



**Post Office Box 9010 Addison, Texas
75001-9010
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

October 14, 2014

ADDISON TOWN HALL

5300 BELT LINE RD., DALLAS, TX 75254

6:00PM WORK SESSION

7:30PM REGULAR MEETING

WORK SESSION

WS1 Presentation and discussion regarding Texas Municipal Retirement System and the cost of living adjustment for Town of Addison Retirees.

WS2 Presentation and discussion of the Athletic Club Master Plan process (Barker Rinker Seacat Architecture).

WS3 Discussion regarding the City Attorney position, appointment, and appointment process.

Attachments

REGULAR MEETING

Pledge of Allegiance

R1 Announcements and Acknowledgements regarding Town and Council Events and Activities

Discussion of Events/Meetings

R2 Consent Agenda.

R2a Approval of the Minutes for the September 23, 2014 City Council Meeting and Work Session.

RECOMMENDATION:

Administration recommends approval.

Attachments

09-23-2014 Minutes

R2b Approval of and authorizing the City Manager to execute a contract with Dallas County Health Human Services for certain public health services.

RECOMMENDATION:

Administration recommends approval.

Attachments

Dallas County Contract - introduction

Dallas County cover letter

Contract with Dallas County

Dallas County Health Services Exhibits

R2c Approval of and authorizing the City Manager to execute a contract with Trinity River Authority for Environmental Protection Agency (EPA) required monitoring of certain industries.

RECOMMENDATION:

Administration recommends approval.

Attachments

TRA cover letter

TRA contract

TRA fee schedule

-
- R2d Approval of and authorizing the City Manager to execute a Professional Services Contract with Barker Rinker Seacat Architecture for the Addison Athletic Club Master Plan in the amount of \$34,950.

RECOMMENDATION:

Administration recommends approval.

Attachments

Professional Services Agreement

-
- R2e Approval of an ordinance providing for increased prior and current service annuities under the act governing the Texas Municipal Retirement system for retiree and beneficiaries of deceased retirees of the Town of Addison.

RECOMMENDATION:

Administration recommends approval.

Attachments

TMRS Ordinance

-
- R2f Approval of (i) Contracts for Services between the Town of Addison and the following non-profit agencies: Metrocrest Community Clinic, Metrocrest Chamber of Commerce, The Family Place, Metrocrest Services, CONTACT Crisis Line, United Basketball League - Texas Wranglers, WaterTower Theatre, and Addison Arbor Foundation, and (ii) an Agreement for the Use of the Addison Theatre Centre between the Town of Addison and Water Tower Theatre, subject to

the final review and approval of the City Manager and City Attorney.

RECOMMENDATION:

Administration recommends approval.

Attachments

2015 Non Profit Summary
Metrocrest Community Clinic FY15 Contract
Water Tower Theatre FY15 Contract
Water Tower Theatre FY 15 Use Agreement
The Family Place FY15 Contract
Metrocrest Services FY15 Contract
Contact Crisis Line FY15 Contract
UBL Wranglers FY15 Contract
Arbor Foundation FY15 Contract

R2g Approval of and authorizing the City Manager to execute a contract for services with Launchability, subject to the final review and approval of the City Manager and City Attorney.

RECOMMENDATION:

Administration recommends continuing funding at the \$5,000 level as budgeted, and amending the contract to reflect the changed scope of service.

Attachments

LaunchAbility Updated Service letter
LaunchAbility Contract

R2h Approval of the purchase of (1) 2015 Sutphen SL-75 Quint Fire Apparatus, (1) 2015 Chevrolet 1500 Pickup, (2) 2015 Ford 150 Pickups, (1) Ford F250 Animal Control Service Truck, (2) 1Ton Service Trucks, (1) 2015 Case 580 Backhoe and (2) Snow Blade Attachments under the Town's Inter-local Agreement with the Texas Local Government Purchasing Cooperative - known as BuyBoard and the Houston Galveston Area Council of Government known as HGAC in the amount of \$1,052,128.65.

RECOMMENDATION:

Administration recommends approval.

R2i Approval of an ordinance amending the Town's investment policy set forth in Chapter 2, Article IV, Division 3 of the Town's Code of Ordinances.

RECOMMENDATION:

Administration recommends approval.

Attachments

Addison Investment Policy
Ordinance- Investment Policy

R2j Approval of a resolution adopting the Town of Addison Investment Strategy for FY 2015.

RECOMMENDATION:

Administration recommends approval.

Attachments

Resolution- Investment Strategy

R2k Approval of an ordinance raising the deposit for water loan meters, also known as construction meters.

RECOMMENDATION:

Administration recommends approval.

Attachments

Ordinance- Water Meter Deposit

Regular Items

R3 Presentation and proclamation recognizing Domestic Violence Awareness Month.

R4 Presentation and update regarding the Dallas Independent School District- Destination 2020.

R5 **PUBLIC HEARING** Case 1703-SUP/The Lazy Dog. Public hearing, discussion, consider and take action regarding an ordinance changing the zoning on property located at 5100 Belt Line Road, Suite 500, which property is currently zoned PD, Planned Development, through Ordinance 012-001, by approving for that property a Special Use Permit for a restaurant and a Special Use Permit for the sale of alcoholic beverages for on-premises consumption only, on application from Golden Property Development LLC represented by Mr. Jared Taylor.

COMMISSION FINDINGS:

The Addison Planning and Zoning Commission, meeting in regular session on September 25, 2014, voted to recommend approval of an ordinance changing the zoning on property located at 5100 Belt Line Road, Suite 500, which property is currently zoned PD, Planned Development, through Ordinance 012-001, by approving for that property a Special Use Permit for a restaurant and a Special Use Permit for the sale of alcoholic beverages for on-premises consumption only, subject to the following condition:

- The applicant shall not use any terms or graphic depictions relating to alcoholic beverages in exterior signage.

Voting Aye: Doherty, Groce, Oliver, Robinson, Wheeler
Voting Nay: Smith
Absent: Hughes

RECOMMENDATION:

Administration recommends approval.

Attachments

1703-SUP Lazy Dog Council Packet

R6 **PUBLIC HEARING** Case 1704-SUP/ZuZu's Handmade Mexican Food. Public hearing, discussion, consider and take action regarding an ordinance changing the zoning on property located at 4866 Belt Line Road, which property is currently zoned LR, Local Retail, by amending a Special Use Permit for a restaurant and by amending a Special Use Permit for the sale of alcoholic beverages for

on-premises consumption only in order to add a bar, on application from La Salsa Restaurant, Inc. represented by Mr. Roy Kindred of R. E. Kindred & Associates.

COMMISSION FINDINGS:

The Addison Planning and Zoning Commission, meeting in regular session on September 25, 2014, voted to recommend approval of an ordinance changing the zoning on property located at 4866 Belt Line Road, which property is currently zoned LR, Local Retail, by amending a Special Use Permit for a restaurant and by amending a Special Use Permit for the sale of alcoholic beverages for on-premises consumption only in order to add a bar, subject to the following condition:

- The applicant shall not use any terms or graphic depictions relating to alcoholic beverages in exterior signage.

Voting Aye: Doherty, Groce, Oliver, Robinson, Smith, Wheeler

Voting Nay: none

Absent: Hughes

RECOMMENDATION:

Administration recommends approval.

Attachments

1704-SUP ZuZu's Handmade Mexican Food Council Packet

-
- R7 Presentation, discussion, consider and take action authorizing the City Manager to execute Change Order No. 1 for Belt Line Road Electrical Underground to increase the number of contract days up to 6 months additional time with the understanding that John Burns Construction Co. of Texas, Inc. agrees to provide a minimum of two crews throughout the duration of the project after March 18, 2015.

RECOMMENDATION:

Administration recommends approval.

-
- R8 Presentation, discussion and take action regarding a License Agreement for use with contractors providing outdoor fee based boot camp style programs and fitness and recreation classes in selected Addison locations and parks.

RECOMMENDATION:

Administration recommends approval.

Attachments

License Agreement

- R9 Discussion, consider and take action regarding approval of the painting plan for Wheeler Bridge.

RECOMMENDATION:

Administration recommends approval of the gray railing and blue bridge structure scheme.

Attachments

Bridge Photo 1

Bridge Photo 2

Bridge Photo 3

Bridge Photo 4

- R10 Presentation of Texas Comptroller Leadership PLATINUM Circle Award for financial transparency for the fiscal year beginning October 1, 2013.

Attachments

2014 Transparency Award Letter

2014 Transparency Award Certificate

- R11 Presentation of the Certificate of Achievement for Excellence in Financial Reporting for the Comprehensive Annual Financial Report for the fiscal year ended September 30, 2013.

Attachments

CAFR Press Release

- R12 Discussion and update regarding the upcoming trip to the NBAA2014- Business Aviation Convention Exhibition.
-

R13 Discussion, consider and take action regarding the City Attorney position, appointment, and appointment process, including approving and authorizing the City Manager to execute an agreement for City Attorney search services.

R14 Discussion, consider and take action authorizing Council and Staff to pursue options for mass transit and transportation alternatives.

Executive Session

ES1 Closed (executive) session of the Addison City Council pursuant to Section 551.071, Tex. Gov. Code, to conduct a private consultation with its attorney(s) on a matter in which the duty of the attorney(s) 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, pertaining to wind turbines on the water tower located at the intersection of Arapaho Road and Surveyor Boulevard.

Regular Items Continued

R15 Discussion and take action regarding wind turbines on the water tower located at the intersection of Arapaho Road and Surveyor Boulevard.

Adjourn Meeting

Posted:
Matthew McCombs, October 10, 2014, 5:00pm

**THE TOWN OF ADDISON IS ACCESSIBLE TO PERSONS WITH DISABILITIES.
PLEASE CALL (972) 450-7090 AT LEAST
48 HOURS IN ADVANCE IF YOU NEED ASSISTANCE.**

Combined Meeting

WS1

Meeting Date: 10/14/2014

Council Goals: Continue to attract, hire, develop, and retain great employees

AGENDA CAPTION:

Presentation and discussion regarding Texas Municipal Retirement System and the cost of living adjustment for Town of Addison Retirees.

FINANCIAL IMPACT:

N/A

BACKGROUND:

N/A

RECOMMENDATION:

Combined Meeting

WS2

Meeting Date: 10/14/2014

Council Goals: Create raving fans of the Addison Experience.
Mindful stewardship of Town Resources.
Maintain and enhance our unique culture of creativity and innovation.
Raise property values
Brand Protection and Enhancement
Continue to attract, hire, develop, and retain great employees
Infrastructure improvement and maintenance
Fully integrate the Arts as part of our brand
Look for Operational Efficiencies without cutting services
Enhance sense of community for all stakeholders/Expand
Volunteer Opportunities
Develop Next Great Idea
Promote Sustainability
Enhance Public Safety

AGENDA CAPTION:

Presentation and discussion of the Athletic Club Master Plan process (Barker Rinker Seacat Architecture).

FINANCIAL IMPACT:

The funding for the Addison Athletic Club Master Plan was approved by Council in the 2014/15 Budget as a Recreation department MLS (modified level of service) in the amount not to exceed \$40,000.

BACKGROUND:

Town staff selected Barker Rinker Seacat Architecture as the most qualified firm of the five that submitted SOQ's (Statement of Qualifications) for the Athletic Club Master Plan. Each of the five firms were interviewed by a panel of staff members and rated based on the following criteria: firm's overall ability to meet the Town's objectives; experience with same or similar projects; qualifications of key personnel; demonstrated knowledge of the Town's current needs and challenges; project timeline for completion; and references.

RECOMMENDATION:

Combined Meeting

WS3

Meeting Date: 10/14/2014

Council Goals: Continue to attract, hire, develop, and retain great employees

AGENDA CAPTION:

Discussion regarding the City Attorney position, appointment, and appointment process.

FINANCIAL IMPACT:

N/A

BACKGROUND:

For your information and review, attached is a proposal submitted by SGR to facilitate the City Attorney search process. The committee has asked staff to solicit additional proposals, and these will be provided to Council if received prior to the October 14 meeting. The committee will be prepared to update Council regarding their progress to date.

RECOMMENDATION:

Attachments

SGR Addison City Attorney Proposal

Proposal for Executive Search Services

City Attorney
Town of Addison, Texas

October 2014

Strategic Government Resources

Ron Holifield, CEO
PO Box 1642
Keller, Texas 76244
214-676-1691

Ron@GovernmentResource.com





October 6, 2014

Honorable Mayor Todd Meier
Town of Addison, Texas

Dear Mayor Meier:

Thank you for the opportunity to submit this full service proposal to assist the Town of Addison in your search for a City Attorney.

The attached proposal includes a customized project methodology to meet your needs for this unique search.

We are truly excited about the prospect of working with the Town of Addison again. I look forward to discussing in more detail how we can help you select an exceptional outside attorney and am available to visit in person with you at your convenience.

Respectfully submitted,

Ron Holifield
Chief Executive Officer
SGR Executive Search
Ron@GovernmentResource.com
214-676-1691

Table of Contents

Tab 1	Company Profile
Tab 2	Project Methodology
Tab 3	Project Cost
Tab 4	Key Personnel for this Project
Tab 5	References
Tab 6	Client List
Tab 7	Recruited Positions

TAB 1

Company Profile

Background

Strategic Government Resources (SGR) was founded in 1999 and is fully owned by former City Manager Ron Holifield. Ron spent two high profile decades in city management, which included service as City Manager in several cities. He founded SGR for the express purpose of helping local governments be more successful by recruiting, assessing, and developing innovative, collaborative, authentic leaders. We specialize in executive recruitment, live training, online training, leadership development, assessments, consulting, and various other services geared to promote innovation in local governments.

Mission & Core Values

SGR's mission is to facilitate innovative leadership in local government. The simple fact is that in today's world of limited resources, local governments must innovate to survive. SGR has and continues to be a leader in spurring innovation in local government.

SGR's core values are: Customer Service; Integrity; Philanthropy; Continuous Improvement; Flexibility; The Golden Rule; Collaboration; and, Protecting Relationships.

Office Locations

SGR's corporate headquarters is in the Dallas/Fort Worth Metro area in Keller, Texas. SGR also has regional offices in:

Texas

Cleburne
College Station
Denison
Greenville
Murchison
New Braunfels
San Marcos
Sugar Land

Florida

Bradenton
Kissimmee

Illinois

Chicago

Louisiana

Baton Rouge

Oklahoma

Edmond
Norman
Stillwater

Executive Search Team

- Ron Holifield, Chief Executive Officer
- Cyndy Brown, Managing Director of Recruitment & Administration
- Melissa Valentine, Director of Executive Search Operations
- Lori Philyaw, Director of Interim Management Services
- Cindy Hanna, Executive Search Manager
- Katie Corder, Executive Search Manager
- Molly Deckert, Executive Search Manager
- Abi Compton, Executive Search Coordinator
- Muriel Call, Research Assistant

Executive Search Team (continued)

- Bill Peterson, Senior Vice President, Executive Search
- Chester Nolen, Senior Vice President, Executive Search
- Gary Holland, Senior Vice President, Executive Search
- Mike Tanner, Senior Vice President, Executive Search
- Ron Robinson, Senior Vice President, Executive Search
- Tommy Ingram, Senior Vice President, Executive Search

TAB 2

Project Methodology

Step 1: Survey of DFW Cities

SGR will conduct an email survey of leading cities within the DFW Metroplex. We will ask cities to specify whether they outsource 100% of legal services, use a combination of in-house attorney(s) supplemented with outsourced services, or use 100% in-house attorney(s). For cities that outsource some or all legal services, we will request the name of the attorneys that they utilize.

Step 2: Survey Evaluation

SGR will consolidate and evaluate the survey data to identify the primary outside attorneys used by local governments in the DFW area. We will narrow the field to 6-10 attorneys and do confidential reference checks on those selected. The confidential reference checks will be conducted by calling a sampling of Mayors and City Managers from the cities that use these attorneys. At this time, we will also conduct comprehensive media searches on each of the attorneys.

Step 3: City Council Briefing on Primary Attorneys

SGR will meet with the City Council in an executive session as authorized by law to review the survey data and the results of the confidential reference checks and comprehensive media reports. Based on discussion with the Mayor, Council Members, and City Manager, we will facilitate the selection of attorneys who will be invited to respond to a Request for Qualifications.

Step 4: Request for Qualifications

SGR will send a mutually developed Request for Qualifications document to the narrowed list. The RFQ will request rate sheets, references, and background information. If a firm with multiple attorneys responds to the RFQ, we will request that the law firm provide the name of the primary attorney, and a specific definition of what the firm considers a “primary attorney.” We will conduct comprehensive media searches and background checks on the attorneys that would be assigned to the Town of Addison. In addition, we will conduct comprehensive media searches on any law firms that employ the attorney.

Step 5: City Council Briefing on Responses to RFQs

After the RFQs are received and evaluated by SGR, we will provide the information to City Council and meet with City Council in an executive session as authorized by law to determine which attorneys will be invited to interview with City Council.

Step 6: Onsite Interviews

SGR will coordinate onsite interviews with each attorney and assist in facilitating the selection of a city attorney.

TAB 3

Project Cost

All-Inclusive Maximum Price

Professional Services Fee	\$ 18,500
<u>Expenses Not-to-Exceed:</u>	<u>\$ 8,500</u>
All-Inclusive, Not-to-Exceed Maximum Price:	\$ 27,000*

Expense Items (*Included in Not-to-Exceed Price Above*)

SGR considers incidentals to be covered by the professional services fee, and we do not bill the client for any expenses except for those explicitly detailed herein.

Expense items include:

- Printing of documents and materials. Reproduction costs for reports and briefing books presented to the client at 23 cents per copy, plus the cost of binders/binding. Flash drives are billed at \$10 each.
- Comprehensive Media Reports on Law Firms – There is a cost of \$350 per report.
- Comprehensive Media Reports on Individuals (attorneys) – There is a cost of \$350 per individual.
- Comprehensive Background Investigation Reports on Individuals (attorneys). There is a cost of \$300 per individual for comprehensive background screening reports prepared by our licensed private investigations provider.
- Travel and related costs for the Project Manager incurred for the benefit of the client. Meals are billed back at a per diem rate of \$10 for breakfast, \$15 for lunch, and \$25 for dinner. Mileage will be reimbursed at the current IRS rate. All other travel-related expenses are billed back at actual cost, with no markup for overhead. Any travel outside of Dallas County or adjacent counties must be pre-approved by the Town of Addison prior to it being eligible for reimbursement as an expense item.

*Optional Services

The optional services listed below are not included in the maximum price above. These include:

- In the unexpected event the client shall request that unusual out of pocket expenses be incurred, said expenses will be reimbursed at the actual cost with no mark up for overhead.
- If the client desires any supplemental services not mentioned in this proposal, an estimate of the cost and hours to be committed will be provided at that time, and no work shall be done without approval. Supplemental services will be billed out at \$250 per hour.

Billing

Professional fees for the search are billed in three equal installments during the course of the search. The initial installment will be billed after SGR presents a field of 6-10 attorneys to the City Council. The second installment will be billed after a short list of attorneys is selected for interviews. The final installment will be billed at the conclusion of the search. Expense (reimbursable) items and supplemental services will be billed with each of the three installments, as appropriate.

TAB 4

Key Personnel for this Project

Ron Holifield, CEO – Project Manager

Ron Holifield is the Founder and CEO of SGR. He previously served as Assistant City Manager in Plano, Texas as well as City Manager in Garland, DeSoto, Farmersville and Sundown, and on the City Manager's staff in Lubbock.

In 1996, he left city management and purchased Government Relations Specialists which he grew into the 49th largest lobby firm in Texas, before selling it to an employee. In 1999, Ron founded Strategic Government Resources to specialize in facilitating collaboration among local governments, with a particular emphasis in employee training and development of next generation leaders.

He has grown SGR into the largest private sector training company that specializes in leadership, management and customer service for local governments in the nation. He is a frequent speaker at state and national conferences and remains high profile in the city management profession.

Ron holds a Bachelor of Arts in Government from Abilene Christian University and a Master's in Public Administration from Texas Tech University.

Cindy Hanna, Executive Search Manager – Assistant to the Project Manager

Cindy Hanna has served as an SGR Executive Search Manager since 2009 and works closely with Ron on all of his searches.

Her previous experience in local government includes Environmental Services Manager and Fleet Manager for the City of Arlington, Administrative Services Director and Environmental Manager for the City of Sugar Land, and Budget and Management Analyst for the City of San Antonio. She is a graduate of the American Public Works Association Emerging Leaders Program, and the San Antonio Leadership Development Program.

Cindy holds a BS in Comparative Areas Studies from Duke University with an emphasis in Latin America and Western Europe, and a minor in Spanish. She holds a Master's Degree in Public Administration from Texas A&M University with a concentration in Environment and Natural Resources.

TAB 5

References

Maher Maso, Mayor
City of Frisco, Texas (pop. 128,000)
Email: mmaso@friscotexas.gov
Phone: 972-292-5050

Tom Hayden, Mayor
Town of Flower Mound, Texas (pop. 67,000)
Email: mayor@flower-mound.com
Phone: 214-384-1105

Randy Rhoads, Mayor
City of Lee's Summit, Missouri (pop. 92,000)
Email: randy.rhoads@cityofls.net
Phone: 816-969-1030

Harry LaRosiliere, Mayor Pro Tem
City of Plano, Texas (pop. 272,000)
Email: hlarosiliere@plano.gov
Phone: 972-450-4391

Lissa Smith, Council Member Place 4
City of Plano, Texas (pop. 272,000)
Email: lissasmith@plano.gov
Phone: 972-333-8802

Jennifer Fadden, City Manager
City of Colleyville, Texas (pop. 24,000)
Email: jfadden@colleyville.com
Phone: 817-503-1116

Matt Mueller, Town Manager
Town of Little Elm, Texas (pop. 29,000)
Email: mmueller@littleelm.org
Phone: 214-975-0405

Shanna Sims-Bradish, Assistant City Manager
City of Richardson, Texas (pop. 103,000)
Email: shanna.sims@cor.gov
Phone: 972-744-4210

TAB 6

Executive Search Clients

Abilene, Texas
Addison, Texas
Alice, Texas
Amarillo, Texas
Argyle, Texas
Arlington, Texas
Atlanta, Texas
Bainbridge Island, Washington
Bellaire, Texas
Big Spring, Texas
Breckenridge, Texas
Brentwood, Tennessee
Burkburnett, Texas
Burleson, Texas
Burien, Washington
Burnet, Texas
Canton, Texas
Cape Girardeau, Missouri
Cedar Hill, Texas
Cedar Park, Texas
Chapel Hill, Tennessee
Cleveland, Texas
College Station, Texas
Colleyville, Texas
Colorado River Municipal Water District, Texas
Commerce, Texas
Converse, Texas
Copper Canyon, Texas
Corpus Christi, Texas
Dalhart, Texas
Delray Beach, Florida
Denison, Texas
Denton, Texas
Denton County Fresh Water Supply District 1-A,
Texas
Duncanville, Texas
El Paso, Texas
El Paso MPO, Texas
Elk City, Oklahoma
Farmers Branch, Texas
Farmersville, Texas
Farmington, New Mexico
Fate, Texas
Ferris, Texas
Flower Mound, Texas
Forney, Texas
Fort Worth, Texas
Freeport, Texas
Friendswood, Texas
Gainesville, Texas
Gonzales, Texas
Grand Prairie, Texas
Grapevine, Texas
Greenville, Texas
Guthrie, Oklahoma
Hancock County Port & Harbor Commission,
Mississippi
Harris County ESD No. 48, Texas
Henderson, Texas
Hewitt, Texas
Highland Park, Texas
Hot Springs, Arkansas
Hudson Oaks, Texas
Huntsville, Texas
Hutto EDC, Texas
Irving, Texas
Jacksboro, Texas
Keller, Texas
Kilgore, Texas
Kyle, Texas
La Porte, Texas
Lakeland, Florida
Lakeway, Texas
Lancaster, Texas
Las Vegas, Nevada
Lawton, Oklahoma
League City, Texas
Lenexa, Kansas
Lindale, Texas
Little Elm, Texas
Longview, Texas
Lorena, Texas
Los Lunas, New Mexico
Lufkin, Texas

Executive Search Clients

Manhattan, Kansas
McKinney, Texas
McKinney EDC, Texas
Memorial Villages PD, Texas
Miami, Oklahoma
Midland, Texas
Midlothian, Texas EDC
Mount Pleasant, Texas
Mustang, Oklahoma
Orange County, North Carolina
Overland Park, Kansas
Owasso, Oklahoma
Palestine, Texas
Paris, Texas
Pearland, Texas
Piney Point Village, Texas
Plainview, Texas
Plano, Texas
Prosper, Texas
Red Oak, Texas
Richardson, Texas
Richland, Washington
Richland Hills, Texas
Riverbend Water District, Texas
Rockwall, Texas
Rowlett, Texas
Royse City, Texas
San Angelo, Texas
San Marcos/Hays County EMS, Texas
San Marcos, Texas
Seabrook, Texas
Seagoville, Texas
Shoreline, Washington
Sikeston, Missouri
Socorro, Texas
Southlake, Texas
South Padre Island, Texas
St. Charles, Missouri
Sugar Land, Texas
Sunny Isles Beach, Florida
Temple, Texas
Terrell, Texas
Texarkana, Texas
TexAmericas Center
Thompson's Station, Tennessee
Tomball, Texas
Van Alstyne, Texas
Victoria, Texas
Waxahachie, Texas
Weatherford, Texas
Westlake, Texas
West Lake Hills, Texas
Willow Park, Texas
Wills Point, Texas
Yoakum, Texas

TAB 7

Executive Search Recruited Positions

Administration

City Manager
Deputy City Manager
Assistant City Manager
Assistant County Manager
City Secretary

Administrative Services/Internal Services

Administrative Services Director
Manager of Town Services
Management Assistant
Assistant Director of Code Compliance
Finance Director
Finance Manager
Assistant Finance Director
Finance Controller/Auditor/Comptroller
Fleet Equipment Services Manager
Facilities Services Manager
Assistant Municipal Garage Superintendent
Chief Performance Officer
Human Resources/Civil Services Director
Director of Human Resources & Risk Management
IT Director
IT Manager
IT Developer

Animal Services

Animal Services Manager
Animal Welfare Director
Animal Welfare Manager

Development Services

Community Development Director
Development Services Director
Deputy Director of Development Services
Community Services Administrator
Building Inspector
Building Official
City Inspector
New Urbanist

Economic Development, CVB

Assistant Economic Development Director
CVB Executive Director
Downtown Development Director
Economic Development Director
Economic Development Executive Director
Executive Director of Port & Harbor Commission
Vice President/Chief Econ Development Officer

Legal

City Attorney

First Assistant City Attorney
Court Administrator

Library

Library Director
Librarian

Marketing and Community Engagement

Community Relations Manager
Community Services Director
Public Information Officer

Metropolitan Planning Organization

Director of Metropolitan Planning Organization

Museum

Museum Director

Parks and Recreation

Parks and Recreation Director
Park Superintendent
Program Area Manager (Parks)
Recreation Superintendent

Public Safety, EMS, Emergency Management

Emergency Management Coordinator
EMS Executive Director
Police Chief
Assistant Police Chief
Fire Chief
Assistant Fire Chief
Lieutenant

Public Works, Utilities, Engineering

City Engineer
Assistant City Engineer
Director of Public Services
Public Works Director
Public Works Assistant Director
Water District Executive Director
Water District General Manager
Planning & Engineering Director
Director of Projects & Engineering
City Planner
Chief Plant Operator
Assistant Utilities Director
Director of Utilities
Engineering Services Manager for Water District
Assistant General Manager for Water District

Combined Meeting

R2a

Meeting Date: 10/14/2014

Council Goals: N/A

AGENDA CAPTION:

Approval of the Minutes for the September 23, 2014 City Council Meeting and Work Session.

FINANCIAL IMPACT:

N/A

BACKGROUND:

N/A

RECOMMENDATION:

Administration recommends approval.

Attachments

09-23-2014 Minutes

DRAFT

OFFICIAL ACTIONS OF THE ADDISON CITY COUNCIL WORK SESSION

September 23, 2014

6:00 PM

Addison Town Hall, 5300 Belt Line Rd., Dallas, TX 75254

6:00 PM Work Session | 7:30 PM Regular Meeting

Present: Arfsten; Carpenter; Clemens; DeFrancisco; Heape; Meier; Moore

OFFICIAL ACTIONS OF THE ADDISON CITY COUNCIL REGULAR MEETING

September 23, 2014

6:00 PM

Addison Town Hall, 5300 Belt Line Rd., Dallas, TX 75254

6:00 PM Work Session | 7:30 PM Regular Agenda

Posted by: Matthew McCombs, September 19, 2014, 5:00pm

WORK SESSION

WS1 Discussion regarding the Vision Statement for the Town of Addison.

WS2 Update and discussion regarding the Addison Conference and Theatre Centre catering policies.

REGULAR MEETING

Pledge of Allegiance

Announcements and Acknowledgements regarding Town and Council Events and Activities

Discussion of Events/Meetings

Consent Agenda.

- R2a Approval of the Minutes for the September 9, 2014 City Council Meeting and Work Session.

RECOMMENDATION:

Administration recommends approval.

Motion made by Clemens to approve, subject to final review and approval of the City Manager and City Attorney,
Seconded by Moore

Voting AYE: Arfsten, Carpenter, Clemens, DeFrancisco, Heape, Meier, Moore

Passed

- R2b Approval of an Ordinance amending Chapter 38 (Fire Prevention and Protection) of the Code of Ordinances by amending various sections thereof regarding the International Fire Code, and adopting the International Fire Code (IFC) 2012 Edition (and certain appendices thereto) and making such other changes and providing for other provision regarding and relating to the International Fire Code as set forth in the Ordinance.

RECOMMENDATION:

Administration recommends approval.

John O'Neal, Fire Chief, spoke regarding this item.

Motion made by DeFrancisco to approve, as submitted,
Seconded by Clemens

Voting AYE: Arfsten, Carpenter, Clemens, DeFrancisco, Heape, Meier, Moore

Passed

R2c Approval of Ordinances amending Chapter 18 (Buildings and Building Regulations) of the Code of Ordinances by amending various sections thereof regarding:

1. The International Building Code, and adopting the International Building Code, 2012 Edition (and certain appendices thereto) and making other changes to the International Building Code as set forth in the Ordinance.
2. The International Residential Code, and adopting the International Residential Code, 2012 Edition (and certain appendices thereto) and making other changes to the International Residential Code as set forth in the Ordinance.
3. The International Energy Conservation Code, and adopting the International Energy Conservation Code, 2012 Edition and making other changes to the International Energy Conservation Code as set forth in the Ordinance.
4. The International Property Maintenance Code, and adopting the International Property Maintenance Code, 2012 Edition and making other changes to the International Property Maintenance Code as set forth in the Ordinance.
5. The Electrical Code, and the National Electrical Code, and adopting the National Electrical Code, 2014 Edition and making other changes to the Electrical Code and National Electrical Code as set forth in the Ordinance.
6. The International Plumbing Code, and adopting the International Plumbing Code, 2012 Edition and making other changes to the International Plumbing Code as set forth in the Ordinance.
7. The International Mechanical Code, and adopting the International Mechanical Code, 2012 Edition and making other changes to the International Mechanical Code as set forth in the Ordinance.

RECOMMENDATION:

Administration recommends approval.

Motion made by Clemens to approve, subject to final review and approval of the City Manager and City Attorney,

Seconded by Moore

Voting AYE: Arfsten, Carpenter, Clemens, DeFrancisco, Heape, Meier, Moore

Passed

R2d Approval of an Ordinance amending the Code of Ordinances of the Town by amending Chapter 66 (Solid Waste) Article II (Collection and Disposal), Division 2 (Service Charge) by amending Section 66-52 increasing from \$12.56 to \$12.77 the monthly fee for single family residential garbage collection.

RECOMMENDATION:

Administration recommends approval.

Taylor Hollingshead, Stormwater/ Sustainability Program Manager, spoke regarding this item.

Joe Jaynes, representative from Waste Management, also spoke regarding this item.

Motion made by Arfsten to approve, as submitted,
Seconded by Carpenter

Voting AYE: Arfsten, Carpenter, Clemens, DeFrancisco, Heape,
Meier, Moore

Passed

R2e Approval of and authorizing the City Manager to enter into an interlocal agreement with Dallas County in an amount not to exceed \$10,000 for the disposal of Household Hazardous Waste.

RECOMMENDATION:

Administration recommends approval.

Taylor Hollingshead, Stormwater/ Sustainability Program Manager, Jason Shroyer, Assistant Director of Infrastructure, and John O'Neal, Fire Chief, spoke regarding this item.

Motion made by Arfsten to approve, as submitted,
Seconded by Carpenter

Voting AYE: Arfsten, Carpenter, Clemens, DeFrancisco, Heape,
Meier, Moore

Passed

R2f Approval of and authorizing the City Manager to execute a renewal contract with Cobb Fendley & Associates, Inc., to provide professional engineering services; to authorize additional renewals; and to approve a not to exceed amount of \$100,000.

RECOMMENDATION:

Administration recommends approval.

Jason Shroyer, Assistant Director of Infrastructure, Lea Dunn, City Manager, and John Hill, City Attorney, spoke regarding this item.

Motion made by Meier to approve, with the adjustment to the renewal provision of the contract,

Seconded by DeFrancisco

Voting AYE: Arfsten, Carpenter, Clemens, DeFrancisco, Heape, Meier, Moore

Passed

- R2g Approval of and authorizing the City Manager to execute a contract with Elite Tree Service for annual city-wide tree trimming services in an amount not to exceed \$65,000.

RECOMMENDATION:

Administration recommends approval.

Motion made by Clemens to approve, subject to final review and approval of the City Manager and City Attorney,

Seconded by Moore

Voting AYE: Arfsten, Carpenter, Clemens, DeFrancisco, Heape, Meier, Moore

Passed

- R2h Approval of and authorizing the City Manager to enter into a license agreement with Kennington Surveyor Ltd.(or appropriate property owner) for the use of the property located adjacent to and along the southwest corner of the intersection of Arapaho Road and Surveyor Boulevard for the Redding Trail Expansion.

RECOMMENDATION:

Administration recommends approval.

Motion made by Clemens to approve, subject to final review and approval of the City Manager and City Attorney,

Seconded by Moore

Voting AYE: Arfsten, Carpenter, Clemens, DeFrancisco, Heape, Meier, Moore

Passed

Regular Items

- R3 Discussion, consider and take action regarding appointment of a Member to the Planning and Zoning Commission.

Council Member Clemens recommended the appointment of Jim Robinson to the Planning and Zoning Commission.

Motion made by Clemens to approve Jim Robinson's appointment,
Seconded by Meier

Voting AYE: Arfsten, Carpenter, Clemens, DeFrancisco, Heape,
Meier, Moore

Passed

- R4 Discussion and update regarding Oncor service reliability efforts in the Town of Addison.

Charles Elk, Oncor Vice President of Dallas Customer Operations, spoke regarding this item.

There was no action taken on this item.

- R5 Presentation, discussion, consider and take action regarding the approval of an Ordinance amending the Code of Ordinances of the City by amending Chapter 82(Utilities), Article I (In General), Division 5 (Rates and Charges) by amending Section 82-76 and Section 82-77 increasing sewer and water rates for all customer classifications.

RECOMMENDATION:

Administration recommends approval.

Eric Cannon, Chief Financial Officer, spoke regarding this item.

Motion made by DeFrancisco to approve, as submitted,
Seconded by Carpenter

Voting AYE: Arfsten, Carpenter, Clemens, DeFrancisco, Heape,
Meier, Moore

Passed

- R6 Presentation and discussion regarding an update on the Finance Department Work Plan.

Eric Cannon, Chief Financial Officer, and Lea Dunn, City Manager, spoke regarding this item.

There was no action taken on this item.

-
- R7 Discussion, consider and take action regarding approval of and authorizing the City Manager to execute a contract with Artistic Painting Company for city-wide painting services in an amount not to exceed \$200,000 for painting of the Wheeler Bridge, Blueprints sculpture, interior Athletic Club areas and park structures, and discussion regarding traffic control during periods of painting.

RECOMMENDATION:

Administration recommends approval.

Slade Strickland, Director of Parks and Recreation, and Lea Dunn, City Manager, spoke regarding this item.

Pat Fisher with Artistic Painting Company also spoke regarding this item.

Motion made by Arfsten to approve, as submitted,
Seconded by Carpenter

Voting AYE: Arfsten, Carpenter, Clemens, DeFrancisco, Heape,
Meier, Moore

Passed

-
- R8 Discussion, consider and take action regarding approval of and authorizing the City Manager to execute a Project Specific Agreement with Dallas County for the Redding Trail Expansion.

RECOMMENDATION:

Administration recommends approval.

Slade Strickland, Director of Parks and Recreation, Lea Dunn, City Manager, and Jason Shroyer, Assistant Director of Infrastructure, spoke regarding this item.

Motion made by DeFrancisco to approve, as submitted,
Seconded by Clemens

Voting AYE: Arfsten, Carpenter, Clemens, DeFrancisco, Heape, Meier, Moore

Passed

- R9 Discussion, consider and take action regarding the Vision Statement for the Town of Addison.

Motion made by Clemens to approve, as discussed in the Work Session,

Seconded by Heape

Voting AYE: Arfsten, Carpenter, Clemens, DeFrancisco, Heape, Meier, Moore

Passed

Executive Session

- ES1 Closed (Executive) session of the Addison City Council pursuant to Section 551.087, Texas Government Code, to discuss or deliberate regarding commercial or financial information that the City Council has received from a business prospect or business prospects that the City Council seeks to have locate, stay, or expand in or near the territory of the Town of Addison and with which the City Council is conducting economic development negotiations, and/or to deliberate the offer of a financial or other incentive to such business prospect or business prospects.

RECOMMENDATION:

City Council entered into Executive Session at 8:59 pm.

City Council closed Executive Session at 9:32 pm.

Regular Items Continued

- R10 Discussion, consider and take action regarding commercial or financial information that the City Council has received from a business prospect or business prospects that the City Council seeks to have locate, stay, or expand in or near the territory of the Town of Addison and with which the City Council is conducting economic development negotiations, and/or any action regarding the offer of a financial or other incentive to such business prospect or business prospects.

RECOMMENDATION:

Administration recommends approval.

Motion made by Carpenter to approve, as discussed in Executive Session,

Seconded by DeFrancisco

Voting AYE: Arfsten, Carpenter, Clemens, DeFrancisco, Heape, Meier, Moore

Passed

Adjourn Meeting

Mayor-Todd Meier

Attest:

City Secretary-Matthew McCombs

Combined Meeting

R2b

Meeting Date: 10/14/2014

Council Goals: Brand Protection and Enhancement

AGENDA CAPTION:

Approval of and authorizing the City Manager to execute a contract with Dallas County Health Human Services for certain public health services.

FINANCIAL IMPACT:

One time payment of \$2,500 for FY15. Amount approved in Town of Addison budget for FY15

BACKGROUND:

Being that the Town of Addison does not offer public health service in-house, we enter into an annual contract with Dallas County to make available and defray some of the costs of certain health services for less fortunate residents. Regarding municipality participation towards health services, Dallas County extends a "fair share" philosophy causing our fiscal obligation to be the same as last year. Contract language remains unchanged.

RECOMMENDATION:

Administration recommends approval.

Attachments

[Dallas County Contract - introduction](#)

[Dallas County cover letter](#)

[Contract with Dallas County](#)

[Dallas County Health Services Exhibits](#)

Council Agenda Item: _____

SUMMARY:

Annual contract for FY' 15 with Dallas County Health & Human Services (DCHHS) for the Town of Addison to participate in a portion of the cost of providing selected public health services at reduced prices to Addison residents.

FINANCIAL IMPACT:

Budgeted Amount: \$2,500

Cost: \$2,500

If over budget or not budgeted, what is the budget impact?

N/A

BACKGROUND:

Being that the Town of Addison does not offer public health services in-house (i.e. immunizations, sexually transmitted disease screening, etc.), we enter into an annual contract with DCHHS to make available and defray some of the costs of certain health services for less fortunate residents.

Historically, contract costs for participating municipalities have been directly linked to the number and types of services accessed by citizens of those communities during previous fiscal years. More recently, DCHSS has adopted a "fair share" philosophy which causes our fiscal obligation to be identical to last year. Contract language also remains unchanged.

For your perusal, please find attached a cover letter from DCHHS, a draft contract, fee schedule for services and other exhibits of interest.

RECOMMENDATION:

Staff recommends approval



DALLAS COUNTY
DEPARTMENT OF HEALTH AND HUMAN SERVICES
ADMINISTRATION

ZACHARY S. THOMPSON, M.A.
DIRECTOR

July 14, 2014

Neil A. Gayden, Environmental Services Official
Town of Addison
P.O. Box 9010
Addison, TX 75001

**RE: Dallas County FY'15 Communicable Disease
Contract**

Dear Mr. Gayden:

Dallas County Department of Health and Human Services would like to thank you for contracting with our Health Division for your public health services.

The Dallas County Department of Health and Human Services is currently processing the FY'15 Communicable Disease Contract for the Town of Addison. The amount for the Town of Addison is \$2,500. These public health services include: tuberculosis, sexually transmitted disease, public health lab, and communicable disease. The communicable disease contract will be mailed as soon as it has been completed.

If you have any questions, please feel free to contact me at (214) 819-2101 or by email at zthompson@dallascounty.org.

Sincerely,


Zachary Thompson
Director

cc: Honorable Todd Meier, Mayor

THE STATE OF TEXAS

§
§
§
§
§
§

INTERLOCAL AGREEMENT FOR
COORDINATED HEALTH SERVICES
BETWEEN DALLAS COUNTY, TEXAS, ON
BEHALF OF DALLAS COUNTY HEALTH AND
HUMAN SERVICES, AND THE TOWN OF
ADDISON, TEXAS

COUNTY OF DALLAS

1. PARTIES

Whereas, Dallas County (“County”) has offered to provide certain health services to the various cities throughout Dallas County on a contract for services basis; and

Whereas, the Town of Addison, Texas (“Town”) desires to participate with County in establishing coordinated health services for Town and Dallas County; and

Whereas, County will operate certain health services for the residents of Town in order to promote the effectiveness of local public health services and goals (“Program”); and

Whereas, the cooperative effort will allow cities located within Dallas County to participate in providing public health services for their residents; and

Whereas, such cooperative effort serves and furthers the public purpose and benefits the citizens of County as a whole.

Now therefore, County, on behalf of Dallas County Health and Human Services (“DCHHS”), enters into this Interlocal Agreement (“Agreement”) with Town, pursuant to the authorities of the Texas Health and Safety Code Chapter 121, the Texas Government Code Chapter 791, and other applicable laws for health services to Town.

2. HEALTH SERVICES TO BE PERFORMED

- A. County agrees to operate the Program, which will include the following health services:
- 1) Tuberculosis Control Services: providing preventive, diagnostic treatment, and epidemiological services;
 - 2) Sexually Transmitted Disease Control Services: consisting of education to motivate people to use preventive measures and to seek early treatment, prophylaxis, epidemiological investigation, and counseling in accordance with County policy;
 - 3) Communicable Disease Control Services: providing information concerning immunization and communicable diseases and coordinating with the Texas Department of State Health Services (“DSHS”) in monitoring communicable diseases;
 - 4) Laboratory Services: performing chemical, biological, and bacteriological analysis

and tests on which are based diagnosis of disease, effectiveness of treatment, the quality of the environment, the safety of substance for human consumption, and the control of communicable disease.

- B. County agrees to provide to Town, in accordance with state and federal law, the following public health services:
- 1) Immunizations;
 - 2) Child health care;
 - 3) High risk infant case management; and
 - 4) Home visits.

County also agrees to work with Town in order to decentralize clinics and to plan and provide for desired services by Town; however, any other services that Town requires, in addition to the above mentioned services, may result in additional fees to Town.

- C. County agrees to charge a sliding fee based on ability to pay to all residents of every municipality, including Town, in Dallas County. The fees charged by County for the services listed in Section 2A of this Agreement will be used to offset the Town's Program costs for the next Agreement Term. A schedule of fees to be charged by County is set out in Exhibit A, attached and incorporated herein by reference for all purposes.
- D. County agrees that the level of service provided in the Program for Town will not be diminished below the level of service provided to Town for the same services in the prior Agreement Term except as indicated in Section 2E of this Agreement. For purposes of Section 2E, level of service is measured by the number of patient visits and number of specimens examined. County will submit to Town a monthly statement, which will also include the number of patient visits and number of specimens examined during the preceding month.
- E. The possibility exists of reductions in state and federal funding to the Program that could result in curtailment of services if not subsidized at the local level. County will notify Town in writing of any amount of reduction, and any extent to which services will be curtailed as a result. The notice will also include an amount that Town may elect to pay to maintain the original level of services. Town will notify County in writing no later than fourteen (14) calendar days after the date of Town's receipt of the notice of funding reduction as to Town's decision to pay the requested amount or to accept the curtailment of service. If Town elects to pay the requested amount, payment is due no later than forty-five (45) calendar days after the date of the notice of funding reduction.

3. BUDGET

- A. County agrees to submit to Town by July 31st of each year a proposed budget describing the proposed level of services for the next Agreement Term;

- B. For the Term of this Agreement, County agrees to provide the services listed in Section 2 of this Agreement at the level of services and for the amount stated in Exhibit D, which is attached and incorporated herein by reference for all purposes;
- C. Payment. Town shall pay County the following amount, as stated in Exhibit D, Two thousand five hundred and 00/100 Dollars (\$2500.00), which is the agreed upon amount for Town's share of the total cost of the Program less federal and state funding.
- D. In lieu of paying the actual dollar amount stated in this Agreement, Town has the option, to the extent authorized by law, ordinances or policy, of making a request to negotiate for in-kind services that are equal in value to the total amount.
- E. This Agreement is contingent upon Town's appropriation of funds, or ability to perform in-kind services as described in Section 3D of this Agreement, for the services set forth herein. In the event Town fails to appropriate such funds, or provide in-kind services, County shall not incur any obligations under this Agreement.

4. ASSURANCES

- A. County shall operate and supervise the Program.
- B. Nothing in this Agreement shall be construed to restrict the authority of Town over its health programs or environmental health programs or to limit the operations or services of those programs.
- C. Town agrees to provide to County or assist County in procuring adequate facilities to be used for the services under this Agreement. These facilities must have adequate space, waiting areas, heating, air conditioning, lighting, and telephones. None of the costs and maintenance expenses associated with these facilities shall be the responsibility of County and County shall not be liable to Town or any third party for the condition of the facilities, including any premises defects.
- D. Town and County agree that other cities/towns/municipalities may join the Program by entering into an agreement with County that contains the same basic terms and conditions as this Agreement.
- E. Each party paying for the performance of governmental functions or services under this Agreement must make those payments from current revenues available to the paying party.

5. FINANCING OF SERVICES

- A. The health services provided under this Agreement will be financed as follows:
 - 1) Town and County will make available to the Program all appropriate federal and state

funds, personnel, and equipment to provide the health services included under this Agreement and will use best efforts to cause these funds and resources to continue to increase.

- 2) Town shall pay to County, or provide in-kind services, its share of budgeted costs that are in excess of the federal and state funding for providing the health services under this Agreement. Budgeted costs shall not exceed those reflected in Exhibits B, C and D for the appropriate Agreement Term.

- B. Town has elected to pay to County a lump sum payment for the Term the amount stated in Exhibit D.
- C. Any payment not made within thirty (30) calendar days of its due date shall bear interest in accordance with Chapter 2251 of the Texas Government Code.
- D. Town and County agree that no more than ten percent (10%) of the Town's cost of participating in the Program will be used for administration of the Program.

6. TERM

The Term of this Agreement shall be effective from October 1, 2014 through September 30, 2015, unless otherwise stated in this Agreement.

