not separately under this category. This category may be used for "stand-alone" educational projects dealing with a variety of solid waste management topics. This category may include funding for information-exchange activities, subject to the other limitations on travel expenses. Funding limitations specific to this category are set forth in this Section.

Programs and projects funded under this category shall be primarily related to issues involved in the management of municipal solid waste. Education or training events that cover a broader range of environmental issues may be funded on a partial basis appropriate to the extent to which municipal solid waste issues are covered.

## **Article 05. Monitoring Requirements**

NCTCOG shall conduct periodic analysis of FUNDS RECIPIENT'S performance under this Interlocal Agreement for the purpose of assessing the degree to which contractual objectives and performance standards, as identified in this Interlocal Agreement or as subsequently amended, are achieved by the FUNDS RECIPIENT.

NCTCOG may periodically monitor the FUNDS RECIPIENT for:

- The degree of compliance with the terms of this Interlocal Agreement, including compliance with applicable rules, regulations, and promulgations referenced herein;
- The administrative and operational effectiveness of the project; and,
- NCTCOG Project Representative must visit the FUNDS RECIPIENT facility and certify in writing that equipment is on site in order for FUNDS RECIPIENT to receive reimbursement for equipment expenditures.

## **Article 06. Compliance with Applicable Laws**

The FUNDS RECIPIENT shall, except as otherwise provided in this Interlocal Agreement, be responsible for giving notices, obtaining any necessary licenses and permits, complying with all provisions of this Interlocal Agreement, including, but not limited to, all applicable State, Municipal and Local laws, ordinances, rules, regulations and order of any public authority, in connection with the work required by this Interlocal Agreement. The main governing standards include, but may not be limited to, the following:

- §361.014. TEX. HEALTH and SAFETY CODE ANN. (as amended by H.B. 3072, 74<sup>th</sup> Texas Legislature);
- §330.569 of the TCEQ Municipal Solid Waste Regulations (30 TAC Chapter 330); and
- The Uniform Grant and Contract Management Act, TEX. GOV'T CODE ANN., §§783.001 et. Seq., and the Uniform Grant and Contract Management Standards, 1 Texas Administrative Code (TAC), §§5.141 et. seq. (collectively, "UGCMA").

If the FUNDS RECIPIENT or NCTCOG observes that this Interlocal Agreement is at variance in any respect, the observing party shall promptly notify the other party in writing, and any necessary changes shall be adjusted by appropriate Interlocal Agreement modification.

## **Article 07. Uniform Grant and Contract Management Act**

The provisions of the Uniform Grant and Contract Management Act ("UGCMA") apply to this Interlocal Agreement to the extent required by law.

## **Article 08. Accounting Systems**

The FUNDS RECIPIENT shall have an accounting system that accounts for costs in accordance with Generally Accepted Accounting Standards or Principles, and complies with applicable State law, regulations, and policies relating to accounting standards or principles. The FUNDS RECIPIENT must account for costs in a manner consistent with such standards or principles.

## **Article 09. Release of Claims**

Upon satisfactory completion of the work performed hereunder and prior to final payment under this Agreement for such work, or prior to settlement upon termination of this Agreement, and as a condition to final payment/settlement, the FUNDS RECIPIENT shall execute and deliver to NCTCOG a release of all claims against NCTCOG arising under or by virtue of this Interlocal Agreement.

## **Article 10. Access/Examination of Records**

The FUNDS RECIPIENT shall maintain and make available for review, inspection and/or audit books, records, documents, and other evidence reasonably pertinent to performance on all work under this Interlocal Agreement, including but not limited to, negotiated changes or amendments thereto, in accordance with accepted professional practice, appropriate accounting procedures and practices at the FUNDS RECIPIENT'S office. During the conduct of any such review, audit or inspection, the FUNDS' RECIPIENT'S books, records, and other pertinent documents may, upon prior conference with the FUNDS RECIPIENT, be copied by NCTCOG. All such information shall be handled by the parties in accordance with good business ethics. The FUNDS RECIPIENT shall provide proper facilities for such access and inspection.

The FUNDS RECIPIENT shall also maintain and make available at its designated location the financial information and data used by the FUNDS RECIPIENT or its designee (including independent financial auditors) in the preparation and support of any cost submission or cost (direct and indirect), price or profit analysis for this Interlocal Agreement or any negotiated Sub-Agreement or change order, and a copy of the cost summary shall be submitted to NCTCOG.

NCTCOG, or any of its duly authorized auditors or representatives, shall have access to such books, records, documents, and other evidence for the purpose of review, audit or inspection.

The records to be thus maintained and retained by FUNDS RECIPIENT shall include (without limitation):

- personnel and payroll records, including social security numbers and labor classifications, accounting for total time distribution of FUNDS RECIPIENT'S employees working full or part time on the work, as well as canceled payroll checks or signed receipts for payroll payments in cash;
- invoices for purchases, receiving and issuing documents and all other unit inventory records for FUNDS RECIPIENT'S stocks or capital items; and
- paid invoices and canceled checks for materials purchased, subcontractor costs, and/or and any other third parties' charges.

Records under section (a) above shall be maintained and made available during the entire period of performance of this Interlocal Agreement and until three (3) years from the date of the final NCTCOG payment for the project. In addition, those records which relate to any dispute, litigation, or the settlement of claims arising out of such performance, or costs or items to which an audit exception has been taken, shall be maintained and made available until completion of such action and resolution of all issues which arise from it, or until the end of the three-year period, whichever is later.

Access to records is not limited to the required retention periods. The authorized representatives designated in Attachment D, Article 17 of this Interlocal Agreement shall have access to records at any reasonable time for as long as the records are maintained. Access to records applies to financial records pertaining to all sub-agreements and related changes, to the extent the records reasonably pertain to sub-agreement performance; if there is any indication that fraud, gross abuse or corrupt practices may be involved; or if the sub-agreement is terminated for default or for convenience. NCTCOG reserves the right to require reimbursement of any over-payments determined as a result of any audit or inspection of records kept by the FUNDS RECIPIENT on work performed under this Interlocal Agreement.

#### **Article 11. Audits**

The FUNDS RECIPIENT shall provide assurances that, if funded, the FUNDS RECIPIENT will comply with the Single Audit provisions of the UGMS, prepared by the Governor's Office under §§783.001 et.seq, Texas Government Code, and 1 TAC §§5.141 et.seq, Governor's Office Regulations. Provisions of the Single Audit Circular in Part 1V of the UGMS apply to all recipients of funding under this grant.

#### **Article 12. Insurance and Liability**

The FUNDS RECIPIENT understands and agrees that it shall be liable to repay, and shall repay upon demand to NCTCOG, any amounts determined by NCTCOG, its independent auditors, or any agency of state government any funds which have been paid in violation of the terms of this Interlocal Agreement.

### **Article 13. Hazardous Substances, Waste Disposal and Manifests**

The FUNDS RECIPIENT shall comply with all applicable laws and regulations, including but not limited to, those relating to hazardous substances, waste disposal, and manifests. The FUNDS RECIPIENT shall ensure that the same requirement will be incorporated into sub-agreements and/or subcontracts awarded under the provisions of this Interlocal Agreement.

### **Article 14. Conflicts of Interest**

No employee, officer or agent of the FUNDS RECIPIENT shall participate in selection, or in the award or administration of a contract supported by state funds, if a conflict of interest, real or apparent, would be involved:

- The employee, officer or agent.
- Any member of his immediate family.
- His or her partner.
- An organization which employs, or is about to employ any of the above.

Such a conflict arises when any of the above has a financial or other interest in the subcontractor selected. The officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subcontractors. To the extent permitted by state or local law or regulations, such standards of conduct will provide for penalties, sanctions, or other disciplinary actions for violation of such standards by the FUNDS RECIPIENT officers, employees, or agents, or by contractors or their agents as specified in the UGMS. The FUNDS RECIPIENT shall notify NCTCOG immediately upon discovery of any potential or actual conflict of interest. The FUNDS RECIPIENT agrees that NCTCOG and TCEQ have sole discretion to determine whether a conflict of interest exists and that NCTCOG may terminate this Interlocal Agreement at any time, on the grounds of actual or apparent conflict of interest.

The FUNDS RECIPIENT shall notify NCTCOG in writing of any actual, apparent, or potential conflict of interest regarding any individual performing or having access to information regarding the services in question. As applicable, the notification shall include both organizational conflicts of interest and personal conflicts of interest. Any individual with a personal conflict of interest shall be disqualified from taking part in any way in the performance of any services that created the conflict of interest.

### **Article 15. Survival of Obligations**

All representations, indemnification's, warranties and guarantees made in, required by or given in accordance with this Interlocal Agreement, as well as all continuing obligations indicated in this agreement, will survive final payment, completion and acceptance of the service and termination or completion of the Interlocal Agreement.

### **Article 16. Contractual Costs**

The FUNDS RECIPIENT'S contractual costs must comply with allowable cost requirements. FUNDS RECIPIENTS who are governmental entities must engage in contractor selection on a competitive basis in accordance with their established policies. If the FUNDS RECIPIENT has no competitive procurement policy, the FUNDS RECIPIENT must generally select contractors by evaluation and comparison of price, quality of goods or services and past performance. All sub-agreements/subcontracts awarded by the FUNDS RECIPIENT under this Interlocal Agreement shall be in accordance with the (UGMS).

## **Article 17. Changes to Interlocal Agreement**

A Major Change will include one or more of the following:

- (1) An increase or decrease in the amount of compensation to the FUNDS RECIPIENT;
- (2) An extension or shortening of the term of the Agreement;
- (3) A significant change in the scope of the Agreement or the services to be performed; or
- (4) Any action that is beyond the authority of NCTCOG's Executive Director.

Implementation of a Major Change must be preceded by a formal written amendment to the agreement. The amendment must contain a description of the proposed change and shall be signed by persons authorized to bind each party in contract. Any amendment that exceeds the contractual authority of NCTCOG's Executive Director also requires the consent, at Agenda, of a majority of NCTCOG's Executive Board.

