

**MURPHY CITY COUNCIL AGENDA
REGULAR CITY COUNCIL MEETING
FEBRUARY 7, 2012 AT 6:00 PM
206 NORTH MURPHY ROAD
MURPHY, TEXAS 75094**

NOTICE is hereby given of a meeting of the City Council of the City of Murphy, Collin County, State of Texas, to be held on February 7, 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.

1 CALL TO ORDER

2 INVOCATION & PLEDGE OF ALLEGIANCE

3 ROLL CALL & CERTIFICATION OF A QUORUM

4 PUBLIC COMMENTS

5 CONSENT ITEMS

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.

5.1 Consider and/or act upon acceptance of the Annual Traffic Contact Report for 2011 for the Murphy Police Department (also known as the Racial Profiling Report).

5.2 Consider and/or act on the application of Winkelmann and Associates, Inc. representing Forestar (USA) Real Estate Group, Inc, requesting approval of the Final Plat for Maxwell Creek North, Phase 10A on property zoned PD (Planned Development) District for Single Family Uses (Ordinance No. 00-06-487) on property located southwest of the intersection of McMillen Road and Rosewood Drive.

5.3 Consider and/or act on the application of Winkelmann and Associates, Inc. representing Forestar (USA) Real Estate Group, Inc, requesting approval of the Final Plat for Maxwell Creek North, Phase 10C1 on property zoned PD (Planned Development) District for Single Family Uses (Ordinance No. 00-06-487) on property located southwest of the intersection of McMillen Road and Rosewood Drive.

5.4 Consider and/or act on the application of Spiars Engineering representing Master-Developers-SNB LLC, requesting approval of the Final Plat for Rolling Ridge Estates, Phase 6 on property zoned PD (Planned Development) District for Single Family Uses (Ordinance No. 04-09-622).

6 PUBLIC HEARINGS

6.1 Hold a public hearing and consider and/or act upon approval of an ordinance amending PD (Planned Development) District Ordinance No. 10-05-841, as amended, for Retail Uses, and revising the approved concept plan with conditions on property comprising approximately 24.09 acres located at the northwest quadrant of FM 544 and North Murphy Road. (Zoning File 2011-02)

7 OTHER CONSIDERATION ITEMS

- 7.1 Consider and/or act upon approval of a site plan on property zoned PD (Planned Development) District Ordinance No. 10-05-841, as amended, for Retail Uses, and comprised of approximately 20.7 acres located at the northwest quadrant of FM 544 and North Murphy Road.
- 7.2 Consider and/or act upon submitting bylaws to the Murphy Municipal Development District (MDD) board for their approval.
- 7.3 Consider and/or act upon the allowance of alcohol use at the Murphy Community Center and Murphy Activity Center.
- 7.4 Consider and/or act upon approval of additional funding for furniture, fixtures and equipment for the Murphy Community Center.

8 ORDINANCE APPROVAL

- 8.1 Consider and/or act upon the approval of an ordinance amending the FY 2011-2012 budgets for the General Fund and the Community Development Corporation (4B).
- 8.2 Consider and/or act upon the approval of an ordinance authorizing the issuance of "City Of Murphy, Texas, General Obligation Refunding Bonds, Series 2012"; levying a continuing direct annual ad valorem tax for the payment of such Bonds; and resolving other matters related to the issuance of such Bonds, including the delegation of certain matters to an authorized City official.

9 RESOLUTION APPROVAL

- 9.1 Consider and/or act upon the approval of a resolution amending the 2010 Budgetary Financial Policies.

10 CITY MANAGERS REPORT

- Financial Reports
- PD Annual Report
- Feb 11 - CPR Day for Heart Health Month
- Feb 16 - Murphy Historical Society Meeting
- Feb 21 - Chamber Lunch
- Feb 23-24 - Council Planning Session
- Feb 25 - Erecycling

11 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:

- 11.1 551.071 Consultation with City Attorney regarding pending litigation or contemplated litigation or settlement offer involving Michael Cantrell v. City of Murphy, et. al, Cause No. 6:09-cv-225.

- 11.2** 551.071 Consultation with City Attorney regarding pending litigation or contemplated litigation or settlement offer involving Johnny Boles v. City of Murphy, et al., Civil Action No. 4:11-cv-682.
- 11.3** 551.087 Deliberation regarding economic development negotiations (1) to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations; (2) to deliberate the offer of a financial or other incentive to a business prospect described by Subdivision (1).

12 RECONVENE INTO REGULAR SESSION

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

- 12.1** 551.071 Consultation with City Attorney regarding pending litigation or contemplated litigation or settlement offer involving Michael Cantrell v. City of Murphy, et. al, Cause No. 6:09-cv-225.
- 12.2** 551.071 Consultation with City Attorney regarding pending litigation or contemplated litigation or settlement offer involving Johnny Boles v. City of Murphy, et al., Civil Action No. 4:11-cv-682.
- 12.3** 551.087 Deliberation regarding economic development negotiations (1) to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations; (2) to deliberate the offer of a financial or other incentive to a business prospect described by Subdivision (1).

13 ADJOURNMENT

I certified 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 February 3, 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.

Aimee Nemer, TRMC, MMC
City Secretary

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

Issue

Consider and/or act upon acceptance of the Annual Traffic Contact Report for 2011 for the Murphy Police Department (also known as the Racial Profiling Report).

Background

The MPD is required to present the findings of its annual traffic contact (racial profiling) analysis report to the Council before March of each year. The Annual Traffic Contact Report for 2011 was prepared by Dr. Alex del Carmen, Del Carmen Consulting, LLC, who prepares the report from data provided by MPD/Court records. The city of Murphy is required to collect certain information on vehicle stops. This information is then tabulated at the end of each year. The data is analyzed and formatted into a report that provides an analytical and numerical picture of the enforcement activities of the police officers of the MPD.

The city of Murphy utilizes the U. S. Census Fair Roads Standard for comparison and analysis in developing its report. The city of Murphy is exempt from collecting Tier II data (much more information including pedestrian stops) since it has installed audio and video equipment in all police vehicles routinely utilized for traffic law enforcement.

Financial Considerations

There should be little or no fiscal impact by the receipt of the report. The city has entered into an agreement with Dr. del Carmen that does include an annual fee and is reflected in the annual budget for the MPD. The audit and analysis of consent searches was also budgeted for in the 2011-12 Fiscal Year Budget.

Other Considerations

The report has been required since 2001 with the passage of SB 1074. This law has since been codified in Articles 2.131 and 2.131 of the Texas Code of Criminal Procedure. In addition, certain standards and requirements have been established by rules of the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) as well as the Texas Transportation Code.

Staff Recommendation

Staff recommends that the Council accept delivery of the report. There is no other action required of City Council.

Recommended Motion

Motion to accept the Annual Racial Profiling Report for 2011 for the Murphy Police Department.

Attachments

2011 Annual Traffic Contact Report

Del Carmen Consulting, LLC

September 24, 2011

Murphy Police Department
Chief G.M. Cox
206 N. Murphy Rd.
Murphy, Texas 75094

Dear Chief Cox,

As per our agreement, I am pleased to inform you that the data audit for the City of Murphy Police Department has been completed. A careful examination of the Departmental log illustrating the traffic contact data recorded while comparing this information to the citations issued during the same period, leads me to conclude that the Department's records are accurate and within the normative margin of error.

While reviewing the data the following was noted:

- 1) The data contained a separate column for "warnings" and it is not clear if these are being counted as "contacts". In the event that they are, this practice should be discontinued as under the Tier 1 collection mechanisms, contacts include motor vehicle related contacts where a citation is issued or an arrest is made.
- 2) There is a column which depicts "traffic" contacts. It is not clear if these exclusively being counted as contacts. It should be noted that the current law considers a contact a "motor vehicle contact where a citation was issued and/or arrest was made." This definition includes contacts that include, but extend beyond, those made in the course of a traffic stop.

Please continue to monitor your data collection mechanisms in order to assure accuracy with regards to the racial profiling data. If you have any questions, please don't hesitate to call me so that I can elaborate on the points made in this audit. Again, thank you for the opportunity to be of service!

Sincerely,

Alex del Carmen, Ph.D.
Criminologist

*3018 St. Amanda Drive
Mansfield, Texas 76063
(817) 681-7840*

The Murphy Police Department Annual Contact Report (2011)



**DEL CARMEN
CONSULTING, LLC**

(I) Introduction

Opening Statement

January 9, 2012

Murphy City Council
205 North Murphy Road
Murphy, Texas 75094

Dear Distinguished Members of the City Council,

The Texas legislature, in 2001, with the intent of addressing the issue of racial profiling in policing, enacted the Texas Racial Profiling Law. Since 2001, the Murphy Police Department, in accordance with the law, has collected and reported traffic and motor vehicle-related contact data for the purpose of identifying and addressing (if necessary) areas of concern regarding racial profiling practices. In the 2009 legislative session, the Racial Profiling Law was modified and newer requirements are now in place. These most recent requirements have been met by the Murphy Police Department and are being addressed in this report.

In the report, you will find three sections that contain information on traffic and motor vehicle-related data. In addition, when appropriate, documentation is also a component of this report, aiming at demonstrating the manner in which the Murphy Police Department has complied with the Texas Racial Profiling Law. In section 1, you will find the table of contents in addition to the Texas Senate Bill (SB1074) which later became the Texas Racial Profiling Law. In addition, you will find the Texas HB 3389 which, in 2009, introduced new requirements relevant to racial profiling. Also, in this section, a list of requirements relevant to the Racial Profiling Law as established by TCLEOSE (Texas Commission on Law Enforcement Officer Standards and Education) is included. In addition, you will find, in sections 2 and 3, documentation which demonstrates compliance by the Murphy Police Department relevant to the requirements as established in the Texas Racial Profiling Law. That is, documents relevant to the implementation of an institutional policy banning racial profiling, the incorporation of a racial profiling complaint process and the training administered to all law enforcement personnel, are included.

The last section of this report provides statistical data relevant to contacts, made during the course of motor vehicle stops, between 1/1/11 and 12/31/11. In addition, this section contains the TCLEOSE Tier 1 form, which is required to be submitted to this particular organization by March 1st of each year. The data in this report has been analyzed and compared to data derived from the U.S. Census Bureau's Fair Roads Standard. The final analysis and recommendations are also included in this report. The findings in this report serve as evidence of the Murphy Police Department's commitment to comply with the Texas Racial Profiling Law.

Sincerely,

Alex del Carmen, Ph.D.
Del Carmen Consulting, LLC

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TCLEOSE GUIDELINES

Guidelines for Compiling and Reporting Data under Senate Bill 1074

Background

Senate Bill 1074 of the 77th Legislature established requirements in the Texas Code of Criminal Procedure (TCCP) for law enforcement agencies. The Commission developed this document to assist agencies in complying with the statutory requirements.

The guidelines are written in the form of standards using a style developed from accreditation organizations including the Commission on Accreditation for Law Enforcement Agencies (CALEA). The standards provide a description of *what* must be accomplished by an agency but allows wide latitude in determining *how* the agency will achieve compliance with each applicable standard.

Each standard is composed of two parts: the standard statement and the commentary. The *standard statement* is a declarative sentence that places a clear-cut requirement, or multiple requirements, on an agency. The commentary supports the standard statement but is not binding. The commentary can serve as a prompt, as guidance to clarify the intent of the standard, or as an example of one possible way to comply with the standard.

Standard 1

Each law enforcement agency has a detailed written directive that:

- clearly defines acts that constitute racial profiling;
- strictly prohibits peace officers employed by the agency from engaging in racial profiling;
- implements a process by which an individual may file a complaint with the agency if the individual believes a peace officer employed by the agency has engaged in racial profiling with respect to the individual filing the complaint;
- provides for public education relating to the complaint process;
- requires appropriate corrective action to be taken against a peace officer employed by the agency who, after investigation, is shown to have engaged in racial profiling in violation of the agency's written racial profiling policy; and
- requires the collection of certain types of data for subsequent reporting.

Commentary

Article 2.131 of the TCCP prohibits officers from engaging in racial profiling, and article 2.132 of the TCCP now requires a written policy that contains the elements listed in this standard. The article also specifically defines a law enforcement agency as it applies to this statute as an "agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make traffic stops in the routine performance of the officers' official duties."

The article further defines race or ethnicity as being of "a particular descent, including Caucasian, African, Hispanic, Asian, or Native American." The statute does not limit the required policies to just these ethnic groups.

This written policy is to be adopted and implemented no later than January 1, 2002.

Standard 2

Each peace officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic, or who stops a pedestrian for any suspected offense reports to the employing law enforcement agency information relating to the stop, to include:

- a physical description of each person detained, including gender and the person's race or ethnicity, as stated by the person, or, if the person does not state a race or ethnicity, as determined by the officer's best judgment;
- the traffic law or ordinance alleged to have been violated or the suspected offense;
- whether the officer conducted a search as a result of the stop and, if so, whether the person stopped consented to the search;
- whether any contraband was discovered in the course of the search, and the type of contraband discovered;
- whether probable cause to search existed, and the facts supporting the existence of that probable cause;
- whether the officer made an arrest as a result of the stop or the search, including a statement of the offense charged;
- the street address or approximate location of the stop; and
- whether the officer issued a warning or citation as a result of the stop, including a description of the warning or a statement of the violation charged.

Commentary

The information required by 2.133 TCCP is used to complete the agency reporting requirements found in Article 2.134. A peace officer and an agency may be exempted from this requirement under Article 2.135 TCCP Exemption for Agencies Using Video and Audio Equipment. An agency may be exempt from this reporting requirement by applying for the funds from the Department of Public Safety for video and audio equipment and the State does not supply those funds. Section 2.135 (a)(2) states, "the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a) (1) (A) and the agency does not receive from the state funds for video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose."

Standard 3

The agency compiles the information collected under 2.132 and 2.133 and analyzes the information identified in 2.133.

Commentary

Senate Bill 1074 from the 77th Session of the Texas Legislature created requirements for law enforcement agencies to gather specific information and to report it to each county or municipality served. New sections of law were added to the Code of Criminal Procedure regarding the reporting of traffic and pedestrian stops. Detained is defined as when a person stopped is not free to leave.

Article 2.134 TCCP requires the agency to compile and provide and analysis of the information collected by peace officer employed by the agency. The report is provided to the governing body of the municipality or county no later than March 1 of each year and covers the previous calendar year.

There is data collection and reporting required based on Article 2.132 CCP (tier one) and Article 2.133 CCP (tier two).

The minimum requirements for “tier one” data for traffic stops in which a citation results are:

- 1) the race or ethnicity of individual detained (race and ethnicity as defined by the bill means of “a particular descent, including Caucasian, African, Hispanic, Asian, or Native American”);
- 2) whether a search was conducted, and if there was a search, whether it was a consent search or a probable cause search; and
- 3) whether there was a custody arrest.

The minimum requirements for reporting on “tier two” reports include traffic and pedestrian stops. Tier two data include:

- 1) the detained person’s gender and race or ethnicity;
- 2) the type of law violation suspected, e.g., hazardous traffic, non-hazardous traffic, or other criminal investigation (the Texas Department of Public Safety publishes a categorization of traffic offenses into hazardous or non-hazardous);
- 3) whether a search was conducted, and if so whether it was based on consent or probable cause;
- 4) facts supporting probable cause;
- 5) the type, if any, of contraband that was collected;
- 6) disposition of the stop, e.g., arrest, ticket, warning, or release;
- 7) location of stop; and
- 8) statement of the charge, e.g., felony, misdemeanor, or traffic.

Tier one reports are made to the governing body of each county or municipality served by the agency an annual report of information if the agency is an agency of a county, municipality, or other political subdivision of the state. Tier one and two reports are reported to the county or municipality not later than March 1 for the previous calendar year beginning March 1, 2003. Tier two reports include a comparative analysis between the race and ethnicity of persons detained to see if a differential pattern of treatment can be discerned based on the disposition of stops including searches resulting from the stops. The reports also include information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling. An agency may be exempt from the tier two reporting requirement by applying for the funds from the Department of Public Safety for video and audio equipment and the State does not supply those funds [See 2.135 (a)(2) TCCP].

Reports should include both raw numbers and percentages for each group. Caution should be exercised in interpreting the data involving percentages because of statistical distortions caused by very small numbers in any particular category, for example, if only one American Indian is stopped and searched, that stop would not provide an accurate comparison with 200 stops among Caucasians with 100 searches. In the first case, a 100% search rate would be skewed data when compared to a 50% rate for Caucasians.

Standard 4

If a law enforcement agency has video and audio capabilities in motor vehicles regularly used for traffic stops, or audio capabilities on motorcycles regularly used to make traffic stops, the agency:

- adopts standards for reviewing and retaining audio and video documentation; and
- promptly provides a copy of the recording to a peace officer who is the subject of a complaint on written request by the officer.

Commentary

The agency should have a specific review and retention policy. Article 2.132 TCCP specifically requires that the peace officer be promptly provided with a copy of the audio or video recordings if the officer is the subject of a complaint and the officer makes a written request.

Standard 5

Agencies that do not currently have video or audio equipment must examine the feasibility of installing such equipment.

Commentary

None

Standard 6

Agencies that have video and audio recording capabilities are exempt from the reporting requirements of Article 2.134 TCCP and officers are exempt from the reporting requirements of Article 2.133 TCCP provided that:

- the equipment was in place and used during the proceeding calendar year; and
- video and audio documentation is retained for at least 90 days.

Commentary

The audio and video equipment and policy must have been in place during the previous calendar year. Audio and video documentation must be kept for at least 90 days or longer if a complaint has been filed. The documentation must be retained until the complaint is resolved. Peace officers are not exempt from the requirements under Article 2.132 TCCP.

Standard 7

Agencies have citation forms or other electronic media that comply with Section 543.202 of the Transportation Code.

Commentary

Senate Bill 1074 changed Section 543.202 of the Transportation Code requiring citations to include:

- race or ethnicity, and
- whether a search of the vehicle was conducted and whether consent for the search was obtained.

The Texas Law on Racial Profiling

AN ACT

relating to the prevention of racial profiling by certain peace officers.

BE IT ENACTED BY THE LEGISLATURE OF THE
STATE OF TEXAS:

SECTION 1. Chapter 2, Code of Criminal Procedure, is amended by adding Articles 2.131 through 2.138 to read as follows:

Art. 2.131. RACIAL PROFILING PROHIBITED. A peace officer may not engage in racial profiling.

Art. 2.132. LAW ENFORCEMENT POLICY ON RACIAL PROFILING. (a) In this article:

(1) "Law enforcement agency" means an agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make traffic stops in the routine performance of the officers' official duties.

(2) "Race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, or Native American descent.

(b) Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

(1) clearly define acts constituting racial profiling;

(2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;

(3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;

(4) provide public education relating to the agency's complaint process;

(5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;

(6) require collection of information relating to traffic stops in which a citation is issued and to arrests resulting from those traffic stops, including information relating to:

(A) the race or ethnicity of the individual detained; and

(B) whether a search was conducted and, if so, whether the person detained consented to the search; and

(7) require the agency to submit to the governing body of each county or municipality served by the agency an annual report of the information collected under Subdivision (6) if the agency is an agency of a county, municipality, or other political subdivision of the state.

(c) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling.

(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make traffic stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make traffic stops. If a law enforcement agency installs video or audio equipment as provided by this subsection, the policy

adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

(e) A report required under Subsection (b)(7) may not include identifying information about a peace officer who makes a traffic stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the collection of information as required by a policy under Subsection (b)(6).

(f) On the commencement of an investigation by a law enforcement agency of a complaint described by Subsection (b)(3) in which a video or audio recording of the occurrence on which the complaint is based was made, the agency shall promptly provide a copy of the recording to the peace officer who is the subject of the complaint on written request by the officer.

Art. 2.133. REPORTS REQUIRED FOR TRAFFIC AND PEDESTRIAN STOPS. (a) In this article:

(1) "Race or ethnicity" has the meaning assigned by Article 2.132(a).

(2) "Pedestrian stop" means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.

(b) A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic or who stops a pedestrian for any suspected offense shall report to the law enforcement agency that employs the officer information relating to the stop, including:

(1) a physical description of each person detained as a result of the stop, including:

(A) the person's gender; and

(B) the person's race or ethnicity, as stated by the person or, if the person does not state the person's race or ethnicity, as determined by the officer to the best of the officer's ability;

(2) the traffic law or ordinance alleged to have been violated or the suspected offense;

(3) whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;

(4) whether any contraband was discovered in the course of the search and the type of contraband discovered;

(5) whether probable cause to search existed and the facts supporting the existence of that probable cause;

(6) whether the officer made an arrest as a result of the stop or the search, including a statement of the offense charged;

(7) the street address or approximate location of the stop; and

(8) whether the officer issued a warning or a citation as a result of the stop, including a description of the warning or a statement of the violation charged.

Art. 2.134. COMPILATION AND ANALYSIS OF INFORMATION COLLECTED. (a) In this article, "pedestrian stop" means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.

(b) A law enforcement agency shall compile and analyze the information contained in each report received by the agency under Article 2.133. Not later than March 1 of each year, each local law enforcement agency shall submit a report containing the information compiled during the previous calendar year to the governing

body of each county or municipality served by the agency in a manner approved by the agency.

(c) A report required under Subsection (b) must include:

(1) a comparative analysis of the information compiled under Article 2.133 to:

(A) determine the prevalence of racial profiling by peace officers employed by the agency; and

(B) examine the disposition of traffic and pedestrian stops made by officers employed by the agency, including searches resulting from the stops; and

(2) information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

(d) A report required under Subsection (b) may not include identifying information about a peace officer who makes a traffic or pedestrian stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the reporting of information required under Article 2.133(b)(1).

(e) The Commission on Law Enforcement Officer Standards and Education shall develop guidelines for compiling and reporting information as required by this article.

(f) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling.

Art. 2.135. EXEMPTION FOR AGENCIES USING VIDEO AND AUDIO EQUIPMENT. (a) A peace officer is exempt from the reporting requirement under Article 2.133 and a law enforcement agency is exempt from the compilation, analysis, and reporting requirements under Article 2.134 if:

(1) during the calendar year preceding the date that a report under Article 2.134 is required to be submitted:

(A) each law enforcement motor vehicle regularly used by an officer employed by the agency to make traffic and pedestrian stops is equipped with video camera and transmitter-activated equipment and each law enforcement motorcycle regularly used to make traffic and pedestrian stops is equipped with transmitter-activated equipment; and

(B) each traffic and pedestrian stop made by an officer employed by the agency that is capable of being recorded by video and audio or audio equipment, as appropriate, is recorded by using the equipment; or

(2) the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a)(1)(A) and the agency does not receive from the state funds or video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose.

(b) Except as otherwise provided by this subsection, a law enforcement agency that is exempt from the requirements under Article 2.134 shall retain the video and audio or audio documentation of each traffic and pedestrian stop for at least 90 days after the date of the stop. If a complaint is filed with the law enforcement agency alleging that a peace officer employed by the agency has engaged in racial profiling with respect to a traffic or pedestrian stop, the agency shall retain the video and audio or audio record of the stop until final disposition of the complaint.

(c) This article does not affect the collection or reporting requirements under Article 2.132.

Art. 2.136. LIABILITY. A peace officer is not liable for damages arising from an act relating to the collection or reporting of information as required by Article 2.133 or under a policy adopted under Article 2.132.

Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT.

(a) The Department of Public Safety shall adopt rules for providing funds or video and audio equipment to law enforcement agencies for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), including specifying criteria to prioritize funding or equipment provided to law enforcement agencies. The criteria may include consideration of tax effort, financial hardship, available revenue, and budget surpluses. The criteria must give priority to:

(1) law enforcement agencies that employ peace officers whose primary duty is traffic enforcement;

(2) smaller jurisdictions; and

(3) municipal and county law enforcement agencies.

(b) The Department of Public Safety shall collaborate with an institution of higher education to identify law enforcement agencies that need funds or video and audio equipment for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A). The collaboration may include the use of a survey to assist in developing criteria to prioritize funding or equipment provided to law enforcement agencies.

(c) To receive funds or video and audio equipment from the state for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the

Department of Public Safety that the law enforcement agency needs funds or video and audio equipment for that purpose.

(d) On receipt of funds or video and audio equipment from the state for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency has installed video and audio equipment as described by Article 2.135(a)(1)(A) and is using the equipment as required by Article 2.135(a)(1).

Art. 2.138. RULES. The Department of Public Safety may adopt rules to implement Articles 2.131-2.137.

SECTION 2. Chapter 3, Code of Criminal Procedure, is amended by adding Article 3.05 to read as follows:

Art. 3.05. RACIAL PROFILING. In this code, "racial profiling" means a law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity.

SECTION 3. Section 96.641, Education Code, is amended by adding Subsection (j) to read as follows:

(j) As part of the initial training and continuing education for police chiefs required under this section, the institute shall establish a program on racial profiling. The program must include an examination of the best practices for:

(1) monitoring peace officers' compliance with laws and internal agency policies relating to racial profiling;

(2) implementing laws and internal agency policies relating to preventing racial profiling; and

(3) analyzing and reporting collected information.

SECTION 4. Section 1701.253, Occupations Code, is amended by adding Subsection (e) to read as follows:

(e) As part of the minimum curriculum requirements, the commission shall establish a statewide comprehensive education and training program on racial profiling for officers licensed under this chapter. An officer shall complete a program established under this subsection not later than the second anniversary of the date the officer is licensed under this chapter or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier.

SECTION 5. Section 1701.402, Occupations Code, is amended by adding Subsection (d) to read as follows:

(d) As a requirement for an intermediate proficiency certificate, an officer must complete an education and training program on racial profiling established by the commission under Section 1701.253(e).

SECTION 6. Section 543.202, Transportation Code, is amended to read as follows:

Sec. 543.202. FORM OF RECORD. (a) In this section, "race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, or Native American descent.

(b) The record must be made on a form or by a data processing method acceptable to the department and must include:

- (1) the name, address, physical description, including race or ethnicity, date of birth, and driver's license number of the person charged;
- (2) the registration number of the vehicle involved;
- (3) whether the vehicle was a commercial motor vehicle as defined by Chapter 522 or was involved in transporting hazardous materials;

(4) the person's social security number, if the person was operating a commercial motor vehicle or was the holder of a commercial driver's license or commercial driver learner's permit;

(5) the date and nature of the offense, including whether the offense was a serious traffic violation as defined by Chapter 522;

(6) whether a search of the vehicle was conducted and whether consent for the search was obtained;

(7) the plea, the judgment, and whether bail was forfeited;

(8) [(7)] the date of conviction; and

(9) [(8)] the amount of the fine or forfeiture.

SECTION 7. Not later than January 1, 2002, a law enforcement agency shall adopt and implement a policy and begin collecting information under the policy as required by Article 2.132, Code of Criminal Procedure, as added by this Act. A local law enforcement agency shall first submit information to the governing body of each county or municipality served by the agency as required by Article 2.132, Code of Criminal Procedure, as added by this Act, on March 1, 2003. The first submission of information shall consist of information compiled by the agency during the period beginning January 1, 2002, and ending December 31, 2002.

SECTION 8. A local law enforcement agency shall first submit information to the governing body of each county or municipality served by the agency as required by Article 2.134, Code of Criminal Procedure, as added by this Act, on March 1, 2004. The first submission of information shall consist of information compiled by the agency during the period beginning January 1, 2003, and ending December 31, 2003.

SECTION 9. Not later than January 1, 2002:

(1) the Commission on Law Enforcement Officer Standards and Education shall establish an education and training program on racial profiling as required by Subsection (e), Section 1701.253, Occupations Code, as added by this Act; and

(2) the Bill Blackwood Law Enforcement Management Institute of Texas shall establish a program on racial profiling as required by Subsection (j), Section 96.641, Education Code, as added by this Act.

SECTION 10. A person who on the effective date of this Act holds an intermediate proficiency certificate issued by the Commission on Law Enforcement Officer Standards and Education or has held a peace officer license issued by the Commission on Law Enforcement Officer Standards and Education for at least two years shall complete an education and training program on racial profiling established under Subsection (e), Section 1701.253, Occupations Code, as added by this Act, not later than September 1, 2003.

SECTION 11. An individual appointed or elected as a police chief before the effective date of this Act shall complete a program on racial profiling established under Subsection (j), Section 96.641, Education Code, as added by this Act, not later than September 1, 2003.

SECTION 12. This Act takes effect September 1, 2001.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1074 passed the Senate on April 4, 2001, by the following vote: Yeas 28, Nays 2; May 21, 2001, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 22, 2001, House granted request of the Senate; May 24, 2001, Senate adopted Conference Committee Report by a viva-voce vote.

Secretary of the Senate

I hereby certify that S.B. No. 1074 passed the House, with amendments, on May 15, 2001, by a non-record vote; May 22, 2001, House granted request of the Senate for appointment of Conference Committee; May 24, 2001, House adopted Conference Committee Report by a non-record vote.

Chief Clerk of the House

Approved:

Date

Governor

New Legal Requirements (H.B. 3389)

Amend CSHB 3389 (Senate committee report) as follows:

(1) Strike the following SECTIONS of the bill:

(A) SECTION 8, adding Section 1701.164, Occupations Code (page 4, lines 61-66);

(B) SECTION 24, amending Article 2.132(b), Code of Criminal Procedure (page 8, lines 19-53);

(C) SECTION 25, amending Article 2.134(b), Code of Criminal Procedure (page 8, lines 54-64);

(D) SECTION 28, providing transition language for the amendments to Articles 2.132(b) and 2.134(b), Code of Criminal Procedure (page 9, lines 40-47).

(2) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION ____ . Article 2.132, Code of Criminal Procedure, is amended by amending Subsections (a), (b), (d), and (e) and adding Subsection (g) to read as follows:

(a) In this article:

(1) "Law enforcement agency" means an agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make motor vehicle [~~traffic~~] stops in the routine performance of the officers' official duties.

(2) "Motor vehicle stop" means an occasion in which a peace officer stops a motor vehicle for an alleged violation of a law or ordinance.

(3) "Race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, [~~or~~] Native American, or Middle Eastern descent.

(b) Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

(1) clearly define acts constituting racial profiling;

(2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;

(3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;

(4) provide public education relating to the agency's complaint process;

(5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;

(6) require collection of information relating to motor vehicle [~~traffic~~] stops in which a citation is issued and to arrests made as a result of [~~resulting from~~] those [~~traffic~~] stops, including information relating to:

(A) the race or ethnicity of the individual detained; and

(B) whether a search was conducted and, if so, whether the individual [~~person~~] detained consented to the search; and

(C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; and

(7) require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit [to the governing body of each county or municipality served by the agency] an annual report of the information collected under Subdivision (6) to:

(A) the Commission on Law Enforcement Officer Standards and Education; and

(B) the governing body of each county or municipality served by the agency, if the agency is an agency of a county, municipality, or other political subdivision of the state.

(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make motor vehicle [~~traffic~~] stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make motor vehicle [~~traffic~~] stops. If a law enforcement agency installs video or audio equipment as provided by this subsection, the policy adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

(e) A report required under Subsection (b) (7) may not include identifying information about a peace officer who makes a motor vehicle [~~traffic~~] stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the collection of information as required by a policy under Subsection (b) (6).

(g) On a finding by the Commission on Law Enforcement Officer Standards and Education that the chief administrator of a law enforcement agency intentionally failed to submit a report required under Subsection (b) (7), the commission shall begin disciplinary procedures against the chief administrator.

SECTION ____ . Article 2.133, Code of Criminal Procedure, is amended to read as follows:

Art. 2.133. REPORTS REQUIRED FOR MOTOR VEHICLE [~~TRAFFIC AND PEDESTRIAN~~] STOPS. (a) In this article, "race[+]

[~~(1) "Race~~] or ethnicity" has the meaning assigned by Article 2.132(a).

[~~(2) "Pedestrian stop" means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.~~]

(b) A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance [~~regulating traffic or who stops a pedestrian for any suspected offense~~] shall report to the law enforcement agency that employs the officer information relating to the stop, including:

(1) a physical description of any [~~each~~] person operating the motor vehicle who is detained as a result of the stop, including:

(A) the person's gender; and

(B) the person's race or ethnicity, as stated by the person or, if the person does not state the person's race or ethnicity, as determined by the officer to the best of the officer's ability;

(2) the initial reason for the stop [~~traffic law or ordinance alleged to have been violated or the suspected offense~~];

(3) whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;

(4) whether any contraband or other evidence was discovered in the course of the search and a description [~~the type~~] of the contraband or evidence [~~discovered~~];

(5) the reason for the search, including whether:
(A) any contraband or other evidence was in plain view;

(B) any probable cause or reasonable suspicion existed to perform the search; or

(C) the search was performed as a result of the towing of the motor vehicle or the arrest of any person in the motor vehicle [~~existed and the facts supporting the existence of that probable cause~~];

(6) whether the officer made an arrest as a result of the stop or the search, including a statement of whether the arrest was based on a violation of the Penal Code, a violation of a traffic law or ordinance, or an outstanding warrant and a statement of the offense charged;

(7) the street address or approximate location of the stop; and

(8) whether the officer issued a written warning or a citation as a result of the stop [~~, including a description of the warning or a statement of the violation charged~~].

SECTION ____ . Article 2.134, Code of Criminal Procedure, is amended by amending Subsections (a) through (e) and adding Subsection (g) to read as follows:

(a) In this article:

(1) "Motor vehicle [~~,"pedestrian]~~ stop" has the meaning assigned by Article 2.132(a) [~~means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest~~].

(2) "Race or ethnicity" has the meaning assigned by Article 2.132(a).

(b) A law enforcement agency shall compile and analyze the information contained in each report received by the agency under Article 2.133. Not later than March 1 of each year, each [~~local~~] law enforcement agency shall submit a report containing the incident-based data [~~information~~] compiled during the previous calendar year to the Commission on Law Enforcement Officer Standards and Education and, if the law enforcement agency is a local law enforcement agency, to the governing body of each county or municipality served by the agency [~~in a manner approved by the agency~~].

(c) A report required under Subsection (b) must be submitted by the chief administrator of the law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, and must include:

(1) a comparative analysis of the information compiled under Article 2.133 to:

(A) evaluate and compare the number of motor vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are

not recognized as racial or ethnic minorities [~~determine the prevalence of racial profiling by peace officers employed by the agency~~]; and

(B) examine the disposition of motor vehicle [~~traffic and pedestrian~~] stops made by officers employed by the agency, categorized according to the race or ethnicity of the affected persons, as appropriate, including any searches resulting from [~~the~~] stops within the applicable jurisdiction; and

(2) information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

(d) A report required under Subsection (b) may not include identifying information about a peace officer who makes a motor vehicle [~~traffic or pedestrian~~] stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the reporting of information required under Article 2.133(b) (1).

(e) The Commission on Law Enforcement Officer Standards and Education, in accordance with Section 1701.162, Occupations Code, shall develop guidelines for compiling and reporting information as required by this article.

(g) On a finding by the Commission on Law Enforcement Officer Standards and Education that the chief administrator of a law enforcement agency intentionally failed to submit a report required under Subsection (b), the commission shall begin disciplinary procedures against the chief administrator.

SECTION _____. Article 2.135, Code of Criminal Procedure, is amended to read as follows:

Art. 2.135. PARTIAL EXEMPTION FOR AGENCIES USING VIDEO AND AUDIO EQUIPMENT. (a) A peace officer is exempt from the reporting requirement under Article 2.133 and the chief administrator of a law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, is exempt from the compilation, analysis, and reporting requirements under Article 2.134 if:

(1) during the calendar year preceding the date that a report under Article 2.134 is required to be submitted:

(A) each law enforcement motor vehicle regularly used by an officer employed by the agency to make motor vehicle [~~traffic and pedestrian~~] stops is equipped with video camera and transmitter-activated equipment and each law enforcement motorcycle regularly used to make motor vehicle [~~traffic and pedestrian~~] stops is equipped with transmitter-activated equipment; and

(B) each motor vehicle [~~traffic and pedestrian~~] stop made by an officer employed by the agency that is capable of being recorded by video and audio or audio equipment, as appropriate, is recorded by using the equipment; or

(2) the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a) (1) (A) and the agency does not receive from the state funds or video and audio equipment sufficient, as determined by the department, for the agency to accomplish that

purpose.

(b) Except as otherwise provided by this subsection, a law enforcement agency that is exempt from the requirements under Article 2.134 shall retain the video and audio or audio documentation of each motor vehicle [~~traffic and pedestrian~~] stop for at least 90 days after the date of the stop. If a complaint is filed with the law enforcement agency alleging that a peace officer employed by the agency has engaged in racial profiling with respect to a motor vehicle [~~traffic or pedestrian~~] stop, the agency shall retain the video and audio or audio record of the stop until final disposition of the complaint.

(c) This article does not affect the collection or reporting requirements under Article 2.132.

(d) In this article, "motor vehicle stop" has the meaning assigned by Article 2.132(a).

SECTION _____. Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.1385 to read as follows:

Art. 2.1385. CIVIL PENALTY. (a) If the chief administrator of a local law enforcement agency intentionally fails to submit the incident-based data as required by Article 2.134, the agency is liable to the state for a civil penalty in the amount of \$1,000 for each violation. The attorney general may sue to collect a civil penalty under this subsection.

(b) From money appropriated to the agency for the administration of the agency, the executive director of a state law enforcement agency that intentionally fails to submit the incident-based data as required by Article 2.134 shall remit to the comptroller the amount of \$1,000 for each violation.

(c) Money collected under this article shall be deposited in the state treasury to the credit of the general revenue fund.

SECTION _____. Subchapter A, Chapter 102, Code of Criminal Procedure, is amended by adding Article 102.022 to read as follows:

Art. 102.022. COSTS ON CONVICTION TO FUND STATEWIDE REPOSITORY FOR DATA RELATED TO CIVIL JUSTICE. (a) In this article, "moving violation" means an offense that:

(1) involves the operation of a motor vehicle; and
(2) is classified as a moving violation by the Department of Public Safety under Section 708.052, Transportation Code.

(b) A defendant convicted of a moving violation in a justice court, county court, county court at law, or municipal court shall pay a fee of 10 cents as a cost of court.

(c) In this article, a person is considered convicted if:

(1) a sentence is imposed on the person;
(2) the person receives community supervision, including deferred adjudication; or
(3) the court defers final disposition of the person's case.

(d) The clerks of the respective courts shall collect the costs described by this article. The clerk shall keep separate records of the funds collected as costs under this article and shall deposit the funds in the county or municipal treasury, as appropriate.

(e) The custodian of a county or municipal treasury shall:

(1) keep records of the amount of funds on deposit collected under this article; and

(2) send to the comptroller before the last day of the first month following each calendar quarter the funds collected under this article during the preceding quarter.

(f) A county or municipality may retain 10 percent of the funds collected under this article by an officer of the county or municipality as a collection fee if the custodian of the county or municipal treasury complies with Subsection (e).

(g) If no funds due as costs under this article are deposited in a county or municipal treasury in a calendar quarter, the custodian of the treasury shall file the report required for the quarter in the regular manner and must state that no funds were collected.

(h) The comptroller shall deposit the funds received under this article to the credit of the Civil Justice Data Repository fund in the general revenue fund, to be used only by the Commission on Law Enforcement Officer Standards and Education to implement duties under Section 1701.162, Occupations Code.

(i) Funds collected under this article are subject to audit by the comptroller.

SECTION ____ . (a) Section 102.061, Government Code, as reenacted and amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, is amended to conform to the amendments made to Section 102.061, Government Code, by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, and is further amended to read as follows:

Sec. 102.061. ADDITIONAL COURT COSTS ON CONVICTION IN STATUTORY COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a statutory county court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

(1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$20;

(2) a fee for services of the clerk of the court (Art. 102.005, Code of Criminal Procedure) . . . \$40;

(3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . \$25;

(4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;

(5) a juvenile delinquency prevention and graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . \$50 [~~\$5~~]; [~~and~~]

(6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5; and

(7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

(b) Section 102.061, Government Code, as amended by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, is repealed. Section 102.061, Government Code, as reenacted and amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, to reorganize and renumber that section, continues in effect as further amended by this section.

SECTION ____ . (a) Section 102.081, Government Code, as amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, is amended to conform to the amendments made to Section 102.081, Government Code, by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, and is further amended to read as follows:

Sec. 102.081. ADDITIONAL COURT COSTS ON CONVICTION IN COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a county court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$20;
- (2) a fee for clerk of the court services (Art. 102.005, Code of Criminal Procedure) . . . \$40;
- (3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . \$25;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;
- (5) a juvenile delinquency prevention and graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . \$50 [~~\$5~~]; [~~and~~]
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5; and
- (7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

(b) Section 102.081, Government Code, as amended by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, is repealed. Section 102.081, Government Code, as amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, to reorganize and renumber that section, continues in effect as further amended by this section.

