



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

AGENDA

REGULAR MEETING OF THE CITY COUNCIL

AND / OR

WORK SESSION OF THE CITY COUNCIL

6:00 PM

JUNE 25, 2013

TOWN HALL

ADDISON TOWN HALL, 5300 BELT LINE RD., DALLAS, TX
75254 | 6:00PM WORK SESSION | 7:30PM REGULAR
AGENDA

WORK SESSION

Item
#WS1 - Presentation and discussion regarding an Amended and Restated Master Facilities Agreement for the area of Town generally known as Vitruvian Park.

Item
#WS2 - Discussion of the Town Budget and Strategic Plan, including Council goals, objectives and visioning.

REGULAR MEETING

Pledge of Allegiance

Item #R1- Announcements and Acknowledgements regarding Town and Council Events and Activities

Introduction of Employees

Discussion of Events/Meetings

Item #R2- Consent Agenda.

#2a- Approval of the Minutes for the June 11, 2013 Work Session and Regular Council Meeting.

#2b- Consideration of approval of award of bid to EAS Contracting Co., for Airport Taxiway Improvements at Addison Airport in the amount of \$178,594.68.

Item #R3 Presentation of a proclamation honoring Polka Dot Bakery.

-

Item #R4 Discussion and consideration of approval of a Consultant Services Agreement with RCC Consultants Inc. for Phase III of the Public Safety radio replacement project in an amount not to exceed \$254,859.36.

-

Attachment(s):

1. Second amendment to consultant services agreement

Recommendation:

Administration recommends approval.

Item #R5 Discussion and consideration of approval of an Interlocal Agreement between Addison, Carrollton, Farmers Branch

-

and Coppell to equally share the costs of a Consultant Services Agreement with RCC Consultants Inc., not to exceed \$63,714.35 for each city, to perform Phase III of the Public Safety Radio replacement project.

Attachment(s):

1. Third Radio System Interlocal Agreement

Recommendation:

Administration recommends approval.

Item #R6 Discussion and consideration of approval of an Interlocal Agreement between the Town of Addison and Farmers Branch for the purchase of a Public Safety Radio System.

Attachment(s):

1. Metrocrest Quad Cities Public Safety Radio System

Recommendation:

Administration recommends approval

Item #R7 Presentation, discussion and consideration of approval of a resolution approving and authorizing the City Manager to execute an Amended and Restated Master Facilities Agreement between the Town of Addison, UDR, Inc, and owners of real property in the Vitruvian Park area controlled by UDR, Inc, regarding the development of Vitruvian Park and the Town's participation in, including payment for, the design and construction of public infrastructure improvements within and adjacent to the Vitruvian Park property, which property comprises approximately 121 acres of land and which is generally bound on the north by Spring Valley Road, on the east by the City of Farmers Branch, on the south by Brookhaven Community College and the City of Farmers Branch, and

on the west by Marsh Lane.

Attachment(s):

1. Memorandum
2. Resolution
3. Amended and restated Master Facilities agreement
4. Exhibits amended and restated Master Facilities agreement

Recommendation:

Administration recommends approval.

Item #R8 Presentation, discussion, and consideration of any action
- regarding possible pedestrian crossing Improvements at Beltway and Les Lacs.

Item #R9 Consideration of approval of a resolution authorizing an
- amendment to the Purchasing Manual to alter the amount of a purchase that requires Council approval.

Attachment(s):

1. Purchasing Manual Resolution

Recommendation:

Administration recommends approval.

Item #R10 - Presentation, discussion and consideration of approval of an ordinance amending the Code of Ordinances by amending Section 2-303 (method of sale of surplus property) thereof by removing the provision that surplus property have a replacement value of less than \$100 and Section 2-304 (time, place, notice of sale of surplus property) thereof by removing the requirement to advertise

before public auction, acceptance of bid, or sale of surplus property.

Attachment(s):

1. Surplus Disposal Ordinance

Recommendation:

Administration recommends approval.

Adjourn Meeting

Posted:

Chris Terry, 06/21/13, 5:00pm

**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.**

Council Agenda Item: #WS1

AGENDA CAPTION:

Presentation and discussion regarding an Amended and Restated Master Facilities Agreement for the area of Town generally known as Vitruvian Park.

FINANCIAL IMPACT:

N/A

BACKGROUND:

N/A

RECOMMENDATION:

COUNCIL GOALS:

Mindful Stewardship of Town Resources, Raise Property Values, Infrastructure improvement and maintenance, Implement bond propositions

ATTACHMENTS:

Description:

Type:

No Attachments Available

Council Agenda Item: #WS2

AGENDA CAPTION:

Discussion of the Town Budget and Strategic Plan, including Council goals, objectives and visioning.

FINANCIAL IMPACT:

N/A

BACKGROUND:

N/A

RECOMMENDATION:

N/A

COUNCIL GOALS:

Mindful Stewardship of Town Resources, Maintain and enhance our unique culture of creativity and innovation, Identify opportunities for improved governance

ATTACHMENTS:

Description:

Type:

No Attachments Available

Council Agenda Item: # R 2a

AGENDA CAPTION:

Approval of the Minutes for the June 11, 2013 Work Session and Regular Council Meeting.

FINANCIAL IMPACT:

N/A

BACKGROUND:

N/A

RECOMMENDATION:

N/A

COUNCIL GOALS:

N/A

ATTACHMENTS:

Description:

 [June 11, 2013 Minutes](#)

Type:

Backup Material

**OFFICIAL ACTIONS OF THE ADDISON CITY
COUNCIL
WORK SESSION**

June 11, 2013

6:00 PM - Town Hall

5300 Belt Line Rd., Addison, TX 75254 6:00pm Work Session;

7:30pm Regular Meeting

Upstairs Conference Room

Council Members Present:

Arfsten, Clemens, DeFrancisco, Gunther, Meier, Moore, Resnik

Absent:

None

Work Session

Item #WS1 - Presentation of pedestrian connectivity conceptual designs for the North and South Quorum Districts and the Beltway Drive/Proton Drive corridors, including sidewalk/trail, lighting, wayfinding, bus stop, public art and streetscape schemes.

Item #WS2 - Presentation and discussion of the Town's purchasing policies and procedures.

Mayor-Todd Meier

Attest:

City Secretary-Chris Terry

OFFICIAL ACTIONS OF THE ADDISON CITY COUNCIL REGULAR MEETING

June 11, 2013

6:00 PM - Town Hall

5300 Belt Line Rd., Addison, TX 75254 6:00pm Work Session;

7:30pm Regular Meeting

Chris Terry, 06/07/13, 5:00pm

Council Members Present:

Arfsten, Clemens, DeFrancisco, Gunther, Meier, Moore, Resnik

Absent:

None

REGULAR MEETING

Item #R1 - Announcements and Acknowledgements regarding Town and Council Events and Activities

Item #R2 - Consent Agenda

#2a - Approval of the Minutes for the May 28, 2013 Work Session and Regular Council Meeting.

Council Member Resnik pulled Item #R2a to note that the May 14th Minutes, approved with an amendedment on the May 28th Council Meeting to reflect that Mr. Resnik absence from that meeting, was due to being his being in Austin, TX for official Town business.

A motion to Approve w/ Conditions was made by Council Member

Blake Clemens.

The motion was seconded by Council Member Bruce Arfsten.

The motion result was: Passed

Voting Aye: Arfsten, Clemens, DeFrancisco, Gunther, Meier, Moore, Resnik

Voting Nay: None

#2b - Consideration of approval of a landscape architectural design services contract in the amount of \$158,084 with Talley Associates for the pedestrian connectivity project in North and South Quorum.

A motion to Approve was made by Council Member Blake Clemens.

The motion was seconded by Council Member Bruce Arfsten.

The motion result was: Passed

Voting Aye: Arfsten, Clemens, DeFrancisco, Gunther, Meier, Moore, Resnik

Voting Nay: None

#2c - Consideration of approval of a landscape architectural design services contract in the amount of \$72,370 with Mesa Design Group for the pedestrian connectivity project in the Beltway, Proton, Midway area.

A motion to Approve was made by Council Member Blake Clemens.

The motion was seconded by Council Member Bruce Arfsten.

The motion result was: Passed

Voting Aye: Arfsten, Clemens, DeFrancisco, Gunther, Meier, Moore, Resnik

Voting Nay: None

Item #R3 - Presentation of a proclamation honoring Polka Dot Bakery.

This item was pulled from the Agenda.

There was no action taken.

Item #R4 - Discussion and consideration of action regarding sponsorship of Addison residents and/or employees for the 25th class of Leadership Metrocrest.

Matt McCombs, Assistant to the City Manager/Assistant City Secretary, presented this item.

A motion to Approve was made by Council Member Neil Resnik. The motion was seconded by Council Member Chris DeFrancisco. The motion result was: Passed
Voting Aye: Arfsten, Clemens, DeFrancisco, Gunther, Meier, Moore, Resnik
Voting Nay: None

Item #R5 - Presentation from the Planning and Zoning Commission to the City Council and discussion of the Land Use Analysis portion of the Town of Addison Comprehensive Land Use Plan.

Ralph Doherty, Chairman of the Addison Planning and Zoning Commission, presented this item.

There was no action taken.

Item #R6 - FINAL PLAT/Lot 3, Block A Vitruvian Park Addition. Presentation, discussion, and consideration of approval of a final plat one lot of 15.173 acres, located on the south and east bank of Farmers Branch Creek, south of Ponte Avenue on the west and Bella Lane on the east, on application from UDR, represented by Mr. Bruce Dunne of Icon Engineering. COMMISSION FINDINGS: The Addison Planning and Zoning Commission, meeting in regular session on May 23, 2013, voted to recommend approval of the request for Final Plat approval for Lot 3, Block A, Vitruvian park Addition, subject to the following conditions: Call out the length of all arcs, radii internal angles, points of curvature, length, and bearing of the tangents Add building setback lines Add private restrictions Correct discrepancies between written metes and bounds and plat drawing. Voting Aye:

Doherty, Groce, Hewitt, Hughes, Stockard, Wheeler, Voting Nay:
noneAbsent: Oliver

Carmen Moran, Director of Development Services, presented this item.

A motion to Approve was made by Council Member Chris DeFrancisco.

The motion was seconded by Council Member Blake Clemens.

The motion result was: Passed

Voting Aye: Arfsten, Clemens, DeFrancisco, Gunther, Meier, Moore, Resnik

Voting Nay: None

Item #R7 - FINAL PLAT/Lot 1, Block D Vitruvian Park Addition.

Presentation, discussion, and consideration of approval of a final plat for one lot of 13.245 acres located at the northeast corner of the intersection of Marsh Lane and Vitruvian Way, on application from UDR, represented by Mr. Bruce Dunne of Icon Engineering.

COMMISSION FINDINGS: The Addison Planning and Zoning Commission, meeting in regular session on May 23, 2013, voted to recommend approval of the request for Final Plat approval for Lot 1, Block D, Vitruvian park Addition, subject to the following conditions:
Need to add dimensions to plat on sheet 1 of 2
Add bearing of tangents
Add building setback lines
Add dimensions for rights-of-way
Correct discrepancies between written metes and bounds and plat drawing. Voting Aye: Doherty, Groce, Hewitt, Hughes, Stockard, Wheeler, Voting Nay: noneAbsent: Oliver

Carmen Moran presented this item.

A motion to Approve was made by Council Member Blake Clemens.

The motion was seconded by Council Member Margie Gunther.

The motion result was: Passed

Voting Aye: Arfsten, Clemens, DeFrancisco, Gunther, Meier, Moore,

Resnik

Voting Nay: None

Item #R8 - Discussion and consideration of approval of an award to CitiTech Systems, Inc., for an asset and work order management software package including inventory control for the Infrastructure, Operations, and Services Department in the amount of \$57,900.

Lisa Pyles, Director of Infrastructure Operations and Services, presented this item.

Council Member Arfsten made a motion to approve the item with on the condition that the item reflect the correct amount of \$49,900 in the Minutes.

A motion to Approve w/ Conditions was made by Council Member Bruce Arfsten.

The motion was seconded by Council Member Janelle Moore.

The motion result was: Passed

Voting Aye: Arfsten, Clemens, DeFrancisco, Gunther, Meier, Moore, Resnik

Voting Nay: None

Item #R9 - PUBLIC HEARING. Public hearing on, and presentation, discussion, and consideration of approval of, an Ordinance finding that a Rate Review Mechanism Tariff, that permits the Town to review requested rate increases of Atmos Energy Corp., Mid-Tex Division, is reasonable and in the public interest, and adopting the Rate Review Mechanism Tariff and providing that it is in force and effect in the Town.

Eric Cannon, Chief Financial Officer, presented this item.

A motion to Approve was made by Council Member Chris DeFrancisco.

The motion was seconded by Council Member Neil Resnik.

The motion result was: Passed

Voting Aye: Arfsten, Clemens, DeFrancisco, Gunther, Meier, Moore, Resnik

Voting Nay: None

Item #R10 - Presentation, discussion, and consideration of approval of a resolution relating to the giving of notice of intention to issue Town of Addison, Texas Combination Tax and Revenue Certificates of Obligation, Series 2013.

Eric Cannon presented this item.

A motion to Approve was made by Council Member Neil Resnik.

The motion was seconded by Council Member Margie Gunther.

The motion result was: Passed

Voting Aye: Arfsten, Clemens, DeFrancisco, Gunther, Meier, Moore, Resnik

Voting Nay: None

Item #ES1 - Closed (executive) session of the Addison City Council, pursuant to Section 551.072, Texas Government Code, to deliberate the purchase or value of certain real property located within the Town and concerning Addison Airport, and pursuant to Section 551.071, Texas Government Code, to conduct a private consultation with its attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551, Tex. Gov. Code, concerning Addison Airport.

Council entered Executive Session at 8:12pm.

Council closed Executive Session at 8:29pm.

There was no action taken.

Mayor-Todd Meier

Attest:

City Secretary-Chris Terry

Council Agenda Item: # R 2b

AGENDA CAPTION:

Consideration of approval of award of bid to EAS Contracting Co., for Airport Taxiway Improvements at Addison Airport in the amount of \$178,594.68.

FINANCIAL IMPACT:

Airport Fund: \$50,000.00

RAMP Grant \$50,000.00

Operators Budget \$78,594.68

BACKGROUND:

The Town of Addison annually receives a RAMP (Routine Airport Maintenance Program) grant administered by the Texas Department of Transportation, Aviation Department under the State Block Grant program. The grant is eligible for maintenance projects on the airport such as, pavement repairs, pavement markings, general maintenance, etc. This year staff has earmarked the grant to be used for taxiway's Romeo and Tango ramp improvements. The grant will be a 50/50 matching grant, \$50,000 TXDOT Funds and \$50,000 Town of Addison Airport Funds and the remainder funded from the Operations budget.

Funds required for the Town's share is budgeted and available in the Airport fund and Operators budget.

The project consists of asphalt removal, overlay and seal coating of East Taxiway Tango and Romeo and associated ramps.

Although only one bid was received. The responsible bid is from the contractor who has performed the previous runway reconstruction project and who is currently performing the taxiway Alpha reconstruction project. EAS Contracting has performed well for the Town.

RECOMMENDATION:

Administration recommends approval.

COUNCIL GOALS:

Mindful Stewardship of Town Resources, Create a vision for the airport to maximize the value

ATTACHMENTS:

Description:

 [Engineers Recommendation](#)

 [Bid Tab](#)

Type:

Backup Material

Backup Material



3010 Gaylord Parkway
 Suite 190
 Frisco, TX 75034
 TEL 972.377.7480
 FAX 972.377.8380
 www.GarverUSA.com

June 7, 2013

Mark Acevedo
 Director of General Services
 Town of Addison
 PO Box 9010
 Addison, TX 75001

Re: Taxiways Romeo and Tango Ramp Improvements (Bid No. 13-23)
 Recommendation of Award

Dear Mark:

Bids were received for the Taxiways Romeo and Tango Ramp Improvements project at the Town of Addison Finance Building at 10:00 am on June 6, 2013. The following bid was received:

	<i>EAS Contracting</i>
East Taxiway Tango Overlay (Schedule I)	\$ 73,835.14
T-9 and T-11 Ramp Improvements (Schedule II)	\$ 94,608.57
T-14 Ramp Improvements (Schedule III)	\$8,132.72
R-5 Ramp Improvements (Schedule IV)	\$19,916.65
Total Project Amount Bid (Schedules I + II + III)	\$176,576.43
Total Project Amount Bid (Schedules I + II + III + IV)	\$196,493.08
Change Order No. 1	\$17,898.40
New Construction Contract Amount	\$178,594.68

A tabulation of the bids received and our Engineer's Opinion of Probable Cost is enclosed with this letter. Even though the total project amount bid for Schedules I + II + III + IV is higher than our Engineer's Estimate, the bids represent a good value for the airport. We recommend awarding Schedules I + II + III + IV and concurrently issuing Change Order No. 1 to remove the sodding pay item from all schedules and remove Schedule III from the contract. The sod installation work can be performed by the Airport Maintenance staff. The work for Schedule III consists of a seal coat while other schedules involve asphalt work. The seal coat for the T-14 ramp should be included with future projects by the airport to help reduce the overall cost. We recommend award of the Total Project Amount Bid (Schedules I + II + III + IV), along with execution of Change Order No. 1 for the items mentioned above, to provide a contract amount of **\$178,594.68** for EAS Contracting as the best value for the Town.

Please call me if you have any questions.

Sincerely,

Frank McIlwain, PE
 Vice President
 Attachments: Bid Tabulation

**ADDISON AIRPORT
TAXIWAYS ROMEO AND TANGO RAMP IMPROVEMENTS
BID TABULATION - TAXIWAY TANGO OVERLAY (SCHEDULE I)
BID OPENING: 06/06/2013; 10:00 AM**

SPEC. NO.	DESCRIPTION	UNIT	ESTIMATED QUANTITY	ENGINEER'S ESTIMATE		EAS CONTRACTING	
				UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT
SS-120-3.1	SITE PREPARATION	L.S.	1	\$5,000.00	\$5,000.00	\$14,823.20	\$14,823.20
SS-170-5.2	VARIABLE DEPTH PAVEMENT MILLING (0"-2.0")	S.Y.	1,236	\$6.00	\$7,416.00	\$6.00	\$7,416.00
SS-280-5.1	HMA CRACK REPAIR (TYPE 1a)	L.F.	1,800	\$1.50	\$2,700.00	\$1.40	\$2,520.00
SS-280-5.2	HMA CRACK REPAIR (TYPE 1b)	L.F.	500	\$3.00	\$1,500.00	\$1.40	\$700.00
TX-340-6.1	DENSE-GRADED HOT MIX ASPHALT (METHOD), TYPE D	TON	400	\$95.00	\$38,000.00	\$97.16	\$38,864.00
P-620-5.1	PAVEMENT MARKING PAINTING	S.F.	1,272	\$1.00	\$1,272.00	\$1.18	\$1,500.96
P-620-5.2	PAVEMENT MARKING REMOVAL	S.F.	1,272	\$2.00	\$2,544.00	\$0.67	\$852.24
T-904-5.1	SODDING	S.Y.	346	\$3.25	\$1,124.50	\$20.69	\$7,158.74
TOTALS					<u>\$59,556.50</u>	<u>\$73,835.14</u>	

Corrected Prices



**ADDISON AIRPORT
TAXIWAYS ROMEO AND TANGO RAMP IMPROVEMENTS
BID TABULATION -T-9 AND T-11 RAMP IMPROVEMENTS (SCHEDULE II)
BID OPENING: 06/06/2013; 10:00 AM**

SPEC. NO.	DESCRIPTION	UNIT	ESTIMATED QUANTITY	ENGINEER'S ESTIMATE		EAS CONTRACTING	
				UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT
SS-120-3.1	SITE PREPARATION	L.S.	1	\$10,000.00	\$10,000.00	\$7,946.40	\$7,946.40
SS-140-5.1	PAVEMENT REMOVAL	S.Y.	1,271	\$10.00	\$12,710.00	\$6.53	\$8,299.63
SS-170-5.1	UNIFORM DEPTH PAVEMENT MILLING (1.5")	S.Y.	1,040	\$5.00	\$5,200.00	\$5.60	\$5,824.00
SS-280-5.1	HMA CRACK REPAIR (TYPE 1a)	L.F.	600	\$1.50	\$900.00	\$1.40	\$840.00
SS-280-5.2	HMA CRACK REPAIR (TYPE 1b)	L.F.	100	\$3.00	\$300.00	\$1.40	\$140.00
Tx-247-6.1	FLEXIBLE BASE (COMPLETE IN PLACE, TYPE A, GRADE 1 (6"))	S.Y.	1,280	\$8.00	\$10,240.00	\$12.12	\$15,513.60
Tx-340-6.1	DENSE-GRADED HOT MIX ASPHALT (METHOD), TYPE D	TON	550	\$95.00	\$52,250.00	\$97.16	\$53,438.00
T-904-5.1	SODDING	S.Y.	126	\$3.25	\$409.50	\$20.69	\$2,606.94
TOTALS					\$92,009.50	\$94,608.57	

Corrected Prices



**ADDISON AIRPORT
TAXIWAYS ROMEO AND TANGO RAMP IMPROVEMENTS
BID TABULATION -T-14 RAMP IMPROVEMENTS (SCHEDULE III)
BID OPENING: 06/06/2013; 10:00 AM**

SPEC. NO.	DESCRIPTION	UNIT	ESTIMATED QUANTITY	ENGINEER'S ESTIMATE		EAS CONTRACTING		
				UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	
SS-120-3.1	SITE PREPARATION	L.S.	1	\$2,500.00	\$2,500.00	\$2,700.00	\$2,700.00	
SS-280-5.1	HMA CRACK REPAIR (TYPE 1a)	L.F.	300	\$1.50	\$450.00	\$1.40	\$420.00	
SS-280-5.2	HMA CRACK REPAIR (TYPE 1b)	L.F.	100	\$3.00	\$300.00	\$1.40	\$140.00	
P-620-5.2	PAVEMENT MARKING REMOVAL	S.F.	66	\$2.00	\$132.00	\$0.67	\$44.22	
P-631-7.1	REFINED COAL TAR EMULSION WITH ADDITIVES FOR SLURRY COAT	S.Y.	925	\$1.50	\$1,387.50	\$5.22	\$4,828.50	
TOTALS					\$4,769.50	\$8,132.72		

Corrected Prices



**ADDISON AIRPORT
TAXIWAYS ROMEO AND TANGO RAMP IMPROVEMENTS
BID TABULATION - R-5 RAMP IMPROVEMENTS (SCHEDULE IV)
BID OPENING: 06/06/2013; 10:00 AM**

SPEC. NO.	DESCRIPTION	UNIT	ESTIMATED QUANTITY	ENGINEER'S ESTIMATE		EAS CONTRACTING	
				UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT
SS-120-3.1	SITE PREPARATION	L.S.	1	\$5,000.00	\$5,000.00	\$750.00	\$750.00
SS-140-5.1	PAVEMENT REMOVAL	S.Y.	1,020	\$10.00	\$10,200.00	\$7.07	\$7,211.40
Tx-340-6.1	DENSE-GRADED HOT MIX ASPHALT (METHOD), TYPE D	TON	134	\$95.00	\$12,730.00	\$86.75	\$11,624.50
P-620-5.1	PAVEMENT MARKING PAINTING	S.F.	315	\$2.00	\$630.00	\$1.05	\$330.75
TOTALS					<u><u>\$28,560.00</u></u>	<u><u>\$19,916.65</u></u>	

Corrected Prices



**ADDISON AIRPORT
TAXIWAYS ROMEO AND TANGO RAMP IMPROVEMENTS
BID TABULATION - BID SUMMARY
BID OPENING: 06/06/2013; 10:00 AM**

	ENGINEER'S ESTIMATE		EAS CONTRACTING	
		AMOUNT		AMOUNT
TOTAL AMOUNT BID - TAXIWAY TANGO OVERLAY (SCHEDULE I)		\$65,512.15		\$73,835.14
TOTAL AMOUNT BID - T-9 AND T-11 RAMP IMPROVEMENTS (SCHEDULE II)		\$90,210.45		\$94,608.57
TOTAL AMOUNT BID - T-14 RAMP IMPROVEMENTS (SCHEDULE III)		\$2,496.45		\$8,132.72
TOTAL AMOUNT BID - R-5 RAMP IMPROVEMENTS (SCHEDULE IV)		\$31,416.00		\$19,916.65
TOTAL PROJECT AMOUNT BID (SCHEDULE I + SCHEDULE II + SCHEDULE III)		\$158,219.05		\$176,576.43
TOTAL PROJECT AMOUNT BID (SCHEDULE I + SCHEDULE II + SCHEDULE III + SCHEDULE IV)		\$189,635.05		\$196,493.08

 Corrected Prices



Council Agenda Item: #R3

AGENDA CAPTION:

Presentation of a proclamation honoring Polka Dot Bakery.

FINANCIAL IMPACT:

N/A

BACKGROUND:

N/A

RECOMMENDATION:

COUNCIL GOALS:

N/A

ATTACHMENTS:

Description:

Type:

No Attachments Available

Council Agenda Item: #R4

AGENDA CAPTION:

Discussion and consideration of approval of a Consultant Services Agreement with RCC Consultants Inc. for Phase III of the Public Safety radio replacement project in an amount not to exceed \$254,859.36.

FINANCIAL IMPACT:

Addison has agreed on behalf of the four cities which make up the Quad Cities Consortium to negotiate and enter into a Consultant Services Agreement with RCC. Each of the Quad Cities, Addison, Carrollton, Farmers Branch and Coppell will equally divide the cost of the work performed by RCC. Addison will pay RCC for the invoices received and bill each of the other three cities for their share of the project. The total cost of the project is not to exceed \$254,859.36, Addison's commitment is \$63,714.35. This is a budgeted item.

BACKGROUND:

In 2010 Addison, Carrollton and Farmers Branch began the process of replacing the three cities Public Safety Radio System. Coppell joined in 2011 creating the Quad Cities Radio Consortium. RCC Consultants Inc. was hired to perform Phases I & II which consisted of conducting a needs assessment, RFP development and vendor selection. In both Phase I & II the Consultants Services Agreement was with Addison which received and processed the invoices then billed each of the other three cities for their share of the invoices. We are now ready to enter into Phase III of the project which is to successfully install and acceptance test the new radio system prior to cutover which includes a reliability testing period. RCC was again selected as the vendor to perform Phase III consulting services with Addison as the city entering into the agreement with RCC on behalf of the Quad Cities Consortium. Addison will process all invoices and bill each of the other cities for their share of the costs associated with Phase III.

RECOMMENDATION:

Administration recommends approval.

COUNCIL GOALS:

Look for Operational Efficiencies without cutting services, Enhance Public Safety

ATTACHMENTS:

Description:

 [Second amendment to consultant services agreement](#)

Type:

Cover Memo

SECOND AMENDMENT TO CONSULTANT SERVICES AGREEMENT

This Second Amendment to Consultant Services Agreement ("Second Amendment"), dated as of June ___, 2013, is by and between the Town of Addison, Texas ("Addison") and RCC Consultants, Inc. ("RCC") (Addison and RCC are sometimes referred to herein together as the "parties").

WITNESSETH:

WHEREAS, Addison and RCC are parties to that certain Consultant Services Agreement dated as of August 5, 2010 (the "Original Agreement") and amended by that First Amendment to Consultant Services Agreement dated as of October 2011 (the "First Amendment") (the Original Agreement and the First Amendment being collectively the "Agreement," a true and correct copy of which is on file in the office of the Addison Chief of Police); and

WHEREAS, Addison has a need for additional services from RCC and both parties desire to amend the Agreement as set forth herein.

NOW THEREFORE, in consideration of the promises and mutual covenants and agreements contained herein, the parties hereto agree as follows:

- (1) In addition to the Scope of Work performed by RCC pursuant to Article I of the Agreement and to the First Amendment, and subject to the provisions of paragraph (3) below, RCC shall perform the services identified in Attachment 1 hereto (and incorporated herein) as Phase III (Oversight of Implementation and Acceptance Testing, Task 1 through Task 9) (the "Additional Services") pursuant to and in accordance with the terms, conditions and provision of the Agreement. For purposes of the performance by RCC of the Additional Services, the reference in the Agreement to "Services" shall include the Additional Services.
- (2) Addison shall pay RCC for the Additional Services the amount set forth in Attachment 1 hereto. All payments shall be in accordance with the invoice and payment process, and other matters regarding payment, set forth in the Agreement.
- (3) This Second Amendment is contingent upon approval or consent by Addison, and by the Cities of Carrollton, Farmers Branch, and Coppell, of an agreement to upgrade the radio system used by Addison, Carrollton and Farmers Branch in the exercise of their respective governmental functions to a digital P25 system. Unless and until each of Addison, Carrollton, Farmers Branch, and Coppell has approved or consented to such agreement, and until Addison has issued a written notice to proceed to RCC to conduct or provide the Additional Services, RCC shall not provide or perform any of the Additional Services. If such an agreement is not approved or consented to by all of the said cities, and if Addison does not give RCC such written notice to proceed, Addison may terminate this Second Amendment by providing written notice thereof to RCC. If this Second Amendment is so terminated, RCC shall not be entitled to any compensation or

payment of any fees, costs or charges related to the Additional Services or this Second Amendment.

If the cities approve or consent to an agreement to upgrade the radio system to a digital P25 system, and if Addison gives RCC written notice to proceed with the provision of the Additional Services, RCC's provision and performance of the Additional Services shall commence as soon as practicable thereafter and, subject to the provisions of Article VI of the Agreement, shall be completed upon full and final completion by RCC of each of Task 1 through Task 9 as set forth in Attachment 1 hereto, and payment to RCC by Addison of the fees and expenses that are not in dispute, as set forth in Attachment 1 hereto.

The above and foregoing recitals are true and correct and are incorporated herein and made a part of this Second Amendment for all purposes.

EXCEPT AS MODIFIED HEREIN, ALL THE TERMS, COVENANTS AND CONDITIONS CONTAINED IN THE AGREEMENT SHALL REMAIN IN FULL FORCE AND EFFECT AND APPLY FOR ALL PURPOSES TO THE ADDITIONAL SERVICES AND THE PROVISION THEREOF AND WORK THEREON BY RCC, AND THE AGREEMENT, AS HEREBY AMENDED, IS RATIFIED AND CONFIRMED.

The person executing this Second Amendment on behalf of RCC is an authorized representative of RCC and has been authorized by RCC to execute this Second Amendment. The person executing this Second Amendment on behalf of Addison is an authorized representative of Addison and has been authorized by Addison to execute this Second Amendment.

IN WITNESS WHEREOF, the parties have caused this Second Amendment to be executed by their duly authorized representatives as of the date first written above.

TOWN OF ADDISON

RCC CONSULTANTS, INC.

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

ATTACHMENT 1

[attach Phase III description]

Section

1 Phase III Scope of Work

Project Workplan for System Implementation & Acceptance Testing

The following scope of work provides RCC's proposed workplan and methodology that will be utilized to support the implementation and acceptance testing of the Metrocrest Quad Cities (MQC) P25 Trunked Radio System. The scope of work that follows it intended to provide independent and objective implementation support to assist the MQC in monitoring and overseeing the vendor's implementation work and system acceptance testing of the new shared trunked radio system. RCC's services are not intended to replace or overlap with the work to be provided by the selected radio system vendor. RCC's advice and counsel is intended to assist the MQC in working with the selected vendor and to help the MQC team properly review and address project issues that will inevitably arise in this project just as they do in other similar projects around the country.

Because RCC has several similar projects underway in Texas and around the country, it is not unusual for our staff to become aware of potential implementation issues or problems before the vendor's local project team is. This can help mitigate or in some cases avoid the problem entirely which can reduce project risk and save time, money, and aggravation.

Although RCC has identified a specific approach and scope of work, RCC is flexible and prepared to modify the scope of work, if needed, to help ensure that it meets the needs and requirements of the MQC. Prior to executing a Consulting Services Contract for the project, RCC personnel will work with the MQC Team to make any final adjustments in the scope of work that may be required.

RCC has developed a number of project tools that will be utilized throughout the project to help monitor and track progress and evaluate certain technical aspects of the project such as radio coverage performance and testing. The tools also help facilitate robust project communications between RCC and authorized members of the MQC Project Team as the project progresses.

Phase III – Oversight of Implementation and Acceptance Testing

The preliminary workplan for Phase III is presented for review and discussion in the following pages. RCC is available to meet with the MQC Project Team and discuss the specifics of the work plan for Phase III.

The purpose of Phase III is to successfully install and acceptance test the new system prior to system cutover in addition to successful completion of a reliability testing period.

Task 1—Implementation Initiation & Mobilization

The purpose of Task 1 will be to formally mobilize and engage the RCC project staff and prepare for Phase III startup. The RCC staff involved in Phase III will be brought up to date regarding the scope

of work contained in the system purchase agreement (contract), the project plans, MQC team, project issues and project schedule.

RCC staff will develop a Phase III PowerPoint presentation for the project initiation meeting with the MQC's Project Team, RCC Consultants, Inc. (RCC) and the selected vendor's representatives. The purpose of the kickoff meeting will be to accomplish the following:

- Officially begin system implementation;
- Determine and identify who will be involved from each of the participating entities throughout project implementation;
- Review and discuss the statement of work contained in the system contract documents including roles and responsibilities of the vendor and the MQC;
- Review and discuss the implementation schedule and project milestones to be completed along the way;
- Establish project reporting requirements and frequencies (e.g., status reports formats, frequency and method), and
- Review and discuss payment terms tied to the vendor's milestone performance.

RCC staff will attend and participate in the kickoff meeting at a location to be selected by the MQC Project Implementation Team.

Task 2 – Provide Day-to-Day Project Implementation Support

The purpose of Task 2 is to provide the MQC Project Implementation Team with day-to-day project management and implementation support for a range of project issues including:

Review and discussion of implementation tasks and issues including:

- Periodic support for resolution of day-to-day project issues that arise;
- Periodic project meetings to review/discuss and resolve project issues. Some project meetings may be conducted by conference call depending upon the nature and duration of the meeting.
- Site development / installation issues and design packages to include:
 - Review and approval of vendor's site development packages for each site;
 - Periodic site inspections of the vendor's work, site development, preparation, installation of site improvements, equipment shelter, tower, power and grounding systems, and radio equipment;
 - Assistance in resolving site development issues that arise;
- Dispatch console configuration planning and development support for each department;
- Fire Station alerting;
- System fleet mapping and development of talkgroup planning;
- Planning and development of radio programming templates;
- Microwave system connectivity and configuration issues;

- System redundancy and fallback systems;
- Failure mode planning, review and analysis;

RCC has assumed that Phase III will be completed within 18 months of execution of a contract for the new system. For budgeting purposes, Task 2 tentatively includes the following levels of support:

- **18 Monthly Project Meetings** - The current scope of work includes an RCC representative attending and supporting a monthly project status meeting within the MQC area each month throughout the 18 month implementation period.
- **Day-to-day support (above and beyond monthly project meetings)** - The current Task 2 scope of work includes an average of 24 hours of support per month throughout the 18 month implementation period. Activity will vary by month depending the level of work scheduled. RCC will only bill the MQC for the actual work conducted during any given month. We estimate that the Task 2 support will average 3 day per months.

Task 3—Prepare Periodic Project Status Reports

RCC will assist the MQC Project Implementation Team in monitoring the work performance of the selected vendor and will prepare a monthly project status report reflecting the vendor's progress and issues that have arisen during each monthly reporting period. When appropriate, recommendations for problem resolution will be provided on a case-by-case basis. RCC will work with the MQC Project Team and selected vendor to monitor, track, and help resolve problems that may arise during system implementation.

Task 4—Attend & Participate in Detailed Design Review (DDR) Meeting

A Detailed Design Review (DDR) will be conducted with the selected vendor to thoroughly discuss their proposed system configuration and equipment in detail prior to the ordering and manufacturing of the radio system equipment and software. Detailed system design documents identifying all required customization mutually accepted by both the vendor and the MQC must be prepared by the vendor. RCC will work with the MQC Project Implementation Team to review the vendor's DDR documents and will participate in the DDR project meetings and discussions. RCC has budgeted two personnel for two (2) days of on-site review and discussion meetings and two (2) additional days (1 person) for follow up DDR review following revision of the initial DDR documents to address MQC concerns or updates. These levels of support are consistent with similar projects for other RCC clients.

In the event that assistance is needed by the MQC Project Implementation Team beyond the amounts specified above, RCC can provide the additional services at the hourly rates quoted in our cost proposal plus any related travel and per diem expenses.

Task 5 – Attend & Participate in System Staging

Once the vendor has manufactured and assembled the radio system infrastructure, the system will be staged at the vendor's facilities. Staging involves assembling and installing the radio system infrastructure at the staging area for operational testing and MQC review purposes. RCC recommends that designated members of the MQC Project Implementation Team attend the factory staging of the system. Being very familiar with the project, system technology and system architecture, RCC staff will assist the MQC attendees in asking relevant questions and looking for

potential system problems or issues during the staging event. RCC will have the MQC staff attending the staging event in the initial functional testing of the new system while it is in staging. The testing is conducted to help identify system problems that should be resolved prior to shipping the system to the MQC facilities. Accordingly, RCC will attend system staging with the MQC participants. For budgeting purposes, we have assumed that the staging event will require one RCC person for two days at the staging facility.

Task 6 – FCC 800 MHz Licensing Assistance

RCC will assist the MQC Project Implementation Team in preparation of 800 MHz FCC licensing modifications to update MQC's current 800 MHz licenses for digital P25 operation & to accommodate other 800 MHz trunked radio system licensing updates that may be needed. Frequency coordination and licensing fees, if any, are to be paid by the licensees directly to the Frequency Coordinator.

It is important to note that if any additional repeater sites are added or other substantial system changes are made that increase the currently licensed coverage footprint, relicensing the MQC's existing radio channels can in some cases present problems. Radio channels are licensed on a shared basis with co-channel licensees (other users) licensed to use the same channels at locations beyond 70 miles from MQC's current sites. If new sites are added, the new sites may encroach upon the FCC's required 70 mile separation of the co-channel users which can be a problem.

As soon as the DDR has been completed, the MQC Project Implementation Team will know what licensing changes are needed. Accordingly, at this time, it is difficult to accurately forecast the amount of time needed to address such licensing issues.

Due to the equipment specific nature of microwave system licensing, RCC will not be responsible for microwave frequency coordination or licensing. RCC will however verify that the FCC microwave licensing is ordered in a timely manner by the microwave system vendor. The microwave system vendor will be responsible for the microwave frequency coordination and FCC licensing work and to see that the MQC Project Implementation Team is granted the proper microwave channel license(s).