Any proposed change that is not a Major Change may qualify as a Minor Change. A Minor Change shall require the written agreement of both Project Representatives but shall not require a formal amendment to the contract. A copy of the authorization must be retained in the appropriate file of both the FUNDS RECIPIENT and NCTCOG.

If the FUNDS RECIPIENT requests a Minor Change and the Project Representative does not approve the request as a Minor Change, then the change shall be deemed a Major Change and the FUNDS RECIPIENT may only obtain authorization to proceed by a formal written amendment to this Interlocal Agreement.

## **Article 18. Severability**

All parties agree that should any provision of this Interlocal Agreement be determined to be invalid or unenforceable, such determination shall not affect any other term of this Interlocal Agreement, which shall continue in full force and effect.

## **Article 19. Intellectual Property**

For the purpose of this Article, "intellectual property" refers to:

- Any discovery or invention for which patent rights may be acquired;
- Any photographs, graphic designs, plans, drawings, specifications, computer programs, technical reports, operating manuals, or other copyrightable materials; and;
- Any other materials for which intellectual property rights may be obtained.

If the FUNDS RECIPIENT first conceives of, actually puts into practice, discovers, invents, or produces any intellectual property during the course of its work under this Agreement, it shall report that fact to NCTCOG.

The FUNDS RECIPIENT may obtain governmental protection for rights in the intellectual property. However, NCTCOG hereby reserves a nonexclusive, royalty-free and irrevocable license to use, publish, or reproduce the intellectual property for sale or otherwise, and to authorize others to do so. NCTCOG also reserves a royalty-free nonexclusive, and irrevocable license to use, publish, or reproduce for sale or otherwise, and to authorize others to use, publish, or reproduce, for sale or otherwise (to the extent consistent with the rights of third parties) any intellectual property for which the FUNDS RECIPIENT obtains rights with funds received under this Interlocal Agreement.

In performing work under this Interlocal Agreement, the FUNDS RECIPIENT shall comply with all laws, rules and regulations relating to intellectual property, and shall not infringe on any third party's intellectual property rights. It shall hold NCTCOG harmless for, and to the extent permitted by the laws and Constitution of the State of Texas, defend and indemnify NCTCOG against any claims for infringement related to its work under this Agreement.

The FUNDS RECIPIENT expressly acknowledges that persons with visual impairments may not expend state funds in connection with the purchase of an automated information system unless that system meets certain statutory requirements under §2157.005 of the Government Code, relating to accessibility. Accordingly, the FUNDS RECIPIENT represents and warrants to NCTCOG that the technology provided to NCTCOG for purchase is capable, either by virtue of features included within the technology or because it is readily adaptable by use with other technology, of

- (1) providing equivalent access for effective use by both visual and nonvisual means;
- (2) presenting information, including prompts used for interactive communications, in formats intended for non-visual use; and
- (3) being integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired. For purposes of this paragraph, the phrase "equivalent access" means a substantially similar ability to communicate with or make use of the technology, either directly by features incorporated within the technology or by other reasonable means such as assertive devices or services which would constitute reasonable accommodations under the Americans with Disabilities Act or similar state or federal laws. Examples of methods by which equivalent access may be provided include, but are not limited to, keyboard alternatives to mouse commands and other means of navigating displays, and customizable display appearances.

#### **Article 20. Correspondence**

All project related notices, reports and other contractual communications under this Interlocal Agreement shall be sent to NCTCOG Project Representative as specified under Attachment D, Article 18. All such communications shall be considered duly given if hand delivered; delivered by nationally recognized courier service, or mailed by certified or registered mail, return receipt requested. All such communications shall be deemed given when received, as evidenced by the signed acknowledgment of receipt by the recipient, the confirmation of delivery by the courier service, or the receipt returned by the sender.

#### **Article 21. Data and Publicity**

All data and other information developed under this Interlocal Agreement shall be furnished to NCTCOG and shall be public data and information, with exception to the extent it is exempt from public access by the Texas Open Records/Public Information Act, Vernon's TEX. GOV'T CODE § 552. Upon termination of this Agreement, all data and information shall become the joint property of NCTCOG and the FUNDS RECIPIENT.

#### **Article 22. Assignability**

This Interlocal Agreement is not transferable or otherwise assignable by the FUNDS RECIPIENT without the written consent of NCTCOG. Any attempted transfer is void without the written consent of NCTCOG.

### **Article 23. Sub-agreements and Subcontracts**

All contractual expenditures using funds provided under this Interlocal Agreement shall meet UGCMA, and all procurement laws, applicable to the FUNDS RECIPIENT and subcontractor, including the Professional Services Procurement Act. Note that the Common Rule of OMB Circular A-102, as adopted in the UGCMA, precludes the use of the cost plus, a percentage of cost method of contracting.

Any subcontractor acquired by the FUNDS RECIPIENT in connection with the services covered by this Interlocal Agreement will be limited to such individuals or firms, scope of work, and budget amounts as are specifically (1) identified herein; or as (2) approved by NCTCOG during the performance of this Interlocal Agreement prior to execution of a contract with the subcontractor. Any substitution in such subcontractor, the scope of work, and budget amounts will be subject to the prior written approval of NCTCOG.

The FUNDS RECIPIENT shall be responsible for the management and fiscal monitoring of all subcontractors. The FUNDS RECIPIENT shall ensure that all subcontractors comply with Article 10, Access/Examination of Records and all other provisions required by this Interlocal Agreement. NCTCOG reserves the right to perform an independent audit of all subcontractors.

Funds provided by NCTCOG pursuant to this Interlocal Agreement that are paid to the subcontractor shall be used by the subcontractor solely to satisfy the purposes of this Interlocal Agreement.

### **Article 24. Supplemental Funding Standards**

In addition to the standards set forth in applicable laws and regulations, the standards outlined below apply to all uses of the funds provided under this Interlocal Agreement including the implementation projects awarded funds by the FUNDS RECIPIENT. Unless authorization is otherwise specifically provided for in or under the terms of this Interlocal Agreement, the use of funds provided under this Interlocal Agreement, to include funds provided for pass-through grants, shall be in accordance with the supplemental funding standards set forth in this Article.

Payment of Fees. Local and regional political subdivisions subject to the payment of state solid waste disposal fees and whose payments are in arrears are not eligible to receive grant funding.

Land Acquisition Costs. Funds provided under this Interlocal Agreement may not be used to acquire land or an interest in land.

Municipal Solid Waste-Related Programs Only. Funds provided under this Interlocal Agreement may not be used for programs dealing with wastes that are not considered municipal solid waste , including programs dealing with industrial or hazardous wastes.

Programs Solely Related to Collection of Certain Wastes. Funds provided under this Interlocal Agreement may not be used for programs and activities solely related to the management of automotive wastes, to include: scrap tires, used oil, oil filters, antifreeze, lead-acid batteries, or other similar wastes excluded from disposal in MSW landfills. Funds may also not be used for the processing of scrap tires, such as through the purchase of equipment to shred or split the tires. However, the collection of these materials may be included as part of a comprehensive HHW collection and management program, so long as that is not the sole intent of the program.

Activities Related to the Disposal of Municipal Solid Waste. Except as may be specifically authorized under an eligible project category, funds provided under this Interlocal Agreement may not be used for activities related to MSW disposal.

This restriction includes solid waste collection and transportation to a disposal facility; waste combustion (incineration or waste-to-energy); processing for reducing the volume of solid waste that is to be disposed of; and any landfill-related facilities or activities. This also includes the closure and post-closure care of a landfill; or other activities and facilities associated with the ultimate disposal of municipal solid waste. This provision does not apply to activities specifically included under an authorized project category, to include landfill scales, citizens' collection stations, and small registered transfer stations.

Projects Requiring a TCEQ Permit. Funds may not be used for expenses related to projects or facilities that require a permit from TCEQ and/or that are located within the boundaries of a permitted facility, including landfills, wastewater treatment plants, and other facilities. This provision, however, may be waived by TCEQ, at its discretion, for otherwise eligible activities to be located at a closed permitted facility and/or for recycling activities that will take place within the boundaries of an open facility. Recycling activities that may qualify for such a waiver may include recyclables collection, composting, and land application of bio-solids for beneficial use. The Applicant and/or the FUNDS RECIPIENT should request a preliminary determination from TCEQ as to the eligibility of the project prior to consideration for funding.

Projects Requiring TCEQ Registration. Projects or facilities that require registration from TCEQ, and which are otherwise eligible for funding, may be funded. However, the registration for the facility must be finally received before that project can be selected for funding.

Projects that Create a Competitive Advantage Over Private Industry. In accordance with §361.014(b) of the Texas Health and Safety Code, a project or service funded under this Interlocal Agreement must promote cooperation between public and private entities and may not be otherwise readily available or create a competitive advantage over a private industry that provides recycling or solid waste services. Under this definition, the term private industry includes non-profit entities.

Supplanting Existing Funds. Funds provided under this Interlocal Agreement may not be used to supplant existing funds. In particular, staff positions where the functions assigned to that position will remain the same and that were active at the time of the project application, and were funded from a source other than a previous solid waste project, are not eligible for project funding. This provision does not apply to the salaries for staff of the FUNDS RECIPIENT in its conduct of activities under this Interlocal Agreement.

Food/Entertainment Expenses. Funds provided under this Interlocal Agreement may not be used for food or entertainment expenses, including refreshments at meetings and other functions. This provision does not apply to authorized employee per diem expenses for food costs incurred while on travel status.

Use of Alcoholic Beverages. Funds provided under this Interlocal Agreement may not be used for payment of salaries to any employee who uses alcoholic beverages on active duty. None of these funds may be used for the purchase of alcoholic beverages, including travel expenses reimbursed with these funds.

Funds to Law Enforcement Agencies. Funds provided under this Interlocal Agreement may not be provided to any law enforcement agency regulated by Chapter 415 of the Texas Government Code, unless the law enforcement agency is in compliance with all rules developed by the Commission on Law Enforcement Officer Standards and Education pursuant to Chapter 415 of the Texas Government Code, or the Commission on Law Enforcement Officer Standards and Education certifies that the requesting agency is in the process of achieving compliance with such rules.

