



AGENDA

REGULAR MEETING OF THE CITY COUNCIL

7:30 P.M.

NOVEMBER 13, 2007

TOWN HALL

5300 BELT LINE ROAD

REGULAR SESSION

Item #R1 - Consideration of Old Business.

Item #R2 - Consent Agenda.

#2a - Approval of the Minutes for:
October 16, 2007, Special Meeting and Worksession
October 23, 2007, Regular City Council Meeting

Item #R3 - Mr. Wazir Moolji, owner of Perry's C-Store Deli at 16601 Addison Road, Addison, TX, has requested to and will address the City Council regarding his property.

Attachment :

1. Letter from Mr. Moolji
2. Mayor's Letter of Response

Item #R4 - Consideration and approval of the appointment of Scott Wheeler to the Dallas Central Appraisal District (DCAD) Board of Directors.

Attachments:

1. Letter
2. Resolution

Item #R5 - Consideration and approval of annual contract for FY '08 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.

Attachments:

1. Council Agenda Item Overview
2. TRA Letter
3. TRA Contract
4. TRA Fee Schedule

Administrative Recommendation:

Administration recommends approval.

Item #R6 - Consideration and approval of (i) a Contract for Services with each of several Non-Profit entities, as follows: 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, WaterTower Theatre, Inc., The Dance Council, and Richardson Symphony Orchestra, and (ii) an Agreement for Use of the Addison Theatre Centre with WaterTower Theatre, Inc.

Attachments:

1. Council Agenda Item Overview
- Non-Profits:
2. Communities in Schools – Dallas
3. Senior Adult Services
4. Metrocrest Social Services
5. Metrocrest Family Medical Clinic

-
6. Metrocrest Chamber of Commerce
 7. The Family Place
 8. Special Care and Career Services
 9. WaterTower Theatre
 10. WaterTower Theatre-Matching
 11. The Dance Council
 12. Richardson Symphony Orchestra

Administrative Recommendation:

Administration recommends approval.

Item #R7 - Consideration and approval for the Town to become a member of River of Trade Corridor Coalition, otherwise known as ROTCC.

Attachments:

1. Council Agenda Item Overview
 2. Goals and Objectives
-

Item #R8 - Consideration and approval of a Resolution to adopt Rule §70.3 of the Texas Administrative Code, Cost of Copies of Public Information, which updates the charges for copies of public information and service rendered charges.

Attachments:

1. Council Agenda Item Overview
2. Copy Charge Schedule
3. Resolution

Administrative Recommendation:

Administration recommends approval.

Item #R9 - FINAL PLAT/Asbury Circle. Consideration of approval of a final plat for 73 lots on 8.140 acres, located in a Belt Line Road zoning district, at the southwest corner of the intersection of Belt Line Road and Commercial Drive, on application from Ashton Woods Homes, represented by Mr. Casey Ross of Dowdey, Anderson & Associates.

Attachments:

1. Docket Map
2. Staff Report
3. Plat

Planning and Zoning Commission will consider this Item in a meeting on November 8, 2007. Commission findings will be delivered to the Council on Friday, November 9, 2007.

Item #R10 - FINAL PLAT/Lake Forest Addition, Lots 1 and 2, Block A. Consideration of approval of a final plat for 2 lots on 2.006 acres, located on the east side of Lake Forest Drive, approximately 200 feet south of Belt Line Road, on application from Mr. Scott Hershman, represented by Dayton Macatee Engineering.

Attachments:

1. Docket Map
2. Staff Report
3. Plat

Planning and Zoning Commission will consider this Item in a meeting on November 8, 2007. Commission findings will be delivered to the Council on Friday, November 9, 2007.

Item #R11 - **PUBLIC HEARING** Case 1548-SUP/Marble Slab Creamery Public hearing on, and consideration of approval of, an ordinance amending the zoning on certain property located in a Local Retail zoning district at 4937 Belt Line Road by approving a Special Use Permit for a restaurant (ice cream shop), on application from Mr. Salim Sayani.

Attachments:

1. Docket Map
2. Staff Report
3. Plat

Planning and Zoning Commission will consider this Item in a meeting on November 8, 2007. Commission findings will be delivered to the Council on Friday, November 9, 2007.

Item #R12 - **PUBLIC HEARING** Case 1549-SUP/Patton's Corner. Public hearing on, and consideration of approval of, an ordinance amending the zoning on certain property, located in an Industrial-1 zoning district at 14345 Dallas Parkway by approving a Special Use Permit for a Christmas tree lot, on application from Mr. Jeff Patton.

Attachments:

1. Docket Map
2. Staff Report
3. Plat

Planning and Zoning Commission will consider this Item in a meeting on November 8, 2007. Commission findings will be delivered to the Council on Friday, November 9, 2007.

Item #R13 - **PUBLIC HEARING** Case 1550-SUP/Joey's Seafood. Public hearing on, and consideration and approval of, an ordinance amending the zoning on certain property located in a Local Retail-LR zoning district at 4145 Belt Line Road by approving a Special Use Permit for a restaurant and a Special Use Permit for the sale of alcoholic beverages for on-premises consumption, on application from Mr. Alejandro Gonzalez Juaristi.

Attachments:

1. Docket Map
2. Staff Report
3. Plat

Planning and Zoning Commission will consider this Item in a meeting on November 8, 2007. Commission findings will be delivered to the Council on Friday, November 9, 2007.

Item #R14 - **PUBLIC HEARING** Case 1551-Z/David Weekley Homes. Consideration and approval of an ordinance amending the zoning on certain property generally described as 3.98 acres in the UC – Urban Center zoning district – Residential subdistrict, located at the southeast corner of Airport Parkway and Quorum Drive, by approving a final development plan, with

waivers for 84 townhomes, on application from David Weekley Homes, represented by Mr. Larry Jackson.

Attachments:

1. Docket Map
2. Staff Report
3. Plat

Planning and Zoning Commission will consider this Item in a meeting on November 8, 2007. Commission findings will be delivered to the Council on Friday, November 9, 2007.

Item #R15 - PRELIMINARY PLAT/The Residences at Addison Circle. Consideration of approval of a preliminary plat for 84 lots, located on 3.98 acres at the southeast corner of Quorum Drive and Airport Parkway, on application from David Weekley Homes, represented by Dowdey Anderson & Associates, Inc.

Attachments:

1. Docket Map
2. Staff Report
3. Plat

Planning and Zoning Commission will consider this Item in a meeting on November 8, 2007. Commission findings will be delivered to the Council on Friday, November 9, 2007.

Item #R16 - Consideration and approval of an ordinance granting meritorious exceptions to Section 62-163 (Area) and Section 62-285 (Luminescent gaseous tubing) of the Addison sign ordinance (as set forth in the Town's Code of Ordinances) for Los Lupes Mexican Restaurant located at 3855 Belt Line Road.

Attachments:

1. Staff Report
2. Meritorious Exceptions

Administrative Recommendation:

Administration recommends denial.

Item #R17 - Consideration and approval of an ordinance granting meritorious exceptions to Section 62-186 (Monument Sign) and Section 62-285 (Luminescent gaseous tubing) of the Addison sign ordinance (as set forth in the Town's Code of Ordinances) for Los Lupes Mexican Restaurant located at 3855 Belt Line Road.

Attachments:

1. Staff Report
2. Meritorious Exceptions

Administrative Recommendation:

Administration recommends denial.

Item #R18 - Consideration and approval authorizing the City Manager to enter into a contract with Building Solutions, Inc., for facilities project management services.

Attachments:

1. Council Agenda Item Overview

Administrative Recommendation:

Administration recommends approval.

Item #R19 - Consideration and approval of a new ground lease and non-public fuel farm license agreement between the Town and ExecHangar ADS, LC on Addison Airport, and authorizing the City Manager to execute the same.

Attachments:

1. Council Agenda Item Overview
2. Ground Lease & Non-Public Fuel Farm License Agreement to ExecHangar

Administrative Recommendation:

Administration recommends approval.

Item #R20 - Consideration and approval of various items related to the Encore FBO Acquisition, LLC re-development at Addison Airport to include; 1) the assignment of R. Stern FBO LTD, ground leases at Addison Airport to Encore FBO Acquisition, LLC., 2) early termination of the R. Stern FBO LTD ground leases in favor of a new ground lease between the Town and Encore FBO Acquisition, LLC. at Addison Airport, and 3) granting a Public FBO (fixed base operator) Fuel Farm License agreement to Encore FBO Acquisition, LLC., and authorizing the City Manager to execute the same.

Attachments:

1. Council Agenda Item Overview
2. Assignment of Stern Leases to Encore FBO

Administrative Recommendation:

Administration recommends approval.

Item #R21 - Discussion and approval of a Memorandum of Understanding agreement between the Town of Addison and the Cavanaugh Flight Museum.

Attachments:

1. Council Agenda Item Overview
2. Memorandum of Understanding
3. Agreement

Administrative Recommendation:

Administration recommends approval.

Item #R22 - Consideration and approval of 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 #R23 - Consideration and approval of an agreement with Southwest Speakers Bureau, Inc., d.b.a. 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. Agreement

Administrative Recommendation:

Administration recommends approval.

Item #R24 - Consideration and approval of an agreement with Krause Advertising to provide marketing consultation, creative ad production services, administrative and account oversight for the Town's 2007-2008 marketing and special events initiatives.

Attachments:

1. Council Agenda Item Overview
2. Agreement

Administrative Recommendation:

Administration recommends approval.

Item #R25 - Consideration and approval of an agreement with Rodney Hand & Associates Marketing Communications, LP to advertise in the November 2007, February 2008, May 2008 and August 2008 editions of the Addison/North Dallas Corridor Guide publication.

Attachments:

1. Council Agenda Item Overview
2. Agreement

Administrative Recommendation:

Administration recommends approval.

Item #R26 - Consideration and approval of a resolution amending the Town of Addison's Purchasing Manual.

Attachments:

1. Council Agenda Item Overview
2. Resolution

Administrative Recommendation:

Administration recommends approval.

Item #R27 - **PUBLIC HEARING** – Consideration and approval of an ordinance amending the Town's Code of Ordinances by amending Article II (Property Taxation) of Chapter 74 (Taxation) thereof by adding a new section 74-33 providing for the taxation of certain tangible personal property, described as goods-in-transit, which would otherwise be exempt pursuant to Article 9, Section 1-n of the Texas Constitution and Section 11.253 of the Texas Tax Code, and providing that the taxation of such tangible personal property applies to and is effective for 2008 and all tax years thereafter.

Attachments:

1. Council Agenda Item Overview
2. Goods in Service Detail

Administrative Recommendation:

Administration recommends approval.

Item #R28 - Discussion of the taxing of leased vehicles used for personal purposes.

Attachment:

1. Council Agenda Item Overview

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 see the advice of its attorney(s) about contemplated litigation, and/or on a matter or matters in which the duty of the attorney(s) to the Town 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 and relating to the Addison Airport Bulk Fuel Storage Facility.

Item #R29 - Consideration of approval of any action regarding the Addison Airport Bulk Fuel Storage Facility.

Adjourn Meeting

Posted:
November 9, 2007 at 5:00 P.M.
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.**

**OFFICIAL ACTIONS OF SPECIAL MEETING AND WORKSESSION
OF THE CITY COUNCIL**

October 16, 2007
6:30 P.M. – Addison Conference Centre
15650 Addison Road
Addison, TX 75001

Present: City Council Members: Mayor Chow, Councilmembers Braun, Hirsch,
Kraft, Meier, Mellow and Niemann

Absent: None

Item #WS2 Presentation and discussion of Airport Trends and Issues.

Chris Basham with Clough Harbour and Associates, LLP, made the presentation and led the discussion of Airport Trends and Issues.

No action was taken on this item.

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

Mayor

Attest:

City Secretary

OFFICIAL ACTIONS OF THE ADDISON CITY COUNCIL
WORK SESSION

October 23, 2007
5:00 P.M. at 2808 Running Duke Drive
Carrollton, TX 75006

Work Session

Present: Mayor Chow, Councilmembers Braun, Hirsch, Kraft, Meier, Mellow and Niemann

Absent: None

6:00 P.M. – Town Hall
5300 Belt Line Road
Upstairs Conference Room

Present: Mayor Chow, Councilmembers Braun, Hirsch, Kraft, Meier, Mellow and Niemann

Absent: None

Work Session

Item #WS1- Tour of Jerry Junkins Elementary School, and presentation by and discussion with Edwin Flores, DISD Board of Trustees, regarding education matters.

The tour, presentation and discussion were led by:

- Edwin Flores, DISD Board of Trustees Member
- Susan Walker, Principal of Jerry Junkins Elementary School

There was no action taken on this item.

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

Mayor

Attest:

City Secretary

OFFICIAL ACTIONS OF THE ADDISON CITY COUNCIL
REGULAR SESSION

October 23, 2007
7:30 P.M. – Town Hall
5300 Belt Line Road
Council Chambers

Present: Mayor Chow, Councilmembers Braun, Hirsch, Kraft, Meier, Mellow and Niemann

Absent: None

Regular Session

Item #R1 - Consideration of Old Business.

The following employees were introduced to the Council: Bruce Ellis with the Building Inspection Department, Susie Powell with the Police Department and Scott Ledet with the Fire Department.

Item #R2 - Consent Agenda.

#2a - Approval of the Minutes for:

October 8, 2007, Special Meeting Worksession and Executive Session
October 9, 2007, Worksession and Regular City Council Meeting

The Minutes for the October 8, 2007, Special Meeting Worksession and Executive Session were approved with the following corrections:

Before Item #WS1, add: "Councilmember Niemann recused himself for Items #WS1 and #WS2 and left Council Chambers."

After Item #WS2, add: "Councilmember Niemann returned to Council Chambers."

The Minutes for the October 9, 2007, Worksession and Regular City Council Meeting, were approved as written:

Councilmember Niemann moved to duly approve Consent Agenda Item #2a, with the changes as noted for the October 8, 2007, Minutes.

Councilmember Braun seconded. Motion carried.

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

Absent: None

Councilmember Niemann recused himself for Item #R3 and left Council Chambers.

Item #R3 - Consideration and approval of a preliminary plat for Lot 1, Block 1, Opus Addition, being one tract of 3.371 acres, located in the Urban Center District – Commercial sub-district, on the northwest corner of Dallas Parkway and Addison Circle, on application from OPUS West Group, represented by Mr. Kyle Whitis of Pacheco Koch Consulting Engineers.

Councilmember Kraft moved to duly approve a preliminary plat for Lot 1, Block 1, Opus Addition, being one tract of 3.371 acres, located in the Urban Center District – Commercial sub-district, on the northwest corner of Dallas Parkway and Addison Circle, on application from OPUS West Group, represented by Mr. Kyle Whitis of Pacheco Koch Consulting Engineers.

Councilmember Mellow seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Meier, Mellow

Voting Nay: None

Abstaining: Niemann

Councilmember Niemann returned to Council Chambers.

Item #R4 - Consideration and approval of the annual contract with the Dallas County Health Department for the Town of Addison for payment of \$5,751 based on expenses incurred in calendar year 2006, to participate in the cost of providing selected public health services at reduced prices to Addison residents.

Councilmember Braun moved to duly approve the annual contract with the Dallas County Health Department for the Town of Addison for payment of \$5,751 based on expenses incurred in calendar year 2006, to participate in the cost of providing selected public health services at reduced prices to Addison residents.

Councilmember Niemann seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Meier, Mellow, Niemann

Voting Nay: None

Absent: None

Item #R5 - Consideration and approval of a resolution in support of the Dallas Trinity Parkway Project which will be voted on during the November 6, 2007, election.

Councilmember Niemann moved to duly approve Resolution R07-023 in support of the Dallas Trinity Parkway Project which will be voted on during the November 6, 2007, election.

Councilmember Braun seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Meier, Niemann
Voting Nay: Mellow
Abstaining: Kraft

Item #R6 - Consideration and approval of a supplemental agreement to the Engineering Services Agreement with Kimley-Horn and Associates, Inc., in an amount not to exceed \$21,000, for additional design services on the Traffic Signal System Upgrade project.

Councilmember Mellow moved to duly approve a supplemental agreement to the Engineering Services Agreement with Kimley-Horn and Associates, Inc., in an amount not to exceed \$21,000, for additional design services on the Traffic Signal System Upgrade project.

Councilmember Kraft seconded. Motion carried.

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

Item #R7 - Consideration and approval of an ordinance of the Town of Addison, Texas, providing for the abandonment of a portion of a public utility easement on property referred to as the Millennium Phase II Subdivision, a tract of 3.5343 acres located at the northwest corner of Arapaho Road and Dallas Parkway, providing an effective date.

Councilmember Braun moved to duly approve Ordinance No. 007-036 of the Town of Addison, Texas, providing for the abandonment of a portion of a public utility easement on property referred to as the Millennium Phase II Subdivision, a tract of 3.5343 acres located at the northwest corner of Arapaho Road and Dallas Parkway, providing an effective date, subject to City Attorney's review.

Councilmember Niemann seconded. Motion carried.

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

Item #R8 - Consideration and approval of an award of a bid to StageLight, Inc., in the amount of \$28,892.00, for the purchase of a theatrical lighting console for the Addison Theatre Centre.

Councilmember Mellow moved to duly approve the award of a bid to StageLight, Inc., in the amount of \$28,892.00, for the purchase of a theatrical lighting console for the Addison Theatre Centre.

Councilmember Kraft seconded. Motion carried.

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

Item #R9 - Consideration and approval of a resolution approving an Interlocal Agreement with The Cooperative Purchasing Network for the purpose of cooperative purchasing.

Councilmember Kraft moved to duly approve Resolution R07-024 approving an Interlocal Agreement with The Cooperative Purchasing Network for the purpose of cooperative purchasing.

Councilmember Niemann seconded. Motion carried.

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

Councilmember Niemann recused himself for Item #R10 and left Council Chambers.

Item #R10 - Consideration and approval of a resolution suspending the October 25, 2007, effective date of Atmos Energy Corp., Mid-Tex Division requested rate change, and, among other things, approving cooperation with Atmos Cities Steering Committee and other cities regarding legal and consulting services in connection with the requested rate change.

Councilmember Braun moved to duly approve Resolution R07-025 suspending the October 25, 2007, effective date of Atmos Energy Corp., Mid-Tex Division requested rate change, and, among other things, approving cooperation with Atmos Cities Steering Committee and other cities regarding legal and consulting services in connection with the requested rate change.

Councilmember Kraft seconded. Motion carried.

Voting Aye: Chow, Braun, Hirsch, Kraft, Meier, Mellow
Voting Nay: None
Abstaining: Niemann

Councilmember Niemann returned to Council Chambers.

Item #R11 - Discussion of proposed changes to the Town of Addison's Purchasing Manual.

Shanna Sims presented the proposed changes to the Town of Addison's Purchasing Manual.

There was no action taken on this Item.

Item #R12 - Discussion regarding procedure for travel expenses.

Randy Moravec presented the discussion regarding procedure for travel expenses.

There was no action taken on this Item.

Councilmember Hirsch recused himself for Item #R13 and left Council Chambers.

Item #R13 - Discussion and consideration of an assignment of lease (and related option agreement) between the Town of Addison, as Landlord, and Amar Unlimited, Inc. d/b/a Clay Pit Grill & Curry House (4460 Belt Line Road), as Tenant, from Amar Unlimited to Twin City Hotels, LLC.

Councilmember Mellow moved to duly approve an assignment of lease (and related option agreement) between the Town of Addison, as Landlord, and Amar Unlimited, Inc. d/b/a Clay Pit Grill & Curry House (4460 Belt Line Road), as Tenant, from Amar Unlimited to Twin City Hotels, LLC, subject to approval of the City Attorney and personal guarantee of G. E. Capital.

Councilmember Kraft seconded. Motion carried.

Voting Aye: Chow, Braun, Kraft, Meier, Mellow, Niemann

Voting Nay: None

Abstaining: Hirsch

Councilmember Hirsch returned to Council Chambers.

Item #R14 - Discussion regarding zoning and policing efforts at Addison Hotels.

Ron Davis and John Hill led the discussion regarding zoning and policing efforts at Addison Hotels.

There was no action taken on this Item.

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

Mayor

Attest:

City Secretary

WAZIR MOOLJI
15350 ADDISON RD.
ADDISON TX-75001

COPY

#R3

RECEIVED
OCT 17 2007

CLERK/CITY COUNCIL

MR. JOE CHOW
MAYOR
TOWN OF ADDISON

MR. JOE CHOW 10.17.07.

MAYOR, TOWN OF ADDISON

DEAR MR. CHOW,

THROUGH THIS NOTE, I WOULD LIKE
TO PUT A REQUEST TO ALLOW ME TO
ATTEND AND ADDRESS THE
COUNCIL IN YOUR NEXT MEETING

THANKS

WAZIR MOOLJI
PERRY'S C STORE
972 239-0622.

JOE CHOW
MAYOR



TOWN OF ADDISON, TEXAS

COPY

P. O. Box 9010, Addison, Texas 75001-9010 (972) 450-7026 Fax (972) 450-7043
E-mail: jchow@ci.addison.tx.us

October 22, 2007

Mr. Wazir Moolji
Perry's C Store
15350 Addison Road
Addison, Texas 75001

Dear Mr. Moolji,

I appreciate you taking the time to write a letter to me about addressing the City Council at a future Council meeting. I would like to extend an invitation for you to attend and speak to the Council at our meeting on November 13, 2007 at 7:30 p.m. The City Secretary will publicly post the meeting by Friday, November 9 and I will make sure that you are placed at the beginning of the agenda.

I look forward to seeing you on November 13th. If you have any questions, please contact Mario Canizares, Assistant City Manager/City Secretary at (972) 450-7017.

Sincerely,

Joe Chow
Mayor



RECEIVED
OCT 24 2007
MAYOR/CITY COUNCIL

#R4

Dallas Central Appraisal District

Date: October 22, 2007

To: Joe Chow, Mayor, Town of Addison

From: W. Kenneth Nolan, Executive Director/Chief Appraiser

Re: Election of Suburban Cities' Representative to Dallas Central Appraisal District Board of Directors

In accordance with state law, the nomination process for persons to serve on the Dallas Central Appraisal District Board of Directors has been completed. By state law, your agency is required to vote by official ballot resolution, which is enclosed. **You must do so no later than December 15.**

The nominees are as follows, in alphabetical order. Also included are the names of agencies nominating each.

| Nominee | Entity(s) Nominating |
|-----------------------|-------------------------------------|
| Ms. Rita Burks | Balch Springs |
| Mr. James Daniels | Lancaster |
| Mr. Dwayne M. Gentsch | Garland |
| Mr. Michael Hurtt | DeSoto |
| Mr. Robert Thornton | Grand Prairie |
| Mr. R. Scott Wheeler | Addison, Farmers Branch, Richardson |

Please act on this election process by official ballot resolution and return the ballot resolution to my office in the enclosed envelope by December 19, 2007. **The 1979 resolution adopted by the taxing units participating in Dallas Central Appraisal District, which governs board elections, requires that a candidate receive a majority of the votes in order to be elected to the Board of Directors. Therefore it is imperative that your taxing unit cast its vote before the December 15, 2007 deadline.**

We appreciate your interest in this very important process and look forward to receiving your vote.

WKN/vgh

Enclosure (Official Ballot Resolution/Return Envelope)

cc: Ron Whitehead, City Manager
Mario Canizares, City Secretary

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF _____, DALLAS COUNTY, TEXAS, CASTING ITS VOTE FOR THE FOURTH MEMBER OF THE BOARD OF DIRECTORS OF THE DALLAS CENTRAL APPRAISAL DISTRICT.

WHEREAS, Dallas County eligible taxing entities have expressed and approved an option which allows for representation to the Appraisal District Board of Directors (in accordance with Section 6.03 of the Texas Property Tax Code) as follows:

1. The City of Dallas shall appoint one (1) member to the Board.
2. The Dallas Independent School District shall appoint one (1) member to the Board.
3. The Dallas County Commissioners Court shall appoint one (1) member to the Board. The member appointed by the Dallas County Commissioners Court shall not be a resident of either the City of Dallas or the Dallas Independent School District.
4. Each of the incorporated cities and towns, except for the City of Dallas, shall have the right to nominate by an official resolution one (1) candidate as the fourth member of the Board of Directors. The said cities and towns shall, from the nominations received, elect by a majority vote, with each city and town being entitled to one (1) vote, the fourth member of the Board of Directors.
5. Each of the independent school districts, except for the Dallas Independent School District, shall have the right to nominate by an official resolution one (1) candidate as the fifth member of the Board of Directors. The said independent school districts shall, from the nominations received, elect by a majority vote, with each independent school district being entitled to one (1) vote, the fifth member of the Board of Directors.

The votes required for election to the Board of Directors in 4 and 5 hereof shall be by a majority of those authorized to vote in 4 and 5 respectively and not by a majority of the quorum, and

WHEREAS, the City of _____ does hereby cast its vote by marking the ballot below:
(Check one only)

- Rita Burks**
- James Daniels**
- Dwayne M. Gentsch**
- Michael Hurtt**
- Robert Thornton**
- R. Scott Wheeler**

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of _____ does hereby confirm its one (1) vote for the election of _____ as the suburban cities' representative to the Board of Directors of the Dallas Central Appraisal District.

PASSED AND APPROVED, this the _____ day of _____, 2007

MAYOR

ATTEST:

CITY SECRETARY

SEAL:

Council Agenda Item: #R5

SUMMARY:

Annual contract for FY '08 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.

FINANCIAL IMPACT:

Budgeted Amount: \$0

Cost: \$0

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

N/A

BACKGROUND:

The EPA requires that industries categorized as significant industrial users (SIUs) regarding their wastewater discharges be scrutinized by the local governing authority for compliance with federal law. Since the Trinity River Authority (TRA) treats all of the wastewater generated in the industrially zoned areas in Addison and is the agency responsible to the EPA, in the interest of impartiality and credibility, we felt it is prudent to continue our relationship with TRA for EPA required services.

Being that the actual expenditures to TRA are recoverable from SIUs, no monies are budgeted for this regulatory program. An enterprise account (#01-000-11505) in the Utility Fund has been created to handle this financial arrangement. For your information, we do not expect expenditures for the term of this contract to exceed \$3,000. Terms of contract are identical to last year. Find attached a cover letter from TRA, a draft contract for Mr. Whitehead's signature and a fee schedule. Please forward two (2) signed contracts to TRA for their signature and provide to me a copy of the fully executed contract when it returns from TRA.

RECOMMENDATION:

Staff recommends approval

CONTRACT FOR TECHNICAL SERVICES

I. CONTRACTING PARTIES

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

**PO Box 9010
Addison, Texas 75001
Attn: Neil Gayden, R.S. Environmental Services Official**

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

II. STATEMENT OF SERVICES TO BE PERFORMED

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

A. PERFORMANCE OF SERVICES

1. Industrial Inspection Services

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

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

2. Industrial Sampling Services

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

The Performing Agency (Trinity River Authority of Texas) shall perform all sample collections, sample preservation, and maintenance of chain-of-custody records in accordance to the approved procedures set forth in Test Methods for Evaluating Solid Waste, EPA Manual SW-846, Methods for Chemical Analysis of Water and Wastes, EPA Manual EPA-600/4-79-020, and the Handbook for Sampling and Sample Preservation of Water and Wastewater, EPA Manual EPA-600/4-82-029. The samples shall be properly collected, preserved and delivered by the Performing Agency to the Performing Agency's laboratory located at 6500 West Singleton Blvd., Dallas, Texas. When feasible flow or time composited sampling will be conducted. When composited sampling is not feasible, grab sampling will be appropriate.

3. Analytical Services

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

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

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

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

Receiving Agency may deliver to Performing Agency samples for analysis separate and apart from those samples collected by the Performing Agency. When the Receiving Agency delivers samples to the Performing Agency for analysis, the Receiving Agency shall indicate the nature and extent of the analyses it desires to be conducted. Performing Agency shall not be responsible for the manner of collection or chain-of-custody tags or sheets which are matters entirely outside Performing Agency's control. Performing Agency shall receive, log and perform such analyses of samples in accordance with that part of the chain-of-custody procedures identified as Transfer of Custody and Shipment attached hereto.

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

B. TERMINATION

Either party to this Contract may terminate the Contract by giving the other party thirty (30) days notice in writing at their authorized address as noted previously. Upon delivery of such notice by either party to the other and before expiration of the thirty (30) day period, the Performing Agency will proceed promptly to cancel all existing orders, contracts, and obligations which are chargeable to this Contract. As soon as practicable after notice of termination is given, the Performing Agency will submit a voucher for work performed under this Contract through its termination. The Receiving Agency will pay the Performing Agency for the work performed less all prior payments. Copies of all completed or partially completed reports, documents, and studies prepared under this Contract will be delivered by the Performing Agency to the Receiving Agency when and if this Contract is terminated prior to the completion of the prescribed work.

C. AMENDING THE CONTRACT

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

III. BASIS FOR CALCULATING REIMBURSABLE COSTS

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

The expenditures by the Trinity River Authority of Texas of funds paid to it under this Contract shall be subject to such State or Federal audit procedures as may be required by law and by accepted practices of the State or Federal auditor, or both, if requested. The Trinity River Authority of Texas shall be responsible for maintaining books of account that clearly, accurately and currently reflect financial transactions. The financial records must include all documents supporting entries on the account records which substantiate costs. The Trinity River Authority of Texas must keep the records readily available for examination for a period of three (3) years after the close of the last expenditure.

