

ORDINANCE NO. 20090820-061

AN ORDINANCE AMENDING CHAPTER 25-9 OF THE CITY CODE RELATING TO SERVICE EXTENSION REQUESTS AND CITY COST PARTICIPATION AND COST REIMBURSEMENT IN WATER AND WASTEWATER FACILITIES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. City Code Section 25-9-2 (*Service Area of Water and Wastewater Utility*) is amended to read:

§ 25-9-2 SERVICE AREA OF AUSTIN WATER [~~AND WASTEWATER~~] UTILITY.

The service area of the Austin Water [~~and Wastewater~~] Utility is coterminous with the water and wastewater impact fee service area established by the council under Chapter 25-9, Article 3 (*Water And Wastewater Capital Recovery Fees*), including each amendment or revision of the area.

PART 2. City Code Section 25-9-3 (*Service Outside Service Area Prohibited*) is amended to read:

§ 25-9-3 SERVICE OUTSIDE SERVICE AREA PROHIBITED.

The City may not provide water or wastewater service outside the service area of the Austin Water [~~and Wastewater~~] Utility unless the council by ordinance waives the prohibition.

PART 3. Chapter 25-9 (*Water and Wastewater*) Article 1, Division 2 of the City Code is amended to read:

Division 2. Extension of Service.

Subpart A. General Provisions.

§ 25-9-31 APPLICABILITY.

This subpart applies to the approval and construction of a service extension other than a service extension that is constructed as part of: a project serving a property for which:

- ~~[(1) a capital improvement program of the City; or~~
~~(2) a project initiated by the City.]~~
- (1) the nearest point on the property's boundary is 100 feet or less from an accessible water or wastewater system; and
- (2) the director determines that the water and wastewater system that will serve the property can provide suitable and sufficient service in accordance with the Utilities Criteria Manual.

§ 25-9-32 DEFINITIONS.

In this subpart:

- (1) ASSOCIATED FACILITY means an apparatus or improvement that is used in conjunction with a water or wastewater line that provides water or wastewater service to a tract of land, regardless of where the associated facility is located. The term includes a lift station, force main, pump station, storage tank, a decentralized wastewater system component, alternative wastewater system, or an addition to an existing facility that increases the capability of the existing facility to provide water or wastewater service.
- (2) CONSTRUCTION, with reference to a facility, means only the actual physical construction of the facility. The term does not include the ~~[designing of,]~~ engineering and project management ~~[surveying]~~ for~~[-or laying out of a facility that occurs before the physical construction of the]~~ a facility.
- (3) DECENTRALIZED WASTEWATER SYSTEM means a wastewater system other than one that is connected to a City ~~[Govalle, South Austin Regional, or the Walnut Creek]~~ wastewater treatment plant ~~[plants]~~, and includes an on-site wastewater disposal system, a cluster wastewater system, or a small wastewater treatment plant.
- (4) OVERSIZE, with reference to a water or wastewater line or an associated facility, means an increase in the size or capacity of the line or associated facility above the minimum size or capacity, including fire flow requirements, that is necessary to provide utility service to meet the projected demands of the tract to be served.
- (5) SERVICE EXTENSION means a water or wastewater line or associated facility that provides ~~[is necessary to provide]~~ new or additional water or wastewater service to a tract of land.

- (6) **WATER OR WASTEWATER LINE** means an [a-necessary] appurtenance to a water distribution or wastewater collection system. The term includes a valve, manhole, connection, air release, diversion, and other equipment necessary to make the water distribution or wastewater collection system operable in compliance with the design criteria and standards in the Utilities Criteria Manual, or the equivalent design criteria and standards as determined by the director of the Austin Water [and Wastewater] Utility.
- (7) **HARD COSTS** means the actual cost of construction and materials determined after completion and final acceptance of a project.
- (8) **SOFT COSTS** means the cost of engineering and project management of a facility.
- (9) **COST PARTICIPATION** means a calculated percentage, as set forth in Section 25-9-62, of hard costs plus up to 15% of the calculated percentage of hard costs to reimburse soft costs.
- (10) **COST REIMBURSEMENT** means 100% of hard costs plus up to 15% of hard costs to reimburse soft costs.

§ 25-9-33 SERVICE EXTENSION APPLICATION.