**Article 25. Americans with Disabilities Act Requirements**

The FUNDS RECIPIENT shall comply with all applicable requirements of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101- 12213 (Pamph. 1995).

**Article 26. Employment Practices**

The FUNDS RECIPIENT agrees that in the performance of this Interlocal Agreement, it will not discriminate against any employee or applicant because of race, religion, color, sex, age, or national origin and it will comply with Executive Order 11246, entitle "Equal Employment Opportunity", as amended by Executive Order 11375, and as supplemented in Department of Labor Regulations (41 CFR Part 60). The FUND RECIPIENT assures that no person will, on the grounds of race, creed, color, handicap, national origin, sex, political affiliation or beliefs, be excluded from, be denied the benefit of, or be subject to discrimination under any program or activity funded in whole or part under this Interlocal Agreement.

**Article 27. Statutes Relating to Nondiscrimination**

The FUNDS RECIPIENT shall comply with all applicable state and federal statutes relating to nondiscrimination that include, but are not limited to, those listed in the UGMS.

**Article 28. Utilization of Small, Minority, and Women's Business Enterprises**

The FUNDS RECIPIENT agrees that qualified Historically Underutilized Businesses shall have the maximum practicable opportunity to participate in the performance of this Interlocal Agreement.

**Article 29. Safety and Protection**

Where applicable, the FUNDS RECIPIENT shall be responsible for maintaining and supervising all necessary safety precautions and programs in connection with the work/services performed under this Interlocal Agreement.

**Article 30. Energy Efficiency Standards**

The FUNDS RECIPIENT is encouraged to follow standards and policies on energy efficiency contained in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act (P. L. 94-163).

**Article 31. Force Majeure**

A force majeure event shall be defined to include governmental decrees or restraints, acts of God (except that rain, wind, flood or other natural phenomena normally expected for the locality shall not be construed as an act of God), work stoppages due to labor disputes or strikes, fires, explosions, epidemics, riots, war, rebellion, and sabotage.

Provided this Interlocal Agreement is still in force, and subject to the conditions below, if a delay or failure of performance by either party results from the occurrence of a force majeure event, the delay shall be excused and the time fixed for completion of the work extended by a period equivalent to the time lost because of the event if, and to the extent that:

- the delay or failure was beyond the control of the party affected and not due to its fault or negligence; and
- the delay or failure was not extended because of the affected party's failure to use all diligence to overcome the obstacle or to resume performance immediately after the obstacle was overcome.

No time extension shall be granted under this Article unless the party seeking relief has notified the other in writing within a reasonable time after commencement of the event, of the anticipated length and cause of the delay, the measures taken or to be taken to minimize the delay and the timetable by which the FUNDS RECIPIENT intends to implement these measures. The party seeking relief shall also give written notice of the ending of the event within a reasonable time after the event has ended.

NCTCOG shall be responsible for costs related to a force majeure event, only if they are incurred by the FUNDS RECIPIENT after the prior written request by the NCTCOG Project Representative, to incur such costs. Neither NCTCOG nor the FUNDS RECIPIENT shall have, and both hereby waive, any claim whatever for any damages resulting from delays caused by force majeure events.

### **Article 32. Termination of Interlocal Agreement**

This Interlocal Agreement shall terminate upon full performance of all requirements contained herein, unless this Interlocal Agreement is amended in writing.

This agreement may be terminated in whole or in part in writing by either contracting party in the event of substantial failure by the other party to fulfill its obligation under this Interlocal Agreement through no fault of the terminating party, provided that no such termination may be effected unless the other party is given:

- Not less than ten (10) days written notice (delivered by certified mail, return receipt requested) of intent to terminate; and an opportunity for consultation with the terminating party prior to termination.
- This Interlocal Agreement may be terminated in whole or in part in writing by NCTCOG for its convenience, provided that the FUNDS RECIPIENT is given not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate. Circumstances in which NCTCOG may terminate for convenience include, but are not limited to, the Texas Legislature's withdrawal of appropriations for this project or the FUNDS RECIPIENT'S continued or repeated failure to perform tasks and submit reports in a complete, correct and consistent manner.
- If termination for default of this Article, or for reduction or loss of Legislative appropriations of this Article is effected by NCTCOG, an adjustment in the Interlocal Agreement amount shall be made, but: no amount shall be allowed for anticipated profit on unperformed services, tasks or other work; and
- Any payment due the FUNDS RECIPIENT at the time of termination may be adjusted to the extent of any reasonable additional costs incurred by NCTCOG by reason of the FUNDS RECIPIENT'S default. The equitable adjustment for any termination shall provide for payment to the FUNDS RECIPIENT for services rendered and expenses incurred by the FUNDS RECIPIENT relating to contracts entered into prior to the termination, in addition to termination

settlement costs reasonably incurred by the FUNDS RECIPIENT relating to contracts entered into prior to the termination.

Upon receipt of a termination notice the FUNDS RECIPIENT shall promptly discontinue all services affected (unless the notice directs otherwise); and deliver or otherwise make available to NCTCOG all data, drawings, specifications, reports, estimates, summaries, and such other information, materials, and equipment as may have been accumulated by the FUNDS RECIPIENT in performing this Interlocal Agreement, whether completed or in progress.

Upon termination of this Interlocal Agreement, NCTCOG may take over the work and prosecute the same to completion by agreement with another party or otherwise. If, after termination for failure of the FUNDS RECIPIENT to fulfill its contractual obligations, it is determined that the FUNDS RECIPIENT had not so failed, the termination shall be deemed to have been effected for the convenience of NCTCOG.

If any delay or failure of performance is attributed to an event as defined in Force Majeure, the FUNDS RECIPIENT may in its sole discretion terminate this Interlocal Agreement in whole or in part. If such termination is effected, an equitable adjustment shall be made in accordance with this Article.

## DEFINITIONS

Wherever used in this Interlocal Agreement, the following terms have the meaning indicated which are applicable to both the singular and plural thereof. This list is not meant to be inclusive nor exclusive of all pertinent grant definitions:

**Accrued expenditures:** The charges incurred by the grantee during a given period requiring the provisions of funds for: (1) Goods and other tangible property received; (2) services performed by employees, contractors, subcontractors, and other payees, and (3) other amounts becoming owed under programs for which no current services or performance is required, such as annuities, insurance claims, and other business payments.

**Accrued income:** The sum of (1) earnings during a given period from services performed by the grantee and goods and other tangible property deliverable to purchasers; and (2) amounts becoming owed to the grantee for which no current services or performance is required by the grantee.

**Acquisition cost:** For equipment purchases, means the net invoice unit price of the property including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make that property usable for the purpose for which it was acquired. Other charges such as the cost of installation, transportation, taxes, duty or protective in-transit insurance shall be included or excluded from the unit acquisition cost in accordance with the grantee's regular accounting practices.

**Addenda:** Written or graphic instruments issued prior to the execution of the Agreement which clarify, correct or change the Proposal Requirements or the Agreement.

**Administrative requirements:** Those matters common to grants in general, such as financial management, kinds and frequency of reports, and retention of records. These are distinguished from "programmatic" requirements, which concern matters that can be treated only on a program-by-program or grant-by-grant basis, such as kinds of activities that can be supported by grants under a particular program.

**Cash contribution:** The FUNDS RECIPIENT'S cash outlay, including the outlay of money contributed to the FUNDS RECIPIENT by other public agencies and institutions, and private legislation, federal funds received from other assistance agreement may be considered as FUNDS RECIPIENT cash contributions.

**Common rule:** Part III of the Uniform Grant Management Standards, which were promulgated by the Texas Governor's Office of Budget and Planning pursuant to the Uniform Grant Conditions and Management Act, Texas Government Code Chapter 783.

**Contract Documents:** The Interlocal Agreement and the documents that are described in and incorporated into the Interlocal Agreement. Together, the Contract Documents form the contract between the parties.

**Contract Price:** The moneys payable by NCTCOG to the FUNDS RECIPIENT for completion of the work in accordance with the Contract Documents as stated in the Interlocal Agreement (subject to the provisions included in the Interlocal Agreement).

**Contract Times:** The number of days or dates stated in the Interlocal Agreement to complete the work so that it is ready for final payment.

**Cost sharing or matching:** The value of the third party in-kind contributions and the portion of the costs of a state assisted project or program not borne by the state.

**Cost-type Contract:** A contract or subcontract under a grant in which the FUNDS RECIPIENT or subcontractor is paid on the basis of the costs it incurs, with or without a fee.

**Equipment:** Tangible, non-expendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. A FUNDS RECIPIENT may use its own definition of equipment provided that such definition would include all equipment defined above.

**Expiration Date of the Interlocal Agreement:** The date indicated in the Interlocal Agreement as the date that the Interlocal Agreement terminates (end date of the Interlocal Agreement).

**Financial Completion:** In the opinion of the Funding Agency (NCTCOG and TCEQ), the work as outlined in the Interlocal Agreement is complete.

**Funding Agency:** The Texas Commission on Environmental Quality through the North Central Texas Council of Governments.

**Government:** A federal or state agency or a local government.

**Historically Underutilized Business:** As defined by Texas law and delineated in the State Purchasing and General Services Act, as amended September 1, 1995, a historically underutilized business as a corporation or a partnership in which fifty-one percent (51%) or more of the corporation's stock (or other equitable securities) or partnership's assets and interest are owned by one or more socially disadvantaged persons, who have a proportionate interest and actively participates in the corporation or partnership control, operation, and management. If the business is a sole proprietorship, the socially disadvantaged person must completely own, operate and control the business. Socially disadvantaged persons include members of certain groups including African Americans, Hispanic Americans, American Women, Asian Pacific Americans, and Native Americans.

**Intellectual Property:** (1) any and all inventories, discoveries, improvements, or creations for which copyright, trade secret, patent or other proprietary rights may be acquired, (2) any photographs, graphic designs, plans, drawings, specifications, computer programs, computer files, documentation, technical reports, operating manuals, or other copyrightable materials, and (3) any other work fixed in any tangible medium of expression which can be perceived, reproduced, or otherwise communicated for which copyright, trade secret, patent or other proprietary rights may be acquired.