SECTION _____. Section 102.101, Government Code, is amended to read as follows:

Sec. 102.101. ADDITIONAL COURT COSTS ON CONVICTION IN JUSTICE COURT: CODE OF CRIMINAL PROCEDURE. A clerk of a justice court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$4;
- (5) a fee for technology fund on a misdemeanor offense (Art. 102.0173, Code of Criminal Procedure) . . . \$4;
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5;
- (7) a fee on conviction of certain offenses involving issuing or passing a subsequently dishonored check (Art. 102.0071, Code of Criminal Procedure) . . . not to exceed \$30; [~~and~~]
- (8) a court cost on conviction of a Class C misdemeanor in a county with a population of 3.3 million or more, if authorized by the county commissioners court (Art. 102.009, Code of Criminal Procedure) . . . not to exceed \$7; and
- (9) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

SECTION _____. Section 102.121, Government Code, is amended to read as follows:

Sec. 102.121. ADDITIONAL COURT COSTS ON CONVICTION IN MUNICIPAL COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a municipal court shall collect fees and costs on conviction of a defendant as follows:

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;
- (5) a fee for technology fund on a misdemeanor offense (Art. 102.0172, Code of Criminal Procedure) . . . not to exceed \$4; ~~and~~
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5; and
- (7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

SECTION ____ . Subchapter D, Chapter 1701, Occupations Code, is amended by adding Section 1701.164 to read as follows:

Sec. 1701.164. COLLECTION OF CERTAIN INCIDENT-BASED DATA SUBMITTED BY LAW ENFORCEMENT AGENCIES. The commission shall collect and maintain incident-based data submitted to the commission under Article 2.134, Code of Criminal Procedure, including incident-based data compiled by a law enforcement agency from reports received by the law enforcement agency under Article 2.133 of that code. The commission in consultation with the Department of Public Safety, the Bill Blackwood Law Enforcement Management Institute of Texas, the W. W. Caruth, Jr., Police Institute at Dallas, and the Texas Police Chiefs Association shall develop guidelines for submitting in a standard format the report containing incident-based data as required by Article 2.134, Code of Criminal Procedure.

SECTION ____ . Subsection (a), Section 1701.501, Occupations Code, is amended to read as follows:

(a) Except as provided by Subsection (d), the commission shall revoke or suspend a license, place on probation a person whose license has been suspended, or reprimand a license holder for a violation of:

- (1) this chapter;
- (2) the reporting requirements provided by Articles 2.132 and 2.134, Code of Criminal Procedure; or
- (3) a commission rule.

SECTION ____ . (a) The requirements of Articles 2.132, 2.133, and 2.134, Code of Criminal Procedure, as amended by this Act, relating to the compilation, analysis, and submission of incident-based data apply only to information based on a motor vehicle stop occurring on or after January 1, 2010.

(b) The imposition of a cost of court under Article 102.022, Code of Criminal Procedure, as added by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this

section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

(II) Responding to the Law

Institutional Policy on Racial Profiling

--Insert Policy Here--

Complaint Process: Informing the Public and Addressing Allegations of Racial Profiling Practices

Informing the Public on the Process of Filing a Racial Profiling Complaint with the Murphy Police Department

The Texas Racial Profiling Law requires that police agencies provide information to the public regarding the manner in which to file a racial profiling complaint. In an effort to comply with this particular component, the Murphy Police Department launched an educational campaign aimed at informing the public on issues relevant to the racial profiling complaint process.

The police department made available, in the lobby area and on its web site, information relevant to filing a complaint on a racial profiling violation by a Murphy Police officer. It is believed that through these efforts, the community has been properly informed of the new policies and the complaint processes relevant to racial profiling.

Racial Profiling Training

Racial Profiling Training

Since 2002, all Murphy Police officers have been instructed, as specified in the Texas Racial Profiling Law, to adhere to all Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) training and the Law Enforcement Management Institute of Texas (LEMIT) requirements. To date, all sworn officers of the Murphy Police Department have completed the TCLEOSE basic training on racial profiling. The main outline used to train the officers of Murphy has been included in this report.

It is important to recognize that the Chief of the Murphy Police Department has also met the training requirements, as specified by the Texas Racial Profiling Law, in the completion of the LEMIT program on racial profiling. The satisfactory completion of the racial profiling training by the sworn personnel of the Murphy Police Department fulfills the training requirement as specified in the Education Code (96.641) of the Texas Racial Profiling Law.

Racial Profiling
Course Number 3256
Texas Commission on Law Enforcement
September 2001

Racial Profiling 3256

Instructor's Note:

You may wish to teach this course in conjunction with Asset Forfeiture 3255 because of the related subject matter and applicability of the courses. If this course is taught in conjunction with Asset Forfeiture, you may report it under Combined Profiling and Forfeiture 3257 to reduce data entry.

Abstract

This instructor guide is designed to meet the educational requirement for racial profiling established by legislative mandate: 77R-SB1074.

Target Population: Licensed law enforcement personnel in Texas

Prerequisites: Experience as a law enforcement officer

Length of Course: A suggested instructional time of 4 hours

Material Requirements: Overhead projector, chalkboard and/or flip charts, video tape player, handouts, practical exercises, and demonstrations

Instructor Qualifications: Instructors should be very knowledgeable about traffic stop procedures and law enforcement issues

Evaluation Process and Procedures

An examination should be given. The instructor may decide upon the nature and content of the examination. It must, however, sufficiently demonstrate the mastery of the subject content by the student.

Reference Materials

Reference materials are located at the end of the course. An electronic copy of this instructor guide may be downloaded from our web site at <http://www.tcleose.state.tx.us>.

Racial Profiling 3256

1.0 RACIAL PROFILING AND THE LAW

1.1 UNIT GOAL: The student will be able to identify the legal aspects of racial profiling.

1.1.1 LEARNING OBJECTIVE: The student will be able to identify the legislative requirements placed upon peace officers and law enforcement agencies regarding racial profiling.

Racial Profiling Requirements:

Racial profiling CCP 3.05

Racial profiling prohibited CCP 2.131

Law enforcement policy on racial profiling CCP 2.132

Reports required for traffic and pedestrian stops CCP 2.133

Liability CCP 2.136

Racial profiling education for police chiefs Education Code 96.641

Training program Occupations Code 1701.253

Training required for intermediate certificate Occupations Code 1701.402

Definition of "race or ethnicity" for form Transportation Code 543.202

A. Written departmental policies

1. Definition of what constitutes racial profiling
2. Prohibition of racial profiling
3. Complaint process
4. Public education
5. Corrective action
6. Collection of traffic-stop statistics
7. Annual reports

B. Not prima facie evidence

C. Feasibility of use of video equipment

D. Data does not identify officer

E. Copy of complaint-related video evidence to officer in question

F. Vehicle stop report

1. Physical description of detainees: gender, race or ethnicity
2. Alleged violation
3. Consent to search
4. Contraband
5. Facts supporting probable cause
6. Arrest
7. Warning or citation issued

G. Compilation and analysis of data

H. Exemption from reporting – audio/video equipment

I. Officer non-liability

J. Funding

K. Required training in racial profiling

1. Police chiefs

2. All holders of intermediate certificates and/or two-year-old licenses as of 09/01/2001 (training to be completed no later than 09/01/2003) – see legislation 77R-SB1074

1.1.2 LEARNING OBJECTIVE: The student will become familiar with Supreme Court decisions and other court decisions involving appropriate actions in traffic stops.

A. Whren v. United States, 517 U.S. 806, 116 S.Ct. 1769 (1996)

1. Motor vehicle search exemption

2. Traffic violation acceptable as pretext for further investigation

3. Selective enforcement can be challenged

B. Terry v. Ohio, 392 U.S. 1, 88 S.Ct. 1868 (1968)

1. Stop & Frisk doctrine

2. Stopping and briefly detaining a person

3. Frisk and pat down

C. Other cases

1. Pennsylvania v. Mimms, 434 U.S. 106, 98 S.Ct. 330 (1977)

2. Maryland v. Wilson, 117 S.Ct. 882 (1997)

3. Graham v. State, 119 MdApp 444, 705 A.2d 82 (1998)

4. Pryor v. State, 122 Md.App. 671 (1997) cert. denied 352 Md. 312, 721 A.2d 990 (1998)

5. Ferris v. State, 355 Md. 356, 735 A.2d 491 (1999)

6. New York v. Belton, 453 U.S. 454 (1981)

2.0 RACIAL PROFILING AND THE COMMUNITY

2.1 UNIT GOAL: The student will be able to identify logical and social arguments against racial profiling.

2.1.1 LEARNING OBJECTIVE: The student will be able to identify logical and social arguments against racial profiling.

A. There are appropriate reasons for unusual traffic stops (suspicious behavior, the officer's intuition, MOs, etc.), but police work must stop short of cultural stereotyping and racism

B. Racial profiling would result in criminal arrests, but only because it would target all members of a race randomly – the minor benefits would be far outweighed by the distrust and anger towards law enforcement by minorities and the public as a whole

C. Racial profiling is self-fulfilling bad logic: if you believed that minorities committed more crimes, then you might look for more minority criminals, and find them in disproportionate numbers

D. Inappropriate traffic stops generate suspicion and antagonism towards officers and make future stops more volatile – a racially-based stop today can throw suspicion on tomorrow's legitimate stop

E. By focusing on race, you would not only be harassing innocent citizens, but overlooking criminals of all races and backgrounds – it is a waste of law enforcement resources

3.0 RACIAL PROFILING VERSUS REASONABLE SUSPICION

3.1 UNIT GOAL: The student will be able to identify the elements of both inappropriate and appropriate traffic stops.

3.1.1 LEARNING OBJECTIVE: The student will be able to identify elements of a racially motivated traffic stop.

A. Most race-based complaints come from vehicle stops, often since race is used as an inappropriate substitute for drug courier profile elements

B. "DWB" – "Driving While Black" – a nickname for the public perception that a Black person may be stopped solely because of their race (especially with the suspicion that they are a drug courier), often extended to other minority groups or activities as well ("Driving While Brown," "Flying While Black," etc.)

C. A typical traffic stop resulting from racial profiling

1. The vehicle is stopped on the basis of a minor or contrived traffic violation which is used as a pretext for closer inspection of the vehicle, driver, and passengers

2. The driver and passengers are questioned about things that do not relate to the traffic violation

3. The driver and passengers are ordered out of the vehicle
4. The officers visually check all observable parts of the vehicle
5. The officers proceed on the assumption that drug courier work is involved by detaining the driver and passengers by the roadside
6. The driver is asked to consent to a vehicle search – if the driver refuses, the officers use other procedures (waiting on a canine unit, criminal record checks, license-plate checks, etc.), and intimidate the driver (with the threat of detaining him/her, obtaining a warrant, etc.)

3.1.2 LEARNING OBJECTIVE: The student will be able to identify elements of a traffic stop which would constitute reasonable suspicion of drug courier activity.

- A. Drug courier profile (adapted from a profile developed by the DEA)
1. Driver is nervous or anxious beyond the ordinary anxiety and cultural communication styles
 2. Signs of long-term driving (driver is unshaven, has empty food containers, etc.)
 3. Vehicle is rented
 4. Driver is a young male, 20-35
 5. No visible luggage, even though driver is traveling
 6. Driver was over-reckless or over-cautious in driving and responding to signals
 7. Use of air fresheners

B. Drug courier activity indicators by themselves are usually not sufficient to justify a stop

3.1.3 LEARNING OBJECTIVE: The student will be able to identify elements of a traffic stop which could constitute reasonable suspicion of criminal activity.

- A. Thinking about the totality of circumstances in a vehicle stop
- B. Vehicle exterior
1. Non-standard repainting (esp. on a new vehicle)
 2. Signs of hidden cargo (heavy weight in trunk, windows do not roll down, etc.)
 3. Unusual license plate suggesting a switch (dirty plate, bugs on back plate, etc.)
 4. Unusual circumstances (pulling a camper at night, kids' bikes with no kids, etc.)
- C. Pre-stop indicators
1. Not consistent with traffic flow
 2. Driver is overly cautious, or driver/passengers repeatedly look at police car
 3. Driver begins using a car- or cell-phone when signaled to stop
 4. Unusual pull-over behavior (ignores signals, hesitates, pulls onto new street, moves objects in car, etc.)

D. Vehicle interior

1. Rear seat or interior panels have been opened, there are tools or spare tire, etc.
2. Inconsistent items (anti-theft club with a rental, unexpected luggage, etc.)

Resources

Proactive Field Stops Training Unit – Instructor's Guide, Maryland Police and Correctional Training Commissions, 2001. (See Appendix A.)

Web address for legislation 77R-SB1074:

<http://tlo2.tlc.state.tx.us/tlo/77r/billtext/SB01074F.htm>

Report on Complaints

Tables Illustrating Traffic and Motor Vehicle-Related Contacts

Tier 1 Data

(I) Tier 1 Data

Motor Vehicle-Related Contact Information (1/1/11—12/31/11)

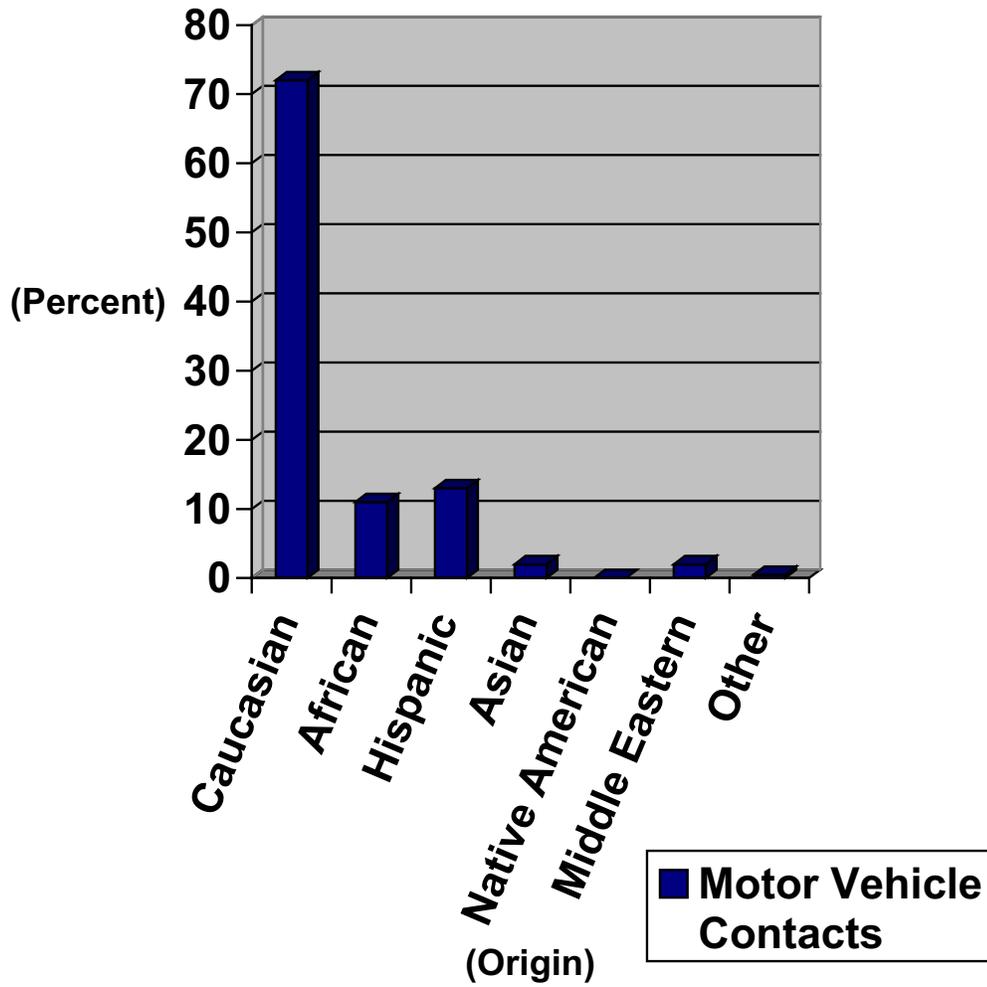
Race/Ethnicity*	Contacts		Searches		Consensual Searches		PC Searches		Custody Arrests	
	N	%	N	%	N	%	N	%	N	%
Caucasian	5,786	57	128	54	74	55	54	52	45	44
African	1,527	15	48	20	27	20	21	20	26	25
Hispanic	1,458	14	50	21	27	20	23	22	24	24
Asian	867	8	11	5	6	4	5	5	6	6
Native American	11	.1	1	.4	1	.7	0	0	1	1
Middle Eastern	583	6	1	.4	0	0	1	1	0	0
Other	4	.04	0	0	0	0	0	0	0	0
Total	10,236	100	239	100	135	100	104	100	102	100

"N" represents "number" of traffic-related contacts

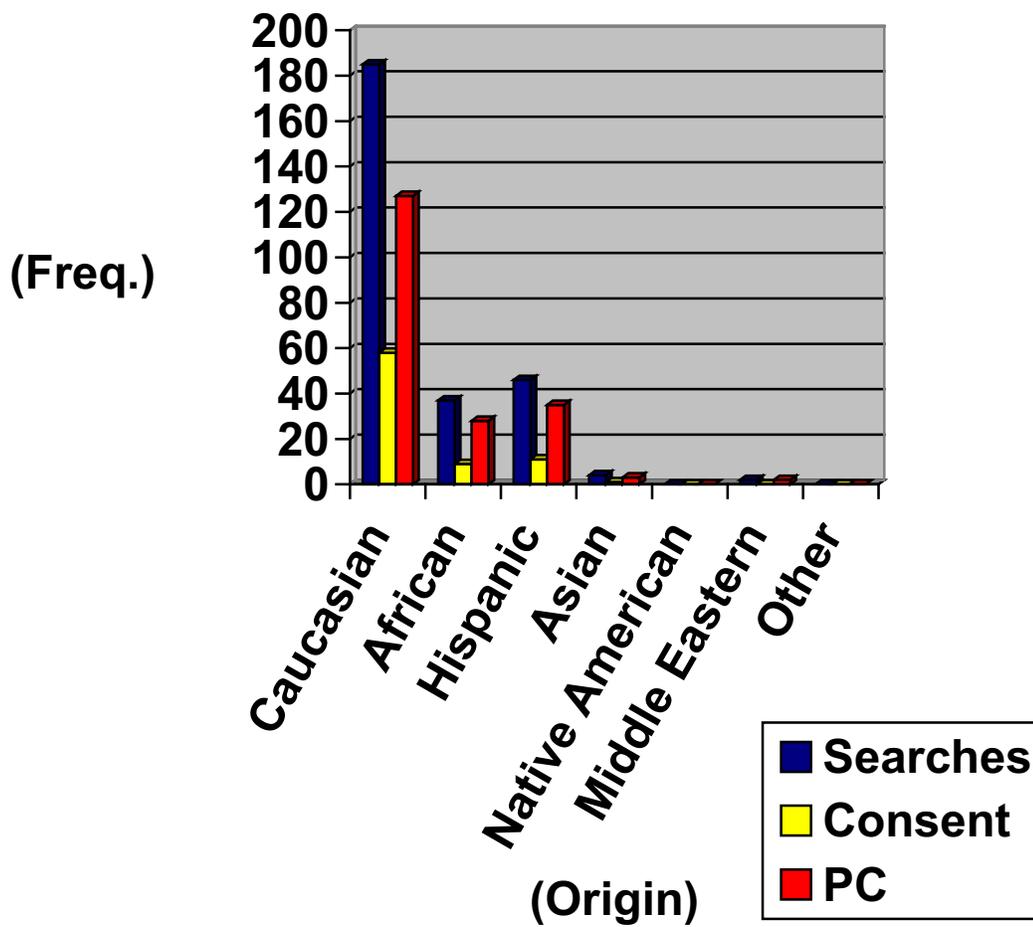
* Race/Ethnicity is defined by Senate Bill 1074 as being of a "particular descent, including Caucasian, African, Hispanic, Asian, Native American or Middle Eastern".

**Figure has been rounded

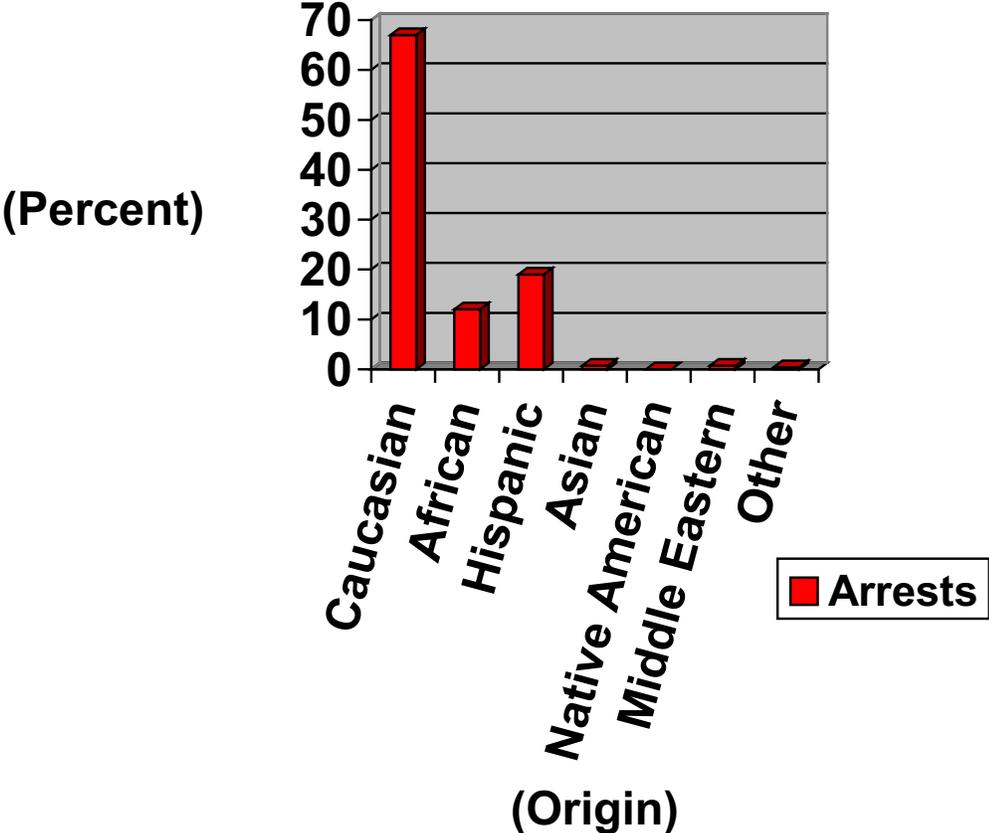
Tier 1 Data (Motor Vehicle Contacts)



Tier 1 Data (Searches)



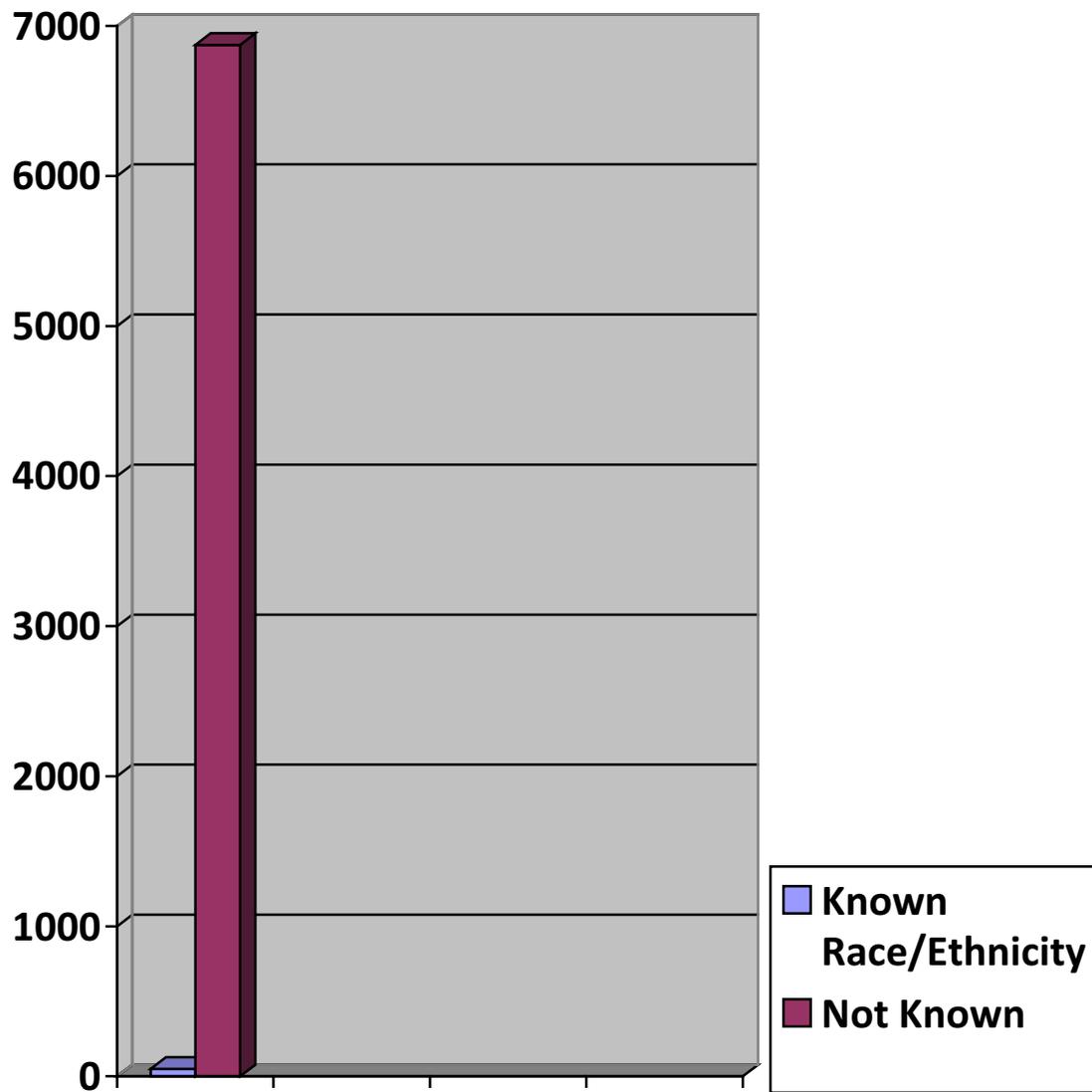
Tier 1 Data (Arrests)



Total Number of Instances where Officers Knew/did not Know Race/Ethnicity of Individuals Before Being Detained (1/1/11--12/31/11)

Total Number of Instances where Officers <u>Knew</u> Race and Ethnicity of Individuals Before Being Detained	Total Number of Instances where Officers <u>Did Not Know</u> the Race and Ethnicity of Individuals Before Being Detained
32	10,204

Known Race/Ethnicity (Frequencies)



Tier 1 (Partial Exemption TCLEOSE Form)

Partial Exemption Racial Profiling Reporting (Tier 1)

Department Name _____

Agency Number _____

Chief Administrator Name _____

Reporting Name _____

Contact Number _____

E-mail Address _____

Certification to Report 2.132 (Tier 1) – Partial Exemption

Policy Requirements (2.132(b) CCP): Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

- (1) clearly define acts constituting racial profiling;
- (2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;
- (3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;
- (4) provide public education relating to the agency's complaint process;
- (5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;
- (6) require collection of information relating to motor vehicle

stops in which a citation is issued and to arrests made as a result of those stops, including information relating to:

(A) the race or ethnicity of the individual detained;

(B) whether a search was conducted and, if so, whether the individual detained consented to the search; and

(C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; and

(7) require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit an annual report of the information collected under Subdivision (6) to:

(A) the Commission on Law Enforcement Officer Standards and Education; and

(B) the governing body of each county or municipality served by the agency, if the agency is an agency of a county, municipality, or other political subdivision of the state.

These polices are in effect

Chief Administrator Date

Partial Exemption Racial Profiling Reporting

(Tier 1)

Video and Audio Equipment Exemption

Partial Exemption Claimed by (2.135(a) CCP):

all cars regularly used for motor vehicle stops are equipped with video camera and transmitter-activated equipment and each motor stop is recorded and the recording of the stop is retained for at least 90 days after the stop.

OR

In accordance with 2.135(a)(2) the agency has requested and not received funds to install the recording equipment

I claim this exemption

Chief Administrator Date

Partial Exemption Racial Profiling Reporting (Tier 1)

(This is the TCLEOSE recommended form. The form is not mandatory. The information contained in this form, however, is mandatory. You may use your form, but all information must be provided.)

If you claim a partial exemption you must submit a report that contains the following data or use this format to report the data.

Instructions: Please fill out all boxes. If zero, use 0.

1. Total on lines 4, 11, 14, and 17 Must be equal

2. Total on line 20 Must equal line 15

Number of Motor Vehicle Stops:

1. _____ citation only

2. _____ arrest only

3. _____ both

4. _____ Total

Race or Ethnicity:

5. _____ African

6. _____ Asian

7. _____ Caucasian

8. _____ Hispanic

9. _____ Middle Eastern

10. _____ Native American

11. _____ Total

Race or Ethnicity Known Prior to Stop?

12. _____ Yes

13. _____ No

14. _____ Total

Search Conducted:

15. _____ Yes

16. _____ No

17. _____ Total

Was Search Consented?

18. _____ Yes

19. _____ No

20. _____ Total Must Equal # 15

Option to submit required data by utilizing agency report

You must submit your report in PDF format

Electronic Submission of data required by 2.132(b)(6) CCP

(6) require collection of information relating to motor vehicle stops in which a citation is issued and to arrests made as a result of those stops, including information relating to:

(A) the race or ethnicity of the individual detained;

(B) whether a search was conducted and, if so, whether the individual detained consented to the search; and

(C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; and

This report meets the above requirements

Chief Administrator

Date

Send entire documents electronically to this website

www.tcleose.state.tx.us

**Tier 1 Baseline Comparison
(Fair Roads Standard)**

(II) Motor Vehicle-Contacts and Fair Roads Standard/U.S.

Census Comparison

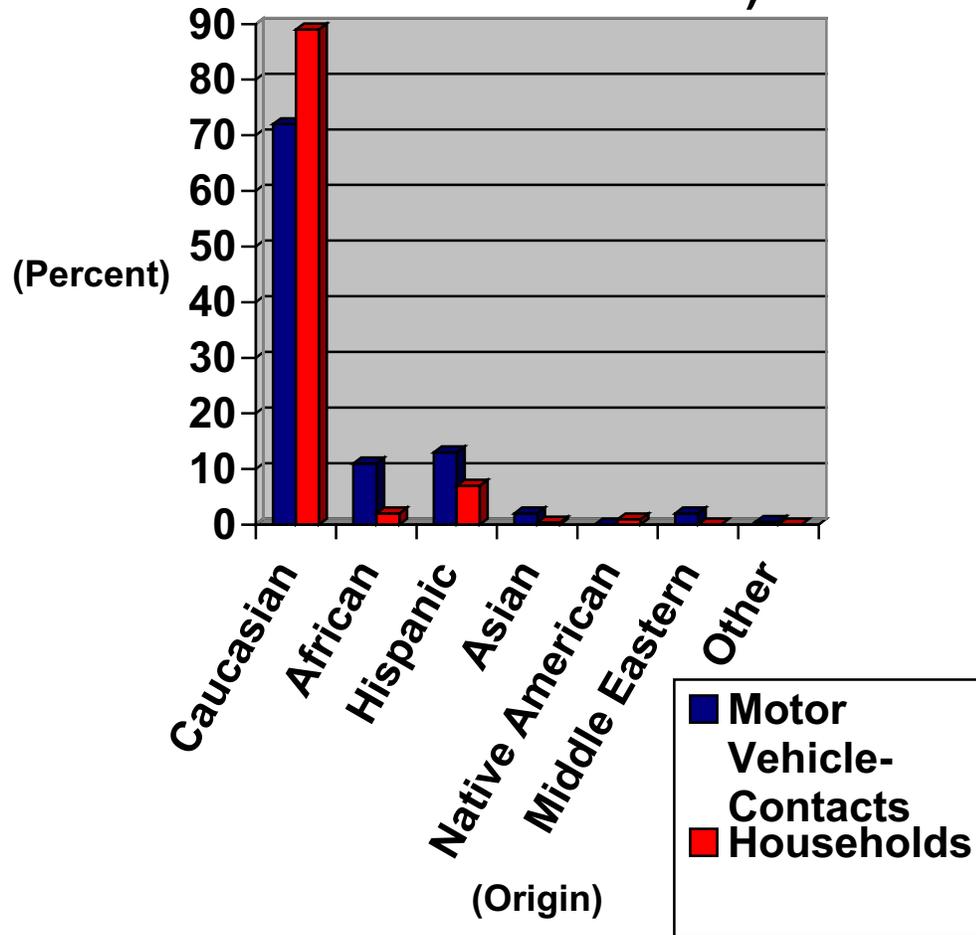
Comparison of motor vehicle-related contacts with households in Murphy that have vehicle access (in percentages). (1/1/11—12/31/11)

Race/Ethnicity*	Contacts (in percentages)	Households with vehicle access (in percentages)	U.S. Census (in percentages)
Caucasian	57	79	63
African	15	8	12
Hispanic	14	4	8
Asian	8	7	16
Native American	.1	1	1
Middle Eastern	6	n/a	0
Other	.04	N/A	N/A
Total	100**	99**	100

* Race/Ethnicity are defined by Senate Bill 1074 as being of a “particular descent, including Caucasian, African, Hispanic, Asian, Native American and Middle Eastern”.

**Represents rounded figure

Tier 1 (Motor Vehicle-Contacts and Households/10)



Tier 1 Data
(Eight-Year Comparative Analysis)
(2004—2011)

(III) Eight-Year Tier 1 Data Comparison

**Comparison of Eight-Year Traffic and Motor Vehicle-Related Contact
Information
(1/1/04---12/31/11)**

Race/Ethnicity*	Traffic-Related Contacts (in percentages)							
			(04)	(05)	(06)	(07)	(08)	(09)
Caucasian			60	61	61	64	59	56
African			11	12	13	13	14	15
Hispanic			22	18	16	13	14	15
Asian			6	8	7	8	11	13
Native American			1	.4	.2	.2	.02	.03
Other			0	.4	2	2	2	.7
Total			100	100**	100**	100	100	100**

* Race/Ethnicity is defined by Texas Senate Bill 1074 as being of a “particular descent, including Caucasian, African, Hispanic, Asian, or Native American”.

** Figure has been rounded.

**Comparison of Eight-Year Traffic and Motor Vehicle-Related Contact Information
(1/1/04---12/31/11)**

Race/Ethnicity*	Motor Vehicle-Related Contacts (in percentages)	
	(10)	(11)
Caucasian	55	57
African	15	15
Hispanic	14	14
Asian	9	8
Native American	.05	.1
Middle Eastern	7	6
Other	.5	.04
Total	100**	100

* Race/Ethnicity is defined by Texas Senate Bill 1074 as being of a “particular descent, including Caucasian, African, Hispanic, Asian, Native American and Middle Eastern”.

** Figure has been rounded.

Analysis and Interpretation of Data

Analysis

The Texas Senate Bill 1074, which later became the Texas Racial Profiling Law, was passed in 2001. That is, the law came into effect on January 1, 2002 and required that all police departments in Texas collect traffic-related data and report this information to their local governing authority by March 1st of each year. In 2009, the law was modified to include the collection and reporting of all motor vehicle related contacts where a citation was issued or arrest made. In addition, since 2009, the law requires that all police officers indicate whether or not they knew the race or ethnicity of the individual before detaining them. Further, it is required that agencies report motor vehicle related data to their local governing authority and to the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) by March 1st of each year. The purpose in collecting and presenting this information is to determine if police officers in a particular municipality are engaging in the practice of racially profiling minority motorists.

Further, the Texas Racial Profiling Law requires police departments to interpret motor vehicle-related data. Even though most researchers would probably agree with the fact that it is within the confines of good practice for police departments to be accountable to the citizenry while carrying a transparent image before the community, it is very difficult to determine if police officers are engaging in racial profiling, from a review or analysis of aggregate data. In other words, it is challenging for a reputable researcher to identify specific “individual” racist behavior from aggregate-level “institutional” data on traffic or motor vehicle-related contacts.

During the 2009 legislative session, the Texas Legislature passed House Bill 3389, which modified the existing Racial Profiling Law by adding new requirements; this took effect on January 1st, 2010. These new changes include, but are not exclusive of, the re-definition of a contact to include motor vehicles where a citation was issued or an arrest made. In addition, it requires police officers to indicate if they knew the race or ethnicity of the individual before detaining them. Also, the new law requires adding "middle eastern" to the racial and ethnic category and submitting the annual traffic data report to TCLEOSE before March 1st of each year, starting this year. I am pleased to inform you that these new requirements have been addressed by the Murphy Police Department as it is demonstrated throughout this report.

The Murphy Police Department, in an effort to comply with The Texas Racial Profiling Law, commissioned the analysis of its 2011 traffic contact data. Thus, three different types of data analyses were performed. The first of these involved a careful evaluation of the 2011 motor vehicle-related data. This particular analysis measured, as required by the law, the number and percentage of Caucasians, African Americans, Hispanics, Asians, Native Americans, Middle Easterners and individuals belonging to the “other” category, that came in contact with the police in the course of a motor vehicle related stop, and were either issued a citation or arrested. Further, the analysis included information relevant to the number and percentage of searches (table 1) while indicating the type of search performed (i.e., consensual or probable cause). Also, the data analysis

included the number and percentage of individuals who, after they came in contact with the police for a traffic-related reason, were arrested.

The additional data analysis performed was based on a comparison of the 2011 motor vehicle contact data with a specific baseline. When reviewing this particular analysis, it should be noted that there is disagreement, in the literature, regarding the appropriate baseline to be used when analyzing traffic-related contact information. Of the baseline measures available, the Murphy Police Department opted to adopt, as a baseline measure, the Fair Roads Standard. This particular baseline is based on data obtained through the U.S. Census Bureau (2000) relevant to the number of households that have access to vehicles while controlling for the race and ethnicity of the heads of households. It should be noted that the 2010 U.S. Census Data relevant to the Fair Roads Standard was not available at the time that this report is being produced. It is expected that this particular data will be available by the U.S. Census in the near future.

It is clear that census data presents challenges to any effort made at establishing a fair and accurate racial profiling analysis. That is, census data contains information on all residents of a particular community, regardless of the fact they may or may not be among the driving population. Further, census data, when used as a baseline of comparison, presents the challenge that it captures information related to city residents only. Thus, excluding individuals who may have come in contact with the Murphy Police Department in 2011 but live outside city limits. In some cases, the percentage of the population that comes in contact with the police but lives outside city limits represents a substantial volume of all motor vehicle-related contacts made in a given year.

Since 2002, several civil rights groups in Texas expressed their desire and made recommendations to the effect that all police departments should rely, in their data analysis, on the Fair Roads Standard. This source contains census data specific to the number of “households” that have access to vehicles. Thus, proposing to compare “households” (which may have multiple residents and only a few vehicles) with “contacts” (an individual-based count). This, in essence, constitutes a comparison that may result in ecological fallacy. Despite this, the Murphy Police Department made a decision that it would use this form of comparison (i.e., census data relevant to households with vehicles) in an attempt to demonstrate its “good will” and “transparency” before the community. Thus, the Fair Roads Standard data obtained and used in this study is specifically relevant to Murphy. Unfortunately, the data being used for comparative purposes is from the previous census since, as noted earlier, the most recent census data was not available at the time of this report. It is expected that the new and more recent census data will be used in future reports.

The final analysis was conducted while using the 2004--2009 traffic data and the 2010 and 2011 motor-vehicle related data. Specifically, all traffic-related contacts made in 2009 were compared to similar figures reported in 2004, 2005, 2006, 2007 and 2008. Similarly, motor vehicle contact data was compared made in 2010 and 2011. Although some researchers may not support the notion that in ten years, a “significant” and “permanent” trend can take effect, when considering this analysis, it was determined that

comparing eight years of traffic contact data may highlight possible areas of consistency with regards to traffic-related contacts. That is, the eight-year comparison has the potential of revealing indicators that a possible trend of traffic-based contacts with regards to members of a specific minority group, may in fact, develop.

Tier 1 (2011) Motor Vehicle-Related Contact Analysis

When analyzing the Tier 1 data collected in 2011, it was evident that most motor vehicle-related contacts were made with Caucasian drivers. This was followed by African American and Hispanic drivers. With respect to searches, most of them were performed on Caucasian drivers. This was followed by Hispanics and African Americans. It is important to note that the arrest data revealed that Caucasian drivers were arrested the most in motor vehicle-related contacts; this was followed by African Americans and Hispanics.

Fair Roads Standard Analysis and U.S. Census Analysis

The data analysis of motor vehicle contacts to the census data relevant to the number of “households” in Murphy who indicated, in the 2000 census, that they had access to vehicles, produced interesting findings. Specifically, the percentage of individuals of African American, Hispanic and Asian descent that came in contact with the police was higher than the percentage of African American, Hispanic and Asian households in Murphy that claimed, in the 2000 census, to have access to vehicles. It should be noted that the percentage difference among Asians was of less than 3%; thus, deemed by some as being statistically insignificant. With respect to Caucasians and Native Americans, a lower percentage of contacts were detected. That is, the percentage of Caucasian and Native American drivers that came in contact with the police in 2011 was lower than the percentage of Caucasian and Native American households in Murphy with access to vehicles. Similar findings were revealed when comparing the contact data to the U.S. Census data specific to Murphy. The 2010 Census data comparison did reveal one specific difference; that is, the percentage of Asians contacts was much lower than the percentage of Asians living in Murphy.

