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CITY SECRETARY

April 13, 2007

Ms Sandy Hart
City Secretary
City of McKinney
P O Box 517
McKinney TX 75070-8013

**Re: Memorandum of Agreement between the City of McKinney and the Texas
Agricultural Experiment Station**

Dear Sandy:

Enclosed is the original fully executed copy of the MOA that was sent to us by Mr. Frank Gilstrap. His office has retained the other original document. Our office will forward via e-mail a copy of this document to the City Manager, Larry Robinson and to the finance department.

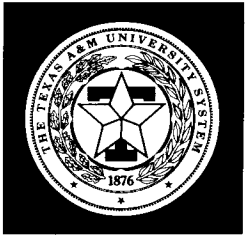
If you have any questions, please do not hesitate to call. Thank you.

Very truly yours,



CAROL RATTAN GILL
Legal Assistant to MARK S. HOUSER
: crg

Enc.



Texas Agriculture Experiment Station

The Texas A&M University System
Research and Extension Center
Dallas

RECEIVED

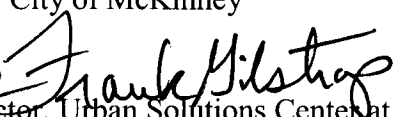
CITY SECRETARY

17360 Coit Road
Dallas, TX 75252-6599
972/231-5362
FAX 972/952-9216

April 9, 2007

MEMORANDUM

TO: Lawrence Robinson
City Manager, City of McKinney

FROM: Frank Gilstrap 
Resident Director, Urban Solutions Center at Dallas
A unit of the Texas Agricultural Experiment Station

SUBJECT: Memorandum of Agreement between the City of McKinney and the
Texas Agricultural Experiment Station

Attached please find an original fully executed copy of the Memorandum of Agreement between the City of McKinney and The Texas Agricultural Experiment Station, the state agency that administers the Urban Solutions Center. This agreement is in effect from April 1, 2007, to September 30, 2007.

Payment can be made to the Texas Agricultural Experiment Station, 17360 Coit Road, Dallas, TX 75252-6599 to the attention of Susan Cubero.

If you have any questions, please feel free to contact Clint Wolfe, Grant and Program Coordinator at 972.952.9635.

The Urban Solutions Center looks forward to working with the City of McKinney to address issues related to water resource conservation.

cc: Clint Wolfe
Susan Cubero

MEMORANDUM OF AGREEMENT
between
THE TEXAS AGRICULTURAL EXPERIMENT STATION
of the
TEXAS A&M UNIVERSITY SYSTEM
and
THE CITY OF MCKINNEY, TEXAS

The City of McKinney, Texas hereinafter referred to as “City” and The Texas Agricultural Experiment Station hereinafter referred to as “Station”, hereby mutually agree as follows:

1. So long as Station is not otherwise in default, and subject to City’s annual appropriations in years 2-6, City will provide payment to the Station in the total amount of up to \$100,000.00 (based on a dollar-for-dollar match of equivalent in-kind services provided by Station for the Project) on April 1 of each year of this Agreement to be used by the Station to support research and Extension activities entitled McKinney Plan – Research and Extension Activities (the “Project”), under the direction of Dr. Frank Gilstrap, project leader.

To defray a portion of the general and prepaid costs incurred in conducting this research, the modified Federally-audited rate of 15% of the total modified direct costs will be allocated to the reimbursement of indirect costs. In the event the agreement is renewed, or extended for subsequent periods the current Federally-audited indirect cost rate will be used. Such indirect or general costs include, but are not limited to, such expenses as utility costs and the costs of operating and maintaining existing equipment and facilities.

Funding for each year’s activities will be provided by the City on April 1, 2007; then on or before October 31 of each renewal year thereafter, if appropriated by City. Checks should be made payable to The Texas Agricultural Experiment Station and forwarded to the Director upon approval of this agreement.

Station recognizes that this Agreement shall commence on April 1, 2007 and continue in full force and effect until termination in accordance with its provisions. Station and City herein recognize that the continuation and renewal of any agreement after the close of any given fiscal year of City, which fiscal year ends on September 30th of each year, shall be subject to City Council approval. In accordance with Paragraph 4 hereafter, Station agrees to provide a comprehensive status report of its activities and work product deliverables on or before July 1 of each year of this Agreement. Station and City expressly agree that this Agreement shall automatically terminate, without any penalty or liability to City, in the event the City Council fails to approve or appropriate funds for Years 2-6 of this Agreement.

2. A Plan of Work (Exhibit 1) and Budget Estimates (Exhibit 2) are attached and form a part of this agreement. The project leader may make shifts among items of expense when required to accomplish objectives of the planned research. This agreement covers items identified as short term actions in Exhibit 1.

3. The Station will expend these funds as needed for labor, equipment, travel, and other operating costs in connection with the research and Extension activities. Station will provide City with an internal disbursement report outlining Project expenditures in broad categories (ex. salaries, fringe benefits, supplies, travel, etc.) in conjunction with the annual report. The unexpended balance or any unused supplies remaining at the completion of the project shall remain the sole property of the Station.