**Intellectual Property Rights:** Patents, trademarks, trade secret rights, confidential information rights or any other proprietary rights to which a person may be entitled or may actually possess. Intellectual Property Rights include all rights of ownership and original authorship throughout the world.

**Interlocal Agreement:** The "NCTCOG Interlocal Agreement" which contains the salient terms of the Agreement between the FUNDS RECIPIENT and NCTCOG and covers the work to be performed; also describes and includes any additional agreement documents which may be attached to the Interlocal Agreement and made a part thereof as provided therein.

**Laws and Regulations:** Any and all applicable laws, rules, regulations, ordinances, codes and other orders of any and all governmental bodies, agencies, authorities and courts having jurisdiction.

**Liens:** Charges, security interests, liens or encumbrances upon real property or personal property.

**Local government:** Local and regional political subdivisions located within the State of Texas. The meaning is broadened to include eligible recipients of solid waste pass-through grant funds: cities; counties; public schools and school districts (excluding universities or post secondary educational institutions); Other general and special law districts created in accordance with state law, and with the authority and responsibility for water quality protection or municipal solid waste management, to include river authorities.

**Minor Change:** A written document which provides for minor changes in the work to be performed under the Interlocal Agreement, but does not involve a change in the contract price or the contract times.

**Obligations:** The amount of orders placed, contracts and sub-grants awarded, goods and services rendered, and similar transactions during a given period that will require payment by the grantee during the same or a future period.

**Outlay (expenditures):** Charges made to the project or program. Outlays may be reported on a cash or accruals basis. For reports prepared on a cash basis, outlays are the sum of actual cash disbursement for direct charges for goods and services, the amount of indirect expense incurred, the value of in-kind contributions applied, and the amount of cash advances and payments made to the FUNDS RECIPIENT. For reports prepared on an accrued expenditure basis, outlays are the sums of actual cash disbursements, the amount of indirect expense incurred, the value of in-kind contributions applied, and the net increase (or decrease) in the amounts owed by the grantee for goods and other property received, for services performed by employees, contractors, subcontractors, and other payees, and other amounts becoming owed under programs for which no current services or performance are required, such as annuities, insurance claims, and other benefit payments.

**Percentage of completion method:** A system under which payments are made for work according to the percentage of the completed work, rather than to the FUNDS RECIPIENT's cost incurred.

**Prior Approval:** Documentation evidencing consent prior to incurring specific costs.

**Project:** The total body of services rendered of which the work to be provided under the Interlocal Agreement may be the whole, or a part as indicated elsewhere in the Interlocal Agreement.

**Project Representative:** The individual who is authorized to execute the work program identified in the Interlocal Agreement. This individual must be an employee of the FUNDS RECIPIENT and may or may not have contractual authority.

**Real Property:** Land, including land improvements, structures and appurtenances thereto, excluding moveable machinery and equipment.

**Share:** When referring to TCEQ's portion of real property, equipment or supplies, means the same percentage as the TCEQ's portion of the acquiring party's total costs under the grant to which the acquisition cost of the property was charged. Only costs are to be counted, not the value of the third-party in-kind contributions.

**Standards:** The Uniform Grant Management Standards.

**State:** The State of Texas.

**Subcontractor:** An individual, firm, corporation or local government having a direct contract with the FUNDS RECIPIENT or with any other subcontractor for the performance of a part of the work identified in the Interlocal Agreement.

**Supplies:** Generally relates to the routine purchase of office supplies (paper, pencils, staples, etc.) or other goods that are consumed in a relatively short period of time in the regular performance of general office activities.

**Suspension:** (1) temporary withdrawal of the authority to obligate project funds pending corrective action by the FUNDS RECIPIENT, or sub-grantee or a decision to terminate the grant, or (2) an action taken by a FUNDING AGENCY official in accordance with the Interlocal Agreement, State or Federal law, or Regulations to immediately exclude a person from participating in grant transactions for a period, pending completion of an investigation and such legal or debarment proceedings as may ensue.

**Termination:** Permanent withdrawal of the authority to obligate previously-awarded project funds before that authority would otherwise expire. It also means the voluntary relinquishment of that authority by the FUNDS RECIPIENT or sub-grantee. "Termination" does not include (1) withdrawal of funds awarded on the basis of the FUND RECIPIENT'S underestimate of the unobligated balance in a prior period; (2) withdrawal of the unobligated balance as of the expiration of a grant; (3) refusal to extend a grant or award additional funds to make a competing or noncompeting continuation, renewal, extension or supplemental award; or (4) voiding of a grant upon determination that the award was obtained fraudulently or was otherwise illegal or invalid from inception.

**Unliquidated Obligations:** For reports prepared on a cash basis, means the amount of obligations incurred by the FUNDS RECIPIENT that has not been paid. Reports prepared on an accrued expenditure basis represent the amount of obligations incurred by the FUNDS RECIPIENT for which an outlay has not been recorded.

**Unobligated Balance:** The portion of the funds authorized by the FUNDING AGENCY that has not been obligated by the FUNDS RECIPIENT, and is determined by deducting the cumulative obligation from the cumulative funds authorized.

**Work:** The entire completed services or the various separately identifiable parts thereof required to be furnished under this Interlocal Agreement. Work includes and is the result of performing or furnishing labor, services, materials or equipment as required by the Interlocal Agreement.

## Appendices

(Each form is not required for every project. Please use only those forms that are applicable to your specific grant.)

### I. SUMMARY/RESULTS REPORT OF GRANT-FUNDED PROJECT

- **STATUS OF COMPLETION OF WORK TASKS FORM**
- **RESULTS REPORT FORMS**

- FORM 10a: LOCAL ENFORCEMENT
- FORM 10b: LITTER/ILLEGAL DUMPING CLEANUP AND COMMUNITY COLLECTION EVENTS
- FORM 10c: SOURCE REDUCTION/RECYCLING
- FORM 10d: LOCAL SOLID WASTE MANAGEMENT PLANS
- FORM 10e: CITIZENS COLLECTION STATIONS, SMALL REGISTERED TRANSFER STATIONS
- FORM 10f: HOUSEHOLD HAZARDOUS WASTE  
(attach a copy of the completed Data Information Form required to be submitted to TCEQ for each HHW collection activity)
- FORM 10g: TECHNICAL STUDIES
- FORM 10h: EDUCATIONAL AND TRAINING PROJECTS (stand alone projects)

### II. REIMBURSEMENT REQUEST FORM plus SUPPLEMENTAL FORM(s)

- FORM A Itemization Personnel/Salaries and Travel budget categories
- FORM B Itemization of Equipment and Contractual costs
- FORM C Itemization of Construction budget category
- FORM D Itemization of Supplies and the Other expenditures
- FORM E Itemization of In-kind Services

### III. REQUEST FOR BUDGET REVISION FORM

### IV. RELEASE OF CLAIMS

**ALL forms are located at the following website:**

[http://www.nctcog.org/envir/SEELT/funding/report\\_forms.asp](http://www.nctcog.org/envir/SEELT/funding/report_forms.asp)

Enter text in each field below to update the header information.

Grant Project Number 13-04-G06 City of Murphy Big Belly Recycling/Trash Containers@Parks

**Issue**

Consider and/or act upon a resolution to apply for a NCTCOG Solid Waste Grant for compactor trash and recycle bins and designate recycle rebate funds as matching funds.

**Staff Resource / Department**

Kim Lenoir, Director of Parks and Public Works

**Key Focus Area**

Community Character

**Summary**

North Central Texas Council of Government (NCTCOG) – Solid Waste Grant program has announced a call for projects, from \$15,000 to \$125,000 for grant awards. Staff is requesting authorization to prepare and submit a grant application for purchase of ten (10) recycle bins and solar compactor trash can units for city parks and city facilities.

**Background/History**

NCTCOG announces on a regular basis a call for projects for the State solid waste implementation funds. These funds are generated by solid waste disposal fees collected by the Texas Commission on Environmental Quality (TCEQ) and are the only TCEQ funds available for solid waste implementation projects to local governments in Texas. Eligible political jurisdictions including cities with solid waste authority, are encouraged to submit project applications for local and cooperative implementation activities consistent with the Regional Solid Waste Management Plan.

The Resource Conservation Council (RCC), NCTCOG's solid waste advisory committee and the body which manages these funds in North Central Texas on behalf of the State, meet to approve the Request for Project Applications (RFA). Once the completed project applications have been received by NCTCOG, due June 22, 2012, 5PM, the RCC evaluate and rank the applications. The RCC then make recommendations for funding to NCTCOG's Executive Board and their recommendations are then forwarded to the TCEQ. Contracts are then executed with the successful projects.

**Financial Considerations**

Matching funds for this grant are not required, but offering some matching funds will increase scoring level and success of funding. Staff is recommending purchasing 10 solar compactors and recycle containers for the parks and city facilities. Total cost \$63,990, leverage matching funds from the recycle rebates funds of \$12,798 (2 units) and request a grant of \$51,192 (8 units).

**Other Considerations**

The grant awards will be announced by NCTCOG on August 23, 2012.

**Action Requested**

City Council is requested to approve the resolution authorizing the grant application for a \$51,192 grant with a match of \$12,798 from rebate recycle funds for solar compactor and recycle bins for parks and city facilities.

**Attachments**

Resolution

Councilmember Brandon commented on other uses in the PD that might be considered for amendment. Mr. Fisher stated that the agenda item was limited to approving the requested use by SUP. He stated that a future agenda item could allow Council to review other uses.

**Council Action**

Councilmember Halbert moved to approve an ordinance amending Planned Development District No. 09-12-825 for Retail Uses to include veterinary use by Special Use Permit on property located at the northwest quadrant of FM 544 and McCreary Road. Councilmember Bradley seconded the motion. A vote was taken and passed, 7-0.