Eight-Year Comparison

The eight-year comparison (04-10) of traffic and motor vehicle related-contact data showed some similarities. As illustrated in table 3, the percentage of drivers (from different racial/ethnic groups) that came in contact with the Murphy Police in 2011 was similar to the percentage of drivers, from the same racial/ethnic groups that came in contact with the Murphy Police Department from 2004 to 2010. However, a few differences were noted. When comparing 2011 to the previous years, there was an increase in percentage of contacts among Caucasian drivers. A decrease in percentage was detected among Asians.

It should be noted that the 2010 and 2011 data should be analyzed while considering that since January 1st of 2010, a contact was re-defined by the law; thus, making it statistically challenging to compare traffic contacts (collected and reported from 2004-2009) with motor vehicle contacts (collected and reported since 2010).

Summary of Findings

The comparison of motor vehicle contacts showed that the Murphy Police Department came in contact (in motor vehicle-related incidents) with a smaller percentage of Caucasian and Native American drivers than the percentage that resided in Murphy and had access to vehicles. Further, the data suggested that the percentage of African American, Hispanic and Asian drivers that came in contact with the police in 2011 was higher than the percentage of African American, Hispanic and Asian households in Murphy with access to vehicles. In addition the data showed that in a large number of instances, officers did not know the race or ethnicity of individuals before detaining them, when compared to instances where officers knew the race/ethnicity of individuals before they were detained.

An examination of the ten-year traffic and motor vehicle-related contact data suggested that the Murphy Police Department has been, for the most part, consistent in the racial/ethnic composition of motorists it comes in contact with during a given year. The consistency of contacts for the past 8 years is in place despite the fact the city demographics may have changed, thus, increasing the number of subjects likely to come in contact with the police.

While considering the findings made in this analysis, it is recommended that the Murphy Police Department should continue to collect and evaluate additional information on motor vehicle contact data (i.e., reason for probable cause searches, contraband detected) which may prove to be useful when determining the nature of the contacts police officers are making with all individuals; particularly with African Americans and Hispanics. Although this additional data may not be required by state law, it is likely to provide insights regarding the nature and outcome of all motor vehicle contacts made with the public.

As part of this effort, the Murphy Police Department is also encouraged to:

- 1) Perform an independent search analysis on the search data collected in the first quarter of 2012.
- 2) Commission data audits in 2012 in order to assess data integrity; that is, to ensure that the data collected is consistent with the data being reported.

It should be noted that the Department complied with recommendations made last year regarding data audits. Further, the information and analysis provided in this report serves as evidence that the Murphy Police Department has, once again, complied with the Texas Racial Profiling Law.

(III) Summary

Checklist

Checklist

The following requirements **were** met by the Murphy Police Department in accordance with The Texas Racial Profiling Law:

- Clearly defined act or actions that constitute racial profiling
- Statement indicating prohibition of any peace officer employed by the Murphy Police Department from engaging in racial profiling
- Implement a process by which an individual may file a complaint regarding racial profiling violations
- Provide public education related to the complaint process
- Implement disciplinary guidelines for officer found in violation of the Texas Racial Profiling Law
- Collect data (Tier 1) that includes information on
 - a) Race and ethnicity of individual detained
 - b) Whether a search was conducted
 - c) If there was a search, whether it was a consent search or a probable cause search
 - d) Whether a custody arrest took place
- Indicate total number of officers who knew and did not know, the race/ethnicity of individuals before being detained.
- Produce an annual report on police contacts (Tier 1) and present this to local governing body and TCLEOSE by March 1, 2012.
- Adopt a policy, if video/audio equipment is installed, on standards for reviewing video and audio documentation

Contact Information

Contact Information

For additional questions regarding the information presented in this report, please contact:

Del Carmen Consulting, LLC
817.681.7840
www.texasracialprofiling.com
www.delcarmenconsulting.com

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MURPHY POLICE DEPARTMENT
DIRECTIVE

SUBJECT: Racial Profiling

NUMBER: 2.01.1

EFFECTIVE DATE: November 18, 2009

RELATED STANDARDS:

REVIEW DATE: November 18, 2011

APPROVED: _____

Chief G.M. Cox

DATED: 11/18/2009

- I. **PURPOSE:** To reaffirm the commitment of the Murphy Police Department's to unbiased policing in the encounter with any person; to reinforce procedures that serve to ensure public confidence and mutual trust through the provision of services in a fair and equitable fashion and to protect our officers from unwarranted accusations of misconduct when they act within the dictates of departmental policy and the law.
- II. **POLICY:** It shall be the policy of the Murphy Police Department to police our community in a proactive manner and to aggressively investigate suspected violations of the law. Officers shall actively enforce local, state, and federal laws in a responsible and professional manner, without regard to race, ethnicity, or national origin. Officers are strictly prohibited from engaging in racial profiling as defined in this policy. Racial profiling is an unacceptable patrol tactic and will not be condoned.

This Directive is adopted in compliance with the requirements of Articles 2.131 through 2.136, Texas Code of Criminal Procedure, which prohibits Texas peace officers from engaging in racial profiling.

III. **DEFINITIONS:**

- A. Racial Profiling – a law enforcement initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity. Racial profiling pertains to persons who are viewed as suspects or potential suspects of criminal behavior. The term is not relevant as it pertains to witnesses, complainants, persons needing assistance, or other citizen contacts.
- B. Race or Ethnicity – persons of a particular descent
- C. Acts Constituting Racial Profiling – acts initiating law enforcement action, such as a traffic stop, a detention, a search, issuance of a citation, or an arrest based solely upon an individual's race, ethnicity, or national origin or on the basis of racial or ethnic stereotypes, rather than upon the individual's behavior, information identifying the individual as having possibly engaged in criminal activity, or other lawful reasons for the law enforcement action.
- D. Pedestrian Stop – an interaction between a peace officer and an individual who is being detained for the purposes of a criminal investigation in which the individual is not under arrest.
- E. Traffic Stop – the stopping of a motor vehicle by a peace officer for an alleged violation of law or ordinance regulating traffic.

IV. DELIVERY PROTOCOL:

A. PROHIBITION:

- a. Officers of the Murphy Police Department are strictly prohibited from engaging in racial profiling in any form. The prohibition against racial profiling does not preclude the use of race, ethnicity or national origin as factors in a detention decision by an officer. Race, ethnicity or national origin may be legitimate factors in such a decision when used as part of a description when used as part of a description of a suspect or witness for whom an officer is searching.

B. COMPLAINT PROCESS:

1. No person shall be discouraged, intimidated or coerced from filing a complaint or be discriminated against because they have filed a complaint.
2. Any person who believes that a peace officer employed by the Murphy Police Department has engaged in racial profiling with respect to that person, may file a complaint in accordance with the provisions in Directive 2.04.1 – Internal Investigations.
 - a. An employee who is contacted regarding a complaint against an officer shall follow the procedures set forth in Directive 2.04.1 – Internal Investigations.
 - b. Citizens who appear in person wishing to file a complaint shall be provided with a departmental brochure, “How to File a Complaint” and a compliant form. Brochures are maintained in the Murphy Police Department lobby and at Murphy City Hall.
3. Any supervisor who becomes aware of an alleged or suspected violation of this Directive shall report the alleged violation in accordance with Directive 2.04.1 – Internal Investigations.
4. Complaints of racial profiling shall be classified as a Level 1 complaint, and shall be investigated by the Chief of Police or his designee.

C. DISCIPLINARY AND CORRECTIVE ACTIONS:

1. Any department officer who is found, after investigation, to have engaged in racial profiling in violation of this Directive may be subject to disciplinary action, up to and including termination. Disciplinary or corrective actions may include diversity, sensitivity or other appropriate training or counseling, as determined by the Chief of Police.

E. PUBLIC EDUCATION:

1. The Murphy Police Department shall provide education to the public concerning the racial profiling complaint process. The primary method of public education shall be through the brochure “How to File a Complaint” which are maintained in the lobby of the Murphy Police Department, and at Murphy City Hall. Other education methods may be utilized to inform the public, including news media, civic presentations, the Internet and/or public meetings.

F. COLLECTION OF INFORMATION AND ANNUAL REPORT WHEN CITATION ISSUED OR ARREST MADE

1. For each traffic stop in which a citation is issued and for each arrest resulting from such traffic stops, an officer involved in the stop shall collect the following information on the citation:
 - a. Information identifying the race or ethnicity of the person detained. The following codes will be used to identify the individual’s race:

- B = Black
- H = Hispanic
- A = Asian
- W = White
- I = Native American / American Indian
- M = Middle Eastern
- O = Other

Note: Officers may not ask the individual to identify their race. If the officer is unable to determine the race or ethnicity of the person contacted, then the race shall be entered as “other” on the citation(s) issued.

- b. Whether a search was conducted;
 - c. If a search was conducted, whether the person detained consented to the search;
 - d. Whether contraband was found;
 - e. Whether the person contacted is a resident or non-resident of the City of Murphy. This shall be reflected on each citation issued, using an (R) for residents or a (NR) for non-resident.
 - f. Whether the peace officer knew the race or ethnicity of the individual detained before detaining the individual.
2. The information collected shall be compiled in an annual report covering the period of January 1 through December 31 of each year, and shall be submitted to the governing body of the City of Murphy no later than March 1 of the following year. The report will include:
 - a) A breakdown of citations by race or ethnicity;
 - b) Number of citations that resulted in a search;
 - c) Number of searches that were consensual;
 - d) Number of citations that resulted in custodial arrests;
 - e) Public education efforts concerning the racial profiling complaint process; and.
 - f) The number of complaints received by the department that officers were racially profiling.
 3. The annual report shall not include identifying information about any individual stopped or arrested, and shall not include identifying information about any peace officer involved in a stop or arrest.

G. AUDIO AND VIDEO EQUIPMENT

1. Each motor vehicle regularly used by this department to make traffic stops is equipped with a mobile video camera system capable of recording video and audio.
2. Each traffic stop made by an officer of this department that is capable of being recorded by video and audio shall be recorded. In units equipped with mobile video camera systems, both video and audio recordings shall be required.
3. Supervisors and officers shall ensure that mobile video camera equipment, and/or audio equipment, is properly functioning prior to commencing their tour of duty. Police units with malfunctioning or inoperable mobile video camera equipment shall not be utilized, under normal circumstances.
4. Supervisors shall have the authority to assign units with malfunctioning or inoperable mobile video equipment when situations dictate.

5. All in-car video recording boxes shall be locked at all times.
6. All recordings shall be kept for a minimum of ninety (90) days from the date of the recording. This is in compliance with Article 2.135. (2-b) of the Texas Code of Criminal Procedure.
7. All recordings will be kept in a secure location within the police department to prevent loss or tampering. The location will be designated by the Support Services Manager.
8. All recordings must be kept accessible by supervisory staff for review.

H. REVIEW OF VIDEO DOCUMENTATION

1. To ensure the Department meets the standards set forth under the State racial profiling laws, recording reviews shall be conducted. Each video shall be retained for a minimum period of ninety (90) days, unless a complaint is filed alleging that an officer has engaged in racial profiling with respect to a traffic stop. The Field Services Commander shall ensure that all recordings are properly stored and retained in accordance with applicable laws and this Directive.
2. If a complaint is received alleging that an officer has engaged in racial profiling, the tape shall be forwarded to the Chief of Police. The Chief of Police shall retain the recording until final disposition of the complaint has been made.
3. The Field Services Commander or her designee shall review a randomly selected sampling of video and audio recordings, made recently by officers employed by the Department, in order to determine if patterns of racial profiling exist. These reviews shall be conducted weekly and documented on the appropriate form.
 - a. Written documentation shall include:
 - i. The names of the officers whose contacts were reviewed;
 - ii. The date(s) of the tapes reviewed;
 - iii. The date the actual review was conducted; and
 - iv. The name of the person conducting the review.
 - b. The Field Services Commander or their designee shall view thirty (30) minutes of video on each officer every two weeks.
 - c. The recordings that are reviewed may be chosen at random, unless some event requires the review of specific recorded materials.
 - d. The Field Services Commander shall forward the required documentation to the Office of the Chief of Police.
 - e. The Office of the Chief of Police shall maintain a file of all tape review documentation performed, in compliance with this Directive.
4. In reviewing video recordings, the Field Services Commander or her designee, shall seek to determine if the officer(s) reviewed have engaged in a pattern of racial profiling, that includes multiple acts constituting racial profiling for which there is no reasonable, credible explanation based on established police and law enforcement procedures.
 - a. If any material on the recording does not comply with State racial profiling laws or Murphy Police Department Policy, the Field Services Commander or their designee shall insure that appropriate corrective action is taken in compliance with Article 2.132. (b-5) of the Texas Code of Criminal Procedure.

I. TRAINING

1. Each peace officer employed by the department shall complete the comprehensive education and training program on racial profiling established by the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) not later than the second anniversary of the date the officer was licensed, or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier. A person who on September 1, 2001, held a TCLEOSE intermediate proficiency certificate, or who had held a peace officer license issued by TCLEOSE for at least two years, shall complete a TCLEOSE training and education program on racial profiling not later than September 1, 2003.
2. The Chief of Police shall, in completing the training required by Section 96.641, Texas Education Code, complete the program on racial profiling established by the Bill Blackwood Law Enforcement Management Institute of Texas (LEMIT), not later than September 1, 2003.

IV. ADMINISTRATIVE REVIEW AND REVISION

- A. *Bi-Annually*, the Chief of Police shall review the organizational structure, making any revisions, as needed.
- B. The Chief of Police reserves the right to amend, modify, or change the agency's organizational chart to reflect the agency's authorized structure by adding or deleting any new positions or functions.
- C. A copy of the agency's organizational chart will be posted in the Briefing Room. In addition, all personnel will be provided a copy of the organizational chart, as part of their individual policy manuals.

V. **CLOSING STATEMENT:** Violations of this Directive would serve only as grounds for discipline within the Murphy Police Department.

TIER 1 - PARTIAL EXEMPTION RACIAL PROFILING REPORT

Agency Name: MURPHY POLICE DEPT.
Reporting Date: 01/10/2012
TCLEOSE Agency Number: 085216
Chief Administrator: G. M. COX
Agency Contact Information: Phone: 972-468-4200
Email: kparker@murphytx.org
Mailing Address:
MURPHY POLICE DEPT.
206 N Murphy Road
Murphy, TX 75094

This Agency claims partial racial profiling report exemption because:

Our vehicles that conduct motor vehicle stops are equipped with video and audio equipment and we maintain videos for 90 days.

Certification to This Report 2.132 (Tier 1) – Partial Exemption

Article 2.132(b) CCP Law Enforcement Policy on Racial Profiling

MURPHY POLICE DEPT. has adopted a detailed written policy on racial profiling. Our policy:

- (1) clearly defines acts constituting racial profiling;
- (2) strictly prohibits peace officers employed by the MURPHY POLICE DEPT. from engaging in racial profiling;
- (3) implements a process by which an individual may file a complaint with the MURPHY POLICE DEPT. if the individual believes that a peace officer employed by the MURPHY POLICE DEPT. has engaged in racial profiling with respect to the individual;
- (4) provides public education relating to the agency's complaint process;
- (5) requires appropriate corrective action to be taken against a peace officer employed by the MURPHY POLICE DEPT. who, after an investigation, is shown to have engaged in racial profiling in violation of the MURPHY POLICE DEPT.'s policy adopted under this article;
- (6) require collection of information relating to motor vehicle stops in which a citation is issued and to arrests made as a result of those stops, including information relating to:
 - (A) the race or ethnicity of the individual detained;
 - (B) whether a search was conducted and, if so, whether the individual detained consented to the search; and

(C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; and

(7) require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit an annual report of the information collected under Subdivision (6) to:

(A) the Commission on Law Enforcement Officer Standards and Education; and

(B) the governing body of each county or municipality served by the agency, if the agency is an agency of a county, municipality, or other political subdivision of the state.

I certify these policies are in effect.

Executed by: **G. M. COX**

Chief Administrator

MURPHY POLICE DEPT.

Date: 01/10/2012

MURPHY POLICE DEPT.Motor Vehicle Racial Profiling Information

Number of motor vehicle stops:

- 1. **5332** citation only
- 2. **102** arrest only
- 3. **136** both
- 4. **5570 Total** (4, 11, 14 and 17 must be equal)

Race or Ethnicity:

- 5. **780** African
- 6. **527** Asian
- 7. **3006** Caucasian
- 8. **916** Hispanic
- 9. **337** Middle Eastern
- 10. **4** Native American
- 11. **5570 Total** (lines 4, 11, 14 and 17 must be equal)

Race or Ethnicity known prior to stop?

- 12. **0** Yes
- 13. **5570** No
- 14. **5570 Total** (lines 4, 11, 14 and 17 must be equal)

Search conducted?

- 15. **239** Yes
- 16. **5331** No
- 17. **5570 Total** (lines 4, 11, 14 and 17 must be equal)

Was search consented?

- 18. **135** Yes
- 19. **104** No
- 20. **239 Total** (must equal line 15)

(I) Tier 1 Data

Motor Vehicle-Related Contact Information (1/1/11—12/31/11)

Race/Ethnicity*	Contacts		Searches		Consensual Searches		PC Searches		Custody Arrests	
	N	%	N	%	N	%	N	%	N	%
Caucasian	5786	57%	128	54%	74	55%	54	52%	45	44%
African	1527	15%	48	20%	27	20%	21	20%	26	25%
Hispanic	1458	14%	50	21%	27	20%	23	22%	24	24%
Asian	867	8%	11	5%	6	4%	5	5%	6	6%
Native American	11	0%	1	0%	1	1%	0	0%	1	1%
Middle Eastern	583	6%	1	0%	0	0%	1	1%	0	0%
Other	4	0%	0	0%	0	0%	0	0%	0	0%
Total	10236	100%	239	100%	135	100%	104	100%	102	100%

“N” represents “number” of traffic-related contacts

* Race/Ethnicity is defined by Senate Bill 1074 as being of a “particular descent, including Caucasian, African, Hispanic, Asian, Native American or Middle Eastern”.

**Figure has been rounded

Officers who knew the race/ethnicity of person before being detained:

Yes 0

No 10236

Racial Profiling Complaints (if any):

Complaint nature N/A

Outcome of Complaint-related investigation N/A

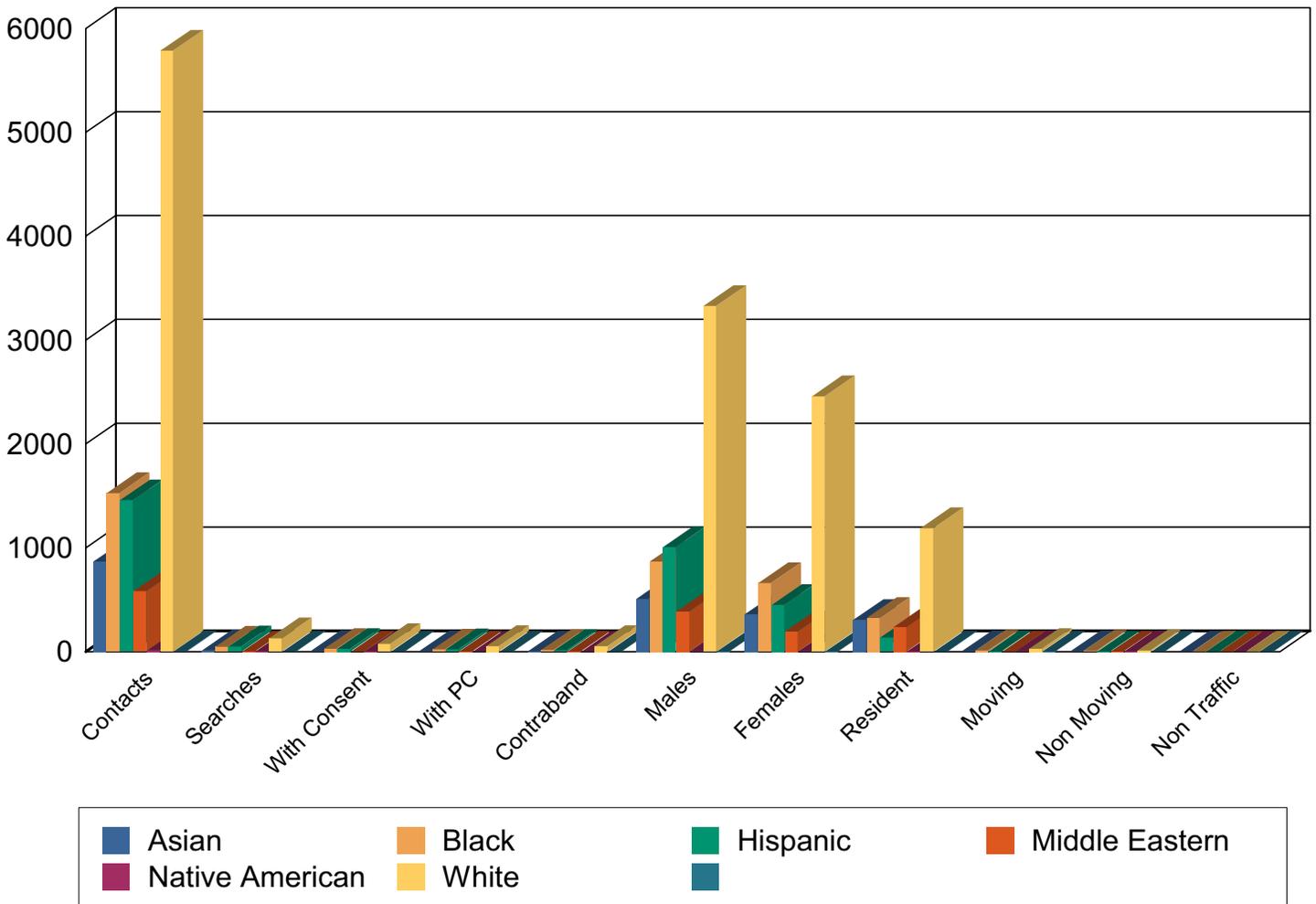


MURPHY POLICE DEPARTMENT

Racial Profiling

01/01/2011 - 12/31/2011

	Contacts		Search	Consent	PC	Contraband	Male	Female	Resident	Race Known	Reason For Contact		
	#	Percent									Moving	Non-Moving	Non-Traffic
Asian	867	8.47%	11	6	5	2	508	359	306	13	5	4	0
Black	1527	14.92%	48	27	21	16	867	660	325	5	10	8	0
Hispanic	1458	14.24%	50	27	23	14	1008	450	135	1	3	1	0
Middle Eastern	583	5.70%	1	0	1	1	388	195	237	8	0	1	0
Native American	11	0.11%	1	1	0	0	6	5	2	0	5	3	0
White	5786	56.53%	128	74	54	54	3328	2458	1189	5	27	12	0
Others	4	0.04%	0	0	0	0	2	2	0	0	1	0	0
Total	10236		239	135	104	87	6107	4129	2194	32	51	29	0



Hispanic is determined by ethnicity, regardless of race.
Hispanics are not included in other races.

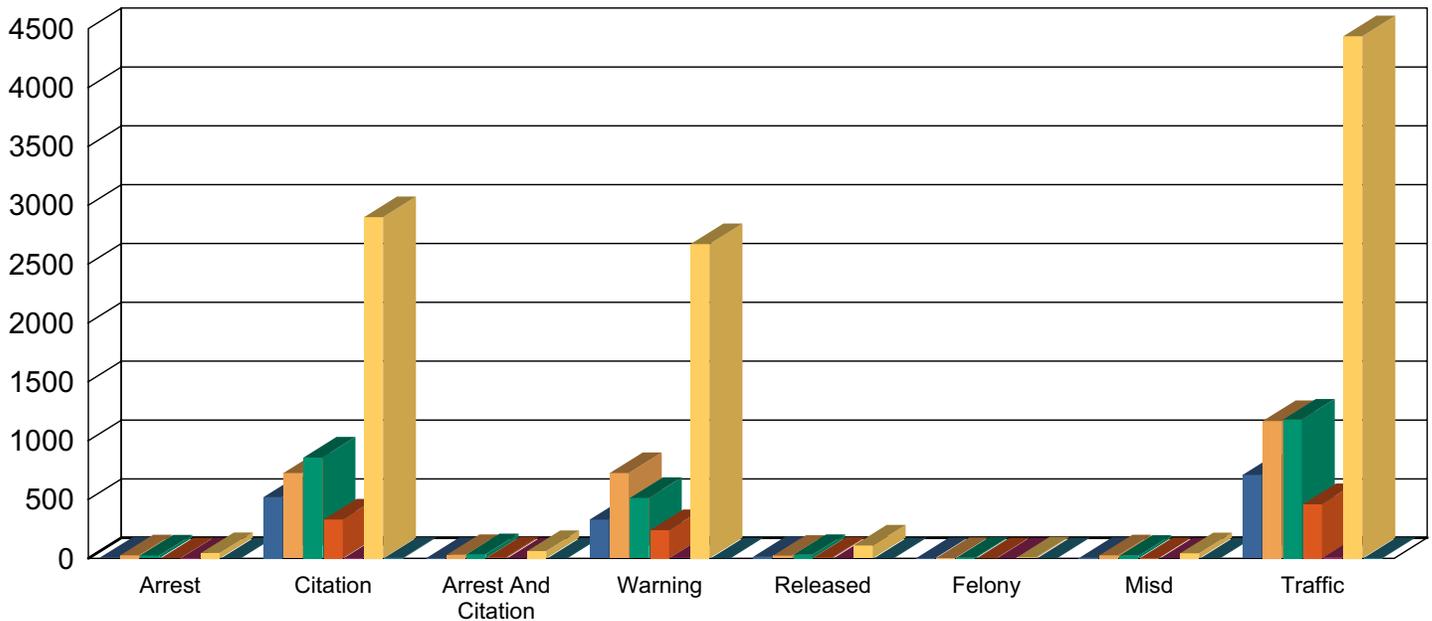


MURPHY POLICE DEPARTMENT

Racial Profiling Dispositions

01/01/2011 - 12/31/2011

		Disposition					Charge			
		Arrest	Citation	Arrest/Citation	Warning	Released	Felony	Misd	Traffic	No Charge
Asian	867	6	518	3	328	12	1	4	709	150
Black	1527	26	725	29	725	22	2	25	1166	326
Hispanic	1458	24	857	35	513	29	5	21	1178	253
Middle Eastern	583	0	330	7	240	6	0	1	461	121
Native American	11	1	3	0	7	0	0	0	9	1
White	5786	45	2899	62	2670	109	8	43	4436	1,284
Others	4	0	4	0	0	0	0	0	3	0
Total: 10236		102	5336	136	4483	178	16	94	7962	2135



Hispanic is determined by ethnicity, regardless of race.
Hispanics are not included in other races.

Issue

Consider and/or act on the application of Winkelmann and Associates, Inc. representing Forestar (USA) Real Estate Group, Inc, requesting approval of the Final Plat for Maxwell Creek North, Phase 10A on property zoned PD (Planned Development) District for Single Family Uses (Ordinance No. 00-06-487) on property located southwest of the intersection of McMillen Road and Rosewood Drive.

Background

The proposed final 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. The proposed final plat is consistent with the Comprehensive Plan.

Section 6.9(b) of the Subdivision Ordinance states that once a subdivision's public improvements are constructed to the satisfaction of the Public Works Department, the Director of Public Works shall recommend to the City Council acceptance of such subdivision. Public Works has been working closely with the contractors and confirms the work is near completion.

Fire Department requested a change to the street name of "Ascension Lane" to "Ashdon" Lane. This would match the name of the existing street that is in direct alignment across the intersection for ease of locating streets for emergency responses. The names are too similar as well for radio traffic. Engineering requested additional easement clarification.

Other Considerations

On September 26, 2011, the Planning & Zoning Commission considered the application requesting approval of the Final Plat for Maxwell Creek North, Phase 10A. Planning & Zoning Commission unanimously approved the Final Plat, 7-0, contingent on the following:

- A change to the street name of "Ascension Lane" to "Ashdon Lane" (complete)
- Additional easement clarification per the Engineer's comments (complete)
- The construction and installation of the required public improvements and City utilities are complete and approved before the October 18, 2011 City Council meeting (extended to completion and approval before the February 7, 2012 City Council meeting)

Staff Recommendation

Motion to approve the Final Plat for **Maxwell Creek North, Phase 10A** on property zoned PD (Planned Development) District for Single Family Uses (Ordinance No. 00-06-487).

Attachments

Final Plat -Maxwell Creek North Phase 10A

Issue

Consider and/or act on the application of Winkelmann and Associates, Inc. representing Forestar (USA) Real Estate Group, Inc, requesting approval of the Final Plat for Maxwell Creek North, Phase 10C1 on property zoned PD (Planned Development) District for Single Family Uses (Ordinance No. 00-06-487) on property located southwest of the intersection of McMillen Road and Rosewood Drive.

Background

The proposed final 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. The proposed final plat is consistent with the Comprehensive Plan.

Section 6.9(b) of the Subdivision Ordinance states that once a subdivision's public improvements are constructed to the satisfaction of the Public Works Department, the Director of Public Works shall recommend to the City Council acceptance of such subdivision. Public Works has been working closely with the contractors and confirms the work is near completion.

Other Considerations

On September 26, 2011, the Planning & Zoning Commission considered the application requesting approval of the Final Plat for Maxwell Creek North, Phase 10C1. Planning & Zoning Commission unanimously approved the Final Plat, 7-0, contingent on the following:

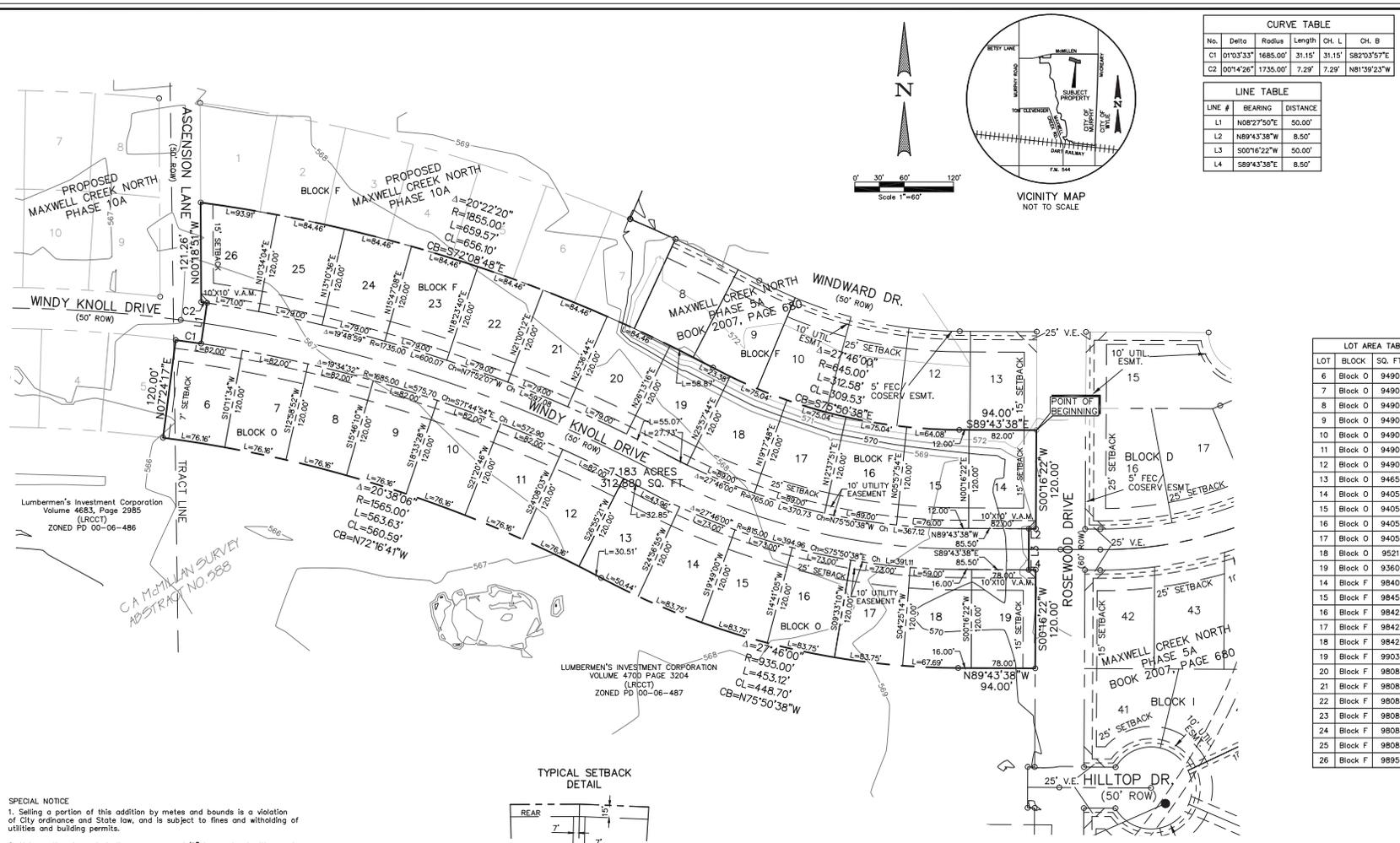
- The construction and installation of the required public improvements and City utilities are complete and approved before the October 18, 2011 City Council meeting (extended to completion and approval before the February 7, 2012 City Council meeting)

Staff Recommendation

Motion to approve the Final Plat for **Maxwell Creek North, Phase 10C1** on property zoned PD (Planned Development) District for Single Family Uses (Ordinance No. 00-06-487).

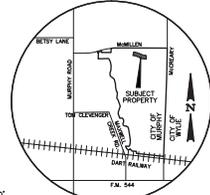
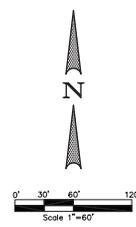
Attachments

Final Plat



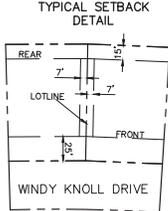
CURVE TABLE					
No.	Delta	Radius	Length	Ch. L.	Ch. B.
C1	01°03'33"	1685.00'	31.15'	31.15'	S82°03'57"E
C2	00°14'26"	1735.00'	7.29'	7.29'	N81°39'23"W

LINE TABLE		
LINE #	BEARING	DISTANCE
L1	N08°27'50"E	50.00'
L2	N89°43'38"W	8.50'
L3	S00°16'22"W	50.00'
L4	S89°43'38"E	8.50'



NO.	DATE	REVISION	APPROVAL

LOT AREA TABLE			
LOT	BLOCK	SO. FT.	ACRES
6	Block O	9490	0.218
7	Block O	9490	0.218
8	Block O	9490	0.218
9	Block O	9490	0.218
10	Block O	9490	0.218
11	Block O	9490	0.218
12	Block O	9490	0.218
13	Block O	9465	0.217
14	Block O	9405	0.216
15	Block O	9405	0.216
16	Block O	9405	0.216
17	Block O	9405	0.216
18	Block O	9521	0.219
19	Block O	9360	0.215
20	Block F	9840	0.226
21	Block F	9845	0.226
22	Block F	9842	0.226
23	Block F	9842	0.226
24	Block F	9842	0.226
25	Block F	9808	0.225
26	Block F	9808	0.225



SPECIAL NOTICE

1. 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.

2. Unless otherwise noted all corners are a 1/2" iron rod set with a red plastic cap stamped W.A.L.

FLOOD NOTE:

ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY, FLOOD INSURANCE RATE MAP COMMUNITY PANEL NO. 48085C 0415 J, DATED JUNE 2, 2009, THIS PROPERTY IS WITHIN FLOOD ZONE X.

ZONE X - AREAS DETERMINED TO BE OUTSIDE THE 500-YEAR FLOODPLAIN.

THIS FLOOD STATEMENT DOES NOT IMPLY THAT THE PROPERTY AND/OR THE STRUCTURE THEREON WILL BE FREE FROM FLOODING OR FLOOD DAMAGE. ON RARE OCCASIONS, GREATER FLOODS CAN AND WILL OCCUR AND FLOOD HEIGHTS MAY BE INCREASED BY MAN-MADE OR NATURAL CAUSES. THIS FLOOD STATEMENT SHALL NOT CREATE LIABILITY ON THE PART OF THE SURVEYOR.

GENERAL NOTES:

1. V.A.M. = VISIBILITY, ACCESS AND MAINTENANCE EASEMENT
 2. ALL EASEMENTS ARE TO BE CREATED WITH THE FILING OF THIS PLAT UNLESS OTHERWISE DENTED WITH COUNTY CLERK'S DOCUMENT RECORDING INFORMATION.

C. A. McMillan Survey, Abstract No. 588
 City of Murphy, Collin County, Texas
 Forestar (USA) Real Estate Group, Inc.
 14755 Preston Road, #710
 Dallas, Texas 75254

FINAL PLAT
 MAXWELL CREEK NORTH, PHASE 10C1
 27 RESIDENTIAL LOTS - 7.183 ACRES
 ZONED PD 04-10-623

Date : 07/08/10 Scale : Custom Title : PLAT Project No. : 14627	FINAL PLAT MAXWELL CREEK NORTH, PHASE 10C1 27 RESIDENTIAL LOTS - 7.183 ACRES ZONED PD 00-06-487 and PD 04-10-623 C.A. McMillan Survey, Abstract No. 588 CITY OF MURPHY COLLIN COUNTY, TEXAS	OWNER : FORESTAR (USA) REAL ESTATE GROUP, INC. 14755 PRESTON ROAD #710 DALLAS, TEXAS 75254	CONSULTING ENGINEERS : WINKELMANN & ASSOCIATES INC. 6750 HILLCREST PLAZA DR., ST 325 DALLAS TX 75230
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S:\14627\07 Phase 10C1\SURVEY\PIR1\14627P101 FINAL PLAT.DWG

Issue

Consider and/or act on the application of Spiars Engineering representing Master-Developers-SNB LLC, requesting approval of the Final Plat for Rolling Ridge Estates, Phase 6 on property zoned PD (Planned Development) District for Single Family Uses (Ordinance No. 04-09-622).

Background

The proposed final plat would allow for the development of the final phase of the subdivision known as Rolling Ridge Estates. For this development, the required minimum lot size is 9,000 square feet. The required minimum dwelling unit size is 2,250 square feet.

Other Considerations

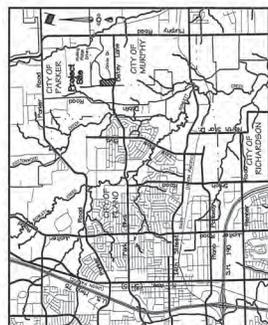
There were no departmental comments.

Staff Recommendation

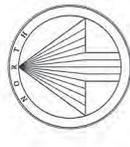
Motion to approve the Final Plat for **Rolling Ridge Estates, Phase 6** on property zoned PD (Planned Development) District for Single Family Uses (Ordinance No. 04-09-622).

Attachments

Rolling Ridge Final Plat



LOCATION MAP
Not to Scale



Base of Bearings: From Rolling Ridge Phase 5, recorded plat, Cabinet 6, Page 114, Plat Records, Collin County, Texas.