Reimbursement for the inspection, sampling, and/or analytical costs, and cost for any travel and per diem expenses shall not exceed **Three Thousand Dollars_ (\$3,000)** for the period of this Contract.

IV. CONTRACT AMOUNT

The total amount of this Contract shall not exceed **Three Thousand Dollars (\$3,000)** nor be less than **One Thousand Five Hundred Dollars (\$1,500)**, per annum, unless mutually agreed by the parties hereto.

V. PAYMENT FOR SERVICES

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

The Receiving Agency shall pay the monthly billings of the Performing Agency within thirty (30) days of their receipt.

VI. TERM OF CONTRACT

This Contract is to begin **October 1, 2007** and shall terminate **September 30, 2008**, subject to Section II, paragraph B of this contract.

VII. INTERLOCAL AGREEMENT

Inasmuch as the Receiving Agency and the Performing Agency are political subdivisions of this state, and inasmuch as the testing of water and wastewater are critical to the maintenance of public health and such testing is therefore, a governmental function and service, this contract shall be deemed authorized by the Interlocal Cooperation Act, art. 4413(32c), Tex. Rev. Civ. Stat.

Receiving Agency:

Performing Agency:

CITY OF _____

TRINITY RIVER AUTHORITY OF TEXAS

BY: _____

BY: _____

TITLE: _____

GENERAL MANAGER

DATE: _____

DATE: _____

ATTEST: _____

ATTEST: _____

(SEAL)

(SEAL)

CHAIN-OF-CUSTODY PROCEDURES

Sample Collection

1. To the maximum extent achievable, as few people as possible should handle a sample.
2. Stream and effluent samples should be obtained using standard field sampling techniques and preservation procedures.
3. Chain-of-Custody tags or sheets should be attached to each sample at the time it is collected.

The tag or sheet contains basically laboratory (requested parameters) information; however, certain identifying items including City, City Code, Type Sample, Material Sampled, and Method of Preservation must be completed by the field personnel collecting the sample.

In completing the Chain-of-Custody tag or sheet, care should be utilized to insure that all necessary information is correctly and legibly entered onto the form. A black ballpoint with water proof ink should be used at all times.

Transfer of Custody and Shipment

1. All samples should be handled by the minimum possible number of persons.
2. All incoming samples shall be received by the custodian, or his alternate, and logged into a record book (log book). Information to be entered into the Log Book shall include the sample number, date received, source, time(s) sampled, date(s) sampled, and analyses requested.
3. Promptly after logging, the custodian will distribute the sample to an analyst or place the sample in sample storage, which will be locked at all times except when samples are removed or replaced by analysts. The sample will be tracked internally in the lab.
4. The custodian shall ensure that heat-sensitive samples, or other sample materials having unusual physical characteristics, or requiring special handling, are properly stored and maintained.
5. Samples shall be kept in the sample storage security area at all times when not actually being used by analysts, such as during overnight absences.
6. The analysis sheet will be signed and dated by the person performing the tests and retained as a permanent record in the laboratory.
7. Test results shall be sent by the laboratory to the appropriate Receiving Agency control point.



3110.500.040.100

July 27, 2007

Mr. Neil Gayden
Supervisor, Environmental Services
City of Addison
P.O. Box 9010
Addison, Texas 75001-9010

Dear Mr. Gayden:

Subject: Contract for Services - Fiscal Year 2008
Revised Technical Services Fee Schedule
Central Regional Wastewater System

The Trinity River Authority Board of Directors, in Board Action June, 2007, approved the Technical Services Fee Schedule for Fiscal Year 2008 which is in connection with all contracting work relating to the analysis of water and wastewater, industrial inspections, and/or sampling services. As in past years we propose to continue performing associated services to all Authority Contributing Parties under the provisions of a contract for services. Enclosed please find two (2) copies of the Trinity River Authority Contract for Services and Fee Schedules for Fiscal Year 2008 attached for your review and official authorization. Upon the City's approval for requested services between the City and Trinity River Authority, please return both notarized or sealed copies with Attachment A - Technical Services Fee Schedules for final execution to this office. After execution by the Authority's General Manager, one (1) original Contract for Services will be returned for your files unless otherwise noted by the City.

Please address and refer the correspondence regarding this matter to:

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

July 27, 2007
FY-2007 Contract for Services
Page 2

To coordinate our efforts accordingly, the Authority requests the approval of the contract to begin on October 1, 2007, and terminate on date specified by the contracting party in Section VI. Please note that the contract may now be greater than one (1) year at the contracting party's preference.

Also enclosed are additional copies of our Board Approved Fiscal Year 2008 Services Fee Schedule for your use and files. The service fees are effective December 1, 2007 through November 30, 2008. Historically the fee schedule for these services is derived annually from the direct costs of performing each test, including manpower, materials, supplies, and equipment costs. Additionally, the cost associated with maintaining quality assurance is included in the cost of the test.

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

Sincerely,

WM. B.CYRUS
Manager, Technical Services

BC/mlt

Enclosures

INDUSTRIAL PRETREATMENT SERVICES
INDUSTRIAL SAMPLING

INDUSTRIAL INSPECTION

| | | | |
|---|-----------|--------------------------------|-----------|
| Composite Sample | \$ 100.00 | Inspection/On Site | \$ 105.00 |
| Additional Composite Sample | \$ 35.00 | Inspection/On Site Unpermitted | \$ 90.00 |
| Grab Sample | \$ 50.00 | Permit Preparation (new) | \$ 150.00 |
| Additional Grab Sample | \$ 10.00 | Permit Renewal | \$ 95.00 |
| Field pH | \$ 5.50 | Field Surveillance Event | \$ 240.00 |
| pH or DO only | \$ 50.00 | | |
| Sampling Event Cost for a Failed Sample | \$ 50.00 | | |
| Industry Split Sample | \$ 25.00 | | |

- | | |
|-----------------------------|--|
| ~Grab Sampling | ~Installation of Automatic Composite Samplers |
| ~Delivery to TRA Laboratory | ~Verification of Application Data |
| ~Field Testing Available | ~Consultation with Industries on Industrial Pretreatment |
| ~Sample Preservation | ~Chemical Inventory Review |
| ~Proper Chain of Custody | ~Industry Split Sampling |

GENERAL SERVICE INFORMATION

- Effective Date: December 1, 2004. All prices listed are per sample and subject to review.
- All analyses are run in accordance with "Standard Methods for the Examination of Water and Wastewater," 20th Edition , 1998 or most recent approved and/or EPA "Manual of Methods for Chemical Analysis of Water and Wastes," 1983 and the "3rd Edition of Solid Waste Manual SW 846."
- Prices include a 10 percent charge added to the analyses cost to maintain the normal quality assurance program.
- Customer required PRIORITY samples will billed at one and one-half times the routine rate. Emergency samples run immediately or RUSH will be billed at two times the routine rate. Standard turn around time is considered 15 business days for most testing. However there are exceptions specific to certain tests. Priority is half of the standard time for the test. The lab can provide turn around time detail for any test and it is recommended to call in advance of sample turn in or inquire at the time of turn in.
- The Laboratory will follow Chain of Custody procedures for all samples. The customer may be contacted by the lab representative on any variance issues and written instruction may be requested concerning the variance.
- Sample preparations, if required, are charged additionally as listed.
- Sampling supplies will be provided upon request at a reasonable charge. Bacteriological sampling supplies are included in the cost of the analyses.
- Samples* should be delivered to the laboratory before 4:00 p.m. on weekdays. Samples cannot be accepted on weekends or holidays unless special arrangements are made in advance.
 *(Bacteriological) samples should be delivered prior to 2:00 p.m. unless special arrangements are made in advance. For after-hour samples please call and arrange for leaving in cold storage vault with analyses request form.
- A monthly invoice for completed analyses is mailed the following month.
- Laboratory hours are weekdays 7:00 a.m. to 4:30 p.m. . Contact the Lab prior to or in emergency use the number below for weekend testing needs.
- Environmental Field, Engineering Field and Pretreatment Services office hours are Monday through Friday, 8:00 a.m. to 5:00 p.m. For after-hour emergencies, leave message with computer operator.
- Environmental Field and Engineering Field Services are requested to be scheduled a minimum of 72 hours in advance.

FOR MORE INFORMATION, CONTACT:

METRO: (972) 263-2251 FAX: (972) 331-4414

William B. Cyrus
 Manager, Technical Services

| | | | |
|---|--|---|--|
| Craig Harvey Laboratory Division Chief | Cynthia Belvin Pretreatment Coordinator | John Herndon Environmental Service Coordinator | Cathy Henderson Quality Assurance Coordinator |
| | | Mark Orbeck Technical Services Engineer | |

Council Agenda Item: #R6

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 2007/08 budget.

FINANCIAL IMPACT:

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

| | | |
|------------------|---------------------|---------------------|
| | General Fund | Hotel Fund |
| Budgeted Amount: | <u>\$100,000.00</u> | <u>\$427,000.00</u> |
| Cost: | <u>\$100,000.00</u> | <u>\$427,000.00</u> |

BACKGROUND:

During the FY 2007/08 budget process, the City Council reviewed the following non-profit agencies and funding amounts for FY 2007/08. Attached are the contracts for the non-profits. Minor changes have been made to ensure consistency within the contracts and to reflect changes to performances and their dates as applicable.

| General Fund | Amount | Hotel Fund | Amount |
|----------------------------------|------------------|-------------------------------|------------------|
| Communities in Schools-Dallas | \$40,000 | WaterTower Theatre | \$240,000 |
| Senior Adult Services | \$17,000 | WaterTower Theatre-Matching | \$150,000 |
| Metrocrest Social Services | \$20,000 | The Dance Council | \$7,000 |
| Metrocrest Family Medical Clinic | \$3,000 | Richardson Symphony Orchestra | \$30,000 |
| Metrocrest Chamber of Commerce | \$10,000 | | |
| The Family Place | \$5,000 | | |
| Special Care and Career Services | \$5,000 | | |
| TOTAL | \$100,000 | TOTAL | \$427,000 |

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.

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, 2007 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 2007 through the 30th day of September 2008, 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 1, 2008, 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, 2007, with the last quarter ending September 30, 2008), 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; RECITALS

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. The above and foregoing recitals to this Agreement are true and correct and incorporated herein and made a part hereof.

XIII. VENUE; GOVERNING LAW

In the event of any action under this Contract, 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

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 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, 2007 through September 30, 2008, 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 Seventeen Thousand and No/100 Dollars (\$17,000.00). Such sum shall be paid on or before January 1, 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, 2007, with the last quarter ending September 30, 2008), 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; RECITALS

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. The above and foregoing recitals to this Agreement are true and correct and incorporated herein and made a part hereof.

XIII. VENUE; GOVERNING LAW

In the event of any action under this Contract, 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

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

By: _____
Ron Whitehead, City Manager

By: _____
Mary Joiner, Executive Director

ATTEST:

ATTEST:

By: _____
Mario Canizares, City Secretary

By: _____

(printed name)

Its: _____

STATE OF TEXAS

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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, 2007 through the 30th day of September, 2008, 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 1, 2008, 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.0

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's annual budget creates a fiduciary duty in Metrocrest with respect to the funds provided by the City under this Contract.

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

Metrocrest shall maintain complete and accurate financial records of all of its revenues, including, without limitation, each expenditure of revenue received pursuant to this Contract. By the thirtieth (30th) day after the close of each quarter (beginning with the quarter ending December 31, 2007, with the last quarter ending September 30, 2008), 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; RECITALS

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

XIII. VENUE; GOVERNING LAW

In the event of any action under this Contract, 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
1111 W. Beltline 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

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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 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, 2007 through the 30th day of September, 2008, 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 Three Thousand and No/100 Dollars (\$3,000.00). Such sum shall be paid on or before January 1, 2008, 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 Indemnitee for any Damages caused by the sole negligence of the Indemnitee.

(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.

(e) In the event that Metrocrest Family Medical Clinic 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 Family Medical Clinic, and Metrocrest Family Medical Clinic 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 FAMILY MEDICAL CLINIC 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 Family Medical Clinic has failed at the time of such cancellation and termination to provide all of the services set forth herein, Metrocrest Family Medical Clinic shall refund to the City that portion of funds paid to Metrocrest Family Medical Clinic under the terms of this Contract in accordance with the following: Prorata funding returned to the City by Metrocrest Family Medical Clinic shall be determined by dividing the amount paid by the City under this Contract by 365 (the "daily rate"), and then multiplying the daily rate by the number of days which would have remained in the term hereof but for the cancellation or termination. Upon payment or tender of such amount, all of the obligations of Metrocrest Family Medical Clinic 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 Family Medical Clinic shall have any financial interest, direct or indirect, in this Contract or the proceeds thereof.

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

VII. ACCOUNTING

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

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

Metrocrest Family Medical Clinic shall maintain complete and accurate financial records of all of its revenues, including, without limitation, each expenditure of revenue received pursuant to this Contract. By the thirtieth (30th) day after the close of each quarter (beginning with the quarter ending December 31, 2007, with the last quarter ending September 30, 2008), Metrocrest Family Medical Clinic shall provide the City the following: (a) a detailed financial report for the previous quarter listing the expenditures made by Metrocrest Family Medical Clinic of the funds paid to Metrocrest Family Medical Clinic under this Contract; and (b) a year-to-date report of the expenditures made by Metrocrest Family Medical Clinic of the funds paid to Metrocrest Family Medical Clinic under this Contract (and if this Contract is terminated prior to its expiration, Metrocrest Family Medical Clinic shall provide such reports as set forth above for the period prior to the expiration for which reports have not been provided, and such obligation shall survive the termination hereof; and the obligation to provide the reports for the last quarter of this Contract shall survive the expiration of this Contract). On request of the City at any time, Metrocrest Family Medical Clinic shall make its records available for inspection and review by the City or its designated representative(s). Within ninety (90) days of the end of Metrocrest Family Medical Clinic's fiscal year, Metrocrest Family Medical Clinic shall provide the City with a financial statement signed by the Chairman of Metrocrest Family Medical Clinic's Board of Directors (or other person acceptable to the City) and audited by an independent Certified Public Accountant, setting forth Metrocrest Family Medical Clinic'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 Family Medical Clinic is that of independent contractor, and the City and Metrocrest Family Medical Clinic by the execution of this Contract do not change the independent status of Metrocrest Family Medical Clinic. No term or provision of this Contract or action by Metrocrest Family Medical Clinic in the performance of this Contract is intended nor shall be construed as making Metrocrest Family Medical Clinic the agent, servant or employee of the City, or to create an employer-employee relationship, a joint venture relationship, or a joint enterprise relationship.

IX. NON-ASSIGNABILITY; NO THIRD-PARTY BENEFIT

Metrocrest Family Medical Clinic may not and shall have no authority to assign, transfer, or otherwise convey by any means whatsoever this Contract or any of the rights, duties or responsibilities hereunder without obtaining the prior written approval of the City, and any

attempted assignment, transfer, or other conveyance of this Contract without such approval shall be null and void and be cause for immediate termination of this Contract by the City.

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

X. NO PARTNERSHIP, JOINT VENTURE, OR JOINT ENTERPRISE

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

XI. NON-DISCRIMINATION

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

XII. LEGAL COMPLIANCE; CONTRACT SUBJECT TO LAWS; RECITALS

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

XIII. VENUE; GOVERNING LAW

In the event of any action under this Contract, 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 Family Medical Clinic agree to provide the other with written notification within five (5) days, if the address for notices, provided below, is changed. Notices by personal delivery shall be deemed delivered upon the date delivered; mailed notices shall be deemed communicated on the date shown on the return receipt. If no date is shown, the mailed notice shall be deemed communicated on the third (3rd) day after depositing the same in the United States mail.

The City's address:

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

Metrocrest Family Medical Clinic's
address:

Jane Wood Hawkins
Executive Director
Metrocrest Family Medical Clinic
Plaza 1, Suite 140, One Medical Center
Farmers Branch, Texas 75234

XVII. SEVERABILITY

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

XVIII. AUTHORITY TO EXECUTE CONTRACT

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

XIX. ENTIRE CONTRACT

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

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

TOWN OF ADDISON, TEXAS

**METROCREST FAMILY MEDICAL
CLINIC, INC.**

By: _____

Ron Whitehead, City Manager

By: _____
Jane Wood Hawkins, Executive Director

ATTEST:

ATTEST:

By: _____
Mario Canizares, City Secretary

By: _____
Its: _____

STATE OF TEXAS §
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COUNTY OF DALLAS §

CONTRACT FOR SERVICES

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 the Metrocrest Chamber of Commerce (the "Chamber").

WITNESSETH:

WHEREAS, the Chamber is an independent non-profit corporation established under the laws of the State of Texas for the purpose of promoting business in 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 promote the economic development and to stimulate business and commercial activity within the City, and the services provided by the Chamber hereunder are in the public interest and are for, constitute and serve a public purpose in promoting the health and welfare of the citizens and the economic development 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 2007 through the 30th day of September 2008, except as otherwise provided for herein.

II. SERVICES

A. The Chamber shall provide to the City the following services:

The Chamber shall assist the City in its economic development activities and assist in developing programs that will enhance business opportunities throughout the Metrocrest region.

Five key program areas in which the Chamber shall assist the City include:

1. Familiarization tour of the Metrocrest for companies seeking expansion or relocation assistance.
2. Economic Development convention participation.
3. Existing business retention support through established Chamber programs.
4. Import/Export assistance to Metrocrest businesses in foreign markets.
5. Resource materials - publishing of new (updated) Economic Development resource materials.

B. The Mayor of the City shall serve as an Ex-Officio Director of the Chamber and as a member of the Chamber's Economic Development Committee. The City's staff member responsible for Economic Development shall also be a member of the Committee.

III. COMPENSATION

A. For the design, development and implementation of the programs enumerated in Section II above, the City shall pay to the Chamber the sum of Ten Thousand and No/100 Dollars (\$10,000.00). Such sum shall be paid on or before January 1, 2008, provided Provider is not then in default of this Contract.

B. The Chamber shall provide its monthly financial statements to the City Manager. Such reports shall include statements of revenues and expenses. The City Manager shall also receive a copy of the Annual Business Plan and Annual Report of program activity. No payment shall be made during any period in which this provision is not complied with. Within 90 days following the termination of the Chamber's fiscal year, a financial statement for the Chamber prepared by a Certified Public Accountant of all activities funded by this Contract shall be provided to the City Manager. Such statement shall provide sufficient information as to support the accuracy of the monthly financial statements.

IV. RESPONSIBILITY; INDEMNIFICATION

(a) THE CHAMBER AGREES TO ASSUME AND DOES HEREBY ASSUME ALL RESPONSIBILITY AND LIABILITY FOR DAMAGES OR INJURIES SUSTAINED BY PERSONS OR PROPERTY, WHETHER REAL OR ASSERTED, BY OR FROM THE PERFORMANCE OF SERVICES PERFORMED AND TO BE PERFORMED HEREUNDER BY THE CHAMBER, 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, "CHAMBER PARTIES").

(b) IN CONSIDERATION OF THE GRANTING OF THIS CONTRACT, THE CHAMBER 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 THE CHAMBER'S PERFORMANCE OF THIS CONTRACT (INCLUDING, WITHOUT LIMITATION, ANY ACT OR OMISSION OF THE CHAMBER OR OF ANY OF THE CHAMBER PARTIES), INCLUDING DAMAGES CAUSED BY THE INDEMNITEE'S OWN NEGLIGENCE.

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

(d) With respect to the Chamber's duty to defend set forth herein in subsection (b) of this Section, the Chamber 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 the Chamber and to reject the Chamber's selection of counsel and to select counsel of the City's own choosing, in which instance, the Chamber 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 the Chamber, and further, the City agrees to act reasonably in the selection of counsel of its own choosing.

(e) In the event that the Chamber 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 the Chamber, and the Chamber 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 THE CHAMBER 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 Chamber has failed at the time of such cancellation and termination to provide all of the services set forth herein, Chamber shall refund to the City that portion of funds paid to Chamber under the terms of this Contract in accordance with the following: Prorata funding returned to the City by Chamber 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 Chamber 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 Chamber 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, Chamber shall submit for the City's review a budget showing the use of the City's funds provided pursuant to this Contract, and Chamber shall make such periodic reports to the City, as provided for herein, listing the expenditures made by Chamber from the funds provided by the City. The approval of Chamber's annual budget creates a fiduciary duty in Chamber with respect to the funds provided by the City under this Contract.

The funds paid to Chamber 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.

Chamber 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, 2007, with the last quarter ending September 30, 2008), Chamber shall provide the City the following: (a) a detailed financial report for the previous quarter listing the expenditures made by Chamber of the funds paid to Chamber under this Contract; and (b) a year-to-date report of the expenditures made by Chamber of the funds paid to Chamber under this Contract (and if this Contract is terminated prior to its expiration, Chamber 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, Chamber 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 Chamber's fiscal year, Chamber shall provide the City with a financial statement signed by the Chairman of Chamber's Board of Directors (or other person acceptable to the City) and audited by an independent Certified Public Accountant, setting forth Chamber'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 Chamber is that of independent contractor, and the City and Chamber by the execution of this Contract do not change the independent status of Chamber. No term or provision of this Contract or action by Chamber in the performance of this Contract is intended nor shall be construed as making Chamber

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

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

XII. LEGAL COMPLIANCE; CONTRACT SUBJECT TO LAWS; RECITALS

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

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 Chamber 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:

Chamber's address:

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

Greg Vaughn
President
Metrocrest Chamber of Commerce
1204 Metrocrest Drive
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 Chamber 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 Chamber

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 CHAMBER OF
COMMERCE**

By: _____
Ron Whitehead, City Manager

By: _____
Greg Vaughn, Executive Director

ATTEST:

ATTEST:

By: _____
Mario Canizares, City Secretary

By: _____

STATE OF TEXAS

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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 The Family Place, Inc. ("The Family Place").

WITNESSETH:

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

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

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

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements hereinafter set forth, the benefits flowing to each of the parties hereto, and other good and valuable consideration, the Town of Addison, Texas and The Family Place do hereby contract, 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, 2007 through the 30th day of September, 2008, except as otherwise provided for herein.

II. SERVICES

The Family Place covenants and agrees that it shall:

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

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

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

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

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

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

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

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

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

III. COMPENSATION

For the operation and provision of the services, projects and programs of The Family Place as described herein, the City shall pay The Family Place the sum of Five Thousand and No/100 Dollars (\$5,000.00). Such sum shall be paid on or before January 1, 2008, provided The Family Place is not then in default of this Contract.

IV. RESPONSIBILITY; INDEMNIFICATION

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

EMPLOYED BY ANY OF THEM OR ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE (TOGETHER, "FAMILY PLACE PARTIES").

(b) IN CONSIDERATION OF THE GRANTING OF THIS CONTRACT, THE FAMILY PLACE 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 THE FAMILY PLACE'S PERFORMANCE OF THIS CONTRACT (INCLUDING, WITHOUT LIMITATION, ANY ACT OR OMISSION OF THE FAMILY PLACE OR OF ANY OF THE FAMILY PLACE PARTIES), INCLUDING DAMAGES CAUSED BY THE INDEMNITEE'S OWN NEGLIGENCE.

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

(d) With respect to the Family Place's duty to defend set forth herein in subsection (b) of this Section, the Family Place 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 the Family Place and to reject the Family Place's selection of counsel and to select counsel of the City's own choosing, in which instance, the Family Place 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 the Family Place, and further, the City agrees to act reasonably in the selection of counsel of its own choosing.

(e) In the event that the Family Place 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 the Family Place, and the Family Place 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 THE FAMILY PLACE 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 The Family Place has failed at the time of such cancellation and termination to provide all of the services set forth herein, The Family Place shall refund to the City that portion of funds paid to The Family Place under the terms of this Contract in accordance with the following: Prorata funding returned to the City by The Family Place shall be determined by dividing the amount paid by the City under this Contract by 365 (the "daily rate"), and then multiplying the daily rate by the number of days which would have remained in the term hereof but for the cancellation or termination. Upon payment or tender of such amount, all of the obligations of The Family Place and the City under this Contract shall be discharged and terminated (except as otherwise provided herein) and no action shall lie or accrue for additional benefit, consideration or value for or based upon the services performed under or pursuant to this Contract.

VI. CONFLICT OF INTEREST

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

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

VII. ACCOUNTING

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

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

The Family Place shall maintain complete and accurate financial records of all of its revenues, including, without limitation, each expenditure of revenue received pursuant to this Contract. By the thirtieth (30th) day after the close of each quarter (beginning with the quarter ending December 31, 2007, with the last quarter ending September 30, 2008), The Family Place shall provide the City the following: (a) a detailed financial report for the previous quarter listing the expenditures made by The Family Place of the funds paid to The Family Place under this Contract; and (b) a year-to-date report of the expenditures made by The Family Place of the funds paid to The Family Place under this Contract (and if this Contract is terminated prior to its expiration, The

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

VIII. INDEPENDENT CONTRACTOR

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

IX. NON-ASSIGNABILITY; NO THIRD-PARTY BENEFIT

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

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

X. NO PARTNERSHIP, JOINT VENTURE, OR JOINT ENTERPIRS

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

XI. NON-DISCRIMINATION

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

XII. LEGAL COMPLIANCE; CONTRACT SUBJECT TO LAWS; RECITALS

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

XIII. VENUE; GOVERNING LAW

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

XIV. COUNTERPARTS

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

XV. NO WAIVER; RIGHTS CUMULATIVE

The failure by either party to exercise any right or power, or option given to it by this Contract, or to insist upon strict compliance with the terms of this Contract, shall not constitute a waiver of the terms and conditions of this Contract with respect to any other or subsequent breach thereof, nor a waiver by such party of its rights at any time thereafter to require exact and strict compliance with all the terms hereof. The rights or remedies under this Contract are cumulative to any other rights or remedies, which may be granted by law.

XVI. NOTICES

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

The City's address:

The Family Place's address:

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

Paige Flink
Executive Director
The Family Place
P.O. Box 7999
Dallas, Texas 75209

XVII. SEVERABILITY

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

XVIII. AUTHORITY TO EXECUTE CONTRACT

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

XIX. ENTIRE CONTRACT

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

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

TOWN OF ADDISON, TEXAS

THE FAMILY PLACE, INC.

By: _____
Ron Whitehead, City Manager

By: _____
Paige Flink, Executive Director

ATTEST:

ATTEST:

By: _____
Mario Canizares, City Secretary

By: _____
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 Special Care and Career Services ("Provider").

WITNESSETH:

WHEREAS, Provider is a private, non-profit organization established under the laws of the State of Texas for the purpose of providing services to children and adults with disabilities since 1963; and

WHEREAS, Provider provides and will continue to provide "early childhood intervention" to citizens of the City and of the region surrounding the City through speech, physical, developmental and other specialized behavioral therapies; and,

WHEREAS, Provider provides and will continue to provide "supported employment services" to citizens of the City and of the region surrounding the City through occupational training for adults with mental retardation, job matching assistance and job performance support for these individuals; and

WHEREAS, Provider will provide these services in a manner consistent with the Town of Addison's non-profit agency reporting requirements by submitting quarterly client service reports, regular organizational financial reports, and updates on City clients served by the agency as well as identifying a staff person with Provider to be designated as a liaison to the City through which all reporting and communication shall flow; and

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

WHEREAS, the City has full power of local self government, has authority to contract with other persons, has authority to adopt regulations that are for the good government, peace, and order of the City, has authority to enforce laws reasonably necessary to protect the public health, has authority to provide public health services as set forth in Chapter 121, Tex. Health and Safety Code and other law, and to create a municipal development corporation pursuant to Chapter 379A, Tex. Loc. Gov. Code, to provide job training and to foster economic opportunity and job generation, and the services provided by Provider 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 all mutual covenants and agreements hereinafter set forth, the benefits flowing to each of the parties hereto, and other good and valuable consideration, the parties 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, 2007 through the 30th day of September, 2008, except as otherwise provided for herein.

II. SERVICES

Provider covenants and agrees that it shall:

(a) Provide "early childhood intervention" to citizens of the City and of the region surrounding the City through speech, physical, developmental and other specialized behavioral therapies; and

(b) Provide "supported employment services" to citizens of the City and of the region surrounding the City through occupational training for adults with mental retardation, job matching assistance and job performance support for these individuals; and

(c) Provide such services in a manner consistent with the Town of Addison's non-profit agency reporting requirements by submitting quarterly client service reports, regular organizational financial reports, and updates on City clients served by the agency as well as identifying a staff person with Provider to be designated as a liaison to the City through which all reporting and communication shall flow; 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 Provider as described herein, the City shall pay Provider the sum of Five Thousand and No/100 Dollars (\$5,000.00). Such sum shall be paid on or before January 1, 2008, provided Provider is not then in default of this Contract.

IV. RESPONSIBILITY; INDEMNIFICATION

(a) SPECIAL CARE AND CAREER 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 SPECIAL CARE AND CAREER 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, "SPECIAL CARE PARTIES").

