

Post Office Box 9010 Addison, Texas 75001-9010 5300 Belt Line Road (972) 450-7000
FAX (972) 450-7043

50 YEARS OF FUN!

AGENDA

REGULAR MEETING OF THE CITY COUNCIL

JUNE 22, 2004

6:00 P.M.

COUNCIL CHAMBERS

5300 BELT LINE ROAD

WORK SESSION

Item #WS1 – Presentation of Non-Profit requests for FY 2004-2005.

REGULAR SESSION

Item #R1 – Consideration of Old Business

Item #R2 – Consent Agenda

CONSENT AGENDA

#2a – Approval of the Minutes for the June 8, 2004 and June 14, 2004 Council Meetings.

#2b – Consideration of a Resolution authorizing the City Manager to enter into a license agreement with Sprint PCS for the placement of a COW (Cellular on Wheels) tower on city owner property near Addison Road and Broadway Road.

#2c – Consideration of approval and award of bid and a Resolution authorizing the City Manager to enter into an agreement in the amount of \$54,513.00 with JD Brunson, Inc. for repair of hail damaged roofs and skylights to Addison facilities.

#2d – Consideration of a Resolution authorizing the City Manager to enter into a contract in the amount of \$117,000.00 with Coban Research and Technologies for the purchase of fourteen (14) In-Car Video Systems for Police vehicles.

Item #R3 – Consideration of a Resolution re-appointing Mr. Ray Noah to represent the Town of Addison on DART's Board of Directors.

Attachments:

1. Letter from City of Richardson
2. Letter from DART

Administrative Recommendation:

Administration recommends approval.

Item #R4 – **PUBLIC HEARING** and consideration of an Ordinance approving an amendment to an existing Special Use Permit for a restaurant and an existing Special Use Permit for the sale of alcoholic beverages for on-premises consumption only, Sports City Café, located at 14905 Midway Road (formerly Baja California Grill), on application from Millennium Restaurant Group, represented by Mr. Tyler Duncan of Duncan Design Group.

Attachments:

1. Docket Map
2. Staff Report
3. Plans

The Planning and Zoning Commission Findings:

The Addison Planning and Zoning Commission, meeting in regular session on May 27, 2004, voted to recommend approval of the request for an amendment to an existing Special Use Permit for a restaurant and an existing Special Use Permit for the sale of alcoholic beverages for on-premises consumption, subject to the following conditions:

1. The applicant shall submit a landscaping plan to the Parks Department, for its approval, which shows the conversion of vacant building pad on the site (immediately south of existing Super 8 Motel) to irrigated landscaping and parking. Not less than 50% of the pad shall be converted to landscaping, the remainder may be converted to additional parking spaces.
2. The acoustic specifications for outside speakers on the patio (on the east side of the building) shall be submitted to the Council for review and approval.

Voting Aye: Bernstein, Chafin, Knott, Mellow

Voting Nay: None

Absent: Benjet, Jandura

Administrative Recommendation:

Administration recommends approval.

Item #R5 – **PUBLIC HEARING** and consideration of an Ordinance approving an amendment to an existing Special Use Permit for a restaurant, and an amendment to an existing Special Use Permit for the sale of alcoholic beverages for on-premises consumption only, located at 3870 Belt Line Road (formerly the Bayside Seafood Buffet), on application from Mr. Skip Bailey.

Attachments:

1. Docket Map
2. Staff Report
3. Plans

The Planning and Zoning Commission Findings:

The Addison Planning and Zoning Commission, meeting in regular session on June 17, 2004, voted to recommend approval of the request for an amendment to an existing Special Use Permit for a restaurant and an existing Special Use Permit for the sale of alcoholic beverages for on-premises consumption only, subject to the following conditions:

1. The plans shall be revised to change the north edge of the deck to a curved edge, with a setback of at least 8'-0" between the curb and the deck, additional landscaping, including additional boulders, shall be added between the deck and the curb.
2. The applicant shall submit specifications and a plan for the outdoor patio speakers to the Council.
3. The applicant shall install signs, both inside the building and in both his parking lot and the Humperdink's lot, identifying which lots belong to which restaurants.
4. A revised landscaping plan shall be submitted by the applicant that indicates how the four live oak trees, proposed to be removed by the applicant, will be mitigated on the site. A Landscape Architect licensed in the state of Texas must provide the plan. (This plan has been

submitted and approved by the staff).

5. Any new mechanical equipment must be screened from all adjacent properties. The screening mechanism shall be architecturally compatible, and the Building Official shall make the determination of "architecturally compatible".
6. The restaurant shall not have any exterior signs that include the term "bar", "tavern", or any other graphic depictions that denote alcoholic beverages.

Voting Aye: Chafin, Doepfner, Jandura, Knott, Mellow
Voting Nay: None
Absent: None
Abstaining: Benjet, Bernstein

Administrative Recommendation:

Administration recommends denial.

Item #R6 – **PUBLIC HEARING** and consideration of an Ordinance approving development plans for a drive-through bank in a Planned Development district (093-018), located at 3790 Belt Line Road, on application from Bank One, represented by Mr. Mark Rouch of Merriman Associates/Architects.

Attachments:

1. Docket Map
2. Staff Report
3. Plans

The Planning and Zoning Commission Findings:

The Addison Planning and Zoning Commission, meeting in regular session on June 17, 2004, voted to recommend approval of the request for development plans for a drive-through bank in a Planned Development district, subject to no conditions.

Voting Aye: Benjet, Bernstein, Chafin, Doepfner, Jandura, Knott, Mellow
Voting Nay: None
Absent: None

Administrative Recommendation:

Administration recommends approval.

Item #R7 – **PUBLIC HEARING** and consideration of an Ordinance approving an amendment to an existing Special Use Permit for the sale of alcoholic beverages for off-premises consumption only, in order to reduce the size of a liquor store, and approval of a Special Use Permit for the sale of beer and wine for off-premises consumption only, in order to develop a convenience store, Buckhorn Liquor Store, located at 14825 Inwood Road on application from Inwood Brothers, Ltd. represented by Mr. Raymond S. Lambert of RSL & Associates.

Attachments:

1. Docket Map
2. Staff Report
3. Plans

The Planning and Zoning Commission Findings:

The Addison Planning and Zoning Commission, meeting in regular session on June 17, 2004, voted to recommend approval of an amendment to an existing Special Use Permit for the sale of alcoholic beverages for off-premises consumption only, in order to reduce the size of a liquor store, and approval of a Special Use Permit for the sale of beer and wine for off-premises consumption only, in order to develop a convenience store, subject to the following conditions:

1. The site landscape requirement is 20 percent totaling 7800 square feet. The plan shows 7,300 square feet of available landscaping, with 2,685 to be added to meet/exceed the 20 percent requirement. It appears the applicant is counting landscaping on the adjacent property west of his site towards his landscape calculations, which he needs to clarify.
2. A detailed landscaping plan needs to be re-submitted showing the quantity of trees and shrubs required in the landscape regulations, versus the quantity of existing and proposed trees and shrubs. This applies to the street frontage, north, south and west sides of the property.
3. Inwood Road Street Frontage Landscaping – the existing Burford Holly, shown along Inwood Road needs to be replaced with Indian Hawthorne to match adjacent properties north of this site to create a more consistent look along Inwood Road, and to improve visibility.
4. West Side of Building – the existing Photinia shrubs need replacing with a lower growing shrub that will not overcrowd the existing Crape

Myrtle trees.

5. All planting beds need to be renovated with new edging, compost and mulch.
6. A new irrigation plan needs to be submitted showing existing and proposed sprinkler heads, valves and controllers. A freeze and rain sensor need to be added to the irrigation controller.
7. The aforementioned items need to be addressed on the revised landscape and irrigation plans before a building permit is issued.

Voting Aye: Benjet, Bernstein, Chafin, Doepfner, Jandura, Knott, Mellow
Voting Nay: None
Absent: None

Administrative Recommendation:

Administration recommends approval.

Item #R8 – **PUBLIC HEARING** and consideration of an Ordinance approving an amendment to an existing Special Use Permit for a restaurant and an existing Special Use Permit for the sale of alcoholic beverages for on-premises consumption only, located at 4939 Belt Line Road, on application from Potbelly Sandwich Works, represented by Mr. Steve Young.

Attachments:

1. Docket Map
2. Staff Report
3. Plans

The Planning and Zoning Commission Findings:

The Addison Planning and Zoning Commission, meeting in regular session on June 17, 2004, voted to recommend approval of an amendment to an existing Special Use Permit for a restaurant and an existing Special Use Permit for the sale of alcoholic beverages for on-premises consumption only, subject to the following conditions:

1. The patio shall be narrowed to 9'0" in width, and the remaining 2'0" of property between the patio and the property line shall be planted with an evergreen shrub hedge.

Voting Aye: Benjet, Bernstein, Chafin, Doepfner, Jandura, Knott, Mellow

Voting Nay: None
Absent: None

Administrative Recommendation:

Administration recommends approval.

Item #R9 – Presentation and approval of a schematic design of the Parkview at Addison Circle Park.

Attachments:

1. Council Agenda Item Overview
2. Location Map

Administrative Recommendation:

Administration recommends approval.

Item #R10 – Appointment of members to the Addison Visioning Committee.

Attachment:

1. Member list
-

Item #R11 – Consideration of a Resolution authorizing the City Manager to enter into an agreement in the amount of \$18,000.00 with Pennington Performance Group to facilitate a review of the Town's 2020 Vision project.

Attachments:

1. Council Agenda Item Overview
2. Letter from Randy G. Pennington

Administrative Recommendation:

Administration recommends approval.

Item #R12 – Discussion to determine the Council's desire to solicit year round, multi-year sponsorship opportunities in Addison Circle Park.

Attachments:

1. Council Agenda Item Overview
 2. Proposal
-

Item #R13 – Approval of rejection of bid submitted by Gibson & Associates, Inc. for paving repair and storm sewer modifications for the Fuel Truck Roadway at Addison Airport.

Attachments:

1. Council Agenda Item Overview
2. Bid Sheet

Administrative Recommendation:

Administration recommends approval

Item #R14 – Consideration of approval and award of bid and a Resolution authorizing the City Manager to enter into a contract in the amount of \$16,702,578.42 with Archer Western Contractors, Ltd. for construction of Arapaho Road and Bridge, Phase III.

Attachments:

1. Council Agenda Item Overview
2. Bid Sheet
3. Cost Analysis Sheet

Administrative Recommendation:

Administration recommends approval

Item #R15 – Consideration of approval and award of bid and a Resolution authorizing the City Manager to enter into a contract in the amount of \$319,700.00 with Mels Electric, L.P. to furnish and install steel street and pedestrian light poles and luminaries on the Spectrum Drive Construction Project.

Attachments:

1. Council Agenda Item Overview
 2. Lighting Specifications
 3. Bid Sheet
-

Administrative Recommendation:

Administration recommends approval

Item #R16 – Consideration of a Resolution approving a supplemental contract amendment in the amount of \$99,250.00 with HNTB Corporation, Inc. for engineering services related to materials inspection and testing on the Arapaho Road, Phase III improvements.

Attachments:

1. Council Agenda Item Overview
2. Supplemental Agreement
3. Attachment A

Administrative Recommendation:

Administration recommends approval

Item #R17 – Consideration of a Resolution authorizing the City Manager to enter into a five-year contract with Frost Bank for depository services.

Attachments:

1. Council Agenda Item Overview
2. Contract
3. Attachment

Administrative Recommendation:

Administration recommends approval

Item #R18 – Consideration of a Resolution authorizing the City Manager to enter into a contract with Paymentech for credit card processing services.

Attachments:

1. Council Agenda Item Overview
2. Contract

Administrative Recommendation:

Administration recommends approval.

EXECUTIVE SESSION

Item #ES1 – Closed (executive) session of the Addison City Council pursuant to Section 551.071, Texas Government Code, to conduct a private consultation with its attorney to seek the advice of its attorney regarding the interpretation of certain Charter provisions, ordinances and other laws.

Adjourn Meeting

Posted 5:00 p.m.
June 18, 2004
Carmen Moran
City Secretary

**THE TOWN OF ADDISON IS ACCESSIBLE TO PERSONS
WITH DISABILITIES. PLEASE CALL (972) 450-2819 AT LEAST
48 HOURS IN ADVANCE IF YOU NEED ASSISTANCE.**

OFFICIAL ACTIONS OF THE ADDISON CITY COUNCIL

June 8, 2004
7:30 p.m. - Council Chambers
5300 Belt Line Road

Present: Mayor Wheeler, Councilmembers Chow, Hirsch, Mallory, Niemann, Silver,
Turner
Absent: None

Item #R1 – Consideration of Old Business

The following employees were introduced to the Council: Jeff King (Public Works), Corey Gayden (Finance) and Kyle Fortenberry (Fire).

Ron Whitehead, City Manager, announced the following upcoming events: Lone Star Park Movie Night on June 12, 2004 at 8:45 p.m.; Big Daddy Car Show on June 19, 2004; Ice Tea Festival on June 26, 2004 and Kaboom Town on July 3, 2004.

Item #R2 – Consent Agenda

Item #2a – Approval of the Minutes for the May 25, 2004 Council Meeting.

Councilmember Niemann moved to duly approve the Minutes of the May 25, 2004 Council meeting as written. Councilmember Turner seconded. The motion carried.

Voting Aye: Wheeler, Braun, Chow, Hirsch, Niemann, Silver, Turner
Voting Nay: None
Absent: None

Item #R3 – Appointment of Mayor Pro Tempore and Deputy Mayor Pro Tempore.

Mayor Wheeler tabled this item.

Item #R4 – Presentation of Results of Council Survey.

No action taken.

Item #R5 – **PUBLIC HEARING** and approval of a replat of one lot of 63.845 acres, located generally at the northwest corner of Midway Road and Spring valley Road, on application from Greenhill School, represented by Mr. Brad Moss of Pacheo-Koch Consulting Engineers.

Mayor Wheeler opened the meeting as a public hearing. There were no questions or comments. Mayor Wheeler closed the meeting as a public hearing.

Councilmember Niemann moved to duly approve a replat of one lot of 63.845 acres, located generally at the northwest corner of Midway Road and Spring valley Road, on application from Greenhill School. Councilmember Silver seconded. The motion carried

Voting Aye: Wheeler, Braun, Chow, Hirsch, Niemann, Silver, Turner
Voting Nay: None
Absent: None

Item #R6 – Consideration of approval of a final plat for two lots on 3.69 acres, located at 3870 Belt Line Road (formerly Bayside Seafood Buffet), on application from Mr. Skip Bailey.

Councilmember Turner moved to duly approve a final plat for two lots on 3.69 acres, located at 3870 Belt Line Road (formerly Bayside Seafood Buffet), subject to the following conditions:

1. Show location of Commercial Drive on replat.
2. A dashed line shown on the north end of lot 2, Block A (near Belt Line Road) is not designated.
3. Accent easement lines overlap on northwest corner of Lot 1, Block A. Both access easements reference the same volume and page.
4. A 24 ft. access and utility easement is situation both proposed lots. The terms of the easement should be reviewed to determine if the location of the easement on each lot is allowed as shown.
5. Change vicinity map to reflect the construction of Arapaho Road and elimination of Realty Road.

Councilmember Braun seconded. The motion carried.

Voting Aye: Wheeler, Braun, Chow, Hirsch, Niemann, Silver, Turner
Voting Nay: None
Absent: None

Item #R7 – **PUBLIC HEARING** and consideration of an Ordinance approving an amendment to an existing Special Use Permit for a restaurant and an existing Special Use Permit for the sale of alcoholic beverages for on-premises consumption only, Sports City Café, located at 14905 Midway Road (formerly Baja California Grill), on application from Millennium Restaurant Group, represented by Mr. Tyler Duncan of Duncan Design Group.

Mayor Wheeler opened the meeting as a public hearing. There were no questions or comments. Mayor Wheeler closed the meeting as a public hearing.

Councilmember Hirsch moved to duly pass approval of an amendment to an existing Special Use Permit for a restaurant and an existing Special Use Permit for the sale of alcoholic beverages for on-premises consumption only, Sports City Café, located at 14905 Midway Road (formerly Baja California Grill), subject to the following conditions and approval of the City Manager.

1. The applicant shall submit a landscaping plan to the Parks Department, for its approval, which shows the conversion of vacant building pad on the site (immediately south of existing Super 8 motel) to irrigated landscaping and parking. Not less than 50% of the pad shall be converted to landscaping, the remainder may be converted to additional parking spaces.
2. The acoustic specifications for outside speakers on the patio (on the east side of the building) shall be submitted to the Council for review and approval.

The motion died for lack of a second.

Councilmember Niemann moved to deny approval of an amendment to an existing Special Use Permit for a restaurant and an existing Special Use Permit for the sale of alcoholic beverages for on-premises consumption only, Sports City Café, located at 14905 Midway Road (formerly Baja California Grill). Councilmember Turner seconded.

Councilmember Niemann moved to amend his motion to deny approval without prejudice. Councilmember Turner seconded.

Councilmember Niemann withdrew the motion and the amended motion and moved to table the item. Councilmember Turner seconded.

The consensus of the Council was to table this item. This item was tabled until the June 22, 2004 Council meeting.

Item #R8 – PUBLIC HEARING and consideration of an Ordinance amending the Appendix A, “Zoning”, of the Code of Ordinances of the City, the same being Ordinance No. 66 of the City, by amending Article XIX, “UC” Urban Center District Regulations, Section 9, Paragraphs C through F, in order to require City Council approval for a final development plan, on application from the Town of Addison.

Mayor Wheeler opened the meeting as a public hearing. There were no questions or comments. Mayor Wheeler closed the meeting as a public hearing.

Councilmember Turner moved to duly pass Ordinance No. 004-025 amending the Appendix A, “Zoning”, of the Code of Ordinances of the City, the same being Ordinance No. 66 of the City, by amending Article XIX, “UC” Urban Center District Regulations,

Section 9, Paragraphs C through F, in order to require City Council approval for a final development plan. Councilmember Chow seconded. The motion carried.

Voting Aye: Wheeler, Braun, Chow, Hirsch, Niemann, Silver, Turner
Voting Nay: None
Absent: None

Item #R9 – Consideration of an Ordinance approving a meritorious exception to Chapter 62, Signs, Section 62-163, Area, for Potbelly Sandwich Works, located at 4945 Belt Line Road, on application from Potbelly Sandwich Works.

Councilmember Silver moved to duly pass Ordinance No. 004-026 approving a meritorious exception to Chapter 62, Signs, Section 62-163, Area, for Potbelly Sandwich Works, located at 4945 Belt Line Road to allow 30” letters with no increase in square footage. Councilmember Turner seconded.

Councilmember Niemann amended the motion to allow 30” letters with an increase in area to 37.9 square feet. Councilmember Turner second. The motion carried.

Voting on amended motion:

Voting Aye: Wheeler, Braun, Chow, Hirsch, Niemann, Turner
Voting Nay: Silver
Absent: None

Voting on motion:

Voting Aye: Wheeler, Braun, Chow, Hirsch, Niemann, Silver, Turner
Voting Nay: None
Absent: None

Item #R10 – Consideration of an Ordinance approving a meritorious exception to Chapter 62, Signs, Section 62-163, Area, for Mattress Firm, located at 5000 Belt Line Road, Suite 105, on application from Walton Enterprises, LTD.

Councilmember Hirsch moved to duly pass Ordinance No. 004-027 approving a meritorious exception to Chapter 62, Signs, Section 62-163, Area, for Mattress Firm, located at 5000 Belt Line Road, Suite 105. Councilmember Chow seconded. The motion did not carry.

Voting Aye: Chow, Hirsch
Voting Nay: Wheeler, Braun, Niemann, Silver, Turner
Absent: None

Item #R11 – Consideration of an Ordinance of the Town of Addison, Texas approving a license agreement by and between the City and Barrett Burke Wilson Castle Daffin &

Frappier, L.L.P. to use a portion of Surveyor Boulevard for the installation and use of a telecommunications cable between two properties as described in the license agreement; providing an effective date.

Councilmember Turner moved to duly pass Ordinance No. 004-028 approving a license agreement by and between the City and Barrett Burke Wilson Castle Daffin & Frappier, L.L.P. to use a portion of Surveyor Boulevard for the installation and use of a telecommunications cable between two properties as described in the license agreement; providing an effective date. Councilmember Silver seconded. The motion carried.

Voting Aye: Wheeler, Braun, Chow, Hirsch, Niemann, Silver, Turner
Voting Nay: None
Absent: None

Item #R12 – Consideration of a Resolution authorizing the Town of Addison to participate in HUD’s Community Development Block Grant (CDBG) in fiscal year 2005.

Councilmember Turner moved that the Town of Addison do not participate in HUD’s Community Development Block Grant (CDBG) in fiscal year 2005. Councilmember Braun seconded. The motion carried.

Voting Aye: Wheeler, Braun, Chow, Hirsch, Niemann, Silver, Turner
Voting Nay: None
Absent: None

Item #R13 – Consideration of approval of award of bid and a Resolution authorizing the City Manager to enter into an agreement in an amount not to exceed \$34,000.00 with TEECO Safety, Inc. for the purchase of twelve (12) Code 3 light bars for the new police patrol vehicles.

Councilmember Niemann moved to duly pass Resolution No. R04-042 approving an award of bid and authorizing the City Manager to enter into an agreement in an amount not to exceed \$34,000.00 with TEECO Safety, Inc. for the purchase of twelve (12) Code 3 light bars for the new police patrol vehicles. Councilmember Silver seconded. The motion carried.

Voting Aye: Wheeler, Braun, Chow, Hirsch, Niemann, Silver, Turner
Voting Nay: None
Absent: None

Item #R14 – Consideration of approval and authorization of a final payment in the amount of \$41,863.58 to the City of Carrollton for system acceptance of radio equipment at the Spectrum Center.

Councilmember Silver moved to duly approve and authorize a final payment in the amount of \$41,863.58 to the City of Carrollton for system acceptance of radio equipment at the Spectrum Center. Councilmember Turner seconded. The motion carried.

Voting Aye: Wheeler, Braun, Chow, Hirsch, Niemann, Silver, Turner
Voting Nay: None
Absent: None

Item #R15 – Consideration of a Resolution regarding certain matters pertaining to a ground lease at 4575 Claire Chennault on Addison Airport between the Town, as Landlord, and Aquila Leasing, Inc. as Tenant, as follows: (i) consent to the assignment of their leasehold estate to C.C. Hangar, L.P., (ii) the request and transaction is subject to C.C. Hangar simultaneously securing the City’s preliminary but non-binding consent to certain proposed actions affecting the lease.

Councilmember Turner moved to duly pass Resolution No. R04-043 regarding certain matters pertaining to a ground lease at 4575 Claire Chennault on Addison Airport between the Town, as Landlord, and Aquila Leasing, Inc. as Tenant, as follows: (i) consent to the assignment of their leasehold estate to C.C. Hangar, L.P., (ii) the request and transaction is subject to C.C. Hangar simultaneously securing the City’s preliminary but non-binding consent to certain proposed actions affecting the lease. Councilmember Braun seconded. The motion carried.

Voting Aye: Wheeler, Braun, Chow, Hirsch, Niemann, Silver, Turner
Voting Nay: None
Absent: None

EXECUTIVE SESSION. At 9:55 p.m., Mayor Wheeler announced that the Council would convene into Executive Session.

Item #ES1 – Closed (executive) session of the Addison City Council pursuant to Section 551.071, Texas Government Code, to conduct a private consultation with its attorney to seek the advice of its attorney about contemplated litigation related to the Addison Airport.

Item #ES2 – Closed (executive) session of the Addison City Council pursuant to Section 661.071, Texas Government Code, to conduct a private consultation with its attorney to seek the advice of its attorney regarding a complaint filed with the Federal Aviation Administration by the Aircraft Owners and Pilots Association concerning Addison Airport.

Item #ES3 – Closed (executive) session of the Addison City Council pursuant to Section 551.071, Texas Government Code, to conduct a private consultation with its attorney to

seek the advice of its attorney about pending litigation to wit: LaTaste Enterprises v. City of Addison, No. DV980-02259, 116th District Court, Dallas County, Texas.

The Council came out of Executive Session at 10:45 p.m.

There being no further business before the Council, the meeting was adjourned.

Mayor

Attest:

City Secretary

OFFICIAL ACTIONS OF THE ADDISON CITY COUNCIL

June 14, 2004
6:00 p.m. –Town Hall, Upstairs Conference Room
5300 Belt Line Road

Present: Mayor Wheeler, Councilmembers Braun, Chow, Niemann, Silver, Turner
Absent: Hirsch

Item #WS1 – Presentation and discussion of the Development Services Department budget.

No action taken.

Item #WS2 – Presentation and discussion of the Police Department Budget.

No action taken.

Item #WS3 – Presentation and discussion of the Fire Department Budget.

No action taken.

Item #WS4 – Presentation and discussion of the Parks Department Budget.

No action taken.

Item #WS5 – Presentation and discussion of the Recreation Department Budget.

No action taken.

There being no further business before the Council, the meeting was adjourned.

Mayor

Attest:

City Secretary

Council Agenda Item: #2b**SUMMARY:**

Staff requests Council approval of a Resolution authorizing the City Manager to enter into a license agreement with Sprint PCS for the placement of a COW (Cellular on Wheels) tower on city-owned property near Addison Road and Broadway for use by Sprint PCS during Kaboom Town and Oktoberfest.

FINANCIAL IMPACT:

Sprint PCS would pay the Town \$1,000.00 for each term of the license agreement (\$2,000.00 total).

BACKGROUND:

Sprint PCS provides cellular telephone services to many customers in the Dallas metroplex, and it has found that the number of cell calls generated by Sprint customers at our special events sometimes overwhelms Sprint's tower capacity in this area. In order to provide cellular telephone service to its customers during events, Sprint PCS would like to erect a temporary 65-foot Cellular on Wheels (COW) tower during Kaboom Town and Oktoberfest. Sprint has provided similar towers at the Super Bowl and other large-scale events.

Mr. George B. Crain, a site location agent for Sprint PCS, has worked with the staff to find a suitable location for the tower. The staff believes the fenced lot at the corner of northwest corner of Broadway and Julian (shown on the attached map as Proposed Lease Area A) would work well for the tower. It has access to electrical and telephone lines, and it is already fenced. It is also adjacent to the Town's own 45-foot emergency siren, and staff would like to locate these tower elements close together so as to minimize their visual intrusion. This location also provides a screening of trees, which helps to minimize the appearance of the tower. Addison seeks to have its event customers satisfied with every aspect of their visit to an event, and it would like to cooperate in providing better cellular service.

Sprint will need some time in advance of each event to set up the tower and some time after to take it down. Sprint PCS would like to use the site from June 25th through July 8th for Kaboom Town, and from September 14th through September 20th for Oktoberfest. Staff has checked with the Addison Airport to see if a 65-foot tower was a hazard in this location, and it is not.

RECOMMENDATION:

Staff recommends Council approve a Resolution authorizing the City Manager to enter into a license agreement with Sprint PCS for the placement of a COW (Cellular on Wheels) tower on city-owned property near Addison Road and Broadway for use by Sprint PCS during Kaboom Town and Oktoberfest. A letter from Mr. George B. Crain, photos of the COW tower, and a copy of the license agreement are attached.



FOSSIL CREEK LAND COMPANY

1110 Klamath Lane
Houston, Texas 77090

#2b-2

Office: 281-537-7279
Cell: 405-255-6009
FAX: 281-537-7279

May 19, 2004

Carmen Moran
Director of Development Services
Town of Addison
5300 Belt Line Road
Addison, TX 75001-9010

RE: Proposed placement of a temporary Cellular on Wheels ("COW") for Sprint PCS on Addison Town property near Addison Road and Broadway.

Dear Ms. Moran:

It was a pleasure meeting with you earlier today. I thank you for taking the time.

Pursuant to our discussions, please accept this as a proposal to place a Sprint PCS Cellular on Wheels ("COW") on the Town property near Addison Road and Broadway. The preferred location is on the property you and I discussed south across the alley from the Town Emergency Services tower.

The COW is a truck-mounted, temporary antenna structure and is necessary to provide adequate Sprint PCS coverage for two Addison public events: 1) The Kaboom Festival; and 2) the Addison Oktoberfest.

Prior to the Kaboom event, Sprint PCS would require an additional seven (7) days of use of the property to establish and place power and telephone and to establish E911 services. Thus, the time periods for which Sprint proposes placement of the COW would be June 25th through July 8th; and September 14th through September 20th. These dates give Sprint a day for removal of the COW after each event.

For the proposed location, Sprint PCS will enter into a COW License Agreement with the Town of Addison. I include a copy of the License Agreement for your review. As we discussed, Sprint PCS will pay \$1,000 for both terms of the license.

To further clarify this proposal, I include the following items:

- Picture of the truck-mounted COW – the proposed antenna height for COW for both of these events is sixty-five feet (65');
- Architectural schematic showing the dimensions of the COW;
- Not-to-scale drawing of the proposed location, with an alternate location designated across the alley, and in the same field as the Emergency Services Tower;
- Copy of the Sprint PCS COW License Agreement.

Again, I thank you for your time and efforts in this. I look forward to working with you on this project.

Sincerely,

George B. Crain
Fossil Creek Land Company (on behalf of Sprint PCS)

Enclosures

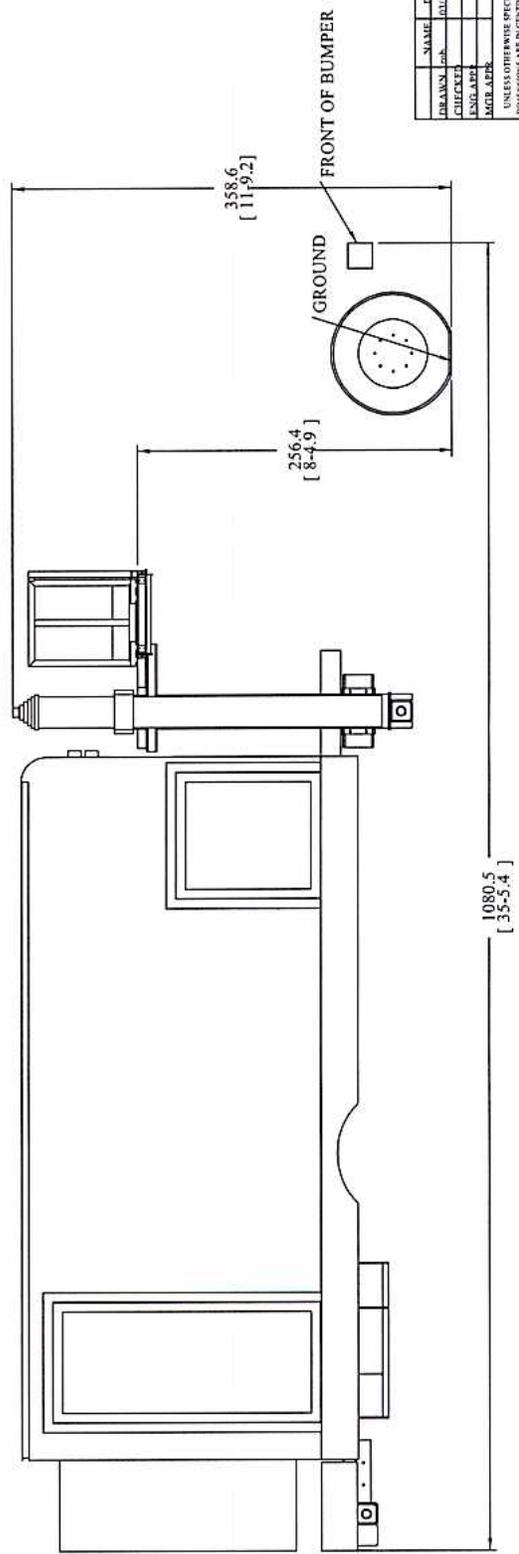
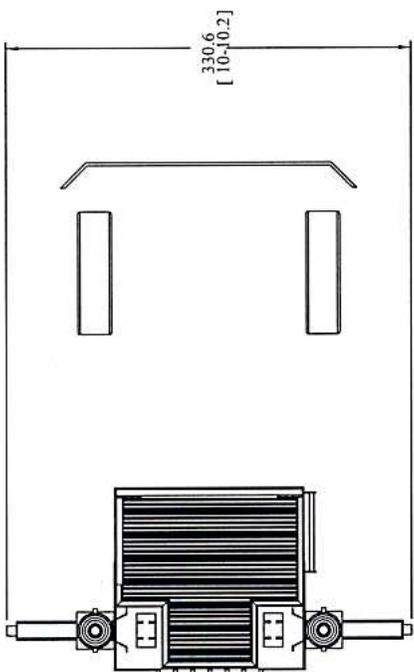
Sprint PCS C.O.W. to be used at 2004
Addison Kaboom Festival and Oktoberfest
(Page 1 of 2)



Sprint PCS C.O.W. to be used at 2004
Addison Kaboom Festival and Oktoberfest
(Page 2 of 2)



REVISION HISTORY	
REL.	DATE
DESCRIPTION	APPROVED

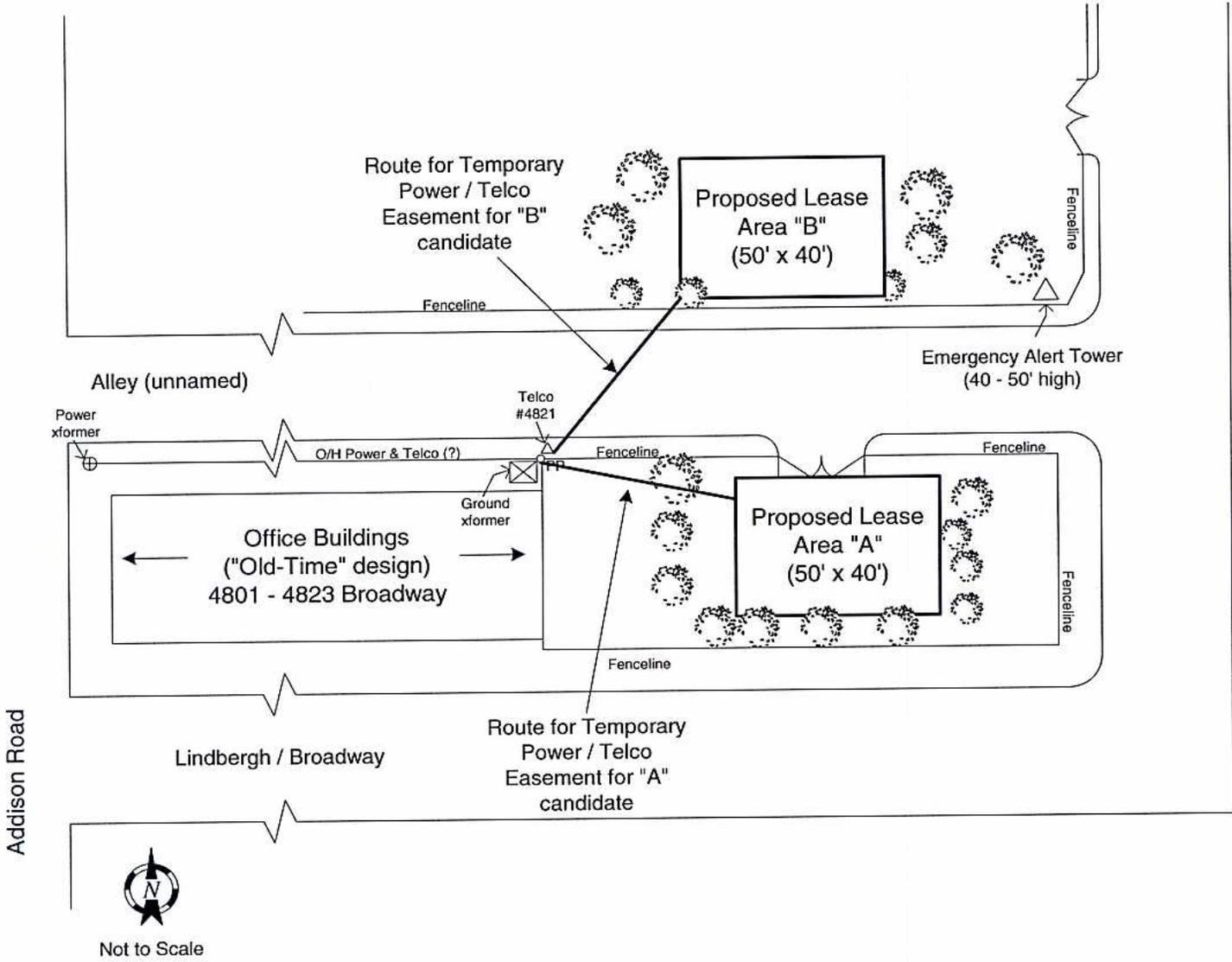


NAME	DATE	INTERCONTINENTAL TRUCK BODY
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MR. ADEB	DATE	REV
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DA99XC903

Addison COW

Proposed locations on Addison City Property



Sprint PCS COW Agreement

Site Name Addison COW
Site Address 2800 Block of Broadway
 Addison, TX 75001

1. **Premises and Use.** Town of Addison, Texas ("Addison") licenses to Sprint Spectrum L.P., a Delaware limited partnership ("SSLP"), the site described below:
 [Check appropriate box(es)]

- Real property consisting of approximately 2,000 square feet of land;
 Building interior space consisting of approximately _____ square feet;
 Building exterior space for attachment of antennas;
 Building interior space for placement of Repeater signal equipment;
 Space required for cable runs to connect Repeater signal equipment and antennas,

in the location(s) ("Site") shown on Exhibit A, together with a non-exclusive license for reasonable access thereto and to the appropriate, in the discretion of SSLP, source of electric and telephone facilities. The Site will be used by SSLP solely for the purpose of installing, removing, replacing, maintaining and operating, at its expense, a temporary personal telecommunications service system facility ("PCS") as shown and depicted in Exhibit B attached hereto and incorporated herein (the "Authorized Use"). The license given herein to SSLP is revocable and non-exclusive,

2. **Term.** This Agreement shall commence on June 25,2004 (Occupancy Date) and shall end (subject to the termination provisions hereof) on July 8,2004.

3. **Rent.** Rent will be paid in one installment of \$1,000.00, and such amount shall be paid on or before the Occupancy Date and prior to SSLP's actual occupancy of the Site.

4. **Title and Quiet Possession.** Addison represents and agrees (a) that it is the owner of the Site; (b) that it has the right to enter into this Agreement; (c) that the person signing this Agreement has the authority to sign; (d) that SSLP is entitled to access to the Site at all reasonable times and, subject to the terms and conditions of this Agreement and to the laws, rules, standards, and regulations of Addison and of any other governmental entity and as long as SSLP is not in default beyond any applicable grace or cure period, to the quiet possession of the Site throughout the term of this Agreement; and (e) that Addison shall not have unsupervised access to the PCS.

5. **Assignment/Sublicensing.** SSLP will not assign, transfer, pledge, or otherwise convey ("assign") this Agreement or any portion hereof without the prior written consent of Addison, provided, however, SSLP may assign without Addison's prior written consent to any party controlling, controlled by or under common control with SSLP or to any party which acquires substantially all of the assets of SSLP (but SSLP shall give Addison written notice of any such assignment prior to the effective date of such assignment); provided, however, that in the event of any assignment, SSLP shall remain fully liable to Addison under this Agreement. SSLP may sublicense the Site, with the prior written consent of Addison, but shall remain fully liable to Addison under this Agreement. As used herein, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity, whether through ownership of voting securities or partnership interests, by contract, or otherwise. Any third party to whom this Agreement is assigned or sublicensed must carry insurance which satisfies the requirements of Section 12 of this Agreement and provide evidence thereof to Addison and execute and deliver to Addison a Sublicensee Acknowledgment in the form set forth on Exhibit C attached hereto before any entry on the Site.

6. **Notices.** All notices must be in writing and either deposited in the U.S. mail, certified and postage prepaid, or sent via overnight delivery, to the address set forth below.. All notices shall be deemed effective upon receipt.

7. **Improvements.** SSLP may, at its expense and with the prior consent of Addison, make such improvements on the Site as it deems necessary from time to time for the Authorized Use. Prior to the expiration or promptly upon termination of this Agreement, SSLP shall promptly remove the PCS and any other improvements or materials placed or installed on the Site and will restore the Site to at least as good a condition that the Site was in on the commencement of this Agreement, except for ordinary wear and tear. If SSLP fails to remove the PCS and such other improvements and materials and provide such restoration, Addison will have the right to remove the same (without liability to SSLP of any kind whatsoever) and/or provide such restoration, and Sprint agrees to be responsible for the costs incurred by Addison in connection therewith. SSLP will pay all costs and expenses incurred in connection with any use of or entry on the Site pursuant to this Agreement, and shall not permit any lien or claim to attach to the Site in connection herewith. SSLP and Addison or their representatives shall meet to inspect the Site within twenty-four (24) hours after the end of the Term or upon termination of this Agreement for the purpose of determining whether or not the Site has been restored in accordance with the standard set forth in this Section.

8. **Compliance with Laws; Agreement Subject to Laws and Existing Rights.** Addison represents that the Site), and all improvements located thereon, are in substantial compliance with building, life/safety, disability and other laws, codes

and regulations of applicable governmental authorities. SSLP will comply with, and this Agreement is subject to, all applicable laws, rules, standards, policies and regulations of Addison and of any governmental authority with jurisdiction over the Site or the activities of SSLP thereon, relating to its possession and use of the Site, including, without limitation, posting requirements of the Federal Communications Commission. Upon Addison's request, SSLP shall provide Addison with written proof satisfactory to Addison of SSLP's compliance with any such laws, rules, standards, policies, and regulations. This Agreement and SSLP's rights hereunder are subject to any and all easements, rights-of-way, encumbrances, and prescriptive rights, whether of record or not; all presently recorded restrictions, reservations, covenants, conditions, leases, and other instruments; and all rights, obligations, and other matters arising from and existing by reason of any applicable governmental district, agency or authority; and any law, ordinance, or governmental regulation restricting, regulating, prohibiting, or relating to the occupancy, use, or enjoyment of the Site or the effect of any violation of these laws, ordinances or governmental regulations.

9. Interference. SSLP will resolve technical interference problems with other equipment located at the Site on the commencement of this Agreement. Addison has and reserves the right to enter into any agreement containing any terms with any person regarding the provision of telecommunications services or otherwise within Addison. In the event the use of the Site by any such person results in material and adverse interference with the PCS, SSLP will give Addison notice of such interference, and Addison and SSLP will seek to resolve such interference. If such interference is not cured within a reasonable period of time, SSLP shall, subject to the terms of this Agreement, have the right without further notice to terminate this Agreement and to remove any improvements, equipment and materials it placed or installed or caused to be placed or installed on the Site in accordance with this Agreement.

10. Utilities. SSLP will pay at its own expense for all utilities used by it at the Site. Addison will reasonably cooperate with SSLP to help in SSLP's efforts to obtain such utilities.

11. Termination. Either party hereto may terminate this Agreement at any time with 10 days written notice to the other party without further liability. However, if SSLP so terminates this Agreement, Addison shall retain all prepaid rent.

12. Insurance. SSLP shall provide and maintain the minimum insurance coverages set forth below during the term of this Agreement:

A. Commercial General Liability insurance at minimum combined single limits of \$1,000,000 per-occurrence and \$2,000,000 general aggregate for bodily injury and property damage, which coverage shall include products/completed operations (\$1,000,000 products/ completed operations aggregate). Coverage for products/completed operations must be maintained for at least two (2) years after the construction work has been completed. Coverage must be amended to provide for an each-project aggregate limit of insurance.

B. Workers Compensation insurance at statutory limits, including Employers Liability coverage a minimum limits of \$1,000,000 each-occurrence each accident/\$1,000,000 by disease each-occurrence/\$1,000,000 by disease aggregate.

Any subcontractor(s) hired by SSLP shall maintain insurance coverage equal to that required of SSLP. It is the responsibility of SSLP to assure compliance with this provision. The Town of Addison accepts no responsibility arising from the conduct, or lack of conduct, of any subcontractor.

