

**FIRST AMENDMENT TO THE ACQUISITION, OWNERSHIP
AND OPERATING AGREEMENT FOR THE ANIMAL CONTROL
SHELTER/PUBLIC SAFETY TRAINING FACILITY BETWEEN
THE CITIES OF CEDAR HILL, DESOTO AND DUNCANVILLE**

This Amendment is entered into by and between the Cities of Cedar Hill, DeSoto and Duncanville, each being a Texas home-rule municipal corporations and herein collectively referred to as the "Cities," as of the date of execution hereof.

W I T N E S S E T H

WHEREAS, on September 3, 1991, the Cities entered into an agreement entitled the Acquisition, Ownership and Operating Agreement Re: Animal Control/Public Safety Training Facility Between the Cities of Cedar Hill, DeSoto and Duncanville (herein the "Agreement"); and

WHEREAS, pursuant to the Agreement, the Cities each own a one-third undivided interest in the facility known and referred to as the Tri-City Animal Shelter; and

WHEREAS, the Cities understand and agree that an expansion of the Tri-City Animal Shelter is necessary for the economical and efficient means to provide animal impoundment facilities and public training facilities for each of the Cities; and

WHEREAS, the Cities desire to amend, modify and clarify the Agreement to provide for the funding of the expansion of the Tri-City Animal Shelter.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, the Cities hereby agree that the Agreement is amended as follows:

I.

Cedar Hill has agreed to incur the financial obligation or debt for the planned 2008 expansion of the Facilities. DeSoto and Duncanville agree that they shall each pay their proportionate share of one-third (1/3) of the debt service as reimbursement to Cedar Hill.

II.


To the extent that any provision of this Amendment conflicts or is inconsistent with the Agreement, the provisions of this Amendment shall control. Any of the terms and provisions of the Agreement are hereby amended and modified where necessary, even though not specifically addressed herein, so as to conform to the amendments and modifications set forth herein. The Agreement, except as hereby amended, remains in full force and effect.

III.

This Amendment may be executed in counterparts, and each counterpart when so executed and delivered shall constitute an original of this Amendment, and all such separate counterparts shall constitute but one and the same Amendment.


IN WITNESS WHEREOF, the Cities have executed or caused this Amendment to be duly executed as of the 28 day of March, 2008.

CITY OF CEDAR HILL, TEXAS:



Mayor

ATTEST:



City Secretary



CITY OF DESOTO, TEXAS:



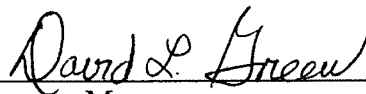
Mayor

ATTEST:



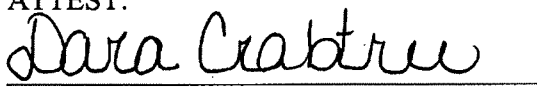
City Secretary

CITY OF DUNCANVILLE, TEXAS:



Mayor

ATTEST:



City Secretary

ACQUISITION, OWNERSHIP AND OPERATING AGREEMENT
RE: ANIMAL CONTROL SHELTER/PUBLIC SAFETY TRAINING FACILITY
BETWEEN THE CITIES OF CEDAR HILL, DESOTO AND DUNCANVILLE

THIS AGREEMENT, effective as of the 3rd day of October 1991, is made and entered into by and between the City of Duncanville, Texas (hereinafter called "Duncanville", the City of DESOTO (hereinafter called "DESOTO") and the City of Cedar Hill, Texas (hereinafter called "Cedar Hill"), each of said cities being a municipal corporation organized and operating under the laws of the State of Texas and their respective Home Rule charters and hereinafter collectively referred to as the "Cities",

W I T N E S S E T H :

WHEREAS, Duncanville, DESOTO and Cedar Hill has each determined that their facilities for the impoundment, care and treatment of animals is inadequate to meet projected increases in animal impounds; and