7. TERMINATION

- A. Without Cause: This Agreement may be terminated in writing, without cause, by either party upon thirty (30) calendar days prior written notice to the other party.
- B. With Cause: Either party may terminate the Agreement immediately, in whole or in part, at its sole discretion, by written notice to the other party, for the following reasons:
 - 1) Lack of, or reduction in, funding or resources;
 - 2) Non-performance;
 - 3) The improper, misuse or inept use of funds or resources directly related to this Agreement;
 - 4) The submission of data, statements and/or reports that is incorrect, incomplete and/or false in any way.

8. RESPONSIBILITY

County and Town agree that each shall be responsible for its own negligent acts or omissions or other tortious conduct in the course of performance of this Agreement, without waiving any governmental immunity available to County or Town or their respective officials, officers, employees, or agents under Texas or other law and without waiving any available defenses

under Texas or other law. Nothing in this paragraph shall be construed to create or grant any rights, contractual or otherwise, in or to any third persons or entities.

9. INSURANCE

Town and County agree that they will, at all times during the Term of this Agreement, maintain in full force and effect insurance or self-insurance to the extent permitted by applicable laws. Town and County will be responsible for their respective costs of such insurance, any and all deductible amounts in any policy and any denials of coverage made by their respective insurers.

10. ACCESS TO RECORDS RELEVANT TO PROGRAM

Town and County agree to provide to the other upon request, copies of the books and records relating to the Program. Town and County further agree to give Town and County health officials access to all Program activities. Both Town and County agree to adhere to all applicable confidentiality provisions, including those relating to Human Immunodeficiency Virus (HIV) and Sexually Transmitted Disease (STD) information, as mandated by federal and State law, as well as by DSHS.

11. NOTICE

Any notice to be given under this Agreement shall be deemed to have been given if reduced to writing and delivered in person by a reputable courier service or mailed by Registered Mail, postage pre-paid, to the party who is to receive such notice, demand or request at the addresses set forth below. Such notice, demand or request shall be deemed to have been given, if by courier, at the time of delivery, or if by mail, three (3) business days subsequent to the deposit of the notice in the United States mail in accordance herewith. The names and addresses of the parties' hereto to whom notice is to be sent are as follows:

Zachary Thompson, Director
Dallas County Health & Human Services
2377 N. Stemmons Freeway, LB 12
Dallas, TX 75207-2710

Carmen Moran, Town Secretary
Town of Addison
P.O. Box 9010
Addison, TX. 75001-9010
(972) 450-2881

12. IMMUNITY

This Agreement is expressly made subject to County's and Town's Governmental Immunity, including, without limitation, Title 5 of the Texas Civil Practices and Remedies Code, and all applicable federal and state laws. The parties expressly agree that no provision of this Agreement is in any way intended to constitute a waiver of any immunities from suit or from liability, or a waiver of any tort limitation, that Town or County has by operation of law or otherwise. Nothing in this Agreement is intended to benefit any third party beneficiary.

13. COMPLIANCE WITH LAWS AND VENUE

In providing services required by this Agreement, Town and County must observe and comply with all licenses, legal certifications, or inspections required for the services, facilities, equipment, or materials, and all applicable federal, State, and local statutes, ordinances, rules, and regulations.

Texas law shall govern this Agreement and exclusive venue shall lie in Dallas County, Texas.

14. AMENDMENTS AND CHANGES IN THE LAW

No modification, amendment, novation, renewal or other alteration of this Agreement shall be effective unless mutually agreed upon in writing and executed by the parties hereto. Any alteration, addition or deletion to the terms of this Agreement which are required by changes in federal or State law are automatically incorporated herein without written amendment to this Agreement and shall be effective on the date designated by said law.

15. ENTIRE AGREEMENT

This Agreement, including all Exhibits and attachments, constitutes the entire agreement between the parties hereto and supersedes any other agreements concerning the subject matter of this transaction, whether oral or written.

16. BINDING EFFECT

This Agreement and the respective rights and obligations of the parties hereto shall inure to the benefit and be binding upon the successors and assigns of the parties hereto, as well as the parties themselves.

17. GOVERNMENT FUNDED PROJECT

If this Agreement is funded in part by either the State of Texas or the federal government, County and Town agree to timely comply without additional cost or expense to the other party, unless otherwise specified herein, to any statute, rule, regulation, grant, contract provision or other State or federal law, rule, regulation, or other similar restriction that imposes additional or greater requirements than stated herein and that is directly applicable to the services rendered under the terms of this Agreement.

18. DEFAULT/ CUMULATIVE RIGHTS/ MITIGATION

In the event of a default by either party, it is not a waiver of default if the non-defaulting party fails to immediately declare a default or delays in taking any action. The rights and remedies provided by this Agreement are cumulative, and either party's use of any right or remedy will not preclude or waive its right to use any other remedy. These rights and remedies are in addition to any other rights the parties may have by law, statute, ordinance or otherwise. Both parties have a duty to mitigate damages.

19. FISCAL FUNDING CLAUSE

Notwithstanding any provisions contained herein, the obligations of County and Town under this Agreement are expressly contingent upon the availability of funding for each item and obligation contained herein for the Term of the Agreement and any extensions thereto. Town and County shall have no right of action against the other party in the event the other party is unable to fulfill its obligations under this Agreement as a result of lack of sufficient funding for any item or obligation

from any source utilized to fund this Agreement or failure to budget or authorize funding for this Agreement during the current or future Agreement Terms. In the event that County or Town is unable to fulfill its obligations under this Agreement as a result of lack of sufficient funding, or if funds become unavailable, each party, at its sole discretion, may provide funds from a separate source or may terminate this Agreement by written notice to the other party at the earliest possible time.

20. COUNTERPARTS, NUMBER, GENDER AND HEADINGS

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. Words of any gender used in this Agreement shall be held and construed to include any other gender. Any words in the singular shall include the plural and vice versa, unless the context clearly requires otherwise. Headings herein are for the convenience of reference only and shall not be considered in any interpretation of this Agreement.

21. PREVENTION OF FRAUD AND ABUSE

Town and County shall establish, maintain and utilize internal management procedures sufficient to provide for the proper, effective management of all activities funded under this Agreement. Any known or suspected incident of fraud or program abuse involving County or Town's employees or agents shall be reported immediately for appropriate action. Moreover, Town and County warrant to be not listed on a local, county, State or federal consolidated list of debarred, suspended and ineligible contractors and grantees. Town and County agree that every person who, as part of their employment, receives, disburses, handles or has access to funds collected pursuant to this Agreement does not participate in accounting or operating functions that would permit them to conceal accounting records and the misuse of said funds. Each party shall, upon notice by the other party, refund their respective expenditures that are contrary to this Agreement.

22. AGENCY / INDEPENDENT CONTRACTOR

County and Town agree that the terms and conditions of this Agreement do not constitute the creation of a separate legal entity or the creation of legal responsibilities of either party other than under the terms of this Agreement. County and Town are and shall be acting as independent contractors under this Agreement; accordingly, nothing contained in this Agreement shall be construed as establishing a master/servant, employer/employee, partnership, joint venture, or joint enterprise relationship between County and Town. Town and County are responsible for their own acts, forbearance, negligence and deeds, and for those of their respective officials, agents or employees in conjunction with the performance of work covered under this Agreement.

23. SEVERABILITY

If any provision of this Agreement is construed to be illegal or invalid, this will not affect the legality or validity of any of the other provisions in this Agreement. The illegal or invalid provision will be deemed stricken and deleted, but all other provisions shall continue and be given effect as if the illegal or invalid provisions had never been incorporated.

24. SIGNATORY WARRANTY

Each person signing and executing this Agreement does hereby warrant and represent that such person has been duly authorized to execute this Agreement on behalf of City/Town or County, as the case may be.

DALLAS COUNTY:

TOWN OF ADDISON:

By: Clay Lewis Jenkins
Dallas County Judge

By: _____
Town Manager/Mayor

DATE: _____

DATE: _____

Recommended:

Attested:

By: Zachary Thompson
Director, DCHHS

By: _____
Town Secretary

Approved as to Form*:
CRAIG WATKINS
DISTRICT ATTORNEY

Approved as to Form:

TERESA GUERRA SNELSON
CHIEF, CIVIL DIVISION

By: Melanie Barton
Assistant District Attorney

By: _____
Town Attorney

*By law, the District Attorney’s Office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval, and should seek review and approval by their own respective attorney(s).

FY 2015 FEE SCHEDULE

SEXUALLY TRANSMITTED

Treatment	\$20 - \$45 (Sliding Scale)
Blood Drawing	\$5
Chemical Lesion Reduction	\$45
Medical Records Copies	\$5 each

TUBERCULOSIS

TB Testing-Level I (Office Visit)	\$30
TB Testing-Level II (QuantiFeron)	\$50
Chest X-Ray Copies	\$5

LABORATORY

Wet Prep	\$6 each
Gram Stain	\$6 each
GC Culture	\$14 each
RPR	\$11 each
GEN Probe GC Screen	\$47 each
GEN Probe CT Screen	\$47 each
HIV Test	\$15 each
HIV Test - Rapid	\$20 each
Salmonella/Shigella	\$16 each
Chancroid Culture	\$10 each
MTD Testing for TB	\$40/ each
TB Culture & Concentration	\$25 each
TB Identification	\$15 each
TB Susceptibility	\$31 each
TB Acid Fast Stain	\$ 8 each

NURSING SERVICE

Hepatitis A Havrix*	\$50/Injection
Hepatitis B Vaccine*	\$55/Injection
Twinrix	\$75/Injection
Rabies (PE)	\$240/Injection
IPV	\$45/Injection
Pneumococcal*	\$90/Injection
Adacel (Pertusis)	\$55/injection
HIB	\$45/injection
Japanese Encephalitis	\$265/Injection
Meningococcal (Menomune)	\$135/Injection
Typhoid (Polysaccharide)	\$65/Injection
Typhoid (Oral)	\$50/box
Yellow Fever Vaccine	\$115/Injection
Boostrix Vaccine	\$50/Injection
Influenza Vaccine*	\$20/Injection
Influenza (High Dose)	\$40/injection
MMR*	\$75/Injection
Rabies Administrative Fee/	
Serves State Vaccine	\$25
Foreign Travel Office Visit Fee	\$25
TD*	\$40/Injection

ENVIRONMENTAL HEALTH

Septic Tank Inspection	\$310/Commercial/Business
	\$260/Residential
Septic Tank Re-inspection	\$35/Residential
	\$85/Commercial
Food Establishment Inspection	\$150/yr./establishment
Half-Way Houses & Boarding Homes, Residential	\$75/plus \$25 for each additional unit on site
Mosquito Spraying for Non-contracting cities	\$185/ per hour
Water Sample	\$50
Mosquito Testing	\$35
Food Mgr. Cert. Program	\$100/per person
Food Mgr. Cert. Retesting	\$50/per person

Note: 1) # Indicates \$10 charge for State fee

CRIMINAL TESTING

Blood Draws	\$38
Buccal Swabs	\$38
Cryotherapy	\$15

EARLY INTERVENTION CLINIC

EIC Counseling Fee	\$5
EIC Medical Visit Fee	\$10

Comprehensive TB Testing & Evaluation (Incl. Chest X-ray)	\$80
---	------

Pregnancy Test	\$20 each
Urinalysis	\$15 each
Dark Field	\$16 each
Herpes Culture	\$38 each
Herpes Type 1 & 2 Serology	\$50 each
Group A Strep	\$14 each
HIV-1 RNA Testing	\$115 each
Western Blot	\$75 each

Urine Screen:

Neisseria Gonorrhoeae	\$47 each
Chlamydia Trachomatis	\$47 each
Lead Screen	\$10 each
Staphylococcus/Aureus Culture	\$17 each

Varivax*	\$110/Injection
Meningococcal (MCV4)*	\$130/Injection
Zostavax (Shingles)*	\$215.00/Injection
Gardasil (HPV)*	\$175.00/Injection
Hepatitis A (Pediatric)	\$35.00/injection
Hepatitis B (Pediatric)	\$25.00/injection
DT	\$50.00/injection
DTaP-HepB-IPV	\$80.00/injection
DTaP-IPV	\$65.00/injection
Rotavirus	\$125.00/injection
PCV13	\$160.00/injection

Communicable Disease Program:

Hepatitis C Screening	\$35/Test
-----------------------	-----------

Immunization/VFC Program:

DPT,DT,Hib,	\$5/Per child
Well Baby	\$5/Visit
Diabetic Testing	\$5/Test
Immunization Record	\$5 each
Foreign Travel Yellow Card	\$5 each

*Note: Vaccines marked with asterisks are part of the Adult Safety Net Program (ASNP). Clients eligible to receive through the ASNP will be charged a fee of \$10/shot.

Day Care Center Inspections	\$2/per authorized child
Temporary Food Permit	\$75/plus \$10 per day
Funeral Home Inspection	\$200
FHA, VA, Conventional Loans	\$125/Licensed
	\$150/Unlicensed
Annual Group Home Inspection	\$50
Food Handler Class	\$15/per person
Sub-division Plat Approval \$200/Residential	\$150/Commercial
Animal Control/Quarantine	\$7/per day
Animal Control/Vicious Animal	\$12/per day
Food Manager Re-certification	\$50/Test
W/Multiple Test Sites	

January, 2013 thru December, 2013

<i>Municipality</i>	<i>Tuberculosis</i>	<i>Sexually Transmitted Disease</i>	<i>Laboratory</i>	<i>Communicable Disease</i>
<i>Addison</i>	113	53	129	293
<i>Balch Springs</i>	988	138	927	139
<i>Carrollton</i>	1158	238	1331	581
<i>Cedar Hill</i>	288	243	294	297
<i>Cockrell Hill</i>	6	1	27	43
<i>Coppell</i>	244	25	44	275
<i>Dallas</i>	35940	9990	54281	34617
<i>Desoto</i>	724	296	627	470
<i>Duncanville</i>	365	177	771	199
<i>Farmers Branch</i>	278	71	496	214
<i>Garland</i>	3606	814	5861	573
<i>Glenn Heights</i>	51	46	112	35
<i>Grand Prairie</i>	1785	401	2640	1028
<i>Highland Park</i>	0	0	0	17
<i>Hutchins</i>	130	31	131	60
<i>Irving</i>	4439	892	5147	1530
<i>Lancaster</i>	734	405	731	250
<i>Mesquite</i>	1194	712	2686	1144
<i>Richardson</i>	1054	116	804	853
<i>Rowlett</i>	440	29	220	171
<i>Sachse</i>	65	12	51	56
<i>Seagoville</i>	229	72	402	80
<i>Sunnyvale</i>	17	5	0	104
<i>University Park</i>	4	0	0	32
<i>Wilmer</i>	12	37	188	39
<i>Out of County</i>	1224	1968	121485	4369
Total	55088	16772	199385	47469

**DALLAS COUNTY HEALTH & HUMAN SERVICES
FY '15**

EXHIBIT C

Municipality	Tuberculosis	Sexually Transmitted Disease	Laboratory	Communicable Disease	FY15 Contract Total
Addison	4,271	5,236	1,212	3,359	2,500
Balch Springs	37,342	13,633	8,709	1,594	9,377
Carrollton	43,767	23,512	2,762	6,661	23,823
Cedar Hill	10,885	24,006	254	3,405	2,498
Cockrell Hill	227	99	413	493	1,232
Coppell	9,222	2,470	509,981	3,153	3,131
Dallas	1,358,361	986,923	5,891	396,889	1,754,252
Desoto	27,364	29,242	7,244	5,389	17,620
Duncanville	13,795	17,486	4,660	2,282	11,273
Farmers Branch	10,507	7,014	55,065	2,454	6,856
Garland	136,290	80,416	1,052	6,570	80,156
Glenn Heights	1,928	4,544	24,803	401	574
Grand Prairie	67,465	39,615	0	11,786	38,854
Highland Park	0	0	1,231	195	132
Hutchins	4,913	3,063	1,231	688	3,149
Irving	167,773	88,122	48,357	17,542	81,906
Lancaster	27,742	40,010	6,868	2,866	12,106
Mesquite	45,128	70,339	25,236	13,116	31,608
Richardson	39,836	11,460	7,554	9,780	23,756
Rowlett	16,630	2,865	2,067	1,961	4,925
Sachse	2,457	1,185	479	642	362
Seagoville	8,655	7,113	3,777	917	6,440
Sunnyvale	643	494	0	1,192	99
University Park	151	0	0	367	48
Wilmer	454	3,655	1,766	447	2,597
Out of County	46,261	194,421	1,141,376	50,091	77,142
	\$2,082,065	\$1,656,924	\$1,873,262	\$544,239	\$2,196,416

FY'15 CONTRACT COSTS

MUNICIPALITIES	CONTRACT COST
ADDISON	\$2,500
BALCH SPRINGS	\$9,377
CARROLLTON	\$23,823
CEDAR HILL	\$2,498
COCKRELL HILL	\$1,232
COPPELL	\$3,131
* DALLAS	\$1,754,252
* DESOTO	\$17,620
* DUNCANVILLE	\$11,273
FARMERS BRANCH	\$6,856
* GARLAND	\$80,156
GLENN HEIGHTS	\$574
GRAND PRAIRIE	\$38,854
HIGHLAND PARK	\$132
HUTCHINS	\$3,149
IRVING	\$81,906
LANCASTER	\$12,106
* MESQUITE	\$31,608
* RICHARDSON	\$23,756
* ROWLETT	\$4,925
* SACHSE	\$362
* SEAGOVILLE	\$6,440
SUNNYVALE	\$99
UNIVERSITY PARK	\$48
* WILMER	\$2,597
* UNINCORPORATED	\$77,142
TOTAL	\$2,196,416

Combined Meeting

R2c

Meeting Date: 10/14/2014

Council Goals: Mindful stewardship of Town Resources.

AGENDA CAPTION:

Approval of and authorizing the City Manager to execute a contract with Trinity River Authority for Environmental Protection Agency (EPA) required monitoring of certain industries.

FINANCIAL IMPACT:

Any incurred expenses are recovered from industries subject to monitoring activities.

BACKGROUND:

The EPA requires that significant industrial sewer users (SIUs) be monitored by the local governing authority for compliance with federal law. Since the Trinity River Authority (TRA) treats virtually all of the wastewater generated in the industrially zoned areas in Addison and is the agency responsible to EPA oversight, we feel it is prudent to continue our long-standing relationship with TRA providing EPA required services.

RECOMMENDATION:

Administration recommends approval.

Attachments

TRA cover letter

TRA contract

TRA fee schedule



3110.500.040.100

July 16, 2014

Mr. Neil Gayden
Environmental Services Official
Town of Addison
16801 Westgrove Drive
P.O. Box 9010
Addison, Texas 75001-9010

Dear Mr. Gayden:

Subject: Contract for Services - Fiscal Year 2015
Revised Technical Services Fee Schedule
Central Regional Wastewater System

The Trinity River Authority Board of Directors, in Board Action June, 2014, approved the Technical Services Fee Schedule for Fiscal Year 2015 which is in connection with all contracting work relating to the analysis of water and wastewater, industrial inspections, and/or sampling services. According to our records, your current contract expires September 30, 2014. As in past years we propose to continue performing associated services to all Authority Contributing Parties under the provisions of a contract for services. Enclosed please find two (2) copies of the Trinity River Authority Contract for Services and Fee Schedules for Fiscal Year 2015 attached for your review and official authorization. Upon the City's approval for requested services between the City and Trinity River Authority, please return both notarized or sealed copies with Attachment A - Technical Services Fee Schedules for final execution to this office. After execution by the Authority's General Manager, one (1) original Contract for Services will be returned for your files unless otherwise noted by the City.

Please address and refer the correspondence regarding this matter to:

Trinity River Authority
Central Regional Wastewater System
6500 West Singleton Blvd.
Dallas, Texas 75212
Attention: Wm. B. Cyrus, Manager
Technical Services

6500 W. Singleton Blvd.
Dallas, Texas 75212
Metro (972) 263-2251
Admin Fax (972) 975-4412
Lab Fax (972) 975-4414

July 16, 2014
FY-2015 Contract for Services
Page 2

To coordinate our efforts accordingly, the Authority requests the approval of the contract to begin on October 1, 2014, and terminate on date specified by the contracting party in Section VI. Please note that the contract may now be greater than one (1) year at the contracting party's preference.

Also enclosed are additional copies of our Board Approved Fiscal Year 2015 Services Fee Schedule for your use and files. The service fees are effective December 1, 2014 through November 30, 2015. Historically the fee schedule for these services is derived annually from the direct costs of performing each test, including manpower, materials, supplies, and equipment costs. Additionally, the cost associated with maintaining quality assurance is included in the cost of the test.

Should you have any questions concerning this contract or changes in fee schedule, please contact this office at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "WM. B. CYRUS", with a long, sweeping horizontal line extending to the right from the end of the signature.

WM. B. CYRUS
Manager, Technical Services

BC/mlt

Enclosures

CONTRACT FOR TECHNICAL SERVICES

I. CONTRACTING PARTIES

The Receiving Agency: **Town of Addison**, whose authorized address is:

**PO Box 9010
16801 Westgrove Dr.
Addison, Texas 75001
Attn: Neil Gayden, RS Environmental Services Official**

The Performing Agency: Trinity River Authority of Texas, whose authorized address is 5300 South Collins, P. O. Box 240, Arlington, Texas 76004-0240, Attention: J. Kevin Ward, General Manager (or his designated representative).

II. STATEMENT OF SERVICES TO BE PERFORMED

In order to discharge the responsibilities associated with the enforcement of Federal, State, and City regulations, the Receiving Agency requires services of a laboratory qualified to perform water and wastewater analysis, and of personnel to conduct industrial inspection and/or sampling services, such services detailed in Section A, Subsection(s) **1, 2 & 3**, below.

A. PERFORMANCE OF SERVICES

1. Industrial Inspection Services

In keeping with the foregoing, the Receiving Agency employs the Performing Agency and the Performing Agency agrees to perform industrial inspection services within the parameters listed on the attached schedule sheet.

The Performing Agency shall perform all Industrial Pretreatment Inspections, review permit applications and prepare for submittal Permits to Discharge Industrial Wastes to the Sanitary Sewer in accordance with procedures established by the Trinity River Authority of Texas in accordance with 40 CFR Part 403.8. Industrial Pretreatment Inspections, Application reviews and permit preparations and submittals shall be in compliance with the Receiving Agency's Industrial Waste Ordinances, Sewer Ordinances Numbers **003-003**, and EPA General Pretreatment Regulations for Existing and New Sources. Records of Inspections, Applications and Permits shall be maintained as required by EPA General Pretreatment Regulations, 40 CFR § 403.12.

2. Industrial Sampling Services

In keeping with the foregoing, the Receiving Agency employs the Performing Agency and the Performing Agency agrees to perform industrial sampling services within the parameters listed on the attached schedule sheet and in accordance with the Receiving Agency's Industrial Waste Ordinances and Sewer Ordinances Numbers **003-003**.

The Performing Agency shall perform all sample collections, sample preservation, and maintenance of chain-of-custody records in accordance to the approved procedures set forth in Test Methods for Evaluating Solid Waste, EPA Manual SW-846, Methods

for Chemical Analysis of Water and Wastes, EPA Manual EPA-600/4-79-020, and the Handbook for Sampling and Sample Preservation of Water and Wastewater, EPA Manual EPA-600/4-82-029. The samples shall be properly collected, preserved and delivered by the Performing Agency to the Performing Agency's laboratory located at 6500 West Singleton Blvd., Dallas, Texas. When feasible, the Performing Agency will conduct flow or time composited sampling. When composited sampling is not feasible, grab sampling will be performed.

3. Analytical Services

In keeping with the foregoing, the Receiving Agency employs the Performing Agency and the Performing Agency agrees to perform analytical services within the parameters listed on the attached schedule sheet.

The Receiving Agency will collect samples and deliver them to the laboratory for analysis. It is understood that these samples will be properly collected and preserved in accordance with applicable sections of A Practical Guide to Water Quality Studies of Streams, Federal Water Pollution Control Administration publication and Methods for Chemical Analysis for Water and Wastes, EPA manual, as well as the latest edition of Standard Methods for the Examination of Water and Wastewater. Additionally, requirements set by the National Environmental Laboratory Accreditation Conference will be followed as mandated by the Texas Commission on Environmental Quality for state accreditation. A chain-of-custody procedure shall be maintained in the field and the laboratory in accordance with procedures to be established by the Receiving Agency. The Receiving Agency will furnish chain-of-custody.

The Performing Agency will perform all analyses according to the approved procedures set forth in Standard Methods for the Examination of Water and Wastewater, current edition or the latest edition of Methods for Chemical Analysis of Water and Wastes, EPA manual. Additionally, requirements set by the National Environmental Laboratory Accreditation Conference will be followed as mandated by the Texas Commission on Environmental Quality for state accreditation. Samples will be analyzed by these methods on the production basis, to include appropriate analytical quality assurance procedures. Records will be kept for documentation of the Performing Agency's quality assurance program and copies will be available to the Receiving Agency upon request. Unusual interferences and problems will be reported to the Receiving Agency at its authorized address noted above. Research into specific techniques to overcome these difficulties will be undertaken when practical, and by mutual agreement. The chain-of-custody sheet submitted with each sample will designate the particular analysis or analyses to be made of each sample submitted. The laboratory will be operated in such a manner as to insure the legal sufficiency of the sample handling; analytical and reporting procedures; and to remedy effects in the procedures should such be discovered.

The various laboratory personnel shall be directed upon receipt of written notice from the Receiving Agency 72 hours in advance, to appear and testify in enforcement actions. In such event, travel and per diem expenses for such employees shall be paid by the Receiving Agency. Travel and per diem for court appearances hereunder shall be based on current State laws.

Receiving Agency may deliver to Performing Agency samples for analysis separate and apart from those samples collected by the Performing Agency. When the Receiving Agency delivers samples to the Performing Agency for analysis, the Receiving Agency shall indicate the nature and extent of the analyses it desires to be conducted. Performing Agency shall not be responsible for the manner of collection or

chain-of-custody or sheets which are matters entirely outside Performing Agency's control. Performing Agency shall receive, log and perform such analyses of samples in accordance with that part of the chain-of-custody procedures identified as Transfer of Custody and Storage attached hereto.

Samples analyzed to maintain the normal quality assurance program which the Performing Agency presently maintains in its laboratory will be charged to the Receiving Agency at the same rate as submitted samples.

B. TERMINATION

Either party to this Contract may terminate the Contract by giving the other party thirty day notice in writing at their authorized address as noted previously. Upon delivery of such notice by either party to the other and before expiration of the thirty day period, the Performing Agency will proceed promptly to cancel all existing orders, contracts, and obligations which are chargeable to this Contract. As soon as practicable after notice of termination is given, the Performing Agency will submit a voucher for work performed under this Contract through its termination. The Receiving Agency will pay the Performing Agency for the work performed less all prior payments. Copies of all completed or partially completed reports, documents, and studies prepared under this Contract will be delivered by the Performing Agency to the Receiving Agency when and if this Contract is terminated prior to the completion of the prescribed work.

C. AMENDING THE CONTRACT

The parties hereto without invalidating this Contract may alter or amend this Contract upon advance written agreement of both parties to exclude work being performed or to include additional work to be performed and to adjust the consideration to be paid hereunder by virtue of alterations or amendments.

III. BASIS FOR CALCULATING REIMBURSABLE COSTS

The financial basis for calculating reimbursable costs shall be as stated in Attachment A, said Attachment A shall be revised and updated annually. Any revisions will be incorporated by reference herein. A cost analysis shall be prepared each year by the Trinity River Authority of Texas and shall be approved by the Trinity River Authority of Texas Board of Directors prior to effective date of said revision.

The expenditures by the Trinity River Authority of Texas of funds paid to it under this Contract shall be subject to such State or Federal audit procedures as may be required by law and by accepted practices of the State or Federal auditor, or both, if requested. The Trinity River Authority of Texas shall be responsible for maintaining books of account that clearly, accurately and currently reflect financial transactions. The financial records must include all documents supporting entries on the account records which substantiate costs. The Trinity River Authority of Texas must keep the records readily available for examination for a period of three years after the close of the last expenditure.

IV. CONTRACT AMOUNT

The total costs charged by the Authority to the Receiving Agency shall not exceed **Four Thousand Dollars (\$4,000)** per annum during the term of this Contract, unless mutually agreed by the parties hereto.

V. PAYMENT FOR SERVICES

The Performing Agency shall bill the Receiving Agency monthly for services performed. Charges for these services shall be based on the attached cost schedules.

The Receiving Agency shall pay the monthly billings of the Performing Agency within thirty days of their receipt.

VI. TERM OF CONTRACT

This Contract is to begin **October 1, 2014** and shall terminate **September 30, 2015**, subject to Section II, paragraph B of this contract.

VII. INTERLOCAL AGREEMENT

Inasmuch as the Receiving Agency and the Performing Agency are political subdivisions of this state, and inasmuch as the testing of water and wastewater are critical to the maintenance of public health and such testing is therefore, a governmental function and service, this contract is entered into pursuant to the Interlocal Cooperation Act, Chapter 791, Texas Government Code.

Receiving Agency:

TOWN OF ADDISON

BY: _____

CITY MANAGER

DATE: _____

ATTEST: _____
(SEAL)

Performing Agency:

TRINITY RIVER AUTHORITY OF TEXAS

BY: _____

GENERAL MANAGER

DATE: _____

ATTEST: _____
(SEAL)

CHAIN-OF-CUSTODY PROCEDURES

Sample Collection and Shipment

1. To the maximum extent achievable, as few people as possible should handle a sample.
2. Stream and effluent samples should be obtained using standard field sampling techniques and preservation procedures.
3. Chain-of-Custody sheets should be attached to each sample at the time it is collected. Sample containers must be appropriate for requested testing with appropriate preservation and legibly labeled.
The tag or sheet contains basically laboratory (requested parameters) information; however, certain identifying items including City, City Code, Contact Name and Phone Number, Type Sample Matrix, Material Sampled, and Method of Preservation must be completed by the field personnel collecting the sample.
In completing the Chain-of-Custody tag or sheet, care should be utilized to insure that all necessary information is correctly and legibly entered onto the form. A black ballpoint with water proof ink should be used at all times.
4. During shipment, samples should be appropriately cooled. TRA lab receiving technician will check temperature.

Transfer of Custody and Storage

1. All samples should be handled by the minimum possible number of persons.
2. All incoming samples shall be received by the laboratory technician or his alternate, and logged into a database. Information to be entered into the database shall include the client sample number, date received, source, time(s) sampled, date(s) sampled, and analyses requested and comments from the Chain of Custody.
3. Promptly after logging, the custodian technician will distribute the sample to an analyst or place the sample in the secure sample vault, which will be locked at all times except when samples are removed or returned by analysts. The sample will be tracked internally in the lab.
4. Samples shall be kept in the sample storage security area at all times when not actually being used by analysts, such as during overnight absences. The technician shall ensure that heat-sensitive samples, or other sample materials having unusual physical characteristics, or requiring special handling, are properly stored and maintained.
5. A log of sample removal and replacement will be kept in the secure sample vault and be retained as a permanent record of the laboratory.
6. The original Chain of Custody and a Sample Evaluation/Variance record shall be sent by the laboratory to the appropriate Receiving Agency control point as part of the final data report.

EXHIBIT A

TECHNICAL SERVICES FEE SCHEDULE

FOR

LABORATORY ANALYSES,

INDUSTRIAL INSPECTIONS

AND

INDUSTRIAL SAMPLING

FISCAL YEAR 2015

December 1, 2014 through November 30, 2015

NELAP CERTIFICATE T104704287-10-TX

CHEMICAL ANALYSES

Liquid Samples

	2014	2015	%		2014	2015	%
Alkalinity:				Phosphorus:			
Total (*) (**)	\$11.50	\$12.40	7.83	Ortho (*)	\$12.80	\$14.50	13.28
				Total (*)	\$23.25	\$25.66	10.11
Biochemical Oxygen Demand:				Solids Testing (Gravimetric):			
5-Day (*)	\$27.00	\$28.50	5.56	Total (TS)	\$13.25	\$14.50	16.56
5-Day Carbonaceous (*)	\$29.50	\$32.00	8.47	Total Dissolved (TDS) (*)	\$20.50	\$24.30	7.79
5-Day Filtered (Dissolved)	\$36.00	\$39.00	8.33	Total Suspended (TSS) (*)	\$18.00	\$18.50	0.9
7-Day	\$33.75	\$36.00	6.67	Volatile Suspended (VSS) (*)	\$9.00	\$ 9.50	5.56
Extra Dilution (Each)	\$ 2.50	\$ 2.50	0.0	(after TSS)			
				Percent Solids, Total and Volatile	\$15.50	\$16.50	1.55
				Sulfate (*)	\$12.10	\$13.40	10.74
Chlorophyll "a"	\$19.00	\$21.00	10.53				
Chlorophyll "a" and Pheophytin	\$24.50	\$29.60	20.08	Turbidity (*) (**)	\$10.50	\$11.50	10.5
Chemical Oxygen Demand (*)	\$16.00	\$16.00	0.0	UV254	\$21.00	\$22.90	3.99
Chloride (*)	\$12.10	\$13.40	10.74				
Conductance, Specific (*) (**)	\$ 9.50	\$10.25	7.89	Mercury (*) (**)	\$24.75	\$25.00	1.01
Cyanide				Metals (EPA 200.8) (*) (**) (***)	\$13.20ea	\$14.80 ea	12.12
Total (*)	\$39.70	\$41.55	4.66	Aluminum			
Amenable to Chlorination (*)	\$51.00	\$55.45	8.73	Arsenic			
Fluoride, Total (**)	\$12.10	\$13.40	10.74	Antimony			
Glycols	\$14.25	\$16.00	24.9	Barium			
Hardness (*) (**)	\$20.00	\$22.40	12.00	Beryllium			
Nitrogen:				Boron			
Ammonia (*)	\$13.45	\$15.50	15.24	Cadmium			
Ammonia by Distillation (*)	\$22.60	\$25.10	11.06	Chromium			
Kjeldahl, Total (*)	\$23.50	\$23.50	10.74	Cobalt			
Nitrate (*)	\$12.10	\$13.40	10.74	Copper			
Nitrite (*)	\$12.10	\$13.40	10.74	Iron			
Total	\$45.25	\$45.25	0.0	Minerals (*)	\$13.20ea	\$14.80 ea	12.12
Oil and Grease (*)	\$53.00	\$57.40	8.30	Calcium			
Organic Carbon:				Magnesium			
Dissolved	\$22.00	\$25.30	7.26	Potassium (***)			
Total (*) (**)	\$19.00	\$23.30	8.17	Silica			
				Sodium			
pH (*)	\$11.00	\$11.50	4.54				

Solid Samples

Ammonia (***)	\$29.80	\$25.10	-1.40
Chemical Oxygen Demand	\$37.00	\$40.15	8.51
Nitrogen, Kjeldahl, Total	\$30.00	\$30.00	0.0
Phosphorus, Total (***)	\$27.00	\$29.53	6.83
pH (***)	\$15.00	\$16.00	0.15
Mercury (***)	\$53.50	\$54.25	1.4
Metals Preparation	\$29.25	\$29.25	0.0

NELAC Accreditation
 * Non-Potable Water
 ** Drinking Water
 *** Solids

MICROBIOLOGICAL ANALYSES

Drinking Water:	2014	2015	%	Other:	2014	2015	%
Total Coliform (MMO/MUG) (**)	\$14.50	\$ 16.00	1.03	Coliform, Fecal (Membrane Filter) (*)	\$16.00	\$ 16.75	4.69
Heterotrophic Plate Count	\$17.00	\$ 18.00	0.58	Coliform, Fecal (MPN) (***)	\$45.25	\$ 48.00	6.08
				Coliform, Total (MPN-Q Tray)	\$16.50	\$ 17.75	7.58
				E. Coli (MPN-Q Tray) (*)	\$16.50	\$ 18.00	9.09
				Streptococcus, Fecal (Membrane Filter) (*)			
					\$16.50	\$ 17.50	6.06
				Heterotrophic Plate Count	\$17.00	\$ 18.00	5.88
				Microscopic General Examination	\$25.00	\$ 25.00	0.0

TRACE ORGANIC (GC-GC/MS) ANALYSES

	2014	2015	%	Pesticides/PCB	2014	2015	%
EPA 624 (*)				Extraction/Preparation			
14 Day (preserved)	\$120.00	\$152.00	26.6	Liquids	\$ 90.00	\$ 97.90	8.87
3 Day (unpreserved)	\$180.00	\$204.60	13.70	Solids	\$ 40.00	\$ 40.00	0.0
BTEX (only)	\$110.00	\$110.00	0.0				
Trip Blanks	\$ 65.00	\$ 62.00	-1.95	EPA 608 (*)			
Geosmin/MIB	\$100.00	\$ 85.50	-14.50	Full List	\$110.00	\$189.70	87.67
				Chlorinated Pesticides (only)	\$ 95.00	\$ 95.00	0.0
EPA 625(*)				PCB (aqueous&solid)	\$ 95.00	\$ 95.00	0.0
Total Semi-Volatiles	\$200.00	\$215.73	7.86				
Semi-volatile Trip Blank	\$175.00	\$175.00	0.0				
EPA 525				EPA 8082			
Atrazine	\$160.00	\$160.00	0.0	Polychlorinated Biphenyls (PCB)	\$99.00	\$ 99.00	0.0

BY QUOTE

Chromium Hexavalent
Oil and Grease (solids)
Organophosphate Pesticide
Phenols
TCLP Metals
TCLP Organic Compounds
Total Petroleum Hydrocarbons (solids and liquids)

NELAC Accreditation
* Non-Potable Water
** Drinking Water
*** Solids

INDUSTRIAL PRETREATMENT SERVICES

<u>SAMPLING</u>	2014	2015	%	<u>PRETREATMENT ASSISTANCE</u>	2014	2015	%
Composite Sample	\$115.00	\$ 130.00	13	Inspection	\$120.00	\$ 260.00	117
Additional Composite Sample	\$ 40.00	\$ 50.00	25	Permit Preparation (New)	\$170.00	\$ 775.00	356
Grab Sample	\$ 48.00	\$ 70.00	46	Field Surveillance Event	\$260.00	\$ 440.00	69
Additional Grab Sample	\$ 11.00	\$ 20.00	82				
pH only	\$ 53.00	\$ 60.00	13				
Field pH	\$ 6.50	\$ 10.00	54				
Field Measurement	\$ 11.00	\$ 20.00	82				
Sampling Event Cost for a Failed Sample	\$ 58.00	\$ 90.00	55				
Industry Split Sample	\$ 20.00	\$ 20.00	0				
Boat Fee	\$ 40.00	\$ 95.00	138				
QA/QC Fee	\$ 10.00	\$ 15.00	50				

* Note – The following have been deleted for FY 2015
 1. Inspection On-Site Unpermitted \$100.00
 2. Permit Renewal \$105.00

- ~Grab Sampling
- ~Delivery to TRA Laboratory
- ~Field Testing Available
- ~Sample Preservation
- ~Proper Chain of Custody

- ~Installation of Automatic Composite Samplers
- ~Verification of Application Data
- ~Consultation with Industries on Industrial Pretreatment
- ~Chemical Inventory Review
- ~Industry Split Sampling

NELAC Accreditation
 * Non-Potable Water
 ** Drinking Water
 *** Solids

GENERAL SERVICE INFORMATION

1. Effective Date: December 1, 2015. All prices listed are per sample and subject to review.
2. All analyses are performed in accordance with "Standard Methods for the Examination of Water and Wastewater," 20th Edition, 1998 or most recent approved and/or EPA "Manual of Methods for Chemical Analysis of Water and Wastes," 1983 and the "3rd Edition of Solid Waste Manual SW 846."
3. Prices include a 10 percent charge added to the analyses cost to maintain the normal quality assurance program.
4. Standard turn-around time is considered 15 business days for most testing. Priority is half of the standard time. Customer requiring PRIORITY turn-around time will be billed at one and one-half (1 ½) times the routine rate. Customer requiring RUSH turn-around time will be billed at two times the normal rate. It is recommended to call in advance of sample submission or inquire at the time of submission for estimated turn-around time.
5. The Laboratory will follow instructions as stated on the Chain-of-Custody submitted with samples. The Customer may be contacted by the lab representative on any variance issues and written instruction may be requested concerning the variance.
6. For EPA624 VOC 3 day analysis, do not lower the pH of the sample.
7. Sampling supplies will be provided upon request at a reasonable charge. Bacteriological sampling supplies are included in the cost of analyses.
8. Samples should be delivered to the laboratory before 4:00 p.m. on weekdays. Samples cannot be accepted on weekends or holidays unless special arrangements are made in advance. Bacteriological samples should be delivered prior to 2:00 p.m. unless special arrangements are made in advance. For after-hour samples, please call and arrange for leaving in cold storage vault with analyses request form.
9. A monthly invoice for completed analyses is mailed the following month.
10. Laboratory hours are weekdays 7:00 a.m. to 4:30 p.m. To contact the lab about emergency samples use the number below.
11. Environmental Field, Engineering Field and Pretreatment Services office hours are Monday through Friday, 8:00 a.m. to 5:00 p.m. For after-hour emergencies, leave message with computer operator.
12. Environmental Field and Engineering Field Services are requested to be scheduled a minimum of 72 hours in advance.
13. Laboratory Certificate Number T104704287-10-2.

FOR MORE INFORMATION, CONTACT:

METRO: (972) 263-2251

FAX: (972) 975-4414

WILLIAM B. CYRUS

**Manager
Technical Services**

JOHN DURBIN

**Manager
Collection System**

**CRAIG HARVEY
Laboratory Division
Chief**

**JENNIFER MOORE
Environmental Service
Coordinator**

**CHRIS PATIN
Technical Services Engineer**

**CATHY SIEGER
Quality Assurance
Coordinator**

**CRAIG CROWDER
Technical Services Engineer**

NELAC Accreditation
*Non-Potable Water
**Drinking Water
***Solids

Combined Meeting

R2d

Meeting Date: 10/14/2014

Council Goals: Create raving fans of the Addison Experience.
Mindful stewardship of Town Resources.
Maintain and enhance our unique culture of creativity and innovation.
Raise property values
Brand Protection and Enhancement
Continue to attract, hire, develop, and retain great employees
Infrastructure improvement and maintenance
Fully integrate the Arts as part of our brand
Look for Operational Efficiencies without cutting services
Enhance sense of community for all stakeholders/Expand
Volunteer Opportunities
Develop Next Great Idea
Promote Sustainability
Enhance Public Safety

AGENDA CAPTION:

Approval of and authorizing the City Manager to execute a Professional Services Contract with Barker Rinker Seacat Architecture for the Addison Athletic Club Master Plan in the amount of \$34,950.

FINANCIAL IMPACT:

The funding for the Addison Athletic Club Master Plan was approved by Council in the 2014/15 Budget as a Recreation department MLS (modified level of service) in the amount not to exceed \$40,000.

BACKGROUND:

Staff is recommending Barker Rinker Seacat Architecture to provide a building facility assessment and master plan for the Addison Athletic Club. This contract will look at: the existing MEP (mechanical, electrical and plumbing) facilities; office space/front desk circulation; possible opportunities for re-purposing existing space; increased storage options; opportunities for re-programming or future programming; remodeling of the existing locker rooms; furniture replacement; a TAS (Texas Accessibility Standards) review; and budgeting information for possible implementation.

RECOMMENDATION:

Administration recommends approval.

Attachments

Professional Services Agreement



Town of Addison Athletic Club Master Plan

AGREEMENT FOR PROFESSIONAL SERVICES

1. Understanding of the Project:

1.1. This Agreement for Feasibility Study Services (“Agreement”) is made on June 13, 2014 between The Town of Addison, Texas (“Owner”) and Barker Rinker Seacat Architecture P.C. (“Architect”)

1.1.1 INTRODUCTION

The Town of Addison has selected the Architect to provide professional services to provide a building facility assessment and master plan for the Addison Athletic Club located at 3900 Beltway Drive. The Architect and its sub consultants are a qualified architecture/engineering team with a proven history of providing architecture, engineering, management and consulting services specifically involving planning and design of fitness, community recreation, wellness and municipal recreation facilities.

1.1.2 BACKGROUND

The Addison Athletic Club offers multifaceted fitness programs and offers a variety of fitness and recreation amenities.



The Addison Athletic Club was opened in 1987 with an expansion in 2003 that added additional workout space, stretching areas and outdoor seasonal pools. The interior space is approximately 55,000 square feet and includes an indoor lap pool, hot tub, locker rooms, four racquetball courts, gymnasium, indoor track, aerobic studio, conference room, multipurpose room, coffee service area and fitness area. There are over 100 pieces of cardio and weight equipment located throughout the building and fitness area. The outdoor seasonal pool area has two pools, bathrooms, showers, and shaded areas beneath the fitness area. Over 40 programs are offered on a regular basis to seniors, children/families, and adults. The facility sees up to 400 visitors on the busiest days and approximately 125,000 visits per year. Membership is open only to Addison residents and Town of Addison employees with 3,800 active members. There is a one-time \$10 membership fee to join, and memberships are renewed annually to keep the membership database current.

The Club not only serves the community as a fitness center, but also provides a community center atmosphere with senior activities and children’s camps. A children’s activity center is located on the first floor where members who want to work out or attend a fitness class can

drop off their kids for up to 2 hours. The multipurpose room is used for a children's summer camp and spring break camp, as well as, a meeting space for classroom activities and civic organization meetings. The conference room serves a dual purpose as a meeting space and a small library, which is overseen by a member library club. A small kitchen adjoins the conference room.

Parks and Recreation Department Action Plan - The selected firm/consultant will be expected to provide a master plan that will serve as a guideline for determining strategies to accommodate existing and future programs, prioritizing building improvements and construction budgeting, which will be implemented over the next three years beginning in 2014.

1.1.3 SCOPE OF WORK

1. Architect agrees to provide those services described below and in Attachment A. The Architect will provide a facility assessment/space needs analysis and usage plan including MEP analysis, and recommendations of any possible extended use of the existing physical plant chiller system.
2. Provide office space/front desk circulation analysis with the goal of improving member/staff interaction.
3. Identify options for improving storage.
4. Identify options for re-programming and future programming of existing spaces, including but not limited to, the racquetball courts, shade structures (outdoor pool area), coffee service area, gym (expansion to the southwest side of the building).
5. Develop concepts and renderings for remodeling of the men's and women's locker rooms, re-configuring existing office spaces/front desk check-in and increased fitness/wellness class space. This will also apply to the areas summarized under item 4.
6. Develop a prioritized list of future improvements based on established department goals and the 2014 Athletic Club member survey for the Town's Capital Improvement Program (CIP), including suggested timelines/phases.
7. Provide a budget to both project and construction costs to include "soft costs" such as fees, furniture, surveys, materials testing and contingencies.
8. Provide a strategy and budget for furniture replacement.
9. Provide a TAS review of the existing site and facility along with a budget of recommended upgrades.
10. Over the course of three months, facilitate four (4) workshops in Addison with AAC staff, members and City Council.

PROJECT TIMELINE

Task	Months	1	2	3
Concept Design				
Workshop 1: Tour facility with Addison Athletic Club				
Work Period 1: Conduct facility space needs analysis and TAS review				
Workshop 2: Present findings and alternative concepts with preliminary budget				
Work Period 2: Based on Addison staff comments, revise concept				
Workshop 3: Present refined concept and master plan and budgets				
Work Period 3: Complete architectural renderings and report				
Workshop 4: Present budgets and renderings				

1.1.4 CITY RESPONSIBILITIES

- Provide maps, GIS information and available data as needed.
- Make presentations to public, boards and City Council.
- Set up and coordinate meeting times and locations.
- Provide printed materials and copies for meetings as needed.

2. Services Not Included:

2.1. Services as described in this Section are not included in Scope of Services above. The services described below shall only be provided if requested in writing by the Owner and upon Owner approval of Architect submitted written proposal for Change Order.