With reference to the foregoing insurance requirement, SSLP shall specifically endorse applicable insurance policies as follows:

- (1) The Town of Addison shall be named as an additional insured with respect to General Liability and Automobile Liability.
- (2) All liability policies shall contain no cross liability exclusions or insured versus insured restrictions.
- (3) A waiver of subrogation in favor of The Town of Addison shall be contained in the Workers Compensation and all liability policies.
- (4) All insurance policies shall be endorsed to require the insurer to immediately notify the Town of Addison of any material change in the insurance coverage.
- (5) All insurance policies shall be endorsed to the effect that the Town of Addison will receive at least sixty (60) days' notice prior to cancellation or non-renewal of the insurance.
- (6) All insurance policies, which name the Town of Addison as an additional insured, must be endorsed to read as primary coverage regardless of the application of other insurance.
- (7) Required limits may be satisfied by any combination of primary and umbrella liability insurances.
- (8) SSLP may maintain reasonable and customary deductibles, subject to approval by the Town of Addison.
- (9) Insurance must be purchased from insurers that are financially acceptable to the Town of Addison.

All insurance must be written on forms filed with and approved by the Texas Department of Insurance. Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent and delivered to the Town upon execution of this Agreement and shall contain provisions representing and warranting the following:

- (1) Sets forth all endorsements and insurance coverages according to requirements and instructions contained herein.
- (2) Shall specifically set forth the notice-of-cancellation or termination provisions to the Town of Addison.

13. Indemnity. (A) IN CONSIDERATION OF THIS AGREEMENT, SSLP AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS THE OWNER, ITS, OFFICERS, AGENTS AND EMPLOYEES (EACH AN "INDEMNITEE") FROM AND AGAINST ANY AND ALL SUITS, ACTIONS, JUDGMENTS, LIABILITIES, PENALTIES, FINES, EXPENSES, FEES AND COSTS (INCLUDING REASONABLE ATTORNEY'S FEES AND OTHER COSTS OF DEFENSE), AND DAMAGES (TOGETHER, "DAMAGES") ARISING OUT OF OR IN CONNECTION WITH SSLP'S PERFORMANCE OF THIS AGREEMENT, INCLUDING DAMAGES CAUSED BY THE INDEMNITEE'S OWN NEGLIGENCE, OR GROSS NEGLIGENCE, OR CONDUCT THAT MAY OR DOES EXPOSE AN INDEMNITEE TO STRICT LIABILITY UNDER ANY LEGAL THEORY, EXCEPT AS SPECIFICALLY LIMITED HEREIN.

(B) WITH RESPECT TO SSLP'S INDEMNITY OBLIGATION SET FORTH IN SUBSECTION (A), SSLP SHALL HAVE NO DUTY TO INDEMNIFY AN INDEMNITEE FOR ANY DAMAGES CAUSED BY THE SOLE NEGLIGENCE OF THE INDEMNITEE, OR SOLE GROSS NEGLIGENCE OF THE INDEMNITEE, OR SOLE CONDUCT OF THE INDEMNITEE THAT MAY OR DOES EXPOSE THE INDEMNITEE TO STRICT LIABILITY UNDER ANY LEGAL THEORY.

(C) IF AN INDEMNITEE SUFFERS DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OF THIS AGREEMENT THAT ARE CAUSED BY THE CONCURRENT NEGLIGENCE, GROSS NEGLIGENCE, OR CONDUCT THAT MAY OR DOES RESULT IN EXPOSURE TO STRICT LIABILITY, OF BOTH SSLP AND THE INDEMNITEE, SSLP'S INDEMNITY OBLIGATION SET FORTH IN SUBSECTION (A) WILL BE LIMITED TO A FRACTION OF THE TOTAL DAMAGES EQUIVALENT TO SSLP'S OWN PERCENTAGE OF RESPONSIBILITY.

(D) WITH RESPECT TO SSLP'S DUTY TO DEFEND SET FORTH HEREIN IN SUBSECTION (A), SSLP SHALL HAVE THE DUTY, AT ITS SOLE COST AND EXPENSE, THROUGH COUNSEL OF ITS CHOICE, TO LITIGATE, DEFEND, SETTLE OR OTHERWISE ATTEMPT TO RESOLVE ANY CLAIM, LAWSUIT, CAUSE OF ACTION, OR JUDGMENT ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT; PROVIDED HOWEVER, THAT THE OWNER SHALL HAVE THE RIGHT TO APPROVE THE SELECTION OF COUNSEL BY SSLP AND TO REJECT SSLP'S SELECTION OF COUNSEL AND TO SELECT COUNSEL OF THE OWNER'S OWN CHOOSING, IN WHICH INSTANCE, SSLP SHALL BE OBLIGATED TO PAY REASONABLE ATTORNEY FEES AND THE EXPENSES ASSOCIATED THERETO. THE OWNER AGREES THAT IT WILL NOT UNREASONABLY WITHHOLD APPROVAL OF COUNSEL SELECTED BY SSLP, AND FURTHER, THE OWNER AGREES TO ACT REASONABLY IN THE SELECTION OF COUNSEL OF ITS OWN CHOOSING.

(E) IN THE EVENT THAT SSLP FAILS OR REFUSES TO PROVIDE A DEFENSE TO ANY CLAIM, LAWSUIT, JUDGMENT, OR CAUSE OF ACTION ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, THE OWNER SHALL HAVE THE RIGHT TO UNDERTAKE THE DEFENSE, COMPROMISE, OR SETTLEMENT OF ANY SUCH CLAIM, LAWSUIT, JUDGMENT, OR CAUSE OF ACTION, THROUGH COUNSEL OF ITS OWN CHOICE, ON BEHALF OF AND FOR THE ACCOUNT OF, AND AT THE RISK OF SSLP, AND SSLP SHALL BE OBLIGATED TO PAY THE REASONABLE AND NECESSARY COSTS, EXPENSES AND ATTORNEYS' FEES INCURRED BY THE OWNER IN CONNECTION WITH HANDLING THE PROSECUTION OR DEFENSE AND ANY APPEAL(S) RELATED TO SUCH CLAIM, LAWSUIT, JUDGMENT, OR CAUSE OF ACTION.

(F) THE TERMS AND OBLIGATIONS OF THIS INDEMNITY SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

13. Hazardous Substances. Addison represents that it has no actual knowledge of any substance, chemical or waste (collectively, "substance") on the Site that is identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation. SSLP shall not introduce or use, or allow or permit the introduction or use, of any such substance on the Site, and in the event any such substance is introduced or used, or permitted to be introduced or used, on the Site by SSLP, SSLP shall be solely responsible for cleaning up and removing any and all such substances.

14. Miscellaneous.

(a) This Agreement applies to and binds the heirs, successors, executors, administrators and permitted assigns of the parties to this Agreement.

(b) This Agreement is governed by the laws of the State of Texas, without regard to such state's conflict of laws provisions. Venue for any action under this Agreement shall lie in Dallas County, Texas.

(c) This Agreement may only be amended by a written instrument signed by both parties. This Agreement represents the entire and integrated agreement between Addison and SSLP and supersedes all prior negotiations, representations and/or agreements, either written or oral.

(d) This Agreement and each of its provisions are solely for the benefit of the parties hereto and are not intended to create or grant any rights, contractual or otherwise, to any third person or entity.

(e) SSLP RELEASES **ADDISON** FROM ALL CLAIMS, DAMAGES, LIABILITIES, COSTS AND EXPENSES OF ANY NATURE WHATSOEVER ARISING IN CONNECTION WITH THE CONDITION OF THE SITE AND/OR ANY INJURY OR DAMAGE TO PERSON OR PROPERTY OCCURRING DURING THE TERM OF THIS AGREEMENT AND/OR IN CONNECTION WITH THIS AGREEMENT, INCLUDING SUCH CLAIMS, DAMAGES, LIABILITIES, COSTS AND EXPENSES WHICH RESULT FROM THE PASSIVE NEGLIGENCE OR OMISSION OF **ADDISON**, BUT NOT INCLUDING SUCH CLAIMS, DAMAGES, LIABILITIES, COSTS AND EXPENSES RESULTING FROM ANY INTENTIONALLY WRONGFUL ACT OF **ADDISON**, AND AGREES THAT **ADDISON** SHALL HAVE NO LIABILITY TO SSLP OR ANY OTHER PARTY IN CONNECTION WITH ANY OF SUCH OCCURRENCES.

(e) The undersigned officers and/or agents of the parties hereto are the properly authorized officials and have the necessary authority to execute this Agreement on behalf of the parties hereto.

(f) The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by either party shall not preclude or waive its right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the parties may have by law statute, ordinance, or otherwise.

(g) Any rights and remedies either party may have with respect to the other arising out of the performance of this Agreement shall survive the expiration or termination of this Agreement.

(h) SSLP is and shall operate as an independent contractor, and nothing herein shall be construed to create a partnership, joint venture, joint enterprise, or agency or other relationship between the parties hereto.

(i) Except as otherwise expressly permitted hereunder, SSLP may not assign, convey, transfer, or sublicense its rights under this Agreement, or otherwise authorize a third party to act hereunder, without the prior written consent of **Addison**; however, any such assignment, conveyance, transfer, or sublicense or other authorization to a third party shall not release SSLP from any of its obligations, covenants and promises contained herein.

(j) SSLP shall be responsible for obtaining all permits and licenses in connection with this Agreement, and will comply with all applicable laws, rules, standards, and regulations in connection with such use.

(k) This Agreement shall not be recorded.

(l) If all or any portion of any provision of this Agreement is held to be invalid, illegal or inoperative, for any reason, then it is the intention of the parties hereto that all of the remaining provisions of this License Agreement shall be fully operative and effective so far as possible and reasonable.

TOWN OF ADDISON, TEXAS

By: _____

Its: _____

S.S./Tax No.: _____

Address: 5300 Belt Line Road
Addison, Texas 75001-9010

Date: _____

SPRINT SPECTRUM L.P.,
a Delaware limited partnership

By: _____

Its: Regional Director – Site Development
Address: 1341 W. Mockingbird Lane, Suite 600
Dallas, Texas 75247

Date: _____

EXHIBIT C

SUBLICENSEE ACKNOWLEDGMENT

THIS SUBLICENSEE ACKNOWLEDGMENT is executed by _____ ("Sublicensee") to and in favor of the Town of Addison, Texas ("Licensor"), to be effective as of _____, 2004.

RECITALS:

WHEREAS, Licensor has granted to Sprint Spectrum L.P., a Delaware limited partnership ("Licensee") a license to use the property described on Exhibit A attached hereto for purposes described in the License in connection with an event known as _____ [eg, "Addison KaboomTown"] to be conducted in the Town of Addison, Texas on _____ (the "Event") pursuant to the terms of that certain **Sprint PCS COW Agreement** dated _____, 2004 (the "License") entered into by and between Licensor and Licensee, a copy of which has been provided to Sublicensee; and

WHEREAS, Licensee has authorized Sublicensee to enter on to the Property and to perform certain acts on the Property;

WHEREAS, as a condition to Licensor's consent to permit Sublicensee to enter on to the Property, Licensor has required that this Sublicensee Acknowledgment be executed and delivered by Sublicensee;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Sublicensee hereby agrees as follows:

1. Sublicensee acknowledges and agrees that any entry on the Property by Sublicensee shall be subject in all respects to the terms and provisions of the License. Sublicensee agrees to obtain and provide to Licensor evidence of insurance as required by the License prior to any entry on the Property.
2. (A) IN CONSIDERATION OF LICENSOR'S CONSENT TO SUBLICENSEE TO ENTER UPON THE PROPERTY AS SET FORTH HEREIN, SUBLICENSEE AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS THE OWNER, ITS, OFFICERS, AGENTS AND EMPLOYEES (EACH AN "INDEMNITEE") FROM AND AGAINST ANY AND ALL SUITS, ACTIONS, JUDGMENTS, LIABILITIES, PENALTIES, FINES, EXPENSES, FEES AND COSTS (INCLUDING REASONABLE ATTORNEY'S FEES AND OTHER COSTS OF DEFENSE), AND DAMAGES (TOGETHER, "DAMAGES") ARISING OUT OF OR IN CONNECTION WITH SUBLICENSEE'S PERFORMANCE OF THIS AGREEMENT, INCLUDING DAMAGES CAUSED BY THE INDEMNITEE'S OWN NEGLIGENCE, OR GROSS NEGLIGENCE, OR CONDUCT THAT MAY OR DOES EXPOSE AN INDEMNITEE TO STRICT LIABILITY UNDER ANY LEGAL THEORY, EXCEPT AS SPECIFICALLY LIMITED HEREIN.

(B) WITH RESPECT TO SUBLICENSEE'S INDEMNITY OBLIGATION SET FORTH IN SUBSECTION (A), SUBLICENSEE SHALL HAVE NO DUTY TO INDEMNIFY AN INDEMNITEE FOR ANY DAMAGES CAUSED BY THE SOLE NEGLIGENCE OF THE INDEMNITEE, OR SOLE GROSS NEGLIGENCE OF THE INDEMNITEE, OR SOLE CONDUCT OF THE INDEMNITEE THAT MAY OR DOES EXPOSE THE INDEMNITEE TO STRICT LIABILITY UNDER ANY LEGAL THEORY.

(C) IF AN INDEMNITEE SUFFERS DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OF THIS AGREEMENT THAT ARE CAUSED BY THE CONCURRENT NEGLIGENCE, GROSS NEGLIGENCE, OR CONDUCT THAT MAY OR DOES RESULT IN EXPOSURE TO STRICT LIABILITY, OF BOTH SUBLICENSEE AND THE INDEMNITEE, SUBLICENSEE'S INDEMNITY OBLIGATION SET FORTH IN SUBSECTION (A) WILL BE LIMITED TO A FRACTION OF THE TOTAL DAMAGES EQUIVALENT TO SUBLICENSEE'S OWN PERCENTAGE OF RESPONSIBILITY.

(D) WITH RESPECT TO SUBLICENSEE'S DUTY TO DEFEND SET FORTH HEREIN IN SUBSECTION (A), SUBLICENSEE SHALL HAVE THE DUTY, AT ITS SOLE COST AND EXPENSE, THROUGH COUNSEL OF ITS CHOICE, TO LITIGATE, DEFEND, SETTLE OR OTHERWISE ATTEMPT TO RESOLVE ANY CLAIM, LAWSUIT, CAUSE OF ACTION, OR JUDGMENT ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT; PROVIDED HOWEVER, THAT THE OWNER SHALL HAVE THE RIGHT TO APPROVE THE SELECTION OF COUNSEL BY SUBLICENSEE AND TO REJECT SUBLICENSEE'S SELECTION OF COUNSEL AND TO SELECT COUNSEL OF THE OWNER'S OWN CHOOSING, IN WHICH INSTANCE, SUBLICENSEE SHALL BE OBLIGATED TO PAY REASONABLE ATTORNEY FEES AND THE EXPENSES ASSOCIATED THERETO. THE OWNER AGREES THAT IT WILL NOT UNREASONABLY WITHHOLD APPROVAL OF COUNSEL SELECTED BY SUBLICENSEE, AND FURTHER, THE OWNER AGREES TO ACT REASONABLY IN THE SELECTION OF COUNSEL OF ITS OWN CHOOSING.

(E) IN THE EVENT THAT SUBLICENSEE FAILS OR REFUSES TO PROVIDE A DEFENSE TO ANY CLAIM, LAWSUIT, JUDGMENT, OR CAUSE OF ACTION ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, THE OWNER SHALL HAVE THE RIGHT TO UNDERTAKE THE DEFENSE, COMPROMISE, OR SETTLEMENT OF ANY SUCH CLAIM, LAWSUIT, JUDGMENT, OR CAUSE OF ACTION, THROUGH COUNSEL OF ITS OWN CHOICE, ON BEHALF OF AND FOR THE ACCOUNT OF, AND AT THE RISK OF SUBLICENSEE, AND SUBLICENSEE SHALL BE OBLIGATED TO PAY THE REASONABLE AND NECESSARY COSTS, EXPENSES AND ATTORNEYS' FEES

INCURRED BY THE OWNER IN CONNECTION WITH HANDLING THE PROSECUTION OR DEFENSE AND ANY APPEAL(S) RELATED TO SUCH CLAIM, LAWSUIT, JUDGMENT, OR CAUSE OF ACTION.

(F) THE TERMS AND OBLIGATIONS OF THIS INDEMNITY SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THE LICENSE.

3. This Sublicensee Acknowledgment is not revocable, and shall inure to the benefit of and be enforceable by Licensor. Sublicensee agrees to pay to Licensor all attorneys fees and other expenses incurred by Licensor in enforcing this Sublicensee Acknowledgment.

Executed to be effective as of the date first above written.

Sublicensee:

By: _____

Its: _____

Date: _____

ENTRY AND TESTING AGREEMENT

THIS ENTRY AND TESTING AGREEMENT (“Agreement”) is made and entered into as of the _____ day of _____, 2004, by and between **Town of Addison, Texas** (“Owner”) and **Sprint Spectrum L.P., a Delaware limited partnership** (“Sprint”), concerning certain real property owned by Owner located at *2800 Block of Broadway, Addison, Texas 75001* and more fully described in Exhibit A, attached hereto (the “Property”).

A. Sprint has an interest in obtaining from the Owner a temporary license to use the Property as a tower or antenna site for the receipt and transmission of wireless telecommunications signals; and

B. In order for Sprint to determine the viability and feasibility of the Property as a tower or antenna site, it is necessary for employees, agents or independent contractors of Sprint to enter upon and inspect the Property and/or temporarily locate telecommunications equipment on the Property to conduct short term radio propagation tests, and to make application with local, state and federal governmental entities for approval of the Property as a tower or antenna site; and

C. Owner and Sprint desire to provide for the temporary entry upon, inspection and/or testing activities, and applications concerning the Property pursuant to the terms contained in this Agreement.

NOW, THEREFORE, in consideration of the mutual promises, covenants, undertakings, and other consideration set forth in this Agreement, Owner and Sprint agree as follows:

1. Consent. Owner consents and agrees that Sprint, its employees, agents and independent contractors (“Authorized Parties”) may enter upon the Property to conduct and perform some or all of the following activities (“Permitted Activities”): surveys, boundary surveys, and such other tests and inspections of the Property which Sprint may deem necessary or advisable and which are directly related to Sprint’s potential use of the Property as a temporary tower or antenna site for the receipt and transmission of wireless telecommunications signals. Sprint agrees to be responsible for any and all costs related to the Permitted Activities, including installation on and operation and removal of equipment on the Property.

2. Filings. Sprint may make and file applications to such local, state and federal governmental entities whose approval Sprint may consider necessary or advisable to have the Property approved as a temporary tower or antenna site, including, but not limited to, governmental approvals for zoning variances or other zoning permits, rezoning applications, building permits, and wetland permits. For such applications, Owner hereby agrees that an executed copy of this Agreement is as effective as the original.

3. Access. Owner agrees that the Authorized Parties may enter upon the Property to perform the Permitted Activities upon execution of this Agreement and may have access to the Property for up to thirty (30) consecutive days from and after the date of this Agreement.

4. Removal of Property. Sprint agrees that it will, upon the conclusion of the term of this Agreement, remove any equipment installed on the Property as a part of the Permitted Activities, repair any damage to the Property that might have been caused in connection with any of the Permitted Activities, and will return the Property to the condition it was in before Sprint’s entry onto the Property. In the event any equipment installed on the Property by Sprint is not timely removed or if the Property is not so repaired or returned to the condition it was in before Sprint’s entry onto the Property, Owner will have the right to remove such equipment, or to make such repairs or to return the property to such condition, and Sprint agrees to be responsible for the reasonable costs incurred by the Owner in connection therewith.

5. Indemnity. (A) IN CONSIDERATION OF THIS AGREEMENT, SPRINT AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS THE OWNER, ITS, OFFICERS, AGENTS AND EMPLOYEES (EACH AN "INDEMNITEE") FROM AND AGAINST ANY AND ALL SUITS, ACTIONS, JUDGMENTS, LIABILITIES, PENALTIES, FINES, EXPENSES, FEES AND COSTS (INCLUDING

REASONABLE ATTORNEY'S FEES AND OTHER COSTS OF DEFENSE), AND DAMAGES (TOGETHER, "DAMAGES") ARISING OUT OF OR IN CONNECTION WITH SPRINT'S PERFORMANCE OF THIS AGREEMENT, INCLUDING DAMAGES CAUSED BY THE INDEMNITEE'S OWN NEGLIGENCE, OR GROSS NEGLIGENCE, OR CONDUCT THAT MAY OR DOES EXPOSE AN INDEMNITEE TO STRICT LIABILITY UNDER ANY LEGAL THEORY, EXCEPT AS SPECIFICALLY LIMITED HEREIN.

(B) WITH RESPECT TO SPRINT'S INDEMNITY OBLIGATION SET FORTH IN SUBSECTION (A), SPRINT SHALL HAVE NO DUTY TO INDEMNIFY AN INDEMNITEE FOR ANY DAMAGES CAUSED BY THE SOLE NEGLIGENCE OF THE INDEMNITEE, OR SOLE GROSS NEGLIGENCE OF THE INDEMNITEE, OR SOLE CONDUCT OF THE INDEMNITEE THAT MAY OR DOES EXPOSE THE INDEMNITEE TO STRICT LIABILITY UNDER ANY LEGAL THEORY.

(C) IF AN INDEMNITEE SUFFERS DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OF THIS AGREEMENT THAT ARE CAUSED BY THE CONCURRENT NEGLIGENCE, GROSS NEGLIGENCE, OR CONDUCT THAT MAY OR DOES RESULT IN EXPOSURE TO STRICT LIABILITY, OF BOTH SPRINT AND THE INDEMNITEE, SPRINT'S INDEMNITY OBLIGATION SET FORTH IN SUBSECTION (A) WILL BE LIMITED TO A FRACTION OF THE TOTAL DAMAGES EQUIVALENT TO SPRINT'S OWN PERCENTAGE OF RESPONSIBILITY.

(D) WITH RESPECT TO SPRINT'S DUTY TO DEFEND SET FORTH HEREIN IN SUBSECTION (A), SPRINT SHALL HAVE THE DUTY, AT ITS SOLE COST AND EXPENSE, THROUGH COUNSEL OF ITS CHOICE, TO LITIGATE, DEFEND, SETTLE OR OTHERWISE ATTEMPT TO RESOLVE ANY CLAIM, LAWSUIT, CAUSE OF ACTION, OR JUDGMENT ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT; PROVIDED HOWEVER, THAT THE OWNER SHALL HAVE THE RIGHT TO APPROVE THE SELECTION OF COUNSEL BY SPRINT AND TO REJECT SPRINT'S SELECTION OF COUNSEL AND TO SELECT COUNSEL OF THE OWNER'S OWN CHOOSING, IN WHICH INSTANCE, SPRINT SHALL BE OBLIGATED TO PAY REASONABLE ATTORNEY FEES AND THE EXPENSES ASSOCIATED THERETO. THE OWNER AGREES THAT IT WILL NOT UNREASONABLY WITHHOLD APPROVAL OF COUNSEL SELECTED BY SPRINT, AND FURTHER, THE OWNER AGREES TO ACT REASONABLY IN THE SELECTION OF COUNSEL OF ITS OWN CHOOSING.

(E) IN THE EVENT THAT SPRINT FAILS OR REFUSES TO PROVIDE A DEFENSE TO ANY CLAIM, LAWSUIT, JUDGMENT, OR CAUSE OF ACTION ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, THE OWNER SHALL HAVE THE RIGHT TO UNDERTAKE THE DEFENSE, COMPROMISE, OR SETTLEMENT OF ANY SUCH CLAIM, LAWSUIT, JUDGMENT, OR CAUSE OF ACTION, THROUGH COUNSEL OF ITS OWN CHOICE, ON BEHALF OF AND FOR THE ACCOUNT OF, AND AT THE RISK OF SPRINT, AND SPRINT SHALL BE OBLIGATED TO PAY THE REASONABLE AND NECESSARY COSTS, EXPENSES AND ATTORNEYS' FEES INCURRED BY THE OWNER IN CONNECTION WITH HANDLING THE PROSECUTION OR DEFENSE AND ANY APPEAL(S) RELATED TO SUCH CLAIM, LAWSUIT, JUDGMENT, OR CAUSE OF ACTION.

(F) THE TERMS AND OBLIGATIONS OF THIS INDEMNITY SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

6. Insurance. Sprint shall provide and maintain the minimum insurance coverages set forth below during the term of this Agreement:

A. Commercial General Liability insurance at minimum combined single limits of \$1,000,000 per-occurrence and \$2,000,000 general aggregate for bodily injury and property damage, which coverage shall include products/completed operations (\$1,000,000 products/ completed operations aggregate). Coverage for products/completed operations must be maintained for at least two (2) years after the construction work has been completed. Coverage must be amended to provide for an each-project aggregate limit of insurance.

B. Workers Compensation insurance at statutory limits, including Employers Liability coverage a minimum limits of \$1,000,000 each-occurrence each accident/\$1,000,000 by disease each-occurrence/\$1,000,000 by disease aggregate.

Any subcontractor(s) hired by Sprint shall maintain insurance coverage equal to that required of Sprint. It is the responsibility of Sprint to assure compliance with this provision. The Town of Addison accepts no responsibility arising from the conduct, or lack of conduct, of any subcontractor.

With reference to the foregoing insurance requirement, Sprint shall specifically endorse applicable insurance policies as follows:

- (1) The Town of Addison shall be named as an additional insured with respect to General Liability and Automobile Liability.
- (2) All liability policies shall contain no cross liability exclusions or insured versus insured restrictions.
- (3) A waiver of subrogation in favor of The Town of Addison shall be contained in the Workers Compensation and all liability policies.
- (4) All insurance policies shall be endorsed to require the insurer to immediately notify the Town of Addison of any material change in the insurance coverage.
- (5) All insurance policies shall be endorsed to the effect that the Town of Addison will receive at least sixty (60) days' notice prior to cancellation or non-renewal of the insurance.
- (6) All insurance policies, which name the Town of Addison as an additional insured, must be endorsed to read as primary coverage regardless of the application of other insurance.
- (7) Required limits may be satisfied by any combination of primary and umbrella liability insurances.
- (8) Sprint may maintain reasonable and customary deductibles, subject to approval by the Town of Addison.
- (9) Insurance must be purchased from insurers that are financially acceptable to the Town of Addison.

All insurance must be written on forms filed with and approved by the Texas Department of Insurance. Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent and delivered to the Town upon execution of this Agreement and shall contain provisions representing and warranting the following:

- (1) Sets forth all endorsements and insurance coverages according to requirements and instructions contained herein.
- (2) Shall specifically set forth the notice-of-cancellation or termination provisions to the Town of Addison.

7. Governing Law. The parties agree that the interpretation and construction of this Agreement shall be governed by the laws of the state of Texas, without regard to such state's conflict of laws provisions. Venue for any action under this Agreement shall lie in Dallas County, Texas.

8. Miscellaneous.

(a) This Agreement and each of its provisions are solely for the benefit of the parties hereto and are not intended to create or grant any rights, contractual or otherwise, to any third person or entity.

(b) The undersigned officers and/or agents of the parties hereto are the properly authorized officials and have the necessary authority to execute this Agreement on behalf of the parties hereto.

(c) This Agreement represents the entire and integrated agreement between Owner and Sprint and supersedes all prior negotiations, representations and/or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Sprint.

(d) This Agreement may be terminated at any time and for any reason by either party hereto by giving notice of such termination to the other party. Notice shall be deemed to have been given upon the receipt of notice.

(e) The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by either party shall not preclude or waive its right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the parties may have by law statute, ordinance, or otherwise.

(f) Any rights and remedies either party may have with respect to the other arising out of the performance of this Agreement shall survive the expiration or termination of this Agreement.

(g) Sprint is and shall operate as an independent contractor, and nothing herein shall be construed to create a partnership, joint venture, joint enterprise, or agency or other relationship between the parties hereto.

(h) Except as otherwise expressly permitted hereunder, Sprint may not assign, convey, transfer, or sublicense its rights under this Agreement, or otherwise authorize a third party to act hereunder, without the prior written consent of Owner; however, any such assignment, conveyance, transfer, or sublicense or other authorization to a third party shall not release Sprint from any of its obligations, covenants and promises contained herein.

(i) Sprint shall be responsible for obtaining all permits and licenses in connection with this Agreement, and will comply with all applicable laws, rules, standards, and regulations in connection with such use.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

OWNER
Town of Addison, Texas

SPRINTCOM, INC.,
a Kansas corporation

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Council Agenda Item: #2c

SUMMARY:

Council approval is requested for the award of bid to JD Brunson, Inc., for repair of hail damaged roofs and skylights at the Athletic Club, Police Station, Central Fire Station and Fire Station #2.

FINANCIAL IMPACT:

Budgeted Amount: \$0
Cost: \$54,513.00
Insurance Funds Received: \$37,376.32

Insurance funds received are less deductibles and applicable depreciation. The \$17,136.68 difference will be funded through the individual department's operating budgets or requested as a mid-year adjustment if needed.

BACKGROUND:

As a result of a hail storm that occurred in April 2003, the Town's Athletic Club, Police Station, Central Fire and Fire Station #2 incurred roof and skylight damages. The Town filed a claim with the Texas Municipal League Intergovernmental Risk Pool (TML) and received funds on October 31, 2003 and February 27, 2004.

The Purchasing division sent out 238 notifications to contractors through DemandStar with 20 contractors obtaining specifications. We received four bids with three qualifying. The low responsible bid was received from JD Brunson, Inc., in the amount of \$54,513. JD Brunson is a general contractor who has previously completed projects for the Town and has always done a good job.

RECOMMENDATION:

Staff recommends that Council approve award to JD Brunson, Inc., in the amount of \$54,513.00

Attachments: Bid Tab

MA

Roof Repairs
BID NO 04-23
DUE: June 8, 2004 2:00pm

BIDDER	SIGNED	Athletic Club	Police Station	Fire Sub Station	Central Fire Station	Total
JD Brunson Inc.	y	\$9,533.00	\$31,635.00	\$10,610.00	\$2,735.00	\$54,513.00
Paragon Roofing	y	\$11,288.00	\$31,079.00	\$11,446.00	\$1,717.00	\$55,530.00
Steel Lite Roofing	y	\$20,926.00	\$67,160.00	\$21,593.00	\$9,072.00	\$118,751.00
*Advanco	n/a	n/a	n/a	n/a	n/a	n/a

*NOTE: Bid from Advanco was disqualified and returned unopened because bid was submitted after bid due time.

Minok Suh

Minok Suh, Purchasing Coordinator

Corey Gayden

Corey Gayden, Witness

Council Agenda Item: #2d

SUMMARY:

This item is to request Council's approval of a contract with Coban Research and Technologies for the purchase of fourteen (14) In-Car Video Systems. This item was budgeted in fiscal year 2003-2004. A RFP was released on December 2003. Four (4) proposals were received. The proposals were ranging from \$117,000 to \$129,705. Coban Research Technologies was the bidder. A copy of the contract, RFP, and list of vendors responded are attached.

FINANCIAL IMPACT:

Budgeted Amount: **\$120,680**

Cost: **\$117,000**

BACKGROUND:

Current video recording system for the patrol cars utilizes VCR tapes. There is a tape assigned to each vehicle for each day. The state guidelines mandate a ninety-day (90) inventory period for recorded tapes. To ensure that this ninety-day (90) storage requirement is met in an efficient manner we secure recorded tapes by month. Once a recorded tape is placed into inventory storage it will remain in storage until that month of tapes is recycled in one hundred and twenty (120) days. This prevents an individual tape from being returned to service prior to the ninety-day (90) window. At the conclusion of the one hundred and twenty-days (120) window allotment of tapes will be placed back into inventory for the new month.

At present we have eleven cars with video capability. This means that we must keep on hand a tape library at a minimum of one thousand three hundred twenty (1320) VHS tapes.

Each day a supervisor must see that new tapes replace those recorded during the previous twenty-four (24) hour period and the recorded tapes are secured for a one hundred and twenty (120) day period.

During the tour of duty any tape that records evidence of a crime or may be useful in prosecution is forwarded to the property room and logged in as evidence. In such cases a new tape must replace the one that is placed into evidence. The officer assigned to the property room must duplicate the tape so that sections may be presented as evidence while maintaining custody of the actual tape in case it is later needed by the court.

Under the proposed digital system (Coban) the data is sent via wireless transmission at the end of every shift to a server. That data is also encoded when recorded for purging after a certain date. The purge date is pre set depending on the nature of the recorded segments. For example: A routine traffic stop with no evidentiary basis would be coded after the traffic stop by the officer to purge on the ninety first day thereby meeting the state guidelines. A DWI that is recorded would be encoded to be saved for a preset amount of time such as four years. Those given such authority may extend these dates. This system provides Police Department with a centralized, secure, cost effective method of storing and managing video files. It allows for easy exporting of video to portable media. It Secures chain of custody and it allows administrator to set up individual user profiles and access rights.

When digital recorded evidence is needed for court the property officer may download a copy of the segments needed on to a DVD for the officer to take to court.

The man-hours saved by the digital system should be significant as well as increase the quality of recording. An additional benefit of the digital system is its ability to integrate with our existing computer system. This will allow data entered by communications at the time a call is dispatched to be imprinted on the digital recordings. We should also realize some savings in floor space in the patrol section by not storing the VHS tapes.

RECOMMENDATION:

Staff recommends that the Council authorize the City Manager to enter into a contract with Coban Research and Technologies for the purchase of (14) In-Car Video Systems in the amount of \$117,000.

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PURCHASE CONTRACT

Between _____ and

Coban Research and Technologies

For

POLICE DIGITAL IN-CAR VIDEO CAPTURE AND MANAGEMENT SERVICES

This Purchase Contract ("Contract") is made and entered into by and between Coban Research and Technologies, Inc., (hereinafter referred to as "Coban") and the Town of Addison, Texas (the 'City').

This Contract consists of the provisions set forth below, including provisions of all Attachments referenced herein and attached hereto. In the event of a conflict between the provisions set forth below and those contained in any Attachment, the provisions set forth below shall control.

A. General Terms and Conditions

1. Freight

All deliveries shall be freight prepaid, F.O.B. destination Addison, TX. and shall be included in all pricing offered unless otherwise clearly stated in writing.

2. Warranty conditions

All supplies, equipment and services shall include manufacturer's minimum standard warranty and one (1) year labor warranty unless otherwise agreed to in writing. Coban shall be an authorized dealer, distributor or manufacturer for all products. All equipment proposed shall be new unless clearly stated herein in writing. Coban shall assign to the City all benefits of any manufacturer's warranty or any other guarantee which may apply to the same; such warranties shall begin when supplies or equipment are delivered to and accepted by the Customer.

Coban further warrants and represents to the City:

- (a) it has full power and authority to enter into this Contract and to grant and provide to the City all the rights set forth herein; and
- (b) it is duly incorporated and subsisting and properly registered under the laws of the State of Texas and authorized to do business in the State of Texas; and
- (c) the execution of this Contract will not breach or interfere with any other agreement to which Coban has entered into; and
- (d) it shall not enter into another agreement, the carrying out of which would interfere with the carrying out of this Contract; and
- (e) its services and work will be provided in a professional, good and workmanlike manner, consistent with the commercially accepted best practices and standards that are in use in its line of business as of the time such services and work are provided; and

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- (f) its services and work shall meet the City's standard work rules, security regulations or similar requirements if Coban is informed of same; and
- (g) it has the skills, qualifications, expertise, experience and financial capability necessary to perform the services described herein in an efficient and cost-effective manner with a high degree of quality and responsiveness; and
- (h) all work performed under this Contract shall be free and clear of liens, claims, security interests or encumbrances in favor of Coban, its contractors, subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to this Contract; and Coban agrees to defend, indemnify and hold harmless the City, at Coban's Supplier's sole cost and expense, from and against any and all actions, lawsuits, or proceedings brought against the City as a result of liens filed against the work hereunder, the site of any of such work, or any other property of the City or any third party, and agrees to pay any judgment or lien resulting from any such actions, lawsuits, or proceedings (and such obligation to defend, indemnify and hold harmless shall survive the expiration or termination of this Contract); and
- (i) there are no actual or threatened suits or claims pending that involve Coban's right to grant any rights hereunder, perform the services, or that would otherwise affect Coban's performance under this Contract; and
- (j) the City shall quietly and peacefully possess the products, equipment, and materials provided under the provisions of this Contract, and the Customer's right of quiet enjoyment and use and possession of the products, equipment, and materials will not be interrupted or otherwise disturbed by Coban, its officers, directors, employees, agents, successors or assigns or any person, firm or entity asserting a claim under or through Coban; and
- (k) any training, support and other services that Coban provides under this Contract, directly or through its authorized subcontractors, shall be provided by personnel who are trained and skilled in the provision of such services consistent with commercially accepted best practices.

3. Customer support

Coban shall provide timely and accurate technical advice and sales support to _____ staff and participants. Coban shall respond to such requests within one (1) working day after receipt of the request either by telephone or e-mail.

4. Contracts

All contracts and agreements between Coban and _____ shall strictly adhere to the statutes that are set forth in the Uniform Commercial Code as adopted by the State of Texas and as most recently revised.

Contracts for purchase will normally be put into effect by means of a purchase order(s) executed by authorized agents of _____.

5. Tax exempt status

All government entities exempt from payment of taxes under Chapter 20, Title 122A of the Revised Civil Statutes of Texas, for the purchase of tangible personal property, must supply Coban with the appropriate documentation prior to or in conjunction with initial purchase.

6. Disclosures

Coban affirms that it has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with this Contract.

7. Ordering Procedures

Purchase orders are issued by _____ to Coban per order. Participating entities must send purchase orders to Coban, unless otherwise stipulated by Coban. Coban will review and forward orders to their purchasing department **within two working days**. Confirmation of receipt of order may be requested by _____.

8.0 Shipments

Coban shall ship ordered products within _____ **working days** after the receipt of the order unless modified in the Special Terms and Conditions section of this Contract set forth below. If a product cannot be shipped within that time, Coban shall notify _____ as to why the product has not shipped and shall provide an estimated shipping date, if applicable. The participant may cancel the order if estimated shipping time is not acceptable.

9.0 Invoices

Coban shall submit invoices, in duplicate, to _____. Each invoice shall include _____'s purchase order number. The shipment tracking number or pertinent information for verification of _____'s receipt shall be made available upon request. Coban shall not invoice for partial shipments unless agreed to in writing in advance between Coban and _____.

1. Payments

The compensation to be paid to Coban by _____ for all services including but not limited to Hardware, Software, Installation, and Configuration, described on attachment "A" will be set forth on SOW (Statement of Work). Should additional work beyond the scope of the services detailed herein by Coban be requested by _____, fees for such services will be negotiated with _____ prior to performing such work.

- _____ shall have no obligation to make any payment due hereunder until the thirty (30) days following the receipt of Coban's invoice, which invoice shall be sent to the Town of Addison upon the conclusion of the services. Invoices shall be mailed to: *[address needs to be added]* Any such invoice shall include true and correct copies of any and all receipts and other documents and materials in support of the invoices, and any such additional documents or materials as the City may request in connection with the invoice and/or the payment to Coban.
- Coban shall maintain accurate records, which are the basis of charges for any fees, expenses, if applicable, or other charges to _____.

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- In the event _____ disputes any amount, whether related to fees or other charges on any Coban invoice, _____ and Coban agree to seek to resolve such dispute within ninety (90) days after notification of the dispute to Coban. Coban agrees to provide full supporting documentation concerning any disputed amount or invoice to _____ within thirty (30) days after _____ provides written notification to Coban. So long as _____ furnishes such written notification to Coban, _____ shall have no obligation during the ninety (90) day period specified above to pay any amount that _____ reasonably disputes hereunder.

2. Pricing

Coban and _____ agree to the pricing on attachment "A" for the terms of this Contract. Pricing may be renegotiated on future purchases to reflect price decreases or changes in unit / component pricing.

3. New Technology and Products

New products that meet the scope of work may be added to the existing Contract, provided the parties hereto agree to do so. Pricing for such new products shall be supplied, in writing, to _____ for review and approval.

B. Special Terms and Conditions

1. Product and Service Offerings

This Contract is for in-car digital capture devices, consulting services, installation services, back-office management software and hardware, and archiving hardware. All equipment supplied shall be by national and international manufacturers, sold as new equipment (realizing that manufacturers recycle many components). This Contract is not for used or remanufactured machines. All equipment sold must have new serial numbers.

2. Information Technology Consulting Services

Coban shall provide the following information technology consulting services to the City: the ability to analyze and document the current video capture needs of the City's Police Department, and how to improve such processes through digital capture and management.

3. Digital Capture Devices

Coban shall provide the following to the City: provide a range of products and services intended to support the digital capture and storage of video and audio in a mobile police vehicle. It will be an advantage to the vendor of third party products if the proposed equipment also acts as a convergence platform for in-car services.

4. Installation Services

Coban shall provide the following to the City: provide a wide range of products and services intended to support the installation of the proposed hardware in the car, as well as installation of the proposed back-office hardware, software, and archiving devices at the City's police station located at _____.

5. Back-office hardware, software, and archiving devices

Coban shall provide the following to the City: provide a wide range of products intended to support the needs of the City to store, manage and retrieve critical video data. This may include products and services such as servers, PCs, management software, tape libraries, network attached storage.

7. DATA RECONSTRUCTION:

_____ is responsible for maintaining its own procedures for the reconstruction of lost or altered files, backup or saving of data or programs to the extent deemed necessary by the City and for actually reconstructing any lost or altered files, data or programs. Coban assumes no responsibility for the protection of _____ data. Coban is not liable for damage to software or data caused by service to the computer hardware equipment, except to the extent that such damage is caused by Coban. Coban is not liable for software damage due to any outside factor, i.e. software virus, network or power outages, etc., except to the extent that such software damage is caused by Coban.

8. **FORCE MAJEURE:**

Neither party hereto shall not be liable for delays or failure to perform with respect to this agreement due to (i) causes beyond the party's reasonable control and not avoidable by diligence, (ii) acts of God, epidemics, war, riots, or delays in transportation which are beyond the party's reasonable control and not avoidable by diligence, or (iii) inability for causes beyond its control and not avoidable by diligence to obtain necessary labor, materials, or manufacturing facilities, or delays caused by subcontractors due to similar causes. In the event of any such delay (each such event being beyond the party's reasonable control and not avoidable by diligence), the date of performance shall be extended for a period equal to the time lost by reason of the delay.

9. **MISCELLANEOUS:**

1. If a third Party claims that any equipment, supplies, or other materials that Coban provides under this Contract infringes any intellectual property right (including, without limitation, patent, copyright, trade secret and proprietary rights), Coban will defend, indemnify, and hold harmless the City against any such claim at Coban's expense and pay all costs, damages, and attorney's fees that a court finally awards, provided that the City:

(a) promptly notifies Coban in writing of the claim and does not incur defense expenses without prior notice to Coban; and

(b) allows Coban to control, and cooperates with Coban in, the defense and any related settlement negotiations.

If such a claim is made, or appears likely to be made, Coban must provide to the City one of the following alternatives at the City's election: (a) enable the City to continue to use the equipment, supplies, or other materials which is the subject of the claim, (b) modify the equipment, supplies, or other materials so as to make it non-infringing, (c) replace the equipment, supplies, or other materials with a non-infringing product that is functionally equivalent to or superior to the equipment, supplies, or other materials, or (d) terminate this Contract and return the infringing product to Coban, with reimbursement to the City of the cost for the same.

The provisions of this subsection shall survive the termination or expiration of this Contract.

