



Duncanville City Council Meeting Agenda
City Council Briefing Room and City Council Chamber
Videoconference via ZOOM
Duncanville City Hall
203 E. Wheatland Road
Duncanville, TX 75116
(972) 780-5017

Tuesday, September 21, 2021

6:00 P.M. - Work Session/Briefing

7:00 P.M. - Regular Session

or immediately following the 6:00 pm Work Session/Briefing

City of Duncanville City Council meetings are available to all persons regardless of disability. The City of Duncanville offers Hearing Assistance Receivers for use during City Council Regular Sessions. If you require special assistance, please contact the City Secretary at (972)780-5017 or write 203 E. Wheatland Road, 75116, or by calling through a T.D.D. (Telecommunication Device for the Deaf) to Relay Texas at 1-800-735-2989 at least 48 hours in advance of the meeting.

As authorized by Section 551.071 of the Texas Government Code, this meeting may be convened into closed Executive Session for the purposes of seeking confidential legal advice from the City Attorney on any item on the agenda at any time during the meeting.

The City of Duncanville reserves the right to reconvene, recess or align the Regular Session or called Executive Session or order of business at any time prior to adjournment.

SUPPLEMENTAL NOTICE OF MEETING BY VIDEO CONFERENCE

In accordance with an Order of the Office of the Governor issued on March 16, 2020, as extended, the City Council for the City of Duncanville, Texas will conduct a City Council Regular Meeting in person and by video conference at 6:00 pm on Tuesday, September 21, 2021, in order to advance the public health goal of limiting face-to-face meetings (also called “social distancing”) in an effort to slow the spread of the Coronavirus (COVID-19) pandemic.

This is an open meeting conducted by in person and video conference.

Due to limited seating in council chambers, persons or participants may attend by video conference in order to maintain safe social distance as provided in this notice.

To speak by video conference during Citizen Comments, you must register with the City Secretary before 4 pm on Tuesday, September 21, 2021, email citysecretary@duncanville.com and title the email. “Public Comment – September 21st. You will need to register with the link below to attend the meeting by video conference. During the Citizen Comments period of the agenda, the City Secretary will call your name and allow access to your camera and microphone. Feel free to email your citizen comment to the City Secretary when registering for the Mayor to read into the record if any unexpected technical issues arise.

Register in advance for this webinar:

https://us02web.zoom.us/webinar/register/WN_LZGmT_AYQxuPcHXv4GtYrw

After registering, you will receive a confirmation email containing information about joining the webinar.

A recording of the video meeting will be made available to the public in accordance with the Open Meetings Act upon written request.

WORK SESSION / BRIEFING

Citizen comments will not be heard during the Work Session/Briefing but will be heard during the Regular Session.

1. DISCUSS AGENDA ITEMS**2. BRIEFINGS / PRESENTATIONS**

- A. Discussion on City of Duncanville Trash and Recycling Survey. 6 - 12
Item requested by Councilmember Cooks.
[Trash and Recycling Survey](#)
- B. Briefing on the Mobile Food Vendors and Food Truck Ordinance. 13 - 14
[Mobile Food Vendors and Food Truck Ordinance](#)
- C. Discussion on the new Firearms Carry Act.

EXECUTIVE SESSION

- 1. "City Council shall convene into closed executive session pursuant to Section 551.071 of the Texas Govt Code to seek legal advice from the City Attorney regarding pending litigation to wit: City of Duncanville v. EON Reality, Cause No. DC-21-00095 filed in the District Court 134th Judicial District Dallas, Texas."
- 2. "City Council shall convene into a closed executive session pursuant to section 551.071 of the Texas Govt Code to seek legal advice from the City Attorney on a motion to reconsider Resolution Number 2021-067 concerning appointment of a member of the North Central Texas Housing Board of Directors".

REGULAR SESSION - CONVENE INTO THE COUNCIL CHAMBERS (7:00 P.M. OR IMMEDIATELY FOLLOWING THE 6:00 PM WORK SESSION/BRIEFING)

CALL TO ORDER

INVOCATION - Crossroads of Life Church - Pastor Calvin Funchess

PLEDGES - PLEDGE OF ALLEGIANCE; TEXAS PLEDGE OF ALLEGIANCE

1. REPORTS

- A. Mayor's Report.
 Recognition of the Champion of the City.
- B. Councilmembers' Reports
- C. City Manager's Report.

2. PROCLAMATIONS AND PRESENTATIONS

- A. Proclamation for September 21, 2021 as National Information Technology Professionals Day. 15 - 16
[National Information Technology Professionals Day](#)
- B. A Proclamation recognizing National Hispanic Heritage Month.
- C. A Proclamation recognizing October 3-9, 2021 as National Fire Prevention Week. 17 - 18
[National Fire Prevention Week](#)

- D. Proclamation Recognizing October 5, 2021 as National Night Out. 19 - 21
[National Night Out](#)
- E. Proclamation Recognizing October as National Crime Prevention Month. 22 - 24
[National Crime Prevention Month](#)

3. CITIZENS' INPUT

"Pursuant to Section 551.007 of the Texas Gov't Code, any member of the public has the opportunity to address the City Council concerning any matter of public business or any posted agenda item; however, the Act prohibits the City Council from deliberating any issues not on the public agenda and such non-agenda issues may be referred to City staff for research and any future action; all persons addressing are subject to council adopted rules and limitations permitted by law"

At this time, two-minute comments will be taken from the audience on any topic. To address the Council, please submit a fully-completed request card to the City Secretary prior to the beginning of the Citizens' Input portion of the Council meeting. In accordance with the Texas Open Meetings Act, the City Council cannot discuss issues raised or make any decisions at this time. Issues may be referred to City Staff for research and possible future action.

To speak by video conference during Citizen Comments, you must register with the City Secretary before 4 pm on Tuesday, September 21, 2021, email citysecretary@duncanville.com and title the email. "Public Comment – September 21st. You will need to register with the link below to attend the meeting by video conference. During the Citizen Comments period of the agenda, the City Secretary will call your name and allow access to your camera and microphone. Feel free to email your citizen comment to the City Secretary when registering for the Mayor to read into the record if any unexpected technical issues arise.

The City Secretary will still set a two-minute time limit on the comments as they are read.

4. CONSENT AGENDA

The following may be acted upon in one motion. A City Councilmember may request items be removed from the Consent Agenda for individual consideration.

- A. Consider the Minutes for the May 18, 2021 and June 1, 2021 City Council Regular Meetings. 25 - 40
[2021-05-18 - City Council - Minutes UNAPPROVED](#)
[2021-06-01 - City Council - Minutes UNAPPROVED](#)
- B. Consider a Resolution appointing Judge John B. Rizo as the Hearing Officer for Health Certificate Revocation Hearings; establishing a term of twelve months, and providing for an effective date. 41 - 43
[Health Certificate Revocation Hearings](#)
- C. Consider a Resolution approving and accepting the terms and conditions of an agreement with Dallas County on behalf of the Health and Human Services Department for a Mosquito Ground Control Program, attached hereto and incorporated herein as Exhibit "A", 44 - 52

effective October 1, 2021, through September 30, 2022, at a rate of \$185.00 per hour.

[FY22 Mosquito Ground Control Program](#)

- D. Consider a Resolution authorizing the third renewal of the interlocal agreement entered into by and between the City of Duncanville, Texas, and Dallas County Hospital District d/b/a Parkland Health & Hospital System, to provide BioTel/EMS System services, in the amount of \$53,657.49. 53 - 63

[BioTel/EMS System Services](#)

- E. Consider a Resolution approving the Interlocal Agreement between the City of Duncanville and Dallas County, to provide Highway Accident Investigation Services, in an amount not to exceed \$59,000.00. 64 - 75

[FY22 Dallas County ILA for Highway Management Services](#)

- F. Consider a Resolution authorizing the City Manager to execute an Interlocal Agreement, the Communication System Agreement, with the City of Dallas for the Public Safety P25 Radio System Project to provide Radio Infrastructure, Programming and Support, not to exceed \$70,000.00 for the first year. 76 - 90

[Public Safety P25 Radio System Project Dallas ILA](#)

5. ITEMS FOR INDIVIDUAL CONSIDERATION

- A. Conduct a Public Hearing and approval of an Ordinance readopting, ratifying, republishing and extending Ordinance No. 1385, as amended, codified as chapter 12 of the Code of Ordinances, Article IX, curfew hours for minors, for a period of three (3) years. 91 - 100

[Curfew Hours for Minors](#)

- B. Consider an Ordinance approving a negotiated settlement between the Atmos Cities Steering Committee ("ACSC") and Atmos Energy Corp., Mid-Tex Division regarding the Company's 2021 rate review mechanism filing; declaring existing rates to be unreasonable; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement; finding the rates to be set by the attached settlement tariffs to be just and reasonable and in the public interest; approving an attached exhibit establishing a benchmark for pensions and retiree medical benefits; approving an attached exhibit regarding amortization of regulatory liability; requiring the Company to reimburse ACSC's reasonable ratemaking expenses; determining that this ordinance was passed in accordance with the requirements of the Texas Open Meetings Act; adopting a savings clause; declaring an effective date; and requiring delivery of this ordinance to the Company and the ACSC's legal counsel. 101 - 118

[Atmos - Rate Review](#)

- C. Consider an Ordinance granting to Atmos Energy Corporation, a Texas and Virginia Corporation, its successors and assigns, a franchise to construct, maintain, and operate pipelines and equipment in the City of Duncanville, Dallas County, Texas, for the transportation, delivery, sale, and distribution of gas in, out of, and through said city for all purposes; providing for the payment of a fee or charge for the use of the public rights-of-ways; and providing that such fee shall be in lieu of other fees and charges, excepting ad valorem taxes; and repealing all previous gas franchise ordinances. 119 - 128

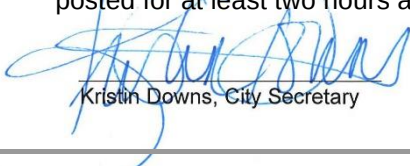
- [Franchise Agreement - Atmos Energy](#)
- D. Consider a Resolution approving Republic Waste Services of Texas, Ltd., request to the City of Duncanville to increase contract rates under the Municipal Materials Management Agreement by 3.6% for Residential Collection and Commercial Services, effective October 1, 2021. 129 - 134
- [Republic Rate Increase for FY 22](#)
- E. Consider a motion to reconsider a Resolution of appointing a member to the North Central Texas Housing Finance Corporation (NCTHFC) for a term of ____ () years and determine Duncanville Appointee. 135 - 150
- [North Central Texas Housing Finance Corporation](#)
- F. Consider a Resolution of appointing _____ as a member to the North Central Texas Housing Finance Corporation (NCTHFC) for a term of ____ () years. 151 - 154
- [North Central Texas Housing Finance Corporation](#)
- G. Consider a motion to reconsider a Resolution nominating a candidate for Board of Directors of the Dallas Central Appraisal District (DCAD). 155 - 160
- [Motion to Reconsider - DCAD Candidate](#)
- H. Consider a Resolution nominating a candidate for Board of Directors of the Dallas Central Appraisal District (DCAD). 161 - 167
- [DCAD Candidate](#)
- I. Take any necessary action as a result of the Executive Session.

6. STAFF AND BOARD REPORTS

- A. Receive the Economic Development Department Quarterly Report.

ADJOURNMENT

I, the undersigned authority, do hereby certify that this Notice of Meeting was posted in accordance with the regulations of the Texas Open Meetings Act on the bulletin board located at the entrance to the City of Duncanville City Hall, a place convenient and readily accessible to the general public, as well as to the City's website www.duncanville.com and said Notice was posted on the following date and time: **Friday, September 16, 2021 at 5:00 P.M.** and remained posted for at least two hours after said meeting was convened.



Kristin Downs, City Secretary

PURSUANT TO SECTION 30.07, PENAL CODE (TRESPASS BY LICENSE HOLDER WITH AN OPENLY CARRIED HANDGUN), A PERSON LICENSED UNDER SUBCHAPTER H, CHAPTER 411, GOVERNMENT CODE (HANDGUN LICENSING LAW), MAY NOT ENTER THIS MEETING ROOM WITH A HANDGUN THAT IS CARRIED OPENLY.
DE CONFORMIDAD CON LA SECCIÓN 30.07 DEL CÓDIGO PENAL (PREVARICACIÓN POR LICENCIATARIO CON UNA ARMA DE MANO LLEVADA ABIERTAMENTE), UNA PERSONA CON LICENCIA BAJO EL SUBCAPÍTULO H, CAPÍTULO 411, CÓDIGO DE GOBIERNO (LEY DE LICENCIAS PARA PORTAR ARMAS), NO PUEDEN ENTRAR A LA SALA DE REUNIONES CON UNA ARMA DE MANO QUE SE PRACTICA ABIERTAMENTE.

"PURSUANT TO SECTION 30.06, PENAL CODE (TRESPASS BY HOLDER OF LICENSE TO CARRY A CONCEALED HANDGUN), A PERSON LICENSED UNDER SUB-CHAPTER H, CHAPTER 411, GOVERNMENT CODE (CONCEALED HANDGUN LAW), MAY NOT ENTER THIS PROPERTY WITH A CONCEALED HANDGUN"

"DE ACUERDO CON LA SECCIÓN 30.06 DEL CÓDIGO PENAL (INGRESO SIN AUTORIZACIÓN DE UN PORTADOR DE UNA LICENCIA PARA LLEVAR UN ARMA CORTA OCULTA), UNA PERSONA CON LICENCIA SEGÚN EL SUBCAPÍTULO H, CAPÍTULO 411 DEL CÓDIGO DEL GOBIERNO (LEY PARA PORTAR ARMAS CORTAS OCULTAS), NO PUEDE INGRESAR A ESTA PROPIEDAD CON UN ARMA CORTA OCULTA"



STAFF REPORT

MEETING: City Council - 21 Sep 2021

TITLE:

Discussion on City of Duncanville Trash and Recycling Survey.

FY 2019 CITY COUNCIL ORGANIZATIONAL WORKPLAN:

- **2. Create high quality neighborhoods and parks**
 - **Goal 2: Maximize city and community resources to improve quality of life in a sustainable manner.**

STAFF RESPONSIBLE:

Bryan G. Ramey II, P.E., Director of Public Works

Jacqueline R. Culton, P.E., Assistant Director of Public Works

BACKGROUND/HISTORY:

On August 17, 2021, per Councilmember Koontz's request, Staff briefed City Council on modifying the current solid waste collection contract terms and conditions to replace trash bags with trash carts and recycle bins with recycling carts.

At the same meeting, per Councilmember Cooks' request, Staff briefed City Council on how Staff monitors the performance of the City Solid Waste Collection Contractor.

During the briefing, Councilmember Cooks asked the City Manager to prepare an agenda item to discuss a City of Duncanville Trash and Recycling Survey.

The staff has prepared a draft survey (Attachment 1) with intent to obtain the resident's and commercial hand-collect customers' input regarding:

- Satisfaction with current trash, recycling, and bulk and brush pick-up services.
- Responsiveness of City's trash collection contractor to customer questions, comments, complaints, etc.
- Quantity of trash bags placed for collection on a weekly basis.
- Frequency of trash placement, e.g., once or twice per week, etc.
- Recycling participation.
- Interest in using City-provided, 96-gallon rolling carts for garbage service and an additional, smaller cart for recycling in lieu of current trash bags.
- Any additional comments regarding trash, recycling, bulk, and brush pickup service, and potential switch to carts

Staff will also brief City Council on the community engagement plan to help obtain survey feedback.

POLICY EXPLANATION:

Any Councilmember may request to put an item on the City Council Meeting Agenda.

FUNDING SOURCE:

NA

Contract Log #:

NA

RECOMMENDATION:

Staff is requesting guidance from City Council following the briefing on how to proceed with the City of Duncanville Trash and Recycling Survey and associated community engagement plan.

ATTACHMENTS:

[Attachment 1 - Draft Solid Waste Collection Survey](#)



City of Duncanville Trash and Recycling Survey

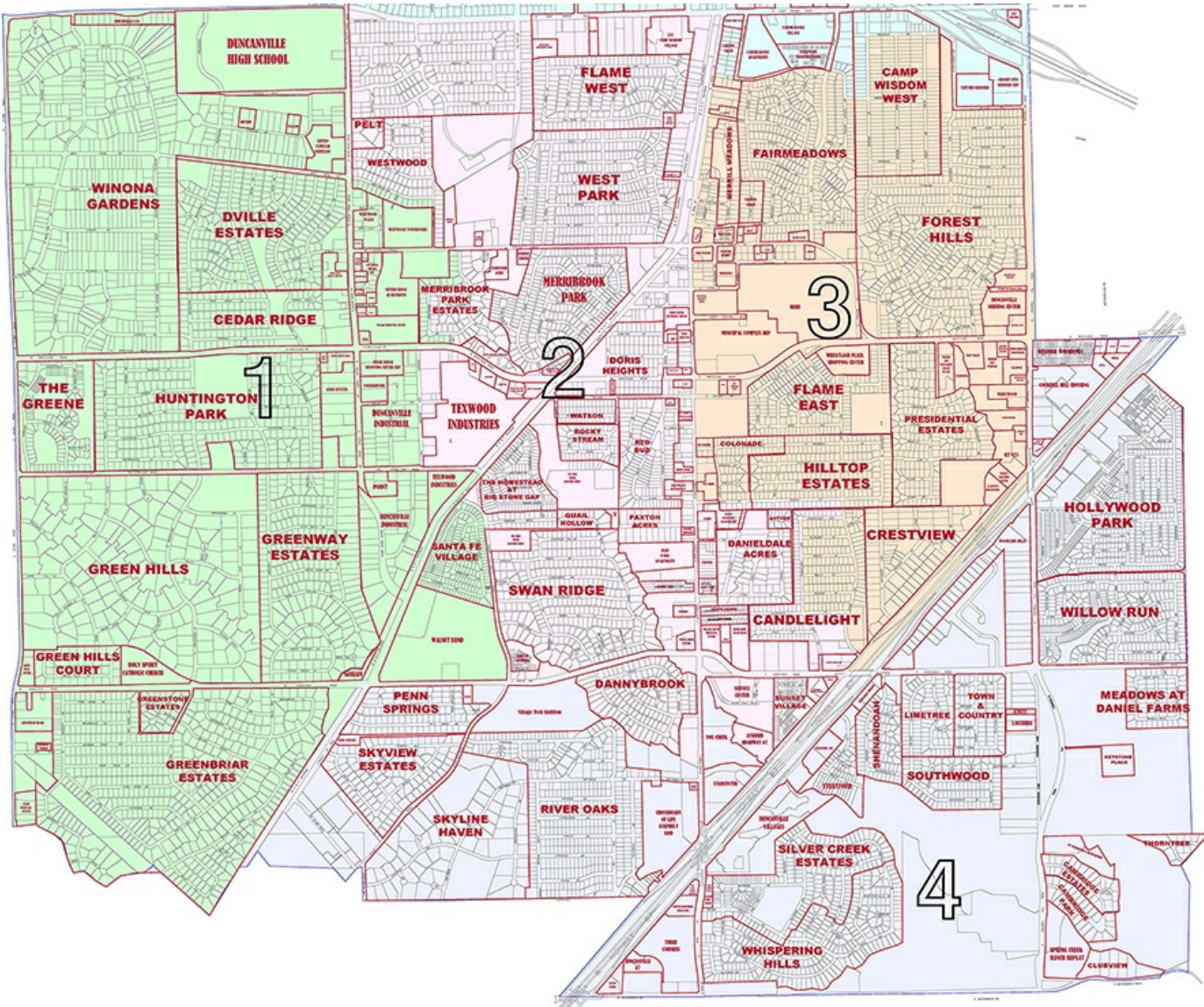
The City of Duncanville is conducting this survey in an effort to gain a better understanding of residential usage of solid waste pickup service as well as current levels of satisfaction. The results of this survey may be used to produce a follow-up for Duncanville residents regarding a possible switch from plastic garbage bags to a rolling cart pickup service.

A comment field is provided at the end of this survey. There, please go into further detail regarding any of your survey answers.

1. In which subdivision do you live or work? (click your subdivision on the map)

SUBDIVISION MAP





Please rate your satisfaction with each of the following services on a scale of 1 (very dissatisfied) to 5 (very satisfied):

2. Regular Garbage Collection Service

Very Dissatisfied	Dissatisfied	Fair	Satisfied	Very Satisfied
★	★	★	★	★

3. Recycling Pickup

Very Dissatisfied	Dissatisfied	Fair	Satisfied	Very Satisfied
★	★	★	★	★

4. Bulk and Brush Pickup Service

Very Dissatisfied	Dissatisfied	Fair	Satisfied	Very Satisfied
★	★	★	★	★

5. "In the last 6 months (March 2021 - present) ..."

- ☐ "I have had no issues with my trash pickup service."
- ☐ "I have had issues with my trash pickup service."

6. Please, rate responsiveness to your questions, comments, complaints, etc. by the City's waste contractor on a scale of 1 (very dissatisfied) to 5 (very satisfied).

☐ ☐ ☐ ☐ ☐

7. On average, my household generates _____ tall kitchen (13 gal) trash bags per week:

- ☐ 1 bag or less ☐ 6 - 7 bags
☐ 2 - 3 bags ☐ 8 bags or more
☐ 4 - 5 bags

8. On average, my household sets garbage out for collection:

- ☐ Once per week
☐ Twice per week
☐ Every other week

9. Do you currently recycle?

- ☐ Yes
☐ No

10. Would you be interested in using City-provided, 96-gallon rolling carts for garbage service and an additional, smaller cart for recycling?

☐ Yes

☐ No

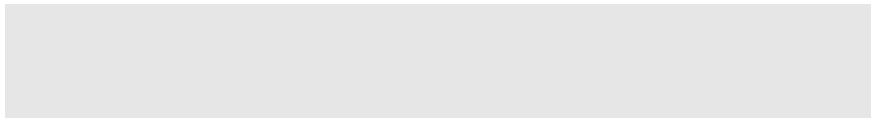
11. If your current bagged trash collection is in the alley, would you be willing to move to the front of your home if switched to cart(s)?

☐ Yes

☐ No

☐ N/A

12. Please share any additional comments related specifically to your trash, recycling, bulk & brush pickup service, and your thoughts regarding the current bag services versus a potential switch to carts.



Thank you for taking the time to answer this survey. The information you have provided will be added to the feedback of other Duncanville residents and presented to City Council during an upcoming meeting.



STAFF REPORT

MEETING: City Council - 21 Sep 2021

TITLE:

Briefing on the Mobile Food Vendors and Food Truck Ordinance.

FY 2019 CITY COUNCIL ORGANIZATIONAL WORKPLAN:

- N/A
- Goal: N/A

STAFF RESPONSIBLE:

Skye Thibodeaux, AICP - City Planner

BACKGROUND/HISTORY:

Mobile food vendors and food trucks provide a community with a variety of dining options. A City that allows mobile food vendors and food trucks must do so without jeopardizing the health and safety of the general public. Therefore, criteria, processes, permits, and an ordinance for mobile food units will need to be established before the implementation or allowances of mobile food establishments.

Up to this point, Mobile Food Vendors and Food Trucks in the City of Duncanville have only received permission to operate in association with special public events. There have been multiple requests by food truck operators and prospective owners to consider allowing food trucks at times other than special public events. With the Zoning Ordinance update back in March of 2021, the use of Food Truck Park was established to allow for potential future developments in certain zoning districts in Duncanville via approval of a Specific Use Permit.

With the potential for food trucks and other mobile food unit activity to occur in a private commercial setting, more detailed standards are needed regarding the function of these units from both an economic and a health and public safety perspective. Staff will facilitate a discussion providing information on mobile food vendors and food trucks regarding the intended permitting process, application, and associated standards and regulations to be proposed via ordinance at the upcoming October 19, 2021, City Council Meeting.

POLICY EXPLANATION:

City Council feedback is requested regarding the upcoming Mobile Food Vendor and Food Truck Ordinance planned for consideration at the October 19, 2021 City Council Meeting.

FUNDING SOURCE:

N/A

Contract Log #:

N/A

RECOMMENDATION:

Staff is requesting that Council provide feedback on any information that may be desired to be included in the associated ordinance.



STAFF REPORT

MEETING: City Council - 21 Sep 2021

TITLE:

Proclamation for September 21, 2021 as National Information Technology Professionals Day.

FY 2020 CITY COUNCIL ORGANIZATIONAL WORKPLAN:

- N/A
- Goal: N/A

STAFF RESPONSIBLE:

Tracy Beekman - Information Technology Manager

BACKGROUND/HISTORY:

The third Tuesday of each September has been set aside to recognize all the information technology professionals who help businesses and organizations operate efficiently: system administrators, network engineers, database administrators, information security professionals, developers, MSPs, IT support techs, and a plethora of other IT-related professionals. It is a day we say thank you to all the dedicated people who keeping essential technologies performing and running smoothly.

POLICY EXPLANATION:

N/A

FUNDING SOURCE:

N/A

Contract Log #:

N/A

RECOMMENDATION:

Staff recommends recognizing the Information Technology Department through the Proclamation designating September 21, 2021 as National Information Technology Professionals Day in Duncanville.

ATTACHMENTS:

[Proclamation - IT Professionals Day](#)

OFFICE OF THE MAYOR



- WHEREAS,** the use of technology is flourishing and has a huge impact on operations around the world; and
- WHEREAS,** the Information Technology department serves the community through departments of Police, Fire, Public Works, Parks & Recreation, General Government, Finance, and all divisions of and is instrumental in helping these departments offer essential community services that affect the everyday lives of our Citizens; and
- WHEREAS,** the U.S. tech industry is a major driving force in the overall economy; and
- WHEREAS,** information technology draws on a highly educated and skilled U.S. workforce; and
- WHEREAS,** cloud computing, mobility, big data, automation, and social technologies have become common elements for businesses of all sizes. With that said, cybersecurity becomes a constant concern with the need for employees with technical expertise; and
- WHEREAS,** booming technology, economic, and demographic shifts continue to rapidly change our world, it is more important than ever for organizations from small businesses to government agencies to embrace effective information technology practices.

NOW, THEREFORE, I Barry L. Gordon, by virtue of the authority vested in me as Mayor of the City of Duncanville, Texas, do hereby proclaim September 21, 2021 as **NATIONAL IT PROFESSIONALS' DAY** throughout the City of Duncanville.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Duncanville, Texas to be affixed this 21st day of September, 2021.

Mayor, The City of Duncanville



STAFF REPORT

MEETING: City Council - 21 Sep 2021

TITLE:

A Proclamation recognizing October 3-9, 2021 as National Fire Prevention Week.

FY 2019 CITY COUNCIL ORGANIZATIONAL WORKPLAN:

- N/A
- Goal: N/A

STAFF RESPONSIBLE:

Sam Rohde, Fire Chief

BACKGROUND/HISTORY:

October 3 - 9, 2021 is recognized nationally as Fire Prevention Week. The 2021 Fire Prevention Week theme, "Learn the Sounds of Fire Safety", effectively serves to remind us it is important to learn the different sounds of smoke and carbon monoxide alarms.

POLICY EXPLANATION:

N/A

FUNDING SOURCE:

N/A

Contract Log #:

N/A

RECOMMENDATION:

A Proclamation recognizing October 3-9, 2021 as National Fire Prevention Week

ATTACHMENTS:

[Proclamation - Fire Prevention Week](#)

OFFICE OF THE MAYOR



WHEREAS, the City of Duncanville, Texas is committed to ensuring the safety and security of all those living in and visiting Duncanville; and

WHEREAS, fire is a serious public safety concern both locally and nationally, and home are the locations where people are at greatest risk from fire; and

WHEREAS, smoke alarms detect smoke well before you can, alerting you to danger in the event of fire in which you may have just seconds to escape safely; and

WHEREAS, working smoke alarms save lives by providing early warning of fire so you and your family can safely escape; and

WHEREAS, residents should be sure everyone in the home understands the sounds of the alarms and knows how to respond; and

WHEREAS, residents who have planned and practiced a home fire escape plan are more prepared and will therefore be more likely to survive a fire; and

WHEREAS, residents will make sure their smoke and carbon monoxide alarms meet the needs of all their family members, including those with sensory or physical disabilities; and

WHEREAS, Duncanville's first responders are dedicated to reducing the occurrence of home fires and home fire injuries through prevention and protection education; and

WHEREAS, Duncanville residents are responsive to public education measures and are able to take personal steps to increase their safety from fire, especially in their homes; and

WHEREAS, the 2021 Fire Prevention Week theme, "Learn the Sounds of Fire Safety", effectively serves to remind us it is important to learn the different sounds of smoke and carbon monoxide alarms;

NOW, THEREFORE, I, Barry Gordon, Mayor of the City of Duncanville, Texas do hereby proclaim October 3-9, 2021 as

FIRE PREVENTION WEEK

throughout this community. I urge all the people of Duncanville to learn "Learn the Sounds of Fire Safety", and to participate in the many public safety activities and efforts of Duncanville's fire and emergency services during Fire Prevention Week 2021.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Duncanville, Texas to be affixed this 16th day of March, 2021.

Mayor, The City of Duncanville



STAFF REPORT

MEETING: City Council - 21 Sep 2021

TITLE:

Proclamation Recognizing October 5, 2021 as National Night Out.

FY 2019 CITY COUNCIL ORGANIZATIONAL WORKPLAN:

- 1. Most engaged citizens in America
 - Goal 2: Maximize city and community resources to improve quality of life in a sustainable manner.

STAFF RESPONSIBLE:

Interim Chief Mark LiVigni
Officer Doug Sisk

BACKGROUND/HISTORY:

National Night Out was introduced by the National Association of Town Watch in 1984 as a national program, which would be coordinated by local crime prevention agencies and organizations that would involve entire communities at one time. Over 38.1 million people in 16,540 communities from all 50 states, U.S. territories, Canadian cities and military bases worldwide have participated in National Night Out; and

On October 5th from 5pm to 8pm, the Duncanville Police Department will host a city-wide National Night Out event at the Duncanville Recreation Center located at 207 James Collins Blvd. At this event, we will provide information on safety and security for citizens of Duncanville. The Duncanville Police Department will also have static displays outside the Duncanville Recreation Center.

National Night Out is designed to heighten crime and drug prevention awareness, generate support for, and participation in, local anti-crime programs. The traditional 'lights on' and front porch vigils remain a part of National Night Out. Activities have expanded considerably over the years to include block parties, cookouts, parades, visits from local police and sheriff departments, festivals, neighborhood walks, safety fairs, contests, rallies and meetings. National Night Out is a popular and effective vehicle for heightening awareness, enhancing police-community relations and volunteer morale.

POLICY EXPLANATION:

National Night Out in the City of Duncanville urges all citizens to join the Duncanville Police Department in being a part of the nation's largest annual crime/drug prevention event. The benefits to the community will extend well beyond one night.

FUNDING SOURCE:

N/A

Contract Log #:

N/A

RECOMMENDATION:

N/A

ATTACHMENTS:

[Attachment 1 - Proclamation - National Night Out](#)

OFFICE OF THE MAYOR



Duncanville
City of Champions

Proclamation

- WHEREAS,** *National Night Out* was introduced by the National Association of Town Watch in 1984 as a national program, which would be coordinated by local crime prevention agencies and organizations that would involve entire communities at one time; and
- WHEREAS,** over 38.1 million people in 16,540 communities from all 50 states, US territories, Canadian cities and military bases worldwide have participated in *National Night Out*; and
- WHEREAS,** *National Night Out* is designed to heighten crime and drug prevention awareness, generate support for, and participation in, local anti-crime programs; and
- WHEREAS,** The traditional 'lights on' and front porch vigils remain a part of *National Night Out*. Activities have expanded considerably over the years to include block parties, cookouts, parades, visits from local police and sheriff departments, festivals, neighborhood walks, safety fairs, contests, rallies and meetings; and
- WHEREAS,** *National Night Out* is a popular and effective vehicle for heightening awareness, enhancing police-community relations and volunteer morale;

NOW, THEREFORE, I, Barry L. Gordon, Mayor of the City of Duncanville, Texas do hereby proclaim October 5, 2021 as

NATIONAL NIGHT OUT

in the City of Duncanville and urge all citizens to join the Duncanville Police Department in being a part of the nation's largest annual crime/drug prevention event. The benefits to the community will extend well beyond one night.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Duncanville, Texas to be affixed this 21st day of September, 2021

Mayor, The City of Duncanville



STAFF REPORT

MEETING: City Council - 21 Sep 2021

TITLE:

Proclamation Recognizing October as National Crime Prevention Month.

FY 2019 CITY COUNCIL ORGANIZATIONAL WORKPLAN:

STAFF RESPONSIBLE:

Interim Chief Mark LiVigni

Officer Doug Sisk

BACKGROUND/HISTORY:

The vitality of the City of Duncanville depends on how safe we keep our homes, neighborhoods, schools, workplaces, and communities. Crime and fear of crime destroy our trust in others and in civic institutions threatening the community's health, prosperity, and quality of life. Citizens of all ages must be aware of what they can do to prevent themselves and their families, neighbors, and co-workers from being harmed by crime. They must also be made aware of the dangers of crime and protect themselves from becoming victims.

Personal injury, financial loss, and community deterioration resulting from crime are intolerable and require investment from the whole community. We must teach citizens how to "target harden" to make themselves, homes, and businesses harder targets to criminal activity.

Crime prevention initiatives must include self-protection and security. They must also go beyond those two things to promote collaborative efforts making neighborhoods safer for all ages while developing positive opportunities for young people. Adults must invest time, resources, and policy support in effective prevention and intervention strategies for youth, and adults must make sure to engage teens in programs to drive crime from their communities.

Effective crime prevention programs succeed because of partnerships with law enforcement, other government agencies, civic groups, schools, faith communities, businesses, and individuals. They help nurture communal responsibility and instill pride in the community.

POLICY EXPLANATION:

Crime Prevention Month in the City of Duncanville will continue to urge all citizens, government agencies, public and private institutions, and businesses to invest in the power of prevention and work together to make Duncanville a safer, stronger, more caring community.