2.2. The following services are not included:

- 2.2.1. Provide additional trips to Addison not described in Attachment 1. Should additional trips be required by the City such additional trips will be provided at the rate of \$1,850 per person per day, plus project-related expenses such as project related travel.
- 2.2.2. Additional tasks, products, reports, marketing materials or additional trips, meetings, or presentations beyond those specified in Scope of Services above. Examples include conducting an online Survey Monkey instrument, or providing an exhaustive or detailed program delineating specifications of each program element.
- 2.2.3. Provide services involving preparation or procurement of detailed architectural renderings; computer renderings or animations beyond those identified in Section 1.1.3.5 above.
- 2.2.4. Provide engineering services for data, telephone, security, or environmental controls.
- 2.2.5. Provide services for kitchen or special vendor spaces.
- 2.2.6. Provide services for preliminary zoning or building department submittals or reviews.
- 2.2.7. Provide full Architectural, Engineering and Construction Services. The Owner reserves the right to amend this agreement and extend the Architect's scope of professional services to include Schematic Design, Design Development, Construction Documents: create development of construction plans, specifications, and bid documents for the facility, Bidding/Negotiations: Assist with bid evaluation and contractor award, assist with providing and submitting all necessary permit applications and obtain necessary approvals, and Construction Administration: provide construction oversight and other construction management services as required. This contract extension of the Architect's services would be on mutually agreed upon terms, fees and reimbursable costs.

3. Compensation:

Architect shall be compensated for providing the Services in the amount as noted on Attachment A – Scope of Service and Professional Fees. Architect shall bill Owner on a monthly basis for all services provided by Architect to Owner for the preceding month, and all reimbursable expenses as provided.

4. Reimbursable Expenses:

Expenses shall be billed based on actual cost of such expenses x 1.1 and shall include printing and document reproduction, postage, overnight delivery or courier services, electronic communications, photographs, and travel expenses. All Expenses shall be billed by Architect to Owner in the monthly billing following the month in which the expense is incurred. All "Service in Addition" reimbursable expenses shall be billed by Architect to Owner in the monthly billing following the month in which the expense is incurred. The reimbursable expense estimate submitted has been created based upon current information available to the architect. The architect hereby requests that, in the event that air fares or other expenses change during the study period, the City reimburse the consultants for the modified project-related expenses.

5. Payment to Architect:

Promptly upon receipt of billing from Architect, the Owner shall pay to the Architect the amount of invoice for Architect's Services as described under Compensation. All amounts payable to Architect which are not paid on or before the Payment Date shall bear interest at the rate of one and one half percent (1.5%) per month commencing sixty (60) days after the date of billing. In the event that payment of the amount due is not made within sixty (60) days of the Payment Date, Architect shall have the right to cease all activity under this Agreement until payment in full is received.

6. Termination:

Either party to this Agreement may terminate this Agreement on not less than five (5) days written notice to the other; provided, however, Owner shall be obligated for payment to Architect for all Services rendered by Architect to Owner prior to the date of such termination and shall pay such amount to Architect within five (5) days of receipt of a final billing from Architect.

7. Third-Party Rights:

The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Mediation rules of the American Arbitration Association currently in effect. Request for mediation shall be filed in writing with the other party to this Agreement and with the American Arbitration Association. The request may be made concurrently with the filing of a demand for arbitration but, in such event, mediation shall proceed in advance of arbitration or legal or equitable proceedings, which shall be stayed pending mediation for a period of sixty (60) days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

8. Attorney's Fees:

If any legal action or any other proceeding, including mediation, arbitration or an action for declaratory relief, is brought for the enforcement of this Agreement or because of an alleged dispute, breach, default or misrepresentation in connection with this Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees and costs of suit, in addition to any other relief to which the party may be entitled.

9. Ownership and Use of Services:

All plans, documents, drawings, models, specifications, reports and other tangible materials (collectively, "Documents") submitted by Architect to Owner as part of the Services are and shall remain the property of the Architect and the Owner, without regard as to whether the Project is finally executed or completed. Owner may not use the Documents for any other project or any extensions or modifications of the Project without the express written consent of the Architect. Owner shall not modify, alter or change any of the Documents without the express written consent of the Architect. Architect hereby consents to extensions or modifications provided the owner waives any claim against the Architect which arises as a result of the extensions or modifications.

10. Designated Representatives:

Owner shall designate an Owner's Representatives for all matters for the Owner under this Agreement and with respect to the Services to be performed by Architect for Owner. Owner's Representatives shall be available to Architect at all reasonable times for consultation with the Architect. Architect may conclusively rely on the decisions made by Owner's Representatives, including those which modify this Agreement after approval by the Town of Addison. The Owner designates Mr. Michael Kashuba, Town of Addison Parks Planner as the Owner's Representative.

Architect designates Steve Blackburn, Principal and Ken Berendt, Principal as Architect's Representative for all matters for the Architect under this Agreement and with respect to the Services

to be performed by Architect for Owner. Architect's Representatives shall be available to Owner at all reasonable times for consultation with Owner's Representatives. Owner may conclusively rely on the decisions made by Architect's Representatives, including those which modify this Agreement. Either party may change its Representative under this Agreement by giving written notice to the other party.

11. Attachments:

Attachment A1 – Project Schedule and Work Plan

12. Signatures:

**For the Architect:
Barker Rinker Seacat Architecture P.C.**



6/13/2014

Steve Blackburn, AIA, LEED AP, Principal

Date



6/13/2014

Ken Berendt, AIA, LEED AP, Principal

Date

**For the Owner:
Town of Addison, Texas**

Name and title

Date

Name and title

Date

Addison Athletic Club - Master Plan
Town of Addison, Texas

Attachment A: Scope of Services and Professional Fees

06.13.14

The following scope of services is proposed on a time and expenses (T&E) basis. The BRS Team shall provide The Town of Addison a facility assessment/space needs analysis and usage plan, MEP analysis and recommendations and TAS review and recommended upgrades.

	Arch. BRS	MEP	TAS	Estim.	Total Task
I. Project Kick-off & Initial Site Visit	\$ 3,920	\$ 1,200			\$ 5,120
II. Develop Space Needs Analysis, Office Space & Front Desk Analysis	\$ 3,670				\$ 3,670
III. Identify Options for improving Storage	\$ 1,550				\$ 1,550
IV. MEP Analysis and Recommendations	\$ 240	\$ 4,160			\$ 4,400
IV. Identify Programming Options	\$ 2,660				\$ 2,660
VI. Develop Plan Concepts and Renderings	\$ 4,640			\$ -	\$ 4,640
VII. Develop Budgets for Construction and Project Costs	\$ 1,180			\$ 2,500	\$ 3,680
VIII. Furniture Replacement Strategy & Budget	\$ 2,150			\$ -	\$ 2,150
IX. TAS Review and Upgrades			\$ 2,500	\$ -	\$ 2,500
SUB TOTAL	\$ 20,000	\$ 5,360	\$ 2,500	\$ 2,500	\$ 30,360
EXPENSES	\$ 3,554				\$ 3,554
MARK UP OF CONSULTANT SERVICES AND EXPENSES (X 1.1)					\$ 1,036
TOTAL SERVICES AND EXPENSES					\$ 34,950

ASSUMPTIONS:

- Construction estimates to be prepared by Eudacorp and reviewed by BRS.
- Does not include site survey or geotechnical investigations. Proposal available upon request.
- Does not include online Survey Monkey instrument. Proposal available upon request.
- Does not include Texas Franchise Tax (.00575) consultant is required to pay on professional services performed within the State of Texas.

Combined Meeting

R2e

Meeting Date: 10/14/2014

Council Goals: Continue to attract, hire, develop, and retain great employees

AGENDA CAPTION:

Approval of an ordinance providing for increased prior and current service annuities under the act governing the Texas Municipal Retirement system for retiree and beneficiaries of deceased retirees of the Town of Addison.

FINANCIAL IMPACT:

The item is approved as part of the Adopted FY 2015 Budget.

BACKGROUND:

The item will come before Council for action after presentation and discussion during the work session regarding Town of Addison Ad Hoc Cola Adoption for Town of Addison Retirees.

RECOMMENDATION:

Administration recommends approval.

Attachments

TMRS Ordinance

TOWN OF ADDISON, TEXAS

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS PROVIDING FOR INCREASED PRIOR AND CURRENT SERVICE ANNUITIES UNDER THE ACT GOVERNING THE TEXAS MUNICIPAL RETIREMENT SYSTEM FOR RETIREES AND BENEFICIARIES OF DECEASED RETIREES OF THE TOWN OF ADDISON, AND ESTABLISHING AN EFFECTIVE DATE FOR THE ORDINANCE.

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

Section 1. Increase in Retirement Annuities.

(a) On the terms and conditions set out in Section 854.203 of Subtitle G of Title 8, Government Code, as amended (the "TMRS Act"), the Town of Addison, Texas (the "City") hereby elects to allow and to provide for payment of the increases below stated in monthly benefits payable by the Texas Municipal Retirement System (the "System") to retired employees and to beneficiaries of deceased employees of the City under current service annuities and prior service annuities arising from service by such employees to the City. An annuity increased under this section replaces any annuity or increased annuity previously granted to the same person.

(b) The amount of the annuity increase under this section is computed as the sum of the prior service and current service annuities on the effective date of retirement of the person on whose service the annuities are based, multiplied by **70%** of the percentage change in Consumer Price Index for All Urban Consumers, from December of the year immediately preceding the effective date of the person's retirement to the December that is 13 months before the effective date of the increase under this Section.

(c) An increase in an annuity that was reduced because of an option selection is reducible in the same proportion and in the same manner that the original annuity was reduced.

(d) If a computation hereunder does not result in an increase in the amount of an annuity, the amount of the annuity will not be changed hereunder.

(e) The amount by which an increase under this Section exceeds all previously granted increases to an annuitant is an obligation of the City and of its account in the Benefit Accumulation Fund of the System.

Section 2. Effective Date. Subject to approval by the Board of Trustees of the System, this ordinance shall be and become effective on the 1st day of January 2015.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this the 14th day of October, 2014.

Todd Meier, Mayor

ATTEST:

By: _____
Chris Terry, City Secretary

APPROVED AS TO FORM:

By: _____
John Hill, City Attorney

Combined Meeting

R2f

Meeting Date: 10/14/2014

Council Goals: Establish a Non-Profit Funding Strategy

AGENDA CAPTION:

Approval of (i) Contracts for Services between the Town of Addison and the following non-profit agencies: Metrocrest Community Clinic, Metrocrest Chamber of Commerce, The Family Place, Metrocrest Services, CONTACT Crisis Line, United Basketball League - Texas Wranglers, WaterTower Theatre, and Addison Arbor Foundation, and (ii) an Agreement for the Use of the Addison Theatre Centre between the Town of Addison and Water Tower Theatre, subject to the final review and approval of the City Manager and City Attorney.

FINANCIAL IMPACT:

All contracts are fully funded within the General and Hotel Fund budgets as noted in the attached spreadsheet.

BACKGROUND:

During the budget process this summer, the City Council reviewed the following non-profit agency requests and funding amounts. Attached are the contracts for the non-profits. The attached contracts identify the scope of services which the individual non-profits will provide to the Town of Addison.

Notable general changes:

- Funding for the Family Place increased to \$12,000 to reflect increased program usage.
- Funding for Metrocrest Services increased to \$61,000 to reflect a year-over-year increase from the 2013 Merger with Senior Adult Services.
- Funding for the Arbor Foundation was about \$6,000 lower than last year. There were no major scoping changes; just a reduced cost for the selected projects.

There were also some changes to the use agreement for the Water Tower Theatre:

- Allowance of secure drinking cups to be taken into the Theatre by patrons during performances.
- Use of the Boardroom for rehearsals, events and meetings for an additional fee of \$500 per month, which is tacked onto their monthly rent.
 - Conference Center can still rent the Boardroom when not needed by WTT.
- Increase in rental rates in the Main Space and Studio Theatre.

- The last increase in rental was in 2006.

RECOMMENDATION:

Administration recommends approval.

Attachments

2015 Non Profit Summary

Metrocrest Community Clinic FY15 Contract

Water Tower Theatre FY15 Contract

Water Tower Theatre FY 15 Use Agreement

The Family Place FY15 Contract

Metrocrest Services FY15 Contract

Contact Crisis Line FY15 Contract

UBL Wranglers FY15 Contract

Arbor Foundation FY15 Contract

Summary of Nonprofit Grant Requests FY 2014-2015

Organization	Budgeted 13-14	Requested 14-15	Recommended 14-15	Contract Done	Contract Rec'd	Contract Sent	Payment Sent
CONTACT Crisis Line	\$ 7,500	\$ 15,000	\$ 7,500				
The Family Place	\$ 10,000	\$ 25,000	\$ 12,000				
Launchability	\$ 5,000	\$ 5,000	\$ 5,000				
Metrocrest Chamber of Commerce	\$ 35,000	\$ 35,000	\$ 35,000				
Metrocrest Family Medical Clinic	\$ 3,000	\$ 3,000	\$ 3,000				
Metrocrest Services*	\$ 50,000	\$ 61,000	\$ 61,000				
UBL - Texas Wranglers	\$ 2,000	\$ 30,000	\$ 2,000				
Dance Council	\$ 7,000	\$ 7,000	\$ -	-	-	-	-
WaterTower Theatre	\$ 445,000	\$ 445,000	\$ 445,000				
Addison Arbor Foundation	\$ 53,400	\$ 47,500	\$ 47,500				
Trinity Christian Academy**	\$ -	\$ 5,000	\$ -	-	-	-	-
Total	\$617,900	\$673,500	\$618,000				

*Funding request was consolidated with Senior Adult Services for FY13-14

**Cannot be awarded funding under Article 3, Section 52 of the Texas Constitution

Summary of Nonprofit Grant Requests FY 2014-2015

Organization	Budgeted 13-14	Request 14- 15	CM Proposed 14- 15	Notes	Lea's Comments
CONTACT Crisis Line	\$ 7,500	\$ 15,000	\$ 7,500	Funding increased by \$2,500 last year. Application explains cost for service, but does not explain what is driving the increased request. Organization is also receives funding from Midday Rotary race.	
The Family Place	\$ 10,000	\$ 25,000	\$ 12,000	Request is an increase of 150%. Rationale for extra funding is an program usage increase of 13%. Number of Addison residents served increased from 57 - 60. However, as usage, not number of residents, is the primary driver of cost, increase reflects program usage.	
Launchability	\$ 5,000	\$ 5,000	\$ 5,000	No change from prior year request.	
Metrocrest Chamber of Commerce	\$ 35,000	\$ 35,000	\$ 35,000	No change from prior year request.	
Metrocrest Family Medical Clinic	\$ 3,000	\$ 3,000	\$ 3,000	No change from prior year request. Some indication that they may adjust their request to \$10,000. However, staff has not seen quantitative justification for this increase.	
Metrocrest Social Services	\$ 50,000	\$ 61,000	\$ 61,000	Year over year increase resulted from 2013 merger with Senior Adult Services. Some indication that MSS may wish to more fully explain their funding. Number of residents served expected to increase 4% next year, therefore, an additional \$2,000 might be appropriate if any increase is approved.	
UBL - Texas Wranglers	\$ 2,000	\$ 30,000	\$ 2,000	No change from prior year request.	
Dance Council	\$ 7,000	\$ 7,000	\$ -	No change from prior year request. Hotel Fund.	
WaterTower Theatre	\$ 445,000	\$ 445,000	\$ 445,000	No change from prior year request. Hotel Fund.	
Addison Arbor Foundation	\$ 53,400	\$ 47,500	\$ 47,500	2015 proposed projects include North/South quorum sculptures and Beltway corridor plantings.	
Trinity Christian Academy**	\$ -	\$ 5,000	\$ -	Cannot award grant funding under Article 3, Section 52 of the Texas Constitution. It does not prohibit contracts for services, but this is not the request.	
Total	\$617,900	\$673,500	\$618,000		

Contact Name	email	phone	Organization	Street Address	City	State	Zip
Mary Jo Cater	maryjo_cater@yahoo.com	972-934-0617	Addison Arbor Foundation	P.O. Box 1649	Addison	TX	75001
Greg Patterson	gpatterson@watertowertheatre.org	972-450-6227	WaterTower Theatre, Inc.	15650 Addison Road	Addison	TX	75001
Carol Casmus	ccasmus@contactcrisisline.org	972-233-0866	Contact Crisis Line	P.O. Box 800742	Richardson	TX	75380
Ozzie Denson	coachdenson32@yahoo.com	972-781-8120	UBL Texas Wranglers	1200 East Davis Suite 115-204	Mesquite	TX	75181
Karen Miller	kmmiller@familyplace.org	214-443-7718	The Family Place	P.O. Box 7999	Dallas	TX	75209
Tracy Eubanks	teubanks@metrocrestsocialservices.org	972-446-2101	Metrocrest Social Services Metrocrest Community Clinic Formerly	13801 Hutton Drive, #150	Farmers Branch	TX	75234
Jane Wood Hawkins	janehawkinsmfm@sbcglobal.net	972-484-6336	Metrocrest Family Medical Clinic	One Medical Parkway, Ste 149	Farmers Branch	TX	75234
Lisa Hermes	lisa@metrocrestchamber.com	469-587-0420	Metrocrest Chamber of Commerce	5100 Belt Line Road, Suite 430	Dallas	TX	75254
Kathryn Parsons	kathryn.parsons@launchability.org	972-991-6777 ext 7161	LaunchAbility	4350 Sigma Road #100	Dallas	TX	75244
Pam Deslorieux	director@thedancecouncil.org	214-219-2290	The Dance Council	3630 Harry Hines Boulevard	Dallas	TX	75204
Alex Wilson	alexw@cisdallas.org	214-827-0966 ext 259	Communities In Schools Dallas Region, Inc.	8700 N Stemmons Fwy, Ste 125	Dallas	TX	75247

STATE OF TEXAS

§

CONTRACT FOR SERVICES

COUNTY OF DALLAS

§

§

This Contract for Services (“Contract”) is made and entered into as of the 1st day of October, 2014 by and between the Town of Addison, Texas (the “City”), and On Eagles Wings dba Metrocrest Community Clinic (“Metrocrest Community Clinic”).

WITNESSETH:

WHEREAS, Metrocrest Community Clinic is a private, non-profit organization established under the laws of the State of Texas for the purpose of improving the health of the local community by offering low cost treatment for minor medical problems for children and adults; and

WHEREAS, the success or failure of Metrocrest Community Clinic purposes and objectives has a direct impact on the health and welfare of the citizens of the City; and

WHEREAS, the City has full power of local self government, has authority to contract with other persons, has authority to adopt regulations that are for the good government, peace, and order of the City, has authority to enforce laws reasonably necessary to protect the public health, has authority to provide public health services as set forth in Chapter 121, Tex. Health and Safety Code and other law, and the services provided by Metrocrest Community Clinic hereunder are in the public interest and are for, constitute and serve a public purpose in promoting the health and welfare of the citizens of the City.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements hereinafter set forth, the benefits flowing to each of the parties hereto, and other good and valuable consideration, the Town of Addison, Texas and Metrocrest Community Clinic do hereby contract and agree as follows:

I. TERM

The term of this Contract shall be for a period of one year from the 1st day of October, 2014 through the 30th day of September, 2015, except as otherwise provided for herein.

II. SERVICES

Metrocrest Community Clinic covenants and agrees that it shall:

(a) Provide low cost treatment for minor medical problems, during normal operating hours of the clinic, for children and adults living in Addison;

(b) Provision of evening medical clinics, staffed by volunteer personnel, which provide medical attention to the residents of our service area who would otherwise not be able to receive treatment of episodic medical attention;

(c) Address orientation of each individual client with sudden loss of medical insurance benefits to resources to meet their often complex medical needs;

(b) Present a mid-year written report to the City on the progress and status of services provided by Metrocrest Community Clinic and provide quarterly status reporting to the City in a mutually agreed upon form;

(c) Submit detailed quarterly financial statements and program results to the City within thirty (30) days after the end of the preceding quarter explaining all expenditures.

III. COMPENSATION

For the operation and provision of the services, projects and programs of Metrocrest Community Clinic as described herein, the City shall pay Metrocrest Community Clinic the sum of Three Thousand and No/100 Dollars (\$3,000.00). Such sum shall be paid on or before January 1, 2015, provided Metrocrest Community Clinic is not then in default of this Contract.

IV. RESPONSIBILITY; INDEMNIFICATION

(a) METROCREST COMMUNITY CLINIC AGREES TO ASSUME AND DOES HEREBY ASSUME ALL RESPONSIBILITY AND LIABILITY FOR DAMAGES OR INJURIES SUSTAINED BY PERSONS OR PROPERTY, WHETHER REAL OR ASSERTED, BY OR FROM THE PERFORMANCE OF SERVICES PERFORMED AND TO BE PERFORMED HEREUNDER BY METROCREST COMMUNITY CLINIC, ITS OFFICIALS, OFFICERS, EMPLOYEES, OWNERS, MEMBERS, AGENTS, SERVANTS, INVITEES, GUESTS, VOLUNTEERS, CONTRACTORS, SUBCONTRACTORS, OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM OR ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE.

(b) ***INDEMNITY OWED BY METROCREST COMMUNITY CLINIC.*** Metrocrest Community Clinic covenants and agrees to **FULLY DEFEND, INDEMNIFY AND HOLD HARMLESS** the Town of Addison, Texas and the elected officials, the officers, employees, representatives, and volunteers of the Town of Addison, Texas, individually or collectively, in both their official and private capacities (the Town of Addison, Texas and the elected officials, the officers, employees, representatives, and volunteers of the Town of Addison, Texas each being an “Addison Person” and collectively the “Addison Persons”), from and against any and all costs, claims, liens, harm, damages, losses, expenses, fees, fines, penalties, proceedings, judgments, actions, demands, causes of action, liability, and suits, of any kind and nature whatsoever made upon or incurred by any Addison Person, whether directly or indirectly, (the “Claims”), that arise out of, result from, or relate to: (1) the Services as described in Section II of this Contract; (2) representations or warranties by Metrocrest Community Clinic under this Contract; and/or (3) any other act or omission under or in performance of this Contract by Metrocrest Community Clinic, or any owner, officer, director, manager, employee, agent, representative, consultant, contractor, subcontractor, licensee, invitee, patron, guest, customer, or concessionaire of or for Metrocrest Community Clinic, or any other person or entity for whom Metrocrest Community Clinic is legally responsible, and their respective owners, officers, directors, managers, employees, agents, representatives, consultants, contractors, subcontractors, licensees, , invitees, patrons, guests, customers, and

concessionaires. 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 OR GROSS NEGLIGENCE OF ANY ADDISON PERSON, OR CONDUCT BY ANY ADDISON PERSON THAT WOULD GIVE RISE TO STRICT LIABILITY OF ANY KIND.

Metrocrest Community Clinic shall promptly advise the City in writing of any claim or demand against any Addison Person or Metrocrest Community Clinic related to or arising out of Metrocrest Community Clinic's activities under this Contract and shall see to the investigation and defense of such claim or demand at Metrocrest Community Clinic'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 Metrocrest Community Clinic of any of its obligations hereunder.

The provisions of this defense, indemnity, and hold harmless obligation, and any other defense, indemnity, and hold harmless obligation set forth in this Contract, shall survive the termination or expiration of this Contract.

V. TERMINATION

This Contract may be canceled and terminated by either party at any time and for any reason upon giving at least thirty (30) days written notice of such cancellation and termination to the other party hereto. Such notice shall be sent certified mail, return receipt requested, and to the most recent address shown on the records of the party terminating the Contract. The thirty (30) day period shall commence upon deposit of the said notice in the United States mail and shall conclude at midnight of the 30th day thereafter. In the event of such cancellation and termination and if Metrocrest Community Clinic has failed at the time of such cancellation and termination to provide all of the services set forth herein, Metrocrest Community Clinic shall refund to the City that portion of funds paid to Metrocrest Community Clinic under the terms of this Contract in accordance with the following: Prorata funding returned to the City by Metrocrest Community Clinic shall be determined by dividing the amount paid by the City under this Contract by 365 (the "daily rate"), and then multiplying the daily rate by the number of days which would have remained in the term hereof but for the cancellation or termination. Upon payment or tender of such amount, all of the obligations of Metrocrest Community Clinic and the City under this Contract shall be discharged and terminated (except as otherwise provided herein, e.g., except for obligations and responsibilities as may survive termination or cancellation of this Contract as provided for in this Contract) and no action shall lie or accrue for additional benefit, consideration or value for or based upon the services performed under or pursuant to this Contract.

VI. CONFLICT OF INTEREST

(a) No officer or employee of the City shall have any interest or receive any benefit, direct or indirect, in this Contract or the proceeds thereof. This prohibition is not intended and should not be construed to preclude payment of expenses legitimately incurred by City officials in the conduct of the City's business. No officer or employee of Metrocrest Community Clinic shall have any financial interest, direct or indirect, in this Contract or the proceeds thereof.

(b) For purposes of this section, “benefit” means anything reasonably regarded as an economic advantage, including benefit to any other person in whose welfare the beneficiary is interested, but does not include contributions or expenditures made and reported in accordance with any law.

VII. ACCOUNTING

Prior to adopting its annual budget, Metrocrest Community Clinic shall submit for the City’s review a budget showing the use of the City’s funds provided pursuant to this Contract, and Metrocrest Community Clinic shall make such periodic reports to the City, as provided for herein, listing the expenditures made by Metrocrest Community Clinic from the funds provided by the City. The approval of Metrocrest Community Clinic’s annual budget creates a fiduciary duty in Metrocrest Community Clinic with respect to the funds provided by the City under this Contract.

The funds paid to Metrocrest Community Clinic pursuant to this Contract shall be maintained in a separate account established for that purpose and may not be commingled with any other money. Funds received hereunder from the City may be spent for day to day operations, supplies, salaries and other administrative costs provided that such costs are necessary for the promotion and encouragement of the purposes for which the funds may be used as described herein.

Metrocrest Community Clinic shall maintain complete and accurate financial records of all of its revenues, including, without limitation, each expenditure of revenue received pursuant to this Contract. By the thirtieth (30th) day after the close of each quarter (beginning with the quarter ending December 31, 2014, with the last quarter ending September 30, 2015), Metrocrest Community Clinic shall provide the City the following: (a) a detailed financial report for the previous quarter listing the expenditures made by Metrocrest Community Clinic of the funds paid to Metrocrest Community Clinic under this Contract; and (b) a year-to-date report of the expenditures made by Metrocrest Community Clinic of the funds paid to Metrocrest Community Clinic under this Contract (and if this Contract is terminated prior to its expiration, Metrocrest Community Clinic shall provide such reports as set forth above for the period prior to the expiration for which reports have not been provided, and such obligation shall survive the termination hereof; and the obligation to provide the reports for the last quarter of this Contract shall survive the expiration of this Contract). On request of the City at any time, Metrocrest Community Clinic shall make its records available for inspection and review by the City or its designated representative(s). Within ninety (90) days of the end of Metrocrest Community Clinic’s fiscal year, Metrocrest Community Clinic shall provide the City with a financial statement signed by the Chairman of Metrocrest Community Clinic’s Board of Directors (or other person acceptable to the City) and audited by an independent Certified Public Accountant, setting forth Metrocrest Community Clinic’s income, expenses, assets and liabilities, and such obligation shall survive the termination or expiration of this Contract.

All application materials, financial information, quarterly (or other) reports, any other information described herein or required hereunder, and general correspondence with the City must be submitted to the City in electronic format to the City email address specified in the application packet. Additionally, the City may require that such materials, information, reports, and correspondence also be provided to the City in writing (e.g., a hard-copy, non-electronic format).

VIII. INDEPENDENT CONTRACTOR

In performing services under this Contract, the relationship between the City and Metrocrest Community Clinic is that of independent contractor, and the City and Metrocrest Community Clinic by the execution of this Contract do not change the independent status of Metrocrest Community Clinic. Metrocrest Community Clinic is an independent contractor, and no term or provision of this Contract or action by Metrocrest Community Clinic in the performance of this Contract is intended nor shall be construed as making Metrocrest Community Clinic the agent, servant or employee of the City, or to create an employer-employee relationship, a joint venture relationship, or a joint enterprise relationship, or to allow the City to exercise discretion or control over the manner in which Metrocrest Community Clinic performs the services which are described in this Contract.

IX. NON-ASSIGNABILITY; NO THIRD-PARTY BENEFIT

Metrocrest Community Clinic may not and shall have no authority to assign, transfer, or otherwise convey by any means whatsoever this Contract or any of the rights, duties or responsibilities hereunder without obtaining the prior written approval of the City, and any attempted assignment, transfer, or other conveyance of this Contract without such approval shall be null and void and be cause for immediate termination of this Contract by the City.

This Contract is solely for the benefit of the parties hereto and is not intended to and shall not be deemed to create or grant any rights, contractual or otherwise, to any third person or entity.

X. NO PARTNERSHIP, JOINT VENTURE, OR JOINT ENTERPRISE

Nothing contained in this Contract shall be deemed to constitute that the City and Metrocrest Community Clinic are partners or joint venturers with each other, or shall be construed or be deemed to establish that their relationship constitutes, or that this Contract creates, a joint enterprise.

XI. NON-DISCRIMINATION

During the term of this Contract, Metrocrest Community Clinic agrees that it shall not discriminate against any employee or applicant for employment because of race, age, color, sex or religion, ancestry, national origin, place of birth, or handicap.

XII. LEGAL COMPLIANCE; CONTRACT SUBJECT TO LAWS; RECITALS

Metrocrest Community Clinic shall observe and abide by, and this Contract is subject to, all applicable federal, state, and local (including the City) laws, rules, regulations, and policies (including, without limitation, the Charter and Ordinances of the City), as the same currently exist or as they may be hereafter amended. The above and foregoing recitals to this Contract are true and correct and incorporated herein and made a part hereof.

XIII. VENUE; GOVERNING LAW

In the event of any action under this Contract, exclusive venue for all causes of action shall be instituted and maintained in Dallas County, Texas. The parties agree that the laws of the State of Texas shall govern and apply to the interpretation, validity and enforcement of this Contract; and, with respect to any conflict of law provisions, the parties agree that such conflict of law provisions

shall not affect the application of the law of Texas (without reference to its conflict of law provisions) to the governing, interpretation, validity and enforcement of this Contract.

XIV. COUNTERPARTS

This Contract may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

XV. NO WAIVER; RIGHTS CUMULATIVE

The failure by either party to exercise any right or power, or option given to it by this Contract, or to insist upon strict compliance with the terms of this Contract, shall not constitute a waiver of the terms and conditions of this Contract 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. The rights or remedies under this Contract are cumulative to any other rights or remedies, which may be granted by law.

XVI. NOTICES

All notices, communications and reports, required or permitted under this Contract shall be personally delivered or mailed to the respective parties using certified mail, return receipt requested, postage prepaid, at the addresses shown below. The City and Metrocrest Community Clinic agree to provide the other with written notification within five (5) days, if the address for notices, provided below, is changed. Notices by personal delivery shall be deemed delivered upon the date delivered; mailed notices shall be deemed communicated on the date shown on the return receipt. If no date is shown, the mailed notice shall be deemed communicated on the third (3rd) day after depositing the same in the United States mail.

The City's address:

Matthew McCombs
Assistant to the City Manager
Town of Addison
5300 Belt Line Road
Dallas, Texas 75254

Metrocrest Community Clinic's address:

Jane Wood Hawkins
Executive Director
Metrocrest Community Clinic
1 Medical Parkway, Suite 149
Dallas, Texas 75234

XVII. SEVERABILITY

The terms of this Contract are severable, and if any section, paragraph, clause, or other portion of this Contract shall be found to be illegal, unlawful, unconstitutional or void for any reason, the balance of the Contract shall remain in full force and effect and the parties shall be deemed to have contracted as if said section, paragraph, clause or portion had not been in the Contract initially.

XVIII. AUTHORITY TO EXECUTE CONTRACT

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

XIX. ENTIRE CONTRACT

This Contract represents the entire and integrated contract and agreement between the City and Metrocrest Community Clinic and supersedes all prior negotiations, representations and/or agreements, either written or oral. This Contract may be amended only by written instrument signed by both the City and Metrocrest Community Clinic

IN WITNESS THEREOF, the parties hereto have caused this Contract to be signed by their proper corporate officers as first above specified, and have caused their proper corporate seal to be hereto affixed the day and year first above written.

TOWN OF ADDISON, TEXAS

METROCREST COMMUNITY CLINIC

By: _____
Lea Dunn, City Manager

By: _____
Jane Wood Hawkins, Clinic Director

STATE OF TEXAS

§

CONTRACT FOR SERVICES

COUNTY OF DALLAS

§

§

This Contract for Services (“Contract”) is made and entered into as of the 1st day of October, 2014 by and between the Town of Addison, Texas (the “City”) and the WaterTower Theatre Incorporated (“WTT”), a Texas non-profit corporation with its principal place of business in Addison, Dallas County, Texas.

WHEREAS, WTT is a Texas non-profit corporation which exists for the purpose of the development and advancement of theatre and drama in the City as well as to promote theatrical activities through numerous productions throughout the year; and

WHEREAS, WTT’s productions and work attract tourists to and encourages tourism in the City, and the City has an interest in attracting such tourists and promoting tourism to the area in order to receive the economic benefits associated therewith; and

WHEREAS, it is the City’s desire to encourage and promote the arts, including, without limitation, theatre; and

WHEREAS, the City is authorized to expend revenues from its hotel occupancy tax for the encouragement, promotion, improvement, and application of the arts, including, without limitation, theatre, and desires to encourage and promote the arts (including theatre) through the execution of this Contract for Services.

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, the benefits flowing to each of the parties hereto, and other good and valuable consideration, the City and WaterTower Theatre Incorporated do hereby contract and agree as follows:

I. TERM

The term of this Contract shall be for a period of one year from the 1st day of October, 2014 through the 30th day of September, 2015, except as otherwise provided for herein.

II. SERVICES

WTT shall provide the following services:

- (a) Presentation of a minimum of five (5) main stage productions, one (1) season extra production, and The Out of the Loop Festival.
- (b) Recognition of the City in all playbills printed in connection with the productions.
- (c) Work with all hotels located in the City to generate awareness regarding the theatre.

(d) Work and coordinate with the City's Special Events Department to promote and market City events, with details regarding the same to be determined by the City, in consultation with WTT, during the City's 2014-2015 fiscal year.

(e) Submit detailed quarterly financial statements and program results to the City within thirty (30) days after the end of the preceding quarter listing the expenditures made by WTT with the revenues received pursuant to this Contract.

III. COMPENSATION

The City agrees to pay WTT as base consideration the sum of Two Hundred Ninety Five Thousand and No/100 Dollars (\$295,000.00) "Base Consideration" from its revenue derived from the City's hotel occupancy tax, provided that the minimum number of shows are actually presented and performed as set forth in this Contract. Payment of the Base Consideration to WTT will be made by the Town on or before January 1, 2015. In addition to the Base Consideration as provided above, the City agrees to pay to WTT "Matching Funds" in an amount up to One Hundred Fifty Thousand and No/100 Dollars (\$150,000.00). A description of what constitutes Matching Funds and the process for the payment of such Funds is set forth in Exhibit A attached hereto and incorporated herein.

In the event the City terminates this Contract as provided for in Section V, the City shall not be liable to WTT for the payment of any portion of the unpaid funds. The City also reserves the right to pursue all legal remedies against WTT for funds previously paid to WTT in the event WTT defaults on any term of this Contract.

IV. RESPONSIBILITY; INDEMNIFICATION

(a) WTT AGREES TO ASSUME AND DOES HEREBY ASSUME ALL RESPONSIBILITY AND LIABILITY FOR DAMAGES OR INJURIES SUSTAINED BY PERSONS OR PROPERTY, WHETHER REAL OR ASSERTED, BY OR FROM THE PERFORMANCE OF SERVICES PERFORMED AND TO BE PERFORMED HEREUNDER BY WTT OR BY ITS OFFICIALS, OFFICERS, EMPLOYEES, OWNERS, MEMBERS, AGENTS, SERVANTS, INVITEES, GUESTS, VOLUNTEERS, CONTRACTORS, SUBCONTRACTORS, OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM OR ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE.

(b) **WTT'S Indemnification Obligation:** WTT covenants, agrees to, and shall DEFEND (with counsel reasonably acceptable to the Town of Addison, Texas), INDEMNIFY, AND HOLD HARMLESS the Town of Addison, Texas and the Town of Addison, Texas' elected officials, its officers, employees, representatives, agents and volunteers (the Town of Addison, Texas and the elected officials, the officers, employees, representatives, agents, and volunteers of the Town of Addison, Texas being each an "Addison Person" and collectively "Addison Persons") from and against any and all claims, liabilities, judgments, lawsuits, demands, harm, losses, damages, proceedings, suits, actions, causes of action, liens, fees, fines, penalties, expenses, or costs, of any kind and nature whatsoever made upon or incurred by the City and/or any other Addison Person, whether directly or indirectly, (the "Claims") that arise

out of, result from, or relate to: (i) the performance or provision by WTT of the WTT Services as described above in Section II of this Contract, (ii) any representations and/or warranties by WTT under this Contract, and (iii) any act or omission under, in performance of, or in connection with the WTT Services and/or this Contract by WTT or by any of WTT's owners, directors, officers, shareholders, managers, partners, employees, agents, consultants, contractors, subcontractors, invitees, guests, customers, licensees, sublicensees, or any other person or entity for whom WTT is legally responsible, and their respective owners, directors, officers, shareholders, managers, partners, employees, agents, consultants, contractors, subcontractors, invitees, guests, customers, and licensees ("WTT Persons"). 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 OR GROSS NEGLIGENCE OF ANY ADDISON PERSON, OR CONDUCT BY ANY ADDISON PERSON THAT WOULD GIVE RISE TO STRICT LIABILITY OF ANY KIND. However, WTT'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 Addison Persons' proportionate share of the negligence, or conduct that would give rise to strict liability of any kind, that caused the loss. Likewise WTT's liability for Addison or any other Addison Person's defense costs and attorneys' fees shall be reduced by that portion of the defense costs and attorneys' fees equal to the Addison Person or Addison Persons' proportionate share of the negligence, or conduct that would give rise to strict liability of any kind, that caused the loss.

WTT shall promptly advise Addison in writing of any claim or demand against any Addison Person or WTT or any other WTT Persons related to or arising out of WTT's Services and activities under this Contract and shall see to the investigation and defense of such claim or demand at WTT's sole cost and expense. Addison Persons shall have the right, at the Addison Persons' option and own expense, to participate in such defense without relieving WTT of any of its obligations hereunder.

The indemnity, hold harmless, and defense obligations set forth herein shall survive the expiration or termination of this Contract.

V. TERMINATION

(a) The City may terminate this Contract at any time if:

(1) WTT defaults on any provision of this Contract and fails to correct such default after thirty (30) days written notice of default from the City; or

(2) WTT fails to make any payment required under the Agreement For The Use of The Addison Theatre Centre within thirty (30) days after written notification of delinquency of payment by the City; or

(3) The City gives WTT at least sixty (60) days prior written notice; or

(4) WTT has offered, conferred, or agreed to confer any benefit upon a City employee or official that the City employee or official is prohibited by law from accepting; or

(5) If WTT should violate the provision in Section XII, Non-Discrimination and fails to correct the violations within thirty (30) days of written notice of the violation by the City.

VI. CONFLICT OF INTEREST

(a) No officer or employee of the City shall have any interest or receive any benefit, direct or indirect, in this Contract or the proceeds thereof. This prohibition is not intended and should not be construed to preclude payment of expenses legitimately incurred by City officials in the conduct of WTT's business.

(b) For purposes of this section, "benefit" means anything reasonably regarded as an economic advantage, including benefit to any other person in whose welfare the beneficiary is interested, but does not include contributions or expenditures made and reported in accordance with any law.

VII. ACCOUNTING

Prior to adopting its annual budget, WTT shall submit for the City's review a budget showing the use of the City's funds provided pursuant to this Contract, and WTT shall make such periodic reports to the City, as provided for herein, listing the expenditures made by WTT from the funds provided by the City. The approval of WTT's annual budget creates a fiduciary duty in WTT with respect to the funds provided by the City under this Contract.

The funds paid to WTT pursuant to this Contract shall be maintained in a separate account established for that purpose and may not be commingled with any other money. Funds received hereunder from the City may be spent for day-to-day operations, supplies, salaries and other administrative costs provided that such costs are necessary for the promotion and encouragement of the purposes for which the funds may be used as described herein.

WTT shall maintain complete and accurate financial records of all of its revenues, including, without limitation, each expenditure of revenue received pursuant to this Contract. By the thirtieth (30th) day after the close of each quarter (beginning with the quarter ending December 31, 2014, with the last quarter ending September 30, 2015), WTT shall provide the City the following: (a) a detailed financial report for the previous quarter listing the expenditures made by WTT of the funds paid to WTT under this Contract; and (b) a year-to-date report of the expenditures made by WTT of the funds paid to WTT under this Contract (and if this Contract is terminated prior to its expiration, WTT shall provide such reports as set forth above for the period prior to the expiration for which reports have not been provided, and such obligation shall survive the termination hereof; and the obligation to provide the reports for the last quarter of this Contract shall survive the expiration of this Contract). On request of the City at any time, WTT shall make its records available for inspection and review by the City or its designated representative(s). Within ninety (90) days of the end of WTT's fiscal year, WTT shall provide the City with a financial statement signed by the Chairman of WTT's Board of Directors (or

other person acceptable to the Town) and audited by an independent Certified Public Accountant, setting forth WTT's income, expenses, assets and liabilities, and such obligation shall survive the termination or expiration of this Contract.

All application materials, financial information, quarterly (or other) reports, any other information described herein or required hereunder, and general correspondence with the City must be submitted to the City in electronic format to the City email address specified in the application packet. Additionally, the City may require that such materials, information, reports, and correspondence also be provided to the City in writing (e.g., a hard-copy, non-electronic format).

VIII. INDEPENDENT CONTRACTOR

In performing services under this Contract, the relationship between the City and WTT is that of independent contractor, and the City and WTT by the execution of this Contract do not change the independent status of WTT. No term or provision of this Contract or action by WTT in the performance of this Contract is intended nor shall be construed as making WTT the agent, servant or employee of the City, or to create an employer-employee relationship, a joint venture relationship, or a joint enterprise relationship.

IX. NON-ASSIGNABILITY; NO THIRD-PARTY BENEFIT

WTT may not and shall have no authority to assign, transfer, or otherwise convey by any means whatsoever this Contract or any of the rights, duties or responsibilities hereunder without obtaining the prior written approval of the City, and any attempted assignment, transfer, or other conveyance of this Contract without such approval shall be null and void and be cause for immediate termination of this Contract by the City.

This Contract is solely for the benefit of the parties hereto and is not intended to and shall not be deemed to create or grant any rights, contractual or otherwise, to any third person or entity.

X. NO PARTNERSHIP, JOINT VENTURE, OR JOINT ENTERPRISE

Nothing contained in this Contract shall be deemed to constitute that the City and WTT are partners or joint venturers with each other, or shall be construed or be deemed to establish that their relationship constitutes, or that this Contract creates, a joint enterprise.

XI. COPYRIGHT

WTT assumes full responsibility for complying with all United States laws and treaty terms pertaining to intellectual property issues and any applicable regulations, including but not limited to the assumption of all responsibilities for paying all royalties which are due for the use of domestic or foreign copyrighted works in WTT's performances, transmissions or broadcasts, and WTT, without limiting any other indemnity given by WTT as set forth herein, AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS THE CITY, ITS OFFICIALS, OFFICERS,

EMPLOYEES, AND AGENTS, IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, FROM AND AGAINST ANY LIABILITY, CLAIMS, OR DAMAGES (INCLUDING BUT NOT LIMITED TO COURT COSTS AND ATTORNEY'S FEES) GROWING OUT OF WTT'S INFRINGEMENT OR VIOLATION OF ANY STATUTE, TREATY TERM, OR REGULATION APPLICABLE TO INTELLECTUAL PROPERTY RIGHTS, INCLUDING BUT NOT LIMITED TO COPYRIGHTS.

XII. NON-DISCRIMINATION

During the term of this Contract, WTT agrees that it shall not discriminate against any employee or applicant for employment because of race, age, color, sex or religion, ancestry, national origin, place of birth, or handicap.

XIII. LEGAL COMPLIANCE; CONTRACT SUBJECT TO LAWS; RECITALS

WTT shall observe and abide by, and this Contract is subject to, all applicable federal, state, and local (including the City) laws, rules, regulations, and policies (including, without limitation, the Charter and Ordinances of the City), as the same currently exist or as they may be hereafter amended. The above and foregoing recitals to this Agreement are true and correct and incorporated herein and made a part hereof.

XIV. VENUE; GOVERNING LAW

In the event of any suit or action under this Contract, exclusive venue for all suits or actions shall be instituted and maintained in Dallas County, Texas. This Contract shall be governed by and construed under and pursuant to the laws of the State of Texas without regard to choice of law rules of any jurisdiction.

XV. COUNTERPARTS

This Contract may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

XVI. NO WAIVER; RIGHTS CUMULATIVE

The failure by either party to exercise any right or power, or option given to it by this Contract, or to insist upon strict compliance with the terms of this Contract, shall not constitute a waiver of the terms and conditions of this Contract 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. The rights or remedies under this Contract are cumulative to any other rights or remedies, which may be granted by law.

XVII. NOTICES

All notices, communications and reports, required or permitted under this Contract shall be personally delivered or mailed to the respective parties using certified mail, return receipt requested, postage prepaid, at the addresses shown below. The City and WTT agree to provide the other with written notification within five (5) days, if the address for notices, provided below,

is changed. Notices by personal delivery shall be deemed delivered upon the date delivered; mailed notices shall be deemed communicated on the date shown on the return receipt. If no date is shown, the mailed notice shall be deemed communicated on the third (3rd) day after depositing the same in the United States mail.

The City's address:

Matthew McCombs
Assistant to the City Manager
Town of Addison
5300 Belt Line Road
Dallas, Texas 75254

WTT's address:

Terry Martin
Producing Artistic Director
WaterTower Theatre Incorporated
15650 Addison Road
Addison, Texas 75001

XVIII. SEVERABILITY

The terms of this Contract are severable, and if any section, paragraph, clause, or other portion of this Contract shall be found to be illegal, unlawful, unconstitutional or void for any reason, the balance of the Contract shall remain in full force and effect and the parties shall be deemed to have contracted as if said section, paragraph, clause or portion had not been in the Contract initially.

XIX. AUTHORITY TO EXECUTE CONTRACT

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

XX. ENTIRE AGREEMENT

This Contract represents the entire and integrated contract and agreement between the City and WTT and supersedes all prior negotiations, representations and/or agreements, either written or oral. This Contract may be amended only by written instrument signed by both the City and WTT.

IN WITNESS THEREOF, the parties hereto have caused this Contract to be signed by their proper corporate officers as first above specified, and have caused their proper corporate seal to be hereto affixed the day and year first above written.

TOWN OF ADDISON, TEXAS

**WATERTOWER THEATRE
INCORPORATED**

By: _____
Lea Dunn, City Manager

By: _____
Terry Martin, Producing Artistic Director

EXHIBIT "A"
TO
2014-2015 CONTRACT FOR SERVICES
BETWEEN THE TOWN OF ADDISON
AND WATERTOWER THEATRE INCORPORATED

DESCRIPTION OF "MATCHING FUNDS" AND PROCESS FOR
DISTRIBUTION OF MATCHING FUNDS
FOR WATERTOWER THEATRE INCORPORATED
FROM HOTEL/MOTEL TAX FUNDS

For each One Dollar of Theatre Funds (as defined herein) actually received by WTT, the City shall pay to WTT an equal amount ("Matching Funds") up to but not exceeding One Hundred Fifty Thousand and No/100 Dollars (\$150,000.00). In order to receive Matching Funds, WTT shall provide to the City such proof of its receipt of Theatre Funds as the City shall reasonably require. WTT shall make application on or before the 15th day of each month for distribution of Matching Funds (beginning January 16, 2015) and the City shall pay such Matching Funds provided the City has received adequate proof, in the City's sole opinion, of the actual receipt of Theatre Funds by WTT as set forth in each application.