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2. Coban shall defend (with counsel acceptable to the City), indemnify and hold harmless the City, its officials, officers, employees, and agents (together, "Indemnified Persons") against and from any and all losses, liability, lawsuits, damages, claims, demands, costs, penalties, fees and expenses (including, without limitation, reasonable attorneys' fees), whether based on contract, tort (including, without limitation, strict liability), or otherwise, arising from, out of, or in connection with (i) any act or omission of Coban or its subcontractors, or the officers, directors, employees, agents, or representatives of any of them, under or pursuant to this Contract, (ii) any breach of this Contract by Coban, and (iii) any assertion under worker's compensation or similar laws made by persons furnished by Coban. The provisions of this subparagraph shall survive the termination or expiration of this Contract.
3. The City, by written notice, may terminate this Contract, in whole or in part. Upon receipt of the termination notice, Coban will stop work as specified in the notice in an orderly and expeditious manner, place no further subcontracts or orders in connection with this Contract (except as necessary to complete the continuing portion of the Contract, if any), terminate all subcontracts to the extent they relate to terminated work and, with the approval of City, settle all outstanding liabilities arising thereunder, deliver to City all equipment, materials, and products in progress, and all applicable interests in and rights thereto), completed work and supplies produced or acquired for the work terminated, and complete performance of any work not terminated. The City will pay Coban for all equipment, materials, and products delivered and accepted by the City and for Coban's services properly performed and provided through the effective date of termination.
4. Coban has no authority or power to and shall not assign, transfer, delegate, subcontract or otherwise convey any interest herein without the prior written consent of the City, and any such assignment, transfer, delegation, subcontract or other conveyance without the City's prior written consent shall be considered null and void and shall be cause for the City to immediately terminate this Contract.

The provisions of this Agreement are solely for the benefit of the parties hereto and shall not and are not intended to create or grant any rights, contractual or otherwise, to any third person or entity.

5. In the event of any suit or action under this Contract, venue for all causes of action shall be instituted and maintained in Dallas County, Texas. The City and Coban agree that the laws of the State of Texas shall govern and apply to the interpretation, validity and enforcement of this Agreement; and, with respect to any conflict of law provisions, the parties agree that such conflict of law provisions shall not affect the application of the law of Texas (without reference to its conflict of law provisions) to the governing, interpretation, validity and enforcement of this Agreement.
6. Coban shall comply with required by all laws, ordinances, rules and regulations and lawful orders and all other requirements of public authorities bearing on its performance of and under this Contract.

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- 7. Except as otherwise provided for herein, this Contract supersedes all previous agreements and constitutes the entire understanding of the parties hereto. Coban shall be entitled to no other benefits than those specified herein. No changes, amendments or alterations shall be effective unless in writing and signed by both parties. If any provision of this Contract is held by a court of competent jurisdiction to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions of this Contract will not be affected or impaired thereby.
- 8. If any term, covenant, condition or provision of this Contract is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby. All obligations arising prior to the termination of this Contract allocating responsibility or liability of or between the City and Coban shall survive completion of the services hereunder and termination of this Contract. The rights and remedies provided by this Contract are cumulative and the use of any one right or remedy by either party shall not preclude or waive its right to use any or all other remedies, and said rights and remedies are given in addition to any other rights the parties may have by law statute, ordinance, or otherwise.
- 9. Coban shall, during the entire term of the Contract, be construed to be an independent contractor and nothing in this Contract is intended nor shall be construed to create an employer-employee relationship, a joint venture relationship, a joint enterprise relationship, or any other relationship other than that of vendor and purchaser.
- 10. Any notice, demand or request herein provided or permitted to be given by any party hereto to another may be served by hand delivery or by prepaid registered mail, delivered or addressed as follows:

To the City at: Town of Addison, Texas 5300 Belt Line Road Dallas, Texas 75254	To Coban at:
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Service of any such notice, demand or request shall be deemed complete on the day of actual delivery, if sent by hand delivery, or if that day is not a business day, then on the next following business day, or on the date of receipt of the registered mail, evidenced, by the proof of delivery issued by the post office. Either party may at any time give notice in writing to the other of any change of address of the party giving such notice and the address therein specified shall be deemed to be the address of such party for the giving of notices hereunder.

- II. Time is of the essence of this Contract.
- 12. All attachments to this Contract referenced herein are incorporated herein and made a part hereof.

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13. The undersigned person are the properly authorized officials and have the necessary authority to execute this Agreement on behalf of the parties hereto, and each party hereby certifies to the other that any necessary resolutions or other act extending such authority have been duly passed and are now in full force and effect.

C. Signature Form

The undersigned hereby agrees to purchase goods and/or services in compliance with the terms, specifications and conditions at the prices quoted unless noted in writing. The undersigned further certifies that he or she is an authorized agent of the company and has authority to negotiate and contract for the company named below.

Prices are guaranteed for _____

Company name _____

Address _____

City/State/Zip _____

Telephone No. _____

Fax No. _____

E-mail address _____

Authorized signature _____

Printed name _____

Position with company _____

Accepted by —Coban Research and Technologies

Coban Authorized Signature _____ Date _____

Print Name _____

Approved by _____ Date _____



12503 Exchange Drive, Suite 536, Stafford TX, 77477, Phone 281.277.8288

Statement of Work for the Town of Addison In-Car Video Project



Thursday, April 28, 2004

The following pages describe the products, services and support information pertaining to the purchase and installation of fourteen (14) Coban TopCam® Digital In-Car Video units and the DVMS® hardware / software to be installed.

This document will breakdown the solution item by item with a description of the product or service contained in that particular section.

This information is confidential and is intended solely for the use of the Town of Addison. Any reproduction or distribution of this document without the express written authorization from Coban Research and Technologies is prohibited.

Purpose of In-Car Video Project.

The purpose of this installation is to provide the Town of Addison with a fully functioning digital in car video and extended storage solution. Coban will be installing fourteen (14) TopCam units for use by the Town of Addison's traffic patrol officers.

Estimated Installation Date: August 12, 2004

EXPECTATIONS:

The expectations set forth in this document and all attached documents, are to provide a documented "flow" of the installation. The Town of Addison must be able to utilize Coban's digital in car / storage solution for daily recording and storage of traffic (and other) stops performed by their officers in the field. Coban will install and train the officers and appropriate personnel on the operation of the TopCam units as well as the back end storage solution. Upon completion of said installation and training an authorized department representative will provide a signature approving completion of the project. The timeframes listed in this document are for planning purposes only. Any changes to these timeframes on behalf of either party will be communicated in a timely manner for approval. Prior to the commencement of the project, a Project Management flow chart will be generated with the anticipated start and completion times and resources for each phase of the project.

Hardware and software to be installed by Coban:

TopCam w/ 4" flip down monitor

14 Coban TopCam® Digital In-Car Video units for installation into 14 Dodge Durango patrol vehicles and shall be integrated with the existing Mobile VU MDC's installed currently. The following components are included in the TopCam® purchase:

(14) Self contained headliner mounted TopCam Digital In-Car Video Systems

CPU Module: 1.2GHz, 512MB RAM, 20GB HDD

4" TFT Touch Screen monitors

(1) 40 GB Mobile Hard Drives with 1394 / Fire wire interface

Sony® Digital Camera (front facing only)

(1) Wireless Microphone Receiver and transmitter (including Li-ion battery 1400mA, leather pouch, car charger cable, wall charger cable)

12 ft. In-Car covert microphone

Microsoft Windows XP pro Operating System

TopCam® mounting hardware

MPEG1 format video capture and storage

One (1) Gigabit Ethernet PCMCIA network card

ADDITIONAL EQUIPMENT:

If additional removable hard drives and wireless microphones needed, will be addressed after the initial purchase by the department.

Modified 4:44 PM 4/29/2004

Created on 4/26/2004 5:19 PM

Statement of Work

Coban will supply the Town of Addison with one (1) Digital In Car Video troubleshooting kit at no cost.

Upload Solution(s):

The Town of Addison has requested to be able to perform all three types of video uploads (Gigabit Ethernet, Wireless and Removable Hard Drive). The following items are needed in place PRIOR to the installation:

- 1.) **Gigabit Solution:** The Town of Addison is purchasing two (2) 4-port gigabit Ethernet upload stations to be placed outdoors. The Town of Addison will have the appropriate length and number (no longer than 300 feet total per run, including cable connecting vehicle to upload station) of Category 5e indoor / outdoor cables ran to the desired location through approved indoor / outdoor rated conduit. These cables will be terminated to a patch panel that will be installed in a NEMA4x enclosure at the point of demarcation for the upload station. The opposite ends of the cables will be terminated and tested and made ready for installation into the existing Gigabit switch to be provided by the Town of Addison's Information Technology Department. The installation location of these enclosures will be provided to Coban PRIOR to the installation of the upload stations so that Coban may determine which type of mounting is required (wall, post or ceiling). Each particular type of mounting solution requires a different gauge diameter conduit, hence the need for prior discovery of the location and type of mount required.
- 2.) **Wireless (802.11G) Upload:** The Town of Addison is implementing a wireless solution by a separate vendor (PadCom). The Town of Addison intends on utilizing the PadCom solution to provide wireless upload capability at the main station for the vehicle coming off shift. Padcom has agreed to supply Coban with a full working copy of the application to be deployed for testing. Coban's digital in car unit will connect to this solution via their existing MDC and use the MDC as a "router" to facilitate the wireless upload of the recorded video. No additional hardware is required according to the PadCom representative. Coban will test the 14 units in house with the PadCom solution to determine if the units are compatible with the wireless application and report findings back to the Town of Addison. If there are incompatibilities between the two technologies, Coban will work with PadCom and the Town of Addison to reach an acceptable solution if possible to the best of their ability.
- 3.) **Removable Hard Drive:** The Town of Addison will also be utilizing the removable hard drive upload solution in the department. The Town of Addison will be providing the upload station(s) for this solution. The following hardware is required in these stations prior to installation.
 - DVD r/RW /CD r/RW +/- multi-burner
 - Windows XP or 2000 professional
 - DVD burning software (preferably Sonic MyDVD Deluxe 5.2)
 - 1 Firewire port for upload cradle (cradle to be provided by Coban)
 - Pentium 4 processor and minimum of 256 MB ram
 - Minimum of 64 MB 3d Graphics card (preferably with dual monitor and TV out capability).
 - Windows Media Player 9.0 <minimum>

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The DVMS software can be loaded on additional workstations in the department with no additional license fees incurred. The equipment listed above only applies to workstations that the department wishes to be able to upload, view and export recorded videos to and from. Workstations that simply wish to be able to view videos and run reports from our software need only to be running Windows XP/2000 Pro and have an active Ethernet connection.

Back office Software / Hardware

Fourteen (14) DVMS® software licenses. These licenses provide the department with software upgrades, support, patches and certain future “add-on” functions to be determined at a later date.

One <1> DVMS® Workstation: **TO BE PROVIDED BY THE DEPARTMENT** recorded video will be up-loaded via the removable hard drive with this system. The machine will have the added capability of allowing the department to export selected videos to CD/DVD media for offline extended storage. The DVMS® workstation will also provide the department with an efficient, dependable and secure method of storing, searching and exporting stored videos.

One <1> DVMS Server: **TO BE PROVIDED BY THE DEPARTMENT** will communicate with the extended storage devices. The server is responsible for managing existing archived videos, retrieving archived videos for export, maintaining the uploaded video database as well as systematically removing “non-evidentiary” video files from the server to free additional storage space. The Town of Addison s Information Technology staff has been provided with a list of acceptable specifications for this server. A full licensed version of Microsoft SQL with 5 client access licenses shall be shipped to Coban along with the server to be loaded by Coban’s server engineers. The FTP service must be running on the server to accomplish the video upload for certain upload solutions.

Three <3> HP 2.0 TB SCSI Hard Disk RAID Arrays: **TO BE PROVIDED BY THE DEPARTMENT.** These RAID arrays will be responsible for storing the uploaded video files recorded by the officers in the field. These RAID arrays will be controlled directly by the DVMS Server. A total of six terabyte of storage capacities Town will have on these RAID arrays.

The Town of Addison agrees to ship all of the above listed equipment (including cables, additional controllers, software drivers and any other pertinent peripherals) and software to Coban for further staging and testing to be received no later than July 15th, 2004 to keep in accordance with the August 12th, 2004 installation kick off date.

PadComUSA has agreed to furnish Coban with a fully functioning version of their application for testing in house for the Town of Addison deployment. Coban will return said copy of the PadCom software once testing has been completed successfully.

In – Car Installation

Coban’s ® technicians will install and test fourteen (14) TopCam® units (and all appropriate components) into fourteen (14) Dodge Durango patrol vehicles. Coban will wire the overhead light bar and the siren to be recorder “triggers”. Upon completion of installation of the in car units Coban’s technicians will systematically test each unit in a step-by-step process to ensure that ALL functions are fully operable. (The timeline for these tests will be outlined in the project flowchart) upon successful completion of each phase an authorized contact person for the department will be required

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to approve the installation and completion of each phase. It is suggested that a PadCom representative be onsite for the wireless configuration and testing if possible. Successful, timely completion of all phases of testing will depend on many "outside" factors pertaining to the existing infrastructure that is installed and maintained by the Town of Addison's IT department. Coban shall install these fourteen units under the assumption that ALL scheduled vehicles have been thoroughly assessed by the Town of Addison and approved for said installation. Any failure or inconsistency noted during installation and testing shall be reported immediately to the Town of Addison for resolution. (An example of one of the most commonly found failures during installations is that the battery in the vehicle is not charging properly or is not holding a charge properly. This can cause a premature "shutdown" of the digital in car unit.)

Estimated start and complete dates: August 12th – 16th, 2004.

Service and Support:

Service and support of the unit POST installation will be handled as follows (this is somewhat flexible depending on departmental policy):

The officer(s) utilizing the systems will report all support requests/system issues to the main technical contact person (names and numbers will be provided in this document) who is in charge of the in-car video program. The main technical contact person for the department will then contact Coban within **24 hours** of the issue being brought to their attention so that the issue can be resolved as quickly as possible. (Providing that the issue is of an emergency nature, minor issues can be reported by the department at their earliest convenience.)

The main technical contact OR an authorized installation technician shall be available to assist in troubleshooting the unit by phone if needed. Coban will contact the department with this request and schedule a time to troubleshoot the unit if the appropriate personnel are not available at that time. Upon completion of troubleshooting, Coban will assess the situation and determine the next course of action. (If the issue is not resolved.) Solutions to these issues will range from shipping replacement parts to dispatching a technician onsite to repair the problem. (Technicians will be dispatched in a timely manner if the department does not have an installation technician.)

Any deliberate misuse or destruction (cabling cut, monitors cracked, deletion of operating system files on the in car unit OR the DVMS workstation, etc) of the in car digital system / DVMS workstation or server; requiring a replacement model or a technician to be dispatched will be billed at \$150.00/ hour. (Travel expenses may be assessed as well if a local technician is not available.) This issue will need to be addressed with the department prior to another unit being shipped or technician being dispatched.

Any software loaded on the system POST installation will need to be approved by Coban PRIOR to installation. Coban is not responsible for damages caused by or in conjunction to the installation of third party software. (Coban may request a licensed version of the software for testing. This software shall be returned to the department after testing is completed and installation is approved.)

DVMS® Installation and Setup: Coban® will receive, configure and test the DVMS® Workstation, Server and RAID arrays in house. The technicians will deliver this equipment at the time of installation or will ship the equipment to the department for storage until installation date. The

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technicians will coordinate the installation of the workstation, server and RAID array with the appropriate technical contact for the department.

Coban's installers will install the DVMS workstation, server and RAID arrays in the agreed upon location for the department. An authorized member of the department's Information Technology department **MUST** be on hand for this installation if the DVMS storage devices are to be added to the department's existing network.

Estimated start and complete dates: August 13th – 14th, 2004

Training: Coban® will provide two (2) days < up to 8 hours per day > of training. This training will include training the officers on the operation of the TopCam® unit as well as training the appropriate personnel on up-loading, storing, retrieving and exporting test video's recorded by the officers on the day of training. If time permits, the officers have the option of driving the vehicle while a Coban representative accompanies them, assisting them with any operational issues that they may have. If the department requests this type of training, it must be requested prior to the installation of the unit(s) so that the appropriate arrangements are made to accommodate the department's request. Coban offers two types of training. The first being, train the individual officer(s) on the use and operation of the digital in car unit as well as the upload, search, retrieving and exporting of the recorded videos on the DVMS workstation. The second training method is a "Train the Trainer" approach. Coban will train the appropriate department personnel who in turn will be responsible for training the officer and other authorized department personnel on the operation of the digital in car unit and DVMS storage application. User manuals on all equipment installed will be provided to the department for review. Any additional training requests will be provided by Coban or an authorized agent of Coban.

Estimated start and complete dates: August 15th – 16th, 2004

The following are assumptions made by Coban® of the Town of Addison:

- 1.) The vehicle(s) scheduled for installation on the agreed upon date will be present and available to Coban® technicians. Failure to have vehicles available during this time may result in additional fees.
- 2.) All personnel to be trained on the scheduled date will be available for training purposes. Failure to have appropriate personnel available on scheduled training day may result in additional fees. User manuals will be provided with all equipment for the department's distribute and review.
- 3.) If additional training or installation time is required, Coban® will contact the main contact person onsite for approval prior to any additional services being performed.
- 4.) If the agreed upon date for installation cannot be met; the Town of Addison agrees to notify Coban 14 days prior to scheduled installation date.
- 5.) An authorization signature of main department contact after installation and training is completed will be required.
- 6.) Digital photographs of the vehicles the TopCam units are to be installed in will be provided at least 14 days prior to installation by the.
- 7.) Information on the siren and any other "input" device to be integrated with the in-car unit shall be provided at least 14 days prior to scheduled installation date by the Town of Addison.

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- 8.) Hardware / software warranties, support and service on DVMS storage equipment (excluding Coban's DVMS application) shall be provided by the vendor the equipment was purchased from by the Town of Addison
- 9.) The Town of Addison is responsible for maintaining its own procedures for the reconstruction of lost or altered files, backup or saving of data or programs to the extent deemed necessary by the Town and for actually reconstructing any lost or altered files, data or programs. Coban assumes no responsibility for the protection of The Town of Addison Police Departments' data. Coban is not liable for damage to software or data caused by service to the computer hardware equipment, except to the extent that such damage is caused DIRECTLY by Coban.
- 10.) The Town of Addison will arrange to have a PadCom representative onsite or on-call for the wireless upload portion of the testing to assist in the configuration and troubleshooting of their application.
- 11.) The Town of Addison's I.T department will be responsible for making certain that any and all security settings (port openings, firewall settings, etc.) are made prior to the installation and testing of the DVMS storage equipment. Coban shall not be held liable for any network breach, data interception or loss of data due to those types events, if and when a breach should occur.

As an authorized representative of the Town of Addison, I _____,
agree with the terms included in this document.

Coban® Authorized Representative: _____

Authorized Department Representative: _____

Date: _____, _____, _____

Main Contact: Hamid Khaleghipour

Technical Contact: Chad Hancock / Randy King / Zeis Djaja / Ronnie Lee (in car contact)

Officer(s): _____

RFP 04-11				
In Car Video Camera and Video Surveillance System				
Due: March 2, 2004 @ 5:00PM				
Company Name	Address	City	State	Zip Code
1 Decatur Electronics, Inc.	715 Bright Street	Decatur	IL	62522
2 Digital Safety Technologies	556 Metroplex Dr	Nashville	TN	37211
3 Coban Research & Technologies	12503 Exchange Dr Ste 536	Stafford	TX	77477
4 SecureNet	3440 Sojourn, Suite 240	Carrollton	TX	75006
5				
6				
7				
8				
9				
10				

**RFP 04-11
Town of Addison, Texas
Request for Proposal for In-Car Video Camera and Video Surveillance
System**

INTENT

The Town of Addison Information Technology Department is soliciting sealed written proposals from qualified vendors for the purchase and installation of 14 Digital In-Car Video Camera Systems, 24 Stationary (Fixed) Video Surveillance System, and 20 Video Surveillance System with Pan, Zoom ,and Tilt capabilities.

SUBMISSION OF PROPOSALS

One (1) Original and Two (2) copies of the proposal shall be enclosed in a sealed envelope or carton and be mailed to the attention of:

Town of Addison
Purchasing Division, RFP 04-11
P.O. Box 9010
Addison, Texas 75001-9010

Proposals may also be delivered in person to:

Town of Addison
Purchasing Division, RFP 04-11
5350 Belt Line Road
Addison, Texas 75254

Proposals will be accepted until 5:00 P.M. on February 24, 2004.

Late proposal submissions will be returned unopened, and unsigned proposals will be rejected as non-responsive.

CRITERIA FOR PROPOSAL ACCEPTANCE

The proposals will be evaluated with respect to criteria specifically developed to examine the technical competence and suitability of prospective proposals.

The Town will only award the contract to a responsible bidder. In order to qualify as responsible, a vendor must meet the following criteria as they relate to this request for proposal:

- 1) The successful vendor must have adequate technical and financial resources to ensure satisfactory performance.
- 2) The successful vendor must have the necessary experience, organization, and technical skill to ensure satisfactory performance.
- 3) The successful vendor must have a satisfactory record of performance in developing and implementing similar jobs.

PROPOSAL EVALUATION PROCESS

Proposals will be evaluated using the following weighted criteria:

45 Points:

- Ability of hardware/software to meet our requirements
- Ease of use and operation of the system
- How easy will it be for the Police department to move data from the vehicles to the server with at little user intervention as possible?

30 Points:

- Total cost, which considers both initial acquisition and ongoing operating costs
- Products available now and enhancements planned

25 Points:

- Vendor's ability to support our users' needs (Qualifications of the Vendor's staff)
- Results of reference checks (Vendor's reputation)
- Level, quality, and type of client training and technical assistance provided

MAXIMUM PROPOSAL GRADE IS 100 POINTS

VENDOR PROPOSAL EVALUATION MEETINGS

Discussions may be conducted with vendors to clarify the Town's requirements and the vendor's proposals.

AWARD

Award shall be made to the responsible vendor whose proposal is determined to be the most advantageous to the Town taking into consideration the criteria for proposal acceptance and the proposal evaluation composite score.

Once awarded by Council, the contract will be good for 6 months from award date to proceed with work.

CONTRACT TERM

Negotiations may be undertaken with those contractors whose proposals, as to price and other factors, demonstrate them to be qualified, responsible, and capable of performing the work. The contract selected will be the one most advantageous to the Town of Addison, cost and other factors considered. The Town reserves the right to consider proposals or modifications thereof received at any time before an award is made, if such action will be in the best interest of the Town.

The contents of the proposal by the successful agency shall become contractual obligations if a contract ensues. Failure of the successful contractor to accept these obligations may result in cancellation of the award.

RIGHT TO REJECT PROPOSAL

The Town reserves the right to reject any or all proposals and to disregard typographical, mathematical, or obvious errors. The Town will not pay any costs incurred by any offerors in the preparation of proposals.

PROPOSAL FORMAT

To assure consistency, proposals must conform to the following format:

1) Table of Contents

2) Introduction

This section should contain your understanding of the Town's needs and objectives.

3) Descriptive Literature

Provide complete descriptive literature for each item.

Brand name and model examples should be listed following the detailed specifications for each element. Any example listed is to show type and class of equipment desired. Bidder is cautioned that any product delivered which does not meet specifications in every aspect will not be accepted.

4) Vendor Questionnaire

Complete the vendor questionnaire. All questions must be answered.

5) References

This section shall contain names of at least five organizations, most preferable local governmental entities for which you have provided this service. Please include organization name, address, telephone number and contact person.

4) Fee Structure

Provide a fee schedule for your services. This schedule should include a description of the following products and services; hardware, software, implementation, installation, configuration, training, documentation and project management.

6) Contract

Enclose a copy of your standard contract. Indicate any clause(s) that are conditional or non-negotiable.

Digital In-Car Video System

1.0 Digital In-Car Video System Specification

System Description

- 1.1 The Digital In-Car Video System shall consist of a minimum of one <1> windshield or other mounted miniature camera, a recorder that mounts inside the cab of the vehicle, (NO TRUNK MOUNTED systems or systems requiring a trunk mounted vault will be considered) that stores video to a removable hard drive type media, an overhead or otherwise mounted control center with compact monitor and wireless microphone to provide digital audio and video recording of traffic stops, pursuits, D.U.I. tests and other law enforcement actions from a moving or stationary vehicle.
- 1.2 The system shall use Microsoft? Windows? XP or 2000 Professional as its operating system. As well as have the capability to allow Microsoft? compatible applications to be installed on it. (Such as CAD programs, mapping programs, e ticket applications, CRIS applications, etc.) The system shall also be capable of easily integrating with the departments existing MDC's. Systems using Linux? or other embedded operating systems will not be considered.
- 1.3 An embedded time/date stamp and the officer I.D. in the video shall provide video authentication. This time/date stamp information shall be recorded in a proprietary format that cannot be duplicated outside the vehicle to ensure any attempts to alter the video are detected. Digital Video Management software designed to detect and reveal alterations to video files shall be provided.
- 1.4 The miniature camera shall be CCD type and shall be capable of operating in extreme weather conditions. Its size shall not obstruct the driver's field of view. It shall also be capable of operating under the normal range of patrol vehicle temperature and conditions (humidity, floor moisture, dust and dirt).
- 1.5 The control center/ display shall mount within easy reach of the driver's seat and give the officer the ability to play back recorded segments as well as view real time recordings. The system shall encrypt recorded videos on the removable hard drive and protect them from being erased or recorded over or altered. The viewable display screen shall be no larger than 4 inches for headliner mounted systems and 10.4 inches for console-mounted MDC systems. The monitors must be touch screen operable and easy to use even if the officer is wearing gloves.
- 1.6 The wireless microphone shall allow audio recording of events inside and outside of the vehicle. The wireless microphone shall operate in the 900 – 928 MHZ frequency range and be D.S.S (Digital Spread Spectrum certified). An in-car wired microphone should be provided as well, that will record on a separate audio channel from the wireless microphone system (simultaneous use of the wireless microphone and in-car microphone system must be supported).
- 1.7 The wireless microphone shall have a minimum range of 1,000 feet and a minimum of 20 channels that are auto-switched.
- 1.8 The wireless microphone shall be weather resistant and shall remain operable during inclement weather conditions. The microphone shall be sealed internally to reduce the possibilities of water / condensation from entering the microphone and damaging it.
- 1.9 The wireless microphone shall have "programmable operation" buttons. It shall also have the capability of being programmed to operate in "vibrate" mode for covert operations.

- 1.10 The wireless microphone shall be activated simultaneously when the recorder is activated. The officer should not have to activate the wireless microphone manually when the recorder is activated.
- 1.11 The wireless microphone shall have the capability of remotely activating the recorder from outside the vehicle by turning the wireless microphone on.
- 1.12 The wireless microphone shall not be capable of being turned off in the field other than by the officer stopping the recorder in the vehicle.
- 1.13 The wireless microphone shall have the ability to synchronize frequency with the recording unit; this allows the department to provide each officer with their own microphone to use with any of the vehicles equipped with the digital recording unit. This also eliminates the issue of other officers' microphones activating the wrong video recorder.
- 1.14 Software updates shall be made available via e-mail, CD or be downloadable via a secured connection from the manufacturers website.
- 1.15 All cables and hardware required for installation shall be supplied.
- 1.16 Each digital in-car video system shall be capable of integrating with compatible traffic radar units. Target and patrol speeds shall be displayed on the monitor and recorded to the digital media simultaneously with the video and data being recorded by the camera.
- 1.17 Any modifications made to the system and /or radar units to integrate with the digital video system shall be approved by the vendor. A statement from the vendor must accompany all bid responses stating that the modifications have been approved, and will not affect the radar's warranty (if applicable), re-certification and the department's ability to support the modifications in a court of law.
- 1.18 The digital video system shall have the capability of recognizing low voltage conditions in the vehicle and automatically switchover to a backup battery to run the system for a period of time (typically 20 minutes). If the voltage issue is not corrected the backup system should automatically initiate a safe shutdown of the digital video unit.
- 1.19 The system shall be capable of allowing the officer to take a digital snapshot of the camera view. The snapshots must be capable of being uploaded with the video files.

1.2.0 Compact High Sensitivity Color CCD Camera

- 1.2.1 The color CCD camera shall not be subject to burn in, introduction to geometric distortion, not be affected by magnetic fields and shall be highly resistant to damage from vibration and shock. The camera shall also have the option of having a rear-facing infrared camera that will record the rear passenger compartment of the vehicle.
- 1.2.2 The camera shall include an image sensor to resist nighttime blooming and smearing from light sources.
- 1.2.3 The forward facing camera shall operate on 12 VDC and offer a minimum of 470 lines horizontal resolution. The rear-facing camera shall have a minimum of 380 lines of horizontal resolution.
- 1.2.4 The forward facing camera shall operate with a minimum illumination of .07 lux. The rear facing camera and infrared lighting system shall operate with a visible illumination of 0 lux.
- 1.2.5 The camera's dimensions shall not exceed 5.66 x 7.00 x 12.13 cm w/h/d.
- 1.2.6 The camera module (including housing) shall weigh no more than 17.0 oz.
- 1.2.7 The camera shall have an OPERATING temperature of 32°F - 140°F (0° C - 60°C)
- 1.2.8 The camera shall incorporate an auto iris, fixed focus and motorized zoom lens.

- 1.2.9 The motorized zoom lens shall offer a minimum of 18X optical zoom lens with 4X digital zoom for a zoom of 72X. Focal range of the lens shall be a minimum of 4.1mm to 73.8mm.
- 1.2.10 The camera shall provide a horizontal field of view of at least 17 feet at a distance of 20 feet from the camera.
- 1.2.11 The camera shall include auto and manual focus capabilities.
- 1.2.12 The camera shall offer an auto white balance feature.
- 1.2.13 The camera shall offer backlight compensation.
- 1.2.14 The camera shall offer a S/N ratio of better than 50dB.
- 1.2.15 The camera shall be equipped with a video system external record/microphone indicator. This indicator shall consist of an LED built into the front of the camera's housing and will indicate to the officer outside the vehicle that the recorder is recording and that the audio from the wireless transmitter is being received.
- 1.2.16 The auto iris shall automatically adjust for varying light levels from day to night.
- 1.2.17 The mounting bracket for the camera shall allow the camera to be easily rotated 360°.
- 1.2.18 The camera mount shall allow the camera to be positioned and secured in place without tools.
- 1.2.19 Camera Manufacturer & Model # _____

1.3.0 Video Compression and Recording

- 1.3.1 The digital video system shall record to a removable hard drive. The drive shall be housed and secured in place with a key locking mechanism within the interior of the vehicle. Systems recording to DVD RAM, "fixed" hard drives or digital tapes will not be considered.
- 1.3.2 The system shall be capable of recording in an MPEG format and must be capable of being played on any PC running Windows? Media Player? or Real Player? , with no additional Code or plug-ins needed. No conversion from the original recorded format used shall be required OR allowed to transmit or play segments on Media Player? . (If video is recorded as an MPEG1 file, the video MUST be exported as an MPEG1 file.)
- 1.3.3 Video shall be recorded at 30 frames per second and each frame shall contain 352H x 240W pixels (for MPEG1). The system shall record in real time.
- 1.3.4 The record times achievable on the removable hard drive for the video compression format should be a minimum of 60 hours. (Based on a 40GB hard drive)
- 1.3.5 The system shall be capable of pre-event recording. The system shall be capable of capturing from 30 seconds up to 10 minutes of video prior to the recorder being activated.
- 1.3.6 The hard drive dimensions shall not exceed 7.90 cm x 2.0 cm x 14.4 cm (including removal handle). w/h/d
- 1.3.7 The hard drive must be "hot swappable." "External" or "attached" (drives connected to the system through a firewire? or USB? port located on the exterior of the recording unit) hard drive systems will not be considered.

- 1.3.8 The digital recorder shall have an OPERATING temperature range of 7°F - 140°F (-10°C - 60°C)
- 1.3.9 The hard drive shall weigh no more than 10.5 oz.
- 1.3.10 The digital recorder shall record two audio tracks simultaneously with the video signal.

1.4.0 Digital In Car Video Recording Unit

- 1.4.1 The digital recorder shall house the system's microprocessors, provide for the interconnection of the components and perform any necessary power filtering for components requiring lower voltages.
- 1.4.2 The digital recorder shall provide a provision for connecting to the emergency lights, siren and brakes, or other method to start the recorder and have the ability to indicate their use on the video recording.
- 1.4.3 The system shall comply with vehicle ignition standards of 13.6 VDC plus or minus 20%.
- 1.4.4 The control center shall be designed so that controls for Power, Record, auto zoom; Manual focus and snapshot are the most prominent control center.
- 1.4.5 Recording (whether started manually or by remote) can only be stopped manually at the display/control center.
- 1.4.6 The control center shall accommodate an optional miniature rear facing black and white / Infrared camera. This camera shall be built into the main camera and allow the officer to switch between views manually. The lens shall offer a fixed-focus wide view -angle lens sufficient to cover the back seat area. No adjustment to the camera shall be required.
- 1.4.7 The digital video recorder shall have the ability to be activated from outside the vehicle using the wireless microphone. The display/control panel shall provide adjustment of display brightness, including a covert setting where the display and all system lighting are turned off while the system is still operating. System audio shall be heard on the display panel's speaker. A separate "remote" speaker or use of an earplug is not acceptable. Video monitoring shall be possible whether or not the system is recording.
- 1.4.8 Display / monitor control functions: ON/OFF, Record Start/Stop, Video playback, Digital Auto Zoom, Manual Focus, Data Entry Button, ON/OFF in car mic switch, No media in recorder indicator
- 1.4.9 Programmable auto zoom: Pressing this button shall automatically zoom the motorized zoom lens to the agency's preferred magnification, pause to perform a momentary auto focus, then lock the focus for a programmable amount of time and then return to agency's preferred wide angle position. (The option of automatically taking a snapshot of the item in the camera view at the end of the focus cycle shall be an option as well).
- 1.4.10 Recording time left on digital media shall be displayed upon officer login to the system and shall prompt the officer when the media is near full capacity.
- 1.4.11 Use of the wireless microphone shall be indicated on the digital video.
- 1.4.12 All videos recorded to the removable hard drive shall be encrypted on the hard drive and may only be decrypted once uploaded. The decrypting of the video must be automated and require no user intervention other than uploading of the video.
- 1.4.13 The second channel of audio (in car covert mic) shall have the ability to be turned on or off manually by the officer from the display/control center.

- 1.4.14 The officer shall have the ability to view and control any recorded video from either the provided 4" Touch Screen monitor or on the MDC screen (if the unit is integrated with the departments existing MDC's.)
- 1.4.15 The officer shall have the ability to input offender information (drivers license information, type of infraction, etc.) to specific video footage. He shall also be able to select which type of offense the video refers to from the display / control center. This information shall be capable of being used as "searchable" fields in the video management software.
- 1.4.16 The digital recorder must have the option of uploading recorded videos by any of the three following methods: Removable hard drive, wired Ethernet or wireless transmission (802.11a,b, g). Systems not capable of ALL THREE upload solutions (removable hard drive, wired Ethernet and wireless) will not be considered. System's that are "pre-production" or "testing" upload solutions will not be considered.
- 1.4.17 The system shall be capable of "checkpoint" uploads. If a video upload is interrupted, when the upload procedure is initiated again, the upload picks up at where it left off. It does not start the upload of video over from the beginning.
- 1.4.18 The digital recorder unit shall have the capability of uploading software upgrades via the removable hard drive and automatically installing the upgrades without user intervention or minimal interaction, other than installing the removable hard drive into the recording unit.
- 1.4.19 The removable hard drive shall upload the recorded videos via a firewire connection on the removable hard drive.
- 1.4.20 The digital recorder shall have the option of having a magnetic strip reader attached to the system to populate the drivers license information to data fields associated with recorded video.
- 1.4.21 When the officer completes the stop and stops the recorder, a "pop up" window containing a list of offenses (D.U.I, drug possession, fatality accident, etc) shall appear and allow the officer to select the type of offense pertaining to the stop. These events shall "tag" the video as a file to be retained in the back end storage solution once uploaded.
- 1.4.22 The system shall have the capability of interfacing with the city's various IP surveillance cameras, allowing the officer to view real time video in car from various cameras positioned throughout the city.

1.5.0 Digital Video Management Software

- 1.5.1 The Digital Video Management software shall be capable of running on Windows 2000 pro / XP pro platforms and shall require no "proprietary" hardware to operate.
- 1.5.2 The Digital Video Management software shall allow the system administrator to setup user profiles for the entire department to access and utilize the Digital Video Management software if they desire. The administrator shall also have the ability to set user rights and permissions as well. These rights and permissions shall include all of the following but not be restricted to: View video, export/copy video, check in/check out of mobile hard drives for vehicles, run reports, check the integrity of a video and video information entry.
- 1.5.3 The Digital Video Management software shall have the capability of logging all actions associated to any specific video and appending the chain of custody log to ensure the integrity of that video and data associated with it.

- 1.5.4** The Digital Video Management software shall have a customizable video search entry field, which will allow the department to add additional search field criteria to the database.
- 1.5.5** The Digital Video Management software shall allow the system administrator to setup and track the department's digital in car video system configurations.
- 1.5.6** The Digital Video Management software shall log and provide detailed reports on the following: unit errors, system maintenance, and Mobile Hard Drive maintenance.
- 1.5.7** The Digital Video Management software shall allow the system administrator to check in and check out the mobile hard drives for the officers and track the use of the mobile hard drive units.
- 1.5.8** The Digital Video Management software shall allow the person viewing a particular video to take a "snapshot" of a still frame of video and magnify and enhance the image without affecting the integrity of the original video.
- 1.5.9** The Digital Video Management software shall decrypt the encrypted video and store it on a centralized server for later viewing, exporting and extended storage.
- 1.5.10** The Digital Video Management software shall have the ability to retrieve videos from a centralized storage server, external RAID array and / or LTO? tape library.
- 1.5.11** The Digital Video Management software shall provide the user with the ability to "mute" either channel of audio during playback to assist the officer in determining the clearest channel of audio.
- 1.5.12** The Digital Video Management software shall allow the user to view an "event" log of the video during playback. The officer shall be able to "skip" to any particular frame in the video by selecting any time frame in this log.
- 1.5.13** The Digital Video Management software shall allow the user to search for videos on the system by selecting certain search criteria such as, date and time, officer I.D, type of offense, Drivers license number, offender name, race, type of infraction. This list shall be customizable to allow the department to extend their video search capabilities.

- 1.5.14** The digital video management system must be able to automatically remove "non-tagged" videos (non-evidentiary video's) from the system with little or no intervention from system administrator. The digital video management software shall also be capable of offloading or archiving "retained" (evidentiary) videos to a Hard disk array, LTO tape library or other centralized storage area. The video search portion of the software must be able to differentiate between these devices and retrieve the video from these devices. (LAN / WAN access as well.)

VIDEO SURVEILLANCE SYSTEM

SYSTEM DESCRIPTION

2.0) Overview:

2.1 Work to include installation of IP addressable video surveillance and provide the capability of connection to access monitoring control systems within the facility. Connection to the data network system is required. Coverage is to be interior as well as designated exterior areas indicated on the plans.

2.2 Video Surveillance System

- a) The Building Surveillance System will be used to monitor selected interior and exterior areas at all times.
- b) The system is used to visually monitor designated areas as indicated on the plans.
- c) The following functional capabilities are considered essential for this Surveillance system.
 - i) Switch any assigned camera in the system to any monitor in the system.
 - ii) Provide partitioning of cameras and priority access.
 - iii) Cameras equipped with environmental housings.
 - iv) Provide fused low voltage power for control of heater and blower.
 - v) Adjust and balance cameras via software from network accessed workstations.
 - vi) Minimum camera adjustments available:
 - (1) Iris
 - (2) Shutter
 - (3) Zoom
 - (4) Focus
 - (5) Gain
 - (6) Hue
 - (7) Backlight Compensation
 - (8) Color Saturation
 - (9) Brightness
 - (10) Aperture
 - (11) Contrast
- d) Enter and edit video information on-line and save them for future use.
- e) View via multiple monitors at once.
- f) Define the sequence for viewing camera(s) on each monitor.
- g) Bypass cameras in the system during sequencing to a monitor.
- h) Provide the capability to program alarms and associated incoming alarms with related outputs.
- i) Bypass alarms in the system, either by position or time deactivation.
- j) Provide time/date and alphanumeric camera titling.
- k) Provide real time system status in the master controller.
- l) Provide IP addresses coordinated with the districts telecommunications department.
- m) Connect to the access control system to recall of presets.
- n) Record alarmed and monitored camera-viewing areas.
- o) Cameras must be able to be set for motion detection modes.

2.3 Development of Graphical User Interface (GUI) and software control:

- p) Control and configuration must offer integration of components and operation into one complete system. Cameras and software components within the system must be from the same manufacturer unless otherwise noted.

3 ACCEPTABLE MANUFACTURERS

- 3.1** Model numbers and manufacturers included in this specification are listed to establish a standard of product quality and the desired standards for county facilities. It is the responsibility of the installation contractor to coordinate with telecommunications cabling and district network providers for the correct cabling and hardware requirements of the equipment being provided.
- 3.2** Other qualified manufacturers will be considered subject to prior approval of complete technical data, samples and if requested, results of independent testing laboratory tests of proposed equipment. Prior approval must be provided prior to bid date as established in division 1 General Conditions of project specifications.
- 3.3** If proposed System includes equipment other than specified model numbers, submit a list of major items and their quantities, with a one-line schematic diagram for review.
- 3.4** Include a list of previous installed projects using proposed equipment that are similar in nature to specified System.
- 3.5** Any ancillary device required for the installation will be the responsibility of the systems integrator to ensure a complete and functional system per the manufacturers recommendations.

4 GENERAL

- 4.1** Equipment temperature limits: -30 to 100 degrees Fahrenheit.
 - 4.1.1** Product not specifically specified to be commensurate with the quality and standards established by the specified product.
- 4.2 CAMERAS**
 - 4.2.1** Camera Environmental Housing Power Supply:
 - 4.2.1.1** Provided for powering of camera environmental housings.
 - 4.2.1.2** Power supplies mounted in telephone closets.
 - 4.2.1.3** Route cable from camera to nearest power supply unit.
 - 4.2.1.4** Output: 24VAC with sufficient amp capacity for control of cameras and housings associated to each circuit.
- 4.3 Acceptable product:**
 - 4.3.1.1** e-Watch CAM-202-X
 - 4.3.1.2** Approved equal

5 Building Surveillance Camera:

- 5.1** Multicast video
- 5.2** Support for in-line power via CAT5 and 12 VDC local.
- 5.3** Simultaneous encoding of video into three digital video streams:
 - 5.3.1** 704 x 480 JPEG (2fps to 10 fps)
 - 5.3.2** 176 x 112 MPEG-1 (30 fps, 10 kbps) Low-resolution full motion video.
 - 5.3.3** 352 x 240 MPEG-1 (30 fps, 900 kbps) High-resolution full-motion video.
- 5.4 Industry standard compression formats – JPEG and MPEG.**
- 5.5** Dual core Power PC Processor at each camera.
- 5.6** Motion detection at the camera.
- 5.7** Integrated 18x motorized zoom
- 5.8** Variable focus (4.1 to 73.8mm)

- 5.9 Auto iris control
- 5.10 Static or dynamic IP addressing
- 5.11 LED indicators for status reporting
- 5.12 10/100 Ethernet interface – IEEE 802.3, 802.3U, 802.3i
- 5.13 Three expansion slots for option cards
- 5.14 Capability to interface with Access control systems
- 5.15 Archive video only when motion is detected.
- 5.16 Archiving of full motion MPEG-1 and/or JPEG images provided.
- 5.17 Viewing of full motion 30 frames per second on all monitor stations.
- 5.18 Remote viewing of video from unlimited locations.
- 5.19 The surveillance system shall be capable of an unlimited number of cameras.
- 5.20 Color and Monochrome viewing with color viewing down to 1.5 lux and monochrome down to 0.1 lux.
- 5.21 Wireless viewing stations supported.
- 5.22 Acceptable product:
 - 5.22.1 e-Watch CAM-202 and CAM-201

6 Building Surveillance Outdoor Environmental Camera Housing:

- 6.1 Provide a weather resistance Nema 4X rated enclosure construction of aluminum bracket, acrylic and UV stable plastic.
- 6.2 Internal dimensions: accommodate camera, lens and serving cables.
- 6.3 Provide with thermostatic controlled blower and heater.
- 6.4 Provide UV protection rating UL flame rating of 94V0.
- 6.5 Provide weatherizing mounting as required for network cable entry and connection to maintain network 5E classification,

7 Surveillance Camera Ceiling & Wall Mounts:

- 7.1 Mount may be used for T-Bar ceiling grid or wall.
- 7.2 Provide with adjustable lever knuckle.
- 7.3 Acceptable product.
 - 7.3.1 PanaVise: 883-03W 3" Mount
 - 7.3.2 883-06W 6" Mount
- 7.4 e-Watch OPT-205 Inverted Camera Bracket is applicable

8 Power Over LAN Hubs:

- 8.1 Provide hub for providing camera power via the network cabling system.
- 8.2 Provide a minimum six ports per hub. Provide quantity as required per camera quantity per camera.
- 8.3 Provide a minimum of one spare port per hub.
- 8.4 Provide with rack mounting shelf or kit.
- 8.5 Acceptable product:
 - 8.5.1 PowerDsine 6001AC
 - 8.5.2 Wide Angle Lens Adapter:
 - 8.5.2.1 37mm mount
 - 8.5.2.1.1 Acceptable product: e-Watch LEN-102

9 CAMERA CONTROL SYSTEM:

9.1 Uninterruptible Power Supply:

9.1.1 Acceptable supplier:

9.1.1.1 Best Fortress Series

9.1.1.2 APC

9.1.2 Software:

9.1.2.1 Provide manufacture software modules:

9.1.2.1.1 Acceptable supplier: e-Watch

9.1.2.1.2 View Watch

9.1.2.1.3 Event Watch

9.1.2.1.4 Decision Watch

9.1.2.1.5 Gate Watch

9.1.2.1.6 Reports

Questionnaire

In-Car System

1. Please explain your in-car system. You may attach brochures and/or photographs to further clarify. This should include the make/model of your proposed camera, as well as any hardware required to be mounted in the vehicle.
2. What media type is the digital video stored on? (i.e. DVD, removable hard drive, etc.)
3. Does your system allow for at least a 30-60 second recording buffer? The camera would record continuous video until the officer activated the device, at which point there would already be 30-60 seconds of digital video.
4. What is the resolution and compression format your system is utilizing?
5. Does your system include a backseat camera and audio capabilities? If so, please explain or supply pictures.
6. Does your system utilize a drop down LCD screen? If so, please explain any enhanced functionality this provides.
7. Does your system allow for zooming/panning of the camera?
8. Please explain the day versus night recording ability of your proposed camera?
9. Does the proposed system allow for watermarking the video as it is recorded? (i.e. Date/Time) Can this text be customized? If so, what are the limitations?
10. Please explain any GPS capabilities your system has.
11. Due to the secure nature of recording digital video for Police use, please explain any parameters that make this a “tamper proof” system.

