



MURPHY CITY COUNCIL AGENDA
REGULAR CITY COUNCIL MEETING
JULY 16, 2013 AT 6:00 P.M.
206 NORTH MURPHY ROAD
MURPHY, TEXAS 75094

NOTICE is hereby given of a meeting of the City Council of the City of Murphy, Collin County, State of Texas, to be held on July 16, 2013 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. PRESENTATION ITEMS : None

6. CONSENT AGENDA

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

A. Consider and/or act upon meeting minutes:

1. July 1, 2013 Special Meeting Minutes;
2. July 2, 2013 Regular Meeting Minutes;
3. July 8, 2013 Special Meeting Minutes; and,
4. July 9, 2013 Special Meeting Minutes;

B. Consider and/or act upon the issuance of a special permit to allow a fireworks display during the Murphy Maize Days celebration on September 28, 2013.

7. INDIVIDUAL CONSIDERATION

A. Continue a public hearing and consider and/or act on the application of Dunkin Donuts, on behalf of the property owner, Champion Langford Partners, to re-plat Lot 3 - Block C – Murphy Marketplace East Addition on property zoned PD (Planned Development) District No. 12-10-923 Retail Uses. This property is located at the northwest corner of FM 544 and North Maxwell Creek Road. **PLEASE NOTE: THE APPLICANT HAS REQUESTED THEIR APPLICATION FOR THIS CONSIDERATION ITEM BE CONTINUED TO THE AUGUST 6, 2013 MEETING.**

B. Continue a public hearing and consider and/or act on the application of Dunkin Donuts, on behalf of the property owner, Champion Langford Partners, for an ordinance approving a Specific Use Permit for a drive thru on Lot 3 - Block C – Murphy Marketplace East Addition on property zoned PD (Planned Development) District No. 12-10-923 Retail Uses. This property is located at the northwest corner of FM 544 and North Maxwell Creek Road. **PLEASE NOTE: THE APPLICANT HAS REQUESTED THEIR APPLICATION FOR THIS CONSIDERATION ITEM BE CONTINUED TO THE AUGUST 6, 2013 MEETING.**

Eric Barna
Mayor

Owais Siddiqui
Mayor Pro Tem

Ben St. Clair
Deputy Mayor Pro Tem

Scott Bradley
Councilmember

Betty Spraggins
Councilmember

Bernard Grant
Councilmember

Rob Thomas
Councilmember

James Fisher
City Manager

- C. Consider and/or act on the application of Dunkin Donuts, on behalf of the property owner, Champion Langford Partners, for approval of a site plan, including building elevations and landscape plan, on Lot 3 - Block C – Murphy Marketplace East Addition on property zoned PD (Planned Development) District No. 12-10-923 Retail Uses. This property is located at the northwest corner of FM 544 and North Maxwell Creek Road. **PLEASE NOTE: THE APPLICANT HAS REQUESTED THEIR APPLICATION FOR THIS CONSIDERATION ITEM BE CONTINUED TO THE AUGUST 6, 2013 MEETING.**
- D. Hold a public hearing and consider and/or act on the application of Allen Tari requesting a variance to sign requirements as stated in the Code of Ordinances Section 28-22, Monument Signs-Business Districts, for a sign at the business known as Tari Car Lot, located at 729 W. FM 544.
- E. Consider and/or act on a proposed resolution authorizing the City Manager to execute a contract with Blue Cross Blue Shield for group medical insurance and Ameritas for group dental insurance with an effective date of September 1, 2013.
- F. Consider and/or act upon an Interlocal Agreement between the City of Murphy and Plano Independent School District for the School Liaison and Campus Protection Programs beginning August 1, 2013 continuing through September 31, 2014.
- G. Consider and/or act upon Ethics Review Commission recommendations:
 - 1. A proposed resolution establishing the Rules and Procedures for the City of Murphy Ethics Commission
 - 2. A proposed ordinance amending Chapter 2, Article IX of the Code of Ordinances entitled Code of Ethics.

8. CITY MANAGER/STAFF REPORTS

North Murphy Road Construction Update
Murphy Central Park Construction Update

9. EXECUTIVE SESSION

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

§ 551.071 Consultation with City Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings act regarding zoning and subdivision regulation issues involving the Ranch/ Gables subdivisions.

§ 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).

10. RECONVENE INTO REGULAR SESSION

The City Council will reconvene into Open Session pursuant to the provisions of Chapter 551, Subchapter D, Texas Government Code, in accordance with the authority contained in:

§ 551.071 Consultation with City Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings act regarding zoning and subdivision regulation issues involving the Ranch/ Gables subdivisions.

§ 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).

A. Consider and or act upon any executive session items.

11. ADJOURNMENT

I certify that this is a true and correct copy of the Murphy City Council Meeting Agenda and that this notice was posted on the designated bulletin board at Murphy City Hall, 206 North Murphy Road, Murphy, Texas 75094; a place convenient and readily accessible to the public at all times, and said notice was posted on July 11, 2013 by 5:00 p.m. and will remain posted continuously for 72 hours prior to the scheduled meeting pursuant to Chapter 551 of the Texas Government Code.



Kristi Gilbert, TRMC, CMC, CPM
City Secretary

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

Note: There may be a quorum of the Ethics Review Commission present at the meeting, but they will not participate in any deliberations on City business.

CITY COUNCIL MINUTES
JULY 1, 2013 CITY COUNCIL BUDGET WORK SESSION

1. CALL TO ORDER

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

2. ROLL CALL & CERTIFICATION OF A QUORUM

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

Mayor Eric Barna
Mayor Pro Tem Owais Siddiqui
Deputy Mayor Pro Tem Ben St. Clair
Councilmember Scott Bradley
Councilmember Betty Nichols Spraggins
Councilmember Bernard Grant
Councilmember Rob Thomas

Councilmembers absent: None.

Mayor Barna recessed the meeting from the Council Chambers and reconvened in the Community Room of Murphy City Hall.

3. INDIVIDUAL CONSIDERATION

A. Discussion regarding the FY 2014 General Fund and Utility Fund Revenues and Expenditures and other associated budget discussions.

City Manager James Fisher and Finance Director Linda Truitt reviewed the General Fund and Utility Fund Revenues and Expenditures with the Council.

RECESS AND RECONVENE

Mayor Barna recessed the meeting at 7:35 p.m. and reconvened the meeting at 7:49 p.m.

Customer Service Manager Candy McQuiston presented the Customer Service departmental budget to the Council.

Public Works Director Kim Lenoir presented the water and waste water budgets to the Council.

4. ADJOURNMENT

With no further business, the meeting was adjourned at 8:28 p.m.

APPROVED BY:

Eric Barna, Mayor

ATTEST:

Kristi Gilbert, City Secretary

CITY COUNCIL MINUTES
JULY 2, 2013 REGULAR CITY COUNCIL MEETING AND WORK SESSION

1. CALL TO ORDER

Mayor Barna called the work session to order at 4:00 p.m.

2. ROLL CALL & CERTIFICATION OF A QUORUM

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

Mayor Eric Barna
Mayor Pro Tem Owais Siddiqui
Deputy Mayor Pro Tem Ben St. Clair
Councilmember Scott Bradley
Councilmember Betty Nichols Spraggins
Councilmember Bernard Grant
Councilmember Rob Thomas

Councilmembers absent: None

3. WORK SESSION

The Council held discussions on the FY 2014 General Fund and Utility Fund Revenues & Expenditures and other associated budget discussions.

Discussions included water and sewer rates in comparison to other municipalities and historical usage.

4. RECESS WORK SESSION

Mayor Barna recessed the work session at 5:29 p.m.

5. CONVENE INTO REGULAR SESSION

Mayor Barna convened the Council into regular session at 6:00 p.m.

6. INVOCATION & PLEDGE OF ALLEGIANCE

Mayor Barna gave the invocation and led the recitation of the Pledge of Allegiance.

7. PUBLIC COMMENTS –

Patrick Miller, 329 Texas Trail – Mr. Miller presented his concerns with Ordinance No. 03-10-590 and the fencing in the Ranch Subdivision.

Charles Hall, 411 Sagebrush Trail - Mr. Hall expressed his concerns with regard to the fencing along McWhirter Road in the Ranch subdivision.

Ray Shahan, 405 Sagebrush Trail – Mr Shahan expressed his concerns regarding the McWhirter Road fence in the Ranch Subdivision.

Greg Matocha, 151 Moonlight Drive – Mr. Matocha inquired as to what the next steps would be with regard to the traffic calming items on Moonlight Drive.

8. PRESENTATION ITEMS –

- A. Councilmember Bradley presented a proclamation to Stephanie Killiam declaring July 2013 as Parks and Recreation Month in the City of Murphy
- B. Marv Williams with the Murphy Exchange Club presented the Youth of the Year Scholarship Award to Adarra McKeever in the amount of \$1,000.

9. CONSENT AGENDA

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

- A. Consider and/or act upon meeting minutes:
 - 1. June 10, 2013 Special Meeting Minutes;
 - 2. June 11, 2013 Special Meeting Minutes;
 - 3. June 12, 2013 Special Meeting Minutes;
 - 4. June 13, 2013 Special Meeting Minutes;
 - 5. June 17, 2013 Special Meeting Minutes;
 - 6. June 18, 2013 Regular Meeting Minutes; and,
 - 7. June 19, 2013 Special Meeting Minutes.

COUNCIL ACTION (6.A):

APPROVED

Mayor Pro Tem Siddiqui moved to approve the consent agenda as presented. Councilmember Nichols Spraggins seconded the motion. For: Unanimous. The motion carried by a vote of 7 to 0.

10. INDIVIDUAL CONSIDERATION

- A. Discuss regarding board and commission goals and objectives, including board and commission appointments.

COUNCIL ACTION (7.A):

NON ACTION ITEM

Council took no action on this item.

11. CITY MANAGER/STAFF REPORTS

Mr. Fisher provided the Council with an update on the following items:

Moonlight Drive Update
Ranch Subdivision Fencing
North Murphy Road Construction Update
Murphy Central Park Construction Update
Betsy and Heritage Intersection
Budget Work Sessions
Trash Pick-Up Holiday Schedule
Moonlight Movie – Men in Black III, July 12th
Walmart's Grand Opening ceremonies the week of July 17th

12. EXECUTIVE SESSION

The City Council convened into Executive Session at 6:43 p.m. pursuant to the provisions of Chapter 551, Subchapter D, Texas Government Code, in accordance with the authority contained in:

§ 551.071, consultation with City Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter: to receive legal advice regarding the Texas Open Meetings Act.

§ 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. RECONVENE INTO REGULAR SESSION

The City Council reconvened into Open Session at 8:43 p.m. pursuant to the provisions of Chapter 551, Subchapter D, Texas Government Code, in accordance with the authority contained in:

§ 551.071, consultation with City Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter: to receive legal advice regarding the Texas Open Meetings Act.

§ 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).

No action was taken as a result of the executive session items.

14. ADJOURNMENT

With no further business, the meeting was adjourned at 8:44 p.m.

APPROVED BY:

Eric Barna, Mayor

ATTEST:

Kristi Gilbert, City Secretary

MURPHY CITY COUNCIL, MURPHY PARKS AND RECREATION BOARD
AND MURPHY COMMUNITY DEVELOPMENT CORPORATION
JOINT WORK SESSION MINUTES
JULY 8, 2013

1. CALL TO ORDER

Mayor Barna called the meeting to order at 6:40 p.m.

2. ROLL CALL & CERTIFICATION OF A QUORUM

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

Mayor Eric Barna
Mayor Pro Tem Owais Siddiqui
Deputy Mayor Pro Tem Ben St. Clair
Councilmember Scott Bradley
Councilmember Betty Nichols Spraggins
Councilmember Bernard Grant
Councilmember Rob Thomas

Councilmembers absent: None.

City Secretary, Kristi Gilbert, certified a quorum of the Parks and Recreation Board with the following Boardmembers present:

Chairperson Ken Oltmann
Secretary Amy Lawrence
Boardmember Angelia Pinaga
Boardmember Sherry Pace
Boardmember Mark Reed

Boardmembers absent:
Vice Chairperson Katie Westhara
Boardmember Julia Baldwin

A quorum of the 4B Murphy Community Development Corporation was present at 6:51 p.m. as follows:

Vice President Shawn Balusek
Boardmember Stephen Janiga
Boardmember Jennifer Berthiaume
Boardmember Eric Lopez (*arrived at 6:51 p.m.*)

Boardmembers absent:
President Cary Walker
Boardmember Marty Brenner
Vacant seat created by the resignation of Secretary Joan Tepfer

3. INDIVIDUAL CONSIDERATION

- A. Discussion regarding the FY 2014 budget to include parks, recreation, community development, economic development and other associated budget items.

Parks and Public Works Director, Kim Lenoir, reviewed the strategic plan for the parks and the Parks Department budget with the Council and boards.

Community and Economic Development Director Kristen Roberts and Recreation Services Manager Caitlyn Meehan presented an outline of the Recreation Department's services and proposed budget items.

RECESS

Mayor Barna recessed the meeting at 7:51 p.m.

RECONVENE

Mayor Barna reconvened the meeting at 8:02 p.m.

James Fisher reviewed recreation and community services budget items to include increasing the hours of the Community Center and increased community events.

4. ADJOURNMENT

Mayor Barna adjourned the meeting at 8:49 p.m.

APPROVED BY:

Eric Barna, Mayor

ATTEST:

Kristi Gilbert, City Secretary

**CITY COUNCIL MINUTES
JULY 8, 2013 WORK SESSION**

1. CALL TO ORDER

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

2. ROLL CALL & CERTIFICATION OF A QUORUM

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

Mayor Eric Barna
Mayor Pro Tem Owais Siddiqui
Deputy Mayor Pro Tem Ben St. Clair
Councilmember Scott Bradley
Councilmember Betty Nichols Spraggins
Councilmember Bernard Grant
Councilmember Rob Thomas

Councilmembers absent: None.

3. INDIVIDUAL CONSIDERATION

- A. Discussion and consideration, if any, regarding the FY 2014 General Fund and Utility Fund Revenues and Expenditures and other associated budget discussions.

City Manager James Fisher reviewed the City Administration and City Council budget with the council members.

Council held discussions with regard to funding mechanisms and budget priorities.

4. ADJOURNMENT

Mayor Barna adjourned the meeting at 7:42 p.m.

APPROVED BY:

Eric Barna, Mayor

ATTEST:

Kristi Gilbert, City Secretary

City Council Meeting
July 16, 2013

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Issue

Consider and/or act upon the issuance of a special permit to allow a fireworks display during the Murphy Maize Days celebration on September 28, 2013

Background

City ordinance Section 34-41 states “the possession of fireworks or discharge of fireworks within the city to be unlawful except where a special permit has been issued by the city council and approved by the city fire marshal.”

Therefore, we are requesting council issue a special permit that will allow the city’s selected vendor to bring fireworks into the city and then to discharge them after the fire marshal, or his designee, has reviewed the firing area, weather and wind conditions, and has approved the start of the fireworks display.

The selected vendor, Pyrotex, Inc., is scheduled to walk the launch site with City of Murphy fire department administration as well as event management staff of Tuesday, July 9, 2013. They will submit a request to the State of Texas Fire Marshal’s office for a permit on Wednesday, July 10, 2013 following the site review.

The City of Murphy is listed as an insured entity on their Certificate of Insurance. Valid state pyrotechnic licenses are verified by the Fire Marshal prior to allowing the display to take place.

Financial Considerations

N/A

Other Considerations

N/A

Board/Staff Recommendation

Staff recommends council issue a special permit allowing the possession and discharge of fireworks to Pyrotex, Inc. in accordance with City of Murphy Codes and Ordinances Sec. 34-41.

Attachments

Application for Class B Fireworks Permit
Certificate of Insurance
Site Plan

Caitlyn Meehan, Manager of Recreation Services
Submitted By

City Manager Approval



Texas

APPLICATION FOR CLASS B FIREWORKS (FIREWORKS 1.3G) SINGULAR OR MULTIPLE DISPLAY PERMIT

This application must be accompanied by the appropriate fee and all documents and information required by Chapter 2154 of the Texas Occupations Code and the Fireworks Rules.

Complete answers must be given to all questions.

Please print or type.

A public fireworks display permit may not be issued to any person who is under 21 years of age.

Any fraudulent representation on this application shall be cause for denial, suspension, or revocation of a permit.

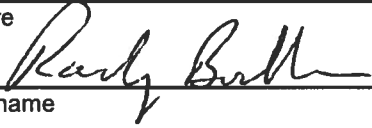
All fees are non-refundable, except for overpayments resulting from mistakes of law or fact.

PERMIT			
CHECK ONE	TYPE OF PERMIT	PERMIT FEE	CODE
☒	Singular Display Permit	\$50.00	570-07
☐	Multiple Display Permit	\$400.00	570-08

APPLICANT			
NAME OF APPLICANT Pyrotex, Inc.		Telephone No. 903-587-8000	
		Fax No. 903-587-8001	
ADDRESS 4368 FM 1553	CITY Leonard	STATE Texas	ZIP 75452
E-MAIL ADDRESS FOR NOTIFICATION PURPOSES (optional) randy@pyrotex.com		WEB SITE ADDRESS (OPTIONAL) www.pyrotex.com	

Applicant doing business as (Check One)			
☐ Individual.	Yes	No	
Is the individual 21 years of age or older?	☐	☐	
☐ Partnership.	Yes	No	
Is each partner 21 years of age or older?	☐	☐	
☒ Corporation			
☐ Other – describe			

DISPLAY INFORMATION			
Date of display	September 28, 2013 _____	Time	9:00 PM _____
Alternate date of display	None _____	Time	None _____
Location and/or alternate location for the display Murphy City Hall Complex, 206 N Murphy Road - Firing site is an open field.			
Pyrotechnic operator licensed in Texas who will supervise the display:			
Name	Randy Beckham	License number	FPO-1744208
Name	Derek Willingham	License number	FPO-1741988

QUESTIONS	
Size and number of fireworks to be discharged	
300 - 3" • 200 - 4" • 150 - 5"	
Manner and place of storage of fireworks prior to and during the display	
Storage in Pyrotex magazines in Leonard, TX or in locked truck on display site	
Manufacturer or distributor licensed in Texas who is to supply the fireworks: Name Pyrotex, Inc. License number FWD-0052	
SIGNATURES	
In applying for a fireworks permit, I certify that I am familiar with and will comply with Chapter 2154 of the Texas Occupations Code and the Fireworks Rules. I hereby authorize the state fire marshal or any of his duly authorized deputies, upon notice, to enter, examine, and inspect any premises, building, room, or establishment used in connection with the permit for which I am applying to determine compliance with the provisions of Chapter 2154 and the Fireworks Rules. By my signature, I verify that the information on this application and its attachments are true. I understand that knowingly providing a false answer to any question or submitting false information or documents with this application may be tampering with a governmental record which is punishable under the Texas Penal Code Chapter 37, §37.10.	
Printed name Randy Beckham	Title President
Signature 	Date July 8, 2013
Printed name	Title
Signature	Date

APPLICATIONS MUST BE SIGNED BY AN INDIVIDUAL APPLICANT, BY AN OFFICER OF A CORPORATION, BY THE SOLE PROPRIETOR, BY EACH PARTNER OF A GENERAL PARTNERSHIP, BY THE GENERAL PARTNER OF A LIMITED LIABILITY PARTNERSHIP OR BY AN OFFICER OR MEMBER OF A LIMITED LIABILITY COMPANY.

APPLICATIONS SUBMITTED BY A GOVERNMENTAL ENTITY MUST BE SIGNED BY THE APPROPRIATE OFFICER. FOR EXAMPLE, A CITY'S APPLICATION SHOULD BE SIGNED BY THE MAYOR, CITY MANAGER, CITY ADMINISTRATOR, CITY SECRETARY, ETC.

Check or money order should be made payable to the TEXAS DEPARTMENT OF INSURANCE.

Mail this completed application along with the appropriate fee and additional documents to:

Mail Address:	State Fire Marshal's Office Mail Code 9999 P. O. Box 149221 Austin, TX 78714-9221	Physical Address:	State Fire Marshal's Office 333 Guadalupe Austin, TX 78701
		Telephone No.	512-305-7930
		Fax No.	512-305-7922
		Web Site Address:	www.tdi.state.tx.us/fire

NOTICE ABOUT CERTAIN INFORMATION LAWS AND PRACTICES

With few exceptions, you are entitled to be informed about the information that the Texas Department of Insurance (TDI) collects about you. Under sections 552.021 and 552.023 of the Texas Government Code, you have a right to review or receive copies of information about yourself, including private information. However, TDI may withhold information for reasons other than to protect your right to privacy. Under section 559.004 of the Texas Government Code, you are entitled to request that TDI correct information that TDI has about you that is incorrect. For more information about the procedure and costs for obtaining information from TDI or about the procedure for correcting information kept by TDI, please contact the Agency Counsel Section of TDI's Legal & Compliance Division at (512) 475-1757 or visit the Corrections Procedure section of TDI's web page at www.tdi.state.tx.us.

**Texas Department of Insurance
State Fire Marshal's Office**

**Application for Class B Fireworks (Fireworks 1.3G) Singular or Multiple Display Permit
Site Inspection Certification**

1. Name of applicant Pyrotex, Inc. _____

Address 4368 FM 1553 _____ Telephone 903 587-8000 _____

City Leonard _____ State Texas _____ Zip Code 75452

2. Date of display September 28, 2013 _____ Time 9:00 PM _____

Alternate date of display None _____ Time None _____

3. Location and/or alternate location for the display _____

Murphy City Hall Complex, 206 N Murphy Road - Firing site is an open field. _____

4. As the fire prevention officer, I approve of the display site. ☒ Yes ☐ No

5. I approve of the location and manner for storage of display fireworks before and during the display.

☒ Yes ☐ No

6. I approve of the potential landing area for fireworks debris. ☒ Yes ☐ No

7. The display is to be conducted in compliance with Section 34.826 and 34.827 of the Fireworks Rules.

☒ Yes ☐ No

8. My approval is subject to the following conditions.

List conditions, if applicable, or indicate "None" Wind & weather conditions are favorable.

9. As the appropriate fire prevention officer, I have inspected the display site(s) to determine whether this proposed display is of a nature or in a location that may be hazardous to property or dangerous to any person. This form is my notice to the state fire marshal of the results of the inspection as required in Sec. 2154.206, Chapter 2154, Texas Occupations Code.

Signature of fire prevention officer [Signature]

Date 7/9/13

Printed name of fire prevention officer Perry Elliott

Title Fire Marshal

Department Murphy Fire Rescue

Telephone No. 972.468.4300

Telephone No. 512-305-7930

Fax No. 512-305-7922

Web Site Address www.tdi.state.tx.us/fire

DRAYTON INSURANCE BROKERS, INC.

2500 CENTER POINT ROAD, SUITE 301
BIRMINGHAM, ALABAMA 35215
TELEPHONE: (205) 854-5806

POST OFFICE BOX 94067
BIRMINGHAM, ALABAMA 35220
FAX: (205) 854-5899

CERTIFICATE OF INSURANCE

NO. 360442

We certify that insurance is afforded as stated below. This Certificate does not affirmatively or negatively amend, extend or alter the coverage afforded by the insurance policy and the insurance afforded is subject to all the terms, exclusions and conditions of the policy.

