



Post Office Box 9010

Addison, Texas 75001-9010

5300 Belt Line Road

(972) 450-7000

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AGENDA
WORK SESSION
AND
REGULAR MEETING OF THE CITY COUNCIL
NOVEMBER 14, 2006
6:30 P.M.
TOWN HALL
5300 BELT LINE ROAD

WORK SESSION

Item #WS1 - Discussion regarding the naming of Town Parks and Facilities.

Item #WS2 - Discussion regarding the appointment of City Council members as liaisons to non-profit and non-governmental agencies.

REGULAR SESSION

Item #R1 - Consideration of Old Business.

Item #R2 - Consent Agenda.

CONSENT AGENDA

#2a - Approval of the Minutes for the October 23, 2006, Council Meeting.

#2b – Consideration and approval of a resolution authorizing the City Manager to fund a \$50,000 sponsorship request for the Cavanaugh Flight Museum.

Item #R3 - Consideration and approval of an ordinance granting meritorious exception to Sec. 62-163, Area of Signs, for Innovative Mortgage Company, located at 5302 Belt Line Road.

Attachments:

1. Staff Report
2. Application
3. Memorandum from Lynn Chandler

Administrative Recommendation:

Administration recommends approval.

Item #R4 - Consideration and approval of the City Council authorizing the City Manager to enter into an agreement with the Hawkeye Group to provide sponsorship and media buying services to the Town from November 15, 2006 through September 30, 2009, subject to review by the City Attorney.

Attachments:

1. Council Agenda Item Overview
2. Hawkeye Capabilities and Bio
3. Agreement

Administrative Recommendation:

Administration recommends approval.

Item #R5 - Consideration and approval of a resolution authorizing the City Manager to enter into an agreement with Hand & Associates Marketing Communications to advertise in the November 2006, March 2007 and August 2007 editions of the Addison/North Dallas Corridor Guide and discussion of a proposed new marketing concept.

Attachments:

1. Council Agenda Item Overview
2. Agreement
3. Exhibit A

Administrative Recommendation:

Administration recommends approval.

Item #R6 -

Consideration and approval of a resolution authorizing the City Manager to amend the advertising contract with Krause Advertising to provide an additional fee of \$30,000 for the creative development of a new newspaper ad campaign and to provide marketing consultation, creative ad production services, administrative and account oversight for the Town 2006-2007 marketing and special events initiatives for a monthly fee of \$18,000.

Attachments:

1. Council Agenda Item Overview
2. Original Contract
3. First Amendment
4. Second Amendment
5. 2007 Fee Proposal

Administrative Recommendation:

Administration recommends approval.

Item #R7 -

Consideration and approval of a resolution authorizing the City Manager to enter into an agreement with Shiroma Southwest to provide public relations and media publicity programs to promote certain special events in the Town of Addison.

Attachments:

1. Council Agenda Item Overview
2. Letter of Agreement
3. Recommended Budget

Administrative Recommendation:

Administration recommends approval.

Item #R8 – Consideration and approval of the City Council to enter into an agreement with The Margulies Communication Group to assist the Town with media communications.

Attachments:

1. Council Agenda Item Overview
2. Agreement

Administrative Recommendation:

Administration recommends approval.

Item #R9 – Consideration and approval of a resolution to encourage the Texas Legislature to enact legislation mandating the disclosure of real property sales prices.

Attachments:

1. Letter from W. Kenneth Nolan, Executive Director
2. Resolution

Administrative Recommendation:

Administration recommends approval.

Item #R10 - Consideration and approval of a resolution approving the Belt Line Road Corridor Revitalization Strategy which includes the proposed Incentive Policy and Guidelines for qualifying projects.

Attachments:

1. Council Agenda Item Overview
2. Proposed Guidelines

Administrative Recommendation:

Administration recommends approval.

Item #R11 - Consideration and approval for the City Manager to enter into contracts for services between the Town of Addison and Communities in Schools-Dallas, Senior Adult Services,

Metrocrest Social Services, Metrocrest Family Medical Clinic, Metrocrest Chamber of Commerce, The Family Place, Special Care and Career Services and DFW International funded from the General Fund and WaterTower Theatre, Dance Council, and Richardson Symphony Orchestra from the Hotel Fund budgets.

Attachments:

1. Council Agenda Item Overview
2. Contracts
 - a. Communities in Schools-Dallas
 - b. Senior Adult Services
 - c. Metrocrest Social Services
 - d. Metrocrest Family Medical Clinic
 - e. Metrocrest Chamber of Commerce
 - f. The Family Place
 - g. Special Care and Career Services
 - h. DFW International
 - i. WaterTower Theatre
 - j. Dance Council
 - k. Richardson Symphony Orchestra
3. Recommended Richardson Symphony Orchestra Performances

Administrative Recommendation:

Administration recommends approval.

EXECUTIVE SESSION

Item #ES1 – Closed (executive) session of the City Council, pursuant to Section 551.071 of the Texas Government Code, to conduct a private consultation with its attorney(s) to seek the advice of its attorney(s) regarding certain pending litigation, to wit: *The City of Addison, Texas v. Transcontinental Realty Investors, Inc., et al.*, No. 05-05-01554-CV, Fifth District Court of Appeals, Dallas, Texas, and on a matter in which the duty of the attorney(s) to the City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551 of the Texas Government Code, regarding matters concerning access to Addison Airport.

Item #ES2 – Closed (executive) session of the City Council pursuant to Section 551.071, Texas Government Code, to conduct a private consultation with its attorney(s) on a matter or matters in which the duty of the attorney(s) to the City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551, Texas Government Code, regarding and relating to sale of alcoholic beverages.

Adjourn Meeting

Posted 5:00 p.m.
November 9, 2006
Mario Canizares
City Secretary

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

Sample: Summary of Policies from neighboring cities

Potential Guidelines/Policies for Naming Parks

1. When naming a park after a person, at least one of the following stipulations should be met:
 - a) The person has donated the land to be used.
 - b) The person has provided significant contributions to acquire the land or has sold the land to the town at a price significantly below market value.
 - c) The person is deceased
 - d) The person is a deceased historic state or national figure.
 - e) The person has made significant and consistent long-term contributions (this could be 5-10 years or longer) to the Town of Addison.
 - f) The person shall not have been an employee or council-member/mayor of the Town of Addison for at least two years.
2. When appropriate, parks can be named after predominant geographical or physical features of the land. These may include natural (rivers, trees, etc) or manmade (subdivisions, buildings, etc) features.
3. Different sections of parks may carry names that differ from that of the overall park. However, the above guidelines shall still apply in choosing a name.
4. Parks may be named after historical events that are specific to the Town of Addison.

*The above are guidelines only. Meeting any or all of the above guidelines does not guarantee that a park will carry any certain name. Ultimately, all park naming decisions are to be made by the Addison City Council. They are free to make exceptions to these guidelines as they see appropriate.

PARKS AND RECREATION PLANNING BOARD POLICY 6-1-93

NAMING OF PARKS SITES AND RECREATION FACILITIES

I. Purpose

The purpose of this policy is to establish procedures for the naming of park sites and recreation facilities.

II. Responsibility

The Parks and Recreation Planning Board has the final authority for naming sites and recreation facilities except as noted in Section III-D below.

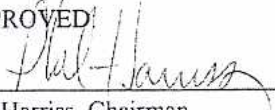
III. Procedures

- A. **Timing** - Parks and facilities will generally be named immediately prior to or during development.
- B. **Notification to Board** - The Parks and Recreation Planning Board will be notified of the need to name a park or facility at least two months in advance of the meeting at which names will be considered.
- C. **Public Input** - When appropriate, the Parks and Recreation Planning Board will solicit potential names from the community.
- D. **Naming Parks and Facilities After People** - Parks and facilities may be named in honor of a person. The person should have made a major contribution to the City of Plano and/or the Plano parks and recreation system; or the person should be known for some other significant accomplishment. If the person to be honored is living, the Parks and Recreation Planning Board must submit the proposed name to the City Council for final approval.
- E. **Naming of Sections of a Park or Facility** - Sections of a park or facility, such as a playground or meeting room, may be given a name which is different from that of the overall park or facility. The procedure for naming such a section shall be the same as for naming an entire park or facility, except that advance notification of the board is not required.
- F. **Renaming Parks or Facilities** - When appropriate, parks or facilities may be renamed. The procedure for doing so shall be the same as for originally naming a park or facility.

IV. Parks and Recreation Planning Board Approval Process

The naming of a park or facility must be approved by a simple majority of the board members present at two consecutive regular board meetings.

APPROVED:



Phil Harriss, Chairman

6-1-93

Date



Frank Butler, Secretary

6-1-93

Date



McKinney City Council Guidelines and Procedures for Naming Municipal Facilities

1. PURPOSE

To establish guidelines and procedures for the naming of municipal facilities.

2. DEFINITIONS

The definition of municipal facility or municipal facilities shall be any real properties that are owned by the city of McKinney such as, but not limited to, parks and public buildings or portions thereof.

3. GUIDELINES

The name of municipal facilities shall promote ready identification and/or geographical association by the public. The following guidelines to accomplish the above shall be used:

- Outstanding and/or predominant geographical or physical features of the land. Geographical and physical features will include those naturally occurring (e.g. vegetation materials, streams, rivers, creeks, lakes or forested areas), and those man-made, (e.g., subdivisions, streets, office/industrial complexes or other commercial areas).
- Outstanding and/or predominant historical features of significance. Historical features will include the names of early residents or citizens and/or events of significance to the area's development.
- Contributions of land for a park site and/or money (equal to or greater than 50% of the total cost of the project) by individuals or organizations.
- In honor of: 1) deceased community leaders or individuals who have made significant contributions to the community based on excellence or duration of commitment; and, 2) deceased national and/or state historical leaders and/or heroes.
- Municipal facilities may be given the same name as a school site, where the sites abut one another.
- Subdivision names where park lands are adjacent to or lie within the subdivision.
- Municipal recreation centers that are a part of or lie within the boundaries of a park shall bear the name of that park unless the park name cannot be incorporated in the facility name.
- Sections of a municipal facility, such as a pavilion, meeting room, or ballfield, may be given a name, which is different from that of the overall park or facility. The guidelines and procedures for naming such a section shall be the same as for naming an entire municipal facility.

- The renaming of municipal facilities may be considered if exceptional circumstances exist, but should not be a common practice. In such circumstances, care must be taken to avoid renaming because the purpose of the prior naming had become obscured over time (and thus eliminate appropriate recognition or honor).

4. PROCEDURES

- Municipal facilities will generally be named immediately prior to or during development.
- The Parks and Recreation Board, or other Board as appropriate, will be notified of the need to name a municipal park or other facility at least two months in advance of the city council Meeting at which names will be considered.
- The Board considering the recommendation will forward such recommendation to the City Manager's office at least one week prior to the city Council Meeting at which the recommendation will be considered.

PROPOSED GUIDELINES FOR
NAMING AND RE-NAMING OF PARKS AND RECREATION FACILITIES
CITY OF FARMERS BRANCH

GOALS:

Identify the Parks and Recreation Board as the representative body responsible for developing and implementing a process to select and recommend to the City Council a name for parks and related structures.

Provide a standardized procedure, including criteria, for naming and re-naming parks (including Rights-of-way, medians and all open space maintained for public recreation) and/or structures.

Provide an opportunity for citizen input when appropriate.

PROCEDURE TO NAME:

1. At least 60 days prior to the completion of a Parks and Recreation Department facility, and as early as possible in the acquisition process, the Farmers Branch Parks and Recreation Board will initiate the naming process. It is preferable that the naming process be initiated and completed as early in the process as circumstances allow.
2. The Parks and Recreation Board is responsible to complete the name determination process within 120 days after it begins. The Parks and Recreation Board is also responsible to submit its recommendation to the City Council by the next Council meeting after 120 days have passed. If the process has been completed in a shorter time than 120 days, the recommendation may be forwarded at the Parks and Recreation Board's convenience.
3. The name determination must adhere to at least one of the criteria listed as part of these guidelines.
4. The Parks and Recreation Board will select a method to allow for and solicit public input into the naming process.

PROCEDURE TO RE-NAME:

1. In order to re-name a park or recreation facility, the Parks and Recreation Board must receive a petition to that effect. The petition must be signed by 200 residents, 100 of which live within one mile of the park in question. Given a valid petition the name determination process must follow the above naming

procedure. A petition form will be available in the Parks and Recreation Department office at City Hall. In order for the petition to be valid it must be completed on the approved form.

2. If fewer than 100 residents live within a mile of the site or facility in question, then the 200 required signatures can come from the general populace in the City.

3. The Parks and Recreation Board is responsible to complete the name determination process within 120 days after it begins. The Parks and Recreation Board is also responsible to submit its recommendation to the City Council by the next Council meeting after 120 days have passed. If the process has been completed in a shorter time than 120 days, the recommendation may be forwarded at the Parks and Recreation Board's convenience.

4. The name determination must adhere to at least one of the criteria listed as part of these guidelines.

5. The Parks and Recreation Board will select a method to allow for and solicit public input into the naming process.

6. The re-naming procedure can begin with a majority vote of the Parks and Recreation Board or at the request of City Council.

NAMING OR RE-NAMING CRITERIA:

1A: If requested, in honor of the individual(s) who donated the entire or major portions of property, or resources intended and used to acquire the property.*

1B: If requested, consideration can be given to the individual(s) who sell the City property at substantially below market value.*

2. In honor of an individual who has made a significant long term (10 years) contribution to the City of Farmers Branch.

3. In honor of an individual who has made a significant long-term (10 years) contribution to Farmers Branch Parks and Recreation activities.

4. Consideration for location within the City, adjacent streets, sub-division, etc.

5. In relation to predominant characteristics or physical features.

*Negotiated at time of acceptance by the City.

GENERAL:

1. When re-naming a park or recreation facility, consideration must be given to any legal agreement or promises made when originally named.
2. Names, whenever possible, should be concise, easy to spell, and easily understood.
3. Sections or facilities within a park may be named differently than the overall facility. Criteria for naming a portion of a park or recreation facility shall be the same as contained herein.
4. Parks and recreation facility shall not be given the same name as existing school or public facility sites except where sites are adjacent to one another.
5. Recommendations to name a park or recreation facility after an individual(s) should not be publicized until final action has been taken by the City Council.

PARK RE-NAMING PETITION

To: Farmers Branch Parks and Recreation Board

We the undersigned, residents of Farmers Branch, Texas, request that the Parks and Recreation Board consider recommending to the Farmers Branch City Council re-naming the following park property: (place present name or description of property on blank line)

We understand that only signatures of Farmers Branch residents, will be considered valid, and that the residency of all signatories will be confirmed. We acknowledge that a requirement for the petition to be considered valid is that a minimum of 200 signatures appear on the petition and that 100 of those signatures are from people living within one mile of the property in question.

Name

Address

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____
11. _____
12. _____
13. _____
14. _____
15. _____

Town of Addison City Council Liaison

Joe Chow:

- Metroplex Mayor's Association – Association of Mayors and city managers from cities throughout the greater Dallas-Fort Worth area, commonly referred to as the “Metroplex”. Members meet monthly and host speakers from our area, who discuss innovative programs and initiatives impacting the North Texas region.
- Metrocrest Chamber of Commerce – the Chamber of Commerce that services the cities of Addison, Carrollton, and Farmers Branch
- North Texas Commission – is a regional non-profit consortium of businesses, cities, counties, chambers of commerce, economic development entities and higher education institutions in the North Texas Region committed to enhancing the overall economic vitality and quality of life of North Texas.
- National League of Cities – The National League of Cities serves as a national resource and advocates for over 1,600 member cities and towns of all sizes and for 49 state municipal leagues whose member municipalities total more than 18,000 in strengthening local government, encouraging economic competitiveness, and promoting corporate civic engagement.
- State & Federal Governments – Various roles and activities

Jimmy Niemann:

- Senior Adult Services - Senior Adult Services is committed to caring for seniors and their families in Addison, Carrollton, Coppell and Farmers Branch. The agency mission is to ensure that all senior adults living in the community will receive the support and services needed to maintain independence and quality of life. The agency serves as a source of information for residents of any age involved in caring for and about someone age 60 or older.
- Greater Dallas Planning Council – Since 1946, the Greater Dallas Planning Council is charged as a voluntary, non-profit, non-partisan organization dedicated to good city planning, providing leadership and support to many projects which have had lasting impact.
- Texas Municipal League – The Texas Municipal League formed in 1913 and exists to provide services to Texas cities and advocate the interests of its members.

Greg Hirsch:

- DART – Dallas Area Rapid Transit is the regional transit authority that services Addison, Carrollton, Cockrell Hill, Dallas, Farmers Branch, Garland, Glenn Heights, Highland Park, Irving, Plano, Richardson, Rowlett, and University Park

Town of Addison City Council Liaison

- North Central Texas Council of Governments - North Central Texas Council of Governments (NCTCOG) is a voluntary association of, by and for local governments, and was established to assist local governments in planning for common needs, cooperating for mutual benefit, and coordinating for sound regional development. NCTCOG's purpose is to strengthen both the individual and collective power of local governments and to help them recognize regional opportunities, eliminate unnecessary duplication, and make joint decisions. NCTCOG serves a 16-county region of North Central Texas.
- Metroplex Mayor's Association – Association of Mayors and city managers from cities throughout the greater Dallas-Fort Worth area, commonly referred to as the “Metroplex”. Members meet monthly and host speakers from our area, who discuss innovative programs and initiatives impacting the North Texas region.

Tom Braun:

- Metrocrest Social Services – Provides short-term emergency services to improve the life situations of residents in the cities of Carrollton, Farmers Branch, Addison, and Coppell.
- Special Care & Career Services - Supports families, children and adults with developmental disabilities by providing three key services to Denton, Collin and Dallas counties with three age-determined programs: Early Childhood Intervention, Child Development Enrichment Services, and Supported Employment Services.
- Arbor Foundation - Is a non-profit foundation created for the purpose of raising funds to be used for public landscape beautification.

Roger Mellow:

- Texas Chamber Orchestra – Provides musical concerts at the Addison Theatre Centre
- Water Tower Theatre – The theatre company that resides at the Addison Theatre Centre
- The Family Place – the Dallas-based, nonprofit organization that provides assistance to victims of family violence since 1978.

Diane Mallory:

- Shakespeare Festival of Dallas – Founded in 1971 to provide cultural access to works of William Shakespeare within the North Texas area.
- Communities in Schools Dallas – is a non-profit, charitable organization that has been working in Dallas and Collin Counties since 1985 to provide direct services and educational support to at-risk students

Town of Addison City Council Liaison

- Dance Council – a non-profit organization started in 1973 as a membership service organization of professional and non-professional dance companies, independent artists, teachers, performers, movement specialists, students, dance enthusiasts and businesses. The Dance Council serves the Dallas-Fort Worth Metroplex by providing artistic, educational, and cultural opportunities to people through dance festivals, master classes, and scholarships.

Dennis Kraft:

- Greater Dallas Chamber – The Chamber of Commerce that serves the greater Dallas area since 1909. This Chamber of Commerce is one of the largest voluntary-membership driven organization of businesses in the United States.
- North Dallas Chamber – The Chamber of Commerce that services the area between downtown Dallas and the city limits to the north.
- Cavanaugh Flight Museum – A non-profit organization devoted to promoting aviation studies and to perpetuating America's aviation heritage; the museum fulfills its mission by restoring, operating, maintaining and displaying historically-significant, vintage aircraft, and by collecting materials related to the history of aviation.

OFFICIAL ACTIONS OF THE ADDISON CITY COUNCIL

October 23, 2006
7:30 p.m. - Council Chambers
5300 Belt Line Road

Present: Mayor Chow, Councilmembers Braun, Hirsch, Kraft, Mallory, Mellow,
Niemann

Absent: None

Item #R1 - Consideration of Old Business.

The following employees were introduced to the Council: Sara Lorusso (Public Works), Amanda Minyard (Athletic Club), Monica Pomroy (Police).

Item #R2 - Consent Agenda.

Item #2b and #2d were considered separately.

Item #2g was withdrawn by staff.

#2a – Approval of the Minutes for the October 10, 2006, Council Meeting.
(Approved as written)

#2c – Consideration and approval to reject all bids submitted for the purchase and installation of Voice/IP communication system.
(Approved)

#2e – Consideration and approval for the City Manager to enter into a contract for FY '07 with the Trinity River Authority to provide inspection, sampling and laboratory analysis on certain industries in Addison to comply with wastewater pretreatment laws as required by EPA. (Approved)

#2f – Consideration and approval of a resolution authorizing the City Manager to enter into an agreement with the Dallas County Health Department that would allow the Town of Addison to participate in the cost of providing selected public health services at reduced prices to Addison residents.
(Approved Resolution R06-083)

#2h – Consideration and approval of final payment to Advanced Paving Co., in the amount of \$50,000, for the Addison Airport Asphalt Paving Improvements Project. (Approved)

Councilmember Braun moved to duly approve the above listed items.
Councilmember Mellow seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Mallory, Mellow, Niemann
Voting Nay: None
Absent: None

#2b - Consideration and approval of an ordinance amending Chapter 30, Article III, Sections 30.62, 30.95 and 30.147 of the Code of Ordinances, regarding alarm permits and false alarm fees.

Councilmember Niemann duly moved to approve Ordinance No. 006-049 amending Chapter 30, Article III, Sections 30.62, 30.95 and 30.147 of the Code of Ordinances, regarding alarm permits and false alarm fees. Councilmember Braun seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Mallory, Mellow, Niemann
Voting Nay: Kraft
Absent: None

Councilmember Niemann recused himself and left the Council Chambers.

#2d – Consideration and approval of a resolution authorizing the City Manager to enter into a sponsorship contract with Coca Cola to be the exclusive non-alcoholic beverage supplier (carbonated soft drinks, bottled water, bottled tea, sport drinks, juice drinks, etc.) for the Town of Addison produced special events and public facilities, subject to approval by the city attorney.

Councilmember Kraft duly moved to approve Resolution No. R06-082 authorizing the City Manager to enter into a sponsorship contract with Coca Cola to be the exclusive non-alcoholic beverage supplier (carbonated soft drinks, bottled water, bottled tea, sport drinks, juice drinks, etc.) for the Town of Addison produced special events and public facilities, subject to approval by the city attorney. Councilmember Braun seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Mallory, Mellow
Voting Nay: None
Absent: None
Abstain: Niemann

Councilmember Niemann returned to the Council Chambers.

Item #R13 - Discussion and consideration of any action regarding the Dallas Area Rapid Transit (DART) 2030 Transit System Plan Update and the provision of transportation and transportation equipment and facilities by DART to and within the Town of Addison.

No action taken.

Councilmember Niemann recused himself and left the Council Chambers.

Item #R3 - Consideration and approval of an ordinance amending Ordinance No. 005-010 of the Town, being a franchise agreement with TXU Electric Delivery Company for the provision of electric service within the Town, by, among other things, amending the time of payment of the municipal franchise charge from annual to quarterly and by extending the term of the franchise agreement.

Councilmember Braun duly moved to approve Ordinance No. 006-039 amending Ordinance No. 005-010 of the Town, being a franchise agreement with TXU Electric Delivery Company for the provision of electric service within the Town, by, among other things, amending the time of payment of the municipal franchise charge from annual to quarterly and by extending the term of the franchise agreement. Councilmember Mallory seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Mallory, Mellow
Voting Nay: None
Absent: None
Abstain: Niemann

Item #R12 - Consideration and approval of final payment to TXU Electric Delivery in the amount of \$70,175, for cost overruns for Arapaho Road Phase III.

Councilmember Mellow duly moved a final payment to TXU Electric Delivery in the amount of \$70,175, for cost overruns for Arapaho Road Phase III. Councilmember Mallory seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Mallory, Mellow
Voting Nay: None
Absent: None
Abstain: Niemann

Item #R4 - Consideration and approval of a 9-1-1 Emergency Service Agreement with AT&T Corporation as Interconnected Voice over Internet Protocol Service Provider.

Councilmember Mallory duly moved to approve a 9-1-1 Emergency Service Agreement with AT&T Corporation as Interconnected Voice over Internet Protocol Service Provider. Councilmember Kraft seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Mallory, Mellow
Voting Nay: None
Absent: None
Abstain: Niemann

Councilmember Niemann returned to the Council Chambers.

Item #R5 - Consideration and approval of the City Council authorizing the City Manager to enter into a contract with Mercury Communication Services, Inc. for the upgrade, and installation of the phone system in the amount of \$210,303.25 subject to the City Attorney's final approval.

Councilmember Niemann moved to table this item. Councilmember Braun seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Mallory, Mellow, Niemann
Voting Nay: None
Absent: None

Item #6 - Consideration and approval of the City Council authorizing the City Manager to enter into a contract with Convergent Technologies LLC, for the purchase and installation of a Video Camera Monitoring System at the Art and Events District in the amount of \$149,749.00, subject to the City Attorney's final approval.

Councilmember Niemann duly moved to authorize the City Manager to enter into a contract with Convergent Technologies LLC, for the purchase and installation of a Video Camera Monitoring System at the Art and Events District in the amount of \$149,749.00, subject to the City Attorney's final approval. Councilmember Mellow seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Mallory, Mellow, Niemann
Voting Nay: None
Absent: None

Item #R7 - Consideration and approval of a resolution approving the nomination to the NCTCOG's Regional Emergency Preparedness Planning Council.

Mayor Chow duly moved to approve Resolution No. R06-084 nomination Councilmember Niemann to the NCTCOG's Regional Emergency Preparedness Planning Council. Councilmember Hirsch seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Mallory, Mellow, Niemann
Voting Nay: None
Absent: None

Item #R8 - Consideration and approval of the City Council authorizing the City Manager to enter into an agreement regarding a feasibility study for the WaterTower Theatre.

Councilmember Braun duly moved to authorize the City Manager to enter into an agreement regarding a feasibility study for the WaterTower Theatre.
Councilmember Kraft seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Mallory, Mellow, Niemann
Voting Nay: None
Absent: None

Item #R9 - Presentation and discussion of the sales and mixed beverage tax audit report prepared by Kasner and Associates.

No action taken.

Item #R10 - Consideration and approval of Change Order No. 1, in the amount of \$98,225.00, for the corrective measures to make the bulk storage fuel facility on Addison Airport operational.

Councilmember Niemann duly moved to approve Change Order No. 1, in the amount of \$98,225.00, for the corrective measures to make the bulk storage fuel facility on Addison Airport operational. Councilmember Kraft seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Mallory, Mellow, Niemann
Voting Nay: None
Absent: None

Item #R11 - Consideration and approval of final payment to Archer Western, Inc. in the amount of \$438,096.81 for the Arapaho Road Phase III project from Surveyor Blvd. to Addison Road.

Councilmember Kraft duly moved to approve a final payment to Archer Western, Inc. in the amount of \$438,096.81 for the Arapaho Road Phase III project from Surveyor Blvd. to Addison Road. Councilmember Niemann seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Mallory, Mellow, Niemann
Voting Nay: None
Absent: None

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

Mayor

Attest:

City Secretary



October 20, 2006

Ron Whitehead, City Manager
Town of Addison
5300 Beltline Road
Addison, Texas 75001

RE: Request for Sponsorship

Dear Ron:

On behalf of the Cavanaugh Flight Museum, I want to thank you for your continued support of the museum through sponsorship of our advertising. We are proud to be a part of such an exciting and energetic town and look forward to continuing to spread the word about our Museum and Addison. Just the other day I had the opportunity of meeting a father and son visiting from England. They discovered the museum via our cooperative brochure and not only came to visit, but both purchased rides in our AT-6 Texan.

I respectfully request your genuine consideration for funding for the fiscal year 2006-2007 in the amount of \$50,000. These funds will be used for promotional purposes and advertising for upcoming special events hosted by the museum and will be matched dollar for dollar. Please see the attached schedule detailing the breakdown of the museum's advertising expenses for fiscal year 2006-2007.

I look forward to another year of working with the Town's staff and shared success for both the Cavanaugh Flight Museum and the Town of Addison!

Thanks in advance.

A handwritten signature in black ink, appearing to read "Kevin Raulie". The signature is fluid and cursive, written over a light blue horizontal line.