For purposes of this Agreement, the term "Theatre Funds" shall mean and include: (i) cash funds actually received by WTT during the term hereof from any gifts, grants, donations, or other cash contributions from any person or business entity (whether for-profit or non-profit), and (ii) that amount of funds determined by multiplying (a) the number of 2015 WTT season tickets sold by WTT on or before November 15, 2014, times (b) the average cost of a single season ticket, times (c) 25%. For purposes of this Agreement, the average cost of a single season ticket shall be \$110.00.

**AGREEMENT FOR THE USE OF
THE ADDISON THEATRE CENTRE**

THIS AGREEMENT is between the Town of Addison, a municipal corporation, of Dallas County, Texas (“**TOWN**”) and the WaterTower Theatre, Inc. (“**WTT**”), a Texas nonprofit corporation with its principal place of business at Addison Theatre Centre, Addison, Dallas County, Texas.

WHEREAS, the TOWN has as one of its purposes the establishment, maintenance, promotion, and operation of cultural facilities for the benefit of the public; and

WHEREAS, the TOWN has constructed a theatre (Theatre Centre) in the furtherance of such purposes; and

WHEREAS, the Theatre Centre is located upon real estate as shown in Exhibit A which is attached and made a part of this Agreement; and

WHEREAS, the TOWN and WTT intend that the Theatre Centre will provide office space together with access to rehearsal and performance space, as well as serve as an outstanding performance facility that will attract other prominent performing groups and individuals to Addison; and

WHEREAS, the TOWN and WTT desire to enter into an agreement whereby WTT would be a user of the Theatre Centre with scheduling rights as defined in this document;

NOW, THEREFORE, the TOWN and WTT agree as follows:

SECTION 1

PURPOSE; THEATRE CENTRE DEFINED

(a) The purpose of this Agreement is to state the terms and conditions under which WTT will use and occupy the described portions of the Theatre Centre and to describe the responsibilities of the TOWN in the operation and management of the Theatre Centre.

(b) As used in this Agreement “Theatre Centre” means the structure shown in Exhibit A. The areas indicated in Exhibit A shaded in blue denote the areas that are accessible to the lessee of the main theatre space. “Administrative Offices” shall mean those certain offices located in the Theatre Centre designated by the Manager of the TOWN (the “City Manager”) for use by WTT, solely for WTT’s administrative activities, and set out on the plans, as attached Exhibit A denoted in red, as such space may be increased on the reasonable request of WTT and with the reasonable approval of the TOWN.

(c) WTT, its employees, agents, patrons, and invitees shall have a nonexclusive license to use the common areas designated on Exhibit A attached hereto but such license shall at all times be subject to the exclusive control and management by the TOWN. WTT hereby agrees to be bound by and to comply with such reasonable rules and regulations as the TOWN

may establish with respect to the use of such common areas. The TOWN agrees to inform WTT in writing of such rules and regulations, and of any changes to such that might occur. The term “common areas” shall include but not be limited to parking area, walkways, green areas and landscaped areas. The TOWN understands that WTT may, from time to time, wish to utilize the “common areas” as a part of or for performances. WTT agrees to inform the TOWN as prescribed in Section 4(c) of this agreement of the intent to use such common areas for theatrical performances or for other events. The TOWN and WTT agree to cooperate with the other in the event that the “common areas” are used for theatrical performances or events related to the conference center or any other event sponsored by the TOWN.

SECTION 2

LEASE OF THEATRE CENTRE

The TOWN, upon the terms and conditions contained herein, agrees to allow WTT use of, in accordance with the use and occupancy provisions of this Agreement, those facilities and areas within the Theatre Centre that are needed from time to time for its various activities including but not limited to performances, rehearsals, auditions, meetings, administration, ticket and merchandise sales, library, dressing, storage, and such other activities as approved by the Conference and Theatre Centre Manager (hereafter “Manager”), in writing, and as further set forth on the Theatre and Conference Center’s Master Booking Calendar. WTT shall furnish, in writing no later than April 1st of each year, schedules setting out all dates, times and spaces needed. Any modifications to the schedules shall be discussed with WTT with a firm calendar schedule in place by April 15th. Schedules may be updated from time to time upon prior written notice from WTT to the TOWN and the Town’s approval of such updated schedules. The TOWN agrees to provide written confirmation of WTT’s use of spaces, on the dates and times requested, if such spaces are available when requested.

SECTION 3

TERM AND TERMINATION

(a) The term of this Agreement is for a period beginning on the 1st day of October 2014, and continuing until September 30, 2015, unless the term is extended or earlier cancelled, as provided herein.

(b) The TOWN may cancel this Agreement at any time if:

(i) WTT fails to make any payment required under this Agreement within 10 business days after written notification of delinquency of payment by the TOWN; or

(ii) WTT violates any other provision of this Agreement and fails to begin correction of the violation within 25 days of written notification of the violation from the TOWN and fails to accomplish correction within a reasonable period thereafter; or

(iii) The TOWN shall give WTT sixty (60) days written notice; or

(iv) WTT fails to comply with any term of the 2014-2015 Contract for Services between the Town of Addison and Water Tower Theatre Company within thirty (30) days after written notice of such failure to comply from the TOWN.

(c) WTT may cancel this Agreement by giving the City Manager written notice sixty (60) days or more in advance of the cancellation date.

(d) This Agreement may be renewed and extended for a term of twelve (12) months beginning October 1, 2015, and ending September 30, 2016 and for like twelve (12) month periods thereafter upon the express written consent of the TOWN and WTT, given within ninety (90) days prior to October 1st each succeeding year.

SECTION 4

USE AND OCCUPANCY BY WTT

(a) *Office Areas.* During the term of this agreement, WTT has the use of the defined office space, as set out in Section 1(b) above and attached.

(b) *Schedule of Uses.* Attached hereto as Exhibit C are the proposed dates, times, and spaces requested by WTT in connection with shows or events to be produced by WTT during the term of this Agreement. All required spaces must be reserved by WTT in advance including but not limited to those portions of the Theatre Centre referred to as the Main Space, Studio Theatre, Boardroom and Lobby for all events. This includes the use of space for staging purposes such as auditions. The sole exception to this requirement is the period of time that is one week following the September/October show and the July/August show. On these two shows only, a one week possible extension will be noted on the WTT calendar and held for the possibility of extension. If the extension occurs WTT will pay the normal rental fees as stated in Exhibit B. If the extension is not needed, no fee will be charged. WTT shall notify the Manager in writing as early as possible as to their intent to use or release the space. The Manager shall review such dates, times, and spaces proposed in the WTT Schedule of Use and confirm the same, in writing, to WTT. WTT is hereby advised that spaces in the Theatre Centre are available on a "first come" basis and are confirmed by notice in writing from the Manager and receipt by the TOWN of the payment for the required fees. Once dates are confirmed, they may not be cancelled.

(c) *Box Office.* Box Office will be open and manned continuously during the following dates and times:

(i) During WTT Production/Presentation of Show Weeks:

Monday	Closed
Tuesday – Saturday	12:00 P.M. – 6:00 P.M.

Performance Days	One hour prior to each performance through the intermission of that performance
------------------	---

(ii) During WTT Non-Production/Presentation of Show Weeks:

Saturday/Sunday/Monday Closed
Tuesday – Friday 12:00 P.M.-6:00 P.M.

When WTT is producing or presenting an event, WTT must provide members of its staff to oversee the event from start to finish. A WTT representative must be on the premises throughout the duration of the event. Without in any way limiting any provision of this Agreement, in the event an emergency or urgent situation arises at or about the Theatre Centre while WTT is producing or presenting an event, WTT shall take such steps as are prudent and necessary to immediately respond to the emergency, including, without limitation, causing patrons at the Theatre Centre to vacate the premises and contacting the emergency services of the Town of Addison.

No performances may take place in the facilities during Town Sponsored special events. Limited use of the facilities MAY be granted at the Managers discretion for rehearsals, builds and technical work. If permission is granted, a maximum of 15 parking passes will be issued to WTT allowing access to the Addison Airport parking area or other designated parking area at the TOWN's discretion.

During TOWN sponsored special events all dressing rooms will be available for use by the TOWN unless prior written authorization has been granted by the Manager.

It is expected that WTT will produce events, and, with the Town's express consent, present events.

Typically, "presenting" a show refers to an outside group bringing in a show or production to which WTT attaches its name. There is little risk involved but the return is often much lower and the presenter has little control over the product.

"Producing" a show implies that a theatre company takes the steps to create the show from the ground up. There is a larger amount of risk but the return and control of the product is much larger. [See Stephen Langley's *Theatre Management and Production in America* for general information.]

Presenting is subject to approval by the Town of Addison. A copy of the proposed contract will be sent to the Manager prior to being forwarded to the potential presenter.

(d) *Food and Beverage.* Except as provided herein, food and beverages are prohibited within the Main Space and Studio Theatre spaces at the Theatre Centre. The sole exceptions will be bottled water with a lid that may be brought into the performance spaces at any time. However, no liquid may be stored or consumed in the vicinity of any electronic equipment. The secure covered "sippy cup" designed cups may be used by patrons during performances. WTT staff shall inspect the seating element for spills and clean immediately if found.

Food and beverage may be brought in the Main Space and Studio Theatre during special events such as the annual Gala fundraiser. A performance will not, however, constitute a special event. All food, food service items, beverages, beverage containers, catering supplies and trash

must be removed from the spaces that evening immediately following the conclusion of the event. All spills, stains and other food and beverage messes shall be cleaned that evening. All catering equipment, including but not limited to, chafing dishes, plates, silverware, glassware and service pieces shall be cleaned and neatly stored or removed the night of the event. Failure to clean up in this manner will result in the Manager contacting the cleaning service to provide a full cleaning of the space. The resulting cleaning fee will be charged to WTT on the next regular monthly invoice.

(e) *Use of Dressing Rooms.* When the main theatre space is rented, during a non-special event time, dressing rooms 1-4 will be included as part of that rental. If the Studio Theatre is rented to another group, dressing rooms 5 and 6 will be made available to the group in the Studio Theatre. If the Studio Theatre is not being rented by another group or not needed by the renting group dressing rooms 1-6 may be used by the renter of the main space.

(f) *Smoking in Productions.* Smoking or other use of any type of tobacco product is prohibited within the Theatre Centre. In the instances where smoking needs to be portrayed as part of a production, only smokeless prop, powder or water based “e-cigarettes” may be used.

SECTION 5

USE AND OCCUPANCY BY THE TOWN

(a) *Scheduling Other Events.* Other than the dates and times when WTT has scheduled an event in accordance with Section 4, the TOWN has the unrestricted right to schedule other events in the Theatre Centre and utilize the scenery in place on such dates and times. The TOWN and WTT agree to cooperate and assist the other in scheduling events in the Theatre Centre for dates not scheduled by WTT. However, such efforts by WTT are subject to the express terms of Section 20 of this Agreement, and WTT recognizes that only the TOWN has authority to book events. Any damage to the set resulting from an event booked into the Addison Theatre Centre (“ATC”) main space by the TOWN will be repaired at the TOWN’s expense.

(b) *Concessions.*

(i) WTT may sell concessions only during WTT performances and must comply with all Town of Addison Environmental Health Regulations. Alcoholic beverages may only be dispensed in compliance with the TABC (Texas Alcoholic Beverage Commission) rules and regulations. WTT shall have the right to use concession areas in connection with and at the time of WTT’s scheduled performances. WTT shall have no rights with respect to use of the concession areas or equipment, or other food and beverage service items belonging to or under the control of the TOWN at any other time. WTT will have access to the concession area for food and beverage storage and sale only on performance dates.

(ii) The TOWN shall not be liable to WTT, its employees, agent’s patrons, or invitees for damages or otherwise for the quality, failure, unavailability, or disruption of any food or beverage or service thereof in connection with WTT performances.

(c) *Control of the Theatre Centre.* The TOWN retains the right to control the management of the Theatre Centre through its representatives, and to enforce all necessary rules for its management and operation, and the TOWN, through its police officers, fire fighters, and other designated representatives, reserves the right at any time to enter any portion of the Theatre Centre. For non-emergency purposes, the TOWN shall attempt to provide reasonable notice to WTT.

SECTION 6

RENTAL

(a) WTT shall pay to the TOWN rent for its use of the office areas and other areas as reserved by WTT, according to the schedule of fees set forth in Exhibit B, attached hereto and made a part hereof. Payments for rent shall be made each month based on the usage of the space that month. Rental fees shall be due and payable on or before the 15th day of each month as payment for the immediately preceding month. The first such installment of rent is due and payable on or before November 15, 2014, and the last such installment is due and payable on or before October 15, 2015 (and the obligation of WTT to make the last installment shall survive the expiration of this Agreement). . The TOWN further reserves the right to adjust the rates of the fees set out on Exhibit B from time to time in accordance with changes in the costs associated with operating the facility, by providing WTT at least 45 days prior written notice of the change. The TOWN shall invoice WTT for all dates, times and spaces reserved by WTT, including the fees for use of Office Spaces, as defined in Section 4(a).

Comment [JH1]: Is the amount to be paid set forth in Exhibit B? It's not clear to me how payment "based on the usage of the space" will be calculated. Is that described in Exhibit B?

(b) WTT agrees to pay the TOWN a monthly fee for telephone service. This fee will be charged for standard monthly service and long distance charges. In addition, any changes to the phone system requested by WTT will be charged back to WTT at the prevailing rate.

(e) WTT shall pay a rental fee on a monthly basis for the use of furniture and furnishings owned by the TOWN. This rental amount shall be included within the office rental fee described in subsection (a) of this Section. Exhibit D attached to this Agreement and incorporated herein lists all office furniture and decorative items owned by the TOWN and rented to WTT. This list may be amended from time to time, and such amendment may result in a change in the rental fee. All items used by WTT will continue to be the sole property of the TOWN and, with at least 60 days notice from the TOWN to WTT, shall be returned to the TOWN in the condition rented, with normal wear and tear.

(f) WTT shall have the use of the Boardroom for rehearsals, events and meetings, subject, however, to scheduling the same and approval of the schedule by the Town. The monthly fee for the use of the Boardroom is outlined in Exhibit B. Where WTT shall have use of the Boardroom, dates of actual use will be scheduled with the Manager. Periodically the TOWN staff may contact WTT to see if the Boardroom is available for the ACTC to rent to a client. If WTT confirms the space is available ACTC will book the room in their booking software. On the occasion the Boardroom is rented to another group WTT shall clear the space of all WTT property for the duration of the event. The Town retains the right to the use of the lockable, corner closet located within the Board Room.

SECTION 7

USE OF EQUIPMENT

The TOWN recognizes that there may be third party users of the Theatre Centre for the purposes of staging a theatrical performance and that they may request the use of TOWN-owned equipment. Any lease or other agreement with a third party user allowed to operate TOWN-owned equipment shall expressly provide that any damages to or loss of the equipment from a third party user shall be the responsibility of that third party, and deposits will be required in the discretion of the TOWN. Any damages to or loss of TOWN-owned equipment in the Theatre Centre during the conduct of WTT's performances, WTT Education Department programming or day-to-day use by WTT shall be the responsibility of WTT.

The cost of repair for any damage to any TOWN equipment from use of the equipment by WTT or replacement of any lost equipment shall be the sole responsibility of WTT and shall be subject to offset against any funding or grant obligations of the TOWN to WTT. The TOWN shall not be responsible for consequential damages resulting from inability to use the equipment. WTT agrees that each person employed by WTT to provide services in the Theatre Centre will be required to conduct himself/herself in a professional manner, and WTT will cooperate with the TOWN to assure professional conduct is maintained at all times.

Comment [JH2]: Is WTT no longer required to get the Town's written permission to use Town equipment?

No equipment owned by the TOWN may be contracted or committed by WTT without the Manager's written approval. No services provided by Town employees may be contracted or committed by WTT without the Manager's written approval. In the event WTT is working in conjunction with an outside company as co-presenter or producer, a written list of equipment needed must be submitted to the Manager one month prior to WTT signing a contract with the outside company. No Town owned equipment shall be removed from the building.

SECTION 8

TOWN OF ADDISON TECHNICAL COORDINATOR

The TOWN employs an individual in the role of Technical Coordinator whose duties include protecting and maintaining the TOWN's investment in equipment and facilities at the Theatre Centre. In addition, the Technical Coordinator shall provide services relating to the technical nature of the facility and the presentation. Details of the services provided by the Technical Coordinator are available, in writing, from the Manager, upon request.

SECTION 9

UTILITIES

The TOWN shall provide for all water, air conditioning, heat, and electricity incurred in the Theatre Centre. WTT shall reimburse the Town for all costs associated with its telephone service. The TOWN shall not be liable to WTT in damages or otherwise for the quality, quantity, failure, availability, or disruption of water, air conditioning, heat, electricity, and other utilities furnished by the TOWN; provided that if WTT reasonably cancels any performance

solely for and as the direct result of the TOWN's failure to provide any of the foregoing resources, and provided evidence of such cancellation by WTT and failure to provide such resources by the TOWN (which evidence shall be in form and content reasonably satisfactory to the TOWN) is promptly provided to the TOWN following such cancellation, WTT will have no obligation to pay the performance space rental fee amounts to the TOWN required pursuant to this Agreement in connection with the cancelled performance.

SECTION 10

MAINTENANCE SERVICES

(a) The TOWN shall provide:

(i) Routine janitorial service and maintain the interior of the Theatre Centre in a clean condition, by providing routine janitorial service one time per day as needed. WTT must leave the spaces in a reasonable condition following all productions/events, which includes but is not limited to: placing all lobby, green room and dressing room trash in garbage cans and walking the main space for playbills and trash left by patrons after every performance. The same definition of routine janitorial service applies to educational camps. Any services above routine will be billed to WTT at the prevailing rate.

(ii) Maintenance of the heating, ventilation and cooling system in the Theatre Centre.

(iii) Maintenance of the Theatre Centre grounds and structure in reasonably good condition and in compliance with applicable laws.

(b) The TOWN shall not be liable for repairs to any portion of the Theatre Centre until it receives written notice pursuant to the operating policies and procedures in Section 6(a), of the necessity for such repairs and, provided further, that such repairs are not necessitated by any act or omission of WTT, or any of WTT's agents, employees, contractors, invitees or patrons.

(c) WTT shall not cause or permit any waste, damage, or injury to the Theatre Centre. WTT shall, at its sole cost and expense, repair any damage or injury caused to the Theatre Centre by WTT, its employee's agents, invitees or patrons.

(d) WTT shall store its property and the personal property of the TOWN in a neat and orderly manner, and its operations in the Theatre Centre shall be carried out in accordance with the highest professional standards.

(e) WTT shall not store or maintain flammable or hazardous materials in the Theatre Centre in violation of the Fire Code or other applicable laws and codes.

(f) In the event the obligations of WTT set out in Sections (d) and (e), above, are not carried out in a timely manner, then the Town has the right, but not the obligation, to satisfy such requirements at the cost of WTT.

SECTION 11

OWNERSHIP OF PROPERTY

(a) The Theatre Centre and all improvements to the Theatre Centre are the property of the TOWN. All personal property owned by the TOWN and placed in the Theatre Centre remains the property of the TOWN.

(b) All personal property owned by WTT and placed in the Theatre Centre remains the property of WTT.

(c) All personal property owned by a sublease, contractor or concessionaire of the TOWN and placed in the Theatre Centre remains the property of the sublessee, contractor or concessionaire, respectively, unless otherwise provided in the sublease, concession contract, or contractor's contract.

(d) On or before July 1 of each year, during the existence or continuation of this agreement, WTT shall furnish to the TOWN a listing of all of the personal property of WTT located in the Theatre Centre.

(e) WTT shall not allow or permit any of the personal property of the TOWN to be loaned for use or operation by any third parties.

SECTION 12

ACKNOWLEDGEMENTS IN PRINTED MATERIALS

WTT agrees to prominently acknowledge the TOWN for its support of WTT in all appropriate printed materials. All public references to WTT will be characterized as "WTT at the Addison Theatre Centre" or some derivative of that indicating the WTT is at the ATC.

SECTION 13

INSURANCE

(a) WTT shall procure, pay for, and maintain the following insurance written by companies licensed in the State of Texas or meeting the surplus lines requirements of Texas law and acceptable to the City Manager. The insurance shall be evidenced by delivery of executed certificates of insurance and certified copies of the policies to the Manager. The insurance requirements shall remain in effect throughout the term of this Agreement. The City Manager reserves the right to modify the kinds of coverage and deductibles required and increase minimum limits of liability of the coverage whenever, in his discretion, it becomes necessary. Should such a modification be made by the TOWN, the TOWN will provide WTT written notice and 30 days to make the necessary modifications (or such longer period of time as WTT may require to make the necessary modifications, provided WTT shall at all times pursue such modifications with all due diligence and continuity).

(i) *Workers' Compensation* as required by law; *Employers Liability Insurance* of not less than \$100,000 for each accident.

(ii) *Commercial General Liability Insurance*, including Personal Injury Liability, Independent Contractor's Liability, Premises Operation Liability, and Contractual Liability, covering, but not limited to, the liability assumed under the indemnification provisions of this Agreement, with limits of liability for bodily injury, death, and property damage of not less than \$1,000,000. Coverage must be on an "occurrence" basis, and the policy must include Broad Form Property Damage Coverage, with Fire and Extended Coverage Liability of not less than \$1,000,000 per occurrence.

(iii) *Comprehensive Automobile and Truck Liability Insurance* covering owned, hired and non-owned vehicles, with minimum limits of \$1,000,000, each occurrence, for bodily injury, death, and property damage, such insurance to include coverage for loading and unloading hazards.

(iv) \$2,000,000 combined single limits bodily injury and property damage liability insurance, including death, as an excess of all the primary coverages required above.

(b) Each liability insurance policy must include the following conditions by endorsement to the policy:

(i) The TOWN must be named as an additional insured.

(ii) Each policy must require that 60 days before the cancellation, nonrenewal, or any material change in coverage, a notice thereof shall be given to the TOWN by certified mail to: City Manager, Town of Addison, Box 9010, Addison, TX 75001-9010.

(iii) Companies issuing the insurance policies shall have no recourse against the TOWN for payment of any premiums, assessments, or any deductibles, all of which are at the sole risk of WTT.

(iv) The Term "Town" or "Town of Addison" includes all Authorities, Boards, Bureaus, Commissions, Divisions, Departments, and offices of the TOWN and the individual members, employees and agents of the TOWN including the TOWN's Manager, while acting in their official capacities on behalf of the TOWN.

(v) The policy clause "Other Insurance" shall not apply to the TOWN where the TOWN is an additional named insured on the policy.

(c) Each party hereto hereby waives each and every claim which arises or may arise in its favor and against the other party hereto during the term of this lease or any extension or renewal thereof for any and all injuries (including death) and loss of, or damage to, any of its property which claim, loss or damage is covered by valid and collectible fire and extended coverage insurance policies, liability insurance policies, workers' compensation policies, and any other insurance policies which may be in place from time to time, to the extent that such claim, loss or damage is recovered under said insurance policies. Said waivers shall be in addition to, and not in limitation or derogation of, any other waiver or release contained in this

Agreement with respect to any loss, damage or injury (including death) to persons or to property. Inasmuch as the above mutual waivers will preclude the assignment of any aforesaid claim by way of subrogation (or otherwise) to an insurance company (or any other person), each party hereto hereby agrees immediately to give each insurance company which has issued to its policies of fire and extended coverage insurance, liability insurance, workers' compensation insurance, or such other insurance, written notice of the terms of said mutual waivers, and to have said insurance policies properly endorsed, if necessary to prevent the invalidation of said insurance coverages by reason of said waivers.

(d) WTT shall use best efforts for security precautions necessary for the protection of its property. The TOWN shall be liable for any damage to or loss of WTT property used or stored on, in, or about the Theatre Centre, arising from negligence of the TOWN or its agents.

(e) Insurance required under this section must be furnished annually for the duration of this Agreement. Executed certificates of insurance must also be delivered annually.

(f) To the extent reasonably obtainable, the TOWN will secure fire and extended coverage insurance on the Theatre Centre with coverages and limits to be determined by the TOWN to insure the Theatre Centre with coverages and limits to be determined by the TOWN. In the event all or any portion of the Theatre Centre is damaged or destroyed by fire or other casualty, the TOWN shall, at its cost and expense, limited to a maximum expenditure of the amount of insurance proceeds, if any, available to the TOWN by reason of such fire or other casualty, restore, repair, replace and rebuild the Theatre Centre as nearly as possible to its value, condition and character immediately prior to such damage or destruction. Coverage provided in this subsection shall be for the benefit of the TOWN and shall not protect WTT for loss or damage of property owned by WTT.

SECTION 14

ABATEMENT OF NUISANCES; TOWN SPECIAL EVENTS

WTT shall promptly comply with all governmental orders and directives for the correction, prevention, and abatement of nuisances caused by WTT, its officers, agents, or employees, or invitees in or upon or connected with the Theatre Centre, and shall pay for the costs of compliance. The TOWN and WTT agree to cooperate with each other in the abatement of nuisances caused by noise associated with events scheduled in either the Conference or Theatre Centre. WTT hereby recognizes that the Town produces Special Events on scheduled dates through the year, which scheduled Special Events shall take priority over any other use, and notice of such Special Events will be made available to WTT (which notice may be made available by means or methods other than as set forth in Section 21 of this Agreement) at the earliest reasonable opportunity as determined by the TOWN.

SECTION 15

ALTERATIONS, ADDITIONS, AND IMPROVEMENTS

(a) To the extent reasonably necessary or desirable for WTT to use and occupy the Theatre Centre, upon prior written approval of the Manager, WTT may erect or install within the performance space any temporary alterations, additions, or equipment needed for a production which do not alter the structural integrity or basic configuration of the performance space. WTT must comply with all applicable governmental laws, statutes, ordinances, codes, and regulations regarding structures.

(b) All installations, alterations, additions and improvements made in, on, or to the Theatre Centre by WTT or the TOWN shall be deemed to be property of the TOWN and unless the TOWN directs otherwise, shall remain upon and be surrendered with the Theatre Centre as a part thereof in good order, condition and repair, ordinary wear and tear excepted, upon WTT's vacating or abandonment of the Theatre Centre. If the TOWN directs, WTT shall remove all or any portion of the improvements and WTT's property, on or immediately prior to the termination of WTT's right to possession. The Town may choose to reconfigure the theatre space at any time not reserved by WTT. The Town will return the seating to the previous configuration if requested by WTT.

SECTION 16

ASSUMPTION OF RESPONSIBILITY; INDEMNIFICATION

(a) WTT AGREES TO ASSUME AND DOES HEREBY ASSUME ALL RESPONSIBILITY AND LIABILITY FOR DAMAGES OR INJURIES SUSTAINED BY PERSONS OR PROPERTY, WHETHER REAL OR ASSERTED, BY OR FROM (I) THE PERFORMANCE OF SERVICES PERFORMED AND TO BE PERFORMED HEREUNDER, OR (II) THE OCCUPATION AND USE OF THE THEATRE CENTRE PURSUANT TO THIS AGREEMENT, BY WTT OR BY ANY OF ITS OWNERS, OFFICERS, DIRECTORS, MANAGERS, EMPLOYEES, MEMBERS, AGENTS, SERVANTS, REPRESENTATIVES, CONSULTANTS, CONTRACTORS, SUBCONTRACTORS, LICENSEES, INVITEES, PATRONS, GUESTS, VOLUNTEERS, CUSTOMERS, AND CONCESSIONAIRES (IN THE CAPACITY AS OWNER, OFFICER, DIRECTOR, MANAGER, EMPLOYEE, MEMBER, AGENT, SERVANT, REPRESENTATIVE, CONSULTANT, CONTRACTOR, SUBCONTRACTOR, LICENSEE, INVITEE, PATRON, GUEST, VOLUNTEER, CUSTOMER, OR CONCESSIONAIRE OF OR FOR WTT), OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM OR ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE.

(b) ***INDEMNITY OWED BY WTT.*** WTT covenants and agrees to **FULLY DEFEND, INDEMNIFY AND HOLD HARMLESS** the Town of Addison, Texas and the elected officials, the officers, employees, representatives, and volunteers of the Town of Addison, Texas, individually and/or collectively, in both their official and private capacities (the Town of Addison, Texas and the elected officials, the officers, employees, representatives, and volunteers of the Town of Addison, Texas, each being an "**Addison Person**" and collectively the "**Addison Persons**"), from and against any and all costs, claims, liens, harm, damages, losses, expenses, fees, fines, penalties, proceedings, judgments, actions, demands, causes of action, liability, and suits, of any kind and nature whatsoever made upon or incurred by any Addison Person, whether directly or indirectly,

(the "Claims"), that arise out of, result from, or relate to: (1) the use and occupancy of the Theatre Centre by WTT or by any owner, officer, director, manager, employee, member, agent, servant, representative, consultant, contractor, subcontractor, licensee, invitee, patron, guest, volunteer, customer, or concessionaire of or for WTT (in the capacity as owner, officer, director, manager, employee, member, agent, servant, representative, consultant, contractor, subcontractor, licensee, invitee, patron, guest, volunteer, customer, or concessionaire of or for WTT), or any other person or entity for whom WTT is legally responsible, and their respective owners, officers, directors, managers, employees, agents, representatives, consultants, contractors, subcontractors, licensees, and concessionaires (collectively, "WTT Persons"), (2) representations or warranties by WTT under this Agreement; and/or (3) any other act or omission under, in performance of, or in connection with this Agreement by WTT or by any of the WTT Persons. **SUCH INDEMNITY AND HOLD HARMLESS SHALL AND DOES INCLUDE CLAIMS FOUND TO HAVE BEEN CAUSED IN PART BY THE NEGLIGENCE OR GROSS NEGLIGENCE OF ANY ADDISON PERSON, OR CONDUCT BY ANY ADDISON PERSON THAT WOULD GIVE RISE TO STRICT LIABILITY OF ANY KIND.** However, WTT'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 Addison Persons' proportionate share of the negligence, or conduct that would give rise to strict liability of any kind, that caused the loss. Likewise WTT's liability for Addison or any other Addison Person's defense costs and attorneys' fees shall be reduced by that portion of the defense costs and attorneys' fees equal to the Addison Person or Addison Persons' proportionate share of the negligence, or conduct that would give rise to strict liability of any kind, that caused the loss.

WTT shall promptly advise the TOWN in writing of any claim or demand against any Addison Person or WTT related to or arising out of WTT's activities under this Agreement and shall see to the investigation and defense of such claim or demand at WTT'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 WTT of any of its obligations hereunder.

The provisions of this defense, indemnity, and hold harmless obligation, and any other defense, indemnity, and hold harmless obligation set forth in this Agreement, shall survive the termination or expiration of this Agreement.

SECTION 17

BONDS

Unless waived in writing by the City Manager, WTT agrees to cause its contractors to provide, before commencing any work or construction in its designated areas, a performance bond and labor and material payment bond for any improvements the construction of which could result in a third party filing or seeking to file a lien against the Theatre Centre, which is undertaken by WTT during the term of this Agreement in a sum equal to the full amount of the construction contract award, with the TOWN and WTT named as joint obligees.

SECTION 18

NON-DISCRIMINATION

During the term of this agreement, WTT shall not discriminate against any employee or applicant for employment because of race, age, color, sex or religion, ancestry, national origin, place of birth, or handicap. Should WTT violate the provisions of this section, or fail to comply with the requirements of the Americans with Disabilities Act, the TOWN may terminate this Agreement if WTT fails to correct the violations within 60 days of written notice of the violation by the TOWN.

SECTION 19

AUDITS

WTT shall have its financial statements audited on an annual basis by an independent auditing firm of certified public accountants and shall submit a copy of the auditor's report for the preceding fiscal year with its proposed annual operating budget to the City Manager. The TOWN reserves the right to require a special audit of WTT's books and records at any time either by the City Manager or by an outside independent auditor if such action is determined necessary by the Town Council. The TOWN shall pay all expense of the independent auditor related to the special audit. WTT shall make available to the TOWN or its agents all necessary books, records and other documents necessary to perform such audit.

SECTION 20

ASSIGNMENT; NO THIRD-PARTY BENEFIT

WTT shall not assign this Agreement, in whole or in part, without the prior written consent of the TOWN, which consent is in the sole and unrestricted discretion of the TOWN. Assignment of this Agreement shall not relieve WTT of its obligations under this Agreement. Approval of the TOWN to one assignment shall not constitute approval to any other or further assignment of this Agreement. WTT shall not sublease or sublet or permit the Theatre Centre, or any part thereof to be used by others.

This Contract is solely for the benefit of the parties hereto and is not intended to and shall not be deemed to create or grant any rights, contractual or otherwise, to any third person or entity.

SECTION 21

NOTICES

Any notice, payment, statement, or demand required or permitted to be given by either party to the other may be effected by personal delivery, actual receipt via regular mail, postage prepaid, return receipt requested. Mailed notices shall be addressed to the parties at the addresses appearing below, but each party may change its address by written notice in accordance with this section.

If intended for the TOWN, to:

Chris Terry
Assistant City Manager
Town of Addison
P.O. Box 9010
Addison, TX 75001-9010

If intended for WTT, to:

Terry Martin
Producing Artistic Director
WaterTower Theatre, Inc.
15650 Addison Road
Addison, TX 75001

SECTION 22

APPROVALS

(a) Whenever in this Agreement the approval of the TOWN is required for any purpose, WTT shall file the appropriate documents with the Addison Conference and Theatre Centre (“ACTC”) Manager with notice of action proposed to be taken, and the ACTC Manager agrees to notify WTT of the TOWN’s approval or disapproval within 60 days of the filing thereof.

(b) Approval shall be by the City Council of the TOWN where required by the Charter of the Town. The City Manager may delegate approval authority to the facilities manager or his authorized representatives where permitted by the Charter of the Town or ordinances, and notify WTT of such delegation.

SECTION 23

SUCCESSORS AND ASSIGNS

This Agreement shall be binding upon and inure to the benefit of the TOWN and WTT and their respective successors and permitted assigns.

SECTION 24

APPLICABLE LAWS

This Agreement is made subject to the charter and ordinances of the TOWN, as amended, and all applicable laws and regulations of the State of Texas and the United States. The Agreement shall be governed by and construed under and in accordance with the laws of the State of Texas without reference to the choice of laws rules of any jurisdiction.

SECTION 25

INTELLECTUAL PROPERTY AND COPYRIGHT INDEMNIFICATION

WTT assumes full responsibility for complying with all United States laws and treaty terms pertaining to intellectual property issues and any applicable regulations, including but not limited to the assumption of all responsibilities for paying all royalties which are due for the use

of domestic or foreign copyrighted works in WTT's performances, transmissions or broadcasts, and WTT agrees to defend, indemnify, and hold harmless the TOWN, its officers, employees, and agents, for any claims or damages (including but not limited to court costs and reasonable attorney's fees) growing out of WTT's infringement or violation of any statute, treaty term or regulation applicable to intellectual property rights, including but not limited to copyrights.

SECTION 26

NO PARTNERSHIP OR JOINT VENTURE

Nothing contained in this agreement shall be deemed to constitute the TOWN and WTT partners or joint venturers with each other.

SECTION 27

NO WAIVER

No waiver by the TOWN of any default or breach of any term, covenant, or condition of this Agreement by WTT shall be treated as a waiver of any subsequent default or breach of the same or any other term, covenant, or condition of this Agreement.

SECTION 28

FORCE MAJEURE

If the Theatre Centre or any portion of it shall be destroyed or damaged by fire or any other calamity so as to prevent the use of the premises for the purposes and during the periods specified in this Agreement, or the use of the Theatre Centre by WTT is prevented by act of God, strike or lockout against the TOWN, WTT or any third party, material or labor restrictions by any governmental authority, civil riot, flood or other cause beyond the control of the TOWN, then, depending on the extent of damage to the Theatre Centre, the TOWN shall notify WTT as soon as reasonably practical, that the parties shall be excused from performance of the Agreement for such period of time as is reasonably necessary to remedy the effects of the occurrence and, at the option of the TOWN, this Agreement shall terminate and the TOWN shall not be liable for any claim by WTT for damage or loss by reason of termination. If the performance of this agreement for the reasons identified above is prohibited for a period of 180 days or longer, then WTT shall have the right to terminate.

SECTION 29

VENUE

The obligations of the parties under this Agreement are performable in Dallas County, Texas, and if legal action is necessary to enforce them, exclusive venue shall lie in Dallas County, Texas.

SECTION 30

LEGAL CONSTRUCTION

In the case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable, it shall not affect any other provision thereof and this Agreement shall be considered as if such invalid, illegal, or unenforceable provision had never been contained in this Agreement.

SECTION 31

SIGNAGE

WTT shall not place or permit to be placed on the exterior of the Theatre Centre, or the door, window or roof thereof, or on any display window space, or within five feet behind the storefront of the Theatre Centre, if visible from the common area, any sign, plaque, decoration, lettering, advertising matter or descriptive material without the TOWN’s prior written approval. WTT may submit a written request for approval to project images and text onto the water tower. All signs, decorations, lettering, advertising matter or other items used by WTT and approved by the TOWN as aforesaid shall conform with the standards of design, motif, and decor from time to time established by the TOWN for the Theatre Centre. WTT shall furnish to the Manager of the Conference and Theatre Centre a written proposal describing any signage to be placed in the Theatre Centre. The Manager agrees to respond within fourteen (14) days in writing to the proposal.

SECTION 32

USE OF THE ROOF

WTT shall not attach to or construct on or penetrate the roof of the Theatre Centre without the prior written consent of the City Manager.

EXECUTED _____, but effective as of October 1, 2014 as approved by the parties hereto.

TOWN OF ADDISON, TEXAS

WATERTOWER THEATRE, INC.

By: _____
Lea Dunn, City Manager

By: _____
Terry Martin, Producing Artistic
Director

ATTEST:

ATTEST:

By: _____
Chris Terry, City Secretary

By: _____

Its: _____

**EXHIBIT A
ADDISON THEATRE CENTRE**



EXHIBIT B

RATE SHEET FOR WTT

(Revised October 2014)

Theatre rental rates include use of the Main Space or Studio Theatre with Shared Lobby, Dressing Rooms and Shared Green Room. All rental rates are for one entire day. Typical hours are 9am to 11pm but may be extended if necessary without additional charge unless a rental day extends into the following day.

OFFICE, BOX OFFICE, BOARDROOM AND FURNITURE RENTAL

\$1,200.00 per month

USE OF SPACE DEFINITION

Performance Day = Anytime an audience is in attendance, including preview and invited dress.

Production Day = Build, tech, rehearsal, strike, reconfigure space, education or any other use.

Dark Day = Any day the space is occupied by WTT scenery or equipment and cannot be rented.

*All Out of the Loop shows will be charged at WTT produced show rates.

MAIN SPACE

Performance of WTT Produced show	\$275.00
Performance of WTT Presented show	\$275.00 (outside rental rate)
Production Day	\$150.00
Dark Day	\$100.00

STUDIO THEATRE

Performance of WTT Produced show	\$150.00
Performance of WTT Presented show	\$150.00 (outside rental rate)
Production Day	\$100.00
Dark Day	\$50.00

STONE COTTAGE

(Any category of event)

Per Day	\$100.00
---------	----------

MUST SEE — THE HIT BROADWAY MUSICAL!

BONNIE & CLYDE

OCTOBER 10 – NOVEMBER 2, 2014

BOOK BY IVAN MENCHELL | LYRICS BY DON BLACK | MUSIC BY FRANK WILDHORN

This new musical blends the music of Frank Wildhorn (*Jekyll & Hyde*, *The Scarlet Pimpernel*) with the electrifying love story of two of Texas' most famed outlaws. Bonnie Parker and Clyde Barrow were two dreamers that found their way into violent circumstances. Their adventurous story captured the attention of an entire nation!

Stuck in a dead-end job in depression era Texas, young Bonnie Parker falls for charismatic Clyde Barrow. Fearless, shameless, and alluring, their electrifying story of love, adventure, and crime captured the excited attention of an entire country. As their fame, notoriety — and body count — rise, the ill-fated lovers find themselves racing toward an inevitable end.

RECOMMENDED FOR MATURE AUDIENCES.

"The Broadway musical that brings back legendary icons Bonnie Parker and Clyde Barrow..."
Hollywood Reporter

REGIONAL PREMIERE — AN UNTAMED MADCAP COMEDY!

WATERTOWER THEATRE IN COLLABORATION WITH STAGE WEST PRESENT

THE EXPLORERS CLUB

JANUARY 16 – FEBRUARY 8, 2015

BY NELL BENJAMIN

It's London, 1879, and The Explorers Club is in crisis: a woman is campaigning for admittance, a savage has slapped Her Majesty, inciting a war, the Irish are probably Jewish, and a beloved pet snake has swallowed a guinea pig. When the angry English Guard surrounds the club, what's a gentleman explorer to do? Sit back and enjoy a brandy and cigar, naturally. This is the preposterous premise of Nell Benjamin's madcap comedy that will have you bending over with laughter!

"The rare comedy that fulfills its mandate: It wants to do nothing more than make you laugh — and that it does." *NY Post*

HOW FAR ARE YOU WILLING TO GO FOR THE AMERICAN DREAM?

ALL MY SONS

APRIL 17 – MAY 10, 2015

BY ARTHUR MILLER

Commemorating the 100th anniversary of playwright Arthur Miller's birth, WTT presents *All My Sons*. Set in post-World War II America, Miller's landmark drama examines the relationships between fathers and sons, and the price of living the American Dream. An explosive secret threatens to tear the family apart in this deeply engaging tale of morality and consciousness which explores the bonds of family and social responsibility.

All My Sons, inspired by a true story, won two Tony Awards and the New York Drama Critics Circle Award for the Best Play of 1947.

"STUNNING...a modern classic." *Daily Telegraph*

EVERYONE NEEDS A CARING FRIEND!

MANICURES & MONUMENTS

JUNE 5 – JUNE 28, 2015

BY VICKI CAROLINE CHEATWOOD

A new play by local playwright Vicki Caroline Cheatwood, *Manicures & Monuments* is the hilarious and heartwarming tale about the residents of an Oklahoma nursing home and the young manicurist-in-training (Janann) who comes to volunteer. Janann soon clashes with former Army nurse Bailey, one of the elderly residents. Tempers flare as the two women clash in their struggle to understand each other, but eventually discover the true meaning of caring for someone.

HEY BIG SPENDER....

SWEET CHARITY

JULY 24 – AUGUST 16, 2015

BOOK BY NEIL SIMON | MUSIC BY CY COLEMAN | LYRICS BY DOROTHY FIELDS
BASED ON AN ORIGINAL SCREENPLAY BY FEDERICO FELLINI, TULLIO PINELLI & ENNIO PLAIANO
PRODUCED FOR THE BROADWAY STAGE BY FRYER, CARR & HARRIS
CONCEIVED, STAGED AND CHOREOGRAPHED BY BOB FOSSE

Despite her job as a "dancer" at the seedy Fan-Dango Ballroom, Charity Hope Valentine is an eternal optimist, and she just may be the unluckiest romantic in New York City! The musical classic *Sweet Charity* is a warm, touching, and humorous look at her trials and tribulations as she repeatedly gives her heart, and her savings, to the wrong man.

Adapted from *Nights of Cabiria*, a film by Federico Fellini, *Sweet Charity* includes hits such as "Hey, Big Spender," "Rhythm of Life," and "If My Friends Could See Me Now."

"Sweet Charity is... perfection..." *New York Times*

SEASON EXTRAS...

HOME FOR THE HOLIDAYS AT ARMADILLO ACRES

THE GREAT AMERICAN TRAILER PARK CHRISTMAS MUSICAL

DECEMBER 5, 2014 – JANUARY 4, 2015

MUSIC & LYRICS BY DAVID NEHLS | BOOK BY BETSY KELSO

THEY'RE BACK! Those crazy characters from Armadillo Acres, North Florida's premier mobile living community, are back this holiday season! Everyone's filled with warmth and beer, but when a freak bout of amnesia strikes Darlene, the trailer park Scrooge, neighborly love is put to the test. Be on hand as that fabulous trio, Betty, Lin, and Pickles jingle all the way with some new neighbors in this all-new, all-trailer-park holiday extravaganza.

The Great American Trailer Park Christmas Musical is the sequel to the smash hit *The Great American Trailer Park Musical* which WaterTower Theatre audiences should remember well!

CONTAINS STRONG LANGUAGE AND SUBJECT MATTER.

"...utterly out of control and completely over-the-top with laughter..." *NY Post*

"...a frivolous holiday confection that expertly mixes the trashy with the splashy to create a story that is cult, hilarious, and an absolute riot!" *BroadwayWorld.Com*

10-DAY FRINGE FESTIVAL OF MUSIC, DANCE AND THEATRE

OUT OF THE LOOP FRINGE FESTIVAL

MARCH 5 – 15, 2015

Our acclaimed 10-day fringe festival of music, dance and theatre returns for its 14th season!

PLEASE NOTE: The play selection, dates and order of the season is subject to change.

SEASON EXTRA PRICES!

THE GREAT AMERICAN TRAILER PARK CHRISTMAS MUSICAL

WEEKDAYS – Full Price: \$35 | Subscription Price: \$30

WEEKENDS – Full Price: \$45 | Subscription Price: \$40

Saturday matinee is same price as weekdays.

OUT OF THE LOOP FRINGE FESTIVAL

LOOP PASS FOR SUBSCRIBERS – \$55



WaterTower Theatre

at the Addison Theatre Centre
Terry Martin, Producing Artistic Director

WaterTower Theatre 2014–2015 Season Calendar

972.450.6232 • WWW.WATERTOWERTHEATRE.ORG

MON	TUE	WED	THU	FRI	SAT	SUN
OCT 6	7	8	9	10 8pm	11 8pm	12 P 2pm
13 7:30pm	14	15 C 7:30pm	16 7:30pm	17 8pm	18 8pm	19 C 2pm
20	21	22 W C 7:30pm	23 7:30pm	24 8pm	25 2 & 8pm	26 C 2pm
27	28	29 C 7:30pm	30 7:30pm	31 8pm	NOV 1 2 & 8pm	2 C 2pm
DEC 1	2	3	4	5 8pm	6 8pm	7 2pm
8	9	10 7:30pm	11 7:30pm	12 8pm	13 2 & 8pm	14 2pm
15	16	17 7:30pm	18 7:30pm	19 8pm	20 2 & 8pm	21 2pm
22	23 7:30pm	24	25	26 8pm	27 2 & 8pm	28 2pm
29	30 7:30pm	31	JAN 1	2 8pm	3 2 & 8pm	4 2pm
JAN 12	13	14	15	16 8pm	17 8pm	18 P 2pm
19 7:30pm	20	21 C 7:30pm	22 7:30pm	23 8pm	24 8pm	25 C 2pm
26	27	28 W C 7:30pm	29 7:30pm	30 8pm	31 2 & 8pm	FEB 1 C 2pm
2	3	4 C 7:30pm	5 7:30pm	6 8pm	7 2 & 8pm	8 C 2pm
MAR 2	3	4	5 7:30pm	6 8pm	7 2, 5 & 8pm	8 2, 5 & 8pm
9	10 7:30pm	11 7:30pm	12 7:30pm	13 8pm	14 2, 5 & 8pm	15 2, 5 & 8pm

MON	TUE	WED	THU	FRI	SAT	SUN
APR 13	14	15	16	17 8pm	18 8pm	19 P 2pm
20 7:30pm	21	22 C 7:30pm	23 7:30pm	24 8pm	25 8pm	26 C 2pm
27	28	29 C 7:30pm	30 7:30pm	MAY 1 8pm	2 2 & 8pm	3 C 2pm
4	5	6 C 7:30pm	7 7:30pm	8 8pm	9 2 & 8pm	10 C 2pm
JUNE 1	2	3	4	5 8pm	6 8pm	7 P 2pm
8 7:30pm	9	10 C 7:30pm	11 7:30pm	12 8pm	13 8pm	14 C 2pm
15	16	17 C 7:30pm	18 7:30pm	19 8pm	20 2 & 8pm	21 C 2pm
22	23	24 C 7:30pm	25 7:30pm	26 8pm	27 2 & 8pm	28 C 2pm
JULY 20	21	22	23	24 8pm	25 8pm	26 P 2pm
27 7:30pm	28	29 C 7:30pm	30 7:30pm	31 8pm	AUG 1 8pm	2 C 2pm
3	4	5 W C 7:30pm	6 7:30pm	7 8pm	8 2 & 8pm	9 C 2pm
10	11	12 C 7:30pm	13 7:30pm	14 8pm	15 2 & 8pm	16 C 2pm

BONNIE & CLYDE OCT 10 – NOV 2, 2014

THE GREAT AMERICAN TRAILER PARK CHRISTMAS MUSICAL DEC 5, 2014 – JAN 4, 2015

THE EXPLORERS CLUB JAN 16 – FEB 8, 2015

OUT OF THE LOOP FRINGE FESTIVAL MARCH 5 – 15, 2015

ALL MY SONS APRIL 17 – MAY 10, 2015

MANICURES & MONUMENTS JUNE 5 – 28, 2015

SWEET CHARITY JULY 24 – AUG 16, 2015

- W WINE LOVERS' SERIES
- C CONVERSATION WITH ARTIST SERIES
- P PAY WHAT YOU CAN PERFORMANCE

Exhibit D

WTT Inventory of Furniture Rental Items

These items are owned by the Town and rented to WTT on a monthly basis as outlined within the Use Agreement.