Transferring data from the vehicle to an onsite server.

Please explain how the data is transferred from your proposed in-car system to an on-site storage server. If any additional hardware is required, please explain in detail.

Onsite Server Hardware

Even if you are not quoting a server as part of your proposal, this section must be completed accurately. The Town reserves the right to purchase any server hardware from different vendors.

Please give detailed specifications for an onsite server that will hold at least 30 days of active digital video, but up to 120 days. 90 days may be archived to a storage device to be managed and restored by the City's MIS department. If you are quoting the server as part of your proposal, please include make/model number. Be as detailed as possible.

Software

1. The desired software environment will provide an easily searchable interface so that any designated officer may quickly find video clips. Please summarize the key features that delineate your software product from other vendors.
2. What database system does your software require (i.e. SQL, etc.)? Is this included in your purchase price?
3. Explain how the video clips are flagged? What are the searchable options?
4. What is your purging process? After the allotted time, are the clips automatically deleted from the system? Can clips be flagged for permanent storage?
5. Does your software offer the ability to export specific video clips? If so, explain this process and the methods supported (i.e. Windows Media Player, etc.)
6. The software will likely be accessed from various officer's workstations. Please explain any license requirements.
7. Is your software web based or is an install required on each workstation?
8. Please identify any additional operating system software required for your proposed system, and any associated costs.
9. Please identify any additional application or utility software required for your proposed system and its associated cost.

Miscellaneous

1. Please explain your warranty policy, i.e., length and coverage, for your products.
2. Please describe the various plans your company provides for software maintenance and updating services. List the associated charges, if any, for these services.
3. Please explain your company's procedures in training the users to operate the system. Describe the various methods available before, during and after installation. List the associated charges, if any, for these services.
4. Please describe your program for formalized, ongoing training for users of the proposed system.
5. Any software package selected for purchase shall include a complete set of user manuals. These manuals shall include screen formats, generic instructions, and report format samples. Please include an example user manual, along with appropriate comments.

Some of this information may seem redundant, but this will provide the Town with a quick comparison list of specifications from each vendor.

<i>Requirement Description</i>	<i>System Meets Specs</i>		<i>Modification Cost Estimate</i>
	<i>Y/N</i>	<i>Explanation</i>	
Does your system include at least a 30-60 second recorded video buffer?			
What resolution and compressions is used?			
Does your system include a backseat camera?			
Does your system include a hidden microphone for backseat audio?			
An LCD drop down screen must be provided for each vehicle and included in cost.			
Zooming in and out functions for camera.			
Ability to record digital video at night.			
Allow for watermarking recorded video with at least date/time.			
Does your system have any GPS capabilities?			
Server will hold 120 days of data (30 active / 90 archived).			
Is the software web based or client installed?			
Management ability to set access for officers.			
Export video to a variety of formats including Windows Media Player.			



#R3-1



City Council
Gary A. Slagel
Mayor
John Murphy
Mayor Pro Tem
Bob Townsend
Tom Rohm
James E. Shepherd
Carol Wilson
Bob Nusser

Bill Keffler
City Manager

TRANSMITTED BY FAX AND US POSTAL SERVICE

June 15, 2004

Mr. Ronald Whitehead
Town Manager
Town of Addison
P. O. Box 9010
Addison, TX 75001-9010

Re: DART Board appointment

Dear Mr. Whitehead:

Ray Noah's term on the DART Board of Directors as aggregate representative for the cities of University Park and Richardson, and the towns of Addison and Highland Park will expire on July 1, 2004. The City of Richardson would like to reappoint Mr. Noah at Richardson's June 28, 2004 City Council meeting. Addison's support of this reappointment through future action by your City Council is important, and we would appreciate your keeping us apprised of your Council's consideration of this matter.

A copy of a letter from DART's Board Chair, Huelon A. Harrison, advising of the expiration of Mr. Noah's term is enclosed. Should you have any questions, I may be contacted at 972-744-4290.

Respectfully,



Pamela Schmidt
City Secretary

xc: Bill Keffler, City Manager

Enc.



P.O. Box 830309
Richardson, TX
75083-0309
972-744-4100
Fax 972-744-5803
<http://www.cor.net>

DART

Dallas Area Rapid Transit
P.O. Box 660163
Dallas, Texas 75266-0163
214/749-3278

June 11, 2004

RECEIVED
JUN 14 2004
CITY OF RICHARDSON
CITY SECRETARY'S OFFICE

Ms. Pamela Schmidt
City Secretary
City of Richardson
411 W. Arapaho
Richardson, TX 75080

Re: City of Richardson representative to DART Board of Directors

Dear Ms. Schmidt:

Members of DART's Board of Directors serve staggered two-year terms pursuant to Section 452.578 of the Texas Transportation Code. Mr. Ray Noah was appointed to represent the City of Richardson. His term of office will expire on July 1, 2004.

Please send a copy of the resolution appointing or re-appointing a representative for the City of Richardson to the DART Board of Directors to the attention of:

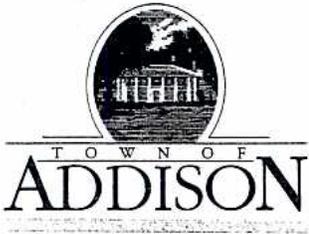
Nancy K. Johnson
Director of Board Support
Dallas Area Rapid Transit
P.O. Box 660163
Dallas, Texas 75266
Fax (214) 749-3651

If you have any questions regarding this matter, please call me at (214) 749-3347.

Yours very truly,


Huelon A. Harrison
Board Chair

- c: Ray Noah
- Gary Thomas
- Rocky Angle
- Nancy K. Johnson



Post Office Box 9010 Addison, Texas 75001-9010 5300 Belt Line Road (972) 450-7000
FAX (972) 450-7043

#R4-2
Addison 50!
50 YEARS OF FUN!

May 21, 2004

STAFF REPORT

RE: Case 1457-SUP/Sports City Cafe

LOCATION: 14905 Midway Road

REQUEST: Approval of an amendment to an existing Special Use Permit for a restaurant and an existing SUP for the sale of alcoholic beverages for on-premises consumption

APPLICANT: Mr. Tyler Duncan of Duncan Design Group

DISCUSSION:

Background. This restaurant was originally opened as Tia's Tortillas, and was approved through Ordinance 083-041 on June 28, 1983. The Special Use Permit was amended three times by Tia's: 095-044, July 8, 1985 to add a patio, 088-048, November 8, 1988 to add another patio, 094-016, February 24, 1994 to expand the restaurant and convert two patios to indoor dining. However, none of the modifications that were approved were ever made. Tia's closed in April of 1994, and was taken over by Primo's Mexican Restaurant. On December 13, 1994, Primo's received approval to construct a patio on the north end of the building and one on the east side or front of the restaurant; however, it only built the patio on the east side. In approximately 2001, Primo's closed, and the Baja California Grill took over the restaurant. It operated for a couple of years, and closed in 2003.

At this point, a group represented by Mr. Tyler Duncan of Duncan Design Group wants to convert the restaurant to a sports themed restaurant called Sports City Café. There are three existing Sports City Cafes in the metroplex in Rowlett, Mesquite, and the Colony.

Proposed Plan. The applicant is planning to add 3,284 square feet onto the existing 6,016 square-foot restaurant. The additional space will be used for dining space and expansion of the existing kitchen. The patio area will be expanded some from what is

on the site at present, but as noted above, Primo's restaurant never built the portion of patio that it had approval to build on the north end of the building, so the patio is not being enlarged from what has previously been approved.

Façade. The applicant is proposing to make substantial changes to the façade. The changes will include more detailing and more brick work, as well as awnings and a decorative cornice. The applicant is also proposing to add murals to the walls, similar to the ones on BJ's Restaurant and Brew House. The staff would note that the murals are considered signs and cannot be approved through this process. The applicant will have to see approval for those through a meritorious exception to the sign ordinance.

Parking. The parking for this restaurant is calculated at the mixed-use development ratio of one space per 100 square feet. The applicant has included a parking talley on the site plan, but has used the wrong square footage for this restaurant. The restaurant is actually 9,300 square feet, rather than the 7,934 indicated on the Key Site Plan. Therefore, the restaurant requires 93 spaces, and the entire center requires 550 spaces as opposed to 536.

While the applicant meets the requirement, the staff has serious concerns about the real availability of parking in this center. On weekend evenings, the Police department spends a great deal of time working complaints from adjacent restaurants in this center and from adjacent residents. There is a parking and noise problem in this center right now, and this restaurant is not even opened. The Stone Trail is enjoying great success at this time, and on the weekends it is drawing between 500 and 600 customers at some times during each evening. The Police department has taken photos of the parking in the center that the staff will show to the Commission at the hearing.

In addition, the staff is receiving noise complaints about the operations of the restaurants in this center. The Towne Lake residents have been working with the Police department to get the area next to their common property line to be used for valet parking only, and thus reduce the noise, but if additional parking demand is added to this center, the Stone Trail operator will not be able to use the back of the lot for valet parking only. There is a letter attached from Mrs. Deanne M. Rogers that discusses the noise problem. Although this specific letter relates to music from Texana Grill, the staff has received several other complaints about noise from the Stone Trail parking lot.

Food Service Code. The Environmental Services Official has noted that he has reviewed the preliminary plans, and the kitchen remodel shown in the plans will be a substantial upgrade to the existing kitchen.

Public Works. The Public Works Department has reviewed the site plan and has no comments.

Landscaping. The staff discussed the 20% landscaping requirement with the applicant, and asked for a plan indicating the area of landscaping on the site. The applicant did not submit a plan, but submitted a letter stating that the site contains only 15.5% landscaping. The staff believes that the calculation furnished by Mr. Watson of Wilson Barnes includes a large rectangle of non-irrigated grass that was supposed to be a second building for the hotel adjacent to this site. That non-irrigated area cannot be counted toward site landscaping, so the site actually has less than 15.5% landscaping. In addition, the site plan submitted by the applicant does not show a deceleration lane that goes into this site at the central drive. That deceleration lane would further reduce the landscaping on the street frontage, and thus on the site. The staff believes that this site is short the 20% of site landscaping that should be required after this restaurant is expanded by 3,284 square feet.

Building Code. The Building Official notes that since the applicant is increasing the size of the building by 500 square feet, the entire building will have to be sprinklered.

Mechanical Equipment. The applicant should be aware that if any new mechanical equipment is added to the roof of the restaurant, it must be screened from all adjacent properties. The screening mechanism shall be architecturally compatible, and the Building Official shall make the determination of "architecturally compatible".

Dumpster. The drawings show that the dumpster and the screen around it will be moved from its present location, but do not show where it will be moved to. The applicant should be aware that all dumpsters and other refuse containers, including those for recycling, should be contained within the dumpster enclosure. It appears that the inclusion of a dumpster enclosure would have to impact either parking or landscaping, and the applicant does not have either to spare.

Signs. The applicant shows signs on the building, including the murals on the east and north facades. The applicant should be aware that signs cannot be approved through this process, but must be permitted under the regulations of the Addison Sign Ordinance. The applicant should also be aware that the Town has a policy against allowing the use of the term "bar", "tavern", or any equivalent term in any exterior signs.

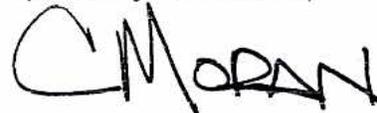
RECOMMENDATION:

The staff looks first at two items when considering an expansion, be it an indoor addition or a patio: parking and landscaping. If the applicant will not have enough of both after the expansion, the staff recommends denial. The staff finds that this center will not have 20% landscaping once this additional square footage is added. In addition, staff has serious concerns about the "real" availability of parking in this center, even though

the center meets the code on paper. Therefore, staff recommends denial of the request for the expansion of the restaurant.

However, staff recognizes the property owner's and the tenant's right to re-open the existing space. The staff is impressed with the quality of the remodel, both inside and outside, and has heard good things about the quality of the other Sports City Cafes. Staff recommends that the request for the addition to the restaurant be denied. However, staff would encourage the applicant to return to the Commission with a plan to remodel the existing restaurant space into a Sports City Café.

Respectfully submitted,

A handwritten signature in black ink that reads "CMORAN". The letters are stylized and connected, with a large "C" and "M" at the beginning.

Carmen Moran
Director of Development Services

COMMISSION FINDINGS:

The Addison Planning and Zoning Commission, meeting in regular session on May 27, 2004, voted to recommend approval of the request for an amendment to an existing Special Use Permit for a restaurant and an existing Special Use Permit for the sale of alcoholic beverages for on-premises consumption, on application from Sports City Café, subject to the following conditions:

-the applicant shall submit a landscaping plan to the Parks Department, for its approval, which shows the conversion of vacant building pad on the site (immediately south of existing Super 8 Motel) to irrigated landscaping and parking. Not less than 50% of the pad shall be converted to landscaping, the remainder may be converted to additional parking spaces.

-the acoustic specifications for outside speakers on the patio (on the east side of the building) shall be submitted to the Council for review and approval.

Voting Aye: Bernstein, Chafin, Knott, Mellow

Voting Nay: None

Absent: Benjet, Jandura

DEANNE M. ROGERS
14879 Towne Lake Circle
Addison, Texas 75001
972-702-8850 Fax 972-702-8860

May 15, 2004

Carmen Moran, Director of Development Services
P.O. Box 9010
Addison, Texas 75001

Re: Case 1457-SUP/Sprts City Café

Dear Ms. Moran,

My property, 14879 Towne Lake Circle, is within the 200' area of the above application. In the past, the owners have allowed bands to play out on the patio of the property until 11:00p.m. This is very disturbing to those of us that live in Towne Lakes. We continually call the Addison Police regarding the noise. We can hear every word and note. If the new owners are planning to allow bands to play on the patio, I strongly protest this approval.

Sincerely,



Deanne M. Rogers

Carmen Moran

From: Greg Layman
Sent: Tuesday, May 11, 2004 2:35 PM
To: Carmen Moran
Subject: Planning and Zoning Comments for 05/27/04

Item 3 Veladi Ranch

The police department does receive noise complaints from residence south of Beltway Dr. regarding restaurants with patios on Belt Line Rd. These complaints are isolated but most often occur in the fall or spring when the weather is nice enough to draw a crowd to the patio while the prevailing wind is from the north.. When the wind is from the south we have few if any noise complaints from the area.

Item 4 Sports City Café

The police department has had numerous noise complaints from the Towne Lake neighborhood regarding the noise at night from this strip center. This restaurant would share parking with Stone Trail, Texana Grill, Ferraris, and Abbottsford Court. Currently on weekend nights the shared parking area is filled to capacity and on occasion patrons park across Midway Rd.

Carmen Moran

From: Neil Gayden
Sent: Tuesday, May 11, 2004 2:18 PM
To: Carmen Moran

Carmen,

I've looked at the plans submitted for P&Z consideration for Sports City Cafe. Although not the complete set of drawings we will need for a building permit, I am very encouraged by the preliminary plans. Obviously this is not the "light remodel, add-a-deck" plan that I was kind of expecting. This is nearly a completely new finishout except for use of most of the existing kitchen and bar. Moving the restrooms, adding to the kitchen and extension of the building will necessitate lots of underslab plumbing improvements and relocation of the grease trap. The existing dumpster enclosure will also have to be removed and rebuilt elsewhere.

I look forward to seeing the full set of drawings. And for what it's worth, I like what I see so far!

Neil



Wilson
Barnes

GENERAL
CONTRACTORS

Tuesday, May 18, 2004

Carmen
City of Addison

RE: Landscaped Area @ Nick's Addison

Carmen,

We have measured the area of the Retail Center for the proposed Nick's Sports Grill, Addison location. As directed by Carmen we calculated the entire Retail Center to be some 356,152sf +/- in total area. In order to meet the 20% requirement of landscaped area there would need to be 71,230sf +/- of landscape in place. There is approximately 55,277sf +/- of existing landscaped area at the Retail Center. This is 15,953sf +/- short of the required coverage. There may be some opportunity for additional landscaping, but it is not a certainty that there would be enough to yield the 20% requirement. At this time the calculations are at some 15.5% +/- of landscaped area versus the total area of the Retail Center.

Regards

Wayne Watson

Memorandum

Date: May 19, 2004
To: Carmen Moran, Director of Development Services
From: Slade Strickland, Director of Parks and Recreation
Subject: **Case 1457-SUP/Sports City Café**

According to the general contractor's estimates, this site has 15.5 percent landscaping, while 20 percent is required according to the landscape regulations. The applicant will need to confirm if the 15.5 percent accounts for the undeveloped area where the new parking is proposed, as well as, if the detention area and de-acceleration lane was accounted for in the calculation.

In general, the site landscaping is in good condition and well maintained. Staff recommends that a revised plan be submitted showing the aforementioned calculations to confirm what landscaping actually exist, in addition to new landscaping to be added. The revised plan will also need to show all existing landscaping in the center with plantings identified.

To: Carmen Moran

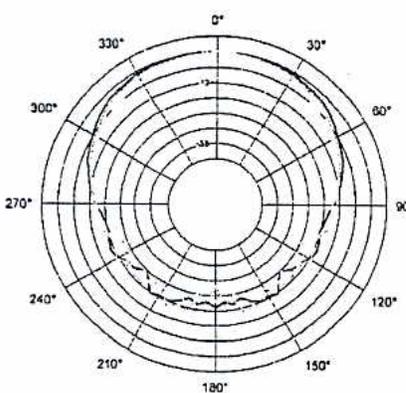
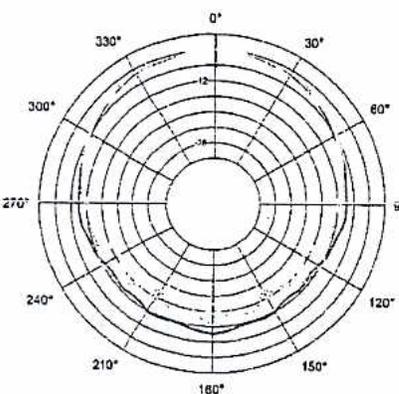
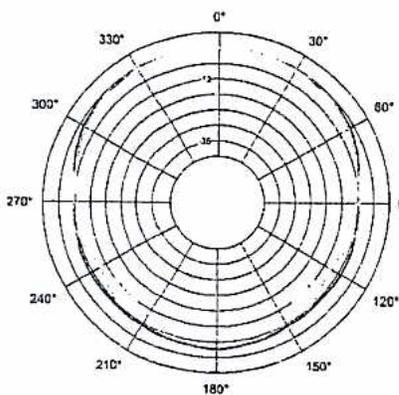
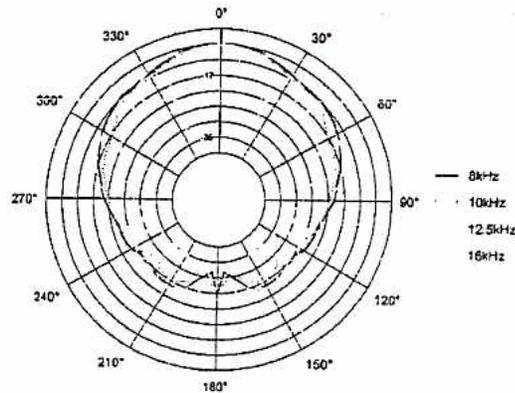
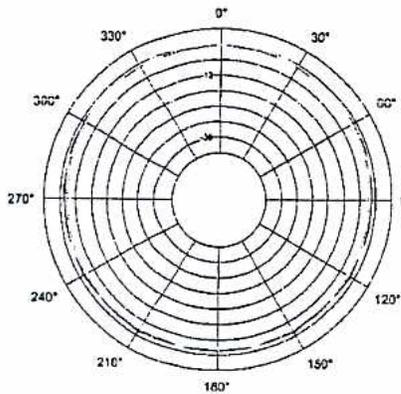
From: Lynn Chandler

Date: May 12, 2004

Subject: Case 1457-SUP/Sports City Café

The tenant is seeking to increase the size of the building by more than 500 sq ft.
Therefore a fire sprinkler system will be required.

Horizontal 1/3 Octave Polars



Architectural Specifications:

The loudspeaker shall consist of a 135mm (5-1/4 in) low frequency transducer, 19mm (3/4 in) high frequency transducer, and frequency dividing network installed in a ported enclosure. The low frequency voice coil shall be 25 mm (1 in) in diameter.

Performance specifications of a typical production unit shall be as follows: Usable frequency response shall extend from 80 Hz to 15 kHz (10 dB below rated sensitivity, in half-space, with no external equalization). The loudspeaker shall be equipped with a transformer for use in either 70.7V or 100V distributed-line sound systems with taps selectable by rotary switch. Taps shall be nominally 3.7W @ 70V (7.5W @ 100V), 7.5W @ 70V (15W @ 100V), 15W @ 70V (30W @ 100V), and 30W @ 70V (not used @ 100V). The frequency dividing network shall have a crossover frequency of 3.0 kHz. Rated power capacity of the components and network shall be at least 150 watts continuous program power, defined as 3dB above a test signal of filtered random noise conforming to international standard IEC268-5 (shaped pink noise with a peak-to-average ratio of 6dB), for 100 continuous hours duration.

The system shall be protected against damage from occasional over-powering via full range series lamps that limits the power to the network and transducers. The high frequency transducer shall be horn-loaded to more evenly cover a nominal 90° horizontal by 90° vertical area.

The enclosure shall be constructed of high-impact polystyrene for protection against the elements in outdoor applications, and for paintability. The grille shall be completely zinc-coated for resistance against rusting, shall be bake-painted black, and shall be secured via screws to keep it in place when facing downward.

The low frequency transducer shall have a polypropylene-coated cone and a butyl rubber surround which shall extend seamlessly over the edge of the speaker frame for protection against the elements. The high frequency transducer shall be constructed of polycarbonate, reinforced with a titanium film for additional weather resistance. The system shall withstand Mil Spec 810 testing with specified time durations for exposure to the following environments with no effect on its acoustical performance or structural integrity: salt spray (method 509.3), temperature -19°C to 49°C (method 501.3 and 502.3), 95% humidity (method 507.3) and ultra-violet (method 505.3). The system shall have a IEC 529 splash-proof rating of IP-X4.

For theft deterrence, the installation access area shall be hidden behind a snap-out cover, and the access area shall be on the front of the loudspeaker for ease of installation and adjustment. The loudspeaker shall be rotatable over a minimum of ±35° in all directions via a ball-type mounting system. The ball mechanism shall be internal to the cabinet to allow low-profile mounting and better stability via a short moment arm. The logo shall be rotatable for proper orientation when the loudspeaker is mounted horizontally or vertically.

The external wiring connectors shall be spring loaded and gold plated, and shall accept bare wire, single or dual banana-type connectors with 19 mm (3/4 in) spacing. Overall cabinet dimensions shall be no greater than 236 mm (9.3 in) high by 188 mm (7.4 in) wide by 148mm (5.8 in) deep and shall weigh no more than 3.6 kg (8 lbs). The finish shall be a paintable lightly textured black.

The system shall be the JBL Model Control 25T with included Invisiball® mounting system.



Control[®] 25T

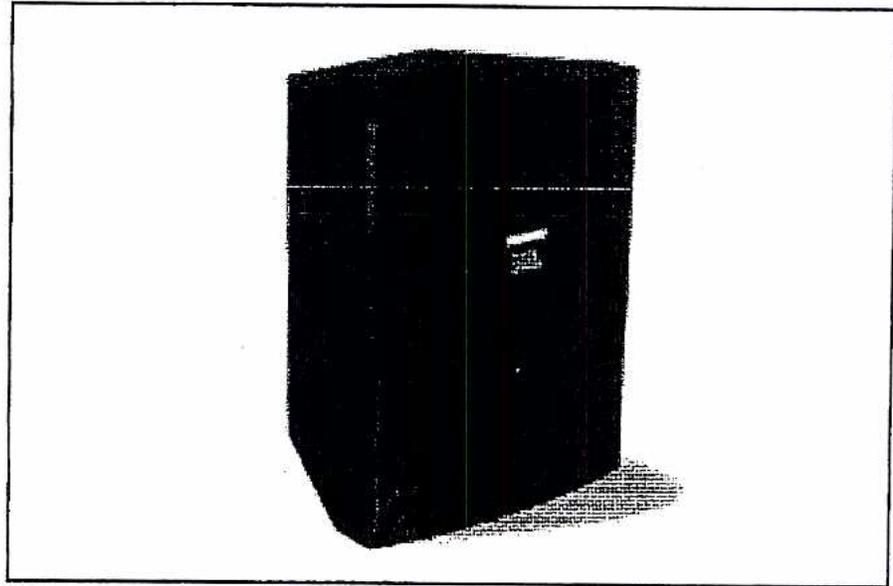
Compact
Indoor/Outdoor
Background/Foreground Speaker

Professional Series

Key Features:

- ▶ Isolation transformer for 70.7V/100V distributed-line sound systems
- ▶ Components: 5¼" Polypropylene coated woofer, ¾" Titanium coated horn loaded tweeter.
- ▶ Built-in *InvisiBall*[®] mounting hardware*
- ▶ Weather resistant enclosure and transducers
- ▶ Readily paintable
- ▶ 90° x 90° high frequency horn
- ▶ Overload Protection Circuitry

*Patents pending worldwide



The Control[®] 25T is perhaps the most versatile of JBL Professional's Control Contractor Series indoor/outdoor loudspeakers. Its robust nature makes the Control[®] 25T a perfect choice for restaurants, health clubs, outdoor theme and water parks or other applications where foreground/background music and paging are required. The Control 25T can be used in either 70.7V or 100V distributed-line sound systems. Taps are provided at 30W, 15W and 7.5W (plus a 3.7W tap for use on 70.7V systems only).

The unique and global patent pending *InvisiBall*[®] mounting hardware is included in each system and makes short work of permanent installation. The *InvisiBall* mounting method adds the benefit of vertical rotation of up to 37° off-axis and horizontal rotation of up to 44° off-axis. Because *InvisiBall* adjustments are made through a hidden access behind the logo badge, the grill never needs to be removed and there exists a high degree of theft deterrence as well.

The Control[®] 25T readily accepts a variety of paints and finishes to match any decor.

Weather resistance is maximized by coating the woofer cone in polypropylene and terminating its circumference in JBL's *WeatherEdge*[™], a seamless, rubberized extension of the woofer surround that provides added protection to critical transducer elements. The polycarbonate tweeter diaphragm is reinforced with a thin film of titanium for added rigidity and endurance against sun, salt and moisture. Zinc plated grilles resist rusting in the harshest conditions.

Available in black (Control 25T) and white (Control 25T-WH).

Specifications:

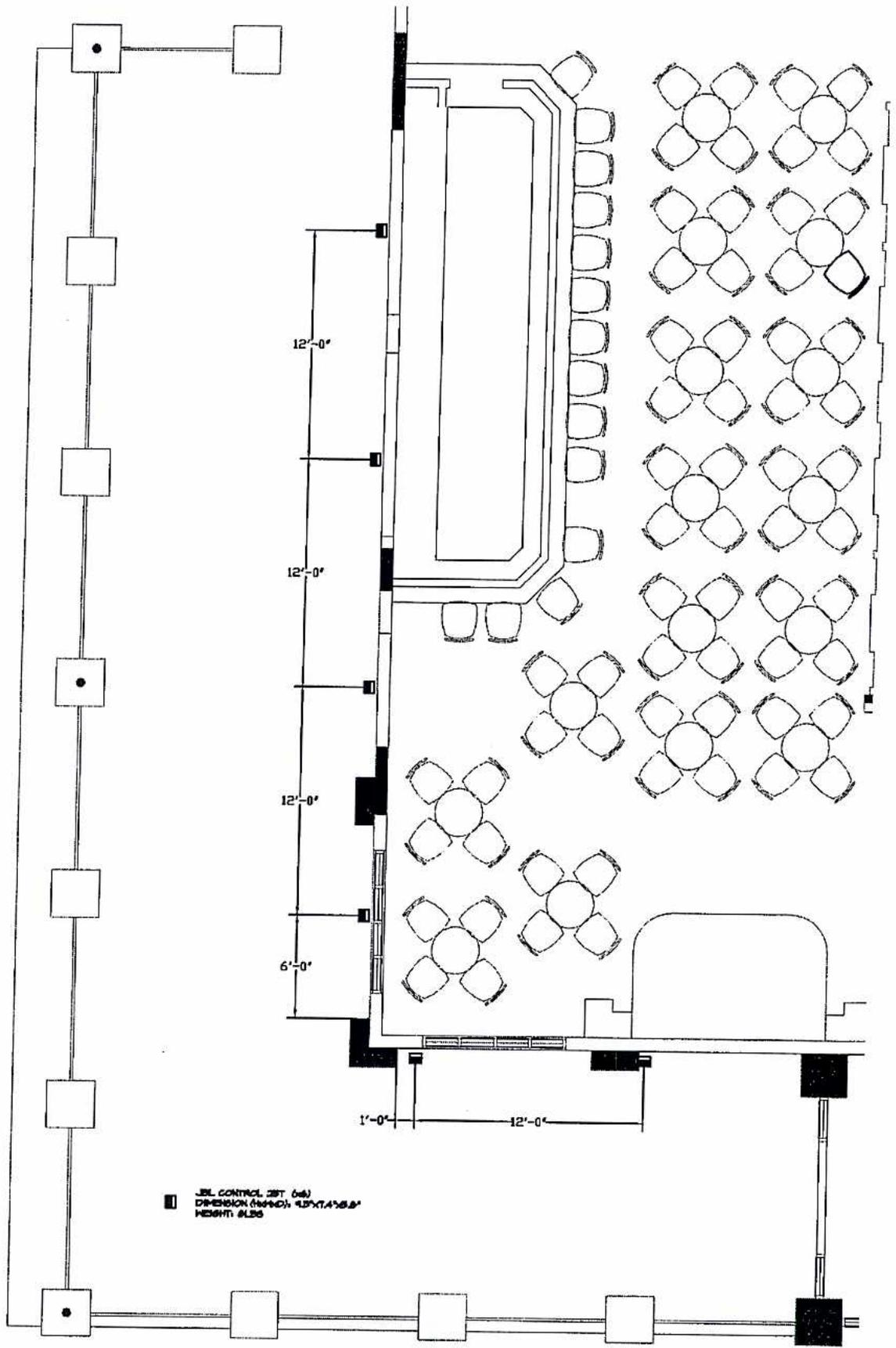
Frequency Range (-10 dB) ¹ :	80 Hz to 15 kHz		
Power Capacity:	Components and Network: 150 Watts Continuous Program ⁴ Transformer: Per each listed tap rating (IEC pink noise, 100 hrs)		
Tap Settings:	100V Line: Tap 1 = 7.5W, Tap 2 = 15W Tap 3 = 30W, Tap 4 is not used 70V Line: Tap 1 = 3.7W, Tap 2 = 7.5W Tap 3 = 15W, Tap 4 = 30W		
Nominal Max. Output by Tap: (dB-SPL @ 1m)	Tap Number	70.7V Input	100V Input
	Tap #1:	94 dB	97 dB
	Tap #2:	97 dB	100 dB
	Tap #3:	100 dB	102 dB
	Tap #4:	102 dB	(do not use)
Directivity Factor (Q):	5.3		
Directivity Index (DI):	7.2		
Crossover Frequency:	3.0 kHz		
LF Driver:	135 mm (5.25 in) Polypropylene coated paper w/WeatherEdge		
HF Driver:	19 mm (.75 in) Titanium coated polycarbonate		
Enclosure Material:	HIPS (High Impact Polystyrene)		
Overload Protection:	Full-Range power limiting to protect network and transducers		
Termination:	Spring terminals, accepts banana plug		
Environmental:	Conforms to Mil Spec 810 for humidity, salt spray, temperature & UV. IEC 529 IP-X4 splashproof rating.		
Dimensions (H x W x D):	236 x 188 x 149 mm (9.3 x 7.4 x 5.8 in)		
Net Weight (ea):	3.6 kg (8 lbs)		
Shipping Weight (pr):	7.7 kg (17 lbs)		
Included Accessories:	InvisiBall Assembly 6 mm x 100 mm hex key		
Optional Accessories:			
MTC-25V:	For vertical columnar orientation of up to 3 loudspeakers		
MTC-25/23H:	For horizontal splaying of two speakers. Three brackets array up to six loudspeakers in a 360° array.		
MTC-28/25CM:	Ceiling-mount adapter.		
MTC-25SSG:	Stainless Steel Grille for harsh environments. Available in silver, black (-BK) or white (-WH)		
MTC-25WMG:	WeatherMax [™] Stainless Steel Grille protects against driving precipitation. Available in black or white (-WH)		
MTC-PC2:	Input panel cover protects input terminals in outdoor environments		

¹Half-space (on-wall).

⁴Continuous program power is a conservative expression of the system's ability to handle normal speech and music program material and is defined as 3 dB above the Continuous Pink Noise Rating (IEC-shaped pink noise with a 6 dB crest factor, for 100 hours continuously).

⁵Half-space (on-wall), ave 100 Hz to 10 kHz.

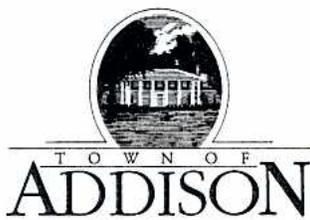
JBL continually engages in research related to product improvement. Changes introduced into existing products without notice are an expression of that philosophy.



(01) PATIO SPEAKER - LAYOUT.
 N.T.S.

Addison 50!

50 YEARS OF FUN!



Post Office Box 9010 Addison, Texas 75001-9010 5300 Belt Line Road (972) 450-7000

FAX (972) 450-7043

May 21, 2004

STAFF REPORT

RE: Case 1456-SUP/Skip Bailey

LOCATION: 3870 Belt Line Road

REQUEST: Approval of an amendment to an existing Special Use Permit for a restaurant and an existing SUP for the sale of alcoholic beverages for on-premises consumption

APPLICANT: Mr. Skip Bailey

DISCUSSION:

Background. This restaurant was originally the Veladi Ranch Steak Restaurant, which was approved through Ordinance 096-018, passed by the City Council on May 14, 1996. The restaurant operated as Veladi Steak Ranch for approximately two years. It closed and sat vacant for a while, and was taken over by the Bayside Seafood Buffet. Bayside made only minor changes to the floor plan, and those were handled administratively. The Bayside closed about four months ago.

At this point, Mr. Skip Bailey, the applicant, would like to take over the restaurant and re-open it with a new theme. He states that he has not settled on exactly what the theme will be, and he does not have a name for the restaurant as yet. Mr. Bailey has been associated with Joe Willy's Hamburger Market, but he states this will not be a Joe Willy's. He has not submitted a proposed menu.

Proposed Plan. The applicant is planning to make changes to the interior of the building and add a patio. The plans show a 6,880 square-foot restaurant with a 2,220 square foot patio/deck area. The floor plan will be revised to add a lounge area with couches in front one of the fireplaces, which already exists in the building. In addition there is an area on the plan designated as the "Game Area." The staff is not sure what games are intended, but the applicant should be aware that the location of four or more gaming devices, such as video games or games that dispense coupons, within any area is considered a gaming arcade and requires a separate Special Use Permit. The applicant can have three or less games without any special kind of permit.

The applicant is proposing to keep the kitchen roughly the same size as shown on the plan, but will take a 48-square foot portion of the kitchen into the men's restroom in order to add six new urinals.

Facade. The applicant is not proposing any changes to the exterior of the restaurant, except for the new deck on the front. The material on the vertical faces of the deck appears to be wood lattice. Staff has concerns about the durability and appearance of that material. In addition, the railing material for the deck is not specified. The access point and handicapped ramp to the front door of the restaurant will be moved to the east side of the building. The applicant is not proposing any changes to the other three sides of the restaurant.

Parking. The new plans indicate the restaurant, with the existing patio and the new deck, will be 9,100 square feet. At a ratio of 1 space per 70 square feet, it requires 130 parking spaces. The applicant does not have enough parking to accommodate the addition of the deck at present, but if the request is approved, the applicant is planning to purchase additional property to the south of the existing site and add it to the restaurant site. The new property is shown on the plan as "New Parking and Paving 15840 S.F." The applicant will have to replat the property to enlarge the restaurant site. The applicant has the replat on this meeting agenda as Item #3, Skip Bailey Addition. Once the additional 15,840 square feet is added into the site, the applicant will have 140 parking spaces, which is 10 over the requirement.

However, the staff has received a letter from Mr. John McMurray, of the Humberdink's Restaurant next door. Mr. McMurray has a concern about locating a patio on the front of the building and the safety of placing a patio so close to moving lanes of traffic. The drive adjacent to the patio serves the entire shopping center, not just this restaurant, and Mr. McMurray has a concern that the area will become congested. He also expresses a concern over the effect the patio will have on his parking lot, which is the closest lot to the patio.

Lynn Chandler, the Building Official, notes that since the square footage of the restaurant is being increased, the applicant will need to add an additional accessible parking space. One of the five required parking spaces will have to be van-accessible.

Food Service Code. The Environmental Services Official has noted that the kitchen has had some recent work done on it, however, existing equipment will still need to be upgraded. The restaurant will be required to meet all the requirements of the current food service code.

Public Works. The Public Works Department has reviewed the site plan and has no comments.

Landscaping. The staff made the applicant aware of the 20% landscaping requirement early on, and while it is indicated on the plan, the applicant will have 21% of the site remaining in irrigated landscaping after the patio is added. Slade Strickland also notes that four live oak trees are shown to be removed. Slade has recommended that replacement trees be added along the Belt Line street frontage and at the south of the site to mitigate the trees that will be removed.

Mechanical Equipment. The applicant should be aware that if any new mechanical equipment is added to the roof of the restaurant, it must be screened from all adjacent properties. The screening mechanism shall be architecturally compatible, and the Building Official shall make the determination of "architecturally compatible".

Dumpster. The drawings show that the dumpsters will be adequately screened. The applicant should be aware that all containers, including those for recycling, should be contained within the dumpster enclosure.

Signs. The applicant shows a "Restaurant Sign" on the front of the building. The applicant should be aware that signs cannot be approved through this process, but must be permitted under the regulations of the Addison Sign Ordinance. The applicant should also be aware that the Town has a policy against allowing the use of the term "bar", "tavern", or any equivalent term in any exterior signs.

RECOMMENDATION:

As the staff has expressed on other occasions, the Town wants all restaurants to be successful, but not at the expense of someone else. The staff has three concerns about the proposed patio: noise, safety, and parking. The staff feels that this restaurant needs to be a good neighbor to the businesses that already exist around it, and to the homes to the south of it. The staff feels that the patio is located too close to the traffic lanes. It also feels that even though the applicant has sufficient parking the customers to the patio will use the parking of an adjacent restaurant. The staff's most serious concern is about possible noise problems from the patio. As Greg Layman of the Police Department notes in his memo, the staff is constantly dealing with noise complaints from residents living in close proximity to restaurants. As those restaurants change their operation, the noise levels increase. The staff does not see any reason to build in another noise complaint adjacent to a residential neighborhood.

The staff recommends that the applicant not be allowed to eliminate the landscaping in front of the restaurant and replace it with deck area. This additional deck, aside from eliminating the landscaping, would allow for additional noise generation and additional strain on the parking

Staff feels that this proposed restaurant, with the elimination of the patio, is an appropriate redevelopment for this space, and recommends approval subject to the following conditions:

-the plans shall be revised to eliminate the deck that is shown to be added to the existing front porch.

-a revised landscaping plan shall be submitted by the applicant that indicates how the four live oak trees, proposed to be removed by the applicant, will be mitigated on the site. A Landscape Architect licensed in the state of Texas must provide the plan.

-any new mechanical equipment must be screened from all adjacent properties. The screening mechanism shall be architecturally compatible, and the Building Official shall make the determination of "architecturally compatible".

-the restaurant shall not use the term "bar", "tavern" or any equivalent term on exterior signs for the restaurant.

Respectfully submitted,

A handwritten signature in black ink that reads "C. MORAN". The signature is stylized with a large, looped initial "C" and the name "MORAN" in all caps.

Carmen Moran
Director of Development Services

COMMISSION FINDINGS:

The Addison Planning and Zoning Commission, meeting in regular session on June 17, 2004, voted to recommend approval of the request for an amendment to an existing Special Use Permit for a restaurant and an existing Special Use Permit for the sale of alcoholic beverages for on-premises consumption, on application from Skip Bailey, subject to the following conditions:

-the plans shall be revised to change the north edge of the deck to a curved edge, with a setback of at least 8'-0" between the curb and the deck, additional landscaping, including additional boulders, shall be added between the deck and the curb.

-the applicant shall submit specifications and a plan for the outdoor patio speakers to the Council.

-the applicant shall install signs, both inside the building and in both his parking lot and the Humperdink's lot, identifying which lots belong to which restaurants.

-a revised landscaping plan shall be submitted by the applicant that indicates how the four live oak trees, proposed to be removed by the applicant, will be mitigated on the site. A Landscape Architect licensed in the state of Texas must provide the plan. (This plan has been submitted and approved by the staff)

-any new mechanical equipment must be screened from all adjacent properties. The screening mechanism shall be architecturally compatible, and the Building Official shall make the determination of "architecturally compatible".

-the restaurant shall not have any exterior signs that include the term "bar," "tavern," or any graphic depictions that denote alcoholic beverages.

Voting Aye: Chafin, Doepfner, Jandura, Knott, Mellow

Voting Nay: None

Absent: None

Abstaining: Benjet, Bernstein

HUMPERDINK'S

★ ★ ★ ★

Carmen Moran, A.I.C.P.
Town of Addison
5300 Belt Line Road
Addison, Texas 75001-9010

Re: New Patio proposal for 3870 Beltline Road

Carmen,

After reviewing the plans for the proposal of a new patio at 3870 Beltline Road I have some real concerns about the negative effect that it will have on our business and on the safe access to our restaurant and the entire shopping center.