INSURER Admiral Insurance Company

POLICY NO. CA000003209-23-1009

NAMED INSURED Pyrotex, Inc.
4368 FM 1553
Leonard, Texas 75452

POLICY TERM March 1, 2013 to March 1, 2014; Both Days 12:01 A.M. Standard Time

COVERAGE Commercial General Liability: ☒ Occurrence Basis ☐ Claims Made Basis

LIMIT OF LIABILITY \$5,000,000 each occurrence, \$6,000,000 general aggregate, \$5,000,000 products/completed operations aggregate
The limit of liability shall not be increased by the inclusion of more than one insured or additional insured.

INSURED OPERATIONS Public fireworks display and special effects contractor

It is certified that, if named below, this policy includes as Additional Insureds 1) the sponsor(s) of a fireworks display fired by the Named Insured and/or 2) the owner(s) of any property (or barge) at which the Named Insured shoots a fireworks display and/or 3) the licensing authority issuing a permit or license for a fireworks display fired by the Named Insured and/or 4) an entity for which the Named Insured is required by written contract to provide coverage; but only as respects the legal liability of such Additional Insured(s) for bodily injury and property damage caused by the operations of the Named Insured. The insurance afforded any Additional Insured does not include coverage for any bodily injury or property damage arising from the failure of such Additional Insured to fulfill its obligations specified in its contract with the Named Insured.

NAME(S) OF
ADDITIONAL INSURED(S)

City of Murphy – 206 N Murphy Road, Murphy, TX 75094

DISPLAY LOCATION

206 N Murphy Road, Murphy, TX

DISPLAY DATE(S)

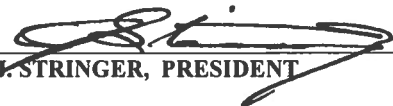
September 28, 2013

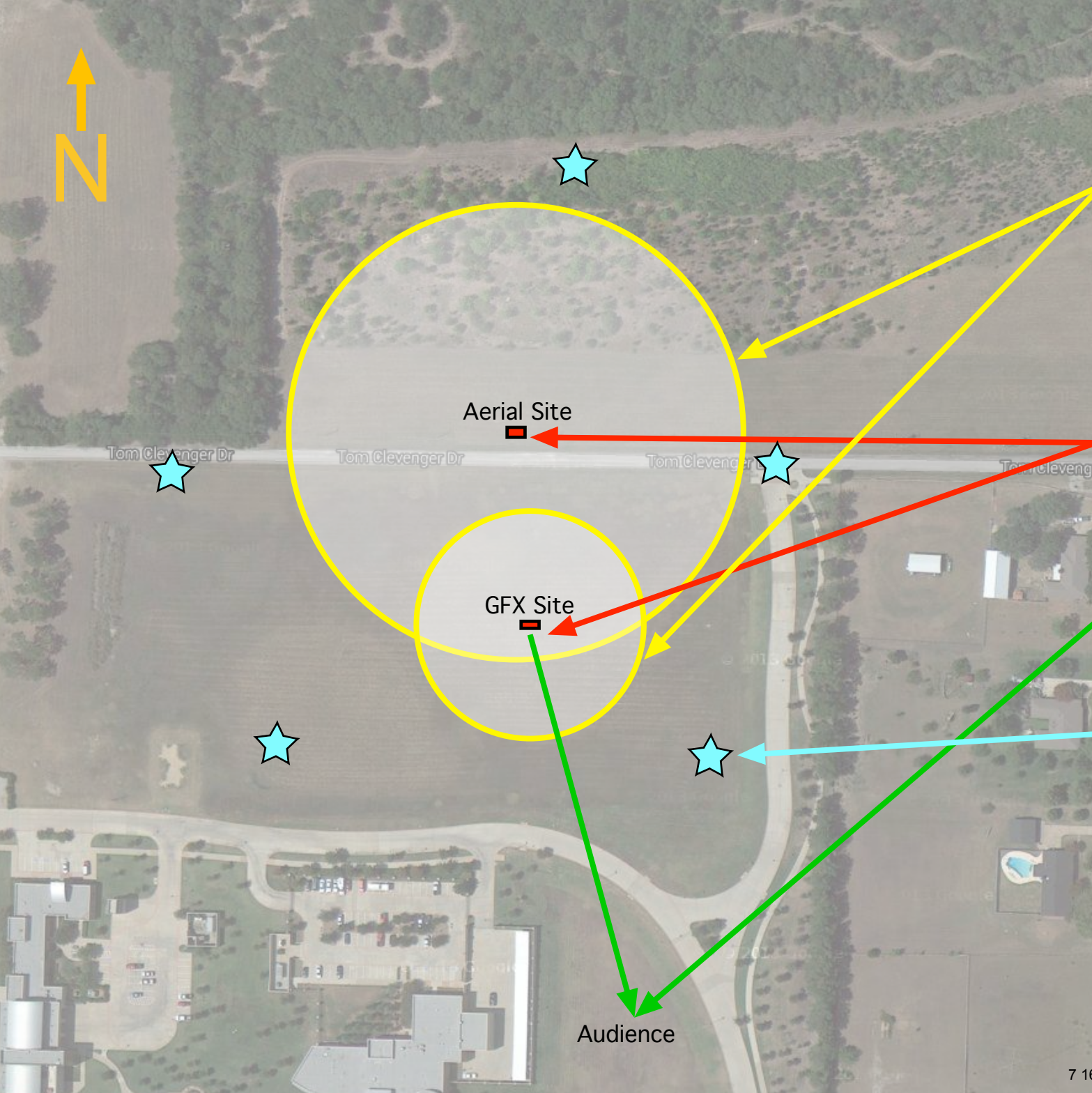
It is certified that this policy requires a 30 day mutual notice of cancellation between the Insurer and the Named Insured. In the event of such cancellation we will endeavor to mail 10 days written notice to the Additional Insured(s), whose name and address is shown hereon, but failure to mail such notice shall impose no obligation or liability of any kind upon the insurer and/or the undersigned.

DRAYTON INSURANCE BROKERS, INC.

July 8, 2013

DATE OF ISSUE


A.J. STRINGER, PRESIDENT



Murphy City Hall Complex
206 N Murphy Drive
Murphy, Texas

The safety perimeter for the aerial site is a circle with a radius of 600 feet which is centered on the firing site. The safety perimeter for the GFX site is a circle with a radius of 300 feet which is centered on its firing site. The safety perimeters encompasses the fallout area.

The aerial firing site is on a concrete sidewalk in the park. The GFX site is centered between two soccer fields. The aerial display fires from a 16' trailer.

The audience is 600' South of the GFX firing site and 900' South of the Aerial site.

There are no occupied churches, classrooms, dorms, prisons, or hospitals within 600' of the firing site. There is a hospital 910 feet from the firing site, which is more than twice the 420' radius required.

There are five (5) police officers providing security for the site.

Copyright © 2013 - Pyrotex, Inc.

City Council
July 16, 2013

Issue

Continue a public hearing and consider and/or act on the application of Dunkin Donuts, on behalf of the property owner, Champion Langford Partners, to re-plat Lot 3 - Block C – Murphy Marketplace East Addition on property zoned PD (Planned Development) District No. 12-10-923 Retail Uses. This property is located at the northwest corner of FM 544 and North Maxwell Creek Road. **PLEASE NOTE: THE APPLICANT HAS REQUESTED THEIR APPLICATION FOR THIS CONSIDERATION ITEM BE CONTINUED TO THE AUGUST 6, 2013 MEETING.**

Considerations

The applicant has requested Council continue the public hearing until the August 6, 2013 meeting.

City Council
July 16, 2013

Issue

Continue a public hearing and consider and/or act on the application of Dunkin Donuts, on behalf of the property owner, Champion Langford Partners, for an ordinance approving a Specific Use Permit for a drive thru on Lot 3 - Block C – Murphy Marketplace East Addition on property zoned PD (Planned Development) District No. 12-10-923 Retail Uses. This property is located at the northwest corner of FM 544 and North Maxwell Creek Road. **PLEASE NOTE: THE APPLICANT HAS REQUESTED THEIR APPLICATION FOR THIS CONSIDERATION ITEM BE CONTINUED TO THE AUGUST 6, 2013 MEETING.**

Considerations

The applicant has requested Council continue the public hearing until the August 6, 2013 meeting.

City Council
July 16, 2013

Issue

Consider and/or act on the application of Dunkin Donuts, on behalf of the property owner, Champion Langford Partners, for approval of a site plan, including building elevations and landscape plan, on Lot 3 - Block C – Murphy Marketplace East Addition on property zoned PD (Planned Development) District No. 12-10-923 Retail Uses. This property is located at the northwest corner of FM 544 and North Maxwell Creek Road. **PLEASE NOTE: THE APPLICANT HAS REQUESTED THEIR APPLICATION FOR THIS CONSIDERATION ITEM BE CONTINUED TO THE AUGUST 6, 2013 MEETING.**

Considerations

The applicant has requested Council continue consideration of the site plan until the August 6, 2013 meeting.

City Council Meeting
July 16, 2013

Issue

Hold a public hearing and consider and/or act on the application of Allen Tari requesting a variance to sign requirements as stated in the Code of Ordinances Section 28-22, Monument Signs-Business Districts, for a sign at the business known as Tari Car Lot, located at 729 W. FM 544.

Staff Resource/Department

Kristen Roberts – Director of Community and Economic Development

Background

Per Murphy Code of Ordinances, Section 28.22- Monument Sign Business District, the maximum height for sign is seven feet and the maximum area a sign can be is fifty square feet.

Also, per Murphy Code of Ordinances, Section 28.6, Changeable electronic variable message sign(s) ("CEVMS"), as defined in this chapter, are expressly prohibited within the city limits and the extraterritorial jurisdiction of the city as defined by V.T.C.A. Local Government Code, § 42.021.

And per Murphy Code of Ordinances, Section 28.21 – General provisions applicable to signs in business zoning districts, it reads that (b) No sign or part of any sign shall flash, change its illumination or copy, rotate, move or create an illusion of movement.

(1) Time and temperature informational signs which are oriented to be read from public ways are prohibited and (2) Electronic reader boards which are oriented to be read from the public way are prohibited.

Considerations

1. Sign construction began without a permit. The stone base as shown in the color picture is already complete and is approximately four feet tall.
2. The applicant submitted a variance for consideration requesting the proposed sign height be allowed at 11'9" and the proposed sign design also indicates that an electronic sign is part of the proposed sign.
 - a. There were a few draft alternative plans shown to Code Compliance staff regarding the height since the variance application submittal; however, the lowest sign height requested is ten feet tall.
 - b. The information as submitted with the original Planning & Zoning application (11'9") is presented for consideration.
 - c. Although the square footage can be altered to remain at the maximum area or under the allowable fifty square feet, the maximum sign height would still remain seven feet.

**City Council Meeting
July 16, 2013**

3. On June 3, 2013, the Planning & Zoning Commission denied the applicant's sign variance request, 6-0.
 - a. Given that the any electronic type is prohibited, this was not discussed as a variance option.
 - b. The sign height was discussed and the variance was denied.
4. Section 28-33. Variance procedure (c) – states that 'When the Planning and Zoning Commission denies a request for a variation or exception to the standards set forth in this article, a hearing before the city council shall be set only if a written appeal is filed by the applicant with the city manager or his/her designee within 15 days of the date of the denial.'
 - a. The applicant submitted a written appeal within the designated time frame.
5. A public hearing notification for this proposed zoning change was published in the newspaper as well as notification being mailed to the property owners included in the required 200 feet notification radius.
 - a. One notice was received prior to Planning & Zoning Commission and one notice was received prior to City Council meeting.
 - b. Both were in opposition of the variance request.

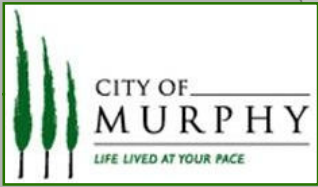
Staff Recommendation

Staff recommends the sign be installed not to exceed seven feet in height, which is to include the approximately four feet stone base already in place. If the applicant agrees to put in a six inch stone cap on the top of the sign, staff would recommend the sign to be seven feet and six inches tall. However, the consideration is at the discretion of the Council. Electronic variable message signs are prohibited.

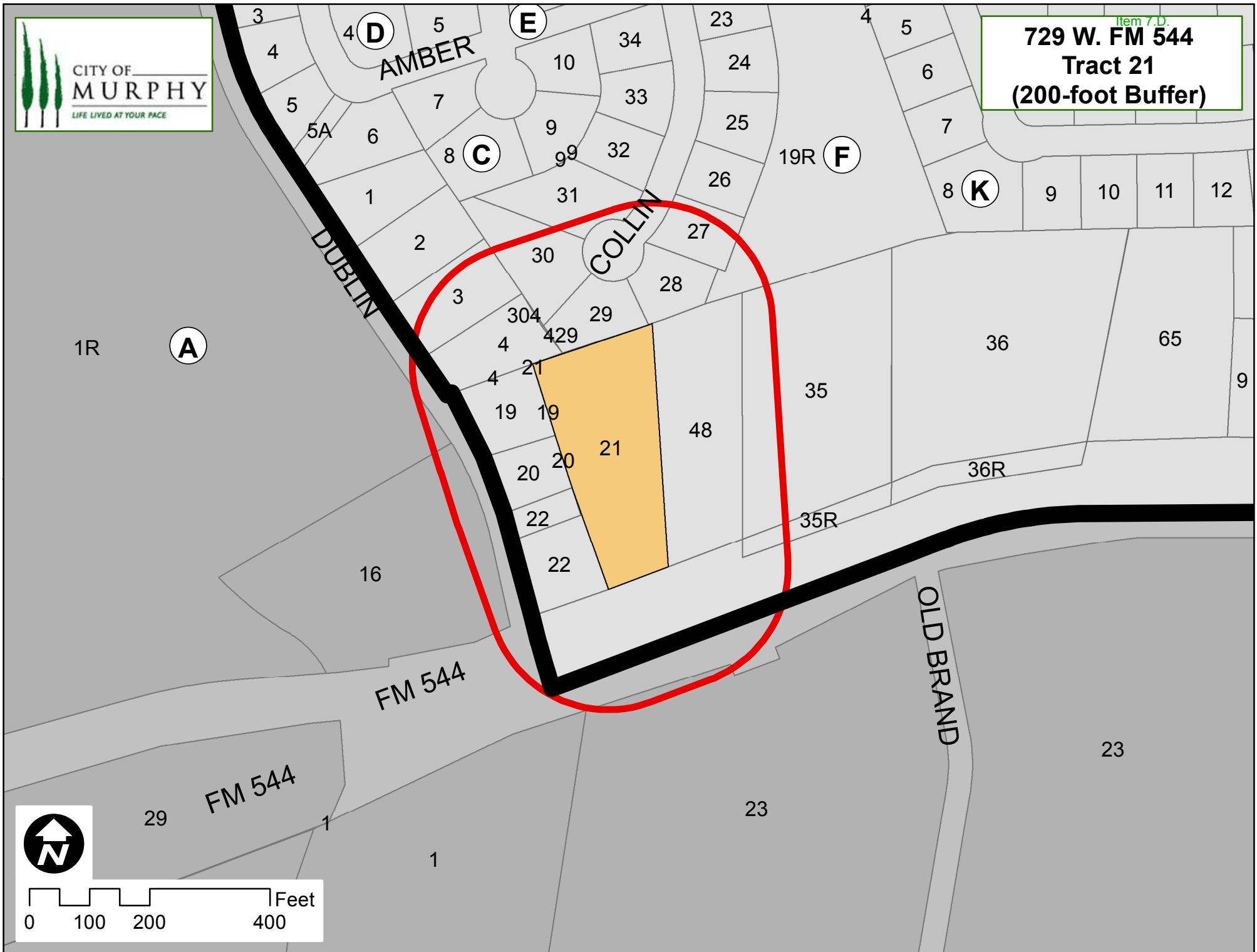
Attachments

Location Map
Proposed Sign
Reply Forms

Kristen Roberts, Director of Community and Economic Development
Submitted By



Item 7.D.
729 W. FM 544
Tract 21
(200-foot Buffer)





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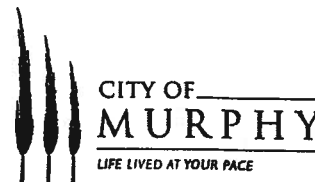
SignExpress

7209 Duffield Dr. Dallas, TX 75248

APPROVED BY: _____

Reply Form

City Council
206 North Murphy Road
Murphy, Texas 75094



Dear Council:

This request is to consider the application of **Allen Tari** requesting a variance to sign requirements as stated in the Code of Ordinances Section 28-22, Monument Signs-Business Districts, for his business Tari Car Lot located at 729 W FM 544.

 I am **IN FAVOR** of the requested sign variance as explained on the attached cover sheet.

✓ I am **OPPOSED** to the requested sign variance as explained on the attached cover sheet.

This item will be heard at the City Council meeting on **Tuesday, July 16, 2013 at 6:00 p.m.** at Murphy City Hall, in the Council Chambers at 206 N. Murphy Road, Murphy, Texas. Please provide your written comments below regarding the requested change. If additional space is required, you may continue writing on a separate sheet, one-sided for printing purposes.

By signing this letter, I declare I am the owner or authorized agent of the property at the address written below.

ALLEN E. TARI
Name (Please Print)

Allen E. Tari
Signature

121 CLOUD ST MURPHY
Address

5 JUL 2013
Date

Reply Form

Planning & Zoning Commission
206 North Murphy Road
Murphy, Texas 75094



CITY OF
MURPHY
LIFE LIVED AT YOUR PACE

Dear Commissioner:

This request is to consider the application of **Allen Tari** requesting a variance to sign requirements as stated in the Code of Ordinances Section 28-22, Monument Signs-Business Districts, for his business Tari Car Lot.

☐ I am **IN FAVOR** of the requested sign variance as explained on the attached cover sheet.

☒ I am **OPPOSED** to the requested sign variance as explained on the attached cover sheet.

This item will be heard at the Planning & Zoning Commission on **Monday, June 3, 2013 at 6:00 p.m.** at Murphy City Hall, 206 North Murphy Road in the City Council Chambers at 206 N. Murphy Road, Murphy, Texas. Please provide your written comments below regarding the requested change. If additional space is required, you may continue writing on a separate sheet, one-sided for printing purposes.

We are opposed to any sign variance - The car lot is an eyesore at best and not a welcome business to our neighborhood which is behind that location. (Windy Hill Farms)

By signing this letter, I declare I am the owner or authorized agent of the property at the address written below.

DIANE TINGLE

Name (Please Print)

Diane Tingle DRG Mrs Les Tingle

Signature

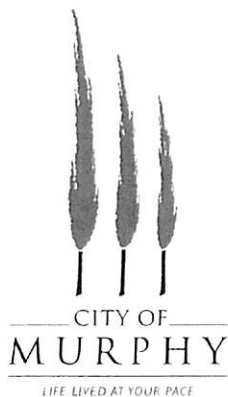
*124 Collin Ct
Murphy
75094*

Address

DS-23-13

Date

The car lot currently has bright lights which are also a problem for those of us who live along the creek behind that business. Commercial signage of any kind will further lower our property values.



Chairman
Steve Levy

Vice-Chairman
Jon King

Ty Holcomb
Secretary

Erik Hemphill
Commissioner

John Johnson
Commissioner

Camille Hooper
Commissioner

Matthew Thekkil
Commissioner

Greg Mersch
Alternate

Donny Rhea
Alternate

Kristen Roberts
Director of Economic and
Community Development

Lori C Knight
Administrative Assistant

May 22, 2013

RE: Sign Variance Request – Tari Car Lot

Dear Property Owner:

Section 86-144. of the Murphy Texas Code of Ordinances requires that written notice of the public hearing be sent to all owners of property, as indicated by the most recently approved city tax roll, that is located within the area of the application, and within 200 feet of any property affected, said written notice.

This is to advise you that a public hearing will be held by the Planning and Zoning Commission on **Monday, June 3, 2013 at 6:00 p.m.** in the City Council Chambers at 206 N. Murphy Road to consider the application of **Allen Tari**, owner of Tari Car Lot. Mr. Tari is requesting a variance to sign requirements as stated in the Code of Ordinances Section 28-22, Monument Signs-Business Districts.

If you would like to inform us of your opinion, a reply form is enclosed which can be mailed to the Community Development Department. Mail the reply form to: City of Murphy, Attn: Lori Knight, Community Development Department, 206 North Murphy Road, Murphy, Texas 75094 or lknight@murphytx.org.

The Planning and Zoning Commission agenda is available 72 hours prior to the meeting at City Hall and on the City's website at www.murphytx.org.

If you have any questions, please feel free to contact this office at (972) 468-4006 or Lori Knight at (972) 468-4014.

Sincerely,

Kristen Roberts
Director of Economic and Community Development

Enclosures

Issue

Consider and/or act on a proposed resolution authorizing the City Manager to execute a contract with Blue Cross Blue Shield for group medical insurance with an effective date of September 1, 2013.

Background

In an effort to ensure that our insurance rates remain competitive with the market, the City went out to bid for Group Medical Insurance after receiving our renewal rate from our current carrier, Blue Cross Blue Shield. In addition to the renewal bid from Blue Cross, we received one bid from Aetna.

The initial medical insurance renewal from Blue Cross resulted in an increase of 19%. Additional fees resulting from the Affordable Care Act (effective January 1, 2014) as described below, will result in an overall employer increase of approximately 21.11%; however, Brinson Benefits, the city's benefits consultant, was able to negotiate a 5% reduction resulting in a renewal rate of 16.11% with our current plan design. This increase is still higher than desired. As a result, staff has researched other plan options offered by Blue Cross. Staff's preferred Proposed Plan Change would result in the least amount of change from both the employee and employer point of view while limiting the increase to only 9.63% above the current plan premiums.

Our current plan deductible is \$2,500 for an individual and \$7,500 for a family. Through the City's Health Reimbursement Arrangement (HRA), the employee is reimbursed for the last \$1,000 of the individual deductible, to a maximum of \$3,000 per family. The co-insurance is 80/20 meaning Blue Cross is responsible for 80% of the cost sharing and the member is responsible for the remaining 20% of the costs once the individual deductible has been satisfied. Under the Proposed Plan Change, the deductibles will remain the same, but the co-insurance will increase to a 70/30 split with Blue Cross being responsible for 70% of the cost sharing and members responsible for the remaining 30%. The HRA program will continue with the Proposed Plan Change. The Proposed Plan Change also increases the prescription co-pays for generic drugs. The co-pay at this time for generics is \$10 and with Proposed Plan Change the co-pay will increase to \$20. All other co-pays throughout the plan will remain the same.

	Current	Proposed Plan Change
Deductible (Individual/Family)	\$2,500/\$7,500	\$2,500/\$7,500
Co-Insurance	80/20	70/30
Doctor Visit Copay	\$25	\$25
Urgent Care Copay	\$50	\$50
ER Copay	\$100*	\$100*
Generic Prescription Drugs	\$10	\$20
HRA Reimbursement (individual/family)	\$1,000/\$3,000	\$1,000/\$3,000
Proposed Percentage Increase	16.11%	9.63%

*Plus co-insurance

Under the Affordable Care Act (ACA), there are additional costs in the form of taxes and fees that will affect group health plans. Two of those fees are: (1) the Annual Fee on Health Insurers or "Health Insurer Fee"; and (2) the Transitional Reinsurance Program Contribution Fee or "Reinsurance Fee." Both the Reinsurance Fee and Health Insurer Fee go into effect in 2014. Section 9010(a) of ACA requires that

“covered entities” providing health insurance (“health insurers”) pay an annual fee to the federal government, commonly referred to as the Health Insurer Fee. The amount of this fee for a given calendar year will be determined by the federal government and involves a formula based in part on a health insurer’s net premiums written with respect to health insurance on certain health risk during the preceding calendar year. This fee will go to help fund premium tax credits and cost-sharing subsidies offered to certain individuals who purchase coverage on health insurance exchanges. In addition to the “Health Insurer Fee”, ACA provides for the establishment of a temporary reinsurance program(s) for a three (3) year period (2014-2016) which will be funded by Reinsurance Fees collected from health insurance issuers and self-funded group health plans. Federal regulations establish the fee at \$5.25 per member, per month for 2014. The temporary reinsurance programs funded by these Reinsurance Fees will help stabilize premiums in the individual market. Both the health insurer fee and the transitional reinsurance fee will be added into our monthly insurance premiums beginning January 1, 2014.