(b) IN CONSIDERATION OF THE GRANTING OF THIS CONTRACT, SPECIAL CARE AND CAREER SERVICES 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 SPECIAL CARE AND CAREER SERVICES PERFORMANCE OF THIS CONTRACT (INCLUDING, WITHOUT LIMITATION, ANY ACT OR OMISSION OF SPECIAL CARE AND CAREER SERVICES OR OF ANY OF THE SPECIAL CARE PARTIES), INCLUDING DAMAGES CAUSED BY THE INDEMNITEE'S OWN NEGLIGENCE.

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

(d) With respect to Special Care and Career Services' duty to defend set forth herein in subsection (b) of this Section, Special Care and Career 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 Special Care and Career Services and to reject Special Care and Career Services' selection of counsel and to select counsel of the City's own choosing, in which instance, Special Care and Career 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 Special Care and Career Services, and further, the City agrees to act reasonably in the selection of counsel of its own choosing.

(e) In the event that Special Care and Career 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 Special Care and Career Services, and Special Care and Career 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 SPECIAL CARE AND CAREER 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 Provider has failed at the time of such cancellation and termination to provide all of the services set

forth herein, Provider shall refund to the City that portion of funds paid to Provider under the terms of this Contract in accordance with the following: Prorata funding returned to the City by Provider 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 Provider 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 Provider 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, Provider shall submit for the City's review a budget showing the use of the City's funds provided pursuant to this Contract, and Provider shall make such periodic reports to the City, as provided for herein, listing the expenditures made by Provider from the funds provided by the City. The approval of Provider's annual budget creates a fiduciary duty in Provider with respect to the funds provided by the City under this Contract.

The funds paid to Provider 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.

Provider 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, 2007, with the last quarter ending September 30, 2008), Provider shall provide the City the following: (a) a detailed financial report for the previous quarter listing the expenditures made by Provider of the funds paid to Provider under this Contract; and (b) a year-to-date report of the expenditures made by Provider of the funds paid to Provider under this Contract (and if this Contract is terminated prior to its expiration, Provider 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,

Provider 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 Provider's fiscal year, Provider shall provide the City with a financial statement signed by the Chairman of Provider's Board of Directors (or other person acceptable to the City) and audited by an independent Certified Public Accountant, setting forth Provider'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 Provider is that of independent contractor, and the City and Provider by the execution of this Contract do not change the independent status of Provider. No term or provision of this Contract or action by Provider in the performance of this Contract is intended nor shall be construed as making Provider 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

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

XII. LEGAL COMPLIANCE; CONTRACT SUBJECT TO LAWS; RECITALS

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

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 Provider 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

Provider' address:

Cathy Packard
Executive Director
Special Care & Career Services
4350 Sigma, Suite 100
Farmers Branch, Texas 75244

XVII. SEVERABILITY

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

XVIII. AUTHORITY TO EXECUTE CONTRACT

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

XIX. ENTIRE AGREEMENT

This Contract represents the entire and integrated contract and agreement between the City and Provider 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 Provider

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

SPECIAL CARE AND CAREER SERVICES

By: _____
Ron Whitehead, City Manager

By: _____
Cathy Packard, Executive Director

ATTEST:

ATTEST:

By: _____
Mario Canizares, City Secretary

By: _____

(printed name)

Its: _____

STATE OF TEXAS

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§
§

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 "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, 2007 through the 30th day of September, 2008, 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 January 1, 2008. 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, 2007, with the last quarter ending September 30, 2008), 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 CITY, ITS OFFICIALS, OFFICERS, EMPLOYEES, AND AGENTS, IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, FROM AND AGAINST ANY LIABILITY, CLAIMS, OR DAMAGES (INCLUDING BUT NOT LIMITED TO COURT COSTS AND ATTORNEY'S FEES) GROWING OUT OF WTT'S INFRINGEMENT OR VIOLATION OF ANY STATUTE, TREATY TERM, OR REGULATION APPLICABLE TO INTELLECTUAL PROPERTY RIGHTS, INCLUDING BUT NOT LIMITED TO COPYRIGHTS.

XII. NON-DISCRIMINATION

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

XIII. LEGAL COMPLIANCE; CONTRACT SUBJECT TO LAWS; RECITALS

WTT shall observe and abide by, and this Contract is subject to, all applicable federal, state, and local (including the 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. The above and foregoing recitals to this Agreement are true and correct and incorporated herein and made a part hereof.

XIV. VENUE; GOVERNING LAW

In the event of any 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
2007-2008 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, 2008) 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 2007-2008 WTT season tickets sold by WTT on or before November 15, 2007, 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 2007, and continuing until September 30, 2008, 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 2007-2008 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, 2007, and ending September 30, 2008, 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

(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. The sole exception will be during non-performance times bottled water with a lid may be brought into the Main Space. No liquid may be stored or consumed in the vicinity of and electronic equipment.

(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 with 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, 2007, and the last such installment is due and payable on or before October 15, 2008 (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 described in subsection (a) of this Section. Exhibit D attached to this Agreement and incorporated herein lists all office furniture and decorative items owned by the TOWN and rented to WTT. This list may be amended from time to time, and such amendment may result in a change in the rental fee. All items used by WTT will continue to be the sole property of the TOWN and, with at least 60 days notice from the TOWN to WTT, shall be returned to the TOWN in the condition rented, with normal wear and tear.

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, sound and lighting control console, and wire Deleted: Obsession II 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) *Commercial General Liability Insurance*, including Personal Injury Liability, Independent Contractor’s Liability, Premises Operation Liability, and Contractual Liability, covering, but not limited to, the liability assumed under the indemnification provisions of this Agreement, with limits of liability for bodily injury, death, and property damage of not less than \$1,000,000. Coverage must be on an “occurrence” basis, and the policy must include Broad Form Property Damage Coverage, with Fire and Extended Coverage Liability of not less than \$1,000,000 per occurrence.

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

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

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

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

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

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

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

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

(c) Each party hereto hereby waives each and every claim which arises or may arise in its favor and against the other party hereto during the term of this lease or any extension or renewal thereof for any and all injuries (including death) and loss of, or damage to, any of its property which claim, loss or damage is covered by valid and collectible fire and extended coverage insurance policies, liability insurance policies, workers' compensation policies, and any other insurance policies which may be in place from time to time, to the extent that such claim, loss or damage is recovered under said insurance policies. Said waivers shall be in addition to, and not in limitation or derogation of, any other waiver or release contained in this Agreement with respect to any loss, damage or injury (including death) to persons or to property. Inasmuch as the above mutual waivers will preclude the assignment of any aforesaid claim by way of subrogation (or otherwise) to an insurance company (or any other person), each party hereto hereby agrees immediately to give each insurance company which has issued to its policies of fire and extended coverage insurance, liability insurance, workers' compensation insurance, or such other insurance, written notice of the terms of said mutual waivers, and to have said insurance policies properly endorsed, if necessary to prevent the invalidation of said insurance coverages by reason of said waivers.

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

(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

If intended for WTT, to:

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

SECTION 22

APPROVALS

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

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

SECTION 23

SUCCESSORS AND ASSIGNS

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

SECTION 24

APPLICABLE LAWS

This Agreement is made subject to the charter and ordinances of the TOWN, as amended, and all applicable laws and regulations of the State of Texas and the United States. The laws of the State of Texas shall govern and apply to the interpretation, validity and enforcement of this Agreement; and, with respect to any conflict of law provisions, the parties agree that such conflict of law provisions shall not affect the application of the law of Texas (without reference to its conflict of law provisions) to the governing, interpretation, validity and enforcement of this Agreement.

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, 2007 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
ADDISON THEATRE CENTRE**

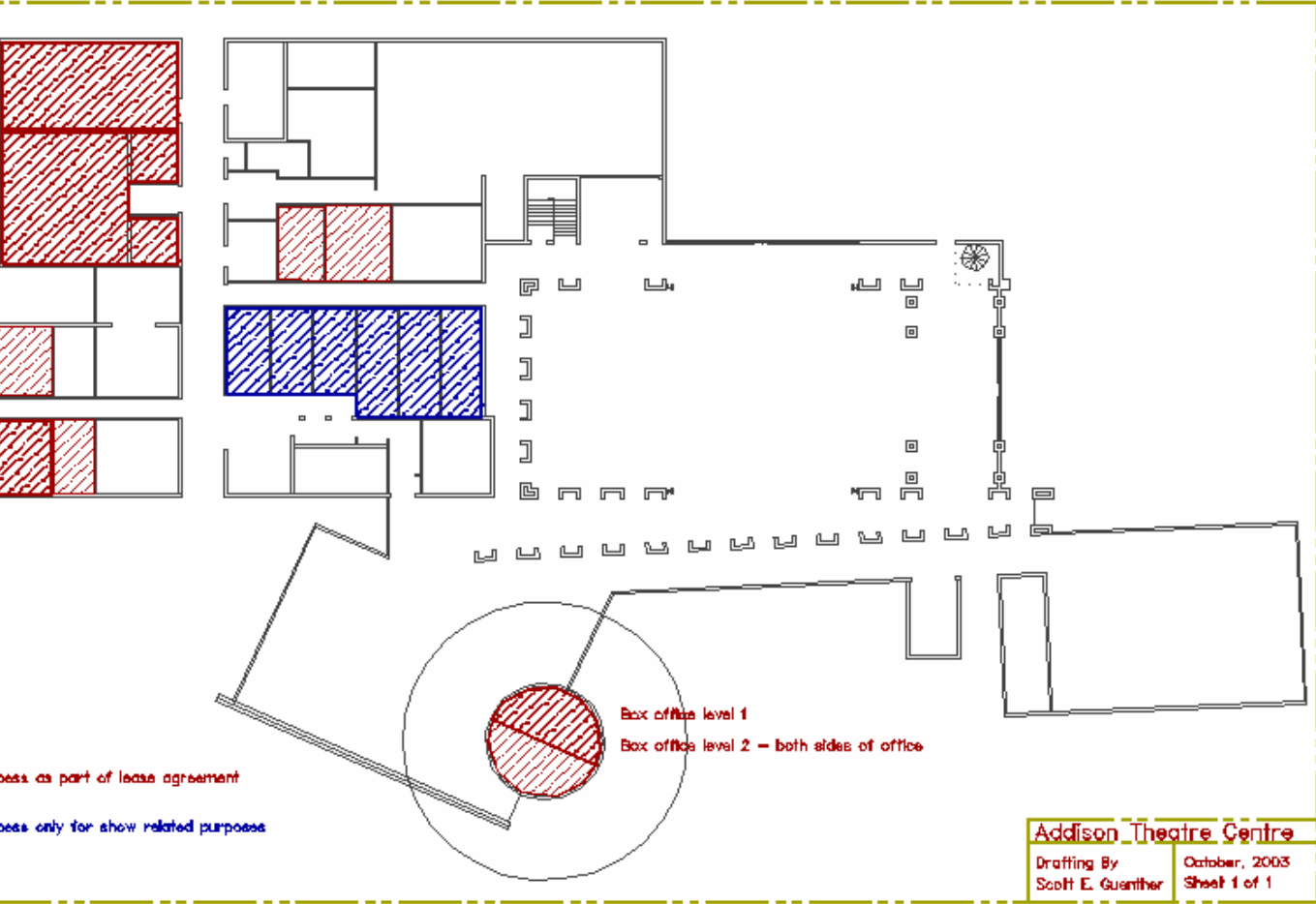


EXHIBIT B

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

Council Agenda Item: #R7

SUMMARY:

Request to apply for membership to the River of Trade Corridor Coalition (ROTCC).

FINANCIAL IMPACT:

None. Membership is free.

BACKGROUND:

ROTCC was created in 2004 to “to unite cities, counties, transportation authorities, freight movement entities, and businesses along the traditional NAFTA trade route to protect, maximize, and expand commerce and the economic vitality of the corridor while, at the same time mitigating congestion and facilitating a cleaner environment.”

Per request of Councilmember Hirsch, it has been suggested that the Town of Addison support this organization through membership and participation.

RECOMMENDATION:

Staff recommends that Council approve membership into the River of Trade Corridor Coalition.

Goals and Objectives

The River of Trade Corridor Coalition was created in the fall of 2004 to unite cities, counties, transportation authorities, freight movement entities, and businesses along the traditional NAFTA trade route to protect, maximize, and expand commerce and the economic vitality of the corridor while, at the same time mitigating congestion and facilitating a cleaner environment. Today, the Coalition has expanded to include significant gateways for international trade including Los Angeles, California, Laredo, Texas, Detroit, Michigan, and Windsor, Ontario. Thus, the Coalition encompasses multiple goods movement corridors, including the rail and interstate corridor from the west coast ports of Los Angeles and Long Beach through Phoenix and Tucson, Arizona, Las Cruces, New Mexico, and El Paso and Dallas, Texas. In addition, the Coalition includes members along the historic NAFTA corridor, which follows existing interstates from Laredo, Texas to Detroit, Michigan via Dallas and Texarkana, Texas, Little Rock and North Little Rock, Arkansas, Memphis and Nashville, Tennessee, Louisville, Kentucky, and Cincinnati, Dayton and Toledo, Ohio.

Currently, the River of Trade Corridor Coalition includes over 300 members. The Coalition also enjoys the support of growing Congressional and Legislative Caucuses.

As international trade to and from the U.S. continues to increase significantly, it is important for cities, counties, businesses, states, and international entities to work together to improve and ensure the efficient and safe movement of trade to and through the U.S. This trade provides valuable economic development opportunities to our collective communities.

Vision, Goals & Objectives:

- To protect, expand, and maximize the economic vitality of the above described goods movement and trade corridors.
- To mitigate congestion and facilitate environmental compliance.
- To identify common goals and interests of the municipal governments, transportation authorities and businesses along the corridor and take the appropriate, collective action at the local, regional, state, national, and international levels.
- To mobilize representatives from cities, counties, and organizations along goods movement corridors to speak with one voice about issues impacting the corridor.
- To facilitate a positive and timely exchange of information among members along the corridor.
- To engage in and to facilitate dialogue with Metropolitan Planning Organizations, Departments of Transportation, appropriate federal agencies involved in goods movement, trade and commerce, and security issues, and other appropriate entities along the corridor to identify and collectively secure any available funding to enhance the corridor.

- To further develop the River of Trade Corridor Congressional and Legislative Caucuses, which are in place to provide support for the Coalition's goals and objectives at the federal and state levels.
- To facilitate the efficient movement of freight to and from land ports and seaports. As the volume of imported and exported goods continues to grow, it becomes even more important to efficiently and quickly move freight to inland distribution destinations.
- To coordinate the just-in-time delivery of containers from inland locations traveling outbound, and vice versa.
- To insist that the existing congestion, safety, and pollution issues along the corridor be addressed and provide appropriate avenues, such as collaboration with the Environmental Protection Agency regarding "green and clean" technologies, to address these issues.

Council Agenda Item: #R8

SUMMARY:

Council approval is requested of a resolution to adopt Rule §70.3 of the Texas Administrative Code, Cost of Copies of Public Information charges for copies of public information and service rendered charges. This Rule applies increases in the cost of copying due to inflation.

FINANCIAL IMPACT:

The financial impact will be positive as the Town will keep the monies we charge those members of the public who request copies of our public information.

BACKGROUND:

We adopt the same costs which are charged by the State for these services. These charges increase at various times.

RECOMMENDATION:

It is recommended Council approve the attached policy.

RESOLUTION NO. R07-000

A RESOLUTION BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS, ADOPTING RULE §70.3 OF THE STATE OF TEXAS ADMINISTRATIVE CODE, COST OF COPIES OF PUBLIC INFORMATION CHARGES FOR COPIES OF PUBLIC INFORMATION AND SERVICE RENDERED CHARGES.

WHEREAS, In establishing a guideline for records and information retrieval charges, the State of Texas Administrative Code, Cost of Copies of Public Information has published fees as set forth in Rule §70.3 ; and,

WHEREAS, these fees are charged by all State agencies; and,

WHEREAS, the Town strives to be consistent with the State guidelines for records and information retrieval charges; now, therefore,

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

THAT, the City Council does hereby authorize the City Manager to adopt Rule §70.3 of the State of Texas Administrative Code charges for copies of public information and service rendered charges, copy of said charges attached.

DULY PASSED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS, this the ___th day of _____, 2007.

Mayor

ATTEST:

City Secretary

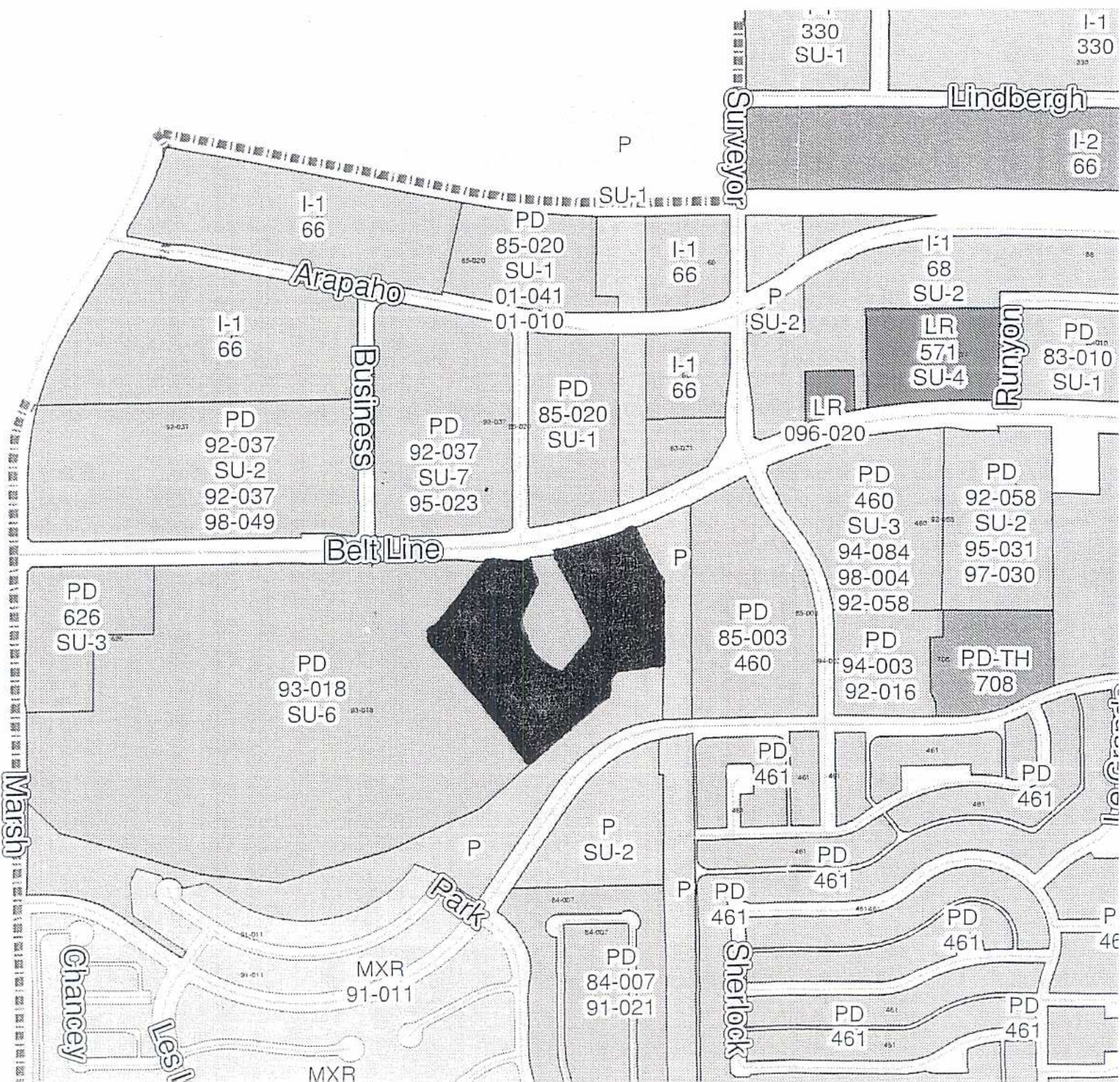
**TOWN OF ADDISON CHARGE SCHEDULE
FOR PUBLIC INFORMATION**

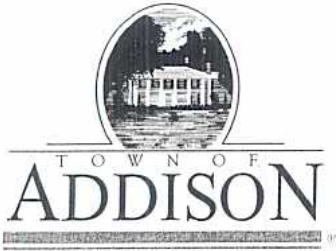
| <u>ITEM</u> | <u>COST</u> | <u>ITEM</u> | <u>COST</u> |
|------------------------------------|---------------------------------|----------------------------------|---|
| Standard paper copy | \$.10 per page | Personnel Charge: | |
| | | Programming Personnel | \$28.50 per hour |
| | | Other Personnel | \$15.00 per hour |
| Nonstandard size copy: | | Overhead Charge | 20% of personnel charge |
| Diskette | \$1.00 each | Microfiche or Microfilm | |
| Magnetic Tape: | | Charge: | |
| 4 mm | Actual Cost(was \$13.50) | Paper copy | \$.10 per page |
| 8 mm | Actual Cost(was \$12.00) | Fiche or Film copy | Actual Cost |
| 9 track | Actual Cost(was \$11.00) | | |
| Data Cartridge: | | Remote document | Actual Cost |
| 2000 series | \$17.50 each | Retrieval charge | |
| 3000 series | \$20.00 each | | |
| 6000 series | \$25.00 each | Computer resource charge: | |
| 9000 series | \$35.00 each | Mainframe | \$10.00 per minute |
| 600A | \$20.00 each | Midsize | \$1.50 per minute |
| Rewritable CD (CD-RW) | \$1.00 each(new category) | Client/Server | \$2.20 per hour |
| Non-rewritable CD(CD-R) | \$1.00 each(new category) | PC or LAN | \$1.00 per hour |
| Digital Video Disc(DVD) | \$3.00 each(new category) | Miscellaneous Supplies | Actual Cost |
| JAZ Drive | Actual Cost(new category) | Postage and Shipping | Actual Cost |
| Other Electronic Media | Actual Cost(new category) | Photographs | Actual Cost |
| VHS Video Cassette | \$2.50 each(new category) | Other Costs | Actual Cost |
| Audio Cassette | \$1.00 each(new category) | Outsource/Contracted | Actual Cost |
| | | Services | |
| Tape Cartridge: | | No Sales Tax | No Sales Tax shall be applied to copies of public information |
| 250 MB | Actual Cost(was \$38/each) | | |
| 525 MB | Actual Cost(was \$45/each) | | |
| VHS Video Cassette | \$2.50 each | | |
| Audio Cassette | \$1.00 each | | |
| Oversized Paper Copy | \$.50 each | | |
| Mylar (36, 42 or 48 inches) | | | |
| 3 mil. | \$.85/linear foot | | |
| 4 mil. | \$1.10/linear foot | | |
| 5 mil. | \$1.35/linear foot | | |
| Blueline/blueprint paper | \$.20/linear foot (all widths) | | |
| Other | Actual Cost | | |

Please call Mario at 7017 or Sue Ellen at 7039 if you have questions.

FINAL PLAT/Asbury Circle

FINAL PLAT/Asbury Circle. Requesting approval of a final plat for 73 lots on 8.140 acres, located in a Belt Line Road zoning district, at the southwest corner of the intersection of Belt Line Road and Commercial Drive, on application from Ashton Woods Homes, represented by Mr. Casey Ross of Dowdey, Anderson & Associates





October 31, 2007

STAFF REPORT

RE: FINAL PLAT/Asbury Circle

LOCATION: 73 lots on 8.140 acres, located in a Belt Line Road zoning district, at the southwest corner of the intersection of Belt Line Road and Commercial Drive

REQUEST: Approval of a final plat

APPLICANT: Ashton-Woods Homes, represented by Mr. Casey Ross of Dowdey, Anderson & Associates

DISCUSSION:

Background. This tract is part of the Belt Line Road zoning district on June 27, 2006. Ashton-Woods Homes is currently working on the infrastructure construction to develop 73 townhome lots.

Public Works Review. Public Works reviewed the proposed plat and notes the following:

1. Please identify boundary monuments on the face of the plat.
2. The location of the callout on the plat for Lots 3A, 3B, 3C-1, 4R-1 & 5 Addison Town Center does not seem to indicate that these lots are part of the platted property. However, all lots are referenced as being a part of the platted property. Please clarify.
3. Change the reference of "City of Addison" to "Town of Addison" in the title block.
4. Change the year on the City Approval Block to be filled in with the signature.
5. Provide a closure sheet.

RECOMMENDATION:

Staff recommends approval of the final plat for Asbury Circle, subject to the conditions listed above.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "C Moran". The signature is stylized with a large, looped "C" and a more fluid, cursive "Moran".

Carmen Moran
Director of Development Services



PUBLIC WORKS DEPARTMENT
Post Office Box 9010 Addison, Texas 75001-9010

(972) 450-2871 FAX (972) 450-2837
16801 Westgrove

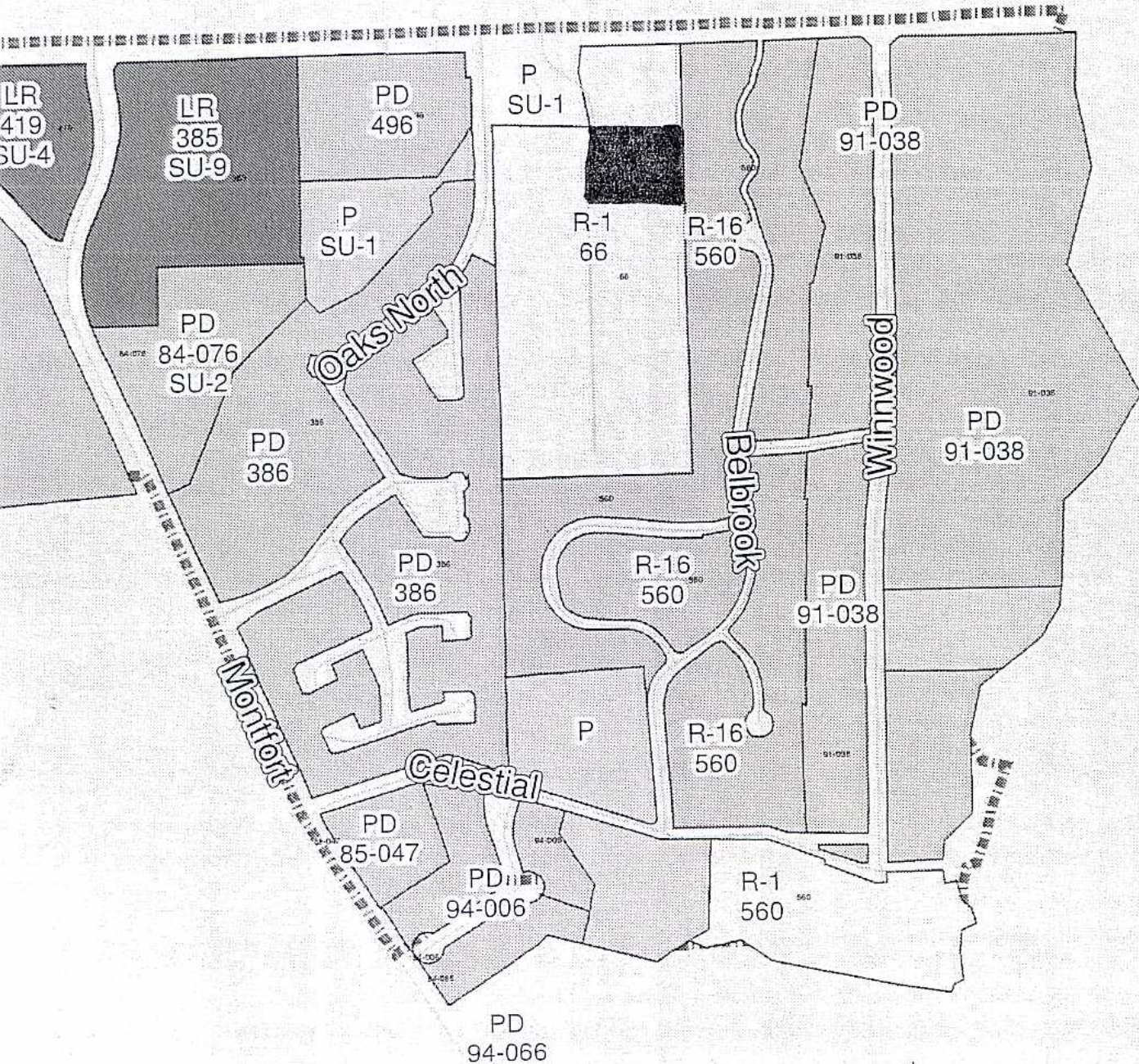
Memorandum

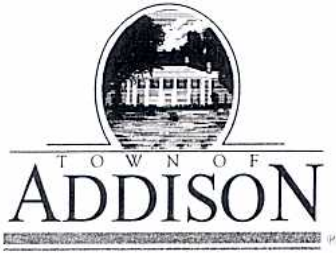
To: Carmen Moran
CC: Nancy Cline, Aaron Russell
From: Clay Barnett
Date: 10/16/2007
Re: Final Plat for Asbury Circle

-
1. Please identify boundary monuments on the face of the plat.
 2. The location of the callout on the plat for Lots 3A, 3B, 3C-1, 4R-1 & 5 Addison Town Center does not seem to indicate that these lots are part of the platted property. However, all lots are referenced as being a part of the platted property. Please clarify.
 3. Change the reference of "City of Addison" to "Town of Addison" in the title block.
 4. Change the year on the City Approval Block to be filled in with the signature.
 5. Provide a closure sheet.