Kevin Raulie
Museum Director & Pilot

**Cavanaugh Flight Museum
Advertising Costs
Fiscal Year 2007**

Advertisement	Total Annual Costs \$
AutoPilot Magazine	7,200
CFM Brochure printing	12,500
DFW Map	2,000
Dallas Morning News Weekend Guide	59,577
Travel Host	6,600
DFW Tourism Council	5,825
East TX Tourism Assoc.	3,240
Addison N. Dallas Guide	5,628
	<u>Totals \$ 102,570</u>

Total Annual Costs \$ 102,570
Addison's Proposed Contribution \$ 50,000

Balance Paid by CFM \$ 52,570

**MERITORIOUS EXCEPTION TO THE ADDISON SIGN ORDINANCE
STAFF REPORT**

ME 2006-10

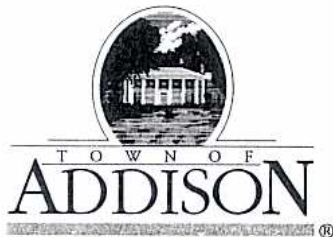
Business: Innovative Mortgage

Date: October 27, 2006
Address: 5302 Belt Line Rd

<u>Ordinance Requirement</u>	<u>Request</u>	<u>Variance</u>																		
<p>Sec. 62-163. Area. Total effective area of attached signs shall not exceed the following schedules: (1) On an attached sign located at a height of up to 36 ft, the effective area is limited to 1 sq ft of sign area for each linear foot of building frontage not to exceed 100 sq ft (2) An attached sign located at or exceeding a height of 36 ft shall be permitted an increase in maximum effective area. Such increases shall not exceed 4 sq ft in effective area for each additional 1 ft of height above 36 ft measured from the base of the sign to the building grade. (3) Attached signs may be located on each façade; however, the sum of the effective area of all attached signs shall not exceed twice the allowable effective area as specified in subsections (1) and (2) of this section. (4) Building with 4 or more stories in height may have not more than 2 attached signs per façade provided that: a. Each sign is designated for a separate tenant. b. One sign must be located on or near the uppermost story of the building while the 2nd sign is to be located on the 1st or ground level floor. c. Signs may be no closer than 30 ft apart. d. The combined effective sq footage of both signs may not exceed twice the allowed effective sq footage as specified in subsections (1) and (2) of this section. (5) Maximum letter/logo height of attached signs shall not exceed twice the allowable effective area as specified in subsections (1) and (2) of this section. Maximum letter/logo height of attached signs shall be determined by the following schedule:</p> <table border="1" data-bbox="487 1113 730 1407"> <thead> <tr> <th>Sign Height (feet)</th> <th>Letter/Logo Height (inches)</th> <th>Maximum</th> </tr> </thead> <tbody> <tr> <td>0 - 36</td> <td>16</td> <td></td> </tr> <tr> <td>37 - 48</td> <td>36</td> <td></td> </tr> <tr> <td>49 - 100</td> <td>48</td> <td></td> </tr> <tr> <td>101 - 150</td> <td>60</td> <td></td> </tr> <tr> <td>151 and up</td> <td>7</td> <td></td> </tr> </tbody> </table> <p>a. Letter heights in excess of 72 inches must be approved by the city council. b. Not more than 50% of the letters in each individual sign height category may be 25% taller than the specified maximum letter/logo height.</p> <p>(6) Copy on awnings is allowed in accordance with the above regulations for area and letter height. For back-lit awnings, the area of the sign shall be based on the area of the awning that is back-lit or illuminated.</p>	Sign Height (feet)	Letter/Logo Height (inches)	Maximum	0 - 36	16		37 - 48	36		49 - 100	48		101 - 150	60		151 and up	7		<p>The applicant is requesting a 61.5 sq ft sign on the east façade with all letters 18" in height.</p>	<p>The ordinance allows 1 Sq. Ft. of signage for each Ft. of building length up to 100 Sq. Ft. and a maximum letter height of 20" for 50% of the letters with the remaining letters to be 16" or less in height.</p>
Sign Height (feet)	Letter/Logo Height (inches)	Maximum																		
0 - 36	16																			
37 - 48	36																			
49 - 100	48																			
101 - 150	60																			
151 and up	7																			

STAFF RECOMMENDATION: The ordinance allows a sign area of 65 sq ft. The requested sign will be 61.5 sq ft in area and be located approximately 300' from Belt Line Rd. Therefore staff recommends approval of the sign as requested.

STAFF: 
Lynn Chandler, Building Official



BUILDING INSPECTION DEPARTMENT
(972) 450-2880 Fax: (972) 450-2837

16801 Westgrove
Post Office Box 9010 Addison, Texas 75001-9010

To: Carmen Moran, Director Development Services

From: Lynn Chandler, Building Official

Date: October 30, 2006

Subject: Exceptions to the Sign Ordinance for Attached Signs

The following list consists of exceptions to attached signs:

1. Addison Town Center Shopping Center located in the 3700 to 3800 block of Belt Line Road was granted an exception for letter heights up to 6' and more than one side per façade. October 1994
2. Village on the Parkway located at 5100 Belt line Road was granted an exception for letter Heights up to 30", more than one sign per façade and blade signs. June 1996
3. Addison Circle was granted an exception for more than two signs on a building four or More stories in height, signs above the roof and blade signs. March 1997
4. Centennial Liquor Store located at 15055 Inwood Road was granted an exception to place more than one sign on the east façade. March 1999
5. Hallmark located at 14312 Marsh Lane was granted an exception for letter heights of 36" and 26" due to the thin stroke of the letters and being located 250' from Marsh Lane. June 2000
6. Abbotsford Court located at 14775 Midway Road was granted an exception for letter heights of 29" and 24 " due to the thin stroke of the letters and being located 300' from Midway road. June 2001
7. Dunhill Property Management was granted an exception to place four murals, 81 Sq. Ft. each, on the south façade and five murals, 75 Sq. Ft. each, on the west façade of Suite 840 at 5100 Belt Line Road. These murals were considered signage but were approved because they were not deemed to be a blight or offensive. October 2001
8. Gilbert's Delicatessen Restaurant located at 4930 Belt Line Road Suite 100 was granted an exception for letter heights of 24", 22" and 20" due to a set back of 278' from Belt Line Road. March 2001

9. Hilton Garden Inn located at 4090 Belt Line Road was granted an exception for letter heights of 22" due to a set back of 355' from Belt Line Road. June 2002.
10. Isotag located at 4355 Excel Parkway Suite 100 was granted an exception for an attached sign with a logo height of 31.5" and letter heights of 25" due to a setback of 120' from Excel Parkway. July 2002.
11. Hibernia Bank located at 14651 Dallas Parkway was granted an exception to place an additional sign on the east façade. October 2002.
12. BJ's Restaurant located at 4901 Belt Line Road was granted an exception for attached signs with letter heights of 39", 28", and murals with figures 8' and 9' in height. The signs were 110', 163', 135' and 143' respectively from Belt Line Road. December 2002.
13. Chip's Old Fashioned Hamburgers located at 4950 Belt line Suite 190 was granted an exception for an attached sign with letter heights of 30" due to a set back of 250' from Belt Line Road. April 2003.
14. Sigel's Liquor located at 15003 Inwood Road was granted an exception for an attached sign with letter heights of 24" due to a setback of 93' to 100' from Inwood Road. June 2003.
15. Two Rows Restaurant located at 17225 Dallas Pkwy was granted an exception for attached signage with letter heights of 30" due to setbacks of 110' from Dallas Pkwy and 147' from Addison Rd. July and September 2003.
16. Vartec Telcom/ Excel located at 16675 Addison Rd. and 4550 Excel Pkwy was granted an exception for attached signs with logo heights of 48" at 16775 Addison Rd. due to setbacks of 160' Excel Pkwy and 145' from Addison Rd. and logo heights of 36" at 4550 Excel Pkwy due to a setbacks of 95' and 105' from Excel Pkwy.
17. Pot Belly Sandwich Works located at 4945 Belt Line Rd was granted an exception for attached signs with letters 30" in height due to a setback of 95' from Belt line Rd. They were not, however, allowed any area increases. Nov 2003.
18. Mama Fu's Noodle House located at 3711 Belt Line Rd was granted an exception for attached signs with letters 30" in height due to a setback of 115' from Belt Line Rd. Jan 2004.
19. Addison Walk located at 5000 Belt Line Rd was granted an exception for attached signs with letters 36", 30" and 24" in height due to setbacks of 100' to 179' from Belt line Rd. Jan 2004.
20. Authentix was granted an exception for an attached sign with letters 28', 25" and 21.5" in height due to a setback of 120' from Excel Parkway. Feb 2004.
21. Champps Restaurant was granted an exception for attached signs with letters 35", 28", 32.5" and 26" in height due to setbacks of 168' and 133' from Belt Line Rd. Mar 2004.

22. Pot Belly Sandwich Sandwich Works located at 4945 Belt line Rd was granted an exception for attached signs with letters 30" in height due o a setback of 95' from Belt Line Rd. May 2004.
23. Wachovia Bank located at 5080 Spectrum Dr was granted an exception for more than one attached sign on the south façade of the building and attached signs with a logo 30" in height and more than 50% of the letters exceeding 16" in height due to the area of the facades they were located on. November, 2004.
24. Sam's located at 4150 Belt Line Rd was granted an exception for three attached signs, with areas of 147 sq ft and a 36" letter, 92 sq ft and a 24" letter, and 25 sq ft due to a set back of 410 ft from Belt Line Rd, the size of the façade it's on and that the number of signs was reduced from six to three. December, 2004.
25. Charter Furniture located at 15101 Midway Rd was granted an exception for three additional signs on the east façade due to the construction of the Midway Rd bridge next to their building. January 31, 2005.
26. Century Bank located at 3701 Belt Line Rd was granted an exception for an additional sign on the south façade with a logo 24" in height and more than 50% of the letters 20" in height.
27. Auto Care European located at 4304 Wiley Post Rd was granted an exception for a sign with letters 24" in height due to a set back of 130 ft from Wiley Post Rd.
28. Café Japon and Boba Tea located at 4933 Belt line Rd were granted an exceptions for signs with logos 30" in height and letters 24" and 22" in height due to a setback of 95" from Belt Line Rd.
29. On The Border located at 4855 Belt line Rd was granted exceptions for signs with logo and letter heights of 31', 35.5", 34.5", a projection greater than 18" from the façade and LED or neon skeleton type lighting that was recessed in a cove. The signs were located 109', 160', 175', 300' and 320' from the ROW. August 2005.
30. Wachovia Bank located at 5080 Spectrum was granted an exception for an 8,649 sq ft sign located on the south façade for a maximum of 60 days. September 2005.
31. Sprint located at 4943 Belt Line rd was granted an exception for a sign with a logo height of 27.5" and letters 18.75" in height. January 2006.
32. Capitol One located at 14651 Dallas Pkwy was granted an exception for additional sign on the east façade of the building. February 2006.
33. AMF Fun Fest Lanes located at 3805 Belt Line Rd was granted an exception for signs with logo heights of 5'3" and numerals with heights of 3'9" and 2'9" due to the size of the façade and setbacks of 250' from Commercial Dr. and Business Ave.
34. Majestic Fine Wines & Spirits located at 14733 Inwood Rd was granted an exception for a 102.5 square foot sign with letters 28" in height and LED lighting to accent building elements. The LED lighting was approved exposed on the arched portion of the façade and installed in a cove on the horizontal portions of the façade.

35. Inwood Quorum Village located at 4800 Belt line Rd was granted an exception for signs with logos and letters with heights of 24" and 30".

Addison!

BUILDING INSPECTION DEPARTMENT 16801 Westgrove Dr Addison Texas 75001 972/450-2881 fax: 972/450-2837

Application for Meritorious Exception to the Town of Addison Sign Ordinance

Application Date: 10/27/06

Filing Fee: \$200.00

Applicant: Josy Carrasco

Address: 9203 Skillman St.

Suite#: 120

Dallas, TX 75243
City State Zip

Phone#: 214-503-1333

Fax#: 214-503-8689

Status of Applicant: Owner _____

Tenant _____

Agent

Location where exception is requested:

5302 Belt Line Rd. Dallas, TX 75254

Reasons for Meritorious Exception:

Conflicting information w/ physical address
and registered co. City specification
are different from what was already fabricated.

YOU MUST SUBMIT THE FOLLOWING:

12 COPIES OF THE PROPOSED SIGN SHOWING:

1. Lot Lines
2. Names of Adjacent Streets
3. Location of Existing Buildings
4. Existing Signs

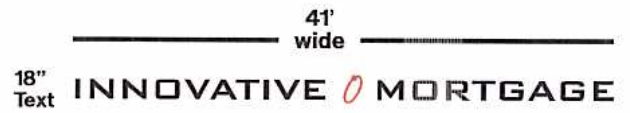
5. Proposed Signs
6. Sketch of Sign with Scale and Dimensions Indicated (8.5 x 11 PLEASE)

Date Fees Paid 10-30-06 Check # 37078 Receipt # 30176

Dear City Council,

My name is Joey Carrasco, and I work for FASTSIGNS-Skillman and have for a total of 5 years. My position with the company is that of Account Executive / Outside Sales. I would like this opportunity to briefly explain why this job is being reviewed by the committee members of the city council board. When researching city specifications for the permitting of this project we attained conflicting information. By securing an address with a Dallas zip code and then finding out that the location was registered in Addison we find ourselves in a small situation. Please understand the mishap and help us to resolve this matter as quickly as possible.

**Thank You,
Joey Carrasco**

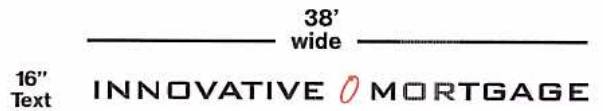


Non-Lit Reverse Channel Letters

Fabrication Specs for Non-Lit Reverse Channel Letters :

- .080 Aluminum Faces Painted Black / Red (logo)**
- .063 Aluminum Returns 2.5" Painted Black / Red (logo)**
- 1/8" Clear Lexan Backs w/ 2" Stand-Offs (stud mount)**

Physical Address: 5302 Belt Line Rd., Dallas Tx 75254 CO #: 9513
Name of Business : Texas Innovative Mortgage



Non-Lit Reverse Channel Letters

Fabrication Specs for Non-Lit Reverse Channel Letters :

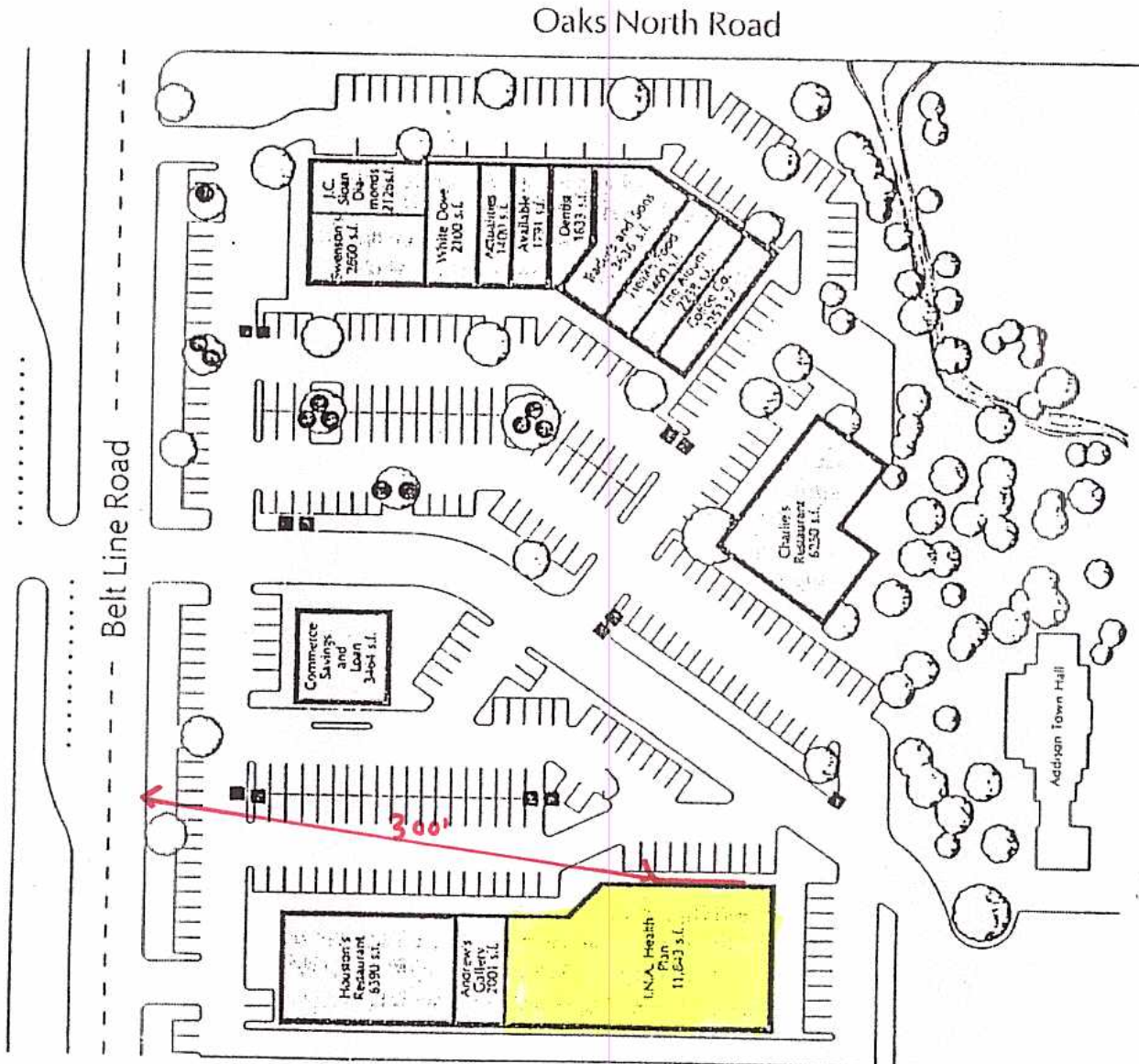
- .080 Aluminum Faces Painted Black / Red (logo)**
- .063 Aluminum Returns 2.5" Painted Black / Red (logo)**
- 1/8" Clear Lexan Backs w/ 2" Stand-Offs (stud mount)**

Physical Address: 5302 Belt Line Rd., Dallas Tx 75254 CO #: 9513
Name of Business : Texas Innovative Mortgage

Town Hall Square

Shopping Center

Site Plan



Beltway
Development Company

4500 Bell Line Road, Suite 416 • Dallas, Texas 75234
For leasing information, call (214) 661-1011

Council Agenda Item: #R4

SUMMARY: Approval of an agreement, subject to the final approval of the City Manager and City Attorney, with the Squires Sports Interactive LLC dba Hawkeye Communications, LLC Hawkeye Group to provide sponsorship and media buying services to the Town from November 1, 2006 through October 31, 2009.

FINANCIAL IMPACT: Commission payments as a result of cash sponsorship will be funded from the Special Events budget (615) and credited against the sponsorship revenue received. The monthly retainer (\$54,000) and media buying fees will be charged to the 614 marketing budget. The following recaps the financial obligations of the contract, and the attached spreadsheet outlines the financial projections for the next three years and how it compares to our previous contract with the Xelerate Group.

Monthly retainer (\$4,500) - event packaging, strategy, sales, client management, media analysis and current value in-kind (additional VIK will be negotiated separately as the opportunity arises at a mutually agreeable rate depending upon the structure of the deal).

Commission on cumulative cash sales:
\$0-\$50,000 (5%)
\$50,000-\$150,000 (10%)
\$150,000-\$250,000 (15%)
7.5% of all media purchases

BACKGROUND: In July 2006, staff submitted a Request for Proposal (RFP) for one or more agencies, consulting companies or individuals to handle Special Event Sponsorship Package Development and Solicitation, and/or Media Purchases for the Town of Addison. The RFP was advertised for two weeks and was sent to over 100 companies that provide sponsorship, marketing and media buying services or that have contacts with companies that do. Nine agencies submitted proposals and five were invited to present their proposals to the selection committee that was comprised of these people:

- | | |
|---|---|
| Lea Dunn, Deputy City Manager | Chris Terry, Assistant City Manager |
| Barbara Kovacevich, Special Event Manager | Shanna Sims, Budget/Procurement Manager |
| Sara Bosquez, Special Event Coordinator | Corrie Clinton, Special Event Intern |
| Sylvia Allen, President of Allen Consulting | |

The Hawkeye Group was unanimously selected to handle both sponsorship sales and media purchases. They have extensive experience in event and destination marketing that will prove helpful to the Town as the reach of our festivals is expanded. The attachment will provide short bio on the Hawkeye Group.

RECOMMENDATION: Staff recommends approval.

ATTACHMENTS: Hawkeye Group Sports & Entertainment Introduction and Capabilities Services Agreement

**Sports & Entertainment
Introduction and Capabilities**
November 9, 2006

hawkeye | GROUP

Marketing Originality That Works



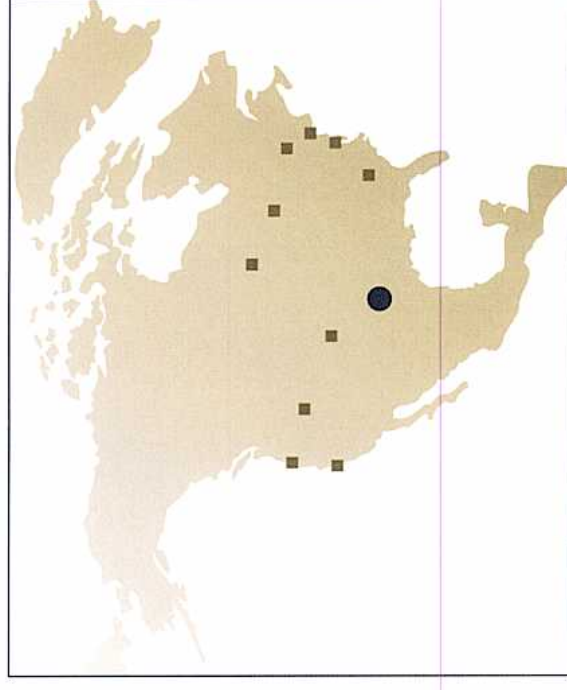
hawkeye Overview

LOCATIONS

Headquarters:
Dallas

Additional U.S. Office Locations:
Buffalo, Charlotte, Chicago, Denver, Minneapolis,
New York, San Francisco, Seattle and Washington, D.C.

International Offices:
London, Amsterdam and Singapore (opening this year)



HISTORY

hawkeye is an Integrated Marketing Agency that helps market innovators build profitable relationships.

We know the possibilities of original thinking are unlimited. That's where our senior experience comes in. We've been there enough to know how, when and where it is wise to push the envelope. We apply key insights as our launch pad — never letting the “tried and true” hold us back, in:

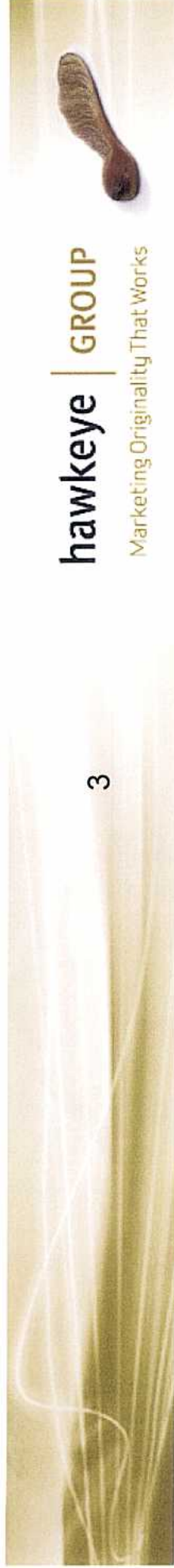
Event Marketing, Sponsorship Management, Sports/Entertainment Marketing, Promotions, Retail, Direct/Interactive, Strategic Planning, Advertising, Data Analytics, Targeted Guerilla and B2B.



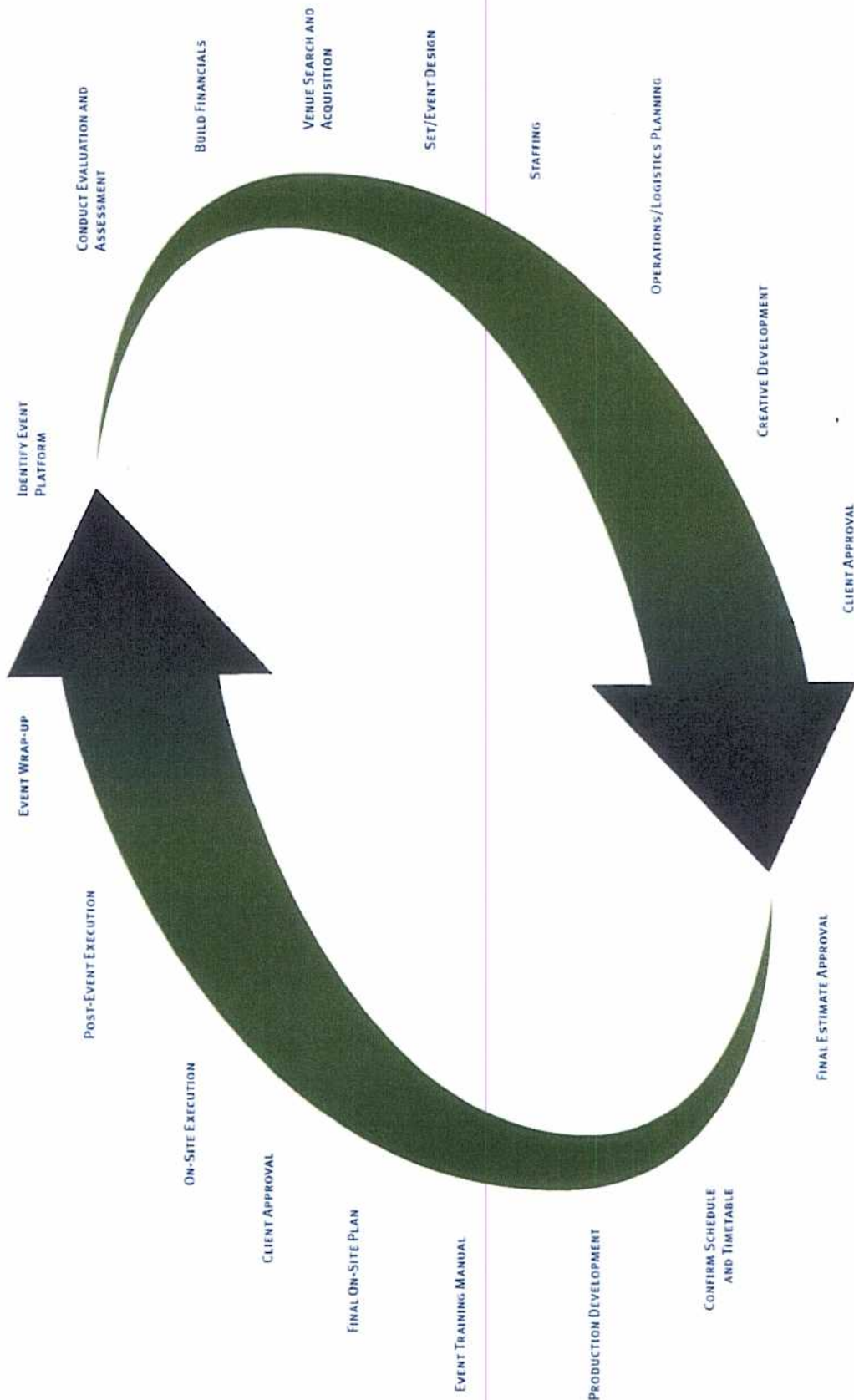
We specialize in brand activation, data analytics, sports & entertainment marketing, promotions, loyalty, strategic planning, research, direct, multi-channel, database, customer change communication and special event production.

We provide the following dedicated services:

Strategy	Development	Implementation
Strategic Planning	Concept Development	Event Marketing
Competitive Analysis	Marketing and Creative Services	Hospitality
Property Review/Evaluation	Consumer and Trade Promotions	Budgetary Management
Contract Negotiation	Employee Programs	Communications
Proprietary Measurement Tools	Multicultural Programs	Public Relations
Licensing	Entertainment Marketing	Grassroots Programs
Post-Event/Program Reporting	Technology Strategy/Marketing	ROI Evaluation
Custom Research	Web Development and Management	Program Management
Production and Execution Strategies	Point-of-Sale Development	Mobile Marketing
Partner Solicitation		Athlete/Celebrity Handling
Database Management		Destination Management
Media Optimization		



Client Process



HSE is our full-service lifestyle marketing business unit led by 20-year industry veteran Merrill Squires. HSE provides industry-leading solutions that *connect consumers to companies and brands through their interests and passions in sports, entertainment and philanthropic platforms.*

HSE quick facts:

- **Over 50 years of industry-leading experience**
- **Only agency with dedicated resources in healthy, active lifestyle marketing**
- **All client programs led by agency principals**
- **Full-service capabilities**
 - Identification, Negotiation, Evaluation, Activation
- **Results-based client partnerships**

HSE clients:

- Established brands
- Emerging brands
- Media companies
- Sports/Entertainment properties
- Governments



Client Roster



SELECTIVE



YankeeDoodle



LIVE YOUR WHOLE LIFE™



Seagram's



hawkeye | GROUP

Marketing Originality That Works



Senior Management

Merrill Squires, Managing Partner, hawkeye Sports & Entertainment

Managing Partner within our sports and entertainment focus, Merrill is a 20-year veteran of the sports and entertainment marketing industry. He began his career in 1986 at *Sports Illustrated* where he established and directed their first-ever sports and event marketing division. In this capacity, Merrill developed four dedicated business units that included Special Events, Athlete & Celebrity Relations, Promotions and Olympic Sponsorship. SI Sports Marketing became recognized as the industry leader in event marketing and program development. Merrill directed these operations and developed a worldwide event business over the next 10 years before launching SI International in 48 countries. Merrill started the Squires Group in 2000 and built a leading agency in healthy, active sports marketing. TSG merged with hawkeye in 2005 to become a fully integrated sports and entertainment marketing business.

Dave Mullen, Managing Director, Promotional Marketing

With his expertise at melding creativity with strategic thinking, Dave has helped clients like Alltel, Rolling Rock, Taco Bell and more, meet all of their promotional objectives and won more than 100 awards.

Amanda Forgason — Event Development Director

Amanda joined hawkeye upon graduation from SMU where she was a member of the women's soccer team and an intern at hawkeye. Amanda currently serves as Director of the Rodale Race Program. Amanda manages a team that works with race directors for the delivery and fulfillment of 50+ sampling programs each year. In her five years on board our sports and entertainment department, Amanda has been involved with the ideation, creation, management and execution of integrated marketing programs and clients, including Lipton "Simple Steps" Tour, Michelob ULTRA "Run to the Finish" Series and Celebrity Fight Night.



STATE OF TEXAS §
 §
 COUNTY OF DALLAS §

SERVICES AGREEMENT

This Services Agreement ("Agreement") is made and entered into this 1st day of November, 2006 by and between the Town of Addison, Texas (the "City") and the Squires Sports Interactive, LLC ("Squires"), a Texas limited liability company, (the City and Squires are herein sometimes referred to together as the "parties" and individually as a "party").