Another provision under the ACA is the Patient-Centered Outcomes Research Trust Fund fee. This is a fee issued to all plans that provide medical coverage to employees and is designed to help fund the Patient-Centered Outcomes Research Institute (PCORI). This fee will be due in July 2014 and is \$1 per average number of lives covered during the current plan year ending in August 2013.

Financial Considerations

Changing medical plans, while remaining with Blue Cross Blue Shield, will result in a 9.63% increase over our current medical insurance rates. In addition to our high loss ratio, this increase is partially the result of the additional fees that will begin in January 2014, as outlined in the background information above. The City will absorb these additional ACA fees, in the amount of nearly \$15,000; however, consideration will be given in following years to passing these fees along to the employees in the form of higher insurance premiums. The contribution rate of approximately 60% that the City pays for dependent coverage will not change. This will result in an increase for the employee’s with dependent coverage, but the increase will be less than if we stay with our current plan.

Staff Recommendation

Staff recommends approval.

Attachment

Resolution

Stacy Buckley, HR Manager
Submitted By

James Fisher, City Manager
Approved by

RESOLUTION NO. 13-R-
CITY OF MURPHY, TEXAS

WHEREAS, the City of Murphy provides group health insurance as a benefit for City employees; and,

WHEREAS, the City of Murphy has advertised for proposals for group health insurance; and,

WHEREAS, the City of Murphy has received proposals and information from various insurance underwriters; and,

WHEREAS, staff has reviewed the bids and information provided and is of the opinion that Blue Cross Blue Shield has the best overall bid for Medical Insurance.

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

That the City Council hereby authorizes the City Manager to execute a contract with Blue Cross Blue Shield for Medical Insurance.

DULY RESOLVED by the City Council of the City of Murphy, Collin County, Texas, on this the 16th day of July 2013.

APPROVED:

Eric Barna, Mayor

ATTEST:

Kristi Gilbert, City Secretary
City of Murphy

Issue

Consider and/or act upon an Interlocal Agreement between the City of Murphy and Plano Independent School District for the School Liaison and Campus Protection Programs beginning August 1, 2013 continuing through September 31, 2014.

Background

The City currently contracts with Plano ISD for one School Liaison Officer (SLO) that serves McMillen High School. The agreement covers the SLO, as well as the addition of a Campus Protection Officer (CPO) that would patrol and serve Murphy Middle School, Hunt Elementary School and Bogges Elementary School.

Financial Considerations

Plano ISD will pay the City a monthly fee of \$6,231 for both officers, which represents 50% of the salary and benefit costs.

With regard to the remaining fiscal year expenses, a budget amendment for FY 2013 will be brought before Council for approval in August. Chief Cox will be able to address the financial aspect of the agreement in more detail at the meeting; however, the expenses will be approximately \$19,000 based on the following information provided during the addition of the CID.

The following information is provided for estimating the cost of approving this position:

- Salary: $\$51,500 \text{ (first year)} / 12 = \$4,292 \times 2 = \underline{\$8,584}$
- Overtime: Absorbed within current budget
- TMRS: $5,665 / 12 = \$472.10 \times 2 = \underline{\$944}$
- Social Security: $747 / 12 = \$62.25 \times 2 = \underline{\$125}$
- Group Insurance: $7,200 / 12 = 600 \times 2 = \underline{\$1,200}$
- Certifications: \$300
- General Office Supplies: Absorbed within current budget
- Uniforms: \$2,000
- Glock: \$500
- Rifle: \$1,300
- Shotgun: \$350
- Go Bag: \$150
- Helmet: \$350
- Gas Mask: \$150
- Laundry and Cleaning: $300 / 12 = 25 \times 2 = \underline{\$50}$
- Safety Equipment: \$700 (Vest)
- Travel and Training: Absorb within current budget
- Workers Comp: \$384
- Cell/Pagers/Radios: \$4,000 (Additional Radio); Cell Phone: $\$50 \text{ per month} \times 2 = \underline{\$100}$.
- Dues & Memberships: Absorb within current budget.
- Hardware and Software (additional seat license for RMS): \$1,333
- Motor Vehicle: None this year.
- Fuel: Absorb within current budget

Staff Recommendation

Authorize the City Manager to execute an agreement with Plano ISD for the School Liaison and Campus Protection Programs beginning August 1, 2013 and ending September 31, 2014.

Attachments

- 1) Agreement
- 2) Attachment "A" – Memorandum of Understanding, Administrative Guidelines
- 3) Attachment "B" – Operational Guidelines

POLICE / SCHOOL LIAISON INTERLOCAL AGREEMENT

This Agreement is entered into this _____ day of _____, 20_____, between the City of Murphy, a home rule city, Collin County, Texas (hereinafter called "City") and the Plano Independent School District, an independent school district of Collin County, Texas (hereinafter called "PISD"). Together, the CITY and PISD shall be referred to as the "parties."

WHEREAS, the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code (the "Act"), provides the authority to political subdivisions for contracts by and between each other to facilitate the governmental functions and services of said political subdivisions under the terms of the Act; and

WHEREAS, PISD and the CITY have the authority to enter into this Agreement under the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code; and

WHEREAS, it is mutually beneficial for the parties to enter into an agreement which establishes the duties, assignment, responsibilities and obligations of the School Liaison Officers, Campus Protection Officers, the CITY and PISD.

WHEREFORE, for and in consideration of the payments and mutual covenants contained herein, and for other good and valuable consideration, the parties agree as follows:

I.

SCOPE OF AGREEMENT

CITY shall provide two (2) employees who are certified peace officers for the School Liaison and Campus Protection Programs for portions of the CITY's 2012-2013 and 2013-2014 fiscal years, to be assigned to duties described in the 2013-2014 Memorandum of Understanding, Administrative Guidelines, attached hereto as **Attachment "A"** and incorporated herein for all purposes, and Operational Guidelines, attached hereto as **Attachment "B"**, and incorporated herein for all purposes.

II.

TERM OF THE AGREEMENT

The initial term of this Agreement shall be for a period of fourteen (14) months, beginning the 1st day of August 2013, and ending the 31st day of September 2014.

Subject to Section VI., Availability of Funds, and Section VII., Termination, this Agreement will automatically renew on October 1st of each year for subsequent 12 month terms (October 1st thru September 31st of each year). Renewals of this Agreement shall be at the then current actual costs for officers.

III.

PAYMENT FOR SERVICES

PISD shall pay CITY the sum of \$6,231.00 each month for services rendered. Payment for service shall be made no later than the 15th day of each month following the month in which service is rendered. This payment is for 50% of the cost of two (2) certified peace officers provided by the CITY.

PISD shall not be relieved of its obligation to pay the entire amount described in this Agreement in the event a peace officer is absent due to sick leave, training, subpoena or court appearance, compensation time, worker's compensation, holiday, vacation, or emergency, military, or bereavement leave. If the peace officer is absent more than fifteen (15) consecutive school days, the peace officer shall be replaced or payment shall be reduced on a prorated basis.

In the event CITY exercises its right to reassign the officer when, in the sole judgment of CITY, his services are required in response to a citywide or major emergency for more than fifteen (15) consecutive school days, PISD's payment for services shall be reduced on a prorated basis.

IV.

INDEPENDENT CONTRACTOR

CITY is and at all times shall be deemed to be an independent contractor and shall be wholly responsible for the manner in which it determines which officers are assigned to the School Liaison and Campus Protection Programs and the way CITY performs the services required by the terms of this Agreement. Nothing herein shall be construed as creating the relationship of employer and employee, or principal and agent, between PISD and CITY or any of CITY's agents or employees. CITY assumes exclusive responsibility for the acts of its employee as they relate to the services provided during the course and scope of his employment. CITY, its agents and employees, shall not be entitled to any rights or privileges of PISD employees and shall not be considered in any manner to be a PISD employee.

V.**INSURANCE**

CITY is self-insured, and shall provide PISD documentation of its coverages, said coverages to meet the approval of PISD. CITY shall maintain, during the term of this Agreement, workers' compensation insurance, general liability coverage, auto liability coverage and any other appropriate coverage in the amounts required by Texas state law, for its employee engaged in work under this Agreement. CITY shall provide PISD with Certificates of Insurance indicating such coverage prior to the beginning of any activities under this Agreement.

VI.**AVAILABILITY OF FUNDS**

Funds are not presently budgeted for performance under this Agreement beyond the end of PISD's 2013–2014 fiscal year (July 1st through June 30th of each year). PISD shall have no liability for payment of any money for services performed after the end of any fiscal year unless and until such funds are budgeted and this Agreement renewed upon the terms and conditions set forth for renewal in Section II hereof. Likewise, all expenditures made by CITY in fulfilling its obligations hereunder shall be paid only from current revenues legally available to CITY.

VII.**TERMINATION**

This Agreement may be terminated by either party at any time, at its sole option, with or without cause, and without prejudice by giving ninety (90) days written notice of termination.

VIII.**ASSIGNMENT OF AGREEMENT**

Neither party shall assign, transfer, or sub-contract any of its rights, burdens, duties or obligations under this Agreement without the prior written permission of the other party to this Agreement.

IX.

WAIVER

No waiver of a breach or any provision of this Agreement by either party shall constitute a waiver of any subsequent breach of such provision. Failure of either party to enforce at any time, or from time to time, any provision of this Agreement shall not be construed as a waiver thereof.

X.

PLACE OF PERFORMANCE: VENUE

All obligations of each party to this Agreement shall be performed in Collin County, Texas. The laws of the State of Texas shall govern the interpretation, validity, performance, and enforcement of this Agreement and the exclusive venue for any legal proceedings involving this Agreement shall be Collin County, Texas.

XI.

NOTICES

Notices to PISD shall be deemed given when delivered in person to the Superintendent of Schools of PISD or on the next business day after the mailing of said notice addressed to said PISD by United States mail, certified or registered mail, return receipt requested, and postage paid at 2700 W. 15th Street, Plano, Texas 75075.

Notices to CITY shall be deemed given when delivered in person to the City Manager of CITY or on the next business day after the mailing of said notice addressed to said CITY by United States mail, certified or registered mail, return receipt requested, and postage paid at 206 N. Murphy Road, Murphy, Texas 75094.

The place for mailing notices for a party may be changed only upon written notice given to the other in the manner herein prescribed for notices sent to the last effective place of mailing for the notifying party.

XII.**SEVERABILITY PROVISIONS**

If any provisions of this Agreement is held to be illegal, invalid or unenforceable under present or future laws, (1) such provision shall be fully severable, (2) this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never been a part of this Agreement, and (3) the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance from this Agreement.

XIII.**MUTUAL HOLD HARMLESS**

To the extent allowed by law, PISD does hereby agree to waive all claims against, release, and hold harmless CITY and all of its officials, officers, agents, employees, in both their public and private capacities, from any and all liability, claims, suits, demands, losses, damages, attorneys fees, including all expenses of litigation or settlement, or causes of action which may arise by reason of injury to or death of any person or for loss of, damage to, or loss of use of any property arising out of or in connection with this Agreement.

To the extent allowed by law, CITY does hereby agree to waive all claims against, release, and hold harmless PISD and all of its officials, officers, agents, employees, in both their public and private capacities, from any and all liability, claims, suits, demands, losses, damages, attorneys fees, including all expenses of litigation or settlement, or causes of action which may arise by reason of injury to or death of any person or for loss of, damage to, or loss of use of any property arising out of or in connection with this Agreement.

It is the intention of both parties that this mutual hold harmless clause shall be interpreted to mean each party shall be responsible for the actions of each party's own employees, officials, officers, and agents. The parties hereby agree that they have not waived their sovereign immunity by entering into and performing its obligations under this Agreement.

XIV.**DISPUTE RESOLUTION**

Should a dispute arise between the parties regarding this Interlocal Agreement, or the terms contained herein, the parties shall first attempt to resolve the dispute through direct discussions in a spirit of mutual cooperation. If such discussions fail to resolve the dispute, the parties hereto agree that they shall submit such

dispute to non-binding mediation with a mutually agreeable mediator. Said mediation shall be conducted within thirty (30) days following written notice of a demand for mediation by either party, unless the parties agree to a shorter or longer period, and the costs of such mediation shall be borne by the party demanding same. The purpose of this section is to reasonably ensure that the CITY and PISD in good faith utilize mediation before pursuing litigation. The parties' participation in, or the results of any mediation under this section shall not be construed as a waiver by the parties of any rights, privileges, defenses, remedies or immunities available to the parties as governmental entities, nor waiver of any termination provisions, expiration dates or deadlines set forth in this Agreement.

XV.

ENTIRE AGREEMENT OF PARTIES

This Agreement shall be binding upon the parties hereto, their successors and assigns, and constitutes the entire Agreement between the parties. No other Agreements, oral or written, pertaining to the performance of this Agreement exists between the parties. This Agreement can be modified only by an Agreement in writing, signed by both parties.

IN WITNESS WHEREOF, the parties have executed this Agreement in the year and day first above written.

CITY OF MURPHY

By: _____
James Fisher, City Manager

ATTEST:

Kristi Gilbert, City Secretary

Approved as to Form:

Attorney for PISD

PLANO INDEPENDENT SCHOOL DISTRICT

By: _____
Cathy Galloway,
Associate Superintendent
for District Services

ACKNOWLEDGMENT

STATE OF TEXAS
COUNTY OF COLLIN

This instrument was acknowledged before me on the _____ day of _____,
20____ by James Fisher, **City Manager of the CITY OF MURPHY, TEXAS**, a
home rule city, on behalf of said city.

Notary Public in and for the State of Texas

ACKNOWLEDGMENT

STATE OF TEXAS
COUNTY OF COLLIN

This instrument was acknowledged before me on the _____ day of _____
20____ by Cathy Galloway, **Associate Superintendent for District Services
of the Plano Independent School District**, an independent school district, on
behalf of said organization.

Notary Public in and for the State of Texas

“Attachment A”**MEMORANDUM OF UNDERSTANDING**

Administrative Guidelines

Murphy Police Department – Plano Independent School District
School Year 2013 – 2014

The following administrative guidelines are adopted for the School Liaison Officer and Campus Protection programs during school year 2013 – 2014 and subsequent school years unless revised or amended.

1. The School Liaison Officer (“SLO”) program provides one (1) police officer to serve as the School Liaison Officer for McMillen High School.
2. The Campus Protection Officer (“CPO”) program provides one (1) police officer to patrol and serve Murphy Middle School, Hunt Elementary School and Boggess Elementary School. The role of the CPO will be to provide a high level of police visibility through continuous vehicle and foot patrol of the assigned campuses, to provide rapid response to campus emergencies requiring immediate police intervention, and to provide general law enforcement services at the assigned campuses.
3. The SLO and CPO programs are provided with the understanding that each school has different needs. Officers performing SLO and CPO duties will provide an approach that is most appropriate for the schools they serve and the circumstances they encounter. Officers and supervisors will coordinate with school principals and prioritize their work so that it helps both the school and the Murphy Police Department (“Department”) reach their stated goals.
4. At the beginning of each school year, the appropriate SLO/CPO supervisor shall meet with each school principal to determine the most effective hours, for the school and the department, for the SLO and CPO.
5. The assignment and scheduling of officers to specific campuses will be coordinated with PISD administrators to ensure the best working relationship possible is maintained. Murphy Police Department Standard Operating Procedure # 4 (attached) contains Procedures for assignment and reassignment of SLOs and CPOs.
6. SLO and CPO vacancies will be filled according to the Procedures of the Murphy Police Department. Priorities for filling these vacancies will be determined by the staffing requirements of the Department in relation to the need for SLOs and CPOs at the time the vacancy occurs.
7. The Department will make every effort to minimize mandatory absences by SLOs and CPOs from the school campuses. However, there may be occasions

due to mandated training requirements, court attendance, or other situations beyond the control of the SLO or the CPO, which will require their absence. The SLO and CPO will keep the principal(s) of affected schools informed of any of these absences when they occur.

8. The SLO and CPO will staff summer school as determined by the Department and PISD, together.

9. Payment for SLO or CPO activities which exceed the normal forty-hour work week will be handled as follows:

a. In addition to PISD's monthly payment for services, SLOs attending school extracurricular activities at the request of principals or other PISD staff will be compensated at their departmental overtime rate by PISD. Examples include but are not limited to attendance at athletic events and open house.

b. Police-related duties, such as late calls, late reports, or late arrests, will be compensated by the City of Murphy.

c. Attendance at other events which are not a normal police function, such as field trips when the officer is invited as a guest, will not be compensated.

10. At the end of the school year, the principal of each affected school will be asked to comment on the effectiveness of the SLO or CPO on a form provided by the Murphy Police Department. The appropriate SLO/CPO supervisor will be responsible for providing and collecting these forms.

11. All comments, criticisms, suggestions, and recommendations for SLO or CPO assignments or performance will be immediately referred, without delay, to the appropriate SLO/CPO supervisor. The supervisor will be given the opportunity to take the appropriate action to resolve problems or investigate complaints prior to any other action or decision.

12. The department shall have the final authority in all criminal matters in which SLOs and CPOs become involved as directed by departmental policies and procedures as well as federal, state, and local laws.

13. School administrators understand that once the police arrive at the scene of an incident, they are in charge of that scene and will make the decisions they feel are appropriate.

Nothing in this memorandum of understanding or the contract for police liaison or campus protection services should be construed to prevent a police officer from acting solely as a law enforcement or peace officer, and when doing so the officer shall not be subject to the terms and conditions of this agreement. Nothing in this agreement or contract shall override any policy or procedure of

the Murphy Police Department. The officer's actions and options are governed by law and Police Department policy.

G. M. Cox, Chief of Police
Murphy Police Department

Date

Cathy Galloway
Associate Superintendent for District Services
Plano Independent School District

Date

Attachment “B”

MEMORANDUM OF UNDERSTANDING

Operational Guidelines

Murphy Police Department – Plano Independent School District
School Year 2013 – 2014

The following operational guidelines are adopted for operations by and between the Murphy Police Department (“Department”) and the Plano Independent School District (“Plano ISD” or “District”) during school year 2013 – 2014 and subsequent school years unless revised or amended. In all situations, District authorities will be notified of action taken in accordance with Article 15.27, Texas Code of Criminal Procedure.

1. Incident – Class C misdemeanors (smoking, consumption or possession of an alcoholic beverage, fighting, disruption of classes, or other disorderly conduct) occurring on District grounds that are not observed by a police officer.

Guideline – A District administrator shall notify the police. The officer shall determine if the elements justifying an arrest or issuance of a notice to appear are present. If those elements are present, the officer shall have the discretion to arrest, issue a notice to appear, or file the charge at large. The District administrator or staff member witnessing the offense may be required to provide a written statement if enforcement action is taken and may be later called as a witness if the matter proceeds to court.

A District administrator who believes that a person on District property or at a District-related event is intoxicated will notify the police. The responding officer will determine whether the elements justifying an arrest for public intoxication exist. If the elements of the offense exist, the officer will arrest and remove the person from District property or the District-related event. If the officer determines that the elements of the offense do not exist, the issue will be handled by district officials according to the District's Student Code of Conduct.

A District administrator observing a fight will notify a police officer. The officer will determine if the elements justifying an arrest for disorderly conduct or assault are present. If the elements of the offense are present, the officer will, in his/her discretion, take the appropriate actions as dictated by departmental policy and procedures. If the elements justifying an arrest are not present, the issue shall be handled by the District administrator according to the District's Student Code of Conduct.

Officers may investigate incidents reported by parents and District administrators and may issue notices to appear or make arrests if appropriate under departmental policy and procedures.

2. Incident – Class C misdemeanors that are observed by an officer:

Guideline – Police officers who observe Class C misdemeanors on District property will take action as indicated by departmental policy and procedures. Any decision by the officer not to arrest or issue a notice to appear is not determinative of any action taken by the District in accordance with the District's Student Code of Conduct.

3. Incident – Persons found in possession of any controlled substance on District property.

Guideline – The District administrator shall call the police. The officer shall determine if the elements of the offense justifying an arrest are present. If those elements exist, the officer shall have the discretion to arrest, issue a notice to appear, or file at large.

4. Incident – A person is found on District property in possession of a firearm, illegal knife, or prohibited weapon and that possession is listed as a felony in section 46.03 of the Penal Code.

Guideline – The District administrator shall notify the police. The responding officer shall determine whether or not the weapon is listed in the above section. If it is, and if permitted by law, the officer shall arrest and place the person in jail. Officers shall at all times give due consideration to the case law interpreting search and seizure issues.

5. Incident – District administrators are informed that a person has within the past five (5) days possessed a weapon on District property.

Guideline – The District administrator will call the police who will take the information and complete an offense report. A detective will be assigned to investigate the offense.

6. Incident – Trespasser on District property.

Guideline – The District administrator will ask the trespasser to leave. If the trespasser refuses; the administrator will call the police. The responding officer will follow departmental guidelines in handling the call.

7. Incident – A Murphy Police Officer asks to see a student for an interview or to be taken into custody.

Guideline – Murphy Police Department SOP # 2 (copy attached) will be followed. District administrators will follow District policies and procedures regarding interviews of students, or students being taken into custody, by outside agencies.

8. Incident – A teacher, District counselor, or administrator is assaulted on campus.

Guideline – The District administrator shall immediately report the assault to the police. The responding officer will determine if the elements of the offense, to justify an arrest, are present. If so, the officer shall arrest and remove the student from the campus.

Notices to appear will not be issued for an assault on District personnel engaged in their official duties, but, depending on circumstances, it may be necessary to file at large in lieu of arrest.

9. Incident – Indecent exposure or other sexual offenses.

Guideline – The District administrator shall notify the police. The responding officer shall determine if the elements of the offense, justifying an arrest, exist. If those elements do exist, the officer shall arrest and remove the perpetrator from campus. Depending on the circumstances, an officer may have to file at large.

10. Incident – Bomb threats.

Guideline – Officers responding to the report of a bomb threat on District property shall act in accordance with Murphy Police Department SOP # 3 (copy attached).

All bomb threats shall be reported to the police and district security in keeping with District procedures listed in the emergency procedure manual. The principal or administrator in charge of the District facility will make the decision whether or not to evacuate the facility unless a device is found. Once a device is found, the senior officer present takes charge of the scene.

11. Incident – Drug Interdiction Program.

Guideline – Plano ISD has an active drug interdiction program that includes narcotics detecting canines and handlers employed by PISD. Officers, when

called to the scene of a drug interdiction incident, will take appropriate action according to state law and departmental policy and procedures.

These operational guidelines are generated in an effort to provide a consistent response to the most common events occurring on District campuses. However, there will be instances where circumstance will dictate a different response by both officers and administrators and instances that are not encompassed by these guidelines. Both officers and administrators are encouraged to contact their respective supervisors with questions regarding these operational guidelines or instances not addressed herein. Further, any decision by the Murphy Police Department not to arrest or issue a notice to appear is not determinative of any action taken by the District in accordance with the Student Code of Conduct.