FINAL PLAT/Lake Forest Addition, Lots 1 and 2, Block A

FINAL PLAT/Lake Forest Addition, Lots 1 and 2, Block A. Requesting approval of a final plat for 2 lots on 2.006 acres, located on the east side of Lake Forest Drive, approximately 200 feet south of Belt Line Road, on application from Mr. Scott Hershman, represented by Dayton Macatee Engineering.





October 31, 2007

STAFF REPORT

RE: Lake Forest Addition, Lots 1 and 2, Block A

LOCATION: Two lots on 2.006 acres on the east side of Lake Forest Drive, approximately 200 feet south of Belt Line Road

REQUEST: Approval of a final plat

APPLICANT: Mr. Scott Hershman, represented by Dayton Macatee Engineering

DISCUSSION:

Background. This property is zoned R-1, Single Family. The minimum lot size for R-1 zoning is 12,000 square feet. This plat subdivides the property into two lots. One lot is 1.178 acres and the other is .828 acres. The owner is planning to construct a single-family home on each lot.

Public Works Review. Public Works reviewed the proposed plat and notes the following:

1. A 1/2" iron rod needs to be set at the two points in the northern property line.
2. The page of the instrument recorded in Volume 72034 does not match between the Owner's Certificate and the drawing. Please verify.
3. Remove Owner's Dedication, State of Texas and County of Dallas from the middle of the Owner's Certificate.
4. Indicate the "Point of Beginning" on the drawing.
5. Remove the limits of the 100 year floodplain from the drawing.
6. Remove the flood statement from the plat.
7. Change "City of Addison" to "Town of Addison" in Note 1.
8. Place the "Drainage and Floodway Easement" limits at a 4:1 slope from the toe of slope or at the limits of the 100 year floodplain, whichever is greater.

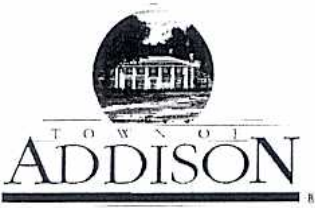
RECOMMENDATION:

Staff recommends approval of the final plat for Lake Forest Addition, subject to the conditions listed above.

Respectfully submitted,

A handwritten signature in black ink that reads "C MORAN". The "C" is large and loops around the "M". The "O" is also large and loops around the "R". The "R" is tall and has a long tail that loops back under the "N". The "N" is short and has a small tail.

Carmen Moran
Director of Development Services



PUBLIC WORKS DEPARTMENT
Post Office Box 9010 Addison, Texas 75001-9010

(972) 450-2871 FAX (972) 450-2837
16801 Westgrove

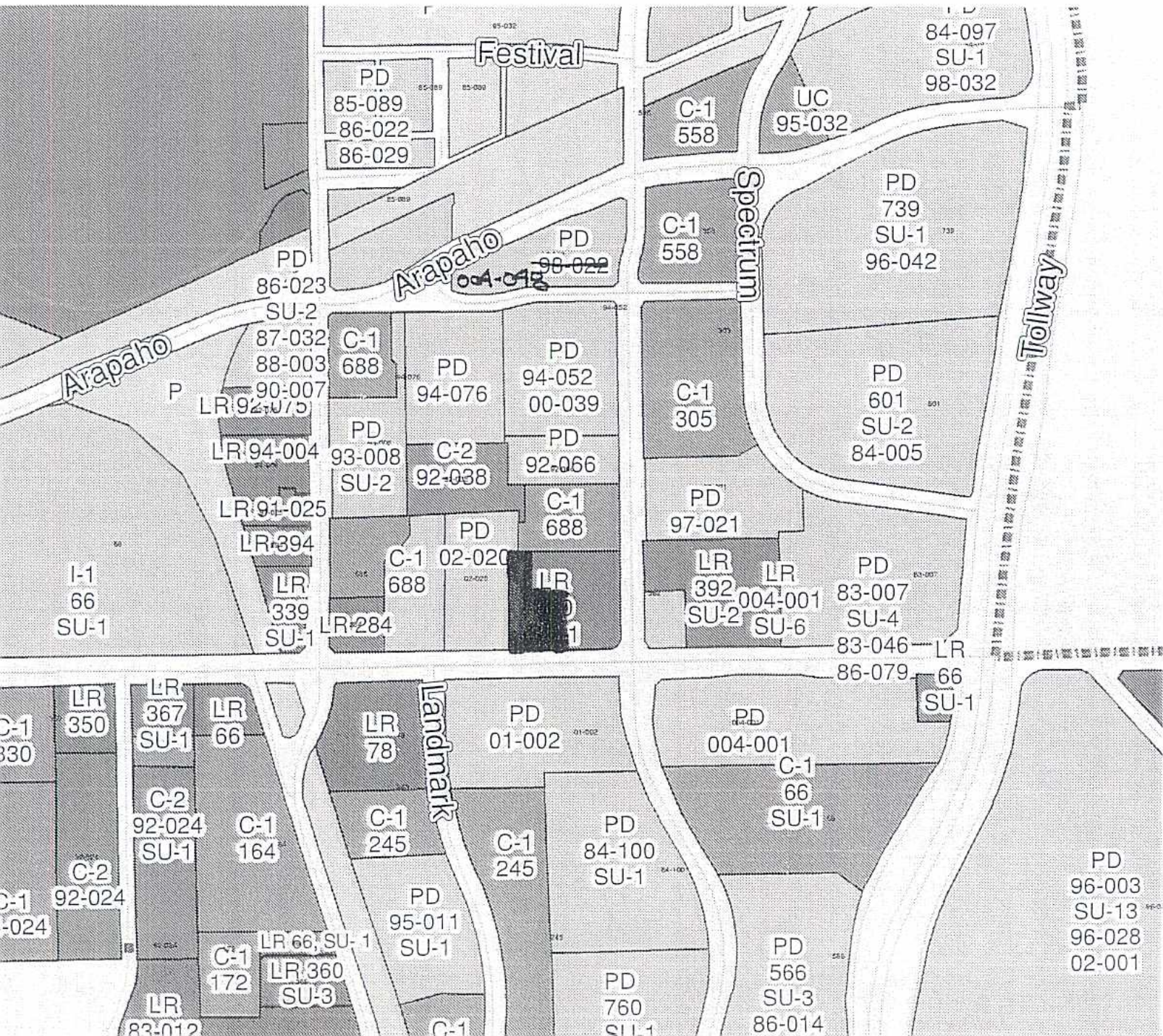
Memorandum

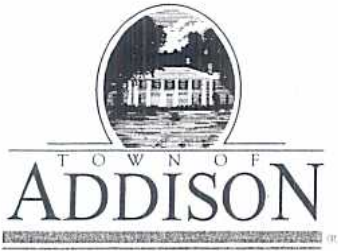
To: Carmen Moran
CC: Nancy Cline, Aaron Russell
From: Clay Barnett
Date: 10/30/2007
Re: Lake Forest Addition Plat Comments

-
1. A 1/2" iron rod needs to be set at the two points in the northern property line.
 2. The page of the instrument recorded in Volume 72034 does not match between the Owner's Certificate and the drawing. Please verify.
 3. Remove Owner's Dedication, State of Texas and County of Dallas from the middle of the Owner's Certificate.
 4. Indicate the "Point of Beginning" on the drawing.
 5. Remove the limits of the 100 year floodplain from the drawing.
 6. Remove the flood statement from the plat.
 7. Change "City of Addison" to "Town of Addison" in Note 1.
 8. Place the "Drainage and Floodway Easement" limits at a 4:1 slope from the toe of slope or at the limits of the 100 year floodplain, whichever is greater.

1548-SUP

PUBLIC HEARING Case 1548-SUP/Marble Slab Creamery Requesting approval of a Special Use Permit for a restaurant (ice cream shop), located in a Local Retail zoning district at 4937 Belt Line Road, on application from Mr. Salim Sayani.





DEVELOPMENT SERVICES

16801 Westgrove

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Post Office Box 9010 Addison, Texas 75001-9010

October 31, 2007

STAFF REPORT

RE: Case 1548-SUP/Marble Slab Creamery
LOCATION: 4937 Belt Line Road
REQUEST: Approval of a Special Use Permit for a restaurant.
APPLICANT: Mr. Salim Sayani

DISCUSSION:

Background. The applicant in this request seeks to open a 1,393 square foot ice cream shop in a lease space in this small strip center. The applicant has to get a Special Use Permit for a restaurant because he plans to have consumption of ice cream on the premises. He was formerly located in the Addison Walk shopping center.

Proposed Plan. The floor plan shows an ice cream shop with a counter for ordering ice cream. The floor plan shows six tables and 17 chairs.

Landscaping. The landscaping for this center is already in place. The Parks Department notes that it meets the requirements of the ordinance and is generally well-maintained.

Parking. Restaurant uses within this center park at a ratio of one space per 100 square feet. There is sufficient parking for this restaurant use.

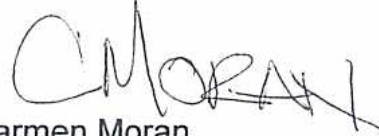
Food Service Code. The restaurant will be subject to all regulations contained in the Addison Food Service Ordinance.

Signage. No signs are shown on the space. The applicant should be aware that all signage for the restaurant must comply with the requirements of the Addison Sign Ordinance.

RECOMMENDATION:

Staff recommends approval of the Special Use Permit for a restaurant subject to no conditions.

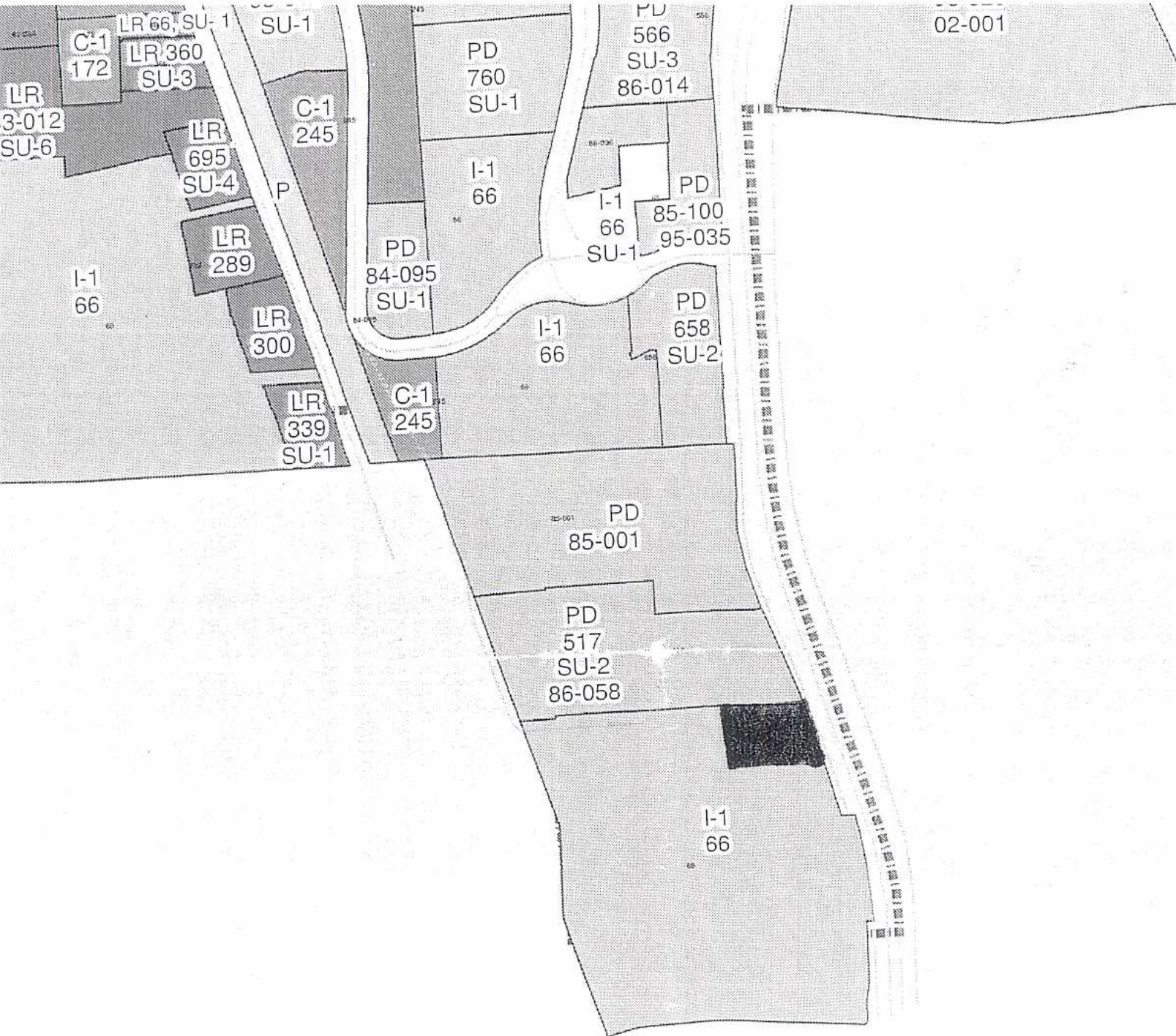
Respectfully submitted,

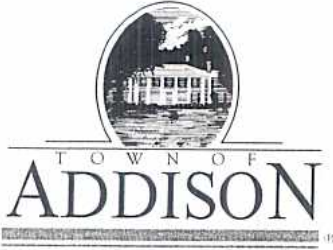
A handwritten signature in black ink that reads "C. MORAN". The signature is stylized with a large, looped "C" and a long horizontal stroke for the "M".

Carmen Moran
Director of Development Services

1549-SUP

PUBLIC HEARING Case 1549-SUP/Patton's Corner. Requesting approval of a Special Use Permit for a Christmas tree lot, located at 14345 Dallas Parkway, on application from Mr. Jeff Patton.





October 31, 2007

STAFF REPORT

RE: Case 1549-SUP/Patton's Corner
LOCATION: 14345 Dallas Parkway
REQUEST: Requesting approval of a Special Use Permit for a pumpkin lot and a Christmas tree lot
APPLICANT: Mr. Jeff Patton

DISCUSSION:

In Addison Christmas tree lots are required to obtain a Special Use Permit. The applicant seeks to operate a Christmas tree lot on the former Ewing Mistubishi site at 14345 Dallas Parkway. Mr. Patton had a Christmas tree lot at this location last year, and has had lots for the past four years on either this property or the Ewing property to the south of this site. Mr. Patton typically has done a good job cleaning up the lot

RECOMMENDATION:

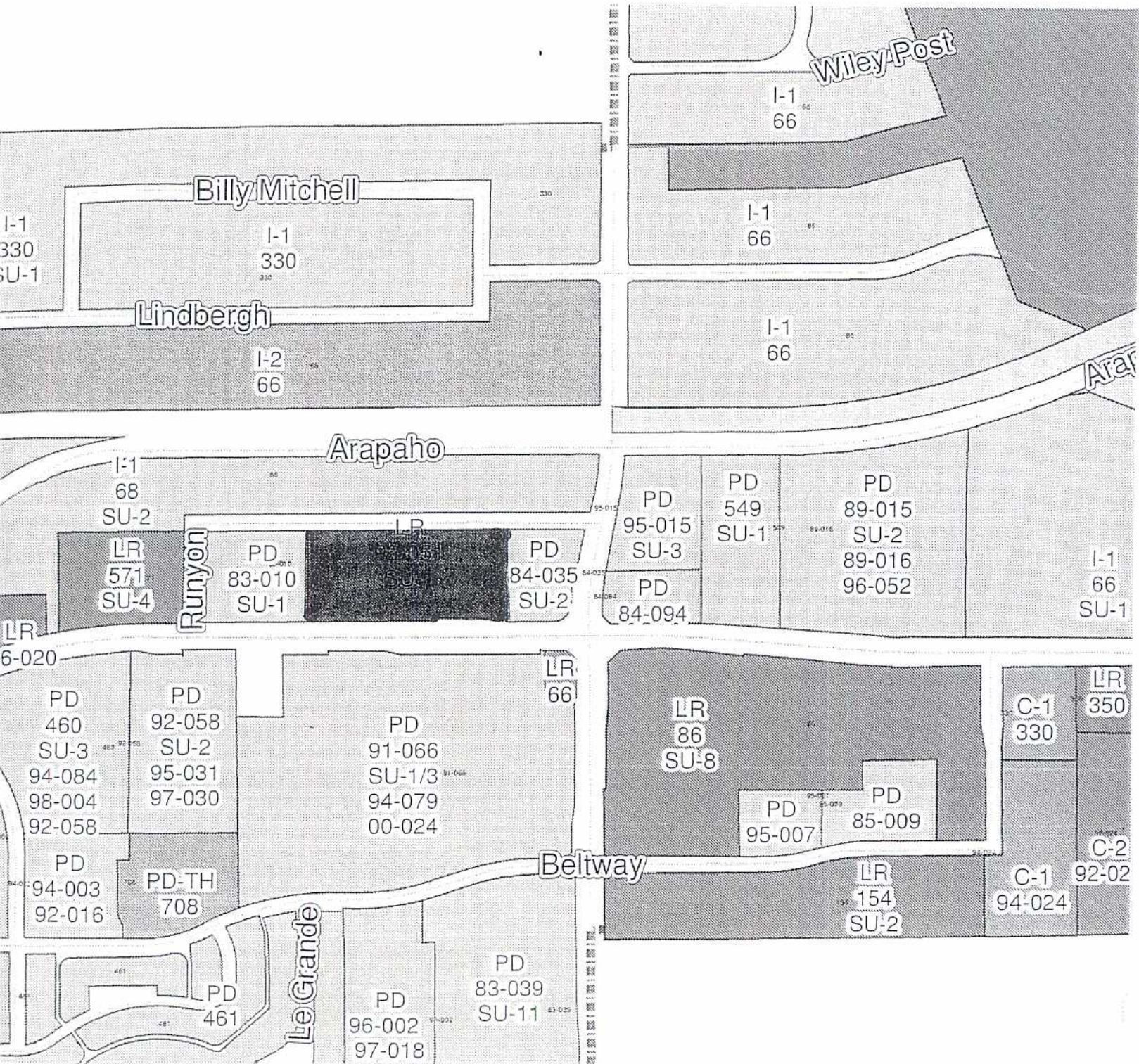
Staff recommends approval of this request for a Special Use Permit for a Christmas Tree Lot, subject to no conditions.

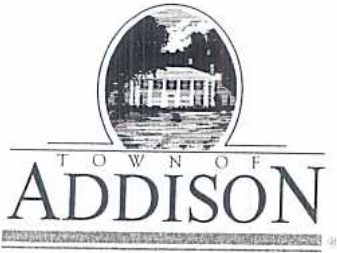
Respectfully submitted,

Carmen Moran
Director of Development Services

1550-SUP

PUBLIC HEARING Case 1550-SUP/Joey's Seafood. Requesting approval of a Special Use Permit for a restaurant and a Special Use Permit for the sale of alcoholic beverages for on-premises consumption, located at 4145 Belt Line Road, on application from Mr. Alejandro Gonzalez Juaristi.





DEVELOPMENT SERVICES

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16801 Westgrove

Post Office Box 9010 Addison, Texas 75001-9010

October 31, 2007

STAFF REPORT

RE: Case 1550-SUP/Joey's Seafood and Grill

LOCATION: 4145 Belt Line Road

REQUEST: Approval of a Special Use Permit for a restaurant, and a Special Use Permit for the sale of alcoholic beverages for on-premises consumption

APPLICANT: Joey's Seafood, represented by Mr. Alejandro Gonzalez Juaristi

DISCUSSION:

Background. This lease space is located in the shopping center that recently opened at 4135-4145 Belt Line Road. This is the fifth restaurant tenant the Commission has seen for this center. The other four tenants are Which Wich Superior Sandwiches, Berry Berry Yogurt, Best Thai Restaurant, and Rise and Dine.

Joey's Seafood and Grill is proposing to take a lease space on the west end of the east building in this shopping center.

Proposed Plan. The floor plan shows a 3,520 square foot restaurant with seating for 102 customers in the dining area and 14 customers at the bar. There is no separation between the dining area and bar. The plans show a patio of approximately 400 square feet on the west side of the building.

Façade. There will be no changes to the existing façade of the shopping center.

Parking. The parking requirement for this restaurant is figured at a 1/100 ratio, which is 21 spaces. The owners have provided 346 total parking spaces in the center. At a 1/200 ratio, the center would only require 227 spaces. There were 119 extra spaces that could be allocated to restaurants. Which Wich? took 17 spaces, Berry Berry Yogurt took 13 more, Best Thai took 21, and Rise and Dine took 26. This restaurant will take an additional 39 spaces ($3,520 + 400 = 3,920/100 = 39$). These restaurants total 116 spaces for restaurants. The property owner may still have spaces that can be allocated

to restaurants, but the staff will have to monitor additional restaurant development very closely to make sure the property is not over-parked.

Landscaping. Landscaping for the center has been installed and complies with the requirements of the ordinance. However, this restaurant is proposing to take out part of the landscaping for a patio. The ordinance requires 20% of the site to be maintained in landscaping, and if this area is removed and converted to a patio, it would cause the site to fall below the 20% requirement. There does not seem to be a reasonable place to add landscaping; therefore, staff recommends the patio be eliminated

Food Service Code. This restaurant will require a grease trap, and the applicant should be advised that the restaurant will be subject to all regulations contained in the Addison Food Service Ordinance.

Signage. The applicant has shown signs on the plans. He should be advised that all signs for the restaurant must comply with the requirements of the Addison Sign Ordinance and cannot be approved through this process.

RECOMMENDATION:

Staff recommends approval of the Special Use Permit for a restaurant, and approval of the Special Use Permit for the sale of alcoholic beverages for on-premises consumption, subject to the following condition:

- The plans shall be revised to eliminate the exterior patio.

Respectfully submitted,

A handwritten signature in black ink that reads "C Moran". The signature is written in a cursive, somewhat stylized font.

Carmen Moran
Director of Development Services

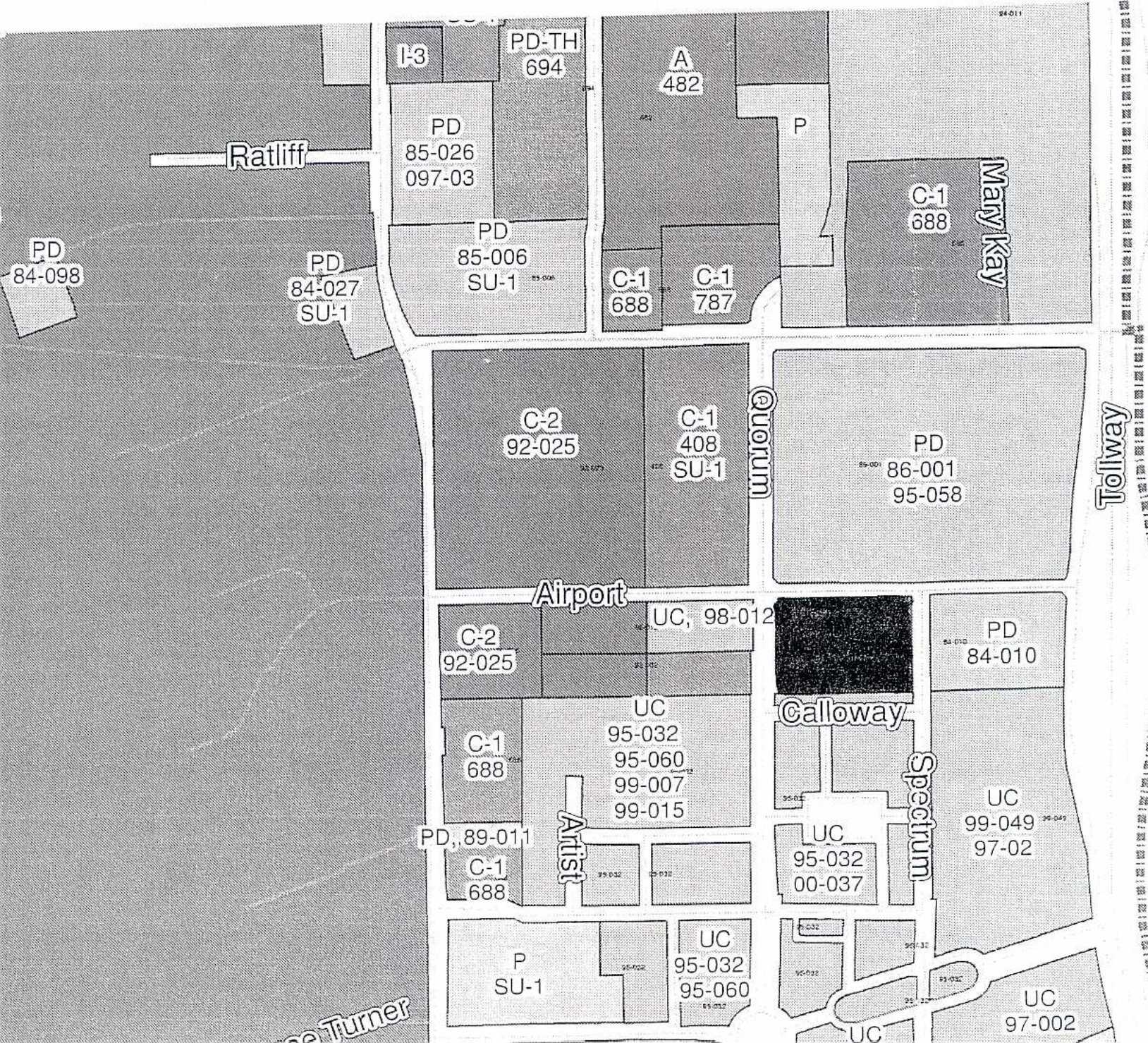
Memorandum

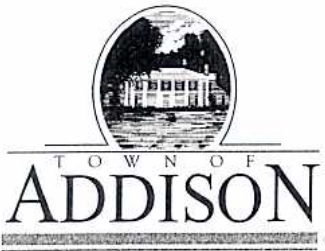
Date: October 30, 2007
To: Carmen Moran, Director of Development Services
From: Slade Strickland, Director of Parks and Recreation
Subject: **Case 1550-SUP/Joey's Seafood**

The landscape plan submitted by the applicant shows a significant amount of landscaped area to be removed for a patio. Staff recommends that the landscape area remain, because by removing it the site would fall below the 20 percent landscape requirement. If removing the patio is not a viable option, additional landscaping would need to be added to the site to offset the reduction.

1551-Z

PUBLIC HEARING Case 1551-Z/David Weekley Homes. Requesting approval of a final development plan, with waivers for 84 townhomes, located on 3.98 acres in the UC – Urban Center zoning district – Residential subdistrict, at the southeast corner of Airport Parkway and Quorum Drive, on application from David Weekley Homes, represented by Mr. Larry Jackson.





DEVELOPMENT SERVICES
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Post Office Box 9010 Addison, Texas 75001-9010

November 2, 2007

STAFF REPORT

RE: Case 1551-Z/David Weekley Homes

LOCATION: 3.98 acres at the southeast corner of Quorum Drive and Airport Parkway

REQUEST: Approval of a final development plan, With waivers, for 84 townhomes

APPLICANT: David Weekley Homes, represented Mr. Larry Jackson

DISCUSSION:

Background. The zoning on this property was changed from UC – Commercial subdistrict to UC – Residential subdistrict on June 12, 2007 through Ordinance 007-016. A concept plan and final development plan, which included elevations and floor plans, were also approved through that ordinance. The original request was filed by Intervest Ventures Group.

In the original approval, the Council did not approve two waivers that were requested by Intervest Ventures Group: a waiver to the 90% brick standard for exterior elevations in order to allow hardi-plank siding on the rear elevations, and a waiver to the prohibition against composition (asphalt) shingles as a roofing material.

At this point, Intervest Ventures Group would like to sell the property to David Weekley Homes. David Weekley is proposing to build 84 townhomes with the same site plan that Intervest proposed. However, David Weekley would like to change the elevations and would like to request the same waivers that Intervest requested for hardi-plank, and for composition shingles. David Weekley is not proposing to change the concept plan or the site plan or floor plans that were previously approved by the Council. However, because Weekley is proposing to change the elevations, it must come back to the P&Z and Council for Final Development Plan Review.

FINAL DEVELOPMENT PLAN

Proposed Plan. As stated earlier, David Weekley is proposing to use the same site plan that was approved for Intervest Ventures Group. It is proposing to develop 84 townhome units on 3.98 acres. David Weekley plans to sell the units for \$300,000 and up. The units are “for sale” product and will be sold to individual owners rather than rented. They will be a true townhome, as opposed to the condominiums that were built by City Homes to the south of this site. Each home will be located on a individually platted lot.