Task 7 – Assist the MQC in Acceptance Testing of the New System

RCC personnel will work closely with the MQC's Project Team to help ensure that the new system and equipment are appropriately tested prior to final system acceptance. The system acceptance test plan that was outlined in the system RFP and ultimately included in the system contract will serve as the foundation for the acceptance testing process. RCC will assist the Project Implementation Team in conducting the system testing procedures outlined in the test plan.

Such testing will involve site development improvements, equipment installation, two-way radio and microwave radio equipment testing, required functionality, system reliability and failure modes, microwave performance testing, radio coverage testing, dispatch console testing, and sampled user radio equipment verification and proof of performance testing.

Two-way radio system coverage performance is particularly important and will be field tested to determine whether or not the radio coverage required by the MQC and included in the system contract has actually been delivered by the vendor. RCC has extensive hands-on experience in this area, and has conducted coverage testing in hundreds of projects, several of which have been in Texas and the Dallas / Fort Worth area.

For coverage testing purposes, the MQC two-way radios should be tested in the same manner in which the radios are used in everyday operations.

Prior to final acceptance, a contiguous multi-week system reliability test should be successfully completed without a major system failure to help ensure that the new system is stable and ready for use by the MQC agencies. Should there be a "major system failure" within the period of the system reliability test, the vendor will be instructed to address the failure, provide a cure for the problem, and once that has properly implemented, the system reliability test will start over at day one.

The results of the acceptance testing program will be prepared by the vendor presented to the MQC Project Team and RCC for review, discussion, and if appropriate, acceptance. The vendor will be provided a list of identified discrepancies that require correction. Upon satisfactory completion of the acceptance test process, RCC will recommend whether or not the MQC should approve the Final System Acceptance. In projects of this nature, it is not unusual to have a small list of minor punch-listed issues that need attention and resolution following system acceptance. Items on that list generally do not hold up system acceptance, subject to MQC approval. At final acceptance the MQC officially takes ownership of the system and the system's one year warranty period begins.

For project budgeting, RCC has assumed that the selected vendor will successfully pass all system acceptance tests the first time and that retesting of the system or subsystems will not be needed. This is a reasonable assumption based upon prior RCC projects of a similar nature. In the event that retesting is needed, RCC can provide that additional support at additional cost.

For scoping purposes RCC has assumed that the Functional System Testing which includes the simulcast sites, the Master site, the microwave network, the four console systems, the network management system, and failure mode testing and verification.

Task 8 – Attend and Participate in System Cutover

RCC will assist the MQC and system vendor in the development of an appropriate system cutover plan that will minimize operational impact as much as is reasonably possible. RCC will also work with the MQC Project Team and selected vendor to be on-site for the system cutover and the first day of service in case system issues arise following cutover. For budgeting purposes, RCC has included one person on-site for two days, one day for final cutover preparations, one day for cutover.

Task 9 – Project Closeout

The purpose of Task 9 is to close out Phase III. RCC will meet with the MQC Project Manager to close out any remaining project issues, project files and RCC billing. RCC will archive the MCQ project files for later retrieval if needed.

**Section
2**

Professional Fees & Expenses

The cost proposal that follows is based upon the enclosed Phase III scope of work, and on the assumptions which are listed below. Professional fees may by mutual agreement, be adjusted if the scope of work is modified or the project schedule is significantly extended for reasons beyond RCC's control.

- As in our previous work with the MQC, invoices will be issued monthly based on the work performed during the previous month and invoices are due within thirty (30) days.
- Out-of-pocket expenses will be included on the monthly invoices and will be billed at actual plus an administrative fee of 10% to cover miscellaneous reimbursable expenses. Out-of-pocket expenses may include project-related travel and per diem, and printing of project documents. RCC will make every effort to ensure that such expenses are reasonable and necessary. Expenses are expected to be minimal since some of the RCC staff that will be involved in this effort are located in the Dallas / Fort Worth area.
- Any meetings required beyond those specifically addressed in RCC's workplan are currently out of scope, but should such a need arise, RCC will provide the MQC with a quotation to address the need.
- To help RCC be most responsive to the MQC, RCC may need to move project time, fees and expenses between project staff and between project tasks as long as the total amount billed to the MQC does not exceed the Phase III contract amount.
- Additional terms and conditions are subject to RCC Consultant's Services agreement.
- This proposal is valid for 120 days.

A cost summary sheet for Phase III has been provided on the following page.

Phase III Fees and Expenses

FINANCIAL SHEET
(included in Cost Proposal to Client)



May 22, 2012

RCC CONSULTANTS, INC. TECHNICAL SERVICES CONTRACT
Trunked radio system replacement
Metrocrest Quad Cities
Phase III Implementation Support - 2013 -2014

Professional Fees			
	Hours	Rate 2013	Subtotal
Vice President General Manager	20	\$ 250.00	\$ 5,000.00
Director	580	\$ 200.00	\$ 116,000.00
Managing Consultant		\$ 185.00	\$ -
Senior Consultant	612	\$ 170.00	\$ 104,040.00
Senior Consultant		\$ 170.00	\$ -
Administrative Assistant		\$ 70.00	\$ -
Total	1,212		\$ 225,040.00
			\$ 225,040.00

Travel and Per Diem Expenses		
	Rate	Subtotal
Round Trip Airline Fares #1 @	\$ 400.00	
1 Round Trip Airline Fares #2 @	\$ 800.00	\$ 800.00
67.5 Man Days per Diem @	\$ 175.00	\$ 11,812.50
72 Days Rental Vehicle @	\$ 100.00	\$ 7,200.00
12800 Miles @	\$ 0.57	\$ 7,296.00
Total		\$ 27,108.50
		\$ 27,108.50

General and Administrative Fee	10%	\$ 2,710.85	\$ 2,710.85
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Miscellaneous Expenses		
		\$ -
Grand Total		\$ 254,859.35

Council Agenda Item: #R5

AGENDA CAPTION:

Discussion and consideration of approval of an Interlocal Agreement between Addison, Carrollton, Farmers Branch and Coppell to equally share the costs of a Consultant Services Agreement with RCC Consultants Inc., not to exceed \$63,714.35 for each city, to perform Phase III of the Public Safety Radio replacement project.

FINANCIAL IMPACT:

Addison's share of the consulting services is not to exceed \$63,714.35. which will be paid out over FY 12/13 and FY 13/14. Funds are budgeted for the work completed in FY 12/13.

BACKGROUND:

In 2010 Addison, Carrollton and Farmers Branch began the processing of replacing the three cities Public Safety Radio System. Coppell joined in 2011 creating the Quad Cities Radio Consortium. RCC Consultants Inc. was hired to perform Phases I & II which consisted of conducting a needs assessment, RFP development and vendor selection. In both Phase I & II the Consultants Services Agreement was with Addison which received and processed the invoices then billed each of the other three cities for their share of the invoices. We are now ready to enter into Phase III of the project which is to successfully install and acceptance test the new radio system prior to cutover which includes a reliability testing period. RCC was again selected as the vendor to perform Phase III consulting services with Addison as the city entering into the agreement with RCC on behalf of the Quad Cities Consortium. Addison will process all invoices and bill each of the other cities for their share of the costs associated with Phase III.

RECOMMENDATION:

Administration recommends approval.

COUNCIL GOALS:

Enhance Public Safety

ATTACHMENTS:

Description:

 [Third Radio System Interlocal Agreement](#)

Type:

Cover Memo

THIRD RADIO SYSTEM INTERLOCAL AGREEMENT

This Third Radio System Interlocal Agreement ("Agreement") is made by and between the City of Carrollton, Texas ("Carrollton"), the City of Farmers Branch, Texas ("Farmers Branch"), the City of Coppell, Texas ("Coppell"), and the Town of Addison, Texas ("Addison") (Carrollton, Farmers Branch, Coppell, and Addison are hereinafter sometimes referred to together as the "Cities" and individually as a "City").

Recitals:

1. Carrollton, Farmers Branch, and Addison participate by agreement in the use of a four-site nine-channel 800Mhz Trunked Simulcast Radio System (the "System") which provides radio coverage for each of them in the exercise of their respective governmental functions, including their provision of police, fire and emergency medical services. The System was designed and developed with the assistance of RCC Consultants, Inc., a Texas corporation ("RCC").

2. Effective July 26, 2010, those three cities entered into an agreement entitled "Radio System Interlocal Agreement," that provided for them to share equally in the costs of a study, to be conducted by RCC pursuant to its proposal dated February 25, 2010 (the "RCC Proposal"), regarding a possible upgrade of the System and a review of other items regarding their public safety radio communications and operations, including a potential upgrade of their individual mobile data systems and an evaluation of their communications dispatch center operations ("Phase I" or the "Study"). In connection with the Radio System Interlocal Agreement, Addison entered into an agreement with RCC for the performance by RCC of Phase I (the "RCC Agreement"). Following the execution of the RCC Agreement, Coppell expressed an interest in participating in the Study, and separately entered into an agreement with RCC that in effect expanded the Study to include Coppell.

3. RCC completed the Study, reflected in its report dated September 2011, and recommended therein an upgrade and expansion of the System to a digital P25 system (such upgrade and expansion being referred to herein as "Phase II"), to include all of the Cities. In order to implement Phase II, Addison and RCC entered into an amendment of the RCC Agreement entitled "First Amendment to Consultant Services Agreement" that provided for RCC to perform and provide the Phase II services described therein. In connection with that amendment, the Cities entered into a second interlocal agreement (the "Second Radio System Interlocal Agreement") that provided for, among other things, that the Cities would share equally in the Phase II costs.

4. RCC completed Phase II, and based thereon the Cities are preparing to upgrade and expand the System to a digital P25 system, and desire to retain the services of RCC to facilitate implementation and management of the upgrade and expansion, including assistance with equipment installation, System testing, performance evaluation, and System acceptance ("Phase III").

5. As with Phase I and Phase II, the Cities desire that Addison enter into an agreement for Phase III with RCC, with the cost thereof to be shared equally by the Cities as set forth herein. A copy of a proposed agreement entitled "Second Amendment to Consultant

Services Agreement” between Addison and RCC to conduct Phase III as described in the RCC Proposal is attached hereto as Exhibit A and incorporated herein (the “Phase III Agreement”). Addison has approved the Phase III Agreement, subject to and contingent upon, however, the approval and execution of this Agreement by the Cities.

6. The provision of police, fire, and emergency medical services, the radio communications that are essential thereto, and the work and services described herein in connection therewith, are essential to the public health and safety and are governmental functions and services pursuant to Chapter 791, Tex. Gov. Code, pursuant to which this Agreement is authorized.

NOW, THEREFORE, for and in consideration of the mutual benefits and obligations set forth in this Agreement, the City of Carrollton, Texas, the City of Farmers Branch, Texas, the City of Coppell, Texas, and the Town of Addison, Texas do hereby agree as follows:

Section 1. The above and foregoing Recitals are true and correct and are incorporated into this Agreement and made a part hereof for all purposes.

Section 2. The Cities agree that they shall each pay one-fourth of the total cost of the Phase III Agreement as set forth therein. Such total cost is shown in the Phase III Agreement to be \$_____, and therefore each City shall pay \$_____. Addison will make payments to RCC in accordance with the Phase III Agreement, and each of Carrollton, Farmers Branch, and Coppell shall reimburse Addison their proportionate (one-fourth) share of each payment made by Addison. Such reimbursement shall be made by Carrollton, Farmers Branch, and Coppell not later than 15 days following their receipt of an invoice from Addison identifying the amount(s) paid by Addison and a copy of the RCC invoice and any supporting documentation received in support thereof from RCC.

The payments made by Carrollton, Farmers Branch, and Coppell to Addison pursuant to this Agreement shall be made from current revenues available to each of Carrollton, Farmers Branch, and Coppell.

Section 3. For purposes of this Agreement, notices and other communications shall be in writing, addressed as provided hereinafter to the party to whom the notice or request is given, and shall be either (i) delivered personally, (ii) sent by United States certified mail, postage prepaid, return receipt requested, or (iii) placed in the custody of Federal Express Corporation or other nationally recognized carrier to be delivered overnight. Notice shall be deemed given upon receipt. Addresses for notices and other communications are as follows:

To Carrollton:

Attn:_____

To Farmers Branch:

Attn:_____

To Coppell:

Attn: _____

To Addison:

Attn: _____

From time to time each City may designate another address within its boundaries for purposes of this Agreement by giving the other party not less than ten (10) days advance notice of such change of address in accordance with the provisions hereof.

Section 4. Each City shall not, and shall have no authority to, assign or otherwise transfer this Agreement or an portion hereof without the prior written consent of the other Cities. No assignment or other transfer by any City will be effective without the written consent of the other Cities.

Section 5. This Agreement represents the entire and integrated agreement between the Cities, and supersedes all prior negotiations, representations and/or agreements, either written or oral with regard to the subject matter hereof. This Agreement may be amended and modified only by written instrument signed by authorized representatives of each of the Cities.

Section 6. The provisions of this Agreement are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this Agreement is for any reason held by a court of competent jurisdiction to be contrary to the law or contrary to any rule or regulation having the force and effect of the law, such decisions shall not affect the remaining portions of the Agreement.

Section 7. This Agreement and the rights and duties of the Cities shall be governed by the laws of the State of Texas, without regard to the choice of laws provisions of any jurisdiction. This Agreement shall be enforceable in Dallas County, Texas, and, if legal action is necessary, exclusive venue shall lie in Dallas County, Texas.

Section 8. This is a negotiated document. Should any part of this Agreement be in dispute, the Cities agree that the terms and provisions of this Agreement shall not be construed more favorably for or strictly against any City.

Section 9. It is not a waiver of or consent to a breach, failure to perform, or default of this Agreement if the non-defaulting party fails to declare promptly a default or delays in taking any action. Pursuit of any rights or remedies set forth in this Agreement does not preclude pursuit of any other rights or remedies in this Agreement or available or provided by law, in equity, or otherwise.

Section 10. This Agreement and all of its provisions are solely for the benefit of the Cities and, except as set forth herein, are not intended to create or grant any rights, contractual or otherwise, to any third person or entity.

Section 11. This Agreement shall be effective upon the date that the last of the Cities executes this Agreement as reflected by the date of execution of this Agreement by the authorized representatives of the Cities set forth below.

Section 12. The Cities do not waive any immunity or other defenses or tort limitations to any claims by their the execution of this Agreement, and no City waives, nor shall be deemed to waive, any immunity or defense or tort limitation which otherwise is available in claims arising from or in connection with any activity conducted pursuant to this Agreement.

Section 13. This Agreement may be executed in counterparts, each of which shall constitute an original and all of which together shall constitute one and the same agreement.

Section 14. The undersigned persons are the properly authorized representatives of each of the respective Cities and have the necessary authority to execute this Agreement on behalf of the Cities.

EXECUTED by each of the Cities as of the dates set forth below.

CITY OF CARROLLTON, TEXAS

By: _____

Title: _____

Date: _____

CITY OF FARMERS BRANCH, TEXAS

By: _____

Title: _____

Date: _____

CITY OF COPPELL, TEXAS

By: _____

Title: _____

Date: _____

TOWN OF ADDISON, TEXAS

By: _____

Ron Whitehead, City Manager

Date: _____

Council Agenda Item: #R6

AGENDA CAPTION:

Discussion and consideration of approval of an Interlocal Agreement between the Town of Addison and Farmers Branch for the purchase of a Public Safety Radio System.

FINANCIAL IMPACT:

The final cost of the Harris Communications proposed Public Safety Radio System is \$12,746,464.00. To facilitate the purchasing process Farmers Branch agreed to negotiate the contract with Harris Communications and purchase the system on behalf of the Quad Cities Radio Consortium consisting of Addison, Carrollton, Farmers Branch and Coppell. Addison, Carrollton and Coppell have agreed, assuming Council approval, to reimburse Farmers Branch for their respective shares of the cost of the radio system. Addison's share of the costs for the proposed base radio system is not to exceed \$2,500,000 based on a four separate dispatch centers configuration. Certificates of Obligation totaling \$5,000,000 have been issued to cover the cost of the radio replacement project.

BACKGROUND:

To facilitate the purchasing process of the Quad Cities Public Safety Radio System, Farmers Branch agreed to negotiate the contract with Harris Communications and purchase the system on behalf of the Quad Cities Radio Consortium consisting of Addison, Carrollton, Farmers Branch and Coppell. Addison, Carrollton and Coppell have agreed, assuming Council approval, to reimburse Farmers Branch for their respective shares of the cost of the radio system.

RECOMMENDATION:

Administration recommends approval

COUNCIL GOALS:

Enhance Public Safety

ATTACHMENTS:

Description:

 [Metrocrest Quad Cities Public Safety Radio System](#)

Type:

Cover Memo

SECOND AMENDMENT TO CONSULTANT SERVICES AGREEMENT

This Second Amendment to Consultant Services Agreement ("Second Amendment"), dated as of June ___, 2013, is by and between the Town of Addison, Texas ("Addison") and RCC Consultants, Inc. ("RCC") (Addison and RCC are sometimes referred to herein together as the "parties").

WITNESSETH:

WHEREAS, Addison and RCC are parties to that certain Consultant Services Agreement dated as of August 5, 2010 (the "Original Agreement") and amended by that First Amendment to Consultant Services Agreement dated as of October 2011 (the "First Amendment") (the Original Agreement and the First Amendment being collectively the "Agreement," a true and correct copy of which is on file in the office of the Addison Chief of Police); and

WHEREAS, Addison has a need for additional services from RCC and both parties desire to amend the Agreement as set forth herein.

NOW THEREFORE, in consideration of the promises and mutual covenants and agreements contained herein, the parties hereto agree as follows:

- (1) In addition to the Scope of Work performed by RCC pursuant to Article I of the Agreement and to the First Amendment, and subject to the provisions of paragraph (3) below, RCC shall perform the services identified in Attachment 1 hereto (and incorporated herein) as Phase III (Oversight of Implementation and Acceptance Testing, Task 1 through Task 9) (the "Additional Services") pursuant to and in accordance with the terms, conditions and provision of the Agreement. For purposes of the performance by RCC of the Additional Services, the reference in the Agreement to "Services" shall include the Additional Services.
- (2) Addison shall pay RCC for the Additional Services the amount set forth in Attachment 1 hereto. All payments shall be in accordance with the invoice and payment process, and other matters regarding payment, set forth in the Agreement.
- (3) This Second Amendment is contingent upon approval or consent by Addison, and by the Cities of Carrollton, Farmers Branch, and Coppell, of an agreement to upgrade the radio system used by Addison, Carrollton and Farmers Branch in the exercise of their respective governmental functions to a digital P25 system. Unless and until each of Addison, Carrollton, Farmers Branch, and Coppell has approved or consented to such agreement, and until Addison has issued a written notice to proceed to RCC to conduct or provide the Additional Services, RCC shall not provide or perform any of the Additional Services. If such an agreement is not approved or consented to by all of the said cities, and if Addison does not give RCC such written notice to proceed, Addison may terminate this Second Amendment by providing written notice thereof to RCC. If this Second Amendment is so terminated, RCC shall not be entitled to any compensation or

payment of any fees, costs or charges related to the Additional Services or this Second Amendment.

If the cities approve or consent to an agreement to upgrade the radio system to a digital P25 system, and if Addison gives RCC written notice to proceed with the provision of the Additional Services, RCC's provision and performance of the Additional Services shall commence as soon as practicable thereafter and, subject to the provisions of Article VI of the Agreement, shall be completed upon full and final completion by RCC of each of Task 1 through Task 9 as set forth in Attachment 1 hereto, and payment to RCC by Addison of the fees and expenses that are not in dispute, as set forth in Attachment 1 hereto.

The above and foregoing recitals are true and correct and are incorporated herein and made a part of this Second Amendment for all purposes.

EXCEPT AS MODIFIED HEREIN, ALL THE TERMS, COVENANTS AND CONDITIONS CONTAINED IN THE AGREEMENT SHALL REMAIN IN FULL FORCE AND EFFECT AND APPLY FOR ALL PURPOSES TO THE ADDITIONAL SERVICES AND THE PROVISION THEREOF AND WORK THEREON BY RCC, AND THE AGREEMENT, AS HEREBY AMENDED, IS RATIFIED AND CONFIRMED.

The person executing this Second Amendment on behalf of RCC is an authorized representative of RCC and has been authorized by RCC to execute this Second Amendment. The person executing this Second Amendment on behalf of Addison is an authorized representative of Addison and has been authorized by Addison to execute this Second Amendment.

IN WITNESS WHEREOF, the parties have caused this Second Amendment to be executed by their duly authorized representatives as of the date first written above.

TOWN OF ADDISON

RCC CONSULTANTS, INC.

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

ATTACHMENT 1

[attach Phase III description]

Section

1 Phase III Scope of Work

Project Workplan for System Implementation & Acceptance Testing

The following scope of work provides RCC's proposed workplan and methodology that will be utilized to support the implementation and acceptance testing of the Metrocrest Quad Cities (MQC) P25 Trunked Radio System. The scope of work that follows is intended to provide independent and objective implementation support to assist the MQC in monitoring and overseeing the vendor's implementation work and system acceptance testing of the new shared trunked radio system. RCC's services are not intended to replace or overlap with the work to be provided by the selected radio system vendor. RCC's advice and counsel is intended to assist the MQC in working with the selected vendor and to help the MQC team properly review and address project issues that will inevitably arise in this project just as they do in other similar projects around the country.

Because RCC has several similar projects underway in Texas and around the country, it is not unusual for our staff to become aware of potential implementation issues or problems before the vendor's local project team is. This can help mitigate or in some cases avoid the problem entirely which can reduce project risk and save time, money, and aggravation.

Although RCC has identified a specific approach and scope of work, RCC is flexible and prepared to modify the scope of work, if needed, to help ensure that it meets the needs and requirements of the MQC. Prior to executing a Consulting Services Contract for the project, RCC personnel will work with the MQC Team to make any final adjustments in the scope of work that may be required.

RCC has developed a number of project tools that will be utilized throughout the project to help monitor and track progress and evaluate certain technical aspects of the project such as radio coverage performance and testing. The tools also help facilitate robust project communications between RCC and authorized members of the MQC Project Team as the project progresses.

Phase III – Oversight of Implementation and Acceptance Testing

The preliminary workplan for Phase III is presented for review and discussion in the following pages. RCC is available to meet with the MQC Project Team and discuss the specifics of the work plan for Phase III.

The purpose of Phase III is to successfully install and acceptance test the new system prior to system cutover in addition to successful completion of a reliability testing period.

Task 1—Implementation Initiation & Mobilization

The purpose of Task 1 will be to formally mobilize and engage the RCC project staff and prepare for Phase III startup. The RCC staff involved in Phase III will be brought up to date regarding the scope

of work contained in the system purchase agreement (contract), the project plans, MQC team, project issues and project schedule.

RCC staff will develop a Phase III PowerPoint presentation for the project initiation meeting with the MQC's Project Team, RCC Consultants, Inc. (RCC) and the selected vendor's representatives. The purpose of the kickoff meeting will be to accomplish the following:

- Officially begin system implementation;
- Determine and identify who will be involved from each of the participating entities throughout project implementation;
- Review and discuss the statement of work contained in the system contract documents including roles and responsibilities of the vendor and the MQC;
- Review and discuss the implementation schedule and project milestones to be completed along the way;
- Establish project reporting requirements and frequencies (e.g., status reports formats, frequency and method), and
- Review and discuss payment terms tied to the vendor's milestone performance.

RCC staff will attend and participate in the kickoff meeting at a location to be selected by the MQC Project Implementation Team.

Task 2 – Provide Day-to-Day Project Implementation Support

The purpose of Task 2 is to provide the MQC Project Implementation Team with day-to-day project management and implementation support for a range of project issues including:

Review and discussion of implementation tasks and issues including:

- Periodic support for resolution of day-to-day project issues that arise;
- Periodic project meetings to review/discuss and resolve project issues. Some project meetings may be conducted by conference call depending upon the nature and duration of the meeting.
- Site development / installation issues and design packages to include:
 - Review and approval of vendor's site development packages for each site;
 - Periodic site inspections of the vendor's work, site development, preparation, installation of site improvements, equipment shelter, tower, power and grounding systems, and radio equipment;
 - Assistance in resolving site development issues that arise;
- Dispatch console configuration planning and development support for each department;
- Fire Station alerting;
- System fleet mapping and development of talkgroup planning;
- Planning and development of radio programming templates;
- Microwave system connectivity and configuration issues;

- System redundancy and fallback systems;
- Failure mode planning, review and analysis;

RCC has assumed that Phase III will be completed within 18 months of execution of a contract for the new system. For budgeting purposes, Task 2 tentatively includes the following levels of support:

- **18 Monthly Project Meetings** - The current scope of work includes an RCC representative attending and supporting a monthly project status meeting within the MQC area each month throughout the 18 month implementation period.
- **Day-to-day support (above and beyond monthly project meetings)** - The current Task 2 scope of work includes an average of 24 hours of support per month throughout the 18 month implementation period. Activity will vary by month depending the level of work scheduled. RCC will only bill the MQC for the actual work conducted during any given month. We estimate that the Task 2 support will average 3 day per months.

Task 3—Prepare Periodic Project Status Reports

RCC will assist the MQC Project Implementation Team in monitoring the work performance of the selected vendor and will prepare a monthly project status report reflecting the vendor's progress and issues that have arisen during each monthly reporting period. When appropriate, recommendations for problem resolution will be provided on a case-by-case basis. RCC will work with the MQC Project Team and selected vendor to monitor, track, and help resolve problems that may arise during system implementation.

Task 4—Attend & Participate in Detailed Design Review (DDR) Meeting

A Detailed Design Review (DDR) will be conducted with the selected vendor to thoroughly discuss their proposed system configuration and equipment in detail prior to the ordering and manufacturing of the radio system equipment and software. Detailed system design documents identifying all required customization mutually accepted by both the vendor and the MQC must be prepared by the vendor. RCC will work with the MQC Project Implementation Team to review the vendor's DDR documents and will participate in the DDR project meetings and discussions. RCC has budgeted two personnel for two (2) days of on-site review and discussion meetings and two (2) additional days (1 person) for follow up DDR review following revision of the initial DDR documents to address MQC concerns or updates. These levels of support are consistent with similar projects for other RCC clients.

In the event that assistance is needed by the MQC Project Implementation Team beyond the amounts specified above, RCC can provide the additional services at the hourly rates quoted in our cost proposal plus any related travel and per diem expenses.

Task 5 – Attend & Participate in System Staging

Once the vendor has manufactured and assembled the radio system infrastructure, the system will be staged at the vendor's facilities. Staging involves assembling and installing the radio system infrastructure at the staging area for operational testing and MQC review purposes. RCC recommends that designated members of the MQC Project Implementation Team attend the factory staging of the system. Being very familiar with the project, system technology and system architecture, RCC staff will assist the MQC attendees in asking relevant questions and looking for

potential system problems or issues during the staging event. RCC will be the MQC staff attending the staging event in the initial functional testing of the new system while it is in staging. The testing is conducted to help identify system problems that should be resolved prior to shipping the system to the MQC facilities. Accordingly, RCC will attend system staging with the MQC participants. For budgeting purposes, we have assumed that the staging event will require one RCC person for two days at the staging facility.

Task 6 – FCC 800 MHz Licensing Assistance

RCC will assist the MQC Project Implementation Team in preparation of 800 MHz FCC licensing modifications to update MQC's current 800 MHz licenses for digital P25 operation & to accommodate other 800 MHz trunked radio system licensing updates that may be needed. Frequency coordination and licensing fees, if any, are to be paid by the licensees directly to the Frequency Coordinator.

It is important to note that if any additional repeater sites are added or other substantial system changes are made that increase the currently licensed coverage footprint, relicensing the MQC's existing radio channels can in some cases present problems. Radio channels are licensed on a shared basis with co-channel licensees (other users) licensed to use the same channels at locations beyond 70 miles from MQC's current sites. If new sites are added, the new sites may encroach upon the FCC's required 70 mile separation of the co-channel users which can be a problem.

As soon as the DDR has been completed, the MQC Project Implementation Team will know what licensing changes are needed. Accordingly, at this time, it is difficult to accurately forecast the amount of time needed to address such licensing issues.

Due to the equipment specific nature of microwave system licensing, RCC will not be responsible for microwave frequency coordination or licensing. RCC will however verify that the FCC microwave licensing is ordered in a timely manner by the microwave system vendor. The microwave system vendor will be responsible for the microwave frequency coordination and FCC licensing work and to see that the MQC Project Implementation Team is granted the proper microwave channel license(s).

Task 7 – Assist the MQC in Acceptance Testing of the New System

RCC personnel will work closely with the MQC's Project Team to help ensure that the new system and equipment are appropriately tested prior to final system acceptance. The system acceptance test plan that was outlined in the system RFP and ultimately included in the system contract will serve as the foundation for the acceptance testing process. RCC will assist the Project Implementation Team in conducting the system testing procedures outlined in the test plan.

Such testing will involve site development improvements, equipment installation, two-way radio and microwave radio equipment testing, required functionality, system reliability and failure modes, microwave performance testing, radio coverage testing, dispatch console testing, and sampled user radio equipment verification and proof of performance testing.

Two-way radio system coverage performance is particularly important and will be field tested to determine whether or not the radio coverage required by the MQC and included in the system contract has actually been delivered by the vendor. RCC has extensive hands-on experience in this area, and has conducted coverage testing in hundreds of projects, several of which have been in Texas and the Dallas / Fort Worth area.

For coverage testing purposes, the MQC two-way radios should be tested in the same manner in which the radios are used in everyday operations.

Prior to final acceptance, a contiguous multi-week system reliability test should be successfully completed without a major system failure to help ensure that the new system is stable and ready for use by the MQC agencies. Should there be a "major system failure" within the period of the system reliability test, the vendor will be instructed to address the failure, provide a cure for the problem, and once that has properly implemented, the system reliability test will start over at day one.

The results of the acceptance testing program will be prepared by the vendor presented to the MQC Project Team and RCC for review, discussion, and if appropriate, acceptance. The vendor will be provided a list of identified discrepancies that require correction. Upon satisfactory completion of the acceptance test process, RCC will recommend whether or not the MQC should approve the Final System Acceptance. In projects of this nature, it is not unusual to have a small list of minor punch-listed issues that need attention and resolution following system acceptance. Items on that list generally do not hold up system acceptance, subject to MQC approval. At final acceptance the MQC officially takes ownership of the system and the system's one year warranty period begins.

For project budgeting, RCC has assumed that the selected vendor will successfully pass all system acceptance tests the first time and that retesting of the system or subsystems will not be needed. This is a reasonable assumption based upon prior RCC projects of a similar nature. In the event that retesting is needed, RCC can provide that additional support at additional cost.

For scoping purposes RCC has assumed that the Functional System Testing which includes the simulcast sites, the Master site, the microwave network, the four console systems, the network management system, and failure mode testing and verification.

Task 8 – Attend and Participate in System Cutover

RCC will assist the MQC and system vendor in the development of an appropriate system cutover plan that will minimize operational impact as much as is reasonably possible. RCC will also work with the MQC Project Team and selected vendor to be on-site for the system cutover and the first day of service in case system issues arise following cutover. For budgeting purposes, RCC has included one person on-site for two days, one day for final cutover preparations, one day for cutover.

Task 9 – Project Closeout

The purpose of Task 9 is to close out Phase III. RCC will meet with the MQC Project Manager to close out any remaining project issues, project files and RCC billing. RCC will archive the MCQ project files for later retrieval if needed.

**Section
2**

Professional Fees & Expenses

The cost proposal that follows is based upon the enclosed Phase III scope of work, and on the assumptions which are listed below. Professional fees may by mutual agreement, be adjusted if the scope of work is modified or the project schedule is significantly extended for reasons beyond RCC's control.

- As in our previous work with the MQC, invoices will be issued monthly based on the work performed during the previous month and invoices are due within thirty (30) days.
- Out-of-pocket expenses will be included on the monthly invoices and will be billed at actual plus an administrative fee of 10% to cover miscellaneous reimbursable expenses. Out-of-pocket expenses may include project-related travel and per diem, and printing of project documents. RCC will make every effort to ensure that such expenses are reasonable and necessary. Expenses are expected to be minimal since some of the RCC staff that will be involved in this effort are located in the Dallas / Fort Worth area.
- Any meetings required beyond those specifically addressed in RCC's workplan are currently out of scope, but should such a need arise, RCC will provide the MQC with a quotation to address the need.
- To help RCC be most responsive to the MQC, RCC may need to move project time, fees and expenses between project staff and between project tasks as long as the total amount billed to the MQC does not exceed the Phase III contract amount.
- Additional terms and conditions are subject to RCC Consultant's Services agreement.
- This proposal is valid for 120 days.

A cost summary sheet for Phase III has been provided on the following page.

Phase III Fees and Expenses

FINANCIAL SHEET
(included in Cost Proposal to Client)



May 22, 2012

RCC CONSULTANTS, INC. TECHNICAL SERVICES CONTRACT
Trunked radio system replacement
Metrocrest Quad Cities
Phase III Implementation Support - 2013 -2014

Professional Fees			
	Hours	Rate 2013	Subtotal
Vice President General Manager	20	\$ 250.00	\$ 5,000.00
Director	580	\$ 200.00	\$ 116,000.00
Managing Consultant		\$ 185.00	\$ -
Senior Consultant	612	\$ 170.00	\$ 104,040.00
Senior Consultant		\$ 170.00	\$ -
Administrative Assistant		\$ 70.00	\$ -
Total	1,212		\$ 225,040.00
			\$ 225,040.00

Travel and Per Diem Expenses		
	Rate	Subtotal
Round Trip Airline Fares #1 @	\$ 400.00	
1 Round Trip Airline Fares #2 @	\$ 800.00	\$ 800.00
67.5 Man Days per Diem @	\$ 175.00	\$ 11,812.50
72 Days Rental Vehicle @	\$ 100.00	\$ 7,200.00
12800 Miles @	\$ 0.57	\$ 7,296.00
Total		\$ 27,108.50
		\$ 27,108.50

General and Administrative Fee	10%	\$ 2,710.85	\$ 2,710.85
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Miscellaneous Expenses		
		\$ -
Grand Total		\$ 254,859.35

Council Agenda Item: #R7

AGENDA CAPTION:

Presentation, discussion and consideration of approval of a resolution approving and authorizing the City Manager to execute an Amended and Restated Master Facilities Agreement between the Town of Addison, UDR, Inc, and owners of real property in the Vitruvian Park area controlled by UDR, Inc, regarding the development of Vitruvian Park and the Town's participation in, including payment for, the design and construction of public infrastructure improvements within and adjacent to the Vitruvian Park property, which property comprises approximately 121 acres of land and which is generally bound on the north by Spring Valley Road, on the east by the City of Farmers Branch, on the south by Brookhaven Community College and the City of Farmers Branch, and on the west by Marsh Lane.

FINANCIAL IMPACT:

Funding is provided by certificates of obligation and general obligation funds.

BACKGROUND:

See attached memorandum.

RECOMMENDATION:

Administration recommends approval.

COUNCIL GOALS:

Mindful Stewardship of Town Resources, Raise Property Values, Infrastructure improvement and maintenance, Implement bond propositions

ATTACHMENTS:

Description:

- 📄 [Memorandum](#)
- 📄 [Resolution](#)
- 📄 [Amended and restated Master Facilities agreement](#)
- 📄 [Exhibits amended and restated Master Facilities agreement](#)

Type:

- Cover Memo
- Cover Memo
- Cover Memo
- Cover Memo

Attached is a proposed Amended and Restated Master Facilities Agreement regarding the provision of public infrastructure improvements in the Vitruvian Park area. The Amended and Restated Agreement is between the Town and UDR, Inc., and the owners of all of the property in Vitruvian Park that are under UDR’s control.

In 2008 the City Council approved a Master Facilities Agreement with UDR, Inc. and the owners of the real property in the Vitruvian Park development. That Agreement generally provides for the Town to design and construct various public improvements (e.g., streets, utilities, parks) in the Vitruvian area. To pay for the public improvements, the Town agreed to issue certificates of obligation in an amount of \$39,879,336. That amount was divided into two fundings, with Funding No. 1 being in the amount of \$23,290,007 and Funding No. 2 being in the amount of \$16,589,329. The construction of the public improvements was placed or included under one of the fundings, with the improvements under Funding No. 1 being divided into two phases (Phase 1 and 2) that include Vitruvian Way reconstruction, construction of Bella Lane and Ponte Avenue, Vitruvian Park, and improvements to Farmers Branch Creek, and the remaining improvements being included under Funding No. 2.

Phase 1 and 2 have now been completed, and all of Funding No. 1 has been spent. In May 2012, voters approved the issuance of \$29,500,000 general obligation bonds for streets, \$10,000,000 of which is slated for use in Vitruvian Park. Therefore, the total amount remaining to be spent for the remaining Vitruvian Park public infrastructure improvements is \$16,589,329 (the original Funding No. 2 amount) plus \$10,000,000, or a total of \$26,589,329 (the new Funding No. 2 amount). A portion of that total amount (\$10,000,000) has already been received from the issuance of certificates of obligation; as noted, a portion of that total (\$10,000,000 – general obligation bonds) has been authorized by the voters but has not yet been issued; the final portion (\$6,589,329) will come from certificates of obligation.

With the addition of the \$10,000,000 voted bond funds, the total amount for all Vitruvian Park public infrastructure is \$49,879,336.