- (A) A service extension request application is required to [In this section, "approved water or wastewater line" is a water or wastewater line constructed under a]:

- [(1)—capital improvement project;
- (2)—developer participation contract;
- (3)—community facilities contract;
- (4)—project initiated by the City; or
- (5)—approved service extension request.

- [(B)—A service extension request application is required to:]

- (1) connect a tract of land to a City utility system if an accessible water and wastewater service is more than one hundred feet from the property's boundary; [or]
- (2) [to] provide utility service to a tract of land if an existing line or associated facility is unsuitable or insufficient to provide service to the tract as determined by the director in accordance with the Utilities Criteria Manual; or [.]

(3) provide service from a decentralized wastewater system to a tract of land where the director recommends the City operate and maintain that decentralized wastewater system.

(B)(C) A person must submit an application for a service extension to the director of the Austin Water [and Wastewater] Utility. The director of the Austin Water [and Wastewater] Utility may not accept an application unless the application is complete and the applicant has paid the required non-refundable fee.

(C)(D) An application for approval of a service extension must:

- (1) include a general description of the location, size, and capacity of the service extension;
- (2) be accompanied by a request for annexation of the tract by the City if the land is not covered by the utility's certificate of convenience and necessity~~[, be accompanied by a request for annexation of the land by the City];~~ and
- (3) include other information as required by the director of the Austin Water [and Wastewater] Utility.

(D)(E) If either water or wastewater service is to be provided by an entity other than the City, the application must be accompanied by evidence of a commitment from the other entity to provide the service. The evidence must be in the form of:

- (1) a contract with the entity;
- (2) a letter from the entity; or
- (3) the minutes of the relevant meeting of the governing body of the entity.

(E)(F) Except as provided by Section 25-9-3 (*Service Outside Service Area Prohibited*), the [The] director of the Austin Water [and Wastewater] Utility may not accept an application for a service extension if the tract of land to be served by the service extension is not in the service area of the Austin Water [and Wastewater] Utility.

§ 25-9-34 REVIEW AND APPROVAL PROCESS.

(A) Administrative Review. An administrative review will be conducted to determine the completeness of the service extension applications. Within a time period established by state law, notification will be sent to an applicant

indicating whether an application is administratively complete or if additional information is required.

- (B) Technical Review. After an application is determined to be administratively complete, a technical review will be conducted. Technical review may include, but is not limited to, a determination of the service requirements for the subject tract, the system capacity, cost participation and cost reimbursement, and type of improvements necessary to provide service to the site. Additional information may be required from the applicant for completion of technical review. During technical review a professional engineer employed by Austin Water Utility shall determine a size of a water or wastewater line or a capacity of an associated facility that is roughly proportionate to the size or capacity that is required to serve the proposed development.
- (C) Notification of Approval. Upon completion of the technical review, and subject to the approval requirements of Section 25-9-35 (*Approval of Service Extension Request*), notification of approval of the service extension request will be sent to the applicant.

§ 25-9-35[34] APPROVAL OF A SERVICE EXTENSION REQUEST.

- (A) Except as provided in Subsection (B), city council approval of a service extension request or substantial amendment of an unexpired, approved service extension request is required.
- (B) The director of the Austin Water [and Wastewater] Utility may approve an application for a service extension request or amendment of an unexpired service extension request if:
- ~~(1) the requested service extension does not include cost participation or reimbursement by the City;~~
- ~~(1)~~[(2)] the director of the Austin Water [and Wastewater] Utility determines that sufficient capacity exists or will be available to meet the projected demands of the tract to be served; and
- ~~(2)~~[(3)] the property is located:
- (a) in the desired development zone; or
- (b) in the drinking water protection zone and within the full purpose corporate limits.
- ~~[(C) If the requested service extension includes cost participation or~~

~~reimbursement by the City, or if the director of the Water and Wastewater Utility does not determine that sufficient capacity exists or will exist, the application must be processed under Sections 25-9-64 (Application Required) and 25-9-65 (Approval Process).]~~

§ 25-9-36[35] ENVIRONMENTAL ASSESSMENTS.

- (A) An applicant for a service extension request shall perform an environment assessment if required as part of the City's review of an application.
- (B) An applicant is responsible for the cost of the environmental assessment.

§ 25-9-37[36] APPROVAL OF IMPROVEMENTS.