Recitals:

1. The Town of Addison, Texas is a Texas home rule municipality. Each year the City conducts and hosts various special events (together, the "Events" and individually an "Event") within the Town, and seeks to market and obtain sponsors for the Events (each a "Sponsor"). As of the Effective Date (as hereinafter defined), the Events include those events known as North Texas Jazz Festival, Taste Addison, Summer Series, Italia, Kaboom Town!®, and Addison Oktoberfest. To facilitate its marketing and promotional efforts, the City sought proposals from businesses to provide such services.

2. Squires is a sports and entertainment marketing company, with its principal offices located at 2828 Routh Street, Suite 300, Dallas, Texas 75201.

3. Following its solicitation of proposals, the City selected Squires to provide marketing and promotional services as described herein, and Squires desires to provide such services for the City.

NOW, THEREFORE, for and in consideration of the above and foregoing recitals, benefits flowing to each of the parties hereto, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Town of Addison, Texas and Squires do hereby contract and agree as follows:

Section 1. Incorporation of Recitals. The above and foregoing recitals are true and correct and are incorporated herein and made a part hereof.

Section 2. Term. Subject to the termination provisions and all other terms and conditions of this Agreement, this Agreement shall be effective as of November 1, 2006 (the "Effective Date") and shall continue in effect for a period of three (3) years, so that it shall expire on October 31, 2009 ("Term"). Each consecutive twelve (12) month period during the Term, beginning on November 1 and ending on October 31 of the following year, is referred to herein as an "Agreement Year".

Section 3. Squires Services.

A. During the Term, Squires shall provide to the City, to the City's reasonable satisfaction, the following services on a non-exclusive basis (to Squires) (the "Services"):

1. Development of sponsorship packages for Events;

2. Solicitation and delivery of sponsorship agreements with Sponsors for the Events;

3. Negotiation of media buys on behalf of the City's tourism and economic development efforts (hotels, Events, restaurants, museums, attractions and that area of the City identified by the City as the Addison Beverage Center) (all media buys which shall be subject to the prior approval of the City).

4. Delivery of sales tracking reports on a monthly basis tied to sponsorship sales from Events.

B. In connection with the Services, Squires warrants and represents to the City that:

1. Squires has the skills, qualifications, expertise, experience and financial capability necessary to perform the Services in an efficient and cost-effective manner with a high degree of quality and responsiveness and has performed and continues to perform the same and similar services for others;

2. Its Services and work will be provided in a professional and timely manner, consistent with the commercially accepted best practices and standards that are in use in Squires' line of business as of the time such Services are provided;

3. The Services shall comply with all applicable federal, state or local statutes, ordinances, laws, rules, standards, codes and regulations.

C. The City's review, approval or acceptance of, nor payment for, any of the Services shall be construed to operate as a waiver of any rights of the City under this Agreement or of any cause of action arising out of the performance of this Agreement.

D. City hereby agrees that during the Term (unless the agreement is otherwise terminated pursuant to Section 5A hereof) it will not otherwise contract with any other party to provide services to the City which are similar to the Services, Squires having the exclusive right to provide such Services; provided, however, that, notwithstanding the foregoing or any other provision of this Agreement, the City has and retains the right to obtain sponsorships directly by and through its officers and employees.

Section 4. Compensation. For the Services provided by Squires in accordance with the terms and conditions of this Agreement, and subject to the termination provisions of this Agreement, Squires will be compensated by the City as follows:

A. Monthly Payment. A monthly payment in the amount of Four Thousand Five Hundred and No/100 Dollars (\$4,500.00) ("Monthly Payment"), payable on or before the tenth (10th) day of the month next following the month in which the Services are performed. The Monthly Payment will pay for and cover internal Squires labor in performance of the Services. No later than one hundred twenty (120) days prior to the expiration of each one (1) year anniversary hereof Squires will propose to the City a new Monthly Payment and unless City

exercises its right of termination as per Section 5A such new amount shall thereafter be the Monthly Payment until the end of the Term or earlier termination as provided in Section 5A.

B. Cash Sponsorship Payment.

1. For third-party sponsorships for Events (i) which are secured directly by Squires during the Term, (ii) approved by the City (such approval not to be unreasonably withheld), (iii) for which a written sponsorship agreement is entered into between the City and the Sponsor (or oral agreement in the event that amounts are otherwise paid to City for Sponsorship), and (iv) which agreement provides for the Sponsor to pay to the City cash for such sponsorship (each such third-party sponsorship being a "Cash Sponsorship" and such agreements being the "Cash Sponsorship Agreements"), the City shall pay to Squires ("Cash Sponsorship Payment") the following amounts based on the cumulative amount of cash actually received by the City from Sponsors during each Agreement Year, all such amounts to be computed and paid no later than 30 days after City's receipt of each cash Sponsorship Payment:

<u>For cumulative Cash Sponsorship amounts received each Agreement Year by the City between:</u>	<u>Squires shall be paid the following percentage of such cumulative amounts:</u>
\$0 and \$50,000	5%
\$50,001 and \$150,000	10%
\$150,001 and \$250,000	15%
\$250,001 and above	20%

2. If at any time prior to the expiration or earlier termination of this Agreement, the City has entered into any Cash Sponsorship Agreement(s) which extends beyond the date of expiration or earlier termination of this Agreement, the City shall, following such expiration or earlier termination, pay to Squires a percentage of cash received by the City pursuant to the Sponsorship Agreement(s) in accordance with the table above in subsection B.1. of this Section (see Example #2, below in this Section). This provision shall survive the expiration or earlier termination of this Agreement.

3. In any event and notwithstanding any other provision of this Agreement, Squires shall not be entitled to any such payment unless and until the City has actually received cash from a Sponsor pursuant to a written agreement between the City and the Sponsor.

Example #1: For the Agreement Year from November 1, 2007 through October 31, 2008, the following Cash Sponsorships, in order of receipt, are secured directly from the work of Squires:

ABC Company	\$40,000
XYZ Inc.	\$25,000
Funtime Corp.	\$50,000
Beverages Co.	\$30,000
GoAddison, LLC	\$50,000
Benefit, LP	\$40,000
Advertise, Inc.	\$30,000
Total	\$265,000

Based on the above, Squires is to be paid the following:

<u>Sponsor</u>	<u>Cash Received by City</u>	<u>Applicable Percentage</u>	<u>Payment to Squires</u>
ABC Company	\$40,000	5%	\$2,000
XYZ Inc.	\$25,000	5% on first \$10,000 10% on remaining \$15,000 <i>(cumulative amount (CA) now \$65,000)</i>	\$2,000
Funtime Corp.	\$50,000	10% <i>(CA now \$115,000)</i>	\$5,000
Beverages Co.	\$30,000	10% <i>(CA now \$145,000)</i>	\$3,000
GoAddison, LLC	\$50,000	10% on first \$5,000 15% on remaining \$45,000 <i>(CA now \$195,000)</i>	\$7,250
Benefit, LP	\$40,000	15% <i>(CA now \$235,000)</i>	\$6,000
Advertise, Inc.	\$30,000	15% on first \$15,000 20% on remaining \$15,000	\$5,250

Example #2. In the Agreement Year beginning November 1, 2008, the Agreement is terminated effective as of July 1, 2009. At the time of such termination, the following Cash Sponsorships had been secured by Squires in that Agreement Year:

We/Are/Sponsors, Inc.	\$25,000 (one year contract, renewable for two additional years by We/Are/Sponsors)
Promotions Co.	\$30,000 (one year contract, renewable for two additional years by Promotions)

Based on the Cash Sponsorships and receipt of cash under the Cash Sponsorship agreements, the City paid Squires the sum of \$3,000 (5% of the first \$50,000, plus 10% of the remaining \$5,000) prior to the Agreement termination.

In the fiscal year beginning November 1, 2009, We/Are/Sponsors, Inc. renews its Cash Sponsorship agreement, but Promotions Co. does not. When the cash from We/Are/Sponsors, Inc. is actually received by the City, the City will pay Squires a percentage of the cash received, based on the table in subsection B.1. of this Section.

C. Media Payment. For all media purchased on behalf of the City by Squires, Squires shall be paid 7.5% of the cost of such media.

D. In-Kind. To the extent that Squires or the City receives a sponsorship proposal providing for "in-kind" services or payments (except for such sponsorships which the City has as of the Effective Date), the parties will in each instance negotiate in good faith the compensation due to Squires with respect thereto (e.g., this applies only to new value-in-kind sponsorships obtained by Squires).

Section 5. Termination.

A. Without cause. Either party may terminate this Agreement at any time by giving to the other party at least 45 days prior written notice of such termination. Termination shall have no effect upon the rights and obligations of the parties arising out of any transaction occurring prior to the effective date of such termination.

B. With cause.

(i) If (a) Squires fails to fulfill in a timely and professional manner Squires' obligations under this Agreement, or (b) Squires violates any of the material terms or provisions of this Agreement (the said (a) or (b) being referred to together in this subsection as a "Breach"), or (d) if Squires or Squires' executives fail to exercise good behavior either during or outside of working hours that is of such a nature as to bring discredit upon the City, as determined solely by the City, then City shall have the right to terminate this Agreement effective immediately upon the City giving written notice thereof to Squires.

(ii) Notwithstanding the foregoing subsection B.(i), with respect to a Breach, such right of termination shall not be exercised by the City unless and until a Breach remains uncured by Squires for a period of 5 consecutive days after notice thereof (which notice shall specifically identify the Breach) from the City is received by Squires; but if the Breach cannot with diligence be cured within said 5 day period, if within such 5 day period Squires provides the Town written notice of the curative measures which it proposes to undertake, and proceeds promptly to initiate such measures to cure such Breach, and thereafter prosecutes the curing of such Breach with diligence and continuity, the time within which such Breach may be cured shall be extended for such period as may be necessary to complete the curing of such Breach with diligence and continuity, not to exceed 15 days following the receipt of the said notice.

Section 6. Relationship of Parties. Squires is and shall be during the entire term of the Agreement an independent contractor, and nothing in this Agreement is intended nor shall be construed to create an employer-employee relationship, a joint venture relationship, a joint enterprise, or to allow the City to exercise discretion or control over the professional manner in which Squires performs the Services which are the subject matter of the Agreement; provided always however that the Services to be provided by Squires shall be provided in a manner consistent with all applicable standards, regulations, and laws.

Section 7. Indemnity.

A. SQUIRES AGREES TO AND SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE TOWN OF ADDISON, TEXAS, ITS OFFICIALS, OFFICERS, EMPLOYEES AND AGENTS (IN BOTH THEIR OFFICIAL AND PRIVATE CAPACITIES) (TOGETHER, "INDEMNIFIED PERSONS") FROM AND AGAINST ANY AND ALL SUITS, ACTIONS, CLAIMS, JUDGMENTS, LIABILITIES, PENALTIES, FINES, EXPENSES, FEES, COSTS (INCLUDING REASONABLE ATTORNEY'S FEES AND OTHER COSTS OF DEFENSE), AND DAMAGES (TOGETHER, "DAMAGES") ARISING OUT OF OR IN CONNECTION WITH (A) SQUIRES' PERFORMANCE OF THIS AGREEMENT, (B) THE CONDUCT OF SQUIRES' BUSINESS OR ANYTHING ELSE DONE OR PERMITTED BY SQUIRES TO BE DONE IN OR ABOUT THE TOWN OF ADDISON OR IN CONNECTION WITH THIS AGREEMENT, (C) ANY BREACH OR DEFAULT IN THE PERFORMANCE OF SQUIRES' OBLIGATIONS UNDER THIS AGREEMENT, (D) ANY MATERIAL MISREPRESENTATION OR MATERIAL BREACH OF WARRANTY BY SQUIRES UNDER THIS AGREEMENT, AND (E) WITHOUT LIMITING ANY OF THE FOREGOING, ANY NEGLIGENT ACT OR OMISSION OF SQUIRES OR SQUIRES' OFFICERS, EMPLOYEES, REPRESENTATIVES, AGENTS, CONTRACTORS, SUBCONTRACTORS, ASSOCIATES, OR INVITEES, OR ANY PERSON FOR WHOM SQUIRES IS LEGALLY LIABLE, UNDER, RELATED TO, OR ON CONNECTION WITH, THIS AGREEMENT, INCLUDING DAMAGES CAUSED BY THE INDEMNIFIED PERSONS OR ANY OF THEM.

B. With respect to Squires' obligations set forth in subsection A. of this Section, Squires shall have no duty to indemnify or hold harmless an Indemnified Person for any Damages caused by the sole negligence of an Indemnified Person.

C. With respect to Squires' obligations set forth herein in subsection A. of this Section, Squires shall have the duty, at its sole cost and expense, through counsel of its choice, to litigate, defend, settle or otherwise attempt to resolve any claim, lawsuit, cause of action, or judgment arising out of or in connection with this Agreement; provided however, that the City (or other applicable Indemnified Person) shall have the right to approve the selection of counsel by Squires and to reject Squires's selection of counsel and to select counsel of the City's (or other Indemnified Person's) own choosing, in which instance, Squires shall be obligated to pay reasonable attorney fees and the expenses associated thereto. The City agrees that it will not unreasonably withhold approval of counsel selected by Squires, and further, the City agrees to act reasonably in the selection of counsel of its own choosing.

D. In the event that Squires fails or refuses to provide a defense to any claim, lawsuit, judgment, or cause of action arising out of or in connection with this Agreement, the

City (or other Indemnified Person) shall have the right upon prior written notice to Squires (within a reasonable period of time to allow Squires to defend) to undertake the defense, compromise, or settlement of any such claim, lawsuit, judgment, or cause of action, through counsel of its own choice, on behalf of and for the account of, and at the risk of Squires, and Squires shall be obligated to pay the reasonable and necessary costs, expenses and attorneys' fees incurred by the City (or other Indemnified Person) in connection with handling the prosecution or defense and any appeal(s) related to such claim, lawsuit, judgment, or cause of action.

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

Section 8. Records. Squires shall keep complete and accurate records for the Services performed pursuant to this Agreement and any records required by law or government regulation and shall make such records available to the City upon request. Squires shall assure the confidentiality of any records that are required by law to be so maintained. All data, studies, information, reports and other materials and items (whether kept electronically, in writing, or otherwise) prepared by or for Squires in connection with or related to this Agreement and the Services provided by Squires hereunder are the sole property of the City; upon the expiration or termination of this Agreement, all such finished or unfinished data, studies, information, reports and other materials and items shall, upon notification from City to Squires, be promptly delivered by Squires to the City, and this obligation shall survive such expiration or termination for a period of one (1) year beyond the Term or termination if earlier terminated.

Section 9. Notice. For purposes of this Agreement, notices and all other communications provided for herein shall be in writing, addressed as provided hereinafter to the party to whom the notice or request is given, and shall be either (i) delivered personally, (ii) sent by United States certified mail, postage prepaid, return receipt requested, (iii) placed in the custody of Federal Express Corporation or other nationally recognized carrier to be delivered overnight. Notice shall be deemed given: when received if delivered personally; seventy-two (72) hours after deposit if sent by mail; and twenty-four (24) hours after deposit if sent by Federal Express or other nationally recognized carrier. Addresses for notice are as follows:

To the City:

Town of Addison, Texas
Addison Conference & Theatre Centre
15650 Addison Road
Addison, Texas 75001-3285
Attn: Special Events Coordinator

To Squires:

2828 Routh Street
Suite 375
Dallas, TX 75208

Section 10. Confidentiality. No reports, information, documents, or other materials given to or prepared by Squires under this Agreement which the City requests in writing to be kept confidential, shall be made available to any individual, business, or organization by Squires, its employees, representatives, or agents, without the prior written approval of the City.

Section 11. Authority to Execute. The undersigned officers and/or agents of the parties hereto are the properly authorized officials and have the necessary authority to execute this Agreement on behalf of the parties hereto.

Section 12. Assignment. Inasmuch as this Agreement is intended to secure the specialized services of Squires, Squires has no authority or power to and may not assign, transfer, delegate, subcontract or otherwise convey any interest herein without the prior written consent of the City, and any such assignment, transfer, delegation, subcontract or other conveyance without the City's prior written consent shall be considered null and void. Notwithstanding the foregoing, it is understood and agreed that Squires is permitted to assign this Agreement to Hawkeye Communications, LLC or any affiliated or related entity therewith, provided that at the time of such assignment the principals currently involved with Squires (including Merrill Squires and Dave Mullen) are principals and owners of Hawkeye Communications, LLC or affiliated or related entity) and directly involved in the Services being provided hereunder.

Section 13. Rights and Remedies Cumulative; Non-Waiver. The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by either party shall not preclude or waive its right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the parties may have by law statute, ordinance, or otherwise. The failure by either party to exercise any right, power, or option given to it by this Agreement, or to insist upon strict compliance with the terms of this Agreement, shall not constitute a waiver of the terms and conditions of this Agreement with respect to any other or subsequent breach thereof, nor a waiver by such party of its rights at any time thereafter to require exact and strict compliance with all the terms hereof. Any rights and remedies either party may have with respect to the other arising out of this Agreement shall survive the cancellation, expiration or termination of this Agreement.

Section 14. Applicable Law; Venue. In the event of any action under this Agreement, 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 Agreement.

Section 15. Enforceability. If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

Section 16. No Third-Party Beneficiaries. This Agreement and all of its terms and provisions are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

Section 17. Entire Agreement and Modification. This Agreement supersedes all previous Agreements and constitutes the entire understanding of the parties hereto. No changes, amendments or alterations shall be effective unless in writing and signed by both parties.

Section 18 Authority. Each party hereby represents that the undersigned officers and/or agents of the parties are the properly authorized officials and have the necessary authority to execute this Agreement on behalf of each of the respective parties.

SIGNED by each of the respective parties on the date set forth below.

TOWN OF ADDISON, TEXAS

SQUIRES SPORTS INTERACTIVE, LLC

By: _____
Ron Whitehead, City Manager

Date: _____

By: _____

Typed Name: _____

Title: _____

Date: _____

Council Agenda Item: #R5

SUMMARY: Approval of an agreement with Hand & Associates Marketing Communications to advertise in the November 2006, March 2007 and August 2007 editions of the Addison/ North Dallas Corridor Guide publication.

FINANCIAL IMPACT:

Budgeted Amount: \$111,750
\$105,000 for advertising (\$35,000 per edition)
\$6,750 for distribution to the specific employers and buildings within the designated area

Cost: \$111,750

BACKGROUND: In the Fall of 1998 the Town entered into agreement with Hand & Associates to buy advertising in the Addison/ North Dallas Visitors Guide for the purpose of promoting Addison and the surrounding area to visitors. The Guide continues to be well received and is distributed to all the hotel rooms in Addison and the LBJ corridor as well as the lobbies of specific buildings and employers within the defined geographic area.

RECOMMENDATION:

Staff recommends approval.

STATE OF TEXAS

Addison/North Dallas Advertising Agreement

COUNTY OF DALLAS

This Agreement is made as of November 14, 2006 by and between the Town of Addison, Texas (the "Town") and Rodney Hand & Associates Marketing Communications, LP ("Hand").

WHEREAS, the Town is a duly incorporated municipality pursuant to the laws of the State of Texas; and

WHEREAS, Hand is a limited partnership doing business in the State of Texas; and

WHEREAS, Hand is the owner of a publication known as the Addison and North Dallas Corridor Guide Publication (the "Publication"), and the Town desires to advertise in the Publication for the purpose of promoting the Town and the surrounding area to visitors through distribution in hotel rooms in the Town and North Dallas; and

WHEREAS, the Town and Hand agree that the Publication shall be produced and distributed in accordance with the terms of this Agreement (including Exhibit A attached hereto and incorporated herein).

NOW, THEREFORE, for and in consideration of the above and foregoing premises, the mutual promises and covenants contained herein, and other good and valuable consideration, the Town of Addison, Texas and Hand & Associates Marketing Communications do contract and agree as follows:

1. Incorporation of Premises. The above and foregoing premises are true and correct and are incorporated herein in their entirety.
2. Term. This Agreement shall be in effect from the date of execution hereof by the Town and shall terminate, except as otherwise provided for herein, upon completion of the third issue of the Publication, including its distribution.
3. Conduct of Publication. Hand shall be the owner/publisher of the Publication and the Town shall be considered an advertiser.
4. Obligations, Representations and Warranties; Indemnification.
 - A. Hand: Hand represents, warrants and covenants that:
 - (1) Hand shall acquire any and all licenses, agreements, permits, waivers, releases, registrations, approvals, authorizations, or any other permit or document required or necessary to produce the Publication.
 - (2) In the production of the Publication, Hand shall comply with all applicable federal, state and local laws, rules and regulations.

- (3) During the term of this Agreement, neither Hand nor any of Hand's associates or employees shall participate, whether directly or indirectly, financially or otherwise, in the production of any other publication related to Addison or the North Dallas area.
- (4) Hand shall keep and hold all information provided to it by the Town in connection with this Agreement in confidence and shall not disclose such information to any third party. This paragraph shall survive the termination hereof.
- (5)(a) IN CONSIDERATION OF THE GRANTING OF THIS AGREEMENT, HAND AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS THE TOWN, ITS, OFFICERS, AGENTS AND EMPLOYEES (EACH AN "INDEMNITEE") FROM AND AGAINST ANY AND ALL SUITS, ACTIONS, JUDGMENTS, LIABILITIES, LOSSES, CLAIMS, PENALTIES, FINES, EXPENSES, FEES AND COSTS (INCLUDING REASONABLE ATTORNEY'S FEES AND OTHER COSTS OF DEFENSE), AND DAMAGES (TOGETHER, "DAMAGES") ARISING OUT OF OR IN CONNECTION WITH HAND'S PERFORMANCE OF THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, ANY NEGLIGENT ACT OR OMISSION OF HAND OR ANY OWNER, PARTNER, OFFICER, EMPLOYEE, AGENT, REPRESENTATIVE, CONTRACTOR, SUBCONTRACTOR, LICENSEE, GUEST, OR INVITEE OF HAND, OR ANY OTHER PERSON OR ENTITY FOR WHOM HAND MAY BE LIABLE UNDER, RELATED TO, OR IN CONNECTION WITH, THIS AGREEMENT, INCLUDING DAMAGES CAUSED BY THE INDEMNITEE'S OWN NEGLIGENCE, OR GROSS NEGLIGENCE, OR CONDUCT THAT MAY EXPOSE AN INDEMNITEE TO STRICT LIABILITY UNDER ANY LEGAL THEORY, EXCEPT AS SPECIFICALLY LIMITED HEREIN.
- (b) WITH RESPECT TO HAND'S INDEMNITY OBLIGATION SET FORTH IN SUBSECTION (A), HAND SHALL HAVE NO DUTY TO INDEMNIFY AN INDEMNITEE FOR ANY DAMAGES CAUSED BY THE SOLE NEGLIGENCE OF THE INDEMNITEE, OR SOLE GROSS NEGLIGENCE OF THE INDEMNITEE, OR SOLE CONDUCT OF THE INDEMNITEE THAT MAY OR DOES EXPOSE THE INDEMNITEE TO STRICT LIABILITY UNDER ANY LEGAL THEORY.
- (c) IF AN INDEMNITEE SUFFERS DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OF THIS AGREEMENT THAT ARE CAUSED BY THE CONCURRENT NEGLIGENCE, GROSS NEGLIGENCE, OR CONDUCT THAT MAY OR DOES RESULT IN EXPOSURE TO STRICT LIABILITY, OF BOTH HAND AND THE INDEMNITEE, HAND'S

INDEMNITY OBLIGATION SET FORTH IN SUBSECTION (A) WILL BE LIMITED TO A FRACTION OF THE TOTAL DAMAGES EQUIVALENT TO HAND'S OWN PERCENTAGE OF RESPONSIBILITY.

- (d) With respect to Hand's duty to defend set forth herein in subsection (a), Hand shall have the duty, at its sole cost and expense, through counsel of its choice, to litigate, defend, settle or otherwise attempt to resolve any claim, lawsuit, cause of action, or judgment arising out of or in connection with this Agreement; provided however, that the Town shall have the right to approve the selection of counsel by Hand and to reject Hand's selection of counsel and to select counsel of the Town's own choosing, in which instance, Hand shall be obligated to pay reasonable attorney fees and the expenses associated thereto. The Town agrees that it will not unreasonably withhold approval of counsel selected by Hand, and further, the Town agrees to act reasonably in the selection of counsel of its own choosing.
- (e) In the event that Hand fails or refuses to provide a defense to any claim, lawsuit, judgment, or cause of action arising out of or in connection with this Agreement, the Town shall have the right to undertake the defense, compromise, or settlement of any such claim, lawsuit, judgment, or cause of action, through counsel of its own choice, on behalf of and for the account of, and at the risk of Hand, and Hand shall be obligated to pay the reasonable and necessary costs, expenses and attorneys' fees incurred by the Town in connection with handling the prosecution or defense and any appeal(s) related to such claim, lawsuit, judgment, or cause of action.
- (f) The indemnity, hold harmless, and defense obligations of Hand set forth in this section or elsewhere in this Agreement shall survive the expiration or earlier termination of this Agreement.
- (6) Hand, its officers, agents and employees do hereby waive any and all claims for damage, injury or loss to any person or property, including the death of any person, that may be caused, in whole or in part, by the act or failure to act of any officer, agent or employee of the Town. Hand, its officers agents and employees assume the risk of all conditions whether dangerous or otherwise, in and about the premises of the Town, and waive any and all specific notice of the existence of any defective or dangerous condition in or about the said premises. The provisions of this paragraph shall survive the termination of this Agreement.

B. Town: The Town represents, warrants, and covenants that:

- (1) The Town shall pay Hand a sum of \$35,000 for 18 pages of R.O.B. (Run of Book) advertising in the November 2006 issue of the

Publication, \$35,000 for 18 pages of R.O.B. advertising in the March 2007 issue and \$35,000 for 18 pages of R.O.B. advertising in the August 2007 issue of the Publication. Such payment shall be made in accordance with the terms of this Agreement, including Exhibit A.

- (2) The Town shall pay Hand a sum of \$2,550.00 for local distribution of each of the November 2006, March 2007 and August 2007 Publication respectively to various locations approved by the City Manager. The area distribution will include the Town and extends from the borders of the Town south to LBJ Freeway (IH 635), north to Legacy, east to Hillcrest Road, and west to Marsh Lane. The various local distribution points shall be determined by the Town. Such sum shall be paid by the Town to Hand upon the Town receiving proof acceptable to the Town of the completion of the distribution.
5. Termination. This Agreement may be terminated at any time by either party hereto in the event that the other party is in breach of any term of this Agreement and such breach continues for more than three (3) days after receipt by the breaching party of written notice of the breach from the non-breaching party. In the event of such termination Hand shall be compensated for all services properly performed to the date of termination. In the event of such termination, should Hand have been paid by the Town for services not yet properly performed then Hand shall reimburse the Town all such payments. Acceptance or payment of such reimbursement shall not constitute a waiver of any claim that may otherwise arise out of this Agreement.
6. Delays. No delay by either of the parties hereto in performing their respective duties, or obligations hereunder shall be deemed a breach of this Agreement if such delay arises from causes beyond the reasonable control of party, including delays resulting from labor disputes, strikes, wars, riots, insurrection, civil commotion, government regulations, fire, flood, storm, or acts of God, provided that such affected party uses its best efforts to avoid non-performance and resumes full performance hereunder as soon as practical. Shortage of material or equipment or changes in price of materials or equipment shall not constitute valid grounds for delay.
 - b. It will constitute a breach of this Agreement, allowing for termination and/or recovery of damages which the non-breaching party sustains if:
 - (i) The Town fails to make any payment due hereunder within thirty (30) days following the receipt of an invoice therefor, (and each such invoice shall include a summary statement of services rendered; and Hand shall supply such supporting documentation with each invoice regarding the services performed by Hand as may be requested by Town from its Staff employees), or

- (ii) Hand fails to deliver the November 2006 issue of the Publication, in the required quantities (see Exhibit A) on or before November 24, 2006, the March 2007 issue in the required quantities (see Exhibit A) on or before March 16, 2007 or the August 2007 issue in the required quantities (see Exhibit A) on or before August 17, 2007; provided, however, that the Town agrees to allow Hand a period not to exceed five (5) business days from the delivery date set out above to fully complete Hand's required distribution of the Publications. Failure by Hand to deliver on the dates set above shall result in a late fee of \$400.00 per day which the Town shall deduct from the final amount then payable.

7. Notice: Where the terms of this Agreement require that notice in writing be provided, such notice shall be deemed received by the party to whom it is directed upon being hand-delivered or upon three (3) days following the deposit of the notice in the United States mail, postage pre-paid, and sent by certified mail, return receipt requested and properly addressed as follows:

To Addison:

Town of Addison
P. O. Box 9010
Addison, TX 75001
Attn: Lea Dunn
Deputy City Manager

To Hand:

Rodney Hand & Associate
Communications, LP
PO Box 7444
Dallas, TX 75209
Attn: Rodney Hand

8. Assignment. This Agreement shall not be assigned or otherwise conveyed in whole or in part by Hand without the prior written consent of the Town. Because this is a services contract, the Town is not obligated to consent to any assignment or other conveyance of any portion of this Agreement. Any attempted assignment or other conveyance hereof by Hand shall be null, void and of no force or effect.

9. Independent Contractor. The relationship of Hand to the Town is that of an independent contractor. Neither the Town nor Hand shall be deemed to be the agent of the other and neither is authorized to take any action binding upon the other. No term or provision of this Agreement or any action in the performance hereof is intended nor shall be construed as making Hand the agent, servant or employee of the Town, or to create an employer-employee relationship, a joint venture relationship, or a joint enterprise relationship.

10. Texas Law to Apply. This Agreement and Exhibit "A" shall be governed by the laws of the State of Texas (without reference to its conflict of law provisions), and shall be performable and all compensation payable in Dallas County Texas. Venue under this Agreement lies in Dallas County, Texas.