**8 RESOLUTION APPROVAL**

- 8.1 Consider and/or act upon a resolution to apply for a NCTCOG Solid Waste Grant for compactor trash and recycle bins and use recycle rebate funds as matching funds.

**Council Action**

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

- 8.2 Consider and/or act upon a resolution to apply for a grant for the Timbers Nature Preserve Park project.

**Council Action**

Councilmember Halbert moved to approve a resolution to apply for a grant with a \$100,000 match for the Timbers Nature Preserve Park project. Councilmember Daugherty seconded the motion. A vote was taken and passed, 7-0.

**9 OTHER CONSIDERATION ITEMS**

- 9.1 Consider and/or act on the proposed 4B Community Enhancement Recognition Awards Program.

**Council Discussion**

Councilmember Grant expressed concerns about this program and asked for clarification on who could apply. Staff clarified that it is a recognition program to encourage revitalization of properties, both commercial and residential, and to reward those efforts.

**Council Action**

Councilmember Halbert moved to approve an award program with a budget of \$2000. Councilmember Richmond seconded the motion. A vote was taken and passed, 7-0.

**Issue**

Consider and take action, if any, on the renewal notice for Solid Waste Collection and Transportation Agreement with Waste Management of Texas, Inc.

**Staff Resource / Department**

James Fisher, City Manager

**Summary**

Section 3 of the current Agreement requires a 90-day notice to Waste Management if the City does not want to automatically extend the Agreement for another 5 years.

If the City Council proposes to notify Waste Management of non-renewal and solicit proposals, I would propose the following schedule:

- Week of November 12<sup>th</sup>: Send letter to Waste Management notifying of non-renewal
- November 27<sup>th</sup>: City Council review and approve RFP
- Week of December 3<sup>rd</sup>: Deliver request for proposals to vendors and post on the City of Murphy website
- December 17<sup>th</sup>: Pre-submission Conference at 10:00am
- December 21<sup>st</sup>: 3:00pm deadline for questions
- January 14<sup>th</sup>: Request for proposals due at 10:00am
- February 5<sup>th</sup>: City Council will consider and take action regarding Solid Waste Collection, Disposal and Recycling Collection Services Agreement
- April 1<sup>st</sup>: New Agreement is effective and begins within the City of Murphy

**Action Requested**

Authorize the City Manager to send a letter of non-renewal to Waste Management and prepare an RFP for City Council consideration on November 27<sup>th</sup>.

**Attachments**

- 1) Current Agreement with Waste Management

Discussion/review of Water Conservation Plan and Enforcement Ordinances.

**Staff Resource / Department**

James Fisher, City Manager; Kim Lenoir, Director of Parks and Public Works; Linda Truitt, Director of Finance; Patti Towne, Court Administrator; David Gensler, Code Compliance Officer; Candy McQuiston, Customer Service Manager; Brad Rockey, Public Works Superintendent; City Attorney Office.

**Key Focus Area**

Community Character – Code Compliance, Landscaping Requirements

**Summary**

A new Water Conservation Plan and Enforcement Ordinance will soon be presented to comply with the new State of Texas Water Plan and the NTMWD Plan as required by federal and state regulators, EPA and TCEQ.

**Background/History**

The State of Texas has adopted a new water management plan and NTMWD is preparing a revised model plan for the communities to use. The primary message of the 2012 State Water Plan is a simple one: In serious drought conditions, Texas does not and will not have enough water to meet the needs of its people, its businesses, and its agricultural enterprises. This state plan presents the information regarding the recommended conservation and other types of water management strategies that would be necessary to meet the state's needs in drought conditions, the cost of such strategies, and estimates of the state's financial assistance that would be required to implement these strategies. The plan also presents the sobering news of the economic losses likely to occur if these water supply needs cannot be met. As the state continues to experience rapid growth and declining water supplies, implementation of the plan is crucial to ensure public health, safety, and welfare and economic development in the state. When we are in a drought, the challenges are heightened and Texans need to be even more diligent in water management.

Two key components discussed in the new North Texas Regional Plans are to adopt water conservation measures of no watering 10am to 6pm year a round, which has been led in North Texas by the Mayors of Dallas, Arlington, and Fort Worth. The second is to have the various stages (1,2,3) of watering restrictions to mean the same thing – probably removing the voluntary restrictions. Also state wide the wording *drought* may be removed, because water conservation is a management program of our limited water resources, not just drought driven.

Since adoption of the *Murphy Water Conservation Plan and Water Emergency & Drought Contingency Ordinance* in June 2011, Murphy has been diligent in educating our citizens and businesses. Flyers have been mailed to homeowners, reminders are on water bills, and the city website has information. Initially Public Works, Parks and Code Enforcement employees distributed hundreds of door hanger warnings to violators as an education tool. Since November 2011, all reported/noted violations have been directed to Code Enforcement. Code has issued 148 written warnings, 218 citations have been written, 39 tickets for Stage 2, and 139 tickets for Stage 3. Citations included 4 businesses, 2 home builders, 2 HOAs, and the remaining are residential.

The fine for a water citation under Murphy City Code Section 82.376 (a) is subject to a fine of up to \$2000.00. Normal fines for a first time offence is \$314.00, second time offence is \$564.00, third time

offence is \$1064.00, and fourth time offence is \$2064.00. The court will work with customers by either setting the case for a court hearing or accepting the payment of fines at the window. In the Murphy Municipal Court 40 tickets paid, 26 tickets dismissed, 1 ticket voided, 88 ticket reduced/deferred, 2 trials and 38 cases pending. Out of the 5700 water meters in the city, 96% of the Murphy population complied with the new water restrictions.

Murphy has an Ad-Hoc Team of employees (WET – Water Education Team of customer service, code enforcement, public works, courts, finance, city attorney) that will review the new ordinance and make recommendations to Council. Now that we have been through two recent summers of water restrictions, the goal is to take what we have learned and include it in the new ordinance to reduce any confusion and to streamline enforcement.

The City Attorney Office will recommend some legal changes to the enforcement section of the ordinance to remove loopholes and streamline the process.

**Financial Considerations**

N/A

**Action Requested / Staff Recommendation**

Discussion only. This is an opportunity for Council to give staff further direction.

Below are suggestions in our current water conservation plan that staff is reviewing to increase water conservation efforts. If there is a desire to change any development standards or ordinances to strengthen Murphy's water conservation efforts, please let staff know your concerns or desires for these changes.

**Attachments**

[Current ordinance](#)

Texas Water Development Board – Regional Plan Fact Sheet

**Section 82.26 – Part of the existing 2011 Murphy Water Conservation Plan**

**8.4 Landscape Water Management Measures (RED staff comments below)**

*The following landscape water management measures are required by the NTMWD for this plan. These are the minimal measures that should be implemented and enforced in order to irrigate the landscape appropriately.*

- *Time of day restrictions prohibiting lawn irrigation watering from 10 AM to 6 PM beginning April 1 and ending October 31 of each year. (NTMWD & WET will recommend year a round)*
- *Prohibition of watering of impervious surfaces. (Wind driven water drift will be taken into consideration.)*
- *Prohibition of outdoor watering during precipitation or freeze events.*
- *Lawn and landscape irrigation will be limited to twice per week.*

- *Rain and freeze sensors and/or ET or Smart controllers required on all new irrigation systems. Rain and freeze sensors and/or ET or Smart controllers must be maintained to function properly.*
- *“At home” car washing can be done only when using a water hose with a shut-off nozzle.*
- *Prohibition of watering areas that have been overseeded with cool season grasses (such as rye grass or other similar grasses), except for golf courses and public athletic fields.*

#### **8.5 Additional Water Conservation Measures (Not Required)**

*The following water conservation measures are also included in this Plan as options to be considered by the City of Murphy:*

- *Additional landscape water management regulations*
- *Landscape ordinance*
- *Water audits (New Flexnet metering system is helping with audits as needed)*
- *Rebates (If rebates were offered locally, the City will need to budget for or apply for grants, if any. A rebate program will increase staffing work load. Due to Murphy being a newer community, this is not a high priority.)*

*Appendix E is a summary of considerations for landscape water management regulations adopted as part of the development of this water conservation plan. These regulations are intended to minimize waste in landscape irrigation. Appendix E includes the required landscape water measures in 8.4. In addition, NTMWD recommends the following measures, but they are not required:*

- *Encourage all existing irrigation systems be retrofitted with rain and freeze sensors and/or ET or Smart controllers capable of multiple programming. Rain and freeze sensors and/or ET or Smart controllers must be maintained to function properly.*
- *Prohibition of use of poorly maintained irrigation systems that waste water.*
- *Requirement that all new athletic fields be irrigated by a separate irrigation system from surrounding areas.*
- *Implementation of other measures to encourage off-peak water use.*

*Landscape ordinances are developed by cities to guide developers in landscaping requirements for the city. NTMWD recommends that the following measures be included in the entity’s landscape ordinance:*

- *Requirement that all new irrigation systems be in compliance with state design and installation regulations (TAC Title 30, Part 1, Chapter 344). Including rain and freeze sensors and/or ET or Smart controllers capable of multiple programming.*
- *Native, drought tolerant, or adaptive plants should be encouraged.*
- *Drip irrigation systems should be promoted.*
- *Evapotranspiration (ET) / Smart controllers that only allow sprinkler systems to irrigate when necessary should be promoted.*

*Water audits are useful in finding ways in which water can be used more efficiently at a specific location. NTMWD recommends that the City of Murphy offer water audits to its customers.*

*In addition to the conservation measures described above, the NTMWD considers the following water conservation incentive programs as options that might be included in the plan: (outside watering can be the biggest water waster)*

- *Low-flow toilet replacement and rebate programs,*
- *Rebates for rain/freeze sensors and/or ET or Smart controllers,*
- *Low-flow showerhead and sink aerators replacement programs or rebates,*
- *ET/Smart irrigation controller rebates,*
- *Water efficient clothes washer rebates,*
- *Pressure reducing valve installation programs or rebates,*
- *Rain barrel rebates,*
- *On-demand hot water heater rebates, or*
- *Other water conservation incentive programs.*

# Water for Texas

## Regional Water Planning In Texas

In response to the drought of the 1950s and in recognition of the need to plan for the future, the legislature created the Texas Water Development Board (TWDB) to develop water supplies and prepare plans to meet the state's future water needs. In 1997, the legislature established a new water planning process, based on a "bottom-up," consensus-driven approach. Coordinating this water planning process are 16 planning groups, one for each regional water planning area (see map). The planning groups, each made up of about 20 members, represent a variety of interests, including agriculture, industry, environment, public, municipalities, business, water districts, river authorities, water utilities, counties, and power generation. Each planning group approved bylaws to govern its methods of conducting business and designated a political subdivision, such as a river authority, groundwater conservation district, or council of governments, to administer the planning process and manage any contracts related to developing regional water plans.