The Amended and Restated Agreement makes various changes to the initial Agreement, and the primary ones are described below:

	<u>Initial Master Facilities Agreement</u>	<u>Amended and Restated Agreement</u>
Property Included	Approximately 100 acres	Approximately 120 acres (if new 20 acres is added to the existing Planned Development zoning for the current 100 acres)
Phase 4 Improvements (located in Farmers Branch; provide connection to Brookhaven College and Alpha Road)	Not Included	Shown in <u>Exhibit “C-2”</u> , and subject to the Town obtaining agreement from Farmers Branch and affected property owners
	Funds allocated by phase (1 and 2)	Funds allocated by phase as shown in <u>Exhibit “C-2”</u> ; City Manager

Allocation of Funds	and subphase as shown in <u>Exhibit “C-1”</u>	may agree with UDR to adjust allocation between phases in amounts up to \$200,000, but no more than an aggregate amount of \$750,000
Excess Costs (costs in excess of amounts allocated for each phase)	UDR and Property Owners responsible to pay Excess Costs	UDR responsible to pay Excess Costs; Property Owners responsible to pay according to their pro rata ownership of land located in phases 5 through 9 as shown on Exhibit C-2 (this excludes the currently developed properties of Savoye, Savoye 2, and Fiori)
Possible Reimbursement Obligation	If 5,400 units have not been issued certificates of occupancy by March 2023, UDR and Property Owners reimburse the Town a portion of its funds expended on public infrastructure improvements	If 4,800 units have not been issued certificates of occupancy by June 2028, UDR and Property Owners (to the extent of their ownership of property in phases 5 through 9 shown on <u>Exhibit “C-2”</u>) reimburse the Town a portion of Funding No. 2

TOWN OF ADDISON, TEXAS

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN OF ADDISON, TEXAS APPROVING AN AMENDED AND RESTATED MASTER FACILITIES AGREEMENT BETWEEN THE TOWN, UDR, INC., AND OWNERS OF PROPERTY WITHIN THE VITRUVIAN PARK AREA THAT ARE RELATED TO AND CONTROLLED BY UDR, INC., REGARDING THE DEVELOPMENT OF VITRUVIAN PARK AND INCLUDING THE DESIGN AND CONSTRUCTION OF, AND PAYMENT FOR, CERTAIN PUBLIC INFRASTRUCTURE IMPROVEMENTS THEREIN AND ADJACENT THERETO BY THE TOWN, WHICH AREA COMPRISES APPROXIMATELY 121 ACRES OF LAND GENERALLY BOUNDED ON THE NORTH BY SPRING VALLEY ROAD, ON THE EAST BY THE CITY OF FARMERS BRANCH, ON THE SOUTH BY BROOKHAVEN COMMUNITY COLLEGE AND THE CITY OF FARMERS BRANCH, AND ON THE WEST BY MARSH LANE; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDED AND RESTATED MASTER FACILITIES AGREEMENT FOR THE TOWN; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Addison, Texas (the “City”) is a home rule city municipality pursuant to Article 11, Section 5 of the Texas Constitution and its Home Rule Charter; and

WHEREAS, certain business entities (“Property Owners”) owned and controlled by UDR, Inc. (“UDR”) own approximately 121 acres of land within the City within that area of the City commonly known as Vitruvian Park, which area is generally bounded on the north by Spring Valley Road, on the east by the City of Farmers Branch, on the south by Brookhaven Community College and the City of Farmers Branch, and on the west by Marsh Lane (the “Property”); and

WHEREAS, since approximately 2008 UDR and the Property Owners have been in the process of developing and redeveloping the Property, and the existing and future development consists of a well-planned, mixed use development with urban residential (approximately 5,400 housing units), commercial, and retail uses organized within a system of pedestrian-friendly streets and trails, integrating therein an existing creek, surrounding green space, and generous open space for recreation opportunities, along with water features, passive recreation amenities and scenic landscapes to provide enhanced aesthetics; and

WHEREAS, UDR anticipates that it will spend in excess of \$950,000,000 in its development and redevelopment of the Property; and

WHEREAS, the development and redevelopment of the Property will contribute important direct and indirect economic and social benefits to the City including, but not limited to, creation of a larger, urban-oriented residential population, additional jobs and increased property and sales tax revenues, and in particular such development will serve as a catalyst for the development and redevelopment of areas of the City surrounding the Property; and

WHEREAS, in 2008 the City, UDR and the Property Owners entered into an agreement regarding the development of the Property and the City's provision of public infrastructure in connection therewith (including the design and construction of, and payment for, the public infrastructure improvements), which agreement was thereafter modified, and since that date conditions and circumstances regarding the Property and its environs and public infrastructure improvements has changed, and the City, UDR and the Property Owners desire to accordingly modify the said agreement as set forth in the attached Amended and Restated Master Facilities Agreement; and

WHEREAS, the Amended and Restated Master Facilities Agreement and the terms and provisions thereof and the services to be provided as set forth therein are important and necessary for the public health, safety and welfare, will further the objectives of the City, and will benefit the entire City and the City's inhabitants.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:

Section 1. The Amended and Restated Master Facilities Agreement by and between the City, UDR, Inc., and the Property Owners, a true and copy of which is attached hereto, is hereby approved. The City Manager is authorized to execute the Amended and Restated Master Facilities Agreement on behalf of the City.

Section 2. The above and foregoing premises are true and correct and are incorporated herein and made a part of this Resolution.

Section 3. This Resolution shall take effect upon its passage and approval.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this _____ day of _____, 2013.

Todd Meier, Mayor

ATTEST:

By: _____
Chris Terry, City Secretary

APPROVED AS TO FORM:

By: _____
John Hill, City Attorney

STATE OF TEXAS §
§
§
COUNTY OF DALLAS §

AMENDED AND RESTATED
MASTER FACILITIES AGREEMENT

THIS Amended and Restated Master Facilities Agreement (this “Agreement”) is entered into this ____ day of _____, 2013 (the “Effective Date”), by and between the **TOWN OF ADDISON, TEXAS** (the “City”), a home rule municipality; and by each of the following: **DCO BROOKS APARTMENTS LP**, a Delaware limited partnership, **DCO GREENBROOK APARTMENTS LP**, a Delaware limited partnership, **DCO TALISKER LP**, a Delaware limited partnership, **DCO GARDEN OAKS LP**, a Delaware limited partnership, **DCO GLENWOOD APARTMENTS LP**, a Delaware limited partnership, **DCO CLIPPER POINTE LP**, a Delaware limited partnership, **DCO SPRINGHAVEN LP**, a Delaware limited partnership, **DCO ADDISON AT BROOKHAVEN LP**, a Delaware limited partnership, and **DCO GREENHAVEN LP**, a Delaware limited partnership (collectively the “Initial Owners”); **DCO SAVOYE LLC**, a Delaware limited liability company (“Savoys”), **DCO SAVOYE 2 LLC**, a Delaware limited liability company (“Savoys 2”), and **DCO FIORI LLC**, a Delaware limited liability company (“Fiori”) (the Initial Owners, Savoys, Savoys 2 and Fiori are collectively the “Original Owners”); **DCO BROOKHAVEN CENTER, LP**, a Delaware limited partnership and **DCO REALTY, INC.**, a Delaware corporation (collectively the “New Owners”) (the Original Owners and the New Owners are collectively the “Property Owners”); and **UDR, INC.**, a Maryland corporation (“UDR”) (the City, UDR, and the Property Owners are sometimes referred to herein together as the “parties” and individually as a “party”).

RECITALS:

WHEREAS, the City is a home rule municipality pursuant to Article 11, Section 5 of the Texas Constitution and its Home Rule Charter; and

WHEREAS, collectively the Property Owners are the sole owners of all of the Property (as hereinafter defined), with their respective ownership interests in the Property being described and depicted on **Exhibit “A”** attached hereto and incorporated herein, and each is an Affiliate (as hereinafter defined) of UDR, and UDR Controls the Property Owners and is the master developer of the Property (the Property, as originally configured and as augmented as described herein, is named and generally known, and sometimes referred to herein, as “Vitruvian Park”); and

WHEREAS, the City, UDR and the Initial Owners entered into that certain Master Facilities Agreement dated March 11, 2008 (“Original Agreement”) as subsequently modified and amended by (i) that certain Modification to Master Facilities Agreement dated August 28, 2009 (adding Savoys as a party to the Original Agreement), (ii) that certain First Amendment to Master Facilities Agreement entered into and made effective February 10, 2010, (iii) that certain Second Modification to Master Facilities Agreement dated August [REDACTED], 2010 (adding Savoys 2 as a party to the Original Agreement), and (iv) that certain Second Amendment to Master Facilities Agreement (“Second Amendment”) dated November 1, 2010 (collectively the “Initial Agreement”); and

WHEREAS, since the date of the Second Amendment, DCO Addison at Brookhaven LP conveyed a portion of the Property to Fiori (which portion is shown under the name “Fiori” in the attached Exhibit A), and Fiori is a Property Owner and accordingly has assumed the benefits and burdens of this Agreement as set forth herein; and

WHEREAS, the Initial Agreement described and provided a framework regarding the development of the “Property” as defined therein (the “Initial Property”) by the Original Owners and UDR, and regarding the City’s participation in the costs to design and construct certain permanent public facilities and improvements to serve the development of the Initial Property and the City at large; and

WHEREAS, the City’s participation in such costs was established in the Initial Agreement at a maximum amount of \$39,879,336.00, with such amount to be funded by the City’s issuance of its certificates of obligation and divided into two parts described and defined as Funding No. 1 and Funding No. 2 (and so called herein), with the maximum amount of Funding No. 1 being \$23,290,007.00 and the maximum amount of Funding No. 2 being \$16,589,329.00 (the said \$16,589,329.00 being sometimes referred to herein as the “Certificates of Obligation Funds”); and

WHEREAS, Funding No. 1 was divided into phases and subphases, and each of those phases and subphases has been completed and all proceeds of Funding No. 1 have been expended, leaving the proceeds of Funding No. 2 for use by the City to defray a portion of the costs to design and construct certain permanent public improvements to serve the development of the Property and the City at large as described in this Agreement; and

WHEREAS, at an election held in the City on May 12, 2012, voters approved the issuance of \$29,500,000.00 general obligation bonds for permanent public improvements, including engineering, constructing, reconstructing, improving, repairing, developing, extending and expanding streets, thoroughfares, bridges, interchanges, intersections, grade separations, sidewalks and other public ways of the City, including related streetscape improvements, public utility improvements, storm drainage facilities and improvements, signalization and other traffic controls, street lighting, and the acquisition of land therefor; and

WHEREAS, in addition to proceeds from Funding No. 2, the City desires to use \$10,000,000.00 of the said \$29,500,000.00 general obligation bonds (the said \$10,000,000.00 being sometimes referred to herein as the “General Obligation Bond Funds”) to defray a portion of the costs to design and construct certain permanent public improvements to serve the development of the Property and the City at large as described in this Agreement; and

WHEREAS, since the execution of the Original Agreement, UDR, as the master developer, has added certain tracts of land to the Vitruvian Park development, so that Vitruvian Park in its entirety, consisting of the Initial Property and the added tracts (the added tracts being owned by the New Owners and described and depicted in Exhibit “A” attached hereto as the DCO Brookhaven Center tract and the DCO Realty tracts (the “New Property”), is described and depicted on Exhibit “A” attached hereto and incorporated herein (and is referred to herein as the “Property”); and

WHEREAS, collectively the Property includes the real property described in **Exhibit “A”** and depicted on **Exhibit “D”** attached hereto and incorporated herein, and is generally located south of the street known as Vitruvian Way and north of Vitruvian Way, save and except or subject to (as the case may be) all dedicated public right-of-ways, roadways, public parks, and public utility easements as depicted on any existing recorded Plat or as dedicated by deed; and

WHEREAS, since the date of execution of the Original Agreement, portions of the Property have been redeveloped (which portions are identified on the attached **Exhibit “C-1”** attached hereto and incorporated herein) and portions of it remain to be developed or redeveloped by UDR and certain of the Property Owners (such remaining portions being shown and described on the attached **Exhibit “C-2”** (the “Remaining Property”)), the Remaining Property being currently vacant land, retail store sites, commercial office space, or apartment complexes, and the Property Owners, to the extent of their respective ownership of the Property, and UDR desire to redevelop the Remaining Property, and the City desires to encourage the development and/or redevelopment of the Remaining Property; and

WHEREAS, the development and/or redevelopment of the Property consists of a well-planned, mixed use development with urban residential, commercial, and retail uses organized within a system of pedestrian-friendly streets and trails, integrating therein an existing creek, surrounding green space, and open space, along with water features, recreation amenities and scenic landscapes to provide enhanced aesthetics (the “Project”); and

WHEREAS, the Initial Property is zoned PD Planned Development pursuant to Ordinance No. 007-034 of the City (the “Zoning Ordinance”), providing for a mix of residential, retail, office, and other uses, which Ordinance, among other things, approved a concept plan for the development of the Initial Property (the “Concept Plan”), and the New Owners have expressed to the City an interest in seeking a rezoning of the New Property from its current zoning to PD Planned Development District in accordance with the Zoning Ordinance and so that the New Property would become a part of the land described in the Zoning Ordinance; and

WHEREAS, UDR and the Property Owners anticipate that the development and/or redevelopment of the Remaining Property will extend over a period of up to fifteen (15) years following the Effective Date, will include the construction of approximately 5,400 residential dwelling units, and will occur in phases (collectively the “Phases,” depicted on **Exhibit “D”** attached hereto and incorporated herein), and the parties understand that there may be sub-phases in certain Phases; and

WHEREAS, the development and/or redevelopment of the Remaining Property will contribute important direct and indirect economic and social benefits to the City including, but not limited to, creation of a larger, urban-oriented residential population, additional jobs and increased property and sales tax revenues, and in particular such development will serve as a catalyst for the development and redevelopment of areas of the City surrounding the Property; and

WHEREAS, it is essential to the City’s public health, safety and general welfare to assure that the development and/or redevelopment of the Property is supported by adequate levels of public facilities and services; and

WHEREAS, in connection with the development and redevelopment of the Property, the Developer advised the City that a contributing factor that would encourage the Developer to complete the redevelopment of the Property would be an agreement by the City to provide funding to defray a portion of the cost to construct certain permanent public facilities and improvements, which facilities and improvements are described and allocated according to various phases as shown and described in Exhibit “C-2” attached hereto and incorporated herein (the “Public Infrastructure Improvements”) and which consist primarily of the construction or reconstruction of roadways, water system improvements, wastewater system improvements, drainage improvements, streetscapes, public restrooms, street improvements for various types of streets, open space, and park improvements (and which phases are intended to be coordinated with the Phases of the private development of the Property); and

WHEREAS, in connection with the Initial Agreement the City adopted an Incentive Policy & Guidelines for Qualifying Projects (the “Incentive Policy”), which provides, among other things, (i) for the City to consider providing incentives to attract new, or to improve existing, residential assets, and (ii) for the identification of redevelopment zones and bond issue revenue for infrastructure, utilities, and streetscape as a primary incentive program; and

WHEREAS, the City Council previously approved the Initial Agreement and authorized the City Manager to execute the same, and has adopted Resolution No. _____ approving this Agreement and authorizing its execution by the City Manager; and

WHEREAS, by this Agreement the parties desire to provide for, among other things, the allocation and expenditure of the authorized funds that are and/or may be available to the City (such funds being \$16,589,329.00 (the Certificates of Obligation Funds) and \$10,000,000.00 (the General Obligation Bond Funds) as described above) for the Public Infrastructure Improvements; and

WHEREAS, a portion of the Property has been significantly redeveloped in accordance with the Initial Agreement; the Property Owners, to the extent of their interest in the Property, and UDR desire and intend to develop and/or redevelop the Remaining Property in accordance with this Agreement; significant public infrastructure improvements have been installed pursuant to the Initial Agreement; market conditions have changed since the date of execution of the Initial Agreement; and the parties agree that the Initial Agreement is now out-of-date and requires revision and, accordingly, the parties hereto desire by this Agreement to amend and restate the Initial Agreement in its entirety.

NOW, THEREFORE, for and in consideration of the above and foregoing premises, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby contract and agree as follows:

Section 1. Definitions. As used in this Agreement, the following additional terms shall have the meanings indicated below:

“Affiliate” means, a Person who Controls, is Controlled by, or is under common Control with, another Person (e.g., the Property Owners are Controlled by UDR and therefore are each an Affiliate of UDR). A Person “Controls” another Person if the Person has possession, directly or

indirectly, of the power to direct or cause the direction of the management and policies of the other Person, through the ownership of equity securities, by contract, or in another manner; and a Person is “Controlled by” another Person if the other Person has possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the Person, through the ownership of equity securities, by contract, or in another manner.

“Concept Plan” means the Concept Plan for the Initial Property and any property added thereto, together with all conditions attached thereto, as initially approved by the City on October 9, 2007, and incorporated into City Ordinance No. 007-034 and all amendments thereto approved by the City Council. A true and correct copy of Ordinance No. 007-034 is attached hereto as **Exhibit “B”** and incorporated herein for all purposes (and any amendments to Ordinance No. 007-034 approved by the City Council shall be attached to and made a part of **Exhibit “B”** and be incorporated herein).

“Developer” means UDR, Inc., a Maryland corporation.

“Development Plan” means a final development plan approved by the City for a Phase of the Project.

“Funding No. 1” means a portion of the City’s original financial commitment as described in the Initial Agreement in the amount of Twenty Three Million Two Hundred Ninety Thousand Seven and No/100 Dollars (\$23,290,007.00) which has already been expended to pay for those certain Public Infrastructure Improvements as described in the Initial Agreement.

“Funding No. 2” means a portion of the City’s original financial commitment as described in the Initial Agreement (such portion being in the amount of \$16,589,329.00 (the Certificates of Obligation Funds as described in the Recitals above)) and the General Obligation Bond Funds as identified in the Recitals above (in the amount of \$10,000,000.00), or a total of Twenty-Six Million Five Hundred Eighty Nine Thousand Three Hundred Twenty Nine and No/100 Dollars (\$26,589,329.00) as reflected on **Exhibit “C-2”** attached hereto and incorporated herein.

“Initial Agreement” has the meaning set forth in the Recitals, above.

“Initial Property” has the meaning set forth in the Recitals, above.

“New Property” has the meaning set forth in the Recitals, above.

“Phase” or “Phases” means or refers to a particular portion of the private development of the Property as identified in the Concept Plan, as amended. It is anticipated that there may be as many as eight (8) Phases (including two (2) Phases as described in the Initial Agreement and shown together on the attached **Exhibit “D”** as Phase 101 through 103), and 6 Phases as shown on the attached **Exhibit “D”** as Phases 201 through 203, 301 through 303, 401 through 403, 501 through 504, 601 through 604, and 701). The location of the Phases are depicted on **Exhibit “D”**.

This Agreement refers to “Phases” of the private development and to “phases” of Public Infrastructure Improvements. The Phases of the private development are shown generally in the

attached **Exhibit “D”**, and the phases of the Public Infrastructure Improvements are shown generally in **Exhibit “C-2”**. The following chart is provided to clarify the relationship between the Phases of the private development and the phases of the Public Infrastructure Improvements:

<u>Private Development</u> (shown in Exhibit “D”)		<u>Public Infrastructure Improvements</u> (shown in Exhibit “C-2”)
Phase 1 (shown as 101 through 103)	corresponds to	phase 1 and phase 2
Phase 2 (shown as 201 through 203)	corresponds to	phase 5
Phase 3 (shown as 301 through 303)	corresponds to	phase 6
Phase 4 (shown as 401 through 403)	corresponds to	phase 7
Phase 5 (shown as 501 through 504)	corresponds to	phase 8
Phase 6 and Phase 7 (shown as 601 through 604 and 701)	corresponds to	phase 9

Phase 3 of the Public Infrastructure Improvements shown in **Exhibit “C-2”** reflects public improvements already completed and there is not a corresponding private development Phase. Phase 4 of the Public Infrastructure Improvements shown in **Exhibit “C-2”** is located outside of the Property and does not have a corresponding private development Phase.

“Person” means an individual or entity (including, without limitation, a corporation, partnership, limited partnership, joint venture, limited liability company, sole proprietorship, or other business entity recognized in law).

“Project” has the meaning set forth in the Recitals, above.

“Property” has the meaning set forth in the Recitals, above, subject, however, to the provisions of Section 2.C. below.

“Public Infrastructure Improvements” or “Improvements” means the public streets, easements and other public rights-of-way, water, sewer and drainage facilities, park facilities and all other proposed public facilities and improvements shown and described (together with their projected design, testing, inspection, administrative, and construction costs) in the Concept Plan and in **Exhibit “C-2”** attached hereto and incorporated herein. All Public Infrastructure Improvements concerning Phase 1 and Phase 2 (as depicted on **Exhibit “C-2”**) have been completed and are operational.

“Vitruvian Park” has the meaning set forth in the Recitals, above.

“Zoning Ordinance” has the meaning set forth in the Recitals, above.

Section 2. Purpose and Intent; City Funding.

A. This Agreement is intended to encourage development and redevelopment of properties, including aging properties, for the benefit of the City, the implementation of comprehensive plan policies relating to the remaining development and redevelopment of the Property, and to provide appropriate levels of public facilities and improvements to support such development and redevelopment and to enhance the quality of life for all citizens of the City.

B. It is the City’s intention to finance the costs of the Public Infrastructure Improvements as set forth in this Agreement with the proceeds from the sale of its Certificates of Obligation in the amount of \$16,589,329.00 (the Certificates of Obligation Funds) and with the proceeds from the sale of its general obligation bonds in the amount of \$10,000,000.00 (the General Obligation Bond Funds). No other funds of the City, other than the proceeds of the Certificates of Obligation and the General Obligation Bond Funds, are obligated or encumbered to provide the Public Infrastructure Improvements.

The City has heretofore received a portion of the Certificates of Obligation Funds in the amount of \$10,000,000.00, leaving a balance of \$6,589,329.00 to be obtained from the future sale of its Certificates of Obligation (the “CO Balance”). The City’s use and expenditure of its funds in the amount of the CO Balance under this Agreement is contingent upon the City’s successful issuance and sale, in accordance with customary municipal practices and procedures, of its Certificates of Obligation in the amount of the CO Balance.

It is the intent and objective of this Agreement that the proceeds of Funding No. 2 be allocated to the design and construction of all of the Public Infrastructure Improvements so that a sufficient amount of such proceeds is available (e.g., spread across all Phases and sub-phases) to facilitate the completion of all Public Infrastructure Improvements.

C. As set forth in the Recitals above, UDR, as the master developer of the Property, has, since the date of the Initial Agreement, added the New Property (owned by the New Owners) to the Vitruvian Park development. UDR and the New Owners have expressed an interest in seeking a rezoning of the New Property from its current zoning to PD Planned Development District in accordance with the Zoning Ordinance (as defined in the Recitals) and so that the New Property would become a part of the land described in the Zoning Ordinance (and, accordingly, included in the Concept Plan).

If such rezoning request is sought and the City approves the same, so that the New Property is zoned PD Planned Development District in accordance with the Zoning Ordinance (as amended) and is included in the Concept Plan (and is subject to the terms, provisions and conditions of the Zoning Ordinance and the Concept Plan), then the Zoning Ordinance and the Concept Plan, as those terms are used in this Agreement, shall be the Zoning Ordinance and the Concept Plan as amended by action of the City approving the rezoning (and the amendments thereto shall be incorporated herein and made a part of this Agreement). The City Staff intends to recommend approval of the rezoning described herein. However, if the City Council does not

approve such rezoning on or before December 31, 2013, then (i) the Zoning Ordinance and the Concept Plan shall not include the New Property, (ii) the term “Property” as used herein shall only include the Initial Property as described in the Recitals, above (being only the property that was included in the Initial Agreement), (iii) this Agreement shall be treated as if the New Property (and any Improvements related thereto) is not a part of this Agreement (and this Agreement, including the exhibits attached hereto and/or referenced herein, shall be revised and amended by the parties to reflect such treatment and the removal of the New Property), and (iv) the City’s funding shall be reduced to only the amount of the Certificates of Obligation Funds (\$16,589,329.00).

Section 3. Property. The Property subject to this Agreement is that real property described and depicted in **Exhibit “A”**, and includes all of the land lying within PD Planned Development District as established by Ordinance No. 007-034 of the City and as depicted on the Concept Plan attached thereto; and if the New Property is rezoned as described in Section 2.C. above, the said PD Planned Development District will include the entire Property.

Section 4. Rights and Obligations of Parties.

A. Benefits and Burdens. The burdens of this Agreement shall bind, and the benefits of this Agreement shall inure, to the parties to this Agreement and to each of them and to their assigns and their successors in interest.

B. Assignment.

1. Subject to the limitations stated herein, the Property Owners, to the extent of their respective ownership interests in the Property, shall have the right to sell, transfer, assign, or otherwise convey in any manner whatsoever, including by succession, merger, consolidation, a conveyance, or otherwise (collectively, “Assign” or “Assignment,” and the person or entity to whom such Assignment is made being an “Assignee”) their legal and equitable interest in the Property, in whole, or in part, or any portion thereof, to any person, partnership, joint venture, firm or corporation at any time during the term of this Agreement; provided, however, that neither an Assignment to: (i) an Affiliate of UDR; nor (ii) any real estate investor or developer with a principal, or other Person that Controls such investor or developer, that has a net worth of at least Fifty Million and No/100 Dollars (\$50,000,000.00) (a “Capitalized Assignee”) shall require the written approval of the City. In the event such Assignee is an Affiliate of UDR the respective Property Owner making any such Assignment and UDR shall provide the City with written notice and information to the City of and regarding the Assignment (including the name of the Assignee, the type of entity, the state of formation, and contact information, and a statement to the effect that the Assignee is an Affiliate of UDR) promptly following the Assignment and, upon the City’s request, provide the City with written evidence establishing the relationship between UDR and such Affiliate and the then current ownership of and interests in the Property or portion thereof; in the event such Assignee is a Capitalized Assignee, UDR shall provide written notice and information to the City of and regarding the Assignment (including the name of the Assignee, the type of entity, the state of formation, contact information, and evidence establishing that the Assignee is a real estate investor or developer with a net worth of at least \$50,000,000.00) promptly following the Assignment and, upon the City’s request provide the City with written evidence establishing the Capitalized

Assignee's interest in the Property or portion thereof, that the Assignee is a real estate investor or developer, and the Assignee's net worth.

Any Assignment shall include a specific acknowledgment that the respective Assignee is assuming the applicable obligations of the Property Owner making the Assignment, including the obligation to pay any pro rata Excess Costs as described in Section 7.B. herein and the possible pro rata reimbursement obligation regarding Funding No. 2 to the extent same has already been expended by the City, as further described in Section 7.F. herein.

Notwithstanding the foregoing or any other provision of this Agreement, no Assignment to an Affiliate of UDR, a Capitalized Assignee, or otherwise, shall relieve UDR or the Property Owners of or from their duties or obligations pursuant to this Agreement except as authorized in writing by the City, and each of the Property Owners shall comply with and be bound by the terms, conditions and provisions of this Agreement applicable to the Property Owner as long as it has an ownership interest in the Property and until such time as the City may release the Property Owner from such terms, conditions and provisions. UDR may not Assign this Agreement or any of its rights, duties or obligations hereunder without the City's prior written consent, such consent not to be unreasonably withheld, conditioned or delayed.

2. During the term of this Agreement, any Assignee of a portion or all of the Property shall observe and perform all of the duties and obligations of the Property Owners as contained in this Agreement, or as it may be amended or revised, as such duties and obligations pertain to that specific portion of the Property which is Assigned. Any Assignment of portions or all of the Property by the respective Property Owner shall be in writing and shall clearly provide that the Assignee shall observe and perform all of the duties and obligations of the Property Owners as contained herein and be bound by the terms and provisions of this Agreement; at the City's request, a true and correct copy of such writing shall be promptly provided to the City by the Property Owner and UDR.

3. Notwithstanding any term herein to the contrary, the Property Owners of all or any portion of the real property located in Phase 1 and Phase 2 of the Public Infrastructure Improvements as reflected on **Exhibit "C-2"** hereto, and their respective successors and Assignees, shall have no obligation or duty whatsoever to reimburse the City in connection with Funding No. 2, as further described in Section 7.E. herein.

Any and all successors and Assignees of UDR or the Property Owners shall have all of the same rights, benefits, duties, obligations and liabilities of UDR and the Property Owners, as applicable, under this Agreement.

Section 5. Public Infrastructure Improvements Schedule.

A. Schedule. **Exhibit "C-2"**, attached hereto and made a part of this Agreement, sets forth a summary of the nature of the Public Infrastructure Improvements for each future Phase and their total anticipated costs. The schedule describes an allocation of estimated costs for particular Public Infrastructure Improvements regarding phase 3 through phase 9 of the Public Infrastructure Improvements, for purposes of Section 7 of this Agreement.

B. Dedication of Rights-of-Way; Development in Accordance with Laws.

Dedication of all rights-of-way, easements, and any other land or interest therein required for Public Infrastructure Improvements shall be dedicated by the applicable Property Owner as generally shown on **Exhibit “D”** hereto (which may be amended from time to time by the mutual agreement of the parties), to the City by plat or separate instrument prior to construction of such Public Infrastructure Improvement. UDR and the Property Owners agree that such dedication, in each instance generally in accordance with **Exhibit “D,”** does not exceed the amount required for infrastructure improvements that are roughly proportionate to the proposed development, and waives any claim or right to dispute or appeal the same only with regard to the dedications required. In the development of the Property, each respective Property Owner shall comply with all federal, state, and local laws, ordinances, rules, regulations, codes and standards applicable thereto, including, without limitation, the Zoning Ordinance and the subdivision ordinances, rules, and regulations of the City, as of the Effective Date and as the same may be amended, modified or superseded provided such amended, modified or superseded ordinances, rules and regulations do not prohibit or materially impair the construction of the Project as approved under the Zoning Ordinance, as may be amended.

C. Phase 4 Public Infrastructure Improvements. The phase 4 Public Infrastructure Improvements are described on **Exhibit “C-2”** as “Alpha Road Connection Through Brookhaven College.” The location of the proposed Improvements is entirely outside of the City and wholly within the City of Farmers Branch, Texas. Accordingly, the City’s expenditure of any Funding No. 2 funds (or any other City funds) to design and construct the phase 4 Improvements is contingent upon the City obtaining authorization from the City of Farmers Branch and any affected property owner(s) to design and construct the phase 4 Improvements (and which may include provisions related to maintenance of the phase 4 Improvements), such authorization to be acceptable to the City (that is, the Town of Addison, Texas) in its sole discretion.

Exhibit “C-2” shows a projected amount for the phase 4 Improvements of \$1,775,577.00. In the event the City’s costs and expenses for the design and construction (and including the City’s costs for soils testing, inspection, and administration) of the phase 4 Improvements, and the costs and expenses (if any) of land (or an interest in land) needed for the phase 4 Improvements, exceed such projected amount, the City may, after giving written notice to UDR, use additional funds from Funding No. 2 that are allocated to other phases of the Public Infrastructure Improvements to pay for such costs and expenses, so that all of the costs and expenses incurred by the City for the phase 4 Improvements are paid from Funding No. 2. The use of such additional funds by the City will require a reallocation of funds from Funding No. 2 for the other phases of the Public Infrastructure Improvements shown on **Exhibit “C-2,”** and the parties will reasonably reallocate such funds to be reflected in a mutually agreeable amendment hereto.

Section 6. Procurement, Design, Construction, and Construction Management. Procurement of services, project design and construction management for the Public Infrastructure Improvements for each phase of the Public Infrastructure Improvements and of the development of the Property shall be in accordance with the following provisions:

A. Design.

1. In connection with Funding No. 2, the Developer shall recommend to the City a design professional (e.g., a professional engineering firm and professional engineer registered and licensed to practice engineering in the State of Texas) licensed to practice its professional service in the State of Texas (such design professional being referred to herein as the “Engineer”) to engineer and/or otherwise design, as the case may, the Public Infrastructure Improvements and to, without limitation, participate in the City’s process to select a contractor to construct the Public Infrastructure Improvements. Developer will make such recommendation on the basis of the Engineer’s reputation and the experience and qualifications to perform the services as represented by the Engineer. It is the parties’ understanding that, as applicable, the professional fees for the Engineer shall be fair and reasonable, the same being the standard for the selection of a professional engineer as set forth in the Texas Professional Services Procurement Act, Chapter 2254, Tex. Gov. Code (the “Professional Services Procurement Act”). The costs of all such engineering or other design services shall be paid for from available funds which are part of Funding No. 2.

2. The City Council shall evaluate the recommendation of the Developer and the information submitted by the proposed Engineer and vote to approve or disapprove of the proposed Engineer at a negotiated price in accordance with the Professional Services Procurement Act, as the same may be applicable. If the City Council disapproves the same, Developer shall continue to follow the procedure set forth above until the City Council approves of the Engineer at a negotiated price, as applicable.

3. After the City Council’s approval of the Engineer, the City shall enter into a contract with the Engineer at the negotiated price, as applicable (the “Engineering Contract”) for that portion of the Public Infrastructure Improvements then under consideration, which shall provide, among other things, that the Engineer will engineer and/or otherwise design, as the case may be, the Public Infrastructure Improvements (or portion thereof), will participate in the City’s process to select a contractor to construct the same, and will be engaged in the on-site review of the construction work.

B. Construction.

1. Engineering (or other design plans, as the case may be) consisting of design plans and specifications for the Improvements shall be submitted to the City for review and consideration of approval, which review and consideration shall be processed in accordance with the City’s standard procedures for processing such plans and specifications, but which process shall not be unreasonably delayed. The City shall, following the City’s final approval of such plans and specifications, solicit bids (or pursue other authorized procurement methods) to construct the proposed Improvements in accordance with law. Following the opening of the bids (or other submissions in accordance with other authorized procurement methods) received, the City Manager or the City Manager’s designee shall notify the Developer of the same and the City’s proposal to the City Council regarding the award. The City Council shall thereafter select a contractor to construct the Public Infrastructure Improvements (or applicable portion thereof) and seek to enter into a contract with the contractor. Prior to execution of any such construction

contract, the Developer shall have a reasonable opportunity to review the contract and recommend modifications as it deems appropriate regarding the contract to the City.

2. In conjunction and simultaneous with the construction of Public Infrastructure Improvements, the Property Owners will be constructing certain private improvements upon each respective Property Owner's real property included within the applicable Phase. Upon the award and execution of the construction contract between the City and the contractor and in order to coordinate the construction of the public and private facilities, the City will, except for the phase 4 Public Infrastructure Improvements, retain the services of UDR as the construction manager for the Public Infrastructure Improvements work to be performed by the contractor under the contract, including, observation, supervision and coordination of all construction work, in accordance with such terms, conditions and provisions as the City and UDR may agree upon (and which, in connection with UDR's role as construction manager, shall include insurance provisions to be provided by UDR for the protection of UDR and the City, the costs of which are eligible to and may be paid from the proceeds of Funding No. 2, and provisions related to indemnity from UDR to the City) in connection therewith and with the following:

(a) UDR, as construction manager for the construction of Public Infrastructure Improvements, shall use best efforts to ensure that all Public Infrastructure Improvements are completed in a timely manner in accordance with the construction contract documents, plans and specifications. The City Manager may approve reasonable extensions to deadlines for performance of any work by UDR, or its contractors, provided UDR or its contractors are using due diligence and reasonable efforts to complete said work. UDR will facilitate weekly meetings with designated City staff members regarding the planning and construction of the Improvements, which meetings shall occur more often as may be requested by the City. UDR shall coordinate the construction as a construction manager, including confirming that the Engineer has inspected the work of the contractor to guard the City against, and shall notify the City of, any defects and deficiencies in the Improvements without assuming responsibility for the means and methods used by the contractor. UDR shall also coordinate testing by the geotechnical engineering firm selected by the City in accordance with Section 6.C. herein.

(b) (i) In connection with its construction management obligations, UDR shall consult with the City regarding the designation of, and thereafter designate, a person to serve as the construction manager representative (the "Construction Representative") for the applicable portion of the Public Infrastructure Improvements. UDR shall be fully responsible for the Construction Representative and all of the Construction Representative's work and activities. Following such designation, UDR shall promptly provide to the City the name of the person so designated and the person's contact information, and shall update such contact information in the event of any change.

(ii) The person designated by UDR as the Construction Representative shall have significant experience in managing construction projects of the type that is the subject of the then applicable construction contract (e.g., if the construction contract is for the construction of the Creek Area Park, the Construction Manager shall have significant experience in managing park construction projects). The Construction Representative shall meet and communicate with the City, including the City's Director of Infrastructure

Operations and Services and the Director of Parks, on a regular basis. Among other things, the Construction Representative shall inform the City Manager of all emergencies and the occurrence of any unforeseen circumstances relating to the construction contract.

(iii) Should the performance of the designated Construction Representative be reasonably determined to be unsatisfactory to the City Manager as evidenced by written notice from the City Manager, UDR shall, if the Construction Representative has not cured the unsatisfactory performance as set forth in the notice within a reasonable period of time following written receipt of such request (but in any event not to exceed 30 days, but such time period may be extended if necessary in order to comply with any applicable federal, state, or local law or regulation), remove the current Construction Representative and appoint a replacement in accordance with the provisions of this subsection within a reasonable time period thereafter (but not to exceed 15 days).

(c) The City acknowledges and agrees that UDR's services as construction manager and supervisor and coordinator of the Public Infrastructure Improvements is a valuable service and that it is customary for a construction manager to receive a fee for such services. The City agrees that, in connection with each construction contract, on a monthly or other basis to be agreed upon by the City and UDR, UDR shall be entitled to be paid by the City an amount equivalent to eight (8%) percent of the total construction costs for the Improvements which are the subject of the construction contract for UDR's services as the construction manager (all such amounts to be paid solely from Funding No. 2); provided, however, that UDR shall be entitled to such payment if and only if the costs to design and construct (including the cost of any change orders as described in Section 6.B.3. of this Agreement) the applicable Improvement(s) do not exceed the amount to be paid for such Improvement(s) from Funding No. 2 as allocated and set forth in **Exhibit "C-2"** attached hereto. If following the completion of a construction project for which UDR received a management fee, it is determined that UDR was not entitled to the management fee, UDR shall reimburse to the City the management fee to the extent funding was not available to pay the same as described in the previous sentence.

For example: Assume the amount allocated to the phase 5 Public Infrastructure Improvements is \$4,000,000.00, and that:

- design costs for the phase 5 Improvements amount to \$300,000.00, leaving an available balance of \$3,700,000.00 in the amount allocated for the Phase 5 Improvements;
- at the time a construction contract is entered into, the City has incurred costs for soils testing services (as described in Section 6.C. below) in the amount of \$100,000.00, leaving an available balance of \$3,600,000.00 in the amount allocated for the phase 5 Improvements;
- accounting for a projected construction management fee (8% of \$3,600,000.00, or \$288,000) leaves a balance of \$3,312,000.00 ("Available Balance") in the amount allocated for the phase 5 Improvements;

- the City enters into a contract to construct the phase 5 Improvements in the amount of \$3,500,000.00; and
- the City incurs inspection services costs and administrative costs (as described in Sections 6.D. below) in the amount of \$100,000.00.

Since the actual construction contract to construct the phase 5 Improvements is in an amount (\$3,500,000.00) that exceeds the Available Balance (\$3,312,000.00) at the time the construction contract is entered into, UDR (and the Property Owners according to their pro rata ownership of the Property in phases 5 through 9 of the Public Infrastructure Improvements) shall pay the City the difference between the Available Balance (\$3,312,000.00) and the contracted cost of \$3,500,000.00, or \$188,000.00, prior to the City executing the phase 5 Improvements construction contract. UDR will be entitled to payment of a construction management fee based on the amount allocated to actually construct the phase 5 Improvements (that is, 8% of \$3,312,000.00, or \$264,960.00), but is not entitled to payment of a construction management fee on the \$188,000.00 paid by UDR and the Property Owners (or on any incentive bonus paid pursuant to a construction contract).