- (A) After a request for a service extension has been approved, an applicant must submit the construction plans for needed improvements and a copy of the approved service extension request to the director of the Austin Water [~~and Wastewater~~] Utility for review and approval of the size, capacity, and routing of the improvements.
- (B) The director of the Austin Water [~~and Wastewater~~] Utility may approve the size, capacity, routing, or location of an improvement only if it complies with the Utilities [~~Utility~~] Criteria Manual, or equivalent standards as determined by the director of the Austin Water [~~and Wastewater~~] Utility, and each applicable City requirement.

§ 25-9-38[37] CONSTRUCTION OF IMPROVEMENTS.

An applicant for a service extension request shall provide information determined by the director of the Austin Water [~~and Wastewater~~] Utility to be necessary to demonstrate that construction of the service extension complies with the requirements of the City.

§ 25-9-39[38] EXPIRATION OF SERVICE EXTENSION REQUEST APPROVAL.

- (A) This subsection applies to a service extension request approved before April 17, 2000.
 - (1) Unless extended under this subsection or Subsection (C), the approval of a service extension request remains in effect until the latest of:
 - (a) the date on which the preliminary plan expires for the property to be served by the service extension;

- (b) the second anniversary of the date on which the service extension request was approved, if on or before that date:
 - (i) a preliminary plan for the property to be served has not been approved; and
 - (ii) construction of the service extension has not begun; or
 - (c) the third anniversary of the date on which the service extension request was approved, if:
 - (i) on or before that date a preliminary plan for the property to be served has not been approved; and
 - (ii) construction of the service extension began before the second anniversary of the date on which the service extension request was approved, but on or before the third anniversary of that date, construction of the service extension has not been completed and accepted for operation and maintenance by the City.
- (2) If construction of a service extension begins while the approval is in effect under Paragraph (1), the director of the Austin Water [~~and Wastewater~~] Utility may extend the approval of a service extension request for the period of time estimated to be necessary to complete construction of the service extension.
- (B) This subsection applies to a service extension request approved after April 17, 2000.
- (1) Except as set forth in (2), an approved [~~Except as provided in Paragraph (2), a~~] service extension request expires on the latest of:
 - (a) 120 days after the date of its approval;
 - (b) for a project with a pending development application, the date the application expires; or
 - (c) for a project with an approved development application, the date the approval expires.
 - (2) For a project with a recorded plat, the service extension request does not expire.

(3[2]) If a project's intensity, proposed land uses, or anticipated water or wastewater demands change, [substantially, an approved] any such change must be reported to the director and there must be an application for the amended service extension request unless the director determines the change is not so substantial as to require an amendment [expires].

(C) Under this section, if the approval of a service extension request requires cost participation or cost reimbursement from the City under a cost participation or cost reimbursement contract or a community facilities contract approved by the council:

- (1) construction of the service extension begins on the date that fiscal security is posted or money is deposited in compliance with the contract; and
- (2) the service extension request approval is extended until construction of the service extension is complete and the City accepts the lines and associated facilities constructed under the contract.

[§ 25-9-39 FISCAL SECURITY.

~~(A) — Except as provided in Subsection (D), the owner of the tract of land to be served by a service extension shall post fiscal security with the City before the 91st day after the date on which the service extension is approved.~~

~~(B) — The fiscal security must be in an amount equal to 100 percent of the estimated cost of the service extension improvements.~~

~~(C) — The fiscal security must be in the form of:~~

~~(1) — an irrevocable letter of credit that has a minimum term of three years and is acceptable to the City; or~~

~~(2) — a cash deposit.~~

~~(D) — If a preliminary plan for the tract to be served by the service extension is filed before the 90th day after the service extension is approved, the owner of the tract of land shall post fiscal security for the improvements at the time fiscal security for the subdivision is posted.~~

~~(E) — If, on the 30th day before the approval of a service extension expires construction of a service extension has not begun, the City may use the fiscal security to construct the service extension.~~

~~(F) A developer agreement described in Section 25-9-68 (Developer Agreement Required) may vary the fiscal security requirements of this section.]~~

§ 25-9-40 SERVICE COMMITMENT TRANSFER NOT PERMITTED.

A service commitment may not be transferred from one tract of land to another.

§ 25-9-41 DEVELOPMENT COMPLIANCE ~~[100 FOOT RULE]~~.