G. M. Cox
Chief of Police, Murphy Police Department

Date

Cathy Galloway
Associate Superintendent for District Services
Plano Independent School District

Date

City Council
July 16, 2013

Issue

Consider and/or act upon Ethics Review Commission recommendations:

1. A proposed resolution establishing the Rules and Procedures for the City of Murphy Ethics Commission
2. A proposed ordinance amending Chapter 2, Article IX of the Code of Ordinances entitled Code of Ethics.

Staff Resource / Department

James Fisher, City Manager
Kristi Gilbert, City Secretary
Andy Messer, City Attorney

Background

The Ethics Review Commission was established in 2012 and held several meetings in order to appoint its officers, review, consider and discuss the Code of Ethics of the City of Murphy and the Commission's duties and responsibilities in this regard, and to discuss, prepare and adopt its proposed Rules and Procedures for submission to the City Council for consideration and action. On July 19, 2012, the Commission approved its proposed Rules and Procedures and also approved certain recommendations, requests and notifications to be presented to the City Council.

Council took action at their October 16th and November 11th meetings providing direction for the proposed changes.

Four new members were appointed to the Ethics Review Commission in December of 2012. The Commission held meetings in February and April to review the proposed changes with the Assistant City Attorney. The attached includes the resulting documents after final attorney review.

Attachments

1. Proposed Resolution establishing the Rules and Procedures – Clean Version
2. Proposed Resolution establishing the Rules and Procedures – Blackline Version
3. Proposed Ordinance amending the Code of Ethics – Clean Version
4. Proposed Ordinance amending the Code of Ethics – Blackline Version

RESOLUTION NO. 13-R-**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MURPHY, TEXAS, ADOPTING CERTAIN RULES AND PROCEDURES FOR THE ETHICS REVIEW COMMISSION; PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, Article VIII, Section 8.01 of the City of Murphy, Texas Home-Rule Charter authorizes the City Council to create committees deemed desirable by the City Council and those which may be necessary to carry out the functions and obligations of the City; and,

WHEREAS, Ordinance 10-11-863 created the Ethics Review Commission; and

WHEREAS, Article VIII, Section 8.01 of the City of Murphy, Texas Home-Rule Charter also provides that the City Council shall by ordinance or resolution prescribe the purpose, composition, function, duties, accountability and tenure of each board, commission and committee where such are not prescribed by law or City Charter.

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

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

Section 2. Purpose and Intent. Recognizing that every legislative body needs a systematic way of conducting its business, this Resolution is to provide for the orderly conduct of business City of Murphy Ethics Review Commission.

Section 3. The Rules and Procedures attached as Exhibit “A” are hereby adopted as the official Rules and Procedures for the Ethics Review Commission.

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

DULY RESOLVED by the City Council of the City of Murphy, Texas, on this the _____ day of _____, 2013.

Eric Barna, Mayor
City of Murphy

ATTEST:

7/10/2013 1:58 PM

Kristi Gilbert, City Secretary
City of Murphy

APPROVED AS TO FORM:

Wm. Andrew Messer, City Attorney
City of Murphy

Exhibit "A"

**CITY OF MURPHY
ETHICS REVIEW COMMISSION****RULES AND PROCEDURES****SECTION 1. INTRODUCTION**

(a) The Ethics Review Commission (the "Commission") is an advisory body of the City of Murphy, Texas, having jurisdiction over ethics complaints as described in Chapter 2, Article IX of the Code of Ordinances of the City of Murphy, Texas. The Commission is responsible for its performance of its duties and responsibilities. The development of these rules and procedures is designed to ensure effective and efficient application of these rules and procedures.

(b) These rules and procedures address Commission relations among Commission members, and with City employees and officials. By adopting these rules and procedures, we, as members of the Commission, acknowledge our responsibility to each other, to City staff and to the public. These rules and procedures will be reviewed as necessary.

SECTION 2. MISSION

(a) The Commission will provide for the fair and equal review of all ethics complaints.

(b) In order to ensure proper consideration of all matters brought before the Commission, members of the Commission will display behavior that demonstrates independent and impartial review of all matters addressed by them, and be duly responsible to the City Council, citizens of the City of Murphy and to each other.

SECTION 3. INFORMATION

(a) The Complaint Process will be followed as outlined in Article IX, Section 2-514, as amended.

(b) All Commission members shall have access to the same information with which to make decisions in the hearing and sanctions process. When one Commission member has an information request, the response may be shared with all members of the Commission so that each member may be equally informed.

(c) All correspondence or communications shall be copied to the City Attorney.

SECTION 4. ROLES

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- (a) The Chairperson shall preside at meetings of the Commission, and shall be recognized as head of the Ethics Review Commission for all purposes. The Chairperson may participate in the discussion of all matters coming before the Commission. The Chairperson shall be entitled to vote as a member thereof unless prohibited by law, and shall have no power of veto.
- (b) The Commission shall elect from among the Commission members a Vice Chairperson who shall act as Chairperson during the absence, conflict or disability of the Chairperson.
- (c) The Chairperson shall preserve order and decorum and shall require Commission members engaged in debate to limit discussion to the question under consideration.
- (d) The Chairperson is the spokesperson for the Commission on all official positions taken unless absent, at which time the Vice Chairperson or other designee will assume the role.
- (e) The Chairperson will encourage all Commission members to fully participate in Commission discussion before an item is brought to vote.
- (f) The Chairperson may appoint a subcommittee made up of Commission members and City staff as deemed necessary by the Commission to recommend direction to the full Commission. City staff may only be used upon approval by the City Manager.
- (g) The Chairperson or designee shall act as the appointed liaison to the City Council.

SECTION 5. MEETINGS

- (a) **Annual Meeting** – The Commission shall meet at least once a year as outlined in Article IX, Section 2-513(b)(3) as amended.
- (b) **Special Meetings** – Special Meetings may be held on any day of the week to consider items that require action prior to the annual meeting and may be called at the request of the Chairperson, or any two (2) members of the Commission as outlined in Article IX, Section 2-513(b)(3) as amended. Special meetings will be open to the public in accordance with the Texas Open Meetings Act.
- (c) **Work sessions** – Work sessions shall be held as needed. Work sessions will be open to the public in accordance with the Texas Open Meetings Act.
- (d) **Executive Sessions** – The Commission may meet in executive session in compliance with the Texas Open Meetings Act. All final actions, decisions or votes on any matter deliberated in an executive session shall be made in open session for which proper notice has been provided. All discussions in executive session shall remain confidential. Executive sessions are not open to the public in accordance with the Texas Open Meetings Act.
- (e) **Confidentiality and Nondisclosure Agreement** – Each Commission member shall sign a confidentiality and non-disclosure agreement the earlier of, thirty (30) days following

appointment by the City Council or prior to receiving any information regarding an ethics complaint.

(f) **Attendance** - Commission members are expected to attend all meetings and stay in attendance during each meeting. No member shall leave a meeting without advising the Chairperson.

(g) The Commission may create a subcommittee of two Commission members as necessary.

(h) **Punctuality and Recess** – Members of the Commission are expected to arrive at meetings at or before the scheduled time for the meeting to begin and shall advise the Chairperson or Secretary if there is an expectation that the Commission member will be delayed in attending the meeting or may need to leave the meeting before it is adjourned. At the beginning of each meeting, the Chairperson shall announce those members that are absent and shall announce the arrival time of any member arriving after the beginning of any meeting. The Chairperson may at any time, upon his or her own motion, or upon the request of a Commission member, declare a recess of the meeting. The time period of the recess shall be strictly followed.

(i) **Conflict of Interest** – A Commission member prevented from voting due to a conflict of interest shall leave the room during the debate, shall not vote on the matter, and shall otherwise comply with the state law and the Charter and ordinances concerning conflicts of interest. Any Commission member filing a conflict of interest affidavit on an item shall not thereafter confer with staff, or Commission members regarding that matter. The City Attorney may provide assistance to a Commission member in determining whether or not a conflict of interest exists.

(k) **Conduct of Meetings and Work Sessions**

1) During Commission meetings and work sessions, Commission members shall assist in preserving order and decorum and shall neither by conversation or otherwise delay or interrupt the proceedings nor refuse to obey the rules of the Commission.

2) A Commission member shall confine discussion to the question under debate, avoid the discussion of personalities and the use of inappropriate language, and refrain from personal attacks or from publicly criticizing a citizen, a City Councilmember, a member of any board, commission or committee of the City, an individual employee, or an operational issue. Questioning facts or the opinion of staff is allowed.

3) When there is more than one witness during a final hearing who is called to address the matter, Commission Members may delay their comments until after all witnesses on the subject have been heard.

4) The Chairperson shall state all questions submitted for a vote and announce the result.

(l) **Citizens and Visitors**

(1) Everyone attending a meeting will refrain from private conversations and turn mobile phones to silent or vibrate while the Commission is in session.

(2) Citizens and visitors attending Commission meetings, work sessions and hearings shall observe the same rules of propriety, decorum and good conduct applicable to members of the Commission. Any person making personal, impertinent, disruptive, profane or defamatory remarks or who becomes boisterous while addressing the Commission or while attending the meeting, work session or hearing, shall be removed from the room if so directed by the Chairperson. Such person shall be barred from further audience before the Commission during that session. If the Chairperson fails to act, any member of the Commission may move to require enforcement of the rules, and the affirmative vote of a majority of the Commission shall require the Chairperson to act.

(4) Unauthorized remarks from the audience, stamping of feet, whistles, yells and similar demonstrations shall not be permitted by the Chairperson, who may direct the removal of offenders from the room. In case the Chairperson shall fail to act, any member of the Commission may move to require enforcement of the rules and the affirmative vote of a majority of the Commission shall require the Chairperson to act.

(5) No placards, banners, or signs will be permitted in the Commission meeting room or in any other room in which the Commission is meeting. Exhibits, displays and visual aids used in connection with presentations, however, are permitted.

(m) Motions At Meetings

(1) At a meeting, the Commission may discuss an agenda item prior to a motion being made. This allows a motion to be crafted that will incorporate the issues discussed.

(2) A motion made and seconded will be considered the main motion. Any Commission member may make a motion to amend a motion. The amendment must receive a second before it may be discussed and must be voted on prior to voting on the main motion.

(3) A motion may be withdrawn or modified by its mover without asking permission until the motion is voted upon. If the mover modified the motion, the Commission member who seconded the motion may withdraw the second.

(4) A motion to reconsider any action of the Commission must be made no later than prior to the conclusion of the next regularly scheduled meeting of the Commission. Such a motion may only be made by a Commission member who voted with the prevailing side. The motion to reconsider may be seconded by any member. No issue shall be twice reconsidered except by unanimous vote of the Commission.

(i) If a motion to reconsider is made at the same meeting at which the matter was acted upon, the motion may be heard and voted upon and the original action on the matter is set aside. Deliberation may then resume on the matter at that same meeting.

- (ii) If a motion to reconsider is made at the next meeting after the matter was acted upon the motion to reconsider may be heard and voted upon and the original action on the matter is not set aside. Deliberation may not resume on the matter, but it shall be placed on the next available agenda for deliberation and action.
- (n) **Suspension of Rules** – Any provision of these rules not governed by the City Charter, City Code, State or Federal law may be temporarily suspended by a majority vote of the members of the Commission present. The vote on any such suspension shall be taken by yeas and nays and entered upon the record.
- (o) **Amendment of Rules** – These rules may be amended or new rules adopted, by a majority vote of the members of the Commission and approved by the Commission and then recommended to City Council for final approval.
- (p) **Failure to Comply** - A failure to comply with these rules does not invalidate any otherwise lawful act of the Commission.
- (q) **Tabling** – An item under consideration may be tabled until a later point in the same meeting.
- (r) **Postponement** – An item may be postponed until a future meeting, a specific future date, or until a specific outside action occurs. Items may also be postponed indefinitely, which means the item is dead and cannot be brought back before the Commission.
- (s) **Retention Policy** - The document retention policy of the Commission shall be the same as that of the City.

SECTION 6. PUBLIC CONTACT / MEDIA RELATIONS

The Commission shall refer all media inquiries to the City Manager or his or her designee as the City's official representative to the media.

RESOLUTION NO. 13-R-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MURPHY, TEXAS, ADOPTING CERTAIN RULES AND PROCEDURES FOR THE ETHICS REVIEW COMMISSION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 8.01 of the City of Murphy, Texas Home-Rule Charter authorizes the City Council to create committees deemed desirable by the City Council and those which may be necessary to carry out the functions and obligations of the City; and,

WHEREAS, Ordinance 10-11-863 created the Ethics Review Commission; and

WHEREAS, Article VIII, Section 8.01 of the City of Murphy, Texas Home-Rule Charter also provides that the City Council shall by ordinance or resolution prescribe the purpose, composition, function, duties, accountability and tenure of each board, commission and committee where such are not prescribed by law or City Charter.

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

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

Section 2. Purpose and Intent. Recognizing that every legislative body needs a systematic way of conducting its business, this Resolution is to provide for the orderly conduct of business City of Murphy Ethics Review Commission.

Section 3. The Rules and Procedures attached as Exhibit "A" are hereby adopted as the official Rules and Procedures for the Ethics Review Commission.

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

DULY RESOLVED by the City Council of the City of Murphy, Texas, on this the _____ day of _____, 2013.

Eric Barna, Mayor

City of Murphy

ATTEST:

Kristi Gilbert, City Secretary
City of Murphy

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APPROVED AS TO FORM:

Wm. Andrew Messer, City Attorney
City of Murphy

| ~~7/10/2013 1:58 PM~~~~7/10/2013 1:00 PM~~~~7/10/2013 12:26 PM~~~~7/10/2013 10:49 AM~~~~7/9/2013 1:16 PM~~

Exhibit "A"

CITY OF MURPHY

ETHICS REVIEW COMMISSION

RULES AND PROCEDURES

SECTION 1. INTRODUCTION

(a) The Ethics Review Commission (the "Commission") is an advisory body of the City of Murphy, Texas, having jurisdiction over ethics complaints as described in Chapter 2, Article IX of the Code of Ordinances of the City of Murphy, Texas. The Commission is responsible for its ~~own development, discipline, and~~ performance of its duties and responsibilities. The development of ~~these rules and procedures is policy~~ is designed to ensure effective and efficient application of these rules and procedures.

(b) ~~These rules and procedures is policy~~ addresses Commission relations among Commission members, and with ~~C~~city employees and officials. By adopting ~~these rules and procedures is policy~~, we, as members of the Commission, acknowledge our responsibility to each other, to City staff and to the public. ~~These rules and procedures is policy~~ will be reviewed as necessary.

SECTION 2. MISSION

(a) The Commission will provide for the fair and equal ~~resolution review~~ of all ethics complaints ~~brought forth for its review in order to determine whether or not it should impose a sanction per Section 2-517 of the Code of Ethics.~~

(b) In order to ensure proper ~~consideration~~ ~~resolution review~~ of all matters brought before the Commission, members of the Commission will display behavior that demonstrates independent and impartial review of all matters addressed by them, and be duly responsible to the City Council, citizens of the City of Murphy and to each other.

SECTION 3. INFORMATION

(a) The Complaint Process will be followed as outlined in Article IX, Section 2-514, as amended.

(b) All Commission members shall have access to the same information with which to make decisions in the hearing and sanctions process. When one Commission member has an information request, the response may be shared with all members of the Commission so that each member may be equally informed.

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- (c) All correspondence or communications shall be copied to the City Attorney.

SECTION 4. ROLES

- (a) The Chairperson shall preside at meetings of the Commission, and shall be recognized as head of the Ethics Review Commission for all purposes. The Chairperson may participate in the discussion of all matters coming before the Commission. The Chairperson shall be entitled to vote as a member thereof unless prohibited by law, and shall have no power of veto.
- (b) The Commission shall elect from among the Commission members a Vice Chairperson who shall act as ~~Chairperson~~~~Presiding Officer~~ during the absence, conflict or disability of the Chairperson.
- (c) The Chairperson shall preserve order and decorum and shall require Commission members engaged in debate to limit discussion to the question under consideration.
- (d) The Chairperson is the spokesperson for the Commission on all official positions taken unless absent, at which time the Vice Chairperson or other designee will assume the role.
- (e) The Chairperson will encourage all Commission members to fully participate in Commission discussion before an item is brought to vote.
- (f) The Chairperson may appoint a subcommittee made up of Commission members and City staff as deemed necessary by the Commission to recommend direction to the full Commission. City staff may only be used upon approval by the City Manager.
- (g) The Chairperson or designee shall act as the appointed liaison to the City Council.

SECTION 5. MEETINGS

- (a) **Annual Meeting** – The Commission shall meet at least once a year as outlined in Article IX, Section 2-513 (b)(3) ~~(subsection 3)~~ as amended.
- (b) **Special Meetings** – Special Meetings may be held on any day of the week to consider items that require action prior to the annual meeting and may be called ~~upon~~ at the request of the Chairperson, or any two (2) members of the Commission as outlined in Article IX, Section 2-513(b)(3) as amended ~~Vice Chairperson or City Manager~~. Special meetings will be open to the public in accordance with the Texas Open Meetings Act.
- (c) **Work sessions** – Work sessions shall be held as needed ~~and used to allow the Commission to discuss procedures~~. Work sessions will be open to the public in accordance with the Texas Open Meetings Act.
- (d) **Executive Sessions** – The Commission may meet in executive session in compliance with the Texas Open Meetings Act. All final actions, decisions or votes on any matter

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deliberated in an executive session shall be made in open session for which proper notice has been provided. All discussions in executive session shall remain confidential. Executive sessions are not open to the public in accordance with the Texas Open Meetings Act.

(e) ~~Each member shall sign a n~~**Confidentiality and Nondisclosure A**~~greement. – Each~~
Commission member shall sign a confidentiality and non-disclosure agreement the earlier of,
thirty (30) days following appointment by the City Council or prior to receiving any information
regarding an ethics complaint.

(f) **Attendance** - Commission members are expected to attend all meetings and stay in attendance during each meeting. No member shall leave a meeting without advising the
ChairpersonPresiding Officer.

(g) The Commission may create a subcommittee of two Commission members as necessary.

(h) **Punctuality and Recess** – Members of the Commission are expected to arrive at meetings at or before the scheduled time for the meeting to begin and shall advise the Chairperson or Secretary if there is an expectation that the Commission member will be ~~tardy~~
delayed in attending the meeting or may need to leave the meeting before it is adjourned. At the beginning of each meeting, the ChairpersonPresiding Officer shall announce those members that are absent and shall announce the arrival time of any member arriving after the beginning of any meeting. The ChairpersonPresiding Officer may at any time, upon his or her own motion, or upon the request of a Commission member, declare a recess of the meeting. The time period of the recess shall be strictly followed.

(i) **Conflict of Interest** – A Commission member prevented from voting due to a conflict of interest shall leave the room during the debate, shall not vote on the matter, and shall otherwise comply with the state law and the Charter and ordinances concerning conflicts of interest. Any Commission member filing a conflict of interest affidavit on an ~~Executive Session~~ item shall not thereafter confer with staff, or Commission members regarding that matter. The City ~~A~~ttorney may provide assistance to a Commission member in determining whether or not a conflict of interest exists.

Process of Ethics Hearing: Complaint Hearing Process:

The City Attorney shall perform an initial review of the submitted complaint for conformity with the requirements of Section 2-514 of the Code of Ethics. If the complaint is found to be insufficient, the City Attorney shall notify the complainant that the complaint is deficient and the matter shall be closed without prejudice to subsequent re-filing. If the complaint is found to be sufficient, it shall be forwarded to the City Manager, the Chairperson of the Ethics Review Commission, the City Secretary and the complainee, and a preliminary hearing shall be scheduled with proper notice being provided to the complaint and complainee. Complaints against the City Attorney shall be forwarded to the Municipal Judge.

An initial meeting will be held to discuss the filed complaint. The complainant and the complainee may attend the initial meeting preliminary hearing and each shall be

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~~allowed to make a presentation to the Commission and, but the . The complainant and the complaine must be allowed to make a presentation at the initial meeting, but the Commission may not limit the time for the presentation to no fewer than five (5) minutes.~~

~~A majority vote of the full Commission shall will be required for the Commission to continue its investigation of the complaint; otherwise, the matter will be closed.~~

~~The Chairperson or authorized designee shall send written notice following the preliminary hearing of the initial review and its outcome to both the complainant and the complaine within a reasonable amount of time five (5) business days after the initial review preliminary hearing decision is has been made made by the Commission.~~

~~The Commission will may then exercise its powers as outlined in Article IX, Section 2-5132-516 to investigate, request and gather evidence as necessary to determine if an ethics violation has occurred.~~

~~If the Commission determines that there are reasonable grounds to believe that a violation of Article IX has occurred, it shall schedule a final hearing. Otherwise, the complaint may be dismissed.~~

~~The complainant and the complaine may attend the final hearing and each shall be allowed to make a presentation to the Commission. The complainant and the complaine must be allowed to make a presentation at the final hearing and, but the Commission may not limit the time for the presentation to no fewer than five (5) minutes.~~

~~Sanctions may be imposed in accordance with Article IX, Section 2-517 as amended, by majority vote of the full Commission.~~

~~All actions of the Commission are immediately appealable by complaine only to a committee comprised of the Mayor, the City Attorney, and the Municipal Judge or with an alternate city official being appointed by a majority of the City Council official in the case of a conflict of interest. This committee shall have the authority to affirm, dismiss or remand the decision of the Commission with instructions.~~

(k) **Conduct of Meetings and Work Sessions**

- 1) During Commission meetings and work sessions, Commission members shall assist in preserving order and decorum and shall neither by conversation or otherwise delay or interrupt the proceedings nor refuse to obey the rules of the Commission.
- 2) A Commission member shall confine discussion to the question under debate, avoid the discussion of personalities and the use of inappropriate language, and refrain from personal attacks or from publicly criticizing a citizen, a City Councilmember, a member of any board, commission or committee of the City, an individual employee, or an operational issue. ~~QCriticism is differentiated from~~ questioning facts or the opinion of staff is allowed.
- 3) When there is more than one ~~witnessspeaker~~ during a final hearing who is called to address the matter, Commission Members ~~mayshall~~ delay their comments until after all ~~witnessesspeakers~~ on the subject have been heard.

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4) The Chairperson shall state all questions submitted for a vote and announce the result.

(l) **Citizens and Visitors**

(1) Everyone attending a meeting will refrain from private conversations and turn mobile phones to silent or vibrate while the Commission is in session.

(2) Citizens and visitors attending Commission meetings, work sessions and hearings shall observe the same rules of propriety, decorum and good conduct applicable to members of the Commission. Any person making personal, impertinent, disruptive, profane or defamatory remarks or who becomes boisterous while addressing the Commission or while attending the meeting, work session or hearing, shall be removed from the room if so directed by the ChairpersonPresiding Officer. Such person shall be barred from further audience before the Commission during that session. If the ChairpersonPresiding Officer fails to act, any member of the Commission may move to require enforcement of the rules, and the affirmative vote of a majority of the Commission shall require the ChairpersonPresiding Officer to act.

(4) Unauthorized remarks from the audience, stamping of feet, whistles, yells and similar demonstrations shall not be permitted by the ChairpersonPresiding Officer, who may direct the removal of offenders from the room. In case the ChairpersonPresiding Officer shall fail to act, any member of the Commission may move to require enforcement of the rules and the affirmative vote of a majority of the Commission shall require the ChairpersonPresiding Officer to act.