WHEREAS, additionally, each of the Cities is without adequate training facilities for their respective fire and police departments; and

WHEREAS, after studying and reviewing available options and alternatives, each of the Cities has determined the most economical and efficient means to provide animal impoundment facilities and public safety training facilities would be through their joint action and participation in the acquisition, ownership and operation of such facilities at a centrally located site;

NOW, THEREFORE, to initiate, undertake and implement such joint participation in the acquisition, ownership and operation of such facilities and in consideration of the mutual covenants hereinafter contained, the parties hereto agree and contract as follows:

SECTION 1: Site. Unless otherwise provided and agreed by an amendment to this Agreement, the facilities to be acquired, constructed and operated hereunder shall be located in the City of Cedar Hill, Texas on property (the "Project Site") described in Exhibit A attached hereto and incorporated herein by reference as a part hereof for all purposes.

SECTION 2: Ownership of Project. Each of the parties hereto shall acquire and, subject to adjustments as provided herein, shall initially own an undivided Thirty-Three and One-Third Per Cent (33-1/3%) in the Project Site and all the Facilities (as hereinafter identified) constructed on the Project Site. For purposes of this Agreement, the Facilities (the "Facilities") on the Project Site are generally described in Exhibit B attached hereto.

SECTION 3. Financial Arrangement. (a) Acquisition and Construction. Each party hereto shall be responsible for obtaining and providing one-third (1/3) of the capital for the acquisition of the Project Site and for constructing and equipping the Facilities.

(b) Additional Capital. If at any time during the existence of this Agreement it should become necessary to provide additional capital for completing the construction or making improvements to the Facilities, each of the parties hereto will contribute one-third (1/3) of additional amount or amounts necessary to complete the construction of the Facilities or make improvements thereto and/or build new Facilities on the Project Site.

(c) Maintenance and Operation of Facilities. Notwithstanding each party's one-third (1/3) ownership interest in the Project Site and the Facilities and one-third (1/3) financial obligation to provide capital for the acquisition and construction of the Project Site and the Facilities, annual unpaid operation and maintenance costs and expenses of the Facilities shall be borne by the parties hereto on a pro rata monthly basis accordingly to each party's use of the Facilities, annual period in question, i.e., if one party accounts for 50% of the use of the Facilities, such party will be liable for one-half (1/2) of the operating and maintenance costs of the Facilities not paid with revenues from the operation of the Facilities. The management committee may at the discretion amend this paragraph for the purpose of establishing minimum costs per city.

No member city shall be liable to fund any obligation under this Agreement unless and until their respective City Council has specifically authorized the expenditures of such funds or the incurring of such obligation by action of the City Council at some later date.

(d) Waiver of Right to Partition. Each of the cities hereto agrees to waive any rights to partition any component of the Facilities, whether by partition in kind or by sale and division of the proceeds, and further agrees that it will not resort to any action in law or in equity to partition such component, and it waives the benefits of all laws that may now or hereafter authorize such partition for a term (i) which shall be coterminous with the co-tenancy agreement for such component or (ii) which shall be for such lesser period as may be required under applicable law.

SECTION 4 Administration and Management. As a means for providing the acquisition, construction, ownership and operation for the Facilities, the Cities hereby establish a Management Committee, which shall be comprised of three (3) members with one (1) representative to be appointed by each City a party hereto and such appointments to be made by each City's City Manager. The Management Committee shall provide for the acquisition, management and operation of the Facilities for and on behalf of the Cities and except as otherwise herein set forth, a majority vote of the members of the Management Committee shall govern and control all actions with each member having an equal vote.

All capital expenditure decision involving more than a total of \$30,000 shall require a unanimous vote of the management committee to be implemented.

The Management Committee shall cause to be prepared each year an annual operating and management budget pertaining to the operation and management of the Facilities, or any portion thereof, and as needed each fiscal year, a capital expenditure budget pertaining to the acquisition, construction and improvement of the Facilities for the ensuing period from October 1 to September 30 of each calendar year. Such annual budget (other than the initial annual budget) shall, to the extent possible, be completed and approved by the Management Committee and submitted to the Cities by July 1 of each year.