~~{(A) The City may, at its expense, extend a water or wastewater line for a maximum distance of 100 feet to serve a legal tract in the full purpose municipal boundaries of the City if funds are available to pay the cost of installing the line.~~

~~(B) A line installed under Subsection (A) must be 8 inches or less in diameter.~~

~~(C) The person requesting utility service is responsible for installing water or wastewater line needed to serve the tract in excess of the line installed by the City under Subsection (A).]~~

Development of a project for which a service extension request is approved must comply with the terms of the approved service extension request and all City requirements pertaining to water conservation.

Subpart B. ~~[Cost Reimbursement and]~~ Cost Participation and Cost Reimbursement.

§ 25-9-61 ELIGIBLE PROJECTS.

(A) An entity that agrees to construct a water or wastewater line or an associated facility that on acceptance will become part of the City water and wastewater system may apply to the City for cost participation or cost reimbursement in a water or wastewater line or an associated facility if the line or facility is oversized at the request of the City to serve additional property~~[; and]~~. Cost participation and cost reimbursement are not permitted for a wastewater facility that provides service within the drinking water protection zone.

(B) Under this Section cost participation will apply:

(1) if the improvement is a water line and has a diameter of more than 8 inches but less than 24 inches;

(2) ~~[(1)]~~ if the improvement is a wastewater line; and has a diameter of more than 8 inches but less than 18 inches ~~[and the tract to which service is to be provided is within the desired development zone];~~ or

~~[(2)]~~ if the improvement is a water line, has a diameter of more than 12 inches but less than 24 inches.

~~(B)~~ The maximum cost reimbursement for the cost of a facility is described in the following table.]

(3) if the improvement is a pump station, reservoir, storage tank, lift station, force main or wastewater treatment plant that is oversized at the request of the City.

(C) Under this Section cost reimbursement ~~[for the cost of a facility is described in the following table.]~~ will apply:

(1) if the improvement is a water line and has a diameter of 24 inches or greater; or

(2) if the improvement is a wastewater line and has a diameter of 18 inches or greater.

~~[(C)]~~ Cost reimbursement is not permitted for a wastewater facility that serves the drinking water protection zone.]

[FACILITIES ELIGIBLE FOR COST REIMBURSEMENT

Facility	Maximum Reimbursement (Per LUE)
1. Water Treatment (only water	\$ 468
treatment plants to be	
assumed for ownership by	
the City for system related needs)	
2. Water Transmission (only water	\$ 345
transmission lines 24 inches	
or greater in diameter, and	
water transmission valves and	
encasements for lines 24 inches	
or greater in diameter)	

3. ~~Water Reservoirs (only~~ ~~\$ 175~~
~~water reservoirs)~~
4. ~~Water Pumpage (only water~~ ~~\$ 153~~
~~pumpage facilities including~~
~~treatment plant pumpage)~~
5. ~~Wastewater Treatment (only~~ ~~\$ 949~~
~~wastewater treatment plants~~
~~to be assumed for ownership by~~
~~the City for system-related)~~
6. ~~Wastewater Interceptors~~ ~~\$ 404~~
~~(only gravity mains 18 inches~~
~~or greater in diameter, force~~
~~mains 12 inches or greater in~~
~~diameter, tunnels, tunnel liners,~~
~~and special manholes)~~
7. ~~Wastewater Lift Stations~~ ~~\$ 80~~
~~(only major, permanent lift stations)}~~

§ 25-9-62 AMOUNT OF COST PARTICIPATION.

Tables 1 and 2 below set forth the percentage [(A) — The amount] of [-City] cost participation in the hard costs of an oversized water or wastewater line [is computed by:]. The percentage of cost participation is based upon the increased percentage in pipe diameter due to oversizing established under Section 25-9-64. Cost participation is determined by multiplying the percentage set forth in Table 1 and Table 2 by the hard costs of an oversized line.