(5) No placards, banners, or signs will be permitted in the Commission meeting room or in any other room in which the Commission is meeting. Exhibits, displays and visual aids used in connection with presentations, however, are permitted. ~~Video presentations requested by a citizen or visitor as visual aids will not be broadcast over any city public access cable channel.~~

~~(m)~~ **Agenda**

~~(1) The Chairperson and/or alternatively Vice Chairperson shall set the agenda. Any Commission member may request an item be placed on a future agenda at a meeting.~~

~~(2) Agenda item requests made outside of an open meeting shall be submitted to the City Secretary.~~

~~(m)~~ **Motions At Meetings**

(1) At a meeting, ~~t~~The Commission may discuss an agenda item prior to a motion being made. This allows a motion to be crafted that will incorporate the issues discussed.

(2) A motion made and seconded will be considered the main motion. Any Commission member may make a motion to amend a motion. The amendment must receive a second before it may be discussed and must be voted on prior to voting on the main motion.

(3) A motion may be withdrawn or modified by its mover without asking permission until the motion is voted upon. If the mover modified the motion, the Commission member who seconded the motion may withdraw the second.

(4) A motion to reconsider any action of the Commission must be made no later than prior to the conclusion of the next regularly scheduled meeting of the Commission. Such a motion may only be made by a Commission member who voted with the prevailing side. The motion to reconsider may be seconded by any member. No issue/question shall be twice reconsidered except by unanimous vote of the Commission.

(i) If a motion to reconsider is made at the same meeting at which the matter was acted upon, the motion may be heard and voted upon and the original action on the matter is set aside. Deliberation may then resume on the matter at that same meeting.

(ii) If a motion to reconsider is made at the next meeting after the matter was acted upon, ~~with the exception of any final determination of the Commission,~~ the motion to reconsider may be heard and voted upon and the original action on the matter is not set aside. Deliberation may not resume on the matter, but it shall be placed on the next available agenda for deliberation and action.

(n) **Suspension of Rules** – Any provision of these rules not governed by the City Charter, City Code, State or Federal law may be temporarily suspended by a majority vote of the members of the Commission present. The vote on any such suspension shall be taken by yeas and nays and entered upon the record.

(o) **Amendment of Rules** – These rules may be amended or new rules adopted, by a majority vote of the members of the Commission and approved by the Commission and then recommended to City Council for final approval.

(p) **Failure to Comply** - A failure to comply with these rules does not invalidate any otherwise lawful act of the Commission.

(q) **Tabling** – An item under consideration may be tabled until a later point in the same meeting.

(r) **Postponement** – An item may be postponed until a future meeting, a specific future date, or until a specific outside action occurs. Items may also be postponed indefinitely, which means the item is dead and cannot be brought back before the Commission ~~unless there is a change~~.

(s) **Retention Policy** - The document retention policy of the Commission shall be the same as that of the City.

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SECTION 6. PUBLIC CONTACT / MEDIA RELATIONS

~~(a) All reporters may receive an agenda in advance and will be furnished supporting materials needed for clarification if requested.~~

~~(b)~~ The Commission shall refer all media inquiries to the City Manager or his or her designee as the City's official representative to the media.

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ORDINANCE NO. 13--07-

AN ORDINANCE OF THE CITY OF MURPHY, TEXAS, AMENDING CHAPTER 2 OF THE CITY OF MURPHY'S CODE OF ORDINANCES, AMENDING ARTICLE IX CODE OF ETHICS FOR CITY OFFICIALS AND EMPLOYEES, INCLUDING REGULATIONS RELATED TO STANDARDS OF CONDUCT; GIFTS AND HONORARIUMS; CONFLICTS OF INTEREST; CONFLICT DISCLOSURE STATEMENTS; INTEREST IN PROPERTY ACQUIRED WITH PUBLIC FUNDS; NEPOTISM; BRIBERY; CITY RECORDS; MISUSE OF OFFICIAL INFORMATION; ABUSE OF OFFICIAL CAPACITY; AND OFFICIAL OPPRESSION; CREATING AN ETHICS REVIEW COMMISSION; PROVIDING A COMPLAINT PROCESS FOR VIOLATIONS OF THE CODE OF ETHICS; PRESCRIBING THE ROLE OF THE CITY ATTORNEY IN THE COMPLAINT PROCESS; PROVIDING A HEARING PROCESS; PROVIDING SANCTIONS FOR VIOLATIONS OF THE CODE OF ETHICS; AND PROVIDING FOR DISTRIBUTION AND PROOF OF COMPLIANCE; AND PROVIDING FOR AN EFFECTIVE DATE, PROPER NOTICE AND MEETING; SEVERABILITY CLAUSE AND REPEALER CLAUSE.

WHEREAS, statutory provisions governing the ethical conduct of public officials and employees are found in various codes including the Texas Local Government Code, the Texas Government Code and the Texas Penal Code; and

WHEREAS, the City Council finds it desirable and necessary to adopt a comprehensive ethics ordinance that sets out the parameters relating to the conduct of public officials and employees in one easily accessible location; and

WHEREAS, the City Council believes that a position in government is a position of public trust that demands a high standard of behavior, and

WHEREAS, each employee and official of the City of Murphy should uphold the Constitution, laws and regulations of the United States and the State of Texas and the Charter and ordinances of the City of Murphy; and

WHEREAS, the City of Murphy seeks to promote personal integrity, honesty and ethical conduct in all activities undertaken by City Officials and employees through the adoption of this Ordinance; and

WHEREAS, the City of Murphy seeks to inspire public confidence and trust in City of Murphy officials and employees through the adoption of this "Code of Ethics";

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

SECTION 1. RECITALS

The City Council hereby finds that the statements set forth in the recitals of this Ordinance are true and correct, and the City Council hereby incorporates such recitals as part of this Ordinance.

SECTION 2. ADOPTION OF CODE OF ETHICS

Chapter 2, Administration, of the Code of Ordinances of the City of Murphy is hereby amended by amending Article IX, Code of Ethics:

Article IX, Code of Ethics attached hereto as Exhibit “A” and incorporated herein for all purposes is hereby enacted.

SECTION 3. Effective Date

This Ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

SECTION 4. Proper Notice and Meeting

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code and as required by Chapter 552 of the Texas Local Government Code.

SECTION 5. Severability

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.

SECTION 6. Repealer

The provisions of this Ordinance shall be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent or in conflict with any of the provisions of this Ordinance are hereby expressly repealed to the extent that such inconsistency is apparent.

PASSED AND APPROVED by the City Council of the City of Murphy, Texas this ____
day of _____, 2013.

Eric Barna, Mayor
City of Murphy

ATTEST:

Kristi Gilbert, City Secretary
City of Murphy

APPROVED AS TO FORM:

Wm. Andrew Messer, City Attorney
City of Murphy

EXHIBIT “A”

ARTICLE IX CODE OF ETHICS

Section 2-501. Definitions.

The terms used in this Article shall have the following meanings:

Business Entity means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or any other entity recognized by law.

Candidate. This term has the meaning assigned by section 251.001, Election Code.

City Council means the mayor and six (6) council members elected to serve as the governing body of the City.

City Employee means any person employed by the City, including those individuals that are employed on a part-time or temporary basis and employees of any corporation created by the City, but such term shall not be extended to apply to any independent contractor.

City Attorney means the City Attorney appointed by the City Council pursuant to the City Charter.

City Engineer means the City Engineer appointed by the City Manager.

City Manager means the City Manager appointed by the City Council pursuant to the City Charter.

City Official means every member of the City Council, the City Manager, City Secretary, the City Attorney, the Municipal Judge, the City Engineer and all members of any board, commission, or committee appointed by the City Council, including the board members of the Murphy Municipal Development District (MDD), the Murphy Economic Development Corporation (4A) (“MEDC”) and the 4B Murphy Community Development Corporation (“MCDC”), and the executive directors of the MEDC and the MCDC.

City Secretary means the City Secretary appointed by the City Council pursuant to the City Charter.

Confidential Information means any information that a City Official would be privy to because of the official’s position but otherwise is not available to the public under the provisions of the Texas Public Information Act (Tex. Gov’t Code Ch. 552).

Conflict Disclosure Statement means the disclosure statement form adopted by the Texas Ethics Commission required by Chapter 176 of the Local Government Code.

Conflict of Interest Questionnaire means the conflicts of interest form adopted by the Texas Ethics Commission required by Chapter 176 of the Local Government Code.

Economic Benefit means any taxable income or any money, real or personal property, contract rights, sale, lease, option, credit, loan, discount, service, or other tangible or intangible thing of value, whether similar or dissimilar to those enumerated.

Economic Interest means a legal or equitable interest in real or personal property or a fiduciary obligation to such property or contractual right in such property that is more than Two Thousand Five Hundred Dollars (\$2500.00). Service by a City Official or City Employee as an officer, director, advisor, or otherwise active participant in an educational, religious, charitable, fraternal, or civic organization does not create an Economic Interest in the property of that organization. Ownership of an interest in a mutual or common investment fund that holds securities or other assets is not an Economic Interest in the securities or other assets unless the City Official or City Employee participates in the management of the fund. A City Official or City Employee does not have an Economic Interest in a matter if the economic impact on the City Official or City Employee is indistinguishable from the impact on the public or on the particular group affected by the matter.

Family Member means a person related to a City Official in the first degree of consanguinity or affinity, as described by Subchapter B, Chapter 573 of the Government Code, except that the term does not include a person who is considered to be related to a City Official by affinity only as described by Section 573.024(b) of the Government Code. This definition would include children, spouses, parents, step-children and parents-in-law or children-in-law, except that relationships by affinity would end upon divorce.

Gift means a favor, hospitality, or economic benefit other than compensation but which does not include campaign contributions reported as required by state law, gifts received from a relative if given on account of kinship, or any value received by will, intestate succession, or as a distribution from an *inter vivos* or testamentary trust.

Municipal Judge means the Municipal Judge or alternate Municipal Judge appointed by the City Council pursuant to the City Charter.

Permissible Gift means a thing of nominal value given (not to exceed \$100.00 in value), and not given to request a specific favor, special treatment, or influence a City Official or City Employee. Marketing advertisement items of nominal value, or certificates or plaques having no intrinsic value, are considered permissible gifts or gratuities. The purchase of meals of nominal value, provided there is a rotation of purchasing, is considered a permissible gift. The provision of training/education programs of a general nature is considered a permissible gift or gratuity. Items that exceed \$100.00 in value, if divided (e.g. holiday food or sporting event tickets distributed by lot) or donated for a City-sponsored function, are considered permissible gifts and/or gratuities.

Qualified Voter means a person who meets the qualifications of Section 11.002 of the Texas Election Code to vote in City elections.

Second Degree by Affinity is defined by Subchapter B., Chapter 573 of the Government Code and examples of such relationship are set out in the Chart attached hereto as Exhibit “1.”

Substantial Interest means the interest that a City Official and/or a Family Member has in a business or business entity or in real property as described below:

- (a) The City Official and/or a Family Member owns ten percent (10%) or more of the voting stock or shares of the business entity; or
- (b) The City Official and/or a Family Member owns ten percent (10%) or more or \$15,000.00 or more of the fair market value of the business entity; or
- (c) Funds received by the City Official and/or a Family Member from the business entity exceed ten percent (10%) of the person's gross income for the previous year;
- (d) The City Official and/or Family Member has a Substantial Interest in real property if the interest is an equitable or legal interest with a fair market value of \$2,500 or more.

Third Degree by Consanguinity is defined by Subchapter B., Chapter 573 of the Government Code and examples of such relationship are set out in the Chart attached hereto as Exhibit “1.”

Section 2-502. Standards of Conduct

(a) General Provisions

- (1) No City Official or City Employee may disclose any Confidential Information gained through the City Official's or City Employee's office or position concerning property, operations, policies, or affairs of the City, or use such Confidential Information to advance any Economic Interest of the City Official or City Employee, confer any Economic Benefit to the City Official or City Employee, or their Family Member. This Subsection shall not preclude disclosure of such Confidential Information in connection with any investigation or proceeding regarding whether there has been a violation of this Code of Ethics to any investigatory, administrative or judicial authority.
- (2) No City Official or City Employee may use his or her office or position or City owned facilities, equipment, supplies, or resources of the City to advance any Economic Interest of the City Official or City Employee, confer any Economic Benefit to the City Official or City Employee, for a political campaign of the City Official or City Employee, or for any of the City Official's or City Employee's Family Members. Notwithstanding the foregoing, City owned facilities, equipment, supplies or resources may be used by City Officials or City Employees to the extent such uses are customary, incidental or lawfully available to the public.

- (3) No City Official shall knowingly represent, directly or indirectly, any person, group or business entity:
 - (A) Before the City Council or the board, commission or committee of which he or she is a member;
 - (B) Before a board or commission which has appellate jurisdiction over the board, commission or committee of which he or she is a member;
 - (C) In any action or proceeding against the interests of the City or in any litigation in which the City or any department, agency, board, commission or committee is a party; or
 - (C) In any action or proceeding in the municipal court(s) of the City which was instituted by a City Official or City Employee in the course of his or her official duties, or a criminal proceeding in which any City Official or City Employee is a material witness for the prosecution.
- (4) The restrictions contained in Subsection (3) do not prohibit the following:
 - (A) A City Official, or his or her spouse, appearing before the City Council or a City board, commission or committee to represent himself or herself in a matter affecting his or her property; provided, however, that no such person, or his or her spouse, shall personally appear before the City Council, board, commission or committee of which he or she is a member and must submit their case through an authorized representative;
 - (B) A City Official or City Employee appearing before the City Council or a City board, commission or committee to address employment matters;
- (5) No City Official may act as surety for any person or business entity that has work, business, or a contract with the City, or act as a surety on any bond required by the City for a City Official.
- (6) No City Official or City employee shall default or refuse to answer any questions pertinent to the proceedings before the City Council, or fail or refuse to obey any subpoena, or to produce any books, papers or other material issued by the City Council.
- (7) No City Official or City Employee shall deny, abridge or compromise equality of rights under state and federal law with respect to appointment to or removal of any appointed position with the City as prohibited by Sec. 14.02 of the City Charter.
- (8) No City Official or City Employee who seeks appointment or promotion with respect to any City appointed position shall, directly or indirectly, give, render or pay any money, service or other valuable thing to any person for, or in connection with, his or her test,

appointment or promotion with respect to any City position as prohibited by Sec. 14.03 of the City Charter.

- (9) No City Official or City Employee shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification, appointment or promotion with respect to any City position, or attempt to commit any fraud preventing the impartial execution of the personnel provisions, rules and regulations of the City Charter as prohibited by Sec. 14.04 of the City Charter.
- (10) No City Official, who holds any compensated, non-elective City position, or City Employee shall use their official title or position with the City to solicit any contribution or endorse the candidacy of any Candidate for public office in the City as prohibited by Sec. 14.05 of the City Charter. Any such person shall have the right to exercise his/her legal rights to participate in the election process when he/she is not on duty, in a City building, City provided uniform or attire, or using a City vehicle or equipment.
- (11) Members of the City Council shall not in any way dictate the appointment, removal or discipline of the City Officials or City Employees appointed by the City Manager or any of the City Manager's subordinates as prohibited by Sec. 3.08(2) of the Charter. Notwithstanding the foregoing, the City Council, at a meeting called for that purpose, may express its views and fully and freely discuss with the City Manager anything pertaining to the appointment and removal of such City Officials and City Employees.
- (12) Except for the purpose of inquiries and investigations provided by the Charter, the City Council shall interact with City Officials and City Employees who are subject to the direction and supervision of the City Manager in accordance with the Governance Policy adopted by the City Council. The City Council shall not give orders to any such City Official or City Employee, either publicly or privately, except as otherwise provided in the Charter.

SECTION 2-503. Gifts and Honorariums

(a) Prohibition:

- (1) No City Official or City Employee may solicit or accept any Gift, favor or privilege, that is offered or given with the intention of influencing the judgment or discretion of the City Official or City Employee; or given in consideration of the favorable exercise of the City Official's or City Employee's judgment or discretion in the past.
- (2) A City Employee performing regulatory functions or conducting inspections or investigations shall not solicit, accept, or agree to accept any benefit from a person the

City Employee knows to be subject to regulation, inspection, or investigation by the City Employee or the City.

- (3) A City Employee having custody of prisoners shall not solicit, accept, or agree to accept any benefit from a person the City Employee knows to be in his custody or the custody of the City.
- (4) A City Employee or a City Official who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions of the City shall not solicit, accept, or agree to accept any benefit from a person the City Employee or City official knows is interested in or likely to become interested in any contract, purchase, payment, claim or transaction involving the exercise of his discretion.
- (5) A City Employee or City Official who has judicial or administrative authority, who is employed by or in a tribunal having judicial or administrative authority, or who participates in the enforcement of the tribunal's decision shall not solicit, accept, or agree to accept any Economic Benefit from a person the City Employee or City Official knows is interested in or likely to become interested in any matter before the City Employee or City Official or tribunal.
- (6) A City Official is prohibited from soliciting, accepting, or agreeing to accept an honorarium in consideration for services that the City Official would not have been requested to provide but for the City Official's official position or duties.

(b) Donation of Unsolicited Gift

A City Employee or City Official who receives an unsolicited Gift that the City Employee or City Official is prohibited from accepting under this section may donate the benefit to a governmental entity that has the authority to accept the gift or may donate the benefit to a recognized tax-exempt charitable organization formed for educational, religious, or scientific purposes.

(c) Exceptions

The prohibitions set out in this section do not apply to:

- (1) a fee prescribed by law to be received by a City Employee or City Official or any other benefit to which the City Employee or City Official is lawfully entitled or for which he gives legitimate consideration in a capacity other than as a City Employee or City Official;
- (2) a Gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient; or

- (3) a benefit to a City Employee or City Official required to file a statement under Chapter 572, Government Code, or a report under Title 15, Election Code, that is derived from a function in honor or appreciation of the recipient if:
 - (A) the benefit and the source of any benefit in excess of \$50 is reported in the statement; and
 - (B) the benefit is used solely to defray the expenses that accrue in the performance of duties or activities in connection with the office which are non-reimbursable by the state or the City;
- (4) a political contribution as defined by Title 15, Election Code;
- (5) a Permissible Gift as defined in this Ordinance, excluding cash or a negotiable instrument as described by Section 3.104, Business & Commerce Code;
- (6) an item issued by a governmental entity that allows the use of property or facilities owned, leased, or operated by the governmental entity;
- (7) food, lodging, transportation, or entertainment accepted as a guest and, if the donor is required by law to report those items, reported by the donor in accordance with that law;
- (8) any Gift or benefit otherwise excepted under section 36.10, Penal Code; or
- (9) This section does not prohibit a City Official from accepting (1) transportation expenses, (2) lodging expenses or (3) meals in connection with a conference or similar event in which the City Official renders services, such as addressing an audience or engaging in a seminar to the extent that those services are more than merely perfunctory.

SECTION 2-504. Conflict of Interest; Recusal.

- (a) Conflict of Interest. No City Official may vote on or participate in any decision-making process on a matter concerning property or a business entity if the official has a Substantial Interest in the real property or business entity.
- (b) Recusal.
 - (1) A City Official shall disclose the existence of any Substantial Interest in any business entity or real property involved in any decision pending before such City Official, or the body of which he or she is a member. To comply with this Subsection, a City Official shall, prior to any discussion or determination of the matter, either file an affidavit of disclosure as required by Local Government Code § 171.004 or, if not so required, shall publicly disclose in the official records of the City to the City Secretary

the nature of the interest. To further comply with this Subsection, a City Official shall notify the City Manager, or if the City Official is the City Manager, shall notify the City Secretary, in writing of the nature of any Substantial Interest he or she may have in a Business Entity or real property which would be affected by an exercise of discretionary authority by the City Official and the City Manager or City Secretary shall assign the matter to another employee. In disclosing a Substantial Interest in a Business Entity, a City Official shall not be required to disclose the dollar amount of any income that he or she receives from the Business Entity.

- (2) The City Council shall take a separate vote on any budget item specifically dedicated to a contract with a Business Entity in which a member of the Council has a Substantial Interest. The member of the City Council that has the Substantial Interest may not participate in the separate vote.
- (3) In addition to complying with the requirements of Chapter 171 of the Local Government Code, to avoid the appearance and risk of impropriety, a City Official should abstain from participation in, discussion of, and any vote on a matter involving a person or Business Entity that the official knows is likely to affect the Economic Interest of, or confer an Economic Benefit on:
 - (i) The City Official's parent, child, step-child, spouse, or other family member within the second degree of consanguinity or affinity as defined by Chapter 573 of the Government Code, or a client of the City Official;
 - (ii) An employer of the City Official, the City Official's parent, child, step-child, or spouse;
 - (iii) A Business Entity for which the City Official serves as an officer or director or serves in any policy-making position;
 - (iv) A person or Business Entity from whom, within the past twelve months, the City Official or the official's spouse, directly or indirectly, received an Economic Benefit; or
 - (v) A person or Business Entity from whom, within the past twelve months, the City Official or the official's spouse, directly or indirectly, engaged in negotiations pertaining to business opportunities.

SECTION 2-505. Conflict Disclosure Statements.

- (a) A City Official shall file a sworn Conflicts Disclosure Statement with the City Secretary whenever a City Official or a Family Member (i) is receiving taxable income from an employment or other business relationship with a person or Business Entity who has contracted with the City for the sale or purchase of real property, goods or services or that is

considering contracting with the City for the sale or purchase of real property, goods or services that exceeds \$2,500.00 (not including investment income) during the twelve (12) month period preceding the date that the City Official became aware of the contract, or (ii) has received Gifts with a value of more than \$250.00 during the twelve (12) month period preceding the date that the City Official became aware of the contract from a person or Business Entity that contracts with the City for the sale or purchase of real property, goods or services or that the City is considering doing business with such person or Business Entity. The City Official shall file the Conflicts Disclosure Statement with the City Secretary no later than 5:00 p.m. on the seventh business day after the date the City Official becomes aware of the facts that require the filing of the Statement.

- (b) A City Official commits an offense if the City Official knowingly fails to file the Conflicts Disclosure Statement. An offense under the above Subsection is a Class C misdemeanor.
- (c) The City Secretary shall accept and file any and all City Official Conflict Disclosure Statements and any Vendor Conflict of Interest Questionnaires.
- (d) The City Secretary shall maintain a list of City Officials and shall make that list available to the public and any person who may be required to file a Conflict of Interest Questionnaire. The City Secretary shall maintain copies of the Conflict Disclosure Statements and Conflict Questionnaires on the City's website.
- (e) City Officials shall abstain from participation in, discussion of, and any vote on a matter involving a person or Business Entity, if, within the 12 months preceding the date of the vote, the City Official has filed, or should have filed, a Conflicts Disclosure Statement under Chapter 176 of the Local Government Code.

SECTION 2-506. Interest in Property Acquired with Public Funds

(a) Disclosure of Interest in Property

A City Official who has a legal or equitable interest in real property that is to be acquired with public funds shall file an affidavit within 10 days before the date on which the property is to be acquired by purchase or condemnation.

(b) Affidavit

The affidavit must:

- (1) State the name of the City Official;
- (2) State the City Official's office, public title, or job designation;
- (3) Fully describe the property;
- (4) Fully describe the nature, type, and amount of interest in the property, including the percentage of ownership interest;

- (5) State the date when the person acquired an interest in the property;
- (6) Include a verification as follows: “I swear that the information in this affidavit is personally known by me to be correct and contains the information required by Section 553.002, Government Code”; and
- (7) Contain an acknowledgement of the same type required for recording a deed in the deed records of the county.