Each party hereto represents and covenants that its financial obligation and liabilities hereunder with respect to the acquisition, operation and maintenance of the Facilities shall constitute "operating" expenses of the City's general fund payable from funds annually budgeted and appropriated therefore by the Cities in their respective annual budgets, or, in regard to meeting acquisition costs, may consist of funds derived from each City's ability to borrow funds in accordance with State Law.

The Management Committee shall cause to be prepared full and accurate books of accounts reflecting the condition of the business and finances of the Facilities and each City, or their authorized representative, shall have access to such books of account and shall be entitled to examine the same at any time. At the end of each fiscal year, the Management Committee shall cause to be prepared a statement of operations and a statement of financial operations (using generally accepted accounting principles) for the year and file a copy of such statement of operations with the City Manager of each of the Cities.

SECTION 5 Sale or Disposition. Except as provided herein, no party hereto may sell or assign its interest in the Facilities or any of its rights or obligations under this Agreement without the prior written consent of each of the other parties hereto.

During the thirty (30) month period immediately following the acquisition of the land, the City of Cedar Hill shall have the right to purchase property for open space or other similar purpose at the original acquisition per acre price. After that time period, the City of Cedar Hill may purchase land at the current appraised value price.

A City shall have the right to transfer or assign all of its ownership interest in the Facilities, together with a proportional part of its rights and obligations under this Agreement to one or both of the other Cities a party hereto. The City desiring to make such transfer shall obtain an appraisal of the Facilities based on then current fair market value in the immediate vicinity of the Facilities and one or both of the other Cities hereto shall have the right to acquire such interest at a price equal to the fair market value of the undivided interest of the City desiring to sell, less a penalty of 50% of the fair market value of the undivided interest of the City desiring to sell.

At least six (6) months prior to the date on which the intended transfer is to be consummated, the City desiring to

transfer shall serve written notice of its intention to do so upon the other Cities. Such notice shall contain the proposed date of transfer, a copy of the appraisal obtained in the connection with such transfer, and the terms of conditions of the transfer.

Both of the other Cities shall have the right to acquire One-Half (1/2) the interest to be transferred and each such City shall exercise such right by serving written notice of its intention upon the City desiring to transfer within three (3) months after service of written notice of intention to transfer required above. If none of the other Cities exercise the right to acquire such additional ownership interest in the Facilities within the time period specified, it shall be conclusively deemed to be an election not to exercise such right and the failure to exercise such right of purchase shall result in the termination of this Agreement and the liquidation of the Facilities as hereinafter provided. If only one City is interested in acquiring the interest to be transferred, it shall have the right to acquire all of that interest.

SECTION 6: Destruction or Abandonment. If the Facilities should be damaged or destroyed to the extent that the estimated costs of repairs, replacement or reconstruction is not more than one hundred (100%) of the aggregate amount of the proceeds from property damage insurance carried and covering the costs of the repairs, replacement or reconstruction of such Facilities, the Cities, unless otherwise unanimously agreed, shall repair, replace or reconstruct such Facilities to substantially the same general character or use as the original.

(b) If the Facilities should be damaged or destroyed to the extent that the estimated costs of repairs, replacement or reconstruction is more than one hundred percent (100%) of the aggregate amount of proceeds from property damage insurance carried and covering the cost of the repairs, replacement or reconstruction of such Facilities, the Cities shall, upon agreement, repair, replace or reconstruct such Facilities to substantially the same general character or use as the original; provided, however, that should one or more of the Cities a party hereto not agree to repair, replace or reconstruct shall sell its interest in such Facilities to the other City or Cities in accordance with the provisions of Section 5.