11. Entire Agreement. This Agreement and the attached "Exhibit A" represents the entire and integrated agreement between the Town and Hand and supersedes all prior negotiations, representations and/or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both parties.
12. Severability. If any clause, paragraph, section or portion of this Agreement shall be found to be illegal, unlawful, unconstitutional or void for any reason, the balance of the Agreement shall remain in full force and effect.
13. Authority to Execute. The undersigned officers and/or agents of the Town and Hand are properly authorized officials of the said parties and have the authority necessary to execute this Agreement on behalf of the respective party, and the parties hereby certify one to the other that any necessary resolutions extending said authority have been duly passed and are now in full force and effect.

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

TOWN OF ADDISON, TEXAS

**RODNEY HAND & ASSOCIATES
MARKETING
COMMUNICATIONS, LP**

By: _____
Ron Whitehead, City Manager

By: _____
Rodney Hand, Principal

Attest: _____
Mario Canizares, City Secretary

EXHIBIT "A"**DESCRIPTION OF ADDISON/NORTH DALLAS PUBLICATION**

- A. **Schedule:** The (i) November 20056 issue of the Publication shall be completed and distributed by Hand on or before November 2524, 20056, (ii) the March 20067 issue of the Publication shall be completed and distributed on or before March 2416, 20067, and the (iii) August 20067 issue of the Publication shall be completed and distributed by Hand on or before August 2517, 20067.
- B. **Duties of Town:** The Town shall:
1. Become the anchor advertiser for the November 20056, March 20067, and August 20067 issue of the Publication. The Town shall be provided (a) 18 pages of R.O.B. (Run of Book) advertising and editorial, for the November 20056 issue of the Publication at a total cost not to exceed \$35,000, (b) 18 pages of R.O.B. (Run of Book) advertising and editorial, for the March 20067 issue of the Publication at a total cost not to exceed \$35,000, and (c) 18 pages of R.O.B. advertising and editorial for the August 20067 issue of the Publication at a total cost not to exceed \$35,000. Payments shall be due based on the following schedule:

For the November 20056 issue, a total of \$35,000.00 will be due 30 days after completion by Hand of delivery of the Publication to all the hotels contained on a distribution list designated by the Town and the distribution of the Publication to all other sources as described herein.

For the March 20067 issue, a total of \$35,000.00 will be due 30 days after completion by Hand of delivery of the Publication to all the hotels contained on a distribution list designated by the Town and the distribution of the Publication to all other sources as described herein.

For the August 20067 issue, a total of \$35,000.00 will be due 30 days after completion by Hand of delivery of the Publication to all the hotels contained on a distribution list designated by the Town and the distribution of the Publication to all other sources as described herein.
 2. **Submit to Hand in writing:** changes and/or corrections to proofs or artwork, photos, and editorial layout. The Town shall return requests for proofing within 96 hours of receipt from Hand.
 3. The Town agrees to permit Hand to review its collection of photographs, and agrees to grant to Hand a non-exclusive, royalty free license to use or reproduce such photographs, but solely as a part of the content of the

publications which are the subject hereof; provided, however, that if any other person, firm or entity is the owner of any intellectual property rights in connection with any of such photographs, Hand is required to pay such fees, or enter into agreements with third parties as Hand and such third party may agree, without any cost or expense to the Town

4. Town authorizes Hand to produce the Town's logo, royalty free, but solely in connection with the publications which are the subject of this Agreement, and for no other purpose.

C. Duties of Hand: Hand shall provide:

1. On or before November 1, 20056 a timeline that details the elements of the Publication with key milestones.
2. A minimum 64-page Perfect Bound magazine of 30,000 copies each for the November 20056 issue, March 20067 issue, and the August 20067 issue of the Publication.
3. Proofs of the editorial outline, story ideas, cover design, photos, artwork, and layout and input for approval by the Town. No editorial material of any nature will appear in the Publications unless it has been reviewed and approved by the Town.
4. The Town shall have prior approval of all promotional material including advertising rates pertaining to the Publication.
5. Hand shall be responsible for the distribution of the Publication to the participating hotels and shall also verify placement of Publication in guest rooms. Hand shall also provide placement copies to hotels as needed. In addition, Hand shall also distribute the publication to the following sources:

Participating Hotel Sales Offices
Corporate Concierges (~~4 buildings in area~~)
Commercial Leasing Offices (~~12 locations of new construction in Addison~~)
Residential Real Estate Offices.
Advertisers

Hand shall provide to the Town a list of all sources to whom copies of the Publication are distributed.

Hand shall coordinate distribution of the Publication at the Dallas Market Center, provided, however that, the Town shall assume the costs associated with this distribution.

6. As the anchor advertiser, the Town will be given copies for distribution.
7. Advertising sales area will be limited to:

South of ~~Frankfort~~ Legacy
East of Marsh Lane North

**of Harvest Hill West of
Hillcrest Road**

~~Major retail concentrations such as the Galleria and Valley View Mall shall be included.~~

ReRestaurants outside the area shall not be included.

No advertising will be accepted from any person, business or organization unless it meets the geographic limitations set out above without express permission from the Town of Addison Deputy City Manager or City Manager. The Town shall receive a list of advertisers one (1) week following the posted space reservation deadline for each issue.

- 8. The Town and Hand agree that the ratio of advertising to editorial shall not exceed 40% ads to 60% editorial.**
- 9. The Town and Hand agree that the average ad rate for a run of space, full page/4 color insertion shall not exceed \$3,500.00 and for exclusive positions, a full page/4 color insertion shall not exceed \$4595.00.**

Council Agenda Item: #R6

SUMMARY: Consideration of a resolution authorizing the City Manager to amend the advertising contract with Krause Advertising to provide an additional fee of \$30,000 for the creative development of a new newspaper ad campaign and to provide marketing consultation, creative ad production services, administrative and account oversight for the Town 2006-2007 marketing and special events initiatives for a monthly fee of \$18,000.

FINANCIAL IMPACT:

Budgeted Amount: \$246,000

Cost:

\$18,000 per month for Krause's services for twelve months; \$30,000 for the creative development of a new newspaper ad campaign.

Any outside suppliers engaged by Krause on behalf of the Town will be invoiced by Krause and billed to the Town with a 17.65% mark-up.

Town will reimburse at cost any services such as courier, freight, postage, long distance or similar expenditures incurred for Town.

BACKGROUND: In July 2003 staff solicited proposals from area advertising firms to provide creative and marketing services to the Town. As a result of that process, Krause Advertising was selected to provide creative and marketing services for the Town. The terms of the agreement were for a two-year period with an option to renew for an additional two years. The agreement also provided that should new events be created or a significant change in the proposed marketing initiatives occurs, either party had the opportunity to review the fee structure. The proposed fee reflects the marketing initiatives for the 2006-2007 year which include the development of a new newspaper ad campaign. It's been four years since the first ad campaign was implemented. While highly successful, many of the restaurants that were used are no longer in business and the creative format is stale. Staff is proposing the development of a new format for the Dallas Morning News Friday Guide ads as well as new restaurant photography.

Staff has been very pleased with Krause's work and their ability to address the variety of events and the other marketing elements that comprise the Town's marketing program. This year will be the last year of Krause's contract and staff will be soliciting proposals for the 2007-08 marketing initiatives.

RECOMMENDATION:

Staff recommends approval.

STATE OF TEXAS §
COUNTY OF DALLAS §

ADVERTISING AGREEMENT

This Advertising Agreement ("Agreement") is made as of January, 2005 by and between the Town of Addison, Texas (the "Town") and Krause Advertising ("Krause").

WHEREAS, the Town is a Texas home rule municipality operating under and pursuant to article 11, section 5 of the Texas Constitution, the laws of the State of Texas, and its Home Rule Charter; and

WHEREAS, Krause is a corporation doing business in the State of Texas; and

WHEREAS, the Town and Krause desire to enter into this Agreement setting forth the terms and conditions under which Krause will provide to the Town advertising services on a non-exclusive basis.

NOW, THEREFORE, for and in consideration of the above and foregoing premises, the mutual promises and covenants contained herein, and other good and valuable consideration, the Town of Addison, Texas and Krause Advertising do contract and agree as follows:

1. Incorporation of Premises. The above and foregoing premises are true and correct and are incorporated herein in their entirety.

2. Term. Subject to the earlier termination of this Agreement as provided for herein and subject to the annual appropriation of funds by the Town to make payments under this Agreement, this Agreement shall be in effect for a period of two (2) years, beginning on January 1, 2005 and ending on December 31, 2006. If funds to make any payment or payments under this Agreement during the said Term are not appropriated by the Town, this Agreement shall terminate.

3. Services. Krause shall provide to the Town, and to the Town's satisfaction, advertising services in any and all fields of advertising (the "Services") as the Town may request from time to time, in the Town's sole discretion and including, without limitation, the items outlined in Exhibit A (entitled "Krause Creative for FY 2005") attached hereto and incorporated herein. In connection with the provision of such Services, Krause shall comply with all applicable federal, state and local laws, rules and regulations.

In providing the Services, Krause may from time to time receive information from the Town that is incorporated by Krause into its work; as to such information, Krause assumes no responsibility for its accuracy, and to the extent such information is accurately incorporated into Krause's work, Krause shall not be responsible for any claims in connection therewith.

4. Compensation. For the Services provided by Krause, the Town shall pay Krause in accordance with the following:

- (a) A monthly fee of \$15,000 ("Monthly Fee"), which will cover all internal agency labor in performance of account service, marketing consultation, creative ad production

services, administrative and account oversight. This Monthly Fee is based on the initiatives as outlined in the Town's marketing and special events agendas as outlined in the attached Exhibit A. In the event a new event be created or a significant increase in the marketing budget occur, both parties may discuss adjusting the fee accordingly.

(b) All scans, photography, illustration, printing, and any other outside suppliers engaged by Krause on the Town's behalf and with the Town's prior consent will be invoiced to Krause and billed to the Town with an effective 17.65% mark-up in accordance with the terms hereof.

(c) Krause will receive reimbursement at cost for outlays made by Krause for courier, freight, postage, long distance and similar expenditures incurred by Krause for the Town in accordance with the terms hereof.

5. Billing.

(a) Krause shall submit to the Town, on the last day of each month during the Term hereof and beginning with January 31, 2005, an invoice for the Monthly Fee.

(b) Krause shall submit to the Town, on or before the fifth day of each month, a detailed statement in writing of all costs and expenses authorized pursuant to this Agreement and incurred by Krause during the immediately preceding month (the first such statement, for the month of January, 2005, being due on or before February 5, 2005, and the last such statement due on or before January 5, 2007).

(c) Each such invoice and statement shall include (i) a description of the work performed for the month preceding the date of the invoice and statement, (ii) time reports for that month for all Krause personnel who work under this Agreement, (iii) true and correct copies of any and all receipts, invoices, and other documents and materials in support of the invoice and statement, and (iv) any such additional documents or materials as the Town may request in connection with the invoice and statement and/or the compensation paid to Krause.

(d) The Town shall pay the Monthly Fee set forth in the invoice and all costs and expenses properly incurred by Krause and set forth in the statement within thirty (30) days following the Town's receipt of the invoice and statement.

(e) The obligations of the parties extending into January, 2007 shall survive the expiration of this Agreement.

6. Termination.

(a) *Without cause.* Either party may terminate this Agreement at any time and for any reason by giving to the other party at least 90 days written notice of such termination. Termination shall have no effect upon the rights and obligations of the parties arising out of any transaction occurring prior to the effective date of such termination. In the event of termination, all finished or unfinished data, studies, reports and other materials and items (whether kept electronically, in writing, or otherwise) prepared by Krause shall be and become the property of

the Town, and Krause shall promptly deliver such items to the Town. Krause shall be paid for all work satisfactorily completed prior to the effective date of said termination.

(b) *With cause.* If Krause, Krause's agents or employees fail to exercise good behavior either during or outside of working hours that is of such a nature as to bring discredit upon the Town, then Town shall have the right to terminate this Agreement effective immediately upon the Town giving written notice thereof to Krause. Termination shall have no effect upon the rights and obligations of the parties arising out of any transaction occurring prior to the effective date of such termination. In the event of termination, all finished or unfinished data, studies, reports and other items (whether kept electronically, in writing, or otherwise) prepared by Krause shall be and become the property of the Town and Krause shall promptly deliver such items to the Town. Krause shall be paid for all work satisfactorily completed prior to the effective date of such termination.

7. Entire Agreement and Modification. This Agreement supersedes all previous Agreements and constitutes the entire understanding of the parties hereto. Krause shall be entitled to no other benefits than those specified herein. No changes, amendments or alterations shall be effective unless in writing and signed by both parties. Krause specifically acknowledges that in entering into and executing this Agreement, it relies solely upon the provisions contained in this Agreement and no others.

8. Assignment. Inasmuch as this Agreement is intended to secure the specialized services of Krause, Krause has no authority or power to and may not assign, transfer, delegate, subcontract or otherwise convey any interest herein without the prior written consent of Town, and any such assignment, transfer, delegation, subcontract or other conveyance without the Town's prior written consent shall be considered null and void.

9. Applicable Law; Venue. In the event of any action under this Agreement, 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 Agreement.

10. Enforceability. If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

11. Independent Contractor. Krause shall, during the entire term of the Agreement, be construed to be an independent contractor and nothing in this Agreement is intended nor shall be construed to create an employer-employee relationship, a joint venture relationship, or to allow the Town to exercise discretion or control over the professional manner in which Krause performs the services which are the subject matter of the Agreement; provided, however, that the Services to be provided by Krause shall be provided in a manner consistent with all applicable standards and regulations governing such Services.

12. Insurance: Indemnity.

(a) Krause, at its own expense, shall purchase, maintain and keep in force such insurance as described and in the minimum amounts set forth below:

- (i) Commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than \$1,000,000 each occurrence, which shall include coverages for bodily injury (including, without limitation, death) and property damage, and particularly for liability arising from premises operations, independent contractors, products/completed operations, personal injury, advertising injury, and contractual liability (including, without limitation, the liability assumed under the indemnity provisions of this Agreement). If such CGL insurance contains a general aggregate limit, it shall apply separately to the Work under this Agreement.
- (ii) 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.
- (iii) Worker's compensation insurance through an insurance company licensed to do business in Texas or, if qualified by law, through self-insurance.

The above policies shall be endorsed to provide the following, as applicable: (i) in all liability policies, name the Town of Addison, Texas as an additional insured; (ii) in all liability policies, provide that such policies are primary insurance to any other insurance available to the additional insureds, with respect to any claims arising out of activities conducted hereunder, and that insurance applies separately to each insured against whom claim is made or suit is brought; and (iii) a waiver of subrogation in favor of the Town of Addison must be included in all such policies. All insurance policies shall be issued by an insurance company with an A.M. Best's rating of not less than A- and authorized to do business in Texas and in the standard form approved by the Texas Department of Insurance, and shall be endorsed to provide for at least 30 days advance written notice to the Town of a material change in or cancellation of a policy. Certificates of insurance, satisfactory to the Town, evidencing all coverage above, shall be furnished to the Town prior to January 31, 2005, with complete copies of policies furnished to the Town upon request. The Town reserves the right to review and revise from time to time the types of insurance and limits of liability required herein.

- (b) (i) KRAUSE AGREES TO AND SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE TOWN OF ADDISON, TEXAS, ITS OFFICERS, AGENTS AND EMPLOYEES (IN BOTH THEIR OFFICIAL AND PRIVATE CAPACITIES) (EACH AN "INDEMNITEE") FROM AND AGAINST ANY AND ALL SUITS, ACTIONS, CLAIMS, JUDGMENTS, LIABILITIES, PENALTIES, FINES, EXPENSES, FEES AND COSTS (INCLUDING REASONABLE ATTORNEY'S FEES AND OTHER COSTS OF DEFENSE), AND DAMAGES (TOGETHER, "DAMAGES") ARISING OUT OF OR IN CONNECTION WITH KRAUSE'S PERFORMANCE OF THIS AGREEMENT (INCLUDING, WITHOUT LIMITATION, DAMAGES RELATING TO

COPYRIGHT OR ANY OTHER INTELLECTUAL PROPERTY RIGHT), ANY BREACH OR DEFAULT IN THE PERFORMANCE OF KRAUSE'S OBLIGATIONS UNDER THIS AGREEMENT, AND WITHOUT LIMITING ANY OF THE FOREGOING, ANY ACT OR OMISSION OF KRAUSE OR OF ITS OFFICERS, EMPLOYEES, REPRESENTATIVES, AND AGENTS UNDER, RELATED TO, OR IN CONNECTION WITH, THIS AGREEMENT, INCLUDING DAMAGES CAUSED BY THE INDEMNITEE'S OWN NEGLIGENCE, OR GROSS NEGLIGENCE, OR CONDUCT THAT MAY OR DOES EXPOSE AN INDEMNITEE TO STRICT LIABILITY UNDER ANY LEGAL THEORY, EXCEPT AS SPECIFICALLY LIMITED HEREIN.

- (ii) With respect to Krause's indemnity obligation set forth in subsection (i), Krause shall have no duty to indemnify an Indemnitee for any Damages caused by the sole negligence of the Indemnitee, or sole gross negligence of the Indemnitee, or sole conduct of the Indemnitee that may or does expose the Indemnitee to strict liability under any legal theory..
- (iii) If an Indemnitee suffers Damages arising out of or in connection with the performance of this Agreement that are caused by the concurrent negligence, gross negligence, or conduct that may or does result in exposure to strict liability, of both Krause and the Indemnitee, Krause's indemnity obligation set forth in subsection (iii) will be limited to a fraction of the total Damages equivalent to Krause's own percentage of responsibility.
- (iv) With respect to Krause's duty to defend set forth herein in subsection (i), Krause shall have the duty, at its sole cost and expense, through counsel of its choice, to litigate, defend, settle or otherwise attempt to resolve any claim, lawsuit, cause of action, or judgment arising out of or in connection with this Agreement; provided however, that the Town shall have the right to approve the selection of counsel by Krause and to reject Krause's selection of counsel and to select counsel of the Town's own choosing, in which instance, Krause shall be obligated to pay reasonable attorney fees and the expenses associated thereto. The Town agrees that it will not unreasonably withhold approval of counsel selected by Krause, and further, the Town agrees to act reasonably in the selection of counsel of its own choosing.
- (v) In the event that Krause fails or refuses to provide a defense to any claim, lawsuit, judgment, or cause of action arising out of or in connection with this Agreement, the Town shall have the right to undertake the defense, compromise, or settlement of any such claim, lawsuit, judgment, or cause of action, through counsel of its own choice, on behalf of and for the account of, and at the risk of Krause, and Krause shall be obligated to pay the reasonable and necessary costs, expenses and attorneys' fees incurred by the Town in connection with handling the prosecution or defense and any appeal(s) related to such claim, lawsuit, judgment, or cause of action.
- (vi) The defense, indemnity and hold harmless provisions and obligations set forth in this Agreement shall survive the expiration or termination of this Agreement.

13. Records.

(a) Krause shall keep complete and accurate records for the services performed pursuant to this Agreement and any records required by law or government regulation and shall make such records available to Town upon request.

(b) Krause shall assure the confidentiality of any records that are required by law to be so maintained.

(c) Krause shall prepare and forward such additional or supplementary records as Town may reasonably request.

14. Notices. Where the terms of this Agreement require that notice in writing be provided, such notice shall be deemed received by the party to whom it is directed upon being hand-delivered or upon three (3) days following the deposit of the notice in the United States mail, postage pre-paid, and sent by certified mail, return receipt requested and properly addressed as follows:

To the Town:

Town of Addison
5300 Belt Line Road
Dallas, Texas 75254
Attn: Lea Dunn

To Krause:

Krause Advertising
5307 E. Mockingbird Lane
Suite 250
Dallas, Texas 75206

15. Findings Confidential. No reports, information, documents, or other materials given to or prepared by Krause under this Agreement which Town requests to be kept confidential shall be made available to any individual or organization by Krause without the prior written approval of Town. However, Krause shall be free to disclose such data as is publicly available.

16. Ownership of Reports. The reports, documents and materials prepared by Krause under this Agreement shall be the sole property of the Town upon payment by the Town to Krause for the fees earned under this Agreement in connection with the preparation and delivery of such reports, documents and materials. Upon expiration or termination of this Agreement, Krause will transfer, assign, and make available to the Town all such reports, documents, and materials. A reasonable hourly fee for compilation of files will be charged. Krause also agrees to give all reasonable cooperation toward transferring with approval of third parties in interest all reservations, contracts and arrangements, with advertising media, or others, for advertising space, radio time, or materials yet to be used (including uncancellable contracts), and all rights and claims thereto and therein, upon being released from the obligations thereof.

17. Agreement Controlling. The Proposal is incorporated into this Agreement, except to the extent any such terms or provisions are in conflict with any term or provision of this Agreement, in which event the express terms and provisions of this Agreement shall control.

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


19. Survival. Any rights and remedies either party may have with respect to the other arising out of the performance of services during the term of this Agreement shall survive the cancellation, expiration or termination of this Agreement. Obligations of either party hereunder arising prior to the termination or cancellation of this Agreement allocating responsibility or liability of or between the Town and Krause shall survive the completion of this Services hereunder and termination or cancellation of this Agreement.

20. Authority to Execute. The undersigned officers and/or agents of the parties hereto are the properly authorized officials and have the necessary authority to execute this Agreement on behalf of the parties hereto, 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.

IN WITNESS WHEREOF, the Town and Krause have executed this Agreement on the day and year first hereinabove set forth.

TOWN OF ADDISON, TEXAS

KRAUSE ADVERTISING

By: 
Ron Whitehead, Town Manager

By: _____
Printed Name: _____
Title: _____

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

FIRST AMENDMENT TO ADVERTISING AGREEMENT

This First Amendment to Advertising Agreement ("First Amendment") is made as of February 14, 2006 by and between the Town of Addison, Texas (the "Town") and Krause Advertising ("Krause").

WHEREAS, the Town and Krause have previously entered into an agreement entitled "Advertising Agreement" (the "Agreement") dated January 11, 2005 regarding creative and marketing services provided by Krause to the Town; and

WHEREAS, the Agreement provides for the payment of a Monthly Fee (so called in the Agreement) by the Town to Krause for the services of Krause, the amount of which was based on the initiatives outlined in the Town's marketing and special events agendas as set forth in Exhibit A to the Agreement; and

WHEREAS, the Agreement further provides that if a new event is created or a significant increase in the marketing budget occurs, the Town and Krause agreed to discuss an adjustment to the Monthly Fee; and

WHEREAS, the Town's marketing initiatives for the Town's 2005-2006 fiscal year have increased, and the Town and Krause desire to amend the Agreement to increase the amount of the Monthly Fee as set forth herein.

NOW, THEREFORE, for and in consideration of the above and foregoing premises, the mutual promises and covenants contained herein, and other good and valuable consideration, the Town of Addison, Texas and Krause Advertising do contract and agree as follows:

Section 1. Incorporation of Premises. The above and foregoing premises are true and correct and are incorporated herein in their entirety.

Section 2. Amendment. The Monthly Fee (as identified and described in the Agreement) for the services of Krause is hereby increased from \$15,000.00 to \$18,000.00. This amended Monthly Fee shall be in effect only from January 1, 2006 through September 30, 2006.

Section 3. Terms. Except as otherwise provided herein, all terms used herein shall have the same meanings assigned to them in the Agreement.

Section 4. No Other Amendments. Except to the extent modified or amended herein, all other terms, conditions, standards, and obligations of the Agreement shall remain unchanged and in full force and effect.

Section 5. Authority to Execute. The undersigned officers and/or agents of the Town and Krause hereto are the properly authorized officials and have the necessary authority to execute this First Amendment on behalf of each of the respective parties, 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.

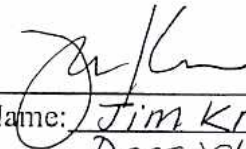
Section 6. Effective Date. This First Amendment shall be deemed effective as of the date first set forth above.

IN WITNESS WHEREOF, the undersigned hereto have executed this First Amendment to Advertising Agreement as of the day and year first written above.

TOWN OF ADDISON, TEXAS

KRAUSE ADVERTISING

By: 
Ron Whitehead, Town Manager

By: 
Printed Name: Jim Krause
Title: President.

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

SECOND AMENDMENT TO ADVERTISING AGREEMENT

This Second Amendment to Advertising Agreement ("Second Amendment") is made as of November 14, 2006 by and between the Town of Addison, Texas (the "Town") and Krause Advertising ("Krause") (the Town and Krause are sometimes referred to herein together as the "parties" and individually as a "party").

WHEREAS, the Town and Krause have previously entered into an agreement entitled "Advertising Agreement" dated January, 2005 regarding creative and marketing services provided by Krause to the Town, which Agreement was amended by that First Amendment to Advertising Agreement made as of February 14, 2006 (the "First Amendment") (the Advertising Agreement, as amended, being referred to herein as the "Agreement"); and

WHEREAS, the term of the Agreement is for a period of two (2) years, beginning on January 1, 2005 and ending on December 31, 2006, and the parties desire by this Second Amendment to amend the Agreement and extend the term as set forth herein; and

WHEREAS, the Agreement further provides that if a new event is created or a significant increase in the marketing budget occurs, the Town and Krause agreed to discuss an adjustment to the Monthly Fee; and

WHEREAS, the Town's marketing initiatives for the Town's 2006-2007 fiscal year have increased, and the Town and Krause desire to amend the Agreement by providing, as set forth herein, for the payment of an additional fee by the Town to Krause for the creative development of a new newspaper ad campaign for the period of time from October 1, 2006 through September 30, 2007.

NOW, THEREFORE, for and in consideration of the above and foregoing premises, the mutual promises and covenants contained herein, and other good and valuable consideration, the Town of Addison, Texas and Krause Advertising do contract and agree as follows:

Section 1. Incorporation of Premises. The above and foregoing premises are true and correct and are incorporated herein in their entirety.

Section 2. Amendment.

A. The term of the Agreement is hereby extended, so that, subject to the earlier termination of the Agreement as provided for therein and all other terms and conditions of the Agreement and subject to the annual appropriation of funds by the Town to make payments under the Agreement, the Agreement shall end on September 30, 2007.

In accordance with such extension, the date for the last monthly statement of costs and expenses to be submitted by Krause to the Town as set forth in Section 5(b) of the Agreement is hereby amended from January 5, 2007 to October 5, 2007. Further, the date identified in Section

5(e) of the Agreement, which provides for the obligations of the parties extending into January, 2007 to survive the expiration of the Agreement, is hereby amended so that such date shall be October, 2007.

B. In addition to the compensation to be paid to Krause by the Town as set forth in the Agreement and for the period of time from October 1, 2006 through September 30, 2007, the Town shall pay to Krause a fee in the amount of Thirty Thousand and No/100 Dollars (\$30,000.00) for the creative development of a new newspaper ad campaign. Such creative development of a new newspaper ad campaign is made a part of the advertising services provided by Krause to the Town and is a part of the "Services" as that term is defined in the Agreement. Payment for the creative development of a new newspaper ad campaign shall be made by the Town upon the completion of the said campaign to the Town's satisfaction and within thirty (30) days following the Town's receipt of a written invoice, in form and content satisfactory to the Town, from Krause for the said amount.

Section 3. Terms. Except as otherwise provided herein, all terms used herein shall have the same meanings assigned to them in the Agreement.

Section 4. No Other Amendments. Except to the extent modified or amended herein, all other terms, conditions, standards, and obligations of the Agreement shall remain unchanged and in full force and effect.

Section 5. Authority to Execute. The undersigned officers and/or agents of the Town and Krause hereto are the properly authorized officials and have the necessary authority to execute this First Amendment on behalf of each of the respective parties, 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.

Section 6. Effective Date. This Second Amendment shall be deemed effective as of the date first set forth above.

IN WITNESS WHEREOF, the undersigned hereto have executed this Second Amendment to Advertising Agreement as of the day and year first written above.

TOWN OF ADDISON, TEXAS

KRAUSE ADVERTISING

By: _____

Ron Whitehead, Town Manager

By: _____

Printed Name: _____

Title: _____

**Town of Addison
Fee Proposal 2007
October 20, 2007**

Project

Account Management

- Account planning
- General meetings with Town and Town partners
- File/image requests
- Marketing consultation

Addison Direct

- Revise 2 versions of hotel vouchers

Hotel Advertising

- Update ad and prepare publication materials for 2 publications

Restaurant Ads – Newspaper

- Production of 20 DMN ads (copy, layout, upload to DMN); no new ads

Restaurant Ads - Other Pubs

- 20 magazine/directory insertions
(e.g. Travel Host, DOVG, DFW Tourism Guide)

Restaurant Promotions

- Development, planning, creative and production of restaurant promotional support

Collateral

- Update hotel brochure - copy/layout revisions, final production files
- Update restaurant brochure - copy/layout revisions, final production files
- Update tear-off restaurant map - copy/layout revisions, final production files
- Create summer events rack brochure - copy/layout, final production files
- Create special events rack brochure - copy/layout, final production files
- Update meeting planner's guide - copy/layout revisions, final production files
- Design for generic kiosk for placement in-between major special events

Web Advertising

- General consultation for Town of Addison web site
(architecture, navigation)

Holiday Open House Invitation

**Town of Addison
Fee Proposal
October 20, 2006**

North Texas Jazz Festival

- Print ads – multiple sizes, t-shirt, flier, program, press kit cover design, DVD label design, kiosk design

Play in May

- Print ads – multiple sizes, Quick rack card (if appropriate), signage, fliers – two sizes, press kit cover design, DVD label design

Taste Addison

- Print ad – multiple sizes, Quick rack card (if appropriate), flier, poster, radio/tv copy, t-shirt artwork, free admission tickets, parking passes, lanyards, VIP invitations, tasty bucks, soda can artwork, Pepsi coupon, kiosk design, press kit cover design, DVD label design

Gourmet Showcase

- Direct mail piece, ticket, flier
 - 2 sizes, program, chef placement signs, print ads
 - multiple sizes, press kit cover design, DVD label design

Kaboom Town!