The planning groups conduct all functions at open meetings in an open and participatory manner. They hold special public meetings when they develop their scopes of work and hold hearings before adopting their regional water plans. This public involvement helps direct the planning and determine which water management strategies to recommend. Consensus building within the planning groups is crucial to ensure sufficient support for adopting the plan. Planning group members adopt plans by vote at open meetings in accordance with each group's respective bylaws.

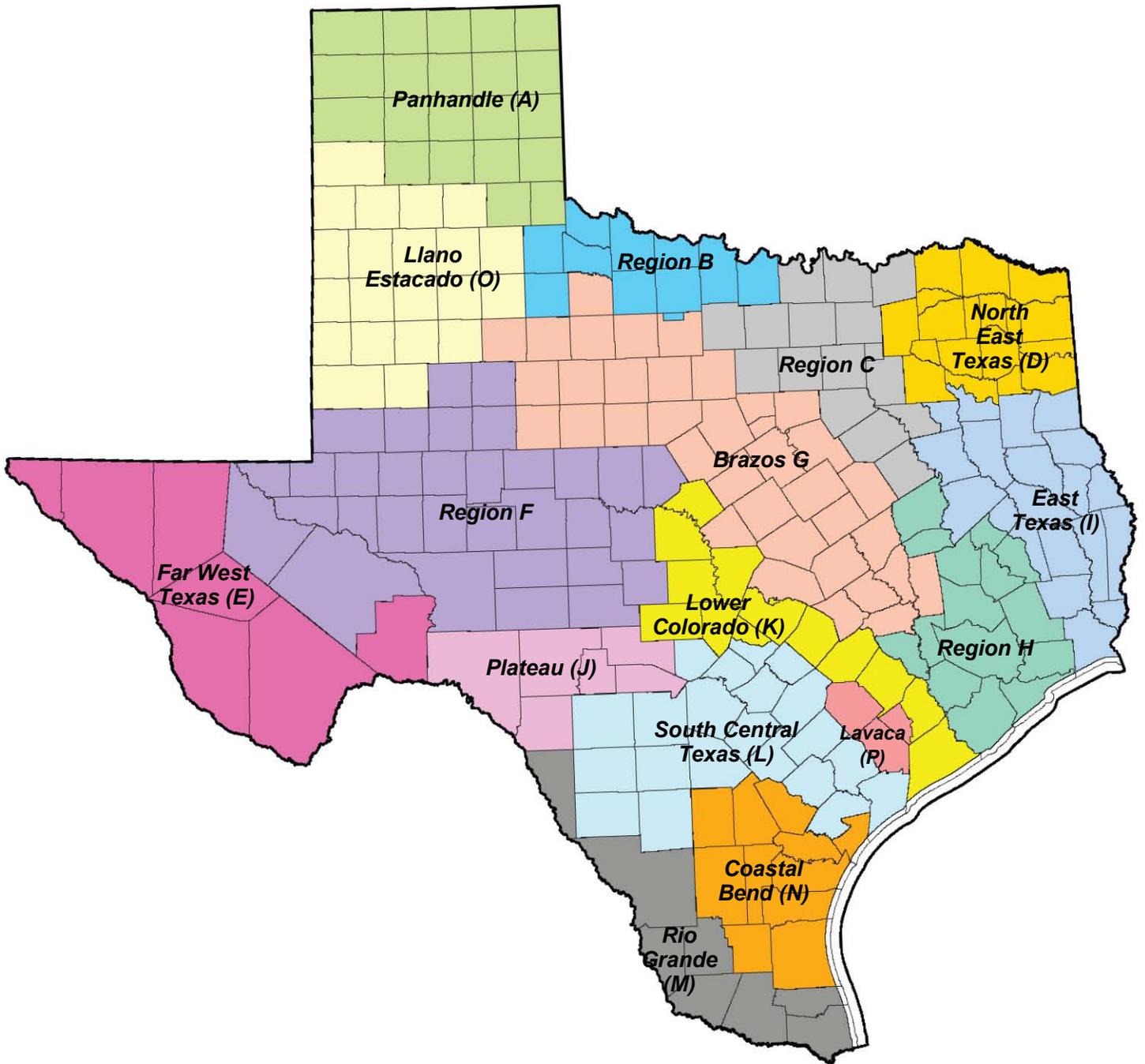
The ongoing work of the regional water planning process consists of 10 tasks:

- ▶ describing the regional water planning area
- ▶ quantifying current and projected population and water demand over a 50-year planning horizon
- ▶ evaluating and quantifying current water supplies

- ▶ identifying surpluses and needs
- ▶ evaluating water management strategies and preparing plans to meet the needs
- ▶ evaluating impacts of water management strategies on water quality
- ▶ describing how the plan is consistent with long-term protection of the state's water, agricultural, and natural resources
- ▶ recommending regulatory, administrative, and legislative changes
- ▶ describing how sponsors of water management strategies will finance projects
- ▶ adopting the plan, including the required level of public participation

Once the planning group adopts its regional water plan, the plan is sent to the TWDB for approval. The TWDB then compiles information from the approved regional water plans and other sources to develop the state water plan. The latest state water plan, *Water for Texas 2007*, summarizes the dedicated efforts of about 450 planning group members, numerous technical experts, the public, and several state agencies (the TWDB, Texas Parks and Wildlife Department, Texas Department of Agriculture, and Texas Commission on Environmental Quality) between 2002 and 2007. This process has resulted in greater public participation, public education, and public awareness, underscoring the benefits of directly involving local and regional decision makers and the public in water planning.

For additional information on the regional water planning process and current activities, please call (512) 936-0814 or visit our Web site at <http://www.twdb.texas.gov/wrpi/rwp/rwp.asp>.



## Regional Water Planning Areas

**Issue**

Consider and take action, if any, on adding December 31, 2012 as an additional employee holiday in 2012.

**Staff Resource / Department**

James Fisher, City Manager  
Linda Truitt, Finance Director

**Summary**

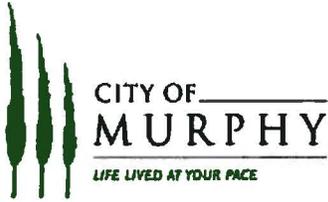
The 2012 Holiday schedule lists 10 holidays that are observed by City staff. The City Council approved the 2013 Holiday schedule at its October 16, 2012 meeting which also has 10 holidays. January 1, 2013 falls on a Tuesday (approved holiday), and I feel that adding Monday, December 31 would be a wise investment of time, staff resources and dollars.

**Action Requested**

Consider a motion to add December 31, 2012 to the 2012 Holiday schedule.

**Attachments**

- 1) 2012 Paydays & Holidays Schedule



# CITY OF MURPHY

## 2012 PAYDAYS & HOLIDAYS

 = Payday  
 = Holiday

### January

1  3 4 5  7  
 8 9 10 11 12 13 14  
 15  17 18 19  21  
 22 23 24 25 26 27 28  
 29 30 31

### February

1 2  4  
 5 6 7 8 9 10 11  
 12 13 14 15 16  18  
 19 20 21 22 23 24 25  
 26 27 28 29

### March

1  3  
 4 5 6 7 8 9 10  
 11 12 13 14 15  17  
 18 19 20 21 22  24  
 25 26 27 28 29  31

### April

1 2 3 4 5  7  
 8 9 10 11 12  14  
 15 16 17 18 19  21  
 22 23 24 25 26  28  
 29 30

### May

1 2 3 4 5  
 6 7 8 9 10  12  
 13 14 15 16 17 18 19  
 20 21 22 23 24  26  
 27  29 30 31

### June

1 2  
 3 4 5 6 7  9  
 10 11 12 13 14 15 16  
 17 18 19 20 21  23  
 24 25 26 27 28 29 30

### July

1 2 3  5  7  
 8 9 10 11 12 13 14  
 15 16 17 18 19  21  
 22 23 24 25 26 27 28  
 29 30 31

### August

1 2  4  
 5 6 7 8 9 10 11  
 12 13 14 15 16  18  
 19 20 21 22 23 24 25  
 26 27 28 29 30  31

### September

1  
 2  4 5 6 7 8  
 9 10 11 12 13  15  
 16 17 18 19 20  22  
 23 24 25 26 27  28 29  
 30

### October

1 2 3 4 5 6  
 7 8 9 10 11  13  
 14 15 16 17 18 19 20  
 21 22 23 24 25  27  
 28 29 30 31

### November

1 2 3  
 4 5 6 7 8  10  
 11 12 13 14 15 16 17  
 18 19 20  21  22  23 24  
 25 26 27 28 29 30

### December

1  
 2 3 4 5 6  8  
 9 10 11 12 13 14 15  
 16 17 18 19 20  22  
 23  24  25 26 27 28 29  
 30 31

### HOLIDAYS:

1/2/2012 New Year's Day (observed)  
 1/16/2012 Martin Luther King, Jr. Day  
 4/6/2012 Good Friday  
 5/28/2012 Memorial Day  
 7/4/2012 Independence Day  
 9/3/2012 Labor Day (except fire)  
 9/11/2012 Patriot Day (fire only)  
 11/22/2012 Thanksgiving Day  
 11/23/2012 Friday Thanksgiving Holiday  
 12/24/2012 Christmas Eve  
 12/25/2012 Christmas Day

**Issue**

Consider and take action, if any, on the proposed revisions to the Code of Ethics of the City of Murphy and the proposed Rules and Procedures of the Ethics Review Commission.