(c) If any of the Facilities should be destroyed, the Cities shall, unless otherwise agreed, repair or reconstruct same to substantially the same character or use as the original. The Cities shall share the costs of such repair or reconstruction in proportion to their then ownership interest in the Facilities damaged or destroyed.

SECTION 7: Insurance. The Management Committee shall determine the insurance coverage, including the insurable values, limits, deductibles, retentions and other special terms, and the insurance carriers from which such insurance is to be obtained with respect to the Facilities.

(b) All policies of insurance shall:

(i) Provide insurable values, limits, deductibles, retentions and other special terms as determined by the Management Committee;

(ii) List as loss payees or additional insureds the Cities (as their interests may appear);

(iii) Contain endorsements providing for positive notice of cancellation to all parties listed as named or additional insureds;

(iv) Contain endorsements providing that the insurance is primary insurance for all purposes; and

(v) Contain cross-liability endorsements for comprehensive bodily injury liability and property damage liability coverages.

Each City, at its expense, shall have the right to secure such additional or different insurance coverages as may be required or determined to be appropriate.

SECTION 8 Liability of Cities to Each Other. Each City shall have no remedies against the other Cities which is a party hereto for tortious conduct arising out of the ownership of the Facilities, or any portion thereof, except when the claim results from intentional torts and/or gross negligence.

Remedies of a City participant hereto with respect to a claim against another City participant hereto shall be unimpaired by this Agreement when the claim does not arise out of ownership of the Facilities or any portion thereof.

SECTION 9: Default. (a) Each party hereto hereby agrees that it shall pay all monies and carry out all other duties and obligations agreed to be paid or performed by it pursuant to all of the terms and conditions set forth and contained in this Agreement.

(b) In the event of an alleged default by one of the parties hereto in any of the terms and conditions of this Agreement concerning the advancement of funds, then, within ten (10) days after written notice has been given by the nondefaulting parties to the defaulting party of the existence and nature of the default, the nondefaulting parties shall remedy such default by advancing the necessary funds or commencing to render the necessary performance.

(c) In the event of an alleged default by one or more of the parties hereto in any of the terms and conditions of this Agreement and the giving of notice as provided above, the defaulting party shall take all steps necessary to cure such default as promptly and completely as possible and shall pay promptly upon demand to the nondefaulting party or parties the total amount of money or the reasonable equivalent in money of nonmonetary performance, if any, paid or made by such nondefaulting party or parties in order to cure any default by the defaulting party, together with interest on such money or costs of nonmonetary performance at the commercial prime rate then in

effect at the least commercial bank (in terms of deposits) doing business in Dallas County, Texas, or the maximum rate of interest legally chargeable, whichever is lesser, from the date of the expenditure of such money or the date of completion of such nonmonetary performance by such nondefaulting party or parties to the date of such reimbursement by the defaulting party.

(d) In the event that a party hereto shall dispute an asserted default by it, then such party shall pay the disputed payment or perform the disputed obligation, but may do so under protest. The protest shall be in writing, shall accompany the disputed payment or precede the performance of the disputed obligation, and shall specify the reasons upon which the protest is based. A copy of such protest shall be mailed by such party to the other parties hereto. Payments not made under protest shall be deemed to be correct, except to the extent that periodic or annual audits may reveal over or under payments by the parties hereto, necessitating adjustments. In the event it is determined that a protesting party is entitled to a refund of all or any portion of a disputed payment or to a refund of all or any portion of a disputed payment or payments or is entitled to the reasonable equivalent in money of nonmonetary performance of a disputed obligation theretofore made, then, upon such determination, the nonprotesting party or parties shall pay such amount to the protesting party or parties, together with interest thereon at the commercial bank (in terms of deposits) doing business in Dallas County, Texas, or at the maximum legal rate, whichever is the lesser, from the date of payment or of the performance of a disputed obligation to the date of reimbursement.