My first concern deals with access. The patio is proposed on the north side of the building with the main access road to our restaurant and the shopping center running immediately adjacent to it. There are twenty proposed spaces north of the access road. I see a lot of congestion in this area. I don't believe it is safe and I think it will discourage people from using that access point because of the congestion. This is a main entrance from the east for our restaurant. I believe this would have a negative effect on our overall business and that it is a major safety issue.

My second concern is with the amount of parking in the area of the patio. Typically people like to park in close proximity to patios. I have seen this often with motorcycle enthusiasts, car clubs etc. The closest parking to this patio belongs to Humperdink's. There is virtually no accessible parking close to or within view of the proposed patio except parking spaces that Humperdink's owns and uses. The general public does not differentiate on who owns what parking. I can see an ongoing issue in this area. I think it puts an unfair burden on us to maintain our parking area rights.

I am not opposed to new business in the area. I welcome anyone that would bring more business into West Addison. I feel that if the new restaurant desires a patio it should be built on the east – southeast side of the restaurant away from the drive and in more close proximity to the majority of parking owned by that restaurant. Perhaps the front door could be moved to accommodate such a layout.

Sincerely,

John McMurray

John McMurray, Partner
Humperdink's Restaurants
972-989-9847

To: Carmen Moran, Director Development Services

From: Lynn Chandler, Building Official

Date: May 11, 2004

Subject: Case 1456-SUP/Skip Bailey

Chapter 11, Table 1106.1 of the 2004 IBC requires five accessible parking spaces when the number of spaces ranges from 101 to 150. This site is being modified by adding a deck and parking spaces therefore an additional accessible space will be required. In addition one of the five required spaces will have to be van-accessible per section 1106.4.

Addison!

May 5, 2004

TO: Carmen Moran, Director Development Services
FROM: Neil Gayden, Environmental Services Official
RE: Zoning Case 1456-SUP/Skip Bailey

When the previous tenant, Bayside Steakhouse and Seafood ceased doing business and vacated the premises, the property owner brought in a cleaning crew and various vendors to clean and make some repairs to the building, equipment, fixtures, etc. While the scope of work done was pretty substantial, the prospective owner/tenant must be advised that the current back-of-house areas that are planned to be used "as is" will be further scrutinized during the scheduled remodel.

All kitchen and bar additions, modifications and improvements will be addressed at plan review for a building permit.

We are available to the applicant to discuss any of these matters.

Memorandum

Date: May 19, 2004
To: Carmen Moran, Director of Development Services
From: Slade Strickland, Director of Parks and Recreation
Subject: **Case 1456-SUP/Skip Bailey**

The applicant's plan will need to show the quantity of landscaping proposed to be removed when the decking is installed. Based on the available landscaping on site, there may not need to be landscaping added to offset the removed landscaping since the site has one percent more than the required 20 percent requirement. This information will need to be confirmed on a revised plan.

Four live oaks are shown to be removed; however, these will need to be mitigated with replacement trees along the Belt Line Road street frontage and along the south edge of the property to buffer the proposed parking lot addition. We met the applicant on the site and recommended that evergreen trees such as Leyland Cypress or Easter Red Cedar be planted along the south property line to provide a denser screen for the parking lot.

The existing landscaping and irrigation system are in good condition, and the applicant is planning to enhance the landscaping around the building. We also recommended that they work with IHOP to clean up the center median leading into the center to match the landscaping the Target Center recently completed.

Carmen Moran

From: Greg Layman
Sent: Tuesday, May 11, 2004 2:35 PM
To: Carmen Moran
Subject: Planning and Zoning Comments for 05/27/04

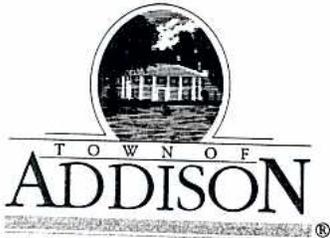
Item 3 Veladi Ranch

The police department does receive noise complaints from residence south of Beltway Dr. regarding restaurants with patios on Belt Line Rd. These complaints are isolated but most often occur in the fall or spring when the weather is nice enough to draw a crowd to the patio while the prevailing wind is from the north.. When the wind is from the south we have few if any noise complaints from the area.

Item 4 Sports City Café

The police department has had numerous noise complaints from the Towne Lake neighborhood regarding the noise at night from this strip center. This restaurant would share parking with Stone Trail, Texana Grill, Ferraris, and Abbottsford Court. Currently on weekend nights the shared parking area is filled to capacity and on occasion patrons park across Midway Rd.

**ITEM #R5-3
IS NOT AVAILABLE
ELECTRONICALLY**



June 10, 2004

STAFF REPORT

RE: Case 1461-Z/Bank One

LOCATION: 1.77 acres located at 3790
Belt Line Road

REQUEST: Approval of development plans in an
Existing PD (Planned Development)
District, (Ordinance 093-018)

APPLICANT: Bank One, represented by
Mr. Mark Rouch of Merriman Associates

DISCUSSION:

Background. This site is a pad site in the Addison Town Center shopping center at the southeast corner of the intersection of Marsh Lane and Belt Line Road. The site was originally developed as an Applebee's Restaurant through Ordinance 093-032, approved on May 11, 1993. Applebee's operated until 1997, but then closed. The building was taken over by Herrera's Mexican Restaurant, which added a patio to the building on April 14, 1998 through Ordinance 098-019. At this point, Herrera's is planning to close in September, and Bank One will immediately begin converting the restaurant building into a bank with drive-through windows.

Proposed Plan. The plans show a bank of 5,449 square feet with four lanes for drive-through service. The bank will contain a lobby with teller service, four private offices, six work stations, a larger area for drive-through tellers, a conference room, and other support uses such as storage spaces, restrooms, and an employee lounge. The plans indicate the bank will not utilize the full space that was used by the restaurant. The patio on the east side will be removed and replaced with the drive-through windows. The plans do not show where the mechanical equipment will be, but the applicant should be aware that all mechanical equipment must be screened from view.

Façade. The exterior of the building is almost 100% brick, and there will be only minor changes to the façade. There will be a stucco "feature wall" added at the entry on the north side of the building, and some stucco trim will be added to the east wall and the canopy over the drive-through windows.

Parking and traffic. The plans indicate 71 parking spaces for the 5,449-square foot bank. The required parking for a bank is one space per 300 square feet. Under that ratio, the bank would require 18 spaces. The applicant will be converting some parking to landscaping, but there is still more than sufficient parking. The staff always looks carefully at the queuing for drive thru uses. Staff requires at least 100 feet (5 cars) stacking from the transaction point. This site provides 100 feet of queuing for all five drive-thru lanes.

Landscaping. The Parks Department has worked with the applicant on a new landscaping plan. The property was originally developed with Bradford Pear trees that blocked visibility into the site and grew up to the power lines that go across the front of this tract. The staff has been working with property owners in this area on a case-by-case basis to get the Bradford Pears replaced with more suitable trees. The applicant will be removing four Bradford Pears, and one Live Oak tree, but will replace them with eight shade trees and 15 ornamental trees. The Parks Department recommends approval of the proposed plan as shown.

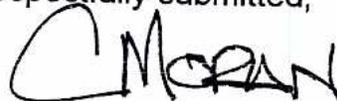
Dumpster. The plans do not indicate a dumpster enclosure on the site. Many banks do not discard their paper on site because of the confidential nature of their business. Bank One has indicated it will have its paper removed from the building and shredded every day, and thus does not need a dumpster.

Signs. The applicant has shown signs on the building. The applicant should be aware that all signs must be permitted under the requirements of the Addison Sign ordinance, and cannot be approved through this process.

RECOMMENDATION:

The staff feels that this development will be a great adaptive re-use for this building and recommends approval of the request subject to no conditions

Respectfully submitted,

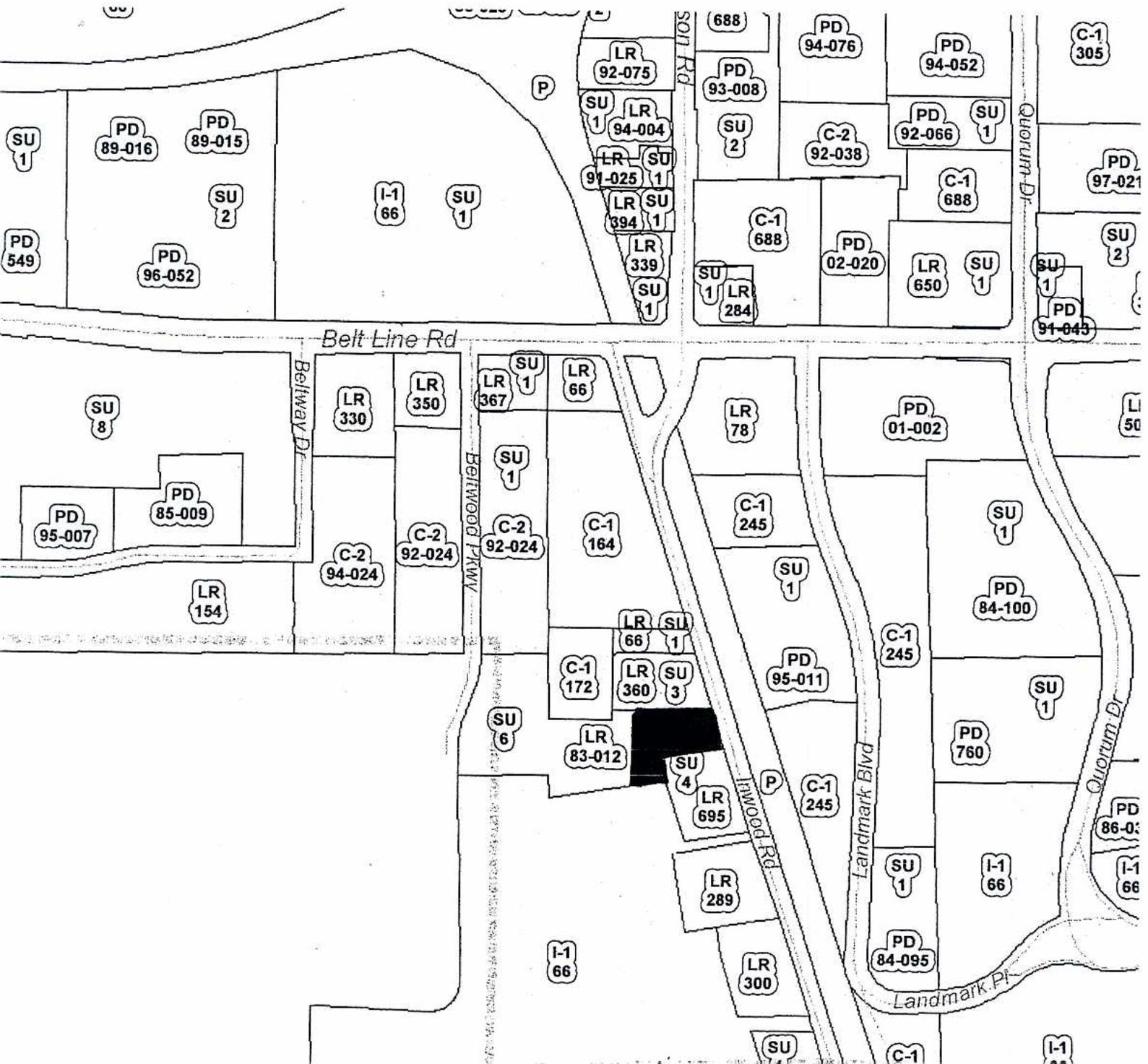


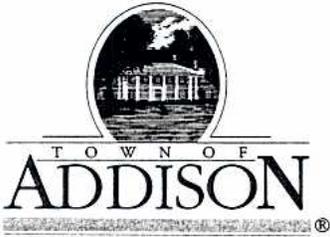
Carmen Moran
Director of Development Services

**ITEM #R6-3
IS NOT AVAILABLE
ELECTRONICALLY**

1462-SUP

Case 1462-SUP/Buckhorn Liquor Store. Requesting approval of an amendment to an existing Special Use Permit for the sale of alcoholic beverages for off-premises consumption only, in order to reduce the size of a liquor store, and approval of a Special Use Permit for the sale of beer and wine for off-premises consumption only, in order to develop a convenience store, located at 14825 Inwood Road, on application from Inwood Brothers, Ltd. represented by Mr. Raymond S. Lambert of RSL & Associates.





Post Office Box 9010

Addison, Texas 75001-9010

5300 Belt Line Road

(972) 450-7000

FAX (972) 450-7043

June 10, 2004

STAFF REPORT

RE: Case 1461-SUP/Buckhorn Liquor Store

LOCATION: 14825 Inwood Road

REQUEST: Approval of an amendment to an existing Special Use Permit for the sale of alcoholic beverages for off-premises consumption only, and approval of a Special Use Permit for the sale of beer and wine for off-premises consumption only

APPLICANT: Inwood Brothers, Ltd. represented by Mr. Raymond S. Lambert of RSL & Associates

DISCUSSION:

Background. Buckhorn Liquor Store was granted a Special Use Permit for the sale of alcoholic beverages only on June 12, 1979 through Ordinance 507. It may have changed ownership several times but the floor plan has never been altered, and it has operated continuously as Buckhorn Liquor since 1979. At this point, the store has sold to new owners. They wish to make the liquor store portion of the store smaller by subdividing the building into two separate stores. One portion will remain a liquor store. Since there is already an SUP for the sale of alcoholic beverages for off-premises consumption only for the store, it needs to be amended to reflect a smaller store. The remaining portion will be converted to a convenience store selling beer and wine for off-premises consumption only. It requires a new SUP for the sale of alcoholic beverages for off-premises consumption only.

Proposed Plan. The plans indicate the 8,438 square foot store will be divided into a 4,455 square-foot convenience store on the east end of the building and a 3,983 square foot liquor store on the west end. The convenience store will sell sandwiches to go, and although there is not dining space indicated on the floor plan, the parking count indicates there may be 830 square feet of dining space. The Hi Neighbor convenience

store, which is immediately west of this building, also serves sandwiches and has some limited table space. The Hasty convenience store also sells sandwiches. It will not sell gasoline.

Facade. The facades of the building will not be changed with the exception of a re-work of the glass storefront to add the new door for the convenience store, and the addition of a separate sign for the convenience store.

Parking and traffic. The convenience store requires parking at the same 1/200 ratio as the liquor store. The applicant has provided 18 spaces for the convenience store, 12 spaces for the sandwich counter in the convenience store, and 20 spaces for the liquor store. The site requires 50 spaces and it provides 58 spaces.

Landscaping. The applicant has submitted a landscaping plan. The Parks Department has reviewed the plan and has the following comments:

1. The site landscape requirement is 20 percent totaling 7800 square feet. The plan shows 7,300 square feet of available landscaping, with 2,685 to be added to meet/exceed the 20 percent requirement. It appears the applicant is counting landscaping on the adjacent property west of his site towards his landscape calculations, which he needs to clarify.
2. A detailed landscaping plan needs to be re-submitted showing the quantity of trees and shrubs required in the landscape regulations, versus the quantity of existing and proposed trees and shrubs. This applies to the street frontage, north, south and west sides of the property.
3. **Inwood Road Street Frontage Landscaping** – The existing Burford Holly shown along Inwood Road need to be replaced with Indian Hawthorne to match adjacent properties north of this site to create a more consistent look along Inwood Road, and to improve visibility.
4. **West Side of Building** – The existing photinia shrubs need replacing with a lower growing shrub that will not overcrowd the existing crape myrtle trees.
5. All planting beds need to be renovated with new edging, compost and mulch.
6. A new irrigation plan needs to be submitted showing existing and proposed sprinkler heads, valves and controllers. A freeze and rain sensor need to added to the irrigation controller.

7. The aforementioned items need to be addressed on the revised landscape and irrigation plans before a building permit is issued.

Dumpster. The dumpster for this building has always been a problem. For many years, the dumpster was constructed out of wood pickets, and it did not hold up well. At present, there is no dumpster enclosure for the various dumpsters on this site. Staff is pleased to see a new dumpster enclosure shown on the plans. The applicant should be aware that all dumpsters and refuse containers, including those for recycling, should be located within the dumpster enclosure.

Signs. The applicant has shown sides of the facades. He should be aware that signs cannot be approved through this process and all signs must be permitted under the requirements of the Addison Sign Ordinance.

Building Code Requirement. Lynn Chandler, the Building Official, has reviewed the plans and he has noted three modifications that must be modified for the building to comply with the Building Code requirements.

Food Service Code. The applicant should be aware that the kitchen installation might require a grease trap.

RECOMMENDATION:

Staff feels that this conversion is an appropriate use for this building. Staff recommends approval subject to the following conditions:

1. The site landscape requirement is 20 percent totaling 7800 square feet. The plan shows 7,300 square feet of available landscaping, with 2,685 to be added to meet/exceed the 20 percent requirement. It appears the applicant is counting landscaping on the adjacent property west of his site towards his landscape calculations, which he needs to clarify.
2. A detailed landscaping plan needs to be re-submitted showing the quantity of trees and shrubs required in the landscape regulations, versus the quantity of existing and proposed trees and shrubs. This applies to the street frontage, north, south and west sides of the property.
- 3. Inwood Road Street Frontage Landscaping** – The existing Burford Holly shown along Inwood Road need to be replaced with Indian Hawthorne to match adjacent properties north of this site to create a more consistent look along Inwood Road, and to improve visibility.

4. **West Side of Building** – The existing photinia shrubs need replacing with a lower growing shrub that will not overcrowd the existing crape myrtle trees.
5. All planting beds need to be renovated with new edging, compost and mulch.
6. A new irrigation plan needs to be submitted showing existing and proposed sprinkler heads, valves and controllers. A freeze and rain sensor need to added to the irrigation controller.
7. The aforementioned items need to addressed on the revised landscape and irrigation plans before a building permit is issued.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'C Moran', with a stylized flourish at the end.

Carmen Moran
Director of Development Services

COMMISSION FINDINGS:

The Addison Planning and Zoning Commission, meeting in regular session on June 17, 2004, voted to recommend approval of your request for development plan approval subject to the following conditions:

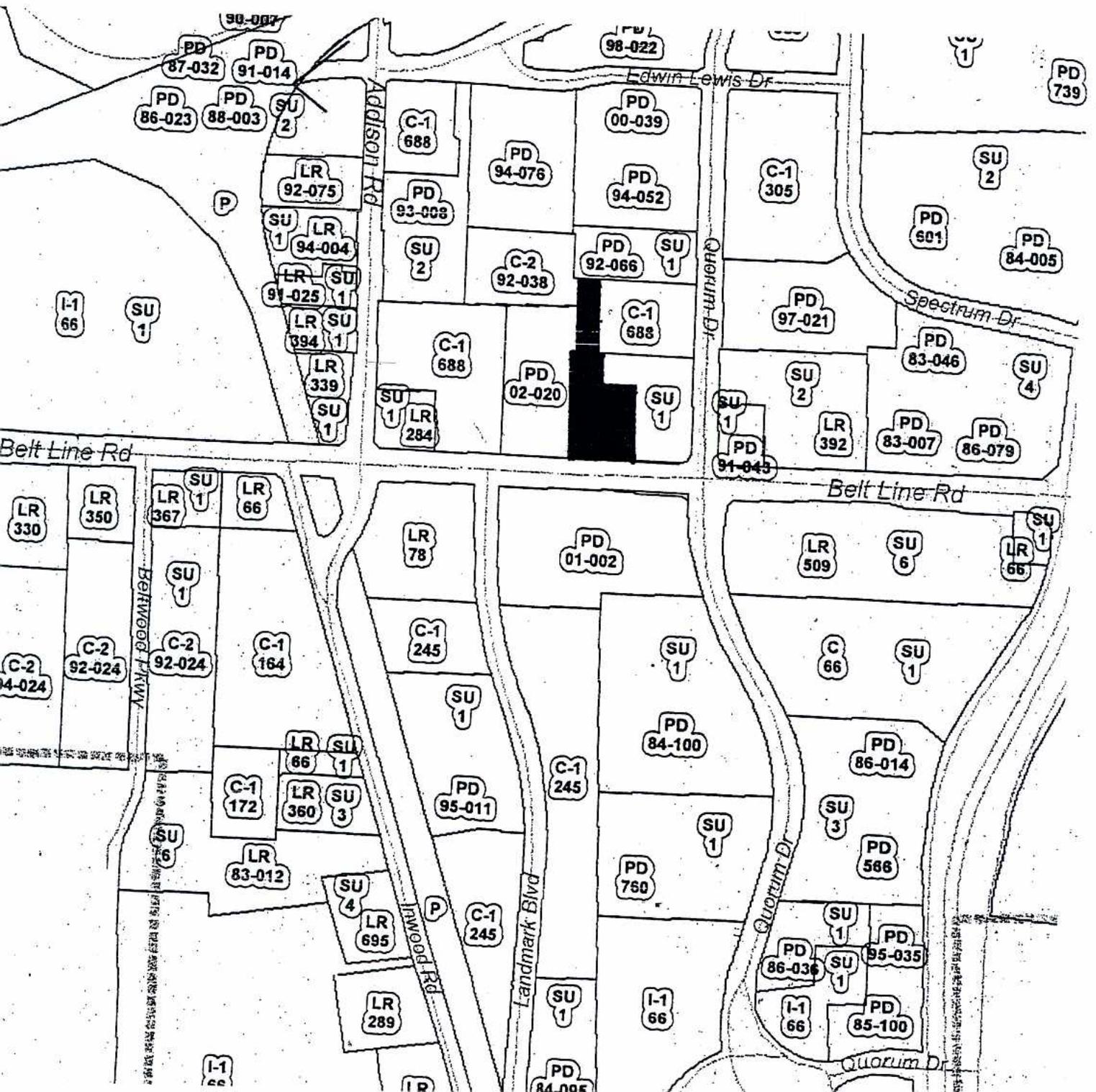
1. The site landscape requirement is 20 percent totaling 7800 square feet. The plan shows 7,300 square feet of available landscaping, with 2,685 to be added to meet/exceed the 20 percent requirement. It appears the applicant is counting landscaping on the adjacent property west of his site towards his landscape calculations, which he needs to clarify.
2. A detailed landscaping plan needs to be re-submitted showing the quantity of trees and shrubs required in the landscape regulations, versus the quantity of existing and proposed trees and shrubs. This applies to the street frontage, north, south and west sides of the property.
3. Inwood Road Street Frontage Landscaping – The existing Burford Holly shown along Inwood Road need to be replaced with Indian Hawthorne to match adjacent properties north of this site to create a more consistent look along Inwood Road, and to improve visibility.
4. West Side of Building – The existing photinia shrubs need replacing with a lower growing shrub that will not overcrowd the existing crape myrtle trees.
5. All planting beds need to be renovated with new edging, compost and mulch.
6. A new irrigation plan needs to be submitted showing existing and proposed sprinkler heads, valves and controllers. A freeze and rain sensor need to added to the irrigation controller.
7. The aforementioned items need to addressed on the revised landscape and irrigation plans before a building permit is issued.

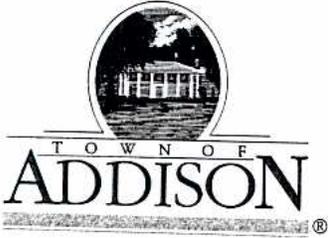
Voting Aye: Benjet, Bernstein, Chafin, Doepfner, Knott, Jandura, Mellow
Voting Nay: None
Absent: None

**ITEM #R7-3
IS NOT AVAILABLE
ELECTRONICALLY**

1463-SUP

Case 1463-SUP/Potbelly Sandwich Works. Requesting approval of an amendment to an existing Special Use Permit for a restaurant and an existing Special Use Permit for the sale of alcoholic beverages for on-premises consumption only, located at 4939 Belt Line Road, on application from Potbelly Sandwich Works, represented by Mr. Steve Young.





#R8-2

Post Office Box 9010 Addison, Texas 75001-9010 5300 Belt Line Road (972) 450-7000
FAX (972) 450-7043

June 9, 2004

STAFF REPORT

RE: Case 1463-SUP/Potbelly Sandwich Works

LOCATION: 4945 Belt Line Road

REQUEST: Approval of an amendment to an Existing Special Use Permit for a restaurant, and an existing Special Use Permit for the sale of alcoholic beverages for on-premises consumption only

APPLICANT: Potbelly Sandwich Works, represented by Mr. Steve Young

DISCUSSION:

Background. This building is zoned LR (Local Retail) and was formerly occupied by The Container Store. Beltway Commercial Real Estate is in the process of redeveloping the former Container Store building, and is subdividing it into at least four lease spaces. Potbelly Sandwich Shops is under construction on a lease space in the east end of the building. The Council approved a Special Use Permits for the sandwich shop on December 9, 2003 through Ordinance 003-042. After the restaurant SUPs were approved, Potbelly decided it wanted to add a patio. It submitted a request for an amendment to the SUPs to add a patio, and that request was approved on April 13, 2004. Potbelly has now determined it wants a larger patio in a different location.

Proposed Plan. In the first request, Potbelly wanted to remove one tree and some turf and convert the area into a 144-square foot patio. The site had sufficient parking for the first patio, but was under 20% landscaping for the site. Therefore, staff recommended that the patio be added, but that no landscaping be removed to accommodate it.

At this point, Potbelly wants to move the patio to the east side of the building and increase the size to 375 square feet. The patio would be located on the east side of the building, and be enclosed by a metal fence.

Parking. The restaurant is parked at a ratio of one space per 70 square feet, and it currently requires 25 spaces. This patio will require 5 additional spaces, which the site can provide.

Landscaping. The staff has examined the site, and it finds that the site does not have the required 20% landscaping for a local retail development. The staff does not recommend that any landscaping be removed to add patio space on a site that is already under 20% landscaping.

RECOMMENDATION:

Staff recommended approval of the first request for an amendment to add 144 square feet of patio area to the restaurant. However, staff did not recommend that any landscaping be removed to add the tables. The sidewalk in front of, and along the east side of the building, contains space to add tables. Although it is currently under construction, if it is replaced to its original condition, it contained a sidewalk that could contain tables. Photos of the original sidewalk are attached.

Staff has reviewed this current request, which also removes landscaping, and it recommends denial. As has been noted in other cases, staff recommends denial of any increase to a restaurant that causes it go under the required parking or landscaping. Staff is not opposed to increasing the area that can be allocated to tables, but still maintains that the tables can be added to the existing sidewalk that was located down the east side of the building, and in front of the building. The Building Official can work with the applicant to place the tables in a manner that allows the front of the building to remain accessible for all customers.

Staff recommends approval of the addition of 375 square feet of outdoor dining space, but recommends that it be located on the sidewalks, as opposed to in a landscaped area.

Respectfully submitted,



Carmen Moran
Director of Development Services

COMMISSION FINDINGS:

The Addison Planning and Zoning Commission, meeting in regular session on June 17, 2004, voted to recommend approval of the request on application from Potbelly Sandwich Works, subject to the following conditions:

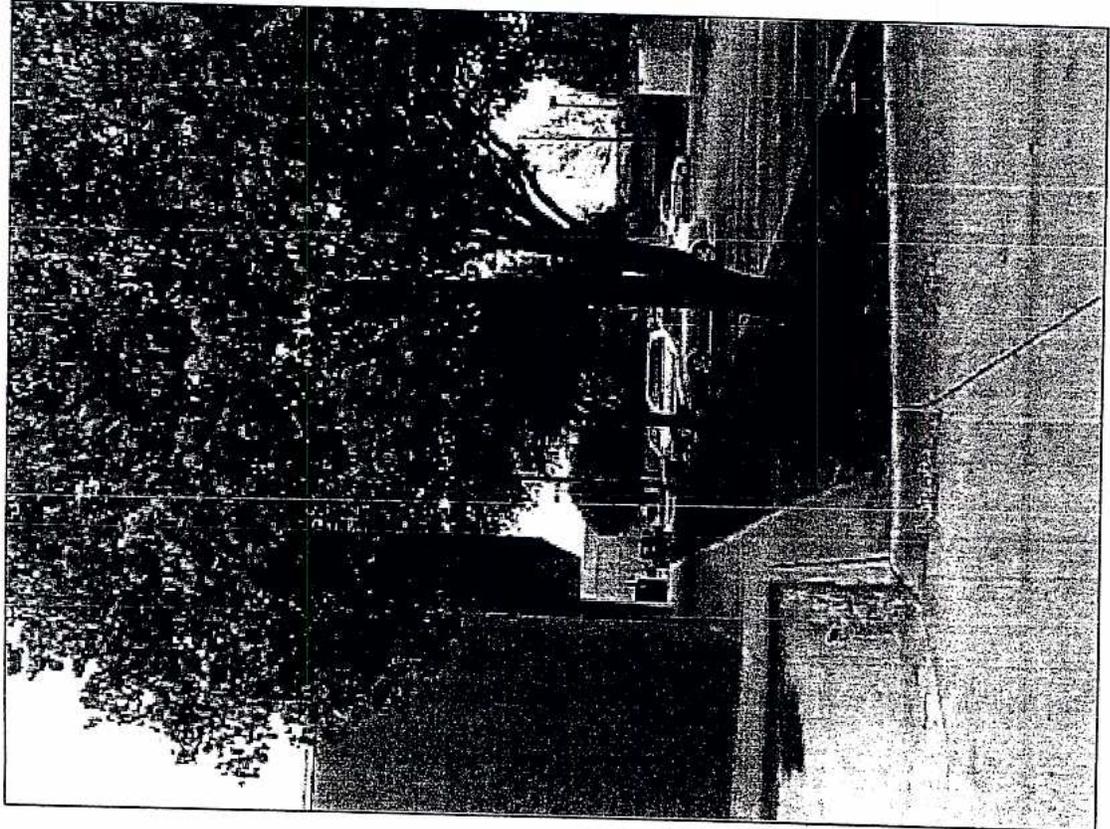
-the patio shall be narrowed to 9'0" in width, and the remaining 2'0" of property between the patio and the property line shall be planted with an evergreen shrub hedge

Voting Aye: Benjet, Bernstein, Chafin, Doepfner, Jandura, Knott, Mellow

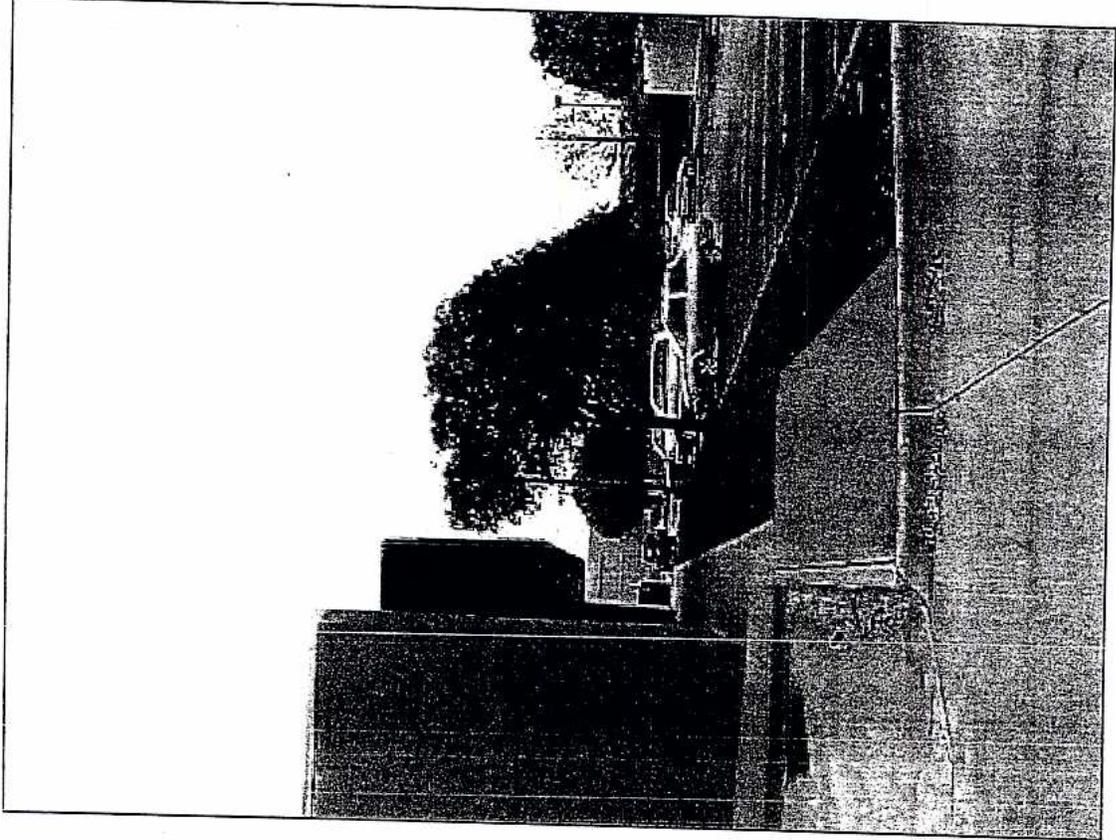
Voting Nay: None,

Absent: None

Current Landscaping



Proposed Landscaping



ITEM #R8-3

**IS NOT AVAILABLE
ELECTRONICALLY**

Council Agenda Item: #R9

SUMMARY:

Staff will present the schematic design of the Cityhomes – Parkview at Addison Circle Park for the Council’s review and approval.

FINANCIAL IMPACT:

Budgeted Amount: \$330,000
Cost: \$275,000 - **Construction Budget**
\$30,000 - **Landscape Architecture Design Fee**

Funding for the park is located in the Street Capital Projects fund. Several years ago, the General fund transferred surplus fund balance to the Street Capital Projects fund with the expectation that it would be used as the Town’s contribution for streets in Addison circle. However, with the issuance of bonds for street improvements (e.g. Spectrum), these funds can now be applied to the Town’s park obligations in Addison circle. The funds, totaling \$707,767 will be transferred to the Parks Capital Project fund, which had been closed in 2002. The transfer will be recognized as a mid-year budget amendment.

BACKGROUND:

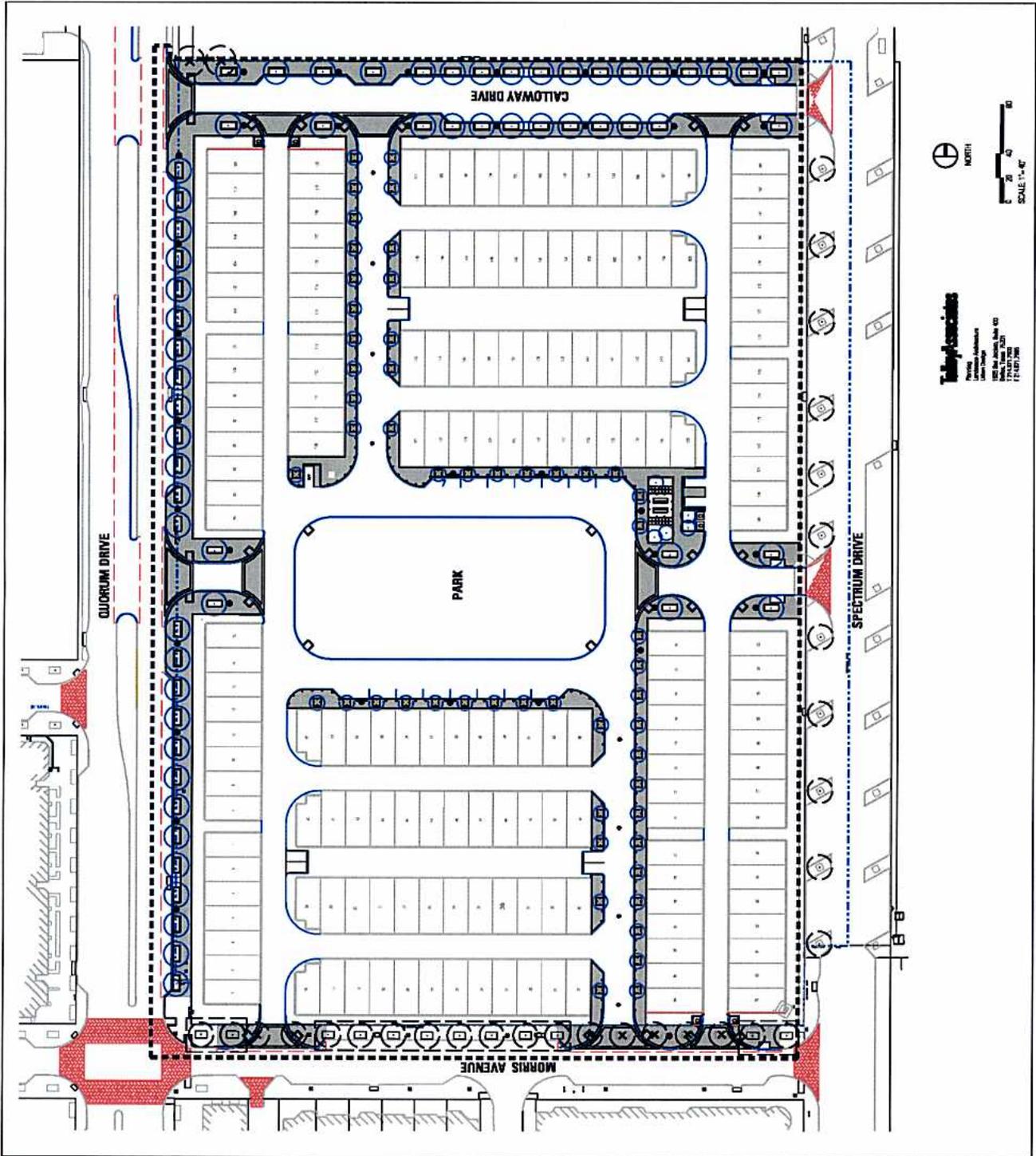
The park is a .7 acre tract of land located in the center of the Cityhomes development, which is shown on the attached location map. As a point of reference, the following summarizes the per foot construction cost for the parks in Addison Circle:

Esplanade Park	\$9.53/sq.ft.	1.43 acres
Bosque Park	\$9.13/sq.ft.	1 acre
Parkview at Addison Circle Park	\$9.00/sq.ft.	.7 acres

Town staff and Cityhomes representatives provided the design criteria to Talley Associates landscape architects. The committee recommended a simple open space with a shade structure where residents could hold community functions. In addition, emphasis was placed on maintaining visibility into the park for security, lighting levels and providing consistency on the park perimeter with the Cityhomes streetscape theme.

RECOMMENDATION:

Staff recommends approval.



Talley Associates
Professional Architects
10000 Quorum Drive, Suite 100
Morrisville, NC 27556
919.747.1700
www.talleyassociates.com



ADDISON VISIONING

Committee Members

Mayor
Council Member/Appointee (6)
Richard Chamberlain
Jae Chung
Ann Crews
Steve Folsom
Charles Heath
Paula Jandura
Sharon Kilmartin
Frank Klein

Paul Koch
Virginia Mulkey
Mickey Munir
Dave Oldfield
Mark Sommer
Cathy Ways
Brent Wicker
Allen Wood

Council Agenda Item: #R11

SUMMARY:

Council approval is required authorizing the City Manager to enter into an agreement with Pennington Performance Group, in the amount of \$18,000.00, to facilitate a review of the Town's 2020 Vision project. The 2020 Vision project was completed in 1994 and has served as a reference for Council members since that time. Staff recommends that the ten year old document be reviewed and if needed updated to ensure it remains a useful and relevant document for future Councils. The Committee will consist of Council and fifteen citizens and business leaders from the community. Meetings will take place on six, to be determined, Saturdays between August 2004 and January 2005.

FINANCIAL IMPACT:

Funding for this item has been included as an Expanded Level of Service (ELS) request in the City Manager's Fiscal Year 04-05 budget.

BACKGROUND:

The consultant will meet with Town staff for up to twelve hours to plan, identify the steps of the process and provide a post project review. In addition the consultant will be expected to prepare and facilitate a program that promotes the Committee's efforts to:

- Examine the Town's overall orientation and development to date as it relates to the original *Vision 2020* document.
- Address specific opportunities and challenges for the Town by geographic and functional areas that relate to the *Vision 2020* document.
- Identify action steps to be considered to aid in the achievement of the *2020 Vision*.

RECOMMENDATION:

Staff recommends approval.



4004 Winter Park Lane
Addison, TX 75001
972-980-9857

June 9, 2004

Mr. Ron Whitehead
City Manager
Town of Addison
P.O. Box 9010
Addison, TX 75001

Dear Ron:

It is an honor to again be considered as facilitator for the Town's strategic visioning meetings. Facilitating the original 2020 Vision project was a rewarding experience.

As of this date, my schedule is open for the following Saturdays between August 2004 and January 2005.

- August 7
- August 14
- August 28
- September 11
- September 25
- October 2
- October 16
- October 23
- November 6
- November 13
- December 4
- December 11
- December 18
- January 8

I am confident we can find six dates that work for everyone.

Our services for the project will also include up to twelve hours of meetings with Town staff and others as needed to accomplish the following:

- Plan and identify steps of the process
- Provide a post-project review
- Assist in development of any written plans that result from this effort

I will be the primary facilitator for all sessions, and we will provide agendas and handout material for duplication by the Town as needed to support the process.

Mr. Ron Whitehead
June 7, 2004
Page 2

The professional fee for the entire project will be \$18,000. This represents a discount of \$6,000 from our standard rates. The discount is in recognition of our past work together and my years of residence in Addison. Fees are broken down as follows:

ACTIVITY	STANDARD PROFESSIONAL FEE	DISCOUNT	TOWN OF ADDISON PROFESSIONAL FEE
Up to 12 hours of services for planning and post-project review	\$4,200	\$1,200	\$3,000
Facilitate six sessions of approximately 4 ½ hours in length @ \$3,500 per session	\$21,000	\$6,000 (\$1,000 per session)	\$15,000
Total			\$18,000

Professional fees are guaranteed until August 1, 2004. Dates are considered to be on hold until a final schedule is determined. We will notify you if there is a request for one of the dates offered prior to a confirmed agreement on this project. You will have one business day to either confirm the date or agree on another date that will meet your needs.

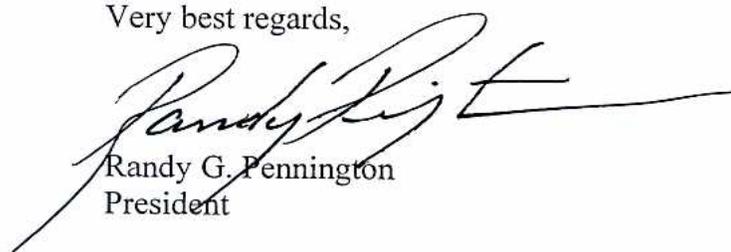
A letter of agreement confirming the schedule and describing invoicing and postponement terms will be sent for your signature should Pennington Performance Group be selected for this project.

In addition, the following information is attached in this packet:

- Randy G. Pennington professional bio
- Randy G. Pennington municipal government clients
- Randy G. Pennington reference letters

Thank you, again, for the opportunity to assist the Town of Addison.

Very best regards,



Randy G. Pennington
President

Council Agenda Item: #R12

SUMMARY:

Discussion to determine the Council's desire to solicit year round, multi-year sponsorship opportunities in Addison Circle Park.

FINANCIAL IMPACT:

Budgeted Amount: N/A

Cost: N/A

BACKGROUND:

The Xelerate Group has received interest from Anheuser-Busch and Southwest Airlines regarding year round sponsorship opportunities in Addison Circle Park. Staff would like to determine Council's interest in pursuing this type of sponsorship, and obtain Council's approval of the sponsor benefits associated with these opportunities and the value placed on them. In particular, staff would like to determine Council's view on the following:

1. Should the Town install multi-year sponsorship signage in Addison Circle Park?
2. What is an acceptable range of sponsorship compensation for signage?

Also, attached is a draft of a negotiation package with Anheuser-Busch as a sample for discussion purposes.