Library

- 66" yellow table
- Green chairs

Terry's Office

- Above desk hutch
- Rug

Greg's Office

- 2 pillows

Stage Manager Office

- Mirror

Receptionist Office

- Black Desk and above desk hutch

STATE OF TEXAS

§

CONTRACT FOR SERVICES

§

COUNTY OF DALLAS

§

This Contract for Services (“Contract”) is made and entered into as of the 1st day of October, 2014 by and between the Town of Addison, Texas (the “City”) and The Family Place, Inc., a Texas non-profit corporation (“The Family Place”).

WITNESSETH:

WHEREAS, The Family Place is a private, non-profit organization established under the laws of the State of Texas for the purpose of providing counseling, outreach, referrals, education and protection services to victims of domestic violence; and

WHEREAS, the success or failure of The Family Place purposes and objectives has a direct impact on the health and welfare of the citizens of the City; and

WHEREAS, the City has full power of local self government, has authority to contract with other persons, has authority to adopt regulations that are for the good government, peace, and order of the City, has authority to enforce laws reasonably necessary to protect the public health, has authority to provide public health services as set forth in Chapter 121, Tex. Health and Safety Code and other law, and the services provided by The Family Place hereunder are in the public interest and are for, constitute and serve a public purpose in promoting the health and welfare of the citizens of the City.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements hereinafter set forth, the benefits flowing to each of the parties hereto, and other good and valuable consideration, the Town of Addison, Texas and The Family Place do hereby contract and agree as follows:

I. TERM

The term of this Contract shall be for a period of one year from the 1st day of October, 2014 through the 30th day of September, 2015, except as otherwise provided for herein.

II. SERVICES

The Family Place covenants and agrees that it shall:

(a) Establish a satellite facility in the Metrocrest area for the purpose of conducting counseling, outreach, referrals, public education, and protection services to victims of domestic violence through a variety of program services in the Addison, Carrollton, and Farmers Branch area;

(b) Coordinate with other area social outreach agencies such as Metrocrest Social Services to provide the functions described in paragraph (a) above. Such coordination shall include volunteer training for those volunteers (who desire and agree to be so trained) conducting referral functions for the Metrocrest Social Services and any other groups employing volunteers for referral functions;

(c) Distribute to various media, brochures and public service announcements (“PSA”) to inform residents in the area of the services offered by The Family Place. Such an informational campaign shall include the following:

- radio public service announcements submitted to air in English and Spanish
- local and regional newspaper PSAs describing the Family Place services
- distribution of informational pamphlets to various community, civic, and social service organizations within the Metrocrest
- speaking engagements at various community, civic, and social service organizations to also include, when arranged by the City, an annual presentation to the Addison apartment managers forum as an avenue to disseminate public information within the apartment communities;

(d) Include an Addison representative on the Family Place Metrocrest Advisory Board to enhance communication and coordination of the agencies efforts in Addison and the Metrocrest;

(e) Seek the assistance of volunteers in conducting all annual fundraising events to raise awareness of the Family Place and its services. Such special events shall be rotated through Addison, Carrollton, and Farmers Branch to serve as host sites;

(f) Present a mid-year written report to the City on the progress and status of services provided at the new Metrocrest satellite facility, and continue quarterly status reporting to the City in a mutually agreed upon form;

(g) Provide a copy of The Family Place’s annual audit of financial condition to the City; and

(h) Submit detailed quarterly financial statements and program results to the City within thirty (30) days after the end of the preceding quarter explaining all expenditures.

III. COMPENSATION

For the operation and provision of the services, projects and programs of The Family Place as described herein, the City shall pay The Family Place the sum of Twelve Thousand and No/100 Dollars (\$12,000.00). Such sum shall be paid on or before January 1, 2015, provided The Family Place is not then in default of this Contract.

IV. RESPONSIBILITY; INDEMNIFICATION

(a) THE FAMILY PLACE AGREES TO ASSUME AND DOES HEREBY ASSUME ALL RESPONSIBILITY AND LIABILITY FOR DAMAGES OR INJURIES SUSTAINED BY PERSONS OR PROPERTY, WHETHER REAL OR ASSERTED, BY OR FROM THE PERFORMANCE OF SERVICES PERFORMED AND TO BE PERFORMED HEREUNDER BY THE FAMILY PLACE OR BY ITS OFFICIALS, OFFICERS, EMPLOYEES, OWNERS, MEMBERS, AGENTS, SERVANTS, INVITEES, GUESTS, VOLUNTEERS, CONTRACTORS, SUBCONTRACTORS, OR ANYONE DIRECTLY OR

INDIRECTLY EMPLOYED BY ANY OF THEM OR ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE.

(b) ***INDEMNITY OWED BY THE FAMILY PLACE.*** The Family Place covenants and agrees to **FULLY DEFEND, INDEMNIFY AND HOLD HARMLESS** the Town of Addison, Texas and the elected officials, the officers, employees, representatives, and volunteers of the Town of Addison, Texas, individually or collectively, in both their official and private capacities (the Town of Addison, Texas and the elected officials, the officers, employees, representatives, and volunteers of the Town of Addison, Texas each being an **“Addison Person”** and collectively the **“Addison Persons”**), from and against any and all costs, claims, liens, harm, damages, losses, expenses, fees, fines, penalties, proceedings, judgments, actions, demands, causes of action, liability, and suits, of any kind and nature whatsoever made upon or incurred by any Addison Person, whether directly or indirectly, (the **“Claims”**), that arise out of, result from, or relate to: (1) the Services as described in Section II of this Contract; (2) representations or warranties by The Family Place under this Contract; and/or (3) any other act or omission under or in performance of this Contract by The Family Place, or any owner, officer, director, manager, employee, agent, representative, consultant, contractor, subcontractor, licensee, invitee, patron, guest, customer, or concessionaire of or for The Family Place, or any other person or entity for whom The Family Place is legally responsible, and their respective owners, officers, directors, managers, employees, agents, representatives, consultants, contractors, subcontractors, licensees, , invitees, patrons, guests, customers, and concessionaires. **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 OR GROSS NEGLIGENCE OF ANY ADDISON PERSON, OR CONDUCT BY ANY ADDISON PERSON THAT WOULD GIVE RISE TO STRICT LIABILITY OF ANY KIND.**

The Family Place shall promptly advise the City in writing of any claim or demand against any Addison Person or The Family Place related to or arising out of The Family Place's activities under this Contract and shall see to the investigation and defense of such claim or demand at The Family Place'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 The Family Place of any of its obligations hereunder.

The provisions of this defense, indemnity, and hold harmless obligation, and any other defense, indemnity, and hold harmless obligation set forth in this Contract, shall survive the termination or expiration of this Contract.

V. TERMINATION

This Contract may be canceled and terminated by either party at any time and for any reason upon giving at least thirty (30) days written notice of such cancellation and termination to the other party hereto. Such notice shall be sent certified mail, return receipt requested, and to the most recent address shown on the records of the party terminating the Contract. The thirty (30) day period shall commence upon deposit of the said notice in the United States mail and shall conclude at midnight of the 30th day thereafter. In the event of such cancellation and termination and if The Family Place has failed at the time of such cancellation and termination to provide all of the services set forth herein, The Family Place shall refund to the City that portion of funds paid to The Family Place under the terms of this Contract in accordance with the following: Prorata funding returned to

the City by The Family Place shall be determined by dividing the amount paid by the City under this Contract by 365 (the “daily rate”), and then multiplying the daily rate by the number of days which would have remained in the term hereof but for the cancellation or termination. Upon payment or tender of such amount, all of the obligations of The Family Place and the City under this Contract shall be discharged and terminated (except as otherwise provided herein, e.g., except for obligations and responsibilities as may survive termination or cancellation of this Contract as provided for in this Contract) and no action shall lie or accrue for additional benefit, consideration or value for or based upon the services performed under or pursuant to this Contract.

VI. CONFLICT OF INTEREST

(a) No officer or employee of the City shall have any interest or receive any benefit, direct or indirect, in this Contract or the proceeds thereof. This prohibition is not intended and should not be construed to preclude payment of expenses legitimately incurred by City officials in the conduct of the City’s business. No officer or employee of The Family Place shall have any financial interest, direct or indirect, in this Contract or the proceeds thereof.

(b) For purposes of this section, “benefit” means anything reasonably regarded as an economic advantage, including benefit to any other person in whose welfare the beneficiary is interested, but does not include contributions or expenditures made and reported in accordance with any law.

VII. ACCOUNTING

Prior to adopting its annual budget, The Family Place shall submit for the City’s review a budget showing the use of the City’s funds provided pursuant to this Contract, and The Family Place shall make such periodic reports to the City, as provided for herein, listing the expenditures made by The Family Place from the funds provided by the City. The approval of The Family Place’s annual budget creates a fiduciary duty in The Family Place with respect to the funds provided by the City under this Contract.

The funds paid to The Family Place pursuant to this Contract shall be maintained in a separate account established for that purpose and may not be commingled with any other money. Funds received hereunder from the City may be spent for day to day operations, supplies, salaries and other administrative costs provided that such costs are necessary for the promotion and encouragement of the purposes for which the funds may be used as described herein.

The Family Place shall maintain complete and accurate financial records of all of its revenues, including, without limitation, each expenditure of revenue received pursuant to this Contract. By the thirtieth (30th) day after the close of each quarter (beginning with the quarter ending December 31, 2014, with the last quarter ending September 30, 2015), The Family Place shall provide the City the following: (a) a detailed financial report for the previous quarter listing the expenditures made by The Family Place of the funds paid to The Family Place under this Contract; and (b) a year-to-date report of the expenditures made by The Family Place of the funds paid to The Family Place under this Contract (and if this Contract is terminated prior to its expiration, The Family Place shall provide such reports as set forth above for the period prior to the expiration for which reports have not been provided, and such obligation shall survive the termination hereof; and the obligation to provide the reports for the last quarter of this Contract shall survive the expiration of this Contract). On request of the City at any time, The Family Place shall make its records

available for inspection and review by the City or its designated representative(s). Within ninety (90) days of the end of The Family Place's fiscal year, The Family Place shall provide the City with a financial statement signed by the Chairman of The Family Place's Board of Directors (or other person acceptable to the City) and audited by an independent Certified Public Accountant, setting forth The Family Place's income, expenses, assets and liabilities, and such obligation shall survive the termination or expiration of this Contract.

All application materials, financial information, quarterly (or other) reports, any other information described herein or required hereunder, and general correspondence with the City must be submitted to the City in electronic format to the City email address specified in the application packet. Additionally, the City may require that such materials, information, reports, and correspondence also be provided to the City in writing (e.g., a hard-copy, non-electronic format).

VIII. INDEPENDENT CONTRACTOR

In performing services under this Contract, the relationship between the City and The Family Place is that of independent contractor, and the City and The Family Place by the execution of this Contract do not change the independent status of The Family Place. The Family Place is an independent contractor, and no term or provision of this Contract or action by The Family Place in the performance of this Contract is intended nor shall be construed as making The Family Place the agent, servant or employee of the City, or to create an employer-employee relationship, a joint venture relationship, or a joint enterprise relationship, or to allow the City to exercise discretion or control over the manner in which The Family Place performs the services which are described in this Contract.

IX. NON-ASSIGNABILITY; NO THIRD-PARTY BENEFIT

The Family Place may not and shall have no authority to assign, transfer, or otherwise convey by any means whatsoever this Contract or any of the rights, duties or responsibilities hereunder without obtaining the prior written approval of the City, and any attempted assignment, transfer, or other conveyance of this Contract without such approval shall be null and void and be cause for immediate termination of this Contract by the City.

This Contract is solely for the benefit of the parties hereto and is not intended to and shall not be deemed to create or grant any rights, contractual or otherwise, to any third person or entity.

X. NO PARTNERSHIP, JOINT VENTURE, OR JOINT ENTERPRISE

Nothing contained in this Contract shall be deemed to constitute that the City and The Family Place are partners or joint venturers with each other, or shall be construed or be deemed to establish that their relationship constitutes, or that this Contract creates, a joint enterprise.

XI. NON-DISCRIMINATION

During the term of this Contract, The Family Place agrees that it shall not discriminate against any employee or applicant for employment because of race, age, color, sex or religion, ancestry, national origin, place of birth, or handicap.

XII. LEGAL COMPLIANCE; CONTRACT SUBJECT TO LAWS; RECITALS

The Family Place shall observe and abide by, and this Contract is subject to, all applicable federal, state, and local (including the City) laws, rules, regulations, and policies (including, without limitation, the Charter and Ordinances of the City), as the same currently exist or as they may be hereafter amended. The above and foregoing recitals to this Contract are true and correct and incorporated herein and made a part hereof.

XIII. VENUE; GOVERNING LAW

In the event of any action under this Contract, exclusive venue for all causes of action shall be instituted and maintained in Dallas County, Texas. The parties agree that the laws of the State of Texas shall govern and apply to the interpretation, validity and enforcement of this Contract; and, with respect to any conflict of law provisions, the parties agree that such conflict of law provisions shall not affect the application of the law of Texas (without reference to its conflict of law provisions) to the governing, interpretation, validity and enforcement of this Contract.

XIV. COUNTERPARTS

This Contract may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

XV. NO WAIVER; RIGHTS CUMULATIVE

The failure by either party to exercise any right or power, or option given to it by this Contract, or to insist upon strict compliance with the terms of this Contract, shall not constitute a waiver of the terms and conditions of this Contract 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. The rights or remedies under this Contract are cumulative to any other rights or remedies, which may be granted by law.

XVI. NOTICES

All notices, communications and reports, required or permitted under this Contract shall be personally delivered or mailed to the respective parties using certified mail, return receipt requested, postage prepaid, at the addresses shown below. The City and The Family Place agree to provide the other with written notification within five (5) days, if the address for notices, provided below, is changed. Notices by personal delivery shall be deemed delivered upon the date delivered; mailed notices shall be deemed communicated on the date shown on the return receipt. If no date is shown, the mailed notice shall be deemed communicated on the third (3rd) day after depositing the same in the United States mail.

The City's address:

Matthew McCombs
Assistant to the City Manager
Town of Addison
5300 Belt Line Road
Dallas, Texas 75254

The Family Place's address:

Karen Miller
The Family Place
PO Box 7999
Dallas, TX 75209

XVII. SEVERABILITY

The terms of this Contract are severable, and if any section, paragraph, clause, or other portion of this Contract shall be found to be illegal, unlawful, unconstitutional or void for any reason, the balance of the Contract shall remain in full force and effect and the parties shall be deemed to have contracted as if said section, paragraph, clause or portion had not been in the Contract initially.

XVIII. AUTHORITY TO EXECUTE CONTRACT

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

XIX. ENTIRE CONTRACT

This Contract represents the entire and integrated contract and agreement between the City and The Family Place and supersedes all prior negotiations, representations and/or agreements, either written or oral. This Contract may be amended only by written instrument signed by both the City and The Family Place

IN WITNESS THEREOF, the parties hereto have caused this Contract to be signed by their proper corporate officers as first above specified, and have caused their proper corporate seal to be hereto affixed the day and year first above written.

TOWN OF ADDISON, TEXAS

THE FAMILY PLACE, INC.

By: _____
Ron Whitehead, City Manager

By: _____
Paige Flink, Executive Director

STATE OF TEXAS

§

CONTRACT FOR SERVICES

COUNTY OF DALLAS

§

§

This Contract for Services (“Contract”) is made and entered into as of the 1st day of October, 2014 by and between the Town of Addison, Texas (the “City”) and Metrocrest Services (“Metrocrest”).

WITNESSETH:

WHEREAS, Metrocrest is a private, non-profit organization established under the laws of the State of Texas for the purpose of providing information, referral and short term emergency assistance to the citizens within the City; and

WHEREAS, the success or failure of Metrocrest’s purposes and objectives has a direct impact on the health, comfort, and welfare of the citizens of the City; and

WHEREAS, the City has full power of local self government, has authority to contract with other persons, has authority to adopt regulations that are for the good government, peace, and order of the City, has authority to enforce laws reasonably necessary to protect the public health, is authorized pursuant to Section 150.002, Texas Human Resources Code, to provide housing, food, clothing, and day care services to the indigent on its own or by contract, and the services provided by Metrocrest hereunder are in the public interest and are for, constitute and serve a public purpose in promoting the health and welfare of the citizens of the City.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, the Town of Addison, Texas and Metrocrest Services do hereby contract and agree as follows:

I. TERM

The term of this Contract shall be for a period of one year from the 1st day of October, 2014 through the 30th day of September, 2015, except as otherwise provided for herein.

II. SERVICES

During the term of this Contract, Metrocrest covenants and agrees that it shall:

(a) Provide direct material assistance and short term emergency assistance to residents and citizens of the City of which includes:

- 1) Rent
- 2) Utilities
- 3) Food
- 4) Clothing
- 5) Prescription Drugs
- 6) Transportation Services
- 7) Home Improvement Projects for Seniors
- 8) Other related services

(b) Provide information and referral on health and social service issues to residents and citizens of the City of which includes:

- 1) Employment Assistance
- 2) Health and Social Services Referrals
- 3) Support Group Information
- 4) Other related referrals

(c) Provide indirect assistance to residents and citizens for the City of which includes:

- (1) Collaboration with others in the community for awareness of need and maximum utilization of resources
- (2) Community education about issues, needs, and resources
- (3) Inquiry into the causes of identified problems
- (4) Participation in the development of plans and strategies to address the causes
- (5) Provisions of volunteer opportunities for community-wide involvement in the programs of the Metrocrest Services.

(d) Submit detailed quarterly financial statements and program results to the City within thirty (30) days after the end of the preceding quarter explaining all expenditures.

III. COMPENSATION

For the operation and provision of the services, projects and programs of Metrocrest as described herein, the City shall pay Metrocrest the sum of Sixty One Thousand and No/100 Dollars (\$61,000.00). Such sum shall be paid on or before January 1, 2015, provided Metrocrest is not then in default of this Contract.

IV. INDEMNIFICATION

(a) METEROCREST AGREES TO ASSUME AND DOES HEREBY ASSUME ALL RESPONSIBILITY AND LIABILITY FOR DAMAGES OR INJURIES SUSTAINED BY PERSONS OR PROPERTY, WHETHER REAL OR ASSERTED, BY OR FROM THE PERFORMANCE OF SERVICES PERFORMED AND TO BE PERFORMED HEREUNDER BY METROCREST OR BY ITS OFFICIALS, OFFICERS, EMPLOYEES, OWNERS, MEMBERS, AGENTS, SERVANTS, INVITEES, GUESTS, VOLUNTEERS, CONTRACTORS, SUBCONTRACTORS, OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM OR ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE.

(b) ***INDEMNITY OWED BY METROCREST SERVICES.*** Metrocrest Services covenants and agrees to **FULLY DEFEND, INDEMNIFY AND HOLD HARMLESS** the Town of Addison, Texas and the elected officials, the officers, employees, representatives, and volunteers of the Town of Addison, Texas, individually or collectively, in both their official and private capacities (the Town of Addison, Texas and the elected officials, the officers, employees, representatives, and volunteers of the Town of Addison, Texas each being an **“Addison Person”** and collectively the **“Addison Persons”**), from and against any and all costs, claims, liens, harm, damages, losses, expenses, fees, fines, penalties, proceedings, judgments, actions, demands, causes of action, liability, and suits, of any kind and nature

whatsoever made upon or incurred by any Addison Person, whether directly or indirectly, (the "**Claims**"), that arise out of, result from, or relate to: (1) the Services as described in Section II of this Contract; (2) representations or warranties by Metrocrest Services under this Contract; and/or (3) any other act or omission under or in performance of this Contract by Metrocrest Services, or any owner, officer, director, manager, employee, agent, representative, consultant, contractor, subcontractor, licensee, invitee, patron, guest, customer, or concessionaire of or for Metrocrest Services, or any other person or entity for whom Metrocrest Services is legally responsible, and their respective owners, officers, directors, managers, employees, agents, representatives, consultants, contractors, subcontractors, licensees, , invitees, patrons, guests, customers, and concessionaires. **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 OR GROSS NEGLIGENCE OF ANY ADDISON PERSON, OR CONDUCT BY ANY ADDISON PERSON THAT WOULD GIVE RISE TO STRICT LIABILITY OF ANY KIND.**

Metrocrest Services shall promptly advise the City in writing of any claim or demand against any Addison Person or Metrocrest Services related to or arising out of Metrocrest Services' activities under this Contract and shall see to the investigation and defense of such claim or demand at Metrocrest Services' 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 Metrocrest Services of any of its obligations hereunder.

The provisions of this defense, indemnity, and hold harmless obligation, and any other defense, indemnity, and hold harmless obligation set forth in this Contract, shall survive the termination or expiration of this Contract.

V. TERMINATION

This Contract may be canceled and terminated by either party at any time and for any reason upon giving at least thirty (30) days written notice of such cancellation and termination to the other party hereto. Such notice shall be sent certified mail, return receipt requested, and to the most recent address shown on the records of the party terminating the Contract. The thirty (30) day period shall commence upon deposit of the said notice in the United States mail and shall conclude at midnight of the 30th day thereafter. In the event of such cancellation and termination and if Metrocrest has failed at the time of such cancellation and termination to provide all of the services set forth herein, Metrocrest shall refund to the City that portion of funds paid to Metrocrest under the terms of this Contract in accordance with the following: Prorata funding returned to the City by Metrocrest shall be determined by dividing the amount paid by the City under this Contract by 365 (the "daily rate"), and then multiplying the daily rate by the number of days which would have remained in the term hereof but for the cancellation or termination. Upon payment or tender of such amount, all of the obligations of Metrocrest and the City under this Contract shall be discharged and terminated (except as otherwise provided herein, e.g., except for obligations and responsibilities as may survive termination or cancellation of this Contract as provided for in this Contract) and no action shall lie or accrue for additional benefit, consideration or value for or based upon the services performed under or pursuant to this Contract.

VI. CONFLICT OF INTEREST

(a) No officer or employee of the City shall have any interest or receive any benefit, direct or indirect, in this Contract or the proceeds thereof. This prohibition is not intended and should not be construed to preclude payment of expenses legitimately incurred by City officials in the conduct of the City's business. No officer or employee of Metrocrest shall have any financial interest, direct or indirect, in this Contract or the proceeds thereof.

(b) For purposes of this section, "benefit" means anything reasonably regarded as an economic advantage, including benefit to any other person in whose welfare the beneficiary is interested, but does not include contributions or expenditures made and reported in accordance with any law.

VII. ACCOUNTING

Metrocrest's annual budget period begins October 1 of each year and ends on September 30 of the following year. The funds to be paid to Metrocrest pursuant to this Contract shall be included in Metrocrest's budget for the year that begins October 1, 2014 and ends September 30, 2015. Upon its adoption, Metrocrest shall submit that budget to the City for the City's review, and Metrocrest shall make such periodic reports to the City, as provided for herein, listing the expenditures made by Metrocrest from the funds provided by the City and shown Metrocrest's budget. The approval of Metrocrest's annual budget creates a fiduciary duty in Metrocrest with respect to the funds provided by the City under this Contract.

The funds paid to Metrocrest pursuant to this Contract shall be maintained in a separate account established for that purpose and may not be commingled with any other money. Funds received hereunder from the City may be spent for day to day operations, supplies, salaries and other administrative costs provided that such costs are necessary for the promotion and encouragement of the purposes for which the funds may be used as described herein.

Metrocrest shall maintain complete and accurate financial records of all of its revenues, including, without limitation, each expenditure of revenue received pursuant to this Contract. By the thirtieth (30th) day after the close of each quarter (beginning with the quarter ending December 31, 2014, with the last quarter ending September 30, 2015), Metrocrest shall provide the City the following: (a) a detailed financial report for the previous quarter listing the expenditures made by Metrocrest of the funds paid to Metrocrest under this Contract; and (b) a year-to-date report of the expenditures made by Metrocrest of the funds paid to Metrocrest under this Contract (and if this Contract is terminated prior to its expiration, Metrocrest shall provide such reports as set forth above for the period prior to the expiration for which reports have not been provided, and such obligation shall survive the termination hereof; and the obligation to provide the reports for the last quarter of this Contract shall survive the expiration of this Contract). On request of the City at any time, Metrocrest shall make its records available for inspection and review by the City or its designated representative(s). Within ninety (90) days following the end of Metrocrest's fiscal year, Metrocrest shall provide the City with a financial statement signed by the Chairman of Metrocrest's Board of Directors (or other person acceptable to the City) and audited by an independent Certified Public Accountant, setting forth Metrocrest's income, expenses, assets and liabilities, and such obligation shall survive the termination or expiration of this Contract.

All application materials, financial information, quarterly (or other) reports, any other information described herein or required hereunder, and general correspondence with the City must be submitted to the City in electronic format to the City email address specified in the application packet. Additionally, the City may require that such materials, information, reports, and correspondence also be provided to the City in writing (e.g., a hard-copy, non-electronic format).

VIII. INDEPENDENT CONTRACTOR

In performing services under this Contract, the relationship between the City and Metrocrest is that of independent contractor, and the City and Metrocrest by the execution of this Contract do not change the independent status of Metrocrest. Metrocrest is an independent contractor, and no term or provision of this Contract or action by Metrocrest in the performance of this Contract is intended nor shall be construed as making Metrocrest the agent, servant or employee of the City, or to create an employer-employee relationship, a joint venture relationship, or a joint enterprise relationship, or to allow the City to exercise discretion or control over the manner in which Communities in Schools performs the services which are described in this Contract.

IX. NON-ASSIGNABILITY; NO THIRD-PARTY BENEFIT

Metrocrest may not and shall have no authority to assign, transfer, or otherwise convey by any means whatsoever this Contract or any of the rights, duties or responsibilities hereunder without obtaining the prior written approval of the City, and any attempted assignment, transfer, or other conveyance of this Contract without such approval shall be null and void and be cause for immediate termination of this Contract by the City.

This Contract is solely for the benefit of the parties hereto and is not intended to and shall not be deemed to create or grant any rights, contractual or otherwise, to any third person or entity.

X. NO PARTNERSHIP, JOINT VENTURE, OR JOINT ENTERPRISE

Nothing contained in this Contract shall be deemed to constitute that the City and Metrocrest are partners or joint venturers with each other, or shall be construed or be deemed to establish that their relationship constitutes, or that this Contract creates, a joint enterprise.

XI. NON-DISCRIMINATION

During the term of this Contract, Metrocrest agrees that it shall not discriminate against any employee or applicant for employment because of race, age, color, sex or religion, ancestry, national origin, place of birth, or handicap.

XII. LEGAL COMPLIANCE; CONTRACT SUBJECT TO LAWS; RECITALS

Metrocrest shall observe and abide by, and this Contract is subject to, all applicable federal, state, and local (including the City) laws, rules, regulations, and policies (including, without limitation, the Charter and Ordinances of the City), as the same currently exist or as they may be hereafter amended. The above and foregoing recitals to this Contract are true and correct and incorporated herein and made a part hereof.

XIII. VENUE; GOVERNING LAW

In the event of any action under this Contract, exclusive venue for all causes of action shall be instituted and maintained in Dallas County, Texas. This Agreement shall be governed by and construed under the laws of the State of Texas, without regard to choice-of-law rules of any jurisdiction.

XIV. COUNTERPARTS

This Contract may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

XV. NO WAIVER; RIGHTS CUMULATIVE

The failure by either party to exercise any right or power, or option given to it by this Contract, or to insist upon strict compliance with the terms of this Contract, shall not constitute a waiver of the terms and conditions of this Contract 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. The rights or remedies under this Contract are cumulative to any other rights or remedies, which may be granted by law.

XVI. NOTICES

All notices, communications and reports, required or permitted under this Contract shall be personally delivered or mailed to the respective parties using certified mail, return receipt requested, postage prepaid, at the addresses shown below. The City and Metrocrest agree to provide the other with written notification within five (5) days, if the address for notices, provided below, is changed. Notices by personal delivery shall be deemed delivered upon the date delivered; mailed notices shall be deemed communicated on the date shown on the return receipt. If no date is shown, the mailed notice shall be deemed communicated on the third (3rd) day after depositing the same in the United States mail.

The City’s address:

Matthew McCombs
Town of Addison
5300 Belt Line Road
Dallas, Texas 75254

Metrocrest’s address:

Tracy Eubanks
Metrocrest Services
13801 Hutton Drive, Suite 150
Farmers Branch, Texas 75234

XVII. SEVERABILITY

The terms of this Contract are severable, and if any section, paragraph, clause, or other portion of this Contract shall be found to be illegal, unlawful, unconstitutional or void for any reason, the balance of the Contract shall remain in full force and effect and the parties shall be deemed to have contracted as if said section, paragraph, clause or portion had not been in the Contract initially.

XVIII. AUTHORITY TO EXECUTE CONTRACT

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

XIX. ENTIRE AGREEMENT

This Contract represents the entire and integrated contract and agreement between the City and Metrocrest and supersedes all prior negotiations, representations and/or agreements, either written or oral. This Contract may be amended only by written instrument signed by both the City and Metrocrest.

IN WITNESS THEREOF, the parties hereto have caused this Contract to be signed by their proper corporate officers as first above specified, and have caused their proper corporate seal to be hereto affixed the day and year first above written.

TOWN OF ADDISON, TEXAS

METROCREST SERVICES

By: _____
Lea Dunn, City Manager

By: _____
Tracy Eubanks, President

STATE OF TEXAS

§

CONTRACT FOR SERVICES

COUNTY OF DALLAS

§

§

This Contract for Services (“Contract”) is made and entered into as of the 1st day of October, 2014 by and between the Town of Addison, Texas (the “City”) and Contact Crisis Line (“Contact Crisis Line”).

WITNESSETH:

WHEREAS, Contact Crisis Line is a private, non-profit organization established under the laws of the State of Texas for the purpose of counseling, supporting, helping and being a vehicle of hope for men, women and children in the Dallas area who are struggling too deal with issues ranging from depression, loneliness, substance abuse, relationship issues, financial hardship and other problems; and

WHEREAS, Contact Crisis Line provides emergency assistance and a connection to resources to thousands of persons in need and fielded nearly 40,000 calls from individuals suffering through a variety of crisis; and

WHEREAS, Contact Crisis Line daily serves people from teens to seniors, facing daily challenges with the use of its 24-hour free confidential listening, comfort, and a connection to resources, education, and emergency assistance; and

WHEREAS, Contact Crisis Line has grown to more than sixty (60) centers in twenty-one (21) states and does not accept federal government funding of any kind but relies on the support of private individuals, corporations and foundations.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements hereinafter set forth, the benefits flowing to each of the parties hereto, and other good and valuable consideration, the Town of Addison, Texas and Contact Crisis Line do hereby contract and agree as follows:

I. TERM

The term of this contract and agreement shall be for a period of one year from the 1st day of October, 2014 through the 30th day of September, 2015, except as otherwise provided for herein.

II. SERVICES

The Contact Crisis Line shall provide the following services to the City:

(a) Crisis Prevention and Resource Services: From the Susan and Ben Odom Call Center, more than 100 specially trained Crisis Line Specialists support callers 242 hours a day with crisis prevent services, as well as referring them to other community agencies if further assistance is needed during the City’s 2014-2015 fiscal year.

(b) Emergency Aid Program: Provides free transportation for individuals in a potentially life-threatening situation to a safe place or an emergency unit at a hospital; DART bus and rail passes for critical transportation needs; and essential prescription funding for life-sustaining medications.

(c) Teen CONTACT: A program dedicated to teens by providing telephone crisis prevention services and distributing valuable resource information on teen-related issues to school counselors, youth groups, and parents. This outreach program actually takes services out of the call center and into classrooms, youth centers and churches, providing large and small group presentations in both English and Spanish.

(d) Community Engagement: The expansion of all of our programs to the Spanish-speaking community. Providing Spanish-speaking volunteers to staff two new phone lines and providing materials and presentations in Spanish.

(e) Submit detailed quarterly financial statements and program results to the City within thirty (30) days after the end of the preceding quarter listing the expenditures made by Contact Crisis Line with the revenues received pursuant to this Contract.

III. COMPENSATION

For the operation and provision of the services, projects and programs of Contact Crisis Line as described herein, the City shall pay Contact Crisis Line the sum of Seven Thousand Five Hundred and No/100 Dollars (\$7,500.00). Such sum shall be paid on or before January 1, 2015, provided Contact Crisis Line is not then in default of this Contract.

IV. RESPONSIBILITY; INDEMNIFICATION

(a) CONTACT CRISIS LINE AGREES TO ASSUME AND DOES HEREBY ASSUME ALL RESPONSIBILITY AND LIABILITY FOR DAMAGES OR INJURIES SUSTAINED BY PERSONS OR PROPERTY, WHETHER REAL OR ASSERTED, BY OR FROM THE PERFORMANCE OF SERVICES PERFORMED AND TO BE PERFORMED HEREUNDER BY CONTACT CRISIS LINE OR BY ITS OFFICIALS, OFFICERS, EMPLOYEES, OWNERS, MEMBERS, AGENTS, SERVANTS, INVITEES, GUESTS, VOLUNTEERS, CONTRACTORS, SUBCONTRACTORS, OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM OR ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE.

(b) ***INDEMNITY OWED BY CONTACT CRISIS LINE.*** Contact Crisis Line covenants and agrees to **FULLY DEFEND, INDEMNIFY AND HOLD HARMLESS** the Town of Addison, Texas and the elected officials, the officers, employees, representatives, and volunteers of the Town of Addison, Texas, individually or collectively, in both their official and private capacities (the Town of Addison, Texas and the elected officials, the officers, employees, representatives, and volunteers of the Town of Addison, Texas each being an "**Addison Person**" and collectively the "**Addison Persons**"), from and against any and all costs, claims, liens, harm, damages, losses, expenses, fees, fines, penalties, proceedings, judgments, actions, demands, causes of action, liability, and suits, of any kind and nature whatsoever made upon or incurred by any Addison Person, whether directly or

indirectly, (the “Claims”), that arise out of, result from, or relate to: (1) the Services as described in Section II of this Contract; (2) representations or warranties by Contact Crisis Line under this Contract; and/or (3) any other act or omission under or in performance of this Contract by Contact Crisis Line, or any owner, officer, director, manager, employee, agent, representative, consultant, contractor, subcontractor, licensee, invitee, patron, guest, customer, or concessionaire of or for Contact Crisis Line, or any other person or entity for whom Contact Crisis Line is legally responsible, and their respective owners, officers, directors, managers, employees, agents, representatives, consultants, contractors, subcontractors, licensees, , invitees, patrons, guests, customers, and concessionaires. 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 OR GROSS NEGLIGENCE OF ANY ADDISON PERSON, OR CONDUCT BY ANY ADDISON PERSON THAT WOULD GIVE RISE TO STRICT LIABILITY OF ANY KIND.

Contact shall promptly advise the City in writing of any claim or demand against any Addison Person or Contact Crisis Line related to or arising out of Contact Crisis Line's activities under this Contract and shall see to the investigation and defense of such claim or demand at Contact Crisis Line'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 Contact Crisis Line of any of its obligations hereunder.

The provisions of this defense, indemnity, and hold harmless obligation, and any other defense, indemnity, and hold harmless obligation set forth in this Contract, shall survive the termination or expiration of this Contract.

V. TERMINATION

This Contract may be canceled and terminated by either party at any time and for any reason upon giving at least thirty (30) days written notice of such cancellation and termination to the other party hereto. Such notice shall be sent certified mail, return receipt requested, and to the most recent address shown on the records of the party terminating the Contract. The thirty (30) day period shall commence upon deposit of the said notice in the United States mail and shall conclude at midnight of the 30th day thereafter. In the event of such cancellation and termination and if Contact Crisis Line has failed at the time of such cancellation and termination to provide all of the services set forth herein, Contact Crisis Line shall refund to the City that portion of funds paid to Contact Crisis Line under the terms of this Contract in accordance with the following: Prorata funding returned to the City by Contact Crisis Line shall be determined by dividing the amount paid by the City under this Contract by 365 (the “daily rate”), and then multiplying the daily rate by the number of days which would have remained in the term hereof but for the cancellation or termination. Upon payment or tender of such amount, all of the obligations of Contact Crisis Line and the City under this Contract shall be discharged and terminated (except as otherwise provided herein, e.g., except for obligations and responsibilities as may survive termination or cancellation of this Contract as provided for in this Contract) and no action shall lie or accrue for additional benefit, consideration or value for or based upon the services performed under or pursuant to this Contract.

VI. CONFLICT OF INTEREST

(a) No officer or employee of the City shall have any interest or receive any benefit, direct or indirect, in this Contract or the proceeds thereof. This prohibition is not intended and should not be construed to preclude payment of expenses legitimately incurred by City officials in the conduct of the City's business. No officer or employee of Contact Crisis Line shall have any financial interest, direct or indirect, in this Contract or the proceeds thereof.

(b) For purposes of this section, "benefit" means anything reasonably regarded as an economic advantage, including benefit to any other person in whose welfare the beneficiary is interested, but does not include contributions or expenditures made and reported in accordance with any law.

VII. ACCOUNTING

Prior to adopting its annual budget, Contact Crisis Line shall submit for the City's review a budget showing the use of the City's funds provided pursuant to this Contract, and Contact Crisis Line shall make such periodic reports to the City, as provided for herein, listing the expenditures made by Contact Crisis Line from the funds provided by the City. The approval of Contact Crisis Line's annual budget creates a fiduciary duty in Contact Crisis Line with respect to the funds provided by the City under this Contract.

The funds paid to Contact Crisis Line pursuant to this Contract shall be maintained in a separate account established for that purpose and may not be commingled with any other money. Funds received hereunder from the City may be spent for day to day operations, supplies, salaries and other administrative costs provided that such costs are necessary for the promotion and encouragement of the purposes for which the funds may be used as described herein.

Contact Crisis Line shall maintain complete and accurate financial records of all of its revenues, including, without limitation, each expenditure of revenue received pursuant to this Contract. By the thirtieth (30th) day after the close of each quarter (beginning with the quarter ending December 31, 2014, with the last quarter ending September 30, 2015), Contact Crisis Line shall provide the City the following: (a) a detailed financial report for the previous quarter listing the expenditures made by Contact Crisis Line of the funds paid to Contact Crisis Line under this Contract; and (b) a year-to-date report of the expenditures made by Contact of the funds paid to Contact under this Contract (and if this Contract is terminated prior to its expiration, Contact Crisis Line shall provide such reports as set forth above for the period prior to the expiration for which reports have not been provided, and such obligation shall survive the termination hereof; and the obligation to provide the reports for the last quarter of this Contract shall survive the expiration of this Contract). On request of the City at any time, Contact Crisis Line shall make its records available for inspection and review by the City or its designated representative(s). Within ninety (90) days of the end of Contact Crisis Line's fiscal year, Contact Crisis Line shall provide the City with a financial statement signed by the Chairman of Contact Crisis Line's Board of Directors (or other person acceptable to the City) and audited by an independent Certified Public Accountant, setting forth Contact Crisis Line's income, expenses, assets and liabilities, and such obligation shall survive the termination or expiration of this Contract.

All application materials, financial information, quarterly (or other) reports, any other information described herein or required hereunder, and general correspondence with the City must be submitted to the City in electronic format to the City email address specified in the application packet. Additionally, the City may require that such materials, information, reports, and correspondence also be provided to the City in writing (e.g., a hard-copy, non-electronic format).

VIII. INDEPENDENT CONTRACTOR

In performing services under this Contract, the relationship between the City and Contact Crisis Line is that of independent contractor, and the City and Contact Crisis Line by the execution of this Contract do not change the independent status of Contact Crisis Line. Contact Crisis Line is an independent contractor, and no term or provision of this Contract or action by Contact Crisis Line in the performance of this Contract is intended nor shall be construed as making Contact Crisis Line the agent, servant or employee of the City, or to create an employer-employee relationship, a joint venture relationship, or a joint enterprise relationship, or to allow the City to exercise discretion or control over the manner in which Contact Crisis Line performs the services which are described in this Contract.

IX. NON-ASSIGNABILITY; NO THIRD-PARTY BENEFIT

Contact Crisis Line may not and shall have no authority to assign, transfer, or otherwise convey by any means whatsoever this Contract or any of the rights, duties or responsibilities hereunder without obtaining the prior written approval of the City, and any attempted assignment, transfer, or other conveyance of this Contract without such approval shall be null and void and be cause for immediate termination of this Contract by the City.

This Contract is solely for the benefit of the parties hereto and is not intended to and shall not be deemed to create or grant any rights, contractual or otherwise, to any third person or entity.

X. NO PARTNERSHIP, JOINT VENTURE, OR JOINT ENTERPRISE

Nothing contained in this Contract shall be deemed to constitute that the City and Contact Crisis Adams are partners or joint venturers with each other, or shall be construed or be deemed to establish that their relationship constitutes, or that this Contract creates, a joint enterprise.

XI. COPYRIGHT

Contact Crisis Line assumes full responsibility for complying with all United States laws and treaty terms pertaining to intellectual property issues and any applicable regulations, including but not limited to the assumption of all responsibilities for paying all royalties which are due for the use of domestic or foreign copyrighted works in Contact Crisis Line's performances, transmissions or broadcasts, and CONTACT CRISIS LINE, without limiting any other indemnity given by Contact Crisis Line as set forth herein, AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS THE CITY, ITS OFFICIALS, OFFICERS, EMPLOYEES, AND AGENTS, IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, FROM AND AGAINST ANY LIABILITY, CLAIMS, OR DAMAGES (INCLUDING BUT NOT LIMITED TO COURT COSTS AND ATTORNEY'S FEES) GROWING OUT OF CONTACT CRISIS LINE'S INFRINGEMENT OR VIOLATION OF ANY STATUTE, TREATY TERM, OR REGULATION

APPLICABLE TO INTELLECTUAL PROPERTY RIGHTS, INCLUDING BUT NOT LIMITED TO COPYRIGHTS.

XII. NON-DISCRIMINATION

During the term of this Contract, Contact Crisis Line agrees that it shall not discriminate against any employee or applicant for employment because of race, age, color, sex or religion, ancestry, national origin, place of birth, or handicap.

XIII. LEGAL COMPLIANCE; CONTRACT SUBJECT TO LAWS; RECITALS

Contact Crisis Line shall observe and abide by, and this Contract is subject to, all applicable federal, state, and local (including the City) laws, rules, regulations, and policies (including, without limitation, the Charter and Ordinances of the City), as the same currently exist or as they may be hereafter amended. The above and foregoing recitals to this Contract are true and correct and incorporated herein and made a part hereof.

XIV. VENUE; GOVERNING LAW

In the event of any action under this Contract, exclusive venue for all causes of action shall be instituted and maintained in Dallas County, Texas. The parties agree that the laws of the State of Texas shall govern and apply to the interpretation, validity and enforcement of this Contract; and, with respect to any conflict of law provisions, the parties agree that such conflict of law provisions shall not affect the application of the law of Texas (without reference to its conflict of law provisions) to the governing, interpretation, validity and enforcement of this Contract.

XV. COUNTERPARTS

This Contract may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

XVI. NO WAIVER; RIGHTS CUMULATIVE

The failure by either party to exercise any right or power, or option given to it by this Contract, or to insist upon strict compliance with the terms of this Contract, shall not constitute a waiver of the terms and conditions of this Contract 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. The rights or remedies under this Contract are cumulative to any other rights or remedies, which may be granted by law.

XVII. NOTICES

All notices, communications and reports, required or permitted under this Contract shall be personally delivered or mailed to the respective parties using certified mail, return receipt requested, postage prepaid, at the addresses shown below. The City and Contact Crisis Line agree to provide the other with written notification within five (5) days, if the address for notices, provided below, is changed. Notices by personal delivery shall be deemed delivered upon the date delivered; mailed notices shall be deemed communicated on the date shown on the return receipt. If no date is shown,

the mailed notice shall be deemed communicated on the third (3rd) day after depositing the same in the United States mail.

The City's address:

Matthew McCombs
Assistant to the City Manager
Town of Addison
5300 Belt Line Road
Dallas, Texas 75254

Contact Crisis Line's address:

Carol Casmus
Contact Crisis Line
P.O. Box 800742
Dallas, Texas 75380

XVIII. SEVERABILITY

The terms of this Contract are severable, and if any section, paragraph, clause, or other portion of this Contract shall be found to be illegal, unlawful, unconstitutional or void for any reason, the balance of the Contract shall remain in full force and effect and the parties shall be deemed to have contracted as if said section, paragraph, clause or portion had not been in the Contract initially.

XIX. AUTHORITY TO EXECUTE CONTRACT

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

XX. ENTIRE AGREEMENT

This Contract represents the entire and integrated contract and agreement between the City and Contact Crisis Line and supersedes all prior negotiations, representations and/or agreements, either written or oral. This Contract may be amended only by written instrument signed by both the City and Contact Crisis Line.

IN WITNESS THEREOF, the parties hereto have caused this Contract to be signed by their proper corporate officers as first above specified, and have caused their proper corporate seal to be hereto affixed the day and year first above written.

TOWN OF ADDISON, TEXAS

CONTACT CRISIS LINE

By: _____
Lea Dunn, City Manager

By: _____
Benaye Rogers, President

STATE OF TEXAS

§

CONTRACT FOR SERVICES

§

COUNTY OF DALLAS

§

This Contract for Services ("Contract") is made and entered into as of the 1st day of October, 2014 by and between the Town of Addison, Texas (the "City"), and United Basketball League, Texas, Texas Wranglers ("UBL").

WITNESSETH:

WHEREAS, United Basketball League, Texas is an organization dedicated to the maturation of young men as athletes and citizens through professional basketball; and

WHEREAS, the success or failure of UBL's purposes and objectives has a direct impact on the health and welfare of the citizens of the City; and

WHEREAS, the City has full power of local self government, has authority to contract with other persons, has authority to adopt regulations that are for the good government, peace, and order of the City, has authority to enforce laws reasonably necessary to protect the public health, has authority to provide public health services as set forth in Chapter 121, Tex. Health and Safety Code and other law, and the services provided by UBL hereunder are in the public interest and are for, constitute and serve a public purpose in promoting the health and welfare of the citizens of the City.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements hereinafter set forth, the benefits flowing to each of the parties hereto, and other good and valuable consideration, the Town of Addison, Texas and United Basketball League, Texas do hereby contract and agree as follows:

I. TERM

The term of this Contract shall be for a period of one year from the 1st day of October, 2014 through the 30th day of September, 2015, except as otherwise provided for herein.