(e) In the event of a default by one or more of the parties hereto in the payment or performance of an obligation under this Agreement shall continue for a period of six (6) months or more without having been cured by the defaulting party or without such party having commenced or continued action in good faith to cure such default, or in the event the question of whether an act of default continues for a period of six (6) months following a final determination that an act of default or to commence such action during said six (6) month period, then, at any time thereafter while said default is continuing, the nondefaulting party or parties may, by written notice to the defaulting party, declare this Agreement to be terminated and direct the Management Committee to initiate proceedings to liquidate and dispose of the Facilities acquired and constructed hereunder in accordance with law and Section 17 hereof.

(f) In addition to the remedies hereinabove enumerated, a nondefaulting party hereto may seek and exercise shall other remedies authorized or permitted by law.

SECTION 10: Relationship of Parties. The covenants, obligations and liabilities of the Cities shall be several and not joint or collective. Each of the Cities shall be individually responsible for its own covenants, obligations and liabilities as

herein provided, and it is not the intention of the parties to create, nor shall this Agreement be construed as creating a partnership, association, joint venture or trust, as imposing a trust or partnership covenant, obligation or liability on or with regard to any of the Cities, or as rendering the Cities liable as partners or trustees. No City shall be under the control of or shall be under the control of or shall be deemed to control any other City a party hereto nor shall any City a party hereto be the agent of or have the right or power to bind any other City that is a party to this Agreement with respect to the Facilities.

SECTION 11: Force Majeure. In the event any party hereto is rendered unable, wholly or in part, by force majeure to perform any of its obligations under this Agreement (other than obligations to pay costs and expenses due) and upon such party giving notice and full particulars of such force majeure in writing or by telephone to the other parties hereto as soon as reasonably possible after the occurrence of the cause relied upon, the obligations of the party giving notice, so far as it is affected by such force majeure, shall be suspended during the continuance of any inability of performance so caused, but for no longer period. Telephone notices given under the provisions hereof shall be terminated by reason of any such cause but shall remain in full force and effect. The term "force majeure" shall mean any cause beyond the control of the party affected, including, but not restricted to, flood, earthquake, storm, fire, lightning, epidemic, war, acts of the public enemy, riot, civil disturbance or disobedience, strike, lockout, work stoppages, other industrial disturbances or dispute, labor or material shortage, sabotage, restraint by court order or other public authority and action or nonaction by, or failure to obtain the necessary authorizations or approvals from, any governmental agency or authority, which by the exercise of due diligence such party could not reasonably have been expected to avoid and which by exercise of due diligence it shall be unable to overcome.

Nothing contained herein shall be construed so as to require a party to settle any strike, lockout, work stoppage or other industrial disturbance or dispute in which it may be involved. A party hereto rendered unable to fulfill any of its obligations under this Agreement by reason of force majeure shall exercise due diligence to remove such inability with all reasonable dispatch.

SECTION 12: Governing Law. This Agreement shall be governed by the laws of the State of Texas, except as to matters exclusively controlled by the Constitution and Statutes of the United States of America.

SECTION 13: Term. This Agreement shall become effective when it has been duly executed and delivered on behalf of the parties hereto and shall remain in force and effect, subject to prior termination by unanimous agreement by the Cities as a result of an occurrence or circumstance described in Section 5 or 9

hereof, until the abandonment of the Facilities

SECTION 14 Interests Acquired in the Name of an Individual City. Any City which acquires in its name an interest in any real or personal property or a contractual right which is part of the Facilities shall acquire and hold same subject to this Agreement and shall transfer and assign an undivided interest therein to the other Cities so that the ownership and rights of the Cities in such property or contract shall be as provided in Section 2 of this Agreement.

SECTION 15: Notices. Any notice, demand or request provided for in this Agreement shall be deemed properly served, given or made if delivered in person or sent by registered or certified mail, postage prepaid, to the addresses specified below:

City of Duncanville, Texas
P.O. Box 380280
Duncanville, Texas 75138-0280
Attn: City Manager

City of DESOTO, Texas
P.O. Drawer 550
DESOTO, Texas 75115
Attn: City Manager

City of Cedar Hill, Texas
P.O. Box 96
Cedar Hill, Texas 75104
Attn: City Manager

A City may, at any time, by written notice to the other Cities, designate different or additional persons or different addresses for the giving of notices hereunder.