- Print ad – multiple sizes, parking pass, VIP invite, flier, kiosk design, press kit cover design, DVD label design

July Jazz

- Print ad, flier, kiosk design

Symphonic Saturdays

- Flier, kiosk design

Pepsi KidAround

- Resize ad from sponsor agency, kiosk design

Addison Oktoberfest

- Plastic cup artwork, print ad – multiple sizes, Quick rack card (if appropriate) flier
 - 2 sizes, poster, coaster, radio/tv copy, t-shirt artwork, free admission tickets, parking passes, lanyards, VIP invitations, kiosk design, press kit cover design, DVD label design

**Town of Addison
Fee Proposal 2006
October 20, 2006**

Revised Retainer Total \$18,000/month x 12 = \$216,000

Development of new newspaper ads \$30,000
• Creative development of new newspaper ad campaign

ANNUAL GRAND TOTAL \$246,000

NOTES

Projects outlined in proposal cover Agency time only. All outside costs will be estimated and approved by client prior to production (e.g. printing, retouching, photography, etc.).

If the total number of print ads created exceed the number outlined in this proposal, estimates will be provided for each ad.

All projects include one round of revisions. Each round thereafter will be estimated and billed separately.

Council Agenda Item: #R7

SUMMARY:

Staff is requesting approval to enter into an agreement with Shiroma Southwest to provide public relations and media publicity programs to promote certain special events in the Town of Addison.

FINANCIAL IMPACT:

Budgeted Amount: \$37,500

Cost: \$37,500 plus expenses that may be incurred

BACKGROUND:

For the last several years, the Town has utilized the services of Shiroma Southwest to promote the Town's four major events as well as the smaller events and third party events sponsored by the Town. With the success of the Arts and Events District, the number of events and the Town's exposure as a result of the events has continued to grow. Staff is very pleased with the results that Shiroma consistently provides and feels that the marketing of Addison is definitely enhanced as a result of their services. Funds have been budgeted to cover the marketing costs.

RECOMMENDATION:

Staff recommends approval.

SHIROMA SOUTHWEST

17311 N. Dallas Parkway, Suite 110, Dallas, Texas 75248

Phone (972) 732-6100 Fax (972) 732-0386

November 6, 2006

LETTER OF AGREEMENT BETWEEN THE TOWN OF ADDISON AND SOUTHWEST SPEAKERS BUREAU, INC., D.B.A. SHIROMA/SOUTHWEST, FOR EVENT PUBLIC RELATIONS AND PUBLICITY

This Letter confirms the agreement between the Town of Addison (the client) and Southwest Speakers Bureau, Inc., d.b.a., Shiroma/Southwest (the agency):

SERVICES:

Shiroma Southwest will develop and execute public relations and media publicity programs to promote the Town of Addison's events:

EVENTS ARE AS FOLLOWS:

- Bookworm Bash
- Resolution Run
- Addison Beverage Center
- Out of the Loop Festival
- Italia
- Jazz Festival
- Play in May
- Taste Addison
- Summer Series
- Kaboom Town
- Oktoberfest
- Miscellaneous consultation

FEES: The annual fee is \$37,500, with fees allotted proportionately to each event, based on the amount of hours required. The fee will be billed in 12 monthly increments of \$3,125.00.

EXPENSE REIMBURSEMENT:

Expenses will be billed monthly. Agency will provide the client with a budget of anticipated charges. Client agrees to provide any necessary collateral pieces, if possible, to reduce the need for additional expenses. Agency will be reimbursed for all expenses pertaining to the programs, which may include copies, long distance phone, faxes, postage, printing, messenger services, overnight deliveries, press kit materials and assembly, photo reproduction, print and electronic clipping services, etc. All outside purchases are made only under the authorization of the client and insomuch, the client agrees to accept full responsibility for all obligations and holds the agency harmless from all liability and payment of such charges as ordered under the client's authorization.

All amounts are due in Dallas, Dallas County, Texas. Balances that are more than sixty (60) days past due are subject to a finance charge of 1.33% per month (16% annually) or the current amount allowable by law.

This agreement is effective immediately upon signing and shall remain in effect through October 31, 2007.

FOR TOWN OF ADDISON

**FOR SOUTHWEST SPEAKERS BUREAU, INC.
D.B.A. SHIROMA/SOUTHWEST**

BY: _____

BY: _____

ITS: _____

ITS: _____

DATE: _____

DATE: _____

EVENT	2005-06	2006-07
Bookworm Bash	1000	1000
Resolution Run	500	500
Addison Beverage Center	1500	1500
Out of the Loop Festival	1500	1500
Italia	1000	3500
Jazz Festival	5000	5000
Play in May	0	1750
Taste Addison	8000	8000
Summer Series	3000	3000
Kaboom Town	3000	3000
Oktoberfest	7500	8000
Miscellaneous consultation	250	750
	32250	37500

Increase, due of duties added over and above original description of tasks, requiring additional manhours

Council Agenda Item: #R8

SUMMARY:

Staff is requesting approval to enter into an agreement with The Margulies Communication Group to assist the Town with media communications.

FINANCIAL IMPACT:

Budgeted Amount: \$36,000

Cost: \$36,000 plus expenses that may be incurred

BACKGROUND:

For the last several years, the Town has utilized the services of The Margulies Communications Group to respond to media inquiries, particularly as it relates to crisis situations. The agreement is structured so that the Margulies Group will respond at anytime to media inquiries or situations that may result in media inquiries. In addition the agreement is structured so that the Town may utilize the services of the Margulies Group on specific projects so as to minimize the potential for negative publicity for the Town. The arrangement has served the Town well and enabled the Town to address the media in an efficient, effective manner.

RECOMMENDATION:

Staff recommends approval.

This letter, when signed by you, will confirm that the Town of Addison (Client) has retained The Margulies Communications Group (MCG), a Texas Corporation as public relations counsel to provide the services described below. Such services shall be provided beginning on October 1, 2006.

Services

MCG will, at Client's request from time to time and to the Client's satisfaction, assist Client in responding to media inquiries concerning crisis communications issues as well as other assignments given to MCG by Client. MCG shall submit such responses and other work prepared by MCG for Client's review and consideration of approval prior to release to the media or any other third party, except when MCG is called upon by Client to be its representative and spokesperson in connection with an incident or matter and the then existing circumstances do not permit MCG adequate time to submit such responses or other work to Client for its review and consideration prior to its release. MCG will work with Client to develop strategies to minimize any negative publicity during crisis situations and will assist the Client in providing accurate and timely information to the news media. In providing such services, MCG shall comply with all applicable federal, state and local laws, rules and regulations.

For the services described above, Client will pay MCG a monthly retainer of \$3,000 for each calendar month during the term hereof (the "Monthly Fee"). Up to one-half of this amount (\$1,000.00) can be utilized by Client for other hourly media relations services provided by MCG should the amount as determined by the following formula be less than \$2,000: number of hours for crisis response services during the applicable month ("Applicable Month") X (times) the applicable hourly rate (as set forth below); such amount may be used by Client during the month immediately following the Applicable Month. For any single crisis situation, should the amount as determined by the following formula: [Number of hours provided by MCG hereunder during a calendar month ("MCG Total Monthly Hours") X (times) the applicable hourly rate (as set forth below)] exceed \$4,000.00 in any calendar month, Client will pay MCG's normal hourly rates as set forth below for all hours that exceed the MCG Total Monthly Hours.

Professional Services		Hourly Fees
David Margulies – Senior Counsel		\$350
Account Executives		\$175
Support Staff		\$75

If incurred, MCG will bill Client for reimbursement of out-of-pocket expenses incurred on Client's behalf when these expenses have been approved by Client in advance.

MCG shall submit to Client, on or before the fifth day of each month, an invoice for the Monthly Fee. Each such invoice shall include (i) a description of the work performed for the month preceding the date of the invoice, (ii) time reports for that month for all MCG personnel who work under this contract, (iii) an itemized statement of any reimbursable expenses incurred; (iv) true and correct copies of any and all receipts, invoices, and other documents and materials in support of the invoice, and (v) any such additional documents or materials as Client may request in connection with the invoice and/or the

compensation paid to MCG. Client shall pay the Monthly Fee set forth in the invoice for service properly performed and all expenses properly incurred by MCG and set forth in the invoice within thirty (30) days following Client's receipt of the invoice.

This contract shall last for one year from the date of signing, subject however to the earlier termination of this contract as provided for herein and subject to the annual appropriation and budgeting of funds by Client to make payments under this contract. If funds to make any payment or payments under this contract during the said term are not appropriated and budgeted by the Town, this contract shall terminate on the last day of the Client's fiscal period in which funds were appropriated and budgeted without penalty or expense to client of any kind whatsoever.

Either party may terminate this contract at any time and for any reason by giving to the other party at least 30 days written notice of such termination. Termination shall have no effect upon the rights and obligations of the parties arising out of any transaction occurring prior to the effective date of such termination. In the event of termination, all finished or unfinished reports and other materials and items (whether kept electronically, in writing, or otherwise) prepared by MCG shall be and become the property of Client, and MCG shall promptly deliver such items to Client. MCG shall be paid for all work satisfactorily completed prior to the effective date of said termination.

If MCG, MCG's agents or employees fail to exercise good behavior either during or outside of working hours that is of such a nature as to bring discredit upon the Client, then Client shall have the right to terminate this contract effective immediately upon the Client giving written notice thereof to MCG. Termination shall have no effect upon the rights and obligations of the parties arising out of any transaction occurring prior to the effective date of such termination. In the event of termination, all finished or unfinished reports and other materials and items (whether kept electronically, in writing, or otherwise) prepared by MCG shall be and become the property of the Client and MCG shall promptly deliver such items to the Client. MCG shall be paid for all work satisfactorily completed prior to the effective date of such termination.

In connection with this Agreement, MCG shall provide and maintain in full force and effect during the term of this Agreement:

- (i) Workers Compensation insurance at statutory limits, including Employers Liability coverage a minimum limits of \$500,000 each-occurrence each accident/\$500,000 by disease each-occurrence/\$500,000 by disease aggregate;
- (ii) Commercial general liability insurance at minimum combined single limits of \$1,000,000.00 per occurrence and \$2,000,000 general aggregate for bodily injury and property damage, which coverage shall include products/completed operations (\$1,000,000 products/completed operations aggregate) and contractual liability (covering, but not limited to, the liability assumed under the indemnification provisions of this Agreement).
- (iii) 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.

(iv) Professional Liability coverage at minimum limits of \$1,000,000. This coverage must be maintained for at least two (2) years after the termination of this letter agreement. If coverage is written on a claims-made basis, a policy retroactive date equivalent to the inception date of the contract (or earlier) must be maintained during the full term of this agreement or any extensions or renewals thereof.

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

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

All insurance must be written on forms filed with and approved by the Texas Department of Insurance. Certificates of Insurance, satisfactory to Client, shall be prepared and executed by the insurance company or its authorized agent and shall contain provisions representing and warranting the following:

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

Upon request, MCG shall furnish the Town of Addison with certified copies of all insurance policies.

MCG AGREES TO AND SHALL DEFEND (TO THE EXTENT INSURANCE COVERAGE IS AVAILABLE), INDEMNIFY AND HOLD HARMLESS THE TOWN OF ADDISON, TEXAS, ITS OFFICIALS, OFFICERS, AGENTS AND EMPLOYEES (EACH AN "INDEMNITEE") FROM AND AGAINST ANY AND ALL SUITS, ACTIONS, JUDGMENTS, LIABILITIES, PENALTIES, FINES, EXPENSES, FEES AND COSTS (INCLUDING REASONABLE ATTORNEY'S FEES AND OTHER COSTS OF DEFENSE), AND DAMAGES (TOGETHER, "DAMAGES") ARISING OUT OF OR IN CONNECTION WITH (A) MCG'S PERFORMANCE OF THIS AGREEMENT, (B) ANY BREACH OR DEFAULT IN THE PERFORMANCE OF MCG'S OBLIGATIONS UNDER THIS AGREEMENT, AND (C) WITHOUT LIMITING ANY OF THE FOREGOING, ANY ACT OR OMISSION OF MCG, ITS OFFICERS, EMPLOYEES, AGENTS, CONTRACTORS, AND SUBCONTRACTORS UNDER, RELATED TO, OR IN CONNECTION WITH, THIS AGREEMENT (AND INCLUDING, WITHOUT LIMITATION, ANY CLAIM OR DAMAGES RELATING TO COPYRIGHT OR ANY OTHER INTELLECTUAL PROPERTY RIGHT), INCLUDING DAMAGES CAUSED BY THE INDEMNITEE'S OWN NEGLIGENCE, EXCEPT AS SPECIFICALLY LIMITED HEREIN.

With respect to MCG's indemnity obligation set forth above, MCG shall have no duty to indemnify an Indemnitee for any Damages caused by the sole negligence of the Indemnitee. If an Indemnitee suffers Damages arising out of or in connection with the performance of this Agreement that are caused by the concurrent negligence of both MCG and the Indemnitee, MCG's indemnity obligation will be limited to a fraction of the total Damages equivalent to MCG's own percentage of responsibility. With respect to MCG's duty to defend set forth herein in subsection, MCG shall have the duty, at its sole cost and expense, through counsel of its choice (subject to the Client's reasonable consent), to litigate, defend, settle or otherwise attempt to resolve any claim, lawsuit, cause of action, or judgment arising out of or in connection with this Agreement. In the event that MCG fails or refuses to provide a defense to any claim, lawsuit, judgment, or cause of action arising out of or in connection with this Agreement, the Client shall have the right to undertake the defense, compromise, or settlement of any such claim, lawsuit, judgment, or cause of action, through counsel of its own choice, on behalf of and for the account of, and at the risk of MCG, and MCG shall be obligated to pay the reasonable and necessary costs, expenses and attorneys' fees incurred by the Client in connection with handling the prosecution or defense and any appeal(s) related to such claim, lawsuit, judgment, or cause of action. The terms and provisions of this defense and indemnity set forth above shall survive the expiration or termination of this Agreement.

Client agrees to indemnify and hold harmless MCG from and against all losses which MCG may incur, based on information, representations, reports or data (together, "information") negligently furnished by Client in writing to MCG under this letter agreement, to the extent that (i) such information is accurately provided by MCG to the media and accurately disclosed by the media to the public, and (ii) the Client is legally liable for making such information available to the public; provided, however, that this indemnity and hold harmless is given by Client subject to and without waiving (i) any immunity available to Client, (ii) any tort limitation and any of its rights under, and the indemnity and hold harmless provided for herein is subject to and shall not exceed the monetary limitations of damages as set forth in, the Texas Tort Claims Act (Chapter 101, Tex. Civ. Prac. & Rem. Code, as amended) or any successor statute thereto, and (iii) any defenses afforded by law or otherwise; and further, in no event

shall this indemnity and hold harmless apply to punitive or exemplary damages of whatever kind or nature.

MCG shall keep complete and accurate records for the services performed pursuant to this Contract and any records required by law or government regulation and shall make such records available to Town upon request. MCG shall assure the confidentiality of any records that are required by law to be so maintained. MCG shall prepare and forward such additional or supplementary records as Town may reasonably request.

Inasmuch as this contract is intended to secure the specialized services of MCG, MCG has no authority or power to and may not assign, transfer, delegate, subcontract or otherwise convey any interest herein without the prior written consent of Client, and any such assignment, transfer, delegation, subcontract or other conveyance without the Client's prior written consent shall be considered null and void.

Where the terms of this contract require that notice in writing be provided, such notice shall be deemed received by the party to whom it is directed upon being hand-delivered or upon three (3) days following the deposit of the notice in the United States mail, postage pre-paid, and sent by certified mail, return receipt requested and properly addressed as follows:

To Client:

5300 Belt Line Road
Dallas, Texas 75254
Attn: Lea Dunn

To MCG:

7007 Twin Hills Avenue
LB-5 S-401
Dallas, Texas 75231

No reports, information, documents, or other materials given to or prepared by MCG under this contract which Client requests to be kept confidential shall be made available to any individual or organization by MCG without the prior written approval of Client.

This letter agreement is entered into for the sole benefit of MCG and Client. Nothing in this letter agreement shall be construed as giving any benefits, rights, remedies or claims to any other person, firm, corporation or other entity, including, without limitation, the general public or any member thereof.

The reports, documents and materials prepared by MCG under this contract shall be the sole property of Client upon payment by Client to MCG for the fees earned under this contract in connection with the preparation and delivery of such reports, documents and materials.

If any clause, paragraph, section or 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 clause, section, paragraph or portion had not been in the contract initially.

Any rights and remedies either party may have with respect to the other arising out of the performance of services during the term of this contract shall survive the cancellation, expiration or termination of this contract. Obligations of either party hereunder arising prior to the termination or cancellation of this

contract allocating responsibility or liability of or between Client and MCG shall survive the completion of this services hereunder and termination or cancellation of this 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.

In the event of any action under this contract, 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.

MCG shall, during the entire term of the contract, be construed to be an independent contractor and nothing in this contract is intended nor shall be construed to create an employer-employee relationship, a joint venture relationship, or to allow the Town to exercise discretion or control over the professional manner in which MCG performs the services which are the subject matter of the contract; provided, however, that the services to be provided by MCG shall be provided in a manner consistent with the highest ethical standards and applicable laws and regulations governing such services.

This contract supersedes all previous contracts and constitutes the entire understanding of the parties hereto. MCG shall be entitled to no other benefits than those specified herein. No changes, amendments or alterations shall be effective unless in writing and signed by both parties.

Margulies Communications Group, Inc



David S. Margulies, President

Date: _____

Accepted and Approved:

Town of Addison

By: _____ (name and title)

Date: _____



RECEIVED #R9-1
OCT 27 2006
CITY MANAGER

Dallas Central Appraisal District

October 26, 2006

Ron Whitehead, City Manager
Town of Addison
P. O. Box 9010
Addison, Texas 75001-9010

RE: Sales Disclosure Resolution

Dear Mr. Whitehead:

On October 4, 2006, the Dallas Central Appraisal District unanimously passed the attached resolution to encourage the Texas Legislature to enact legislation mandating the disclosure of real property sales prices.

We believe that mandatory real property sales disclosure is sound public policy. In order for appraisal districts to accurately and equitably value real property, sales price information is a necessary tool. The lack of sales price information has distorted property values for certain classes of property, most notably commercial real estate, and shifted the tax burden to middle class residential property owners. Commercial sales and sales of high-end residential properties are for the most part unavailable on a voluntary basis. The appraisal district for the most part is put in a position of not knowing the sales prices or finding out about the sales price too late in the year to reflect current market value. In addition, the information that we do receive through third party sources is many times inaccurate and causes us to arrive at incorrect values. This situation can be solved with the mandatory disclosure of real property sales prices. Texas is one of five states in the country that does not have some kind of disclosure law in place.

Another compelling reason for the passage of sales disclosure is the potential revenue gains to the taxing jurisdictions that will result from more accurate appraisals. The three charts below are a summary of the Comptroller's Final Findings for the 2003 and 2004 Property Value Study and the 2005 Preliminary Findings for the Property Value Study.

2003 Final Findings

	State Category	Statewide CAD Value	PTD Estimate of Value	Difference
A	Single Family Residential	\$593,360,567,955	\$607,433,568,103	-\$14,073,000,148
B	Multi-Family Residential	\$55,245,957,986	\$57,506,669,879	-\$2,260,711,893
C	Vacant Lots	\$27,398,669,338	\$28,463,703,834	-\$1,065,034,496
D	Rural Real Property	\$53,758,179,719	\$54,651,959,667	-\$893,779,948
F1	Commercial Real Property	\$174,770,393,354	\$182,142,582,444	-\$7,372,189,090
F2	Industrial Real Property	\$67,425,881,039	\$67,425,881,039	\$0
G	Oil, Gas, and Minerals	\$39,474,282,252	\$39,035,339,066	\$438,943,186

J	Utilities	\$38,882,521,320	\$39,143,342,853	-\$260,821,533
L1	Commercial Personal	\$86,307,145,296	\$87,292,760,874	-\$985,615,578
L2	Industrial Personal	\$55,587,540,617	\$55,587,540,617	\$0
M1	Mobile Homes	\$5,357,026,434	\$5,357,026,434	\$0
N	Intangible Personal	\$1,214,949,725	\$1,214,949,725	\$0
O	Residential Inventory	\$4,895,909,142	\$4,895,909,142	\$0
S	Special Inventory	\$3,514,648,590	\$3,514,648,590	\$0
	Totals	\$1,207,193,672,767	\$1,233,665,882,267	-\$26,472,209,500

2004 Final Findings

	State Category	Statewide CAD Value	PTD Estimate of Value	Difference
A	Single Family Residential	\$638,031,599,296	\$649,020,832,934	-\$10,989,233,638
B	Multi-Family Residential	\$56,609,417,371	\$60,239,558,012	-\$3,630,140,641
C	Vacant Lots	\$28,341,244,387	\$29,641,109,798	-\$1,299,865,411
D	Rural Real Property	\$56,080,134,196	\$57,238,539,945	-\$1,158,405,749
F1	Commercial Real Property	\$178,577,672,798	\$192,580,317,986	-\$14,002,645,188
F2	Industrial Real Property	\$67,101,847,596	\$67,101,847,596	\$0
G	Oil, Gas, and Minerals	\$51,889,539,655	\$51,595,612,198	\$293,927,457
J	Utilities	\$39,771,817,669	\$39,925,724,444	-\$153,906,775
L1	Commercial Personal	\$92,216,478,695	\$91,992,088,877	\$224,389,818
L2	Industrial Personal	\$58,737,434,141	\$58,737,434,141	\$0
M1	Mobile Homes	\$5,427,726,549	\$5,427,726,549	\$0
N	Intangible Personal	\$464,931,396	\$464,931,396	\$0
O	Residential Inventory	\$5,336,923,903	\$5,336,923,903	\$0
S	Special Inventory	\$3,389,001,170	\$3,389,001,170	\$0
	Totals	\$1,281,975,768,822	\$1,312,691,648,949	-\$30,715,880,127

2005 Final Findings

	State Category	Statewide CAD Value	PTD Estimate of Value	Difference
A	Single Family Residential	\$688,166,719,005	\$707,090,772,694	-\$18,924,053,689
B	Multi-Family Residential	\$61,592,594,311	\$64,063,803,362	-\$2,471,209,051
C	Vacant Lots	\$30,490,273,996	\$31,973,260,818	-\$1,482,986,822
D	Rural Real Property	\$59,312,101,212	\$61,184,614,115	-\$1,872,512,903
F1	Commercial Real Property	\$193,511,586,389	\$209,204,288,845	-\$15,692,702,456
F2	Industrial Real Property	\$68,363,613,951	\$68,363,613,951	\$0
G	Oil, Gas, and Minerals	\$67,412,630,466	\$66,592,687,637	\$819,942,829
J	Utilities	\$39,941,946,875	\$39,750,730,118	\$191,216,757
L1	Commercial Personal	\$95,932,476,597	\$96,191,230,683	-\$258,754,086
L2	Industrial Personal	\$64,903,211,948	\$64,903,211,948	\$0
M1	Mobile Homes	\$5,559,280,374	\$5,559,280,374	\$0
N	Intangible Personal	\$11,095,432	\$11,095,432	\$0
O	Residential Inventory	\$6,184,563,645	\$6,184,563,645	\$0
S	Special Inventory	\$3,969,091,569	\$3,969,091,569	\$0
	Totals	\$1,385,234,853,430	\$1,425,042,245,191	-\$39,807,391,761

As you can see the Comptroller's estimate of value is \$96,992,481,388 higher than the values as reported. The categories that mandatory sales disclosure would affect most are Categories A (single family), B (multi-family), C (vacant lots), D (rural acreage), and F1 (commercial real). The loss in value for these five categories by year is as follows:

Category	2003	2004	2005
Category A: Single Family	\$14,073,000,148	\$10,989,233,638	\$18,924,053,689
Category B: Multi-Family	\$2,260,711,893	\$3,630,140,641	\$2,471,209,051
Category C: Vacant Lots	\$1,065,034,496	\$1,299,865,411	\$1,482,986,822
Category D: Rural Acreage	\$893,779,948	\$1,158,405,749	\$1,872,512,903
Category F1: Comm. Real	\$7,372,189,090	\$14,002,645,188	\$15,692,702,456
TOTAL	\$25,664,715,575	\$31,080,290,627	\$40,443,464,921

The average statewide combined property tax rate for all taxing units as calculated based on the Comptroller's data was \$2.39 per hundred dollars of value in 2003 and \$2.41 per hundred dollars of value in 2004. The average 2005 rates have not yet been released. For purposes of this illustration we will use \$2.40 per hundred dollars of value as the average rate for all three years. If lack of sales disclosure has caused value to escape taxation the amount of revenue lost for the last three years would be:

Tax Year	Value Lost	Avg. Tax Rate	Lost Revenue
2003	\$25,664,715,575	\$2.40/100	\$615,953,174
2004	\$31,080,290,627	\$2.40/100	\$745,926,975
2005	\$40,443,464,921	\$2.40/100	\$970,643,158
TOTAL	\$101,789,621,885	\$2.40/100	\$2,332,523,307

As you can see by the illustration above, almost \$2.33 billion in tax revenue would be generated by the passage of sales disclosure. With the current shortfalls in many taxing unit budgets this revenue source cannot be ignored.

Currently Senator Jeff Wentworth and Representative Mike Villarreal, both of San Antonio, have indicated they will introduce sales disclosure legislation in the 2007 Regular Session. The Texas Association of Appraisal Districts is working closely with the Legislature to move this issue forward during the 2007 Regular Session. Most local realtors have indicated their support for sales disclosure.

In order to bring this issue to the attention of the Legislature we need your help. Attached to this letter is a copy of the same resolution that was passed by the DCAD Board of Directors. The resolution has been reworded for your taxing jurisdiction. To show your support for this important issue we would like your governing body to pass this resolution. Once passed, please send a copy of your resolution to my attention and it will be forwarded to members of the Legislature to show them the support that exists for this issue.

Please present this resolution to your governing body as soon as is practical. The staff at DCAD and I stand ready to answer any questions concerning this issue that you or your governing body may have. We appreciate your time and consideration on this important issue and look forward to your support on this matter.

Very truly yours,



W. Kenneth Nolan, RTA, RPA, CTA
Executive Director/Chief Appraiser

Attachment

cc Scott Wheeler, Suburban Cities Representative to Board of Directors

SALES DISCLOSURE RESOLUTION

WHEREAS, with the passage of the Property Tax Code by the Texas Legislature in 1979, all property is to be valued at fair market value; and

WHEREAS, the Property Tax Code requires the application of generally accepted appraisal methods and techniques; and

WHEREAS, appraisal districts in Texas must apply the techniques in compliance with the Uniform Standards of Professional Appraisal Practice; and

WHEREAS, the Uniform Standards of Professional Appraisal Practice and the Property Tax Code require the use of three methods of appraisal; the cost approach, the income approach, and the market data approach; and

WHEREAS, these three approaches to value require the use of real property sales data; and

WHEREAS, this data is mostly unavailable to appraisal districts in Texas; and

WHEREAS, the unavailability of sales data causes the inequitable undervaluation of commercial properties; and

WHEREAS, this inequitable undervaluation of commercial property unfairly shifts the burden of taxation to homeowners; and

WHEREAS, the State of Texas and all taxing entities are losing billions of dollars in potential revenue due to the undervaluation of commercial properties; and

WHEREAS, Texas is one of only five states that does not require mandatory sales price.

NOW, THEREFORE BE IT RESOLVED that the Town of Addison calls on the Governor of the State of Texas and our representatives in the Texas Legislature to adopt legislation requiring the mandatory disclosure of real property sales prices to appraisal districts to ensure the fair and equitable valuation and taxation of all real property in the State of Texas

Council Agenda Item: #R10

SUMMARY:

Consideration and approval of a resolution approving the Belt Line Road Corridor Revitalization Strategy which includes the proposed Incentive Policy and Guidelines for qualifying projects.

FINANCIAL IMPACT:

NA

BACKGROUND:

You'll recall that Council authorized the Leland Consulting Group to assist the Town in developing appropriate financing mechanisms and incentives to attract private sector partners. As a result of that work, the Belt Line Corridor Revitalization Strategy was developed. At the October 10 Council meeting, the proposed incentive policies and guidelines were presented to Council. The proposed policies and guidelines are designed to assist the Town as well as property and business owners with identifying potential areas for reinvestment and funding options for investment.

RECOMMENDATION:

Staff recommends adoption of the proposed policies and guidelines.

INCENTIVE POLICY & GUIDELINES FOR QUALIFYING PROJECTS

TOWN OF ADDISON, TEXAS

GENERAL PURPOSE AND OBJECTIVES

The Town of Addison (“Town”) believes that certain types of investment in the Town lead to positive economic growth and stabilization. As a result, in accordance with the provisions and conditions of this policy statement (“Policy”), the Town will, on a case-by-case basis, consider the granting of incentives in order to attract new, or improve existing commercial, industrial and/or residential assets¹ and to encourage the growth of Addison in accordance with community-adopted goals and objectives.

The Town also acknowledges that different areas of Addison face varying degrees of challenges in attracting private sector capital for quality (re) development. Therefore, the Town has designed this incentive policy to provide greater assistance to meritorious projects in areas of Addison where market activity either has, or has the potential to, lag behind community needs and goals in an effort to level the financial “playing field” and effectively ready the environment for investment. (See discussion of Catalyst Investment Areas.) Specifically, it is the objective of this policy that the Town’s strategic investment of its limited incentive resources improve Addison’s entire portfolio of diverse community assets. Further, it is the Town’s intent to manage the implementation of the incentive policy so that incentives are fairly distributed across geographic and market sectors.