- [(1) ~~multiplying \$3 by each inch in diameter that the water line is oversize;~~
~~and~~
- (2) ~~multiplying that product by the length of the water line measured in~~
~~feet.~~

- ~~(B) The amount of City cost participation for an oversized wastewater line is computed by:~~
- ~~(1) multiplying \$3.50 by each inch in diameter that the wastewater line is oversize; and~~
 - ~~(2) multiplying that product by the length of the wastewater line measured in feet.~~
- ~~(C) The length of an oversized water or wastewater line shall be determined in accordance with approved as built drawings.~~
- ~~(D) The cost participation computation for an oversized water or wastewater line accounts for all costs related to the oversizing, including:~~
- ~~(1) engineering costs;~~
 - ~~(2) administrative costs; and~~
 - ~~(3) the cost of fittings, hydrants, and valves.]~~

(A) The following table sets forth the amount of cost participation for the hard costs associated with an oversized water line:

Table 1: Amount of Cost Participation (Water)

<u>Minimum Required Pipe Diameter (inches)</u>	<u>Percentage of Cost Participation Based On Oversized Pipe Diameter</u>		
	<u>8</u>	<u>12</u>	<u>16</u>
	<u>0%</u>	<u>33%</u>	<u>50%</u>
<u>8</u>	<u>0%</u>	<u>33%</u>	<u>50%</u>
<u>12</u>		<u>0%</u>	<u>25%</u>
<u>16</u>			<u>0%</u>

(B) The following table sets forth the amount of cost participation for the hard costs associated with an oversized wastewater line:

Table 2: Amount of Cost Participation (Wastewater)

<u>Minimum Required Pipe Diameter (inches)</u>	<u>Percentage of Cost Participation Based On Oversized Pipe Diameter</u>		
	<u>8</u>	<u>12</u>	<u>15</u>
<u>8</u>	<u>0%</u>	<u>33%</u>	<u>47%</u>
<u>12</u>		<u>0%</u>	<u>20%</u>
<u>15</u>			<u>0%</u>

- (C) The amount of cost participation for hard costs for pump stations, reservoirs, storage tanks, wastewater treatment plants, lift stations, force mains and other associated facilities will be calculated on the percentage of oversizing of the treatment capacity or pumping capacity.
- (D) The amount of cost participation for soft costs may not exceed 15% of the hard costs calculated under subsections (A), (B) and (C) of this Section.
- (E) Notwithstanding the above, under no circumstance shall cost participation under this section exceed the amount authorized by council, unless council provides authorization for additional cost participation.

§ 25-9-63 AMOUNT OF COST REIMBURSEMENT.

The amount of the cost reimbursement for an improvement is based on 100% of hard costs plus up to 15% of hard costs to reimburse soft costs, except that under no circumstance shall reimbursement exceed the amount authorized by council, unless council provides authorization for additional reimbursement [~~the actual construction cost of the improvement. However, the amount of cost reimbursement for a facility may not exceed the maximum reimbursement provided in Subsection 25-9-61(B) (Eligible Projects) for each living unit equivalent of capacity provided by the facility, calculated in accordance with the Utilities Criteria Manual~~].

§ 25-9-64 APPLICATION FOR COST PARTICIPATION AND COST REIMBURSEMENT [REQUIRED].

During the technical review of the application, a determination will be made on whether oversizing of water or wastewater lines or associated facilities will be necessary. If

oversizing of any water or wastewater lines or any associated facilities is necessary, the [The] applicant for approval of a service extension [must] request must indicate on a form provided by the director whether they are requesting cost participation or cost reimbursement [at the time the applicant applies to the director of the Water and Wastewater Utility for approval of the service extension].

§ 25-9-65 APPROVAL PROCESS FOR COST PARTICIPATION OR COST REIMBURSEMENT.

- (A) The director of the Austin Water [~~and Wastewater~~] Utility shall review each request for cost participation or cost reimbursement. ~~[(B)]~~ The cost participation and cost reimbursement review is incorporated in the technical review process as described in Section 25-9-34 (B). [On completion of the review, the director of the Water and Wastewater Utility shall forward the request and a recommendation for approval or disapproval to the Water and Wastewater Commission.]
- (B)[C] The director of the Austin Water [~~and Wastewater~~]-Utility may recommend approval of a request for cost participation or cost reimbursement only if the director of the Austin Water [~~and Wastewater~~] Utility determines that:
- (1) the property to be served is in the service area of the Austin Water [~~and Wastewater~~] Utility;
 - (2) the size of each proposed line or facility complies with the planning criteria of the Austin Water [~~and Wastewater~~] Utility and final design and routing will comply with the Utilities Criteria Manual;
 - (3) funds for City participation or reimbursement are available from an identified source or that funds will be available to meet the proposed payment schedule; and
 - (4) the proposed line or facility is an appropriate extension or addition to the water and wastewater utility system.
- (C) During the technical review the director, in consideration of a construction cost estimate provided by the applicant's engineer, will establish the terms of the cost participation or cost reimbursement. The director will provide a recommended not-to-exceed amount for either cost participation or cost reimbursement, which amount will be an estimate based on the percentages for cost participation or cost reimbursement in Section 25-9-62 or Section 25-9-63.