- NOTES:**
1. Selling a portion of this addition by metes and bounds is a violation of City and state law and is subject to fines and withholding of utilities and building permits.
 2. No portion of this plat is within FEMA's 100-year floodplain as defined by the Flood Insurance Rate Study for the State of Texas, dated January 18, 1986.
 3. Note: Lot 1, Block X is for landscaping purposes only, and is owned and maintained by the owner.
 4. All corners are 1/2 inch iron rods with orange plastic caps stamped "SPARSENG ENC" unless otherwise noted.
 5. IRF Denotes a 5/8" iron rod found with plastic cap stamped "SPAR SURVEY".
 6. IRF Denotes a 5/8" iron rod found with plastic cap stamped "SPAR SURVEY".
 7. IRF Denotes a 5/8" iron rod found with plastic cap stamped "SPAR SURVEY".
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 16. IRF Denotes a 5/8" iron rod found with plastic cap stamped "SPAR SURVEY".
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Boundary Curve Table

Curve #	Length	Radius	Tangent	Chord	Chord Bearing	Delta
BK1	62.007	1026.007	44.667	60.237	N83°06'40"W	47°03'00"
BK2	64.447	666.007	32.267	64.447	S87°02'37"E	0°00'00"
BK3	10.557	1225.007	5.477	10.557	N87°02'37"E	0°00'00"
BK4	70.547	50.007	50.007	70.717	S79°04'57"E	89°09'50"

Boundary Line Table

Line #	Length	Direction
B11	62.007	S87°02'37"E
B12	107.267	N72°14'16"W
B13	73.217	S87°04'32"W
B14	17.337	S79°30'15"E
B15	50.657	S84°24'17"E
B16	13.587	S87°19'36"W
B17	50.007	S52°14'52"E
B18	153.647	S59°12'54"E
B19	133.007	N79°29'15"E
B20	106.327	S71°19'41"E
B21	20.717	S49°46'17"W
B22	20.717	S49°16'48"E
B23	19.017	S71°19'41"E

Left Curve Table

Curve #	Length	Radius	Tangent	Chord	Chord Bearing	Delta
C1	477.237	5072.857	244.257	471.757	S78°15'17"E	30°08'00"
C2	69.317	1039.347	34.677	69.317	N83°02'22"W	103°08'50"
C3	30.777	50.007	21.007	30.707	S84°09'01"E	89°04'20"
C4	101.727	500.007	68.837	100.217	N79°04'32"E	89°04'20"
C5	184.387	950.007	97.283	184.624	S79°02'20"W	114°05'30"
C6	188.144	400.007	95.819	187.776	N79°09'49"E	24°04'00"
C7	272.236	650.007	135.153	270.237	S79°24'19"W	23°09'50"
C8	144.517	475.007	73.022	144.235	S69°04'03"W	17°29'47"
C9	123.153	175.007	67.118	123.241	S59°05'15"W	42°29'20"

Centerline Curve Table

Curve #	Length	Radius	Tangent	Chord	Chord Bearing	Delta
C1	576.007	6303.707	307.257	607.237	S69°05'01"E	69°40'20"
C2	325.007	340.707	188.327	226.237	S69°05'01"E	42°00'00"
C3	600.007	221.937	177.397	226.237	S84°07'48"E	26°00'00"
C4	500.007	63.857	117.397	63.857	S71°02'11"W	14°01'50"
C5	600.007	181.677	95.197	63.857	S69°02'27"E	29°04'20"
C6	300.007	185.007	63.857	125.167	S79°02'20"W	24°04'20"
C7	600.007	300.707	125.167	226.237	S79°02'20"W	24°04'20"
C8	250.007	446.107	46.027	94.547	N89°02'29"W	24°04'20"
C9	123.007	461.027	226.237	445.467	S77°01'49"W	24°04'20"

Centerline Line Table

Line #	Length	Direction
L1	25.007	N47°15'19"W
L2	135.812	S84°02'29"W
L3	61.707	S77°07'07"W
L4	157.897	S69°02'27"E
L5	125.167	S79°02'20"W
L6	69.857	S64°09'49"W
L7	159.807	S69°09'49"W
L8	62.217	S89°02'29"W
L9	183.957	S64°02'27"W
L10	83.952	S69°09'49"W
L11	25.337	N27°05'19"W
L12	14.417	S49°02'37"E



Green Elver
Partners, L.P.
2802714, 2025, 19, 2000
Zoned Agricultural - Open Space

Collin County
Case # 15-0000003

Collin County
Case # 15-0000002

Dublin Park Addition
Val L, Pg. 654-MR02

**ROLLING RIDGE ESTATES
PHASE 6**

ZONED: PD ORDINANCE 04-01-599 &
PD ORDINANCE 04-09-622
53 LOTS & 1 COMMON AREA

ISAAC HERRIN SURVEY - ABSTRACT NO. 403
CITY OF MURPHY, COLLIN COUNTY, TEXAS

ENGINEER/SURVEYOR
Shane Engineers, Inc.
2410 Main Street, Suite 300
Murphy, Texas 75095
Telephone (972) 585-5505

MASTER DEVELOPERS - SNR, LLC

Scale 1"=100'

DECEMBER 22, 2011

Sheet 1/2

Issue

Hold a public hearing and consider and/or act upon approval of an ordinance amending PD (Planned Development) District Ordinance No. 10-05-841, as amended, for Retail Uses, and revising the approved concept plan with conditions on property comprising approximately 24.09 acres located at the northwest quadrant of FM 544 and North Murphy Road. (Zoning File 2011-02)

Owner(s):

Walmart Real Estate Business Trust

Zoning History

Ordinance No. 00-10-504 – Adopted October 16, 2000, which changed the zoning from LC/R (Light Commercial/Retail) District to TC (Town Center) District.

Ordinance No. 05-07-664 – Adopted July 25, 2005, which changed the zoning from TC (Town Center) District to PD (Planned Development) District for Retail Uses.

Ordinance No. 10-05-841 – Adopted May 17, 2010, which amended PD (Planned Development) District Ordinance No. 05-07-664 by revising the concept plan and certain development conditions.

Ordinance No. 11-05-881 - Adopted May 24, 2011, which amended PD (Planned Development) District Ordinance No. 10-05-841 by revising the concept plan and certain development conditions.

Background

On May 17, 2010, the City Council adopted Ordinance No. 10-05-841, which amended Planned Development District Ordinance No. 05-07-664 (adopted on July 25, 2005) by approving a concept plan and amending the development conditions regarding landscaping and signage. On May 24, 2011, the City Council adopted Ordinance No. 11-05-881 which further revised the concept plan and amended certain development conditions.

Other Considerations

1. The proposed PD (Planned Development) amendments include:
 - VI. A. 45. Limits Restaurants (Drive In/Drive Thru) to Lot 4 only.
 - VI. A. subsection 2. And 3. Adds Bank or Credit Union and Food or Grocery Sales to the permitted uses within a Retail Store exceeding 100,000 square feet.
 - VI. B. 3. Limits the maximum number of pad sites along FM544 to one (1) and along North Murphy Road to two (2).
 - VI. E. 8. Incorporates stone in the base of the Lot 1 monument sign.
 - VI. F. Changes the verbiage:
 - ~~i. 5. More trees in the landscape area by Sonic and in the landscape area behind Lots, 2, 3, and 4 of Block A~~ 3. Enhance tree density shall be

provided in landscape areas at the rear lot line of Lots 2, 3, and 4 of Block A and adjacent to the side lot line of Lot 1R, Block A Walgreens – FM 544 as shown on Exhibit D.

- ~~ii. 6. No Bermuda grass under trees, use mulch and/or groundcover.~~ 4. Areas beneath trees shall be mulched or planted with groundcovers other than Bermuda grass.
- ~~iii. 7. Detention pond shall have easy maintainable grass.~~ 5. Low maintenance grasses shall be used for the detention pond.

- VII. D. The divided median in the entrance off FM 544 is eliminated. The Lot 1, Block A ingress/egress at FM544 shall be as shown on Exhibit C.

The proposed amendments to the Planned Development are included in Exhibit B.

2. The revised concept plan shows a modified truck turnaround area in the rear of the building (now a square rather than a circle per new Walmart standards) and modestly increases the landscape islands.
3. A public hearing notification was published in the newspaper as well as notification mailed to the property owners included in the required 200 feet notification radius.
4. Public Works/Parks Department had no comments at this time.
5. Police Department had no comments at this time.
6. Fire Department had no comments at this time.
7. Building Official had no comments at this time.
8. Engineering's comments were addressed.

The Planning & Zoning Commission approved this item (7-0) on January 23, 2012.

Staff Recommendation

Motion to approve the ordinance to amend the Planned Development District Ordinance No. 10-05-841, as amended, for Retail uses, and revised concept plan; creating one ordinance, including all amendments, governing this property.

Attachments

Ordinance with Exhibits

ORDINANCE NO. _____

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 AMENDING AN EXISTING PLANNED DEVELOPMENT DISTRICT FOR RETAIL USES ON AN APPROXIMATELY 24.09 ACRE TRACT OF LAND SITUATED IN THE GEORGE H. PEGUES SURVEY, ABSTRACT NO 699, 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 PLANNED DEVELOPMENT STANDARDS ATTACHED HERETO AS EXHIBIT "B", APPROVING A CONCEPT PLAN ATTACHED HERETO AS EXHIBIT "C", APPROVING A LANDSCAPE PLAN ATTACHED HERETO AS EXHIBIT "D", AND APPROVING A SIGNAGE PLAN ATTACHED HERETO AS EXHIBIT "E"; PROVIDING A SEVERABILITY CLAUSE, A CUMULATIVE/ REPEALER CLAUSE, A PENALTY CLAUSE, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Ordinance No. 00-10-504, adopted on October 16, 2000, changed the zoning for the property described in this ordinance from LC/R (Light Commercial/Retail) District to TC (Town Center) District; and

WHEREAS, Ordinance No. 05-07-664, adopted on July 25, 2005, changed the zoning for the property described in this ordinance from TC (Town Center) District to PD (Planned Development) District for Retail Uses; and

WHEREAS, Ordinance No. 10-05-841, adopted on May 17, 2010, amended the PD (Planned Development) District for Retail Uses for the property described in this ordinance by revising the concept plan and certain development conditions; and

WHEREAS, Ordinance No. 11-05-881, adopted on May 24, 2011, amended the PD (Planned Development) District for Retail Uses for the property described in this ordinance by revising the concept plan and certain development conditions; and

WHEREAS, this ordinance shall amend the PD (Planned Development) District for

Retail Uses for the property described hereinbelow by revising the concept plan and certain development conditions as set forth hereinbelow and this ordinance shall thereby amend, repeal and supercede the foregoing ordinances to the extent of such amendments in this ordinance; and

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 all the above premises are found to be true and correct and are incorporated into the body of this ordinance as if fully set forth herein.

Section 2. That the Comprehensive Zoning Ordinance and Map of the City of Murphy, Texas, be, and the same are hereby, amended so as to amend a Planned Development District for Retail Uses for the property described as an approximately 24.09 acre tract of land situated in the George H. Pegues Survey, Abstract No. 699, 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 3. 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 4. That the Concept Plan, Landscape Plan, and Signage Plan for this Planned Development District are attached hereto as Exhibits "C", "D", and "E" and the same are hereby

approved for said Planned Development District as required by Section 86-604, of the City of Murphy, Texas, Code of Ordinances.

Section 5. 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 6. That this ordinance shall amend the Planned Development District for Retail Uses for the property described herein by revising the concept plan and certain development conditions as set forth herein and this ordinance shall amend, repeal and supercede all prior amendments to the Planned Development District for Retail Uses for the property described herein to the extent of the amendments in this ordinance.

Section 7. Severability Clause. 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 this ordinance or 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 8. Cumulative/Repealer Clause. This ordinance shall be cumulative of all provisions of State or Federal law and other ordinances of the City of Murphy, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such other ordinances, in which event the conflicting provisions of such ordinances are hereby repealed to the extent of such conflict.

Section 9. Penalty Clause. 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 10. Effective Date. This ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and City Charter in such cases provide.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Murphy, Texas, on this _____ day of _____, 2012.

Bret M. Baldwin, Mayor
City of Murphy

ATTEST:

Aimee Nemer, City Secretary
City of Murphy

APPROVED AS TO FORM:

Wm. Andrew Messer, City Attorney
City of Murphy

Exhibit A

Legal Description

LEGAL DESCRIPTION

BEING a tract of land situated in the George Pegues Survey, Abstract No. 699, City of Murphy, Collin County, Texas and being all of a tract of land described in General Warranty Deed to Murphy Plaza, LLC, recorded in Instrument No. 20070423000540150, Official Public Records of Collin County, Texas and all of a tract of land described in General Warranty Deed to Murphy Plaza, LLC, recorded in Instrument No. 20070423000540160, Official Public Records of Collin County, Texas and all of a tract of land described in General Warranty Deed to Murphy Plaza, LLC, recorded in Instrument No. 20070423000540170, Official Public Records of Collin County, Texas and being more particularly described as follows:

BEGINNING at a nail found in the north right-of-way line of F.M. 544 (a variable width right-of-way); said point being the southeast corner of Lot 3, Block A, Rio Dinero/FM 544 Addition, an addition to the City of Murphy, Texas according to the plat recorded in Cabinet O, Page 49, Map Records of Collin County, Texas;

THENCE departing said north right-of-way line and with the east line of said Lot 3, North 02° 12' 34" East, at a distance of 335.69 feet, passing a 1/2" iron rod with "J.D.J.R." cap found at the northeast corner of said Lot 3 and being the southeast corner of Lot 1R, Block A, Rio Dinero/FM 544 Addition, an addition to the City of Murphy, Texas according to the plat recorded in Cabinet O, Page 92, Map Records of Collin County, Texas, continuing, with the east line of said Lot 1R, in all a total distance of 1075.71 feet to a 1/2" iron rod with "ROOME" cap found for corner in the south line of a tract of land described in Deed to Dallas Area Rapid Transit Acquisition Corporation recorded in Volume 3424, Page 126, Land Records of Collin County, Texas; said point being the beginning of a non-tangent curve to the right having a central angle of 10° 26' 44", a radius of 1835.00 feet, a chord bearing and distance of North 82° 34' 25" East, 334.07 feet;

THENCE with the south line of said Dallas Area Rapid Transit Acquisition Corporation tract, the following courses and distances:

In an easterly direction, with said curve to the right, an arc distance of 334.54 feet to a 1" iron rod found at the end of said curve;

South 01° 52' 08" East, a distance of 50.00 feet to a "X" cut in concrete set for corner at the beginning of a non-tangent curve to the right having a central angle of 08° 07' 42", a radius of 1785.00 feet, a chord bearing and distance of South 87° 47' 19" East, 253.02 feet;

In an easterly direction, with said curve to the right, an arc distance of 253.23 feet to a 1/2" iron rod found at the end of said curve;

South 83° 55' 45" East, a distance of 557.20 feet to a 5/8" iron rod with "KHA" cap set for corner in the west right-of-way line of Murphy Road (F.M. 2251, a variable width right-of-way); said point being the northwest corner of a tract of land described in a deed to the State of Texas recorded in Volume 653, Page 612, Land Records of Collin County, Texas;

THENCE departing said south line and with said west right-of-way line, the following courses and distances:

South 01° 08' 57" West, a distance of 353.61 feet to a "X" cut in concrete found for corner;

South 04° 18' 57" West, a distance of 197.74 feet to a "X" cut in concrete found for corner;

THENCE with an offset in said west right-of-way line, North 89° 24' 14" West, at a distance of 2.82 feet, passing a 1/2" iron rod with "N.D.M." cap found at the northeast corner of Lot 2, Block A, Walgreens-F.M. 544 Addition, an addition to the City of Murphy, Texas according to the plat recorded in Cabinet M, Page. 172, Map Records of Collin County, Texas, continuing, departing said west right-of-way line and with the north line of said Lot 2, in all a total distance of 152.76 feet to a 5/8" iron rod with "KHA" cap set for corner; said point being the northernmost northwest corner of said Lot 2;

THENCE with the west line of said Lot 2, South 01° 52' 09" West, a distance of 60.79 feet to a 1/2" iron rod with "N.D.M." cap found for corner; said point being an interior corner of said Lot 2;

THENCE with a north line of said Lot 2, North 88° 35' 23" West, at a distance of 68.34 feet, passing a 1/2" iron rod found at the westernmost northwest corner of said Lot 2 and the northeast corner of Lot 1R, Block A, Walgreens-F.M. 544 Addition, an addition to the City of Murphy, Texas according to the plat recorded in Cabinet N, Page 872, Map Records of Collin County, Texas, continuing with the north line of said Lot 1R, Block A, in all a total distance of 221.70 feet to a 5/8" iron rod with "KHA" cap set for corner at the northwest corner of said Lot 1R; from said point, a 1/2" iron rod found bears South 35°20' East, a distance of 0.8 feet;

THENCE with the west line of said Lot 1R, South 01° 24' 37" West, at a distance of 370.00 feet, passing a 1/2" iron rod with "N.D.M." cap found, continuing in all a total distance of 373.27 feet to a 5/8" iron rod with "KHA" cap set for corner in the said north right-of-way line of F.M. 544; said point being the northeast corner of a tract of land described in Deed to the State of Texas recorded in Clerk's File No. 92-0048067, Land Records of Collin County, Texas and the northwest corner of a tract of land described in Deed to the State of Texas recorded in Clerk's File No. 92-0037385, Land Records of Collin County, Texas;

THENCE with said north right-of-way line, the following courses and distances:

South 87° 21' 30" West, a distance of 357.06 feet to a 5/8" iron rod with "KHA" cap set for corner at the beginning of a non-tangent curve to the left having a central angle of 00° 06' 16", a radius of 9414.00 feet, a chord bearing and distance of South 86° 39' 41" West, 17.15 feet;

In a southwesterly direction, with said curve to the left, an arc distance of 17.15 feet to a 5/8" iron rod with "KHA" cap set at the beginning of a non-tangent curve to the right having a central angle of 00° 16' 04", a radius of 9489.00 feet, a chord bearing and distance of South 86° 44' 35" West, 44.36 feet;

In a southwesterly direction, with said curve to the right, an arc distance of 44.36 feet to a 5/8" iron rod with "KHA" cap set at the end of said curve in the east line of a tract of land described in Deed to the State of Texas recorded in Clerk's File No. 95-0067686, Land Records of Collin County, Texas; said point being the northwest corner of said State of Texas tract recorded in Clerk's File No. 92-0048067;

North 01° 26' 09" East, a distance of 10.21 feet to a 5/8" iron rod with "KHA" cap set for corner at the beginning of a non-tangent curve to the right having a central angle of 02° 22' 30", a radius of 8591.75 feet, a chord bearing and distance of South 88° 03' 19" West, 356.13 feet; said point being the northeast corner of said State of Texas tract recorded in Clerk's File No. 95-0067686, Land Records of Collin County, Texas; from

said point a 1/2" iron rod found bears North 14° 32' West, a distance of 1.1 feet and a 1/2" iron rod found bears South 01°51' East, a distance of 0.6 feet;
In a Southerly direction with said curve to the right, an arc distance of 356.16 feet to the **POINT OF BEGINNING** and containing 24.094 acres or 1,049,554 square feet of land.

The bearings system for this survey is based on a bearing of North 02° 12' 34" East, according to General Warranty Deed to Murphy Plaza, LLC, recorded in Instrument No. 20070423000540170, Official Public Records of Collin County, Texas.

Exhibit B
Development Conditions

ZONING FILE NO. 2011-02

**Northwest Quadrant
FM 544 and North Murphy Road (FM 2551)**

PLANNED DEVELOPMENT CONDITIONS

- I. Statement of Intent:** The intent of this Planned Development District is to provide high quality retail development that is generally consistent with the Comprehensive Plan.
- 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 the following uses.
- Larger anchor uses
 - Grocery Store
 - Family, sit-down restaurants
 - Upscale retail shops
 - Individual pad site uses
- III. Statement of Effect:** This Planned Development shall not affect any regulation found in the Comprehensive Zoning Ordinance, Ordinance No. 04-05-610, as amended, except as specifically provided herein.
- IV. General Regulations:** All regulations of the R (Retail) District set forth in Section 29 of the Comprehensive Zoning Ordinance 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. 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. Signage Plan: Development on Lot 1 shall be in general conformance with the approved signage plan as set forth in Exhibit E; however, in the event of conflict between the signage plan and the conditions, the conditions shall prevail.
- D. Concept Plan, Landscape Plan, and Signage Plan approval shall be for a period of one year from the date of City Council action on the plan. If within that one-year period a site plan has been submitted for a portion of the development, then the Concept Plan shall be deemed to have no expiration date. However, if no site

EXHIBIT B

plan has been submitted for at least of portion of the development, then the Concept Plan shall be valid for a period of one year from the date of adopting ordinance. Site plans shall be valid for a period of one year from the date of City Council action on the plan.

- E. Site Plan: Before development can begin, a site plan shall be submitted in accordance with the requirements set forth in Chapter 86, Article II, Division 7 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 (Indoors) (SUP)
2. Antique Shop
3. Art Dealer/Gallery
4. Artist Studio
5. Automotive Driving School (SUP)
6. Bakery (Retail)
7. Bank or Credit Union (one free standing only) (SUP)
8. Barber/Beauty Shop
9. Barber/Beauty Shop College (SUP)
10. Book Store
11. Cafeteria
12. Church/Place of Worship
13. Civic Club
14. Clinic (Medical)
15. Computer Sales
16. Confectionery Store (Retail)
17. Department Store
18. Dinner Theatre (SUP Only)
19. Electronics (Retail)
20. Financial Services (Advice/Invest)
21. Florist
22. Food or Grocery Store (SUP)
23. Furniture Sales (Indoor)
24. Governmental Building (Municipal, State or Federal)
25. Hardware Store
26. Health Club (Indoors)) (SUP Only)
27. Home Improvement Center (SUP)
28. Insurance Agency Offices
29. Laundry/Dry Cleaning (Drop Off/Pick Up Only)
30. Library (Public)

EXHIBIT B

31. Motion Picture Theatre
32. Museum (Indoors Only)
33. Non-Profit Activities By Church
34. Offices (Brokerage Services)
35. Offices (Health Services)
36. Offices (Legal Services)
37. Offices (Medical Office)
38. Offices (Professional)
39. Pet Shop/Supplies
40. Pharmacy (SUP)
41. Photo Studio
42. Photocopying /Duplicating
43. Real Estate Offices
44. Restaurant
45. Restaurant (Drive-In/Drive Thru) (SUP Lot 4 only, see Exhibit C)
46. Retail Store
47. School, (K-12) (Public)
48. School, Vocational
49. Skating Rink (Ice)
50. Tailor Shop
51. Theatre (Live Drama)
52. Travel Agency

The following uses shall be permitted as part of a Retail Store exceeding 100,000 square feet (along with other uses customarily included in such large scale Retail Stores):

1. Alcoholic Beverage Retail Sales (subject to the requirements of Chapter 10 of the City of Murphy, Texas Code of Ordinances)
2. Automatic Teller Machines (ATMs)
3. Bank or Credit Union
4. Bike Sales and/or Repair
5. Food or Grocery Sales
- 4-6. Garden Shop
- 5-7. Handicraft Shop
- 6-8. Lawnmower Sales and/or Repair
- 7-9. Needlework Shop
- 8-10. Plant Nursery (Retail Sales/Outdoor Storage)
- 9-11. Video Rental/Sales
- 40-12. Temporary Outdoor Retail Sales/Commercial Promotion

B. Area Regulations:

1. Minimum Size of Lot/Tract: There shall be no minimum lot/tract areas required.
Minimum Lot/Tract Width: 170 feet.
2. Minimum Lot/Tract Depth: There shall be no minimum lot/tract depth required.

EXHIBIT B

3. Pad Sites: The maximum number of pad sites allowed along FM 544 shall be ~~two (2)~~ one (1). The maximum number of pad sites allowed along North Murphy Road (FM 2551) shall be ~~three (3)~~ two (2).

C. Parking, Driveways and 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 for a Retail Store with a floor area greater than 100,000 square feet located on Lot 1 shall be as shown on Exhibit C. The number of required parking spaces for all other uses and lots shall be dependent upon the use and shall meet the requirements of the City of Murphy Comprehensive Zoning Ordinance.
4. No required parking space may be occupied by signs, merchandise, or display items at any time except by specific 30 day permit.
5. A special "signature" paving treatment shall be established as shown on the approved concept plan (Exhibit C). Appropriate locations for the special paving treatment shall include street intersections, pedestrian crosswalks and driveway openings.
6. Sidewalks along FM 544 and Murphy Road (FM 2551) shall be 8 feet in width.
7. Parking spaces for Lot 1 Block A shall be no less than 800 spaces, to allow additional ingress/egress on the pedestrian walkways.

D. Loading and Unloading

1. Truck loading berths and apron space shall only be required for space that totals 30,000 square feet or more and shall not be located on the street side of any building.
2. Truck loading berths 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 comply with the standards set forth in Chapter 28, Code of Ordinances, except as provided below.

EXHIBIT B

1. All structures, including all building elevations, shall be constructed utilizing a unified design that is substantially consistent with the approved Exterior Elevation Plan.
 2. All exterior elevations shall utilize a unified design. The following masonry materials shall be allowed:
 - a. Brick
 - b. Cast Stone
 - c. Scored & Textured concrete tilt wall
 - d. EIFS and Stucco (limited to no more than 12% total)
 - e. Integral-color split-face CMU
 - f. Stone/simulated stone
 3. The use of primary or garish colors shall not be predominately used on the exterior façade of any structure. Corporate identities shall be allowed with owner review and approval.
 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 immediately adjacent public dedicated street by an architecturally sound method.
 5. Each commercial building, complex of buildings or separate commercial business enterprise 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. In all cases, mechanical equipment on roofs and outcroppings shall be clad by a like building material or painted with a color scheme similar to the principal structure walls or roof.
 7. The maximum height of buildings on the project is 40 feet.
 8. Stone must be incorporated at a minimum of 15% in the exterior elevation on the front and both sides (east and west) of the proposed store. Also, stone shall incorporate the base of the proposed Lot 1 monument sign.
- F. Landscape Standards. Landscaping shall comply with the standards set forth in Chapter 28, Code of Ordinances, except as provided below.

EXHIBIT B

1. Landscaping shall generally be as shown on the approved Landscape Plan (Exhibit D). 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 for the specific 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 a minimum of 20 feet in depth, with an average depth of 25 feet adjacent to the right-of-way of FM 544 and a minimum 25 feet in depth adjacent to Murphy Road (FM 2551). No parking may be placed within any landscape buffer. Pedestrian easements and sidewalks may be located within a landscape buffer.
3. A landscape buffer shall be provided for an average of fifteen (15) feet in depth adjacent to the Southern Pacific /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 six (6) feet by six (6) 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 twenty (20) spaces in length.
 2. An additional 7% open space shall be provided. This 7% will be for the entire development and not necessarily on a lot by lot basis. The 7% area will consist of two or more of the following amenities:
 - a. Pedestrian walkways
 - b. Benches
 - c. Gazebo

EXHIBIT B

- d. Constant level pool
- e. Landscape material
- f. Hardscape
- g. Pedestrian lighting

- ~~5. More trees in the landscape area by Sonic and in the landscape area behind Lots 2, 3, and 4 of Block A.~~
- 3. Enhanced tree density shall be provided in landscape areas at the rear lot line of Lots 2, 3, and 4 of Block A and adjacent to the side lot line of Lot 1R, Block A Walgreens - FM 544 Addition as shown on Exhibit D.
- ~~6. No Bermuda grass under trees, use mulch and/or groundcover.~~
- 4. Areas beneath trees shall be mulched or planted with groundcovers other than Bermuda grass.
- ~~7. Detention pond shall have easy maintainable grass.~~
- 5. Low maintenance grasses shall be used for the detention pond.

G. Screening. Screening shall comply with the standards set forth in Chapter 28, Code of Ordinances, except as provided below.

- 1. All screening at the rear (north) 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.
- 2. All truck docks/loading areas for anchor stores shall be screened from view through the use of 8 foot high masonry walls (which are the same colors and materials as main building). All truck docks/loading areas for pad sites shall be screened from view through the use of 8 foot high masonry walls (which are the same colors and materials as the main building) and shall have living screens (eight foot height and at least 75 percent density within three years of planting).
- 3. Outside seasonal displays shall be permitted within the Planned Development District. Outside storage shall not be permitted with the Planned Development District.
- 4. The back northeast corner of Lot 1, Block A shall be screened with evergreen type trees, preferably live oaks and magnolias, ~~and additional number of trees as shown on Exhibit D.~~
- 5. The stacking racks at the rear of the Garden Center shall be screened with black ornamental fence.

H. Site Lighting: Lighting shall comply with the standards set forth in Chapter 28, Code of Ordinances, except as provided below.

EXHIBIT B

1. 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 30 ft. high. However, the height of all light standards shall be subject to review of the lighting plan during the Site Plan review.
- I. Signage and Graphics. Signage will comply with the standards set forth in Chapter 28, Code of Ordinances, except as provided below.
 1. General
 - a. Monument signs All signage for Lot 1 the Planned Development District shall be allowed as shown on the approved Signage Plan (Exhibit E).
 - b. 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 40 square feet and a maximum structure area of 80 square feet.
 - c. ~~Shopping center signs Two (2) shopping center signs shall be permitted as shown on the approved Signage Plan (Exhibit E). Each shopping center sign shall be limited to a maximum sign area of 300 square feet and a maximum structure area of 500 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.
 - c. Monument signs shall be located at a set back distance of not less than eight (8) feet from the right-of-way line of any adjacent street and maybe incorporated within the landscaping area or buffer.
 - d. Construction of monument signs shall include a base of material similar to the material used for buildings.
 3. ~~Shopping Center Signs~~
 - a. ~~Shopping center signs shall be constructed at a height not to exceed thirty five (35) feet.~~
 - b. ~~The base of the shopping center sign shall be located at a set back~~

EXHIBIT B

~~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 shopping center 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.~~
- ~~d. Construction of shopping center signs shall include a base of material similar to the material used for buildings.~~

4. Temporary Marketing Signage

- a. One (1) quality temporary marketing sign shall be permitted on the development on FM 2551 (Murphy Road) and on FM 544. These signs shall for a term of twelve (12) months from the date of installation.
- b. The maximum signage area will be 64 square feet. The maximum height shall be 8 feet.
- c. All other temporary signage 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. All open space amenities shall use a unified design as shown on the approved Amenities Plan. Development within the Planned Development District 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.
 - a. **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 7% open space requirement as stated in (b.) below.
 - b. An additional 7% of open space is required in addition to the landscape, setback, and parking lot island requirements. The additional 7% 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

EXHIBIT B

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.

1. Water feature, such as a fountain or detention pond with constant water level.
 2. Plaza or courtyard with art sculpture piece.
 3. Outdoor patio or gazebo with seating area.
 4. Other areas for pedestrian congregation, as may be approved on the site plan.
2. Outside seasonal displays shall be permitted within the Planned Development District. Outside storage shall not be permitted within the Planned Development District.

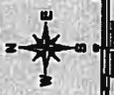
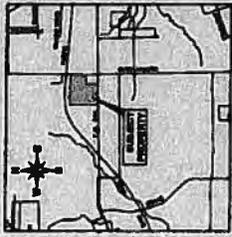
VII. Special Regulations:

- A. Right Turn Deceleration Lanes: A right turn deceleration lane shall be required for the median divided driveway on FM 544 at the time construction begins on any pad site along FM 544. A right turn deceleration lane shall be required for the south driveway on FM 2551 (North Murphy Road) at the time construction begins on any pad site along FM 2551 (North Murphy Road).
- B. 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.
- C. Cross-Access Requirement: A joint access (i.e.-ingress, egress) easement shall be provided to minimize the number of driveway openings along FM 544 and FM 2551 (Murphy Road). 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.
- D. ~~The divided median in the entrance off FM 544 is eliminated.~~ The Lot 1, Block A ingress/egress at FM 544 shall be as shown on Exhibit C.
- E. Stained concrete shall be used for pedestrian entrances and walks that intersect driveways and roads.

Exhibit C
Concept Plan

CONCEPT SITE PLAN

DATE	1/19/12
PROJECT NO.	12-001
CLIENT	WALMART STORES GROUP
LOCATION	F.M. 544 AND MURPHY ROAD, FORT WORTH, TEXAS
SCALE	AS SHOWN
DRAWN BY	J. J. BAKER
CHECKED BY	J. J. BAKER
APPROVED BY	J. J. BAKER



LOT 1, BLOCK A

AREA	1.00 AC
PERCENTAGE OF TOTAL LOT	100%
PERCENTAGE OF TOTAL BLOCK	100%
PERCENTAGE OF TOTAL TRACT	100%
PERCENTAGE OF TOTAL PROJECT	100%
PERCENTAGE OF TOTAL SITE	100%
PERCENTAGE OF TOTAL DEVELOPMENT	100%
PERCENTAGE OF TOTAL IMPROVEMENTS	100%
PERCENTAGE OF TOTAL UTILITIES	100%
PERCENTAGE OF TOTAL SERVICES	100%
PERCENTAGE OF TOTAL ACCESSORIES	100%
PERCENTAGE OF TOTAL FURNISHINGS	100%
PERCENTAGE OF TOTAL EQUIPMENT	100%
PERCENTAGE OF TOTAL MATERIALS	100%
PERCENTAGE OF TOTAL SUPPLIES	100%
PERCENTAGE OF TOTAL SERVICES	100%
PERCENTAGE OF TOTAL ACCESSORIES	100%
PERCENTAGE OF TOTAL FURNISHINGS	100%
PERCENTAGE OF TOTAL EQUIPMENT	100%
PERCENTAGE OF TOTAL MATERIALS	100%
PERCENTAGE OF TOTAL SUPPLIES	100%

LOT 2, BLOCK A

AREA	1.00 AC
PERCENTAGE OF TOTAL LOT	100%
PERCENTAGE OF TOTAL BLOCK	100%
PERCENTAGE OF TOTAL TRACT	100%
PERCENTAGE OF TOTAL PROJECT	100%
PERCENTAGE OF TOTAL SITE	100%
PERCENTAGE OF TOTAL DEVELOPMENT	100%
PERCENTAGE OF TOTAL IMPROVEMENTS	100%
PERCENTAGE OF TOTAL UTILITIES	100%
PERCENTAGE OF TOTAL SERVICES	100%
PERCENTAGE OF TOTAL ACCESSORIES	100%
PERCENTAGE OF TOTAL FURNISHINGS	100%
PERCENTAGE OF TOTAL EQUIPMENT	100%
PERCENTAGE OF TOTAL MATERIALS	100%
PERCENTAGE OF TOTAL SUPPLIES	100%

LOT 3, BLOCK A

AREA	1.00 AC
PERCENTAGE OF TOTAL LOT	100%
PERCENTAGE OF TOTAL BLOCK	100%
PERCENTAGE OF TOTAL TRACT	100%
PERCENTAGE OF TOTAL PROJECT	100%
PERCENTAGE OF TOTAL SITE	100%
PERCENTAGE OF TOTAL DEVELOPMENT	100%
PERCENTAGE OF TOTAL IMPROVEMENTS	100%
PERCENTAGE OF TOTAL UTILITIES	100%
PERCENTAGE OF TOTAL SERVICES	100%
PERCENTAGE OF TOTAL ACCESSORIES	100%
PERCENTAGE OF TOTAL FURNISHINGS	100%
PERCENTAGE OF TOTAL EQUIPMENT	100%
PERCENTAGE OF TOTAL MATERIALS	100%
PERCENTAGE OF TOTAL SUPPLIES	100%

LOT 4, BLOCK A

AREA	1.00 AC
PERCENTAGE OF TOTAL LOT	100%
PERCENTAGE OF TOTAL BLOCK	100%
PERCENTAGE OF TOTAL TRACT	100%
PERCENTAGE OF TOTAL PROJECT	100%
PERCENTAGE OF TOTAL SITE	100%
PERCENTAGE OF TOTAL DEVELOPMENT	100%
PERCENTAGE OF TOTAL IMPROVEMENTS	100%
PERCENTAGE OF TOTAL UTILITIES	100%
PERCENTAGE OF TOTAL SERVICES	100%
PERCENTAGE OF TOTAL ACCESSORIES	100%
PERCENTAGE OF TOTAL FURNISHINGS	100%
PERCENTAGE OF TOTAL EQUIPMENT	100%
PERCENTAGE OF TOTAL MATERIALS	100%
PERCENTAGE OF TOTAL SUPPLIES	100%

LEGEND

PROPOSED	SOLID LINE
EXISTING	DASHED LINE
PROPERTY LINE	DOTTED LINE
UTILITY SERVICE LINE	DASHED LINE WITH CROSS-TICKS

WALMART ADDITION
 24.00 ACRES
 GEORGE PEGUES SURVEY
 ABSTRACT NO. 689
 CITY OF MURPHY, COLLIN COUNTY, TEXAS
 DATE PREPARED: JANUARY 19, 2012

ENGINEER
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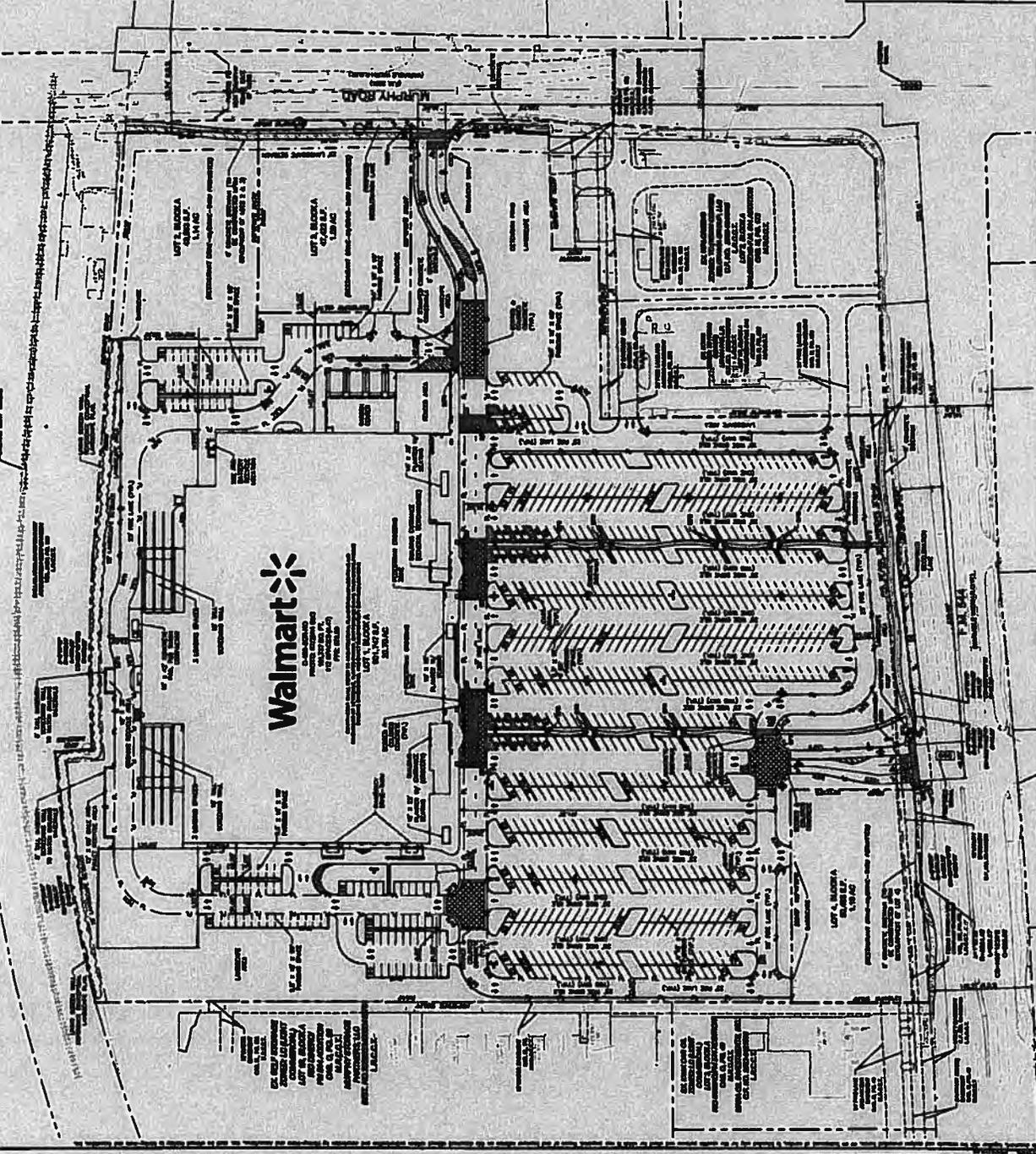
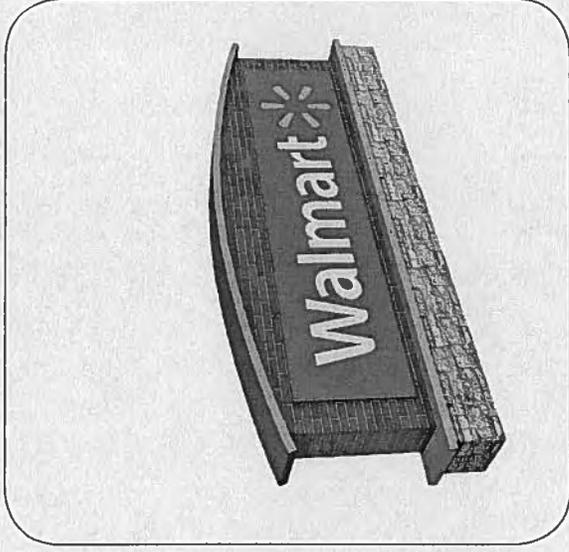
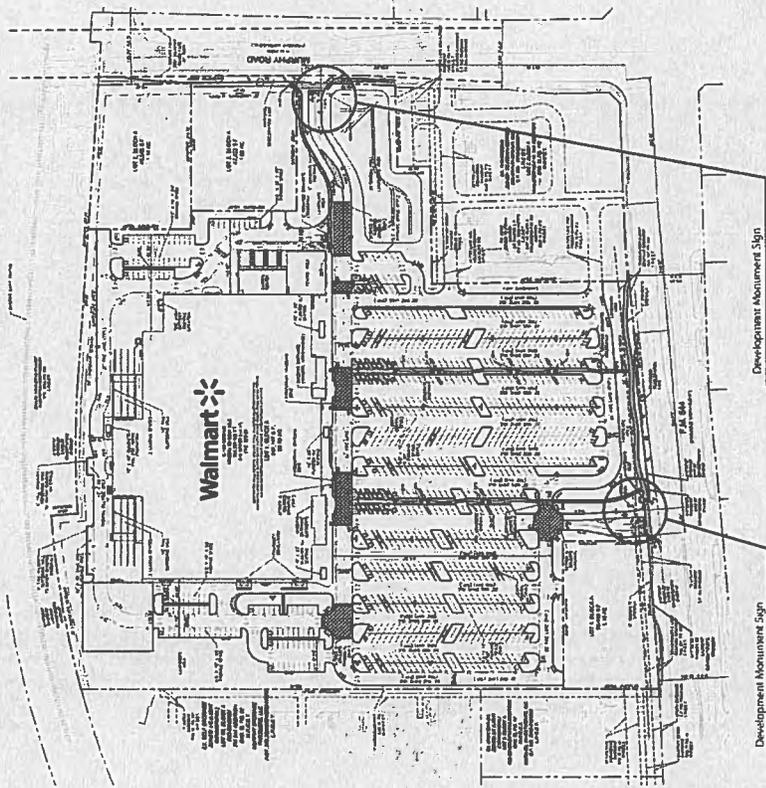


Exhibit D
Landscape Plan

Exhibit E

Signage Plan (Lot 1)

Sign	Qty.	Type	Color	Height	Illumination	Area (S.F.)	Total S.F.
Walmart*	2	Identity	White/Yellow	4'-9"	Internal	95	190
Total Site Signage							190.00



Monument Sign Front Elevation

Side Elevation



David L. Blevy #17000
 NOTE: See site plan for location of sign.
 PRELIMINARY - NOT FOR CONSTRUCTION

December 15, 2011

Murphy, Texas - Store #2973 - New Store

Site Signage Calculations

DESIGN REPRESENTATION ONLY - NOT FOR CONSTRUCTION The building as shown is a representation of the current design intent only. The building as shown is not subject to change in color, form, line, text, shading, ambient light intensity, material, texture, contrast, line style, construction, dimensions or placement for building, site plan, or other factors. All dimensions, materials, and finishes are subject to change without notice. PRELIMINARY - NOT FOR CONSTRUCTION

Issue

Consider and/or act upon approval of a site plan on property zoned PD (Planned Development) District Ordinance No. 10-05-841, as amended, for Retail Uses, and comprised of approximately 20.7 acres located at the northwest quadrant of FM 544 and North Murphy Road.