The affidavit must be filed with the records administrator for the City.

SECTION 2-507. Nepotism

(a) Prohibition:

- (1) A City Official may not appoint, confirm the appointment of, or vote for the appointment or confirmation of the appointment of an individual to a position that is to be directly or indirectly compensated from City funds or fees of office if:
 - (A) the individual is related to the City Official within the Third Degree by Consanguinity or the Second Degree by Affinity; or
 - (B) the City Official holds the appointment or confirmation authority as a member of a state or local Council, the legislature, or a court and the individual is related to another member of that Council, legislature, or court within the Third Degree by Consanguinity or the Second Degree by Affinity.
- (2) A City Official may not appoint, confirm the appointment of, or vote for the appointment or confirmation of the appointment of an individual to a position in which the individual’s services are under the City Official’s direction or control and that is to be compensated directly or indirectly from City funds or fees of office if:
 - (A) The individual is related to another City Official within the Third Degree by Consanguinity or the Second Degree by Affinity; and
 - (B) the appointment, confirmation of the appointment, or vote for appointment or confirmation of the appointment would be carried out in whole or partial consideration for the other City Official appointing, confirming the appointment, or voting for the appointment or confirmation of the appointment of an individual who is related to the first City Official within the Third Degree by Consanguinity or the Second Degree by Affinity.

(b) Exceptions

- (1) The prohibitions in Section 2-507 do not apply to:

- (A) an appointment to the office of a notary public or to the confirmation of that appointment;
 - (B) an appointment or employment of a personal attendant by a City Official for attendance on the City Official who, because of physical infirmities, is required to have a personal attendant; or
 - (C) any other appointment excepted under Chapter 573, Government Code.
- (2) The prohibition in Section 2-507 does not apply to an appointment, confirmation of an appointment, or vote for an appointment or confirmation of an appointment of an individual to a position if:
- (A) the individual is employed in the position immediately before the election or appointment of the City Official to whom the individual is related in a prohibited degree; and
 - (B) that prior employment of the individual has been continuous for at least six (6) months.
- (3) If, under Subsection (b)(2), an individual continues in a position, the City Official to whom the individual is related in a prohibited degree may not participate in any deliberation or vote on the appointment, reappointment, confirmation of the appointment or reappointment, employment, reemployment, change in status, compensation, or dismissal of the individual if that action applies only to the individual and is not taken regarding a bona fide class or category of employees.

SECTION 2-508. Bribery.

(a) Prohibition:

A City Official or City Employee shall not:

- (1) intentionally or knowingly offer, confer, or agree to confer on another person, or solicit, accept or agree to accept from another person:
 - (A) any benefit or consideration for the City Official's or City Employee's decision, vote, recommendation, or other exercise of official discretion as a City Official or City Employee;
 - (B) any benefit as consideration for the City Official's or City Employee's decision, vote, recommendation, or other exercise of official discretion in a judicial or administrative proceeding;

- (C) any benefit as consideration for a violation of a duty imposed by law on a City Official or City Employee; or
- (D) any benefit that is a political contribution as defined by Title 15, Election Code, or that is an expenditure made and reported in accordance with Chapter 305, Government Code, if the benefit was offered, conferred, solicited, accepted, or agreed to pursuant to an express agreement to take or withhold a specific exercise of official discretion if such exercise of official discretion would not have been taken or withheld but for the benefit; notwithstanding any rule of evidence or jury instruction allowing factual interference in the absence of certain evidence, direct evidence of the express agreement shall be required in any prosecution under this Subsection.

(b) No Defense

- (1) It is no defense to prosecution under this Section that a person whom the actor sought to influence was not qualified to act in the desired way whether because he had not yet assumed office or he lacked jurisdiction or for any other reason.
- (2) It is no defense to prosecution under this Section that the benefit is not offered or conferred or that the benefit is not solicited or accepted until after:
 - (A) the decision, opinion, recommendation, vote, or other exercise of discretion has occurred; or
 - (B) the City Official or City Employee ceases to be a public servant.

(c) Exceptions

- (1) It is an exception to the application of Subsections (a)(1)(A), (B) and (C) that the benefit is a political contribution as defined by Title 15, Election Code, or an expenditure made and reported in accordance with Chapter 305, Government Code.

SECTION 2-509. City Records

(a) Prohibition:

A City Official or City Employee shall not:

- (1) knowingly make a false entry in, or false alteration of, a City record;
- (2) make, present, or use any record, document, or thing with knowledge of its falsity and with intent that it be taken as a genuine City record;
- (3) intentionally destroy, conceal, remove, or otherwise impair the verity, legibility, or availability of a City record;

- (4) possess, sell, or offer to sell a City record or a blank City record form with intent that it be used unlawfully;
- (5) make, present, or use a City record with knowledge of its falsity; or
- (6) possess, sell, or offer to sell a City record or a blank City record form with knowledge that it was obtained unlawfully.

(b) Exception

It is an exception to the application of Subsection (a)(3) of this Section that the governmental record is destroyed pursuant to legal authorization or transferred under Section 441.204, Government Code. With regard to the destruction of a local government record, legal authorization includes compliance with the provisions of Subtitle C, Title 6, Local Government Code.

Section 2-510. Misuse of Official Information

(a) Prohibition

- (1) A City Employee or City Official shall not misuse information to which he or she has access by virtue of his or her office or employment and that has not been made public, and shall not:
 - (A) acquire, attempt to acquire or aid another to acquire or attempt to acquire a pecuniary interest in any property, transaction, or enterprise that may be affected by the information;
 - (B) speculate or aid another to speculate on the basis of the information; or
 - (C) as a City Official or City Employee coerce another into suppressing or failing to report that information to a law enforcement agency.
- (2) A City Employee or City Official shall not with intent to obtain a benefit or with intent to harm or defraud another, disclose or use information for a nongovernmental purpose that:
 - (A) the City Official or City Employee has access to by means of his office or employment; and
 - (B) has not been made public.

In this section, “information that has not been made public” means any information to which the public does not generally have access, and/or that is prohibited from disclosure under Chapter 552, Government Code.

SECTION 2-511. Abuse of Official Capacity

(a) Prohibition:

- (1) A City Official or City Employee commits an offense if, with intent to obtain a benefit or with intent to harm or defraud another, he intentionally or knowingly:
 - (A) violates a law relating to the City Official's or City Employee's office or employment; or
 - (B) misuses City property, services, personnel, or any other thing of value belonging to the City that has come into the City Official's or City Employee's custody or possession by virtue of the City Official's or City Employee's office or employment.

(b) Exceptions:

- (1) A discount or award given for travel, such as frequent flyer miles, rental car or hotel discounts, or food coupons, are not things of value belonging to the City for purposes of this Section due to the administrative difficulty and cost involved in recapturing the discount or award for the City.

SECTION 2-512. Official Oppression

(a) Prohibition:

- (1) A City Official or City Employee acting under color of his office or employment commits an offense if he:
 - (A) intentionally subjects another person to mistreatment or to arrest, detention, search, seizure, dispossession, assessment, or lien that he knows is unlawful;
 - (B) intentionally denies or impedes another in the exercise or enjoyment of any right, privilege, power, or immunity, knowing the conduct is unlawful; or
 - (C) intentionally subjects another to sexual harassment.

- (b) For purposes of this Section, a City Official or City Employee acts under color of his office or employment if he acts or purports to act in an official capacity or takes advantage of such actual or purported activity.

- (c) In this Section, "sexual harassment" means unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, submission to which is made a term or condition of a person's exercise or enjoyment of any right, privilege, power or immunity, either explicitly or implicitly.

Section 2-513. Ethics Review Commission

- (a) There is hereby created an Ethics Review Commission (the “Commission”) an advisory commission having jurisdiction over ethics complaints as described in this Article involving City Officials. All ethics complaints against a City Employee who is not a City Official as defined in Section 2-501 must be filed in the manner prescribed in Chapter 7 of the City of Murphy Personnel Policies and Procedures Manual, as may be amended from time to time.
 - (b) The Commission is to be composed of five (5) members each serving a two (2) year term. The City Council shall appoint each member (a “Commissioner”) to the Commission. If a vacancy occurs on the Commission, the City Council shall appoint a person to fill the unexpired term. Each Commissioner shall take an oath of office comparable to that taken by Council members. Commissioners shall serve without compensation, but shall be eligible to be reimbursed for actual expenses in accordance with the City’s reimbursement policy.
- (1) Terms of Commissioners. Beginning January 1, 2013, the Commission shall be comprised of five (5) members each serving a two (2) year term. Thereafter, all members’ terms shall be two (2) years appointed to a term commencing in January of odd-numbered years. The Council may, at its discretion, extend the terms of the outgoing Commissioners for up to one hundred and eighty (180) days in order to resolve any pending complaints. The Commission members shall serve at the pleasure of the City Council and may be removed at the discretion of the City Council. Any Commissioner who misses three (3) consecutive meetings within a twelve (12) month time period or one-third (1/3) of all regular meetings shall be deemed to have automatically vacated his/her position on the Commission. Any Commissioner who applied for and received an excused absence from the Commission chairperson prior to the meeting(s) at issue shall not be considered absent for purposes of this Subsection. Any Commissioner who no longer resides within the corporate boundaries of the City is deemed to have automatically vacated his/her position on the Commission. A Commissioner appointed to serve on the Ethics Commission is not eligible to serve as an appointed official on another City board or commission, including, but not limited to, any development districts until the term has ended.
 - (2) Commission Officers; quorum. From among its members the Commission shall elect its officers, those being the Chairperson, Vice-Chairperson, and Secretary. Officers shall be elected for terms of one (1) year. The Chairperson shall preside over all meetings and may vote. If the Chairperson fails or refuses to act, the Vice-Chairperson shall perform the duties of the Chairperson. If the Chairperson and Vice-Chairperson are absent, any Commissioner may be appointed by the remaining members of the Commission to preside over the meeting. Three (3) or more Commissioners present at a meeting shall constitute a quorum, but no action of the Commission shall be of any force or effect unless it is adopted by the favorable votes of three (3) or more of its members.

- (3) Meetings. The Commission shall have such meetings as may be necessary to fulfill its responsibilities. The Commission shall meet at least once a year. The date of the annual meeting shall be in September as set by the Commission. The Chairperson or any two (2) members of the Commission may call a meeting provided that reasonable notice is given to each Commissioner and written notice is posted in accordance with the provisions of the Texas Open Meetings Act. The Commission shall comply with the provisions of the Texas Open Meetings Act when conducting any meetings and/or hearings under this Article.
- (4) Qualifications.
- (A) Commissioners must be Qualified Voters who are residents of the City of Murphy.
 - (B) No Commissioner may be a City Official, a City Employee, an Appointed Board or Commission member or a Family Member of a City Official or City Employee.
 - (C) Commissioners shall maintain objectivity and be free of conflicts of interest in discharging their duties. Commissioners shall be independent in fact and appearance when hearing matters brought before the Commission. When a Commissioner has any reason to believe that he or she cannot be impartial, intellectually honest and free of conflicts of interest in discharging any of the duties of the Commission, such Commissioner shall disclose the facts and circumstances which create the conflict and shall not vote or otherwise participate in consideration of the matter.
 - (D) The Commission shall have the authority to review and investigate complaints filed in accordance with this Article and issue a written finding of the Commission's determination when appropriate.
 - (E) Service on the Commission does not preclude a member from filing a complaint with the Commission. The Commission member filing the complaint must recuse himself/herself from the Commission procedure.
 - (F) The Commission may make recommendations to the City Council regarding revisions and changes to this Ordinance.
 - (G) The Commission may seek any necessary assistance or resources from the City Council and City Manager regarding support needed to carry out the Commission's duties.
 - (H) The Commission shall determine its rules and procedures which shall be submitted in writing and recommended for approval of the Council. The Commission shall establish, amend and rescind its procedures and maintain

proper records of its proceedings and its opinions, subject to City Council approval.

- (I) The Commission shall have the power to investigate, request, and gather evidence necessary to determine if a violation has occurred. The Commission must request access to employees through the City Manager prior to interviewing an employee as a possible witness in a complaint. The Commission shall have the power to enforce the provisions of this Ordinance, including recommending to the City Council the prosecution of alleged violators. Nothing in this Article shall be construed, however, to prevent complainants, including the City, from instituting direct legal action on their own behalf through the appropriate judicial authority.
- (J) The Commission shall receive from the City such administrative support as reasonably necessary to carry out the duties of the Commission and shall assist the Commission with maintenance of its records in compliance with the City's records retention schedule.

Section 2-514. Complaint Process

(a) Filing

- (1) Any City Official, City Employee, or Qualified Voter of the City who believes that there has been a violation of this Ordinance may file a sworn complaint. A complaint alleging a violation of this Ordinance must meet the requirements herein and must be filed with the City Secretary. A complaint alleging a violation of this Article by the City Attorney must also be filed with the persons named in Section 2-515(f). A complaint must be filed within six (6) months from the date of the alleged violation. Please refer to Section 2-515 City Attorney (c).
- (2) Required Contents of a Complaint. A complaint must be in writing, filed on the official complaint form approved by the City, under oath and must set forth in simple, concise, and direct statements the following:
 - (A) The name of the complainant;
 - (B) The street or mailing address and the telephone number of the complainant;
 - (C) The name of the person who allegedly committed the violation;
 - (D) The position or title of the person who allegedly committed the violation;
 - (E) The nature of the alleged violation, including, if possible, the specific rule or provision of this Article alleged to have been violated;

(F) A statement of the facts constituting the alleged violation and the dates on which or period of time in which the alleged violation occurred; and must contain the following:

- (i) Documents or other material available to the complainant relevant to the allegation;
- (ii) A list of all documents or other material relevant to the allegation and available to the complainant, but that are not in the possession of the complainant, including the location of the documents; if known, and
- (iii) A list of all documents or other material relevant to the allegation, but unavailable to the complainant, including the location of the documents, if known.

(G) If the complaint is based on information and belief, the complaint shall state the source and basis of the information and belief.

(3) The complaint must be accompanied by an affidavit stating that the information contained in the complaint is either true and correct or that the complainant has good reason to believe and does believe that the facts alleged constitute a violation of this Ordinance.

(4) Upon request, the City Secretary shall provide information to persons about the requirements of a complaint and the process for filing a complaint.

(b) Confidentiality and Ex Parte Communications

(1) No City Official or City Employee may reveal information relating to the filing or processing of a complaint except as required for the performance of official duties.

(2) All documents relating to a pending complaint are confidential, unless they are required to be disclosed under the Texas Public Information Act (Tex. Gov. Code Ch. 552).

(3) After a complaint has been filed, and during the consideration of a complaint by the Commission, a member of the Commission may not communicate directly or indirectly with any party or person about any issue of fact or law regarding the complaint, except at a meeting of the Commission. This provision does not prevent a member of the Commission from consulting with the City Attorney, or its independent legal counsel selected by the City Council regarding procedural and legal issues.

(4) City Council approval shall be required for legal fees, cost, and related expenses of \$5,000 or more.

(c) Notification

- (1) A copy of a complaint shall be promptly forwarded by the City Secretary to the City Attorney and to the person charged in the complaint.
- (2) The person alleged in the complaint to have violated this Article shall be provided with a copy of this Code of Ethics and informed that:
 - (A) Within fourteen (14) days of receipt of the complaint, a sworn response must be filed with the City Secretary;
 - (B) Failure to file a response does not preclude the City Attorney from processing the complaint.
- (3) City Officials and City Employees have a duty to cooperate with the City Attorney, pursuant to this Section. All requests for access to City Employees throughout the course of an investigation shall be submitted to the City Manager in writing.
- (4) All members of the Commission shall receive copies of the complaint, any background documentation, and any responses at least seven (7) days before a hearing on the matter.

Section 2-515. Role of the City Attorney

- (a) The City Attorney serves as legal counsel to the Ethics Review Commission. When complaints are filed against members of the City Council, the City Manager, or the City Attorney, independent legal counsel may be utilized to advise the Commission and take part in its proceedings, subject to approval of the fee arrangement by the City Council.
- (b) The City Attorney serves as Ethics Advisor to City Officials. As Ethics Advisor, the City Attorney is available to respond to inquiries relating to the Ethics Ordinance (this Article) and may render advisory opinions on potential conflicts of interest or violation of this section at the request of a City Official or City Employee. The advisory opinion in any subsequent charges concerning the matter may be used as a defense to an alleged violation of this section unless material facts were omitted or misstated by the person requesting the opinion.
- (c) The City Attorney shall receive all sworn complaints and, if found sufficient, shall provide a copy and a preliminary review of the complaint to the Commission for action. The City Attorney shall, within fifteen (15) days of receiving the complaint and the response of the accused person, if any, provide a written report to the Commission. The report shall state whether, in the City Attorney's opinion, the written complaint: (1) was filed timely; (2) alleges misconduct by a person whose conduct is regulated under this Code; (3) alleges the occurrence of conduct that might reasonably constitute a violation of this Article; and (4) is signed and sworn to by the person filing the complaint.
- (d) The City Attorney shall also advise the Commission whether the City Attorney has issued a written opinion or opinions to the accused person that relate to the conduct at issue and

whether, in the City Attorney's opinion, the conduct was undertaken in good faith reliance on a written opinion that concluded the conduct was not in violation of this Article. Where the City Attorney concludes that the conduct was undertaken in good faith reliance on a written opinion, the City Attorney shall recommend that the Commission dismiss the complaint following the preliminary hearing.

- (e) The City Attorney's recommendation that the Commission conduct further proceedings does not mean that any of the allegations of the complaint are true or false or that any City Official or City Employee has violated or not violated this Article.
- (f) If a complainant alleges a violation by the City Attorney, the complaint must be filed with the City Secretary, and be forwarded to the Municipal Judge, with a copy to the Mayor and the City Manager. The Municipal Judge will follow the procedures in this Section.

Section 2-516. Hearing Process

(a) Preliminary Hearing

- (1) After the City Attorney, or independent legal counsel selected by the Commission as set out in Sec. 2-515(a) above, has found that a complaint is not defective as to form nor is insufficient (for example, because it does not allege the existence of reasonable grounds to believe that a violation of this Ordinance has occurred), the Commission, as soon as reasonably possible, but in no event later than sixty (60) days after receiving a complaint, shall conduct a Preliminary Hearing. The purpose of the Preliminary Hearing is to make an initial determination as to whether or not a violation of this Ordinance has occurred.
- (2) The complainant and the City Official named in the complaint have the right of representation by legal counsel.
 - (B) The City may pay for legal fees, cost, and related expenses for representation of the City Official, as decided by the City Council. .
- (3) Statements at a Preliminary Hearing shall be under oath, but there shall be no cross examination or requests for persons or evidence issued for the hearing. The Commission members may ask open-ended questions. No public comments are allowed in a preliminary hearing.
- (4) The person filing a complaint shall state the alleged violation and describe in narrative form the testimony and other evidence which are presented to prove the alleged violation as stated in the written complaint.
- (5) The City Official named in the complaint shall have the opportunity to respond but is not required to attend or make any statement. The City Official may describe in narrative form the testimony and other evidence presented to disprove the alleged violation. If the

City Official agrees that a violation has occurred, the Commission may consider the appropriate sanction.

- (6) Only members of the Commission may question the complainant, the independent counsel for the Commission, or the City Official named in the complaint.
- (7) At the conclusion of the Preliminary Hearing one of the following actions shall be taken:
 - (A) If the Commission does not determine that there are reasonable grounds to believe that a violation of this Article has occurred, the complaint shall be dismissed.
 - (B) If the Commission determines that there are reasonable grounds to believe that a violation of this Article has occurred, it shall schedule a final hearing.
 - (C) If the City Official has agreed that a violation has occurred, the Commission may proceed to determine the appropriate sanction without the necessity of a final hearing and state its findings pursuant to Subsection (b)(4) below.

(b) Final Hearing

- (1) Except as provided by Subsection 2-516(a)(7)(C) above, a final hearing shall be held as expeditiously as possible following the determination by the Commission that there are reasonable grounds to believe that a violation of this Article has occurred, but in no event shall it be held more than thirty (30) days after said determination. The Commission may grant up to two postponements, not to exceed fifteen (15) days each, upon the request of the City Official named in the complaint.
- (2) If a complaint proceeds to a final hearing, the Commission may request witnesses to attend and testify, administer oaths and affirmations, take evidence and request the production of books, papers, records, or other evidence needed for the performance of the Commission's duties or exercise of its powers, including its powers of investigation. No public comments are allowed during the final hearing.
- (3) The complainant and the City Official named in the complaint have the right of representation by legal counsel.
- (4) The issue at a final hearing is whether a violation of this Article has occurred. The Commission shall make its determination based on the preponderance of the evidence in the record. All witnesses shall make their statements under oath. Witnesses may be cross-examined. If the Commission determines that a violation has occurred, it shall state its findings in writing, identify the particular provision(s) of this Article which have been violated, and within five (5) working days deliver a copy of the findings to the complainant, the person accused in the complaint, and the City Secretary. The City

Secretary shall deliver a copy of the findings to the Council, the City Manager and the City Attorney.

Section 2-517. Sanctions for Violations

- (a) If the Commission determines that a violation of this Article has occurred, it shall consider appropriate sanctions. The Commission may receive additional testimony or statements before considering sanctions, but is not required to do so.
- (b) If the Commission determines that a violation has occurred, it may impose the following sanctions.
 - (1) A letter of notification is an appropriate sanction when the violation is clearly unintentional, or when the conduct of the person complained against was done in reliance upon an opinion of the City Attorney. The letter of notification shall advise the City Official of any steps to be taken to avoid future violations.
 - (2) A letter of admonition is the appropriate sanction when the Commission finds the violation is minor and/or may have been unintentional, but calls for a more substantial response than a letter of notification.
 - (3) A letter of reprimand is the appropriate sanction when the Commission finds a serious violation has been committed intentionally or knowingly or through disregard of this Ordinance. A written reprimand directed to a City Official who also serves as a City Employee shall be included in the employee's personnel file.
 - (4) A letter of censure is the appropriate sanction when the Commission finds that a serious violation has occurred and/or more than one serious violation or repeated serious violations of this Article have been committed by a City Official.
- (c) Copies of all sanction letters issued by the Commission under this section shall be sent to the City Council.
- (d) In addition, if the violation is found by the Commission to be done willfully and the seriousness of the violation warrants, the Commission may recommend to the City Council the suspension or removal from office of any official serving in a City-appointed position.
- (e) Except with regard to violations of Chapters 171 and 176 of the Texas Local Government Code, violations of the Penal Code, or violations of the Government Code, a violation by any City Official or City Employee as designated herein of one or more of the provisions of this Article shall not be deemed to be a Class C misdemeanor under the laws of the State of Texas.

Section 2-518. Distribution and Proof of Compliance

The City Secretary shall provide each new City Official designated in this Article, a copy of the text of this Ordinance; Chapter 171 and Chapter 176 of the Texas Local Government Code pertaining to conflicts of interest; the Texas Open Meetings Act (Tex.Gov. Code Ch. 551); the Texas Public Information Act (Tex. Gov. Code Ch. 552) Chapter 573 of the Texas Government Code; Texas Penal Code Sections 36.02, 37.10, 39.02, 39.03 and 39.06 (collectively referred to in this section as the “Ethics Statutes”) with a signature receipt of all said documents.