If funds from the \$4,000,000.00 allocated to the phase 5 Improvements are not available to pay any portion of the inspection services costs and administrative costs (\$100,000.00) incurred by the City, UDR (and the Property Owners according to their pro rata ownership of the Property) will be responsible to pay those costs.

(d) UDR shall review all invoices or payment draw requests received from the contractor and forward the same to the City for payment with such supporting documentation as the City may require. All payments for work performed under the construction contract shall be paid by the City and made payable to the respective contractor or material supplier and shall be delivered to UDR for forwarding to the construction contractor or material supplier. The City shall not make a payment under any such invoice or pay estimate unless UDR has provided to the City a certification regarding the invoice or pay estimate and UDR has reviewed and approved the same. UDR's certification shall be by affidavit sworn to by the appropriate official of UDR authorized to submit the same, and shall certify that the estimate of work completed for the relevant period is true and correct to the best of UDR's information and belief, has been measured and verified in accordance with the construction contract documents, and that all construction contract preconditions to payment have been met. If not previously provided to the City, copies of all material testing results (if applicable) shall be furnished with the certification.

3. All change orders to a contract for the construction of Improvements shall be processed and approved by the City in accordance with the City's procedure for the review and approval thereof. It is anticipated that, in connection with the construction of Public Infrastructure Improvements, change orders may occur; to the extent a change order is necessary for the successful completion of a construction project as identified and described in the construction contract, and plans and specifications therefor, the cost for such change order shall be paid from funds (e.g., Funding No. 2) then available (if any) for the relevant Public Infrastructure Improvements in accordance with this Agreement. In the event and to the extent

such funds are not available, the Developer shall pay the change order in accordance with Section 7.B. of this Agreement.

4. The construction contract shall require, among other things, that the contractor provide performance and payment bonds in a form reasonably acceptable to the City. Bonds shall be issued by a surety company satisfactory to the City, licensed by the State of Texas to act as a Surety, and listed on the current U. S. Treasury Listing of Approved Sureties. All bonds shall be made on a form complying with the requirements of the laws of the State of Texas. The performance and payment bonds shall name the City and the Developer as joint obligees and beneficiaries. A surety bond shall also be executed and provided to the City to include a two-year maintenance requirement for the Public Infrastructure Improvements.

5. Except for the phase 4 Improvements and the extension of Bella Lane and Alpha Road (as shown on **Exhibit "C-2"**), all Public Infrastructure Improvements shall become the sole property of the City upon completion of the work and acceptance of the work by the City. With the exception of all work regarding phase 4 of the Public Infrastructure Improvements and the extension of Bella Lane and Alpha Road (as shown on **Exhibit "C-2"**), upon final completion of the Improvements and acceptance thereof by the City in accordance with the construction contract for the Improvements, the City shall take the Public Infrastructure Improvements free from any liens or encumbrances thereon except for any private utility easements.

6. In accordance with the City's Subdivision Ordinance, Ordinance No. 261, as amended, Developer and the Property Owners shall construct, place or locate all new or relocated electric utility lines and wires, terminals and other facilities and equipment underground. Within the public streets and rights-of-way, to the extent that the Property Owners of real property located in Phases 5 through 9 of the Public Infrastructure Improvements may be liable or responsible for the difference between the cost of constructing such electrical utility facilities overhead and placing the same underground, such cost shall be eligible for reimbursement in accordance with Section 7 of this Agreement.

C. Testing. The City shall enter into a contract with a geotechnical engineering firm to provide soils testing services relating to the construction of Public Infrastructure Improvements. Costs of such services shall be paid for through available funds from **Funding No. 2 as allocated and set forth in Exhibit "C-2" attached hereto.**

D. Inspection; Administration; Final Payment. The City shall have the right to use the City's own professional engineering employees for inspection of any and all construction of Improvements, and if the City does so, there shall be no inspection fees or charges to the respective Property Owner. Alternatively, the City may enter into a contract with an engineering firm (or other inspection firm as determined to be appropriate by the City) to provide inspection services relating to the construction of any Public Infrastructure Improvement(s). Costs of such services, together with administrative costs incurred by the City in connection with the construction of Improvements (e.g., project management fees, attorneys fees, permit and filing fees (Dallas County, Texas Commission on Environmental Quality, Texas Commission of Licensing and Regulation, etc), bid advertisement costs, reprographics costs, and courier costs), shall be paid for through available funds from Funding No. 2 as allocated and set

forth in **Exhibit “C-2”** attached hereto. The City will seek to limit the expenditures for such “inspection services,” such administrative costs, and the “soils testing services” described in Section 6.C. above, to an amount not to exceed 8% of the actual construction cost (as may be adjusted by change order as described in Section 6.B.3.). If such expenditures will exceed 8%, the City will notify UDR and allow UDR a reasonable opportunity to review the proposed expenditures and to comment on the same. The City has and reserves the right, but does not have the obligation, to inspect, test, measure, verify and approve the construction work on the Improvements as the City deems necessary. Final payment to the construction contractor shall not be made until the respective Improvement(s) described in the construction contract have been finally completed in accordance with such construction contract, plans and specifications and have been accepted by the City.

E. Park Improvements.

1. Previously constructed Public Infrastructure Improvements include a creek park and creek park open space (the “Creek Area Park” as described in the Initial Agreement), which is located within phase 1 as depicted on **Exhibit “C-2”** hereto, and was constructed in accordance with the conceptual plan prepared by Kevin W. Sloan, Kevin Sloan Studio, Dallas, Texas and a true and correct copy of which is on file in the office of the City’s Director of Development Services. The parties acknowledge and agree that the Creek Area Park is a high-quality facility, that it was conveyed to the City prior to its construction, and the City is responsible for all costs and expenses associated with its maintenance and upkeep.

2. In connection with all other parks and open space areas of the Property, which other parks and open space areas are identified on the attached **Exhibit “D”** (collectively, the “Other Parks”), the City and Developer shall establish a committee to recommend to the City a design professional to plan and design the same. The committee shall consist of three (3) City representatives and three (3) Developer representatives. Each member of the committee shall be entitled to vote on the recommendation to the City Council. Final selection of and execution of a contract with a design professional to design and prepare the plans and specifications for the Other Parks, and the selection of and execution of a contract with a contractor to construct the same, shall be by the City in accordance with the process set forth in Section 6.

F. Landscape Maintenance. The City shall maintain, at its sole cost and expense, all landscaping and streetscaping in the public right-of-way and dedicated easements (except to the extent such maintenance is required to be performed by the owner of the fee simple title) and all dedicated park and creek areas, according to the specifications and standards set forth in each approved Development Plan, and as provided in the Landscape Maintenance Schedule attached to this Agreement as **Exhibit “E”**. The City agrees that it will not, for a period of fifteen (15) years, make any material change to or material re-design of the Creek Area Park without the prior written consent of the Property Owners or their respective successors and assigns. The terms of this subsection 6.F., shall survive the termination of this Agreement.

Section 7. Allocation of Funding No. 2; Payment and Participation by the Developer in Excess Costs; Reimbursement Obligation; Reallocation of Funds from Funding No. 2; Tax Valuation.

A. Allocation by designed Fundings and Payment. Funds from Funding No. 2 to be expended by the City for the design and construction of the Public Infrastructure Improvements (including UDR's 8% construction management fee) shall be allocated by phases of the Public Infrastructure Improvements as described and identified in Exhibit "C-2". Notwithstanding any term or condition of this Agreement to the contrary, the City, acting by and through the City Manager, and UDR may by written agreement adjust such allocation between phases of the Public Infrastructure Improvements in an amount not to exceed \$200,000.00 (e.g., phase 5 funding, shown at \$4,780,852.00 in Exhibit "C-2," may be reduced by no more than \$200,000.00, and the reduced amount transferred to phase 6), but all such adjustments in the aggregate shall not exceed \$750,000.00; any adjustment between phases of the Public Infrastructure Improvements in excess of \$200,000.00 or in excess of the aggregate amount of \$750,000.00 shall require the prior approval of the City Council of the Town of Addison. The expenditure of funds by the City from Funding No. 2 shall be made by the City in accordance with the procedures set forth in Section 6 of this Agreement.

B. Participation in Excess Costs by UDR and the Property Owners. In the event that the costs incurred by the City for the design (e.g., engineering) and construction (including construction management costs, testing costs, inspection costs, and administrative costs as described in Section 6.C. and Section 6.D., respectively, and including costs set forth in any change orders) of the Improvement(s) included within a phase as set forth in Exhibit "C-2" (save and except for the phase 3 and phase 4 Public Infrastructure Improvements) shall exceed the projected total costs for such phase of the Public Infrastructure Improvement(s) as set forth in Exhibit "C-2", the Developer, and the Property Owners of real property located in phases 5 through 9 of the Public Infrastructure Improvements according to each applicable Property Owner's respective pro rata interest in the real property located in the said phases 5 through 9 (as further described below in this Section 7.B.), shall pay the City the difference between the costs incurred by the City and the projected total costs ("Excess Costs"). It is the intent of this provision and this Agreement that the City expend and pay no more than the amounts shown in Exhibit "C-2" for each phase (subject to adjustment as provided in this Agreement) of the Public Infrastructure Improvements (with the City's total funding or payment amount or obligation being \$26,589,329.00 as shown in Exhibit "C-2"), and that the Developer (and the Property Owners of real property in the said phases 5 through 9 according to their respective pro rata interest therein) pay all amounts in excess thereof. Payment of Excess Costs shall be made by the Developer (and the Property Owners as described) prior to the execution by the City of a contract (e.g., construction contract, design contract, inspection contract, etc.) related to such Improvements; however, if payment of Excess Costs is not so made, they shall be paid by the Developer (and the Property Owners as described) within 30 days after the City has submitted to Developer and invoice for the same.

For example: Assume the amount allocated to the phase 5 Public Infrastructure Improvements is \$4,000,000.00, and that:

- design costs for the phase 5 Infrastructure amount to \$300,000.00, leaving an available balance of \$3,700,000.00 in the amount allocated for the phase 5 Improvements;

- at the time a construction contract is entered into, the City has incurred costs for soils testing services (as described in Section 6.C. below) in the amount of \$100,000.00, leaving an available balance of \$3,600,000.00 in the amount allocated for the phase 5 Improvements;
- accounting for a projected construction management fee (8% of \$3,600,000.00, or \$288,000) leaves a balance of \$3,312,000.00 (“Available Balance”) in the amount allocated for the phase 5 Improvements;
- the City enters into a contract to construct the phase 5 Improvements in the amount of \$3,500,000.00; and
- the City incurs inspection services costs and administrative costs (as described in Sections 6.D. below) in the amount of \$100,000.00.

Payments for the phase 5 Public Infrastructure Improvements will be as follows:

- City pays design costs of \$300,000.00 from the phase 5 funds;
- City pays soils testing services costs of \$100,000.00 from the phase 5 funds;
- City will pay construction contract amount of \$3,500,000.00 (but prior to entering into the construction contract, the Developer (and the Property Owners according to their pro rata share as described) will pay to the City \$188,000.00 (the difference between the construction contract amount and the Available Balance));
- City enters into a construction management contract with UDR with an anticipated construction management fee of \$264,960.00 (8% of the Available Balance) to be paid by the City;
- City incurs inspection services costs and administrative costs (as described in Sections 6.D. below) in the amount of \$100,000.00.
- Total costs are \$4,264,960.00 and exceed \$4,000,000.00 by \$264,960.00; UDR (and the Property Owners as described) has already paid the City \$188,000.00, and therefore owe the City an additional \$76,960.00.

The amount of Excess Costs to be paid by each Property Owner to the City shall be an amount equal to the percentage of such Property Owner’s respective ownership of privately-owned acreage in phases 5 through 9 of the Public Infrastructure Improvements compared to the total privately-owned acreage in the said phases 5 through 9 multiplied by the Excess Costs. For illustration purposes, if a Property Owner, subject to the Excess Costs obligation described above, owns real property equal to 15% of the total privately-owned acreage contained in the said phases 5 through 9 and the amount of the Excess Costs is \$100,000, then such Property Owner’s pro-rata share of Excess Costs will be \$15,000 and shall be calculated as follows:

$$\$100,000 \text{ [Excess Costs]} \times 15\% = \$15,000$$

The obligation to pay any Excess Costs shall survive the expiration or termination of this Agreement.

C. Additional Public Improvements. In addition to the City's funding from Funding No. 2 for Improvements, if the City elects in its sole discretion to install and maintain any off-site right-of-way and other easement acquisition, future improvements, modifications, turn lanes, engineering or design costs, etc. related to Marsh Lane, Spring Valley Road, or intersections with said roadways, the City shall be solely responsible for, pay and cause to be installed and maintained any and all off-site right-of-way and other easement acquisition, future improvements, modifications, turn lanes, engineering or design costs, etc. related to Marsh Lane, Spring Valley Road, or intersections with said roadways.

D. Limitations on Payments. No payment for an Improvement in any Phase of the development of the Property shall be made by the City until a Development Plan for the applicable Phase has been approved and the dedication of the rights-of-way, easements, and any other land or interest therein required for such respective Improvement to serve such Phase has been dedicated to the City by plat or separate instrument(s).

E. Possible Reimbursement Obligations of UDR and of the Property Owners of real property located in Phases 5 through 9 concerning Funding No. 2.

1. The parties anticipate by June 1, 2028 the Project will have approximately 5,400 completed residential units with certificates of occupancy issued by the City; however, in the event by said date, the Project does not have at least 4,800 completed residential units with certificates of occupancy issued by the City, then and in such event UDR, and the Property Owners of real property located in phases 5 through 9 of the Public Infrastructure Improvements based on their proportionate ownership of land in the said phases 5 through 9, shall reimburse the City for that portion of Funding No. 2 actually expended by the City as of June 1, 2028. The amount of the reimbursement to be paid to the City by UDR and by the Property Owners (as to the Property Owners, based on their proportionate ownership of real property located in the said phases 5 through 9) shall be an amount equal to the percentage of the residential units not constructed and for which certificates of occupancy have not been issued compared to the total number of residential units, multiplied by that amount of Funding No. 2 actually expended by the City, and then further multiplied by thirty percent (30%). For illustration purposes, if the Property Owners construct and obtain certificates of occupancy for 3,600 units by June 1, 2028 and the City has as of that date actually expended the full amount of Funding No. 2, then UDR, and the Property Owners of real property located in the said phases 5 through 9 (based on their proportionate ownership of real property located in Phases 5 through 9), shall be obligated to reimburse the City \$957,215.82 as follows:

$4,800 - 3,600 = 1,200$ residential units not constructed/received no certificate of occupancy
 $1,200 / 4,800 = 25\%$ of the residential units not constructed/received no certificate of occupancy
 $25\% \times \$26,589,329.00$ [Funding No. 2] = \$6,647,332.25
 $\$6,647,332.25 \times 30\% = \$1,994,199.68$

For further illustration, if a Property Owner, subject to the possible reimbursement obligation described above, owns real property equal to 15% of the total privately-owned acreage

contained in Phases 5 through 9 as of June 1, 2028, then such Property Owner (together with UDR) will be responsible for repaying \$299,129.95 to the City ($\$1,994,199.68 \times 15\% = \$299,129.95$). Under no circumstances whatsoever shall a Property Owner of real property located within Phase 1 and/or Phase 2 (as depicted on **Exhibit "C-2"**) have any obligation whatsoever to reimburse the City for any portion of Funding No. 2.

2. Notwithstanding the foregoing provisions of Section 7.E.1., adjustment to the amount of any reimbursement will be made as set forth below if the following contingency occurs:

As set forth in Section 2.B. above, the City has heretofore received a portion of the Certificates of Obligation Funds in the amount of \$10,000,000.00, leaving a balance of \$6,589,329.00 to be obtained from the future sale of its Certificates of Obligation (the "**CO Balance**"); and the City's use and expenditure of its funds in the amount of the CO Balance under this Agreement is contingent upon the City's successful issuance and sale, in accordance with customary municipal practices and procedures, of its Certificates of Obligation in the amount of the CO Balance.

In the event the CO Balance is not successfully issued and sold by the City, the amount of Funding No. 2 will be reduced by the amount of the CO Balance, so that Funding No. 2 will be in an amount of \$20,000,000.00. In such an instance, for purposes of calculating the reimbursement amount of Funding No. 2 as described in section 7.E.1., the number of completed residential units shall be reduced from 4,800 to a number determined by multiplying 4,800 by a fraction (the numerator of which is the new amount of Funding No. 2 (\$20,000,000.00) and the denominator of which is the current amount of Funding No. 2 (\$26,589,329.00)), or $4,800 \times .752$, or 3,610 completed residential units.

3. The reimbursement obligation set forth in this Section shall survive the expiration or termination of this Agreement.

F. Tax Valuation. As set forth above, the City has previously financed the costs of the Public Infrastructure Improvements for phase 1 and phase 2 (as described and depicted on the attached **Exhibit "C-1"**) with its certificates of obligation in the amount of \$23,290,007.00 (referred to herein and in the Initial Agreement as "Funding No. 1"), and those Improvements have been completed and are operational. As set forth in Section 2.B. above, the City intends to finance the costs of the Public Infrastructure Improvements as set forth in this Agreement (as described and depicted on the attached **Exhibit "C-2"**) solely with its Certificates of Obligations Funds (\$16,589,329.00) and its General Obligation Bond Funds (\$10,000,000.00), the total of which (\$26,589,329.00) is referred to in this Agreement as Funding No. 2.

It is the parties' intent that the private development and re-development of the Property by UDR and the Property Owners as described in this Agreement will be able to support and pay for, through ad valorem property taxes and sales taxes generated by and from the Property, the debt service costs incurred by the City that are associated with Funding No. 1 and Funding No. 2. In connection therewith and at or about the time of the parties' execution of the Original Agreement (as defined in the Recitals above), the City caused to be prepared a financial analysis attached as Exhibit "H" to the Original Agreement, and the City has now

updated that financial analysis (the “Financial Analysis,” see **Exhibit “F”** attached hereto and incorporated herein). Among other things, the Financial Analysis references (i) an estimate of the total projected revenues to be paid to the City from the Property (such revenues being the ad valorem taxes levied against the Property (land and improvements) and sales taxes generated from businesses located at and within the Property) beginning in 2009 and continuing through 2040, (ii) funds from the issuance of Certificates of Obligation in the amount of \$23,290,007.00, which funds correlate to Funding No. 1 (the “First Issuance”), and (iii) funds from the issuance of Certificates of Obligation in the amount of \$16,589,329.00 (Certificates of Obligations) and of General Obligation Bonds in the amount of \$10,000,000.00, which funds correlate to Funding No. 2 (the “Second Issuance”).

The construction of private new improvements (buildings, etc.) on and within the Property (“Private Improvements” and each being a “Private Improvement”) which are subject to ad valorem property taxation by the City will facilitate the payment of the City’s debt service costs of the First Issuance and the Second Issuance. As such Private Improvements are completed, the Dallas Central Appraisal District or its successor (“DCAD”) will, as of January 1 of a year following the completion of each Private Improvement (the “Initial Value Year,” which typically should be the first year following the completion of a Private Improvement), establish the initial appraised value (the “Initial Value”) of each completed Private Improvement, which Initial Value will then be applied against the City’s tax rate adopted by the City for the Initial Value Year to determine the property tax owed to the City. The appraised value of each such Private Improvement will, in years following the Initial Value Year (each such year being a “Future Value Year”), be subject to re-appraisal by DCAD (the appraised value as determined by such re-appraisal being a “Future Value”).

UDR and the Property Owners agree that if in any year while any of the City’s Certificates of Obligation or General Obligation Bonds that are a part of Funding No. 1 or Funding No. 2 remain outstanding and unpaid, the Future Value of any Private Improvement is less than the Initial Value, UDR and the Property Owners will pay to the City the difference (if any) between (i) the Initial Value multiplied by the property tax rate adopted by the City in and applicable to the Future Value Year (the “Future Value Year Tax Rate”), and (ii) the Future Value multiplied by the Future Value Year Tax Rate (such difference being the “Tax Differential”). Payment of the Tax Differential shall be made to the City at the same time as payment of ad valorem taxes for the Private Improvement are made to the City, but in any event not later than January 31 of the year next following the Future Value Year.

Example: In 2015, a Private Improvement is finally completed within the Property; the appraised value of the Private Improvement is determined by DCAD to be \$2,000,000.00 (the Initial Value) as of January 1, 2015 (2015 is the Initial Value Year). In 2017 (a Future Value Year), DCAD re-appraises the Private Improvement and reduces its appraised value to \$1,900,000.00 (a Future Value); the City’s property tax rate in the Future Value Year is \$0.45 for each \$100 of assessed value (the Future Value Year Tax Rate). Since the Future Value (\$1,900,000.00) is less than Initial Value (\$2,000,000.00), UDR and the Property Owners will pay to the City the difference between (i) \$9,000 ($\$2,000,000.00 / 100 \times \0.45) and (ii) \$8,550 ($\$1,900,000.00 / 100 \times \0.45), or \$450.00. Such payment will be made at the same time as payment of ad valorem taxes for the Private Improvement are made to the City, but in any event not later than January 31, 2018.

Section 8. Default by the Developer. In the event of a default by the Developer that is not cured within the time period set forth in subsection B. of this Section 8 below, the City shall (i) have the right to terminate this Agreement immediately by giving written notice of such termination to UDR, and (ii) have all remedies available at law, in equity, or otherwise to enforce this Agreement and seek damages.

A. Events of Default. For purposes of this Agreement, the following circumstances shall constitute default by the Developer:

1. Failure to dedicate to the City land and facilities for all future Improvements located on the Property in accordance with **Exhibit “C-2,”** and **Exhibit “D”** and the Concept Plan or as required by the approved Development Plan.
2. Failure to provide payment to the City for the Excess Costs of any Public Infrastructure Improvements as set forth in this Agreement.
3. Failure to satisfy any condition set forth in the Zoning Ordinance, the Concept Plan, or any approved Development Plan.
4. A violation or breach of any provision of this Agreement.

B. Cure by UDR and the Property Owners. UDR and the Property Owners shall have a period of not more than ninety (90) days from the time of UDR’s receipt of notice of default and termination is delivered by the City within which to cure any event of, default described in subsection A. of this Section. If any such event of default remains uncured to the satisfaction of the City at the end of such ninety (90) day period, the City may immediately terminate this Agreement by giving written notice thereof to UDR. Notwithstanding the proceeding to the contrary, the City Manager may approve reasonable extensions to cure periods or deadlines for performance of any work by UDR or its contractors.

C. Insolvency. If at any time after the execution of this Agreement:

(i) any insolvency proceedings shall be instituted against Developer pursuant to any Federal or State law now or hereafter enacted, or any receiver or trustee shall be appointed for all or any portion of Developer’s business or property for which this Agreement is a material part, or any execution or attachment shall issue against Developer or any of Developer’s business or property for which this Agreement is a material part, and any of such proceedings, process or appointment be not discharged, dismissed or otherwise adjudicated within sixty (60) days from the date of such filing, appointment or issuance or within such other time as provided by applicable law or as may be ordered by a court of competent jurisdiction; or

(ii) Developer shall be adjudged insolvent, or Developer shall make an assignment for the benefit of creditors, or Developer shall file a petition or petitions for (or enters into) an arrangement for reorganization, liquidation, composition or any other arrangement with Developer’s creditors under Federal (including the United States Bankruptcy Code) or State law, or

(iii) in the event this Agreement is assumed and assigned under any Federal (including the United States Bankruptcy Code) or State law, now or hereafter enacted, or this Agreement shall pass to or devolve upon, by operation of law or otherwise, anyone other than Developer (except as herein provided), without first curing all defaults and providing adequate assurance of future performance as deemed appropriate within the sole discretion of the City,

then the occurrence of any one of such contingencies shall be deemed to constitute and shall be construed as a breach and/or repudiation by Developer of Developer's rights and obligations hereunder and shall cause this Agreement to be cancelled and terminated at the City's sole discretion effective as soon as permitted by then applicable law without thereby releasing Developer; and upon such termination this Agreement shall not be treated as an asset of Developer's estate. In the event any portion of this Agreement is inconsistent with applicable law or deemed unenforceable, it shall not affect the enforcement of the remaining provisions of this section which are consistent with applicable law. Any portion of this section that is held to be or deemed inconsistent with applicable law shall be modified in such a manner as to be consistent with applicable law and the intention of the parties as originally stated herein. In the event of any cancellation and termination of this Agreement, the obligations and liabilities of UDR and the Property Owners under this Agreement shall survive.

Section 9. Default by the City. In the event of a default by the City, the Property Owners and the Developer shall have all remedies available at law and in equity to enforce this Agreement and seek damages.

Section 10. Representations by the Property Owners and Developer. The Property Owners and Developer hereby represent and warrant to the City that the respective Property Owners and Developer each have, without the joinder of any other person, or entity, the full right, power and authority to execute this Agreement and to carry out their respective obligations hereunder.

Section 11. UDR, Property Owners' Indemnity.

A. UDR and the Property Owners (together for purposes of this Section 11, "**Developer**") covenant and agree to FULLY DEFEND, INDEMNIFY AND HOLD HARMLESS the Town of Addison, Texas and the elected and appointed officials, the officers, employees, representatives, and volunteers of the Town of Addison, Texas, individually or collectively, in both their official and private capacities (each an "**Addison Person**" and collectively the "**Addison Persons**"), from and against any and all costs, claims, liens, harm, damages, losses, judgments, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability, and suits, of any kind and nature whatsoever made upon any Addison Person, whether directly or indirectly, (the "**Claims**"), that arise out of, result from, or relate to: (1) the design and construction of the Public Infrastructure Improvements, (2) representations or warranties by Developer under this Agreement, and/or (3) any other act or omission under or in performance of this Agreement by Developer, or any owner, officer, director, manager, employee, agent, representative, consultant, contractor, subcontractor, licensee, or concessionaire of Developer, or any other person or entity for whom Developer is legally responsible, and

their respective owners, officers, managers, employees, directors, agents, and representatives. SUCH DEFENSE, INDEMNITY AND HOLD HARMLESS SHALL AND DOES INCLUDE CLAIMS ALLEGED OR FOUND TO HAVE BEEN CAUSED, IN WHOLE OR IN PART, BY THE NEGLIGENCE OF ANY ADDISON PERSON OR BY CONDUCT OF AN ADDISON PERSON THAT GIVES RISE TO STRICT LIABILITY, BUT DOES NOT INCLUDE CLAIMS FOUND TO BE CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF AN ADDISON PERSON. However, Developer's liability under this clause shall be reduced by that portion of the total amount of the Claims (excluding defense fees and costs) equal to the Addison Person or Persons' proportionate share of the negligence, or conduct that would give rise to strict liability of any kind, that caused the loss. Likewise, Developer's liability for Addison Person's defense costs and attorneys' fees shall be reduced by that portion of the defense costs and attorneys' fees equal to Addison Person or Persons' proportionate share of the negligence, or conduct that would give rise to strict liability of any kind, that caused the loss.

Developer shall promptly advise the City in writing of any claim or demand against any Addison Person or Developer related to or arising out of Developer's activities under this Agreement and shall see to the investigation and defense of such claim or demand at Developer's sole cost and expense. The Addison Persons shall have the right, at the Addison Persons' option and at own expense, to participate in such defense without relieving Developer of any of its obligations hereunder. This defense, indemnity, and hold harmless provision shall survive the termination or expiration of this Agreement.

Section 12. Term. The term of this Agreement shall begin on the Effective Date and, unless otherwise terminated in accordance with the provisions of this Agreement, shall end on the date on which the obligations of the parties under this Agreement shall have been completed, but in any event not earlier than the completion and fulfillment of the possible reimbursement obligations set forth in Section 7.E., above.

Section 13. Force Majeure. It is expressly understood and agreed by the parties to this Agreement that if the completion of the construction of any private improvements or any Public Infrastructure Improvements is delayed by reason of war; civil commotion; acts of God; inclement weather; governmental restrictions, regulations, or interferences directly related to the construction of the private improvements or the Public Infrastructure Improvements and not related or connected to the financing or funding of the development of the private improvements on the Property or any other financial aspect of such private development; delays caused by the franchise utilities serving the Property; fire or other casualty; court injunction; condemnation proceedings; or any like or similar circumstances which are reasonably beyond the control of the party obligated or permitted under the terms of this Agreement to do or perform the same, the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such performance shall be extended for a period of time equal to the period such party was delayed.

Section 14. Texas Law to Apply; Venue. The validity of this Agreement and of any of its terms or provisions, as well as the rights and duties of the parties hereto, shall be governed by the laws of the State of Texas, without reference to its conflict of law provisions. Venue for any action or matter under this Agreement lies in Dallas County, Texas. This Agreement and all of

its terms and conditions are subject to applicable federal, state, and local laws, ordinances, rules, regulations, and codes, including, without limitation, the Zoning Ordinance and the City Charter of the Town of Addison, Texas.

Section 15. No Joint Venture. It is acknowledged and agreed by the parties that the terms of this Agreement are not intended to and shall not be deemed to create a partnership, joint venture, or joint enterprise among the parties.

Section 16. Entire Agreement. This Agreement represents the entire and integrated agreement between the City, the Property Owners and UDR and, except as set forth in the next sentence, supersedes the Initial Agreement, all prior negotiations, representations and/or other agreements, either written or oral. This Agreement is not intended to and does not release or waive any claims either party may have against any other party arising out or related to the Initial Agreement, and solely as to such claims (if any) the Initial Agreement is not superseded and remains in effect; provided, however, that for any indemnity claims of the City arising out of or related to the Initial Agreement, the parties agree that the indemnity provision included in Section 11 of this Agreement shall apply to such claims in lieu of the indemnity provision included in the Initial Agreement (i.e., the indemnity provision included in Section 11 of this Agreement shall be treated as if it had been included in the Initial Agreement). This Agreement may be amended only by written instrument signed by the City, the Property Owners, and UDR.

Section 17. Severability. If any clause, paragraph, section or portion of this Agreement shall be found to be illegal, unlawful, unconstitutional or void for any reason, the balance of the Agreement shall remain in full force and effect and the parties shall be deemed to have contracted as if said clause, section, paragraph or portion had not been in the Agreement initially.

Section 18. Notices. Where the terms of this Agreement require that notice in writing be provided or given, such notice shall be in writing, addressed as provided hereinafter to the party to whom the notice or request is given, and shall be either (i) delivered personally, (ii) sent by United States certified mail, postage prepaid, return receipt requested, or (iii) placed in the custody of Federal Express Corporation or other nationally recognized carrier to be delivered overnight. Notice shall be deemed delivered and given (x) when received if delivered personally (y) three (3) days following the deposit of the notice in the United States mail, postage prepaid, and sent by certified mail, return receipt requester and properly addressed as set forth below, and (z) twenty-four (24) hours after deposit if sent by Federal Express or other nationally recognized carrier Address for purpose of this Section are as follows:

TOWN OF ADDISON, TEXAS:

With copies to:

Ron Whitehead
Office of the City Manager
5300 Belt Line Road
Dallas, Texas 75254-7606
Phone: (972) 450-7000
Fax: (972) 450-7043
Email: rwhitehead@addisontx.gov

Office of the City Attorney
5300 Belt Line Road
Dallas, Texas 75254

PROPERTY OWNERS and/or UDR:

Warren L. Troupe
Senior Executive Vice President
UDR, Inc.
1745 Shea Center Drive, Suite 200
Highlands Ranch, CO 80129-1540
Phone: (720) 283-6120
Email: wtroupe@udr.com

With copies to:

Tom Lamberth
UDR, Inc.
3875 Ponte Avenue, Suite 400
Addison, Texas 75001
Phone: (972) 716-3560
Fax: (972) 991-5718
[Email: tlamberth@udr.com](mailto:tlamberth@udr.com)

and

Kenneth Balcerzak
Director - Legal
UDR, Inc.
1745 Shea Center Drive, Suite 200
Highlands Ranch, CO 80129-1540
Phone: (720) 283-6120
Email: kbalcerzak@udr.com

The addresses and addressees for the purpose of this Section may be changed by giving notice of such change in the manner herein provided for giving notice. Unless and until such written notice is received the last addresses and addressee stated by written notice, or provided herein if no written notice of change has been sent or received, shall be deemed to continue in effect for all purposes hereunder.

Section 19. Incorporation of Recitals. The recitals set forth herein are intended, and are hereby deemed, to be a part of this Agreement. As stated in the recitals, the parties hereto intend for this Agreement to: (i) evidence of their rescission of the Initial Agreement; and (ii) restate their understandings, obligations and responsibilities as specifically stated herein.

Section 20. Required Written Consent for Recording. This Agreement shall not be recorded except with the express written consent of the City, the Property Owners and UDR.

Section 21. Miscellaneous Drafting Provisions. This Agreement shall be deemed drafted equally by all parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any party shall not apply. Headings in this Agreement are for the convenience of the parties and are not intended to be used in construing this document. All exhibits, schedules and addenda attached to this Agreement are incorporated herein by reference and for all purposes. For purposes of this Agreement, “includes” and “including” are terms of enlargement and not of limitation or exclusive enumeration, and use of the terms does not create a presumption that components not expressed are excluded.

Section 22. Rights, Remedies Cumulative; Non-Waiver; Survival of Rights. 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. The failure by either party to exercise any right, power, or option given to it by this Agreement, or to insist upon strict compliance with the terms of this Agreement, shall not constitute a waiver of the terms and conditions of this Agreement with respect to any other or subsequent breach thereof, nor a waiver by such party of its rights at any time thereafter to require exact and strict compliance with all the terms hereof. Any rights and remedies either party may have with respect to the other arising out of this Agreement shall survive the cancellation, expiration or termination of this Agreement, except as otherwise expressly set forth herein.

Section 23. Counterparts. This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

Section 24. Authority to Execute. The individuals executing this Agreement on behalf of the respective parties below represent to each other that all appropriate and necessary action has been taken to authorize the individual who is executing this Agreement to do so for and on behalf of the Party for which his or her signature appears, that there are no other parties or entities required to execute this Agreement for such party for whom the individual is signing this Agreement and that each individual affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the Effective Date.

Section 25. No Third Party Beneficiaries. Except as stated herein to the contrary, this Agreement is solely for the benefit of the parties hereto and is not intended to create or grant any rights, contractual or otherwise, to any third person or entity.

Section 26. Estoppels by City. Periodically Developer, the Property Owners, a lender, prospective assignee or purchaser may request a certificate from the City confirming that to the best of City's knowledge, the Developer and/or the Property Owners have not breached, nor is there an event which with the passage of time would constitute an event of default under this Agreement. The City agrees to cooperate and otherwise assist Developer and the Property Owners and to execute, in form and content acceptable to the City, a simple certification on a periodic basis as described in this Section.

Section 27. Time. Time is of the essence in the performance by the parties of their respective obligations under this Agreement.

Section 28. Incorporation of Recitals, Exhibits. The recitals to this Agreement set forth above are a part of this Agreement. Exhibits "A" through "F" attached hereto are hereby incorporated in this Agreement in full by this reference and are deemed to be a part of this Agreement as fully as if set forth in the body hereof.

[Signatures on the Following Pages]

EXECUTED at Dallas County, Texas on the day and year first written above.

TOWN OF ADDISON, TEXAS

By: _____
Ron Whitehead, City Manager

ATTEST:

By: _____
City Secretary

DCO BROOKS APARTMENTS LP,
a Delaware limited partnership

By: DCO Realty, Inc.,
a Delaware corporation, its General Partner

By: _____
Harry G. Alcock
Authorized Agent

DCO GREENBROOK APARTMENTS LP,
a Delaware limited partnership

By: DCO Realty, Inc.,
a Delaware corporation, its General Partner

By: _____
Harry G. Alcock
Authorized Agent

DCO TALISKER LP,
a Delaware limited partnership

By: DCO Realty, Inc.,
a Delaware corporation, its General Partner

By: _____
Harry G. Alcock
Authorized Agent

DCO GARDEN OAKS LP,
a Delaware limited partnership

By: DCO Realty, Inc.,
a Delaware corporation, its General Partner

By: _____
Harry G. Alcock
Authorized Agent

DCO GLENWOOD APARTMENTS LP,
a Delaware limited partnership

By: DCO Realty, Inc.,
a Delaware corporation, its Sole Member

By: _____
Harry G. Alcock
Authorized Agent

DCO CLIPPER POINTE LP,
a Delaware limited partnership

By: DCO Realty, Inc.,
a Delaware corporation, its General Partner

By: _____
Harry G. Alcock
Authorized Agent

DCO SPRINGHAVEN LP,
a Delaware limited partnership

By: DCO Realty, Inc.,
a Delaware corporation, its General Partner

By: _____
Harry G. Alcock
Authorized Agent

DCO ADDISON AT BROOKHAVEN LP,
a Delaware limited partnership

By: DCO Realty, Inc.,
a Delaware corporation, its General Partner

By: _____
Harry G. Alcock
Authorized Agent

DCO GREENHAVEN LP,
a Delaware limited partnership

By: DCO Realty, Inc.,
a Delaware corporation, its General Partner

By: _____
Harry G. Alcock
Authorized Agent

DCO SAVOYE LLC,
a Delaware limited liability company

By: DCO Realty, Inc.,
a Delaware corporation, its Sole Member

By: _____
Harry G. Alcock
Authorized Agent

DCO SAVOYE 2 LLC,
a Delaware limited liability company

By: DCO Realty, Inc.,
a Delaware corporation, its Sole Member

By: _____
Harry G. Alcock
Authorized Agent

DCO FIORI LLC,
a Delaware limited liability company

By: DCO Realty, Inc.,
a Delaware corporation, its Sole Member

By: _____
Harry G. Alcock
Authorized Agent

DCO BROOKHAVEN CENTER LP,
a Delaware limited partnership

By: DCO Realty, Inc.,
a Delaware corporation, its General Partner

By: _____
Harry G. Alcock
Authorized Agent

DCO REALTY, INC.,
a Delaware corporation

By: _____
Harry G. Alcock

Authorized Agent

UDR, INC.,
a Maryland corporation

By: _____
Harry G. Alcock
Authorized Agent

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me _____, 2013 by Ron Whitehead, City Manager of the Town of Addison, Texas, a Texas municipal corporation, on behalf of the said municipal corporation.

NOTARY PUBLIC, State of Texas

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me _____, 2013 by Harry G. Alcock, Authorized Agent of DCO Realty, Inc., a Delaware corporation, General Partner of **DCO BROOKS APARTMENTS LP**, a Delaware limited partnership, on behalf of the said limited partnership.

NOTARY PUBLIC, State of Texas

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me _____, 2013 by Harry G. Alcock, Authorized Agent of DCO Realty, Inc., a Delaware corporation, General Partner of **DCO GREENBROOK APARTMENTS LP**, a Delaware limited partnership, on behalf of the said limited partnership.