**Staff Resource / Department**

James Fisher, City Manager

Ben Wyse, Assistant City Attorney

**Background**

The Ethics Review Commission was established in 2012 and held several meetings in order to appoint its officers, review, consider and discuss the Code of Ethics of the City of Murphy and the Commission's duties and responsibilities in this regard, and to discuss, prepare and adopt its proposed Rules and Procedures for submission to the City Council for consideration and action. On July 19, 2012, the Commission approved its proposed Rules and Procedures and also approved certain recommendations, requests and notifications to be presented to the City Council.

On October 16, 2012, City Council approved the Ethics Review Commission's recommendations A2, A4 and A5 as presented; recommendation A3 to be modified to require all City Officials to receive a copy of the Code of Ethics and sign for it; and recommendations A1 with the additional requirement that a request to access the city employees must go through the City Manager's office. After general discussion, Council asked that the additional recommendations be brought back on the November 13, 2012 agenda.

Subsequently, a member of Council has asked that Council consider the question, "Can a member of the Ethics Review Commission serve on other City Boards and Commissions?"

**Attachments**

- 1) Recommendations, Requests and Notifications for the Proposed Amendments to the Code of Ethics of the City of Murphy
- 2) Proposed Rules and Procedures of the Ethics Review Commission

# CITY OF MURPHY

## ETHICS REVIEW COMMISSION

### RULES AND PROCEDURES

#### SECTION 1. INTRODUCTION

(a) The Ethics Review Commission (the “Commission”) is an advisory body of the City of Murphy, Texas, having jurisdiction over ethics complaints as described in Chapter 2, Article IX of the Code of Ordinances of the City of Murphy, Texas. The Commission is responsible for its own development, discipline, and performance of its duties and responsibilities. The development of this policy is designed to ensure effective and efficient application of these rules and procedures.

(b) This policy addresses Commission relations among Commission members, and with city employees and officials. By adopting this policy, we, as members of the Commission, acknowledge our responsibility to each other, to City staff and to the public. This policy will be reviewed as necessary.

#### SECTION 2. MISSION

(a) The Commission will provide for the fair and equal resolution of all ethics complaints brought forth for its review.

(b) In order to ensure proper resolution of all matters brought before the Commission, members of the Commission will display behavior that demonstrates independent and impartial review of all matters addressed by them, and be duly responsible to the citizens of the City of Murphy and to each other.

#### SECTION 3. INFORMATION

(a) The Complaint Process will be followed as outlined in Article IX, Section 2-514, as amended.

(b) All Commission members shall have access to the same information with which to make decisions. When one Commission member has an information request, the response may be shared with all members of the Commission so that each member may be equally informed.

(c) All correspondence or communications shall be copied to the City Attorney.

#### SECTION 4. ROLES

(a) The Chairperson shall preside at meetings of the Commission, and shall be recognized as head of the Ethics Review Commission for all purposes. The Chairperson

may participate in the discussion of all matters coming before the Commission. The Chairperson shall be entitled to vote as a member thereof unless prohibited by law, and shall have no power of veto.

(b) The Commission shall elect from among the Commission members a Vice Chairperson who shall act as Presiding Officer during the absence or disability of the Chairperson.

(c) The Chairperson shall preserve order and decorum and shall require Commission members engaged in debate to limit discussion to the question under consideration.

(d) The Chairperson is the spokesperson for the Commission on all official positions taken unless absent, at which time the Vice Chairperson or other designee will assume the role.

(e) The Chairperson will encourage all Commission members to fully participate in Commission discussion before an item is brought to vote.

(f) The Chairperson may appoint a subcommittee made up of Commission members and staff as deemed necessary by the Commission to recommend direction to the full Commission.

(g) The Chairperson or designee shall act as the appointed liaison to the City Council.

## SECTION 5. MEETINGS

(a) **Annual Meeting** – The Commission shall meet at least once a year as outlined in Article IX, Section 2-513 (subsection 3) as amended.

(b) **Special Meetings** – Special Meetings may be held on any day of the week to consider items that require action prior to the annual meeting and may be called upon at the request of the Chairperson, Vice Chairperson or City Manager. Special meetings will be open to the public in accordance with the Texas Open Meetings Act.

(c) **Work sessions** – Work sessions shall be held as needed and used to allow the Commission to discuss procedures. Work sessions will be open to the public in accordance with the Texas Open Meetings Act.

(d) **Executive Sessions** – The Commission may meet in executive session in compliance with the Texas Open Meetings Act. All final actions, decisions or votes on any matter deliberated in an executive session shall be made in open session for which proper notice has been provided. All discussions in executive session shall remain confidential. Executive sessions are not open to the public in accordance with the Texas Open Meetings Act.

(e) **Each member shall sign a nondisclosure agreement.**

(f) **Attendance** - Commission members are expected to attend all meetings and stay in attendance during each meeting. No member shall leave a meeting without advising the Presiding Officer.

(g) The Commission may create a subcommittee of two as necessary.

(h) **Punctuality and Recess** – Members of the Commission are expected to arrive at meetings at or before the scheduled time for the meeting to begin and shall advise the Chairperson or Secretary if there is an expectation that the Commission member will be tardy or may need to leave the meeting before it is adjourned. At the beginning of each meeting, the Presiding Officer shall announce those members that are absent and shall announce the arrival time of any member arriving after the beginning of any meeting. The Presiding Officer may at any time, upon his or her own motion, or upon the request of a Commission member, declare a recess of the meeting. *The time period of the recess shall be strictly followed.*

(i) **Conflict of Interest** – A Commission member prevented from voting due to a conflict of interest shall leave the room during the debate, shall not vote on the matter, and shall otherwise comply with the state law and the Charter and ordinances concerning conflicts of interest. Any Commission member filing a conflict of interest affidavit on an Executive Session item shall not thereafter confer with staff, or Commission members regarding that matter. The City attorney may provide assistance in determining whether or not a conflict of interest exists.

(j) **Process of Ethics Hearing:**

1. An initial meeting will be held to discuss the filed complaint.
2. A majority vote will be required for the Commission to continue its investigation of the complaint; otherwise, the matter will be closed.
3. The Chairperson or authorized designee shall send notice of the initial review and its outcome to both the complainant and the complaine within a reasonable amount of time.
4. The Commission will exercise its powers as outlined in Article IX, Section 2-513 to investigate, request and gather evidence as necessary to determine if a violation has occurred.
5. If the Commission determines that there are reasonable grounds to believe that a violation of Article IX has occurred, it shall schedule a final hearing. Otherwise, the complaint may be dismissed.
6. Sanctions may be imposed in accordance with Article IX, Section 2-517 as amended, by majority vote of the Commission.

(k) **Conduct of Meetings and Work Sessions**

- 1) During Commission meetings and work sessions, Commission members shall assist in preserving order and decorum and shall neither by conversation or

otherwise delay or interrupt the proceedings nor refuse to obey the rules of the Commission.

2) A Commission member shall confine discussion to the question under debate, avoid the discussion of personalities and the use of inappropriate language, and refrain from personal attacks or from publicly criticizing a citizen, a City Councilmember, a member of any board, commission or committee of the City, an individual employee, or an operational issue. Criticism is differentiated from questioning facts or the opinion of staff.

3) When there is more than one speaker during a final hearing who is called to address the matter, Commission Members shall delay their comments until after all speakers on the subject have been heard.

4) The Chairperson shall state all questions submitted for a vote and announce the result.

(1) **Citizens and Visitors**

(1) Everyone attending a meeting will refrain from private conversations and turn mobile phones to silent or vibrate while the Commission is in session.

(2) Citizens and visitors attending Commission meetings, work sessions and hearings shall observe the same rules of propriety, decorum and good conduct applicable to members of the Commission. Any person making personal, impertinent, disruptive, profane or defamatory remarks or who becomes boisterous while addressing the Commission or while attending the meeting, work session or hearing, shall be removed from the room if so directed by the Presiding Officer. Such person shall be barred from further audience before the Commission during that session. If the Presiding Officer fails to act, any member of the Commission may move to require enforcement of the rules, and the affirmative vote of a majority of the Commission shall require the Presiding Officer to act.

(4) Unauthorized remarks from the audience, stamping of feet, whistles, yells and similar demonstrations shall not be permitted by the Presiding Officer, who may direct the removal of offenders from the room. In case the Presiding Officer shall fail to act, any member of the Commission may move to require enforcement of the rules and the affirmative vote of a majority of the Commission shall require the Presiding Officer to act.

(5) No placards, banners, or signs will be permitted in the Commission meeting room or in any other room in which the Commission is meeting. Exhibits, displays and visual aids used in connection with presentations, however, are permitted. Video presentations requested by a citizen or visitor as visual aids will not be broadcast over any city public access cable channel.

(m) **Agenda**

(1) The Chairperson and/or alternatively Vice Chairperson shall set the agenda. Any Commission member may request an item be placed on a future agenda at a meeting.

(2) Agenda item requests made outside of an open meeting shall be submitted to the City Secretary.

(n) **Motions**

(1) The Commission may discuss an agenda item prior to a motion being made. This allows a motion to be crafted that will incorporate the issues discussed.

(2) A motion made and seconded will be considered the main motion. Any Commission member may make a motion to amend a motion. The amendment must receive a second before it may be discussed and must be voted on prior to voting on the main motion.

(3) A motion may be withdrawn or modified by its mover without asking permission until the motion is voted upon. If the mover modified the motion, the Commission member who seconded the motion may withdraw the second.

(4) A motion to reconsider any action of the Commission must be made no later than prior to the conclusion of the next regularly scheduled meeting of the Commission. Such a motion may only be made by a Commission member who voted with the prevailing side. The motion to reconsider may be seconded by any member. No question shall be twice reconsidered except by unanimous vote of the Commission.

(i) If a motion to reconsider is made at the same meeting at which the matter was acted upon, the motion may be heard and voted upon and the original action on the matter is set aside. Deliberation may then resume on the matter at that same meeting.