EXHIBIT “1”

Consanguinity and Affinity

Affinity Kinship (Marriage) Relationships

1 st Degree	2 nd Degree
Father-in-Law	Spouse's Grandfather
Mother-in-Law	Spouse's Grandmother
Son-in-Law	Spouse's Brother (Brother-in-Law)
Daughter-in-Law	Spouse's Sister (Sister-in-Law)
Spouse	Spouse's Grandson
	Spouse's Granddaughter
	Brother's Spouse (Sister-in-Law)
	Sister's Spouse (Brother-in-Law)

Consanguinity (Blood) Relationships

1 st Degree	2 nd Degree	3 rd Degree
Father	Grandfather	Great-Grandfather
Mother	Grandmother	Great-Grandmother
Son	Brother	Nephew
Daughter	Sister	Niece
	Grandson	Great-Grandson
	Granddaughter	Great-Granddaughter
		Uncle
		Aunt

ORDINANCE NO. 13--07-

AN ORDINANCE OF THE CITY OF MURPHY, TEXAS, AMENDING CHAPTER 2 OF THE CITY OF MURPHY'S CODE OF ORDINANCES, ~~TO ESTABLISH~~ AAMENDING ARTICLE IX CODE OF ETHICS FOR CITY OFFICIALS AND EMPLOYEES, INCLUDING REGULATIONS RELATED TO STANDARDS OF CONDUCT; GIFTS AND HONORARIUMS; CONFLICTS OF INTEREST; CONFLICT DISCLOSURE STATEMENTS; INTEREST IN PROPERTY ACQUIRED WITH PUBLIC FUNDS; NEPOTISM; BRIBERY; CITY RECORDS; MISUSE OF OFFICIAL INFORMATION; ABUSE OF OFFICIAL CAPACITY; AND OFFICIAL OPPRESSION; CREATING AN ETHICS REVIEW COMMISSION; PROVIDING A COMPLAINT PROCESS FOR VIOLATIONS OF THE CODE OF ETHICS; PRESCRIBING THE ROLE OF THE CITY ATTORNEY IN THE COMPLAINT PROCESS; PROVIDING A HEARING PROCESS; PROVIDING SANCTIONS FOR VIOLATIONS OF THE CODE OF ETHICS; AND PROVIDING FOR DISTRIBUTION AND PROOF OF COMPLIANCE; AND PROVIDING FOR AN EFFECTIVE DATE, PROPER NOTICE AND MEETING; SEVERABILITY CLAUSE AND REPEALER CLAUSE.

WHEREAS, statutory provisions governing the ethical conduct of public officials and employees are found in various codes including the Texas Local Government Code, the Texas Government Code and the Texas Penal Code; and

WHEREAS, the City Council finds it desirable and necessary to adopt a comprehensive ethics ordinance that sets out the ~~statutory~~ parameters relating to the conduct of public officials and employees in one easily accessible location; and

WHEREAS, the City Council believes that a position in government is a position of public trust that demands a high standard of behavior, and

WHEREAS, each employee and official of the City of Murphy should uphold the Constitution, laws and regulations of the United States and the State of Texas and the Charter and ordinances of the City of Murphy; and

WHEREAS, the City of Murphy seeks to promote personal integrity, honesty and ethical conduct in all activities undertaken by City Officials and employees through the adoption of this Ordinance; and

WHEREAS, the City of Murphy seeks to inspire public confidence and trust in City of Murphy officials and employees through the adoption of this "Code of Ethics";

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

SECTION 1. RECITALS

The City Council hereby finds that the statements set forth in the recitals of this Ordinance are true and correct, and the City Council hereby incorporates such recitals as part of this Ordinance.

SECTION 2. ADOPTION OF CODE OF ETHICS

Chapter 2, Administration, of the Code of Ordinances of the City of Murphy is hereby amended by amending Article IX, Code of Ethics:

Article IX, Code of Ethics attached hereto as Exhibit “A” and incorporated herein for all purposes is hereby enacted.

SECTION 3. Effective Date

This Ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

SECTION 4. Proper Notice and Meeting

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code and as required by Chapter 552 of the Texas Local Government Code.

SECTION 5. Severability

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.

SECTION 6. Repealer

The provisions of this Ordinance shall be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent or in conflict with any of the provisions of this Ordinance are hereby expressly repealed to the extent that such inconsistency is apparent.

PASSED AND APPROVED by the City Council of the City of Murphy, Texas this ____
day of _____, 2013.

Eric Barna, Mayor
City of Murphy

ATTEST:

Kristi Gilbert, City Secretary
City of Murphy

APPROVED AS TO FORM:

Wm. Andrew Messer, City Attorney
City of Murphy

EXHIBIT “A”

ARTICLE IX CODE OF ETHICS

Section 2-501. Definitions.

The terms used in this Article shall have the following meanings:

Business Entity means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or any other entity recognized by law.

Candidate. This term has the meaning assigned by section 251.001, Election Code.

City Council means the mayor and six (6) council members elected to serve as the governing body of the City.

City Employee means any person employed by the City, including those individuals that are employed on a part-time or temporary basis and employees of any corporation created by the City, but such term shall not be extended to apply to any independent contractor.

City Attorney means the City Attorney appointed by the City Council pursuant to the City Charter.

City Engineer means the City Engineer appointed by the City Manager.

City Manager means the City Manager appointed by the City Council pursuant to the City Charter.

City Official means every member of the City Council, the City Manager, City Secretary, the City Attorney, the Municipal Judge, the City Engineer and all members of any board, commission, or committee appointed by the City Council, including the board members of the Murphy Municipal Development District (MDD), the Murphy Economic Development Corporation (4A) (“MEDC”) and the 4B Murphy Community Development Corporation (“MCDC”), and the executive directors of the MEDC and the MCDC.

City Secretary means the City Secretary appointed by the City Council pursuant to the City Charter.

Confidential Information means any information that a City Official would be privy to because of the official’s position but otherwise is not available to the public under the provisions of the Texas Public Information Act (Tex. Gov’t Code Ch. 552).

Conflict Disclosure Statement means the disclosure statement form adopted by the Texas Ethics Commission required by Chapter 176 of the Local Government Code.

Conflict of Interest Questionnaire means the conflicts of interest form adopted by the Texas Ethics Commission required by Chapter 176 of the Local Government Code.

Economic Benefit means any taxable income or any money, real or personal property, contract rights, sale, lease, option, credit, loan, discount, service, or other tangible or intangible thing of value, whether similar or dissimilar to those enumerated.

Economic Interest means a legal or equitable interest in real or personal property or a fiduciary obligation to such property or contractual right in such property that is more than Two Thousand Five Hundred Dollars (\$2500.00). Service by a City Official or City Employee as an officer, director, advisor, or otherwise active participant in an educational, religious, charitable, fraternal, or civic organization does not create an Economic Interest in the property of that organization. Ownership of an interest in a mutual or common investment fund that holds securities or other assets is not an Economic Interest in the securities or other assets unless the City Official or City Employee participates in the management of the fund. A City Official or City Employee does not have an Economic Interest in a matter if the economic impact on the City Official or City Employee is indistinguishable from the impact on the public or on the particular group affected by the matter.

Family Member means a person related to a City Official in the first degree of consanguinity or affinity, as described by Subchapter B, Chapter 573 of the Government Code, except that the term does not include a person who is considered to be related to a City Official by affinity only as described by Section 573.024(b) of the Government Code. This definition would include children, spouses, parents, step-children and parents-in-law or children-in-law, except that relationships by affinity would end upon divorce.

Gift means a favor, hospitality, or economic benefit other than compensation but which does not include campaign contributions reported as required by state law, gifts received from a relative if given on account of kinship, or any value received by will, intestate succession, or as a distribution from an *inter vivos* or testamentary trust.

Municipal Judge means the Municipal Judge or alternate Municipal Judge appointed by the City Council pursuant to the City Charter.

Permissible Gift means a thing of nominal value given (not to exceed \$100.00 in value), and not given to request a specific favor, special treatment, or influence a City Official or City Employee. Marketing advertisement items of nominal value, or certificates or plaques having no intrinsic value, are considered permissible gifts or gratuities. The purchase of meals of nominal value, provided there is a rotation of purchasing, is considered a permissible gift. The provision of training/education programs of a general nature is considered a permissible gift or gratuity. Items that exceed \$100.00 in value, if divided (e.g. holiday food or sporting event tickets distributed by lot) or donated for a City-sponsored function, are considered permissible gifts and/or gratuities.

Qualified Voter means a person who meets the qualifications of Section 11.002 of the Texas Election Code to vote in City elections.

Second Degree by Affinity is defined by Subchapter B., Chapter 573 of the Government Code and examples of such relationship are set out in the Chart attached hereto as Exhibit “1.”

Substantial Interest means the interest that a City Official and/or a Family Member has in a business or business entity or in real property as described below:

- (a) The City Official and/or a Family Member owns ten percent (10%) or more of the voting stock or shares of the business entity; or
- (b) The City Official and/or a Family Member owns ten percent (10%) or more or \$15,000.00 or more of the fair market value of the business entity; or
- (c) Funds received by the City Official and/or a Family Member from the business entity exceed ten percent (10%) of the person's gross income for the previous year;
- (d) The City Official and/or Family Member has a Substantial Interest in real property if the interest is an equitable or legal interest with a fair market value of \$2,500 or more.

Third Degree by Consanguinity is defined by Subchapter B., Chapter 573 of the Government Code and examples of such relationship are set out in the Chart attached hereto as Exhibit “1.”

Section 2-502. Standards of Conduct

(a) General Provisions

- (1) No City Official or City Employee may disclose any Confidential Information gained through the City Official's or City Employee's office or position concerning property, operations, policies, or affairs of the City, or use such Confidential Information to advance any Economic Interest of the City Official or City Employee, confer any Economic Benefit to the City Official or City Employee, or their Family Member. This Subsection shall not preclude disclosure of such Confidential Information in connection with any investigation or proceeding regarding whether there has been a violation of this Code of Ethics to any investigatory, administrative or judicial authority.
- (2) No City Official or City Employee may use his or her office or position or City owned facilities, equipment, supplies, or resources of the City to advance any Economic Interest of the City Official or City Employee, confer any Economic Benefit to the City Official or City Employee, for a political campaign of the City Official or City Employee, or for any of the City Official's or City Employee's Family Members. Notwithstanding the foregoing, City owned facilities, equipment, supplies or resources may be used by City Officials or City Employees to the extent such uses are customary, incidental or lawfully available to the public.

- (3) No City Official shall knowingly represent, directly or indirectly, any person, group or business entity:
 - (A) Before the City Council or the board, commission or committee of which he or she is a member;
 - (B) Before a board or commission which has appellate jurisdiction over the board, commission or committee of which he or she is a member;
 - (C) In any action or proceeding against the interests of the City or in any litigation in which the City or any department, agency, board, commission or committee is a party; or
 - (C) In any action or proceeding in the municipal court(s) of the City which was instituted by a City Official or City Employee in the course of his or her official duties, or a criminal proceeding in which any City Official or City Employee is a material witness for the prosecution.
- (4) The restrictions contained in Subsection (3) do not prohibit the following:
 - (A) A City Official, or his or her spouse, appearing before the City Council or a City board, commission or committee to represent himself or herself in a matter affecting his or her property; provided, however, that no such person, or his or her spouse, shall personally appear before the City Council, board, commission or committee of which he or she is a member and must submit their case through an authorized representative;
 - (B) A City Official or City Employee appearing before the City Council or a City board, commission or committee to address employment matters;
- (5) No City Official may act as surety for any person or business entity that has work, business, or a contract with the City, or act as a surety on any bond required by the City for a City Official.
- (6) No City Official or City employee shall default or refuse to answer any questions pertinent to the proceedings before the City Council, or fail or refuse to obey any subpoena, or to produce any books, papers or other material issued by the City Council pursuant to Sec. 3.17 of the City Charter.
- (7) No City Official or City Employee shall deny, abridge or compromise equality of rights under state and federal law with respect to appointment to or removal of any appointed position with the City as prohibited by Sec. 14.02 of the City Charter.
- (8) No City Official or City Employee who seeks appointment or promotion with respect to any City appointed position shall, directly or indirectly, give, render or pay any money,

service or other valuable thing to any person for, or in connection with, his or her test, appointment or promotion with respect to any City position as prohibited by Sec. 14.03 of the City Charter.

- (9) No City Official or City Employee shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification, appointment or promotion with respect to any City position, or attempt to commit any fraud preventing the impartial execution of the personnel provisions, rules and regulations of the City Charter as prohibited by Sec. 14.04 of the City Charter.
- (10) No City Official, who holds any compensated, non-elective City position, or City Employee shall use their official title or position with the City to solicit any contribution or endorse the candidacy of any Candidate for public office in the City as prohibited by Sec. 14.05 of the City Charter. Any such person shall have the right to exercise his/her legal rights to ~~participate campaign or solicit~~ participate in the election process when he/she is not on duty, in a City building, City provided uniform or attire, or using a City vehicle or equipment.
- (11) Members of the City Council shall not in any way dictate the appointment, removal or discipline of the City Officials or City Employees appointed by the City Manager or any of the City Manager's subordinates as prohibited by Sec. 3.08(2) of the Charter. Notwithstanding the foregoing, the City Council, at a meeting called for that purpose, may express its views and fully and freely discuss with the City Manager anything pertaining to the appointment and removal of such City Officials and City Employees.
- (12) Except for the purpose of inquiries and investigations provided by the Charter, the City Council shall interact with City Officials and City Employees who are subject to the direction and supervision of the City Manager in accordance with the Governance Policy adopted by the City Council. The City Council shall not give orders to any such City Official or City Employee, either publicly or privately, except as otherwise provided in the Charter.

SECTION 2-503. Gifts and Honorariums

(a) Prohibition:

- (1) No City Official or City Employee may solicit or accept any Gift, favor or privilege, that is offered or given with the intention of influencing the judgment or discretion of the City Official or City Employee; or given in consideration of the favorable exercise of the City Official's or City Employee's judgment or discretion in the past.
- (2) A City Employee performing regulatory functions or conducting inspections or investigations shall not solicit, accept, or agree to accept any benefit from a person the

City Employee knows to be subject to regulation, inspection, or investigation by the City Employee or the City.

- (3) A City Employee having custody of prisoners shall not solicit, accept, or agree to accept any benefit from a person the City Employees knows to be in his custody or the custody of the City.
- (4) A City Employee or a City Official who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions of the City shall not solicit, accept, or agree to accept any benefit from a person the City Employee or City official knows is interested in or likely to become interested in any contract, purchase, payment, claim or transaction involving the exercise of his discretion.
- (5) A City Employee or City Official who has judicial or administrative authority, who is employed by or in a tribunal having judicial or administrative authority, or who participates in the enforcement of the tribunal's decision shall not solicit, accept, or agree to accept any Economic Benefit from a person the City Employee or City Official knows is interested in or likely to become interested in any matter before the City Employee or City Official or tribunal.
- (6) A City Official is prohibited from soliciting, accepting, or agreeing to accept an honorarium in consideration for services that the City Official would not have been requested to provide but for the City Official's official position or duties.

(b) Donation of Unsolicited Gift

A City Employee or City Official who receives an unsolicited Gift that the City Employee or City Official is prohibited from accepting under this section may donate the benefit to a governmental entity that has the authority to accept the gift or may donate the benefit to a recognized tax-exempt charitable organization formed for educational, religious, or scientific purposes.

(c) Exceptions

The prohibitions set out in this section do not apply to:

- (1) a fee prescribed by law to be received by a City Employee or City Official or any other benefit to which the City Employee or City Official is lawfully entitled or for which he gives legitimate consideration in a capacity other than as a City Employee or City Official;
- (2) a Gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient; or

- (3) a benefit to a City Employee or City Official required to file a statement under Chapter 572, Government Code, or a report under Title 15, Election Code, that is derived from a function in honor or appreciation of the recipient if:
 - (A) the benefit and the source of any benefit in excess of \$50 is reported in the statement; and
 - (B) the benefit is used solely to defray the expenses that accrue in the performance of duties or activities in connection with the office which are nonreimbursable by the state or the City;
- (4) a political contribution as defined by Title 15, Election Code;
- (5) a Permissible Gift as defined in this Ordinance, excluding cash or a negotiable instrument as described by Section 3.104, Business & Commerce Code;
- (6) an item issued by a governmental entity that allows the use of property or facilities owned, leased, or operated by the governmental entity;
- (7) food, lodging, transportation, or entertainment accepted as a guest and, if the donee^{or} is required by law to report those items, reported by the donee^{or} in accordance with that law;
- (8) any Gift or benefit otherwise excepted under section 36.10, Penal Code; or
- (9) This section does not prohibit a City Official from accepting (1) transportation expenses, (2) lodging expenses or (3) meals in connection with a conference or similar event in which the City Official renders services, such as addressing an audience or engaging in a seminar to the extent that those services are more than merely perfunctory.

SECTION 2-504. Conflict of Interest; Recusal.

- (a) Conflict of Interest. No City Official may vote on or participate in any decision-making process on a matter concerning property or a business entity if the official has a Substantial Interest in the real property or business entity.
- (b) Recusal.
 - (1) A City Official shall disclose the existence of any Substantial Interest in any business entity or real property involved in any decision pending before such City Official, or the body of which he or she is a member. To comply with this Subsection, a City Official shall, prior to any discussion or determination of the matter, either file an affidavit of disclosure as required by Local Government Code § 171.004 or, if not so required, shall publicly disclose in the official records of the City to the City Secretary

the nature of the interest. To further comply with this Subsection, a City Official shall notify the City Manager, or if the City Official is the City Manager, shall notify the City Secretary, in writing of the nature of any Substantial Interest he or she may have in a Business Entity or real property which would be affected by an exercise of discretionary authority by the City Official and the City Manager or City Secretary shall assign the matter to another employee. In disclosing a Substantial Interest in a Business Entity, a City Official shall not be required to disclose the dollar amount of any income that he or she receives from the Business Entity.

- (2) The City Council shall take a separate vote on any budget item specifically dedicated to a contract with a Business Entity in which a member of the Council has a Substantial Interest. The member of the City Council that has the Substantial Interest may not participate in the separate vote.
- (3) In addition to complying with the requirements of Chapter 171 of the Local Government Code, to avoid the appearance and risk of impropriety, a City Official should abstain from participation in, discussion of, and any vote on a matter involving a person or Business Entity that the official knows is likely to affect the Economic Interest of, or confer an Economic Benefit on:
 - (i) The City Official's parent, child, step-child, spouse, or other family member within the second degree of consanguinity or affinity as defined by Chapter 573 of the Government Code, or a client of the City Official;
 - (ii) An employer of the City Official, the City Official's parent, child, step-child, or spouse;
 - (iii) A Business Entity for which the City Official serves as an officer or director or serves in any policy-making position;
 - (iv) A person or Business Entity from whom, within the past twelve months, the City Official or the official's spouse, directly or indirectly, received an Economic Benefit; or
 - (v) A person or Business Entity from whom, within the past twelve months, the City Official or the official's spouse, directly or indirectly, engaged in negotiations pertaining to business opportunities.

SECTION 2-505. Conflict Disclosure Statements.

- (a) A City Official shall file a sworn Conflicts Disclosure Statement with the City Secretary whenever a City Official or a Family Member (i) is receiving taxable income from an employment or other business relationship with a person or Business Entity who has contracted with the City for the sale or purchase of real property, goods or services or that is

considering contracting with the City for the sale or purchase of real property, goods or services that exceeds \$2,500.00 (not including investment income) during the twelve (12) month period preceding the date that the City Official became aware of the contract, or (ii) has received Gifts with a value of more than \$250.00 during the twelve (12) month period preceding the date that the City Official became aware of the contract from a person or Business Entity that contracts with the City for the sale or purchase of real property, goods or services or that the City is considering doing business with such person or Business Entity. The City Official shall file the Conflicts Disclosure Statement with the City Secretary no later than 5:00 p.m. on the seventh business day after the date the City Official becomes aware of the facts that require the filing of the Statement.

- (b) A City Official commits an offense if the City Official knowingly fails to file the Conflicts Disclosure Statement. An offense under the above Subsection is a Class C misdemeanor.
- (c) The City Secretary shall accept and file any and all City Official Conflict Disclosure Statements and any Vendor Conflict of Interest Questionnaires.
- (d) The City Secretary shall maintain a list of City Officials and shall make that list available to the public and any person who may be required to file a Conflicts of Interest Questionnaire. The City Secretary shall maintain copies of the Conflict Disclosure Statements and Conflict Questionnaires on the City's ~~internet~~ website.
- (e) City Officials shall abstain from participation in, discussion of, and any vote on a matter involving a person or Business Entity, if, within the 12 months preceding the date of the vote, the City Official has filed, or should have filed, a Conflicts Disclosure Statement under Chapter 176 of the Local Government Code.

SECTION 2-506. Interest in Property Acquired with Public Funds

(a) Disclosure of Interest in Property

A City Official who has a legal or equitable interest in real property that is to be acquired with public funds shall file an affidavit within 10 days before the date on which the property is to be acquired by purchase or condemnation.

(b) Affidavit

The affidavit must:

- (1) State the name of the City Official;
- (2) State the City Official's office, public title, or job designation;
- (3) Fully describe the property;
- (4) Fully describe the nature, type, and amount of interest in the property, including the percentage of ownership interest;

- (5) State the date when the person acquired an interest in the property;
- (6) Include a verification as follows: "I swear that the information in this affidavit is personally known by me to be correct and contains the information required by Section 553.002, Government Code"; and
- (7) Contain an acknowledgement of the same type required for recording a deed in the deed records of the county.

The affidavit must be filed with the records administrator for the City ~~county clerk of the county in which the City Official resides and the county clerk of each county in which the property is located.~~

SECTION 2-507. Nepotism

(a) Prohibition:

- (1) A City Official may not appoint, confirm the appointment of, or vote for the appointment or confirmation of the appointment of an individual to a position that is to be directly or indirectly compensated from City funds or fees of office if:
 - (A) the individual is related to the City Official within the Third Degree by Consanguinity or the Second Degree by Affinity; or
 - (B) the City Official holds the appointment or confirmation authority as a member of a state or local Council, the legislature, or a court and the individual is related to another member of that Council, legislature, or court within the Third Degree by Consanguinity or the Second Degree by Affinity.
- (2) A City Official may not appoint, confirm the appointment of, or vote for the appointment or confirmation of the appointment of an individual to a position in which the individual's services are under the City Official's direction or control and that is to be compensated directly or indirectly from City funds or fees of office if:
 - (A) The individual is related to another City Official within the Third Degree by Consanguinity or the Second Degree by Affinity; and
 - (B) the appointment, confirmation of the appointment, or vote for appointment or confirmation of the appointment would be carried out in whole or partial consideration for the other City Official appointing, confirming the appointment, or voting for the appointment or confirmation of the appointment of an individual who is related to the first City Official within the Third Degree by Consanguinity or the Second Degree by Affinity.

(b) Exceptions

- (1) The prohibitions in Section 2-507 do not apply to:

- (A) an appointment to the office of a notary public or to the confirmation of that appointment;
 - (B) an appointment or employment of a personal attendant by a City Official for attendance on the City Official who, because of physical infirmities, is required to have a personal attendant; or
 - (C) any other appointment excepted under Chapter 573, Government Code.
- (2) The prohibition in Section 2-507 does not apply to an appointment, confirmation of an appointment, or vote for an appointment or confirmation of an appointment of an individual to a position if:
- (A) the individual is employed in the position immediately before the election or appointment of the City Official to whom the individual is related in a prohibited degree; and
 - (B) that prior employment of the individual has been continuous for at least six (6) months.
- (3) If, under Subsection (b)(2), an individual continues in a position, the City Official to whom the individual is related in a prohibited degree may not participate in any deliberation or vote on the appointment, reappointment, confirmation of the appointment or reappointment, employment, reemployment, change in status, compensation, or dismissal of the individual if that action applies only to the individual and is not taken regarding a bona fide class or category of employees.