This Policy provides private property and business interests and advocacy entities with tools to meet the challenges presented by (re) development and particularly urban development and redevelopment. Resources that are available through the Town are designed to accomplish the following guiding principles:

Guiding Principles

- Promote development that conforms to the community’s vision as expressed in the *Belt Line Redevelopment Vision* and other widely accepted community plans.
- Provide preference for projects in targeted areas that create mixed-use activity centers (or components thereof) emphasizing live/work opportunities with multi-modal access.
- Avoid negative financial impacts to the funding of general government operations and effectively leverage private dollars.

¹ Those investment projects (new development and redevelopment) which advance the Town vision.

INCENTIVE POLICY & GUIDELINES FOR QUALIFYING PROJECTS

TOWN OF ADDISON, TEXAS

- Provide assistance for eligible projects that have verifiable financing gaps at a level not to exceed incremental dollars generated by the planned investment.²
- Capitalize on near or mid-term market opportunities.
- Provide assistance for the minimum possible length of time.

The incentives offered under this Policy are not intended to replace other project financing from private or public sources. Rather, an incentive is intended to be a flexible resource that spurs worthy projects by bridging funding gaps which may be created by the difficult and sometimes costly nature of such purposeful developments due to geography and/or product mix. The primary incentive programs available include:

- Redevelopment Zones (Priority Investment or Catalyst Areas)
- Land Transactions (Swap, Write-Down, etc.)
- Bond Issue Revenue (Infrastructure, Utilities, Streetscape)
- Parking Districts
- Property Tax Abatement
- Sales Tax Sharing
- Local Grants (Local Government Code, Chapter 380)
- Federal and State Grants
- Fee & Lien Waivers
- Bonds - Private Activity & Industrial Revenue
- Development Approval Facilitation
- Streetscape Improvement Grants

TOWN PARTICIPATION

The Town's decision to invest in a project centers on a number of important findings. Four of the key determinants include:

- the likeliness of the project to succeed;
- advancement of the Policy's guiding principles (as presented above);
- demonstrable financial need; and,
- evidence that the project accomplishes the goals of the community as specified in the *Belt Line Redevelopment Vision*, the goals for Addison in the *2030 Vision*

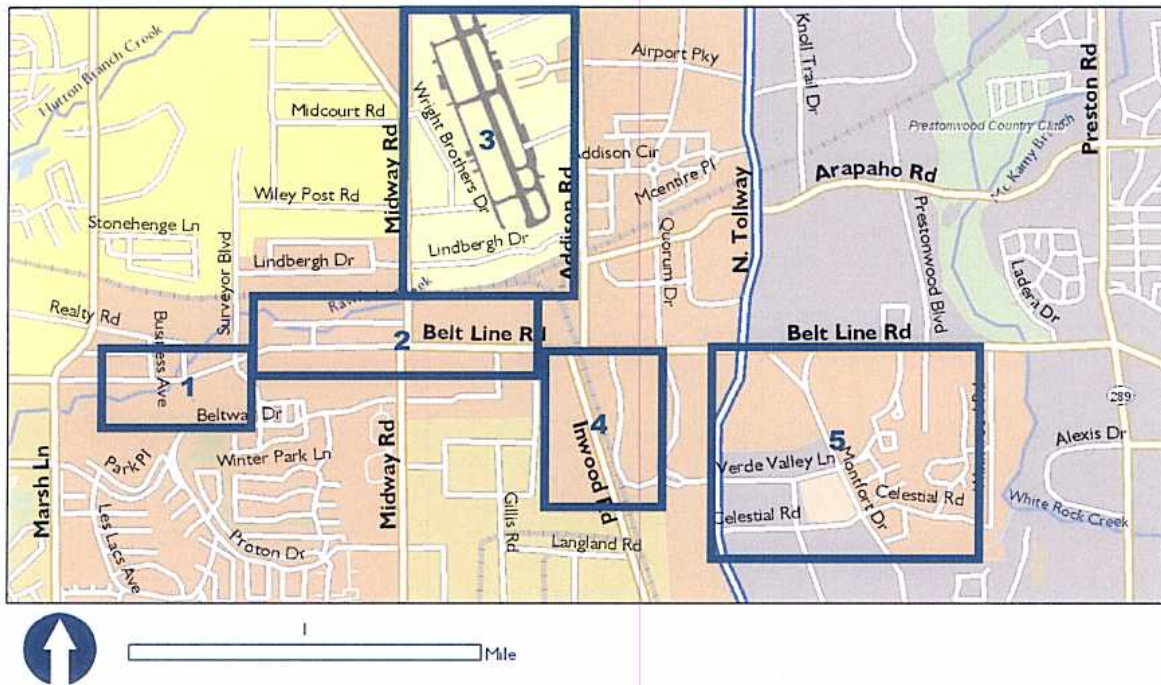
² The economic difference between a project's potential revenue and cost.

INCENTIVE POLICY & GUIDELINES FOR QUALIFYING PROJECTS

TOWN OF ADDISON, TEXAS

Project, and Council-approved community plans related to the growth and development of the Town (see Catalyst Project Investment Areas).

Once these criteria are satisfactorily addressed, Town staff will work with the applicant to further analyze specific details about the project's financial need and other factors as warranted. The financial need of the project will be determined based upon the nature and extent of the gap between the total project costs and amount of private investment to cover those costs, assuming a market-average rate of return on the private investment. Based upon this information, Town staff will then determine the extent, if any, of the Town's participation in the project. However, the Town is not obligated, and nothing within this Policy shall imply or suggest that the Town of Addison is under any obligation, to provide any incentive to any applicant. All applicants and projects shall be considered on a case-by-case basis. The level of Town participation will be dependent, in part, on the fiscal impact of the project to the Town and expected private investment leverage resulting from its participation. The map below illustrates the Town's target areas for catalyst private investment. Final documentation for



meritorious projects will be packaged along with Town staff recommendations for final review and consideration by Town Council. The purpose of this Policy is to establish guidelines for providing economic development incentives. Notwithstanding, the City Council retains the right to take any action allowed by law without the necessity of amending this Policy.

CATALYST INVESTMENT AREAS

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Town Council has identified geographic areas of Addison within which to target its incentives. The Town acknowledges that different geographic areas face varying degrees of challenges in attracting private sector capital for quality business and housing development. Addison's economic spine, the Belt Line Road Corridor, in particular, has demonstrated a range of challenges related to retrofitting the existing urban fabric which is not as prevalent in non-corridor locations with larger property assemblages, sufficient lot depths, and diverse land uses. Therefore, while projects outside these areas might prove worthy, the Town has specifically targeted its incentives to provide greater assistance to catalyst projects in areas of Addison where market support has either lagged behind community needs and goals, or where economic conditions are fragile or susceptible to market forces. What follows describes the Town's catalyst investment areas and the criteria by which they will be evaluated.

Catalyst Project Criteria

The following comprehensive list of characteristics describes those elements common to most of the catalyst investment areas and used by the Town in their identification.³ Projects outside these areas should possess a majority of the following characteristics, but at a minimum, show evidence of a market opportunity and/or development project with potential in the near-or long term. Characteristics include:

1. Presence of a market opportunity in the near- and long-term
2. Opportunities to strengthen and link existing districts or activity centers
3. Ability to leverage existing or planned public investment (*note: the Town should expect a "leveraged" return on its investment of at least 5 to 10 dollars in private investment for every 1 dollar it spends*)
4. Physical environment including parks and open space, public improvements, etc.
5. Potential for creating key entryways or gateways into development areas
6. Ownership -- publicly-held properties, assemblages, and a manageable number of private interests
7. Presence of unified, energetic stakeholders
8. Upward trend in local investment
9. Compatibility with the *Belt Line Redevelopment Vision* and Belt Line Corridor Revitalization Strategy
10. Ability to create mixed-use activity centers with multi-modal access
11. Presence of support organizations – service groups, churches, schools, neighborhood associations

³ Exceptions include those areas determined by state or federal guidelines.

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12. Demonstrated community need, both perceived and quantified
13. Compatibility with the character of area and ability to build on prevailing strengths

In order to be considered for Town incentives, a project falling within a catalyst investment area must advance the stated community goals and positively address the above characteristics applicable to their location. A project possessing a majority of the above characteristics, yet outside a preference area, may also be considered for Town incentives, but will be expected to undergo a greater level of scrutiny to ensure that it is consistent with stated Town goals and objectives and Policy Guiding Principles presented herein.

Catalyst Investment Areas

Belt Line Road Corridor

The Belt Line Road Corridor is a Town Council-designated area located east and west of the Dallas North Tollway, one of the Metroplex's principal north-south transportation routes and gateway to the northern Dallas suburbs of Carrollton, Plano and Frisco. The Corridor contains Addison's highest concentration of retail and restaurant commercial establishments which serve a sizable daytime population. Revitalization of this important commercial district is an important component of its strategic economic development efforts.

As summarized in the Belt Line Road Corridor Revitalization Strategy, the Town is promoting the development of catalyst investment areas, which are strategic districts designated along the Corridor. Stakeholders in these areas, in cooperation with Town staff, participated in a planning process to develop concepts for redevelopment that built upon the characteristics and conditions of the catalyst areas. The premise behind the selection of catalyst areas is that concentrating resources in select locations will have a positive economic ripple effect along the Corridor where they are located, as well as into the surrounding residential "neighborhoods."

The Belt Line Road Corridor Revitalization Strategy defines a catalyst investment area as follows:

"A catalyst investment area is a highly urbanized place that has a concentration of jobs, housing units, commercial uses, public spaces, public transportation, pedestrian activity and a sense of place. These areas are frequently located at significant intersections. Predominant land uses within these compact areas are residential, commercial and public. Within this relatively compact geographic area, different land uses are found side by side or within the same structures. The mix of

INCENTIVE POLICY & GUIDELINES FOR QUALIFYING PROJECTS

TOWN OF ADDISON, TEXAS

uses is often located in developments with minimal setbacks, reduced parking requirements and taller structures, all in an effort to achieve higher densities necessary to support transit and pedestrian activity (where relevant), private investment and a sense of place. “

These areas are catalysts for public and private investment and economic activity, effectively building off the strengths of the surrounding area and connecting to surrounding uses. Implementation and management of catalyst areas is generally the responsibility of a combination of entities including business organizations, special districts, neighborhood and other interest groups, and individual property owners.”

BENCHMARKING THE MARKET

The ability of the Policy to successfully marry market opportunity with market investment will hinge upon continual feedback to the Town by representatives of the real estate and business investment markets and incentive recipients. Therefore, the Town has an expectation of investment partners to provide information on the performance of projects for the duration of the Town’s participation⁴. The continual provision of project information will be required in negotiating on-going Town participation beyond the increment. This information will assist the Town in staying current on market conditions and expectations among different geographic and market sectors, as well as provide the basis for refinements to the Policy and the Town’s decision-making parameters for participation in future projects.

For example, the information will enable the Town to adjust its leverage ratio expectations for projects in different areas. As described in the catalyst project criteria, the Town should expect a “leveraged” return on its investment of at least 5 to 10 dollars in private investment for every 1 dollar it spends. As catalyst projects become successful and “prove up” the market demand for future projects in that area, the Town’s targeted leverage ratio should become greater over time – either through higher private investment or a lower level of required public investment. The ultimate goal is to make these targeted redevelopment areas economically self-supporting.

⁴ The total value of the incentives will only be available at a level not to exceed the incremental dollars generated by the planned investment as determined by the Town through regular review of the project’s performance (open books). Select information will be kept confidential from the general public, subject, however, to and in accordance with applicable law.

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TOWN OF ADDISON, TEXAS

INCENTIVES

Award of any incentive will be contingent on approval of the project by Town Council in its sole discretion.

1. Land Transactions

Purpose of Incentive

The purpose of this incentive is to assist developers with land acquisition and assemblage for meritorious projects in targeted investment areas.

Project Use

The Town may make available publicly owned lands in priority preference areas for projects, which advance the guiding principles of this Policy.

The Town may initiate the development of surplus public lands as a joint venture with private developers.

The Town may consider contributing publicly-owned land for appropriate infill projects, or swapping publicly-owned property for developer-owned parcels.

As funds are available, the Town may pay for costs associated with Phase I environmental assessments on publicly-held properties, and, where possible, may complete these analyses and include the appropriate documentation related to this assessment prior to disposition of the property to private interests.

Limitations

As identified through policies of the Town Council.

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2. Bond Issue Revenue

Purpose of Incentive

The purpose of this incentive is to provide long-term financing for select economic development projects. A specific bond series was issued in 2004 for the purpose of constructing an extension of Arapaho Road from Addison Road to Surveyor Road including construction of a bridge over Midway Road, with related pedestrian walkways, for resurfacing Belt Line Road and for engineering and design of improvements to the Belt Line Road / Dallas Parkway intersection, and to pay costs associated with the issuance of the bonds. These bonds were issued by the Town and are exempt from state and local taxes.

Project Use

Bond revenue can be used for specific purposes, as determined by the bond documentation, including right-of-way improvements (public and private), parking, streetscape, infrastructure, as well as land acquisition. The Town may provide support to projects that meet the Town's bond documentation criteria for funding.

Limitations

Limitations will be largely dictated by the rules and regulations associated with bond issuance and the terms and conditions that the Town may ask developers to pledge in issuing the bonds.

Private Activity Bonds

Private activity bonds are administered by the Texas Bond Review Board. The State of Texas Private Activity Bond Program is designed to provide taxable and tax-exempt bond financing primarily for local improvement projects. Private Activity Bonds (PAB) are bonds that can be issued for specific purposes, as determined by federal tax law. PABs are not a direct source of funding, but rather a tax- financing mechanism. Allocations of the bonding authority are designated to the Town by the State each year.

Industrial Revenue Bonds

Industrial revenue bonds are administered by the Economic Development and Tourism Division of the Governor's Office (OOGEDT). The State of Texas Industrial Revenue

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Bond Program is designed to provide taxable and tax-exempt bond financing for land and depreciable property for industrial or manufacturing projects.

3. Parking Districts

Purpose of Incentive

A parking district is a designated area wherein parking design, development and management issues, beyond those provided for by standard municipal levels of service and control, are controlled by a select entity. The purpose of this incentive is to allow property and business owners to share in the cost of infrastructure and services which serve to stabilize and distinguish a business and/or neighborhood district, and thereby potentially improving its market position.

Project Use

In order for a parking district to be established, 51% of the property owners must submit a petition request.

Upon creation of the district, property owners will be assessed an additional fee to fund improvement projects within its area.

The District can then pledge the assessment revenue as payment of principal and interest on bonds issued to fund public improvements which benefit projects within it.

Limitations

As improvement districts are enacted primarily to raise money for the provision of certain services or improvements, eligible projects which require the revenue of a special district must serve a public purpose.

4. Property Tax Abatement

Purpose of the Incentive

Tax abatement is a tool authorized by Chapter 311 of the Texas Tax Code which allows eligible business interests to be exempt from paying all or a portion of ad valorem taxes for up to 10 years.

INCENTIVE POLICY & GUIDELINES FOR QUALIFYING PROJECTS

TOWN OF ADDISON, TEXAS

Project Use

Although the Town will consider all applications for tax abatements that meet the eligibility requirements set forth in this Policy, it is especially interested in development projects that:

- Are located in the Belt Line Road Corridor;
- Result in development with little or no additional cost to the Town;
- Provide amenities that the Town does not currently have: and
- Have a positive impact on Addison companies.

Limitations

Tax abatements may be provided in accordance with an subject to law.

5. Local Grants (Local Government Code, Chapter 380)

Purpose of Incentive

The purpose of these local grants is to reimburse private developers for the range of expenses that may contribute to a financing gap yielding projects financially infeasible, in order to promote state or local economic development and to stimulate business and commercial activity in the Town. To this end, the Town will also be sensitive to the taxable implications these grants may have for the developer and where possible, use transfer mechanisms (i.e., soft loans, accrual notes, etc.) which result in a favorable financial impact.

Project Use

The Economic Development Program grants are made in accordance with Texas Local Government Code 380. Since specific use of grant dollars is specified by the policy, the Town would work with the applicant to match dollars to appropriate costs.

Limitations

This incentive may only be used as a gap-financing tool of last resort. The use of this incentive is for projects facing extraordinary impediments to development and offering significant positive impact to the community and surrounding area where the project is

INCENTIVE POLICY & GUIDELINES FOR QUALIFYING PROJECTS

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located. Limitations on how this incentive is used are predicated on the source of the funds and terms and conditions of the award to the Town and the project.

6. Retail Sales Tax Sharing

Purpose of Incentive

The purpose of this incentive, administered under Local Government Code, Chapter 380, is to specifically encourage the development or expansion of retail operations that fill an important void in the existing retail market. In order to qualify for this incentive, the applicant's project must embody a retail opportunity that conforms to the stated vision for the area, as well as fulfills an unmet demand.

Project Use

The Town may provide a rebate of a percentage of the sales tax increment attributable to property improvements or upgraded tenant mix. The rebate can be made either to the site developer as a reimbursement for site improvement expenses or to the retail tenants of the improved center in order to assist in relocation or expansion related costs of the tenants. The percent of the Town's sales tax rebate and length of time will be negotiable.

Limitations

This incentive is available for a commercial retail project in one of the priority preference areas or within the Town boundaries. The Town sales tax to be rebated excludes select transit and other tax allocations.

7. Federal and State Grants

Purpose of Incentive

The fundamental premise of the Town's incentives policy is concentrating incentives in significant redevelopment projects that would act as a catalyst to draw private sector investment into the targeted redevelopment area and surrounding residential neighborhood. A "catalyst project" proves to private sector investment markets that a demand for community-beneficial development exists; therefore, it sets a powerful and positive precedent for future development. Given the importance of supporting catalyst projects in Catalyst Investment Areas, the Town competes from time to time at the Town's sole discretion for federal or state grants to support these deserving real estate development projects.

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Project Use

If awarded, the Town will provide this type of support to projects to close a demonstrable funding “gap.” The funds could be used to support commercial, housing or mixed-use development projects that embrace sustainable development principals and embody the guiding principals of this Policy. Grant funding can generally be used for infrastructure improvements, environmental remediation, pedestrian and streetscape enhancements in the public right-of-way, and other costs as appropriate to the funding source.

Limitations

Limitations on how this incentive is used are predicated on the source of the funds and terms and conditions of the award to the Town and the project.

Town Council will determine which projects the Town will submit for competition. Submittal is not a guarantee of Town funding; Town participation is contingent upon award of the grant.

8. Fee & Lien Waivers

Purpose of Incentive

The purpose of this incentive is to encourage investment through the regulatory framework by waiving development fees or delaying development fees until the developer sees a positive cash flow.

Project Use

The Town will waive or delay projected related development impact fees on a case-by-case basis for meritorious projects.

Limitations

Projects over a specific threshold (to be determined) that can demonstrate a positive impact from the use of this incentive will be eligible for waivers or delays.

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9. Development Approval Facilitation

Purpose of Incentive

The Town's organizational structure is expressly designed to allow for interdepartmental coordination for development projects. Its mission is to focus on and provide assistance to priority projects that are eligible as defined under this policy. Through staff project facilitation, the Town will attempt to resolve questions that arise through a main point of contact who will then work with other departments as necessary, in order to facilitate a streamlined process for projects in pre-development.

Project Use

Town staff representatives on the team will host a pre-development conference to address construction, platting, zoning and permitting issues.

A project manager from the Town will be assigned to serve as the primary contact for addressing internal problems and issues related to the project.

Key staff will continue to facilitate issues that arise and eventually serve as advocates for projects between departments and with Town Council, assisting with formal presentations and soliciting timing guarantees.

Limitations

This service applies to projects which meet the catalyst project criteria as outlined in this policy.

10. Streetscape Improvement Grants

Purpose of Incentive

These areas, identified in the *Belt Line Redevelopment Vision*, are targeted redevelopment areas possessing a unique "sense of place" and opportunity in the urban landscape. It is the Town's intent to participate with the community in making the vision for these areas a reality in a number of ways - most significantly through public infrastructure improvements. In the context of the catalyst areas, public improvements are considered to encompass streetscape improvements that encourage pedestrian and transit access and public space amenities.

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Project Use

The Town may use CIP and bond funds for urban redevelopment within the catalyst areas to leverage Federal and State grants and private funding sources. Grant programs are typically administered by the Federal Highway Administration, the Federal Transit Administration, the Texas Department of Transportation, and the Regional Transportation Council. The Town's goal is to use bond funds to leverage private dollars, yielding investment for streetscape improvements in the near-term.

Limitations

The Town will identify and evaluate projects as grant and/or private funds become available. Projects will be selected according to the criteria established by the grant program and any additional criteria that further the goals of the *Vision*. These criteria may include, but are not limited to, the following:

- Consistency of proposed improvements with the purpose of the grant program
- Equitable distribution of funds among the catalyst areas (over time)
- Ratio of private investment to public investment

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DEFINITIONS

Capitalized terms used in this Policy but not defined elsewhere shall have the following meanings:

Tax Abatement – This is as described in Chapter 312, Texas Tax Code. Generally, it is a full or partial exemption from ad valorem taxes on eligible taxable real and personal property for a specified period on the difference between (i) the amount of increase in the appraised value (as reflected on the certified tax roll of the appropriate county appraisal district) resulting from improvements begun after the execution of a written Tax Abatement Agreement and (ii) the appraised value of such real estate prior to execution of a written Tax Abatement Agreement (as reflected on the most recent certified tax roll of the appropriate county appraisal district for the year prior to the date on which the Tax Abatement Agreement was executed).

Belt Line Road Corridor – A geographic area within the Town, defined by the Town Council and shown in the map herein.

Catalyst Investment Area - A highly urbanized place that has a concentration of jobs, housing units, commercial uses, public spaces, public transportation, pedestrian activity and a sense of place. These areas are frequently located at significant intersections. Predominant land uses within these compact areas are residential, commercial and public. Within this relatively compact geographic area, different land uses are found side by side or within the same structures. The mix of uses is often located in developments with minimal setbacks, reduced parking requirements and taller structures, all in an effort to achieve higher densities necessary to support transit and pedestrian activity (where relevant), private investment and a sense of place.

Redevelopment – The reconstruction or the improvement of an area within a built-up area with existing community facilities.

Reinvestment Zone – An area designated as such by the Town in accordance with Chapter 312 of the Texas Tax Code.

Streetscape – Improvements to streets that enhance pedestrian activity. Streetscape enhancements may include: special paving, trees, planters, kiosks, fountains, plazas, benches, bicycle racks, vehicular and pedestrian lighting, and other public space amenities deemed desirable by the Town.

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Tax Abatement Agreement - A written agreement that the recipient of a tax abatement must enter into with the Town and that outlines the specific terms and conditions pertaining to the tax abatement.

Council Agenda Item: #R11

SUMMARY:

To consider approval of the contracts for services between the Town of Addison and the non-profit agencies funded from the General Fund and Hotel Fund budgets. The agencies and the amounts were approved by the City Council and included in the adopted FY 2006/07 budget.

FINANCIAL IMPACT:

All contracts are fully funded within the General Fund and Hotel Fund budgets.

	General Fund	Hotel Fund
Budgeted Amount:	<u>\$105,000.00</u>	<u>\$426,800.00</u>
Cost:	<u>\$105,000.00</u>	<u>\$427,280.00*</u>

BACKGROUND:

During the FY 2006/07 budget process, the City Council reviewed the following non-profit agencies and funding amounts for FY 2006/07. Attached are the contracts for the non-profits. Minor changes have made to ensure consistency within the contracts and to reflect changes to performances and their dates as applicable.

General Fund		Hotel Fund	
	Amount		Amount
Communities in Schools-Dallas	\$40,000	WaterTower Theatre	\$240,000
Senior Adult Services	\$15,000	WaterTower Theatre-Matching	\$150,000
Metrocrest Social Services	\$20,000	Dance Council	\$6,800
Metrocrest Family Medical Clinic	\$2,500	Richardson Symphony Orchestra	\$30,480*
Metrocrest Chamber of Commerce	\$10,000		
The Family Place	\$5,000		
Special Care and Career Services	\$5,000		
DFW International	\$7,500		
TOTAL	\$105,000	TOTAL	\$427,280*

* \$426,800 will be spent out of the Hotel Fund. \$480 of this will be spent out of one of the General Fund accounts.

RECOMMENDATION:

It is recommended that the City Council approve a resolution authorizing the City Manager to enter into contracts with the non-profits for the amounts listed above. These contracts shall be subject to final review and approval by the City Attorney to allow the flexibility to negotiate any minor changes as needed.

AGENCY	FY 2002/03 Funded	FY 2003/04 Funded	FY 2004/05 Funded	FY 2005/06 Funded	FY 2006/07 Request	FY 2006/07 City Manager's Rec.	Grant Approved by City Council for FY 2006/07
GENERAL FUND:							
Metrocrest Family Medical Clinic	\$0	\$0	\$0	\$2,000	\$2,000	\$2,000	\$2,500
Metrocrest Chamber of Commerce	\$9,000	\$9,000	\$9,000	\$10,000	\$10,000	\$10,000	\$10,000
DFW International	\$0	\$0	\$0	\$0	\$7,500	\$7,500	\$7,500
The Family Place	\$5,000	\$5,000	\$5,000	\$5,000	\$10,000	\$5,000	\$5,000
Communities in Schools Special Care & Career Services	\$40,000	\$40,000	\$40,000	\$40,000	\$40,000	\$40,000	\$40,000
Senior Adult Services	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000
Metrocrest Social Services	\$15,000	\$15,000	\$15,000	\$15,000	\$15,000	\$15,000	\$15,000
SUBTOTAL	\$89,000	\$89,000	\$89,000	\$107,000	\$109,500	\$104,500	\$105,000
HOTEL FUND:							
Dance Council	\$6,600	\$6,600	\$6,600	\$6,600	\$9,000	\$6,800	\$6,800
WaterTower Theatre WaterTower Theatre Matching	\$380,000	\$380,000	\$380,000	\$380,000	\$240,000	\$240,000	\$240,000
Rishardson Symphony Orchestra	\$0	\$0	\$0	\$0	\$150,000	\$150,000	\$150,000
Other Sources No longer Funded	\$23,700	\$35,000	\$30,000	\$0	\$192,189	\$30,000	\$30,000
SUBTOTAL	\$410,300	\$421,600	\$416,600	\$386,600	\$666,289	\$426,800	\$426,800

Note: Metrocrest Social Services one-time additional funding of \$15,000 for a total of \$30,000 in FY 2005/06
This table identifies each of the non-profit agencies requesting funds from the Town.

STATE OF TEXAS

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CONTRACT FOR SERVICES

COUNTY OF DALLAS

This Contract for Services is made and entered into as of the 1st day of October 2006 by and between the Town of Addison, Texas (the "City"), and Communities In Schools Dallas Region, Inc. ("Communities In Schools").

WITNESSETH:

WHEREAS, Communities In Schools is a private, non-profit organization established under the laws of the State of Texas for the purpose of providing academic support and social services for children at risk of dropping out of school in the Dallas region; and

WHEREAS, the success or failure of the purposes and objectives of Communities In Schools 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, is authorized and empowered to exercise the power of eminent domain to acquire property for a school or other educational facility pursuant to Section 251.001, Tex. Loc. Gov. Code, and the services provided by Communities In Schools 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 Communities In Schools Dallas, Inc. do hereby contract, covenant 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 2006 through the 30th day of September 2007, except as otherwise provided for herein.

II. SERVICES

Communities In Schools covenants and agrees that it shall:

(a) establish and continue an on-going campus program at Janie Stark Elementary School and Montgomery Primary School in the Carrollton-Farmers Branch I.S.D. aimed at providing students with supportive guidance and counseling, educational enhancement opportunities, cultural enrichment activities, health and human service agency referrals, and parental involvement programs;

(b) Assign two (2) professional staff to the Janie Stark Elementary School campus and two (2) professional staff to the Montgomery Primary School with bi-lingual language skills to guide in student development;

(c) conduct off-campus "home visits" with interested parents to acquaint them with enhanced student and parenting skills;

(d) coordinate with Addison apartment managers to hold neighborhood meetings to acquaint parents with Communities In Schools and its opportunities;

(e) bring the mobile service component of Communities In Schools to the Janie Stark Elementary School students;

(f) Provide effective follow-up reporting to the City through quarterly financial and service reports to indicate the numbers served;

(g) Provide an 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 Communities In Schools as described herein, the City shall pay Communities In Schools the sum of Forty Thousand and No/100 Dollars (\$40,000.00). Such sum shall be paid on or before January 9, 2007, provided Communities In Schools is not then in default of this Contract.

IV. RESPONSIBILITY; INDEMNIFICATION

(a) COMMUNITIES IN SCHOOLS 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 COMMUNITIES IN SCHOOLS, 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 (TOGETHER, "COMMUNITIES IN SCHOOLS PARTIES").

(b) IN CONSIDERATION OF THE GRANTING OF THIS CONTRACT, COMMUNITIES IN SCHOOLS AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS THE TOWN OF ADDISON, TEXAS, ITS, OFFICIALS, OFFICERS, AGENTS AND EMPLOYEES (EACH AN "INDEMNITEE"), IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, FROM AND AGAINST ANY AND ALL SUITS, ACTIONS, CLAIMS, JUDGMENTS, LIABILITIES, PENALTIES, FINES, EXPENSES, FEES AND COSTS (INCLUDING REASONABLE ATTORNEY'S FEES AND OTHER COSTS OF DEFENSE), AND DAMAGES (TOGETHER, "DAMAGES") ARISING OUT OF OR IN CONNECTION WITH COMMUNITIES IN SCHOOLS PERFORMANCE OF THIS CONTRACT (INCLUDING, WITHOUT LIMITATION, ANY ACT OR OMISSION OF COMMUNITIES IN SCHOOLS OR OF ANY OF THE COMMUNITIES IN SCHOOLS

PARTIES), INCLUDING DAMAGES CAUSED BY THE INDEMNITEE'S OWN NEGLIGENCE.