NOTARY PUBLIC, State of Texas

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me _____, 2013 by Harry G. Alcock, Authorized Agent of DCO Realty, Inc., a Delaware corporation, General Partner of **DCO TALISKER LP**, a Delaware limited partnership, on behalf of the said limited partnership.

NOTARY PUBLIC, State of Texas

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me _____, 2013 by Harry G. Alcock, Authorized Agent of DCO Realty, Inc., a Delaware corporation, General Partner of **DCO GARDEN OAKS LP**, a Delaware limited partnership, on behalf of the said limited partnership.

NOTARY PUBLIC, State of Texas

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me _____, 2013 by Harry G. Alcock, Authorized Agent of DCO Realty, Inc., a Delaware corporation, General Partner of **DCO GLENWOOD APARTMENTS LP**, a Delaware limited partnership, on behalf of the said limited partnership.

NOTARY PUBLIC, State of Texas

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me _____, 2013 by Harry G. Alcock, Authorized Agent of DCO Realty, Inc., a Delaware corporation, General Partner of **DCO CLIPPER POINTE LP**, a Delaware limited partnership, on behalf of the said limited partnership.

NOTARY PUBLIC, State of Texas

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me _____, 2013 by Harry G. Alcock, Authorized Agent of **DCO SAVOYE LLC**, a Delaware limited liability company, on behalf of the said limited liability company.

NOTARY PUBLIC, State of Texas

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me _____, 2013 by Harry G. Alcock, Authorized Agent of **DCO SAVOYE 2 LLC**, a Delaware limited liability company, on behalf of the said limited liability company.

NOTARY PUBLIC, State of Texas

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me _____, 2013 by Harry G. Alcock, Authorized Agent of **DCO FIORI LLC**, a Delaware limited liability company, on behalf of the said limited liability company.

NOTARY PUBLIC, State of Texas

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me _____, 2013 by Harry G. Alcock, Authorized Agent of DCO Realty, Inc., a Delaware corporation, General Partner of **DCO BROOKHAVEN CENTER LP**, a Delaware limited partnership, on behalf of the said limited partnership.

NOTARY PUBLIC, State of Texas

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me _____, 2013 by Harry G. Alcock, Authorized Agent of **DCO REALTY, INC.**, a Delaware corporation, on behalf of said corporation.

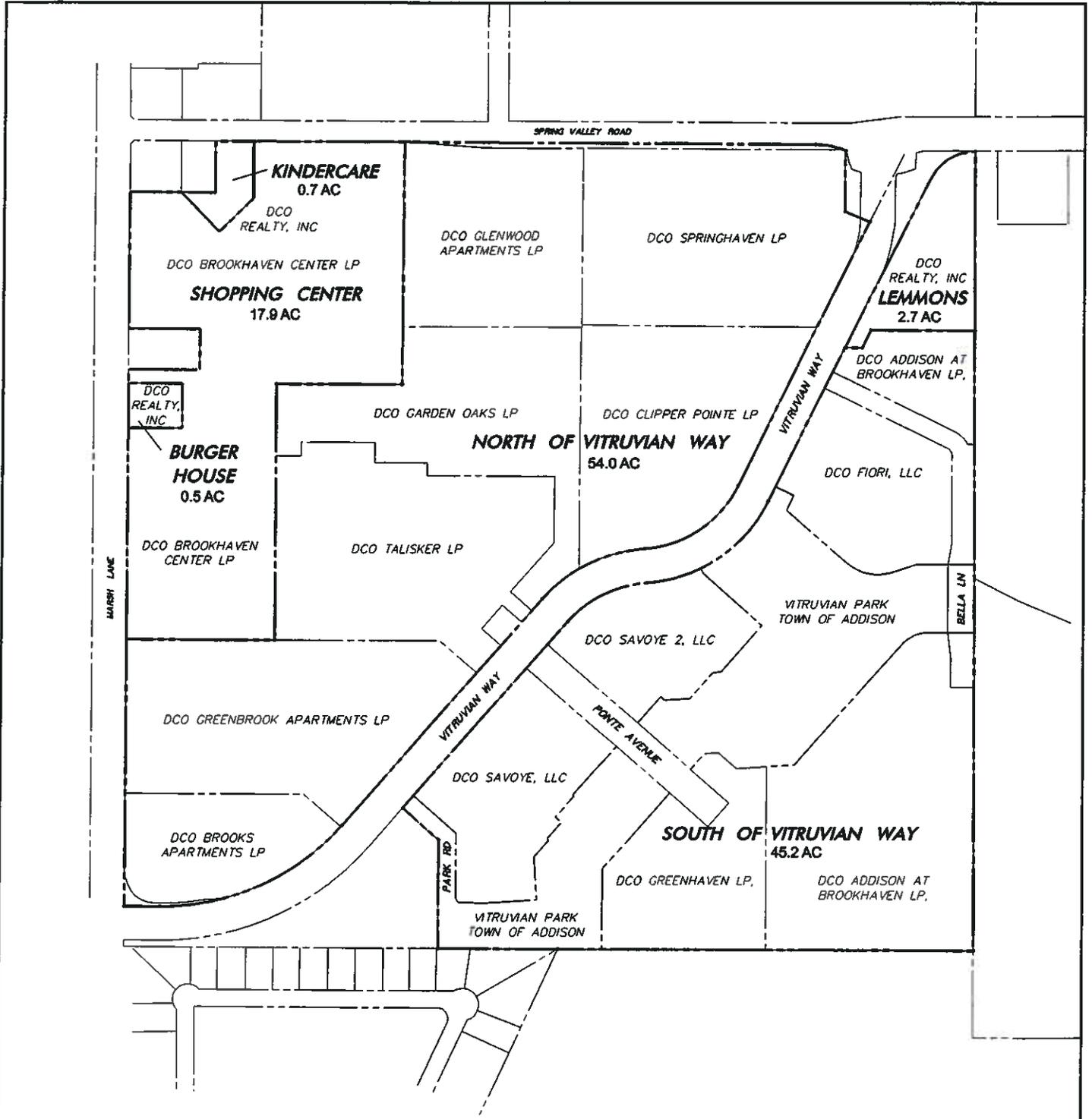
NOTARY PUBLIC, State of Texas

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me _____, 2013 by Harry G. Alcock, Senior Vice President of **UDR, Inc.**, a Maryland Corporation, on behalf of the said corporation.

NOTARY PUBLIC, State of Texas

EXHIBIT “A”
TO AMENDED AND RESTATED
MASTER FACILITIES AGREEMENT



0 200 400
 GRAPHIC SCALE IN FEET
 SCALE: 1"=400'

EXHIBIT "A" VITRUVIAN PARK PROPERTY MAP

icon Consulting Engineers, Inc.
 Civil Engineers • Designers • Planners
 Bicentennial Financial Center
 250 W. Southlake Blvd., Suite 117
 Southlake, TX 75092
 Phone: (817) 562-6210
 Fax: (817) 778-4848

06/19/13

EXHIBIT "A"
LEGAL DESCRIPTION
(NORTH OF VITRUVIAN WAY)

Being a tract of land situated in the Noah Good Survey, Abstract No. 520, being all of The Pier Addition, an addition in the City of Addison, Texas according to the Plat thereof recorded in Volume 77233, Page 143 and all of Springhaven Apartments Addition, an Addition in the City of Addison, Texas according to the Plat thereof recorded in Volume 78015, Page 1834, both in Map Records, Dallas County, Texas and being all of those certain tracts of land conveyed by Special Warranty Deed to DCO Glenwood Apartments LP, recorded in Instrument No. 20070159781, DCO Springhaven LP, recorded in Instrument No. 20070153048, DCO Garden Oaks LP, recorded in Instrument No. 20070096223, DCO Clipper Pointe LP, recorded in Instrument No. 20070170325, DCO Talisker LP, recorded in Instrument No. 20070159777, DCO Greenbrook Apartments LP, recorded in Instrument No. 20070159785 and DCO Brooks Apartments LP, recorded in Instrument No. 20070086354, all in Official Public Records, Dallas County, Texas (collectively called "DCO tract") and being more particularly described as follows:

BEGINNING at a point for a corner at the intersection of the Northwesterly ROW line of Vitruvian Way (formerly Brookhaven Club Drive) with the East ROW line of Marsh Lane, said point being at the Southwest corner of said DCO tract;

THENCE, N 00°01'21" E, along the East ROW line of Marsh Lane and the West line of said DCO tract, a distance of 784.46 feet to a point for a corner at the Southwest corner of Brookhaven Village Shopping Center Addition, recorded in Volume 86225, Page 4769, Plat Records, Dallas County, Texas;

THENCE, along the common line of said Brookhaven Village Shopping Center Addition and said DCO tract, the following bearings and distances:

- S 89°43'05" E, a distance of 43.02 feet to a point for a corner at the Southeast corner of said Brookhaven Village Shopping Center;
- N 00°02'13" E, a distance of 751.45 feet to a point for a corner;
- S 89°50'01" E, a distance of 369.27 feet to a point for a corner;
- N 00°19'19" E, a distance of 708.69 feet to a point for a corner in the South ROW line of Spring Valley Road, said point being at the Northwest corner of said DCO tract and the Northeast corner of said Brookhaven Village Shopping Center Addition;

THENCE, S 89°43'35" E, along the South ROW line of Spring Valley Road and the North line of said Spring Valley Road and the North line of said DCO tract, a distance of 1204.72 feet to a point at the beginning of a curve to the right, having a central angle of 22°55'19", a radius of 223.50 feet, and a chord bearing S 78°15'58" E, a distance of 88.82 feet;

THENCE, Southeasterly, along said curve to the right, an arc distance of 89.41 feet to the end of said curve, in the West line of a tract of land conveyed to Crimson Tide Management by Warranty Deed recorded in Volume 98060, Page 3378, Deed Records, Dallas County, Texas, said point being at the Northernmost Northeast corner of said DCO tract;

THENCE, S 00°16'37" W, along the common line of said DCO tract and said Crimson Tide Management tract, a distance of 177.93 feet to a point for a corner at the Southwest corner of said Crimson Tide Management Tract;

THENCE, S 67°10'18" E, along said common line, a distance of 77.19 feet to a point for a corner in the Northwesterly ROW line of Vitruvian Way, said point also being at the Southeast corner of said Crimson tide Management tract;

THENCE, along the Northwesterly ROW line of Vitruvian Way and the Southeasterly line of said DCO tract, the following bearings and distances:

- S 26°18'00" W, a distance of 862.02 feet to a point at the beginning of a curve to the right, having a central angle of 59°28'36", a radius of 334.00 feet and a chord bearing S 56°02'17" W, a distance of 331.36 feet;
- Southwesterly, along said curve to the right, an arc distance of 346.71 feet to a point at the end of said curve and the beginning of a curve to the left, having a central angle of 44°34'25", a radius of 434.00 feet and a chord bearing S 63°29'23" W, a distance of 329.18 feet;
- Southwesterly, along said curve to the left, an arc distance of 337.93 feet to a point at the end of said curve;
- S 41°12'11" W, a distance of 885.67 feet to a point at the beginning of a curve to the right, having a central angle of 49°00'01" a radius of 700.00 feet and a chord bearing S 65°42'12" W, a distance of 580.57 feet;
- Southwesterly, along said curve to the right, an arc distance of 598.65 feet to a point at the end of said curve;
- N 89°47'48" W, a distance of 103.11 feet to the PLACE OF BEGINNING and Containing 54.017 acres of land.

EXHIBIT "A"
LEGAL DESCRIPTION
(SOUTH OF VITRUVIAN WAY)

Being a tract of land situated in the Noah Good Survey, Abstract No. 520, being all of Millcreek Apartments, an addition in the City of Addison, Texas according to the Plat thereof recorded in Volume 76235, Page 2247, Map Records, Dallas County, Texas and being all of the tracts of land conveyed to DCO Fiori LLC by Special Warranty Deed recorded in County Clerk Instrument No. 20130015820, to DCO Savoye LLC by Special Warranty Deed recorded in County Clerk Instrument No. 200900251186, DCO Savoye 2 LLC by Special Warranty Deed recorded in County Clerk Instrument No. 201000226868, and the remainder of tracts of land conveyed to DCO Addison At Brookhaven LP by Special Warranty Deed recorded in Instrument No. 200600407616 and to DCO Greenhaven LP by Special Warranty Deed recorded in Instrument No. 200600335782, all in the Official Public Records, Dallas County, Texas (collectively called "DCO tract") and being more particularly described as follows:

BEGINNING at a point for a corner in the Southeasterly ROW line of Vitruvian Way (formerly Brookhaven Club Drive) said point being at the Northwest corner of said DCO tract and the Southernmost Southwest corner of a tract of land conveyed to The Lemmons Co. by Special Warranty Deed recorded in volume 2002212, Page 5261, Deed Records, Dallas County, Texas;

THENCE, S 89°35'11" E, along the common line of said DCO tract and said The Lemmons Co. tract, a distance of 50.05 feet to a point for a corner;

THENCE, N 26°33'34" E, along said common line, a distance of 58.13 feet to a point for corner;

THENCE, S 89°42'26" E, continuing along said common line, a distance of 301.45 feet to a point for corner in the West line of Lot 1, Block A, The Villas at Parkside, Phase I, recorded in Volume 95174, Page 4325, Map Records, Dallas County, Texas, said point also being at the Northeast corner of said DCO tract and the Southeast corner of said The Lemmons Co. tract;

THENCE, S 00°07'24" E, along the common line of said DCO tract and said Lot 1, Block A, The Villas of Parkside, Phase I, a distance of 1818.92 feet to a point for a corner in the West line of Lot 1, Block A, Exxon Mobil Addition, recorded in Volume 2001198, Page 30, Map Records, Dallas County, Texas, said point also being at the Northeast corner of Brookhaven College Replat, recorded in Volume 86105, Page 2676, Map Records, Dallas County, Texas;

THENCE, N 89°50'23" W, along the common line of said DCO tract and said Brookhaven College Replat, a distance of 1211.36 feet to an angle point at the Northeast corner of Wooded Creek Estates, recorded in Volume 78111, Page 553, Map Records, Dallas County, Texas;

THENCE, N 89°46'21" W, along the common line of said DCO tract and said Wooded Creek Estates, a distance of 349.43 feet to a point for a corner at the Southwest corner of said DCO tract and Southeast corner of Brookhaven Towne House, recorded in Volume 72019, Page 1320, Condominium Records, Dallas County, Texas;

THENCE, North, along the common line of said DCO tract and said Brooktown Towne House, a distance of 318.93 feet to an angle point;

THENCE, N 48°47'49" W, along said common line, a distance of 142.08 feet to a point for a corner in the Southeasterly ROW line of Vitruvian Way, said point also being at the Southernmost Northwest corner of said DCO tract and the Northeast corner of said Brooktown Towne House;

THENCE, along the Southeasterly ROW line of Vitruvian Way and the Northwesterly line of said DCO tract, the following bearings and distances:

- N 41°12'11" E, a distance of 729.50 feet to a point at the beginning of a curve to the right, having a central angle of 44°34'25", a radius of 334.00 feet and a chord bearing N 63°29'23" E, a distance of 253.33 feet;
- Northeasterly, along said curve to the right, an arc distance of 259.84 feet to a point at the end of said curve and the beginning of a curve to the left, having a central angle of 59°28'36", a radius of 434.00 feet and a chord bearing N 56°02'17" E, a distance of 430.56 feet;
- Northeasterly, along said curve to the left, an arc distance of 450.52 feet to a point at the end of said curve;
- N 26°18'00" E, a distance of 500.90 feet to the PLACE OF BEGINNING and Containing 45.159 acres of Land.

LEGAL DESCRIPTION
SHOPPING CENTER TRACT

Being a tract of land in the Noah Good Survey, Abstract No. 520, Addison, Dallas County, Texas, said being all of Brookhaven Village Shopping Center, an addition to the City of Addison, Texas according to the map thereof recorded in Volume 86225, Page 4769, Deed Records of Dallas County, Texas, and all of Brookhaven Village Shopping Center, Phase 2, an addition to the City of Addison, Texas according to the map thereof recorded in Volume 98221, Page 20, Deed Records of Dallas County, Texas, both being conveyed to Mustang Brookhaven S/C, Ltd. by deed recorded in Volume 94129, Page 111, Deed Records of Dallas County, Texas and being more particularly described as follows:

BEGINNING at a 1/2 inch iron rod found for a corner in the east line of Marsh Lane (a 100 foot right of way), said point being the southwest corner of a tract of land conveyed to A&A Investments Partnership by deed recorded in Volume 95245, Page 1056, Deed Records of Dallas County, Texas;

THENCE, S 89°46'10" E, a distance of 150.00 feet along the south line of the said A&A tract to a 1/2 inch iron rod for a corner;

THENCE, S 44°24'27" E, a distance of 160.00 feet along the southwest line of a tract of land conveyed to National Child Care Centers, Inc. as recorded in Volume 77153, Page 1916, Deed Records of Dallas County, Texas to an "x" found in concrete, said point being the most southerly corner of said National Child Care tract;

THENCE, N 45°20'40" E, a distance of 137.82 feet along the southeast line of said National Child Care tract to an "x" found for a corner, said point being the southeast corner of said National Child Care tract;

THENCE, N 00°00'00" E, a distance of 166.59 feet along the east line of said National Child Care tract to an "x" found for a corner in the south line of Spring Valley Road (a 60 foot right of way);

THENCE, S 89°46'10" E, a distance of 443.77 feet along the south line of said Spring Valley Road to a 1/2 inch iron rod found for a corner; said point being the northwest corner of a tract of land conveyed to DCO Glenwood Apartments, LP by deed recorded in Instrument No. 20070159781, Official Public Records of Dallas County, Texas;

THENCE, S 00°16'34" W, a distance of 708.99 feet along the west line of said DCO Glenwood tract passing the southwest corner and continuing along a west line of a tract of land conveyed to DCO Garden Oaks, LP as recorded in Instrument No. 20070096223, Official Public Records of Dallas County, Texas to a 1/2 inch iron rod with red F-D cap set for a corner;

THENCE, N 89°48'09" W, a distance of 369.35 feet along a north line of said DCO Garden Oaks tract to a 1/2 inch iron rod with red F-D cap set for a corner;

THENCE, S 00°00'00" W, a distance of 750.01 feet along a west line of said DCO Garden Oaks tract and continuing along the west line of a tract of land conveyed to DCO Talisker, LP as recorded in Instrument No. 2007159777, Official Public Records of Dallas County, Texas to a 1/2 inch iron rod found for a corner, said point being the southwest corner of said DCO Talisker tract and in the north line of a tract conveyed to DCO Greenbrook Apartments, LP by deed recorded in Instrument No. 20070159785, Official Public Records of Dallas County, Texas;

THENCE, N 90°00'00" W, a distance of 431.00 feet along the north line of said DCO Greenbrook tract to a "x" set for a corner in the east line of said Marsh Lane;

THENCE, N 00°00'00" E, a distance of 619.50 feet along the east line of said Marsh Lane to a 1/2 inch iron rod found for a corner, said point being the southwest corner of the W. G. Investments Addition, an addition to the City of Addison, as recorded in Volume 78186, Page 2208, Plat Records of Dallas County, Texas;

THENCE, S 89°48'09" E, a distance of 160.00 feet along the south line of said W.G. Investments Addition to a 1/2 inch iron rod found for a corner, said point being the southeast corner of said W.G. Investments Addition;

THENCE, N 00°00'00" E, a distance of 132.00 feet along the east line of said W.G. Investments Addition to an "x" found for a corner, said point being the northeast corner of said W. G. Investemts Addition;

THENCE, N 89°48'09" W, a distance of 160.00 feet along the north line of said W.G. Investments Addition to a 1/2 inch iron rod found for a corner in the east line of said Marsh Lance and being the northwest corner of said W.G. Investments Addition;

THENCE, N 00°00'00" E, a distance of 30.00 feet along the east line of said Marsh Lane to an "x" found for a corner, said point being the southwest corner of a tract conveyed to JSL Investments Texas, LLC by deed recorded in Volume 2004054, Page 3836, Deed Records of Dallas County, Texas;

THENCE, S 89°48'09" E, A distance of 209.00 feet along the south line of said JSL tract to an "x" found for a corner, said point being the southeast corner of said JSL tract;

THENCE, N 00°00'00" E, a distance of 120.00 feet along the east line of said JSL tract to a 1/2 inch iron rod found for a corner, said point being the northeast corner of said JSL tract;

THENCE, N 89° 48'09" W, a distance of 209.00 feet to a 1/2 inch ifor rod found for a corner in the east line of said Marsh Lane and being the northwest corner of said JSL tract,

THENCE, N 00°00'00" E, a distance of 409.45 feet along the east line of said Marsh Lane to the Point of Beginning and Containing 779,447 square feet or 17.89363 acres of land.

LEGAL DESCRIPTION
BURGER HOUSE

Being a 21,120 square feet or 0.485 acre tract of land in the Noah Good Survey, Abstract No. 520, Addison, Dallas County, Texas, said being all of W. G. Investments Addition, an addition to the Town of Addison, Dallas County, Texas according to the map thereof recorded in Volume 78186, Page 2208, Deed Records of Dallas County, Texas, said tract conveyed to Milton L. Wagner and Gay Geiler Golman by deed recorded in Volume 78139, Page 767, Deed Records of Dallas County, Texas and being more particularly described as follows:

Beginning at a set "x" cut on concrete pavement for a corner in the east line of Marsh Lane (a variable width right of way), said point being the northwest corner of said W. G. Investments Addition, said point being the most southerly southwest corner of Brookhaven Village Shopping Center, Phase 2 as recorded in Volume 98221, Page 20, Deed Records of Dallas County, Texas, and said point being S00°01'21" W, a distance of 709.46 feet from the intersection of the east line of Marsh Lane with the south line of Spring Valley Road (a variable width right of way);

THENCE, S 89°46'48" E, departing the east line of Marsh Lane and with the north line of the said W. G. Investments Addition and the south line of the said Brookhaven Village Shopping Center, Phase 2, a distance of 160.00 feet to a set "x" cut on concrete pavement for a corner at the northeast corner of the said W. G. Investments Addition, and said point being the most northerly northwest corner of Brookhaven Village Shopping Center as recorded in Volume 86225, Page 4769, Deed Records of Dallas County, Texas;

THENCE, S 00°01'21" W, with the east line of the said W. G. Investments Addition and the west line of the said Brookhaven Shopping Village Center addition, a distance of 132.00 feet to a found "x" cut on a concrete curb for a corner, said point being the southeast corner of the said W. G. Investments Addition;

THENCE, N 89°46'48" W, with the south line of the said W. G. Investments Addition and the north line of the said Brookhaven Shopping Village Center addition, a distance of 160.00 feet to a set 5/8 inch iron rod for a corner in the east line of Marsh Lane, said point being the southwest corner of the said W. G. Investments Addition;

THENCE, N 00°01'21" E, with the east line of Marsh Lane, a distance of 132.00 feet to the Point of Beginning.

LEGAL DESCRIPTION
DAY CARE

Being a 29,268 square feet or 0.672 acre tract of land in the Noah Good Survey, Abstract No. 520, Addison, Dallas County, Texas, said being Lot 1, Block 1 of Greenhaven Village No. 2, an addition to the Town of Addison, Dallas County, Texas according to the map thereof recorded in Volume 77153, Page 1553, Deed Records of Dallas County, Texas, said tract conveyed to Ka Pri Associates by deed recorded in Volume 78105, Page 3466, Deed Records of Dallas County, Texas and being more particularly described as follows:

Beginning at a set "x" cut on concrete pavement for a corner in the south line of Spring Valley road (a 60 foot right of way), said point being the northwest corner of said Lot 1 and the northeast corner of a tract of land conveyed to Jeff Staffin, Inc. by deed recorded in Volume 99111, Page 3996, Deed Records of Dallas County, Texas and said point being S 89°45'14" E, a distance of 250.0 feet from a found ½ inch iron rod at the east corner of a right of way corner clip at the intersection of the south line of Spring Valley Road with the east line of Marsh Lane (a 100 foot right of way);

THENCE, S 89°45'14" E, with the south corner of Spring Valley Road, a distance of 110.00 feet to a set 5/8 inch iron rod for a corner, said point being the northeast corner of said Lot 1 and the most northerly northwest corner of Brookhaven Village Shopping Center Phase 2 as recorded in Volume 98221, Page 20, Deed Records of Dallas County, Texas;

THENCE, the following courses and distances with the common line of said Lot 1 and the said Greenhaven Village Shopping Center Phase 2:

- S 00°01'48" E, departing the south line of Spring Valley Road, a distance of 166.59 feet to a found "x" cut on concrete pavement for a corner;
- S 45°21'46" W, a distance of 137.83 feet to a found "x" cut on concrete pavement for a corner;
- N 44°23'31" W, a distance of 160.00 feet to a found ½ inch iron rod for a corner, said point being the most westerly corner of said Lot 1, the southwest corner of the said Jeff Staffin, Inc. tract and the southeast corner of a tract of land conveyed to A&A Investments Partnership by deed recorded in Volume 95245, Page 1056, Deed Records of Dallas County, Texas;

THENCE, S 89°45'14" E, a distance of 100.00 feet to a set "x" cut on concrete pavement for a corner, said point being the southeast corner of the said Jeff Staffin, Inc. tract;

THENCE, N 00°01'48" W, a distance of 150.00 feet to the Point of Beginning.

**LEGAL DESCRIPTION
LEMMONS TRACT**

Being a 116,920 square feet or 2.684 acre tract of land in the Noah Good Survey, Abstract No. 520, Dallas County, Texas, and being located in the Town of Addison, Texas, said tract being all of a tract of land conveyed to The Lemmons Co. (now Synergy Enterprises, Inc.) by deed recorded in Volume 2002212, Page 5261, Deed Records of Dallas County, Texas and being more particularly described as follows:

Beginning at a found ½ inch iron rod at the intersection of the south line of Spring Valley Road (a variable width right of way) with the southeast line of Vitruvian Way (a variable width right of way), said point being the northeast corner of the said Lemmons Co. tract and the northwest corner of Lot 1, Block A of The Villas At Parkside, Phase I as recorded in Volume 95174, Page 4325, Deed Records of Dallas County, Texas;

THENCE, S 00°07'24" E, with the common line of the said The Lemmons Co. tract and the said Lot 1, a distance of 525.02 feet to a found 5/8 inch iron rod for a corner, said point being the southeast corner of the said The Lemmons Co. tract and the northeast corner of a called 23.705 acre tract of land conveyed to DCO Addison At Brookhaven, LP by deed recorded in County Clerk Instrument No. 200600407616, Official Property Records of Dallas County, Texas;

THENCE, the following courses and distances with the common line of the said The Lemmons Co. tract and the said DCO Addison At Brookhaven, LP tract:

- N 89°39'29" W, a distance of 301.37 feet to a found 5/8 inch iron rod for a corner;
- S 26°24'46" W, a distance of 58.00 feet to a set 5/8 inch iron rod for a corner;
- N 89°39'29" W, a distance of 49.53 feet to a set 5/8 inch iron rod for a corner in the southeast line of Vitruvian Way, said point being the common west corner of the said The Lemmons Co. tract and the said DCO Addison At Brookhaven, LP tract;

THENCE, the following courses and distances with the southeast line of Vitruvian Way:

- N 26°22'15" E, a distance of 548.61 feet to a set 5/8 inch iron rod at the beginning of a non-tangent curve to the right with a central angle of 62°40'12", a radius of 150.00 feet, a chord bearing of N 57°42'21" E and a chord distance of 156.01 feet;
- Northeasterly, along said curve, an arc distance of 164.07 feet to the Point of Beginning.

EXHIBIT “B”
TO AMENDED AND RESTATED
MASTER FACILITIES AGREEMENT

TOWN OF ADDISON, TEXAS

ORDINANCE NO. 007-034

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE TOWN, THE SAME BEING APPENDIX-A ZONING OF THE TOWN'S CODE OF ORDINANCES, BY CHANGING THE ZONING CLASSIFICATION ON AN APPROXIMATELY 99.176 ACRE TRACT OF LAND LOCATED IN THE BROOKHAVEN CLUB AREA OF THE TOWN (AN AREA BEING BOUNDED ON THE NORTH BY SPRING VALLEY ROAD, ON THE EAST BY THE CITY OF FARMERS BRANCH, ON THE SOUTH BY BROOKHAVEN COMMUNITY COLLEGE AND THE CITY OF FARMERS BRANCH, AND ON THE WEST BY MARSH LANE (AND AS MORE PARTICULARLY DESCRIBED IN EXHIBIT A ATTACHED HERETO)) FROM (I) "A" APARTMENT DISTRICT (AS TO EIGHT (8) TRACTS OF LAND LOCATED WITHIN THE SAID 99.176 ACRE TRACT OF LAND AND CONTAINING APPROXIMATELY 87.7486 ACRES OF LAND) AND (II) PLANNED DEVELOPMENT DISTRICT (PD-CC, AS SET FORTH IN ORDINANCE NO. 828 OF THE TOWN) (AS TO ONE (1) TRACT OF LAND LOCATED WITHIN THE SAID 99.176 ACRE TRACT OF LAND AND CONTAINING APPROXIMATELY 9.4274 ACRES OF LAND) TO PD PLANNED DEVELOPMENT DISTRICT NO. 007-034 FOR RESIDENTIAL, RETAIL, AND OFFICE USES WITHIN A PEDESTRIAN ORIENTED VILLAGE; PROVIDING FOR AND ESTABLISHING USE REGULATION AND DEVELOPMENT CONDITIONS FOR THIS PLANNED DEVELOPMENT DISTRICT; CORRECTING THE OFFICIAL ZONING MAP; PROVIDING A PENALTY NOT TO EXCEED TWO THOUSAND AND NO/100 (\$2,000.00) FOR EACH OFFENSE AND A SEPARATE OFFENSE SHALL BE DEEMED COMMITTED EACH DAY DURING OR ON WHICH A VIOLATION OCCURS OR CONTINUES; PROVIDING A SAVING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, a tract of land located within the Town of Addison, Texas (the "City"), comprising a portion of the City generally known as the Brookhaven Club area and containing approximately 99.176 acres of land (the "Property") (which Property is generally bounded on the north by Spring Valley Road, on the east by the City of Farmers Branch, on the south by Brookhaven Community College and the City of Farmers Branch, and on the west by Marsh Lane, and is further described by metes and bounds in Exhibit A attached hereto and incorporated herein), is in part zoned "A" Apartment District (as to eight (8) tracts of land comprising a portion of the Property and containing approximately 87.7486 acres of land) and in part zoned PD Planned Development District (PD-CC, as set forth in Ordinance No. 828 of the City, as to one (1) tract of land comprising a portion of the Property and containing approximately 9.4274 acres of land); and

WHEREAS, the owner of the Property filed an application with the Planning and Zoning Commission of the City requesting a change in zoning of the Property to PD Planned Development and an amendment to the official Zoning Map of the City in accordance with City's comprehensive Zoning Ordinance, the same being Appendix A-Zoning of the City's Code of Ordinances (the "Zoning Ordinance") and proposes to build a mixed use development in phases on the Property under a unified plan consisting of retail, restaurant, residential and office uses within a pedestrian-oriented village setting; and

WHEREAS, the City Planning and Zoning Commission and the City Council, in accordance with the State law and the ordinances of the City, have given the required notices and have held the required public hearings regarding the rezoning of the Property as hereinafter described; and

WHEREAS, after public notices were given in compliance with State law and public hearings were conducted, and after considering the information submitted at the said public hearings and all other relevant information and materials, the Planning and Zoning Commission of the City recommended to the City Council the rezoning of the Property as set forth in this Ordinance; and

WHEREAS, after due deliberations and consideration of the recommendation of the Planning and Zoning Commission and the information and other materials received at the public hearing conducted by the City Council, the City Council has concluded that the adoption of this Ordinance is in the best interests of the City and of the public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:

Section 1. Incorporation of Premises. The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

Section 2. Amendment. The Comprehensive Zoning Ordinance of the Town of Addison, Texas, the same being Appendix A – Zoning of the Code of Ordinances of the City (the "Zoning Ordinance"), is hereby amended by changing the zoning on the Property (as described in Exhibit A attached hereto and incorporated herein) from (i) "A" Apartment District, as to eight (8) tracts of land comprising a portion of the Property and containing approximately 89.7486 acres of land, and (ii) from PD Planned Development District (PD-CC, as set forth in Ordinance No. 828 of the City), as to one (1) tract of land comprising a portion of the Property and containing approximately 9.4274 acres of land, to PD Planned Development District No. 007-034, in accordance with the requirements of this Ordinance (including all exhibits referenced herein, each of which is incorporated herein for all purposes), all applicable parts of the City's Zoning Ordinance, and all other applicable ordinances, rules and regulations of the City.

Section 3. Development. The Property shall be developed, occupied, and used only in accordance with the terms and conditions of this Ordinance and all exhibits attached hereto (all of which are incorporated herein and made a part hereof for all purposes), including, without limitation, the Planned Development Conditions and Standards, Brookhaven Village attached hereto as Exhibit "B" and incorporated herein for all purposes (and including all of the exhibits

attached to the said Planned Development Conditions and Standards), the Concept Plan attached hereto as Exhibit "C" and incorporated herein and made a part hereof for all purposes, the Street Standards attached hereto as Exhibit "D" and incorporated herein and made a part hereof for all purposes, Street Lighting and Street Furnishings attached hereto as Exhibit "E" and incorporated herein and made a part hereof for all purposes, and the Sustainability Guideline for Brookhaven Development attached hereto as Exhibit "E" and incorporated herein and made a part hereof for all purposes, with the City's Zoning Ordinance (and as the same may be hereafter amended or superseded), and with all other applicable ordinances, standards, rules and regulations of the City (and as the same may be hereafter amended or superseded).

Prior to development, occupancy, or use of any portion of the Property, a development plan must be submitted to and approved by the City in accordance with and as set forth in Article XV (Planned Development District) of the Zoning Ordinance and other applicable provisions. For purposes of the development of the Property and in connection with the issuance of a permit for such development, each phase of development of the Property, and each portion of the development of the Property as reflected in a development plan for that portion, constitutes a separate and distinct project for which a permit may be required.

Section 4. Building Permits, Certificates of Occupancy. No building permit or certificate of occupancy for any use on or in the Property shall be issued until there has been full compliance with this Ordinance and all other ordinances, rules, and regulations of the City.

Section 5. Zoning map. The official Zoning Map of the City shall be modified to reflect the zoning change herein made.

Section 6. Purpose. The amendment to zoning herein made has been made in accordance with the comprehensive plan of the City for the purpose of promoting the health, safety and welfare of the community, and with consideration of the reasonable suitability for the particular use and with a view of conserving the value of the buildings and encouraging the most appropriate use of land within the community.

Section 7. No Other Amendment; Savings. Except for the amendment and change made herein, the PD Ordinance is not otherwise amended hereby, and all other provisions thereof shall remain in full force and effect. This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those ordinances are in direct conflict with the provisions of this Ordinance.

Section 8. Penalty. It shall be unlawful for any person to violate any provision of this Ordinance, and any person violating or failing to comply with any provision hereof shall be fined, upon conviction, in an amount not more than Two Thousand Dollars (\$2,000.00), and a separate offense shall be deemed committed each day during or on which a violation occurs or continues.

Section 9. Severability. The sections, paragraphs, sentences, phrases, clauses and words of this Ordinance are severable, and if any section, paragraph, sentence, phrase, clause or word in this Ordinance or application thereof to any person or circumstance is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of

the remaining portions of this Ordinance, and the City Council hereby declares that it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

Section 10. Effective date. This Ordinance shall become effective from and after its date of approval and passage and after publication as provided by law.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this 9th day of October, 2007.



Joe Chow, Mayor

ATTEST:

By: 

Mario Canizares, City Secretary

APPROVED AS TO FORM:

By: 

John Hill, City Attorney

**PROPERTY DESCRIPTION
PARCEL 1**

BEING a tract of land situated in the Noah Good Survey, Abstract No. 520, being all of The Pier Addition, an Addition in the City of Addison, Texas according to the Plat thereof recorded in Volume 77233, Page 143 and all of Springhaven Apartments Addition, an Addition in the City of Addison, Texas according to the Plat thereof recorded in Volume 78015, Page 1834, both in Map Records, Dallas County, Texas and being all of those certain tracts of land conveyed by Special Warranty Deed to DCO Glenwood Apartments LP, recorded in Instrument No. 20070159781, DCO Springhaven LP, recorded in Instrument No. 20070153048, DCO Garden Oaks LP, recorded in Instrument No. 20070096223, DCO Clipper Pointe LP, recorded in Instrument No. 20070170325, DCO Talisker LP, recorded in Instrument No. 20070159777, DCO Greenbrook Apartments LP, recorded in Instrument No. 20070159785 and DCO Brooks Apartments LP, recorded in Instrument No. 20070086354, all in Official Public Records, Dallas County, Texas (collectively called "DCO tract") and being more particularly described as follows:

BEGINNING at a point for corner at the intersection of the Northwesterly ROW line of Brookhaven Club Drive with the East ROW line of Marsh Lane, said point being at the Southwest corner of said DCO tract;

THENCE: North 00 degrees 01 minutes 21 seconds East, along the East ROW line of Marsh Lane and an West line of said DCO tract, a distance of 784.46 feet to a point for corner at the Southwest corner of Brookhaven Village Shopping Center Addition, recorded in Volume 86225, Page 4769, Plat Records, Dallas County, Texas;

THENCE: along the common line of said Brookhaven Village Shopping Center Addition and said DCO tract, the following bearings and distances:

South 89 degrees 43 minutes 05 seconds East, a distance of 43.02 feet to a point for corner at the Southeast corner of said Brookhaven Village Shopping Center;

North 00 degrees 02 minutes 13 seconds East, a distance of 751.46 feet to a point for corner;

South 89 degrees 50 minutes 01 seconds East, a distance of 369.27 feet to a point for corner;

North 00 degrees 19 minutes 19 seconds East, a distance of 708.69 feet to a point for corner in the South ROW line of Spring Valley Road, said point being at the Northwest corner of said DCO tract and the Northeast corner of said Brookhaven Village Shopping Center Addition;

THENCE: South 89 degrees 43 minutes 35 seconds East, along the South ROW line of Spring Valley Road and the North line of said DCO tract, a distance of 1204.72 feet to a point at the beginning of a curve to the right, having a central angle of 22 degrees 55 minutes 19 seconds, a radius of 223.50 feet and a chord bearing South 78 degrees 15 minutes 58 seconds East, a distance of. 88.82 feet;

THENCE: Southeasterly, along said curve to the right, an arc distance of 89.41 feet to the end of said curve, in the West line of a tract of land conveyed to Crimson Tide Management by Warranty Deed recorded in Volume 98060, Page 3378, Deed Records, Dallas County, Texas, said point also being at the Northernmost Northeast corner of said DCO tract;

THENCE: South 00 degrees 16 minutes 37 seconds West, along the common line of said DCO tract and said Crimson Tide Management tract, a distance of 177.93 feet to a point for corner at the Southwest corner of said Crimson Tide Management tract;

THENCE: South 67 degrees 10 minutes 18 seconds East, along said common line, a distance of 77.19 feet to a point for corner in the Northwesterly ROW line of Brookhaven Club Drive, said point also being at the Southeast corner of said Crimson Tide Management tract;

THENCE: along the Northwesterly ROW line of Brookhaven Club Drive and the Southeasterly line of said DCO tract, the following bearings and distances:

South 26 degrees 18 minutes 00 seconds West, a distance of 862.02 feet to a point at the beginning of a curve to the right, having a central angle of 59 degrees 28 minutes 36 seconds, a radius of 334.00 feet and a chord bearing South 56 degrees 02 minutes 17 seconds West, a distance of 331.36 feet;

Southwesterly, along said curve to the right, an arc distance of 346.71 feet to a point at the end of said curve and the beginning of a curve to the left, having a central angle of 44 degrees 34 minutes 25 seconds, a radius of 434.00 feet and a chord bearing South 63 degrees 29 minutes 23 seconds West, a distance of 329.18 feet;

Southwesterly, along said curve to the left, an arc distance of 337.63 feet to a point at the end of said curve;

South 41 degrees 12 minutes 11 seconds West, a distance of 885.67 feet to a point at the beginning of a curve to the right, having a central angle of 49 degrees 00 minutes 01 seconds, a radius of 700.00 feet and a chord bearing South 65 degrees 42 minutes 12 seconds West, a distance of 580.57 feet;

Southwesterly, along said curve to the right, an arc distance of 598.65 feet to a point at the end of said curve;

North 89 degrees 47 minutes 48 seconds West, a distance of 103.11 feet to the PLACE OF BEGINNING and containing 54.017 acres of land.