SECTION 2-508. Bribery.

(a) Prohibition:

A City Official or City Employee shall not:

- (1) intentionally or knowingly offer, confer, or agree to confer on another person, or solicit, accept or agree to accept from another person:
 - (A) any benefit or consideration for the City Official's or City Employee's decision, vote, recommendation, or other exercise of official discretion as a City Official or City Employee;
 - (B) any benefit as consideration for the City Official's or City Employee's decision, vote, recommendation, or other exercise of official discretion in a judicial or administrative proceeding;

- (C) any benefit as consideration for a violation of a duty imposed by law on a City Official or City Employee; or
- (D) any benefit that is a political contribution as defined by Title 15, Election Code, or that is an expenditure made and reported in accordance with Chapter 305, Government Code, if the benefit was offered, conferred, solicited, accepted, or agreed to pursuant to an express agreement to take or withhold a specific exercise of official discretion if such exercise of official discretion would not have been taken or withheld but for the benefit; notwithstanding any rule of evidence or jury instruction allowing factual interference in the absence of certain evidence, direct evidence of the express agreement shall be required in any prosecution under this Subsection.

(b) No Defense

- (1) It is no defense to prosecution under this Section that a person whom the actor sought to influence was not qualified to act in the desired way whether because he had not yet assumed office or he lacked jurisdiction or for any other reason.
- (2) It is no defense to prosecution under this Section that the benefit is not offered or conferred or that the benefit is not solicited or accepted until after:
 - (A) the decision, opinion, recommendation, vote, or other exercise of discretion has occurred; or
 - (B) the City Official or City Employee ceases to be a public servant.

(c) Exceptions

- (1) It is an exception to the application of Subsections (a)(1)(A), (B) and (C) that the benefit is a political contribution as defined by Title 15, Election Code, or an expenditure made and reported in accordance with Chapter 305, Government Code.

SECTION 2-509. City Records

(a) Prohibition:

A City Official or City Employee shall not:

- (1) knowingly make a false entry in, or false alteration of, a City record;
- (2) make, present, or use any record, document, or thing with knowledge of its falsity and with intent that it be taken as a genuine City record;
- (3) intentionally destroy, conceal, remove, or otherwise impair the verity, legibility, or availability of a City record;

- (4) possess, sell, or offer to sell a City record or a blank City record form with intent that it be used unlawfully;
- (5) make, present, or use a City record with knowledge of its falsity; or
- (6) possess, sell, or offer to sell a City record or a blank City record form with knowledge that it was obtained unlawfully.

(b) Exception

It is an exception to the application of Subsection (a)(3) of this Section that the governmental record is destroyed pursuant to legal authorization or transferred under Section 441.204, Government Code. With regard to the destruction of a local government record, legal authorization includes compliance with the provisions of Subtitle C, Title 6, Local Government Code.

Section 2-510. Misuse of Official Information

(a) Prohibition

- (1) A City Employee or City Official shall not misuse information to which he or she has access by virtue of his or her office or employment and that has not been made public, and shall not:
 - (A) acquire, attempt to acquire or aid another to acquire or attempt to acquire a pecuniary interest in any property, transaction, or enterprise that may be affected by the information;
 - (B) speculate or aid another to speculate on the basis of the information; or
 - (C) as a City Official or City Employee coerce another into suppressing or failing to report that information to a law enforcement agency.
- (2) A City Employee or City Official shall not with intent to obtain a benefit or with intent to harm or defraud another, disclose or use information for a nongovernmental purpose that:
 - (A) the City Official or City Employee has access to by means of his office or employment; and
 - (B) has not been made public.

In this section, “information that has not been made public” means any information to which the public does not generally have access, and/or that is prohibited from disclosure under Chapter 552, Government Code.

SECTION 2-511. Abuse of Official Capacity

(a) Prohibition:

- (1) A City Official or City Employee commits an offense if, with intent to obtain a benefit or with intent to harm or defraud another, he intentionally or knowingly:
 - (A) violates a law relating to the City Official's or City Employee's office or employment; or
 - (B) misuses City property, services, personnel, or any other thing of value belonging to the City that has come into the City Official's or City Employee's custody or possession by virtue of the City Official's or City Employee's office or employment.

(b) Exceptions:

- (1) A discount or award given for travel, such as frequent flyer miles, rental car or hotel discounts, or food coupons, are not things of value belonging to the City for purposes of this Section due to the administrative difficulty and cost involved in recapturing the discount or award for the City.

SECTION 2-512. Official Oppression

(a) Prohibition:

- (1) A City Official or City Employee acting under color of his office or employment commits an offense if he:
 - (A) intentionally subjects another person to mistreatment or to arrest, detention, search, seizure, dispossession, assessment, or lien that he knows is unlawful;
 - (B) intentionally denies or impedes another in the exercise or enjoyment of any right, privilege, power, or immunity, knowing the conduct is unlawful; or
 - (C) intentionally subjects another to sexual harassment.

- (b) For purposes of this Section, a City Official or City Employee acts under color of his office or employment if he acts or purports to act in an official capacity or takes advantage of such actual or purported activity.

- (c) In this Section, "sexual harassment" means unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, submission to which is made a term or condition of a person's exercise or enjoyment of any right, privilege, power or immunity, either explicitly or implicitly.

Section 2-513. Ethics Review Commission

- (a) There is hereby created an Ethics Review Commission (the “Commission”) ~~is an advisory commission having jurisdiction over ethics complaints as described in this Article involving City Officials and City Employees.~~ All ethics complaints against a City Employee that who is not a ~~charter designated~~ City Official as defined in Section 2-501 must be filed in the manner prescribed in Chapter 7 of the City of Murphy Personnel Policies and Procedures Manual, as may be amended from time to time.
- (b) The Commission is to be composed of five (5) members each serving a two (2) year term. The City Council shall appoint each member (a “Commissioner”) to the Commission. If a vacancy occurs on the Commission, the City Council shall appoint a person to fill the unexpired term. Each Commissioner shall take an oath of office comparable to that taken by Council members. Commissioners shall serve without compensation, but shall be eligible to be reimbursed for actual expenses in accordance with the City’s reimbursement policy.
- (1) Terms of Commissioners. Beginning January 1, 2013, the Commission shall be comprised of five (5) members each serving a ~~single~~ two (2) year term. At the City Council meeting which creates the Commission, two (2) Commissioners shall be selected to serve an initial one (1) year term and three (3) Commissioners shall be selected to serve an initial two (2) year term. Thereafter, all members’ terms shall be two (2) years appointed to a term commencing in January of odd-numbered years. The Council may, at its discretion, extend the terms of the outgoing Commissioners for up to one hundred and eighty (180) days in order to resolve any pending complaints. The Commission members shall serve at the pleasure of the City Council and may be removed at the discretion of the City Council. Any Commissioner who misses three (3) consecutive meetings within a twelve (12) month time period or one-third (1/3) of all regular meetings shall be deemed to have automatically vacated his/her position on the Commission. Any Commissioner who applied for and received an excused absence from the Commission chairperson prior to the meetings(s) at issue shall not be considered absent for purposes of this Subsection. Any Commissioner who no longer resides within the corporate boundaries of the City is deemed to have automatically vacated his/her position on the Commission. A Commissioner appointed to serve on the Ethics Commission is not eligible to serve as an appointed official on another City board or commission, including, but not limited to, any development districts until the term has ended.
- (2) Commission Officers; quorum. From among its members the Commission shall elect its officers, those being the Chairperson, Vice-Chairperson, and Secretary. Officers shall be elected for terms of one (1) year. The Chairperson shall preside over all meetings and may vote. If the Chairperson fails or refuses to act, the Vice-Chairperson shall perform the duties of the Chairperson. If the Chairperson and Vice-Chairperson are absent, any Commissioner may be appointed by the remaining members of the Commission to preside over the meeting. Three (3) or more Commissioners present at a

meeting shall constitute a quorum, but no action of the Commission shall be of any force or effect unless it is adopted by the favorable votes of three (3) or more of its members.

- (3) Meetings. The Commission shall have such meetings as may be necessary to fulfill its responsibilities. The Commission shall meet at least once a year. The date of the annual meeting shall be in September as set by the Commission. The Chairperson or any two (2) members of the Commission may call a meeting provided that reasonable notice is given to each Commissioner and written notice is posted in accordance with the provisions of the Texas Open Meetings Act. The Commission shall comply with the provisions of the Texas Open Meetings Act when conducting any meetings and/or hearings under this Article.
- (4) Qualifications.
 - (A) Commissioners must be Qualified Voters who are residents of the City of Murphy.
 - (B) No Commissioner may be a City Official, a City Employee, an Appointed Board or Commission member or a Family Member of a City Official or City Employee.
 - (C) Commissioners shall maintain objectivity and be free of conflicts of interest in discharging their duties. Commissioners shall be independent in fact and appearance when hearing matters brought before the Commission. When a Commissioner has any reason to believe that he or she cannot be impartial, intellectually honest and free of conflicts of interest in discharging any of the duties of the Commission, such Commissioner shall disclose the facts and circumstances which create the conflict and shall not vote or otherwise participate in consideration of the matter.
 - (D) The Commission shall have the authority to review and investigate complaints filed in accordance with this Article and issue a written finding of the Commission's determination when appropriate.
 - (E) Service on the Commission does not preclude a member from filing a complaint with the Commission. The Commission member filing the complaint must recuse himself/herself from the Commission procedure.
 - (F) The Commission may make recommendations to the City Council regarding revisions and changes to this Ordinance.
 - (G) The Commission may seek any necessary assistance or resources from the City Council and City Manager regarding support needed to carry out the Commission's duties.

- (H) The Commission shall determine its rules and procedures which shall be submitted in writing and recommended for approval of the Council. The Commission shall establish, amend and rescind its procedures and maintain proper records of its proceedings and its opinions, subject to City Council approval.
- (I) The Commission shall have the power to investigate, request, and gather evidence necessary to determine if a violation has occurred. The Commission must request access to employees through the City Manager prior to interviewing an employee as a possible witness in a complaint. The Commission shall have the power to enforce the provisions of this Ordinance, including recommending to the City Council the prosecution of alleged violators. Nothing in this Article shall be construed, however, to prevent complainants, including the City, from instituting direct legal action on their own behalf through the appropriate judicial authority.
- (J) The Commission shall receive from the City such administrative support as reasonably necessary to carry out the duties of the Commission and shall assist the Commission with maintenance of its records in compliance with the City's records retention schedule.

Section 2-514. Complaint Process

(a) Filing

- (1) Any City Official, City Employee, or Qualified Voter of the City who believes that there has been a violation of this Ordinance may file a sworn complaint. A complaint alleging a violation of this Ordinance must meet the requirements herein and must be filed with the City Secretary. A complaint alleging a violation of this Article by the City Attorney must also be filed with the persons named in Section 2-515(f). A complaint must be filed within six (6) months from the date of the alleged violation. Please refer to Section 2-515 City Attorney (c).
- (2) Required Contents of a Complaint. A complaint must be in writing, filed on the official complaint form approved by the City. ~~An ethics complaint must be in writing and~~ under oath and must set forth in simple, concise, and direct statements the following:
 - (A) The name of the complainant;
 - (B) The street or mailing address and the telephone number of the complainant;
 - (C) The name of the person who allegedly committed the violation;
 - (D) The position or title of the person who allegedly committed the violation;

- (E) The nature of the alleged violation, including, if possible, the specific rule or provision of this Article alleged to have been violated;
 - (F) A statement of the facts constituting the alleged violation and the dates on which or period of time in which the alleged violation occurred; and must contain the following:
 - (i) Documents or other material available to the complainant relevant to the allegation;
 - (ii) A list of all documents or other material relevant to the allegation and available to the complainant, but that are not in the possession of the complainant, including the location of the documents; if known, and
 - (iii) A list of all documents or other material relevant to the allegation, but unavailable to the complainant, including the location of the documents, if known.
 - (G) If the complaint is based on information and belief, the complaint shall state the source and basis of the information and belief.
- (3) The complaint must be accompanied by an affidavit stating that the information contained in the complaint is either true and correct or that the complainant has good reason to believe and does believe that the facts alleged constitute a violation of this Ordinance.
- (4) Upon request, the City Secretary shall provide information to persons about the requirements of a complaint and the process for filing a complaint.
- (b) Confidentiality and Ex Parte Communications
- (1) No City Official or City Employee may reveal information relating to the filing or processing of a complaint except as required for the performance of official duties.
 - (2) All documents relating to a pending complaint are confidential, unless they are required to be disclosed under the Texas Public Information Act (Tex. Gov. Code Ch. 552).
 - (3) After a complaint has been filed, and during the consideration of a complaint by the Commission, a member of the Commission may not communicate directly or indirectly with any party or person about any issue of fact or law regarding the complaint, except at a meeting of the Commission. This provision does not prevent a member of the Commission from consulting with the City Attorney, or its independent legal counsel selected by the City Council regarding procedural and legal issues.

- (4) City Council approval shall be required for legal fees, cost, and related expenses of \$5,000 or more.

(c) Notification

- (1) A copy of a complaint shall be promptly forwarded by the City Secretary to the City Attorney and to the person charged in the complaint.
- (2) The person alleged in the complaint to have violated this Article shall be provided with a copy of this Code of Ethics and informed that:
 - (A) Within fourteen (14) days of receipt of the complaint, a sworn response must be filed with the City Secretary;
 - (B) Failure to file a response does not preclude the City Attorney from processing the complaint.
- (3) City Officials and City Employees have a duty to cooperate with the City Attorney, pursuant to this Section. All requests for access to City Employees throughout the course of an investigation shall be submitted to the City Manager in writing.
- (4) All members of the Commission shall receive copies of the complaint, any background documentation, and any responses at least seven (7) days before a hearing on the matter.

Section 2-515. Role of the City Attorney

- (a) The City Attorney serves as legal counsel to the Ethics Review Commission. When complaints are filed against members of the City Council, the City Manager, or the City Attorney, independent legal counsel may be utilized to advise the Commission and take part in its proceedings, subject to approval of the fee arrangement by the City Council.
- (b) The City Attorney serves as Ethics Advisor to City Officials ~~and City Employees~~. As Ethics Advisor, the City Attorney is available to respond ~~confidentially~~ to inquiries relating to the Ethics Ordinance (this Article) and may render advisory opinions on potential conflicts of interest or violation of this section at the request of a City Official or City Employee. The advisory opinion in any subsequent charges concerning the matter may be used as a defense to an alleged violation of this section unless material facts were omitted or misstated by the person requesting the opinion.
- (c) The City Attorney shall receive all sworn complaints and, if found sufficient, shall provide a copy and a preliminary review of the complaint to the Commission for action. The City Attorney shall, within fifteen (15) days of receiving the complaint and the response of the accused person, if any, provide a written report to the Commission. The report shall state whether, in the City Attorney's opinion, the written complaint: (1) was filed timely; (2) alleges misconduct by a person whose conduct is regulated under this Code; (3) alleges the

occurrence of conduct that might reasonably constitute a violation of this Article; and (4) is signed and sworn to by the person filing the complaint.

- (d) The City Attorney shall also advise the Commission whether the City Attorney has issued a written opinion or opinions to the accused person that relate to the conduct at issue and whether, in the City Attorney's opinion, the conduct was undertaken in good faith reliance on a written opinion that concluded the conduct was not in violation of this Article. Where the City Attorney concludes that the conduct was undertaken in good faith reliance on a written opinion, the City Attorney shall recommend that the Commission dismiss the complaint following the preliminary hearing.
- (e) The City Attorney's recommendation that the Commission conduct further proceedings does not mean that any of the allegations of the complaint are true or false or that any City Official or City Employee has violated or not violated this Article.
- (f) If a complainant alleges a violation by the City Attorney, the complaint must be filed with the Chairperson of the Commission City Secretary, and be forwarded to the Municipal Judge, with a copy to the Mayor and the City Manager. The Municipal Judge will follow the procedures in this Section.

Section 2-516. Hearing Process

(a) Preliminary Hearing

- (1) ~~When~~ After the City Attorney, or independent legal counsel selected by the Commission as set out in Sec. 2-515(a) above, has ~~rendered an opinion~~ found that a complaint is not defective as to form ~~nor is~~ insufficient (for example, because it does not allege the existence of reasonable grounds to believe that a violation of this Ordinance has occurred), the Commission, as soon as reasonably possible, but in no event later than sixty (60) days after receiving a complaint, shall conduct a Preliminary Hearing. The purpose of the Preliminary Hearing is to make an initial ~~determination~~ as to whether or not ~~there are reasonable grounds to believe that~~ a violation of this Ordinance has occurred.
- (2) The complainant and the City Official ~~or City Employee~~ named in the complaint have the right of representation by legal counsel.
 - (A) ~~The complainant shall pay for complainant's legal fees, cost, and related expenses. If the City Official or Employee is finally found to be in violation of this Ordinance, the City shall reimburse the complainant for his or her reasonable legal fees, costs and related expenses and the City Official or Employee shall reimburse the City for the amount paid to complainant for complainant's legal fees, costs and related expenses.~~

- (B) The City ~~may shall~~ pay for legal fees, cost, and related expenses for representation of the City Official, as decided by the City Council. ~~or Employee.~~
- (3) Statements at a Preliminary Hearing shall be under oath, but there shall be no cross examination or requests for persons or evidence issued for the hearing. The Commission members may ask open-ended questions. No public comments are allowed in a preliminary hearing.
- (4) The person filing a complaint shall state the alleged violation and describe in narrative form the testimony and other evidence which are presented to prove the alleged violation as stated in the written complaint.
- (5) The City Official ~~or City Employee~~ named in the complaint shall have the opportunity to respond but is not required to attend or make any statement. The City Official ~~or City Employee~~ may describe in narrative form the testimony and other evidence presented to disprove the alleged violation. If the City Official ~~or City Employee~~ agrees that a violation has occurred, the Commission may consider the appropriate sanction.
- (6) Only members of the Commission may question the complainant, the independent counsel for the Commission, or the City Official ~~or City Employee~~ named in the complaint.
- (7) At the conclusion of the Preliminary Hearing one of the following actions shall be taken:
 - (A) If the Commission does not determine that there are reasonable grounds to believe that a violation of this Article has occurred, the complaint shall be dismissed.
 - (B) If the Commission determines that there are reasonable grounds to believe that a violation of this Article has occurred, it shall schedule a final hearing.
 - (C) If the City Official ~~or City Employee~~ has agreed that a violation has occurred, the Commission may proceed to determine the appropriate sanction without the necessity of a final hearing and state its findings pursuant to Subsection (b)(4) below.

(b) Final Hearing

- (1) Except as provided by Subsection 2-516(a)(7)(C) above, a final hearing shall be held as expeditiously as possible following the determination by the Commission that there are reasonable grounds to believe that a violation of this Article has occurred, but in no event shall it be held more than thirty (30) days after said determination. The Commission may grant up to two postponements, not to exceed fifteen (15) days each, upon the request of the City Official ~~or City Employee~~ named in the complaint.

- (2) If a complaint proceeds to a final hearing, the Commission may request witnesses to attend and testify, administer oaths and affirmations, take evidence and request the production of books, papers, records, or other evidence needed for the performance of the Commission's duties or exercise of its powers, including its powers of investigation. No public comments are allowed during the final hearing.
- (3) The complainant and the City Official ~~or City Employee~~ named in the complaint have the right of representation by legal counsel.
- (4) The issue at a final hearing is whether a violation of this Article has occurred. The Commission shall make its determination based on the preponderance of the evidence in the record. All witnesses shall make their statements under oath. Witnesses may be cross-examined. If the Commission determines that a violation has occurred, it shall state its findings in writing, identify the particular provision(s) of this Article which have been violated, and within five (5) working days deliver a copy of the findings to the complainant, the person accused in the complaint, and the City Secretary. The City Secretary shall deliver a copy of the findings to the Council, the City Manager and the City Attorney.

Section 2-517. Sanctions for Violations

- (a) If the Commission determines that a violation of this Article has occurred, it shall consider appropriate sanctions. The Commission may receive additional testimony or statements before considering sanctions, but is not required to do so.
- (b) If the Commission determines that a violation has occurred, it may impose the following sanctions.
 - (1) A letter of notification is an appropriate sanction when the violation is clearly unintentional, or when the conduct of the person complained against was done in reliance upon an opinion of the City Attorney. The letter of notification shall advise the City Official ~~or City Employee~~ of any steps to be taken to avoid future violations.
 - (2) A letter of admonition is the appropriate sanction when the Commission finds the violation is minor and/or may have been unintentional, but calls for a more substantial response than a letter of notification.
 - (3) A letter of reprimand is the appropriate sanction when the Commission finds a serious violation has been committed intentionally or knowingly or through disregard of this Ordinance. A written reprimand directed to a City ~~Employee-Official~~ that who also serves as an employee- a City Employee shall be included in the employee's personnel file.

(4) A letter of censure is the appropriate sanction when the Commission finds that a serious violation has occurred and/or more than one serious violation or repeated serious violations of this Article have been committed by a City Official.

(c) Copies of all sanction letters issued by the Commission under this section shall be sent to the City Council.

(d) In addition, if the violation is found by the Commission to be done willfully and the seriousness of the violation warrants, the Commission may recommend to the City Council the suspension or removal from office of any official serving in a City-appointed position.

(e) Except with regard to violations of Chapters 171 and 176 of the Texas Local Government Code, violations of the Penal Code, or violations of the Government Code, a violation by any City Official or City Employee as designated herein of one or more of the provisions of this Article shall not be deemed to be a Class C misdemeanor under the laws of the State of Texas.

Section 2-518. Distribution and Proof of Compliance

The City Secretary shall ~~make available to~~ provide each new City Official designated in this Article, a copy of the text of this Ordinance; Chapter 171 and Chapter 176 of the Texas Local Government Code pertaining to conflicts of interest; the Texas Open Meetings Act (Tex. Gov. Code Ch. 551); the Texas Public Information Act (Tex. Gov. Code Ch. 552) Chapter 573 of the Texas Government Code; Texas Penal Code Sections 36.02, 37.10, 39.02, 39.03 and 39.06 (collectively referred to in this section as the “Ethics Statutes”) with a signature receipt of all said documents.

EXHIBIT “1”

Consanguinity and Affinity

Affinity Kinship (Marriage) Relationships

1 st Degree	2 nd Degree
Father-in-Law	Spouse's Grandfather
Mother-in-Law	Spouse's Grandmother
Son-in-Law	Spouse's Brother (Brother-in-Law)
Daughter-in-Law	Spouse's Sister (Sister-in-Law)
Spouse	Spouse's Grandson
	Spouse's Granddaughter
	Brother's Spouse (Sister-in-Law)
	Sister's Spouse (Brother-in-Law)

Consanguinity (Blood) Relationships

1 st Degree	2 nd Degree	3 rd Degree
Father	Grandfather	Great-Grandfather
Mother	Grandmother	Great-Grandmother
Son	Brother	Nephew
Daughter	Sister	Niece
	Grandson	Great-Grandson
	Granddaughter	Great-Granddaughter
		Uncle
		Aunt