Height. David Weekley is proposing to build at the same height proposed by Intervest. The buildings are 36.5 feet tall, which falls within the allowed height. They will be 3-story buildings, with a bedroom/flex room and garage on the ground floor, living area on the second floor, and bedrooms on the third floor.

Facades. The buildings will be trimmed differently than the Intervest plan. David Weekley is proposing to use a stone (or faux stone) material on the entire first level. Weekley is also proposing to add copper turrets to the bay windows, and to provide front doors that are “punched out” as opposed to being recessed as the Intervest front doors were. Also, Intervest proposed to use one color of brick for all 13 buildings on the project. David Weekley will build each building out of the same brick (not allow for different units in the same building to have different brick). However, it may change brick color from building to building, with a maximum of four different brick colors used on the site. The alley-sides also show screening fences on the roof for air-conditioning units. Staff cannot tell if those are solid fences, but would note that they need to be solid, and they need to screen the air conditioning equipment from all sides, not just the rear.

Roofs. The material on the gable roofs is proposed as Grand Manor Composition Shingles. The UC district regulations specify that wood roof shingles and composition shingles on any portion of a roof visible from a public street are prohibited.

Area. The current site plan shows 44 units at 20-feet wide and 40 units that range in width from 22 to 34 feet. The units are 49 feet deep, but that depth includes a five-foot utility easement. The units range from 2,447 square feet to 2,528 square feet, which is a larger minimum unit size than the City Homes units. The floor plans show the smallest (2,192 sq. ft.) unit as a two bedroom/den/ 2.5 bath plan. The largest (2,528 sq. ft.) unit is a three bedroom/den/3 bath plan. Most units have an option for a fireplace. In the UC district, the minimum area per dwelling unit for a townhome is 1,600 square feet, so the units will exceed them minimum size requirement for a dwelling unit.

David Weekley will be using the same basic floor plans that Intervest proposed. The Intervest plans were very similar to the City Homes floor plans. There is a limited amount that can be changed on a three-story townhome, so all of the floor plans will look pretty much the same. However, David Weekley may revise the plans slightly to add stacked closets so that the units can be fitted with elevators, if the buyer desires.

Setbacks. In the UC district, the minimum setback is defined as a "build-to" line. The build-to line for a Category C, Residential street is five (5) feet. These units are proposed at a build-to line of two (2) feet, with one side yard adjacent to Calloway Drive being three (3) feet. The build-to line for all buildings fronting on Category D streets such as: Spectrum Drive, Quorum Drive, and Airport Parkway is ten (10) feet. These units are proposed at a build-to line of seven (7) feet. The build-to line on an alley is zero (0) feet with a 20-foot wide alley. These units are proposing a 20 foot alley, but will set back from the alley two (2) feet on the ground floor in order to provide 24 feet from garage face to garage face. This will make it easier for residents to get into and out of their garages.

Staff has a concern about how the alleys will look from the street. Staff realizes that a garage product has to have a back door. On the City Homes project, the staff worked diligently to minimize the views of the long alleys from the public streets. However, the alleys are still very visible and look pretty dismal. Staff believes it will help the success of this project is the builder provides an entrance or gateway to the alley that visually stops the eye at the entrance to the alley. Staff is not sure what that gateway needs to be, and it is sensitive to the problems of crossing the alley with an arch, but it believes there are wing walls, or other treatments, that would provide an eye-stopping entrance to the alleys.

Parking. Each unit shall provide one parking space per bedroom in each unit, with a maximum of two spaces per unit. This development provides excellent visitor and excess parking in that every unit faces out onto a street with parking provided in the street. The development provides 70 visitor parking spaces, almost one visitor space per unit. Staff believes these parking spaces will be welcomed by the residents, and one of the factors that could cause the units to sell for a higher price.

WAIVERS TO DESIGN STANDARDS

The David Weekley plan indicates requests to waive several design standards – most of which were waived for the Intervest plan. They are as follows:

Waiver of design standards in order to allow lot widths to be 20 feet as opposed to the 25 feet required by the ordinance.

This standard was waived for the City Homes product, and was previously waived for the Intervest plan. Staff recommends approval of this waiver.

Waiver to design standards in order to allow depths of 45 feet as opposed to the 55 feet required by the ordinance.

This standard was waived for the City Homes product, and was previously waived for the Intervest plan. Staff recommends approval of this waiver.

Waiver to design standards in order to allow lot coverage of 100% of the lot as opposed to the 65% of the lot required by the ordinance.

This standard was waived for both the six Morris Avenue townhomes that Post built, the City Homes product, and the Intervest plan. Staff recommends approval of this waiver.

Waiver to design standards in order to allow a minimum two-foot setback against the Category C, (Residential) Streets, as opposed to the five-foot setback required by the ordinance, and a waiver to design standards in order to allow a seven-foot setback against the Category D (Quorum, Spectrum, Airport Parkway) streets, as opposed to the ten-foot setback required by the ordinance.

Staff worked with the Intervest group to make this product fit onto this site, while still providing the standard width streets required in the UC district. Staff and the Intervest group worked especially hard to get Category C, Residential streets into the plan in order to provide parking in front of the homes. Staff would prefer to allow flexibility in the setbacks rather than in the right-of-way widths. This waiver was approved for the Intervest plan, and staff again recommends approval of this waiver.

Waiver to design standards in order to use hardi-plank siding as a siding material on an exterior façade.

The applicant is proposing to use hardi-plank siding on the alley sides of the buildings. The plans indicate that on the alley sides of the buildings, the two end units will be 100% brick. Then the units in the middle will have a two-story bump-out that will be 100% hardi-plank. There will be columns of brick that will go up the wall between the hardi-plank bump-outs. In addition, the applicant is proposing to use stone, brick, and hardi-plank on the facades. Staff feels that the applicant has done a better job than City Homes did in blending the brick and another material on the alley sides. Staff recommends approval of this waiver.

Waiver to design standards in order to use composition shingles as a roofing material.

Staff was initially opposed to allowing composition roofs on these townhomes. However, staff has visited extensively with David Weekley homes, and believes that the quality of composition shingle being proposed is satisfactory. Staff also believes that the composition shingles are appropriate for the revised building facades that Weekley is proposing. Staff recommends approval of this waiver.

STAFF REVIEW

Engineering. Public Works has worked through many design issues with the applicant, but would note that all paving and drainage design must meet city standards.

Fire. The Fire Department worked with the Intervest Group on a final site plan, and that plan has been approved. The staff thought initially that David Weekley was going to mount the air conditioning units on the ground in the alley, but it is not. The applicant should be aware that no items, including air conditioning units or trash receptacles, will be allowed to encroach into the 20-foot fire lane. The staff would also note that a final site plan must be approved by the Fire Department before issuance of a building permit.

Landscaping. The Parks Department has reviewed the plan and notes:

- Detailed streetscape plans, which meet the standards of the Urban Center ordinance requirements for streets, will need to be submitted for review and approval before issuance of a building permit.

- The open space provided on the plan meets the minimum standard under the UC regulations. The on-going open space maintenance shall be the owners/homeowners association's responsibility, which includes the maintenance of the living screen area along Airport Parkway.

Noise. At the initial P&Z hearing, the Commission advised the applicant that revised plans should include a solution for the problem of noise generated by the chiller that is across the street on the Madison office building property. That solution might include building a sound wall around the chiller. However, staff is reluctant to require this applicant to complete improvements on another property that is not part of the zoning request. Staff recommends that the solution for the noise be handled on site by adding sound-insulating windows to some units. Staff has worked with the applicant to determine a suitable standard for noise reduction, and the location of units to be modified.

Staff recommends that units, in Block C, units 9-16, (as shown on the approved final development plan) be modified by adding insulating windows and front doors that reduce noise by a minimum of 35 decibels from outside to inside. The 35 db standard is

the same noise reduction standard required for airport noise within the 65 and 70 ldn noise contours. The applicant has indicated that he has had experience with building close to Love Field, and can provide windows and doors to these units that will reduce noise by the 35 decibel amount.

RECOMMENDATION

The site plan for this property went through an extensive review process when it was first proposed by Intervest Ventures Group. The site plan and floor plans are the same as the plans reviewed during the Intervest Ventures Group case. However, the facades have been changed. In general, staff feels that the changes to the façades will improve the looks and quality of the project by giving the buildings more architectural interest and definition.

Staff recommends approval of the following waivers to design standards:

Waiver to design standards in order to allow lot widths to be 20 feet as opposed to the 25 feet required by the ordinance.

Staff recommends approval of this waiver.

Waiver to design standards in order to allow depths of 45 feet as opposed to the 55 feet required by the ordinance.

Staff recommends approval of this waiver.

Waiver to design standards in order to allow lot coverage of 100% of the lot as opposed to the 65% of the lot required by the ordinance.

Staff recommends approval of this waiver.

Waiver to design standards in order to allow a minimum two-foot build-to line against the Category C, (Residential) Streets as opposed to the five-foot build-to line required by the ordinance, and a waiver to design standards in order to allow a seven-foot build-to line against the Category D (Quorum, Spectrum, Airport Parkway) streets as opposed to the ten-foot build-to line required by the ordinance.

Staff recommends approval of this waiver.

Waiver to design standards in order to use hardi-plank siding as a siding material on an exterior façade.

Staff recommends approval of this waiver.

Waiver to design standards in order to use composition shingles as a roofing material.

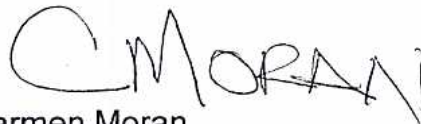
Staff recommends approval of this waiver.

Staff recommends approval of the development plan subject to the following conditions:

- All air conditioning screening fences shall be of a solid material, and shall screen the air conditioning units from all sides.
- Plans shall be revised to include a wing-wall or gateway element at all alley entrances to help screen views into the alleys.
- All paving and drainage design and construction must meet city standards.
- A final site plan must be approved by the Fire Department before issuance of a building permit.
- Detailed streetscape plans shall be submitted for review and approval for lighting, paving, irrigation, site furniture, and planting prior to the issuance of a building permit.
- The on-going open space maintenance shall be the owners/homeowners association's responsibility, which includes the maintenance of the living screen area along Airport Parkway.

Units in Block C, units 9-16, (as shown on the approved final development plan) shall be fitted with insulating windows and front doors that reduce noise by a minimum of 35 decibels from outside to inside.

Respectfully submitted,



Carmen Moran
Director of Development Services

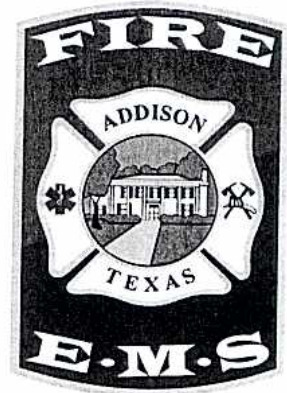
Memorandum

Date: October 30, 2007
To: Carmen Moran, Director of Development Services
From: Slade Strickland, Director of Parks and Recreation
Subject: **Case 1551-Z/David Weekley Homes**

Streetscape plans will need to be submitted for review and approval that comply with the UC-Urban Center standards if the development plan is approved.

Memorandum

To: Carmen Moran, Director of Development Services
From: Gordon C. Robbins, Deputy Fire Chief
Date: Wednesday, October 31, 2007
Re: Case 1551-Z / David Weekley Homes



Emergency access as shown on the site plan appears to be acceptable, however the "conceptual rear elevation" shows air-conditioning equipment and trash receptacles encroaching into the alleys. As these alleys will be designated as fire lanes, encroachment into the agreed 20-foot width is not acceptable.

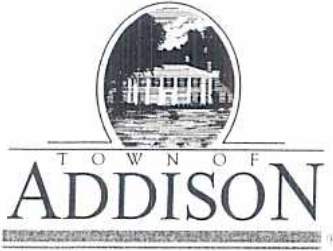
Fire hydrant locations are not shown on the plan. Hydrants must be placed in approved locations before final approval.

GCR/g

PRELIMINARY PLAT/The Residences at Addison Circle

PRELIMINARY PLAT/The Residences at Addison Circle. Requesting preliminary plat approval for 84 lots, located on 3.98 acres at the southeast corner of Quorum Drive and Airport Parkway, on application from David Weekley Homes, represented by Dowdey Anderson & Associates, Inc.





November 2, 2007

STAFF REPORT

RE: PRELIMINARY PLAT/The
Residences at Addison Circle

LOCATION: 84 lots on 3.98 acres in the UC
– Urban Center zoning district,
Residential Subdistrict, at the
southeast corner of Quorum
Drive and Airport Parkway

REQUEST: Approval of a preliminary plat

APPLICANT: David Weekly Homes,
represented by Dowdey,
Anderson & Associates

DISCUSSION:

Background. This tract is part of the UC – Urban Center zoning district. It was rezoned from UC – Commercial to UC- Residential on June 12, 2007 through Ordinance 007-016. At that time, a concept plan and final development plan were approved. At this point, David Weekly is planning to take over the project and change the elevations of the buildings, but the site plan remains the same as the plan that was approved through Ordinance 007-016. David Weekly is proposing a preliminary plat for the 84 lots.

Public Works Review. Public Works reviewed the proposed plat and notes the following:

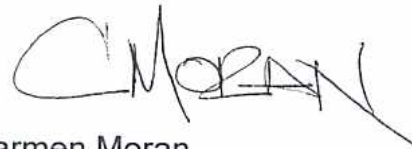
1. The Thoroughfare Plan designates Airport Parkway as a Commercial Collector which requires a 64' Right-of-Way. As a result, a 2' right-of-way dedication is required on the plat for Airport Parkway.
2. Change all references of "City of Addison" to "Town of Addison."
3. Add building setbacks in accordance with the amendment to the UC zoning. Add a reference to the amendment to the face of the plat.
4. Add center lines to existing streets.
5. Street names shall be chosen from the Town of Addison approved list. Please revise.

6. Add a 5' Sidewalk Easement along the Spectrum Drive frontage.
7. A reference to the Quorum Drive East Addition recorded in Volume 98001, Page 00033 needs to be added to the Owner's Certificate.
8. Place a 5' Utility Easement in the side yard along the frontage on Lot 30, Block A, Lots 1, 9, 16 & 24, Block B and Lot 30, Block C.
9. Show all lot lines, property owners and dimensions for the parcels across each public right-of-way.

RECOMMENDATION:

Staff recommends approval of the preliminary plat for The Residences at Addison Circle, subject to the conditions listed above.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'C. Moran', with a long, sweeping underline that extends to the right.

Carmen Moran
Director of Development Services



PUBLIC WORKS DEPARTMENT
Post Office Box 9010 Addison, Texas 75001-9010

(972) 450-2871 FAX (972) 450-2837
16801 Westgrove

Memorandum

To: Carmen Moran
CC: Nancy Cline, Aaron Russell
From: Clay Barnett
Date: 11/2/2007
Re: The Residences of Addison Circle

-
1. The Thoroughfare Plan designates Airport Parkway as a Commercial Collector which requires a 64' Right-of-Way. As a result, a 2' right-of-way dedication is required on the plat for Airport Parkway.
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 5. Street names shall be chosen from the Town of Addison approved list. Please revise.
 6. Add a 5' Sidewalk Easement along the Spectrum Drive frontage.
 7. A reference to the Quorum Drive East Addition recorded in Volume 98001, Page 00033 needs to be added to the Owner's Certificate.
 8. Place a 5' Utility Easement in the side yard along the frontage on Lot 30, Block A, Lots 1, 9, 16 & 24, Block B and Lot 30, Block C.
 9. Show all lot lines, property owners and dimensions for the parcels across each public right-of-way.

MERITORIOUS EXCEPTION TO THE ADDISON SIGN ORDINANCE

STAFF REPORT

ME 2007-7

#R16

Date: November 6, 2007

Business: Los Lupes Mexican Restaurant

Address: 3855 Belt Line Rd

Sec. 62-162 (c) There shall be only one sign for each facade for each tenant.

Ordinance Requirement

Request

Variance

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 footage 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 facade; 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 facade 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:

| Sign Height (feet) | Maximum Letter/Logo Height (inches) |
|--------------------|-------------------------------------|
| 0 - 36 | 16 |
| 37 - 48 | 36 |
| 49 - 100 | 48 |
| 101 - 150 | 60 |
| 151 and up | 7 |

(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.

Sec. 62-285. Luminescent gaseous tubing. The use of tubes which contain luminescent inert gases, but not limited to, neon, argon, and krypton and which are visible from the exterior of structures, is specifically prohibited except as an attached sign which shall conform to this chapter.

STAFF RECOMMENDATION: Staff recommends denial.

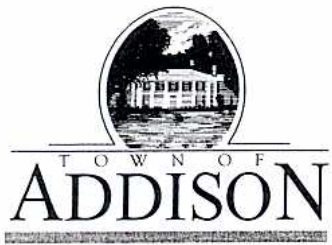
STAFF:



Lynn Chandler, Building Official

The applicant is requesting the following attached signs:
 Signs on the south facade consisting of an 81 square foot sign, a 19 square foot sign with a 30 inch logo and exposed neon skeleton type lighting.

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.
 Exposed neon on attached signs only.
 Only one sign per tenant per facade.




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: November 6, 2007

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 to 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 setback 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 setback 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. April 2006
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. July 2006

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" due to setbacks of 100' or more from Belt Line Rd., Inwood Rd. and Landmark Blvd. August 2006
36. Sprint located at 3719 Belt Line Rd was granted an exception for a sign with letter heights of 24" and a logo height of 30" due to a setback of 112' from belt Line Rd. Jan 2007
37. Staples located at 4400 Belt Line Rd was granted an exception for a sign with letter heights of 30" due to a setback of 120' from Belt Line Rd. May 2007.

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: 11/02/07

Filing Fee: \$200.00

Applicant: The ALPHA sign centre

Address: 8908 Sovereign Row Suite#:

Dallas TX 75247 Phone#: 972-438-7497

City

State

Zip

Fax#: 972-259-2135

Status of Applicant: Owner _____ Tenant _____ Agent

Location where exception is requested:

~~3855~~
~~8908~~ Beltline cross street commercial

Reasons for Meritorious Exception:

INSTALLING INDIRECT LIGHTING ON BUILDINGS TO HELP ILLUMINATE BUILDING FOR CUSTOMER SAFETY AT NIGHT.

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 11-5-07 Check # 7364 Receipt # 3497

South Elevation

21 ft 8-in



Main Sign

Painted Aluminum Back Ground.

"Los Lupes, Mexican Restaurant, Border and Logo" will be Painted Aluminum Channels with clear Acrylic Faces and Illuminated by 15mm Neon.

"Since 1972 and Authentic" will be vinyl graphics.



Building Neon

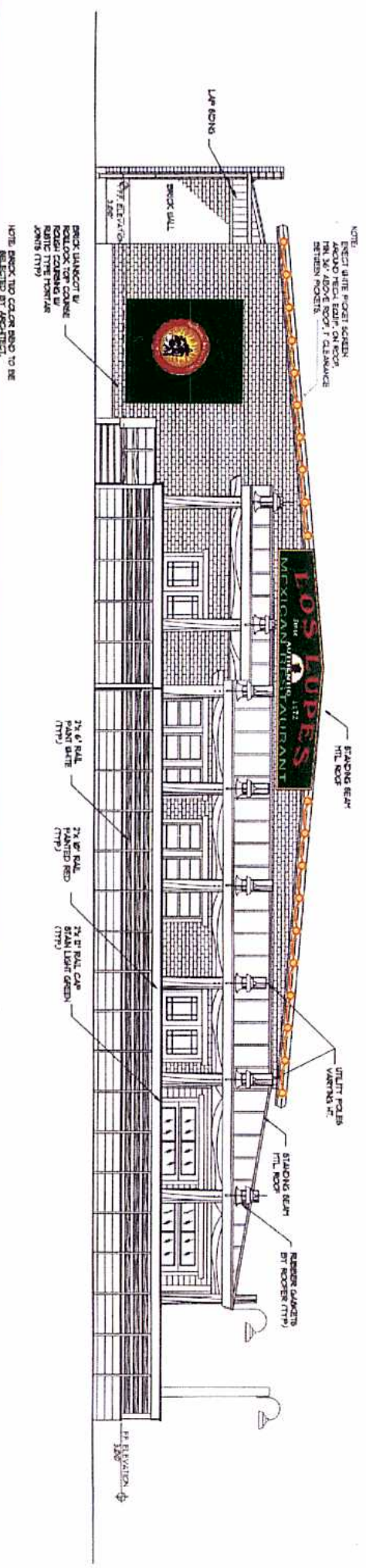
15mm Neon housed in an Aluminum Channel with clear Acrylic Faces



5 ft

Optional Logo

Aluminum Channel with Vinyl graphics applied to the back with neon formed to match the design on top of graphic with a clear Acrylic Face.



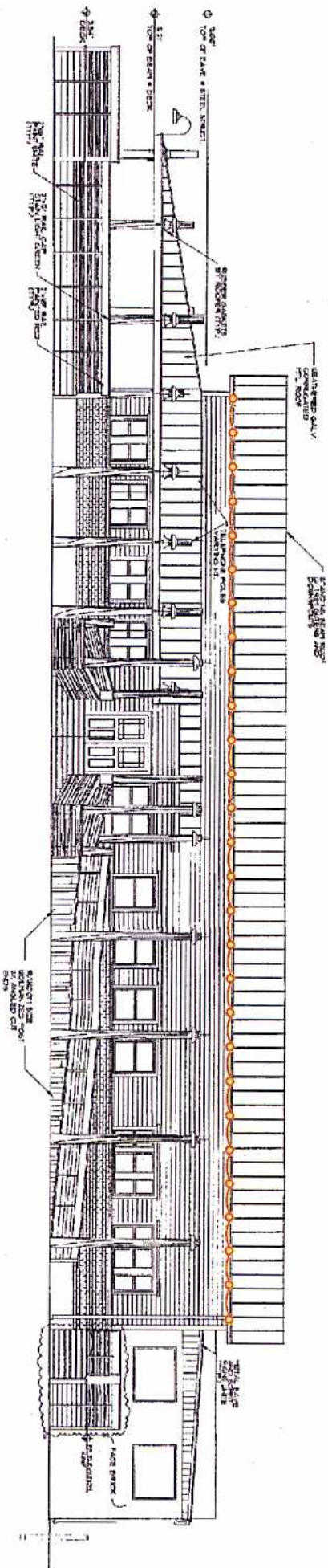
NOTE: ALL ELECTRICAL SIGNAGE TO HAVE 4 DEDICATED PRIMARY CIRCUIT PER SPECIFICATIONS OF SIGN VENDOR. ALL PRIMARY CIRCUIT TO BE PROVIDED BY OTHERS. Construct & Install Using Only U.L. Listed Components & In accordance w/ National Electrical Sign Code. (P)

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| The Alphastign CENTRE National Signage Alphastign Specialty Neon 8908 Sovereign Row Dallas, TX 75247 OFFICE 972.438.7497 FAX 972.258.2105 | | Customer Los Lupes Location 3855 Beltline Rd. Addison, TX. Description Scale n/a Date 10/24/07 Open Faced Channel Letters Salesman/ Drawn By/ Craig / Jason Customer/ Landlord/ Production | Date: Date: Date: |
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East Elevation

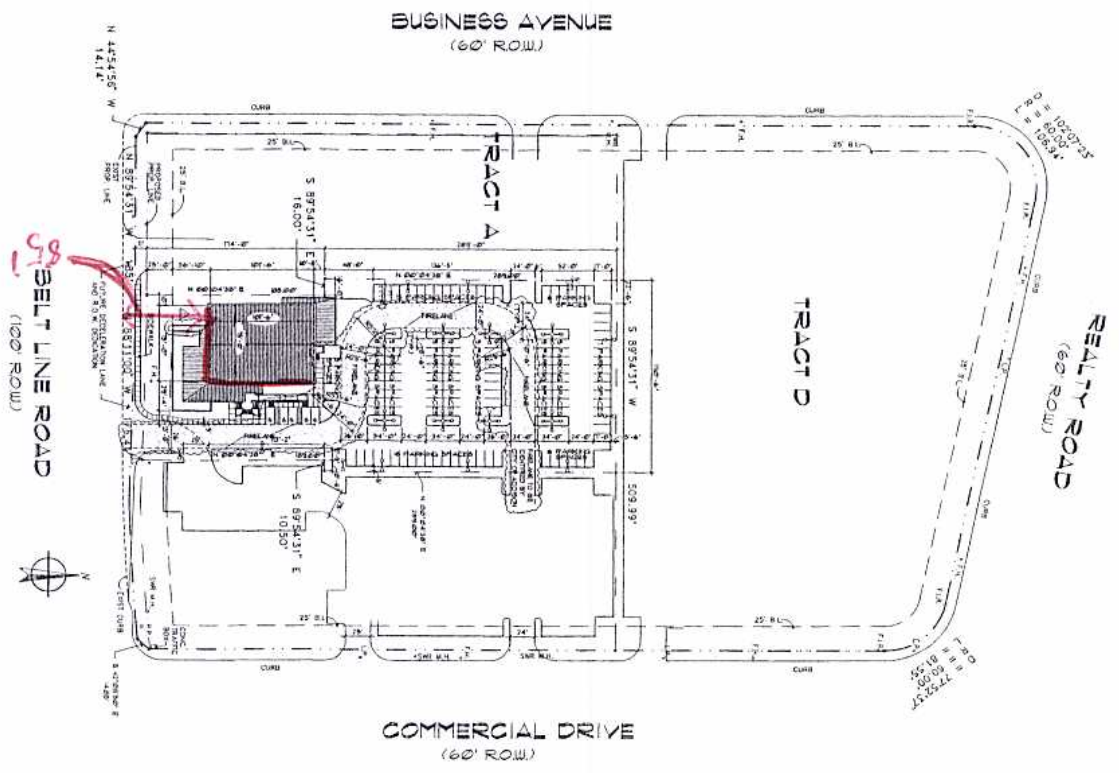
Building Neon

15mm Neon housed in an Aluminum Channel
with clear Acrylic Faces



NOTE: ALL ELECTRICAL SIGNAGE TO HAVE A DEDICATED PRIMARY CIRCUIT PER SPECIFICATIONS OF SIGN VENDOR. ALL PRIMARY CIRCUIT TO BE PROVIDED BY OTHERS. Construct & Install Using Only U.L. Listed Components & In Accordance w/ National Electrical Sign Code (NEC)

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| The Alphastign CENTRE Custom Signage AlphaNEON Specialty Neons 1908 Sovereign Row Dallas, TX 75247 OFFICE 972.438.7497 FAX 972.259.2135 | | Customer Los Lupes Location 3855 Beltline City, State Addison, TX. | Description Scale n/a Date 10/24/07 | Open Faced Channel Letters This drawing is property of Alphastign CENTRE and all rights to its reproduction and display are reserved by Alphastign CENTRE. | Salesman/ Drawn By/ Craig Jason Customer/ Landlord/ Production | Date: Date: Date: |
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8th BELT LINE ROAD
(100' ROW)

Indirect Lighting



1" = 50'

NOT FOR CONSTRUCTION

LEGEND

PROPERTY LINE
POLE LIGHT - SINGLE LAMP
POLE LIGHT - DOUBLE LAMP

PARKING COUNT

1. ALL PARKING SPACES SHALL BE 8' X 20'.

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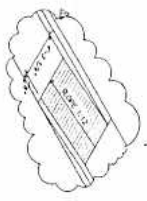
97. ALL PARKING SPACES SHALL BE 8' X 20'.