Zoning History

Ordinance No. 00-10-504 – Adopted October 16, 2000, which changed the zoning from LC/R (Light Commercial/Retail) District to TC (Town Center) District.

Ordinance No. 05-07-664 – Adopted July 25, 2005, which changed the zoning from TC (Town Center) District to PD (Planned Development) District for Retail Uses.

Ordinance No. 10-05-841 – Adopted May 17, 2010, which amended PD (Planned Development) District Ordinance No. 05-07-664 by revising the concept plan and certain development conditions.

Ordinance No. 11-05-881 - Adopted May 24, 2011, which amended PD (Planned Development) District Ordinance No. 10-05-841 by revising the concept plan and certain development conditions.

Background

On May 17, 2010, the City Council adopted Ordinance No. 10-05-841, which amended Planned Development District Ordinance No. 05-07-664 (adopted on July 25, 2005) by approving a concept plan and amending the development conditions regarding landscaping and signage. On May 24, 2011, the City Council adopted Ordinance No. 11-05-881 which further revised the concept plan and amended certain development conditions.

Other Considerations

1. The revised Site Plan modifies the truck turnaround area in the rear of the building (now a square rather than a circle per new Walmart standards) and modestly increases the landscape islands. The landscape plan does not change.
2. Public Works/Parks Department had no comments at this time.
3. Police Department had no comments at this time.
4. Fire Department had no comments at this time.
5. Building Official had no comments at this time.
6. Engineering's comments were addressed.

Planning & Zoning Commission approved this item (7-0) on January 23, 2012.

Staff Recommendation

Motion to approve the revised site plan as submitted.

Attachments

Concept Plan -Walmart

Issue

Consider and/or act upon submitting bylaws to the Murphy Municipal Development District (MDD) board for their approval.

Background

The MDD was created by Special Election on November 8, 2011. City Council discussed the composition of the board at a Special Meeting on January 19, 2012. The city attorney's office distributed proposed bylaws at this meeting. On January 31, 2012, Council appointed the MDD Board.

The city attorney's office recommends submitting the proposed bylaws to the MDD board for approval. The approved bylaws will then be submitted to City Council for approval.

Staff Recommendation

Motion to submit the proposed bylaws to the Murphy Municipal Development District Board for consideration.

Attachments

Proposed MDD Bylaws

**BYLAWS OF
THE CITY OF MURPHY MUNICIPAL
DEVELOPMENT DISTRICT
As Adopted on _____, 2012**

Article I

GENERAL

Section 1.1. Name.

The City of Murphy Municipal Development District (the “District”) shall have and continuously maintain within the City of Murphy (the “City”) a registered office, which shall be the depository for all records of the District, and a registered agent for the District (“Registered Agent”) whose office is identical with such registered office. The Registered Agent shall be the City Secretary of the City. The registered office of the District shall be at 206 N. Murphy Road, Murphy, Texas 75094.

Section 1.2. Purpose.

The District is a political subdivision of the State of Texas and the City for the purposes set forth in the Bylaws, the same to be accomplished on behalf of the City as its duly constituted authority and instrumentality in accordance with Chapter 377 of the TEXAS LOCAL GOVERNMENT CODE (the “Act”), and other Applicable laws. The District was established for the purpose of developing and financing all permissible projects prescribed by the Act.

Section 1.3. Powers.

In the fulfillment of its purpose, the District shall be governed by the Act, and shall have all of the powers set forth and conferred in the Act, and in other applicable laws, subject to the limitations prescribed therein and herein and to the provisions thereof and hereof.

Article II

BOARD OF DIRECTORS

Section 2.1. Number and Term of Office

- A. The property and affairs of the District shall be managed and controlled by the Board of Directors (the “Board”) and subject to the restrictions imposed by law and these Bylaws. The Board shall exercise all of the powers of the District subject to restrictions imposed by law and in these Bylaws.

- B. The Board shall consist of five (5) Directors (“Director(s)”), each of whom shall be appointed by the City Council of the City. Each of the Directors shall be a resident of the City or the City’s extraterritorial jurisdiction.
- C. The initial Board shall appoint three (3) Directors to serve a period of two (2) years and two (2) Directors shall be appointed to serve a period of one (1) year. Thereafter, all Directors shall serve staggered two (2) year terms or until a successor is appointed as hereinafter provided.
- D. There shall be no limitation on the number of consecutive terms that members of the Board of Directors of the District may serve on the Board of Directors.
- E. Any Director may be removed from office at will, with or without cause, at any time by the City Council.

Section 2.2. Vacancies.

Any vacancies occurring in the Board of Directors resulting from the death, resignation, retirement, disqualification or removal or otherwise from office of any Director shall be filled by the City Council appointing a successor to serve the remainder of such Director’s unexpired term.

A Director may resign at any time. Such resignation shall be made in writing, addressed to the Mayor and the City Secretary, with a copy to the Board, and shall take effect at the time specified therein, or if no time is specified, at the time of its receipt by the City Secretary.

Section 2.3. Meetings.

(a) **Regular Meetings.** Regular meetings of the Board of Directors shall be held on the ____ of each month at 6:00 p.m. at the registered office of the District and at such time or times as may be designated by the Board of Directors and communicated to all Directors by written notice. The Board of Directors may transact any and all business as may properly come before the meeting.

(b) **Special Meetings.** Special meetings of the Board of Directors may be called by the President of the District, or the Secretary, upon the President’s incapacity, on at least three (3) days’ notice to each Director. Special meetings may also be called by the President or Secretary in like manner and on like notice on the written request of a majority of the Directors of the District, by the Mayor of the City, or by a majority of the members of the City Council. Emergency meetings of the Board of Directors may be held without satisfying the notice requirement set forth above in this section if such meetings are called and held in compliance with the Texas Open Meetings Act, Chapter 551 of the TEXAS GOVERNMENT CODE.

(c) **Place of Meetings.** All meetings, unless otherwise designated by the person or persons calling the meeting, shall be held at the registered office of the District. In any event,

all meetings of the Board of Directors shall be held within the boundaries of the City.

(d) **Notices of Meetings.** Unless otherwise provided by statute or these Bylaws, written or printed notice stating the place, time and hour of any meeting of the Board of Directors shall be delivered either personally or by mail, facsimile, electronic mail, or other written means to each Director not less than three (3) days before each meeting of the Board of Directors. If mailed, notice of the meeting shall be deemed to be delivered when deposited in the United States mail addressed to a director at his address as it appears on the records of the District and, if by facsimile or electronic mail or other written means, notice shall be deemed to be delivered upon the receipt of written confirmation of delivery. All meetings shall be held in accordance with the provisions of the Texas Open Meetings Act, Chapter 551 of the TEXAS GOVERNMENT CODE.

Any member of the Board of Directors of the District, the Mayor of the City, or the Executive Director as described herein, may have an item placed on the agenda of a meeting by delivery, in writing, of the proposed Agenda item to the President or Secretary of the District not less than five (5) calendar days prior to the date of the proposed meeting.

Section 2.4. Quorum; Majority Vote.

A quorum shall consist of a majority of the Board which shall be present for the conduct of the official business of the District. The act of a majority of the Directors at a meeting at which a quorum is in attendance shall constitute an action of the Board and of the District. Directors present by proxy shall not be counted toward a quorum. The act of a majority of the Directors present at any meeting at which a quorum is present shall be the act of the Board of Directors, except as otherwise specifically provided by statute or by these Bylaws. If a quorum is not present at a meeting of the Board of Directors, the meeting will be rescheduled.

Section 2.5. Limitation of Liability.

No Director of this District shall be personally liable to the District for monetary damages for an act or omission in the Director's capacity as a Director, except that this section does not eliminate or limit the liability of a Director to the extent the Director is found liable for: (i) a breach of the Director's duty of loyalty to the District; (ii) an act or omission not in good faith that constitutes a breach of duty of the Director to the District or an act or omission that involves intentional misconduct or a knowing violation of the law; (iii) a transaction from which the Director received an improper benefit, whether or not the benefit resulted from an action taken within the scope of the Director's office; or (iv) an act or omission for which the liability of a Director is expressly provided for by statute.

Section 2.6. Conduct of Business.

At the meetings of the Board, matters pertaining to the business of the District shall be considered in accordance with rules of procedure as from time to time prescribed by the Board. At all meetings of the Board, the President shall preside, and, in the absence of the President, the Secretary shall exercise the powers of the President. The Secretary of the District shall act as

secretary of all meetings of the Board, but, in the absence of the Secretary, the presiding officer may appoint any person to act as Secretary of the meeting.

Section 2.7. Compensation of Directors.

Directors on the Board shall not receive compensation for their services. However, they shall be reimbursed for their actual expenses, with approval, incurred in the performance of their duties, including, but not limited to, the cost of travel, lodging and incidental expenses reasonably related to the duties of the Board.

Section 2.8. Appointment of Executive Director.

The Board shall appoint, with approval of the City Council, an Executive Director as an employee of the District to manage the day-to-day affairs of the District. The Executive Director shall be the Chief Executive Officer of the District. The Executive Director shall be paid a reasonable salary for the services performed on behalf of the District. The Executive Director shall be an *ex-officio* member of all committees appointed by the President or the Board of Directors. The City Council may remove the Executive Director with or without cause at any time.

Article III

OFFICERS

Section 3.1. Elected Officers.

The Board of Directors shall choose from its members a President and a Secretary. The Board of Directors may also choose other officers the Board deems necessary who shall be members of the Board of Directors. Officers shall serve for terms of one (1) year, or until their successors are duly elected and qualified or until his/her death, resignation, retirement, disqualification, or removal from office.

(a) No agent or employee of the District need be a Director of the District, a resident of the City or an employee of the City.

(b) Any two or more offices may be held by the same person, except the offices of President and Secretary.

Section 3.2. Election of Officers.

Except as provided by Section 3.5 herein, all officers shall be elected when necessary by the Board of Directors at a Regular or Special Meeting of the Board of Directors. Each newly-elected officer (other than any person who succeeds himself in office) shall take office immediately following his/her election. Any person elected as an officer of the District by reason of the death, disability, retirement, disqualification or removal from office of an officer or by reason of the occurrence of a vacancy of the office of any officer for any other reason,

shall take office immediately upon his/her election.

Section 3.3. Term of Office.

There shall be no limitation on the number of consecutive years that a person may serve in the same office.

Section 3.4. Removal.

Any officer, employee or agent may be removed from the office or position held by them, except for the provisions for removal in Section 2.8 herein, with or without cause, at any time by the majority vote of the Directors present at any meeting of the Board of Directors at which a quorum is present whenever in their judgment the best interests of the District will be served thereby.

Section 3.5. Officer Vacancies.

Any vacancy occurring in any office or position of the District (by death, resignation, removal or otherwise) may be filled by the Board of Directors of the District.

Section 3.6. President.

The President shall be the Presiding Officer of the District, and shall, subject to the authority of the Board, preside at all meetings of the Board, and absent any different designation by the majority of the Board, sign and execute all contracts, conveyances, franchises, bonds, deeds, assignments, mortgages, and notes in the name of the District. The President shall appoint standing and special committees and task groups as required, and as approved by the Board of Directors. In the absence or disability of the President, his duties shall be performed and his powers may be exercised by the Secretary or other officer designated in these Bylaws, if any. The President shall be an *ex-officio* member of all committees appointed by the President or the Board of Directors. Additionally, the President shall:

- A. Call both regular and special meetings of the Board and establish the agenda for such;
- B. Have the right to vote on all matters coming before the Board;
- C. Have the authority to appoint standing or study committees to aid and assist the Board in its business undertaking or other matters incidental to the operation and functions of the Board;
- D. Perform all duties incident to the office, and such other duties as may be prescribed from time to time by the Board;
- E. Appear before the City Council, or be represented by a designee, periodically to give

a report on the status of the activities of the District; and

- F. Appear before the City Council, or be represented by a designee, regarding any item being considered by the City Council concerning the District.

Section 3.7. Secretary.

The Secretary shall ensure that notices are given of all meetings of the Board of Directors and shall keep and attest true records of all proceedings of all such meetings. He or she shall keep and account for all books, documents, papers and records of the District, except those for which some other office or agency is properly accountable. He or she shall generally perform all duties and shall have authority to exercise all the powers usually appertaining to the office of secretary of a District. In the absence or disability of the Secretary, the duties shall be performed by such person as shall be appointed by the Board of Directors.

Section 3.8. Treasurer.

If the Board chooses to elect an officer as Treasurer, then the Treasurer shall be the chief accounting and financial officer for the District and shall have active control and shall be responsible for all matters pertaining to the accounts and finances of the District. The Treasurer shall submit a detailed financial report at all regular and special meetings of the Board of Directors consisting of at least a balance sheet and a statement of receipts and disbursements.

Section 3.9. Authority.

Officers and agents shall have such authority and perform such duties in the management of the District as are provided in these Bylaws or as may be provided by resolution of the Board of Directors not inconsistent with these Bylaws.

Section 3.10. Compensation.

Officers who are members of the Board shall not receive any salary or compensation for their services, except that they shall be reimbursed, with approval, for their actual expenses incurred in the performance of their official duties as officers.

Article IV

COMMITTEES

Section 4.1. General.

The Board of Directors, by resolution adopted by the Board of Directors, may designate and appoint one or more committees, including an Executive Committee, each committee of which to be comprised of at least two (2) members. Each committee shall have such duties and responsibilities as set forth in such resolutions as adopted by the Board of Directors. The

Board of Directors may designate one or more persons as alternate members of any committee who may, subject to any limitations imposed by the Board of Directors, replace absent or disqualified members at any meeting of that committee. If the Board of Directors establishes an Executive Committee, a majority of the members of such committee shall be members of the Board of Directors of the District. The remainder of the members of the Executive Committee may, but need not, be members of the Board of Directors of the District. Membership on other committees may, but need not, be limited to members of the Board of Directors of the District.

Section 4.2. Specific Committees.

In addition to other committees which may be designated by the Board of Directors, the District may have an Executive Committee.

Section 4.3. Number; Term.

Any committee of the Board of Directors shall consist of such number of the Board of Directors as the Board of Directors shall designate. Each committee shall serve at the pleasure of the Board of Directors.

Section 4.4. Authority.

Except as limited by statute or these Bylaws, any committee of the Board of Directors, to the extent provided in any resolution adopted by the Board of Directors, shall have and may exercise the authority of the Board of Directors granted to such committee in the management of the business and affairs of the District.

Section 4.5. Change in Number.

The number of members of any committee of the Board of Directors may be increased or decreased by resolution adopted by the Board of Directors as long as the committee is still in compliance with Section 4.1.

Section 4.6. Removal.

Except as specifically provided by statute or these Bylaws, any member of a committee of the Board of Directors may be removed, with or without cause, by the Board of Directors whenever, in its judgment, the best interests of the District will be served thereby.

Section 4.7. Committee Vacancies.

A vacancy occurring in any committee (by death, resignation, removal or otherwise) may be filled by the Board of Directors in the manner provided for original designation in Section 4.1.

Article V

INDEMNIFICATION; INSURANCE

Section 5.1. Indemnification.

(a) The District is, for the purposes of the Texas Tort Claims Act (Subchapter A, Chapter 101, TEXAS CIVIL PRACTICES AND REMEDIES CODE), a governmental unit and all of its actions are governmental functions. The District shall indemnify each and every member of the Board of Directors, its officers and its employees, and former Directors, officers and employees, of the District, and each member of the City Council and each employee of the City, to the fullest extent and manner permissible under the Act, or other applicable rules, regulations or laws, against any and all liability or expense, including attorney fees, incurred by reason of any actions or omissions that may arise out of the functions and activities of the District.

(b) The District shall indemnify and advance expenses to an officer, employee, agent or person indemnified in subparagraph (a) above and who is not a Director to such further extent, consistent with law, as may be provided by its Bylaws, general or specific action of its Board of Directors, or contract, or as permitted or required by common law.

Section 5.2. Insurance.

The District may purchase and maintain insurance on behalf of any person who is or was a Director, officer, employee or agent of the District or who is or was serving at the request of the District as a Director, officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another foreign or domestic District, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise against any liability asserted against him and incurred by him or her in such capacity or arising out of his or her status as such a person to the fullest extent under the Act and this Article Five.

Article VI

AMENDMENT OF BYLAWS

These Bylaws may not be altered, amended or repealed and/or new Bylaws may not be adopted without the prior approval of the City Council of the City of Murphy. The alteration, amendment or repeal of these Bylaws may be adopted at any subsequent meeting of the Board of Directors at which a quorum is present, by the affirmative vote of a majority of the entire Board of Directors, provided notice of the proposed alteration, amendment or repeal is contained in the notice of such meeting. The City Council has the authority to propose and require amendments to Bylaws or other rules.

Article VII

GENERAL

Section 7.1. Interested Parties; General Policy.

(a) **Voting; Conflict of Interest.** The members of the Board of Directors shall be considered local public officials within the meaning of Chapter 171 of the TEXAS LOCAL GOVERNMENT CODE. Whenever a Member of the Board of Directors of the District is aware of a substantial interest, as that term is defined in said Chapter 171, in a business entity or real property which is the subject of deliberation by the Board of Directors, the Director shall file an affidavit with the Secretary of the District stating the nature or extent of the interest. Such affidavit shall be filed prior to any discussion or vote upon the matter, and if required by said Chapter 171, the interested Director shall abstain from any discussion or vote upon the matter.

(b) **Non-Exclusive.** The provisions set forth in this Section 7.1 shall not be construed to invalidate any contract or transaction which would be valid in the absence of this provision.

Section 7.2. Notice.

(a) **Method.** Whenever by statute or these Bylaws, notice is required to be given to any Director, and no provision is made as to how the notice shall be given, it shall not be construed to mean personal notice but any such notice may be given (a) in writing, by mail, postage prepaid, addressed to the Director at the address appearing on the books of the District, or (b) in any other method permitted by law.

(b) **Waiver.** Whenever, by statute or these Bylaws, notice is required to be given to any Director, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated in such notice, shall be equivalent to the giving of such notice. Attendance of a Director at a meeting shall constitute a waiver of notice of such meeting, except where a Director attends for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called or convened.

Section 7.3. Books and Records.

The District shall keep books and records of account and shall keep minutes of the proceedings of its Board of Directors. All books and records of account of the District shall be subject to the provisions of Chapter 552 of the Texas Government Code, relating to public information. The District's books and records of account may be audited at any time and for any reason by the City Council or by an outside, independent auditing and accounting firm selected by the City Council.

Section 7.4. Checks and Notes.

All checks or demands for money and notes of the District shall be signed by such officer or officers or such other person or persons as the Board of Directors may from time to time designate.

Section 7.5. Fiscal Year.

The fiscal year of the District shall be the same as the fiscal year of the City.

Section 7.6. Contracts for Service.

The District may, with approval of the City Council, contract with any qualified and appropriate person, association, district or governmental entity to perform and discharge designated tasks which will aid or assist the Board in the performance of its duties. However, no such contract shall ever be approved or entered into which seeks or attempts to divest the Board of its discretion and policy-making functions in discharging the duties.

Section 7.7. Annual District Budget

At least ninety (90) days prior to the commencement of each fiscal year of the District, the Board of Directors shall adopt a proposed budget of expected revenues and proposed expenditures for the next ensuing fiscal year. The budget shall contain such classifications and shall be in such form as may be prescribed from time to time by the City Council. The budget shall not be effective until it has been approved by the City Council.

Section 7.8 Deposit and Investment of District Funds

(a) All proceeds from loans or from the issuance of bonds, notes or other debt instruments (“Obligations”) issued by the District shall be deposited and invested as provided in the resolution, order, indenture or other documents authorizing or relating to their execution or issuance. Any investments or the like made with proceeds from any Obligations must be approved by the City Council.

(b) Subject to the requirements of contracts, loan agreements, indentures or other agreements securing Obligations, all other monies of the District, if any, shall be deposited, secured and/or invested in the manner provided for the deposit, security and/or investment of the public funds of the City and approved by City Council. The Board shall designate the accounts and depositories to be created and designated for these purposes and the methods of withdrawal of funds for use by and for the purposes of the District upon the signature of its Treasurer and such other persons as the Board shall designate, as well as approval by City Council. The accounts, reconciliation and investment of funds and accounts shall be performed by the City.

Section 7.9 Expenditures of District Money.

The monies of the District, including sales and use taxes collected by the District pursuant to the Act, monies derived from rents received from the lease or use of property, the proceeds from the investment of funds of the District, the proceeds from the sale of property and the proceeds derived from the sale of Obligations may be expended by the District for any of the purposes authorized by the Act, and for the assumption of a debt, contingency agreement, or other obligation for the benefit of the District, subject to the following limitations:

- (a) Expenditures from the proceeds of Obligations shall be identified and described in the orders, resolutions, indentures or other agreements submitted to and approved by the City Council prior to the execution of loan or financing agreements or the sale and delivery of Obligations to the purchasers provided by Section 7.8 of these Bylaws;
- (b) Expenditures that may be made from a fund created with the proceeds of Obligations and expenditures of monies derived from sources other than the proceeds of Obligations may be used, with City Council approval, for the purposes of financing or otherwise providing one or more “projects,” as defined in the Act. The specific expenditures shall be described in a resolution or order of the Board and shall be made only after approval by the City Council; and
- (c) All other proposed expenditures shall be made in accordance with and shall be set forth in the annual budget required by Section 7.7 of this Article.

Section 7.10. Approval or Advice and Consent of the City Council.

- (a) Notwithstanding any provision to the contrary herein, the District shall obtain City Council approval for the following:
 - 1. The acceptance of any grant or loan;
 - 2. The acquisition, selling, leasing, conveying, or otherwise disposing of property or an interest in property;
 - 3. The issuance or payment of any and all bonds or other obligations;
 - 4. Any change in the sales and use tax;
 - 5. The appointment of the Executive Director; and
 - 6. The employment of any personnel.
- (b) To the extent that these Bylaws refer to any approval by the City or by the City Council, that approval shall be evidenced by a certified copy of an ordinance, resolution, order or motion duly adopted by the City Council.

Section 7.11 Implied Duties.

The District is authorized to take such actions as it may deem reasonable or necessary to accomplish any of the purposes or duties set out in these Bylaws in accordance with the Act and any other applicable law.

Article VIII

EFFECTIVE DATE

These Bylaws shall become effective upon the occurrence of the latter of the following events:

- (a) The approval of these Bylaws by the City Council; and
- (b) The adoption of these Bylaws by the Board of Directors.

Issue

Consider and/or act upon the allowance of alcohol use at the Murphy Community Center and Murphy Activity Center.

Background

On January 3, 2012, the City Council approved hours of operation, reservation policy and rental rates, membership fees and the catering policy for the Murphy Community Center and Murphy Activity Center. Alcohol use policy was discussed but not decided at that time.

Other Considerations

Staff is moving forward with numerous operational components in preparation for the opening of the Murphy Community Center. A piece of the rental operation is whether the City will allow alcohol use in the facility. If this is allowed, then a policy to manage it will be drafted. There are administrative parts that come with alcohol use (coordination, alcohol use liability agreement, off duty officers, etc...).

At this time, staff is only requesting direction as to the allowance of alcohol in the facility(ies) or not.

Issue

Consider and/or act upon approval of additional funding for furniture, fixtures and equipment for the Murphy Community Center.

Background

In August 2011, the 4B Board approved the 4B FY 11-12 Budget which included \$250,000 specifically for Furniture, Fixtures and Equipment for the Murphy Community Center (MCC). In September 2011, the City Council approved the Fiscal Year 11-12 Budget which included this item.

To ensure the Murphy Community Center was operational by the anticipated grand opening in March 2012, and to order the items necessary, the MCC Committee and staff opted for the items below. The approved \$250,000 has been spent:

- \$76,800 Community Center Furniture
 - o Chairs (lounge, meeting rooms, offices)
 - o Tables and desks (meeting rooms, offices)
 - o Shelving
 - o Filing cabinets
- \$8,068 Community Center Equipment
 - o Sports equipment
 - o Game room equipment
 - o Meeting room accessories
 - o Lobby accessories
- \$165,132 Audio/Visual Equipment
 - o Audio Visual Cabling
 - o Security

Financial Considerations

The decision was made, given funding limitations, to not order certain items in the original \$250,000 such as chairs for the gym (for event set-up), chair dollies, trash/recycle bins, indoor tabletop scoreboard, ping pong table and a rolling podium. Staff requested funding for these items from 4B (Murphy Community Development Corporation) on January 23, 2012. There were no comments at the public hearing. The motion passed 4-0.

Breakdown of the above items:

Recycle and Trash Receptacles, 23 Gallon - approximate cost \$10,000	} Not to exceed a total
Folding Chairs, Dollies and Racks – approximate cost \$47,000	
Ping Pong tables (2), folding – not to exceed \$1000	\$57,000 for both
Meeting Room Podium – not to exceed \$500	
Table Top Score Board – not to exceed \$600	
Total request is \$60,000. Funding is available within the current 4B budget.	

Staff Recommendation

Motion to approve additional 4B funding for furniture, fixtures and equipment for the Murphy Community Center not to exceed \$60,000.

Issue

Consider and/or act upon the approval of an ordinance amending the FY 2011-2012 budgets for the General Fund and the Community Development Corporation (4B).

Background

The General Fund and Community Development Corporation (4B) budgets for 2011-2012 were adopted on September 20, 2011. After the budgets were prepared and approved by City Council, some needs have become apparent in various departments.

First requested item is a Digital Evidence Pro System (DVD Burner and Server) in the amount of \$15,000 for the Police Department. This system manages the digital in-car video solution and interview room audio and video systems. This purchase was delayed until a later year during the budget process but the system no longer works and needs replacing now.

Second requested item is the Assistant Finance Director position for the Finance Department. City Council discussed this position in October, 2011. Finance is requesting \$56,800 for eight month salary and benefits for this position. The FY 2012-2013 budget will include a full year of salary and benefits for this position.

An additional \$22,000 is required for the Facilities Department for the purchase of a display unit and seating area for the lobby outside of the City Council Chambers (\$12,000). The display unit will be utilized as a display area for historical information (as requested by the Murphy Historical Association) regarding the City of Murphy. The additional \$10,000 will be used to make repairs to various buildings on the Municipal Complex.

While there are areas that required additional funding, there are also areas that will have savings. The IT Department will not need \$25,300 of salaries and benefits as the hiring of the IT Analyst was delayed until January 30th creating four months of savings. The FY 2012-2013 budget will include the salary and benefits for a full year.

The Fire Department will have savings of \$7,100 which is the result of delaying the hiring of the Fireman/Paramedic until March 1st creating two months of savings of salaries and benefits. The FY 2012-2013 budget will include the salary and benefits for a full year.

Community Service will save \$16,200 by delaying the hiring of the Code Compliance Officer until February 13th. The FY 2012-2013 budget will include the salary and benefits for a full year.

The Police Department also will save \$10,900 by delaying the hiring of two Communication Officers for two months. The FY 2012-2013 budget will include the salary and benefits for a full year.

The net result of the additional required funds and savings is an increase of expenditures of \$34,300, leaving a FY 2011-2012 projected General Fund Balance of \$2,269,720.

On January 23, 2012 the Community Development Corporation (4B) held a public hearing and approved the funding of additional furniture and fixtures for the Community Center in the amount NTE \$60,000 in the FY2011-2012 budget. With this increase of expenditures, the projected Fund Balance for 4B is \$345,913.

Financial Considerations

The FY 2011-2012 projected Fund Balance for the General Fund is \$2,269,720 and the projected Fund Balance for the Community Development Corporation is \$345,913.

Staff Recommendation

Motion to approve ordinance amending the FY 2011-2012 budget for the General Fund and Community Development Corporation.

Attachments

Budget Amendment Ordinance

ORDINANCE NO. 12-_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MURPHY, TEXAS, AUTHORIZING CERTAIN BUDGET AMENDMENTS PERTAINING TO THE FISCAL YEAR 2011-2012 BUDGET; AND PROVIDING FOR SAID ORDINANCE TO TAKE IMMEDIATE EFFECT.

WHEREAS, chapter 102 of the Texas Local Government Code, as amended, governs municipal budgets and provides that the chapter does not prevent the City Council of the City of Murphy, Texas, from making changes in the budget for municipal purposes; and

WHEREAS, section 7.09 of the City of Murphy Home-Rule Charter authorizes the amending of the fiscal year 2011-2012 budget; and

WHEREAS, as required by the City Charter, the City Manager has prepared an amendment to certain expenditures in the fiscal year 2011-2012 budget and submitted same to the City Council for its approval and a true and correct copy is attached as *Exhibit A*.

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

Section 1. FINDINGS INCORPORATED

The findings set forth above are incorporated into the body of this Ordinance as if fully set herein.

Section 2. That pursuant to the City Charter requirements of the City of Murphy, Texas, the budget amendment for fiscal year 2011-2012 attached as *Exhibit A* is hereby authorized and approved.

Section 3. That pursuant to the City Charter requirements this Ordinance and budget amendment shall become an attachment to the original budget.

Section 4. That this Ordinance shall become effective from and after its passage and it is so ordained.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Murphy, Texas, on this 7th day of February, 2012.

Bret M. Baldwin, Mayor
City of Murphy

ATTEST:

Aimee Nemer, City Secretary
City of Murphy

APPROVED AS TO FORM AND LEGALITY:

Wm. Andrew Messer, City Attorney

Exhibit A

City of Murphy
FY 2012 Approved Budget Summary

	FY09	FY10	FY11	FY12	FY12	FY12
General Fund	Actual	Actual	Projected	Approved	Adjustment	Amended
Beginning Fund Balance	926,295	1,647,610	2,584,630	2,754,020	2,754,020	2,754,020
Revenues						
Total Property Taxes	4,790,766	4,980,612	4,695,000	4,680,750	-	4,680,750
Total Sales Tax	795,139	873,012	905,000	1,000,000	-	1,000,000
Total Franchise Tax	809,385	702,436	831,500	949,500	-	949,500
Total Permits & Licenses	578,888	618,845	553,700	570,900	-	570,900
Total Other Revenue	539,557	632,382	561,200	635,400	-	635,400
Total Court Revenue	445,272	448,633	485,000	550,000	-	550,000
Total Solid Waste	738,486	785,000	817,100	824,600	-	824,600
Total Revenues	8,697,492	9,040,920	8,848,500	9,211,150	-	9,211,150
Transfer from Utility Fund	850,000	850,000	850,000	850,000	-	850,000
Transfer from Reserves				450,000	-	450,000
Total Other Sources	850,000	850,000	850,000	1,300,000	-	1,300,000
Revenues & Other Sources Less Expenditures & Other (Uses)	9,547,492	9,890,920	9,698,500	10,511,150	-	10,511,150
Category Expenses						
Total Personnel Services	5,714,245	5,470,459	5,729,600	6,201,950	(2,800)	6,199,150
Total Materials & Supplies	422,903	393,547	512,910	627,800	-	627,800
Total Contractual Services	2,476,036	2,558,589	2,814,300	3,027,250	10,100	3,037,350
Total Capital Outlay	123,888	476,492	472,300	654,150	27,000	681,150
Transfer	-	54,813	-			
Total Expenses	8,737,071	8,953,900	9,529,110	10,511,150	34,300	10,545,450
Transfer Out	89,106			450,000		450,000
Revenues less Expenses	721,315	937,020	169,390	(450,000)	(34,300)	(484,300)
Ending Fund Balance	1,647,610	2,584,630	2,754,019	2,304,020		2,269,720

City of Murphy
FY 2012 Approved Budget Summary

General Fund	FY09 Actual	FY10 Actual	FY11 Projected	FY12 Approved	FY12 Adjustment	FY12 Amended
Departmental Expenses						
Total Administration	356,410	372,619	426,300	412,700	-	412,700
Total Human Resources	124,623	124,512	147,000	149,800	-	149,800
Total Information Technology	178,781	191,395	501,450	607,730	(25,300)	582,430
Total City Council	269,532	284,317	250,100	277,800	-	277,800
Total City Secretary	211,450	141,415	179,850	147,600	-	147,600
Total Finance	350,015	372,532	389,450	394,500	56,800	451,300
Total Fire	1,927,746	1,907,987	1,978,150	2,331,420	(7,100)	2,324,320
Total Public Works	223,039	209,800	238,200	246,400	-	246,400
Total Facilities	324,959	347,337	378,800	383,500	22,000	405,500
Total Community Services	487,534	440,354	475,550	421,030	(16,200)	404,830
Total Police	2,607,240	2,803,685	2,743,560	2,901,640	4,100	2,905,740
Total Animal Control	68,406	72,563	63,850	67,300	-	67,300
Total Recreation				322,460	-	322,460
Total Parks	767,027	855,925	902,300	851,600	-	851,600
Total Municipal Court	231,020	205,178	204,550	324,470	-	324,470
Total Solid Waste	609,288	624,281	650,000	671,200	-	671,200
Total Expenses	8,737,071	8,953,900	9,529,110	10,511,150	34,300	10,545,450
Reserves						
Revenue Less Expenses	810,421	937,020	169,390	0	(34,300)	(34,300)
Transfer Out	89,106			450,000		450,000
Ending Fund Balance	1,647,610	2,584,630	2,754,020	2,304,020		2,269,720

City of Murphy
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	FY09 Actual	FY10 Actual	FY11 Budget	FY11 Projected	FY12 Approved	FY12 Adjustment	FY12 Amended
INFORMATION TECHNOLOGY							
PERSONNEL SERVICES							
5402-1001-0000 SALARIES	116,775	110,906	133,700	133,700	190,950	(20,000)	170,950
5402-1005-0000 OVERTIME	276	8,311	5,600	5,600	6,100		6,100
5402-1006-0000 LONGEVITY	254	256	350	350	450		450
5402-1009-0000 TMRS	11,562	12,431	16,200	16,800	21,640	(2,000)	19,640
5402-1011-0000 SOCIAL SECURITY	1,630	1,642	2,100	2,200	2,900	(300)	2,600
5402-1012-0000 GROUP INSURANCE	14,610	12,602	16,900	15,000	27,200	(3,000)	24,200
TOTAL PERSONNEL SERVICES	145,107	146,149	174,850	173,650	249,240	(25,300)	223,940
MATERIALS & SUPPLIES							
5402-2101-0000 GENERAL OFFICE SUPPLIES		10	900	900	1,000		1,000
5402-2104-0000 DATA PROCESSING SUPPLIES			12,000	12,000	10,000		10,000
5402-2106-0000 SOFTWARE SUBSCRIPTIONS	1,499						-
5402-2209-0000 UNIFORMS				100			-
5402-2401-0000 MINOR TOOLS & EQPT.	175	1,647	1,500	1,500	700		700
5402-2403-0000 COMPUTER HARD. & SOFT.	19,611	17,229					-
5402-2406-0000 NETWORKING SUPPLIES	376	-			1,500		1,500
TOTAL MATERIALS & SUPPLIES	21,660	18,885	14,400	14,500	13,200	-	13,200
CONTRACTUAL SERVICES							
5402-3102-0000 CONSULTANT SERVICES	4,031						-
5402-3106-0000 DATA PROCESSING					-		-
5402-3111-0000 HARDWARE AND SOFTWARE SUPPC	2,979	3,315	9,500	18,000	13,000		13,000
5402-3202-0000 POSTAGE		23	-				-
5402-3203-0000 TRAVEL AND TRAINING	332	591	8,000	8,000	8,000		8,000
5402-3405-0000 WORKERS COMPENSATION	331	38	700	200	600		600
5402-3703-0000 CELL/PAGERS/RADIOS	4,341	4,805	3,800	3,800	6,190		6,190
TOTAL CONTRACTUAL SERVICES	12,013	8,772	22,000	30,000	27,790	-	27,790
CAPITAL OUTLAY							
5402-4321-0000 COMPUTER SOFTWARE			91,300	91,300			-
5402-4390-0000 COMPUTER HARDWARE		17,589	192,000	192,000	317,500		317,500
TOTAL CAPITAL OUTLAY	-	17,589	283,300	283,300	317,500	-	317,500
TOTAL INFORMATION TECHNOLOGY	178,781	191,395	494,550	501,450	607,730	(25,300)	582,430

City of Murphy
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	FY09	FY10	FY11	FY11	FY12	FY12	FY12
	Actual	Actual	Budget	Projected	Approved	Adjustment	Amended
FINANCE							
PERSONNEL SERVICES							
5430-1001-0000 SALARIES	176,835	188,715	195,700	196,000	196,000	45,000	241,000
5430-1005-0000 OVERTIME	278	810	500	500	500		500
5430-1006-0000 LONGEVITY	773	334	600	600	600		600
5430-1009-0000 TMRS	17,392	19,868	22,500	23,500	21,500	4,900	26,400
5430-1011-0000 SOCIAL SECURITY	2,373	2,544	2,900	3,000	2,900	700	3,600
5430-1012-0000 GROUP INSURANCE	25,008	29,815	30,000	25,500	24,000	6,100	30,100
TOTAL PERSONNEL SERVICES	222,659	242,086	252,200	249,100	245,500	56,700	302,200
MATERIALS & SUPPLIES							
5430-2101-0000 GENERAL OFFICE SUPPLIES	1,304	1,037	1,000	1,200	1,500		1,500
5430-2102-0000 MAGAZINES/MAPS/BOOKS		40					-
5430-2104-0000 DATA PROCESSING SUPPLIES	88		100		-		-
5430-2209-0000 UNIFORMS				50	100		100
5430-2401-0000 MINOR TOOLS & EQPT.							-
5430-2403-0000 COMPUTER HARD. & SOFT.	830				-	-	-
TOTAL MATERIALS & SUPPLIES	2,222	1,077	1,100	1,250	1,600	-	1,600
CONTRACTUAL SERVICES							
5430-3101-0000 AUDITING AND ACCOUNTING	24,189	19,601	22,000	20,000	17,000		17,000
5430-3102-0000 CONSULTANT SERVICES	10,556	8,113	7,600	8,500	8,500		8,500
5430-3106-0000 DATA PROCESSING	10,905	11,701					-
5430-3111-0000 SOFTWARE MAINTENANCE	48,983	54,398	57,000	59,000	60,000		60,000
5430-3109-0000 TAX APPRAISALS			17,600	17,600	19,400		19,400
5430-3115-0000 BANK SERVICES CHARGES	15,034	12,323	9,600	9,000	9,000		9,000
5430-3116-0000 CREDIT CARD SERVICE FEES	8,860	9,558	10,200	9,500	12,000		12,000
5430-3201-0000 TELEPHONE EXPENSES							-
5430-3202-0000 POSTAGE & FREIGHT	1,140	1,309	1,500	1,500	1,600		1,600
5430-3203-0000 TRAVEL AND TRAINING	1,316	726	2,500	3,500	6,500		6,500
5430-3301-0000 AD. AND PUBLIC NOTICES	1,134	8,878	7,200	7,200	8,800		8,800
5430-3302-0000 PRINTING AND BINDING	241	124	700	250	700		700
5430-3402-0000 SURETY, FIDELITY BONDS	1,200	450	1,200	1,200	1,200		1,200
5430-3405-0000 WORKERS COMPENSATION	217	64	900	100	600	100	700
5400-3703-0000 CELL/PAGERS/RADIOS	625	1,500	900	1,000	1,000		1,000
5430-3901-0000 DUES & MEMBERSHIP	735	625	1,000	750	1,100		1,100
TOTAL CONTRACTUAL SERVICES	125,135	129,370	139,900	139,100	147,400	100	147,500
TOTAL FINANCE	350,015	372,532	393,200	389,450	394,500	56,800	451,300