FUNDING SOURCE:

N/A

Contract Log #:

N/A

RECOMMENDATION:

N/A

ATTACHMENTS:

[Attachment 1 - Proclamation - National Crime Prevention Month](#)

OFFICE OF THE MAYOR



Duncanville
City of Champions

Proclamation

- WHEREAS,** the vitality of the City of Duncanville depends on how safe we keep our homes, neighborhoods, schools, workplaces and communities; and
- WHEREAS,** crime and fear of crime destroy our trust in others and in civic institutions threatening the community's health, prosperity and quality of life; and
- WHEREAS,** citizens of all ages must be made aware of what they can do to prevent themselves and their families, neighbors and co-workers from being harmed by crime; and
- WHEREAS,** citizens of all ages must be made aware of the dangers of crime, and how they can protect themselves from becoming victims; and
- WHEREAS,** the personal injury, financial loss and community deterioration resulting from crime are intolerable and require investment from the whole community; we must teach citizens how to "target harden", to make themselves, homes and businesses harder targets to criminal activity; and
- WHEREAS,** crime prevention initiatives must include self-protection and security. They must also go beyond those two things to promote collaborative efforts to make neighborhoods safer for all ages and to develop positive opportunities for young people; and
- WHEREAS,** adults must invest time, resources, and policy support in effective prevention and intervention strategies for youth, and adults must make sure to engage teens in programs to drive crime from their communities; and
- WHEREAS,** effective crime prevention programs succeed because of partnerships with law enforcement, other government agencies, civic groups, schools, faith communities, businesses and individuals as they help to nurture communal responsibility and instill pride in the community;

NOW, THEREFORE, I, Barry L. Gordon, Mayor of the City of Duncanville, Texas do hereby proclaim October 2021 as

CRIME PREVENTION MONTH

in the City of Duncanville and urge all citizens, government agencies, public and private institutions, and businesses to invest in the power of prevention and work together to make Duncanville a safer, stronger, more caring community.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Duncanville, Texas to be affixed this 21st day of September, 2021.

Mayor, The City of Duncanville

**Duncanville City Council Meeting Minutes
Regular Meeting
Tuesday, May 18, 2021**

CALL TO ORDER

A regular meeting of the Duncanville City Council was called to order on Tuesday, May 18, 2021, at 6:03 p.m. in the Council Briefing Room at City Hall with a quorum to wit:

COUNCIL PRESENT:

Mayor Barry L. Gordon
Councilmember At-Large Patrick Harvey
Councilmember Joe Veracruz
Councilmember Don McBurnett
Councilmember Jeremy Koontz
Mayor Pro Tem Mark D. Cooks
Councilmember Greg Contreras

SUPPLEMENTAL NOTICE OF MEETING BY VIDEO CONFERENCE

In accordance with an Order of the Office of the Governor issued on March 16, 2020, as extended by Office of the Governor on June 12, 2020, the City Council for the City of Duncanville, Texas will conduct a City Council Regular Meeting by video conference at 6:00 pm on Tuesday, May 18, 2021, in order to advance the public health goal of limiting face-to-face meetings (also called "social distancing") in an effort to slow the spread of the Coronavirus (COVID-19) pandemic.

This is an open meeting conducted by video conference.

To speak during Citizen Comments, you must register with the City Secretary before 4pm on Tuesday, May 18, 2021, email citysecretary@duncanville.com and title the email "Public Comment – May 18th". You will need to register with the link below and attend the meeting. During the Citizen Comments period of the agenda, the City Secretary will call your name and allow access to your camera and microphone for you to provide your comments. Feel free to email your comment to the City Secretary for the Mayor to read into the record for any unexpected technological issues that may arise.

Register in advance for this webinar:

https://us02web.zoom.us/webinar/register/WN_cvRIPqI6S2Si_ylyDw4BuA

After registering, you will receive a confirmation email containing information about joining the webinar.

A recording of the video meeting will be made available to the public in accordance with the Open Meetings Act upon written request.

I. WORK SESSION / BRIEFING**I.1. DISCUSS AGENDA ITEMS**

Mayor Gordon read the item into record, and City Manager Ferrell-Benevides reviewed each item. Item 4A - Consider a Resolution approving the terms and conditions of a Professional Engineering Services Agreement PSA-21-021 for Engineering Consulting Design Services for an emergency generator at the Summit Pump Station, with Dunaway Associates, LLC., in the proposed amount of \$76,038.00. The pump house currently does not have an emergency generator. It was not operable during Winter Storm Uri which denied the City 5 million gallons of water storage, resulting in a Water Emergency. The emergency generator will allow the City to operate Summit Pump House during a power loss. Item 4B - Consider a Resolution approving the terms and conditions of a Professional Engineering Services Agreement PSA-21-022 for Engineering Consulting Design Services for the replacement of the water pipeline along Wren Avenue, from Oriole Blvd. to Winding Trail, and the replacement of the water pipeline located in the utility bridge over I-20, adjacent to Oriole Blvd., with Dunaway Associates, LLC., in the proposed amount of \$70,035.00. The existing 8" water line along Wren between Oriole Blvd and Falling Leaves is in TXDOT right-of-way and is under TXDOT pavement following I-20 service road upgrades from earlier this year. This project would allow the City to construct a new water line under the Wren Ave sidewalk; putting the line back in City property. The 10" water line crossing Oriole Blvd. aerial bridge had a burst due to freezing during Winter Storm Uri. This project would replace the destroyed water line with a new 12" insulated water line.

Mayor Pro Tem Cooks requested Item 5B be moved until after Executive Session.

I.2. BRIEFINGS / PRESENTATIONS

I.2.A. Council update on 2% mid-year compensation increase and year-to-date sales tax.

Finance Director Summerlin presented the item.

Mid-Fiscal Year Compensation Increase:

- 2% mid-fiscal year across-the-board increase was approved as part of the 2020-2021 fiscal year budget
- Total cost is \$236,210 (\$188,229 for General Fund Employees)
- Based on the current sales tax collections (\$608,667 YTD over budget as of May), the 2% mid-fiscal year increase will be instituted on May 23, 2021.

I.2.B. Discussion on P25 Public Safety Radio Progression.

Interim Chief of Police LiVigni presented the item.

Current Public Safety Radio System:

- Over 10 Years Old
- Limited Operability
- Partner City Owned

Issues

- Coverage Area
- Interoperability Needs
 - o Fire Department Mutual Aid
 - o Police Department Pursuits
 - o Active Shooter Incidents
 - o SWAT Incidents
 - o Natural Disasters
 - o Deployments

Why Project 25 (P25)?

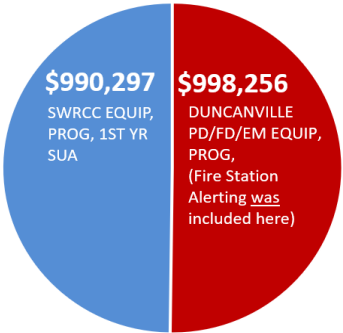
- National Standard for Public Safety Digital Radio
- The requirement to receive most State and Federal Grants
- P25 Objectives
 - o Interoperability
 - o More Frequencies
 - o Encryption
 - o Price Competition
 - o Digital Quality
 - o Compatibility

City and County of Dallas Infrastructure

- Regional Operability – Connectivity with Tarrant County System
- Band space and coverage for other cities on infrastructure
- System redundancy features
 - o Twenty-nine (29) radio towers across Dallas County
 - o Two (2) main cores or hubs
 - o Sustainability
 - o Security
 - o In line with State of Texas interoperability coordination of public safety communications

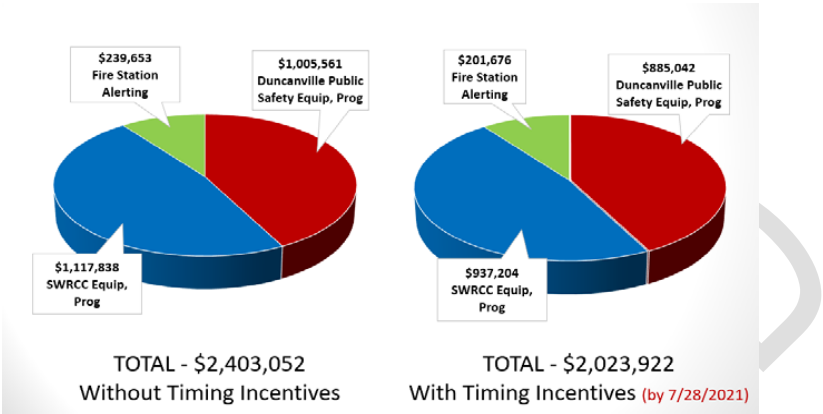
Estimated 1st Year P25 Capital Outlay as reported to Council June 2020

Estimated TOTAL
\$1,978,553.00*



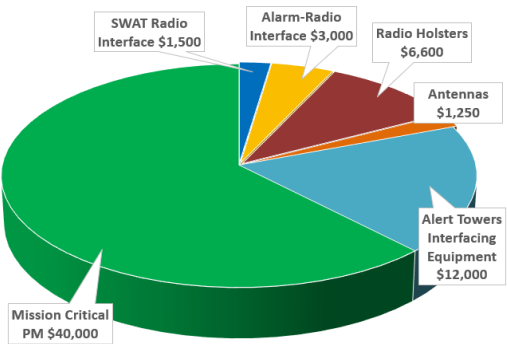
*Did include 1st Year subscription on Dallas System.
Did not include Years 2-7 of SUA or PM contract with Mission Critical.

Duncanville 1st Year Capital Outlay with Motorola (latest proposal)



Other Duncanville P25 Radio Costs

Other Initial One-Time Costs outside of Motorola Equipment



+

Annual Dallas P25 Radio Subscription (\$70K) – 1st year
After first year annual subscription for portable radio safety features (\$19K)
\$89K – beyond 1st year

Discussion included on how the City of Duncanville Fire and Police Departments currently communicate with other cities and the difficulties they are experiencing.

Mayor Gordon recessed the Briefing Session at 6:56 p.m. for Council to move into the City Council Chambers for the Swearing In of new Councilmembers.

I.2.C. **Briefing on the request from the City of Dallas to Amend the Interlocal Agreement for Traffic Signal Operations and Maintenance.**

Postponed until the June 1, 2021, City Council Regular Meeting.

II. EXECUTIVE SESSION

The Executive Session was moved until after Staff and Board Reports.

- II.1** *City Council shall convene into closed executive session pursuant to Section 551.071 of the Texas Government to seek legal advise from the City Attorney regarding cause number CC-21-00211-E styled City of Duncanville v. Tommy Winn, et al filed in the County Court of Law #5 of Dallas County Texas.*

III. OATH OF OFFICE

- III.1** *Candidates receiving the majority of the votes for their respective districts will be sworn in by the City Secretary, after which each will take their seat on the dais.*

Mayor Gordon reconvened the Briefing Session at 7:02 p.m.

City Secretary Downs provided the Oath of Office to the following: Patrick Harvey, Joe Veracruz, Jeremy Koontz, and Greg Contreras.

IV. RECESS FOR RECEPTION

- IV.1** *Recognize and show appreciation to outgoing Councilmember Monte Anderson and Councilwoman Johnette Jameson for their service.*

Mayor Gordon thanked Monte Anderson and Johnette Jameson for their service as Councilmembers.

Mayor Gordon recessed the Briefing Session at 7:30 p.m. for a reception for the outgoing and incoming Councilmembers.

Mayor Gordon stated Briefing Session Item 2C would be postponed until the June 1, 2021, City Council Regular Meeting.

Mayor Gordon adjourned the Briefing Session at 7:39 p.m.

V. REGULAR SESSION - CONVENE INTO THE COUNCIL CHAMBERS (7:00 P.M. or immediately following the 6:00 pm Work Session/Briefing)

The City Council convened into Regular Session in the Council Chambers at 7:40 p.m. with Mayor Gordon presiding.

Mayor Gordon delivered the Invocation.

Mayor Gordon led the Pledge of Allegiance and Texas Pledge.

V.1. REPORTS

V.1.A. Mayor's Report.

Mayor Gordon spoke on the Dallas Regional Mobility Coalition and Regional Transportation Committee and his duties and upcoming projects.

V.1.B. Councilmembers' Reports

Councilmember Veracruz thanked everyone who attended Teacher Appreciation Week on May 15, 2021.

Mayor Pro Tem Cooks recognized Teacher Appreciation Week and encouraged all to attend

Meet, Connect, and Learn

Guest: Economic Development Director Garcia

Date: May 22, 2021

Time: 10:00 – 11:15am

via Zoom

Meet, Connect, and Learn

Guest: Assistant City Manager Brown and DISD Police Chief

Date: May 19, 2021

Time: 6:00 – 7:00pm

Topic: Student and Policing

via Zoom

V.1.C. City Manager's Report.

City Manager Ferrell-Benavides spoke on the following.

The Fire Truck Pull helps raise money for Special Olympics this Saturday, May 22, 2021, at 10:00 am in the west Senior Center Parking Lot. Over \$23,000.00 has been raised for the Texas Special Olympics.

The City of Duncanville and VFW Post 7843 will be hosting the annual Memorial Day Ceremony at Memorial Park, 101 N. Main, on Monday, May 31, 2021, at 10:00 AM. Please join us to remember our Duncanville military service members who made the ultimate sacrifice for the freedoms that we enjoy today.

The DL Hopkins Jr. Senior Center will be opening with limited in-person hours beginning Tuesday, June 1, 2021. Hours are from 8:00 – 11:00 am. The congregate lunch meal program will continue with curbside service only (no in-person meals), and participants are still required to order two days in advance. Capacity will be capped at 50% occupancy for each room. Staff will be performing additional cleaning and sanitizing services throughout the day, and members are required to wear masks and socially distance from others while in the building.

The City of Duncanville has been awarded the GFOA's Distinguished Budget Presentation Award for the FY2021 budget book. This award is the highest form of recognition in governmental budgeting. In order to receive this award, a governmental unit must publish a budget document that meets program criteria as a policy document, as a financial plan, as an operations guide, and as a communications device. Special thanks to Richard Summerlin and the Finance team, especially Jennifer Otey (Budget Analyst) for their work and dedication.

V.2. PROCLAMATIONS AND PRESENTATIONS

Mayor Gordon recognized Coach Reginald Samples and Coach David Peavy as a Champion of the City.

V.3. CITIZENS' INPUT

"Pursuant to Section 551.007 of the Texas Gov't Code, any member of the public has the opportunity to address the City Council concerning any matter of public business or any posted agenda item; however, the Act prohibits the City Council from deliberating any issues, not on the public agenda and such non-agenda issues may be referred to City staff for research and any future action; all persons addressing are subject to council adopted rules and limitations permitted by law"

At this time, two-minute comments will be taken from the audience on any topic. To address the Council, please submit a fully completed request card to the City Secretary prior to the beginning of the Citizens' Input portion of the Council meeting. In accordance with the Texas Open Meetings Act, the City Council cannot discuss issues raised or make any decisions at this time. Issues may be referred to City Staff for research and possible future action.

To speak during Citizen Comments, you must register with the City Secretary before 4pm on Tuesday, May 18, 2021, email citysecretary@duncanville.com and title the email "Public Comment – May 18th. You will need to register with the link below and attend the meeting. During the Citizen Comments period of the agenda, the City Secretary will call your name and allow access to your camera and microphone for you to provide your comments. Feel free to email your comment to the City Secretary for the Mayor to read into the record for any unexpected technological issues that may arise.

The City Secretary will still set a two-minute time limit on the comments as they are read.

Mayor Gordon read the item into record. The following spoke during the Citizens Input Period:

Roger Sashington - submitted a comment on the traffic signal at Clark Road and Summit Parc Drive.

Grady Smithey, 1806 Cedar Hill Road – congratulated all incoming Councilmembers and spoke on the road system and would like to see it completed soon.

Bill Self, 710 Timber Trail - submitted a comment on a variance to build a carport.

V.4. CONSENT AGENDA

Mayor Gordon requested that City Secretary Kristin Downs read the Consent Agenda Items.

V.4.A. Consider a Resolution approving the terms and conditions of a Professional Engineering Services Agreement PSA-21-021 for Engineering Consulting Design Services for an emergency generator at the Summit Pump Station, with Dunaway Associates, LLC., in the proposed amount of \$76,038.00.

V.4.B. Consider a Resolution approving the terms and conditions of a Professional Engineering Services Agreement PSA-21-022 for Engineering Consulting Design Services for the replacement of the water pipeline along Wren Avenue, from Oriole Blvd. to Winding Trail, and the replacement of the water pipeline located in the utility bridge over I-20, adjacent to Oriole Blvd., with Dunaway Associates, LLC., in the proposed amount of \$70,035.00.

V.4.C. Consider a Resolution authorizing the first renewal option of IFB-20-018 for Pavement Markings Supply and Installation Services to Elite Striping, LLC, Cedar Hill, Texas in the unit amount bid for an estimated amount of \$123,626.00.

V.4.D. Consider a Resolution awarding a bid for the purchase of a Freedom Chevrolet through the Tarrant County Commissioners Interlocal Cooperative Purchasing Contract Bid #2020-174; in the amount not to exceed \$61,864.00.

Councilmember Don McBurnett made a motion to approve the item as stated, Mayor Pro Tem Mark D. Cooks seconded the motion. The vote was cast 7 for, 0 against. Items passed.

V.5. ITEMS FOR INDIVIDUAL CONSIDERATION

V.5.A. Consider amending Ordinance No. 2390R amending the Master Fee Schedule for Fiscal Year 2020-2021, by amending said Master Fee Schedule, by adding a fee for Non-Residential Specific Use Permit (SUP) Subpart 11 within the Planning/Building Inspections Master Fee Schedule as set forth on the attached Exhibit 'A'.

Mayor Gordon stated Item 5B would be moved until after Executive Session.

City Planner Skye Thibodeaux presented the item. On March 2, 2021, City Council adopted a new Zoning Ordinance.

The New Zoning Ordinance now requires a Specific Use Permit (SUP) for the following residential accessory uses:

- Carport
- Basketball or Tennis Court
- Short-Term Rental
- Wind Turbine

Currently, Zoning Change SUP Application Fee is \$1,150.00 for all SUP requests (commercial focus).

Since adopting the new Zoning Ordinance, multiple residential property owners have been deterred from applying for carport permits due to the \$1,150.00 SUP application fee.

Staff proposes amending the FY21 Master Fee Schedule

- Differentiate between SUP for residential accessory uses and SUP for non-residential uses.
- Fee for non-residential SUP remains \$1,150.00

- Fee for residential SUP is \$125.00 (same as Zoning Board of Adjustment Board request)

Summary of Master Fee Schedule Changes

#	Item	Current Fee	Proposed Fee	Remarks
11	Zoning Change – Specific Use Permit (SUP) – non-residential	\$1,150.00	N/A	Update Item description to reflect new Zoning Ordinance and specify item as fee for non-residential SUP requests.
Add 12	Zoning Change – Specific Use Permit (SUP) – residential	N/A	\$125.00	New line item for specified residential accessory uses. Fee proposed to match variance request fee associated with Board of Adjustment.

Councilmember Don McBurnett made a motion to approve the item as stated, Councilmember At-Large Patrick Harvey seconded the motion. The vote was cast 7 for, 0 against. Item passed.

V.5.B. Consider a Resolution selecting Exterior Design Option 2 for the new Fire Station #1.

Item moved until after Executive Session.

V.5.C. Consider a Resolution approving the terms and conditions of PSA-21-031 for Engineering Consultant Services for the Design of Cedar Ridge Rd. Street Reconstruction and Subsurface Utility Improvements from Big Stone Gap Rd. to W. Wheatland Rd. Professional Services Contract, with Dunaway Associates, LLC., in the proposed amount of \$417,035.00.

Public Works Director Ramey presented the item. This agreement will provide for the engineering design of water, wastewater, drainage, roadway improvements to Cedar Ridge Road from Big Stone Gap Road to Wheatland Road. The roadway has deteriorated beyond the point of maintenance and must be reconstructed.

Funding:

	Bond Funds	Utility CIP Funds	Total
Design Costs	\$259,967.74	\$157,067.26	\$417,035.00
Est. Construction Costs	\$2,740,000.00	\$1,900,000.00	\$4,640,000.00

Dunaway Associates is based in Fort Worth, TX and is one of the five, fully qualified Engineer firms selected by the City to perform engineering work.

PROJECT MAP



Mayor Pro Tem Cooks requested Director Ramey speak on the process for recommendation during the Bond process and commended the Bond Committee and their process and work.

Councilmember McBurnett stated it is part of bond package and was voted on.

Mayor Pro Tem Cooks made a motion to approve the study from Cedar Ridge Road to all the Bond Committee more time to study the contract.

City Attorney Hager stated the item is not on the agenda Council will need to vote the item down then bring back more information.

Mayor Pro Tem Mark D. Cooks made a motion to deny the item as stated, Councilmember At-Large Patrick Harvey seconded the motion. The vote was cast 5 for, 2 against (Councilmember Don McBurnett and Councilmember Jeremy Koontz). Item denied.

V.6. STAFF AND BOARD REPORTS

V.6.A. Discuss City owned properties.

Economic Development Director Garcia presented the item.

Councilmember Veracruz recommended a bus tour on the ten properties with staff and Council to discuss options and what is possible for those properties.

Mayor Gordon recessed Regular Session at 9:25 p.m.

II. EXECUTIVE SESSION

The Executive Session was called into session at 9:34 p.m. and City Attorney Hager read the item into record.

II.1 City Council shall convene into closed executive session pursuant to Section 551.071 of the Texas Government to seek legal advise from the City Attorney regarding cause number CC-21-00211-E styled City of Duncanville v. Tommy Winn, et al filed in the County Court of Law #5 of Dallas County Texas.

The Council closed the Executive Session at 10:00 p.m.

Mayor Gordon reconvened Regular Session at 10:02 p.m.

V.5.D. Take any necessary action as a result of the Executive Session.

No action taken.

V.5.B. Consider a Resolution selecting Exterior Design Option 2 for the new Fire Station #1.

Councilmember Don McBurnett made a motion to approve the item as stated, Councilmember At-Large Patrick Harvey seconded the motion. The vote was cast 7 for, 0 against. Item passed.

V.6. STAFF AND BOARD REPORTS

V.6.A. Discuss City owned properties.

Item moved after Item 5C.

VI. ADJOURNMENT

The meeting was adjourned at 10:03 p.m.

APPROVED:

MAYOR

ATTEST:

CITY SECRETARY

Duncanville City Council Meeting Minutes
Regular Meeting
Tuesday, June 1, 2021

CALL TO ORDER

A regular meeting of the Duncanville City Council was called to order on Tuesday, June 1, 2021, at 6:00 p.m. in the Council Briefing Room at City Hall with a quorum to wit:

COUNCIL PRESENT: Mayor Barry L. Gordon
Councilmember At-Large Patrick Harvey
Councilmember Joe Veracruz
Councilmember Don McBurnett
Councilmember Jeremey Koontz
Mayor Pro Tem Mark D. Cooks
Councilmember Greg Contreras

SUPPLEMENTAL NOTICE OF MEETING BY VIDEO CONFERENCE

In accordance with an Order of the Office of the Governor issued on March 16, 2020, as extended, the City Council for the City of Duncanville, Texas will conduct a City Council Regular Meeting in person and by video conference at 6:00 pm on Tuesday, June 1, 2021, in order to advance the public health goal of limiting face-to-face meetings (also called “social distancing”) in an effort to slow the spread of the Coronavirus (COVID-19) pandemic.

This is an open meeting conducted by in person and video conference.

Due to limited seating in council chambers, persons or participants may attend by video conference in order to maintain safe social distance as provided in this notice.

To speak during Citizen Comments, you must register with the City Secretary before 4pm on Tuesday, June 1, 2021, email citysecretary@duncanville.com and title the email “Public Comment – June 1st”. You will need to register with the link below and attend the meeting. During the Citizen Comments period of the agenda, the City Secretary will call your name and allow access to your camera and microphone for you to provide your comments. Feel free to email your comment to the City Secretary for the Mayor to read into the record for any unexpected technological issues that may arise.

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After registering, you will receive a confirmation email containing information about joining the webinar.

A recording of the video meeting will be made available to the public in accordance with the Open Meetings Act upon written request.

I. **WORK SESSION / BRIEFING**

I.1. **DISCUSS AGENDA ITEMS**

Mayor Gordon read the item into record, and City Manager Ferrell-Benevides reviewed each item.

I.2. **BRIEFINGS / PRESENTATIONS**

I.2.A. **Briefing on the request from the City of Dallas to Amend the Interlocal Agreement for Traffic Signal Operations and Maintenance.**
Public Works Director Bryan “Greg” Ramey presented the item. An Interlocal Agreement with City of Dallas for Traffic Signal Operations & Maintenance (Res No. 2003-03413) was approved on March 4, 2003.

City of Duncanville Responsibility	City of Dallas Responsibility
Cockrell Hill Rd. & Wheatland Rd.	Cockrell Hill Rd. & Camp Wisdom Rd.
Clark Rd. & Camp Wisdom Rd.	Cockrell Hill Rd. & I-20
Clark Rd. & Wheatland Rd.	Cockrell Hill Rd. & San Juan/Gannon
Clark Rd. & Big Stone Gap	Cockrell Hill Rd. & Skyline
Clark Rd. & Danieldale Rd.	US-67 & Wheatland Rd.
Cedar Ridge Rd. & Camp Wisdom Rd.	Westmoreland Rd & Wheatland Rd.

Dallas consultant, Kimley-Horn, first contacted Duncanville for Traffic Division traffic signal specifications on September 23, 2020.

On October 28, 2020, Duncanville received copy of signal warrant (performed 08/2017). Staff requested a signal warranted for 8-hr and 4-hr vehicle volumes at 53 mph (85th Percentile Speed).

Background

- 03/29/2021, First official meeting between City of Duncanville and City of Dallas.
 - o Dallas Councilmember and Transportation Dept. received complaints from residents of Summit Parc subdivision located in Dallas.
 - o City of Duncanville staff has not received any complaints from residents along West Ridge Dr.
 - o Staff requested a formal letter from City of Dallas.
- 04/06/2021, City of Duncanville received formal request from City of Dallas asking to partner on a new traffic signal at Clark Rd. & Summit Parc Dr./West Ridge Dr.
 - o City of Dallas will pay for signal design in compliance with Duncanville specifications (already completed by Dallas).
 - o City of Dallas will pay for 2/3 cost of signal construction and City of Duncanville would pay for 1/3 cost, capped at \$100K.
 - o City of Duncanville would assume Operations & Maintenance (O&M) responsibility in perpetuity.
- \$100K for a new traffic signal at Clark Rd. & Summit Parc Dr./West Ridge Dr. is not currently in Duncanville CIP Budget.
- Lifecycle cost estimate for O&M is \$293,142.00 over 20 years; \$14,657.10/year.
- FY21 Traffic Signal O&M Budget is \$391,456.00/year. This covers the 37 signalized intersections already in Duncanville. Adding one additional intersection would add 4% to this budget beginning in FY22 or FY23.
- City of Duncanville control of this intersection would maintain signal timing connectivity along Clark Rd. corridor.

City Council concluded the City of Duncanville cannot bare the financial responsibility.

I.2.B. Discuss speed control and safety options for S. Peach Street into Lion's Park.

Item requested by Councilmember McBurnett.

Parks and Rec. Director Bart Stevenson presented the item. The concerns seen for S. Peach Street into Lion's Park are as followed; speeding, existing trail crosswalk at the entrance of the park can be dangerous if vehicles are not controlled, and the expansive parking lot lends itself to illegal driving maneuvers.

Options for Crosswalk Safety

- Best solution to be considered within existing operating budget:
 - o Add speed bumps prior to crosswalk (common practice currently used at Lakeside, Alexander, and Harrington Parks)
- Best solution to be considered in future budget planning if needed:
 - o Add flashing crosswalk signage
 - o Add stop sign prior to crosswalk

Options for Parking Lot Safety

- Best solutions to be considered within existing operating budget:
 - o Micro-surface entire lot for a clean asphalt appearance
 - o Re-stripe parking spaces
 - o Add curb stops to all spaces
- Best solution to be considered in future budget planning, if needed:
 - o Add islands and corresponding landscaping with irrigation

City Council agreed with the recommendations from Staff.

I.2.C. Winter Storm Uri Ancillary Cost Recovery.

Finance Director Richard Summerlin presented the item.

Acronyms

- TCAP – Texas Coalition for Affordable Power
- ERCOT – Electric Reliability Council Of Texas
- PUC – Public Utility Commission
- REP – Retail Electric Provider

How Does the City Procure Electricity?

- Electricity costs generally consist of three components:
 1. Energy Services (Fixed Rate Contract with TCAP)
 2. Distribution and Transmission Services (Oncor)
 3. Ancillary Services (ERCOT)
- TCAP contracts with Gexa, which is a REP to bill members based on the fixed rate Energy Services procured by TCAP and the Transmission and Distribution Services are billed by Oncor, and the Ancillary Services billed by ERCOT.
- TCAP has a reserve fund for Ancillary Services and typically absorbs these costs as they are usually small.

What Are Ancillary Services?

- Reliability products procured by ERCOT to maintain the stability and reliability of the electric grid.
- The cost of Ancillary Services is typically cheap (standby generation).
- During Winter Storm Uri, ERCOT lost about half of its total generation capacity.
- With little additional generation capacity in reserve, the price of Ancillary Services rose to levels that had never been experienced in the ERCOT market.
- There was no price cap on Ancillary Services (many people thought the Energy Services cap was applicable to Ancillary Services, but they are not).

Why No Repricing?

- The Public Utility Commission (PUC) appoints an Independent Market Monitor.
- ERCOT and PUC chose to ignore the recommendation of the Independent Market Monitor to reprice these services at a more moderate level.
- Texas Senate passed a bill to force these services to be repriced, but the Texas House refused to follow the Senate's lead and no legislative relief has yet been enacted .
- There is legislation being considered to securitize these costs
- Gexa (TCAP's contracted REP) has promised in writing to refund or credit any cost paid if legislation changes the amounts owed to ERCOT.

Gexa Billing Options

- One-time payment of \$195,729.77
- Time payment option 1 (19 months) \$200,102.68
- Time payment option 2 (91 months) \$265,738.20

Based on current fiscal year projected ending fund balances, staff recommends lump sum payment with an equitable split between General Fund, Utility Fund, and Fieldhouse Fund based on February usage.

City Council discussed financial impacts and concluded to split the monies between three funds; General Fund, Utility Fund, and the Fieldhouse Fund.

I.2.D. Discuss Annual City Council Calendar.

City Council concluded.

- Mini Council Retreat - June 29th at 6:00 p.m.
- July 6, 2021 City Council Meeting - canceled

I.2.E. Discussion of City Council Rules of Procedure.

Item 2E would be postponed until the June 29th Mini Council Retreat.

Mayor Gordon adjourned the Briefing Session at 6:59 p.m.

II. EXECUTIVE SESSION

No Executive Sessions were held.

III. REGULAR SESSION - CONVENE INTO THE COUNCIL CHAMBERS (7:00 P.M. or immediately following the 6:00 pm Work Session/Briefing)

The City Council convened into Regular Session in the Council Chambers at 7:04 p.m. with Mayor Gordon presiding.

The Invocation was delivered by At-Large Councilmember Harvey.

The Pledge of Allegiance and Texas Pledge were led by Mayor Gordon.

III.1. REPORTS

III.1.A. Mayor's Report.

Mayor Gordon thanked staff for the Memorial Day Event held on May 31, 2021.

III.1.B. Councilmembers' Reports

Councilmember McBurnett thanked staff for the Memorial Day Event held on May 31, 2021 and the Fire Truck Pull held on May 22, 2021.

Councilmember Contreras thanked staff for the Memorial Day Event and remembered those who lost their lives.

III.1.C. City Manager's Report.

City Manager Ferrell-Benavides spoke on upcoming City events.

The DL Hopkins Jr. Senior Center has opened with limited in-person hours from 8:00 – 11:00 am. The congregate lunch meal program will continue with curbside service only (no in-person meals), and participants are still required to order two days in advance. Capacity is capped at 50% occupancy for each room. Staff will be performed additional cleaning and sanitizing services throughout the day, and members are required to wear masks and socially distance from others while in the building.

III.2. PROCLAMATIONS AND PRESENTATIONS

III.2.A. Recognition of the Police Department.

Interim Police Chief Mark LiVigni presented the item.

III.3. CITIZENS' INPUT

"Pursuant to Section 551.007 of the Texas Gov't Code, any member of the public has the opportunity to address the City Council concerning any matter of public business or any posted agenda item; however, the Act prohibits the City Council from deliberating any issues not on the public agenda and such non-agenda issues may be referred to City staff for research and any future action; all persons addressing are subject to council adopted rules and limitations permitted by law"

At this time, two-minute comments will be taken from the audience on any topic. To address the Council, please submit a fully-completed request card to the City Secretary prior to the beginning of the Citizens' Input portion of the Council meeting. In accordance with the Texas Open Meetings Act, the City Council cannot discuss issues raised or make any decisions at this time. Issues may be referred to City Staff for research and possible future action.

To speak in person or by video conference during Citizen Comments, you must register with the City Secretary before 4pm on Tuesday, June 1, 2021, email citysecretary@duncanville.com and title the email "Public Comment – June 1st. You will need to register with the link below and attend the meeting by video conference. During the Citizen Comments period of the agenda, the City Secretary will call your name and allow attendance in person access to your

camera and microphone for you to provide your comments. Feel free to email your comment to the City Secretary for the Mayor to read into the record for any unexpected technological issues that may arise or unable to attend in person.

The City Secretary will still set a two-minute time limit on the comments as they are read.

Mayor Gordon read the item into record. The following spoke during the Citizens Input Period:

Gary Bennett, 215 Calder Ave.- submitted a comment on trash on Waterview Park.

Christina Leu, 434 Blueridge Drive – spoke on the City Manager.

III.4. CONSENT AGENDA

Mayor Gordon requested that City Secretary Kristin Downs read the Consent Agenda Items.

III.4.A. *Consider the Minutes for the April 6, 2021 City Council Regular Meeting and the April 13, 2021 City Council Special Meeting.*

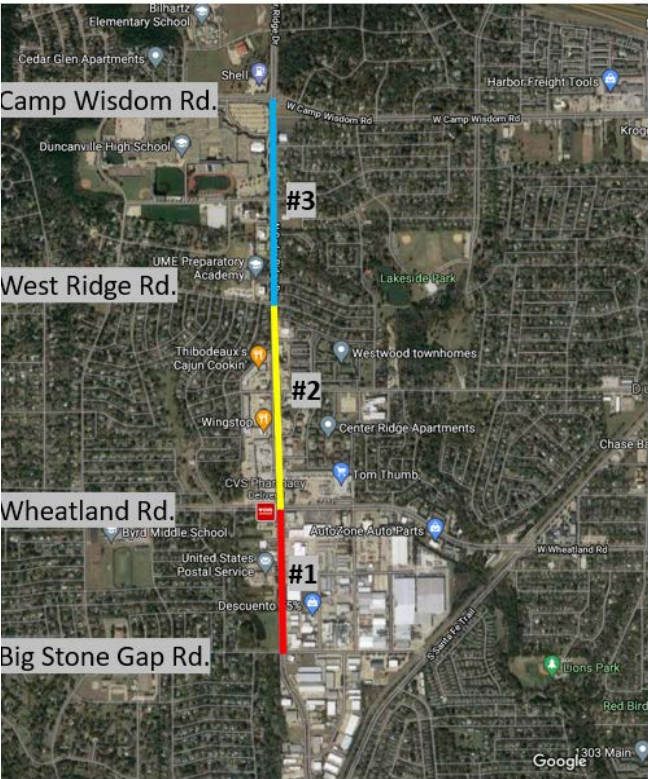
Mayor Pro Tem Mark D. Cooks made a motion to approve the item as stated, Councilmember Don McBurnett seconded the motion. The vote was cast 7 for, 0 against. Item passed.