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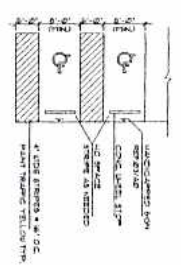
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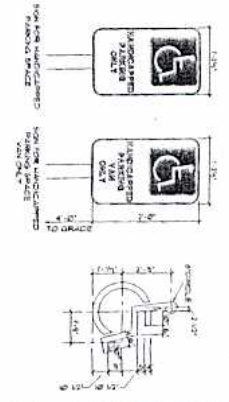
03 CURB RAMP



04 HANDICAPPED PARKING

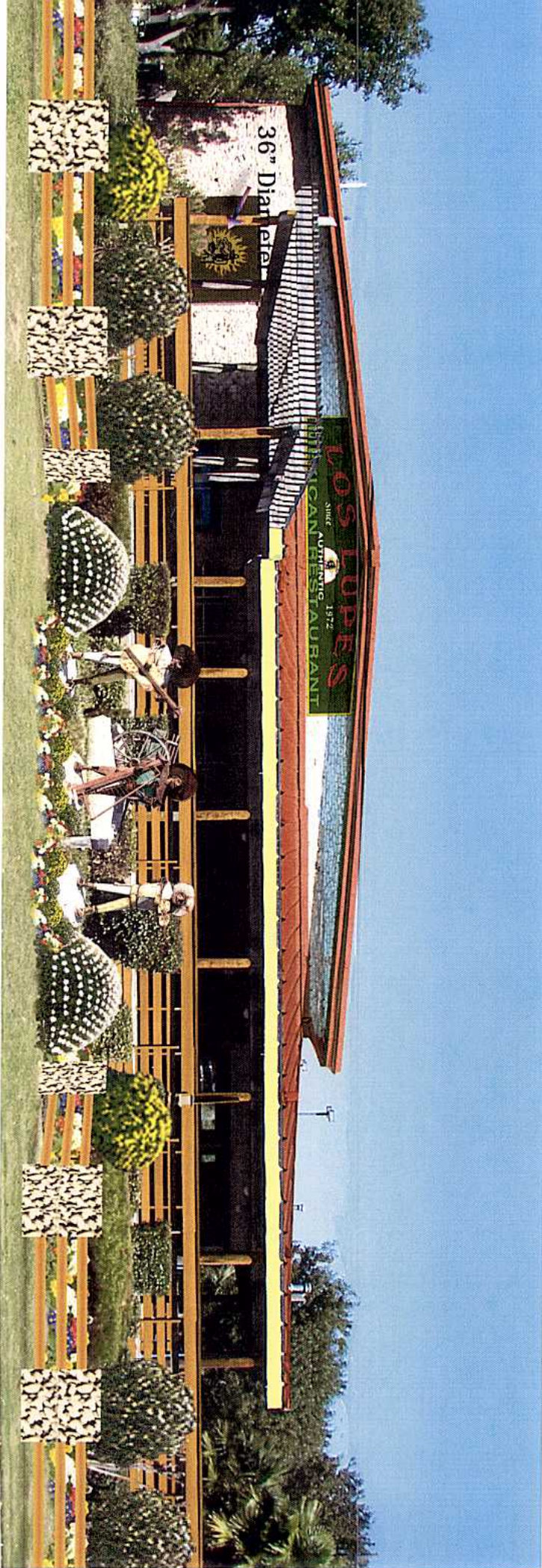


05 HANDICAPPED SIGN AND SYMBOL



BEFORE





36" Dia

LOS LOBOS
MEXICAN RESTAURANT
SINCE AUTHENTIC 1972

MERITORIOUS EXCEPTION TO THE ADDISON SIGN ORDINANCE
 STAFF REPORT
 ME 2007-08

#R17

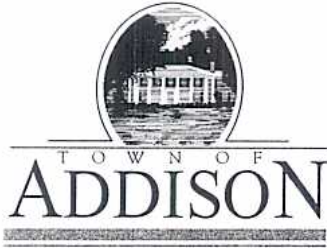
Date: November 5, 2007
 Location of Request: 3855 Belt Line Rd

Business: Los Lupes Mexican Restaurant

| <u>Ordinance Requirement</u> | <u>Request</u> | <u>Variance</u> |
|---|--|---|
| <p>Sec. 62-285 Luminescent gaseous tubing.</p> <p>The use of exposed tubes which contain luminescent inert gases, including, but not limited to, neon, argon, and krypton, and which are visible from the exterior of structures, is specifically prohibited except as an attached sign which shall conform to this chapter.</p> <p>Sec. 62-186. Monument signs.</p> <p>Monument signs must be built on a monument base as opposed to a pole base with no separation between the base of the sign and the natural grade. A monument sign contains only the name, logo, address and product or service of the establishment. No advertising or promotional information is permitted thereon. Such sign may be single or double-faced. Such signs with the base shall not exceed six (6) feet in overall height above the natural or average grade and the actual sign face shall not exceed forty-eight (48) square feet in area per side. Plastic faces may be used on monument signs provided only letters, numbers or logo elements emit light. The monument sign shall be located on site and a minimum of twenty (20) feet from the back of the curb.</p> | <p>The applicant is requesting:</p> <p>A monument sign with exposed neon and that has an area of approximately 60 square feet and an overall height of approximately 7.5 feet.</p> | <p>Exposed neon is prohibited on detached signs.</p> <p>The monument sign is limited to an overall height of 6 feet and a sign face not to exceed 48 square feet in area.</p> |

STAFF RECOMMENDATION: Staff recommends denial.

STAFF: 
 Lynn Chandler Building Official



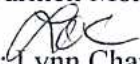
BUILDING INSPECTION DEPARTMENT

(972) 450-2880 Fax: (972) 450-2837

16801 Westgrove

Post Office Box 9010 Addison, Texas 75001-9010

To: Carmen Moran, Director of Development Services

From:  Lynn Chandler, Building Official

Date: November 6, 2007

Subject: Meritorious Exceptions to the Sign Ordinance

The following exceptions have been granted for detached signs:

1. 14951 Dallas Parkway

Carter Crowley Properties (Comp USA)
Meritorious Exception Ord. 093-030, May 11, 1993
Flag and Pole: Pole Height 120', Flag Area 760 sq. ft.

Comp USA was also granted an exception for a corporate flag 96 sq. ft. in area.
February 2003.

2. 14665 Midway Road

The Kevlin Company was granted an exception for a monument sign to be
Located 15' from the street curb. September 27, 1994.

3. 16771 Dallas Parkway

Bent Tree National Bank
Meritorious Exception Ord. 094-070, October 25, 1994
Pole Sign: Height: 25', Area: 71 sq. ft.

4. 16251 Dallas Parkway

Mary Kay
Meritorious Exception Ord. 095-022, may 9, 1995
Monument Sign: Height 9', Area 54 sq. ft.

5. 14655 Dallas Parkway

Bay Street (Lawry's)
Meritorious Exception Ord. 092-065, October 27, 1992
Pole Sign: Height 30', Area 72 sq. ft.

6. 5100 Belt Line Road

Village on the Parkway
Meritorious Exception Ord. 096-022, June 11, 1996
3 Towers: Height 44', Area 77 sq. ft.
And

2 signs from previous meritorious exception allowed to remain.

Ord. 094-047, July 21, 1994

Pole Sign: Height 29'6", Area 156 sq. ft.

7. E.E. Realty located at 4949 Keller Springs Road was granted an exception for a monument sign to be located 15" from the street curb. May 23, 2000
8. Emerald Plaza located at 14900 Landmark Blvd. was granted an exception for a monument sign to be located 15' from the street curb.
8. Addison Town Center Shopping Center located in the 3700 to 3800 block of Belt Line Road was granted an exception for four pole signs that did not meet the design criteria or maximum area of the ordinance. November 2002
9. Two Rows Restaurant & Brewery located at 17225 Dallas Pkwy was granted an exception for an additional monument sign with an area of 72 sq ft and a height of 8'. August 2003.
10. Addison Walk located at 5000 Belt line Road was granted an exception for two 72 sq ft pole signs that did not meet the design criteria of the sign ordinance. January 2004.
11. Lawry's located at 14655 Dallas Pkwy was granted an exception for a pole sign 35' in height and 114 sq ft in area due to it's location on Dallas Pkwy and it's unique design. December 2004.
12. Addison Tower located at 16415 Addison Rd was granted an exception for a monument sign to be located 12' 10" from the street curb. December 2005.
13. Majestic Liquor located at 14733 Inwood was granted an exception for a monument sign with a height of 8' and an area of 54 sq ft. July 2006.

Addison!

BUILDING INSPECTION DEPARTMENT 16901 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: 11/02/07

Filing Fee: \$200.00

Applicant: The Alpha Sign Centre

Address: 8908 Sovereign Row

Suite#:

Dallas TX 75247
City State Zip

Phone#: 972-438-7497

Fax#: 972-259-2135

Status of Applicant: Owner _____ Tenant _____ Agent

Location where exception is requested:

~~3833~~
3939 Beltline RD.

Reasons for Meritorious Exception:

we are wanting the sign to be 16
sq ft larger for better visibility,
so customers will be able to know
what type of establishment it is,
because its hard to notice on a
blinding curve.

YOU MUST SUBMIT THE FOLLOWING:

12 COPIES OF THE PROPOSED SIGN SHOWING:

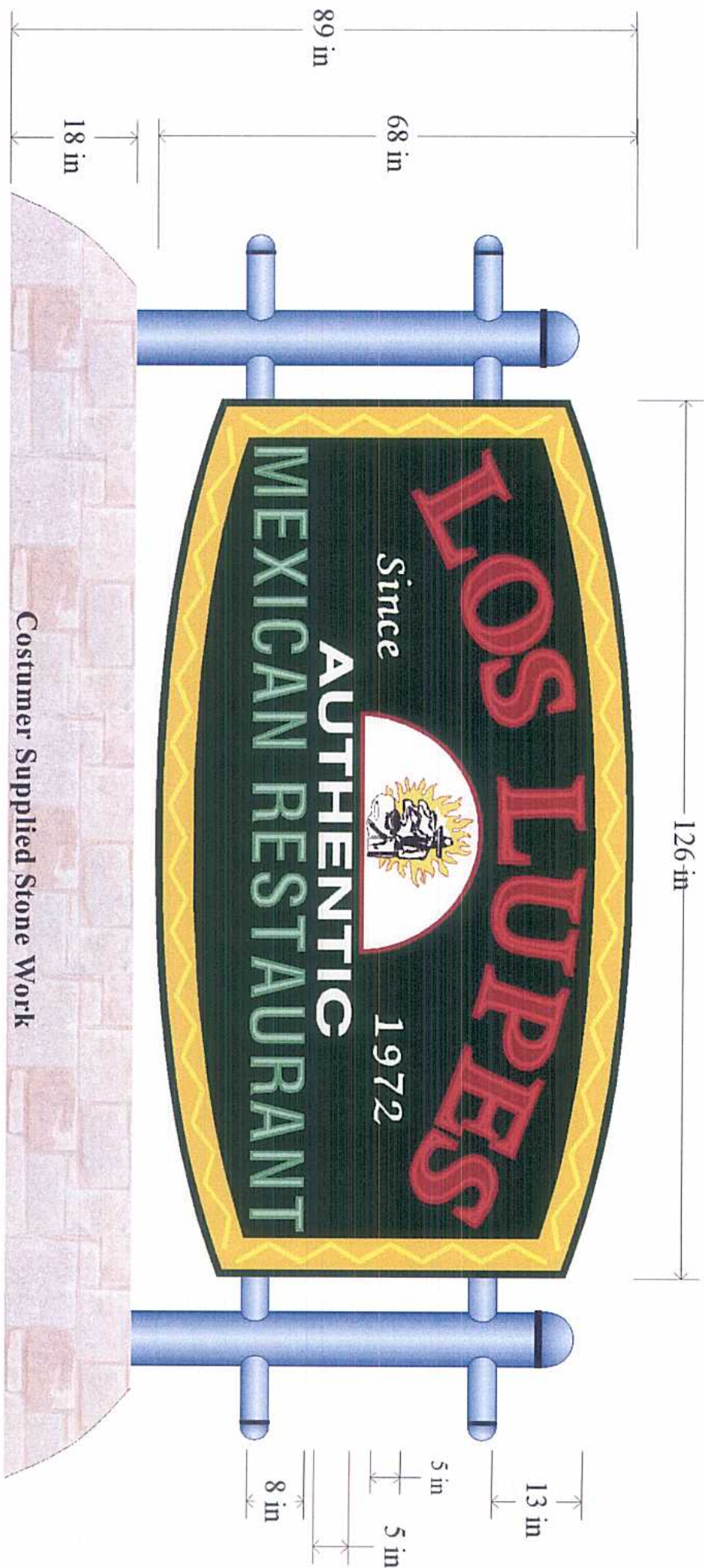
- | | |
|-----------------------------------|---|
| 1. Lot Lines | 5. Proposed Signs |
| 2. Names of Adjacent Streets | 6. Sketch of Sign with Scale and Dimensions Indicated |
| 3. Location of Existing Buildings | (8.5 x 11 PLEASE) |
| 4. Existing Signs | |

Date Fees Paid 11-5-07

Check # 7364

Receipt # 3497

Monument Sign



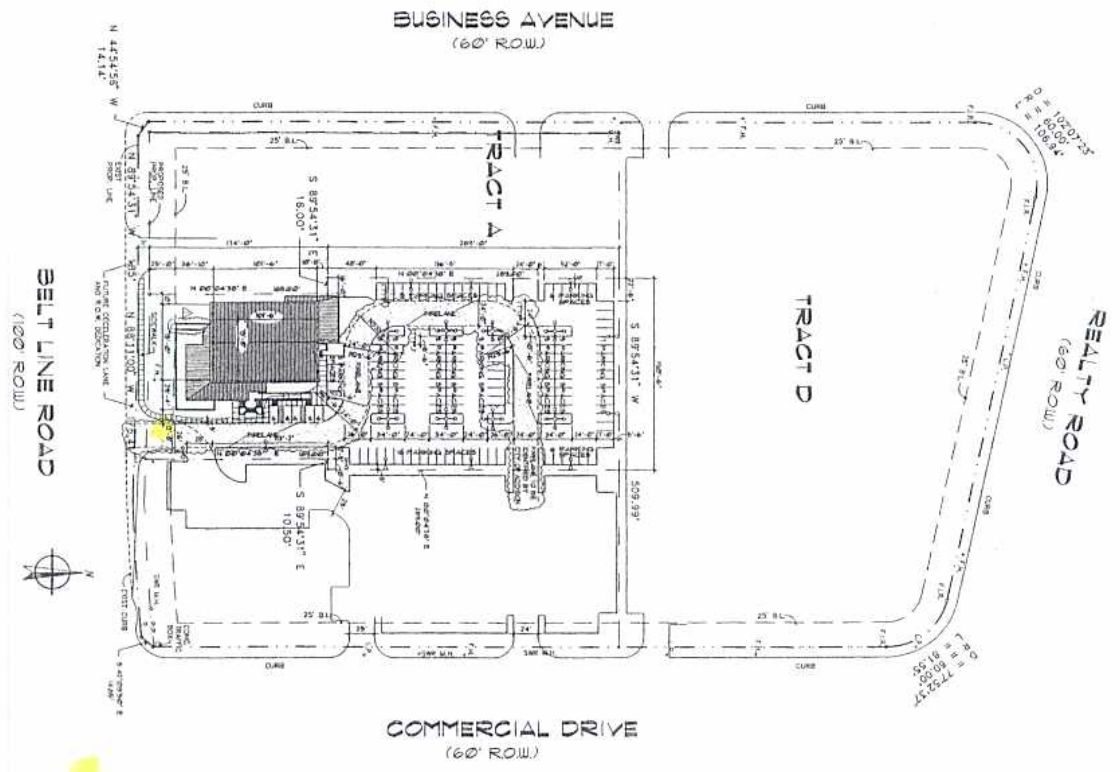
Customer Supplied Stone Work

Manufacture and Install Double Sided Illuminated Monument Sign

Back Ground Fabricated with and Angle Iron Frame with Painted Aluminum Fillers.
 "Los Lupes, Mexican Restaurant, Border and Logo" will be Painted Aluminum Channels with clear Acrylic Faces and Illuminated by 15mm Neon.
 "Since 1972 and Authentic" will be vinyl graphics.

Note: ALL ELECTRICAL SIGNAGE TO HAVE A DEDICATED PRIMARY CIRCUIT PER SPECIFICATIONS OF SIGN VENDOR. ALL PRIMARY CIRCUIT TO BE PROVIDED BY OTHERS. Construct & Install Using Only UL Listed Components & In accordance w/ National Electrical Sign Code. ①

| | | | | | | | | | | | |
|--|---------|----------|-------------------|-------------|---------------|-----------|-------|------------|--|-------|--|
| The Alphasign Centre Custom Signage AlphaSign Specialty Signs | | Customer | Los Lupes | Description | Monument Sign | Salesman/ | Craig | Customer | | Date: | |
| 8108 Sockwood Row Dallas, TX 75247 OFFICE 972.438.7437 FAX 972.258.2135 | | Location | 3855 Beltline Rd. | Scale | n/a | Drawn By/ | Jason | Landlord | | Date: | |
| City/State | Address | TV | | Date | 10/24/07 | | | Production | | Date: | |

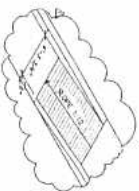


MONUMENT SIGN
~~15'~~ SETBACK
 20'

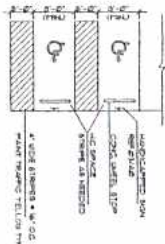
NOT FOR CONSTRUCTION



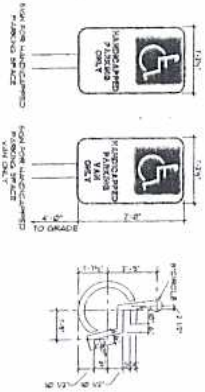
03 CURB RAMP



04 HANDICAPPED PARKING



05 HANDICAPPED SIGN AND SYMBOL



Council Agenda Item: #R18

SUMMARY:

Consideration and approval authorizing the City Manager to enter into a contract with Building Solutions, Inc., for facilities project management services in the amount of \$35,400.

FINANCIAL IMPACT:

Cost: \$35,400

Funds are included in each projects budget.

BACKGROUND:

The 2007-08 fiscal year budget places a major emphasis on accomplishing many facilities projects. There are approximately 22+ facilities maintenance projects that are scheduled and funded to be completed this fiscal year. This number of projects represents a 27% increase in the number of significant projects to be managed by General Services staff (John Godley) in a typical year. To assist staff in effectively managing these projects and maintain a service level that responds to the daily requests for services, staff is seeking project management assistance from Building Solutions, Inc.

The Town has effectively utilized Building Solutions in the past for assistance with project management efforts with projects such as the Police and Fire station re-roofing, indoor pool repair and locker room renovations and most recently the Athletic facility expansion and outdoor leisure pool project.

Building Solutions would be assisting staff with design specifications, scopes of work, scheduling, bidding, and construction oversight and then coordinating these efforts in concert with the scheduling of the on-going activities at our facilities. In addition, Building Solutions has been asked to do these functions with sustainability in mind.

The projects to be accomplished span all Town facilities and some may run simultaneously that will require a conscientious effort in coordination so that they can be accomplished with minimal disruption to residents, patrons, and employees. Various projects to be accomplished include, interior and exterior painting, carpet replacement, restroom and locker room upgrades, ceiling tile replacement, racquetball court repairs, roofing, wood floor refinishing and replacement, overhead apparatus bay doors, flag poles, and more. The budget amount for projects to be managed by Building Solutions is approximately \$665,000 and their fee is approximately 5.32% of this amount.

RECOMMENDATION:

Staff recommends approval.

ITEMS #R19 & #R20

Please see Agenda #2 for these Airport Items.

ITEMS #R19 & #R20

Please see Agenda #2 for these Airport Items.

Council Agenda Item: #R21

SUMMARY: Discussion and approval of the Memorandum of Understanding (MOU) between the Town of Addison and the Cavanaugh Flight Museum.

FINANCIAL IMPACT:

The MOU is structured in phases that if fully implemented will result in a Development Agreement between the Town and the Cavanaugh Flight Museum. The later phases will require expenditure of funds which have been budgeted. It is anticipated that the initial two phases of the MOU will not require the expenditure of funds.

BACKGROUND:

. See attached memorandum

RECOMMENDATION:

Staff recommends approval.

Memorandum

To: Mayor and City Council
From: Lea Dunn, Deputy City Manager
Date: November 8, 2007
Subject: Cavanaugh Memorandum of Understanding

As Council is aware the Town has provided marketing support to the Cavanaugh Flight Museum for a number of years. During those years there have been a number of conversations with the Flight Museum staff about developing a more permanent relationship between the Town and Museum by working collaboratively to design and build a state of the art museum complex. In 2004, attorneys for the Cavanaugh Flight Museum provided a draft term sheet for the development and construction of a new flight museum for the Town's review and consideration. The purpose of the draft term sheet was to begin a process that would ultimately culminate in an agreement between the Town and the Cavanaugh Flight Museum detailing the construction, maintenance and operations of a new Cavanaugh Flight Museum and the respective responsibilities of the Town and Cavanaugh regarding those items.

It quickly became evident that more study was needed before pursuing an agreement between the Town and Cavanaugh. In August 2004 the Town contracted with Museums+more LLC to conduct a strategic assessment of the proposed expansion of the Cavanaugh Flight Museum. The study reviewed and made recommendations regarding the Museum in a number of areas such as strategic niche and mission, audience and marketing, museum site and airport considerations, governance and management. Based on the recommendation of the first study, the Town contracted with ConsultEcon, Inc. to conduct a detailed market analysis and economic impact study. The ConsultEcon study concluded that the Town should continue to pursue the expansion of the Cavanaugh Flight Museum.

The purpose of the Memorandum of Understanding (MOU) is to provide a process that will enable the Town and the Cavanaugh Flight Museum to define the roles and responsibilities of each organization as it relates to the possible design, construction and

operation of the Cavanaugh Flight Museum. The MOU is structured in four phases, with the understanding that completion of each phase is the condition before proceeding to the succeeding phase. Staff will be prepared to discuss the MOU at the Council meeting.

MEMORANDUM OF UNDERSTANDING CAVANAUGH FLIGHT MUSEUM

I. PARTIES:

This Memorandum of Understanding (this “MOU”) is by and between the Town of Addison, a Texas municipal corporation (the “Town”), and Cavanaugh Air Museum, a Texas non-profit corporation and tax-exempt entity under IRC Section 501(c)(3), dba Cavanaugh Flight Museum (the “Non-Profit”); either of said parties may be hereinafter referred to as a “Party” and both as the “Parties”.

II. THE PARTIES SHARED INTENT:

The Town and the Non-Profit intend to explore the initial steps regarding the possible design, construction, and operation of the Cavanaugh Flight Museum (the “Museum”). This MOU reflects those initial steps or phases, generally described as follows (and further described below):

- the selection of a Project Committee (Phase 1);
- the negotiation and execution of a Pre-Development Agreement (Phase 2);
- the selection of a Design and Budget Team and the preparation of Conceptual Plans for the Museum (Phase 3); and
- the preparation of a Development and Operations Budget (Phase 4).

Following Phase 4, the Parties may agree to proceed with additional phases of the development of the Museum. Generally speaking, this phased process may result in the Parties reaching one or more agreements which may address, among other things, the specific roles of each of the parties with respect to the Museum facilities, including the design, construction, operation and management of the Museum and the funding thereof.

III. ANTICIPATED BENEFITS:

By undertaking their respective obligations regarding the Museum, the Town and the Non-Profit intend to realize various benefits. The Town anticipates that the Museum will (A) improve and enhance the Addison Airport, (B) attract additional conventioners, tourists and other visitors, thereby increasing restaurant, hotel and related revenues within the Town’s corporate limits, (C) serve as an educational resource for its school children and other citizens, and (D) otherwise further enhance the Town’s reputation, standing and overall quality of life. The Non-Profit, in turn, anticipates that the Museum will permit it to (1) better ensure the continued maintenance and care of aircraft it owns or controls, memorabilia, and other property, (2) enhance its ability to restore and/or acquire additional aircraft,

memorabilia and other property, (3) expand its educational and other programs, increase its membership and attendance counts, and generally reach a broader audience, and (4) otherwise better achieve its corporate and philanthropic purpose of preserving military aviation heritage.

IV. MUSEUM FACILITY; INITIAL PHASES:

Set forth below is a general description of the Museum facility as currently contemplated by the Parties and an outline of the initial phases regarding the development of the Museum:

A. The Facility, Generally: The Town and the Non-Profit, working collaboratively, will consider designing and constructing a state-of-the-art museum complex composed of a minimum of 100,000 sq. ft. of climate-controlled, purpose-built museum, together with hangar facilities, and a minimum of 30,000 sq. ft. of climate-controlled hangar space to house the Museum's maintenance and restoration facilities. The Town and the Non-Profit currently expect the Museum to be located at the south end of the Addison Airport and to be situated and designed to take maximum advantage of adjacent airport facilities and the Addison Arts & Events District.

1. The Museum: The Museum is currently expected to include:

- Classrooms and meeting space;
- A large format film theater using most current technology;
- A research/reference library;
- A hands-on discovery area for children's education and career building;
- An art gallery to house the Museum's art collection;
- A gift shop;
- A restaurant, if it is feasible and generates positive cash flow for the Museum;
- A hotel, if it is feasible and generates positive cash flow for the Museum;
- Catering facilities for parties and conferences;
- A large ramp area for aircraft parking and operation;
- An observation area with a replica tower and/or terrace;
- A state-of-the-art security and fire system, including electronic security gate(s);
- Adequate automobile parking (surface parking or parking garage) in light of projected attendance at the Museum and for special events;
- Adequate bus/RV parking;
- Private covered parking for at least eight (8) cars in the security area; and
- F104 or other aircraft on a pedestal at the Museum entry, if feasible.

The Parties currently intend for the hangar space for the Jani-King Aviation Department to be at a different location and not part of the Museum.

2. The Maintenance Hangar: The Maintenance Hangar design is currently expected to include the following features:

- Shop and storage space;
- A paint booth;
- Outside storage; and
- Outside wash rack available to all users of the Addison Airport to enhance revenues to the Museum and draw other aircraft to the Museum for viewing;

It is anticipated that the people attending the Museum will be able to observe the aircraft-related maintenance and restoration activities, which should inform the Museum's design.

3. Other Design Considerations:

- The Parties intend that the Museum shall be designed and sited so as to:
 - maximize the potential for future expansion,
 - maximize the benefits of being in proximity to a working airport facility,
 - facilitate outside displays and special events and shows; and
 - maximize the potential benefits to the Museum of nearby facilities owned or operated by the Town (e.g., convention facilities, reciprocal easement rights in adjacent parking, etc.).

The parties may consider developing new airport administrative offices in conjunction with the Museum.

B. Phased Process: The review and approval process for the initial phases of the development of the Museum shall be a sequential process accomplished in the following four (4) phases, with the completion of each phase being the condition for proceeding to the succeeding phase:

1. Phase 1, Appointment of Project Committee: Once the Parties have finalized and approved this MOU, the Parties shall form a project committee (the "Project Committee") composed of five (5) individuals. The Town shall appoint two (2) members. The Non-Profit shall appoint two (2) members. The fifth member shall be the Airport Director or the Director's designee (as may be approved by the Town). The Project Committee shall meet regularly to lead and oversee the Museum's development activities while (i) encouraging open and continuous dialogue between the various participants and (ii) facilitating review of the various phases. A primary goal of the Project Committee is to provide a streamlined information disseminating and approval process, and the Project Committee members shall be responsible for conveying project information to their respective organizations (including, with respect to the Town's representatives, all of the appropriate municipal departments, committees, commissions, visitors' bureaus, and the Town Council) and forwarding any requested changes and securing any necessary authorizations.

2. Phase 2, Negotiation and Execution of Pre-Development Agreement:

Following the appointment of the Project Committee, the Project Committee shall diligently and in good faith negotiate a pre-development agreement (the “Pre-Development Agreement”) informed, as applicable, by the terms hereof and further informed by the Market and Operating Potential for the New Cavanaugh Flight Museum prepared for the Town by ConsultEcon, Inc. dated May 2006 and the Aviation Museum Strategic Assessment for the Town of Addison, Texas prepared for the Town by Museums+more LLC dated April 2005. The Pre-Development Agreement is currently expected to require the Parties to (A) outline, in at least general terms, the roles of the Town and the Non-Profit with respect to the design, construction, maintenance, operation, and funding of the Museum, and to (B) develop and oversee (i) a preliminary conceptual plan for the Museum’s exhibits and programs, (ii) an analysis of space use based on programmatic and facility requirements, (iii) a site plan and analysis, including parking issues (collectively, the “Conceptual Plans”). The Conceptual Plans shall be funded as agreed by the Parties in the Pre-Development Agreement, but no Party shall be required at this stage to provide funds or engage in operations beyond those required by or described in the Pre-Development Agreement. If the Parties are unable to agree upon the Pre-Development Agreement, either Party may terminate this MOU upon 15-days’ prior written notice, whereupon the Parties shall have no continuing obligations to one another.

3. Phase 3, Selection of Design and Budget Team; Preparation, Completion and Approval of the Conceptual Plans:

If and when Phase 2 is accomplished (*i.e.*, the execution by both Parties of the Pre-Development Agreement), the Parties, utilizing the Project Committee, shall (i) select, in accordance with the laws and regulations applicable to the Town, (y) such architect(s), engineer(s) and other design professionals and (z) such expert(s), accountant(s), industry consultant(s) and/or marketing advisor(s) as the Parties deem necessary or desirable (collectively, and as may be modified from time to time, the “Design and Budget Team”) that will prepare the Conceptual Plans, and (ii) review and approve the Conceptual Plans prior to proceeding to Phase 4. If the Parties are unable to agree upon the Conceptual Plans, either Party may terminate the Pre-Development Agreement upon 15-days’ prior written notice, whereupon the Parties shall have no continuing obligations to one another, except for the obligation of the Parties as set forth in the Pre-Development Agreement to pay Design and Budget Team contract costs incurred prior to said termination.

4. Phase 4, Completion and Approval of the Development and Operations Budget:

If and when Phase 3 is accomplished, the Pre-Development Agreement shall require the Parties, utilizing the Project Committee, to oversee the preparation by the Design and Budget Team of projections, feasibility analyses, operational costs estimates, and a development budget to design, construct and operate the Museum, and a capital campaign budget based on fundraising feasibility cost estimates (the “Development and Operations Budget”). The Parties shall review and approve (in their respective sole discretion) the Development and Operations Budget prior to the Parties considering any additional or future phases regarding the development of the

Museum. Such review is currently expected to include, and the Development and Operations Budget (if approved) may explicitly address:

- the estimated cost to design and construct the Museum in accordance with the Conceptual Plans (as the Conceptual Plans may be modified by agreement between the Parties);
- the anticipated delegation of operational responsibilities for the Museum;
- the estimated costs to operate the Museum (and the anticipated funding obligations of each of the parties); and
- estimated revenues to be generated by the Museum.