June 9, 2004
Town of Addison Response to
5/28/04 Project

**Addison Circle Park / Bud Light Sponsorship Proposal
(Pending Legal Approval and Contract Draft to Follow)**

2004 Sponsorship Involvement	<ul style="list-style-type: none"> Taste Addison & 4th of July/Kaboom events: Presenting sponsor entitlement and beer category exclusivity for sponsorship. Secondary sponsors can not include tobacco category. All other Town of Addison produced Addison Circle Park events when appropriate Town of Addison to identify and promote Anheuser Busch as preferred sponsor for all 3rd Party events held at Addison Circle Park
Tickets & Hospitality	<ul style="list-style-type: none"> Taste Addison event: Hospitality area/booth 150 Free admission passes, 12 Special guest passes and 15 Gate/Parking passes for event staff 4th of July/Kaboom event (Free Event): Hospitality area/booth 12 Special guest passes and 15 Gate/Parking passes for event staff
Retail Promotion	<ul style="list-style-type: none"> AB will have right to produce mutually-agreeable Bud Light Point-of-Sale items and promotional materials for distribution at retail supporting Taste of Addison, 4th of July/Kaboom events and any additional Bud Light sponsored events held at Addison Circle Park.
Media	<ul style="list-style-type: none"> All promoter media (Radio, OOH, Print and Internet as well as TV if used in the future), PR and promotional materials will include <ul style="list-style-type: none"> Taste Addison event: Mention of Bud Light's Main Stage or Presenting sponsorship for this event 4th of July/Kaboom events: Mention of Bud Light's Main Stage or Presenting sponsorship for this event Anheuser Busch to provide media tags for TOA Special Events where permissible and appropriate
Stage Announcements	<ul style="list-style-type: none"> Taste Addison event: 20 stage announcements to mention Bud Light's sponsorship of the event 4th of July/Kaboom: 20 stage announcements to mention Bud Light's sponsorship of the event
Signage	<ul style="list-style-type: none"> Taste of Addison, 4th of July/Kaboom and all other Town of Addison produced Addison Circle Park events signage to include: <ol style="list-style-type: none"> (2) Main stage "Bud Light" side scrims and possible inclusion of "Bud Light" into backdrop signage (pending radio partner approval) (1) 40' "Bud Light" bottom of stage front runner signage (1) 24' x 84' Cast stone sign placed on the Front Stage facing (3) 20 sq. ft. "Bud Light Stage" directional signage: <ol style="list-style-type: none"> Beltline Rd. @ Quorum Drive Arapaho Rd. @ Quorum Rd. Keller Springs Rd. @ Quorum Dr. Bud Light logo ID on LED on 42 sq. ft. Daktronic Reader Board (Addison Rd @ Addison Circle Dr.) <p>Town of Addison to construct and maintain signs 3-5 at its own expense. Final signage package to be approved by Addison & Anheuser Busch.</p>
Term	<ul style="list-style-type: none"> Contract to be for 2004, 2005 and 2006. Town of Addison to identify Anheuser Busch as preferred sponsor for any 3rd party events held at Addison Circle Park.
Sponsorship Fee	<ul style="list-style-type: none"> 2004: \$75,000 2005: \$75,000 2006: \$75,000

This sponsorship proposal is intended as a non-binding outline of some of the issues which are the subject of present negotiations between the parties and is not intended to be, nor does it constitute, an agreement between the parties. The content of this sponsorship proposal is neither binding on either party nor shall either party act in reliance on any of the terms hereof. Either party may at any time, and for any reason whatsoever, terminate negotiations without liability or obligation to the other. Neither party shall have any liability or obligation to the other, irrespective of this sponsorship proposal, until a definitive agreement is executed and delivered by the parties.

Council Agenda Item: #R13

SUMMARY:

This item is for the rejection of a bid by Gibson & Associates, Inc. for Paving Repair and Storm Sewer Modifications for the Fuel Truck Roadway at Addison Airport.

FINANCIAL IMPACT:

Budgeted Amount: \$41,290

Cost: \$57,200 (Base Bid)

Funding Source: Airport Fund and Routine Airport Maintenance Program (RAMP) Funds

BACKGROUND:

Each year the airport receives \$30,000 from TxDOT Aviation Division for RAMP, which requires a \$30,000 local match, and therefore provides \$60,000 that can be used for routine airport maintenance projects. So far \$13,000 has been spent on roof repairs, \$5,810 has been spent on engineering for this project, leaving \$41,290 for this project.

There are more repairs needed on the fuel truck access road than we have money for in RAMP so the bid process was set up such that the repairs were prioritized in order of need.

Only one bidder bid on this project and his base bid exceeded the amount of money available for the project. All amounts bid exceeded the Engineer's Estimate as well.

A tabulation of the bids received is attached.

RECOMMENDATION:

Staff recommends that the bid received from Gibson and Associates, Inc. for the Paving Repair and Storm Sewer Modifications for the Fuel Truck Roadway be rejected.

Paving Repair Addison Airport

BID NO 04-25

DUE: June14, 2004 9:00 AM

BIDDER	SIGNED	Bid Bond	Base Bid	Alternate #1	Alternate #2	Alternate #3	Alternate #4
Gibson & Assts, Inc.	y	y	\$57,200.00	\$24,800.00	\$15,000.00	\$62,200.00	\$55,300.00
Engineer's Estimate			\$35,000.00	\$15,000.00	\$10,000.00	\$39,000.00	\$25,000

Minok Suh

Minok Suh, Purchasing Coordinator

Ann Mulberg

Witness

Council Agenda Item: #R14

SUMMARY:

This item is for the award of a contract to Archer Western Contractors, Ltd., for construction of Arapaho Road and Bridge, Phase III, from Surveyor Blvd. to Addison Road, including Alternate Bid #1 & #2.

FINANCIAL IMPACT:

Construction Cost: \$16,702,578.42

Source of Funds: Funds are available from the FY 2002 & 2004 General Obligation Bond Program (Arapaho Road & Midway Road), DART LAP Funds, & Dallas County, Project No. 83300.

BACKGROUND:

The third phase of the proposed Arapaho Road extension project extends from Surveyor Blvd. to Addison Road. Construction of these improvements will complete an east-west minor arterial roadway that is necessary to relieve traffic congestion on Belt Line Road. It is anticipated that the new road will initially absorb approximately 11,000 vehicles per day, with a maximum future count of 15,000 vehicles per day. A proposed signature bridge over Midway Road and a pedestrian trail system are also proposed as an integral part of the roadway section in this phase. The firm of HNTB Corporation acted as the principal designer for this project. Bids were received on June 7, 2004 for construction of the project, and included the following items:

- Roadway Improvements
- Utility Improvements
- Lighting and Signalization Improvements
- Streetscape Improvements
- Bridge Construction
- Bridge Lighting

Attached is a bid tabulation for these improvements. The bid proposal in the specifications for construction was structured to provide an incentive/disincentive method of bidding the project. Specifically, each bid submitted was required to consist of two parts whereby:

- a. The Contractor submits a standard bid (A), which is the summation of the products of the estimated quantities shown in the proposal, multiplied by their bid unit prices.

- b. The Contractor submits a time bid (B), which is the product of the number of calendar days required to construct the project, determined by the Contractor, and the Daily Value established by the Town. The Daily Value was established in the contract at \$4,000. The number of calendar days is intended to include inclement weather, holidays, etc.

The lowest bid (Total) for award of the contract was determined as the lowest sum of the standard bid (A) plus time bid (B). The contract establishes the actual contract amount for payment to the successful contractor to be the value indicated in the standard bid (A). Also included in the bidding process was a provision whereby the Contractor is awarded an incentive payment if construction is completed prior to the number of calendar days he submitted. The total amount of the incentive is the product of the Daily Value (\$4,000) and the number of days the Contractor completes the project prior to the established contract time. Accordingly, the contract provides for a disincentive amount to be established based on the product of the Daily Value (\$4,000) and amount of time that the Contractor exceeds the established contract time. The total incentive payment cannot exceed \$400,000. However, there is no limit to the amount of disincentive reduction (same as liquidated damages) from the Contractor's final payment that the Town will impose for going over the contract time limit.

Archer Western Contractors, Ltd. submitted the lowest Total bid (A + B), in the amount of \$18,098,232.40 and 425 calendar days. The actual amount of the standard bid (A) recommended for award is \$16,398,232.40. In addition, the Engineer estimated that it would take approximately 540 calendar days to complete a project of this magnitude and complexity. The number of calendar days submitted by Archer Western Contractors, Ltd. (425 calendar days) represents a potential reduction of total construction time by approximately 4.0 months. In addition, two alternate bids were received. Alternate bid #1, in the amount of \$339,446.02, provides for the construction of two pocket parks within the project limits. One park would be located on the south side of Arapaho Road and situation on the tract of land once owned by the DGNO Railroad. The other park would be located adjacent to the Surveyor Pump Station and along the north side of the roadway. Alternate bid #2 provides a reduction in cost, in the amount of \$35,100, for elimination of aluminum type street lights along the roadway's length and installation of steel type street lights. The contractor was subject to an extensive reference check by the Engineer and staff, and was found to have successfully completed construction of numerous related improvements in the State and throughout the country.

RECOMMENDATION:

Staff recommends that Council authorize the City Manager to enter into a contract with Archer Western Contractors, Ltd., for Arapaho Road, Phase III, from Surveyor Blvd. to Addison Road, including Alternate Bids # 1 & #2, in the total amount of \$16,702,578.42.

**PAVING, UTILITIES, SIGNALIZATION, AND STREETSCAPE
 BID SCHEDULE SUMMARY
 ARAPAHO ROAD - PHASE III
 MARSH LANE TO SURVEYOR BOULEVARD**

ENGINEER'S ESTIMATE

Total Amount Materials & Services

Bid Schedule & Description	Total Amount Materials & Services
I. Roadway Improvements	\$ 4,886,680.00
II. Utility Improvements	\$ 3,688,007.00
III. Signalization and Lighting	\$ 854,190.00
V. Bridge	\$ 4,427,693.40
VI. Bridge Lighting	\$ 646,678.25
VII. Streetscape	\$ 1,905,416.60
(A) TOTAL BID FOR SCHEDULES I - VIII	\$ 16,418,665.25

(B) TOTAL DAYS BID @ \$4000

TOTAL PROJECT A+B

VIII. (A) Alternate Bid 1	\$ 340,280.00
(B) TOTAL DAYS BID @ \$4000	
TOTAL PROJECT A+B	\$ 0.00
VIII. (A) Alternate Bid 2	
(B) TOTAL DAYS BID @ \$4000	
TOTAL PROJECT A+B	

Archer	Orval	Austin Bridge	Average Bid
\$ 4,947,346.22	\$ 7,105,503.70	\$ 5,951,268.42	\$ 6,000,842.45
\$ 3,741,303.93	\$ 4,036,289.55	\$ 4,335,466.93	\$ 4,037,660.14
\$ 614,220.75	\$ 637,020.75	\$ 677,946.97	\$ 643,062.82
\$ 5,255,580.09	\$ 5,825,147.44	\$ 5,229,213.90	\$ 5,436,647.14
\$ 709,871.75	\$ 714,371.75	\$ 755,648.19	\$ 726,630.56
\$ 1,129,910.66	\$ 1,254,216.60	\$ 1,374,099.16	\$ 1,252,742.14
\$ 16,396,232.40	\$ 19,572,529.79	\$ 19,323,643.57	\$ 18,097,605.25
425	550	480	485
\$ 1,700,000.00	\$ 2,200,000.00	\$ 1,920,000.00	\$ 1,940,000.00
\$ 18,098,232.40	\$ 21,772,529.79	\$ 20,243,643.57	\$ 20,038,135.25
\$ 339,446.02	\$ 355,518.60	\$ 428,866.08	\$ 374,943.5667
1	1	1	1
\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00
\$ 343,446.02	\$ 360,518.60	\$ 432,866.08	\$ 378,943.57
\$ (35,100.00)	\$ (35,100.00)	\$ (25,152.00)	\$ (31,784.00)
1	1	1	1
\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00
\$ (31,100.00)	\$ (31,100.00)	\$ (21,152.00)	\$ (27,794.00)
\$ 18,410,578.42	\$ 22,101,948.39	\$ 20,655,357.65	\$ 20,389,294.82

#R14-2

**ITEM #R14-3
IS NOT AVAILABLE
ELECTRONICALLY**

Council Agenda Item: #R15

SUMMARY:

This item is for the award of contract to Mels Electric, L.P., in the amount of \$319,700.00, to furnish and install steel street and pedestrian light poles, and luminaries on the Spectrum Drive Construction Project.

FINANCIAL IMPACT:

Budgeted Amount: \$3,100,000

Cost: \$319,700.00

Source of Funds: Funds are available from the FY 2002 General Obligation Bond Program (Spectrum Drive), and residual funds from Inwood/S. Quorum and Addison Road Widening Projects.

BACKGROUND:

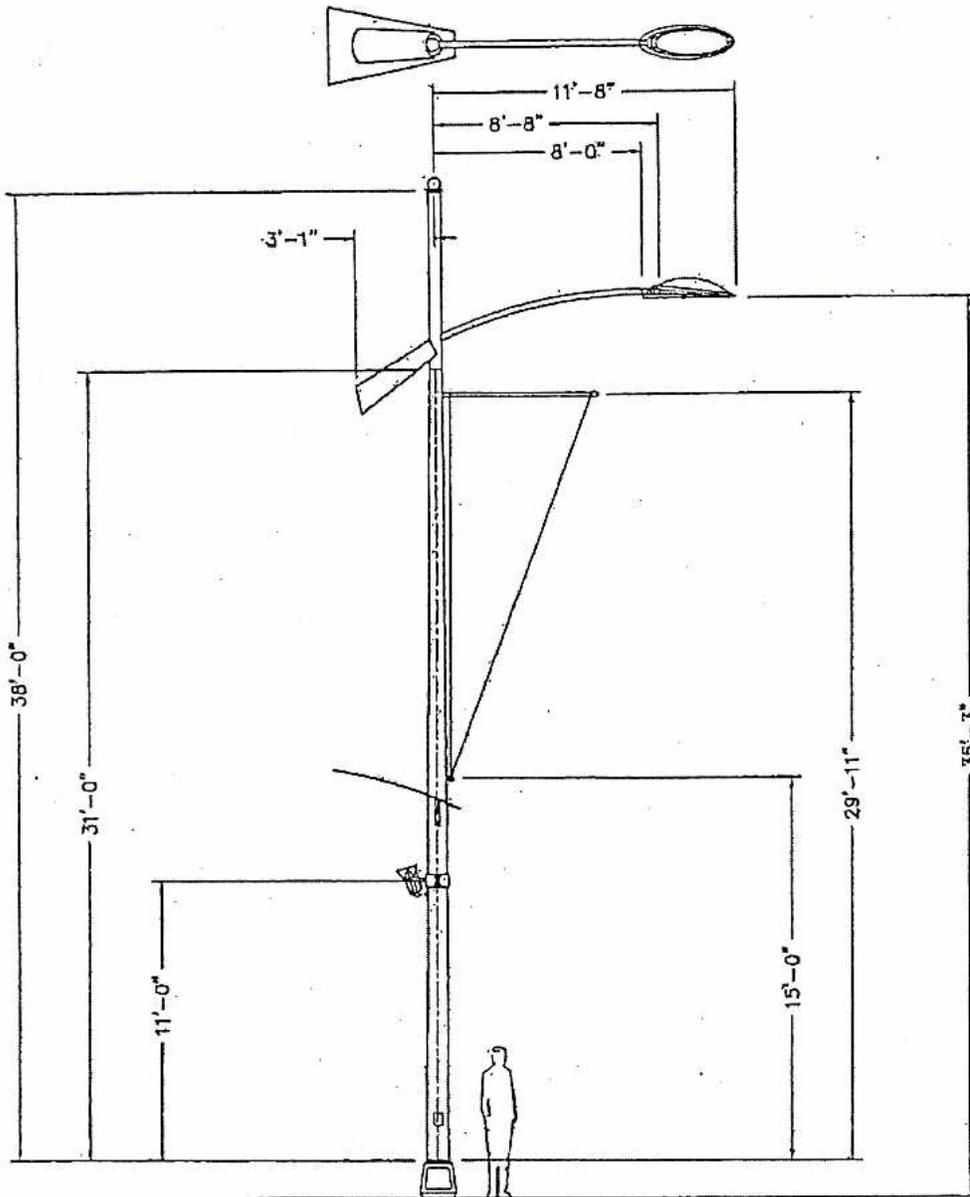
Construction of Spectrum Drive North/South improvements is currently underway. The portion of Spectrum Drive, from Morris Avenue to Airport Parkway, is a continuation of the second phase of the Addison Circle project. Spectrum Drive is also being extended south, from the DART railroad right-of-way to Arapaho Road. The design of a Quiet Zone at the railroad crossing and streetscape improvements are also included in the project. The contractor, Site Concrete, Inc., has completed the majority of the roadway construction and will perform the installation of concrete foundations and associated electrical items for the installation of street and pedestrian light poles. However, the Town worked with a lighting consultant to develop a new design for street and pedestrian lights (see attached drawing) that are scheduled for implementation on Spectrum Drive and subsequently on Addison Road and Arapaho Road. The new light poles will provide an enhanced aesthetic look within the proposed streetscape design and optimum lighting coverage within the entire street right-of-way.

Attached is a bid tabulation for this project. Bidders were given the opportunity to bid on both aluminum and steel poles for the street and pedestrian lights. Mels Electric, L.P. submitted the lowest bid for steel poles, in the amount of \$319,700.00, and 130 calendar days for delivery and installation. Due the exclusive nature of this project, the Town only received two bids for consideration. Accordingly, the Town has already approved a change order with the principal contractor on Spectrum Drive for the deduction of costs for installing standard "shoe-box" type poles. The amount of the change order directly related to the street and pedestrian lights is approximately \$130,787. As a result, the affect of this bid for new light poles results in a net

increase to the total project cost of \$188,913. Upon completion of the light pole foundations by Site Concrete, Inc., the new poles will be installed in place and electrical connections finalized by Mels Electric, L.P.

RECOMMENDATION:

Staff recommends that Council authorize the City Manager to enter into a contract with Mels Electric, L.P., for furnishing steel street and pedestrian light poles, and luminaries, in the amount of \$319,700.00.



Roadway / Pedestrian Fixture

Spectrum Lights

BID NO 04-24

DUE: June 8, 2004 2:30pm

BIDDER	SIGNED	Addendum 1	Bid Bond	Option 1 Bid (A) Aluminum Poles	# of days	Option 2 Bid (B) Steel Poles	#of days
Mels Electric	Y	Y	Y	\$401,950.00	130	\$319,700.00	130
Sebastians Service Co	Y	Y	Y	\$531,100.00	150	\$458,720.00	140

Minok Suh

Minok Suh, Purchasing Coordinator

Corey Gayden

Corey Gayden, Witness

Council Agenda Item: #R16

SUMMARY:

This item is for the approval of a Supplemental Contract Amendment with HNTB Corporation, Inc., for engineering services related to materials inspection and testing on the Arapaho Road, Phase III improvements.

FINANCIAL IMPACT:

Cost: \$99,250.00

Source of Funds: Funds are available from FY 2002 & 2004 General Obligation Bond Program (Arapaho Road & Midway Road), DART LAP Funds, & Dallas County, Project No. 83300.

BACKGROUND:

Bids for the construction of Arapaho Road, Phase III, from Surveyor Blvd. to Addison Road, were recently received and are being submitted for contract award consideration. Based on previous experiences on similar construction projects, it was determined that material testing and inspection should be controlled by the Town in lieu of permitting the Contractor to select his own testing firm and perform all the necessary testing throughout the life of the project. It is important that all testing of subgrades, concrete and bridge improvements be accurate, complete, and all results obtained on a timely basis. With a construction project on the scale of the Arapaho Road bridge and roadway improvements, the Town should be in control of these activities. Consequently, the firm of HNTB Corporation, Inc. submitted a supplemental agreement for all materials testing and inspection for this project, in the amount of \$99,250.00. Rone Engineers is the testing lab that will be performing all testing and inspection, and will submit continuous reports to the Town, under the supervision of HNTB Corporation. Rone Engineers has performed this type of work for the Town of Addison and other surrounding communities with excellent results.

RECOMMENDATION:

Staff recommends that Council authorize the City Manager to enter into a Supplemental Contract amendment with HNTB Corporation, Inc., in the amount of \$99,250.00, for engineering services related to materials inspection and testing on the Arapaho Road, Phase III improvements.

SUPPLEMENTAL AGREEMENT

This Supplemental Agreement, Number 11, to the AGREEMENT FOR ENGINEERING SERVICES, dated January 23, 2001 (the Agreement), between Town of Addison (Owner) and HNTB Corporation (Engineer) is made effective as of the 11th day of June, 2004

- 1. Engineer shall perform the following Services:
 - See Attachment A
- 2. In conjunction with the performance of the foregoing Services, Engineer shall provide the following submittals/deliverables (Documents) to Owner:
 - Test results for documented scope in Attachment A
- 3. Engineer shall perform the Services and deliver the related Documents (if any) according to the following schedule:

There will be no change in the schedule due to the above mentioned items.

In return for the performance of the foregoing obligations, Owner shall pay to Engineer the amount of \$ 99,250, payable according to the following terms:

Payments will be made based upon the provisions of the original contract, with a corresponding increase in the total contract amount to \$1,145,929.00.

Except to the extent modified herein, all terms and conditions of the Agreement shall continue in full force and effect.

Town of Addison
(Owner)

HNTB Corporation
(Engineer)

Signature: _____

Signature: Benjamin J. Biller

Name: _____

Name: Benjamin J. Biller

Title: _____

Title: Vice President

Date: _____

Date: 6/11/2004

ATTACHMENT A

DESCRIPTION	Estimated Quantity
EARTHWORK	
Moisture Density Relationship ASTM D-698 (each)	4.0
Relative Density ASTM D-4253 (each)	1.0
Moisture Density Relationship TXDOT 113-E (each)	4.0
Atterberg Limits (each)	8.0
Wet Ball Mill Test (each)	2.0
Soil Sulfate Test (each)	26.0
Engineering Technician (hourly)	432.0
Engineering Technician Overtime (hourly)	64.0
In Place Density Test (each)	708.0
Base Depth Checks (each)	26.0
Transportation Charge (trip)	154.0
Engineering & Report Review (hourly)	54.1

Assumptions: 1 density test for every 10,000 square feet of paving subgrade, 1 density test for every 150 lineal feet of trench backfill per lift.

PIER INSPECTION

Senior Engineering Technician (hourly)	90.0
Senior Engineering Technician Overtime (hourly)	22.0
Concrete Test Cylinders (each)	44.0
Transportation Charge (trip)	12.0
Engineering & Report Review (hourly)	8.8

Assumptions: 11 days of pier drilling with one technician and 1 drilling rig.

CONCRETE

Concrete Mix Design Review (each)	3.0
Concrete Inspection (hourly)	531.0
Concrete Inspection Overtime (hourly)	68.0
Concrete Test Cylinders (each)	448.0
Concrete Test Flexural Beams (each)	580.0
Reinforcing Steel Inspection (hourly)	226.0
Transportation Charge (trip)	147.0
Engineering & Report Review (hourly)	88.2
Structural Steel Inspection (hourly, min. 5 hours)	45.0
Ultrasonic Steel Inspection (hourly, min. 5 hours)	15.0
Transportation Charge (trip)	12.0
Engineering & Report Review (hourly)	6.0

Assumptions: 1 set of 4 concrete test cylinders for every 100 yards of concrete placed in structures.

1 set of 4 concrete test flexural beams for every 100 yards of concrete placed in paving. Concrete Inspection time is based on delivery of concrete at 50 yards per hour.

Project Engineering services on materials engineering and testing for consultation shall include analysis, report preparation and review, supervision and scheduling of field and laboratory personnel.

Council Agenda Item: #R17

SUMMARY:

Council authorization is requested of a five-year contract with Frost Bank for depository services.

FINANCIAL IMPACT:

Budget: \$19,860

Anticipated Cost: \$15,300 annually

The depository service fees are budgeted and expensed in each of the major funds (General, Utility, and Hotel). The fees associated with depository services are expected to be approximately \$4,500 less than the current contract. The depository fees will increase by 2.5% during the fourth and fifth year of the contract.

BACKGROUND:

Bank of America has provided banking services to the Town since 1989 under separate contracts dated 1991, 1994, 1996, 1999, and 2001. The current depository services contract will expire on July 31, 2004. To enhance competition among banks for our depository services, Council authorized staff in March to solicit a Request for Proposal (RFP) from all competing banks in the area, not just those banks that reside within the Town's boundaries. In response to our RFP, the Town received proposals from the following nine banks: Bank of America, Bank of Texas, Bank One, Comerica Bank, Compass Bank, Frost Bank, Lone Star Bank, SouthTrust Bank, and Wells Fargo. Five of these banks were invited to make an oral presentation to the Finance department staff. After thoroughly reviewing all the proposals and oral presentations, staff ranked the proposals according to a variety of weighted criteria. The final rankings are presented in Attachment A. The Frost Bank proposal was determined to be the best value for the Town considering cost, services offered, and all other applicable factors.

Depository Services Proposed

The following is a summary of some the major elements of the Frost Bank depository services proposal.

- The Town of Addison will maintain the following four accounts with Frost Bank.
 - The Operating Account constitutes almost all of the Town's banking business. Intra-bank transfers to reimburse money to other Town accounts and most over the counter deposits will occur in this account.

- The Controlled Disbursement Account is used to identify the total value of checks that are presented against our account on a daily basis. By using such an account, the Town is able to optimally manage our cash investments by only maintaining a small cash balance in our bank account.
 - The Payroll Zero Balance Account is used to clear only personnel related checks for the Town. Automatic transfers from the operating account to the payroll account will be used to fund checks and bring the balance back to zero. Using a separate account for payroll assists the Town in detecting and reconciling payroll activity.
 - The Wire/ACH Processing Account is used to account for all wire and ACH activity for the Town. In addition, this account will be used to process all of our merchant credit card activity. The Town has chosen to create a separate account for this activity to assist us with reconciliation issues and fraud prevention.
- As security for the Town's deposits, the Frost Bank must pledge to the Town collateral securities equal to the largest total ledger balances that the Town maintains in the bank, less the coverage provided by the Federal Deposit Insurance Corporation (FDIC).
 - Frost Bank provides a Positive Pay program to protect the Town from check fraud. The program confirms that each check paid from our account has been "issued" from our office. The Town will send an electronic file to the bank on a weekly basis that identifies the check number and amount for each of the checks that we have issued. If a check is presented to the bank that does not match this list, Frost Bank will notify the Town of the exception and inquire as to whether it should be paid.
 - Frost Bank will provide an online banking system that provides access to account and transaction information. The advantages of such a system include the following:
 - Initiate wire/ACH transfers, stop payments, and many other services from anywhere that has Internet access.
 - Bank statements are available via the Internet on the first business day of the month.
 - Access to the online system can be customized for each authorized user.

Future Service Enhancements

In addition to providing the requested services, Frost Bank also offers several innovative products that we will be exploring over the next several weeks. In particular, the Town will be examining the possibility of creating a retail payment lockbox and online payment system for our utility customers. These services should provide the Town with a more efficient and cost effective method for processing routine transactions. Over the next few weeks, staff will be evaluating these services to determine how best to integrate these services into our existing processes.

RECOMMENDATION:

Staff recommends approval of the contract with Frost Bank for depository services.

BANK DEPOSITORY AGREEMENT

THIS BANK DEPOSITORY AGREEMENT, together with the terms of the BANK's bid to serve as depository, a copy of which is attached hereto, if applicable (collectively, this "Agreement") is made and entered into on the date last herein written by and between Town of Addison hereinafter called "DEPOSITOR," and The Frost National Bank, a national banking association, duly organized and authorized by law to do banking business in the State of Texas and now carrying on such business in said State, hereinafter called "BANK".

I.

DEPOSITOR hereby designates BANK as a depository for the period beginning _____ and continuing until this Agreement has been canceled in accordance with the provisions hereof, for certain accounts in the name of the DEPOSITOR, and such accounts shall be opened by the DEPOSITOR designating the accounts and making deposits therein and the BANK accepting said deposits. The term for this Agreement cannot exceed 5 years for cities and cannot exceed 4 years for counties.

DURING the term of this Agreement, the DEPOSITOR will, through appropriate action of its governing board, designate the officer or officers, who individually or jointly will be authorized to represent and act on behalf of the DEPOSITOR in any and all matters of every kind arising under this Agreement and to (a) execute and deliver to BANK an electronic fund or funds transfer agreement (and any addenda thereto), (b) appoint and designate, from time to time, a person or persons who may request withdrawals, orders for payment, or transfers on behalf of DEPOSITOR in accordance with the electronic fund or funds transfer agreement and addenda, (c) make withdrawals or transfers by written instrument, and (d) deliver to BANK the DEPOSITOR'S collateral policy and evidence of approval by the DEPOSITOR'S governing body of (1) the collateral policy, (2) the CUSTODIAN (hereinafter defined), (3) this Agreement, and (4) the attached Security Agreement (hereinafter defined).

II.

DEPOSITOR shall deposit such of its funds as it may choose, and BANK shall receive such deposits as "Demand Deposits," Interest on Checking Accounts ("IOCs"), "Savings Accounts," Money Management Accounts ("MMAs"), and/or Certificates of Deposit ("CDs"), as designated by DEPOSITOR, and BANK shall hold said Demand Deposits, IOCs, Savings Accounts, MMAs, and/or CDs subject to payment in accordance with the terms of the particular deposit. BANK will allow, credit, and pay interest on such IOCs, Savings Accounts, MMAs, and/or CDs at a rate to be set by the BANK, with: (1) interest on IOCs and MMAs to be paid monthly as it accrues through the last day of each month; (2) interest on Savings Accounts to be paid quarterly as it accrues through the last day each quarter; and (3) interest on CDs to be paid at maturity. Interest on CDs shall be calculated for the exact number of days on the basis of a 365-day year.

III.

SUBJECT to the provisions stated above and to the particular terms of MMAs, Savings Accounts, or IOCs, BANK shall pay on demand to the order of DEPOSITOR upon presentation of checks, drafts, or vouchers properly issued, all or any portion of said deposits now on deposit or to be deposited with said BANK, as long as collected funds are on deposit.

BANK statements, canceled checks, check registers, deposit slips, debit and credit notices, reconciliations, notices of interest earned, and any other related documentation, or images thereof, shall be retained by BANK for a period of seven (7) years after the date of receipt of the items. To the extent permitted by law, BANK shall make all records, books, and supporting documents, or images thereof, pertaining to services applicable to DEPOSITOR accounts and transactions pursuant to this Agreement

available at any reasonable time during the term of this Agreement, to DEPOSITOR and its designated representatives. To the extent permitted by law, DEPOSITOR shall have the right to examine, audit, inspect, or make copies of any of such documents.

TO DETERMINE charges for services rendered, BANK utilizes the previous month's average 91 day Treasury Bill auction discount rate as an earnings credit rate on BANK'S account analysis system. This system is used to calculate and account for all BANK service charges. BANK will calculate the DEPOSITOR'S combined average daily collected balances less combined average daily Federal Reserve requirements, and using the previous month's average 91-day Treasury Bill auction discount rate, will calculate the earnings of the BANK and use those earnings to offset the cost to the DEPOSITOR of combined services rendered by BANK. For any amount of cost of services not offset by DEPOSITOR'S balances as described above, DEPOSITOR shall remit payment in such amount to BANK monthly. Any excess available balance can be carried to the next month for service compensation. Any interest paid on IOCs, Savings Accounts, or MMAs is considered an expense on the account analysis statement.

IV.

ALL FUNDS on deposit with BANK to the credit of the DEPOSITOR (including Demand Deposits, IOCs, Savings Accounts, MMAs, and CDs) shall be secured pursuant to the BANK's "Security Agreement" or similar agreement (the "Security Agreement") and any agreement required by the Custodian (hereinafter defined), all of which are attached hereto.

DEPOSITOR AND BANK, by execution of this Agreement, hereby designate Federal Reserve Bank/Federal Home Loan Bank hereinafter called "CUSTODIAN", to hold collateral in an account maintained by CUSTODIAN in the name of the BANK and subject to the control of DEPOSITOR, according to the terms and conditions of this Agreement, the Security Agreement, and any agreement required by the CUSTODIAN to document such relationship.

DEPOSITOR RECOGNIZES THAT the Federal Deposit Insurance Corporation (or its successor) (the "FDIC") provides insurance for DEPOSITOR'S funds deposited at any one Texas financial institution, including accrued interest on such funds, only up to a maximum of \$100,000. All uninsured funds on deposit with BANK to the credit of the DEPOSITOR shall be secured by collateral as provided for in the Texas Public Funds Collateral Act and in other applicable law (collectively, the "Acts"), and DEPOSITOR hereby agrees and certifies that the collateral listed in Exhibit A to the Security Agreement may be used as collateral to secure DEPOSITOR'S funds on deposit with the BANK. The total market value of the collateral (which includes accrued interest or income to the extent it is not included in the market price) securing such deposits will be in an amount at least equal to 102% (110% when mortgage-backed securities are used for collateral) of the amount of such deposits plus the amount of any accrued interest thereon and less the amount that such deposits are insured by the FDIC (the "Collateral Requirement"). The market value with respect to any collateral as of any date and priced on such date will be obtained by the BANK from a generally recognized pricing source.

WHEN the need for collateral with the BANK is expected to increase on any given day or over a series of days, DEPOSITOR hereby agrees to notify the BANK of such expected increase at least one business day prior to the expected date the additional deposits are expected to be received.

V.

BANK HAS HERETOFORE or will immediately hereafter deliver to CUSTODIAN collateral of the kind and character above mentioned of sufficient amount and market value to provide adequate collateral for the uninsured funds of DEPOSITOR deposited with BANK. Said collateral or substitute collateral, as hereinafter provided for, shall be kept and retained by CUSTODIAN in an account maintained in the name of BANK and subject to the control of DEPOSITOR pursuant to the terms hereof and of the Security Agreement so long as the depository relationship between DEPOSITOR and BANK shall exist hereunder, and thereafter so long as any portion of the deposits made by DEPOSITOR with

BANK hereunder shall have not been properly paid out by BANK to DEPOSITOR or on its order. The BANK hereby grants a security interest in such collateral to DEPOSITOR.

VI.

THE BANK shall cause CUSTODIAN to accept said collateral and hold the same in trust for the purpose herein stated, in a separate joint safekeeping account with the CUSTODIAN, the DEPOSITOR, and the BANK, to be managed pursuant to the Security Agreement, and operating agreements, guidelines, and procedures as follows in Section VII through Section XIV hereof, and pursuant to the terms of any agreement with the CUSTODIAN.

VII.

IT is distinctly understood by all the parties hereto that the CUSTODIAN shall not be required to ascertain the amount of funds on deposit by the DEPOSITOR with BANK, nor the validity, authenticity, genuineness, or negotiability of the securities deposited hereunder with the CUSTODIAN by BANK, and shall be liable to no one hereunder except for the safekeeping of the securities herein provided for as and when received, and the ordinary negligence of its own officers, agents, and employees.

VIII.

SHOULD BANK fail at any time to pay immediately and satisfy upon presentation any check, draft, or voucher lawfully drawn upon any Demand Deposit, or fail at any time to pay and satisfy, when due, any check, draft, or voucher lawfully drawn against any IOC, MMA, or Savings Account and the interest on such IOC, MMA, or Savings Account, or in case BANK becomes insolvent or in any manner breaches its contract with DEPOSITOR, it shall be the duty of the CUSTODIAN upon demand of DEPOSITOR (supported by proper evidence of any of the above listed circumstances), to surrender the above-described collateral to DEPOSITOR. DEPOSITOR may sell all or any part of such collateral and out of the proceeds therefrom, pay DEPOSITOR all damages and losses sustained by it, together with all expenses of any kind and every kind incurred by it on account of such failure or insolvency, or sale, accounting to BANK for the remainder, if any, of said proceeds or collateral remaining unsold.

IX.

ANY SALE of such collateral, or any part thereof, made by DEPOSITOR hereunder may be either at public or private sale; provided, however, DEPOSITOR shall give to both CUSTODIAN and BANK three (3) days notice of the time and place where such sale shall take place, and such sale shall be to the highest bidder therefor for cash. DEPOSITOR and BANK shall have the right to bid at such sale.

X.

IF BANK shall desire to sell or otherwise dispose of any one or more of such collateral so deposited with the CUSTODIAN, it may, with prior approval of DEPOSITOR, substitute for any one or more of such collateral other collateral of the same market value and of the character authorized herein, which said right of substitution shall remain in full force and be exercised by BANK as often as it may desire to sell or otherwise dispose of any such collateral; provided, however, that at all times the initial aggregate amount of such collateral or substituted collateral deposited with the CUSTODIAN shall always be such that it meets the Collateral Requirement. If at any time the aggregate amount of such collateral so deposited with the CUSTODIAN is less than the Collateral Requirement, then in that event, BANK shall immediately deposit with the CUSTODIAN additional collateral as may be necessary to meet the Collateral Requirement.

BANK shall be entitled to income on collateral held by the CUSTODIAN, and the CUSTODIAN may dispose of such income as directed by BANK without approval of DEPOSITOR, to the extent such income is not needed to secure DEPOSITOR's deposits.

XI.

BANK SHALL CAUSE CUSTODIAN to promptly forward to DEPOSITOR trust receipts covering all such collateral held for DEPOSITOR, including substitute collateral as provided herein. BANK shall also maintain records relating to all such collateral held for the benefit of DEPOSITOR. Upon written request of the DEPOSITOR and if in accordance with the CUSTODIAN's agreement, the BANK shall request that the CUSTODIAN furnish as of any date requested a completely itemized list of collateral held as security for DEPOSITOR.

XII.

IF at any time the collateral held by the CUSTODIAN for the benefit of the DEPOSITOR shall have a market value in excess of the Collateral Requirement, then on the written authorization of an authorized representative of the BANK, confirmed by an authorized representative of the DEPOSITOR, the BANK may request withdrawal of a specified amount of collateral, the CUSTODIAN shall deliver this amount of collateral (and no more) to BANK, and the CUSTODIAN shall have no further liability for collateral so redelivered to BANK.

All substitutions, releases, and additional pledges of collateral pursuant to the terms hereof and of the Security Agreement shall be completed at the earliest time possible.

XIII.

EITHER DEPOSITOR or BANK shall have the right to terminate this Agreement prior to the expiration date by advance written notice to the other of its election to do so, and this Agreement shall be void from and after the expiration of ninety (90) days after the receipt of such notice, provided all provisions of this Agreement have been fulfilled. This Agreement may be amended in a writing executed by both the DEPOSITOR and the BANK.

XIV.

WHEN the relationship of DEPOSITOR and BANK shall have ceased to exist between DEPOSITOR and BANK, and when BANK shall have properly paid out all deposits of DEPOSITOR, it shall be the duty of DEPOSITOR to give the CUSTODIAN a certificate to that effect, whereupon the CUSTODIAN shall redeliver to BANK all collateral then in its possession belonging to BANK for the benefit of DEPOSITOR, taking its receipt therefor, and an order in writing presented to the CUSTODIAN by DEPOSITOR and a receipt for such collateral by BANK shall be a full and final release of the CUSTODIAN of all duties and obligations undertaken by it by virtue of this Agreement, and it shall stand fully and finally acquitted of all liability of any kind and character whatsoever to both DEPOSITOR and BANK.

XV.

THE BANK represents that:

- (a) the BANK is the sole legal and actual owner of the securities or of a beneficial interest in the securities utilized to collateralize deposits;
- (b) other than the security interest granted to DEPOSITOR herein, no other security interest has been, nor will be, granted in the securities utilized to collateralize deposits;
- (c) BANK accounts are insured to the regulatory limits by the FDIC;
- (d) this Agreement has been approved by the BANK's Board of Directors or Senior Loan Committee and such approval is evidenced by a resolution of BANK's Board of Directors

or Senior Loan Committee adopted at the meeting at which this Agreement was approved and further, such approval is reflected in the minutes of such meeting of the Board of Directors or Senior Loan Committee; and

- (e) this Agreement is an official record of the BANK, and has been, and will continue to be, an official record of the BANK from the date of its approval by the BANK's Board of Directors.

THE DEPOSITOR represents that:

- (a) the DEPOSITOR has complied with all applicable law governing the selection of a depository bank, and this Agreement is a valid and binding agreement, enforceable against the DEPOSITOR pursuant to its terms, and does not and will not violate any statute or regulation applicable to it; and
- (b) all acts, conditions, and things required to exist, happen, or to be performed on its part precedent to and in the execution and delivery of this Agreement exist or have happened or have been performed.

XVII.

THE BANK represents and warrants that this Agreement is made pursuant to and is duly authorized by the Board of Directors of the BANK. A true and correct copy of the resolution of the BANK'S Board of Directors or Senior Loan Committee adopted at the meeting at which this Agreement was approved and accepted is attached to this Agreement and incorporated for all purposes.

XVIII.

IF ANY clause or provision of this Agreement is for any reason held to be invalid, illegal, or unenforceable, such holding shall not affect the validity, legality, or enforceability of the remaining clauses or provisions of this Agreement.

(Remainder of this page intentionally left blank)

IN WITNESS WHEREOF, the Bank has caused this Agreement to be duly executed as of the _____ day of _____, _____.

BANK:

FROST NATIONAL BANK

ATTEST:

By: _____
Name: Tom Frost III
Title: Senior Executive Vice President

Name:
Title:

DEPOSITOR accepts and agrees as the _____ day of _____, _____.

DEPOSITOR:

(DEPOSITOR NAME)

ATTEST:

By: _____
Name:
Title:

Name:
Title:

Attachments: Security Agreement (including attachments)
Agreement With the Custodian
Frost Application and Bid for Depository Services
Resolution of Bank Board of Directors or Senior Loan Committee
Fee Schedules

AUSTIN_1\240455\4
5521-213 01/26/2004

Attachment A

Instructions

For each criterion, proposals were rated on a scale of 1 (very poor) to 10 (excellent). The ratings indicated represent the average scores received from the evaluation committee.

CRITERIA	Weighting	Bank One		Frost Bank		Compass Bank		Lone Star Bank		Bank of America	
		Rating	Score	Rating	Score	Rating	Score	Rating	Score	Rating	Score
Subjective Elements of Evaluation: Ability to perform the requested services in the RFP: Does the bank have the resources and experience to provide the requested services? Is their approach to providing services innovative? Will using their bank enhance the efficiency and productivity of our employees?	20	7.5	300	8	320	7	280	8	320	8	320
Cost of the proposed banking services: What is the estimated annual cost of the banking services? How does this compare with the other proposals?	15	9	270	8.5	255	7	210	7	210	7.5	225
Effective rates paid on the Town's bank accounts: What are the estimated interest rates that will be applied to the Town's accounts? How do these compare with other proposals submitted?	10	7.5	150	8	160	7.5	150	7	140	6	120
Quality of all reports requested: Are the reports provided easy to follow? Do they provide the Town with sufficient information to evaluate the services provided?	15	7.5	225	8	240	7.5	225	8.5	255	7.5	225
Securities and safekeeping instructions: Do the security and safekeeping instructions comply with the Town's investment policy?	10	8	160	8	160	8	160	8	160	8	160
Experience in providing banking services to municipal governments: Has the firm demonstrated significant experience working with public sector employers? Will the bank provide superior service to the Town?	15	8	240	8	240	7.5	225	8	240	8	240
Completeness and Overall Quality of Proposal: Are the materials organized for easy review? Is the information presented in a way that is easily understood? Are complex terms defined for laypersons? Are the materials professional in appearance?	15	7.5	225	8.5	255	7.5	225	8.5	255	6	180
TOTAL	100		1570		1630		1475		1580		1470
Total											

#R17-3

SECURITY AGREEMENT

THE FROST NATIONAL BANK (the "Bank"), for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby grants a security interest in and a pledge and assignment of: (a) any and all Eligible Collateral (as defined below) from time to time held by **[the Federal Reserve Bank of _____/Federal Home Loan Bank/Bank One, National Association/JPMorgan Chase]** (the "Custodian"), identified on the Custodian's books as held for the account of the Depositor or jointly for the account of the Bank and the Depositor, together with (b) the products and proceeds of the foregoing and any substitutions or replacements therefor, whenever acquired and wherever located (the "Collateral") to _____ (the "Depositor"), in order to secure the payment when due, of the Deposits (as defined below) pursuant to the depository agreement dated as of the date hereof the ("Depository Agreement"), between the Bank and the Depositor:

(1) Definitions. Except as otherwise expressly defined herein, all terms used herein which are defined in the Uniform Commercial Code as in effect from time to time in Texas (the "Code") have the same meaning herein as in the Code. All other terms capitalized but not defined herein or in the Code have the meanings assigned to them in the Depository Agreement.