III.5. ITEMS FOR INDIVIDUAL CONSIDERATION

III.5.A. *Consider a Resolution requesting the City Manager provide design alternatives along the Cedar Ridge Road corridor prior to starting the Cedar Ridge Road reconstruction design.*

Public Works Director Ramey presented the item. In November 2018 residents voted for \$6.6 million in Street Bonds. \$2 million in bond funds were allocated toward Cedar Ridge Rd., Wheatland Rd. to Big Stone Gap Rd. Combined with approximately \$2 million in Utility CIP funds for Water/Wastewater improvements. On May 18, discussion began to consider an alternate segment along Cedar Ridge Rd. before fully committing to segment between Wheatland Rd. and Big Stone Gap Rd.

Project Map



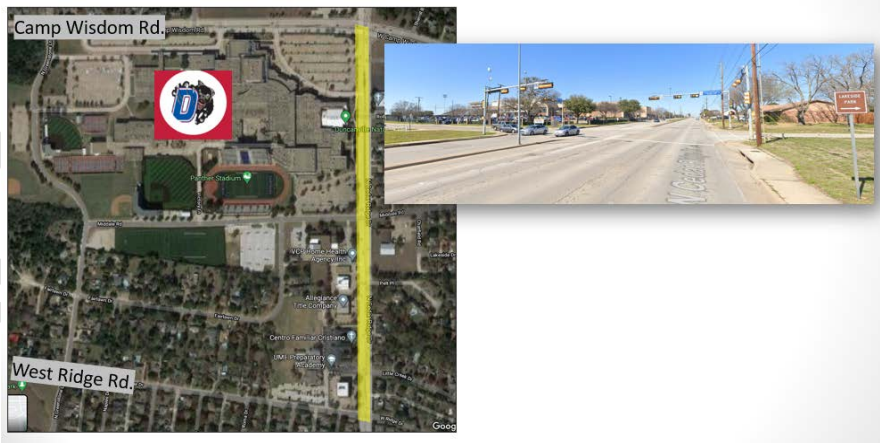
Segment 1



Segment 2



Segment 3



Evaluation Criteria

- Traffic Volumes along each segment
- Pavement Condition along each segment
- Recommended Street Cross Sections
- Conformance with the Comprehensive Plan

Mayor Gordon stated funds have already been allocated and staff is taking the initiative to reevaluate Cedar Ridge.

Public Works Director Ramey stated yes.

Councilmember Don McBurnett made a motion to approve the item as stated, Councilmember Greg Contreras seconded the motion. The vote was cast 7 for, 0 against. Item passed.

III.5.B. Consider a Resolution approving the terms and conditions of PSA-21-031 for Engineering Consultant Services for the Design of Cedar Ridge Rd. Street Reconstruction and Subsurface Utility Improvements from Big Stone Gap Rd. to W. Wheatland Rd. Professional Services Contract, with Dunaway Associates, LLC., in the proposed amount of \$417,035.00.

Mayor Gordon explained he requested Item 5B be brought back as a reconsideration to Council due to a misunderstanding on the motion made at the May 18, 2021 Regular City Council meeting. The Resolution has not changed.

Councilmember At-Large Patrick Harvey made a motion to reconsider and approve the item as stated, Councilmember Don McBurnett seconded the motion. The vote was cast 5 for, 2 against (Councilmember Don McBurnett and Councilmember Jeremy Koontz). Item passed.

III.5.C. Appoint City Councilmembers and private citizens to serve on the Audit Committee and designate a chairman for the committee.

Finance Director Summerlin presented the item.

City Council appointed the following to the Audit Committee:

- James Talley
- Steven Rutherford

City Council appointed the following Councilmembers to the Audit Committee:

- At-Large Councilmember Patrick Harvey, Chair
- Councilmember Veracruz
- Mayor Pro Tem Cooks

Councilmember At-Large Patrick Harvey made a motion to approve the item as stated, Councilmember Greg Contreras seconded the motion. The vote was cast 7 for, 0 against. Item passed.

III.5.D. Election of Mayor Pro Tem for 2021-2022.

City Attorney Hager read the Rules of Procedures.

A. MAYOR AND COUNCIL RESPONSIBILITIES

11. Criteria to be considered in the election of Mayor Pro Tem:

- Willingness to commit the time necessary to serve in case of the absence of the Mayor. Duties will include presiding over City Council meetings, scheduled and called meetings, representing the City at ribbon cuttings, memorial events, speaking engagements during the day and evening hours, and assisting staff when requested for special projects. From time to time, the Mayor may call on the Mayor Pro Tem to assist in representing the City when scheduling conflicts occur.
- The Mayor Pro Tem should have demonstrable leadership abilities and a good working relationship with his/her fellow Councilmembers and Citystaff.
- Councilmember must have served a minimum of one (1) year on subject City Council before being eligible to serve as Mayor Pro Tem.
- Councilmember should resist outside lobbying efforts by citizens on behalf of a particular Councilmember or for a particular council district.
- In the final analysis, more than one Councilmember may meet the criteria to serve as Mayor Pro Tem. A councilmember's vote should be cast for the one member he/she feels can best serve the City as Mayor Pro Tem for the coming year. Since only one person will be elected Mayor Pro Tem, the remaining Councilmembers should not consider the vote for another member as a lack of confidence in their ability or disrespect to the citizens of the district they represent.

12. No Councilmember shall offer, seek, or accept any favors, gifts, or special considerations in exchange for a vote to be Mayor Pro Tem.

- 13. The Mayor Pro Tem may be removed by simple majority vote of the City Council. Should Mayor Pro Tem office be vacated, an election to fill the unexpired term shall be held at the second regular meeting of the City Council following the vacancy.
- 14. The City Council shall develop an annual work plan and conduct a midyear review of the annual work plan.

Mayor Gordon stated The Rules of Procedures state there will not be consecutive terms.

City Attorney Hager stated yes unless you suspend the rules.

Councilmember Don McBurnett made a motion to elect At-Large Councilmember Harvey as Mayor Pro Tem, Mayor Pro Tem Mark D. Cooks seconded the motion. The vote was cast 7 for, 0 against. Item passed.

III.6. STAFF AND BOARD REPORTS

III.6.A. *Receive the Public Works Department Quarterly Report.*
Public Works Director Ramey presented the item.

III.6.B. *Receive the Library Quarterly Report.*
Interim Library Director Olsen presented the item.

{Councilmember Veracruz left the meeting at 8:20 p.m.}

III.6.C. *Receive the Monthly Financial Report as of April 30, 2021.*
Finance Director Summerlin presented the item.

IV. ADJOURNMENT

The meeting was adjourned at 8:40 p.m.

APPROVED:

MAYOR

ATTEST:

CITY SECRETARY



STAFF REPORT

MEETING: City Council - 21 Sep 2021

TITLE:

Consider a Resolution appointing Judge John B. Rizo as the Hearing Officer for Health Certificate Revocation Hearings; establishing a term of twelve months, and providing for an effective date.

FY 2019 CITY COUNCIL ORGANIZATIONAL WORKPLAN:

- N/A
 - Goal: N/A

STAFF RESPONSIBLE:

Bryan G. Ramey II, P.E., Director of Public Works

BACKGROUND/HISTORY:

The City Health Inspector is revoking the Health Certificate for Pho T Noodle (718 W Wheatland Rd) due to seven violations of the City Health Ordinance dating back to May 18, 2018. Health Certificate Suspensions with associated short-term restaurant closures have not been effective in achieving compliance. The last complaint was received and validated by the Health Inspector on September 7, 2021. The restaurant is currently closed.

The City Code of Ordinances allows the holder of the revoked Health Certificate to request a hearing. The Hearing Officer shall make final findings based on the complete hearing record and shall sustain, modify, or rescind the Health Certificate revocation. The City Code of Ordinances does allow the holder of the revoked Health Certificate to re-apply for a new Health Certificate.

The purpose of this Resolution is for City Council to appoint a Hearing Officer. Staff recommends appointing Judge John B. Rizo, Presiding Municipal Judge for the City of Duncanville, as the Hearing Officer for a term of 12 months and allowing an Associate Municipal Judge for the City of Duncanville to serve as Hearing Officer in his absence or inability to serve.

POLICY EXPLANATION:

Section 12-19 of the City Code of Ordinances allows the regulatory authority (City Health Inspector), after providing an opportunity for a hearing, to revoke a health certificate for serious or repeated violations of the Food and Food Establishment Sanitation ordinance, or for interference with the regulatory authority in the performance of duty.

Section 12-21 of the City Code of Ordinances states City Council shall designate an officer, agent, or employee of the City as Hearing Officer.

FUNDING SOURCE:

N/A.

Contract Log #:

N/A.

RECOMMENDATION:

Staff recommends approval of a Resolution appointing Judge John B. Rizo as the Hearing Officer for Health Certificate Revocation Hearings; establishing a term of twelve months, and providing for an effective date.

ATTACHMENTS:

[Attachment 1 - Resolution No. - 2021-070 -Appointment of Hearing Officer](#)

RESOLUTION NO. 2021-070

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS APPOINTING JUDGE JOHN B. RIZO AS THE HEARING OFFICER FOR HEALTH CERTIFICATE REVOCATION HEARINGS; ESTABLISHING A TERM OF TWELVE MONTHS AND, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 12-19 of the City Code of Ordinances allows the regulating authority, after providing for a hearing, to revoke a health certificate for serious or repeated violations of the food and food establishment sanitation ordinance, or for interference with the regulatory authority in the performance of duty; and

WHEREAS, Section 12-21 of the City Code of Ordinances states the City Council shall designate an officer, agent, or employee of the City as the hearing officer for health certificate revocation hearings.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, THAT:

SECTION 1. The City Council of the City of Duncanville appoints Judge John B. Rizo, presiding Municipal Judge of the City of Duncanville, as the hearing officer for health certificate revocation hearings.

SECTION 2. The term of this appointment is for twelve months.

SECTION 3. The Municipal Presiding Judge, Judge John B. Rizo, may delegate the hearing officer duties under this Resolution to an Associate Municipal Judge of the City of Duncanville in the event of his absence or inability to serve as the hearing officer.

DULY RESOLVED AND ADOPTED by the City Council of the City of Duncanville, Texas, on the 21st day of September, 2021.

APPROVED:

Barry L. Gordon, Mayor

ATTEST:

Kristin Downs, City Secretary

APPROVED AS TO FORM:

Robert E. Hager, City Attorney



STAFF REPORT

MEETING: City Council - 21 Sep 2021

TITLE:

Consider a Resolution approving and accepting the terms and conditions of an agreement with Dallas County on behalf of the Health and Human Services Department for a Mosquito Ground Control Program, attached hereto and incorporated herein as Exhibit "A", effective October 1, 2021, through September 30, 2022, at a rate of \$185.00 per hour.

FY 2021 CITY COUNCIL ORGANIZATIONAL WORKPLAN:

- **2. Create high quality neighborhoods and parks**
 - **Goal 2: Maximize city and community resources to improve quality of life in a sustainable manner.**

STAFF RESPONSIBLE:

Bryan G. Ramey, II, P.E., Director of Public Works
Tammy Island, Health Inspector

BACKGROUND/HISTORY:

The City of Duncanville has contracted with Dallas County for mosquito control services for a number of years. The scope of services includes ground application of adulticide and optional participation in aerial spraying to control St. Louis Encephalitis or West Nile Virus. Upon notification by Dallas County of a positive trap, the City has an aggressive notification process. A News Alert is posted on our homepage and a News Blast is sent to those residents signed up for notifications on the City website, an E-blast is sent, and a press release is issued. Signs are posted and maps of the areas to be sprayed with times are displayed in the lobby areas of all City buildings. Spray times are scheduled to start late in the evening and occur overnight so most residents will be in their homes and can secure their pets inside.

The County's rate for mosquito control services is \$185.00 per hour with a minimum of one hour of service assessed. The mosquito season begins in March; however, mosquito spraying for FY2021 started on August 11, 2021, when the City traps started registering infected mosquitoes.

POLICY EXPLANATION:

Authority is given under the Interlocal Cooperation Act in Chapter 791 of the Texas Government Code and the Local Public Health Reorganization Act in Chapter 121 of the Texas Health and Safety Code, to protect the public health by controlling the population of mosquitos by ground spraying of adult mosquitoes (adulticiding) and by treating standing water to destroy mosquito larvae (larvaciding) in order to prevent and control the outbreak of diseases associated with mosquitoes. By entering into this agreement, the City will receive, upon written request, ground control spraying provided by the County at the hourly rate above. In addition, the City will have the option to participate in the County's separate emergency aerial mosquito spraying plan by providing written notice to the County and paying a

proportioned share of the cost based upon the number of acres to be sprayed, as determined by the County.

The City Attorney has reviewed this contract and has approved the language.

FUNDING SOURCE:

\$19,055.00 is allocated in the FY2022 General Fund (Building Inspections) budget for this expenditure. All payments are from funds available and budgeted as required by Chapter 791 of the Texas Government Code.

Contract Log #:

1180R

RECOMMENDATION:

Staff recommends approval a Resolution approving and accepting the terms and conditions of an agreement with Dallas County on behalf of the Health and Human Services Department for a Mosquito Ground Control Program, attached hereto and incorporated herein as Exhibit "A", effective October 1, 2021 through September 30, 2022, at a rate of \$185.00 per hour.

ATTACHMENTS:

[Resolution No. - 2019-087R1 - Mosquito Ground Control Program - FY2022 - Pdf](#)

RESOLUTION NO. 2019-087R1

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, APPROVING AND ACCEPTING THE TERMS AND CONDITIONS OF AN AGREEMENT WITH DALLAS COUNTY ON BEHALF OF THE HEALTH AND HUMAN SERVICES DEPARTMENT FOR A MOSQUITO GROUND CONTROL PROGRAM, ATTACHED HERETO AND INCORPORATED HEREIN AS EXHIBIT "A", EFFECTIVE OCTOBER 1, 2021 THROUGH SEPTEMBER 30, 2022, AT A RATE OF \$185.00 PER HOUR; AUTHORIZING THE CITY MANAGER TO EXECUTE THE NECESSARY DOCUMENTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, and the Local Public Health Reorganization Act, Chapter 121, of the Texas Health and Safety Code, provides authorization for local governments to enter into contracts with other local governments and state agencies; and

WHEREAS, the City of Duncanville and Dallas County, on behalf of the Health and Human Services Department, routinely enter into an annual agreement for the mosquito ground control spraying program with the option to participate in a separate emergency aerial mosquito spraying plan; and

WHEREAS, Dallas County has successfully served the residents of the participating cities with ground and aerial mosquito control spraying for several years and is prepared to continue its services.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, THAT:

SECTION 1. The City Council hereby approves and accepts the terms and conditions of an agreement with Dallas County on behalf of the Health and Human Services Department for the mosquito ground control spraying program, attached hereto and incorporated herein as Exhibit "A", effective October 1, 2021, through September 30, 2022, at a rate of \$185.00 per hour from current revenues as budgeted by the City Council, by and between the City of Duncanville and Dallas County.

SECTION 2. That the City Council of the City of Duncanville hereby authorizes the City Manager to execute said agreement and necessary documents to conform to this Resolution.

SECTION 3. That this Resolution shall take effect immediately from and after its passage.

DULY RESOLVED AND ADOPTED by the City Council of the City of Duncanville,
Texas, on the 21st day of September, 2021.

APPROVED:

Barry L. Gordon, Mayor

ATTEST:

Kristin Downs, City Secretary

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

EXHIBIT A

STATE OF TEXAS § MOSQUITO GROUND CONTROL AGREEMENT BETWEEN
 § DALLAS COUNTY, TEXAS, ON BEHALF OF THE DALLAS
 § COUNTY HEALTH AND HUMAN SERVICES DEPARTMENT, AND
 COUNTY OF DALLAS § THE CITY OF DUNCANVILLE, TEXAS, A MUNICIPALITY

1. PARTIES

This Interlocal Agreement ("Agreement") is an Interlocal contract made by and between the City of Duncanville of Duncanville, Texas, a "Municipality" as defined by Section 1.005(3) of the Texas Local Government Code ("Municipality"), and Dallas County, Texas ("County"), on behalf of the Dallas County Health and Human Services Department ("DCHHS"), based on the authority of the Interlocal Cooperation Act in Chapter 791 of the Texas Government Code, and the Local Public Health Reorganization Act in Chapter 121 of the Texas Health and Safety Code, to protect the public health by controlling the population of mosquitos by ground spraying of adult mosquitoes ("adulticiding") and by treating standing water to destroy mosquito larvae ("larvaciding") in order to prevent and control the outbreak of diseases associated with mosquitoes.

2. DURATION OF THIS AGREEMENT

This Agreement is effective from October 1, 2021 through September 30, 2022, unless otherwise stated in this Agreement the ("Term").

3. ADULTICIDING AND LARVACIDING SPRAYING SERVICES

- A. Upon written request from Municipality, County will provide adulticiding and larvaciding by way of **ground application** at the rate set forth in Paragraph 4;
- B. In the event that aerial spraying is needed to control the St. Louis Encephalitis or the West Nile virus throughout the County, Municipality will have the option to participate in the County's separate emergency aerial mosquito spraying plan. If Municipality agrees to participate in the County's separate emergency aerial mosquito spraying plan, Municipality must provide written notice to County and agree in writing to the following:
 - 1) Indicate in writing the areas and amount of acres to be sprayed; and
 - 2) Pay Municipality's proportioned share of the cost based upon the number of acres to be sprayed multiplied by the per-acre spraying cost, as determined by County.

4. BUDGET AND PAYMENT BY MUNICIPALITY TO COUNTY

- A. Municipality will pay County at a rate of One Hundred Eighty-Five (\$185.00) Dollars per hour, with a minimum of one (1) hour of service assessed.
- B. After the initial one (1) hour minimum service time for a given day of spraying, spraying services will be assessed using thirty (30) minute minimum intervals.
- C. Only spraying time will be assessed. Travel time to or from the site of ground spraying or treating standing water will not be assessed.
- D. Municipality must pay County the assessed fees within thirty (30) days of receipt by Municipality of the monthly written request for payment, or if County fails to make any written payment request(s), then Municipality will pay any remaining assessed fees no later than the last day of the Term of this Agreement.
- E. Any payment not made within thirty (30) days of its due date will bear interest in accordance with Chapter 2251 of the Texas Government Code. Municipality's obligation

EXHIBIT A

to pay fees assessed and interest accrued under this Agreement will survive the Term of this Agreement until the Municipality pays the assessed fees and accrued interest.

5. AUDITING AND WITHHOLDING OF PAYMENTS

The Dallas County Auditor has the exclusive right and authority to audit this Agreement or to demand access to or copies of County's records concerning this Agreement or the County's administration of this Agreement. Municipality will have no right or authority to audit this Agreement or to demand access to or copies of County's records concerning this Agreement or the County's administration of this Agreement. Municipality has no right to withhold payments to County pending any audit of or inquiry about this Agreement or the County's administration of this Agreement.

6. TERMINATION

- A. Without Cause: This Agreement may be terminated in writing, without cause, by either party upon thirty (30) days prior written notice to the other party.
- B. With Cause: The County reserves the right to terminate the Agreement immediately, in whole or in part, at its sole discretion, for the following reasons:
 - 1) Municipality's lack of or reduction in funding or resources, financial or otherwise; or
 - 2) Municipality's misuse of resources, financial or otherwise; or
 - 3) Municipality's failure to comply with the terms of this Agreement; or
 - 4) Municipality's submission of inaccurate, incomplete, or false data, statements, or reports.

7. NO INDEMNIFICATION

COUNTY AND MUNICIPALITY, INCLUDING THEIR RESPECTIVE ELECTED OFFICIALS AND EMPLOYEES, AGREE THAT EACH WILL BE RESPONSIBLE FOR ITS OWN NEGLIGENT ACTS OR OMISSIONS OR OTHER TORTIOUS CONDUCT IN THE COURSE OF PERFORMANCE OF THIS AGREEMENT, WITHOUT WAIVING ANY GOVERNMENTAL IMMUNITIES AVAILABLE TO COUNTY OR MUNICIPALITY UNDER TEXAS LAW OR OTHER APPLICABLE LAWS AND WITHOUT WAIVING ANY AVAILABLE DEFENSES UNDER TEXAS LAW OR OTHER APPLICABLE LAWS. NOTHING IN THIS PARAGRAPH MAY BE CONSTRUED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, IN OR TO ANY THIRD PERSONS OR ENTITIES.

8. INSURANCE

Municipality agrees that Municipality will at all times during the Term of this Agreement maintain in full force and effect general liability insurance; or self-insurance, to the extent permitted by applicable law under a plan of self-insurance, that is also maintained in accordance with sound, generally accepted accounting practices. Municipality expressly understands and agrees that it is solely responsible for 1) all costs of such general liability insurance; 2) any and all deductible amounts in any general liability insurance policy; and 3) any liability in the event that any insurance company denies coverage for any incident reasonably related to the performance of this Agreement.

9. NOTICE

Any notice or certification required or permitted to be delivered under this Agreement will be deemed to have been given when personally delivered, or if mailed, seventy-two (72) hours after deposit of the notice or certification in the United States Mail, postage prepaid, by certified or registered mail, return receipt requested, and properly addressed to the contact person shown at their respective addresses set forth below, or at such other addresses as

Page 4 of 7

EXHIBIT A

may be specified by written notice delivered by the methods described above in this subsection:

Dallas County, Texas City of Duncanville, Texas

Philip Huang, Director
 Dallas County Health & Human Svcs
 2377 N. Stemmons Frwy, Suite 600
 Dallas, Texas 75207-2710

10. ENTIRE AGREEMENT AND AMENDMENTS

This Agreement, including any Exhibits and Attachments, constitutes the entire agreement between the parties and supersedes any other agreement concerning the subject matter of this transaction, whether oral or written. No modification, amendment, novation, renewal, or other alteration of this Agreement can be effective unless mutually agreed upon in writing and executed by the parties.

11. COUNTERPARTS, NUMBER, GENDER, AND HEADINGS

This Agreement may be executed in multiple counterparts, each of which will be deemed an original, but all of which will constitute one and the same instrument when considered together in context. Words of any gender used in this Agreement will be held and construed to include any other gender any words in the singular will include the plural and vice versa, unless the context clearly requires otherwise. Headings are for the convenience of reference only and cannot be considered in any interpretation of this Agreement.

12. SEVERABILITY

If any term of this Agreement is construed to be illegal, invalid, void or unenforceable, this construction will not affect the legality or validity or any of the remaining terms. The unenforceable or illegal term will be deemed stricken and deleted, but the remaining terms will not be affected or impaired and such remaining terms will remain in full force and effect.

13. FISCAL FUNDING CLAUSE

Notwithstanding any terms contained in this Agreement, the obligations of the County under this Agreement are expressly contingent upon the availability of funding for each item and obligation for the Term of the Agreement and any pertinent extensions. Municipality has no right of action against County in the event County is unable to fulfill its obligations under this Agreement as a result of lack of sufficient funding for any item or obligation from any source utilized to fund this Agreement or failure to budget or authorize funding for this Agreement during the current or future fiscal years. In the event that County is unable to fulfill its obligations under this Agreement as a result of lack of sufficient funding, or if funds become unavailable, County, at its sole discretion, may provide funds from a separate source or may terminate this Agreement by written notice to Municipality at the earliest possible time prior to the end of its fiscal year.

14. DEFAULT - CUMULATIVE RIGHTS - MITIGATION

It is not a waiver of default if the non-defaulting party fails to immediately declare a default or delays in taking any action. The rights and remedies provided by this Agreement are cumulative, and either party's use of any right or remedy will not preclude or waive its right to use any other remedy. These rights and remedies are in addition to any other rights the parties may have by law, statute, ordinance, or otherwise. Both parties have a duty to mitigate damages.

EXHIBIT A**15. SOVEREIGN IMMUNITY**

THIS AGREEMENT IS EXPRESSLY MADE SUBJECT TO MUNICIPALITY'S AND COUNTY'S GOVERNMENTAL IMMUNITIES, INCLUDING, WITHOUT LIMITATION, TITLE 5 OF THE TEXAS CIVIL PRACTICE AND REMEDIES CODE AND ALL APPLICABLE STATE AND FEDERAL LAWS. THE PARTIES EXPRESSLY AGREE THAT NO TERM OF THIS AGREEMENT IS IN ANY WAY INTENDED TO CONSTITUTE A WAIVER OF ANY IMMUNITIES FROM SUIT OR FROM LIABILITY, OR A WAIVER OF ANY TORT LIMITATION, AND ANY DEFENSES THAT MUNICIPALITY OR COUNTY HAVE BY OPERATION OF LAW, OR OTHERWISE. NOTHING IN THIS AGREEMENT IS INTENDED TO OR DOES BENEFIT ANY THIRD PARTY BENEFICIARY.

16. COMPLIANCE WITH LAW, CHOICE OF LAW, AND VENUE

In providing services required by this Agreement, Municipality and County must observe and comply with all licenses, legal certifications, or inspections required for the services, facilities, equipment, or materials, and all applicable Federal, State, and local statutes, ordinances, rules, and regulations. The laws of the State of Texas govern this Agreement. Exclusive venue for any action or claim arising from this Agreement is in the State or Federal District Courts that are physically located in Dallas County, Texas.

17. RELATIONSHIP OF PARTIES

County and Municipality are each independent political subdivisions of the State of Texas. Neither is an agent, servant, joint enterpriser, joint venturer, or employee of the other. Municipality and County agree and acknowledge that each governmental entity will be responsible for its own acts, forbearance, negligence and deeds, and for those of its agents or employees in conjunction with the performance of work covered under this Agreement.

The remainder of this page is intentionally left blank.

EXHIBIT A

18. SIGNATORY WARRANTY

Municipality and County represent that each has the full right, power, and authority to enter and perform this Agreement in accordance with all of its terms and conditions, and that the execution and delivery of this Agreement has been made by authorized representatives of the parties to validly and legally bind the parties to all terms set forth in this Agreement.

COUNTY:

MUNICIPALITY:

BY: Clay Lewis Jenkins
County Judge
Dallas County, Texas

BY: Aretha R. Ferrell-Benavides
Mayor or **City Manager**
City of Duncanville, Texas

DATE SIGNED: _____

DATE SIGNED: _____

Recommended:

BY: Philip Huang, MD, MPH
Director, DCHHS
Dallas County, Texas

Approved as to Form*:

Approved as to Form:

DALLAS COUNTY

MUNICIPALITY

JOHN CREUZOT
District Attorney

BY: Lacey B. Lucas
Assistant District Attorney
Civil Division

BY: _____
Attorney for Municipality

*By law, the District Attorney's Office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval, and should seek review and approval by their own respective attorney(s).



STAFF REPORT

MEETING: City Council - 21 Sep 2021

TITLE:

Consider a Resolution authorizing the third renewal of the interlocal agreement entered into by and between the City of Duncanville, Texas, and Dallas County Hospital District d/b/a Parkland Health & Hospital System, to provide BioTel/EMS System services, in the amount of \$53,657.49.

FY 2019 CITY COUNCIL ORGANIZATIONAL WORKPLAN:

- N/A
 - Goal: N/A

STAFF RESPONSIBLE:

Sam Rohde, Fire Chief

Sheila Baker, Purchasing Manager

BACKGROUND/HISTORY:

The Duncanville Fire Department, as well as many other fire departments, has obtained biomedical on-line supervision pre-hospital emergency medical control services ("BioTel/EMS System") under an interlocal agreement with the Dallas County Hospital System. At its December 20, 2016 meeting, Council authorized an interlocal agreement with the Dallas County Hospital System d/b/a Parkland Health & Hospital. This authorization is to renew the agreement through September 30, 2023.

The Texas Department of State Health Services requires every system providing Emergency Medical Services (EMS) to do so under an Emergency Medical Services Provider license. To be in compliance with this Texas Health and Safety Code, Chapter 773, the City of Duncanville Fire Department is required to have medical direction. With this agreement, the City of Duncanville is in full compliance of State law.

POLICY EXPLANATION:

Texas Local Government Code Section 271.102 provides for voluntary participation in cooperative purchasing programs with another local government or a local cooperative and satisfies any state law requiring competitive bids.

FUNDING SOURCE:

The agreement requires an installment of \$26,711.23 due on October 1, 2021 for FY22, and a second installment of \$26,946.26 in FY23. Funding is provided out of the General Fund.

Contract Log #:

1532

RECOMMENDATION:

Staff recommends approval of a resolution of the City Council of the City of Duncanville, Texas authorizing the third renewal of an interlocal agreement between the City of Duncanville and Dallas County Hospital District dba Parkland Health & Hospital System to provide BioTel/EMS System services, in the amount of \$53,657.49.

ATTACHMENTS:

[Attachment 1 - Resolution No. - 2021-068 - Interlocal Renewal with Dallas County Hospital District for BioTel EMS Services](#)

RESOLUTION NO. 2021-068

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, APPROVING THE RENEWAL OF AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF DUNCANVILLE AND DALLAS COUNTY HOSPITAL DISTRICT, DBA PARKLAND HEALTH & HOSPITAL SYSTEM, TO PROVIDE BIOTEL/EMS SYSTEM SERVICES, IN THE AMOUNT OF \$56,657.49; AUTHORIZING THE CITY MANAGER TO EXECUTE THE NECESSARY DOCUMENTS; AND, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, it is desired to provide medical direction as required by the Texas Department of State Health Services for the Duncanville Fire Department; and

WHEREAS, the contract and City staff desire to enter into a renewal of the interlocal contract between the City of Duncanville and Dallas County Hospital District, d/b/a Parkland Health & Hospital System, providing BioTel/EMS system services for the Duncanville Fire Department; and

WHEREAS, the City Council of the City of Duncanville, Texas, desires to approve the renewal of the interlocal contract between the City of Duncanville and Dallas County Hospital District, d/b/a Parkland Health & Hospital System.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, THAT:

SECTION 1. That the City Council of the City of Duncanville does hereby approve the renewal of the interlocal agreement contract between the City of Duncanville and Dallas County Hospital District, d/b/a Parkland Health & Hospital System, attached hereto as Exhibit A.

SECTION 2. That the City Council of the City of Duncanville does hereby authorizes the City Manager, or her designee, to execute the appropriate and necessary documents..

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

DULY RESOLVED AND ADOPTED by the City Council of the City of Duncanville,
Texas, on the 21st day of September, 2021.

APPROVED:

Barry L. Gordon, Mayor

ATTEST:

Kristin Downs, City Secretary

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

STATE OF TEXAS §
 §
 COUNTY OF DALLAS §

INTERLOCAL AGREEMENT THIRD RENEWAL

This Interlocal Agreement Third Renewal ("Third Renewal") is entered into by and between the CITY OF DUNCANVILLE, TEXAS ("CITY") and the Dallas County Hospital District d/b/a Parkland Health & Hospital System ("PARKLAND").

WHEREAS, PARKLAND and CITY are parties to that certain Interlocal Agreement, which was dated to be effective as of October 1, 2016, (the "Agreement"); and

WHEREAS, the Agreement was renewed pursuant to agreement of the parties via an Interlocal Agreement Renewal, which was dated to be effective as of October 1, 2017, (the "Renewal"); and

WHEREAS, the Agreement was renewed pursuant to agreement of the parties via an Interlocal Agreement Second Renewal, which was dated to be effective as of October 1, 2019, (the "Second Renewal"); and

WHEREAS, PARKLAND and CITY wish to renew such Agreement in the manner which is more fully set forth below; and

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, and for other good and valuable consideration, PARKLAND and CITY hereby agree as follows:

1. All References to BIOTEL within the Agreement shall be modified to BioTel System.
2. Pursuant to Section V.1 of the Agreement, the term of the Agreement shall be renewed for a twenty-four (24) month period, effective as of October 1, 2021, and terminate on September 30, 2023 ("Third Renewal Term").
3. Total payments by the CITY during the Third Renewal Term shall not exceed FIFTY THREE THOUSAND SIX HUNDRED FIFTY SEVEN DOLLARS AND FORTY NINE CENTS (\$53,657.49), which amount (or a portion thereof where Third Renewal Term may exceed one year) is hereby set aside and segregated for the purpose of paying for the Services in accordance with the terms of the Agreement:
 - 3.1 Payment for the period October 1, 2021, through September 30, 2022, shall be made in one installment in the amount of \$26,711.23, upon execution of this Third Renewal;
 - 3.2 Payment for the period of October 1, 2022, through September 30, 2023, shall be made in one installment in the amount of \$26,946.26, upon receipt of invoice from PARKLAND.
4. Exhibit A shall be modified in its entirety as attached hereto.
5. This Third Renewal is effective as of the 1st day of October 2021.

6. Except as modified by this Third Renewal, the Agreement remains in full force and effect.

7. In accordance with Chapter 2270, Texas Government Code, a Texas governmental entity may not enter into a contract with a company for the provision of goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. Chapter 2270 does not apply to (1) a company that is a sole proprietorship; (2) a company that has fewer than ten (10) full-time employees; or (3) a contract that has a value of less than One Hundred Thousand Dollars (\$100,000.00). Unless the company is not subject to Chapter 2270 for the reasons stated herein, the signatory executing this contract on behalf of the company verifies by its signature on this Contract that the company does not boycott Israel and will not boycott Israel during the term of this contract.

IN WITNESS WHEREOF, the parties hereto have caused this Third Renewal to be executed by their respective duly authorized representatives.