II. SERVICES

UBL covenants and agrees that it shall:

- (a) play "home games" within the corporate limits of the City;
- (b) play at least one "play-off game" within the corporate limits of the City;
- (c) participate in at least one City special event to provide interactive basketball demonstrations;
- (d) coordinate with the Town's Visitor Services Department to promote and book hotel rooms in Addison for players and game attendees for "home" and "play off" games held in Addison. Such efforts shall be measured and documented;

- (e) Present a mid-year written report to the City on the progress and status of services provided by UBL, and continue quarterly status reporting to the City in a mutually agreed upon form;
- (f) Provide a copy of UBL's annual audit of financial condition to the City; and
- (g) Submit detailed quarterly financial statements and program results to the City within thirty (30) days after the end of the preceding quarter explaining all expenditures.

III. COMPENSATION

For the operation and provision of the services, projects and programs of UBL as described herein, the City shall pay UBL the sum of Two Thousand and No/100 Dollars (\$2,000.00). Such sum shall be paid on or before January 1, 2015, provided UBL is not then in default of this Contract.

IV. RESPONSIBILITY; INDEMNIFICATION

(a) UBL AGREES TO ASSUME AND DOES HEREBY ASSUME ALL RESPONSIBILITY AND LIABILITY FOR DAMAGES OR INJURIES SUSTAINED BY PERSONS OR PROPERTY, WHETHER REAL OR ASSERTED, BY OR FROM THE PERFORMANCE OF SERVICES PERFORMED AND TO BE PERFORMED HEREUNDER BY UBL OR BY ITS OFFICIALS, OFFICERS, EMPLOYEES, OWNERS, MEMBERS, AGENTS, SERVANTS, INVITEES, GUESTS, VOLUNTEERS, CONTRACTORS, SUBCONTRACTORS, OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM OR ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE.

(b) ***INDEMNITY OWED BY UBL.*** UBL covenants and agrees to FULLY DEFEND, INDEMNIFY AND HOLD HARMLESS the Town of Addison, Texas and the elected officials, the officers, employees, representatives, and volunteers of the Town of Addison, Texas, individually or collectively, in both their official and private capacities (the Town of Addison, Texas and the elected officials, the officers, employees, representatives, and volunteers of the Town of Addison, Texas each being an "Addison Person" and collectively the "Addison Persons"), from and against any and all costs, claims, liens, harm, damages, losses, expenses, fees, fines, penalties, proceedings, judgments, 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 Services as described in Section II of this Contract; (2) representations or warranties by UBL under this Contract; and/or (3) any other act or omission under or in performance of this Contract by UBL, or any owner, officer, director, manager, employee, agent, representative, consultant, contractor, subcontractor, licensee, invitee, patron, guest, customer, or concessionaire of or for UBL, or any other person or entity for whom UBL is legally responsible, and their respective owners, officers, directors, managers, employees, agents, representatives, consultants, contractors, subcontractors, licensees, , invitees, patrons, guests, customers, and concessionaires. 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 OR GROSS NEGLIGENCE OF ANY ADDISON PERSON, OR CONDUCT BY ANY ADDISON PERSON THAT WOULD GIVE RISE TO STRICT LIABILITY OF ANY KIND.

UBL shall promptly advise the City in writing of any claim or demand against any Addison Person or UBL related to or arising out of UBL's activities under this Contract and shall see to the investigation and defense of such claim or demand at UBL'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 UBL of any of its obligations hereunder.

The provisions of this defense, indemnity, and hold harmless obligation, and any other defense, indemnity, and hold harmless obligation set forth in this Contract, shall survive the termination or expiration of this Contract.

V. TERMINATION

This Contract may be canceled and terminated by either party at any time and for any reason upon giving at least thirty (30) days written notice of such cancellation and termination to the other party hereto. Such notice shall be sent certified mail, return receipt requested, and to the most recent address shown on the records of the party terminating the Contract. The thirty (30) day period shall commence upon deposit of the said notice in the United States mail and shall conclude at midnight of the 30th day thereafter. In the event of such cancellation and termination and if UBL has failed at the time of such cancellation and termination to provide all of the services set forth herein, UBL shall refund to the City that portion of funds paid to UBL under the terms of this Contract in accordance with the following: Prorata funding returned to the City by UBL shall be determined by dividing the amount paid by the City under this Contract by 365 (the "daily rate"), and then multiplying the daily rate by the number of days which would have remained in the term hereof but for the cancellation or termination. Upon payment or tender of such amount, all of the obligations of UBL and the City under this Contract shall be discharged and terminated (except as otherwise provided herein, e.g., except for obligations and responsibilities as may survive termination or cancellation of this Contract as provided for in this Contract) and no action shall lie or accrue for additional benefit, consideration or value for or based upon the services performed under or pursuant to this Contract.

VI. CONFLICT OF INTEREST

(a) No officer or employee of the City shall have any interest or receive any benefit, direct or indirect, in this Contract or the proceeds thereof. This prohibition is not intended and should not be construed to preclude payment of expenses legitimately incurred by City officials in the conduct of the City's business. No officer or employee of UBL shall have any financial interest, direct or indirect, in this Contract or the proceeds thereof.

(b) For purposes of this section, "benefit" means anything reasonably regarded as an economic advantage, including benefit to any other person in whose welfare the beneficiary is interested, but does not include contributions or expenditures made and reported in accordance with any law.

VII. ACCOUNTING

Prior to adopting its annual budget, UBL shall submit for the City's review a budget showing the use of the City's funds provided pursuant to this Contract, and UBL shall make such periodic reports to the City, as provided for herein, listing the expenditures made by UBL from the funds provided by the City. The approval of UBL's annual budget creates a fiduciary duty in UBL with respect to the funds provided by the City under this Contract.

The funds paid to UBL pursuant to this Contract shall be maintained in a separate account established for that purpose and may not be commingled with any other money. Funds received hereunder from the City may be spent for day to day operations, supplies, salaries and other administrative costs provided that such costs are necessary for the promotion and encouragement of the purposes for which the funds may be used as described herein.

UBL shall maintain complete and accurate financial records of all of its revenues, including, without limitation, each expenditure of revenue received pursuant to this Contract. By the thirtieth (30th) day after the close of each quarter (beginning with the quarter ending December 31, 2014, with the last quarter ending September 30, 2015), UBL shall provide the City the following: (a) a detailed financial report for the previous quarter listing the expenditures made by UBL of the funds paid to UBL under this Contract; and (b) a year-to-date report of the expenditures made by UBL of the funds paid to UBL under this Contract (and if this Contract is terminated prior to its expiration, UBL shall provide such reports as set forth above for the period prior to the expiration for which reports have not been provided, and such obligation shall survive the termination hereof; and the obligation to provide the reports for the last quarter of this Contract shall survive the expiration of this Contract). On request of the City at any time, UBL shall make its records available for inspection and review by the City or its designated representative(s). Within ninety (90) days of the end of UBL's fiscal year, UBL shall provide the City with a financial statement signed by the Chairman of UBL's Board of Directors (or other person acceptable to the City) and audited by an independent Certified Public Accountant, setting forth UBL's income, expenses, assets and liabilities, and such obligation shall survive the termination or expiration of this Contract.

All application materials, financial information, quarterly (or other) reports, any other information described herein or required hereunder, and general correspondence with the City must be submitted to the City in electronic format to the City email address specified in the application packet. Additionally, the City may require that such materials, information, reports, and correspondence also be provided to the City in writing (e.g., a hard-copy, non-electronic format).

VIII. INDEPENDENT CONTRACTOR

In performing services under this Contract, the relationship between the City and UBL is that of independent contractor, and the City and UBL by the execution of this Contract do not change the independent status of UBL. UBL is an independent contractor, and no term or provision of this Contract or action by UBL in the performance of this Contract is intended nor shall be construed as making UBL the agent, servant or employee of the City, or to create an employer-employee relationship, a joint venture relationship, or a joint enterprise relationship, or to allow the City to exercise discretion or control over the manner in which UBL performs the services which are described in this Contract.

IX. NON-ASSIGNABILITY; NO THIRD-PARTY BENEFIT

UBL may not and shall have no authority to assign, transfer, or otherwise convey by any means whatsoever this Contract or any of the rights, duties or responsibilities hereunder without obtaining the prior written approval of the City, and any attempted assignment, transfer, or other conveyance of this Contract without such approval shall be null and void and be cause for immediate termination of this Contract by the City.

This Contract is solely for the benefit of the parties hereto and is not intended to and shall not be deemed to create or grant any rights, contractual or otherwise, to any third person or entity.

X. NO PARTNERSHIP, JOINT VENTURE, OR JOINT ENTERPIRS

Nothing contained in this Contract shall be deemed to constitute that the City and UBL are partners or joint venturers with each other, or shall be construed or be deemed to establish that their relationship constitutes, or that this Contract creates, a joint enterprise.

XI. NON-DISCRIMINATION

During the term of this Contract, UBL agrees that it shall not discriminate against any employee or applicant for employment because of race, age, color, sex or religion, ancestry, national origin, place of birth, or handicap.

XII. LEGAL COMPLIANCE; CONTRACT SUBJECT TO LAWS; RECITALS

UBL shall observe and abide by, and this Contract is subject to, all applicable federal, state, and local (including the City) laws, rules, regulations, and policies (including, without limitation, the Charter and Ordinances of the City), as the same currently exist or as they may be hereafter amended. The above and foregoing recitals to this Contract are true and correct and incorporated herein and made a part hereof.

XIII. VENUE; GOVERNING LAW

In the event of any action under this Contract, exclusive venue for all causes of action shall be instituted and maintained in Dallas County, Texas. The parties agree that the laws of the State of Texas shall govern and apply to the interpretation, validity and enforcement of this Contract; and, with respect to any conflict of law provisions, the parties agree that such conflict of law provisions shall not affect the application of the law of Texas (without reference to its conflict of law provisions) to the governing, interpretation, validity and enforcement of this Contract.

XIV. COUNTERPARTS

This Contract may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

XV. NO WAIVER; RIGHTS CUMULATIVE

The failure by either party to exercise any right or power, or option given to it by this Contract, or to insist upon strict compliance with the terms of this Contract, shall not constitute a waiver of the terms and conditions of this Contract 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. The rights or remedies under this Contract are cumulative to any other rights or remedies, which may be granted by law.

XVI. NOTICES

All notices, communications and reports, required or permitted under this Contract shall be personally delivered or mailed to the respective parties using certified mail, return receipt requested,

postage prepaid, at the addresses shown below. The City and UBL agree to provide the other with written notification within five (5) days, if the address for notices, provided below, is changed. Notices by personal delivery shall be deemed delivered upon the date delivered; mailed notices shall be deemed communicated on the date shown on the return receipt. If no date is shown, the mailed notice shall be deemed communicated on the third (3rd) day after depositing the same in the United States mail.

The City's address:

Matthew McCombs
Assistant to the City Manager
Town of Addison
5300 Belt Line Road
Dallas, Texas 75254

UBL's address:

Coach Ozzie Denson
2520 Widgeon Way
Mesquite, TX 75181

XVII. SEVERABILITY

The terms of this Contract are severable, and if any section, paragraph, clause, or other portion of this Contract shall be found to be illegal, unlawful, unconstitutional or void for any reason, the balance of the Contract shall remain in full force and effect and the parties shall be deemed to have contracted as if said section, paragraph, clause or portion had not been in the Contract initially.

XVIII. AUTHORITY TO EXECUTE CONTRACT

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

XIX. ENTIRE CONTRACT

This Contract represents the entire and integrated contract and agreement between the City and UBL and supersedes all prior negotiations, representations and/or agreements, either written or oral. This Contract may be amended only by written instrument signed by both the City and UBL

IN WITNESS THEREOF, the parties hereto have caused this Contract to be signed by their proper corporate officers as first above specified, and have caused their proper corporate seal to be hereto affixed the day and year first above written.

TOWN OF ADDISON, TEXAS

UNITED BASKETBALL LEAGUE, TEXAS

By: _____
Ron Whitehead, City Manager

By: _____
Ozzie Denson, Coach

ATTEST:

ATTEST:

By: _____
Matthew McCombs, City Secretary

By: _____
Typed/printed name: _____

STATE OF TEXAS

§

CONTRACT FOR SERVICES

§

COUNTY OF DALLAS

§

This Contract for Services (“Contract”) is made and entered into as of the 1st day of October, 2014 by and between the Town of Addison, Texas (the “City”) and the Addison Arbor Foundation (the “Arbor Foundation”).

WITNESSETH:

WHEREAS, the Arbor Foundation is a private, non-profit corporation established under the laws of the State of Texas for the purposes of, among other things, engaging in, conducting and promoting charitable, educational, social and public welfare activities for the benefit of the public parks systems and the parks and recreation programs of the City, including but not limited to the following: accepting and improving land for parks, environmental easements and other public uses, development of public park facilities, restoration and beautification of parks, greenbelts and other public land, enhancement of the City’s landscape and public buildings with gifts of visual art, development of public cultural, social and educational resources, improvement of opportunities for the visual and performing arts, and strengthening of the delivery of public park and recreation services; and

WHEREAS, the Arbor Foundation’s efforts have resulted in, among other things, the development of a community garden, enhancement of Super Bowl XLV festivities by planting forty-five trees in Les Lacs Park, and provision of quarterly educational events on horticultural topics; and

WHEREAS, the City is a home rule city and has full power of local self government pursuant to article 11, section 5 of the Texas Constitution and its Home Rule Charter, and among other things may acquire, hold, manage and control such property as its interests may require, may lay out, establish, open, grade, care for, supervise, maintain and improve parks and public places, and may establish, provide, acquire, maintain, construct, equip, operate and supervise recreational facilities; and

WHEREAS, it is the City’s desire to encourage and promote the continued development of its parks, public places, and recreational facilities.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements hereinafter set forth, the benefits flowing to each of the parties hereto, and other good and valuable consideration, the Town of Addison, Texas and the Arbor Foundation do hereby contract and agree as follows:

I. TERM

The term of this Contract shall be for a period of one year from the 1st day of October, 2014 through the 30th day of September, 2015, except as otherwise provided for herein, and subject to the earlier termination of this Contract.

II. SERVICES

The Arbor Foundation shall provide the following services to the City (collectively, the “Services”) (all monetary amounts identified in this Section II below are approximate amounts to be expended by the Arbor Foundation in accomplishing the Services):

- (a) Purchase and installation of one or two public art pieces along the North/South Quorum corridor. (Art work, \$25,000; Pad preparation \$10,000).
- (b) Continued refresh of Town of Addison park spaces by updating/replacement of overgrown and mature plantings (Plants and trees, \$9,000; Boulders and mulch, \$3,500).
- (c) Submit detailed quarterly financial statements and program results to the City within thirty (30) days after the end of the preceding quarter listing the expenditures made by the Arbor Foundation with the revenues received pursuant to this Contract.

In satisfaction hereof and as determined by the City, the Services may be provided directly by the Arbor Foundation or funding of the Services may be provided to the City by the Arbor Foundation. Services will be provided upon the prior approval by the City. Design for any of the Services provided by the Arbor Foundation is subject to the City’s approval prior to installation thereof.

III. COMPENSATION

For the provision of the Services of the Arbor Foundation as described herein, the City shall pay the Arbor Foundation the sum of Forty-Seven Thousand Five Hundred and No/100 Dollars (\$47,500.00). Such sum shall be paid on or before January 1, 2015, provided the Arbor Foundation is not then in default of this Contract.

IV. RESPONSIBILITY; INDEMNIFICATION

(a) THE ARBOR FOUNDATION AGREES TO ASSUME AND DOES HEREBY ASSUME ALL RESPONSIBILITY AND LIABILITY FOR DAMAGES OR INJURIES SUSTAINED BY PERSONS OR PROPERTY, WHETHER REAL OR ASSERTED, BY OR FROM THE PERFORMANCE OF SERVICES PERFORMED AND TO BE PERFORMED HEREUNDER BY THE ARBOR FOUNDATION OR BY ITS OFFICIALS, OFFICERS, EMPLOYEES, OWNERS, MEMBERS, AGENTS, SERVANTS, INVITEES, GUESTS, VOLUNTEERS, CONTRACTORS, SUBCONTRACTORS, OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM OR ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE.

(b) ***INDEMNITY OWED BY THE ARBOR FOUNDATION.*** The Arbor Foundation covenants and agrees 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 (the Town of Addison, Texas and the elected and appointed officials, the officers, employees, representatives, and volunteers of the Town of Addison, Texas each being an “Addison”

Person” and collectively the **“Addison Persons”**), from and against any and all costs, claims, liens, harm, damages, losses, expenses, fees, fines, penalties, proceedings, judgments, actions, demands, causes of action, liability, and suits, of any kind and nature whatsoever made upon or incurred by any Addison Person, whether directly or indirectly, (the “Claims”), that arise out of, result from, or relate to: (1) the Services as described in Section II of this Contract; (2) representations or warranties by the Arbor Foundation under this Contract; and/or (3) any other act or omission under or in performance of this Contract by the Arbor Foundation, or any owner, officer, director, manager, employee, agent, representative, consultant, contractor, subcontractor, licensee, invitee, patron, guest, customer, or concessionaire of or for the Arbor Foundation, or any other person or entity for whom the Arbor Foundation is legally responsible, and their respective owners, officers, directors, managers, employees, agents, representatives, consultants, contractors, subcontractors, licensees, , invitees, patrons, guests, customers, and concessionaires. **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 OR GROSS NEGLIGENCE OF ANY ADDISON PERSON, OR CONDUCT BY ANY ADDISON PERSON THAT WOULD GIVE RISE TO STRICT LIABILITY OF ANY KIND.**

The Arbor Foundation shall promptly advise the City in writing of any claim or demand against any Addison Person or the Arbor Foundation related to or arising out of the Arbor Foundation’s activities under this Contract and shall see to the investigation and defense of such claim or demand at the Arbor Foundation’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 the Arbor Foundation of any of its obligations hereunder.

The provisions of this defense, indemnity, and hold harmless obligation, and any other defense, indemnity, and hold harmless obligation set forth in this Contract, shall survive the termination or expiration of this Contract.

V. TERMINATION

This Contract may be canceled and terminated by either party at any time and for any reason upon giving at least thirty (30) days written notice of such cancellation and termination to the other party hereto. Such notice shall be sent certified mail, return receipt requested, and to the most recent address shown on the records of the party terminating the Contract. The thirty (30) day period shall commence upon deposit of the said notice in the United States mail and shall conclude at midnight of the 30th day thereafter. In the event of such cancellation and termination and if the Arbor Foundation has failed at the time of such cancellation and termination to provide all of the Services set forth herein, the Arbor Foundation shall refund to the City that portion of funds paid to the Arbor Foundation under the terms of this Contract (and identified in Section II, above) allocable to the Services that have not been provided at the time of cancellation and termination.

Example: This Contract is terminated on May 1, 2015. At the time of termination, the Arbor Foundation has provided the Services identified in subsections (a) and (b) of Section II, above, is 50% of the way (as agreed upon by the parties) through providing the Services identified in subsection (c) of Section II, and has not provided the Services identifies in subsections (d), (e), or (f). The Arbor Foundation must refund to the City the following amount: (i) \$4,000.00 (50% of the amount set forth in subsection (c) of Section II), (ii)

\$5,250.00 (the full amount set forth in subsection (d) of Section II), (iii) \$1,600.00 (the full amount set forth in subsection (e) of Section II), and (e) \$1,400.00 (the full amount set forth in subsection (f) of Section II), or \$12,250.00.

Upon payment or tender of any refund amount, all of the obligations of the Arbor Foundation and the City under this Contract shall be discharged and terminated (except as otherwise provided herein, e.g., except for obligations and responsibilities as may survive termination or cancellation of this Contract as provided for in this Contract) and no action shall lie or accrue for additional benefit, consideration or value for or based upon the Services performed under or pursuant to this Contract.

VI. CONFLICT OF INTEREST

(a) No officer or employee of the City shall have any interest or receive any benefit, direct or indirect, in this Contract or the proceeds thereof. This prohibition is not intended and should not be construed to preclude payment of expenses legitimately incurred by City officials in the conduct of the City's business. No officer, employee, representative, or volunteer of the Arbor Foundation shall have any financial interest, direct or indirect, in this Contract or the proceeds hereof.

(b) For purposes of this section, "benefit" means anything reasonably regarded as an economic advantage, including benefit to any other person in whose welfare the beneficiary is interested, but does not include contributions or expenditures made and reported in accordance with any law.

VII. ACCOUNTING

Prior to adopting its annual budget, the Arbor Foundation shall submit for the City's review a budget showing the use of the City's funds provided pursuant to this Contract, and the Arbor Foundation shall make such periodic reports to the City, as provided for herein, listing the expenditures made by the Arbor Foundation from the funds provided by the City. The approval of the Arbor Foundation's annual budget creates a fiduciary duty in the Arbor Foundation with respect to the funds provided by the City under this Contract.

The funds paid to the Arbor Foundation pursuant to this Contract shall be maintained in a separate account established for that purpose and may not be commingled with any other money. Funds received hereunder from the City may be spent for day to day operations, supplies, salaries and other administrative costs provided that such costs are necessary for the promotion and encouragement of the purposes for which the funds may be used as described herein.

The Arbor Foundation shall maintain complete and accurate financial records of all of its revenues, including, without limitation, each expenditure of revenue received pursuant to this Contract. By the thirtieth (30th) day after the close of each quarter (beginning with the quarter ending December 31, 2014, with the last quarter ending September 30, 2015), the Arbor Foundation shall provide the City the following: (a) a detailed financial report for the previous quarter listing the expenditures made by the Arbor Foundation of the funds paid to the Arbor Foundation under this Contract; and (b) a year-to-date report of the expenditures made by the Arbor Foundation of the funds paid to the Arbor Foundation under this Contract (and if this Contract is terminated prior to its expiration, the Arbor Foundation shall provide such reports as set forth above for the period prior to

the expiration for which reports have not been provided, and such obligation shall survive the termination hereof; and the obligation to provide the reports for the last quarter of this Contract shall survive the expiration of this Contract). On request of the City at any time, the Arbor Foundation shall make its records available for inspection and review by the City or its designated representative(s). Within ninety (90) days of the end of the Arbor Foundation's fiscal year, the Arbor Foundation shall provide the City with a financial statement signed by the Chairman of the Arbor Foundation's Board of Directors (or other person acceptable to the City) and audited by an independent Certified Public Accountant, setting forth the Arbor Foundation's income, expenses, assets and liabilities, and such obligation shall survive the termination or expiration of this Contract.

All application materials, financial information, quarterly (or other) reports, any other information described herein or required hereunder, and general correspondence with the City must be submitted to the City in electronic format to the City email address specified in the application packet. Additionally, the City may require that such materials, information, reports, and correspondence also be provided to the City in writing (e.g., a hard-copy, non-electronic format).

VIII. INDEPENDENT CONTRACTOR

In performing services under this Contract, the relationship between the City and the Arbor Foundation is that of independent contractor, and the City and the Arbor Foundation by the execution of this Contract do not change the independent status of the Arbor Foundation. The Arbor Foundation is an independent contractor, and no term or provision of this Contract or action by the Arbor Foundation in the performance of this Contract is intended nor shall be construed as making the Arbor Foundation the agent, servant or employee of the City, or to create an employer-employee relationship, a joint venture relationship, or a joint enterprise relationship, or to allow the City to exercise discretion or control over the manner in which the Arbor Foundation performs the services which are described in this Contract.

IX. NON-ASSIGNABILITY; NO THIRD-PARTY BENEFIT

The Arbor Foundation may not and shall have no authority to assign, transfer, or otherwise convey by any means whatsoever this Contract or any of the rights, duties or responsibilities hereunder without obtaining the prior written approval of the City, and any attempted assignment, transfer, or other conveyance of this Contract without such approval shall be null and void and be cause for immediate termination of this Contract by the City.

This Contract is solely for the benefit of the parties hereto and is not intended to and shall not be deemed to create or grant any rights, contractual or otherwise, to any third person or entity.

X. NO PARTNERSHIP, JOINT VENTURE, OR JOINT ENTERPRISE

Nothing contained in this Contract shall be deemed to constitute that the City and the Arbor Foundation are partners or joint venturers with each other, or shall be construed or be deemed to establish that their relationship constitutes, or that this Contract creates, a joint enterprise.

XI. NON-DISCRIMINATION

During the term of this Contract, the Arbor Foundation agrees that it shall not discriminate against any employee or applicant for employment because of race, age, color, sex or religion, ancestry, national origin, place of birth, or handicap.

XII. LEGAL COMPLIANCE; CONTRACT SUBJECT TO LAWS; RECITALS

The Arbor Foundation shall observe and abide by, and this Contract is subject to, all applicable federal, state, and local (including the City) laws, rules, regulations, and policies (including, without limitation, the Charter and Ordinances of the City), as the same currently exist or as they may be hereafter amended. The above and foregoing recitals to this Contract are true and correct and incorporated herein and made a part hereof.

XIII. VENUE; GOVERNING LAW

In the event of any action under this Contract, exclusive venue for all causes of action shall be instituted and maintained in Dallas County, Texas. The parties agree that the laws of the State of Texas shall govern and apply to the interpretation, validity and enforcement of this Contract; and, with respect to any conflict of law provisions, the parties agree that such conflict of law provisions shall not affect the application of the law of Texas (without reference to its conflict of law provisions) to the governing, interpretation, validity and enforcement of this Contract.

XIV. COUNTERPARTS

This Contract may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

XV. NO WAIVER; RIGHTS CUMULATIVE

The failure by either party to exercise any right or power, or option given to it by this Contract, or to insist upon strict compliance with the terms of this Contract, shall not constitute a waiver of the terms and conditions of this Contract 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. The rights or remedies under this Contract are cumulative to any other rights or remedies, which may be granted by law.

XVI. NOTICES

All notices, communications and reports, required or permitted under this Contract shall be personally delivered or mailed to the respective parties using certified mail, return receipt requested, postage prepaid, at the addresses shown below. The City and the Arbor Foundation agree to provide the other with written notification within five (5) days, if the address for notices, provided below, is changed. Notices by personal delivery shall be deemed delivered upon the date delivered; mailed notices shall be deemed communicated on the date shown on the return receipt. If no date is shown, the mailed notice shall be deemed communicated on the third (3rd) day after depositing the same in the United States mail.

The City's address:

Matthew McCombs

The Arbor Foundation's address:

Mary Jo Cater

Assistant to the City Manager
Town of Addison
5300 Belt Line Road
Dallas, Texas 75254

Addison Arbor Foundation
PO Box 1649
Addison, TX 75001

XVII. SEVERABILITY

The terms of this Contract are severable, and if any section, paragraph, clause, or other portion of this Contract shall be found to be illegal, unlawful, unconstitutional or void for any reason, the balance of the Contract shall remain in full force and effect and the parties shall be deemed to have contracted as if said section, paragraph, clause or portion had not been in the Contract initially.

XVIII. AUTHORITY TO EXECUTE CONTRACT

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

XIX. ENTIRE AGREEMENT

This Contract represents the entire and integrated contract and agreement between the City and the Arbor Foundation and supersedes all prior negotiations, representations and/or agreements, either written or oral. This Contract may be amended only by written instrument signed by both the City and the Arbor Foundation.

IN WITNESS THEREOF, the parties hereto have caused this Contract to be signed by their proper corporate officers as first above specified, and have caused their proper corporate seal to be hereto affixed the day and year first above written.

TOWN OF ADDISON, TEXAS

ADDISON ARBOR FOUNDATION

By: _____
Lea Dunn, City Manager

By: _____
Dr. Jay M. Ihrig, President

Combined Meeting

R2g

Meeting Date: 10/14/2014

Council Goals: N/A

AGENDA CAPTION:

Approval of and authorizing the City Manager to execute a contract for services with Launchability, subject to the final review and approval of the City Manager and City Attorney.

FINANCIAL IMPACT:

Funds are available in the FY2015 General Fund Budget.

BACKGROUND:

LaunchAbility has provided service for several years to Addison residents with disabilities, assisting these individuals with the goal of increasing their self-sufficiency. This is accomplished primarily through two separate programs - Adult Services and Early Childhood Intervention. In September, the LaunchAbility Board of Directors voted to discontinue the Early Childhood Intervention (ECI) program. A letter from LaunchAbility (attached) indicated this decision was made due to a decrease in state funding and private insurance system reimbursements. This decline negatively affected the organization's ability to comply with certain State mandates, and was therefore forced to terminate the program.

LaunchAbility wanted to advise the Town of this change in service, but was hopeful that the reallocation of ECI funding to the Adult Services program would expand and improve the services provided to disabled Addison adults.

Addison has funded LaunchAbility in prior years at the \$5,000 level.

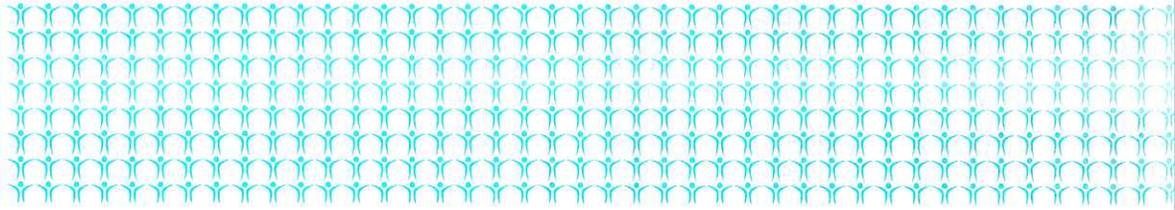
RECOMMENDATION:

Administration recommends continuing funding at the \$5,000 level as budgeted, and amending the contract to reflect the changed scope of service.

Attachments

LaunchAbility Updated Service letter

LaunchAbility Contract



September 29, 2014

Mr. Matt McCombs, Assistant to the City Manager
Town of Addison
5300 Belt Line Road
Dallas, Texas 75254

Dear Matt:

On behalf of the clients, Board of Directors, and staff of LaunchAbility, I want to thank the Town of Addison for the 13 years of support of LaunchAbility's Early Childhood Intervention (ECI) and Supported Employment programs. We deeply appreciate having such a wonderful partnership with the city.

I am writing you today to let you know the LaunchAbility board, with deep regret and after vetting all possibilities, voted to not renew our Early Childhood Intervention contract for fiscal year 2015. After 30 years of serving these incredible babies, we were forced into this decision because state funding and reimbursements from the private insurance system were insufficient to deliver services required under the State mandates by a program of our size. The state unexpectedly moved up the time frame to transition our services to another ECI provider, so our ECI operations ceased as of September 2014. Three well-qualified, larger agencies are now serving the families in our territory.

Therefore, we must respectfully, withdraw the portion of our funding application regarding only our ECI services to the Town of Addison. While the disappointment of leaving this amazing program is significant, this evolution enables us to focus on expanding the services we provide to adults. These services for adults fill a significant need in our community. We would appreciate your consideration to continue funding this vital program.

Over the years, our Supported Employment program has provided services and benefits to many Addison residents and businesses. We trace our program's success to the care we take to match our clients' skills and abilities to jobs that companies need filled. Currently we provide services to the following Addison clients and businesses:

Shawn Harrison - Employed for 6 Years at Tom Thumb located at 14280 Marsh Lane
Ian Rawn - Employed for 6 Years Venturity Financial Partners
Scott Korol - Employed for 6 Years Office Furniture Distributors
Raymond Wiley - Employed for 21 Years Addison Athletic Club (Town of Addison)
Mark Harkins - Employed for 25 Years Crowne Plaza in Addison

We would welcome an opportunity to tell you more about our plans for the future and explain why continuing funding would be of great benefit to the Town of Addison and its citizens. Please feel free to contact me at (972) 991-6777 ext. 7130 or by email at Kathryn.Parsons@LaunchAbility.org to schedule a time to meet.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kathryn Parsons', written in a cursive style.

Kathryn Parsons
Chief Executive Officer
LaunchAbility

CC: Stacey Griggs, Addison City Council Liaison for LaunchAbility

STATE OF TEXAS

§

CONTRACT FOR SERVICES

§

COUNTY OF DALLAS

§

This Contract for Services (“Contract”) is made and entered into as of the 1st day of October, 2014 by and between the Town of Addison, Texas (the “City”) and LaunchAbility (“LaunchAbility”).

WITNESSETH:

WHEREAS, LaunchAbility is a private, non-profit organization established under the laws of the State of Texas for the purpose of providing services to children and adults with disabilities since 1963; and

WHEREAS, LaunchAbility provides and will continue to provide “early childhood intervention” to citizens of the City and of the region surrounding the City through speech, physical, developmental and other specialized behavioral therapies; and,

WHEREAS, LaunchAbility provides and will continue to provide “supported employment services” to citizens of the City and of the region surrounding the City through occupational training for adults with mental retardation, job matching assistance and job performance support for these individuals; and

WHEREAS, LaunchAbility will provide these services in a manner consistent with the Town of Addison's non-profit agency reporting requirements by submitting quarterly client service reports, regular organizational financial reports, and updates on City clients served by the agency as well as identifying a staff person with LaunchAbility to be designated as a liaison to the City through which all reporting and communication shall flow; and

WHEREAS, the success or failure of LaunchAbility’s purposes and objectives has a direct impact on the health, comfort, and welfare of the citizens of the City; and

WHEREAS, the City has full power of local self government, has authority to contract with other persons, has authority to adopt regulations that are for the good government, peace, and order of the City, has authority to enforce laws reasonably necessary to protect the public health, has authority to provide public health services as set forth in Chapter 121, Tex. Health and Safety Code and other law, and to create a municipal development corporation pursuant to Chapter 379A, Tex. Loc. Gov. Code, to provide job training and to foster economic opportunity and job generation, and the services provided by LaunchAbility hereunder are in the public interest and are for, constitute and serve a public purpose in promoting the health and welfare of the citizens of the City.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements hereinafter set forth, the benefits flowing to each of the parties hereto, and other good and valuable consideration, the Town of Addison, Texas and LaunchAbility do hereby contract and agree as follows:

I. TERM

The term of this Contract shall be for a period of one year from the 1st day of October, 2014 through the 30th day of September, 2015, except as otherwise provided for herein.

II. SERVICES

LaunchAbility covenants and agrees that it shall:

(b) Provide “supported employment services” to citizens of the City and of the region surrounding the City through occupational training for adults with mental retardation, job matching assistance and job performance support for these individuals; and

(c) Use the funds paid to Launchability pursuant to this Contract for services provided to children and adults who receive services in Addison only; and

(d) Provide such services in a manner consistent with the Town of Addison's non-profit agency reporting requirements by submitting quarterly client service reports, regular organizational financial reports, and updates on City clients served by the agency as well as identifying a staff person with LaunchAbility to be designated as a liaison to the City through which all reporting and communication shall flow; and

(f) Provide services for clients that include career assessment; placement in jobs that match up their skills to the needs of the employers; on the job training; and ongoing support to ensure our clients’ success; and

(g) Submit detailed quarterly financial statements and program results to the City within thirty (30) days after the end of the preceding quarter explaining all expenditures.

III. COMPENSATION

For the operation and provision of the services, projects and programs of LaunchAbility as described herein, the City shall pay LaunchAbility the sum of Five Thousand and No/100 Dollars (\$5,000.00). Such sum shall be paid on or before January 1, 2015, provided LaunchAbility is not then in default of this Contract.

IV. RESPONSIBILITY; INDEMNIFICATION

(a) LAUNCHABILITY AGREES TO ASSUME AND DOES HEREBY ASSUME ALL RESPONSIBILITY AND LIABILITY FOR DAMAGES OR INJURIES SUSTAINED BY PERSONS OR PROPERTY, WHETHER REAL OR ASSERTED, BY OR FROM THE

PERFORMANCE OF SERVICES PERFORMED AND TO BE PERFORMED HEREUNDER BY LAUNCHABILITY OR BY ITS OFFICIALS, OFFICERS, EMPLOYEES, OWNERS, MEMBERS, AGENTS, SERVANTS, INVITEES, GUESTS, VOLUNTEERS, CONTRACTORS, SUBCONTRACTORS, OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM OR ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE.

(b) ***INDEMNITY OWED BY LAUNCHABILITY.*** LaunchAbility covenants and agrees to **FULLY DEFEND, INDEMNIFY AND HOLD HARMLESS** the Town of Addison, Texas and the elected officials, the officers, employees, representatives, and volunteers of the Town of Addison, Texas, individually or collectively, in both their official and private capacities (the Town of Addison, Texas and the elected officials, the officers, employees, representatives, and volunteers of the Town of Addison, Texas each being an “Addison Person” and collectively the “Addison Persons”), from and against any and all costs, claims, liens, harm, damages, losses, expenses, fees, fines, penalties, proceedings, judgments, actions, demands, causes of action, liability, and suits, of any kind and nature whatsoever made upon or incurred by any Addison Person, whether directly or indirectly, (the “Claims”), that arise out of, result from, or relate to: (1) the Services as described in Section II of this Contract; (2) representations or warranties by LaunchAbility under this Contract; and/or (3) any other act or omission under or in performance of this Contract by LaunchAbility, or any owner, officer, director, manager, employee, agent, representative, consultant, contractor, subcontractor, licensee, invitee, patron, guest, customer, or concessionaire of or for LaunchAbility, or any other person or entity for whom LaunchAbility is legally responsible, and their respective owners, officers, directors, managers, employees, agents, representatives, consultants, contractors, subcontractors, licensees, , invitees, patrons, guests, customers, and concessionaires. **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 OR GROSS NEGLIGENCE OF ANY ADDISON PERSON, OR CONDUCT BY ANY ADDISON PERSON THAT WOULD GIVE RISE TO STRICT LIABILITY OF ANY KIND.**

LaunchAbility shall promptly advise the City in writing of any claim or demand against any Addison Person or LaunchAbility related to or arising out of LaunchAbility' activities under this Contract and shall see to the investigation and defense of such claim or demand at LaunchAbility' 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 LaunchAbility of any of its obligations hereunder.

The provisions of this defense, indemnity, and hold harmless obligation, and any other defense, indemnity, and hold harmless obligation set forth in this Contract, shall survive the termination or expiration of this Contract.

V. TERMINATION

This Contract may be canceled and terminated by either party at any time and for any reason upon giving at least thirty (30) days written notice of such cancellation and termination to the other party hereto. Such notice shall be sent certified mail, return receipt requested, and to the most

recent address shown on the records of the party terminating the Contract. The thirty (30) day period shall commence upon deposit of the said notice in the United States mail and shall conclude at midnight of the 30th day thereafter. In the event of such cancellation and termination and if LaunchAbility has failed at the time of such cancellation and termination to provide all of the services set forth herein, LaunchAbility shall refund to the City that portion of funds paid to LaunchAbility under the terms of this Contract in accordance with the following: Prorata funding returned to the City by LaunchAbility shall be determined by dividing the amount paid by the City under this Contract by 365 (the “daily rate”), and then multiplying the daily rate by the number of days which would have remained in the term hereof but for the cancellation or termination. Upon payment or tender of such amount, all of the obligations of LaunchAbility and the City under this Contract shall be discharged and terminated (except as otherwise provided herein, e.g., except for obligations and responsibilities as may survive termination or cancellation of this Contract as provided for in this Contract) and no action shall lie or accrue for additional benefit, consideration or value for or based upon the services performed under or pursuant to this Contract.

VI. CONFLICT OF INTEREST

(a) No officer or employee of the City shall have any interest or receive any benefit, direct or indirect, in this Contract or the proceeds thereof. This prohibition is not intended and should not be construed to preclude payment of expenses legitimately incurred by City officials in the conduct of the City’s business. No officer or employee of LaunchAbility shall have any financial interest, direct or indirect, in this Contract or the proceeds thereof.

(b) For purposes of this section, “benefit” means anything reasonably regarded as an economic advantage, including benefit to any other person in whose welfare the beneficiary is interested, but does not include contributions or expenditures made and reported in accordance with any law.

VII. ACCOUNTING

Prior to adopting its annual budget, LaunchAbility shall submit for the City’s review a budget showing the use of the City’s funds provided pursuant to this Contract, and LaunchAbility shall make such periodic reports to the City, as provided for herein, listing the expenditures made by LaunchAbility from the funds provided by the City. The approval of LaunchAbility’ annual budget creates a fiduciary duty in LaunchAbility with respect to the funds provided by the City under this Contract.

The funds paid to LaunchAbility pursuant to this Contract shall be maintained in a separate account established for that purpose and may not be commingled with any other money. Funds received hereunder from the City may be spent for day to day operations, supplies, salaries and other administrative costs provided that such costs are necessary for the promotion and encouragement of the purposes for which the funds may be used as described herein.

LaunchAbility shall maintain complete and accurate financial records of all of its revenues, including, without limitation, each expenditure of revenue received pursuant to this Contract. By the thirtieth (30th) day after the close of each quarter (beginning with the quarter ending December 31, 2014, with the last quarter ending September 30, 2015), LaunchAbility shall provide the City the

following: (a) a detailed financial report for the previous quarter listing the expenditures made by LaunchAbility of the funds paid to LaunchAbility under this Contract; and (b) a year-to-date report of the expenditures made by LaunchAbility of the funds paid to LaunchAbility under this Contract (and if this Contract is terminated prior to its expiration, LaunchAbility shall provide such reports as set forth above for the period prior to the expiration for which reports have not been provided, and such obligation shall survive the termination hereof; and the obligation to provide the reports for the last quarter of this Contract shall survive the expiration of this Contract). On request of the City at any time, LaunchAbility shall make its records available for inspection and review by the City or its designated representative(s). Within ninety (90) days of the end of LaunchAbility's fiscal year, LaunchAbility shall provide the City with a financial statement signed by the Chairman of LaunchAbility's Board of Directors (or other person acceptable to the City) and audited by an independent Certified Public Accountant, setting forth LaunchAbility's income, expenses, assets and liabilities, and such obligation shall survive the termination or expiration of this Contract.

All application materials, financial information, quarterly (or other) reports, any other information described herein or required hereunder, and general correspondence with the City must be submitted to the City in electronic format to the City email address specified in the application packet. Additionally, the City may require that such materials, information, reports, and correspondence also be provided to the City in writing (e.g., a hard-copy, non-electronic format).

VIII. INDEPENDENT CONTRACTOR

In performing services under this Contract, the relationship between the City and LaunchAbility is that of independent contractor, and the City and LaunchAbility by the execution of this Contract do not change the independent status of LaunchAbility. LaunchAbility is an independent contractor, and no term or provision of this Contract or action by LaunchAbility in the performance of this Contract is intended nor shall be construed as making LaunchAbility the agent, servant or employee of the City, or to create an employer-employee relationship, a joint venture relationship, or a joint enterprise relationship, or to allow the City to exercise discretion or control over the manner in which LaunchAbility performs the services which are described in this Contract.

IX. NON-ASSIGNABILITY; NO THIRD-PARTY BENEFIT

LaunchAbility may not and shall have no authority to assign, transfer, or otherwise convey by any means whatsoever this Contract or any of the rights, duties or responsibilities hereunder without obtaining the prior written approval of the City, and any attempted assignment, transfer, or other conveyance of this Contract without such approval shall be null and void and be cause for immediate termination of this Contract by the City.

This Contract is solely for the benefit of the parties hereto and is not intended to and shall not be deemed to create or grant any rights, contractual or otherwise, to any third person or entity.

X. NO PARTNERSHIP, JOINT VENTURE, OR JOINT ENTERPRISE

Nothing contained in this Contract shall be deemed to constitute that the City and LaunchAbility are partners or joint venturers with each other, or shall be construed or be deemed to establish that their relationship constitutes, or that this Contract creates, a joint enterprise.

XI. NON-DISCRIMINATION

During the term of this Contract, LaunchAbility agrees that it shall not discriminate against any employee or applicant for employment because of race, age, color, sex or religion, ancestry, national origin, place of birth, or handicap.

XII. LEGAL COMPLIANCE; CONTRACT SUBJECT TO LAWS; RECITALS

LaunchAbility shall observe and abide by, and this Contract is subject to, all applicable federal, state, and local (including the City) laws, rules, regulations, and policies (including, without limitation, the Charter and Ordinances of the City), as the same currently exist or as they may be hereafter amended. The above and foregoing recitals to this Contract are true and correct and incorporated herein and made a part hereof.

XIII. VENUE; GOVERNING LAW

In the event of any action under this Contract, exclusive venue for all causes of action shall be instituted and maintained in Dallas County, Texas. The parties agree that the laws of the State of Texas shall govern and apply to the interpretation, validity and enforcement of this Contract; and, with respect to any conflict of law provisions, the parties agree that such conflict of law provisions shall not affect the application of the law of Texas (without reference to its conflict of law provisions) to the governing, interpretation, validity and enforcement of this Contract.

XIV. COUNTERPARTS

This Contract may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

XV. NO WAIVER; RIGHTS CUMULATIVE

The failure by either party to exercise any right or power, or option given to it by this Contract, or to insist upon strict compliance with the terms of this Contract, shall not constitute a waiver of the terms and conditions of this Contract 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. The rights or remedies under this Contract are cumulative to any other rights or remedies, which may be granted by law.

XVI. NOTICES

All notices, communications and reports, required or permitted under this Contract shall be personally delivered or mailed to the respective parties using certified mail, return receipt requested, postage prepaid, at the addresses shown below. The City and LaunchAbility agree to provide the other with written notification within five (5) days, if the address for notices, provided below, is changed. Notices by personal delivery shall be deemed delivered upon the date delivered; mailed

notices shall be deemed communicated on the date shown on the return receipt. If no date is shown, the mailed notice shall be deemed communicated on the third (3rd) day after depositing the same in the United States mail.

The City's address:

Matthew McCombs
Assistant to the City Manager
Town of Addison
5300 Belt Line Road
Dallas, Texas 75254

LaunchAbility' address:

Kathryn Parsons
LaunchAbility
4350 Sigma, Suite 100
Farmers Branch, Texas 75244

XVII. SEVERABILITY

The terms of this Contract are severable, and if any section, paragraph, clause, or other portion of this Contract shall be found to be illegal, unlawful, unconstitutional or void for any reason, the balance of the Contract shall remain in full force and effect and the parties shall be deemed to have contracted as if said section, paragraph, clause or portion had not been in the Contract initially.

XVIII. AUTHORITY TO EXECUTE CONTRACT

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

XIX. ENTIRE AGREEMENT

This Contract represents the entire and integrated contract and agreement between the City and LaunchAbility and supersedes all prior negotiations, representations and/or agreements, either written or oral. This Contract may be amended only by written instrument signed by both the City and LaunchAbility

IN WITNESS THEREOF, the parties hereto have caused this Contract to be signed by their proper corporate officers as first above specified, and have caused their proper corporate seal to be hereto affixed the day and year first above written.

TOWN OF ADDISON, TEXAS

LAUNCHABILITY

By: _____
Lea Dunn, City Manager

By: _____
Kathryn Parsons, Chief Executive Officer

Combined Meeting**R2h****Meeting Date:** 10/14/2014

Council Goals: Mindful stewardship of Town Resources.
 Brand Protection and Enhancement
 Enhance Public Safety

AGENDA CAPTION:

Approval of the purchase of (1) 2015 Sutphen SL-75 Quint Fire Apparatus, (1) 2015 Chevrolet 1500 Pickup, (2) 2015 Ford 150 Pickups, (1) Ford F250 Animal Control Service Truck, (2) 1Ton Service Trucks, (1) 2015 Case 580 Backhoe and (2) Snow Blade Attachments under the Town's Inter-local Agreement with the Texas Local Government Purchasing Cooperative - known as BuyBoard and the Houston Galveston Area Council of Government known as HGAC in the amount of \$1,052,128.65.