"Account" shall mean the separate custodial account established with Custodian in the name of Bank and for the benefit and subject to the control of Depositor as secured party in accordance with this Agreement.

"Authorized Person" shall be any officer of Depositor or Bank, as the case may be, duly authorized to give Written Instructions on behalf of Depositor or Bank, respectively, such authorized persons for Depositor to be designated in a certificate substantially in the form of Exhibit B, attached hereto, as such exhibit may be amended from time to time, or as designated in such other forms as may be prescribed by the Bank.

"Book-Entry System" shall mean the Federal Reserve/Treasury Book Entry System for receiving and delivering U.S. Government Securities.

"Business Day" shall mean any day on which Custodian and Bank are open for business and on which the Book Entry System is open for business.

"Collateral Requirement" shall mean an amount of Securities with a Market Value equal to 102% of Uninsured Deposits; provided, however, to the extent that mortgage-backed securities (declining principal balance) are used as Eligible Collateral, "Collateral Requirement" shall mean an amount of Securities with a Market Value equal to 110% of Uninsured Deposits secured with such mortgage-backed securities.

"Deposits" shall mean all deposits by Depositor in Bank, including all accrued interest thereon, that are available for all uses generally permitted by Bank to Depositor for actually and finally collected funds under the Bank's account agreement or policies.

"Eligible Collateral" shall mean any Securities of the types enumerated in the Schedule of Eligible Collateral (which types are in compliance with the collateral policy adopted and approved by the governing body of Depositor) attached hereto as Exhibit A, as such exhibit may be amended from time to time pursuant to a written amendment signed by each of the parties hereto, and any Proceeds thereof.

"Market Value" shall mean (i) with respect to any Security held in the Account, the market value of such Security as made available to Bank or Custodian by a generally recognized source selected by the Bank or the Custodian plus, if not reflected in the market value, any accrued interest thereon, or, if such source does not make available a market value, the market value shall be as determined by Custodian or the Bank in its sole discretion based on information furnished to Custodian or Bank by one or more brokers or dealers and (ii) with respect to any cash held in the Account, the face amount of such cash.

"Proceeds" shall mean any principal or interest payments or other distributions made in connection with Eligible Collateral and anything acquired upon the sale, lease, license, exchange, or other disposition of Eligible Collateral.

"Security" or "Securities" shall include, without limitation, any security or securities held in the Book-Entry System; common stock and other equity securities; bonds, debentures and other debt securities; notes, mortgages, or other obligations; and any instruments representing rights to receive, purchase, or subscribe for the same, or representing any other rights or interests therein.

"Trust Receipt" shall mean evidence of receipt, identification, and recording, including a written or electronically transmitted advice or confirmation of transaction or statement of account. Each advice or confirmation of transaction shall identify the specific securities which are the subject of the transaction. If available, statements of account may be provided by the Bank or the Custodian at least once each month and when reasonably requested by the Depositor, and must identify all Eligible Collateral in the Account and the Market Value thereof. **[When declining principal securities are used to secure funds of a school district, the district must receive a report once a month providing the total market value of those declining principal securities.]**

"Uninsured Deposits" shall mean that portion of Depositor's Deposits with Bank which exceeds the insurance coverage available from the Federal Deposit Insurance Corporation.

"Written Instructions" shall mean written communications actually received by Bank or Custodian from an Authorized Person or from a person reasonably believed by Bank or Custodian to be an Authorized Person by a computer, telex, telecopier, or any other system whereby the receiver of such communications is able to verify by codes or otherwise with a reasonable degree of certainty the identity of the sender of such communication.

(2) Security Requirement. (a) The Bank, to secure the timely payment of Uninsured Deposits heretofore or hereafter made by Depositor, has deposited with Custodian certain Securities as more fully described in the initial confirmation or Trust Receipt of such deposit delivered by Custodian to Bank and Depositor respectively. Pursuant to the Code, the Custodian shall act as a bailee or agent of the Depositor and, to the extent not inconsistent therewith, shall hold Securities as a securities intermediary (as such term is defined in Chapter 8 of the Code) in accordance with the provisions hereof, of the Depository Agreement, and of any agreement entered into with the Custodian further governing the provision of security by the Bank for Uninsured Deposits.

(b) (i) To secure the timely payment of Uninsured Deposits heretofore or hereafter made by Depositor with Bank, Bank agrees to deliver or cause to be delivered to Custodian for transfer to the Account, Eligible Collateral having a Market Value equal or greater than the Collateral Requirement.

(ii) If the Market Value of such Eligible Collateral on any Business Day is less than the Collateral Requirement for such day, the Bank shall be required to deliver additional Eligible Collateral having a Market Value equal to or greater than such deficiency as soon as possible but no later than the close of business of Custodian on the Business Day on which Bank determined such deficiency. If on any Business Day, the aggregate Market Value of the Eligible Collateral provided pursuant to this Agreement exceeds the Collateral Requirement for such day, Custodian

shall, at the direction of Bank and with the approval of the Depositor, transfer from the Account to or for the benefit of Bank, Eligible Collateral having a Market Value no greater than such excess amount.

(iii) When additional Eligible Collateral is required to cover incremental Deposits, the Bank must receive the request for collateral one (1) Business Day prior to the Business Day the incremental Deposits are actually received, and the Bank shall be required to deliver additional Eligible Collateral having a Market Value equal to or greater than the deficiency on the Business Day the incremental Deposits are actually received.

(c) For any changes made to the Eligible Collateral held in the Account due to releases, substitutions, or additions of Eligible Collateral, the Custodian shall update its records of the Account accordingly as soon as possible and promptly issue a Trust Receipt to the Depositor and the Bank.

(d) The Bank shall be entitled to income on Securities held by the Custodian in the Account, and the Custodian may dispose of such income as directed by Bank without approval of the Depositor, to the extent such income is not needed to meet the Collateral Requirement.

(3) Custody of Securities. The parties agree that all Securities held in the Account shall be treated as financial assets. For purposes of the Code, the security interest granted by Bank in the Eligible Collateral and Proceeds for the benefit of the Depositor is created, attaches, and is perfected for all purposes under Texas law from the time Custodian identifies the pledge of any Eligible Collateral or Proceeds to the Depositor and issues a Trust Receipt to the Depositor for such Eligible Collateral or Proceeds. The security interest of the Depositor in Securities and all Proceeds shall terminate upon the transfer of such Securities or Proceeds from the Account.

(4) Delivery of Securities. Bank and Depositor agree that Securities and Proceeds delivered to or received by Custodian for deposit in the Account may be in the form of credits to the accounts of Custodian in the Book Entry System. Bank and Depositor hereby authorize Custodian on a continuous and ongoing basis to deposit in the Book Entry System all Securities and Proceeds that may be deposited therein and to utilize the Book Entry System in connection with its performance hereunder. Securities and Proceeds credited to the Account and deposited in the Book Entry System will be represented in accounts that include only assets held by Custodian or its agent(s) for third parties, including but not limited to accounts in which assets are held in a fiduciary, agency, or representative capacity.

The Bank hereby acknowledges that to the extent permitted by law, the records of the Bank and/or the Custodian with respect to the pledge of Eligible Collateral as described in this Agreement: (a) may be inspected by the Depositor or by the Texas Comptroller of Public Accounts (the "Comptroller"), at any time during regular business hours of the Bank of the Custodian; (b) such records may be subject to audit or inspection at any time pursuant to Sections 2257.025 and 2257.061 of the Texas Government Code, as amended; and (c) reports must be filed by the Custodian with the Comptroller when requested by the Comptroller.

(5) Collection of Securities. If Depositor certifies in writing to Custodian that (a) Bank is in default under any underlying pledge or security agreement between Depositor and Bank, including the Depository Agreement and (b) Depositor has satisfied any notice or other requirement to which Depositor is subject pursuant to the Depository Agreement, then Depositor may give Custodian Written Instructions (x) to transfer specific amounts and issues of Securities held in the Account and, if applicable, specific amounts of the Proceeds held in the Account which have not previously been released to Bank, to designated accounts of Depositor and (y) to cease releasing to an account of Bank any Proceeds reflecting interest and principal on Securities in the Account as provided in Section 2(d) hereof.

(6) Representation and Warranties. (a) Representations of Bank. Bank represents and warrants, which representations and warranties shall be deemed to be continuing, that:

(i) the Board of Directors (or a committee thereof) of the Bank has authorized the Bank to enter into this Agreement, and such authorization is reflected in the approving resolution of the Bank's Board of Directors or a committee thereof and in the minutes of the meeting of the Board of Directors at which this Agreement was approved, and this Agreement has been legally and validly entered into and is enforceable against Bank in accordance with its terms;

(ii) this Agreement and the pledge of Eligible Collateral hereunder do not violate or contravene the terms of the Bank's charter documents, by-laws, or any agreement or instrument binding on the Bank or its property, or any statute or regulation applicable to the Bank;

(iii) the Bank has entered into this Agreement and the Depository Agreement (i) in the ordinary course of business, (ii) in good faith and on an arm's-length basis with the Depositor, (iii) not in contemplation of bankruptcy or insolvency, and (iv) without intent to hinder, delay, or defraud the Bank's creditors;

(iv) a copy of each of (A) this Agreement, (B) the Depository Agreement, and (C) the resolution of the Board of Directors (or committee thereof) of the Bank approving this Agreement and the minutes of the meeting of the Board of Directors (or committee thereof) at which this Agreement was approved, have been placed (and will be continuously maintained) in the official records of the Bank;

(iii) the Bank is the owner of Securities or of beneficial interests in Securities deposited in the Account, free of all security interests or other encumbrances, except the security interest created by this Agreement;

(iv) this Agreement was executed by an officer of Bank who was authorized by the Bank's board of directors or a committee thereof to do so;

(v) the Bank is a bank or trust company duly authorized to do business in the State of Texas; and

(vi) all acts, conditions, and things required to exist, happen, or to be performed on its part precedent to and in the execution and delivery of this Agreement by it exist or have happened or have been performed.

(b) Representations of Depositor. Depositor hereby represents and warrants, which representations and warranties shall be deemed to be continuing, that:

(i) this Agreement has been legally and validly entered into, has been approved by the Depositor's governing body, and does not and will not violate any statute or regulation applicable to it and is enforceable against Depositor in accordance with its terms;

(ii) the appointment of Custodian has been duly authorized by Depositor and this Agreement was executed by an officer of Depositor duly authorized to do so;

(iii) (A) all Securities identified on the Schedule of Eligible Collateral, attached hereto as Exhibit A, may be used to secure Depositor's Uninsured Deposits under

applicable statutes and regulations, (B) the Collateral Requirement meets the requirements of such applicable statutes and regulations, (C) the governing board of Depositor has approved a collateral policy which authorizes all such Securities to be used as Eligible Collateral, and (D) such collateral policy complies with all applicable statutes and regulations;

(iv) it will not sell, transfer, assign, convey, pledge, or otherwise dispose in whole or in part its interests in or the rights with respect to any Securities deposited in the Account, or the Proceeds thereof, except as permitted in Section 5 of this Agreement; and

(v) all acts, conditions, and things required to exist, happen, or to be performed on its part precedent to and in the execution and delivery of this Agreement exist or have happened or have been performed.

(7) Continuing Agreement. This Agreement shall continue and remain in full force and effect and shall be binding upon the Bank and its successors and assigns until such time as (a) all Deposits have been paid in full to the Depositor or as instructed by the Depositor and (b) the Depository Agreement is no longer of any force or effect.

(8) Rights and Remedies of the Depositor. The Depositor's rights and remedies with respect to the Collateral shall be those of a secured party under the Code and under any other applicable law, as the same may from time to time be in effect, in addition to those rights granted herein, in the Depository Agreement, and in any other agreement now or hereafter in effect between the Bank and the Depositor. The Depositor hereby agrees to provide the Bank and the Custodian with reasonable notice of the sale, disposition, or other intended action hereunder in connection with the Collateral, whether required by the Code or otherwise, and such notice shall constitute reasonable notice to the Bank and to the Custodian if such notice is delivered at least three days prior to such action, to the Custodian and to the Bank's address specified in Section 10 hereof.

(9) Application of Proceeds by the Depositor. In the event the Depositor sells or otherwise disposes of the Collateral in the course of exercising the remedies provided for in Section 5 hereof and in the Depository Agreement, any amounts held, realized, or received by the Depositor pursuant to the provisions hereof, including the proceeds of the sale of any of the Collateral or any part thereof, shall be applied by the Depositor first toward the payment of any costs and expenses incurred by the Depositor in enforcing this Agreement, in realizing on or protecting any Collateral and in enforcing or collecting any Deposits, including attorneys' fees, and then toward payment of the Deposits in such order or manner as the Depositor may elect. Any Collateral remaining after such application and after payment to the Depositor of all the Deposits in full shall be paid or delivered to the Bank, its successors or assigns, or as a court of competent jurisdiction may direct.

(10) Notices. Any communication, notice, or demand to be given hereunder shall be duly given when delivered in writing or sent by telex or facsimile to a party at its address indicated below.

If to the Depositor, at:

If to the Bank, at:

Ms. Donna Easterling
Assistant Vice President
Frost National Bank
P. O. Box 1600
San Antonio, TX 78296

(11) Miscellaneous. (a) Depositor agrees to furnish to Bank a new certificate substantially in the form of Exhibit B, attached hereto, or in similar forms which may be prescribed by the Bank, in the event that any present Authorized Person for the Depositor ceases to be an Authorized Person for the Depositor or in the event that any other Authorized Persons for the Depositor are appointed and authorized.

(b) In case any provision in or obligation under this Agreement shall be invalid, illegal, or unenforceable in any jurisdiction, the validity, legality, and unenforceability of the remaining provisions or obligations shall not in any way be affected or impaired thereby and if any provision is inapplicable to any person or circumstances, it shall nevertheless remain applicable to all other persons and circumstances.

(c) This Agreement may not be amended or modified in any manner except by written agreement executed by all of the parties hereto.

(d) This Agreement shall extend to and be binding upon the parties hereto, and their respective successors and assigns; provided however, that this Agreement shall not be assignable by any party without the written consent of the other parties.

(e) This Agreement shall be construed in accordance with the substantive laws of the State of Texas, without regard to conflicts of law principles thereof. Bank and Depositor hereby consent to the non-exclusive jurisdiction of a state or federal court situated in **[Texas jurisdiction [for counties, must be in that county; for independent school districts, must be in the county where the central business office is located]]** in connection with any dispute arising hereunder. Bank and Depositor hereby irrevocably waive, to the fullest extent permitted by applicable law, any objection which it may now or hereafter have to the laying of venue of any such proceeding brought in such a court and any claim that such proceeding brought in such a court has been brought in an inconvenient forum. Bank and Depositor each hereby irrevocably waives any and all rights to trial by jury in any legal proceeding arising out of or relating to this Agreement.

(Remainder of this page intentionally left blank)

IN WITNESS WHEREOF, the Bank has caused this Agreement to be duly executed as of the
_____ day of _____, _____.

FROST NATIONAL BANK

By _____
Name: Tom Frost III
Title: Senior Executive Vice President
Dated: _____

DEPOSITOR ACCEPTS AND AGREES
as of _____, _____

(DEPOSITOR)

By _____
Name:
Title:

EXHIBIT A
Schedule of Eligible Collateral

Eligible Collateral

**EXHIBIT B
 CERTIFICATE OF AUTHORIZED PERSONS
 (Depositor)**

The undersigned hereby certifies that he/she is the duly elected and acting _____ of _____ (the "Depositor"), and further certifies that the following officers or employees of Depositor have been duly authorized in conformity with the approval of the Depositor's governing body to deliver Written Instructions to the [name of custodian] ("Custodian") pursuant to the Security Agreement between Depositor and the Bank dated _____, and that the signatures appearing opposite their names are true and correct:

Name	Title	Signature

This certificate supersedes any certificate of authorized individuals you may currently have on file.

[corporate seal]

Title:

Date:

**EXHIBIT C
FORM OF AGREEMENT WITH CUSTODIAN**

[None./See attached.]

AUSTIN_1\240456\5
5521-213 01/26/2004

Council Agenda Item: #R18

SUMMARY:

Council authorization is requested of a contract with Paymentech for credit card processing services.

FINANCIAL IMPACT:

Budget: \$40,000

Anticipated Cost: \$30,600 annually

The credit card processing fees are netted against interest earnings revenue in each of the major funds (General, Utility, and Hotel). Staff anticipates that the Town will save approximately \$6,400 per year as a result of the new credit card processing agreement.

BACKGROUND:

The Town accepts credit cards as a method of payment for the following services: Athletic Club, Utilities, Building Inspection, Conference Centre, and the Municipal Court. The Town accepts MasterCard, Visa, American Express and Discover at its five locations. Currently, Addison uses Wells Fargo to process all of the Town's credit card transactions. The Town will cancel this contract upon entering into an agreement with Paymentech.

Each month, the Town processes an average of \$75,000 in credit card payments. For each transaction, the Town pays a fee to the credit card processing company. Like most businesses, the Town absorbs these fees to accelerate the collection of funds and provide a convenience to the customer. This practice is consistent with many other Metroplex communities including: Carrollton, Farmers Branch, Plano, Richardson, and University Park.

In connection with our banking services Request for Proposal (RFP), the Town also requested proposals for credit card processing services. The goal of this process was to enhance the level of customer service available to staff and lower the processing fees being paid by the Town. In response to our RFP, Frost Bank has proposed a relationship with Paymentech, Inc. for our credit card processing services. The Paymentech proposal was determined to be the best value for the Town considering cost and the level of service offered.

Since Paymentech is headquartered in Dallas, the Town expects to receive a high level of customer service and support. In addition, the Paymentech proposal will reduce the Town's credit card processing fees by approximately \$6,400 per year. The credit card processing fees vary by the type of card used (Visa, MasterCard, etc.), the transaction amount, and the transaction process used. For the typical transaction under the Paymentech proposal, the Town will pay a fee of 1.82-3.25% of the transaction amount and a small fixed transaction fee. Either the Town or Paymentech may cancel the contract with thirty days written notice.

RECOMMENDATION:

Staff recommends approval of the contract with Paymentech for credit card processing services.



New Merchant Application Checklist

RETURN TO MY OFFICE

To start the application process, provide the following:

- **Merchant Credit Card Services Agreement** (Page 1 & 2 completed and signed)
- **Signed/Initialed Schedule “A” To Merchant Agreement**
- **Include a Voided Check**
- **Three Months Previous Bank Card Processor Statements** (if currently processing)
- **New Merchant Application Checklist**
- **Financial Statements are required if merchant meets one or more of the following criteria.**

Criteria	Requirements
New business less than one year old, a Sole Owner or Partnership	Personal Financials or Income Tax Return (most recent)
Business operating at least one year	Business Financials (Income Statement and Balance Sheet)

AMERICAN EXPRESS AND DISCOVER

- **Please provide your current Discover Merchant number _____.**
Would like us to establish a Discover Merchant Account on your behalf?

Please circle One

YES* NO

*Please note that Discover will assess a \$25 Account Activation Charge

- **Please provide your current American Express Merchant number _____.** **To set up a new American Express Merchant number, please complete the included American Acceptance Agreement and return to my office.**

Thanks,

Les Dolberry
Paymentech Merchant Services
1601 Elm Street, Suite 700
Dallas, TX 75201
800-790-2008
Fax 214-849-3478
les.dolberry@paymentech.com



MERCHANT APPLICATION AND AGREEMENT

PARTIES AND SERVICES

ESTIMATED DATE OF FIRST CREDIT CARD ACCEPTANCE: _____

PAYMENTECH USE ONLY			
MERCHANT #		MCC	REFERRAL SOURCE/ASSOCIATION NAME
AGENT #	CORP #		CHAIN #
SALES REPRESENTATIVE	PHONE	SALES ID	REFERRAL NUMBER

MERCHANT INFORMATION*			
NAME OF CORPORATION OR PARTNERSHIP			IS YOUR BUSINESS SEASONAL? <input type="checkbox"/> YES <input type="checkbox"/> NO
MAILING/BILLING ADDRESS		CITY	STATE ZIP
TELEPHONE NUMBER	FAX NUMBER**	TAX ID #	TOTAL # OF LOCATIONS
MERCHANT "DOING BUSINESS AS" NAME		BUSINESS START DATE (MONTH/YEAR)	HOW LONG AT THIS LOCATION?
LOCATION ADDRESS (No P.O. Box)		CITY	STATE ZIP
TELEPHONE NUMBER	PRIMARY MERCHANT CONTACT	E-MAIL ADDRESS	
TYPE OF BUSINESS: <input type="checkbox"/> RETAIL <input type="checkbox"/> WHOLESALE <input type="checkbox"/> RESTAURANT <input type="checkbox"/> LODGING <input type="checkbox"/> MAIL ORDER <input type="checkbox"/> TELEPHONE ORDER <input type="checkbox"/> CONVENIENCE STORE <input type="checkbox"/> CONVENIENCE STORE WITH GAS <input type="checkbox"/> INTERNET <input type="checkbox"/> BUSINESS TO BUSINESS <input type="checkbox"/> HOME-BASED <input type="checkbox"/> OTHER IF INTERNET BUSINESS, LIST WEBSITE ADDRESS: _____ DESCRIBE THE MERCHANDISE SOLD OR SERVICE PROVIDED _____			
CHECK METHOD OF ADVERTISING AND INCLUDE ANY MATERIALS: <input type="checkbox"/> YELLOW PAGES AD <input type="checkbox"/> CATALOG <input type="checkbox"/> DIRECT MAIL — LETTER/BROCHURE <input type="checkbox"/> TV/RADIO <input type="checkbox"/> TELEPHONE/TELEMARKETING <input type="checkbox"/> NEWSPAPER/MAGAZINE ADVERTISEMENT <input type="checkbox"/> REFERRAL <input type="checkbox"/> INTERNET/E-MAIL			
TYPE OF OWNERSHIP: <input type="checkbox"/> SOLE OWNERSHIP <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> JOINT VENTURE <input type="checkbox"/> LLC CORP <input type="checkbox"/> PUBLIC CORP <input type="checkbox"/> PRIVATE CORP <input type="checkbox"/> GOVERNMENT CORP <input type="checkbox"/> NON-PROFIT CORP <input type="checkbox"/> OTHER			
MAIL/FAX CHARGEBACK/RETRIEVALS TO: <input type="checkbox"/> OUTLET <input type="checkbox"/> CORPORATE DELIVER STATEMENTS TO: <input type="checkbox"/> OUTLET <input type="checkbox"/> CORPORATE DELIVER BY: <input type="checkbox"/> MAIL <input type="checkbox"/> E-MAIL <input type="checkbox"/> RECON SOLUTIONS			
AMERICAN EXPRESS MERCHANT #		DISCOVER MERCHANT #	
EQUIPMENT TYPE: <input type="checkbox"/> RENT <input type="checkbox"/> PURCHASE <input type="checkbox"/> LEASE <input type="checkbox"/> REPROGRAM			
% OF ANNUAL CREDIT CARD SALES GENERATED BY: MAIL/PHONE % INTERNET % CARD SWIPE % HAND-KEYED ITEMS FACE-TO-FACE % TOTAL = 100%			
NUMBER OF DAYS TO PREPARE SHIPMENTS FOR DELIVERY TO CUSTOMER FROM DATE OF ORDER:			
PERCENTAGE OF CUSTOMER ORDERS DELIVERED IN: 0-7 DAYS 8-14 DAYS 15-30 DAYS MORE THAN 30 DAYS TOTAL = 100%			
MC/VISA SALES ARE DEPOSITED (CHECK ONE): <input type="checkbox"/> AT DATE OF ORDER <input type="checkbox"/> AT DATE OF DELIVERY <input type="checkbox"/> OTHER			

OWNERS/OFFICERS*			
(List the two owners with the largest share of ownership. Information on the individual(s) signing the application is needed below.)			
1. NAME		TITLE	PERCENT OF OWNERSHIP %
RESIDENCE ADDRESS		CITY STATE	ZIP
HOME TELEPHONE	SOCIAL SECURITY #	DATE OF BIRTH	DRIVER'S LICENSE # STATE
2. NAME		TITLE	PERCENT OF OWNERSHIP %
RESIDENCE ADDRESS		CITY STATE	ZIP
HOME TELEPHONE	SOCIAL SECURITY #	DATE OF BIRTH	DRIVER'S LICENSE # STATE
COMPANY PRESIDENT		COMPANY CFO	

CREDIT INFORMATION			
ANNUAL VISA/MASTERCARD VOLUME	AVERAGE CREDIT CARD TICKET	TOTAL SALES	
MAIL OR TELEPHONE ORDER SALES			
(Complete if your sales are generated by mail, telephone or Internet orders, or if your product is not delivered at the point of sale.)			
NAME OF FULFILLMENT HOUSE (IF ANY)	DELIVERY TIME FRAME	NAME OF SHIPPING SERVICE USED	DELIVERY TIME FRAME
FULFILLMENT HOUSE — STREET ADDRESS		SHIPPING SERVICE — STREET ADDRESS	
CITY	STATE ZIP	CITY	STATE ZIP
IF USING A FULFILLMENT HOUSE, WHO OWNS THE MAJORITY OF THE INVENTORY? <input type="checkbox"/> MERCHANT <input type="checkbox"/> FULFILLMENT HOUSE			

* Federal regulations require that we collect information to verify customer identity and that we retain this information in our records.

**By providing us your fax number, you agree that we may fax information to you from time to time regarding our products and services.

SALES DEPOSIT POLICY

ARE CONSUMERS REQUIRED TO PROVIDE A DEPOSIT? YES NO IF A DEPOSIT IS REQUIRED, WHAT PERCENT OF THE TOTAL SALE IS REQUIRED? %

MASTERCARD/VISA REFUND POLICY

DO YOU HAVE A REFUND POLICY FOR YOUR MASTERCARD/VISA SALES? YES NO
CHECK THE APPLICABLE REFUND POLICY: EXCHANGE STORE CREDIT MC/VISA CREDIT OTHER
IF MC/VISA CREDIT, WITHIN HOW MANY DAYS DO YOU DEPOSIT CREDIT TRANSACTIONS? 0-3 DAYS 4-7 DAYS 8-14 DAYS

BANK AND BUSINESS TRADE REFERENCES

BANK NAME (Please attach preprinted voided check.)	TRANSIT ROUTING # (ABA #)	ACCOUNT NUMBER	
ADDRESS	CITY	STATE	ZIP
CONTACT	PHONE		
TRADE NAME	PHONE		
ADDRESS	CITY	STATE	ZIP

IF THE MERCHANT HAS PREVIOUSLY ACCEPTED CREDIT CARDS, THE LAST 3 MONTHS' MERCHANT STATEMENTS MUST BE PROVIDED

CURRENT CREDIT CARD PROCESSING BANK, IF APPLICABLE			REASON FOR LEAVING CURRENT PROCESSOR (IF APPLICABLE)	
BANK OR PROCESSOR NAME:				
CITY	STATE	ZIP	CONTACT	PHONE

HAVE ANY OF THE PRINCIPALS EVER FILED FOR BANKRUPTCY? YES NO
IF YES, NAME: _____ CHAPTER FILED: _____ DATE: _____
HAVE ANY OF THE PRINCIPALS EVER MANAGED OR OWNED ANOTHER BUSINESS THAT ACCEPTED CREDIT CARDS? YES NO
IF YES, PROVIDE BUSINESS NAME: _____ CITY/STATE: _____

THIS MERCHANT APPLICATION AND AGREEMENT (this "Agreement") is entered into by and between PAYMENTECH, L.P., a Delaware limited partnership, and the Merchant identified in this Agreement. Under the terms of this Agreement, Company will be the sole provider to Merchant of the services necessary to authorize, process and settle all of Merchant's credit and debit card transactions set forth in Schedule A to this Agreement. If a third party referred you to Paymentech for the services provided under this Agreement, such third party may be party to the Agreement, but has no rights with respect to Merchant except as provided in such third party's agreement with us.

FOR MERCHANT AND INDIVIDUAL GUARANTORS – As the person signing below on behalf of the business designated on the above Application ("Merchant"), I certify that I am an owner, partner or officer of the Merchant and have been duly authorized to sign this Merchant Application and Agreement on behalf of the Merchant. Merchant and each guarantor signing below ("Guarantor") hereby acknowledge that they have each received and read (1) Terms and Conditions for Merchant Agreement, (2) Schedule A (Pricing) and (3) the Operating Guides - Retail and Mail Order/Telephone Order/Internet Transactions. Merchant agrees to be bound by the terms and conditions contained in those documents, and each Guarantor hereby agrees to be bound as a Guarantor of the Merchant's obligations under this agreement, according to the Personal Guaranty contained in the Terms and Conditions for Merchant Agreement. Merchant hereby authorizes Paymentech to credit and debit Merchant's designated bank account(s) in accordance with this Agreement. Merchant represents and warrants that all information on this Application, and the related information submitted in conjunction with the Application, is true, complete and not misleading. The Application now belongs to Paymentech. Merchant understands that the application fee is non-refundable. Merchant, each Owner/Officer and each Guarantor hereby authorizes and agrees that Paymentech, or its designee, may investigate and verify the credit and financial information of Merchant, each Owner/Officer and any individual Guarantor and may obtain consumer and commercial credit reports on the Guarantors, Owners/Officers and Merchant from time to time. If the Application is approved, subsequent consumer and business credit reports may be required or used in connection with the maintenance, updating, renewal or extension of the Agreement. The Merchant, Owners/Officers and each Guarantor agrees that all business references, including banks, may release any and all credit and financial information to Paymentech. ANY UNILATERAL ALTERATION, STRIKEOVER OR MODIFICATION TO THE PREPRINTED TEXT OR LINE ENTRIES OF THIS MERCHANT APPLICATION AND LEGAL AGREEMENT SHALL BE OF NO EFFECT WHATSOEVER, AND AT PAYMENTECH'S SOLE DISCRETION, MAY RENDER THIS MERCHANT APPLICATION INVALID.

MERCHANT:

BUSINESS LEGAL NAME _____

By: _____ By: _____
Individual Signature (#1 from application) Individual Signature (#2 from application)

Title: _____ Title: _____

Date: _____ Date: _____

Print Individual Name: _____ Print Individual Name: _____

GUARANTORS:

Individual Signature Individual Signature

Print Guarantor Name: _____ Date: _____ Print Guarantor Name: _____ Date: _____

For those wanting to accept American Express:

By signing below, I represent that the information I have provided on the Application is complete and accurate and I authorize American Express Travel Related Services Company, Inc. ("American Express") to verify the information on this Application and to receive and exchange information about me, including, requesting reports from consumer reporting agencies. If I ask American Express whether or not a consumer report was requested, American Express will tell me, and if American Express received a report, American Express will give me the name and address of the agency that furnished it. I understand that upon American Express' approval of the business entity indicated above to accept the American Express Card, the Terms and Conditions for American Express Card Acceptance ("Terms and Conditions") will be sent to such business entity along with a Welcome Letter. By accepting the American Express Card for the purchase of goods and/or services, you agree to be bound by the Terms and Conditions.

Signature: _____ Date: _____ AMEX Volume: _____ Rate/Monthly Fee: _____ Date: _____

APPROVED:
PAYMENTECH, L.P., by PTI General Partner, LLC, its general partner

By: _____ Title: _____ Date: _____

TERMS AND CONDITIONS FOR MERCHANT AGREEMENT

1. Merchant's Acceptance of Cards.

1.1 Exclusivity. You will tender to us Sales Data generated from all your Card transactions via electronic data transmission according to our formats and procedures. You will not use the services of any bank, corporation, entity or person other than Paymentech for authorization of Visa or MasterCard transactions or for processing MasterCard and Visa transactions throughout the term of this Agreement.

1.2 Certain Card Acceptance Policies. Each sale you make involving a Card must be evidenced by a single Sales Data record completed with the sale date and the sale amount, and other information as required by the Associations or by us. You are not allowed to impose any surcharge (except with respect to any debit Card transactions for which the applicable debit network specifically permits such charges) or finance charge on the Card transaction or otherwise require the Cardholder to pay the fees payable by you under this Agreement. You are not allowed to set a dollar amount above or below which you refuse to honor otherwise valid Cards. With respect to any transaction for which a Card is not physically presented, such as in any on-line, mail, telephone or pre-authorized transaction, you must (i) have notified us on your application or otherwise in writing of your intention to conduct such transactions and we have agreed to accept them, and (ii) have reasonable procedures in place to ensure that each Card sale is made to a purchaser who actually is the Cardholder or the authorized user of the Card. Notwithstanding the foregoing, you acknowledge that under the Association Rules, you cannot rebut a Chargeback where the Cardholder disputes making the purchase without an electronic record (swipe) or physical imprint of the Card.

1.3 Operating Guide; Association Rules. You agree to comply with all Association Rules and Operating Guide procedures, and with such other procedures as we may from time to time prescribe for the creation or transmission of Sales Data. We may modify and supplement the Operating Guide in order to comply with requirements imposed by the Association Rules. You acknowledge that you have received a copy of the Operating Guide at or prior to your execution of this Agreement, and that you can also view the Operating Guide on-line at the Paymentech Internet website.

1.4 Requirements for Sales Data. As to each Sales Data you tender to us for processing, you represent and warrant that:

(1) The Sales Data represents payment or refund of payment, for the bona fide sale or lease of the goods, services or both, which you have provided in the ordinary course of your business, and the Sales Data is not submitted on behalf of a third party.

(2) The Sales Data does not involve any element of credit for any purpose other than payment for a current transaction (including payment of a previously-dishonored check) and, except in the case of approved installment or pre-payment plans, the goods have been shipped or services actually rendered to the Cardholder.

(3) The Sales Data is free from any alteration not authorized by the Cardholder.

(4) Neither you nor your employee has advanced any cash to the Cardholder or to yourself or to any of your representatives, agents or employees in connection with the Card transaction, nor have you accepted payment for effecting credits to a Cardholder's account.

(5) To the best of your knowledge, the goods described in each Sales Data are your sole property and you are free to sell them.

(6) You have made no representations or agreements for the issuance of refunds except as it states in your return/cancellation policy, which has been previously submitted to us in writing as provided in Section 3.

(7) You have no knowledge or notice of information that would lead you to believe that the enforceability or collectibility of the subject Sales Data is in any manner impaired, and the transaction is in compliance with all applicable laws, ordinances and regulations; and you have originated the Sales Data in compliance with this Agreement and the Association Rules.

(8) For a Card sale where the Cardholder pays in installments or on a deferred payment plan, a Sales Data record has been prepared separately for each installment transaction or deferred payment on the date(s) the Cardholder agreed to be charged. All installments and deferred payments, whether or not they have been submitted to us for processing, shall be deemed to be a part of the original Card sale.

2. Authorizations.

2.1 Obtaining Authorizations. You are required to obtain authorization/approval codes for all Card transactions by contacting the center designated by Paymentech. You acknowledge that authorization/approval code of a Card transaction indicates only that credit is available for the Card transaction at the time the authorization is given, and it does not constitute a representation from us or from the Cardholder's issuing bank that a particular Card transaction is in fact a valid or undisputed transaction entered into by the actual Cardholder or an authorized user of the Card.

2.2 Lack of Authorization. We reserve the right to refuse to process any Sales Data presented by you (i) unless a proper authorization/approval code is recorded, (ii) if we determine that the Sales Data is or will become uncollectible from the Cardholder to which the transaction would otherwise be charged, or (iii) if we determine that the Sales Data was prepared in violation of any provision of this Agreement.

3. Refunds and Adjustments.

3.1 Disclosure of Refund Policy. You are required to maintain a fair policy with regard to the return/cancellation of merchandise or services and adjustment of Card sales. You are required to disclose to us on your application your return/cancellation policy. Your return/cancellation policy must be disclosed to your customers.

3.2 Changes to Policy. Any change in your return/cancellation policy must be submitted in writing to us not less than 14 days prior to any change. We reserve the right to refuse to process any Sales Data made subject to a revised return/cancellation of which we have not been notified in advance.

3.3 Procedure for Refunds/Adjustments. If you allow a price adjustment, return of merchandise or cancellation of services in connection with a Card sale, you will prepare and deliver to us Sales Data reflecting such refund or adjustment within three days of receiving the customer's request for such refund/adjustment. The amount of the refund/adjustment cannot exceed the amount shown as the total on the original Sales Data except by the exact amount required to reimburse the Cardholder for postage that the Cardholder paid to return merchandise. You are not allowed to accept cash or any other payment or consideration from a customer in return for preparing a refund to be deposited to the Cardholder's account nor to give cash refunds to a Cardholder in connection with a Card sale, unless required by law.

4. Settlement.

4.1 Submission of Sales Data. In order to receive the most favorable interchange rate, you are required to transmit your Sales Data to us on the next business day immediately following the day that such Sales Data is originated. For debit Card transactions that are credits to a Cardholder's account, you agree to transmit such transaction to us within 24 hours of receiving the authorization for such transaction. You will be solely responsible for all communication expenses required to accomplish the transmission of Sales Data.

4.2 Merchant's Bank Account. In order to receive funds from Paymentech, you must maintain a bank account at a bank that is a member of the Automated Clearing House ("ACH") system and the Federal Reserve wire system. You agree not to close your designated bank account without giving us at least five (5) days' prior written notice and substituting another bank account. You are solely liable for all fees and costs associated with your bank account and for all overdrafts. You authorize Paymentech to initiate electronic credit and debit entries and adjustments to your bank account at any time without respect to the source of any monies in the bank account. This authority will remain in full force and effect until we notify your bank that all monies due from you under this Agreement have been paid in full. We will not be liable for any delays in receipt of funds or errors in bank account entries caused by third parties, including but not limited to delays or errors by the Associations or your bank.

4.3 Travel and Entertainment Cards. You cannot submit any T&E Card transaction for processing by Paymentech unless you have in effect a valid agreement with the respective T&E Card company. For the T&E Card transactions designated on Schedule A, upon transmission of such Sales Data by you, we will forward the Sales Data to the appropriate T&E Card company. Except to the extent that we may provide funds settlement services for JCB or Diners Club/Carte Blanche transactions, payment of the proceeds due you will be governed by whatever agreement you have with that T&E Card company, and we do not bear any responsibility for their performance. If your agreement with a T&E Card company requires the T&E Card company's consent for us to perform the services contemplated by our Agreement, you are responsible for obtaining that consent.

4.4 Transfer of Settlement Funds. For all other Card transactions, we will process your Sales Data to facilitate the funds transfer between the various Associations and you for Card sales. After we receive credit for such Sales Data, we will provide provisional credit to your bank account for the proceeds. The proceeds payable to you shall be equal to the amounts received by us in respect of your Sales Data minus the sum of the following: all fees, charges and discounts set forth in Schedule A, all adjustments and Chargebacks, all equipment charges (if any), all Cardholder refunds and adjustments, all Reserve Account amounts, and any fees, charges, fines, assessments, penalties, or other liabilities that may be imposed from time to time by the Associations, all of which amounts are due and payable at the time the related services are rendered to you or the related Chargebacks or other fees or adjustments are received from the Associations. Alternatively, at our option, we may debit your bank account for such amounts when they become due and payable and increase the proceeds payable to you accordingly.

4.5 Negative Amounts. To the extent Sales Data does not represent sufficient credits or the bank account does not have a sufficient balance to pay amounts due under this Agreement, we may pursue one or more of the following options: (i) demand and receive immediate payment for such amounts; (ii) debit your bank account for the amount of the negative balance; (iii) withhold your settlement payments until all amounts are paid; (iv) delay presentation of your refunds until you make a payment to us of a sufficient amount to cover the negative balance; (v) collect any amount due or which may become due to us from any of your bank accounts without notice to you and (vi) pursue any remedies we may have at law or in equity. Furthermore, if the amount represented by your Sales Data in any day is negative due to refunds/customer credits being submitted by you in excess of your sales, you are required to provide us with sufficient funds prior to the submission of the Sales Data so as to prevent the occurrence of a negative balance.

4.6 Delinquency/Merchant Fraud. At any time and from time to time we may temporarily suspend or delay payments to you and/or designate an amount of funds that we must maintain in order to protect us against the risk of existing, potential or anticipated Chargebacks and to satisfy your other obligations under this Agreement (the "Reserve Account"), which may be funded in the same manner as provided for negative balances in Section 4.5. The Reserve Account will contain sufficient funds to cover any unbilled processing costs plus our estimated exposure based on reasonable criteria for Chargebacks, returns and unshipped merchandise and/or unfulfilled services. We may (but are not required to) apply funds in the Reserve Account toward, and may set off any funds that would otherwise be payable to the Merchant against, the satisfaction of any amounts which are or become due from Merchant pursuant to this Agreement. The Reserve Account will not bear interest, and you will have no right or interest in the funds in the Reserve Account. Any funds in the Reserve Account may be commingled with other funds, and need not be maintained in a separate account. Effective upon our establishment of a Reserve Account, you irrevocably grant to us a security interest in any and all funds, together with the proceeds thereof, that may at any time be in our possession and would otherwise be payable to you pursuant to the terms of this Agreement. You agree to execute and deliver to us such instruments and documents that we may reasonably request to perfect and confirm the security interest and right of setoff set forth in this Agreement. Merchant's obligations and Paymentech's rights under this Section 4.6 survive termination of this Agreement.

5. Accounting. We will supply a detailed statement reflecting the activity for your Merchant account(s) by on-line access (or otherwise if we agree). We will not be responsible for any error that you do not bring to our attention within 45 days from date of such statement.

6. Retrieval Requests.

6.1 Records. You are required by the Associations to store original documentation of each transaction for at least six months from the date of the respective transaction, and to retain copies of all such data for at least 18 months from the date of the respective transaction. You are not allowed to charge a fee for the creation or storage of such copies. We may, at our discretion, require you to deliver copies of Sales Data to us rather than storing it.

6.2 Response to Retrieval Requests. We will send you any Retrieval Request that we cannot satisfy with the information we have on file concerning any Card sale. In response, you must provide us in writing by certified or overnight mail or by confirmed fax (or by other means as agreed by Paymentech) the resolution of your investigation of such Retrieval Request and include legible copies of any documentation required by the Retrieval Request within seven business days after we send it to you (or such shorter time as the Association Rules may require and of which we notify you). You acknowledge that your failure to fulfill a Retrieval Request in accordance with Association Rules may result in an irreversible Chargeback.

7. Chargebacks.

7.1 Chargeback Reasons. You may receive a Chargeback from a Cardholder or Card issuer for a number of reasons under the Association Rules. The following are some of the most common reasons for Chargebacks:

- (1) Your failure to issue a refund to a Cardholder upon the return or non-delivery of goods or services.
- (2) An authorization/approval code was required and not obtained.
- (3) The Sales Data is prepared incorrectly or fraudulently.
- (4) We did not receive your response to a Retrieval Request within seven business days or any shorter time period required by the Association Rules.
- (5) The Cardholder disputes the Card sale or the signature on the sale documentation, or claims that the sale is subject to a set-off, defense or counterclaim.
- (6) The Cardholder refuses to make payment for a Card sale because in the Cardholder's good faith opinion, a claim or complaint has not been resolved, or has been resolved by you but in an unsatisfactory manner.
- (7) The Card was not actually presented at the time of the sale or you failed to obtain an electronic record or a physical imprint of the Card, and the Cardholder denies making the purchase. The Merchant acknowledges that, under these circumstances, the fact that an authorization/approval code was obtained does not mean that a particular Card transaction is in fact a valid or undisputed transaction entered into by the actual Cardholder or an authorized user of the Card.