**Dallas County Hospital District d/b/a
Parkland Health & Hospital System**

City of Duncanville, Texas

By: *Richard Humphrey*
Richard Humphrey (Jun 23, 2021 16:27 CDT)
Name: Richard Humphrey
Title: EVP/CFO
Date: Jun 23, 2021

By: _____
Name: _____
Title: _____
Date: _____

EXHIBIT A**Scope of Services for On-line and Off-line Medical Control for the UTSW/Parkland BioTel/EMS System****I. On-line Medical Direction****A. Staffing**

1. Nurse staffing provided continuously 24/7/365
 - a. In addition to continuous nurse staffing 24/7/465, additional coverage will be provided during peak times; however, such additional coverage may be through a paramedic.
 - b. Coordinates in-time on-line medical direction.
2. Physician staffing continuously 24/7/365
 - a. The physician responsible for coordinating all system medical control and addressing clinical issues associated with the operation of the UTSW/Parkland BioTel/EMS System ("BioTel System") shall be known as the BioTel System Medical Director.
 - b. The UT SOUTHWESTERN emergency medicine physicians working within the Parkland Emergency Department shall provide medical control (i.e. medical advice and direction) when requested by CITY's paramedics who are assisting patients. Adequate BioTel System physician staffing shall be maintained twenty-four (24) hours a day, seven (7) days a week, during the term of this Agreement. A physician will answer all requests for assistance either from the BioTel System room or from the Emergency Department areas twenty-four (24) hours a day, seven (7) days a week. The physician need not be present in the radio room while assigned to, and on duty with, the BioTel System operation.
 - c. BioTel System physicians shall respond to a field paramedic's request for assistance immediately after receipt of a call. PARKLAND will be responsible for monitoring and enforcing a sixty (60) second response time standard ninety percent (90%) of the time.
 - d. BioTel System presently has the capability to obtain a specialized physician in the following areas: Pediatrics, internal medicine, surgical, trauma, obstetrical/gynecological, psychiatry, toxicology and cardiology. Additional sub-specialty consultation is available.
3. Miscellaneous
 - a. Only registered nurses (RNs), physicians, paramedics and clerical staff shall be assigned by PARKLAND to the BioTel System program.
 - b. The BioTel System program shall be adequately staffed by at least one (1) registered nurse twenty-four (24) hours a day, seven (7) days a week throughout the duration of this Agreement. Additional personnel will be assigned as needed based upon workload. Efficiency of the system shall be maintained by PARKLAND administration. A nurse or paramedic shall monitor radio communications at all times. Changes to the staffing model may be made, if necessary upon agreement between the CITY and PARKLAND.
 - c. All RNs and paramedics assigned to the BioTel System program shall undergo initial training and ongoing training including the role of BioTel and EMS in the community. They will review and be competent

on the UTSW/Parkland BioTel Clinical Practice Guidelines and are instructed in proper communication procedures relating to the BioTel System equipment

- d. When notified by field personnel, BIOTEL System staff shall assist as needed in contacting a hospital to which a critical, priority patient is en route, and provide that hospital with pertinent data concerning the patient.
- e. BioTel System staff shall be responsible for assisting other medical personnel in emergency situations. The BioTel System staff shall contact an Emergency Medicine physician when a request for assistance is made, and shall record all recommended treatments and maintain all appropriate records.
- f. BioTel System staff shall ensure the proper functioning of all contracted BioTel System equipment.
- g. Personnel assigned to the BioTel System Program shall utilize the current UTSW/Parkland BioTel Clinical Practice Guidelines enacted for the functioning of the BioTel System. PARKLAND may modify the UTSW/Parkland BioTel Clinical Practice Guidelines provided, however, that both the CITY and PARKLAND mutually agree upon any material changes to these procedures, unless otherwise required by law, rule, regulation, and all other applicable governmental agencies and accrediting organizations having jurisdiction over PARKLAND. PARKLAND shall make the UTSW/Parkland BioTel Clinical Practice Guidelines available to the CITY.
- h. BioTel System staff shall monitor area hospital's capabilities and help coordinate EMS transports to appropriate facilities as provided in accordance with departmental procedures approved by the BioTel System Medical Director.
- i. BioTel System staff shall maintain a current database for day-to-day medical control, as well as the monthly statistical report. The BioTel System staff will also maintain revisions to the UTSW/Parkland BioTel Clinical Practice Guidelines and perform other tasks as needed under the direction of BioTel System Management. A copy of the statistical report will be furnished to the CITY quarterly
- j. The BioTel System Program Manager shall serve as the primary liaison with: Area receiving hospitals, other EMS agencies, Emergency air medical services operating in the DFW region, UT SOUTHWESTERN – Division of EMS Education, Pre-hospital providers that are not under BioTel System medical control.

B. Additional Services

- 1. Social Work Program
 - a. Assessment and enrolment of patients, serving as a liaison between social service agencies and CITY, and providing feedback and updates to EMS agencies.
- 2. Emergency Legal Assistance Program
 - a. Will provide an on-call attorney licensed to practice law in the State of Texas.

- b. The Attorney will be:
 - (1) Familiar with delivery of Emergency Medical Services and applicable laws pertaining thereto, including, but not limited to the Medical Practice Act and the Health and Safety Code and any other applicable laws.
 - (2) On-call twenty-four (24) hours /day, seven (7) days a week.
 - (3) Expected to provide an alternate in case of his/her absence.
 - 3. Field Amputation Team Activation at the request of CITY field paramedics, supervisors or Chief Officers or at the discretion of BioTel System staff consistent with BioTel System policy.
 - a. The Team will provide supplies necessary for field amputation
 - b. The Team will be ready for transport to scene within fifteen (15) minutes of activation. Estimated time of arrival may vary depending on scene location and other factors.
 - 4. Bloodborne Pathogen Exposure Tracking
 - a. Will provide a process for CITY personnel who have sustained a blood and/or body fluid exposure while on-duty to receive testing, appropriate treatment, and subsequent follow-up with Dallas County Health Department.
 - 5. Data collection including CITY call volume to BioTel System, types of BioTel System calls, frequency and type of physician consultation, numbers of patients for whom BioTel System is notified/contacted received by area hospitals, Emergency Legal Assistance Program, Specialty Team Activation, and any other data requested by CITY.
 - 6. Maintenance of the BioTel System room and facilities, and the records involving On-line Medical Control for the BioTel System, shall be provided by PARKLAND. The BioTel System room and facilities shall be available for reasonable use by the CITY's paramedics, provided that such use does not interfere with the medical operations and functions of the BioTel System office and facilities.
- C. Periodic meetings, at least quarterly, will be attempted to be scheduled between the CITY representatives and the PARKLAND and UT SOUTHWESTERN personnel who supervise the BioTel System. The purpose of the meetings shall be to assess the program and services provided and recommend improvements.

II. Off-line Medical Direction

A. Staffing

1. BioTel System Medical Director

- a. Has the ultimate responsibility for all clinical aspects of the BioTel System and shall meet all State of Texas requirements for serving as an EMS System Medical Director.
- b. Be immediately available 24/7/365 for consultation or problem resolution or shall arrange for a Deputy EMS Medical Director (the "BioTel System Deputy Director") to be available in his/her place.
- c. Assign to CITY a BioTel System Associate Medical Director who shall serve as CITY's day-to-day BioTel System Medical Director.
- d. Be notified of all significant on-duty illness or injury to CITY EMS providers. The BioTel System Associate Medical Director shall serve as

the liaison with the treating physician(s) in the hospital where the CITY EMS provider is transported to, shall serve as the CITY EMS providers' medical advocate and shall advise the CITY's EMS leadership of the status of the CITY EMS providers' illness or injury. May delegate to BioTel System Deputy Medical Director or BioTel System Associate Medical Director.

2. BioTel System Deputy Medical Director
 - a. Shall carry out the duties of the BioTel System Medical Director as delegated by the BioTel System Medical Director or when the BioTel System Medical Director is otherwise unavailable.
 3. BioTel System Associate Medical Director
 - a. Work with CITY's Chief and EMS Command Staff to ensure that the CITY's EMS operations, administration, training and special operations activities result in the delivery of quality out-of-hospital emergency medical care for the residents of and visitors to the CITY.
 - b. Assist the CITY with the review and response to any clinical or clinical/operational complaint, concerns, unusual occurrence ("UO") or commendations that are brought to the attention of the CITY regarding EMS and will assist in the development and implementation of a comprehensive EMS Quality Management Plan.
 - c. Work with the CITY's EMS Chief responsible for EMS to develop, implement, and evaluate EMS quality improvement activities.
 - d. Be made aware of and will consult on the response to all EMS clinical claims (lawsuits) against the CITY.
 - e. Ensure that the CITY provides reality-based training for its EMS providers.
 - f. Interact outside of the hospital setting with the CITY's EMS providers.
 - g. Approve all continuous EMS education and training of CITY's EMS providers on all UTSW/Parkland BioTel Clinical Practice Guidelines.
 - h. Serve as the physician liaison to other healthcare providers in the CITY.
- B. Additional Services of BioTel System Associate Medical Director?
1. May attend regular or ad hoc meetings at the request of the CITY's leadership.
 2. May assist in the development or provision of specialized education and training for the CITY's providers.
 3. May serve as a consultant to the CITY's 911 Communications Center. The BioTel System Medical Director shall review, as requested, any EMS dispatch incidents in consultation with the 911 Center's leadership. In addition, the BioTel System Medical Director participates in tape audits and the evaluation of new dispatch protocols and/or procedures as requested.
 4. May be made aware of and will serve as a consultant in the planning and response to any EMS special event in which the CITY serves as the emergency medical provider.
 5. May oversee the clinical aspects of the CITY's Mobile Community Healthcare Program (MCHP) and will be immediately available or arrange for an appropriate individual to be immediately available for consultation regarding any patient enrolled in that program.
 6. In collaboration with the CITY's Chief responsible for EMS, may ensure that the CITY's policies designed to minimize the risk of exposure to blood borne

pathogens are state-of-the art. Together, recommendations for changes in policy, protocol, or protective equipment are made to the CITY Chief to mitigate the likelihood of exposure to blood-borne pathogens.

7. May serve as advocate for the CITY's role in promoting Public Access Defibrillation and CPR training for the CITY.
 8. May take on additional responsibilities or projects as requested by the CITY Chief following approval of the BioTel System Medical Director.
- C. Hours and Rates
1. PARKLAND shall provide four (4) hours of off-line medical direction under this Agreement at no additional cost.
 2. Additional hours for off-line medical direction will be provided at an hourly rate of \$180.00 per hour.



STAFF REPORT

MEETING: City Council - 21 Sep 2021

TITLE:

Consider a Resolution approving the Interlocal Agreement between the City of Duncanville and Dallas County, to provide Highway Accident Investigation Services, in an amount not to exceed \$59,000.00.

FY 2019 CITY COUNCIL ORGANIZATIONAL WORKPLAN:

- **Goal 2: Maximize city and community resources to improve quality of life in a sustainable manner.**

STAFF RESPONSIBLE:

Mark LiVigni, Chief of Police

BACKGROUND/HISTORY:

For a number of years, the Duncanville Police Department has contracted with the Dallas County Sheriff's Office (DCSO) for accident investigation of motor vehicles on Interstate 20 and U.S. Highway 67 within the City of Duncanville.

POLICY EXPLANATION:

Beginning with past Dallas County Sheriff's administrations and continuing with Dallas County Sheriff Marian Brown's Administration, Dallas County has offered a program in which Dallas County Deputies work traffic accidents occurring on interstates and highways within Dallas County. Initially, the program was provided free of charge. However, several years ago, Dallas County began to charge cities for this service. The charge is a flat rate per year rather than per accident. In our proposed agreement, that flat rate is \$59,000.00 and will not exceed that amount.

The City of Duncanville has significantly benefited through our participation in this program. For example, in the calendar year 2020, deputies of the Dallas County Sheriff's Office (DCSO) investigated 224 vehicular accidents on Interstate 20 and U.S. Highway 67, thirty-seven (37) more than in the calendar year 2019. While this represents an approximate 20% increase in highway accidents within the City of Duncanville, investigated by DCSO, the flat rate charge has not changed. It is noteworthy that our patrol personnel initially respond to these accidents to aid those injured and control traffic until DCSO arrives on the scene. Once enough deputies are present to ensure everyone's safety, our personnel are relieved from the accident and can resume patrolling neighborhoods and answer other calls for service in a timely and efficient manner.

FUNDING SOURCE:

General Funds are budgeted.

Contract Log #:

1058R1

RECOMMENDATION:

Staff recommends approval of a Resolution approving the Interlocal Agreement between the City of Duncanville and Dallas County, to provide Highway Accident Investigation Services, in an amount not to exceed \$59,000.00.

ATTACHMENTS:

[Attachment 1 - Resolution No. - 2019-046R1 - Interlocal Agreement with Dallas County for Highway Investigation Services with Exhibit A](#)

RESOLUTION NO. 2019-046R1

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, APPROVING THE INTERLOCAL AGREEMENT BETWEEN THE CITY OF DUNCANVILLE AND DALLAS COUNTY, TO PROVIDE HIGHWAY ACCIDENT INVESTIGATION SERVICES NOT TO EXCEED \$59,000.00; AND, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, City and County are governmental entities; and

WHEREAS, chapter 791 of the Texas Government Code allows home rule municipal corporations to enter into interlocal agreements for the provision of governmental services relating to police protection, public health and welfare, parks, recreation, and such other governmental functions and services which are of mutual concerns to the contracting parties; and

WHEREAS, City desires to acquire highway accident investigation services from Dallas County Sheriff's Office (DCSO);

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, THAT:

SECTION 1. The City Council of the City of Duncanville, Texas does hereby approve the Interlocal Agreement between the City of Duncanville and Dallas County for the provision of Highway Accident Investigation Services, which is attached hereto as Exhibit "A".

SECTION 2. That the City Council of the City of Duncanville, Texas, hereby, authorizes the City Manager to execute the inter local agreement.

SECTION 3. That this resolution shall become effective immediately upon its passage.

DULY RESOLVED AND ADOPTED by the City Council of the City of Duncanville,
Texas, on the 21st day of September, 2021.

APPROVED:

Barry L. Gordon, Mayor

ATTEST:

Kristin Downs, City Secretary

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

EXHIBIT A



Dallas County
BRIEFING / COURT ORDER
Commissioners Court - Aug 17 2021

- ☐ Resolution
- ☐ Solicitation/Contract
- ☐ Executive Session
- ☒ Addendum

Sheriff - FY22 Interlocal Agreement with the City of Duncanville

Briefing Date: Aug 17 2021
Funding Source:
Originating Department: Budget
Prepared by: Faith Dingas, Budget and Policy Analyst
Recommended by: Ronica Watkins, Budget Officer

BACKGROUND INFORMATION:

The County will be providing the City of Duncanville with accident investigation services for FY22. This is a renewal of services from the FY21 contract, which was approved per Court Order 2020-0946. The purpose of this brief is to approve the FY22 contract so services may be executed promptly by both entities.

FINANCIAL IMPACT:

Dallas County will be reimbursed \$59,000 for services provided in the FY22 ILA (October 2021 - September 2022).

LEGAL IMPACT:

The agreement has been reviewed and approved, as to form, by the Dallas County Civil District Attorney's Office.

ADMINISTRATIVE PLAN COMPLIANCE:

Dallas County's Administrative Plan recommends that the County be safe, secure, and prepared. With approval of the ILA, the County will be more prepared to handle accident investigation services.

RECOMMENDATION:

Authorize the County to approve the ILA with the City of Duncanville for the FY22 contract year.

MOTION:

On a motion made by TBD, and seconded by TBD, the following order will be voted on by the Commissioners Court of Dallas County, State of Texas:

Be it resolved and ordered that the Dallas County Commissioners Court does hereby authorize the County to approve the ILA with the City of Duncanville for the FY22 contract year.

ATTACHMENTS:

FY22 City of Duncanville Signed

THE STATE OF TEXAS § INTERLOCAL AGREEMENT BETWEEN
 § DALLAS COUNTY ON BEHALF OF
 COUNTY OF DALLAS § DALLAS COUNTY SHERIFF’S OFFICE
 AND CITY OF DUNCANVILLE

This Interlocal Cooperation Agreement (“Agreement”) is entered into by and between Dallas County, Texas (“County”), a political subdivision of the State of Texas, on behalf of the Dallas County Sheriff’s Office (“DCSO”) and acting through its County Judge pursuant to authority granted by the Dallas County Commissioners Court and the City of Duncanville (“City”), both of which may be referred to collectively as the “Parties” or individually as “Party.”

RECITALS

WHEREAS, City and County are governmental entities; and

WHEREAS, City desires to acquire accident investigation services from DCSO;

NOW, THEREFORE this Agreement is entered into by and between City and County pursuant to the authority granted by Texas Government Code Chapter 791 “Interlocal Cooperation Contracts” and Texas Code of Criminal Procedure Article 2.17 “Conservator of the peace” for the provision of accident investigation services to City by DCSO.

SECTION I. TERM AND TERMINATION

- A. Term: This Agreement shall be effective from October 1, 2021 through September 30, 2022 (“Term”).
- B. Termination: Either Party may terminate this Agreement without cause, in whole or in part, upon thirty (30) days prior written notice to the other Party. County reserves the right to terminate the Agreement immediately, in whole or in part, at its sole discretion, for the following reasons:
1. Lack of, or reduction in, funding or resources;
 2. Non-performance; or
 3. City’s failure to comply with the terms and provisions of this Agreement.

SECTION II. SCOPE OF SERVICES

DCSO shall be responsible for providing freeway accident investigations (“Accident Investigation Services”) for all accidents occurring in the following locations:

- Interstate 20 – both directions of travel, for the entire distance within Duncanville City Limits
- Highway 67 – both directions of travel, for the entire distance within Duncanville City Limits.

The Duncanville Police Department will notify DCSO when an accident occurs on the referenced roadways via the Duncanville Communication Center. Upon notification, DCSO will dispatch personnel to the scene, including available DCSO resources to provide sufficient traffic control, as necessary in order to complete the investigation. The accident investigations shall be completed in accordance with the principles set forth by the Texas Department of Transportation and the North Central Texas Council of Governments. The investigator will complete all necessary paperwork, including the CR-3 crash report, and will file a copy with the State of Texas, as required by law.

SECTION III. FEES

- A. Maximum Payment: City shall pay County **Fifty-Nine Thousand Dollars and No Cents (\$59,000.00) for the Term of this Agreement.**
- B. Billing and Payment: County shall bill City immediately upon execution of this Agreement for the amount stated in Section III. A for the Term of this Agreement. City shall pay for these services within twenty (20) days after the date of County's billing. Failure by County to bill in a timely manner shall not waive City's obligation to make the payment under this Agreement.
- C. Prompt Payment Act: Any payment not made within thirty (30) days of its due date shall bear interest in accordance with Chapter 2251 of the Texas Government Code.
- D. Increased Costs: If the costs of providing services to City increase beyond the amount identified in Section III. A during the Term of this Agreement, City shall be responsible for the payment of such increased costs. County shall provide City with thirty (30) days written notice of any such increase.

SECTION IV. NOTICE

Any notice to be given under this Agreement shall be deemed to have been given if reduced to writing and delivered in person or mailed by overnight or Registered Mail, postage pre-paid, to the Party who is to receive such notice, demand, or request at the addresses set forth below. Such notice, demand, or request shall be deemed to have been given three (3) days subsequent to the date it was so delivered or mailed.

Raymond Williams
Assistant Chief of Enforcement Operations Bureau
Dallas County Sheriff's Office
133 N Riverfront Blvd,
Dallas, TX 75207
(214) 653-3456

Mark LiVigni
Interim Chief of Police
City of Duncanville Police
203 E. Wheatland Road
Duncanville, TX 75116
(972) 780-5035

With a copy to:

Sonia Syed
Dallas County District Attorney's Office
411 Elm Street, 5th Floor
Dallas, TX 75202

SECTION V. IMMUNITY AND LIABILITY

- A. This Agreement is expressly made subject to City's governmental immunity and County's sovereign immunity including, without limitation, Title 5 of the Texas Civil Practice and Remedies Code and all applicable state and federal laws. The Parties expressly agree that no provision of this Agreement is in any way intended to constitute a waiver of any immunities from suit or from liability, or a waiver of any tort limitation, that City or County has by operation of law, or otherwise. Nothing in this Agreement is intended to benefit any third party beneficiary.
- B. No waiver: County. County, not waiving any rights or its sovereign immunity, agrees to the extent allowed by the Texas Torts Claim Act or under Texas law to be responsible for any liability or damages County may suffer as a result of claims, demands, costs, or judgments, including all reasonable attorney's fees, against County, arising out of the performance of County employees under this Agreement, or arising from any accident, injury, or damage, whatsoever, to any person or persons, or to the property of any person(s) or corporations(s) occurring during the performance of this Agreement and caused by the sole negligence of County, its agents, officers, and/or employees.
- C. No waiver: City, not waiving any rights or its sovereign immunity, agrees to the extent allowed by the Texas Torts Claim Act or under Texas law to be responsible for any liability or damages that City may suffer as a result of claims, demands, costs, or judgments, including all reasonable attorney's fees, against City, including workers' compensation claims, arising out of the performance of City employees under this Agreement, or arising from any accident, injury, or damage, whatsoever, to any person or persons, or to the property of any person(s) or corporations(s) occurring during the performance of this Agreement and caused by the sole negligence of City and its officers and/or employees.
- D. Comparative liability. County and City agree that any such liability or damages as stated above, occurring during the performance of this Agreement and caused by the joint or comparative negligence of their employees, students, agents, or officers, shall be determined in accordance with comparative responsibility laws of the State of Texas.

- E. **Survival.** These provisions shall survive termination, expiration, or cancellation of this Agreement, or any determination that this Agreement or any portion hereof is void, voidable, invalid, or unenforceable.

SECTION VI. COMPLIANCE WITH LAWS

In providing services required by this Agreement, City must observe and comply with all licenses, legal certifications, or inspections required for the services, facilities, equipment, or materials, and all applicable federal, state, and local statutes, ordinances, rules, and regulations.

SECTION VII. AMENDMENTS AND CHANGES IN THE LAW

No modification, amendment, novation, renewal, or other alteration of this Agreement shall be effective unless mutually agreed upon in writing and executed by the Parties hereto. Any alteration, addition, or deletion to the terms of this Agreement that are required by changes in federal or state law are automatically incorporated herein without written amendment to this Agreement and shall be effective on the date designated by said law.

SECTION VIII. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the Parties hereto and supersedes any other agreement concerning the subject matter of this transaction, whether oral or written.

SECTION IX. BINDING EFFECT

This Agreement and the respective rights and obligations of the Parties hereto shall inure to the benefit and be binding upon the successors and assigns of the Parties hereto, as well as the Parties themselves.

SECTION X. GOVERNMENT FUNDED PROJECT

If Agreement is funded in part by either the State of Texas or the federal government, City agrees to timely comply without additional cost or expense to County, unless otherwise specified herein, to any statute, rule, regulation, grant, contract provision, or other state or federal law, rule, regulation, or other similar restriction that imposes additional or greater requirements than stated herein and that is directly applicable to the services rendered under the Terms of this Agreement.

SECTION XI. DEFAULT, CUMULATIVE RIGHTS, AND MITIGATION

It is not a waiver of default if the non-defaulting Party fails to immediately declare a default or delays in taking any action. The rights and remedies provided by this Agreement are cumulative, and either Party's use of any right or remedy will not preclude or waive its right to use any other

remedy. These rights and remedies are in addition to any other rights the Parties may have by law, statute, ordinance, or otherwise. City has a duty to mitigate damages.

SECTION XII. FISCAL FUNDING CLAUSE

Notwithstanding any provisions contained herein, the obligations of County under this Agreement are expressly contingent upon the availability of funding for each item and obligation contained herein for the Term of the Agreement and any extensions thereto. Both Parties shall have no right of action against the other in the event County is unable to fulfill its obligations under this Agreement as a result of lack of sufficient funding for any item or obligation from any source utilized to fund this Agreement or failure to budget or authorize funding for this Agreement during the current or future fiscal years. In the event that either Party is unable to fulfill its obligations under this Agreement as a result of lack of sufficient funding, or if funds become unavailable, either Party, at its sole discretion, may provide funds from a separate source or may terminate this Agreement by written notice to the other Party at the earliest possible time prior to the end of its fiscal year.

SECTION XIII. COUNTERPARTS, NUMBER/GENDER, AND HEADINGS

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. Words of any gender used in this Agreement shall be held and construed to include any other gender. Any words in the singular shall include the plural and vice versa, unless the context clearly requires otherwise. Headings herein are for the convenience of reference only and shall not be considered in any interpretation of this Agreement.

SECTION XIV. AGENCY/INDEPENDENT CONTRACTOR

Except as otherwise stated in this Agreement, the Parties, including their agents, servants, joint enterprises, or employees, are independent contractors, and not an agent, servant, joint enterprise, or employee of the other Party, and are responsible for their own acts, forbearance, negligence, and deeds, and for those of their agents, servants, joint enterprises, or employees in conjunction with the performance of work covered under this Agreement.

SECTION XV. FORCE MAJEURE

Neither Party shall be in default or responsible for delays or failures in performance resulting from causes beyond its control. Such acts include but are not limited to acts of God, fire, storm, flood, earthquake, natural disaster, pandemic, epidemic, nuclear accident, strike, air traffic disruption, lockout, riot, freight embargo, public regulated utility, or governmental statutes, orders, or regulations superimposed after the fact. Any Party delayed by force majeure shall as soon as reasonably possible give the other Party written notice of the delay. The Party delayed shall use reasonable diligence to correct the cause of the delay, if correctable, and if the condition that caused the delay is corrected, the Party delayed shall immediately give the other Party written notice

thereof and shall resume performance under this Agreement as soon as practicable. The date of delivery or of performance shall be extended for at least a minimum time period equal to the time lost by reason of the delay.

SECTION XVI. ASSIGNMENT

City assures that it will not transfer or assign its interest in this Agreement without the prior written consent of County. County approval to transfer or assign City's interest in this Agreement is subject to formal approval by the Dallas County Commissioners Court.

SECTION XVII. CONTRA PROFERENTEM/CONTINUING OBLIGATIONS

The doctrine of contra proferentem shall not apply to this Agreement. If an ambiguity exists in this Agreement, the Agreement shall not be construed against the Party who drafted the Agreement and such Party shall not be responsible for the language used. All obligations of this Agreement which expressly or by their nature survive the expiration, termination, or transfer of this Agreement shall continue in full force and effect after and notwithstanding its expiration, termination, or transfer until such are satisfied in full or by their nature expire.

SECTION XVIII. SEVERABILITY

If any provision of this Agreement is construed to be illegal or invalid, this will not affect the legality or validity of any of the other provisions in this Agreement. The illegal or invalid provision will be deemed stricken and deleted, but all other provisions shall continue and be given effect as if the illegal or invalid provisions had never been incorporated.

SECTION IX. SIGNATORY WARRANTY

The person or persons signing and executing this Agreement on behalf of City, or representing themselves as signing and executing this Agreement on behalf of City, do hereby warrant and guarantee that he, she, or they have been duly authorized by City to execute this Agreement on behalf of City and to validly and legally bind City to all terms, performances, and provisions herein set forth.

SECTION XX. VENUE AND CHOICE OF LAW

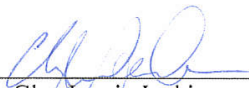
Texas law shall govern this Agreement and venue shall lie exclusively in the state and federal courts of competent jurisdiction physically located in Dallas County, Texas.

[Signatures on the following page]

The City of Duncanville has executed this Agreement pursuant to duly authorized City Council Resolution No. _____, dated _____, 2021. The County of Dallas has executed this Agreement pursuant to Commissioners Court Order No. _____ on this _____ day of _____ 2021.

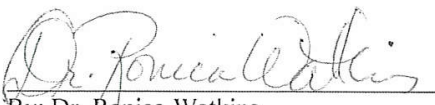
COUNTY:

CITY:


By: Clay Lewis Jenkins
Dallas County Judge

By: Barry L. Gordon
Mayor

RECOMMENDED:


By: Dr. Ronica Watkins
Budget Officer

By: Mark LiVigni
Interim Chief of Police

Marian Brown
By: Marian Brown
Dallas County Sheriff

APPROVED AS TO FORM*

JOHN CREUZOT
DALLAS COUNTY DISTRICT ATTORNEY

RUSSELL RODEN
CHIEF, CIVIL DIVISION


By: Sonia T. Syed
Assistant District Attorney

Digitally signed by Sonia Syed
DN: cn=Sonia Syed, o=Dallas County District
Attorney's Office, ou,
email=sonia.syed@dallascounty.org, c=US
Date: 2021.07.27 16:18:01 -05'00'

*By law, the District Attorney's Office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval, and should seek review and approval by their own respective attorney(s).



STAFF REPORT

MEETING: City Council - 21 Sep 2021

TITLE:

Consider a Resolution authorizing the City Manager to execute an Interlocal Agreement, the Communication System Agreement, with the City of Dallas for the Public Safety P25 Radio System Project to provide Radio Infrastructure, Programming and Support, not to exceed \$70,000.00 for the first year.

FY 2019 CITY COUNCIL ORGANIZATIONAL WORKPLAN:

STAFF RESPONSIBLE:

Mark LiVigni, Interim Chief of Police

Matt Stogner, Acting Assistant Chief of Police

Sam Rohde, Fire Chief

Greg Chase, Assistant Fire Chief

Sheila Baker, Purchasing Manager

BACKGROUND/HISTORY:

On June 15, 2021, the Duncanville City Council approved Resolution number 2021-040a which authorized a contract with Motorola Solutions, Inc. for Project 25 (P25) radio equipment and other related services through the Houston Galveston Area Council (HGAC) Cooperative Purchasing Agreement RA05-18, in the amount not to exceed \$2,023,922.00.

This item is to consider and approve a contract with the City of Dallas to provide radio infrastructure, programming, and support for the P25 radio equipment, which will hereafter be referred to as subscriber fees. The contract indicates the City of Duncanville shall pay \$28.00 per month per subscriber radio and console to the City of Dallas. This fee is payable in advance on an annual basis for all active radios issued to the City of Duncanville at the time of the annual billing. In addition to the monthly subscriber fee, the City of Duncanville shall pay the City of Dallas an annual over-the-air rekeying administration fee in the amount of \$1.00 per month per subscriber radio. This fee is also payable in advance on an annual basis for all active radios issued to the City of Duncanville at the time of the annual billing. The City of Duncanville will receive 194 radios and consoles. First-year subscriber fees for the City of Duncanville, inclusive of those deployed by the police department, fire department, emergency services, and the city's cost-sharing portion of the subscriber fees for consoles and radios deployed by the Southwest Regional Dispatch Center, will not exceed \$70,000.00. This first-year subscriber fee will be pro-rated because we do not anticipate going live on the City of Dallas P25 infrastructure earlier than mid to late summer 2022.

POLICY EXPLANATION:

City Council approval is required to contract with the City of Dallas through an Interlocal Agreement, the Communication System Agreement, that will grant the City of Duncanville specific permission to

operate its owned or leased radio equipment attached and/or interfaced to the City of Dallas's P25 Trunked Voice Radio System infrastructure.

FUNDING SOURCE:

Budgeted (\$70,000.00)

Contract Log #:

1541

RECOMMENDATION:

Staff recommends approval of a Resolution authorizing the City Manager to execute an Interlocal Agreement, the Communication System Agreement, with the City of Dallas for the Public Safety P25 Radio System Project to provide Radio Infrastructure, Programming and Support, not to exceed \$70,000.00 for the first year.

ATTACHMENTS:

[Resolution No. - 2021-061 - Public Safety P25 Radio System Project Dallas ILA - Pdf](#)

RESOLUTION NO. 2021-061

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERLOCAL AGREEMENT, THE COMMUNICATION SYSTEM AGREEMENT, WITH THE CITY OF DALLAS FOR THE PUBLIC SAFETY P25 RADIO SYSTEM PROJECT TO PROVIDE RADIO INFRASTRUCTURE, PROGRAMMING AND SUPPORT, NOT TO EXCEED \$70,000.00 FOR THE FIRST YEAR.

WHEREAS, the City Council for the City of Duncanville agrees the proposed Interlocal Agreement, the Communication System Agreement, between the City of Dallas and the City of Duncanville will grant the City of Duncanville specific permission to operate its owned or leased radio equipment attached and/or interfaced to the City of Dallas's P25 Trunked Voice Radio System infrastructure; and

WHEREAS, the City Council for the City of Duncanville finds and determines that entering into the Interlocal Agreement, the Communication System Agreement, with the City of Dallas is necessary and in the best interest of the health, safety, and welfare of the citizens of the City of Duncanville.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, THAT:

SECTION 1. That the City Council for the City of Duncanville hereby authorizes, approves, and accepts the terms and conditions of the Interlocal Agreement, the Communication System Agreement, with the City of Dallas as described in Exhibit A.

SECTION 2. That the City Council for the City of Duncanville hereby authorizes the City Manager to execute said Interlocal Agreement, the Communication System Agreement, and any necessary documents to conform to this Resolution.

SECTION 3. That this Resolution shall take effect immediately from and after its passage.

DULY RESOLVED AND ADOPTED by the City Council of the City of Duncanville,
Texas, on the 21st day of September, 2021.

APPROVED:

Barry L. Gordon, Mayor

ATTEST:

Kristin Downs, City Secretary

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

EXHIBIT A

COMMUNICATIONS SYSTEM AGREEMENT**CATEGORY 1 – GOVERNMENT ENTITY**

This INTERLOCAL AGREEMENT (this “Agreement”) is made and entered into in the County of Dallas, State of Texas, by and between the CITY OF DALLAS, TEXAS a municipal corporation, duly incorporated and existing under the constitution and laws of the State of Texas (“DALLAS”), and the City of DUNCANVILLE, Texas (USER), a municipal corporation, duly incorporated and existing under the constitution and laws of the State of Texas.

WHEREAS, City of DUNCANVILLE, and DALLAS (the “Parties”) are local governments as defined in Texas Government Code, Section 791.003(4) (the “Interlocal Cooperation Act”), that have the authority to enter into this Agreement, and have each entered into this Agreement and Exhibits thereto collectively hereinafter referred to as “the Agreement”, and have entered into this Agreement by the action of its governing body in the appropriate manner prescribed by law; and

WHEREAS, DALLAS’ existing radio communications network is at the end of its product life cycle; and

WHEREAS, pursuant to that certain Interlocal Agreement between DALLAS and County of Dallas, Texas (“COUNTY”), (“County ILA”), DALLAS and COUNTY partnered, secured and committed financial funding for the modernization and upgrading of DALLAS’ dated communications network (current radio system and infrastructure) to create a P25 compliant trunk voice radio communications system in compliance with state and federal requirements and capable of countywide coverage for use by both public safety and public works groups in DALLAS, COUNTY, and all Dallas County cities seeking to engage the system for their local needs through subscriber agreements approved by DALLAS (hereinafter the “P25 Radio System Project” or “Project”); and

WHEREAS, in 2017, to achieve the purposes of the County ILA, DALLAS procured and entered into a contract with Motorola Solutions Inc. for completion of the P25 compliant countywide digital public radio system and added a microwave backbone that can be shared in the DALLAS’ Public Safety and Public Works communications system (the “Project”); and

WHEREAS, in order to obtain the maximum radio interoperability and reliability of the Project between DALLAS, other governmental entities in Dallas County, and governmental entities within the regionally interoperable radio communications area surrounding DALLAS, including incidental interoperability use by these other non-DALLAS entities during catastrophic or special use circumstances or during daily operations based on agreed subscriber terms, it is necessary to establish and enable a countywide equipment installation to achieve Project coverage spanning beyond DALLAS jurisdictional boundaries; and

WHEREAS, DALLAS will own, operate, and maintain Trunked Voice Radio Systems for the purpose of providing Public Safety voice radio communications and is the sole license holder of the DALLAS Trunked Voice Radio Systems with all privileges and responsibilities thereof.