City of Murphy
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	FY09	FY10	FY11	FY11	FY12	FY12	FY12
	Actual	Actual	Budget	Projected	Approved	Adjustment	Amended
FIRE							
PERSONNEL SERVICES							
5440-1001-0000 SALARIES	1,051,234	1,069,608	1,161,000	1,140,000	1,231,500	(5,000)	1,226,500
5440-1005-0000 OVERTIME	122,672	85,856	83,300	110,000	101,500		101,500
5440-1006-0000 LONGEVITY	2,640	2,785	4,300	4,000	5,100		5,100
5440-1007-0000 PART TIME	12,056	0			0		0
5440-1009-0000 TMRS	113,782	121,594	141,400	138,300	145,030	(1,500)	143,530
5440-1011-0000 SOCIAL SECURITY	16,659	15,683	18,200	18,300	21,940		21,940
5440-1012-0000 GROUP INSURANCE	191,345	208,757	220,500	205,000	214,690	(600)	214,090
5440-1016-0000 CERTIFICATIONS	0						
TOTAL PERSONNEL SERVICES	1,510,389	1,504,283	1,628,700	1,615,600	1,719,760	(7,100)	1,712,660
MATERIALS & SUPPLIES							
5440-2101-0000 GENERAL OFFICE SUPPLIES	2,736	1,664	1,200	1,800	2,000		2,000
5440-2102-0000 MAGAZINES/MAPS/BOOKS	1,694	3,068	2,800	2,100	2,900		2,900
5440-2103-0000 OFFICE COPY SUPPLIES	0						0
5440-2104-0000 DATA PROCESSING SUPPLIES	249	213	500	500	0		0
5440-2106-0000 SOFTWARE SUBSCRIPTIONS	5,791	15,235			0		0
5440-2203-0000 MEDICAL SUPPLIES	17,196	17,487	19,500	17,500	0		0
5440-2204-0000 MOTOR VEHICLE FUEL	10,674	12,448	15,000	18,500	28,000		28,000
5440-2205-0000 JANITORIAL SUPPLIES	2,236	2,777	3,000	3,000	3,000		3,000
5440-2208-0000 PHOTOGRAPHIC SUPPLIES	216	(250)	200	100	0		0
5440-2209-0000 UNIFORMS	28,768	26,601	34,500	34,000	37,200		37,200
5440-2220-0000 LAUNDRY AND CLEANING	432	1,079	4,800	4,000	4,200		4,200
5440-2222-0000 FOODS	1,068	452	5,600	4,000	0		0
5440-2230-0000 FIELD SUPPLIES	0		1,000	800	0		0
5440-2240-0000 FIRE PREVENTION PROGRAM	5,196	3,032	4,000	2,650	4,000		4,000
5440-2301-0000 BUILDINGS/GROUNDS SUP.	541	2,096	700	650	700		700
5440-2312-0000 MOTOR VEHICLE SUPPLIES	3,782	4,012	6,400	5,000	7,100		7,100
5440-2315-0000 FIRE FIGHTING EQPT.	5,428	8,569	7,300	6,000	8,500		8,500
5440-2401-0000 MINOR TOOLS & EQPT.	3,196	2,540	2,100	1,800	3,200		3,200
5440-2402-0000 FURNITURE & FIXTURE	8,503	0			0		0
5440-2403-0000 COMPUTER HARD. & SOFT.	3,706	0			0		0
5440-2501-0000 COMMUNITY RELATIONS	424	171	6,400	2,700	7,300		7,300
5440-2601-0000 AMBULANCE SUPPLIES	1,633	1,590	2,000	1,500	25,200		25,200
TOTAL MATERIALS & SUPPLIES	103,470	102,783	117,000	106,600	133,300	-	133,300
CONTRACTUAL SERVICES							
5440-3102-0000 CONSULTANT SERVICES	15,067	25,371	45,800	39,000	36,600		36,600
5440-3104-0000 MED. SERVICES/PREEMPLOYMENT	6,223	3,963	2,000	10,300	14,500		14,500
5440-3111-0000 SOFTWARE MAINTENANCE			19,900	17,000	63,700		63,700
5440-3199-0000 CONTRACT LABOR			16,000	17,100	28,000		28,000
5440-3202-0000 POSTAGE & FREIGHT	1,285	509	500	500	500		500
5440-3203-0000 TRAVEL AND TRAINING	6,246	4,780	18,400	14,000	18,700		18,700
5440-3301-0000 AD. AND PUBLIC NOTICES		0	500	550	0		0
5440-3302-0000 PRINTING AND BINDING	395	0	500	1,150	500		500
5440-3405-0000 WORKERS COMPENSATION	24,189	28,669	33,000	25,000	22,710		22,710
5440-3407-0000 UNEMPLOYMENT		9,800	0	2,000	0		0
5440-3501-0000 ELECTRICITY	105,842	89,000	83,000	49,350	40,000		40,000
5440-3502-0000 GAS	6,070	7,559	6,600	6,500	6,700		6,700
5440-3601-0000 BUILDING/STRUCTURE IMPVTS	6,826	8,000	4,000	3,500	3,100		3,100
5440-3604-0000 MOTOR VEHICLE REPAIRS	12,720	13,694	18,700	15,500	13,500		13,500
5440-3608-0000 RADIO & RADAR R & M	6,926	7,066	0	900	1,500		1,500
5440-3613-0000 PUBLIC SAFETY EQPT. R & M	3,520	8,904	13,200	11,700	26,500		26,500
5440-3702-0000 RENTAL OFFICE EQPT.	4,325	5,606	5,700	5,500	4,900		4,900

City of Murphy
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	FY09	FY10	FY11	FY11	FY12	FY12	FY12
	Actual	Actual	Budget	Projected	Approved	Adjustment	Amended
FIRE							
5440-3703-0000 CELL/PAGERS/RADIOS	3,103	5,680	6,500	6,000	8,500		8,500
5440-3901-0000 DUES & MEMBERSHIP	2,509	3,253	4,600	4,000	7,200		7,200
5440-3906-0000 WRECKER FEES					0		0
5440-3907-0000 DEMOLITION OF BUIDINGS							0
5440-3914-0000 PENSION CONTRIBUTION	576	168			0		0
5440-3916-0000 OPERATIONS AND SAFETY PRO	3,796						0
5440-3919-0000 AMBULANCE SERVICE							0
5440-3920-0000 AMBULANCE BILLING FEES	17,653	20,918	17,700	21,600	13,600		13,600
5440-3970-0000 DONATION EXPENSE							
TOTAL CONTRACTUAL SERVICES	227,269	242,941	296,600	251,150	310,710	-	310,710
CAPITAL OUTLAY							
5440-4301-0000 FURN FIX OFF EQUIPMENT		21,536					-
5440-4303-0000 MOTOR VEHICLES		0	6,300	4,800	70,000		70,000
5440-4305-0000 SPECIAL EQUIPMENT	39,755	36,445			87,000		87,000
5440-4307-0000 RADIO & RADAR EQPT.							-
5440-4310-0000 EMERGENCY MANAGEMENT EQUIP	46,862						-
5440-4390-0000 Computer Hardware					10,650		10,650
TOTAL CAPITAL OUTLAY	86,618	57,980	6,300	4,800	167,650	-	167,650
TOTAL FIRE	1,927,746	1,907,987	2,048,600	1,978,150	2,331,420	(7,100)	2,324,320

City of Murphy
FY 2012 Approved Budget

	FY09	FY10	FY11	FY11	FY12	FY12	FY12
	Actual	Actual	Budget	Projected	Approved	Adjustment	Amended
FACILITIES							
PERSONNEL SERVICES							
5451-1001-0000 SALARIES	37,054						-
5451-1005-0000 OVERTIME	1,456				-		-
5451-1006-0000 LONGEVITY	135						-
5451-1009-0000 TMRS	3,990						-
5451-1011-0000 SOCIAL SECURITY/MEDICARE	532						-
5451-1012-0000 GROUP INSURANCE	3,333						-
TOTAL PERSONNEL SERVICES	46,500	-		-	-	-	-
MATERIALS & SUPPLIES							
5451-2204-0000 FUEL	618				-		-
5451-2205-0000 JANITORIAL SUPPLIES	3,740	6,077	20,000	20,000	28,000		28,000
5451-2209-0000 UNIFORMS	-				-		-
5451-2301-0000 BUILDING & GROUNDS	22,895	18,165	30,000	30,000	42,000		42,000
5451-2312-0000 MOTOR VEHICLE SUPPLIES	-	120					-
TOTAL MATERIALS & SUPPLIES	27,252	24,363	50,000	50,000	70,000	-	70,000
CONTRACTUAL SERVICES							
5451-3201-0000 TELEPHONE	42,878	41,147	41,000	26,000	37,000		37,000
5451-3202-0000 POSTAGE & FREIGHT	12	-			-		-
5451-3203-0000 TRAINING & TRAVEL	-				2,500		2,500
5451-3401-0000 INSURANCE - GENERAL	-						-
5451-3405-0000 WORKERS COMP	1,646						-
5451-3407-0000 UNEMPLOYMENT INS	13,433	4,610		4,000			-
5451-3501-0000 ELECTRICITY	44,871	55,333	54,600	36,000	21,600		21,600
5451-3502-0000 GAS	3,350	3,625	4,700	4,800	2,400		2,400
5451-3601-0000 BUILDING & GROUNDS CONTRACTS	114,291	175,003	210,000	210,000	79,000		79,000
Building & Grounds Repairs					71,000	10,000	81,000
5451-3604-0000 MOTOR VEHICLE REPAIRS	524	394			-		-
5451-3703-0000 CELL/PAGERS/RADIOS	450				-		-
5451-3904-0000 JANITORIAL SERVICES	29,752	35,411	53,000	43,000	50,000		50,000
TOTAL CONTRACTUAL SERVICES	251,207	315,523	363,300	323,800	263,500	10,000	273,500
5451-4301-0000 FURNITURE	-	7,452				12,000	12,000
5451-4201-0000 BLDGS, FIX & GROUNDS	-		50,000	5,000	50,000		50,000
TOTAL CAPITAL OUTLAY	-	7,452	50,000	5,000	50,000	12,000	62,000
TOTAL FACILITIES	324,959	347,337	463,300	378,800	383,500	22,000	405,500

City of Murphy
FY 2012 Approved Budget

	FY09	FY10	FY11	FY11	FY12	FY12	FY12
	Actual	Actual	Budget	Projected	Approved	Adjustment	Amended
COMMUNITY SERVICES							
PERSONNEL SERVICES							
5455-1001-0000 SALARIES	292,427	258,803	255,400	248,000	173,500	(11,000)	162,500
5455-1005-0000 OVERTIME	58	783	600	600	700		700
5455-1006-0000 LONGEVITY	874	987	1,200	900	700		700
5455-1009-0000 TMRS	28,404	27,685	29,300	29,500	19,060	(1,100)	17,960
5455-1011-0000 SOCIAL SECURITY	4,029	3,686	3,800	3,800	2,610	(1,000)	1,610
5455-1012-0000 GROUP INSURANCE	30,344	31,685	28,200	22,500	20,760	(3,100)	17,660
TOTAL PERSONNEL SERVICES	356,137	323,629	318,500	305,300	217,330	(16,200)	201,130
MATERIALS & SUPPLIES							
5455-2101-0000 GENERAL OFFICE SUPPLIES	2,303	1,780	4,500	2,000	2,500		2,500
5455-2102-0000 MAGAZINES/MAPS/BOOKS		-	6,000	1,200	2,000		2,000
5455-2104-0000 DATA PROCESSING SUPPLIES		-	1,000	300	1,100		1,100
5455-2106-0000 SOFTWARE SUBSCRIPTIONS	400	470			800		800
5455-2107-0000 DRAFTING SUPPLIES					-		-
5455-2204-0000 MOTOR VEHICLE FUEL	1,168	1,721	2,500	2,500	3,500		3,500
5455-2209-0000 UNIFORMS		170	500	200	200		200
5455-2312-0000 MOTOR VEHICLE SUPPLIES	25	956	2,500	250	1,000		1,000
5455-2401-0000 MINOR TOOLS & EQPT.	376	17	500	100	300		300
5455-2403-0000 COMPUTER HARDWARE & SOFTW	1,327				-		-
5455-2404-0000 FURNITURE AND FIXTURE					-		-
TOTAL MATERIALS & SUPPLIES	5,598	5,115	17,500	6,550	11,400	-	11,400
CONTRACTUAL SERVICES							
5455-3102-0000 CONSULTANT SERVICES	1,147				-		-
5455-3103-0000 LEGAL SERVICES					-		-
5455-3105-0000 ENGINEERING SERVICES	18,537	29,824	50,000	95,000	110,000		110,000
5455-3106-0000 DATA PROCESSING		-	3,600				-
5455-3108-0000 RECORDING FEES	(540)				-		-
5455-3110-0000 INSPECTION FEES	62,952	24,635	45,000	45,000	40,000		40,000
5455-3111-0000 SOFTWARE MAINTNENACE			500		3,600		3,600
5455-3113-0000 HEALTH INSPECTION FEES	8,775	8,970	12,000	10,000	14,000		14,000
5455-3202-0000 POSTAGE & FREIGHT	993	1,458	2,000	1,000	2,500		2,500
5455-3203-0000 TRAVEL AND TRAINING	3,110	2,239	7,800	3,000	9,500		9,500
5455-3301-0000 AD. AND PUBLIC NOTICES	7,679	17,595	8,000	3,500	5,000		5,000
5455-3302-0000 PRINTING AND BINDING	632	460	2,000		1,000		1,000
5455-3405-0000 WORKERS COMPENSATION	1,681	1,324	2,700	700	1,000		1,000
5455-3407-0000 UNEMPLOYMENT	15,081						-
5455-3603-0000 OFFICE EQPT. REPAIRS		-	500	1,500	1,000		1,000
5455-3604-0000 MOTOR VEHICLE REPAIRS	1,039	-	1,000		1,000		1,000
5455-3702-0000 RENTAL OFFICE EQPT.					-		-
5455-3703-0000 CELL/PAGERS/RADIOS	3,993	3,099	3,400	2,500	1,200		1,200
5455-3901-0000 DUES & MEMBERSHIP	720	1,007	2,500	1,500	2,500		2,500
TOTAL CONTRACTUAL SERVICES	125,800	90,611	141,000	163,700	192,300	-	192,300
CAPITAL OUTLAY							
5455-4303-0000 MOTOR VEHICLES	-	-		-	-		-
5455-4390-0000 COMPUTER HARDWARE	-	20,999		-	-		-
TOTAL CAPITAL OUTLAY	-	20,999	-	-	-		-
TOTAL COMMUNITY SERVICES	487,534	440,354	477,000	475,550	421,030	(16,200)	404,830

**City of Murphy
FY 2012 Approved Budget**

	FY09 Actual	FY10 Actual	FY11 Budget	FY11 Projected	FY12 Approved	FY12 Adjustment	FY12 Amended
POLICE							
5460-3901-0000 DUES & MEMBERSHIP	430	448	900	1,100	1,200		1,200
5460-3905-0000 COMMUNITY RELATIONS	1,833		6,100	5,000	2,500		2,500
5460-3913-0000 SPECIAL INVESTIGATIONS	10,687	10,470	17,600	12,000	19,800		19,800
5460-3950-0000 COMMUNICATIONS	94	0	6,100	4,000	500		500
5460-3970-0000 DONATION EXPENSE	214	1,444			0		
TOTAL CONTRACTUAL SERVICES	258,525	273,258	344,300	285,500	272,440	-	272,440
CAPITAL OUTLAY							
5460-4303-0000 MOTOR VEHICLES		209,533	103,300	103,300	5,000		5,000
5460-4304-0000 MOBILE EQUIPMENT					0		0
5460-4307-0000 RADIO/RADAR/CAMERAS			5,000	5,000	31,100		31,100
5460-4321-0000 SOFTWARE APPLICATIONS		7,500			24,600		24,600
5460-4390-0000 COMPUTERS	1,282				0	15,000	15,000
5460-4398-0000 MISC. POLICE SAFETY EQUIP.							0
5460-4399-0000 MISC. EQUIP.			16,700	16,700	28,300		28,300
TOTAL CAPITAL OUTLAY	1,282	217,033	125,000	125,000	89,000	15,000	104,000
DEBT SERVICE							
5460-5001-0000 PRINCIPAL					0		
5460-5002-0000 INTEREST		54,813			0		
TOTAL DEBT SERVICE	-	54,813	-	-	-	-	-
TOTAL POLICE	2,607,240	2,803,685	2,838,700	2,743,560	2,901,640	4,100	2,905,740

City of Murphy
FY 2012 Approved Budget

	FY09	FY10	FY11	FY11	FY12	FY 12	FY12
	Actual	Actual	Budget	Projected	Approved	Adjustment	Amended
34 -4 B SALES TAX FUND							
REVENUES							
NON-PROPERTY TAXES							
4000-4060-0000 4 B SALES TAX	395,536	432,080	452,500	452,500	500,000		500,000
TOTAL NON-PROPERTY TAXES	395,536	432,080	452,500	452,500	500,000	-	500,000
OTHER REVENUE							
4000-4305-0000 INTEREST INCOME	6,504	1,509	1,500	1,300	1,000		1,000
TOTAL OTHER REVENUE	6,504	1,509	1,500	1,300	1,000	-	1,000
TOTAL REVENUES	402,039	433,589	454,000	453,800	501,000	-	501,000
34 -4 B SALES TAX FUND							
PERSONNEL SERVICES							
5000-1001-0000 SALARIES	23,703	31,026	45,500	39,760	45,000	-	45,000
5000-1005-0000 OVERTIME	974	-	-	200	1,000	-	1,000
5000-1006-0000 LONGEVITY	32	16	100	50	100	-	100
5000-1009-0000 TMRS	2,137	3,227	5,200	4,506	5,000	-	5,000
5000-1011-0000 SOCIAL SECURITY	309	397	800	577	700	-	700
5000-1012-0000 GROUP INSURANCE	4,626	4,997	11,100	7,850	6,600	-	6,600
TOTAL PERSONNEL SERVICES	31,780	39,663	62,700	52,944	58,400	-	58,400
MATERIALS & SUPPLIES							
5000-2101-0000 GENERAL OFFICE SUPPLIES	109	-	500	500	500	-	500
5000-2102-0000 MAGAZINES/MAPS/BOOKS	95	-	200	-	200	-	200
5000-2209-0000 UNIFORMS	-	-	750	100	800	-	800
5000-2401-0000 MINOR TOOLS & EQPT.	-	-	-	-	-	-	-
5000-2403-0000 COMPUTER HARD. & SOFT	875	-	-	-	-	-	-
TOTAL MATERIALS & SUPPLIES	1,078	-	1,450	600	1,500	-	1,500
CONTRACTUAL SERVICES							
5000-3101-0000 AUDITING AND ACCOUNTING	1,000	1,000	1,500	1,200	1,500	-	1,500
5000-3102-0000 CONSULTANT SERVICES	150	725	10,000	-	-	-	-
5000-3102-1160 CONSULTANT - MUNICIPAL COMP		12,000				-	-
5000-3103-0000 LEGAL SERVICES	3,155	752	1,000	100	1,000	-	1,000
5000-3112-0000 ISSUANCE COSTS				32,000		-	-
5000-3199-0000 CONTRACT LABOR	-	-	-	-	-	-	-
5000-3201-0000 TELEPHONE EXPENSES	-	-	-	-	-	-	-
5000-3202-0000 POSTAGE & FREIGHT	806	-	100	-	100	-	100
5000-3203-0000 TRAVEL AND TRAINING	4,744	1,785	8,000	3,000	5,000	-	5,000
5000-3301-0000 AD. AND PUBLIC NOTICES	503	579	500	-	1,000	-	1,000
5000-3302-0000 PRINTING AND BINDING	1,128	-	200	-	200	-	200
5000-3405-0000 WORKERS COMPENSATION	83	12	200	100	200	-	200
5000-3407-0000 UNEMPLOYMENT INS	5,292	-	-	-	-	-	-
5000-3703-0000 CELL/PAGERS/RADIOS		313	500	1,100	300	-	300
5000-3901-0000 DUES & MEMBERSHIP	50	950	1,200	1,100	1,200	-	1,200
5000-3910-0000 ADMINISTRATIVE COSTS	25,000	25,000	25,000	25,000	25,000	-	25,000
5000-3996-0000 MURPHY MARKETPLACE INC	-	-	-	-	-	-	-

City of Murphy
FY 2012 Approved Budget

	FY09	FY10	FY11	FY11	FY12	FY 12	FY12
	Actual	Actual	Budget	Projected	Approved	Adjustment	Amended
5000-3998-0000 UNEXPENDED PROMOTIONAL EX	-	-	-	-	-	-	-
5000-3999-0000 PROMOTIONAL EXPENSE	79,009	87,490	45,250	55,150	50,000	-	50,000
TOTAL CONTRACTUAL SERVICES	120,920	130,605	93,450	118,750	85,500	-	85,500
CAPITAL OUTLAY							
5000-4305-0000 SPECIAL EQUIPMENT	106,949	29,215	65,000	65,000	172,000	60,000	232,000
5000-4305-5000 SPECIAL EQUIPMENT - ATHLECTIC		-		1,700	-	-	-
5000-4308-0000 RECREATION EQPT.		3,098			-	-	-
5000-4390-0000 COMPUTER HARDWARE		-	2,500	1,000	-	-	-
5000-4601-0000 FM 544 MEDIAN PROJECT	10,647	-			-	-	-
5000-4601-1017 GABLES PARK	301,000	-			-	-	-
5000-4601-1400 COMMUNITY CENTER		-	500,000	101,200	250,000	-	250,000
5000-4601-1XXX MUNICIPAL COMPLEX PARK					300,000	-	300,000
TOTAL CAPITAL OUTLAY	418,596	32,313	567,500	168,900	722,000	60,000	782,000
DEBT SERVICE							
5000-5001-0000 PRINCIPAL					120,000	-	120,000
5000-5002-0000 INTEREST				8,900	12,200	-	12,200
TOTAL DEBT SERVICE				8,900	132,200	-	132,200
TOTAL EXPENDITURES	572,375	202,581	725,100	350,094	999,600	60,000	1,059,600
REVENUE & OTHER SOURCES OVER/ (UNDER) EXPENDITURES & OTHER (USES)	(170,335)	231,009	(271,100)	103,706	(498,600)		(558,600)
BEGINNING FUND BALANCE 10-01	740,133	569,798	800,807	800,807	904,513		904,513
ENDING FUND BALANCE 09-30	569,798	800,807	529,707	904,513	405,913		345,913

Issue

Consider and/or act upon the approval of an ordinance authorizing the issuance of "City Of Murphy, Texas, General Obligation Refunding Bonds, Series 2012"; levying a continuing direct annual ad valorem tax for the payment of such Bonds; and resolving other matters related to the issuance of such Bonds, including the delegation of certain matters to an authorized City official.

Background

The City has several series of bonds that can be refunded for savings. Listed below is a summary of the debt issues that could be refunded:

- Series 2001 Certificates: \$190,000 in principal to be refunded, interest rate of 4.75%
- Series 2002 Certificates: \$760,000 in principal to be refunded, interest rates ranging from 4.65% to 4.95%
- Series 2002A Certificates: \$2.335 million in principal to be refunded, interest rates ranging from 4.00% to 4.60%
- Series 2003 Certificates: \$4.155 million in principal to be refunded, interest rates ranging from 3.75% to 4.50%
- Series 2004 Certificates: \$6.275 million in principal to be refunded, interest rates ranging from 4.00% to 4.875%
- Total Callable Principal = \$13,715,000

Interest rates are near 50 year lows. Based on current market rates, projected net present value savings are \$1.1 million, or approximately 8.3%. Based on current market rates plus 0.25%, projected net present value savings are approximately \$925,000, or 6.7% of refunded bonds.

Given the anticipated savings levels, Jason Hughes, Financial Advisor with First Southwest, recommends the City move forward with refunding these issues. He also recommends that the City pass a Refunding Parameters Ordinance. This type of Ordinance allows the Council to delegate pricing authority to an officer or officers of the City for the refunding subject to specific parameters being met. Specific parameters include: minimum amount of savings, maximum interest rate, maximum repayment term of the bonds and length of the delegating authorization. If any one of these parameters is not met, the refunding bonds cannot be priced. The Ordinance provides flexibility in that we can price the refunding bonds anytime after its passage. Bond issue is in "Day-to-Day" mode which allows the bonds to be priced at any time and in a interest rate environment that is advantageous rather than being locked into pricing on the date of a Council meeting.

Suggested parameters are as follows:

- Maximum interest rate – 3.00%
- Minimum savings threshold – 4.00% in present value savings
- Maximum amount of refunding bonds to be issued - \$14.65 million

- Final maturity date – February 15, 2024 (matches final term of the Series 2004 CO's)
- Pricing officers – City Manager and Finance Director
- Expiration of delegated authority – 6 months after passage by Council

Financial Considerations

Savings will depend upon the interest rate of the refunding bonds.

Staff Recommendation

Motion to approve ordinance authorizing the issuance of "City Of Murphy, Texas, General Obligation Refunding Bonds, Series 2012"; levying a continuing direct annual ad valorem tax for the payment of such Bonds; and resolving other matters related to the issuance of such Bonds, including the delegation of certain matters to an authorized City official.

Attachments

Ordinance

**ORDINANCE
AUTHORIZING THE ISSUANCE OF**

**CITY OF MURPHY, TEXAS
GENERAL OBLIGATION REFUNDING BONDS
SERIES 2012**

ADOPTED: February 7, 2012

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ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE ISSUANCE OF “CITY OF MURPHY, TEXAS, GENERAL OBLIGATION REFUNDING BONDS, SERIES 2012”; LEVYING A CONTINUING DIRECT ANNUAL AD VALOREM TAX FOR THE PAYMENT OF SAID BONDS; RESOLVING OTHER MATTERS INCIDENT AND RELATED TO THE ISSUANCE, SALE, PAYMENT AND DELIVERY OF SAID BONDS; ESTABLISHING PROCEDURES FOR THE SALE AND DELIVERY OF SAID BONDS; AND DELEGATING MATTERS RELATING TO THE SALE AND ISSUANCE OF SAID BONDS TO AN AUTHORIZED CITY OFFICIAL.

WHEREAS, the City of Murphy, Texas (the “City”) currently has outstanding obligations of the City of the following issues or series (hereinafter collectively called the “Refunded Obligations”), to wit:

(1) City of Murphy, Texas, Tax and Water and Sewer System Surplus Revenue Certificates of Obligation, Series 2001, dated January 1, 2001 (the “Series 2001 Refunded Certificates”);

(2) City of Murphy, Texas, Tax and Water and Sewer System Surplus Revenue Certificates of Obligation, Series 2002, dated April 1, 2002 (the “Series 2002 Refunded Certificates”);

(3) City of Murphy, Texas, Tax and Water and Sewer System Surplus Revenue Certificates of Obligation, Series 2002A, dated August 15, 2002 (the “Series 2002A Refunded Certificates”); and

(4) City of Murphy, Texas, Tax and Water and Sewer System Surplus Revenue Certificates of Obligation, Series 2003, dated March 1, 2003 (the “Series 2003 Refunded Certificates”); and

(5) City of Murphy, Texas, Tax and Water and Sewer System Surplus Revenue Certificates of Obligation, Series 2004, dated April 15, 2004 (the “Series 2004 Refunded Certificates”); and

WHEREAS, pursuant to the provisions of Chapter 1207 of the Texas Government Code, as amended (“Chapter 1207”), the City Council of the City (the “Council”) is authorized to issue refunding bonds and deposit the proceeds of sale directly with any place of payment for the Refunded Obligations, or other authorized depository, and such deposit, when made in accordance with Chapter 1207 and the ordinances authorizing the issuance of the Refunded Obligations, shall constitute the making of firm banking and financial arrangements for the discharge and final payment of the Refunded Obligations; and

WHEREAS, the City shall by this Ordinance, in accordance with the provisions of Section 1207.007, Texas Government Code, as amended, delegate to a Pricing Officer

(hereinafter designated) the authority to determine the principal amount and certain other specified terms of the Bonds to be issued, negotiate the terms of sale thereof and select the specific maturities, in whole or in part, of the Refunded Obligations to be refunded; and

WHEREAS, the Council hereby finds and determines that it is a public purpose and in the best interests of the City to refund the Refunded Obligations in order to achieve a present value debt service savings, with such savings, among other information and terms, to be included in a pricing certificate (the "Pricing Certificate") to be executed by the Pricing Officer, all in accordance with the provisions of Section 1207.007, Texas Government Code, as amended; now, therefore

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

SECTION 1. Authorization - Series Designation - Principal Amount - Purpose - Bond Date. General obligation refunding bonds of the City shall be and are hereby authorized to be issued in the maximum aggregate principal amount hereinafter set forth to be designated and bear the title "CITY OF MURPHY, TEXAS, GENERAL OBLIGATION REFUNDING BONDS, SERIES 2012", or such other designation as specified in the Pricing Certificate (herein referred to as the "Bonds"), for the purpose of providing funds for the discharge and final payment of certain obligations of the City (described in the preamble hereof and finally identified in the Pricing Certificate and referred to herein as the "Refunded Obligations") and to pay the costs and expenses of issuance, in accordance with the authority conferred by and in conformity with the Constitution and laws of the State of Texas, including Chapter 1207. The Bonds shall be dated (the "Bond Date") as provided in the Pricing Certificate.

SECTION 2. Fully Registered Obligations - Terms. The Bonds shall be issued as fully registered obligations, without coupons, and as either or both "Current Interest Bonds" (obligations paying accrued interest to the holders or owners on and at stated intervals prior to maturity) and "Capital Appreciation Bonds" (obligations paying no accrued interest to the holders or owners prior to maturity).

(a) **Current Interest Bonds.** Current Interest Bonds (other than the Initial Bonds referenced in Section 8 hereof) shall be in denominations of \$5,000 or any integral multiple (within a Stated Maturity) thereof, shall be lettered "R" and numbered consecutively from one (1) upward and principal shall become due and payable on a date certain in each of the years and in amounts (the "Stated Maturities") and bear interest at the rate(s) per annum in accordance with the details of the Current Interest Bonds as set forth in the Pricing Certificate.

The Current Interest Bonds shall bear interest on the unpaid principal amounts from the date specified in the Pricing Certificate at the rate(s) per annum shown in the Pricing Certificate (calculated on the basis of a 360-day year consisting of twelve 30-day months). Interest on the Current Interest Bonds shall be payable in each year, on the dates, and commencing on the date, set forth in the Pricing Certificate.

(b) **Capital Appreciation Bonds.** Capital Appreciation Bonds (other than the Initial Bonds referenced in Section 8 hereof) shall each be issued in Maturity Amounts (the "Accreted

Value” [as hereinafter defined] at maturity) of \$5,000, or any integral multiple thereof within a Stated Maturity, shall be lettered “CAB-” and numbered consecutively from One (1) upward, and the original principal amounts of the Capital Appreciation Bonds, shall accrue interest at the interest rate(s) stated in the Pricing Certificate, and shall become due and payable on a date certain in each of the years (also referred to herein as the “Stated Maturities”) in the Maturity Amounts set forth in the Pricing Certificate.

Interest on the Capital Appreciation Bonds shall accrue from the date specified in the Pricing Certificate and be compounded semiannually in each year on the dates (the “Compounding Dates”), and commencing on the date, set forth in the Pricing Certificate, until the Stated Maturity or earlier redemption thereof. The accreted interest on the Capital Appreciation Bonds shall be payable at maturity or earlier redemption as a portion of the Maturity Amount or Accreted Value thereof.

The term “Accreted Value”, as used herein with respect to the Capital Appreciation Bonds, shall mean the original principal amount of a Capital Appreciation Bond, plus the initial premium, if any, paid therefor, with interest thereon compounded semiannually to the Compounding Date next preceding the date of such calculation (or the date of calculation, if such calculation is made on a Compounding Date), at the respective interest rates stated in the Pricing Certificate therefor and, with respect to each \$5,000 Accreted Value at maturity, as set forth in the Accreted Value table attached to the Pricing Certificate and in the Official Statement referred to in the Pricing Certificate. For any day other than a Compounding Date, the Accreted Value of a Capital Appreciation Bond shall be determined by a straight line interpolation between the values for the applicable semiannual Compounding Dates (based on 30-day months).

SECTION 3. Delegation of Authority to Pricing Officer. (a) As authorized by Section 1207.007, Texas Government Code, as amended, the City Manager of the City or the Director of Finance of the City (the “Pricing Officer”) is hereby authorized to act on behalf of the City in selling and delivering the Bonds and carrying out the other procedures specified in this Ordinance, including selection of the specific maturities or series, in whole or in part, of the Refunded Obligations to be refunded, determining the aggregate principal amount of the Bonds, the date of the Bonds, any additional or different designation or title by which the Bonds shall be known, the price at which the Bonds will be sold, the manner of sale (negotiated, privately placed or competitively bid), the years in which the Bonds will mature, the principal amount or Maturity Amount to mature in each of such years, the rate of interest to be borne by each such maturity, the date from which interest on the Bonds will accrue, the interest payment dates, the record date, the compounding dates, the price and terms upon and at which the Bonds shall be subject to redemption prior to maturity at the option of the City, as well as any mandatory sinking fund redemption provisions, determination of the use of a book-entry-only securities clearance, settlement and transfer system, the designation of an escrow agent satisfying the requirements of Chapter 1207, the terms of any bond insurance applicable to the Bonds, including any modification of the continuing disclosure undertaking contained in Section 31 hereof as may be required by the purchasers of the Bonds in connection with any amendments to Rule 15c2-12, and all other matters relating to the issuance, sale and delivery of the Bonds, all of which shall be specified in the Pricing Certificate, provided that:

- (i) the aggregate original principal amount of the Bonds shall not exceed \$15,000,000;
- (ii) the refunding must produce present value debt service savings of at least 3.0%, net of any City contribution;
- (iii) the true interest cost for the Bonds shall not exceed 4.0%;
- (iv) the maximum maturity date of the Bonds shall not exceed September 30, 2024.

The execution of the Pricing Certificate shall evidence the sale date of the Bonds by the City to the Purchasers (hereinafter defined).

If the Pricing Officer determines that bond insurance results in a net reduction of the City's interest costs associated with the Bonds, then the Pricing Officer is authorized, in connection with effecting the sale of the Bonds, to make the selection of the municipal bond insurance company for the Bonds (the "Insurer") and to obtain from the Insurer a municipal bond insurance policy in support of the Bonds. The Pricing Officer shall have the authority to determine the provisions of the commitment for any such policy and to execute any documents to effect the issuance of said policy by the Insurer.

(b) In establishing the aggregate principal amount of the Bonds, the Pricing Officer shall establish an amount not exceeding the amount authorized in subsection (a)(i) above, which shall be sufficient in amount to provide for the purposes for which the Bonds are authorized and to pay costs of issuing the Bonds. The delegation made hereby shall expire if not exercised by the Pricing Officer within 180 days of the date hereof. The Bonds shall be sold to the purchaser(s)/underwriter(s) named in the Pricing Certificate (the "Purchasers"), at such price and with and subject to such terms as set forth in the Pricing Certificate and the Purchase Contract (hereinafter defined), and may be sold by negotiated or competitive sale or by private placement. The Pricing Officer is hereby delegated the authority to designate the Purchasers, which delegation shall be evidenced by the execution of the Pricing Certificate.

SECTION 4. Terms of Payment - Paying Agent/Registrar. The principal of, premium, if any, and the interest on the Bonds, due and payable by reason of maturity, redemption or otherwise, shall be payable only to the registered owners or holders of the Bonds (hereinafter called the "Holders") appearing on the registration and transfer books maintained by the Paying Agent/Registrar, and the payment thereof shall be in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts, and shall be without exchange or collection charges to the Holders.

The selection and appointment of the _____, _____, to serve as Paying Agent/Registrar for the Bonds is hereby approved and confirmed. Books and records relating to the registration, payment, exchange and transfer of the Bonds (the "Security Register") shall at all times be kept and maintained on behalf of the City by the Paying Agent/Registrar, all as provided herein, in accordance with the terms and provisions of a "Paying Agent/Registrar Agreement," substantially in the form attached hereto as **Exhibit A** and such reasonable rules and regulations as the Paying Agent/Registrar and the City may prescribe. The

Pricing Officer is hereby authorized to execute and deliver such Paying Agent/Registrar Agreement in connection with the delivery of the Bonds. The City covenants to maintain and provide a Paying Agent/Registrar at all times until the Bonds are paid and discharged, and any successor Paying Agent/Registrar shall be a commercial bank, trust company, financial institution, or other entity qualified and authorized to serve in such capacity and perform the duties and services of Paying Agent/Registrar. Upon any change in the Paying Agent/Registrar for the Bonds, the City agrees to promptly cause a written notice thereof to be sent to each Holder by United States Mail, first class postage prepaid, which notice shall also give the address of the new Paying Agent/Registrar.

The Bonds shall be payable at their Stated Maturities or upon their earlier redemption, only upon the presentation and surrender of the Bonds to the Paying Agent/Registrar at its designated offices in _____, _____ (the "Designated Payment/Transfer Office"); provided, however, while a Bond is registered to Cede & Co., the payment thereof upon a partial redemption of the principal amount (with respect to Current Interest Bonds) or Maturity Amount (with respect to Capital Appreciation Bonds) thereof may be accomplished without presentation and surrender of such Bond. Interest accreted on a Capital Appreciation Bond shall be payable at its Stated Maturity or upon prior redemption as a portion of the Accreted Value or Maturity Amount. Interest on a Current Interest Bond shall be paid by the Paying Agent/Registrar to the Holders whose names appears in the Security Register at the close of business on the Record Date (which shall be set forth in the Pricing Certificate) and such interest payments shall be made (i) by check sent United States Mail, first class postage prepaid, to the address of the Holder recorded in the Security Register or (ii) by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Holder. If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to be closed, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day on which banking institutions are authorized to be closed; and payment on such date shall have the same force and effect as if made on the original date payment was due.

In the event of a non-payment of interest on one or more maturities of the Current Interest Bonds on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such past due interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be fifteen (15) days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States Mail, first class postage prepaid, to the address of each Holder of the Current Interest Bonds appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

SECTION 5. Registration - Transfer - Exchange of Bonds - Predecessor Bonds. A Security Register relating to the registration, payment and transfer or exchange of the Bonds shall at all times be kept and maintained by the City at the Designated Payment/Transfer Office of the Paying Agent/Registrar, as provided herein and in accordance with the provisions of the

Paying Agent/Registrar Agreement and such rules and regulations as the Paying Agent/Registrar and the City may prescribe. The Paying Agent/Registrar shall obtain, record, and maintain in the Security Register the name and address of each and every Holder of the Bonds issued under and pursuant to the provisions of this Ordinance, or if appropriate, the nominee thereof. Any Bond may be transferred or exchanged for Bonds of like kind, maturity, and amount and in authorized denominations upon the Security Register by the Holder, in person or by his duly authorized agent, upon surrender of such Bond to the Paying Agent/Registrar at its Designated Payment/Transfer Office for cancellation, accompanied by a written instrument of transfer or request for exchange duly executed by the Holder or by his duly authorized agent, in form satisfactory to the Paying Agent/Registrar.

Upon surrender for assignment or transfer of any Bond (other than the Initial Bonds authorized in Section 8 hereof) for transfer at the Designated Payment/Transfer Office of the Paying Agent/Registrar, one or more new Bonds, executed on behalf of and furnished by the City, shall be registered and issued to the assignee or transferee of the previous Holder; such Bonds to be of authorized denominations, of like Stated Maturity, and of a like aggregate principal amount (with respect to Current Interest Bonds) or Maturity Amount (with respect to Capital Appreciation Bonds) as the Bond or Bonds surrendered for transfer.

At the option of the Holder, Bonds (other than the Initial Bonds authorized in Section 8 hereof) may be exchanged for other Bonds of authorized denominations and having the same Stated Maturity, bearing the same rate of interest and of like aggregate principal amount (with respect to Current Interest Bonds) or Maturity Amount (with respect to Capital Appreciation Bonds) as the Bonds surrendered for exchange, upon surrender of the Bonds to be exchanged at the Designated Payment/Transfer Office of the Paying Agent/Registrar. Whenever any Bonds are surrendered for exchange, the Paying Agent/Registrar shall register and deliver new Bonds, executed on behalf of and furnished by the City, to the Holder requesting the exchange.