C. Additional Phases. Following the review and approval of the Development and Operations Budget, the Parties may thereafter consider, each in their respective sole discretion, negotiating an agreement regarding further and additional phases in the development of the Museum, which may include provisions regarding (i) the preparation of plans, specifications and estimates for construction of the Museum, (ii) the preparation and award of a contract for the construction of the Museum, (iii) oversight of the construction, and (iv) operation of the Museum (which may include a form of the lease of the Museum facilities to be executed by the Parties).

V. EFFECT OF MOU:

This MOU contemplates that the Town and the Non-Profit will seek to negotiate the matters set forth herein and such other matters related thereto as may be agreed upon between the Parties, and, if agreed upon, set forth the same in the contemplated Pre-Development Agreement, to be approved by each of the Town and the Non-Profit.

Notwithstanding any provision of this MOU, this MOU and the statements and representations made herein are only an offer and agreement to negotiate, and are expressly conditioned upon and subject to the Town and the Non-Profit negotiating and entering into the contemplated documents, and is not binding upon or legally enforceable against the Town or the Non-Profit in any way, except to the extent that it reflects the intent to proceed to negotiate with respect to the matters described herein. Unless the contemplated documents are agreed upon and entered into by the Town and the Non-Profit, in their respective sole discretion, neither the Town nor the Non-Profit shall be under any obligation with respect to the matters set forth herein, irrespective of this MOU and irrespective of any negotiations, agreements or understandings heretofore or hereafter existing between the Town and the Non-Profit, it being understood that no contractual relationship shall exist between the Town and the Non-Profit unless and until the definitive contemplated documents shall have been executed in writing, and then only to the extent set forth therein.

V. EXECUTION OF THIS MOU:

If the foregoing is acceptable to you, please execute one (1) copy of this MOU in the space provided below acknowledging your willingness to pursue the negotiation of the Pre-

Development Agreement and the Agreement upon the terms set forth herein, and return the executed counterpart to the Non-Profit.

CAVANAUGH AIR MUSEUM,
a Texas non-profit corporation

By: _____

Name: _____

Title: _____

Date: _____

ACCEPTED AND AGREED:

TOWN OF ADDISON,
a Texas municipal corporation

By: _____

Ron Whitehead, City Manager

Date: _____

Council Agenda Item: #R22

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, 2007.

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 (non-crisis matters and other matters) 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"). 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: _____

Council Agenda Item: #R23

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: \$77,000

Cost: \$52,500 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. 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. This year additional funds have been included to market the "Addison Perks" program and the proposed International Festival.

RECOMMENDATION:

Staff recommends approval.

shiroma | southwest

17311 North Dallas Parkway, Suite 110 Dallas, TX 75248 972-732-6100 info@shiromasouthwest.com

October 24, 2007

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:

| EVENT fees | 2007-08 |
|-------------------------------|----------------|
| Bookworm Bash | 1000 |
| Resolution Run | 500 |
| AddisonPerks | 12000 |
| Out of the Loop Festival | 1000 |
| International Festival | 4000 |
| Jazz Festival | 5000 |
| Taste Addison | 9000 |
| Summer Series | 4000 |
| Kaboom Town | 5000 |
| Oktoberfest | 9000 |
| Miscellaneous consultation | 2000 |

FEES: The annual fee is \$52,500, with fees allotted proportionately to each event, based on the amount of hours required. The fee will be billed in 12 monthly increments of \$4,375.00

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 September 30, 2008.

FOR TOWN OF ADDISON

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

BY: _____

BY: _____

ITS: _____

ITS: _____

DATE: _____

DATE: _____

Council Agenda Item: #R24

SUMMARY: Staff is requesting approval to enter into an advertising agreement with Krause Advertising to provide marketing consultation, creative ad production services, administrative and account oversight for the Town marketing and special events initiatives.

FINANCIAL IMPACT:

Budgeted Amount: \$216,000

Cost: \$18,000 per month for Krause's services

A 15% management fee of the gross cost for any outside suppliers engaged by Krause on behalf of the Town.

12% of the gross cost of media placed by Krause on behalf of the Town of Addison

Reimburse at cost any service such as courier, freight, postage, long distance or similar expenditures incurred for the Town.

BACKGROUND: In July 2007 staff solicited proposals from area advertising firms to provide creative and marketing services to the Town. A total of eight companies responded and three were selected for further review. As a result of that process, Krause Advertising was selected to provide creative and marketing services for the Town. The terms of the agreement are for a three-year period.

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.

RECOMMENDATION:

Staff recommends approval.

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

ADVERTISING AGREEMENT

This Advertising Agreement (“Agreement”) is made as of October 1, 2007 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 three (3) years, beginning on October 1, 2007 and ending on September 30, 2010. 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 2008”) 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 \$18,000 ("Monthly Fee"), which will cover all internal agency labor in performance of account service, marketing consultation, creative concepts, electronic production, production management, administrative and account oversight. Not included in this fee is electronic production labor for Special Events materials other than print advertising and posters. Separate cost estimates will be submitted to the Town in advance of any work being performed. 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 a production management fee of 15% of the gross cost. This fee will cover agency time to identify qualified vendors, submit bid sheets, analyze proposals, award the work, oversee and manage the process, provide quality control, and supervise the final production of materials.

(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.

(d) All jobs include two rounds of revisions. For all additional revisions Krause will estimate and charge for all agency time necessary for these revisions. For all sponsor specific requested material Krause will provide the Town an estimate and will precede once approval is received from the Town. For all ads over the amount specified in the fee proposal Krause will provide the Town with an estimate to produce these ads.

(e) Krause will advise, plan and place all media for the Town and receive 12% of the gross cost of the media. (Standard agency commission is 15%).

5. Billing.

(a) Krause shall submit to the Town, on or before the fifth day of each month, during the Term hereof and beginning with November 2007, 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 October 2007 being due on or before November 5, 2007 and the last such statement due on or before October 5, 2010).

(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) Krause will provide 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 October 2010, 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, 2008, 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 Indemnatee for any Damages caused by the sole negligence of the Indemnatee, or sole gross negligence of the Indemnatee, or sole conduct of the Indemnatee that may or does expose the Indemnatee to strict liability under any legal theory.
- (iii) If an Indemnatee 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 Indemnatee, 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: _____

**Town of Addison
Fee Proposal 2008
Exhibit A**

Project

Addison Direct

- Revise 2 versions of hotel vouchers

Hotel Advertising

- Update ad and prepare publication materials for 2 publications

The Dallas Morning News – Newspaper Ads

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

Print Ads - Other Publications

- 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
- Update restaurant brochure
- Update tear-off restaurant map
- Update meeting planner's guide
- 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

North Texas Jazz Festival

- Print ads, t-shirt, fliers, program, press kit cover design, Web banner

KRAUSE

Taste Addison

- Print ad – multiple sizes, Quick rack card, flier, poster, radio/tv copy, t-shirt artwork, free admission tickets, parking passes, VIP invitations, kiosk design, CD label design

International Festival

- Print ad, parking passes, free admission tickets, program, flier, kiosk design, web banner

Kaboom Town!

- Print ad – multiple sizes, parking pass, VIP invite, flier, kiosk design, web banner

Summer Series

- Print ad, update rack brochure/flier, kiosk design

Addison Oktoberfest

- Print ad, t-shirt artwork, plastic cup/coaster/case card/bottle neck hanger artwork, Quick rack card, flier, poster, radio/tv copy, free admission tickets, parking passes, VIP invitations, kiosk design, CD artwork

Council Agenda Item: #R25

SUMMARY: Approval of an agreement with Hand & Associates Marketing Communications to advertise in the November 2007, February 2008, May 2008 and August 2008 editions of the Addison and The North Dallas Corridor Visitors Guide and the Addison and The North Dallas Corridor Magazine publications.

FINANCIAL IMPACT:

Budgeted Amount: \$111,750
\$105,000 for advertising (\$26,250 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.

Last year Hand launched a new publication, Addison and The North Dallas Corridor Magazine that is mailed to all residential properties in Addison and the North Dallas area. This publication has proved to be very popular. As a result, Hand & Associates is proposing to publish the two publications quarterly or four times a year. The cost to the Town would remain the same and the only change would be the number of copies published each issue.

RECOMMENDATION:

Staff recommends approval.

Addison

and the north dallas corridor media group

October 8, 2007

Ms Lea Dunn
Deputy City Manager
Town of Addison
5300 Belt Line Road
Dallas, TX 75254-7606

Dear Lea,

As you are aware for sometime now I have been contemplating changing the publication schedule for ***ADDISON - The Magazine Of The North Dallas Corridor and Addison and the north dallas corridor visitors guide*** to four times per year or quarterly.

The reasons for this are many....a few are below

1. With the new dual cover design the demand from the local market has been terrific and already a need to be timelier in covering seasonal events and partnering with such events for promotions etc. is evident. Not to mention our readership base looks for a more timely editorial product that can at least be seasonal to the 4 major seasons
2. The magazine publishing business is ultra-competitive and being an "odd duck" with a three time per year schedule makes media buyers at more sophisticated agencies place us in the category of "occasional publication schedule" vs. the more established pattern of "quarterly". Thus making advertising sales to those agencies more difficult.
3. Being out of touch with our advertisers and readers for a five month stretch as the current schedule provides between a our Spring and Fall issue makes us have to virtually re-sell the product all over again. We anticipate a more even schedule of 3 mos. between publication dates will provide for a more consistent model.
4. The current model also causes there to be a lot of confusion for hotel staff. Especially when staff overturns (which is frequent) and they do not anticipate that there are different time periods between publication dates. Again, we believe a quarterly schedule will allow a more streamlined distribution process with the hotels that can be solidified 1xper year and maintained after that with hotel staff

With above said I would propose that beginning with the new contract year (beginning with the upcoming Holiday winter issue published Nov 15th 2007) we be allowed to take the publication quarterly.

The proposal does not ask for more dollars from the Town and provides for the same amount of copies per year. We simply propose to reduce the amount of copies printed and distributed each issue to 22,500, four-times per year for annual total of 90,000 vs. the current three times per year at 30,000 each issue for a total of 90,000. After nine years of studying the distribution patterns, we know that the this model will allow us to cover Just as many distribution points however those points will receive slightly less copies each issue as they will need less as the nest issue will arrive sooner.

Our proposed publication dates will change to the following

- ***Holiday Winter*** ***Nov 15th***
- ***Spring*** ***Feb 15th***
- ***Summer*** ***May 15th***
- ***Fall*** ***August 15th***

I would propose changing the sponsorship fee from the current \$35,000 per issue with \$2,250 for additional circulation 3 xs per year for an annual \$111,750

to

\$26,250 per issue with an additional \$1,687.50 per issue for additional circulation 4 xs per year for an annual of \$111,750

As you can see there are many benefits and no downside that I can think of to the Town. Please let me know if I can answer any additional questions you may have regarding this new schedule. As discussed, I am ready to join you in presenting to council on the October 23rd meeting

I look forward to our continued work together, as we constantly strive for the best publication possible for the Town of Addison.

Sincerely,



Rodney Hand
Publisher

DATE SUBMITTED: **November 5, 2007**
FOR COUNCIL MEETING: **November 13, 2007**

Council Agenda Item: #R26

SUMMARY:

Staff requests approval of a resolution amending the Purchasing Manual by:

- Updating the amount in which a formal bid process is required from \$25,000 to \$50,000 to concur with the recent change in state law.
- Adopting policies and procedures for receiving electronic bids and proposals.
- Adding provisions for emergency change orders and the establishment of a threshold per project to allow for the approval of change orders by the City Manager without specific authorization from the City Council.

FINANCIAL IMPACT:

None.

BACKGROUND:

The Mayor and City Council adopted the Purchasing Manual in August 2005. This manual is a comprehensive resource for all procurement issues and is utilized by Town employees.

Since the adoption of the Purchasing Manual in August 2005, staff has identified additional changes that are recommended to the City Council for approval. In addition, the Texas Legislature has recently passed legislation that modifies purchasing procedures.

A Council subcommittee comprised of Tom Braun, Dennis Kraft and Roger Mellow met with staff from the City Manager's Office, Public Works Department and Finance Department in July and September to discuss these proposed changes, as well as other enhancements regarding contract management and administration.

An overview of the proposed changes was presented at the October 23rd City Council meeting. Since the October 23rd City Council meeting, staff did clarify the language regarding timing of the formal approval of the emergency change orders by the City Council in Section H of the attached resolution.

Below are brief summaries regarding the changes being recommended.

Formal Bidding Process for Purchases of \$50,000 or Greater

In the 2007 Legislative Session a bill was passed (SB1765) that would raise the purchase limit before a formal bidding process is required. Prior to the passage of this bill any

purchase of \$25,000 or more required the Town to go through a formal bidding process. SB1765 increased this financial threshold to now require any purchases more than \$50,000 to go through a formal bidding process. This legislation became effective September 1, 2007.

Staff is recommending that the Purchasing Manual be updated to reflect the \$50,000 amount. The City Council will continue to approve all purchases and contracts that are \$25,000 or greater – but staff will only be required to get written or verbal quotations for purchases that are \$50,000 or less.

Threshold and Emergency Change Orders

In response to City Council inquiries at the April 24th meeting regarding change orders and contingency budgets, staff has done additional research as well as received input from a Council subcommittee (Council members Tom Braun, Dennis Kraft and Roger Mellow) regarding contract management and change orders. As a result of this input and information, staff has revised the proposed policy regarding change orders to include a specified “threshold” amount for change orders as determined by the City Council. The threshold meets two important needs:

- Allows the City Council to set financial parameters for capital projects, specifically the dollar amount or percentage of change orders allowed for a capital project.
- Allows work on a capital project to continue in a timely manner by allowing the City Manager to approve change orders that are \$25,000 or less and within the threshold established by the City Council for the project.

During the development of a Change Orders procedures manual, staff also identified the need to have procedures in place for emergency change orders. These are change orders that qualify as an emergency under purchasing guidelines and are authorized by the City Manager prior to Council approval. Staff will be required to bring any emergency change orders to the Council for approval as soon as possible after the change order is implemented. Staff recommends adding this provision to the Purchasing Manual.

Receiving Electronic Bids and Proposals

In 2001, the Texas Legislature passed a bill allowing municipalities to accept bids and proposals electronically. Electronic bidding can provide many benefits including:

- Elimination of arithmetic errors and reduction of errors resulting from illegible handwritten responses.
- Standardized bid sheets which allow all bids and proposals to be submitted in a consistent fashion.
- Increased ease and convenience in submitting bids and proposals.

Section 252.0415 of the Texas Local Government Code requires municipalities to adopt rules to ensure the identification, security, and confidentiality of electronic bids or proposals and that electronic bids or proposals will remain effectively unopened until the

proper time. The attached resolution will establish these rules by adopting policies and procedures for receiving electronic bids and proposals.

Staff is currently utilizing a bid distribution service called RFP Depot and staff plans to test the electronic bidding process on a pilot bid or proposal during the next few months. Upon successful completion of the pilot test, electronic bidding will be fully implemented by staff for future bids and proposals.

Vendors will not be required to submit bids or proposals electronically but will have the option to do so once e-bidding is fully implemented.

RECOMMENDATION:

Staff recommends approval of the attached resolution amending the Town of Addison's Purchasing Manual.

TOWN OF ADDISON, TEXAS

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN OF ADDISON, TEXAS AMENDING THE TOWN OF ADDISON'S PURCHASING MANUAL BY ADDING PROVISIONS REGARDING ELECTRONICALLY SUBMITTED BIDS AND PROPOSALS, ADDING PROVISIONS REGARDING CHANGE ORDERS AND NOTIFICATION THRESHOLDS, AND REFERENCING THE CHANGE ORDERS PROCEDURES MANUAL WITH RESPECT TO CHANGE ORDERS, AND AMENDING PROVISIONS REGARDING COMPETITIVE SEALED BIDS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the goals of public purchasing are to ensure that public funds are safe-guarded and that the best value is received for these dollars and to ensure that all responsible bidders are given a fair opportunity to compete for the Town's business; and

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

WHEREAS, the Town is authorized by Section 252.0415 of the Tex. Loc. Gov. Code to receive bids or proposals through electronic transmission if the City Council adopts rules to ensure the identification, security, and confidentiality of electronic bids or proposals and to ensure that the electronic bids or proposals remain effectively unopened until the proper time.

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

Section 1. Amendment. Chapter 1 (Laws & Statutes Governing Purchasing), Section 1 (Bidding Requirements); Chapter 3 (Informal Quotes), Section 2 (Purchase of \$3,000 to \$25,000); Chapter 4 (Formal Bids), Section 1 (Purchases in Excess of \$25,000) and Section 4 (Procedures for Accepting Electronically Submitted Bids and Proposals); Chapter 6 (Procurement of Professional Services), Sections 5 and 6 (Procurement of Architectural, Engineering or Land Surveying Services); Chapter 7 (Purchase Orders, Change Orders and Receiving), Section 6 (Notification Threshold for Change Orders), Section 7 (Approval for Change Orders), Section 8 (Change Order Procedures) of the Town of Addison's Purchasing Manual, are hereby amended in the following particulars, and all other chapters, sections, subsections, paragraphs and words are not amended but are ratified and confirmed.

- A. Chapter 1, Section 1 of the Purchasing Manual is amended so that it shall hereafter read as follows (additions are underlined, deletions are ~~struck through~~):

Section 1. Bidding Requirements

A. As a general rule, before a municipality may enter into a contract that requires an expenditure of more than ~~\$25,000~~ \$50,000 from one or more municipal funds, the municipality must (i) comply with the procedures 252 for competitive sealed bidding or competitive sealed proposals, (ii) use the reverse auction procedure as defined by Section 2155.062, Texas Government Code, or (iii) comply with a method prescribed by Chapter 271, Subchapter H of the Local Government Code (alternate project delivery methods for certain projects). Electronically submitted bids or proposals shall be in accordance with Section 252.0415(a) of the Texas Local Government Code requiring the identification, security, and confidentiality of electronic bids or proposals and that electronic bids or proposals shall remain effectively unopened until the proper time. All electronically submitted bids will remain secure and confidential and remain effectively unopened until the proper time.

- B. Chapter 3, Section 2 of the Purchasing Manual is amended so that it shall hereafter read as follows (additions are underlined, deletions are ~~struck through~~):

Section 2. Purchases of \$3,000 - ~~\$25,000~~ \$50,000

For purchases between \$3,000.00 and up to ~~\$25,000.00~~ \$50,000.00 the following apply:

- A. The using department will create a Purchase Order in the system (see Chapter 7 on Purchase Orders) and complete the routing for approval before a purchase is made.
1. All departments should endeavor to promote fair and open competition for every purchase and to secure the best value, and the highest quality merchandise at the lowest possible cost.
- B. The Department Head, or the Department's Head's designee, is responsible for soliciting quotations.
1. The Department shall obtain written quotations from at least three vendors, whenever possible.
 2. At least two Historically Underutilized Business (HUBs) if available, (based upon information provided by the Texas Comptroller Building and Procurement Commission), shall be contacted, on a rotating basis, for quotations for any purchase more than \$3,000 but

less than ~~\$25,000~~ \$50,000. (Local Government Code Section 252.0215). If the Texas Comptroller's ~~Building and Procurement Commission~~ list (<http://www.window.state.tx.us/procurement/prog/hub>) fails to identify a HUB in the North Texas region (including Dallas County), the Town is exempt from this requirement.

- C. Chapter 4, Section 1 of the Purchasing Manual is amended so that it shall hereafter read as follows (additions are underlined, deletions are ~~struck through~~):

Section 1. Purchases in Excess of \$25,000

For purchases in excess of \$25,000 the following apply:

- A. Purchases in excess of \$25,000 ~~shall be on a competitive sealed bid basis and~~ will be referred to the City Council for approval. Purchases in excess of \$50,000 shall be on a competitive sealed bid basis or by other authorized methods.

- D. Chapter 4, Section 4 of the Purchasing Manual is amended so that it shall hereafter read as follows (additions are underlined, deletions are ~~struck through~~):

Section 4. Procedures for Accepting Electronically Submitted Bids and Proposals.

- A. Bids and proposals will be advertised and released in the current manner. A notice will be added to the bid terms and conditions stating vendors may submit responses electronically through the Town's Internet bid service provider at the web address provided. Upon receipt of the vendor's bid or proposal by the Town, an automatic return notification will be sent to the vendor via e-mail. Electronic bid and proposal responses will be time and date stamped by the Internet bid service provider.

- B. At the specific bid closing time, Financial and Strategic Services will access the Town's Internet bid service provider with a password and will open, download, and print all bids and proposals and any associated bid tabulation summaries provided by the Town's Internet bid service provider.

- C. Financial and Strategic Services staff will then read aloud all bid responses received by the closing date and time to any parties present at the bid opening. All bids shall be tabulated in the current manner and copies shall be made available to the interested parties.

- E. Chapter 6, Section 5 of the Purchasing Manual is amended so that it shall hereafter read as follows (additions are underlined, deletions are ~~struck through~~):

Section 5. Procurement of Architectural, Engineering, or Land Surveying Services – Fees Estimated to be Under ~~\$25,000~~ \$50,000 or Less Per Year

F. Chapter 6, Section 6 of the Purchasing Manual is amended to that it shall hereafter read as follows (additions are underlined, deletions are ~~struck through~~):

Section 6. Procurement of Architectural, Engineering, or Land Surveying Services – Fees Estimated to be Over ~~\$25,000~~ \$50,000 Per Year.

G. Chapter 7, Section 6 of the Purchasing Manual is amended so that it shall hereafter read as follows (additions are underlined, deletions are ~~struck through~~):

Section 6. Threshold for Change Orders.

- A. A “threshold” is defined as a financial limit on the amount of financial changes executed through change orders (whether an increase or decrease), which can be authorized by the City Manager (or the City Manager’s designee) on a capital project before requiring City Council approval.
- B. The City Council may establish a threshold for a capital project at the time of award of a bid or during the course of a project. A threshold can be established at any dollar amount or percentage of bid award provided that the threshold does not exceed 25% of the total bid award.
- C. If a threshold has been established by the City Council for the project, a change order can be approved solely by the City Manager (or the City Manager’s designee), if the amount of the change order is \$25,000 or less and within the threshold amount.
- D. Once the threshold has been met or exceeded, any subsequent change orders will be required to be approved by the City Council before proceeding with the change order.
- E. A summary of all change orders authorized on a specific capital project will be listed on the Final Payment agenda item.

H. Chapter 7, Section 7 of the Purchasing Manual is amended so that it shall hereafter read as follows (additions are underlined, deletions are ~~struck through~~):

Section 67. Approval for Change Orders.

- A. In the event it becomes necessary to make changes in the plans or specifications after performance of a contract is begun, or if it is

necessary to decrease or increase the quantity of work to be performed, or of the materials, equipment, or supplies to be furnished, the change orders ~~the City Council~~ may be approved ~~change orders~~ making these changes. If the change order involves a decrease or an increase of more than \$25,000, the City Council needs to approve the change order. If the change order involves a decrease or an increase of \$25,000 or less, the City Manager or the City Manager's designee may approve a change order (subject to the threshold provisions set forth in Section 6 above).

~~B. Once change orders total \$25,000 on a specific contract, any subsequent change order needs to be approved by the City Council.~~

B. If a change order is greater than \$25,000 and is extremely time sensitive and qualifies as an emergency, the City Manager (or the City Manager's designee) may approve such a change order prior to Council approval. However, the change order must still be brought to the Council no later than the next regular City Council meeting. Likewise, if a threshold has been established in accordance with Section 6, above, and a change order in the amount of \$25,000 or less exceeds the threshold or would cause the threshold to be exceeded, and if such change order is extremely sensitive and qualifies as an emergency, the City Manager (or the City Manager's designee) may approve such a change order prior to Council approval. Emergency conditions are defined in the Town of Addison Purchasing Manual

C. The original contract price may not be increased by more than twenty-five percent (25%). (Local Government Code Sec. 252.048(d))

D. The original contract price may not be decreased by more than twenty-five percent (25%) without the consent of the contractor. (Local Government Code Sec. 252.048(d))

E. All approved change orders must be summarized and listed on the "Final Payment" agenda item. The City Council needs to approve the final payment of vendors for any contract over \$25,000 that involves construction or installation of equipment.

I. Chapter 7, Section 8 of the Purchasing Manual is amended so that it shall hereafter read as follows (additions are underlined, deletions are ~~struck through~~):

Section 78. Change Order Procedures.

- A. Please see the Change Orders Procedures Manual (*APPENDIX J*) for specific procedures and forms related to Change Orders.
- B. ~~All change orders shall be submitted to the City Manager for approval prior to implementation.~~
- ~~1. The City Manager, Deputy City Manager or Assistant City Manager may approve change orders equal to or less than \$25,000.00.~~
 - ~~2. Change orders greater than \$25,000.00 or greater shall be referred to the City Council for approval prior to implementation.~~
 - ~~3. Copies of all change orders shall be sent to the Strategic Services Manager and will become part of the permanent file of the project.~~
- B. ~~Change Orders that are for Non-Capital projects equal to or less than \$25,000 can be completed within the system once they are approved by the City Manager.~~
- ~~1. Change orders can be completed on the Purchase Order within the system based on limits established for users by the Strategic Services Division.
 - ~~a. Department users can only change P.O.'s by +/- 25% not to exceed \$1,500, any changes required beyond that would have to be communicated to the Financial and Strategic Services Department. (See *APPENDIX D - Change Orders*).~~
 - ~~b. The Strategic Services Manager, Management Analyst and Assistant Director of Financial and Strategic Services have unlimited change authority. Change orders that are in excess of \$10,000 and change orders requested by the Financial and Strategic Services Department will require City Manager or his designee's approval before it is entered into the computer system.~~~~

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

PASSED AND APPROVED by the City Council of the Town of Addison, Texas
this ___ day of _____, 2007.

Joe Chow, Mayor

ATTEST:

By: _____
Mario Canizares, City Secretary

APPROVED AS TO FORM:

By: _____
John Hill, City Attorney

DATE SUBMITTED: **November 5, 2007**
FOR COUNCIL MEETING: **November 13, 2007**

Council Agenda Item: #R26

SUMMARY:

Staff requests approval of a resolution amending the Purchasing Manual by:

- Updating the amount in which a formal bid process is required from \$25,000 to \$50,000 to concur with the recent change in state law.
- Adopting policies and procedures for receiving electronic bids and proposals.
- Adding provisions for emergency change orders and the establishment of a threshold per project to allow for the approval of change orders by the City Manager without specific authorization from the City Council.

FINANCIAL IMPACT:

None.

BACKGROUND:

The Mayor and City Council adopted the Purchasing Manual in August 2005. This manual is a comprehensive resource for all procurement issues and is utilized by Town employees.

Since the adoption of the Purchasing Manual in August 2005, staff has identified additional changes that are recommended to the City Council for approval. In addition, the Texas Legislature has recently passed legislation that modifies purchasing procedures.

A Council subcommittee comprised of Tom Braun, Dennis Kraft and Roger Mellow met with staff from the City Manager's Office, Public Works Department and Finance Department in July and September to discuss these proposed changes, as well as other enhancements regarding contract management and administration.

An overview of the proposed changes was presented at the October 23rd City Council meeting. Since the October 23rd City Council meeting, staff did clarify the language regarding timing of the formal approval of the emergency change orders by the City Council in Section H of the attached resolution.

Below are brief summaries regarding the changes being recommended.

Formal Bidding Process for Purchases of \$50,000 or Greater

In the 2007 Legislative Session a bill was passed (SB1765) that would raise the purchase limit before a formal bidding process is required. Prior to the passage of this bill any

purchase of \$25,000 or more required the Town to go through a formal bidding process. SB1765 increased this financial threshold to now require any purchases more than \$50,000 to go through a formal bidding process. This legislation became effective September 1, 2007.

Staff is recommending that the Purchasing Manual be updated to reflect the \$50,000 amount. The City Council will continue to approve all purchases and contracts that are \$25,000 or greater – but staff will only be required to get written or verbal quotations for purchases that are \$50,000 or less.

Threshold and Emergency Change Orders

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- Allows the City Council to set financial parameters for capital projects, specifically the dollar amount or percentage of change orders allowed for a capital project.
- Allows work on a capital project to continue in a timely manner by allowing the City Manager to approve change orders that are \$25,000 or less and within the threshold established by the City Council for the project.

During the development of a Change Orders procedures manual, staff also identified the need to have procedures in place for emergency change orders. These are change orders that qualify as an emergency under purchasing guidelines and are authorized by the City Manager prior to Council approval. Staff will be required to bring any emergency change orders to the Council for approval as soon as possible after the change order is implemented. Staff recommends adding this provision to the Purchasing Manual.

Receiving Electronic Bids and Proposals

In 2001, the Texas Legislature passed a bill allowing municipalities to accept bids and proposals electronically. Electronic bidding can provide many benefits including:

- Elimination of arithmetic errors and reduction of errors resulting from illegible handwritten responses.
- Standardized bid sheets which allow all bids and proposals to be submitted in a consistent fashion.
- Increased ease and convenience in submitting bids and proposals.