EXHIBIT A

WHEREAS, pursuant to all the foregoing USER and DALLAS desire to enter into this agreement pursuant to the Interlocal Cooperation Act, as amended, to set forth the terms of their cooperation, rights, and obligations; and

WHEREAS, pursuant to all the foregoing, the Parties desire to enter into this Agreement pursuant to the Interlocal Cooperation Act, as amended; to set forth the terms of their cooperation, rights, and obligations in the Project, including, but not limited to, USER's grant

NOW, THEREFORE, IN CONSIDERATION of the mutual terms, conditions, promises, and covenants hereinafter set forth, the Parties agree to perform the following acts and to be bound by the following statements to establish, operate, and maintain DALLAS's P25 Radio Systems Project (the "Project"):

1. Grant of License. DALLAS hereby grants the USER specific permission to operate USER's owned or leased field radio equipment or equipment attached and/or interfaced to the DALLAS P25 Trunked Voice Radio Systems (the "Radio System") infrastructure in accordance with the specific details and requirements for use as set forth in "Exhibit A, Terms of Use," which is attached hereto, incorporated herein, and made a part of this Agreement for all purposes. Failure to comply with these specific details and requirements may result in the immediate withdrawal of the specified permissions.

2. Term. The Agreement shall become effective upon the signing of the Agreement by the City of DALLAS (the "Effective Date") and shall continue in full force and effect unless terminated in accordance with the provisions set forth herein and in Exhibit A.

3. Compensation. USER shall remit payment to DALLAS in the amount and manner set forth in Exhibit A; and, USER acknowledges that all payments under this Agreement will be from current and available funds subject to the non-appropriation clause in Paragraph 6.

4. RESPONSIBILITIES OF PARTIES. USER agrees to be responsible for its own acts of negligence and DALLAS agrees to be responsible for its own acts of negligence which may arise in connection with this Agreement. In the event of joint and concurrent negligence, USER and DALLAS agree that responsibility shall be apportioned comparatively. This obligation shall be construed for the benefit of the parties hereto, and not for the benefit of any third parties, nor to create liability for the benefit of any third parties, nor to deprive the parties hereto of any defenses or immunities each may have as against third parties under the laws and court decisions of the State of Texas.

5. Independent Contractor. It is expressly understood and agreed that USER shall operate as an independent contractor as to all rights and privileges granted herein, and not as agent, representative or employee of the DALLAS. Subject to and in accordance with the conditions and provisions of this Agreement, USER shall have the exclusive right to control the details of its operations and activities and be solely responsible for the acts and omissions of its employees, directors, officers, agents, authorized representatives, subcontractors, and consultants. USER acknowledges that the doctrine of *respondeat superior* shall not apply as between the DALLAS, its employees, directors, officers, agents, and authorized representatives, and USER and its employees, directors, officers, agents, authorized representatives, subcontractors, and consultants.

EXHIBIT A

USER further agrees that nothing herein shall be construed as the creation of a partnership or joint enterprise between DALLAS and USER.

6. Non-Appropriation of Funds. DALLAS and USER will use best efforts to appropriate sufficient funds to support obligations under this Agreement. However, in the event that sufficient funds are not appropriated by either party's governing body, and as a result, that party is unable to fulfill its obligations under this Agreement, that party (i) shall promptly notify the other party in writing and (ii) may terminate this Agreement, effective as of the last day for which sufficient funds have been appropriated.

7. Right to Audit. USER agrees that the DALLAS shall, at no additional cost to the DALLAS, during and until the expiration of three (3) years after termination of this Agreement, have access to and the right to examine at reasonable times any directly pertinent books, documents, papers, records, and communications of the USER involving transactions relating to this Agreement. USER agrees that the DALLAS shall have access during normal working hours to all necessary USER facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. The DALLAS shall give USER reasonable advance notice of intended audits.

8. Assignment. USER shall not have the right to assign or subcontract any of its duties, obligations or rights under this Agreement without the prior written consent of the DALLAS. Which such right shall be granted solely at the discretion of the DALLAS. Any assignment in violation of this provision shall be void.

9. No Waiver. The failure of either party to insist upon the performance of any provision or condition of this Agreement or to exercise any right granted herein shall not constitute a waiver of that party's right to insist upon appropriate performance or to assert any such right on any future occasion.

10. Governmental Powers/Immunities. It is understood and agreed that by execution of this Agreement, neither DALLAS nor USER waives or surrender any of its governmental powers or immunities.

11. Amendments. No amendment to this Agreement shall be binding upon either party hereto unless such amendment is set forth in writing, dated subsequent to the date of this Agreement, and signed by both parties.

12. Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

13. Confidential Information. To the extent permitted by law, USER for itself and its officers, agents and employees, agrees that it shall treat all information provided to it by the DALLAS as confidential ("City Information") and shall not disclose any such information to a third party without the prior written approval of the DALLAS, unless such disclosure is required by law, rule, regulation, court order, in which event USER shall notify DALLAS in writing of such requirement in sufficient time to allow DALLAS to seek injunctive or other relief to

EXHIBIT A

prevent such disclosure. USER shall store and maintain City Information in a secure manner and shall not allow unauthorized users to access, modify, delete or otherwise corrupt City Information in any way. USER shall notify the DALLAS immediately if the security or integrity of any City Information has been compromised or is believed to have been compromised.

14. Force Majeure. The parties shall exercise their best efforts to meet their respective duties and obligations hereunder, but shall not be held liable for any delay in or omission of performance due to force majeure or other causes beyond their reasonable control, including, but not limited to, compliance with any state or federal law or regulation, acts of God, fires, strikes, lockouts, national disasters, wars, riots, material or labor restrictions, transportation problems, existing contractual obligations directly related to the subject matter of this Agreement, or declaration of a state of disaster or emergency by the federal, state, county, or City government in accordance with applicable law.

15. Notices. Notices required pursuant to the provisions of this Agreement shall be conclusively determined to have been delivered when (1) hand-delivered to the other party, its agents, employees, servants or representatives, (2) delivered electronic via email to CISFinanceTeam@dallascityhall.com or (3) received by the other party by United States Mail, registered, return receipt requested, addressed as follows:

City of DALLAS
Information & Technology Services, Director
Attn: William Zielinski
1500 Marilla, Room 4DS
DALLAS TX 75201

City of DUNCANVILLE
City Manager
Attn: Aretha Ferrell-Benavides
203 E. Wheatland Road
DUNCANVILLE, TX 75116

16. Governing Law / Venue. This Agreement shall be construed in accordance with the laws of the State of Texas. Venue for any action brought on the basis of this Agreement shall lie exclusively in state courts located in Dallas County, Texas or the United States District Court for the Northern District of Texas – DALLAS Division. In any such action, each party shall pay its own attorneys' fees, court costs and other expenses incurred as a result of the action.

17. Entirety of Agreement. This written instrument, including all Exhibits attached hereto, contains the entire understanding and agreement between DALLAS and USER as to the matters contained herein. Any prior or contemporaneous oral or written agreement is hereby declared null and void to the extent in conflict with this Agreement. Any previously executed Communication System Agreement between the parties shall be terminated simultaneously with the final execution of this Agreement by both parties.

18. Counterparts. This Agreement may be executed in one or more counterparts and each counterpart shall, for all purposes, be deemed an original, but all such counterparts shall together constitute one and the same instrument.

EXHIBIT A

DALLAS has executed this Agreement, signing by and through its City Manager, duly authorized pursuant to City Council Resolution No._____, approved on the ____ day of _____ 20__. DUNCANVILLE has executed this Agreement, through its duly authorized officials pursuant to City Council Resolution No._____, passed on the ____ day of _____ 20__. Effective as of the ____ (day) of _____ (month), 20__ (the “Effective Date”).

APPROVED AS TO FORM:
Christopher J. Caso
City Attorney

CITY OF DALLAS
T.C. BROADNAX
City Manager

BY _____
Assistant City Attorney

BY _____
Assistant City Manager

APPROVED AS TO FORM:

CITY OF DUNCANVILLE

Robert E. Hager, City Attorney

Aretha Ferrell-Benavides, City Manager

EXHIBIT A**CATEGORY 1, DEFINITIONS & TERMS OF USE**

The following definitions shall have the meanings set forth below and apply to this Agreement and the Terms of Use set forth herein:

A. DEFINITIONS

“Console System” shall mean all hardware and software associated with any dispatch console or set of consoles operated by the USER that are connected to the DALLAS Master Switch.

“Interoperable Communications Governance Committee” (“Governance Committee”) shall mean that group of individuals tasked with maintaining and administering the Interoperable Communications Plan. The Governance Committee shall consist of ten to fifteen individuals with DALLAS selecting at least one representative and each classification of users selecting at least one representative. The Governance Committee shall determine and may periodically adjust the number of members and the method for selecting members for each classification of users with a goal of ensuring that the Governance Committee reflects the full range of user types.

“Infrastructure Support Fee” shall mean the annual fee charged by DALLAS to offset costs incurred by the DALLAS in the operation and maintenance of the Radio System.

“Interoperable Communications Plan” (the “Plan”) means the plan developed and established to facilitate, enhance and simplify radio communications among all agencies utilizing the Radio System or connecting their Site Repeater Systems or Console Systems to the DALLAS Master Switch. The Plan is available upon request from DALLAS.

“Master Switch” shall mean the primary processing and network infrastructure to which all Console Systems and Site Repeater Systems must connect in order to operate on the Radio System. The Master Switch is currently located at the DALLAS Oak Lane facility.

“Over The Air Rekeying” (“OTAR”) shall mean the management and support of Subscriber Radio encryption keys via over-the-air, radio channel transmission.

“OTAR Administration Fee” shall mean the annual fee charged by DALLAS to offset costs incurred by the DALLAS in the management and support of Subscriber Radio encryption keys administered through the Radio System’s OTAR functions.

“Over the Air Programming” (“OTAP”) shall mean the method of implementing programming changes to Subscriber Radios using the over-the-air data capabilities of the Radio System.

“Private Call” shall mean a feature that reserves channel resources specifically for conversations between two Subscriber Radios.

EXHIBIT A

“Site Repeater System” shall mean the base stations, shelter, tower and all site-specific hardware and software infrastructure associated with the provision of a radio site connected to the DALLAS Master Switch.

“System Upgrade Agreement Fee” shall mean the annual fee charged by DALLAS to offset cost charged to DALLAS by Motorola Solutions for the maintenance of the Software Upgrade Agreement applicable to the USER’s Console Systems and Site Repeater Systems.

“Subscriber Radio” shall mean a radio that has a unique identification number and is programmed to operate on the Radio System by the USER. The term shall include, but not be limited to, control stations (desk top radios), mobile radios, and portable radios of the USER.

“Talk Group” shall mean a specific group of Subscriber Radios of the USER allowed to communicate privately within that group over shared infrastructure resources.

2. TERMS OF USE

2.01. The installation and maintenance of the Radio System infrastructure equipment is the responsibility of DALLAS unless otherwise stated in this Agreement.

2.02. DALLAS will use licensed radio frequencies specifically licensed to the State of Texas, Department of Public Safety who shall be the holder of the FCC (Federal Communications Commission) license(s) that the Radio System uses for its operation. This Agreement shall not be construed or interpreted to grant, convey, or otherwise provide USER with any rights whatsoever to the State of Texas FCC license(s), the agreement between DALLAS and the State of Texas or to the Radio Frequency spectrum used by the Radio System.

2.03. The DALLAS makes no guarantee, either express or implied, as to radio signal strength or a specific level of radio coverage in a particular location. The USER is responsible for conducting appropriate and applicable in-building and geographical coverage testing to determine the expected radio coverage level for USER’s equipment.

2.04. USER will be responsible for the acquisition, programming, and maintenance of all equipment USER will be utilizing in connection with the Radio System infrastructure, including, but not limited to, Subscriber Radios, consoles, and special equipment.

2.05. In order to ensure hardware and software compatibility with the Radio System infrastructure, all Subscriber Radios and consoles intended for use by USER on the Radio System shall be compliant with Project 25 standards established by the Telecommunications Industry Association. The use of unauthorized radios on the Radio System may result in suspended operation of the radios and/or termination of the Agreement.

2.06. USER agrees to exclusively utilize antennas specifically approved by the radio manufacturer for use with the specific models of USER’s radios. The use of short, broad spectrum, or “stubby,” antennas is not recommended. USER shall be solely liable for coverage gaps in the event USER utilizes short broad spectrum or stubby antennas or other antennas not approved by

EXHIBIT A

the manufacturer for use with the specific models of USER's radios unless specifically okayed in writing by the DALLAS.

2.07. No antenna gain greater than 3 DB will be allowed for any component of the Subscriber Records or consolettes.

2.08. USER shall use due diligence in the maintenance and configuration of its Subscriber Radio equipment to ensure that no USER radio or console causes a degradation to the Radio System operation. The DALLAS shall have the right to remove from operation any field radio unit or equipment owned or leased by USER that is operating on, attached and/or interfaced to the DALLAS infrastructure, if DALLAS determines in its sole reasonable discretion that such equipment is causing interference or harm to the Radio System in any way. The DALLAS reserves the right to request that USER operated field radio units or equipment operating on, attached and/or interfaced to the infrastructure be tested for proper operation and/or repaired by an authorized radio repair facility approved by the DALLAS. The cost of such testing or repair will be the sole responsibility of USER. Furthermore, the DALLAS shall have the right to deactivate, without prior notification to or consent of USER, any field radio or other USER equipment suspected of causing interference, intentionally or unintentionally, to any other radios on the Radio System or to the Radio System's overall operation.

2.09. USER's radios may be used for voice radio communications over the Radio System infrastructure in accordance with the terms and conditions of this Agreement for as long as this Agreement remains in effect.

2.10. The DALLAS will be responsible for managing infrastructure loading and demand. DALLAS reserves the right, without notice to incumbent users, to enter into a similar agreement with other entities or to deny the addition of new Subscriber Radio equipment to any user of the Radio System. The DALLAS shall have sole discretion in determining whether to allow additional users or radios based on DALLAS's determination of whether such addition to the Radio System can be made without adversely impacting the Radio System.

2.11. USER is prohibited from utilizing telephone interconnect on the Radio System. This prohibition shall include, but is not limited to, connecting to either the PSTN (Public Switched Telephone Network) or USER's internal phone system(s) through a console patch into the Radio System or to any Subscriber Radio on the Radio System.

2.12. Due to the radio infrastructure resource allocations required by "Private Call," USER is not permitted to utilize "Private Call" on the Radio System.

2.13. USER's utilization of data communications on the Radio System will be limited to the Radio System's OTAP functions. Performance of data communications over the Radio System is not guaranteed. For programming changes involving more than ten Subscriber Radios, USER agrees to coordinate with DALLAS prior to executing changes to minimize impact on other users and on the Radio System.

EXHIBIT A

2.14. The use of OTAR in association with Subscriber Radio encryption is prohibited without prior approval of DALLAS. Administration of encryption keys will be performed exclusively by DALLAS. USER may utilize and administer other encryption methods as required.

2.15. The DALLAS will provide USER with an Advanced System Key (ASK) for use with the USER's Subscriber Radios only. The ASK will expire annually, and USER shall be responsible for requesting a new ASK following expiration if one is required. USER will be responsible for safeguarding the security of the ASK to prevent theft and/or loss. USER agrees to notify DALLAS immediately upon the theft or loss of the ASK.

2.16. DALLAS will assign the USER Talk Group IDs unique to USER operation. All Talk Group names shall include a prefix unique to the USER's agency. No other agency will be authorized to use USER Talk Groups without the express written permission of USER, and a copy of such permission must be on file with the DALLAS before such use may occur. The DALLAS reserves the right to require certain Talk Group ID's to be programmed in USER radios. Additionally, the DALLAS shall have the right to limit the number of Talk Group ID's to be used by USER and to disable Talk Groups ID's as it deems appropriate.

2.17. The DALLAS has established a coordinated Interoperable Communications Plan to apply to DALLAS and the users of its Radio System. USER agrees to participate in the Plan and include the Plan's interoperable Talk Groups in the programming of its Subscriber Radios and Console Systems.

2.18. Roaming to other systems or the use of USER's Talk Groups on other trunked systems that are interconnected to the Radio System is prohibited without prior approval by DALLAS. Roaming to other trunked systems will be limited to the Radio System's interoperable Talk Groups, although this capability may be terminated by DALLAS if its use is determined to result in performance degradation to either the Radio System or the interconnected trunked system.

2.19. USER may utilize a Network Management Console (NMC) to manage its own telecommunication environment. USER is responsible for acquiring and maintaining, at USER's sole cost, all components required to connect the NMC to the Radio System. The USER's NMC must be partitioned in manner to limit access to USER's own environment only and to prevent USER from viewing, accessing, or making any changes to equipment that is not owned or leased by USER. The USER must ensure the NMC is located in a secure area. USB ports on the NMC must be deactivated except during maintenance activity. All security patches related to operating systems and other associated software must be maintained at current manufacturer-tested levels. No other software applications may be utilized by the NMC.

2.20. DALLAS generally maintains aliases for units operating on the Radio System. If the USER has acquired the capability to modify its aliases, it may administer and maintain its own subscriber unit aliases. From that point, USER will be responsible for administering and maintaining its own subscriber unit aliases, and the DALLAS will no longer administer and maintain the USER's subscriber unit aliases.

2.21. USB ports on the USER's Console Systems must be deactivated except during maintenance activity. All security patches related to operating systems and other associated

EXHIBIT A

software must be maintained at current manufacturer-tested levels. If required, all connectivity between the Console Systems and the Radio System is the responsibility of the USER, including software, hardware and carrier services. Associated costs regarding USER Console System will be incurred by the USER. Unless otherwise approved by DALLAS, connectivity will be achieved through local terrestrial circuit facilities. The use of other connectivity methods, including but not limited to microwave or fiber, must be approved by the DALLAS. USER may incur additional costs from DALLAS for other connectivity methods.

2.22. The DALLAS shall execute with Motorola Solutions a System Upgrade Agreement for the Console Systems and Site Repeater Systems that would be affected by the software upgrades, including those owned (or leased) and operated by the USER. Unless the USER is notified otherwise by DALLAS, the software for the Radio System, all Site Repeater Systems and all Console Systems will be upgraded to the current level every two years. The USER will provide all reasonable coordination necessary for the upgrade of its Console Systems. USER acknowledges that reductions in functionality may occur during the upgrade process.

3. APPLICABLE FEES; TERMINATION; REFUNDS

3.01. USER shall pay the DALLAS an annual Infrastructure Support Fee in the amount of **\$28.00** per month, per Subscriber Radio or console. This fee is payable in advance on an annual basis for all active radio IDs issued to USER at the time of the annual billing. Invoicing will occur on a pro-rata basis when new Radio IDs are issued, and thereafter, at the beginning of each DALLAS fiscal year. There will be no refunds or credits for radios removed from service during the fiscal year.

3.02. If the USER subscribes to OTAR services, the USER shall pay the DALLAS an annual OTAR Administration Fee in the amount of **\$1.00** per month, per Subscriber Radio. This fee is payable in advance on an annual basis for all active radio IDs issued to USER at the time of the annual billing. Invoicing will occur on a pro-rata basis when new Radio IDs are issued, and thereafter, at the beginning of each DALLAS fiscal year. There will be a maximum of six (6) rekeys per month before additional costs may be applicable.

3.03. USER shall maintain an annual System Upgrade Agreement (SUA) from Motorola Solutions, Inc., or its successors, for the upgrade of the USER's Console Systems and any other component subject to upgrade as a result of the upgrade of the Radio System.

3.04. DALLAS shall have the right to increase any applicable fees under this **Agreement each fiscal year to offset any increased costs incurred by DALLAS** in the operation or maintenance of the Radio System. Any increase in applicable fees will be effective at the beginning of the next DALLAS fiscal year. DALLAS shall provide USER with 60 days' written notice of any intended fee increase, provided, however, that this notice period may be less than 60 days if Motorola Solutions provides DALLAS with less than 60 days' notice of an increase in the System Upgrade Agreement Fee and such reduced notice period shall not impact USER's obligation to pay the increased fee.

EXHIBIT A

3.05. USER may terminate this Agreement for any reason, with or without cause, upon ninety (90) days written notice to the other party. If USER terminates, there will be no refunds or credits for any fee.

3.06. DALLAS may terminate this agreement for any reason, with or without cause, upon 24 months written notice to the other party. DALLAS, in its sole discretion, shall have the right to deny USER access to the radio infrastructure and/or the right to terminate the Agreement immediately if USER fails to make full payment of invoiced system fees within sixty (60) days of the date payment is due. The DALLAS further reserves the right to terminate this Agreement immediately, or deny access to the USER, upon notice of USER misuse of the Radio System. Notwithstanding the foregoing, the DALLAS, in its sole discretion, reserves the right to immediately deny access to the USER if such action is required to prevent the spread of a security breach or threatened security breach or due to an emergency, operational issue, or other critical incident between the Master Switch and the USER's environment. DALLAS will notify USER immediately if such a breach or emergency situation exists that threatens the system. DALLAS will use best efforts to restore access to the USER as soon as possible once the security breach, emergency, operational issue, or critical incident is resolved

4. COMPLIANCE WITH LAWS

4.01. The USER shall comply with all current and future Federal, State, and Local laws, Ordinances, and Mandates, including Federal Communications Commission rules and regulations regarding proper use of radio communications equipment. The USER will also comply with the guidelines, or procedures set out in this Agreement. Furthermore, the USER is responsible for enforcing such compliance by its employees, directors, officers, agents, authorized representatives, subcontractors, and consultants for USER Subscriber Radio equipment. Furthermore, the USER will be responsible for payment of any fines and penalties levied against the DALLAS (as the license holder) as a result of improper or unlawful use of Subscriber Radio equipment owned or leased by USER.

4.02. In order to comply with Federal, State, and Local Laws and/ or Mandates, the DALLAS, as the license holder, may need to act on behalf of the USER regarding possible modifications, reconfiguration, or exchange of Subscriber Radio equipment in order to meet these obligations. For as long as this Agreement is in force, the USER will allow the DALLAS to facilitate such activities on USER's behalf as necessary. Dallas shall notify within a reasonable time of any action under this subsection.

4.03. In the instance where USER Subscriber Radio equipment is to be replaced in order to be in compliance with Federal, State, and Local Laws and/or Mandates, title and ownership of such replacement Subscriber Radio equipment shall, upon delivery of Subscriber Radio equipment to the USER's site, pass directly to the owner of the equipment that is being replaced. The USER shall provide the DALLAS, or its designee, with the Subscriber Radio equipment to be replaced, in good working order, as determined by the DALLAS or its designee. USER shall be liable for payment of any fees associated with radios deemed to be not in proper working order. USER shall be liable for payment of any fees associated with upgrades to Subscriber Radio equipment.

[End of Document]



STAFF REPORT

MEETING: City Council - 21 Sep 2021

TITLE:

Conduct a Public Hearing and approval of an Ordinance readopting, ratifying, republishing and extending Ordinance No. 1385, as amended, codified as chapter 12 of the Code of Ordinances, Article IX, curfew hours for minors, for a period of three (3) years.

FY 2019 CITY COUNCIL ORGANIZATIONAL WORKPLAN:

- **Goal 2: Maximize city and community resources to improve quality of life in a sustainable manner.**

STAFF RESPONSIBLE:

Mark LiVigni, Interim Chief of Police

Matthew Stogner, Interim Assistant Chief of Police

BACKGROUND/HISTORY:

The City Council of the City of Duncanville first codified Ordinance 1385, which places a curfew on minors, those persons under seventeen (17) years of age, in 1994. This ordinance has come under subsequent city council reviews in accordance with Chapter 370.002 of the Texas Local Government Code and extended each review every three years. The ordinance provides for the protection of minors from each other and from other persons, for the enforcement of parental control over and responsibility for children, for the protection of the general public, and for the reduction of opportunities for juvenile wrongdoing. Thus, it has been deemed in the best interest of the public health, safety, and general welfare, and has helped to obtain the objective of protecting all citizens, particularly juvenile citizens.

POLICY EXPLANATION:

In the Texas Juvenile Justice System, offenses are broadly classified as Delinquent Conduct, or a juvenile law violation (other than traffic), or Conduct in Need of Supervision (CINS), or conduct, which would not be an offense if committed by an adult, such as underage drinking and smoking, truancy, and runaway.

Unfortunately, today, likely because of two-income households, broken homes, the need for parents to work extra jobs for extra income, minors are often left with little or no adult supervision, sometimes during late night and/or early morning hours. The police department's contact with juveniles during curfew hours has been steady over the last three years but appreciably lower than in previous years, which may be due to the ordinance working as it was designed to work. Keeping this ordinance in place, as is, is vital to allow police officers the ability to lawfully detain persons under the age of seventeen (17) during curfew hours for overall public safety and welfare.

FUNDING SOURCE:

None Required

Contract Log #:

N/A

RECOMMENDATION:

Staff recommends approval of readopting, ratifying, and republishing and extending Ordinance 1385, as amended, codified as Chapter 12 of the Code of Ordinances, Article IX, Curfew Hours for Minors, for a period of three (3) years.

ATTACHMENTS:

[Attachment 1 - Ordinance No. 1385 - Curfew Hours for Minors](#)

[Attachment 2 - Ordinance No. - 2345R - Curfew Hours for Minors](#)

ATTACHMENT 1

ORDINANCE NO. 1385

AN ORDINANCE OF THE CITY OF DUNCANVILLE, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF DUNCANVILLE, TEXAS, AS AMENDED, BY ADDING ARTICLE IX "CURFEW HOURS FOR MINORS", TO CHAPTER 12; DEFINING TERMS; CREATING OFFENSES FOR MINORS, PARENTS AND GUARDIANS OF MINORS, AND BUSINESS ESTABLISHMENTS VIOLATING CURFEW REGULATIONS; PROVIDING DEFENSES; PROVIDING FOR THE ENFORCEMENT BY THE POLICE DEPARTMENT; PROVIDING FOR THE WAIVER BY THE MUNICIPAL COURT OF JURISDICTION OVER A MINOR WHEN REQUIRED UNDER THE TEXAS FAMILY CODE; PROVIDING FOR A REVIEW OF THIS ORDINANCE WITHIN SIX (6) MONTHS AFTER THE DATE OF INITIAL ENFORCEMENT; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERANCE CLAUSE; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; AND PROVIDING AN EFFECTIVE DATE COMMENCING SIXTY (60) DAYS AFTER THE ADOPTION OF THE ORDINANCE.

WHEREAS, the City of Duncanville has an obligation to provide for the protection of minors from each other and from other persons, for the enforcement of parental control over and responsibility for children, for the protection of the general public, and for the reduction of opportunities for juvenile wrongdoing; and

WHEREAS, the City Council of the City of Duncanville has determined that the

ATTACHMENT 1

adoption of a juvenile curfew ordinance will be beneficial for the general welfare of the inhabitants of the City of Duncanville; and

WHEREAS, a curfew for those under the age of seventeen (17) years will be in the interest of the public health, safety, and general welfare and will help to obtain the objective of protecting all citizens, and particularly juvenile citizens, of the City of Duncanville; **NOW, THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS:

SECTION 1. That the Code of Ordinances of the City of Duncanville, Texas, is hereby amended by adding Article IX to Chapter 12, which said Article IX to provide as follows, to wit:

"ARTICLE IX

CURFEW HOURS FOR MINORS

Sec. 12-95 **DEFINITIONS**

(A) **Curfew Hours** mean:

- (1) 11:00 p. m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a. m. of the following day; and
- (2) 12:01 a. m. until 6:00 a. m. on any Saturday or Sunday.

(B) **Emergency** means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

(C) **Establishment** means any privately-owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

ATTACHMENT 1

(D) **Guardian** means:

- (1) a person who, under court order, is the guardian of the person of a minor; or
- (2) a public or private agency with whom a minor has been placed by a court.

(E) **Minor** means any person under seventeen (17) years of age.

(F) **Operator** means any individual firm, association, partnership or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

(G) **Parent** means a person who is:

- (1) a natural parent, adoptive parent, or step-parent of another person; or
- (2) at least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

(H) **Public place** means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

(I) **Remain** means to:

- (1) linger or stray; or
- (2) fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.

(J) **Serious bodily injury** means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

Sec. 12-96 **OFFENSES**

(A) A minor commits an offense if he remains in any public place or on

ATTACHMENT 1

the premises of any establishment within the City during curfew hours.

- (B) A parent or guardian of a minor commits an offense if he knowingly permits, or by insufficient control allows, the minor to remain in any public place or on the premises of any establishment within the City during curfew hours.
- (C) The owner, operator, or any employee of an establishment commits an offense if he knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

Sec. 12-97 **DEFENSES**

- (A) It is a defense to prosecution under Section 12-96(B) that the minor was:
 - (1) accompanied by the minor's parent or guardian;
 - (2) on an errand at the direction of the minor's parent or guardian, without any detour or stop;
 - (3) in a motor vehicle involved in interstate travel;
 - (4) engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
 - (5) involved in an emergency;
 - (6) on the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the Police Department about the minor's presence;
 - (7) attending an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Duncanville, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Duncanville, a civic organization, or another similar entity that takes responsibility for the minor;
 - (8) exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or

ATTACHMENT 1

- (9) married or had been married or had disabilities of minority removed in accordance with Chapter 31 of the Texas Family Code.

- (B) It is a defense to prosecution under Section 12-96(C) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

Sec. 12-98 **ENFORCEMENT**

Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense under Section 12-97 is present.

Sec. 12-99 **PENALTIES**

- (A) A person who violates a provision of this Article is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted. Each offense, upon conviction, is punishable by a fine not to exceed Five Hundred Dollars (\$500.00).
- (B) When required by Section 51.08 of the Texas Family Code, as amended, the municipal court shall waive original jurisdiction over a minor who violates Section 12-96(A) of this Article and shall refer the minor to juvenile court."

SECTION 2. That within six months after the initial enforcement of this ordinance, the City Manager shall review this ordinance, call a public hearing, and report and make recommendations to the City Council concerning the effectiveness of and the continuing need for the ordinance. The City Manager's report shall specifically include the following information:

- (A) the practicality of enforcing the ordinance and any problems with enforcement identified by the police department;
- (B) the impact of the ordinance on crime statistics;
- (C) the number of persons successfully prosecuted for a violation of the ordinance; and
- (D) the City's net cost of enforcing the ordinance.

ATTACHMENT 1

SECTION 3. That Chapter 12 of the Code of Ordinances of the City of Duncanville, Texas, shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 4. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 5. The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Duncanville, Texas, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

SECTION 6. That this ordinance shall take effect sixty (60) days from and after its passage and publication, as the law in such case provides.

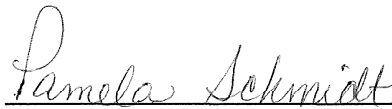
DULY PASSED by the City Council of the City of Duncanville, Texas, on the 15th day of August, 1994.

APPROVED:



MAYOR

ATTEST:



CITY SECRETARY

APPROVED AS TO FORM:



CITY ATTORNEY

(HLN/jd 8-3-94)

ORDINANCE NO. 2345R

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, READOPTING, RATIFYING, REPUBLISHING AND EXTENDING ORDINANCE NO. 1385, AS AMENDED, CODIFIED AS CHAPTER 12 OF THE CODE OF ORDINANCES, ARTICLE IX, CURFEW HOURS FOR MINORS, FOR A PERIOD OF THREE (3) YEARS; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council has previously passed and adopted Ordinance No. 1385, which provides for "Curfew Hours for Minors" establishing such curfew hours and penalties for violations thereof; and

WHEREAS, such Ordinance has been codified as Chapter 12, Miscellaneous Offenses and Provisions, Article IX, Curfew Hours for Minors, Sections 12-95 through 12-99, of the Code of Ordinances; and

WHEREAS, Chapter 370.002 of the Texas Local Government Code, as amended, provides that the City Council shall review the Article and conditions the ordinance was intended to remedy three (3) years from its date of passage and every third year thereafter and conduct public hearings to determine the need to continue, modify, or abolish the ordinance; and

WHEREAS, prior to the expiration of such three (3) year period, the Police Department has furnished records and reports indicating the need for such ordinance to remain in effect; and

WHEREAS, the City after public hearings desires to continue the provisions of the Code without any modifications and schedule the same for review in October 2024.

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

SECTION 1. That Chapter 12, Miscellaneous Offenses and Provisions, Article IX, Curfew Hours for Minors, Sections 12-95 through 12-99 of the Code of Ordinances is hereby readopted, ratified, republished and extended for a period of three (3) years and shall remain in effect through October 2024, unless otherwise terminated under provisions of State law.

SECTION 2. That all provisions of the Code of Ordinances of the City of Duncanville, Texas, in conflict with the provisions of this ordinance be, and the same are hereby, repealed, and all other provisions not in conflict with the provisions of this ordinance shall remain in full force and effect.

Page 1 of 2

Ordinance No. 2345R

SECTION 3. That should any word, phrase, paragraph, or section of this ordinance or of the Code of Ordinances, as amended hereby, be held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be unconstitutional, illegal or invalid, and shall not affect the validity of the Code of Ordinances as a whole.

SECTION 4. That this ordinance shall take effect immediately from and after its passage and publication, as the law and charter in such cases provide.

SECTION 5. by the City Council of the City of Duncanville, Texas, on the 21st day of September, 2021.

DULY ORDAINED AND ADOPTED by the City Council of the City of Duncanville, Texas, on the 21st day of September, 2021.

APPROVED:

Barry L. Gordon, Mayor

ATTEST:

Kristin Downs, City Secretary

APPROVED AS TO FORM:

Robert E. Hager, City Attorney



STAFF REPORT

MEETING: City Council - 21 Sep 2021

TITLE:

Consider an Ordinance approving a negotiated settlement between the Atmos Cities Steering Committee ("ACSC") and Atmos Energy Corp., Mid-Tex Division regarding the Company's 2021 rate review mechanism filing; declaring existing rates to be unreasonable; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement; finding the rates to be set by the attached settlement tariffs to be just and reasonable and in the public interest; approving an attached exhibit establishing a benchmark for pensions and retiree medical benefits; approving an attached exhibit regarding amortization of regulatory liability; requiring the Company to reimburse ACSC's reasonable ratemaking expenses; determining that this ordinance was passed in accordance with the requirements of the Texas Open Meetings Act; adopting a savings clause; declaring an effective date; and requiring delivery of this ordinance to the Company and the ACSC's legal counsel.