All Bonds issued upon any such transfer or exchange of Bonds shall be delivered to the Holders at the Designated Payment/Transfer Office of the Paying Agent/Registrar or sent by United States Mail, first class postage prepaid, to the Holders, and, upon the registration and delivery thereof, the same shall be the valid obligations of the City, evidencing the same obligation to pay and entitled to the same benefits under this Ordinance, as the Bonds surrendered in such transfer or exchange.

All transfers or exchanges of Bonds pursuant to this Section shall be made without expense or service charge to the Holder, except as otherwise herein provided, and except that the Paying Agent/Registrar shall require payment by the Holder requesting such transfer or exchange of any tax or other governmental charges required to be paid with respect to such transfer or exchange.

Bonds canceled by reason of an exchange or transfer pursuant to the provisions hereof are hereby defined to be "Predecessor Bonds," evidencing all or a portion, as the case may be, of the same obligation to pay evidenced by the new Bond or Bonds registered and delivered in the exchange or transfer therefor. Additionally, the term "Predecessor Bonds" shall include any mutilated, lost, destroyed, or stolen Bond for which a replacement Bond has been issued, registered, and delivered in lieu thereof pursuant to the provisions of Section 11 hereof, and such

new replacement Bond shall be deemed to evidence the same obligation as the mutilated, lost, destroyed, or stolen Bond.

Neither the City nor the Paying Agent/Registrar shall be required to transfer or exchange any Bond called for redemption, in whole or in part, within forty-five (45) days of the date fixed for the redemption of such Bond; provided, however, such limitation on transferability shall not be applicable to an exchange by the Holder of the unredeemed balance of a Bond called for redemption in part.

SECTION 6. Book-Entry-Only Transfers and Transactions. Notwithstanding the provisions contained in Sections 4 and 5 hereof relating to the payment and transfer/exchange of the Bonds, the City hereby approves and authorizes the use of “Book-Entry-Only” securities clearance, settlement, and transfer system provided by The Depository Trust Company, a limited purpose trust company organized under the laws of the State of New York (“DTC”), in accordance with the requirements and procedures identified in the current DTC Operational Arrangements memorandum, as amended, the Blanket Issuer Letter of Representations, by and between the City and DTC, and the Letter of Representations from the Paying Agent/Registrar to DTC (collectively, the “Depository Agreement”) relating to the Bonds.

In the event the Pricing Officer elects to utilize DTC’s “Book-Entry-Only” System, which election shall be made by the Pricing Officer in the Pricing Certificate, pursuant to the Depository Agreement and the rules of DTC, the Bonds shall be deposited with DTC and who shall hold said Bonds for its participants (the “DTC Participants”). While the Bonds are held by DTC under the Depository Agreement, the Holder of the Bonds on the Security Register for all purposes, including payment and notices, shall be Cede & Co., as nominee of DTC, notwithstanding the ownership of each actual purchaser or owner of each Bond (the “Beneficial Owners”) being recorded in the records of DTC and DTC Participants.

In the event DTC determines to discontinue serving as securities depository for the Bonds or otherwise ceases to provide book-entry clearance and settlement of securities transactions in general or the City determines that DTC is incapable of properly discharging its duties as securities depository for the Bonds, the City covenants and agrees with the Holders of the Bonds to cause Bonds to be printed in definitive form and provide for the Bond certificates to be issued and delivered to DTC Participants and Beneficial Owners, as the case may be. Thereafter, the Bonds in definitive form shall be assigned, transferred and exchanged on the Security Register maintained by the Paying Agent/Registrar and payment of such Bonds shall be made in accordance with the provisions of Sections 4 and 5 hereof.

SECTION 7. Execution - Registration. The Bonds shall be executed on behalf of the City by the Mayor under the City’s seal reproduced or impressed thereon and attested by the City Secretary. The signature of said officials on the Bonds may be manual or facsimile. Bonds bearing the manual or facsimile signatures of individuals who are or were the proper officials of the City on the date of the adoption of this Ordinance shall be deemed to be duly executed on behalf of the City, notwithstanding that such individuals or either of them shall cease to hold such offices at the time of delivery of the Bonds to the initial purchaser(s) and with respect to Bonds delivered in subsequent exchanges and transfers, all as authorized and provided in Chapter 1201 of the Texas Government Code, as amended.

No Bond shall be entitled to any right or benefit under this Ordinance, or be valid or obligatory for any purpose, unless there appears on such Bond either a certificate of registration substantially in the form provided in Section 9(c), manually executed by the Comptroller of Public Accounts of the State of Texas, or his or her duly authorized agent, or a certificate of registration substantially in the form provided in Section 9(d), manually executed by an authorized officer, employee or representative of the Paying Agent/Registrar, and either such certificate duly signed upon any Bond shall be conclusive evidence, and the only evidence, that such Bond has been duly certified, registered, and delivered.

SECTION 8. Initial Bonds. The Bonds herein authorized shall be initially issued as fully registered Bonds of the appropriate kind (Current Interest Bonds and Capital Appreciation Bonds) as specified in the Pricing Certificate, being (i) a single, fully registered Current Interest Bond in the aggregate principal amount noted and principal installments to become due and payable as provided in the Pricing Certificate and numbered T-1, and (ii) a single, fully registered Capital Appreciation Bond in the aggregate Maturity Amount noted, and with installments of such Maturity Amount to become due and payable as provided, in the Pricing Certificate and numbered TCAB-1 (hereinafter called the “Initial Bonds”) and the Initial Bonds shall be registered in the name of the initial purchaser(s) or the designee thereof. The Initial Bonds shall be the Bonds submitted to the Office of the Attorney General of the State of Texas for approval, certified and registered by the Office of the Comptroller of Public Accounts of the State of Texas and delivered to the initial purchaser(s). Any time after the delivery of the Initial Bonds, the Paying Agent/Registrar, pursuant to written instructions from the initial purchaser(s), or the designee thereof, shall cancel the Initial Bonds delivered hereunder and exchange therefor definitive Bonds of like kind and of authorized denominations, Stated Maturities, principal amounts (with respect to Current Interest Bonds) or Maturity Amounts (with respect to the Capital Appreciation Bonds) and bearing applicable interest rates for transfer and delivery to the Holders named at the addresses identified therefor; all pursuant to and in accordance with such written instructions from the initial purchaser(s), or the designee thereof, and such other information and documentation as the Paying Agent/Registrar may reasonably require.

SECTION 9. Forms.

(a) **Forms Generally.** The Bonds, the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Registration Certificate of Paying Agent/Registrar, and the form of Assignment to be printed on each of the Bonds, shall be substantially in the forms set forth in this Section with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Ordinance and, with the Bonds to be completed and modified with the information set forth in the Pricing Certificate, may have such letters, numbers, or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association) and such legends and endorsements (including insurance legends on insured Bonds and any reproduction of an opinion of counsel) thereon as may, consistently herewith, be established by the City or determined by the Pricing Officer. The Pricing Certificate shall set forth the final and controlling forms and terms of the Bonds. Any portion of the text of any Bonds may be set forth on the reverse thereof, with an appropriate reference thereto on the face of the Bond.

The definitive Bonds and the Initial Bonds shall be printed, lithographed, engraved, typewritten, photocopied or otherwise reproduced in any other similar manner, all as determined by the officers executing such Bonds as evidenced by their execution thereof.

(b) Form of Definitive Bonds.

[CURRENT INTEREST BONDS]

REGISTERED
NO. R-_____

PRINCIPAL AMOUNT
\$_____

UNITED STATES OF AMERICA
STATE OF TEXAS
CITY OF MURPHY
GENERAL OBLIGATION REFUNDING BOND
SERIES 2012

Bond Date: _____, 20__ Interest Rate: _____% Stated Maturity: _____, 20__ CUSIP No.: _____

Registered Owner:

Principal Amount: _____ DOLLARS

The City of Murphy (hereinafter referred to as the “City”), a body corporate and political subdivision in the County of Collin, State of Texas, for value received, acknowledges itself indebted to and hereby promises to pay to the Registered Owner named above, or the registered assigns thereof, on the Stated Maturity date specified above the Principal Amount hereinabove stated (or so much thereof as shall not have been paid upon prior redemption), and to pay interest on the unpaid principal amount hereof from the interest payment date next preceding the “Registration Date” of this Bond appearing below (unless this Bond bears a “Registration Date” as of an interest payment date, in which case it shall bear interest from such date, or unless the “Registration Date” of this Bond is prior to the initial interest payment date in which case it shall bear interest from the _____) at the per annum rate of interest specified above computed on the basis of a 360 day year of twelve 30 day months; such interest being payable on _____ and _____ in each year, commencing _____, 20__, until maturity or prior redemption. Principal of this Bond is payable at its Stated Maturity or upon its prior redemption to the registered owner hereof, upon presentation and surrender, at the designated offices of the Paying Agent/Registrar executing the registration certificate appearing hereon, initially in _____, _____, or, with respect to a successor Paying Agent/Registrar, at the designated offices of such successor (the “Designated Payment/Transfer Office”); provided, however, while this Bond is registered to Cede & Co., the payment of principal upon a partial redemption of the principal amount hereof may be accomplished without presentation and surrender of this Bond. Interest is payable to the registered owner of this Bond (or one or more Predecessor Bonds, as defined in the Ordinance hereinafter referenced) whose name appears on the “Security Register” maintained by the Paying Agent/Registrar at the close of business on the “Record Date”, which is the _____ day of the month next preceding

each interest payment date, and interest shall be paid by the Paying Agent/Registrar by check sent United States Mail, first class postage prepaid, to the address of the registered owner recorded in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day on which banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due. All payments of principal of, premium, if any, and interest on this Bond shall be without exchange or collection charges to the owner hereof and in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

This Bond is one of the series specified in its title issued in the aggregate principal amount of \$_____ (herein referred to as the "Bonds") for the purpose of providing funds for the discharge and final payment of certain outstanding obligations of the City and to pay the costs and expenses of issuance, under and in strict conformity with the Constitution and laws of the State of Texas, including Chapter 1207 of the Texas Government Code, as amended, and pursuant to an Ordinance adopted by the City Council of the City (herein referred to as the "Ordinance"). The Bonds are issued in part as "Current Interest Bonds", which total in principal amount \$_____ and pay accrued interest at stated intervals to registered owners and in part as "Capital Appreciation Bonds", which total in original principal amount \$_____ and pay no accrued interest prior to their Stated Maturities.

[The Bonds maturing on the dates hereinafter identified (the "Term Bonds") are subject to mandatory redemption prior to maturity with funds on deposit in the Interest and Sinking Fund established and maintained for the payment thereof in the Ordinance, and shall be redeemed in part prior to maturity at the price of par and accrued interest thereon to the date of redemption, and without premium, on the dates and in the principal amounts as follows:

Term Bonds due _____, 20__	Term Bonds due _____, 20__
<u>Redemption Date</u> <u>Principal Amount</u>	<u>Redemption Date</u> <u>Principal Amount</u>
_____, 20__	_____, 20__
_____, 20__*	_____, 20__*

* Stated maturity.

The particular Term Bonds of a Stated Maturity to be redeemed on each redemption date shall be chosen by lot by the Paying Agent/Registrar; provided, however, that the principal amount of Term Bonds for a Stated Maturity required to be redeemed on a mandatory redemption date may be reduced, at the option of the City, by the principal amount of Term Bonds of like Stated Maturity which, at least fifty (50) days prior to a mandatory redemption date, (1) shall have been acquired by the City at a price not exceeding the principal amount of such Term Bonds plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation or (2) shall have been redeemed pursuant to the optional

redemption provisions appearing below and not theretofore credited against a mandatory redemption requirement.]

The Current Interest Bonds maturing on and after _____, 20__, may be redeemed prior to their Stated Maturities, at the option of the City, in whole or in part in principal amounts of \$5,000 or any integral multiple thereof (and if within a Stated Maturity by lot by the Paying Agent/Registrar), on _____, 20__, or on any date thereafter, at the redemption price of par, together with accrued interest to the date of redemption.

At least thirty (30) days prior to the date fixed for any redemption of Bonds, the City shall cause a written notice of such redemption to be sent by United States Mail, first class postage prepaid, to the registered owners of each Bond to be redeemed, in whole or in part, at the address shown on the Security Register and subject to the terms and provisions relating thereto contained in the Ordinance. If a Bond (or any portion of its principal sum) shall have been duly called for redemption and notice of such redemption duly given, then upon such redemption date such Bond (or the portion of its principal sum to be redeemed) shall become due and payable, and interest thereon shall cease to accrue from and after the redemption date therefor; provided moneys for the payment of the redemption price and the interest on the principal amount to be redeemed to the date of redemption are held for the purpose of such payment by the Paying Agent/Registrar.

In the event a portion of the principal amount of a Bond is to be redeemed and the registered owner is someone other than Cede & Co., payment of the redemption price of such principal amount shall be made to the registered owner only upon presentation and surrender of such Bond to the Designated Payment/Transfer Office of the Paying Agent/Registrar, and a new Bond or Bonds of like maturity and interest rate in any authorized denominations provided by the Ordinance for the then unredeemed balance of the principal sum thereof will be issued to the registered owner, without charge. If a Bond is selected for redemption, in whole or in part, the City and the Paying Agent/Registrar shall not be required to transfer such Bond to an assignee of the registered owner within forty-five (45) days of the redemption date therefor; provided, however, such limitation on transferability shall not be applicable to an exchange by the registered owner of the unredeemed balance of a Bond redeemed in part.

With respect to any optional redemption of the Bonds, unless moneys sufficient to pay the principal of and premium, if any, and interest on the Bonds to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice may state that said redemption is conditional upon the receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon the satisfaction of any prerequisites set forth in such notice of redemption; and, if sufficient moneys are not received, such notice shall be of no force and effect, the City shall not redeem such Bonds and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Bonds have not been redeemed.

The Bonds are payable from the proceeds of an ad valorem tax levied, within the limitations prescribed by law, upon all taxable property in the City. Reference is hereby made to the Ordinance, a copy of which is on file in the Designated Payment/Transfer Office of the Paying Agent/Registrar, and to all of the provisions of which the owner or holder of this Bond by

the acceptance hereof hereby assents, for definitions of terms; the description of and the nature and extent of the tax levied for the payment of the Bonds; the terms and conditions relating to the transfer or exchange of this Bond; the conditions upon which the Ordinance may be amended or supplemented with or without the consent of the Holders; the rights, duties, and obligations of the City and the Paying Agent/Registrar; the terms and provisions upon which this Bond may be discharged at or prior to its maturity or redemption, and deemed to be no longer Outstanding thereunder; and for other terms and provisions contained therein. Capitalized terms used herein and not otherwise defined have the meanings assigned in the Ordinance.

This Bond, subject to certain limitations contained in the Ordinance, may be transferred on the Security Register only upon its presentation and surrender at the Designated Payment/Transfer Office of the Paying Agent/Registrar, with the Assignment hereon duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Paying Agent/Registrar duly executed by, the registered owner hereof, or his duly authorized agent. When a transfer on the Security Register occurs, one or more new fully registered Bonds of the same Stated Maturity, of authorized denominations, bearing the same rate of interest, and of the same aggregate principal amount will be issued by the Paying Agent/Registrar to the designated transferee or transferees.

The City and the Paying Agent/Registrar, and any agent of either, shall treat the registered owner whose name appears on the Security Register (i) on the Record Date as the owner entitled to payment of interest hereon, (ii) on the date of surrender of this Bond as the owner entitled to payment of principal at the Stated Maturity, or its redemption, in whole or in part, and (iii) on any other date as the owner for all other purposes, and neither the City nor the Paying Agent/Registrar, or any agent of either, shall be affected by notice to the contrary. In the event of nonpayment of interest on a Bond on a scheduled payment date and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be fifteen (15) days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States Mail, first class postage prepaid, to the address of each registered owner of a Bond appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

It is hereby certified, recited, represented, and declared that the City is a body corporate and political subdivision duly organized and legally existing under and by virtue of the Constitution and laws of the State of Texas; that the issuance of the Bonds is duly authorized by law; that all acts, conditions, and things required to exist and be done precedent to and in the issuance of the Bonds to render the same lawful and valid obligations of the City have been properly done, have happened, and have been performed in regular and due time, form, and manner as required by the Constitution and laws of the State of Texas, and the Ordinance; that the Bonds do not exceed any Constitutional or statutory limitation; and that due provision has been made for the payment of the principal of and interest on the Bonds by the levy of a tax as aforesated. In case any provision in this Bond shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected

or impaired thereby. The terms and provisions of this Bond and the Ordinance shall be construed in accordance with and shall be governed by the laws of the State of Texas.

IN WITNESS WHEREOF, the City Council of the City has caused this Bond to be duly executed under the official seal of the City.

CITY OF MURPHY, TEXAS

ATTEST:

Mayor

City Secretary

(City Seal)

[CAPITAL APPRECIATION BONDS]

REGISTERED
NO. CAB-_____

MATURITY AMOUNT
\$_____

UNITED STATES OF AMERICA
STATE OF TEXAS
CITY OF MURPHY
GENERAL OBLIGATION REFUNDING BOND
SERIES 2012

Bond Date: _____, 20__ Stated Yield: _____% Stated Maturity: _____, 20__ CUSIP No.: _____

Registered Owner:

Maturity Amount: _____ DOLLARS

The City of Murphy (hereinafter referred to as the “City”), a body corporate and political subdivision in the County of Collin, State of Texas, for value received, acknowledges itself indebted to and hereby promises to pay to the Registered Owner named above, or the registered assigns thereof, on the Stated Maturity date specified above, the Maturity Amount stated above (or so much thereof as shall not have been paid upon prior redemption). The Maturity Amount of this Bond represents the accretion of the original principal amount of this Bond (including the initial premium, if any, paid herefor) from the date of delivery to the initial purchasers to the Stated Maturity and such accretion in value occurring at the above Stated Yield and compounding on _____, 20__, and semiannually thereafter on _____ and _____. A table of the “Accreted Values” per \$5,000 “Accreted Value” at maturity is printed on this Bond or attached hereto. The term “Accreted Value”, as used herein, means the original principal amount of this Bond plus the initial premium, if any, paid herefor with interest thereon compounded semiannually to _____ and _____, as the case may be, next preceding the date of such calculation (or the date of calculation, if such calculation is made on _____ or _____) at the Stated Yield for the Stated Maturity shown above and in the above referenced Table of Accreted Values. For any date other than _____ or _____, the Accreted Value of this Bond shall be determined by a straight line interpolation between the values for the applicable semiannual compounding dates (based on 30-day months). If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day on which banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

The Accreted Value of this Bond is payable at its Stated Maturity or on a redemption date to the registered owner hereof, upon presentation and surrender, at the designated offices of the Paying Agent/Registrar executing the registration certificate appearing hereon, initially in _____, _____, or, with respect to a successor Paying Agent/Registrar, at the

designated offices of such successor (the “Designated Payment/Transfer Office”); provided, however, while this Bond is registered to Cede & Co., the payment of the Accreted Value hereof upon a partial redemption of the Maturity Amount hereof may be accomplished without presentation and surrender of this Bond. Payment of the Maturity Amount or Accreted Value as of a redemption date of this Bond shall be without exchange or collection charges to the owner hereof and in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

This Bond is one of the series specified in its title issued in the aggregate principal amount of \$_____ (herein referred to as the “Bonds”) for the purpose of providing funds for the discharge and final payment of certain outstanding obligations of the City and to pay the costs and expenses of issuance, under and in strict conformity with the Constitution and laws of the State of Texas, including Chapter 1207 of the Texas Government Code, as amended, and pursuant to an Ordinance adopted by the City Council of the City (herein referred to as the “Ordinance”). The Bonds are issued in part as “Current Interest Bonds”, which total in principal amount \$_____ and pay accrued interest at stated intervals to registered owners and in part as “Capital Appreciation Bonds”, which total in original principal amount \$_____ and pay no accrued interest prior to their Stated Maturities.

The Capital Appreciation Bonds maturing on and after _____, 20__ may be redeemed prior to their Stated Maturities, at the option of the City, in whole or in part in Maturity Amounts of \$5,000 or any integral multiple thereof (and if within a Stated Maturity selected by lot by the Paying Agent/Registrar), on _____, 20__, or on any date thereafter, at the redemption price of the Accreted Value (as determined and defined herein) as of the date of redemption.

At least thirty (30) days prior to a redemption date, the City shall cause a written notice to be sent by United States Mail, first class postage prepaid, to the registered owners of the Bonds to be redeemed, and subject to the terms and provisions relating thereto contained in the Ordinance. If a Bond (or any portion of its Maturity Amount) shall have been duly called for redemption and notice of such redemption duly given, then upon such redemption date such Bond (or the portion of its Maturity Amount to be redeemed) shall become due and payable, and shall cease to accrete in value from and after the redemption date, provided moneys for the payment of the redemption price to the date of redemption are held for the purpose of such payment by the Paying Agent/Registrar.

In the event a portion of the Maturity Amount of a Bond is to be redeemed and the registered owner hereof is someone other than Cede & Co., payment of the redemption price shall be made to the registered owner only upon presentation and surrender of such Bond to the Designated Payment/Transfer Office of the Paying Agent/Registrar, and a new Bond or Bonds of like maturity and interest rate in any authorized denominations provided by the Ordinance for the then unredeemed balance of the Maturity Amount thereof will be issued to the registered owner, without charge. If a Bond is selected for redemption, in whole or in part, the City and the Paying Agent/Registrar shall not be required to transfer such Bond to an assignee of the registered owner within 45 days of the redemption date therefor; provided, however, such limitation on transferability shall not be applicable to an exchange by the registered owner of the unredeemed balance of a Bond redeemed in part.

With respect to any optional redemption of the Bonds, unless certain prerequisites to such redemption required by the Ordinance have been met and moneys sufficient to pay the redemption price of the Bonds to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice may state that said redemption is conditional upon the satisfaction of such prerequisites and receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon any prerequisite set forth in such notice of redemption. If a conditional notice of redemption is given and such prerequisites to the redemption and sufficient moneys are not received, such notice shall be of no force and effect, the City shall not redeem such Bonds and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Bonds have not been redeemed.

The Bonds are payable from the proceeds of an ad valorem tax levied, within the limitations prescribed by law, upon all taxable property in the City. Reference is hereby made to the Ordinance, a copy of which is on file in the Designated Payment/Transfer Office of the Paying Agent/Registrar, and to all of the provisions of which the owner or holder of this Bond by the acceptance hereof hereby assents, for definitions of terms; the description of and the nature and extent of the tax levied for the payment of the Bonds; the terms and conditions relating to the transfer or exchange of this Bond; the conditions upon which the Ordinance may be amended or supplemented with or without the consent of the Holders; the rights, duties, and obligations of the City and the Paying Agent/Registrar; the terms and provisions upon which this Bond may be discharged at or prior to its maturity or redemption, and deemed to be no longer Outstanding thereunder; and for other terms and provisions contained therein. Capitalized terms used herein and not otherwise defined have the meanings assigned in the Ordinance.

This Bond, subject to certain limitations contained in the Ordinance, may be transferred on the Security Register only upon its presentation and surrender at the Designated Payment/Transfer Office of the Paying Agent/Registrar, with the Assignment hereon duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Paying Agent/Registrar duly executed by, the registered owner hereof, or his duly authorized agent. When a transfer on the Security Register occurs, one or more new fully registered Bonds of the same Stated Maturity, of authorized denominations, accruing interest at the same rate, and of the same aggregate Maturity Amount will be issued by the Paying Agent/Registrar to the designated transferee or transferees.

The City and the Paying Agent/Registrar, and any agent of either, shall treat the registered owner whose name appears on the Security Register (i) on the date of surrender of this Bond as the owner entitled to payment of the Maturity Amount at its Stated Maturity, or Accreted Value at its redemption, in whole or in part, and (ii) on any other date as the owner for all other purposes, and neither the City nor the Paying Agent/Registrar, or any agent of either, shall be affected by notice to the contrary.

It is hereby certified, recited, represented and declared that the City is a body corporate and political subdivision duly organized and legally existing under and by virtue of the Constitution and laws of the State of Texas; that the issuance of the Bonds is duly authorized by law; that all acts, conditions and things required to exist and be done precedent to and in the issuance of the Bonds to render the same lawful and valid obligations of the City have been

properly done, have happened and have been performed in regular and due time, form and manner as required by the Constitution and laws of the State of Texas, and the Ordinance; that the Bonds do not exceed any Constitutional or statutory limitation; and that due provision has been made for the payment of the principal of and interest on the Bonds by the levy of a tax as aforesated. In case any provision in this Bond shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The terms and provisions of this Bond and the Ordinance shall be construed in accordance with and shall be governed by the laws of the State of Texas.

IN WITNESS WHEREOF, the City Council of the City has caused this Bond to be duly executed under the official seal of the City.

CITY OF MURPHY, TEXAS

ATTEST:

Mayor

City Secretary

(City Seal)

NOTE TO PRINTER: Print the "Table of Accreted Values" on the Bonds as called for in paragraph one.

(c) Form of Registration Certificate of Comptroller of Public Accounts to appear on Initial Bonds only.

REGISTRATION CERTIFICATE OF
COMPTROLLER OF PUBLIC ACCOUNTS

OFFICE OF THE COMPTROLLER (
 OF PUBLIC ACCOUNTS (REGISTER NO. _____
 THE STATE OF TEXAS (

I HEREBY CERTIFY that this Bond has been examined, certified as to validity and approved by the Attorney General of the State of Texas, and duly registered by the Comptroller of Public Accounts of the State of Texas.

WITNESS my signature and seal of office this _____.

Comptroller of Public Accounts
of the State of Texas

(Seal)

(d) Form of Certificate of Paying Agent/Registrar to appear on Definitive Bonds only.

REGISTRATION CERTIFICATE OF PAYING AGENT/REGISTRAR

This Bond has been duly issued and registered in the name of the Registered Owner shown above under the provisions of the within-mentioned Ordinance; the bond or bonds of the above entitled and designated series originally delivered having been approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts, as shown by the records of the Paying Agent/Registrar.

The designated office of the Paying Agent/Registrar in _____, is the Designated Payment/Transfer Office for this Bond.

as Paying Agent/Registrar

Registration Date:

By: _____
Authorized Signature

(e) Form of Assignment.

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns, and transfers unto (Print or typewrite name, address, and zip code of transferee): _____

(Social Security or other identifying number: _____

_____) the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

DATED: _____

Signature guaranteed:

NOTICE: The signature on this assignment must correspond with the name of the registered owner as it appears on the face of the within Bond in every particular.

(f) The Initial Bonds for the Current Interest Bonds and the Capital Appreciation Bonds shall be in the respective forms set forth therefor in subsection (b) of this Section, except as follows:

[CURRENT INTEREST INITIAL BOND]

Heading and paragraph one shall be amended to read as follows:

NO. T-1 \$ _____

UNITED STATES OF AMERICA
STATE OF TEXAS
CITY OF MURPHY
GENERAL OBLIGATION REFUNDING BOND
SERIES 2012

Bond Date: _____, 20__

Registered Owner:

Principal Amount: DOLLARS

The City of Murphy (hereinafter referred to as the “City”), a body corporate and political subdivision in the County of Collin, State of Texas, for value received, acknowledges itself indebted to and hereby promises to pay to the registered owner named above, or the registered assigns thereof, the Principal Amount hereinabove stated on _____ in the years and in principal installments in accordance with the following schedule:

<u>STATED MATURITY</u>	<u>PRINCIPAL AMOUNT</u>	<u>INTEREST RATE(S)</u>
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(Information to be inserted from Pricing Certificate)

(or so much principal thereof as shall not have been redeemed prior to maturity) and to pay interest on the unpaid principal installments hereof from the _____ at the per annum rates of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on _____, 20__, and each _____ and _____ thereafter, until maturity or prior redemption. Principal installments of this Bond are payable in the year of maturity or on a redemption date to the registered owner hereof by _____ (the “Paying Agent/Registrar”), upon presentation and surrender at its designated offices, initially in _____, _____, or, with respect to a successor paying agent/registrar, at the designated office of such successor (the “Designated

Payment/Transfer Office”). Interest is payable to the registered owner of this Bond whose name appears on the “Security Register” maintained by the Paying Agent/Registrar at the close of business on the “Record Date,” which is the _____ day of the month next preceding each interest payment date, and interest shall be paid by the Paying Agent/Registrar by check sent United States Mail, first class postage prepaid, to the address of the registered owner recorded in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. All payments of principal of, premium, if any, and interest on this Bond shall be without exchange or collection charges to the registered owner hereof and in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts. If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to be closed, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day on which banking institutions are authorized to be closed; and payment on such date shall have the same force and effect as if made on the original date payment was due.

[CAPITAL APPRECIATION INITIAL BOND]

Heading and first two paragraphs shall be amended to read as follows:

REGISTERED	MATURITY AMOUNT
NO. TCAB-1	\$ _____

UNITED STATES OF AMERICA
STATE OF TEXAS
CITY OF MURPHY
GENERAL OBLIGATION REFUNDING BOND
SERIES 2012

Bond Date: _____, 20__

Registered Owner:

Maturity Amount: DOLLARS

The City of Murphy (hereinafter referred to as the “City”), a body corporate and political subdivision in the County of Collin, State of Texas, for value received, acknowledges itself indebted to and hereby promises to pay to the Registered Owner named above, or the registered assigns thereof, the aggregate Maturity Amount stated above on _____ in each of the years and in installments in accordance with the following schedule:

	INSTALLMENT	
<u>YEAR OF</u>	<u>MATURITY</u>	<u>STATED</u>
<u>MATURITY</u>	<u>AMOUNT</u>	<u>YIELD(S)</u>

(Information to be inserted from Pricing Certificate)

The respective installments of the Maturity Amount hereof represents the accretion of the original principal amounts of each year of maturity from the date of delivery to the initial purchasers (_____) to the respective years of maturity (including the initial premium, if any, paid by the initial purchasers) and such accretion in values occurring at the respective Stated Yields and compounding on _____, 20__, and semiannually thereafter on each _____ and _____. A table of the “Accreted Values” per \$5,000 “Accreted Value” at maturity is attached to this Bond. The term “Accreted Value”, as used herein, means the original principal amount of this Bond plus premium, if any, paid herefor with interest thereon compounded semiannually to _____ and _____, as the case may be, next preceding the date of such calculation (or the date of calculation, if such calculation is made on _____ or _____) at the respective Stated Yields shown above and in the Table of Accreted Values attached hereto. For any date other than _____ or _____, the Accreted Value of this Bond shall be determined by a straight line interpolation between the values for the applicable semiannual compounding dates (based on 30-day months). If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to be closed, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day on which banking institutions are authorized to be closed; and payment on such date shall have the same force and effect as if made on the original date payment was due.

The installments of the Maturity Amount or Accreted Value of this Bond are payable in the years of maturity or on a redemption date to the registered owner hereof, without exchange or collection charges, by _____ (the “Paying Agent/Registrar”), upon presentation and surrender at its designated offices, initially in _____, _____, or, with respect to a successor paying agent/registrar, at the designated office of such successor (the “Designated Payment/Transfer Office”), and shall be payable in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

SECTION 10. Levy of Taxes. To provide for the payment of the “Debt Service Requirements” of the Bonds, being (i) the interest on the Bonds and (ii) a sinking fund for their redemption at maturity or a sinking fund of 2% (whichever amount is the greater) there is hereby levied, and there shall be annually assessed and collected in due time, form, and manner, a tax on all taxable property in the City, within the limitations by law prescribed, sufficient to pay the principal of and interest on the Bonds as the same becomes due and payable; and such tax hereby levied on each one hundred dollars’ valuation of taxable property in the City for the payment of the Debt Service Requirements of the Bonds shall be at a rate from year to year as will be ample and sufficient to provide funds each year to pay the principal of and interest on said Bonds while Outstanding; full allowance being made for delinquencies and costs of collection; the taxes levied, assessed, and collected for and on account of the Bonds shall be accounted for separate and apart from all other funds of the City and shall be deposited in the “SPECIAL SERIES 2012 GENERAL OBLIGATION REFUNDING BOND FUND”, or such other fund designation as specified in the Pricing Certificate (the “Interest and Sinking Fund”) to be maintained at an official depository of the City’s funds; and such tax hereby levied, and to be assessed and collected annually, is hereby pledged to the payment of the Bonds.

PROVIDED, however, with regard to any payment to become due on the Bonds prior to the tax delinquency date next following the annual assessment of taxes levied which next follows the Bond Date, if any, sufficient current funds will be available and are hereby appropriated to make such payments; and the Mayor, Mayor Pro Tem, City Manager, Director of Finance and City Secretary of the City, individually or jointly, are hereby authorized and directed to transfer and deposit in the Interest and Sinking Fund such current funds which, together with the accrued interest received from the initial purchasers, will be sufficient to pay the payments due on the Bonds prior to the tax delinquency date next following the annual assessment of taxes levied which next follows the Bond Date.

The Mayor, Mayor Pro Tem, City Manager, Director of Finance and City Secretary of the City, individually or jointly, are hereby authorized and directed to cause to be transferred to the Paying Agent/Registrar for the Bonds, from funds on deposit in the Interest and Sinking Fund, amounts sufficient to fully pay and discharge promptly each installment of interest and principal of the Bonds as the same accrues or matures or comes due by reason of redemption prior to maturity; such transfers of funds to be made in such manner as will cause collected funds to be deposited with the Paying Agent/Registrar on or before each principal and interest payment date for the Bonds.

SECTION 11. Mutilated - Destroyed - Lost and Stolen Bonds. In case any Bond shall be mutilated, or destroyed, lost, or stolen, the Paying Agent/Registrar may execute and deliver a replacement Bond of like form and tenor, and in the same denomination and bearing a number not contemporaneously outstanding, in exchange and substitution for such mutilated Bond; and with respect to a lost, destroyed, or stolen Bond, a replacement Bond may be issued only upon the approval of the City and after (i) the filing by the Holder with the Paying Agent/Registrar of evidence satisfactory to the Paying Agent/Registrar of the destruction, loss, or theft of such Bond, and of the authenticity of the ownership thereof and (ii) the furnishing to the Paying Agent/Registrar of indemnification in an amount satisfactory to hold the City and the Paying Agent/Registrar harmless. All expenses and charges associated with such indemnity and with the preparation, execution and delivery of a replacement Bond shall be borne by the Holder of the Bond mutilated, or destroyed, lost, or stolen.

Every replacement Bond issued pursuant to this Section shall be a valid and binding obligation of the City, and shall be entitled to all the benefits of this Ordinance equally and ratably with all other Outstanding Bonds; notwithstanding the enforceability of payment by anyone of the destroyed, lost, or stolen Bonds.

The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement and payment of mutilated, destroyed, lost, or stolen Bonds.

SECTION 12. Satisfaction of Obligation of City. If the City shall pay or cause to be paid, or there shall otherwise be paid to the Holders, the principal of, premium, if any, and interest on the Bonds, at the times and in the manner stipulated in this Ordinance and the Pricing Certificate, then the pledge of taxes levied under this Ordinance and all covenants, agreements, and other obligations of the City to the Holders shall thereupon cease, terminate, and be discharged and satisfied.

Bonds or any principal amount(s) (with respect to Current Interest Bonds) and Maturity Amount (with respect to Capital Appreciation Bonds) thereof shall be deemed to have been paid within the meaning and with the effect expressed above in this Section when (i) money sufficient to pay in full such Bonds or the principal amount(s) thereof at maturity or to the redemption date therefor, together with all interest due thereon, shall have been irrevocably deposited with and held in trust by the Paying Agent/Registrar, or an authorized escrow agent, or (ii) Government Securities shall have been irrevocably deposited in trust with the Paying Agent/Registrar, or an authorized escrow agent, which Government Securities have been certified by an independent accounting firm to mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money, together with any moneys deposited therewith, if any, to pay when due the principal of and interest on such Bonds, or the principal amount(s) thereof, on and prior to the Stated Maturity thereof or (if notice of redemption has been duly given or waived or if irrevocable arrangements therefor acceptable to the Paying Agent/Registrar have been made) the redemption date thereof. The City covenants that no deposit of moneys or Government Securities will be made under this Section and no use made of any such deposit which would cause the Bonds to be treated as “arbitrage bonds” within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, or regulations adopted pursuant thereto.

Any moneys so deposited with the Paying Agent/Registrar, or an authorized escrow agent, and all income from Government Securities held in trust by the Paying Agent/Registrar, or an authorized escrow agent, pursuant to this Section which is not required for the payment of the Bonds, or any principal amount(s) thereof, or interest thereon with respect to which such moneys have been so deposited shall be remitted to the City or deposited as directed by the City. Furthermore, any money held by the Paying Agent/Registrar for the payment of the principal of and interest on the Bonds and remaining unclaimed for a period of three (3) years after the Stated Maturity, or applicable redemption date, of the Bonds such moneys were deposited and are held in trust to pay shall upon the request of the City be remitted to the City against a written receipt therefor. Notwithstanding the above and foregoing, any remittance of funds from the Paying Agent/Registrar to the City shall be subject to any applicable unclaimed property laws of the State of Texas.

The term “Government Securities” shall mean (i) direct noncallable obligations of the United States of America, including obligations the principal of and interest on which are unconditionally guaranteed by the United States of America, (ii) noncallable obligations of an agency or instrumentality of the United States of America, including obligations unconditionally guaranteed or insured by the agency or instrumentality and, on the date of their acquisition or purchase by the City, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent, (iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date of their acquisition or purchase by the City, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent and (iv) any other then authorized securities or obligations that may be used to defease obligations such as the Bonds under the then applicable laws of the State of Texas

The City reserves the right, subject to satisfying the requirements of (i) and (ii) above, to substitute other Government Securities for the Government Securities originally deposited, to

reinvest the uninvested moneys on deposit for such defeasance and to withdraw for the benefit of the City moneys in excess of the amount required for such defeasance.

Upon such deposit as described above, such Bonds shall no longer be regarded to be outstanding or unpaid. Provided, however, the City has reserved the option, to be exercised at the time of the defeasance of the Bonds, to call for redemption, at an earlier date, those Bonds which have been defeased to their maturity date, if the City: (i) in the proceedings providing for the firm banking and financial arrangements, expressly reserves the right to call the Bonds for redemption; (ii) gives notice of the reservation of that right to the Holders of the Bonds immediately following the making of the firm banking and financial arrangements; and (iii) directs that notice of the reservation be included in any redemption notices that it authorizes.

SECTION 13. Ordinance a Contract - Amendments - Outstanding Bonds. This Ordinance, together with the Pricing Certificate, shall constitute a contract with the Holders from time to time, be binding on the City, and shall not be amended or repealed by the City so long as any Bond remains Outstanding except as permitted in this Section and in Section 31 hereof. The City may, without the consent of or notice to any Holders, from time to time and at any time, amend this Ordinance or any provision in the Pricing Certificate in any manner not detrimental to the interests of the Holders, including the curing of any ambiguity, inconsistency, or formal defect or omission herein. In addition, the City may, with the consent of Holders who own a majority of the aggregate of the principal amount (with respect to Current Interest Bonds) and Maturity Amount (with respect to Capital Appreciation Bonds) of the Bonds then Outstanding, amend, add to, or rescind any of the provisions of this Ordinance or any provision in the Pricing Certificate; provided that, without the consent of all Holders of Outstanding Bonds, no such amendment, addition, or rescission shall (1) extend the time or times of payment of the principal of and interest on the Bonds, reduce the principal amount or Maturity Amount, as the case may be, thereof, the redemption price, or the rate of interest thereon, or in any other way modify the terms of payment of the principal of or interest on the Bonds, (2) give any preference to any Bond over any other Bond, or (3) reduce the aggregate principal amount or Maturity Amount, as the case may be, of Bonds required to be held by Holders for consent to any such amendment, addition, or rescission.

The term “Outstanding” when used in this Ordinance with respect to Bonds means, as of the date of determination, all Bonds theretofore issued and delivered under this Ordinance, except:

- (1) those Bonds cancelled by the Paying Agent/Registrar or delivered to the Paying Agent/Registrar for cancellation;
- (2) those Bonds deemed to be duly paid by the City in accordance with the provisions of Section 12 hereof; and
- (3) those mutilated, destroyed, lost, or stolen Bonds which have been replaced with Bonds registered and delivered in lieu thereof as provided in Section 11 hereof.

SECTION 14. Covenants to Maintain Tax-Exempt Status.

(a) Definitions. When used in this Section, the following terms have the following meanings:

“*Closing Date*” means the date on which the Bonds are first authenticated and delivered to the initial purchasers against payment therefor.

“*Code*” means the Internal Revenue Code of 1986, as amended by all legislation, if any, effective on or before the Closing Date.

“*Computation Date*” has the meaning set forth in Section 1.148-1(b) of the Regulations.

“*Gross Proceeds*” means any proceeds as defined in Section 1.148-1(b) of the Regulations, and any replacement proceeds as defined in Section 1.148-1(c) of the Regulations, of the Bonds.