(c) With respect to Communities In Schools indemnity obligation set forth in subsection (b) of this Section, Communities In Schools shall have no duty to indemnify an Indemnitee for any Damages caused by the sole negligence of the Indemnitee.

(d) With respect to Communities In Schools' duty to defend set forth herein in subsection (b) of this Section, Communities In Schools shall have the duty, at its sole cost and expense, through counsel of its choice, to litigate, defend, settle or otherwise attempt to resolve any claim, lawsuit, cause of action, or judgment arising out of or in connection with this Contract; provided however, that the City shall have the right to approve the selection of counsel by Communities In Schools and to reject the Communities In Schools' selection of counsel and to select counsel of the City's own choosing, in which instance, Communities In Schools shall be obligated to pay reasonable attorney fees and the expenses associated thereto. The City agrees that it will not unreasonably withhold approval of counsel selected by Communities In Schools, and further, the City agrees to act reasonably in the selection of counsel of its own choosing.

(e) In the event that Communities In Schools fails or refuses to provide a defense to any claim, lawsuit, judgment, or cause of action arising out of or in connection with this Contract, the City shall have the right to undertake the defense, compromise, or settlement of any such claim, lawsuit, judgment, or cause of action, through counsel of its own choice, on behalf of and for the account of, and at the risk of Communities In Schools, and Communities In Schools shall be obligated to pay the reasonable and necessary costs, expenses and attorneys' fees incurred by the City in connection with handling the prosecution or defense and any appeal(s) related to such claim, lawsuit, judgment, or cause of action.

(f) THE INDEMNITY, HOLD HARMLESS, AND DEFENSE OBLIGATIONS OF COMMUNITIES IN SCHOOLS SET FORTH HEREIN SHALL SURVIVE THE EXPIRATION OR TERMINATION 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 Communities In Schools has failed at the time of such cancellation and termination to provide all of the services set forth herein, Communities In Schools shall refund to the City that portion of funds paid to Communities In Schools under the terms of this Contract in accordance with the following: Prorata funding returned to the City by Communities In Schools 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 Communities In Schools and the City under this Contract shall be discharged and terminated (except as otherwise provided herein) 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 Communities In Schools 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, Communities in School shall submit for the City's review a budget showing the use of the City's funds provided pursuant to this Contract, and Communities in School shall make such periodic reports to the City, as provided for herein, listing the expenditures made by Communities in School from the funds provided by the City. The approval of Communities in School's annual budget creates a fiduciary duty in Communities in School with respect to the funds provided by the City under this Contract.

The funds paid to Communities in School 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.

Communities In Schools 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, 2006, with the last quarter ending September 30, 2007), Communities In Schools shall provide the City the following: (a) a detailed financial report for the previous quarter listing the expenditures made by Communities In Schools of the funds paid to Communities In Schools under this Contract; and (b) a year-to-date report of the expenditures made by Communities In Schools of the funds paid to Communities in Schools under this Contract (and if this Contract is terminated prior to its expiration, Communities In Schools 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, Communities In Schools 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 Communities In Schools' fiscal year, Communities In Schools shall provide the City with a financial statement signed by the Chairman of Communities In Schools' Board of Directors (or other person acceptable to the City) and audited by an independent Certified Public Accountant, setting forth Communities In Schools' income, expenses, assets and liabilities, and such obligation shall survive the termination or expiration of this Contract.

VIII. INDEPENDENT CONTRACTOR

In performing services under this Contract, the relationship between the City and Communities In Schools is that of independent contractor, and the City and Communities In Schools by the execution of this Contract do not change the independent status of Communities In Schools. No term or provision of this Contract or action by Communities In Schools in the performance of this Contract is intended nor shall be construed as making Communities In Schools 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

Communities In Schools 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 Communities In Schools 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, Communities In Schools 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

Communities In Schools 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.

XIII. VENUE; GOVERNING LAW

In the event of any action under this Contract, 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 Communities In Schools Dallas Region, Inc. 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:

Mario Canizares
Assistant City Manager
Town of Addison
5300 Belt Line Road
Dallas, Texas 75254

Communities In Schools Dallas Region,
Inc. address:

Sandra Chavarria
President & CEO
8700 Stemmons Frwy, Suite 125
Dallas, TX 75247

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 Communities In Schools Dallas Region, Inc. 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 Communities In Schools Dallas Region, Inc.

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

**COMMUNITIES IN SCHOOLS
DALLAS REGION, INC.**

By: _____
Ron Whitehead, City Manager

By: _____
Sandra Chavarria, President

ATTEST:

ATTEST:

By: _____
Mario Canizares, City Secretary

By: _____

(printed name)
Its: _____

STATE OF TEXAS

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CONTRACT FOR SERVICES

COUNTY OF DALLAS

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This Contract for Services ("Contract") is made and entered into as of the 1st day of October 2006 by and between the Town of Addison, Texas (the "City") and Senior Adult Services of Addison, Carrollton, Coppell, and Farmers Branch ("Senior Adult Services").

WITNESSETH:

WHEREAS, Senior Adult Services is a private, non-profit organization established under the laws of the State of Texas for the purpose of providing information, programs, and referral services to the senior citizens within Addison, Carrollton, Coppell and Farmers Branch; and

WHEREAS, the success or failure of Senior Adult Services purposes and objectives has a direct impact on the health, comfort, and welfare of the senior citizens of the Town; 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 on its own or by contract, 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 Senior Adult Services 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 Senior Adult Services of Addison, Carrollton, Coppell, and Farmers Branch do hereby covenant and agree as follows:

I. TERM

The term of this Contract shall be for a period of one year from October 1, 2006 through September 30, 2007, except as otherwise provided for herein.

II. SERVICES

Senior Adult Services covenants and agrees that it shall:

- (a) Design, develop, and implement referral services, projects, or programs beneficial to the senior citizens living in the City of which include
 - (1) Transportation Assistance
 - (2) Home Repair Assistance
 - (3) Informational and Referral Services
 - (4) Home Delivered Meals
 - (5) Provide Case Management Services

(6) Care Givers Support

(b) 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 Senior Adult Services as described herein, the City shall pay Senior Adult Services the sum of Fifteen Thousand and No/100 Dollars (\$15,000.00). Such sum shall be paid on or before January 9, 2007, provided Senior Adult Services is not then in default of this Contract.

IV. INDEMNIFICATION

(a) SENIOR ADULT SERVICES 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 SENIOR ADULT SERVICES 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 (TOGETHER, "SENIOR ADULT SERVICES PARTIES").

(b) IN CONSIDERATION OF THE GRANTING OF THIS CONTRACT, SENIOR ADULT SERVICES AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS THE TOWN OF ADDISON, TEXAS, ITS, OFFICIAL, OFFICERS, AGENTS AND EMPLOYEES (EACH AN "INDEMNITEE"), IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, FROM AND AGAINST ANY AND ALL SUITS, ACTIONS, CLAIMS, JUDGMENTS, LIABILITIES, PENALTIES, FINES, EXPENSES, FEES AND COSTS (INCLUDING REASONABLE ATTORNEY'S FEES AND OTHER COSTS OF DEFENSE), AND DAMAGES (TOGETHER, "DAMAGES") ARISING OUT OF OR IN CONNECTION WITH SENIOR ADULT SERVICES PERFORMANCE OF THIS CONTRACT (INCLUDING, WITHOUT LIMITATION, ANY ACT OR OMISSION OF SENIOR ADULT SERVICES OR OF ANY OF THE SENIOR ADULT SERVICES PARTIES), INCLUDING DAMAGES CAUSED BY THE INDEMNITEE'S OWN NEGLIGENCE.

(c) With respect to Senior Adult Services' indemnity obligation set forth in subsection (c) of this Section, Senior Adult Services shall have no duty to indemnify an Indemnitee for any Damages caused by the sole negligence of the Indemnitee.

(d) With respect to Senior Adult Services' duty to defend set forth herein in subsection (b) of this Section, Senior Adult Services shall have the duty, at its sole cost and expense, through counsel of its choice, to litigate, defend, settle or otherwise attempt to resolve any claim, lawsuit, cause of action, or judgment arising out of or in connection with this Contract; provided however, that the City shall have the right to approve the selection of counsel by Senior Adult Services and to reject the Senior Adult Services' selection of counsel and to select counsel of the City's own choosing, in which instance, Senior Adult Services shall be obligated to pay

reasonable attorney fees and the expenses associated thereto. The City agrees that it will not unreasonably withhold approval of counsel selected by Senior Adult Services, and further, the City agrees to act reasonably in the selection of counsel of its own choosing.

(e) In the event that Senior Adult Services fails or refuses to provide a defense to any claim, lawsuit, judgment, or cause of action arising out of or in connection with this Contract, the City shall have the right to undertake the defense, compromise, or settlement of any such claim, lawsuit, judgment, or cause of action, through counsel of its own choice, on behalf of and for the account of, and at the risk of Senior Adult Services, and Senior Adult Services shall be obligated to pay the reasonable and necessary costs, expenses and attorneys' fees incurred by the City in connection with handling the prosecution or defense and any appeal(s) related to such claim, lawsuit, judgment, or cause of action.

(f) THE INDEMNITY, HOLD HARMLESS, AND DEFENSE OBLIGATIONS OF SENIOR ADULT SERVICES SET FORTH HEREIN SHALL SURVIVE THE EXPIRATION OR TERMINATION 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 Senior Adult Services has failed at the time of such cancellation and termination to provide all of the services set forth herein, Senior Adult Services shall refund to the City that portion of funds paid to Senior Adult Services under the terms of this Contract in accordance with the following: Prorata funding returned to the City by Senior Adult Services 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 Senior Adult Services and the City under this Contract shall be discharged and terminated (except as otherwise provided herein) 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 Senior Adult Services 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, Senior Adult Services shall submit for the City's review a budget showing the use of the City's funds provided pursuant to this Contract, and Senior Adult Services shall make such periodic reports to the City, as provided for herein, listing the expenditures made by Senior Adult Services from the funds provided by the City. The approval of Senior Adult Services' annual budget creates a fiduciary duty in Senior Adult Services with respect to the funds provided by the City under this Contract.

The funds paid to Senior Adult Services 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.

Senior Adult Services 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, 2006, with the last quarter ending September 30, 2007), Senior Adult Services shall provide the City the following: (a) a detailed financial report for the previous quarter listing the expenditures made by Senior Adult Services of the funds paid to Senior Adult Services under this Contract; and (b) a year-to-date report of the expenditures made by Senior Adult Services of the funds paid to Senior Adult Services under this Contract (and if this Contract is terminated prior to its expiration, Senior Adult Services 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, Senior Adult Services 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 Senior Adult Services' fiscal year, Senior Adult Services shall provide the City with a financial statement signed by the Chairman of Senior Adult Services' Board of Directors (or other person acceptable to the City) and audited by an independent Certified Public Accountant, setting forth Senior Adult Services' income, expenses, assets and liabilities, and such obligation shall survive the termination or expiration of this Contract.

VIII. INDEPENDENT CONTRACTOR

In performing services under this Contract, the relationship between the City and Senior Adult Services is that of independent contractor, and the City and Senior Adult Services by the execution of this Contract do not change the independent status of Senior Adult Services. No term or provision of this Contract or action by Senior Adult Services in the performance of this Contract is intended nor shall be construed as making Senior Adult Services 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

Senior Adult Services 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 Senior Adult Services 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, Senior Adult Services 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

Senior Adult Services 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.

XIII. VENUE; GOVERNING LAW

In the event of any action under this Contract, 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 Senior Adult Services 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 Town's address:

Mario Canizares
Assistant City Manager
Town of Addison
5300 Belt Line Road
Dallas, Texas 75254

Senior Adult Services' address:

Mary Joiner
Executive Director
Senior Adult Services
1111 Belt Line Rd., # 110
Carrollton, Texas 75006

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 Senior Adult Services 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 Senior Adult Services

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

By: _____
Ron Whitehead, City Manager

ATTEST:

By: _____
Mario Canizares, City Secretary

**SENIOR ADULT SERVICES
OF ADDISON, CARROLLTON COPPELL
AND FARMERS BRANCH**

By: _____
Mary Joiner, Executive Director

ATTEST:

By: _____

(printed name)

Its: _____

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 2007 by and between the Town of Addison, Texas (the "City") and Metrocrest Social 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 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 all mutual covenants and agreements hereinafter set forth, the parties do hereby covenant 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, 2006 through the 30th day of September, 2007, except as otherwise provided for herein.

II. SERVICES

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) Other

(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

(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 Social 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 Twenty Thousand and No/100 Dollars (\$20,000.00). Such sum shall be paid on or before January 9, 2007, provided Metrocrest is not then in default of this Contract.

IV. INDEMNIFICATION

(a) METROCREST 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 (TOGETHER, "METROCREST PARTIES").

(b) IN CONSIDERATION OF THE GRANTING OF THIS CONTRACT, METROCREST AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS THE TOWN OF ADDISON, TEXAS, ITS, OFFICIALS, OFFICERS, AGENTS AND EMPLOYEES (EACH AN "INDEMNITEE"), IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, FROM AND AGAINST ANY AND ALL SUITS, ACTIONS, CLAIMS, JUDGMENTS, LIABILITIES, PENALTIES, FINES, EXPENSES, FEES AND COSTS (INCLUDING REASONABLE ATTORNEY'S FEES AND OTHER COSTS OF DEFENSE), AND DAMAGES (TOGETHER, "DAMAGES") ARISING OUT OF OR IN CONNECTION WITH METROCREST'S PERFORMANCE OF THIS CONTRACT (INCLUDING, WITHOUT LIMITATION, ANY ACT OR OMISSION OF METROCREST OR OF ANY OF THE

METROCREST PARTIES) , INCLUDING DAMAGES CAUSED BY THE INDEMNITEE'S OWN NEGLIGENCE.

(c) With respect to Metrocrest's indemnity obligation set forth in subsection (b) of this Section, Metrocrest shall have no duty to indemnify an Indemnitee for any Damages caused by the sole negligence of the Indemnitee.

(d) With respect to Metrocrest's duty to defend set forth herein in subsection (b) of this Section, Metrocrest shall have the duty, at its sole cost and expense, through counsel of its choice, to litigate, defend, settle or otherwise attempt to resolve any claim, lawsuit, cause of action, or judgment arising out of or in connection with this Contract; provided however, that the City shall have the right to approve the selection of counsel by Metrocrest and to reject the Metrocrest's selection of counsel and to select counsel of the City's own choosing, in which instance, Metrocrest shall be obligated to pay reasonable attorney fees and the expenses associated thereto. The City agrees that it will not unreasonably withhold approval of counsel selected by Metrocrest, and further, the City agrees to act reasonably in the selection of counsel of its own choosing.

(e) In the event that Metrocrest fails or refuses to provide a defense to any claim, lawsuit, judgment, or cause of action arising out of or in connection with this Contract, the City shall have the right to undertake the defense, compromise, or settlement of any such claim, lawsuit, judgment, or cause of action, through counsel of its own choice, on behalf of and for the account of, and at the risk of Metrocrest, and Metrocrest shall be obligated to pay the reasonable and necessary costs, expenses and attorneys' fees incurred by the City in connection with handling the prosecution or defense and any appeal(s) related to such claim, lawsuit, judgment, or cause of action.

(f) THE INDEMNITY, HOLD HARMLESS, AND DEFENSE OBLIGATIONS OF METROCREST SET FORTH HEREIN SHALL SURVIVE THE EXPIRATION OR TERMINATION 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) 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

Prior to adopting its annual budget, Metrocrest shall submit for the City's review a budget showing the use of the City's funds provided pursuant to this Contract, 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. The approval of Metrocrest' 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, 2006, with the last quarter ending September 30, 2007), 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 of 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.

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. 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.

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

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.

XIII. VENUE; GOVERNING LAW

In the event of any action under this Contract, 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 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:

Mario Canizares
Assistant City Manager
Town of Addison
5300 Belt Line Road
Dallas, Texas 75254

Metrocrest's address:

Bunny Summerlin
Executive Director
Metrocrest Social Services
110 Belt Line Rd., #100
Carrollton, Texas 75006

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 SOCIAL SERVICES

By: _____
Ron Whitehead, City Manager

By: _____
Bunny Summerlin, Executive Director

ATTEST:

ATTEST:

By: _____
Mario Canizares, City Secretary

By: _____

(printed name)

Its: _____

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 2006 by and between the Town of Addison, Texas (the "City"), and Metrocrest Family Medical Clinic, ("Metrocrest Medical").

WITNESSETH:

WHEREAS, Metrocrest Family Medical 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 Family Medical 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 Family Medical 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 Family Medical Clinic do hereby contract, covenant 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, 2006 through the 30th day of September, 2007, except as otherwise provided for herein.

II. SERVICES

Metrocrest Family Medical 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) Present a mid-year written report to the City on the progress and status of services provided by Metrocrest Medical 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 Family Medical Clinic as described herein, the City shall pay Metrocrest Family Medical Clinic the sum of Two Thousand Five Hundred and No/100 Dollars (\$2,500.00). Such sum shall be paid on or before January 9, 2007, provided Metrocrest Family Medical Clinic is not then in default of this Contract.

IV. RESPONSIBILITY; INDEMNIFICATION

(a) METROCREST FAMILY MEDICAL 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 FAMILY MEDICAL 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 (TOGETHER, "METROCREST MEDICAL PARTIES").

(b) IN CONSIDERATION OF THE GRANTING OF THIS CONTRACT, METROCREST FAMILY MEDICAL CLINIC AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS THE TOWN OF ADDISON, TEXAS, ITS, OFFICIALS, OFFICERS, AGENTS AND EMPLOYEES (EACH AN "INDEMNITEE"), IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, FROM AND AGAINST ANY AND ALL SUITS, ACTIONS, CLAIMS, JUDGMENTS, LIABILITIES, PENALTIES, FINES, EXPENSES, FEES AND COSTS (INCLUDING REASONABLE ATTORNEY'S FEES AND OTHER COSTS OF DEFENSE), AND DAMAGES (TOGETHER, "DAMAGES") ARISING OUT OF OR IN CONNECTION WITH METROCREST FAMILY MEDICAL CLINIC'S PERFORMANCE OF THIS CONTRACT (INCLUDING, WITHOUT LIMITATION, ANY ACT OR OMISSION OF METROCREST FAMILY MEDICAL CLINIC OR OF ANY OF THE METROCREST MEDICAL PARTIES), INCLUDING DAMAGES CAUSED BY THE INDEMNITEE'S OWN NEGLIGENCE.

(c) With respect to Metrocrest Family Medical Clinic's indemnity obligation set forth in subsection (b) of this Section, Metrocrest Family Medical Clinic shall have no duty to indemnify an Indemnatee for any Damages caused by the sole negligence of the Indemnatee.

(d) With respect to Metrocrest Family Medical Clinic's duty to defend set forth herein in subsection (b) of this Section, Metrocrest Family Medical Clinic shall have the duty, at its sole cost and expense, through counsel of its choice, to litigate, defend, settle or otherwise attempt to resolve any claim, lawsuit, cause of action, or judgment arising out of or in connection with this Contract; provided however, that the City shall have the right to approve the selection of counsel by Metrocrest Family Medical Clinic and to reject Metrocrest Family Medical Clinic's selection of counsel and to select counsel of the City's own choosing, in which instance, Metrocrest Family Medical Clinic shall be obligated to pay reasonable attorney fees and the expenses associated thereto. The City agrees that it will not unreasonably withhold approval of counsel selected by Metrocrest Family Medical Clinic, and further, the City agrees to act reasonably in the selection of counsel of its own choosing.

- (d) Provide an annual audit of financial condition to the City; and
- (e) 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 DFW as described herein, the City shall pay DFW the sum of Seven Thousand Five Hundred and No/100 Dollars (\$7,500.00). Such sum shall be paid on or before January 9, 2007, provided DFW is not then in default of this Contract.

IV. RESPONSIBILITY; INDEMNIFICATION

DFW 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 DFW, its officials, officers, employees, agents, servants, invitees, contractors, subcontractors, or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. DFW covenants and agrees to and shall defend, indemnify and hold harmless the City, its officials, officers, agents and employees (together, "Indemnified Persons") against, and hold the Indemnified Persons harmless from, any and all liability, losses, penalties, claims, lawsuits, actions, causes of action, costs, expenses, or fees (including, without limitation, attorney's fees), breach of contract, or any other harm for which any type of recovery (whether at law, in equity, or otherwise) is sought (together, "Claims"), resulting from or based upon, in whole or in part, any act omission of DFW, its officials, officers, employees, agents, servants, invitees, contractors, subcontractors, or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, under or in connection with this Contract, the performance thereof by DFW, or any of its activities, and regardless of whether or not any such Claims is caused in part by any of the Indemnified Persons. DFW agrees to reimburse the City for all sums which the City may pay or may be paid on behalf of the City or which the City may be compelled to pay in settlement of any Claims, including without limitation any Claims under the provisions of any workers compensation law or other similar law. The provisions of this Section 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 DFW has failed at the time of such cancellation and termination to provide all of the services set forth herein, DFW shall refund to the City that portion of funds paid to DFW under the terms of this Contract in accordance with the following: Prorata funding returned to the City by DFW 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 DFW and the City under this Contract shall be discharged and terminated (except as otherwise provided herein) 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 DFW 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, DFW shall submit for the City's review a budget showing the use of the City's funds provided pursuant to this Contract, and DFW shall make such periodic reports to the City, as provided for herein, listing the expenditures made by DFW from the funds provided by the City. The approval of DFW's annual budget creates a fiduciary duty in DFW with respect to the funds provided by the City under this Contract.

The funds paid to DFW 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.

DFW 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, 2006, with the last quarter ending September 30, 2007), DFW shall provide the City the following: (a) a detailed financial report for the previous quarter listing the expenditures made by DFW of the funds paid to DFW under this Contract; and (b) a year-to-date report of the expenditures made by DFW of the funds paid to DFW under this Contract (and if this Contract is terminated prior to its expiration, DFW 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, DFW 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 DFW's fiscal year, DFW shall provide the City with a financial statement signed by the Chairman of DFW's Board of Directors (or other person acceptable to the City) and audited by an independent Certified Public Accountant, setting forth

DFW's income, expenses, assets and liabilities, and such obligation shall survive the termination or expiration of this Contract.

VIII. INDEPENDENT CONTRACTOR

In performing services under this Contract, the relationship between the City and DFW is that of independent contractor, and the City and DFW by the execution of this Contract do not change the independent status of DFW. No term or provision of this Contract or action by DFW in the performance of this Contract is intended nor shall be construed as making DFW 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

DFW 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.

X. NO PARTNERSHIP, JOINT VENTURE, OR JOINT ENTERPRISE

Nothing contained in this Contract shall be deemed to constitute that the City and DFW 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, DFW 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

DFW 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.

XIII. VENUE; GOVERNING LAW

In the event of any action under this Contract, 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 DFW 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:

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

DFW's address:

Anne Marie Weiss-Armush
Executive Director
DFW International
6310 LBJ, Suite 203
Dallas, TX 75240

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 DFW 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 DFW

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

DFW INTERNATIONAL

By: _____
Ron Whitehead, City Manager

By: _____
Ann Marie Weiss-Armush, President

ATTEST:

ATTEST:

By: _____
Mario Canizares, City Secretary

By: _____

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 2006 by and between the Town of Addison, Texas (the "Town") 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 Town 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 Town, and the Town 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 Town's desire to encourage and promote the arts, including, without limitation, theatre; and

WHEREAS, the Town 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 Town and WaterTower Theatre Incorporated do hereby contract, covenant 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, 2006 through the 30th day of September, 2007, 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, two (2) holiday productions, and The Out of the Loop Festival.

(b) Recognition of the Town in all playbills printed in connection with the productions.

(c) Work with all hotels located in the Town to generate awareness regarding the theatre.

(d) Submit detailed quarterly financial statements and program results to the Town 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 Town agrees to pay WTT as base consideration the sum of Two Hundred Forty Thousand and No/100 Dollars (\$240,000.00) "Base Consideration" from its revenue derived from the Town'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 December 30, 2006. In addition to the Base Consideration as provided above, the Town 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 Town terminates this Contract as provided for in Section V, the Town shall not be liable to WTT for the payment of any portion of the unpaid funds. The Town 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. 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 (TOGETHER, "WTT PARTIES").

(b) IN CONSIDERATION OF THE GRANTING OF THIS CONTRACT, WTT AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS THE TOWN OF ADDISON, TEXAS, ITS, OFFICIALS, OFFICERS, AGENTS AND EMPLOYEES (EACH AN "INDEMNITEE"), IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, FROM AND AGAINST ANY AND ALL SUITS, ACTIONS, CLAIMS, JUDGMENTS, LIABILITIES, PENALTIES, FINES, EXPENSES, FEES AND COSTS (INCLUDING REASONABLE ATTORNEY'S FEES AND OTHER COSTS OF DEFENSE), AND DAMAGES (TOGETHER, "DAMAGES") ARISING OUT OF OR IN CONNECTION WITH WTT'S PERFORMANCE OF THIS CONTRACT (INCLUDING, WITHOUT LIMITATION, ANY ACT OR OMISSION OF WTT OR OF ANY OF THE WTT PARTIES), INCLUDING DAMAGES CAUSED BY THE INDEMNITEE'S OWN NEGLIGENCE.

(c) With respect to WTT's indemnity obligation set forth in subsection (b) of this Section, WTT shall have no duty to indemnify an Indemnitee for any Damages caused by the sole negligence of the Indemnitee.

(d) With respect to WTT's duty to defend set forth herein in subsection (b) of this Section, WTT shall have the duty, at its sole cost and expense, through counsel of its choice, to litigate, defend, settle or otherwise attempt to resolve any claim, lawsuit, cause of action, or judgment arising out of or in connection with this Agreement; provided however, that the City shall have the right to approve the selection of counsel by WTT and to reject the WTT's selection of counsel and to select counsel of the City's own choosing, in which instance, WTT shall be obligated to pay reasonable attorney fees and the expenses associated thereto. The City agrees that it will not unreasonably withhold approval of counsel selected by WTT, and further, the City agrees to act reasonably in the selection of counsel of its own choosing.

(e) In the event that WTT fails or refuses to provide a defense to any claim, lawsuit, judgment, or cause of action arising out of or in connection with this Contract, the City shall have the right to undertake the defense, compromise, or settlement of any such claim, lawsuit, judgment, or cause of action, through counsel of its own choice, on behalf of and for the account of, and at the risk of WTT, and WTT shall be obligated to pay the reasonable and necessary costs, expenses and attorneys' fees incurred by the City in connection with handling the prosecution or defense and any appeal(s) related to such claim, lawsuit, judgment, or cause of action.

(f) THE INDEMNITY, HOLD HARMLESS, AND DEFENSE OBLIGATIONS OF WTT SET FORTH HEREIN SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS CONTRACT

V. TERMINATION

(a) The Town 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 Town; 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 Town; or

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

(4) WTT has offered, conferred, or agreed to confer any benefit upon a Town employee or official that the Town 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 Town.

VI. CONFLICT OF INTEREST

(a) No officer or employee of the Town 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 Town 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 Town's review a budget showing the use of the Town's funds provided pursuant to this Contract, and WTT shall make such periodic reports to the Town, as provided for herein, listing the expenditures made by WTT from the funds provided by the Town. The approval of WTT's annual budget creates a fiduciary duty in WTT with respect to the funds provided by the Town 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 Town 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, 2006, with the last quarter ending September 30, 2007), WTT shall provide the Town 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 Town at any time, WTT shall make its records available for inspection and review by the Town or its designated representative(s). Within ninety (90) days of the end of WTT's fiscal year, WTT shall provide the Town 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.

VIII. INDEPENDENT CONTRACTOR

In performing services under this Contract, the relationship between the Town and WTT is that of independent contractor, and the Town 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 Town, 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 Town, 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 Town.

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 Town 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 Town, its officials, officers, employees, and agents, for any liability, 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.

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

WTT shall observe and abide by, and this Contract is subject to, all applicable federal, state, and local (including the Town) laws, rules, regulations, and policies (including, without

limitation, the Charter and Ordinances of the Town), as the same currently exist or as they may be hereafter amended.

XIV. VENUE; GOVERNING LAW

In the event of any action under this Contract, 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 Town 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 Town's address:

Mario Canizares
Assistant City Manager
Town of Addison
5300 Belt Line Road
Dallas, Texas 75254

WTT's address:

Terry Martin
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 Town 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 Town 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: _____
Ron Whitehead, City Manager

By: _____
Terry Martin, Artistic Director

ATTEST:

ATTEST:

By: _____
Mario Canizares, City Secretary

By: _____
Its _____

EXHIBIT "A"
TO
2006-2007 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 Town 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 Town such proof of its receipt of Theatre Funds as the Town shall reasonably require. WTT shall make application on or before the 15th day of each month for distribution of Matching Funds (beginning January 16, 2007) and the Town shall pay such Matching Funds provided the Town has received adequate proof, in the Town'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 2006-2007 WTT season tickets sold by WTT on or before November 15, 2006, 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 \$100.00.

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 their administrative activities, and set out on the plans, as attached Exhibit A denoted in red.

(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 June 1 of each year, schedules setting out all dates, times and spaces needed. 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 2005, and continuing until September 30, 2007, unless 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 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 2006-2007 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, 2006, and ending September 30, 2007, 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. The Manager shall review such dates, times, and spaces 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.

(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
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(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.

Cancellation of scheduled spaces will be treated as follows: Cancellation more than forty-five (45) days before scheduled date, no penalty. Cancellation less than forty-five (45) days prior to the scheduled date, responsible for full rental payment.

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.* Food and beverages are prohibited within the main performance space at the Theatre Centre.