Section 252.0415 of the Texas Local Government Code requires municipalities to adopt rules to ensure the identification, security, and confidentiality of electronic bids or proposals and that electronic bids or proposals will remain effectively unopened until the

proper time. The attached resolution will establish these rules by adopting policies and procedures for receiving electronic bids and proposals.

Staff is currently utilizing a bid distribution service called RFP Depot and staff plans to test the electronic bidding process on a pilot bid or proposal during the next few months. Upon successful completion of the pilot test, electronic bidding will be fully implemented by staff for future bids and proposals.

Vendors will not be required to submit bids or proposals electronically but will have the option to do so once e-bidding is fully implemented.

RECOMMENDATION:

Staff recommends approval of the attached resolution amending the Town of Addison's Purchasing Manual.

TOWN OF ADDISON, TEXAS

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN OF ADDISON, TEXAS AMENDING THE TOWN OF ADDISON'S PURCHASING MANUAL BY ADDING PROVISIONS REGARDING ELECTRONICALLY SUBMITTED BIDS AND PROPOSALS, ADDING PROVISIONS REGARDING CHANGE ORDERS AND NOTIFICATION THRESHOLDS, AND REFERENCING THE CHANGE ORDERS PROCEDURES MANUAL WITH RESPECT TO CHANGE ORDERS, AND AMENDING PROVISIONS REGARDING COMPETITIVE SEALED BIDS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the goals of public purchasing are to ensure that public funds are safe-guarded and that the best value is received for these dollars and to ensure that all responsible bidders are given a fair opportunity to compete for the Town's business; and

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

WHEREAS, the Town is authorized by Section 252.0415 of the Tex. Loc. Gov. Code to receive bids or proposals through electronic transmission if the City Council adopts rules to ensure the identification, security, and confidentiality of electronic bids or proposals and to ensure that the electronic bids or proposals remain effectively unopened until the proper time.

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

Section 1. Amendment. Chapter 1 (Laws & Statutes Governing Purchasing), Section 1 (Bidding Requirements); Chapter 3 (Informal Quotes), Section 2 (Purchase of \$3,000 to \$25,000); Chapter 4 (Formal Bids), Section 1 (Purchases in Excess of \$25,000) and Section 4 (Procedures for Accepting Electronically Submitted Bids and Proposals); Chapter 6 (Procurement of Professional Services), Sections 5 and 6 (Procurement of Architectural, Engineering or Land Surveying Services); Chapter 7 (Purchase Orders, Change Orders and Receiving), Section 6 (Notification Threshold for Change Orders), Section 7 (Approval for Change Orders), Section 8 (Change Order Procedures) of the Town of Addison's Purchasing Manual, are hereby amended in the following particulars, and all other chapters, sections, subsections, paragraphs and words are not amended but are ratified and confirmed.

- A. Chapter 1, Section 1 of the Purchasing Manual is amended so that it shall hereafter read as follows (additions are underlined, deletions are ~~struck through~~):

Section 1. Bidding Requirements

A. As a general rule, before a municipality may enter into a contract that requires an expenditure of more than ~~\$25,000~~ \$50,000 from one or more municipal funds, the municipality must (i) comply with the procedures 252 for competitive sealed bidding or competitive sealed proposals, (ii) use the reverse auction procedure as defined by Section 2155.062, Texas Government Code, or (iii) comply with a method prescribed by Chapter 271, Subchapter H of the Local Government Code (alternate project delivery methods for certain projects). Electronically submitted bids or proposals shall be in accordance with Section 252.0415(a) of the Texas Local Government Code requiring the identification, security, and confidentiality of electronic bids or proposals and that electronic bids or proposals shall remain effectively unopened until the proper time. All electronically submitted bids will remain secure and confidential and remain effectively unopened until the proper time.

- B. Chapter 3, Section 2 of the Purchasing Manual is amended so that it shall hereafter read as follows (additions are underlined, deletions are ~~struck through~~):

Section 2. Purchases of \$3,000 - ~~\$25,000~~ \$50,000

For purchases between \$3,000.00 and up to ~~\$25,000.00~~ \$50,000.00 the following apply:

- A. The using department will create a Purchase Order in the system (see Chapter 7 on Purchase Orders) and complete the routing for approval before a purchase is made.
1. All departments should endeavor to promote fair and open competition for every purchase and to secure the best value, and the highest quality merchandise at the lowest possible cost.
- B. The Department Head, or the Department's Head's designee, is responsible for soliciting quotations.
1. The Department shall obtain written quotations from at least three vendors, whenever possible.
 2. At least two Historically Underutilized Business (HUBs) if available, (based upon information provided by the Texas Comptroller Building and Procurement Commission), shall be contacted, on a rotating basis, for quotations for any purchase more than \$3,000 but

less than ~~\$25,000~~ \$50,000. (Local Government Code Section 252.0215). If the Texas Comptroller's ~~Building and Procurement Commission~~ list (<http://www.window.state.tx.us/procurement/prog/hub>) fails to identify a HUB in the North Texas region (including Dallas County), the Town is exempt from this requirement.

- C. Chapter 4, Section 1 of the Purchasing Manual is amended so that it shall hereafter read as follows (additions are underlined, deletions are ~~struck through~~):

Section 1. Purchases in Excess of \$25,000

For purchases in excess of \$25,000 the following apply:

- A. Purchases in excess of \$25,000 ~~shall be on a competitive sealed bid basis and~~ will be referred to the City Council for approval. Purchases in excess of \$50,000 shall be on a competitive sealed bid basis or by other authorized methods.

- D. Chapter 4, Section 4 of the Purchasing Manual is amended so that it shall hereafter read as follows (additions are underlined, deletions are ~~struck through~~):

Section 4. Procedures for Accepting Electronically Submitted Bids and Proposals.

- A. Bids and proposals will be advertised and released in the current manner. A notice will be added to the bid terms and conditions stating vendors may submit responses electronically through the Town's Internet bid service provider at the web address provided. Upon receipt of the vendor's bid or proposal by the Town, an automatic return notification will be sent to the vendor via e-mail. Electronic bid and proposal responses will be time and date stamped by the Internet bid service provider.

- B. At the specific bid closing time, Financial and Strategic Services will access the Town's Internet bid service provider with a password and will open, download, and print all bids and proposals and any associated bid tabulation summaries provided by the Town's Internet bid service provider.

- C. Financial and Strategic Services staff will then read aloud all bid responses received by the closing date and time to any parties present at the bid opening. All bids shall be tabulated in the current manner and copies shall be made available to the interested parties.

- E. Chapter 6, Section 5 of the Purchasing Manual is amended so that it shall hereafter read as follows (additions are underlined, deletions are ~~struck through~~):

Section 5. Procurement of Architectural, Engineering, or Land Surveying Services – Fees Estimated to be Under ~~\$25,000~~ \$50,000 or Less Per Year

F. Chapter 6, Section 6 of the Purchasing Manual is amended to that it shall hereafter read as follows (additions are underlined, deletions are ~~struck through~~):

Section 6. Procurement of Architectural, Engineering, or Land Surveying Services – Fees Estimated to be Over ~~\$25,000~~ \$50,000 Per Year.

G. Chapter 7, Section 6 of the Purchasing Manual is amended so that it shall hereafter read as follows (additions are underlined, deletions are ~~struck through~~):

Section 6. Threshold for Change Orders.

- A. A “threshold” is defined as a financial limit on the amount of financial changes executed through change orders (whether an increase or decrease), which can be authorized by the City Manager (or the City Manager’s designee) on a capital project before requiring City Council approval.
- B. The City Council may establish a threshold for a capital project at the time of award of a bid or during the course of a project. A threshold can be established at any dollar amount or percentage of bid award provided that the threshold does not exceed 25% of the total bid award.
- C. If a threshold has been established by the City Council for the project, a change order can be approved solely by the City Manager (or the City Manager’s designee), if the amount of the change order is \$25,000 or less and within the threshold amount.
- D. Once the threshold has been met or exceeded, any subsequent change orders will be required to be approved by the City Council before proceeding with the change order.
- E. A summary of all change orders authorized on a specific capital project will be listed on the Final Payment agenda item.

H. Chapter 7, Section 7 of the Purchasing Manual is amended so that it shall hereafter read as follows (additions are underlined, deletions are ~~struck through~~):

Section 67. Approval for Change Orders.

- A. In the event it becomes necessary to make changes in the plans or specifications after performance of a contract is begun, or if it is

necessary to decrease or increase the quantity of work to be performed, or of the materials, equipment, or supplies to be furnished, the change orders ~~the City Council~~ may be approved ~~change orders~~ making these changes. If the change order involves a decrease or an increase of more than \$25,000, the City Council needs to approve the change order. If the change order involves a decrease or an increase of \$25,000 or less, the City Manager or the City Manager's designee may approve a change order (subject to the threshold provisions set forth in Section 6 above).

~~B. Once change orders total \$25,000 on a specific contract, any subsequent change order needs to be approved by the City Council.~~

B. If a change order is greater than \$25,000 and is extremely time sensitive and qualifies as an emergency, the City Manager (or the City Manager's designee) may approve such a change order prior to Council approval. However, the change order must still be brought to the Council no later than the next regular City Council meeting. Likewise, if a threshold has been established in accordance with Section 6, above, and a change order in the amount of \$25,000 or less exceeds the threshold or would cause the threshold to be exceeded, and if such change order is extremely sensitive and qualifies as an emergency, the City Manager (or the City Manager's designee) may approve such a change order prior to Council approval. Emergency conditions are defined in the Town of Addison Purchasing Manual

C. The original contract price may not be increased by more than twenty-five percent (25%). (Local Government Code Sec. 252.048(d))

D. The original contract price may not be decreased by more than twenty-five percent (25%) without the consent of the contractor. (Local Government Code Sec. 252.048(d))

E. All approved change orders must be summarized and listed on the "Final Payment" agenda item. The City Council needs to approve the final payment of vendors for any contract over \$25,000 that involves construction or installation of equipment.

I. Chapter 7, Section 8 of the Purchasing Manual is amended so that it shall hereafter read as follows (additions are underlined, deletions are ~~struck through~~):

Section 78. Change Order Procedures.

- A. Please see the Change Orders Procedures Manual (*APPENDIX J*) for specific procedures and forms related to Change Orders.
- B. ~~All change orders shall be submitted to the City Manager for approval prior to implementation.~~
- ~~1. The City Manager, Deputy City Manager or Assistant City Manager may approve change orders equal to or less than \$25,000.00.~~
 - ~~2. Change orders greater than \$25,000.00 or greater shall be referred to the City Council for approval prior to implementation.~~
 - ~~3. Copies of all change orders shall be sent to the Strategic Services Manager and will become part of the permanent file of the project.~~
- B. ~~Change Orders that are for Non-Capital projects equal to or less than \$25,000 can be completed within the system once they are approved by the City Manager.~~
- ~~1. Change orders can be completed on the Purchase Order within the system based on limits established for users by the Strategic Services Division.
 - ~~a. Department users can only change P.O.'s by +/- 25% not to exceed \$1,500, any changes required beyond that would have to be communicated to the Financial and Strategic Services Department. (See *APPENDIX D - Change Orders*).~~
 - ~~b. The Strategic Services Manager, Management Analyst and Assistant Director of Financial and Strategic Services have unlimited change authority. Change orders that are in excess of \$10,000 and change orders requested by the Financial and Strategic Services Department will require City Manager or his designee's approval before it is entered into the computer system.~~~~

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

PASSED AND APPROVED by the City Council of the Town of Addison, Texas
this ___ day of _____, 2007.

Joe Chow, Mayor

ATTEST:

By: _____
Mario Canizares, City Secretary

APPROVED AS TO FORM:

By: _____
John Hill, City Attorney

Council Agenda Item: #R27

SUMMARY:

Council approval is requested of a resolution providing for the ad valorem taxation of tangible personal property held temporarily at a location in this state for assembling, storing, manufacturing, processing, or fabricating purposes, pursuant to House Bill 621.

FINANCIAL IMPACT:

The Dallas Central Appraisal District estimates a loss of almost \$37 million in taxable value if the Town does not choose to opt out of the exemption allowed by HB 621. At the FY 2008 tax rate of \$0.4337 per \$100 valuation the impact of opting out would be an approximate loss of \$160,000 in tax revenue.

BACKGROUND:

This past legislative session, the 80th Legislature enacted H.B. 621 (effective January 1, 2008), implementing Article 8, Section 1-n and adding a new exemption (set forth in new Section 11.253 of the Texas Tax Code) that allows goods to be exempt from taxation if they are shipped to another location either inside or outside the State of Texas within 175 days (also known as Freeport exemption). Both Article 8, Section 1-n of the Texas Constitution and new Section 11.253 of the Tax Code (as adopted by H.B. 621) authorize local taxing units to choose to continue taxation as a local option. Section 11.253(j) of the Tax Code provides that the governing body of a taxing unit can opt out of the exemption by taking positive action to tax the goods before January 1st of the first tax year the governing body proposes to tax goods-in-transit. This is done by official action of the governing body of the taxing unit after conducting a public hearing. Article 8, Section 1-n of the Constitution also requires a public hearing "at which members of the public are permitted to speak" before acting to tax the exempt property.

If the Town were to allow the exemption to go forward, 76 businesses would be affected. Attached is a list of those businesses. Of these businesses, there are two that represent 44% of the exempted value. US Bioservices is a provider of specialty pharmaceuticals that employs 170 employees. It is located in the Addison Tech Center located at Westgrove and Excel. Kim Manufacturing provides wholesale jewelry distribution that employs 55 people. It is located in an office building off Landmark south of Belt Line.

As of this date most cities in Dallas County, including the City of Dallas, and school districts have either already passed ordinances opting out of the exemption or have scheduled the ordinances for action prior to the end of the year. The legislation allows for any local government to opt out of the Freeport exemption, or provide the exemption each year.

RECOMMENDATION:

One of the Town's financial policies that govern development of the Town's annual budget is: "The Town will maintain a policy of levying the lowest tax rate on the broadest tax base. Minimal exemptions will be provided to homeowners, senior citizens, and disabled veterans. The Town will not provide tax abatements to encourage development." The policy recognizes that all tax payers receive the benefits of city services and, absent a compelling reason, all taxpayers should pay their fair share as defined as the value of their business. Also, economic theory posits

that the most efficient tax is one with the lowest rate and broadest base. Therefore, in keeping with the adopted financial policy, staff recommends that Council approve the resolution providing for the ad valorem taxation of tangible personal property held temporarily at a location in this state for assembling, storing, manufacturing, processing, or fabricating purposes, pursuant to House Bill 621.

TOWN OF ADDISON, TEXAS

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS AMENDING THE CITY'S CODE OF ORDINANCES BY AMENDING ARTICLE II (PROPERTY TAXATION) OF CHAPTER 74 (TAXATION) THEREOF BY ADDING A NEW SECTION 74-33 PROVIDING FOR THE TAXATION OF CERTAIN TANGIBLE PERSONAL PROPERTY DESCRIBED AS GOODS-IN-TRANSIT WHICH WOULD OTHERWISE BE EXEMPT PURSUANT TO ARTICLE 9, SECTION 1-N OF THE TEXAS CONSTITUTION AND SECTION 11.253, TEXAS TAX CODE (AS ADOPTED BY H.B. 621, 80TH TEXAS LEGISLATURE, 2007 REGULAR SESSION); PROVIDING THAT THE TAXATION OF SUCH TANGIBLE PERSONAL PROPERTY APPLIES TO AND IS EFFECTIVE FOR 2008 AND ALL TAX YEARS THEREAFTER; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, in 2001 the voters of the State of Texas approved an amendment to the Texas Constitution which added Article 8, Section 1-n which, among other things, authorized the Texas Legislature to exempt from ad valorem taxation goods which meet certain qualifications, including that the goods must be acquired in or imported into the State to be forwarded to another location inside or outside the State not later than 270 days after the date the goods were acquired in or imported into the State; and

WHEREAS, in order to implement the provisions of Article 8, Section 1-n, the Regular Session of the 80th Texas Legislature enacted House Bill 621, effective on January 1, 2008, which adds Section 11.253 to the Texas Tax Code exempting from taxation certain tangible personal property held temporarily at a location in this State for assembling, storing, manufacturing, processing, or fabricating purposes (goods-in-transit), which property has been subject to taxation in the past; and

WHEREAS, Section 1-n(d) of the Texas Constitution and Tex. Tax Code § 11.253(j) allow the governing body of a taxing unit, after conducting a public hearing at which members of the public are permitted to speak for or against the taxation of the property, to provide for the continued taxation of such goods-in-transit; and

WHEREAS, the City Council of the Town of Addison, Texas having given notice of and having conducted a public hearing at which members of the public were permitted to speak for or against the taxation of the property as required by Section 1-n(d), Article 8, Texas Constitution and as set forth in Section 11.253(j), Tex. Tax Code, is of the opinion that it is in the best interests of the Town to provide for the taxation of such goods-in-transit which are otherwise exempt by Section 11.253 of the Texas Tax Code and not exempt from ad valorem taxation by any other law.

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

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

Section 2. Amendment. The Code of Ordinances of the Town of Addison, Texas (the "City") is hereby amended by amending Chapter 74 (Taxation), Article II (Property Taxation) thereof by amending Division 1 thereof by adding a new Section 74-33 to read as follows:

Section 74-33. Taxation of Goods-in-Transit

Pursuant to Section 1-n(d) of the Texas Constitution and as authorized by Section 11.253(j), Tex. Tax Code (as adopted by House Bill No. 621, 80th Texas Legislature, 2007 Regular Session ("H.B. 621")), the Town elects to tax, and hereby provides for the taxation of, certain tangible personal property defined and described as "goods-in-transit" in Section 11.253, Tex. Tax Code (as adopted by H.B. 621) exempt pursuant to Section 11.253, Tex. Tax Code and Article 8, Section 1-n, Texas Constitution and not exempt from ad valorem taxation by any other law. The taxation of such tangible personal property applies to and is effective for 2008 and all tax years thereafter.

Section 3. Savings. This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those Ordinances are in direct conflict with the provisions of this Ordinance.

Section 4 Severability. The sections, paragraphs, sentences, phrases, clauses and words of this Ordinance are severable, and if any section, paragraph, sentence, phrase, clause or word in this Ordinance or application thereof to any person or circumstance is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares that it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

Section 5. Effective Date. This Ordinance shall be in full force and effect from and after its passage and adoption and its publication as may be required by law.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this ___ day of _____, 2007.

Joe Chow, Mayor

ATTEST:

APPROVED AS TO FORM:

By: _____
Mario Canizares, City Secretary

By: _____
John Hill, City Attorney

Goods-in-Transit Tax Exemption - Estimated Loss in Value

| Business | Potential Exemption | % of Total | Est. Tax Revenue Loss* |
|------------------------------------|---------------------|------------|------------------------|
| US BIOSERVICES CORP | \$ 10,026,174 | 27.16% | \$ 43,483.52 |
| KIM INTERNATIONAL MFG INC | \$ 6,258,008 | 16.95% | \$ 27,140.98 |
| ALL COMPONENTS | \$ 2,581,878 | 6.99% | \$ 11,197.60 |
| MITSUBISHI HEAVY INDUS AMERICA | \$ 1,896,415 | 5.14% | \$ 8,224.75 |
| HMS JEWELRY CO INC | \$ 1,500,000 | 4.06% | \$ 6,505.50 |
| A A PORTER LIGHTING COMPANY INC | \$ 1,476,738 | 4.00% | \$ 6,404.61 |
| SMITH & NEPHEW INC | \$ 1,442,198 | 3.91% | \$ 6,254.81 |
| WILSON COMPANY | \$ 1,100,000 | 2.98% | \$ 4,770.70 |
| SUN MICROSYSTEMS INC | \$ 1,067,934 | 2.89% | \$ 4,631.63 |
| MALIN INTEGRATED HANDLING SOLUTION | \$ 970,748 | 2.63% | \$ 4,210.13 |
| INTUIT | \$ 596,410 | 1.62% | \$ 2,586.63 |
| BULLY DOG LOGISTIC SERVICES | \$ 548,839 | 1.49% | \$ 2,380.31 |
| GOLDEN BLOUNT INC | \$ 490,400 | 1.33% | \$ 2,126.86 |
| GOLDBERG HERBERT CO | \$ 470,591 | 1.27% | \$ 2,040.95 |
| COMMERCIAL EQUIPMENT CO | \$ 463,588 | 1.26% | \$ 2,010.58 |
| TWICHELL HOWARD S CO INC | \$ 369,963 | 1.00% | \$ 1,604.53 |
| AER MANUFACTURING LP | \$ 352,731 | 0.96% | \$ 1,529.79 |
| HARDWOOD DISTRIBUTORS | \$ 290,505 | 0.79% | \$ 1,259.92 |
| SOUTHWEST SOLUTIONS GROUP | \$ 287,256 | 0.78% | \$ 1,245.83 |
| MONITRONICS INTL INC | \$ 278,158 | 0.75% | \$ 1,206.37 |
| ZETLEY DISTRIBUTORS | \$ 268,748 | 0.73% | \$ 1,165.56 |
| AER MANUFACTURING LP | \$ 267,548 | 0.72% | \$ 1,160.36 |
| GOODFELLOW FINE FURNITURE | \$ 247,542 | 0.67% | \$ 1,073.59 |
| TAPE ON LINE | \$ 247,031 | 0.67% | \$ 1,071.37 |
| ELK CORPORATION | \$ 195,000 | 0.53% | \$ 845.72 |
| IDEAL HEALTH | \$ 175,000 | 0.47% | \$ 758.98 |
| CULPEPPER SALES | \$ 168,457 | 0.46% | \$ 730.60 |
| ASSOCIATED DISTRIBUTORS INC | \$ 160,000 | 0.43% | \$ 693.92 |
| AER MANUFACTURING LP | \$ 132,274 | 0.36% | \$ 573.67 |
| TEX AIR PARTS INC | \$ 130,000 | 0.35% | \$ 563.81 |
| BASE 4 GROUP | \$ 124,055 | 0.34% | \$ 538.03 |
| CARROT INK | \$ 123,249 | 0.33% | \$ 534.53 |
| DALLAS SIGHT & SOUND INC | \$ 114,262 | 0.31% | \$ 495.55 |
| MORENO SUPPLY INC | \$ 105,011 | 0.28% | \$ 455.43 |
| MICROLAND ELECTRONICS CORP | \$ 102,897 | 0.28% | \$ 446.26 |
| START INTERNATIONAL | \$ 102,808 | 0.28% | \$ 445.88 |
| CANAC KITCHENS | \$ 101,437 | 0.27% | \$ 439.93 |
| TOP SPEED AUTO ACCESSORIES INC | \$ 98,338 | 0.27% | \$ 426.49 |
| DIXIE CARPET INSTALLATIONS INC | \$ 95,750 | 0.26% | \$ 415.27 |
| LORDANE INC | \$ 90,807 | 0.25% | \$ 393.83 |
| HOMTERIORS II BY THE GARDENER GROU | \$ 84,846 | 0.23% | \$ 367.98 |
| LSMT INC | \$ 81,853 | 0.22% | \$ 355.00 |
| BURST COMMUNICATIONS INC | \$ 79,141 | 0.21% | \$ 343.23 |
| SCARBOROUGH CO | \$ 74,864 | 0.20% | \$ 324.69 |
| FLOOR IT INC | \$ 70,000 | 0.19% | \$ 303.59 |
| AER MANUFACTURING LP | \$ 61,729 | 0.17% | \$ 267.72 |
| BEST PERSONALIZED BOOKS INC | \$ 59,184 | 0.16% | \$ 256.68 |
| DALLAS SEMICONDUCTOR | \$ 50,678 | 0.14% | \$ 219.79 |
| NYX GOLF INC | \$ 49,435 | 0.13% | \$ 214.40 |
| INSIGHT FOR LIVING | \$ 45,000 | 0.12% | \$ 195.17 |
| AER MANUFACTURING LP | \$ 44,092 | 0.12% | \$ 191.23 |
| LYNN STEVENS & ASSOC | \$ 43,000 | 0.12% | \$ 186.49 |
| MILLENNIUM MIDRANGE SYSTEMS & PERI | \$ 40,000 | 0.11% | \$ 173.48 |
| SUNBELT APPAREL INC | \$ 40,000 | 0.11% | \$ 173.48 |
| PURE WATER 2 GO | \$ 39,087 | 0.11% | \$ 169.52 |
| VALSPAR CORPORATION | \$ 37,797 | 0.10% | \$ 163.93 |
| NEW WORLD KIDS COMPANY | \$ 36,874 | 0.10% | \$ 159.92 |
| FUJINON INC | \$ 36,519 | 0.10% | \$ 158.38 |
| XMED OXYGEN & MEDICAL EQUIPMENT IN | \$ 36,188 | 0.10% | \$ 156.95 |
| FALCON CREST AVIATION SUPPLYINC | \$ 35,315 | 0.10% | \$ 153.16 |
| SPORT CHUTES OVER TEXAS INC | \$ 35,000 | 0.09% | \$ 151.80 |
| ELECTRONIC INTERIORS | \$ 33,540 | 0.09% | \$ 145.46 |
| AER MANUFACTURING LP | \$ 26,455 | 0.07% | \$ 114.74 |

Goods-in-Transit Tax Exemption - Estimated Loss in Value

| Business | Potential Exemption | % of Total | Est. Tax Revenue Loss* |
|------------------------------------|----------------------------|-------------------|-------------------------------|
| VENUS KNITTING MILLS | \$ 25,180 | 0.07% | \$ 109.21 |
| APPAREL GROUP LTD THE | \$ 25,000 | 0.07% | \$ 108.43 |
| HALEX INTERNATIONAL INC | \$ 23,532 | 0.06% | \$ 102.06 |
| KWALITY COOKIES LLC | \$ 22,516 | 0.06% | \$ 97.65 |
| KILEE DISTRIBUTING | \$ 20,000 | 0.05% | \$ 86.74 |
| ENERGYCEL MARKETING GROUP LP | \$ 19,920 | 0.05% | \$ 86.39 |
| CORPORATE IMAGE INC | \$ 19,730 | 0.05% | \$ 85.57 |
| RUSSELL PUBLISHING GROUP | \$ 19,550 | 0.05% | \$ 84.79 |
| CALSAK CORP | \$ 18,599 | 0.05% | \$ 80.66 |
| BLUE CROSS & BLUE SHIELD OF TX INC | \$ 17,000 | 0.05% | \$ 73.73 |
| PROLOOK | \$ 15,970 | 0.04% | \$ 69.26 |
| MCDONALD GLENDA | \$ 13,254 | 0.04% | \$ 57.48 |
| WHITLOW DUANE & CO INC | \$ 12,000 | 0.03% | \$ 52.04 |
| | \$ 36,911,596 | 100.00% | \$ 160,085.59 |

Council Agenda Item: #R28

SUMMARY:

Council members have received inquiries from constituents as to why the Town of Addison taxes leased vehicles used for personal purposes. The topic is presented for discussion at the council meeting.

FINANCIAL IMPACT:

If the Town were to elect not to tax leased vehicles, approximately \$9.6 million would be lost from the Town's tax base with a corresponding loss of property tax revenue of \$41,635. The reduction in revenue represents 0.3% of the Town's 2008 tax levy.

BACKGROUND:

Several years ago the Texas Legislature passed an exemption of leased vehicles primarily used for non-business purposes. All personal use vehicles are exempt from county and school taxes. However, each municipality reserves the right to levy and assess ad valorem taxes on leased motor vehicles. The exemption applies to:

1. Leases entered into after January 1, 2001.
2. Vehicles where 50% or more of miles driven in a year are for non-income producing purposes.
3. Lessee must sign a form stating lessee name, address, driver's license number, and certify under oath that the vehicle is not used primarily for the production of income.

The lessor is the entity that is required to pay the property tax but in most cases this tax is passed on to the lessee in the form of an additional fee. The lessor is also required to render all of the assets the lessor owns on January 1 and indicate whether the lessee has designated the vehicle as not held for the production of income. The lessor is required to maintain the lessee's affidavit. By indicating the vehicle is not held for the production of income, the lessor is applying for the exemption. This exemption must be filed by April 30.

Twenty-one leasing companies indicated they have clients in Addison who have filed affidavits. Because the leasing companies are the entities that are paying the tax, the Town does not know the number of individuals that are affected by the tax. Assuming the value of the average leased vehicle is \$30,000, then there are an estimated 320 persons affected by the tax and who are paying an average \$130 a year in extra charges associated with their lease.

RECOMMENDATION:

Staff has no recommendation for this item. On the one hand, there is the formal financial policy in place that strives to obtain the broadest tax base. On the other hand, the amount of value associated with this exemption is relatively small and there is an issue of equity in that the Town does not tax personal vehicles that are owned by its residents. Surrounding cities that do tax personal leased vehicles are Carrollton, Cedar Hill, DeSoto, Garland, Lancaster, Mesquite and Richardson.

ITEM #ES1

There are no Attachments for this Item.

ITEM #R29

There are no Attachments for this Item.