FY 2019 CITY COUNCIL ORGANIZATIONAL WORKPLAN:

STAFF RESPONSIBLE:

Edena J. Atmore, CPA, CPFO, CGFO, CPM
Interim Finance Director

BACKGROUND/HISTORY:

The City, along with 171 other Mid-Texas cities served by Atmos Energy Corporation, Mid-Tex Division ("Atmos Mid-Tex" or "Company"), is a member of the Atmos Cities Steering Committee ("ACSC"). In 2007, ACSC and Atmos Mid-Tex settled a rate application filed by the Company pursuant to Section 104.301 of the Texas Utilities Code for an interim rate adjustment commonly referred to as a GRIP filing (arising out of the Gas Reliability Infrastructure Program legislation). That settlement created a substitute rate review process, referred to as Rate Review Mechanism ("RRM"), as a substitute for future filings under the GRIP statute.

Since 2007, there have been several modifications to the original RRM Tariff. The most recent iteration of an RRM Tariff was reflected in an ordinance adopted by ACSC members in 2018. On or about April 1, 2021, the Company filed a rate request pursuant to the RRM Tariff adopted by ACSC members. The Company claimed that its cost-of-service in a test year ending December 31, 2020, entitled it to additional system-wide revenues of \$43.4 million.

Application of the standards set forth in ACSC's RRM Tariff reduces the Company's request to \$40.5 million, \$29.3 million of which would be applicable to ACSC members. ACSC's consultants concluded that the system-wide deficiency under the RRM regime

should be \$22.34 million instead of the claimed \$40.5 million. The amount of the \$22.34 million deficiency applicable to ACSC members would be \$16.8 million.

After the Company reviewed ACSC's consultants' report, ACSC's Executive Committee and the Company negotiated a settlement whereby the Company would receive an increase of \$22.78 million from ACSC Cities, but with a two-month delay in the Effective Date until December 1, 2021. This should save ACSC cities approximately \$3.8 million.

The Executive Committee recommends a settlement at \$22.78 million. The Effective Date for new rates is December 1, 2021. ACSC members should take action approving the Resolution before October 1, 2021.

PROOF OF REVENUES

Atmos generated proof that the rate tariffs attached to the Resolution will generate \$22.78 million in additional revenues from ACSC Cities. That proof is attached as **Attachment 1** to this Staff Report. ACSC consultants have agreed that Atmos' Proof of Revenues is accurate.

BILL IMPACT

The impact of the settlement on average residential rates is an increase of \$1.28 on a monthly basis or 2.2 percent. The increase for average commercial usage will be \$4.03 or 1.61 percent. A bill impact comparison is attached as **Attachment 2**.

SUMMARY OF ACSC'S OBJECTION TO THE UTILITIES CODE SECTION 104.301 GRIP PROCESS

ACSC strongly opposed the GRIP process because it constitutes piecemeal ratemaking by ignoring declining expenses and increasing revenues while rewarding the Company for increasing capital investment on an annual basis. The GRIP process does not allow any review of the reasonableness of capital investment and does not allow cities to participate in the Railroad Commission's review of annual GRIP filings or allow recovery of Cities' rate case expenses. The Railroad Commission undertakes a mere administrative review of GRIP filings (instead of a full hearing), and rate increases go into effect without any material adjustments. In ACSC's view, the GRIP process unfairly raises customers' rates without any regulatory oversight. In contrast, the RRM process has allowed for a more comprehensive rate review and annual evaluation of expenses and revenues, as well as capital investment.

RRM SAVINGS OVER GRIP

While residents outside municipal limits must pay rates governed by GRIP, there are some cities served by Atmos Mid-Tex that chose to remain under GRIP rather than adopt RRM. Additionally, the City of Dallas adopted a variation of RRM, which is referred to as DARR. When new rates become effective on December 1, 2021, ACSC residents will maintain a monthly economic advantage over GRIP and DARR rates. **See Attachment 3.**

EXPLANATION OF "BE IT ORDAINED" PARAGRAPHS:

1. This section approves all findings in the Resolution.
2. This section adopts the RRM rate tariffs and finds the adoption of the new rates to be just, reasonable, and in the public interest.
3. This section makes it clear that Cities may challenge future costs associated with gas leaks like the explosion in North Dallas or the evacuation in Georgetown.

4. This section finds that existing rates are unreasonable. Such finding is a necessary predicate to the establishment of new rates. The new tariffs will permit Atmos Mid-Tex to recover an additional \$22.78 million from ACSC Cities.
5. This section approves an exhibit that establishes a benchmark for pensions and retiree medical benefits to be used in future rate cases or RRM filings.
6. This section approves an exhibit to be used in future rate cases or RRM filings regarding the recovery of regulatory liabilities, such as excess deferred income taxes.
7. This section requires the Company to reimburse the City for expenses associated with a review of the RRM filing, settlement discussions, and adoption of the Resolution approving new rate tariffs.
8. This section repeals any resolution or ordinance that is inconsistent with the Resolution.
9. This section finds that the meeting was conducted in compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.
10. This section is a savings clause, which provides that if any section is later found to be unconstitutional or invalid, that finding shall not affect, impair, or invalidate the remaining provisions of this Resolution. This section further directs that the remaining provisions of the Resolution are to be interpreted as if the offending section or clause never existed.
11. This section provides for an effective date upon passage. December 1, 2021, represents a two-month delay in the Effective Date established by the RRM tariff.
12. This section directs that a copy of the signed Resolution be sent to a representative of the Company and legal counsel for ACSC.

CONCLUSION

The Legislature's GRIP process allowed gas utilities to receive annual rate increases associated with capital investments. The RRM process has proven to result in a more efficient and less costly (both from a consumer rate impact perspective and from a ratemaking perspective) than the GRIP process. Given Atmos Mid-Tex's claim that its historic cost of service should entitle it to recover \$43.4 million in additional system-wide revenues, the RRM settlement at \$22.78 million for ACSC Cities reflects substantial savings to ACSC Cities. Settlement at \$22.78 million (plus \$3.8 of additional savings due to the two-month delay) is fair and reasonable. The ACSC Executive Committee consisting of city employees of 18 ACSC members urges all ACSC members to pass the Resolution before October 1, 2021. New rates become effective December 1, 2021.

POLICY EXPLANATION:

What is the role of Cities in ratemaking?

Cities have historically exercised original jurisdiction over the level of gas rates charged within their boundaries. Generally, gas distribution utilities have filed rate cases at the City level and have only gone to the Railroad Commission of Texas ("RCT" or "Commission") with an appeal of City action or when they could not reach a settlement with Cities. If a utility and Cities reach an agreement, the utility may then file a case at the RCT to implement the same rates approved by Cities in areas outside municipal boundaries.

Once a case is at the RCT, the Commission Staff generally expects Cities to intervene and make most of the discovery, cross-examination, briefing, and sponsor opposing witnesses. There is no consumer advocate at the RCT. If Cities do not participate in hearings at the RCT, the request of a regulated utility is likely to be rubber-stamped.

How and why was the Atmos Cities Steering Committee created?

The Atmos pipeline and distribution systems were built, owned, and operated by Lone Star Gas ("LSG"), which maintained over 200 rate jurisdictions until it sold its assets to Texas Utilities ("TXU") in the late 1990s. That meant that many Cities had their unique distribution rates and that individual Cities had to process rate cases at the local level. LSG-Pipeline served all 200-plus distribution systems, and pipeline rates were set by the RCT.

From the early 1980s through the late 1990s, LSG filed no pipeline or system-wide rate cases at the RCT. When LSG was finally brought before the RCT to show cause why its rates should not be reduced, approximately 80 Cities intervened and created an *ad hoc* group known as the Steering Committee of Cities Served by Lone Star. In Gas Utilities Division ("GUD") docket number 8664, three separate groups of Cities and a number of independent Cities (jointly the "Aligned Cities") participated and coordinated their efforts to oppose the rate increase.

TXU purchased the LSG assets in the late 1990s and immediately commenced consolidating 200-plus ratemaking jurisdictions into regions. As regional cases were filed, Cities within each region created an *ad hoc* committee to form a common strategy and negotiating position. Once TXU had aggregated the Cities into five or six jurisdictions, each with a different rate, Texas Utilities Gas Company filed a system-wide case to bring all of the old LSG territories under one common rate. The different City regional committees then united and formed the Allied Coalition of Cities ("ACC"). While the gas utility assets were owned and controlled by TXU, the coalition transformed itself from an *ad hoc* group that came together only in response to rate filings by the utility into a permanent standing coalition.

In Gas Utilities Docket ("GUD") No. 9400 in 2004, TXU's request for a \$61.6 million system-wide increase was aggressively opposed by ACC. Cities achieved disallowances of \$42.9 million of a regulatory asset and \$87.8 million of capitalized gas utility plant. The Company received only a \$2.01 million increase. Unhappy with that result, TXU decided that owning a gas system was neither as fun nor as profitable as the deregulated electric system, and they sold the system to Atmos Energy Corporation ("Atmos" or "Company"). ACC was then transformed into the Steering Committee of Cities Served by Atmos and then renamed Atmos Cities Steering Committee to obtain an easy to remember acronym, "ACSC."

What is the Atmos Cities Steering Committee?

ACSC is a coalition of 170 Cities that unite in a common purpose to address gas utility rate and franchise issues related to Atmos Energy Corporation. Its objectives are to: (1) ensure that gas utility rates charged to Cities and their residents are fair and reasonable; (2) maintain reasonable franchise fee revenues for Cities; (3) protect Cities' original jurisdiction over rates and services; (4) be a voice for consumers where no state agency assumes such a role; and (5) promote sound ratemaking policies in the public interest.

Cities join the permanent standing committee by passing a resolution and agreeing to support the work of ACSC through modest occasional *per capita* assessments that support ongoing administrative and legislative advocacy and all expenses where Cities are not entitled to reimbursement. Each member City designates a representative to ACSC. Member representatives may volunteer to serve on the ACSC Executive Committee. The Executive Committee sets policy, hires legal counsel and consultants, directs litigation, establishes a legislative agenda, sets assessments on members as needed, and meets quarterly with Atmos executives. The Settlement Committee is directly involved in negotiating the Resolution of contested matters with Atmos executives. The list of current members is attached.

What is the benefit of membership in ACSC?

One hundred seventy Cities speaking as one voice is much more effective in advocacy before the Railroad Commission and legislature than any one City or multiple small groups of Cities.

The legislature has given gas utilities a right to an annual increase in rates. Resources (both financial and human) of individual Cities are conserved by membership in ACSC. Additionally, membership enhances institutional memory of ratemaking issues, public policy debates, and right-of-way and franchise fee battles.

What has ACSC accomplished?

Going into the 82nd Legislative Session, in December 2010, ACSC released a 48-page report, "Natural Gas Consumers and the Texas Railroad Commission." More than 200 television, newspaper, and radio news sites posted information on, and a link to, the report that may be found on ACSC's website, TexasGasConsumers.org

ACSC has also been instrumental in ongoing Sunset Commission reviews of the RCT. The agency has undergone three Sunset reviews since 2010. In each case, ACSC has maintained a watchful eye on the process to ensure that provisions that could harm the interest of gas utility ratepayers are excluded from the legislation. ACSC representatives also visited on several occasions with the Sunset Commission Staff, and several ACSC recommendations for reform were included in Sunset Commission Reports on the agency. Several ACSC member representatives testified before the legislature regarding the Sunset review of the Railroad Commission.

During the 2011 legislative session, lobbying efforts by ACSC were critical in killing two gas utility bills that would have undermined traditional regulation, deprived Cities of certain rights, and led to even greater rate increases.

ACSC has also resolved a major issue involving franchise fees. In 2010, Atmos unilaterally, without notice, ceased inclusion of franchise fees in the calculations of gross receipts regardless of whether specific franchises included such payments. Several Cities were willing to pursue the matter through litigation. However, counsel for ACSC was able to negotiate a resolution that allowed each member City to determine whether it desired an increase in franchise fee payments based on the inclusion of franchise fees in calculating gross receipts. If a City opted for the inclusion of fee-on-fee revenues, it had the further option of retroactive payments back to the point when Atmos decided to curtail fee-on-fee payments. Each member had these options regardless of the wording of the then-valid franchise agreement. This Resolution spared significant litigation costs and anxiety and was only possible because of the clout of the ACSC membership.

One of the most significant accomplishments of ACSC occurred in 2007 via a settlement of the then-pending, system-wide rate case. Approximately 50 ACSC City representatives showed up in Arlington for a meeting with Atmos executives who were shocked at the vocal opposition to Atmos' practices, the unfairness of annual Gas Reliability Infrastructure Program ("GRIP") rate filings that precluded City and citizen review, and the Company's lack of coordination with Cities. That meeting led to the creation of the Rate Review Mechanism ("RRM") process and improved ongoing communications between the Company and ACSC.

In 2010, these improved communications between ACSC and the Company led to a workable solution to the need to replace steel service lines in a manner that accommodated Cities' needs to control their rights-of-way while moderating the rate impact and focusing first on the riskiest service lines based on leak repair histories. This compromise precluded a more onerous (from a City and consumer perspective) program threatened by the RCT.

What is an RRM case?

The concept of an RRM proceeding emerged as a three-year experimental substitute for GRIP cases as part of the settlement of Atmos Mid-Tex's 2007 system-wide rate case. In 2003, the Texas Legislature added Section 104.301, Interim Adjustment for Changes in Investment, to the Gas Utility Regulatory Act. While not identified as such in the law, § 104.301 was referred to as the Gas Reliability Infrastructure Program or GRIP. The GRIP adjustments allowed gas companies to recover changes to invested capital without reviewing whether increased revenues or declining expenses offset the invested capital costs. Both Atmos Pipeline and Atmos Mid-Tex filed GRIP cases as soon as the RCT adopted rules to implement the interim adjustments. As explained below, it quickly became apparent that the GRIP adjustments were terrible public policy.

As an alternative to GRIP, ACSC entered into a negotiated agreement with Atmos in 2007 to establish the RRM process. Unlike GRIP, the RRM provided an annual review of all portions of Mid-Tex's cost of service. It fixed an authorized rate of return on equity for the three-year period at 9.6% (which was less than what the RCT would have authorized) and set caps on the extent to which expenses or investments could increase from one year to the next. More importantly, it allowed Cities to make a comprehensive evaluation of all aspects of the utility's business—investment, operation and maintenance expenses, and revenues—unlike GRIP that only allows consideration of changes to invested capital.

FUNDING SOURCE:

N/A

Contract Log #:

N/A

RECOMMENDATION:

Staff recommends approval of a Resolution approving a negotiated settlement between the Atmos Cities Steering Committee ("ACSC") and Atmos Energy Corp., Mid-Tex Division regarding the Company's 2021 rate review mechanism filing; declaring existing rates to be unreasonable; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement; finding the rates to be set by the attached settlement tariffs to be just and reasonable and in the public interest; approving an attached exhibit establishing a benchmark for pensions and retiree medical benefits; approving an attached exhibit regarding amortization of regulatory liability; requiring the Company to reimburse ACSC's reasonable ratemaking expenses; determining that this Resolution was passed in accordance with the requirements of the Texas Open Meetings Act; adopting a savings clause; declaring an effective date; and requiring delivery of this Resolution to the Company and the ACSC's legal counsel.

ATTACHMENTS:

[Attachment 1 - 2021 Atmos Mid-Tex RRM Model](#)

[Attachment 2 - Resolution No. - 2021-071 - Atmos Mid-Tex RRM Settlement](#)

**Attachment 1 to
Model Staff Report**

2021 RRM

Proof of Revenues

**ATMOS ENERGY CORP., MID-TEX DIVISION
RRM CITIES RATE REVIEW MECHANISM
PROOF OF REVENUES - RRM CITIES
TEST YEAR ENDING DECEMBER 31, 2020**

Line No.	Customer Class	Current	Proposed	Bills	Ccf/MmBtu	Current Revenues	Proposed Revenues	Increase
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)
1	Residential							
2	Customer Charge	\$ 20.25	\$ 20.85	13,861,632		\$ 280,698,048	\$ 289,015,027	\$ 8,316,979
3	Consumption Charge	0.26651	0.27979		627,298,034	167,181,199	175,511,717	\$ 8,330,518
4	Revenue Related Taxes					30,398,805	31,528,717	
5	Total Class Revenue					<u>\$ 478,278,052</u>	<u>\$ 496,055,461</u>	<u>\$ 17,777,409</u>
6								
7	Commercial							
8	Customer Charge	\$ 54.50	\$ 56.50	1,094,352		\$ 59,642,184	\$ 61,830,888	\$ 2,188,704
9	Consumption Charge	0.11728	0.12263		363,850,875	42,672,431	44,619,033	\$ 1,946,602
10	Revenue Related Taxes					6,944,376	7,225,051	
11	Total Class Revenue					<u>\$ 109,258,991</u>	<u>\$ 113,674,972</u>	<u>\$ 4,415,981</u>
12								
13	Industrial & Transportation							
14	Customer Charge	\$ 1,014.50	\$ 1,054.75	7,056		\$ 7,158,312	\$ 7,442,316	\$ 284,004
15	Consumption Charge Tier 1	\$ 0.4157	\$ 0.4330		7,479,741	3,109,328	3,238,728	\$ 129,400
16	Consumption Charge Tier 2	\$ 0.3044	\$ 0.3171		8,282,846	2,521,298	2,626,490	\$ 105,192
17	Consumption Charge Tier 3	\$ 0.0653	\$ 0.0680		13,018,926	850,136	885,287	\$ 35,151
18	Revenue Related Taxes					925,722	963,306	
19	Total Class Revenue					<u>\$ 14,564,796</u>	<u>\$ 15,156,127</u>	<u>\$ 591,331</u>
20								
21	Total Excluding Other Revenue					<u>\$ 602,101,840</u>	<u>\$ 624,886,561</u>	<u>\$ 22,784,721</u>
22								\$ 21,336,550
23								
24	Revenue Related Tax Factor	6.7873%						

**Attachment 2
to 2021 RRM Staff Report
Bill Impact**

**ATMOS ENERGY CORP., MID-TEX DIVISION
AVERAGE BILL COMPARISON - BASE RATES
TEST YEAR ENDING DECEMBER 31, 2020**

Line No.						Current	Proposed	Change
1	Rate R @ 45.2 Ccf							
2	Customer charge					\$ 20.25		
3	Consumption charge	45.2	CCF	X \$ 0.26651	=	12.05		
4	Rider GCR Part A	45.2	CCF	X \$ 0.16000	=	7.23		
5	Rider GCR Part B	45.2	CCF	X \$ 0.33320	=	15.06		
6	Subtotal					\$ 54.59		
7	Rider FF & Rider TAX		\$ 54.59	X 0.06787	=	3.71		
8	Total					<u>\$ 58.30</u>		
9								
10	Customer charge						\$ 20.85	
11	Consumption charge	45.2	CCF	X \$ 0.27979	=	12.65		
12	Rider GCR Part A	45.2	CCF	X \$ 0.16000	=	7.23		
13	Rider GCR Part B	45.2	CCF	X \$ 0.33320	=	15.06		
14	Subtotal					\$ 55.79		
15	Rider FF & Rider TAX		\$ 55.79	X 0.06787	=	3.79		
16	Total					<u>\$ 59.58</u>	\$ 1.28	
17								2.20%
18								
19	Rate C @ 332.5 Ccf							
20	Customer charge					\$ 54.50		
21	Consumption charge	332.5	CCF	X \$ 0.11728	=	38.99		
22	Rider GCR Part A	332.5	CCF	X \$ 0.16000	=	53.20		
23	Rider GCR Part B	332.5	CCF	X \$ 0.26321	=	87.51		
24	Subtotal					\$ 234.20		
25	Rider FF & Rider TAX		\$ 234.20	X 0.06787	=	15.90		
26	Total					<u>\$ 250.10</u>		
27								
28	Customer charge						\$ 56.50	
29	Consumption charge	332.5	CCF	X \$ 0.12263	=	40.77		
30	Rider GCR Part A	332.5	CCF	X \$ 0.16000	=	53.20		
31	Rider GCR Part B	332.5	CCF	X \$ 0.26321	=	87.51		
32	Subtotal					\$ 237.98		
33	Rider FF & Rider TAX		\$ 237.98	X 0.06787	=	16.15		
34	Total					<u>\$ 254.13</u>	\$ 4.03	
35								1.61%

36	Rate I @ 4079 MMBTU				Current	Proposed	Change
37	Customer charge				\$ 1,014.50		
38	Consumption charge	1,500	MMBTU	X \$ 0.4157 =	623.55		
39	Consumption charge	2,579	MMBTU	X \$ 0.3044 =	785.05		
40	Consumption charge	0	MMBTU	X \$ 0.0653 =	-		
41	Rider GCR Part A	4,079	MMBTU	X \$ 1.5625 =	6,373.46		
42	Rider GCR Part B	4,079	MMBTU	X \$ 0.5380 =	2,194.58		
43	Subtotal				\$ 10,991.14		
44	Rider FF & Rider TAX	\$ 10,991.14		X 0.06787 =	746.00		
45	Total				<u>\$ 11,737.14</u>		
46							
47	Customer charge					\$ 1,054.75	
48	Consumption charge	1,500	MMBTU	X \$ 0.4330 =		649.50	
49	Consumption charge	2,579	MMBTU	X \$ 0.3171 =		817.80	
50	Consumption charge	0	MMBTU	X \$ 0.0680 =		-	
51	Rider GCR Part A	4,079	MMBTU	X \$ 1.5625 =		6,373.46	
52	Rider GCR Part B	4,079	MMBTU	X \$ 0.5380 =		2,194.58	
53	Subtotal					\$ 11,090.09	
54	Rider FF & Rider TAX	\$ 11,090.09		X 0.06787 =		752.72	
55	Total					<u>\$ 11,842.81</u>	\$ 105.67
56							0.90%
57	Rate T @ 4079 MMBTU				Current	Proposed	Change
58	Customer charge				\$ 1,014.50		
59	Consumption charge	1,500	MMBTU	X \$ 0.4157 =	623.55		
60	Consumption charge	2,579	MMBTU	X \$ 0.3044 =	785.05		
61	Consumption charge	0	MMBTU	X \$ 0.0653 =	-		
62	Rider GCR Part B	4,079	MMBTU	X \$ 0.5380 =	2,194.58		
63	Subtotal				\$ 4,617.68		
64	Rider FF & Rider TAX	\$ 4,617.68		X 0.06787 =	313.41		
65	Total				<u>\$ 4,931.09</u>		
66							
67	Customer charge					\$ 1,054.75	
68	Consumption charge	1,500	MMBTU	X \$ 0.4330 =		649.50	
69	Consumption charge	2,579	MMBTU	X \$ 0.3171 =		817.80	
70	Consumption charge	0	MMBTU	X \$ 0.0680 =		-	
71	Rider GCR Part B	4,079	MMBTU	X \$ 0.5380 =		2,194.58	
72	Subtotal					\$ 4,716.63	
73	Rider FF & Rider TAX	\$ 4,716.63		X 0.06787 =		320.13	
74	Total					<u>\$ 5,036.76</u>	\$ 105.67
75							2.14%

**Attachment 3
to 2021 RRM Staff Report**

RRM Monthly Savings Over GRIP and DARR Rates

**ATMOS ENERGY CORP., MID-TEX DIVISION
RESIDENTIAL AVERAGE BILL COMPARISON
(EXCLUDING GAS COSTS)**

	ACSC Settled	DARR Settled	ATM Filing	ENVIRONS Filing
Customer Charge	\$20.85	\$23.80	\$27.68	\$25.90
Monthly Ccf [1]	45.2	52.7	45.2	45.2
Consumption Charge	\$0.27979	\$0.19526	\$0.14846	\$0.18653
Average Monthly Bill	\$33.50	\$34.09	\$34.39	\$34.33
		-\$0.60	-\$0.89	-\$0.83

[1] Recognizes that average normal usage for Dallas residential customers is greater than Mid-Tex average.

RESOLUTION NO. 2021-071

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, APPROVING A NEGOTIATED SETTLEMENT BETWEEN THE ATMOS CITIES STEERING COMMITTEE (“ACSC”) AND ATMOS ENERGY CORP., MID-TEX DIVISION REGARDING THE COMPANY’S 2021 RATE REVIEW MECHANISM FILING; DECLARING EXISTING RATES TO BE UNREASONABLE; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT; FINDING THE RATES TO BE SET BY THE ATTACHED SETTLEMENT TARIFFS TO BE JUST AND REASONABLE AND IN THE PUBLIC INTEREST; APPROVING AN ATTACHED EXHIBIT ESTABLISHING A BENCHMARK FOR PENSIONS AND RETIREE MEDICAL BENEFITS; APPROVING AN ATTACHED EXHIBIT REGARDING AMORTIZATION OF REGULATORY LIABILITY; REQUIRING THE COMPANY TO REIMBURSE ACSC’S REASONABLE RATEMAKING EXPENSES; DETERMINING THAT THIS RESOLUTION WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; ADOPTING A SAVINGS CLAUSE; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS RESOLUTION TO THE COMPANY AND THE ACSC’S LEGAL COUNSEL.

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

WHEREAS, the City is a member of the Atmos Cities Steering Committee (“ACSC”), a coalition of similarly-situated cities served by Atmos Mid-Tex (“ACSC Cities”) that have joined together to facilitate the review of, and response to, natural gas issues affecting rates charged in the Atmos Mid-Tex service area; and

WHEREAS, ACSC and the Company worked collaboratively to develop a Rate Review Mechanism (“RRM”) tariff that allows for an expedited rate review process by ACSC Cities as a substitute to the Gas Reliability Infrastructure Program (“GRIP”) process instituted by the

Legislature, and that will establish rates for the ACSC Cities based on the system-wide cost of serving the Atmos Mid-Tex Division; and

WHEREAS, the current RRM tariff was adopted by the City in a rate ordinance in 2018; and

WHEREAS, on about April 1, 2021, Atmos Mid-Tex filed its 2021 RRM rate request with ACSC Cities based on a test year ending December 31, 2020; and

WHEREAS, ACSC coordinated its review of the Atmos Mid-Tex 2021 RRM filing through its Executive Committee, assisted by ACSC's attorneys and consultants, to resolve issues identified in the Company's RRM filing; and

WHEREAS, the Executive Committee, as well as ACSC's counsel and consultants, recommend that ACSC Cities approve an increase in base rates for Atmos Mid-Tex of \$22.78 million applicable to ACSC Cities with an Effective Date of December 1, 2021; and

WHEREAS, ACSC agrees that Atmos' plant-in-service is reasonable; and

WHEREAS, with the exception of approved plant-in-service, ACSC is not foreclosed from future reasonableness evaluation of costs associated with incidents related to gas leaks; and

WHEREAS, the two month delayed Effective Date from October 1 to December 1 will save ACSC ratepayers approximately \$3.8 million off new rates imposed by the attached tariffs (Exhibit A); and

WHEREAS, the attached tariffs (Exhibit A) implementing new rates are consistent with the recommendation of the ACSC Executive Committee, are agreed to by the Company, and are just, reasonable, and in the public interest; and

WHEREAS, the settlement agreement sets a new benchmark for pensions and retiree medical benefits (Exhibit B); and

WHEREAS, the settlement agreement establishes an amortization schedule for regulatory liability prepared by Atmos Mid-Tex (Exhibit C); and

WHEREAS, the RRM Tariff contemplates reimbursement of ACSC's reasonable expenses associated with RRM applications;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS:

Section 1. That the findings set forth in this Resolution are hereby in all things approved.

Section 2. That, without prejudice to future litigation of any issue identified by ACSC, the City Council finds that the settled amount of an increase in revenues of \$22.78 million for ACSC Cities represents a comprehensive settlement of gas utility rate issues affecting the rates, operations, and services offered by Atmos Mid-Tex within the municipal limits arising from Atmos Mid-Tex's 2021 RRM filing, is in the public interest, and is consistent with the City's authority under Section 103.001 of the Texas Utilities Code.

Section 3. That despite finding Atmos Mid-Tex's plant-in-service to be reasonable, ACSC is not foreclosed in future cases from evaluating the reasonableness of costs associated with incidents involving leaks of natural gas.

Section 4. That the existing rates for natural gas service provided by Atmos Mid-Tex are unreasonable. The new tariffs attached hereto and incorporated herein as Exhibit A, are just and reasonable, and are designed to allow Atmos Mid-Tex to recover annually an additional \$22.78 million from customers in ACSC Cities, over the amount allowed under currently approved rates. Such tariffs are hereby adopted.

Section 5. That the ratemaking treatment for pensions and retiree medical benefits in Atmos Mid-Tex's next RRM filing shall be as set forth on Exhibit B, attached hereto and incorporated herein.

Section 6. That subject to any future settlement or decision regarding the balance of Excess Deferred Income Tax to be refunded to ratepayers, the amortization of regulatory liability shall be consistent with the schedule found in Exhibit C, attached hereto and incorporated herein.

Section 7. That Atmos Mid-Tex shall reimburse the reasonable ratemaking expenses of the ACSC in processing the Company's 2021 RRM filing.

Section 8. That to the extent any resolution or ordinance previously adopted by the Council is inconsistent with this Resolution, it is hereby repealed.

Section 9. That the meeting at which this Resolution was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

Section 10. That if any one or more sections or clauses of this Resolution is adjudged to be unconstitutional or invalid, such judgment shall not affect, impair, or invalidate the remaining provisions of this Resolution, and the remaining provisions of the Resolution shall be interpreted as if the offending section or clause never existed.

Section 11. That consistent with the City Ordinance that established the RRM process, this Resolution shall become effective from and after its passage with rates authorized by attached tariffs to be effective for bills rendered on or after December 1, 2021.

Section 12. That a copy of this Resolution shall be sent to Atmos Mid-Tex, care of Chris Felan, Vice President of Rates and Regulatory Affairs Mid-Tex Division, Atmos Energy Corporation, 5420 LBJ Freeway, Suite 1862, Dallas, Texas 75240, and to Thomas Brocato,

General Counsel to ACSC, at Lloyd Gosselink Rochelle & Townsend, P.C., 816 Congress Avenue,
Suite 1900, Austin, Texas 78701.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF
DUNCANVILLE, TEXAS, BY A VOTE OF ____ TO ____, ON THIS THE 21st DAY OF
SEPTEMBER 2021.

Barry L. Gordon, Mayor

ATTEST:

Kristin Downs, City Secretary

APPROVED AS TO FORM:

Robert E. Hager, City Attorney



STAFF REPORT

MEETING: City Council - 21 Sep 2021

TITLE:

Consider an Ordinance granting to Atmos Energy Corporation, a Texas and Virginia Corporation, its successors and assigns, a franchise to construct, maintain, and operate pipelines and equipment in the City of Duncanville, Dallas County, Texas, for the transportation, delivery, sale, and distribution of gas in, out of, and through said city for all purposes; providing for the payment of a fee or charge for the use of the public rights-of-ways; and providing that such fee shall be in lieu of other fees and charges, excepting ad valorem taxes; and repealing all previous gas franchise ordinances.

FY 2019 CITY COUNCIL ORGANIZATIONAL WORKPLAN:

STAFF RESPONSIBLE:

Edena J. Atmore, CPA, Interim Finance Director

BACKGROUND/HISTORY:

Atmos Energy Corporation is requesting access to construct, maintain, and operate pipelines and equipment in the City of Duncanville to sell and distribute gas in, out of, and through the City for all purposes. For this access and privilege, Atmos Energy will provide the City of Duncanville a fee for using the public rights-of-way.

Atmos Energy Corporation will pay the City 5% of its Gross Revenues as defined in the attached agreement.

The proposed agreement shall be from March 1, 2022, until December 1, 2046.

POLICY EXPLANATION:

Adoption of the ordinance will require two readings.

The first reading of the Ordinance occurred on September 7, 2021, and did not require a vote or action to be taken by Council.

The second reading of the Ordinance will occur on September 21, 2021, with action to be taken by Council.

FUNDING SOURCE:

Franchise fees are revenue to the General Fund.

Contract Log #:

N/A

RECOMMENDATION:

Staff recommends that Council approve the agreement and ordinance, and authorize the Mayor of the City of Duncanville to sign the franchise agreement with Atmos Energy Corporation after the second reading of the ordinance at the September 21, 2021, Council Meeting.

ATTACHMENTS:

[Attachment 1 -Ordinance No. - 2413 - Atmos Energy Franchise Agreement](#)

ORDINANCE NO: 2413

AN ORDINANCE GRANTING TO ATMOS ENERGY CORPORATION, A TEXAS AND VIRGINIA CORPORATION, ITS SUCCESSORS AND ASSIGNS, A FRANCHISE TO CONSTRUCT, MAINTAIN, AND OPERATE PIPELINES AND EQUIPMENT IN THE CITY OF DUNCANVILLE, DALLAS COUNTY, TEXAS, FOR THE TRANSPORTATION, DELIVERY, SALE, AND DISTRIBUTION OF GAS IN, OUT OF, AND THROUGH SAID CITY FOR ALL PURPOSES; PROVIDING FOR THE PAYMENT OF A FEE OR CHARGE FOR THE USE OF THE PUBLIC RIGHTS-OF-WAYS; AND PROVIDING THAT SUCH FEE SHALL BE IN LIEU OF OTHER FEES AND CHARGES, EXCEPTING AD VALOREM TAXES; AND REPEALING ALL PREVIOUS GAS FRANCHISE ORDINANCES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS:

SECTION 1. GRANT OF AUTHORITY: The City of Duncanville, Texas, hereinafter called "City," hereby grants to Atmos Energy Corporation, Mid-Tex Division, hereinafter called "Atmos Energy," its successors and assigns, consent a non-exclusive use and occupy the present and future streets, alleys, highways, public utility easements, public ways and other public places ("Public Rights-of-Way"), for the purpose of laying, maintaining, constructing, protecting, operating, and replacing therein and thereon pipelines and all other appurtenant equipment (the "System") to deliver, transport, and distribute gas in, out of, and through City for persons, firms, and corporations, including all the general public, and to sell gas to persons, firms, and corporations, including all the general public, within the City corporate limits, as such limits may be amended from time to time during the term of this franchise, said consent being granted for a term ending December 31, 2046.

SECTION 2. CONSTRUCTION, MAINTENANCE, OPERATION & RELOCATION OF ATMOS ENERGY FACILITIES:

- A. Atmos Energy shall lay, maintain, construct, operate, and replace its pipes, mains, laterals, and other equipment to minimize interference with traffic, place or cause to be placed appropriate barriers to mark excavations or obstructions, and restore to approximate original condition all Public Rights-of-Way that it may disturb. In determining the location of the facilities of the City and other users of Public Right-of-Way within City, City shall minimize interference with then existing facilities of Atmos Energy and shall require other users of Public Rights-of-Way to minimize interference with existing facilities of Atmos Energy. In the event of a conflict between the location of the proposed facilities of Atmos Energy and the location of the existing facilities of City or other users of Public Rights-of-Way within Public Rights-of-Way that cannot otherwise be resolved, City or an authorized agent of City shall resolve the conflict and determine the location of the respective facilities within the Public Rights-of-Way.