4. This fund will be administered through the Texas Agricultural Experiment Station. The project leader, with the concurrence and approval of the head of the project leader's department, will render written reports (not less than annually) of the results of the investigations direct to City with a copy of the transmittal letter and report to the Director. Reports shall be submitted on July 1 of each year and demonstrate the status of program deliverables outlined in Exhibit 1.

5. The Station will be free to publish the results of research performed under this Agreement after providing City with a thirty (30) day period in which to review each publication for patent purposes, and to identify any inadvertent disclosure of City's proprietary information. If necessary to permit the preparation and filing of U.S. Patent applications, the Station may agree to an additional review period not to exceed sixty (60) days. Any further delay of publication will require written agreement between the Station and City.

6.1 Copyrights

A. Title to and the right to determine the disposition of any copyrights or copyrightable material first produced or composed in the performance of this research program shall remain with the Station.

B. The Station hereby grants to City an irrevocable, royalty-free, non-transferable, non-exclusive right and license to use, reproduce, display, distribute to third parties, perform and otherwise practice without restriction any copyrightable materials (technical data, reports, etc.).

C. The Station hereby grants to City an irrevocable royalty-free, non-transferable, non-exclusive right and license to use, reproduce, display and perform Software for City's internal purposes, but without the right to distribute such software to third parties in whole or in part, or to sublicense rights in such software to third parties.

D. Additionally, the Station hereby grants to City the first right to negotiate a commercial license to use, reproduce, display, and perform such software for commercial purposes, and to distribute and/or sublicense such software to third parties. City will advise the Station in writing within sixty (60) days following delivery of such software to City whether or not it wishes to negotiate a license agreement to obtain commercial rights to such software. In the event that City elects to negotiate for commercial license to such software, the parties will initiate negotiation of such license agreement, such negotiations not to extend beyond ninety (90) days from notice of election without the mutual consent of both parties. Such license shall be negotiated in good faith between the parties, and will contain reasonable business terms common to City's field of commercial interest and proposed application. In the event that City does not elect to secure a commercial license, or in the event that the parties do not conclude negotiation

of the proposed license agreement, City's software for which a patent application is filed shall be subject to Paragraph 6.2 below.

6.2. Inventions

A. Ownership of inventions first conceived and actually reduced to practice under this Agreement ("Subject Inventions") will be determined in accordance with the U.S. Patent Law. All rights to Subject Inventions made solely by employees of the Station will belong to the Station. All rights to Subject Inventions made solely by employees of City will belong solely to City. All rights to Subject Inventions made jointly by employees of the Station and employees of City will belong jointly to the Station and City.

B. The Station hereby grants to City a non-exclusive, non-transferable, royalty-free license to the Station Subject Inventions for its internal purposes, without the right to sell products based upon the Station Subject Inventions to third parties, or to sublicense rights in the Station Subject Inventions to third parties.

C. Additionally, the Station hereby grants to City a first right to negotiate a commercial license to the Station Subject Inventions.

D. The Station will promptly disclose to City any Station Subject Invention. City will hold such disclosure in confidence and will not reveal the disclosure to any third party without the consent of the Station. City will advise the Station in writing within sixty (60) days of such disclosure to City whether or not it wishes to negotiate a license agreement to obtain commercial rights to such Subject Invention. In the event that City elects to negotiate for a commercial license to such Subject Invention, the parties will initiate negotiation of such license agreement, such negotiations not to extend beyond ninety (90) days from notice of election without the mutual consent of both parties. Such license shall be negotiated in good faith between the parties and will contain reasonable business terms common to City's field of commercial interest and proposed application. In the event that City does not elect to secure a commercial license, or in the event that the parties do not conclude negotiation of the proposed license agreement, then City's rights in such Station Subject Invention shall be those specified in subparagraph 6.2. B. above.

E. In accordance with the U. S. Patent Code, the Station and City may proceed in use and management of jointly-owned Subject Inventions with no accounting to one another, in the absence of an agreement to the contrary.

7. This agreement shall be effective for 12 months beginning on the date of the last party to execute but may be terminated by either party by submitting written notice thirty (30) days prior to the renewal date. Unless terminated by either party and subject to City appropriations, this Agreement shall automatically renew on its anniversary date on an annual basis for 5 successive years.

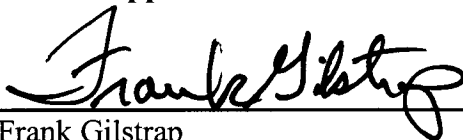
8. Default. Should either party default in any required performance hereunder; the non-defaulting party may terminate this Agreement upon 30 days written notice with opportunity to

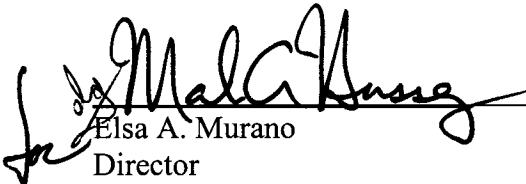
cure to the defaulting party. If City terminates this Agreement, City's damages shall equal that amount of unexpended funds for the current Agreement year as shown in Station's accounting of expenses. If Station terminates this Agreement, Station's damages shall be equal to the value of work performed but for which compensation has not been received in the current Agreement year. No party shall be entitled to consequential, special or punitive damages. City does not waive any governmental immunity by entering into this Agreement.