- (D) The Water and Wastewater Commission shall make a recommendation on ~~[recommend that]~~ the request for cost participation or cost reimbursement ~~[be approved or disapproved]~~.
- (E) The director of the Austin Water ~~[and Wastewater]~~ Utility shall forward the request and the Water and Wastewater Commission recommendation to the council for final action.

§ 25-9-66 COST PARTICIPATION AND COST REIMBURSEMENT REQUIREMENTS.

- (A) An entity constructing a water or wastewater line or an associated facility that is eligible for cost participation or cost reimbursement may not receive cost participation or cost reimbursement payment for the line or facility unless the entity complies with each requirement or regulation of the City, including but not limited to requirements relating to:
 - (1) the public advertising of the line or facility;
 - (2) the bidding on the line or facility;
 - (3) a performance or payment bond for the line or facility;
 - (4) posting of fiscal security as set forth in the developer agreement required by Section 25-9-68; [a warranty on the line or facility; and]
 - (5) completion and acceptance; and ~~[the maintenance of the line or facility.]~~
 - (6) a warranty on the line or facility.
- (B) The entity constructing the line or facility is not entitled to receive a cost participation or cost reimbursement payment until the entity submits documentation showing the entity's compliance with each requirement described by Subsection (A).

§ 25-9-67 COST PARTICIPATION AND COST REIMBURSEMENT PAYMENT.

- (A) Desired Development Zone. For cost participation or cost reimbursement relating to an improvement associated with a service extension request in the desired development zone, the City shall pay its portion of the cost ~~[on March 1 of the second year after the year in which]~~ 90 days after the date the City accepts the improvement.
- (B) Drinking Water Protection Zone. For cost participation or cost reimbursement relating to a water ~~[an]~~ improvement associated with a water

service extension request to a tract in the drinking water protection zone, the City shall~~[-(1)]~~ pay its portion of the cost in four equal annual installments, without interest, with the first payment to be made on March 1 of the second year after the year in which the City accepts the improvement [~~;- or ----- (2)~~ if the total amount to be paid is \$25,000 or less, pay the total amount on the date the first payment is due under this subsection].

§ 25-9-68 DEVELOPER AGREEMENT [REQUIRED].

- (A) An applicant for cost [~~reimbursement or cost~~] participation or cost reimbursement must enter into a developer agreement with the City before the City may make a cost reimbursement or cost participation payment.
- (B) The director of the Austin Water [~~and Wastewater~~] Utility shall determine the terms of the developer agreement and may sign the agreement for the City.

~~[§ 25-9-69 SERVICE CONNECTIONS TO CERTAIN LOTS.~~

~~The Water and Wastewater Utility shall install a water or wastewater service connection to a lot if:~~

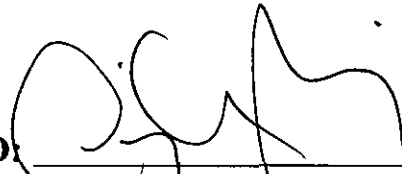
- ~~(1) the applicant has a tap permit for the lot; and~~
- ~~(2) the lot is:~~
 - ~~(a) part of a resubdivision consisting of not more than four lots for which the construction of a street, utility main, manhole, or hydrant is not required;~~
 - ~~(b) located in an urban watershed; and~~
 - ~~(c) zoned SF 1, SF 2, or SF 3; and~~
- ~~(3) the resubdivision is not in conflict with a neighborhood plan adopted by the city council.]~~

PART 4. This ordinance takes effect on September 7, 2009.

PASSED AND APPROVED

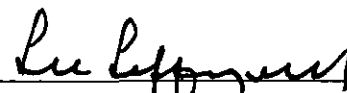
_____, August 20, 2009

APPROVED:



David Allan Smith
City Attorney

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Lee Lefingwell
Mayor

ATTEST:



Shirley A. Gentry
City Clerk