



**NOTICE OF WORKSHOP  
OF THE  
GOVERNING BODY OF  
COPPERAS COVE, TEXAS**

*An agenda information packet is available for  
public inspection in the Copperas Cove Public Library, City Hall and on the  
City's Web Page [www.ci.copperas-cove.tx.us](http://www.ci.copperas-cove.tx.us)*

Notice is hereby given that a **Workshop** of the City of Copperas Cove, Texas will be held on the **2nd day of March 2010**, at **6:00 p.m.**, in the City Hall Council Chambers at 507 South Main Street, Copperas Cove, Texas 76522 at which time the following subjects will be discussed:

**A. CALL TO ORDER**

**B. ROLL CALL**

**C. WORKSHOP ITEMS**

1. Discussion on Northeast Bypass and North Loop Waterline Projects. **Andrea M. Gardner, City Manager.**
2. Provide direction to the City Manager on item C-1 above. **Andrea M. Gardner, City Manager.**

**D. ADJOURNMENT**

City Hall is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to the meeting. Please contact the City Secretary at (254) 547-4221, (254) 547-6063 TTY, or FAX (254) 547-5116 for information or assistance.

I, the undersigned authority, do hereby certify that the above Notice of Meeting of the Governing Body of the City of Copperas Cove was posted at \_\_\_\_\_, **February 26, 2010** on the glass front door of City Hall, a place convenient and readily accessible to the general public at all times.

\_\_\_\_\_  
Jane Lees, TRMC, CMC  
City Secretary



**NOTICE OF MEETING  
OF THE  
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COPPERAS COVE, TEXAS**

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Notice is hereby given that a **Regular Council Meeting** of the City of Copperas Cove, Texas, will be held on the **2nd day of March 2010 at 7:00 p.m.** in the City Hall Council Chambers at 507 South Main Street, Copperas Cove, Texas 76522, at which time the following subjects will be discussed:

**A. CALL TO ORDER**

**B. INVOCATION AND PLEDGE OF ALLEGIANCE**

**C. ROLL CALL**

**D. ANNOUNCEMENTS**

**E. PUBLIC RECOGNITION**

1. Employee Service Awards. **Andrea M. Gardner, City Manager**

- Ilka Perkins, Animal Control Clerk – 10 years

2. Proclamation: Fair Housing Month – March 2010. **John Hull, Mayor**

**F. CITIZENS FORUM** – At this time, citizens will be allowed to speak for a length of time not to exceed five minutes per person. Thirty minutes total has been allotted for this section.

**G. CONSENT AGENDA** – All matters listed under this item are considered to be routine by the City Council and will be enacted by one motion. There will not be separate discussion of these items. If discussion is desired, that item will be removed from the consent agenda and considered separately.

1. Consideration and action on approving the minutes from the regular council meeting on February 16, 2010. **Jane Lees, City Secretary**

2. Consideration and action on a resolution accepting the quarterly investment report as presented for the quarter ending December 31, 2009 per the Investment Policy. **Wanda Bunting, Director of Financial Services**

3. Consideration and action on authorizing the City Manager to execute an Agreement with the Cove Saddle Club for use of the property located in front of the City of Copperas Cove Landfill for providing entertainment and recreational activities to the public. **Ken Wilson, Director of Community Services**
4. Consideration and action on approval of a Water Purchase Contract with Cedar Grove Mobile Home Park. **Robert M. McKinnon, Public Works Director**

#### **H. PUBLIC HEARINGS/ACTION**

1. Public hearing and action on an ordinance establishing a curfew for minors, Article I, Section 13-3 of the City's Code of Ordinances. **Mike Heintzelman, Deputy Police Chief**
2. Public hearing and action on a Final Plat for Skyline Ridge, Phase One. **Wesley Wright, P.E., City Engineer**
3. Public hearing and action on an ordinance amending the 2009-10 fiscal year budget for the City of Copperas Cove for position updates. **Wanda Bunting, Director of Financial Services**
4. Public hearing and action on an ordinance amending the 2009-10 fiscal year budget for the City of Copperas Cove for allocation of Contingency funds. **Wanda Bunting, Director of Financial Services**

#### **I. ACTION ITEMS**

1. Consideration and action on an ordinance amending Sections B and D of Personnel Policy No. 416, Dress and Personal Appearance. **Kelli Sames, Human Resources Director**
2. Consideration and action on authorizing the City Manager to execute a Pipeline License Agreement with BNSF Railway Company for placement of a wastewater line in conjunction with the East End Infrastructure (Northeast Sewer Line) project. **Andrea M. Gardner, City Manager**
3. Consideration and action on authorizing the City Manager to execute Addenda 2 to the Letter of Agreement between the City of Copperas Cove and Grant Development Services in connection with the Community Development Block Grant (CDBG) 728050 to the Texas Department of Rural Affairs (TDRA). **Andrea M. Gardner, City Manager**
4. Consideration and action on an ordinance ordering a special election to be held on May 8, 2010, for the purpose of submitting propositions to the

voters for proposed amendments to the City Charter. **Charles E. Zech, City Attorney**

5. Consideration and action on a resolution expressing intent to finance expenditures to be incurred for the Northeast Bypass. **Wanda Bunting, Director of Financial Services**
6. Consideration and action upon authorizing the City Manager to execute an agreement with KBR for utility relocation design associated with the State Highway 9 (Northeast Bypass) project. **Wesley Wright, P.E., City Engineer**

**J. REPORTS FROM OUTSIDE ENTITIES, ADVISORY COMMITTEES AND BOARDS**

1. Copperas Cove County Opry first quarter report for FY 2009-10. **William K. Hall, Copperas Cove Country Opry**

**K. ITEMS FOR FUTURE AGENDAS**

**L. EXECUTIVE SESSION**

**M. RECONVENE INTO OPEN SESSION FOR POSSIBLE ACTION RESULTING FROM ANY ITEMS POSTED AND LEGALLY DISCUSSED IN EXECUTIVE SESSION**

**N. ADJOURNMENT**

The City Council reserves the right to adjourn into Executive Session at any time regarding any issue on this agenda for which it is legally permissible.

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\_\_\_\_\_  
Jane Lees, TRMC, CMC  
City Secretary

# Update on Northeast Bypass Project

State Highway 9

# Project Description & Justification

- Description
  - Construct 3.2 miles of roadway connecting Hwy 190 with N. FM 116 including a railroad overpass.
- Justification
  - The project will relieve traffic congestion in the downtown business district by providing a direct access route.

# Project Design Status

- Currently
  - 30% complete
  - 60% completion expected by April 2010

# Proposed Future Dates

- Groundbreaking Ceremony – August 2010
  - City Manager, Chamber & Ken Roberts
- Construction Let – Late August 2010/Early September 2010

# City Committed Funding

- Voters authorized \$1.4M in November 2008
- Plan to issue in May 2010
  - Total \$1.4M
- Funding is to cover the cost of utility relocations with remaining funds used for construction

# City Owned Utility Relocates

- Under TxDOT rules, the following City owned utilities would require relocation
  - 12” waterline
  - 6” waterline
  - 21” gravity sewer line
  - 8” gravity sewer line
- The relocation is required due to the proposed roadway grade and alignment
- Cost to relocate all lines will reach and possibly exceed the \$1.4M authorized

# Staff & Consultant Plan

- Met with TxDOT officials on 2/4/10 to request an exception to the TxDOT rules
- Sewer Line Request:
  - TxDOT consider the proposed change in roadway grade per existing design
  - If exception approved the following would result:
    - The City allowed to relocate existing 21” gravity sewer with the agreement to abandon the 8” gravity sewer instead of constructing a lift station and force main sewer

# Staff & Consultant Plan

- Equates to at least a \$500,000 approximate savings
- Waterline Request:
  - Relocate the both waterlines (12" and 6") to new TxDOT ROW that is currently in conflict

# TxDOT & City Partnership

- TxDOT is considering an exception to policy for the City requests with proper justification
- TxDOT agrees to authorize the utility relocations be let with the construction contract
  - City will be required to issue check to TxDOT 45 days in advance of construction let (August/September 2010)
    - Funds should be available by June/July 2010
    - Benefit is cost savings

Northloop Waterline Project  
(included in the FY 2010 – 2014 CIP)

# Project Description & Justification

- Description
  - Construction of a 30 inch waterline from Wolfe Road to the intersection of Anderson Mountain Road and N. FM 116
- Justification
  - The project was recommended in the Water Model and will be constructed in conjunction with the construction of the Northeast Loop Road. The waterline will eventually terminate at the west side of Cove. The project will provide water needed to facilitate growth in the Northwestern and Southwestern portions of the City.

# FY 2010-2014 CIP

- Currently planned for design in 2013 and construction in 2014
- Current CIP Budget - \$2.8M (2010 cost w/o inflation and survey work) for design and construction
- If projects completed in 2014 as planned, the cost is anticipated to be \$4,043,399 (construction) plus \$485,000 (design & survey)

# Option for Council Consideration

- TxDOT has agreed to let the project with the construction contract for State Highway 9

# Steps for Completion

- Approve reimbursement resolution to provide temporary funding from operating funds for the design only
- Approve Professional Services Agreement for the project design
- Amend the FY 2010-2014 CIP to provide appropriation of funds in FY 2010
- Issue Debt to cover the cost of design & construction
  - Total \$3,263,119 plus \$66,600 in bond issuance

# Steps for Completion

- Obtain Right of Entry from Ft. Hood
- Provide Right of Entry to TxDOT
- Approve an Advanced Funding Agreement with TxDOT
- Complete design
- Provide payment to TxDOT 45 days prior to date set for the receipt of the construction bids on State Highway 9



**The City of Copperas  
Cove Presents the  
Employee Service  
Award Recipient for  
March 2010**

# Ilka Perkins-Hagen-Animal Control Clerk



**10 Years of Service**  
**DOH 3/15/00**

# Ilka Perkins-Hagen-Animal Control Clerk



**10 Years of Service  
DOH 3/15/00**



**The City of Copperas Cove  
Congratulates you all on  
these celebratory milestones  
and wishes you many more  
years of career success.**



**PROCLAMATION  
March as Fair Housing Month**

**WHEREAS,** Title VIII of the Civil Rights Act of 1968, as amended, prohibits discrimination in housing and declares it a national policy to provide, within constitutional limits, for fair housing in the United States; and

**WHEREAS,** The principle of Fair Housing is not only national law and national policy, but a fundamental human concept and entitlement for all Americans; and

**WHEREAS,** The National Fair Housing Law provides an opportunity for all Americans to recognize that complete success in the goal of equal housing opportunity can only be accomplished with the help and cooperation of all Americans.

**NOW, THEREFORE, WE,** the City Council of the City of Copperas Cove, Texas, do proclaim March as

***Fair Housing Month***

in the City of Copperas Cove and do hereby urge all the citizens of this locality to become aware of and support the Fair Housing law.

**IN WITNESS WHEREOF,** we have affixed our signatures and seal on this the 2nd day of March 2010.

\_\_\_\_\_  
John Hull, Mayor

\_\_\_\_\_  
Frank Seffrood, Mayor Pro Tem

\_\_\_\_\_  
Cheryl L. Meredith, Council Member

\_\_\_\_\_  
Chuck Downard, Council Member

\_\_\_\_\_  
Charlie D. Youngs, Council Member

\_\_\_\_\_  
Danny Palmer, Council Member

\_\_\_\_\_  
Bill L. Stephens, Council Member

\_\_\_\_\_  
Willie C. Goode, Council Member

**ATTEST:** \_\_\_\_\_  
Jane Lees, City Secretary

**CITY OF COPPERAS COVE  
CITY COUNCIL REGULAR MEETING MINUTES  
February 16, 2010 – 7:00 P.M.**

**A. CALL TO ORDER**

Mayor John Hull called the regular meeting of the City Council of the City of Copperas Cove Texas to order at 7:00 p.m.

**B. INVOCATION AND PLEDGE OF ALLEGIANCE**

Rev. Preston Atkinson, Southern Hills Baptist Church, gave the Invocation and Mayor Hull led the Pledge of Allegiance.

**C. ROLL CALL**

**ALSO PRESENT**

John Hull  
Cheryl L. Meredith  
Charlie D. Youngs  
Chuck Downard - Absent  
Danny Palmer  
Bill L. Stephens  
Willie C. Goode  
Frank Seffrood

Andrea M. Gardner, City Manager  
Charles E. Zech, City Attorney  
Jane Lees, City Secretary

**D. ANNOUNCEMENTS**

Council Member Stephens announced that Early Voting began today in the County Annex and he encouraged everyone to vote.

Andrea M. Gardner, City Manager, announced upcoming Household Hazardous Waste events as follows: 1) March 20, 2010 in Belton at the Expo Center, 301 West Loop 121, from 8:00 a.m. to 1:00 p.m.; 2) May 8, 2010 in Copperas Cove at the Transfer Station, 2605 South FM 116, from 9:00 a.m. to 2:00 p.m.; and 3) June 12, 2010 in Temple at the Nathaniel Mitchell Service Center, 3210 East Avenue H, from 9:00 a.m. to 2:00 p.m.

**E. PUBLIC RECOGNITION**

1. Employee of the Quarter Recognitions – 4<sup>th</sup> Quarter 2009. **Andrea M. Gardner, City Manager**

Andrea M. Gardner, City Manager, presented the 4th Quarter 2009 recipients with their certificates: Public Safety Division – Jose Melendez-Rosado, Patrol; Community Services Division – Trudy Chapman, Parks and Recreation Laborer; Public Works Division – Mark Flock, Water Operator II; Administrative Services Division – Stefanie Borchers-Brown, Deputy City Secretary.

2. Proclamation: Severe Weather Awareness Week. **John Hull, Mayor**

Mayor John Hull read the proclamation and presented it to Gary Young, Deputy Fire Chief. Severe Weather Awareness Week is February 21-27, 2010 in Texas encourages all citizens to prepare for severe weather events and educate themselves on safety strategies.

**F. CITIZENS' FORUM** At this time, citizens will be allowed to speak for a length of time not to exceed five minutes per person. Thirty minutes total has been allotted for this section.

Mark S. Campbell, 1501 Hillside Street. Mr. Campbell is concerned that a current form used by Municipal Court for the purpose of pleading "no contest" violates the Privacy Act. He requested that the form not be used or at the very least, a Privacy Act notice should be on the form.

**G. CONSENT ITEMS**

1. Consideration and action on approving the minutes from the workshop council meeting on February 2, 2010. **Jane Lees, City Secretary**

2. Consideration and action on approving the minutes from the regular council meeting on February 2, 2010. **Jane Lees, City Secretary**

4. Consideration and action on authorizing street closures during calendar year 2010 for the Copperas Cove Chamber of Commerce & Visitors Bureau, Olan Forest Smith, VFW Post No. 8577 and Ladies Auxiliary and Police Department's National Night Out "Kick Off Party 2010". **Mike Heintzelman, Deputy Police Chief**

5. Consideration and action on the presentation of the 2009 Annual/Racial Profiling Report for the Copperas Cove Police Department. **Tim Molnes, Police Chief**

Council Member Palmer requested that item G-3 be removed from consent for discussion.

Council Member Stephens made a motion to approve G-1, G-2, G-4, and G-5 as presented. Council Member Goode seconded the motion, and with a unanimous vote, motion carried.

3. Consideration and action on approval of a Water Purchase Contract with Central Texas College. **Robert M. McKinnon, Public Works Director**

Robert M. McKinnon, Public Works Director, gave an overview of agenda item G-3.

Council Member Palmer asked why CTC was paying \$2.35 per 1,000 gallons and Copperas Cove citizens paid \$2.95 per 1,000 gallons of water. Mr. McKinnon explained that the CTC water was sold at a reduced rate because it comes directly from a 30 inch line, is untreated, and none of the City water facilities are used for its delivery.

Council Member Palmer made a motion to disapprove the contract. There was no second and the motion died.

Council Member Stephens made a motion to approve the contract as presented. Council Member Goode seconded the motion and a roll call vote was taken:

Cheryl L. Meredith    Aye  
Charlie D. Youngs    Aye

Danny Palmer	Nay
Bill L. Stephens	Aye
Willie C. Goode	Aye
Frank Seffrood	Aye

Motion carried five to one.

## H. PUBLIC HEARINGS/ACTION

1. Public hearing on an ordinance establishing a curfew for minors, Article I, Section 13-3 of the City's Code of Ordinances. **Mike Heintzelman, Deputy Police Chief**

Mike Heintzelman, Deputy Police Chief, gave an overview of agenda item H-1.

Mayor Hull opened the public hearing at 7:32 p.m.

Speaking for: Ronald Clark, 614 Judy Lane. Mr. Clark stated that he was in favor of this ordinance.

Speaking Against: None.

Mayor Hull closed the public hearing at 7:34 p.m.

The ordinance caption is as follows:

### ORDINANCE NO. 2010-10

**AN ORDINANCE ESTABLISHING A CURFEW FOR MINORS, ARTICLE I CHAPTER 13-3 OF THE CITY'S CODE OF ORDINANCES; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.**

2. Public hearing and action on a Final Plat for the Copperas Cove Independent School District Lutheran Church Road Elementary School. **Wesley Wright, P.E., City Engineer**

Wesley Wright, City Engineer, gave an overview of agenda item H-2.

Mayor Hull opened the public hearing at 7:35 p.m.

Speaking for: Sean Friend, of Cunningham-Allen, Inc., said he worked with the civil engineer on this project and was in favor of the approval of the final plat.

Speaking Against: None.

Mayor Hull closed the public hearing at 7:36 p.m.

Council Member Seffrood made a motion to approve agenda item H-2 as presented. Council Member Goode seconded the motion, and with a unanimous vote, motion carried.

**I. ACTION ITEMS**

1. Consideration and action on appointment to the Animal Advisory Committee.  
**Mike Heintzelman, Deputy Police Chief**

Mike Heintzelman, Deputy Police Chief, gave an overview of agenda item I-1.

Council Member Meredith made a motion to appoint Dorothy McClure to the Animal Advisory Committee to serve an unexpired term ending August 31, 2011. Council Member Youngs seconded the motion and a roll call vote taken:

Charlie D. Youngs	Aye
Danny Palmer	Aye
Bill L. Stephens	Nay
Willie C. Goode	Nay
Frank Seffrood	Aye
Cheryl L. Meredith	Aye

Motion carried four to two.

2. Consideration and action on an ordinance amending the City's "Fee Schedule."  
**Wanda Bunting, Director of Financial Services**

Wanda Bunting, Director of Financial Services, gave an overview of agenda item I-2.

Council Member Goode made a motion approve Ordinance No. 2010-09, excluding the "Golf Concessions Area Rental" fees on page 6. Council Member Stephens seconded the motion, and with a unanimous vote, motion carried.

The ordinance caption is as follows:

**ORDINANCE NO. 2010-09**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS AMENDING THE FEE SCHEDULE FOR THE CITY OF COPPERAS COVE; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.**

3. Consideration and action on a resolution authorizing the City Manager to submit an amendment request in connection with the Community Development Block Grant (CDBG) 728050 to the Texas Department of Rural Affairs (TDRA), allowing the utilization of the uncommitted CDBG grant funds for the construction of additional wastewater collection system improvements located in and near the original target area.  
**Andrea M. Gardner, City Manager**

Andrea M. Gardner, City Manager, gave an overview of agenda item I-3.

Council Member Youngs made a motion to approve Resolution No. 2010-09 as presented. Council Member Goode seconded the motion, and with a unanimous vote, motion carried.

The resolution caption is as follows:

**RESOLUTION NO. 2010-09**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS, AUTHORIZING THE CITY MANAGER TO SUBMIT A CONTRACT AMENDMENT REQUEST FOR THE COMMUNITY DEVELOPMENT FUND CONTRACT (CDBG) BETWEEN THE CITY OF COPPERAS COVE AND THE TEXAS DEPARTMENT OF RURAL AFFAIRS (TDRA), CONTRACT NUMBER 728050.**

4. Discussion and possible action on accepting a charter amendment for the purposes of inclusion on the special election to be held on May 8, 2010 regarding changing of City Council terms from 3 years to 2 years. **Charlie D. Youngs, City Council Place 2**

Charlie D. Youngs, Council Member, gave an overview of agenda item I-4.

Council Member Youngs made a motion to approve agenda item I-4 as presented. Council Member Goode seconded the motion, and with a unanimous vote, motion carried.

Charles E. Zech, City Attorney, recommended that the next item on the agenda calling for a special election for the purpose of amending the City's Charter, be pulled since the passage of agenda item I-4 would require changes in the propositions listed in the ordinance.

Roger O'Dwyer, 1703 Highland Drive. Mr. O'Dwyer stated that he had planned to speak on agenda item I-5, however, since it would be pulled from the agenda, he went ahead and made his request that the Council reconsider inserting into the Charter that an election to fill a vacancy must be held within 120 days.

5. Consideration and action on an ordinance calling and establishing procedures for a Special Election on May 8, 2010 in Copperas Cove, Texas to amend the City's Charter. **Jane Lees, TRMC, CMC, City Secretary**

This item was pulled off the agenda. No action was taken.

The ordinance caption is as follows:

**ORDINANCE NO. 2010-11**

**AN ORDINANCE ORDERING A SPECIAL ELECTION TO BE HELD ON MAY 8, 2010, FOR THE PURPOSE OF SUBMITTING PROPOSITIONS TO THE VOTERS FOR PROPOSED AMENDMENTS TO THE CITY CHARTER; ESTABLISHING EARLY VOTING LOCATIONS AND POLLING PLACES FOR THIS ELECTION; AND MAKING PROVISIONS FOR THE CONDUCT OF THE ELECTION.**

6. Consideration and action on authorizing the City Manager to proceed with the condemnation of real property for the purposes of acquiring easements required for the

completion of the Northeast Sewer Line (Eastside Infrastructure) project. **Andrea M. Gardner, City Manager**

Andrea M. Gardner, City Manager, gave an overview of agenda item I-6.

Council Member Palmer made a motion to authorizing the City Manager to proceed with the condemnation of real property for the purposes of acquiring easements required for the completion of the Northeast Sewer Line (Eastside Infrastructure) project. Council Member Meredith seconded the motion, and with a unanimous vote, motion carried.

7. Consideration and action on rejecting all bids received for the renovation of the Civic Center, and directing staff to re-bid the project. **Ken Wilson, Director of Community Services**

Ken Wilson, Director of Community Services, gave an overview of agenda item I-7.

Council Member Seffrood made a motion to approve rejecting all bids received for the renovation of the Civic Center, and directing staff to re-bid the project. Council Member Meredith seconded the motion, and with a unanimous vote, motion carried.

8. Consideration and action on authorizing the City Manager to serve as the agent and signatory for the 2009 Capital Fund Program grant awarded to the Housing Authority of Copperas Cove by the Department of Housing and Urban Development as required by the granting agency. **Andrea M. Gardner, City Manager**

Andrea M. Gardner, City Manager, gave an overview of agenda item I-8.

Council Member Meredith made a motion to authorizing the City Manager to serve as the agent and signatory for the 2009 Capital Fund Program grant awarded to the Housing Authority of Copperas Cove by the Department of Housing and Urban Development as required by the granting agency. Council Member Palmer seconded the motion, and with a unanimous vote, motion carried.

9. Consideration and action on a resolution supporting the preparation and submittal of a pass-through toll financing application for the Southeast Bypass Project (U.S. Highway 190 Reliever Route) to the Texas Department of Transportation and issuance of future pass-through funding debt. **Andrea M. Gardner, City Manager**

Andrea M. Gardner, City Manager, gave an overview of agenda item I-9.

Council Member Youngs made a motion to approve Resolution No. 2010-10 as presented. Council Member Palmer seconded the motion, and with a unanimous vote, motion carried.

The resolution caption is as follows:

#### **RESOLUTION NO. 2010-10**

#### **A RESOLUTION OF THE CITY OF COPPERAS COVE, TEXAS, SUPPORTING THE PREPARATION AND SUBMITTAL OF A PASS-THROUGH TOLL FINANCING APPLICATION FOR THE CONSTRUCTION OF THE SOUTHEAST**

**BYPASS PROJECT (U.S. HIGHWAY 190 RELIEVER ROUTE) TO THE TEXAS  
DEPARTMENT OF TRANSPORTATION AND ISSUANCE OF FUTURE PASS-  
THROUGH FUNDING DEBT.**

- J. REPORTS FROM OUTSIDE ENTITIES, ADVISORY COMMITTEES AND BOARDS –  
None.**
- K. ITEMS FOR FUTURE AGENDAS – None.**
- L. EXECUTIVE SESSION – None.**
- M. RECONVENE INTO OPEN SESSION FOR POSSIBLE ACTION RESULTING FROM  
ANY ITEMS POSTED AND LEGALLY DISCUSSED IN EXECUTIVE SESSION**
- N. ADJOURNMENT**

There being no further business, Mayor Hull adjourned the meeting at 8:15 p.m.

\_\_\_\_\_  
John Hull, Mayor

**ATTEST:**

\_\_\_\_\_  
Jane Lees, City Secretary

# City of Copperas Cove City Council Agenda Item Report

March 2, 2010

## Agenda Item G-2

Contact – Wanda Bunting, Director of Financial Services, 547-4221  
wbunting@ci.copperas-cove.tx.us

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**SUBJECT: Consideration and action on a resolution accepting the quarterly investment report as presented for the quarter ending December 31, 2009 per the Investment Policy.**

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**1. BACKGROUND/HISTORY**

The Public Funds Investment Act of Chapter 2256, Texas Government Code, requires investment management reports to be accepted by the governing body. The City's Investment Policy requires that the Investment Officer shall report to City Council no less than on a quarterly basis, a detailed listing of all purchases, sales and payments, and a description of each security held as well as management summary information. The attached exhibits are those reporting requirements for the quarter ending December 31, 2009.

**2. FINDINGS/CURRENT ACTIVITY**

See attached quarterly investment report.

**3. FINANCIAL IMPACT**

None.

**4. ACTION OPTIONS/RECOMMENDATION**

City staff recommends that the City Council approve a resolution accepting the quarterly investment report as presented for the quarter ending December 31, 2009 per the Investment Policy.

**RESOLUTION NO. 2010-11**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS APPROVING THE INVESTMENT REPORT FOR QUARTER ENDED DECEMBER 31, 2009.**

**WHEREAS**, Chapter 2256 of the Texas Government Code, commonly known as the "Public Funds Investment Act," requires the Investment Officer of the City to present not less than quarterly a written report of investment transactions for all funds covered for the preceding reporting period to the governing body; and

**WHEREAS**, this quarterly investment report must be approved quarterly; and

**WHEREAS**, this reporting is authorized by the Public Funds Investment Act; and

**WHEREAS**, the Public Funds Investment Act requires the quarterly investment report be presented to the governing body; and

**WHEREAS**, the attached quarterly investment report complies with the Public Funds Investment Act.

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS:**

**Section 1.**

That the City of Copperas Cove has complied with the requirements of the Public Funds Investment Act, and the Quarterly Investment Report for quarter ended December 31, 2009 attached hereto as "Exhibit A," is hereby approved as the quarterly investment report for quarter ended December 31, 2009 of the City effective March 2, 2010.

**PASSED, APPROVED, AND ADOPTED** on this 2nd day of March 2010 at a regular meeting of the City Council of the City of Copperas Cove, Texas which meeting was held in compliance with the Open Meetings Act, *Tex. Gov't Code*, §551.001, et.seq. at which meeting a quorum was present and voting.

---

John Hull, Mayor

**ATTEST:**

---

Jane Lees, City Secretary

**APPROVED AS TO FORM:**

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Denton, Navarro, Rocha  
& Bernal, P.C., City Attorney



# **Quarterly Investment Report Ending as of December 31, 2009**

# *City of Copperas Cove, Texas*

## *Quarterly Investment Report*

*September 30, 2009 – December 31, 2009*

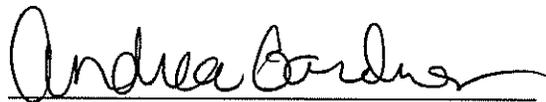
*The following reports are submitted in accordance with the Public Funds Investment Act (Chapter 2256). The report also offers supplement not required by the Act to fully inform the City Council of the position and activity within the City of Copperas Cove's portfolio of investments. The reports include a management summary overview, detailed holdings report for the end of the period, and a transaction report as well as graphic representations of the portfolio to provide full disclosure to the City Council.*

*The City of Copperas Cove's portfolio is managed in full compliance with the Public Funds Investment Act, the City's Investment Policy and Strategy and under the strictest safety parameters as set by the City Council.*

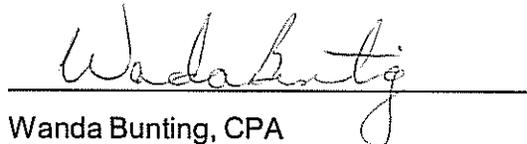
*City of Copperas Cove, Texas*  
**Operating Fund Quarterly Investment Report**  
**September 30, 2009 – Decemeber 31, 2009**  
**Portfolio Summary Management Report**

This quarterly report is in compliance with the investment policy and strategy as established by the City and the Public Funds Investment Act (Chapter 2256, Texas Government Code).

<u>Portfolio as of September 30, 2009</u>		<u>Portfolio as of December 31, 2009</u>	
Beginning Book Value	\$20,946,133	Ending Book Value	\$22,259,666
Beginning Market Value	\$20,946,133	Ending Market Value	\$22,259,666
Unrealized Gain/Loss	\$0	Unrealized Gain/Loss	\$0
		<b>Change in Unrealized Gain/Loss</b>	<b>\$0</b>



Andrea Gardner  
City Manager



Wanda Bunting, CPA  
Director of Financial Services



Imelda Rodriguez  
Assistant Director of Financial Services

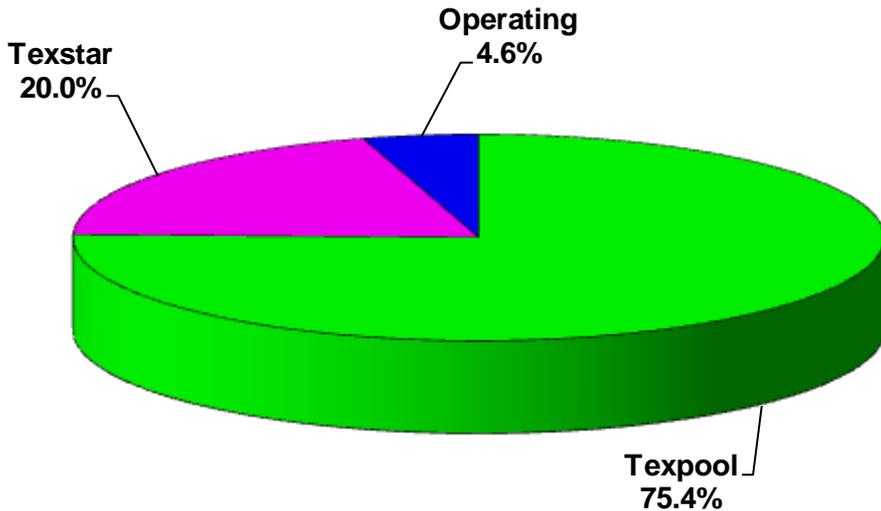


Kris Kelly  
Project Accountant

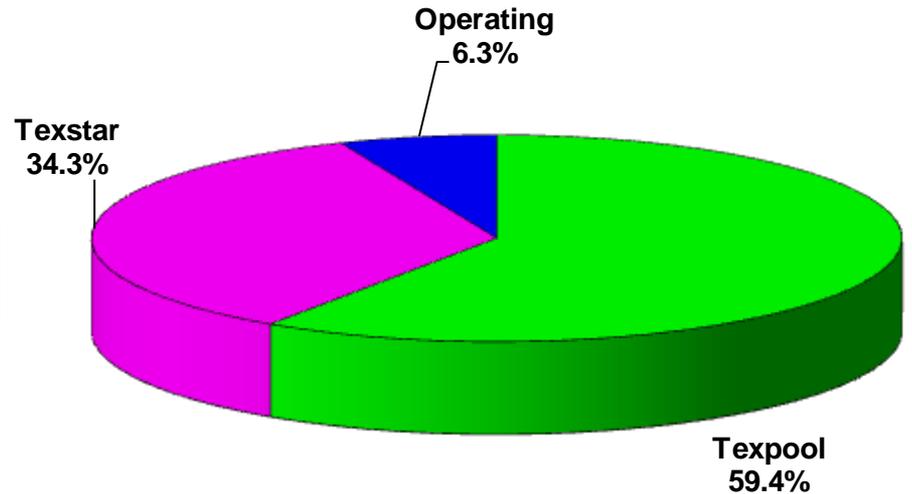
# City of Copperas Cove, Texas

## Portfolio Allocation Analysis

Fiscal Year 2008-09  
4th Quarter (July - September)



Fiscal Year 2009-10  
1st Quarter (September - December)



CITY OF COPPERAS COVE  
 QUARTERLY COUNCIL REPORT  
 SCHEDULE OF CASH ACCOUNTS AND INVESTMENTS (By Account)  
 As of December 31, 2009 (FY 2009-10)

<b>FUNDS IN INVESTMENT POOLS</b>	
TEXSTAR	\$ 5,423,543.19
TEXPOOL	14,321,873.47
<b>Subtotal on Funds in Investment Pools</b>	<b>\$ 19,745,416.66</b>
<b>CHECKING ACCOUNTS</b>	
Master Account	\$2,458,392.08
Payroll	5,124.30
Rental Rehab	15,277.07
Law Enforcement Block Grant	8,094.30
Pending Forfeitures	24,608.84
Non-Interest Bearing Account - Grants and Court Bonds	211.00
<b>Subtotal Checking Accounts</b>	<b>\$2,511,707.59</b>
<b>SAVINGS ACCOUNTS (Par Quarterly Smts)</b>	
Subdivision Escrow	2,541.58
<b>Subtotal Savings Accounts</b>	<b>\$2,541.58</b>
<b>TOTAL INVESTMENTS &amp; CASH ACCOUNTS</b>	<b>\$22,259,665.83</b>

SCHEDULE OF CASH ACCOUNTS AND INVESTMENTS (By Fund)  
 As of December 31, 2009 (FY 2009-10)

FUND	TOTAL CASH & INVESTMENTS
General Fund	\$7,404,332.08
Water & Sewer Fund	\$3,656,761.04
Solid Waste Fund	\$902,196.10
Youth Activity Fund	\$91,018.28
Drainage Utility Fund	\$775,618.27
Cemetery Fund	\$20,809.17
General Obligation Interest & Sinking Fund	\$1,664,689.41
Municipal Golf Course Fund	(\$48,984.67)
Small Business Revolving Loan Fund	\$75,718.33
Library Gifts & Memorials Fund	\$8,581.67
Hotel/Motel Tax Fund	\$105,044.62
Animal Shelter Donations Fund	\$18,285.19
City-Wide Donations Fund	\$59,947.11
City Wide Grants	\$260,030.52
FEMA Grant Funds	\$9.37
Joint Image Campaign	\$18,696.52
Municipal Court Efficiency	\$15,826.74
Municipal Court Technology	\$99,772.94
Municipal Court Security	\$28,538.48
Police Restricted Fund	\$24,710.66
Police Federal Seizure Fund	\$2,104.23
Law Enforcement Block Grant Fund	\$12,715.44
Fire Department Grant Fund	\$9,408.98
Library Grant Fund	\$15,647.19
Step Grant	\$3,306.65
Tobacco Grant	\$2,539.77
2009 General Obligation (Drainage)	\$107,041.06
2009 General Obligation (Tax Supported)	\$1,988,280.86
2009 Tax Notes (Tax Supported)	\$669,973.12
2009 Tax Notes (W&S)	\$486,877.41
2009 Tax Notes (SW)	\$538,096.63
2009 Tax Notes (Hotel Occupancy Tax)	\$201,478.10
FM 1113 Grant	\$50,178.66
2006 Limited Tax Notes	\$71,808.52
2008 Tax Note	\$685,143.67
2008 Tax Note (W/S)	\$26,153.70
2008 Tax Note (Drainage)	\$21,402.67
2008 Tax Note (Golf)	\$153,125.96
2008A Limited Tax Notes (Tax Supported)	\$322,900.02
2008A Limited Tax Notes (Water & Sewer)	\$123,237.58
2008A Limited Tax Notes (Solid Waste)	\$73,664.75
2008A Limited Tax Notes (Drainage)	\$82,260.63
2010 General Obligation (W&S)	\$176,435.49
2009 Tax Notes (W&S)	\$51,779.49
Reliever Route	\$109,772.23
2001 Combination Tax & Revenue C/O's (Capital Equip. & Improvements)	\$260,508.29
2003 Combination Tax & Revenue C/O's (Capital Equip. & Improvements)	\$414,790.02
2003 Combination Tax & Revenue C/O's (Water/Wastewater Phase III CIP)	\$375,103.71
2007 Combination Tax & Revenue C/O's (Police Facility)	\$44,329.17
<b>TOTAL CASH &amp; INVESTMENTS</b>	<b>\$22,259,665.83</b>
<b>RECAP OF CASH &amp; INVESTMENTS:</b>	
INVESTMENTS IN TEXPOOL	\$ 14,321,873.47
INVESTMENTS IN TEXSTAR	5,423,543.19
CASH IN BANK	\$2,514,249.17
<b>TOTAL CASH &amp; INVESTMENTS</b>	<b>\$ 22,259,665.83</b>

CITY OF COPPERAS COVE  
INVESTMENT SCHEDULE  
As of December 31, 2009 (FY 2009-10)

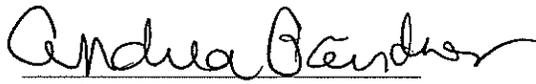
As of December 31, 2009, the City of Copperas Cove's investment portfolio was made up of investments in TEXPOOL, TEXSTAR, and bank deposits with the City's local depositions. This portfolio accomplishes the objective of maintaining liquidity while earning a modest yield on invested taxpayers dollars.