“*Investment*” has the meaning set forth in Section 1.148-1(b) of the Regulations.

“*Nonpurpose Investment*” means any investment property, as defined in Section 148(b) of the Code, in which Gross Proceeds of the Bonds are invested and which is not acquired to carry out the governmental purposes of the Bonds.

“*Rebate Amount*” has the meaning set forth in Section 1.148-1(b) of the Regulations.

“*Regulations*” means any proposed, temporary, or final Income Tax Regulations issued pursuant to Sections 103 and 141 through 150 of the Code, and 103 of the Internal Revenue Code of 1954, which are applicable to the Bonds. Any reference to any specific Regulation shall also mean, as appropriate, any proposed, temporary or final Income Tax Regulation designed to supplement, amend or replace the specific Regulation referenced.

“*Yield*” of (1) any Investment has the meaning set forth in Section 1.148-5 of the Regulations and (2) the Bonds has the meaning set forth in Section 1.148-4 of the Regulations.

(b) Not to Cause Interest to Become Taxable. The City shall not use, permit the use of, or omit to use Gross Proceeds or any other amounts (or any property the acquisition, construction, or improvement of which is to be financed (or refinanced) directly or indirectly with Gross Proceeds) in a manner which if made or omitted, respectively, would cause the interest on any Bond to become includable in the gross income, as defined in Section 61 of the Code, of the owner thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the City receives a written opinion of counsel nationally recognized in the field of municipal bond law to the effect that failure to comply with such

covenant will not adversely affect the exemption from federal income tax of the interest on any Bond, the City shall comply with each of the specific covenants in this Section.

(c) No Private Use or Private Payments. Except as permitted by Section 141 of the Code and the Regulations and rulings thereunder, the City shall at all times prior to the last Stated Maturity of Bonds:

(i) exclusively own, operate, and possess all property the acquisition, construction, or improvement of which is to be financed or refinanced directly or indirectly with Gross Proceeds of the Bonds (including property financed with Gross Proceeds of the Refunded Obligations), and not use or permit the use of such Gross Proceeds (including all contractual arrangements with terms different than those applicable to the general public) or any property acquired, constructed, or improved with such Gross Proceeds in any activity carried on by any person or entity (including the United States or any agency, department, and instrumentality thereof) other than a state or local government, unless such use is solely as a member of the general public; and

(ii) not directly or indirectly impose or accept any charge or other payment by any person or entity who is treated as using Gross Proceeds of the Bonds or any property the acquisition, construction, or improvement of which is to be financed or refinanced directly or indirectly with such Gross Proceeds (including property financed with Gross Proceeds of the Refunded Obligations), other than taxes of general application within the City or interest earned on investments acquired with such Gross Proceeds pending application for their intended purposes.

(d) No Private Loan. Except to the extent permitted by Section 141 of the Code and the Regulations and rulings thereunder, the City shall not use Gross Proceeds of the Bonds to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, such Gross Proceeds are considered to be “loaned” to a person or entity if: (1) property acquired, constructed, or improved with such Gross Proceeds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes; (2) capacity in or service from such property is committed to such person or entity under a take-or-pay, output, or similar contract or arrangement; or (3) indirect benefits, or burdens and benefits of ownership, of such Gross Proceeds or any property acquired, constructed, or improved with such Gross Proceeds are otherwise transferred in a transaction which is the economic equivalent of a loan.

(e) Not to Invest at Higher Yield. Except to the extent permitted by Section 148 of the Code and the Regulations and rulings thereunder, the City shall not at any time prior to the final Stated Maturity of the Bonds directly or indirectly invest Gross Proceeds in any Investment (or use Gross Proceeds to replace money so invested), if as a result of such investment the Yield from the Closing Date of all Investments acquired with Gross Proceeds (or with money replaced thereby), whether then held or previously disposed of, exceeds the Yield of the Bonds.

(f) Not Federally Guaranteed. Except to the extent permitted by Section 149(b) of the Code and the Regulations and rulings thereunder, the City shall not take or omit to take any action which would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Code and the Regulations and rulings thereunder.

(g) Information Report. The City shall timely file the information required by Section 149(e) of the Code with the Secretary of the Treasury on Form 8038-G or such other form and in such place as the Secretary may prescribe.

(h) Rebate of Arbitrage Profits. Except to the extent otherwise provided in Section 148(f) of the Code and the Regulations and rulings thereunder:

(i) The City shall account for all Gross Proceeds (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and shall retain all records of accounting for at least six (6) years after the day on which the last Outstanding Bond is discharged. However, to the extent permitted by law, the City may commingle Gross Proceeds of the Bonds with other money of the City, provided that the City separately accounts for each receipt and expenditure of Gross Proceeds and the obligations acquired therewith.

(ii) Not less frequently than each Computation Date, the City shall calculate the Rebate Amount in accordance with rules set forth in Section 148(f) of the Code and the Regulations and rulings thereunder. The City shall maintain such calculations with its official transcript of proceedings relating to the issuance of the Bonds until six years after the final Computation Date.

(iii) As additional consideration for the purchase of the Bonds by the Purchasers and the loan of the money represented thereby and in order to induce such purchase by measures designed to insure the excludability of the interest thereon from the gross income of the Holders thereof for federal income tax purposes, the City shall pay to the United States out of the general fund, other appropriate fund, or, if permitted by applicable Texas statute, regulation, or opinion of the Attorney General of the State of Texas, the Interest and Sinking Fund, the amount that when added to the future value of previous rebate payments made for the Bonds equals (i) in the case of a Final Computation Date as defined in Section 1.148-3(e)(2) of the Regulations, one hundred percent (100%) of the Rebate Amount on such date; and (ii) in the case of any other Computation Date, ninety percent (90%) of the Rebate Amount on such date. In all cases, the rebate payments shall be made at the times, in the installments, to the place, and in the manner as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder, and shall be accompanied by Form 8038-T or such other forms and information as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder.

(iv) The City shall exercise reasonable diligence to assure that no errors are made in the calculations and payments required by paragraphs (2) and (3), and

if an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter (and in all events within one hundred eighty (180) days after discovery of the error), including payment to the United States of any additional Rebate Amount owed to it, interest thereon, and any penalty imposed under Section 1.148-3(h) of the Regulations.

(i) Not to Divert Arbitrage Profits. Except to the extent permitted by Section 148 of the Code and the Regulations and rulings thereunder, the City shall not, at any time prior to the earlier of the Stated Maturity or final payment of the Bonds, enter into any transaction that reduces the amount required to be paid to the United States pursuant to subsection (h) of this Section because such transaction results in a smaller profit or a larger loss than would have resulted if the transaction had been at arm's length and had the Yield of the Bonds not been relevant to either party.

(j) Elections. The City hereby directs and authorizes the Mayor, Mayor Pro Tem, City Manager, Director of Finance and City Secretary of the City, individually or jointly, to make elections permitted or required pursuant to the provisions of the Code or the Regulations, as one or more of such persons deems necessary or appropriate in connection with the Bonds, in the Certificate as to Tax Exemption, or similar or other appropriate certificate, form, or document.

(k) Bonds Not Hedge Bonds. At the time the original obligations refunded by the Bonds were issued, the City reasonably expected to spend at least 85% of the spendable proceeds of such obligations within three years after such obligations were issued and (2) not more than 50% of the proceeds of the original obligations refunded by the Bonds were invested in Nonpurpose Investments having a substantially guaranteed Yield for a period of 4 years or more.

(l) Current Refunding of the Series 2001 Refunded Certificates, Series 2002 Refunded Certificates and Series 2002A Refunded Certificates. A portion of the Bonds are a current refunding of the Series 2001 Refunded Certificates, Series 2002 Refunded Certificates and the Series 2002A Refunded Certificates (collectively, the "Currently Refunded Obligations"), and such payment of the Currently Refunded Obligations will occur within ninety (90) days after the issuance of the Bonds.

(4) City of Murphy, Texas, Tax and Water and Sewer System Surplus Revenue Certificates of Obligation, Series 2003, dated March 1, 2003 (the "Series 2003 Refunded Certificates"); and

(5) City of Murphy, Texas, Tax and Water and Sewer System Surplus Revenue Certificates of Obligation, Series 2004, dated April 15, 2004 (the "Series 2004 Refunded Certificates"); and

(m) Qualified Advance Refunding of the Series 2003 Refunded Certificates and the Series 2004 Refunded Certificates. A portion of the Bonds are being issued to pay and discharge in full the Series 2003 Refunded Certificates and the Series 2004 Refunded Certificates (collectively, the "Advance Refunded Obligations"). The Bonds will be issued more than 90

days before the redemption of each of the Advance Refunded Obligations. The City represents as follows

(i) The Bonds are the first advance refunding of each series of the Advance Refunded Obligations within the meaning of Section 149(d)(3) of the Code.

(ii) The Advance Refunded Obligations are being called for redemption, and will be redeemed, not later than the earliest date on which such issues may be redeemed and on which the City will realize present value debt service savings (determined without regard to administrative expenses) on the issue.

(iii) The initial temporary period under Section 148(c) of the Code will end: (i) with respect to the proceeds of the Bonds not later than thirty (30) days after the date of issue of such Bonds; and (ii) with respect to proceeds of the Advance Refunded Obligations on the Closing Date if not ended prior thereto.

(iv) On and after the date of issue of the Bonds, no proceeds of either series of the Advance Refunded Obligations will be invested in Nonpurpose Investments having a Yield in excess of the Yield on such Advance Refunded Obligations.

(v) The Bonds are being issued for the purposes stated in the preamble of this Ordinance. There is a present value savings associated with the refunding. In the issuance of the Bonds, the City has neither: (i) overburdened the tax exempt bond market by issuing more bonds, issuing bonds earlier or allowing bonds to remain outstanding longer than reasonably necessary to accomplish the governmental purposes for which the Bonds were issued; (ii) employed on "abusive arbitrage device" within the meaning of Section 1.148-10(a) of the Regulations; nor (iii) employed a "device" to obtain a material financial advantage based on arbitrage, within the meaning of Section 149(d)(4) of the Code apart from savings attributable to lower interest rates and reduced debt service payments in early years.

SECTION 15. Sale of Bonds - Official Statement. The Bonds authorized by this Ordinance are to be sold by the City to the Purchasers in accordance with a bond purchase agreement in the event of a negotiated sale, agreement to purchase in the event of a private placement, or the successful bid form in the event of a competitive sale, as applicable (the "Purchase Contract"), the terms and provisions of which Purchase Contract are to be determined by the Pricing Officer, in accordance with Section 3 hereof. The Pricing Officer is hereby authorized and directed to execute the Purchase Contract for and on behalf of the City, as the act and deed of this Council, and to make a determination as to whether the terms are in the City's best interests, which determination shall be final.

With regard to such terms and provisions of the Purchase Contract, the Pricing Officer is hereby authorized to come to an agreement with the Purchasers on the following, among other matters:

1. The details of the purchase and sale of the Bonds;
2. The details of any public offering of the Bonds by the Purchasers, if any;
3. The details of any Official Statement or similar disclosure document (and, if appropriate, any Preliminary Official Statement) relating to the Bonds and the City's Rule 15c2-12 compliance, if applicable;
4. A security deposit for the Bonds, if any;
5. The representations and warranties of the City to the Purchasers;
6. The details of the delivery of, and payment for, the Bonds;
7. The Purchasers' obligations under the Purchase Contract;
8. The certain conditions to the obligations of the City under the Purchase Contract;
9. Termination of the Purchase Contract;
10. Particular covenants of the City;
11. The survival of representations made in the Purchase Contract;
12. The payment of any expenses relating to the Purchase Contract;
13. Notices; and
14. Any and all such other details that are found by the Pricing Officer to be necessary and advisable for the purchase and sale of the Bonds.

The Mayor and City Secretary of the City are further authorized and directed to deliver for and on behalf of the City copies of a Preliminary Official Statement and Official Statement prepared in connection with the offering of the Bonds by the Purchasers, in final form as may be required by the Purchasers, and such final Official Statement as delivered by said officials shall constitute the Official Statement authorized for distribution and use by the Purchasers.

SECTION 16. Escrow Agreement. An "Escrow Agreement" or "Special Escrow Agreement" (either, the "Escrow Agreement") by and between the City and an authorized escrow agent (the "Escrow Agent"), if any such agreement is required in connection with the issuance of the Bonds, shall be attached to and approved in the Pricing Certificate. Such Escrow Agreement is hereby authorized to be finalized and executed by the Pricing Officer for and on behalf of the City and as the act and deed of this Council; and such Escrow Agreement as executed by said Pricing Officer shall be deemed approved by this Council and constitute the Escrow Agreement herein approved. With regard to the finalization of certain terms and provisions of any Escrow Agreement, a Pricing Officer is hereby authorized to come to an agreement with the Escrow Agent on the following details, among other matters:

1. The identification of the Refunded Obligations;
2. The creation and funding of the Escrow Fund or Funds; and

3. The Escrow Agent's compensation, administration of the Escrow Fund or Funds, and the settlement of any paying agents' charges relating to the Refunded Obligations.

Furthermore, appropriate officials of the City in cooperation with the Escrow Agent are hereby authorized and directed to make the necessary arrangements for the purchase of the escrowed securities referenced in the Escrow Agreement, if any, and the delivery thereof to the Escrow Agent on the day of delivery of the Bonds to the Purchasers for deposit to the credit of the "CITY OF MURPHY, TEXAS, GENERAL OBLIGATION REFUNDING BONDS, SERIES 2012 ESCROW FUND" (referred to herein as the "Escrow Fund"), or such other designation as specified in the Pricing Certificate; all as contemplated and provided in Chapter 1207, the Ordinance, the Pricing Certificate and the Escrow Agreement.

On or immediately prior to the date of the delivery of the Bonds to the Purchasers, the Pricing Officer, or other authorized City official listed in Section 33 hereof, shall also cause to be deposited (and is hereby authorized to cause to be deposited) with the Escrow Agent from moneys on deposit in the debt service fund(s) maintained for the payment of the Refunded Obligations an amount which, together with the proceeds of sale of the Bonds, and the investment earnings thereon, will be sufficient to pay in full the Refunded Obligations (or the amount of accrued interest due thereon) scheduled to mature and authorized to be redeemed on the earliest date established in the Pricing Certificate for the redemption of any of the Refunded Obligations (or the earliest date of payment, to be made from moneys in the Escrow Fund(s), as established in the Pricing Certificate, of the amount of accrued interest due thereon).

SECTION 17. Refunded Obligations. (a) In order to provide for the refunding, discharge, and retirement of the Refunded Obligations as selected by the Pricing Officer, the Refunded Obligations, identified, described, and in the amounts set forth in the Pricing Certificate, are called for redemption on the first date(s) such Refunded Obligations are subject to redemption or such other date specified by the Pricing Officer in the Pricing Certificate at the price of par plus accrued interest to the redemption dates, and notice of such redemption shall be given in accordance with the applicable provisions of the ordinance(s) adopted by this Council, which authorized the issuance of the Refunded Obligations. The Pricing Officer is hereby authorized and directed to issue or cause to be issued a Notice of Redemption for each series of the Refunded Obligations in substantially the form(s) set forth as (an) Exhibit(s) to the Pricing Certificate, to each and every paying agent/registrar for Refunded Obligations, in accordance with the redemption provisions applicable to each series of the Refunded Obligations.

(b) Each paying agent/registrar for the Refunded Obligations is hereby directed to provide the appropriate notice(s) of redemption as required by the respective ordinances authorizing the issuance of the Refunded Obligations and is hereby directed to make appropriate arrangements so that the Refunded Obligations may be redeemed on the respective redemption date(s) specified in the Pricing Certificate.

(c) The source of funds for payment of the principal of and interest on the Refunded Obligations on their respective maturity or redemption dates shall be from the funds deposited with the Escrow Agent, pursuant to the Escrow Agreement, if any, or with the paying agent/registrar for the Refunded Obligations pursuant the provisions of Chapter 1207, this Ordinance and the Pricing Certificate finalized by the Pricing Officer.

SECTION 18. Control and Custody of Bonds. The Mayor of the City shall be and is hereby authorized to take and have charge of all necessary ordinances, resolutions, orders and records, including the definitive Bonds and the Initial Bonds, pending the investigation and approval of the Initial Bonds by the Attorney General of the State of Texas, and the registration of the Initial Bonds to the Comptroller of Public Accounts and the delivery thereof to the Purchasers.

SECTION 19. Proceeds of Sale. Immediately following the delivery of the Bonds, the proceeds of sale (less those proceeds of sale designated to pay costs of issuance and any accrued interest received from the Purchasers of the Bonds or additional proceeds being deposited to the Interest and Sinking Fund) shall be deposited with the Escrow Agent for application and disbursement in accordance with the provisions of the Escrow Agreement or deposited with the paying agent/registrar for the Refunded Obligations for the payment and redemption of the Refunded Obligations. The proceeds of sale of the Bonds not so deposited with the Escrow Agent (or the paying agent/registrar for the Refunded Obligations) for the refunding of the Refunded Obligations shall be disbursed for payment of costs of issuance, or deposited in the Interest and Sinking Fund for the Bonds, all in accordance with written instructions from the City or its financial advisor. Such proceeds of sale may be invested in authorized investments and any investment earnings realized may be (with respect to the accrued interest received from the Purchasers) deposited in the Interest and Sinking Fund as shall be determined by this Council.

Additionally, the Pricing Officer shall determine the amount of any City contribution to the refunding from moneys on deposit in the interest and sinking fund(s) maintained for the payment of the Refunded Obligations.

SECTION 20. Notices to Holders - Waiver. Wherever this Ordinance or the Pricing Certificate provides for notice to Holders of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and sent by United States Mail, first class postage prepaid, to the address of each Holder appearing in the Security Register at the close of business on the business day next preceding the mailing of such notice.

In any case in which notice to Holders is given by mail, neither the failure to mail such notice to any particular Holders, nor any defect in any notice so mailed, shall affect the sufficiency of such notice with respect to all other Bonds. Where this Ordinance or the Pricing Certificate provides for notice in any manner, such notice may be waived in writing by the Holder entitled to receive such notice, either before or after the event with respect to which such notice is given, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Paying Agent/Registrar, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

SECTION 21. Cancellation. All Bonds surrendered for payment, redemption, transfer, exchange, or replacement, if surrendered to the Paying Agent/Registrar, shall be promptly cancelled by it and, if surrendered to the City, shall be delivered to the Paying Agent/Registrar and, if not already cancelled, shall be promptly cancelled by the Paying Agent/Registrar. The City may at any time deliver to the Paying Agent/Registrar for cancellation any Bonds previously certified or registered and delivered which the City may have acquired in any manner whatsoever, and all Bonds so delivered shall be promptly cancelled by the Paying

Agent/Registrar. All cancelled Bonds held by the Paying Agent/Registrar shall be returned to the City.

SECTION 22. Bond Counsel Opinion. The obligation of the Purchasers to accept delivery of the Bonds is subject to being furnished a final opinion of Fulbright & Jaworski L.L.P., Attorneys, Dallas, Texas, approving the Bonds as to their validity, said opinion to be dated and delivered as of the date of delivery and payment for the Bonds. A true and correct reproduction of said opinion is hereby authorized to be printed on the Bonds, or an executed counterpart thereof is hereby authorized to be either printed on definitive printed obligations or deposited with DTC along with the global certificates for the implementation and use of the Book-Entry-Only System used in the settlement and transfer of the Bonds.

SECTION 23. CUSIP Numbers. CUSIP numbers may be printed or typed on the definitive Bonds. It is expressly provided, however, that the presence or absence of CUSIP numbers on the definitive Bonds shall be of no significance or effect as regards the legality thereof, and neither the City nor attorneys approving the Bonds as to legality are to be held responsible for CUSIP numbers incorrectly printed or typed on the definitive Bonds.

SECTION 24. Benefits of Ordinance. Nothing in this Ordinance or the Pricing Certificate, expressed or implied, is intended or shall be construed to confer upon any person other than the City, the Paying Agent/Registrar and the Holders, any right, remedy, or claim, legal or equitable, under or by reason of this Ordinance or any provision hereof or the Pricing Certificate, this Ordinance and all of its provisions and the Pricing Certificate being intended to be and being for the sole and exclusive benefit of the City, the Paying Agent/Registrar, and the Holders.

SECTION 25. Inconsistent Provisions. All ordinances or resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters contained herein.

SECTION 26. Governing Law. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 27. Effect of Headings. The Section headings herein are for convenience of reference only and shall not affect the construction hereof.

SECTION 28. Construction of Terms. If appropriate in the context of this Ordinance, words of the singular number shall be considered to include the plural, words of the plural number shall be considered to include the singular, and words of the masculine, feminine, or neuter gender shall be considered to include the other genders.

SECTION 29. Severability. If any provision of this Ordinance or the Pricing Certificate or the application thereof to any circumstance shall be held to be invalid, the remainder of this Ordinance and the Pricing Certificate and the application thereof to other circumstances shall nevertheless be valid, and this Council hereby declares that this Ordinance would have been enacted without such invalid provision.

SECTION 30. Incorporation of Findings and Determinations. The findings and determinations of this Council contained in the preamble hereof are hereby incorporated by reference and made a part of this Ordinance for all purposes as if the same were restated in full in this Section.

SECTION 31. Continuing Disclosure Undertaking. This Section shall apply unless the Pricing Officer determines in the Pricing Certificate that an undertaking is not required pursuant to the Rule (defined below).

(a) Definitions. As used in this Section, the following terms have the meanings ascribed to such terms below:

“*MSRB*” means the Municipal Securities Rulemaking Board.

“*Rule*” means SEC Rule 15c2-12, as amended from time to time or officially interpreted by the SEC.

“*SEC*” means the United States Securities and Exchange Commission.

(b) Annual Reports. The City shall provide annually to the MSRB (1) within six months after the end of each fiscal year, beginning with the year stated in the Pricing Certificate, financial information and operating data with respect to the City of the general type included in the final Official Statement approved by the Pricing Officer and described in the Pricing Certificate and (2) if not provided as part of such financial information and operating data, audited financial statements of the City, when and if available. Any financial statements so provided shall be prepared in accordance with the accounting principles described in the Pricing Certificate, or such other accounting principles as the City may be required to employ from time to time pursuant to state law or regulation, and audited, if the City commissions an audit of such statements and the audit is completed within the period during which they must be provided.

If the City changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this Section.

The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document available to the public on the MSRB’s Internet Web site or filed with the SEC.

(c) Notices of Certain Events. The City shall provide notice of any of the following events with respect to the Bonds to the MSRB in a timely manner and not more than 10 business days after occurrence of the event:

1. Principal and interest payment delinquencies;
2. Non-payment related defaults, if material;
3. Unscheduled draws on debt service reserves reflecting financial difficulties;
4. Unscheduled draws on credit enhancements reflecting financial difficulties;

5. Substitution of credit or liquidity providers, or their failure to perform;
6. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB), or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
7. Modifications to rights of holders of the Bonds, if material;
8. Bond calls, if material, and tender offers;
9. Defeasances;
10. Release, substitution, or sale of property securing repayment of the Bonds, if material;
11. Rating changes;
12. Bankruptcy, insolvency, receivership, or similar event of the City, which shall occur as described below;
13. The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of its assets, other than in the ordinary course of business, the entry into of a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
14. Appointment of a successor or additional trustee or the change of name of a trustee, if material.

For these purposes, any event described in the immediately preceding subsection (c)12 is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the City in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City.

The City shall notify the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with subsection (b) of this Section by the time required by such Section.

(d) Filings with the MSRB. All financial information, operating data, financial statements, notices and other documents provided to the MSRB in accordance with this Section shall be provided in an electronic format prescribed by the MSRB and shall be accompanied by identifying information as prescribed by the MSRB.

(e) Limitations, Disclaimers, and Amendments. The City shall be obligated to observe and perform the covenants specified in this Section while, but only while, the City remains an “obligated person” with respect to the Bonds within the meaning of the Rule, except

that the City in any event will give the notice required by subsection (c) hereof of any Bond calls and defeasance that cause the City to be no longer such an “obligated person”,

The provisions of this Section are for the sole benefit of the Holders and beneficial owners of the Bonds, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the City’s financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE HOLDER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

No default by the City in observing or performing its obligations under this Section shall constitute a breach of or default under this Ordinance for purposes of any other provision of this Ordinance.

Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

Notwithstanding anything to the contrary in this Ordinance, the provisions of this Section may be amended by the City from time to time to adapt to changed circumstances resulting from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (2) either (a) the Holders of a majority in aggregate principal amount (or any greater amount required by any other provision of this Ordinance that authorizes such an amendment) of the Outstanding Bonds consent to such amendment or (b) a person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Holders and beneficial owners of the Bonds. The provisions of this Section may also be amended from time to time or repealed by the City if the SEC amends or repeals the applicable provisions of the Rule or a court of final jurisdiction determines that such provisions are invalid, but only if and to the extent that reservation of the City’s right to do so would not prevent an underwriter of the initial public offering of the Bonds from lawfully purchasing or selling Bonds in such offering. If the City so amends the provisions of this Section, it shall

include with any amended financial information or operating data next provided pursuant to subsection (b) of this Section an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided.

SECTION 32. Municipal Bond Insurance. The Bonds may be sold with the principal of and interest thereon or Maturity Amount thereof, as applicable, being insured by a municipal bond insurance provider authorized to transact business in the State of Texas. The Pricing Officer is hereby authorized to make the selection of municipal bond insurance (if any) for the Bonds and make the determination of the provisions of any commitment therefor.

SECTION 33. Further Procedures. Any one or more of the Mayor, Mayor Pro Tem, City Manager, Director of Finance, City Secretary and Assistant City Secretary are hereby expressly authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and on behalf of the City all agreements, instruments, certificates or other documents, whether mentioned herein or not, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance and the issuance of the Bonds. In addition, prior to the initial delivery of the Bonds, the Mayor, Mayor Pro Tem, City Manager, Director of Finance or Bond Counsel to the City are each hereby authorized and directed to approve any changes or corrections to this Ordinance or to any of the documents authorized and approved by this Ordinance, including the Pricing Certificate: (i) in order to cure any technical ambiguity, formal defect or omission in this Ordinance or such other document; or (ii) as requested by the Attorney General of the State of Texas or his representative to obtain the approval of the Bonds by the Attorney General and if such officer or counsel determines that such ministerial changes are consistent with the intent and purpose of this Ordinance, which determination shall be final. In the event that any officer of the City whose signature shall appear on any document shall cease to be such officer before the delivery of such document, such signature nevertheless shall be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

SECTION 34. Public Meeting. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551 of the Texas Government Code, as amended, as amended.

SECTION 35. Effective Date. In accordance with the provisions of Texas Government Code, Section 1201.028, as amended, this Ordinance shall be in force and effect from and after its passage on the date shown below and it is so ordained.

[Remainder of page left blank intentionally.]

PASSED AND APPROVED, this February 7, 2012.

CITY OF MURPHY, TEXAS

Bret M. Baldwin, Mayor

ATTEST:

Aimee Nemer, City Secretary

(City Seal)

EXHIBIT A

FORM OF PAYING AGENT/REGISTRAR AGREEMENT

(See attachment.)

Issue

Consider and/or act upon the approval of a resolution amending the 2010 Budgetary Financial Policies.

Background

The City Council approved the 2010 Budgetary Financial Policies on May 3, 2010 and amended the policies on December 6, 2010. The resolution requires an annual review of the Budgetary Financial Policies, with that in mind, staff has reviewed the policies and recommend updates. City Council has recommended the elimination of Section I. regarding the Budgetary Finance Committee. This section will be removed from the policies and the Budgetary Finance Committee will be dissolved.

Generally accepted accounting principles that the City follows are regulated by the Government Accounting Standards Board (GASB). In 2009 GASB issued a new accounting standard (GASB 54) for presentation of equity in the general purpose financial statements). GASB 54 is required to be implemented during Fiscal Year 2010-2011 (must be approved before auditors can issue the City's financial report for FY 2010-2011). GASB 54 provides the Council the ability to formally commit certain revenue sources. It also requires the Council to delegate authority to certain city staff to assign revenue sources in certain funds. This statement requires changes to the Fund Balance Policy.

Below is the purpose statement and definition of the five categories of fund balance:

The purpose of this policy is to establish a key element of the financial stability of the City of Murphy by setting guidelines for fund balance. Unassigned fund balance is an important measure of economic stability and it is essential that the City maintain adequate levels of unassigned fund balance to mitigate financial risk that can occur from unforeseen revenue fluctuations, unanticipated expenditures, and other similar circumstances. This policy will ensure the City maintains adequate fund balances in the City's various operating funds with the capacity to:

- Provide sufficient cash flow for daily financial needs,
- Secure and maintain investment grade bond ratings,
- Offset significant economic downturns or revenue shortfalls, and
- Provide funds for unforeseen expenditures related to emergencies.

Definitions:

Fund Equity – A fund's equity is generally the difference between its assets and its liabilities.

Fund Balance – The fund equity of a governmental fund for which an accounting distinction is made between the portions that are spendable and nonspendable. Fund balance is classified into five categories:

Nonspendable fund balance – includes the portion of net resources that cannot be spent because of their form (i.e. inventory, long-term loans, or prepaids) or because they must remain in-tact such as the principal of endowment.

Restricted fund balance – includes the portion of net resources on which limitations are imposed by creditors, grantors, contributors, or by laws or regulations of other governments (i.e. externally imposed limitations). Amounts can be spent only for the specific purposes stipulated by external resource providers or as allowed by law through constitutional provisions or enabling legislation. Examples include grant awards and bond proceeds.

Committed fund balance – includes the portion of net resources upon which the City Council has imposed limitations on use. Amounts that can be used only for the specific purpose determined by a formal action of the City Council. Commitments may be changed or lifted only by the Council taking the same formal action that originally imposed the constraint. The formal action must be approved before the end of the fiscal year in which the commitment will be reflected on the financial statements.

Assigned fund balance – includes the portion of net resources for which an intended use has been established by the City Council or the City Official authorized to do so by the City Council, assignments of fund balance are much less formal than commitments and do not require formal action for the imposition or removal. In governmental funds other than the general fund, assigned fund balance represents the amount that is not restricted or committed which indicates that resources are, at a minimum, intended to be used for the purpose of that fund.

Unassigned fund balance – includes the amounts in the general fund in excess of what can properly be classified in one of the other four categories of fund balance. It is the residual classification of the general fund and includes all amounts not contained in other classifications. Unassigned amounts are technically available for any purpose. Negative residual amounts for all other governmental funds are reported in this classification.

Staff Recommendation

Motion to approve resolution amending the 2010 Budgetary Financial Policies.

Attachments

Resolution with Policy

Summary of GASB 54

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MURPHY, TEXAS,
AMENDING THE 2010 BUDGETARY FINANCIAL POLICIES; PROVIDING FOR AN
EFFECTIVE DATE;**

WHEREAS, the City of Murphy approved the 2010 Budgetary Financial Policies on May 3, 2010, amended the 2010 Budgetary Financial Polices on December 6, 2010; and

WHEREAS, the City of Murphy is required to update the Fund Balance Policy to incorporate requirements from Government Accounting Standards Board (GASB) Statement No. 54; and

WHEREAS, the City of Murphy has determined to abolish the Budgetary Finance Committee established by the policy; and

WHEREAS, the amended Budgetary Financial Policies as attached hereto as Exhibit A that will reviewed annually.

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

Section 1. That the City of Murphy 2010 Budgetary Financial Policies are adopted as amended.

Section 2. This resolution shall become effective from and after its passage.

DULY RESOLVED by the City Council of the City of Murphy, Texas, on this 7th day of February, 2012.

Bret M. Baldwin, Mayor
City of Murphy

ATTEST:

Aimee Nemer, City Secretary
City of Murphy

Fund Balance Policy

Purpose

The purpose of this policy is to establish a key element of the financial stability of the City of Murphy by setting guidelines for fund balance. Unassigned fund balance is an important measure of economic stability and it is essential that the City maintain adequate levels of unassigned fund balance to mitigate financial risk that can occur from unforeseen revenue fluctuations, unanticipated expenditures, and other similar circumstances. This policy will ensure the City maintains adequate fund balances in the City's various operating funds with the capacity to:

1. Provide sufficient cash flow for daily financial needs,
2. Secure and maintain investment grade bond ratings,
3. Offset significant economic downturns or revenue shortfalls, and
4. Provide funds for unforeseen expenditures related to emergencies.

Definitions

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Restricted fund balance – includes the portion of net resources on which limitations are imposed by creditors, grantors, contributors, or by laws or regulations of other governments (i.e. externally imposed limitations). Amounts can be spent only for the specific purposes stipulated by external resource providers or as allowed by law through constitutional provisions or enabling legislation. Examples include grant awards and bond proceeds.

Committed fund balance – includes the portion of net resources upon which the City Council has imposed limitations on use. Amounts that can be used only for the specific purpose determined by a formal action of the City Council. Commitments may be changed or lifted only by the Council taking the same formal action that originally imposed the constraint. The formal action must be approved before the end of the fiscal year in which the commitment will be reflected on the financial statements.

Assigned fund balance – includes the portion of net resources for which an intended use has been established by the City Council or the City Official authorized to do so by the City Council, Assignments of fund balance are much less formal than commitments and do not require formal action for the imposition or removal. In governmental funds other than the general fund, assigned fund balance represents the amount that is not restricted or committed which indicates that resources are, at a minimum, intended to be used for the purpose of that fund.

Unassigned fund balance – includes the amounts in the general fund in excess of what can properly be classified in one of the other four categories of fund balance. It is the residual classification of the general fund and includes all amounts not contained in other classifications. Unassigned amounts are technically available for any purpose. Negative residual amounts for all other governmental funds are reported in this classification.

Policy

Committed Fund Balance

The City Council is the City's highest level of decision-making authority and the formal action that is required to be taken to establish, modify, or rescind a fund balance commitment is a resolution approved by the Council at the City's Council meeting. The resolution must either be approved or rescinded, as applicable, prior to the last day of the fiscal year for which the commitment is made. The amount subject to the constraint may be determined in the subsequent period (i.e. the Council may approve the calculation or formula for determining the amount to be committed).

Assigned Fund Balance

The City Council authorizes the City Manager as the City Official responsible for the assignment of fund balance to a specific purpose as approved by this fund balance policy.

Minimum Unassigned Fund Balance

The City's goal is to achieve and maintain an unassigned fund balance in the general fund equal to 15 percent of total budgeted expenditures for each fiscal year. The City considers a balance of less than 15 percent to be cause for concern, barring unusual or deliberate circumstances. In the event that the unassigned fund balance is calculated to be less than the policy stipulates, the City shall plan to adjust budget resources in subsequent fiscal years to restore the balance.

Within the Unassigned Fund Balance, a Replacement Fund shall be created and funded. The Replacement Fund is intended to fund major expenditures that the City will incur as it strives to provide for its citizens. The City Council will consider allocating the following percentages of the total General Fund expenditure budget annually during its budget retreat:

- 1% Fire Department Vehicle and Equipment Replacement Fund;
- 1% Vehicle Replacement Fund;
- 1% Equipment Replacement Fund; and
- 2% Building Renovation and Repair Fund

Debt Service Fund balance shall not have a balance that exceeds five percent of the general obligation debt outstanding principal. Debt service fund balances in excess of this requirement may be drawn down to be used to reduce ad valorem tax revenue for bond principal and interest payments on existing or new debt. Consideration will be given to the impact such use would have on future tax rate calculations. Fund balance requirements shall always be in agreement with bond covenants.

All other fund balances shall be maintained at a level necessary to ensure stability in the event of a decline in revenues dedicated to that fund.

Replenishment of Minimum Fund Balance Reserves

If unassigned fund balance unintentionally falls below 15 percent or if it is anticipated that at the completion of any fiscal year the projected unassigned fund balance will be less than the minimum requirement, the City Manager shall prepare and submit a plan to restore the minimum required level as soon as economic conditions allow. The plan shall detail the steps necessary for the replenishment of fund balance as well as an estimated timeline for achieving such.

These steps may include, but are not limited to, identifying new, nonrecurring, or alternative sources of revenue; increasing existing revenues, charges and/or fees; use of year end surpluses; and/or enacting cost saving measures such as holding capital purchase, reducing departmental operating budgets, freezing vacant positions, and/or reducing the workforce. The replenishment of fund balance to the minimum level shall be accomplished within a three-year period. If restoration of the reserve cannot be accomplished with such a period without server hardship to the City, the Council shall establish an extended timeline for attaining the minimum balance.

Order of Expenditure of Funds

When multiple categories of fund balance are available for expenditure (for example, a construction project is being funded partly by a grant, funds set aside by the City Council, and unassigned fund balance), the City will first spend the most restricted funds before moving down to the next most restrictive category with available funds.

Appropriation of Unassigned Fund Balance

Appropriation from the minimum unassigned fund balance shall require the approval of the Council and shall be utilized only for one-time expenditures, such as capita purchase, and not

for ongoing expenditures unless a viable revenue plan designed to sustain the expenditure is simultaneously adopted.

The Council may appropriated unassigned fund balances for emergency purposes, as deemed necessary, even if such use decreases the fund balance below the established minimum.

Monitoring and Reporting

The Director of Finance shall be responsible for monitoring and reporting the City's various reserve balances. The City Manager is directed to make recommendations to the Council on the use of reserve funds both as an element of the annual operating budget submission and from time to time throughout the fiscal year as needs may arise.

Compliance with the provisions of the policy shall be reviewed as part of the annual operating budget adoption process and subsequent review will be included in the annual audit and financial statement preparation procedures.



Technical Issues

Summaries / Status

Summary of Statement No. 54

Fund Balance Reporting and Governmental Fund Type Definitions (Issued 02/09)

The objective of this Statement is to enhance the usefulness of fund balance information by providing clearer fund balance classifications that can be more consistently applied and by clarifying the existing governmental fund type definitions. This Statement establishes fund balance classifications that comprise a hierarchy based primarily on the extent to which a government is bound to observe constraints imposed upon the use of the resources reported in governmental funds.

The initial distinction that is made in reporting fund balance information is identifying amounts that are considered *nonspendable*, such as fund balance associated with inventories. This Statement also provides for additional classification as restricted, committed, assigned, and unassigned based on the relative strength of the constraints that control how specific amounts can be spent.

The *restricted* fund balance category includes amounts that can be spent only for the specific purposes stipulated by constitution, external resource providers, or through enabling legislation. The *committed* fund balance classification includes amounts that can be used only for the specific purposes determined by a formal action of the government's highest level of decision-making authority. Amounts in the *assigned* fund balance classification are intended to be used by the government for specific purposes but do not meet the criteria to be classified as restricted or committed. In governmental funds other than the general fund, assigned fund balance represents the remaining amount that is not restricted or committed. *Unassigned* fund balance is the residual classification for the government's general fund and includes all spendable amounts not contained in the other classifications. In other funds, the unassigned classification should be used only to report a deficit balance resulting from overspending for specific purposes for which amounts had been restricted, committed, or assigned. Governments are required to disclose information about the processes through which constraints are imposed on amounts in the committed and assigned classifications.

Governments also are required to classify and report amounts in the appropriate fund balance classifications by applying their accounting policies that determine whether restricted, committed, assigned, and unassigned amounts are considered to have been spent. Disclosure of the policies in the notes to the financial statements is required.

This Statement also provides guidance for classifying stabilization amounts on the face of the balance sheet and requires disclosure of certain information about stabilization arrangements in the notes to the financial statements.

The definitions of the general fund, special revenue fund type, capital projects fund type, debt service fund type, and permanent fund type are clarified by the provisions in this Statement. Interpretations of certain terms within the definition of the special revenue fund type have been provided and, for some governments, those interpretations may affect the activities they choose to report in those funds. The capital projects fund type definition also was clarified for better alignment with the needs of preparers and users. Definitions of other governmental fund types also have been modified for clarity and consistency.

The requirements of this Statement are effective for financial statements for periods beginning after June 15, 2010. Early implementation is encouraged. Fund balance reclassifications made to conform to the provisions of this Statement should be applied retroactively by restating fund balance for all prior periods presented.

How the Changes in This Statement Will Improve Financial Reporting

The requirements in this Statement will improve financial reporting by providing fund balance categories and classifications that will be more easily understood. Elimination of the *reserved* component of fund balance in favor of a *restricted* classification will enhance the consistency between information reported in the government-wide statements and information in the governmental fund financial statements and avoid confusion about the relationship between reserved fund balance and restricted net assets. The fund balance classification approach in this Statement will require governments to classify amounts consistently, regardless of the fund type or column in which they are presented. As a result, an amount cannot be classified as restricted in one fund but unrestricted in another. The fund balance disclosures will give users information necessary to understand the processes under which constraints are imposed upon the use of resources and how those constraints may be modified or eliminated. The clarifications of the governmental fund type definitions will reduce uncertainty about which resources can or should be reported in the respective fund types.

Unless otherwise specified, pronouncements of the GASB apply to financial reports of all state and local governmental entities, including general purpose governments; public benefit corporations and authorities; public employee retirement systems; and public utilities, hospitals and other healthcare providers, and colleges and universities. Paragraph 3 discusses the applicability of this Statement.

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