(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 rehearsal hall is rented to another group, dressing rooms 5 and 6 will be made available to the group in the rehearsal hall. If the rehearsal hall 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.

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 the TABC 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.

(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.

(d) *Shows Not Produced by WTT.* At the TOWN's request, WTT shall provide certain box office services for shows not produced by WTT (for purposes of this subsection (d) of this Section 5, "Third Party Shows"), as follows:

(i) WTT shall sell tickets for Third Party Shows that take place within the ACTC venue. WTT shall be compensated by the TOWN for such sales as follows:

(1) Tickets Sold at the Box Office (in person or by telephone):

Computer Set-Up	\$75.00 for each Third Party Show
Ticket Sales Handling Fee (prior to the Third Party Show)	\$ 1.00 per Order (regardless of the number of tickets in an Order)

A reasonable credit card handling fee equal to three percent (3%) shall be charged for those tickets purchased with a credit card.

(2) Tickets Sold at the Box Office During Third Party Show:

First Performance	\$100.00 for the performance
Additional Performance	\$ 75.00 for each additional performance

(ii) In connection with each Third Party Show:

(1) Blank ticket stock will be provided to WTT by the TOWN;

- (2) Third Party Show information shall be provided to WTT at least two (2) weeks prior to the first performance (to allow for set-up and ticket sales);
- (3) Ticket sales by WTT shall begin at least one (1) week prior to the first performance;
- (4) WTT personnel will carry out industry standard box office responsibilities;
- (5) The TOWN shall provide an employee or designated contract person to be present during a Third Party Show and to secure the Theatre Centre at the conclusion of a Third Party Show;
- (6) The organizer of the Third Party Show will be responsible for (x) house manager/ushers, (y) concessions/concessionaires, and (z) cleaning following a Show;
- (7) The TOWN shall seek to have the producer of the Third Party Show indemnify the Town and WTT for liability in connection with the Third Party Show.

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 in twelve (12) equal installments, with each installment being 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, 2006, and the last such installment is due and payable on or before October 15, 2007 (and the obligation of WTT to make the last installment shall survive the expiration of this Agreement). The rent paid by WTT may be adjusted from time to time to reflect a cancellation or addition of a show or event by WTT. 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. 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).

(b) WTT will not be required to pay the fee for a date, or time, or space cancelled if the space is cancelled more than forty-five (45) days prior to the scheduled date or time.

(c) Cancellation less than forty-five (45) days prior to the scheduled date or time will require full payment for committed space.

(d) 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. Exhibit "D" lists all office furniture and decorative items owned by and rented to WTT. This list may be amended from time to time possibility resulting in a change in the rental fee. All items used by WTT will continue to be the property of the TOWN and may, with a 60 days notice, shall be returned to the TOWN in the condition rented with normal wear and tear.

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.

If WTT desires to use and operate TOWN-owned equipment including but not limited to lighting and sound systems, then WTT shall obtain approval on a per-show basis from the TOWN for the use by WTT's technicians. Use of automated lighting fixtures, Obsession II control console, and wireless microphones must have prior written approval by ACTC Manager. The cost of repair for any damage to the 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.

All details of the production/event must be provided in writing to the Manager at least one month prior to the first day of occupancy of the space. No equipment owned by the TOWN may be contracted or committed by WTT without the manager's 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.

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.

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.

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

(ii) *Comprehensive 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 solely from negligence of the TOWN or its agents. However, the TOWN shall not be responsible for any damage or loss which shall not arise solely from the 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

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.

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

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 (together, "WTT Parties").

(b) In consideration of the granting of this CONTRACT, WTT agrees to defend, indemnify and hold harmless the town of Addison, Texas, its officials, officers, agents and employees (each an "Indemnitee"), in both their public and private capacities, from and against any and all suits, actions, claims, judgments, liabilities, penalties, fines, expenses, fees and costs (including reasonable attorney's fees and other costs of defense), and damages (together, "Damages") arising out of or in connection with WTT's performance of this Contract (INCLUDING, WITHOUT LIMITATION, ANY ACT OR OMISSION OF WTT OR OF ANY OF THE WTT PARTIES), including Damages caused by the Indemnitee's own negligence.

(c) With respect to WTT's indemnity obligation set forth in subsection (b) of this Section, WTT shall have no duty to indemnify an Indemnitee for any Damages caused by the sole negligence of the Indemnitee.

(d) With respect to WTT's duty to defend set forth herein in subsection (b) of this Section, WTT shall have the duty, at its sole cost and expense, through counsel of its choice, to litigate, defend, settle or otherwise attempt to resolve any claim, lawsuit, cause of action, or judgment arising out of or in connection with this Contract; provided however, that the City shall have the right to approve the selection of counsel by WTT and to reject the WTT's selection of counsel and to select counsel of the City's own choosing, in which instance, WTT shall be obligated to pay reasonable attorney fees and the expenses associated thereto. The City agrees that it will not unreasonably withhold approval of counsel selected by WTT, and further, the City agrees to act reasonably in the selection of counsel of its own choosing.

(e) In the event that WTT fails or refuses to provide a defense to any claim, lawsuit, judgment, or cause of action arising out of or in connection with this Contract, the City shall have the right to undertake the defense, compromise, or settlement of any such claim, lawsuit, judgment, or cause of action, through counsel of its own choice, on behalf of and for the account of, and at the risk of WTT, and WTT shall be obligated to pay the reasonable and necessary costs, expenses and attorneys' fees

incurred by the City in connection with handling the prosecution or defense and any appeal(s) related to such claim, lawsuit, judgment, or cause of action.

(f) THE INDEMNITY, HOLD HARMLESS, AND DEFENSE OBLIGATIONS OF WTT SET FORTH HEREIN SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS CONTRACT.

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:

Mario Canizares
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.

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, 2006 as approved by the parties hereto.

TOWN OF ADDISON, TEXAS

WATERTOWER THEATRE, INC.

By: _____
Ron Whitehead, City Manager

By: _____
Terry Martin, Producing Artistic Director

ATTEST:

ATTEST:

By: _____
Mario Canizares, Town Secretary

By: _____
Its:

Exhibit A

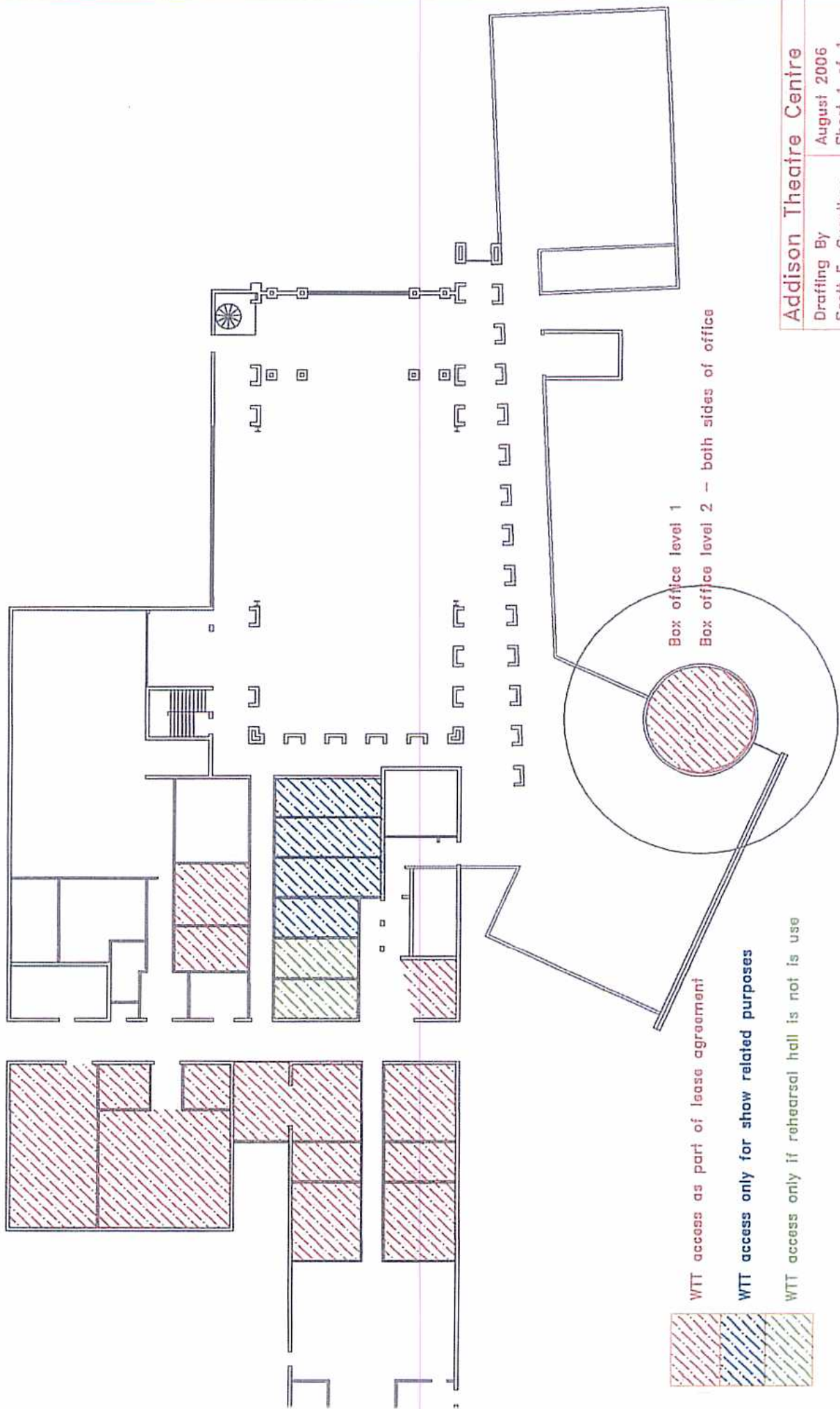


EXHIBIT B

RATE SHEET FOR WTT

(Revised October 1, 2006)

Theatre rental rates include use of the Main Space, Lobby, Box Office, Dressing Rooms, Green Room and Costume shop.

OFFICE SPACE AND FURNITURE RENTAL

\$701.00 per month

MAIN SPACE PERFORMANCE

Weekdays \$200.00 per 8 hour block
Weekends \$275.00 per 8 hour block

Performance blocks of time are defined as actual performances of the production

MAIN SPACE REHEARSAL

Weekdays \$150.00 per 8 hour block
Weekends \$200.00 per 8 hour block

Rehearsal blocks of time are defined as rehearsals conducted on the set of the production

MAIN SPACE PRODUCTION

Weekdays \$150.00 per 8 hour block
Weekends \$200.00 per 8 hour block

Production blocks of time are defined as set construction, reconfiguration of the space and light spot configuration

REHEARSAL SPACE

Weekdays \$ 75.00 per 8 hour block
Weekends \$100.00 per 8 hour block

EDUCATION MAIN SPACE RATES

Weekdays \$ 25.00 per hour for a minimum of 2 hours per day
Weekends \$ 35.00 per hour for a minimum of 2 hours per day

This price is good for Education classes only and only if WaterTower Theatre provides the Manager of the Addison Conference & Theatre Centre with a detailed scheduling request that includes times of use. Only upon submittal of the detailed schedule and subject to availability of the space and date requested, will these rates be valid. If no times

are submitted with the dates, we shall assume that the request is for an eight-hour block and will be invoiced accordingly.

STONE COTTAGE

Weekdays	\$ 75.00
Weekends	\$100.00

September 2006

Monthly Planner

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October 2006

Monthly Planner

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ST - Second Thought						
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MS - Show...			MS - Show #1			
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ST - Secon...		ST - Second Thought				
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ST - Secon...		ST - Second Thought				
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MS - Show...		MS - Possible Strike				

September

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November 2006

Monthly Planner

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ST - Xmas Rehearsal																																																																																																																							
MS - Build Xmas																																																																																																																							

December 2006

Monthly Planner

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1	2
					ST - Xmas ...	
					MS - Build Xmas	
3	4	5	6	7	8	9
					ST - Alternative Xmas	
MS - Build Xmas				MS - Xmas Show		
SC - The Santaland Diaries						
10	11	12	13	14	15	16
					ST - Alternative Xmas	
SC - The S...			SC - The Santaland Diaries			
MS - Xmas...			MS - Xmas Show			
17	18	19	20	21	22	23
					ST - Alternative Xmas	
SC - The S...			SC - The Santaland Diaries			
MS - Xmas...			MS - Xmas Show			
24	25	26	27	28	29	30
Xmas Eve	Xmas Day					
			MS - Strike			
31						

November 06

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

January 07

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

January 2007

Monthly Planner

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1 New Year's Day	2	3	4	5	6
		ST - Rehearse Show #2				
		MS - Build Show #2				
7	8	9	10	11	12	13
ST - Rehearse Show #2						ST - Secon...
MS - Build Show #2						
14	15	16	17	18	19	20
MS - Build Show #2				MS - Show # 2		
ST - Second Thought						
21	22	23	24	25	26	27
ST - Secon...		ST - Second Thought				
				MS - Show # 2		
28	29	30	31			
ST - Secon...					ST - Second Thought	
MS - Show...					MS - Show # 2	
ST - Secon...					ST - Second Thought	
MS - Show...					MS - Show # 2	
ST - Secon...					ST - Second Thought	
MS - Show...					MS - Show # 2	

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28		

February 2007

Monthly Planner

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1	2	3
				ST - Second Thought		
				MS - Show # 2		
4	5	6	7	8	9	10
ST - Secon...				MS - Show # 2		
MS - Show...						
11	12	13	14	15	16	17
				SC - Loop Pres		
				MS - Loop Prep		
			ST - Loop Prep			
MS - Show...		MS - Strike				
18	19	20	21	22	23	24
	ST - Loop Prep					
	MS - Loop Prep					
	SC - Loop Pres					
25	26	27	28			
	ST - Loop Prep					
	MS - Loop Prep					
SC - Loop Pres						

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

March 2007

Monthly Planner

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday																																																																																				
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ST - Rehearse Show #3 MS - Build Show #3						ST - Secon...																																																																																				

April 2007

Monthly Planner

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3	4	5	6	7
MS - Build Show #3				MS - Show #3		
ST - Second Thought						
8 Easter	9	10	11	12	13	14
ST - Secon...				ST - Second Thought		
				MS - Show #3		
15	16	17	18	19	20	21
ST - Secon...				ST - Second Thought		
MS - Show...	MS - Show #3					
22	23	24	25	26	27	28
ST - Secon...						
MS - Show...	MS - Show #3					
29	30					
MS - Show...	ST - Rehea...					
MS - Show...	MS - Strike					

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

May 2007

Monthly Planner

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June 2007

Monthly Planner

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MS - Camp																																																																																																												

July 2007

Monthly Planner

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3	4 Fourth of July	5	6	7
ST - Camp		MS - Build Show #5		MS - Build Show #5		
MS - Camp		ST - Rehearse Show #5				
8	9	10	11	12	13	14
ST - Rehearse Show #5						
MS - Build Show #5						
15	16	17	18	19	20	21
MS - Build Show #5				MS - Show #5		
22	23	24	25	26	27	28
MS - Show...			MS - Show #5			
29	30	31				
MS - Show...						

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
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August 2007

Monthly Planner

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September 2007

Monthly Planner

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STATE OF TEXAS

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CONTRACT FOR SERVICES

COUNTY OF DALLAS

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This Contract for Services ("Contract") is made and entered into as of the 1st day of October, 2006 by and between the Town of Addison, Texas (the "City") and the Dance Council (the "Dance Council").

WITNESSETH:

WHEREAS, the Dance Council is a private, non-profit organization established under the laws of the State of Texas for the purpose of promoting and supporting dance in North Texas, including the Town of Addison, and providing artistic, educational, and cultural opportunities to people of all ages, races and abilities; and

WHEREAS, the Dance Council'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 dance; 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, dance, and desires to encourage and promote the arts (including dance) through the execution of this Contract for Services.

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 Dance Council do hereby contract, covenant 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, 2006 through the 30th day of September, 2007, except as otherwise provided for herein.

II. SERVICES

The Dance Council shall provide the following services to the City:

- (a) Provide a program entitled "Taste Dance: Addison Style". This program shall be a four part series of lecture/demonstrations on dance to be presented at the Conference and Theatre Centre for two consecutive weekends in June 2006, on dates and at times to be decided. Dance themes addressed in the lecture/demonstrations shall include the following or items like the following:

Elledanceworks - Modern Dance

Elledanceworks Dance Company: visceral, gritty, moving - a non-profit 501(c)(3) organization bringing quality modern dance and choreography to the metroplex and beyond for the last ten years.

Contemporary Ballet Dallas – Contemporary Ballet

CBD was founded by SMU alumni looking to revitalize dance in Dallas. Our progressive, diverse style combines ballet with modern movement and music to bring dance to audiences like they've never seen it before.

–Legacy Tap Project - Tap

Legacy Tap Project was established for the purpose of preserving historical tap choreography through education, documentation, and performance.

–North Texas Middle Eastern Dance Association - Bellydance

The NTMEDA, a nonprofit organization, is a collective of Middle Eastern, performing troupes, independent artists, teachers, students, choreographers, dance enthusiasts, musicians, and businesses.

(b) The inclusion of the “Taste Dance: Addison Style” program on a series of postcards and the “Taste Dance: Addison Style” brochure. The Dance Council shall contact the City regarding the details of those postcards.

(c) The inclusion of the Addison logo on the Dance Council web site (www.thedancecouncil.org) or any other web site of the Dance Council. The Dance Council shall contact the City regarding the details of including the Addison logo on the web site.

(d) Provide a banner sign of the City at each Dance Council event which takes place in the City (with a banner sign to be provided by the City).

(e) Provide recognition from the stage at all Dance Council events (including Dance for the Planet, National Tap Dance Celebration, The Dallas Morning News Dance Festival, The Legacy Awards, and Taste Dance: Addison Style).

(f) 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 Dance Council with the revenues received pursuant to this Contract.

III. COMPENSATION

For the operation and provision of the services, projects and programs of the Dance Council as described herein, the City shall pay the Dance Council the sum of Six Thousand Eight Hundred and No/100 Dollars (\$6,800.00). Such sum shall be paid on or before April 9, 2007, provided Dance Council is not then in default of this Contract.

IV. INDEMNIFICATION

(a) DANCE COUNCIL 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 DANCE COUNCIL 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 (TOGETHER, "DANCE COUNCIL PARTIES").

(b) IN CONSIDERATION OF THE GRANTING OF THIS CONTRACT, DANCE COUNCIL AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS THE TOWN OF ADDISON, TEXAS, ITS, OFFICIALS, OFFICERS, AGENTS AND EMPLOYEES (EACH AN "INDEMNITEE"), IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, FROM AND AGAINST ANY AND ALL SUITS, ACTIONS, CLAIMS, JUDGMENTS, LIABILITIES, PENALTIES, FINES, EXPENSES, FEES AND COSTS (INCLUDING REASONABLE ATTORNEY'S FEES AND OTHER COSTS OF DEFENSE), AND DAMAGES (TOGETHER, "DAMAGES") ARISING OUT OF OR IN CONNECTION WITH DANCE COUNCIL'S PERFORMANCE OF THIS CONTRACT (INCLUDING, WITHOUT LIMITATION, ANY ACT OR OMISSION OF THE DANCE COUNCIL OR OF ANY OF THE DANCE COUNCIL PARTIES), INCLUDING DAMAGES CAUSED BY THE INDEMNITEE'S OWN NEGLIGENCE.

(c) With respect to Dance Council's indemnity obligation set forth in subsection (b) of this Section, Dance Council shall have no duty to indemnify an Indemnitee for any Damages caused by the sole negligence of the Indemnitee.

(d) With respect to Dance Council's duty to defend set forth herein in subsection (b) of this Section, Dance Council shall have the duty, at its sole cost and expense, through counsel of its choice, to litigate, defend, settle or otherwise attempt to resolve any claim, lawsuit, cause of action, or judgment arising out of or in connection with this Contract; provided however, that the City shall have the right to approve the selection of counsel by Dance Council and to reject the Dance Council's selection of counsel and to select counsel of the City's own choosing, in which instance, Dance Council shall be obligated to pay reasonable attorney fees and the expenses associated thereto. The City agrees that it will not unreasonably withhold approval of counsel selected by Dance Council, and further, the City agrees to act reasonably in the selection of counsel of its own choosing.

(e) In the event that Dance Council fails or refuses to provide a defense to any claim, lawsuit, judgment, or cause of action arising out of or in connection with this Contract, the City shall have the right to undertake the defense, compromise, or settlement of any such claim, lawsuit, judgment, or cause of action, through counsel of its own choice, on behalf of and for the account of, and at the risk of Dance Council, and Dance Council shall be obligated to pay the reasonable and necessary costs, expenses and attorneys' fees incurred by the City in connection with handling the prosecution or defense and any appeal(s) related to such claim, lawsuit, judgment, or cause of action.

(f) THE INDEMNITY, HOLD HARMLESS, AND DEFENSE OBLIGATIONS OF DANCE COUNCIL SET FORTH HEREIN SHALL SURVIVE THE EXPIRATION OR TERMINATION 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 Dance Council has failed at the time of such cancellation and termination to provide all of the services set forth herein, Dance Council shall refund to the City that portion of funds paid to Dance Council under the terms of this Contract in accordance with the following: Prorata funding returned to the City by Dance Council 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 Dance Council and the City under this Contract shall be discharged and terminated (except as otherwise provided herein) 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.

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

The funds paid to Dance Council 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.

Dance Council 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, 2004, with the last quarter ending September 30, 2005), Dance Council shall provide the City the following: (a) a detailed financial report for the previous quarter listing the expenditures made by Dance Council of the funds paid to Dance Council under this Contract; and (b) a year-to-date report of the expenditures made by Dance Council of the funds paid to Dance Council under this Contract (and if this Contract is terminated prior to its expiration, Dance Council 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, Dance Council 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 Dance Council's fiscal year, Dance Council shall provide the City with a financial statement signed by the Chairman of Dance Council's Board of Directors (or other person acceptable to the City) and audited by an independent Certified Public Accountant, setting forth Dance Council's income, expenses, assets and liabilities, and such obligation shall survive the termination or expiration of this Contract.

VIII. INDEPENDENT CONTRACTOR

In performing services under this Contract, the relationship between the City and Dance Council is that of independent contractor, and the City and Dance Council by the execution of this Contract do not change the independent status of Dance Council. No term or provision of this Contract or action by Dance Council in the performance of this Contract is intended nor shall be construed as making Dance Council 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

Dance Council 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 Dance Council 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

Dance Council 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 Dance Council's performances, transmissions or broadcasts, and Dance Council, without limiting any other indemnity given by Dance Council as set forth herein, agrees to defend, indemnify, and hold harmless the City, its officials, officers, employees, and agents, for any liability, claims or damages (including but not limited to court costs and reasonable attorney's fees) growing out of Dance Council'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, Dance Council 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

Dance Council 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.

XIV. VENUE; GOVERNING LAW

In the event of any action under this Contract, 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 Dance Council 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:

Mario Canizares
Assistant City Manager
Town of Addison
5300 Belt Line Road
Dallas, Texas 75254

Dance Council's address:

Mike Garner
Executive Director
3530 Harry Hines Blvd.
Dallas, Texas 75219

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 Dance Council 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 Dance Council.

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

DANCE COUNCIL

By: _____
Ron Whitehead, City Manager

ATTEST:

By: _____
Mario Canizares, City Secretary

By: _____

Chairman of the Board

ATTEST:

By: _____

STATE OF TEXAS

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CONTRACT FOR SERVICES

COUNTY OF DALLAS

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§

This Contract for Services is made and entered into as of the 1st day of October, 2006 by and between the Town of Addison, Texas (the "City"), and the Richardson Symphony Orchestra (the "Orchestra").

WITNESSETH:

WHEREAS, the Orchestra is a private, non-profit organization established under the laws of the State of Texas for the purpose of providing concerts of great music and educational opportunities for adults and children within the Dallas region; and

WHEREAS, the Orchestra'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, music; 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, music, and desires to encourage and promote the arts (including music) through the execution of this Contract for Services.

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 Richardson Symphony Orchestra do hereby contract, covenant 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, 2006 through the 30th day of September, 2007, except as otherwise provided for herein.

II. SERVICES

The Orchestra shall provide the following services:

- (a) Provide services as outlined in the attached schedule (to be labeled Exhibit 1);
- (b) Provide effective follow-up reporting to the City through quarterly financial and service reports to indicate the numbers served;
- (c) Provide an annual audit of financial condition to the City; and

(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 the Orchestra as described herein, the City shall pay the Orchestra the sum of Thirty Thousand and No/100 Dollars (\$30,000.00). Such sum shall be paid on a per service basis as outlined in the attached schedule (Exhibit 1) with each payment due on or before the performance date for each service, provided Orchestra is not then in default of this Contract.

IV. RESPONSIBILITY; INDEMNIFICATION

Indemnification and Insurance. With only the exception provided in Section XI., neither party shall have any obligation to indemnify, defend, or hold the other party harmless for any claims arising out of or related to this Agreement or any party's performance (or lack thereof) of this Agreement, or any other act or omission. Each party shall, at its own cost and expense, provide and keep in full force and effect during the term of this Agreement, commercial general liability insurance with limits of not less than \$1 million covering bodily injury to any person, including death and loss of or damage to real and personal property. Such insurance may be provided under a blanket comprehensive liability insurance policy.

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 Orchestra has failed at the time of such cancellation and termination to provide all of the services set forth herein, Orchestra shall refund to the City that portion of funds paid to the Orchestra for any events scheduled beyond the 30 days written notice cancellation period. Upon payment or tender of such amount, all of the obligations of Orchestra and the City under this Contract shall be discharged and terminated (except as otherwise provided herein) 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.

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

The funds paid to Orchestra 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.

Orchestra 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, 2006, with the last quarter ending September 30, 2007), Orchestra shall provide the City the following: (a) a detailed financial report for the previous quarter listing the expenditures made by Orchestra of the funds paid to Orchestra under this Contract; and (b) a year-to-date report of the expenditures made by Orchestra of the funds paid to Orchestra under this Contract (and if this Contract is terminated prior to its expiration, Orchestra 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, Orchestra 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 Orchestra's fiscal year, Orchestra shall provide the City with a financial statement signed by the Chairman of Orchestra's Board of Directors (or other person acceptable to the City) and audited by an independent Certified Public Accountant, setting forth Orchestra's income, expenses, assets and liabilities, and such obligation shall survive the termination or expiration of this Contract.

VIII. INDEPENDENT CONTRACTOR

In performing services under this Contract, the relationship between the City and Orchestra is that of independent contractor, and the City and Orchestra by the execution of this Contract do not change the independent status of Orchestra. No term or provision of this Contract or action by Orchestra in the performance of this Contract is intended nor shall be construed as making Orchestra 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

Orchestra 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.

X. NO PARTNERSHIP, JOINT VENTURE, OR JOINT ENTERPRISE

Nothing contained in this Contract shall be deemed to constitute that the City and Orchestra 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

Orchestra 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 Orchestra's performances, transmissions or broadcasts, and Orchestra, without limiting any other indemnity given by Orchestra as set forth herein, agrees to defend, indemnify, and hold harmless the City, its officials, officers, employees, and agents, for any liability, claims or damages (including but not limited to court costs and reasonable attorney's fees) growing out of Orchestra'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, Orchestra 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

Orchestra 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.

XIV. VENUE; GOVERNING LAW

In the event of any action under this Contract, 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 Orchestra 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:

Mario Canizares
Assistant City Manager
Town of Addison
5300 Belt Line Road
Dallas, Texas 75254

Orchestra's address:

George Landis
President/Executive Director
Richardson Symphony Orchestra
800 E. Campbell Rd., Suite 122
Richardson, TX 75081

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 Orchestra 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 Orchestra.

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

RICHARDSON CHAMBER ORCHESTRA

By: _____
Ron Whitehead, City Manager

By: _____
George Landis, Executive Director

ATTEST:

ATTEST:

By: _____
Mario Canizares, City Secretary

By: _____

EXHIBIT I
Town of Addison/Richardson Symphony Orchestra
Summary of Chamber Group and School Performances for FY2006-2007

11/8/2006

<u>Event</u>	<u>Date</u>	<u># of Rehearsal Services</u>	<u># of Performance Services</u>	<u>Total Estimated Costs</u>
<i>Service Appreciation Day Event at Addison Town Hall</i>				
- RSO String Quartet	12/7/2006	1	1	\$1,260
<i>Town Hall Meetings</i>				
- Performance by RSO Woodwind and Brass Quintets (one each at each of two Town Hall meetings)	TBD	2	2	\$3,150
<i>Office Building Concerts:</i>				
"Symphony Serenades" Chamber Music Concerts at Spectrum and Colonnade Office Buildings (Summer, 2007)				
- One performance in each office building by each of three ensembles: the RSO strings, brass and woodwind quintets	TBD/Summer '07	3	6	\$6,615
<i>Hotel Concerts:</i>				
"Symphony Serenades" Chamber Music Concerts at Marriott, Intercontinental and Crowne Plaza Hotels				
- One performance in each of three hotels by each of three ensembles: the RSO strings, brass and woodwind quintets	TBD	3	9	\$8,820
<i>Retail Concerts:</i>				
"Symphony Serenades" Chamber Music Concerts at Retail Locations in Addison (most likely Target and Sam's)				
- One performance in each location by each of two ensembles: the RSO brass and woodwind quintets	TBD	2	4	\$4,725

School Performance(s):

Chamber Symphony Performance of "Peter and the Wolf"

- On location at one elementary school serving the students of Addison.

- 26 piece orchestra + announcer

TBD	0	<u>1</u>	<u>\$5,910</u>
		23	\$30,480
			\$1,325

TOTALS:

Cost per performance:

Council Agenda Item: #ES1

There are no attachments for this item.

Council Agenda Item: #ES2

There are no attachments for this item.