**PROPERTY DESCRIPTION
PARCEL 2**

BEING a tract of land situated in the Noah Good Survey, Abstract No. 520, being all of Millcreek Apartments, an Addition in the City of Addison, Texas according to the Plat thereof recorded in Volume 76235, Page 2247, Map Records, Dallas County, Texas and being all of that certain tract of land conveyed to DCO Brookhaven LP by Special Warranty Deed recorded in Instrument No. 200600407616, Official Public Records, Dallas County, Texas and all of that certain tract of land conveyed to DCO Greenhaven LP by Special Warranty Deed recorded in Instrument No. 200600335782, Official Public Records, Dallas County, Texas (collectively called "DCO tract") and being more particularly described as follows:

BEGINNING at a point for corner in the Southeasterly ROW line of Brookhaven Club Drive, said point being at the Northwest corner of said DCO tract and the Southernmost Southwest corner of a tract of land conveyed to The Lemmons Co. by Special Warranty Deed recorded in Volume 2002212, Page 5261, Deed Records, Dallas County, Texas;

THENCE: South 89 degrees 35 minutes 11 seconds East, along the common line of said DCO tract and said The Lemmons Co. tract, a distance of 30.05 feet to a point for corner;

THENCE: North 26 degrees 33 minutes 34 seconds East, along said common line, a distance of 58.13 feet to a point for corner;

THENCE: South 89 degrees 42 minutes 26 seconds East, continuing along said common line, a distance of 301.45 feet to a point for corner in the West line of Lot 1, Block A, The Villas at Parkside, Phase I, recorded in Volume 95174, Page 4325, Map Records, Dallas County, Texas, said point also being at the Northeast corner of said DCO tract and the Southeast corner of said The Lemmons Co. tract;

THENCE: South 00 degrees 07 minutes 24 seconds East, along the common line of said DCO tract and said Lot 1, Block A, The Villas of Parkside, Phase I, a distance of 1818.92 feet to a point for corner in the West line of Lot 1, Block A, Exxon Mobil Addition, recorded in Volume 2001198, Page 30, Map Records, Dallas County, Texas, said point also being at the Northeast corner of Brookhaven College Replat, recorded in Volume 86105, Page 2676, Map Records, Dallas County, Texas;

THENCE: North 89 degrees 50 minutes 23 seconds West, along the common line of said DCO tract and said Brookhaven College Replat, a distance of 1211.36 feet to an angle point at the Northeast corner of Wooded Creek Estates, recorded in Volume 78111, Page 553, Map Records, Dallas County, Texas;

THENCE: North 89 degrees 46 minutes 21 seconds West, along the common line of said DCO tract and said Wooded Creek Estates, a distance of 349.43 feet to a point for corner at the Southwest corner of said DCO tract and the Southeast corner of Brooktown Towne House, recorded in Volume 72019, Page 1320, Condominium Records, Dallas County, Texas;

EXHIBIT B

THENCE: North, along the common line of said DCO tract and said Brooktown Towne House, a distance of 318.93 feet to an angle point;

THENCE: North 48 degrees 47 minutes 49 seconds West, along said common line, a distance of 142.08 feet to a point for corner in the Southeasterly ROW line of Brookhaven Club Drive, said point also being at the Southernmost Northwest corner of said DCO tract and the Northeast corner of said Brooktown Towne House;

THENCE: along the Southeasterly ROW line of Brookhaven Club Drive and the Northwesterly line of said DCO tract, the following bearings and distances:

North 41 degrees 12 minutes 11 seconds East, a distance of 729.50 feet to a point at the beginning of a curve to the right, having a central angle of 44 degrees 34 minutes 25 seconds, a radius of 334.00 feet and a chord bearing North 63 degrees 29 minutes 23 seconds East, a distance of 253.33 feet;

Northeasterly, along said curve to the right, an arc distance of 259.84 feet to a point at the end of said curve and the beginning of a curve to the left, having a central angle of 59 degrees 28 minutes 36 seconds, a radius of 434.00 feet and a chord bearing North 56 degrees 02 minutes 17 seconds East, a distance of 430.56 feet;

Northeasterly, along said curve to the left, an arc distance of 450.52 feet to a point at the end of said curve;

North 26 degrees 18 minutes 00 seconds East, a distance of 500.90 feet to the PLACE OF BEGINNING and containing 45.159 acres of land.

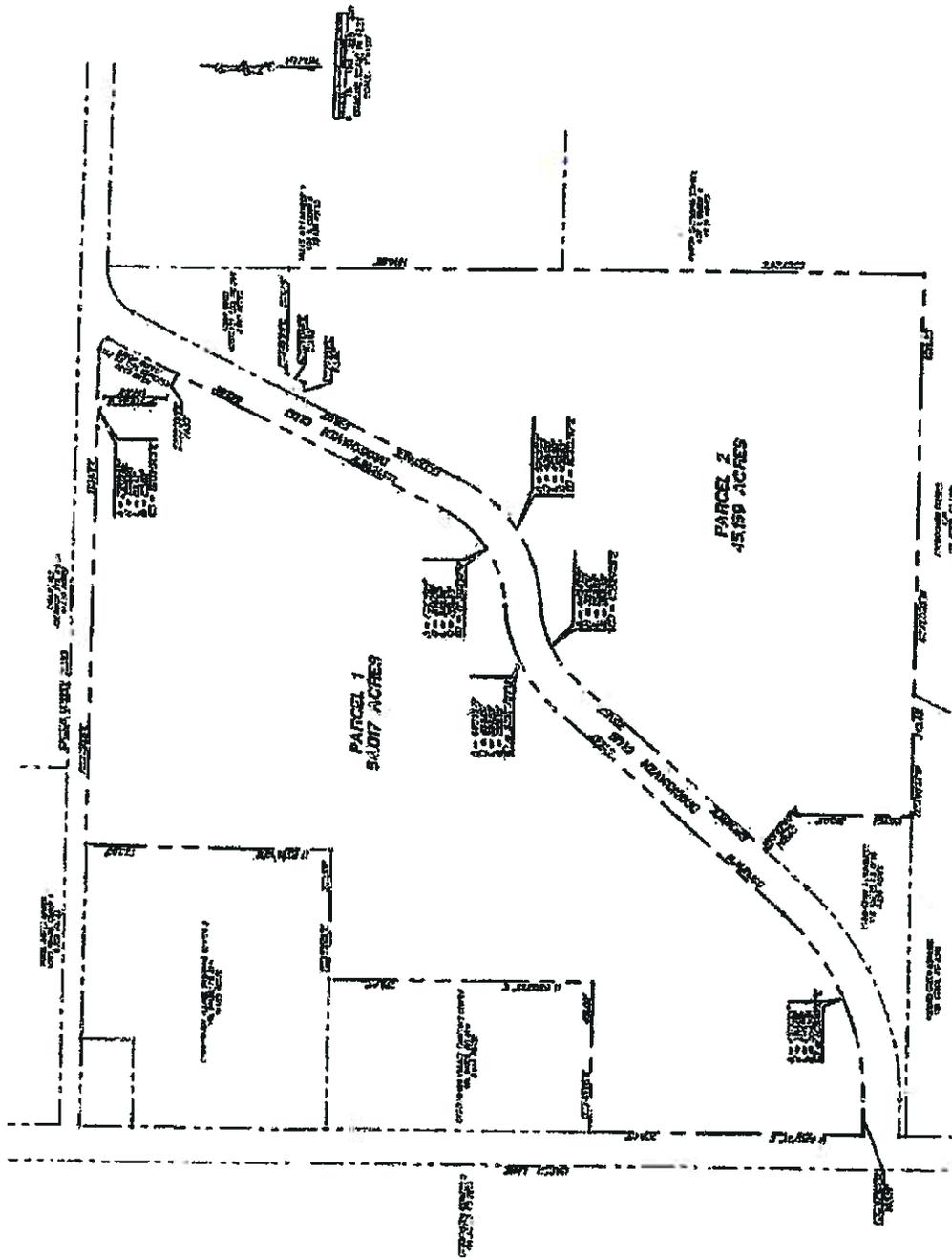


EXHIBIT B

EXHIBIT B
PLANNED DEVELOPMENT CONDITIONS AND STANDARDS

1. **Purpose.** The purpose of this Planned Development District No. 007-034 (the "**PD District**," "**planned development district**," or "**district**") is to create a mixed use environment under a unified plan consisting of retail, restaurant, residential and office uses within a pedestrian-oriented village setting, to be developed in accordance with all of the standards, terms and conditions of this Ordinance No. 007-034 (the "**Ordinance**"). These Planned Development Conditions, Brookhaven Village are incorporated into and made a part of the Ordinance for all purposes. Development, occupancy, and use of the Property and any portion thereof shall comply with development conditions set forth herein, with the Ordinance, with all applicable provisions of the Zoning Ordinance of the Town of Addison, Texas (the "**City**") (the same being Appendix A – Zoning of the Code of Ordinances of the City, and as it may be amended or superseded (the "**Zoning Ordinance**")), and with all other applicable ordinances, laws, rules, regulations, standards, and codes of the City and any other governmental entity or agency having jurisdiction over the Property or applicable portion thereof.

2. **Definitions. Interpretations.** Unless otherwise stated, the definitions and interpretations in the Zoning Ordinance apply to this Ordinance and the development conditions set forth herein.

3. **Concept Plan.** Development and use of the Property which is the subject of this Ordinance (which Property is described by metes and bounds and a survey of which is attached to this Ordinance as **Exhibit "A"**) (the "**Property**") must substantially comply with the concept plan attached to the Ordinance as **Exhibit "C"** and incorporated into and made a part of this Ordinance for all purposes (the "**Concept Plan**").

4. **Development Plan.**

- a. **Plan Required.** Prior to and as a condition of the issuance of a building or any other permit for (i) any development, or (ii) the construction, erection, alteration, extension, placement or locating of any building, structure, or improvement whatsoever, within the Property or any portion thereof, a development plan for the same must be approved by the Planning and Zoning Commission and by the City Council in accordance with Article XV, Section 5 of the Zoning Ordinance. A development plan (whether submitted for the entire Property or for a portion thereof) must comply with the Conceptual Plan, the standards, terms and conditions of this Ordinance, the Zoning Ordinance, and all other applicable ordinances, laws, rules, regulations, codes and standards of the City and any other governmental entity or agency having jurisdiction over the Property or applicable portion thereof. Development, occupancy, and use of the Property or portion thereof which is covered by or the subject of a development plan must comply in all respects with the development plan. Upon approval of a development plan by the City Council, the same shall be incorporated into and made a part of this Ordinance for all purposes.

Office of the City Secretary

Ordinance 007-034

EXHIBIT B

5. Uses.

a. Authorized Uses: Prohibited Uses. Only those uses identified herein as permitted uses, special uses, or accessory uses are authorized uses (subject to the terms, conditions and provisions of this Ordinance) within the Property. All other uses are expressly prohibited.

b. Permitted Uses. The following uses of land are authorized as permitted uses within the Property. Uses are further classified according to general categories of land uses. To the extent expressly authorized by these PD District regulations, a general use category (e.g., "retail") may be identified on the Concept Plan or, except for residential uses, on a development plan. Upon approval of the Concept Plan or a development plan which includes a general use category, any use appearing or classified under such general use category in the use list set forth below, is authorized in accordance with the Concept Plan or development plan, as the case may be, any conditions attached thereto, and all other provisions of this Ordinance, the Zoning Ordinance, and any other ordinance, law, rule, regulation, code, and standard applicable thereto:

1. *Residential.* Residential uses within the Property are limited to the following:

Townhouse
Condominium
Multifamily

2. *Retail.* Retail uses within the Property are limited to the following (all uses listed below are for retail use only (whether or not so specified), and are subject to the General Conditions set forth in subsection e. of this Section 5):

Antique shop
Aquarium
Art gallery
ATM facilities
Bakery, retail sales only
Bank
Barber and beauty shop
Bicycle sales and service
Book or stationery store
Business support services
Camera shop
Candy, cigars and tobaccos, retail sales only

Caterer and wedding service (office only)
Cleaning, dyeing and laundry pick-up station for receiving and delivery of articles to be cleaned, dyed and laundered, but no actual cleaning, dying, or laundering work is to be done on the premises
Coffee shop (no seating on premises)
Convenience store
Cosmetic and beauty supplies
Dance studios
Department store
Donut and pastry shop, no seating on premises
Drug store, retail sales only
Electrical goods and fixtures for consumer use
Electronics store
Film developing and printing
Financial services
Fix-it shops, bicycle repair, saw filing and lawn mower sharpening, retail sales only
Florist, retail sales only
Furniture sales, repairs and upholstery
Gallery, for the display and sale of artworks
Grocery store, retail sales only
Hardware, sporting goods, toys, paints, wallpaper, clothing, retail sales only
Health club, private and public
Household and office furniture, furnishings and appliances, retail sales or rental only
Jewelry, optical goods, photographic supplies, retail sales only
Laundromat, equipped with automatic washing machines of the type customarily found in a home and where the customers may personally supervise the washing and handling of their laundry
Magazine store
Meat market, retail sales only
Medical and dental clinics
Movie DVD and VHS rental and sales
Optician and optical store
Pet and pet supplies
Photographer or artist studio
Pizza delivery shop, no seating on premises
Piano and musical instruments
Plumbing shop, without warehouse facilities (to include storage for ordinary repairs, but not storage for materials for contracting work)
Printing and copy shop, retail sales only

Professional offices for architect, attorney, engineer and real estate
Public garage, parking, no repairs
Retail Store
Seamstress, dressmaker, or tailor
Shoe repair shop, retail sales only
Sporting goods, toy & hobby store
Studio for the display and sale of glass, china, art objects, cloth and draperies
Studios, dance, music, drama, martial arts
Tailors
Telephone stores
Title companies
Travel services
Wearing apparel, including clothing, shoes, hats, millinery and accessories

3. *Office.* (Defined under article XXX of the Zoning Ordinance)
4. *Home office.* For the purposes of this PD District, "home office" means and includes office uses that are performed in a residential dwelling unit or in an office attached to a residential dwelling unit, that do not involve any structural change to the building or premises in which the use is conducted. A home office use, which is located on the ground floor of a building may include the employment of not more than three employees, including the person who is the primary resident of the residential dwelling unit where the home office use is conducted. A home office use which is located on any floor of a building other than the ground floor may not include the employment of any employee other than a person who is a primary resident of the residential dwelling unit where the home office use is conducted.
5. *Civic.* (Defined under article XXX of the Zoning Ordinance)
6. *Mixed use (with residential).* (Defined under article XXX of the Zoning Ordinance)
7. *Mixed use (with nonresidential).* (Defined under article XXX of the Zoning Ordinance)

- c. Special Uses. A use listed below in this subsection may be permitted within the Property provided the same is first authorized by the approval of a special use permit in accordance with and subject to Article XX, Special Uses, of the City's Zoning Ordinance (and as the same may be modified or superseded):

1. Hotel.
2. Cleaning, dyeing and laundry pick-up station, with cleaning, dyeing and/or laundry work done on the premises.
3. Library, for loan of books and other materials typically performed by a public library.
4. Public safety facilities.
5. Restaurant.
6. Retirement home.
7. Sale of alcohol for on-premises consumption.
8. Transit facilities.

d. Accessory Uses. The following are permitted as accessory uses within the Property:

1. Community, social, hobby, or laundry facilities, for use by occupants of a residential development within the Property which are customary to residential developments.
2. Recreation space and facilities.
3. Parking and parking structures.
4. Other uses customarily incidental and subordinate to permitted uses and any special uses.

e. General Conditions. Development, occupancy, and use of the Property shall comply with the following conditions, as applicable:

1. *Retail use.* A retail use may be operated or conducted only in accordance with the following:
 - (a) Except as provided in subsection (b) below (regarding kiosks), a retail use is permitted only in connection with and as a part of a "mixed use (with residential)," as the same is defined in Article XXX of the Zoning Ordinance.
 - (b) Notwithstanding subsection (a) above (regarding a mixed use (with residential)), a retail use may be provided or conducted from and within a portable kiosk. For purposes hereof, "kiosk" means a small, free-standing one-story building or structure having a maximum floor area of 500 square feet which is portable in nature, is not permanent, and can be easily and readily moved from location to location. If a portable kiosk is to be occupied, it shall have a minimum floor area of 25 square feet. A portable kiosk for the purpose of providing or conducting a retail use is permitted anywhere within the Property.

- (c) Except as the same may be provided or conducted from a portable kiosk, free-standing retail is prohibited. For purposes hereof, "free-standing retail" means the use or occupancy of a free-standing building for a retail use.

6. Development Standards.

- a. For purposes of determining parking and open space compliance, the entire Property shall be considered as one lot. For example, retail parking in one phase of development, such as parking in a parking structure, may be applied to the required parking in another phase of retail development. Notwithstanding the consideration of the entire Property as one lot for parking and open space compliance purposes, parking for each development or phase of a development within the Property must be sufficient (and satisfy all of the standards set forth herein) for the development or phase thereof.
- b. Development, occupancy, and use of the Property shall comply with the development standards set forth in the following Table A:

TABLE A: DEVELOPMENT STANDARDS	
<p><u>Street Build-to Line</u></p> <p>All primary buildings, structures, walls, fences, and other improvements shall be constructed, located, placed, and erected along and contiguous to the applicable build-to line; provided, however, that not more than 30 percent of any street frontage may vary from the build-to line, except in that portion of the Property identified on the Concept Plan as "Subarea 1" not more than 50 percent of any street frontage may vary from the build-to line. The build-to line shall be measured from the closest right-of-way line of the adjacent street.</p>	<p><i>Street build-to lines within the Property are as follows (streets are as shown or identified on the Concept Plan):</i></p> <ul style="list-style-type: none"> o 9 feet along A streets (as shown on the attached Exhibit "C" to this Ordinance No. 007-034) o No less than 6 feet, no more than 9 feet along B streets (as shown on the attached Exhibit "C" to this Ordinance No. 007-034) o No less than 6 feet, no more than 9 feet along all C streets (as shown on the attached Exhibit "C" to this Ordinance No. 007-034) o 4 feet along all D streets (as shown on the attached Exhibit "C" to this Ordinance No. 007-034) o No less than 6 feet, no more than 9 feet along all E streets (as shown on the attached Exhibit "C" to this Ordinance No. 007-034)

<u>Side Yard Setback</u>	None, except as required by the City's Fire Code (and as the same may be amended or superseded from time to time)	
<u>Rear Yard Setback</u>	None, except as required by the City's Fire Code (and as the same may be amended or superseded from time to time)	
<u>Maximum height of building</u>	No maximum height; except the portion of any building or other structure which is located within 100 feet of the property line of a lot or other parcel of land which is zoned for single family or apartment use or which is otherwise used or occupied for a residential use shall not exceed 60 feet in height. All heights are subject to FAA approval.	
<u>Minimum lot area</u>	No minimum lot area	
<u>Minimum lot width</u>	No minimum lot width	
<u>Minimum lot depth</u>	No minimum lot depth	
<u>Minimum area per Residential dwelling unit</u>	Efficiency	450 sq. ft.
	One-Bedroom	600 sq. ft.
	Two-Bedroom	850 sq. ft.
	Three-Bedroom	1,000 sq. ft.
	Townhouse	1,600 sq. ft.
	Office uses	500,000 sq. ft.
<u>Maximum nonresidential square footage</u>	Retail, restaurant and personal service uses	500,000 sq. ft.
<u>Maximum lot coverage</u>	95%	

c. Miscellaneous development standards:

1. Lot coverage:

- (a) The area of a porch or arcade fronting a public street is not included in the calculation of lot coverage.
- (b) The area of an above-grade parking structure is included in the calculations of lot coverage.

2. **Height:** Architectural features including, but not limited to, turrets, spires and towers may exceed maximum height of building provided that any such structure is no more than 15 feet higher than the maximum permitted height and has a floorplate which is ten percent, or less, of the ground floor area of the building of which it is a part.
3. **Setbacks:**
 - (a) *Overhangs and fireplaces.* The minimum setback requirements shall apply in all cases, except that fireplaces, eaves, bays, balconies and fireproof stairways may extend up to a maximum of five feet into the required setbacks.
 - (b) *Patios.* Patios may be constructed within the required setback zones.

7. **Open Space.**

- a. Two acres for every 1,000 residents shall be dedicated for public open space use by the project applicant up to the point that dedication has been provided for 2,250 residents. After sufficient open space has been dedicated to meet the requirement for 2,250 residents, 1 1/2 acres of open space for each 1,000 residents shall be dedicated for public use by the project applicant. For purposes of this section, the number of residents expected to reside in the Property (or applicable portion thereof) shall be determined by estimating the number of dwelling units authorized for a proposed project, multiplied by a factor of 1.5 persons per dwelling unit.
- b. Land proposed to be dedicated as public open space shall be clearly shown on the Concept Plan and final development plan submittals.
- c. Land to be dedicated for public open space shall be approved initially by the planning and zoning commission and thereafter shall be submitted to the city council for consideration of acceptance of the proposed dedication. No dedication shall be deemed approved without express action of the city council in the form of a written "acceptance of dedication." Failure of the city council to execute an acceptance of dedication shall be deemed to be a refusal of the proposed dedication.
- d. In its approval of any development plan, the Town may impose such conditions as deemed necessary to assure that the intent and purpose of this section is satisfied.

8. **Parking.**

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EXHIBIT B

a. **Generally.** Off-street parking must be provided for the appropriate building use classification according to the following ratios:

1. **General retail.** (1/250 s.f.) One space per each 250 square feet of gross floor area.
2. **Furniture store.** (1/1,000 s.f.) One space per each 1,000 square feet of gross floor area.
3. **Medical or dental clinics.** (1/200 s.f.) One space per each 200 square feet of gross floor area.
4. **Bank or savings and loans.** (1/300 s.f.) One space per each 300 square feet of gross floor area.
5. **Office.** (1/300 s.f.) One space per each 300 square feet of gross floor area.
An office building or group of buildings, which shall total 50,000 square feet or more: (1/300 s.f.). One space per 300 square feet of gross leaseable area.
6. **Health club or studio for dance, music, drama, health and reducing.** (1/100 s.f.) One space per each 100 square feet of gross floor area.
7. **Residential.** One space/bedroom to a maximum of two spaces/unit.
8. **Hotel.** One space/hotel room plus one parking space per every 300 square feet of gross floor area of conference/banquet facilities.
9. **Civic.** To be determined by parking demand analysis study for proposed use and approved by the town's director of development services.
10. **Mixed use.** Number of spaces resulting from application of ratios provided above for respective uses in the development.

b. **Shared parking.** Uses may join in establishing shared parking areas if it can be demonstrated that the parking for two or more specific uses occurs at alternating time periods. Required parking shall be determined based on parking demand for the peak parking period as determined by a parking analysis study approved by the town's director of development services.

c. **Below-grade parking.** Off-street below-grade parking is permitted to the lot lines, but must be designed to allow planting of landscape.

d. **Parking garages.** Parking garage ramps shall not be expressed on the facades of parking structures fronting, or visible from public streets. Steel parking garages and steel guard cables on the garage facades are prohibited. The maximum length of an exposed parking structure along a street is 200 feet.

e. **Bicycle parking.** Bicycle parking shall be provided for all multi-family and commercial uses.

9. **Streets.** All streets and blocks in the Property shall conform to the provisions of this section.

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EXHIBIT B

- a. *Street standards.* Standards for streets within the Property shall be as set forth in Exhibit "D," which is attached to this Ordinance, No. 007-034 and made a part hereof by reference. The Town's Master Thoroughfare Plan is amended to conform to Exhibit "D" for streets within this planned development district.
- b. *Street type and pattern.* The location of streets on the master thoroughfare plan is approximate. Precise location of streets shall be determined in conjunction with the approved Concept Plan and the approval of development plans.
- c. *Block length.* The length of a block shall not be less than 200 feet, nor more than 750 feet.

10. Exterior Appearance.

a. *Materials:*

1. At least 30 percent of the exterior cladding of all exterior walls fronting or visible from public streets (including above grade parking structures) shall be masonry construction. For purposes of this planned development district, "masonry construction" includes, but is not limited to brick, stone, cultured stone, glazing and plate glass, and split face concrete masonry units. An applicant, however may submit a design for construction of parking structures that employs alternative construction materials for exterior cladding with an application for a development plan. The alternative may be approved by the city upon determination that such construction will result in an appearance that is compatible with surrounding buildings and the overall character of the district.
2. At least 60 percent of exterior cladding of all walls not fronting on, or not visible from, public ways (including above grade parking structures) may be constructed of noncombustible materials including exterior stucco and fibrous cementitious material (e.g. hardi-material) construction.
3. The exterior cladding (excluding glass) of all buildings, (including above grade parking structures) shall be composed of not more than three materials (excluding roofs).
4. The following materials are prohibited as primary cladding materials:
 - Aluminum siding or cladding
 - Wood roof shingles
 - Unfinished concrete block (architecturally finished concrete block is permitted as a cladding material).

5. The following materials are prohibited as primary roofing materials:

Wood roof shingle
Composite shingles with less than a 50-year life

6. Balcony and patio railings and fences shall be constructed of wrought iron or metal. Wood fences and railings and chain-link fencing are prohibited.

b. *Windows:*

1. Where a retail use occupies the first floor, at least 70 percent of the first floor exterior wall facing a thoroughfare, street, boulevard or parking plaza shall be transparent glazing.
2. The exterior wall surface of all buildings above the first floor shall not be more than 50 percent glass.
3. Glass is to be clear or tinted, not reflective.

c. *Walls.* Walls attached to buildings shall be developed as architectural extensions of the building, constructed of the same material and in the same style.

d. *Color.* The dominant color of all buildings (including above-grade parking structures) shall be muted shades of color. Black and stark white shall not be used except as accent color. There are no restrictions on accent colors which comprise less than 1.0% of the building face, except that fluorescent colors are prohibited.

11. Landscape. Landscaping within the Property shall comply with the provisions in this section and with the standards contained in Article XXI, landscaping regulations of the Zoning Ordinance. Where conflicts exist between this section and the landscaping regulations, requirements in this section shall control.

a. Streetscape Zone. In the district, all streetscape elements, including street trees, lighting and other furnishings must be provided in the right-of-way, exclusive of driveways and access ways at points of ingress and egress to and from each lot.

1. Street Trees – Street trees shall be provided in accordance with the following:

(a) Each street (except treeless mews streets) shall have street trees planted at uniform spacing, commencing no closer than 40 feet from the face of curb of intersecting streets.

- (b) Typically, street trees shall be planted as shown on Exhibit "D".
 - (c) Street trees shall be large shade species having a minimum of four (4) caliper inches, selected in accordance with the Town's landscape regulations.
2. Street Lighting – Street lighting shall be provided in accordance with the following :
- (a) Each street shall have street lamps uniformly spaced between trees as shown on Exhibit "D(b)On A and B streets (as shown on the attached Exhibit "D"), locate street lamps at intervals no greater than 200 feet.
 - (c) Street lamps shall be selected in accordance with Exhibit "E", attached to this Ordinance No. 007-034 showing acceptable selections.
3. Street Furnishings – Street furnishings shall be provided in accordance with the following:
- (a) Street furnishings shall include, but not be limited to, benches, trash receptacles, and bicycle racks.
 - (b) Street furnishings shall be located at the discretion of the developer, subject to the approval of the town's Director of Parks and Recreation.
 - (c) Street furnishings shall be selected in accordance with Exhibit "E", attached to this Ordinance No. 007-034, showing acceptable selections.
4. Landscaping for Non-residential ground floor frontages. Non-Residential ground floor frontages may pave the area between the building face and sidewalk.
5. Landscaping for Residential ground floor frontages. Residential ground floor frontages shall be required to landscape the entire area between the edge of sidewalk and the primary building façade, excluding access to sidewalks, stairs, stoops, porches and patios. This area must be irrigated, and may be landscaped with ground cover, low shrubs, and ornamental trees.

b. Private Open Space. Private open space, which is owned and maintained by the developer, shall be landscaped and irrigated. The landscaping plan for the private

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EVUJDTT D

open space shall be approved by the Town as a part of the development plan approval for each development.

- c. **Parking Lot Screening.** Screening must be provided for all surface parking lots within the Property from all adjacent streets. The screening must extend along the entire street frontage of each surface parking lot, exclusive of (i) driveways and access ways at points of ingress and egress to and from the site, and (ii) visibility triangles. Screening shall be provided in accordance with the standards contained in Article XXI, Landscaping Regulations.

12. **Sustainability.**

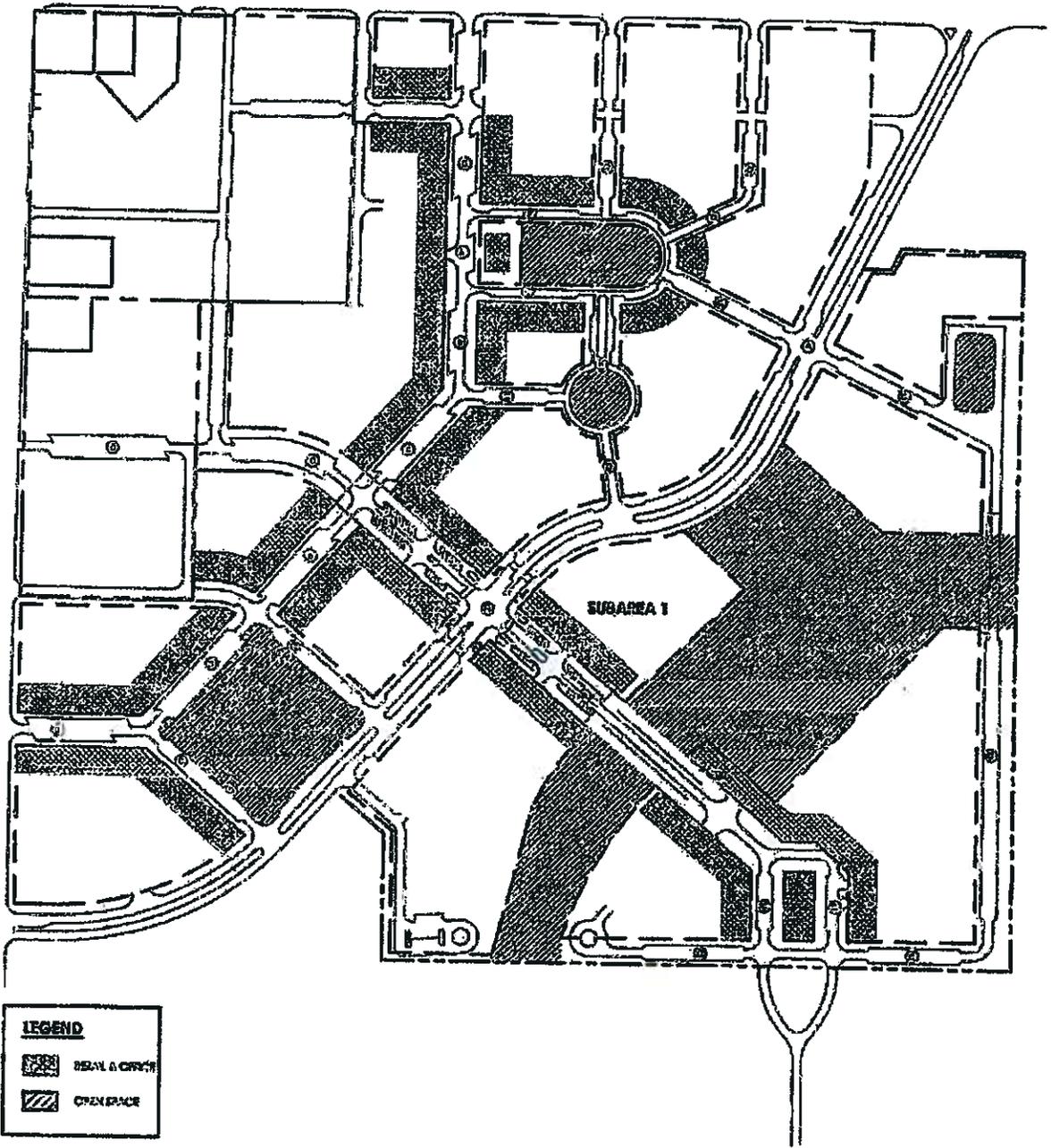
All land contained within this Planned Development District shall be developed, and all buildings within this Planned Development District shall be constructed with the goal of providing a sustainable neighborhood. All developments shall conform to the requirements of the Brookhaven Neighborhood Sustainability Program, which is attached as Exhibit "F", attached to this Ordinance No. 007-034, and incorporated herein for all purposes.

13. **Screening:**

- a. Mechanical equipment shall be screened from view from all public roadways and located to minimize noise intrusion off each lot. The required screening must be composed of the same exterior materials as the buildings on the lot, or through the use of masonry walls, ornamental fence (80 percent opaque), evergreen landscape material, or combination thereof.
- b. Loading, service, and trash storage areas shall be screened from all public roadways. Refuse containers must be placed on a designed, reinforced concrete pad, including drive approach. The required screening must be composed of the same exterior materials as the buildings on the lot, or through the use of masonry walls, ornamental fence (80 percent opaque), evergreen landscape material, or combination thereof.
- c. All roof-mounted mechanical elements must be screened from view from the public right-of-way and neighboring properties. Screening must be architecturally compatible with the building design.

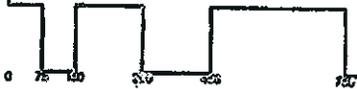
14. **Flexible Standards.** It is intended that all of the standards set forth in Sections 5-13 herein shall be flexible in order to encourage development within the Property. The planning and zoning commission and the city council may approve waivers to any standards set forth herein as part of the development plan provided any such waiver does not authorize a use not authorized in this planned development district, and does increase the allowable intensity or density of any land use.