TEXPOOL Investments	Market Value 10/01/09	Investments	Redemptions	Accrued Interest	Book Value 12/31/09	Market Value 12/31/10
General Fund	\$ 4,704,445.21	\$ 4,322,984.19	\$ 2,749,626.05	\$ 2,129.38	\$ 6,279,932.73	\$ 6,279,932.73
Water & Sewer Fund	3,310,737.02	3,176,379.69	2,916,379.69	1,886.52	3,572,623.54	3,572,623.54
Solid Waste Fund	856,979.06	290,352.48	290,352.48	457.48	857,436.54	857,436.54
Drainage Utility Fund	690,313.94	307,004.88	245,004.88	381.50	752,695.44	752,695.44
Interest & Sinking Fund	427,208.50	743,499.91	7,280.00	259.46	1,163,687.87	1,163,687.87
Youth Activities Fund	111,642.18	-	30,000.00	51.25	81,693.43	81,693.43
Golf Course Interest & Sinking	39.94	-	-	-	39.94	39.94
Small Business Revolving Loan Fund	70,163.29	2,975.51	-	37.95	73,176.75	73,176.75
Hotel/Motel Fund	134,388.50	41,394.00	80,394.00	53.21	95,441.71	95,441.71
Municipal Court Efficiency	15,001.84	1,000.00	1,000.00	8.06	15,009.90	15,009.90
Municipal Court Technology	106,202.34	2,000.00	10,000.00	54.10	98,256.44	98,256.44
Municipal Court Security	28,427.82	3,000.00	-	15.67	31,443.49	31,443.49
2008 Tax Supported Note	724,537.69	-	39,767.48	373.46	685,143.67	685,143.67
2008 Tax Supported Note/ W&S	79,843.63	26,150.63	79,857.00	16.44	26,153.70	26,153.70
2008 Tax Supported Note/ Golf	66,405.05	-	45,025.00	22.62	21,402.67	21,402.67
2008 Tax Supported Note/ Drainage	153,045.02	-	-	80.94	153,125.96	153,125.96
2001 C/O Bond Fund (Governmental)	263,959.13	-	3,600.00	139.16	260,508.29	260,508.29
2007 C/O Police Facility	46,475.39	-	2,170.00	23.78	44,329.17	44,329.17
Reliever Route	109,714.16	-	-	58.07	109,772.23	109,772.23
<b>Total TEXPOOL Investments</b>	<b>\$ 11,899,539.71</b>	<b>\$ 8,916,741.29</b>	<b>\$ 6,500,456.58</b>	<b>\$ 6,049.05</b>	<b>\$ 14,321,873.47</b>	<b>\$ 14,321,873.47</b>

TEXSTAR Investments	Market Value 10/01/09	Investments	Redemptions	Accrued Interest	Book Value 12/31/09	Market Value 12/31/10
2003 C/O Project Fund (Governmental)	\$ 414,582.10	\$ -	\$ -	\$ 207.92	\$ 414,790.02	\$ 414,790.02
2003 C/O Project Fund (W&S Phase III)	395,910.16	-	21,000.00	193.55	375,103.71	375,103.71
2006 Tax Notes - Police Building Project	120,136.64	-	48,375.70	47.58	71,808.52	71,808.52
2008A Limited Tax Notes (Tax Supported)	384,442.66	-	61,719.16	176.52	322,900.02	322,900.02
2008A Limited Tax Notes (Water & Sewer)	426,467.92	-	326,585.00	104.16	99,987.08	99,987.08
2008A Limited Tax Notes (Solid Waste)	73,627.82	-	-	36.93	73,664.75	73,664.75
2008A Limited Tax Notes (Drainage)	82,219.39	-	-	41.24	82,260.63	82,260.63
2009 General Obligation (Drainage)	102,409.82	-	-	51.36	102,461.18	102,461.18
2009 General Obligation (Tax Supported)	3,185,932.60	-	1,201,726.00	1,383.29	1,985,589.89	1,985,589.89
2009 Tax Notes (Tax Supported)	670,043.28	-	798.29	335.88	669,580.87	669,580.87
2009 Tax Notes (W&S)	912,285.55	-	426,292.56	347.96	486,340.95	486,340.95
2009 Tax Notes (SW)	680,352.10	-	142,958.19	304.70	537,698.61	537,698.61
2009 Tax Notes (Hotel Occupancy Tax)	206,166.40	-	4,912.38	102.94	201,356.96	201,356.96
<b>Total TEXSTAR Investments</b>	<b>\$ 7,654,576.44</b>	<b>\$ -</b>	<b>\$ 2,234,367.28</b>	<b>\$ 3,334.03</b>	<b>\$ 5,423,543.19</b>	<b>\$ 5,423,543.19</b>

**Total Investments**      **\$ 19,554,116.15**      **\$ 8,916,741.29**      **\$ 8,734,823.86**      **\$ 9,383.08**      **\$ 19,745,416.66**      **\$ 19,745,416.66**

This report is in compliance with the investment strategies as approved and the Public Funds Investment Act.



Andrea Gardner  
City Manager



Imelda Rodriguez  
Assistant Director of Financial Services

  
Wanda Bunting, CPA  
Director of Financial Services

  
Kris Kelly  
Project Accountant

# City of Copperas Cove City Council Agenda Item Report

March 2, 2010

## Agenda Item No. G-3

Contact – Ken Wilson, Director of Community Services, 542-2719  
kwilson@ci.copperas-cove.tx.us

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**SUBJECT: Consideration and action on authorizing the City Manager to execute an Agreement with the Cove Saddle Club for use of the property located in front of the City of Copperas Cove Landfill for providing entertainment and recreational activities to the public.**

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### 1. BACKGROUND/HISTORY

The City of Copperas Cove has maintained a lease agreement for several years with the Cove Saddle Club for the use of a portion of land located in front of the City of Copperas Cove Landfill. The Cove Saddle Club provides recreational opportunities for the public at large and is a non-profit organization. The Club maintains the property in a safe and sanitary condition and is responsible for maintaining assigned areas.

### 2. FINDINGS/CURRENT ACTIVITY

The written lease agreement is attached and is for a term of two years effective March 2, 2010 and shall terminate March 2, 2012.

### 3. FINANCIAL IMPACT

The fee for the lease agreement is \$12.00/year.

### 4. ACTION OPTIONS/RECOMMENDATION

City staff recommends that the City Council authorize the City Manager to execute an agreement between the City of Copperas Cove and the Cove Saddle Club.



Lessee shall be responsible for the installation of utilities meeting City codes and the monthly payment of all expenses and utilities.

Lessee agrees to provide supervision to ensure safe use of the premises at all times when the property is actively in use and when the property is not being actively used. Lessee will provide means to secure the premises against trespassers and other individuals who may be otherwise exposed to danger by going thereupon without supervision.

Lessee agrees to indemnify and hold harmless Lessor from any harm occasioned by their use of the property and shall bear all responsibility for the use of such property, as evidenced by a liability insurance policy, naming the City of Copperas Cove, Texas as an additional insured, in a minimum amount of one million dollars (\$1,000,000.00), and Lessee further agrees to timely provide Lessor with notice of insurance endorsements, policy renewal notices, and notice of policy cancellation, and to pay premiums on not less than a semiannual basis.

Lessee agrees to pay Lessor the sum of TWELVE AND NO/100 DOLLARS (\$12.00) per year for use of the Property.

This lease shall be effective on the 2<sup>nd</sup> of March 2010 and shall terminate on the 2<sup>nd</sup> day of March 2012.

**IN WITNESS WHEREOF**, the parties have fully executed this Lease Agreement on this the 2<sup>nd</sup> day of March 2010.

**City of Copperas Cove**

**Cove Saddle Club**

\_\_\_\_\_  
By: Andrea M. Gardner, City Manager

\_\_\_\_\_  
By: Raymond Mainville, President

ATTEST:

\_\_\_\_\_  
Jane Lees, City Secretary

258, Kempner TX 76539-9504  
 256, Kempner TX 76539  
 254, Kempner TX 76539  
 252, Kempner TX 76539

rk Ten Place Suite 240, Houston TX 77084  
 252, Kempner TX 76539

rk Ten Place Suite 240, Houston TX 77084  
 rk Ten Place Suite 240, Houston TX 77084

302, Kempner TX 76539  
 304, Kempner TX 76539  
 306, Kempner TX 76539  
 wy. 190, Copperas Cove TX 76522  
 310, Kempner TX 76539  
 312, Kempner TX 76539  
 sant View Dr., Grand Island NE 78011  
 316, Kempner TX 76539

H. 3.33 Acre Tract  
 David M. Thomas & Wife  
 Rt 1, Box 2284  
 Copperas Cove TX 76522  
 Vol. 205B, Pg. 99\* (Bell Co.)

I. 5.00 Acre Tract  
 Bruce M. Harmon & Wife  
 Rt 1, Box 2284  
 Kempner, TX 76539  
 Vol. 2604, Pg. 61\* (Bell Co.)

J. 2.00 Acre Tract  
 Willie Sworn  
 901 North Main Street  
 Coryell County  
 Copperas Cove, TX 76522  
 Vol. 3145, Pg. 389\* (Bell Co.)

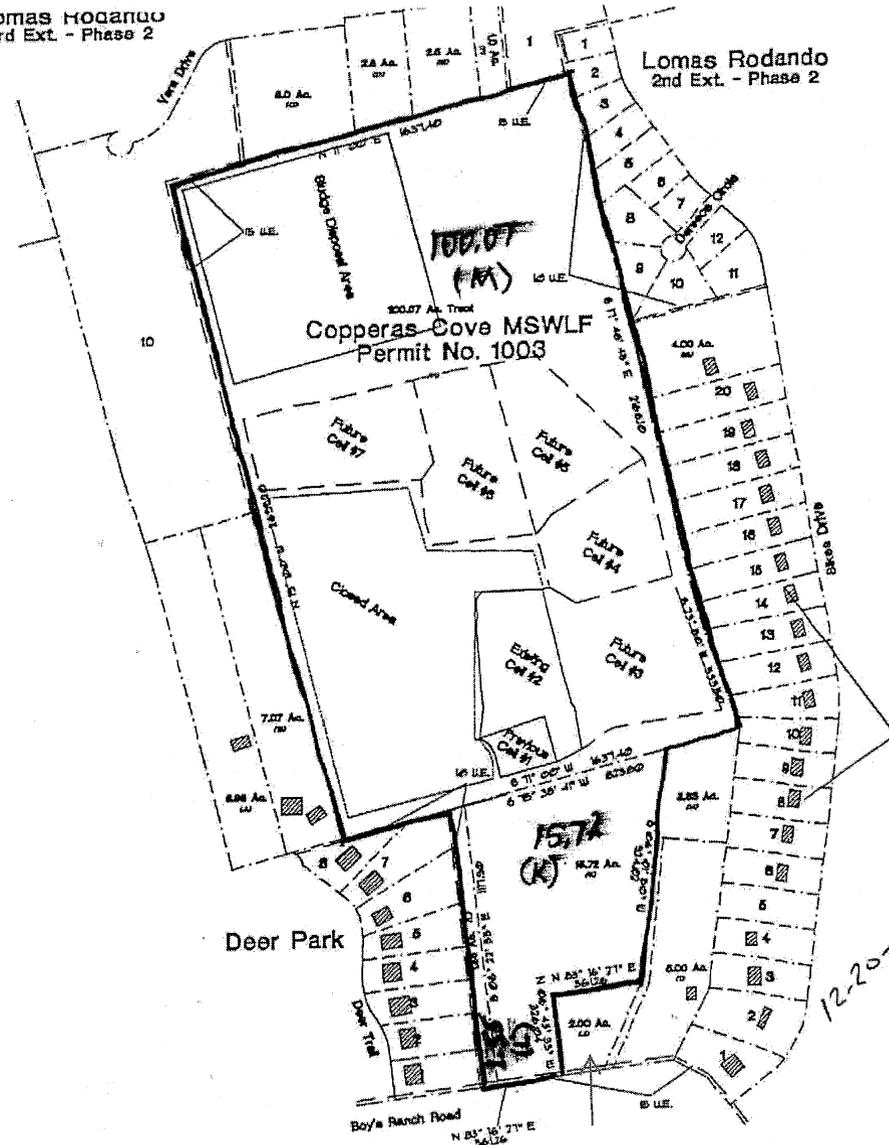
K. 15.72 Acre Tract  
 City of Copperas Cove  
 City Landfill  
 Vol. 2476, Pg. 644\* (Bell Co.)

\*L. 1.55 Acre Tract  
 City of Copperas Cove  
 60 FT. Road Easement\* (Bell Co.)

M. 100.07 Acre Tract  
 City of Copperas Cove  
 City Landfill\*

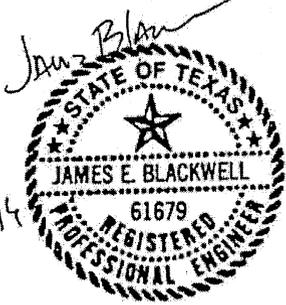
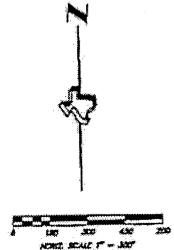
© Blackwell and Associates.

Lomas Rodando  
 3rd Ext. - Phase 2

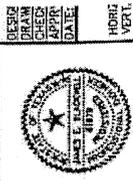


Lomas Rodando  
 2nd Ext. - Phase 2

Lomas Rodando  
 1st Ext. - Phase 2



PROPERTY DESCRIPTION



PROPERTY DESCRIPTION  
 CITY OF COPPERAS COVE

BLACKWELL & ASSOCIATES  
 708 East Highway 7012  
 P.O. Box 24288  
 Copperas Cove, TX 76522

SHEET  
 2



NEW BUSINESS - SL-1029921-00  
\* 12:01 AM AT INSUREDS ADDRESS  
NAMED BELOW

\* DIRECT BILL \*

POLICY NUMBER	POLICY PERIOD FROM TO		POLICY TYPE	AGENCY	P
SL 1029921	4/7/2009	4/7/2010	COMMERCIAL LIABILITY COVERAGE	1144001	1
YOU AS NAMED INSURED AND ADDRESS			AGENT		
COPPERAS COVE SADDLE CLUB C/O TRACEY BURKS PO BOX 174 COPPERAS COVE, TX 76522			FRY'S EQUINE INSURANCE AGENCY P.O. BOX 820  GROVE CITY, OH 43123-		

A2083-0886

The Insured is:  An Individual  A Joint Venture  
 A Partnership  An Organization (other than a partnership or joint venture)  
 A Limited Liability Company

All known exposures at the beginning of the policy period have been identified below.  
 Location of all premises owned, rented occupied or controlled by the insured:

BOYS RANCH ROAD  
CORYELL COUNTY  
COPPERAS COVE, TX 76522

In return for your payment of the required premium, we provide the Commercial Liability Coverage during the policy period.

	<u>Limits of Liability</u>	
Each Occurrence Limit	\$1,000,000	
Medical Payments Limit	\$5,000	/per person
General Aggregate Limit	\$ 2,000,000	
Other than Products/Completed Work	\$ 2,000,000	
Aggregate Limit Products/Completed Work	\$ 2,000,000	
Fire Legal Liability	\$50,000	/per occurrence

If this is checked \_\_\_\_\_ we do not provide coverage for Products/Completed Work, and the Each Occurrence Limit does not apply to Coverage N.

Charge for Non-Owned Auto Liability Coverage \$ NOT COVERED  
 Charge for Hired Auto Liability Coverage \$ NOT COVERED

Classification	Code	Rating Basis	Rate	Premium
Riding Clubs, Prvt.	14100	VARIOUS	INCLUDED	479

CONTINUED ON NEXT PAGE

**IMPORTANT NOTICE**  
 THIS POLICY EXCLUDES  
 COVERAGE FOR  
 CARE, CUSTODY OR CONTROL.



# American Bankers

Insurance Company of Florida

222 S. 15th Street, Suite 600S, Omaha, NE 68102

NEW BUSINESS - SL-1029921-00  
\* 12:01 AM AT INSUREDS ADDRESS  
NAMED BELOW

**\* DIRECT BILL \***

POLICY NUMBER	POLICY PERIOD		POLICY TYPE	AGENCY	P
	FROM	TO			
SL 1029921	4/7/2009	4/7/2010	COMMERCIAL LIABILITY COVERAGE	1144001	2
YOU AS NAMED INSURED AND ADDRESS			AGENT		
COPPERAS COVE SADDLE CLUB C/O TRACEY BURKS PO BOX 174 COPPERAS COVE, TX 76522			FRY'S EQUINE INSURANCE AGENCY P.O. BOX 820  GROVE CITY, OH 43123-		

A2083-0886

Classification	Code	Rating Basis	Rate	Premium
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Endorsements:

A2083 (0886), CL-100 (1.0), CL-300 (1.0), CP13000A-R0107 (), GL-100 (1.0), GL-102 (2.0), GL-899 (1.0), M8005G-0505 ()

Comments:

SCHEDULED EVENTS:

5/2, 6/6, 7/18, 8/1, 9/5

PARADES:

5/16, 7/11, 11/11

**Total Premium: \$ 479**

COUNTERSIGNED: \_\_\_\_\_ BY \_\_\_\_\_

AUTHORIZED AGENT



ASSURANT  
Solutions



ASSURANT  
Specialty  
Property

## Privacy Policy

You are a valued customer and we strive to meet your privacy concerns. We want to make sure your personal information is protected and that you understand the policies that protect you. There are several legal terms in our privacy policy that we are required to use. We've tried to provide easy-to-understand explanations of the most frequently used legal terms. You'll find the same terms used in many companies' privacy policies.

Assurant Solutions and Assurant Specialty Property companies and other insurers that operate under this Privacy Policy ("we") provide insurance, service contracts and membership products. Our products are offered on behalf of other companies and through our agents. These other companies may be banks; finance companies; retailers; utilities; automobile dealers; manufactured housing and mortgage companies. Those companies that qualify as financial institutions must give our Privacy Policy to you each year. If you have asked not to be solicited, that request is still in effect. You do not need to contact us again. This is not a solicitation. You do not need to respond.

This Privacy Policy gives you examples of the types of data we collect, use, share or disclose; and the kinds of companies with whom we may share such data. These examples serve only as illustrations; they should not be considered all of the data we may collect, use or share. Also, we will comply with state privacy laws that may apply to data about you. Below is our privacy pledge to you:

### *Our Privacy Principles:*

- We do not sell your personal information.
- We do not share customer medical information with anyone within the Assurant Solutions or Assurant Specialty Property family of companies unless you expressly authorize the sharing, or it is permitted or required by law. We do not allow those with whom we do business to use our customer information for their own marketing purposes.
- We contractually require any person or business providing products or services on our behalf to safeguard our customer information.

### *Information We May Collect*

Types of information we may collect and how we gather it:

- From you (or provided to us on your behalf), on applications and other forms you submit to us; for example: your name; address; telephone number; employer; and income.
- For your transactions with our companies or other nonaffiliated parties; for example: your name; address; telephone number; age; credit card use; insurance coverage; transaction history; claims history; and premiums.
- From consumer reporting agencies, public records and data collection agencies; for example: your obligations with others and your creditworthiness.
- From health care providers, such as doctors and hospitals; for example: your past or present health condition. Health data will be collected **only** if we need to find out if you are eligible for coverage, process claims, prevent fraud, as authorized by you or as the law may permit or require. NOTE: We collect health data **only** to manage a health-related product or service; for example: life or disability insurance, for which you applied.
- From you when you enroll, request a service, or file a claim on one of our websites; for example: your name, address, contract number, credit card issuer and account number, personal identification number, e-mail address, service contract and claim information.
- In some cases, from your visits to our internet websites; for example: session number and user ID. By reviewing the legal notice, terms of use, site agreement or similar named link appearing on any of our websites that you visit you may learn of any "cookies" utilized by us and of any additional information that may be collected from you on that site.

### *Information We May Disclose or Share and with Whom*

We may share customer information with other entities as needed to deliver products and services to you, provide customer service, or handle your account.

**Disclosures Permitted by Law**

We may share customer information as described above and as permitted by law.

**Disclosures for Joint Marketing and Servicing**

We may share customer information with persons or organizations inside or outside our family of companies that perform marketing services for us or with whom we have joint marketing agreements.

**Information Regarding Former Customers**

We treat the information of prospective and former customers in the same manner as existing customers with respect to the use of personal information.

**Our Security Procedures**

We restrict access to customer information to those employees whom we know have a valid business purpose to have access to such data. We maintain physical, electronic and procedural safeguards. We require those who provide services for us and to whom we provide your data to keep your information safeguarded and confidential.

**Changes to this Privacy Policy**

We reserve the right to change this Privacy Policy at any time. If we make material changes, we will provide current customers a new notice that describes our new practices and will post it on our Internet websites.

**Notice of Insurance Information Practices**

We may collect personal information from persons other than the individual or individuals proposed for coverage. Personal information as well as other personal or privileged information subsequently collected by us may in certain circumstances be disclosed to a third party without your authorization. You have the right to access and correct all personal information collected. A more complete Notice of Insurance Information Practices will be furnished to you upon request.

**New Mexico and Vermont Residents**

As required by state law, we will not share your financial or health data without your permission except as allowed by applicable New Mexico or Vermont law.

The following companies underwrite or market services under the Assurant Solutions or Assurant Specialty Property service marks or adhere to this Privacy Policy. We value our relationship with you. Should you have any questions about our Privacy Policy, please write to us at The Assurant Solutions/Assurant Specialty Property Privacy Office, Post Office Box 979047, Miami, FL 33197-9047 or e-mail us your question at [theprivacyoffice@assurant.com](mailto:theprivacyoffice@assurant.com).

**Affiliates**

American Bankers General Agency, Inc.  
American Bankers Insurance Company of Florida  
American Bankers Life Assurance Company of Florida  
American Bankers Management Company, Inc.  
American Reliable Insurance Company  
American Security Insurance Company  
Assurant Services of Puerto Rico, Inc.  
Caribbean American Life Assurance Company  
Caribbean American Property Insurance Company  
Consumer Assist Network Association, Inc.  
Federal Warranty Service Corporation  
Insureco Agency.  
Insureco, Inc.  
Insureco Services, Inc.  
National Insurance Agency

Reliable Lloyds Insurance Company  
Roadgard Motor Club, Inc.  
Safeco Financial Institution Solutions, Inc.  
Service Delivery Advantage, LLC  
Standard Guaranty Insurance Company  
Sureway, Inc.  
Time Insurance Company  
Union Security Insurance Company  
Union Security Life Insurance Company of New York  
United Family Life Insurance Company  
United Service Protection, Inc.  
United Service Protection Corporation  
Voyager Indemnity Insurance Company  
Voyager Property and Casualty Insurance Company  
Voyager Service Programs, Inc.  
Voyager Service Warranties, Inc.

**Non-Affiliates:**

Ranchers and Farmers Mutual Insurance Company  
Republic Lloyds

Southern County Mutual Insurance Company  
State and County Fire Mutual Insurance Company



**Summary of Rights and Insurance Information Practices Notice**

**Your Rights Following an Adverse Underwriting Decision**

In the event of an adverse underwriting decision, you have the right to know the specific items of information that support the reason(s) given for this decision and the identity of the source of that information. Within 90 business days from the date of the mailing of the notice to you of an adverse underwriting decision, we will furnish to you within 21 business days from the date of receipt of the written request from you:

1. The specific reason for the adverse underwriting decision if the information was not initially furnished in writing, and
2. The specific items of personal and privileged information that support those reasons, except that the company will disclose the names and addresses of the institutional sources that supplied the specific items of personal or privileged information.

**Your Rights to Access your Recorded Personal Information**

You have the right to submit a written request for access to your recorded personal information. Within 30 business days of the receipt of your request for access to your recorded personal information, we will inform you of the nature and substance of the recorded personal information. You have the right to see and copy, in person, the recorded personal information or obtain a copy by mail, whichever you prefer. The information must be reasonably described by you and reasonably locatable and retrievable by us. Any information we provide to you will be in plain language.

The Company will disclose to you the identity, if recorded, of those persons to whom the insurance support organization has disclosed the personal information within two years prior to your request; if not recorded, the names of those institutions or persons to whom the information is normally disclosed.

We will provide you with a summary of the procedures by which you may request correction, amendment, or deletion of recorded personal information. You may request correction, amendment, or deletion of recorded personal information by submitting a written request to Assurant Solutions, Regulatory Compliance, 8655 E. Via De Ventura, Suite E200, Scottsdale, AZ 85258. Any of the personal information provided to you will identify the source if it is an institutional source.

**Your Rights to Correct, Amend, or Delete Recorded Personal Information**

Within 30 business days of the receipt of a written request from you to correct, amend, or delete any personal information about you, the Company or insurance support organization shall either:

1. Correct, amend, or delete the portion of the recorded personal information in dispute;
2. Notify you of our refusal to correct, amend, or delete, the reasons for the refusal, and your right to file a statement if you disagree.

If the information is corrected, amended or deleted, the changes will be in writing and provided to you, any person who may have received the incorrect information within the preceding two years, any insurance support organization that received the information within the preceding seven years, and any insurance support organization that furnished the personal information that has been corrected, amended or deleted.

If you disagree with the Company's or insurance support organization's refusal to correct, amend, or delete recorded personal information, you may file with the Company or insurance support organization a concise statement setting forth

what you think is the correct, relevant, or fair information and a concise statement of the reasons why you disagree with the Company's or insurance support organization's refusal to correct, amend, or delete recorded personal information. Your response will be added to your file. We will file your statement with any disputed personal information and make it accessible so that anyone reviewing the information will be cognizant of your statement. Furthermore, your statement will be included with any subsequent disclosure.

If you would like additional information concerning this action, you have 180 days to submit a written request to: Assurant Solutions, Regulatory Compliance, 8655 E. Via De Ventura, Suite E200, Scottsdale, AZ 85258.

#### **Disclosure of personal or privileged information**

We will not disclose any personal or privileged information about you in connection with this insurance transaction without your written authorization unless we provide you with a form or statement that:

- (1) is written in plain language;
- (2) is dated;
- (3) specifies the types of persons authorized to disclose information about you;
- (4) specifies the nature of the information authorized to be disclosed;
- (5) names the insurance company or agent to whom you are authorizing the information to be disclosed;
- (6) specifies the purpose(s) for which the information is collected;
- (7) specifies the length of time your authorization remains valid (not to exceed thirty (30) months from the date of authorization); and
- (8) states that you or any person authorized to act on your behalf is entitled to receive a copy of any authorization form or statement.

**We will not disclose any personal or privileged information in connection with this insurance transaction, unless the disclosure is reasonably necessary and meets one of the following descriptions:**

- (1) To enable an insurance company to perform a business, professional or insurance related function and such insurance company agrees not to disclose the information further without your written authorization unless the further disclosure (a) would be otherwise permitted by the Insurance Information and Privacy Protection Act; or (b) would be necessary for the insurance company to perform its function.
- (2) To enable the insurance company to (a) determine your eligibility for an insurance benefit or payment; or (b) detect or prevent criminal activity, fraud, material misrepresentation, or material nondisclosure in connection with an insurance transaction.
- (3) To an insurance institution, agent, insurance-support organization or self-insurer provided the information disclosed is reasonably necessary and limited to (a) to detect or prevent criminal activity, fraud, material misrepresentation, or material nondisclosure in connection with insurance transactions; or (b) for either the disclosing or receiving insurance institution, agent or insurance-support organization to perform its function in connection with an insurance transaction involving you.
- (5) To an insurance regulatory authority.
- (6) To a law enforcement or other governmental authority (a) to protect the interests of the insurance institution, agent or insurance-support organization in preventing or prosecuting the perpetration of fraud; or (b) if the insurance institution, agent or insurance-support organization reasonably believes that illegal activities have been conducted by the individual.
- (7) To an actuarial or research study provided that (a) no individual may be identified in any actuarial or research report; (b) materials allowing the individual to be identified are returned or destroyed as soon as they are no longer needed; and (c) the actuarial or research organization agrees not to disclose the information unless the disclosure would be permitted by the Insurance Information and Privacy Protection Act if made by an insurance

institution, agent, or insurance-support organization.

- (8) To a person whose only use of such information will be in connection with the marketing of a product or service, provided that (a) no privileged information, or personal information relating to an individual's character, personal habits, mode of living, or general reputation is disclosed and no classification derived from such information is disclosed; (b) you have been given an opportunity to indicate that you do not want personal information disclosed for marketing purposes and have given no indication that you do not want the information disclosed; and (c) the person receiving such information agrees not to use it except in connection with the marketing of a product or service.
- (9) To an affiliate whose only use of the information will be in connection with an audit of the insurance institution or agent or the marketing of an insurance product or service, provided the affiliate agrees not to disclose the information for any other purpose or to unaffiliated persons.
- (10) To a group policyholder for the purpose of reporting claims experience or conducting an audit of the insurance institution's or agent's operations or services, provided the information disclosed is reasonably necessary for the group policyholder to conduct the review or audit.
- (11) To a professional peer review organization for the purpose of reviewing the service or conduct of a medical-care institution or medical professional.
- (12) To a certificate holder or policyholder for the purpose of providing information regarding the status of an insurance transaction.
- (13) To a lien holder, mortgagee, assignee, lessor, or other person shown on the records of an insurance institution or agent as having legal or beneficial interest in a policy of insurance. Medical-record information will not be disclosed unless the disclosure would otherwise be permitted by the Information and Privacy Protection Act. The information disclosed will also be limited to only reasonably necessary information to permit you to protect your interest in the policy (not applicable to Kansas, Montana, and Oregon residents).
- (14) To authorized personnel of the Division of Motor Vehicles; and to the Department of Environment, Health, and Natural Resources and if the information disclosed is immunization information described in G.S. 130A-154 (applicable to North Carolina residents only).

## AMENDATORY ENDORSEMENT

The reference to words that have special meaning is deleted and replaced by the following:

Refer to Definitions for words and phrases that have special meaning. These words and phrases are shown in quotation marks or bold type.

## PERSONAL AND ADVERTISING INJURY LIABILITY COVERAGE

(The entries required below may be shown  
on a separate schedule or supplemental Declarations.)

### LIMIT OF LIABILITY

Coverage P - Personal and Advertising Injury      \$1,000,000 /each occurrence

The Commercial Liability Coverage of this policy is amended as follows:

Refer to Definitions for words and phrases that have special meaning. These words and phrases are shown in quotation marks in this endorsement.

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### DEFINITIONS

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The following definitions are added:

1. "Personal injury" means injury (other than "bodily injury") arising out of one or more of the following offenses:
  - a. oral or written publication of material:
    - 1) that slanders or libels a person or organization;
    - 2) that disparages a person's or organization's goods, "products", or services; or
    - 3) that violates a person's right of privacy.
  - b. false arrest, detention, imprisonment, or malicious prosecution.
  - c. wrongful entry into, or eviction of a person from a room, dwelling, or the premises that the person occupies.

It does not include advertising, publishing, broadcasting, or telecasting done by or for "you".

2. "Advertising injury" means injury (other than "bodily injury") arising out of one or more of the following offenses:

- a. oral or written publication of material:
  - 1) that slanders or libels a person or organization;
  - 2) that disparages a person's or organization's goods, "products", or services; or
  - 3) that violates a person's right of privacy.
- b. misappropriation of advertising ideas or style of doing business.
- c. infringement of copyright, title, slogan, trademark, or trade name.

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### PRINCIPAL COVERAGES

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The following is added:

#### **Coverage P - Personal and Advertising Injury Liability**

"We" pay all sums which an "insured" becomes legally obligated to pay as damages due to "personal injury" or "advertising injury" to which this insurance applies.

The "personal injury" or "advertising injury" must arise out of the conduct of "your" business during the policy period.

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## EXCLUSIONS THAT APPLY TO PERSONAL AND ADVERTISING INJURY

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1. "We" do not pay for "personal injury" or "advertising injury" for which an "insured" has assumed liability under a contract or agreement. This exclusion does not apply to liability for damages that the "insured" would have in the absence of the contract or agreement.
2. "We" do not pay for "personal injury" or "advertising injury" arising out of willful violation of an ordinance, statute, or regulation by an "insured" or with the "insured's" consent.
3. "We" do not pay for "personal injury" or "advertising injury" arising out of oral or written publication of material:
  - a. if done by or at the direction of an "insured" who knew it was false; or
  - b. whose first publication was prior to the policy period.
4. "We" do not pay for "personal injury" or "advertising injury" arising out of the conduct of any current or past partnership or joint venture that is not shown on the Declarations as an "insured".
5. "We" do not pay for "advertising injury" arising out of breach of contract, other than misappropriation of advertising ideas under an implied contract.
6. "We" do not pay for "advertising injury" arising out of the failure of goods, "products", or services to conform with advertised quality or performance.
7. "We" do not pay for "advertising injury" arising from an offense committed by an "insured" whose business is advertising, broadcasting, publishing, or telecasting.
8. "We" do not pay for "personal injury" or "advertising injury" resulting from the failure of any electronic data processing equipment, computer program, software, media, or data to correctly recognize, interpret, or process any encoded, abbreviated, or encrypted date or time.

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## HOW MUCH WE PAY

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The following is added to paragraph 2:

- c. all damages under Coverage P, Personal and Advertising Injury Liability.

The following provision is added to "How Much We Pay:

The Each Occurrence limit that applies to Coverage P, subject to the General Aggregate, is the most "we" pay due to all "personal injury" and "advertising injury" arising out of an "occurrence".

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**GL-102 Ed. 2.0**

Copyright MCMXCVII

American Association of Insurance Services

This endorsement changes the Commercial  
Liability Coverages provided by this policy  
-- PLEASE READ THIS CAREFULLY --

## CROSS LIABILITY EXCLUSION

The Commercial Liability Coverage is amended as follows:

### EXCLUSIONS

#### EXCLUSIONS THAT APPLY TO BODILY INJURY, PROPERTY DAMAGE, PERSONAL INJURY, AND/OR ADVERTISING INJURY

The following exclusion is added:

We do not pay for **bodily injury** (or **personal injury**, if provided by the Commercial Liability Coverage) to an insured.

# City of Copperas Cove City Council Agenda Item Report

March 2, 2010

## Agenda Item No. G-4

Contact – Robert M. McKinnon, Public Works Director, 547- 0751  
bmckinnon@ci.copperas-cove.tx.us

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**SUBJECT: Consideration and action on approval of a Water Purchase Contract with Cedar Grove Mobile Home Park.**

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### 1. BACKGROUND/HISTORY

The City of Copperas Cove has provided Cedar Grove Mobile Home Park with potable water since the 1970's. It is provided through two six (6) inch water meters and sold to the park at a base rate per thousand gallons.

### 2. FINDINGS/CURRENT ACTIVITY

City staff has been in contact with representatives from Cedar Grove Mobile Home Park on numerous occasions, they are headquartered in California, to discuss a contract. A copy of the proposed contract is attached. The proposed contract is a two (2) year contract beginning March 1, 2010 and ending February 29, 2012. Proposed contract highlights are:

- A. The base rate for each six (6) inch water meter, the size that serves the park, is \$239.00 payable monthly by Cedar Grove Mobile Home Park to the City within 15 days of billing. The price per thousand gallons of water is \$3.75 payable monthly by Cedar Grove Mobile Home Park to the City within 15 days of billing. Cedar Grove Mobile Home Park shall be assessed a five percent late payment penalty, for payments received by the City, after 15 days of billing, and the City may discontinue service to Cedar Grove Mobile Home Park for failure to pay water purchase cost within twenty-one (21) days of billing.
- B. The maximum allotment of water per month is 2,500,000 gallons. Should Cedar Grove Mobile Home Park exceed the maximum of 2,500,000 gallons per month, the cost of water per thousand gallons over the base allotment increases from \$3.75 to \$4.50 per thousand gallons.
- C. The City shall provide a minimum water pressure of 35 pounds per square inch (psi) at the meter during normal usage and a minimum

of 20 psi at the meter during any fire flow event. The City will not incur costs for the maintenance, installation, and distribution of any facilities necessary to accomplish this agreement.

- D. The City of Copperas Cove and Cedar Grove Mobile Home Park specifically agree that a review of the water cost rate charged by Bell County Water Control and Improvement District Number 1 will be conducted yearly on or about July 1st. If at that time there is a proposed increase in water costs for the City, the City will notify Cedar Grove Mobile Home Park in writing of any proposed increase in costs to Cedar Grove Mobile Home Park. Cedar Grove Mobile Home Park will have 30 days to respond to the City, in writing, their intent to accept or reject the rate increase. In the event Cedar Grove Mobile Home Park rejects the increase, the contract will terminate 30 days after the City's receipt of Cedar Grove Mobile Home Park's written notice of rejection.

In the event of implementation of the City's Water Conservation and Drought Contingency Plan, Cedar Grove Mobile Home Park shall abide by the rules and guidelines established in the plan and shall be subject to any penalties, including disconnection, for violation of the mandatory water use restrictions of the plan.

**3. FINANCIAL IMPACT**

Water revenues realized for calendar year 2009 were \$74,303.37.

**4. ACTION OPTIONS/RECOMMENDATION**

City staff recommends the City Council approve the proposed Water Purchase Contract with Cedar Grove Mobile Home Park.

## WATER PURCHASE CONTRACT

This Contract is for the sale and purchase of water between the City of Copperas Cove ("Seller"), a home-rule municipality, and Cedar Grove Mobile Home Park ("Buyer").

### WITNESSETH:

Seller agrees to sell to Buyer and Buyer agrees to purchase from Seller the maximum quantity of water not to exceed 2,500,000 gallons per month.

Any quantity of water purchased by Buyer from Seller shall be paid at a base rate of \$239.00 for each of the two, six-inch meters, plus \$3.75 per thousand gallons, payable monthly to Seller by Buyer, within 15 days of Buyer's billing date. Buyer understands and acknowledges that any payment due to Seller for its water purchase cost which is received after the 15th day of Buyer's billing date, Buyer shall be assessed a five percent (5%) late payment penalty. Further, Seller may discontinue service to Buyer for Buyer's failure to pay the water purchase cost within twenty-one (21) days of Buyer's billing date.

The parties further agree that if Buyer exceeds the maximum quantity of water of 2,500,000 gallons per month, then Buyer's per thousand gallon rate shall increase from \$3.75 per thousand gallons to \$4.50 per thousand gallons. This increased rate is for any amount of water used over and above its allotted 2,500,000 gallons per month. The parties agree that Buyer's base rate will remain at the same base rate as set out in the above paragraph and that the base rate will not increase because of Buyer exceeding its maximum quantity of 2,500,000 gallons of water per month. Buyer agrees to pay this increased per thousand gallon rate over its allotted 2,500,000 gallons per month to Seller within 15 days of Buyer's billing date.

Further, Seller and Buyer specifically agree that as a part of the consideration hereof that Seller shall have the right to charge to Buyer such water cost increases as shall hereafter be charged to the Seller by its supplier of water, Bell County Water Control and Improvement District Number 1, or at the same rate of increase as may be assessed to other customers on the system generally due to inflationary factors.

Seller shall review the water rates in effect on or about July 1st of each year. If an increase in rates is proposed, the Seller shall notify Buyer in writing of the proposed increase which would be effective on October 1st of each year. Within thirty (30) days of receiving said notice, Buyer shall notify Seller in writing of its intent to accept or reject the rate increase. In the event Buyer rejects the increase, this Contract shall terminate thirty (30) days after Seller's receipt of Buyer's written notice of rejection.

In the event Seller implements its water conservation and drought contingency plan Buyer shall abide by Seller's water conservation and drought contingency plan and shall be subject to any penalties, including disconnection, for violation of the mandatory water use restrictions of the Water Conservation and Drought Contingency Plan.

The Seller shall incur no costs for the maintenance, installation and distribution of any water facilities necessary to accomplish this Agreement. The Seller shall provide a minimum pressure of 35 psi at the meter under normal use conditions and a minimum pressure of 20 psi at the meter during any fire flow event on Seller's system. Buyer shall conform to such standard of water line and water meter requirements as are in force within the City of Copperas Cove, Texas.

Service may be discontinued by either party upon forty-five (45) day written notice to the other party. Said notice shall be mailed to the other party by certified mail, return receipt requested, postage prepaid.

The term of this Contract is for a period of Two (2) years, beginning \_\_\_\_\_, 2010 and shall expire on the \_\_\_\_ day of \_\_\_\_\_, 2012. The parties further agree that this contract shall be governed and interpreted by the laws of the State of Texas and that proper venue lies in Coryell County, Texas.

IN WITNESS WHEREOF, the parties hereto, acting by and under the authority of their representative governing bodies, have caused this Water Purchase Contract to be duly executed in two (2) counterparts, each of which shall constitute an original on this, the \_\_\_\_\_ day of \_\_\_\_\_ 2010.

SELLER:  
City of Copperas Cove, Texas

BUYER:  
Cedar Grove Mobile Home Park

By: \_\_\_\_\_  
Andrea M. Gardner, City Manager

By: \_\_\_\_\_  
Ray K. Farris II, CEO  
Westwind Enterprises, Ltd.

ATTEST:

\_\_\_\_\_  
Jane Lees, City Secretary

# City of Copperas Cove

## City Council Agenda Item Report

March 2, 2010

### Agenda Item No. H-1

Contact – Mike Heintzelman, Deputy Chief, 547-4274  
mheintzelman@ci.copperas-cove.tx.us

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**SUBJECT:** Public hearing and action on an ordinance establishing a curfew for minors, Article I, Section 13-3 of the City's Code of Ordinances.

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#### 1. BACKGROUND/HISTORY

In 1993 the City Council adopted Ordinance No. 2004-12 establishing a curfew for minors.

Section 370.002 of the Texas Local Government Code requires that a home rule municipality before the third year anniversary of the date of adoption of a juvenile curfew ordinance and every three years thereafter: (1) review the ordinance or its effects on the community and on the problems the ordinance was intended to remedy; (2) conduct public hearings on the need to continue the curfew ordinance; and (3) abolish, continue, or modify the ordinance. On February 16, 2010, the first of two public hearings was conducted.

#### 2. FINDINGS/CURRENT ACTIVITY

The Copperas Cove Police Department, as well as police departments around the country, has found a curfew ordinance for minors to be a very valuable tool for law enforcement that has had an effect on crime, the safety of minors, and the general public. The ordinance allows law enforcement to stop and talk with minors found in public places during the hours the curfew is in effect. Additionally, if a minor is found in violation, the ordinance provides for the authority to take corrective action. The ordinance also places a responsibility on parents/guardians to become aware of the locality for their children.

The requirement to conduct two public hearings on the ordinance is satisfied with the public hearing held on February 16, 2010 and March 2, 2010. The proposed ordinance is the same as the current ordinance in place and is attached for your review.

The current ordinance will expire on March 5, 2010 unless continued by a vote of the City Council.

**3. FINANCIAL IMPACT**

None.

**4. ACTION OPTIONS/RECOMMENDATION**

City staff recommends that the City Council conduct the second public hearing and approve an ordinance establishing a curfew for minors.

**ORDINANCE NO. 2010-10**

**AN ORDINANCE ESTABLISHING A CURFEW FOR MINORS, ARTICLE I CHAPTER 13-3 OF THE CITY'S CODE OF ORDINANCES; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Copperas Cove adopted an ordinance on May 18, 1993 providing a curfew for minors within the corporate limits of the City of Copperas Cove; and

**WHEREAS**, the City of Copperas Cove continued the curfew for minors pursuant to Section 370.002 of the Texas Local Government Code in 2004 and in 2007 it expired by operation of law; and

**WHEREAS**, a curfew ordinance was approved on March 6, 2007 and will expire by operation of law on March 5, 2010; and

**WHEREAS**, in accordance with Section 370.002(a) the City is required every three years to review the ordinance and its effects on the community and on problems the ordinance was intended to remedy, to conduct public hearings on the need to continue the ordinance, and to abolish, continue or modify the ordinance. Failure to act on the ordinance as required shall cause the ordinance to expire; and

**WHEREAS**, the City Council has conducted two public hearings to determine if a curfew for minors is still necessary; and

**WHEREAS**, the City Council, after conducted two public hearings concerning a curfew for minors, determined that it is necessary to continue a curfew ordinance for minors for the public safety of its citizens and minors.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS:**

**SECTION 1.**

That Article I, Chapter 13-3, Curfew for Minors, attached as Exhibit "A" and incorporated herein by referenced is hereby adopted.

**SECTION 2.**

That all ordinances or resolutions or parts of ordinances or resolutions in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

**SECTION 3.**

That should any section, clause, or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this ordinance or any other ordinance of the City as a whole or any part thereof, other than the part so declared to be invalid.

**SECTION 4.**

That this ordinance shall become effective after its passage and publication according to law.

**PASSED, APPROVED AND ADOPTED** this 2nd day of March 2010, at a regular meeting of the City Council of the City of Copperas Cove, Texas, which meeting was held in compliance with the Open Meetings Act, *Tex. Gov't Code §551.001*, et.seq., at which meeting a quorum was present and voting.

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John Hull, Mayor

**ATTEST:**

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Jane Lees, City Secretary

**APPROVED AS TO FORM:**

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Denton, Navarro, Rocha  
& Bernal, P.C.

Sec. 13-3. Curfew for minors.

(a) *Definitions.* For the purposes of this section, the following words, terms and phrases shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

(1) *Minor* shall mean any person under seventeen (17) years of age.

(2) *Parent* shall mean a person who is the natural or adoptive parent of a minor. As used herein, "parent" shall also include a court-appointed guardian, or other person twenty-one (21) years of age or older who has been authorized by the parent, by a court order, or by the court-appointed guardian to have the care and physical control of a minor.

(3) *Emergency* shall include, but not be limited to, fire, natural disaster, an automobile accident or seeking immediate medical treatment for any person.

(4) *Public places* 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, transportation facilities, restaurants, and shops.

(5) *Curfew hours* means:

a. 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. on the following day; and

b. 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday.

c. While school is in session, it shall be unlawful for any minor, under seventeen (17) years of age, to remain, walk, run, idle, wander, stroll, or aimlessly drive or ride about in or upon any public place in the city between the hours of 9:00 a.m. and 2:30 p.m. on Monday, Tuesday, Wednesday, Thursday, or Friday.

(6) *Interstate transportation* means transportation between states of the United States or between a state of the United States and a foreign country, to which any travel through the city is merely incidental.

(7) *Intrastate transportation* means transportation between locations within the state, to which any travel through the city is merely incidental.

(b) *Offenses.*

(1) It shall be unlawful for any minor to remain, walk run, stand, drive or ride about in or upon any public place in the city during curfew hours.

(2) It shall be unlawful for a parent of any minor to allow or permit the minor to be in violation of the curfew imposed in subsection (b)(1) of this section.

(3) It shall be unlawful for any owner, operator, or employee of any privately owned place of business operated for a profit to which the public is invited, to allow a minor to remain upon the premises of said place of business during curfew hours.

(4) It shall not be a defense to the application of this section that a parent gave the minor the permission to violate this section for no purpose other than the parent had the authority over this minor to do so.

(5) No culpable mental state required. Unless specifically provided in this section, an offense under this section shall not require a culpable mental state. It is the intent of this section, curfew for minors, to impose strict liability for any violation of this section.

(c) *Exceptions and defenses.* No officer shall detain a minor where an exception to the application hereof is apparent. It is a defense to prosecution under subsection (b) that, at the time of the act that otherwise would constitute an offense:

- (1) The minor was accompanied by his or her parent; or
- (2) The minor was accompanied by an adult twenty-one (21) years of age or older approved by the parent; or
- (3) The minor was on an emergency errand; or
- (4) The minor was attending a school, religious or government-sponsored activity, or going to or coming from a school, religious or government-sponsored activity; or
- (5) The minor was engaged in a lawful employment activity or labor organization meeting, or going to or coming from said lawful employment or labor organization meeting; or
- (6) The minor was on the premises of the place where such minor resides or on the premises of a next-door neighbor and said neighbor was not communicating an objection to a peace officer regarding the presence of said minor; or
- (7) The minor was upon an errand directed by his or her parent; or
- (8) The minor was in an aircraft or motor vehicle involved in intrastate or interstate transportation, or was awaiting transportation by such means; or
- (9) The minor was exercising his or her First and Fourteenth Amendment rights protected by the United States Constitution, including but not limited to the free exercise of religion, freedom of speech, and the right of assembly; or
- (10) The minor was married or had been married or had disabilities of minority removed in accordance with the Texas Family Code.
- (11) The minor was on a direct route to his or her place of residence from an activity which he or she left within the lawful curfew time.
- (12) In a prosecution under subsection (b)(3) the owner, operator or employee of the place of business promptly notified the police department that a minor was present on the premises of the business during curfew hours and refused to leave.
- (13) It is a defense to prosecution hereunder that the minor under seventeen (17) years of age was enrolled in a home school authorized by the laws of the state, at a time the daytime curfew was in effect.

(d) *Enforcement procedure and administrative appeals.*

(1) Any peace officer, upon finding a minor in violation of subsection (b) shall determine the name and address of the minor, and the name and address of his or her parent(s) or guardian(s). A warning notice shall be issued to the minor, who shall be ordered to go home by the most direct means and route. A copy of the notice shall be forwarded to the youth services unit of the Copperas Cove Police Department, which shall send a letter to the parent(s) or guardians of the minor advising that the minor was found in violation of this section, and soliciting cooperation in the future.

(2) Any peace officer, upon finding a minor in violation of subsection (b) when said minor has once previously been so found and warned as in subsection (d)(1) above, the officer shall record the name and address of the minor and his or her parent(s) or guardians, and shall issue a citation to the minor for the violation of this section. The minor shall be ordered by the officer to go home by the most direct means and route. A copy of the citation shall be forwarded to the youth services unit of the police department, which shall send a letter to the parent(s) or guardians of the minor who was found in

violation of this section a second time, and advising of the consequences of a third violation of this section and addressing the city's expectation and requirement of parental control of the minor.

(3) Any peace officer, upon finding a minor in violation of subsection (b), when said minor has at least twice previously been found in violation and issued a warning and citation as provided in subsections (d)(1) and (d)(2) above, shall order said minor to go home by the most direct means and route, and thereafter shall file a complaint against the minor and his or her parent(s) or guardians in municipal court for violation of subsection (b). The police department shall file all necessary documentation and provide necessary testimony required for pursuing prosecution of this violation by the minor and/or the parent(s) or guardians.

(4) If, after receiving a warning notice or letter as provided or in subsections (d)(1) and (d)(2) above, a person believes that said document was issued without justification, the person shall have ten (10) days from receipt of said document to present an appeal in writing to the chief of police. The appeal shall state the facts and circumstances which the appellant believes make the issuance of the document in question unjustified. The chief of police or his designated representative shall respond in writing to the appellant not later than twenty (20) days after receipt of the appeal, stating whether the issuance of the document or documents in question will be upheld or rescinded, and stating the reasons for said decision. All decisions shall be final with the ruling of the chief of police or his representative. If a document is ordered rescinded after issuance, the status of the minor and the parent or parents in question thereafter shall be the same as if the document ordered rescinded had never been issued, and all city records shall be corrected accordingly.

(e) *Penalties.*

(1) Any minor violating the provisions of this section shall be guilty of a Class "C" misdemeanor as defined in the Texas Penal Code and shall be dealt with in accordance with the provisions of Title 3 of the Texas Family Code, and Texas Code of Criminal Procedure.

(2) A parent who violates subsection (b)(2) or a person who violates subsection (b)(3) shall be guilty of a misdemeanor, which shall be punishable by a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00).

(3) In assessing punishment for either a parent or a minor the municipal court judge may consider a community service or teen court program.

(Ord. No. 1993-17, 5-18-93; Ord. No. 96-06, 3-5-96; Ord. No. 2001-09, § 1, 2-6-01; Ord. No. 2004-12, § 1(Exh. A), 3-16-04)

# City of Copperas Cove

## City Council Agenda Item Report

March 2, 2010

### Agenda Item No. H-2

Contact – Wesley Wright, P.E, City Engineer, 547-0751  
wwright@ci-copperas-cove.tx.us

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**SUBJECT: Public hearing and action on a Final Plat for Skyline Ridge, Phase One.**

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**1. BACKGROUND/HISTORY**

On September 9, 2009, the Planning and Zoning Commission approved a Preliminary Plat for Skyline Ridge, a proposed new residential subdivision along Big Divide Road.

On February 17, 2010, the Planning and Zoning Commission recommended City Council approve a Final Plat associated with the development subject to the successful resolution of outstanding drainage issues.

**2. FINDINGS/CURRENT ACTIVITY**

The proposed Final Plat consists of 48 single family residential lots and is in complete compliance with all existing subdivision regulations. The property is currently zoned R-1 (Single-Family Residential) and is completely surrounded by R-1 (Single-Family Residential) zoning.

If approved, the Final Plat will be executed by all parties and filed for record in Coryell and Lampasas Counties.

**3. FINANCIAL IMPACT**

No direct cost to the city in considering the Final Plat exists.

**4. ACTION OPTIONS/RECOMMENDATION**

The Planning and Zoning Commission and City staff recommend City Council conduct a public hearing on, and approve the Skyline Ridge, Phase One Final Plat.



# City of Copperas Cove City Council Agenda Item Report

March 2, 2010

## Agenda Item H-3

Contact – Wanda Bunting, Director of Financial Services, 547-4221  
wbunting@ci.copperas-cove.tx.us

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**SUBJECT: Public hearing and action on an ordinance amending the 2009-10 fiscal year budget for the City of Copperas Cove for position updates.**

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### 1. BACKGROUND/HISTORY

The 2009-10 budget was adopted on September 15, 2009, with budget amendments approved on October 13, 2009 and November 3, 2009. According to Section 6.16(b)(1) of the Copperas Cove City Charter, in order for the City Council to amend the 2009-10 budget, it must first hold a public hearing on the proposed amendments. The Charter also provides a requirement that when fund balance is to be used to fund increases in expenditures that two public hearings be held. The proposed budget amendment does not require the use of fund balance. The public hearing on March 2, 2010 is sufficient as required by the Charter.

### 2. FINDINGS/CURRENT ACTIVITY

The net impact to the General Fund is zero. Salary savings from vacant positions is available to cover increased costs for reclassifications and other position requests. The budget amendment includes the reclassification of the Public Affairs / Volunteer Coordinator position and transfer of the vacant position from the Public Affairs Office to the Information Systems department. A vacant Library Assistant position is being reclassified to an Administrative Assistant and transferred to the Parks and Recreation department. In addition, savings are being achieved by reclassifying the vacant full time Assistant to the City Manager position and creating two part time positions. A part time Administrative Assistant is being created to provide administrative assistance in the Engineering department due to additional responsibilities assumed by the City Engineer. A part time Administrative Assistant is being added to the Finance Department to assist the staff with time consuming administrative duties. Salary savings was identified in the City Manager's Office, Library, Building and Development and Fleet Services from position vacancies.

The City Manager along with the functional area Directors will continue to review the daily operations of the City and bring any necessary budget amendments to City Council for approval.

**3. FINANCIAL IMPACT**

See attached ordinance and proposed amendments.

**4. ACTION OPTIONS/RECOMMENDATION**

City staff recommends that the City Council hold a public hearing and approve an ordinance amending the fiscal year 2009-10 Budget.

## ORDINANCE NO. 2010-13

**AN ORDINANCE APPROVING AND ADOPTING AN AMENDMENT TO THE BUDGET FOR OPERATING THE MUNICIPAL GOVERNMENT OF THE CITY OF COPPERAS COVE FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2009, AND ENDING ON SEPTEMBER 30, 2010; REPEALING ALL ORDINANCES AND APPROPRIATIONS IN CONFLICT WITH THE PROVISIONS OF THIS ORDINANCE; AND ESTABLISHING A SAVINGS CLAUSE AND AN EFFECTIVE DATE.**

**WHEREAS,** the City Council desires to amend the operating budget of the municipal government of the City of Copperas Cove for the fiscal year October 1, 2009 to September 30, 2010; and

**WHEREAS,** said budget amendments have been submitted to the City Council by the City Manager in accordance with the City Charter; and

**WHEREAS,** public notices of public hearings upon this budget have been duly and legally made as required by City Charter and law.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COPPERAS COVE:**

### **SECTION I.**

That the City Council of the City of Copperas Cove ratify, approve and adopt the amendments to the budget considered for the fiscal year of October 1, 2009 to September 30, 2010, as identified in "Attachment A" of this ordinance.

### **SECTION II.**

That all ordinances for which provision has heretofore been made are hereby expressly repealed if in conflict with the provisions of this ordinance.

### **SECTION III.**

That should any part, portion, or section of this ordinance be declared invalid or inoperative or void for any reason by a court of competent jurisdiction, such decision, opinion or judgment shall in no way affect the remaining portions, parts, or sections or parts of section of this ordinance, which provisions shall be, remain and continue to be in full force and effect.

**SECTION IV.**

That this ordinance shall take effect and be in full force and effect from and after its passage and publication according to law.

**PASSED, APPROVED AND ADOPTED** this 2nd day of March 2010, at a regular called meeting of the City Council of the City of Copperas Cove, Texas, which meeting was held in compliance with the Open Meetings Act, *Tex. Gov't Code* 551.001, et.seq., at which meeting a quorum was present and voting.

\_\_\_\_\_  
John Hull, Mayor

**ATTEST:**

\_\_\_\_\_  
Jane Lees, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Denton, Navarro, Rocha  
& Bernal, P.C., City Attorney

**CITY OF COPPERAS COVE, TEXAS  
FISCAL YEAR 2009-10 BUDGET  
GENERAL FUND**

Ordinance No. 2020-14 - Attachment A

**SUMMARY OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE**

Description	Actual FY 2008-09	Adopted FY 2009-10	Proposed Amendment	Amended Budget FY 2009-10
<b>BEGINNING FUND BALANCE:</b>				
Unreserved, Undesignated	\$ 3,259,675	\$ 3,292,395	\$ -	\$ 3,292,395
Prior Yr Enc Voided in Current Yr	125	-	-	-
Prior Period Adjustment	76,952	-	-	-
Unreserved, Designated	1,000,000	1,000,000	-	1,000,000
<b>TOTAL BEGINNING FUND BALANCE</b>	<b>\$ 4,336,752</b>	<b>\$ 4,292,395</b>	<b>\$ -</b>	<b>\$ 4,292,395</b>
<b>REVENUES:</b>				
Taxes	\$ 10,689,885	\$ 10,879,365	\$ -	\$ 10,879,365
Permits & Licenses	171,361	180,870	-	180,870
Charges for Services	887,869	898,510	-	898,510
Fines	868,420	919,398	-	919,398
Administrative Reimbursements	1,260,441	1,250,500	-	1,250,500
Miscellaneous Revenue	401,419	367,882	-	367,882
<b>TOTAL REVENUES</b>	<b>\$ 14,279,395</b>	<b>\$ 14,496,525</b>	<b>\$ -</b>	<b>\$ 14,496,525</b>
<b>TOTAL FUNDS AVAILABLE</b>	<b>\$ 18,616,147</b>	<b>\$ 18,788,920</b>	<b>\$ -</b>	<b>\$ 18,788,920</b>
<b>EXPENDITURES:</b>				
City Council (21)	\$ 24,177	\$ 41,399	\$ -	\$ 41,399
City Manager (22)	256,939	280,542	(14,520)	266,022
City Secretary (23)	165,440	152,822	-	152,822
City Attorney (24)	218,056	87,922	-	87,922
Finance (31)	621,029	717,340	6,571	723,911
Human Resources (34)	236,631	300,272	-	300,272
Public Affairs Office (4250)	108,657	113,942	(28,767)	85,175
Information Systems (35)	238,778	247,899	28,767	276,666
Municipal Court (41)	320,035	412,634	-	412,634
Police (42)	4,279,761	4,807,019	-	4,807,019
Animal Control (43)	205,542	234,331	-	234,331
Fire/EMS (44)	3,103,956	3,295,351	-	3,295,351
Emergency Management (4420)	3,526	7,359	-	7,359
Engineering (51)	147,911	155,210	31,571	186,781
Streets (53)	682,797	881,387	-	881,387
Fleet Services (55)	245,785	255,003	(4,492)	250,511
Facility Maintenance (57)	101,294	105,730	-	105,730
Planning (61)	164,239	102,717	-	102,717
Building Development (52)	237,846	275,707	(11,630)	264,077
Code & Health (72)	186,836	218,150	-	218,150
Parks and Recreation (54)	984,070	1,077,549	16,509	1,094,058
Library (71)	478,059	557,032	(24,009)	533,023
Non-Departmental (75)	567,356	680,711	-	680,711
<b>TOTAL EXPENDITURES</b>	<b>\$ 13,578,724</b>	<b>\$ 15,008,028</b>	<b>\$ -</b>	<b>\$ 15,008,028</b>
<b>OTHER EXPENDITURES:</b>				
Capital Outlay	\$ -	\$ 27,200	\$ -	\$ 27,200
<b>TOTAL OTHER EXPENDITURES</b>	<b>\$ -</b>	<b>\$ 27,200</b>	<b>\$ -</b>	<b>\$ 27,200</b>
<b>TOTAL EXPENDITURES</b>	<b>\$ 13,578,724</b>	<b>\$ 15,035,228</b>	<b>\$ -</b>	<b>\$ 15,035,228</b>
<b>ENDING FUND BALANCE:</b>				
Unreserved, Undesignated	\$ 4,037,423	\$ 2,753,692	\$ -	\$ 2,753,692
Unreserved, Designated	1,000,000	1,000,000	-	1,000,000
<b>TOTAL ENDING FUND BALANCE</b>	<b>\$ 5,037,423</b>	<b>\$ 3,753,692</b>	<b>\$ -</b>	<b>\$ 3,753,692</b>
<b>IDEAL FUND BALANCE</b>	<b>\$ 3,394,681</b>	<b>\$ 3,752,007</b>	<b>\$ -</b>	<b>\$ 3,752,007</b>
<b>OVER (UNDER) IDEAL FUND BALANCE</b>	<b>\$ 1,642,741</b>	<b>\$ 1,685</b>	<b>\$ -</b>	<b>\$ 1,685</b>

\*The budget reflects 2009-10 budget amendments that were approved by City Council on October 13th and November 3rd.

## NOTICE OF PUBLIC HEARING

On March 2, 2010, during a City Council Meeting, the City Council of the City of Copperas Cove will hold a public hearing on the ordinance to amend the FY 2009-10 Budget for the City of Copperas Cove. The March 2, 2010 City Council Meeting will begin at 7:00 pm and will be held in the City Council Chambers at City Hall, 507 South Main Street, Copperas Cove, Texas 76522.

The proposed amendments to the FY 2009-10 Annual Budget are as follows:

<b>General Fund</b>	<b>Increase (Decrease)</b>
Expenditure Appropriations	
City Manager	(\$14,520)
Finance	\$6,571
Public Affairs Office	(\$28,767)
Information Systems	\$28,767
Engineering	\$31,571
Fleet Services	(\$4,492)
Building and Development	(\$11,630)
Parks and Recreation	\$16,509
Library	(\$24,009)

# City of Copperas Cove City Council Agenda Item Report

March 2, 2010

## Agenda Item H-4

Contact – Wanda Bunting, Director of Financial Services, 547-4221  
wbunting@ci.copperas-cove.tx.us

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**SUBJECT: Public hearing and action on an ordinance amending the 2009-10 fiscal year budget for the City of Copperas Cove for allocation of Contingency funds.**

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### 1. BACKGROUND/HISTORY

The 2009-10 budget was adopted on September 15, 2009, with budget amendments approved on October 13, 2009 and November 3, 2009. According to Section 6.16(b)(1) of the Copperas Cove City Charter, in order for the City Council to amend the 2009-10 budget, it must first hold a public hearing on the proposed amendments. The Charter also provides a requirement that when fund balance is to be used to fund increases in expenditures that two public hearings be held. The proposed budget amendment does not require the use of fund balance. The public hearing on March 2, 2010 is sufficient as required by the Charter.

### 2. FINDINGS/CURRENT ACTIVITY

The net impact to the General Fund is zero. The budget amendment allocates \$20,661 in contingency funds. Fire Department requires \$6,750 to cover costs for furniture and minor equipment at Fire Station No. 2. City Hall roof repairs and related office cleaning is estimated at \$3,750. Due to constant changes in information technology prices, additional funds of \$1,286 is required for the final server and computer purchases that were approved in a capital lease purchase and \$200 for electronic equipment required in Council Chambers. To improve efficiency in the agenda process, grant, plat, and contract tracking, City staff has identified software that will benefit the City. The total purchase cost including onsite training is \$17,350 of which staff is funding \$8,675 in the General Fund.

The net impact to the Water and Sewer Fund is zero. The budget amendment allocates \$8,675 in contingency funds for the purchase of tracking modules for the agenda process, grant tracking, plat and contract tracking.

### 3. FINANCIAL IMPACT

See attached ordinance and proposed amendments.

**4. ACTION OPTIONS/RECOMMENDATION**

City staff recommends that the City Council hold a public hearing and approve an ordinance amending the fiscal year 2009-10 Budget.

## ORDINANCE NO. 2010-14

**AN ORDINANCE APPROVING AND ADOPTING AN AMENDMENT TO THE BUDGET FOR OPERATING THE MUNICIPAL GOVERNMENT OF THE CITY OF COPPERAS COVE FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2009, AND ENDING ON SEPTEMBER 30, 2010; REPEALING ALL ORDINANCES AND APPROPRIATIONS IN CONFLICT WITH THE PROVISIONS OF THIS ORDINANCE; AND ESTABLISHING A SAVINGS CLAUSE AND AN EFFECTIVE DATE.**

**WHEREAS,** the City Council desires to amend the operating budget of the municipal government of the City of Copperas Cove for the fiscal year October 1, 2009 to September 30, 2010; and

**WHEREAS,** said budget amendments have been submitted to the City Council by the City Manager in accordance with the City Charter; and

**WHEREAS,** public notices of public hearings upon this budget have been duly and legally made as required by City Charter and law.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COPPERAS COVE:**

### **SECTION I.**

That the City Council of the City of Copperas Cove ratify, approve and adopt the amendments to the budget considered for the fiscal year of October 1, 2009 to September 30, 2010, as identified in "Attachment A" of this ordinance.

### **SECTION II.**

That all ordinances for which provision has heretofore been made are hereby expressly repealed if in conflict with the provisions of this ordinance.

### **SECTION III.**

That should any part, portion, or section of this ordinance be declared invalid or inoperative or void for any reason by a court of competent jurisdiction, such decision, opinion or judgment shall in no way affect the remaining portions, parts, or sections or parts of section of this ordinance, which provisions shall be, remain and continue to be in full force and effect.

**SECTION IV.**

That this ordinance shall take effect and be in full force and effect from and after its passage and publication according to law.

**PASSED, APPROVED AND ADOPTED** this 2nd day of March 2010, at a regular called meeting of the City Council of the City of Copperas Cove, Texas, which meeting was held in compliance with the Open Meetings Act, *Tex. Gov't Code* 551.001, et.seq., at which meeting a quorum was present and voting.

\_\_\_\_\_  
John Hull, Mayor

**ATTEST:**

\_\_\_\_\_  
Jane Lees, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Denton, Navarro, Rocha  
& Bernal, P.C., City Attorney

**CITY OF COPPERAS COVE, TEXAS  
FISCAL YEAR 2009-10 BUDGET  
GENERAL FUND**

Ordinance 2010-14 - Attachment A

**SUMMARY OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE**

Description	Actual FY 2008-09	Adopted FY 2009-10	Proposed Amendment	Amended Budget FY 2009-10
<b>BEGINNING FUND BALANCE:</b>				
Unreserved, Undesignated	\$ 3,259,675	\$ 3,292,395	\$ -	\$ 3,292,395
Prior Yr Enc Voided in Current Yr	125	-	-	-
Prior Period Adjustment	76,952	-	-	-
Unreserved, Designated	1,000,000	1,000,000	-	1,000,000
<b>TOTAL BEGINNING FUND BALANCE</b>	<b>\$ 4,336,752</b>	<b>\$ 4,292,395</b>	<b>\$ -</b>	<b>\$ 4,292,395</b>
<b>REVENUES:</b>				
Taxes	\$ 10,689,885	\$ 10,879,365	\$ -	\$ 10,879,365
Permits & Licenses	171,361	180,870	-	180,870
Charges for Services	887,869	898,510	-	898,510
Fines	868,420	919,398	-	919,398
Administrative Reimbursements	1,260,441	1,250,500	-	1,250,500
Miscellaneous Revenue	401,419	367,882	-	367,882
<b>TOTAL REVENUES</b>	<b>\$ 14,279,395</b>	<b>\$ 14,496,525</b>	<b>\$ -</b>	<b>\$ 14,496,525</b>
<b>TOTAL FUNDS AVAILABLE</b>	<b>\$ 18,616,147</b>	<b>\$ 18,788,920</b>	<b>\$ -</b>	<b>\$ 18,788,920</b>
<b>EXPENDITURES:</b>				
City Council (21)	\$ 24,177	\$ 41,399	\$ -	\$ 41,399
City Manager (22)	256,939	266,022	-	266,022
City Secretary (23)	165,440	152,822	-	152,822
City Attorney (24)	218,056	87,922	-	87,922
Finance (31)	621,029	723,911	-	723,911
Human Resources (34)	236,631	300,272	-	300,272
Public Affairs Office (4250)	108,657	85,175	-	85,175
Information Systems (35)	238,778	276,666	-	276,666
Municipal Court (41)	320,035	412,634	-	412,634
Police (42)	4,279,761	4,807,019	-	4,807,019
Animal Control (43)	205,542	234,331	-	234,331
Fire/EMS (44)	3,103,956	3,295,351	6,750	3,302,101
Emergency Management (4420)	3,526	7,359	-	7,359
Engineering (51)	147,911	186,781	-	186,781
Streets (53)	682,797	881,387	-	881,387
Fleet Services (55)	245,785	250,511	-	250,511
Facility Maintenance (57)	101,294	105,730	-	105,730
Planning (61)	164,239	102,717	-	102,717
Building Development (52)	237,846	264,077	-	264,077
Code & Health (72)	186,836	218,150	-	218,150
Parks and Recreation (54)	984,070	1,094,058	-	1,094,058
Library (71)	478,059	533,023	-	533,023
Non-Departmental (75)	567,356	680,711	(6,750)	673,961
<b>TOTAL EXPENDITURES</b>	<b>\$ 13,578,724</b>	<b>\$ 15,008,028</b>	<b>\$ -</b>	<b>\$ 15,008,028</b>
<b>OTHER EXPENDITURES:</b>				
Capital Outlay	\$ -	\$ 27,200	\$ -	\$ 27,200
<b>TOTAL OTHER EXPENDITURES</b>	<b>\$ -</b>	<b>\$ 27,200</b>	<b>\$ -</b>	<b>\$ 27,200</b>
<b>TOTAL EXPENDITURES</b>	<b>\$ 13,578,724</b>	<b>\$ 15,035,228</b>	<b>\$ -</b>	<b>\$ 15,035,228</b>
<b>ENDING FUND BALANCE:</b>				
Unreserved, Undesignated	\$ 4,037,423	\$ 2,753,692	\$ -	\$ 2,753,692
Unreserved, Designated	1,000,000	1,000,000	-	1,000,000
<b>TOTAL ENDING FUND BALANCE</b>	<b>\$ 5,037,423</b>	<b>\$ 3,753,692</b>	<b>\$ -</b>	<b>\$ 3,753,692</b>
<b>IDEAL FUND BALANCE</b>	<b>\$ 3,394,681</b>	<b>\$ 3,752,007</b>	<b>\$ -</b>	<b>\$ 3,752,007</b>
<b>OVER (UNDER) IDEAL FUND BALANCE</b>	<b>\$ 1,642,741</b>	<b>\$ 1,685</b>	<b>\$ -</b>	<b>\$ 1,685</b>

\*The budget reflects 2009-10 budget amendments that were approved by City Council on October 13th and November 3rd.

**CITY OF COPPERAS COVE  
FISCAL YEAR 2009-10 BUDGET  
WATER & SEWER FUND  
SUMMARY OF REVENUES, EXPENSES AND CHANGES IN FUND BALANCE**

Description	Actual FY 2008-09	Adopted* FY 2009-10	Proposed Amendment	Amended Budget FY 2009-10
<b>BEGINNING FUND BALANCE:</b>				
Unreserved, Undesignated	\$ 1,730,313	\$ 1,765,613	\$ -	\$ 1,765,613
Prior Period Adjustment	81,721	-	-	-
<b>TOTAL BEGINNING FUND BALANCE</b>	<b>\$ 1,812,034</b>	<b>\$ 1,765,613</b>	<b>\$ -</b>	<b>\$ 1,765,613</b>
Water Revenue	\$ 4,943,385	\$ 4,981,455	\$ -	\$ 4,981,455
Sewer Revenue	3,473,199	3,737,155	-	3,737,155
Senior Citizen Discount	(146,977)	(142,000)	-	(142,000)
Water Tap Fees	44,582	35,000	-	35,000
Sewer Tap Fees	14,170	11,500	-	11,500
Connect Fee	56,275	53,000	-	53,000
Meter Box Reset Fee	-	300	-	300
Composting Sales Revenue	15,908	15,000	-	15,000
Subtotal	<u>\$ 8,400,541</u>	<u>\$ 8,691,410</u>	<u>\$ -</u>	<u>\$ 8,691,410</u>
Admin Reimb-Drainage	\$ 20,000	\$ 20,000	\$ -	\$ 20,000
Transfer from Bond Funds	-	300,000	-	300,000
Interest Revenue	23,982	25,000	-	25,000
Late Charge For Billing	246,722	260,000	-	260,000
Miscellaneous Revenues	63,386	54,890	-	54,890
Insurance Proceeds	3,400	-	-	-
Riser Forfeiture Revenue	1,960	2,000	-	2,000
Auction Proceeds	11,338	1,000	-	1,000
Subtotal	<u>\$ 370,788</u>	<u>\$ 662,890</u>	<u>\$ -</u>	<u>\$ 662,890</u>
<b>TOTAL REVENUE</b>	<b>\$ 8,771,329</b>	<b>\$ 9,354,300</b>	<b>\$ -</b>	<b>\$ 9,354,300</b>
<b>TOTAL FUNDS AVAILABLE</b>	<b>\$ 10,583,363</b>	<b>\$ 11,119,913</b>	<b>\$ -</b>	<b>\$ 11,119,913</b>
<b>OPERATING EXPENSES:</b>				
Public Works (80)	\$ 166,941	\$ 175,779	\$ -	\$ 175,779
Utility Administration (81)	564,328	600,323	-	600,323
Water Distribution (82)	1,254,997	1,321,590	-	1,321,590
Sewer Collection (83)	469,055	544,924	-	544,924
Wastewater Treatment (84)	1,217,791	1,323,915	-	1,323,915
Composting (84-01)	166,517	186,215	-	186,215
Non-Departmental (85)	2,700,993	2,932,754	-	2,932,754
<b>TOTAL OPERATING EXPENSES</b>	<b>\$ 6,540,620</b>	<b>\$ 7,085,500</b>	<b>\$ -</b>	<b>\$ 7,085,500</b>
<b>OTHER EXPENSES:</b>				
Capital Outlay	\$ -	\$ 31,835	\$ -	\$ 31,835
Principal & Int Debt Pymts	2,807,470	2,797,847	-	2,797,847
Principal & Int Pymts in Bond Funds	(1,135,505)	(430,000)	-	(430,000)
Transfer to Bond Funds	300,000	25,500	-	25,500
<b>TOTAL OTHER EXPENSES</b>	<b>\$ 1,971,965</b>	<b>\$ 2,425,182</b>	<b>\$ -</b>	<b>\$ 2,425,182</b>
<b>TOTAL EXPENSES</b>	<b>\$ 8,512,585</b>	<b>\$ 9,510,682</b>	<b>\$ -</b>	<b>\$ 9,510,682</b>
<b>ENDING FUND BALANCE:</b>				
Unreserved, Undesignated	\$ 2,070,778	\$ 1,609,231	\$ -	\$ 1,609,231
<b>TOTAL ENDING FUND BALANCE</b>	<b>\$ 2,070,778</b>	<b>\$ 1,609,231</b>	<b>\$ -</b>	<b>\$ 1,609,231</b>
<b>IDEAL FUND BALANCE</b>	<b>\$ 1,635,155</b>	<b>\$ 1,771,375</b>	<b>\$ -</b>	<b>\$ 1,771,375</b>
<b>OVER (UNDER) IDEAL FUND BALANCE</b>	<b>\$ 435,623</b>	<b>\$ (162,144)</b>	<b>\$ -</b>	<b>\$ (162,144)</b>

\*The budget reflects 2009-10 budget amendments that were approved by City Council on October 13th and November 3rd.

## NOTICE OF PUBLIC HEARING

On March 2, 2010, during a City Council Meeting, the City Council of the City of Copperas Cove will hold a public hearing on the ordinance to amend the FY 2009-10 Budget for the City of Copperas Cove. The March 2, 2010 City Council Meeting will begin at 7:00 pm and will be held in the City Council Chambers at City Hall, 507 South Main Street, Copperas Cove, Texas 76522.

The proposed amendments to the FY 2009-10 Annual Budget are as follows:

	<b>Increase (Decrease)</b>
<b>General Fund</b>	
Expenditure Appropriations	
Fire Department	\$6,750
Non-Departmental	
Repair and Maintenance	\$1,286
Minor Equipment	\$3,750
Equipment-Electronic	\$ 200
Equipment-Software	\$8,675
Contingency	(\$20,661)
<b>Water and Sewer Fund</b>	
Expenditure Appropriations	
Non-Departmental	
Equipment-Software	\$8,675
Contingency	(\$8,675)

# City of Copperas Cove

## City Council Agenda Item Report

March 2, 2010

### Agenda Item No. I-1

Contact – Kelli Sames, Human Resources Director, 542-8922  
ksames@ci.copperas-cove.tx.us

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**SUBJECT: Consideration and action on an ordinance amending Sections B and D of Personnel Policy No. 416, Dress and Personal Appearance.**

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**1. BACKGROUND/HISTORY**

The City of Copperas Cove currently has in effect an **Employee Personnel Policies and Procedures Manual** that was adopted by City Council August 15, 2006 with an effective date of September 1, 2006. Many revisions to the personnel policies and procedures have taken place since the original adoption.

**2. FINDINGS/CURRENT ACTIVITY**

Included in the manual is Personnel Policy No. 416, Dress and Personal Appearance. The policy establishes the appearance standards for City employees.

Certain personnel are provided with uniforms due to the assigned job duties. Consequently there are positions that do not require uniforms and employees are expected to wear apparel that is appropriate for the work environment.

The City Manager, Department Directors and the Human Resources Director recommend the policy be amended to allow the City to provide non-uniformed employees an annual allowance of \$50 that would be used to purchase City of Copperas Cove logo shirts. These shirts would be approved for employees to wear in the work place.

In addition staff recommends that the policy be amended to allow employees to wear presentable City of Copperas Cove t-shirts on designated casual days, currently Friday of the work week.

**3. FINANCIAL IMPACT**

At the current staffing level the following funds, on an annual basis, would have an estimated impact of -

General Fund - \$2,600  
Golf Course Fund - \$250  
Drainage Fund - \$25  
Water and Sewer Fund - \$450  
Solid Waste Fund - \$225

Current fiscal year amounts will be funded with budget transfers within each department. Therefore, no additional appropriation is required.

**4. ACTION OPTIONS/RECOMMENDATION**

The Human Resources Department recommends approval on an ordinance amending Sections B and D of Personnel Policy No. 416, Dress and Personal Appearance.

**ORDINANCE NO. 2010-12**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS, APPROVING THE ATTACHED PERSONNEL POLICIES AND PROCEDURES OF THE CITY OF COPPERAS COVE BY AMENDING SECTIONS B AND D OF THE CURRENT PERSONNEL POLICY, NO. 416, (DRESS AND PERSONAL APPEARANCE) AND RATIFYING THE REMAINING SECTIONS OF THE PERSONNEL POLICIES AND PROCEDURES MANUAL; AND DECLARING AN EFFECTIVE DATE.**

**WHEREAS,** The City of Copperas Cove has not updated this ordinance since September 15, 2009.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS:**

**Section 1.**

That the Personnel Policies and Procedures Manual dated September 1, 2006, hereinafter set forth and included with this Ordinance as Exhibit "A" is hereby amended by revising Sections B and D to personnel policy, No. 416, (Dress and Personal Appearance);

This revised personnel policy, No. 416, Dress and Personal Appearance correctly shown by the attached Exhibit "A";

**Section 2.**

That the remaining sections of the said Personnel Policies and Procedures Manual are hereby ratified, and shall remain in full force and effect;

**Section 3.**

That any outstanding Personnel Polices and Procedures Manuals other than Exhibit "A" either in the form of a manual or otherwise written or oral in nature, are hereby rescinded and are no longer of any force and effect;

**Section 4.**

That any additions, deletions or other amendments to the Personnel Polices and Procedures Manual shall be made in a manner similar to process by which this manual is originally approved and only after compliance with the Texas Open Meetings Act and approved by the City Council of the City of Copperas Cove.

**Section 5.**

That should any section, clause, or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this ordinance or any other ordinance of the city as a whole or any part thereof, other than the part so declared to be invalid.

**Section 6.**

That this ordinance shall be effective March 2, 2010.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF COPPERAS COVE. TEXAS**, this 2nd day of March 2010, such meeting held in compliance with the Open Meeting Act (Texas Government Code, Chapter 551.001 et.seq.), at which a quorum was present and voting.

\_\_\_\_\_  
John Hull, Mayor

**ATTEST:**

\_\_\_\_\_  
Jane Lees, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Denton, Navarro, Rocha  
& Bernal, P.C., City Attorney

**DRESS AND PERSONAL APPEARANCE**  
**Policy #416**

March 2010

This policy applies to all employees of the City of Copperas Cove.

Appearance standards are necessary in order to secure the safest environment for each employee, as well as project a positive and professional image to the public. Employees are expected to dress according to departmental policies as approved by the City Manager. Department Directors and supervisors are responsible for administering and enforcing this policy to ensure that employees maintain a neat, professional and well-groomed appearance.

Attire that is of extreme design, revealing in nature, or conveys messages of a derogatory or offensive nature through language, tattoos, logos or symbols is prohibited. Attire generally refers to clothing. Tattoos refer to coloring the skin. Hair styles must be appropriate to the employee's position. Any extreme haircut style or color is also prohibited. Logos or symbols of any association, club, or group, not sponsored or supported by the City are also prohibited on any article of clothing. Clothing that endorses alcohol, tobacco, drugs, or pornography is not permitted. Nose rings/studs, eyebrow rings/studs, tongue studs, ear spacers, and similar type facial jewelry is not permitted. Removable dental prosthesis (e.g. partial, denture,) are acceptable in the workplace. Removable cosmetic and/or decorative enhancements on teeth are not permitted in the workplace.

Any policy regarding tattoos/body art will be made and enforced at the department level.

Appropriate appearance includes:

A. Uniformed Personnel. Certain personnel are provided with uniforms due to the nature of their job duties. Uniformed employees shall display a neat, professional, and fully dressed appearance in public while wearing the City of Copperas Cove issued uniform. Shirrtails shall be tucked in and belts utilized. Conservative suspenders are acceptable. Hats/caps, as required, will be issued by the City. Uniforms may not be used outside of work, for personal use or by any third party. Uniforms may only be used in connection with outside employment with the Department Director's prior written authorization. Uniform attire that is not City issued/approved is prohibited.

Any policy regarding inclement weather uniforms and footwear will be made and enforced at the department level.

No dangling or extreme jewelry may be worn during working hours. This includes jewelry on the facial area to include earrings/studs in the nose, tongue, or eyebrow, etc.

**DRESS AND PERSONAL APPEARANCE**  
**Policy #416**

March 2010

Female employees may wear earrings as long as they are single stud limited to one pair. No loops or dangling ornamental earrings will be worn.

Male employees will not wear earrings.

- B. Non-Uniformed Personnel. Other departments that do not require uniforms are expected to wear conservative daytime apparel that is appropriate for their work environment. Clothing that is overly revealing or extremely tight is not acceptable. Employees should maintain an appropriate appearance that is business like, neat and clean as determined by the requirements of the area in which the employee works. At no time will t-shirts, tank tops, mini skirts, sun dresses with shoestring straps, halter tops, see-through, body-hugging, low-cut (front or back), attire that exposes the midriff, back, or shoulders, etc. be acceptable for daily wear.

When meeting with the public (e.g. attending City Council meetings, etc) employees must take special care to dress professionally and appropriately for the circumstances.

Full time and regular part-time non-uniformed personnel, not to include temporary or seasonal employees, will be allotted an annual amount (October 1<sup>st</sup> - September 30<sup>th</sup>) of up to a \$50 shirt allowance to include shipping and handling to purchase City of Copperas Cove logo shirts. Any amount above \$50 will be at the City employee's expense.

The logo shirt purchased must be approved by the Department Director. Each department will be responsible for ordering eligible personnel logo shirts.

No extreme jewelry may be worn during working hours. This includes jewelry on the facial area to include earrings/studs in the nose, tongue, eyebrow, etc.

Female employees may wear up to two earrings in each ear as long as they are conservative and not extreme in nature.

Male employees will not wear earrings.

- C. Grooming.

Females: The hair must be clean, well-groomed, and neat. It must not be dyed with extravagant colors. Hair will be worn in such a fashion as to not interfere with performance of duty or safety. Fingernails and toenails (if wearing open-toed shoes) must be well-groomed and not painted with extravagant colors.

**DRESS AND PERSONAL APPEARANCE**  
**Policy #416**

March 2010

Nail length shall not interfere with job performance. No ornamental items shall be worn on fingernails or toenails. Makeup will be conservatively worn and may not be extreme in nature (e.g. glittering, excessive, gaudy, etc.).

Males: The hair must be clean, well-groomed, and neat. It must not be dyed with extravagant colors. Hair will be worn in such a fashion as to not interfere with performance of duty or safety. Fingernails shall be well-groomed and the length shall not interfere with job performance. Beards, mustaches or sideburns shall be neatly trimmed and well-groomed. Handlebar mustaches and sideburns of an exotic nature (e.g., "pork chops") are prohibited.

- D. Casual Day. Friday is casual day. A "City of Copperas Cove" collared shirt or other appropriate casual attire can be worn on this day. (This shirt may be ordered from the Human Resources Department.) This includes presentable City of Copperas Cove t-shirts. The "casual day" does not apply to employees that are required to wear City uniforms, unless approved by the employee's supervisor.
- E. Personal Hygiene. Employees will maintain clean hygiene and shall not wear excessive cologne/perfume.

V. PROCEDURE

The Department Director and/or supervisor are responsible to evaluate the dress and appearance of employees under their supervision. If an employee is not dressed appropriately, the following steps should be taken:

- A. On the first occasion, an oral warning should be given to the employee and the employee will be sent home to correct the violation immediately. Non-exempt employees will not be paid for work time missed and exempt employees will be required to make up the work time missed.
- B. Further violations may result in additional discipline, up to and including termination of employment.

DEFINITIONS

Extreme: For the purpose of this policy, extreme is defined as exceeding established norms for a conventional, conservative workplace, as determined by the City.

Well-Groomed: For the purpose of this policy with regard to hair, beards, mustaches, or sideburns, well-groomed is defined as hair that is maintained, clean, neatly combed or

**DRESS AND PERSONAL APPEARANCE**  
**Policy #416**

March 2010

brushed, does not present a ragged or unkempt appearance, and meets the guidelines established herein.

(Police, Fire, and the Parks and Recreation Departments are regulated by additional rules by the Department Director.)

# City of Copperas Cove

## City Council Agenda Item Report

March 2, 2010

### Agenda Item I-2

Contact –Andrea M. Gardner, City Manager, 547-4221  
agardner@ci.copperas-cove.tx.us

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SUBJECT: **Consideration and action on authorizing the City Manager to execute a Pipeline License Agreement with BNSF Railway Company for placement of a wastewater line in conjunction with the East End Infrastructure (Northeast Sewer Line) project.**

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#### 1. BACKGROUND/HISTORY

In October 2007, the City Council adopted the FY 2010-2014 Capital Improvement Plan that included the Northeast Sewer Line project. The project was determined critical to economic development in the Copperas Cove Business Park since adding additional service to the existing system would create constant overflows.

On January 19, 2010, the City Council approved a reimbursement resolution to allow expenditures incurred prior to debt issuance to be reimbursed from the bond funds after the debt issuance occurs. Furthermore, the Council approved an Interlocal Agreement with the Copperas Cove EDC providing temporary funding for the project in an amount not to exceed \$850,000 until such time as bonds are issued or prior to September 30, 2010. Also, Council awarded the construction contract to Lupe Rubio Construction, Inc. on January 19, 2010 for Phase I of the project.

#### 2. FINDINGS/CURRENT ACTIVITY

River City Engineering completed a request for an easement from BNSF Railway for the placement of a wastewater line included in the scope of the project. As a result, the City received the attached Pipeline License Agreement for approval and execution by the City.

The attached agreement was reviewed by the City Attorney and the Texas Municipal League Intergovernmental Risk Pool (TML-IRP). TML-IRP will provide the required documents; however, the City's policy does not cover Railroad Protective Liability insurance.

**3. FINANCIAL IMPACT**

Approval of the agreement will require payment of \$2,500 for the contract fee(s), a \$600 processing fee and \$1,000 for BNSF's Railroad Protective Policy.

**4. ACTION OPTIONS/RECOMMENDATION**

City staff recommends that the City Council authorize the City Manager to execute a Pipeline License Agreement with BNSF Railway Company for placement of a wastewater line in conjunction with the East End Infrastructure (Northeast Sewer Line) project.

**PIPELINE LICENSE**

THIS LICENSE ("License"), made as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ ("Effective Date") by and between BNSF RAILWAY COMPANY, a Delaware corporation ("Licensor") and CITY OF COPPERAS COVE, a Texas corporation ("Licensee").

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties agree to the following:

**GENERAL**

1. Licensor hereby grants Licensee a non-exclusive license, subject to all rights, interests, and estates of third parties, including, without limitation, any leases, use rights, easements, liens, or other encumbrances, and upon the terms and conditions set forth below, to construct and maintain, in strict accordance with the drawings and specifications approved by Licensor as part of Licensee's application process (the "Drawings and Specifications"), One (1) Pipeline(s), twelve inches in diameter inside a twenty-four inch steel casing ("PIPELINE"), across or along the rail corridor of Licensor at or near the station of Copperas Cove, County of Coryell, State of Texas, Line Segment 7608, Mile Post 252.39, as shown on the attached Drawing No. 1-47808, dated October 12, 2009, attached hereto as Exhibit "A" and made a part hereof ("Premises").
2. Licensee shall not disturb any improvements of Licensor or Licensor's existing lessees, Licensees, easement beneficiaries or lien holders, if any, or interfere with the use of such improvements.
3. Licensee shall use the Premises solely for construction and maintenance of a PIPELINE in accordance with the Drawings and Specifications carrying waste water. Licensee shall not use the PIPELINE to carry any other commodity or use the Premises for any other purpose.

Licensee covenants that it will not handle or transport "hazardous waste" or "hazardous substances", as "hazardous waste" and "hazardous substances" may now or in the future be defined by any federal, state, or local governmental agency or body through the PIPELINE on Licensor's property. Licensee agrees periodically to furnish Licensor with proof, satisfactory to Licensor that Licensee is in such compliance. Should Licensee not comply fully with the above-stated obligations of this Section, notwithstanding anything contained in any other provision hereof, Licensor may, at its option, terminate this License by serving five (5) days' notice of termination upon Licensee. Upon termination, Licensee shall remove the PIPELINE and restore Licensor's property as herein elsewhere provided.

4. In case of the eviction of Licensee by anyone owning or claiming title to or any interest in the Premises, or by the abandonment by Licensor of the affected rail corridor, Licensor shall not be liable to refund Licensee any compensation paid hereunder, except for the pro-rata part of any recurring charge paid in advance, or for any damage Licensee sustains in connection therewith.
5. Any contractors or subcontractors performing work on the PIPELINE or entering the Premises on behalf of Licensee shall be deemed servants and agents of Licensee for purposes of this License.

**TERM**

6. This License shall commence on the Effective Date and shall continue for a period of twenty-five (25) years, subject to prior termination as hereinafter described.

**COMPENSATION**

7. (a) Licensee shall pay Licensor, prior to the Effective Date, the sum of Two Thousand Five Hundred and No/100 Dollars (\$2,500.00) as compensation for the use of the Premises.
- (b) Licensee agrees to reimburse Licensor (within thirty (30) days after receipt of bills therefor) for all costs and expenses incurred by Licensor in connection with Licensee's use of the Premises or the presence, construction and maintenance of the PIPELINE, including but not limited to the furnishing of Licensor's Flagman and any vehicle rental costs incurred. The cost of flagger services provided by the Railway, when deemed necessary by the Railway's representative, will be borne by the Licensee. The estimated cost for one (1) flagger is \$800.00 for an eight (8) hour basic day with time and one-half or double time for overtime, rest days and holidays. The estimated cost for each flagger includes vacation allowance, paid holidays, Railway and unemployment insurance, public liability and property damage insurance, health and welfare benefits, transportation, meals, lodging and supervision. Negotiations for Railway labor or collective bargaining agreements and rate changes authorized by appropriate Federal authorities may increase actual or estimated flagging rates. The flagging rate in effect at the time of performance by the Contractor hereunder will be used to calculate the actual costs of flagging pursuant to this paragraph.
- (c) All invoices are due thirty (30) days after the date of invoice. In the event that Licensee shall fail to pay any monies due to Licensor within thirty (30) days after the invoice date, then Licensee shall pay interest on such unpaid sum from thirty (30) days after its invoice date to the date of payment by Licensee at an annual rate equal to (i) the greater of (a) for the period January 1 through June 30, the prime rate last published in *The Wall Street Journal* in the preceding December plus two and one-half percent (2 1/2%), and for the period July 1 through December 31, the prime rate last published in *The Wall Street Journal* in the preceding June plus two and one-half percent (2 1/2%), or (b) twelve percent (12%), or (ii) the maximum rate permitted by law, whichever is less.

**COMPLIANCE WITH LAWS**

8. (a) Licensee shall observe and comply with any and all laws, statutes, regulations, ordinances, orders, covenants, restrictions, or decisions of any court of competent jurisdiction ("Legal Requirements") relating to the construction, maintenance, and use of the PIPELINE and the use of the Premises.
- (b) Prior to entering the Premises, Licensee shall and shall cause its contractor to comply with all Licensor's applicable safety rules and regulations. Prior to commencing any work on the Premises, Licensee shall complete and shall require its contractor to complete the safety-training program at the following

Internet Website "<http://www.contractororientation.com>". This training must be completed no more than one year in advance of Licensee's entry on the Premises.

**DEFINITION OF COST AND EXPENSE**

9. For the purpose of this License, "cost" or "costs" "expense" or "expenses" includes, but is not limited to, actual labor and material costs including all assignable additives, and material and supply costs at current value where used.

**RIGHT OF LICENSOR TO USE**

10. Licensor excepts and reserves the right, to be exercised by Licensor and any other parties who may obtain written permission or authority from Licensor:
- (a) to maintain, renew, use, operate, change, modify and relocate any existing pipe, power, communication lines and appurtenances and other facilities or structures of like character upon, over, under or across the Premises;
  - (b) to construct, maintain, renew, use, operate, change, modify and relocate any tracks or additional facilities or structures upon, over, under or across the Premises; or
  - (c) to use the Premises in any manner as the Licensor in its sole discretion deems appropriate, provided Licensor uses all commercially reasonable efforts to avoid material interference with the use of the Premises by Licensee for the purpose specified in Section 3 above.

**LICENSEE'S OPERATIONS**

11. (a) Licensee shall notify Licensor's Roadmaster at 500 Coggin Avenue, Brownwood, Texas 76801, telephone (325) 643-7267 or call (713) 408-6176, at least ten (10) business days prior to installation of the PIPELINE and prior to entering the Premises for any subsequent maintenance thereon.
- (b) In performing the work described in Section 3, Licensee shall use only public roadways to cross from one side of Licensor's tracks to the other.
12. (a) Under no conditions shall Licensee be permitted to conduct any tests, investigations or any other activity using mechanized equipment and/or machinery, or place or store any mechanized equipment, tools or other materials, within twenty-five (25) feet of the centerline of any railroad track on the Premises unless Licensee has obtained prior written approval from Licensor. Licensee shall, at its sole cost and expense, perform all activities on and about the Premises in such a manner as not at any time to be a source of danger to or interference with the existence or use of present or future tracks, roadbed or property of Licensor, or the safe operation and activities of Licensor. If ordered to cease using the Premises at any time by Licensor's personnel due to any hazardous condition, Licensee shall immediately do so. Notwithstanding the foregoing right of Licensor, the parties agree that Licensor has no duty or obligation to monitor Licensee's use of the Premises to determine the safe nature

thereof, it being solely Licensee's responsibility to ensure that Licensee's use of the Premises is safe. Neither the exercise nor the failure by Licensor to exercise any rights granted in this Section will alter the liability allocation provided by this License.

- (b) Licensee shall, at its sole cost and expense, construct and maintain the PIPELINE in such a manner and of such material that it will not at any time be a source of danger to or interference with the existence or use of present or future tracks, roadbed or property of Licensor, or the safe operation and activities of Licensor. Licensor may direct one of its field engineers to observe or inspect the construction and/or maintenance of the PIPELINE at any time for compliance with the Drawings and Specifications. If ordered at any time to halt construction or maintenance of the PIPELINE by Licensor's personnel due to non-compliance with the same or any other hazardous condition, Licensee shall immediately do so. Notwithstanding the foregoing right of Licensor, the parties agree that Licensor has no duty or obligation to observe or inspect, or to halt work on, the PIPELINE, it being solely Licensee's responsibility to ensure that the PIPELINE is constructed in strict accordance with the Drawings and Specifications and in a safe and workmanlike manner in compliance with all terms hereof. Neither the exercise nor the failure by Licensor to exercise any right granted by this Section will alter in any way the liability allocation provided by this License. If at any time Licensee shall, in the sole judgment of Licensor, fail to properly perform its obligations under this Section, Licensor may, at its option and at Licensee's sole expense, arrange for the performance of such work as it deems necessary for the safety of its operations and activities. Licensee shall promptly reimburse Licensor for all costs and expenses of such work, upon receipt of an invoice for the same. Licensor's failure to perform any obligations of Licensee shall not alter the liability allocation hereunder.

13. During the construction and any subsequent maintenance performed on the PIPELINE, Licensee shall perform such work in a manner to preclude damage to the property of Licensor, and preclude interference with the operation of its railroad. The construction of the PIPELINE shall be completed within one (1) year of the Effective Date. Upon completion of the construction of the PIPELINE and after performing any subsequent maintenance thereon, Licensee shall, at Licensee's own cost and expense, restore Licensor's Premises to their former state as of the Effective Date of this License.
14. If at any time during the term of this License, Licensor shall desire the use of its rail corridor in such a manner as would, in Licensor's reasonable opinion, be interfered with by the PIPELINE, Licensee shall, at its sole expense, within thirty (30) days after receiving written notice from Licensor to such effect, make such changes in the PIPELINE as in the sole discretion of Licensor may be necessary to avoid interference with the proposed use of Licensor's rail corridor, including, without limitation, the relocation of the existing or the construction of a new PIPELINE(s).
15. (a) Prior to Licensee conducting any boring work on or about any portion of the Premises, Licensee shall explore the proposed location for such work with hand tools to a depth of at least three (3) feet below the surface of the ground to determine whether pipelines or other structures exist below the surface, provided, however, that in lieu of the foregoing, the Licensee shall have the right to use suitable detection equipment or other generally accepted industry practice

(e.g., consulting with the Underground Services Association) to determine the existence or location of pipelines and other subsurface structures prior to drilling or excavating with mechanized equipment. Upon Licensee's written request, which shall be made thirty (30) business days in advance of Licensee's requested construction of the PIPELINE, Licensor will provide Licensee any information that Licensor has in the possession of its Engineering Department concerning the existence and approximate location of Licensor's underground utilities and pipelines at or near the vicinity of the proposed PIPELINE. Prior to conducting any such boring work, the Licensee will review all such material. Licensor does not warrant the accuracy or completeness of information relating to subsurface conditions and Licensee's operations will be subject at all times to the liability provisions herein.

- (b) For all bores greater than 26-inch diameter and at a depth less than 10.0 feet below bottom of rail, a soil investigation will need to be performed by the Licensee and reviewed by Licensor prior to construction. This study is to determine if granular material is present, and to prevent subsidence during the installation process. If the investigation determines in Licensor's reasonable opinion that granular material is present, Licensor may select a new location for Licensee's use, or may require Licensee to furnish for Licensor's review and approval, in its sole discretion a remedial plan to deal with the granular material. Once Licensor has approved any such remedial plan in writing, Licensee shall, at its sole cost and expense, carry out the approved plan in accordance with all terms thereof and hereof.
16. Any open hole, boring or well constructed on the Premises by Licensee shall be safely covered and secured at all times when Licensee is not working in the actual vicinity thereof. Following completion of that portion of the work, all holes or borings constructed on the Premises by Licensee shall be:
- (a) filled in to surrounding ground level with compacted bentonite grout; or
  - (b) otherwise secured or retired in accordance with any applicable Legal Requirement. No excavated materials may remain on Licensor's property for more than ten (10) days, but must be properly disposed of by Licensee in accordance with applicable Legal Requirements.
17. Upon termination of this License, Licensee shall, at its sole cost and expense:
- (a) remove the PIPELINE and all appurtenances thereto, or, at the sole discretion of the Licensor, fill and cap or otherwise appropriately decommission the PIPELINE with a method satisfactory to Licensor;
  - (b) report and restore any damage to the Premises arising from, growing out of, or connected with Licensee's use of the Premises;
  - (c) remedy any unsafe conditions on the Premises created or aggravated by Licensee; and
  - (d) leave the Premises in the condition which existed as of the Effective Date of this License.

18. Licensee's on-site supervisions shall retain/maintain a fully executed copy of this License at all times while on the Premises.

**LIABILITY**

19. (a) **TO THE FULLEST EXTENT PERMITTED BY LAW, LICENSEE SHALL RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS LICENSOR AND LICENSOR'S AFFILIATED COMPANIES, PARTNERS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS (COLLECTIVELY, "INDEMNITEES") FOR, FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, FINES, PENALTIES, COSTS, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, DEMANDS, JUDGMENTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, COURT COSTS, ATTORNEYS' FEES AND COSTS OF INVESTIGATION, REMOVAL AND REMEDIATION AND GOVERNMENTAL OVERSIGHT COSTS) ENVIRONMENTAL OR OTHERWISE (COLLECTIVELY "LIABILITIES") OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON OR ENTITY DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO (IN WHOLE OR IN PART):**

**(i) THIS LICENSE, INCLUDING, WITHOUT LIMITATION, ITS ENVIRONMENTAL PROVISIONS,**

**(ii) ANY RIGHTS OR INTERESTS GRANTED PURSUANT TO THIS LICENSE,**

**(iii) LICENSEE'S OCCUPATION AND USE OF THE PREMISES,**

**(iv) THE ENVIRONMENTAL CONDITION AND STATUS OF THE PREMISES CAUSED BY OR CONTRIBUTED BY LICENSEE, OR**

**(v) ANY ACT OR OMISSION OF LICENSEE OR LICENSEE'S OFFICERS, AGENTS, INVITEES, EMPLOYEES, OR CONTRACTORS, OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM, OR ANYONE THEY CONTROL OR EXERCISE CONTROL OVER,**

**EVEN IF SUCH LIABILITIES ARISE FROM OR ARE ATTRIBUTED TO, IN WHOLE OR IN PART, ANY NEGLIGENCE OF ANY INDEMNITEE. THE ONLY LIABILITIES WITH RESPECT TO WHICH LICENSEE'S OBLIGATION TO INDEMNIFY THE INDEMNITEES DOES NOT APPLY ARE LIABILITIES TO THE EXTENT PROXIMATELY CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF AN INDEMNITEE.**

- (b) FURTHER, TO THE FULLEST EXTENT PERMITTED BY LAW, NOTWITHSTANDING THE LIMITATION IN SECTION 19(a), LICENSEE SHALL NOW AND FOREVER WAIVE ANY AND ALL CLAIMS, REGARDLESS WHETHER BASED ON THE STRICT LIABILITY, NEGLIGENCE OR OTHERWISE, THAT RAILROAD IS AN "OWNER", "OPERATOR", "ARRANGER", OR "TRANSPORTER" WITH RESPECT TO THE PIPELINE**

FOR THE PURPOSES OF CERCLA OR OTHER ENVIRONMENTAL LAWS. LICENSEE WILL INDEMNIFY, DEFEND AND HOLD THE INDEMNITEES HARMLESS FROM ANY AND ALL SUCH CLAIMS REGARDLESS OF THE NEGLIGENCE OF THE INDEMNITEES. LICENSEE FURTHER AGREES THAT THE USE OF THE PREMISES AS CONTEMPLATED BY THIS LICENSE SHALL NOT IN ANY WAY SUBJECT LICENSOR TO CLAIMS THAT LICENSOR IS OTHER THAN A COMMON CARRIER FOR PURPOSES OF ENVIRONMENTAL LAWS AND EXPRESSLY AGREES TO INDEMNIFY, DEFEND, AND HOLD THE INDEMNITEES HARMLESS FOR ANY AND ALL SUCH CLAIMS. IN NO EVENT SHALL LICENSOR BE RESPONSIBLE FOR THE ENVIRONMENTAL CONDITION OF THE PREMISES.

- (c) TO THE FULLEST EXTENT PERMITTED BY LAW, LICENSEE FURTHER AGREES, REGARDLESS OF ANY NEGLIGENCE OR ALLEGED NEGLIGENCE OF ANY INDEMNITEE, TO INDEMNIFY, AND HOLD HARMLESS THE INDEMNITEES AGAINST AND ASSUME THE DEFENSE OF ANY LIABILITIES ASSERTED AGAINST OR SUFFERED BY ANY INDEMNITEE UNDER OR RELATED TO THE FEDERAL EMPLOYERS' LIABILITY ACT ("FELA") WHENEVER EMPLOYEES OF LICENSEE OR ANY OF ITS AGENTS, INVITEES, OR CONTRACTORS CLAIM OR ALLEGE THAT THEY ARE EMPLOYEES OF ANY INDEMNITEE OR OTHERWISE. THIS INDEMNITY SHALL ALSO EXTEND, ON THE SAME BASIS, TO FELA CLAIMS BASED ON ACTUAL OR ALLEGED VIOLATIONS OF ANY FEDERAL, STATE OR LOCAL LAWS OR REGULATIONS, INCLUDING BUT NOT LIMITED TO THE SAFETY APPLIANCE ACT, THE BOILER INSPECTION ACT, THE OCCUPATIONAL HEALTH AND SAFETY ACT, THE RESOURCE CONSERVATION AND RECOVERY ACT, AND ANY SIMILAR STATE OR FEDERAL STATUTE.
- (d) Upon written notice from Licensor, Licensee agrees to assume the defense of any lawsuit or other proceeding brought against any Indemnitee by any entity, relating to any matter covered by this License for which Licensee has an obligation to assume liability for and/or save and hold harmless any Indemnitee. Licensee shall pay all costs incident to such defense, including, but not limited to, attorneys' fees, investigators' fees, litigation and appeal expenses, settlement payments, and amounts paid in satisfaction of judgments.

**PERSONAL PROPERTY WAIVER**

- 20. ALL PERSONAL PROPERTY, INCLUDING, BUT NOT LIMITED TO, FIXTURES, EQUIPMENT, OR RELATED MATERIALS UPON THE PREMISES WILL BE AT THE RISK OF LICENSEE ONLY, AND NO INDEMNITEE WILL BE LIABLE FOR ANY DAMAGE THERETO OR THEFT THEREOF, WHETHER OR NOT DUE IN WHOLE OR IN PART TO THE NEGLIGENCE OF ANY INDEMNITEE.

**INSURANCE**

21. Licensee shall, at its sole cost and expense, procure and maintain during the life of this Agreement the following insurance coverage:

- A. **Commercial General Liability Insurance.** This insurance shall contain broad form contractual liability with a combined single limit of a minimum of \$5,000,000 each occurrence and an aggregate limit of at least \$10,000,000. Coverage must be purchased on a post 1998 ISO occurrence or equivalent and include coverage for, but not limited to, the following:
- ◆ Bodily Injury and Property Damage
  - ◆ Personal Injury and Advertising Injury
  - ◆ Fire legal liability
  - ◆ Products and completed operations

This policy shall also contain the following endorsements, which shall be indicated on the certificate of insurance:

- ◆ The employee and workers compensation related exclusions in the above policy shall not apply with respect to claims related to railroad employees.
- ◆ The definition of insured contract shall be amended to remove any exclusion or other limitation for any work being done within 50 feet of railroad property.
- ◆ Any exclusions related to the explosion, collapse and underground hazards shall be removed.

No other endorsements limiting coverage may be included on the policy.

- B. **Business Automobile Insurance.** This insurance shall contain a combined single limit of at least \$1,000,000 per occurrence, and include coverage for, but not limited to the following:
- ◆ Bodily injury and property damage
  - ◆ Any and all vehicles owned, used or hired
- C. **Workers Compensation and Employers Liability Insurance.** This insurance shall include coverage for, but not limited to:
- ◆ Licensee's statutory liability under the worker's compensation laws of the state(s) in which the work is to be performed. If optional under State law, the insurance must cover all employees anyway.
  - ◆ Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 by disease policy limit, \$500,000 by disease each employee.
- D. **Railroad Protective Liability Insurance.** This insurance shall name only the Licensor as the Insured with coverage of at least \$5,000,000 per occurrence and \$10,000,000 in the aggregate. The coverage obtained under this policy shall only be effective during the initial installation and/or construction of the PIPELINE. **THE CONSTRUCTION OF THE PIPELINE SHALL BE COMPLETED WITHIN ONE (1) YEAR OF THE EFFECTIVE DATE.** If further maintenance of the PIPELINE is needed at a later date, an additional Railroad Protective Liability Insurance Policy shall be required. The policy shall be issued on a standard ISO form CG 00 35 10 93 and include the following:

- ◆ Endorsed to include the Pollution Exclusion Amendment (ISO form CG 28 31 10 93)
- ◆ Endorsed to include the Limited Seepage and Pollution Endorsement.
- ◆ Endorsed to include Evacuation Expense Coverage Endorsement.
- ◆ No other endorsements restricting coverage may be added.
- ◆ The original policy must be provided to the Licensor prior to performing any work or services under this Agreement.

In lieu of providing a Railroad Protective Liability Policy, Licensee may participate in Licensor's Blanket Railroad Protective Liability Insurance Policy available to Licensee or its contractor. The limits of coverage are the same as above. The cost is \$1,000.00.

- I elect to participate in Licensor's Blanket Policy;
- I elect not to participate in Licensor's Blanket Policy.

**Other Requirements:**

Where allowable by law, all policies (applying to coverage listed above) shall contain no exclusion for punitive damages and certificates of insurance shall reflect that no exclusion exists.

Licensee agrees to waive its right of recovery against Licensor for all claims and suits against Licensor. In addition, its insurers, through policy endorsement, waive their right of subrogation against Licensor for all claims and suits. The certificate of insurance must reflect waiver of subrogation endorsement. Licensee further waives its right of recovery, and its insurers also waive their right of subrogation against Licensor for loss of its owned or leased property or property under its care, custody, or control.

Licensee's insurance policies through policy endorsement must include wording which states that the policy shall be primary and non-contributing with respect to any insurance carried by Licensor. The certificate of insurance must reflect that the above wording is included in evidenced policies.

All policy(ies) required above (excluding Workers Compensation, Contractor's Pollution Legal Liability and if applicable, Railroad Protective) shall include a severability of interest endorsement and shall name Licensor and Staubach Global Services - RR, Inc. as an additional insured with respect to work performed under this agreement. Severability of interest and naming Licensor and Staubach Global Services - RR, Inc. as additional insureds shall be indicated on the certificate of insurance.

Licensee is not allowed to self-insure without the prior written consent of Licensor. If granted by Licensor, any deductible, self-insured retention or other financial responsibility for claims shall be covered directly by Licensee in lieu of insurance. Any and all Licensor liabilities that would otherwise, in accordance with the provisions of this Agreement, be covered by Licensee's insurance will be covered as if Licensee elected not to include a deductible, self-insured retention, or other financial responsibility for claims.

Prior to commencing the Work, Licensee shall furnish to Licensor an acceptable certificate(s) of insurance including an original signature of the authorized representative evidencing the required coverage, endorsements, and amendments. The policy(ies) shall contain a provision that obligates the insurance company(ies) issuing such policy(ies) to notify Licensor in writing at least 30 days prior to any cancellation, non-renewal, substitution or material alteration. This cancellation provision shall be indicated on the certificate of insurance. In the event of a claim or lawsuit involving Railroad arising out of this agreement, Licensee will make available any required policy covering such claim or lawsuit.

Any insurance policy shall be written by a reputable insurance company acceptable to Licensor or with a current Best's Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the service is to be provided.

Licensee represents that this License has been thoroughly reviewed by Licensee's insurance agent(s)/broker(s), who have been instructed by Licensee to procure the insurance coverage required by this Agreement. Allocated Loss Expense shall be in addition to all policy limits for coverages referenced above.

Not more frequently than once every five years, Licensor may reasonably modify the required insurance coverage to reflect then-current risk management practices in the railroad industry and underwriting practices in the insurance industry.

If any portion of the operation is to be subcontracted by Licensee, Licensee shall require that the subcontractor shall provide and maintain insurance coverages as set forth herein, naming Licensor as an additional insured, and shall require that the subcontractor shall release, defend and indemnify Licensor to the same extent and under the same terms and conditions as Licensee is required to release, defend and indemnify Licensor herein.

Failure to provide evidence as required by this section shall entitle, but not require, Licensor to terminate this License immediately. Acceptance of a certificate that does not comply with this section shall not operate as a waiver of Licensee's obligations hereunder.

The fact that insurance (including, without limitation, self-insurance) is obtained by Licensee shall not be deemed to release or diminish the liability of Licensee including, without limitation, liability under the indemnity provisions of this License. Damages recoverable by Licensor shall not be limited by the amount of the required insurance coverage.

For purposes of this section, Licensor shall mean "Burlington Northern Santa Fe Corporation", "BNSF Railway Company" and the subsidiaries, successors, assigns and affiliates of each.

#### ENVIRONMENTAL

22. (a) Licensee shall strictly comply with all federal, state and local environmental laws and regulations in its use of the Premises, including, but not limited to, the Resource Conservation and Recovery Act, as amended (RCRA), the Clean Water Act, the Oil Pollution Act, the Hazardous Materials Transportation Act,

Form 424; Rev. 04/26/05

CERCLA (collectively referred to as the "Environmental Laws"). Licensee shall not maintain a treatment, storage, transfer or disposal facility, or underground storage tank, as defined by Environmental Laws on the Premises. Licensee shall not release or suffer the release of oil or hazardous substances, as defined by Environmental Laws on or about the Premises.

- (b) Licensee shall give Licensor immediate notice to Licensor's Resource Operations Center at (800) 832-5452 of any release of hazardous substances on or from the Premises, violation of Environmental Laws, or inspection or inquiry by governmental authorities charged with enforcing Environmental Laws with respect to Licensee's use of the Premises. Licensee shall use the best efforts to promptly respond to any release on or from the Premises. Licensee also shall give Licensor immediate notice of all measures undertaken on behalf of Licensee to investigate, remediate, respond to or otherwise cure such release or violation.
- (c) In the event that Licensor has notice from Licensee or otherwise of a release or violation of Environmental Laws arising in any way with respect to the PIPELINE which occurred or may occur during the term of this License, Licensor may require Licensee, at Licensee's sole risk and expense, to take timely measures to investigate, remediate, respond to or otherwise cure such release or violation affecting the Premises or Licensor's right-of-way.
- (d) Licensee shall promptly report to Licensor in writing any conditions or activities upon the Premises known to Licensee which create a risk of harm to persons, property or the environment and shall take whatever action is necessary to prevent injury to persons or property arising out of such conditions or activities; provided, however, that Licensee's reporting to Licensor shall not relieve Licensee of any obligation whatsoever imposed on it by this License. Licensee shall promptly respond to Licensor's request for information regarding said conditions or activities.

#### ALTERATIONS

- 23. Licensee may not make any alterations to the Premises or permanently affix anything to the Premises or any buildings or other structures adjacent to the Premises without Licensor's prior written consent.

#### NO WARRANTIES

- 24. LICENSOR'S DUTIES AND WARRANTIES ARE LIMITED TO THOSE EXPRESSLY STATED IN THIS LICENSE AND SHALL NOT INCLUDE ANY IMPLIED DUTIES OR IMPLIED WARRANTIES, NOW OR IN THE FUTURE. NO REPRESENTATIONS OR WARRANTIES HAVE BEEN MADE BY LICENSOR OTHER THAN THOSE CONTAINED IN THIS LICENSE. LICENSEE HEREBY WAIVES ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE PREMISES OR WHICH MAY EXIST BY OPERATION OF LAW OR IN EQUITY, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, HABITABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

**QUIET ENJOYMENT**

25. LICENSOR DOES NOT WARRANT ITS TITLE TO THE PROPERTY NOR UNDERTAKE TO DEFEND LICENSEE IN THE PEACEABLE POSSESSION OR USE THEREOF. NO COVENANT OF QUIET ENJOYMENT IS MADE.

**DEFAULT**

26. If default shall be made in any of the covenants or agreements of Licensee contained in this document, or in case of any assignment or transfer of this License by operation of law, Licensor may, at its option, terminate this License by serving five (5) days' notice in writing upon Licensee. Any waiver by Licensor of any default or defaults shall not constitute a waiver of the right to terminate this License for any subsequent default or defaults, nor shall any such waiver in any way affect Licensor's ability to enforce any Section of this License. The remedy set forth in this Section 26 shall be in addition to, and not in limitation of, any other remedies that Licensor may have at law or in equity.

**LIENS AND CHARGES**

27. Licensee shall promptly pay and discharge any and all liens arising out of any construction, alterations or repairs done, suffered or permitted to be done by Licensee on Premises. Licensor is hereby authorized to post any notices or take any other action upon or with respect to Premises that is or may be permitted by law to prevent the attachment of any such liens to Premises; provided, however, that failure of Licensor to take any such action shall not relieve Licensee of any obligation or liability under this Section 27 or any other Section of this License. Licensee shall pay when due any taxes, assessments or other charges (collectively, "Taxes") levied or assessed upon the improvements by any governmental or quasi-governmental body or any Taxes levied or assessed against Licensor or the Premises that are attributable to the improvements.

**TERMINATION**

28. This License may be terminated by Licensor, at any time, by serving thirty (30) days' written notice of termination upon Licensee. This License may be terminated by Licensee upon execution of Licensor's Mutual Termination Letter Agreement then in effect. Upon expiration of the time specified in such notice, this License and all rights of Licensee shall absolutely cease.
29. If Licensee fails to surrender to Licensor the Premises, upon any termination of this License, all liabilities and obligations of Licensee hereunder shall continue in effect until the Premises are surrendered. Termination shall not release Licensee from any liability or obligation, whether of indemnity or otherwise, resulting from any events happening prior to the date of termination.

**ASSIGNMENT**

30. Neither Licensee, nor the heirs, legal representatives, successors, or assigns of Licensee, nor any subsequent assignee, shall assign or transfer this License or any interest herein, without the prior written consent and approval of Licensor, which may be withheld in Licensor's sole discretion.

**NOTICES**

31. Any notice required or permitted to be given hereunder by one party to the other shall be in writing and the same shall be given and shall be deemed to have been served and given if (i) placed in the United States mail, certified, return receipt requested, or (ii) deposited into the custody of a nationally recognized overnight delivery service, addressed to the party to be notified at the address for such party specified below, or to such other address as the party to be notified may designate by giving the other party no less than thirty (30) days' advance written notice of such change in address.

If to Licensor:           Staubach Global Services - RR, Inc.  
3017 Lou Menk Drive, Suite 100  
Fort Worth, TX 76131-2800  
Attn: Licenses/Permits

with a copy to:         BNSF Railway Company  
2500 Lou Menk Dr. - AOB3  
Fort Worth, TX 76131  
Attn: Manager - Land Revenue Management

If to Licensee:         City of Copperas Cove  
PO Drawer 1449  
Copperas Cove, Texas 76522

**SURVIVAL**

32. Neither termination nor expiration will release either party from any liability or obligation under this License, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination or expiration, or, if later, the date when the PIPELINE and improvements are removed and the Premises are restored to its condition as of the Effective Date.

**RECORDATION**

33. It is understood and agreed that this License shall not be placed on public record.

**APPLICABLE LAW**

34. All questions concerning the interpretation or application of provisions of this License shall be decided according to the substantive laws of the State of Texas without regard to conflicts of law provisions.

**SEVERABILITY**

35. To the maximum extent possible, each provision of this License shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this License shall be prohibited by, or held to be invalid under, applicable law, such provision shall be ineffective solely to the extent of such prohibition or invalidity, and this shall not invalidate the remainder of such provision or any other provision of this License.

**INTEGRATION**

36. This License is the full and complete agreement between Licensor and Licensee with respect to all matters relating to Licensee's use of the Premises, and supersedes any and all other agreements between the parties hereto relating to Licensee's use of the Premises as described herein. However, nothing herein is intended to terminate any surviving obligation of Licensee or Licensee's obligation to defend and hold Licensor harmless in any prior written agreement between the parties.

**MISCELLANEOUS**

37. In the event that Licensee consists of two or more parties, all the covenants and agreements of Licensee herein contained shall be the joint and several covenants and agreements of such parties.

38. The waiver by Licensor of the breach of any provision herein by Licensee shall in no way impair the right of Licensor to enforce that provision for any subsequent breach thereof.

Staubach Global Services - RR, Inc. is acting as representative for BNSF Railway Company.

IN WITNESS WHEREOF, this License has been duly executed, in duplicate, by the parties hereto as of the day and year first above written.

**BNSF RAILWAY COMPANY**  
Staubach Global Services - RR, Inc.,  
its Attorney in Fact  
3017 Lou Menk Drive, Suite 100  
Fort Worth, TX 76131-2800

By: \_\_\_\_\_

Ed Darter,  
Title: Vice President - National Accounts

**CITY OF COPPERAS COVE**  
PO Drawer 1449  
Copperas Cove, TX 76522

By: \_\_\_\_\_

Title: \_\_\_\_\_

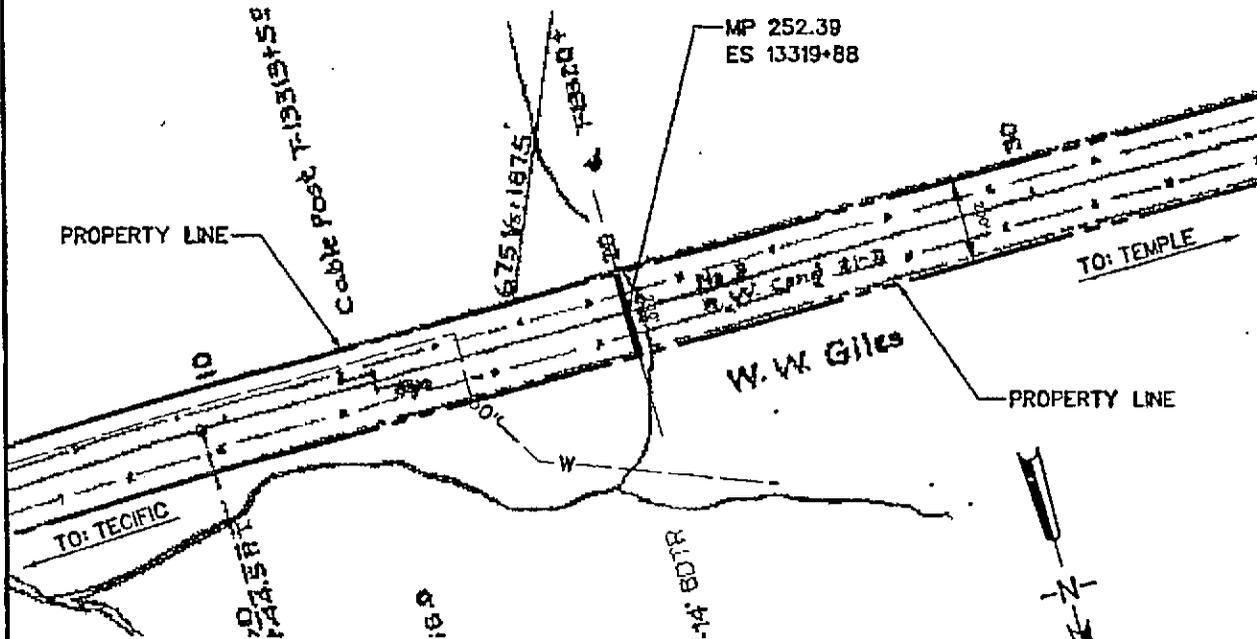
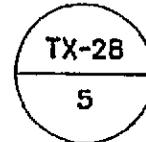
# EXHIBIT "A"

ATTACHED TO CONTRACT BETWEEN  
**BNSF RAILWAY COMPANY**  
 AND  
**CITY OF COPPERAS COVE**

MAP REF. 120811

SCALE: 1 IN. = 400 FT.  
 GULF \_\_\_\_\_ DIV.  
 LAMPASAS \_\_\_\_\_ SUBDIV. L.S. 7508  
 DATE 10/12/2009

SECTION: \_\_\_\_\_  
 TOWNSHIP: \_\_\_\_\_  
 RANGE: \_\_\_\_\_  
 MERIDIAN: \_\_\_\_\_



DESCRIPTION OF PIPELINE  
 PIPELINE SHOWN BOLD

	CARRIER PIPE	CASING PIPE		CARRIER PIPE	CASING PIPE
SIZE:	12"	24"	LENGTH ON R/W:	200'	200'
CONTENTS:	WASTE WATER		WORKING PRESSURE:	40 PSI	
PIPE MATERIAL:	DIP	STEEL	BURY: BASE/RAIL TO TOP OF CASING		10'
SPECIFICATION/GRADE:	CL 350	GRADE B	BURY: NATURAL GROUND		3.5'
WALL THICKNESS:	0.460"	0.687"	BURY: ROADWAY DITCHES		3.5'
COATING:	EPOXY	N/A	CATHODIC PROTECTION		YES

VENTS: NUMBER 2 SIZE 2" HEIGHT OF VENT ABOVE GROUND 4'

NOTE: CASING TO BE JACKED OR DRY BORED ONLY

NEAR COPPERAS COVE  
 COUNTY OF CORYELL

STATE OF TX

SLG

# City of Copperas Cove

## City Council Agenda Item Report

March 2, 2010

### Agenda Item No. I-3

Contact — Andrea M. Gardner, City Manager, 547-4211  
agardner@ci-copperas-cove.tx.us

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**SUBJECT: Consideration and action on authorizing the City Manager to execute Addenda 2 to the Letter of Agreement between the City of Copperas Cove and Grant Development Services in connection with the Community Development Block Grant (CDBG) 728050 to the Texas Department of Rural Affairs (TDRA).**

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#### 1. BACKGROUND/HISTORY

On July 11, 2006, the Copperas Cove City Council approved Resolution No. 2006-29, authorizing the submission of a grant application to the Texas Community Development Program (TCDP) to apply for funding through the Community Development Block Grant (CDBG) program for funding year 2008. In addition to the approval of Resolution 2006-29, the City Council conducted the required Public Hearing to provide an opportunity for citizen input regarding the water and wastewater projects preferred for submission purposes and within the eligible areas.

The City of Copperas Cove was awarded CDBG grant funds for 2008 in the amount of \$250,000. On March 3, 2009, the City Council approved Resolution No. 2009-02, accepting the CDBG grant fund award and Resolution 2009-03, authorizing signatories in connection with the grant award.

City staff advertised for bids as required by LGC 252 and the Texas Department of Rural Affairs (TDRA) formerly named the Office of Rural Community Affairs (ORCA). The bids were opened on March 31, 2009, with the City receiving bids from nine bidders. City staff, Grant Development Services and Hearn Engineering agreed recommendation of the low bid received from Horseshoe Construction, a well qualified contractor. Therefore, on April 21, 2009, the City Council authorized the City Manager to execute a contract with Horseshoe Construction.

As a result of the unexpected low bid of \$120,196, excess grant funds in the amount of \$129,804 remained. Therefore, on May 19, 2009, the City Council authorized the appropriation of additional funds for consulting services from Grant Development Services associated with the utilization of the uncommitted Community Development Block Grant (CDBG) grant funds. Part of the amendment process required submission of a Resolution requesting an Amendment to the CDBG Contract #728050 from the Texas Department of Rural Affairs (TDRA) allowing the utilization

of the uncommitted CDBG grant funds for additional wastewater collection construction in and near the original target area.

City staff advertised for bids as required by LGC 252 and TDRA. The bids were opened on June 17, 2009, with the City receiving bids from six bidders. City staff, Grant Development Services and Hearn Engineering agreed to recommend the low bid received from K&S Backhoe, a well qualified contractor. Therefore, on August 18, 2009, the City Council authorized the City Manager to execute a contract with K&S Backhoe in the amount of \$68,085.09.

On July 7, 2009, the City Council passed Resolution 2009-032 authorizing the City staff to amend the grant contract in order to install additional construction improvements as recommended by City staff with PHASE 2 Construction.

Currently, TDRA grant funds in the amount of \$61,719 remain uncommitted. Thus, the City Council authorized the submission of a second amendment to TDRA for Phase 3 construction with approval of Resolution 2010-09. Additionally, TDRA requires a Public Hearing be conducted prior to requesting an amendment. Therefore, a Public Hearing was conducted on February 16, 2010 at 5:30 PM and no negative comments were received.

## **2. FINDINGS/CURRENT ACTIVITY**

On January 22, 2010, Gandolf Burrus, President of GDS, met with the City Manager regarding the amendment process and requirements. During the meeting, Mr. Burrus requested a total of \$2,500 to conduct all amendment requirements as follows:

1. Negotiation of the amendment with TDRA and presentation of required documentation to support the request
2. Conduct public notification process
3. Prepare Council Resolution
4. Revise and publish modification of the environmental assessment
5. Assist with the bid preparation, publication and award
6. Secure contractor clearance
7. Assist with preconstruction conference
8. Perform payroll and labor standards administration
9. Conduct and evaluate additional door to door surveys to document eligibility

Items 1, 2, 3, 4 and 9 were previously completed by Grant Development Services in order to avoid delays and maximize the City's ability to complete the amendment process.

The City Manager informed Mr. Burrus, an Addenda to the original agreement would require approval by the City Council. Thus, Mr. Burrus, provided Addenda 2 to the original agreement on February 12, 2010 with the understanding a guarantee of Council approval could not be made. Grant Development Services decided the appropriate action was to assist the City with the amendment process regardless of the outcome.

The City Attorney completed a legal review of the agreement.

**3. FINANCIAL IMPACT**

Authorization of the Addenda will require \$1,500 payable to GDS upon execution and \$1,000 payable upon the execution of the construction contract for Phase III. Approval of the Addenda may require a budget amendment should the Phase III construction contract awarded equal or exceed the remaining uncommitted funds of \$61,719.

**4. ACTION OPTIONS/RECOMMENDATION**

City staff recommends the City Council authorize the City Manager to execute Addenda 2 to the Letter of Agreement between the City of Copperas Cove and Grant Development Services in connection with the Community Development Block Grant (CDBG) 728050 to the Texas Department of Rural Affairs (TDRA).

ADDENDA NO. 2 TO  
LETTER OF AGREEMENT BETWEEN  
COPPERAS COVE, TEXAS AND  
GRANT DEVELOPMENT SERVICES, INC.

PROFESSIONAL MANAGEMENT SERVICES

STATE OF TEXAS

COUNTY OF CORYELL

THIS AGREEMENT, entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2010 by and between the City of Copperas Cove, State of Texas, hereinafter called the "City" acting herein by Andrea Gardner, City Manager, hereunto duly authorized and GRANT DEVELOPMENT SERVICES, hereinafter called "Firm", acting herein by J. GANDOLF BURRUS, President

**WITNESSETH THAT:**

**WHEREAS** the City desires to utilize all awarded grant funds from it's Texas Community Development Block Grant # 728050 from the Office of Rural Community Affairs (hereinafter referred to as "ORCA") to provide funds for construction of sewer collection lines within a target area under the General Direction of the Texas Community Development Program; and

**WHEREAS** the City has received and awarded two separate bids for all required construction elements contained in the performance statement of its contract # 728050 between the City and ORCA , still leaving uncommitted grant funds remaining in the construction line item of the contract, and

**WHEREAS** the City desires to request an amendment to its ORCA contract allowing for a Phase 3 construction process to provide construction of additional sewer collection lines on Reagan, Hackberry and Hallstead Streets adjacent to the original target area for the full expenditure of all grant construction funds committed to the City under contract #728050 , and

**WHEREAS** the City desires to amend its administrative contract with the Firm to include preparation of an Amendment and Budget Modifications required for the city to receive approval to implement a Phase 3 construction process utilizing grant funds: and to provide administration services required for implementation of a Phase 3 bidding process for full utilization of awarded grant funds.

**NOW THEREFORE**, the parties do mutually agree to amend executed the Letter of Agreement between the City and the Firm as follows:

1. Time of Performance for the Phase 3 process:

The services to be provided by GDS shall commence upon execution of this Letter of Agreement. All services required and rendered under this agreement shall be completed within 70 days of execution. The services provided shall be concluded when the Amendment is secured, the environmental reassessment is accepted, a bid for the Phase 3 construction has been awarded to a contractor, and all eligibility clearances have been secured.

2. Scope of Services for the Phase 3 Process

(a) Preparation of the Contract Amendment and Budget Modifications to allow for a Phase 3 process

- Prepare and submit a Major Amendment and Budget Modification to amend and modify contract # 728050 to include additional service areas
- Conduct door to door surveys of additional residences to benefit from the project construction and tabulate findings
- Prepare maps and demographic information for submission to ORCA
- Conduct public notification process
- Submit and secure approval of the Amendment and any required Budget Modifications
- Negotiate timeline and performance measures with ORCA

(b) Preparation of Environmental Re-Assessment to confirm eligibility for a Phase 3 Process

- Secure maps of the proposed sites for Phase 3 construction
- Meet with ORCA Environmental Coordinator to negotiate required level of environmental reevaluation required for the additional proposed construction.
- Prepare environmental reassessment
- Publish environmental notices are required
- Secure environmental clearance from ORCA and permission to proceed.

(c) Implementation of Phase 3 Bid process

- Confer with project Engineer to develop bid book and specifications
- Coordinate with City on selection of newspapers for bid advertisements
- Secure David Bacon wage rates
- Attend conference with ORCA to review proposed amendment and secure verbal approval of proposal
- Write and publish bid advertisements
- Make 10 day call confirming wage rate validity
- Process and document any addenda issued by the project engineer
- Attend bid opening
- Secure contractor eligibility clearance
- Secure clearance for any subcontractors
- Attend council meeting to award construction contract
- Provide contractor performance bond to city attorney for review
- Assist city in execution of construction contract

3. City Responsibilities

- (a) The City shall designate one individual as the coordinator responsible for all communication and fulfillment of all the items included in the Letter of Agreement. That person shall be Andrea Gardner, City Manager.
- (b) The City shall publish public notices as required by the Funding agency.

4. Compensation and Method of Payment: The maximum amount of compensation and reimbursement to be paid hereunder shall be no more than Two thousand five hundred dollars (**\$2,500**). This fee shall be paid as follows:

- \$ 1,500.00 (One Thousand Five Hundred Dollars) is payable upon execution of this Letter of Agreement.
- \$ 1,000.00 (One Thousand Dollars) is payable when the construction contract between the City and an eligible construction contractor for the Phase 3 construction is executed.

5. Access to Information

It is agreed that all materials, data, reports, records and maps necessary for carrying out the Work described in Section 2 of this Agreement shall be readily made available to GDS at no cost to GDS.

6. Amendments to Letter of Agreement

The sum total of the sections set forth in this Letter of Agreement constitute a legally binding contract between the City and GDS. The Letter of Agreement may be amended only in writing and shall require the mutual consent of both parties. Should amendments be requested that exceed the Scope of Services provided in Section 2, GDS shall have the right to request additional compensation. The amount of additional compensations shall be negotiated based on the scope of the additional services to be performed.

7. GDS Responsibilities

In addition to the obligations outlined in Section 1 and Section 2 of this Letter of Agreement, GDS agrees to comply with all requirements and any and all applicable rules, laws, or regulations, Federal State and local. GDS shall assume full responsibility for payments of Federal, State and local taxes for compensation received for services performed under this Letter of Agreement.

8. Termination of Agreement

Termination of this Letter of Agreement, with or without cause, shall be effective upon fifteen days (15) written notice delivered to the noncancelling party by certified mail. Should the Letter of Agreement be terminated, GDS shall be entitled to compensation for services performed prior to termination at the rate of \$95.00 (Ninety Five Dollars) per hour, not to exceed \$2500.

9. Jurisdiction

All obligations of the parties created under this Letter of Agreement shall be performable in Coryell County, Texas.

**IN WITNESSETH HEREOF**, the parties hereunto set their hands and seals.

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

CITY OF COPPERAS COVE

ATTEST:

\_\_\_\_\_  
**ANDREA GARDNER, CITY MANAGER**  
DATE: \_\_\_\_\_

\_\_\_\_\_  
**JANE LEES, CITY SECRETARY**  
DATE: \_\_\_\_\_

**FIRM: GRANT DEVELOPMENT SERVICES, INC.**

\_\_\_\_\_  
**J. GANDOLF BURRUS, PRESIDENT**  
DATE: \_\_\_\_\_

# City of Copperas Cove City Council Agenda Item Report

March 2, 2010

## Agenda Item No. I-4

Contact – Charles E. Zech, City Attorney – 547-4221  
jlees@ci.copperas-cove.tx.us

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**SUBJECT: Consideration and action on an ordinance ordering a special election to be held on May 8, 2010, for the purpose of submitting propositions to the voters for proposed amendments to the City Charter.**

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### 1. BACKGROUND/HISTORY

The City of Copperas Cove City Charter was last amended at a General Election on May 10, 2008. The Texas Constitution, Article 11 – Municipal Corporations, Section 5 – Cities of more than 5,000 population; adoption or amendment of charters; taxes; debt restrictions, states the following:

*Cities having more than five thousand (5,000) inhabitants may, by a majority vote of the qualified voters of said city, at an election held for that purpose, adopt or amend their charters. The adoption or amendment of charters is subject to such limitations as may be prescribed by the Legislature, and no charter or any ordinance passed under said charter shall contain any provision inconsistent with the Constitution of the State, or of the general laws enacted by the Legislature of this State. Furthermore, no city charter shall be altered, amended or repealed oftener than every two years.*

On August 25, 2009, the City Council appointed thirteen citizens to serve on the Charter Review Committee. The Committee conducted a total of eight meetings that were posted and open for public comment. Additionally, the Committee presented the proposed amendments to the governing body on January 19, 2010 and the Council scheduled a public hearing for the following meeting on February 2, 2010 to allow for citizen input on the proposed amendments.

On February 2, 2010, during “Items for Future Agendas”, Council Member Youngs with the concurrence of two other Council Members requested a proposed charter amendment to Section 2.01 be placed on the February 16, 2010 regular agenda. The proposed amendment as expressed by Council Member Youngs was to elect all council members to two (2) year terms and shall serve not more than three (3) terms in succession in the office to which elected. After considerable discussion, the Council agreed to place the matter on the May 8, 2010 ballot. During the discussion, several matters were addressed regarding

the impact such a measure could potentially have on other sections of the Charter. Understanding an ordinance would be required for official placement on the ballot, the Council requested the City Attorney research all matters with a potential impact by a change in the Council terms of office.

## **2. FINDINGS/CURRENT ACTIVITY**

The City Attorney completed the research and presents the following options for Council consideration:

- If approval of the ordinance changing the terms from three years to two years, the Council may consider the following additional changes be placed on the ballot:
  - Section 2.01 (b) – terms of office
  - Section 2.07 (c) – filling of vacancies
  - Section 3.04 (c) – elections
- If approval of the ordinance including changes recommended by the Charter Review Committee and Council changes approved on February 2, 2010, no further considerations are required.

## **3. FINANCIAL IMPACT**

Minimal impact will occur since the matter is planned for placement on the ballot for the City's General Election to be held May 8, 2010.

## **4. ACTION OPTIONS/RECOMMENDATION**

City staff recommends the City Council take action on an ordinance considered appropriate for voter consideration that orders a special election to be held on May 8, 2010, for the purpose of submitting propositions to the voters for proposed amendments to the City Charter.

**CITY OF COPPERAS COVE, TEXAS  
ORDINANCE NO. 2010-11**

**AN ORDINANCE ORDERING A SPECIAL ELECTION TO BE HELD ON MAY 8, 2010, FOR THE PURPOSE OF SUBMITTING PROPOSITIONS TO THE VOTERS FOR PROPOSED AMENDMENTS TO THE CITY CHARTER; ESTABLISHING EARLY VOTING LOCATIONS AND POLLING PLACES FOR THIS ELECTION; AND MAKING PROVISIONS FOR THE CONDUCT OF THE ELECTION.**

**WHEREAS**, on August 25, 2009, the City Council appointed persons to a Charter Review Committee ("CRC"), and charged the CRC with reviewing and proposing amendments to the Copperas Cove City Charter; and

**WHEREAS**, following a series of public meetings, held pursuant to and in compliance with the Texas Open Meetings Act, the CRC presented its Report of proposed Charter amendments to City Council in a public meeting; and

**WHEREAS**, the Council reviewed the Report and after considering the CRC's proposed amendments, the Council now believes that Copperas Cove voters should vote on the following amendments, in the form of propositions; and

**WHEREAS**, Texas Local Government Code Section 9.004 governs the amendments to a City's Home Rule Charter; and

**WHEREAS**, during the time leading up to the May 8, 2010, election, the Council believes it necessary to make the full amendments available for public review on the City's website and in the office of the City Secretary; and

**WHEREAS**, the City Council of the City of Copperas Cove, Texas, finds it in the public interest to order a special election, to be held in conjunction with the City's general election on May 8, 2010, for a vote of the electors as to the proposed amendments to the Copperas Cove City Charter; and

**WHEREAS**, the City Council of the City of Copperas Cove, Texas, hereby directs City staff to publish in some newspaper of general circulation in the city on the same day in each of two successive weeks, the date of the first publication to be not less than fourteen days prior to the date of the May 8, 2010 a substantial copy of the proposed amendments and an estimate of the anticipated fiscal impact to the City.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS:**

**SECTION ONE.** A special election is ordered to be held by the City of Copperas Cove, Texas ("City"). At this special election, ballot propositions will be submitted to the

qualified voters of the City for proposed amendments to the City Charter, in accordance with applicable provisions of the City Charter and State law.

**SECTION TWO.** The following measures will be submitted to the qualified voters of the City at the election in the form of propositions in accordance with Section 9.004 of the Texas Local Government Code and Section 11.08 of the Copperas Cove City Charter and other applicable laws:

**Measure No. 1**

SHALL SECTION 1.03 OF THE CITY CHARTER REGARDING THE POWER OF SELF GOVERNMENT BE AMENDED TO READ AS FOLLOWS:

**Sec. 1.03. Home rule.**

(a) The City of Copperas Cove shall have the power of local self government to the fullest extent permitted by law. The City shall have all the powers granted to cities by the Constitution and Laws of the State of Texas together with all of the implied powers necessary to carry into execution those powers and those express and implied powers necessary for the government, interests, health, welfare and good order of the City and its inhabitants. All powers shall be exercised and enforced in the manner prescribed by the laws of the State of Texas, in this Charter and the City's ordinances.

(b) All powers of the City shall be vested in the City council, except as otherwise provided by law or this Charter, and the council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the City by law.

(c) The powers of the City under this charter shall be construed liberally in favor of the City, and the specific mention of particular powers in the charter shall not be construed as limiting in any way the general power granted by the state or this charter.

**Measure No. 2**

SHALL SECTION 1.05 OF THE CITY CHARTER REGARDING THE AUTHORITY TO EXERCISE THE RIGHT OF EMINENT DOMAIN BE AMENDED TO READ AS FOLLOWS:

**Sec. 1.05. Eminent domain.**

The City shall have the full authority to exercise the right of eminent domain for public use when necessary or desirable to carry out any of the powers conferred upon it by this charter, or by the constitution or laws of the State of Texas.

**Measure No. 3**

SHALL SECTION 2.01 OF THE CITY CHARTER REGARDING THE SEPARATE DESIGNATION OF MAYOR ON THE BALLOT BE AMENDED TO READ AS FOLLOWS:

**Sec. 2.01. Composition and terms of office.**

(a) *Composition.* The council shall be composed of a mayor and seven (7) council members. The mayor and all council members shall be elected from the City at large, and each council member shall occupy a position on the council, such positions being numbered one (1) through seven (7) consecutively. The mayor will not be designated as a numbered position on the ballot but shall be designated as "MAYOR."

(b) *Terms of office.* At the first general election held under this charter, and each three (3) years thereafter, the mayor and two (2) council members shall be elected, with the mayor filling the office of mayor and the two (2) council members filling the office of numbered positions one (1) and two (2). The following year, and each three (3) years thereafter, three (3) council members shall be elected, to fill the office of numbered positions three (3), four (4) and five (5). The following year, and each three (3) years thereafter, two (2) council members shall be elected to fill the office of numbered positions six (6) and seven (7). A council member, unless sooner removed from office under the provisions of this charter, shall serve for a term of three (3) years, and shall serve not more than two (2) terms in succession in the office to which elected. Sec. 2.07(c) also applies.

**Measure No. 4**

SHALL SECTION 2.03 OF THE CITY CHARTER REGARDING THE MAYOR PRO TEMPORE'S AUTHORITY TO VOTE AND THE MAYOR'S AUTHORITY UNDER MARTIAL LAW AND IN TIMES OF EMERGENCY BE AMENDED TO READ AS FOLLOWS:

**Sec. 2.03. Presiding officer: Mayor and mayor pro tempore.**

(a) The mayor shall be elected in the manner provided by this charter to serve for a term of three (3) years and shall not serve more than two (2) terms in succession. The mayor shall preside at all meetings of the City council and shall be recognized as head of the City government for all ceremonial purposes, by the governor for purposes of martial law, and shall serve as the emergency management director in times of an emergency as provided by state law, but shall have no day-to-day administrative duties other than signatory duties where the mayor signs a variety of documents to give them official legal effect. The mayor shall vote at council meetings only to break a tie.

(b) At the City council's second regular meeting following each yearly regular election of council members, or runoff election if required, the council shall elect one of its members as mayor pro tem, for a period of one (1) year. The mayor pro tem shall act as mayor during the absence or disability of the mayor and, when so acting, shall have the same powers, duties, and restrictions as set forth for the office of mayor, except that the he/she shall not lose the right to vote.

(c) In the event that both the mayor and mayor pro tem are absent from a council meeting, if there be a quorum as elsewhere stated in this charter, the council members present shall elect a chairperson who shall have the authority to conduct the meeting as if he/she were the mayor.

#### **Measure No. 5**

SHALL SECTION 2.04 (b) 1. (4) OF THE CITY CHARTER REQUIRING A COUNCIL MEMBER TO OBTAIN A LEAVE OF ABSENCE AT A REGULARLY SCHEDULED MEETING PRIOR TO BEING ABSENT FROM TWO CONSECUTIVE MEETINGS BE DELETED FROM THE CHARTER AND SECTION 2.07 OF THE CITY CHARTER BE AMENDED AS FOLLOWS?

#### **Sec. 2.07. Vacancies, forfeitures, filling of vacancies.**

(b) *Forfeiture.*

1. A council member or the mayor shall forfeit his/her office if he/she:

(4) fails to attend two (2) consecutive regular meetings for reasons other than those caused by sickness or emergency unless excused by City Council (said excusal may be obtained before or after the absence occurs), or

#### **Measure No. 6**

SHALL A NEW SECTION BE ADDED TO THE CITY CHARTER REGARDING THE CITY COUNCIL BEING THE JUDGE OF ITS QUALIFICATIONS AS FOLLOWS:

#### **Sec. \_\_\_\_ Judge of Qualifications.**

The City Council is the final judge of all elections and the qualifications of its members and of any other elected officials of the City.

#### **Measure No. 7**

SHALL LANGUAGE FROM SECTION 3.02 REGARDING AN EMPLOYEE'S REQUIRED RESIGNATION FROM EMPLOYMENT UPON THEIR CANDIDACY FOR OFFICE BE INCLUDED IN SECTION 2.08 (b) AS FOLLOWS:

#### **Sec. 2.08. Prohibitions.**

(b) *Continuation of City Employment upon Candidacy.* No employee of the city shall continue in such position after becoming a candidate for an elective office.

**Measure No. 8**

SHALL SECTION 2.09 OF THE CITY CHARTER REGARDING THE HOLDING OF SPECIAL MEETINGS BE AMENDED AS FOLLOWS:

**Sec. 2.09. Meetings of council.**

The council shall hold at least two (2) regular meetings each month with the exception of December, which shall have a minimum of one (1) regular meeting, and as many additional meetings as it deems necessary to transact the business of the City and its citizens. The council shall fix, by ordinance, the days, time and place of the regular meetings. All meetings shall be open to the public, except as otherwise provided by law. Special meetings of the council may be held at any time during the year.

**Measure No. 9**

SHALL SECTION 2.10 OF THE CITY CHARTER REGARDING A CITY COUNCIL QUORUM BE AMENDED AS FOLLOWS:

**Sec. 2.10. Rules of procedure.**

The council shall, by ordinance, determine its own rules and order of business and the rules shall provide that citizens of the City shall have a reasonable opportunity to be heard at all regular and special council meetings in regard to any matter under consideration. The council shall provide for minutes being taken and recorded of all meetings, and such minutes shall be a public record. Voting, except on unanimous votes, shall be by roll call and the yeas, nays, and abstentions shall be recorded in the minutes. Four (4) council members shall constitute a quorum for the purpose of transaction of business. Unless otherwise required by law, no actions of council shall be valid and binding unless adopted by the affirmative vote of four (4) or more members of the Council.

**Measure No. 10**

SHALL SECTION 2.12 (e) OF THE CITY CHARTER REGARDING CITY SECRETARY RESPONSIBILITIES BE AMENDED AS FOLLOWS?

**Sec. 2.12. City secretary.**

(e) The secretary shall be responsible for all City elections.

**Measure No. 11**

SHALL THE FOLLOWING SECTIONS 2.13, 2.14, 2.15, AND 2.16 REGARDING CITY COUNCIL'S EMERGENCY POWERS, THE PASSING OF EMERGENCY ORDINANCES AND THE EMERGENCY POWERS OF THE MAYOR BE DELETED?

### **Sec. 2.13. Emergency Powers.**

A state of emergency shall be deemed to exist when, as the consequences of a major calamity, activities of a war-like nature, riots, or insurrection, the normal procedures of the municipal government are inadequate for the protection of persons or property. A Declaration of Local Disaster may be declared by the vote of council, or by order of the mayor, or, in his absence or disability, the mayor pro tempore, if a meeting of the council cannot be called within the time available, whenever conditions threaten to render inadequate the normal procedures of the municipal government for protection of persons or property. A Declaration of Local Disaster may not be continued or renewed for a period of more than seven (7) days except with the consent of council. An ordinance declaring, continuing, or terminating a local state of disaster shall be given prompt and general publicity and shall be promptly filed with the City Secretary.

### **Sec. 2.14. Emergency ordinances.**

To meet a public emergency affecting life, health, property or the public peace, the council may adopt emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its service, or authorize the borrowing of money except as provided in Sec. 2.14. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing the emergency in clear and specific terms. An emergency ordinance may be adopted, or amended by a simple majority of the council members present. After adoption, emergency ordinances shall be published and printed as prescribed for other ordinances. They shall become effective upon adoption or at such later time as the ordinance may specify. Every emergency ordinance except one made pursuant to Sec. 2.14 shall automatically stand repealed as of the sixty-first (61st) day following the date of adoption, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner prescribed in this section for adoption of emergency ordinances.

### **Sec. 2.15. Duties of the Mayor as Emergency Management Director and Powers of the Mayor during a Local State of Disaster.**

The Mayor is designated as the Emergency Management Director for the City of Copperas Cove, and shall serve as the Governor's designated agent in administration and supervision of the Texas Disaster Act of 1975, and may exercise powers, on an appropriate local scale, granted the Governor therein. During a state of emergency the mayor, or, in his absence or disability, the mayor pro tempore shall be specifically empowered:

a. To place temporarily any city officers, employees, services, equipment or properties under the direction or control of any office or officers of the county, state, or federal

governments, including the military services, and the duly constituted officers for the civil defense;

b. To enter upon cooperative agreements with the proper authorities of county, state or federal governments, or other municipalities, for mutual assistance within the area of an existing or threatened emergency;

c. To order the evacuation of persons from all or any part of the city and to close any buildings or areas within the city;

d. To re-establish the seat of the city's government at another place, provided that such place, if outside the city's territorial limits, shall be at the place nearest thereto which is suitable and practical.

### **Sec. 2.16. When emergency powers of mayor to terminate.**

The emergency powers herein provided shall be exercised only to the extent made necessary by the nature of the emergency and during the continuation of the Declaration of Local Disaster. The Declaration of Local Disaster shall terminate when so ordered by the Governor, mayor, or by the mayor pro tempore in the absence or disability of the mayor, or may be terminated by vote of a majority of the council.

### **Measure No. 12**

SHALL THE FOLLOWING SUBSECTIONS 3.01(C) and (D) OF THE CITY CHARTER REGARDING VOTER ELIGIBILITY BE DELETED?

(c) *Voter eligibility.* A certified list of voter registrants within the city shall be requested by the city secretary from the county tax assessor-collector.

(d) *Conduct and regulation of elections.* All city elections shall be governed by the constitution of the State of Texas, general laws of the state, this charter, and ordinances of the city, in the order named. Municipal elections shall be conducted by the election officials appointed or approved by the city council. Sample ballots for the specific election shall be posted in the voting place(s) for purpose of voter orientation.

### **Measure No. 13**

SHALL SECTION 3.02 OF THE CITY CHARTER REGARDING FILING FOR MUNICIPAL OFFICE BE AMENDED TO READ AS FOLLOWS:

### **Sec. 3.02. Filing for office.**

Any qualified person may have his or her name placed on the official ballot as a candidate for mayor or council member at any election held for the purpose of electing a mayor or council member by filing with the mayor or city secretary at least forty-five (45) days prior to the date of election before 5:00 p.m., a sworn application as provided in Texas Election Code, 141.031 as amended, may be amended or disposed of in the future.

### **Measure No. 14**

SHALL SECTION 3.06 OF THE CITY CHARTER REGARDING THE NUMBER OF PETITIONERS NECESSARY FOR AN INITIATIVE BE AMENDED TO READ AS FOLLOWS:

#### **Sec. 3.06. Power of initiative.**

The voters of this city shall have the power to propose any ordinance, or reject the same at the polls. An initiated ordinance may be submitted to the council by a petition signed by qualified voters of the city, equal in number to two and one half percent (2.50%) percent of qualified voters registered to vote at the last general City election.

### **Measure No. 15**

SHALL SECTION 3.12 (a) OF THE CITY CHARTER REGARDING RESULTS OF REFERENDUMS BE AMENDED AS FOLLOWS:

(a) The ballot used in voting upon an initiated or referred ordinance shall state the caption of the ordinance and below the caption shall set forth on separate lines the words: "For the Ordinance" "Against the Ordinance." Any number of ordinances may be voted upon at the same election in accordance with the provisions of this charter. An ordinance submitted, and receiving an affirmative majority of the votes cast, shall then become effective as an ordinance of the city. An ordinance so adopted may be repealed or amended at any time after the expiration of two (2) years by a majority vote of the entire city council.

### **Measure No. 16**

SHALL SECTION 3.12 (b) OF THE CITY CHARTER BE AMENDED BY ADDING A SUBSECTION AS FOLLOWS:

#### **Sec. 3.12. Ballot form and results of elections.**

(b) If conflicting ordinances are approved at the same election, the ordinance receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

### **Measure No. 17**

SHALL SECTION 3.13 OF THE CITY CHARTER REGARDING POWER OF RECALL BE AMENDED AS FOLLOWS:

#### **Sec. 3.13. Power to recall.**

(a) *Power to recall.* The voters of the City of Copperas Cove shall have the power to recall any elected officer of this city for the reasons of Incompetency and official Misconduct and upon conviction of a crime of moral turpitude.

(1) Incompetency means gross ignorance of official duties; gross carelessness in the discharge of official duties; or inability or unfitness to promptly and properly discharge official duties because of a serious mental or physical defect that did not exist at the time of the officer's election.

(2) Official Misconduct means intentional unlawful behavior relating to official duties and includes intentional or corrupt failure, refusal, or neglect to perform a duty imposed on the officer by law.

### **Measure No. 18**

SHALL SECTION 3.13 (b)(2) OF THE CITY CHARTER REGARDING THE NUMBER OF PETITIONERS NECESSARY TO INITIATE A RECALL BE AMENDED TO READ AS FOLLOWS:

#### **Sec. 3.13. Power to recall.**

(b) *Requirements of a recall petition.*

(2) The petition shall be signed by qualified voters of the city equal in number two and one half percent (2.50%) of the number of qualified voters registered to vote at the last general City election. The petition shall be verified by the same number of signers, with the same qualifications, and in the same manner required in the charter for an initiative petition.

### **Measure No. 19**

SHALL SECTION 3.14 OF THE CITY CHARTER REGARDING THE RESULTS OF A RECALL ELECTION SHALL BE AMENDED TO READ AS FOLLOWS:

#### **Sec. 3.14. Results of recall election.**

If the majority of the votes cast at a recall election shall be for the removal from office of the elected officer named on the petition and ballot, upon the canvas of said election, his/her office shall immediately be declared vacant and shall be filled as vacancies in the city council are filled, as provided in this charter. An elected officer who has been so removed from office shall not be eligible to succeed himself/herself.

### **Measure No. 20**

SHALL SECTION 3.17 OF THE CITY CHARTER REGARDING THE FORM OF THE BALLOT FOR A RECALL BE AMENDED TO READ AS FOLLOWS:

#### **Sec. 3.17. Ballots in recall election.**

Ballots used at recall elections shall conform to the following requirements:

(1) With respect to each person whose removal is sought, the question shall be submitted "Shall (name of person) be removed from the office of (mayor) (council member) by recall?"

(2) Immediately below the question, there shall be printed the two (2) following propositions, one above the other, in the order indicated: "YES." "NO".

### **Measure No. 21**

SHALL SECTION 5.02 OF THE CITY CHARTER REGARDING MUNICIPAL COURT BE AMENDED AS FOLLOWS:

#### **Sec. 5.02. Municipal court.**

There shall be a court for the trial of misdemeanor offenses known as the "Municipal Court of Copperas Cove, Texas," with such powers and duties as are given and prescribed by laws of the State of Texas and this charter.

The municipal court shall be presided over by a magistrate, who shall be known as "the judge of the municipal court."

The court shall be served by a clerk, to be known as the "municipal court clerk", who shall be a city employee.

All fines imposed by the municipal court, or by any court in cases appealed from judgments of the municipal court, shall be paid into the city treasury for the use and benefit of the city.

### **Measure No. 22**

SHALL THE FOLLOWING SECTIONS 6.06, 6.07, 6.12, 6.13, AND 6.15 REGARDING THE CITY BUDGET BE DELETED FROM THE CITY CHARTER?

#### **Sec. 6.06. Notice of public hearing on proposed budget.**

At the meeting of the council at which the proposed budget is submitted, the council shall fix the time and place of a public hearing on the budget and shall cause to be published in a local newspaper a notice of the hearing, setting forth the time and place thereof at least five (5) days before the date of hearing.

#### **Sec. 6.07. Public hearing on proposed budget.**

At the time and place set forth in the notice required by Section 6.06, the council shall hold a public hearing on the proposed budget submitted, and all interested persons shall be given an opportunity to be heard, for or against any item or the amount of any item therein contained.

**Sec. 6.12. Budget establishes appropriations.**

From the effective date of the budget, all amounts stated therein as proposed expenditures shall be and become appropriated to all objects and purposes therein named.

**Sec. 6.13. Amount to be raised by property tax.**

From the effective date of the budget, the amount stated therein as the amount to be raised by property tax shall constitute a determination of the amount of the levy for the purposes of the city in the corresponding tax year.

**Sec. 6.15. Estimated expenditures shall not exceed estimated resources.**

The total estimated expenditures of the general fund and debit services fund shall not exceed the total estimated resources of each fund (projected income plus cash on hand). The classification of revenue and expenditure accounts shall conform as nearly as local conditions will permit to the uniform classification as promulgated by the National Committee on Municipal Accounting, or some other nationally accepted classification.

**Measure No. 23**

SHALL THE FOLLOWING SECTION 11.06 OF THE CITY CHARTER REGARDING DAMAGE SUITS BE AMENDED TO READ AS FOLLOWS?

**Sec. 11.06. Damage suits.**

The City shall not be held liable on account of any claim for the death of any person or injuries to any person or damage to any property unless the person making such complaint or claiming such damages shall, within one hundred-twenty (120) days after the time at which it is claimed such damages were inflicted upon such person or property, file with the City a written statement, under oath, stating the nature and character of such damages or injuries, the extent of the same, the place where same happened, the circumstances under which same happened and the condition causing same, with a detailed statement of each item of damages and the amount thereof, giving a list of any witnesses known by affiant to have seen the accident.

**Measure No. 24**

SHALL SECTION 11.07 OF THE CITY CHARTER REGARDING THE POWER TO SETTLE CLAIMS BE AMENDED TO READ AS FOLLOWS:

**Sec. 11.07. Power to settle claims.**

The city council, and only the city council, shall have the power to compromise and settle any and all claims and lawsuits of every kind and character in favor of or against the city, including suits by the city to recover delinquent taxes.

## **Measure No. 25**

SHALL SECTION 11.18 OF THE CITY CHARTER REGARDING THE NUMBER OF PETITIONERS NECESSARY TO INITIATE A CHARTER AMENDMENT BE AMENDED TO READ AS FOLLOWS:

### **Sec. 11.18. Amending the charter.**

Amendments to this charter may be framed and submitted to the qualified electors of the city by a charter commission in the manner provided by law for framing and submitting a new charter.

Amendments may also be proposed and submitted by ordinance, passed by a majority vote of the full membership of the council, or by a petition signed by not less than two and one half percent (2.50%) of the number of qualified voters registered to vote at the last general City election.

When a charter amendment petition shall have been filed with the council in conformity with the provisions of this charter as to petitions for initiated ordinances, the council shall forth with provide by ordinance for submitting such proposed amendment to a vote of the qualified electors. Any ordinance for submitting a charter amendment to the qualified electors shall provide that such amendment be submitted at the next regular municipal election if one shall occur not less than thirty (30) days nor more than ninety (90) days after the passage of the ordinance; otherwise it shall provide for the submission of the amendment at a special election held on a uniform election date in accordance with state law.

Notice of the election for the submission of said amendment or amendments shall be given by publication thereof, in some newspaper of general circulation in said city, on the same day in each of two (2) successive weeks; the date of the first publication to be not less than fourteen (14) days prior to the date set for said election. If a proposed amendment be approved by a majority of the qualified electors voting thereon, it shall become a part of the charter at the time fixed therein. Each amendment shall be confined to one subject; and when more than one amendment shall be submitted at the same time, they shall be so submitted as to enable the qualified electors to vote on each amendment separately.

## **Measure No. 26**

SHALL THE FOLLOWING SECTIONS 11.19 AND 11.20 OF THE CITY CHARTER REGARDING THE ORIGINAL CHARTER SUBMISSION BE DELETED?

### **Sec. 11.19. Effective date and interim government.**

This charter shall take effect from and after the date of its adoption, and the date of the special election held for the purpose of voting upon the acceptance or rejection of

this charter shall be considered the date of adoption if said charter is accepted at such election. From and after the effective date of this charter and until the completion of the first election under this charter and the qualification of the mayor and council members thereby elected, the present qualified and acting mayor and the five (5) council members shall constitute the city council of the City of Copperas Cove and the city secretary shall remain in office and continue to conduct the same until said new council is elected and qualified. During the interim period the present city council shall have and possess all of the powers provided by this charter.

**Sec. 11.20. Submission of the charter to electors.**

The charter commission in preparing this charter finds that it is impractical to segregate each subject so as to permit a vote of "yes" or "no" on the same, for the reason that the charter is so constructed that in order to enable it to work and function it is necessary that it should be adopted in its entirety. For these reasons the charter commission directs that the said charter be voted upon as a whole and that it shall be submitted to the qualified voters of the City of Copperas Cove at an election to be held on January 20, 1979. If a majority of the qualified voters voting in such election shall vote in favor of the adoption of this charter, it shall become the charter of the City of Copperas Cove, and after the returns have been canvassed, the same shall be declared adopted.

Not less than thirty (30) days prior to such election the city council shall cause the city clerk to mail a copy of this charter to each qualified voter of the City of Copperas Cove.

An official copy of the charter shall be filed with the records of the city, and the mayor shall, as soon as practicable, certify to the secretary of state an authenticated copy under the seal of the city, showing the approval by the qualified voters of such charter.

**Measure No. 27**

SHALL A NEW SECTION BE ADDED TO THE CITY CHARTER REGARDING THE REGULATION OF ALCOHOL IN RESIDENTIAL SUBDIVISIONS BE ADDED TO READ AS FOLLOWS:

**Sec. \_\_\_\_\_. Regulation of Alcohol.**

The sale of liquor and beer is prohibited in all residential sections or areas of the City, as designated by any zoning ordinance or Comprehensive Plan of the City. The City Council may enact any and all other regulations regarding the sale, consumption, distribution, etc. of alcoholic beverages, as permitted by law.

**Measure No. 28**

SHALL A NEW SECTION BE ADDED TO THE CITY CHARTER REGARDING THE REARRANGEMENT AND RENUMBERING OF CHARTER PROVISIONS TO READ AS FOLLOWS:

**Section \_\_\_\_.** **Rearrangement and renumbering.**

The City Council shall have the power, by ordinance, to renumber and rearrange all articles, sections and paragraphs of this Charter or any amendments thereto, as it deems appropriate but shall have no power to make substantive changes to Charter in this manner.

**SECTION THREE.** The ballots for the City election shall comply with the Texas Election Code, and shall have the measures described in Section 2 of this Ordinance stated as propositions as follows:

**PROPOSITION NO. 1**

FOR/AGAINST      The amendment of Section 1.03 of the City Charter regarding the nature and function of the City Charter.

**PROPOSITION NO. 2**

FOR/AGAINST      The amendment of Section 1.05 of the City Charter deleting, as unnecessary, the words “right” and “power” with regards to the City exercising eminent domain.

**PROPOSITION NO. 3**

FOR/AGAINST      The amendment of Section 2.01 of the City Charter moving language regarding the designation of the Mayor on the ballot from one subsection to another.

**PROPOSITION NO. 4**

FOR/AGAINST      The deletion of Sections 2.15 and 2.16 and the amendment of Section 2.03 to provide that the duties of the Mayor for purposes of martial law and in times of emergency are consistent with State law.

**PROPOSITION NO. 5**

FOR/AGAINST      The amendment of Section 2.03 of the City Charter providing that any Council Member acting in the capacity of Mayor in the absence of the Mayor does not lose their right to vote.

**PROPOSITION NO. 6**

FOR/AGAINST      The deletion of Section 2.04 and amendment of Section 2.07 of the City Charter in order to allow a Council Member or the Mayor to receive an excuse for missing two consecutive regular City Council

meetings after the absences occur without forfeiting their respective office.

**PROPOSITION NO. 7**

FOR/AGAINST The amendment of the City Charter by addition of a section providing that the City Council is the final judge of all elections and the qualifications of its members and other elected officials of the City.

**PROPOSITION NO. 8**

FOR/AGAINST The amendment of Sections 2.08 and 3.02 of the City Charter moving language regarding City employment after becoming a candidate for office from one section to another.

**PROPOSITION NO. 9**

FOR/AGAINST The amendment of Section 2.09 of the City Charter to provide that special meetings of the City Council may be held at any time.

**PROPOSITION NO. 10**

FOR/AGAINST The amendment of Section 2.10 of the City Charter reducing the number of Council Members required for a quorum to conduct business from five (5) to four (4).

**PROPOSITION NO. 11**

FOR/AGAINST The amendment of Section 2.12 of the City Charter to provide that the City Secretary is responsible for all City Elections.

**PROPOSITION NO. 12**

FOR/AGAINST The amendment of the City Charter deleting, as unnecessary, Section 2.13 Emergency Powers.

**PROPOSITION NO. 13**

FOR/AGAINST The amendment of the City Charter deleting, as unnecessary, Section 2.14 Emergency Ordinances.

**PROPOSITION NO. 14**

FOR/AGAINST The amendment of the City Charter deleting, as redundant of State law and therefore unnecessary, Subsections 3.01 (C) and (D) regarding voter eligibility and conduct of elections.

**PROPOSITION NO. 15**

FOR/AGAINST The amendment of the City Charter Section 3.02 Filing for Office to comply with State law.

**PROPOSITION NO. 16**

FOR/AGAINST The amendment of the City Charter Section 3.06 Power of Initiation to provide that an initiated ordinance may be submitted to the council by a petition signed by qualified voters of the city, equal in number to two and one half percent (2.50%) percent of qualified voters registered to vote at the last general City election.

**PROPOSITION NO. 17**

FOR/AGAINST The amendment of the City Charter Section 3.06 Power of Initiation deleting the minimum number of petitioner signature requirements for initiating an ordinance.

**PROPOSITION NO. 18**

FOR/AGAINST The amendment of Section 3.12 deleting, as unnecessary, language regarding the result of a referred ordinance which is not approved.

**PROPOSITION NO. 19**

FOR/AGAINST The amendment of Section 3.12 of the City Charter by addition of a subsection providing that if conflicting ordinances are approved at the same election, the ordinance receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

**PROPOSITION NO. 20**

FOR/AGAINST The amendment of Section 3.13 of the City Charter to provide that the citizens shall have the power to recall any elected officer of the City for the reasons of incompetency, official misconduct and upon conviction of a crime of moral turpitude.

**PROPOSITION NO. 21**

FOR/AGAINST The amendment of the City Charter Section 3.13 to provide that a petition for recall of an City elected official may be submitted to the council by a petition signed by qualified voters of the city, equal in number to two and one half percent (2.50%) percent of qualified voters registered to vote at the last general City election.

**PROPOSITION NO. 22**

FOR/AGAINST The amendment of the City Charter Section 3.13 deleting the minimum number of petitioner signatures for the recall of a City elected official.

**PROPOSITION NO. 23**

FOR/AGAINST The amendment of the City Charter Section 3.14 to provide that the office of a City elected official who has been recalled is automatically vacated upon the canvas of the votes of the recall election.

**PROPOSITION NO. 24**

FOR/AGAINST The amendment of the City Charter Section 3.17 to provide that immediately below a question on the ballot for the recall of a City Elected official, there shall be printed the two (2) following propositions, one above the other and in the following order: "YES." "NO".

**PROPOSITION NO. 25**

FOR/AGAINST The amendment of the City Charter Section 5.02 to delete, as unnecessary, the requirement that the Municipal Judge assist the City Attorney in the review of ordinances for updating or deletion.

**PROPOSITION NO. 26**

FOR/AGAINST The amendment of the City Charter deleting, as redundant of State law and therefore unnecessary, Section 6.06 regarding a proposed budget.

**PROPOSITION NO. 27**

FOR/AGAINST The amendment of the City Charter deleting, as redundant of State law and therefore unnecessary, Section 6.07 regarding a proposed budget.

**PROPOSITION NO. 28**

FOR/AGAINST The amendment of the City Charter deleting, as redundant of State law and therefore unnecessary, Section 6.12 regarding budget appropriations.

**PROPOSITION NO. 29**

FOR/AGAINST The amendment of the City Charter deleting, as redundant of State law and therefore unnecessary, Section 6.13 regarding property taxes.

**PROPOSITION NO. 30**

FOR/AGAINST The amendment of the City Charter deleting, as redundant of State law and therefore unnecessary, Section 6.15 regarding estimated expenditures.

**PROPOSITION NO. 31**

FOR/AGAINST The amendment of Section 11.06 of the City Charter for conformance with state law.

**PROPOSITION NO. 32**

FOR/AGAINST The amendment of Section 11.07 deleting unnecessary provisions.

**PROPOSITION NO. 33**

FOR/AGAINST The amendment of the City Charter Section 11.18 to provide that proposed amendments to the City Charter may be submitted to the council by a petition signed by qualified voters of the city, equal in number to two and one half percent (2.50%) percent of qualified voters registered to vote at the last general City election.

**PROPOSITION NO. 34**

FOR/AGAINST The amendment of the City Charter Section 11.18 deleting the minimum number of petitioner signatures needed to submit a petition for amendments to the City Charter.

**PROPOSITION NO. 35**

FOR/AGAINST The amendment of the City Charter deleting sections Section 11.19 and 11.20 of the original Charter as no longer necessary.

**PROPOSITION NO. 36**

FOR/AGAINST The amendment of the City Charter adding a section to allow the City to regulate the sale and distribution of alcohol in residential areas pursuant to State law.

**PROPOSITION NO. 37**

FOR/AGAINST      The amendment of the City Charter adding a section to allow the City Council to make non-substantive form changes to the Charter by ordinance.

**SECTION FOUR.** Only resident qualified voters of said City shall be eligible to vote. Said election will be held in Copperas Cove City Hall Council Chambers, 507 South Main Street, with Mary Howell as Presiding Election Judge and Rita Burgess as Alternate Presiding Election Judge. The clerks for the election will be appointed by the Presiding Election Judge in a number not to exceed six (6) clerks. The Presiding Election Judge will be paid the sum of \$10.00 per hour and the Alternate Presiding Election Judge and clerks will be paid \$8.00 per hour.

**SECTION FIVE.** The designated polling place shall, on Election Day, be open from 7:00 a.m. to 7:00 p.m.

**SECTION SIX.** Mary Howell shall be appointed to serve as the Early Voting Ballot Board PRESIDING Officer and shall appoint two (2) clerks to assist her.

**SECTION SEVEN.** Jane Lees, City Secretary, will conduct early voting. The City Secretary will appoint Deputy Early Voting Clerks to assist her. Early voting for the above designated election shall be held in Copperas Cove City Hall Council Chambers, 507 South Main Street.

**SECTION EIGHT.** Early voting will be conducted on the following days and times:

April 26, 2010	7:00 a.m. – 7:00 p.m.
April 27, 2010	8:00 a.m. – 5:00 p.m.
April 28, 2010	7:00 a.m. – 7:00 p.m.
April 29, 2010	8:00 a.m. – 5:00 p.m.
April 30, 2010	8:00 a.m. – 5:00 p.m.
May 3, 2010	8:00 a.m. – 5:00 p.m.
May 4, 2010	8:00 a.m. – 5:00 p.m.

**SECTION NINE.** Applications for ballot by mail shall be mailed to: Jane Lees, City Secretary, City of Copperas Cove, P.O. Drawer 1449, Copperas Cove, Texas 76522. The first day applications for voting by mail ballot may be accepted is March 9, 2010. The last day to receive applications from voters in person for a ballot to be voted by mail is April 23, 2010. The last day to receive applications by mail for a ballot to be voted by mail is April 30, 2010.

**SECTION TEN.** All ballots shall be prepared in accordance with Texas Election Code. Paper ballots shall be used for early voting by mail and Paper Ballots and eSlate Direct Recording Electronic (DRE) Voting System shall be used for early voting by

personal appearance and voting on Election Day, both of which are part of the eSlate DRE Voting System.

**SECTION ELEVEN.** All expenditures necessary for the conduct of the election, the purchase of materials and the employment of all election officials is hereby authorized and the City Secretary is hereby authorized and directed to furnish all necessary election supplies to conduct such election.

**SECTION TWELVE.** The City Secretary is further authorized and directed to conduct said election jointly, with the Copperas Cove Independent School District (CCISD), as long as their election is not canceled. The City Secretary will take all necessary actions to conduct the election jointly, to work with CCISD personnel, and to coordinate and sign a joint election agreement between CCISD and the City.

**SECTION THIRTEEN.** Said elections shall be held in accordance with the Election Code and the State of Texas. Notice of said elections shall be given in accordance with the terms and provisions of the Election Code and the City Secretary is hereby instructed to have said notice posted and published in accordance with state law. A copy of this order shall also serve as a Writ of Election, which shall be delivered to the above-appointed Presiding Election Judge for said elections.

**PASSED, APPROVED, AND ADOPTED** on this 2nd day of March 2010, at a regular meeting of the City Council of the City of Copperas Cove, Texas which meeting was held in compliance with the Open Meetings Act, *Tex. Gov't. Code, §551.001, et.seq.* at which meeting a quorum was present and voting.

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John Hull, Mayor

**ATTEST:**

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Jane Lees, City Secretary

**APPROVED AS TO FORM:**

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Denton, Navarro, Rocha  
& Bernal, P.C., City Attorney

**CITY OF COPPERAS COVE, TEXAS  
ORDINANCE NO. 2010-11**

**AN ORDINANCE ORDERING A SPECIAL ELECTION TO BE HELD ON MAY 8, 2010, FOR THE PURPOSE OF SUBMITTING PROPOSITIONS TO THE VOTERS FOR PROPOSED AMENDMENTS TO THE CITY CHARTER; ESTABLISHING EARLY VOTING LOCATIONS AND POLLING PLACES FOR THIS ELECTION; AND MAKING PROVISIONS FOR THE CONDUCT OF THE ELECTION.**

**WHEREAS**, on August 25, 2009, the City Council appointed persons to a Charter Review Committee ("CRC"), and charged the CRC with reviewing and proposing amendments to the Copperas Cove City Charter; and

**WHEREAS**, following a series of public meetings, held pursuant to and in compliance with the Texas Open Meetings Act, the CRC presented its Report of proposed Charter amendments to City Council in a public meeting; and

**WHEREAS**, the Council reviewed the Report and after considering the CRC's proposed amendments, the Council now believes that Copperas Cove voters should vote on the following amendments, in the form of propositions; and

**WHEREAS**, Texas Local Government Code Section 9.004 governs the amendments to a City's Home Rule Charter; and

**WHEREAS**, during the time leading up to the May 8, 2010, election, the Council believes it necessary to make the full amendments available for public review on the City's website and in the office of the City Secretary; and

**WHEREAS**, the City Council of the City of Copperas Cove, Texas, finds it in the public interest to order a special election, to be held in conjunction with the City's general election on May 8, 2010, for a vote of the electors as to the proposed amendments to the Copperas Cove City Charter; and

**WHEREAS**, the City Council of the City of Copperas Cove, Texas, hereby directs City staff to publish in some newspaper of general circulation in the city on the same day in each of two successive weeks, the date of the first publication to be not less than fourteen days prior to the date of the May 8, 2010 a substantial copy of the proposed amendments and an estimate of the anticipated fiscal impact to the City.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS:**

**SECTION ONE.** A special election is ordered to be held by the City of Copperas Cove, Texas ("City"). At this special election, ballot propositions will be submitted to the

qualified voters of the City for proposed amendments to the City Charter, in accordance with applicable provisions of the City Charter and State law.

**SECTION TWO.** The following measures will be submitted to the qualified voters of the City at the election in the form of propositions in accordance with Section 9.004 of the Texas Local Government Code and Section 11.08 of the Copperas Cove City Charter and other applicable laws:

**Measure No. 1**

SHALL SECTION 1.03 OF THE CITY CHARTER REGARDING THE POWER OF SELF GOVERNMENT BE AMENDED TO READ AS FOLLOWS:

**Sec. 1.03. Home rule.**

(a) The City of Copperas Cove shall have the power of local self government to the fullest extent permitted by law. The City shall have all the powers granted to cities by the Constitution and Laws of the State of Texas together with all of the implied powers necessary to carry into execution those powers and those express and implied powers necessary for the government, interests, health, welfare and good order of the City and its inhabitants. All powers shall be exercised and enforced in the manner prescribed by the laws of the State of Texas, in this Charter and the City's ordinances.

(b) All powers of the City shall be vested in the City council, except as otherwise provided by law or this Charter, and the council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the City by law.

(c) The powers of the City under this charter shall be construed liberally in favor of the City, and the specific mention of particular powers in the charter shall not be construed as limiting in any way the general power granted by the state or this charter.

**Measure No. 2**

SHALL SECTION 1.05 OF THE CITY CHARTER REGARDING THE AUTHORITY TO EXERCISE THE RIGHT OF EMINENT DOMAIN BE AMENDED TO READ AS FOLLOWS:

**Sec. 1.05. Eminent domain.**

The City shall have the full authority to exercise the right of eminent domain for public use when necessary or desirable to carry out any of the powers conferred upon it by this charter, or by the constitution or laws of the State of Texas.

### **Measure No. 3**

SHALL SECTION 2.01 OF THE CITY CHARTER REGARDING THE SEPARATE DESIGNATION OF MAYOR ON THE BALLOT BE AMENDED TO READ AS FOLLOWS:

#### **Sec. 2.01. Composition and terms of office.**

(a) *Composition.* The council shall be composed of a mayor and seven (7) council members. The mayor and all council members shall be elected from the City at large, and each council member shall occupy a position on the council, such positions being numbered one (1) through seven (7) consecutively. The mayor will not be designated as a numbered position on the ballot but shall be designated as "MAYOR."

(b) *Terms of office.* At the first general election held under this charter, and each three (3) years thereafter, the mayor and two (2) council members shall be elected, with the mayor filling the office of mayor and the two (2) council members filling the office of numbered positions one (1) and two (2). The following year, and each three (3) years thereafter, three (3) council members shall be elected, to fill the office of numbered positions three (3), four (4) and five (5). The following year, and each three (3) years thereafter, two (2) council members shall be elected to fill the office of numbered positions six (6) and seven (7). A council member, unless sooner removed from office under the provisions of this charter, shall serve for a term of three (3) years, and shall serve not more than two (2) terms in succession in the office to which elected. Sec. 2.07(c) also applies.

### **Measure No. 4**

SHALL SECTION 2.03 OF THE CITY CHARTER REGARDING THE MAYOR PRO TEMPORE'S AUTHORITY TO VOTE AND THE MAYOR'S AUTHORITY UNDER MARTIAL LAW AND IN TIMES OF EMERGENCY BE AMENDED TO READ AS FOLLOWS:

#### **Sec. 2.03. Presiding officer: Mayor and mayor pro tempore.**

(a) The mayor shall be elected in the manner provided by this charter to serve for a term of three (3) years and shall not serve more than two (2) terms in succession. The mayor shall preside at all meetings of the City council and shall be recognized as head of the City government for all ceremonial purposes, by the governor for purposes of martial law, and shall serve as the emergency management director in times of an emergency as provided by state law, but shall have no day-to-day administrative duties other than signatory duties where the mayor signs a variety of documents to give them official legal effect. The mayor shall vote at council meetings only to break a tie.

(b) At the City council's second regular meeting following each yearly regular election of council members, or runoff election if required, the council shall elect one of its

members as mayor pro tem, for a period of one (1) year. The mayor pro tem shall act as mayor during the absence or disability of the mayor and, when so acting, shall have the same powers, duties, and restrictions as set forth for the office of mayor, except that the he/she shall not lose the right to vote.

(c) In the event that both the mayor and mayor pro tem are absent from a council meeting, if there be a quorum as elsewhere stated in this charter, the council members present shall elect a chairperson who shall have the authority to conduct the meeting as if he/she were the mayor.

#### **Measure No. 5**

SHALL SECTION 2.04 (b) 1. (4) OF THE CITY CHARTER REQUIRING A COUNCIL MEMBER TO OBTAIN A LEAVE OF ABSENCE AT A REGULARLY SCHEDULED MEETING PRIOR TO BEING ABSENT FROM TWO CONSECUTIVE MEETINGS BE DELETED FROM THE CHARTER AND SECTION 2.07 OF THE CITY CHARTER BE AMENDED AS FOLLOWS?

#### **Sec. 2.07. Vacancies, forfeitures, filling of vacancies.**

(b) *Forfeiture.*

1. A council member or the mayor shall forfeit his/her office if he/she:

(4) fails to attend two (2) consecutive regular meetings for reasons other than those caused by sickness or emergency unless excused by City Council (said excusal may be obtained before or after the absence occurs), or

#### **Measure No. 6**

SHALL A NEW SECTION BE ADDED TO THE CITY CHARTER REGARDING THE CITY COUNCIL BEING THE JUDGE OF ITS QUALIFICATIONS AS FOLLOWS:

#### **Sec. \_\_\_\_ Judge of Qualifications.**

The City Council is the final judge of all elections and the qualifications of its members and of any other elected officials of the City.

#### **Measure No. 7**

SHALL LANGUAGE FROM SECTION 3.02 REGARDING AN EMPLOYEE'S REQUIRED RESIGNATION FROM EMPLOYMENT UPON THEIR CANDIDACY FOR OFFICE BE INCLUDED IN SECTION 2.08 (b) AS FOLLOWS:

**Sec. 2.08. Prohibitions.**

(b) *Continuation of City Employment upon Candidacy.* No employee of the city shall continue in such position after becoming a candidate for an elective office.

**Measure No. 8**

SHALL SECTION 2.09 OF THE CITY CHARTER REGARDING THE HOLDING OF SPECIAL MEETINGS BE AMENDED AS FOLLOWS:

**Sec. 2.09. Meetings of council.**

The council shall hold at least two (2) regular meetings each month with the exception of December, which shall have a minimum of one (1) regular meeting, and as many additional meetings as it deems necessary to transact the business of the City and its citizens. The council shall fix, by ordinance, the days, time and place of the regular meetings. All meetings shall be open to the public, except as otherwise provided by law. Special meetings of the council may be held at any time during the year.

**Measure No. 9**

SHALL SECTION 2.10 OF THE CITY CHARTER REGARDING A CITY COUNCIL QUORUM BE AMENDED AS FOLLOWS:

**Sec. 2.10. Rules of procedure.**

The council shall, by ordinance, determine its own rules and order of business and the rules shall provide that citizens of the City shall have a reasonable opportunity to be heard at all regular and special council meetings in regard to any matter under consideration. The council shall provide for minutes being taken and recorded of all meetings, and such minutes shall be a public record. Voting, except on unanimous votes, shall be by roll call and the yeas, nays, and abstentions shall be recorded in the minutes. Four (4) council members shall constitute a quorum for the purpose of transaction of business. Unless otherwise required by law, no actions of council shall be valid and binding unless adopted by the affirmative vote of four (4) or more members of the Council.

**Measure No. 10**

SHALL SECTION 2.12 (e) OF THE CITY CHARTER REGARDING CITY SECRETARY RESPONSIBILITIES BE AMENDED AS FOLLOWS?

**Sec. 2.12. City secretary.**

(e) The secretary shall be responsible for all City elections.

## **Measure No. 11**

SHALL THE FOLLOWING SECTIONS 2.13, 2.14, 2.15, AND 2.16 REGARDING CITY COUNCIL'S EMERGENCY POWERS, THE PASSING OF EMERGENCY ORDINANCES AND THE EMERGENCY POWERS OF THE MAYOR BE DELETED?

### **Sec. 2.13. Emergency Powers.**

A state of emergency shall be deemed to exist when, as the consequences of a major calamity, activities of a war-like nature, riots, or insurrection, the normal procedures of the municipal government are inadequate for the protection of persons or property. A Declaration of Local Disaster may be declared by the vote of council, or by order of the mayor, or, in his absence or disability, the mayor pro tempore, if a meeting of the council cannot be called within the time available, whenever conditions threaten to render inadequate the normal procedures of the municipal government for protection of persons or property. A Declaration of Local Disaster may not be continued or renewed for a period of more than seven (7) days except with the consent of council. An ordinance declaring, continuing, or terminating a local state of disaster shall be given prompt and general publicity and shall be promptly filed with the City Secretary.

### **Sec. 2.14. Emergency ordinances.**

To meet a public emergency affecting life, health, property or the public peace, the council may adopt emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its service, or authorize the borrowing of money except as provided in Sec. 2.14. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing the emergency in clear and specific terms. An emergency ordinance may be adopted, or amended by a simple majority of the council members present. After adoption, emergency ordinances shall be published and printed as prescribed for other ordinances. They shall become effective upon adoption or at such later time as the ordinance may specify. Every emergency ordinance except one made pursuant to Sec. 2.14 shall automatically stand repealed as of the sixty-first (61st) day following the date of adoption, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner prescribed in this section for adoption of emergency ordinances.

### **Sec. 2.15. Duties of the Mayor as Emergency Management Director and Powers of the Mayor during a Local State of Disaster.**

The Mayor is designated as the Emergency Management Director for the City of Copperas Cove, and shall serve as the Governor's designated agent in administration and supervision of the Texas Disaster Act of 1975, and may exercise powers, on an

appropriate local scale, granted the Governor therein. During a state of emergency the mayor, or, in his absence or disability, the mayor pro tempore shall be specifically empowered:

- a. To place temporarily any city officers, employees, services, equipment or properties under the direction or control of any office or officers of the county, state, or federal governments, including the military services, and the duly constituted officers for the civil defense;
- b. To enter upon cooperative agreements with the proper authorities of county, state or federal governments, or other municipalities, for mutual assistance within the area of an existing or threatened emergency;
- c. To order the evacuation of persons from all or any part of the city and to close any buildings or areas within the city;
- d. To re-establish the seat of the city's government at another place, provided that such place, if outside the city's territorial limits, shall be at the place nearest thereto which is suitable and practical.

**Sec. 2.16. When emergency powers of mayor to terminate.**

The emergency powers herein provided shall be exercised only to the extent made necessary by the nature of the emergency and during the continuation of the Declaration of Local Disaster. The Declaration of Local Disaster shall terminate when so ordered by the Governor, mayor, or by the mayor pro tempore in the absence or disability of the mayor, or may be terminated by vote of a majority of the council.

**Measure No. 12**

SHALL THE FOLLOWING SUBSECTIONS 3.01(C) and (D) OF THE CITY CHARTER REGARDING VOTER ELIGIBILITY BE DELETED?

(c) *Voter eligibility.* A certified list of voter registrants within the city shall be requested by the city secretary from the county tax assessor-collector.

(d) *Conduct and regulation of elections.* All city elections shall be governed by the constitution of the State of Texas, general laws of the state, this charter, and ordinances of the city, in the order named. Municipal elections shall be conducted by the election officials appointed or approved by the city council. Sample ballots for the specific election shall be posted in the voting place(s) for purpose of voter orientation.

**Measure No. 13**

SHALL SECTION 3.02 OF THE CITY CHARTER REGARDING FILING FOR MUNICIPAL OFFICE BE AMENDED TO READ AS FOLLOWS:

**Sec. 3.02. Filing for office.**

Any qualified person may have his or her name placed on the official ballot as a candidate for mayor or council member at any election held for the purpose of electing a

mayor or council member by filing with the mayor or city secretary at least forty-five (45) days prior to the date of election before 5:00 p.m., a sworn application as provided in Texas Election Code, 141.031 as amended, may be amended or disposed of in the future.

#### **Measure No. 14**

SHALL SECTION 3.06 OF THE CITY CHARTER REGARDING THE NUMBER OF PETITIONERS NECESSARY FOR AN INITIATIVE BE AMENDED TO READ AS FOLLOWS:

#### **Sec. 3.06. Power of initiative.**

The voters of this city shall have the power to propose any ordinance, or reject the same at the polls. An initiated ordinance may be submitted to the council by a petition signed by qualified voters of the city, equal in number to two and one half percent (2.50%) percent of qualified voters registered to vote at the last general City election.

#### **Measure No. 15**

SHALL SECTION 3.12 (a) OF THE CITY CHARTER REGARDING RESULTS OF REFERENDUMS BE AMENDED AS FOLLOWS:

(a) The ballot used in voting upon an initiated or referred ordinance shall state the caption of the ordinance and below the caption shall set forth on separate lines the words: "For the Ordinance" "Against the Ordinance." Any number of ordinances may be voted upon at the same election in accordance with the provisions of this charter. An ordinance submitted, and receiving an affirmative majority of the votes cast, shall then become effective as an ordinance of the city. An ordinance so adopted may be repealed or amended at any time after the expiration of two (2) years by a majority vote of the entire city council.

#### **Measure No. 16**

SHALL SECTION 3.12 (b) OF THE CITY CHARTER BE AMENDED BY ADDING A SUBSECTION AS FOLLOWS:

#### **Sec. 3.12. Ballot form and results of elections.**

(b) If conflicting ordinances are approved at the same election, the ordinance receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

#### **Measure No. 17**

SHALL SECTION 3.13 OF THE CITY CHARTER REGARDING POWER OF RECALL BE AMENDED AS FOLLOWS:

**Sec. 3.13. Power to recall.**

(a) *Power to recall.* The voters of the City of Copperas Cove shall have the power to recall any elected officer of this city for the reasons of Incompetency and official Misconduct and upon conviction of a crime of moral turpitude.

(1) Incompetency means gross ignorance of official duties; gross carelessness in the discharge of official duties; or inability or unfitness to promptly and properly discharge official duties because of a serious mental or physical defect that did not exist at the time of the officer's election.

(2) Official Misconduct means intentional unlawful behavior relating to official duties and includes intentional or corrupt failure, refusal, or neglect to perform a duty imposed on the officer by law.

**Measure No. 18**

SHALL SECTION 3.13 (b)(2) OF THE CITY CHARTER REGARDING THE NUMBER OF PETITIONERS NECESSARY TO INITIATE A RECALL BE AMENDED TO READ AS FOLLOWS:

**Sec. 3.13. Power to recall.**

(b) *Requirements of a recall petition.*

(2) The petition shall be signed by qualified voters of the city equal in number two and one half percent (2.50%) of the number of qualified voters registered to vote at the last general City election. The petition shall be verified by the same number of signers, with the same qualifications, and in the same manner required in the charter for an initiative petition.

**Measure No. 19**

SHALL SECTION 3.14 OF THE CITY CHARTER REGARDING THE RESULTS OF A RECALL ELECTION SHALL BE AMENDED TO READ AS FOLLOWS:

**Sec. 3.14. Results of recall election.**

If the majority of the votes cast at a recall election shall be for the removal from office of the elected officer named on the petition and ballot, upon the canvas of said election, his/her office shall immediately be declared vacant and shall be filled as vacancies in the city council are filled, as provided in this charter. An elected officer who has been so removed from office shall not be eligible to succeed himself/herself.

### **Measure No. 20**

SHALL SECTION 3.17 OF THE CITY CHARTER REGARDING THE FORM OF THE BALLOT FOR A RECALL BE AMENDED TO READ AS FOLLOWS:

#### **Sec. 3.17. Ballots in recall election.**

Ballots used at recall elections shall conform to the following requirements:

(1) With respect to each person whose removal is sought, the question shall be submitted "Shall (name of person) be removed from the office of (mayor) (council member) by recall?"

(2) Immediately below the question, there shall be printed the two (2) following propositions, one above the other, in the order indicated: "YES." "NO".

### **Measure No. 21**

SHALL SECTION 5.02 OF THE CITY CHARTER REGARDING MUNICIPAL COURT BE AMENDED AS FOLLOWS:

#### **Sec. 5.02. Municipal court.**

There shall be a court for the trial of misdemeanor offenses known as the "Municipal Court of Copperas Cove, Texas," with such powers and duties as are given and prescribed by laws of the State of Texas and this charter.

The municipal court shall be presided over by a magistrate, who shall be known as "the judge of the municipal court."

The court shall be served by a clerk, to be known as the "municipal court clerk", who shall be a city employee.

All fines imposed by the municipal court, or by any court in cases appealed from judgments of the municipal court, shall be paid into the city treasury for the use and benefit of the city.

### **Measure No. 22**

SHALL THE FOLLOWING SECTIONS 6.06, 6.07, 6.12, 6.13, AND 6.15 REGARDING THE CITY BUDGET BE DELETED FROM THE CITY CHARTER?

#### **Sec. 6.06. Notice of public hearing on proposed budget.**

At the meeting of the council at which the proposed budget is submitted, the council shall fix the time and place of a public hearing on the budget and shall cause to

be published in a local newspaper a notice of the hearing, setting forth the time and place thereof at least five (5) days before the date of hearing.

**Sec. 6.07. Public hearing on proposed budget.**

At the time and place set forth in the notice required by Section 6.06, the council shall hold a public hearing on the proposed budget submitted, and all interested persons shall be given an opportunity to be heard, for or against any item or the amount of any item therein contained.

**Sec. 6.12. Budget establishes appropriations.**

From the effective date of the budget, all amounts stated therein as proposed expenditures shall be and become appropriated to all objects and purposes therein named.

**Sec. 6.13. Amount to be raised by property tax.**

From the effective date of the budget, the amount stated therein as the amount to be raised by property tax shall constitute a determination of the amount of the levy for the purposes of the city in the corresponding tax year.

**Sec. 6.15. Estimated expenditures shall not exceed estimated resources.**

The total estimated expenditures of the general fund and debit services fund shall not exceed the total estimated resources of each fund (projected income plus cash on hand). The classification of revenue and expenditure accounts shall conform as nearly as local conditions will permit to the uniform classification as promulgated by the National Committee on Municipal Accounting, or some other nationally accepted classification.

**Measure No. 23**

SHALL THE FOLLOWING SECTION 11.06 OF THE CITY CHARTER REGARDING DAMAGE SUITS BE AMENDED TO READ AS FOLLOWS?

**Sec. 11.06. Damage suits.**

The City shall not be held liable on account of any claim for the death of any person or injuries to any person or damage to any property unless the person making such complaint or claiming such damages shall, within one hundred-twenty (120) days after the time at which it is claimed such damages were inflicted upon such person or property, file with the City a written statement, under oath, stating the nature and character of such damages or injuries, the extent of the same, the place where same happened, the circumstances under which same happened and the condition causing

same, with a detailed statement of each item of damages and the amount thereof, giving a list of any witnesses known by affiant to have seen the accident.

#### **Measure No. 24**

SHALL SECTION 11.07 OF THE CITY CHARTER REGARDING THE POWER TO SETTLE CLAIMS BE AMENDED TO READ AS FOLLOWS:

##### **Sec. 11.07. Power to settle claims.**

The city council, and only the city council, shall have the power to compromise and settle any and all claims and lawsuits of every kind and character in favor of or against the city, including suits by the city to recover delinquent taxes.

#### **Measure No. 25**

SHALL SECTION 11.18 OF THE CITY CHARTER REGARDING THE NUMBER OF PETITIONERS NECESSARY TO INITIATE A CHARTER AMENDMENT BE AMENDED TO READ AS FOLLOWS:

##### **Sec. 11.18. Amending the charter.**

Amendments to this charter may be framed and submitted to the qualified electors of the city by a charter commission in the manner provided by law for framing and submitting a new charter.

Amendments may also be proposed and submitted by ordinance, passed by a majority vote of the full membership of the council, or by a petition signed by not less than two and one half percent (2.50%) of the number of qualified voters registered to vote at the last general City election.

When a charter amendment petition shall have been filed with the council in conformity with the provisions of this charter as to petitions for initiated ordinances, the council shall forth with provide by ordinance for submitting such proposed amendment to a vote of the qualified electors. Any ordinance for submitting a charter amendment to the qualified electors shall provide that such amendment be submitted at the next regular municipal election if one shall occur not less than thirty (30) days nor more than ninety (90) days after the passage of the ordinance; otherwise it shall provide for the submission of the amendment at a special election held on a uniform election date in accordance with state law.

Notice of the election for the submission of said amendment or amendments shall be given by publication thereof, in some newspaper of general circulation in said city, on the same day in each of two (2) successive weeks; the date of the first publication to be not less than fourteen (14) days prior to the date set for said election. If a proposed amendment be approved by a majority of the qualified electors voting thereon, it shall

become a part of the charter at the time fixed therein. Each amendment shall be confined to one subject; and when more than one amendment shall be submitted at the same time, they shall be so submitted as to enable the qualified electors to vote on each amendment separately.

### **Measure No. 26**

SHALL THE FOLLOWING SECTIONS 11.19 AND 11.20 OF THE CITY CHARTER REGARDING THE ORIGINAL CHARTER SUBMISSION BE DELETED?

#### **Sec. 11.19. Effective date and interim government.**

This charter shall take effect from and after the date of its adoption, and the date of the special election held for the purpose of voting upon the acceptance or rejection of this charter shall be considered the date of adoption if said charter is accepted at such election. From and after the effective date of this charter and until the completion of the first election under this charter and the qualification of the mayor and council members thereby elected, the present qualified and acting mayor and the five (5) council members shall constitute the city council of the City of Copperas Cove and the city secretary shall remain in office and continue to conduct the same until said new council is elected and qualified. During the interim period the present city council shall have and possess all of the powers provided by this charter.

#### **Sec. 11.20. Submission of the charter to electors.**

The charter commission in preparing this charter finds that it is impractical to segregate each subject so as to permit a vote of "yes" or "no" on the same, for the reason that the charter is so constructed that in order to enable it to work and function it is necessary that it should be adopted in its entirety. For these reasons the charter commission directs that the said charter be voted upon as a whole and that it shall be submitted to the qualified voters of the City of Copperas Cove at an election to be held on January 20, 1979. If a majority of the qualified voters voting in such election shall vote in favor of the adoption of this charter, it shall become the charter of the City of Copperas Cove, and after the returns have been canvassed, the same shall be declared adopted.

Not less than thirty (30) days prior to such election the city council shall cause the city clerk to mail a copy of this charter to each qualified voter of the City of Copperas Cove.

An official copy of the charter shall be filed with the records of the city, and the mayor shall, as soon as practicable, certify to the secretary of state an authenticated copy under the seal of the city, showing the approval by the qualified voters of such charter.

### **Measure No. 27**

SHALL A NEW SECTION BE ADDED TO THE CITY CHARTER REGARDING THE REGULATION OF ALCOHOL IN RESIDENTIAL SUBDIVISIONS BE ADDED TO READ AS FOLLOWS:

**Sec. \_\_\_\_ . Regulation of Alcohol.**

The sale of liquor and beer is prohibited in all residential sections or areas of the City, as designated by any zoning ordinance or Comprehensive Plan of the City. The City Council may enact any and all other regulations regarding the sale, consumption, distribution, etc. of alcoholic beverages, as permitted by law.

**Measure No. 28**

SHALL A NEW SECTION BE ADDED TO THE CITY CHARTER REGARDING THE REARRANGEMENT AND RENUMBERING OF CHARTER PROVISIONS TO READ AS FOLLOWS:

**Section \_\_\_\_ . Rearrangement and renumbering.**

The City Council shall have the power, by ordinance, to renumber and rearrange all articles, sections and paragraphs of this Charter or any amendments thereto, as it deems appropriate but shall have no power to make substantive changes to Charter in this manner.

**Measure No. 29**

SHALL SECTION 2.01 (B) OF THE CITY CHARTER REGARDING THE COUNCIL MEMBERS TERMS OF OFFICE BE AMENDED TO READ AS FOLLOWS:

**Section 2.01 (b) Terms of Office**

The Mayor and Council Members shall be elected for two (2) year terms and shall serve not more than two (2) terms in succession in the office to which elected.

In order to transition from three (3) year terms to two (2) year terms the following shall be applicable:

In election year 2011 Places six (6) and seven (7) shall be elected to three (3) year terms. In election year 2014 places six (6) and seven (7) shall be elected to two (2) year terms. All other Places and the office of Mayor shall be elected for a two (2) as those current terms expire as follows: In election year 2012 the Office of Mayor and Places one (1) and two (2) shall be elected for two (2) year terms. In election year 2013 Places three (3), four (4) and five (5) shall be elected for two (2) year terms.

**Measure No. 30**

SHALL SECTION 2.07 (C) REGARDING THE FILLING OF VACANCIES BE AMENDED TO READ AS FOLLOWS:

## **Section 2.07 (c) Filling of vacancies**

(a) If for any reason a single vacancy exists on the Council a majority of the remaining members, excluding the Mayor, may fill the vacancy by appointment unless an election to fill the vacancy is required by Article XI, Section 11, of the Texas Constitution. The mayor may vote on the appointment only if there is a tie.

(a-1) A person serving as a member of the governing body is not, because of that service, ineligible to be appointed to fill a vacancy in the office of Mayor of the municipality, but the person may not vote on the person's own appointment.

(b) The person appointed to fill the vacancy serves until the next regular municipal election.

(c) In lieu of appointing a person to fill a vacancy on the Council, a special election may be ordered to elect a person to fill the vacancy.

(d) If two or more vacancies on the governing body exist at the same time, a special election shall be ordered to fill the vacancies.

### **Measure No. 31**

SHALL SECTION 3.04 (C) REGARDING VOTES NECESSARY TO BE ELECTED TO OFFICE BE AMENDED AS FOLLOWS:

#### **Section 3.04 Elections**

(a) To be elected to a place on City Council the candidate must receive more votes than any other person running for that place. To be elected to the office of Mayor the candidate must receive more votes than any other person running for the office of Mayor.

**SECTION THREE.** The ballots for the City election shall comply with the Texas Election Code, and shall have the measures described in Section 2 of this Ordinance stated as propositions as follows:

#### **PROPOSITION NO. 1**

FOR/AGAINST      The amendment of Section 1.03 of the City Charter regarding the nature and function of the City Charter.

#### **PROPOSITION NO. 2**

FOR/AGAINST      The amendment of Section 1.05 of the City Charter deleting, as unnecessary, the words "right" and "power" with regards to the City exercising eminent domain.

**PROPOSITION NO. 3**

FOR/AGAINST The amendment of Section 2.01 of the City Charter moving language regarding the designation of the Mayor on the ballot from one subsection to another.

**PROPOSITION NO. 4**

FOR/AGAINST The deletion of Sections 2.15 and 2.16 and the amendment of Section 2.03 to provide that the duties of the Mayor for purposes of martial law and in times of emergency are consistent with State law.

**PROPOSITION NO. 5**

FOR/AGAINST The amendment of Section 2.03 of the City Charter providing that any Council Member acting in the capacity of Mayor in the absence of the Mayor does not lose their right to vote.

**PROPOSITION NO. 6**

FOR/AGAINST The deletion of Section 2.04 and amendment of Section 2.07 of the City Charter in order to allow a Council Member or the Mayor to receive an excuse for missing two consecutive regular City Council meetings after the absences occur without forfeiting their respective office.

**PROPOSITION NO. 7**

FOR/AGAINST The amendment of the City Charter by addition of a section providing that the City Council is the final judge of all elections and the qualifications of its members and other elected officials of the City.

**PROPOSITION NO. 8**

FOR/AGAINST The amendment of Sections 2.08 and 3.02 of the City Charter moving language regarding City employment after becoming a candidate for office from one section to another.

**PROPOSITION NO. 9**

FOR/AGAINST The amendment of Section 2.09 of the City Charter to provide that special meetings of the City Council may be held at any time.

**PROPOSITION NO. 10**

FOR/AGAINST The amendment of Section 2.10 of the City Charter reducing the number of Council Members required for a quorum to conduct business from five (5) to four (4).

**PROPOSITION NO. 11**

FOR/AGAINST The amendment of Section 2.12 of the City Charter to provide that the City Secretary is responsible for all City Elections.

**PROPOSITION NO. 12**

FOR/AGAINST The amendment of the City Charter deleting, as unnecessary, Section 2.13 Emergency Powers.

**PROPOSITION NO. 13**

FOR/AGAINST The amendment of the City Charter deleting, as unnecessary, Section 2.14 Emergency Ordinances.

**PROPOSITION NO. 14**

FOR/AGAINST The amendment of the City Charter deleting, as redundant of State law and therefore unnecessary, Subsections 3.01 (C) and (D) regarding voter eligibility and conduct of elections.

**PROPOSITION NO. 15**

FOR/AGAINST The amendment of the City Charter Section 3.02 Filing for Office to comply with State law.

**PROPOSITION NO. 16**

FOR/AGAINST The amendment of the City Charter Section 3.06 Power of Initiation to provide that an initiated ordinance may be submitted to the council by a petition signed by qualified voters of the city, equal in number to two and one half percent (2.50%) percent of qualified voters registered to vote at the last general City election.

**PROPOSITION NO. 17**

FOR/AGAINST The amendment of the City Charter Section 3.06 Power of Initiation deleting the minimum number of petitioner signature requirements for initiating an ordinance.

**PROPOSITION NO. 18**

FOR/AGAINST The amendment of Section 3.12 deleting, as unnecessary, language regarding the result of a referred ordinance which is not approved.

**PROPOSITION NO. 19**

FOR/AGAINST The amendment of Section 3.12 of the City Charter by addition of a subsection providing that if conflicting ordinances are approved at the same election, the ordinance receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

**PROPOSITION NO. 20**

FOR/AGAINST The amendment of Section 3.13 of the City Charter to provide that the citizens shall have the power to recall any elected officer of the City for the reasons of incompetency, official misconduct and upon conviction of a crime of moral turpitude.

**PROPOSITION NO. 21**

FOR/AGAINST The amendment of the City Charter Section 3.13 to provide that a petition for recall of an City elected official may be submitted to the council by a petition signed by qualified voters of the city, equal in number to two and one half percent (2.50%) percent of qualified voters registered to vote at the last general City election.

**PROPOSITION NO. 22**

FOR/AGAINST The amendment of the City Charter Section 3.13 deleting the minimum number of petitioner signatures for the recall of a City elected official.

**PROPOSITION NO. 23**

FOR/AGAINST The amendment of the City Charter Section 3.14 to provide that the office of a City elected official who has been recalled is automatically vacated upon the canvas of the votes of the recall election.

**PROPOSITION NO. 24**

FOR/AGAINST The amendment of the City Charter Section 3.17 to provide that immediately below a question on the ballot for the recall of a City Elected official, there shall be printed the two (2) following

propositions, one above the other and in the following order: "YES."  
"NO".

**PROPOSITION NO. 25**

FOR/AGAINST The amendment of the City Charter Section 5.02 to delete, as unnecessary, the requirement that the Municipal Judge assist the City Attorney in the review of ordinances for updating or deletion.

**PROPOSITION NO. 26**

FOR/AGAINST The amendment of the City Charter deleting, as redundant of State law and therefore unnecessary, Section 6.06 regarding a proposed budget.

**PROPOSITION NO. 27**

FOR/AGAINST The amendment of the City Charter deleting, as redundant of State law and therefore unnecessary, Section 6.07 regarding a proposed budget.

**PROPOSITION NO. 28**

FOR/AGAINST The amendment of the City Charter deleting, as redundant of State law and therefore unnecessary, Section 6.12 regarding budget appropriations.

**PROPOSITION NO. 29**

FOR/AGAINST The amendment of the City Charter deleting, as redundant of State law and therefore unnecessary, Section 6.13 regarding property taxes.

**PROPOSITION NO. 30**

FOR/AGAINST The amendment of the City Charter deleting, as redundant of State law and therefore unnecessary, Section 6.15 regarding estimated expenditures.

**PROPOSITION NO. 31**

FOR/AGAINST The amendment of Section 11.06 of the City Charter for conformance with state law.

**PROPOSITION NO. 32**

FOR/AGAINST The amendment of Section 11.07 deleting unnecessary provisions.

**PROPOSITION NO. 33**

FOR/AGAINST The amendment of the City Charter Section 11.18 to provide that proposed amendments to the City Charter may be submitted to the council by a petition signed by qualified voters of the city, equal in number to two and one half percent (2.50%) percent of qualified voters registered to vote at the last general City election.

**PROPOSITION NO. 34**

FOR/AGAINST The amendment of the City Charter Section 11.18 deleting the minimum number of petitioner signatures needed to submit a petition for amendments to the City Charter.

**PROPOSITION NO. 35**

FOR/AGAINST The amendment of the City Charter deleting sections Section 11.19 and 11.20 of the original Charter as no longer necessary.

**PROPOSITION NO. 36**

FOR/AGAINST The amendment of the City Charter adding a section to allow the City to regulate the sale and distribution of alcohol in residential areas pursuant to State law.

**PROPOSITION NO. 37**

FOR/AGAINST The amendment of the City Charter adding a section to allow the City Council to make non-substantive form changes to the Charter by ordinance.

**PROPOSITION NO. 38**

FOR/AGAINST The amendment of Section 2.01(b) of the City Charter, Terms of Office, reducing the term of City Council members from 3 years to 2 years.

**PROPOSITION NO. 39**

FOR/AGAINST The amendment of Section 2.07(c) of the City Charter, filling of vacancies, to provide for City Council to fill a vacancy on City Council by appointment.

**PROPOSITION NO. 40**

FOR/AGAINST      The amendment of Section 3.04(c) of the City Charter, Elections, to provide that a candidate for office of Mayor or City Council may be elected by plurality.

**SECTION FOUR.** Only resident qualified voters of said City shall be eligible to vote. Said election will be held in Copperas Cove City Hall Council Chambers, 507 South Main Street, with Mary Howell as Presiding Election Judge and Rita Burgess as Alternate Presiding Election Judge. The clerks for the election will be appointed by the Presiding Election Judge in a number not to exceed six (6) clerks. The Presiding Election Judge will be paid the sum of \$10.00 per hour and the Alternate Presiding Election Judge and clerks will be paid \$8.00 per hour.

**SECTION FIVE.** The designated polling place shall, on Election Day, be open from 7:00 a.m. to 7:00 p.m.

**SECTION SIX.** Mary Howell shall be appointed to serve as the Early Voting Ballot Board PRESIDING Officer and shall appoint two (2) clerks to assist her.

**SECTION SEVEN.** Jane Lees, City Secretary, will conduct early voting. The City Secretary will appoint Deputy Early Voting Clerks to assist her. Early voting for the above designated election shall be held in Copperas Cove City Hall Council Chambers, 507 South Main Street.

**SECTION EIGHT.** Early voting will be conducted on the following days and times:

April 26, 2010	7:00 a.m. – 7:00 p.m.
April 27, 2010	8:00 a.m. – 5:00 p.m.
April 28, 2010	7:00 a.m. – 7:00 p.m.
April 29, 2010	8:00 a.m. – 5:00 p.m.
April 30, 2010	8:00 a.m. – 5:00 p.m.
May 3, 2010	8:00 a.m. – 5:00 p.m.
May 4, 2010	8:00 a.m. – 5:00 p.m.

**SECTION NINE.** Applications for ballot by mail shall be mailed to: Jane Lees, City Secretary, City of Copperas Cove, P.O. Drawer 1449, Copperas Cove, Texas 76522. The first day applications for voting by mail ballot may be accepted is March 9, 2010. The last day to receive applications from voters in person for a ballot to be voted by mail is April 23, 2010. The last day to receive applications by mail for a ballot to be voted by mail is April 30, 2010.

**SECTION TEN.** All ballots shall be prepared in accordance with Texas Election Code. Paper ballots shall be used for early voting by mail and Paper Ballots and eSlate Direct Recording Electronic (DRE) Voting System shall be used for early voting by

personal appearance and voting on Election Day, both of which are part of the eSlate DRE Voting System.

**SECTION ELEVEN.** All expenditures necessary for the conduct of the election, the purchase of materials and the employment of all election officials is hereby authorized and the City Secretary is hereby authorized and directed to furnish all necessary election supplies to conduct such election.

**SECTION TWELVE.** The City Secretary is further authorized and directed to conduct said election jointly, with the Copperas Cove Independent School District (CCISD), as long as their election is not canceled. The City Secretary will take all necessary actions to conduct the election jointly, to work with CCISD personnel, and to coordinate and sign a joint election agreement between CCISD and the City.

**SECTION THIRTEEN.** Said elections shall be held in accordance with the Election Code and the State of Texas. Notice of said elections shall be given in accordance with the terms and provisions of the Election Code and the City Secretary is hereby instructed to have said notice posted and published in accordance with state law. A copy of this order shall also serve as a Writ of Election, which shall be delivered to the above-appointed Presiding Election Judge for said elections.

**PASSED, APPROVED, AND ADOPTED** on this 2nd day of March 2010, at a regular meeting of the City Council of the City of Copperas Cove, Texas which meeting was held in compliance with the Open Meetings Act, *Tex. Gov't. Code, §551.001, et.seq.* at which meeting a quorum was present and voting.

\_\_\_\_\_  
John Hull, Mayor

**ATTEST:**

\_\_\_\_\_  
Jane Lees, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Denton, Navarro, Rocha  
& Bernal, P.C., City Attorney

# City of Copperas Cove City Council Agenda Item Report

March 2, 2010

## Agenda Item I-5

Contact – Wanda Bunting, Director of Financial Services, 547-4221  
wbunting@ci.copperas-cove.tx.us

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SUBJECT: **Consideration and action on a resolution expressing intent to finance expenditures to be incurred for the Northeast Bypass.**

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### 1. BACKGROUND/HISTORY

In the 2008 Bond Election, the voters approved a bond for the Northeast Bypass. As a result, the City is currently scheduled to issue debt next year for the project.

In October 2009, the City Council authorized a \$3,400 reimbursement resolution for the Northeast Bypass project for the City's cost of the right-of-way purchase that was not located on federal property.

### 2. FINDINGS/CURRENT ACTIVITY

The current reimbursement resolution request will not require a FY 2009-10 budget amendment due to the fact that the debt is planned for issue in the same fiscal year. Thus, the cash will be returned to the General fund immediately upon receiving the bond proceeds. The amount required is estimated to be \$152,000. The funds will cover the City's anticipated costs associated with the design for City's utility relocation portion of the project.

The approval of a reimbursement resolution is required prior to the City entering into a contract with Kellogg Brown & Root Services, Inc. (KBR). The General Fund will lend the cash to the capital projects fund to cover the costs incurred prior to the bond proceeds being received by the City.

With City Council's approval of the reimbursement resolution, the use of the operating funds on a temporary basis for the Northeast Bypass project should not negatively impact the City's bond rating.

### 3. FINANCIAL IMPACT

Approval of the resolution will have no direct financial impact, but will allow operating funds to be reimbursed once the debt is issued.

**4. ACTION OPTIONS/RECOMMENDATION**

City staff recommends the City Council approve a resolution, expressing intent to finance expenditures to be incurred with a future debt issuance for the Northeast Bypass.

**RESOLUTION NO. 2010-12**

**A RESOLUTION OF THE CITY OF COPPERAS COVE,  
TEXAS, EXPRESSING INTENT TO FINANCE  
EXPENDITURES TO BE INCURRED FOR THE  
NORTHEAST BYPASS.**

**WHEREAS,** the City of Copperas Cove, Texas (the “[Issuer]”) is a political subdivision of the State of Texas authorized to finance its activities by issuing obligations, the interest on which is excludable from gross income for federal income tax purposes (“tax-exempt obligations”), pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”); and

**WHEREAS,** the [Issuer] will make, or has made not more than 60 days prior to the date hereof, payments with respect to the acquisition, construction, reconstruction or renovation of the project listed on Exhibit A attached hereto; and

**WHEREAS,** the [Issuer] has concluded that it does not currently desire to issue tax-exempt obligations to finance the costs associated with the property listed on Exhibit A attached hereto; and

**WHEREAS,** the [Issuer] desires to reimburse itself for the costs associated with the property listed on Exhibit A attached hereto from the proceeds of tax-exempt obligations to be issued subsequent to the date hereof; and

**WHEREAS,** the [Issuer] reasonably expects to issue tax-exempt obligations to reimburse itself for the costs associated with the property listed on Exhibit A attached hereto.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS THAT:**

**Section 1.**

The [Issuer] reasonably expects to reimburse itself for all costs that have been or will be paid subsequent to the date that is 60 days prior to the date hereof and that are to be paid in connection with the acquisition, construction, reconstruction or renovation of the property listed on Exhibit A attached hereto from the proceeds of tax-exempt obligations to be issued subsequent to the date hereof.

**Section 2.**

The [Issuer] reasonably expects that the maximum principal amount of tax-exempt obligations issued to reimburse the [Issuer] for the costs associated with the property

listed on Exhibit A attached hereto will not exceed the respective amounts shown on Exhibit A.

**PASSED, APPROVED, AND ADOPTED**, on this 2nd day of March 2010 at a regular meeting of the City Council of the City of Copperas Cove, Texas, such meeting was held in compliance with the Open Meetings Act, Tex. Gov't Code, Chapter 551-001 et.seq. at which meeting a quorum was present and voting.

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John Hull, Mayor

**ATTEST:**

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Jane Lees, City Secretary

**APPROVED AS TO FORM:**

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Denton, Navarro, Rocha  
& Bernal, P.C., City Attorney

EXHIBIT A  
DESCRIPTION OF PROJECT

<u>Purpose/Project</u>	<u>Amount</u>
<u>Northeast Bypass Project</u>	<u>\$152,000</u>

# City of Copperas Cove City Council Agenda Item Report

March 2, 2010

## Agenda Item No. I-6

Contact – Wesley Wright, P.E, City Engineer, 547-0751

wwright@ci-copperas-cove.tx.us

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**SUBJECT: Consideration and action upon authorizing the City Manager to execute an agreement with KBR for utility relocation design associated with the State Highway 9 (Northeast Bypass) project.**

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### 1. BACKGROUND/HISTORY

The Texas Department of Transportation (TxDOT) is moving forward with the design of State Highway 9, also known as the Northeast Bypass. Construction plans are beyond 30% complete and all the required right-of-way has been obtained. As part of the City's commitment, existing City utilities must be relocated to prevent conflicts with the proposed design.

In October 2009, Council approved the City's Five Year Capital Improvement Plan that includes the State Highway 9 project.

### 2. FINDINGS/CURRENT ACTIVITY

Staff worked with TxDOT Officials to revise the scope of the State Highway 9 design to minimize the impact to existing City utilities. However, existing 8" & 24" sanitary sewer lines, along with an existing 6" waterline must be relocated to accommodate TxDOT's design.

### 3. FINANCIAL IMPACT

The City has committed to a total of \$1.4 million for the construction of State Highway 9 through the November 2008 Bond Election. The amount includes utility relocation and design costs. A bond issuance is planned for FY 2010 to provide funding for the design of the utility relocates and project construction.

### 4. ACTION OPTIONS/RECOMMENDATION

City staff recommends that City Council authorize the City Manager to execute an agreement with KBR for utility designs associated with the State Highway 9 (Northeast Bypass) project.



505 E. Huntland Drive, Ste. 100 • Austin, Texas 78752  
Office: 512.420.0338 • Fax: 512.419.1432

February 22, 2010

Mr. Wesley Wright, P.E.  
City of Copperas Cove  
1601 N. First Street  
Copperas Cove, TX 76522

Re: Task Order No. 2  
FM 116/SH 9 Water and Wastewater Utility Adjustments  
Professional Services Agreement

Dear Mr. Wright:

Attached is our fee budget proposal for performing professional engineering services related to the FM 116 Water and Wastewater Utility Adjustment improvements for your review and authorization. The anticipated utility adjustments are illustrated in the attached figure. Our services include Phase A, B and C services related to the Design and Bid/Award of approximately 2,500 lf of 21-inch wastewater main, 760 lf of 6 and 8-inch wastewater main and 2,400 lf of 6-inch water main. In an effort to conform to the Texas Department of Transportation (TxDOT) established schedule milestones, during Phase B, KBR plans one design submittal at the 100% design stage. As we understand, TxDOT will require the 100% design submittal by April 1, 2010. We anticipate further coordination with TxDOT regarding the submittal of the Final Bid Documents prior to the TxDOT letting date of July, 2010. These services include:

**Phase A: Preliminary Phase Services:**

KBR collects available utility, topographical survey, geotechnical and environmental data, design drawings, as-built record drawings, reports, etc. for purposes of developing the proposed water and wastewater utility adjustments related to the FM 116 roadway improvements. KBR attended three meetings to discuss project goals, requirements and schedule milestones. Preliminary conceptual drawings are prepared.

**Phase B: Design Phase Services:**

**100% Design:** KBR will prepare and submit to the City the 100% design drawings in MicroStation format, cost estimate (Class B) and a complete Special Specifications document for the water and wastewater utility adjustments related to the FM 116 roadway improvements according to the established schedule. These drawings and special specifications will also be provided to Kimley-Horn and Associates, Inc. (KHA) for inclusion in their FM 116 and SH 9 roadway drawings. The drawings and special specifications will be provided to TxDOT for permitting and bid letting purposes. KBR will attend a Submittal Review meeting to discuss the 100% drawings with both TxDOT and the City. KBR will prepare brief meeting minutes to document results of review meeting. KBR will provide five (5) hard copies of half-sized drawings for City review and relevant electronic drawing files on CD for record purposes. KBR will transmit electronically all bid document files for TxDOT permitting and use. Hard copies will also be provided if requested. All review comments will be addressed according to City and TxDOT preferences and procedures.

**Final Bid Documents:** KBR will prepare and submit final bid documents and (Class A) cost estimate to the City's Project Manager, KHA and TxDOT according to established project schedule. Final Bid Document package will include document originals, electronic files, and other project related data. Five (5) hard copies of half-sized drawings and relevant electronic files on CD will be provided to the City. KBR will transmit electronically to TxDOT all final bid document files for bid letting purposes.

**Phase C: Bid-Award-Execution Phase Services:**

**Bid and Award Support:** KBR will attend the pre-bid conference and assist the City in conducting the conference; prepare and deliver conference minutes to the City. During the bidding period, KBR will prepare written responses to inquiries from the bidders and prepare written addenda as may be required to amend contract documents.

**Project Management:** General project management and administrative services related to day to day project progress.

**Subcontractor Services:**

**Holt Engineering, Inc.** will provide geotechnical services including drilling, logging and sampling of 10 soil borings, construction drawing and specification review, preparation of the Geotechnical Data Report and the Geotechnical Design Memorandum.

**Blanton & Associates, Inc.** will provide environmental and permitting coordination and support services through the 100% and Final design stages.

**Budget Breakdown:**

A budget breakdown is shown in attached Fee Schedule. The total estimated cost for these services is \$151,904.00, including sub-consulting services.

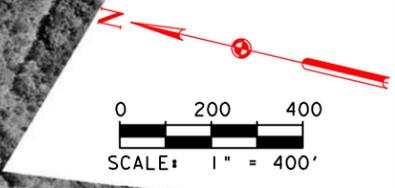
I may be reached at 512-483-9353 if you need to discuss further.

Sincerely,

Ramon Salazar, P.E.  
Water Resource Manager – Central Texas

**TASK ORDER #2**  
**CITY OF COPPERAS COVE, TEXAS**  
**FM 116/SH 9 Wastewater (6, 8, and 21-inch) and Water (6-inch) Utility Adjustments**

Item No.	Phase/Task Description	KBR Staff Hours										Task Total Hours	Phase Budget	SUBCONSULTANTS			
		Sr. PM II \$206.09/hr.	Sr. PM I \$205.34/hr.	E/S/P V \$209.25/hr.	E/S/P IV \$180.10/hr.	ES II \$82.87/hr.	TD III \$105.92/hr.	TD II \$87.54/hr.	Admin 1 \$80.64/hr.	Holt Engineering	Blanton & Associates						
<b>Phase A: Preliminary Phase</b>																	
1	Collect and review project data	1			30					40					71		
2	Perform field reconnaissance				8					8					16		
3	Perform topographic survey														0		
4	Determine site constraints and permitting requirements	1			3										4		
12	Project Management/Administration	4													4		
<b>Phase A Subtotal</b>		\$5,358.34	\$0.00	\$0.00	\$7,384.10	\$0.00	\$5,084.16	\$0.00	\$0.00	\$0.00	\$17,827			115			
<b>Phase B: Design Phase Services</b>																	
<b>100% Stage</b>																	
Coordinate and perform geotechnical investigations																	8000
16	Prepare 100% water and wastewater utility adjustment drawings	8	0	0	36					200					474		
17	Prepare 100% Class B cost estimate and schedule				16										48		
18	Prepare 100% project manual	2			16										53		
19	Perform in-house QA/QC and QCP documents	10													18		
20	Participate in 100% review meeting	4			4										8		
21	Prepare meeting minutes	4			4										8		
22	Prepare 100% submittal package (incl. 15 full-size and 15 half-size drawings)				8					24					72		
<b>Final Stage</b>																	
23	Address review comments and prepare Final drawings and project manual	8	0	0	24					80					200		
24	Prepare Class A cost estimate and schedule	2			8										22		
25	Perform in-house QA/QC and QCP documents	10			10										20		
26	Prepare Final Bid Document package (document originals, mylars, electronic files, design criteria, calcs, etc.)	4			8					10					44		
27	Project Management/Administration	24													34		
<b>Phase B Subtotal</b>		\$15,662.84	\$0.00	\$3,766.50	\$22,332.40	\$18,480.01	\$33,256.88	\$19,608.96	\$1,334.06	\$114,444	\$8,000	\$		1001	\$		
<b>Phase C: Bid-Award-Execution Phase Services</b>																	
1	Bid Document Coordination														0		
2	Pre-Bid conference participation	4			4										8		
3	Addenda support	2			4					28					58		
4	Bid Opening Participation	4			4										4		
5	Project Management/Administration	10													10		
<b>Phase C Subtotal</b>		\$3,297.44	\$0.00	\$0.00	\$2,161.20	\$662.96	\$1,694.72	\$2,451.12	\$0.00	\$10,267				80	\$		
<b>Total Hours</b>		118	0	18	177	231	378	252	22	1,196				1,196			
<b>Subtotal</b>		\$24,319	\$	\$3,767	\$31,878	\$19,143	\$40,038	\$22,060	\$1,334	\$142,538				\$142,538			
<b>KBR Total</b>																	
<b>Subconsultant Subtotal plus 5%</b>																	
<b>Reimbursable Expenses (copies) plus 5%</b>																	
<b>Total Fee Amount</b>																	



**KBR**  
 Engineered by KBR Technical Services, Inc.  
 CITY OF  
 COPPERAS COVE

**STATE HIGHWAY 9  
 AT FM 116 INTERSECTION**  
 WATER AND WASTEWATER  
 RELOCATIONS

FED. RD. DIV. NO.	FEDERAL AID PROJECT NO.	HIGHWAY NO.	
6			
STATE	DIST.	COUNTY	SHEET NO.
TEXAS			
CONT.	SECT.	JOB	

FILENAME: \$\$\$SYTIME\$\$\$  
 PLOTTED: \$\$\$DATE\$\$\$

**CITY OF COPPERAS COVE**  
**STANDARD PROFESSIONAL SERVICES AGREEMENT**

THE STATE OF TEXAS   §  
  §  
CORYELL COUNTY       §

This Professional Services Agreement (“Agreement”) is made and entered by and between the City of Copperas Cove, Texas, (the “City”) a Texas municipality, and \_\_\_\_\_ (“Professional”).

**Section 1. Duration.** This Agreement shall become effective upon \_\_\_\_\_ and shall remain in effect until satisfactory completion of the Scope of Work unless terminated as provided for in this Agreement.

**Section 2. Scope of Work.**

(A) Professional shall perform the Services as more particularly described in the Scope of Work attached hereto as Exhibit “A”. The work as described in the Scope of Work constitutes the “Project”. Unless otherwise provided in the Scope of Work, the anticipated submittal of all Project deliverables is immediately upon completion of the Project.

(B) The Quality of Services provided under this Agreement shall be of the level of professional quality performed by Professionals regularly rendering this type of service.

(C) The Professional shall perform its Services for the Project in compliance with all statutory, regulatory and contractual requirements now or hereafter in effect as may be applicable to the rights and obligations set forth in the Agreement.

(D) The Professional may rely upon the accuracy of reports and surveys provided to it by the City except when defects should have been apparent to a reasonably competent professional or when it has actual notice of any defects in the reports and surveys.

**Section 3. Compensation.**

(A) The Professional shall be paid in the manner set forth in Exhibit “A” and as provided herein.

(B) *Billing Period:* The Professional may submit monthly, or less frequently, an invoice for payment based on the estimated completion of the described tasks and approved work schedule. Subject to Chapter 2251, Texas Government Code (the “Prompt Payment Act”), payment is due within thirty (30) days of the City’s receipt of the Professional’s invoice. Interest on overdue payments shall be calculated in accordance with the Prompt Payment Act.

(C) *Reimbursable Expenses:* Any and all reimbursable expenses related to the Project shall be included in the scope of services (Exhibit A) and accounted for in the total contract amount. If these items are not specifically accounted for in Exhibit A they shall be considered subsidiary to the total contract amount.

#### **Section 4. Changes to the Project Work; Additional Work.**

(A) *Changes to Work:* Professional shall make such revisions to any work that has been completed as are necessary to correct any errors or omissions as may appear in such work. If the City finds it necessary to make changes to previously satisfactorily completed work or parts thereof, the Professional shall make such revisions if requested and as directed by the City and such services will be considered as additional work and paid for as specified under following paragraph.

(B) *Additional Work:* The City retains the right to make changes to the Scope of Work at any time by a written order. Work that is clearly not within the general description of the Scope of Work and not does not otherwise constitute special services under this Agreement must be approved in writing by the City by supplemental agreement before the additional work is undertaken by the Professional. If the Professional is of the opinion that any work is beyond that contemplated in this Agreement and the Scope of Work governing the project and therefore constitutes additional work, the Professional shall promptly notify the City of that opinion, in writing. If the City agrees that such work does constitute additional work, then the City and the Professional shall execute a supplemental agreement for the additional work and the City shall compensate the Professional for the additional work on the basis of the rates contained in the Scope of Work. If the changes deduct from the extent of the Scope of Work, the contract sum shall be adjusted accordingly. All such changes shall be executed under the conditions of the original Agreement. Any work undertaken by Professional not previously approved as additional work shall be at risk of the Professional.

## **Section 5. Time of Completion.**

The prompt completion of the services under the Scope of Work relates is critical to the City. Unnecessary delays in providing services under a Scope of Work shall be grounds for dismissal of the Professional and termination of this Agreement without any or further liability to the City other than a prorated payment for necessary, timely, and conforming work done by Professional prior to the time of termination. The Scope of Work shall provide, in either calendar days or by providing a final date, a time of completion prior to which the Professional shall have completed all tasks and services described in the Scope of Work.

## **Section 6. Insurance.**

Before commencing work under this Agreement, Professional shall obtain and furnish to the City evidence of the following insurance during the term of this Agreement and thereafter as required herein:

**Professional Liability Insurance:** professional errors and omissions liability insurance with limits of liability not less than \$1,000,000 per occurrence covering all work performed by the Professional, its employees, sub-contractors, or independent contractors. If this coverage can only be obtained on a "claims made" basis, the certificate of insurance must clearly state coverage is on a "claims made" basis and coverage must remain in effect for at least two years after final payment with the Professional continuing to furnish the City certificates of insurance.

**Workers Compensation Insurance:** The Professional shall carry and maintain during the term of this Agreement, workers compensation and employers liability insurance meeting the requirements of the State of Texas on all the Professional's employees carrying out the work involved in this contract.

**General Liability Insurance:** The Professional shall carry and maintain during the term of this Agreement, general liability insurance on a per occurrence basis with limits of liability not less than \$1,000,000 for each occurrence and for fire damage. For Bodily Injury and Property Damage no less than \$1,000,000. As a minimum, coverage for Premises, Operations, Products and Completed Operations shall be \$2,000,000. This coverage shall protect the public or any person from injury or property damages sustained by reason of the Professional or its employees carrying out the work involved in this Agreement. The general aggregate shall be no less than \$2,000,000.

**Automobile Liability Insurance:** Professional shall carry and maintain during the term of this Agreement, automobile liability insurance with either a combined limit of at least

\$1,000,000 per occurrence for bodily injury and property damage or split limits of at least \$1,000,000 for bodily injury per person per occurrence and \$1,000,000 for property damage per occurrence. Coverage shall include all owned, hired, and non-owned motor vehicles used in the performance of this contract by the Professional or its employees.

Subcontractor: In the case of any work sublet, the Professional shall require subcontractor and independent contractors working under the direction of either the Professional or a subcontractor to carry and maintain the same workers compensation and liability insurance required of the Professional.

Qualifying Insurance: The insurance required by this Agreement shall be written by non-assessable insurance company licensed to do business in the State of Texas and currently rated "B" or better by the A.M. Best Companies. All policies shall be written on a "per occurrence basis" and not a "claims made" form.

## **Section 7. Miscellaneous Provisions.**

(A) *Subletting.* The Professional shall not sublet or transfer any portion of the work under this Agreement or any Scope of Work issued pursuant to this Agreement unless specifically approved in writing by the City, which approval shall not be unreasonably withheld. Subcontractors shall comply with all provisions of this Agreement and the applicable Scope of Work. The approval or acquiescence of the City in the subletting of any work shall not relieve the Professional of any responsibility for work done by such subcontractor.

(B) *Ownership of Documents.* Upon completion or termination of this Agreement, all documents prepared by the Professional or furnished to the Professional by the City shall be delivered to and become the property of the City. All drawings, charts, calculations, plans, specifications and other data, including electronic files and raw data, prepared under or pursuant to this Agreement shall be made available, upon request, to the City without restriction or limitation on the further use of such materials PROVIDED, HOWEVER, THAT SUCH MATERIALS ARE NOT INTENDED OR REPRESENTED TO BE SUITABLE FOR REUSE BY THE CITY OR OTHERS. ANY REUSE WITHOUT PRIOR VERIFICATION OR ADAPTATION BY THE PROFESSIONAL FOR THE SPECIFIC PURPOSE INTENDED WILL BE AT THE CITY'S SOLE RISK AND WITHOUT LIABILITY TO THE PROFESSIONAL. Where applicable, Professional shall retain all pre-existing proprietary rights in the materials provided to the City but shall grant to the City a non-exclusive, perpetual, royalty-free license to use such proprietary information solely for the purposes for which the information was provided. The Professional may, at Professional's expense, have copies made of the documents or any other data furnished to the City under or pursuant to this Agreement.

(C) *Professional's Seal.* To the extent that the Professional has a professional seal it shall placed on all documents and data furnished by the Professional to the City. All work and services provided under this Agreement will be performed in a good and workmanlike fashion and shall conform to the accepted standards and practices of the Professional's industry. The plans, specifications and data provided by Professional shall be adequate and sufficient to enable those performing the actual work to perform the work as and within the time contemplated by the City and Professional. The City acknowledges that Professional has no control over the methods or means of work nor the costs of labor, materials or equipment. Unless otherwise agreed in writing, any estimates of costs by the Professional are for informational purposes only and are not guarantees.

(D) *Compliance with Laws.* The Professional shall comply with all federal, state and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts, administrative, or regulatory bodies in any matter affecting the performance of this Agreement, including, without limitation, worker's compensation laws, minimum and maximum salary and wage statutes and regulations, and licensing laws and regulations. When required, the Professional shall furnish the City with satisfactory proof of compliance.

(E) *Independent Contractor.* Professional acknowledges that Professional is an independent contractor of the City and is not an employee, agent, official or representative of the City. Professional shall not represent, either expressly or through implication, that Professional is an employee, agent, official or representative of the City. Income taxes, self-employment taxes, social security taxes and the like are the sole responsibility of the Professional.

(F) *Non-Collusion.* Professional represents and warrants that Professional has not given, made, promised or paid, nor offered to give, make, promise or pay any gift, bonus, commission, money or other consideration to any person as an inducement to or in order to obtain the work to be provided to the City under this Agreement. Professional further agrees that Professional shall not accept any gift, bonus, commission, money, or other consideration from any person (other than from the City pursuant to this Agreement) for any of the services performed by Professional under or related to this Agreement. If any such gift, bonus, commission, money, or other consideration is received by or offered to Professional, Professional shall immediately report that fact to the City and, at the sole option of the City, the City may elect to accept the consideration for itself or to take the value of such consideration as a credit against the compensation otherwise owing to Professional under or pursuant to this Agreement.

(G) *Force Majeure.* If the performance of any covenant or obligation to be performed hereunder by any party is delayed as a result of circumstances which are beyond the reasonable control of such party (which circumstances may include, without limitation,

pending litigation, acts of God, war, acts of civil disobedience, fire or other casualty, shortage of materials, adverse weather conditions [such as, by way of illustration and not of limitation, severe rain storms or below freezing temperatures, or tornados] labor action, strikes or similar acts, moratoriums or regulations or actions by governmental authorities), the time for such performance shall be extended by the amount of time of such delay, but no longer than the amount of time reasonably occasioned by the delay. The party claiming delay of performance as a result of any of the foregoing force majeure events shall deliver written notice of the commencement of any such delay resulting from such force majeure event not later than seven (7) days after the claiming party becomes aware of the same, and if the claiming party fails to so notify the other party of the occurrence of a force majeure event causing such delay and the other party shall not otherwise be aware of such force majeure event, the claiming party shall not be entitled to avail itself of the provisions for the extension of performance contained in this subsection.

(H) In the case of any conflicts between the terms of this Agreement and wording contained within the Scope of Services, this Agreement shall govern. The Scope of Services is intended to detail the technical scope of services, fee schedule, and contract time only and shall not dictate Agreement terms.

#### **Section 8. Termination.**

(A) This Agreement may be terminated:

- (1) By the mutual agreement and consent of both Professional and City;
- (2) By either party, upon the failure of the other party to fulfill its obligations as set forth in either this Agreement or a Scope of Work issued under this Agreement;
- (3) By the City, immediately upon notice in writing to the Professional, as consequence of the failure of Professional to perform the services contemplated by this Agreement in a timely or satisfactory manner;
- (4) By the City, at will and without cause upon not less than thirty (30) days written notice to the Professional.

(B) If the City terminates this Agreement pursuant to Section 5 or subsection 8(A)(2) or (3), above, the Professional shall not be entitled to any fees or reimbursable expenses other than the fees and reimbursable expenses then due and payable as of the time of termination and only then for those services that have been timely and adequately performed by the Professional considering the actual costs incurred by the Professional in performing work to date of termination, the value of the work that is nonetheless usable to the City, the cost to the City of employing another Professional to complete the work required and the time required to do so, and other factors that affect the value to the City of

the work performed at time of termination. In the event of termination not the fault of the Professional, the Professional shall be compensated for all basic, special, and additional services actually performed prior to termination, together with any reimbursable expenses then due.

**Section 9. Indemnification.** Professional agrees to indemnify and hold the City of Copperas Cove, Texas and all of its present, future and former agents, employees, officials and representatives harmless in their official, individual and representative capacities from any and all claims, demands, causes of action, judgments, liens and expenses (including attorney's fees, whether contractual or statutory), costs and damages (whether common law or statutory), costs and damages (whether common law or statutory, and whether actual, punitive, consequential or incidental), of any conceivable character, for injuries to persons (including death) or to property (both real and personal) created by, arising from or in any manner relating to the services or goods performed or provided by Professional – expressly including those arising through strict liability or under the constitutions of the United States or Texas – BUT ONLY TO THE EXTENT ALLOWABLE BY SEC. 271.904(a) OF THE TEXAS LOCAL GOVERNMENT CODE AS APPLICABLE.

**Section 10. Notices.** Any notice required or desired to be given from one party to the other party to this Agreement shall be in writing and shall be given and shall be deemed to have been served and received (whether actually received or not) if (i) delivered in person to the address set forth below; (ii) deposited in an official depository under the regular care and custody of the United States Postal Service located within the confines of the United States of America and sent by certified mail, return receipt requested, and addressed to such party at the address hereinafter specified; or (iii) delivered to such party by courier receipted delivery. Either party may designate another address within the confines of the continental United States of America for notice, but until written notice of such change is actually received by the other party, the last address of such party designated for notice shall remain such party's address for notice.

**Section 11. No Assignment.** Neither party shall have the right to assign that party's interest in this Agreement without the prior written consent of the other party.

**Section 12. Severability.** If any term or provision of this Agreement is held to be illegal, invalid or unenforceable, the legality, validity or enforceability of the remaining terms or provisions of this Agreement shall not be affected thereby, and in lieu of each such illegal, invalid or unenforceable term or provision, there shall be added automatically to this Agreement a legal, valid or enforceable term or provision as similar as possible to the term or provision declared illegal, invalid or unenforceable.

**Section 13. Waiver.** Either City or the Professional shall have the right to waive any requirement contained in this Agreement that is intended for the waiving party's benefit, but, except as otherwise provided herein, such waiver shall be effective only if in writing executed by the party for whose benefit such requirement is intended. No waiver of any breach or violation of any term of this Agreement shall be deemed or construed to constitute a waiver of any other breach or violation, whether concurrent or subsequent, and whether of the same or of a different type of breach or violation.

**Section 14. Governing Law; Venue.** This Agreement and all of the transactions contemplated herein shall be governed by and construed in accordance with the laws of the State of Texas. The provisions and obligations of this Agreement are performable in Coryell County, Texas such that exclusive venue for any action arising out of this Agreement shall be in Coryell County, Texas.

**Section 15. Paragraph Headings; Construction.** The paragraph headings contained in this Agreement 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 negotiation and preparation of this Agreement and this Agreement shall not be construed either more or less strongly against or for either party.

**Section 16. Binding Effect.** Except as limited herein, the terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, devisees, personal and legal representatives, successors and assigns.

**Section 17. Gender.** Within this Agreement, words of any gender shall be held and construed to include any other gender, and words in the singular number shall be held and construed to include the plural, unless the context otherwise requires.

**Section 18. Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

**Section 19. Exhibits.** All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

**Section 20. Entire Agreement.** It is understood and agreed that this Agreement contains the entire agreement between the parties and supersedes any and all prior agreements, arrangements or understandings between the parties relating to the subject matter. No oral understandings, statements, promises or inducements contrary to the terms of this Agreement exist. This Agreement cannot be changed or terminated orally.

**Section 21. Relationship of Parties.** Nothing contained in this Agreement shall be

deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent or of partnership or of joint venture or of any association whatsoever between the parties, it being expressly understood and agreed that no provision contained in this Agreement nor any act or acts of the parties hereto shall be deemed to create any relationship between the parties other than the relationship of independent parties contracting with each other solely for the purpose of effecting the provisions of this Agreement.

**Section 22. Right To Audit.** City shall have the right to examine and audit the books and records of Professional at any reasonable time. Such books and records will be maintained in accordance with generally accepted principles of accounting and will be adequate to enable determination of: (1) the substantiation and accuracy of any payments required to be made under this Agreement; and (2) compliance with the provisions of this Agreement.

**23. Dispute Resolution.** In accordance with the provisions of Subchapter I, Chapter 271, TEX. LOCAL GOV'T CODE, the parties agree that, prior to instituting any lawsuit or other proceeding arising from a dispute under this agreement, the parties will first attempt to resolve the dispute by taking the following steps: (1) A written notice substantially describing the nature of the dispute shall be delivered by the dissatisfied party to the other party, which notice shall request a written response to be delivered to the dissatisfied party not less than 5 days after receipt of the notice of dispute. (2) If the response does not reasonably resolve the dispute, in the opinion of the dissatisfied party, the dissatisfied party shall give notice to that effect to the other party whereupon each party shall appoint a person having authority over the activities of the respective parties who shall promptly meet, in person, in an effort to resolve the dispute. (3) If those persons cannot or do not resolve the dispute, then the parties shall each appoint a person from the highest tier of managerial responsibility within each respective party, who shall then promptly meet, in person, in an effort to resolve the dispute.

**24. Disclosure of Business Relationships/Affiliations; Conflict of Interest Questionnaire.** Professional represents that it is in compliance with the applicable filing and disclosure requirements of Chapter 176 of the Texas Local Government Code.

**EXECUTED** on this the \_\_\_\_\_ day of \_\_\_\_\_, 2010.

**CITY:**

**PROFESSIONAL:**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

**ADDRESS FOR NOTICE:**

**CITY**

**PROFESSIONAL**

with a copy to:

City Attorney  
City of Copperas Cove, Texas

DRAFT

# City of Copperas Cove City Council Agenda Item Report

March 2, 2010

## Agenda Item No. J-1

Contact – William K. Hall, Copperas Cove County Opry, 634-1184  
[edficinc@earthlink.net](mailto:edficinc@earthlink.net)

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**SUBJECT: Copperas Cove County Opry first quarter report for FY 2009-10.**

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**1. BACKGROUND/HISTORY**

The Copperas Cove County Opry has a Hotel Occupancy Tax Agreement with the City of Copperas Cove to provide performing arts events. The Copperas Cove Country Opry is responsible for providing quarterly tourism financial reports on the performance of the arts activities that are conducted to generate tourism and provide performing arts events for the City of Copperas Cove. Moreover, each quarterly report shall be accompanied by a performance report outlining both quantitative and qualitative data pertaining to activities of the Opry.

**2. FINDINGS/CURRENT ACTIVITY**

See attached report.

**3. FINANCIAL IMPACT**

None.

**4. ACTION OPTIONS/RECOMMENDATION**

None.

<b>Copperas Cove County Opry</b>			
<b>Income and Expense Report</b>			
<b>for Oct2009 - Dec 2009</b>			
<b>Income</b>			<b>Amount</b>
Sponsorships			\$ 399.06
BOD Donation			1,767.54
Tickets			1,066.00
<b>Total income</b>			<b>\$ 3,232.60</b>
<b>Reimbursable Expenses</b>			
Entertainment			\$ 3,000.00
Advertising			-
Rent			-
<b>Total Requested for Reimbursement</b>			<b>\$ 3,000.00</b>
<b>Other Additional Expenses</b>			
Entertainment			\$ 3,000.00
Bank changes			-
Supplies			-
Advertising			600.00
Rent			600.00
<b>Total</b>			<b>\$ 4,200.00</b>
<b>Net</b>			<b>\$ (967.40)</b>
<b>Performance Measures</b>			
	<b># of</b>	<b># of</b>	<b># of Hotel</b>
<b>Event</b>	<b>Participants</b>	<b>Patrons</b>	<b>Rooms</b>
			<b>Booked</b>
Oct 09	15	61	1
Nov 09	15	50	2
Dec 09	15	33	2