The Station is an agency of the State of Texas and nothing in this Agreement waives or relinquishes the right of the Station to claim any exemptions, privileges, and immunities as may be provided by law.

Approval Recommended:

Station Approval:


Date 3-20-07
Frank Gilstrap
Resident Director
Agricultural Research and Extension Center, Dallas


Date 3-30-2007
Elsa A. Murano
Director
Texas Agricultural Experiment Station

City Approval:

Lawrence W. Robinson,
by Regie Neff, Assistant City
Manager and authorized signatory



Date 3-14-07
Lawrence W. Robinson
City Manager
The City of McKinney, Texas
a Texas municipal corporation

EXHIBIT 1

McKinney Plan – Research and Extension Activities

A. PRIMARY GOALS FOR THIS PROGRAM

- Dallas Urban Center will over next 12-18 months, develop a consortium of partners to assist in solving McKinney's water problems.
- Dallas Urban Center will through targeted education programs instruct city officials, developers, landscapers, homeowners, adults and children with regard to water conservation and quality.
- Dallas Urban Center will share in the expense of developing grant proposals for 3rd parties that will finance the majority of the needed research and education.
- Dallas Urban Center will develop and offer McKinney multiple options for science-based water solutions over the next 3 years.
- Dallas Urban Center will develop multiple demonstrations of available science-based options and measure their impacts on water savings or production of potable water.

B. SECONDARY GOALS FOR THIS PROGRAM

- Dallas Urban Center will develop science-based processes and practices that help to increase potable water and that can be exported to other Texas urban areas.
 - Dallas Urban Center will sustain funding for teams to accomplish established goals.
 - Dallas Urban Center will work with McKinney and Vision North Texas to pilot test and demonstrate solutions.
-

1. SHORT TERM ACTIONS (over next 12-18 months):

- Customize and transfer educational programs about water conservation and landscape management, targeting adults and homeowners (TV and radio spots, websites; CDs and DVD's - all will provide "how to's" on home and individual water conservation).
- Develop and convene educational programs for builders, developers, and landscapers, including short courses and possibly certification (fees could pay for a portion of program) so that the public can verify a business' understanding and capability on water issues.
- Work to develop language and incentive approaches that can assure and promote appropriate plants, irrigation concepts, and water use concepts.
- Educate city and county officials on water quality and quantity concerns, and non-point sources and point sources, regarding water contamination and mechanisms that degrade water.
- Develop and conduct an active transfer of education curricula that teach how to conserve and manage water, targeting primary grade school teachers and kids.
- TAES – Dallas Grant and Program Coordinator will work with City personnel to develop grant proposals in order to obtain third party funding for additional research needs identified below.

2. MID TERM ACTIONS (1-3 years) (mostly TAES & 3rd party funding partners):

- Assess and demonstrate alternative practices, costs and efficiencies or effectiveness for water supply enhancement options.
- Assess and demonstrate neighborhood water conservation designs and approaches.
- Develop and demonstrate options for golf courses, parks recreation areas, and commercial or industrial turf areas, regarding practices and processes that can minimize the need for use of potable water.
- Assess and demonstrate the value of water conservation practices that McKinney used in the past, and establish outcomes and value for these practices.
- Assess the effectiveness of alternative practices and water conservation programs that are effective and used by other cities, including identifying the practice history, when implemented, by whom, and their respective outcomes and effectiveness.

3. LONG TERM ACTIONS (3-6 years) (mostly TAES & 3rd party funding partners); goal is to engage partners who can facilitate McKinney's fast growth model when using the following approaches:

- Develop and demonstrate new watershed level approaches for improving water quantity and quality.
- Develop and demonstrate to McKinney city planning staff improved approaches for community water conservation and management practices.
- Create a guide from McKinney research program that promotes "innovative green community" development for future fast growing municipalities.

McKinney Plan – Research and Extension Activities

Category	Year 1
1. Personnel	
Grant Coordinator	\$ 16,250
Assistant	\$ 17,500
Subtotal Personnel	\$ 33,750
2. Fringe Benefits	
Grant Coordinator	\$ 3,993
Assistant	\$ 5,572
Subtotal Fringe	\$ 9,565
3. Travel	
Subtotal Travel	\$ 4,000
4. Equipment	
Subtotal Equipment	\$ 5,000
5. Supplies	
mis.	\$ 28,000
Subtotal Supplies	\$ 28,000
6. Contractual	
Subtotal Contractual	\$ -
7. Construction	
Subtotal Construction	\$ -
8. Other Direct Costs	
Printing	\$ 6,642
Subtotal Other	\$ 6,642
9. Total Direct Costs	\$ 86,957
10. Indirect costs	
15% IDC	\$ 13,044
Unrecovered IDC	
11. Total	\$ 100,000