Atmos Energy or contractors working on behalf of Atmos Energy shall not be required to pay for street cutting, street excavation or other special permits related to excavations in Public Rights-of-Way in connection with Atmos Energy's operations in Public Rights-of-Way. City shall provide Atmos Energy with its annual capital improvements plan as well as any updates or changes as soon as the plan, update, or change becomes available. City shall notify Atmos Energy as soon as reasonably possible of any projects that will affect Atmos Energy's facilities located in the Public Rights-of-Way. When required by City to remove or relocate its mains, laterals, and/or other facilities lying within Public Rights-of-Way, Atmos Energy shall do so as soon as practically possible with respect to the scope of the project. In no event shall Atmos Energy be required to remove or relocate its facilities in less than thirty (30) days from the time notice is given to Atmos Energy by City.

- B. If City, in constructing its sewers, drainage, water lines, streets, or utilities, should request that Atmos Energy remove or relocate its mains, laterals, and other facilities lying within Public Rights-of-Way, Atmos Energy shall do so at its own expense for facilities that are in conflict, unless such work is for the primary purpose of beautification or to accommodate a private developer. Facilities are deemed to be in conflict to the extent that the proposed City facilities are determined by Atmos Energy to be inconsistent with gas distribution industry standard safe operating practices for existing facilities. Atmos Energy shall not be required to relocate facilities to a depth of greater than four (4) feet unless prior agreement is obtained from Atmos Energy.

When Atmos Energy is required by City to remove or relocate its mains, laterals, and other facilities lying within Public Rights-of-Way to accommodate a request by City, and costs of utility removals or relocations are eligible under federal, state, county, local or other programs for reimbursement of costs and expenses incurred by Atmos Energy as a result of such removal or relocation, and such reimbursement is required to be handled through City, Atmos Energy costs and expenses shall be included in any application by City for reimbursement if Atmos Energy submits its cost and expense documentation to City prior to the filing of the application. City shall provide reasonable written notice to Atmos Energy of the deadline for Atmos Energy to submit documentation of the costs and expenses of such relocation to City. In the event that the City does not provide sufficient written notice to Atmos Energy as set forth in this paragraph, the City shall be responsible for fifty percent (50%) of the cost of the removal or relocation of Atmos Energy's facilities.

If Atmos Energy is required by City to remove or relocate its mains, laterals, or other facilities lying within Public Rights-of-Way for any reason other than the construction or reconstruction of sewers, drainage, water lines, streets or utilities by City, Atmos Energy shall be entitled to reimbursement from City or others of the cost and expense of such removal or relocation.

- C. When Atmos Energy is required to remove or relocate its mains, laterals or other facilities to accommodate construction by City without reimbursement from City, Atmos Energy shall have the right to seek recovery of relocation costs as provided for in applicable state and/or federal law. Nothing herein shall be construed to prohibit, alter, or modify in any way the right of Atmos Energy to seek or recover a surcharge from customers for the cost of relocation pursuant to applicable state and/or federal law. City shall not oppose recovery of relocation costs when Company is required by City to perform relocation. City shall not require that Company document request for reimbursement as a pre-condition to recovery of such relocation costs.

- D. If City abandons any Public Rights-of-Way in which Atmos Energy has facilities, such abandonment shall be conditioned on Atmos Energy's right to maintain its use of the former Public Right-of-Way and on the obligation of the party to whom the Public Right-of-Way is abandoned to reimburse Atmos Energy for all removal or relocation expenses if Atmos Energy agrees to the removal or relocation of its facilities following abandonment of the Public Right-of-Way. If the party to whom the Public Right-of-Way is abandoned requests Atmos Energy to remove or relocate its facilities and Atmos Energy agrees to such removal or relocation, such removal or relocation shall be done within a reasonable time at the expense of the party requesting the removal or relocation. If relocation cannot practically be made to another Public Right-of-Way, the expense of any right-of-way acquisition shall be considered a relocation expense to be reimbursed by the party requesting the relocation.

SECTION 3. INDEMNITY & INSURANCE: In the event of injury to any person or damage to any property by reason of Atmos Energy's construction, operation, maintenance, or replacement of Atmos Energy's pipeline system within Public Rights-of-Way, Atmos Energy shall indemnify and keep harmless City from any and all liability in connection therewith, except to the extent such injury or damage is attributable to the fault of the City, including, without limitation, the City's negligent or intentional acts or omissions. Atmos Energy's insurance of its obligations and risks undertaken pursuant to this franchise may be in the form of self-insurance to the extent permitted by applicable law, under an Atmos Energy plan of self-insurance maintained in accordance with sound accounting and risk-management practices.

SECTION 4. NON-EXCLUSIVE FRANCHISE: The rights, privileges, and franchises granted by this ordinance are not to be considered exclusive, and City hereby expressly reserves the right to grant, at any time, like privileges, rights, and franchises as it may see fit to any other person or corporation for the purpose of transporting, delivering, distributing, or selling gas to and for City and the inhabitants thereof.

SECTION 5. PAYMENTS TO CITY:

- A. Atmos Energy, its successors and assigns, agrees to pay and City agrees to accept, on or before the 1st day of March, 2022, and on or before the first day of each March, June, September, and December during the term of this franchise, the last payment being made on the 1st day of December, 2046, a sum of money which shall be equivalent to five percent (5%) of the Gross Revenues, as defined in 5.B below, received by Atmos Energy during the preceding calendar quarter.
- B. "Gross Revenues" shall mean:
 - (1) all revenues received by Atmos Energy from the sale of gas to all classes of customers (excluding gas sold to another gas utility in the City for resale to its customers within City) within the City;
 - (2) all revenues received by Atmos Energy from the transportation of gas through the System of Atmos Energy within the City to customers located within the City (excluding any gas transported to another gas utility in City for resale to its customers within City);
 - (3) the value of gas transported by Atmos Energy for Transport Customers through the System of Atmos Energy within the City ("Third Party Sales")(excluding the value of any gas transported to another gas utility in City for resale to its customers within City), with the value of such gas to be established by utilizing Atmos Energy's monthly Weighted Average Cost of Gas charged to industrial customers in the Mid-Tex division, as reasonably near the time as the transportation service is performed; and
 - (4) "Gross Revenues" shall also include fees collected pursuant to this agreement and the following "miscellaneous charges": charges to connect, disconnect, or reconnect gas and charges to handle returned checks from consumers within the City.

(5) “Gross Revenues” shall not include:

- (a) revenues billed but not ultimately collected or received by Atmos Energy;
- (b) contributions in aid of construction;
- (c) the revenue of any affiliate or subsidiary of Atmos Energy;
- (d) sales tax paid to the City;
- (e) interest or investment income earned by Atmos Energy; and
- (f) monies received from the lease or sale of real or personal property, provided, however, that this exclusion does not apply to the lease of facilities within the City's right of way.

C. The initial payment for the rights and privileges herein provided shall be for the privilege period January 1 through March 31, 2022, and each succeeding payment shall be for the privilege period of the calendar quarter in which the payment is made.

It is also expressly agreed that the aforesaid payments shall be in lieu of any and all other and additional occupation taxes, easement, franchise taxes or charges (whether levied as an ad valorem, special, or other character of tax or charge), municipal license, permit, and inspection fees, bonds, street taxes, and street or alley rentals or charges, and all other and additional municipal taxes, charges, levies, fees, and rentals of whatsoever kind and character that City may now impose or hereafter levy and collect from Atmos Energy or Atmos Energy’s agents, excepting only the usual general or special ad valorem taxes that City is authorized to levy and impose upon real and personal property. If the City does not have the legal power to agree that the payment of the foregoing sums of money shall be in lieu of taxes, licenses, fees, street or alley rentals or charges, easement or franchise taxes or charges aforesaid, then City agrees that it will apply so much of said sums of money paid as may be necessary to satisfy Atmos Energy’s obligations, if any, to pay any such taxes, licenses, charges, fees, rentals, easement or franchise taxes or charges aforesaid.

D. Effect of Other Municipal Franchise Ordinance Fees Accepted and Paid by Atmos Energy

If Atmos Energy should at any time after the effective date of this Ordinance agree to a new municipal franchise ordinance, or renew an existing municipal franchise ordinance, with another municipality in Atmos Energy’s Mid-Tex Division, which municipal franchise ordinance determines the franchise fee owed to that municipality for the use of its public rights-of-way in a manner that, if applied to the City, would result in a franchise fee greater than the amount otherwise

due City under this Ordinance, then the franchise fee to be paid by Atmos Energy to City pursuant to this Ordinance may, at the election of the City, be increased so that the amount due and to be paid is equal to the amount that would be due and payable to City were the franchise fee provisions of that other franchise ordinance applied to City. The City acknowledges that the exercise of this right is conditioned upon the City's acceptance of all terms and conditions of the other municipal franchise *in toto*. The City may request waiver of certain terms and Company may grant, in its sole reasonable discretion, such waiver.

E. Atmos Energy Franchise Fee Recovery Tariff

- (1) Atmos Energy may file with the City a tariff or tariff amendment(s) to provide for the recovery of the franchise fees under this agreement.
- (2) City agrees that (i) as regulatory authority, rates or tariff which provide for 100% recovery of such franchise fees as part of Atmos Energy's rates; (ii) if the City intervenes in any regulatory proceeding before a federal or state agency in which the recovery of Atmos Energy's franchise fees is an issue, the City will take an affirmative position supporting 100% recovery of such franchise fees by Atmos Energy and; (iii) in the event of an appeal of any such regulatory proceeding in which the City has intervened, the City will take an affirmative position in any such appeals in support of the 100% recovery of such franchise fees by Atmos Energy.
- (3) City agrees that it will take no action, nor cause any other person or entity to take any action, to prohibit the recovery of such franchise fees by Atmos Energy.

F. Lease of Facilities Within City's Rights-of-Way. Atmos Energy shall have the non-exclusive right to lease, license or otherwise grant to a party other than Atmos Energy the use of its facilities within the City's public rights-of-way provided: (i) Atmos Energy first notifies the City of the name of the lessee, licensee or user; the type of service(s) intended to be provided through the facilities; and the name and telephone number of a contact person associated with such lessee, licensee or user and (ii) Atmos Energy makes the franchise fee payment due on the revenues from such lease pursuant to Section 5 of this Ordinance. This authority to Lease Facilities within City's Rights-of-Way shall not affect any such lessee, licensee or user's obligation, if any, to pay franchise fees.

- G. City shall within thirty (30) days of final approval, give Company notice of annexations and disannexations of territory by the City, which notice shall include a map and addresses, if known. Upon receipt of said notice, Company shall promptly initiate a process to reclassify affected customers into the city limits no later than sixty (60) days after receipt of notice from the City. The annexed areas added to the city limits will be included in future franchise fee payments in accordance with the sales tax effective date of the annexation if notice was timely received from City. Upon request from City, Company will provide documentation to verify that affected customers were appropriately reclassified and included for purposes of calculating franchise fee payments. In no event shall the Company be required to add premises for the purposes of calculating franchise payment prior to the earliest date that the same premises are added for purposes of collecting sales tax.

SECTION 6. ACCEPTANCE OF FRANCHISE: In order to accept this franchise, Atmos Energy must file with the City Secretary its written acceptance of this franchise ordinance within sixty (60) days after its final passage and approval by City. If such written acceptance of this franchise ordinance is not filed by Atmos Energy, the franchise ordinance shall be rendered null and void.

When this franchise ordinance becomes effective, all previous ordinances of City granting franchises for gas delivery purposes that were held by Atmos Energy shall be automatically canceled and annulled, and shall be of no further force and effect.

SECTION 7. PARAGRAPH HEADINGS. CONSTRUCTION: The paragraph headings contained in this ordinance are for convenience only and shall in no way enlarge or limit the scope or meaning of the various and several paragraphs hereof. Both parties have participated in the preparation of this ordinance and this ordinance shall not be construed either more or less strongly against or for either party.

SECTION 8. EFFECTIVE DATE: If Atmos Energy accepts this ordinance, it becomes effective as of January 1, 2022.

PASSED AND APPROVED on this the 21st day of September, 2021.

ATTEST:

Kristin Downs, City Secretary

**Barry Gordon, Mayor
City of Duncanville, Texas**

STATE OF TEXAS §
COUNTY OF DALLAS §
CITY OF DUNCANVILLE §

I, Kristin Downs, City Secretary of the City of Duncanville, Dallas County, Texas, do hereby certify that the above and foregoing is a true and correct copy of an ordinance passed by the City Council of the City of Duncanville, Texas, at a _____ session, held on the _____ day of _____, 2021, as it appears of record in the Minutes in Book _____, page _____.

WITNESS MY HAND AND SEAL OF SAID CITY, this the ____ day of _____, 2021.

Kristin Downs, City Secretary
City of Duncanville, Texas



STAFF REPORT

MEETING: City Council - 21 Sep 2021

TITLE:

Consider a Resolution approving Republic Waste Services of Texas, Ltd., request to the City of Duncanville to increase contract rates under the Municipal Materials Management Agreement by 3.6% for Residential Collection and Commercial Services, effective October 1, 2021.

FY 2021 CITY COUNCIL ORGANIZATIONAL WORKPLAN:

- **2. Create high quality neighborhoods and parks**
 - **Goal 2: Maximize city and community resources to improve quality of life in a sustainable manner.**

STAFF RESPONSIBLE:

Bryan G. Ramey II, P.E., Public Works Director

Jacqueline Culton, P.E., Assistant Director of Public Works

BACKGROUND/HISTORY:

On July 16, 2019, the Duncanville City Council approved a Municipal Materials Management Agreement ("Agreement") with Republic Waste Services of Texas, Ltd., ("Republic") to provide for continued garbage, recycling, and bulk and brush collection and disposal services during the initial term of September 21, 2019, through September 20, 2026. The Agreement will renew for successive five-year periods unless terminated in advance by the City or Republic.

The July 2019 Agreement included provisions for annual rate adjustments limited to the percentage increase in the Consumer Price Index for All Urban Consumers (Water, Sewer, and Trash Collection Services). Specifically, Section 7.2, Annual Rate Adjustments, of the Agreement provides for Republic "to increase the rates for services on each anniversary of the Effective Date of the Agreement in an amount equal to the percentage increase in the Consumer Price Index for All Urban Consumers (Water, Sewer, and Trash Collection Services) the U.S. City Average, as published by the United States Department of Labor, Bureau of Statistics ("the CPI"). For the CPI calculation, rates will be adjusted using the most recently available trailing twelve (12) months average CPI compared to the twelve (12) months preceding." The Agreement states the City shall not unreasonably withhold approval of rate requests.

Prior to the City receiving Republic's official request to increase rates, the City Staff met with Republic several times this year to review contract performance and customer service issues. On August 27, 2021, staff received Republic's official request to increase the residential contract rate by 3.6% for Residential Collection and Commercial Services, based on the June 2021 CPI. If approved by City Council, this rate change would take effect October 1, 2021, and increase the contractual rate for Residential Collection from \$18.48/Month/Residence to \$19.14/Month/Residence, or a difference of

\$0.66/Month/Residence. The Commercial Hand-Collect contract rate would increase from \$25.80/Month to \$26.73/Month. Upon Council approval, these rate increases will be passed through to residential and commercial customers via separate City Council action to amend the Master Fee Schedule. (Commercial customers contract directly with Republic for dumpsters.) Upon the City Council's approval of these proposed rate changes, approximately 11,055 residences will be impacted by this increase.

POLICY EXPLANATION:

City Council action is required to approve adjustments to solid waste rates requested by Republic under the Municipal Materials Management Agreement.

FUNDING SOURCE:

The Municipal Materials Management Agreement costs for FY2021 are paid with funds budgeted in the FY2021 Sanitation Administration Account.

Contract Log #:

1237R1

RECOMMENDATION:

Staff recommends approval of a Resolution approving Republic Waste Services of Texas, Ltd., request to the City of Duncanville to increase contract rates under the Municipal Materials Management Agreement by 3.6% for Residential Collection and Commercial Services, effective October 1, 2021.

ATTACHMENTS:

[Attachment - Resolution No. 2021-069 Republic - Pdf](#)

RESOLUTION NO. 2021-069

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, APPROVING A REQUEST BY REPUBLIC SERVICES OF TEXAS, LTD., FOR A 3.6% INCREASE IN CONTRACT RATES FOR RESIDENTIAL COLLECTION AND COMMERCIAL SERVICES UNDER THE MUNICIPAL MATERIALS MANAGEMENT AGREEMENT; AND, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Duncanville and Republic Services of Texas, Ltd., entered into a Municipal Materials Management Agreement for Solid Waste, Recycling, Bulky Waste, and Brush Collection and Transport Services, effective September 21, 2019, to provide residential and certain commercial solid waste collection and recycling services within the Duncanville City limits; and

WHEREAS, Section 7.2, Annual Rate Adjustments, of the Agreement (Exhibit A) provides for Republic to increase the rates for services on each anniversary of the Effective Date of the Agreement in an amount equal to the percentage increase in the Consumer Price Index for All Urban Consumers (Water, Sewer and Trash Collection Services) U.S. City Average, as published by the United States Department of Labor, Bureau of Statistics ("the CPI"). For the CPI calculation, rates will be adjusted using the most recently available trailing twelve (12) months average CPI compared to the twelve (12) months preceding. Section 7.2 of the Agreement also states the City shall not unreasonably withhold approval of rate requests; and

WHEREAS, Republic submitted its current request (Exhibit B) to the City on August 27, 2021 to increase contractual rates by 3.6% for Residential Collection and Commercial Services, effective October 1, 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, THAT:

SECTION 1. That the City Council of the City of Duncanville approves Republic Services of Texas, LTD., a 3.6% for Residential Collection and Commercial Services, with Republic Services of Texas, LTD for solid waste disposal, effective October 1, 2021.

SECTION 2. That the City Council of the City of Duncanville hereby authorizes the City Manager, or his designee, to take the necessary steps to effectuate the rate increase request.

SECTION 3. That this resolution shall become effective immediately upon its passage.

DULY RESOLVED AND ADOPTED by the City Council of the City of Duncanville,
Texas, on the 21st day of September, 2021.

APPROVED:

Barry L. Gordon, Mayor

ATTEST:

Kristin Downs, City Secretary

APPROVED AS TO FORM:

Robert E. Hager, City Attorney

EXHIBIT A

EXHIBIT "1"

Exhibit A-1 Solid Waste Collection and Disposal Pricing

Exhibit B Specifications and Pricing for Recycling Services

Exhibit B-1 Recycling Facility Average Commodity Mix

6. Term. This Agreement begins on the Effective Date and expires seven (7) years thereafter, but shall automatically renew for successive five-year periods (the "**Term**") unless either party provides written notice of non-renewal at least one-hundred and eighty (180) days prior to the expiration of the then current Term, or unless otherwise terminated in accordance with the terms of this Agreement. The City will review and consider mid-term rate adjustments be made as necessary to market conditions.
7. Rates for Services; Rate Adjustments; Additional Fees and Costs.
 - 7.1 Rates for Services. The rates for all Services shall be as shown on Exhibit A-1 and Exhibit B, subject to the rate adjustments and additional fees and costs as set forth herein.
 - 7.2 Annual Rate Adjustments. Company shall increase the rates for all Services effective on each anniversary of the Effective Date of this Agreement in an amount equal to the percentage increase in the Consumer Price Index for All Urban Consumers (Water, Sewer and Trash Collection Services) U.S. City Average, as published by United States Department of Labor, Bureau of Statistics (the "**CPI**"). For the CPI calculation, rates will be adjusted using the most recently available trailing twelve (12) months average CPI compared to the twelve (12) months preceding. Company must receive approval from the City to increase the base rates. The City shall not unreasonably withhold approval of such request.
 - 7.3 Cost Adjustments. Company may request rate adjustment(s) based on an increase in costs incurred by Company due to: (a) any third party or municipal hauling company or disposal or recycling facility being used; (b) increases in taxes, fees or other governmental charges (other than income or real property taxes) resulting from changes in local, state, or federal rules, ordinances or regulations; (c) uncontrollable, prolonged but temporary operational changes (i.e., a major bridge closure); and (d) changes in costs due to a Force Majeure Event. Any of the foregoing cost adjustments shall be retroactive to the effective date of such increase or change in cost. Company shall promptly notify City of proposed increases within 30 days of receiving notice of such increase in fees, etc. Company must receive approval from the City to increase the base rates. The City shall not unreasonably withhold approval of such request. The City will consider additional mid-year adjustments upon request by Company for good cause shown
8. Invoicing; Payment; Service Suspension; Audits.
 - 8.1 Invoicing the City. The City shall invoice and collect from all Residential Units and Municipal Facilities Customers for Services provided by Company pursuant to this Agreement. The City shall report to Company: (a) by the 28th of each month the total number of addresses subject to this Agreement that have been billed for Services by the City for the previous month; and, (b) on a quarterly basis, provide a list of addresses billed for the Services by the City. Company shall invoice the City for the number of addresses that were billed by the City within fifteen (15) days of receiving the City's address count each month, and the City shall pay Company's invoices
 - 8.2 Invoicing the Customer Directly. Company shall invoice each individual Customer for all Large Commercial Units, Industrial Permanent Units, and Industrial Temporary Units Services rendered to such Customer under this Agreement., and the Customer shall pay Company's

EXHIBIT B

**REPUBLIC SERVICES
FRANCHISED CITY RATES
CITY OF DUNCANVILLE**

All Fees Listed Include Franchise Fees

EFFECTIVE DATE 10/01/21

COMMERCIAL FRONT LOAD RATES

Size	1xwk	2xwk	3xwk	4xwk	5xwk	6xwk	EX-PU	DEPOSIT
2 cubic yard	\$ 76.86	\$ 117.90	\$ 167.87	\$ 208.67	\$ 266.59	\$ 300.43	\$ 27.85	Mthly Rate
3 cubic yard	\$ 86.95	\$ 146.70	\$ 201.58	\$ 254.95	\$ 312.21	\$ 368.51	\$ 34.40	Mthly Rate
4 cubic yard	\$ 97.03	\$ 175.67	\$ 235.33	\$ 301.24	\$ 368.69	\$ 449.66	\$ 40.96	Mthly Rate
6 cubic yard	\$ 123.95	\$ 233.77	\$ 294.61	\$ 382.00	\$ 475.36	\$ 563.23	\$ 47.51	Mthly Rate
8 cubic yard	\$ 150.82	\$ 291.81	\$ 353.92	\$ 462.85	\$ 582.02	\$ 689.85	\$ 58.98	Mthly Rate

4 cubic yard Pkr	\$ 273.85						\$ 112.18	Mthly Rate
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Misc Front Load Charges

Delivery	\$ 50.78	Lockbar/Caster set up fee	\$ 71.85	(one time charge)
Relocate Charge	\$ 50.78	Casters / Locks	\$ 2.63	(per collection)
Overweight/Blocked/Trip Charges	\$ 23.15	Enclosure / Gate	\$ 3.07	(per collection)
Container Exchange	\$ 83.18	Extra Yardage	\$ 28.40	(per yard)

COMMERCIAL ROLL-OFF RATES

Size	Delivery	Rental	Haul Charge	Deposit
20-yd	\$ 122.99	\$ 205.34	\$ 565.40	\$ 868.44
30-yd	\$ 122.99	\$ 205.34	\$ 655.12	\$ 955.63
40-yd	\$ 122.99	\$ 250.73	\$ 691.06	\$ 1,034.66
30 yard Pkr	Open	Open	\$ 691.09	Open
35 yard Pkr	Open	Open	\$ 734.73	Open
42 yard Pkr	Open	Open	\$ 780.48	Open

Misc Roll-Off Charges

Relocate / Blocked / Not able to Service	\$ 133.27
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COMMERCIAL HAND-COLLECT

Solid Waste Service: \$26.73 per month
Twice per week - up to 20 bags

Recycle Collection: \$19.73 per month
Weekly - polycart

RESIDENTIAL COLLECTION:

Residential Trash (Twice per week collection)	\$ 10.41
Residential Recycling (Once per week collection)	\$ 5.56
Residential Bulk / Brush (Bi-monthly collection of 10 cu-yards)	\$ 3.17
Total Residential	\$ 19.14

Recycle Carts

Cart Rental for Recycling (invoiced from Company)	\$5.07 per month
	\$15.19 per quarter

Delivery/Removal	\$ 16.00	1st delivery included
Replacement Cart	\$ 58.76	

ADDITIONAL BULK ITEMS

Commercial and Residential customers may contact Company for collection of additional bulk/brush on an on-call basis for a rate negotiated by the Company.



STAFF REPORT

MEETING: City Council - 21 Sep 2021

TITLE:

Consider a motion to reconsider a Resolution of appointing a member to the North Central Texas Housing Finance Corporation (NCTHFC) for a term of ____ () years and determine Duncanville Appointee.

FY 2019 CITY COUNCIL ORGANIZATIONAL WORKPLAN:

- WorkPlan Item N/A

STAFF RESPONSIBLE:

Aretha R. Ferrell-Benavides, City Manager

BACKGROUND/HISTORY:

Item requested by Councilmember McBurnett.

On September 7, 2021 City Council approved Resolution 2021-067, appointing Johnette Jameson to the North Central Texas Housing Corporation for a six (6) year term. Motion was made by Councilmember Koontz and seconded by Councilmember McBurnett, vote 4-2 (against Mayor Pro Tem Harvey and Councilmember Contreras with Councilmember Veracruz absent).

Councilmember McBurnett voting in favor of the motion has requested a reconsideration and has asked staff to bring the resolution back to Council.

The North Central Texas Housing Finance Corporation (NCTHFC) is an organization incorporated in 1981 as a nonprofit corporation and a public instrument of the Counties of Ellis, Hunt, Kaufman, Navarro and Rockwall Counties, and the Cities of Cedar Hill, DeSoto, Duncanville, Lancaster, and Waxahachie. The NCTHFC is organized and exists under the Texas Housing Finance Corporations Act, Chapter 394, Local Government Code, for the public purpose of providing financing for the cost of residential ownership and development within the Counties that will provide decent, safe, and sanitary housing for persons of low and moderate-income at prices they can afford. The Act authorizes the Corporation to issue its revenue obligations to accomplish such a public purpose.

As per Section 2.01 of the attached bylaws of the NCTHFC, "each Sponsoring Local Government Unit ("Unit") shall appoint a director and may appoint up to two alternate directors, all of whom shall reside within the Unit that appointed them." Directors and alternate directors are removable only by the Unit which appointed them, and each Unit is allowed to set the length of term for the directors and alternate directors, but no term shall be in excess of six (6) years.

Former Councilmember Johnette Jameson was appointed as the director for the City of Duncanville. Mrs. Jameson was appointed to the North Central Texas Housing Corporation on August 3, 2010.

The only requirement for the director or alternate director(s) is to be a resident of the appointing jurisdiction.

POLICY EXPLANATION:

The City Council has the authority to appoint or remove members of boards and commissions. This item is for discussion by City Council as requested is to reconsider the original resolution passed and determine who to appoint as a director and alternate director(s) to the North Central Texas Housing Finance Corporation as representatives of the City of Duncanville.

FUNDING SOURCE:

N/A

Contract Log #:

N/A

RECOMMENDATION:

N/A

ATTACHMENTS:

[Attachment 1 - Reso No 2021-067 - North Central Texas Housing Finance Corp - Appointment of Johnette Jameson](#)

[Attachment 1 - N Central Tx By Laws 11.11.2016](#)

[Attachment 2 - August 3, 2010 City Council Minutes](#)

RESOLUTION NO. 2021-067

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS APPOINTING JOHNETTE JAMESON AS A MEMBER TO THE NORTH CENTRAL TEXAS HOUSING FINANCE CORPORATION (NCTHFC) FOR A TERM OF SIX (6) YEARS; PROVIDING A REPEALING CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, The North Central Texas Housing Finance Corporation (NCTHFC) is an organization incorporated in 1981 as a nonprofit corporation and a public instrument of the Counties of Ellis, Hunt, Kaufman, Navarro and Rockwall Counties, and the Cities of Cedar Hill, DeSoto, Duncanville, Lancaster, and Waxahachie; and

WHEREAS, The NCTHFC is organized and exists under the Texas Housing Finance Corporations Act, Chapter 394, Local Government Code, for the public purpose of providing financing for the cost of residential ownership and development within the Counties that will provide decent, safe, and sanitary housing for persons of low and moderate-income at prices they can afford; and

WHEREAS, As per Section 2.01 of the bylaws of the NCTHFC, "each Sponsoring Local Government Unit ("Unit") shall appoint a director and may appoint up to two alternate directors, all of whom shall reside within the Unit that appointed them."; Directors and alternate directors are removable only by the Unit which appointed them, and each Unit is allowed to set the length of term for the directors and alternate directors, but no term shall be in excess of six (6) years; and

WHEREAS, the City Council desires to appoint Johnette Jameson as a member of the NCTHFC a director to serve a term not to exceed six (6) years.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, THAT:

SECTION 1. The Duncanville City Council hereby confirms the appointment of Johnette Jameson as a member of the North Central Texas Housing Finance Corporation (NCTHFC) to serve a six (6) year term.

SECTION 2. This Resolution shall become effective immediately upon its passage and approval.

DULY RESOLVED AND ADOPTED by the City Council of the City of Duncanville, Texas, on the 7th day of September, 2021.

APPROVED:



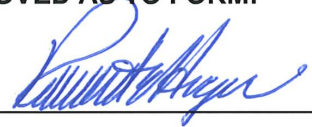
Barry L. Gordon, Mayor

ATTEST:



Kristin Downs, City Secretary

APPROVED AS TO FORM:



Robert E. Hager, City Attorney



ATTACHMENT 1

BY-LAWS OF
NORTH CENTRAL TEXAS HOUSING FINANCE CORPORATION

ARTICLE I

Powers and Purposes

SECTION 1.01: Purpose. The North Central Texas Housing Finance Corporation (the "Corporation") is duly incorporated under and pursuant to the Texas Housing Finance Corporation Act (the "Act") for the purpose of benefiting and accomplishing public purposes of, and on behalf of, those Local Governmental Units specified in Schedule A attached hereto and made part hereof (the "Sponsoring Local Governmental Units"), by financing the cost of residential ownership and development that will provide decent, safe and sanitary housing for residents of the Unit at prices they can afford. It has been determined and declared by the Legislature of the State of Texas that such residential ownership and development will (a) provide for and promote the public health, safety, morals, and welfare; (b) relieve conditions of unemployment and encourage the increase of industry and commercial activity and economic development so as to reduce the evils attendant upon unemployment; (c) provide for efficient and well-planned urban growth and development including the elimination and prevention of potential urban blight and proper coordination of industrial facilities with public services, mass transportation and residential development; (d) assist persons of low and moderate income in acquiring and owning decent, safe and sanitary housing which they can afford; and (e) preserve and increase ad valorem tax bases of local governmental units; and the foregoing have been determined and declared by the Legislature of the State of Texas to lessen the burden of government and to be public purposes and functions.

The Corporation is organized solely to carry out the purposes of the Act and specifically shall have the power to make or acquire home mortgages or make loans to lending institutions.

SECTION 1.02: Powers. The Corporation shall have all such powers as are conferred by the Articles of Incorporation and the Act.

SECTION 1.03. Exercise of Powers, and Authorization of Bonds. The exercise of any or all powers granted by the Act may be authorize, and the bonds may be authorized to be issued under the Act for the purposes set forth in the Act, by resolution of the Board of Directors of the Corporation, which shall take effect immediately upon adoption.

SECTION 1.04. Books and Records. The Corporation shall keep correct and complete books and records of account and shall keep minutes of proceedings of its Board of Directors. Such books and records may be stored electronically, in print or other form acceptable to the Board.

ATTACHMENT 1

ARTICLE II**Board of Directors**

SECTION 2.01. Appointment, Removal, Number and Term of Office. Each Sponsoring Local Governmental Unit ("Unit") shall appoint a director and may appoint up to two alternate directors all of whom shall reside within the Unit that appointed them. All directors and alternate directors shall be entitled to attend any meeting; however each Unit shall be entitled to only one vote, which shall be cast by the director or, in the absence of the director by one of the alternate directors. The director shall have the power to vote, whenever present at a board meeting. The number of directors shall increase or decrease based upon the number of Units of the Corporation. Each director, including the initial directors, and each alternate director shall be eligible for reappointment. Directors and alternate directors are removable only by the Unit which appointed the director, for cause or at will. Any vacancy occurring on the Board of Directors through death, resignation, or otherwise, shall be filled by appointment by the Unit which appointed the vacating director and the appointed director or alternate director shall hold office until the expiration of the term for which the vacating director had been appointed. Each Unit shall set the length of term of the directors and alternate directors it appoints but no term shall be in excess of six (6) years. Each Unit shall notify the Corporation, in writing, of its appointed directors, alternate directors and their respective terms, and give written notice to the Corporation of any changes made thereto.

SECTION 2.02. Meeting of Directors. The directors may hold their meeting within or without the State of Texas as the Board of Directors may from time to time determine; provided, however, in the absence of any such determination by the Board of Directors, the meeting may be held at the registered office of the Corporation in the State of Texas. Meeting may also be held via telephone, in person, video conferencing or the method agreed upon by the Board of Directors.

SECTION 2.03. Regular Meetings. Regular Meetings of the Board of Directors shall be held without necessity of notice at such times and places as shall be designated, from time to time, by resolution of the Board of Directors.

SECTION 2.04. Special Meetings. Special Meetings shall be held whenever called by the, president, by the secretary, by a majority of the directors for the time being in office or upon advise of or request by the governing body of the local governmental unit.

The Secretary shall give notice to each director of each Special Meeting in person, or by mail, telephone or telegraph, at least two (2) hours before the meeting. Unless otherwise indicated in the notice thereof, any and all matters pertaining to the purposes of the Corporation may be considered and voted upon at a Special Meeting. At any meeting at which every director shall be present, even though without any notice, any matter pertaining to the purpose of the Corporation may be considered and acted upon. Whenever any notice is required to be given to any director hereunder, a waiver thereof in writing signed by the person or persons entitled to

ATTACHMENT 1

such notice, whether before or after the time stated therein, shall be equivalent to giving of such notice.

SECTION 2.05. Quorum. Quorum shall be a majority of the directors eligible to cast a vote at a meeting. Alternate directors not eligible to vote are not directors for purposes of quorum. When the quorum is present, action may be taken by a majority vote to the directors present who are eligible to vote.

SECTION 2.06. Conduct of Business. At the meeting of the Board of Directors, matters pertaining to the purposes of the Corporation shall be considered in such order as from time to time the Board of Directors may determine.

At all meetings of the Board of Directors, the president shall preside, and in the absence of the president, the vice president shall exercise the powers of the president.

The secretary of the Corporation shall act as secretary of all meeting of the Board of Directors, but in the absence of the secretary, the presiding officer may appoint any person to act as secretary of the meeting.