(ii) If a motion to reconsider is made at the next meeting after the matter was acted upon, with the exception of any final determination of the Commission, the motion to reconsider may be heard and voted upon and the original action on the matter is not set aside. Deliberation may not resume on the matter, but it shall be placed on the next available agenda for deliberation.

(o) **Suspension of Rules** – Any provision of these rules not governed by the City Charter, City Code, State or Federal law may be temporarily suspended by a majority vote of the members of the Commission present. The vote on any such suspension shall be taken by yeas and nays and entered upon the record.

(p) **Amendment of Rules** – These rules may be amended or new rules adopted, by a majority vote of the members of the Commission and approved by the Commission.

(q) **Failure to Comply** - A failure to comply with these rules does not invalidate any otherwise lawful act of the Commission.

(r) **Tabling** – An item under consideration may be tabled until a later point in the same meeting.

(s) **Postponement** – An item may be postponed until a future meeting, a specific future date, or until a specific outside action occurs. Items may also be postponed indefinitely, which means the item is dead and cannot be brought back before the Commission unless there is a change.

(t) **Retention Policy** - The retention policy of the Commission shall be the same as that of the City.

#### SECTION 6. PUBLIC CONTACT / MEDIA RELATIONS

(a) All reporters may receive an agenda in advance and will be furnished supporting materials needed for clarification if requested.

(b) The Commission shall refer all media inquires to the City Manager or his or her designee as the City's official representative to the media.

**CITY OF MURPHY**  
ETHICS REVIEW COMMISSION

Recommendations, Requests and Notifications

A. Pursuant to the City of Murphy Code, Chapter 2 – Administration, Article IX – Code of Ethics, Section 2-513 (a)(4)(f), the Ethics Review Commission requests the City Council to consider the following recommendations that were approved by the Commission at its meeting held on Thursday, July 19, 2012:

1. Amend Article IX Code of Ethics, Section 2-513, to require all employees and City officials to answer any inquiries of the Ethics Review Commission.
2. Amend Article IX Code of Ethics, Section 2-501 Definitions, to include the Municipal Development District in the definition of “City Official.”
3. Amend Article IX Code of Ethics, Section 2-518, to require all City employees and City officials to receive a copy of the Code of Ethics and to sign for their receipt of their copy. [Not just to make it available.]
4. Approve the Confidentiality and Non-Disclosure Agreement approved by the Ethics Review Commission on July 19, 2012.
5. Approve the Ethics Review Commission Ethics Complaint form.

B. Pursuant to City of Murphy Code, Chapter 2 – Administration, Article IX – Code of Ethics, Section 2-513, the Ethics Review Commission requests the following administrative support from the City:

1. City Secretary or designee to receive requests for agenda items outside of an open meeting and to prepare, post, and deliver the agendas for the meetings of the Ethics Review Commission meeting (in order to avoid potential violations of the Open Meetings Act by members of the Commission).

C. Pursuant to City of Murphy Code, Chapter 2 – Administration, Article IX – Code of Ethics, Section 2-513, the Ethics Review Commission advises the City Council of the resignation of Chairperson Gena Misouria effective at the end of the Commission meeting on July 19, 2012; Chairperson Misouria’s term would have continued through December 31, 2013.

**Issue**

Consider and take action, if any, on an Ordinance concerning the position of the City Secretary.

**Staff Resource / Department**

James Fisher, City Manager

**Summary**

The proposed Ordinance is a result of discussions with the City Council regarding the City Secretary position. The Ordinance does not take away the City Council's authority to hire and/or fire the person in this position.

**Action Requested**

I recommend approval of this Ordinance concerning the position of the City Secretary.

**Attachments**

1) Ordinance No: \_\_\_\_\_

## **ORDINANCE \_\_\_\_\_**

AN ORDINANCE OF THE CITY OF MURPHY, TEXAS ADDRESSING THE CITY SECRETARY DUTIES; PROVIDING FOR AN EFFECTIVE DATE, PROPER NOTICE AND MEETING, A SEVERABILITY CLAUSE AND REPEALER CLAUSE

**WHEREAS**, the City of Murphy is a Home-Rule City that is governed by a City Charter; and

**WHEREAS**, City Charter Article III, Section 3.07, Powers of the City Council, establishes the provision for the appointment and removal of the office of the City Secretary; and

**WHEREAS**, City Charter Article IV, Section 4.02, City Administration, establishes the role and responsibilities of the City Secretary; and

**WHEREAS**, the City Secretary is a full-time position and a key member of the City's Leadership Team; and

**WHEREAS**, the City Council is not available to manage the City Secretary on a daily basis.

Now, therefore be it ordained by the City Council of the City of Murphy, Texas that:

### Section 1: Duties

1. The above-referenced items are true, remain in place and the City Council is not releasing its powers or responsibilities as set forth in the Charter; and
2. The City Manager is responsible for the day-to-day management of the City Secretary and has the authority to approve or deny all travel and leave requests; and
3. The City Manager shall advise City Council of any City Secretary disciplinary issue or performance concern at the next regular City Council meeting; and
4. The attached job description reflects the requirements of the City Secretary per Section 4.02 of the City Charter and may not be changed without the approval of City Council.

### Section 2: Effective Date

This Ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

### Section 3: Proper Notice and Hearing

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

#### Section 4: Severability

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.

#### Section 5: Repealer

The provisions of this Ordinance shall be cumulative of all other ordinances, or parts of ordinances, and resolutions, or parts of resolutions governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances, or parts of ordinances, or resolutions, or parts of resolutions, inconsistent or in conflict with any of the provisions of this Ordinance are hereby expressly repealed to the extent that such inconsistency is apparent.

**PASSED, APPROVED AND ADOPTED** this the 13th day of November 2012.

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Bret M. Baldwin, Mayor  
City of Murphy

ATTEST:

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Kristi Gilbert, City Secretary  
City of Murphy

CITY OF MURPHY STATUS: Exempt	<b>CITY SECRETARY</b>	CITY SECRETARY  Created 2/2007 Revised 11/2012
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**JOB SUMMARY**

Performs tasks outlined by the City Charter, collect and distribute information to City Council, City Staff and the public, administers the City Records Management Program, and serves as Election Administrator for City elections.

**ESSENTIAL DUTIES AND RESPONSIBILITIES**

**City Charter Provisions:**

1. Post all Meeting Notices and Post and Publish Public Hearing Notices in accordance with State Law
2. Attend all public meetings of the City Council
3. Keep the Minutes of all meetings of the City Council
4. Act as custodian of all official records of the City Council
5. Hold and maintain the seal of the City and affix this seal to all appropriate documents
6. Authenticate by signature and seal all official documents of the City
7. Perform such other duties as may be required by the City Council consistent with the City Charter and the laws of the State of Texas

**Other Duties and Responsibilities:**

1. Prepare and provide City Council information, including agenda packets, Minutes, Ordinances, Resolutions, and Contracts
2. Serve as Records Management Officer and establish and/or maintain a Records Management Program for City records to include maintaining policies and procedures for creation, receipt, storage, retrieval, and disposition of records; assuring that all departments are in compliance; creating and maintaining an index file of official City documents and records; adhering to adopted retention schedules; and preserve certified agendas or tape records of closed meetings
3. Archive and preserve official city records in accordance with the Records Management Program
4. Administer all City of Murphy elections in accordance with City Charter and State Election laws
5. Receive and process all requests for public information and petitions in accordance with applicable laws
6. Ensure that City-related legislation is followed
7. Ensure codification of City ordinances are updated annually
8. Administer the City's Boards and Commission appointment process
9. Prepare department budget
10. Attend other City meetings and functions as required
11. Respond to public inquiries and matters and assist in resolving any problems or complaints. Maintains an effective working relationship with the general public through community relations with various media--television, newspaper, schools, businesses, community and civic organizations. Assists the public with questions requiring knowledge of policies and procedures and various election issues, community information, open records, historical records, and other functions.
12. Plans, organizes, trains, supervises, and evaluates the work of subordinates to enhance their probability of success in performing their day to day job duties and assists in developing, reviewing and updating departmental policies, regulations, and procedures.
13. Performs other related duties as assigned by the City Council or their designee.

**KNOWLEDGE, SKILLS, AND ABILITIES**

Must have a working knowledge of municipal operations and state and municipal laws; election laws; Public Information Act; records retention policies; parliamentary procedure; and modern office administrative practices and procedures. Must have excellent organizational, leadership, managerial, and problem solving skills. To perform the essential functions of the job, must have excellent spelling, grammar, punctuation, and sentence structure skills; excellent communicative skills, both oral and written; transcription skills; computer operation skills to include; proficiency in various word processing and spreadsheet software; and typing skills up to 50 net words per minute; work well under pressure and stress; meet deadlines; plan, organize, and prioritize multiple work assignments; maintain a friendly and pleasant demeanor at all times; read, write, talk, hear, see, and lift, push and pull up to 30 lbs. of files, books, office equipment, and supplies. Must maintain confidentiality of confidential matters. Must be able to

have a flexible work schedule to include evenings and weekends as required.

### PERSONAL CHARACTERISTICS

Is responsible for encouraging and facilitating a harmonious working environment. To that end, the following interpersonal and personal characteristics are expected:

- a. Displays enthusiasm for the job, which includes attendance, performance, and conduct;
- b. Ability to work effectively and cohesively with others;
- c. Displays courteous, respectful, and polite demeanor towards co-workers and members of the public; and,
- d. Recognizes the importance of being a team member that creates a positive working environment.

### EDUCATION, EXPERIENCE AND CERTIFICATION

High School Diploma or General Equivalency Diploma (GED) is required. A Bachelor's Degree in Business Administration, Public Administration, or current certification as a Texas Registered Municipal Clerk is required or must be obtained within one year of employment. Two or more years of progressive municipal government experience is required (working directly with a City Council is preferred). One or more years of supervisory experience are required. Texas Notary Public is required.

### CERTIFICATION

Employee Signature:

Date Signed:

Immediate Supervisor:

Date Signed: