



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

An agenda information packet is available for public inspection in the Lobby of City Hall and may be viewed on the City's Web Page, www.copperascovetx.gov, under the "Government" tab.

Notice is hereby given that a **Workshop Council Meeting** of the City of Copperas Cove, Texas, will be held on **October 4, 2011 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. Presentation and discussion on the water/sewer rate study. **Andrea M. Gardner, City Manager**
 - 2. Direction to City staff on item C-1. **Andrea M. Gardner, City Manager**
- D. 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.

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) 542-8927 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 _____, September 30, 2011, 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

SUBJECT

Presentation and discussion on the water/sewer rate study. **Andrea M. Gardner, City Manager**

BACKGROUND/HISTORY

FINDINGS/CURRENT ACTIVITY

ACTION OPTIONS/RECOMMENDATION

SUBJECT

Direction to City staff on item C-1. **Andrea M. Gardner, City Manager**

BACKGROUND/HISTORY

FINDINGS/CURRENT ACTIVITY

ACTION OPTIONS/RECOMMENDATION



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

An agenda information packet is available for public inspection in the Lobby of City Hall and may be viewed on the City's Web Page, www.copperascovetx.gov, under the "Government" tab.

Notice is hereby given that a **Regular Council Meeting** of the City of Copperas Cove, Texas, will be held on **October 4, 2011** 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. Proclamation: Chamber of Commerce and Visitors Bureau Week. **John Hull, Mayor**
 - 2. Proclamation: Crime Prevention Month. **John Hull, Mayor**
 - 3. Proclamation: Fire Prevention Week. **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. Pursuant to §551.042 of the Texas Open Meetings Act, any deliberation or decision about the subject of inquiry shall be limited to a proposal to place the subject on the agenda for a subsequent meeting.
- 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 minutes from the workshop council meeting of September 20, 2011. **Jane Lees, City Secretary**

2. Consideration and action on approving minutes from the regular council meeting of September 20, 2011. **Jane Lees, City Secretary**
3. Consideration and action on authorizing the City Manager to enter into an agreement with Black Meg 43, LLC for the leasing of space at the Hills of Cove Golf Course for the purpose of preparation and sale of concessions. **Andy Cedillo, Director of Parks & Leisure Services**

H. **PUBLIC HEARINGS/ACTION**

1. Public hearing on an ordinance amending the 2011-2012 fiscal year budget for the City of Copperas Cove. **Ryan D. Haverlah, Assistant Director of Financial Services/Budget Director**
2. Public hearing and action on adoption of an ordinance revising the property tax exemption for local homesteads of persons age 65 or over from \$12,000 to \$5,000. **Ryan D. Haverlah, Assistant Director of Financial Services/Budget Director**
3. Public hearing, discussion and possible action on an ordinance rezoning Lot 1, Block 13 of the S.P. Gilmore Addition, 501 North Main Street, from R-3 (Multifamily Residential) to B-3 (Local Business). **Chris Stewart, AICP, Stewart Planning Consulting**
4. Public hearing, discussion and possible action on an ordinance rezoning a 1.57 acre tract being Lot 2, Block 1 of the 190 Business and Industrial Park Phase Two dedicated to the Copperas Cove Industrial Foundation from B-4 (Business) to B-5 (Business). **Chris Stewart, AICP, Stewart Planning Consulting**
5. Public hearing, discussion and possible action on an ordinance rezoning two tracts totaling 6.98 acres being part of Lot 1, Block 1 of the 190 Business and Industrial Park Phase Two dedicated to the Copperas Cove Industrial Foundation from M-1(Manufacturing) to B-5 (Business) and from R-1(Single-Family Residential) to B-5 (Business). **Chris Stewart, AICP, Stewart Planning Consulting**
6. Public hearing, discussion and possible action on an ordinance amending zoning ordinance, Section 20-25 of the Code of Ordinances, relating to fences. **Chris Stewart, AICP, Planning Consultant**
7. Public hearing, discussion and possible action on an ordinance amending the zoning ordinance, Section 20-16 of the Code of Ordinances, relating to the definition and use classification for restaurants. **Chris Stewart, AICP, Planning Consultant**

I. **ACTION ITEMS**

1. Consideration and action on appointment of Commissioners to the Housing Authority of the City of Copperas Cove. **Jane Lees, City Secretary**
2. Consideration and action on a resolution nominating candidates to serve on the Lampasas Central Appraisal District Board of Directors. **Ryan D. Haverlah, Assistant Director of Financial Services/Budget Director**
3. Consideration and action on establishing the 2012 Texas A&M Central Texas Golf Tournament Committee and appointing members to serve on the committee. **Andrea M. Gardner, City Manager.**

4. Consideration and action on authorizing the City Manager to enter into Development and Annexation Agreement between the City of Copperas Cove and Mesa Verde Partners. **Wesley Wright, P.E. Division Head of Public Works/City Engineer**
5. Consideration and action on authorizing the City Manager to enter into a Sewer Construction Agreement between the City of Copperas Cove and Mesa Verde Partners. **Wesley Wright, P.E., Division Head of Public Works/City Engineer**
6. Discussion and action on the approval of a settlement agreement between the City of Copperas Cove and Freddie A. Dewald in the lawsuit styled City of Copperas Cove, Texas v. Freddie & Joan Dewald... Cause No. 11-9977, In the County Court at Law of Coryell County, Texas; dismissal of lawsuit, a direct purchase of the subject permanent utility easement and two temporary construction easements from Mr. Freddie A. Dewald and authority for City Manager to execute all settlement and easement documents. **Andrea M. Gardner, City Manager**

J. REPORTS FROM OUTSIDE ENTITIES, ADVISORY COMMITTEES AND BOARDS

K. ITEMS FOR FUTURE AGENDAS

L. EXECUTIVE SESSION

1. Pursuant to §551.074 of the Open Meetings Act. Tex. Gov't Code, Council will meet in Executive Session to deliberate the evaluation and duties of the City Secretary, Jane Lees.
2. Pursuant to §551.087, Deliberation Regarding Economic Development Negotiations, of the Open Meetings Act, Tex. Gov't Code, Council will meet in Executive Session to deliberate the offer of a financial or other incentive to a business prospect - First Advisors, Inc.
3. Pursuant to Section 551.071, Consultations with Attorney, of the Open Meetings Act, Tx. Gov't Code, Council will meet in Executive Session to consult with attorney regarding the purchase of real property - Dewald easement.

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

N. ADJOURNMENT

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Jane Lees, TRMC, CMC
City Secretary

City Council Regular

E. 1.

Meeting Date: 10/04/2011

Subject

Proclamation: Chamber of Commerce and Visitors Bureau Week. **John Hull, Mayor**

Attachments

Proclamation



PROCLAMATION

WHEREAS, the Copperas Cove Chamber of Commerce & Visitors Bureau has for 56 years successfully supported a strong business environment to grow employment, the retail trade and commerce in order to improve quality of life for the citizens of Copperas Cove; and

WHEREAS, as the front door to the city, the Copperas Cove Chamber of Commerce & Visitors Bureau provides continuous and helpful information to current and potential citizens on the rich heritage and opportunities of Copperas Cove as a great place to live and work; and

WHEREAS, the Copperas Cove Chamber of Commerce & Visitors Bureau promotes increasing tourism for Copperas Cove with its Bike Run Central Texas program and numerous other activities including Rabbitfest & Krist Kindl Markt; and

WHEREAS, the Copperas Cove Chamber of Commerce & Visitors Bureau and its Military Affairs Committee maintains close coordination with the key leaders of Fort Hood and provides strong support for Fort Hood and its soldiers and their families; and

WHEREAS, the Copperas Cove Chamber of Commerce leads the way in promoting a cooperative spirit and productive relationships with other city organizations and throughout Texas.

NOW THEREFORE, be it proclaimed that I, John Hull, Mayor of the City of Copperas Cove, Texas, do hereby recognize the Copperas Cove Chamber of Commerce & Visitors Bureau and its many dedicated volunteers for its outstanding work on behalf and support of Copperas Cove and do proudly proclaim the week of 17-21 October, 2011 as:

“CHAMBER OF COMMERCE AND VISITORS BUREAU WEEK”

in the City of Copperas Cove and encourage our citizens to congratulate the organization on its many accomplishments.

IN WITNESS WHEREOF, I have hereunto set and caused the Seal of the City of Copperas Cove to be affixed this 4th day of October 2011.

John Hull, Mayor

Attest:

Jane Lees, City Secretary

City Council Regular

E. 2.

Meeting Date: 10/04/2011

Subject

Proclamation: Crime Prevention Month. **John Hull, Mayor**

Attachments

Proclamation



PROCLAMATION

WHEREAS, the vitality of our City depends on how safe we keep our homes, neighborhoods, schools, workplaces, and communities because crime and fear of crime diminish the quality of life for all;

WHEREAS, people of all ages must be made aware of what they can do to prevent themselves, their families, neighbors, and co-workers from being harmed by violence, drugs, and other crime;

WHEREAS, crime prevention initiatives must include and go beyond self-protection and security to promote collaborative efforts to make neighborhoods safer for all ages and to develop positive educational and recreational opportunities for young people;

WHEREAS, effective crime prevention programs excel because of partnerships among law enforcement, other government agencies, civic groups, schools, faith communities, businesses, and individuals as they help to nurture communal responsibility and instill pride;

NOW, THEREFORE, I, John Hull, Mayor of the City of Copperas Cove, Texas do hereby proclaim the month of October as:

“CRIME PREVENTION MONTH 2011”

in Copperas Cove and urge all citizens, government agencies, public and private institutions, and businesses to invest in the power of prevention and work together for the common good.

John Hull, Mayor

ATTEST:

Jane Lees, City Secretary

City Council Regular

E. 3.

Meeting Date: 10/04/2011

Subject

Proclamation: Fire Prevention Week. **John Hull, Mayor**

Attachments

Proclamation



PROCLAMATION

- WHEREAS,** the City of Copperas Cove is committed to ensuring the safety and security of all those living in and visiting our city; and
- WHEREAS,** fire is a serious public safety concern both locally and nationally, and homes are the locations where people are at greatest risk from fire; and
- WHEREAS,** home fires killed more than 2,500 people in the United States in 2009, according to the latest research from the nonprofit National Fire Protection Association (NFPA), and fire departments in the United States responded to more than 360,000 home fires; and
- WHEREAS,** cooking equipment is the leading cause of home structure fires and associated injuries, and the third leading cause of home fire deaths; and
- WHEREAS,** heating and electrical equipment and smoking materials are among the leading causes of all reported home fires, and the risk of dying in a home structure fire caused by smoking materials rises with age; and
- WHEREAS,** home candle fires are reported to a US fire department every 30 minutes, on average; and
- WHEREAS,** working smoke alarms cut the risk of dying in reported home fires in half, and automatic fire sprinkler systems cut the risk of dying in a home fire by about 80%; and
- WHEREAS,** Copperas Cove first responders are dedicated to reducing the occurrence of home fires and home fire injuries through prevention and protection education; and
- WHEREAS,** Copperas Cove residents are responsive to public education measures and are able to take personal steps to increase their safety from fire, especially in their homes; and
- WHEREAS,** residents who have planned and practiced a home fire escape plan are more prepared and will therefore be more likely to survive a fire; and
- WHEREAS,** the 2011 Fire Prevention Week theme, “It’s Fire Prevention Week. Protect your Family from Fire!” effectively serves to remind us all of the simple actions we can take to keep our homes and families safe from fire during Fire Prevention Week and year-round.

NOW THEREFORE, I, John Hull, Mayor of the City of Copperas Cove, do hereby proclaim the week of October 9-15, 2011 shall be observed as

“Fire Prevention Week”

and urge all people of the City of Copperas Cove to protect their homes and families by heeding the potentially life-saving messages of Fire Prevention Week 2011.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Copperas Cove to be affixed this 4th day of October 2011.

John Hull, Mayor

ATTEST:

Jane Lees, City Secretary

City Council Regular

G. 1.

Meeting Date: 10/04/2011

Subject

Consideration and action on approving minutes from the workshop council meeting of September 20, 2011. **Jane Lees, City Secretary**

Attachments

[workshop minutes 9-20-11](#)

[Presentation 9-20-11](#)

**CITY OF COPPERAS COVE
CITY COUNCIL WORKSHOP MEETING MINUTES
September 20, 2011 – 6:00 P.M.**

A CALL TO ORDER - Mayor Hull called the workshop meeting to order at 6:00 p.m.

B ROLL CALL

Present: John Hull
Cheryl L. Meredith
Charlie D. Youngs
Gary L. Kent
Kenn Smith
Jim Schmitz
Danny Palmer

Absent: Frank Seffrood

Attendees: Andrea M. Gardner, City Manager
Jane Lees, City Secretary

C WORKSHOP ITEMS

1 Presentation and discussion on GASB 54. Velia Key, Director of Financial Services

Ms. Key summarized the changes required in governmental funds. The presentation is attached to and made a part of these minutes.

An action item on the regular agenda on September 20 will update the City's Code of Ordinances to reflect the necessary changes required by GASB 54.

2 Direction to staff on item C-1. Andrea M. Gardner, City Manager

None given.

D ADJOURNMENT - There being no further business, Mayor Hull adjourned the meeting at 6:24 p.m.

John Hull, Mayor

ATTEST:

Jane Lees, City Secretary

GASB STATEMENT NO. 54 – “IMPLEMENTATION TIME”

Velia Key
Director of Financial Services

Background & Summary

- Applies only to governmental funds
- Effective for financial statements for periods beginning after June 15, 2010
 - Fiscal year 2011 implementation required
 - The time to begin implementing is NOW!!!

New Fund Balance Classifications:

- Nonspendable
- Restricted
- Committed
- Assigned
- Unassigned

Classifications - based on constraints on the purpose for which amounts can be spent

Nonspendable

Amounts cannot be spent because:

1. Not in spendable form (i.e. inventories, prepaids, long-term portion of loans receivable, property held for resale)
 - However, if the use of the proceeds from collection of the receivables or sale of property is committed, assigned, or restricted, then they should be reported in the appropriate category rather than nonspendable
2. Legally or contractually required to be maintained intact (i.e. corpus or principal of an permanent fund)

Restricted

Constraints placed on the use of resources either:

- Externally imposed by creditors (i.e. debt covenants), grantors, contributors, or laws or regulations of other governments....**Or**
- Imposed by law through constitutional provisions or enabling legislation – where authorization to raise revenues is conditioned upon the revenue being used for a particular purpose (legally enforceable)
- Essentially the same definition as that used for restricted net assets under GASB 34

Committed

- Amounts that can only be used for specific purposes that are imposed by formal action of the government's highest level of decision-making authority
 - Committed amounts cannot be used for other purposes unless the specific use is changed or removed by the same action (i.e. - resolution, ordinance, etc) employed to commit the funds
 - Action must be taken no later than end of the reporting period (actual amount can be determined after year-end if formula-driven)

Assigned

Constrained by the government's *intent* to use the funds for a particular purpose (not committed or restricted)

- Intent can be expressed by the governing body itself or a body (i.e. finance committee) or official to which the governing body has delegated the authority
- Never in excess of total fund balance less sum of nonspendable, restricted and committed components
- Similar to “designated” fund balance

Assigned Fund Balance

Includes:

1. All remaining amounts (except negative balances) that are reported in governmental funds, other than the general fund, that are not classified as nonspendable, restricted, or committed AND
2. Amounts in the general fund that are intended to be used for a specific purpose that is narrower than the general purpose of the government itself

Assigned Fund Balance

Can Include:

- An appropriation of existing fund balance to eliminate a projected budgetary deficit in the subsequent year's budget – it is limited to the amount of the gap between estimated revenues and appropriations
- Governments cannot assign an amount that would cause a deficit in unassigned fund balance

Committed vs. Assigned

The primary differences are:

- The level at which action must be taken
 - Committed fund balance requires action by the highest level of decision-making authority; whereas fund balance can be “assigned” by authority delegated to another body/official
- The type of action required
 - Formal action is required for “committed” fund balance; whereas, the process to “assign” is much less formal

Unassigned

- Residual classification for the general fund
 - General fund is the only fund that should report a positive unassigned balance (because all other funds report positive fund balance as restricted, committed or assigned)
 - Deficit balance possible in any governmental fund
- Represents the excess of total fund balance over nonspendable + restricted + committed + assigned

Implementation Checklist

- Chart of Accounts – revise to reflect new fund balance categories
- Special Revenue Funds – evaluate to ensure they meet definition under GASB 54
- Policies – develop / adopt
- Financial Statement Presentation
 - ✓ Detail / aggregate balance sheet
 - ✓ Footnote disclosures
 - ✓ Special Revenue Funds

Special Revenue Funds

Does it meet the definition?

...if not, report it in the General Fund

Governmental Fund Type Definitions

Special Revenue Funds:

New Definition – To account for the proceeds of *specific revenue sources* that are restricted or committed to expenditure for specified purposes other than debt service or capital projects

Current Definition – To account for the proceeds of specific revenue sources that are *legally* restricted to expenditure for specified purposes

Governmental Fund Type Definitions

Special Revenue Funds (con't):

- Specific restricted or committed revenues should be the foundation of the fund
- The specific revenue sources should continue to comprise a substantial portion of the inflows reported in the fund
- Other resources may be reported in the fund (i.e. investment income) if they are restricted, committed or assigned to the specified purpose of the fund

Policies

Committed fund balance – policy that stipulates the formal action (i.e. resolution) needed to establish, modify or rescind a fund balance commitment.

Assigned fund balance – policy that identifies which official or body has the authority to assign fund balance.

Policies (con't)

Accounting –

- Whether the government considers restricted or unrestricted amounts to have been spent when an expenditure is incurred for purposes for which both restricted and unrestricted fund balance is available.
- Whether committed, assigned or unassigned amounts are considered to have been spent when an expenditure is incurred for purposes for which amounts in any of those unrestricted fund balance classifications could be used.

Required Disclosures

Committed Fund Balance – the highest level of decision-making authority and the formal action required to commit.

Assigned Fund Balance – the body or official authorized to assign amounts and the policy established by the governing body pursuant to which the authority is given.

Required Disclosures

Classification:

- Whether the government considers restricted or unrestricted amounts to have been spent when an expenditure is incurred for purposes for which both restricted and unrestricted fund balance is available.
- Whether committed, assigned or unassigned amounts are considered to have been spent when an expenditure is incurred for purposes for which amounts in any of those unrestricted fund balance classifications could be used.

Required Disclosures

Encumbrances:

- Significant encumbrances by major fund and for non major funds in the aggregate

- No more “Reserve for encumbrances”

Required Disclosures

Fund Balance Classifications: details

- Non-spendable – if displayed in aggregate on face of balance sheet, disclose the amounts for the two components in the footnotes.
- Restricted, Committed & Assigned – if displayed in aggregate on face of balance sheet, disclose the detail (specific purposes) in the footnotes

Required Disclosures

Stabilization Arrangements:

- The authority for establishing the arrangement (i.e. statute, ordinance)
- The requirements for additions to the stabilization amount.
- The conditions under which stabilization amounts may be spent.
- The stabilization balance (if not apparent on the face of the financial statements).

Required Disclosures

Special Revenue Funds:

- Disclose the purpose for each MAJOR special revenue fund, identifying which revenues and other resources are reported in those funds.

Other Considerations

CAFRS:

- Letter of Transmittal
- MD&A
- Statistical Section – no retroactive application required



Questions?

City Council Regular

G. 2.

Meeting Date: 10/04/2011

Subject

Consideration and action on approving minutes from the regular council meeting of September 20, 2011.

Jane Lees, City Secretary

Attachments

regular minutes 9-20-11

CITY OF COPPERAS COVE
CITY COUNCIL REGULAR MEETING MINUTES
September 20, 2011 – 7:00 P.M.

- A **CALL TO ORDER** - Mayor Hull called the regular meeting to order at 7:00 p.m.
- B **INVOCATION AND PLEDGE OF ALLEGIANCE** - Pastor Gary Hocker of the Cove Church of the Nazarene gave the invocation and Mayor Hull led the pledge of allegiance.

C **ROLL CALL**

Present: Cheryl L. Meredith
Charlie D. Youngs
Gary L. Kent
Danny Palmer
Kenn Smith
Jim Schmitz
John Hull

Absent: Frank Seffrood
Attendees: Andrea M. Gardner, City Manager
Jane Lees, City Secretary

- D **ANNOUNCEMENTS** - City Manager, Andrea M. Gardner, announced that tomorrow, September 21, 2011, the 4th Annual State of the City Address will be presented at Lea Ledger Auditorium at 10:00 a.m. In the afternoon, Meet the City will be held at the Civic Center, 1206 West Avenue B from 2:30 - 5:00 p.m. There will be fun, prizes, food, and most importantly children and adults are invited to learn more about the inner workings of local government.

E **PUBLIC RECOGNITION**

- 1 Texas Amateur Athletic Federation (TAAF) Female and Male Athlete of the Year. **Andy Cedillo, Director of Parks & Leisure Services**

This item was rescheduled for October 18, 2011.

- 2 Proclamation: National Night Out. John Hull, Mayor

Sgt. Kevin Keller of the Police Department stated that the Kick-Off Party was from 6:00 - 8:00 p.m. in the downtown area on October 1, 2011. Also, on October 4, 2011 from 6:00 - 8:00 p.m., citizens are invited to take part in the 28th Annual Night Out by participating in block parties, cookouts and youth activities in various local neighborhoods. Sgt. Keller asked any citizens interested in holding a block party on October 4 to contact him at the Police Department.

- 3 Presentation to the City from the Chamber of Commerce. **Marty Smith-Cook, President, Chamber of Commerce**

Ms. Smith-Cook presented the City with a copy of Senate Proclamation No. 250 from the Senate of The State of Texas, signed by Senator Birdwell. The Proclamation recognizes Bike and Run Central Texas for its exceptional work in making the Copperas Cove area one of the leading centers for bicycle racing in the nation. The events hosted include the Tough Cookie Duathlon, the Cove Classic Bike Rally, and the Fort Hood Challenge, along with several new events added in 2011. Proceeds from these events help support Ride 2 Recovery, a program to aid the country's wounded warriors recovering from injuries while serving the nation. Mayor Hull thanked the Chamber for their hard work in promoting the area and for the proclamation.

- F **CITIZENS FORUM** - Braden Frame, 107 Banner Avenue, Leander, TX. Mr. Frame said that he came to the meeting to publicly express thanks to Chief Mike Baker, and especially to Deputy Chief Gary Young. He stated that although he is young, he can still remember where he was on the morning of 9/11. At the time, he had no idea of what the ramifications of that morning would bring. Now, 10 years later he has the privilege of serving the City of Copperas Cove as a firefighter and this year on the 10th Anniversary it was brought home to him and many others what the event meant to this country and what the idea of service to our neighbors and citizens truly means. Through the efforts of Deputy Chief Young and the City Council, he and another firefighter, Brandi Wolfe, were able to attend a memorial stair climb. After climbing 110 flights of stairs in full bunker gear, in honor of the 343 FDNY firefighters who passed away 10 years ago, they were presented with a challenge coin to remember what the 9/11 event stood for and what the memorial that day stood for. Mr. Frame said that he and the Copperas Cove Professional Firefighters Association want to share the commemorate coin with each member of the City Council as a thank you for what they do for the City and as a remembrance to those 343 firefighters who passed away. Mr. Frame presented each Council Member with a coin. Mayor Hull thanked Mr. Frame and the Fire Fighters Association for the coins.

Sgt. Kevin Keller, 2008 Matt Drive. He publicly thanked the Citizens Police Academy Alumni Association for sponsoring and planning the ceremony for 9/11 that was held for the City at the Police Department on September 11. They did a wonderful job and wanted them to be thanked publicly for the event. He also thanked the Employee Activity Committee for the wonderful event for City employees held at City Park this past weekend. Everyone who attended had a great time. He thanked the City for sponsoring the event and especially the Activities Committee for putting it all together.

- 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 minutes from the special council meeting of August 30, 2011. **Jane Lees, City Secretary**
- 2 Consideration and action on approving minutes from the workshop council meeting of September 6, 2011. **Jane Lees, City Secretary**
- 3 Consideration and action on approving minutes from the regular council meeting of September 6, 2011. **Jane Lees, City Secretary**

- 4 Consideration and action on a resolution authorizing updates to the City's Master Plan for Parks, Recreation and Open Space, and authorizing submission of the updated Master Plan to the Texas Parks and Wildlife Department. **Andy Cedillo, Director of Parks & Leisure Services**

RESOLUTION NO. 2011-38

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS, AUTHORIZING UPDATES TO THE CITY'S MASTER PLAN FOR PARKS, RECREATION, AND OPEN SPACE, AND AUTHORIZING SUBMISSIONS OF THE UPDATED MASTER PLAN FOR PARKS, RECREATION, AND OPEN SPACE TO THE TEXAS DEPARTMENT OF PARKS AND WILDLIFE.

- 5 Consideration and action on an emergency purchase for the asbestos remediation for Central Fire Station. **J. Mike Baker, Fire Chief**
- 6 Consideration and action to authorize the City Manager to renew an agreement with Coryell County for Fire Suppression, Fire Prevention and Fire Investigation Services for fiscal year 2011-2012. **Gary D. Young, Deputy Fire Chief**
- 7 Consideration and action on authorizing the City Manager to enter into an Agreement with the Copperas Cove Officials Association to provide sports officiating for recreational sports for the Parks and Recreation Department. **Andy Cedillo, Director of Parks & Leisure Services**

- 8 Consideration and action on an amendment to the depository agreement with National Bank. **Ryan D. Haverlah, Assistant Director of Financial Services/Budget Director**

- 9 Consideration and action on a resolution accepting the quarterly investment report as presented for the quarter ending March 31, 2011 per the Investment Policy. **Velia Key, Director of Financial Services**

RESOLUTION NO. 2011-37

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS APPROVING THE INVESTMENT REPORT FOR QUARTER ENDED MARCH 31, 2011.

- 10 Consideration and action on a resolution accepting the quarterly investment report as presented for the quarter ending June 30, 2011 per the Investment Policy. **Velia Key, Director of Financial Services**

RESOLUTION NO. 2011-42

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS APPROVING THE INVESTMENT REPORT FOR QUARTER ENDED JUNE 30, 2011.

- 11 Consideration and action on a resolution adopting the Investment Policy of the City of Copperas Cove. **Velia Key, Director of Financial Services**

RESOLUTION NO. 2011-43

A RESOLUTION ADOPTING THE INVESTMENT POLICY FOR THE CITY OF COPPERAS COVE, TEXAS.

The following items were removed from the Consent Agenda:

- Item G-5, requested by Council Member Palmer
- Item G-7, requested by Council Member Kent
- Item G-8, requested by Council Member Schmitz

Council Member Palmer made a motion to approve the remaining Consent Agenda items, G-1, G-2, G-3, G-4, G-6, G-9, G-10 and G-11. Council Member Smith seconded the motion, which passed unanimously.

Item G-5 :

Chief Baker answered a few questions from Council Member Palmer. Council Member Palmer made a motion to approve item G-5 as presented. Council Member Kent seconded the motion, which passed unanimously.

Item G-7 :

Council Member Kent asked if the Association was the only group that submitted a bid. Mr. Cedillo of Parks & Recreation said that several individuals also bid, however, the CCOA was the only association. Council Member Kent made a motion to approve item G-7 as presented. Council Member Youngs seconded the motion, which passed unanimously.

Item G-8 :

Council Member Schmitz said he requested the removal from the Consent Agenda in order to abstain from voting on the item. Council Member Schmitz filed an Affidavit with the City Secretary prior to the meeting. Council Member Kent made a motion to approve item G-8 as presented. Council Member Meredith seconded the motion. A roll call vote was taken:

Cheryl L. Meredith	Aye
Charlie D. Youngs	Aye
Gary L. Kent	Aye
Danny Palmer	Aye
Kenn Smith	Aye
Jim Schmitz	Abstained
Frank Seffrood	Aye

H **PUBLIC HEARINGS/ACTION - None.**

I **ACTION ITEMS**

- 1 Consideration and action on appointment of one (1) member to the Copperas Cove Animal Shelter Advisory Committee. **Mike Heintzelman, Deputy Chief of Police**

Council Member Schmitz made a motion to appoint Dr. Tom Kyzar, Veterinarian, to the Animal Shelter Advisory Committee. Council Member Palmer seconded the motion, which passed unanimously.

- 2 Consideration and action on an ordinance adopting a new Personnel Policy No. 730, Safe Driver Incentive Program. **Andrea M. Gardner, City Manager**

ORDINANCE NO. 2011-47

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS, ADOPTING EMPLOYEE PERSONNEL POLICY #730, SAFE DRIVER INCENTIVE POLICY AND DECLARING AN EFFECTIVE DATE.

Council Member Meredith made a motion to approve Ordinance No. 2011-47 as presented. Council Member Palmer seconded the motion, which passed unanimously.

- 3 Consideration and action on an ordinance updating Personnel Policy No. 311, Vacation Leave. **Kelli Sames, Human Resources Division Head**

ORDINANCE NO. 2011-48

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 REPEALING THE CURRENT PERSONNEL POLICY, NO. 311, (VACATION LEAVE), AND REPLACING THE EXISTING POLICY WITH A REVISED PERSONNEL POLICY, NO. 311, (VACATION LEAVE) AND RATIFYING THE REMAINING SECTIONS OF THE PERSONNEL POLICIES AND PROCEDURES MANUAL; AND DECLARING AN EFFECTIVE DATE.

Council Member Kent made a motion to approve Ordinance No. 2011-48 as presented. Council Member Palmer seconded the motion, which passed unanimously.

- 4 Consideration and action on a resolution nominating candidates to serve on the Coryell Central Appraisal District Board of Directors. **Ryan D. Haverlah, Assistant Director of Financial Services/Budget Director**

RESOLUTION NO. 2011-39

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS, TO NOMINATE CANDIDATES FOR THE CORYELL CENTRAL APPRAISAL DISTRICT BOARD OF DIRECTORS FOR THE TERM OF JANUARY 1, 2012 THROUGH DECEMBER 31, 2013.

Council Member Schmitz made a motion to nominate Al Castillo and Jay Manning. Council Member Kent seconded the motion, which passed unanimously.

Council Member Palmer made a motion to nominate Gary L. Kent. Council Member Meredith seconded the motion, which passed unanimously.

- 5 Consideration and action on a resolution expressing intent to finance expenditures to be incurred for a traffic impact analysis. **Ryan D. Haverlah, Assistant Director of Financial Services/Budget Director**

RESOLUTION NO. 2011-40

A RESOLUTION OF THE CITY OF COPPERAS COVE, TEXAS, EXPRESSING INTENT TO FINANCE EXPENDITURES TO BE INCURRED FOR A TRAFFIC IMPACT ANALYSIS.

Council Member Smith made a motion to approve Resolution No. 2011-40 as presented. Council Member Kent seconded the motion, which passed unanimously.

- 6 Consideration and action on a resolution amending the 2010-2011 fiscal year budget. **Ryan D. Haverlah, Assistant Director of Financial Services/Budget Director**

RESOLUTION NO. 2011-41

A RESOLUTION OF THE CITY COUNCIL TRANSFERRING UNENCUMBERED APPROPRIATION BALANCES IN THE BUDGET FOR OPERATING THE MUNICIPAL GOVERNMENT OF THE CITY OF COPPERAS COVE FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2010, AND ENDING ON SEPTEMBER 30, 2011.

Council Member Schmitz made a motion to approve Resolution No. 2011-41 as presented.

Council Member Kent seconded the motion, which passed unanimously.

- 7 Consideration and action on an ordinance updating the City's Drainage Criteria Manual. **Wesley Wright, P.E., Division Head of Public Works/City Engineer**

ORDINANCE NO. 2011-49

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS AMENDING THE CITY'S DRAINAGE CRITERIA MANUAL REFERENCED IN SECTION 17.5-93(B) OF THE CITY'S CODE OF ORDINANCES; REPEALING ALL ORDINANCES IN CONFLICT WITH THIS AMENDMENT; PROVIDING A SAVINGS CLAUSE; DECLARING AN EFFECTIVE DATE.

Council Member Smith made a motion to approve Ordinance No. 2011-49 as presented. Council Member Palmer seconded the motion, which passed unanimously.

- 8 Consideration and action on a resolution making changes to the City's General Election pursuant to Senate Bill 100: moving the General Election from the May uniform election date to the November uniform election date; and providing for a one-time term extension of six months for each position. **Jane Lees, City Secretary**

RESOLUTION NO. 2011-44

A RESOLUTION OF THE CITY OF COPPERAS COVE, TEXAS, MAKING THE FOLLOWING CHANGES TO THE CITY'S GENERAL ELECTION PURSUANT TO SENATE BILL 100, EIGHTY-SECOND REGULAR LEGISLATURE: MOVE THE GENERAL ELECTION DATE FROM THE UNIFORM ELECTION DATE OF THE SECOND SATURDAY IN MAY TO THE UNIFORM ELECTION DATE OF THE FIRST TUESDAY AFTER THE FIRST MONDAY IN NOVEMBER; PROVIDE FOR A ONE-TIME TERM EXTENSION OF SIX MONTHS FOR EACH POSITION; AND PROVIDING FOR SEVERABILITY.

Council Member Meredith made a motion to approve Resolution No. 2011-44 as presented. Council Member Palmer seconded the motion, which passed unanimously.

- 9 Consideration and action on an ordinance amending the City of Copperas Cove's Code of Ordinances, Chapter 2, Article V, section 2-122 and section 2-127. **Velia Key, Director of Financial Services**

ORDINANCE NO. 2011-50

AN ORDINANCE ADOPTING THE FUND BALANCE POLICY FOR THE CITY OF COPPERAS COVE, TEXAS.

Council Member Palmer made a motion to approve Ordinance No. 2011-50 as presented. Council Member Kent seconded the motion, which passed unanimously.

J REPORTS FROM OUTSIDE ENTITIES, ADVISORY COMMITTEES AND BOARDS

K ITEMS FOR FUTURE AGENDAS

L EXECUTIVE SESSION - Mayor Hull recessed the open meeting at 8:05 p.m. to hold Executive Session.

- 1 Pursuant to §551.087, Deliberation Regarding Economic Development Negotiations, of the Open Meetings Act, Tex. Gov't Code, Council will meet in Executive Session to deliberate the offer of a financial or other incentive to a business prospect - First Advisors, Inc.

- 2 Pursuant to §551.074 of the Open Meetings Act. Tex. Gov't Code, Council will meet in Executive Session to deliberate the duties of the City Manager, Andrea M. Gardner.
- 3 Pursuant to §551.074 of the Open Meetings Act. Tex. Gov't Code, Council will meet in Executive Session to deliberate the evaluation and duties of the City Secretary, Jane Lees.

This item was not discussed during Executive Session and will be placed on the October 4, 2011 agenda.

M **RECONVENE INTO OPEN SESSION FOR POSSIBLE ACTION RESULTING FROM ANY ITEMS POSTED AND LEGALLY DISCUSSED IN EXECUTIVE SESSION** - Mayor Hull reconvened the open meeting at 10:04 p.m. and announced that there was no action to be taken as a result of discussions in Executive Session.

N **ADJOURNMENT** - There being no further business, Mayor Hull adjourned the meeting at 10:05 p.m.

ATTEST:

John Hull, Mayor

Jane Lees, City Secretary

SUBJECT

Consideration and action on authorizing the City Manager to enter into an agreement with Black Meg 43, LLC for the leasing of space at the Hills of Cove Golf Course for the purpose of preparation and sale of concessions. **Andy Cedillo, Director of Parks & Leisure Services**

BACKGROUND/HISTORY

The Hills of Cove Golf Course operated the concessions at the golf course for a number of years. In 2010 the City Council approved the leasing of the concession area to Double Eagle Grill. On September 7, 2011 Double Eagle Grill closed. The Golf Course, while seeking a concessionaire, has offered prepackaged grab and go concessions.

FINDINGS/CURRENT ACTIVITY

Staff has established that an outside concessionaire provides the best available option for the the golf course. The ability to offer a variety of catering options for golf tournaments and events, retain the course's TABC license and to maintain a consistent and quality daily concession option to patrons of Hills of Cove Golf Course.

Staff placed notices in the local newspapers seeking concessionaires to operate the golf courses grill. Black Meg 43, LLC. responded to the notice and proposes to provide concessionaire services for the golf course. City Attorney has reviewed the agreement. The agreement will be for a period of one year ending September 30, 2012 and provides the ability to renew for an additional year.

ACTION OPTIONS/RECOMMENDATION

City staff recommends that City Council authorize the City Manager to execute an agreement with Black Meg 43, LLC to lease space at the Hills of Cove Golf Course for the purpose of preparation and sale of concessions.

Fiscal Impact

Funds available Y/N?: Y

FINANCIAL IMPACT:

The Financial Impact will be \$600 per month in golf course revenues for the remainder of the 2011-2012 budget year.

Attachments

Black Meg Contract

HILLS OF COVE MUNICIPAL GOLF COURSE FOOD AND BEVERAGE SERVICE CONTRACT

This Contract is entered into by and between the City of Copperas Cove (hereinafter called "City"), acting by and through its City Manager dated, _____ 2011, and **Black Meg 43, LLC**, hereinafter called "Concessionaire"), for the operation of a food and beverage service to be located at Hills of Copperas Cove Golf Course (hereinafter called "Golf Course"): This agreement is pursuant to the following terms, conditions and covenants:

1. INDEPENDENT CONTRACTOR AGREEMENT

- 1.1 City hereby engages Concessionaire to operate a food and beverage service pursuant to the provisions contained herein. Such operations are to include, but not necessarily be limited to, the storage, preparation, cooking, refrigeration, and distribution of all types of food for breakfast, brunch, lunch, dinner, and event-type (when applicable) meals, and non-alcoholic beverages. These items may include, but are not limited to: sandwiches, "grill" items, snacks, chips, cookies, muffins, pastries, breads, dessert items, fruit, specialty coffees, teas, cheeses, fresh juices, candies, mineral water, and complete entrees. Concessionaire shall be responsible for the maintenance and upkeep of kitchen and dining areas at the Golf Course clubhouse, as promulgated by the City through the Golf Course Manager (hereinafter called the "Manager") or his designee; and on the Golf Course.
- 1.2 The Food and Beverage operation shall be provided to the general public and golfers enjoying the facilities.
- 1.3 Concessionaire shall be an independent contractor and not an employee of City. Concessionaire shall not be entitled to or receive any benefits provided by City to City's employees. Concessionaire accepts full responsibility for filing all tax returns and paying all taxes that may be required or due for Concessionaire's employees under the terms and conditions of this Contract.

2. TERMINATION PROVISIONS

- 2.1 In addition to causes for termination delineated in this Article and Article 3 and paragraphs 11.1 and 14.1 hereinafter, City shall have the right to terminate this Contract under the following conditions:
 - 2.1.1 Failure by Concessionaire, through any cause, to fulfill in a timely, proper or satisfactory manner his responsibilities under this Contract, or violation by Concessionaire of any of the covenants or agreements of this Contract after being notified in writing by the Manager of such failure or violation. If deficiencies in compliance by Concessionaire are correctable, Concessionaire shall have thirty (30) days following receipt of written notice that his compliance is untimely, improper or unsatisfactory to correct such compliance deficiencies. Failure to correct such deficiencies to the satisfaction of the Manager during said thirty (30) days should result in termination of this Contract upon the conclusion of said thirty (30) days. If compliance deficiencies by Concessionaire are not correctable, City shall thereupon have the right to terminate this Contract, by giving written notice to Concessionaire of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination.
- 2.2 Concessionaire may, at his discretion, terminate this Contract by giving City one hundred eighty-- (180) day's prior written notice of intent to terminate.

3. DEFAULTS AND REMEDIES

- 3.1 The following events shall be deemed to be events of default by Concessionaire under this Contract:
- 3.2 Concessionaire's failure to pay any installment or any part thereof, of monthly lease fee due City as provided for in this Contract shall result in a declaration of default. If such failure continues for a period of ten (10) days following receipt of written notice by the Director, City may terminate this Agreement. The failure by Concessionaire, through any cause, to fulfill in a timely, proper or satisfactory manner his responsibilities under this Contract, or violation by Concessionaire of any of the covenants or agreements of this Contract after being notified in writing by the Manager of such failure or violation shall result in Concessionaire being declared in default. If deficiencies in compliance by Concessionaire are correctable, Concessionaire shall have five (5) days following receipt of written notice that his compliance is untimely, improper or unsatisfactory to correct such compliance deficiencies. Failure to correct such deficiencies to the satisfaction of the Manager during said five (5) days should result in termination of this Contract upon the conclusion of a written thirty- (30) day notice. If compliance deficiencies by Concessionaire are not correctable, City shall thereupon have the right to terminate this Contract, by giving written notice to Concessionaire of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination.
- 3.3 Upon the occurrence of an event of default as heretofore provided, City has the right, at its option, to declare this Contract, and all rights and interests created by it, terminated. Upon City electing to so terminate, this Contract shall cease and come to an end as if that were the day originally fixed herein for the expiration of the term hereof; or City, its agents or attorney has the right, at its option, to resume possession of the Golf Course Clubhouse kitchen and dining areas without relieving Concessionaire of any obligation hereunder related to commission still due and owing in this Contract, or any extension thereof, as applicable.
- 3.4 Any termination of this Contract as herein provided, does not relieve Concessionaire from the payment of any sum or sums that are due and payable or become due and payable to City hereunder, or any claim for damages then or theretofore accruing against Concessionaire hereunder, or any such sum or sums or claim for damages by any remedy provided for by law, or prevent City from recovering damages from Concessionaire for any default thereunder. All rights, options and remedies of City contained in this Contract shall be cumulative of the other, and City shall have the right to pursue any one or all of such remedies or any other remedy or relief available at law or in equity, whether or not stated in this Contract. No waiver by City of a breach of any of the covenants, conditions or restrictions of this Contract shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other covenant, condition or restriction herein contained.

4. TERM OF CONTRACT

- 4.1 The term of this Contract shall be for one (1) year beginning _____, 2011, and terminating _____, 2012, unless sooner terminated pursuant to the provisions of Articles 2 and 3.

5. COMPENSATION TO THE CITY

- 5.1 Concessionaire agrees to pay to the City throughout the term of this Contract, the following sum of \$600.00 monthly.
- 5.2 Concessionaire shall make aforesated payments to City no later than the tenth (10th) day of each month for the preceding business month. Said payments shall be submitted to:

City of Copperas Cove
Finance Department
P.O. Box 1449
Copperas Cove, Texas 76522

6. FOOD AND BEVERAGE CONCESSION OPERATION

- 6.1 The City, through the Manager, shall notify Concessionaire in writing of any non-compliance of operational issues therewith. Concessionaire shall correct any such non-compliance within five (5) calendar days following receipt of such written notice.
- 6.1.1 Concessionaire agrees to maintain at a minimum operating hours of: 10:00 am to 3:00 pm Monday – Friday and 7:00 am – 3:00 pm Saturday and Sunday. Should the Concessionaire elect not to maintain identical hours to the Hills of Cove Golf Course, the course reserves the right to sale grab and go snacks and drinks.
- 6.2 Concessionaire will be responsible for the cleanliness of all food preparation, eating areas and serving areas, as well as the tabletops and floor spaces in the eating areas, and shall maintain the Premises in a clean and sanitary condition at all times, which condition must conform with Concession minimum standards mandated by the City of Copperas Cove.
- 6.3 City is responsible for the cleanliness of the common areas, including walls, windows, light fixtures and the common area restroom facilities. Excluded are the tabletops, floor spaces and any accompanying condiment containers.
- 6.4 The Concessionaire shall also supply and maintain, at its own expense, any extra and incidental kitchen and dining room appliances, equipment and/or paraphernalia necessary to insure that the food and beverages served are acceptable for both the food service operation and a particular catered event, including, but not necessarily limited to, chairs, tables, and individual linen. All equipment that is provided solely by Concessionaire shall remain the property of the Concessionaire and may be removed by the same at termination of the Concession Agreement with the City, subject to the terms of said Agreement.
- 6.4.1 Concessionaire may remove an item or items of equipment, not the property of the city, at his/her discretion, prior to the termination of the Concession Agreement, so long as the removed item does not hinder efficient and continuous food and beverage operations.
- 6.4.2 Catered events (“Special Events) scheduled by Concessionaire must be submitted to Manager for written approval at least five (5) days before the function. This contract does not give the Concessionaire in any way exclusive rights to cater special events or tournaments held at the golf course. The golf course in good faith will promote the Concessionaire for all tournaments and special events The City does not guarantee any minimum amount of catering business or minimum amount of participants in any tournament.
- 6.4.3 Equipment for mobile vending (golf cart-type) of food and beverage concessions is required for the golf course, as is the implementation and operation of same.
- 6.5 City will provide ice machine.
- 6.6 In regards to the sale and consumption of alcoholic beverages, The City shall retain the right and therefore the responsibility for the service of Alcoholic Beverages.”
- 6.6.1 Concessionaire will require if applicable employees to take the TABC-approved “seller/server” certification course.
- 6.7 All items sold and distributed by the Concessionaire shall be of First Class (Grade “A”) quality, and all services provided by the Concessionaire shall be rendered courteously, efficiently and in a business-like and accommodating manner.

- 6.7.1 The City reserves the right to prohibit the sale of any item that it deems objectionable and shall have the right to order the improvement of the quality of the merchandise or the services rendered.
- 6.7.2 The Manager reserves the right to make reasonable objections to the food or drinks served or other items sold or otherwise used or distributed the service in the operation, the number of staff available for service, and the character of the appearance, cleanliness and condition of the Premises.
- 6.8 After the contract is awarded and initial pricing established, all items sold, and their pricing, for subsequent contract years, as described above will be subject to annual review and approval by the Manager.
 - 6.8.1 Concessionaire shall observe a system-wide pricing structure as it relates to the prices of soft drinks.
 - 6.8.2 Concessionaire may run specials and promotions consistent with good business practices.
 - 6.8.3 The Manager must approve all price increases in writing 30 days in advance of the changes taking effect.
 - 6.8.4 Concessionaire shall prominently post current food and beverage menu(s) and prices.
- 6.9 Concessionaire shall comply with all building, plumbing, electrical and other applicable codes and regulations in the installation and operation of his food and beverage related equipment.
- 6.13 Food and beverage concession area shall not be used to store any supplies, materials or equipment not used in the food and beverage operation.
- 6.14 Concessionaire must provide a sufficient number of qualified employees to insure prompt customer service. All food and beverage concession employees shall comply with and be subject to applicable health codes, rules and regulations.
- 6.15 Concessionaire must comply with all federal and state laws and City ordinances and codes applicable to the food and beverage concession including payment of all federal, state and local taxes, fees, licenses and permits.

7. IMPROVEMENTS BY CONCESSIONAIRE

- 7.1 Concessionaire shall make no physical construction, improvements or alterations to the Golf Course Clubhouse kitchen and dining areas without prior review and written approval of plans therefore by the Golf Course Manager. All costs and expenses of such approved physical construction, improvements or alterations to the Golf Course initiated by Concessionaire shall be at Concessionaire's sole cost and expense.
- 7.2 All permanent improvements and/or alterations made by Concessionaire become the property of City upon completion thereof.
- 7.3 Concessionaire covenants that he shall not bind, or attempt to bind, City for the payment of any money in connection with the construction, repair, alteration, addition, or reconstruction in, on or about the Clubhouse kitchen and dining areas.
- 7.4 Concessionaire has had full opportunity to examine the Clubhouse facilities and acknowledges that there is in and about it nothing dangerous to life, limb or health and hereby waives any claim for damages that may arise from defects of that character after occupancy. Concessionaire's use of the Clubhouse kitchen and dining areas for the purposes authorized herein shall be conclusive evidence of his acceptance thereof in good order and satisfactory condition, and Concessionaire hereby accepts the kitchen and dining areas in their present condition as suitable for the purposes for which this Contract prescribes.
- 7.5 Concessionaire agrees that no representations respecting the conditions of the Golf Course's Clubhouse kitchen and dining areas and no promises to construct, reconstruct, alter, repair or improve same, either before or after the execution hereof, have been made by City or its agents to Concessionaire unless the same are contained herein or made a part hereof by specific reference herein. City expressly denies making any warranty as to the suitability of the Licensed Premises for any purpose. Concessionaire acknowledges that City has made no representations regarding the suitability of the premises for Concessionaire's purposes.

8. UTILITY AND MAINTENANCE RESPONSIBILITIES

- 8.1 Concessionaire shall provide for and pay directly to the utility companies services fees for telephone lines and connections, any cable/satellite television connections, and any other supplemental utility services Concessionaire requires in or on the Contracted Premises. Concessionaire shall also furnish and install all electric light bulbs, tubes and ballasts. City shall not be liable to Concessionaire in damages or otherwise if said services are interrupted or terminated because of necessary repairs, installations, improvements or any cause beyond the control of the City.
 - 8.1.1 Concessionaire shall provide and pay for all necessary safety inspections and maintenance of vent hoods, grills, grease traps and fire-suppression systems.

- 8.2 The Concessionaire shall be responsible for the prompt removal of waste, trash and garbage from the Premises and will keep Premises clean and washed at all times. In addition, Concessionaire will arrange for all grease traps to be cleaned and maintained on a regular schedule.
- 8.3 Concessionaire agrees, at Concessionaire's sole cost and expense, to maintain and keep the interior of the Contracted Premises, including, but not limited to, interior plumbing, plumbing fixtures, plumbing lines and plumbing connections and interior electrical fixtures, lamps, bulbs, wiring and connections, and interior walls, flooring, doors, plate glass and other interior improvement, as well as, all appliances, tables and chairs, in good working order and repair and in a good, clean, safe and sanitary condition (usual wear, tear, acts of God, or unavoidable accident, only excepted).
- 8.4 The City, the Manager and/or his designee shall have access to the Concession Premises during its regular business hours of operation for the purpose of inspecting the conditions of the facility and for making repairs, when applicable and necessary.

9. INDEMNIFICATION

- 9.1 **CONCESSIONAIRE covenants and agrees to FULLY INDEMNIFY and HOLD HARMLESS, the CITY and the elected officials, employees, officers, directors, volunteers and representatives of the CITY, individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the CITY directly or indirectly arising out of, resulting from or related to CONCESSIONAIRE'S activities under this AGREEMENT, including any acts or omissions of CONCESSIONAIRE, any agent, officer, director, representative, employee, consultant or subcontractor of CONCESSIONAIRE, and their respective officers, agents, employees, directors and representatives while in the exercise of performance of the rights or duties under this AGREEMENT, all without however, waiving any governmental immunity available to the CITY under Texas Law and without waiving any defenses of the parties under Texas Law. The provisions of this INDEMNIFICATION are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. CONCESSIONAIRE shall promptly advise the CITY in writing of any claim or demand against the CITY or CONCESSIONAIRE known to CONCESSIONAIRE related to or arising out of CONCESSIONAIRE'S activities under this AGREEMENT and shall see to the investigation and defense of such claim or demand at CONCESSIONAIRE'S cost. The CITY shall have the right, at its option and at its own expense, to participate in such defense without relieving CONCESSIONAIRE of any of its obligations under this paragraph.**
- 9.2 **It is the EXPRESS INTENT of the parties to this AGREEMENT, that the INDEMNITY provided for in this section (Section 10), is an INDEMNITY extended by CONCESSIONAIRE to INDEMNIFY, PROTECT and HOLD HARMLESS, the CITY from the consequences of the CITY'S OWN NEGLIGENCE, provided however, that the INDEMNITY provided for in this section SHALL APPLY only when the NEGLIGENT ACT of the CITY is a CONTRIBUTORY CAUSE of the resultant injury, death, or damage, and shall have no application when the negligent act of the CITY is the sole cause of the resultant injury, death, or damage. CONCESSIONAIRE further AGREES TO DEFEND, AT ITS OWN EXPENSE and ON BEHALF OF THE CITY AND IN THE NAME OF THE CITY, any claim or litigation brought against the CITY and its elected officials, employees, officers, directors, volunteers and representatives, in connection with any such injury, death, or damage for which this INDEMNITY shall apply, as set forth above.**

10. INSURANCE REQUIREMENTS

- 10.1 Any and all employees, representatives, agents or volunteers of Concessionaire while engaged in the performance of any work required by the City or any work related to a lease of space or Concession Agreement with the City shall be considered employees, representatives, agents or volunteers of Concessionaire only and not of the City. Any and all claims that may result from any obligation for which Concessionaire may be held liable under any Workers' Compensation, Unemployment Compensation or Disability Benefits law or under any similar law on behalf of said employees, representatives, agents or volunteers shall be the sole obligation and responsibility of Concessionaire.
- 10.2 Prior to the commencement of any work under this Agreement, Concessionaire shall furnish an original completed Certificate(s) of Insurance to the Golf Course Manager and City Clerk's Office, which shall be completed by an agent authorized to bind the named underwriter(s) and their company to the coverage, limits, and termination provisions shown thereon, and which shall furnish and contain all required information referenced or indicated thereon. The original certificate(s) must have the agent's original signature, including the signer's company affiliation, title and phone number, and be mailed directly from the agent to the City. The City shall have no duty to pay or perform under this Agreement until such certificate shall have been delivered to the City's Golf Course Manager and the City Secretary's Office and no officer or employee shall have authority to waive this requirement.
- 10.3 The City reserves the right to review the insurance requirements of this section during the effective period of the Lease Agreement and any extension or renewal hereof and to modify insurance coverage's and their limits when deemed necessary and prudent by the City, based upon changes in statutory law, court decisions, or circumstances surrounding the Lease Agreement, but in no instance will the City allow modification whereupon the City may incur increased risk.
- 10.4 A Concessionaire's financial integrity is of interest to City, therefore, subject to Concessionaire's right to maintain reasonable deductibles in such amounts as are approved by City, Concessionaire shall obtain and maintain in full force and effect for the duration of the Lease Agreement, and any extension hereof, at Concessionaire's sole expense, insurance coverage written, on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and rated A-or better by A.M. Best Company and/or otherwise acceptable to the City, in the following types and amounts:

	TYPE	AMOUNT
1.	Workers' Compensation and Employers Liability	Statutory \$500,000/\$500,000/\$500,000
2.	Commercial General (Public) Liability Insurance to include coverage for the following:	Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000 per occurrence; \$2,000,000 aggregate
	a. Premises/Operations	
	b. Independent Contractors	
	c. Broad Form Contractual Liability	
	d. Products/completed operations	
	e. Broad form property damage, to include fire legal liability	
	f. Personal Injury	
	g. Explosion, collapse, underground	
3.	Comprehensive Automobile Liability (if appl.)	Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000 per occurrence or its equivalent
	a. Owned/Leased Vehicles	
	b. Non-owned Vehicles	
	c. Hired Vehicles	
4.	Motor truck cargo insurance including loading and unloading coverage; written on an inland marine form and an all risk basis	\$1,000,000

- | | | |
|----|---|---|
| 5. | Property Insurance: For physical damage to the property of CONCESSIONAIRE, including improvements and betterment to the Leased Premises | Coverage for a minimum of eighty percent (80%) of the replacement cost of CONCESSIONAIRE'S property |
|----|---|---|

10.5 The City shall be entitled, upon request and without expense, to receive copies of the policies and all endorsements thereto as they apply to the limits required by the City, and may make a reasonable request for deletion, revision, or modification of particular policy terms, conditions, limitations or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any such policies). Upon such request by the City, the Concessionaire shall exercise reasonable efforts to accomplish such changes in policy coverage's, and shall pay the cost thereof.

10.6 Concessionaire agrees that with respect to the above-required insurance, all insurance contracts and Certificate(s) of Insurance will contain the following required provisions.

10.7 Name the City and its officers, employees, volunteers and elected representatives as additional insured's as respects operations and activities of, or on behalf of, the named insured performed under contract with the City, with the exception of the workers' compensation and professional liability policies;

10.7.1 Provide for an endorsement that the "other insurance" clause shall not apply to the City of Copperas Cove where the City is an additional insured shown on the policy;

10.7.2 Workers' compensation and employers' liability policy will provide a waiver of subrogation in favor of the City.

10.8 Concessionaire shall notify the City in the event of any notice of cancellation, non-renewal or material change in coverage and shall give such notices not less than thirty (30) days prior to the change, or ten (10) days notice for cancellation due to non-payment of premiums, which notice must be accompanied by a replacement Certificate of Insurance. All notices shall be given to the City at the following address:

City of Copperas Cove
Hills of Cove Golf Course
Attn: Course Manager
1408 Golf Course Rd
Copperas Cove, Texas 76522

City of Copperas Cove
Finance Department
Attn: City Finance Officer
P.O.Box 1449
Copperas Cove, Texas 76522

10.7 If Concessionaire fails to maintain the aforementioned insurance, or fails to secure and maintain the aforementioned endorsements, the City may obtain such insurance, and deduct and retain the amount of the premiums for such insurance from any sums due under the Lease Agreement. Procuring of said insurance by the City, however, is not the exclusive remedy for failure of Concessionaire to maintain said insurance or secure said endorsements. In addition to any other remedies the City may have upon Concessionaire's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order Concessionaire to stop work hereunder, and/or withhold any payments(s) which become due to Concessionaire hereunder until Concessionaire demonstrates compliance with the requirements hereof.

10.8 Nothing herein contained shall be construed as limiting in any way the extent to which Concessionaire may be held responsible for payments of damages to persons or property resulting from Concessionaire's or its subcontractors' performance of the work covered under this Lease Agreement.

- 10.9 All personal property placed in the Leased Premises shall be at the sole risk of Concessionaire. City shall not be liable, and Concessionaire waives all claims for any damage either to the person or property of Concessionaire or to other persons due to the Leased Premises or any part of appurtenances thereof becoming out of repair or arising from bursting or leaking of water, gas, waste pipes, or defective wiring or excessive or deficient electrical current; or from any act or omission of employees, or other occupants of the Leased Premises, or any other persons; due to the happening of any accident in or about said Leased Premises. Concessionaire shall save and hold harmless City from any claims arising out of damage to Concessionaire's property or damage to Concessionaire's business, including subrogation claims by Concessionaire's insurers.

11. CONTRACT OVERSIGHT

- 11.1 The Golf Course Manager, or his designee, shall be City's principle agent for monitoring Concessionaire's compliance with this Contract

12. HOLD HARMLESS AND NO LIABILITY FOR LOSSES INCURRED BY CONCESSIONAIRE

- 12.1 Concessionaire specifically understands and agrees that City accepts no liability for any loss by Concessionaire of funds/revenues, merchandise, equipment, supplies, materials or other goods owned by Concessionaire whether due to theft, robbery, break-in, vandalism, acts of God or any other causes.
- 12.2 Concessionaire agrees to hold City harmless for any theft, damages or destruction of signs, goods and/or other property of Concessionaire so left on the Contracted Premises after Concessionaire vacates the Golf Course's Clubhouse kitchen and dining areas. If said signs, goods and any other property placed by Concessionaire upon the Contracted Premises are not removed by Concessionaire within thirty (30) days after the Contracted Premises are vacated, then the City may remove same without further notice or liability therefore.
- 12.3 Upon any such expiration or termination of this Contract, Concessionaire shall quit and peacefully relinquish control of the Food and Beverage Concession to City, and City, upon or at any time after such expiration or termination, may, without further notice, enter upon and re-enter the Clubhouse and possess itself thereof, by force, summary proceedings, ejectment or otherwise, and may remove Concessionaire and all other persons and property, including all signs, furniture, trade fixtures, and other personal property which may be disputed as to its status as fixtures, from the Clubhouse kitchen and dining areas.

13. RECORDS, REPORTS AND AUDIT RIGHTS

- 13.1 Concessionaire shall maintain, in the City of Copperas Cove, Texas, books and records reflecting his operations hereunder in accordance with generally accepted accounting principles. Such books and records, together with any other documentation necessary for verification of Concessionaire's compliance with the terms of this Contract, shall be made available to Manager or any of his authorized representatives, upon request. The City Finance Department shall have the right to conduct an audit, examine and make excerpts or transcripts from said books, records and documentation to verify the amount of Gross Revenues reported and Compensation paid to City each year.
- 13.2 Concessionaire shall furnish an annual financial statement, prepared by a certified public accountant, showing all Gross Revenues for the applicable year, within ninety (90) days after the end of Concessionaire's fiscal year. Any accounting system utilized by Concessionaire shall adhere at all times to generally accepted accounting practices.
- 13.3 All applicable records and accounts of Concessionaire, together with all supporting documentation, shall be preserved in Coryell County, Texas, by Concessionaire for five (5) years after the final

payment under this Contract or until all audits, if any, are complete and findings on all claims have been finally resolved, whichever is the greater period of time. City, if it elects, has the right to require that any or all of such records and accounts be submitted for audit to City or to a certified public accountant to be selected by City. If it shall be determined, as a result of such audit, that there has been a deficiency in the payments due to City hereunder, then such deficiency shall become immediately due and payable with interest at the maximum legal rate under applicable law from the date when said payments should have been made. In addition, if payments have been understated by more than two percent (2%) and City is entitled to an increase in payments due hereunder as a result of such understatement, then Concessionaire shall pay the cost of such audit by City or City's designated auditor. In the event Concessionaire shall be delinquent in furnishing to City any monthly statement or other statements required hereunder and shall not furnish said statements to City within two (2) days following the request for same, then Concessionaire shall be automatically in default of this Contract, and shall constitute grounds for termination of this Contract by City.

14. TAXES AND LICENSES

- 14.1 Concessionaire shall pay, on or before their respective due dates, to the appropriate collecting authority, all Federal, State, and local taxes and fees and applicable employment taxes which are now or may hereafter be levied upon Concessionaire, or upon the business conducted on the Golf Course by Concessionaire, or upon any of Concessionaire's property used in connection therewith; and shall maintain in current status all Federal, State and local licenses and permits required for the operation of the business conducted by Concessionaire. Failure to comply with the foregoing provisions shall constitute grounds for termination of this Contract by City.

15. ASSIGNMENT AND SUBLETTING

- 15.1 Concessionaire shall not assign this Contract or any portion hereof, or allow same to be assigned by operation of law or otherwise, or sublet the Contract or any part thereof. Any assignment or subletting by Concessionaire shall constitute grounds for termination of this Contract by City.
- 15.2 Without the prior written consent of Concessionaire, City shall have the right to transfer and assign, in whole or in part, any of its rights and obligations under this Contract and in the Golf Course Clubhouse referred to herein; and to the extent that such assignee assumes City's obligations hereunder, City shall, by virtue of such assignment, be released from such obligation.

16. CONCESSIONAIRE'S EMPLOYEES

- 16.1 Concessionaire shall provide and train, at his sole cost and expense, a sufficient number of employees to comply with his contractual obligations hereunder. Such employees of Concessionaire shall in no way be construed as City employees nor shall they be entitled to any compensation or benefits from or by the City.
- 16.2 Concessionaire shall develop and enforce a policy of employee standards for on-the-job conduct, appearance and demeanor.
- 17.3 Concessionaire shall pay wages that are not less than the minimum wages required by federal and state statutes to persons employed in the food and beverage concession.

17. NON-DISCRIMINATION

- 17.1 Discrimination based on race, color, sex, age, religion, disability, political affiliation, belief, or national origin, directly or indirectly, in employment practices or in the use of or admission to the Golf Course Clubhouse Food and Beverage Service is prohibited.

18. MINIMUM WAGE

- 18.1 Concessionaire shall not, except as may otherwise be permitted by applicable laws and regulations, pay less than the minimum wage required by Federal and State statutes to persons employed in his operations hereunder.

19. CONFLICT OF INTEREST

- 19.1 Concessionaire acknowledges that he is informed that Texas law prohibits contracts between the Concessionaire and any local public official, such as a City officer or employee, and that the prohibition extends to an officer or employee of City agencies, such as City-owned utilities and certain City boards and commissions, and to contracts involving a business entity in which the official has a substantial interest, as defined by Texas law, if it is reasonably foreseeable that an action on the matter would confer an economic benefit on the business entity. Concessionaire certifies (and this Contract is made in reliance thereon) that neither he, nor his employees or agents, nor any person having a substantial interest in this Contract is an officer or an employee of the City or any of its agencies.

20. CITY RESERVATIONS

- 20.1 City reserves the right to approve or disapprove any food and beverage service Special Event scheduled by Concessionaire; any function that requires a third party vendor must receive written approval from the Director five (5) days prior to the event.

21. AMENDMENT

- 21.1 This Contract, together with and any attached exhibits, constitutes the entire agreement between the parties. No other agreements, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind the parties hereto. No amendment, modification or alteration of the terms of this Contract shall be binding unless the same is in writing, dated subsequent to the date hereof and duly executed by the parties hereto.

22. SEPARABILITY

- 22.1 If any clause or provision of this Contract is illegal, invalid or unenforceable under present or future laws effective during the term of this Contract, then and in that event it is the intention of the parties hereto that the remainder of this Contract shall not be affected thereby, and it is also the intention of the parties to this Contract that in lieu of each clause or provision of this Contract that is illegal, invalid or unenforceable there be added as a part of this Contract a legal, valid and enforceable clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible.

23. NOTICES

- 23.1 Notices to City required or appropriate under this Contract shall be deemed sufficient if in writing and mailed, first class, U.S. Mail, postage pre-paid, addressed to the City Secretary, P.O. Box 1449 Copperas Cove, TX. 76522, or to such other address as may have been designated from time to time in writing by the City Manager of the City of Copperas Cove. Notices to Concessionaire shall be deemed sufficient if in writing and mailed, first class, U.S. Mail, postage pre-paid, addressed to Concessionaire at the address currently on file with the Manager or at such other address on file with the City Secretary as Concessionaire may provide from time to time in writing to City.

24. PARTIES BOUND

24.1 The covenants and agreements herein contained shall inure to the benefits of and be binding upon the parties hereto, their respective heirs, legal representatives, successors and assigns, and if there shall be more than one party designated as Concessionaire in this Contract, they shall each be bound jointly and severally hereunder.

25. TEXAS LAW TO APPLY

25.1 **THIS CONTRACT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN CORYELL COUNTY, TEXAS.**

26. GENDER

26.1 Words of any gender used in this Contract shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

27. CAPTIONS

27.1 The captions contained in this Contract are for convenience of reference only and in no way limit or enlarge the terms and conditions of this Contract.

28. ENTIRE AGREEMENT

28.1 This Contract, together with the authorizing ordinance and any attached exhibits, constitutes the entire Contract between the parties hereto respecting the subject matter herein, and any other written or parol agreement with City regarding the subject matter herein is hereby expressly waived and terminated by Concessionaire. It is understood that the Charter of the City requires that all contracts with the City be in writing and adopted by ordinance. Further, no amendment, modification or alteration of the terms of this Contract shall be binding unless the same be in writing, dated subsequent to the date hereof, duly executed by the parties hereto and approved by such an ordinance.

IN WITNESS WHEREOF, we have affirmed our signatures this _____ day of _____, 2011.

City of Copperas Cove

ATTEST:

Jane Lees, City Secretary

By: _____
Andrea Gardner, City Manager

APPROVED AS TO FORM:

Charles Zech, City Attorney

By: _____
John A. Vasseur, President
BLACK MEG 43, LLC.

By: _____
Robert S. Vasseur, Vice President
BLACK MEG 43, LLC.

City Council Regular

H. 1.

Meeting Date: 10/04/2011

Contact: Ryan Haverlah, Asst Dir Finance/Budget Dir, Finance

SUBJECT

Public hearing on an ordinance amending the 2011-2012 fiscal year budget for the City of Copperas Cove. **Ryan D. Haverlah, Assistant Director of Financial Services/Budget Director**

BACKGROUND/HISTORY

The 2011-2012 budget was adopted on September 6, 2011. According to Section 6.11(b)(1) of the Copperas Cove City Charter, in order for the City Council to amend the 2011-2012 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 will use fund balance in several funds. Therefore, two public hearings are required.

FINDINGS/CURRENT ACTIVITY

During the preparation of the FY 2011-2012 budget, City Council agreed to provide a 1% COLA to employees. Due to the City's Charter, the expense for the COLA could not be included in the adopted budget. Staff discussed with City Council amending the budget in the new fiscal year was the only option and City Council agreed to the proposed plan to provide a pay increase to employees. The impact on each fund is below:

The General Fund requires an increase in expenditures of \$100,587 from fund balance for a 1% COLA to employees.

The Water and Sewer Fund requires an increase in expenditures of \$18,123 from fund balance for a 1% COLA to employees.

The Solid Waste Fund requires an increase in expenditures of \$7,862 from fund balance for a 1% COLA to employees.

The Drainage Fund requires an increase in expenditures from fund balance in the amount of \$1,330 for a 1% COLA to employees and \$81,997 for the Colorado Stem Drainage project included in the Capital Improvement Plan.

The Golf Course Fund requires an increase of \$2,381 from fund balance for a 1% COLA to employees.

ACTION OPTIONS/RECOMMENDATION

City staff recommends that the City Council hold a public hearing on Ordinance No. 2011-51, amending the fiscal year 2011-2012 Budget.

Fiscal Impact

Funds available Y/N?: Y

FINANCIAL IMPACT:

See Exhibit A for details.

Attachments

Ordinance No. 2011-51

Exhibit A

Public Notice

ORDINANCE NO. 2011-51

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, 2011, AND ENDING ON SEPTEMBER 30, 2012; 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, 2011 to September 30, 2012; 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, 2011 to September 30, 2012, 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 18th day of October 2011, 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 2011-12 BUDGET
GENERAL FUND
SUMMARY OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE**

Description	Projected FY 2010-11	Adopted FY 2011-12	Proposed Amendment	Amended Budget FY 2011-12
BEGINNING FUND BALANCE:				
Unreserved, Undesignated	\$ 4,345,757	\$ 3,859,646	\$ -	\$ 3,859,646
Prior Yr Enc Voided in Current Yr	-	-	-	-
Prior Period Adjustment	-	-	-	-
Unreserved, Designated	1,000,000	1,000,000	-	1,000,000
TOTAL BEGINNING FUND BALANCE	\$ 5,345,757	\$ 4,859,646	\$ -	\$ 4,859,646
REVENUES:				
Taxes	\$ 10,774,612	\$ 10,536,450	\$ -	\$ 10,536,450
Permits & Licenses	191,074	185,710	-	185,710
Charges for Services	853,980	1,182,975	-	1,182,975
Fines	639,839	706,714	-	706,714
Administrative Reimbursements	1,250,500	1,198,000	-	1,198,000
Miscellaneous Revenue	469,207	344,720	-	344,720
TOTAL REVENUES	\$ 14,179,212	\$ 14,154,569	\$ -	\$ 14,154,569
TOTAL FUNDS AVAILABLE	\$ 19,524,969	\$ 19,014,215	\$ -	\$ 19,014,215
EXPENDITURES:				
City Council (21)	\$ 40,466	\$ 44,918	\$ -	\$ 44,918
City Manager (22)	244,342	335,596	9,482	345,078
City Secretary (23)	159,766	144,322	1,007	145,329
City Attorney (24)	83,271	86,157	-	86,157
Finance (31)	703,825	274,308	1,995	276,303
Budget (32)	-	504,273	2,664	506,937
Human Resources (34)	272,723	297,848	1,719	299,567
Information Systems (35)	260,896	275,516	2,162	277,678
Municipal Court (41)	390,052	435,406	2,333	437,739
Police-Admin (42)	4,714,069	469,775	5,926	475,701
Police-Services (4210)	-	4,564,103	30,988	4,595,091
Animal Control (43)	213,021	231,151	1,163	232,314
Fire/EMS (44)	3,229,145	3,405,689	23,444	3,429,133
Emergency Management (4420)	5,449	37,849	-	37,849
Engineering (51)	137,855	-	-	-
Street (53)	567,690	607,583	1,913	609,496
Fleet Services (55)	220,958	218,444	1,729	220,173
Facility Maintenance (57)	76,565	-	-	-
Planning (61)	189,471	-	-	-
Building Development (52)	221,221	310,901	2,127	313,028
Code & Health Compliance (72)	190,636	161,526	1,407	162,933
Parks and Leisure - Admin (54)	1,014,078	309,444	2,131	311,575
Parks and Leisure - Maintenance(5410)	-	462,499	2,856	465,355
Athletics (5420)	-	366,683	1,419	368,102
Aquatics (5430)	-	175,849	428	176,277
Special Events (5440)	-	41,218	-	41,218
Cemetery (5450)	-	-	-	-
Library (71)	530,288	506,788	3,694	510,482
Non-Departmental (75)	734,815	588,113	-	588,113
TOTAL OPERATING EXPENDITURES	\$ 14,200,602	\$ 14,855,959	\$ 100,587	\$ 14,956,546
OTHER EXPENDITURES:				
Capital Outlay	\$ 104,516	\$ -	\$ -	\$ -
Capital Lease Payments	58,516	14,889	-	14,889
Street Maintenance	261,800	207,050	-	207,050
Transfers Out	39,889	-	-	-
TOTAL OTHER EXPENDITURES	\$ 464,721	\$ 221,939	\$ -	\$ 221,939
TOTAL EXPENDITURES	\$ 14,665,323	\$ 15,077,898	\$ 100,587	\$ 15,178,485
ENDING FUND BALANCE:				
Unreserved, Undesignated	\$ 3,859,646	\$ 2,936,317	\$ (100,587)	\$ 2,835,730
Unreserved, Designated	1,000,000	1,000,000	-	1,000,000
TOTAL ENDING FUND BALANCE	\$ 4,859,646	\$ 3,936,317	\$ (100,587)	\$ 3,835,730

**CITY OF COPPERAS COVE
FISCAL YEAR 2011-12 BUDGET
WATER & SEWER FUND
SUMMARY OF REVENUES, EXPENSES AND CHANGES IN FUND BALANCE**

Description	Projected FY 2010-11	Adopted FY 2011-12	Proposed Amendment	Amended Budget FY 2011-12
BEGINNING FUND BALANCE:				
Unreserved, Undesignated	\$ 2,226,463	\$ 1,228,604	\$ -	\$ 1,228,604
Prior Yr Enc Voided in Current Yr	-	-	-	-
Prior Period Adjustment	-	-	-	-
TOTAL BEGINNING FUND BALANCE	\$ 2,226,463	\$ 1,228,604	\$ -	\$ 1,228,604
Water Revenue	\$ 5,025,000	\$ 5,125,612	\$ -	\$ 5,125,612
Sewer Revenue	3,730,000	4,124,252	-	4,124,252
Senior Citizen Discount	(142,000)	(154,000)	-	(154,000)
Water Tap Fees	60,000	60,000	-	60,000
Sewer Tap Fees	14,000	14,000	-	14,000
Connect/Disconnect Fee	58,000	66,000	-	66,000
Meter Box Reset Fee	-	-	-	-
Composting Sales Revenue	16,000	-	-	-
Subtotal	<u>\$ 8,761,000</u>	<u>\$ 9,235,864</u>	<u>\$ -</u>	<u>\$ 9,235,864</u>
Admin Reimb-Drainage	\$ 20,000	\$ 20,000	\$ -	\$ 20,000
Transfer from Bond Funds	-	-	-	-
Interest Revenue	6,000	5,000	-	5,000
Late Charge For Billing	280,000	280,000	-	280,000
Miscellaneous Revenues	50,000	49,950	-	49,950
Insurance Proceeds	1,000	-	-	-
Riser Forfeiture Revenue	1,300	1,000	-	1,000
Credit Card Convenience Fee	-	7,000	-	7,000
Reimbursements	1,398	-	-	-
Auction Proceeds	2,000	3,000	-	3,000
Subtotal	<u>\$ 361,698</u>	<u>\$ 365,950</u>	<u>\$ -</u>	<u>\$ 365,950</u>
TOTAL REVENUE	\$ 9,122,698	\$ 9,601,814	\$ -	\$ 9,601,814
TOTAL FUNDS AVAILABLE	\$ 11,349,161	\$ 10,830,418	\$ -	\$ 10,830,418
OPERATING EXPENSES:				
Public Works Administration (80)	\$ 337,932	\$ 298,515	\$ 3,082	\$ 301,597
Utility Administration (81)	574,876	585,612	3,421	589,033
Water Distribution (82)	1,325,301	1,298,970	4,210	1,303,180
Sewer Collection (83)	499,820	485,282	2,957	488,239
Wastewater Treatment (84)	1,095,529	1,083,224	4,453	1,087,677
Composting (84-01) ¹	185,510	-	-	-
Non-Departmental (85)	2,986,841	2,930,292	-	2,930,292
TOTAL OPERATING EXPENSES	\$ 7,005,809	\$ 6,681,895	\$ 18,123	\$ 6,700,018
OTHER EXPENSES:				
Capital Outlay	\$ -	\$ -	\$ -	\$ -
Capital Lease Payments	45,688	32,341	-	32,341
Principal & Int Debt Pymts	3,387,743	3,354,916	-	3,354,916
Principal & Int Pymts in Bond Funds	(373,683)	-	-	-
Transfer to Bond Funds	55,000	-	-	-
TOTAL OTHER EXPENSES	\$ 3,114,748	\$ 3,387,257	\$ -	\$ 3,387,257
TOTAL EXPENSES	\$ 10,120,557	\$ 10,069,152	\$ 18,123	\$ 10,087,275
ENDING FUND BALANCE:				
Unreserved, Undesignated	\$ 1,228,604	\$ 761,266	\$ (18,123)	\$ 743,143
TOTAL ENDING FUND BALANCE	\$ 1,228,604	\$ 761,266	\$ (18,123)	\$ 743,143

**CITY OF COPPERAS COVE
FISCAL YEAR 2011-12 BUDGET
SOLID WASTE FUND
SUMMARY OF REVENUES, EXPENSES AND CHANGES IN FUND BALANCE**

Description	Projected FY 2010-11	Adopted FY 2011-12	Proposed Amendment	Amended Budget FY 2011-12
BEGINNING FUND BALANCE:				
Unreserved, Undesignated	\$ 949,411	\$ 1,009,134	\$ -	\$ 1,009,134
Prior Yr Enc Voided in Current Yr	-	-	-	-
Prior Period Adjustment	-	-	-	-
TOTAL BEGINNING FUND BALANCE	<u>\$ 949,411</u>	<u>\$ 1,009,134</u>	<u>\$ -</u>	<u>\$ 1,009,134</u>
REVENUES:				
Refuse Collection Fees	\$ 2,564,538	\$ 2,560,000	\$ -	\$ 2,560,000
Senior Discount	(42,828)	(42,752)	-	(42,752)
Sanitary Landfill Fees	300,000	315,000	-	315,000
Recycling Proceeds	31,619	33,144	-	33,144
Sale of Kraft Bags	10,041	11,520	-	11,520
Sale of Scrap Metal	14,200	15,000	-	15,000
Commercial Reload/Overloan Fees	10,000	10,000	-	10,000
Return Service/Overload/Excess	1,908	1,100	-	1,100
Auto-Lid Locks	850	850	-	850
Rear Load Dumpster Rental	1,500	1,650	-	1,650
Roll-Off Rental Income	20,000	20,000	-	20,000
Bulky/White Goods Collection	1,200	1,320	-	1,320
Container Removal from Curb	500	600	-	600
Composting Sales Revenue	-	16,000	-	16,000
Miscellaneous Solid Waste Fees	-	-	-	-
Subtotal	<u>\$ 2,913,528</u>	<u>\$ 2,943,432</u>	<u>\$ -</u>	<u>\$ 2,943,432</u>
Interest Revenue	\$ 1,700	\$ 1,700	\$ -	\$ 1,700
Late Charge For Billing	130,000	131,250	-	131,250
Auction Proceeds	-	5,000	-	5,000
Miscellaneous Revenues	1,500	1,500	-	1,500
Subtotal	<u>\$ 133,200</u>	<u>\$ 139,450</u>	<u>\$ -</u>	<u>\$ 139,450</u>
TOTAL REVENUES	<u>\$ 3,046,728</u>	<u>\$ 3,082,882</u>	<u>\$ -</u>	<u>\$ 3,082,882</u>
TOTAL FUNDS AVAILABLE	<u>\$ 3,996,139</u>	<u>\$ 4,092,016</u>	<u>\$ -</u>	<u>\$ 4,092,016</u>
OPERATING EXPENSES:				
Solid Waste Administration (90)	\$ 217,795	\$ 265,092	\$ 1,849	\$ 266,941
Solid Waste Collection - Residential (91-01)	286,238	269,039	1,253	270,292
Solid Waste Collection - Recycling (91-02)	129,272	132,674	627	133,301
Solid Waste Collection - Brush (91-03)	123,734	133,614	640	134,254
Solid Waste Collection - Commercial (91-04)	197,002	225,937	952	226,889
Solid Waste Collection - KCCB (91-05)	23,212	25,997	-	25,997
Solid Waste Composting (91-06) ¹	-	188,952	1,159	190,111
Solid Waste Disposal (92)	1,201,534	1,278,197	1,382	1,279,579
Non-Departmental (95)	501,893	518,455	-	518,455
TOTAL OPERATING EXPENSES	<u>\$ 2,680,680</u>	<u>\$ 3,037,957</u>	<u>\$ 7,862</u>	<u>\$ 3,045,819</u>
OTHER EXPENSES:				
Capital Improvement Projects	\$ -	\$ -	\$ -	\$ -
Capital Outlay	-	-	-	-
Capital Lease Payments	159,133	35,247	-	35,247
Principal & Int Debt Pymts	147,192	191,181	-	191,181
TOTAL OTHER EXPENSES	<u>\$ 306,325</u>	<u>\$ 226,428</u>	<u>\$ -</u>	<u>\$ 226,428</u>
TOTAL EXPENSES	<u>\$ 2,987,005</u>	<u>\$ 3,264,385</u>	<u>\$ 7,862</u>	<u>\$ 3,272,247</u>
ENDING FUND BALANCE:				
Unreserved, Undesignated	\$ 1,009,134	\$ 827,631	\$ (7,862)	\$ 819,769
TOTAL ENDING FUND BALANCE	<u>\$ 1,009,134</u>	<u>\$ 827,631</u>	<u>\$ (7,862)</u>	<u>\$ 819,769</u>

**CITY OF COPPERAS COVE
FISCAL YEAR 2011-12 BUDGET
DRAINAGE UTILITY FUND
SUMMARY OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE**

Account	Description	Projected FY 2010-11	Adopted FY 2011-12	Proposed Amendment	Amended Budget FY 2011-12
BEGINNING FUND BALANCE:					
	Unreserved, Undesignated	\$ 643,179	\$ 972,243	\$ -	\$ 972,243
	Prior Yr Enc Voided in Current Yr	-	-	-	-
	Prior Period Adjustment	-	-	-	-
TOTAL BEGINNING FUND BALANCE		<u>\$ 643,179</u>	<u>\$ 972,243</u>	<u>\$ -</u>	<u>\$ 972,243</u>
REVENUES					
05-340-1020	Drainage Utility Fee	\$ 875,000	\$ 875,000	\$ -	\$ 875,000
Subtotal		<u>\$ 875,000</u>	<u>\$ 875,000</u>	<u>\$ -</u>	<u>\$ 875,000</u>
Other Revenue					
05-390-6005	Miscellaneous Revenues	\$ -	\$ -	\$ -	\$ -
05-370-6001	Interest Revenue	1,400	1,500	-	1,500
05-392-1001	Auction Proceeds	-	-	-	-
Subtotal		<u>\$ 1,400</u>	<u>\$ 1,500</u>	<u>\$ -</u>	<u>\$ 1,500</u>
TOTAL REVENUES		<u>\$ 876,400</u>	<u>\$ 876,500</u>	<u>\$ -</u>	<u>\$ 876,500</u>
TOTAL FUNDS AVAILABLE		<u>\$ 1,519,579</u>	<u>\$ 1,848,743</u>	<u>\$ -</u>	<u>\$ 1,848,743</u>
OPERATING EXPENDITURES					
	Drainage	\$ 281,893	\$ 326,365	\$ 1,330	\$ 327,695
	Non-Departmental	101,460	107,960	-	107,960
TOTAL OPERATING EXPENDITURES		<u>\$ 383,353</u>	<u>\$ 434,325</u>	<u>\$ 1,330</u>	<u>\$ 435,655</u>
OTHER EXPENDITURES					
	Capital Improvement Projects	\$ 20,000	\$ 322,771	\$ 81,997	\$ 404,768
	Capital Outlay	19,932	-	-	-
	Capital Lease Payments	1,492	-	-	-
	Principal & Int Debt Pymts	122,559	189,235	-	189,235
TOTAL OTHER EXPENDITURES		<u>\$ 163,983</u>	<u>\$ 512,006</u>	<u>\$ 81,997</u>	<u>\$ 594,003</u>
TOTAL EXPENDITURES		<u>\$ 547,336</u>	<u>\$ 946,331</u>	<u>\$ 83,327</u>	<u>\$ 1,029,658</u>
ENDING FUND BALANCE					
	Unreserved, Undesignated	\$ 972,243	\$ 902,412	\$ (83,327)	\$ 819,085
TOTAL ENDING FUND BALANCE		<u>\$ 972,243</u>	<u>\$ 902,412</u>	<u>\$ (83,327)</u>	<u>\$ 819,085</u>

**CITY OF COPPERAS COVE
FISCAL YEAR 2011-12 BUDGET
GOLF COURSE FUND
SUMMARY OF REVENUES, EXPENSES AND CHANGES IN FUND BALANCE**

Description	Projected FY 2010-11	Adopted FY 2011-12	Proposed Amendment	Amended Budget FY 2011-12
BEGINNING FUND BALANCE:				
Unreserved, Undesignated	\$ (239,342)	\$ (286,757)	\$ -	\$ (286,757)
Prior Yr Enc Voided in Current Yr	-	-	-	-
Prior Period Adjustment	-	-	-	-
TOTAL BEGINNING FUND BALANCE	<u>\$ (239,342)</u>	<u>\$ (286,757)</u>	<u>\$ -</u>	<u>\$ (286,757)</u>
REVENUES:				
Swimming Pool Receipts	\$ 500	\$ 500	\$ -	\$ 500
Green Fees	120,000	128,000	-	128,000
Cart Rental Fees	120,000	133,000	-	133,000
Membership Dues	85,000	90,000	-	90,000
Tournament-Green Fees	12,000	13,500	-	13,500
Tournament-Cart Fees	750	-	-	-
Tournament Fees	1,000	-	-	-
Cart Storage Fees	41,000	41,000	-	41,000
Trail Fees	15,000	15,000	-	15,000
Pro Shop Sales	40,000	40,000	-	40,000
Facility Rental Income	7,800	7,879	-	7,879
Driving Range Fees	22,000	25,000	-	25,000
Snack Bar Revenue-Food & Beverage	165	-	-	-
Food & Beverage (Non-Tax)	2,200	-	-	-
Snack Bar Revenue-Alcohol Sale	18,000	20,000	-	20,000
Miscellaneous Revenue	40	24	-	24
Auction Proceeds	-	5,000	-	5,000
Transfer from General Fund	-	-	-	-
Special Green Fees	15,600	15,000	-	15,000
Special Lunch	-	-	-	-
Golf Lesson Revenue	2,500	2,500	-	2,500
TOTAL REVENUES	<u>\$ 503,555</u>	<u>\$ 536,403</u>	<u>\$ -</u>	<u>\$ 536,403</u>
TOTAL FUNDS AVAILABLE	<u>\$ 264,213</u>	<u>\$ 249,646</u>	<u>\$ -</u>	<u>\$ 249,646</u>
OPERATING EXPENSES:				
Golf Course - Operations	\$ 204,245	\$ 193,606	\$ 619	\$ 194,225
Golf Course - Maintenance	292,955	284,395	1,762	286,157
TOTAL OPERATING EXPENSES	<u>\$ 497,200</u>	<u>\$ 478,001</u>	<u>\$ 2,381</u>	<u>\$ 480,382</u>
OTHER EXPENSES:				
Capital Outlay	\$ -	\$ -	\$ -	\$ -
Capital Lease Payments	31,768	26,474	-	26,474
Principal & Int Debt Pymts	22,002	21,404	-	21,404
Principal & Int Pymts in Bond Funds	-	-	-	-
TOTAL OTHER EXPENSES	<u>\$ 53,770</u>	<u>\$ 47,878</u>	<u>\$ -</u>	<u>\$ 47,878</u>
TOTAL EXPENSES	<u>\$ 550,970</u>	<u>\$ 525,879</u>	<u>\$ 2,381</u>	<u>\$ 528,260</u>
ENDING FUND BALANCE:				
Unreserved, Undesignated	\$ (286,757)	\$ (276,233)	\$ (2,381)	\$ (278,614)
TOTAL ENDING FUND BALANCE	<u>\$ (286,757)</u>	<u>\$ (276,233)</u>	<u>\$ (2,381)</u>	<u>\$ (278,614)</u>

NOTICE OF PUBLIC HEARING

On October 4, 2011, during a Regular City Council Meeting, the City Council of the City of Copperas Cove will hold a public hearing on an ordinance to amend FY 2011-12 Annual Operating Budget for the City of Copperas Cove. The October 4, 2011 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 2011-12 Annual Operating Budget include salary and benefit increases approved by City Council during the FY 2011-12 budget preparation and funding of the Colorado Stem Wall Drainage project. Amendments by fund are as follows:

Fund <i>Department</i>	Revenue Appropriations Increase/(Decrease)	Expenditure Appropriations Increase/(Decrease)	Purpose
General Fund		100,587	1% COLA
Water & Sewer Fund		18,123	1% COLA
Solid Waste Fund		7,862	1% COLA
Drainage Fund			
<i>Drainage Utility</i>		1,330	1% COLA
<i>Drainage Utility</i>		81,997	Colorado Stem Wall project
Golf Course Fund		2,381	1% COLA

City Council Regular

H. 2.

Meeting Date: 10/04/2011

Contact: Ryan Haverlah, Asst Dir Finance/Budget Dir, Finance

SUBJECT

Public hearing and action on adoption of an ordinance revising the property tax exemption for local homesteads of persons age 65 or over from \$12,000 to \$5,000. **Ryan D. Haverlah, Assistant Director of Financial Services/Budget Director**

BACKGROUND/HISTORY

The City of Copperas Cove has provided a \$12,000 homestead exemption from property tax since April 15, 1980 to citizens age 65 or older. In May 2007, an election was held to establish a residence homestead tax freeze for elderly age 65 or older or disabled. The proposition passed freezing the taxes for taxpayers age 65 or older or disabled. The result of the freeze and the exemption has created an inequitable tax burden on other property owners of the City and a financial strain on the City of Copperas Cove through lost revenue.

During the Budget Planning Workshop on April 11, 2011, City Council agreed to reduce the homestead exemption to property owners age 65 and over from \$12,000 to \$5,000. This item was delayed on May 15, 2011, and Council agreed on July 15, 2011 to discuss reducing the exemption after the budget was adopted.

FINDINGS/CURRENT ACTIVITY

The Texas Constitution, Article 8, Section 1-b(b) provides that "the governing body of...[the]...city...may exempt by its own action not less than three thousand dollars (\$3,000) of the market value of residence homesteads of persons...who are under a disability...or...persons sixty-five (65) years of age or older...from all ad valorem taxes thereafter levied by the political subdivision." In other words, City Council may provide a minimum exemption of \$3,000 on property taxes for elderly age 65 or older and disabled persons without the requirement of any other action such as a special election.

During the Budget planning workshop on April 11th, staff presented to City Council the following survey information:

LOCAL TAX EXEMPTIONS

JURISDICTION	LOCAL HOMESTEAD	LOCAL OVER 65	LOCAL DISABLED	Tax Freeze (Over 65, Disabled)
BELL COUNTY		16,670	10,000	Yes
CORYELL COUNTY				Yes
LAMPASAS COUNTY		15,000		Yes
BELTON CITY		10,000	10,000	No
HARKER HEIGHTS CITY		10,000		No
KILLEEN CITY		20,000	FRZ/ONLY	Yes

NOLANVILLE CITY		3,000	FRZ/ONLY	Yes
SALADO VILLAGE	5,000/20%	50,000	50,000	Yes
TEMPLE CITY	5,000/20%	10,000	10,000	Yes
TROY CITY		FRZ/ONLY	FRZ/ONLY	Yes
CITY OF COPPERAS COVE	5,000	12,000		Yes
LAMPASAS CITY		15,000		No

Few cities provide a local homestead exemption that impacts all property owners and an exemption for property owners 65 years of age and over. Copperas Cove provides both types of exemptions; thereby reducing the taxable value of property within the City's corporate bounds.

If the 65 and over local homestead exemption is reduced from \$12,000 to \$5,000 as agreed by Council, the impact to property owners 65 and over will be a potential increase of \$53. Due to the property tax freeze implemented in 2007, some of the 65 and over property owners will realize a lesser increase. At the end of April, 1,322 properties with the 65 and over local homestead exemption. If the exemption is reduced to \$5,000, the property tax levy increase would be at most \$70,000 for the City. However, due to the freeze, the increase in revenue will be less than the \$70,000.

ACTION OPTIONS/RECOMMENDATION

City staff recommends City Council introduce and approve Ordinance No. 2011-52, establishing the property tax (ad valorem) exemption for local homesteads of persons age 65 or older in the amount of \$5,000 of the assessed property value.

Fiscal Impact

Funds available Y/N?: Y

FINANCIAL IMPACT:

If the over 65 local homestead exemption is reduced from \$12,000 to \$5,000, the property tax levy increase would be at most \$62,000 for the City. However, due to the freeze, the increase in revenue will be less than \$62,000. See the Findings section for an explanation.

Attachments

Ord No 2011-52

ORDINANCE NO. 2011-52

AN ORDINANCE PROVIDING FOR CERTAIN EXEMPTION TO THE ASSESSED VALUE OF RESIDENCE HOMESTEADS OF PERSONS SIXTY-FIVE YEARS OF AGE OR OLDER; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Copperas Cove seeks to provide an equitable distribution in the property tax burden within its corporate limits; and

WHEREAS, the City Council finds the ad valorem exemption to residence homesteads of person age sixty-five (65) or older is higher than the homestead exemption for other property owners; and

WHEREAS, the City Council finds it to be in the best interest of the viability of the city to realign the local homestead exemptions at the same level for all property owners within its corporate limits; and

WHEREAS, the City Council is authorized to exempt not less than \$3,000 of the market value of residence homesteads of persons sixty-five (65) years or older from ad valorem taxes levied by virtue of the Texas Constitution Article 8.

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

SECTION 1. AMENDMENT.

The City of Copperas Cove Code of Ordinance Chapter 16, Section 16-3 (a) is hereby amended as follows:

(a) Upon compliance with all requirements of sections 16-3 through 16-7 and all other applicable laws and resolutions, five thousand dollars (\$5,000.00) of the assessed value of residence homesteads of persons sixty-five (65) years of age or older shall be exempt from ad valorem taxes levied by the city. Such exemption shall be effective as to such residence homesteads as may qualify hereunder from and after the first day of January, 2011. Eligibility for such exemption shall be determined each year as of the first day of each such year.

SECTION 2. EFFECTIVE DATE.

This ordinance shall take effect after the first day of January 2011 after its passage and publication as may be required by governing law.

SECTION 3. APPLICATION OF EXEMPTION.

The exemption provided for by this ordinance shall not be allowed unless the person claiming such exemption file with the applicable Central Appraisal District, between January 1, and April 30 of the year for which such exemption is claimed, documentary proof of age satisfactory to the Central Appraisal District and a sworn claim for such exemption, describing the property for which exemption is sought, on forms prescribed by the Central Appraisal District, giving complete information as provided for by such forms. The exemption shall be received immediately upon qualification for the exemption and must be filed before the first anniversary of the qualification date to receive the exemption(s) in that tax year. After the filing of such proof of age and claim for exemption, the Central Appraisal District may, if deemed necessary, request further information in order to determine eligibility for such exemption, which such information shall be provided by the applicant as a prerequisite to obtaining such exemption. Such application for exemption shall be made annually for each year that such exemption is sought.

SECTION 4. SAVINGS CLAUSE.

The repeal or amendment of any ordinance or part of ordinances effectuated by the enactment of this ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying, or altering any penalty accruing or to accrue or as affecting any rights of the City of Copperas Cove under any section or provisions of any ordinances in effect at the time of passage of this ordinance.

SECTION 5. CUMULATIVE.

The provisions of this ordinance shall be cumulative of all ordinances not repealed by this ordinance and ordinances governing or regulating the same subject matter as that covered herein. This ordinance shall not be construed to require or allow any act which is prohibited by any other ordinance.

SECTION 6. SEVERABILITY.

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

PASSED, APPROVED, AND ADOPTED on this 4th day of October 2011 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

Meeting Date: 10/04/2011

Contact: Chris Stewart

SUBJECT

Public hearing, discussion and possible action on an ordinance rezoning Lot 1, Block 13 of the S.P. Gilmore Addition, 501 North Main Street, from R-3 (Multifamily Residential) to B-3 (Local Business).

Chris Stewart, AICP, Stewart Planning Consulting

BACKGROUND/HISTORY

The applicants, Frank and Marie Gordon, have requested the change in zoning in order to permit the operation of a day care center. As can be seen on the attached location and radius map, the tract is located at the northeast corner of North Main Street and East Washington Street. The land use of surrounding properties is currently mixed commercial and residential. Surrounding properties are currently zoned B-4 (Business) and R-3 (Multi-family Residential).

The B-3 (Local Business) district permits all office-type uses, and most service-type uses, except for automobile-related uses. The B-2 (Local Retail) district also permits a day care center use.

FINDINGS/CURRENT ACTIVITY

Comprehensive Plan

The Comprehensive Plan envisions the area to be a transitional edge between retail and residential. Thus, the request to rezone is consistent with the Future Land Use Plan.

Land Use Compatibility

The Local Business use is compatible with the surrounding land uses of retail, and as B-3 (Local Business) can serve to transition to higher-density residential and low/medium density residential. Therefore, in principle, the request is compatible based on commonly-accepted planning practice.

Access

The site is a corner lot, with business access being taken from E. Washington Street, the minor/secondary frontage. This location for access is preferable to access onto N. Main St. Daycare centers produce high peak traffic impacts as a rule, but within the grid street system these can be more easily managed.

The Planning and Zoning Commission recommended approval to the City Council for the rezone of Lot 1, Block 13 of the S.P. Gilmore Addition, 501 North Main Street, from R-3 (Multifamily Residential) to B-3 (Local Business) at the September 12, 2011 meeting.

The City Council may direct any of the following

1. The City Council may recommend approval of the rezoning as requested.
2. The City Council may recommend denial of the rezoning as requested, citing the reasons for the recommendation.
3. The City Council May recommend a less intense zoning classification, citing the reasons for the recommendation.

ACTION OPTIONS/RECOMMENDATION

City staff recommends approval of Ordinance No. 2011-53, rezoning Lot 1, Block 13 of the S.P. Gilmore Addition, 501 North Main Street, from R-3 (Multifamily Residential) to B-3 (Local Business). This change would be consistent with the Future Land Use Plan, so no amendments would be necessary.

Fiscal Impact

Funds available Y/N?: N

FINANCIAL IMPACT:

None.

Attachments

Ordinance No 2011-53

Application

Map

ORDINANCE NO. 2011-53

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS APPROVING A ZONING CHANGE BY REZONING LOT 1, BLOCK 13 OF THE S.P. GILMORE ADDITION, ALSO KNOWN AS 501 NORTH MAIN STREET, FROM R-3 (MULTIFAMILY RESIDENTIAL) TO B-3 (LOCAL BUSINESS).

- WHEREAS,** Tex. Loc. Gov't Code Chapter 211 authorizes the City of Copperas Cove to adopt rules and regulations regarding zoning of land within the City limits of the City of Copperas Cove for the purpose of promoting the safe, orderly, and healthful development of the City of Copperas Cove; and
- WHEREAS,** Tex. Loc. Gov't Code Chapter 211 empowers the City to provide for the administration, enforcement, and amendment of those zoning rules and regulations; and
- WHEREAS,** the hereinabove described property, shown in Exhibit A, has a current zoning of R-3 (Multifamily Residential); and
- WHEREAS,** an application was received on August 16, 2011, requesting that such property be rezoned from R-3 (Multifamily Residential) to B-3 (Local Business); and
- WHEREAS,** a notice of the rezone request has been distributed via regular U.S. Mail to all property owners located within two-hundred (200) feet of the property; and
- WHEREAS,** a notice of the rezone request was published on August 26, 2011 in the Cove Leader Press; and
- WHEREAS,** the property has a proposed future use of Retail Commercial, as currently indicated on Plate 4-1 of the Future Land Use Plan; and
- WHEREAS,** the Planning and Zoning Commission of the City of Copperas Cove on September 12, 2011, held a public hearing and voted to recommend approval of the rezone request; and
- WHEREAS,** the City Council of the City of Copperas Cove held the required public hearing concerning the rezone request on October 4, 2011; and
- WHEREAS,** the City Council of the City of Copperas Cove has determined it to be in the public interest to amend the City's Comprehensive Zoning Regulations and Zoning Map, which in its best judgment promotes the health, safety,

morals, and general welfare and protects the use and enjoyment of property throughout the City.

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

SECTION 1.

That the hereinabove described property, shown in Exhibit A, Lot 1, Block 13 of the S.P. Gilmore Addition, also described as 501 North Main Street, be given the permanent zoning of B-3 (Local Business).

SECTION 2.

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 ordinance of the City as a whole or any part thereof, other than the part so declared to be invalid.

SECTION 3.

That this ordinance shall go into effect upon passage.

PASSED, APPROVED AND ADOPTED this 4th day of October 2011, 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

Application for Zoning Change

Instructions: (Please read carefully.)

- 1. Please type or print with black ink.
- 2. The application must be filled out completely and accurately.
- 3. The application must be signed by all legal owners of the subject property or by the legally authorized agent for the property owner(s).
- 4. The following items shall accompany the application:
 - a. Rezone Application Fee (\$200.00)
 - b. A copy of the deed(s) to the subject property verifying legal ownership as required.

Application Data (by Planning Staff)

- 1. Submittal Date: 8-16-11
- 2. P&Z Meeting Date: 9-12-11
- 3. Application Fee: 200.00
- 4. Received by: [Signature]

Name of Owner(s): FRANK AND MARIE GORDON

Name of Agent (if applicable):

Owner Agent (check one) Phone # 254-319-3000 Fax #

Owner Agent (check one) Mailing Address: 206 W. ANDERSON AVE COPPERAS COVE, TX 76522

Street Address or Location of Subject Property: 501 N. MAIN ST

Lot: Block: Subdivision: S.P. Gilmore Addition

Acreage (as required):

Present Zoning: RESIDENTIAL Proposed Zoning: COMMERCIAL B3 ^{m² FG}

Purpose of Zone Change: DAY CARE CENTER

Signature of Owner: [Signature]

Printed Name: FRANK + MARIE GORDON

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

WRAPAROUND WARRANTY DEED WITH VENDOR'S LIEN

Date: October 1, 2009

Grantor: Tonnie E. Smith and Charlene Smith
Grantor's Address: 1605 Freedom Lane
Copperas Cove, Texas 76522

Grantee: Frank L. Gordon and wife, Marie A. Gordon
Grantee's Address: 501 N. Main St.
Copperas Cove, Texas 76522

Consideration: The sum of TEN AND NO/100 DOLLARS (\$10.00) and one note of even date, payable to Grantor in the principal amount of **Fifty-Three Thousand Five Hundred Four and 23/100 Dollars (\$53,504.23)**. This note is secured by a vendor's lien retained in favor of Tonnie E. Smith, in this deed and by a deed of trust of even date from Grantee to **Mary Jane Zeigler, Trustee.**

This conveyance is made subject to the prior lien of a **Deed of Trust recorded in Clerk's File No. 129731**, of the Official Public Record of Real Property of Coryell County, Texas from **Tonnie E. Smith and Charlene Smith** to John H. Harris, Trustee, which secures payment of a promissory note in the original principal amount of \$62,000.00. **Grantee in this deed does not assume payment of that \$62,000.00 note.** Grantor is obligated to pay all installments on the \$62,000.00 note as they fall due. In the event of default in payment of the \$62,000.00 note, Grantee shall have the right to cure any such default as long as Grantee is not in default in the payment of the \$53,504.23 note or in the performance of the covenants of the Deed of Trust securing them. If Grantee cures a default in payment of the \$62,000.00 note, Grantee may receive credit on the \$53,504.23 note, for all amounts so paid as of the date of the payment in the manner that Grantees direct.

Property: Lot One (1), Block Thirteen (13) of S. P. Gilmore Addition, Copperas Cove, Coryell County, Texas, as shown of record in Vol. 46, page 349 Deed Records of Coryell County, Texas.

Reservations From and Exceptions to Conveyance and Warranty: This conveyance, however, is made and accepted subject to any and all validly existing encumbrances, conditions and restrictions, relating to the herein above described property as now reflected by the records of the County Clerk of Coryell County, Texas.

GRANTOR, for the consideration and subject to the reservations from and exceptions to conveyance and warranty, grants, sells, and conveys to Grantee the property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold it to Grantee, Grantee's heirs, executors, administrators, successors, or assigns forever. Grantor hereby binds Grantor and Grantor's heirs, executors, administrators, and successors to warrant and forever defend all and singular the property to Grantee and Grantee's heirs, executors, administrators, successors, and assigns, against every person whomsoever lawfully claiming

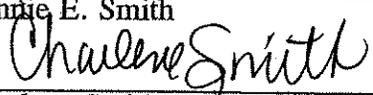
or to claim the same or any part thereof, except as to the reservations from and exceptions to conveyance and warranty.

The vendor's lien against and superior title to the property are retained until each note described is fully paid according to its terms, at which time this deed shall become absolute.

When the context requires, singular nouns and pronouns include the plural.

No responsibility for validity of real estate title assumed by attorney preparing this instrument unless a written title opinion rendered.



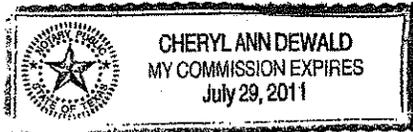
Tommie E. Smith


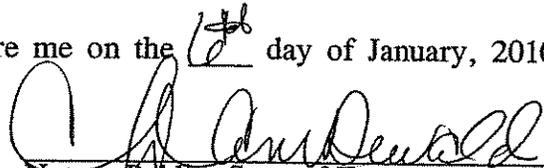
Charlene Smith

(Acknowledgment)

STATE OF TEXAS §
COUNTY OF CORYELL §

This instrument was acknowledged before me on the 6th day of January, 2010 by Tommie E. Smith.

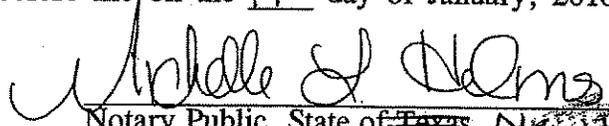




Notary Public, State of Texas

STATE OF ~~TEXAS~~ New York
COUNTY OF ~~CORYELL~~ Jefferson

This instrument was acknowledged before me on the 11 day of January, 2010 by Charlene Smith.



Notary Public, State of ~~Texas~~ New York

MICHELLE L. HOLMES
NOTARY PUBLIC, STATE OF NEW YORK
NO. 01H06161845
QUALIFIED IN JEFFERSON COUNTY
My Commission Expires: 26 February 2011

* Please send notice to home address:
206 W. Anderson Ave.
CC

FRANK GORDON MARIE GORDON PH. 254-238-7119 206 W ANDERSON AVE COPPERAS COVE, TX 76522		88-58 1119	2221
DATE <u>08.16.2011</u>			
PAY TO THE ORDER OF	<u>City of Copperas Cove</u>	\$ <u>200.00</u>	
<u>TWO HUNDRED DOLLARS</u>		DOLLARS	 Security Features Include Details on Back
 Extraco Bank	254.200.3600 P.O. Box 1019 Copperas Cove, Texas 76522		
MEMO	<u>Zoning A</u>	 MP	
⑆ 111900581⑆ 005208597611⑆ 2221			



CITY OF COPPERAS COVE

REC#: 00898717 8/16/2011 11:10 AM
OPER: LW2 TERM: 002
REF#: 2221

TRAN: 520.0018 REZONE FEE
Gordon- 501 N Main St, CC
01 -340-4105
REZONE REQUEST FEES 200.00CR

TENDERED: 200.00 CHECK
APPLIED: 200.00-

CHANGE: 0.00

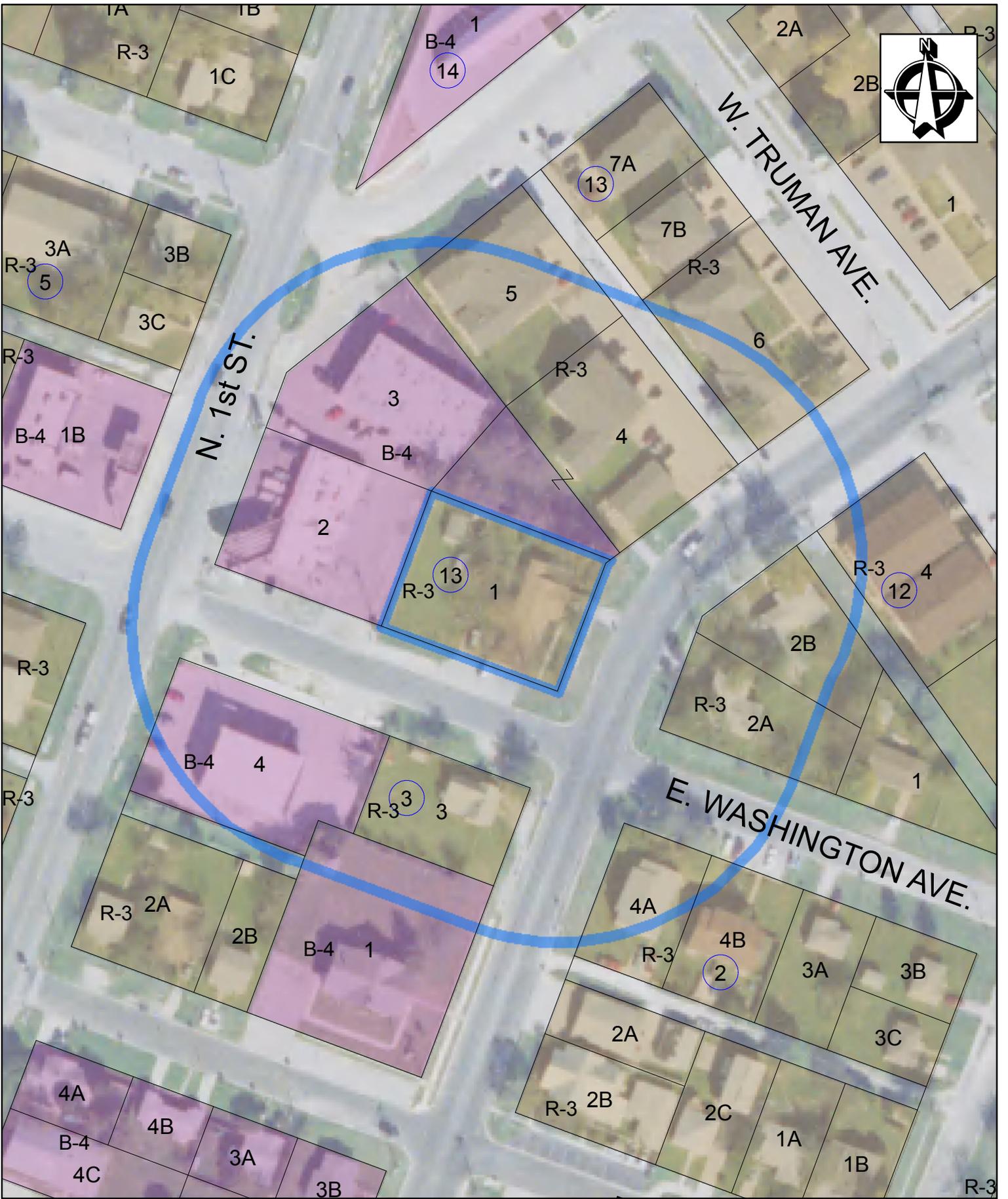
CITY OF COPPERAS COVE

REC#: 00898717 8/16/2011 11:10 AM
OPER: LW2 TERM: 002
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Gordon- 501 N Main St, CC
01 -340-4105
REZONE REQUEST FEES 200.00CR

TENDERED: 200.00 CHECK
APPLIED: 200.00-

CHANGE: 0.00



501 N MAIN ST - 200' REZONE RADIUS
 Aerial - Vicinity Map



Meeting Date: 10/04/2011

Contact: Chris Stewart

SUBJECT

Public hearing, discussion and possible action on an ordinance rezoning a 1.57 acre tract being Lot 2, Block 1 of the 190 Business and Industrial Park Phase Two dedicated to the Copperas Cove Industrial Foundation from B-4 (Business) to B-5 (Business). **Chris Stewart, AICP, Stewart Planning Consulting**

BACKGROUND/HISTORY

The applicant, Copperas Cove Industrial Foundation, has requested rezoning of a 1.57 acre tract from the current zoning classification of B-4 to B-5, to bring the zoning in correspondence with surrounding tracts proposed to make up a new commercial center. As can be seen on the attached location and radius map, the tract is located on Constitution Drive approximately a quarter mile south of US 190. Surrounding properties currently have a retail land use, including a Walmart, a hotel, and several other retail and dining establishments. Surrounding properties are currently zoned B-4 or B-5 (Business District).

Most uses allowed under B-4 are also allowed under B-5 (with the exception of water storage), but the B-5 designation does add some additional allowable uses to the property. These include uses such as tool and equipment sales or rental, storage and warehouse space, and veterinary services among some others.

FINDINGS/CURRENT ACTIVITY

Comprehensive Plan

The Comprehensive Plan envisions the area to be retail with a Special District directly to the east. Thus, the request to rezone is consistent with the Future Land Use Plan.

Constitution Drive is shown on the Future Land Use Plan as a Collector Street, capable of distributing traffic between major and local streets.

Land Use Compatibility

The Business District use is compatible with the surrounding land uses of retail. Therefore, in principle, the request is compatible based on commonly-accepted planning practice.

Access

Access to the subject tract is reliant upon Constitution Drive. The development of this tract under the requested B-5 zoning would not have a significant difference in number of trips as there would be if developed under the current zoning (B-4), therefore, this zoning change request does not seem to have a significant impact on transportation planning.

The Planning and Zoning Commission recommended approval to the City Council for the rezone a 1.57 acre tract being Lot 2, Block 1 of the 190 Business and Industrial Park Phase Two dedicated to the Copperas Cove Industrial Foundation from B-4 (Business) to B-5 (Business) at the September 12, 2011 meeting.

The City Council may direct any of the following:

1. The City Council may recommend approval of the rezoning as requested.
2. The City Council may recommend denial of the rezoning as requested, citing the reasons for the recommendation

ACTION OPTIONS/RECOMMENDATION

City staff recommends approval of Ordinance No. 2011-54, rezoning a 1.57 acre tract being Lot 2, Block 1 of the 190 Business and Industrial Park Phase Two dedicated to the Copperas Cove Industrial Foundation from B-4 (Business) to B-5 (Business). This change would be consistent with the Future Land Use Plan, so no amendments would be necessary.

Fiscal Impact

Funds available Y/N?: N

FINANCIAL IMPACT:

None.

Attachments

[Ordinance No. 2011-54](#)

[Application](#)

[Map](#)

ORDINANCE NO. 2011-54

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS APPROVING A ZONING CHANGE BY REZONING LOT 2B, BLOCK 1 OF THE 190 BUSINESS AND INDUSTRIAL PARK PHASE TWO, FROM B-4 (BUSINESS) TO B-5 (BUSINESS).

- WHEREAS,** Tex. Loc. Gov't Code Chapter 211 authorizes the City of Copperas Cove to adopt rules and regulations regarding zoning of land within the City limits of the City of Copperas Cove for the purpose of promoting the safe, orderly, and healthful development of the City of Copperas Cove; and
- WHEREAS,** Tex. Loc. Gov't Code Chapter 211 empowers the City to provide for the administration, enforcement, and amendment of those zoning rules and regulations; and
- WHEREAS,** the hereinabove described property, shown in Exhibit A, has a current zoning of R-3 (Multifamily Residential); and
- WHEREAS,** an application was received on August 19, 2011, requesting that such property be rezoned from B-4 (Business) to B-5 (Business); and
- WHEREAS,** a notice of the rezone request has been distributed via regular U.S. Mail to all property owners located within two-hundred (200) feet of the property; and
- WHEREAS,** a notice of the rezone request was published on August 26, 2011 in the Cove Leader Press; and
- WHEREAS,** the property has a proposed future use of Special Area, as currently indicated on Plate 4-1 of the Future Land Use Plan; and
- WHEREAS,** the Planning and Zoning Commission of the City of Copperas Cove on September 12, 2011, held a public hearing and voted to recommend approval of the rezone request; and
- WHEREAS,** the City Council of the City of Copperas Cove held the required public hearing concerning the rezone request on October 4, 2011; and
- WHEREAS,** the City Council of the City of Copperas Cove has determined it to be in the public interest to amend the City's Comprehensive Zoning Regulations and Zoning Map, which in its best judgment promotes the health, safety, morals, and general welfare and protects the use and enjoyment of property throughout the City.

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

SECTION 1.

That the hereinabove described property, shown in Exhibit A, Lot 2B, Block 1 of the 190 Business and Industrial Park Phase 2, be given the permanent zoning of B-5 (Local Business).

SECTION 2.

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 ordinance of the City as a whole or any part thereof, other than the part so declared to be invalid.

SECTION 3.

That this ordinance shall go into effect upon passage.

PASSED, APPROVED AND ADOPTED this 4th day of October 2011, 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



Application for Zoning Change

Instructions: (Please read carefully.)

1. Please type or print with black ink.
2. The application must be filled out completely and accurately.
3. The application must be signed by all legal owners of the subject property or by the legally authorized agent for the property owner(s).
4. The following items shall accompany the application:
 - a. Rezone Application Fee (\$200.00)
 - b. A copy of the deed(s) to the subject property verifying legal ownership as required.

Application Data (by Planning Staff)

- | | |
|----------------------------|---------------------------|
| 1. Submittal Date: _____ | 3. Application Fee: _____ |
| 2. P&Z Meeting Date: _____ | 4. Received by: _____ |

.....

Name of Owner(s): COPPERAS COVE INDUSTRIAL FOUNDATION

Name of Agent (if applicable): James W. Clark II / Jack L. Purcell

Owner Agent (check one) Phone # 547-3821 Fax # 547-3449

Owner Agent (check one) Mailing Address: 1406 S. FM 116 Ste. C Copperas Cove, TX. 76522

Street Address or Location of Subject Property:

Lot: B Block: Subdivision: 190 Business & Industrial Park Phase Two

Acreage (as required): Approx. 1.57 Acres

Present Zoning: B-4 Proposed Zoning: B-5

Purpose of Zone Change:

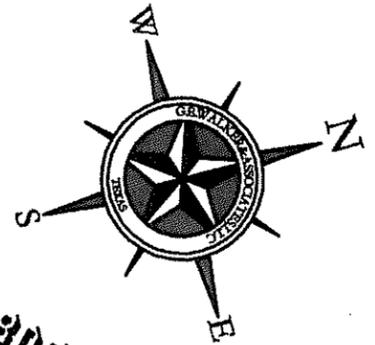
To correspond with adjoining tracts all proposed to make up new commercial center

Signature of Owner: Jack L. Purcell

Printed Name: James W. Clark II / Jack L. Purcell

LEGEND

- = 1/2" IRON ROD WITH CAP STAMPED "G.E. WALKER" FOUND (UNLESS OTHERWISE NOTED)
- = 1/2" IRON ROD WITH CAP STAMPED "G.E. WALKER" SET
- () = DEED OR PLATTED CALL
- C.C.C.D. = CORYELL COUNTY CLERK'S DOCUMENT
- D.R.C.C.T. = DEED RECORDS CORYELL COUNTY, TEXAS
- P.R.C.C.T. = PLAT RECORDS CORYELL COUNTY, TEXAS
- O.P.R.C.C.T. = OFFICIAL PUBLIC RECORDS CORYELL COUNTY, TEXAS



WM. P. HARDEMAN SURVEY
ABSTRACT 454

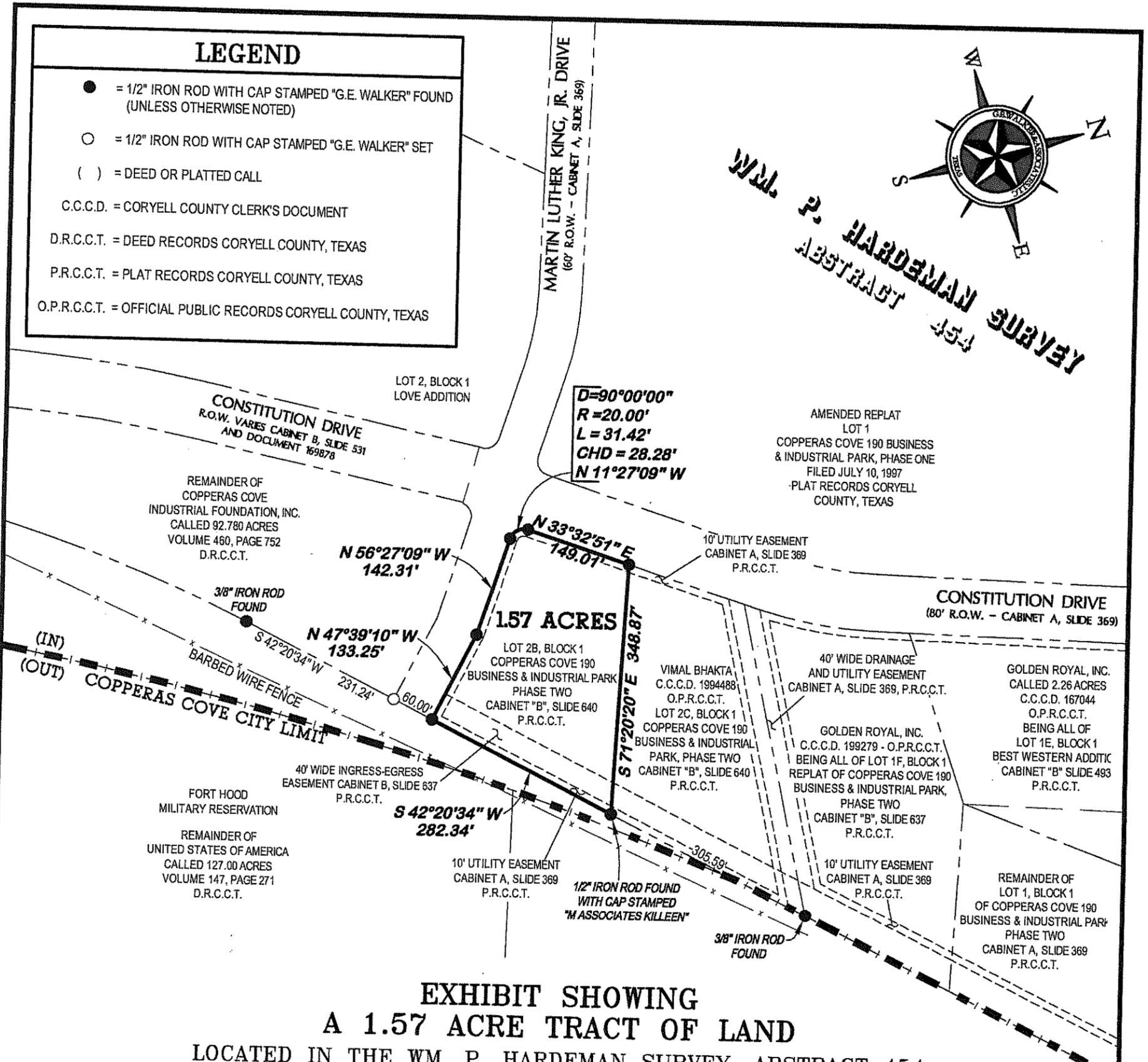
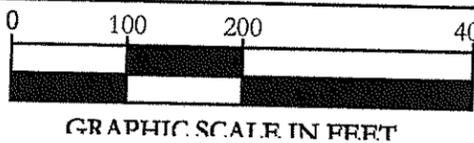


EXHIBIT SHOWING
A 1.57 ACRE TRACT OF LAND
 LOCATED IN THE WM. P. HARDEMAN SURVEY, ABSTRACT 454
 IN THE CITY OF COPPERAS COVE, CORYELL COUNTY, TEXAS
 AND BEING ALL OF LOT 2B, BLOCK 1, COPPERAS COVE 190
 BUSINESS & INDUSTRIAL PARK, PHASE TWO
 RECORDED IN CABINET "B", SLIDE 640
 OF THE PLAT RECORDS OF CORYELL COUNTY, TEXAS

G.E. WALKER & ASSOCIATES DID NOT ABSTRACT THE SUBJECT TRACT. THIS EXHIBIT DRAWING WAS PREPARED WITHOUT THE BENEFIT OF A TITLE COMMITMENT. G.E. WALKER & ASSOCIATES DOES NOT GUARANTEE THAT ALL OF THE EASEMENTS, RESTRICTIONS OR OTHER RIGHTS (EITHER OF RECORD OR NOT OF RECORD) WHICH MAY EFFECT THE SUBJECT TRACT ARE SHOWN HEREON.

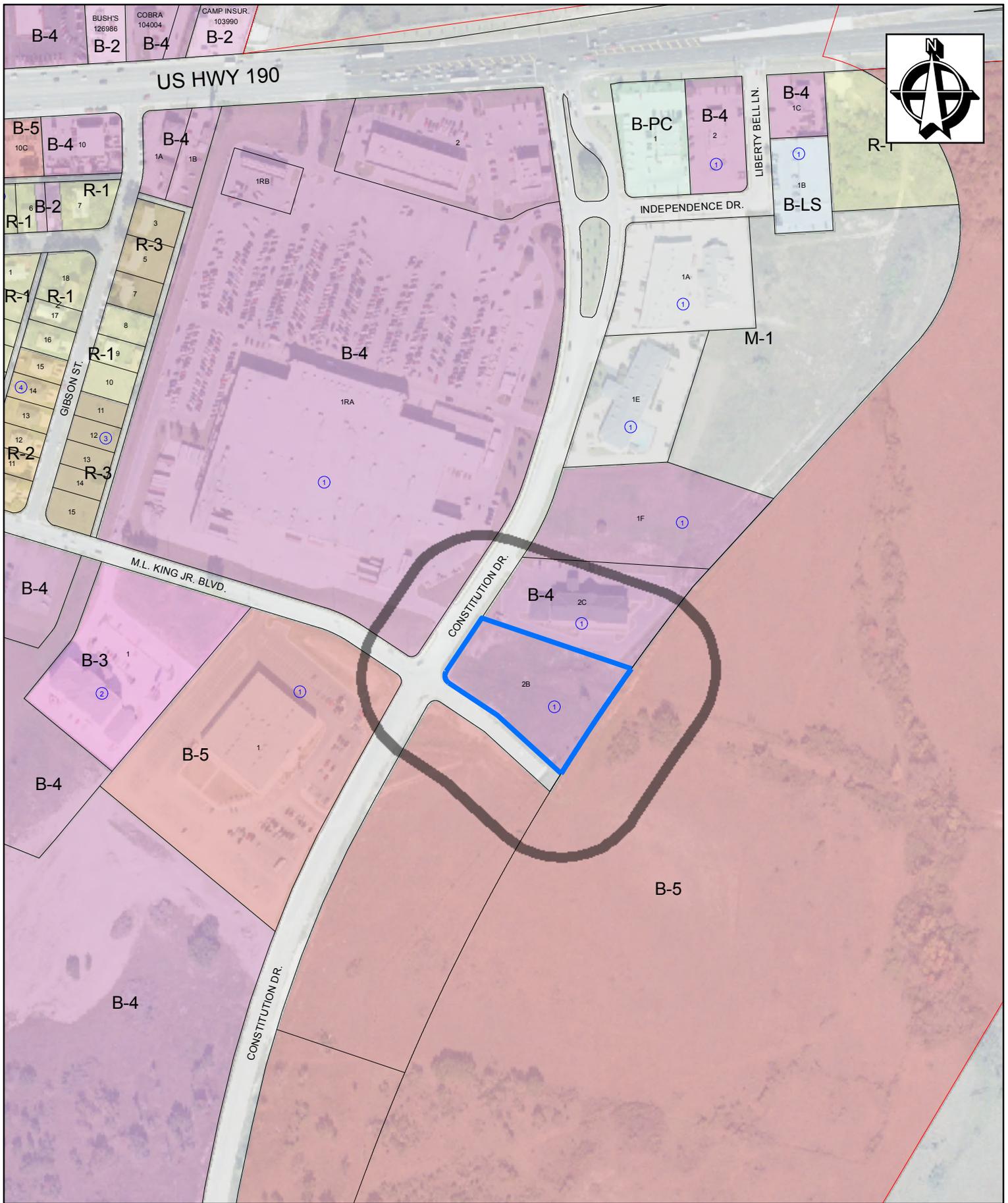
G. E. WALKER & ASSOCIATES, L.L.C.
ENGINEERS ★ SURVEYORS
TEXAS

600 AUSTIN AVENUE, SUITE 20 • WACO, TEXAS 76701 • PHONE: 1-254-714-1402

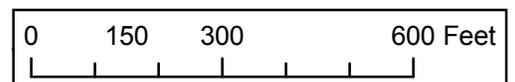


REVISIONS

PLAT NO. <u>A1-0239</u>	DRAFT DATE <u>06-11-08</u>	FB/PG <u>1-72/20</u>
PROJ. NO. <u>2-01317</u>	TAB NO. <u>NA</u>	FIELD NOTE NO. <u>03</u>
DWG. NAME <u>2-01317EXHIBIT 1.57 AC</u>		DRAWN BY <u>KRH</u>



1.57 AC TRACT - 200' REZONE RADIUS
 Aerial - Vicinity Map



Meeting Date: 10/04/2011

Contact: Chris Stewart

SUBJECT

Public hearing, discussion and possible action on an ordinance rezoning two tracts totaling 6.98 acres being part of Lot 1, Block 1 of the 190 Business and Industrial Park Phase Two dedicated to the Copperas Cove Industrial Foundation from M-1(Manufacturing) to B-5 (Business) and from R-1(Single-Family Residential) to B-5 (Business). **Chris Stewart, AICP, Stewart Planning Consulting**

BACKGROUND/HISTORY

The applicant, Copperas Cove Industrial Foundation, has requested rezoning of two tracts totaling 6.98 acres from the current zoning classification of M-1 (Manufacturing District) and R-1(Single-Family Residential District) to B-5 (Business District), to bring the zoning in correspondence with surrounding tracts proposed to make up a new commercial center. As can be seen on the attached location and radius map, the tract is located near the intersection of US 190 and Liberty Bell Lane. Surrounding properties currently have a retail land use, which include dining establishments.

One tract currently has an R-1 (Single-Family Residential District). Changing this parcel to a B-5 (Business District) zoning would remove the potential for a detached residential land use, and would allow uses such as office, retail, and services. The other tract currently has an M-1 (Manufacturing District) zoning. Changing this property to B-5 (Business District) would remove certain manufacturing uses and allow more office type uses.

FINDINGS/CURRENT ACTIVITY

Comprehensive Plan

The Comprehensive Plan envisions the area to be retail with a Special District directly to the east. Thus, the request to rezone is consistent with the Future Land Use Plan. The current zoning of these tracts does not align with the Future Land Use Plan.

Constitution Drive, near the tracts, is shown on the Future Land Use Plan as a Collector Street, capable of distributing traffic between major and local streets.

Land Use Compatibility

The Business District use is compatible with the surrounding land uses of retail. Therefore, in principle, the request is compatible based on commonly-accepted planning practice.

Access

Access to the subject tract is reliant upon Constitution Drive and US 190. There appears to be limited access to the site currently, as traffic may need to travel through other tracts for access, or gain direct access from US 190. The new zoning categories have the potential to have a significant impact on traffic to these parcels, creating more trips than there would be if developed under the current zoning. Site access and transportation flow should be more closely examined through a traffic analysis. However, because of the compatibility with surrounding uses as well as with the Future Lane Use Plan, staff would recommend approving the zoning change.

The Planning and Zoning Commission recommended approval to the City Council for the rezone two tracts totaling 6.98 acres being part of Lot 1, Block 1 of the 190 Business and Industrial Park Phase Two dedicated to the Copperas Cove Industrial Foundation from M-1(Manufacturing) to B-5 (Business) and from R-1(Single-Family Residential) to B-5 (Business) at the September 12, 2011 meeting.

The City Council may direct any of the following:

1. The City Council may recommend approval of the rezoning as requested.
2. The City Council may recommend denial of the rezoning as requested, citing the reasons for the recommendation.

ACTION OPTIONS/RECOMMENDATION

City staff recommends approval of Ordinance No. 2011-55, rezoning two tracts totaling 6.98 acres being part of Lot 1, Block 1 of the 190 Business and Industrial Park Phase Two dedicated to the Copperas Cove Industrial Foundation from M-1(Manufacturing) to B-5 (Business) and from R-1(Single-Family Residential) to B-5 (Business). This change would bring the tracts into alignment with the Future Land Use Plan, so no amendments would be necessary.

Fiscal Impact

Funds available Y/N?: N

FINANCIAL IMPACT:

None.

Attachments

Ord No 2011-55

Application

Map

ORDINANCE NO. 2011-55

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS APPROVING A ZONING CHANGE BY REZONING 6.98 ACRES, BEING LOT 1, BLOCK 1 OF THE 190 BUSINESS AND INDUSTRIAL PARK PHASE TWO, FROM M-1 (MANUFACTURING) AND R-1 SINGLE FAMILY RESIDENTIAL) TO B-5 (BUSINESS).

WHEREAS, Tex. Loc. Gov't Code Chapter 211 authorizes the City of Copperas Cove to adopt rules and regulations regarding zoning of land within the City limits of the City of Copperas Cove for the purpose of promoting the safe, orderly, and healthful development of the City of Copperas Cove; and

WHEREAS, Tex. Loc. Gov't Code Chapter 211 empowers the City to provide for the administration, enforcement, and amendment of those zoning rules and regulations; and

WHEREAS, the hereinabove described property, shown in Exhibit A, has a current zoning of R-3 (Multifamily Residential); and

WHEREAS, an application was received on August 18, 2011, requesting that such property be rezoned from M-1 (Manufacturing) and R-1 (Single Family Residential) to B-5 (Business); and

WHEREAS, a notice of the rezone request has been distributed via regular U.S. Mail to all property owners located within two-hundred (200) feet of the property; and

WHEREAS, a notice of the rezone request was published on August 26, 2011 in the Cove Leader Press; and

WHEREAS, the property has a proposed future use of Special Area, as currently indicated on Plate 4-1 of the Future Land Use Plan; and

WHEREAS, the Planning and Zoning Commission of the City of Copperas Cove on September 12, 2011, held a public hearing and voted to recommend approval of the rezone request; and

WHEREAS, the City Council of the City of Copperas Cove held the required public hearing concerning the rezone request on October 4, 2011; and

WHEREAS, the City Council of the City of Copperas Cove has determined it to be in the public interest to amend the City's Comprehensive Zoning Regulations

and Zoning Map, which in its best judgment promotes the health, safety, morals, and general welfare and protects the use and enjoyment of property throughout the City.

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

SECTION 1.

That the hereinabove described property, being 6.98 acres, shown in Exhibit A, Lot 1, Block 1 of the 190 Business and Industrial Park Phase 2, be given the permanent zoning of B-5 (Local Business).

SECTION 2.

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 ordinance of the City as a whole or any part thereof, other than the part so declared to be invalid.

SECTION 3.

That this ordinance shall go into effect upon passage.

PASSED, APPROVED AND ADOPTED this 4th day of October 2011, 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



Application for Zoning Change

Instructions: (Please read carefully.)

1. Please type or print with black ink.
2. The application must be filled out completely and accurately.
3. The application must be signed by all legal owners of the subject property or by the legally authorized agent for the property owner(s).
4. The following items shall accompany the application:
 - a. Rezone Application Fee (\$200.00)
 - b. A copy of the deed(s) to the subject property verifying legal ownership as required.

Application Data (by Planning Staff)

- | | |
|----------------------------|---------------------------|
| 1. Submittal Date: _____ | 3. Application Fee: _____ |
| 2. P&Z Meeting Date: _____ | 4. Received by: _____ |



Name of Owner(s): COPPERAS COVE INDUSTRIAL FOUNDATION
 Name of Agent (if applicable): James W. Clark II / Jack L. Purcell
 Owner Agent (check one) Phone # 547-3821 Fax # 547-3449
 Owner Agent (check one) Mailing Address: 1406 S. FM 116 Ste. C Copperas Cove, Tx. 76522

Street Address or Location of Subject Property: Remainder of Lot 1 Block 1, Copperas Cove
 Lot: Block: Subdivision: 190 Business & Industrial Park Phase Two
 Acreage (as required): 6.98 Acres (see attached survey field notes)
 Present Zoning: M-1 & R-1 Proposed Zoning: B-5

Purpose of Zone Change:
 To correspond with adjoining tracts all proposed to make up new commercial center

Signature of Owner: Jack L. Purcell
 Printed Name: James W. Clark II / Jack L. Purcell

G. E. WALKER & ASSOCIATES, L.L.C.
ENGINEERS ★ SURVEYORS

6.98 ACRES

LOCATED IN THE WM. P. HARDEMAN SURVEY, ABSTRACT 454
IN THE CITY OF COPPERAS COVE, CORYELL COUNTY, TEXAS

FIELD NOTES FOR A 6.98 ACRE TRACT OF LAND LOCATED IN THE WM. P. HARDEMAN SURVEY, ABSTRACT 454, IN THE CITY OF COPPERAS COVE, CORYELL COUNTY, TEXAS, BEING A REMAINDER OF LOT 1, BLOCK 1, COPPERAS COVE 190 BUSINESS & INDUSTRIAL PARK, PHASE TWO RECORDED IN CABINET "A", SLIDE 369 OF THE PLAT RECORDS OF CORYELL COUNTY, TEXAS (P.R.C.C.T.); SAID 6.98 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 1/2" IRON ROD WITH CAP STAMPED "G.E. WALKER" SET MARKING THE NORTHEAST CORNER OF LOT 1C, BLOCK 1, COPPERAS COVE 190 BUSINESS & INDUSTRIAL PARK, RECORDED IN CABINET "B", SLIDE 472 OF THE P.R.C.C.T., ALSO MARKING THE NORTHWEST CORNER OF THE ABOVE-MENTIONED REMAINDER OF LOT 1 AND THE HEREIN DESCRIBED TRACT;

THENCE AN ARC DISTANCE OF 817.11' WITH THE EASTERLY LINE OF THE REMAINDER OF LOT 1 AND A CURVE TO THE RIGHT HAVING A RADIUS OF 404.40' AND A CHORD WHICH BEARS S 15°34'36" E - 685.03' TO A POINT OF TANGENCY;

THENCE S 42°20'34" W - 458.68' CONTINUING WITH THE EASTERLY LINE OF THE REMAINDER OF LOT 1 TO A 1/2" IRON ROD WITH CAP STAMPED "G.E. WALKER" SET MARKING THE MOST EASTERLY CORNER OF LOT 1F, BLOCK 1, COPPERAS COVE 190 BUSINESS & INDUSTRIAL PARK ADDITION, PHASE TWO, RECORDED IN CABINET "B" SLIDE 637 OF THE P.R.C.C.T., ALSO MARKING THE MOST SOUTHERLY OR SOUTHEAST CORNER OF THE REMAINDER OF LOT 1 AND THE HEREIN DESCRIBED TRACT;

THENCE N 71°12'46" W - 263.18' WITH THE NORTHEASTERLY LINE OF SAID LOT 1F TO A 3/8" IRON ROD WITH CAP STAMPED "M ASSOCIATES KILLEEN" FOUND MARKING THE SOUTHEAST CORNER OF A CALLED 2.26 ACRE TRACT DESCRIBED IN A DEED TO GOLDEN ROYAL, INC. RECORDED UNDER COPPERAS COVE COUNTY CLERK'S DOCUMENT (C.C.C.D.) 167044 OF THE OFFICIAL PUBLIC RECORDS OF CORYELL COUNTY, TEXAS (O.P.R.C.C.T.);

THENCE N 36°13'17" E - 332.85' WITH THE EASTERLY LINE OF THE 2.26 ACRE TRACT TO A 1/2" IRON ROD WITH CAP STAMPED "G.E. WALKER" SET MARKING A POINT OF CURVATURE OF A CURVE TO THE LEFT;

THENCE AN ARC DISTANCE OF 27.22' WITH THE EASTERLY LINE OF THE 2.26 ACRE TRACT AND SAID CURVE TO THE LEFT HAVING A RADIUS OF 82.96' AND A CHORD WHICH BEARS N 27°15'54" E - 27.10' TO A 1/2" IRON ROD WITH CAP STAMPED "G.E. WALKER" SET IN THE SOUTH LINE OF A CALLED 0.927 ACRE TRACT DESCRIBED IN A DEED TO S & S COMMERCIAL PROPERTIES, LTD. RECORDED UNDER C.C.C.D. 196228 OF THE O.P.R.C.C.T.;

THENCE N 86°54'25" E - 5.50' WITH THE SOUTH LINE OF THE 0.927 ACRE TRACT TO A 3/8" IRON ROD WITH CAP STAMPED "M ASSOCIATES KILLEEN" FOUND MARKING THE SOUTHEAST CORNER OF THE 0.927 ACRE TRACT;

THENCE N 03°07'17" W - 299.86' WITH THE EAST LINE OF THE 0.927 ACRE TRACT TO A 3/8" IRON ROD WITH CAP STAMPED "M ASSOCIATES KILLEEN" FOUND IN THE SOUTH RIGHT-OF-WAY LINE OF INDEPENDENCE DRIVE (60' WIDE R.O.W. CABINET "A", SLIDE 411), MARKING THE NORTHEAST CORNER OF THE 0.927 ACRE TRACT;

THENCE N 86°54'25" E - 57.01' WITH THE SOUTH RIGHT-OF-WAY LINE OF INDEPENDENCE DRIVE TO A 1/2" IRON ROD WITH CAP STAMPED "G.E. WALKER" SET IN THE EAST RIGHT-OF-WAY LINE OF LIBERTY BELL LANE, MARKING THE SOUTHWEST CORNER OF LOT 1B, BLOCK 1, COPPERAS COVE

June 9, 2008

190 BUSINESS & INDUSTRIAL PARK, RECORDED IN CABINET "B", SLIDE 472 OF THE P.R.C.C.T., ALSO MARKING THE NORTHWEST CORNER OF A CALLED 0.140 DESCRIBED IN A DEED TO EAST POINTE CENTER PARTNERSHIP RECORDED UNDER C.C.C.D. 199449 OF THE O.P.R.C.C.T.;

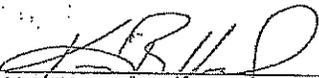
THENCE S 03°05'35" E - 45.00' WITH THE WEST LINE OF THE SAID 0.140 ACRE TRACT TO A 1/2" IRON ROD WITH CAP STAMPED "G.E. WALKER" SET MARKING THE SOUTHWEST CORNER OF THE 0.140 ACRE TRACT;

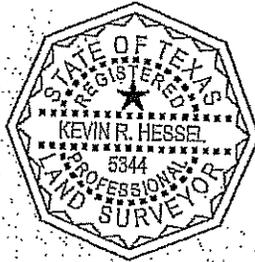
THENCE N 86°54'25" E - 136.00' TO A 1/2" IRON ROD WITH CAP STAMPED "G.E. WALKER" SET MARKING THE SOUTHEAST CORNER OF THE 0.140 ACRE TRACT;

THENCE N 03°05'35" W - 356.85 PARTWAY WITH THE EAST LINE OF THE 0.140 ACRE TRACT AND THE ABOVE-MENTIONED LOTS 1B AND 1C, BLOCK 1, COPPERAS COVE 190 BUSINESS & INDUSTRIAL PARK, RECORDED IN CABINET "B", SLIDE 472 OF THE P.R.C.C.T. TO THE POINT OF BEGINNING.

SURVEYED: MAY 8, 2008

RELEASED: JUNE 9, 2008

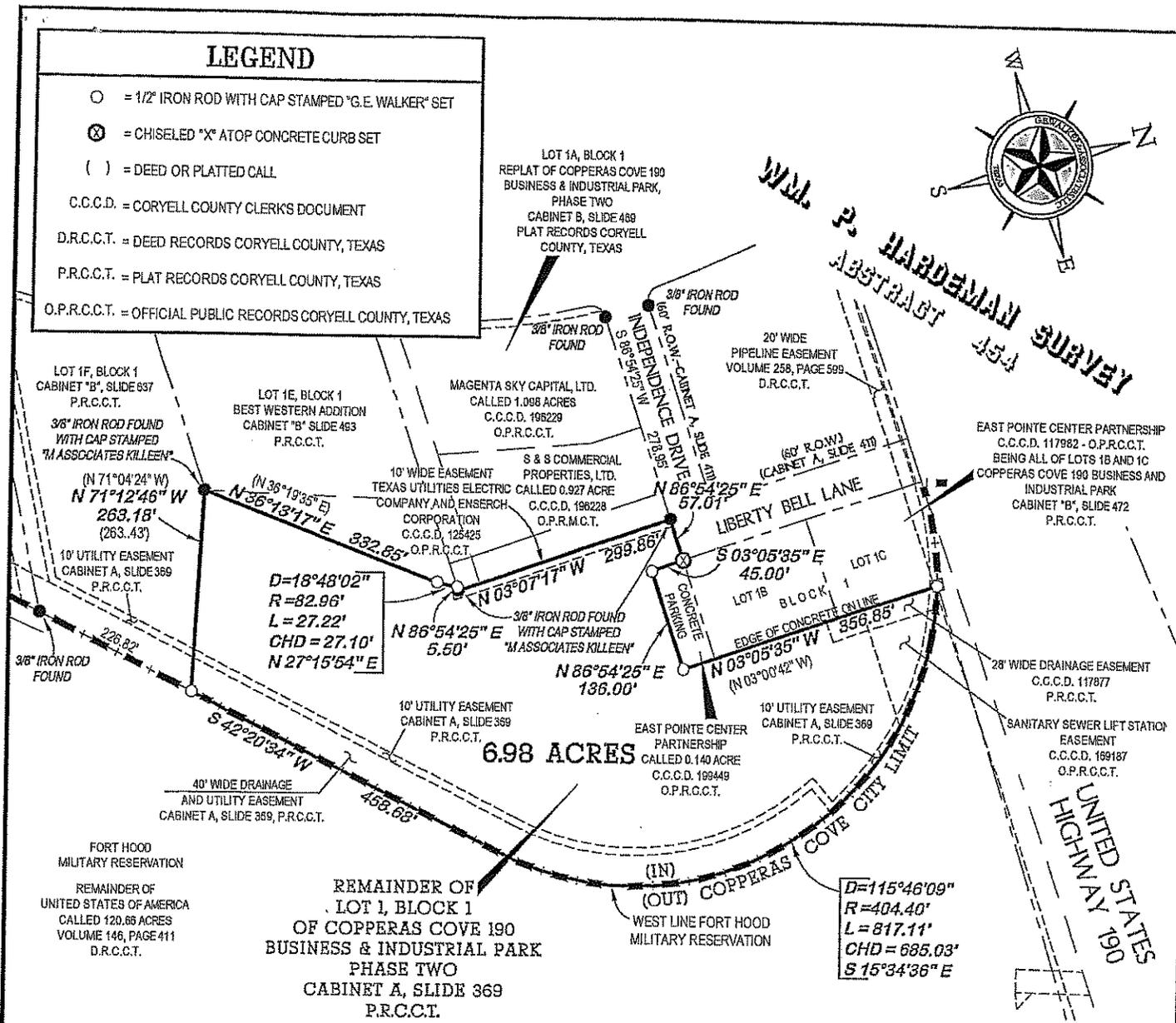
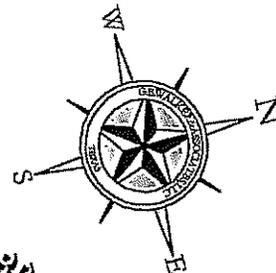

KEVIN R. HESSEL, R.P.L.S. 5344



PROJ NO. 2-01317
PLAT NO. REF: D1-0119
FIELD NOTE NO. 2-01317-FN-04
MAP CHECKED BY KRH

LEGEND

- = 1/2" IRON ROD WITH CAP STAMPED "G.E. WALKER" SET
- ⊗ = CHISELED "X" ATOP CONCRETE CURB SET
- () = DEED OR PLATTED CALL
- C.C.C.D. = CORYELL COUNTY CLERKS DOCUMENT
- D.R.C.C.T. = DEED RECORDS CORYELL COUNTY, TEXAS
- P.R.C.C.T. = PLAT RECORDS CORYELL COUNTY, TEXAS
- O.P.R.C.C.T. = OFFICIAL PUBLIC RECORDS CORYELL COUNTY, TEXAS



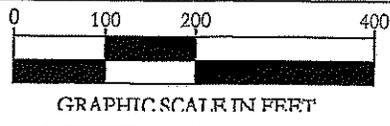
**EXHIBIT SHOWING
A 6.98 ACRE TRACT OF LAND**

LOCATED IN THE WM. P. HARDEMAN SURVEY, ABSTRACT 454
IN THE CITY OF COPPERAS COVE, CORYELL COUNTY, TEXAS
AND BEING A REMAINDER OF LOT 1, BLOCK 1, COPPERAS COVE 190
BUSINESS & INDUSTRIAL PARK, PHASE TWO
RECORDED IN CABINET "A", SLIDE 369
OF THE PLAT RECORDS OF CORYELL COUNTY, TEXAS

G.E. WALKER & ASSOCIATES DID NOT ABSTRACT THE SUBJECT TRACT. THIS EXHIBIT DRAWING WAS PREPARED WITHOUT THE BENEFIT OF A TITLE COMMITMENT. G.E. WALKER & ASSOCIATES DOES NOT GUARANTEE THAT ALL OF THE EASEMENTS, RESTRICTIONS OR OTHER RIGHTS (EITHER OF RECORD OR NOT OF RECORD) WHICH MAY EFFECT THE SUBJECT TRACT ARE SHOWN HEREON.

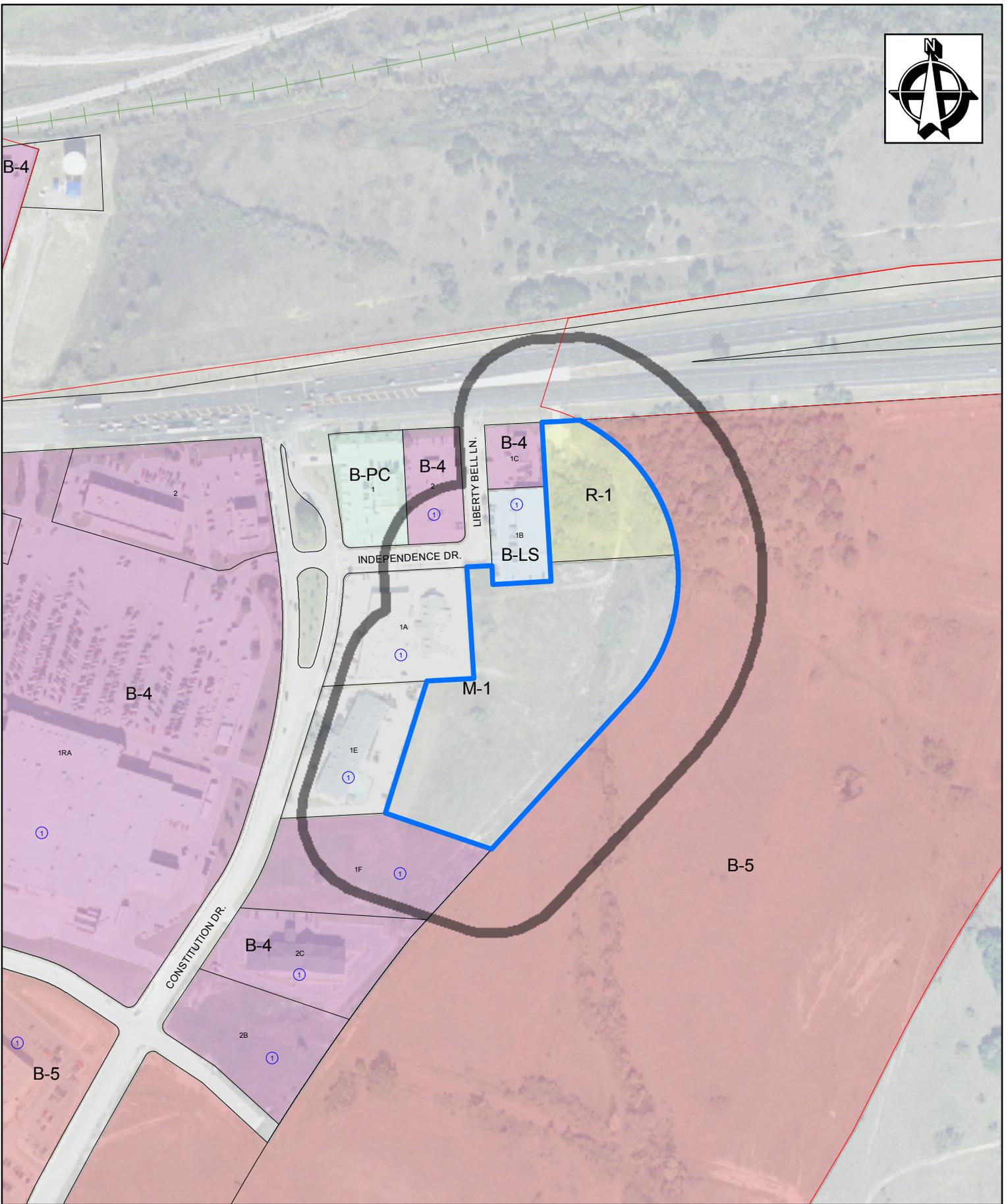
G. E. WALKER & ASSOCIATES, L.L.C.
ENGINEERS ★ SURVEYORS
TEXAS

600 AUSTIN AVENUE, SUITE 20 • WACO, TEXAS 76701 • PHONE: 1-254-714-1402

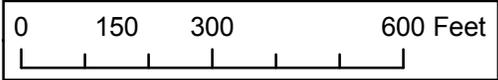


REVISIONS

PLAT NO. <u>A1-0240</u>	DRAFT DATE <u>06-11-08</u>	FB/PG <u>1-72/20</u>
PROJ. NO. <u>2-01317</u>	TAB NO. <u>NA</u>	FIELD NOTE NO. <u>04</u>
DWG. NAME <u>2-01317EXHIBIT 6.98 AC</u>		DRAWN BY <u>KRH</u>



6.98 AC TRACT - 200' REZONE RADIUS
Aerial - Vicinity Map



SUBJECT

Public hearing, discussion and possible action on an ordinance amending zoning ordinance, Section 20-25 of the Code of Ordinances, relating to fences. **Chris Stewart, AICP, Planning Consultant**

BACKGROUND/HISTORY

The current regulations relating to fences are as follows:

“Sec. 20-25. - Fences.

(a) Safety. No wall or fence shall be constructed or maintained in such a manner as would endanger the health or safety of the general public. Fences constructed of barbed wire and walls topped with broken glass or surfaced with any like material shall be prohibited; provided, however, a security fence of not less than six (6) feet in height may be topped by barbed wire. No electric fence shall be permitted except where provided for the actual enclosures of farm animals, in which case said electric fence shall be posted at least once along each adjoining public right-of-way and at intervals not less than five hundred (500) feet.

(b) Height. Walls and fences constructed on property used for or restricted to residential uses shall be no greater than six (6) feet in height, subject to the following limitations:

(1) The height of a wall or fence shall be the vertical distance between the ground and the top of the fence. In terrain where the ground slopes at a grade of ten (10) percent or more, the fence or wall may be built in a ten-foot horizontal stair-step sections, the average height of each section shall comply with the height regulations set forth herein.

(2) No wall or fence located in a full depth exterior yard shall have a height or more than six (6) feet.

(3) No wall or fence located on a lot with two (2) street frontages (corner lot) shall have a height in conflict with the regulations governing visibility at intersections as prescribed in section 18-14 of the Code of Ordinances.

(c) Location.

(1) No fences shall be allowed in the required front yard.

(2) No fences shall be located in a required twenty-five-foot or a fifteen-foot side yard set back area.

(3) No wall or fence shall be located in a dedicated drainage easement in which an existing or improved drainage channel is located.

(Ord. No. 2007-01, § 1(Exh. A), 1-23-07)

The frequency and number of requests for variance to §20-25(c)(2) before the Board of Adjustment is a signal that the regulation should be reviewed.

FINDINGS/CURRENT ACTIVITY

The purpose of this section of regulation is to make sure that clear sight distances are preserved (i.e. visibility is not blocked) at corner lot situations.

The result of this requirement as written forces residents on corner lots to separate their side yards into two areas, which is inefficient for security, maintenance, and the use and enjoyment of private property. Staff recommends modifying §20-25(c)(2) to read as follows:

No fences shall be located within a clear visibility triangle formed by measuring from the point of intersection of the front and exterior side lot lines a distance of twenty-five feet (25') along the front and side lot lines and connecting the points so established to form a right triangle on the area of the lot adjacent to the street intersection. The City Engineer shall have the authority based on American Association of State Highway and Transportation Officials (AASHTO) guidelines to determine if additional clear visibility issues are present and establish increased dimensions to the clear visibility triangle.

ACTION OPTIONS/RECOMMENDATION

City staff recommends approval of Ordinance No. 2011-56, amending Section 20-25 of the Code of Ordinances, relating to fences, as presented.

Fiscal Impact

Funds available Y/N?: N

FINANCIAL IMPACT:

None.

Attachments

Ord 2011-56

ORDINANCE NO. 2011-56

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS AMENDING CHAPTER 20 OF THE CODE OF ORDINANCES OF THE CITY OF COPPERAS COVE, TEXAS; PROVIDING FOR CHANGES TO THE REGULATIONS; AND PROVIDING FOR A SAVINGS CLAUSE.

WHEREAS, Tex. Loc. Gov't Code Chapter 211 authorizes the City of Copperas Cove to adopt rules and regulations regarding zoning of land within the City limits of the City of Copperas Cove for the purpose of promoting the safe, orderly, and healthful development of the City of Copperas Cove; and

WHEREAS, Tex. Loc. Gov't Code Chapter 211 empowers the City to provide for the administration, enforcement, and amendment of those zoning rules and regulations; and

WHEREAS, Section 20-25 of the Code of Ordinances of the City of Copperas Cove regulates fences, prohibiting the placement of fences within an exterior side yard setback; and

WHEREAS, multiple permit applications for the construction of fences within exterior side yard setbacks give impetus to review this Section of the Zoning Ordinance for its intent, effect, and protection of the public safety and welfare; and

WHEREAS, a notice of the hearings to consider the amendment was published on September 13, 2011 in the Cove Leader Press; and

WHEREAS, the Planning and Zoning Commission of the City of Copperas Cove on September 26, 2011, held a public hearing and voted to recommend approval of the amendment ; and

WHEREAS, the City Council of the City of Copperas Cove held the required public hearing concerning the amendment on October 4, 2011; and

WHEREAS, the City Council of the City of Copperas Cove has determined it to be in the public interest to amend the City's Comprehensive Zoning Regulations, which in its best judgment promotes the health, safety, morals, and general welfare and protects the use and enjoyment of property throughout the City.

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

SECTION 1.

That §20-25(c)(2) shall be replaced with the following text:

No fences shall be located within a clear visibility triangle formed by measuring from the point of intersection of the front and exterior side lot lines a distance of twenty-five feet (25') along the front and side lot lines and connecting the points so established to form a right triangle on the area of the lot adjacent to the street intersection. The City Engineer shall have the authority based on American Association of State Highway and Transportation Officials (AASHTO) guidelines to determine if additional clear visibility issues are present and establish increased dimensions to the clear visibility triangle.

SECTION 2.

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 ordinance of the City as a whole or any part thereof, other than the part so declared to be invalid.

SECTION 3.

That this ordinance shall go into effect upon passage.

PASSED, APPROVED AND ADOPTED this 4th day of October 2011, 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

Meeting Date: 10/04/2011

Contact: Chris Stewart

SUBJECT

Public hearing, discussion and possible action on an ordinance amending the zoning ordinance, Section 20-16 of the Code of Ordinances, relating to the definition and use classification for restaurants. **Chris Stewart, AICP, Planning Consultant**

BACKGROUND/HISTORY

The City's current regulations differentiate between the following uses:

- Restaurant, drive-in
- Restaurant, fast food
- Restaurant, fast food (drive-thru only)
- Restaurant, standard

A copy of the use table is included for reference (§20-16).

A fast food restaurant that offers sit-down dining and a drive-thru is not specifically permitted. There are several restaurants in the city which provide both sit down and drive-thru service (a standard model in this day), and there are certainly others which are contemplated in the future. Although staff will be working through major revisions to the zoning ordinance over the next year, staff has initiated this amendment to establish conformance for unknowing, affected properties, and to not hinder new development.

FINDINGS/CURRENT ACTIVITY

In general planning practice, the distinction about "drive-thrus" is made in order to direct drive-thru uses away from residential areas and towards areas of higher retail visibility and areas with higher traffic and circulation capacity. This avoids some of the potential negative effects of drive-thrus, including: idling vehicles, high peak hour traffic generation, as well as the noise of the intercom order system.

Under the current ordinance, any restaurant which offers drive-in service, fast food, or is drive-thru only, is only permitted in the B-1 and (except for drive-thru only) B-2 districts. B-1 district is "Professional Business" and the B-2 district is "Local Retail". Staff's opinion is that the current designation on the use table is counter-intuitive, given the types of effects that the regulations are intended to address.

Staff proposes changes to the defined use table located in the ordinance as recommended below:

- In §20-16, amend the use table for Restaurants, Drive-In & Fast Food to permit uses in B1, B2, B3, B4 and B5 only
- In §20-16, amend the use table for Restaurants, Fast Food (Drive-thru only) to permit uses in B1, B3, B4 and B5 only

ACTION OPTIONS/RECOMMENDATION

City staff recommends approval of Ordinance No. 2011-57, amending Section 20-16, permitting use for Restaurants, Drive-In & Fast Food and Restaurants in B1, B2, B3, B4 and B5 only and Fast Food (Drive-thru only) in B1, B3, B4 and B5 districts only.

Funds available Y/N?: N

FINANCIAL IMPACT:

None.

Attachments

Ord No 2011-57

Exhibit A

ORDINANCE NO. 2011-57

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS AMENDING CHAPTER TWENTY OF THE CODE OF ORDINANCES OF THE CITY OF COPPERAS COVE, TEXAS; PROVIDING FOR CHANGES TO THE REGULATIONS; AND PROVIDING FOR A SAVINGS CLAUSE.

WHEREAS, Tex. Loc. Gov't Code Chapter 211 authorizes the City of Copperas Cove to adopt rules and regulations regarding zoning of land within the City limits of the City of Copperas Cove for the purpose of promoting the safe, orderly, and healthful development of the City of Copperas Cove; and

WHEREAS, Tex. Loc. Gov't Code Chapter 211 empowers the City to provide for the administration, enforcement, and amendment of those zoning rules and regulations; and

WHEREAS, Section 20-16 of the Code of Ordinances of the City of Copperas Cove provides a table describing permitted uses by Zoning District; and

WHEREAS, from time to time the City Council desires to update, remove inconsistencies or outdated references; and

WHEREAS, a notice of the hearings to consider the amendment was published on September 13, 2011 in the Cove Leader Press; and

WHEREAS, the Planning and Zoning Commission of the City of Copperas Cove on September 26, 2011, held a public hearing and voted to recommend approval of the amendment; and

WHEREAS, the City Council of the City of Copperas Cove held the required public hearing concerning the amendment on October 4, 2011; and

WHEREAS, the City Council of the City of Copperas Cove has determined it to be in the public interest to amend the City's Comprehensive Zoning Regulations, which in its best judgment promotes the health, safety, morals, and general welfare and protects the use and enjoyment of property throughout the City.

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

SECTION 1.

That §20-16 shall be amended to permit Restaurants, Drive-in and Fast Food in B-1, B-2, B-3, B-4, B-5 districts.

SECTION 2.

That §20-16 shall be amended to permit Restaurants, Fast Food (Drive-thru Only) in B-1, B-3, B-4, B-5 districts.

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 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 go into effect upon passage.

PASSED, APPROVED AND ADOPTED this 4th day of October 2011, 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

PERMITTED USES	R-1	R-2	R-3	R-MH	R-CE	B-1	B-2	B-3	B-4	B-5	B-PC	B-LS	AG-1	B-RV	M-1	M-2
TRADE—RETAIL	SINGLE-FAMILY RESIDENTIAL	TWO-FAMILY RESIDENTIAL	MULTIFAMILY RESIDENTIAL	MANUFACTURED HOME	SINGLE-FAMILY COUNTRY	PROFESSIONAL BUSINESS	LOCAL RETAIL	LOCAL BUSINESS	BUSINESS	BUSINESS	PRIVATE CLUB/GENERAL BUSINESS	PUBLIC LIQUOR SALES/ GENERAL BUSINESS	AGRICULTURAL	RECREATIONAL VEHICLE PARKS	MANUFACTURING	HEAVY MANUFACTURING
Plumbing Equipment									X	X						
Radios and Televisions								X	X	X						
RVs, Camping and/or Travel Trailers										X					X	X
Scrap and Waste Material															C	C
Secondhand Merchandise (Includes Flea Markets)										X					X	X
Shoes								X	X	X						
Shopping Centers/Malls									X	X						
Sporting Goods and Ath- letic Equipment									X	X						
Truck Sales and/or Ser- vice (No Size Limit)										X					X	X
Variety Stores								X	X	X						

LEGEND:

X - Permitted use

SUBJECT

Consideration and action on appointment of Commissioners to the Housing Authority of the City of Copperas Cove. **Jane Lees, City Secretary**

BACKGROUND/HISTORY

Local Government Code §392.031 Appointment of Commissioners of a Municipal Housing Authority. States: (a) Each municipal housing authority shall be governed by five, seven, nine or 11 commissioners. The presiding officer of the governing body of a municipality shall appoint five, seven, nine, or 11 persons to serve as commissioners of the authority. An appointed commissioner of the authority may not be an officer or employee of the municipality. Appointments made under this section must comply with the requirements of Section 392.0331, if applicable.

(b) A commissioner may not be an officer or employee of the municipality. A commissioner may be a tenant of a public project over which the housing authority has jurisdiction.

(c) A certificate of the appointment of a commissioner shall be filed with the clerk of the municipality. The certificate is conclusive evidence of the proper appointment of the commissioner.

Local Government Code §392.0331 states: (b) In appointing commissioners under Section 392.031, a municipality with a municipal housing authority composed of five commissioners shall appoint at least one commissioner to the authority who is a tenant of a public housing project over which the authority has jurisdiction.

A Mayor or Council of the City in which a Housing Authority is located appoints the Commissioners of the Housing Authority. Commissioners (other than the Commissioners serving in the Resident Commissioner position) may be re-appointed for as many consecutive terms as the Mayor or Council desires. If a Commissioner's term has expired, he/she continues to serve until re-appointed or replaced.

FINDINGS/CURRENT ACTIVITY

One regular position expired on September 30, 2011. Ms. Patricia Thomas, who has held the position since 2005, requested reappointment for the term beginning October 1, 2011 through September 30, 2013.

The position of Resident Commissioner also expired on September 30, 2011. Ms. Mariea Mann filled the unexpired position in October 2010 and also requested reappointment for the term beginning October 1, 2011 through September 30, 2013.

Ms. Inez Faison, Executive Director, has provided a letter requesting the appointments.

ACTION OPTIONS/RECOMMENDATION

City staff recommends that the City Council appoint to the Housing Authority one individual to serve the term October 1, 2011 through September 30, 2013 and a Resident Commissioner to serve the term October 1, 2011 through September 30, 2013.

Attachments

Housing Authority
Letter from Faison



HOUSING AUTHORITY OF THE CITY OF COPPERAS COVE

INEZ V. FAISON
EXECUTIVE DIRECTOR

701 CASA CIRCLE
COPPERAS COVE, TEXAS 76522

SANDRA BLOUNT
PROJECT MANAGER

PHONE 254-547-9449
FAX 254-547-6012

September 15, 2010

Ms. Jane Lees
City Secretary
507 South Main
Copperas Cove, Texas 76522

Dear Ms. Lees:

On September 30, 2010, the terms of Mr. Billy Minton and Mr. Buddy Southards will expire. Both Mr. Minton and Mr. Southards have requested to be re-appointed to the Board of Commissioners of the Housing Authority of the City of Copperas Cove.

Their terms will run from October 1, 2010 through September 30, 2012.

Ms. Maria Mann will fill the unexpired term of Ms. Grace Durant as Resident Commissioner.

Your concurrence with these recommendations is appreciated.

Sincerely,

INEZ V. FAISON
Executive Director



HOUSING AUTHORITY OF THE CITY OF COPPERAS COVE

INEZ V. FAISON
EXECUTIVE DIRECTOR

701 CASA CIRCLE
COPPERAS COVE, TEXAS 76522

SANDRA BLOUNT
PROJECT MANAGER

PHONE 254-547-9449
FAX 254-547-6012

September 23, 2010

Ms. Jane Lees
City Secretary
507 South Main
Copperas Cove, TX 76522

Dear Ms. Lees:

Mr. Adam Martin has agreed to serve on the Board of Commissioners of the Housing Authority of the City of Copperas Cove.

His term will run from October 1, 2010 through September 30, 2012.

Your concurrence with this recommendation is appreciated.

Sincerely,

INEZ V. FAISON
Executive Director

Candidate Application for City Council-Appointed Boards & Commissions

Applications will be reviewed as vacancies arise. Information disclosed on this application or any other attached document may be disclosed in public meetings. Please print clearly.

Received 6/4/10 - J. Lees
Logged

Please attach your resume (optional).

Board Preference 1: Planning & Zoning 3: Board of Adjustment

Board Preference 2: Housing Authority 4: Hospital Authority

Name: Adam Martin

Street Address: 509 Clara Drive

City Resident: 7 years Personal E-Mail: N/A

Primary Phone: 254-247-4185 Home Fax: N/A

Profession: Banking

Business Name: First National Bank Texas

Business Address: 507 N. Gray Street

City: Killeen State TX Zip: 76541

Business Phone: 254-554-2152 Business Fax: 254-554-4339

Business E-Mail: adam.martin@fstnb.com

Experience or special knowledge applicable to City board or commission function:

- 3 years experience analyzing commercial real estate loans
- 7 years U.S. Army

Civic Activities/Professional Affiliations _____

I verify that the information I have provided in this application to be true and correct. I also understand that this information may be made available to the public.

Adam Martin
Signature

6-4-10
Date

Please return completed application and resume to:
City Secretary's Office, City Hall
507 S. Main Street, Copperas Cove, Texas 76522
Phone: (254) 547-4221



ADAM MARTIN
509 Clara Drive
Copperas Cove, TX 76522
Home: 254-542-3782
Cell: 254-247-4185

Objective

Seeking a position on a City Board/Commission where my skills and experience will be utilized to the fullest.

Summary of Qualifications

- 7 year resident of Copperas Cove, TX
- Master of Business Administration/Finance Concentration (Tarleton State University -August, 2009)
- Bachelor of Science Business Administration/Minor in Economics (Tarleton State University - December, 2006)
- 3 years experience analyzing commercial real estate loans
- 7 years experience in U.S. Army

Employment History

Senior Managing Credit Officer (2007 – Present)
First National Bank Texas, Killeen, TX

- Pre-funding and post-funding analysis of commercial real estate loans to include retail space, office space, churches, hotels, auto dealerships, residential housing, and multi-family housing
- Prepare various management reports analyzing various economic and real estate trends
- Train and manage Credit Analysts

Front End Supervisor (2005- 2006)
Home Depot, Killeen, TX

- Responsible for all front-end operations of the store (\$35 million in annual sales)
- Supervised, trained, and evaluated four shift supervisors and 30 associates
- Accountable for effective use of labor-hours
- Responsible for extended-warranty sales
- Prepared and controlled employee staffing, schedules, and individual availabilities
- Audit preparation and implementation of new procedures

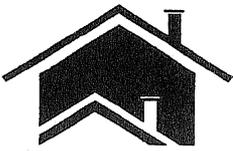
Senior Technician / Supervisor (1997-2005)
U.S. Army, Fort Hood, TX

- Repaired and delegated repair for all network-related equipment and encryption devices
- Responded to trouble-calls and resolved hardware and software issues on site

- Supervised and trained entry-level technicians
- Accounted for and maintained \$500,000 in diagnostic equipment
- Reported daily to the network operations manager on the status of the network from the maintenance perspective
- Designed and implemented plans for keeping heat-sensitive equipment functional in the desert, improved efficiency by 30%

References

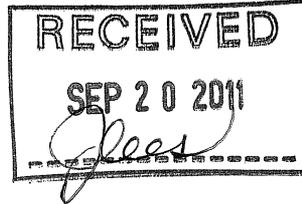
- | | |
|---------------|--------------|
| ▪ Dan Yancey | 254-554-4334 |
| ▪ Pat Foster | 254-554-3692 |
| ▪ Joe Burnett | 254-554-4204 |



HOUSING AUTHORITY OF THE CITY OF COPPERAS COVE

INEZ V. FAISON
EXECUTIVE DIRECTOR

SANDRA BLOUNT
PROJECT MANAGER



701 CASA CIRCLE
COPPERAS COVE, TEXAS 76522

PHONE 254-547-9449
FAX 254-547-6012

September 20, 2011

The Honorable Mayor John Hull
Copperas Cove City Hall

RE: Appointments of Commissioners

On September 30, 2011, the terms of Ms. Patricia Thomas and Ms. Mariea Mann will expire. They have requested to be re-appointed.

Their terms will run from October 1, 2011 through September 30, 2013.

Your concurrence with these recommendations is appreciated.

Sincerely,

INEZ V. FAISON
Executive Director

City Council Regular

I. 2.

Meeting Date: 10/04/2011

Contact: Ryan Haverlah, Asst Dir Finance/Budget Dir, Finance

SUBJECT

Consideration and action on a resolution nominating candidates to serve on the Lampasas Central Appraisal District Board of Directors. **Ryan D. Haverlah, Assistant Director of Financial Services/Budget Director**

BACKGROUND/HISTORY

The Lampasas Central Appraisal District (LCAD) is governed by a Board of Directors. The Board serves a number of specific purposes, of which the most commonly known purpose is to hear and resolve disputes regarding the property values assigned by the LCAD.

Section 6.03 of the Texas Tax Code provides how members of the Board of Directors are selected. Members of the Board of Directors for the LCAD serve two-year terms beginning on the first day of January of even-numbered years (e.g. 2012). Taxing units within the LCAD's jurisdiction will provide nominations to fill the positions on the Board of Directors. After nominations are received, the taxing units will receive a ballot from the LCAD listing the candidates. Votes will be cast according to the number of votes calculated by the Chief Appraiser.

FINDINGS/CURRENT ACTIVITY

Chief Appraiser Melissa Gonzales has notified the City that the LCAD is accepting nominations for the five-member Board of Directors that will serve the term of January 1, 2012 through December 31, 2013. The City may nominate, by resolution, one (1) to five (5) candidates to fill the five member board. The resolution must be submitted to the LCAD by October 15, 2011.

The current members on the Board of Directors are Milton Kellner, David Hamilton, Robert Wright, Mike Kriegel, and Ted Newsom. Ms. Gonzales has informed the City Mr. Milton Kellner and Mr. Ted Newsom will not be candidates for nomination.

LCAD will then submit to the City a ballot of the nominees for which City Council will then cast its votes to select the members of the Board of Directors. The number of votes is determined as a percentage of the taxing unit's property tax levy to the tax levy for all units in the District.

ACTION OPTIONS/RECOMMENDATION

City staff recommends City Council nominate candidates to serve on the Board of Directors for the Lampasas Central Appraisal District and approve Resolution No. 2011-45.

Attachments

Resolution

LCAD Letter

RESOLUTION NO. 2011-45

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS, TO NOMINATE CANDIDATES FOR THE LAMPASAS CENTRAL APPRAISAL DISTRICT BOARD OF DIRECTORS FOR THE TERM OF JANUARY 1, 2012 THROUGH DECEMBER 31, 2013.

WHEREAS, The City Council of the City of Copperas Cove, Texas submits their nominations for the Board of Directors to the Chief Appraiser of the Lampasas Central Appraisal District.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Copperas Cove, Texas submits the following nominations for candidates for the election of the Board of Directors for the Lampasas Central Appraisal District for the term of January 1, 2012 through December 31, 2013.

PASSED, APPROVED, AND ADOPTED on this 4th day of October 2011, 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:

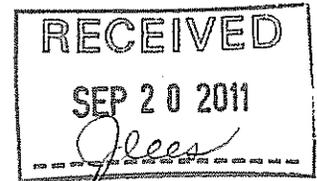
Jane Lees, City Secretary

APPROVED AS TO FORM:

Denton, Navarro, Rocha

& Bernal, P.C., City Attorney

LAMPASAS CENTRAL APPRAISAL DISTRICT



Board of Directors

Milton Kellner, Chairman
David Hamilton, Vice Chairman
Robert Wright, Secretary
Mike Kriegel
Ted Newsom



P.O. Box 175
Lampasas, Texas 76550

TELEPHONE:
512-556-8058
512-556-8138
FAX: 512-556-4660

September 16, 2011

Honorable Mayor Hull
Copperas Cove City
507 S. Main
Copperas Cove, TX 76522

Dear Mayor Hull,

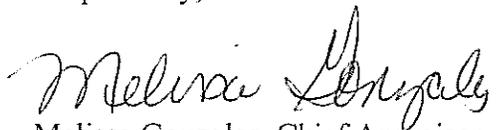
This letter is to inform you that 2011 is the election year for the Board of Directors of the Lampasas Central Appraisal District for the term of January 1, 2012 through December 31, 2013.

Each election year five positions must be filled. The presiding officer of each governing body shall submit names of the unit's nominations to the chief appraiser before October 15, 2011. I will notify each taxing unit of their number of votes before October 1, 2011.

Mr. Milton Kellner and Mr. Ted Newsom will not be a candidate for nomination.

If you have any questions, please feel free to give me a call.

Respectfully,


Melissa Gonzales, Chief Appraiser
Lampasas Central Appraisal District

Pc: Andrea Gardner

City Council Regular

I. 3.

Meeting Date: 10/04/2011

Contact: Andrea Gardner, City Manager

SUBJECT

Consideration and action on establishing the 2012 Texas A&M Central Texas Golf Tournament Committee and appointing members to serve on the committee. **Andrea M. Gardner, City Manager.**

BACKGROUND/HISTORY

The Texas A&M Central Texas Golf Tournament was established as an annual golf tournament in 2010 to raise funds for scholarships benefiting students in the Central Texas area. The tournament was hosted in 2010 and 2011 by the City of Killeen with the understanding the tournament would rotate among the participating Cities' municipal courses in our region. Thus, the 2012 tournament is scheduled to occur in Copperas Cove.

FINDINGS/CURRENT ACTIVITY

The purpose of the committee is to organize tournament activities and raise funding for scholarships, thus promoting the City of Copperas Cove to the participants and tournament sponsors. Staff recommends a seven member committee consisting of one member of the City Council and two staff members with the remaining positions filled by citizens from the region. The committee will be an Ad Hoc Committee with duties ending upon completion of the annual golf tournament.

The City Manager selected Ken Wilson and Eddie Wilson to serve as the two staff representatives. Councilmember Kenn Smith volunteered to serve as the Council representative and staff supports the appointment.

The positions to be filled by citizens from the region will require a posting on the City's government access channel to encourage volunteers and City staff will contact other participating entities to attract possible volunteers and sponsors.

ACTION OPTIONS/RECOMMENDATION

City staff recommends the City Council establish an Ad Hoc Committee for the 2012 Texas A&M Central Texas Golf Tournament and appoint Kenn Smith to serve as the Council representative on the Texas A&M Central Texas Golf Tournament Committee.

Fiscal Impact

Funds available Y/N?: Y

FINANCIAL IMPACT:

Funds for promotional items to be provided to each tournament participant may require a future budget amendment if sufficient funds are not available in the general fund public relations account. Committee members will be seeking tournament sponsors to cover the funds necessary for the scholarships.

City Council Regular

I. 4.

Meeting Date: 10/04/2011

Contact: Wesley Wright

SUBJECT

Consideration and action on authorizing the City Manager to enter into Development and Annexation Agreement between the City of Copperas Cove and Mesa Verde Partners. **Wesley Wright, P.E.**
Division Head of Public Works/City Engineer

BACKGROUND/HISTORY

On May 20, 2008, the City Council approved a development agreement with Mesa Verde Partners to provide funding for the development at Mesa Verde II and III. At the time, the City understood the development would not occur but for the execution of such an agreement and the City recognized an inability to provide the required additional water supply capacity.

On October 21, 2008, the City Council authorized the City Manager to execute a construction contract with Maguire Iron to construct a 300,000 gallon elevated storage tank for the Mesa Verde Development. The developer agreement with Mesa Verde Partners and the construction contract with Maguire Iron were authorized for cancellation by the governing body on March 3, 2009.

City funding limitations prevented the City from providing such capacity until the year 2014 without the generation of additional revenue. However, in the summer 2010, the City became aware of increased project costs associated with required easements from the military and was forced to cancel a funded Northloop waterline project that was to bid with the SH 9 project. Thus, the Council agreed to move funding from the Northloop waterline project to the Mesa Verde (Mountain Top) project due to the development and the need to improve the water capacity in others areas adjacent to the Mountain Top project area.

FINDINGS/CURRENT ACTIVITY

The attached agreement details the terms under which the City will construct two water storage tanks. The water tanks, included in the City's current Capital Improvement Plan, will serve the proposed residential development as well as help alleviate water system challenges on the entire Mountain Top water pressure plane.

A portion of the area owned by Mesa Verde Partners is currently located outside the city limits. In exchange for the city's participation, the agreement includes provisions for voluntary annexation as well as the dedication of property necessary to construct Mountain Top water improvements. In addition, the agreement provides provisions for an over-sized water line that will serve the Mountain Top water pressure plane.

ACTION OPTIONS/RECOMMENDATION

City staff recommends City Council take action and provide guidance on the Development and Annexation Agreement between the City of Copperas Cove and Mesa Verde Partners.

Fiscal Impact

FINANCIAL IMPACT:

Funding for the Mountain Top Water project is available in Fund 88. The total amount available for the entire project including any reimbursements to the developer is \$1.656 million. The expenditures awarded by Council in the future for the construction of the tanks and pumping station must be \$1.656 million or less in order for the Council to award the bid without appropriating additional funds. Any reimbursements to the developer for the cost of the transmission and distribution lines will be limited to funds remaining after contract award of the tanks and pump bid.

Attachments

Agreement

Exhibits

STATE OF TEXAS §
 §
COUNTY OF CORYELL §

**DEVELOPMENT AND ANNEXATION AGREEMENT BETWEEN THE CITY OF
COPPERAS COVE AND MESA VERDE PARTNERS**

This Development and Annexation Agreement (the "Agreement") is made and entered into as of the ____ day of _____, 2011 (the "Effective Date") by and between the **CITY OF COPPERAS COVE, TEXAS**, a Texas home rule city and municipal corporation (the "City"), and **MESA VERDE PARTNERS**, a _____, (the "Developer"). The City and the Developer are sometimes referred to herein as the "Parties." The Parties agree as follows.

**I.
Purposes, Term and Consideration**

- 1.01. The Developer owns that certain tract of land more particularly described in **Exhibit A** attached hereto and here incorporated for all purposes, herein referred to as the "Property"
- 1.02. The Property is located within the Extraterritorial Jurisdiction ("ETJ") of the City.
- 1.03. The Developer has agreed to submit to the City an annexation petition (the "Annexation Petition") asking the City to annex the Property.
- 1.04. Under this Agreement, the Developer will benefit by consenting to future annexation by the City which will provide regulatory certainty and assurance concerning the conditions, terms, and restrictions applicable to the continued use and development of the Property.
- 1.05. The City will benefit from this Agreement by virtue of 1) the certainty that the Property will be annexed by the City without said annexation counting towards its statutory annual cap; 2) its control over the development standards for the Property through this Agreement; and 3) the increased ad valorem tax revenues accruing to the City from future annexation of the Property.
- 1.06. The benefits to the Parties set forth in Sections 1.05 and 1.06 above, plus the mutual promises expressed herein, are good and valuable consideration for this Agreement, the sufficiency of which is hereby acknowledged by both Parties.
- 1.07. Authority for this Agreement exists under Chapter 212, Subchapter G, Texas Local Government Code ("Subchapter G"), Chapter 43, Texas Local Government Code ("Chapter 43"), Chapter 380 Texas Local Government Code ("Chapter 380"), Section 212.071 Texas Local Government Code and such other statutes as may be applicable.
- 1.08. The Term of this Agreement will commence on the Effective Date and shall continue for a period of fifteen (15) years unless otherwise terminated as provided for herein.

II. Definitions

- 2.01. Agreement: This Development and Annexation Agreement for the Developer's Property.
- 2.02. Annexation Petition: The petition to be submitted by the Developer to the City requesting annexation of the Annexation Tract (**Exhibit "C"**), which petition shall be substantially in the form of **Exhibit "B"**.
- 2.03. Applicable Rules: The City Rules and regulations in effect as of the Effective Date of this Agreement which, as modified by the Project Approvals, will be applicable to the development of the Property, except as provided herein.
- 2.04. City: The City of Copperas Cove, Texas, a Texas home rule city.
- 2.05. City Code: The Copperas Cove, Texas Code of Ordinances, as amended from time to time, including, without limitation, the Unified Development Code.
- 2.06. City Council: The City Council of Copperas Cove, Texas.
- 2.07. City Rules: The City's ordinances and duly adopted regulations.
- 2.08. Existing Uses: Those uses consistent with the City of Copperas Cove Zoning District R1 as described within the City's Code of Ordinances Chapter 20 as of the effective date of this Agreement.
- 2.09. Effective Date: The date first stated in this Agreement, which date shall be no sooner than the approval date by the City Council of this Agreement.
- 2.10. Oversize: The increase in diameter in the Distribution Line from 8 inches to 12 inches.
- 2.11. Parties: The City of Copperas Cove and Developer.
- 2.12. Property: Approximately 85 acres of land, in Coryell County, Texas, as more fully described on the attached **Exhibit "A"**.
- 2.13. Project: The Development of the Property into approximately 120 Residential Lots.
- 2.14. Project Approvals: All approvals, variances, waivers and exceptions to the Applicable Rules by the City that are necessary or required for the development of the Property to authorize Existing Uses as here defined, including this Agreement[and other future regulatory approvals].
- 2.15. Distribution Line: An 8 inch Distribution Line designed to serve the Project.
- 2.16. Transmission Line: 16 inch line designed to provide water to the Water Tanks.

- 2.17. Service System: The Distribution Line and the Transmission Line as more particularly described in the attached **Exhibit “D”**.

III. Regulatory Certainty

- 3.01. The Parties stipulate and agree that the Developer’s Existing Uses of the Property, including continuation, expansion, and development of Existing Uses, shall be fully vested to the extent allowed by Texas law, and the parties specifically agree that no land usage and no land development standards permitted prior to the Effective Date of this Agreement shall be further restricted, modified, or revoked unless the Developer, its successors or assigns agrees in writing to such restriction, modification or revocation.

IV. Commitments of the Developer

- 4.01. The Developer agrees to submit to the City an Annexation Petition within 30 days of this Agreement being executed. Developer understands and agrees that the City’s annexation of the subject property is substantial consideration for this Agreement and failure to submit the Annexation Petition as provided for herein shall be considered a material breach of the Agreement subject to the termination provisions in Article VIII of this Agreement.
- 4.02. The Developer agrees not to contest future annexation of the Annexation Tract by the City in court, at City Council, or at the Texas Legislature, provided such annexation occurs according to the terms of this Agreement.
- 4.03. The Developer agrees to donate land detailed in **Exhibit “F”** (the “Water Tanks Site”) to accommodate a 300,000 gallon water tank (“Tank One”) and a 1.2 million gallon water tank (“Tank Two”) (collectively the “Water Tanks”) and the associated pump stations to be constructed by the City. Said donation shall be by deed in a form substantially similar to the attached **Exhibit “E”** and shall occur concurrently with the Developer’s submission of the Annexation Petition.
- 4.04. The Developer agrees to temporarily provide a site of sufficient size and location within the Property to accommodate any excavated spoil site during the City’s construction of Water Tanks (“Excavated Spoil Material”). Said use by City shall be temporary in nature and for the sole purpose of the construction of the Water Tanks.
- 4.05. The Developer agrees to design and construct the Transmission Line System consistent with **Exhibit “D”**.
- 4.06. The Developer agrees to provide a water and sewer utility easement, in a form substantially similar to the attached **Exhibit “G”**, for the placement of the Service System.

V.
Commitments of the City

- 5.01. Upon annexation of the Property, the City agrees to propose an ordinance zoning the annexed Property to R1, or such other district as the City Code may then include analogous to R1 (the “Proposed Zoning Ordinance”). Nothing in this Agreement shall be construed to modify or supersede mandatory zoning procedures applicable to the City under state law or the City Code.
- 5.02. The City agrees to financially participate in the construction of the Distribution Line at 30% of the actual cost of construction and 100% of the cost of the Oversize as provided for herein.
- 5.03. The City agrees to financially participate in the Transmission Line System at 100% of the actual cost of design and construction.
- 5.04. The City agrees to accept the Service Line System as a public utility.
- 5.05. The City has the right to review and approve the schedule of values for design and construction for the Distribution and Transmission Lines and protest said values.

VI.
Service System Construction; Reimbursement

- 6.01. Construction of the Service System. Developer has caused or will cause its engineers to design the Service System to accommodate the Project and the City’s requested Oversize. Developer agrees to construct the Service System according to plans and specifications approved by the City and in accordance with a contract between Developer and its general contractor, the form of which must be approved by the City. To assure performance, Developer agrees to have a performance bond executed by a corporate surety in accordance with Chapter 2253 of the Government Code in an amount equal to 100% of the estimated costs of construction. The City agrees to release the performance bond when the Service System is completed and upon satisfaction of the condition in Paragraph 6.02 a.

The City has the right review the Schedule of Values for design and construction of the Service System and protest said values. If the City Engineer finds and determines that the Schedule of Values are unreasonable the City may refuse to reimburse Developer for that portion it finds and determines to be unreasonable.

- 6.02. Reimbursement Obligation of the City.

The City agrees to reimburse Developer 30% of the cost of construction of the Distribution Line and 100% of the cost of the Oversize upon satisfaction of the following condition:

- a. Developer’s general contractor must provide an affidavit that all providers of

labor and material for the Distribution Line have been paid in full upon completion of the construction of the Distribution Line.

The City agrees to reimburse Developer 100% of the cost of design and construction of the Transmission Line upon satisfaction of the following condition:

- b. Developer's general contractor must provide an affidavit that all providers of labor and material for the Transmission Line have been paid in full upon completion of the design and construction of the Transmission Line.

6.03. Reimbursement Process.

- a. Upon satisfactory construction of the Transmission and Distribution Lines, the Developer shall obtain a document from the City indicating their acceptance of the Transmission and Distribution Lines.
- b. Developer shall submit to the City an invoice for previously approved design and construction contracts and proof of acceptance.
- c. Within thirty days (30) of receipt of such invoice, the City shall remit its share of the cost as provided for herein.

6.04. Conditions to Approval of Permits. The City will have no obligation to approve new or pending applications for permits for the Project until the following conditions have been satisfied:

- a. Developer has secured the cost of construction of the Transmission and Distribution Lines; and
- b. Developer has provided surety in compliance with paragraph 6.01 of this Agreement to the City that the Transmission and Distribution Lines will be constructed by Developer in accordance with the approved design thereof; and
- c. The Developer has submitted the Annexation Petition as provided for in this Agreement; and
- d. The Developer has donated the Water Tanks Site as provided for in this Agreement; and
- e. The Developer has dedicated the Excavated Spoils Site for use by the City as detailed in **Exhibit "H"**.

6.05. Warranty Bond. Developer agrees to provide City a two (2) year warranty bond on the construction of the Transmission Line and Distribution Line in a form satisfactory to the City.

6.06. City Maximum Contribution. The City's maximum contribution shall not exceed \$1.656 million to include all aspects related to the Water Tanks and the Service System Lines.

Any costs over \$1.656 million will be the responsibility and liability of the Developer.

VII.

Assignment of Commitments and Obligations; Successors

- 7.01. The Developer's rights and obligations under this Agreement may be assigned in whole to persons purchasing all of the Property upon written consent of the City.
- 7.02. This Agreement shall be binding upon the Parties, their successors and assigns. Provided, that in the event of an assignment the Developer shall continue to be liable under this Agreement for a default affecting this Agreement.

VIII.

Breach, Default, Remedy, and Termination Right

- 8.01. The Parties further agree that if either party materially breaches the terms provided for herein, such material breach shall be an event of default. In that event, the non-defaulting party to this Agreement may, in addition to all other rights and remedies allowed under law, pursue the remedy of specific performance.
- 8.02. Notwithstanding anything herein to the contrary, no party shall be deemed to be in default hereunder until the passage of thirty (30) business days after receipt by such party of notice of default from the other party. Upon the passage of thirty (30) business days without cure of the default, such party shall be deemed to have defaulted for purposes of this Agreement, and the non-defaulting party may pursue the remedies allowed under this Agreement.
- 8.03. After the expiration of its Term this Agreement it shall be of no further force and effect, except that termination will not affect any right or obligation arising from Project Approvals previously granted, and such expiration shall not affect vested rights existing under Chapter 245 and Chapter 43.
- 8.04. This Agreement may be terminated or amended as to the Property at any time by mutual written consent of the City and the Developer.

**IX.
Force Majeure**

- 9.01 The term “force majeure” as employed herein shall mean and refer to, without limitation, acts of God; strikes, lockouts, or other industrial disturbances; acts of public enemies, statutes, regulations, and orders of any kind of the government of the United States, the State of Texas or any civil or military authority; insurrections; riots; epidemic; landslides; lightning, earthquakes; fires, hurricanes; storms, floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accidents to machinery, pipelines, or canals; or other causes not reasonably within the control of the party claiming such inability.
- 9.02 If, by reason of force majeure, any party hereto shall be rendered wholly or partially unable to carry out its obligations under this Agreement, then such party shall give written notice of the full particulars of such force majeure to the other party within ten (10) days after the occurrence thereof. The obligations of the party giving such notice, to the extent effected by the force majeure, shall be suspended during the continuance of the inability claimed, except as hereinafter provided, but for no longer period, and the party shall endeavor to remove or overcome such inability with all reasonable dispatch.
- 9.03 It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty, and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require that the settlement be unfavorable in the judgment of the party having the difficulty.

**X.
Notices**

- 10.01 Any notice to be given hereunder by any party to another party shall be in writing and may be affected by personal delivery or by sending said notices by registered or certified mail, return receipt requested, to the address set forth below. Notice shall be deemed given when deposited with the United States Postal Service with sufficient postage affixed or, in the case of personal delivery upon actual delivery.

Any notice mailed to the City shall be addressed:

City of Copperas Cove
P.O. Drawer 1449
Copperas Cove, Texas 78610
Attn: City Manager

Any notice mailed to the Developer shall be addressed:

Mesa Verde Partnership
P.O. Box 727
1406 South FM 116, Suite C
Copperas Cove, TX 76522

Any party may change the address for notice to it by giving notice of such change in accordance with the provisions of this section.

XI.
Entire Agreement/Severability

- 11.01. This Agreement, together with any exhibits attached hereto, constitutes the entire agreement between Parties with respect to its subject matter, and may not be amended except by a writing signed by all Parties and dated subsequent to the date hereof.
- 11.02. If any provision of this Agreement is found to be unenforceable by a court of law having jurisdiction over the Parties, the remainder of the Agreement shall remain in force, unless the elimination of the unenforceable provision substantially deprives one or both Parties of the benefits of this Agreement.

XII.
Effective Date

- 12.01. This Agreement shall be effective as of the date stated in the opening paragraph, which shall be inserted upon the execution by both Parties and approval by the City Council.

XIII.
Recordation

- 13.01. This Agreement or a memorandum of this Agreement acceptable to City and Developer shall be recorded in the Official Public Records of Coryell County, Texas as a Development and Annexation Agreement under Chapter 212 Subchapter G of the Texas Local Government Code.

XIV.
Texas Law Governs

- 14.01. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas. In the event of partial invalidity, the balance of the Agreement shall remain in full force and effect.

XV.
Time of the Essence

- 15.01. It is acknowledged and agreed by the Parties that time is of the essence in the performance of this Agreement.

XVI.
Cooperation and Third-Party Litigation

- 16.01. The City and the Developer each agree to execute such further documents or instruments as may be necessary to evidence their agreements hereunder.

16.02. In the event of any third party lawsuit or other claim relating to the validity of this Agreement or any actions taken by the Parties hereunder, the Developer and the City agree to cooperate in the defense of such suit or claim, and to use their respective best efforts to resolve the suit or claim without diminution of their respective rights and obligations under this Agreement. The filing of any third party lawsuit relating to this Agreement or the development of the Project will not delay, stop or otherwise affect the development of the Project or the City's processing or issuance of any approvals for the Project, unless otherwise required by a court of competent jurisdiction. The City agrees not to stipulate or agree to the issuance of any court order that would impede or delay the City's processing or issuance of approvals for the Project.

**XVII.
Construction of Agreement**

17.01 All exhibits attached to this Agreement are incorporated into and made a part of this Agreement for all purposes. The paragraph headings contained in this Agreement are for convenience only and do not enlarge or limit the scope or meaning of the paragraphs. Wherever appropriate, words of the masculine gender may include the feminine or neuter, and the singular may include the plural, and vice-versa. Each of the Parties has been actively and equally involved in the negotiation of this Agreement. Accordingly, the rule of construction that any ambiguities are to be resolved against the drafting Party will not be employed in interpreting this Agreement or its exhibits. This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original, and all of which will together constitute the same instrument. This Agreement will become effective only when one or more counterparts, individually or taken together, bear the signatures of all of the Parties.

**XVIII.
Authorization**

18.01. The City certifies, represents, and warrants that the execution of this Agreement has been duly authorized and that this Agreement has been approved in conformity with City ordinances and other applicable legal requirements. The Developer certifies, represents, and warrants that the execution of this Agreement is duly authorized in conformity with their authority.

EXECUTED in multiple originals and effective as of the ____ day of _____, 2011.

CITY OF COPPERAS COVE, TEXAS

By: _____
John Hull, Mayor

**DEVELOPMENT AND ANNEXATION AGREEMENT BETWEEN THE CITY OF
COPPERAS COVE AND MESA VERDE PARTNERS**

EXHIBIT A

BEING a 94.489 acre tract of land situated in the M. A. BOULDIN SURVEY, ABSTRACT No. 1303, the SARAH FUQUA SURVEY, ABSTRACT No. 1040, and the J. P. FUDGE SURVEY, ABSTRACT No. 1412, all in Coryell County, Texas and being a part or portion of that certain 275.26 acre tract of land (EXHIBIT "A") described in a Warranty Deed with Vendor's Lien dated April 5, 1991 from The Citizens State Bank of Lometa to Copperland Inc. and being of record in Volume 499, Page 886, Deed Records of Coryell County, Texas and being a part or portion of that certain 65.269 acre tract of land (EXHIBIT "A") described in a Warranty Deed dated September 9, 1996 from JWC, Inc. to DDA Partnership and being of record in Document No. 110117, Official Public Records of Coryell County, Texas and being a part or portion of that certain Tract No. 17, Bradford Oaks Ranch, an unrecorded subdivision in Coryell County, Texas and being more particularly described by metes and bounds as follows:

BEGINNING at a ½" iron rod found being the northeast corner (calls ½" iron rod) of the MESA VERDE AT SKYLINE SUBDIVISION of Coryell County, Texas and being of record in Cabinet B, Slide 544, Plat Records of Coryell County, Texas for corner;

THENCE S. 85° 46' 51" W., 439.34 feet with the north boundary line of the said MESA VERDE AT SKYLINE SUBDIVISION to a ½" iron rod found (calls ½" iron rod) being the northwest corner of the said MESA VERDE AT SKYLINE SUBDIVISION and being in the west boundary line of the said 275.26 acre tract and being in the east boundary line of that certain 251.000 acre tract of land described in a Deed to Raiford Williams being of record in Volume 271, Page 277, Deed Records of Coryell County, Texas for corner;

THENCE departing the said MESA VERDE AT SKYLINE, PHASE II and with the easterly boundary line of the said 251.000 acre tract and the westerly boundary line of the said 275.26 acre tract as fenced and evidenced on the ground the following four (4) calls:

- 1) THENCE N. 18° 18' 36" E., 386.94 feet departing the said MESA VERDE AT SKYLINE SUBDIVISION and with the said east and west boundary lines to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- 2) N. 18° 39' 05" E., 657.24 feet (calls S. 19° 00' W., 1246.02 varas in Volume 271, Page 277) and (calls N. 18° 32' 57" E., 1771.61 feet in Volume 499, Page 886) to a ½" iron rod with cap stamped "RPLS #2475" set at a fence post found for corner;
- 3) N. 18° 19' 47" E., 608.13 feet to a 2" capped iron pipe found at a fence corner post being the northeast corner of the said 251.000 acre tract and being the apparent southeast corner of that certain 118.621 acres of land owned by Winfred E. Grimes, Jr. according to the Coryell County Tax Appraisal Records for 2008 for corner;
- 4) N. 18° 24' 51" E., 439.83 feet (calls N. 18° 38' 12" E., 438.73 feet in Volume 499, Page 886) to a ½" iron rod with cap stamped "RPLS #2475" set at a fence post for corner;



THENCE departing the said 251.000 acre tract and with the easterly boundary line of the said 118.621 acre tract as fenced and evidenced on the ground and continuing with the westerly boundary line of the said 275.26 acre tract as fenced and evidenced on the ground the following three (4) calls:

- 1) N. 18° 09' 14" E., 83.08 feet (calls N. 17° 42' 00" E., 83.08 feet in Volume 499, Page 886) to a ½" iron rod with cap stamped "RPLS #2475" set at a fence post for corner;
- 2) N. 18° 55' 39" E., 108.62 feet (calls N. 19° 06' 57" E., 108.62 feet in Volume 499, Page 886) to a ½" iron rod with cap stamped "RPLS #2475" set at a fence post for corner;
- 3) N. 18° 33' 12" E., 961.97 feet (calls N. 18° 34' 56" E., 962.75 feet in Volume 499, page 886) to a 3/8" iron rod found at a fence corner post being the apparent northeast corner of the said 118.621 acre tract and being the southeast corner of Tract No. 30, Bradford Oaks Ranch, an unrecorded subdivision in Coryell County, Texas for corner;

THENCE N. 19° 03' 53" E., 601.81 feet (calls N. 19° 03' 27" E., 667.95 feet in Volume 499, Page 886) departing the said 118.621 acre tract and with the easterly boundary line of the said Tract No. 30, Bradford Oaks Ranch and continuing with the westerly boundary line of the said 276.26 acre tract as fenced and evidenced on the ground to a ½" iron rod found being the northeast corner of the said Tract No. 30, Bradford Oaks Ranch and being the southeast corner of Tract No. 20, said Bradford Oaks Ranch for corner;

THENCE N. 18° 39' 25" E., 66.92 feet departing the said Tract No. 30 and with the easterly boundary line of the said Tract No. 20 and continuing with the said westerly boundary line of the said 275.26 acre tract as fenced and evidenced on the ground to a 3/8" iron rod found at a fence corner post being an angle point in the easterly boundary line of the said Tract No. 20 and being the southwest corner of Tract No. 17, said Bradford Oaks Ranch and being the northwest corner of the said 275.26 acre tract for corner;

THENCE departing the said 275.26 acre tract and with the westerly, northerly and easterly boundary lines of the said Tract No. 17 the following four (4) calls:

- 1) N. 00° 13' 24" W., 460.10 feet with the easterly boundary line of said Tract No. 20 and the westerly boundary line of said Tract No. 17 to a 3/8" iron rod found at a fence corner post being the northeast corner of the said Tract No. 20 and being the southeast corner of that certain Tract No. 16, said Bradford Oaks Ranch and being an angle point in the westerly boundary line of the said Tract No. 17 for corner;
- 2) N. 19° 41' 19" E., 474.84 feet departing the said Tract No. 20 and with the said Tract No. 16 to a 3/8" iron rod found being the northwest corner of the said Tract No. 17 and the northeast corner of the said Tract No. 16 for corner;
- 3) S. 70° 14' 18" E., 400.00 feet departing the said Tract No. 16 and with the north boundary line of the said Tract No. 17 to a ½" iron rod with cap stamped "RPLS 2475" set being the northeast corner of the said Tract No. 17 and being the northwest corner of Tract No. 18, said Bradford Oaks Ranch for corner;



- 4) S. $19^{\circ} 45' 01''$ W., 902.81 feet with the easterly boundary line of the said Tract No. 17, Bradford Oaks Ranch and the westerly boundary line of the said Tract No. 18 to a $3/8''$ iron rod found being the southeast corner of the said Tract No. 17 and the southwest corner of the said Tract No. 18 and being in the northerly boundary line of the said 275.26 acre tract for corner;

THENCE S. $70^{\circ} 52' 02''$ E., 396.21 feet departing the said Tract No. 17 and with the southerly boundary line of the said Tract No. 18 and the northerly boundary line of the said 275.26 acre tract as fenced and evidenced on the ground (calls S. $70^{\circ} 36' 26''$ E., 941.11 feet in Volume 499, Page 886) to a $3/8''$ iron rod found being the southeast corner of the said Tract No. 18 and being the southwest corner of Tract No. 19, Bradford Oaks Ranch for corner;

THENCE S. $69^{\circ} 46' 15''$ E., 303.54 feet departing the said Tract No. 18 and with the southerly boundary line of the said Tract No. 19 and continuing with the northerly boundary line of the said 275.26 acre tract as fenced and evidenced on the ground to a flagged 60d nail found at a fence corner post being the southeast corner of the said Tract No. 19 and being northeast corner of the said 275.26 acre tract and being in the westerly boundary line of the aforementioned 65.269 acre tract for corner;

THENCE departing the said Tract No. 19 Bradford Oaks and over and across the said 65.269 acre tract and continuing over and across the said 275.26 acre tract the following twenty-four (24) calls:

- 1) S. $69^{\circ} 32' 57''$ E., 107.99 feet to a $1/2''$ iron rod with cap stamped "RPLS #2475" set for corner;
- 2) S. $18^{\circ} 48' 41''$ W., 483.62 feet to a $1/2''$ iron rod with cap stamped "RPLS #2475" set for corner;
- 3) S. $19^{\circ} 52' 20''$ W., 118.66 feet to a $1/2''$ iron rod with cap stamped "RPLS #2475" set for corner;
- 4) S. $47^{\circ} 26' 22''$ W., 233.49 feet to a $1/2''$ iron rod with cap stamped "RPLS #2475" set for corner;
- 5) S. $36^{\circ} 09' 28''$ W., 106.82 feet to a $1/2''$ iron rod with cap stamped "RPLS 2475" set for corner;
- 6) S. $25^{\circ} 06' 17''$ W., 109.19 feet to a $1/2''$ iron rod with cap stamped "RPLS 2475" set for corner;
- 7) S. $08^{\circ} 23' 15''$ W., 382.36 feet to a $1/2''$ iron rod with cap stamped "RPLS 2475" set for corner;
- 8) S. $04^{\circ} 32' 25''$ W., 161.31 feet to a $1/2''$ iron rod with cap stamped "RPLS 2475" set for corner;



- 9) S. $06^{\circ} 54' 52''$ W., 200.48 feet to a $\frac{1}{2}$ " iron rod with cap stamped "RPLS 2475" set for corner;
- 10) S. $29^{\circ} 42' 20''$ W., 207.14 feet to a $\frac{1}{2}$ " iron rod with cap stamped "RPLS 2475" set for corner;
- 11) S. $45^{\circ} 17' 37''$ W., 221.29 feet to a $\frac{1}{2}$ " iron rod with cap stamped "RPLS 2475" set for corner;
- 12) S. $29^{\circ} 07' 23''$ W., 124.18 feet to a $\frac{1}{2}$ " iron rod with cap stamped "RPLS 2475" set for corner;
- 13) S. $03^{\circ} 44' 25''$ W., 158.11 feet to a $\frac{1}{2}$ " iron rod with cap stamped "RPLS 2475" set for corner;
- 14) S. $52^{\circ} 43' 22''$ E., 72.03 feet to a $\frac{1}{2}$ " iron rod with cap stamped "RPLS 2475" set for corner;
- 15) S. $44^{\circ} 50' 28''$ E., 162.33 feet to a $\frac{1}{2}$ " iron rod with cap stamped "RPLS 2475" set for corner;
- 16) S. $31^{\circ} 42' 36''$ E., 153.01 feet to a $\frac{1}{2}$ " iron rod with cap stamped "RPLS 2475" set for corner;
- 17) S. $11^{\circ} 52' 58''$ E., 266.34 feet to a $\frac{1}{2}$ " iron rod with cap stamped "RPLS 2475" set for corner;
- 18) S. $01^{\circ} 36' 50''$ E., 161.36 feet to a $\frac{1}{2}$ " iron rod with cap stamped "RPLS 2475" set for corner;
- 19) S. $71^{\circ} 50' 33''$ W., 129.21 feet to a $\frac{1}{2}$ " iron rod with cap stamped "RPLS 2475" set for corner;
- 20) S. $73^{\circ} 54' 09''$ W., 203.59 feet to a $\frac{1}{2}$ " iron rod with cap stamped "RPLS 2475" set for corner;
- 21) S. $89^{\circ} 47' 18''$ W., 157.11 feet to a $\frac{1}{2}$ " iron rod with cap stamped "RPLS 2475" set for corner;
- 22) S. $75^{\circ} 57' 35''$ W., 341.02 feet to a $\frac{1}{2}$ " iron rod with cap stamped "RPLS 2475" set for corner;
- 23) S. $64^{\circ} 09' 46''$ W., 283.39 feet to a $\frac{1}{2}$ " iron rod with cap stamped "RPLS 2475" set for corner;
- 24) S. $67^{\circ} 33' 28''$ W., 160.20 feet to the Point of BEGINNING and containing 94.489

**DEVELOPMENT AND ANNEXATION AGREEMENT BETWEEN THE CITY OF
COPPERAS COVE AND MESA VERDE PARTNERS**

EXHIBIT B

EXHIBIT "B"

Annexation Petition

PETITION REQUESTING ANNEXATION

TO THE MAYOR AND CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS:

The undersigned owner(s) of the hereinafter described tract of land hereby petition this honorable body to extend the present municipal limits of the City of Copperas Cove, so as to include and annex as a part of the City of Copperas Cove, the property herein described by metes and bounds.

See Attached Exhibit "C".

We certify that the above-described tract of land is contiguous and adjacent to the City Limits of the City of Copperas Cove this petition is signed and duly acknowledged by each and every person or corporation having an ownership interest in said land.

Signed: _____

Printed Name: _____

STATE OF TEXAS §
 §
COUNTY OF _____ §

Before me, the undersigned authority, on this day personally appeared _____, known to me to be the person(s) whose name(s) is/are subscribed to the foregoing instrument and each acknowledged to me that he/she executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office on this the _____ day of _____, 2011.

Notary Public, State of Texas
My commission expires: _____

**DEVELOPMENT AND ANNEXATION AGREEMENT BETWEEN THE CITY OF
COPPERAS COVE AND MESA VERDE PARTNERS**

EXHIBIT C

MESA VERDE AT SKYLINE, PHASE II

BEING a 42.979 acre tract of land situated in the M.A. BOULDIN SURVEY, ABSTRACT No. 1303, Coryell County, Texas and being a part or portion of that certain 275.26 acre tract (Exhibit "A") described in a Warranty Deed with Vendor's Lien dated April 5, 1991 from the Citizens State Bank of Lometa to Copperland, Inc. and being of record in volume 499, Page 886, Coryell County Public Records and being a part or portion of that certain 65.269 acre tract described in a Deed dated September 9, 1996 from JWC, Inc to DDA Partnership and being of record in Document Number 110117, Coryell County Public Records and being more particularly described by metes and bounds as follows:

BEGINNING at a ½" iron rod found being the northeast corner (calls ½" iron rod) of the MESA VERDE AT SKYLINE SUBDIVISION of Coryell County, Texas and being of record in Cabinet B, Slide 544, Plat Records of Coryell County, Texas for corner;

THENCE S. 85° 46' 51" W., 439.34 feet with the north boundary line of the said MESA VERDE AT SKYLINE SUBDIVISION to a ½" iron rod found (calls ½" iron rod) being the northwest corner of the said MESA VERDE AT SKYLINE SUBDIVISION and being in the west boundary line of the said 275.26 acre tract and being in the east boundary line of that certain 251.000 acre tract of land described in a Deed to Raiford Williams being of record in Volume 271, Page 277, Deed Records of Coryell County, Texas for corner;

THENCE N. 18° 18' 36" E., 386.94 feet departing the said MESA VERDE AT SKYLINE SUBDIVISION and with the said east and west boundary lines to a ½" iron rod with cap stamped "RPLS 2475" set for corner;

THENCE departing the said east and west boundary lines and over and across the said 275.26 acre tract and the said 65.269 acre tract the following thirty-four (34) calls:

- (1) N. 64° 09' 46" E., 871.87 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (2) N. 38° 03' 01" E., 67.86 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (3) N. 28° 28' 48" W., 321.66 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (4) N. 00° 52' 37" W., 213.55 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (5) N. 17° 49' 14" E., 102.98 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (6) N. 28° 17' 33" E., 64.79 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (7) N. 37° 00' 32" E., 362.41 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (8) N. 33° 15' 59" E., 122.72 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;

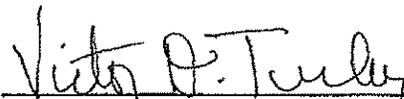


- (9) N. 18° 32' 40" E., 107.57 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (10) N. 08° 36' 48" E., 478.11 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (11) N. 16° 43' 28" E., 184.19 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (12) N. 25° 39' 26" E., 189.93 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (13) N. 41° 15' 34" E., 226.05 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (14) S. 48° 10' 53" E., 455.26 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (15) S. 36° 09' 28" W., 106.82 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (16) S. 25° 06' 17" W., 109.19 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (17) S. 08° 23' 15" W., 382.36 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (18) S. 04° 32' 25" W., 161.31 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (19) S. 06° 54' 52" W., 200.48 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (20) S. 29° 42' 20" W., 207.14 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (21) S. 45° 17' 37" W., 221.29 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (22) S. 29° 07' 23" W., 124.18 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (23) S. 03° 44' 25" W., 158.11 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (24) S. 52° 43' 22" E., 72.03 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (25) S. 44° 50' 28" E., 162.33 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (26) S. 31° 42' 36" E., 153.01 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;



- (27) S. 11° 52' 58" E., 266.34 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (28) S. 01° 36' 50" E., 161.36 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (29) S. 71° 50' 33" W., 129.21 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (30) S. 73° 54' 09" W., 203.59 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (31) S. 89° 47' 18" W., 157.11 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (32) S. 75° 57' 35" W., 341.02 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (33) S. 64° 09' 46" W., 283.39 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (34) S. 67° 33' 28" W., 160.20 feet to the Point of BEGINNING and containing 42.980 acres of land.

I, Victor D. Turley, a Registered Professional Land Surveyor in the State of Texas, do hereby certify that these field notes are a correct representation of a survey made on the ground.


 Victor D. Turley, R.P.L.S.#2475
 July 1, 2004



Bearing base: N. 85° 46' 51" E., 439.34 feet north boundary line MESA VERDE AT SKYLINE SUBDIVISION of Coryell County, Texas being of record in Cabinet B, Slide 544, Plat Records of Coryell County, Texas.

See attached surveyors sketch that accompanies this set of field notes (ref. Turley Associates, Inc. drawing no. 11266-D)



TURLEY ASSOCIATES, INC.

ENGINEERING • PLANNING • SURVEYING • DESIGN/BUILDING
 301 NORTH 3RD STREET • TEMPLE, TEXAS 76501 • (254) 773-2400

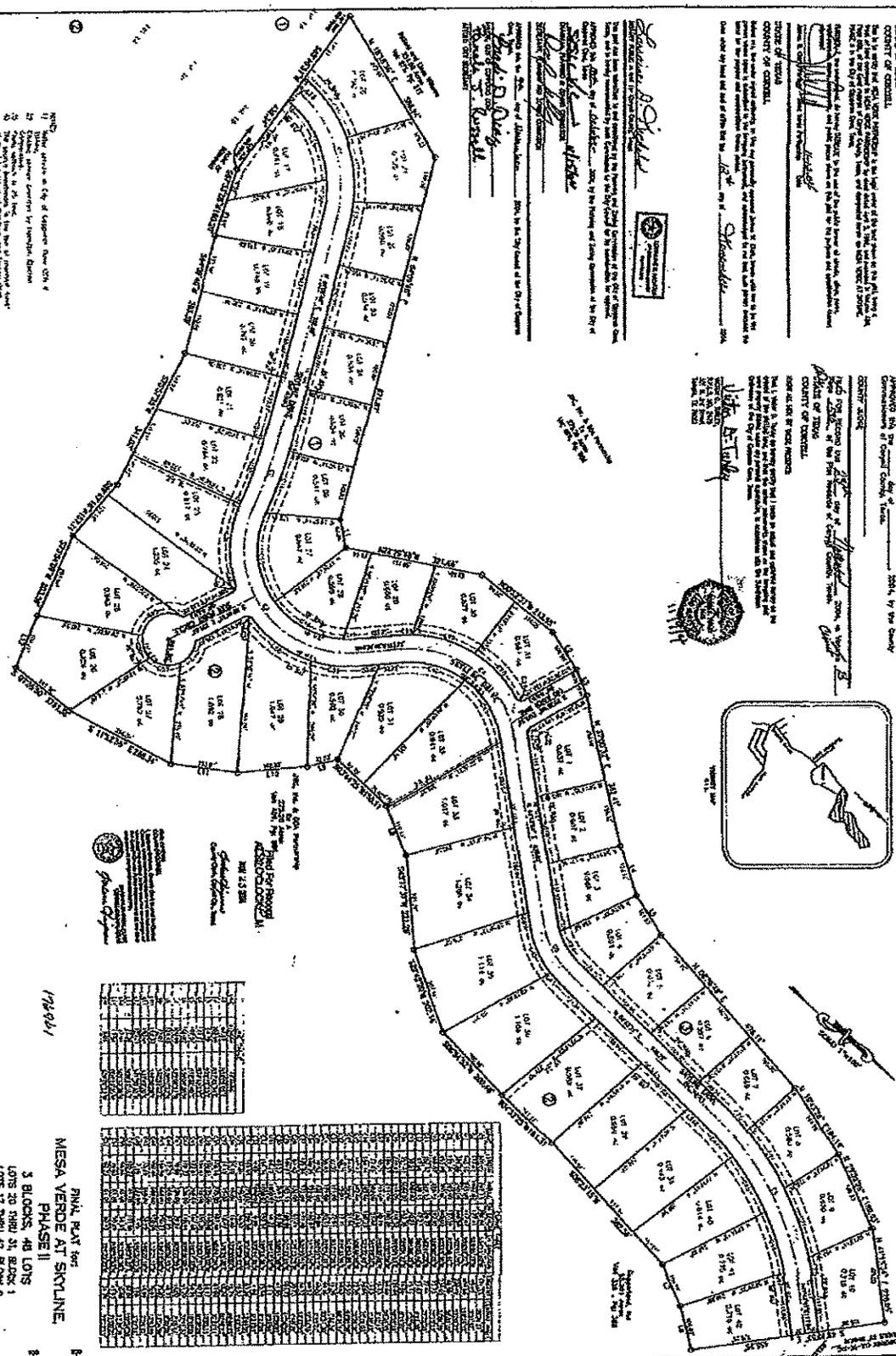
COUNTY OF TEXAS
 CITY OF CORPUS CHRISTI

APPROVED AND THE CITY OF CORPUS CHRISTI, TEXAS
 COMMISSIONERS OF CORPUS CHRISTI, TEXAS

APPROVED AND THE CITY OF CORPUS CHRISTI, TEXAS
 COMMISSIONERS OF CORPUS CHRISTI, TEXAS

APPROVED AND THE CITY OF CORPUS CHRISTI, TEXAS
 COMMISSIONERS OF CORPUS CHRISTI, TEXAS

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- 99. 99' Wide Avenue on City of Corpus Christi, City of
- 100. 100' Wide Avenue on City of Corpus Christi, City of



FINAL PLAN FOR
 MESA VERDE AT SKYLINE
 PHASE II
 3 BLOCKS, 48 LOTS
 LOTS 30 THRU 31, BLOCK 1
 LOTS 17 THRU 42, BLOCK 2
 LOTS 1 THRU 16, BLOCK 3
 42,879 SQUARE FEET
 A SUBDIVISION IN THE CITY OF CORPUS CHRISTI, TEXAS
 CORPUS CHRISTI, TEXAS

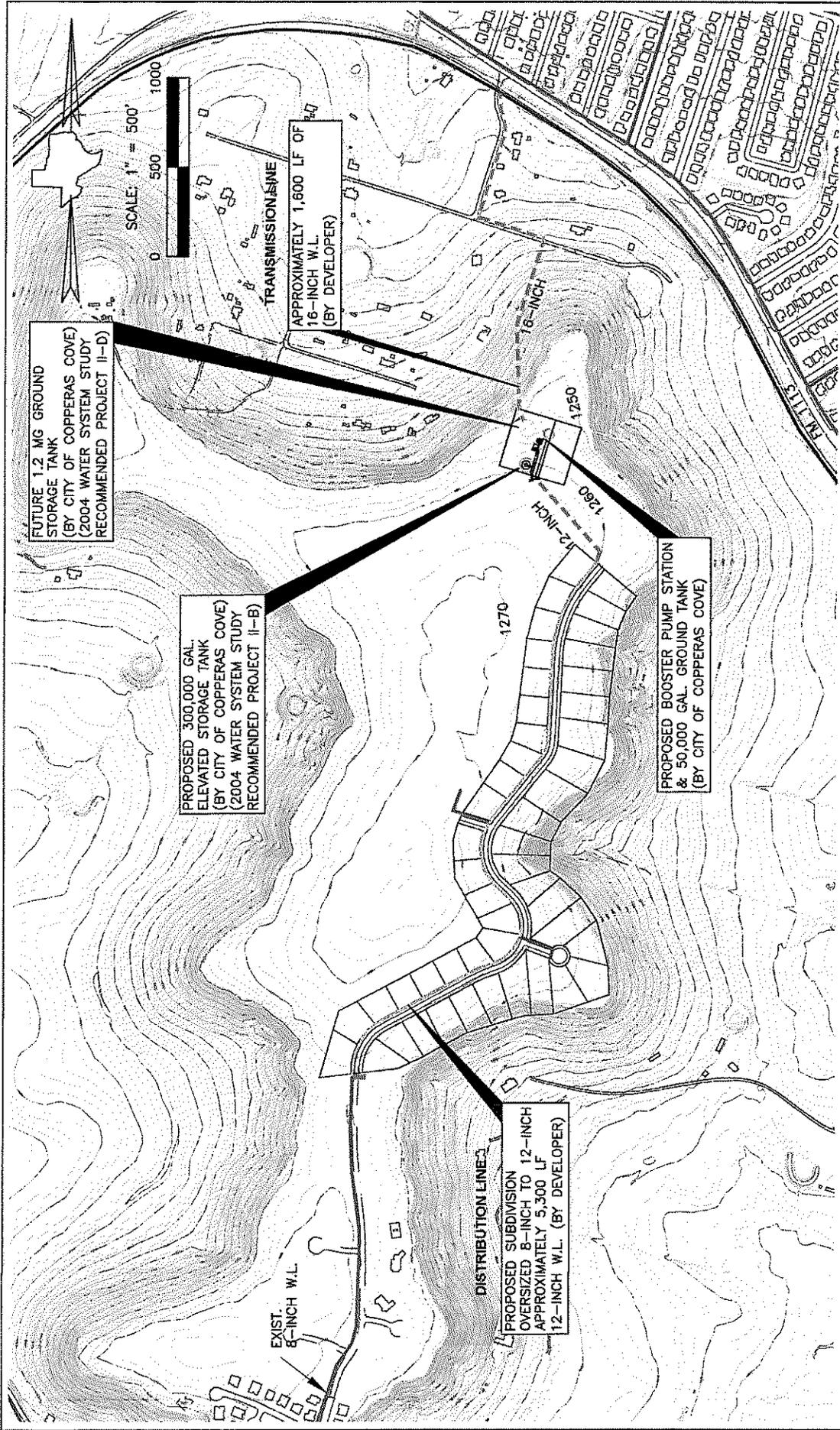
NO.	DESCRIPTION	DATE
1	PRELIMINARY PLAN	04-01-00
2	FINAL PLAN	04-01-00
3	REVISION 1	04-13-00
4	REVISION 2	04-13-00
5	REVISION 3	04-13-00
6	REVISION 4	04-13-00
7	REVISION 5	04-13-00
8	REVISION 6	04-13-00
9	REVISION 7	04-13-00
10	REVISION 8	04-13-00
11	REVISION 9	04-13-00
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96	REVISION 94	04-13-00
97	REVISION 95	04-13-00
98	REVISION 96	04-13-00
99	REVISION 97	04-13-00
100	REVISION 98	04-13-00
101	REVISION 99	04-13-00
102	REVISION 100	04-13-00

Final Plat for
MESA VERDE AT SKYLINE, PHASE II
 A SUBDIVISION IN THE
 CITY OF CORPUS CHRISTI, TEXAS
 DEVELOPED BY: **Mesa Verde Partnership**
 115 W. Highway 193
 Corpus Christi, Texas 78402

TURLEY ASSOCIATES, INC.
 ENGINEERING • PLANNING • SURVEYING
 CONSTRUCTION MANAGEMENT
 301 W. 2nd St. Corpus Christi, Texas 78402
 P.O. Box 10000 Corpus Christi, Texas 78402
 TEL: (361) 713-3393
 FAX: (361) 713-3393
 WWW.TURLEYMFG.COM

**DEVELOPMENT AND ANNEXATION AGREEMENT BETWEEN THE CITY OF
COPPERAS COVE AND MESA VERDE PARTNERS**

EXHIBIT D



MOUNTAIN TOP NORTH
WATER SERVICE PLAN UPDATE - 2011

CITY OF COPPERAS COVE

RIVER CITY ENGINEERING
AUSTIN, TEXAS
10000 RIVER CHASE DRIVE, SUITE 200
AUSTIN, TEXAS 78738
TEL: 512.444.1111 FAX: 512.444.1112
WWW.RIVERCITYENGINEERING.COM

**DEVELOPMENT AND ANNEXATION AGREEMENT BETWEEN THE CITY OF
COPPERAS COVE AND MESA VERDE PARTNERS**

EXHIBIT E

CITY OF COPPERAS COVE RIGHT-OF-WAY DEDICATION INSTRUMENT

STATE OF TEXAS §

COUNTY OF CORYELL §

For and in consideration of the sum of ten dollars (\$10.00) in hand paid by the City of Copperas Cove, Texas, the receipt of which is hereby acknowledged, and other good and valuable consideration, including the benefits that will accrue to my property, _____, of Coryell County, Texas, as the owner of that certain tract of land in Coryell County, Texas depicted by metes and bounds description in Exhibit "A", attached hereto and incorporated herein for all purposes of this dedication (the "ROW"), and as more particularly described by drawing as set forth in the "Drawing of Exhibit B", attached hereto and incorporated herein for all purposes of this dedication, do hereby dedicate same to the City of Copperas Cove, Coryell County, Texas for the use and benefit of the public as a perpetual right-of-way for the passage and accommodation of vehicular and pedestrian traffic, and the construction, operation, use, maintenance, inspection, repair, alteration, and replacement of a paved road within the boundaries of the ROW and for all other purposes for which a public street and right-of-way is commonly used, including installing, repairing, maintaining, altering, replacing, relocating and operating utilities in, into, upon, over, across, and under said ROW, and including but not limited to all such uses permitted by the Laws of the State of Texas and the Ordinances and Charter of the City of Copperas Cove, Texas.

TO HAVE AND TO HOLD said ROW unto the City of Copperas Cove, its successors and assigns, and GRANTOR(S) hereby bind(s) itself (themselves), its (their) successors and assigns to warrant and forever defend, all and singular, said premises unto the City of Copperas Cove, its successor: and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

GRANTOR covenants and agrees that GRANTOR and GRANTOR'S heirs, representatives, successors and assigns shall at no time erect, place or construct, or cause to be erected, placed or constructed in, into, upon, over, across or under the ROW granted herein any temporary or permanent structures, except as agreed to in writing by the City of Copperas Cove, and it is further agreed that the City of Copperas Cove shall have the right to excavate, fill and remove any fences, buildings or other obstructions as may now, or in the future, be found upon said Right of Way.

It is further intended that the ROW herein granted to the City of Copperas Cove shall run with the land and forever be a burden in and to the land belonging to GRANTOR, and GRANTOR'S successors and assigns, and said grant is expressly excepted from any right of reversion of said premises under any prior deeds in GRANTOR'S chain of title. The ROW rights and privileges granted herein are exclusive, and GRANTOR covenants that it will not convey any other easement or conflicting rights within the area covered by the grant to any other person.

IN WITNESS WHEREOF, this dedication instrument is executed this _____ day of _____, 20____.

BY: _____

GRANTOR

BY: _____

GRANTOR

ACKNOWLEDGEMENT

THE STATE OF TEXAS,

COUNTY OF _____

BEFORE ME, the undersigned authority in and for _____ County, Texas, on this day personally appeared _____ known to me or proved to me through _____ (description of identity card or other document) to be the same person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this _____ day of _____, 20____.

NOTARY SEAL

Notary Public, State of Texas

Notary's Name (Printed)

Notary's Commission Expires

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest and real property conveyed by this dedication instrument the _____ day of _____, 20____, from _____ to the CITY OF COPPERAS COVE, has

**DEVELOPMENT AND ANNEXATION AGREEMENT BETWEEN THE CITY OF
COPPERAS COVE AND MESA VERDE PARTNERS**

EXHIBIT F

BEING a 1.540 acre tract of land situated in the M. A. BOULDIN SURVEY, ABSTRACT No. 1303, Coryell County, Texas and being a part or portion of that certain 275.26 acre tract of land (EXHIBIT "A") described in a Warranty Deed with Vendor's Lien dated April 5, 1991 from The Citizens State Bank of Lometa to Copperland Inc. and being of record in Volume 499, Page 886, Official Public Records, Coryell County, Texas and being more particularly described by metes and bounds as follows:

BEGINNING at a 3/8" iron rod found being the northwest corner of the said 275.26 acre tract and being southwest corner of Tract No. 17, Bradford Oaks Ranch, an unrecorded subdivision in Coryell County, Texas and being in the east boundary line of Tract No. 20, said Bradford Oaks Ranch for corner;

THENCE S. 71° 17' 00" E., 178.36 feet departing the said Tract No. 20 and with the south boundary line of the said Tract No. 17 and the north boundary line of the said 275.26 acre tract (calls S. 70° 36' 26" E., 941.11 feet) to a 1/2" iron rod with cap stamped "RPLS #2475" set for corner;

THENCE departing the said Tract No. 17 and the said north boundary line and over and across the said 275.26 acre tract the following four (4) calls:

- 1) S. 19° 45' 01" W., 11.13 feet to a 1/2" iron rod with cap stamped "RPLS #2475" set for corner;
- 2) S. 01° 58' 22" E., 319.64 feet to a 1/2" iron rod with cap stamped "RPLS #2475" set being at the beginning of a non-tangent curve to the left having a radius equals 232.00 feet, chord bearing equals S. 73° 22' 15" W., 47.85 feet, central angle equals 11° 50' 21" for corner;
- 3) 47.94 feet along the arc of said curve to the left to a 1/2" iron rod with cap stamped "RPLS #2475" set for corner
- 4) N. 49° 37' 32" W., 272.24 feet to a 1/2" iron rod with cap stamped "RPLS #2475" set being in the east boundary line of Tract No. 30 of said Bradford Oaks Ranch and being in the west boundary line of the said 275.26 acre tract as fenced and evidenced on the ground for corner;

THENCE N. 19° 03' 53" E., 170.44 feet with the said east boundary line and the said west boundary line (calls N. 19° 03' 27" E., 667.95 feet) to a 1/2" iron rod found being the northeast corner of said Tract No. 30 and being the southeast corner of said Tract No. 20 Bradford Oaks Ranch for corner;

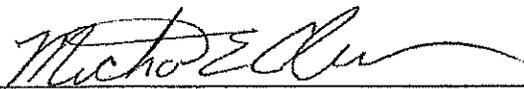


TURLEY ASSOCIATES, INC.

Page 1 of 2
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 301 NORTH 3RD STREET • TEMPLE, TEXAS 76601 • (254) 773-2400

THENCE N. 18° 39' 25" E., 66.92 feet departing the said Tract No. 30 and with the east boundary line of the said Tract No. 20 and continuing with the west boundary line of the said 275.26 acre tract to the Point of BEGINNING and containing 1.540 acres of land.

I, Michael E. Alvis, a Registered Professional Land Surveyor in the State of Texas, do hereby certify that these field notes are a correct representation of a survey made on the ground.



Michael E. Alvis, R.P.L.S. #5402
August 15, 2008

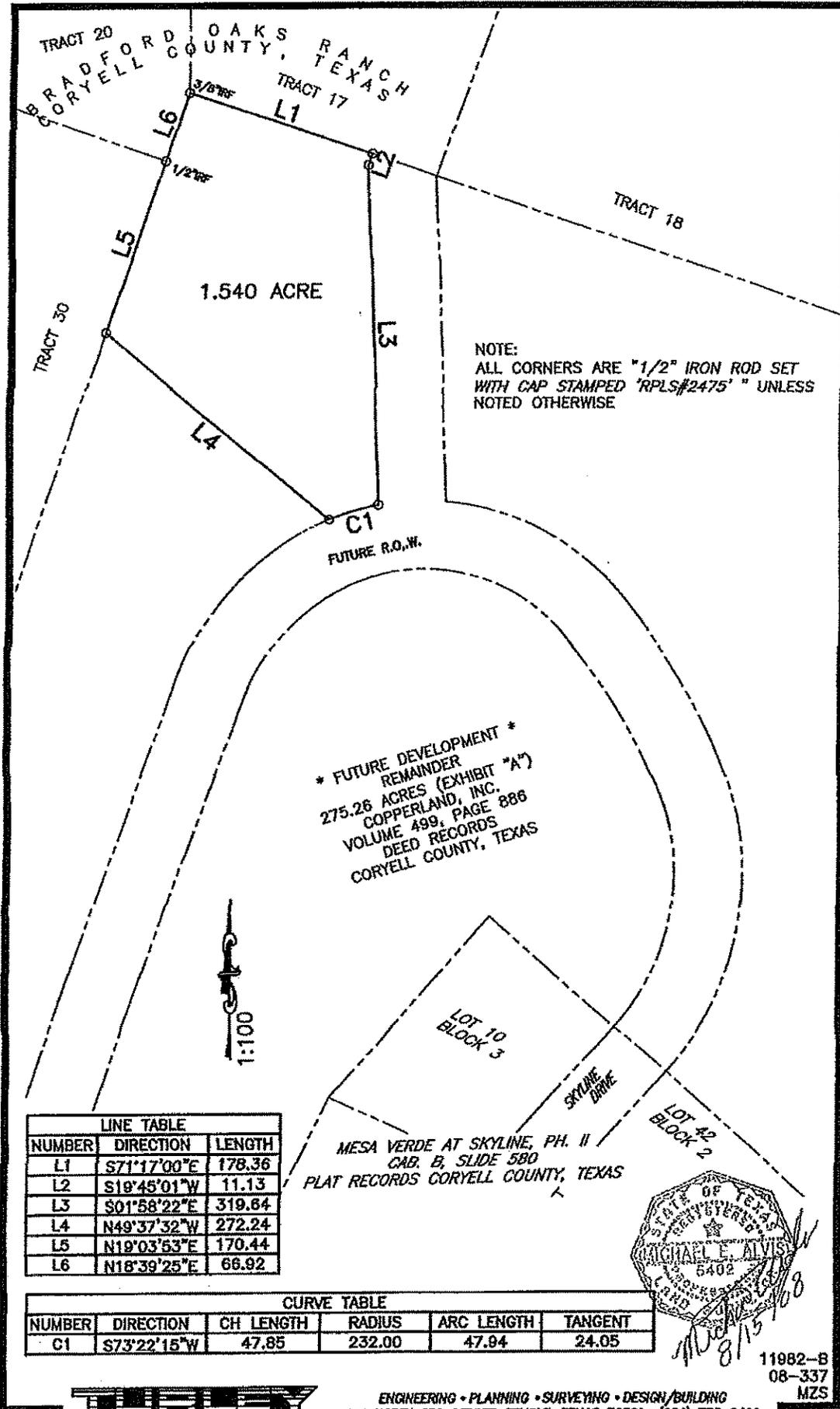


Bearing Base: N. 85° 46' 51" E., 439.34 feet north boundary line MESA VERDE AT SKYLINE SUBDIVISION of Coryell County, Texas being of record in Cabinet B, Slide 544, Plat Records of Coryell County, Texas.

See attached surveyors sketch, which accompanies this set of field notes (ref: drawing no. 11982-B).



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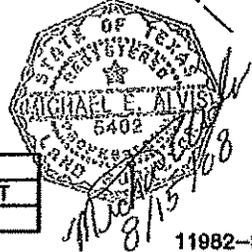


NOTE:
 ALL CORNERS ARE "1/2" IRON ROD SET
 WITH CAP STAMPED "RPLS#2475" UNLESS
 NOTED OTHERWISE

* FUTURE DEVELOPMENT *
 REMAINDER
 275.26 ACRES (EXHIBIT "A")
 COPPERLAND, INC.
 VOLUME 499, PAGE 886
 DEED RECORDS
 CORYELL COUNTY, TEXAS

LINE TABLE		
NUMBER	DIRECTION	LENGTH
L1	S71°17'00"E	178.36
L2	S19°45'01"W	11.13
L3	S01°58'22"E	319.64
L4	N49°37'32"W	272.24
L5	N19°03'53"E	170.44
L6	N18°39'25"E	66.92

CURVE TABLE					
NUMBER	DIRECTION	CH LENGTH	RADIUS	ARC LENGTH	TANGENT
C1	S73°22'15"W	47.85	232.00	47.94	24.05



11982-B
 08-337
 MZS



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**DEVELOPMENT AND ANNEXATION AGREEMENT BETWEEN THE CITY OF
COPPERAS COVE AND MESA VERDE PARTNERS**

EXHIBIT G

Agreement for Water and Sewer Utility Easement

Date: _____

Grantors: _____

Grantor's Mailing Address:

Grantee/Holder: City of Copperas Cove, Coryell County, a Texas municipal corporation.

Grantee's Mailing Address: P.O. Drawer 1449, Copperas Cove, Coryell County, Texas 76522

Easement Property: All that certain tract, piece or parcel of land, lying and being situated in the County of Coryell, State of Texas, described in EXHIBIT "A" attached hereto and made a part hereof for all purposes, to which reference is here made for a more particular description of said property.

Easement Purpose: For the installation, construction, maintenance, replacement, repair, and upgrade of Water and Sewer Utilities, hereinafter referred to as "Facilities".

Consideration: The benefits accruing to Grantor (and Grantor's successors and assigns), as the owner of the property of Grantor that currently adjoins, is adjacent to and/or contiguous to the Easement Property, by donation of the dedication of this easement, and the other benefits set forth herein and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by Grantor.

Reservations from Conveyance: None.

Exceptions to Warranty: This conveyance is made by Grantor and accepted by Grantee subject to any and all existing easements, covenants, rights-of-way, conditions, restrictions, outstanding mineral interests and royalty interests, if any, relating to the Easement Property, to the extent, and only to the extent, that the same may still be in force and effect, and either shown of record in the office of the County Clerk of Coryell County, Texas, or that may be apparent on the Easement Property.

Grant of Easement: Grantor, for the Consideration and subject to the Reservations from Conveyance and Exceptions to Warranty, grants, sells, and conveys to Grantee and Grantee's heirs, successors, and assigns an easement over, on, and across the Easement Property for the Facilities, together with all and singular the rights and appurtenances thereto in any way belonging (collectively, the "Easement"), to have and to hold the Easement to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs, successors, and assigns to warrant and forever defend the title to the Easement in Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the Easement or any part of the Easement, except as to the Reservations from Conveyance and Exceptions to Warranty to the extent that such claim arises by, through, or under Grantor but not otherwise.

Terms and Conditions: The following terms and conditions apply to the Easement granted by this agreement:

1. *Transfer of Easement.* The Easement rights herein granted shall pass to Grantee's successors and assigns, subject to all of the Terms hereof. The Easement rights of use granted herein are nonexclusive and irrevocable.

2. *Duration of easement.* The duration of the Easement is perpetual, unless and until it is relinquished or abandoned by ordinance by the City of Copperas Cove.
3. *Reservation of Rights.* Holder's right to use the Easement Property in nonexclusive, and Grantor and Grantor's heirs, successors, and assigns the right to use all or part of the Easement Property in conjunction with Holder as long as such use by Grantor and Grantor's heirs, successors, and assigns does not interfere with the use of the Easement Property by Holder for the Easement Purpose, or construct any building, structure or obstruction. The right to convey to others the right to use all or part of the Easement Property in conjunction with Holder, as long as such further conveyance is subject to the terms of this agreement.
4. *Secondary Easement.* Holder has the right (the "Secondary Easement") to use as much of the surface of the property that is adjacent to the Easement Property ("Adjacent Property") as may be reasonably necessary to install and maintain the Facilities within the Easement Property that are reasonably suited for the Easement Purpose. However, Holder must promptly restore the Adjacent Property to its previous physical condition if changed by use of the rights granted by this Secondary Easement.
5. *Improvement and Maintenance of Easement Property.* Improvement and maintenance of the Easement Property and the Facilities will be at the sole expense of Holder. Holder has the right to eliminate any encroachments into the Easement Property. Holder has the right to construct, install, maintain, replace, and remove the Facilities under or across any portion of the Easement Property. All matters concerning the Facilities and their configuration, construction, installation, maintenance, replacement, and removal are at Holder's sole discretion, subject to performance of Holder's obligations under this agreement. Holder has the right to remove or relocate any fences within the Easement Property or along or near its boundary lines if reasonably necessary to construct, install, maintain, replace, or remove the facilities. Grantee will replace the fence to original condition on the completion of work.
6. *Equitable Rights of Enforcement.* This Easement may be enforced by restraining orders and injunctions (temporary or permanent) prohibiting interference and commanding compliance. Restraining orders and injunctions will be obtainable on proof of the existence of interference or threatened interference, without the necessity of proof of inadequacy of legal remedies or irreparable harm, and will be obtainable only by the parties to or those benefited by this agreement; provided, however, that the act of obtaining an injunction or restraining order will not be deemed to be an election of remedies or a waiver of any other rights or remedies available at law or in equity.
7. *Attorney's Fees.* If either party retains an attorney to enforce this agreement, the party prevailing in litigation is entitled to recover reasonable attorney's fees and court and other costs.
8. *Binding Effect.* This agreement binds and inures to the benefit of the parties and their respective heirs, successors, and permitted assigns.
9. *Choice of Law.* This agreement will be construed under the laws of the state of Texas, without regard to choice-of-law rules of any jurisdiction. Venue is in the county or counties in which the Easement Property is located.
10. *Counterparts.* This agreement may be executed in any number of counterparts with the same effect as if all signatory parties had signed the same document. All counterparts will be construed together and will constitute one and the same instrument.

11. *Waiver of Default.* It is not a waiver of or consent to default if the nondefaulting party fails to declare immediately default or delays in taking any action. Pursuit of any remedies set forth in this agreement does not preclude pursuit of other remedies in this agreement or provided by law.
12. *Further Assurances.* Each signatory party agrees to execute and deliver any additional documents and instruments and to perform any additional acts necessary or appropriate to perform the terms, provisions, and conditions of this agreement and all transactions contemplated by this agreement.
13. *Integration.* This agreement contains the complete agreement of the parties and cannot be varied except by written agreement of the parties. The parties agree that there are no oral agreements, representations, or warranties that are not expressly set forth in this agreement.
14. *Legal Construction.* If any provision in this agreement is for any reason unenforceable, to the extent the unenforceability does not destroy the basis of the bargain among the parties, the unenforceability will not affect any other provision hereof, and this agreement will be construed as if the unenforceable provision had never been a part of the agreement. Whenever context requires, the singular will include the plural and neuter include the masculine or feminine gender, and vice versa. Article and section headings in this agreement are for reference only and are not intended to restrict or define the text of any section. This agreement will not be construed more or less favorably between the parties by reason of authorship or origin of language.
15. *Notices.* Any notice required or permitted under this agreement must be in writing. Any notice required by this agreement will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this agreement. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein.
16. *Recitals.* Any recitals in this agreement are represented by the parties to be accurate, and constitute a part of the substantive agreement.

Grantor

Grantor

ACKNOWLEDGMENTS

STATE OF TEXAS)
COUNTY OF CORYELL)

This instrument was acknowledged before me on _____, 20__ by
_____.

Notary Public, State of Texas

ACCEPTED:

The City of Copperas Cove

By: _____
Andrea Gardner, City Manager

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF CORYELL §

This instrument was acknowledged before me on this _____ day of _____, 20__ by Andrea Gardner City Manager of the City of Copperas Cove, a Texas Municipal Corporation, on behalf of said Municipal Corporation.

Notary Public, State of Texas

**DEVELOPMENT AND ANNEXATION AGREEMENT BETWEEN THE CITY OF
COPPERAS COVE AND MESA VERDE PARTNERS**

EXHIBIT H

PROPOSED MESA VERDE SPOIL EASEMENT DESCRIPTION

Beginning at the North Western most corner of proposed Mesa Verde Subdivision Phase II also being the North Western most property corner of the proposed City of Copperas Cove Mountain Top North Water Tank and Pump Station Site;

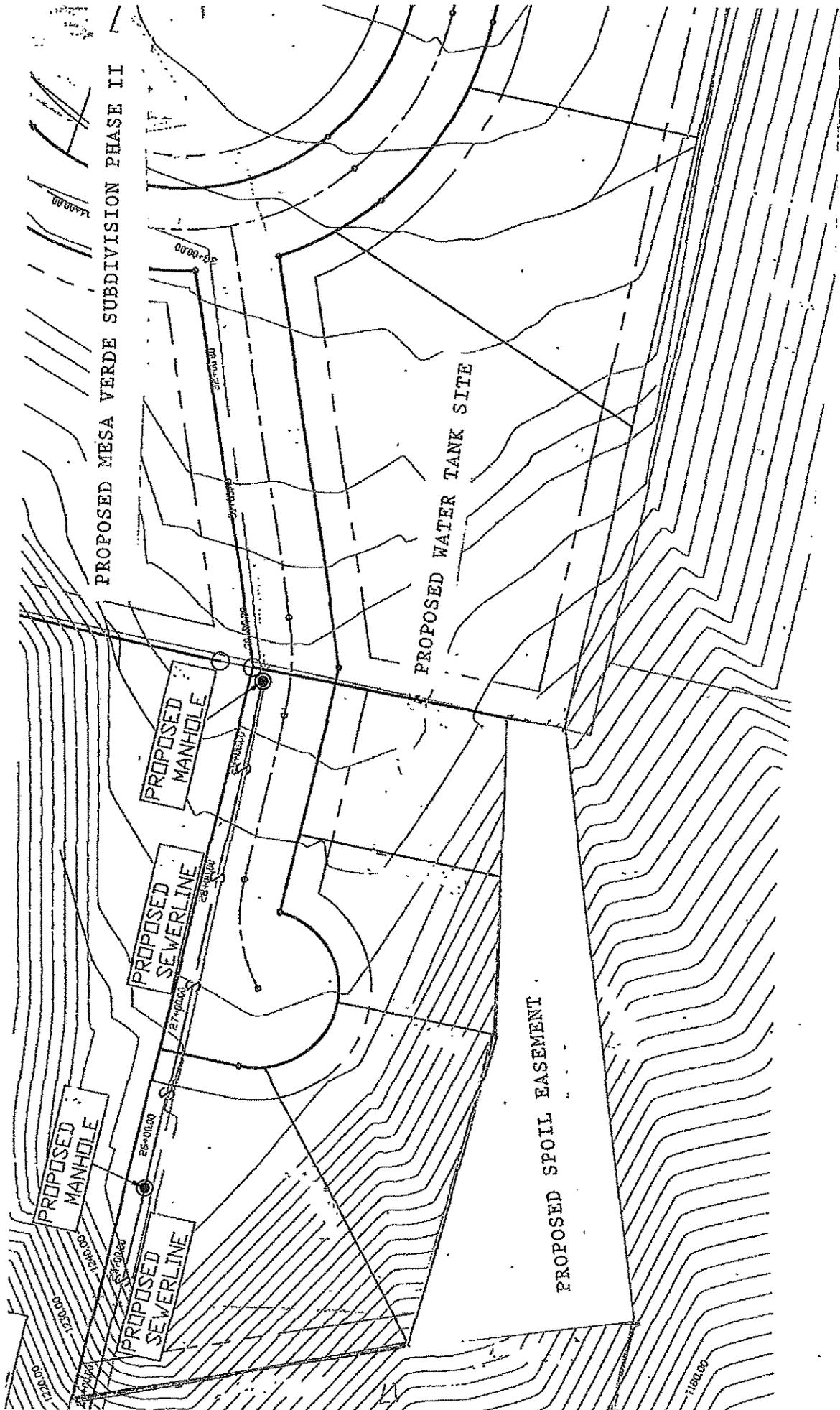
Thence N 00° 13' 24" W a distance of 460.10 feet to a point in the western most property line of Lot 17 Bradford Oaks Subdivision for a corner;

Thence N 89° 46' 36" E a distance of approximately 170 feet to a point for a corner;

Thence Southerly a distance of approximately 490 feet to a point in the northern most property line of the Proposed City of Copperas Cove Mountain Top North Water Tank and Pump Station Site for a corner;

Thence N 71° 17' 00" W a distance of 40.00 feet to the place of beginning in all consisting of aspproximately 1.15 Acres

The End



City Council Regular

I. 5.

Meeting Date: 10/04/2011

Contact: Wesley Wright, Div. Head of Public Works/City Engineer

SUBJECT

Consideration and action on authorizing the City Manager to enter into a Sewer Construction Agreement between the City of Copperas Cove and Mesa Verde Partners. **Wesley Wright, P.E., Division Head of Public Works/City Engineer**

BACKGROUND/HISTORY

The initial phase of the Mesa Verde residential development is not served by City sewer. In addition, City sewer is not readily available to serve the proposed Mesa Verde, Phase 2 residential development.

FINDINGS/CURRENT ACTIVITY

The attached agreement provides provisions that will allow the 61 lots of the proposed future Mesa Verde, Phase 2 residential development to connect to the City's sewer system. Any connections over the previously mentioned 61 lots will require separate consideration.

Under the terms of the agreement, Mesa Verde partners will be allowed to temporarily connect to an existing sanitary sewer line serving the Western Hills subdivision located north of FM 1113. The agreement also requires Mesa Verde partners to acquire all necessary easements and pay all construction costs associated with the connection.

ACTION OPTIONS/RECOMMENDATION

City staff recommends the City Council authorize the City Manager to enter into a Sewer Construction Agreement between the City of Copperas Cove and Mesa Verde Partners.

Fiscal Impact

FINANCIAL IMPACT:

None

Attachments

Agreement

Exhibits

STATE OF TEXAS §
 §
COUNTY OF CORYELL §

**SEWER CONSTRUCTION AGREEMENT BETWEEN THE CITY OF COPPERAS
COVE AND MESA VERDE PARTNERS**

This Sewer Construction Agreement (the "Agreement") is made and entered into as of the ____ day of _____, 2011 (the "Effective Date") by and between the **CITY OF COPPERAS COVE, TEXAS**, a Texas home rule city and municipal corporation (the "City"), and **MESA VERDE PARTNERS**, a _____, (the "Developer") The City and the Developer are sometimes referred to herein as the "Parties." The Parties agree as follows.

**I.
Declarations**

- 1.01. WHEREAS, the Developer owns that certain tract of land more particularly described in **Exhibit A** attached hereto and here incorporated for all purposes, herein referred to as the "Property";
- 1.02. WHEREAS, the Developer and the City have entered into a Development and Annexation Agreement for the development and annexation of the Property.
- 1.03. WHEREAS, the Developer currently desires access to City sewer services via a sewer line located near the Western Hills Subdivision, more particularly described in the attached **Exhibit B**, herein referred to as the "Western Hills Sewer Line";
- 1.04. WHEREAS, in the future, the City will consider amending the Capital Improvement Plan to provide for a new sanitary sewer line to ultimately be constructed to serve the Property, herein referred to as the "CIP Sewer Line";
- 1.05. WHEREAS, the City will benefit from this Agreement by virtue of the certainty that the Property will be sufficiently served with sewer services;
- 1.06. WHEREAS, the Developer will benefit from this Agreement by virtue of the fact that they will have increased sewer capacity to further develop the Property;
- 1.07. WHEREAS, the benefits to the Parties set forth in Sections 1.05 and 1.06 above, plus the mutual promises expressed herein, are good and valuable consideration for this Agreement, the sufficiency of which is hereby acknowledged by both Parties.
- 1.08. It is the intent of the Parties under this agreement that the City shall not bear any costs associated with the Property being connected to either the Western Hills Sewer Line or the CIP Sewer Line.

II.
Commitments of the Developer

- 4.01. The Developer agrees and understands that Developer is limited to a total of 61 single family homes for connection to the existing Western Hills Sewer Line from the Property.
- 4.02. The Developer agrees and understands that the costs associated with connecting to the existing Western Hills Sewer Line, including but not limited to acquisition of easements and costs of design and construction, are the liability and obligation of the Developer.
- 4.03. The Developer understands that any connection, other than the sewer manhole shown in **Exhibit “B”**, will result in future costs to connect to the CIP Sewer Line.
- 4.04. The Developer agrees that any connection, other than the sewer manhole shown in **Exhibit “B”**, will be subject to City approval and will require a separate agreement.

III.
Commitments of the City

- 5.01. The City agrees to allow Developer to connect 61 single family homes to the existing Western Hill Sewer Line at the sewer manhole shown in **Exhibit “B”**.
- 5.02. The City agrees that connecting to sewer manhole shown in **Exhibit “B”** will result in no significant connection cost to the CIP Sewer Line.
- 5.03. The City agrees that Developer will be responsible for connection costs resulting from any sewer connection, other than the sewer manhole shown in **Exhibit “B”** through a separate agreement.

IV.
Entire Agreement/Severability

- 11.01. This Agreement, together with any exhibits attached hereto, constitutes the entire agreement between Parties with respect to its subject matter, and may not be amended except by a writing signed by all Parties and dated subsequent to the date hereof.
- 11.02. If any provision of this Agreement is found to be unenforceable by a court of law having jurisdiction over the Parties, the remainder of the Agreement shall remain in force, unless the elimination of the unenforceable provision substantially deprives one or both Parties of the benefits of this Agreement.

V.
Effective Date

- 12.01. This Agreement shall be effective as of the date stated in the opening paragraph, which shall be inserted upon the execution by both Parties and approval by the City Council.

**VI.
Recordation**

13.01. This Agreement or a memorandum of this Agreement acceptable to City and Developer shall be recorded in the Official Public Records of Coryell County.

**VII.
Law and Venue**

14.01. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas with venue located in Coryell County.

**VIII.
Cooperation and Third-Party Litigation**

16.01. The City and the Developer each agree to execute such further documents or instruments as may be necessary to evidence their agreements hereunder.

16.02. In the event of any third party lawsuit or other claim relating to the validity of this Agreement or any actions taken by the Parties hereunder, the Developer and the City agree to cooperate in the defense of such suit or claim, and to use their respective best efforts to resolve the suit or claim without diminution of their respective rights and obligations under this Agreement.

**IX.
Construction of Agreement**

17.01 All exhibits attached to this Agreement are incorporated into and made a part of this Agreement for all purposes. The paragraph headings contained in this Agreement are for convenience only and do not enlarge or limit the scope or meaning of the paragraphs. Wherever appropriate, words of the masculine gender may include the feminine or neuter, and the singular may include the plural, and vice-versa. Each of the Parties has been actively and equally involved in the negotiation of this Agreement. Accordingly, the rule of construction that any ambiguities are to be resolved against the drafting Party will not be employed in interpreting this Agreement or its exhibits. This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original, and all of which will together constitute the same instrument. This Agreement will become effective only when one or more counterparts, individually or taken together, bear the signatures of all of the Parties.

X.
Authorization

18.01. The City certifies, represents, and warrants that the execution of this Agreement has been duly authorized and that this Agreement has been approved in conformity with City ordinances and other applicable legal requirements. The Developer certifies, represents, and warrants that the execution of this Agreement is duly authorized in conformity with their authority.

EXECUTED in multiple originals and effective as of the ____ day of _____, 2011.

CITY OF COPPERAS COVE, TEXAS

By: _____
John Hull, Mayor

MESA VERDE PARTNERS

By: _____
Name: _____, Title

THE STATE OF TEXAS §
§
COUNTY OF CORYELL §

This instrument was acknowledged before me on the ____ day of _____, 2011, by John Hull, Mayor of **THE CITY OF COPPERAS COVE, TEXAS**, a Texas municipal corporation, on behalf of said city.

NOTARY PUBLIC, State of Texas

THE STATE OF TEXAS §
§
COUNTY OF CORYELL §

This instrument was acknowledged before me on the ____ day of _____, 2011, by _____, _____ of Mesa Verde Partners.

NOTARY PUBLIC, State of Texas

**SEWER CONSTRUCTION AGREEMENT BETWEEN THE CITY OF COPPERAS
COVE AND MESA VERDE PARTNERS**

EXHIBIT A

MESA VERDE AT SKYLINE, PHASE II

BEING a 63.024 acre tract of land situated in the M. A. BOULDIN SURVEY, ABSTRACT No. 1303, the SARAH FUQUA SURVEY, ABSTRACT No. 1040, and the J. P. FUDGE SURVEY, ABSTRACT No. 1412, all in Coryell County, Texas and being a part or portion of that certain 275.26 acre tract of land (EXHIBIT "A") described in a Warranty Deed with Vendor's Lien dated April 5, 1991 from The Citizens State Bank of Lometa to Copperland Inc. and being of record in Volume 499, Page 886, Deed Records of Coryell County, Texas and being a part or portion of that certain 65.269 acre tract of land (EXHIBIT "A") described in a Warranty Deed dated September 9, 1996 from JWC, Inc. to DDA Partnership and being of record in Document No. 110117, Official Public Records of Coryell County, Texas and being a part or portion of that certain Tract No. 17, Bradford Oaks Ranch, an unrecorded subdivision in Coryell County, Texas and being more particularly described by metes and bounds as follows:

BEGINNING at a ½" iron rod found being the northeast corner (calls ½" iron rod) of the MESA VERDE AT SKYLINE SUBDIVISION of Coryell County, Texas and being of record in Cabinet B, Slide 544, Plat Records of Coryell County, Texas for corner;

THENCE S. 85° 46' 51" W., 439.34 feet with the north boundary line of the said MESA VERDE AT SKYLINE SUBDIVISION to a ½" iron rod found (calls ½" iron rod) being the northwest corner of the said MESA VERDE AT SKYLINE SUBDIVISION and being in the west boundary line of the said 275.26 acre tract and being in the east boundary line of that certain 251.000 acre tract of land described in a Deed to Raiford Williams being of record in Volume 271, Page 277, Deed Records of Coryell County, Texas for corner;

THENCE N. 18° 18' 36" E., 386.94 feet departing the said MESA VERDE AT SKYLINE SUBDIVISION and with the said east and west boundary lines to a ½" iron rod with cap stamped "RPLS 2475" set for corner;

THENCE departing the said east and west boundary lines and over and across the said 275.26 acre tract and the said 65.269 acre tract the following seventeen (17) calls:

- (1) N. 64° 09' 46" E., 871.87 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (2) N. 38° 03' 01" E., 67.86 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (3) N. 28° 26' 48" W., 321.66 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (4) N. 00° 52' 37" W., 213.55 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (5) N. 17° 49' 14" E., 102.98 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;



- (6) N. 28° 17' 33" E., 64.79 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (7) N. 37° 00' 32" E., 362.41 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (8) N. 33° 15' 59" E., 122.72 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (9) N. 18° 32' 40" E., 107.57 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (10) N. 08° 36' 48" E., 478.11 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (11) N. 16° 43' 28" E., 184.19 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (12) N. 25° 39' 26" E., 189.93 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (13) N. 41° 15' 34" E., 226.05 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (14) N. 53° 09' 45" W., 85.36 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (15) N. 70° 14' 29" W., 203.52 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (16) S. 19° 45' 31" W., 9.86 feet to a ½" iron rod with cap stamped "RPLS 2475" set for corner;
- (17) N. 71° 28' 31" W., 234.29 feet to a ½" iron rod with cap stamped "RPLS 2475" set being in the west boundary line of the said 276.26 acre tract and being in the east boundary line of that certain Tract No. 30, Bradford Oaks Ranch, an unrecorded subdivision in Coryell County, Texas for corner;

THENCE N. 19° 03' 53" E., 556.03 feet (calls N. 19° 03' 27" E., 667.95 feet in Volume 499, Page 886) with the easterly boundary line of the said Tract No. 30, Bradford Oaks Ranch and with the westerly boundary line of the said 276.26 acre tract as fenced and evidenced on the ground to a ½" iron rod found being the northeast corner of the said Tract No. 30, Bradford Oaks Ranch and being the southeast corner of Tract No. 20, said Bradford Oaks Ranch for corner;

THENCE N. 18° 39' 25" E., 66.92 feet departing the said Tract No. 30 and with the

Page 2 of 5



easterly boundary line of the said Tract No. 20 and continuing with the said westerly boundary line of the said 275.26 acre tract as fenced and evidenced on the ground to a 3/8" iron rod found at a fence corner post being an angle point in the easterly boundary line of the said Tract No. 20 and being the southwest corner of Tract No. 17, said Bradford Oaks Ranch and being the northwest corner of the said 275.26 acre tract for corner;

THENCE N. 00° 13' 24" W., 460.10 feet departing the said 275.26 acre tract and with the easterly boundary line of said Tract No. 20 and the westerly boundary line of said Tract No. 17 to a 3/8" iron rod found at a fence corner post being the northeast corner of the said Tract No. 20 and being the southeast corner of that certain Tract No. 16, said Bradford Oaks Ranch and being an angle point in the westerly boundary line of the said Tract No. 17 for corner;

THENCE departing the said northeast corner of Tract No. 20 and the said southeast corner of the said Tract No. 16 and over and across the said Tract No. 17, Bradford Oaks Ranch the following two (2) calls:

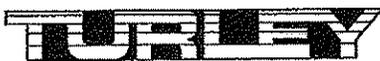
- 1) S. 89° 46' 00" E., 179.79 feet to a 1/2" iron rod with cap stamped "RPLS #2475" set for corner;
- 2) N. 88° 03' 37" E., 247.55 feet to a 1/2" iron rod with cap stamped "RPLS #2475" set being in the easterly boundary line of the said Tract No. 17 and being in the westerly boundary line of Tract No. 18, Bradford Oaks Ranch for corner;

THENCE S. 19° 45' 01" W., 579.61 feet with the easterly boundary line of the said Tract No. 17, Bradford Oaks Ranch and the westerly boundary line of the said Tract No. 18 to a 3/8" iron rod found being the southeast corner of the said Tract No. 17 and the southwest corner of the said Tract No. 18 and being in the northerly boundary line of the said 275.26 acre tract for corner;

THENCE S. 70° 52' 02" E., 396.21 feet departing the said Tract No. 17 and with the southerly boundary line of the said Tract No. 18 and the northerly boundary line of the said 275.26 acre tract as fenced and evidenced on the ground (calls S. 70° 36' 26" E., 941.11 feet in Volume 499, Page 886) to a 3/8" iron rod found being the southeast corner of the said Tract No. 18 and being the southwest corner of Tract No. 19, Bradford Oaks Ranch for corner;

THENCE S. 69° 46' 15" E., 303.54 feet departing the said Tract No. 18 and with the southerly boundary line of the said Tract No. 19 and continuing with the northerly boundary line of the said 275.26 acre tract as fenced and evidenced on the ground to a flagged 60d nail found at a fence corner post being the southeast corner of the said Tract No. 19 and being northeast corner of the said 275.26 acre tract and being in the westerly boundary line of the aforementioned 65.269 acre tract for corner;

THENCE departing the said Tract No. 19 Bradford Oaks and over and across the said 65.269 acre tract and continuing over and across the said 275.26 acre tract the following twenty-four (24) calls:



- 1) S. $69^{\circ} 32' 57''$ E., 107.99 feet to a $\frac{1}{2}$ " iron rod with cap stamped "RPLS #2475" set for corner;
- 2) S. $18^{\circ} 48' 41''$ W., 483.62 feet to a $\frac{1}{2}$ " iron rod with cap stamped "RPLS #2475" set for corner;
- 3) S. $19^{\circ} 52' 20''$ W., 118.66 feet to a $\frac{1}{2}$ " iron rod with cap stamped "RPLS #2475" set for corner;
- 4) S. $47^{\circ} 26' 22''$ W., 233.49 feet to a $\frac{1}{2}$ " iron rod with cap stamped "RPLS #2475" set for corner;
- 5) S. $36^{\circ} 09' 28''$ W., 106.82 feet to a $\frac{1}{2}$ " iron rod with cap stamped "RPLS 2475" set for corner;
- 6) S. $25^{\circ} 06' 17''$ W., 109.19 feet to a $\frac{1}{2}$ " iron rod with cap stamped "RPLS 2475" set for corner;
- 7) S. $08^{\circ} 23' 15''$ W., 382.36 feet to a $\frac{1}{2}$ " iron rod with cap stamped "RPLS 2475" set for corner;
- 8) S. $04^{\circ} 32' 25''$ W., 161.31 feet to a $\frac{1}{2}$ " iron rod with cap stamped "RPLS 2475" set for corner;
- 9) S. $06^{\circ} 54' 52''$ W., 200.48 feet to a $\frac{1}{2}$ " iron rod with cap stamped "RPLS 2475" set for corner;
- 10) S. $29^{\circ} 42' 20''$ W., 207.14 feet to a $\frac{1}{2}$ " iron rod with cap stamped "RPLS 2475" set for corner;
- 11) S. $45^{\circ} 17' 37''$ W., 221.29 feet to a $\frac{1}{2}$ " iron rod with cap stamped "RPLS 2475" set for corner;
- 12) S. $29^{\circ} 07' 23''$ W., 124.18 feet to a $\frac{1}{2}$ " iron rod with cap stamped "RPLS 2475" set for corner;
- 13) S. $03^{\circ} 44' 25''$ W., 158.11 feet to a $\frac{1}{2}$ " iron rod with cap stamped "RPLS 2475" set for corner;
- 14) S. $52^{\circ} 43' 22''$ E., 72.03 feet to a $\frac{1}{2}$ " iron rod with cap stamped "RPLS 2475" set for corner;
- 15) S. $44^{\circ} 50' 28''$ E., 162.33 feet to a $\frac{1}{2}$ " iron rod with cap stamped "RPLS 2475" set for corner;
- 16) S. $31^{\circ} 42' 36''$ E., 153.01 feet to a $\frac{1}{2}$ " iron rod with cap stamped "RPLS 2475" set for

Page 4 of 5



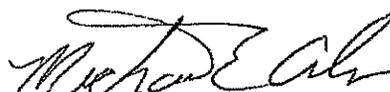
TURLEY ASSOCIATES, INC.

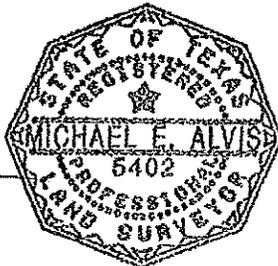
ENGINEERING • PLANNING • SURVEYING • DESIGN/BUILDING
301 NORTH 3RD STREET • TEMPLE, TEXAS 76501 • (254) 773-2400

corner;

- 17) S. $11^{\circ} 52' 58''$ E., 266.34 feet to a $\frac{1}{2}$ " iron rod with cap stamped "RPLS 2475" set for corner;
- 18) S. $01^{\circ} 36' 50''$ E., 161.36 feet to a $\frac{1}{2}$ " iron rod with cap stamped "RPLS 2475" set for corner;
- 19) S. $71^{\circ} 50' 33''$ W., 129.21 feet to a $\frac{1}{2}$ " iron rod with cap stamped "RPLS 2475" set for corner;
- 20) S. $73^{\circ} 54' 09''$ W., 203.59 feet to a $\frac{1}{2}$ " iron rod with cap stamped "RPLS 2475" set for corner;
- 21) S. $89^{\circ} 47' 18''$ W., 157.11 feet to a $\frac{1}{2}$ " iron rod with cap stamped "RPLS 2475" set for corner;
- 22) S. $75^{\circ} 57' 35''$ W., 341.02 feet to a $\frac{1}{2}$ " iron rod with cap stamped "RPLS 2475" set for corner;
- 23) S. $64^{\circ} 09' 46''$ W., 283.39 feet to a $\frac{1}{2}$ " iron rod with cap stamped "RPLS 2475" set for corner;
- 24) S. $67^{\circ} 33' 28''$ W., 160.20 feet to the Point of BEGINNING and containing 63.024 acres of land.

I, Michael E. Alvis, a Registered Professional Land Surveyor in the State of Texas, do hereby certify that these field notes are a correct representation of a survey made on the ground.


 Michael E. Alvis, R.P.L.S.#5402
 September 19, 2011



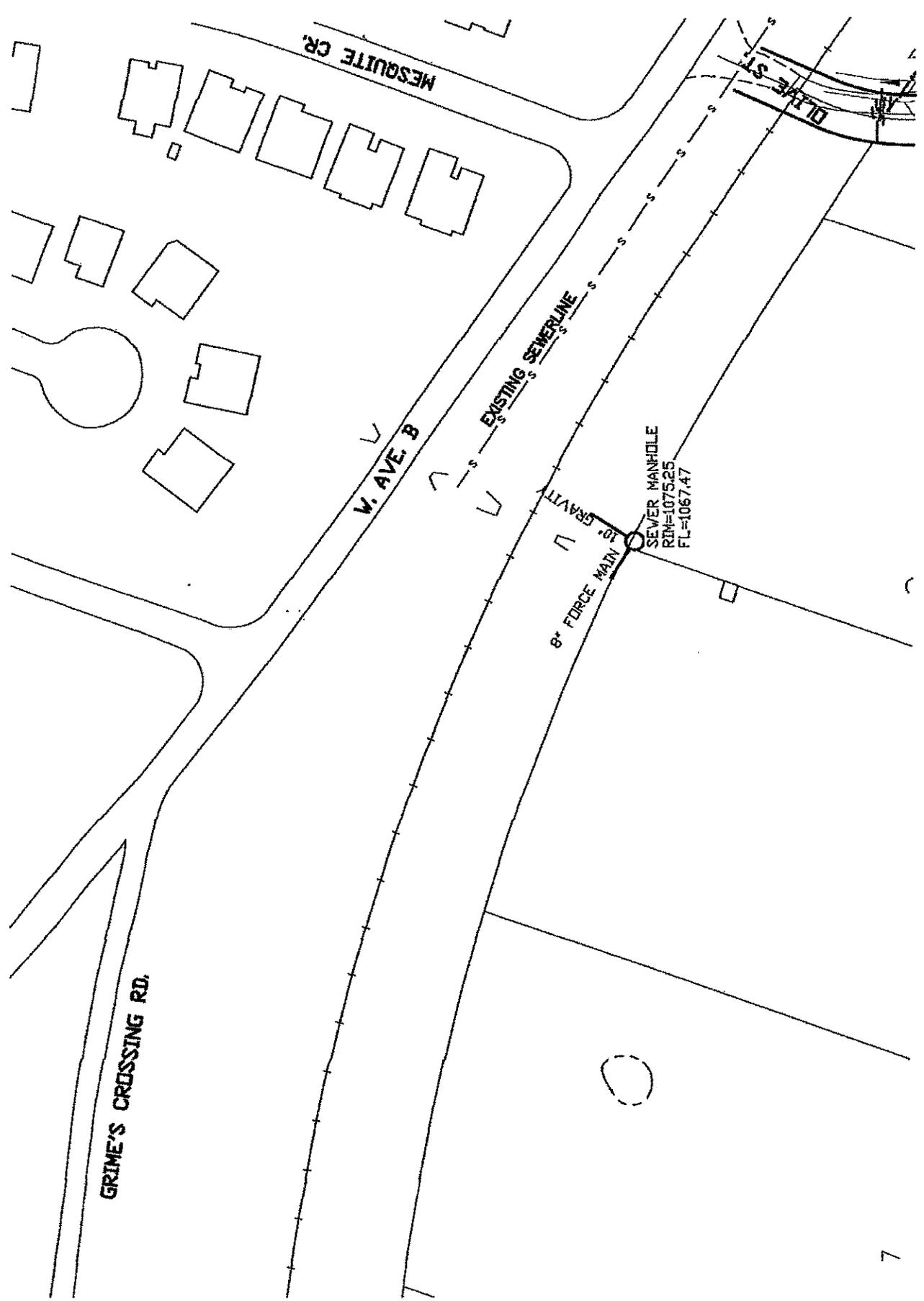
Bearing base: N. $85^{\circ} 46' 51''$ E., 439.34 feet north boundary line MESA VERDE AT SKYLINE SUBDIVISION of Coryell County, Texas being of record in Cabinet B, Slide 544, Plat Records of Coryell County, Texas.

See attached surveyors sketch that accompanies this set of field notes.

Page 5 of 5

**SEWER CONSTRUCTION AGREEMENT BETWEEN THE CITY OF COPPERAS
COVE AND MESA VERDE PARTNERS**

EXHIBIT B



GRIME'S CROSSING RD.

MESQUITE CR.

V. AVE. B

EXISTING SEWERLINE

8" FORCE MAIN TO GRAVITY

SEWER MANHOLE
RIM=1075.25
FL=1067.47

DL 1/2"

Meeting Date: 10/04/2011

Contact: Andrea Gardner, City Manager

SUBJECT

Discussion and action on the approval of a settlement agreement between the City of Copperas Cove and Freddie A. Dewald in the lawsuit styled City of Copperas Cove, Texas v. Freddie & Joan Dewald... Cause No. 11-9977, In the County Court at Law of Coryell County, Texas; dismissal of lawsuit, a direct purchase of the subject permanent utility easement and two temporary construction easements from Mr. Freddie A. Dewald and authority for City Manager to execute all settlement and easement documents.

Andrea M. Gardner, City Manager

BACKGROUND/HISTORY

The installation of a 30-inch sewer line from Highway 190 to the Northeast Wastewater Treatment facility, the replacement of an undersized 15-inch transmission line with a 24-inch line and installation of a lift station to be located in place of the existing lift station located next to Arby's restaurant were recommended by City staff in order to design work for the Northeast Sewer Line (Eastside Infrastructure) project to enhance the development of the Copperas Cove Business Park and to further improve the general welfare, health and public safety of the citizens of Copperas Cove.

In November 2008, the voters of Copperas Cove approved a bond proposition authorizing the issuance of debt for the water and sewer infrastructure needs on the east end of the City.

In October 2010, the City Council adopted a Five-Year Capital Improvements Plan which included the Northeast Sewer Line project.

In December 2009, the City Manager was authorized to provide a written offer to Mr. Freddie Dewald for a permanent water/wastewater easement and a temporary construction easement that is necessary for project completion. Thus, on December 22, 2009, an offer letter was provided by certified mail/return receipt requested to Mr. Dewald.

On January 19, 2010, the City Council authorized the execution of the construction contracts for Phase I of the project, thus the Dewald easement is critical to the completion of Phase I.

A reply from Fred Dewald, dated January 29, 2010, was received by the City Manager on January 30, 2010 as an attachment to an email (see attached). Due to the response, staff recommended proceeding with the condemnation process to acquire the required easements. As such, Council authorized the City Manager to proceed with condemnation on February 16, 2010. Furthermore, the Council authorized the City Manager to proceed with offer letters for additional easements required to complete the entire project.

In February 2010, City Administration requested River City Engineering receive and evaluate the professional credentials of land appraisal firms. As a result, the City engaged Lone Star Appraisals & Realty, Inc. in Cedar Park, TX to complete the required land appraisal for the Dewald property.

A completed Real Estate Summary Appraisal Report was completed by Lone Star Appraisals & Realty, Inc. and forwarded to the City Manager on September 7, 2010. Upon receipt of the appraisal report, the City Manager notified the City Attorney to determine the next step in the condemnation process. Thus, on October 5, 2010, the City Attorney presented the Council with a resolution authorizing the construction of the Northeast Sewer Line (Eastside Infrastructure) project; determining the public necessity; authorizing the acquisition of property rights necessary for the project; authorizing and ratifying the appointment of an appraiser and negotiator as necessary; authorizing the City Manager to establish just compensation for

the property right to be acquired; authorizing the City Manager to take all steps necessary to acquire the needed property rights in compliance with all applicable laws and regulations, including making a final offer for the purchase of the property. The governing body approved the resolution after discussion.

Since, October 5, 2010, the City Attorney and City Manager have worked with the attorney representing Freddie A. and Joan Dewald to settle the easement issue. Although the negotiations were unsuccessful, a discovery was made by the City Attorney that the resolution and the appraisal completed only included the permanent easement for the construction project and did not include the temporary construction easements also need for the project. Thus, the appraisal was required to be completed including the temporary easements required. As such, on July 13, 2011 the completed appraisal was received by City staff and forwarded to the City Attorney. To ensure the City meets all requirements for condemnation, the Council approved a resolution on August 16, 2011 which included the temporary construction easements critical to the project.

FINDINGS/CURRENT ACTIVITY

The City Attorney, City Manager and project engineer met with the legal counsel for Mr. Dewald on August 29, 2011 at the request of Mr. Dewald's legal counsel. The meeting was not successful in generating an offer for Council consideration. Thus, on September 6, 2011, the Council met in executive session with the City Attorney to discuss the August 29, 2011 meeting and provide direction. On August 30, 2011, the City Manager filed a condemnation suit in Coryell County. Since the date of filing, Mr. Dewald presented the City with the attached offer in the form of a resolution.

ACTION OPTIONS/RECOMMENDATION

City staff recommends the City Council adopt Resolution No. 2011-30, supplementing Resolution No. 2010-37 adding two temporary construction easements to the amount of property to be acquired from Freddie A. and Joan Dewald.

Fiscal Impact

Funds available Y/N?: N

FINANCIAL IMPACT:

See attached settlement documents.

Attachments

Settlement Documents

CIP Summary Report

VANCE DUNNAM
BOARD CERTIFIED-FAMILY LAW
VANCE DUNNAM, JR.
BOARD CERTIFIED-ESTATE PLANNING AND PROBATE LAW
BOARD CERTIFIED-RESIDENTIAL REAL ESTATE LAW
BOARD CERTIFIED-COMMERCIAL REAL ESTATE LAW
JIM DUNNAM
BOARD CERTIFIED-CIVIL TRIAL LAW
BOARD CERTIFIED-FAMILY LAW
JOHN MABRY, JR.
BOARD CERTIFIED-PERSONAL INJURY TRIAL LAW
BOB ANGEL
BOARD CERTIFIED-FAMILY LAW
THOMAS C. WEST
BOARD CERTIFIED-CRIMINAL LAW
MERRILEE L. HARMON
BOARD CERTIFIED-FAMILY LAW
CHRISTIE RYAN

DUNNAM & DUNNAM, L.L.P.
ATTORNEYS AT LAW

RECEIVED
SEP 30 2011
W. V. DUNNAM
(1891-1974)
W. V. DUNNAM, JR.
(1927-2006)
4125 WEST WACO DRIVE
WACO, TEXAS 76710
TELEPHONE (254) 753-6437
FAX (254) 753-7434
MAILING ADDRESS:
P.O. BOX 8418
WACO, TEXAS 76714-8418
WEBSITE: DUNNAMLAWFIRM.COM

Scanned
K

September 27, 2011

Ms. Jameene Banks
2517 North Main Avenue
San Antonio, Texas 78212

Dear Jameene:

I am enclosing the settlement agreement and three easements which have all been signed by Mr. Dewald and properly acknowledged. It is my understanding that you will obtain the signature of the City of Copperas Cove and will return a copy of the completed instruments to me along with a check for \$20,000.00 pursuant to our agreement.

If there is any question, please do not hesitate in calling.

Yours truly,

DUNNAM & DUNNAM, L.L.P.



Vance Dunnam

VD/ks

Enclosures

COPPERAS COVE, TEXAS	§	IN THE COUNTY COURT
Plaintiff	§	
	§	
V.	§	COUNTY COURT AT LAW
	§	
FREDDIE DEWALD and	§	
JOAN DEWALD	§	
	§	
IN RE: 0.87 AND 2.75 ACRES	§	
SITUATED IN THE CITY OF	§	
COPPERAS COVE, CORYELL	§	
COUNTY, TEXAS OUT OF THE	§	
W. P. HARDEMAN SURVEY,	§	
ABSTRACT 454	§	
Defendants	§	CORYELL COUNTY, TEXAS

SETTLEMENT AND RELEASE AGREEMENT

The PARTIES to this Settlement and Release Agreement are as follows:

- a. "PLAINTIFF" – singular or plural refers to THE CITY OF COPPERAS COVE, TEXAS.
- b. "DEFENDANTS" - refers to and includes:

FREDDIE DEWALD AND JOAN DEWALD

PLAINTIFF and DEFENDANTS shall be referred to jointly as the "PARTIES."

RECITALS

Whereas, PLAINTIFF filed a lawsuit on August 30, 2011, styled and numbered *Copperas Cove, Texas v. Freddie Dewald and Joan Dewald*, No. 11-9977 (County Court at Law, Coryell County, Texas) against the DEFENDANTS for the condemnation of:

a 1.534 acre or 66,804 square feet more or less, tract of land being a out of a called 49.8 acre tract conveyed to Freddie A. Dewald recorded in Volume 365, Page 12 of the Deed Records of Coryell County, Texas, and a portion out of a 25-foot Perpetual Utility Easement recorded in Volume 338, Page 273 of the Deed Records of Coryell County, Texas, out or the W. P. Hardeman Survey, Abstract 454 of Coryell County, Texas and two temporary construction easements

described as a 0.303 acre or 13,194 square foot more or less, tract of land being a out of a called 49.8 acre tract conveyed to Freddie A. Dewald recorded in Volume 365, Page 12 of the Deed Records of Coryell County, Texas, and a portion out of a 25-foot Perpetual Utility Easement recorded in Hardeman Survey, Abstract 454, of Coryell County, Texas and a 0.925 acre or 40,294 square feet more or less, tract of land being a out of a called 49.8 acre tract conveyed to Freddie A. Dewald recorded in Volume 365, Page 12 of the Deed Records of Coryell County, Texas, and a portion out of a 25-foot Perpetual Utility Easement recoded in Volume 338, Page 273 of the Deed Records of Coryell county, Texas, out of the W.P. Hardeman Survey, Abstract 454, of Coryell County, Texas upon the main 49.8 acre tract which is situated in the City of Copperas Cove, Coryell County, Texas, as shown on "**Exhibits A, B and C**" incorporated herein by reference as if set out in full.

Whereas, the PARTIES desire to enter into this Settlement and Release Agreement in full settlement and discharge of all actual claims against DEFENDANTS and potential claims that PLAINTIFF has or may have in the future against DEFENDANTS pursuant to certain terms contained in this Settlement Agreement and in turn is a full settlement and discharge of all claims for damages or other relief the DEFENDANTS have or may have in the future against PLAINTIFF pursuant to the terms in this Settlement Agreement.

Whereas, subsequent to the filing of this lawsuit, the PLAINTIFF was informed the Joan Dewald is deceased and that Joan Dewald's interest in the subject property previously had been transferred by deed to Freddie A. Dewald. Therefore, Freddie A. Dewald is the sole legal owner of the subject property and will execute this Settlement and Release Agreement as well as the Easement Agreements to be filed in the Coryell County Deed Records accordingly.

NOW, THEREFORE, the PARTIES agree as follows:

1.0 Settlement Terms

- 1.1. In consideration of the transfer of the property interests in the form of an exclusive permanent utility easement and two temporary construction easements, attached hereto as

Exhibits “D” “E” and “F” by DEFENDANTS, PLAINTIFF hereby agrees to provide DEFENDANTS the following:

- a) Payment of \$20,000; and
- b) Any and all other consideration as stipulated in the easement agreements attached hereto as **Exhibits “D”, “E” and “F”**.

1.2. DEFENDANTS hereby agree to grant, transfer and convey said:

- a) Exclusive permanent utility easement, attached hereto as **Exhibit “D”**, for the installation of a sewer line; and
- b) Two temporary construction easements, attached hereto as **Exhibits “E” and “F”**, consisting of 0.303 acres (13,194 square feet) and 0.925 acres (40,294 square feet) for the duration of the construction of the sewer line or up to 48 months from the date the easement documents are executed by the DEFENDANTS.

1.3. The PARTIES agree that the above - referenced lawsuit will be dismissed by the PLAINTIFF and that all related court fees and costs including special commissioners’ fees are to be paid by the PLAINTIFF. The PARTIES also agree that all attorneys’ fees shall be borne by the party incurring the same.

1.4. The PARTIES agree that this Settlement and Release Agreement fully and accurately memorializes the agreement between the PARTIES and is binding.

1.5. The PARTIES further agree that upon the DEFENDANTS’ delivery of the executed easements to the PLAINTIFF, in the forms attached to this Settlement Agreement, the City shall pay the consideration shown in 1.1(a) above to MR. FREDDIE DEWALD and MR. VANCE DUNNAM, SR. The PARTIES agree the remaining consideration by the City will be performed in conjunction with the terms of the easement agreements attached to this Agreement but that such consideration or lack thereof at the time of the effective date of this Agreement shall not invalidate this Agreement.

2.0 Release and Discharge

2.1. In exchange for the release of claims against DEFENDANTS by the PLAINTIFF through this Agreement, DEFENDANTS also hereby completely release PLAINTIFF and forever discharge PLAINTIFF from any and all past, present and future demands for damages or other claims for relief which the DEFENDANTS now have, or which may hereafter accrue or may in any way grow out of the relief sought in PLAINTIFF'S pleadings, and the recitals above.

2.2. This release and discharge shall also apply to PLAINTIFF'S past, present and future officers, directors, stockholders, attorneys, agents, servants, representatives, employees, subsidiaries, affiliates, commissioners, partners, predecessors, insurers, successors in interest and assigns; as well as to all other persons, firms or corporations with whom any of the former have been, are now, or may hereafter be affiliated.

2.3. This release and discharge on the part of the DEFENDANTS shall be a fully binding and complete settlement by the DEFENDANTS and their heirs, assigns and successors.

3.0 Acknowledgment of Settlement Terms & Conditions

In entering into this Settlement and Release Agreement, the PARTIES represent that the terms of this Settlement and Release Agreement have been reviewed by their respective counsel, are fully understood and voluntarily accepted.

4.0 Delivery of Dismissal with Prejudice

Upon execution of this Settlement and Release Agreement and receipt of the executed easements described herein and attached hereto, DEFENDANTS shall cooperate in filing the necessary paperwork in the case styled and numbered *Copperas Cove, Texas v. Freddie Dewald and Joan Dewald*, No. 11-9977 (County Court at Law, Coryell County, Texas) to secure a

dismissal of this litigation with prejudice. PLAINTIFF shall promptly file a voluntary dismissal (non-suit) of the above styled lawsuit upon receipt of the above – referenced documents.

5.0 Governing Law

This Settlement and Release Agreement shall be construed and interpreted in accordance with the laws of the State of Texas with venue in Coryell County, Texas.

6.0 Additional Documents

DEFENDANTS agree to cooperate fully and execute any and all supplementary documents and to take all additional action necessary or appropriate to give full force and effect to the basic terms and intent of this Settlement and Release Agreement.

7.0 Effectiveness

This Settlement and Release Agreement shall become effective immediately following execution by DEFENDANTS.

8.0 Approval by City Council

This Settlement and Release Agreement and all terms and conditions contained herein are authorized by the City Council of the City of Copperas Cove based upon council action on _____, 2011.

ACKNOWLEDGEMENTS

STATE OF TEXAS §

COUNTY OF CORYELL §

CITY OF COPPERAS COVE, TEXAS, Plaintiff

By: _____

Andrea Gardner, City Manager

This Settlement and Release Agreement was acknowledged before me by
_____ on the ____ day of _____, 2011.

NOTARY PUBLIC, STATE OF TEXAS
(Affix Notary Seal Above)

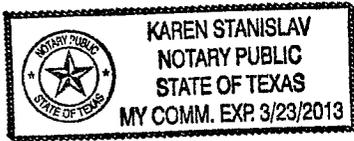
APPROVED AS TO FORM AND CONTENT:

STATE OF TEXAS §

COUNTY OF M. LEWIS §

Freddie Dewald
FREDDIE DEWALD, Defendant

This Settlement and Release Agreement was acknowledged before me by
Freddie Dewald on the 27th day of September, 2011.



Karen Stanislav
NOTARY PUBLIC, STATE OF TEXAS
(Affix Notary Seal Above)

APPROVED AS TO FORM:

Vance Dunnam

Vance Dunnam
4125 West Waco Drive
Post Office Box 8418
Waco, Texas 76714
ATTORNEYS FOR DEFENDANTS, FREDDIE AND JOAN DEWALD

Lowell F. Denton
George E. Hyde
Jameene Y. Banks
DENTON, NAVARRO, ROCHA & BERNAL, P.C.
2517 N. Main
San Antonio, Texas 78212
ATTORNEYS FOR PLAINTIFF, CITY OF COPPERAS COVE, TEXAS

Agreement for Temporary Construction Easement

Date: September 27, 2011

Grantor(s): Freddie A. Dewald

Grantor's Mailing Address: 2315 E. Hwy 190, Copperas Cove, Texas 76522

Grantee: City of Copperas Cove, Coryell County, Texas – A Texas municipal corporation.

Grantee's Mailing Address: 507 S. Main, Copperas Cove, Texas 76522

Easement Property: All that certain tract, piece or parcel of land, lying and being situated in the County of Coryell, State of Texas, described in Exhibit "1" attached hereto and made a part hereof for all purposes, to which reference is here made for a more particular description of said property.

Easement Purpose: For the installation, construction, temporary storage of materials and other reasonable and necessary use relating to the completion of the Northeast Sewer line (Eastside Infrastructure) Project construction, hereinafter referred to as "Facilities".

Consideration: The benefits accruing to Grantor (and Grantor's successors and assigns), as the owner of the property of Grantor that currently adjoins, is adjacent and/or contiguous to the Easement Property, by the conveyance of this easement, and the other benefits set forth herein and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by Grantor.

Reservations from Conveyance: None.

Exceptions to Warranty: This conveyance is made by Grantor and accepted by Grantee subject to any and all existing easements, covenants, rights-of-way, conditions, restrictions, outstanding mineral interests and royalty interests, if any, relating to the Easement Property, to the extent, and only to the extent, that the same may still be in force and effect, and either shown of record in the office of the County Clerk of Coryell County, Texas, or that may be apparent on the Easement Property.

Grant of Easement: Grantor, for the Consideration and subject to the Reservations from Conveyance and Exceptions to Warranty, grants, leases, and conveys to Grantee and Grantee's heirs, successors, and assigns an easement over, on, and across the Easement Property subject to the Easement Purpose necessary and relating to construction of the Facilities, together with all and singular the rights and appurtenances thereto in any way belonging (collectively, the "Easement"), to have and to hold the Easement to Grantee and Grantee's heirs, successors, and assigns throughout the duration of construction of the facilities. Grantor binds Grantor and Grantor's heirs, successors, and assigns to warrant and will defend the title to the Easement in Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the Easement or any part of the Easement, except as to the Reservations

from Conveyance and Exceptions to Warranty to the extent that such claim arises by, through, or under Grantor but not otherwise until such time as this easement expires.

Terms and Conditions: The following terms and conditions apply to the Easement granted by this agreement:

1. *Transfer of Easement.* The Easement rights herein granted shall pass to Grantee's successors and assigns, subject to all of the Terms hereof. The Easement rights of use granted herein are exclusive and irrevocable.
2. *Duration of easement.* The duration of the Easement is from the date this easement is filed with the Coryell County Property Deed Records until such time as the construction of the facilities are completed but shall not exceed 2 years from the date of filing or until it is relinquished or abandoned by ordinance or resolution by the City of Copperas Cove.
3. *Reservation of Rights.* Holder's right to use the Easement Property is nonexclusive to Grantor and Grantor and Grantor's heirs, successors, and assigns have the right to use all or part of the Easement Property in conjunction with Holder as long as such use by Grantor and Grantor's heirs, successors, and assigns does not interfere with the use of the Easement Property by Holder for the Easement Purpose, or construct any building, structure or obstruction upon or within the Easement Property. Grantor has the right to convey to others the right to use all or part of the Easement Property in conjunction with Holder, as long as such further conveyance is subject to the terms of this agreement.
4. *Improvement and Maintenance of Easement Property.* Improvement and maintenance of the Easement Property will be at the sole expense of the Holder. Holder has the right to eliminate any encroachments into the Easement Property. Holder has the right to remove or relocate any fences within the Easement Property or along or near its boundary lines if reasonably necessary to protect the materials, machinery and other property owned, managed or controlled by the Holder and any contractors or other persons utilizing the Easement Property at the direction of Holder. Grantee will replace any such fencing to original condition upon the completion of work.
5. *Equitable Rights of Enforcement.* This Easement may be enforced by restraining orders and injunctions (temporary or permanent) prohibiting interference and commanding compliance with the terms herein. Restraining orders and injunctions will be obtainable on proof of the existence of interference or threatened interference, without the necessity of proof of inadequacy of legal remedies or irreparable harm, and will be obtainable only by the parties to or those benefited by this agreement; provided, however, that the act of obtaining an injunction or restraining order will not be deemed to be an election of remedies or a waiver of any other rights or remedies available at law or in equity.
6. *Attorney's Fees.* If either party retains an attorney to enforce this agreement, the party prevailing in litigation is entitled to recover reasonable attorney's fees and court and other costs.

7. *Binding Effect.* This agreement binds and inures to the benefit of the parties and their respective heirs, successors, and permitted assigns.
8. *Choice of Law.* This agreement will be construed under the laws of the state of Texas, without regard to choice-of-law rules of any jurisdiction. Venue is in the county or counties in which the Easement Property is located.
9. *Counterparts.* This agreement may be executed in any number of counterparts with the same effect as if all signatory parties had signed the same document. All counterparts will be construed together and will constitute one and the same instrument.
10. *Waiver of Default.* It is not a waiver of or consent to default if the non-defaulting party fails to declare immediate default or delays in taking any action. Pursuit of any remedies set forth in this agreement does not preclude pursuit of other remedies in this agreement or provided by law.
11. *Further Assurances.* Each signatory party agrees to execute and deliver any additional documents and instruments and to perform any additional acts necessary or appropriate to perform the terms, provisions, and conditions of this agreement and all transactions contemplated by this agreement.
12. *Integration.* This agreement contains the complete agreement of the parties and cannot be varied except by written agreement of the parties. The parties agree that there are no oral agreements, representations, or warranties that are not expressly set forth in this agreement.
13. *Legal Construction.* If any provision in this agreement is for any reason unenforceable, to the extent the unenforceability does not destroy the basis of the bargain among the parties, the unenforceability will not affect any other provision hereof, and this agreement will be construed as if the unenforceable provision had never been a part of the agreement. Whenever context requires, the singular will include the plural and neuter include the masculine or feminine gender, and vice versa. Article and section headings in this agreement are for reference only and are not intended to restrict or define the text of any section. This agreement will not be construed more or less favorably between the parties by reason of authorship or origin of language.
14. *Notices.* Any notice required or permitted under this agreement must be in writing. Any notice required by this agreement will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this agreement. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein.
15. *Recitals.* Any recitals in this agreement are represented by the parties to be accurate, and constitute a part of the substantive agreement.

SUBJECT TEMPORARY CONSTRUCTION EASEMENT(S) FIELD NOTES

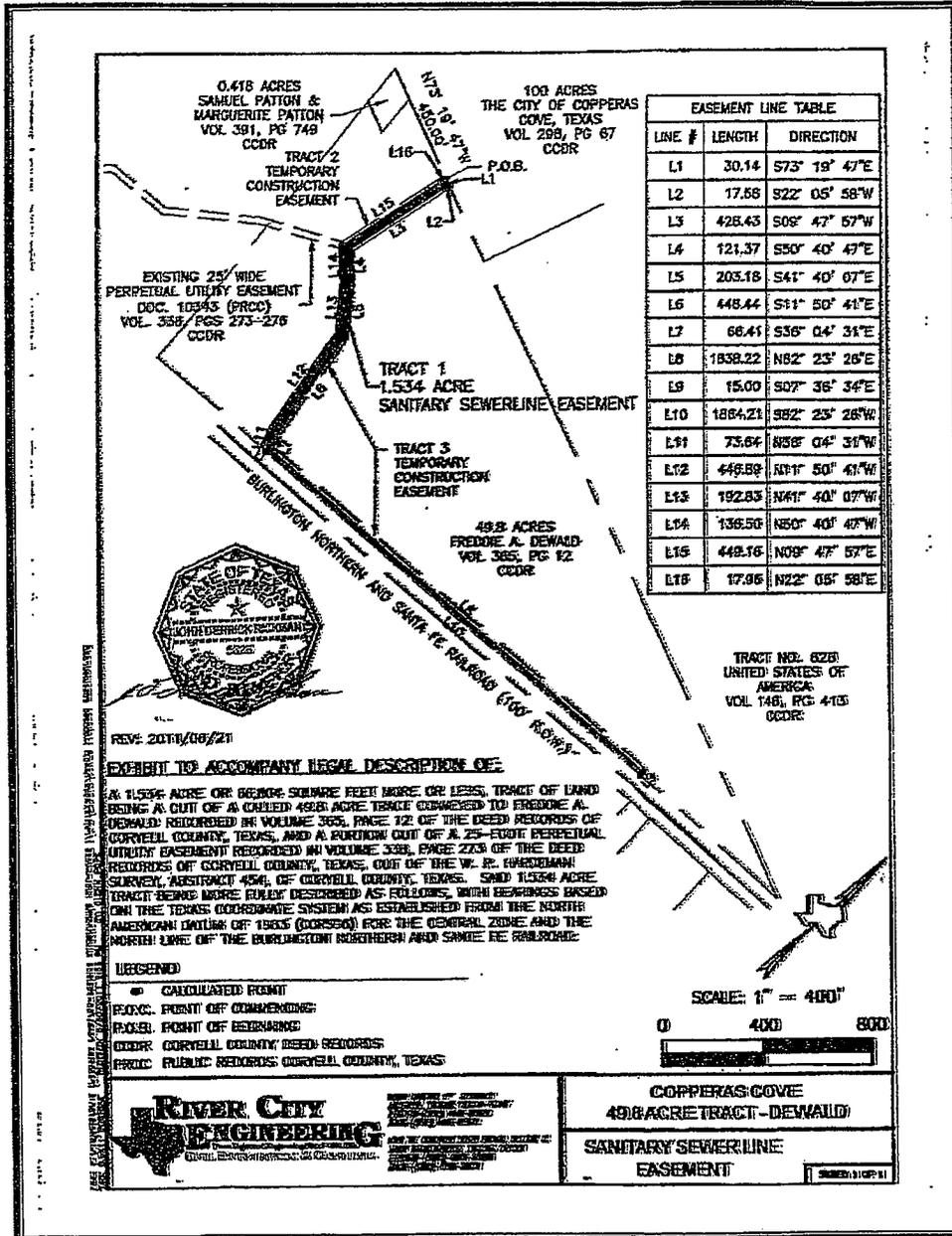


EXHIBIT TO ACCOMPANY LEGAL DESCRIPTION OF:
 A 1.534 ACRE OR BEYOND SQUARE FEET MORE OR LESS, TRACT OF LAND BEING A CUT OF A CALLED 49.8 ACRE TRACT OWNED TO FREDDIE A. DEWALD RECORDED IN VOLUME 305, PAGE 12 OF THE DEED RECORDS OF CORNELL COUNTY, TEXAS, AND A PORTION CUT OF A 25-FOOT PERPETUAL UTILITY EASEMENT RECORDED IN VOLUME 308, PAGE 273 OF THE DEED RECORDS OF CORNELL COUNTY, TEXAS, OUT OF THE W. R. HANDEMAN SURVEY, ABSTRACT 454, OF CORNELL COUNTY, TEXAS. SAID 1.534 ACRE TRACT BEING MORE FULLY DESCRIBED AS FOLLOWS, WITH BEARINGS BASED ON THE TEXAS COORDINATE SYSTEM AS ESTABLISHED FROM THE NORTH AMERICAN DATUM OF 1983 (NAD83) FOR THE GENERAL ZONE AND THE NORTH LINE OF THE BURLINGTON NORTHERN AND SANTA FE RAILROAD (US 80 HIGHWAY).

- LEGEND
- CALCULATED POINT
 - POINT OF COMMENCING
 - POINT OF BEGINNING
 - CCDR CORNELL COUNTY DEED RECORDS
 - PRDCC PUBLIC RECORDS, CORNELL COUNTY, TEXAS

RIVER CITY ENGINEERING
 CIVIL ENGINEERS AND ARCHITECTS
 1000 W. 10TH STREET, SUITE 100, COTTONWOOD, TEXAS 76202
 (817) 521-1111

COPPERAS COVE
 49.8 ACRE TRACT - DEWALD
 SANITARY SEWER LINE
 EASEMENT

EXHIBIT
 " 1 "



FIELD NOTES

Exhibit B

Fieldnotes for a Temporary Construction Easement

Tract 2

A 0.303 acre or 13,194 square feet more or less, tract of land being a out of a called 49.8 acre tract conveyed to Eneddie A. Dewald recorded in Volume 366, Page 12 of the Deed Records of Coryell County, Texas, and a portion out of a 25-foot Perpetual Utility Easement recorded in Volume 338, Page 273 of the Deed Records of Coryell County, Texas, out of the W. P. Handeman Survey, Abstract 454, of Coryell County, Texas. Said 0.303 acre tract being more fully described as follows, with bearings based on the Texas Coordinate System as established from the North American Datum of 1983 (COR83) for the Central Zone and the north line of the Burlington Northern and Santa Fe Railroad:

BEGINNING: At a point in the north line of the 49.8-acre tract, the south line of a 100-acre tract conveyed to The City of Copperas Cove, Texas in Volume 298, Page 67 of the Deed Records of Coryell County, Texas, from which a 3 inch pipe post found for the original north corner of the 49.8-acre tract and the north corner of a 0.418-acre tract recorded in Volume 394, Page 749 of the Deed Records of Coryell County, Texas bears North $73^{\circ}19'47''$ West, a distance of 430.01 feet;

THENCE: Departing the north line of the 49.8-acre tract and the south line of the 100-acre tract, across the 49.8-acre tract the following calls and distances;

South $22^{\circ}04'58''$ West, a distance of 17.96 feet to a point;

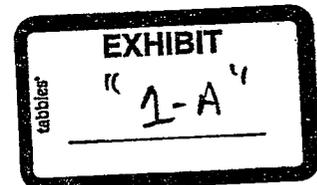
South $09^{\circ}47'37''$ West, a distance of 431.2 feet passing a north line of the 25-foot Perpetual Utility Easement, a distance of 449.16 feet to a point;

South $50^{\circ}40'47''$ East, a distance of 12.2 feet passing a south line of the 25-foot Perpetual Utility Easement, for a distance of 136.93 feet to a point;

South $43^{\circ}40'07''$ East, a distance of 142.9 feet passing a west line of the 25-foot Perpetual Utility Easement, for a distance of 192.83 feet to a point;

South $111^{\circ}50'44''$ East, a distance of 446.29 feet to a point;

South $36^{\circ}04'31''$ East, a distance of 60.7 feet passing a east line of the 25-foot Perpetual Utility Easement, for a distance of 73.64 feet to a point in the south line of the 49.8-acre tract and south right-of-way line of the Burlington Northern and Santa Fe Railroad;





FIELD NOTES

THENCE: South 82° 23' 26" West, with the south line of the 49.8 acre tract and north right-of-way line of the Burlington Northern and Santa Fe Railroad, at a distance of 1.6 feet passing a east line of the 25-foot Perpetual Utility Easement, for a distance of 11.33 feet to a point;

THENCE: Departing the north right-of-way line of the Burlington Northern and Santa Fe Railroad, the south line of the 49.8 acre tract, and across the 49.8 acre tract and the 25-foot Perpetual Utility Easement the following calls and distances;

North 36° 04' 31" West, at a distance of 38.5 feet passing a west line of the 25-foot Perpetual Utility Easement, for a distance of 70.37 feet, to a point,

North 81° 50' 41" West, a distance of 446.37 feet to a point,

North 41° 40' 07" West, a distance of 189.33 feet to a point,

North 50° 40' 47" West, at a distance of 126.8 feet passing a south line of the 25-foot Perpetual Utility Easement, for a distance of 141.54 feet to a point,

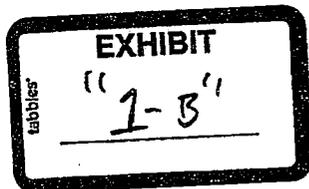
North 09° 47' 37" East, at a distance of 14.9 feet passing a north line of the 25-foot Perpetual Utility Easement, for a distance of 456.06 feet to a point,

North 22° 09' 38" East, a distance of 18.09 feet to a point in the north line of the 49.8 acre tract and the south line of the 100 acre tract;

THENCE: South 73° 19' 47" East, with the north line of the 49.8 acre tract and the south line of the 100 acre tract, a distance of 10.45 feet to the POINT OF BEGINNING and containing 0.302 acres of land in Coryell County, Texas. Said tract described in accordance with an exhibit prepared by River City Engineering.



ZULAI



Agreement for Permanent Sewer Utility Easement

Date: September 27, 2011

Grantor(s): Freddie A. Dewald

Grantor's Mailing Address: 2315 E. Hwy 190, Copperas Cove, Texas 76522

Grantee: City of Copperas Cove, Coryell County, Texas – A Texas municipal corporation.

Grantee's Mailing Address: 507 S. Main, Copperas Cove, Texas 76522

Easement Property: All that certain tract, piece or parcel of land, lying and being situated in the County of Coryell, State of Texas, described in Exhibit "1" attached hereto and made a part hereof for all purposes, to which reference is here made for a more particular description of said property.

Easement Purpose: For the installation, construction, maintenance, replacement, repair, and upgrade of Public Utilities, including but not limited to water and sewer lines and mains, hereinafter referred to as "Facilities".

Consideration: The benefits accruing to Grantor (and Grantor's successors and assigns), as the owner of the property of Grantor that currently adjoins, is adjacent to and/or contiguous to the Easement Property, by the conveyance of this easement, and the other benefits set forth herein and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by Grantor.

Reservations from Conveyance: None.

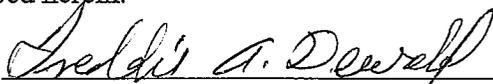
Exceptions to Warranty: This conveyance is made by Grantor and accepted by Grantee subject to any and all existing easements, covenants, rights-of-way, conditions, restrictions, outstanding mineral interests and royalty interests, if any, relating to the Easement Property, to the extent, and only to the extent, that the same may still be in force and effect, and either shown of record in the office of the County Clerk of Coryell County, Texas, or that may be apparent on the Easement Property.

Grant of Easement: Grantor, for the Consideration and subject to the Reservations from Conveyance and Exceptions to Warranty, grants, sells, and conveys to Grantee and Grantee's heirs, successors, and assigns an easement over, on, under and across the Easement Property for the Facilities, together with all and singular the rights and appurtenances thereto in any way belonging (collectively, the "Easement"), to have and to hold the Easement to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs, successors, and assigns to warrant and forever defend the title to the Easement in Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the Easement or any part of the Easement, except as to the Reservations from Conveyance and Exceptions to Warranty to the extent that such claim arises by, through, or under Grantor but not otherwise.

Terms and Conditions: The following terms and conditions apply to the Easement granted by this agreement:

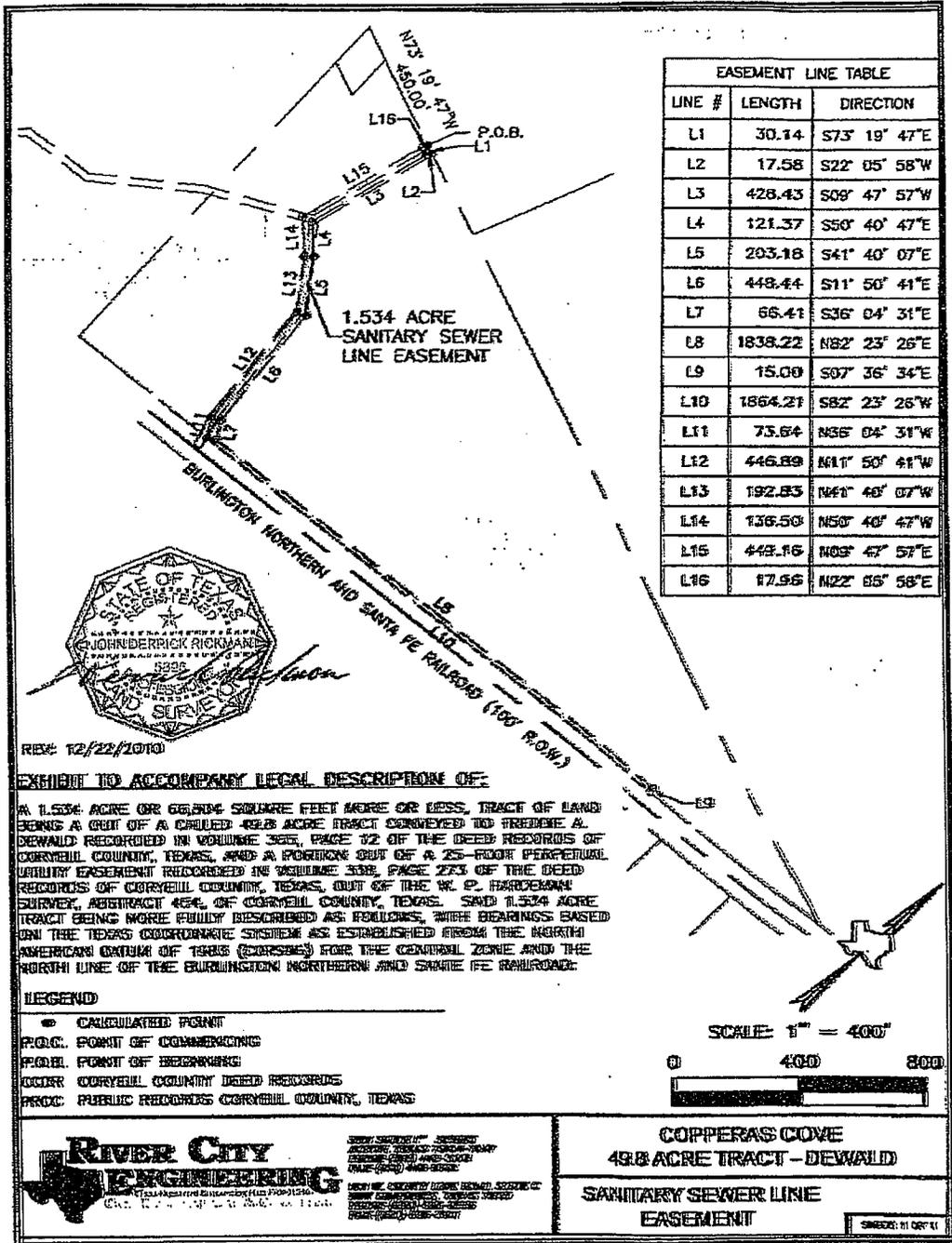
1. *Transfer of Easement.* The Easement rights herein granted shall pass to Grantee's successors and assigns, subject to all of the Terms hereof. The Easement rights of use granted herein are exclusive to Grantee and its assigns, except as provided for herein, and irrevocable.
2. *Duration of easement.* The duration of the Easement is perpetual, unless and until it is relinquished or abandoned by ordinance or resolution by the City of Copperas Cove.
3. *Reservation of Rights.* Grantee's right to use the Easement Property is nonexclusive to Grantor and Grantor and Grantor's heirs, successors, and assigns have the right to use all or part of the Easement Property in conjunction with Grantee as long as such use by Grantor and Grantor's heirs, successors, and assigns does not interfere with the use of the Easement Property by Grantee for the Easement Purpose, or construct any building, structure or obstruction upon or within the Easement Property. Grantor has the right to convey to others the right to use all or part of the Easement Property in conjunction with Grantee, as long as such further conveyance is subject to the terms of this agreement.
4. *Secondary Easement.* Grantee has the right (the "Secondary Easement") to use as much of the surface of the property that is adjacent to the Easement Property ("Adjacent Property") as may be reasonably necessary to install and maintain the Facilities within the Easement Property that are reasonably suited for the Easement Purpose. However, Grantee must promptly restore the Adjacent Property to its previous physical condition if changed by use of the rights granted by this Secondary Easement.
5. *Improvement and Maintenance of Easement Property.* Improvement and maintenance of the Easement Property and the Facilities will be at the sole expense of the Grantee. Grantee has the right to eliminate any encroachments into the Easement Property. Grantee has the right to construct, install, maintain, replace, and remove the Facilities under or across any portion of the Easement Property. All matters concerning the Facilities and their configuration, construction, installation, maintenance, replacement, and removal are at Grantee's sole discretion, subject to performance of Grantee's obligations under this agreement. Grantee has the right to remove or relocate any fences within the Easement Property or along or near its boundary lines if reasonably necessary to construct, install, maintain, replace, or remove the facilities. Grantee will replace any such fencing to original condition upon the completion of work.
6. *Equitable Rights of Enforcement.* This Easement may be enforced by restraining orders and injunctions (temporary or permanent) prohibiting interference and commanding compliance with the terms herein. Restraining orders and injunctions will be obtainable on proof of the existence of interference or threatened interference, without the necessity of proof of inadequacy of legal remedies or irreparable harm, and will be obtainable only by the parties to or those benefited by this agreement; provided, however, that the act of obtaining an injunction or restraining order will not be deemed to be an election of remedies or a waiver of any other rights or remedies available at law or in equity.
7. *Attorney's Fees.* If either party retains an attorney to enforce this agreement, the party prevailing in litigation is entitled to recover reasonable attorney's fees and court and other costs.
8. *Binding Effect.* This agreement binds and inures to the benefit of the parties and their respective heirs, successors, and permitted assigns.

9. *Choice of Law.* This agreement will be construed under the laws of the state of Texas, without regard to choice-of-law rules of any jurisdiction. Venue is in Coryell County.
10. *Counterparts.* This agreement may be executed in any number of counterparts with the same effect as if all signatory parties had signed the same document. All counterparts will be construed together and will constitute one and the same instrument.
11. *Waiver of Default.* It is not a waiver of or consent to default if the non-defaulting party fails to declare immediate default or delays in taking any action. Pursuit of any remedies set forth in this agreement does not preclude pursuit of other remedies in this agreement or provided by law.
12. *Further Assurances.* Each signatory party agrees to execute and deliver any additional documents and instruments and to perform any additional acts necessary or appropriate to perform the terms, provisions, and conditions of this agreement and all transactions contemplated by this agreement.
13. *Integration.* This agreement contains the complete agreement of the parties and cannot be varied except by written agreement of the parties. The parties agree that there are no oral agreements, representations, or warranties that are not expressly set forth in this agreement.
14. *Legal Construction.* If any provision in this agreement is for any reason unenforceable, to the extent the unenforceability does not destroy the basis of the bargain among the parties, the unenforceability will not affect any other provision hereof, and this agreement will be construed as if the unenforceable provision had never been a part of the agreement. Whenever context requires, the singular will include the plural and neuter include the masculine or feminine gender, and vice versa. Article and section headings in this agreement are for reference only and are not intended to restrict or define the text of any section. This agreement will not be construed more or less favorably between the parties by reason of authorship or origin of language.
15. *Notices.* Any notice required or permitted under this agreement must be in writing. Any notice required by this agreement will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this agreement. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein.
16. *Recitals.* Any recitals in this agreement are represented by the parties to be accurate, and constitute a part of the substantive agreement.
17. *Warranty of Capacity to Execute Agreement.* Grantor represents, warrants and contracts that no other person, attorney, law firm or entity has, or has had, any interest in the terms of this Agreement; that Grantor has the sole right and exclusive authority to execute this Easement Agreement; and that Grantor has not sold, assigned, transferred, conveyed or otherwise disposed of any of the subject Property referred to and described herein.



Grantor, Freddie A. Dewald

SUBJECT PERMANENT SEWER LINE EASEMENT(S) FIELD NOTES



EASEMENT LINE TABLE		
LINE #	LENGTH	DIRECTION
L1	30.14	S73° 19' 47"E
L2	17.58	S22° 05' 58"W
L3	428.43	S09° 47' 57"W
L4	121.37	S50° 40' 47"E
L5	203.18	S41° 40' 07"E
L6	448.44	S11° 50' 41"E
L7	66.41	S36° 04' 31"E
L8	1838.22	N82° 23' 26"E
L9	15.00	S07° 36' 34"E
L10	1864.21	S82° 23' 26"W
L11	73.64	N36° 04' 31"W
L12	446.89	N41° 50' 41"W
L13	192.83	N41° 40' 07"W
L14	136.50	N50° 40' 47"W
L15	442.16	N09° 47' 57"E
L16	17.96	N22° 05' 58"E

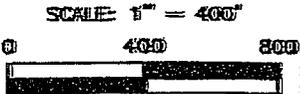
REV# 12/22/2010

EXHIBIT TO ACCOMPANY LEGAL DESCRIPTION OF:

A 1.534 ACRE OR 66,814 SQUARE FEET MORE OR LESS, TRACT OF LAND BEING A PART OF A CALLED 49.8 ACRE TRACT CONVEYED TO FREDDIE A. DEWALD RECORDED IN VOLUME 365, PAGE 12 OF THE DEED RECORDS OF CORNELL COUNTY, TEXAS, AND A PORTION OUT OF A 25-FOOT PERPETUAL UTILITY EASEMENT RECORDED IN VOLUME 338, PAGE 273 OF THE DEED RECORDS OF CORNELL COUNTY, TEXAS, OUT OF THE W. P. BARDEMAN SURVEY, ABSTRACT 454, OF CORNELL COUNTY, TEXAS. SAID 1.534 ACRE TRACT BEING MORE FULLY DESCRIBED AS FOLLOWS, WITH BEARINGS BASED ON THE TEXAS COORDINATE SYSTEM AS ESTABLISHED FROM THE NORTH AMERICAN DATUM OF 1983 (NAD83) FOR THE CENTRAL ZONE AND THE NORTH LINE OF THE BURLINGTON NORTHERN AND SANTA FE RAILROAD:

LEGEND

- CALCULATED POINT
- P.O.B. POINT OF BEGINNING
- P.O.B. POINT OF BEGINNING
- OCOR CORNELL COUNTY DEED RECORDS
- PROR PUBLIC RECORDS CORNELL COUNTY, TEXAS



River City Engineering
 1100 West 11th Street, Suite 100
 Fort Worth, Texas 76104
 Phone: 817.335.1100
 Fax: 817.335.1101
 www.rivercityeng.com

COPPERAS COVE
49.8 ACRE TRACT - DEWALD
SANITARY SEWER LINE
EASEMENT
 SHEET: 11 OF 11

EXHIBIT
 "1"



FIELD NOTES

1.534 Acre Sanitary Sewer Line Easement

A 1.534 acre or 66,804 square feet more or less, tract of land being a out of a called 49.8 acre tract conveyed to Freddie A. Dewald recorded in Volume 365, Page 12 of the Deed Records of Coryell County, Texas, and a portion out of a 25-foot Perpetual Utility Easement recorded in Volume 338, Page 273 of the Deed Records of Coryell County, Texas, out of the W. P. Hardeman Survey, Abstract 454, of Coryell County, Texas. Said 1.534 acre tract being more fully described as follows, with bearings based on the Texas Coordinate System as established from the North American Datum of 1983 (CORS96) for the Central Zone and the north line of the Burlington Northern and Santa Fe Railroad:

BEGINNING: At a point in the north line of the 49.8 acre tract, the south line of a 100 acre tract conveyed to The City of Copperas Cove, Texas in Volume 298, Page 67 of the Deed Records of Coryell County, Texas, from which a 3 inch pipe post found for the original north corner of the 49.8 acre tract and the north corner of a 0.418 acre tract recorded in Volume 391, Page 749 of the Deed Records of Coryell County, Texas bears North 73° 19' 47" West, a distance of 450.00 feet;

THENCE: South 73° 19' 47" East, with the north line of the 49.8 acre tract, a distance of 30.14 feet;

THENCE: Departing the north line of the 49.8 acre tract and the north line of the 25-foot Perpetual Utility Easement, across the 49.8 acre tract and the 25-foot Perpetual Utility Easement the following calls and distances;

South 22° 05' 58" West, a distance of 17.58 feet to a point,

South 09° 47' 57" West, a distance of 428.43 feet to a point,

South 50° 46' 47" East, at a distance of 103' passing the east line of the 25-foot Perpetual Utility Easement, for a distance of 121.37 feet to a point;

THENCE: Across the 49.8 acre tract the following calls and distances;

South 44° 40' 07" East, a distance of 203.18 feet to a point,

South 11° 50' 41" East, a distance of 448.44 feet to a point;

South 36° 04' 31" East, a distance of 66.41 feet to a point;

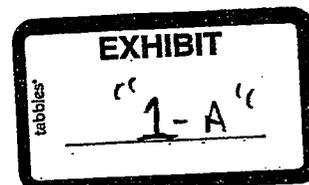
North 32° 25' 26" East, a distance of 1038.72 feet to a point;

1 of 2

Rev: 10/22/2010

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Agreement for Temporary Construction Easement

Date: September 27, 2011

Grantor(s): Freddie A. Dewald

Grantor's Mailing Address: 2315 E. Hwy 190, Copperas Cove, Texas 76522

Grantee: City of Copperas Cove, Coryell County, Texas – A Texas municipal corporation.

Grantee's Mailing Address: 507 S. Main, Copperas Cove, Texas 76522

Easement Property: All that certain tract, piece or parcel of land, lying and being situated in the County of Coryell, State of Texas, described in Exhibit "1" attached hereto and made a part hereof for all purposes, to which reference is here made for a more particular description of said property.

Easement Purpose: For the installation, construction, temporary storage of materials and other reasonable and necessary use relating to the completion of the Northeast Sewer line (Eastside Infrastructure) Project construction, hereinafter referred to as "Facilities".

Consideration: The benefits accruing to Grantor (and Grantor's successors and assigns), as the owner of the property of Grantor that currently adjoins, is adjacent and/or contiguous to the Easement Property, by the conveyance of this easement, and the other benefits set forth herein and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by Grantor.

Reservations from Conveyance: None.

Exceptions to Warranty: This conveyance is made by Grantor and accepted by Grantee subject to any and all existing easements, covenants, rights-of-way, conditions, restrictions, outstanding mineral interests and royalty interests, if any, relating to the Easement Property, to the extent, and only to the extent, that the same may still be in force and effect, and either shown of record in the office of the County Clerk of Coryell County, Texas, or that may be apparent on the Easement Property.

Grant of Easement: Grantor, for the Consideration and subject to the Reservations from Conveyance and Exceptions to Warranty, grants, leases, and conveys to Grantee and Grantee's heirs, successors, and assigns an easement over, on, and across the Easement Property subject to the Easement Purpose necessary and relating to construction of the Facilities, together with all and singular the rights and appurtenances thereto in any way belonging (collectively, the "Easement"), to have and to hold the Easement to Grantee and Grantee's heirs, successors, and assigns throughout the duration of construction of the facilities. Grantor binds Grantor and Grantor's heirs, successors, and assigns to warrant and will defend the title to the Easement in Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the Easement or any part of the Easement, except as to the Reservations

from Conveyance and Exceptions to Warranty to the extent that such claim arises by, through, or under Grantor but not otherwise until such time as this easement expires.

Terms and Conditions: The following terms and conditions apply to the Easement granted by this agreement:

1. *Transfer of Easement.* The Easement rights herein granted shall pass to Grantee's successors and assigns, subject to all of the Terms hereof. The Easement rights of use granted herein are exclusive and irrevocable.
2. *Duration of easement.* The duration of the Easement is from the date this easement is filed with the Coryell County Property Deed Records until such time as the construction of the facilities are completed but shall not exceed 2 years from the date of filing or until it is relinquished or abandoned by ordinance or resolution by the City of Copperas Cove.
3. *Reservation of Rights.* Holder's right to use the Easement Property is nonexclusive to Grantor and Grantor and Grantor's heirs, successors, and assigns have the right to use all or part of the Easement Property in conjunction with Holder as long as such use by Grantor and Grantor's heirs, successors, and assigns does not interfere with the use of the Easement Property by Holder for the Easement Purpose, or construct any building, structure or obstruction upon or within the Easement Property. Grantor has the right to convey to others the right to use all or part of the Easement Property in conjunction with Holder, as long as such further conveyance is subject to the terms of this agreement.
4. *Improvement and Maintenance of Easement Property.* Improvement and maintenance of the Easement Property will be at the sole expense of the Holder. Holder has the right to eliminate any encroachments into the Easement Property. Holder has the right to remove or relocate any fences within the Easement Property or along or near its boundary lines if reasonably necessary to protect the materials, machinery and other property owned, managed or controlled by the Holder and any contractors or other persons utilizing the Easement Property at the direction of Holder. Grantee will replace any such fencing to original condition upon the completion of work.
5. *Equitable Rights of Enforcement.* This Easement may be enforced by restraining orders and injunctions (temporary or permanent) prohibiting interference and commanding compliance with the terms herein. Restraining orders and injunctions will be obtainable on proof of the existence of interference or threatened interference, without the necessity of proof of inadequacy of legal remedies or irreparable harm, and will be obtainable only by the parties to or those benefited by this agreement; provided, however, that the act of obtaining an injunction or restraining order will not be deemed to be an election of remedies or a waiver of any other rights or remedies available at law or in equity.
6. *Attorney's Fees.* If either party retains an attorney to enforce this agreement, the party prevailing in litigation is entitled to recover reasonable attorney's fees and court and other costs.

7. *Binding Effect.* This agreement binds and inures to the benefit of the parties and their respective heirs, successors, and permitted assigns.
8. *Choice of Law.* This agreement will be construed under the laws of the state of Texas, without regard to choice-of-law rules of any jurisdiction. Venue is in the county or counties in which the Easement Property is located.
9. *Counterparts.* This agreement may be executed in any number of counterparts with the same effect as if all signatory parties had signed the same document. All counterparts will be construed together and will constitute one and the same instrument.
10. *Waiver of Default.* It is not a waiver of or consent to default if the non-defaulting party fails to declare immediate default or delays in taking any action. Pursuit of any remedies set forth in this agreement does not preclude pursuit of other remedies in this agreement or provided by law.
11. *Further Assurances.* Each signatory party agrees to execute and deliver any additional documents and instruments and to perform any additional acts necessary or appropriate to perform the terms, provisions, and conditions of this agreement and all transactions contemplated by this agreement.
12. *Integration.* This agreement contains the complete agreement of the parties and cannot be varied except by written agreement of the parties. The parties agree that there are no oral agreements, representations, or warranties that are not expressly set forth in this agreement.
13. *Legal Construction.* If any provision in this agreement is for any reason unenforceable, to the extent the unenforceability does not destroy the basis of the bargain among the parties, the unenforceability will not affect any other provision hereof, and this agreement will be construed as if the unenforceable provision had never been a part of the agreement. Whenever context requires, the singular will include the plural and neuter include the masculine or feminine gender, and vice versa. Article and section headings in this agreement are for reference only and are not intended to restrict or define the text of any section. This agreement will not be construed more or less favorably between the parties by reason of authorship or origin of language.
14. *Notices.* Any notice required or permitted under this agreement must be in writing. Any notice required by this agreement will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this agreement. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein.
15. *Recitals.* Any recitals in this agreement are represented by the parties to be accurate, and constitute a part of the substantive agreement.

SUBJECT TEMPORARY CONSTRUCTION EASEMENT(S) FIELD NOTES

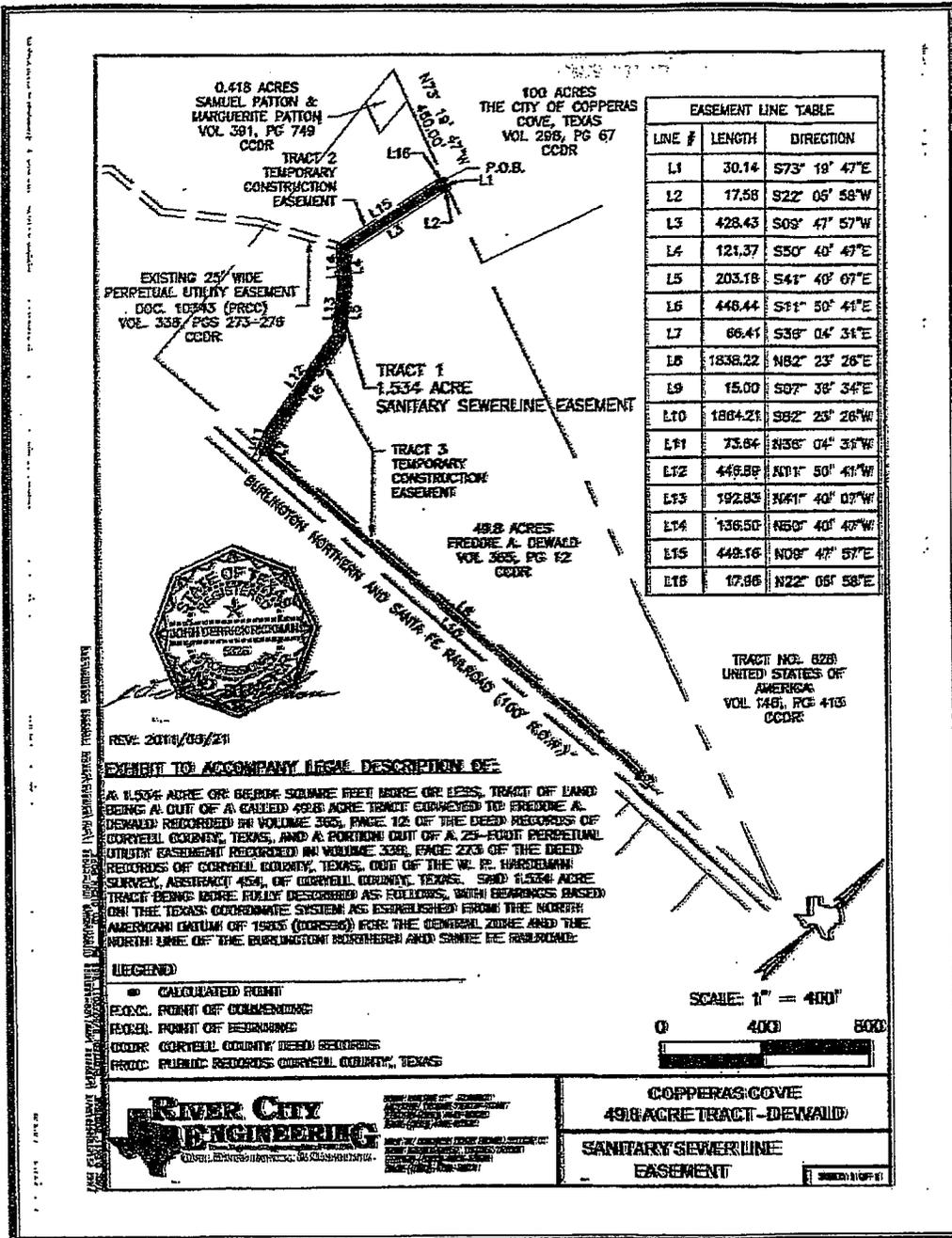


EXHIBIT TO ACCOMPANY LEGAL DESCRIPTION OF:
 A 1,534 ACRES OR BEING SQUARE FEET MORE OR LESS, TRACT OF LAND BEING A OUT OF A CALLED 49.8 ACRES TRACT CONVEYED TO FREDDIE A. DEWALD RECORDED IN VOLUME 365, PAGE 12 OF THE DEED RECORDS OF CORNELL COUNTY, TEXAS, AND A PORTION OUT OF A 25-FOOT PERPETUAL UTILITY EASEMENT RECORDED IN VOLUME 338, PAGE 273 OF THE DEED RECORDS OF CORNELL COUNTY, TEXAS, OUT OF THE W. R. HARDENMAN SURVEY, ABSTRACT 454, OF CORNELL COUNTY, TEXAS. SAID 1,534 ACRE TRACT BEING MORE FULLY DESCRIBED AS FOLLOWS, WITH BEARINGS BASED ON THE TEXAS COORDINATE SYSTEM AS ESTABLISHED FROM THE NORTH AMERICAN DATUM OF 1983 (NAD83) FOR THE CENTRAL ZONE AND THE NORTH LINE OF THE BURLINGTON NORTHERN AND SANTA FE RAILROAD (100' RIGHT-OF-WAY):

- LEGEND**
- CALCULATED POINT
 - P.O.C. POINT OF COMMENCEMENT
 - P.O.B. POINT OF BEGINNING
 - CCDR CORNELL COUNTY DEED RECORDS
 - PRCD PUBLIC RECORDS CORNELL COUNTY, TEXAS



COPPERAS COVE
 49.8 ACRES TRACT - DEWALD
 SANITARY SEWER LINE
 EASEMENT

EXHIBIT
 "1"



FIELD NOTES

Tract 3

A 0.925 acre or 40,294 square feet more or less, tract of land being a out of a called 49.8 acre tract conveyed to Freddie A. Dewald recorded in Volume 365, Page 12 of the Deed Records of Coryell County, Texas, and a portion out of a 25-foot Perpetual Utility Easement recorded in Volume 338, Page 275 of the Deed Records of Coryell County, Texas, out of the W.P. Harleman Survey, Abstract 454, of Coryell County, Texas. Said 0.925 acre tract being more fully described as follows, with bearings based on the Texas Coordinate System as established from the North American Datum of 1983 (NAD83) for the Central Zone and the north line of the Burlington Northern and Santa Fe Railroad:

BEGINNING: At a point in the north line of the 49.8 acre tract, the south line of a 100 acre tract conveyed to The City of Copperas Cove, Texas in Volume 298, Page 67 of the Deed Records of Coryell County, Texas, from which a 3 inch pipe post found for the original north corner of the 49.8 acre tract and the north corner of a 0.418 acre tract recorded in Volume 398, Page 749 of the Deed Records of Coryell County, Texas bears North 73° 19' 47" West, a distance of 480.13 feet;

TRENCHE: South 73° 19' 47" East, with the north line of the 49.8 acre tract, and the south line of the 100 acre tract, a distance of 100.05 feet;

TRENCHE: Departing the north line of the 49.8 acre tract and the south line of the 100 acre tract, across the 49.8 acre tract in the following call and distances:

South 22° 03' 58" West, a distance of 18.4 feet passing an east line of the 25-foot Perpetual Utility Easement a distance of 174.5 feet to a point;

South 09° 47' 37" West, a distance of 421.53 feet to a point;

South 50° 40' 47" East, a distance of 38.6 feet passing an east line of the 25-foot Perpetual Utility Easement a distance of 116.53 feet to a point;

South 61° 48' 07" East, a distance of 206.63 feet to a point;

South 14° 50' 41" East, a distance of 448.96 feet to a point;

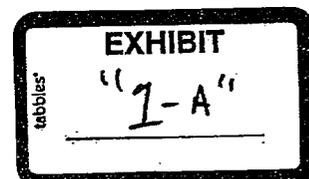
South 56° 04' 21" East, a distance of 52.62 feet to a point;

North 82° 23' 26" East, a distance of 183.96 feet to a point;

South 07° 36' 34" East, a distance of 15.08 feet to a point;

South 92° 23' 26" West, a distance of 183.96 feet to a point;

TABLE





FIELD NOTES

North $36^{\circ} 04' 31''$ West, a distance of 66.61 feet to a point;

North $11^{\circ} 50' 41''$ West, a distance of 448.44 feet to a point;

North $41^{\circ} 40' 07''$ West, a distance of 203.18 feet to a point;

North $53^{\circ} 40' 47''$ West, at a distance of 18.7 feet passing an east line of the 25-foot Perpetual Utility Easement a distance of 121.37 feet to a point;

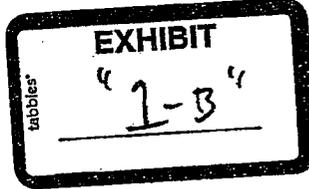
North $09^{\circ} 47' 57''$ East, a distance of 428.44 feet to a point;

THENCE North $22^{\circ} 05' 58''$ East, a distance of 17.58 feet to the POINT OF BEGINNING and containing 0.925 acres of land in Coryell County, Texas. Said tract described in accordance with an exhibit prepared by River City Engineering.



[Handwritten Signature]
6/30/2011

4050





August 1, 2011

Ms. Andrea Gardener, City Manager
City of Copperas Cove
1601 North First Street
Copperas Cove, Texas 76522

RE: Eastside Infrastructure Improvements

Dear Ms Gardener:

The purpose of this letter is to provide the City of Copperas Cove with a summary report of the planning and engineering of the City's eastside wastewater service area and the development of wastewater flows used in the design of its infrastructure improvements.

The eastside of the City contributes its wastewater flow through a series of gravity lines to a central 15" line, which flows through the City's golf course to the Northeast WWTP. The Copperas Cove Industrial Park currently connects to this 15" line through an existing 8" line that can be seen on Attachment B. These lines are over 30 years old and suffer from inadequate capacity, and excessive wet weather peak flow of inflow/infiltration. Per the attached Overall Drainage Map, Attachment A, the 15-inch interceptor line currently serves Section 2-A and 3-A for a combined wet weather flow total of 2060 GPM, at buildout projections. Its capacity is significantly less than that.

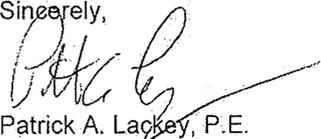
In 2009 TxDOT announced the funding for the southern bypass. In cooperation between the City and Ft. Hood, additional property was added to the City's Industrial Tract, managed by the EDC. This land addition raised the projected wastewater flow rate from the enlarged service area. As shown in Attachment A, the total projected wet weather flow increased by 1236 GPM or a total flow of 3296 GPM. These increased flows necessitated the construction of larger piping facilities to handle the resulting flows.

The proposed piping starts as a 24" gravity main at the NEWWTP. Three routing options were analyzed in Attachment C, and D. These included a 24" gravity main and 12" FM around the Golf Course perimeter. Option 2 is a 24" gravity main parallel to 15", with 12" FM to proposed LS. Option 3 is a 12" force main to plant and re-use of 15" gravity main. The second option offered the best service capabilities. While it was parallel to the 15" line from the WWTP to the railroad, it was parallel to the railroad on the north side, and bored across approximately 2000LF east of existing sewer crossing. This route offered separation from existing gravity line on west side of railroad, thereby not interfering with existing service, future connections along Hwy 190, and constructability issues with depth of existing line.

The proposed lift station is next to the existing eastside lift station that currently serves the EDC commercial development located off of Highway 190 at the eastern most edge of the city limits of Copperas Cove. The existing industrial park lift station can handle 300 GPM which it conveys thru an existing 4-inch force main, to 8-inch line discussed previously. The new 1500 GPM lift station and 12" force main have been designed to handle wastewater flows from the existing lift station along with future flows from the City of Copperas Cove Economic Development Corporation (CCEDC) tracts (3A and 3B) located just south of the proposed lift station.

If you have any questions, or need additional information, please do not hesitate to contact me.

Sincerely,



Patrick A. Lackey, P.E.

**EASTSIDE
WASTEWATER SERVICE PLAN
ATTACHMENT 'D'
PRELIMINARY CONSTRUCTION COST ESTIMATE**

OPTION 1 (Along Boundary of Golf Course)

ITEM NO.	ITEM DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	ITEM TOTAL
Wastewater System					
1	12-inch WW Gravity	6,000	LF	\$ 80.00	\$ 480,000.00
2	8-inch WW Gravity	6,350	LF	\$ 60.00	\$ 381,000.00
3	48-inch SS Manhole	35	EA	\$ 4,000.00	\$ 140,000.00
				Subtotal	\$ 1,001,000.00
Lift Station, Force Main, and Gravity Line					
1	Proposed Lift Station	1	LS	\$ 500,000.00	\$ 500,000.00
2	24-inch WW Gravity	5,500	LF	\$ 120.00	\$ 660,000.00
3	12-inch WW Force Main	5,550	LF	\$ 60.00	\$ 333,000.00
4	12-inch Bore and Encasement	100	LF	\$ 500.00	\$ 50,000.00
5	Misc. Site Restoration	1	LS	\$ 40,000.00	\$ 40,000.00
				Subtotal	\$ 1,583,000.00
Erosion & Sedimentation Control					
1	Silt Fence	10,750	LF	\$ 2.50	\$ 26,875.00
2	Tree Protection	2,000	LF	\$ 3.50	\$ 7,000.00
3	Re-vegetation	12,200	SY	\$ 2.50	\$ 30,500.00
				Subtotal	\$ 64,000.00
TOTAL CONSTRUCTION COST ESTIMATE					\$ 2,648,000.00

This Construction Cost Estimate is based on River City Engineering's experience and qualifications, and represents River City Engineering's best judgement. However, since River City Engineering has no control over the cost of labor, materials, equipment or services furnished by others, River City Engineering does not guarantee that the actual construction cost will not vary from the Construction Cost Estimate.

**EASTSIDE
WASTEWATER SERVICE PLAN
ATTACHMENT 'D'
PRELIMINARY CONSTRUCTION COST ESTIMATE**

OPTION 2 (Parallel to Existing 15" Alignment)

ITEM NO.	ITEM DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	ITEM TOTAL
<i>Wastewater System</i>					
1	12-inch WW Gravity	6,000	LF	\$ 80.00	\$ 480,000.00
2	8-inch WW Gravity	6,350	LF	\$ 60.00	\$ 381,000.00
3	48-inch SS Manhole	35	EA	\$ 4,000.00	\$ 140,000.00
				Subtotal	\$ 1,001,000.00
<i>Lift Station, Force Main, & Gravity Line</i>					
1	Proposed Lift Station	1	LS	\$ 500,000.00	\$ 500,000.00
2	24-inch WW Gravity	5,200	LF	\$ 120.00	\$ 624,000.00
3	12-inch WW Force Main	5,550	LF	\$ 60.00	\$ 333,000.00
4	12-inch Bore and Encasement	100	LF	\$ 500.00	\$ 50,000.00
5	Misc. Site Restoration	1	LS	\$ 40,000.00	\$ 40,000.00
				Subtotal	\$ 1,547,000.00
<i>Erosion & Sedimentation Control</i>					
1	Silt Fence	10,750	LF	\$ 2.50	\$ 26,875.00
2	Tree Protection	2,000	LF	\$ 3.50	\$ 7,000.00
3	Re-vegetation	12,000	SY	\$ 2.50	\$ 30,000.00
				Subtotal	\$ 64,000.00
TOTAL CONSTRUCTION COST ESTIMATE					\$ 2,612,000.00

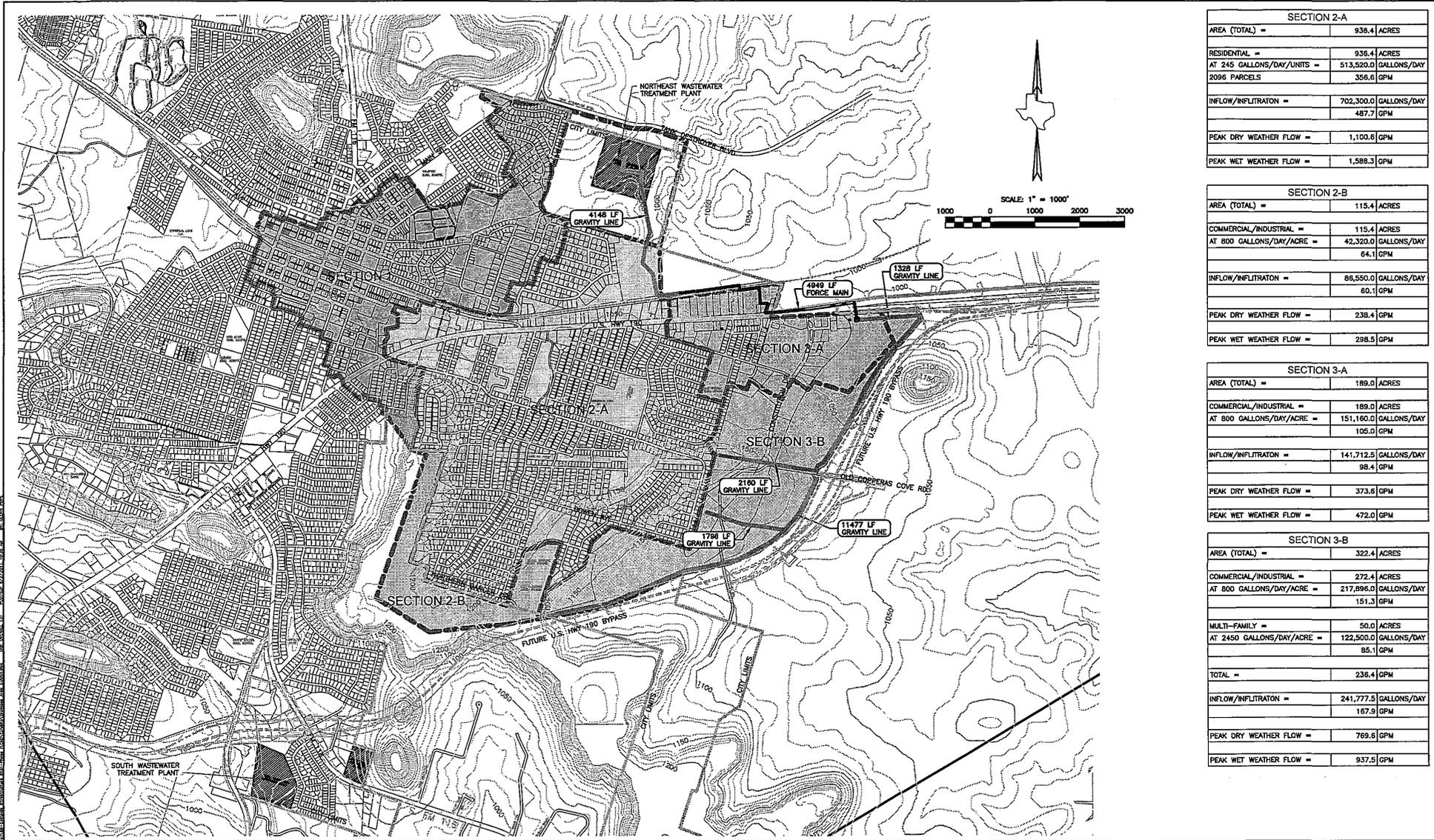
This Construction Cost Estimate is based on River City Engineering's experience and qualifications, and represents River City Engineering's best judgement. However, since River City Engineering has no control over the cost of labor, materials, equipment or services furnished by others, River City Engineering does not guarantee that the actual construction cost will not vary from the Construction Cost Estimate.

**EASTSIDE
WASTEWATER SERVICE PLAN
ATTACHMENT 'D'
PRELIMINARY CONSTRUCTION COST ESTIMATE**

OPTION 3 (Force Main to WW Plant)

ITEM NO.	ITEM DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	ITEM TOTAL
Wastewater System					
1	12-inch WW Gravity	6,000	LF	\$ 80.00	\$ 480,000.00
2	8-inch WW Gravity	6,350	LF	\$ 60.00	\$ 381,000.00
3	48-inch SS Manhole	35	EA	\$ 4,000.00	\$ 140,000.00
				Subtotal	\$ 1,001,000.00
Lift Station & Force Main					
1	Proposed Lift Station	1	LS	\$ 500,000.00	\$ 500,000.00
2	12-inch WW Force Main	11,100	LF	\$ 60.00	\$ 666,000.00
3	12-inch Bore and Encasement	100	LF	\$ 500.00	\$ 50,000.00
4	Misc. Site Restoration	1	LS	\$ 40,000.00	\$ 40,000.00
				Subtotal	\$ 1,256,000.00
Erosion & Sedimentation Control					
1	Silt Fence	11,100	LF	\$ 2.50	\$ 27,750.00
2	Tree Protection	2,000	LF	\$ 3.50	\$ 7,000.00
3	Re-vegetation	12,500	SY	\$ 2.50	\$ 31,250.00
				Subtotal	\$ 66,000.00
TOTAL CONSTRUCTION COST ESTIMATE					\$ 2,323,000.00

This Construction Cost Estimate is based on River City Engineering's experience and qualifications, and represents River City Engineering's best judgement. However, since River City Engineering has no control over the cost of labor, materials, equipment or services furnished by others, River City Engineering does not guarantee that the actual construction cost will not vary from the Construction Cost Estimate.



SECTION 2-A	
AREA (TOTAL) =	936.4 ACRES
RESIDENTIAL =	936.4 ACRES
AT 245 GALLONS/DAY/UNITS =	513,520.0 GALLONS/DAY
2096 PARCELS	356.6 GPM
INFLOW/INFILTRATION =	702,300.0 GALLONS/DAY
	487.7 GPM
PEAK DRY WEATHER FLOW =	1,100.6 GPM
PEAK WET WEATHER FLOW =	1,588.3 GPM

SECTION 2-B	
AREA (TOTAL) =	115.4 ACRES
COMMERCIAL/INDUSTRIAL =	115.4 ACRES
AT 800 GALLONS/DAY/ACRE =	42,320.0 GALLONS/DAY
	64.1 GPM
INFLOW/INFILTRATION =	86,550.0 GALLONS/DAY
	60.1 GPM
PEAK DRY WEATHER FLOW =	238.4 GPM
PEAK WET WEATHER FLOW =	298.5 GPM

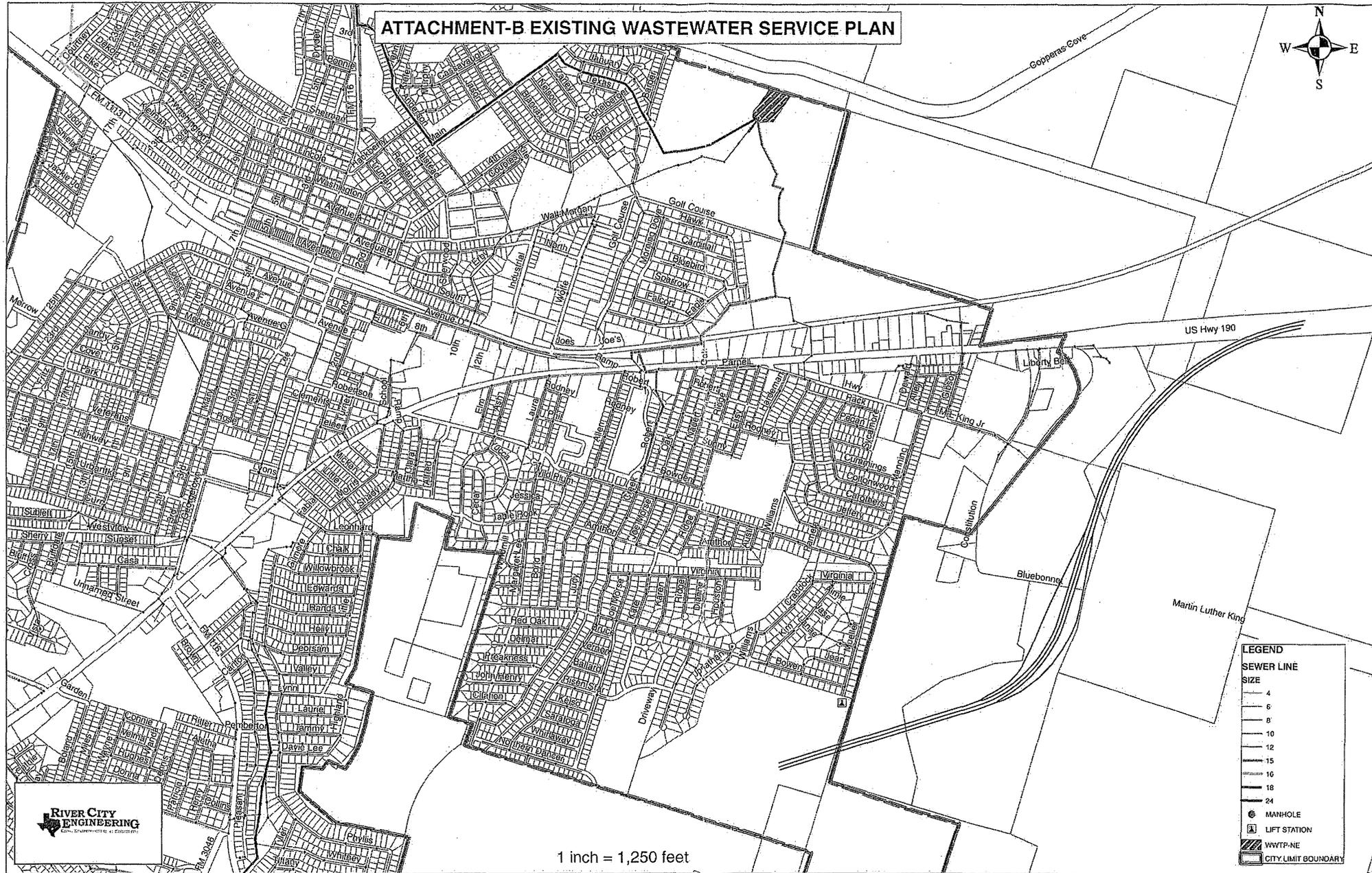
SECTION 3-A	
AREA (TOTAL) =	189.0 ACRES
COMMERCIAL/INDUSTRIAL =	189.0 ACRES
AT 800 GALLONS/DAY/ACRE =	151,160.0 GALLONS/DAY
	105.0 GPM
INFLOW/INFILTRATION =	141,712.5 GALLONS/DAY
	98.4 GPM
PEAK DRY WEATHER FLOW =	373.6 GPM
PEAK WET WEATHER FLOW =	472.0 GPM

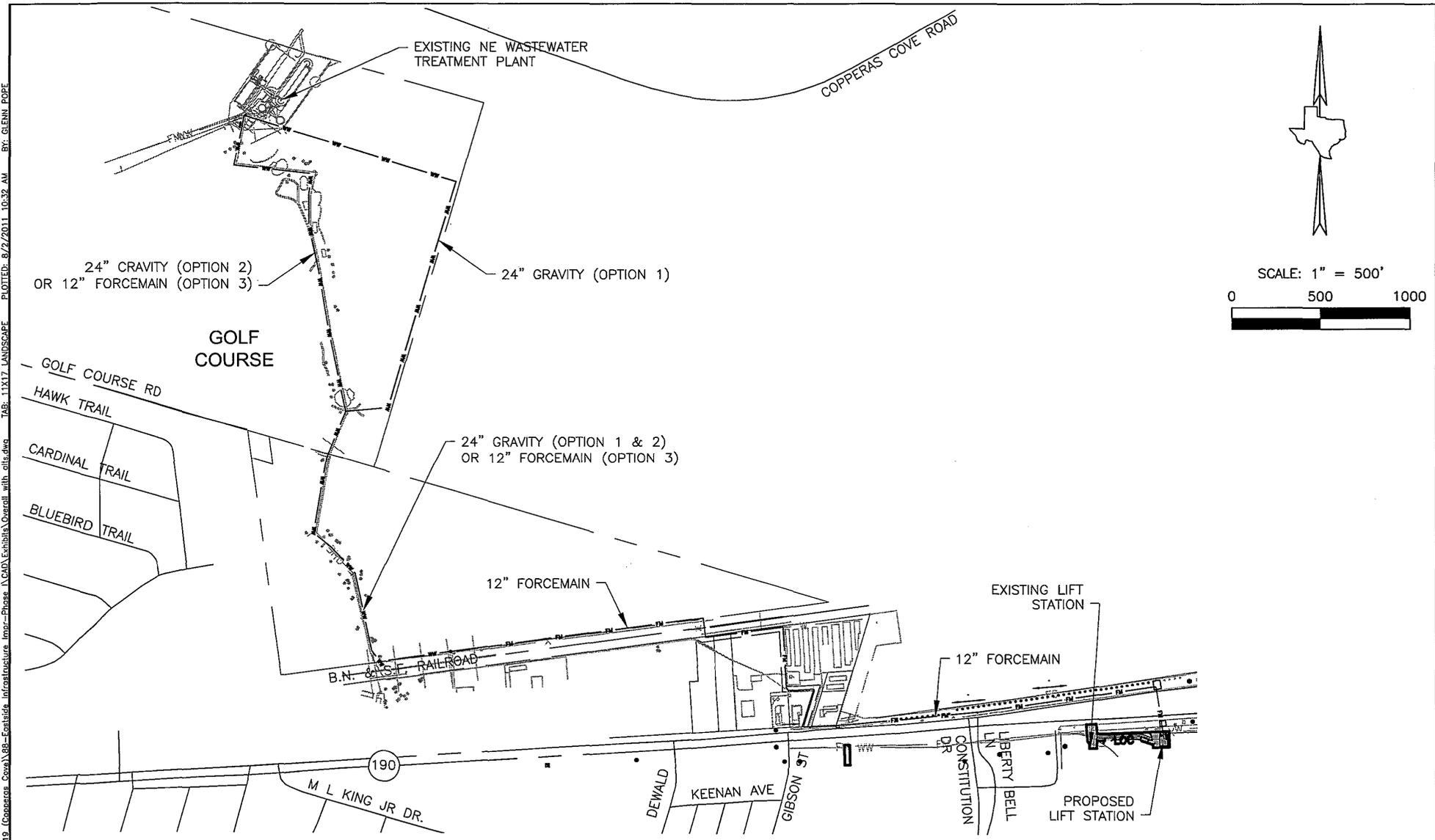
SECTION 3-B	
AREA (TOTAL) =	322.4 ACRES
COMMERCIAL/INDUSTRIAL =	272.4 ACRES
AT 800 GALLONS/DAY/ACRE =	217,896.0 GALLONS/DAY
	151.3 GPM
MULTI-FAMILY =	50.0 ACRES
AT 2450 GALLONS/DAY/ACRE =	122,500.0 GALLONS/DAY
	85.1 GPM
TOTAL =	238.4 GPM
INFLOW/INFILTRATION =	241,777.5 GALLONS/DAY
	167.9 GPM
PEAK DRY WEATHER FLOW =	769.6 GPM
PEAK WET WEATHER FLOW =	937.5 GPM



CITY OF COPPERAS COVE, TX
EASTSIDE INFRASTRUCTURE IMPROVEMENTS

ATTACHMENT 'A'
OVERALL DRAINAGE AREA MAP





FILE: P:\Projects\5019 (Copperas Cove)\88-Eastside Infrastructure Imp-Phase 1\CAD\Exhibits\Overall with ois.dwg
 TAB: 11X17 LANDSCAPE
 PLOTTED: 8/2/2011 10:32 AM BY: GLENN POPE



RIVER CITY ENGINEERING
 3801 SOUTH 1ST STREET
 AUSTIN, TEXAS 78704-7047
 PHONE: (512) 442-3008
 FAX: (512) 442-6522
 101 W. COUNTY LINE ROAD, SUITE C
 NEW BRUNSWICK, TEXAS 78180
 PHONE: (830) 628-5600
 FAX: (830) 628-8601

COPPERAS COVE, TEXAS
 EASTSIDE INFRASTRUCTURE IMPROVEMENTS

ATTACHMENT 'C'
 EASTSIDE WASTEWATER LINE OPTIONS

City Council Regular

L. 1.

Meeting Date: 10/04/2011

SUBJECT

Pursuant to §551.074 of the Open Meetings Act. Tex. Gov't Code, Council will meet in Executive Session to deliberate the evaluation and duties of the City Secretary, Jane Lees.

City Council Regular

L. 2.

Meeting Date: 10/04/2011

SUBJECT

Pursuant to §551.087, Deliberation Regarding Economic Development Negotiations, of the Open Meetings Act, Tex. Gov't Code, Council will meet in Executive Session to deliberate the offer of a financial or other incentive to a business prospect - First Advisors, Inc.

City Council Regular

L. 3.

Meeting Date: 10/04/2011

SUBJECT

Pursuant to Section 551.071, Consultations with Attorney, of the Open Meetings Act, Tx. Gov't Code, Council will meet in Executive Session to consult with attorney regarding the purchase of real property - Dewald easement.