SECTION 2.07. Executive Committee. The Board of Directors, by resolution passed by a majority of the directors in office, may designate two or more directors to constitute an executive committee, which committee, to the extent provided in such resolution, shall have and may exercise all of the authority of the Board of Directors in the management of the Corporation, except where action of the Board of Directors is specified by law. The executive committee so designated shall keep regular minutes of the transactions of its meetings and shall cause such minutes to be recorded in books kept for that purpose in the office of the Corporation, and shall report the same to the Board of Directors from time to time.

SECTION 2.08. Compensation of Directors. Directors as such shall not receive any salary or compensation for their services, except that they shall be reimbursed for their actual expenses incurred in the performance of their duties hereunder.

ARTICLE III

Officers

SECTION 3.01. Titles and Term of Office. The officers of the Corporation shall be a president, a vice president, a secretary and a treasurer, and such other officers as the Board of Directors may from time to time elect or appoint. One person may hold more than one office, except that the president shall not hold the office of secretary. Terms of office shall not exceed three years. The President and Vice-President shall be chosen from the members of the Board of Directors. The Treasurer and Secretary may or may not be members of the Board. It is the

ATTACHMENT 1

intention of the Board of Directors to conduct officer elections at the fourth quarter meeting of every third calendar year.

All officers shall be subject to removal from office, with or without cause, at any time by a vote of a majority of the entire Board of Directors.

A vacancy in the office of any officer shall be filled by a vote of a majority of the directors.

SECTION 3.02. Powers and Duties of the President. The president shall be the chief executive officer of the Corporation and, subject to the Board of Directors, he shall be in general charge of the properties and affairs of the Corporation; he shall preside at all meetings of the Board of Directors; in furtherance of the purposes of this Corporation, he may sign and execute all contracts, conveyances, franchises, bonds, deeds, assignments, mortgages, notes and other instruments in the name of the Corporation.

SECTION 3.03. Vice President. The vice president shall have such powers and duties as may be assigned to him by the Board of Directors and shall exercise the powers of the president during that officer's absence or inability to act. Any action taken by the vice president in the performance of the duties of the president shall be conclusive evidence of the absence or inability to act of the president at the time such action was taken.

SECTION 3.04. Treasurer. The treasurer shall have custody of all the funds and securities of the Corporation which come into his hands. When necessary or proper, he may endorse, on behalf of the Corporation, for collection, checks, notes and other obligations and shall deposit the same to the credit of the Corporation in such bank or banks or depositories as shall be designated in the manner prescribed by the Board of Directors; he may sign all receipts and vouchers for payment made to the Corporation, either alone or jointly with such other officer as is designated by the Board of Directors; whenever required by the Board of Directors, he shall render a statement of his cash account; he shall enter or cause to be entered regularly in the books of the Corporation to be kept by him for that purpose full and accurate accounts of all monies received and paid out on account of the Corporation; he shall perform all acts incident to the position of treasurer subject to the control of the Board of Directors; he shall, if required by the Board of Directors, give such bond for the faithful discharge of his duties in such form as the Board of Directors may require.

SECTION 3.05. Secretary. The secretary shall keep the minutes of all meetings of the Board of Directors in books provided for that purpose; he shall attend to the giving and serving of all notices; in furtherance of the purposes of this Corporation, he may sign with the president in the name of the Corporation, and/or attest the signature thereto, all contracts, conveyances, franchises, bonds, deeds, assignments, mortgages, notes and other instruments of the Corporation; he shall have charge of the corporate books, records, documents and instruments, except the books of account and financial records and securities of which the treasurer shall have custody and charge, and such other books and papers as the Board of Directors may direct, all of

ATTACHMENT 1

which shall at all reasonable times be open to inspection upon application at the office of the Corporation during business hours, and he shall in general perform all duties incident to the office of the secretary subject to the control of the Board of Directors.

ARTICLE IV

Provisions Regarding Articles of Incorporation and By-laws

SECTION 4.01. Effective Date. These By-laws shall become effective upon adoption by the Board of Directors.

SECTION 4.02. Amendments to Articles of Incorporation and By-laws. The Articles of Incorporation may at any time and from time to time be amended, provided that the Board of Directors files with the governing bodies of the Sponsoring Local Governmental Units a written application requesting that said governing body approve such amendment to the Articles of Incorporation, specifying in such application the amendment or amendments proposed to be made. If said governing bodies by appropriate resolutions find and determine that it is wise, expedient, necessary or advisable that the proposed amendment be made, authorize the same to be made and approve the form of the proposed amendment, the Board of Directors may proceed to amend the Articles as provided in the Act.

The Articles of Incorporation may also be amended at any time by the governing bodies of the Sponsoring Local Governmental Units at its sole discretion by adopting an amendment to the Articles of Incorporation of the Corporation by resolution of said governing bodies and delivering the Articles of Amendment to the Secretary of State as provided in the Act.

These By-laws may be amended by majority vote of the Board of Directors.

SECTION 4.03. Interpretation of By-laws. These By-laws and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein. If any word, phrase, clause, sentence, paragraph, section or other part of these By-laws, or the application thereof to any person or circumstance, shall ever be held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of these By-laws and the application of such word, phrase, clause, sentence, paragraph, section or other part of these By-laws to any other person or circumstance shall not be affected thereby.

ATTACHMENT 1

ARTICLE V**Fiscal Provisions**

SECTION 5.01. Non-profit Corporation -- Disposition of Earnings. The Corporation is a public non-profit corporation. No dividends shall ever be paid, and no part of the net earnings of the Corporation shall be distributed to, or inure to the benefit of, its directors, or officers, or other private person, association, or corporation, except in reasonable amount for services rendered, and except that in the event the Board of Directors of the Corporation shall determine that sufficient provision has been made for the full payment of the expenses, debts and other obligations of the Corporation, then any net earnings of the Corporation thereafter accruing shall be paid to the Sponsoring Local Governmental Units; provided, however, that nothing herein contained shall prevent the Board of Directors from transferring all or any part of its properties in accordance with the terms of any contract or agreement entered into by the Corporation.

SECTION 5.02. Fiscal Year. The fiscal year of the Corporation shall be as determined by the Board of Directors.

SECTION 5.03. Checks, Demands for Money, and Notes. All checks or demands for money and notes of the Corporation shall be signed by such officer or officers or such other person or persons as the Board of Directors may from time to time designate provided that in no event shall a check be negotiable until it is signed by at least one officer.

SECTION 5.04. Dissolution of Corporation -- Distribution of Funds and Properties. Upon dissolution of the Corporation, title to all funds and properties or interest in any real or personal property owned by the Corporation at the time of such dissolution shall vest in the Sponsoring Local Governmental Units, and possession of such funds and properties or interest in properties shall forthwith be delivered to the Sponsoring Local Governmental Units.

ARTICLE VI**General Provisions**

SECTION 6.01. Principal Office. The principal office of the Corporation shall be City of DeSoto, 211 East Pleasant Run Road, DeSoto, TX 75115, Attention: Letitia Shelton.

The Corporation shall have and continuously maintain in the State of Texas a registered office (which may be, but need not be, the same as the principal office) and registered agent in accordance with the provisions of Article 2.05, Texas Non-Profit Corporation Act. The Corporation may change its registered office and registered agent in accordance with the provisions of Article 2.06., Texas Non-Profit Corporation Act. Process may be served on the Corporation in accordance with the provisions of Article 2.07, Texas Non-Profit Corporation Act.

ATTACHMENT 1

SECTION 6.02. Seal. The seal of the Corporation shall be as determined by the Board of Directors.

SECTION 6.03. Resignations. Any director or officer may resign at any time. Such resignation shall be made in writing and shall take effect at the time specified therein, or, if no time specified, at the time of its receipt by the president or secretary. The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation.

ATTACHMENT 1

The amendment was adopted at a meeting of the Board of Directors held on November 12, 2016, and received the vote of a majority of the directors in office.

Dated: November 12, 2016

NORTH CENTRAL TEXAS HOUSING
FINANCE CORPORATION

By: Camelia Browder
Name: Camelia Browder
Title: President

ATTACHMENT 1

Exhibit A
Sponsoring Units

City of Cedar Hill
City of DeSoto
City of Duncanville
City of Waxahachie
City of Lancaster
Hunt County
Ellis County
Kaufman County
Navarro County
Rockwall County

**CITY COUNCIL
REGULAR MEETING
AUGUST 03, 2010**

A regular meeting of the City Council was held on Tuesday, August 03, 2010 at 7:00 p.m. with a quorum present, to wit:

David Green	Mayor
Dorothy Burton	Councilwoman
Ken Weaver	Mayor Pro Tem
Scott Cannon	Councilman
Anthony Skinner	Councilman
Grady Smithey	Councilman
Johnette Jameson	Councilwoman

The Invocation was provided by Pastor Richard Terry. The Pledge of Allegiance and Texas Pledge was led by City Secretary Dara Crabtree.

Mayor Green announced the recent appointment of City Manager Cagle to the North Texas Toll Authority Board of Directors; accepting board and commission applications until August 13, 2010; need to fill multiple vacancies; and interviews will be conducted on August 16, 2010.

Mayor Green presented a proclamation recognizing July 31 – August 7, 2010 as *National Bowling Week*.

CITIZENS PUBLIC COMMENT PERIOD *[No one spoke.]*

CONSENT AGENDA Councilman Cannon made a motion, seconded by Councilman Weaver, to approve consent items 1C through 4C. The vote was cast 7 for, 0 against.

- 1C. Approve minutes for meetings held on July 20, 2010.
- 2C. Approve Ordinance No. 2117 amending the Comprehensive Zoning Ordinance and map, as heretofore amended, to repeal the existing Special Use Permit for a Convalescent Home on property commonly known as 330 W. Camp Wisdom Road, and being more particularly described in Exhibit A, attached hereto and incorporated herein; providing special conditions; providing for approval of a site plan; attached hereto and incorporated herein as Exhibit B; providing repealing, savings, and severability clauses; and providing a penalty of fine not to exceed the sum of two thousand dollars (\$2,000.00) for each offense.
- 3C. Approve Ordinance No. 2118 amending the Comprehensive Zoning Ordinances and map, as heretofore amended, to amend the existing "I-1" Light Industrial Zoning, to grant a Special Use Permit for a Commercial Amusement Indoor Sports Facility on property commonly known as 1415 S. Alexander Avenue, and being more particularly described in Exhibit A, attached hereto and incorporated herein; providing special conditions; providing repealing, savings, and severability clauses; and providing a penalty of fine not to exceed the sum of two thousand dollars (\$2,000.00) for each offense.
- 4C. Approve Ordinance No. 2119 amending the Code of Ordinances by amending Section 19-107 ("Prohibited on Specific Streets") of Article VI ("Stopping, Standing and

Parking”) of Chapter 19 (“Traffic”) by repealing and replacing Subsection (18) to prohibit stopping, standing and parking on certain portions of N. Cedar Ridge Drive; providing repealing, savings, and severability clauses; and providing a penalty of fine not to exceed the sum of two hundred dollars (\$200.00) for each offense.

ITEM 5C. Councilman Smithey made a motion, seconded by Mayor Pro Tem Weaver, to approve all matters incident and related to the approving and authorizing publication of notice of intention to issue certificates of obligation, including the adoption of Resolution No. 2010-080305 pertaining thereto. Discussion followed. The vote was cast 7 for, 0 against.

ITEM 6C. Mayor Pro Tem Weaver made a motion, seconded by Councilman Cannon, to approve the professional service agreement with Earle Jones, Jr. and a 4B expenditure in the amount of \$100,000 for contractual economic development services. Discussion followed. The vote was cast 7 for, 0 against.

ITEM 7. Councilwoman Burton made a motion, seconded by Councilman Smithey, to approve Ordinance No. 2120 amending the Code of Ordinances by amending Chapter 16B by adding Article III, Illegal Smoking Products, to prohibit the use, purchase, possession, and sale of the synthetic cannabinoid known or sold under such names as “SPICE”, “GENIE”, “DaSCENTS”, “ZOHAI”, “SAGE”, “K-2” and “KO KNOCK-OUT 2” for public health purposes; providing repealing, savings, and severability clauses; and providing a penalty of fine not to exceed the sum of two-hundred dollars (\$200.00) for each offense and to forward letters to Senator Royce West and Representative Yvonne Davis requesting their support of State legislation being proposed by Senator Florence Shapiro banning this product. Discussion followed. The vote was cast 7 for, 0 against.

ITEM 8. Councilman Smithey made a motion, seconded by Councilman Cannon, to appoint Councilman Skinner as the voting member and Councilwoman Jameson as alternate to the North Central Texas Housing Corporation. The vote was cast 7 for, 0 against.

ITEM 9. COUNCILMEMBER REPORTS.

Anthony Skinner – commented on behavior during July 20th City Council meeting; mother was gravely ill and passed away on July 21st; thanked City Council and Staff for support during this difficult time; reminded citizens this is hottest part of the summer; stay cool; and look out for neighbors, especially the elderly.

Grady Smithey - commented on magnitude of City Manager Cagle’s appointment to North Texas Toll Authority Board of Directors; financing of highway projects; received earmark for bridge at Clark Road; I-20/Highway 67 northbound lane being let on August 10th; and TxDOT guaranteed the cost over runs.

Johnette Jameson – thanked everyone that attended the Public Forum on July 27th and for their comments; encouraged citizens to attend the budget workshop on August 5th; contact their councilmember with input or ideas; and need individuals to serve on the boards and commissions.

Scott Cannon – commented on need for citizens to let City Council know desires for budget (tax rate increase, service cuts, or combo of both); worst budget in 5 terms served; citizens should be informed and stay in touch with their City Council representative; congratulated Red Bird Lanes on recent anniversary celebration; Lois Cathey’s past service on the council; and the outstanding service Red Bird Lanes provides to the community.

The meeting adjourned at 7:45 p.m.

APPROVED:

David L. Green
MAYOR

ATTEST:

Dana Crabtree
CITY SECRETARY



STAFF REPORT

MEETING: City Council - 21 Sep 2021

TITLE:

Consider a Resolution of appointing _____ as a member to the North Central Texas Housing Finance Corporation (NCTHFC) for a term of ____ () years.

FY 2019 CITY COUNCIL ORGANIZATIONAL WORKPLAN:

- WorkPlan Item N/A

STAFF RESPONSIBLE:

Aretha R. Ferrell-Benavides, City Manager

BACKGROUND/HISTORY:

Item requested by Councilmember McBurnett.

On September 7, 2021 City Council approved Resolution 2021-067, appointing Johnette Jameson to the North Central Texas Housing Corporation for a six (6) year term. Motion was made by Councilmember Koontz and seconded by Councilmember McBurnett, vote 4-2 (against Mayor Pro Tem Harvey and Councilmember Contreras with Councilmember Veracruz absent).

Councilmember McBurnett has asked staff to bring the resolution back to Council.

The North Central Texas Housing Finance Corporation (NCTHFC) is an organization incorporated in 1981 as a nonprofit corporation and a public instrument of the Counties of Ellis, Hunt, Kaufman, Navarro and Rockwall Counties, and the Cities of Cedar Hill, DeSoto, Duncanville, Lancaster, and Waxahachie. The NCTHFC is organized and exists under the Texas Housing Finance Corporations Act, Chapter 394, Local Government Code, for the public purpose of providing financing for the cost of residential ownership and development within the Counties that will provide decent, safe, and sanitary housing for persons of low and moderate-income at prices they can afford. The Act authorizes the Corporation to issue its revenue obligations to accomplish such a public purpose.

As per Section 2.01 of the attached bylaws of the NCTHFC, "each Sponsoring Local Government Unit ("Unit") shall appoint a director and may appoint up to two alternate directors, all of whom shall reside within the Unit that appointed them." Directors and alternate directors are removable only by the Unit which appointed them, and each Unit is allowed to set the length of term for the directors and alternate directors, but no term shall be in excess of six (6) years.

Former Councilmember Johnette Jameson was appointed as the director for the City of Duncanville. Mrs. Jameson was appointed to the North Central Texas Housing Corporation on August 3, 2010.

This agenda item is to provide and update on the appointment requirements and for City Council to formally via Resolution appoint a director and possible appointment(s) for alternate directors to the NCTHFC Board of Directors for a specific term as identified in the organization by-laws. The only requirement for the director or alternate director(s) is to be a resident of the appointing jurisdiction.

POLICY EXPLANATION:

The City Council has the authority to appoint or remove members of boards and commissions. This item is for discussion by City Council as to whether to appoint a director and alternate director(s) to the North Central Texas Housing Finance Corporation as representatives of the City of Duncanville.

FUNDING SOURCE:

N/A

Contract Log #:

N/A

RECOMMENDATION:

It is recommended that City Council appoint _____ as a member to the North Central Texas Housing Finance Corporation (NCTHFC) for a term of ____ () years.

ATTACHMENTS:

[Resolution No. - 2021-067R - Appointment of North Central Housing Finance Corporation - Pdf](#)

RESOLUTION NO. 2021-067R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS APPOINTING _____ AS A MEMBER TO THE NORTH CENTRAL TEXAS HOUSING FINANCE CORPORATION (NCTHFC) FOR A TERM OF ____ () YEARS; PROVIDING A REPEALING CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, The North Central Texas Housing Finance Corporation (NCTHFC) is an organization incorporated in 1981 as a nonprofit corporation and a public instrument of the Counties of Ellis, Hunt, Kaufman, Navarro and Rockwall Counties, and the Cities of Cedar Hill, DeSoto, Duncanville, Lancaster, and Waxahachie; and

WHEREAS, The NCTHFC is organized and exists under the Texas Housing Finance Corporations Act, Chapter 394, Local Government Code, for the public purpose of providing financing for the cost of residential ownership and development within the Counties that will provide decent, safe, and sanitary housing for persons of low and moderate-income at prices they can afford; and

WHEREAS, As per Section 2.01 of the bylaws of the NCTHFC, "each Sponsoring Local Government Unit ("Unit") shall appoint a director and may appoint up to two alternate directors, all of whom shall reside within the Unit that appointed them."; Directors and alternate directors are removable only by the Unit which appointed them, and each Unit is allowed to set the length of term for the directors and alternate directors, but no term shall be in excess of ____ () years; and

WHEREAS, the City Council desires to appoint _____ as a member of the NCTHFC a director to serve a term not to exceed ____ () years.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, THAT:

SECTION 1. The Duncanville City Council hereby confirms the appointment of _____ as a member of the North Central Texas Housing Finance Corporation (NCTHFC) to serve a ____ () years term.

SECTION 2. This Resolution shall become effective immediately upon its passage and approval.

DULY RESOLVED AND ADOPTED by the City Council of the City of Duncanville,
Texas, on the 21st day of September, 2021.

APPROVED:

Barry L. Gordon, Mayor

ATTEST:

Kristin Downs, City Secretary

APPROVED AS TO FORM:

Robert E. Hager, City Attorney



STAFF REPORT

MEETING: City Council - 21 Sep 2021

TITLE:

Consider a motion to reconsider a Resolution nominating a candidate for Board of Directors of the Dallas Central Appraisal District (DCAD).

FY 2019 CITY COUNCIL ORGANIZATIONAL WORKPLAN:

- 1. Most engaged citizens in America
 - Goal 2: Maximize city and community resources to improve quality of life in a sustainable manner.

STAFF RESPONSIBLE:

Kristin Downs, City Secretary

BACKGROUND/HISTORY:

Item requested by Councilmember Cooks.

On September 7, 2021 City Council approved Resolution 2021-065, appointing Michael Hurtt to the DCAD Board of Directors. Motion was made by Councilmember Cooks and seconded by Councilmember McBurnett, vote 6-0 (with Councilmember Veracruz absent).

Councilmember Cooks voting in favor of the motion has requested a reconsideration and has asked staff to bring the resolution back to Council.

Each incorporated city and town represented by the Dallas Central Appraisal District nominates one candidate to the DCAD Board of Directors. The current Board Director representing the suburban cities is Michael Hurtt, former mayor of Desoto.

City Secretary Downs has reached out to Cheryl Jordan, Community Relations Officer at DCAD, and Mr. Hurtt has expressed a desire to serve. Councilmember Cooks has also voiced his interest in serving on the Board.

POLICY EXPLANATION:

The Property Tax Code specifies qualifications to serve on the DCAD Board of Directors in Section 6.03:

1. Must be a resident of the Dallas CAD for at least two years prior to election.
2. May be an elected official of an agency represented by the DCAD.
3. Cannot be an employee of any agency represented by the DCAD.

4. Cannot be related within the second degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to an individual who is engaged in the business of appraising property for compensation for use in proceedings under this title or of representing property owners for compensation in proceedings under this title in the appraisal district.
5. Cannot own property on which delinquent taxes have been owed to a taxing unit for more than 60 days after the date the individual knew or should have known of the delinquency unless:
 - a) the delinquent taxes and any penalties and interest are being paid under an installment payment agreement under Section 33.02; or
 - b) a suit to collect the delinquent taxes is deferred or abated under Section 33.06 or 33.065.
6. An individual is ineligible to serve on an appraisal district board of directors if the individual has engaged in the business of appraising property for compensation for use in proceedings under this title or of representing property owners for compensation in proceedings under this title in the appraisal district at any time during the preceding three years.
7. An individual is ineligible to serve on an appraisal district board of directors if the individual has served as a member of the board of directors for all or part of five terms, unless: the individual was the county assessor-collector at the time the individual served as a board member. **This requirement take effect for this election but is not retrospective. The five term limit starts with the 2022/2023 term being the first term to be counted.**
8. An individual is ineligible to serve on an appraisal district board of directors if the individual has been an employee of the appraisal district at any time during the preceding three years.

October 15, 2021 is the deadline to submit nominations to the Chief Appraiser. By October 30, 2021 the Chief Appraiser will prepare a resolution ballot. The deadline to submit the official resolution ballot (vote) is December 16, 2021 or as soon as practical thereafter. By January 1, 2022 the results of the election will be affirmed. The term of office for each member is two years beginning on January 1, 2022.

FUNDING SOURCE:

N/A

Contract Log #:

N/A

RECOMMENDATION:

Staff recommends Council nominate a candidate for the Board of Directors of the Dallas Central Appraisal District (DCAD) and to approve a Resolution of the City Council of the City of Duncanville, Texas, nominating the candidate.

ATTACHMENTS:

[Attachment 1 - DCAD Nomination Letter](#)

[Attachment 2 - Resolution No. - 2021-065 - 2021 - DCAD Candidate](#)

ATTACHMENT 1

RESOLUTION NO. 2021-065

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, NOMINATING MICHAEL HURTT AS A CANDIDATE FOR THE BOARD OF DIRECTORS OF THE DALLAS CENTRAL APPRAISAL DISTRICT.

WHEREAS, The Chief Appraiser of the Dallas Central Appraisal District has been charged with the responsibility of conducting the election process to determine the membership of the Board of Directors of the Dallas Central Appraisal District, according to the Property Tax Code of Texas; and

WHEREAS, each of the incorporated cities and towns, except for City of Dallas, shall have the right to nominate by an official resolution one (1) candidate as a member of the Board of Directors; and

WHEREAS, the said cities and towns shall, from among the nominations received, elect by a majority vote, with each city and town being entitled to one (1) vote, a member of the Board of Directors.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, THAT:

SECTION 1. the Council of the City of Duncanville, Texas does hereby nominate Michael Hurtt as a candidate to be a member of the Board of Director of the Dallas Central Appraisal District.

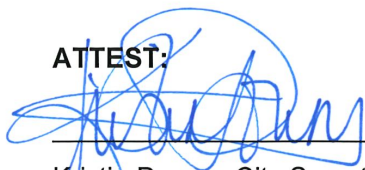
DULY RESOLVED AND ADOPTED by the City Council of the City of Duncanville, Texas, on the 7th day of September, 2021.

APPROVED:



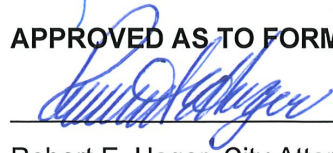
Barry L. Gordon, Mayor

ATTEST:



Kristin Downs, City Secretary

APPROVED AS TO FORM:



Robert E. Hager, City Attorney



Resolution No. 2021-065

ATTACHMENT 1



**Dallas Central
Appraisal District**

Date: August 19, 2021

To: Barry L. Gordon, Mayor, City of Duncanville

From: W. Kenneth Nolan, Executive Director/Chief Appraiser

Re: Election/Appointment of Members to Board of Directors of the Dallas Central Appraisal District

The Property Tax Code, Section 6.03, requires that an election or appointment of members to the Board of Directors of an appraisal district be conducted in odd numbered years. The term of office for elected or appointed members is two years, beginning in even numbered years.

The Property Tax Code specifies the qualifications for membership to the Board of Directors in Section 6.03 of the Code. These qualifications are:

1. Must be a resident of the DCAD for at least two years prior to the election.
2. May be an elected official of an agency represented by the DCAD.
3. Cannot be an employee of any agency represented by the DCAD.
4. Cannot be related within the second degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to an individual who is engaged in the business of appraising property for compensation for use in proceedings under this title or of representing property owners for compensation in proceedings under this title in the appraisal district.
5. Cannot own property on which delinquent taxes have been owed to a taxing unit for more than 60 days after the date the individual knew or should have known of the delinquency unless:
 - (A) the delinquent taxes and any penalties and interest are being paid under an installment payment agreement under Section 33.02; or
 - (B) a suit to collect the delinquent taxes is deferred or abated under Section 33.06 or 33.065.
6. An individual is ineligible to serve on an appraisal district board of directors if the individual has engaged in the business of appraising property for compensation for use in proceedings under this title or of representing property owners for compensation in proceedings under this title in the appraisal district at any time during the preceding three years.
7. An individual is ineligible to serve on an appraisal district board of directors if the individual has served as a member of the board of directors for all or part of five terms, unless: the individual

**Office of the Chief Appraiser
2949 N. Stemmons Freeway • Dallas, Texas 75247-6195 • (214) 631-0520**

ATTACHMENT 1

was the county assessor-collector at the time the individual served as a board member. **This requirement takes effect for this election but is not retrospective. The five term limit starts with the 2022/2023 term being the first term to be counted.**

8. An individual is ineligible to serve on an appraisal district board of directors if the individual has been an employee of the appraisal district at any time during the preceding three years.

Pursuant to the provisions of the Property Tax Code in 1979, the agencies of Greater Dallas County elected to amend the manner in which representatives were chosen. By special provision of the Property Tax Code, it was decided that the following procedure would be adopted for the election or appointment of members.

Appointments

- A. The City of Dallas will be entitled to appoint one (1) member to the Board.
- B. The Dallas Independent School District will be entitled to appoint one (1) member to the Board.
- C. The Dallas County Commissioners will be entitled to appoint one (1) member to the Board. The member appointed by the Commissioners Court may not be a resident of either the City of Dallas or the Dallas Independent School District.

Elections

- D. **Each of the incorporated cities and towns, except the City of Dallas, shall have the right to nominate by official resolution one (1) candidate as the fourth member to the Board. The said cities and towns shall, from among the nominations received, elect by a majority vote, with each city and town being entitled to one (1) vote, a member to the Board of Directors.**
- E. Each of the Independent School Districts, and the Dallas College, except the Dallas Independent School District, shall have the right to nominate by official resolution one (1) candidate as the fifth member to the Board. The said Independent School Districts shall, from among the nominations received, elect by a majority vote, with each Independent School District being entitled to one (1) vote, a member to the Board of Directors.

The votes required for appointment of the Board of Directors as prescribed by the Texas Property Tax Code, in Subsections d and e, hereof, shall be by a majority of those authorized to vote in Subsections d and e, respectively, and not by a majority of the quorum. In accordance with the procedures described in the Property Tax Code, the schedule for election/appointment is as follows:

- | | |
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| By October 15: | Nominees for each entity described in Subsections d and e hereto shall be submitted to the Chief Appraiser. |
| By October 30: | The Chief Appraiser shall prepare a resolution ballot for those entities described in Subsections d and e hereto and submit the ballot accordingly. |
| By December 16: | Each agency entitled to vote will do so by official resolution ballot and return same to the Chief Appraiser as soon thereafter as practical. |
| By January 1: | Results of the election will be affirmed. |

The County of Dallas, the City of Dallas and the Dallas Independent School District should advise the Chief Appraiser of their appointments no later than November 15, if possible. These appointments should also be by official resolution. The term of office for each member is two years beginning on January 1, 2022.

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ATTACHMENT 1

At the conclusion of the process, every agency will be advised of the final appointments or election results. For the convenience of the entities, a sample resolution is included for the purpose of nominations from the suburban cities and school districts. If you have any questions about this process, please contact me or Cheryl Jordan at 214/631-0520.

Enclosure (Sample Resolution)

cc: Aretha Ferrell-Benavides, City Manager
Kristin Downs, City Secretary
Edena Almore, Interim Finance Director



STAFF REPORT

MEETING: City Council - 21 Sep 2021

TITLE:

Consider a Resolution nominating a candidate for Board of Directors of the Dallas Central Appraisal District (DCAD).

FY 2019 CITY COUNCIL ORGANIZATIONAL WORKPLAN:

- 1. Most engaged citizens in America
 - Goal 2: Maximize city and community resources to improve quality of life in a sustainable manner.

STAFF RESPONSIBLE:

Kristin Downs, City Secretary

BACKGROUND/HISTORY:

Item requested by Councilmember Cooks.

On September 7, 2021 City Council approved Resolution 2021-065, appointing Michael Hurtt to the DCAD Board of Directors. Motion was made by Councilmember Cooks and seconded by Councilmember McBurnett, vote 6-0 (with Councilmember Veracruz absent).

Councilmember Cooks voting in favor of the motion has requested a reconsideration and has asked staff to bring the resolution back to Council.

Each incorporated city and town represented by the Dallas Central Appraisal District nominates one candidate to the DCAD Board of Directors. The current Board Director representing the suburban cities is Michael Hurtt, former mayor of Desoto.

City Secretary Downs has reached out to Cheryl Jordan, Community Relations Officer at DCAD, and Mr. Hurtt has expressed a desire to serve. Councilmember Cooks has also voiced his interest in serving on the Board.

POLICY EXPLANATION:

The Property Tax Code specifies qualifications to serve on the DCAD Board of Directors in Section 6.03:

1. Must be a resident of the Dallas CAD for at least two years prior to election.
2. May be an elected official of an agency represented by the DCAD.
3. Cannot be an employee of any agency represented by the DCAD.

4. Cannot be related within the second degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to an individual who is engaged in the business of appraising property for compensation for use in proceedings under this title or of representing property owners for compensation in proceedings under this title in the appraisal district.
5. Cannot own property on which delinquent taxes have been owed to a taxing unit for more than 60 days after the date the individual knew or should have known of the delinquency unless:
 - a) the delinquent taxes and any penalties and interest are being paid under an installment payment agreement under Section 33.02; or
 - b) a suit to collect the delinquent taxes is deferred or abated under Section 33.06 or 33.065.
6. An individual is ineligible to serve on an appraisal district board of directors if the individual has engaged in the business of appraising property for compensation for use in proceedings under this title or of representing property owners for compensation in proceedings under this title in the appraisal district at any time during the preceding three years.
7. An individual is ineligible to serve on an appraisal district board of directors if the individual has served as a member of the board of directors for all or part of five terms, unless: the individual was the county assessor-collector at the time the individual served as a board member. **This requirement take effect for this election but is not retrospective. The five term limit starts with the 2022/2023 term being the first term to be counted.**
8. An individual is ineligible to serve on an appraisal district board of directors if the individual has been an employee of the appraisal district at any time during the preceding three years.

October 15, 2021 is the deadline to submit nominations to the Chief Appraiser. By October 30, 2021 the Chief Appraiser will prepare a resolution ballot. The deadline to submit the official resolution ballot (vote) is December 16, 2021 or as soon as practical thereafter. By January 1, 2022 the results of the election will be affirmed. The term of office for each member is two years beginning on January 1, 2022.

FUNDING SOURCE:

N/A

Contract Log #:

N/A

RECOMMENDATION:

Staff recommends Council nominate a candidate for the Board of Directors of the Dallas Central Appraisal District (DCAD) and to approve a Resolution of the City Council of the City of Duncanville, Texas, nominating the candidate.

ATTACHMENTS:

[Attachment 1 - DCAD Nomination Letter](#)

[Attachment 2 - Resolution No. - 2021-065 - 2021 - DCAD Candidate](#)

ATTACHMENT 1



**Dallas Central
Appraisal District**

Date: August 19, 2021

To: Barry L. Gordon, Mayor, City of Duncanville

From: W. Kenneth Nolan, Executive Director/Chief Appraiser

Re: Election/Appointment of Members to Board of Directors of the Dallas Central Appraisal District

The Property Tax Code, Section 6.03, requires that an election or appointment of members to the Board of Directors of an appraisal district be conducted in odd numbered years. The term of office for elected or appointed members is two years, beginning in even numbered years.

The Property Tax Code specifies the qualifications for membership to the Board of Directors in Section 6.03 of the Code. These qualifications are:

1. Must be a resident of the DCAD for at least two years prior to the election.
2. May be an elected official of an agency represented by the DCAD.
3. Cannot be an employee of any agency represented by the DCAD.
4. Cannot be related within the second degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to an individual who is engaged in the business of appraising property for compensation for use in proceedings under this title or of representing property owners for compensation in proceedings under this title in the appraisal district.
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ATTACHMENT 1

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Enclosure (Sample Resolution)

cc: Aretha Ferrell-Benavides, City Manager
Kristin Downs, City Secretary
Edena Almore, Interim Finance Director

RESOLUTION NO. 2021-065R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, NOMINATING _____ AS A CANDIDATE FOR THE BOARD OF DIRECTORS OF THE DALLAS CENTAL APPRAISAL DISTRICT.

WHEREAS, The Chief Appraiser of the Dallas Central Appraisal District has been charged with the responsibility of conducting the election process to determine the membership of the Board of Directors of the Dallas Central Appraisal District, according to the Property Tax Code of Texas; and

WHEREAS, each of the incorporated cities and towns, except for City of Dallas, shall have the right to nominate by an official resolution one (1) candidate as a member of the Board of Directors; and

WHEREAS, the said cities and towns shall, from among the nominations received, elect by a majority vote, with each city and town being entitled to one (1) vote, a member of the Board of Directors.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DUNCANVILLE, TEXAS, THAT:

SECTION 1. the Council of the City of Duncanville, Texas does hereby nominate _____ as a candidate to be a member of the Board of Director of the Dallas Central Appraisal District.

DULY RESOLVED AND ADOPTED by the City Council of the City of Duncanville, Texas, on the 7th day of September, 2021.

APPROVED:

Barry L. Gordon, Mayor

ATTEST:

Kristin Downs, City Secretary

APPROVED AS TO FORM:

Robert E. Hager, City Attorney