Office of the City Secretary



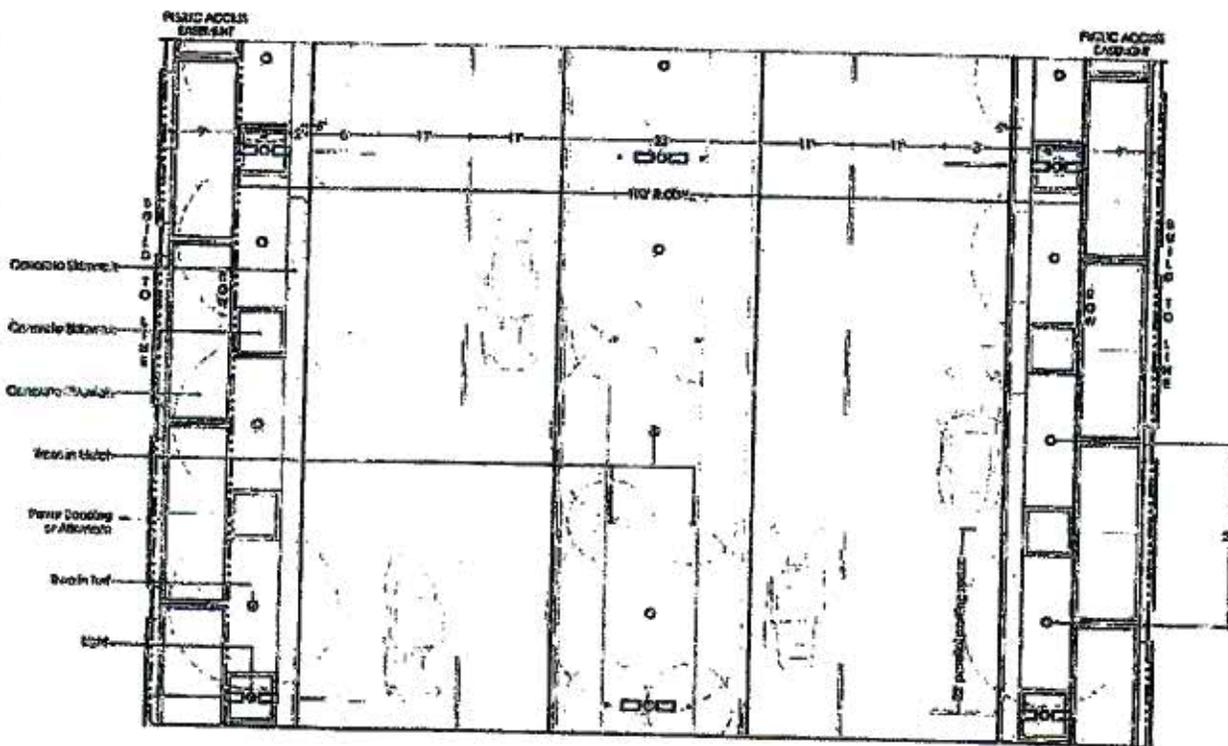
LEGEND

-  DECK & COURTY
-  OPEN SPACE



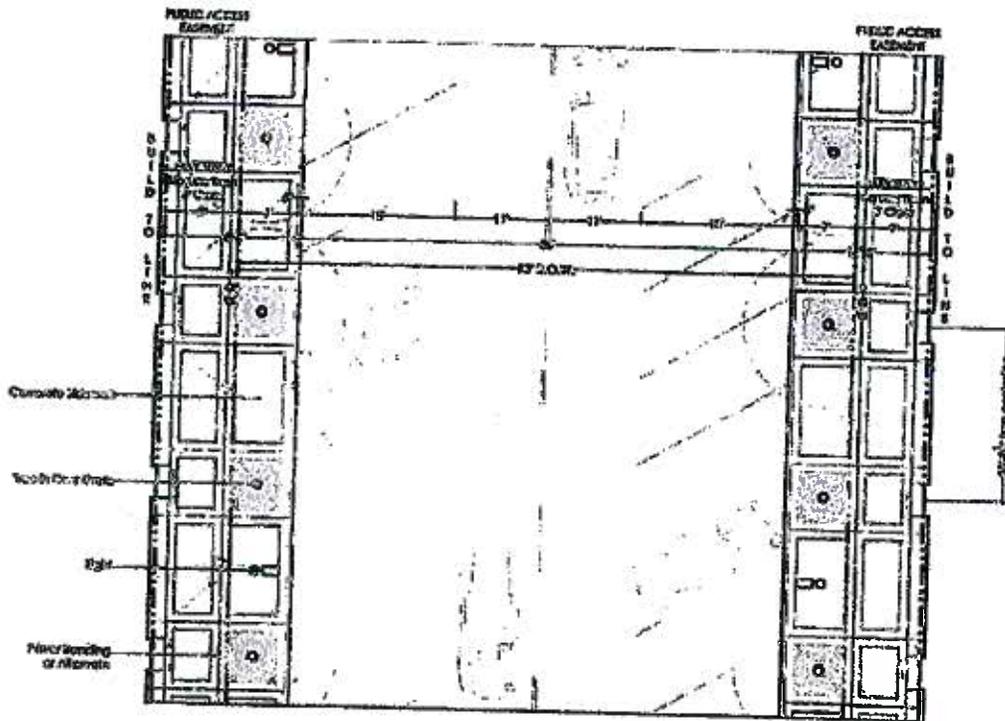
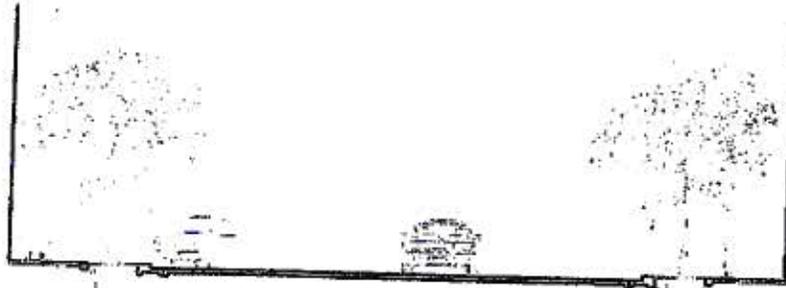
B R O O K H EXHIBIT B
EXHIBIT C - CONCEPT PLAN





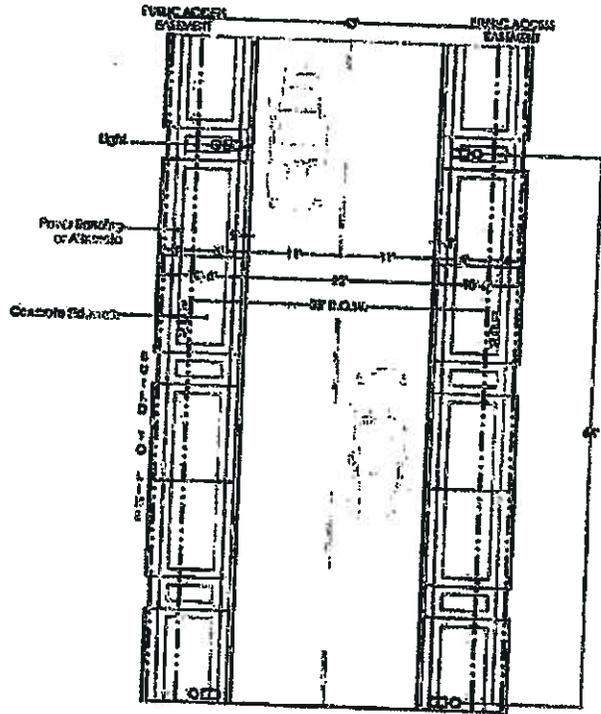
A - RESIDENTIAL BOULEVARD 100' R.O.W.
 EXHIBIT D - STREET STANDARDS EXHIBIT B





B - RETAIL STREET - 73' R.O.W.
EXHIBIT D - STREET STANDARDS **EXHIBIT B**



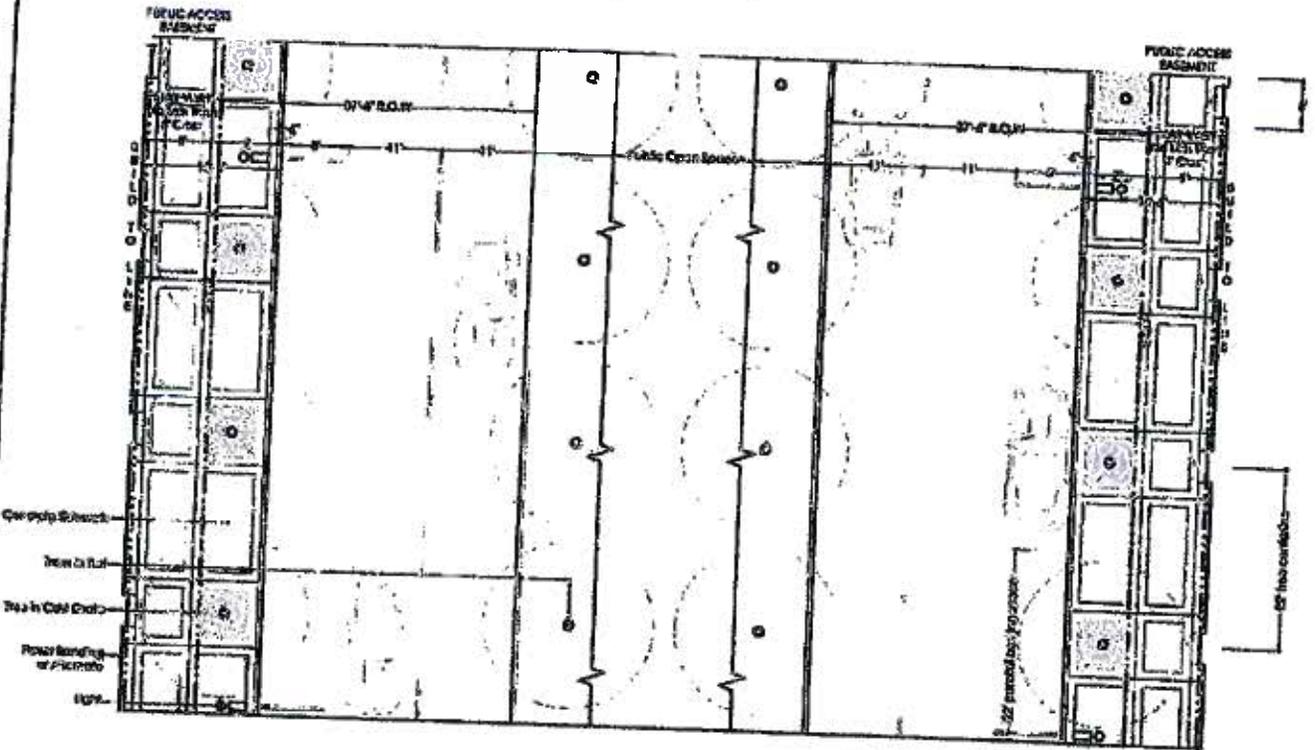
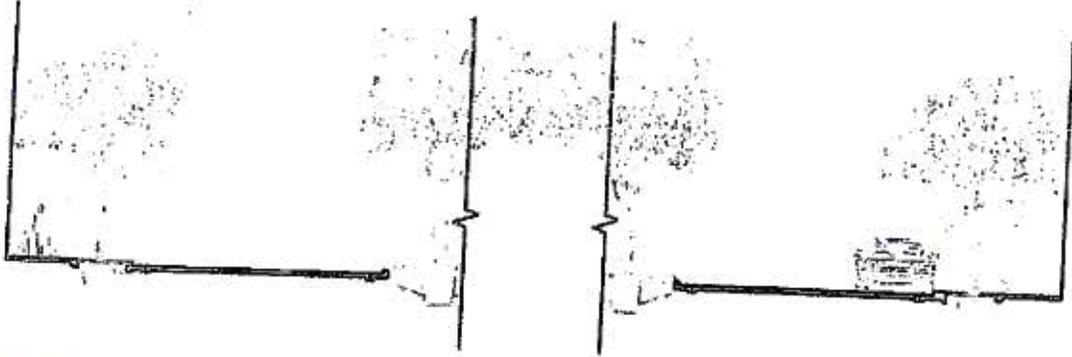


D - MEWS STREET - 35' R.O.W.

EXHIBIT D - STREET STANDARDS

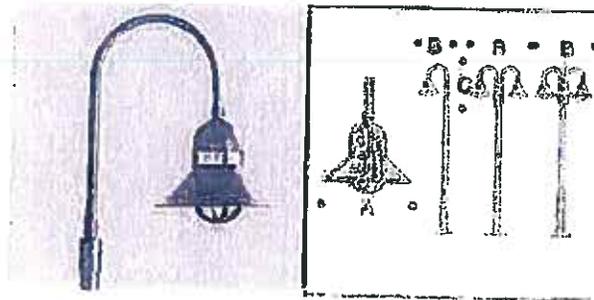
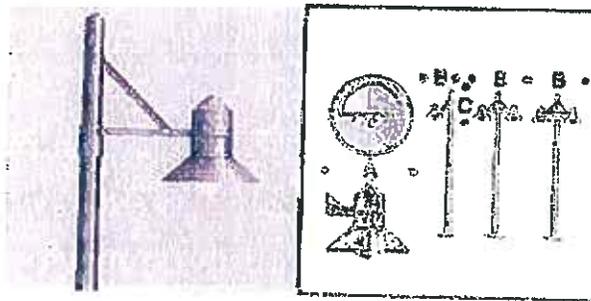
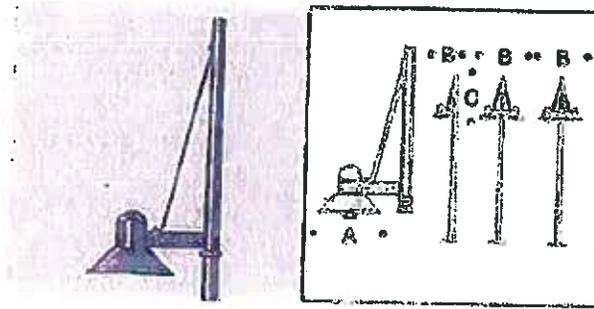
EXHIBIT B





E - PARKWAY - VARIABLE WIDTH OPEN SPACE
 EXHIBIT D - STREET STANDARDS EXHIBIT B





Bega: Street Lights

STREET LIGHTING

EXHIBIT E - STREET LIGHTING AND STREET FURNISHINGS



EXHIBIT B

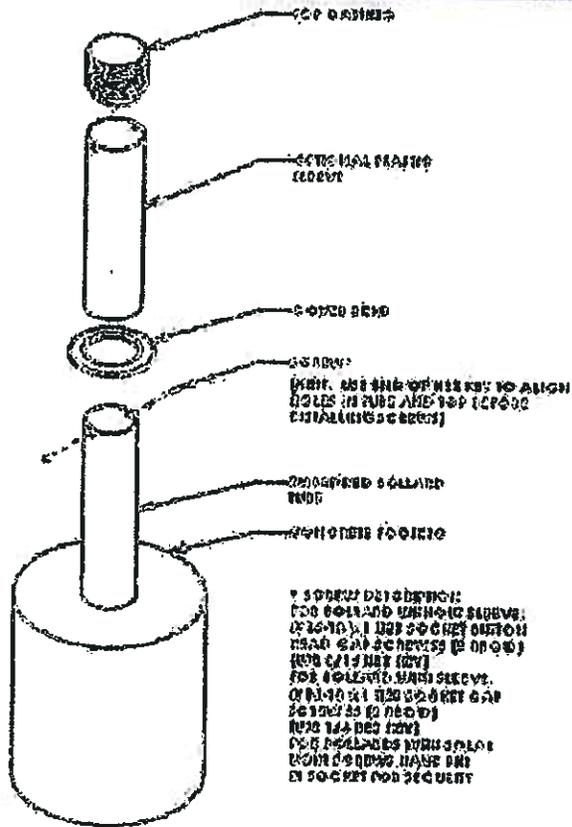


FIGURE 1
ANNOPOLETS BOLLARD ASSEMBLY

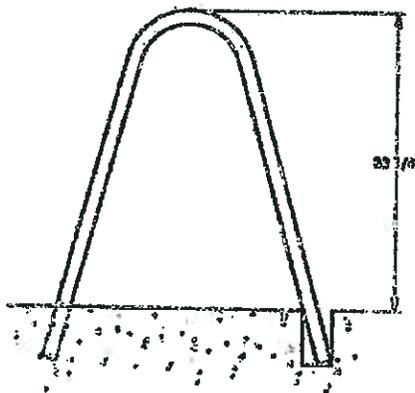
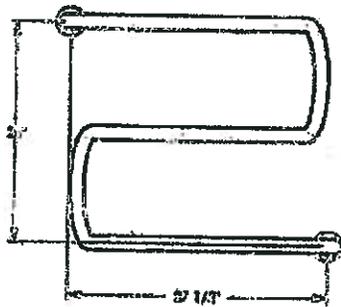
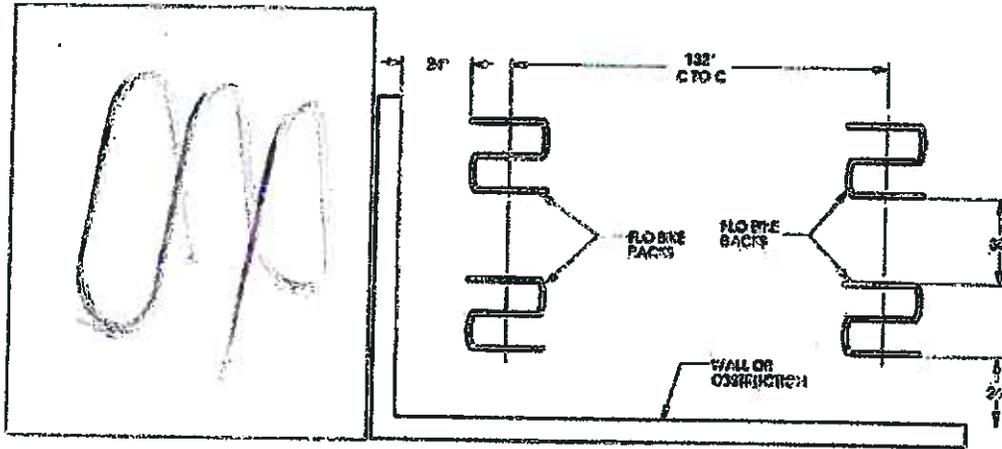
Landscape Forms: Annapolis Bollard

BOLLARD

EXHIBIT E - STREET LIGHTING AND STREET FURNISHINGS



EXHIBIT B



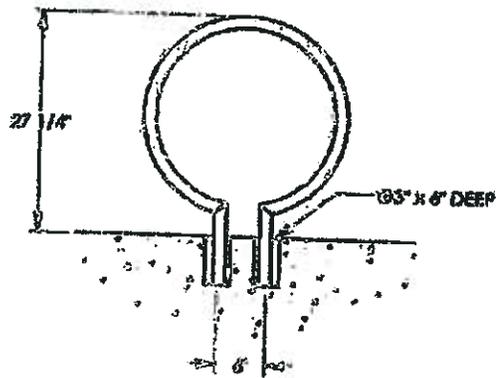
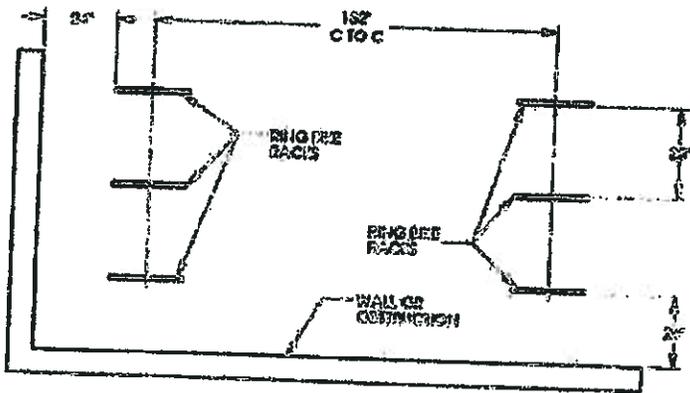
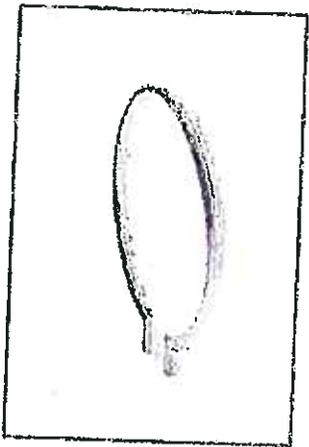
Landscape Forms: Flo2 Bike Rack

BIKE RACK

EXHIBIT E - STREET LIGHTING AND STREET FURNISHINGS



EXHIBIT B



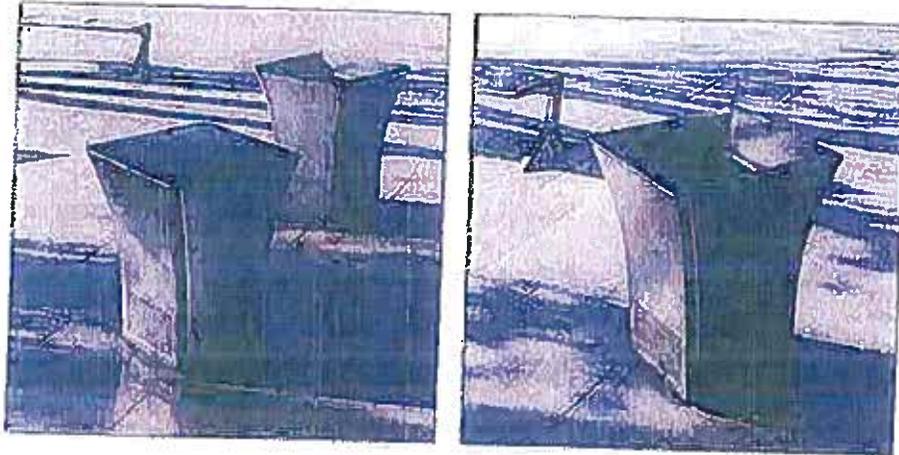
Landscape Forms: Ring Bike Rack

BIKE RACK

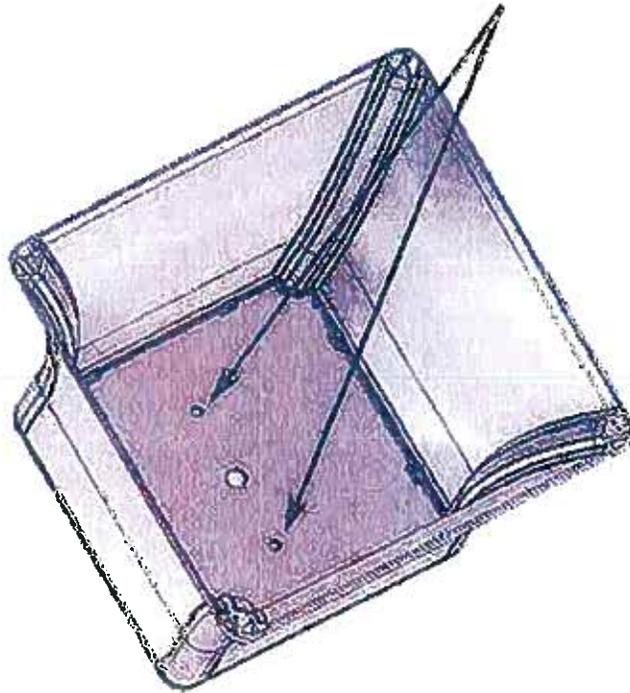
EXHIBIT E - STREET LIGHTING AND STREET FURNISHINGS



EXHIBIT B



Holes for Surface Mounting



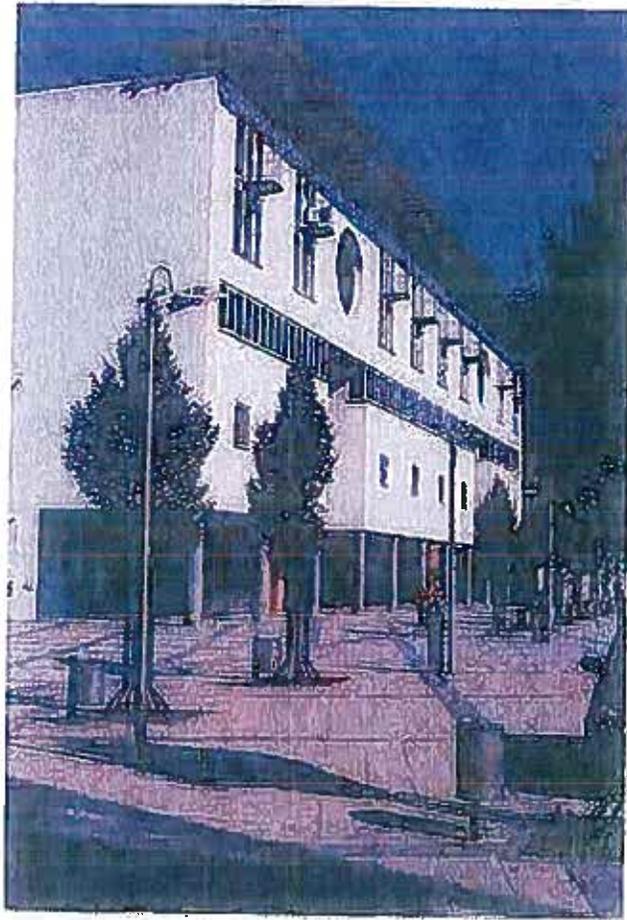
Landscape Forms: 35: Pitch Litter Receptacle

LITTER RECEPTACLE

EXHIBIT E - STREET LIGHTING AND STREET FURNISHINGS



EXHIBIT B



Hess: Punto Litter Receptacle

LITTER RECEPTACLE

EXHIBIT E - STREET LIGHTING AND STREET FURNISHINGS



EXHIBIT B

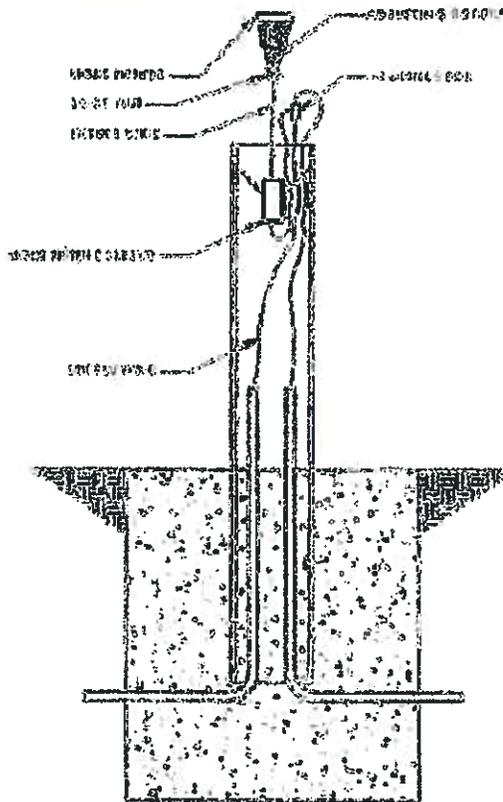
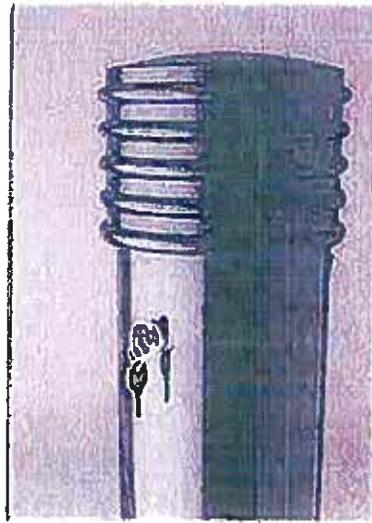


Most Dependable Fountains: Model 493SS, 325

DRINKING FOUNTAIN
EXHIBIT E - STREET LIGHTING AND STREET FURNISHINGS



EXHIBIT B



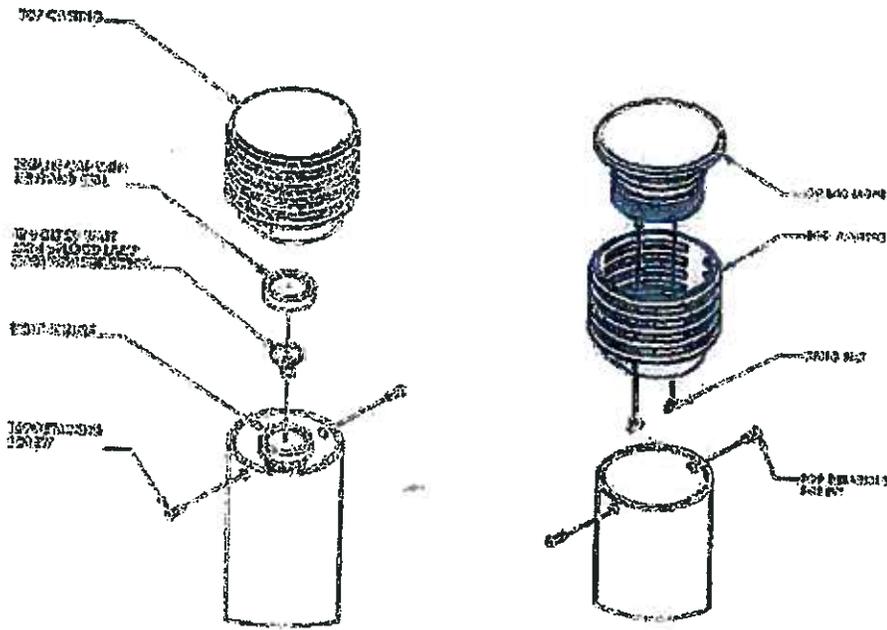
Landscape Forms: Annapolis Lighted Bollard

BOLLARD

EXHIBIT E - STREET LIGHTING AND STREET FURNISHINGS



EXHIBIT B



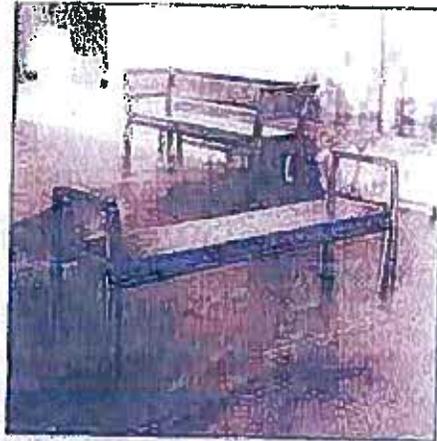
Landscape Forms: Annapolis Solar Lighted Bollard

BOLLARD

EXHIBIT E - STREET LIGHTING AND STREET FURNISHINGS



EXHIBIT B



Landscape Forms: 35: Sit Bench

BENCH

EXHIBIT E - STREET LIGHTING AND STREET FURNISHINGS



EXHIBIT B

Sustainability Guidelines for Brookhaven Development, City of Addison



Category	General Description	Specific Metrics/Details
	Include appropriate native plants that need minimal additional irrigation and pest control	Ensure that at least 50% of the landscaping consist of draught tolerant vegetation
	Reduce run-off pollution from conversion of site and construction	Create and execute a plan during the design to control erosion and sedimentation
	Minimize erosion and sedimentation	Create and implement a plan that uses vegetation, grading, and stabilization techniques to prevent erosion and reduce runoff
	Locate project such that 50% of the dwelling units and business entrances are within 1/2 mile of community services by walking route	1) Bank 2) Daycare 3) Civic Center 4) Hair Care 5) Hardware 6) Health Club 7) Laundry 8) Library 9) Pharmacy 10) Medical/Dental 11) Church 12) Post Office 13) Restaurant 14) School 15) Senior Care 16) Grocery 17) Theatre, or other uses
	Design residential portion of the project to have a minimum density of 20 dwelling units per acre	
	Provide two or more of the following housing types	1) Detached residential 2) Duplex or Townhouse 3) Multi-family dwelling < 4 stories 4) Multi-family 4-8 stories 5) Multi-family > 9 stories
Site	Use no more than 20% of development footprint for detached surface parking lots	Locate all parking at the side or rear of buildings w/no surface parking lot greater than 2 acres in size
	Principal entries should face a street, square, park, or plaza	
	Building-height-to-street-width proportions should not exceed a ratio of 1:3	
	Continuous sidewalks should be provided on both of all streets to promote pedestrian travel	Exclusively residential streets should not exceed speed limits of 20 mph. Non-residential or mixed use streets should not exceed speed limits of 25 mph
	Locate parks of at least 1/2 acre in size to be within 1/8 mile walking distance of 90% of all residential units	Provide outdoor recreational facilities in parks
	Locate project on an infill site, near existing adequate transit service	
	Locate project on a site served by existing water and sewer infrastructure.	
	Locate project on a previously developed site, with street network grid density of 30 centerline miles per sq. mile	

EXHIBIT B

Materials and Waste	Establish facilities to enable recycling of waste generated by occupants: paper, glass, plastics, metal, and cardboard	Ensure that building design contains adequate space and means (e.g. Chutes) for recycling collection areas
	Divert a minimum of 50% of construction debris from disposal in landfills and incinerators, when practical	Salvage materials for reuse in construction, and send additional materials to recycling facilities or charitable organization (e.g. Habitat for Humanity)
	Give preference to materials with manufacturing locations within 500 miles of project	Provide a list of materials which qualify, indicating distance from manufacturing location to project
	Give preference to materials and products made from recycled or rapidly renewable materials	Provide a list of materials which qualify, indicating nature of materials and % of composition

Energy	Perform fundamental commissioning of buildings' energy systems	Verify that all the energy systems in the building are installed, calibrated, and performing to the owner's requirements before occupancy
	Utilize daylight wherever possible	Incorporate daylighting considerations into building orientation, window, and skylight placement, and strategic shading into building design
	Build energy efficient building envelope	Comply with IECC 2008 standard
	Install Energy Star windows, doors, skylights	Specify windows, doors, and skylight with Energy Star Qualified ratings
	Use Energy Star qualified sealing and ensure building is properly sealed	Specify Energy Star qualified sealing
	Choose Energy Star qualified fixtures and bulbs (e.g. compact fluorescent lights) in all common areas and units	Specify lighting that has attained Energy Star certification
	Install lighting controls (motion sensors, daylight sensors, dimmers, and/or timers) in public areas	N/A
	Buy Energy Star qualified refrigerators/freezers	Specify Energy Star qualified refrigerators/freezers
	Use Energy Star qualified Exit Signs	Specify Energy Star qualified exit sign
	Install Energy Star qualified ceiling fans	Specify Energy Star qualified ceiling fans
	Install insulation levels recommended by Energy Star for their cost effectiveness	Follow or exceed Insulation R values as prescribed in IECC 2008.
	Use Energy Star qualified roof insulation	N/A
	Orient buildings so that the longer sides of the building are facing north/south and the shorter sides of the building are facing east/west, as masterplan allows.	
	Do not use CFC based refrigerants in HVAC systems	
Use building architecture to provide solar mitigation, as masterplan allows.		

EXHIBIT B

Water	Minimize use of potable water for irrigation	Program all irrigation systems on property to shut off when raining
	Install automatic rain shut-off mechanism on irrigation systems	Specify all toilets that use no more than 1.3 gallons/per/flush, where practical
	Install high-efficiency toilets	Specify sinks/aerators that use no more than 1.8 gal/min
	Install ultra-efficient sinks/aerators	Specify showerheads that use no more than 1.8 gal/min
	Install ultra-efficient, low-flow showerheads	Specify and install Energy Star qualified washing machines
	Buy and install Energy Star qualified washing machines	Specify and install Energy Star qualified dishwashers
	Buy and install Energy Star qualified dishwashers	
	Use highest-efficiency water heaters or boilers when available or practical	

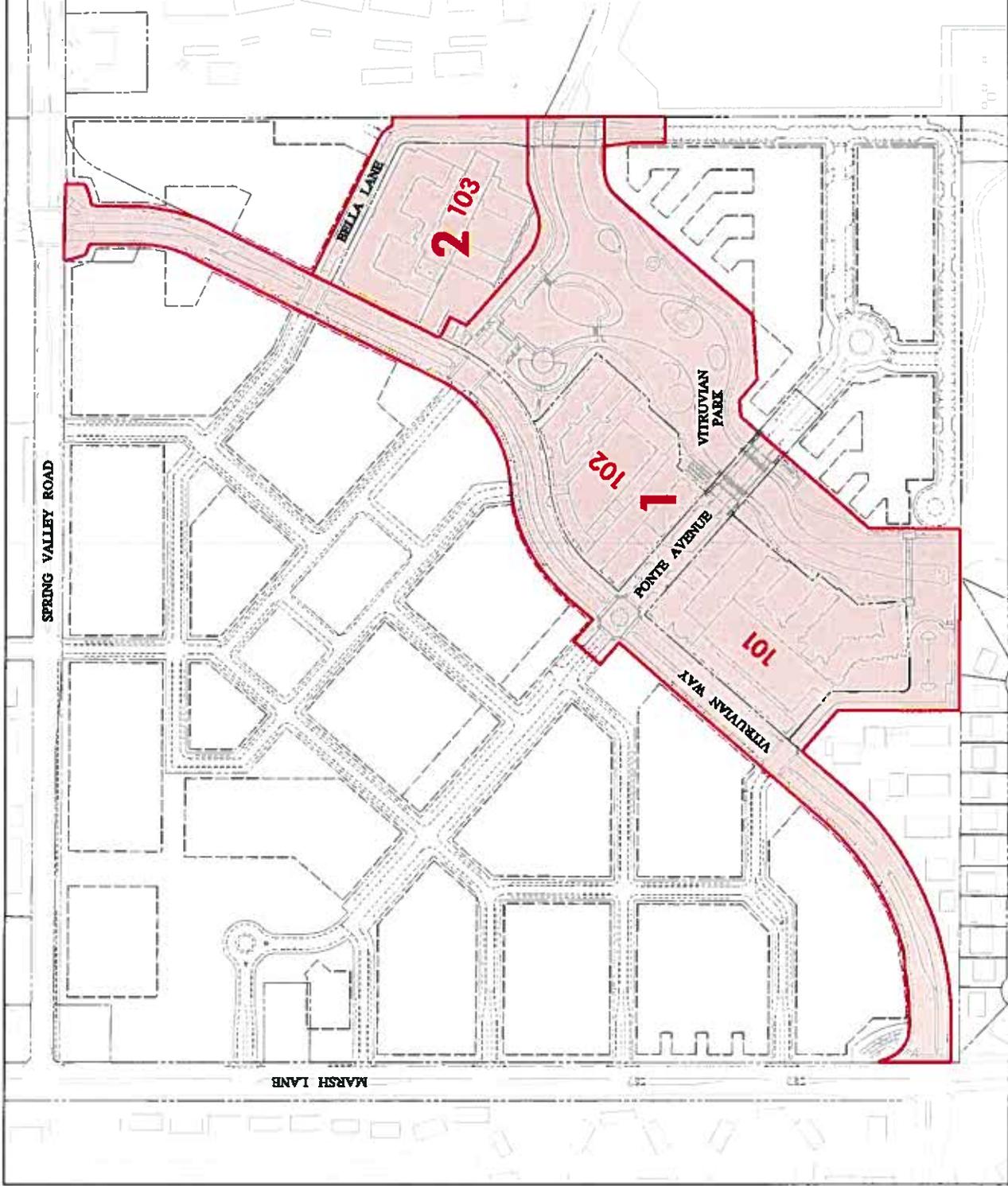
Indoor Air Quality	Minimize exposure of occupants, indoor surfaces, and ventilation systems to tobacco smoke	Prohibit smoking inside common areas
	Use low off-gassing (low Volatile Organic Compound) adhesives and sealants	Comply with LEED NC 2.2 Guidelines, Credit EQ 4.1
	Use low off-gassing (low Volatile Organic Compound) carpets	Carpets should comply with Green Label Plus program
	Use low off-gassing (low Volatile Organic Compound) paints	VOC limits: Flats 50 g/L Non-Flats 150 g/L
	Monitor ventilation system's ability to maintain adequate IAQ	Install CO2 monitoring devices, outdoor air flow monitoring
	Install CO detectors	Install CO detectors in each unit, mechanical equipment areas, and all common spaces
	Use filtration media with a minimum MERV rating of 8	

EXHIBIT B

EXHIBIT “C-1”
TO AMENDED AND RESTATED
MASTER FACILITIES AGREEMENT



SCALE: 1"=250'



Infrastructure Improvements	
Phase IA	\$ 428, 226
Phase IB	\$ 6, 923, 837
Phase IC	\$ 9, 531, 404
Phase ID	\$ 3, 630, 056
Phase IE	\$ 1, 301, 699
Phase 2	\$ 1, 474, 783
TOTAL FUNDING	\$23, 290, 007

- Phase IA - Wastewater Improvements in Farmer's Branch Creek
- Phase IB - Paving, Drainage & Utility Improvements Vitruvian Way
- Phase IC - Park, Streetscape & Farmer's Branch Creek Improvements
- Phase ID - Bridge Improvements
- Phase IE - Vitruvian way Realignment at Intersection of Spring Valley Road
- Phase 2 - Bella Lane from Vitruvian Way to Bridge

Block 101:
 32 Residential Units
 16,000 sq ft Retail
 \$6,750,000 Private Investment
 Estimated Delivery January 2010

Block 102:
 32 Residential Units
 9,500 sq ft Retail
 1,600 sq ft Office
 \$9,000,000 Private Investment
 Estimated Delivery March 2012

Block 103:
 391 Residential Units
 \$38,000,000 Private Investment
 Estimated Delivery June 2013

* Private Development Figures and Timing are Current Estimates and are Subject to Change Based on Design Refinement and/or Market Influence.