7.2 Excessive Chargebacks. If we determine that you are receiving an excessive amount of Chargebacks, in addition to our other remedies under this Agreement we may take the following actions: (1) review your internal procedures relating to acceptance of Cards and notify you of new procedures you should adopt in order to avoid future Chargebacks; (2) notify you of a new rate we will charge you to process your Chargebacks; (3) collect from you (pursuant to Section 4.6) an amount reasonably determined by us to be sufficient to cover anticipated Chargebacks and related fees and fines; or (4) terminate the Agreement with written notice of termination. You also agree to pay any and all Association fees and fines assessed against you or against Paymentech relating to your violation of the Agreement, the Operating Guide or the Association Rules with respect to your transactions or with respect to excessive Chargebacks under this Section.

7.3 Claims of Cardholder Customers. You have full liability if any Sales Data for which we have given your bank account provisional credit is the subject of a Chargeback. Subsequently, you are allowed to resubmit applicable Sales Data for a second presentation, but only in accordance with Association Rules. To the extent that we have paid or may be called upon to pay a Chargeback or refund/adjustment for or on the account of a Cardholder and you do not reimburse us as provided in this Agreement, then for the purpose of our obtaining reimbursement of such sums paid or anticipated to be paid, we have all of the rights and remedies of such Cardholder under applicable federal, state or local law and you authorize us to assert any and all such claims in our own name for and on behalf of any such Cardholder customer individually or all such Cardholder customers as a class.

8. Advertising. Wherever you accept Cards, you will inform the public of the Cards that you honor. However, you may not indicate that any of the Associations endorses your goods or services.

9. Fees.

9.1 Schedule A. You agree to pay us for our services as set forth in Schedule A in accordance with this Agreement. Unless otherwise expressly stated in Schedule A, such pricing is based on all transactions qualifying under the Association Rules for the lowest Association interchange rates. For Sales Data that does not qualify, Association interchange fees provide for a "down-grade," and we will apply a higher rate for the non-qualifying transactions than the qualifying rate shown on Schedule A.

9.2 Price Changes. We may modify the pricing on Schedule A with thirty days' prior written notice. In addition, by giving written notice to you we may change our fees, charges and discounts resulting from (i) changes in Association fees (such as interchange, assessments and other charges) or (ii) changes in pricing by any third party provider of a product or service used by you. Such new prices will be applicable to you as of the effective date established by the Association or third party provider, or as of any later date specified in our notice to you.

10. Termination.

10.1 Term. The original term of this Agreement shall commence with our acceptance hereof (as evidenced by the execution of the Agreement by us), and shall continue until either (i) terminated by you by giving at least thirty days' prior written notice to us, or (ii) terminated by us by giving notice to you (such termination by us to be effective as of a date set forth in such notice or, if no such date is set forth, to be effective as of the date such notice is received by you). Also, we may terminate the Agreement if an Association notifies us that it is unwilling to continue accepting your Sales Data.

10.2 Termination for Cause. If our services provided under this Agreement fail to conform to generally accepted standards for such services in the Card processing industry then your sole remedy for such failure shall be that: upon notice from you specifying the failure of performance, we will rectify such failure of performance. If we do not rectify our failure of performance within thirty days after receipt of notification, then you may terminate this Agreement upon thirty days' written notice to us. If you terminate the Agreement within the first three years following the date of Company's execution of this Agreement, you agree to pay de-conversion fees of two hundred fifty dollars (\$250.00) for each Merchant location that has submitted Sales Data pursuant to this Agreement. Such amount will be funded, to the extent possible, according to the same methods for collecting amounts due under Section 4.5 of this Agreement. We may terminate this Agreement at any time upon written notice to you as a result of any of the following events: (i) any noncompliance with this Agreement, the Association Rules or the Operating Procedures, (ii) any voluntary or involuntary bankruptcy or insolvency proceeding involving Merchant, (iii) Paymentech deems Merchant to be financially insecure, or (iv) Merchant or any person owning or controlling Merchant's business is or becomes listed in the MATCH file (Member Alert to Control High-Risk Merchants) maintained by Visa and MasterCard or any Association notifies us that it is no longer willing to accept your Sales Data. We may terminate you at any time without notice and charge you the foregoing de-conversion fee as a result of any of the following events: (i) you never transmit Sales Data to us once a merchant account number is issued to you, or (ii) you do not transmit Sales Data to us for a period of more than 60 consecutive days.

10.3 Account Activity After Termination. Termination does not affect either party's respective rights and obligations under this Agreement as to Sales Data submitted before termination. If you submit Sales Data to us after the date of termination for which you have given us notice, we may, at our discretion, process such Sales Data in accordance with the terms of this Agreement. Upon notice of any termination of this Agreement, we may notify you of the estimated aggregate dollar amount of Chargebacks and other obligations and liabilities that we reasonably anticipate subsequent to termination, and you agree to immediately deposit such amount, or we may withhold such amounts from your credits, in order to establish a Reserve Account pursuant to and governed by the terms and conditions of Section 4.6.

11. Indemnity. You agree to indemnify Paymentech, the Associations, and each of their affiliates, officers, directors, employees, and agents from any losses, liabilities, and damages of any and every kind (including, without limitation, our costs, expenses and reasonable attorneys' fees) arising out of any claim, complaint, or Chargeback (i) made or claimed by a Cardholder with respect to any Sales Data submitted by you or (ii) caused by your noncompliance with this Agreement or the Association Rules, including any breach of a representation or warranty made by you, or (iii) any voluntary or involuntary bankruptcy or insolvency proceeding by or against you. The indemnification provided for in this Section does not apply to any claim or complaint to the extent it is caused by Paymentech's own negligence or willful misconduct. The indemnity provided under this Section 11 shall survive the termination of this Agreement.

12. No Disclosure of Cardholder Information. You agree to exercise reasonable care to prevent disclosure of any Card or Cardholder information (including, without limitation, any Cardholder's name, account number, or any information about any transaction) (collectively, the "Cardholder Information"), other than to your agents and contractors for the purpose of assisting you in completing a Card transaction, or to the applicable Association, or as specifically required by law. You agree not to use any account information or other Cardholder Information other than for the sole purpose of completing the transaction authorized by the customer for which the information was provided to you, or as specifically allowed by Association Rules or required by law. Merchant agrees to comply with all security standards and guidelines that may be published from time to time by Visa, MasterCard or any other Association, including, without limitation, the Visa U.S.A. Cardholder Information Security Program (described in more detail in the Operating Guide). You understand that failure to comply with the CISP requirements and other Security Guidelines may result in fines by Visa, and you agree to indemnify and reimburse us immediately for any fine imposed due to your breach of this Section. Merchant agrees to allow Paymentech or any Association to inspect Merchant's premises and computers, and the premises and computers of any company the Merchant has contracted with, for the purposes of verifying that Cardholder Information is securely stored and processed, and is not used for any purpose other than processing the transactions to which it relates. Merchant hereby indemnifies Paymentech and its assigns and successors for any liability, claims, obligations, damages, costs, fees (including, without limitation, attorneys' fees) or expenses incurred as a result of or in connection with Merchant's failure to follow the Security Guidelines, Merchant's failure (whether negligent or otherwise) to maintain the security or confidentiality of Cardholder Information, or Merchant's misuse of any such information. If at any time either party determines that Card account number information has been compromised, such party will notify the other party immediately and assist in providing notification to the proper parties as we deem necessary. Merchant information may be shared by us with our affiliates subject to the provisions of this Agreement and Association Rules.

13. Information About Merchant's Business.

13.1 Additional Financial Information. Each of Merchant and the undersigned Guarantors agrees to furnish to us upon five (5) days' notice such financial statements and information concerning such Guarantors and Merchant or its parent, subsidiary and affiliated entities as we may from time to time request.

13.2 Other Information. With prior notice and during your normal business hours, our duly authorized representatives may visit your business premises and may examine only that part of your books and records that pertain to your Sales Data and Card sales. You agree to provide us at least thirty days' prior written notice of your intent to change your product line or services, or your trade name, or the manner in which you accept Cards. If we determine such a change is material to our relationship with you, we may refuse to process Sales Data made pursuant to the change. You agree to provide us with prompt written notice if you are the subject of any voluntary or involuntary bankruptcy or insolvency petition or proceeding.

14. Disclaimer; Limitation of Damages. Subject to Section 5, we will, at our own expense, correct any data in which (and to the extent that) errors have been caused by us, or by malfunctions of our Intellectual Property or machines. Under no circumstances will Paymentech's financial responsibility for Paymentech's failure of performance under this Agreement exceed the total fees paid to us under this Agreement (net of Association interchange, assessments and fines) for the six months prior to the time the liability arose. EXCEPT AS OTHERWISE PROVIDED FOR IN THIS AGREEMENT, IN NO EVENT WILL EITHER PARTY, ITS RESPECTIVE EMPLOYEES OR AFFILIATES, BE LIABLE FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES. WHILE BOTH PARTIES ACKNOWLEDGE THAT THIS IS AN AGREEMENT FOR SERVICES TO WHICH THE UNIFORM COMMERCIAL CODE DOES NOT APPLY, PAYMENTECH HEREBY DISCLAIMS ANY AND ALL WARRANTIES WITH RESPECT TO THE SERVICES, PRODUCTS AND EQUIPMENT PROVIDED HEREUNDER, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR USE FOR A PARTICULAR PURPOSE.

15. Intellectual Property.

15.1 License. We retain all ownership and copyright interest in and to any and all Intellectual Property, computer programs, related documentation, technology, know how and processes developed by us and provided in connection with this Agreement (collectively, the "Intellectual Property"), and we grant you a non-exclusive license to use the Intellectual Property for the limited purpose of performing under this Agreement. Unless otherwise provided in a separate agreement between you and us, any equipment, terminals or machinery provided by us but not developed by Paymentech, is being licensed or purchased by you directly from the manufacturer or developer of such machinery or Intellectual Property. You acknowledge that the license granted herein is limited to your own use exclusively and that you do not have the right to sub-license any of the Intellectual Property in either their original or modified form. You agree that you will not reverse-engineer, disassemble or decompile the Intellectual Property. Merchant shall not give any third party, except Merchant's employees, access to the Intellectual Property without our prior written consent. Merchant's obligations under this Section 15.1 shall survive the termination of this Agreement.

15.2 Infringement Warranty. We represent and warrant that your use of the Intellectual Property as contemplated by this Agreement does not violate any copyright, patent, trade secret, or trademarks of any person. We will defend (or settle) at our own expense any and all claims that the above items infringe a trademark, copyright, trade secret, or patent, if you give us prompt notice of any such claim or lawsuit against you relating to the Intellectual Property. If your use of the Intellectual Property is prevented by any legal process, we will procure for you the right to continue to use the Intellectual Property, or modify the Intellectual Property so that it is no longer infringing, or replace the Intellectual Property with non-infringing Intellectual Property of equal or superior functional capability.

16. Miscellaneous.

16.1 Taxes. You agree to pay any taxes imposed on the services, Equipment and Intellectual Property provided under this Agreement, and you authorize us to increase the amount of your payment to reflect any and all assessments or increases in the sales, use, occupational, property, lease or other taxes imposed on such sale or lease of services or Intellectual Property.

16.2 Application and Credit Check. All statements made on your Application for this Agreement are true as of the date of your execution of this Agreement. Your signature on this Agreement authorizes us to perform any credit check deemed necessary of Merchant and its principals and guarantors.

16.3 Section Headings. The section headings of this Agreement are for convenience only and do not define, limit or describe the scope or intent of this Agreement.

16.4 Assignment. We cannot assign this Agreement without your prior written consent, except that we may assign this Agreement to a Visa and MasterCard member qualified to perform our obligations under this Agreement. You cannot assign or transfer your rights or delegate your responsibilities under this Agreement without our prior written consent.

16.5 Parties. This Agreement binds you and us and our respective heirs, representatives, successors (including those by merger and acquisition) and permitted assigns. You represent and warrant that your execution of and performance under this Agreement (i) in no way breaches, contravenes, violates or in any manner conflicts with any of your other legal obligations, including, without limitation, your corporate charter or similar document or any agreement between you and any third party; and (ii) has been duly authorized by all necessary action and does not require any consent or other action by or in respect of any third party and that the person signing this Agreement on your behalf is duly authorized to do so. In providing services to you, we will not be acting in the capacity of your agent, partner, or joint venturer, and we are acting as an independent contractor. Each party agrees that the other party may publicly disclose, through press releases or otherwise, the existence of the business relationship that is the subject of this Agreement. Any such disclosure may identify the parties by name but shall not, without the prior written consent of the non-disclosing party, include any of the terms of this Agreement.

16.6 Severability. Should any provision of this Agreement be determined to be invalid or unenforceable under any law, rule or regulation, such determination will not affect the validity or enforceability of any other provision of this Agreement.

16.7 Waivers. No term or condition of this Agreement may be waived unless both parties sign a written waiver.

16.8 Entire Agreement. The Association Rules, Operating Guide, and all schedules, and attachments to this Agreement are made a part of this Agreement for all purposes. This Agreement represents the entire understanding between Merchant and Paymentech with respect to the matters contained herein. This Agreement shall prevail over the terms of any agreement governing the bank account.

16.9 Notices. Except as otherwise provided in this Agreement, all notices must be given in writing and either hand delivered, faxed, or mailed first class, postage prepaid (and deemed to be delivered when mailed) to the addresses set forth below or to such other address as either party may from time to time specify to the other party in writing.

16.10 Governing Law; Waiver of Jury Trial; Arbitration. This Agreement will be governed by and construed in accordance with the laws of the State of Texas without reference to conflict of law provisions. Any action, proceeding, arbitration or mediation relating to or arising from this Agreement must be brought, held, or otherwise occur in the federal judicial district that includes Dallas County, Dallas, Texas. PLEASE READ THIS PROVISION CAREFULLY. IT PROVIDES THAT ANY DISPUTE MAY BE RESOLVED BY BINDING ARBITRATION. ARBITRATION REPLACES THE RIGHT TO GO TO COURT, INCLUDING THE RIGHT TO A JURY AND THE RIGHT TO PARTICIPATE IN A CLASS ACTION

OR SIMILAR PROCEEDING. Any claim, dispute or controversy ("Claim") by either you or Paymentech against the other, or against the employees, agents, parents, subsidiaries, affiliates, beneficiaries, agents or assigns of the other, arising from or relating in any way to this Agreement or to our relationship, including Claims regarding the applicability of this arbitration clause or the validity of the entire Agreement, shall be resolved exclusively and finally by binding arbitration administered by the National Arbitration Forum, under its Code of Procedure in effect at the time the Claim is filed, except as otherwise provided below. All Claims are subject to arbitration, no matter what theory they are based on or what remedy they seek. This includes Claims based on contract, tort (including intentional tort), fraud, agency, your or our negligence, statutory or regulatory provisions, or any other sources of law. Claims and remedies sought as part of a class action, private attorney general or other representative action are subject to arbitration on an individual (non-class, non-representative) basis, and the arbitrator may award relief only on an individual (non-class, non-representative) basis. You and Paymentech will agree on another arbitration forum if the National Arbitration Forum ceases operations. The arbitration will be conducted before a single arbitrator and will be limited solely to the Claim between you and us. The arbitration, or any portion of it, will not be consolidated with any other arbitration and will not be conducted on a class-wide or class action basis. If either party prevails in the arbitration of any Claim against the other, the non-prevailing party will reimburse the prevailing party for any fees it paid to the National Arbitration Forum in connection with the arbitration, as well as for any reasonable attorneys' fees incurred by the prevailing party in connection with such arbitration. Any decision rendered in such arbitration proceedings will be final and binding on the parties, and judgment may be entered in a court of competent jurisdiction. Rules and forms of the National Arbitration Forum may be obtained and Claims may be filed at any National Arbitration Forum office, www.arb-forum.com, or P.O. Box 50191, Minneapolis, Minnesota 55405, telephone 1-800-474-2371. Any arbitration hearing at which you appear will take place at a location within the federal judicial district that includes Dallas, Texas. This arbitration agreement is made pursuant to a transaction involving interstate commerce, and shall be governed by the Federal Arbitration Act, 9 U.S.C. §§ 1-16. This arbitration agreement applies to all Claims now in existence or that may arise in the future. Nothing in this agreement shall be construed to prevent any party's use of (or advancement of any Claims, defenses or offsets in) bankruptcy or repossession, replevin, judicial foreclosure or any other prejudgment or provisional remedy relating to any collateral, security or other property interests for contractual debts now or hereafter owed by either party to the other. IN THE ABSENCE OF THIS ARBITRATION AGREEMENT, YOU AND WE MAY OTHERWISE HAVE HAD A RIGHT OR OPPORTUNITY TO LITIGATE CLAIMS THROUGH A COURT BEFORE A JUDGE OR A JURY, AND/OR TO PARTICIPATE OR BE REPRESENTED IN LITIGATION FILED IN COURT BY OTHERS (INCLUDING CLASS ACTIONS), BUT EXCEPT AS OTHERWISE PROVIDED ABOVE, THOSE RIGHTS, INCLUDING ANY RIGHT TO A JURY TRIAL, ARE WAIVED AND ALL CLAIMS MUST NOW BE RESOLVED THROUGH ARBITRATION.

16.11 Force Majeure. Neither party will be liable for delays in processing or other nonperformance caused by such events as fires, telecommunications or utility or power failures, equipment failures, labor strife, riots, war, nonperformance of our vendors or suppliers, acts of God, or other causes over which the respective party has no reasonable control, except that nothing in this Section 16.11 will affect or excuse your liabilities and obligations for Chargebacks, refunds or unfulfilled products and services.

17. Definitions.

17.1 Application is your statement of your financial condition and the characteristics of account that you have submitted to us on the cover pages of this Agreement and related information, to induce us to enter into this Agreement with you and that has induced us to process your Card transactions under the terms and conditions of this Agreement.

17.2 Association is a group of Card issuer banks and debit networks that facilitates the use of payment cards, such as the systems operated by MasterCard International, Inc. and Visa, Inc. Association Rules are the bylaws, rules, and regulations, as they exist from time to time, of the Associations.

17.3 Card is both the plastic card or other evidence of the account and the account number, issued by a Card issuer to the Cardholder, either of which you accept from your customers as payment for their purchases from you, such as debit and credit cards issued by MasterCard, Visa, Diners and JCB or such other payment card as we may hereafter agree.

17.4 Cardholder is the person to whom the Card is issued and who is entitled to use the Card.

17.5 Chargeback is a reversal of a Card sale you previously presented pursuant to Association Rules.

17.6 Merchant, "you" and "your" is the Merchant identified in the Application on the cover page of the Agreement.

17.7 Paymentech, "we" and "our" and "us" is Paymentech, L.P., a Delaware limited partnership, having its principal office at 1601 Elm Street, Dallas, Texas 75201, and is a member of Visa and MasterCard.

17.8 Retrieval Request is a request for information by a Cardholder or Card issuer relating to a claim or complaint concerning a Card sale you have made.

17.9 Sales Data is the evidence and electronic record of a sale or lease transaction representing payment by use of a Card or of a refund/credit to a Cardholder.

17.10 T&E Card is a travel and entertainment Card issued by American Express, Novus/Discover, Carte Blanche, Diner's Club, or such other T&E Card for which we may agree to accept submissions in the future.

PERSONAL GUARANTY

To induce Paymentech to enter into the foregoing Agreement (as the same may hereafter be renewed, modified, extended or amended, the "Agreement"), and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the guarantors named on the cover page of the Agreement (each a "Guarantor" and collectively, the "Guarantors") jointly and severally, irrevocably and unconditionally guarantee to Paymentech, L.P. ("Paymentech") and its successors and assigns the due and punctual payment of the "Indebtedness" (hereinafter defined). As used herein, the term "Indebtedness" means all indebtedness, obligations and liabilities of the merchant identified on the cover page of the Agreement ("Merchant") to Paymentech at any time created or arising, including but not limited to all indebtedness, obligations and liabilities of Merchant arising under the Agreement.

This Personal Guaranty is a guaranty of payment and not a guaranty of collection. Each Guarantor agrees that he or she is liable for the Indebtedness as primary obligor. Paymentech may proceed against one or more Guarantors whether or not Paymentech proceeds against Merchant, any other obligors, or any collateral securing the Indebtedness. This Personal Guaranty may not be revoked by any Guarantor and shall continue to be effective with respect to any Indebtedness arising or created after any attempted revocation.

Each Guarantor acknowledges that he or she is a principal owner of Merchant's business and will benefit from the services and financial accommodation provided by Paymentech to Merchant's business. Each Guarantor is familiar with, and has independently reviewed books and records regarding, the financial condition of Merchant and is familiar with the value of any and all collateral intended to be created as security for the payment of the Indebtedness. However, no Guarantor is relying on such financial condition or collateral, including but not limited to the Merchant's Reserve Account (if any), as an inducement to enter into this Personal Guaranty.

The obligations of each Guarantor hereunder shall be enforceable irrespective of the validity, legality or enforceability of Merchant's obligations (including, without limitation, the expiration of any applicable limitations period) and shall not in any way be affected by or conditional upon (i) any action taken under the Agreement or the exercise of any right or power thereby conferred; (ii) the bankruptcy or similar proceedings involving or affecting Merchant; (iii) any assignment, modification, alteration, or amendment of, or addition to, the Agreement whether with or without such Guarantor's knowledge or consent; (iv) any renewal, extension, increase, modification, alteration or rearrangement of all or any part of the Indebtedness; (v) any adjustment, indulgence, forbearance or compromise that might be granted by Paymentech to Merchant or any Guarantor; or (vi) any other action, inaction or circumstance whatsoever (with or without notice to or knowledge of or consent by such Guarantor) that may in any manner vary the risks of such Guarantor or might otherwise constitute a legal or equitable defense or discharge of any surety or guarantor. The Guarantor hereby waives all defenses based on occurrences of the types described in clauses (i) through (vi) above.

Guarantors authorize Paymentech, from time to time, without notice or demand and without affecting their liability hereunder, to (i) renew, compromise, extend, accelerate or otherwise change the time for payment of, or otherwise change the terms of, the Indebtedness or the Agreement; (ii) take and hold security for the payment of the Indebtedness or this Personal Guaranty, and exchange, enforce, waive and release any such security, or take additional security; (iii) apply such security or the proceeds thereof in such order or manner as Paymentech, in its discretion, may determine; (iv) release, in whole or in part, Merchant or any Guarantor from liability for the payment of the Guaranteed Debt; (v) substitute any one or more of the Guarantors or acquire additional guarantors, and (vi) to obtain and review such information (including, without limitation, the reports of any consumer credit bureau) as Paymentech may deem necessary to confirm Guarantors' creditworthiness.

Guarantors hereby waive notice of (i) the incurrence by Merchant of any Indebtedness; (ii) acceptance of this Personal Guaranty Agreement; (iii) any renewal, modification, extension or amendment of the Agreement or of any other instrument or document pertaining to all or any part of the Indebtedness; (iv) the occurrence of any breach or default under the Agreement; (v) Paymentech's transfer or disposition of the Indebtedness, or any part thereof; (vi) sale or foreclosure (or posting or advertising for sale or foreclosure) of any collateral for the Indebtedness; (vii) protest, proof of non-payment or default by Merchant; and (viii) any other action at any time taken or omitted by Paymentech. Guarantors hereby waive all presentments; demands for performance or payment; protests; notices of protest, nonperformance, dishonor, default and non-payment; and all other notices or formalities.

This Personal Guaranty shall be binding on, and inure to the benefit of, the parties hereto and their respective heirs, administrators, legal representatives, successors and assigns. Guarantors may not, without the prior written consent of Paymentech, assign any of their rights, powers, duties or obligations hereunder. Guarantors jointly and severally agree to pay reasonable attorneys' fees and all other costs and expenses which may be incurred by Paymentech in the enforcement of this Personal Guaranty. Paymentech's rights hereunder shall be cumulative of any and all other rights that Paymentech may have against Guarantors.

EQUIPMENT PRICING GUIDE

January, 2004

Following is Paymentech Merchant Services equipment prices. This price includes programming, shipping, training, face plates, manual and quick cards, but does not include applicable sales tax. The equipment may be purchased or leased. The lease is a 36 or 48 month, non-cancelable lease.

Equipment	Purchase Price	Lease Price 36 month	Lease Price 48 month
Omni 3750-Ethernet (Internet Connectivity) (Integrated Terminal/Printer & Pin Pad) 5 year warranty	\$699	\$42	\$37
Omni 3750 Dial Terminal (Integrated Terminal/Printer & Pin Pad) 5 year warranty	\$635	\$40	\$34
Omni 3200SE (Integrated Terminal/Printer) (5 year warranty on Terminal)	\$550	\$38	\$32
Hypercom T7Plus (Integrated Terminal/Printer) (5 year warranty on Terminal & 1 year on Printer)	\$550	\$38	\$32
Omni 3200SE with Pin Pad 1000SE	\$665	\$42	\$37
Hypercom T77T, T77F or T77 S	\$565	\$39	\$33
Eclipse (Integrated Terminal/Printer and Check Reader)	\$725	\$42	\$36
Tranz 330 with P900 Printer	\$675	\$37	\$32
Hypercom T8 (No Printer)	\$395	\$32	\$26
P900 Printer	\$296	N/A	N/A
Hypercom Pin Pad S8	\$179	N/A	N/A
Pin Pad 1000	\$175	N/A	N/A
Manual Imprinter (receipt purposes only)	\$38	N/A	N/A

IF YOU WISH TO LEASE, PLEASE CALL 1-800-790-2008 AND WE WILL BE GLAD TO SEND YOU A LEASE AGREEMENT.

EQUIPMENT INFORMATION

TERMINAL MODEL: _____

PURCHASE _____ @ \$ _____ ea OR EXISTING _____

PRINTER MODEL: _____

PURCHASE _____ @ \$ _____ ea OR EXISTING _____

MANUAL IMPRINTER _____ @ \$35.00 ea

** Enter the quantities and dollar amounts for each item requested.*

NON-BANKCARD MERCHANT NUMBERS

DISCOVER _____ AMEX _____

DINERS _____ JCB _____

** Enter the merchant number(s) for any cards you currently accept on the appropriate line.*

ATTACH VOIDED CHECK HERE

MERCHANT NAME _____

MERCHANT SIGNATURE _____

DATE _____



EXECUTIVE SUMMARY

Paymentech, a full service electronic payment solution provider, is the largest processor and acquirer of credit and debit card transactions (7 billion transactions in 2003) in North America. Paymentech provides credit and debit authorization services and bankcard settlement processing for direct merchant customers, financial institutions and sales agents. Paymentech is the largest payment provider for Direct Marketing, Internet Retailers and Online Service Providers.

Our Competitive Advantage

We are known in the industry for our secure and reliable payment solutions. Paymentech has been the premier payment processor in the industry since 1985. Our systems and processing environments are designed to meet the specific needs of our merchants. Low interchange rates, effective customer service, latest technology, minimization of fraud and chargebacks, and industry leading products differentiate us from the competition.

We are the processor of choice for merchants doing business in the retail, restaurant, lodging, insurance, petroleum, catalog, Internet, cable and telecommunications industries. We dominate in these industries because:

- We own our own authorization network.
- Our product team is constantly creating new products to keep up with the needs of the market.
- We own and manage our stored value program, known as FlexCache, to assist merchants in gaining loyalty and incremental sales.
- We own and manage Orbital ebusiness solutions, a state-of-the-art payment gateway and related suite of ecommerce products.
- We process transactions in 14 global currencies, including the Euro.
- We have flexible and powerful online reporting tools that empower our merchants to access and download their financial data quickly and easily.
- We have partnered with the industry's leading providers of vital business services, from third-party providers of order fulfillment and billing systems to cutting-edge electronic commerce vendors, to offer merchants a full complement of services.
- We are active on the governing boards and committees of both the MasterCard and Visa card associations to ensure that the client's best interests are addressed as the electronic payments industry evolves.

Electronic Payment Services Overview

Paymentech's payment services allow merchants to accept bank ACH payments and also card payments from any major card brand. Through the ACH system, merchants can access funds at any US or Canadian bank utilized by its customers. Cards accepted include Visa, MasterCard, American Express, Discover, Diners, Carte Blanche and JCB cards. "Acceptance"

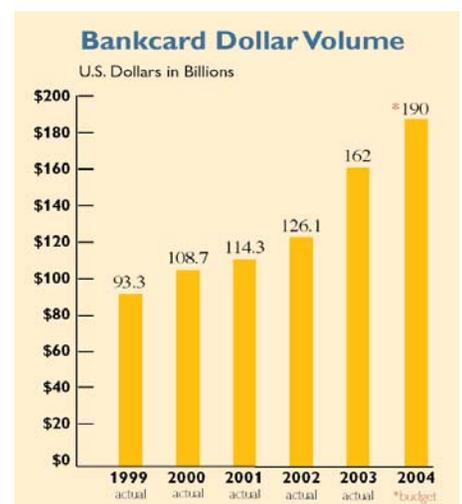
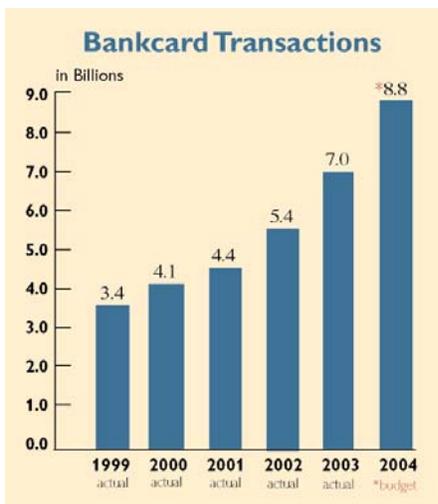
is a multi-function event, as Paymentech:

1. Works with client to determine the best system for initiating a payment transaction (i.e. software solution, POS terminals, Internet gateway)
2. Provides the communications networks to carry the transaction
3. Provides systems to receive and process the transactions
4. Interfaces to the appropriate card authorization system or systems to settle and move the resulting funds of the transaction

In addition, Paymentech operates backend systems to assist the client in managing the payment transaction lifecycle, which includes providing reporting, data files and chargeback resolution systems. In 2003, Paymentech processed \$162 billion of credit card transactions.

Positioned for Success

Our diverse processing portfolio, powerful information infrastructure and creative leadership, teamed with a strong financial balance sheet, position Paymentech to be the premier payment processor in the industry now and in the future.



Assumptions

MC/Visa Sales volume	\$1,000,000
Average Transaction amount	\$75.00
Chargeback %	0.025%
Number of locations	6
Amex & Discover transactions	2,616
Diners & JCB transactions	0

Fees

1. Initiation & service fees

Annual fee	N/A
Application fee	N/A
Rush fee	N/A
PIN Debit Setup fee	N/A
Pin Pad Encryption fee	N/A
Monthly Helpdesk fee	N/A
Monthly Service fee	N/A
Supply fee <input checked="" type="checkbox"/> Per Order <input type="checkbox"/> Per Month	N/A
Terminal Reprogram fee	N/A
Frame Relay/Leaseline:	
Monthly fee	N/A
Authorization fee	N/A
Internet Product:	
Setup fee	N/A
Monthly fee	N/A
Dial Backup authorization surcharge	N/A
Wireless Product:	
Activation fee	N/A
Monthly fee	N/A

2. Transaction fees

Settled MasterCard per item fee	N/A
Settled Visa per item fee	N/A
American Express per item fee	N/A
Discover per item fee	N/A
Diners per item fee	N/A
JCB per item fee	N/A
PIN Debit per item fee	Pass-thru Debit Network Charges
EBT per item fee	\$0.1500
Wireless Terminal per item fee	N/A
Check Verification - SCAN per item fee	\$0.1500

3. Authorization fees

Voice Authorizations	\$0.65
Address Verification Service	N/A
Terminal Authorizations:	
MasterCard Electronic Authorization	\$0.0500
Visa Electronic Authorization	\$0.0500
American Express Electronic Authorization	\$0.1000
Discover Electronic Authorization	\$0.1000
Diners Electronic Authorization	N/A
JCB Electronic Authorization	N/A
Private Label Electronic Authorization	N/A

Initials: _____

Date: _____
(Month/Day/Year)

4. Reporting Options

Monthly Statement fee			N/A
Statement Type & Frequency:	Statement only	Monthly	
My Merchant View Monthly fee			N/A
Re\$ource Online Monthly fee			N/A
Confirmation Letter (per month)			N/A
Daily Funding Client Notification			N/A
Raw data / FARS			N/A
SE Workstation Reporting Monthly fee			N/A

5. Discount Information

<input checked="" type="checkbox"/> MasterCard/Visa qualified Debit Discount rate*			1.3800%
<input checked="" type="checkbox"/> MasterCard/Visa qualified Credit Discount rate*			1.8200%
Target Level Plan Codes: (internal use only)	MC: 020 Public Sector	Visa: 038 Markets)	

Pass-thru of MC/Visa Interchange and Assessments N/A

MC:	N/A	Visa:	N/A
-----	-----	-------	-----

Pass-thru + %: Incremental MC/Visa Discount rate N/A

<input type="checkbox"/> Bundled Debit Discount rate	N/A
<input type="checkbox"/> Bundled Credit Discount rate	N/A

<input type="checkbox"/> Two-Tiered - Debit: Qualified / Non-Qualified	N/A	N/A
<input type="checkbox"/> Two-Tiered - Credit: Qualified / Non-Qualified	N/A	N/A

<input type="checkbox"/> Three-Tiered - Debit: Qualified / Keyed ** / Non-Qualified	N/A	N/A	N/A
<input type="checkbox"/> Three-Tiered - Credit: Qualified / Keyed ** / Non-Qualified	N/A	N/A	N/A

<input checked="" type="checkbox"/> Diner's Discount rate (PTI Settled)	3.2000%
<input checked="" type="checkbox"/> JCB Discount rate (PTI Settled)	3.2000%
<input checked="" type="checkbox"/> Pass-thru of PIN Debit Network Fees	Yes

Discount frequency: **Monthly**

*Transactions will be assessed incremental interchange rates/fees

**Keyed transactions require Address Verification Service

6. Processing fees

Minimum Monthly Discount fee	\$25.00
Chargeback Processing fee	\$10.00
Batch Settlement fee	N/A
ACH Return fee	\$25.00

7. Other fees

Verisign Transactio Fee:	0.1
Orbital Set Up Fee:	100
Orbital Monthly Fee:	10
Orbital Transaction Fee:	0.1

Initials: _____

Date: _____
(Month/Day/Year)

Equipment	Type	Qty	Rate	Total	Purchase Type
[None]	N/A	0	\$0.00	\$0.00	N/A
[None]	N/A	0	\$0.00	\$0.00	N/A
[None]	N/A	0	\$0.00	\$0.00	N/A
[None]	N/A	0	\$0.00	\$0.00	N/A
[None]	N/A	0	\$0.00	\$0.00	N/A
[None]	N/A	0	\$0.00	\$0.00	N/A
[None]	N/A	0	\$0.00	\$0.00	N/A
[None]	N/A	0	\$0.00	\$0.00	N/A
[None]	N/A	0	\$0.00	\$0.00	N/A
[None]	N/A	0	\$0.00	\$0.00	N/A
[None]	N/A	0	\$0.00	\$0.00	N/A
Replacement (swap)	In warranty	N/A	\$50.00	N/A	N/A
Replacement (swap)	Out of warranty - Verifone & Omni	N/A	\$160.00	N/A	N/A
Replacement (swap)	Out of warranty - all other terminals & printers	N/A	\$200.00	N/A	N/A
Replacement (swap)	Out of warranty - Nurit 3010	N/A	\$500.00	N/A	N/A
Replacement (swap)	Out of warranty - all Pin Pads	N/A	\$100.00	N/A	N/A
Late Fee	For all equipment returned late, or not returned	N/A	\$500.00	N/A	N/A

Warranty timeframes: 5 years* - Omni 3200, 3210, 3200 SE, 3210 SE, 3300, 3750, Hypercom T7Plus, ICE5500 Plus, PP1000 SE

1 year* - all other equipment

*applies only to equipment purchased or leased from Paymentech

Town of Addison

By: _____
(Authorized Signature)

Title: _____

Date: _____
(Month/Day/Year)

MasterCard / Visa Discount Rate Schedule

Merchant: Town of Addison

Base Rate at: Emerging Market - Public Sector

Qualified Rates	
MC	Visa
Credit Card Rate	
1.820%	1.820%
Debit Card Rate	
1.380%	1.380%
Transaction Fee	
\$ -	\$ -

Plan Code	Interchange Levels	Discount Rate	Per Item Fee
MASTERCARD - Credit Card			
003	MC Standard	2.970%	\$0.000
005	MC International - Electronic	1.820%	\$0.000
006	MC International - Standard	2.370%	\$0.000
009	MC Merit III	1.820%	\$0.000
011 / 019 / 089	MC Merit I	2.170%	\$0.000
017	MC Supermarket	1.820%	\$0.000
020	MC Public Sector	1.820%	\$0.000
028	MC Convenience Purchases	2.070%	(\$0.100)
050 / 051 / 052	MC Travel Industries Premier Services (TIPS) (Lodging, Car Rental, Cruise Lines)	1.850%	\$0.000
060 / 061 / 062 / 063	MC World MasterCard (T&E) (Lodging, Car Rental, Pass. Transport, Other)	2.470%	\$0.000
066	MC Service Industries Incentive Program (SIIP)	1.820%	\$0.000
081	MC Key-Entered	2.170%	\$0.000
103 / 117	MC Corporate Card Standard	2.970%	\$0.000
120 / 140	MC Corporate Card Face-to-Face (Non T&E Merchant)	1.820%	\$0.000
121 / 131 / 141	MC Corporate Card Data Rate I (Non T&E Merchant)	2.920%	\$0.000
122 / 132 / 142	MC Corporate Card Data Rate II (Non T&E Merchant)	2.220%	(\$0.100)
123 / 143	MC Corporate Card Data Rate III (Non T&E Merchant)	1.820%	\$0.000
124 / 128 / 129 / 134	MC Corporate Large Ticket (Non T&E Merchant)	1.820%	\$0.000
144 / 148 / 149	MC Corporate T&E I	2.570%	(\$0.100)
125 / 135 / 145	MC Corporate T&E II	2.420%	\$0.000
130 / 137 / 150	MC Corporate T&E III	2.320%	\$0.000
133 / 138 / 151	MC International Corp/Purchasing Data Rate II (Non T&E)	1.820%	\$0.000
152 / 162	MC International Corp/Purchasing Large Ticket (Non T&E)	1.820%	\$0.000
154 / 164	MC International Corporate/Purchasing Cards	2.420%	(\$0.100)
156 / 166	MC International Corporate Card	2.420%	(\$0.100)
176			
MASTERCARD - Debit Card			
603	MC Standard - DEBIT	2.480%	\$0.000
609	MC Merit III - DEBIT	1.630%	(\$0.100)
611 / 619 / 689	MC Merit I - DEBIT (Retail, MOTO, E-Commerce)	2.220%	(\$0.090)
617	MC Supermarket - DEBIT	1.380%	\$0.000
639	MC Supermarket Cap - DEBIT	1.380%	\$0.000
650 / 651 / 652	MC Travel Industries Premier Services (TIPS) - DEBIT	1.940%	(\$0.100)
665	MC Emerging Market - DEBIT	1.380%	\$0.000
666	MC Service Industries Incentive Program (SIIP) - DEBIT	1.730%	(\$0.200)
667	MC Small Ticket - DEBIT	1.380%	\$0.000
668	MC Restaurant - DEBIT	1.770%	(\$0.150)
669	MC Petroleum Service Stations - DEBIT	1.380%	\$0.000
670	MC Petroleum CAT/AFD - DEBIT	1.380%	\$0.000
681	MC Key Entered - DEBIT	2.220%	(\$0.090)

VISA - Credit Card

009 / 012 / 014 / 017	VISA Standard (Airlines, Hotel/Car Rental, CNP, Retail)	3.020%	\$0.050
021	VISA CPS Supermarket - Credit Card	1.820%	\$0.000
022	VISA Express Pay	2.390%	(\$0.030)
023 / 024 / 041	VISA CPS Retail (Retail, Hotel/Car Rental, EPS)	1.930%	\$0.050
030 / 032	VISA CPS Hotel & Car Rental - Card Present	1.970%	\$0.050
029 / 031	VISA CPS Hotel & Car Rental - Card Not Present	1.970%	\$0.050
033	VISA Express Pay Standard	3.020%	\$0.050
034	VISA CPS Card Not Present	2.240%	\$0.050
035	VISA AFD (Auto Fuel)	1.890%	\$0.000
037	VISA CPS Retail - Key Entry	2.240%	\$0.050
038	VISA CPS Retail II - Emerging Markets	1.820%	\$0.000
047 / 042	VISA CPS Small Ticket	2.040%	(\$0.010)
049	VISA GSA - Purchasing Card Large Ticket (>\$8750)	1.820%	\$0.000
054 / 048	VISA CPS Restaurant	1.930%	\$0.050
056	VISA CPS Retail Service Station	1.820%	\$0.050
072 / 073	VISA CPS Electronic Commerce - Preferred - Hotel & Car Rental	1.970%	\$0.050
077	VISA CPS Electronic Commerce - Basic	2.240%	\$0.050
078	VISA CPS Electronic Commerce - Preferred	2.190%	\$0.050
080	VISA EIRF	2.530%	\$0.050
082	VISA Commercial Cards - Electronic (T&E)	2.590%	\$0.050
109	VISA Commercial Cards - Standard	3.090%	\$0.050
110	VISA Signature Card - Standard (T&E)	3.020%	\$0.050
113	VISA Commercial Cards - Electronic	2.590%	\$0.050
114	VISA Signature Card - Electronic (T&E)	2.530%	\$0.050
120	VISA GSA - Purchasing Card Large Ticket (b/w \$5000 and \$8750)	1.820%	\$0.000
172	VISA Commercial Card Level II Data	2.290%	\$0.050
173	VISA Commercial Card Level III Data	2.090%	\$0.050

VISA - Debit Card

609 / 612 / 614 / 617	VISA Standard - DEBIT (Airlines, Hotel/Care Rental, CNP, Retail)	2.480%	\$0.000
622	VISA Express Pay - Debit	2.530%	(\$0.230)
817	VISA CPS Retail - DEBIT (Retail, Hotel/Car Rental)	1.630%	(\$0.100)
626	VISA Supermarket - DEBIT	1.630%	(\$0.100)
630 / 632	VISA CPS Hotel & Car Rental - Card Present - DEBIT	1.940%	(\$0.100)
629 / 631	VISA CPS Hotel & Car Rental - Card Not Present - DEBIT	1.940%	(\$0.100)
633	VISA Express Pay Standard - DEBIT	2.480%	\$0.000
634	VISA CPS Card Not Present - DEBIT	2.180%	(\$0.100)
635	VISA AFD (Auto Fuel Disp.) - DEBIT	1.380%	\$0.000
637	VISA CPS Retail - Key Entry - DEBIT	2.180%	(\$0.100)
638	VISA CPS Retail II - Emerging Markets - DEBIT	1.380%	\$0.000
647 / 642	VISA CPS Small Ticket - DEBIT	1.380%	\$0.000
654 / 648	VISA CPS Restaurant - DEBIT	1.770%	(\$0.150)
656	VISA CPS Retail Service Station - DEBIT	1.380%	\$0.000
672 / 673	VISA CPS Elect Comm - Preferred - Hotel & Car Rental - DEBIT	1.940%	(\$0.100)
677	VISA CPS Electronic Commerce - Basic - DEBIT	2.180%	(\$0.100)
678	VISA CPS Electronic Commerce - Preferred - DEBIT	2.130%	(\$0.100)
680	VISA EIRF Non CPS - All Other - DEBIT	2.330%	(\$0.050)
688	VISA CPS Supermarket Cap - DEBIT	1.380%	\$0.000
818 / 641	VISA CPS Retail - EPS - DEBIT	1.630%	(\$0.100)

CONTROL # 23532

These effective rates are based upon your Average Ticket Amount, the actual Billback Rates may vary depending upon the actual Transaction amount.

**THERE ARE NO
ATTACHMENTS
FOR ITEM #ES1**