FINANCIAL IMPACT:

Capital Equipment Replacement Fund	Budgeted Amount:	<u>\$917,000.00</u>
Fire Dept. - (1 – Fire Apparatus)	Cost:	<u>\$ 747,714.86</u>
Fire Dept- (1 - ½ Ton Pickup)	Cost:	<u>\$ 28,222.78</u>
Police Dept. - (1 – ¾ Ton Animal Control Truck)	Cost:	<u>\$ 47,546.66</u>
Parks Dept. - (1 - 1 Ton Truck)	Cost:	<u>\$ 36,505.66</u>
Environmental Svc. – (1- ½ Ton Truck)	Cost:	<u>\$ 25,369.78</u>
Total		<u>\$ 885,359.74</u>
Airport Fund	Budgeted Amount:	<u>\$ 110,000.00</u>
Airport – (1 – Backhoe)	Cost:	<u>\$ 83,804.74</u>
Snow Plow Blade (dump truck)	Cost:	<u>\$ 19,881.99</u>
Snow Plow Blade (Kubota)	Cost:	<u>\$ 5,036.15</u>
Total		<u>\$ 108,722.88</u>
Utilities Fund	Budgeted Amount:	<u>\$ 171,000.00</u>
Utilities- (1 – ½ Ton Truck)	Cost:	<u>\$ 28,288.29</u>
Utilities- (1 – 1Ton Truck)	Cost:	<u>\$ 29,757.74</u>
Total		<u>\$ 58,046.03</u>

BACKGROUND:

At the January 11, 2005 Council meeting, the Town approved a resolution to join the Texas Local Government Purchasing Cooperative - better known as BuyBoard. BuyBoard issues request for bids for vehicles and equipment every year and receives extremely competitive prices because of the large volume of purchases they generate. This is a comparable purchasing method to those purchases done through the Houston Galveston Area Council (HGAC). By participating in these cooperative purchasing agreements, we are able to receive better prices on items we need and in some cases without the effort of seeking formal quotes or bids.

State statute exempts the Town from formal bid requirements when purchasing through the Inter-local Agreement with BuyBoard and HGAC.

The 2015 Fire Apparatus replaces a 1996 Pumper that will go to reserve status. The 2015 ½ ton trucks replace a 2006 Hybrid Electric Escape that is being reassigned to IOS-Storm Water Management; a 2004 pickup for Environmental Svcs. and a 2005 pickup for Utilities. The 2015 ¾ Ton Animal Control Truck replaces a 2005 truck. (1) 2015 1Ton Truck replaces (1) 2006 Parks Truck, and (1) 2015 1 Ton truck for the IOS department. The 2015 Backhoe replaces a 2001 backhoe for the Airport and the Snow blades are for Airport equipment.

All the replaced vehicles will be auctioned at the next Town vehicle auction. There are sufficient funds in the Capital Equipment Replacement

RECOMMENDATION:

Administration recommends approval.

Combined Meeting

R2i

Meeting Date: 10/14/2014

Council Goals: Mindful stewardship of Town Resources.
Look for Operational Efficiencies without cutting services
Identify opportunities for improved governance

AGENDA CAPTION:

Approval of an ordinance amending the Town's investment policy set forth in Chapter 2, Article IV, Division 3 of the Town's Code of Ordinances.

FINANCIAL IMPACT:

There is no financial impact associated with the approval of the investment policy. The FY 2015 budget includes \$170,798 in interest earnings for the fiscal year.

BACKGROUND:

The Public Funds Investment Act (PFIA) requires the Council to annually review and approve an investment policy for the Town. The Town's investment advisor, First Southwest Asset Management (FSAM), has assisted administration with the development and review of the proposed investment policy for FY 2015.

For FY 2015, Administration is recommending a change to our investment policy regarding maximum limits of Certificates of Deposit and the minimum limits of U.S. Treasury and Agency Securities and Repurchase Agreements backed by those securities.

RECOMMENDATION:

Administration recommends approval.

Attachments

Addison Investment Policy
Ordinance- Investment Policy

TOWN OF ADDISON

INVESTMENT POLICY

For

FY 2014-15

Revised and Adopted:
October 14, 2014

TOWN OF ADDISON, TEXAS INVESTMENT POLICY

I. SCOPE

The Public Funds Investment Act, Chapter 2256, Texas Government Code, prescribes that each Town is to adopt rules governing its investment practices and to define the authority of the investment officer. The following Investment Policy addresses the methods, procedures, and practices which must be exercised to ensure effective and judicious fiscal management of the Town's funds. This Policy shall not apply to the selection, retention or other issues concerning the depositories of the Town's funds in demand and time deposits as provided under Chapter 105 of the Local Government Code.

This Policy shall apply to the investment and management of all funds of the Town under its control, other than those expressly excluded herein or by applicable law or valid agreement. This Policy shall not supersede the restrictions on investment and use applicable to any specific fund and, in the event of any conflict between this Policy and the requirements of any fund subject hereto, the specific requirement applicable to such fund shall be followed as well as all other provisions of this Policy other than those in conflict. The Employees Deferred Compensation Agency Fund is excluded from coverage under this Policy.

This Policy also requires the formal adoption of an "Investment Strategy Statement" that specifically addresses each of the Town's fund groups. Each Investment Strategy Statement will describe its objectives concerning:

- a) Suitability of investment type
- b) Preservation and safety of principal
- c) Liquidity
- d) Marketability of each investment
- e) Diversification of the portfolio
- f) Yield

In order to make effective use of the Town's resources, all monies shall be pooled into one investment bank account, except for those monies required to be accounted for in other bank accounts as stipulated by applicable laws, bond covenants or contracts. The income derived from this pooled investment account shall be distributed in accordance with the Town's internal procedures.

II. OBJECTIVES

The Town's principal investment objectives in order of priority are:

1. Conformance with all Federal regulations, State of Texas statutes and other legal requirements including the Town Charter and Town Ordinances, including this Policy
2. Preservation of capital and the protection of investment principal
3. Maintenance of sufficient liquidity to meet anticipated disbursement and cash flows
4. Diversification to avoid incurring unreasonable risks regarding securities owned
5. Attainment of a market rate of return equal to or higher than the performance measure established from time to time by the Chief Financial Officer of the Town which is commensurate with the acceptable risk and liquidity objectives of this Policy

III. DELEGATION OF AUTHORITY

The City Manager appoints the Chief Financial Officer (CFO) and the Chief Financial Officer's designee(s) as the "Investment Officers" of the Town. Direct management responsibility for the investment program is delegated by the City Council to the Chief Financial Officer (hereinafter referred to as the "CFO"). The Investment Officers' authority will at all times be limited by all applicable laws and regulations in effect from time to time and this Policy. The Investment Officers shall exercise the judgment and care, under prevailing circumstances, that a prudent person would exercise in the management of the person's own affairs. Unless authorized by law, a person may not deposit, withdraw, transfer, or manage in any other manner the funds of the investing entity.

With written approval from the City Manager, the CFO may delegate any phase of the investment management program to any of the Investment Officers. Such approval shall state specifically the functions such person is authorized to perform or that the person is authorized to perform all activities of the CFO under this Policy. The CFO shall obtain and maintain, at the Town's expense, fidelity bonds for himself and each of his designees in amounts determined adequate by the CFO (which shall not be less than five percent of the amounts subject to this policy) for each fiscal year as shown by the approved budget. No person may engage in an investment transaction except as provided under the terms of this Policy and the internal procedures established by the CFO. A current list of persons authorized to transact investment business and wire funds on behalf of the Town shall be maintained by the CFO.

The CFO shall develop and maintain written administrative procedures for the operation of the investment program consistent with this Policy. The controls shall be designed to prevent, identify and control losses of public funds arising from deviation from this Policy, fraud, employee error, and misrepresentation by third parties, or imprudent actions by employees and officers of the Town.

In the discretion of the City Council and in any event upon the termination or reassignment of any Investment Officer authorized to conduct transactions for the Town pursuant to this Policy, the authority of such person shall be revoked and such revocation of authority shall be immediately communicated by the CFO orally and in writing to each and every depository, broker/dealer, investment advisor, custodian and other agency or entity with whom the Town has any existing or continuing relationship in the management of its investments.

The CFO and all Investment Officers shall attend at least one training session relating to the treasurer's or officer's responsibilities within 12 months after taking office or assuming duties; and attend a training session not less than once in a two-year period that begins on the first day of the Town's fiscal year and consists of the two consecutive fiscal years after that date, and receive not less than 10 hours of training. Such training from an independent source shall be approved or endorsed by the Government Finance Officers Association, Government Finance Officers Association of Texas, Government Treasurers Organization of Texas, Texas Municipal League, or the North Central Texas Council of Governments to include education in investment controls, security risks, strategy risks, market risks, and compliance with the Public Funds Investment Act.

IV. INVESTMENT ADVISORS

The Town may, in the discretion of the CFO, and the approval of the City Council, appoint one or more Investment Advisors to assist the Town's financial staff in the management of the Town's funds. The Investment Advisor must be registered with the Securities and Exchange Commission under the Investment Advisors Act of 1940 and also be registered with the Texas State Securities Board as an Investment Advisor. To be eligible for consideration, an Investment Advisor shall demonstrate to the CFO knowledge of, and experience in, the management of public funds. The CFO will satisfy himself as to the Advisor's qualifications by all appropriate means, including reference checks with the Advisor's other clients, the State Securities Board and the Securities and Exchange Commission. An appointed Investment Advisor shall act solely in an advisor and administrative capacity, within the guidelines of this Investment Policy and without any discretionary authority to transact business on behalf of the Town.

Each Investment Advisor, appointed by the Town, shall agree that its investment advice shall at all times be given with the judgment and care, under circumstances then prevailing, which persons paid for their special prudence, discretion and intelligence, in such matters exercise in the management of their client's affairs, not for speculation by the client or production of fee income by the advisor or broker but for investment by the client with emphasis on the probable safety of the capital while considering the probable income to be derived.

Appointment of an Investment Advisor shall otherwise be according to the Town's normal purchasing procedures for selecting professional services. Any approved investment advisor may be terminated with the approval of the City Manager, if in the opinion of the CFO, the advisor has not performed adequately. The term of any Investment Advisor contract may not exceed five years. Any renewal or extension of the Investment Advisor contract must be made by the City Council by resolution.

V. STANDARD OF CARE

As provided for in the Public Funds Investment Act, the standard of care for the Town's investments shall be that such "investments shall be made with judgment and care, under prevailing circumstances, that a person of prudence, discretion and intelligence would exercise in the management of the person's own affairs, not for speculation, but for investment, considering the probable safety of capital and the probable income to be derived."

The overall investment program shall be designed and managed with a degree of professionalism that is worthy of the public trust. The CFO and the Investment Officers shall recognize that the investment activities of the Town are a matter of public record.

The CFO and the Investment Officers, acting in accordance with written procedures and exercising the proper standard of care, shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided that this Policy and the CFO's procedures were followed. In determining whether the CFO or an Investment Officer has exercised the proper standard of care, all investments over which the individual had responsibility will be considered rather than a single investment.

VI. AUTHORIZED SECURITIES INVESTMENTS

Subject to any limitations otherwise imposed by applicable law, regulations, bond indentures or other agreements, (including but not limited to Chapter 2256 Texas Government Code, the Public Funds Investment Act), the following securities and deposits are the only ones permitted as investments for the Town's funds:

- a. Direct obligations of the United States government with a maturity not to exceed five (5) years from the date of purchase; U.S. Treasury Bills, U.S. Treasury Notes, U.S. Treasury Bonds, and U.S. Treasury Strips (book entry U.S. Treasury securities whose coupon has been removed).
- b. Senior debt obligations with a maturity not to exceed five (5) years from the date of purchase issued by, guaranteed by, or for which the credit of any of the following Federal Agencies and Instrumentalities is pledged for payment: Federal National Mortgage Association (FNMA), Federal Home Loan Bank (FHLB), Federal Farm Credit Bank (FFCB), and Federal Home Loan Mortgage Corporation (FHLMC). Mortgage-backed securities may be held as collateral although principal-only and interest-only mortgage-backed securities as well as all types of collateralized mortgage obligations (CMOs) and real estate mortgage investment conduits (REMICs) are expressly prohibited.
- c. Bonds or other interest bearing obligations of which the principal and interest are guaranteed by the full faith and credit of the United States government, or fully insured by the Federal Deposit Insurance Corporation (FDIC), with a stated maturity not to exceed five (5) years from the date of purchase.
- d. Time Certificates of Deposit with a maturity not to exceed three (3) years from the date of purchase, insured by the Federal Deposit Insurance Corporation (FDIC) or its successor, in depository institutions that have a main office or a branch office in the state of Texas which have been approved by the Town in accordance with Section XI of this Investment Policy.

In addition, separate CDs issued by depositories wherever located, bundled together into a single investment with the full amount of principal and interest of each CD federally insured may be purchased through a broker that has its main office or a branch office in Texas and is selected from a list adopted by the City Council, or from a depository institution with its main office or branch office in Texas. The broker or depository shall act as the custodian for the various certificates on behalf of the Town.

e. **Prime commercial paper** with an original maturity of one hundred eighty (180) days or less which at the time of purchase, is rated at least:

A-1 by Standard & Poor's,
P-1 by Moody's or
F1 by Fitch

(1) At the time of purchase, the commercial paper must be rated by at least two (2) of the above stated ratings agencies at the above stated minimum credit rating.

(2) If more than two (2) of the above stated agencies rates an issuer, all the rating agencies must rate the issuer in accordance with the above stated minimum credit criteria.

(3) If the commercial paper issuer has senior debt* outstanding, the senior debt must be rated by each service that publishes a rating of the issue at least:

A-1 by Moody's,
A+ by Standard and Poor's and
A+ by Fitch

*Senior Debt is defined as the most senior secured or unsecured debt of an issuer with an original maturity exceeding one year.

If the commercial paper issuer is given a "plus (+) rating", the maximum maturity of 270 days or less will be allowed.

f. Eligible Bankers Acceptances with original maturities not exceeding 180 days, issued on domestic banks operating under the banking laws of the United States, whose senior long term debt is rated, at the time of purchase, A-1 or higher by Moody's, A+ by Standard and Poor's, or A+ by Fitch.

g. Repurchase agreements with a defined termination date of 90 days or less on U.S. Treasury and Federal Agency securities listed in items "a" and "c" above, collateralized initially at a minimum market value of 102% of the dollar value of the transaction, with the accrued interest accumulated on the collateral included in the calculation. An exception to the maturity may be made for bond proceeds, provided the repurchase agreement allows for multiple draws at the Town's discretion and the maturity date does not exceed the expected final expenditure date.

If the market value of the collateral falls below 101 percent the dollar value of the transaction, the collateral will be required to be brought up to the 102 percent initial maintenance level. A Repurchase Agreement is defined as a simultaneous agreement to buy, hold for 90 days or less, and then sell back an obligation described in item (g) above, the principal and interest of which are guaranteed by the United States.

Repurchase Agreements shall be entered into only with dealers who: 1) are recognized as primary reporting dealers with the Market Reports Division of the Federal Reserve Board of New York; and 2) have an executed, Town approved Master Repurchase Agreement. Collateral (purchased securities) shall be held by the Town's custodian bank or in a segregated account registered in the name of the Town of Addison with an approved third-party safekeeping agent and the market value of the collateral securities shall be marked-to-the market no less than weekly.

For the purpose of item "g" of this section, the term "collateral" shall mean "purchased securities" under the terms of the Town approved Master Repurchase Agreement. Collateral bearing no coupon will have a maturity not to exceed five (5) years. All other eligible collateral shall have a maturity limit of 10 years.

The term repurchase agreements include reverse repurchase agreements. The term of a reverse repurchase agreement shall not exceed 90 days and any investments acquired with the proceeds from the reverse repurchase agreement shall not exceed the term of that agreement.

h. Money Market Funds meeting the following criteria:

- (1) Registered with, and regulated by the Securities and Exchange Commission;
- (2) Providing the Town with a prospectus and other information required by the Securities Exchange Act of 1934 or the Investment Company Act of 1940;
- (3) Charging no commission fee on the purchase or sale of shares;
- (4) Stating a fund objective to maintain a constant daily net asset value of \$1.00 per share;
- (5) Limiting fund assets to those securities listed in paragraphs “a”, “b”, “c” and “g” above; and
- (6) Having a maximum stated maturity of 13 months and dollar weighted average portfolio maturity of not more than 60 days. A list of Town approved Money Market Funds shall be kept by the CFO.

i. State investment pools organized under the Interlocal Cooperation Act that meet the requirements of Chapter 2256 Texas Government Code and have been specifically approved by the CFO and authorized by the City Council.

j. Local investment pools organized under the Interlocal Cooperation Act that meet the requirements of Chapter 2256 Texas Government Code and have been specifically approved by the CFO and authorized by the City Council.

k. Direct obligations of the State of Texas or its agencies rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent with a maturity not to exceed two (2) years from the date of purchase.

l. Other obligations, the principal of and interest on which are unconditionally guaranteed or insured by the State of Texas or the United States with a maturity not to exceed two (2) years from the date of purchase.

VII. OTHER INVESTMENT GUIDELINES

The Town seeks active management of its portfolio assets. In the effort of meeting the objectives of this Policy, the Town may from time to time sell securities that it owns in order to better position its portfolio assets. Sales of securities prior to maturity shall be documented and approved by the CFO before such a transaction is consummated. Sales of securities, yielding net proceeds less than 98 percent of the book value of the securities, must be approved in advance and in writing by both the City Manager and the CFO.

Each investment transaction must be based upon competitive quotations received from at least three (3) broker/dealers who have been approved by the Town in accordance with Texas law.

The purchase and sale of all securities shall be on a delivery-versus-payment or payment-versus-delivery basis (i.e. for securities purchases, monies will not be released by the Town’s safekeeping bank until securities are received at the Federal Reserve Bank for further credit to the Town’s safekeeping bank. In the case of securities sales, monies will be received by the Town’s safekeeping bank via the Federal Reserve Bank, as the securities are simultaneously released to the purchaser). In this manner, the Town will always have possession of either its securities or its monies.

An investment that requires a minimum credit rating does not qualify as an AUTHORIZED SECURITIES INVESTMENT during the period the investment does not have the minimum credit rating even if the investment had the appropriate rating at the time of purchase. The Investment Officers shall take all prudent measures that are consistent with this Policy to liquidate an investment that does not have the minimum rating.

VIII. PORTFOLIO MATURITIES

Maturities shall be selected which provide for both stability of income and reasonable liquidity.

At all times, the Town shall maintain 10 percent of its total investment portfolio in instruments maturing in 90 days or less. The weighted average maturity of all securities and certificates of deposit in the Town's total investment portfolio at any given time (not including cash or demand deposits) shall not exceed 18 months.

In the case of callable securities, the first "call" date may be used as the "maturity" date for investment purposes in this section if in the opinion of the CFO there is little doubt that the security will be called prior to maturity. At all times the stated final maturity shall be used in portfolio average life calculations and reported as outlined in this Policy.

Investment of bond proceeds shall be invested in the investment types listed in Section VI. "a", "b", "c", "h", "i", and "j" for a period of time not to exceed five (5) years. Additionally, bond proceeds may be invested in a repurchase agreement that exceeds 90 days if reductions are allowed from the agreement without penalty for legitimate bond proceeds expenditures and the final maturity is within the "temporary period" as defined by the Internal Revenue Service (this arrangement is commonly referred to as a "flexible repurchase agreement").

IX. INVESTMENT LIMITS

It is the policy of the Town to avoid concentration of assets in a specific maturity, a specific issue, or a specific class of securities, with the exception of U.S. Treasury issues listed in Section VI "a." The asset allocation in the portfolio should, however, be flexible depending upon the outlook for the economy and the securities markets.

The Town will not exceed the following maximum limits as a percentage of the total portfolio for each of the categories listed below:

- 20 percent in Money Market Funds as outlined in Section VI "h"
- 50 percent in Certificates of Deposit
- 30 percent in Commercial Paper
- 30 percent in Bankers Acceptances
- 40 percent in Local Government Investment Pools as authorized in Section VI "h" and "j"
- 70 percent in State Government Investment Pools as authorized in Section VI "i"
- 70 percent in Instrumentality securities described in Section VI "b"

In addition to the limitations set forth above the Town's investment in any single money market fund shall never exceed 10 percent of the total assets of the money market fund.

The CFO and investment officers shall evaluate how each security purchased fits into the Town's overall investment strategy.

Bond proceeds shall be exempt from the maximum limitation stated above for State Government Pools, but only for the period of time required to develop a comprehensive draw-down schedule for the project for which the proceeds are intended, the maximum being 60 days, at which time the funds representing bond proceeds must be prudently diversified.

X. SELECTION OF BROKER/DEALERS

The Town shall maintain a list of approved security broker/dealers maintaining minimum capital of \$10,000,000 and being in business for at least five years. These may include "primary" dealers or regional dealers that qualify under Securities and Exchange Commission (SEC) Rule 15C3-1 (uniform net capital rule). Securities may only be purchased from those authorized institutions and firms identified in the above list.

Broker/dealers and other financial institutions will be selected by the CFO on the basis of expected financial stability, experience in selling fixed income securities to other local governments as well as perceived ability to service the Town's account. Each broker/dealer authorized to conduct business with the Town, shall be required to submit a Broker/Dealer questionnaire as well as updated financial statements. In addition, all firms shall provide a detailed resume of the firm's primary sales representative, appropriate references and wiring instructions. The CFO shall maintain a file on each firm containing the most recent information.

The CFO shall review the quality of service and financial stability of each broker/dealer and financial institution approved under this Section at least annually. Any approved broker/dealer or financial institution may be removed from the list of approved broker/dealers with the approval of the CFO, if in the opinion of the CFO, the firm has not performed adequately or its financial condition is considered inadequate. The City Council shall, at least annually, review, revise, and adopt the list of qualified broker/dealers and financial institutions which are authorized to engage in investment transactions with the Town.

All business organizations eligible to transact investment business with the Town shall be presented a written copy of this Policy. The qualified representative of the business organization seeking to transact investment business with the Town shall execute a written instrument substantially to the effect that the qualified representative has:

- 1) Received and thoroughly reviewed this Policy, and
- 2) Acknowledged that the business organization has implemented reasonable procedures and controls in an effort to preclude imprudent investment activities with the Town.

The Town shall not enter into an investment transaction with a business organization prior to receiving the written instrument described above. In addition, each Investment Advisor appointed by the Town shall execute the written instrument described above.

If the City Council has contracted with a Registered Investment Advisor for the management of its funds, the advisor shall be responsible for performing due diligence on and maintaining a list of broker/dealers with which it shall transact business on behalf of the Town. The advisor shall determine selection criteria. The advisor shall annually present a list of its authorized broker/dealers to the Town for review and likewise shall execute the aforementioned written instrument stating that the advisor has reviewed the Town's investment policy and has implemented reasonable procedures and controls in an effort to preclude imprudent investment activities with the Town. The advisor shall obtain and document competitive bids and offers on all transactions and present these to the Town as part of its standard trade documentation.

XI. SELECTION OF DEPOSITORIES

Certificates of Deposit (CD) may be placed with banking institutions doing business in the state of Texas which offer competitive and documented interest rates, both at or above interest rates available on government securities to similar maturity dates. All deposits exceeding the current FDIC deposit insurance amount shall be fully collateralized in order to be eligible as Town investments.

In addition to maintaining proper collateral, bank financial positions shall be considered to best assure prudent investment. Relevant criteria shall include capital ratios, liquidity, profitability and asset growth. Information sources for financial data may include www.bankrate.com and the FDIC website at www.fdic.gov. Because the financial condition of banks may change rapidly, primary focus shall be on maintaining adequate levels of collateral to support deposit amounts. If the Town utilizes the services of an investment advisor, the advisor shall assist in the evaluation of both the financial institution and assigned collateral.

XII. SAFEKEEPING AND CUSTODY

Investment securities purchased for the Town will be delivered by either book entry or physical delivery and shall be held in third-party safekeeping by a Federal Reserve Member financial institution designated as the Town's safekeeping and custodian bank. The Town may designate more than one (1) custodian bank. In no event shall the

Town's custodial or safekeeping institution also be the counterparty (broker or dealer) to the purchase or sale of those securities. The Town shall execute a written Safekeeping Agreement with each bank prior to utilizing the custodian's safekeeping services. Only a state or national bank located within the State of Texas may be utilized as a custodian of securities pledged to secure certificates of deposit. The safekeeping agreement must provide that the safekeeping bank will immediately record the receipt of purchased or pledged securities in its books and promptly issue and deliver a signed safekeeping receipt showing the receipt and the identification of the security, as well as the Town's perfected interest.

The CFO shall maintain a list of designated custodian banks and a copy of the Safekeeping Agreement executed with each custodian bank.

The Town must approve release of securities, in writing, prior to their removal from the custodial account. A telephonic facsimile of a written authorization shall be sufficient if the custodian orally confirms receipt of the transmission and an exact copy of the document is retained in the Town's files.

All securities shall be confirmed in the name of the Town and delivered to an approved custodial bank or carried at a Federal Reserve Bank in the name of the Town. The Custodian shall not otherwise deposit purchased or pledged securities. All book entry securities, owned by the Town, shall be evidenced by a safekeeping receipt issued to the Town and signed by the appropriate officer at the custodian bank stating that the securities are held in the Federal Reserve system in a CUSTOMER ACCOUNT naming the Town as the "customer". In addition, the custodian bank will, when requested, furnish a copy of the delivery advice received by the custodian bank from the Federal Reserve Bank.

The original safekeeping receipt for each transaction including purchased securities under a repurchase agreement and collateral securing deposits will be forwarded to the CFO or his designee and held in a secured file by the Town.

Securities delivered as part of a repurchase agreement may be held with an independent third-party safekeeping agent, provided that they are fully registered in the Town's name, segregated in account designated in the name of the Town and governed by a fully executed custodial agreement.

XIII. RECORDKEEPING AND REPORTING

A record shall be maintained of all bids and offerings for securities transactions in order to ensure that the Town receives competitive pricing. All transactions shall be documented by the person authorizing the transaction in a form that shows that person's name, the party instructed to execute the transaction, the date, a description of the transaction and a brief statement of the reason(s) for the transaction.

Each depository institution of the Town's funds and purchased securities shall maintain separate, accurate and complete records relating to all deposits of the Town's funds, the securities pledged to secure such deposits and all transactions relating to the pledged securities. Each approved custodian shall maintain separate, accurate and complete records relating to all securities received on behalf of the Town, whether pledged, purchased or subject to repurchase agreement, as well as all transactions related to such securities. In addition, each depository shall file all reports required by the Texas State Depository Board. Each depository and custodian shall agree to make all the records described in this paragraph available to the CFO's designee and the Town's auditors at any reasonable time.

At least once each quarter, the CFO or investment officers shall verify that all securities owned by the Town or pledged to the Town are held in safekeeping in the Town's custodial bank with proper documentation. At least annually the Town's investment program, including the records of custodians and depositories, shall be audited by independent certified public accountants selected by the City Council. This annual audit shall include a compliance audit of the management controls on investments and adherence to the Town's Investment Policy and strategies.

All broker/dealers, custodians, depositories, and investment advisors shall maintain complete records of all transactions that they conducted on behalf of the Town and shall make those records available for inspection by the CFO or other representatives designated by the City Council or City Manager.

All sales of securities for less than the book value of the security shall be approved by the CFO and reported to the City Council at the next regular meeting. Sales of securities for less than 98 percent of the book value of the securities must be approved by both the City Manager and the CFO.

All contracted Investment Advisors shall report at least monthly on the straight-line book value, the market value of investment holdings, and total earnings yield and such other information required by the CFO. Unrealized profits or losses in the Town's investment portfolio will be disclosed but will not be used in the calculation of income earned for the month. Contracted Investment Advisors shall provide monthly reports to the CFO no later than 15 business days following receipt of all depository bank statements, investment pool statements and money market fund statements as necessary to provide a full accounting of the Town's investment and cash position.

An investment report shall be prepared by the CFO within 60 days of the quarter end that:

- a) Describes in detail the investment position of the Town;
- b) States the reporting period beginning book and market values, additions or changes to the book and market values during the period and ending book and market values for the period of each pooled fund group;
- c) States the reporting period beginning book and market value and ending book and market value for each investment security by asset type and fund type;
- d) States the maturity date of each investment security;
- e) States the fund for which each investment security was purchased;
- f) States fully accrued interest for the reporting period;
- g) States the compliance of the investment portfolio with the Town's Investment Policy, Investment Strategy Statement and the Public Funds Investment Act;
- h) Summarizes quarterly transactions, including a detailed list of the gains and losses recognized; and
- i) Explains the total earnings yield during the previous quarter and compares the portfolio's performance to other benchmarks of performance.

This report will be presented to the City Council and signed by all of the Town's Investment Officers. .

Market valuations of investments shall be provided by the Investment Advisor on a monthly basis. The Investment Advisor shall use independent market pricing sources including, but not limited to, Interactive Data Corporation (IDC) and Bloomberg, to monitor the market price of investments acquired with the Town's funds.

Within 60 days after the end of the Town's fiscal year the CFO shall prepare, sign and deliver to the City Manager and the City Council an annual report on the Town's investment program and investment activity which has also been signed by each officer and employee of the Town authorized to conduct any of the Town's investment activity. The annual report shall include full year earnings yield. Such annual report shall include an analysis of the compliance with this Policy as well as changes in applicable laws and regulations during the previous year and may include any other items of significance related to the investment program.

If the Town places funds in any investment other than registered investment pools or accounts offered by its depository bank, the above reports shall be formally reviewed at least annually by an independent auditor, and the result of the review shall be reported to the City Council.

XIV. ETHICS AND CONFLICTS OF INTEREST

Officers and employees of the Town involved in the investment process shall refrain from personal business activity that involves any of the Town's approved custodians, depositories, broker/dealers, or investment advisors and

shall refrain from investing in any security issue held by the Town. Employees and officers shall not utilize investment advice concerning specific securities or classes of securities obtained in the transaction of the Town's business for personal investment decisions, shall in all respects subordinate their personal investment transactions to those of the Town particularly with regard to the timing of purchases and sales and shall keep confidential all investment advice obtained on behalf of the Town, and all transactions contemplated and completed by the Town, except when disclosure is required by law.

All Investment Officers of the Town shall file with the Texas Ethics Commission and the City Council a statement disclosing any personal business relationship with business organization seeking to sell investments to the Town or any relationship within the second degree by affinity or consanguinity to an individual seeking to sell investments to the Town.

XV. COLLATERAL REQUIREMENTS

Any deposits exceeding FDIC insurance limits shall be fully collateralized by securities listed in items "a" and "b" below, and the collateral shall be held by a third party custodian bank approved by the Town.

- a. Direct obligations of the United States government; U.S. Treasury Bills, U.S. Treasury Notes, U.S. Treasury Bonds, and U.S. Treasury Strips (book entry U.S. Treasury securities whose coupon has been removed).
- b. Senior debt obligations issued by, guaranteed by, or for which the credit of any of the following Federal Agencies and Instrumentalities is pledged for payment: Government National Mortgage Association (GNMA), Federal National Mortgage Association (FNMA), Federal Home Loan Bank (FHLB), Federal Farm Credit Bank (FFCB), and Federal Home Loan Mortgage Corporation (FHLMC). Mortgage-backed securities are eligible as collateral, but principal-only and interest-only mortgage-backed securities and collateralized mortgage obligations (CMOs) and real estate mortgage investment conduits (REMICs) are expressly prohibited.

Consistent with the requirements of State law, the Town requires all bank and savings bank deposits to be federally insured or collateralized with eligible securities. Financial institutions serving as Town depositories will be required to sign a Security Agreement with the Town and the Town's custodian. The agreement shall define the Town's rights to the collateral in case of default, bankruptcy, or closing and shall establish a perfected security interest in compliance with Federal and State regulations, including:

- a. The Agreement must be in writing;
- b. The Agreement has to be executed by the Depository and the Town contemporaneously with the acquisition of the asset;
- c. The Agreement must be approved by the Board of Directors or the loan committee of the Depository and a copy of the meeting minutes must be delivered to the Town; and
- d. The Agreement must be part of the Depository's "official record" continuously since its execution.

XVI. POLICY REVISIONS

The Investment Policy and Investment Strategy Statements will be reviewed at least annually by the CFO and the City Council and may be amended as conditions warrant by the City Council.

TOWN OF ADDISON, TEXAS

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS FINDING THAT THE CITY COUNCIL OF THE TOWN HAS REVIEWED THE TOWN'S INVESTMENT POLICIES AND INVESTMENT STRATEGIES, AND PROVIDING FOR CHANGES THERETO AS SET FORTH HEREIN; AMENDING SECTION 2-210 OF THE CODE OF ORDINANCES REGARDING THE MAXIMUM LIMITS AS A PERCENTAGE OF THE TOTAL INVESTMENT PORTFOLIO FOR THE CATEGORY OF CERTIFICATES OF DEPOSIT, AND AMENDING SECTION 2-210 OF THE CODE OF ORDINANCES REGARDING THE MINIMUM INVESTMENTS TO BE HELD IN U.S. TREASURY AND AGENCY SECURITIES AND REPURCHASE AGREEMENTS BACKED BY THOSE SECURITIES; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Addison, Texas ("City") has adopted a written investment policy and a separate written investment strategy in accordance with Section 2256.005, Tex. Gov. Code, and the policy and the strategy are included in Chapter 2, Article IV, Division 3 of the Code of Ordinances of the City; and

WHEREAS, Section 2256.005(e) provides that the governing body of an investing entity must review its investment policy and investment strategies not less than annually, and adopt a written instrument by rule, order, ordinance, or resolution stating that it has reviewed the investment policy and investment strategies, and the written instrument must record any changes made to either the investment policy or investment strategies.

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

Section 1. Investment Policy, Investment Strategy Reviewed. The City Council of the Town of Addison, Texas has reviewed the City's investment policy and investment strategy included in Chapter 2, Article IV, Division 3 of the Code of Ordinances of the City. The only changes to the same are included in Section 2 of this Ordinance, below.

Section 2. Amendments. The Code of Ordinances ("Code") of the City is amended as set forth below, and all other chapters, articles, divisions, sections, phrases and words of the Code are not amended hereby (additions to the Code are underlined; deletions are ~~struck-through~~):

A. Section 2-210 (investment limits) of the Code is amended in part by amending subsection (b), by deleting subsection (e) in its entirety, and by relettering subsection (f) as subsection (e), so that the said Section 2-210 shall read as follows:

- (a) It is the policy of the Town to avoid concentration of assets in a specific maturity, a specific issue, or a specific class of securities, with the exception of U.S.

Treasury issues listed in subsection 2-207(1). The asset allocation in the portfolio should, however, be flexible depending upon the outlook for the economy and the securities markets.

- (b) The Town will not exceed the following maximum limits as a percentage of the total portfolio for each of the categories listed below:

Categories	Percentage
Money market funds as outlined in subsection 2-207(8)	20
Certificates of deposit	50 30
Commercial paper	30
Bankers' acceptances	30
Local government investment pools as authorized in subsections 2-207(8) and (10)	40
State government investment pools as authorized in subsection 2-207(9)	70
Instrumentality securities described in subsection 2-207(2)	70

- (c) In addition to the limitations set forth above, the Town's investment in any single money market fund shall never exceed ten percent of the total assets of the money market fund.
- (d) The CFO and investment officers shall evaluate how each security purchased fits into the Town's overall investment strategy.
- ~~(e) The amount of investments in U.S. Treasury and Agency Securities and Repurchase Agreements backed by those securities, as defined in subsections 2-207(1), (3) and (7), shall at no time be less than 30 percent of the total portfolio. There shall be no maximum limits on these investments.~~
- ~~(e)~~(f) Bond proceeds shall be exempt from the maximum limitation stated above for State government investment pools, but only for the period of time required to develop a comprehensive draw schedule for the project for which the proceeds are intended, the maximum being 60 days, at which time the funds representing bond proceeds must be prudently diversified.

Section 3. Recitals. The above and foregoing recitals to this Ordinance are true and correct and are incorporated into and made a part of this Ordinance for all purposes.

Section 4. Savings; Repealer. 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. Provided, however, that the repeal of such ordinances or parts of such ordinances, and the amendments and changes made by this Ordinance, shall not affect any right, property or claim which was or is vested in the City, or any act done, or right accruing or accrued, or established, or any suit, action or proceeding had or commenced before the time when this Ordinance shall take effect; nor shall said repeals, amendments or changes affect any offense committed, or any penalty or forfeiture incurred, or any suit or prosecution pending at the time when this Ordinance shall take effect under any of the ordinances or sections thereof so repealed, amended or changed; and to that extent and for that purpose the provisions of such ordinances or parts of such ordinances shall be deemed to remain and continue in full force and effect.

Section 5. Severability. The provisions of this Ordinance are severable, and if any section, subsection, sentence, paragraph, phrase, word, or provision of this Ordinance or the application of any section, subsection, sentence, paragraph, phrase, word, or provision hereof to any person, firm, corporation, entity, situation or circumstance is for any reason adjudged invalid or held unconstitutional by the valid judgment or decree of a court of competent jurisdiction, the same shall not affect the validity of any other section, subsection, phrase, word, or provision of this Ordinance or the application of any other section, subsection, sentence, paragraph, phrase, word, or provision to any person, firm, corporation, entity, situation or circumstance, and the City Council declares that it would have adopted the valid portions of this Ordinance adopted herein without the invalid or unconstitutional section, subsection, sentence, paragraph, phrase, word, or provision, and to this end the remainder of this Ordinance shall remain in full force and effect.

Section 6. Effective Date. This Ordinance shall become effective from and after its passage and approval and its publication as may be required by law, including but not limited to the City Charter and ordinances.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this the ____ day of _____, 2014.

Todd Meier, Mayor

ATTEST:

By: _____
Matt McCombs, City Secretary

APPROVED AS TO FORM:

By: _____
John Hill, City Attorney

Combined Meeting

R2j

Meeting Date: 10/14/2014

Council Goals: Mindful stewardship of Town Resources.
Look for Operational Efficiencies without cutting services
Identify opportunities for improved governance

AGENDA CAPTION:

Approval of a resolution adopting the Town of Addison Investment Strategy for FY 2015.

FINANCIAL IMPACT:

There is no financial impact associated with the approval of the investment strategy.

BACKGROUND:

The Public Funds Investment Act (PFIA) requires the Council to annually review the Town's investment strategy. The Town's investment adviser, First Southwest Asset Management, has assisted administration with the development of the attached strategy.

The investment strategy has been drafted to comply with all aspects of the PFIA.

For FY 2015, administration is not recommending any change to our investment strategy. The investment strategy has the following priorities (in order of importance):

- Understanding the suitability of the investment to the financial requirements of the Town
- Preservation and safety of principal
- Liquidity
- Marketability of the investment if the need arises to liquidate the investment prior to maturity
- Diversification of the investment portfolio
- Yield

RECOMMENDATION:

Administration recommends approval.

Attachments

Resolution- Investment Strategy

TOWN OF ADDISON, TEXAS

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS ADOPTING AN INVESTMENT STRATEGY FOR FISCAL YEAR 2014-2015; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Texas Public Funds Investment Act (“PFIA”) requires the City Council of the Town of Addison, Texas (“City”) to annually review the City’s investment strategy; and

WHEREAS, the City’s investment advisor, First Southwest Asset Management, has assisted City Staff with the development of the investment strategy that is attached to this Resolution; and

WHEREAS, the investment strategy has been drafted to comply with all aspects of the PFIA; and

WHEREAS, for Fiscal Year 2014-2015, City Staff is not recommending any change in the City’s investment strategy that has been previously adopted; and

WHEREAS, the investment strategy has the following priorities (in order of importance):

- Understanding the suitability of the investment to the financial requirements of the City
- Preservation and safety of principal
- Liquidity
- Marketability of the investment if the need arises to liquidate the investment prior to maturity
- Diversification of the investment portfolio
- Yield.

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

Section 1. The City Council does hereby adopt and approve an investment strategy for Fiscal Year 2014-2015, which investment strategy is attached to this Resolution.

Section 2. The above and foregoing recitals are true and correct and are incorporated herein.

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

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this ___ day of October, 2014.

Todd Meier, Mayor

ATTEST:

Matt McCombs, City Secretary

Combined Meeting

R2k

Meeting Date: 10/14/2014

Council Goals: Mindful stewardship of Town Resources.

AGENDA CAPTION:

Approval of an ordinance raising the deposit for water loan meters, also known as construction meters.

FINANCIAL IMPACT:

N/A

BACKGROUND:

The current deposit for construction meters is set at \$1,200.00 for each meter. The cost to replace each meter, however, is approximately \$1,500.00. This meter deposit increase will protect the Town from absorbing the extra cost to buy replacement meters for those that are broken or are not returned. This change also reflects the codes and regulations for the utility customers of surrounding municipalities.

RECOMMENDATION:

Administration recommends approval.

Attachments

Ordinance- Water Meter Deposit

TOWN OF ADDISON, TEXAS

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS AMENDING THE CODE OF ORDINANCES OF THE TOWN BY AMENDING CHAPTER 82 (UTILITIES), ARTICLE II (WATER), SECTION 82-97 (CROSS-CONNECTION CONTROL) BY AMENDING SUBSECTION (S) OF SECTION 82-97 REGARDING FEES BY INCREASING THE DEPOSIT FEE FOR FIRE HYDRANT WATER METER WITH BACKFLOW PREVENTION DEVICE FROM \$1,200.00 TO \$1,500.00; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Amendment. The Code of Ordinances (“Code”) of the Town of Addison, Texas (“City”) is amended as set forth below, and all other chapters, articles, divisions, sections, phrases and words of the Code are not amended hereby (additions to the Code are underlined; deletions are ~~struck through~~):

A. Section 82-97 (Fees) of Chapter 82 (Utilities), Article II (Water) of the Code is amended by amending subsection (s) thereof to read as follows:

(s) *Fees.*

(1) There shall be a testing fee for each separate backflow assembly on which a test is performed by the town. This fee applies to but is not limited to all newly installed backflow devices, which the town may choose to randomly test. If upon inspection or testing of a newly installed backflow prevention assembly, it is deemed not to be working properly, it is the responsibility of the property owners or persons in charge of any premises to make necessary repairs. A retest fee will be assessed for each retest.

(2) The following fees shall be applicable in connection with this section:

(i) *Town of Addison Testing Fee:* The fee for a backflow prevention assembly test is \$200.00 for each separate test.

The fee for a backflow prevention assembly retest is \$100.00 for each retest performed.

(ii) *Licensed backflow prevention assembly tester registration fee:* Annual registration fee for approved testers shall be a nonrefundable fee of \$75.00.

(iii) *Testing form booklet fees:* The fee for a testing form booklet of 30 test forms shall be \$25.00 each.

- (iv) *Deposit fee for fire hydrant water meter with backflow prevention device:* There shall be a refundable rental deposit fee for fire hydrant water meters with backflow prevention devices of ~~\$1,500.00~~\$1,200.00. The deposit will be refunded when the meter is returned and damage has been assessed.
- (v) *Private contractors testing fees:* There shall be no additional charges by the town for testing conducted by private contractors.

Section 2. Savings; Repealer. 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. Provided, however, that the repeal of such ordinances or parts of such ordinances, and the amendments and changes made by this Ordinance, shall not affect any right, property or claim which was or is vested in the City, or any act done, or right accruing or accrued, or established, or any suit, action or proceeding had or commenced before the time when this Ordinance shall take effect; nor shall said repeals, amendments or changes affect any offense committed, or any penalty or forfeiture incurred, or any suit or prosecution pending at the time when this Ordinance shall take effect under any of the ordinances or sections thereof so repealed, amended or changed; and to that extent and for that purpose the provisions of such ordinances or parts of such ordinances shall be deemed to remain and continue in full force and effect.

Section 3. Severability. The provisions of this Ordinance are severable, and if any section, subsection, sentence, paragraph, phrase, word, or provision of this Ordinance or the application of any section, subsection, sentence, paragraph, phrase, word, or provision hereof to any person, firm, corporation, entity, situation or circumstance is for any reason adjudged invalid or held unconstitutional by the valid judgment or decree of a court of competent jurisdiction, the same shall not affect the validity of any other section, subsection, phrase, word, or provision of this Ordinance or the application of any other section, subsection, sentence, paragraph, phrase, word, or provision to any person, firm, corporation, entity, situation or circumstance, and the City Council declares that it would have adopted the valid portions of this Ordinance adopted herein without the invalid or unconstitutional section, subsection, sentence, paragraph, phrase, word, or provision, and to this end the remainder of this Ordinance shall remain in full force and effect.

Section 4. Effective Date. This Ordinance shall become effective from and after its passage and approval.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this the ____ day of _____, 2014.

Todd Meier, Mayor

ATTEST:

By: _____
Matt McCombs, City Secretary

APPROVED AS TO FORM:

By: _____
John Hill, City Attorney

Combined Meeting

R3

Meeting Date: 10/14/2014

Council Goals: N/A

AGENDA CAPTION:

Presentation and proclamation recognizing Domestic Violence Awareness Month.

FINANCIAL IMPACT:

N/A

BACKGROUND:

N/A

RECOMMENDATION:

Combined Meeting

R4

Meeting Date: 10/14/2014

Council Goals: N/A

AGENDA CAPTION:

Presentation and update regarding the Dallas Independent School District-Destination 2020.

FINANCIAL IMPACT:

N/A

BACKGROUND:

N/A

RECOMMENDATION:

Combined Meeting

R5

Meeting Date: 10/14/2014

Council Goals: Create and implement a Comprehensive Land Use/Revitalization Plan

AGENDA CAPTION:

PUBLIC HEARING Case 1703-SUP/The Lazy Dog. Public hearing, discussion, consider and take action regarding an ordinance changing the zoning on property located at 5100 Belt Line Road, Suite 500, which property is currently zoned PD, Planned Development, through Ordinance 012-001, by approving for that property a Special Use Permit for a restaurant and a Special Use Permit for the sale of alcoholic beverages for on-premises consumption only, on application from Golden Property Development LLC represented by Mr. Jared Taylor.

COMMISSION FINDINGS:

The Addison Planning and Zoning Commission, meeting in regular session on September 25, 2014, voted to recommend approval of an ordinance changing the zoning on property located at 5100 Belt Line Road, Suite 500, which property is currently zoned PD, Planned Development, through Ordinance 012-001, by approving for that property a Special Use Permit for a restaurant and a Special Use Permit for the sale of alcoholic beverages for on-premises consumption only, subject to the following condition:

- The applicant shall not use any terms or graphic depictions relating to alcoholic beverages in exterior signage.

Voting Aye: Doherty, Groce, Oliver, Robinson, Wheeler

Voting Nay: Smith

Absent: Hughes

FINANCIAL IMPACT:

N/A

BACKGROUND:

N/A

RECOMMENDATION:

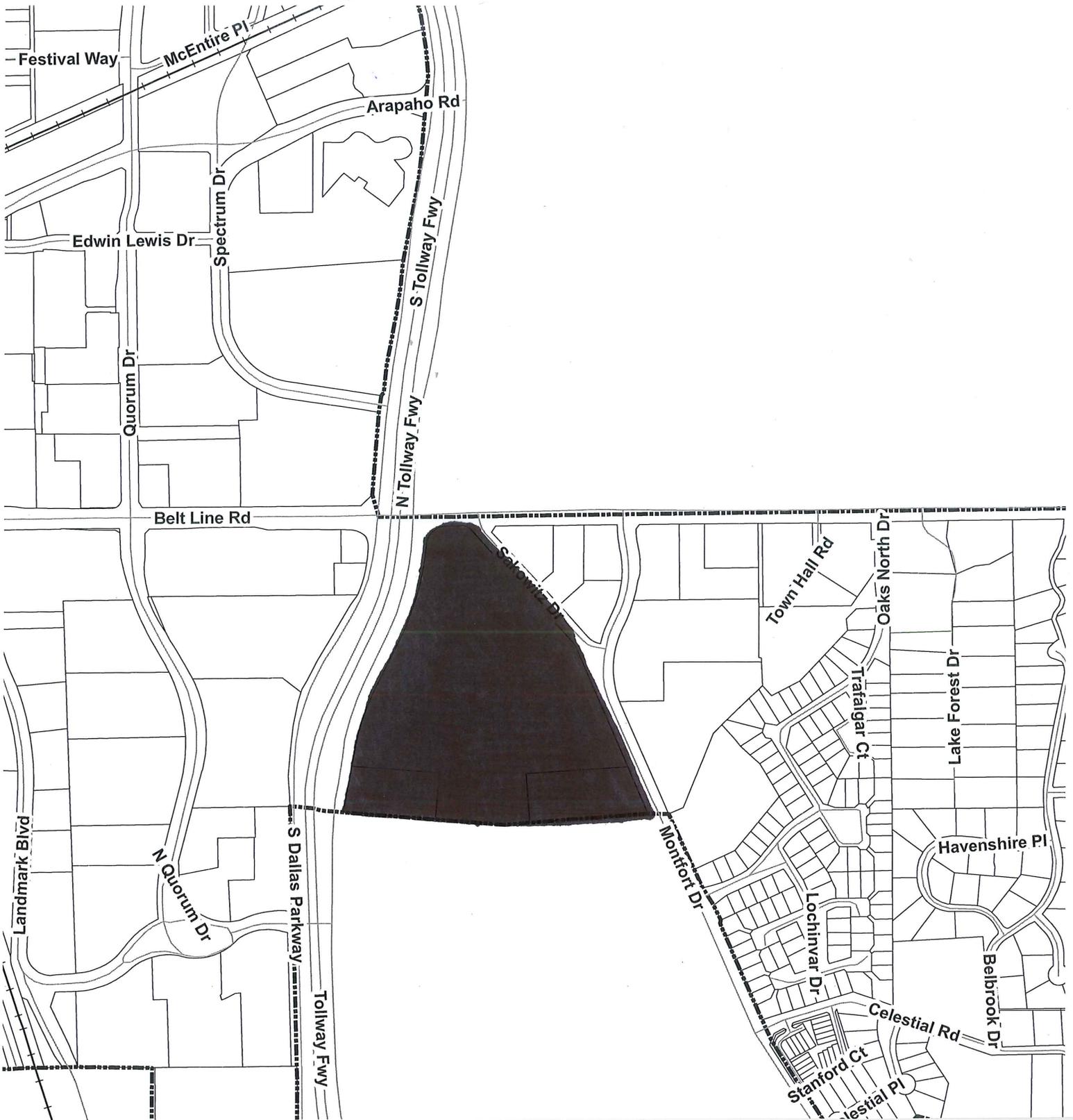
Administration recommends approval.