SECTION 16: Miscellaneous Provisions. Each City agrees, upon request by the other Cities, to make, execute and deliver any and all documents and writings of every kind reasonably requested or required to implement this Agreement.

EXHIBIT B
DESCRIPTION OF THE FACILITIES

The captions and headings appearing in this Agreement are inserted merely to facilitate reference and shall have no bearing upon the interpretation thereof.

Each term, covenant and condition of this Agreement is deemed to be an independent term, covenant and condition, and the obligation of any City to perform all of the terms, covenants and conditions to be kept and performed by it is not dependent upon the performance by the other City of any or all of the terms, covenants and conditions to be kept and performed by it.

In the event that any of the terms, covenants or conditions of this Agreement, or the application of any such term, covenant or condition, shall be held invalid as to any person or circumstance by any court having jurisdiction in the premises, the remainder of such agreement, and the application of its terms, covenants or conditions to such persons or circumstances shall not be affected thereby.

The Cities do not intend to create rights in or to grant remedies to any third party as a beneficiary of this Agreement or of any duty, covenant, obligation or undertaking established therein.

Any waiver at any time by a City of its rights with respect to a default of any other matter arising in connection with this Agreement shall not be deemed a waiver with respect to any subsequent default or matter.

SECTION 17: Liquidation of Facilities. Upon the termination of this Agreement for any reason, the Facilities shall be sold for cash or otherwise liquidated and the proceeds of sale shall be applied as follows:

1. To the discharge and payment of all liabilities and expenses associated with the operation and ownership of the Facilities then due and owing and to the payment of expenses of liquidation.

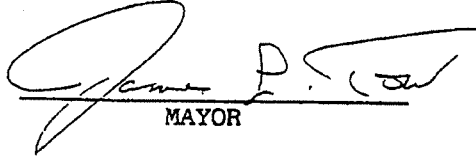
2. To remit to the Cities (after taking into account any adjustments, if any, to the undivided interest of the Cities in the Facilities resulting from a default or otherwise) on a pro rata basis according to their ownership interest in such Facilities, the surplus, if any, remaining from the liquidation of the Facilities.

Any such sale or disposition of the Facilities shall be by sealed bids and the Facilities shall be sold to the bidder submitting the highest dollar bid.


SECTION 18: Venue for Suit. Venue for any suit to interpret or enforce the terms of this agreement shall be in Dallas County, Texas.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the 3rd day of September, 1991.

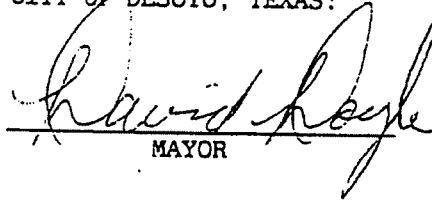
CITY OF DUNCANVILLE, TEXAS:


MAYOR

ATTEST:


CITY SECRETARY
(CITY SEAL)

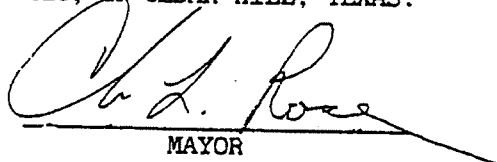
CITY OF DESOTO, TEXAS:


MAYOR

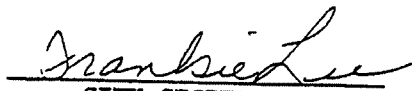
ATTEST:


CITY SECRETARY
(CITY SEAL)

CITY OF CEDAR HILL, TEXAS:


MAYOR

ATTEST:


CITY SECRETARY
(CITY SEAL)