EXHIBIT "C-1" FUNDING NO. 1

06/19/13

EXHIBIT “C-2”
TO AMENDED AND RESTATED
MASTER FACILITIES AGREEMENT



SCALE: 1"=250'

Infrastructure Improvements

Phase 3	\$ 1,100,226
Phase 4	\$ 1,775,577
Phase 5	\$ 4,780,852
Phase 6	\$ 4,446,496
Phase 7	\$ 4,255,411
Phase 8	\$ 7,605,149
Phase 9	\$ 2,625,618
TOTAL FUNDING	\$26,589,329

- Phase 3 - Vitruvian Park Restroom, Streetscape, Streetscape Electrical & Northeast Screen Wall for Block 103 and Farmer's Branch Creek Imprv'mnts
- Phase 4 - Alpha Road Connection through Brookhaven College
- Phase 5 - Paving, Drainage & Utility Improvements for Development Block 2
- Phase 6 - Paving, Drainage & Utility Improvements for Development Block 3
- Phase 7 - Paving, Drainage & Utility Improvements for Development Blocks 4
- Phase 8 - Paving, Drainage & Utility Improvements for Development Block 5 and Park Extension
- Phase 9 - Paving, Drainage & Utility Improvements for Development Blocks 6 & 7

* \$ 6,589,329 allocated in Funding No. 2 is subject to future Council authorization

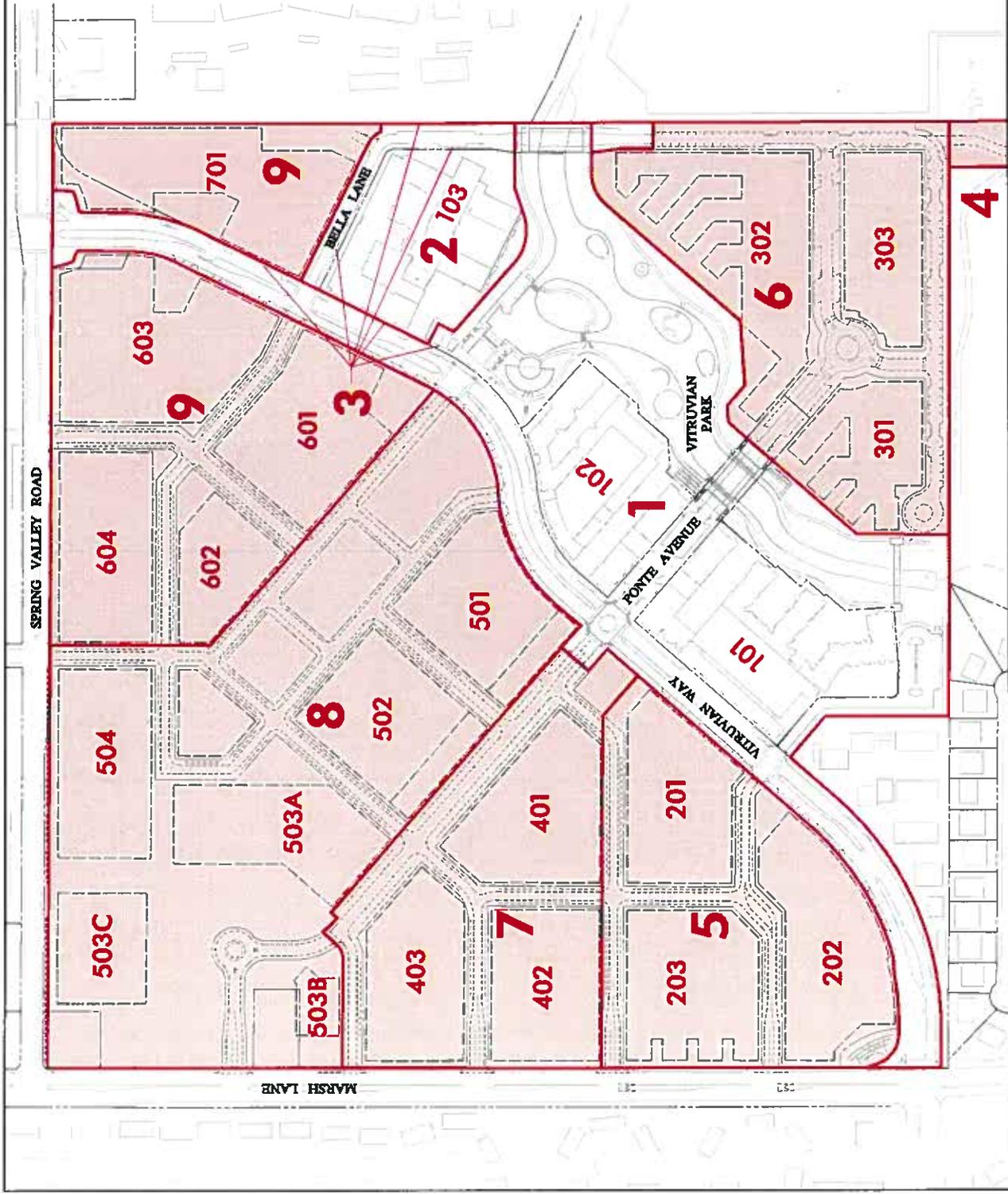


EXHIBIT "C-2"
FUNDING NO. 2
Sheet 1 of 2

06/19/13



icon Consulting Engineers, Inc.
Civil Engineers • Designers • Planners
Biometrical Financial Center
250 W. Southlake Blvd., Suite 117
Southlake, TX 76002
Phone: (817) 552-8210
Fax: (817) 776-4846

SCALE: 1" = 250'

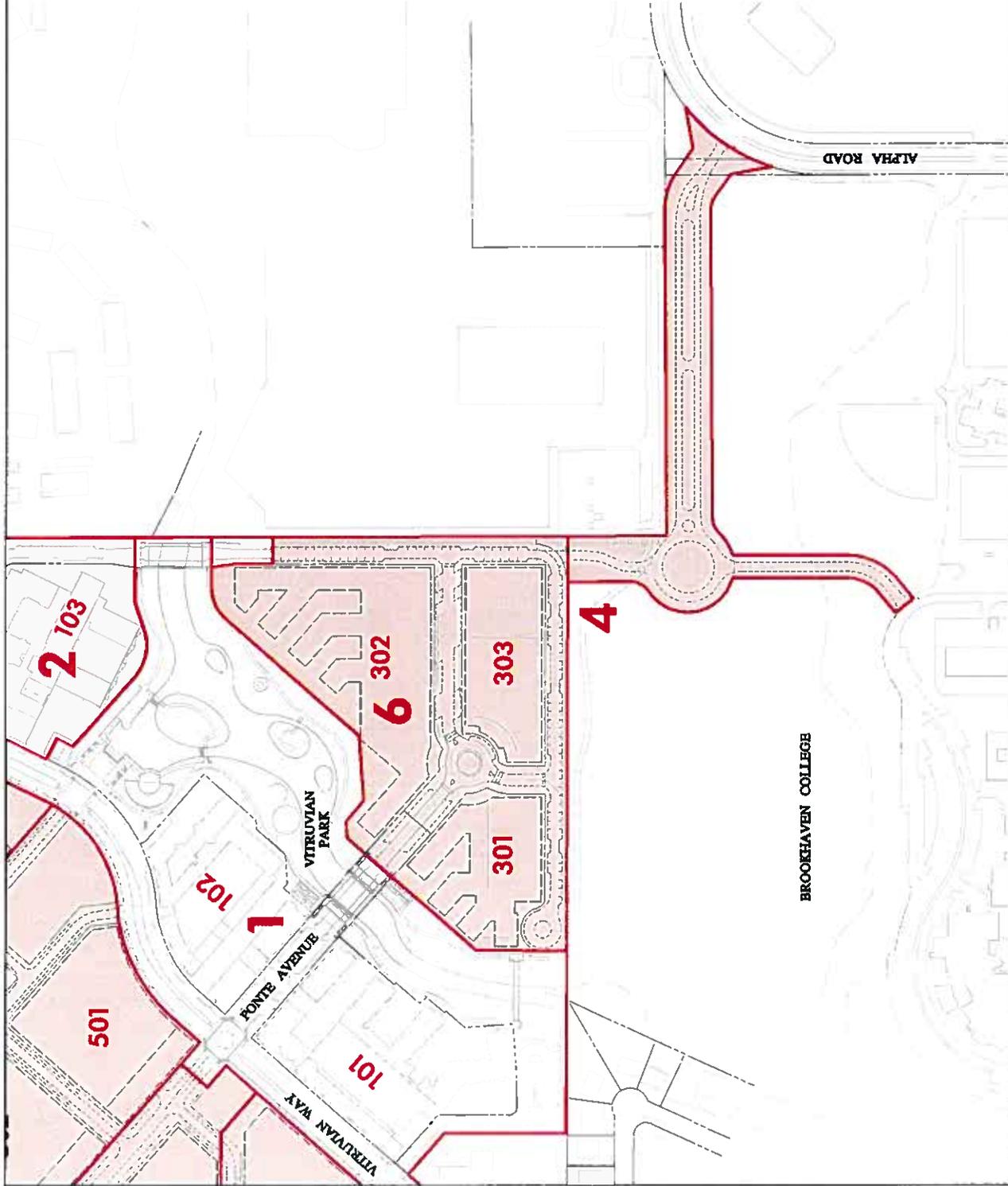
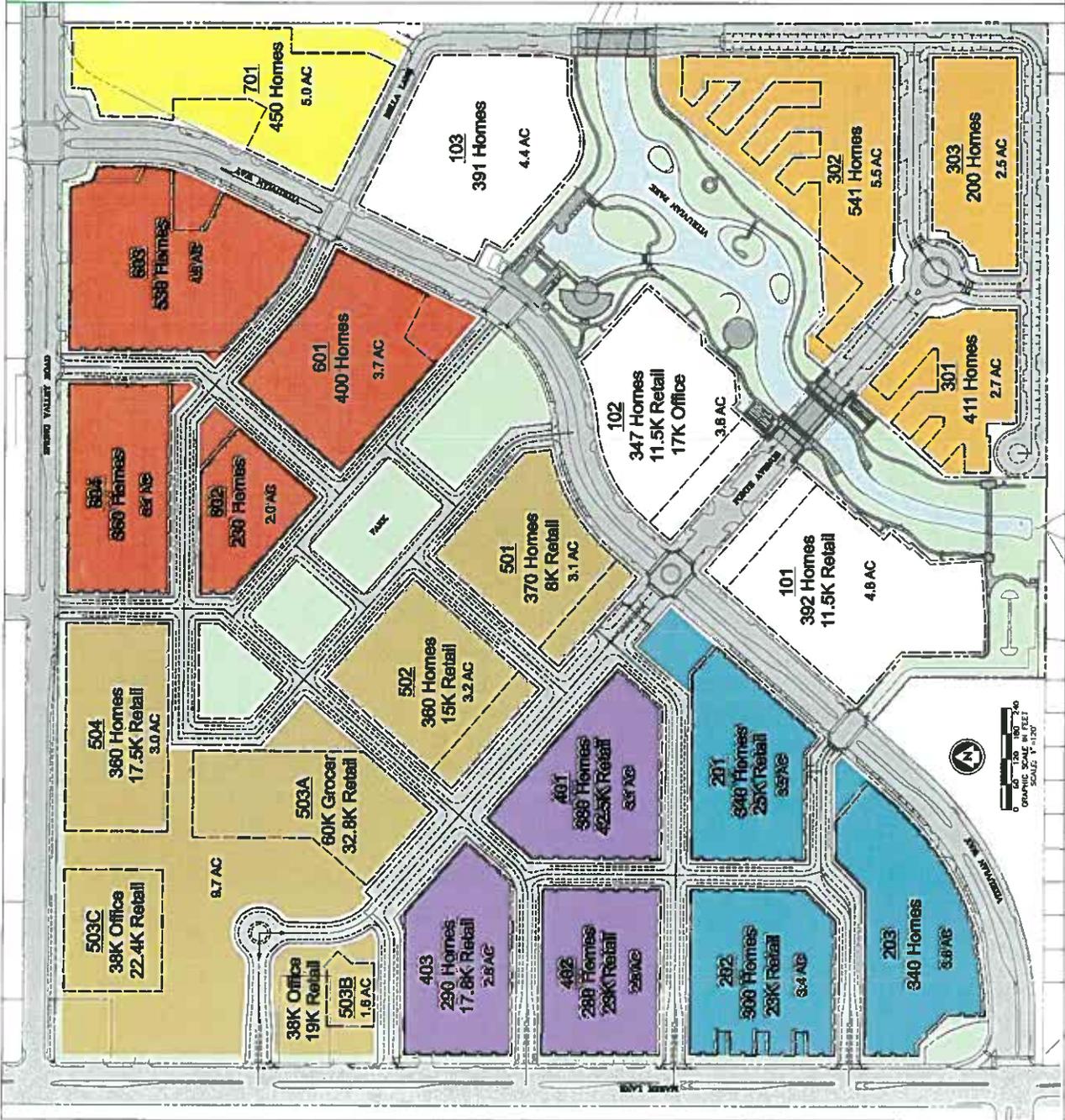


EXHIBIT "C-2"
FUNDING NO. 2
Sheet 2 of 2

06/19/13

EXHIBIT “D”
TO AMENDED AND RESTATED
MASTER FACILITIES AGREEMENT



Order	Phase	Area (AC)	Homes	Retail (SF)	Office (SF)
1	501	4.8	392	11,500	-
2	502	3.5	347	11,500	17,000
3	503	4.4	361	-	-
Phase 1 Total					
		12.8	1,130	23,000	17,000
4	601	3.5	340	25,000	-
5	602	3.5	340	25,000	-
6	603	3.8	340	-	-
Phase 2 Total					
		10.8	980	46,000	-
7	301	2.7	411	-	-
8	302	5.5	541	-	-
9	303	2.5	200	-	-
Phase 3 Total					
		10.7	1,152	-	-
10	401	3.1	380	47,000	-
11	402	2.8	280	23,000	-
12	403	2.8	280	17,800	-
Phase 4 Total					
		8.7	940	87,800	-
13	501	2.1	370	8,000	-
14	502	3.2	500	15,000	-
15	503	11.3	134,200	14,000	-
16	504	3.0	340	17,500	-
Phase 5 Total					
		20.6	1,090	174,700	76,000
17	601	3.7	400	-	-
18	602	2.0	230	-	-
19	603	4.8	540	-	-
20	604	1.1	130	-	-
Phase 6 Total					
		11.8	1,300	-	-
21	701	5.0	450	-	-
22	702	5.0	450	-	-
Phase 7 Total					
		10.0	900	-	-
Grand Total (All Phases)		62.1	7,273	238,000	65,000

EXHIBIT "D" VITRUVIAN PARK MASTER PLAN

08/13/13

Icon Consulting Engineers, Inc.
 10000 West 11th Avenue, Suite 117
 Denver, CO 80202
 Phone: (303) 751-8800
 Fax: (303) 751-8800

EXHIBIT “E”
TO AMENDED AND RESTATED
MASTER FACILITIES AGREEMENT

PUBLIC LANDSCAPE MAINTENANCE SCHEDULE

LANDSCAPE MAINTENANCE

The following minimum standards of landscape maintenance shall be employed:

PART 1 – GENERAL

1.1 SCOPE:

- A. Complete exterior landscape maintenance as specified and shown on all development plans.**
- B. Keep all landscaped areas in a healthy and neat condition**
- C. Include watering, fertilization, pruning, spraying, overseeding, weeding, herbicide applications, bed cultivation, edging, and litter removal in landscaped areas.**
- D. Coordinate maintenance schedule to assure a minimum amount of inconvenience to facility operators.**

1.2 DAMAGE:

City is responsible for repairing any damage that results from the maintenance operation.

PART 2 – PRODUCTS

2.1 COMMERCIAL FERTILIZER:

- A. Shade Trees, Groundcovers, and Non-Flowering Shrubs: 15-5-10 element percentage (3 ½ ratio) with a minimum 8% sulphur and 4% iron plus trace elements. Nitrogen source to be at least 50% slow release Ureaformaldehyde (UF) or Sulfur Coated Area (SCU).**
- B. Flowering Trees, Flowering Shrubs, Perennials, and Annuals: 10-20-10 element percentage (1-2-1 ratio) with trace elements plus minimum 8% sulfur and 4% iron.**
- C. Azaleas: Car Pool Acid Azalea and Camellia fertilizer, 5-20-3 analysis plus trace elements.**

2.2 HERBICIDES:

A. Shrubs and Groundcover Beds:

1. Pre-emergent: Dimension & Gallery, to be determined.

2.3 PESTICIDES:

A. Spray as required for safe control of the particular insect or disease that may infest the plantings.

B. Complete spraying with a licensed applicator with the Texas Department of Agriculture.

2.4 BED MULCH:

A. Shredded hardwood mulch.

PART 3 – EXECUTION

3.1 WATERING:

A. Check operation of the automatic irrigation system and adjust timing as required.

B. Take into consideration specific site conditions and compensate system's timing for areas in shade, sloping areas, and weather conditions.

C. Program the controller so plan and lawn areas receive an inch to an inch and one-half of water per week. Refer to manufacturer for precipitation rates of the sprinkler heads.

D. Visually check the system weekly during the summer months and monthly December through March.

E. Promptly repair any damages to system and remedy operation problems.

3.2 FERTILIZING:

A. General: Refer to Part Schedules for fertilizer application intervals. Water thoroughly after each application.

B. Shade Trees: Fertilize annually at the rate of 1.5 lb. per inch of tree caliper by uniformly broadcasting fertilizer around the drip line of the tree. Use 3 ½ ratio.

C. Spring Flowering Trees, Shrubs, Annuals and Perennials. In beds, uniformly spread fertilizer at the rate of 3 lbs. per 100 sq. ft. For trees, broadcast around the drip line at the rate of 1 lb. per inch of tree caliper.

3.3 PRUNING:

A. Trees: Complete this work with experienced tree pruning personnel only. In general, thin out and remove any dead wood and shape to maintain symmetry. DO NOT SHEAR OR TOP TREES.

B. Spring Flowering Trees and Shrubs: Complete pruning as noted above after blooming period.

C. Evergreen Shrubs: Prune selectively as their growth warrants to remain in bounds and to eventually form a solid mass. Remove any dead wood as needed. DO NOT SHEAR.

D. Groundcover: During growing season, shear to remain in bounds. Complete major pruning in early spring. Shear Liriope and Asian Jasmine to a height of 6" in early spring.

E. Perennials: Cut off and dispose of dead top growth after first frost. Remove blooms as they fade throughout the season.

3.4 PEST CONTROL:

A. Provide complete pesticide control as the need may occur. Carefully inspect lawn and plantings weekly and complete any needed control in a timely manner.

B. Carefully follow label instructions and complete spraying with licensed personnel only.

3.5 WEED CONTROL:

A. Apply herbicides by a licensed operator as outlined in Part 4 Schedules. Carefully follow label instructions. Replace any damaged plant materials at no cost to the Owner.

3.6 WEEDING/CULTIVATING:

A. Remove weeds and foreign grasses from bed areas weekly. Lightly cultivate beds once every two weeks during growing season. Discontinue groundcover bed cultivation once groundcovers/shrubs have covered.

3.7 CLEAN UP/LITTER REMOVAL:

A. Clean up and haul off all debris resulting from the maintenance operation plus any debris which may have accumulated in the plant beds.

3.8 BED MULCH:

A. Add mulch material to shrub and groundcover beds as needed to maintain two inch layer of mulch over the planting area.

B. Discontinue mulching when plants cover ground surface.

3.9 ANNUAL FLOWERS:

A. Plant annuals as scheduled in Part 4.

B. Coordinate color and type with Developer.

C. Cultivate beds with 1 inch peat moss, thoroughly mixed, prior to each change-out.

D. Fertilize as noted herein.

PART 4 – SCHEDULES

4.1 MAINTENANCE SCHEDULE

TASK	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
FERTILIZE												
Shade Trees				•								
Spring Flowering Trees & Shrubs			(8-1-2 RATIO) AFTER BLOOM							• (1-2-1 RATIO)		
Tree Crapemyrtle						• (1-2-1 RATIO)						
Shrubs/Groundcover			(3-2-1 RATIO) •					(8-1-2 RATIO) •				
Annuals				• (1-2-1 RATIO)					(1-2-1 RATIO) •			
Perennials				•	(1-2-1 RATIO)			•				
HERBICIDES												
Pre Emergent	•	•										
Post Emergent			•							•		
Shrubs/Groundcover		•		•		•		•				
PESTICIDES	•			(AS REQUIRED)								•
PRUNING												
Shade Trees		•										
Spring Flowering Trees & Shrubs			(AFTER BLOOM)									
Evergreen Shrubs/Groundcover	•			(AS REQUIRED)								•
Tree Crapemyrtle		•			(REMOVE SUCKER GROWTH)							
CLEAN-UP/LITTER REMOVAL	•											•
IRRIGATION CHECK	•	•	•						(WEEKLY)			•
FLOWER PLANTING				•						(BEDDING PLANTS & BULBS)		•

EXHIBIT “F”
TO AMENDED AND RESTATED
MASTER FACILITIES AGREEMENT

UDR - Vitruvian Development Financial Analysis

Fiscal Year	New Construction Appraised Value	Property Tax Cumulative Appraised Value	Tax Revenue @ Tax Rate	Sales Tax City 1% Share	Total Projected Revenues ⁽¹⁾	2008 CO Final DIS Total		2012 CO Final DIS Total		Projected 2015 CO Pmtm DIS \$ 6 million		Projected 2017 CO Pmtm DIS \$10 million		TOTAL Projected Debt Service	Net Benefit (Cost)	Estimated Taxable Assessed Valuation ⁽²⁾
						2008 CO Final DIS	2008 CO Total	2012 CO Final DIS	2012 CO Total	2015 CO Pmtm DIS	2015 CO Total	2017 CO Pmtm DIS	2017 CO Total			
2009 ⁽²⁾	\$ (68,572,000)	\$ (68,572,000)	(310.974)	\$ -	(310.974)	\$ 1,348,331	\$ 1,348,331			\$ 1,348,331	\$ (1,659,305)	\$ 3,724,826,923	\$ 3,481,000,000			
2010	117,262,430	48,690,430	241,505	-	427,969	1,046,119	1,046,119			1,046,119	(804,614)	3,311,049,800				
2011	20,664,000	67,164,000	355,969	72,000	561,179	1,663,519	1,663,519			1,663,519	(618,150)	3,058,773,717				
2012	16,332,400	83,996,400	487,179	74,000	1,054,163	1,406,089	1,406,089			1,054,163	(1,102,340)	3,028,042,568				
2013	84,480,000	168,476,400	977,163	79,000	1,566,745	1,566,745	1,566,745	293,563	392,563	1,701,652	(647,489)	3,134,894,878				
2014	87,899,000	256,335,400	1,486,745	77,000	2,097,715	1,560,250	1,560,250	385,613	385,613	1,948,803	(383,058)	3,244,616,199				
2015	91,374,000	347,709,400	2,016,715	81,000	2,651,883	1,563,917	1,563,917	617,188	617,188	1,945,862	151,852	3,358,177,766				
2016	95,029,000	442,738,400	2,567,883	84,000	3,227,097	1,563,240	1,563,240	616,363	616,363	2,558,604	113,279	3,425,341,321				
2017	98,830,000	541,568,400	3,141,097	86,000	3,826,238	1,563,412	1,563,412	624,513	624,513	2,558,227	668,870	3,493,848,147				
2018	102,783,000	644,351,400	3,737,238	89,000	4,448,223	1,569,963	1,569,963	617,513	617,513	3,191,878	634,360	3,563,725,110				
2019	106,894,000	751,245,400	4,357,223	91,000	4,825,513	1,575,853	1,575,853	615,463	615,463	3,280,432	1,167,791	3,634,999,613				
2020 ⁽³⁾	30,050,000	781,295,400	4,631,613	94,000	4,809,775	1,578,611	1,578,611	618,263	618,263	3,314,341	1,311,172	3,707,699,605				
2021	31,252,000	812,547,400	4,712,775	97,000	5,001,287	1,585,819	1,585,819	618,988	618,988	3,517,992	1,291,783	3,781,853,897				
2022	32,502,000	845,049,400	4,901,287	100,000	5,200,338	1,590,778	1,590,778	615,663	615,663	3,527,136	1,474,150	3,857,490,669				
2023	33,802,000	878,851,400	5,097,331	103,000	5,407,231	1,588,896	1,588,896	615,538	615,538	3,528,985	1,671,353	3,934,640,482				
2024	35,154,000	914,005,400	5,301,231	106,000	5,623,279	1,588,896	1,588,896	615,538	615,538	3,525,958	1,881,273	4,013,333,292				
2025	36,560,000	950,565,400	5,513,279	110,000	5,845,813	1,588,911	1,588,911	617,863	617,863	3,526,871	2,096,408	4,093,599,958				
2026	38,023,000	986,588,400	5,733,813	112,000	6,078,168	1,585,877	1,585,877	619,738	619,738	3,524,061	2,321,752	4,175,471,957				
2027	39,544,000	1,028,132,400	5,963,168	116,000	6,320,693	1,584,344	1,584,344	616,238	616,238	3,525,899	2,553,278	4,259,981,396				
2028	41,125,000	1,069,257,400	6,201,693	119,000	6,572,759	1,296,906	1,296,906	616,056	616,056	3,521,713	2,798,980	4,344,161,024				
2029	42,770,000	1,112,027,400	6,449,759	123,000	6,833,749	1,301,381	1,301,381	618,038	618,038	3,238,191	3,334,568	4,431,044,244				
2030	44,481,000	1,156,508,400	6,707,749	126,000	7,106,057	1,300,395	1,300,395	618,263	618,263	3,240,737	3,593,012	4,519,665,129				
2031	46,260,000	1,202,768,400	6,976,057	130,000	7,389,101	1,296,937	1,296,937	617,716	617,716	3,239,039	3,867,018	4,610,058,432				
2032	48,111,000	1,250,879,400	7,265,101	134,000	7,683,304	1,296,906	1,296,906	616,056	616,056	3,236,565	4,152,535	4,702,259,601				
2033	50,035,000	1,300,914,400	7,545,304	138,000	7,983,304	1,296,906	1,296,906	616,056	616,056	3,233,744	4,449,560	4,796,304,793				
2034		1,300,914,400	7,545,304	138,000	7,683,304	1,296,906	1,296,906	616,056	616,056	1,940,356	5,742,947	4,892,230,888				
2035		1,300,914,400	7,545,304	138,000	7,683,304	1,296,906	1,296,906	616,056	616,056	1,939,938	5,743,366	4,990,075,006				
2036		1,300,914,400	7,545,304	138,000	7,683,304	1,296,906	1,296,906	616,056	616,056	1,935,522	5,747,782	5,089,877,016				
2037		1,300,914,400	7,545,304	138,000	7,683,304	1,296,906	1,296,906	620,294	620,294	1,937,231	5,746,072	5,191,674,557				
2038		1,300,914,400	7,545,304	138,000	7,683,304	1,296,906	1,296,906	620,294	620,294	458,575	7,224,729	5,295,508,048				
2039		1,300,914,400	7,545,304	138,000	7,683,304	1,296,906	1,296,906	458,025	458,025	458,025	7,227,279	5,411,418,209				
2040		1,300,914,400	7,545,304	138,000	7,683,304	1,296,906	1,296,906	457,238	457,238	457,238	7,226,066	5,509,446,573				
2041																
2042																
2043						\$ 36,643,818	\$ 36,643,818	\$ 14,666,569	\$ 14,666,569	\$ 11,218,400	\$ 11,218,400	\$ 16,560,667	\$ 16,560,667	\$ 79,095,653	\$ 79,095,653	\$ 4,610,058,432

Notes:
 (1) As provided by UDR. Includes tax revenues based on current tax rate of 0.58 for 2013 and beyond. Includes projected sales tax revenues.
 (2) First year's appraisal shows a negative amount due to UDR's demolition of existing apartments.
 (3) New construction ends in 2019. Beginning in 2020, new construction amounts are the increase in existing values (4% per year).
 (4) Fiscal Year End 2008 appraised value for 2009-2013 are actual. Assumes 3.3% growth for 2years; and 2% growth thereafter.

Council Agenda Item: #R8

AGENDA CAPTION:

Presentation, discussion, and consideration of any action regarding possible pedestrian crossing Improvements at Beltway and Les Lacs.

FINANCIAL IMPACT:

This improvement is not budgeted, so any approved improvements would require a budget adjustment.

BACKGROUND:

Under an engineering contract, Grantham and Associates was asked to determine if any improvements could be made to the intersection of Beltway and Les Lacs that would increase the safety for pedestrians crossing the intersection.

In their assessment, the engineers gathered general information about the intersection, to include the number of lanes and line of site in each direction, speed limits on each roadway, and traffic volumes on each street. They reviewed the industry standards for similar intersections in order to determine what the possible improvements might be, as well as any previous studies that have been done considering this intersection. Along with this information, they consulted the Federal Highway Administration report "Safety Effects of Marked Versus Unmarked Crosswalks at Uncontrolled Locations Final Report and Recommended Guidelines" that was published in 2005.

The assessment yielded four options:

1. No Marked Crosswalk Continuation of existing condition. Unmarked crosswalks are common at uncontrolled intersections. Low volume pedestrian traffic at the intersection. Marked crosswalks within 600' of the intersection.

2. Marked Crosswalk Only
Marked crosswalk with no other safety improvements. Unlikely to increase pedestrian safety; may increase potential for accidents due to perception of increased safety. Probable cost for improvement is \$1,400

3. Marked Crosswalk with STOP signs on Beltway.

Creates 4-way stop intersection. Safe but volume of pedestrian traffic does not warrant the STOP sign. Unwarranted STOP sign may introduce possibility of more traffic accidents Decreased mobility of vehicular traffic on Beltway. Probable cost of improvement is \$2,500

4. Marked Crosswalk with Safety Improvements (without a STOP sign).

Installation of crosswalk improvements as well as a marked crosswalk. To include: median refuge area with raised curbs; new sidewalk ramps, pedestrian activated flashers. Trim or remove trees on the Northeast corner to improve line of sight. Crossings by disabled pedestrians who require more time to cross would still be subject to driver attentiveness. Probable cost for improvement is \$20,000

Given the potential for introducing additional safety issues, staff recommends that Council consider either Option 1: existing condition. or Option 4: full intersection improvement.

RECOMMENDATION:

COUNCIL GOALS:

Infrastructure improvement and maintenance, Enhance Public Safety

ATTACHMENTS:

Description:

Type:

No Attachments Available

Council Agenda Item: #R9

AGENDA CAPTION:

Consideration of approval of a resolution authorizing an amendment to the Purchasing Manual to alter the amount of a purchase that requires Council approval.

FINANCIAL IMPACT:

N/A

BACKGROUND:

As we discussed at the work session on June 11, 2013, the area of purchasing has been a key focus for the Finance and Strategic Services Department and is in the process of revising the current Purchasing Manual. With that in mind, in order to institute best practices, the Purchasing team along with Administration has determined policy changes which will streamline the policies in efforts to be more efficient and effective in the solicitation process. The current policy states that any purchase over \$25,000 must be approved by City Council before awarding the purchase. After careful research, administration finds to institute a best practice to increase the Council approval level from \$25,000 to \$50,000.

RECOMMENDATION:

Administration recommends approval.

COUNCIL GOALS:

Mindful Stewardship of Town Resources, Maintain and enhance our unique culture of creativity and innovation, Identify opportunities for improved governance

ATTACHMENTS:

Description:

 [Purchasing Manual Resolution](#)

Type:

Resolution Letter

TOWN OF ADDISON, TEXAS

RESOLUTION NO. _____

**A RESOLUTION OF THE TOWN OF ADDISON,
TEXAS AMENDING THE TOWN OF ADDISON'S
PURCHASING MANUAL BY INCREASING THE
AMOUNT LEVEL OF A PURCHASE THAT
REQUIRES CITY COUNCIL APPROVAL AND
PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, the goals of public purchasing are to ensure that public funds are safe-guarded and that the best value is received for these dollars; and

WHEREAS, in determining purchasing practices, the Town of Addison is guided by the City Charter, State law and City ordinances, supplemented from time to time by City Council resolutions and City administrative policies and procedures; and

WHEREAS, the Town, by and through the City Manager or his or her designee, often has to make purchases of goods, services, wares, and other items for the Town's benefit; and

WHEREAS, the purchase of these goods, services, wares, and other items often are for amounts that are less than \$50,000 and the time require to obtain Council approval delays the Town from effectively conducting the business of the Town.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:

Section 1. Amendment. Chapter 4 (Formal Bids), Section 1 (Purchases in Excess of \$25,000) of the Town of Addison's 2007 Purchasing Manual is hereby amended in the following particulars, and all other chapters, sections, subsections, paragraphs and words are not amended but are ratified and confirmed.

- A. Chapter 4, Section 1 of the Purchasing Manual is amended so that it shall hereafter read as follows:

Section 2. Purchases in Excess of \$50,000

For purchases in excess of \$50,000 the following apply:

- A. Purchases in excess of \$50,000 will be referred to the City Council for approval. Purchases in excess of \$50,000 shall be on a competitive sealed bid basis or by other authorized methods.

Section 2. This Resolution shall become effective from and after its date of passage.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this ___ day of _____, 2013.

Todd Meier, Mayor

ATTEST:

By: _____
Chris Terry, City Secretary

APPROVED AS TO FORM:

By: _____
John Hill, City Attorney

Council Agenda Item: #R10

AGENDA CAPTION:

Presentation, discussion and consideration of approval of an ordinance amending the Code of Ordinances by amending Section 2-303 (method of sale of surplus property) thereof by removing the provision that surplus property have a replacement value of less than \$100 and Section 2-304 (time,place, notice of sale of surplus property) thereof by removing the requirement to advertise before public auction, acceptance of bid, or sale of surplus property.

FINANCIAL IMPACT:

N/A

BACKGROUND:

As we discussed at the work session on June 11, 2013 the updated ordinance is in regards to the disposal of surplus materials. In the Code of Ordinances, Chapter 2, Section 2-303, it states that the “director of finance may dispose of surplus property if the property in question is not considered good working order and has a replacement value of less than \$100.” Administration recommends removing the \$100 replacement value in order to create a more efficient process in the disposal of surplus material. Administration also proposes the removal of the advertising component in Section 2-304 for the disposal of surplus material. Advertising is not a state mandate and does not produce a return on investment.

RECOMMENDATION:

Administration recommends approval.

COUNCIL GOALS:

Mindful Stewardship of Town Resources, Maintain and enhance our unique culture of creativity and innovation, Identify opportunities for improved governance

ATTACHMENTS:

Description:

 [Surplus Disposal Ordinance](#)

Type:

Ordinance

TOWN OF ADDISON, TEXAS

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS AMENDING CHAPTER 2, ARTICLE VI (DISPOSAL OF UNCLAIMED OR SURPLUS PROPERTY) OF THE TOWN'S CODE OF ORDINANCES BY AMENDING SECTION 2-303 THEREOF BY DELETING THE REQUIREMENT THAT THE SURPLUS PROPOERTY HAS A REPLACEMENT VALUE OF LESS THAN \$100; BY AMENDING SECION 2-304 BY REMOVING THE REQUIREMENT THAT THE DIRECTOR OF PURCHASING GIVE NOTICE IN THE OFFICIAL NEWSPAPER OF THE TOWN OF ADDISON; PROVIDING A SAVINGS CLAUSE; PROVING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE

BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:

Section 1. Amendment. Chapter 2 Administration of the Code of Ordinances of the Town of Addison is hereby amended in the following particulars, and all other chapters, sections, subsections, paragraphs, sentences, phrases and words of the said Code are not amended but are hereby ratified, verified, approved and:

A. Section 2-303(a) of Article VI Disposal of Unclaimed or Surplus Property currently reads as follows:

“(a) The director of finance shall sell unclaimed property and surplus property by public auction or by accepting sealed bids, to the highest bidders. The property may be auctioned; each piece individually or in assembled lots, whichever the director of finance determines will bring the best prices obtainable, except for motor vehicles, which must be sold individually. If in the opinion of the director of finance the highest bid on a particular item is not sufficient, he/she may refuse the bid and hold the item for sale at another time. The director of finance may dispose of surplus property if the property in question is not considered in good working order and has a replacement value of less than \$100.00. Records will be kept regarding the items that are both auctioned and disposed of on an annual basis. These records will be maintained as stipulated in the town's record retention schedule.”

B. The City Council hereby amends Section 2-303(a) to read as follows:

“(a) The director of finance shall sell unclaimed property and surplus property by public auction or by accepting sealed bids, to the highest bidders. The property may be auctioned; each piece individually or in assembled lots, whichever the director of finance determines will bring the best prices obtainable, except for motor vehicles, which must be sold

individually. If in the opinion of the director of finance the highest bid on a particular item is not sufficient, he/she may refuse the bid and hold the item for sale at another time. The director of finance may dispose of surplus property if the property in question is not considered in good working order. Records will be kept regarding the items that are both auctioned and disposed of on an annual basis. These records will be maintained as stipulated in the town's record retention schedule."

C. Section 2-304(a) Time and Place of Sale; Notice of Article VI Disposal of Unclaimed or Surplus Property currently reads as follows

(a) After determining the time and place for a public auction, acceptance of sealed bids, or sale of identical items, the director of purchasing shall give notice of the auction, acceptance or sale by:

- (1) Advertising in the official newspaper of the town for two consecutive days, the last publication date to be not less than seven days before the date of the auction, acceptance or beginning of sale; and
- (2) Sending by certified mail to the last known address of the owner of unclaimed property, if the name of the owner is known, 14 days before the date of the auction, acceptance or beginning of sale.

D. The City Council hereby amends Section 2-304(a) to read as follows:

(a) After determining the time and place for a public auction, acceptance of sealed bids, or sale of identical items, the director of purchasing shall give notice of the auction, acceptance or sale by:

- (1) Sending by certified mail to the last known address of the owner of unclaimed property, if the name of the owner is known, 14 days before the date of the auction, acceptance or beginning of sale.

Section 2. Savings. This Ordinance shall be cumulative of all other ordinances of the City affecting the disposal of surplus property and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those Ordinances are in direct conflict with the provisions of this Ordinance.

Section 3. Severability. The sections, paragraphs, sentences, phrases, clauses and words of this Ordinance are severable, and if any section, paragraph, sentence, phrase, clause or word in this Ordinance or application thereof to any person or circumstance is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portion of this Ordinance, and the City Council hereby declares that it would have passed such remaining portion of this Ordinance despite such invalidity, which remaining portion shall remain in full force and effect.

Section 4. Effective date. This Ordinance shall become effective from and after its date of passage as provided by law.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this the
_____ day of _____, 2013.

Todd Meier, Mayor

ATTEST:

By: _____
Chris Terry, City Secretary

APPROVED AS TO FORM:

By: _____
John M. Hill, City Attorney