Attachments

1703-SUP Lazy Dog Council Packet

1703-SUP

PUBLIC HEARING Case 1703-SUP/The Lazy Dog. Public hearing, discussion and consideration of a recommendation regarding an ordinance changing the zoning on property located at 5100 Belt Line Road, Suite 500, which property is currently zoned PD, Planned Development, through Ordinance 012-001, by approving for that property a Special Use Permit for a restaurant and a Special Use Permit for the sale of alcoholic beverages for on-premises consumption only, on application from Golden Property Development LLC represented by Mr. Jared Taylor.



September 22, 2014

STAFF REPORT – REVISED TO CORRECT BUILDING SIZE

RE: Case 1703-SUP/The Lazy Dog
LOCATION: 5100 Belt Line Road, Suite 500
REQUEST: Approval of a Special Use Permit for a restaurant and a Special Use Permit for the sale of alcoholic beverages for on-premises consumption only
APPLICANT: Golden Property Development LLC represented by Mr. Jared Taylor

DISCUSSION:

Background: This location is part of the Village on the Parkway. Since 1988, the existing building was occupied by Blue Mesa. They vacated the building in 2013 to move into a new space across Montfort Drive. As part of the Village on the Parkway redevelopment project, the owners have been trying to attract additional new restaurant or retail tenants to the center to fill this space.

The Lazy Dog is a concept out of California with 15 locations. This would be their first location outside of the state. They serve a diverse menu including various entrées, pizzas, pastas, salads, sandwiches, burgers and some Asian style dishes. The concept's goal is to create a warm and comfortable lodge feel.

Proposed Plan: The applicant is planning to demolish the existing building and replace it with a slightly smaller one. The new building would be reoriented to sit at a diagonal on the corner between the Mercy Wine Bar and Hopdoddy's. The new building would be 8,445 square feet and feature a patio of 2,313 square feet for a total of 10,758 square feet. This is smaller compared to the Blue Mesa building and patio which was 13,408 square feet.

The floor plan contemplates a total seat count of 386, a bar on the interior and a fire pit located on the patio.

Exterior Facades: The exterior is designed to invoke a modern lodge feel and features a variety of stone veneer, wood, and stucco in earth tones.

Parking: The plans show the Village on the Parkway center will provide 2,240 spaces, which is 641 spaces over the required number. Under the approved plan for the center, the parking can be provided anywhere on the site, and does not have to be immediately in front of the tenant's lease space. This 10,758 square-foot space will require 44 parking spaces, which are provided on the site.

Staff has continued to work closely with the Village on the Parkway management. The most recent plans continue to indicate that no additional restaurants are contemplated except to occupy existing restaurant spaces such as this.

Landscaping: The landscaping across the center has been addressed to the satisfaction of the staff and continues to be well maintained. The landscaping on this particular site within the center will be enhanced from what is there currently. Staff has worked with the applicant to save as many of the existing mature oaks as possible. 4 of the 9 oaks will need to be replaced, but the applicant has indicated that they will replace them with oaks of similar size. In addition to what is required by the code, the applicant is adding several trees and plantings to further enhance the aesthetic of the area around their restaurant.

Signage: The applicant should be aware that all signs must be permitted under the requirements of the Addison Sign Ordinance, which is separate from the zoning approval process. The applicant should also be aware that the Town has a policy against the use of any terms, such as "bar" or "tavern", or any graphic depictions that denote alcoholic beverages, in exterior signs.

RECOMMENDATION: APPROVAL

The Town feels that The Lazy Dog will be a positive addition to Addison's restaurant community, and staff recommends approval of the request for a Special Use Permit for a restaurant, and a Special Use Permit for the sale of alcoholic beverages for on-premises consumption, subject to the following conditions:

- The applicant shall not use any terms or graphic depictions that relate to alcoholic beverages in any exterior signs.

Respectfully submitted,

Charles Goff
Assistant Director
Development Services and Planning

Land Use Analysis

Attributes of Success Matrix

The Lazy Dog, 5100 Belt Line Road, Suite 500

1703-SUP

Attribute	Comment	Score
Competitive	This proposed restaurant will be a new restaurant for Addison and will help the Village on the Parkway become a destination for dining	
Safe	The project will be safe.	
Functional	The space will be functional, and staff feels that parking concerns have been addressed.	
Visually Appealing	The existing building will be replaced with an updated, more visually appealing building. Additionally, the landscaping will be greatly enhanced.	
Supported with Amenities	The site is in a very amenity-rich area.	
Environmentally Responsible	The site is part of larger redevelopment. The new building will help create a more energy efficient center. Landscaping has also been addressed in an environmentally responsible manner.	
Walkable	The project is extremely walkable.	
Overall Assessment	This is a good-quality restaurant and will be an asset to the Town.	

Case 1703-SUP/The Lazy Dog
September 26, 2014

COMMISSION FINDINGS:

The Addison Planning and Zoning Commission, meeting in regular session on September 25, 2014, voted to recommend approval of an ordinance changing the zoning on property located at 5100 Belt Line Road, Suite 500, which property is currently zoned PD, Planned Development, through Ordinance 012-001, by approving for that property a Special Use Permit for a restaurant and a Special Use Permit for the sale of alcoholic beverages for on-premises consumption only, subject to the following condition:

- The applicant shall not use any terms or graphic depictions relating to alcoholic beverages in exterior signage.

Voting Aye: Doherty, Groce, Oliver, Robinson, Wheeler

Voting Nay: Smith

Absent: Hughes

Combined Meeting

R6

Meeting Date: 10/14/2014

Council Goals: Create and implement a Comprehensive Land Use/Revitalization Plan

AGENDA CAPTION:

PUBLIC HEARING Case 1704-SUP/ZuZu's Handmade Mexican Food. Public hearing, discussion, consider and take action regarding an ordinance changing the zoning on property located at 4866 Belt Line Road, which property is currently zoned LR, Local Retail, by amending a Special Use Permit for a restaurant and by amending a Special Use Permit for the sale of alcoholic beverages for on-premises consumption only in order to add a bar, on application from La Salsa Restaurant, Inc. represented by Mr. Roy Kindred of R. E. Kindred & Associates.

COMMISSION FINDINGS:

The Addison Planning and Zoning Commission, meeting in regular session on September 25, 2014, voted to recommend approval of an ordinance changing the zoning on property located at 4866 Belt Line Road, which property is currently zoned LR, Local Retail, by amending a Special Use Permit for a restaurant and by amending a Special Use Permit for the sale of alcoholic beverages for on-premises consumption only in order to add a bar, subject to the following condition:

- The applicant shall not use any terms or graphic depictions relating to alcoholic beverages in exterior signage.

Voting Aye: Doherty, Groce, Oliver, Robinson, Smith, Wheeler

Voting Nay: none

Absent: Hughes

FINANCIAL IMPACT:

N/A

BACKGROUND:

N/A

RECOMMENDATION:

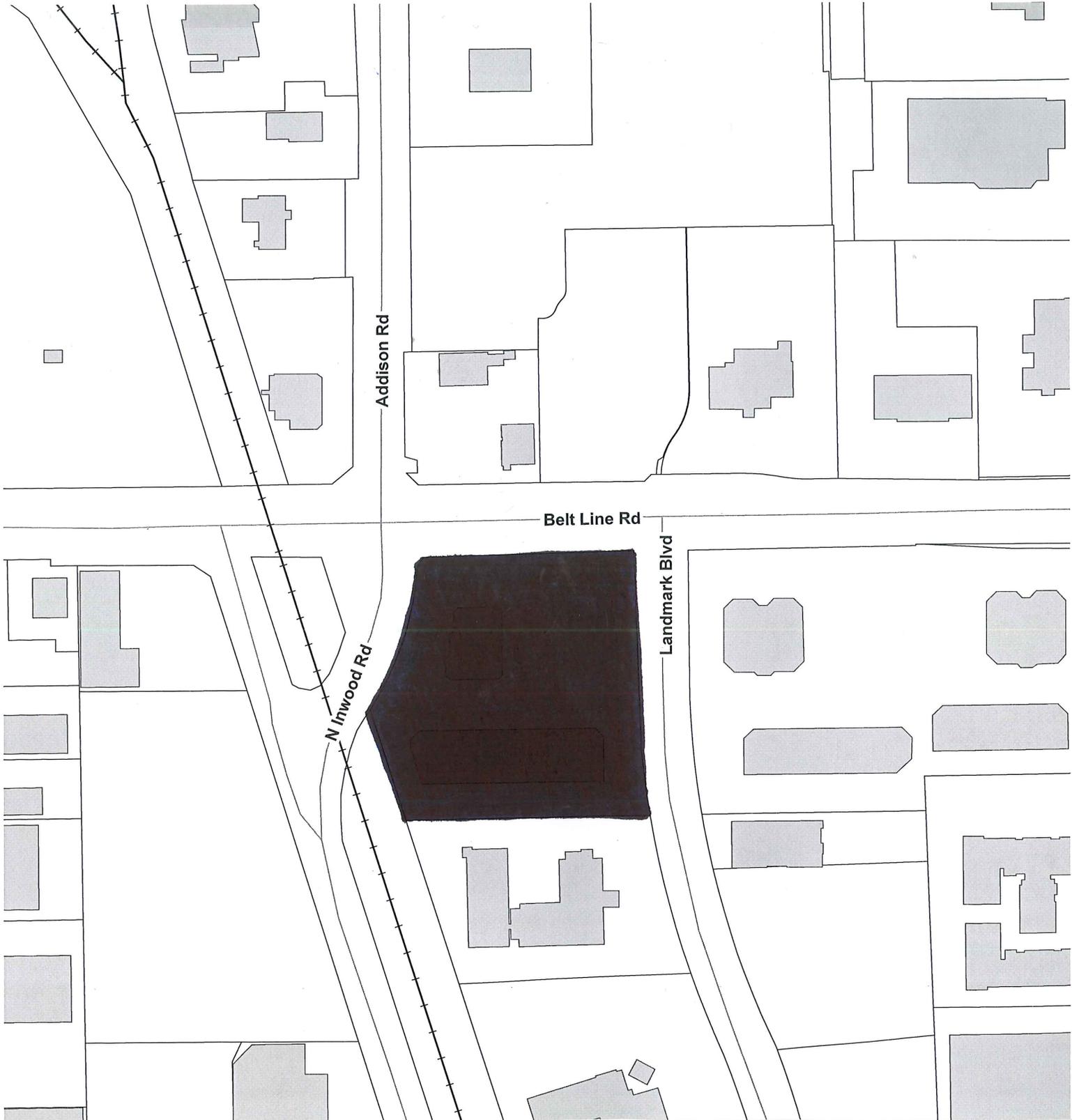
Administration recommends approval.

Attachments

1704-SUP ZuZu's Handmade Mexican Food Council Packet

1704-SUP

PUBLIC HEARING Case 1704-SUP/ZuZu's Handmade Mexican Food. Public hearing, discussion and consideration of a recommendation regarding an ordinance changing the zoning on property located at 4866 Belt Line Road, which property is currently zoned LR, Local Retail, by amending a Special Use Permit for a restaurant and by amending a Special Use Permit for the sale of alcoholic beverages for on-premises consumption only in order to add a bar, on application from La Salsa Restaurant, Inc. represented by Mr. Roy Kindred of R. E. Kindred & Associates.



September 19, 2014

STAFF REPORT

RE: Case 1704-SUP/ZuZu's Handmade Mexican Food

LOCATION: 4866 Belt Line Road

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

APPLICANT: La Salsa Restaurant, Inc. represented by Mr. Roy Kindred of R. E. Kindred & Associates

DISCUSSION:

Background: The current Special Use Permit for ZuZu's was approved in 1993. ZuZu's has operated since that time and has been a quality restaurant tenant in the Inwood-Quorum Village Shopping Center.

Proposed Plan: The applicant would like to conduct an extensive interior renovation of the restaurant to create a more updated look. As part of this project, the applicant is planning to add a small bar area with five seats. Previously, this restaurant had an SUP for the sale of alcoholic beverages for on-premises consumption only, but the drinks would be served at your table. The Town's practice has been to require an amendment to the SUP when a restaurant is expanding the size of the bar to reflect the change. Also, the SUP for the restaurant is being amended to reflect the new floor plan.

Exterior Facades: The applicant is proposing no major changes to the existing façade.

Parking: Since the overall area of the restaurant will not be altered, there is no change to the required parking.

Landscaping: The landscaping at the site has been inspected and is in compliance with the Town's Landscape Ordinance.

RECOMMENDATION: APPROVAL

ZuZu's Handmade Mexican Food is one of Addison's long-time restaurants. The industry has changed since ZuZu's was first opened over twenty years ago in response to new trends and customer preferences. The proposed changes will help keep this restaurant fresh and competitive with what other restaurants are currently offering.

The existing SUP includes the standard condition prohibiting the use of any terms or graphic depictions relating to alcoholic beverages in exterior signage, so staff recommends approval of the request subject to no conditions.

Respectfully submitted,

Charles Goff
Assistant Director
Development Services and Planning

Land Use Analysis

Attributes of Success Matrix

ZuZu's Handmade Mexican Food, 4866 Belt Line Road

1704-SUP

Attribute	Comment	Score
Competitive	This location is in the heart of Addison's restaurant concentration. ZuZu's is a long-time restaurant that has been a quality offering to date, and this will make it even more attractive.	
Safe	The project will be safe.	
Functional	The addition of the bar and the other components of the renovation will help the restaurant be more functional.	
Visually Appealing	The changes being proposed on the interior of the space will update the appearance and improve the visual appeal.	
Supported with Amenities	The site is in a very amenity-rich area with other restaurants, retail and hotels nearby.	
Environmentally Responsible	This center is one of our older retail centers and is not as energy efficient as newer buildings would be.	
Walkable	The project is some-what walkable now. This will be improved with the enhancements planned along Belt Line and Landmark Drive	
Overall Assessment	ZuZu's has been a quality operator over the years. Staff does not foresee any issues with the new bar area.	

Case 1704-SUP/ZuZu's Handmade Mexican Food
September 26, 2014

COMMISSION FINDINGS:

The Addison Planning and Zoning Commission, meeting in regular session on September 25, 2014, voted to recommend approval of an ordinance changing the zoning on property located at 4866 Belt Line Road, which property is currently zoned LR, Local Retail, by amending a Special Use Permit for a restaurant and by amending a Special Use Permit for the sale of alcoholic beverages for on-premises consumption only in order to add a bar, subject to the following condition:

- The applicant shall not use any terms or graphic depictions relating to alcoholic beverages in exterior signage.

Voting Aye: Doherty, Groce, Oliver, Robinson, Smith, Wheeler

Voting Nay: none

Absent: Hughes

Combined Meeting

R7

Meeting Date: 10/14/2014

Council Goals: Implement bond propositions

AGENDA CAPTION:

Presentation, discussion, consider and take action authorizing the City Manager to execute Change Order No. 1 for Belt Line Road Electrical Underground to increase the number of contract days up to 6 months additional time with the understanding that John Burns Construction Co. of Texas, Inc. agrees to provide a minimum of two crews throughout the duration of the project after March 18, 2015.

FINANCIAL IMPACT:

There is no financial impact.

BACKGROUND:

John Burns Construction Company of Texas, Inc., was the successful bidder for the Belt Line Road Electrical Underground project. Due to the delay in the start of the project and the uncertainty as to whether the project would receive final approval, crews that would have worked on the Belt Line Road project were assigned to other projects and are not immediately available for this work.

Because of this the contractor has asked up for to a six month extension to the contract schedule to accommodate his crews finishing the other projects and then being available to work on the Belt Line Road project. The contractor does agree that at least two crews will be assigned to the project for the duration of the time needed to complete the project after March 18, 2015. The contractor has also committed that the additional time will not be used to work at a slower pace.

Staff believes that this is a reasonable request and recommends that the schedule change be approved.

RECOMMENDATION:

Administration recommends approval.

Combined Meeting

R8

Meeting Date: 10/14/2014

Council Goals: Increase Revenues by at least 10% while holding the tax rate to \$0.58 or less and reserves to at least 30%.
Create raving fans of the Addison Experience.
Mindful stewardship of Town Resources.
Explore new/other revenue sources

AGENDA CAPTION:

Presentation, discussion and take action regarding a License Agreement for use with contractors providing outdoor fee based boot camp style programs and fitness and recreation classes in selected Addison locations and parks.

FINANCIAL IMPACT:

The agreement will require the contractor to pay Addison 15% of the gross revenue for registered participants for each program conducted in approved locations in the park(s). Camp Gladiator is the primary fitness contractor using Addison Circle Park. The camps run for five 4-week sessions June through November each year.

Based on the frequency of use and Camp Gladiator's fee schedule, staff estimates their revenue at \$25,500 annually, resulting in \$3,825 of revenue for Addison. This revenue will go toward the cost to renovate the grass areas in the park.

BACKGROUND:

Camp Gladiator holds 44 sessions per month in Addison Circle Park. There are 11 sessions per week, Monday through Saturday, and the sessions are held in the early morning 5:15 - 6:15 a.m. and 6:00 p.m.. Camps are also held in Vitruvian Park, however, they typically use the fields owned by UDR outside the park boundary. During the inclement weather they will use the paved area in the park underneath the Ponte Bridge.

Addison is one of the few cities that does not charge a fee for using the parks. Most of all surrounding cities, including Dallas, charge a standard 15% fee for private camps.

Staff recommends that Addison adopt and implement the license agreement process for private fitness camps going forward. The Parks and Recreation Department will administer the fitness camp program.

RECOMMENDATION:

Administration recommends approval.

Attachments

License Agreement

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

LICENSE AGREEMENT

This License Agreement (“Agreement”) is entered into as of _____, 201__ (“Effective Date”) by and between the Town of Addison, Texas (“City” or “Licensor”), and _____, a [type of entity, state of formation] (“Licensee”) (the City and Licensee are sometimes referred to herein individually as a “Party” and together as the “Parties”).

RECITALS:

WHEREAS, the Licensee operates and provides an outdoor fee based boot camp style program known as _____, which allows its registered participants to attend and participate at any of the Licensee locations (hereinafter the “Program”); and

WHEREAS, the Licensee desires to use certain property and areas owned by Licensor, which property and areas are set forth in Exhibit A attached to this Agreement and incorporated herein (such property and areas being the “Licensed Locations”), to provide its Program for (and solely for) its registered participants (“Participants”), as an independent contractor, and not as an employee of the City, in accordance with the terms set forth herein.

NOW, THEREFORE, for and in consideration of the payments stated herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

Section 1. Term. The term of this Agreement is for a period of six (6) months beginning on the Effective Date first set forth above, subject, however, to the earlier termination of this Agreement (the “Term”).

Either Party may terminate this Agreement for any reason or for no reason whatsoever by giving the other Party at least thirty (30) days prior written notice thereof. In the event of a breach or violation of this Agreement by Licensee, the City may terminate this Agreement immediately by providing either oral or written notice to Licensee.

Section 2. Use of Licensed Locations.

2.1. Grant of Program Use. Subject to all of the terms, conditions, and provisions of this Agreement, Licensor grants to Licensee a temporary, non-exclusive, revocable license, during the Term of this Agreement, to use the Designated Portion (as hereinafter defined) of the Licensed Locations solely for the Program for its Participants, during the following days and hours only:

[insert days, times when the Program is allowed]

Each use of the Licensed Locations for the Program is herein referred to as a “Program Event.” No more than ____ Participants may participate in any Program Event. Prior to commencement

of the Program at the Licensed Locations, Licensee shall submit to Licensor, for Licensor's consideration of approval, a written site plan or diagram, satisfactory to Licensor, that depicts or otherwise identifies that portion of each of the Licensed Locations that Licensee will use pursuant to this Agreement (the "Designated Portion"). The said site plan or diagram, once (and if) approved by Licensor, shall become a part of this Agreement. The determination of the Designated Portion is subject to the written approval of Licensor, and may be adjusted or changed at any time by Licensor. Notwithstanding the reference in this Agreement to Licensed Locations, the use by Licensee of the Licensed Locations for the Program is limited to the Designate Portion thereof.

Licensee shall use the Licensed Locations only as permitted under the terms and conditions set forth herein and in accordance with and subject to all statutes, laws, ordinances, rules, regulations, standards and orders of the City and of any other governmental entity, agency, or authority having jurisdiction.

Notwithstanding the foregoing days and times, if the use of any of the Licensed Locations on any such days and times conflicts with the needs of the City or the use by the City of any of the Licensed Locations for any purpose (as determined solely by the City), including but not limited to special events hosted or conducted by the City, or with any event or program of any third person or party that has been authorized or otherwise approved by the City (in the City's sole discretion), Licensee shall not have the right to use such Licensed Locations during the preparation, holding, conducting, or clean-up and/or tear-down of any of the foregoing.

2.2. Use of Licensed Locations.

A. Licensee shall use and occupy and cause its agents, employees, invitees, and Program Participants and attendees to use the Licensed Locations in compliance with all applicable City, State, and Federal codes, regulations, statutes, laws, ordinances, orders, rules and regulations.

B. The City provides (and Licensee accepts) the Licensed Locations in their "AS IS, WHERE IS" condition and subject to and with all faults, defects, and conditions.

C. Licensee shall not mar, deface, damage, destroy, or injure any part of the Licensed Locations, any other property of the City, or any property of any third person. At the conclusion of each Program Event, and at the end of the Term or upon the earlier termination of this Agreement, Licensee shall return the Licensed Locations in as good a condition and repair as the Licensed Locations were in prior to commencement of the Licensee use (and this obligation shall survive the expiration or earlier termination of this Agreement). Without limiting the foregoing, Licensee shall not make, cause or allow any alterations of any kind to the Licensed Locations. Licensee shall not be allowed to store or leave any equipment or property at the Licensed Locations.

D. Upon the conclusion of each Program Event and upon expiration or the earlier termination of this Agreement, Licensee shall immediately remove all goods, wares, merchandise, materials, and all other property owned, leased, or used by Licensee, its guests and invitees, or by any Participant, their guests and invitees, which has been placed or permitted to be placed in or at the Licensed Locations pursuant to or in connection the Program and/or this Agreement. Any such goods, wares, merchandise,

materials, and other property not so removed shall be considered abandoned and may be removed and disposed of or stored by City as City deems necessary or appropriate, in the City's sole discretion, and at Licensee's sole expense (and Licensee, upon the City's demand, shall pay the City for the expenses incurred by the City in removing, disposing, and/or storing the same, and this obligation shall survive the expiration or earlier termination of this Agreement). City shall in no way be responsible for payment, damage or claims for loss or abandoned property removed, disposed or, or stored pursuant to this Agreement.

E. In the event Licensee fails to remove any goods, wares, merchandise, materials, or other property, including any temporary or portable structures erected or placed for any Program Event, and/or to repair any damage to or destruction of any portion of the Licensed Locations damaged or destroyed in connection with or related to Licensee's use of the Licensed Locations, and/or to restore the Licensed Locations to the same condition that existed as of Licensee's commencement of the use of the Licensed Locations, the City shall be entitled to conduct such repairs and restoration, and Licensee shall be responsible for the costs thereof which shall be due upon written demand thereof (and this obligation shall survive the expiration or the earlier termination of this Agreement).

F. Licensee shall have no right to occupy and/or use the Licensed Locations for any purpose set forth herein (i) at any time or day other than the times and days specified in this Agreement or (ii) after expiration or earlier termination of this Agreement. Further, Licensee shall have no right to occupy and use the Licensed Locations for the purposes herein set forth during any City sponsored special events or third party events sponsored and/or approved by the City.

G. Licensee shall be solely responsible and liable for the operation and supervision of the Program and Program Participants. Licensee, Participants, and all Licensee Persons (as defined in Section 3.3., below), are and shall at all times be and remain liable and responsible for their acts and omissions, including, without limitation, their operations and conduct at or in connection with the Program.

H. Licensee shall not be authorized to sell, display or offer for sale any food, beverages or other items at the Licensed Locations.

I. The Program shall at all times be conducted in a clean, orderly, and legitimate manner in accordance with any and all existing City policies, ordinances and any laws requiring operation of the nature of Licensee. All rubbish, trash, glass, bottles, and cans of any kind shall be placed in trash receptacles or otherwise removed from the Licensed Locations. Licensee shall be responsible for cleaning the Licensed Locations immediately after each Program Event, and upon the expiration or earlier termination of this Agreement. Further, Licensee is responsible for and obligated to repair any and all damages to or destruction of any portion of the Licensed Locations resulting from Program activities (or alternatively, in the City's sole discretion, Licensee is responsible for and obligated to pay to the City all costs, fees, and expenses incurred by the City in making such repairs or causing such repairs to be made).

J. Licensee shall, prior to use of any of the Licensed Locations, designate in writing to Licensor an authorized Licensee representative for the Program, who shall be

deemed to be the Licensee's authorized representative unless written notice designating a different person to serve as the Licensee representative is delivered by Licensee to the City.

2.3 Use Fee. For the license granted herein, Licensee shall pay the City a fee in an amount equal to fifteen percent (15%) of the gross revenue collected by or for Licensee and paid by or on behalf of Participants for each Program Event conducted at any of the Licensed Locations during the Term of this Agreement ("Use Fee"). For purposes of this Agreement, "gross revenue" means the sum of all money collected and received by Licensee from Program Participants. Licensee shall, within ten (10) business days after commencement of each Program, send a roster of the Participants for each Program conducted during the Term of this Agreement. Contractor shall pay the Use Fee to the City simultaneously with its delivery of the roster of the Participants for each Program (that is, shall pay the Use Fee within ten (10) business days after commencement of each Program). *For example, a Program consists of 10 Program Events, conducted each Monday, and commences on Monday, February 2 and ends on Monday, April 6. Licensee shall pay the City the Use Fee on or prior to Thursday, February 12.*

If the Use Fee is not timely paid, Licensee shall not conduct the Program at any of the Licensed Locations. For purposes hereof, "business days" means Monday through Friday of each week, excluding holidays; and "holidays" means New Years Day, Memorial Day, U.S. Independence Day, Labor Day, Thanksgiving Day and the Friday immediately thereafter, Christmas Eve, and Christmas Day.

2.4 Books and Records. Licensee shall maintain a complete set of books and records, in electronic format or otherwise, in connection with all aspects of and relating to the gross revenue from the Program including any expenses and costs related thereto, which books and records shall be kept and maintained in accordance with generally accepted accounting practices and procedures. Said books and records shall be available for inspection, copying, audit and examination by the City upon ten (10) days prior written request, and in connection therewith Licensee shall provide the same to the City at a location within the City as determined by the City.

Section 3. Miscellaneous.

3.1 Relationship of Parties. Licensee is and shall be at all times, and shall assume all duties under this Agreement as, an independent contractor, and shall not be deemed for any purpose to be an agent, servant, employee, or representative of Licensor. Licensor shall be solely responsible for the mode and manner of the conduct and performance of the Program under or in connection with this Agreement. Licensor shall not direct or have control over or charge of Licensee, its officers, managers, employees, representatives, technicians, agents, subcontractors, or Participants under or in connection with this Agreement, and the officers, managers, employees, representatives, technicians, agents, subcontractors, and Participants of Licensee shall at all times be under Licensee's exclusive direction and control. Nothing contained herein does or shall be construed to create a partnership, joint venture, joint enterprise, or agency relationship between the Parties, and nothing contained herein shall be construed to be inconsistent with such independent contractor relationship. Licensee shall be solely responsible for the wages, benefits, taxes, and any other similar obligation, in connection with its employees, agents, or servants. It is understood and agreed by and between the Parties that Licensee, in satisfying the conditions of this Agreement, is acting independently, and that the City assumes

no responsibility or liability to any third person or party in connection with these actions.

3.2 Insurance. At all times in connection with this Agreement, Licensee shall purchase and maintain in a company or companies lawfully authorized to do business in Texas such insurance coverages as set forth below:

A. Commercial General Liability insurance at minimum combined single limits of \$1,000,000 per-occurrence and \$2,000,000 general aggregate for bodily injury and property damage, which coverage shall include products/completed operations (\$2,000,000 products/ completed operations aggregate), and XCU (Explosion, Collapse, Underground) hazards, and which coverage shall include contractual liability, covering, but not limited to, the liability assumed under the indemnification provisions of this Agreement.

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

C. Commercial Automobile Liability insurance at minimum combined single limits of \$1,000,000 per-occurrence for bodily injury and property damage, including owned, non-owned, and hired car coverage.

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

1. The Town of Addison, Texas shall be named as an additional insured with respect to all liability policies.

2. All liability policies shall contain no cross liability exclusions or insured versus insured restrictions applicable to the claims of the City.

3. A waiver of subrogation in favor of the Town of Addison, Texas, and its officials, officers, employees, and agents shall be contained in each policy required herein.

4. All insurance policies shall be endorsed to require the insurer to immediately notify the City of any material change in the insurance coverage.

5. All insurance policies shall be endorsed to the effect that the City will receive at least ten (10) days' notice prior to cancellation or non-renewal of the insurance.

6. All insurance policies, which name the City as an additional insured, must be endorsed to read as primary coverage regardless of the application of other insurance.

7. Required limits may be satisfied by any combination of primary and umbrella liability insurances.

8. Licensee may maintain reasonable and customary deductibles.

9. Insurance must be purchased from insurers that are financially acceptable to the City and licensed to do business in the State of Texas.

All insurance must be written on forms filed with and approved by the Texas Department of Insurance. Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent, delivered to Licensee and the City on the Effective Date, and shall:

1. List each insurance coverage described and required herein. Such certificates will include a copy of the endorsements necessary to meet the requirements and instructions contained herein.
2. Specifically set forth the notice-of-cancellation or termination provisions to the City.

Upon request, Licensee shall furnish the City, with complete copies of all insurance policies certified to be true and correct by the insurance carrier.

3.3 Licensee's Indemnification Obligation. Licensee covenants, agrees to, and shall DEFEND (with counsel reasonably acceptable to the City), INDEMNIFY, AND HOLD HARMLESS the City, its elected and appointed officials, and its officers, employees, agents, and representatives, individually or collectively, in both their official and private capacities (each an "City Person" and collectively the "City Persons"), from and against any and all claims, liabilities, judgments, lawsuits, demands, harm, losses, damages, proceedings, suits, actions, causes of action, liens, fees, fines, penalties, expenses, or costs, of any kind and nature whatsoever made upon or incurred by the City and/or any other City Person, whether directly or indirectly, (the "Claims"), that arise out of, result from, or relate to: (i) the conduct, operation, and/or provision of the Program by Licensee as described in this Agreement, including in Section 2.1, above, (ii) the use of the Licensed Locations by Licensee as described in this Agreement, including in Section 2.1, above, (iii) any representations and/or warranties by Licensee under this Agreement, (iv) any personal injuries (including but not limited to death) to any Licensee Persons (as hereinafter defined) arising out of or in connection with the Brick Wall Relocation under this Agreement, and/or (v) any act or omission under, in performance of, or in connection with this Agreement by Licensee or by any of Licensee's employees, agents, contractors, subcontractors, invitees, licensee, sublicensees, any Participants, or any other person or entity for whom Licensee is legally responsible, and their respective owners, directors, officers, directors, officers, managers, partners, employees, agents, contractors, subcontractors, invitees, patrons, guests, customers, licensees, and sublicensees (collectively, "Licensee Persons"). 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 OR GROSS NEGLIGENCE OF ANY CITY PERSON, OR CONDUCT BY ANY CITY PERSON THAT WOULD GIVE RISE TO STRICT LIABILITY OF ANY KIND.

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

termination of this Agreement.

3.4 Waiver, Release. Licensee, and all Licensee Persons (as defined in Section 3.3, above) do hereby RELEASE, WAIVE, ACQUIT, AND FOREVER DISCHARGE the Town of Addison, Texas and all other City Persons (as defined in Section 3.3, above) from, and COVENANT NOT TO SUE the Town of Addison, Texas or any other City Persons for, any and all claims, liability, judgments, lawsuits, demands, harm, losses, damages, proceedings, actions, causes of action, fees, fines, penalties, expenses, or costs (including, without limitation, attorneys fees and court costs) whatsoever for or related to any illness or injury of any kind or nature whatsoever (including, without limitation, death), or any damage to or destruction of any property, or any other harm or loss whatsoever, which Licensee and/or Licensee Persons may sustain or suffer in connection with or related to Licensee's provision and conducting of the Services and/or its activities under or in connection with this Agreement, INCLUDING, WITHOUT LIMITATION, ANY AND ALL CLAIMS WHICH ARISE FROM, OR ARE ALLEGED OR FOUND TO HAVE BEEN CAUSED BY, IN WHOLE OR IN PART, THE NEGLIGENCE OR GROSS NEGLIGENCE OF ANY CITY PERSON, OR CONDUCT BY ANY CITY PERSON THAT WOULD GIVE RISE TO STRICT LIABILITY OF ANY KIND.

Licensee shall cause each Participant to sign an agreement with Licensee regarding the Participant's participation in a Program, and each such agreement shall, in addition to any other terms or conditions thereof, include a similar provision as set forth above in this Section 3.4 whereby the Participant WAIVES, RELEASES, ACQUITS, AND FOREVER DISCHARGES the Town of Addison, Texas, its elected and appointed officials, and its officers, employees, agents, and representatives from, and covenants not to sue the Town of Addison, Texas, its elected and appointed officials, and its officers, employees, agents, and representatives for, any and all claims, liability, judgments, lawsuits, demands, harm, losses, damages, proceedings, actions, causes of action, fees, fines, penalties, expenses, or costs (including, without limitation, attorneys fees and court costs) whatsoever for or related to any illness or injury of any kind or nature whatsoever (including, without limitation, death), or any damage to or destruction of any property, or any other harm or loss whatsoever, which the Participant may sustain or suffer in connection with or related to the Program and Licensee's provision thereof, or to the Licensed Locations and condition thereof, INCLUDING, WITHOUT LIMITATION, ANY AND ALL CLAIMS WHICH ARISE FROM, OR ARE ALLEGED OR FOUND TO HAVE BEEN CAUSED BY, IN WHOLE OR IN PART, THE NEGLIGENCE OR GROSS NEGLIGENCE OF ANY OF THE TOWN OF ADDISON, TEXAS, ITS ELECTED AND APPOINTED OFFICIALS, AND ITS OFFICERS, EMPLOYEES, AGENTS, AND REPRESENTATIVES, OR CONDUCT BY ANY OF THE TOWN OF ADDISON, TEXAS, ITS ELECTED AND APPOINTED OFFICIALS, AND ITS OFFICERS, EMPLOYEES, AGENTS, AND REPRESENTATIVES THAT WOULD GIVE RISE TO STRICT LIABILITY OF ANY KIND; and Licensor shall be a third party beneficiary of such provision and the agreement between Licensee and Participant shall so provide.

3.5 Assignment. Licensee may not, and has no power or authority to, assign, transfer, sell, or otherwise convey this Agreement, in any manner or form whatsoever, without the prior written consent of the City.

3.6 Notices. Unless otherwise provided for in this Agreement, any notice required or permitted under this Agreement shall be in writing and shall be given or provided by (i) personal delivery, (ii) U.S. mail, as certified or registered mail, with postage prepaid, addressed as follows,

or (iii) placing the same in the custody of Federal Express Corporation or other nationally recognized carrier to be delivered next business day. Except as may be otherwise specified herein, such notice shall be deemed given provided, delivered, or given (a) if by personal delivery, on the date of delivery; (b) if by mail (as aforesaid), on the third business day following the date of mailing; or (c) if placed in the custody of Federal Express Corporation or other nationally recognized carrier for next business day delivery, on the first business day following deposit of such notice with such carrier unless such carrier confirms such notice was not delivered, then on the day such carrier actually delivers such notice. Until further notice, notices under this Agreement shall be addressed as follows:

If to the City: Town of Addison, Texas
 16801 Westgrove Dr.
 Addison, TX 75001
 Attn: Slade Strickland, Director of Parks, Recreation and
 Landscape Development

If to Licensee: _____

 Attn: _____

Each Party may specify a different address (in Dallas County, Texas) and to whose attention notice is to be given by giving five (5) days written notice to the other Party.

3.7 Severability. The terms and provisions of this Agreement are severable, and in case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

3.8 Entire Agreement. This Agreement is the entire agreement between the Parties with respect to the subject matter covered in this Agreement. There is no other collateral oral or written agreement between the Parties that in any manner relates to the subject matter of this Agreement.

3.9 Recitals. The above and foregoing Recitals to this Agreement are incorporated herein and made a part hereof for all purposes.

3.10 Exhibits. The exhibits to this Agreement are incorporated herein and made a part hereof.

3.11 Governing Law; Venue. This Agreement shall be governed by and construed under and in accordance with the laws of the State of Texas, without reference to the choice of law rules of any jurisdiction. All obligations of the parties created by this Agreement are performable in Dallas County, Texas. Venue for any action or suit under this Agreement shall lie exclusively in the state courts located in Dallas County, Texas, and the parties hereby

expressly consent to the personal jurisdiction of such state courts and waive any objection they may now or hereafter have to such venue.

3.12 Amendment. This Agreement may be amended solely by the mutual agreement of authorized representatives of the Parties, in writing and attached to and incorporated in this Agreement.

3.13 Survival of Covenants; Rights, Remedies. Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the Parties, pertaining to a period of time following the expiration or earlier termination of this Agreement, shall survive such expiration or termination. 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 rights or remedies. Said rights and remedies are given in addition to any other rights the Parties may have by law, statute, ordinance, or otherwise.

3.14 Construction of Certain Terms. Section and subsection headings herein are for convenience only and shall not be used in interpretation of this Agreement. The words “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.

3.15 No Waiver of Immunity. Notwithstanding any other provision of this Agreement, nothing in this Agreement shall or may be deemed to be, or shall or may be construed to be, a waiver or relinquishment of any immunity, defense, or tort limitation to which the City, its officials, officers, employees, representatives, and agents are or may be entitled, including, without limitation, any waiver of immunity to suit.

3.16 No Third-Party Beneficiaries. Except as provided for in this Agreement, the provisions of this Agreement are solely for the benefit of Licensor and Licensee and are not intended to and do not create or grant any rights, contractual or otherwise, to any third person or entity.

3.17 Authorized Persons. The undersigned representatives of the parties hereto are the properly authorized persons and have the necessary authority to execute this Agreement on behalf of the respective parties hereto.

EXECUTED to be effective on the Effective Date as first set forth above.

LICENSOR:

LICENSEE:

TOWN OF ADDISON, TEXAS

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT A
LICENSED LOCATIONS

Contact Information:

Name: _____ Address: _____

Phone #: _____ Alternate Phone #: _____ Email: _____

Licensed Locations	Start Time	Ending Time	Day(s) of Week	Participant Nos.	Name of Contact / Phone #
	_____	_____	_____	_____	_____

Combined Meeting

R9

Meeting Date: 10/14/2014

Council Goals: Create raving fans of the Addison Experience.
Maintain and enhance our unique culture of creativity and innovation.
Brand Protection and Enhancement
Infrastructure improvement and maintenance

AGENDA CAPTION:

Discussion, consider and take action regarding approval of the painting plan for Wheeler Bridge.

FINANCIAL IMPACT:

This project will be funded out of the FY2015 Parks Operations Budget totaling \$105,000.

BACKGROUND:

Staff prepared Photoshopped options of the bridge to visualize the impact of painting the guard rails and pedestrian rails gray versus leaving the bridge arches, spires and concrete pylons blue. This color scheme matches the railing system with the street lights, while leaving little noticeable difference when viewing the bridge from Midway Road, and when crossing over the bridge. Please see the attached photos.

By using this approach, it will reduce the need for reoccurring painting of more than 7000 feet of railing system at a cost of \$92,000, and should provide a useful protective coating for 10 or more years without repainting. The cost to paint the bridge arches, spires and concrete pylons is \$13,000.

RECOMMENDATION:

Administration recommends approval of the gray railing and blue bridge structure scheme.

Attachments

[Bridge Photo 1](#)

[Bridge Photo 2](#)

[Bridge Photo 3](#)

[Bridge Photo 4](#)



ARAPAHO
BRIDGE
BRIDGE - BLUE
HANDRAILS - BLUE

ARAPAHO BRIDGE

BRIDGE - BLUE
HANDRAILS - BLUE





ARAPAHO
BRIDGE
BRIDGE - BLUE
HANDRAILS - GREY

ARAPAHO BRIDGE

BRIDGE - BLUE
HANDRAILS - GREY



Combined Meeting

R10

Meeting Date: 10/14/2014

Council Goals: Create raving fans of the Addison Experience.
Mindful stewardship of Town Resources.
Brand Protection and Enhancement

AGENDA CAPTION:

Presentation of Texas Comptroller Leadership PLATINUM Circle Award for financial transparency for the fiscal year beginning October 1, 2013.

FINANCIAL IMPACT:

There is no financial impact associated with this recognition.

BACKGROUND:

The Comptroller of Public Accounts launched the Texas Comptroller Leadership Circle program in December 2009 to recognize local governments across Texas that are striving to meet a high standard for financial transparency online. They spotlight local governments that are:

- Opening their books to the public
- Providing clear, consistent pictures of spending
- Sharing information in a user-friendly format that lets taxpayers easily drill down for more information.

The Town of Addison has scored 21 out of a possible 22 points earning a 2014 PLATINUM Leadership Circle Award, which highlights those entities that go above and beyond providing financial transparency.

This award marks the second consecutive year in which Addison has increased the level of this award, rising from Silver to Gold to Platinum in three years.

RECOMMENDATION:

Attachments

[2014 Transparency Award Letter](#)

[2014 Transparency Award Certificate](#)

August 28, 2014

Mr. Eric Cannon
Chief Financial Officer
Town of Addison
P.O. Box 9010
Addison, Texas 75001-9010

Dear Mr. Cannon:

I am pleased to inform you that the town of Addison has earned a 2014 Platinum Leadership Circle Award. Your application scored 21 points of 22 possible on our ratings criteria to earn this award.

Your listing on our "Texas Transparency" website now displays the Platinum seal to indicate that you have received this award. Enclosed is your copy of a Leadership Circle Award Certificate. You will also receive a digital seal that you may post on your website.

Congratulations on your success in moving forward on financial transparency and joining our Leadership Circle.

Sincerely,



Susan Combs

Enclosure





4
Fourth
Year
Award

Texas Comptroller Leadership Circle Platinum Member

awarded to

Town of Addison

For continued progress toward achieving financial transparency. The Texas Comptroller's Leadership Circle program recognizes local governments across Texas that are striving to meet a high standard for financial transparency online. Your efforts to provide citizens with clear, consistent pictures of spending and share information in a user-friendly format have paved the way for achieving greater financial transparency.

August 25, 2014

Combined Meeting

R11

Meeting Date: 10/14/2014

Council Goals: Mindful stewardship of Town Resources.

AGENDA CAPTION:

Presentation of the Certificate of Achievement for Excellence in Financial Reporting for the Comprehensive Annual Financial Report for the fiscal year ended September 30, 2013.

FINANCIAL IMPACT:

There is no financial impact associated with this item.

BACKGROUND:

The Certificate of Achievement is awarded by the Government Finance Officers Association and is the highest form of recognition in governmental accounting and financial reporting. This is the 38th consecutive year that the Town of Addison has received the Certificate of Achievement.

RECOMMENDATION:

Attachments

CAFR Press Release



Government Finance Officers Association
203 N. LaSalle Street - Suite 2700
Chicago, IL 60601

Phone (312) 977-9700 Fax (312) 977-4806

09/19/2014

NEWS RELEASE

For Information contact:
Stephen Gauthier (312) 977-9700

(Chicago)--The Certificate of Achievement for Excellence in Financial Reporting has been awarded to **Town of Addison** by the Government Finance Officers Association of the United States and Canada (GFOA) for its comprehensive annual financial report (CAFR). The Certificate of Achievement is the highest form of recognition in the area of governmental accounting and financial reporting, and its attainment represents a significant accomplishment by a government and its management.

An Award of Financial Reporting Achievement has been awarded to the individual(s), department or agency designated by the government as primarily responsible for preparing the award-winning CAFR. This has been presented to:

Eric Cannon, Chief Financial Officer

The CAFR has been judged by an impartial panel to meet the high standards of the program including demonstrating a constructive "spirit of full disclosure" to clearly communicate its financial story and motivate potential users and user groups to read the CAFR.

The GFOA is a nonprofit professional association serving approximately 17,500 government finance professionals with offices in Chicago, IL, and Washington, D.C.

Combined Meeting

R12

Meeting Date: 10/14/2014

Council Goals: N/A

AGENDA CAPTION:

Discussion and update regarding the upcoming trip to the NBAA2014- Business Aviation Convention Exhibition.

FINANCIAL IMPACT:

N/A

BACKGROUND:

N/A

RECOMMENDATION:

Combined Meeting

R13

Meeting Date: 10/14/2014

Council Goals: Continue to attract, hire, develop, and retain great employees

AGENDA CAPTION:

Discussion, consider and take action regarding the City Attorney position, appointment, and appointment process, including approving and authorizing the City Manager to execute an agreement for City Attorney search services.

FINANCIAL IMPACT:

N/A

BACKGROUND:

N/A

RECOMMENDATION:

Combined Meeting

R14

Meeting Date: 10/14/2014

Council Goals: Develop Next Great Idea

AGENDA CAPTION:

Discussion, consider and take action authorizing Council and Staff to pursue options for mass transit and transportation alternatives.

FINANCIAL IMPACT:

N/A

BACKGROUND:

N/A

RECOMMENDATION:

Combined Meeting

ES1

Meeting Date: 10/14/2014

Council Goals: N/A

AGENDA CAPTION:

Closed (executive) session of the Addison City Council pursuant to Section 551.071, Tex. Gov. Code, to conduct a private consultation with its attorney(s) on a matter in which the duty of the attorney(s) 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, pertaining to wind turbines on the water tower located at the intersection of Arapaho Road and Surveyor Boulevard.

FINANCIAL IMPACT:

N/A

BACKGROUND:

N/A

RECOMMENDATION:

Combined Meeting

R15

Meeting Date: 10/14/2014

Council Goals: N/A

AGENDA CAPTION:

Discussion and take action regarding wind turbines on the water tower located at the intersection of Arapaho Road and Surveyor Boulevard.

FINANCIAL IMPACT:

N/A

BACKGROUND:

N/A

RECOMMENDATION:
